

# FURTHER SUPREME COURT STATISTICS

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Waikato Law Faculty is developing a database to research the work of the Supreme Court in terms of the number, nature and types of appeals to the Supreme Court. The purpose of this database is to track the work of the Court over a period of time. This summary is an update for 2011 and next year it is intended to provide an analysis of the work of the Supreme Court since it was established. The analysis this year will include data on the number of judgments in each case. There is an argument that a final court of appeal should provide a clear statement on the state of the law to provide certainty in future cases. While this analysis does not engage substantively in this debate, it was one of the arguments to establish a final court of appeal so it has been decided to include an analysis of the cases where one judgment as the judgment of the court is written and those cases where more than one judgment is written by the majority. There is also an analysis of the judgments in the cases where the appeal was not allowed.

## I. CASES HEARD BY THE SUPREME COURT

In 2011 the Supreme Court heard a total of 126 applications for leave of which 106 (84 per cent) were declined and 20 (16 per cent) were granted leave. The Court also delivered a total of 25 written judgments, of which 8 (32 per cent) were allowed, one allowed in part and 16 (64 per cent) were dismissed. This made a total of 151 cases dealt with by the Court. In terms of the final judgments, the cases may have been heard the previous year. A further analysis of the time taken between the hearing and the final decision needs to be undertaken and will be included in future data.

### *A. Applications for leave*

Consistent with the applications for leave to appeal in previous years, criminal matters dominate the applications for leave to appeal comprising 50.7 per cent of the applications. Administrative law comprised 12 per cent and if the categories of company, contract and insurance are combined into a general category of commercial cases then they also comprise 12 per cent of the applications for leave. The other applications represent a spread of different areas of the law.

In terms of successful applications, only 12 per cent of the successful applications were criminal cases, while criminal cases represented 28 per cent of the unsuccessful applications.

A better assessment of the success of criminal cases application for leave can be gained from noting only 9.3 per cent of the criminal applications were successful. The success rate for administrative law cases is slightly better with over 13.3 per cent being successful. There was however a better success rate for commercial cases, in particular company law cases, with a 54 per cent success rate. There were two tax cases seeking leave to appeal with one being successful and the other unsuccessful and of the five tort cases, four were unsuccessful. Given that the

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number of cases were quite small under many of the categories it is impossible to draw any general conclusion from the data for 2011.

### *B. Decisions of the Court 2011*

As noted the Supreme Court gave 25 written decisions in 2011 and of those decisions 8 were successful (36 per cent), 16 (64 per cent) unsuccessful and one appeal was allowed in part. There has been an argument that it is the experience across jurisdictions that one third of appeals are successful and two thirds unsuccessful. This data would support that assertion but it will be interesting to see if the assertion holds across a longer time period.

The Supreme Court as the final court of appeal is the precedent setting court in New Zealand and therefore there is an argument that clarity of the statement of law is best delivered through a unanimous decision expressed in one judgment. A review of the cases reveals that for the 25 decisions, 43 written judgments were delivered by the judges.

In successful appeals the unanimous decision of the court was expressed in one judgment in 5 cases. In the other 3 successful cases 11 judgments were written by different judges. In the one decision only partially allowed, 5 commentaries were forthcoming.

## II. APPELLANT IN PERSON

It would appear that the number of cases in which the appellant appears in person has not increased and is confined to a small number of individuals.