

8 October 2009

Commercial Law e-alert

Faster, Lower Cost Litigation – County Court Expedited Cases List And Federal Court Fast Track List

Anybody who has been involved in litigation is aware that it can be costly and move slowly.

But, thanks to recent changes in the County Court of Victoria and the Federal Court of Australia, faster and lower cost litigation is now available for most types of claims.

In 2008, the County Court introduced an Expedited Cases List (or Blitz List). As the name suggests, the aim of the Expedited Cases List is to finish proceedings quickly. This is achieved by having regular directions hearings to ensure that pre-trial steps are completed promptly. If there is a dispute about any pre-trial step, it can be brought before a Judge by writing a letter to the Court rather than making a formal application. This can result in significant cost savings. The Expedited Cases List can hear any type of proceeding which arises out of a commercial transaction or involves property rights. As there is no longer any monetary limit on claims in the County Court, any commercial claim may be brought in the County Court rather than the Supreme Court. There can be significant cost savings in conducting proceedings in the County Court rather than the Supreme Court because evidence in chief is given in the witness box rather than by written witness statements, which are usually costly to prepare.

Also, earlier this year, the Federal Court extended the jurisdiction of its Fast Track List to all states of Australia. The Fast Track List is a significant step in reducing the cost and duration of litigation. For example:-

- formal pleadings have been replaced with less costly informal case summaries
- discovery is limited to documents a party intends to rely on and documents that have a significant probative value adverse to the opponent's case
- trials are conducted according to the "chess clock" style, with parties being allocated a fixed amount of time for submissions and evidence
- a trial can be expected to be held within 3½ to 6½ months from the proceeding being commenced.

Most commercial disputes within the Federal Court's jurisdiction, with a few exceptions, can be heard in the Fast Track List.

Another encouraging development in litigation is the willingness of Courts to compel mediation earlier in proceedings, and to have more than one mediation during the course of a proceeding. Recent evidence from the Supreme Court of Western Australia is that mediations conducted early in a proceeding are just as likely to be successful as mediations conducted later in a proceeding, challenging popular perception that proceedings only settle shortly before trial. If a dispute can be settled, it is far better to do so early in a proceeding before significant costs are incurred.

These changes are all a welcome move towards faster, lower cost litigation, making the Courts more accessible to everyone who has a legal dispute.

For further information please contact:

James Orr, Senior Associate	+61 3 8602 9263	jorr@hunthunt.com.au
Neville Debney, Partner	+61 3 8602 9253	ndebney@hunthunt.com.au
John Sinisgalli, Partner	+61 3 8602 9223	jsinisgalli@hunthunt.com.au

© Hunt & Hunt 2009

Disclaimer: The information contained in this e-alert is not advice and should not be relied upon as legal advice. Hunt & Hunt recommends that if you have a matter that is legal, or has legal implications, you consult with your legal adviser. If you no longer wish to receive this e-alert or any other publication from Hunt & Hunt, please email us at unsubscribe@hunthunt.com.au