



COURT OF APPEAL FOR ONTARIO
ANNUAL REPORT 2011

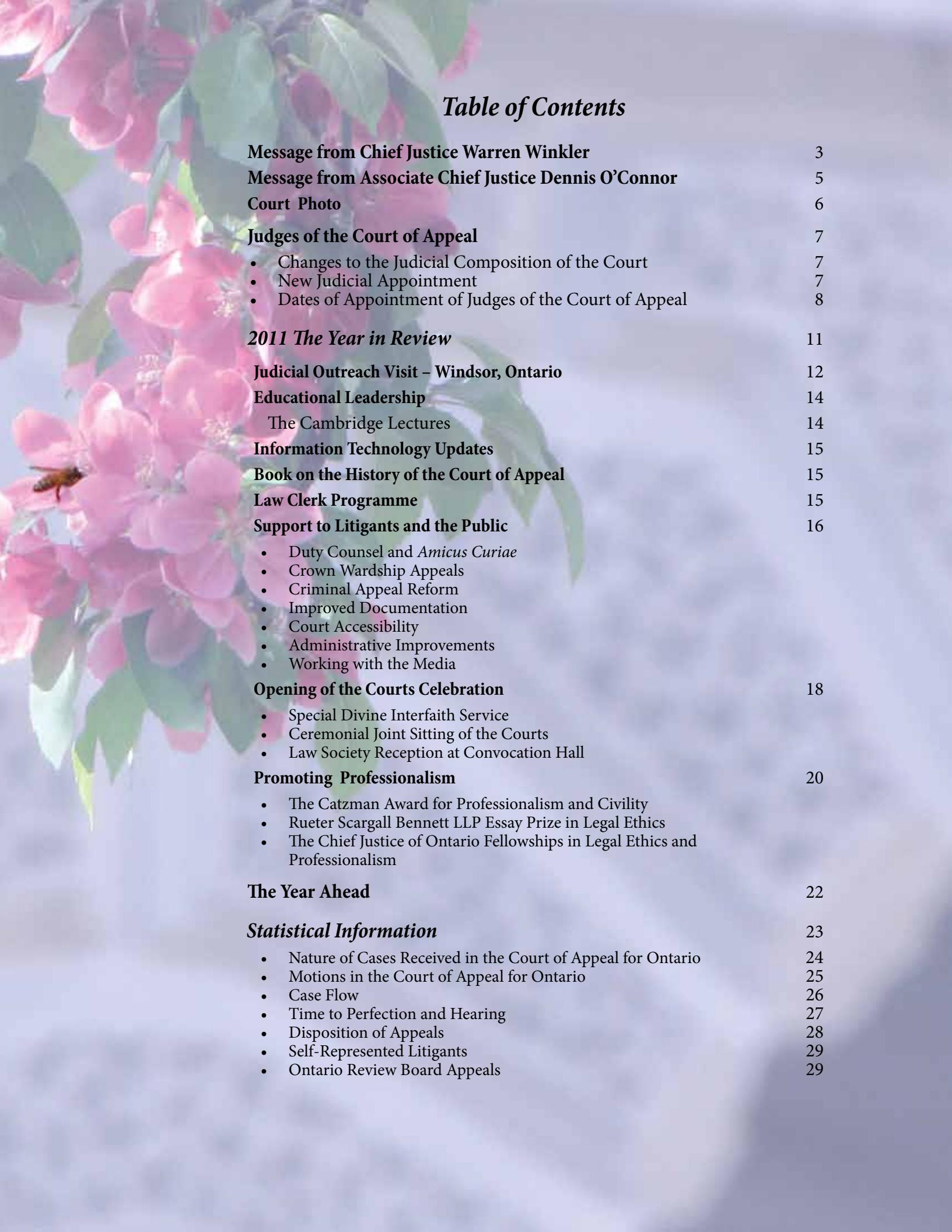


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Message from Chief Justice Warren Winkler

The Court of Appeal is Ontario's highest court and plays a unique role within our legal system. In most instances, it offers the final avenue of appeal for litigants who have already appeared before one of Ontario's courts or tribunals.

However, it is also one institution among the many that share a common purpose of supporting Ontario's justice system, a system which is a collaborative enterprise, engaging the efforts of a broad array of individuals and organizations, including judges, lawyers, administrators, as well as enforcement, adjudicative and community agencies.

Despite the universally recognized quality and fairness of our justice system which we collectively support, there are increasing concerns about its lack of accessibility. Chief Justice Beverley McLachlin, who has taken a leading role in publicizing this issue, speaks for those of us involved with the administration of justice when she states that access to justice is the "greatest challenge facing the Canadian justice system".

Each area of law presents us with different access to justice challenges. If we are to make a difference, unique approaches must be taken to address these distinct needs. It is encouraging that progress has been made in certain areas. Examples of past successes are the introduction of contingency fees, class proceedings and the expanded jurisdiction of the Small Claims Court. Each of these changes has helped in addressing access needs within specific fields of law. At the Court of Appeal, the use of duty counsel and *amicus curiae* have proven to be effective means of addressing issues of representation faced by inmates and other self-represented litigants.

That said, there are some areas of the law where change is long overdue and much more needs to be done. As we move forward, if we are to make meaningful progress in addressing access to justice, we must collectively concentrate our efforts on areas of law where we can have the greatest impact. That in turn requires that we prioritize those areas of greatest societal need where concrete change is achievable. Analyzed in this fashion, family law cries out for reform.

It is for this reason that I have been a frequent and vocal advocate for fundamental reform of family law. Family law touches almost everyone in our society either directly or indirectly. The Ontario Civil Legal Needs Project found this to be the greatest area of need for low and middle income Ontarians. It also recognized that family law disputes, because of the emotional toll they extract, are the most disruptive to people's daily lives. They are also the most draining on their financial resources.

The current family law system is too slow, too complex, too adversarial and, above all, too costly. There is no other area of the justice system where we have the opportunity to bring about reforms that will have a greater positive impact on Ontarians. Despite improvements in family law services that have been made in recent years, much more must be done if substantial improvements are to be made. In my opinion, family law reform must be our highest priority.

I look forward to working with my colleagues at the Court of Appeal and with all of our partners in the broader justice community toward our shared goal of improving access to justice for the citizens of this great province.



The Honourable Warren K. Winkler
Chief Justice of Ontario



Message from Associate Chief Justice Dennis O'Connor

As the Associate Chief Justice of Ontario, I am sometimes asked to offer my observations on the subject of incivility in the litigation process. The most effective counsel we see are those who can present their case in a forceful manner, when necessary, but never in an uncivil or unprofessional way. The majority of lawyers understand that civility and vigorous advocacy go hand in hand. Unfortunately, there are some who try to use rude, overly aggressive and disrespectful behaviour in place of good advocacy.

Incivility in the courtroom can shift focus away from the real issues in dispute and erode public confidence in our system of justice. Greater civility, on the other hand, enhances the effectiveness of our justice system, improves the public's perception of lawyers, and increases lawyers' professional satisfaction.

Fortunately, issues of civility and professionalism have received increasing attention in recent years. The law schools are offering more courses in this area, and such courses will become mandatory in a few years. Continuing education for lawyers is also useful. I recognize that the requirement for professionalism training means some lawyers are required to take training when they don't require it; that, however, is a price worth paying to ensure that programmes reach those who do.

In addition, it has been very helpful that several legal organizations have developed principles or standards relating to what is proper and what is not. The exercise of developing and adopting principles helps draw attention to the issues and provides guidance for the profession.

The Court of Appeal has been directly involved with some important efforts to recognize and promote professionalism. As detailed later in this report, several awards and fellowships have been established to recognize professionalism and civility in legal practice and to promote the research and study of issues relating to professionalism and legal ethics.

Judges have a key role to play in promoting professionalism in the courtroom. When incivility occurs as part of the litigation process and comes to the attention of a court, judges have a responsibility to do something about it. Judges are responsible for ensuring that incivility does not delay or impair the presentation of cases. Judges must also ensure that incivility does not detract from the dignity of the court process and undermine public confidence in the legal system.

I recognize that judges have different personalities and different ways of controlling the court process. However, we all have the authority of the judicial office and, properly used, that authority can go a long way toward eliminating incivility. A firm but respectful tone from the bench encourages the same behaviour from most counsel. When conduct is not acceptable, judges should intervene without rancour. If an intervention is done properly, most lawyers will respond. Stronger language, measures or sanctions can and should be used when necessary. However, my guess is that most judges, if they keep a firm hand on the behaviour in the courtroom, will never need to go beyond a firm warning.

We are on the right course in addressing incivility in the legal profession. We should stay the course. Civility and incivility are reflections of our legal culture. While the cultural change we seek will take time, it is very definitely worth the effort.



The Honourable Dennis R. O'Connor
Associate Chief Justice of Ontario



Judges of the Court of Appeal – December 2011. Missing from the photo: Doherty J.A.

Judges of the Court of Appeal

At the end of 2011, the Court of Appeal had twenty full-time judges and three supernumerary judges. As the year closed it was anticipated that two new judges would be appointed to the Court in early 2012. This will return the Court to its full complement of twenty-two full-time judges.

The Court of Appeal continues to be Canada's busiest appellate court, hearing approximately one third of the total number of appeals heard by all Canadian provincial and territorial courts combined. The thorough and high quality judgments delivered by the judges of the Court continue to be released within a targeted six-month time period, except in extraordinary circumstances.

In addition to their case related workload, judges of the Court show great leadership and involvement on various committees and other bodies, including the Canadian Judicial Council, the Federal Judicial Advisory Committee, the National Judicial Institute, the Canadian Superior Courts Judges Association, the International Association of Judges, the Ontario Courts Accessibility Committee, the Chief Justice of Ontario's Advisory Committee on Professionalism, the Chief Justices' Information and Technology Committee, the Civil Rules Committee, the Family Rules Committee, as well as many administrative and policy committees of the Court of Appeal, including its Media, Education, Criminal Rules and Law Clerk Committees.

Changes to the Judicial Composition of the Court

The Court underwent significant changes in its judicial composition over the past year.

Justice Michael Moldaver and Justice Andromache Karakatsanis, both judges of the Court of Appeal, were appointed to the Supreme Court of Canada on October 21, 2011. Their appointments have opened up two vacancies on the Bench.

Justice Moldaver had been a judge of the Court of Appeal since 1995, prior to which he had been a judge of the Supreme Court of Ontario, High Court of Justice, later renamed the Ontario Court of Justice (General Division), from 1990 to 1995.

Justice Karakatsanis had been a judge of the Court of Appeal since 2010 and a judge of the Superior Court of Justice from 2002 - 2010.

We congratulate Justices Moldaver and Karakatsanis on their well-deserved appointments to the Supreme Court of Canada. They will be greatly missed by the members of our Court for their collegiality, hard work, expertise, humour and wisdom. We know they will provide great guidance to all courts across Canada in their new roles as Justices of the Supreme Court of Canada.

New Judicial Appointment

On December 2, 2011, the Honourable Justice Alexandra Hoy was appointed to the Court of Appeal for Ontario. Justice Hoy replaces a vacancy on the Court of Appeal created by Justice Jean MacFarland who elected supernumerary status as of November 18, 2011.

Prior to her appointment to the Court of Appeal, Justice Hoy had been a judge of the Superior Court of Justice in the Toronto Region since 2002, during which time she presided over cases in all facets of the Court's work. Justice Hoy is bilingual and can hear cases in French and English.

Before being appointed as a Superior Court judge, she was a partner at Lang Michener LLP in Toronto and practiced corporate and commercial law with a specialty in broadcasting, cable, telecommunications and the entertainment industries.

Justice Hoy graduated from Osgoode Hall Law School in 1978 and was called to the Bar in 1980. She also has a Bachelor of Arts in Fine Arts from York University.

Dates of Appointment of Judges of the Court of Appeal

The Honourable Warren K. Winkler (C.J.O.)

- | | |
|---|----------------|
| ▪ Chief Justice of Ontario | June 1, 2007 |
| ▪ Regional Senior Judge of the Superior Court of Justice (Toronto Region) | March 12, 2004 |
| ▪ Superior Court of Justice | April 19, 1999 |
| ▪ Ontario Court of Justice (General Division) | June 16, 1993 |

The Honourable Dennis R. O'Connor (A.C.J.O.)

- | | |
|--------------------------------------|------------------|
| ▪ Associate Chief Justice of Ontario | October 30, 2001 |
| ▪ Court of Appeal | June 11, 1998 |

The Honourable David H. Doherty

- | | |
|---|-------------------|
| ▪ Court of Appeal | September 1, 1990 |
| ▪ Supreme Court of Ontario, High Court of Justice | September 2, 1988 |

The Honourable Karen M. Weiler*

- | | |
|---|-------------------|
| ▪ Court of Appeal | March 12, 1992 |
| ▪ Ontario Court of Justice (General Division) | September 1, 1990 |
| ▪ Supreme Court of Ontario, High Court of Justice | February 21, 1989 |
| ▪ District Court of Ontario | January 1, 1985 |
| ▪ County and District Courts of Ontario | November 27, 1980 |

The Honourable John I. Laskin

- | | |
|-------------------|------------------|
| ▪ Court of Appeal | January 27, 1994 |
|-------------------|------------------|

The Honourable Marc Rosenberg

- | | |
|-------------------|-------------------|
| ▪ Court of Appeal | December 12, 1995 |
|-------------------|-------------------|

The Honourable Stephen T. Goudge

- | | |
|-------------------|-------------------|
| ▪ Court of Appeal | December 19, 1996 |
|-------------------|-------------------|

The Honourable Kathryn N. Feldman

- | | |
|---|-------------------|
| ▪ Court of Appeal | June 11, 1998 |
| ▪ Ontario Court of Justice (General Division) | December 24, 1990 |

The Honourable James C. MacPherson

- | | |
|---|----------------|
| ▪ Court of Appeal | May 25, 1999 |
| ▪ Superior Court of Justice | April 19, 1999 |
| ▪ Ontario Court of Justice (General Division) | June 24, 1993 |

The Honourable Robert J. Sharpe

- | | |
|---|-------------------|
| ▪ Court of Appeal | May 25, 1999 |
| ▪ Superior Court of Justice | April 19, 1999 |
| ▪ Ontario Court of Justice (General Division) | February 28, 1995 |

The Honourable Janet M. Simmons

- | | |
|--|--------------------|
| ▪ Court of Appeal | August 22, 2000 |
| ▪ Regional Senior Judge of the Superior Court of Justice (Central West Region) | October 12, 1999 |
| ▪ Superior Court of Justice | April 19, 1999 |
| ▪ Ontario Court (General Division) | September 16, 1991 |
| ▪ Ontario Court (Provincial Division) | December 21, 1990 |

The Honourable Eleanore A. Cronk	<ul style="list-style-type: none">▪ Court of Appeal	July 31, 2001
The Honourable Eileen E. Gilles	<ul style="list-style-type: none">▪ Court of Appeal▪ Superior Court of Justice▪ Ontario Court of Justice (General Division)	January 25, 2002 April 19, 1999 January 8, 1999
The Honourable Robert P. Armstrong	<ul style="list-style-type: none">▪ Court of Appeal	January 25, 2002
The Honourable Robert A. Blair	<ul style="list-style-type: none">▪ Court of Appeal▪ Regional Senior Judge of the Superior Court of Justice (Toronto Region)▪ Superior Court of Justice▪ Ontario Court of Justice (General Division)	November 5, 2003 October 12, 1999 April 19, 1999 March 22, 1991
The Honourable Susan E. Lang*	<ul style="list-style-type: none">▪ Court of Appeal▪ Superior Court of Justice▪ Regional Senior Judge of the Superior Court of Justice (Toronto Region)▪ Regional Senior Judge of the Ontario Court of Justice (General Division) (Toronto Region)▪ Ontario Court of Justice (General Division)▪ District Court of Ontario	March 12, 2004 October 12, 1999 April 19, 1999 October 29, 1996 September 1, 1990 February 21, 1989
The Honourable Russell G. Juriansz	<ul style="list-style-type: none">▪ Court of Appeal▪ Superior Court of Justice▪ Ontario Court of Justice (General Division)	March 12, 2004 April 19, 1999 March 17, 1998
The Honourable Jean L. MacFarland*	<ul style="list-style-type: none">▪ Court of Appeal▪ Superior Court of Justice▪ Ontario Court of Justice (General Division)▪ Regional Senior Judge of the Ontario Court of Justice (General Division) (Central East Region)▪ Supreme Court of Ontario, High Court of Justice	November 19, 2004 April 19, 1999 February 6, 1996 September 1, 1990 September 23, 1987
The Honourable Harry S. LaForme	<ul style="list-style-type: none">▪ Court of Appeal▪ Superior Court of Justice▪ Ontario Court of Justice (General Division)	November 19, 2004 April 19, 1999 January 27, 1994
The Honourable Paul S. Rouleau	<ul style="list-style-type: none">▪ Court of Appeal▪ Superior Court of Justice	April 14, 2005 May 31, 2002

Dates of Appointment of Judges of the Court of Appeal

The Honourable J. David Watt

- | | |
|---|-------------------|
| ▪ Court of Appeal | October 12, 2007 |
| ▪ Superior Court of Justice | April 19, 1999 |
| ▪ Ontario Court of Justice (General Division) | September 1, 1990 |
| ▪ Supreme Court of Ontario, High Court of Justice | October 4, 1985 |

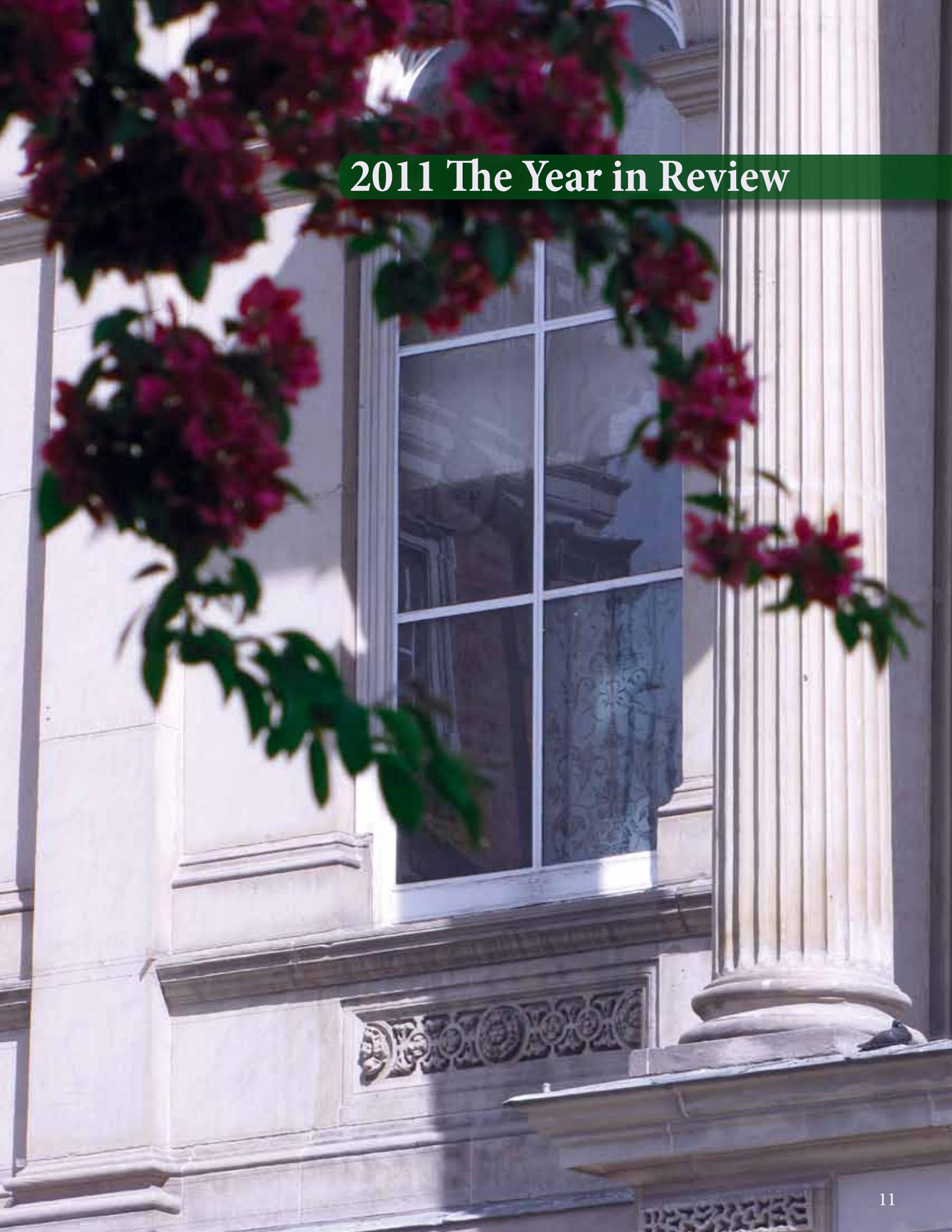
The Honourable Gloria J. Epstein

- | | |
|---|-------------------|
| ▪ Court of Appeal | December 13, 2007 |
| ▪ Superior Court of Justice | April 19, 1999 |
| ▪ Ontario Court of Justice (General Division) | June 17, 1993 |

The Honourable Alexandra H. Hoy

- | | |
|-----------------------------|------------------|
| ▪ Court of Appeal | December 2, 2011 |
| ▪ Superior Court of Justice | January 25, 2002 |

*Supernumerary



2011 The Year in Review

Judicial Outreach Visit – Windsor, Ontario

In October 2011, the Court of Appeal held a successful judicial outreach programme in Windsor, Ontario.

Over the course of two days, judges of the Court of Appeal met with members of the local Bar, the Bench and members of the academy to discuss current issues relating to legal practice in the Windsor area and the administration of justice throughout Ontario.

Meeting with the Local Bar

The visit began with a meeting with members of the local Bar, organized by the Court of Appeal in conjunction with regional law associations. Over one hundred lawyers attended the event, which included small roundtable discussions followed by a reception and dinner. The day's events provided an important opportunity for the Court of Appeal to gather information on issues of concern to local legal communities.

Meeting with Trial Judges

On the second day of the outreach programme, the Court of Appeal met with trial judges from the Southwest Region of the Superior Court of Justice and the West Region of the Ontario Court of Justice. Over 40 judges from the two courts attended the event. The meeting included small roundtable discussions, providing the judges of Ontario's three courts a useful opportunity to share observations and comments about our common mission to deliver fair, open and accessible justice to Ontarians.

Meeting with Windsor Law

A highlight of the two-day outreach programme was a visit to Windsor Law, University of Windsor's law school. Although judges of the Court of Appeal frequently visit and lecture at Ontario's law schools, this was the first time that the Court of Appeal made a group visit to an Ontario University as part of its regional outreach programme.

Members of the Court were warmly greeted by the faculty and students of Windsor Law, who attended in large numbers for this unique and historical visit.

The day featured a group assembly and small seminar-style meetings on topics of interest to the law students, giving them and faculty members an opportunity to meet with judges from the Court and discuss issues of relevance to the students' legal studies and future careers. Topics discussed in the small group sessions included: professionalism, legal writing tips, access to justice, the changing role of the litigator, clerking, and significant recent decisions from the Court of Appeal. The judges of the Court were impressed with the enthusiasm and depth of understanding shown by the students at Windsor Law, as well as their clear dedication to their legal education.

The visit to Windsor Law also afforded the judges of the Court of Appeal an opportunity to meet with President and Vice-Chancellor Alan Wildeman, Acting Dean Myra Tawfik and the faculty of Windsor Law. Informal discussions with the faculty provided members of the Court with a valuable opportunity to learn about the broad array of current research and teaching activities being pursued by faculty at this vibrant and innovative law school.

The Court hopes to integrate similar visits to other law schools into its future outreach activities.



Court of Appeal for Ontario Visits
Windsor Law





From left: Acting Dean Myra Tawfik, Chief Justice Winkler, Associate Chief Justice O'Connor, President Alan Wildeman.



The Windsor Law Outreach Visit Planning Committee with Chief Justice Winkler. From top left: Justice Eleanore Cronk, Associate Dean Christopher Waters, Justice Andromache Karakatsanis, Chief Justice Winkler, Acting Dean Myra Tawfik.



The Windsor Law Student Society Executive members with Chief Justice Winkler and Associate Chief Justice O'Connor. From top left: Jeff Aitkens, Aaron Johnson, Michael O'Brien, Lama Sabbagh, Sirus Biniaz, Associate Chief Justice O'Connor, Robert Onley, Chief Justice Winkler.



Student Hosts for the Windsor Law Outreach Visit. From top left: Aisling Flarity, Brian Chung, Krina Mahaisuria, Alicia Malone, Samantha Gordon, Don Pyper, Jordan Knowles, Alykhan Somani.



Judges of the Court of Appeal for Ontario with the Faculty of Windsor Law

Educational Leadership

The judges of the Court of Appeal are actively involved with legal education across Canada and throughout the world. They frequently present papers, give lectures and participate in panel discussions at law schools, legal education meetings and conferences.

In addition, through the National Judicial Institute and other organizations, Court of Appeal judges make a substantial contribution to judicial training programmes in Canada and worldwide.

Judges of the Court have participated in legal education sessions for lawyers and judges from various countries including Australia, Bangladesh, Botswana, Brazil, Chile, China, Costa Rica, England, Ethiopia, France, Ghana, Jamaica, Japan, Kenya, the Netherlands, Nigeria, Scotland, Tanzania, Uganda, Ukraine and the United Arab Emirates.

The Cambridge Lectures

Members of the Court participated and were involved in organizing the Cambridge Lectures in July 2011 at the University of Cambridge in England. The lecture series makes a significant contribution to judicial and legal education. The lecture series draws speakers from Canada and around the world addressing a range of emerging Canadian and international issues with legal significance.

The Canadian Institute for Advanced Legal Studies sponsors this lecture series, as well as a similar French language lecture series in Strasbourg, France.

This year, the Cambridge Lectures included presentations by a diverse group of jurists, lawyers, government officials, politicians, academics, scholars and journalists. The lectures addressed an eclectic range of subjects regarding legal, political and cultural issues of broad significance.

The presenters included the Chief Justice of Canada and other judges from the Supreme Courts of Canada, Ireland, the United Kingdom and Israel. Justices Armstrong, Goudge, Sharpe, Rouleau and Karakatsanis participated from the Court of Appeal.



Information Technology Updates

Members of the Court, along with judges from the Ontario Court of Justice and the Superior Court of Justice, lead an independent information technology organization, the Judicial Information Technology Office (JITO), which is responsible for ensuring the security and confidentiality of all judicial information in Ontario. Each year, enhancements are implemented to safeguard the integrity of judicial information and to enhance the ability of the judiciary and court staff to retrieve court information.

In response to feedback from the legal profession and the media, six new online subscription services (RSS feeds) were added to the Court of Appeal website to allow subscribers to be notified when specified types of content are added to the website. There are now eight RSS feeds in total. Individuals can subscribe to RSS feeds that deliver notice of the release of any family, civil or criminal law decisions. They can also choose to receive notification when any new decision is posted to the website, or when any reserved judgments are to be released. There are also two RSS feeds to alert subscribers to general website changes; one will send a notification when any content changes have been made to the website and the other will send notice when there have been any content changes other than the addition of new decisions. Finally, there is a new subscription service geared exclusively to notices of specific interest to the media, such as notices relating to media lockups, non-publication bans and *in-camera* notices.

The Court is currently working with JITO to redesign the look and organization of its website to improve the visual appearance and make it easier for users to quickly find the information they are looking for.

Book on the History of the Court of Appeal

Christopher Moore, a renowned author and legal historian, has been commissioned to write a book on the history of the Court of Appeal. Mr. Moore has previously written histories of the British Columbia Court of Appeal, the law firm of McCarthy Tétrault, and the Law Society of Upper Canada. It is anticipated that publication of the book, funded by the Law Foundation of Ontario by way of a grant to the Osgoode Society for Canadian Legal History, will be completed in 2013.

Law Clerk Programme

The Court of Appeal engages 17 law clerks in the Law Clerk Programme at the Court. These recent law school graduates, who are either fulfilling their articling requirements or are lawyers who have recently been called to the Bar, are provided day-to-day supervision by staff research lawyers and are overseen by the Law Clerk Committee, consisting of Justices Laskin, Goudge, Feldman, Gillese and Blair. They provide valuable assistance to the Court. Working on a wide variety of cases, including constitutional, criminal, civil, commercial, family and administrative law matters, the law clerks prepare pre-hearing memos, conduct legal research, edit judgments and complete a variety of special projects assigned by the judges. Law clerks are encouraged to attend court proceedings at both the Court of Appeal and the nearby trial courts, and have the opportunity to travel once during the year to Kingston, Ontario, to observe and assist with inmate appeals.

The clerkship begins each year in either August or September and continues for a period of 10 to 12 months. Each law clerk is paired with either one or two judges of the Court, with an assignment change halfway through the year to provide the law clerk with broader exposure to the activities and judges of the Court.

Law Clerks 2010-2011:

Jamie Au, Windsor; Andrea Bolieiro, Queen's; Ren Bucholz, Osgoode; Dan Daniele, Western; Anna Gersh, Osgoode; James Harnum, Osgoode; Solomon Lam, Osgoode; Nadia Lambek, Yale; Matthew Law, Toronto; Andrew Martin, Toronto; Kyle McCleery, UBC; Benjamin Piper, Ottawa; Natalia Rodriguez, Queen's; Ashley Rouse, Ottawa; Claire O'Sullivan, Columbia; Laura Wagner, Toronto; and Rowan Weaver, Victoria.

Law Clerks 2011-2012:

Jeff Carolin, Osgoode; Alan Cliff, Harvard; Graham Jenner, Osgoode; Natasha Kanerva, Toronto; Brent Kettles, Osgoode; Joanna Langille, NYU; Ryan Liss, Toronto; Adriana Morrison, Western; Danielle Mulaire, Ottawa; Kim Potter, Toronto; Mary Race, McGill; Ziad Reslan, Osgoode; Sarah Reynolds Repka, Queen's; Shirley Smiley, UBC; Carly Stringer, Ottawa; Eric Wagner, Toronto; and Lauren Wilhelm, Windsor.

Support to Litigants and the Public

Duty Counsel and Amicus Curiae

Duty counsel and *amicus curiae* services continue to be made available to self-represented litigants in criminal inmate appeals and appeals from the Ontario Review Board. These services are of great assistance to self-represented litigants and to the Court.

In addition, Pro Bono Law Ontario continued a programme that it established in 2010, which provides duty counsel services one day a week to assist self-represented litigants bringing or responding to motions in the Court of Appeal. This programme has proven to be very helpful to litigants and to the Court. Self-represented litigants may take advantage of this valuable programme by scheduling their motions on Wednesday mornings.

Crown Wardship Appeals

The Court of Appeal, in cooperation with the Toronto Superior Court of Justice and the Ontario Court of Justice, has continued its efforts to expedite crown wardship appeals. Specifically, a set of practices has been maintained that were developed to ensure that these matters are dealt with in a timely manner by tracking them electronically and by assigning a single judge with expertise in child protection to monitor the progress of the cases.

In addition, a pilot screening programme has been launched in cooperation with Pro Bono Law Ontario and the Advocates' Society to assist self-represented litigants in obtaining timely results. Senior family law counsel, acting on a *pro bono* basis, are available to review targeted appeals in the Court of Appeal and the Superior Court of Justice in

order to identify and help alleviate sources of delay. The programme aims to diagnose causes of delay, identify cases that may be eligible for free legal assistance and, where possible, match unrepresented litigants with appropriate counsel. The goal in the coming year is to find better ways to connect self-represented litigants with the services available to them through this programme.

Criminal Appeal Reform

Justice Marc Rosenberg continues his work leading a committee that is examining the Criminal Appeal Rules. This committee, composed of representatives from the Ministry of the Attorney General, the Public Prosecution Service of Canada, Legal Aid Ontario, the Criminal Lawyers' Association and the staff of the Court of Appeal, is in the process of reviewing the rules with a view toward their modernization.

In addition, the Court began a practice of providing at least one day's notice prior to releasing its reserved criminal judgments. This change, which is consistent with the existing practice for civil appeals, allows litigants, the media and all relevant stakeholders to be prepared for the release of judgments and make any necessary arrangements in advance.

The Court also instituted a practice direction requiring counsel to submit an electronic version of all criminal appeal factums. This change, which is consistent with the rules for civil appeals, is not applicable to self-represented litigants. These litigants, while encouraged to file their factums electronically, retain the option of filing paper versions of their criminal factums.

Improved Documentation

The Court of Appeal is involved in efforts to make its procedures easier to understand for litigants. It is currently revising its Notice of Appeal form to simplify information required on the Notice.

In addition, the Court is formulating a user guide for family law appeals and a self-help guide for appeals under the *Provincial Offences Act*. Appellants in these areas are often self-represented and it is anticipated that guidebooks will be of assistance to such individuals in preparing and presenting their cases.

Court Accessibility

The Court of Appeal is committed to a court system that is accessible to persons with disabilities. The Court has a designated Accessibility Coordinator who proactively responds to disability accommodation requests for specific needs related to counter service or court proceedings.

The Court continues to test and introduce assistive hearing technology. Currently the Court has three assistive listening devices available upon request to court users with challenged hearing. In addition to recently improving the microphones in its courtrooms, the Court acquired an infrared assistive listening system to add to the two frequency modulation (FM) systems it already has. This further improves the choice of assistive technology available to court users which varies depending on individual needs, preferences and physical dynamics of each courtroom.

Administrative Improvements

The Court of Appeal has endeavoured to modernize its customer service operations and has recently installed a new electronic numbering system to increase efficiency in serving its clientele. Located inside the reception area of the intake office, the system's monitor displays the client number being served and includes informational slides on frequently asked questions, general practice directions, a brief outline of available self-help guides, and other important information.

A newly implemented electronic filing system accommodates scanned judgments and final orders. This facilitates quick access to orders and permits electronic copies of these orders to be provided to the profession and the public both efficiently and environmentally.

At the end of 2011, the Court also began implementing an electronic scheduling process whereby court office staff wirelessly schedule hearing dates from the courtroom using tablet technology. This will increase the speed and efficiency with which court dates can be set.

Working with the Media

Recognizing the important role the media plays in ensuring an open and transparent justice system, the Court of Appeal's Media Committee continues to maintain a dialogue with representatives of the media on ways to improve media access to court information.

With the increased receipt and storage of court documents in an electronic format, the Court is now able to provide copies of many documents to the media by e-mail. The new requirement that counsel file electronic copies of factums in criminal appeals means that court staff can now provide members of the media with electronic factums in almost all civil and criminal matters.

Opening of the Courts Celebration

Each autumn all three Ontario Courts come together to mark the beginning of the court term with an Opening of Courts ceremony held in Toronto. This year's ceremony was held on September 13, 2011. The day is organized around three events which provide an opportunity to celebrate the achievements of the previous year and reflect on challenges for the future.

Special Divine Interfaith Service

The Opening of the Courts traditionally commences with a Special Divine Interfaith Service, held in most recent years at the Church of the Holy Trinity. This celebratory multi-faith event was attended by members of the judiciary and the Bar, along with other dignitaries. Readings were presented by leaders in the legal community, clergy from various religions, and the Honourable David C. Onley, the Lieutenant Governor of Ontario. The service has been conducted annually since 1955 in various locations of different denominations and has been made possible each year by an anonymous donor in the memory of the Late Honourable Newton Wesley Rowell, a former Chief Justice of Ontario and Treasurer of the Law Society of Upper Canada.

An extremely well-attended ceremony this year, again coordinated under the musical direction of Justice Julie Thorburn of the Superior Court of Justice, featured a spectacular instrumental ensemble and highlighted vocal performances by the Bench and Bar Choir, the Jarvis Collegiate choir, and Her Honour Mrs. Ruth Ann Onley. The theme address was presented by The Honourable Rob Nicholson, Minister of Justice and Attorney General of Canada.

Ceremonial Joint Sitting of the Courts

As in years past, the Courts were formally opened at a ceremonial joint sitting of the three Ontario Courts. Chief Justice Winkler, Chief Justice Smith of the Superior Court of Justice and Chief Justice Bonkalo of the Ontario Court of Justice each addressed the Court. The speeches of the three Chief Justices are posted on the Ontario Courts website at www.ontariocourts.ca.

The following dignitaries were also asked to address the Court: the Honourable David C. Onley, the Lieutenant Governor of Ontario; Guy Smith, the Federal Judicial Affairs Advisor representing the Federal Minister of Justice; Murray Segal, the Deputy Attorney General; and speaking on behalf of the Law Society, Harvey Strosberg Q.C., the former Treasurer of the Law Society of Upper Canada.

Many special guests attended the court ceremony including: the Honourable François Rolland, Chief Justice of the Québec Superior Court; the Honourable R. Roy McMurtry, former Chief Justice of Ontario; William Brooks, Commissioner for Federal Judicial Affairs; and Norman Sabourin, Executive Director of the Canadian Judicial Council.

Law Society Reception at Convocation Hall

The day's festivities concluded with a reception at Convocation Hall hosted by the Treasurer of the Law Society of Upper Canada. This social event provides an opportunity for the members of the legal community to gather in the spirit of collegiality.



Promoting Professionalism

The judges of the Court of Appeal share a common commitment to promoting professionalism and civility within the legal community. As mentioned in Associate Chief Justice O'Connor's message at the beginning of this report, civility enhances the effectiveness of our justice system, improves the public's perception of lawyers, and increases lawyers' satisfaction in serving their clients. Members of the Court are actively involved with several initiatives, many of them through the Chief Justice of Ontario's Advisory Committee on Professionalism, aimed at promoting the highest of standards and ethical behaviour within the legal practice. To this end, several awards and fellowships have been introduced in recent years to honour outstanding professionalism, civility, and legal ethics and to promote scholarship on this topic.

The Catzman Award for Professionalism and Civility



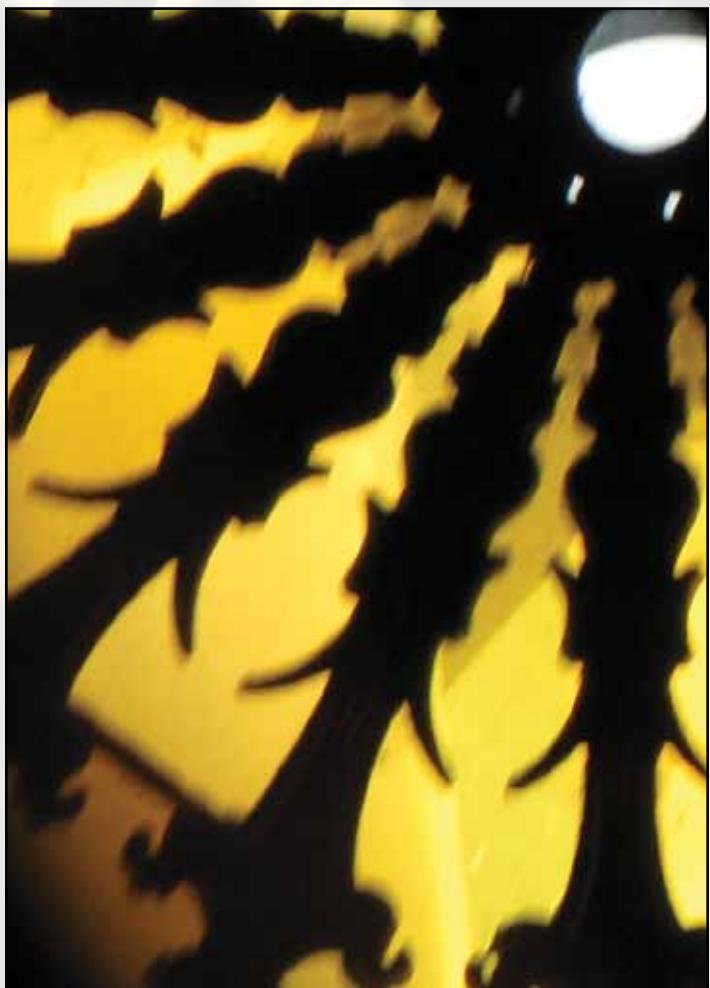
John Norris accepts the 2011 Catzman Award for Professionalism and Civility at the Opening of Courts Ceremony in Toronto.

In 2009 the Catzman family, together with the Advocates' Society and the Chief Justice of Ontario's Advisory Committee on Professionalism, established an award in memory of the late Honourable Marvin A. Catzman, former Justice of the Court of Appeal. The award

recognizes an individual who has demonstrated a high degree of professionalism and civility in the practice of law and is announced annually by Chief Justice Winkler at the Opening of Courts celebration.

For the first time, this year two award winners were chosen, John Norris of Toronto and Bryan A. Carroll of Ottawa. Mr. Norris received his award at the Opening of the Courts ceremony in Toronto. Mr. Carroll was honoured at the Opening of the Superior Court of Justice in Ottawa.

The award winners are nominated by their peers and selected by a distinguished panel of judges, lawyers and a member of the Catzman family.



Rueter Scargall Bennett LLP Essay Prize in Legal Ethics



Students accept the 2011 Rueter Scargall Bennett LLP Essay Prize. From top left: Trafton Koenig, Jennifer Hiatt, Jacob Gofman, Randy Bennett (Partner, Rueter Scargall Bennett LLP), Chief Justice Winkler, Laurie Pawlitz (Treasurer, Law Society of Upper Canada).

A year ago, the Chief Justice of Ontario's Advisory Committee on Professionalism established an annual prize, sponsored by the law firm Rueter Scargall Bennett LLP, to be awarded to three law students registered in a J.D. or LL.B. programme at an Ontario law school. The prize encourages law students to think about the legal profession and acknowledges the best unpublished student papers on any topic relating to legal ethics and professionalism.

The inaugural awards were presented this September to Jennifer Hiatt of the University of Ottawa, Jacob Gofman of the University of Toronto, and Trafton Koenig of the University of Ottawa. The three recipients received their awards from Chief Justice Winkler and Treasurer Pawlitz at a dinner held in their honour hosted by the Law Society of Upper Canada.



The Chief Justice of Ontario Fellowships in Legal Ethics and Professionalism

In 2011 the Chief Justice of Ontario's Advisory Committee on Professionalism established two fellowships in Legal Ethics and Professionalism: a research fellowship awarded to a faculty member at a university or college, and a studies fellowship awarded to a licensed paralegal, lawyer or law student.

The fellowships are funded by various law associations and members of the legal community. The research fellowship for 2011-2012 was awarded to Professor Shelly Kierstead of Osgoode Hall Law School and Erika Abner to research how lawyers learn professionalism and civility. The studies fellowship was awarded to Simon Chester of Heenan Blaikie LLP to conduct research on conflicts of interest.





The Year Ahead

The coming year promises to be every bit as active for the Court as the year that has just concluded. There will be further progress in a number of areas, and there are already significant markers on the 2012 calendar.

The Court will continue to improve the use of technology to increase the efficiency of the Court and make it more accessible to the public. A number of ongoing initiatives aimed at improving information and services for litigants, such as the development of new rules, forms and information guides, will continue into 2012 and will be posted on the Court's website when completed.

In the spring of 2012, the Court will hold its annual outreach meeting with the judges of the Superior Court in the Toronto Region. This forthcoming meeting will complete the cycle of annual outreach meetings by the Court of Appeal that have been held with the Superior and Ontario Courts in different regions throughout the Province during the last decade. We look forward to this visit with our judicial colleagues in Toronto.

In October 2012, the Court will participate in a joint meeting with the Québec Court of Appeal. This is the second such meeting of the two courts which will be hosted by the Québec Court of Appeal in Québec City. These joint meetings between the two busiest appellate courts in Canada provide a valuable opportunity for the members of the Courts to share their experiences and to build on previous discussions relating to best practices and future challenges that they have in common.

The past year saw many accomplishments. In the forthcoming year, the Court looks forward to continuing to discharge the important responsibilities given to it. All the members of the Court are fully committed to that task. Serving the public in the interests of justice is the Court's enduring objective.

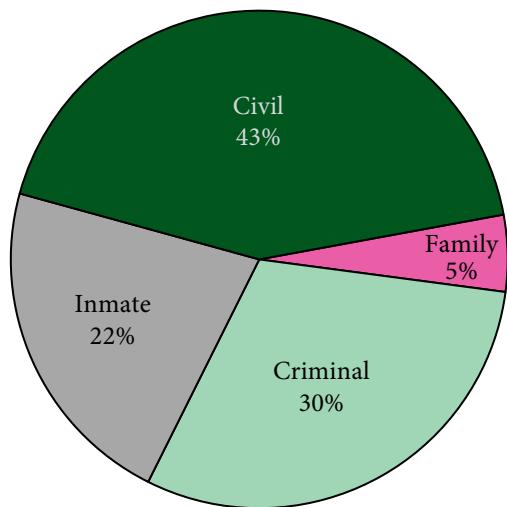
Statistical Information



Nature of Cases Received in the Court of Appeal for Ontario

Appeals Received

For statistical purposes, Court of Appeal cases are categorized into one of four types of appeals: civil, family, criminal and inmate. Inmate appeals are criminal matters in which sentenced inmates file an appeal without representation of legal counsel. In 2011, the proportion of appeals filed in these four categories was 43% civil, 5% family, 30% criminal, and 22% inmate. Administrative law cases are included in the civil category and provincial offences matters are included in the criminal category.



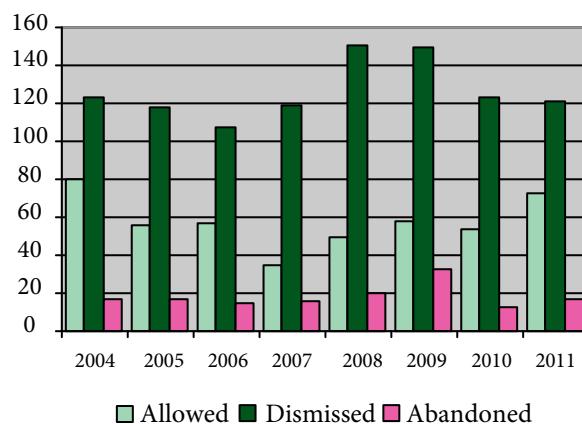
Although the proportions in these categories have fluctuated slightly from year to year, they have remained relatively consistent for the last several years, as summarized in the following table.

Appeals Received	2004	2005	2006	2007	2008	2009	2010	2011
Civil	42%	42%	39%	40%	40%	39%	38%	43%
Family	6%	6%	8%	5%	7%	7%	7%	5%
Criminal	32%	32%	31%	32%	31%	32%	32%	30%
Inmate	20%	20%	22%	23%	22%	22%	23%	22%

Appeals for Which Leave is Required

Although most appeals at the Court are filed and heard as of right, others require leave of the Court to be heard. This is the case in all provincial offences cases, in some civil cases, and more rarely in some family cases. When leave is required in criminal matters, it is usually argued as part of the appeal hearing and is, therefore, not accounted for in the Court's motion for leave statistics. In cases requiring leave prior to the hearing of the appeal, the party seeking leave must bring a motion, and the adjacent chart summarizes the number of such motions brought each year and how many are allowed, dismissed, or abandoned. The following table shows the proportion of motions for leave to appeal that are allowed versus those that are dismissed.

Motions for Leave to Appeal



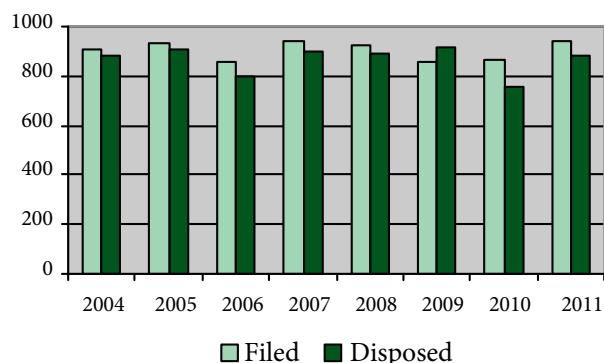
Motions Heard for Leave to Appeal	2004	2005	2006	2007	2008	2009	2010	2011
Allowed	39%	32%	35%	23%	25%	28%	31%	38%
Dismissed	61%	66%	65%	77%	75%	72%	69%	62%

Motions in the Court of Appeal for Ontario

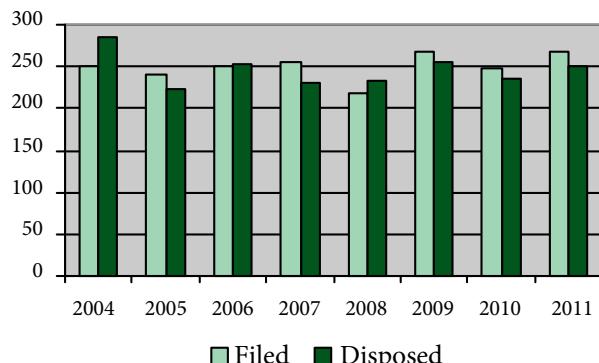
Single Judge and Panel Motions

A variety of motions are heard at the Court of Appeal prior to hearings on the merits of appeals. Depending on the governing statute or court rule, some of these motions are heard by a single judge while others must be heard by a panel. The number of single judge motions and panel motions has remained relatively constant over the last several years.

Single Judge Motions

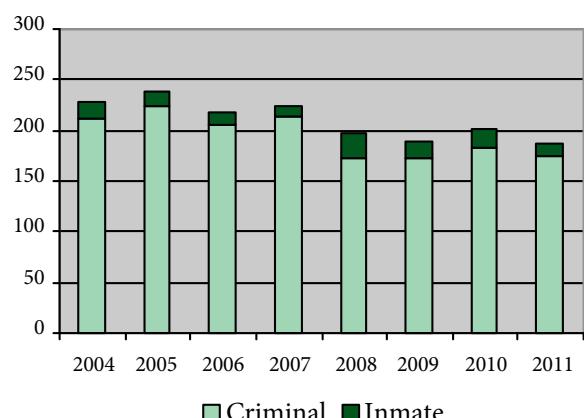


Panel Motions



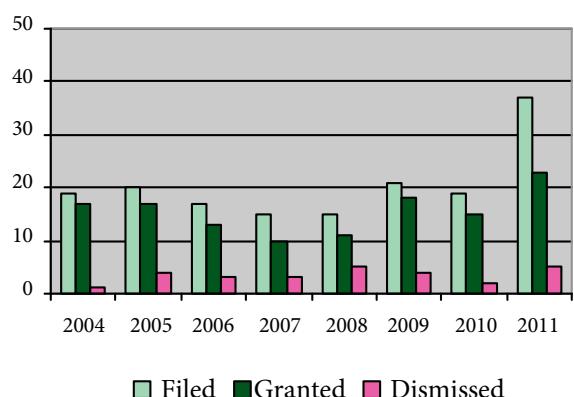
Bail Applications and Reviews

The Court hears a number of bail applications and reviews in criminal and inmate matters. The number of such applications and reviews has declined somewhat over the last several years, but remains a significant part of the workload for single judges hearing motions.



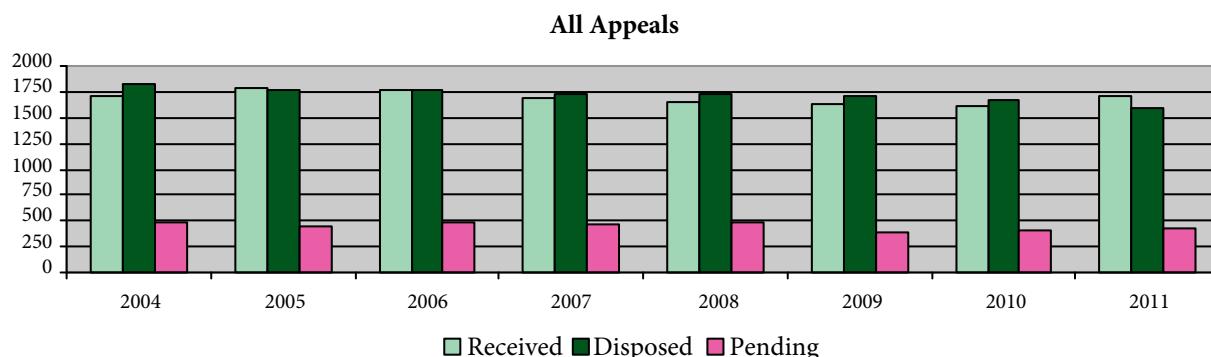
Motions for Third Party Interventions

The Court hears a relatively small number of motions brought by third parties, usually representing special groups who wish to make submissions in particular cases. These interventions, when granted, increase the length of appeals. In 2011 there was a significant increase in the number of motions to intervene filed and granted.

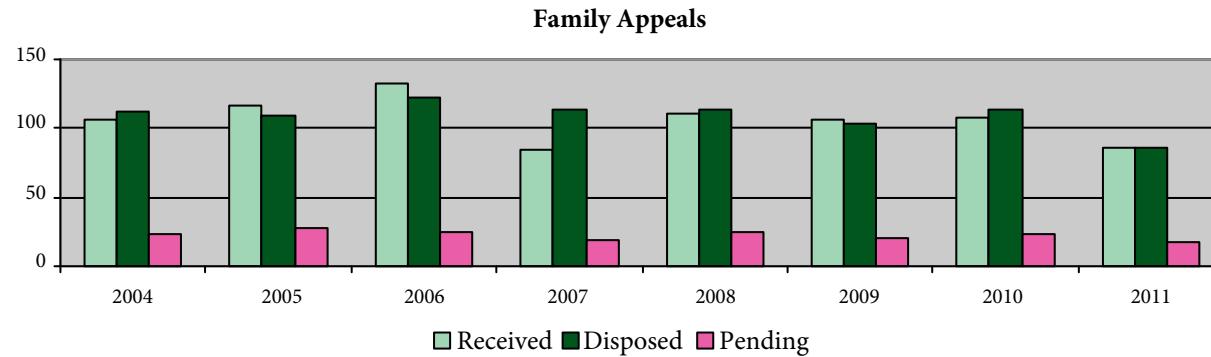
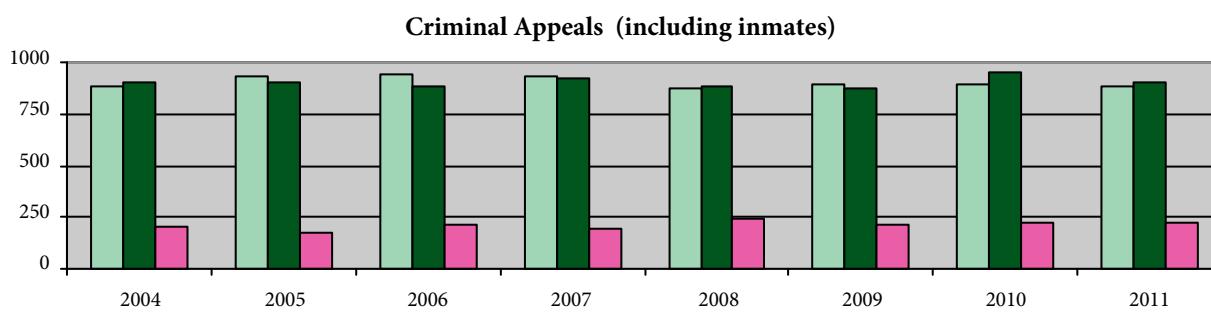
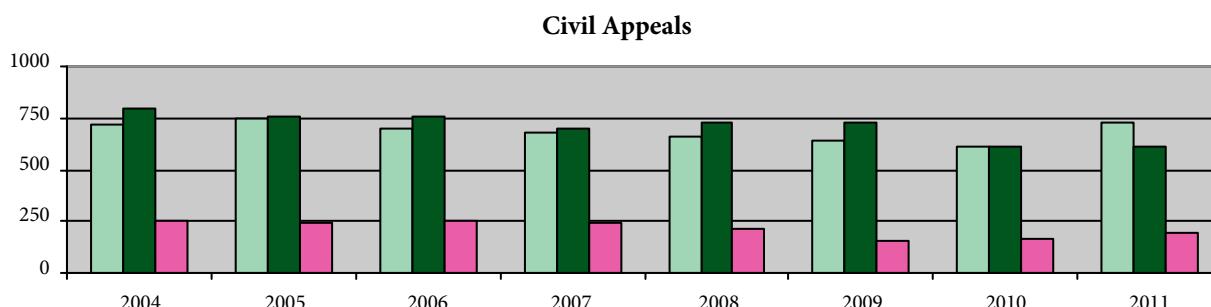


Case Flow

Appeals filed as of right or as a result of leave being granted are received and counted for statistical purposes in each year. Appeals finally disposed of in each year are also calculated for statistical purposes, but many are received in the previous year. As well, there are a number of appeals that are still pending at the end of each year that are still to be perfected or awaiting their hearings on the merits. The following chart depicts the appeals received in each year and disposed of in each year, as well as the number of appeals pending at the end of each year.



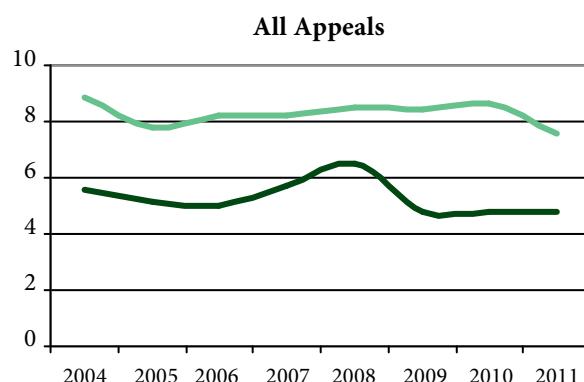
The following charts similarly depict the number of appeals received and disposed of in each year, and the appeals pending at the end of the year, in each category of cases.



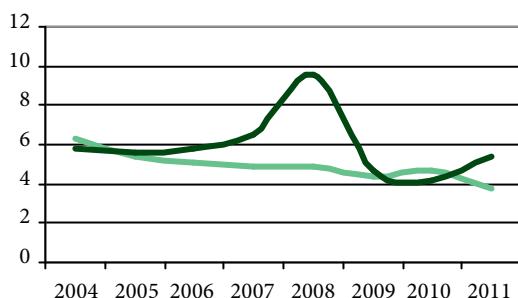
Time to Perfection and Hearing

Two timeframes are measured in the progress of appeals at the Court. The first timeframe is from the time a Notice of Appeal is filed (either as of right or after a motion for leave to appeal has been granted) to the time the appeal is perfected and ready to be set down for a hearing. The second timeframe is from the time the appeal is perfected and ready to be set down for a hearing to the time it is heard by the court on the merits. These timeframes are called “the time to perfection” and “the time from perfection to hearing”. Aggregate averages are determined for all appeals, and appeals in each type of case, based on the average applicable periods of time that have elapsed in those cases that progressed to perfection or hearing in each year.

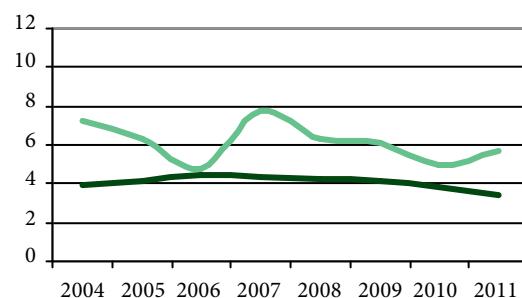
— Average Time to Perfection (months)
— Average Time from Perfection to Hearing (months)



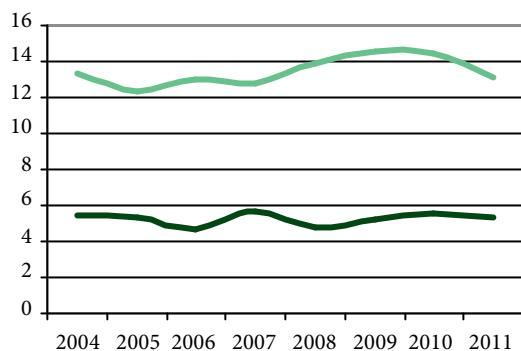
Civil Appeals



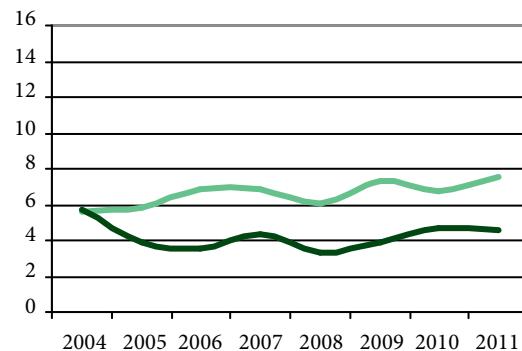
Family Appeals



Criminal Appeals

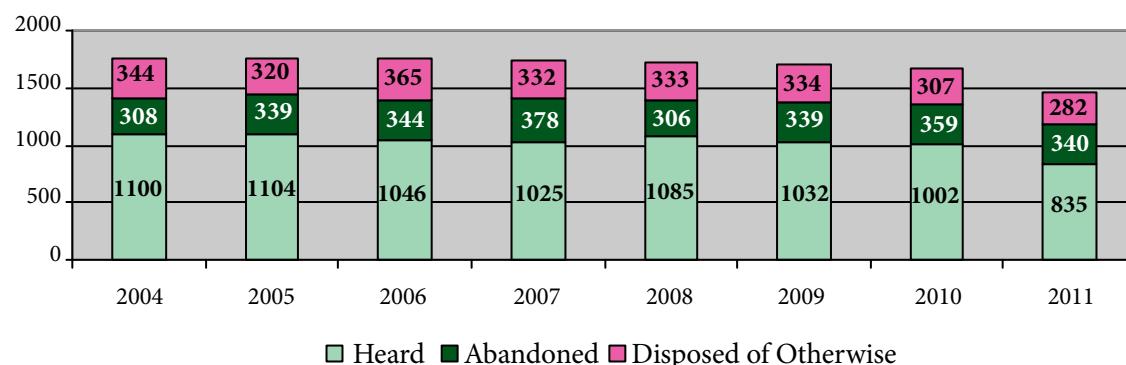


Inmate Appeals



Disposition of Appeals

When appeals are disposed of they are either allowed, dismissed, abandoned, or disposed of otherwise. Most of the matters disposed of otherwise are appeals in which the parties have settled their matter, or matters that have been dismissed on consent prior to the hearing. The following chart depicts the breakdown of appeals into those heard, abandoned, or disposed of otherwise.

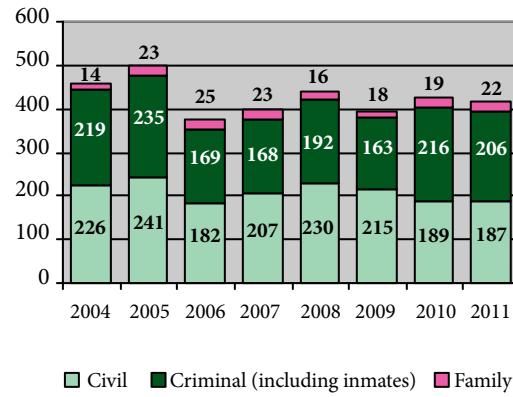


Of the matters that are heard, the following tables summarize the proportions of appeals allowed or dismissed.

Appeals Heard		2004	2005	2006	2007	2008	2009	2010	2011
Civil	Allowed	30%	34%	36%	32%	28%	28%	29%	27%
	Dismissed	70%	66%	64%	68%	72%	72%	71%	73%
Family	Allowed	24%	42%	50%	32%	29%	38%	30%	29%
	Dismissed	76%	58%	50%	68%	71%	62%	70%	71%
Criminal	Allowed	39%	38%	36%	34%	33%	36%	30%	33%
	Dismissed	61%	62%	64%	66%	67%	64%	70%	67%
Inmate	Allowed	41%	18%	26%	18%	16%	18%	17%	18%
	Dismissed	59%	82%	74%	82%	84%	82%	83%	82%
All Appeals	Allowed	34%	34%	36%	31%	29%	30%	28%	29%
	Dismissed	66%	66%	64%	69%	71%	70%	72%	71%

Appeals Reserved

Whether cases are allowed or dismissed, judges of the Court often reserve their judgments after the appeal has been heard. In many cases, the reasons for judgment can be complex and lengthy. Preparation of these reasons represents one of the most significant and time-consuming aspects of the workload of the Court.



Self-Represented Litigants

Another aspect of the hearing of appeals and motions that contributes to the workload of the Court relates to whether parties are represented by counsel or self-represented. Counsel are often able to focus the issues and shape argument to assist the members of the Court in reaching their decisions in the most efficient manner. In many cases in which parties are self-represented, matters can take significantly more time. The following table summarizes the number of appellants, respondents and moving parties who were self-represented.

Self-Represented Litigants in Appeals and Motions*		2004	2005	2006	2007	2008	2009	2010	2011
Civil	Self-represented Appellant	94	103	91	96	124	113	111	143
	Self-represented Respondent	71	34	30	46	28	22	35	37
Criminal	Self-represented Appellant	36	37	50	36	36	47	69	47
	Self-represented Respondent	17	22	41	22	26	37	57	60
Family	Self-represented Appellant	26	26	41	28	34	27	42	31
	Self-represented Respondent	8	15	27	16	14	15	16	22
Motions	Self-represented Moving Party	358	327	374	408	428	481	470	492
	Self-represented Responding Party	254	104	138	215	183	298	228	161
TOTAL		864	668	792	867	873	1040	1028	993

* does not include inmate appeals, in which the inmates are by definition all self-represented

Ontario Review Board Appeals

Finally, a relatively small but significant portion of the Court's workload relates to the Court's jurisdiction to hear appeals from the Ontario Review Board. The ORB has jurisdiction pursuant to the *Criminal Code* over persons found not fit to stand trial or not criminally responsible by reason of a mental disorder. Since 2004 there has been a modest increase in the number of appeals from the ORB.

