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Storm misled creditors online: court

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Storm Financial has misled creditors about their chances of recuperating money, a court has been told.

During an application in the Federal Court in Brisbane on Tuesday, lawyers for the national securities watchdog said an information memorandum published on Storm's website last week was "misleading and confusing" to ordinary creditors of the embattled company.

Barrister for the Australian Securities and Investments Commission Robert Newlinds SC made the statement during an application to have Storm wound up and put into liquidation.

Mr Newlinds told the court the information memorandum was supposed to be a "plain English" document setting out details of a Deed of Company Arrangement (DOCA) to be voted on at the creditors' meeting next week.

He said, however, that the memorandum skirted around a number of salient points, and that it "crossed the line" between promoting the view of Storm founders Emmanuel and Julie Cassimatis, and misleading creditors who may not have understood the legal jargon contained in the DOCA.

The court was told that if the DOCA gets up, it would clear the Cassimatisses of any liability over a \$2 million dividend they paid themselves in December, shortly before the company went into administration.

Under the DOCA, the Cassimatisses have vowed to use the money - if a Supreme Court injunction freezing the funds is lifted - to pay for the legal battle to try to recoup investors' funds.

"The Cassimatisses have taken \$2 million of the company's money and are now, heroically they say, injecting it all back into the company for the good of the creditors," Mr Newlinds said.

Ms Cassimatis was grilled over the \$2 million dividend, conceding in court that she knew Storm was in dire financial trouble at the time of the payment.

She said, however, that she and her husband had always acted in the "best interests of the company" and that she didn't believe transferring the cash would compromise Storm.

Lawyers for the Cassimatisses maintained on Tuesday that the DOCA gave creditors the best chance of an "enhanced return" on their investments.

The hearing will continue on Wednesday.

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This story was found at: <http://business.brisbanetimes.com.au/business/storm-misled-creditors-online-court-20090325-9998.html>