



New Zealand High Court
Te Kōti Matua o Aotearoa
Christchurch Earthquake Litigation List Report
As at 30 September 2014

The High Court is pleased to release this report on the operation of the Christchurch Earthquake list.

About the list

The earthquake list was set up in May 2012, to manage litigation arising from the 2010/2011 Christchurch earthquakes. The High Court made a commitment that earthquake cases would be dealt with as swiftly as the Court's resources permit.

The list was initially established and run by Justice Miller. The Judges currently responsible for the list are Justices Wylie and Kós.

The judiciary's commitment to the earthquake list reflects the importance of earthquake litigation to the parties and the region. Prompt resolution of these claims is clearly important to the Christchurch rebuild, and the judiciary has been seeking to ensure that court processes do not unnecessarily impede the process. The list seeks to promote expedition, to resolve important cases early, to facilitate settlement, and to ensure that the parties get their respective cases ready for hearing in a timely fashion.

Initial case management conferences are held within a relatively short period. Claims involving acute personal hardship get priority. So do important and significant claims, for example, those which have precedent value or which affect large numbers of people.

There are a number of cases where the parties have indicated that they are negotiating between themselves, or proceeding to alternative dispute resolution. In such cases, counsel have asked that the cases not be set down for hearing.

Filings and outcomes

| High Court: Average Filings per Period | |
|---|-------------|
| 2012 Average filings per month | 4.5 |
| 2013 Average filings per month | 16.3 |
| 2014 Average filings per month (year to date) | 11.6 |
| Average filings per month (Sept 2013 to Sept 2014) | 13.3 |

While some claims were filed in 2010 and 2011, filings began in earnest in 2012. In that year, there were 54 cases filed in court. Eighty five percent of those cases (46 cases) have been disposed of either by delivery of a judgment, or by discontinuance, presumably following a settlement.

In 2013, 196 new cases were filed, and average monthly filings increased significantly. In 2012, there were, on average, 4.5 new filings each month. This increased to 16.33 filings per month in 2013 – an increase of some 363 percent. Of the cases filed in 2013, 32.7 percent (64 cases) have been disposed of either by delivery of a judgment, or by a discontinuance.

In the nine months ending September 2014, there have been 104 new filings. The new filings represent a decrease of 29.5 percent on the same period in 2013. Most cases filed in 2014 have had a first case management conference. All new cases have been allocated a first case management conference within two months of filing. Some have been heard considerably earlier, with many cases receiving the first case management conference in little over a month after the date of filing.

The first case management conference examines the issues for trial and makes directions for the early exchange of expert reports. A second conference is usually then held within three – four months to review progress. If the case is on track, and essentially ready for trial, a fixture will be allocated at that conference. Parties are required to exchange evidence shortly after that conference. Cases can currently be allocated a fixture date within three–six months of the second conference. There are still dates available in Christchurch for hearings this year.

| High Court: Total Filings and Outcomes as at 30 September 2014 | |
|---|-----|
| Total EQ cases files (since September 2010) | 359 |
| Set down for fixture or awaiting judgment | 30 |
| Judgments released | 30 |
| Discontinued cases | 91 |
| Total disposed cases | 121 |
| Total active cases | 238 |

Since May 2012, 111 earthquake-related cases have been disposed of. There are currently 30 cases set down for hearing or awaiting judgment. There are currently 238 cases under active management by the court. This includes those cases where counsel have indicated that settlement negotiations are underway, or where alternative dispute resolution is being pursued. It also includes a limited number of cases which have been stayed because of the repeated failure by plaintiffs to comply with court orders in a timely fashion. These cases are likely to be reactivated on application once the plaintiffs concerned comply with the court orders in question.

Case management matters

The High Court has taken steps to ensure that it can handle the volume of earthquake-related work which is coming before it. Justice Wylie, who normally sits in Auckland, is in Christchurch for approximately a week each month, and Justice Kós, who normally sits in Wellington, is in Christchurch for two–three days each month. Associate Judges in Christchurch are assisting when required. Many of the substantive cases have been heard by Judges based in Christchurch, although Judges are also deployed to Christchurch from Auckland or Wellington as and when required. In some instances, the parties have agreed to their cases being heard in another registry.

A dedicated judicial support officer – Robin Ashton – has been employed by the Ministry of Justice. He is answerable directly to Justices Wylie and Kós. He liaises direct with counsel for the plaintiffs and defendants.

On 8 May 2014, Justice Winkelmann and Justice Wylie, together with senior Christchurch registry staff, met with those counsel who frequently deal with earthquake-related matters. The purpose of the meeting was to encourage dialogue between the judiciary and those who act for the parties in earthquake-related litigation. The judiciary was keen to obtain feedback from counsel, to see if there was any way in which court processes could be further streamlined to assist with throughput and efficiency. Justice Wylie was also able to explain to those present the methodology being used by the court, and the difficulties which the judiciary see from time to time in the implementation of that methodology by counsel.

Earthquake list appeals

| Court of Appeal: Statistics as at 17 September 2014 | |
|---|----|
| Filed | 21 |
| Judgments released | *9 |
| Abandoned pre-hearing | 3 |
| Awaiting hearing | 2 |

*Determining 14 appeals

In the Court of Appeal, the majority of earthquake list appeals have applied for and been granted entry on the fast track. Twenty-one appeals have been filed, 16 of which have been heard or are set down for hearing, three appeals have been abandoned and two are awaiting fixture dates. Only one matter (involving three appeals heard together) has been delayed this year following an adjournment request, it was heard in August and the judgment is now delivered. Nine judgments, determining 14 appeals have been delivered. On average the time from hearing to judgment for earthquake-related appeals is 53 days.



Hon Justice HD Winkelmann
Chief High Court Judge – Te Kaiwhakawā Matua