



New Zealand High Court

Te Kōti Matua o Aotearoa

Christchurch Earthquake Litigation List Report

As at 30 September 2023

The High Court releases this report on the operation of the Christchurch Earthquake List for the 12 months since the last report.

About the Earthquake List

The Earthquake List was set up in May 2012, to manage litigation arising from the Christchurch earthquakes. The purpose of the Earthquake List is to deal with earthquake related cases as swiftly as the Court's resources permit.

Further information about the Earthquake List is available on the Courts of New Zealand website:

<https://www.courtsofnz.govt.nz/the-courts/high-court/high-court-lists/earthquake-list-christchurch>

Update on management of the Earthquake List

The list is managed by two Christchurch based Judges (Justice Osborne and Associate Judge Lester). The Judges are provided with dedicated analytical and case management support from a Judicial Support Advisor and the Christchurch High Court Registry.

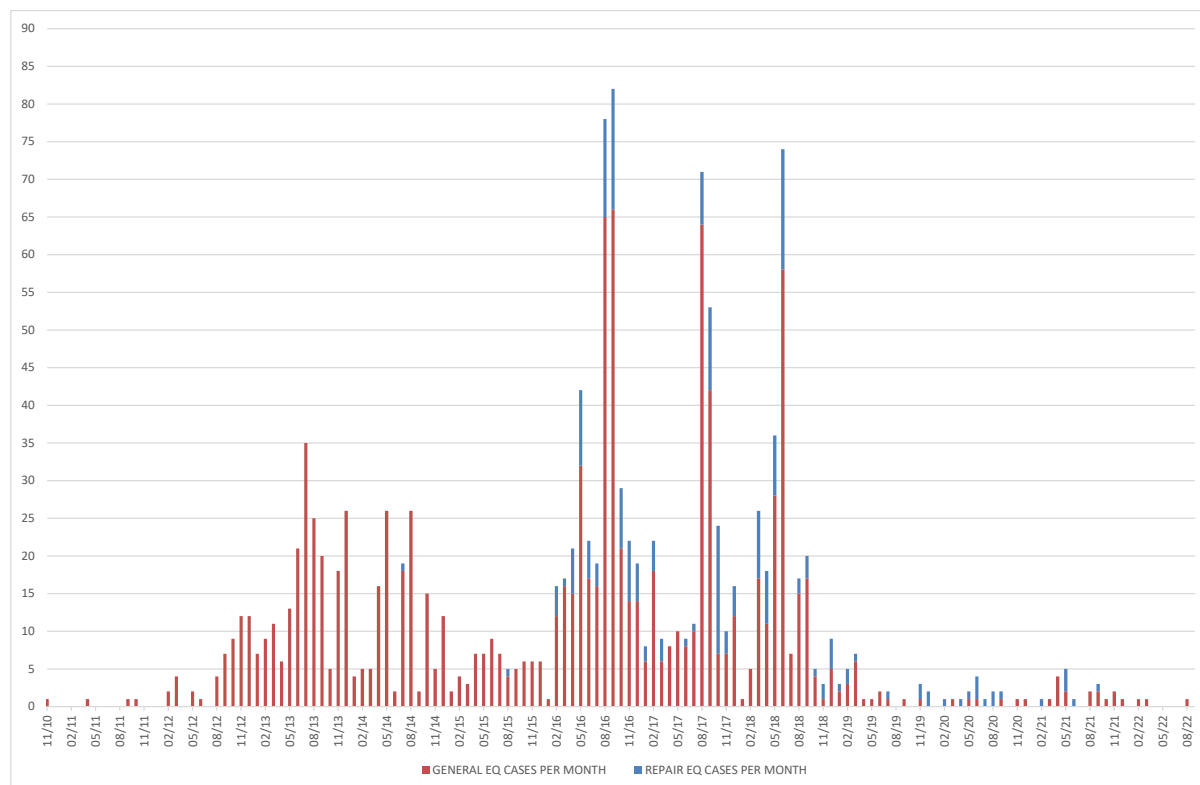
The Court wishes to acknowledge the contribution of Justices Miller, Wylie, Kós, Gendall, Osborne and Associate Judge Lester, and the Judges from other circuits who have assisted with the Earthquake List. Given the decrease in number of active cases this will be the last Report on the Earthquake List, however the List will continue to operate. The Court recognises the cooperative approach adopted by counsel involved in earthquake litigation who have embraced the Earthquake List's active case management approach.

Filings and outcomes

Since the List was established, 1382 earthquake-related proceedings have been filed and placed on the Earthquake List. There was a pattern of high filing numbers in 2016-2018. In 2019 these dropped, with 39 new proceedings filed that year. In 2020 and 2021, this pattern has continued, with 19 new proceedings filed in both years. In 2022 & 2023, 14 & 11 new proceedings were filed respectively.

Of the 11 proceedings filed in the period ending 30 September 2023, 4 are defective repair cases and another 2 were filed in relation to the Kaikoura earthquake. The graph below shows the number of filings per month since earthquake-related filings began in 2010. It illustrates the high number of filings 2016–2018 and the more recent reduction in filings.

Filings per month: earthquake proceedings and defective repairs



The below table compares the number of recent filings with those in earlier years. It is evident that there are now likely to be relatively few unresolved purely legal issues, most of the remaining cases turning on their facts.

Average Earthquake-related filings per month for years ending 30 September	
2013	15.0
2014	12.8
2015	6.8
2016	26.3
2017	22.6
2018	21.2
2019	3.3
2020	1.6
2021	1.6
2022	1.2
2023	0.9

As twelve years have passed since the February 2011 earthquake, the reduction in filings was to be expected as settlement negotiations or trials were concluded and repairs or rebuilds were undertaken. Cases raising issues over repairs now account for approximately one third of all active Earthquake List cases.

Disposals

The aim of any case management list is to assist the parties to resolve the proceedings. The most common and cost-effective outcome for both parties is settlement. A feature of case management is that certain cases are identified for hearing as they can best provide a legal precedent to assist with settlement.

In the year to 30 September 2023, disposals by settlement were again the predominant type of disposal (29 out of 32 total disposals – 91%), continuing the pattern of earlier years. Since the list began, 1226 cases have been settled or discontinued by the parties.

The Court has continued to allocate Judicial Settlement Conferences wherever appropriate. These, together with external mediation services, have resulted in many cases settling. In the year to 30 September 2023, 12 of the 13 Judicial Settlement Conferences that took place have resulted in discontinuance.

Historically, cases were not set down for trial until they were ready for trial. However, in recent months due to the impact of COVID-19 on available hearing time, several cases have requested trials to be allocated at earlier stages of case management in anticipation that a hearing date would likely be well over a year away. As all the relevant information and expert reporting is usually complete before a case is set down, the parties can have meaningful settlement discussions at the point a hearing date is allocated. The disposal statistics suggest that the current approach to trial allocation encourages focused settlement discussions before the costs of final trial preparation are incurred.

The table below shows the number of filings by year and what numbers and percentage of those yearly filings have been resolved. The Earthquake List Judges continue to audit older cases to ensure that there is justification for older cases remaining active.

Table of disposals for years ending 30 September			
Year	Yearly Filings	Disposed	Percentage
2011	3	3	100.0%
2012	21	21	100.0%
2013	180	180	100.0%
2014	154	154	100.0%
2015	81	81	100.0%
2016	316	315	99.7%
2017	271	270	99.6%
2018	254	247	97.2%
2019	39	35	89.7%
2020	19	13	68.4%
2021	19	13	68.4%
2022	14	10	71.4%
2023	11	1	9.1%

Active cases

There are now 39 active cases on the Earthquake List (down from 60 as at 30 September 2022). Of the 39 cases, 6 are set down for trial and 1 is awaiting judgment after a defended hearing. Of the remaining cases, all of which are being actively case-managed, 18 are in various stages of settlement negotiations, 2 have requested JSC's, and 7 are awaiting hearing dates to be allocated. The table below gives the historical record of filings, disposals and active cases.

Table of filings, disposals and active cases

Year ending 30 September	2012	2013	2014	2015	2016	2017	2018	2019	2020	2021	2022	2023	Total
Total Cases Filed (since September 2010)	24	180	154	81	316	271	254	39	19	19	14	11	1382
Judgments - following hearing*	2	20	9	9	2	6	4	5	4	2	0	3	66
Settled or Discontinued	1	28	59	86	125	178	185	252	153	96	34	29	1226
Other**	0	0	0	0	0	4	2	14	26	2	3	0	51
Total Disposals	3	48	68	95	127	188	191	271	183	100	37	32	1343
Total Active Cases	21	153	239	225	414	497	560	328	164	83	60	39	

* - includes 6 judgments that did not require a hearing.

** - includes files consolidated, stayed, removed from list and transferred (to the District Court or to the Canterbury Earthquakes Insurance Tribunal).

Court of Appeal proceedings

The Court of Appeal operates its own list of earthquake-related proceedings. As at 30 September 2023, the cumulative figures for the Court of Appeal Earthquake List since 2010 are —

Filed	60
Judgments released	44
Abandoned pre-hearing	15
Awaiting judgment	
Awaiting hearing	1

The Court of Appeal statistics relate to all earthquake matters before it, including substantive, interlocutory and cost hearings.

General

The Earthquake List has continued to function effectively during 2023. It is pleasing to see the increase in the number of resolutions and the consequential reduction in the number of cases on hand. Due to the overall decrease in filing numbers this will be the last Report on the Earthquake List. However, the Court is committed to ensuring that the List continues to function effectively. I once again recognise the commitment of the supervising Judges, the Judicial Support Advisor and the Christchurch registry team.

Hon Justice Thomas
Chief High Court Judge – Te Kaiwhakawā Matua