

# THE HIGH COURT EARTHQUAKE LIST

## **Purpose**

The Earthquake List (“the List”) was established in the High Court to manage litigation resulting from the Canterbury earthquakes. The List commenced in May 2012 following a commitment by the Chief High Court Judge that earthquake cases will be dealt with as swiftly as the Court’s resources permit. The List is currently managed by Justices of the High Court and an Associate Judge. The Judges are supported by the Judicial Support Advisor. Upon filing in the High Court, cases are categorised as Earthquake List cases if appropriate. Time is allocated each month for case management of List cases.

Claims against insurers involving allegations of defective earthquake repairs are included amongst those dealt with in the Earthquake List (regardless of whether there remain issues arising in relation to the insurance cover itself).

## **File Management:**

### **First Case Management Event**

In many cases, parties have been in discussion for some time before the commencement of proceedings. Therefore, the majority of first case management events are now dealt with on the papers. The parties file a joint memorandum, if agreement is reached, addressing all the matters set out in the Notice of First Case Management Event (which is issued to parties by the Registry upon the filing of proceedings). The joint memorandum is then referred to the Judge who issues a Minute in response to the joint memorandum. In-person case management conferences are held usually where the parties request it or the Court considers there is a need for in-person attendance.

### **Further Conferences**

Further conferences are often needed before a trial date can be set. Such conferences are either dealt with on the papers or can be held via teleconference or in-person. Further conferences are usual if the scope of repair works has not been agreed at the first conference, if counsel agree that additional time would materially reduce and better define the issue for hearing or if the timetable needs to be amended.

### **Timetable Compliance**

Parties and counsel may not alter timetables set by the Court without its approval, even if they believe they are about to settle. This includes timetables for discovery and evidence exchanges. Delay in these steps can lead to late requests for adjournment or late settlements which affect other cases.

## **Court Events:**

### **Judicial Settlement Conferences**

These can be requested and the Court can allocate a Judicial Settlement Conference. A Judicial Settlement Conference usually runs for one day, is presided over by a High Court Judge and provides a more informal setting for the parties and their experts to mediate and resolve issues. If necessary the parties can break out separately to discuss matters then come back together to discuss resolution options. If resolution cannot be obtained the Judge may set the matter down for Trial, a formal Court hearing.

### **Trial Dates**

When a case is ready to be assigned a trial date, the Court requires the parties to identify the remaining issues and the witnesses to be called. The Court will set a close of pleadings date and timetable the exchange of evidence from that date (not back from the trial date as is usual practice in other cases). The trial duration is fixed and the Court will set a firm or indicative trial date. A pre-trial conference will usually be convened with the Trial Judge at an appropriate time before trial.

### **Expert Witnesses**

Earthquake cases almost inevitably involve expert witnesses. All experts must comply with their primary obligation to assist the Court, in other words they are required to exercise independence. Their expertise is essential. Experts who are conscious of their professional obligations and their duty to the Court can often agree on important issues. The presence of experts however also lengthens trials and adds to the expense. The Court seeks to manage this closely. Opposing experts in the same discipline must confer with one another before the proceeding reaches trial to isolate points of genuine difference and make explicit the assumptions on which their opinions are based. Counsel should assume that at trial experts will normally be grouped according to their disciplines and heard after the evidence of fact for both sides.

## **Engagement with the Profession and Public:**

### **Reporting**

The Court reports periodically to the profession and the public about cases on the List. This information includes the numbers filed; the issues raised; and the time taken to disposal and the outcomes (settlement or adjudication). Not all this information is on public court registers. If counsel object to publication in any given case, they should advise the Judicial Support Advisor.

### **Contact**

Jeremy Kaye, Judicial Support Advisor at the Christchurch High Court on 03 367 6192 or at [Jeremy.Kaye@justice.govt.nz](mailto:Jeremy.Kaye@justice.govt.nz)