



**New Zealand High Court
Te Kōti Matua o Aotearoa**
Christchurch Earthquake Litigation List Report
As at 30 September 2016

The High Court releases this report on the operation of the Christchurch Earthquake List on the operation of the 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 (Earthquake List).

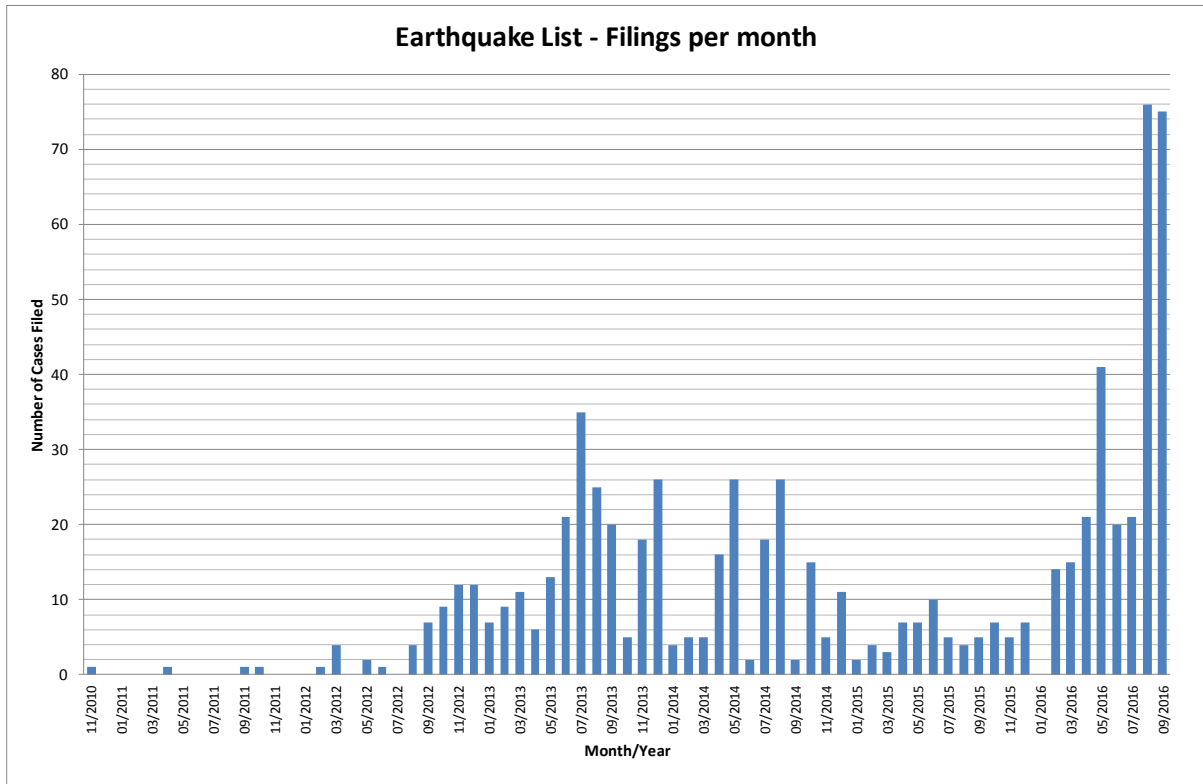
Update on management of the Earthquake List

The Earthquake List continues to be case-managed by two Judges (currently Gendall J and Associate Judge Osborne) with the analytical and case management support of Rob Ashton as Judicial Support Adviser, and usual Christchurch Registry support, notably from Hugh Donaldson.

Filings and outcomes

Since the list was established, 736 earthquake related proceedings have been filed and placed on the Earthquake List.

In the first 9 months of 2016, the Earthquake List received its highest number of filings since it began in May 2012. A total of 302 new proceedings have been added to the List since the last Earthquake Litigation List Report for the year ending 30 September 2015. Of these, 283 cases have been filed so far in the 2016 calendar year. The table below shows the number of filings per month since earthquake related filings began in 2010.



The average number of cases filed per month has increased by 500% in 2016 (31 per month) compared with 2015 (6 per month):

High Court: Average Filings per Month	
2012	5
2013	16
2014	12
2015	6
2016 (Jan 16-Sept 16)	31

The increase in filings arises from a combination of factors.

- The Court is aware that not all insurers agreed to waive or defer a potential limitation period defence.
- Anecdotally plaintiffs have decided to bring matters to the Court for determination because they have not yet achieved a settlement with the insurer.
- The filings now include cases involving alleged defective or inadequate repairs. In 2016, 53 cases of this nature were included.

Where possible the Court will allocate additional resources in the 2017 national judicial roster to deal with the increase in new cases. This means that more Judge-time will be available to attend to the management of the earthquake related proceedings to meet the increased filings.

Disposals

The aim of any case management list is to assist the parties to a resolution. The most common and cost effective resolution for the parties is settlement.

In the early days of the List, certain cases were selected for early hearing as they were best able to provide a precedent to assist settlement.

In the year to 30 September 2016, almost all disposals were by settlement. 125 cases were settled and discontinued by the parties and only two cases required a full hearing and judgment.

The increase in settlements is a positive indicator that the Earthquake List process provides parties with a process to reach final determination of matters in dispute.

Cases continue to be set down for trial but almost all settle. As all the relevant information and expert reporting is complete before a case is set down for trial, the parties are able to proceed to meaningful settlement discussions at the point a hearing date is being allocated. The disposal statistics suggest that the current approach to trial allocation encourages focused settlement discussions at a point before the costs of trial preparation are incurred.

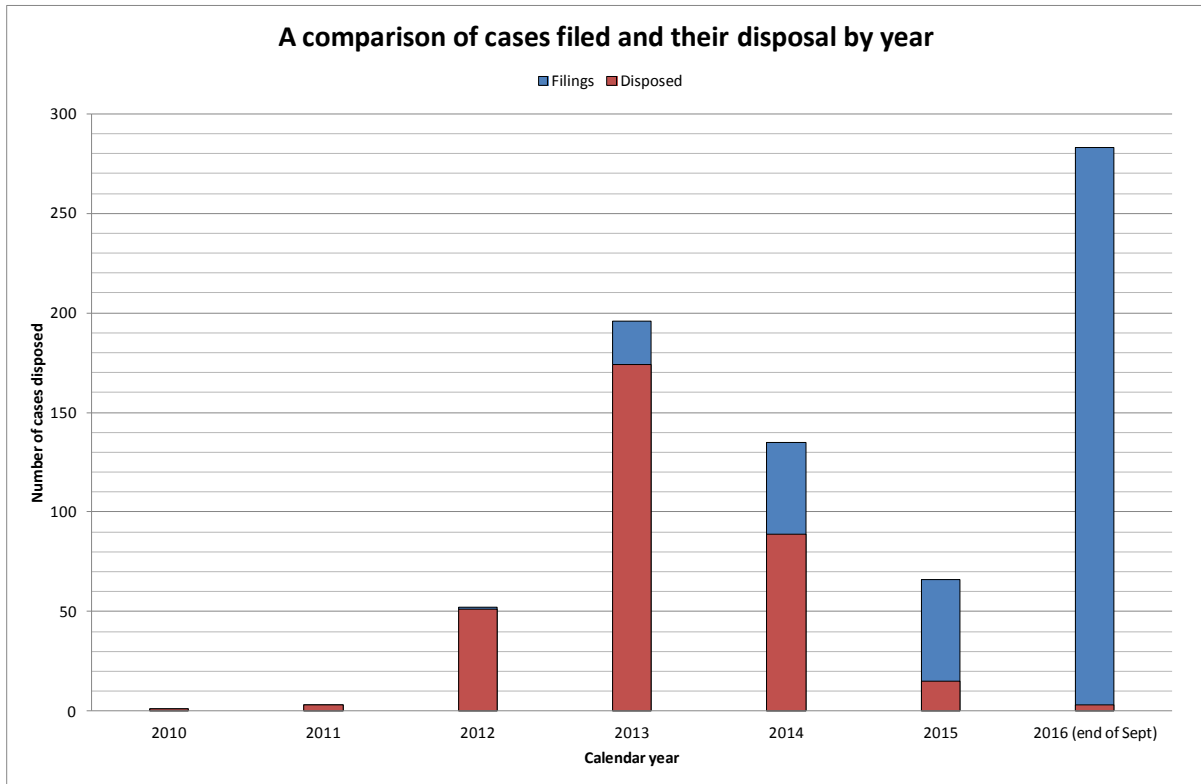
The majority of cases filed in 2010 - 2014 have been disposed of. The table below shows the numbers of filings by year and what percentage of those yearly filings have been disposed.

High Court: Table of disposals			
Year	Filings	Disposals	Percentage
2010	1	1	100%
2011	3	3	100%
2012	52	51	98%
2013	196	174	89%
2014	135	89	66%
2015	66	15	23%
2016 (end of Sep)	283	3	1%

The Court anticipates that proceedings filed in 2016 will follow a similar pattern. The next 12 months is likely to see a large number of settlements in line with previous years.

Active Cases

There are 400 active cases. Of these, 55 are set down for trial or are awaiting judgment and the balance of 345 cases are actively managed on the Earthquake List. The chart below compares active cases with disposed cases on a year-on-year basis.



Cumulative figures since 2014

High Court: Total Filings and Outcomes as at	30/9/14	30/9/15	30/9/16
Total Earthquake Cases Filed (since September 2010)	359	437	736
Disposed by judgment	30	34	36
Discontinued	91	176	300
Total Disposed	121	210	336
Total Active Cases	238	227	400

Available hearing dates

With the heavy filings in late 2016 and the potential for future heavy filings up until February 2017 (being the next relevant six-year anniversary date),¹ the Court anticipates an increase in the number of cases in 2017. That is likely to place strain on judicial resources as the trial requirements of non-Earthquake litigation must also be met.

For 2017, the Chief High Court Judge has signalled that the Court will be allocating more time for the conduct of judicial settlement conferences by the Associate Judges to pursue the aim of early settlement of cases on the list. This will be achieved by freeing Associate

¹ Section 11 Limitation Act 2010.

Judge Osborne in particular from some of his case management time in favour of settlement conference time.

Court of Appeal

The Court of Appeal operates its own list of earthquake related proceedings. As at the end of September 2016 the cumulative figures for Court of Appeal Earthquake List cases since 2010 was follows:

Court of Appeal: Cumulative statistics as at end of September 2016	
Filed	29
Judgments released	16*
Abandoned pre-hearing	6
Awaiting hearing	1

*Determining 22 appeals

General

The High Court remains committed to provide, through a focused Earthquake List under the supervision of Judges, co-ordinated case management of all earthquake-related litigation. The List retains its focus on the structured, early identification of all relevant facts, the directed conferring and final reporting of experts, and the narrowing and resolution of issues in the light of the facts and expert evidence. The Earthquake List has continued to function effectively during 2016, notwithstanding the large influx of filings around September. This has been substantially due to the commitment of the supervising Judges, the Judicial Support Adviser and the Christchurch Registry team.

Hon Justice Venning
Chief High Court Judge – Te Kaiwhakawa Matua