



New Zealand High Court
Te Kōti Matua o Aotearoa
Christchurch Earthquake Litigation List Report
As at 30 September 2017

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 ([Earthquake List](#)).

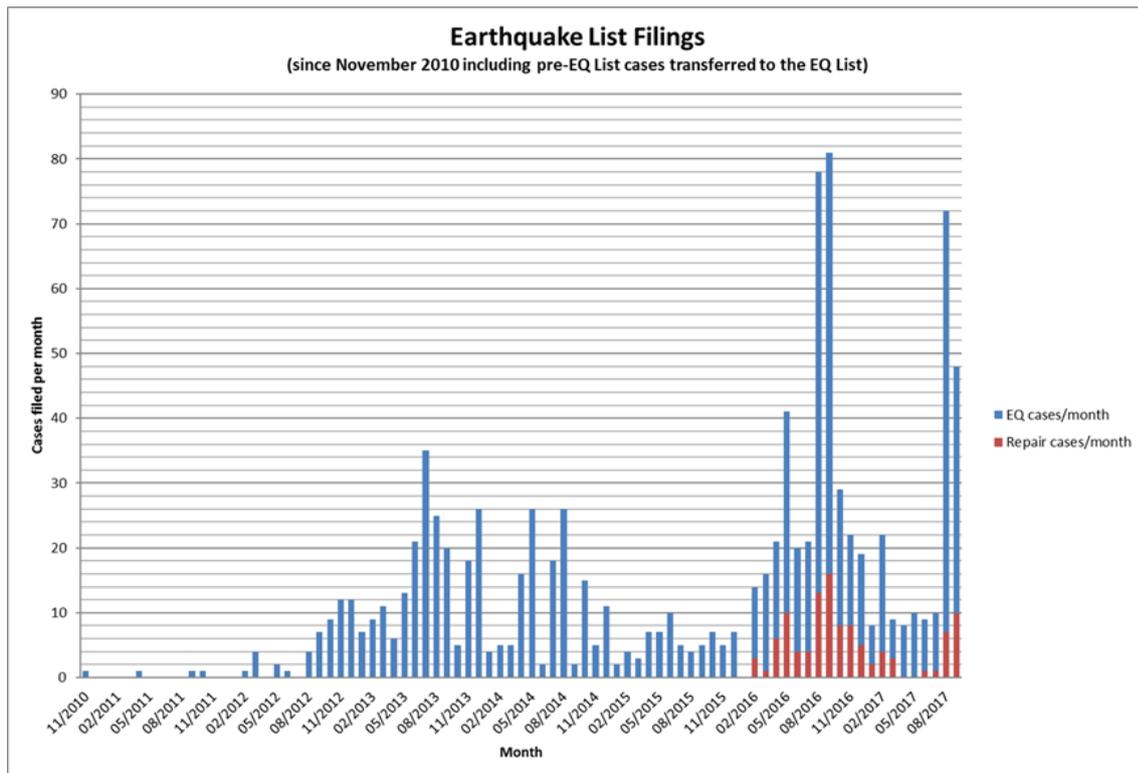
Update on management of the Earthquake List

The Earthquake List is primarily case-managed by two Christchurch based Judges (Gendall J and Associate Judge Osborne). To meet the demand for additional conferences as a consequence of increased filings in 2016, additional Judges from other circuits regularly assist. The Judges are provided with dedicated analytical and case management support from a Judicial Support Officer and the Christchurch Registry.

Filings and outcomes

Since the List was established, 1015 earthquake-related proceedings have been filed and placed in the Earthquake List.

The pattern of high filings which was evident in 2016 has continued into 2017. A total of 270 new proceedings were added to the List since the last Earthquake Litigation List report for the year ended 30 September 2016. Of these, 200 cases have been filed so far in the 2017 calendar year. The table below shows the number of filings per month since earthquake-related filings began in 2010. It illustrates the high number of filings around August 2016 and August 2017.



2016 saw an average of 30 proceedings filed per month (an increase of 500 per cent from 2015). The nine months to 30 September 2017 have seen average monthly filings fall slightly to 22 per month.

High Court: Average Filings per Month	
2012	4
2013	16
2014	11
2015	6
2016	30
2017 (Jan 17 - Sept 17)	22

The continuation of heavy filings into 2017 appears to arise from the same factors as saw increased filings in 2016, namely:

- Not all insurers agreed to waive or defer a potential limitation period defence so some proceedings have been filed to protect against limitation arguments.
- The length of time since earthquake damage was sustained with remedy yet to be agreed upon, encourages some plaintiffs to commence proceedings in order to get progress.

- The filings in 2017 include cases involving allegedly defective or inadequate repairs. To date 107 proceedings on the Earthquake List have involved defective repair allegations, of which 50 have been filed in the last 12 months.

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 2017, almost all disposals were by settlement, continuing the pattern of earlier years. Since the list began, 472 cases have been settled and discontinued by the parties. Only 42 cases have required a full hearing and judgment.

Pursuant to a direction I made in 2016 in response to requests from the profession, the Court has allocated judicial settlement conferences wherever appropriate. A number of settlements have been achieved through the use of judicial settlement conferences and privately arranged mediations.

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

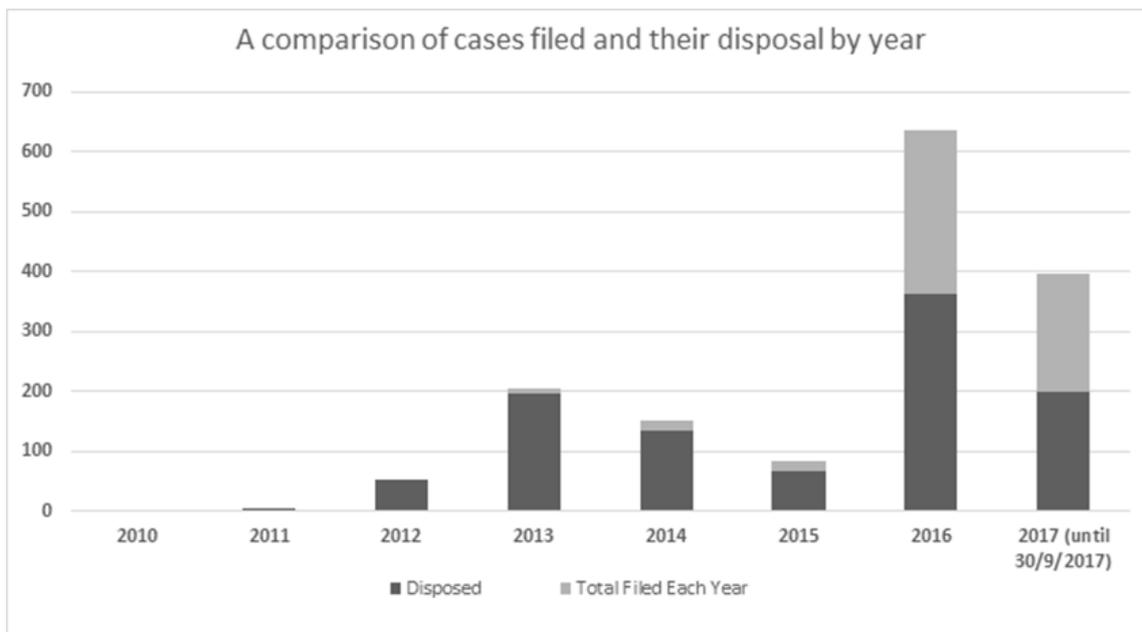
Cases are not set down for trial until they are ready. As all the relevant information and expert reporting is complete before a case is set down, the parties are able to proceed to meaningful settlement discussions at the point a hearing date is allocated. The disposal statistics suggest that the current approach to trial allocation encourages focused settlement discussions before the costs of final trial preparation are incurred. There nevertheless remain a large number of cases which do not settle until the last month before trial.

The majority of cases filed in 2010 - 2015 have been disposed of. The table below shows the number of filings by year and what percentage of those yearly filings have been disposed.

High Court: Table of Disposals			
Year	Yearly Filings	Disposed	Percentage
2010	1	1	100%
2011	3	3	100%
2012	52	52	100%
2013	196	187	95%
2014	135	119	88%
2015	66	48	73%
2016	362	89	25%
2017 (until 30/9/2017)	199	2	1%

Active cases

There are 508 active cases on hand, an increase of 27 per cent over the position at 30 September 2016. Of these, 36 are set down for trial and 2 are awaiting judgment. The balance 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	30/9/2014	30/9/2015	30/09/2016	30/09/2017
Total Earthquake Cases Filed (since September 2010)	359	437	736	1015
Disposed by judgment:	30	34	36	42
Discontinued:	91	176	300	465
Total Disposed:	121	210	336	507
Total Active Cases	238	227	400	508

Available hearing dates

In September 2017, the Deputy Registrar was generally able to allocate fixtures for 2018, a time to trial which in most cases allows appropriate time for the parties' preparation.

Court of Appeal

The Court of Appeal operates its own list of earthquake related proceedings. At the end of September 2017, the cumulative figures for the Court of Appeal Earthquake List since 2010 were as follows:

Court of Appeal: Cumulative statistics as at end of September 2017	
Filed	32
Judgments released	23*
Abandoned pre-hearing	8
Awaiting hearing	1

*Determining 31 appeals.

The appeals relate to all types of proceedings including substantive hearings and interlocutory applications.

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 2017, notwithstanding the large increase in the volume of filings in 2016 and 2017. 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 Kaiwhakawā Matua