



THE KIWIFRUIT CLAIM

MEDIA STATEMENT

Thursday 23 October 2014

FOR IMMEDIATE RELEASE

KIWIFRUIT CLAIM RESPONDS TO SCAREMONGERING CAMPAIGN

Thirty percent of gold kiwifruit growers by volume are now pledged to participate in The Kiwifruit Claim, its chairman, John Cameron, said today.

Over 15% of gold growers have already completed the sign-up process and paid their one-off capped contributions of \$500, \$1000 or \$1500 depending on the size of their orchard.

Green growers were not as badly affected by Psa so sign-up among them is lower, at 7% by volume so far.

In addition, post-harvest operator Seeka has signed up and paid to become a plaintiff.

“The last three weeks have seen an extraordinary scaremongering campaign by one or two Zespri directors and some within New Zealand Kiwifruit Growers’ Incorporated (NZKGI) against those growers and post-harvest operators known to be considering being part of this claim,” Mr Cameron said.

“At its worst, growers’ families have been targeted. It’s been alleged that, if the claim goes ahead, the government will strip the industry of its regulatory framework, stop supporting its research and development programmes and refuse to properly represent the industry in international trade negotiations. Government ministers have told us such suggestions are ‘off the planet’.

“It’s also been alleged, wrongly, that our litigation funder represents foreign interests and does not genuinely plan to support the case.

“We are not interested in a tit-for-tat with anyone. We emphasise it’s not compulsory for growers or post-harvest operators to be part of The Kiwifruit Claim: everyone should make up their own mind, with the benefit of their own independent legal advice and taking into account any obligations they have under the Companies Act 1993 or the Trustee Act 1956.”

Mr Cameron said the unfortunate atmosphere had led to a large number of growers and some post-harvest operators wanting to take more time to consider the matter. Others have questions about some clauses of the Deed of Participation between plaintiffs and the litigation funder.

“It would be a real shame if some growers and post-harvest operators decided not to take advantage of being part of this claim because of inaccurate information, so the plaintiffs’ committee has decided to extend the planned deadline of this week for growers to sign up. We’ve also asked the litigation funder to look at some of the clauses that have been the subject of scaremongering, and that work is in progress. While the committee is confident they do not present any risk to growers or post-harvest operators, LPF says they will look at some of the wording to see if they can be made clearer still.”

Mr Cameron said this meant the Statement of Claim would not be filed with the High Court in Wellington this week and was more likely to be filed in November.

Growers and post-harvest operators would have until a date to be determined by the High Court to sign up to the claim once it is filed. The Claim will seek directions that growers and post-harvest operators be given an additional six months to opt-in.

“The legal process will take many months and years and another couple of weeks before filing will not make any difference to the long-term timelines,” Mr Cameron said.

The Kiwifruit Claim website was launched on Monday 29 September as part of a class action alleging negligence by the then Biosecurity NZ in allowing Psa into New Zealand. All kiwifruit growers are invited to join the class action for a one-off fee of \$500, \$1000 or \$1500 depending on the size of their orchard. Post-harvest operators may join the class action for a one-off fee of \$10,000. Only growers and post-harvest operators that sign up to the action can benefit from any settlement or award of damages.

The claim is based on conventional negligence principles and the Biosecurity Act, and alleges that a shipment of material Biosecurity NZ allowed into New Zealand in June 2009 was the source of the Psa incursion.

The Kiwifruit Claim's legal team includes Alan Galbraith QC, Matthew Dunning QC and Parker & Associates. The litigation is being supported by litigation funder, LPF Group, a 100% kiwi-owned company, chaired by former Court of Appeal and Supreme Court Judge Bill Wilson QC.

Further information on The Kiwifruit Claim and a forum where growers can lodge their questions about the claim can be found at www.thekiwifruitclaim.org.

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Inquiries: Matthew Hooton
 Exceltium Ltd
 021 766031

Vanessa McKee
Exceltium Ltd
021 2226628