



## THE KIWIFRUIT CLAIM

### MEDIA STATEMENT

Friday 30 January 2015

### FOR IMMEDIATE RELEASE

#### KIWIFRUIT CLAIM STATEMENT OF CLAIM NOW AVAILABLE ON WEBSITE

The Kiwifruit Claim has posted its statement of claim for its class-action litigation on its [website](#), together with explanatory material approved by the High Court at Wellington.

The class action, launched on 29 September and filed in the High Court at Wellington on 28 November, is about “official accountability and just compensation for the destruction of so many kiwifruit growers’ livelihoods” says its chairman, John Cameron. Only growers and post-harvest operators that sign up to the action can benefit from any settlement or award of damages.

The claim alleges government agencies through their employees owe a duty of care to the plaintiffs and that Biosecurity NZ, now part of the Ministry for Primary Industries, breached this duty of care when it negligently allowed kiwifruit-vine-killing-disease Psa to be introduced into New Zealand, costing the country at least \$885 million according to Biosecurity NZ’s own independent study.

The statement of claim outlines how Psa came to be introduced into New Zealand and how Biosecurity NZ was responsible, allegations which are denied by the defendant.

The class action is being supported by litigation funder, LPF Litigation Funding Limited, a 100% kiwi-owned company, chaired by former Court of Appeal and Supreme Court Judge Bill Wilson QC. LPF declared the claim’s funding agreement unconditional on 19 November 2014 and will therefore fund all legal costs including security for any adverse costs award in exchange a percentage of any settlement or award of damages. The claim’s legal team includes Alan Galbraith QC, Matthew Dunning QC and Parker & Associates.

Plaintiffs are represented by a committee consisting of Mr Cameron, Bob Burt and Grant Eynon. Representative plaintiffs are Strathboss Kiwifruit Ltd for growers and Seeka Kiwifruit Industries Ltd for post-harvest operators.

All kiwifruit growers are invited to become plaintiffs for a one-off fee of \$500, \$1000 or \$1500 depending on the size of their orchard. Post-harvest operators have been invited to join the class action for a one-off fee of \$10,000.

The claim's media spokesperson, Matthew Hooton, said, as of 5.00 pm yesterday, 29% of gold-kiwifruit growers by area had registered their interest in the claim, of which 18% had paid their one-off fee and completed the formal paperwork to sign up to the claim. Nine percent of green-kiwifruit growers by area had also signed up or registered their interest.

The combined losses of those who have already signed up are approximately \$250 million. Applications filed with the statement of claim have asked the High Court to approve the representative action and litigation funding arrangements and amongst other things to set a deadline for other growers and post-harvest operators to join the claim.

Mr Hooton said the next step in the process is a first call of the proceedings on 23 February 2015. He said the defendant has been ordered to file a notice of opposition and/or a statement of defence or an application to strike out the claim together with an application for extension of time by 6 March 2015.

On behalf of the plaintiffs' committee, Mr Cameron thanked the Crown Law Office and the High Court for facilitating the posting of the statement of claim and explanatory statement as requested by many kiwifruit growers and post-harvest operators.

He said the government had responded professionally to the claim from the outset. For example, in September Prime Minister John Key acknowledged growers' rights to explore the matter in the courts and government ministers indicating that the litigation would be treated entirely separately from other industry issues. Primary Industries Minister Nathan Guy confirmed publicly in October that, "as long as the overwhelming majority of kiwifruit growers want to retain the single seller model, the government won't be making any changes". In November, Economic Development Minister Steven Joyce celebrated the science-led recovery

of the kiwifruit industry at a Zespri/Plant & Food Research function. Meanwhile, kiwifruit is the big winner from the New Zealand-South Korea Free Trade Agreement being successfully negotiated by Trade Minister Tim Groser and was high on the agenda of Mr Guy's recent business delegation to India.

Mr Hooton said the government had also made clear privately that it would not be linking the litigation to other industry issues. "Based on the public and private advice we have received from ministers, kiwifruit growers and post-harvest operators are able to join the claim safe in the knowledge it will have no impact on issues like the single-point-of-entry marketing system, government support for industry R&D or trade negotiations and other market access issues," he said.

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](http://www.thekiwifruitclaim.org). Growers and post-harvest operators are strongly recommended to read the statement of claim together with the explanatory material approved by the High Court at Wellington and all other relevant documents, and to seek their own independent legal advice before signing up to the claim.

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