



THE KIWIFRUIT CLAIM

FROM THE COMMITTEE

Welcome to our first newsletter for The Kiwifruit Claim.

For all the plaintiffs in the Kiwifruit Claim the Committee is dedicated to getting up to date and relevant information about the claim to you. We know it's important you're aware of essential information relevant to the claim, and it's important that we keep you informed on how The Kiwifruit Claim is progressing.

The Committee will be keeping you up to date through quarterly newsletters available in the locked section of the Kiwifruit Claim website. Only plaintiffs in the claim have access to this section, and you should all have received your email telling you how to log in. If you haven't, please let us know and we'll make sure you're set up as soon as possible. The Kiwifruit Claim's lawyers, LeeSalmonLong, will also be in touch from time to time if they need specific information to progress the case, as has been the case to date.

In this edition, we want to give you an update on the recent Court hearing as well as an overview of the Kiwifruit Claim - how it came about and what's happened to date. This should provide you with all the essential background information you need so you can get a stronger idea of where we're at right now.

If you have any questions please feel free to contact us. Our chairman's details are below, or use the Q&A forum on the website – www.thekiwifruitclaim.org.



FROM THE CHAIRMAN OF LPF LITIGATION FUNDING

LPF will be working alongside your committee and lawyers in this battle for compensation regarding the Government's alleged negligence relating to the Psa-v outbreak starting 2010. We have been involved since 2012 and do not anticipate this will be a short battle.

It has been a long, frustrating process for those affected by Psa-v to get the case ready for court, but finally progress is being made. We've got top lawyers in the High Court arguing this case, we are mentioned in the Government's Half Year Fiscal and Economic Update of 2015 (released in December), and we know Crown Law is taking the case seriously in its ongoing discussions with the lawyers. Crown Law has even appointed a new head lawyer to their legal team.

Estimated timeline for the legal claim



MAY 2016
Plaintiff details to be complete



MAY 2016
Crown to provide discovery relating to Sapere Report



AUGUST 2016
Crown to complete the balance of its discovery



AUGUST 2016
Plaintiff discovery to be complete



FEBRUARY 2017
Plaintiff briefs to be filed



APRIL 2017
Crown briefs to be filed



JULY 2017
Hearing commences for Stage One

For the LPF team, our aim is to provide funding required to assist you to take on the government in your fight. Many of you still suffering the effects of Ps-a-v may not have been able to contemplate this claim without funding. We believe that in order to have the opportunity to achieve a satisfactory legal outcome in civil litigation there must be equality of arms – that both sides must have the resources to undertake the case. LPF is a business that prides itself on helping people where it's needed, and to provide those resources. We think people who have suffered from the effects of Ps-a-v deserve that help.

We look forward to working alongside you.

Bill Wilson

Chairman of LPF Group Limited

FROM WHERE IT ALL STARTED

Just a guess, you'll probably know the name *Pseudomonas syringae* pv. *actinidiae* (Ps-a-v). It was first officially reported in New Zealand on a kiwifruit orchard in Te Puke on 5 November 2010, though we know of instances occurring in orchards before that.

Questions were raised quickly about how Ps-a-v managed to enter New Zealand given Biosecurity NZ's supposedly strict border regulations. In 2012, the Ministry of Primary Industries (MPI) commissioned a report into Ps-a-v identifying major



shortcomings with Biosecurity NZ's import requirements and border processes, widely known as the Sapere Report. This is going to be used in evidence as part of our claim too.

Recent figures from October 2015 show the number of orchards with Ps-a-v in Tauranga, Te Puke and Katikati increased to 2,051 from 1,978 in October 2014. The losses continue to increase. Nationally the number of orchards with Ps-a-v climbed from 2,595 to 2,757 within the same time frame, rising 6%. Obviously Kiwifruit growers and post-harvesters are still reeling from the effects of Ps-a-v today.



Top legal expert Professor Bill Hodge has weighed in on the topic, saying that The Kiwifruit Claim has a "smoking gun" in terms of its evidence. We agree with him.

LEGAL HAPPENINGS

As previously mentioned, the deadline to sign up to the Kiwifruit Claim closed on 9 October 2015, claiming estimated losses of \$376 million from 212 plaintiffs after the judge allowed a representative proceeding for the Kiwifruit Claim to be held at the Wellington High Court.

We've argued that the government does have a legal duty of care to growers, as well as its obvious moral and political duty to all New Zealanders to take the utmost care when protecting our country's agriculture and unique native flora and fauna from foreign pests. We stand by our statement that the government should be accountable through the courts.

Most recently, the High Court at Wellington has determined that the Kiwifruit Claim class action will be going ahead in 2017 in two stages. Stage One is to hear whether the Crown was negligent and owes a duty of care to kiwifruit growers and whether it breached that duty. The judge will be looking at the standards of care that should be applied under the Biosecurity Act when MPI was making decisions like allowing anthers and kiwifruit pollen to be brought into the country. Stage Two is looking at the actual losses suffered by individual plaintiffs, but Stage One needs to commence first before we look at stage two. We've added a timeline (over page) for you so you can see how this might play out.

In other news, Jack Hodder QC, who is regarded as a heavy hitter for government business in Wellington, will take over from Mary Scholtens QC for the Crown. This won't change anything from our perspective.

The judgment from Justice Dobson is up on the website, as is our most recent media. Feel free to take a look, and don't forget to send an email through if you want clarification on any of this.

CONTACT DETAILS

John Cameron

The Kiwifruit Claim Chairman

027 497 9534