



THE KIWIFRUIT CLAIM

The Kiwifruit Claim Newsletter – July 2017

AN UPDATE ON WHAT'S BEEN HAPPENING:

We are now just one week away from the start of the High Court trial in Wellington on 7 August, and the Committee and our legal team have nearly completed its extensive preparation.

Since our last update in June, the legal team have filed reply evidence in Court after working through the Crown's statements from its witnesses and experts. We are pleased to inform you that Kiwi Pollen has provided evidence statements for the plaintiffs, and both the owners and key employees at the time, will be giving evidence during the trial.

You will recall from our last update, that the Crown was seeking to exclude members of the public and therefore the media from attending parts of the case. Our legal team attended a case management conference in late June, and communicated our opposition to this. At this stage, the trial is open to the public and members of the media, but there may be an application made by the Crown during the trial to close the Court for some evidence to be heard – the Judge will make a determination on this at that time.

Members of the Committee will be attending the trial in Wellington and keeping a close watch on the legal proceedings. You are most welcome to attend the High Court and listen to the proceedings if you are in Wellington and wish to see for yourselves. Please feel free to contact the Committee who can let you know the details.

TRIAL TIMTABLE

The lawyers have advised us of the likely time for the trial. It is expected that we will not need all of the 13 weeks currently scheduled. This will depend on how long each witness is required to give evidence and how many questions they are required to answer. While it is not possible to give exact times and dates, it is expected to run as follows:

- 7 August – Our lawyers open our case.
- 8 August – Our witnesses give evidence and are cross examined by the Crown's lawyers.
- 11 September – The Crown open its case.
- 12 September – The Crown's witnesses give evidence and are then cross examined by our lawyers.
- 30 October – The Crown closes its case.
- 1 November- Our lawyers close our case.
- 3 November – Trial scheduled to finish.

If the claim is successful, a further hearing will be scheduled to decide the amount of the Crown's liability to individual growers – you need to remember to keep all your documents (see overleaf).

We will continue to update you on developments during the trial.

MEDIA INTEREST

There has been a lot of media interest in the background to the case, as we get closer to the trial, and you were all sent the link to the Sunday Star Times article last month. Attached to this email is a copy of a story written by Jonathan Underhill, for the Listener which was published on Friday. Fresh Plaza, the online news portal, wrote a story which is currently up on their website (<http://www.freshplaza.com/article/179087/NZ-kiwi-growers-want-accountability-for-2010-Psa-outbreak>) along with a grower story <http://www.freshplaza.com/article/179086/Its-not-all-gold-for-some-New-Zealand-kiwifruit-growers>

National Radio (Nine to Noon) will also be running a segment during the week 7 August looking at the impact the PSA outbreak has had on growers. The case was also discussed in a Sunday Star Times piece yesterday on litigation funding <http://www.stuff.co.nz/business/money/95073939/litigation-loans-the-high-price-of-civil-justice>

KEY DATES:

November 2010	PSA-V first confirmed in New Zealand
November 2014	Kiwifruit Claim issued
October 2015	Opt-in date for plaintiffs
September 2016	Discovery completed
March 2017	Plaintiffs' evidence served
May 2017	Defendants' evidence due
June 2017	Reply evidence
	Case Conference on public attendance
August – October 2017	Stage 1 Trial in High Court, Wellington

REMINDER ABOUT IMPORTANT DOCUMENTS THAT YOU NEED TO KEEP

If the court finds in our favour at the Stage 1 trial, individual growers will need to give discovery of relevant documents in their control, as well as details of their losses. While that is likely to be some time away, the legal team has asked us to remind you that you need to preserve your documents. Given the Crown's approach to discovery to date, it is important to make sure your records are complete.

Below is a list of some of the documents you should keep:

1. Maps showing the size and location of orchards.
2. Documents relating to the lease / purchase of any orchards from 2008 to date.
3. Documents relating to the sale of any orchards in the period since the incursion.

4. Insurance arrangements in relation to orchard operations / vines from 2007 to the date of infection.
5. End of season summaries prepared by your post-harvest operator from 2007 to date.
6. Any other documents showing the effect of PSA on your orchard gate returns.
7. Documents (e.g. accounts, ledger reports and invoices) relating to:
 - a. The cost of removing and disposing of vines;
 - b. The purchase of any new licenses after the incursion (e.g. Gs, G14, Kiwiberry)
 - c. The cost of grafting any new varieties after the incursion;
 - d. Spraying costs and other costs associated with managing the effects of PSA;
 - e. Changes to rent paid or received in respect of an orchard as a result of PSA;
 - f. Any increased financing costs incurred as a result of PSA; and
 - g. Any other costs incurred as a result of PSA.
8. Annual financials from 2008 to date.
9. Any other documents showing the financial impact of the PSA incursion on you.
10. Electronic spray diaries for each orchard from 2008 to date.
11. Orchard management diaries from 2008 to date (if you or your orchard manager kept them).
12. Documents relating to artificial or beehive pollination from 2008 to the date of infection.
13. Orchard Management Plans under the National Pest Management Plan.
14. Documents relating to any audits Zespri or your post-harvest operator under the National Pest Management Plan.
15. Any correspondence with MPI, Zespri, KVH or your post-harvest operator in relating to PSA and managing its effects.

If you have any questions please feel free to contact us. Our chairman, John Cameron, can be contacted on 027 497 9534, or use the Q&A forum on the website: www.thekiwifruitclaim.org.

The Kiwifruit Claim Committee

31 July 2017