



THE KIWIFRUIT CLAIM

The Kiwifruit Claim

COURT UPDATE 8 SEPTEMBER 2017

The High Court trial in Wellington to hold the Government and Ministry of Primary Industries to account for the losses suffered during the PSA incursion, has now completed its fifth week.

While our legal team have substantially finished presenting the case for the plaintiffs this week, there are still some plaintiff witnesses that will be heard after the Crown's opening. The plaintiffs' DNA evidence from Russell Poulter, and Angelo Mazzaglia, and the statistical evidence from James Curran, will likely to be heard together with the Crown's DNA and statistics evidence. We will advise you of timing, once we have that information.

Plant pathologist Kerry Everett completed giving her evidence this week, and the Crown opened its case on Tuesday. The Court heard evidence from Murray Sherwin, the former Director-General and Chief Executive of MAF, who gave evidence on MAF's approach to managing biosecurity risks and how this is funded. Cross examination highlighted that MAF should be consulting with industry when undertaking a risk analysis.

Agricultural economist Gretchen Stanton also gave evidence this week on New Zealand's international obligations when it comes to imposing restrictions on imports. Our legal team cross examined her, and she agreed that it was open to New Zealand to apply a precautionary approach to imports if it was based on sufficient scientific information.

In the week ahead, we can advise that at this stage the order of witnesses is likely to be as follows:

Monday	Gerard Clover - former MPI Plant Health and Environment Laboratory, supervised scientists responsible for identifying and responding to new plant pests
Tuesday	Gerard Clover (am) Stephen Butcher (pm) – Manager of the Plant Imports and Exports Group at MPI, who oversees the development of import requirements for plant products.
Wednesday	Stephen Butcher (am) Mike Ormsby (pm) senior advisor in the Risk Analysis Group at MPI
Thursday	Court is not sitting
Friday	Wayne Hartley (former MPI staff) finishes giving evidence - TBC Mike Ormsby continues

The above list is a guide only, and can change. Timing will also depend on the length of cross examination of each witness.

Members of the Committee are regularly in Court, and litigation funder LPF Group attended the proceedings this week. 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. Court begins at 10am each day, in Court room number 6. Please feel free to contact the committee if you would like to attend, to confirm witness timing.

There has been some media interest in the Crown's opening this week, and Fresh Plaza are continuing to public weekly updates on the Court proceedings. Please find links below:

http://www.nzherald.co.nz/business/news/article.cfm?c_id=3&objectid=11916952&ref=rss

<https://www.nbr.co.nz/article/kiwifruit-growers-cant-sue-over-psa-damage-crowns-qc-tells-high-court-b-207301>

<http://www.sunlive.co.nz/news/161874-psa-damage-growers-cant-sue-lawyer.html>

TRIAL TIMETABLE GOING FORWARD

The lawyers keep us updated on the likely timetable for the trial, and it is expected that we will not need all 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, the remainder of the trial is expected to run as follows:

- 11 September – The Crown will continue to present its witnesses, and they will be cross examined by our lawyers.
- 30 October (potentially earlier)– The Crown closes its case.
- Late October - Our lawyers close our case, and the trial is scheduled to finish.

We will continue to keep you regularly updated as the Court case proceeds. If you have any questions please feel free to contact us or use the Q&A forum on the website: www.thekiwifruitclaim.org.

The Kiwifruit Claim Committee

8 September 2017