



THE KIWIFRUIT CLAIM

The Kiwifruit Claim Newsletter – June 2017

AN UPDATE ON WHAT'S BEEN HAPPENING:

With just over two months until the case begins the legal team are well on track for the Stage 1 trial starting in the High Court in Wellington on 7 August.

Since our last update in March, the Crown filed its evidence on 3 May. The legal team are currently working through the Crown's statements from its witnesses and experts, and will file reply evidence in Court on 16 June. The evidence that we have filed is very compelling, and as previously advised, includes evidence statements from leading international and New Zealand experts on biosecurity, the genetics of PSA-V disease, and the biology of the bacteria and how it spreads.

The legal team will also be attending a case management conference this month, as the Crown is seeking to exclude members of the public, and therefore the media, from attending parts of the case. We want to strongly oppose this, and are seeking input from the legal team on how to do so.

Just as a reminder, if you are contacted by anyone from the defence team over the coming weeks, you do not have to talk to them. It is preferable to remind them that you are one of the plaintiffs in the claim and that they should contact LeeSalmonLong. If you are contacted, or hear of contact with others, please let the legal team know.

PSA-V was first discovered 7 years ago, and it has been a long road to get to this point. In the Stage 1 trial, the High Court will decide, among other things, whether the Crown owed a duty of care to Kiwifruit Growers and Post-harvest Operators and whether it breached that duty of care when it allowed PSA-V into New Zealand. In particular did MPI fail when it carried out its initial risk assessment on whether PSA-V could be carried pollen and subsequently when it failed to comply with its own regulations when it let a shipment of pollen and plant material into the Country and further failed to recognise that the material imported did not match the import permit when it conducted its physical inspection of the material being imported into New Zealand. 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 below).

We will continue to update you on developments in the lead up to the trial.

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
August – October 2017	Case Conference on public attendance 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.



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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, Kiwberry)
 - 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

1 June 2017