



THE KIWIFRUIT CLAIM

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NEWSLETTER – 14 NOVEMBER

COURT CASE OVERVIEW

It's been a long seven years since PSA-V was first discovered in New Zealand and earlier this month we wrapped up Stage 1 of the High Court trial to hold the Government and Ministry of Primary Industries to account for the losses suffered during the PSA incursion.

Our highly experienced legal team, including Davey Salmon, Michael Heard, Jack Cundy and Miriam Chew from Lee, Salmon Long, prepared the case and represented us in court, delivering an extremely compelling case supported by very strong evidence. We received great support from growers who provided evidence in court and we would like to thank them and many others who provided information to support the court case.

The purpose of Stage 1 of the trial was for the High Court to decide, among other things, whether the Crown owes 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 – please see below.

It is not known when Justice Mallon will provide her judgement on the court case, we will ensure that you are kept informed of when this might happen.

GROWER UPDATE MEETING

The Claim Committee would like to invite you all to join them, the legal team and LPF Group at a meeting on **Monday 4 December**.

This is an opportunity for you all to hear from the lawyers along with LPF, and ask questions of the team about what took place during the court case and what is expected to happen now that the Judge is considering all the evidence presented.

Meeting details are as follows:

Date:	Monday 4 December
Time:	1pm – 3pm
Location:	Te Puke Sports Club

Can you please RSVP by reply email to bronwynne@joycehowse.co.nz to advise numbers to attend before Friday 1st December for catering purposes.

MEDIA

There has been widespread media coverage of the court case. We would like to thank all the growers that have contributed their time and personal stories to keep the media interested and ensure they accurately reported on the court case proceedings.

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, 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.

We look forward to seeing you on Monday 4 December.

The Kiwifruit Claim Committee