



THE KIWIFRUIT CLAIM

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NEWSLETTER– 8 May 2020

### NOTICE OF APPEAL TO THE SUPREME COURT

Today we have started the Supreme Court appeal process and have filed an application seeking an appeal to hold the Government to account for their negligence.

We believe we have a strong case for appealing the Court of Appeal decision which found that although MPI was negligent in allowing the high-risk shipment of PSA infected pollen anthers into New Zealand from China, the Government can't be liable for their actions, because they are the Government.

This Court of Appeal ruling contravenes the right of every New Zealander under the Bill of Rights Act 1990 to hold the Government to account for negligence in the same way as if it were a private company or individual.

There is absolutely no doubt that the Government was responsible for the devastation of the kiwifruit industry when they allowed PSA into New Zealand. Both the Court of Appeal and the High Court have confirmed this, and we are disappointed the Government continues to hide behind the legal system and fail to acknowledge that they were responsible.

Our appeal challenges the Court of Appeal decision that the Government is exempt from liability under the Crown Proceedings Act because they get to take advantage of immunities for employees under the Biosecurity Act. The Court followed an outdated Supreme Court case which we believe is wrong and fails to address our entitlement under the Bill of Rights.

We are also challenging the Court of Appeal's findings that MPI's failure to inspect the package at the border had no causative effect because kiwifruit anthers were allowed to be imported; and that they declined to find that a duty of care was owed to Seeka in its capacity as a post-harvest operator.

At this stage we do not know whether the Court will grant the appeal or when any appeal is likely to be held. We will keep you updated once this information is available.

A reminder, if you receive any requests from media please call Bronwynne Howse on 0274 583 198 who will be happy to assist you.

Please feel free to contact us, our chairman, John Cameron, can be contacted on 027 497 9534.

The Kiwifruit Claim Committee