



THE KIWIFRUIT CLAIM

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NEWSLETTER– 9 April 2020

### COURT OF APPEAL DECISION

Today we received the decision from the Court of Appeal in the Stage 1 trial to hold the Government and Ministry of Primary Industries to account for the losses suffered during the PSA-V incursion.

The Court of Appeal agreed that the Government was responsible for the PSA-V outbreak that devastated the industry however it is not liable for the losses. Regardless of this decision, we have always thought that the case would need to be determined by the Supreme Court and while our legal team are currently analysing this Judgement in its entirety, we have agreed to appeal this decision in the Supreme Court.

The decision by the Court of Appeal held that MPI was negligent in allowing the high-risk shipment of PSA infected pollen anthers into New Zealand from China, but found that the Government does not owe a duty of care and can't be liable for their actions, because they are the Government.

This results from an interpretation of the Crown Proceedings Act that means the Government can't be held to account for any wrong-doing. We believe this interpretation is wrong. It is both logical and reasonable that the Government should be held responsible for its actions, and those of its employees, where it is clear that significant harm and losses could result from any negligence. This is no different to the law that allows us to hold local councils and private businesses to account for their negligence.

Kiwifruit growers have always believed individual staff working for the Crown, such as those in MPI, should not be made personally liable when bad decisions are made. Like other organisations are required to, the Government needs to stand behind its staff and take responsibility for the harm and losses caused.

I know that today's decision will be tough for many of you, we have all had a very hard fight to get this far and we will keep on fighting to ensure that you can be properly compensated for the losses suffered.

We would like to acknowledge the hard work from our highly experienced legal team and the financial support provided by litigation funders, LPF Group, who have enabled this case to proceed.

Additionally, we would also like to thank you all for your continued support, especially the growers who provided evidence in court and information to support the court case.

There may be some media coverage following today's decision. If you receive any requests from media please call Bronwynne Howse on 0274 583 198 who will assist you.

We are sure many of you will have questions about this decision from the Court, we will ensure that we keep you updated on any further information or developments when they arise. Please feel free to contact us, our chairman, John Cameron, can be contacted on 027 497 9534.

The Kiwifruit Claim Committee