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## Kiwifruit growers sue government over \$885m Psa outbreak

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A group of kiwifruit growers and post-harvest operators are launching a class action-style lawsuit against Biosecurity NZ, seeking compensation for the Psa vine-killing disease that has cost the industry at least \$885 million since 2010.

The "Kiwifruit Claim" foundation claimants say the outbreak of Psa in this country in 2010 was a direct result of negligence by Biosecurity NZ, claiming that the Crown breached its duty of care by negligently clearing a shipment containing the Psa pathogen for entry into New Zealand. They intend filing their claim in the High Court in Wellington.

Investigations into the breach, such as the independent Sapere Research Group report in 2012, revealed significant shortcomings by the Ministry for Primary Industries (MPI), which is charged with the leadership of the New Zealand biosecurity system,

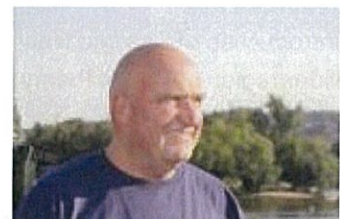
The foundation growers' claim committee consists of Te Puke grower Bob Burt, kiwifruit grower John Cameron (chairman), Aongatete (kiwifruit packhouse and coolstore) managing director Allan Dawson, EastPack (packhouse and coolstore) director, former kiwifruit grower group (NZKGI) chairman Grant Eynon and Te Puke accountant Murray Gibson.

The claimant's legal team includes Alan Galbraith QC, Matthew Dunning QC and Parker & Associate, and is being supported by litigation funders, LPF Group Ltd.

"The principle in this case are that there has been negligence by MPI in relation to the introduction of Psa," claim committee chairman John Cameron says.

"All New Zealanders have an interest in government officials properly protecting our borders from pests and diseases that could devastate not just our agriculture and horticulture industries, but the native flora and fauna that we all cherish."

Mr Cameron says with the information arising from the Sapere report in 2012, the group proceeded to get a "good team of lawyers" together, as well as sufficient funding and grower support to ensure the case would be heard in court.



Kiwifruit claim committee chairman John Cameron



*Pseudomonas syringae* pv. *actinide* (Psa) is a bacteria that can result in the death of kiwifruit vines (<http://thekiwifruitclaim.org>)

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"At the end of the day, biosecurity has a key role in the country to protect the primary industries. In this case, they clearly have not done that and that's been proven. It's a prime case in making sure that the government officials that are in charge of biosecurity do their job."

Foundation claimants represent more than 10% of the kiwifruit industry.

However, all kiwifruit growers and post-harvest operators have been invited to join the so-called class action, which, if successful, may establish a precedent for taking legal action over other costly biosecurity incursions.

Mr Cameron expects 80-90% of affected growers to join the class action.

"There will be some growers who will chose not to be part of it, which we respect. But there have not been many kiwifruit growers that have not been affected by this outcome," Mr Cameron says.

NBR ONLINE asked Mr Cameron why the grower group NZKGI had not initiated proceedings over last four years, on behalf of growers.

"From our perspective, we wanted to it on a grower-by-grower basis, just to be assured that we could get it over the line without any political issues that might cloud it. We only hope in time that both NZKGI and Zespri do support the individual growers making these claims against the government."

The introduction of Psa into New Zealand has had devastating effects on kiwifruit growers, the industry and the wider region of Bay of Plenty in particular, with many growers having lost their entire orchards or forced to undergo mortgagee sales.

According to a Kiwifruit Claim statement, it has taken over four years to assemble the information about what happened when Psa came into New Zealand, including extensive DNA evidence analysis.

The independent Sapere report that was commissioned by MPI in 2012 quantified economic losses of at least \$885 million.

According to the Kiwifruit Claim statement, that report determined that from 2004 Biosecurity NZ did not put in place adequate controls.

"Decisions made in 2007, in breach of Biosecurity NZ's own statutory regulations resulted in the importation of pollen, and again in 2009, with the importation of infected anthers from China.

"There was also a very poor response by Biosecurity NZ to the outbreak of Psa in Italy in the summer of 2008 and the implications of this for New Zealand," the statement says.

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