Legal Liability Resulting From Providing Agronomic Advice

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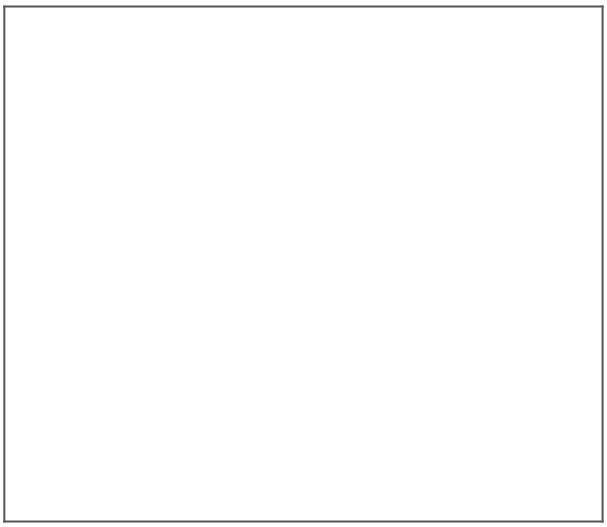

Although from time to time claims for damage arising from herbicide, pesticide and fertilizer use are advanced against manufacturers and dealers under provincial Sale of Goods legislation, for the most part such claims proceed on the basis of negligence principles, that is to say, a departure from the ordinary standard of care expected of a dealer or manufacturer in connection with the sale of seed, herbicides, pesticides and fertilizers.

There have been several Court decisions over the years which have found liability against dealers and manufacturers, particularly the latter, in particular for failure to adequately warn producers (via the product labels) of the risks associated with the use (and misuse) of various pesticides, herbicides and fertilizers.

In rarer cases where the Courts have ruled against dealers, they have stressed such things as “promises” made by dealers to producers, and unwarranted assumptions made by dealers in respect of producers’ knowledge about the chemicals and proprietary products they may be using. The Courts do sometimes dismiss such claims, finding that producers either purchased a product by its brand name, or for one reason or another failed to bring home to the dealer their lack of knowledge of the product, or otherwise limited their commercial relationship with the dealer.

There are steps, however, which dealers and manufacturers’ representatives can take to protect themselves, including making notes where possible of all crucial conversations with producers at the time of purchase, taping presentations at producer meetings, and generally ensuring that all insurance coverages are adequate and intact.

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