

# A Neighbor Says Your Chemicals Make Him Sick ... What to Do?

You can be prepared for the toxic tort.

BY J. MICHAEL VERON

**Y**ou're sitting in your office one Wednesday morning, wondering what to tell the golfers at your course who complain that their tees aren't level and who gripe that the rough is too high. The phone rings. It's a homeowner who lives next to the fourth hole. He says that he's having severe headaches and can't sleep at night, all because of the chemicals you're using on the golf course. He then says he's consulted a lawyer and intends to sue the club if you don't stop what you're doing.

Suddenly, the complaints about the tees and the rough don't seem like such a big deal anymore. What are you going to do?

You've just been presented with what lawyers refer to as a *toxic tort* claim, which means a claim made by someone who alleges he was injured by exposure to a poison (*i.e.*, toxin). As a trial lawyer who spent a number of years defending toxic tort cases, I can tell you that your first line of defense is to separate fact from fiction and to eliminate the hysteria that often accompanies such claims.

Anyone who reads the newspapers or watches the television news knows all too well that the world is full of fear-filled people who overreact to things they do not understand. This is particularly true in these kinds of cases. In one prominent case, the news media reported that a chemical plant had experienced an accidental release. Area hospitals began to fill with persons reporting symptoms from exposure to the released chemical. It was then dis-

covered that the news report was false and that no release had occurred. Yet many of these people insisted to their doctors that they had been poisoned.

For this reason, it is important to document whether the person claiming to be injured is really sick and, if so, what is the real cause of his or her illness. Determining whether the person is really sick is a matter of gathering his or her medical records. Determining whether your chemicals were the cause of any illness is a matter of verifying whether the chemicals you used can actually cause the individual's symptoms.

Fortunately, you don't have to do this by yourself. Your first step, of course, is to report the homeowner's complaint to management, who presumably will notify your general liability insurer. The claims adjusters at the insurance company will retain attorneys and other professionals, including medical experts,

to investigate and evaluate the claim, and they will gather the medical information that is needed.

For your part, you can do your very best to document to the greatest detail possible what chemicals you have used during the relevant time frame. Dose is everything in toxic tort cases, so the amount of chemical you used is very important. You are certain to be asked for this information by your insurer or its lawyers and experts, as it is their — and your — best line of defense. Maintaining complete pesticide records and having this information at hand will be most helpful to resolving any toxic tort claim on the basis of the facts rather than emotion.

J. MICHAEL VERON is a trial lawyer based in Lake Charles, Louisiana. He also volunteers as a member of the USGA Sectional Affairs Committee.

