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SC Court of Appeals

July 21, 2025

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Ms. Jenny Abbott Kitchings, Clerk
The South Carolina Court of Appeals
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South Carolina Office of Court Administration
1220 Senate Street, Suite 200
Columbia, SC 29201

Re: Eswin Aguilar v. AGCO Corp.
Appellate Case No. 2025-001362

To Whom It May Concern:

In response to the communication from the Court dated July 18, 2025, the transcript was ordered prior to the appeal, on March 18, 2025, and received on April 7, 2025. The Transcript Request Form and a copy of the Transcript are attached.

Please do not hesitate to contact me if you have questions or concerns.

Sincerely,

Ryan G. Studemeyer

Enclosures

cc: James H. Burns, Esq.
Via email james.burns@nelsonmullins.com

Steven Jacob Carroll, Esq.
Via email jake.carroll@nelsonmullins.com



TRANSCRIPT REQUEST FORM

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Is the requestor a party in the case? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No			
If no, does the requestor represent a party? <input type="checkbox"/> Yes <input type="checkbox"/> No If yes, name of party			
Transcript Information			
Docket Number 2021-CP-46-01792		Full Case Caption (i.e. State v. John Doe or John Smith v. Jane Smith) Eswin Aguilar v. AGCO Corp.	
Date(s) of Proceeding March 13, 2025		County York	
		Appeal pending <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
Presiding Judge William McKinnon		Circuit <input checked="" type="checkbox"/> Family <input type="checkbox"/>	
Opposing Counsel(s) (name and email address) James H. Burns james.burns@nelsonmullins.com		Special Circumstances Is the hearing to be transcribed one of the following: <input type="checkbox"/> Termination of parental rights <input type="checkbox"/> Adoption <input type="checkbox"/> Any actions involving child custody/visitation.	
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(Typed name will serve as signature)

Date: 3/14/2025

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1 STATE OF SOUTH CAROLINA) IN THE SOUTH CAROLINA CIRCUIT COURT 16

2 COUNTY OF YORK) COURT C.A NO. 2021-CP-46-01792

3

4 Eswin Aguilar,)

5 Plaintiff,)

6 Versus)

7 AGCO Corp and AGCO Finance LLC,)

8 Defendant.)

9

10 H E A R I N G

11

12 DATE: March 13, 2023

13

14 LOCATION: South Carolina Circuit Court 16

15

16 JUDGE: William A. McKinnon

17

18 TRANSCRIBED BY: ERIN REILLY

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25

INDEX

Proceedings.....	4
Certificate of Transcriber.....	24

[EXHIBITS]

[None Marked]

(THIS TRANSCRIPT MAY CONTAIN QUOTED MATERIAL. SUCH IS
REPRODUCED AS READ OR QUOTED BY THE SPEAKER.)

PROCEEDINGS

1
2 THE COURT: Okay. That brings us to Aguilar versus
3 Nance Tractor.

4 MR. BURNS: Your Honor, James Burns from Nelson
5 Mullins. We're here on our motion for summary judgment.

6 THE COURT: Give me just one second. Let start my
7 Word document so I can make my notes here. Give me just one
8 second. All right. Get right ahead. I'm ready now.

9 MR. BURNS: Yes, sir. My colleague and law partner
10 Jake Carroll, who's been pro hoked in and has appeared before,
11 Your Honor, will be arguing the motion. You've allotted 30
12 minutes for this, Your Honor, I would submit that if we could
13 split it up, 10, 15, 5, 10 to argue the motion, 15 for any
14 response from Mr. Studemeyer and five minutes in rebuttal.
15 Does that meet with your satisfaction?

16 THE COURT: That'll be fine. If we need 30 minutes
17 maybe that's --

18 MR. BURNS: If we need it. Yes, sir.

19 THE COURT: Okay.

20 MR. BURNS: We'll -- I'll turn it over to Mr.
21 Carroll. Thank you, sir.

22 THE COURT: All right. Get right ahead.

23 MR. CARROL: Morning, Your Honor.

24 THE COURT: Good morning.

25 MR. CARROL: As my co-counsel said, my name is Jake

1 Carroll I'm counsel for Defendant AGCO. We are here today
2 seeking summary judgment on Plaintiff's fourth amended
3 complaint which asserts six causes of action all stemming from
4 Plaintiff's purchase of what he claims was a defective tractor
5 he purchased for \$51,000 in April, 2019. Since then, Plaintiff
6 has more than doubled his money receiving a \$100,000 from the
7 two other Defendants in settlement proceeds. The evidence
8 otherwise demonstrates that AGCO fulfilled every aspect of its
9 warranty obligations and there's no genuine disputes of
10 material fact warranting a trial.

11 Plaintiff's approach to litigation as court is aware
12 has been expansive. He's amended his complaint four times with
13 the latest iteration asserting six causes of action solely
14 against AGCO. While there is a single breach of warranty claim
15 the other claims include conversion, negligent bailment, civil
16 conspiracy, violations of the South Carolina Unfair Trade
17 Practices Act, and the South Carolina Fair Practices of Farm
18 Manufacturers and Dealers Act. Under the undisputed facts each
19 of these claims fails as a matter of law.

20 I want to address first the breach of warranty. The
21 undisputed evidence confirms that AGCO honored its limited
22 warranty. The warranty ran for two years or 2000 hours and
23 AGCO covered the cost of all the repairs during that time often
24 going even beyond what the written terms required. For
25 example, tires were replaced at no cost despite being excluded

1 from coverage. And when the repairs required additional time
2 or longer time, AGCO offered the Plaintiff a free loaner
3 tractor. In fact, the Plaintiff never paid for a single repair
4 to the tractor. He did, however, pay \$600 to tow the tractor
5 to the dealer for repairs which were excluded costs and not
6 covered under the limited warranty.

7 Plaintiff argues and has argued this idea of kind of
8 the unreasonable delay or indefinite tinkering from April of
9 2021 to October of 2021. But those -- the facts show at least
10 that the -- those repairs were done either promptly or were
11 slowed only by supply constraints that are now somewhat of a
12 distant memory but this time COVID-19 was directly impacting
13 supply chains. Additionally, the Plaintiff effectively blocked
14 the process himself at, at times by refusing to collect the
15 tractor, refusing a free loaner and insisting on a brand-new
16 tractor or full refund, even after using this one for more than
17 300 hours.

18 In short, these uncontested facts show no breach of
19 the express warranty. Additionally, your, Your Honor, I, I'd
20 like to note that Plaintiff has not demonstrated any damages he
21 suffered from the alleged breach. To the extent that he was
22 damaged, he has been more than compensated from the settlements
23 of the other two Defendants. When focusing on the additional
24 causes of action each is also legally unsupported as to his
25 conversion claim. Plaintiff claims that AGCO --

1 THE COURT: Mr. Carrol let me -- I've read the memo
2 why don't I just stop you. Let me hear from Mr. Burns and I'll
3 give you an extended reply. Would that suit?

4 MR. CARROL: Okay. Yeah.

5 THE COURT: Okay. Mr. Burns, go right ahead.

6 MR. BURNS: Your Honor, I'm co-counsel with Mr.
7 Carroll, Mr. Studemeyer is --

8 THE COURT: I apologize.

9 MR. BURNS: That's okay.

10 THE COURT: Mr. Studemeyer. Yeah, I apologize.

11 MR. STUDEMEYER: Thank you, Your Honor. I would just
12 point out; you know an important backdrop here to consider is
13 that we previously appeared before Judge Dukes on October 23rd
14 for my own motion for summary judgment. Judge Dukes denied
15 that motion based on his assessment that there were genuine
16 issues of material facts. Of course, under Rule 56 that's all
17 determined based on the pleadings, the depositions, answers to
18 interrogatories, admissions on the file, and affidavits.
19 Nothing new has been filed since then. So, I would just say
20 against that backdrop, it would follow that the same genuine
21 issues of material fact, which precluded the grant of my motion
22 for summary judgment would've the same effect here. Now, do
23 you want me to just address every claim and order?

24 THE COURT: Well, yeah, I mean, the first one, I mean
25 the breach of the warranty claim. The Defense says that they

1 satisfy the warranty, every time the tractor was brought to
2 them, they fixed it.

3 MR. STUDEMEYER: Well, that's very much in dispute,
4 Your Honor. The first issue with that is that the tractor was
5 defected whenever it was purchased and it was warranted to be
6 free from defects and material and workmanship.

7 THE COURT: Wait a minute, Mr. Studemeyer so your
8 claim is anytime a product is sold with a defect that's a
9 compensable breach of warranty even if the seller fixes it?

10 MR. STUDEMEYER: The seller did not fix it, Your
11 Honor. The tractor broke down five times over the two years
12 that my client owned it and each time it took three months to
13 repair it and as soon as my client would go back to try to use
14 it again, it'd break down again. They never do.

15 THE COURT: Mr. Studemeyer that's like a written law
16 claim which is not -- I mean, the warranty is it breaks down
17 and it gets fixed and you seem to be asserting some other kind
18 of claim that if it breaks down a certain number of times it
19 doesn't matter if the Defendant fixes it or not.

20 MR. STUDEMEYER: Well, Your Honor, I would say that
21 this case directly falls under the Canon case that was in my
22 brief about the fact that even a warrantor is not allowed to
23 indefinitely tinker and that's what happened for two years.

24 THE COURT: All right.

25 MR. STUDEMEYER: They didn't fix it.

1 THE COURT: All right.

2 MR. STUDEMEYER: And then they lost it for two years.

3 THE COURT: Didn't they give you a warranty -- your
4 client, a loaner tractor though?

5 MR. STUDEMEYER: On one occasion they did, Your
6 Honor, and my client graciously accepted it but then when the
7 tractor broke down for the final time, and again, this is a
8 fact in dispute I will concede that much but they claim that my
9 client outright refused it. My client says he refused it
10 because they wanted him to insure it and he wasn't going to
11 insure another AGCO tractor.

12 THE COURT: When was the case you just cited to me?
13 I mean, I have not read the case I'm going to look at it right
14 now. Give me the citation, please?

15 MR. STUDEMEYER: For the case?

16 THE COURT: And definitely the tinker

17 MR. STUDEMEYER: Yes, Your Honor. It's

18 230SC13194SC2D

19 THE COURT: Cannon versus Pulliam Motor.

20 MR. STUDEMEYER: Yes, Your Honor.

21 THE COURT: That is an old case.

22 MR. STUDEMEYER: It is. Okay. But it's still good
23 law and the --

24 THE COURT: Hold on. Okay. Let's see. Mr.
25 Studemeyer, the podium that the Cannon case turns on the Court

1 says, "We think the evidence clearly warranted submission to
2 the jury of the question of whether there was a breach of
3 warranty. The car was carried to the dealer twice a week for a
4 period of several months, although numerous parts were
5 replaced, there's abundant evidence showing the trouble was
6 never remedied." So, I mean, they never fixed it. That's not
7 quite the same as the situation in your case, is it?

8 MR. STUDEMAYER: That's exactly what we're claiming,
9 Your Honor, that they had four opportunities prior to the final
10 breakdown to fix it and couldn't do it. And then, you know, in
11 the end when they took it away for the fifth time, we have no
12 idea whether they fixed it or not because they lost it for two
13 years. But another case that I think is worth considering here
14 is the Herring case that I cited, which says, "That a warranty
15 fails if it's essential purpose if the seller is either
16 unwilling or unable to repair or replace the product and if
17 there is an unreasonable delay in the repair or replacement."
18 Your Honor, we're claiming all of these things.

19 THE COURT: All right. Keep going.

20 MR. STUDEMAYER: Okay. You know, so my contention
21 it's twofold with respect to this cause of action. The tractor
22 was sold in a defective state, AGCO was never able to remedy it
23 and I believe a jury ought to have the opportunity to decide if
24 a tractor that never runs reliably for the warranty period was
25 ever actually fixed. If it breaks down over and over and over

1 again. Was it ever really fixed? That's the issue here, Your
2 Honor. And so, with that said that's all I had to say about
3 the breach of warranty. If you'd like me to move on to the
4 conversion, I'm happy to.

5 THE COURT: Move on. Yes, please.

6 MR. STUDEMEYER: Okay. Thank you, Your Honor. Of
7 course, conversion that's the unauthorized assumption and
8 exercise of the right of ownership of goods or personal
9 channel. But more specifically, there's a case I cited in my
10 brief Green versus Widener, I believe is how you'd pronounce it
11 but it says performing unauthorized repair is an act of
12 conversion. And I keep referring to this fifth occasion in
13 which the tractor was picked up right as the warranty period
14 was expiring.

15 According to the second affidavit of Jacob Willis
16 which was filed just before my motion for summary judgment was
17 heard, and this is in dispute, my client disputes that this
18 ever happened but Willis says that he called my client, told
19 him that the tractor had been taken back to Nance, the
20 authorized dealer of AGCO products where my client bought it in
21 the first place. And then my client told him, I don't want
22 them working on it. What's uncontested is that after that
23 there was no further contact between the two or with any other
24 member of AGCO and Mr. Aguilar, and that the tractor was taken
25 somewhere else.

1 And repairs went on for -- depending on what you
2 believe, six months according to AGCO, eight months according
3 to the invoices they produced in discovery. But at any rate,
4 my client said he wanted a replacement or refund and in fact,
5 the warranty said that AGCO had the option to replace, they
6 just refused to do it. But my client did not believe that AGCO
7 had the ability to fix this tractor. They had had two years to
8 do so and he'd only gotten 300 miles out of it in the same
9 period of time in which it was contemplated by the warranty he
10 might get 2000.

11 THE COURT: What is your position that he told them
12 not to fix it and they took it anyway, which seems inconsistent
13 with the warranty claims. They can't fix it; they can't touch
14 it or did they have his permission to pick up the tractor?

15 MR. STUDEMAYER: They certainly had his permission to
16 pick up the tractor but he figured that, you know, you're
17 picking up the tractor to either give me a refund or get me a
18 replacement. He didn't expect them to bring that thing back,
19 he didn't have any faith it would work

20 THE COURT: Well, did he demand its return?

21 MR. STUDEMAYER: What I recall -- well, actually,
22 what I know for a fact, Your Honor, is that there was a phone
23 call between Mr. Willis and my client in October of 2021. So,
24 about six months after this tractor was picked up. At that
25 point, Mr. Willis said that the tractor was ready.

1 Unfortunately, this case had already started, we were several
2 months into it. There was some communication exchange to the
3 effect that, you know, the lawyers need to talk about this and
4 it never -- it was never discussed again.

5 THE COURT: I'm going to grant the motion on the
6 conversion cause of action. It was picked up with permission.
7 So, I'm going to move on to the next one.

8 MR. STUDEMAYER: Are we ready to move on to the
9 negligent bailment claim, Your Honor?

10 THE COURT: Yes, sir.

11 MR. STUDEMAYER: Okay. All right. So, this has a
12 lot of overlap with the conversion claim, but this is really
13 based on the subsequent loss of the tractor after it was
14 allegedly repaired, when it was picked up and Jacob Willis
15 called Mr. Aguilar late October of 2021. Thereafter,
16 apparently the tractor was lost for two years. That's
17 according to AGCO's responses to Plaintiff's first set of
18 interrogatories number 26, 27 and 28, which are on file. AGCO
19 represented; it did not know where the tractor was taken on
20 April 28th, 2021 until October of 2023. Did not have any
21 records of any repairs and did not know the present location of
22 the tractor, Your Honor.

23 You know, there's been a contention by AGCO that
24 there's been no loss or damage to the bailed property. Well,
25 there was literally a two-year loss of the property. So, I

1 | would certainly claim that as an item of damage, but they've
2 | also cited the economic loss rule which I find curious because
3 | the duties to -- of safekeeping property arise under law not
4 | under the warranty and on that basis, we certainly believe
5 | there is no genuine issue of material fact as to negligent
6 | bailment, Your Honor.

7 | THE COURT: All right. Keep moving.

8 | MR. STUDEMAYER: Okay. The next cause of action is
9 | for civil conspiracy. I believe that AGCO's main contention
10 | with that is that the Plaintiff has failed to allege an
11 | agreement to commit an unlawful act because AGCO was not a
12 | party to the retail installment contract that Mr. Aguilar
13 | signed incidental to the purchase of this tractor. I don't
14 | believe there is any case law and it's certainly not an element
15 | of a civil conspiracy claim but AGCO itself must be a party to
16 | or a third-party beneficiary of the retail installment
17 | contract. Furthermore, this retail installment contract was
18 | exclusively used by AGCO dealers only assigned to AGCO Finance,
19 | which by the way is a AGCO joint venture with a bank --

20 | THE COURT: Who are the conspirators?

21 | MR. STUDEMAYER: AGCO Finance, AGCO and Nance
22 | Tractor, AGCO's authorized dealer.

23 | THE COURT: But the claims only asserted against
24 | AGCO?

25 | MR. STUDEMAYER: At this point yes, Your Honor,

1 | because the other parties have settled.

2 | THE COURT: All right.

3 | MR. STUDEMAYER: May I add more on the civil
4 | conspiracy claim?

5 | THE COURT: Please.

6 | MR. STUDEMAYER: Okay. Thank you, Your Honor. And
7 | so, the agreement to the -- to commit a unlawful act. The
8 | unlawful act is that AGCO was distributing these retail
9 | installment contracts which contained unconscionable terms with
10 | the intention to mislead, deceive, and oppress not just the
11 | Plaintiff but the consumers across South Carolina. These
12 | included charging a bogus administration fee, which was
13 | collected simply as additional profit. And Your Honor, I don't
14 | -- I'm not sure if you're familiar with the closing fee case
15 | involving all of the automobile dealers about 10 years ago. It
16 | was right whenever I was entering the practice of law but in
17 | that context that was crushing to automobile dealers. There
18 | was, you know, subsequent legislation passed which said there
19 | has to be a basis for charging fees like that. You can't just,
20 | you know, collect fees really for the sake of profit and that's
21 | what we alleged has happened here.

22 | Of course, this is an intentional tort as AGCO has
23 | pointed out and they claim that we are missing the requisite
24 | intent to harm. I would argue that distributing a retail
25 | installment contract with these unconscionable terms and

1 | minuscule blurry font designed to mislead and deceive in a
2 | manner violative of the unfair trade practices act for one is
3 | evidence enough. And finally, Your Honor, I would just --

4 | THE COURT: What is the unlawful act?

5 | MR. STUDEMAYER: It is distributing a contract to
6 | consumers in South Carolina including the Plaintiff with
7 | unlawful terms, which are intentionally obscured.

8 | THE COURT: Do you -- I'm really skeptical of that.
9 | Do you have any case law? I mean, you -- I mean, an adhesion
10 | contract's not illegal, it's just not enforceable. I mean,
11 | it's not a crime to sign an adhesion contract and I'm extremely
12 | skeptical that qualifies as an unlawful act.

13 | MR. STUDEMAYER: Well, Your Honor, my understanding
14 | is that an adhesion contract, you're correct, is not in and of
15 | itself illegal but what makes it unconscionable is if it also
16 | contains oppressive in one-sided terms, which --

17 | THE COURT: I understand but, again, you said that
18 | makes it unconscionable doesn't make it unlawful. I mean,
19 | civil conspiracy is either an unlawful means to a law or an
20 | unlawful act or a lawful act by unlawful means and that what --
21 | I just don't think an adhesion contract qualifies.

22 | MR. STUDEMAYER: Well, Your Honor, if it contains
23 | terms that violate the Unfair Trade Practices Act and there's
24 | plenty of case law to support that contention and certainly
25 | it's one that --

1 THE COURT: There's case law that constitutes. Is
2 anything that violates the Unfair Trade Practices Act has also
3 a civil conspiracy?

4 MR. STUDEMEYER: It certainly satisfies the element
5 of an unlawful act, Your Honor, which is an element of this
6 claim.

7 THE COURT: I don't know I'm extremely skeptical of
8 that. Okay. We move to Unfair Practice Act.

9 MR. STUDEMEYER: Yes, Your Honor. So, AGCO
10 distributed the operator's manual that accompanied the purchase
11 of the tractor. It wasn't discovered until much later that on
12 page 63 the consumer does not get a copy of the limited
13 warranty, we've discussed at length so far today unless they
14 asked the dealer. That was concealed on page 63, the onus is
15 placed on the consumer who is unlikely to ever actually read
16 this operator's manual given its length, it might as well be a
17 copy of the Bible. But the limited warranty itself states that
18 the equipment turns out to be defective, the consumer is
19 responsible for the cost of towing it for repairs and that's
20 the exclusive remedy. We would contend that's unfair and it
21 was concealed in such a manner that makes it deceptive.

22 Again, I know that AGCO has made much of the fact
23 that the Plaintiff did not pay for these repairs under
24 warranty, but I think there's a twofold problem with that. The
25 first being that the warranty itself said that the Plaintiff

1 wouldn't have to pay for the repairs. So, of course, the
2 Plaintiff didn't pay for the repairs and second, the warranty
3 was in fact triggered because these were problems that violated
4 the promises made in the warranty. Also, this goes back to and
5 I know you're skeptical of it, Your Honor, but it goes back to
6 this retail installment contract which allows authorized
7 dealers of AGCO to charge that hidden add-on fee which is
8 arbitrary and purely for profit.

9 Further, we would contend that the repairs which went
10 on again for a period of time, we were not able to precisely
11 determine six months, eight months, I'm not sure, followed by
12 the loss of the tractor for two years without being able to
13 produce any record of repair during that period would be
14 violative for being unfair and certainly causing harm to Mr.
15 Aguilar.

16 I would also point out AGCO claims that the unfair
17 trade practices claim is invalid, because there's not been any
18 claim of an unfair deceptive practice. I would point out that
19 it is actually a violation of a federal regulation that I cited
20 in my brief, it's 16CFR702.3, but it says that the failure to
21 provide a copy of the limited warranty before or at the time of
22 purchase is a violation.

23 And I know that the argument was also made that, well, the
24 Plaintiff bought it for commercial purposes. We have testimony
25 from his deposition that says that the main reason he bought

1 this tractor was to mow his 42 acres that he lives on, Your
2 Honor. And of course, so based on that, we would say the
3 regulation applies but also a breach of warranty itself may be
4 a UTPA violation the Haley Nursery Company Inc case that I
5 cited in my brief stands for that proposition.

6 THE COURT: All right.

7 MR. STUDEMEYER: And then finally it's the cause of
8 action that's a mouthful, I'm just going to say the first bit
9 of it. The South Carolina Fair Practices of Outdoor Power
10 Equipment Distributors and Dealers Act. Let's just go with
11 that. SC code Section 39610 and all the sections that follow.
12 Of course, the language is quite similar to the Unfair Trade
13 Practices Act, to the extent that arbitrary and constable are
14 bad faith conduct which causes damages to the public, is a
15 violation and I suppose there's a little bit of overlap with
16 the Automobile Dealers Act in that sense as well.

17 THE COURT: This act doesn't apply to consumer
18 transactions, right?

19 MR. STUDEMEYER: I do not agree with that, Your
20 Honor.

21 THE COURT: Okay.

22 MR. STUDEMEYER: I know that that's what AGCO has
23 alleged but I would point out that catchall provision at the
24 end of section 396120, which says that it applies to all other
25 agreements in which the manufacturer, distributor, wholesaler,

1 | so on and so forth, has any direct or indirect interest. AGCO
2 | is most certainly a manufacturer and a distributor. It
3 | certainly has a direct interest in the warranty, which is a big
4 | part of this case and I would argue it at least has an indirect
5 | interest in that retail installment contract.

6 | THE COURT: So, [inaudible] to every transaction in
7 | South Carolina?

8 | MR. STUDEMEYER: I'm sorry?

9 | THE COURT: So, it applies to every sales contract in
10 | South Carolina?

11 | MR. STUDEMEYER: If it involves the sale of farm
12 | construction, industrial or outdoor power equipment and there's
13 | a distributor or a manufacturer involved, I would agree with
14 | that. That's quite limited.

15 | THE COURT: All right. Anything else?

16 | MR. STUDEMEYER: Yes, Your Honor. I would point out
17 | also that the rules of statutory interpretation simply do not
18 | align with AGCO's construction of this section. I cited that
19 | Duke Energy Corporation case to this effect that in general,
20 | when you have a number of laws that are part of the same
21 | general statutory scheme, they ought to be construed together
22 | and each one given effect and not one isolated as AGCO has done
23 | in this manner. Because if you look at Section 396140, it
24 | states that a person who was injured in his business or
25 | property by reason of a violation of this chapter may sue in

1 the Court of Common Pleas and so forth.

2 Certainly, under Section 39620, Mr. Aguilar is a
3 person which is defined as including a natural person. And
4 again, since we are alleging violation of 39640, which forbids
5 unfair methods of competition and unfair deceptive practices in
6 addition to 39650, which mentions arbitrary unconscionable or
7 bad faith conduct. We would argue that if you read these
8 sections together in a comprehensive manner as the rules of
9 statutory interpretation would require that there is a valid
10 cause of action here. Thank you, Your Honor.

11 THE COURT: All right. Mr. Carrol let me hear from
12 you again. I am convinced you are correct on all the causes of
13 action, except for the negligent bailment and the breach of
14 warranty. I think there are at least jury questions on those
15 two issues so focus on those.

16 MR. CARROL: Okay. Yes, Your Honor. So, I'll
17 address them in reverse order. Starting with the negligent
18 bailment. There is also a testimony and it is undisputed that
19 on that date in October of 2021, when AGCO representative
20 called the Plaintiff responded, I do not want this tractor.
21 And at that point it didn't matter where the tractor was,
22 that's at least my argument to the extent that he says the
23 tractor was lost, that was a miscommunication between AGCO and
24 its counsel. Clearly, the Plaintiff knew where it was.

25 He knew it was at Powell's, even though he doesn't know

1 | where Westminster, South Carolina is and it was a discovery
2 | response, he makes a big deal about it. But at the end of the
3 | day both the Plaintiff and AGCO knew where the tractor was.
4 | Plaintiff just didn't want it.

5 | And in fact, his first complaint a long, long time
6 | ago sought to revoke his acceptance of the tractor. He did not
7 | want it at all. So, you can't say that it was lost when both
8 | AGCO and the Plaintiff knew where it was and we have testimony
9 | that the Plaintiff knew where it was, he just didn't want it.
10 | As to the breach of warranty I would again just say that or
11 | just point out the -- that the Plaintiff, every single time
12 | that the tractor was -- had had an issue, AGCO took it and
13 | repaired it. Well, AGCO paid for it to be repaired by Nance
14 | several times and each time there -- it wasn't the exact same
15 | thing every single time.

16 | The first time were repairs to the shaft. Second
17 | time, hydraulic clutches, next time gears and bearings. And by
18 | that third time, he had used -- the Plaintiff had used it 184
19 | hours. Fourth time, lights to the rear, rear lights to the
20 | tractor AGCO paid and that was because of damage that wasn't
21 | technically covered by the warranty but we paid it anyways.
22 | The next time was a fuel gauge that was repaired then a bleeder
23 | screw and then finally at the end AGCO paid \$8,000 to repair
24 | the gears to the tractor when it had 335 hours on it and then
25 | also replaced the rear housing and bearings at that time.

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9 I do further certify that I am neither of kin, counsel, nor
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April 1st, 2025

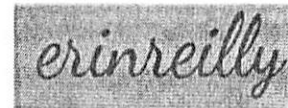
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