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1 A. Okay.  
 2 Q. You understand that you have filed this  
 3 complaint against AGCO, right, this Exhibit 2?  
 4 A. Well, yeah. Now that makes sense.  
 5 Q. Okay. And you filed it in York County,  
 6 South Carolina, correct?  
 7 A. That's correct.  
 8 Q. Do you have any relatives in York County?  
 9 A. No.  
 10 Q. Okay. Do you have any persons who you  
 11 consider good friends that live or reside in York  
 12 County?  
 13 A. Not that I'm aware of in York County. I  
 14 don't think so.  
 15 Q. Prior to purchasing this tractor, had you  
 16 ever worked with Nance before? Had you ever bought  
 17 anything from them before?  
 18 A. No.  
 19 Q. Okay. Do you know why Exhibit B is  
 20 attached to your fourth amended complaint?  
 21 A. I guess because it's -- I'm pretty sure  
 22 it's a fee in there that they probably charged me  
 23 for. I'm not sure. Now that I see these numbers,  
 24 that's what it looks like.  
 25 Q. Okay. That AGCO Finance charged you,

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1 right?  
 2 A. Yes.  
 3 Q. Let's go back to the complaint. Let's go  
 4 to page 4 and I'm at paragraph 30, which you said you  
 5 paid for the Bush-Whacker in full on April 26, right?  
 6 A. Yes.  
 7 Q. Okay. And then you made three other  
 8 payments to AGCO Finance fairly quickly, right?  
 9 A. Yes.  
 10 Q. Okay. And then paragraph 32 says on  
 11 April 29, tractor and various documents, including an  
 12 operator's manual, were dropped off at your property  
 13 in Ridgeway, South Carolina, right?  
 14 A. Yes.  
 15 Q. Okay. What were the various other  
 16 documents besides the operator's manual that was  
 17 dropped off?  
 18 A. That's it. I believe that was all I got.  
 19 Just to add onto that, that was a drive-by type  
 20 thing. I mean, like, the guy was in a hurry. He  
 21 dropped my tractor. Didn't explain nothing. That  
 22 was it. Which there is a point because you go in and  
 23 they talk to you into buying something, just like  
 24 anything else. And then when you complete the sale,  
 25 it's like they move on. So...

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1 Q. Okay. It says almost immediately after  
 2 delivery, you began to experience problems with the  
 3 tractor including a damaged tire, correct?  
 4 A. Yes.  
 5 Q. And that AGCO failed to provide a  
 6 replacement until July, correct?  
 7 A. Yes.  
 8 Q. But AGCO did provide a replacement tire,  
 9 right?  
 10 A. I mean, it's not as simple as it sounds.  
 11 It's not as easy as it sounds, you know. The tire --  
 12 they gave me a lot -- a lot -- a lot of problems, a  
 13 lot of headaches, you know. They assumed that I cut  
 14 the tire. They assumed a lot of things before even  
 15 considering giving me the tire. Brand new tractor.  
 16 I mean, brand new tractor. The tire was split apart.  
 17 That was the issue on the tractor. They pretty much  
 18 shooshed me off with the tire and I had to,  
 19 obviously, just keep pushing until they replaced  
 20 that.  
 21 But they gave me everything you can think  
 22 of to pin it on me to the extent that I had run the  
 23 tractor on top of something that had cut the tire  
 24 off. My yard, my 42 acres, there's nothing to cut  
 25 the tire. I even asked the guy to come check my

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1 property. They just didn't care. But eventually  
 2 after -- I'm trying to conclude that. But after  
 3 headaches and going through trying to explain that,  
 4 they gave me a used tire.  
 5 Q. Did you have to pay for the tire?  
 6 A. No. But I had to -- I believe I had to  
 7 pick it up. I think I had to pick it up.  
 8 Q. And then did you have to install it  
 9 yourself?  
 10 A. Yes. So add to my headache. Do you know  
 11 how big a tractor tire is?  
 12 Q. Was it a front tire or back tire?  
 13 A. Back tire.  
 14 Q. Okay. Yes. I know how big they are.  
 15 Okay. So going to the next page. October 9, 2019,  
 16 the tractor broke down for the first time and you  
 17 contacted Nance and informed them of the breakdown,  
 18 right?  
 19 A. I believe so.  
 20 Q. I'm just reading your complaint.  
 21 A. Yeah. The dates may not be accurate and  
 22 they may not be in the order they happened, but yes.  
 23 Yes. The tractor broke down. I called them. Yes.  
 24 Q. Okay. And what did you expect Nance to do  
 25 for this issue when you called?

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1 A. I expected them to fix it. Would you not  
2 expect someone to fix your brand new car? I hate to  
3 ask the question to you.  
4 Q. So with that expectation, did you know  
5 that the tractor came with a warranty?  
6 A. Yeah.  
7 Q. Did Nance tell you about the warranty that  
8 the tractor came with?  
9 A. No. I had to -- matter of fact, no. I  
10 had to find that out. Those were the only things  
11 that I had to ask for because they failed to give me  
12 the warranty.  
13 Q. When did you ask for that document?  
14 A. I think it was referring to this tractor  
15 constantly breaking down.  
16 Q. Okay. Do you remember around about time?  
17 A. No. I don't remember the time.  
18 Q. So in 2019 -- October 2019, we're on page  
19 5 of your complaint, you called Nance and asked  
20 them -- you expect them to fix it based on a warranty  
21 that you had never seen before, correct?  
22 A. That's fair to say. But, again, you're  
23 buying a brand new something, you know. We're not  
24 buying a blender here, now. Would you buy a \$50,000  
25 car and have it break down maybe a couple of hundred

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1 miles in? What would you do?  
2 Q. Did you ever ask -- did you ever wonder  
3 what was covered under the warranty?  
4 A. I mean, my knowledge when you buy a  
5 vehicle, there's a bumper to bumper. This is a very  
6 expensive tractor, so I would expect the same.  
7 Q. Did you know how long the warranty was  
8 for?  
9 A. I don't think it's for life, but I'm sure  
10 it would be enough to -- within whatever problems I  
11 had with the tractor. That's just common sense.  
12 Q. Now, you know that Nance has said that  
13 they gave you a copy of the warranty when the tractor  
14 was delivered?  
15 A. I don't remember seeing it. I don't think  
16 they gave it to me, but, I mean, it's neither here  
17 nor there. I wouldn't know. All I can tell you is I  
18 was very excited. The tractor looked good. I was  
19 very excited about the tractor. And after talking to  
20 Andy, he assured me that was the tractor. After I  
21 explained to him what I needed it for and what I was  
22 working into, he said, "This is your tractor."  
23 Q. Okay. I'm going to give you the next  
24 document. Mr. Aguilar, were you told there was a  
25 warranty on the tractor when you purchased it?

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1 A. I'm pretty sure.  
2 Q. Did Andy mention a warranty when he was  
3 telling you that this was the tractor that you  
4 needed?  
5 A. I'm pretty sure he did.  
6 Q. The document in front of you, do you agree  
7 at the top it states, "AGCO Limited Warranty Terms  
8 and Conditions - United States, Canada, Mexico -  
9 Effective for Equipment Retailed and Delivered After  
10 January 1, 2019"? Do you agree that's what it says?  
11 A. You're asking me if I agree what this  
12 document is saying here?  
13 Q. Yes.  
14 A. Yes, I agree. I understand what this  
15 says.  
16 Q. I'm going to mark this as Defendant's  
17 Exhibit 3.  
18 (DEF. EXHIBIT 3, AGCO Limited  
19 Warranty Terms and Conditions, Bates stamped AGCO  
20 00001-00002, was marked for identification.)  
21 BY MR. CARROLL:  
22 Q. When was the first time you saw this  
23 document?  
24 A. I don't remember, really.  
25 Q. And then the applicable warranty on this

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1 table, we're talking about a 4700 series tractor,  
2 right?  
3 A. Yes.  
4 Q. Okay. So under "Tractors," the second  
5 line reads, "Twenty-four months or 2,000 hours,  
6 whichever comes first," correct?  
7 A. Right.  
8 Q. Okay. So do you understand that the  
9 tractor is warranted for 24 months or 2,000 hours,  
10 whichever comes first?  
11 A. Yeah, I see that.  
12 Q. And that's what you understand the  
13 warranty to be?  
14 A. What that means. Yes. What that means.  
15 Q. Let's go to the first line of the limited  
16 warranty. "What is warranted." Can you read the  
17 first sentence of that to me?  
18 A. "Application, equipment, major drivetrain  
19 components, is warranted for two years or 2,000  
20 hours." Is that what you're talking about?  
21 Q. No. I'm talking about the first line at  
22 the top. Right here. "What is warranted."  
23 A. Okay. "What is warranted."  
24 Q. Yeah.  
25 A. Goodness. "AGCO Corporation warrants its

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1 new equipment to be free of defect and materials and  
2 workmanship at-time of delivery to the first retail  
3 purchase renter or lease. These terms apply to all  
4 brands of new equipment originally warranted in the  
5 United States, Canada, and to Challenger branded  
6 equipment only originally made in -- marketed in  
7 Mexico."  
8 Q. Okay. And so AGCO Corporation warrants  
9 its equipment for 24 months or 2,000 hours, whichever  
10 comes first in this case, right?  
11 A. You're asking me to...  
12 Q. I'm asking you if that's correct, if I'm  
13 reading this document correctly?  
14 A. Yeah. I mean, you're reading it. Yeah.  
15 Q. Let's turn to page 2. And at the top of  
16 the page in bold letters, there's a title,  
17 "Exceptions from this warranty." Do you see that?  
18 A. "Exceptions from this warranty." Okay.  
19 Q. And then under the bullet -- under the  
20 list of exceptions from this warranty, "Repairs and  
21 maintenance are not covered under the warranty,"  
22 right?  
23 A. If that's what it says here, I guess. So,  
24 you know, I don't think I ever seen this thing.  
25 Q. You've never seen it?

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1 A. I mean, I don't -- I don't really -- I  
2 don't remember seeing this thing, I mean, to the  
3 specifics. But we can proceed, I guess.  
4 Q. You just testified that you saw it -- you  
5 asked for a copy?  
6 A. I mean, after. I mean, after later on.  
7 We hadn't had it.  
8 Q. Okay. And you never asked AGCO or Nance  
9 for a copy of the limited warranty, right?  
10 A. You know, honestly, I assumed they would  
11 give it to me and maybe he did explain some of it,  
12 but that's all I can remember, honestly.  
13 Q. Do you still have the operator's manual?  
14 A. I believe -- no. I don't think so. Well,  
15 I don't remember. Maybe I do.  
16 Q. Like, at your house?  
17 A. I think it was in the tractor.  
18 Q. Okay. Do you think it's still in the  
19 tractor?  
20 A. Probably so. It's supposed to be in the  
21 tractor. It's an operator's manual. So...  
22 Q. So then the next bullet point says,  
23 "Rubber tire warranty. Rubber tires are warranted  
24 directly by the respected manufacturer only and not  
25 by AGCO." Did I read that correctly?

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1 A. Yeah. You read that correctly.  
2 Q. Do you remember who the manufacturer of  
3 your split tire was?  
4 A. No.  
5 Q. No. The next section says, "Owner's  
6 obligation." Do you see that?  
7 A. Right.  
8 Q. And the sentence says, "It is the  
9 responsibility of the owner to transport the  
10 equipment or parts to the service shop of an  
11 authorized AGCO dealer or, alternatively, to  
12 reimburse the dealer for any travel or transportation  
13 expense involved in fulfilling this warranty." Did I  
14 read that correctly?  
15 A. Yeah. I mean, you're reading it  
16 correctly.  
17 Q. Okay. Now, you've paid \$399 to have the  
18 tractor towed once, right?  
19 A. Yes.  
20 Q. Other than that, have you paid for any  
21 other repairs to the tractor?  
22 A. I don't think so.  
23 Q. As you sit here today, do you want the  
24 tractor back?  
25 A. I don't think so. Would you want your car

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1 if it's been fixed seven times -- four, seven times.  
2 I don't even remember how many times it's been fixed.  
3 I just found out not too long ago where my tractor  
4 was. Would you want your car back?  
5 Q. This is not my deposition.  
6 A. Okay. And I hate to ask that, but, you  
7 know.  
8 Q. So the next sentence says, "This warranty  
9 does not cover rental or replacement equipment during  
10 the repair period."  
11 A. So they did tell me that, but, you know --  
12 and, to a point, I get that. But they put a sticker  
13 that says on the tractor that I'm responsible for  
14 shipping the tractor, the levers, whatever. I get  
15 that, but they put it in a spot you can't see it. Or  
16 you have to get in the tractor, work the tractor,  
17 lift the loader like an arm -- because it has arms,  
18 is what the loader is. So you have to lift the thing  
19 so you can read that sticker where it says owner  
20 responsible for delivering the tractor for  
21 maintenance or repairs. So I don't know if that  
22 answers that question.  
23 Q. Well, who told you that? Did somebody at  
24 Nance also tell you the warranty doesn't cover rental  
25 or replacement equipment?

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1 A. Yes.  
2 Q. Okay. But you did get a loaner tractor at  
3 least one time, right?  
4 A. Yes.  
5 Q. Did you have to pay for that?  
6 A. No.  
7 Q. Okay. And then the next paragraph under  
8 "Owner's Obligation," do you see the bold statement  
9 there -- the statement in bold and all caps?  
10 A. I'm not sure.  
11 Q. Under "Owner's Obligation."  
12 A. Okay.  
13 Q. The next statement in bold and all caps.  
14 A. Okay. It says, "This warranty does not  
15 cover rental replacement." Okay.  
16 Q. So the next one is, "This warranty is in  
17 lieu of." Do you see that?  
18 A. I don't even know what that means.  
19 Q. But do you see it?  
20 A. Yeah.  
21 Q. Can you read that whole sentence?  
22 A. "This warranty is in lieu -- lieu,"  
23 whatever you call it, "of all warranties of  
24 merchantability, fitness for a purpose or other  
25 representations, warranties or conditions, expressed

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1 or implied." Keep going?  
2 Q. No. Then the last sentence says, "In no  
3 event shall the owner be entitled to recover for  
4 incidental, special, or consequential damages such as  
5 loss of crops, loss of profits or revenue, other  
6 commercial losses, inconvenience, or cost of rental  
7 or replacement equipment," correct? Did I read that  
8 correctly?  
9 A. That's what it says here.  
10 Q. This is the second time that the warranty  
11 talks about not covering rental or replacement  
12 equipment, right?  
13 A. I mean, I guess that's what it says there.  
14 That's what it says there.  
15 Q. And then going down to -- going back to  
16 something that you said. Tractor Mart, right, was  
17 the first place you went?  
18 A. A few of the places I went. But Tractor  
19 Mart for Massey Ferguson, yes.  
20 Q. And you did not buy a tractor from them  
21 because they could not service the tractor -- the  
22 kind of tractor that you needed, right?  
23 A. They don't provide -- they only go to a  
24 specific horsepower tractor. They're a small dealer.  
25 Q. Okay. That's for warranty service; is

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1 that right?  
2 A. They just don't -- don't sell tractors as  
3 big as mine. They sell small tractors.  
4 Q. Do they have a service department?  
5 A. I'm not sure. When I think about it,  
6 that's where I got this promotion. I think he's the  
7 one that gave me that Nancy Ferguson, one tractor for  
8 life, I think.  
9 Q. The brochure?  
10 A. Yeah.  
11 Q. Did you look AGCO online when you were  
12 researching tractors?  
13 A. To a point, I think I did.  
14 Q. Okay. Now, at some point you bought a  
15 Kubota tractor, right?  
16 A. Yes.  
17 Q. Do you still have that tractor?  
18 A. Yes.  
19 Q. Is that what you use to mow your grass --  
20 A. Yes.  
21 Q. -- with the bush hog?  
22 A. Yes.  
23 Q. Do you also use it to water your trees and  
24 other ornamental plants?  
25 A. Yes.

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1 Q. Okay. So that's No. 3.  
2 A. But, you know, that bush hog I had -- I  
3 had to do some work to that bush hog for that to work  
4 on my new tractor because it doesn't -- it didn't fit  
5 on my tractor. I had to finagle that thing, change  
6 some parts to make it work on my new tractor so it's  
7 clear because the questions you're asking me are  
8 almost simple without explanation.  
9 Q. Okay. So let's go back to Exhibit 2,  
10 which is your fourth amended complaint, page 5. And  
11 I want to go to paragraph 40. It says because of the  
12 seasonal nature of the plaintiff's business, that you  
13 were unable to fully test out the repairs performed  
14 on the tractor until April of 2020. So when is your  
15 busy season?  
16 A. Well, I think what this is saying is the  
17 tractor -- you normally use the tractor the most in  
18 the summer because that's when the grass grows. And  
19 I think what this is referring to here is when they  
20 fixed my tractor and they brought it back, the season  
21 of me doing a lot of the work with the tractor that  
22 needed to be done was past. Now I had to wait until  
23 next summer to really figure it out, to pretty much  
24 use the tractor again. I don't know if that explains  
25 that.

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1 Q. That does. And then on July 20th, page  
2 42, it said the tractor broke down a second time.  
3 You were required to pay \$200 to have the tractor  
4 towed to Nance, correct?  
5 A. At that point -- at that point, we were  
6 dancing back and forth with them. They asked me -- I  
7 just want my tractor to get fixed.  
8 Q. And Nance fixed it?  
9 A. That's correct.  
10 Q. Okay.  
11 A. But you're making it sound so simple and  
12 easy, though. I want you to be fair with me, though.  
13 Q. I get it.  
14 A. I mean, you know, this was a nightmare  
15 from the beginning. Every time my tractor went to  
16 get fixed, I had to argue with these people. And  
17 then when my tractor went in, it took months to come  
18 back. Season was over. I had to struggle with a  
19 1965 old tractor that I had, that I had to finagle  
20 that thing. It's not fun to cut 42 acres with a  
21 tractor that had no good seat on. That's the  
22 aggravation that I want you to understand here.  
23 Q. So did you use the -- sorry. Were you  
24 going to say something?  
25 A. Sorry?

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1 Q. Did you use the tractor primarily for  
2 mowing?  
3 A. For everything. That new tractor was  
4 supposed to do everything.  
5 Q. But all we've talked about so far really  
6 is mowing your 42 acres of grass?  
7 A. Well, we were talking about that because  
8 you said season.  
9 Q. Okay. Well, yes. So then going back to  
10 the allegation in paragraph 40, it says, "Because of  
11 the seasonal nature of plaintiff's business." So is  
12 your business the grass mowing or is your business  
13 the tree farm?  
14 A. I think there's maybe a little confusion  
15 there, business with the tractor. The tractor was to  
16 cut the grass and to get my tree farm going. That's  
17 what the tractor was for. The tractor had nothing to  
18 do with my business -- with my Capital Stone  
19 business.  
20 Q. Okay. I'm going to show you the next  
21 document. Do you recognize this document?  
22 A. Yes.  
23 Q. And what is it? What is it?  
24 A. Are you asking me? I'm sorry.  
25 Q. Yes.

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1 A. I didn't hear your question. We're  
2 smiling at each other. I was waiting for your  
3 question. I apologize. This seems to be a time  
4 frame of -- this is my wife's work. She probably put  
5 this together as an overall idea of what happened  
6 with the tractor. It may not be accurate with dates  
7 because, you know, I'm the one dealing with the  
8 tractor and she's probably just trying to put this  
9 together with e-mails and stuff like that. But  
10 overall, it gives you an idea of what it is and what  
11 we went through, in a way.  
12 Q. It's a timeline, right?  
13 A. Yes. But what I'm saying is the dates may  
14 not be accurate.  
15 Q. Okay. I'll mark this as Defendant's  
16 Exhibit 4.  
17 (DEF. EXHIBIT 4, Timeline, was marked  
18 for identification.)  
19 THE WITNESS: Or the right order, per  
20 se.  
21 BY MR. CARROLL:  
22 Q. Yeah, I get it. This was prepared by your  
23 wife?  
24 A. Yeah, I believe so.  
25 Q. Okay.

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1 A. Probably so.  
2 Q. And on this document it says, "March 1,  
3 2020 moved into house on Peach Road." Do you have  
4 any reason to dispute that?  
5 A. I guess she was probably -- are you asking  
6 me if this is accurate or not?  
7 Q. Yes.  
8 A. Yes.  
9 Q. Okay. Now, this timeline doesn't mention  
10 anything about the tire problem we talked about,  
11 right, in 2019?  
12 A. Yeah. Again, she -- I don't do paperwork,  
13 really. I mean, I'm in the field. I'm out there  
14 talking and dealing with people, customers, just to  
15 give you an idea. So when it comes to this tractor,  
16 I'm pretty much doing all of the physical work. And  
17 any kind of paperwork, she's the one that does it.  
18 So she's, again, not aware of maybe some things in  
19 here. She's not going to know exactly what is behind  
20 every single thing and dates, perhaps. So if you  
21 want me to, I will tell you how it started.  
22 Q. Well, I want to ask -- let's go to page 2.  
23 And October 20, 2020, it says, "Sent e-mail to Nance  
24 about squealing noise. Said it was normal. Refused  
25 any other solution. Had to contact AGCO. AGCO rep

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1 (not Jacob ) David came out and said tractor was  
2 never updated." Do you remember David's last name?  
3 A. I think it's Summer or somewhere in there.  
4 David Summer, if I'm not mistaken.  
5 Q. Okay. David Summer. And so after -- when  
6 you contacted AGCO, AGCO fixed what they could and  
7 then said it had to go back to Nance, right?  
8 A. I mean, yeah. But it's not -- again, it's  
9 not so simple the way you put it because that is  
10 specific time. We are already on the third of fourth  
11 time the tractor has broken down. So you had jumped  
12 from zero to 60 already. And AGCO is already -- by  
13 that point already been involved. Matter of fact,  
14 AGCO was involved from the beginning with the tire.  
15 They told me to call AGCO when the tire -- when I had  
16 a problem with the tire.  
17 Q. Nance did?  
18 A. Uh-huh. So back -- so AGCO is this  
19 tractor, what I'm trying to tell you. Because the  
20 tire broke down, they pretty much told me to call  
21 AGCO.  
22 Q. And then AGCO got you a new --  
23 A. AGCO was involved with this from the  
24 beginning.  
25 Q. And you would agree AGCO got you a new

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1 tire, right?  
2 A. After arguing for months, yes.  
3 Q. Even though under the warranty tires are  
4 excluded, they did still that?  
5 A. I understand that. But you buy a new  
6 tractor -- you just buy a car and you take it home  
7 and the tire is cut, I mean, that's the logic that  
8 we're looking at here. I understand what you're  
9 trying to say about the warranty. I get that. But  
10 the tractor is, like, new. I mean, it's, like I say,  
11 you buy a car, you take it to your house, and then a  
12 week after that you see the tire splitting. I mean,  
13 I hate to tell you, but that's pretty much common  
14 sense. I mean, we're not talking about a year after,  
15 two years after, 50,000 miles. I mean, I believe  
16 it's fair to say that it is a problem whether --  
17 regardless of what the warranty says. I don't know  
18 what to tell you.  
19 Q. So you have sued -- let's go back to --  
20 you can put your timeline to the -- or your wife's  
21 timeline to the side. We're going to go back to the  
22 fourth amended complaint, which is Exhibit 2, and I  
23 want you to go to page 8 now. Paragraph 66,  
24 April 21st, tractor broke down again. Display saying  
25 error code. You contacted Jacob Willis with AGCO

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1 Who is Mr. Willis?  
2 A. I talked to Jacob Willis when my tire was  
3 cut, just to tell you when I talked to Mr. Willis.  
4 According to Andy, he's the guy I needed to talk to  
5 for problems. That's what I understood.  
6 Q. Okay. And so in paragraph 66 when it says  
7 April 21st, you contacted Jacob Willis, what were you  
8 asking Jacob Willis to do at that point?  
9 A. I am not sure exactly what I was asking  
10 him. But, again, we're jumping from A to B without  
11 you know -- we got to the point for specific reasons.  
12 So this is not the first time. So I'm not sure  
13 exactly where we are in here. Jacob Willis pretty  
14 much complained about the tire. He told me about me  
15 cutting the tire. So that's when the first I talked  
16 to Jacob Willis. My tractor broke down, they pretty  
17 much told me to talk to him. So I'm not sure.  
18 Q. Okay. It might be easier for us to go  
19 back to this. I'm going to mark this as Exhibit 5.  
20 (DEF. EXHIBIT 5, Maintenance Work  
21 Orders, was marked for identification.)  
22 BY MR. CARROLL:  
23 Q. Mr. Aguilar, page 1, Exhibit 5, order date  
24 November 5, 2019. It's a maintenance work order from  
25 Nance Tractor. Do you see that?

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1 A. Yes.  
2 Q. It says, "Service type warranty no charge.  
3 Replace broken gear in transmission housing."  
4 A. Okay.  
5 Q. So that was our first problem, right, that  
6 you talked about after the tire?  
7 A. I'm not sure the dates, but this happened  
8 several times. So you know.  
9 Q. So the date -- let's get a time frame. So  
10 we have April 2019 you buy the tractor?  
11 A. Yes.  
12 Q. And you can get your wife's timeline out  
13 too to help. April 2019 we buy the tractor -- you  
14 buy the tractor?  
15 A. Yes.  
16 Q. 7/20/2020, tractor broke down. Picked up  
17 for same error code.  
18 A. Tractor broke down 10/9/2019.  
19 Q. Yeah.  
20 A. That's, like, four months.  
21 Q. Okay.  
22 A. Six months, somewhere in there, after I  
23 purchased the tractor.  
24 Q. During that time period you received a  
25 loaner, right?

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1 A. Yes. Again, I had to hassle with these  
2 people. Bring the tractor way under the warranty. I  
3 shouldn't even argue. Nobody should even question  
4 that. And it broke down in the middle of me using  
5 the tractor. Brand new tractor.  
6 Q. And they gave you a loaner?  
7 A. They gave me a loaner. That's correct.  
8 Q. Even though they didn't have to?  
9 A. I understand.  
10 Q. And then January 1, 2020 it was returned,  
11 right?  
12 A. I guess, yes.  
13 Q. And then tractor broke down again July 20,  
14 2020. Picked up for same error code; is that  
15 correct?  
16 A. Yes, same problem.  
17 Q. Okay.  
18 A. Only this time it took almost a hot minute  
19 to get it back.  
20 Q. Well, what was going on in 2020 that might  
21 have slowed the repairs down?  
22 A. That would be a question for them. I  
23 don't know.  
24 Q. Like COVID was in 2020?  
25 A. I don't know. I guess. I don't know.

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1 But what does COVID have to do with repairing my  
2 tractor? I mean, I could understand about the years  
3 together. But the tractor is mechanic.  
4 Q. So one of the issues that has been  
5 discussed in discovery in this case is that there  
6 were supply chain issues that delayed the delivery of  
7 chips, shortage of chips. That's why you all had a  
8 difficult time getting your bush hog to work with  
9 your Kubota; isn't that right?  
10 A. No. Again, you're jumping way up there.  
11 We're still at the bottom. I mean, the tractor broke  
12 down -- the tire problem first happened.  
13 Q. Right.  
14 A. I don't know the dates. I'm telling you  
15 the order it happened. The tire problem took months  
16 for them to get me a tire, which that was fine. Then  
17 my tractor broke down not too long after the tire  
18 issue. We have to finagle. We realized I had to pay  
19 for my tractor to go back for maintenance because  
20 they told me the sticker is on the door. Excuse my  
21 attitude, I guess. So I had to find the sticker  
22 there. So it said, yes, I'm responsible for paying  
23 that.  
24 So my tractor goes there. It takes -- I  
25 don't know. I don't remember exactly, but it wasn't

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1 right away and I needed my tractor. So it goes there  
2 and it comes back fixed. I think it was a delay for  
3 me using the tractor because of the time frame when  
4 they brought it back in and I could use my tractor  
5 right away.  
6 So when I used the tractor for a couple of  
7 months, broke down again. The same problem again. I  
8 have to talk to these people again and then we know  
9 the deal. I have to pay to take it out there. And  
10 Willis is already involved in here. Jacob Willis is  
11 already aware of all this.  
12 Tractor goes and they fix the tractor.  
13 They bring it back months after, only this time they  
14 bring my tractor like garbage. This is a Cadillac  
15 tractor. It has AC on it. It has air suspension  
16 seat and my tractor is garbage inside. A kid would  
17 work on the tractor that known could not do what they  
18 did to my tractor.  
19 They broke the windshield. It had nothing  
20 to do with the engine, but somehow they broke the  
21 windshield. They had to replace the windshield.  
22 Glass all over the engine. The tractor comes back,  
23 the hose is not set up properly. You know how  
24 frustrating this is? You spend that kind of money  
25 and pay somebody to fix tractor and then it comes

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1 back and all these headaches?  
2 So many problems. So I reached out to  
3 these people there at Nance and they send out a  
4 mechanic, a kid. He was no mechanic. But they sent  
5 this mechanic to fix my tractor with zip ties. You  
6 know what zip ties are, right?  
7 Q. (Counsel nods head.)  
8 A. You don't put hoses -- hydraulic hoses  
9 that carry a lot of pressure. They are fit properly  
10 on metal brackets and they send this guy to put it  
11 back with zip ties. And then he's trying to put  
12 caulking on my window and it's just a mess and I told  
13 him just don't worry about this caulking. I can deal  
14 with that. Plugs not plugged in. Lights not plugged  
15 in. The four-wheel drive not even engaged. They  
16 didn't even connect the four-wheel drive. Do you  
17 know what a four-wheel drive is? I hate to ask. I'm  
18 not trying to be funny. Do you know what a  
19 four-wheel drive is on a vehicle?  
20 Q. Yes.  
21 A. That is a major deal on a tractor. I  
22 mean, that's a big, big deal. It doesn't even  
23 engage. So -- and I'm just almost concluding fast  
24 what happened, but it's a nightmare. Oil leaking.  
25 Hoses not tied up.

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1 So I get on the phone and tell this guy,  
2 "Listen, I mean, this is a serious problem." Jacob.  
3 At that point, he says, "We're going to send an  
4 engineer." So now I'm thinking this is serious now.  
5 Why would a mechanical engineer come to my property  
6 to look at my tractor? I mean, that's a serious  
7 thing.  
8 He comes up there, this is when David  
9 comes in, checks my tractor. And then after I'm not  
10 there and they're talking and after going through all  
11 of that, he concluded that the tractor was not put  
12 back properly, period. It was not being calibrated.  
13 It was not being updated in codes. It hasn't been  
14 done the proper procedure to change what needed to be  
15 changed. The engine and stuff like that had to be  
16 flushed three times. Verbatim what David says. This  
17 man actually got a little mad with the mechanic  
18 asking questions to this guy. He's not even  
19 answering. That's the level of frustration. That's  
20 what's happening here.  
21 The days I'm not sure, but that's the  
22 order that happens and I'm still giving these guys a  
23 chance to fix my tractor. All of this and I'm -- I  
24 bent over backwards for them to fix my tractor.  
25 Right? So they take my tractor. Then I tell

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1 Willis -- I talk to Jacob and I tell him, I say,  
2 "Look, I'm losing confidence. This is the third  
3 time. I'm losing confidence in these people to fix  
4 my tractor." He said, "I assure you, I will make  
5 sure I'm there or I'll have someone there from AGCO  
6 to oversee this."  
7 My tractor goes back and they kept it for,  
8 again, a while. They refused to give me the loaner  
9 because -- they offered me a loaner the first time,  
10 no questions asked. No questions asked. They just  
11 brought the loaner from the first time my tractor  
12 broke down. But now they don't want to give me the  
13 loaner unless I put insurance on it. They demanded I  
14 provide insurance on the loaner they give me. I'm  
15 not going to do loaner (sic) on your equipment. It's  
16 not my -- it's not my tractor. Why would I do that?  
17 I'm not using the tractor for any -- my  
18 tractor is on the farm. It will be on the farm.  
19 There's nothing there. But they're asking me that if  
20 I don't provide insurance on the tractor, they won't  
21 give me a loaner. I said, "I can't accept it. I'm  
22 not responsible for your tractor. I'm already here  
23 struggling with you guys. Take care of my tractor."  
24 Can you imagine if I would have taken  
25 their tractor and had a problem with their tractor?

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1 It would be a nightmare. Would you do it? I'm sure  
2 you won't do it. So I didn't. That was the reason  
3 why they didn't give me the loaner the second time.  
4 But my tractor went up there and get it  
5 fixed, comes back out. At that point, I'm losing  
6 confidence. They still took my tractor to get it  
7 fixed. I talked to Jacob Willis. I said, "Jacob,  
8 this is beyond stress. I don't know what to tell  
9 you. I can't keep dealing with this. The tractor  
10 keeps breaking down in the middle of when I needed it  
11 the most." Okay. And I told him, "If the tractor  
12 breaks down one more time, we're going to have to  
13 figure out a completely new solution." So that's  
14 when he assured me, "I will make sure I have someone  
15 there from AGCO. If it's not someone, it will be me  
16 overseeing the repairs on this tractor." And it  
17 comes back and guess what happened.  
18 Q. What?  
19 A. The obvious. It breaks down again, oil  
20 everywhere, after we just had the conversation. At  
21 that point --  
22 Q. And so then what did Jacob do?  
23 A. At that point, I'm telling Jacob, "Jacob,  
24 I mean, I can't do this no more. I'm not going to do  
25 this no more. I mean, this is out of the question."

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1 I said, "I need my money back. I need a new tractor.  
2 I need you guys to replace this tractor. I don't  
3 want this tractor because apparently you guys cannot  
4 fix it."  
5 It's beyond -- I mean, how many times does  
6 a tractor need to be fixed in order to determine the  
7 tractor is garbage? How many times? Would you take  
8 a car that's been fixed that many times? You won't.  
9 I know it's not about you. I get it. This is about  
10 what's right, what's fair.  
11 So I asked him for my money or I asked him  
12 for a tractor five times, possibly. So I bent over  
13 backwards for this people. Give them a chance, and  
14 chance, and chance, after chance. How many more  
15 times do I have to take this? He says, "We're not  
16 going to give you your money. Forget it. We're not  
17 going to give you a new tractor. We are -- what we  
18 can do," he said, "I can take your tractor,  
19 depreciate it because you had it for 200 hours." Do  
20 you know what 200 hours on a tractor is? It's like  
21 maybe 500 miles on your car brand new. That's  
22 nothing.  
23 "Depreciation will give you the value of  
24 the tractor for something else. You can put that  
25 money for another tractor." I said, "That's not

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1 acceptable. You're going to give me my money back.  
2 You're going to give me a new tractor. Those are  
3 your options. If that's not your option -- if that's  
4 not your option, you're forcing me to seek legal  
5 action." Guess what his response was?  
6 Q. This is Jacob?  
7 A. Jacob Willis. He said, "We've got more  
8 lawyers than you." Verbatim. Do you know how  
9 frustrating it is for me to sit here and tell you  
10 guys that? It sucks. I spent a lot of money, hard  
11 working money, for this tractor to work.  
12 Q. So you spent \$399 to tow it and then \$200  
13 to tow it again. But other than that, you haven't  
14 paid for any repairs, right?  
15 A. I don't think you're listening to what I'm  
16 saying, man.  
17 Q. Well, then let's go back. So  
18 Jacob Willis, you tell him I either want my money  
19 back or a new tractor, right?  
20 A. Yeah. He refused it. Instead, he  
21 threatened me with lawyers.  
22 Q. Well, but then he came back -- I think you  
23 just testified -- I want to understand what you said.  
24 He said we will give you the value of the tractor,  
25 but depreciate it for the 200 hours?

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1 A. No. I just told you that my tractor had  
2 200 hours. He never said nothing about hours. He  
3 just said that my tractor was depreciated.  
4 Q. But then he offered you the money -- the  
5 value of the tractor depreciated -- the depreciated  
6 value?  
7 A. Garbage.  
8 Q. So my question is: Did he offer the  
9 depreciated value of the tractor to put towards a new  
10 tractor?  
11 A. It's a new tractor. I guess your question  
12 is yes, but, I mean, that's just -- it's, like,  
13 insulting me. That's insulting someone when you buy  
14 a new tractor or new car and say, "Well, I'm going to  
15 bring it back. It's a new car, but I'm going to go  
16 ahead and depreciate your car because you had it for  
17 50 hours." You just bought the machine, like, months  
18 ago. It shouldn't be depreciated. That's your  
19 problem. It's your machine. Your problem. You fix  
20 it. Make it right. This is not a tractor that's  
21 been sitting there working for thousands of hours and  
22 years. It's a brand new tractor. It still had the  
23 paper on the seat.  
24 Q. But it had been two years since you  
25 bought --

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1 A. Ongoing.  
2 Q. -- the tractor?  
3 A. Ongoing problem. This tractor spent more  
4 time at the dealership -- at the shop than at my farm  
5 if you put it all together. I didn't buy a tractor  
6 to be in the shop.  
7 Q. But I'm trying to ask when Jacob Willis  
8 offered the depreciated value of the tractor --  
9 A. He did not offer. He just mentioned it.  
10 I don't know if that's an offer or what that is, but  
11 that's all he said. "What we can do is depreciate  
12 your tractor for a new tractor." That's not  
13 acceptable.  
14 Q. Okay.  
15 A. I want my money back or replace the  
16 tractor. That was -- that was the demand. That's  
17 what I wanted because I think it's more than fair.  
18 Depreciation should have never come up.  
19 Q. And the money back that you asked for was  
20 \$71,000, right?  
21 A. Compared to now, it should change, to be  
22 honest with you.  
23 Q. So you asked for the purchase price of the  
24 tractor, \$51,000, right?  
25 A. It's beyond me why they didn't do the

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1 right thing. It's in there on the paper what I asked  
2 for. It just blows my mind. Here we are wasting  
3 time and more money. I don't understand it.  
4 Q. So you sued AGCO, right?  
5 A. After I exhausted all my patience and  
6 willingness for them to fix my tractor. I did  
7 everything I could. I don't think anybody in here or  
8 anywhere else I would be aware of would tolerate what  
9 I tolerated with these people and this tractor.  
10 Q. Okay. So you asked AGCO pay me for my  
11 tractor, \$51,000, pay me \$10,000 for the bush hog,  
12 plus \$5,000 for your other stress, right? That's  
13 what you asked for?  
14 A. Okay. Yeah.  
15 Q. Do you agree with me?  
16 A. That's what it says in there. Yes.  
17 Q. And then --  
18 A. I thought that was a very generous,  
19 generous question.  
20 Q. So it was either \$71,000 or a new tractor  
21 and that's it?  
22 A. I thought that was fair to make it right.  
23 I'll still give you guys a chance to make it right.  
24 That's what it -- I mean, if you want to conclude  
25 with the money, yes.

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1 Q. Okay. Now, under the limited warranty,  
2 AGCO told you that they would repair your equipment,  
3 right?  
4 A. Okay.  
5 Q. Right? Do you agree?  
6 A. I mean, again, I don't -- I never saw  
7 that, but okay.  
8 Q. Okay.  
9 A. I was under the assumption I paid a lot of  
10 money for the tractor, you know, I was expecting a  
11 good warranty on it. I mean, quite frankly, more  
12 than a car or vehicle. Again, you buy a tractor for  
13 life. You don't buy a tractor to be sold for two,  
14 three years down the road. I mean, that's maybe just  
15 me, but that's common sense.  
16 Q. Okay. So what exactly did AGCO not do  
17 under the limited warranty?  
18 A. They failed to fix my tractor right. They  
19 gave me baloney every single time. They refused to  
20 take care of me after they take my money. They  
21 pretty much screwed me over. They sold me equipment  
22 that they said was supposed to work for one tractor  
23 you ever need and it's false. I mean, this thing is  
24 not even -- now I know it's not even made in the  
25 United States. I mean, it's not even from here.

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1 Q. Can you mow your grass without four-wheel  
2 drive?  
3 A. Yes and no.  
4 Q. Okay. Can you explain that a little?  
5 A. Okay. If it rains the day before, then  
6 you more likely need the four-wheel drive because it  
7 may get in areas where it may need a four-wheel  
8 drive. If you go up on a hill -- now, remember, this  
9 is a Cadillac tractor. It has automatic four-wheel  
10 drive. So it engages when it needs it based on the  
11 power of what it's pulling. So it's automatic when  
12 it needs it. So I guess yes and no. I mean, if it's  
13 flat, you probably won't need it.  
14 But forgive me for saying this. No  
15 disrespect to you. A four-wheel drive on a tractor,  
16 it is a critical thing. And for a mechanic not to  
17 put a four-wheel drive -- not to put it together  
18 beyond -- I mean, on top of all these other problems,  
19 that is beyond me. It's in question what kind of  
20 person does this? Who is this guy? Does this  
21 mechanic have credentials in place? I mean, it goes  
22 on.  
23 Q. That mechanic was from Nance, right?  
24 A. It's AGCO, man. Excuse me.  
25 Q. So AGCO is -- we've heard David and Jacob

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1 Willis.  
2 A. They are responsible for this tractor. I  
3 mean, they assured me that this tractor would be  
4 fixed. So I hold them accountable, AGCO.  
5 Q. Let's go back to Exhibit 5, the  
6 maintenance work order, first page. There was no  
7 charge for these repairs on November 5, 2019, right?  
8 A. Yes.  
9 Q. AGCO paid for these?  
10 A. Yes.  
11 Q. This was after AGCO paid for the tire.  
12 Then on the next page, order date 9/28/2020. There  
13 was no charge for this work, correct?  
14 A. Yes.  
15 Q. And then on the next page, October 15,  
16 2020, no charge for this work; is that right?  
17 A. They didn't charge me for anything, if  
18 that's your conclusion.  
19 Q. That's what I'm asking. You didn't have  
20 to pay for any of the work. Yes, there was a  
21 headache. I understand. You conveyed that well.  
22 But as far as money being paid out, the only thing  
23 you've paid are the two towing charges?  
24 A. The thing is, I mean, you can go back to  
25 the reality. The reality is, I mean, what confidence

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1 do I have? The tractor is supposed to work for life.  
2 Now what confidence do I have? I had to fight them  
3 on the warranty as well. These people are -- I'm not  
4 sure why. It's beyond me why they're still going on  
5 with this.  
6 Q. Let's go back to Exhibit 2.  
7 MR. STUDEMEYER: Jake, if I can just  
8 intervene real quick. We've been going for about an  
9 hour and a half. Can we take a bathroom break soon?  
10 MR. CARROLL: Yeah. We can stop now  
11 and take a break.  
12 (Off the record.)  
13 BY MR. CARROLL:  
14 Q. Back on the record. Mr. Aguilar, I think  
15 we're going to go back to Exhibit 2, which is your  
16 fourth amended complaint. And on the right-hand side  
17 do you see where it says, "Electronically Filed," on  
18 the document in blue?  
19 A. Yes.  
20 Q. Did you know this was filed on  
21 February 20, 2024?  
22 A. That's what it says there.  
23 Q. So we'll go back to page 8 of Exhibit 2.  
24 While you're flipping there, so if it is not -- if it  
25 has not recently rained at your property, can you

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1 still mow the grass without four-wheel drive?  
2 A. I couldn't tell you properly. I won't do  
3 it because that shouldn't -- that tells me that  
4 something is not working the way it should. So I  
5 won't want to do that to my tractor. So I couldn't  
6 answer you that question, I guess.  
7 Q. So we're at paragraph 67. "On April 22,  
8 Jacob Willis informed plaintiff AGCO had picked up  
9 the tractor for further repairs and provided a loaner  
10 tractor in the interim." And I believe you testified  
11 at this point you refused the loaner tractor because  
12 you did not want to put insurance on it, right?  
13 A. That's correct.  
14 Q. Was the insurance requirement, like,  
15 included in some kind of signed document or how --  
16 how did the insurance requirement come up, I guess?  
17 A. We never got the specifics because I  
18 denied that immediately. I didn't want to put  
19 insurance on something that's not mine. So I don't  
20 know what.  
21 Q. Did you know you had to put insurance on  
22 your tractor for AGCO Finance when you purchased the  
23 tractor?  
24 A. Uh-huh. Yes, I'm aware.  
25 Q. And then AGCO picked up the tractor,

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1 right? And we're talking about --  
2 A. Yeah.  
3 Q. -- April 28. And then paragraph 68,  
4 "Tractor was picked up by AGCO on April 28, 2021."  
5 And did you ask where the tractor was going?  
6 A. Are we talking about the very last time?  
7 Q. Yes. Very last time.  
8 A. The very, very last time, I had enough of  
9 this tractor. No, I did not ask where my tractor was  
10 going.  
11 Q. Why not?  
12 A. Because I thought I was being clear when I  
13 told them that the options were new tractor, my  
14 money. That was -- that was clear. Quite frankly,  
15 they didn't even tell me they were going to come pick  
16 up my tractor, as I recall, because my gate was  
17 closed and they had to call me to open the gate.  
18 Shocker.  
19 Q. You didn't know AGCO was going to come  
20 pick up the tractor?  
21 A. I mean, they told me they were going to  
22 pick it up, but they didn't tell me when.  
23 Q. Okay. And with your demand, the money or  
24 the new tractor, you didn't ever want to see this  
25 tractor again?

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1 A. It's still my tractor.  
2 Q. So you do want to see your tractor again?  
3 A. I mean, it's not -- your question is a  
4 little -- I mean, I'm not saying in a bad way to you.  
5 I'm just saying the question is a little tricky,  
6 though, because it's still my tractor. I paid for  
7 it. It's paid for. It's my tractor.  
8 Q. Have you tried to go pick it up?  
9 A. Where? I mean, I didn't even know where  
10 they took my tractor. As far as I'm concerned, they  
11 stole my tractor.  
12 Q. No one had ever told you where your  
13 tractor is?  
14 A. Believe it or not, no one ever told me  
15 where my tractor was.  
16 Q. Sitting here today, you do not know where  
17 your tractor was?  
18 A. One hundred percent. Nobody told me where  
19 my tractor was. We find out year -- year into this.  
20 I don't know the dates.  
21 Q. So you do know where the tractor is?  
22 A. Now we know. Apparently it's somewhere  
23 else, but now we know.  
24 Q. So you just told me you don't know where  
25 it is. Do you --

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1 A. We didn't know where it was. We didn't  
2 know where the tractor went. We didn't know where  
3 they took it. We didn't even know what they did with  
4 it. We didn't know nothing.  
5 Q. Did you ask?  
6 A. I thought it was very clear when I told  
7 them that my tractor needed to be replaced or...  
8 Q. Your money back?  
9 A. -- my money back or I was going to take  
10 legal action. He gave me no choice. I exhausted --  
11 matter of fact -- I mean, is he here for some of  
12 these questions? Because, I mean, I'm kind of  
13 what --  
14 Q. No. This is for you today.  
15 A. Okay. I didn't mean to throw you under  
16 the bus, you know.  
17 Q. Okay. So let's go back. Page 8. We're  
18 still here. April 28, AGCO picked up the tractor.  
19 Let's just be clear. Did you give AGCO permission to  
20 pick up the tractor?  
21 A. You know, I just don't know. I don't  
22 remember. I don't remember. Fair? Maybe so. But I  
23 don't remember. But what I do know, they didn't tell  
24 me when they were coming to pick it up. They didn't  
25 tell me where they took it. That I know.

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1 Q. And then you never reached out back to  
2 say, "Hey, where is my tractor," right?  
3 A. After that I thought it was pretty clear  
4 what I mentioned to him. So I seek legal action and  
5 went from there.  
6 Q. So I'm going to show you what I would like  
7 to mark as Exhibit 6.  
8 (DEF. EXHIBIT 6, Letter from  
9 Mr. Studemeyer, was marked for identification.)  
10 BY MR. CARROLL:  
11 Q. This is a letter, May 11. So we were at  
12 April 28. I don't know. What is that? Roughly two  
13 weeks later, Nance gets a letter -- or it's addressed  
14 to Nance saying that you are represented.  
15 A. Two weeks after?  
16 Q. So it's from April 28 to May 11.  
17 A. I don't know if these dates are accurate,  
18 but, yes, that's kind of where this is going.  
19 Q. Okay. That says you are represented by  
20 counsel?  
21 A. Uh-huh.  
22 Q. At this time period, May 11 -- by May 11,  
23 did you ask AGCO where your tractor was?  
24 A. I think that -- no. I think that they  
25 were obligated to tell me where -- what their

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1 intentions were. I think that's a fair question.  
2 They took my tractor. They should have called me and  
3 tell me, "Hey, this is the procedure we're going to  
4 do," or so on and so on. Nobody communicated with me  
5 on that. So --  
6 Q. When --  
7 A. Because they didn't.  
8 Q. Oh, sorry.  
9 A. And, so, anyway.  
10 Q. Didn't AGCO tell you they were going to  
11 fix it?  
12 A. They never told me anything. Jacob Willis  
13 did not tell me anything after the last conversation  
14 I had with him.  
15 Q. So you previously testified that he said  
16 he was going to fix it?  
17 A. That's the last -- we talked about that.  
18 He told -- the very last time -- the last very  
19 time -- I had enough of this. The last conversation  
20 I had with him was, "You give me my money for my  
21 tractor, you go ahead and give me a new tractor, or I  
22 will seek legal actions." He replied back and told  
23 me that he had more lawyers instead and that was it.  
24 Q. He had what? Can you say that --  
25 A. That he had more lawyers than me.

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1 Q. Okay. He had more lawyers than you. That  
2 was in April?  
3 A. That was the last conversation I had with  
4 him. Yes.  
5 Q. Okay. And then the letter -- the May 11  
6 letter, your counsel requests a copy of the limited  
7 warranty. Is that the first time you saw the limited  
8 warranty, was after this letter?  
9 A. Now that -- I think so. I believe so.  
10 That was the time I was able to see that.  
11 Q. So there was a response to that letter, I  
12 guess, if you got a limited warranty?  
13 A. Is that a question for me or for my  
14 lawyer?  
15 Q. For you. Is it fair to assume that if you  
16 got a copy of the limited warranty that somebody  
17 responded to that letter?  
18 A. I guess, yeah.  
19 Q. I'm not trying to trick you.  
20 A. No, no. Listen, I get it.  
21 Q. Okay. I'm going to show you what's going  
22 to be No. 7.  
23 (DEF. EXHIBIT 7, Summons and  
24 Complaint, was marked for identification.)  
25 BY MR. CARROLL:

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1 Q. Mr. Aguilar, this is a document dated  
2 June 8, 2021 filed in York County. Can you look  
3 through this and confirm this is a complaint that you  
4 filed against Nance Tractor, AGCO Corporation, and  
5 AGCO Finance regarding your tractor?  
6 A. Would that be a question for me?  
7 Q. Yes.  
8 A. I have seeked legal action. So, I guess,  
9 yes.  
10 Q. Okay. Turn to the second page and this is  
11 a complaint. This is the first one that you filed  
12 June 8, 2021 and you name AGCO Corporation, AGCO  
13 Finance, LLC, who financed the equipment, right, the  
14 tractor?  
15 A. Okay.  
16 Q. And then Nance, the dealer that we've  
17 talked about, right?  
18 A. Okay.  
19 Q. Okay. Let's go in this exhibit to page  
20 10. And on the top of the page it says, "First Cause  
21 of Action as to Defendant Nance (Revocation of  
22 Acceptance)." Do you see that?  
23 A. Yes.  
24 Q. Do you understand what you were seeking  
25 from Nance in this complaint?

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1 A. That would be him to answer that question.  
2 I mean, I don't know how to answer that question. Is  
3 that something he can answer that?  
4 Q. No. I just asked -- so you -- well, you  
5 answered it. At the bottom of the page it says,  
6 "Breach of implied warranty of merchantability,"  
7 right? Do you see that second cause of action  
8 against Defendant Nance in the middle of the page,  
9 page 10?  
10 A. Yes.  
11 Q. Page 11 has two more causes of action  
12 against Defendant Nance, right?  
13 A. Okay.  
14 Q. And then page 12, there's a fifth cause of  
15 action, negligent repair.  
16 A. Okay.  
17 Q. So you sued Nance -- and let's look at  
18 paragraph 126. For example, "Upon return of the  
19 tractor, it was immediately apparent that the repairs  
20 had been done haphazardly. Glass shards covered the  
21 engine, hoses were unseated and, instead, attached to  
22 the tractor with zip ties and a plethora of other  
23 obvious problems were present." Did I read that  
24 correctly?  
25 A. Uh-huh.

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1 Q. And that's what you talked about, right?  
2 A. Yeah.  
3 Q. Earlier that's what we had talked about.  
4 Okay. And these are your claims against Nance,  
5 right?  
6 A. I think that -- I don't think that's all,  
7 but yeah. I mean, in a nutshell, I think it is.  
8 Q. There were more. That was just the fifth  
9 cause of action. Then on page 13, the sixth cause of  
10 action, unfair trade practices, right?  
11 A. Page 13?  
12 Q. Yes.  
13 A. Okay.  
14 Q. So those were all against Nance, the  
15 dealer, correct? All those claims that we just --  
16 A. I think that's -- I'm not sure how to  
17 answer that question, but I would think that that's  
18 AGCO.  
19 Q. Well, so you sued three people, correct?  
20 A. I mean, the people involved was  
21 responsible for my problems -- my issues that I had  
22 with the tractor.  
23 Q. Yes. Well, you understand that Nance --  
24 you sued Nance separately, you sued AGCO Finance  
25 separately, and you sued AGCO separately?

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1 A. I understand that.  
2 Q. Nance has since paid you to settle this  
3 case, right?  
4 A. Yes.  
5 Q. Okay. Now, let's go to the next page,  
6 page 14. "Breach of Action as to Defendant" -- I'm  
7 sorry. "First Cause of Action as to Defendant AGCO  
8 (Breach of express warranty)." Did I read that  
9 correctly?  
10 A. Yes.  
11 Q. And so in this claim you say that AGCO  
12 warranted the goods were free from defects in  
13 material and workmanship and warranted that its 4700  
14 series of tractors were covered for 24 months or  
15 2,000 hours, whichever come first, right? That's  
16 what paragraph 144 --  
17 A. Is that what it says there?  
18 Q. Well, that's what I'm asking you. Did I  
19 read that correctly?  
20 A. I'm not good with paperwork, to be honest  
21 with you. Sometimes I don't understand things in  
22 here. So I'm not sure exactly where to go on that  
23 question. I don't know if I can answer that  
24 question.  
25 Q. So breach of express warranty, do you

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1 understand that to mean that AGCO did not do what it  
2 said it would do in its limited warranty?  
3 A. I think AGCO failed me. I think everybody  
4 failed me. I mean, that's -- I don't know if that  
5 answers your question. Everybody failed me when it  
6 comes to this tractor. If your name is in it, then  
7 you failed me too. And I hate to say that, but  
8 that's pretty much what it is.  
9 You can't -- the way I understand your  
10 question, it's like you're trying to AGCO -- remove  
11 AGCO from this issue. AGCO is part of this. AGCO  
12 made this tractor. AGCO is the tractor. So I'm not  
13 sure how that's not AGCO issue, if I was to give you  
14 an answer, I guess.  
15 Q. Well, and you would agree that because  
16 AGCO made the tractor, AGCO warranted the tractor to  
17 you based on the terms of its warranty, right?  
18 A. I mean, I don't think I understand your  
19 point. I mean, I hate to say this to you because  
20 that's the best way that I can say. This makes no  
21 sense the way you describe it even though it's in  
22 paper there. I don't understand this question. I  
23 don't understand why there's so much going around  
24 when it's so simple. The tractor is a brand new  
25 tractor. It's way under the warranty.

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1 I'm not sure what we're going back to this  
2 24 months. The tractor broke down way before the 24  
3 months. You're talking about 2,000 hours there.  
4 This tractor had -- do you know how many hours the  
5 tractor had? Three hundred forty-three hours, I  
6 believe. And that's at the very end. So the tractor  
7 must have way under 2,000 hours. Again, it's a new  
8 tractor.  
9 Q. You also had a loaner tractor, right,  
10 during that period?  
11 A. One time.  
12 Q. Okay. And you also don't use the tractor  
13 during the winter, right, when the grass isn't  
14 growing?  
15 A. No. I didn't say that I don't use it,  
16 period. But that's when your big time is. That's  
17 when you really rely on the tractor to do the best  
18 because grass is growing, trees need to be watered,  
19 and so on. But you still can use the tractor in the  
20 winter. I just -- for other personal circumstances,  
21 I just -- sometimes I couldn't use the tractor. I  
22 also had a collision, so I had to deal with my arm  
23 and I couldn't use the tractor. But that's  
24 irrelevant to that, you know.  
25 Q. Okay. So June -- this was June 2021. You

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1 filed legal action. At this point, did you ask AGCO  
2 where your tractor was?  
3 A. I think that would be a question for him  
4 because he's -- I mean, I'm relying on my lawyer now  
5 to take this over. So does that matter at this  
6 point? I mean, because we are already in a  
7 situation. At some point, I think that is your  
8 responsibility to tell me where my tractor is.  
9 If you are clean -- and I don't mean you  
10 literally, but I'm talking about the people who took  
11 my tractor. If you literally wanted to do the right  
12 thing, why didn't you call me immediately when you  
13 received this letter that I'm suing you or whatever  
14 I'm doing with you and try to diffuse the situation?  
15 Why didn't you reach out to say, "Hey, we've got your  
16 tractor. We took it here. We're going to fix it.  
17 We're going to give you options."  
18 It's gone. I mean, nobody did that.  
19 Nobody called me. Nobody reached out to me. I don't  
20 think nobody reached out to him because he would have  
21 told me that. Instead, they proceed -- they just  
22 pretty much went with this problem, you know --  
23 problem with the suit. I can almost tell you that if  
24 they would have reached out to me then, this would  
25 have never happened. But nobody did.

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1 Q. If AGCO would have reached out to you?  
2 A. What is it?  
3 Q. I wanted to clarify. You're saying if  
4 AGCO would have reached out to you to resolve this  
5 situation?  
6 A. I would. Before, you know, when we  
7 started it, avoid all these headaches, but they  
8 didn't.  
9 Q. Okay. I'm going to show you our next  
10 exhibit, which is No. 8.  
11 (DEF. EXHIBIT 8, E-mail Transmittals,  
12 was marked for identification.)  
13 BY MR. CARROLL:  
14 Q. This is a collection of e-mails that your  
15 counsel produced to us and I want to go to the last  
16 page. It's April 21. This is when you e-mailed  
17 Jacob Willis demanding your \$72,101.76, correct?  
18 A. I don't think the days are -- again, you  
19 need to keep in mind, you know, my wife does the best  
20 she could to put dates on these things. Some of  
21 these dates may not be accurate. They may or may not  
22 be, but, yes, I guess. This has been a long time  
23 ago. I may not remember it clearly, really.  
24 Q. Let's go back to Exhibit 2 now and let's  
25 go to page 9. So prior to purchasing this tractor,

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1 did you ever ask where it was manufactured?  
2 A. No, I did not. But I was of the  
3 impression that it was from here just because I grew  
4 up knowing Massey Ferguson just like John Deere and  
5 all the products. So yeah.  
6 Q. Okay. Paragraph 78, "After months of  
7 waiting and no answers, the plaintiff ordered a  
8 substitute Kubota tractor on September 25, 2021."  
9 A. What page are we in?  
10 Q. Page 9.  
11 A. What paragraph?  
12 Q. Seventy-eight. Who did you order the  
13 Kubota tractor from?  
14 A. Maybe mine is not in order. Page 8 or 9?  
15 I'm on page 9, but I don't have 78.  
16 Q. Are you looking at Exhibit 2?  
17 A. No, I'm sorry.  
18 Q. Who did you order the Kubota tractor from?  
19 A. I ordered it from -- it's a tractor dealer  
20 in Cayce.  
21 Q. Okay. Has it arrived, the Kubota tractor?  
22 A. Yeah. The tractor is on my property.  
23 Q. And then 79 --  
24 A. I did have to order it, though. It took a  
25 couple -- I mean, at least six months. So I had to

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1 order it. I had no choice.  
2 Q. Paragraph 79. "Jacob Willis of AGCO  
3 called the plaintiff in late October of 2021 after  
4 this action had been commenced and the plaintiff  
5 instructed Willis to contact his attorney." Did I  
6 read that sentence correctly?  
7 A. I think you read it right, but there's  
8 something wrong with that, though. Seriously wrong  
9 with dates and I don't know. I don't know if it's  
10 got something to do with you guys, but some of the  
11 dates are a little funny with e-mails and stuff.  
12 Q. So Exhibit 2, you previously agreed, was  
13 your fourth amendment complaint you filed against  
14 AGCO, right?  
15 A. Right.  
16 Q. And you authorized your attorney to file  
17 this on your behalf. That's what you testified?  
18 A. Yes, yes.  
19 Q. So what is stated in this complaint is  
20 accurate, to the best of your knowledge, right?  
21 A. Yeah. But are you talking about his call?  
22 Q. Yes. I'm asking about --  
23 A. So he called me after all -- we're  
24 already, you know, with the lawyer. And that was it,  
25 he called me.

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1 Q. What did he say?  
2 A. He called me and the phone call lasted,  
3 like, seconds. He called me and told me, "Got your  
4 tractor ready." And I told him that he needed to  
5 talk to my lawyer. Because, I mean, if I'm not  
6 mistaken, we already had an earlier evaluation on  
7 this. It was way into it. So that was it.  
8 Q. So he had your tractor ready and what was  
9 your response?  
10 A. To talk to my counsel. Talk to him.  
11 We're already into this mess and I needed him to talk  
12 to him so my lawyer can advise me properly.  
13 Q. And at this point, did you want the  
14 tractor back?  
15 A. I was expecting him to talk to my lawyer.  
16 I was expecting him to have a conversation with him  
17 and see what's -- you know, that's a good question.  
18 I don't know. At that point, I just -- but he didn't  
19 reach out to my lawyer. So we'll never know.  
20 Q. Did you ask Jacob Willis where your  
21 tractor was when he told you it was ready?  
22 A. I did not ask him. I don't remember  
23 asking him and neither he offered.  
24 Q. Did you ask him when you could pick it up?  
25 A. No.

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1 Q. Did you ask AGCO to bring it back to you?  
2 A. I had counsel. Any conversation, you  
3 know, should have been for him, not directly to me.  
4 And the fact that the part he reached out to me, I  
5 told him about that and he did not follow, that's a  
6 little concerning, honestly. I'm not sure why he  
7 didn't do that. I felt like I still -- even though  
8 we were into this mess, way into it, I feel like at  
9 that point I still give him a choice to talk to  
10 him -- to my lawyer and that never happened.  
11 Q. Do you know that -- are you aware under  
12 South Carolina law your counsel is not allowed to  
13 talk directly to AGCO without counsel?  
14 A. You're asking me if I know the law that my  
15 counsel is not allowed to talk to Jacob Willis?  
16 Q. Yes.  
17 A. I did not know that, but that doesn't mean  
18 that he could not -- well, he could have reached out  
19 to you, then. Did he reach out to you? Was there  
20 any effort? Was there any effort shown on him, you  
21 AGCO, anybody? Was there any effort there, then?  
22 Q. Well, you just testified that Jacob Willis  
23 called and told you that the tractor was ready to be  
24 picked up. What more effort do you want?  
25 A. More effort do I want?

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1 Q. What more effort could AGCO have done?  
2 A. Reach out to my counsel because we  
3 already -- I mean, you know, we're already in this  
4 situation here. I'm already a lot of money into  
5 this. So I would have expected you guys to --  
6 someone to reach out -- figure it out and advise me,  
7 you know. This is so complicated and you guys not --  
8 I don't know.  
9 AGCO, obviously you guys are hired by  
10 them. You guys made it so complicated and it should  
11 have been so simple. But the more it goes in, the  
12 more complicated it gets. Maybe that's what they  
13 wanted to do. I don't know, but it's so simple.  
14 Someone would reach out to my lawyer, it would  
15 probably solve the issue back then even though we're  
16 already into it -- a lot into it, a lot of money, and  
17 a lot of paperwork. But nobody did.  
18 So the fact is still the same. Nobody  
19 reached out to him other than he just called me and  
20 that was it. Quite frankly, very unprofessional  
21 because he knew already this was already with you  
22 guys. Did he reach out to you guys and tell you that  
23 he reached out to me? Does he reach out to his  
24 lawyer? Are you guys his lawyers?  
25 Q. So you can't ask -- you can't ask

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1 questions.  
2 A. Well, forgive my ignorance, then. I'm  
3 just saying. I mean...  
4 Q. I'm just telling you to make it a little  
5 easier.  
6 A. Okay. Well...  
7 Q. You mentioned a lot of money that you've  
8 paid. Other than the \$399 towing and the \$200 for  
9 towing, what else have you paid for this tractor?  
10 A. Is that a serious question?  
11 Q. Well, yeah. You said you paid a lot of  
12 money. Are you talking about your attorney's fees?  
13 Is that what you're talking about? Are you talking  
14 about --  
15 A. Nobody gave you the tractor. I bought the  
16 tractor. So did I not?  
17 Q. Okay. So then the \$51,000 that you paid  
18 for the tractor?  
19 A. The bush hog. The tractor and bush hog.  
20 Q. You're still using the bush hog, though,  
21 right?  
22 A. I had to fix it pretty much. I had to  
23 change parts. I mean --  
24 Q. How much does that cost?  
25 A. At least -- if I was to put a number,

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1 we're looking at, at least, maybe, I don't know,  
2 \$2,400 plus my time to fix it. You're talking about  
3 hoses, gear, a cylinder because the tractor is a  
4 specific fit to one tractor. So you have to change  
5 things. Otherwise, you break it or it won't work.  
6 And, quite frankly, I mean, I shouldn't have done  
7 that.  
8 Q. And you do realize you're seeking damages  
9 from AGCO for your attorney's fees, right?  
10 A. I think it's more than fair. Why would I  
11 pay -- why would I spend money to be in a problem? I  
12 mean, that makes no sense. This is your counsel --  
13 your -- whatever you call it, problem. Not mine.  
14 Q. Well, as of October 2021, you just  
15 testified that AGCO told you that the tractor was  
16 ready to be picked up. You did not want the tractor,  
17 correct?  
18 A. I told him -- I did not say that I did not  
19 want my tractor. I told him he needed to talk to my  
20 counsel. I never told him I don't want the tractor.  
21 Q. After October of 2021, have you made any  
22 efforts since then to go and pick up your tractor?  
23 A. No. I'm already -- I had to be advised by  
24 him on what to do as far as the tractor.  
25 Q. Is all you are looking for now money

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1 damages?  
2 A. I'm looking for you guys to make it  
3 right -- for them to make it right. I'm not sure  
4 that would be a question for me. I guess that would  
5 be a question for my counsel or at least I think. I  
6 don't know.  
7 Q. I'm asking you specifically what would  
8 make it -- how can AGCO make it right, in your  
9 opinion, at this stage?  
10 A. Do you know -- maybe this is way out of  
11 line, but do you know that it almost cost my  
12 marriage, this tractor? Do you guys -- to give you  
13 an idea how much stress this put me through, that it  
14 almost cost my marriage, this tractor. Are you  
15 married? You probably would understand me. You guys  
16 are married. You understand.  
17 Q. I am going to show you a new exhibit.  
18 (DEF. EXHIBIT 9, Plaintiff's Answers  
19 to Defendant Nance Tractor & Implement, Inc.'s First  
20 Set of Interrogatories, was marked for  
21 identification.)  
22 BY MR. CARROLL:  
23 Q. This is your answers to Defendant Nance  
24 Tractor & Implement, Inc.'s first set of  
25 interrogatories. Have you ever seen this document

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1 before?  
2 A. I'm sure.  
3 Q. I want you to go to page 7. Do you  
4 understand those dollar amounts on page 7 of what  
5 those dollar amounts are?  
6 A. Yeah.  
7 Q. What are they?  
8 A. So originally we were trying to figure out  
9 what would it be, you know, tractor cost, everything  
10 that I purchased the tractor. And, you know, we  
11 ordered thousands of trees to be planted and this  
12 tractor failed me to do that -- to keep up with those  
13 things. So that was part of that as well. So that's  
14 why that is in there. My projection of planting, the  
15 trees not surviving and dying, production, whatever.  
16 Q. But you are not seeking those amounts from  
17 AGCO, correct?  
18 A. The longer this keeps going, that may  
19 change. I don't know. That's an honest answer. I  
20 mean, this just keeps going on and on and on. It's  
21 beyond me. I don't understand it.  
22 Q. Are you aware that you have agreed not to  
23 seek lost profits from AGCO Corporation in this case?  
24 A. I think so. I mean, I think so.  
25 Q. Okay. And that agreement was reached

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1 because we agreed not to ask for the tax returns of  
2 your two entities, Capital Stone and the other?  
3 A. Yeah, I agree. I mean, I guess.  
4 Q. So then with that, your damages are the  
5 price of the tractor that you're claiming and then  
6 the towing fee, right?  
7 A. Yes.  
8 Q. And then you said \$2,400 to modify the  
9 bush hog, right?  
10 A. I was just guessing. Yes. That's a fair  
11 guess.  
12 Q. Okay. Now, you sent these to Nance and  
13 you said that Nance has since been dismissed from the  
14 case. What about AGCO Finance? Have they settled  
15 out as well?  
16 A. AGCO?  
17 Q. AGCO Finance?  
18 A. I'm not sure. I'm not sure. I don't  
19 remember.  
20 Q. So the lender, you don't remember if you  
21 settled out with them?  
22 A. I know -- I don't remember. I really  
23 don't remember. Maybe. I can't remember.  
24 Q. Okay. But you are aware that the only  
25 person you're suing now is AGCO?

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1 A. I believe so. I believe so. So I guess  
2 that answers the question.  
3 Q. Okay. Let's go back to Exhibit No. 2.  
4 Page 11 of Exhibit 2.  
5 A. Okay.  
6 Q. Now, you have sued AGCO for stealing your  
7 tractor. Did you know that?  
8 A. It's pretty obvious. Yeah.  
9 Q. Okay. Even though -- so you told AGCO  
10 that they could come pick it up, right?  
11 A. At some point you have to wonder what  
12 classifies as stealing and what classifies -- I mean,  
13 you know, again, I hate to tell you, that's common  
14 sense. I mean, even if I tell you you can take my  
15 laptop, if I don't bring it back at a specific time,  
16 you have to start wondering what happened to my  
17 laptop.  
18 Q. And then in that scenario, you would ask  
19 somebody where the laptop is?  
20 A. It depends. I mean, we're talking about a  
21 tractor. We're talking about a problem.  
22 Q. We're talking about stealing.  
23 A. Exactly.  
24 Q. That's what I'm asking about.  
25 A. I think that they stole my tractor by

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1 refusing to tell me where my tractor is, by refusing  
2 to tell me any information, and by given the length  
3 of time that they have taken it without any -- any  
4 communication, that classifies to me as stealing.  
5 We're talking about a lot of money.  
6 Q. Okay. So you initially -- and this is  
7 paragraph 96 on page 11. You authorized AGCO to pick  
8 up the tractor to perform repairs on April 22, 2021.  
9 That is a correct statement?  
10 A. I did not authorize. The very last time  
11 the tractor went, I gave him a choice. I didn't tell  
12 him to come pick up my tractor, you fix it, and bring  
13 it back. Let's be clear on that. That was never  
14 agreement on that. I told him the -- what the  
15 options were then because I had enough of this  
16 tractor.  
17 Q. So you didn't want him to repair the  
18 tractor anymore?  
19 A. The tractor had to be fixed. I don't know  
20 what they wanted to do with it, but, I mean, it's  
21 still my tractor. But they had to fix it. But I  
22 didn't -- I was so frustrated with my tractor going  
23 back and forth to the same place. I have no faith  
24 and I told him that. I have no faith in these people  
25 to fix my tractor. He didn't tell me where my

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1 tractor was going. That alone right there is  
2 stealing.  
3 Q. Okay. So then this statement is  
4 incorrect: You did not authorize AGCO to pick up the  
5 tractor to perform repairs on April 22. That's your  
6 testimony today?  
7 A. Yeah. I don't -- I don't remember telling  
8 them -- I don't recall telling them, "Okay. Come get  
9 my tractor and fix it." That was their -- their  
10 choice. Their -- whatever they wanted to do. The  
11 options that I gave them was give me my money for my  
12 tractor or replace a tractor for a new tractor. Very  
13 clear. I had enough of this. For years I deal with  
14 this.  
15 I gave them plenty of choices to fix my  
16 tractor. How many more chances did they need to fix  
17 my tractor? It's going on back and forth, back and  
18 forth. I can't afford these guys to take my tractor  
19 and fix it and then -- quite frankly, I think that  
20 they were just playing me so the warranty -- pass the  
21 warranty so they could just wash their hands. And  
22 that was one of the reasons I asked for an extended  
23 warranty there, which I had to fight them too.  
24 Q. So then AGCO took the tractor and they  
25 called you in October -- well, they called you in

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1 October of 2021 and told you it was ready to be  
2 picked up. That's correct? That's what you  
3 testified to just a second ago, right?  
4 A. He called me and told me that tractor was  
5 ready and I told him he needed to talk to my counsel.  
6 Q. If someone has stolen something and they  
7 offer for you to come pick it up, are they still  
8 responsible for stealing?  
9 A. The stealing already has taken place. Now  
10 he's just trying to -- I don't know what he is  
11 trying -- what they were trying to do. As far as I'm  
12 concerned, they already stole it. I feel like --  
13 and, quite frankly, when he reached out to me, that  
14 tractor was still not fixed. When he called me and  
15 told me that, I don't think the tractor was fixed.  
16 Q. When do you think it was fixed?  
17 A. I'm not sure, but I don't think it was  
18 fixed. I believe that it was not fixed.  
19 Q. Okay. Do you want the tractor back?  
20 A. I don't want the tractor back. Why would  
21 I want that tractor that is -- God knows what it is,  
22 where it's been, who put hands on. It's been gone  
23 two, three years now. Why would I want that  
24 tractor -- that specific tractor?  
25 Q. So is that no, you do not want the tractor

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1 back?  
2 A. No. I don't want the tractor.  
3 Q. Okay. Did you ask Jacob Willis in October  
4 of 2021 what the condition of the tractor was after  
5 he said it was repaired?  
6 A. No.  
7 Q. To the best of your knowledge, it is just  
8 sitting at a dealership repaired and waiting for you  
9 to pick it up?  
10 A. I don't know. I guess.  
11 Q. Do you have any reason to doubt that it is  
12 sitting in Westminster, South Carolina at Powell's?  
13 A. I have no confidence in anybody from AGCO,  
14 period. I have zero confidence them telling me the  
15 truth. I have zero confidence them telling me  
16 anything that is good. So I don't know if that  
17 answers your question.  
18 Q. No. So my question was: Do you have any  
19 reason to doubt that the tractor is sitting at  
20 Powell's Equipment in Westminster, South Carolina  
21 right now?  
22 A. I guess I don't know.  
23 Q. And you haven't gone to inspect the  
24 equipment?  
25 A. No.

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1 Q. You haven't asked where it is, right?  
2 A. No.  
3 Q. Okay. Going to page 13 now of Exhibit 2,  
4 you have asserted a claim against AGCO for civil  
5 conspiracy. Can you tell me what exactly AGCO did or  
6 conspired to do against you?  
7 A. So I think that, for once, I thought I was  
8 buying a tractor that was assembled here in America.  
9 So that alone right there is a concern and it just  
10 sucks.  
11 Q. But nobody at AGCO ever told you that it  
12 was made in America, right?  
13 A. Well, it's got a big plate on the truck  
14 that says, "Made in Georgia." So that's a little  
15 sneaky right there. So if it's not made in Georgia,  
16 why would you put a plate that says it's made here in  
17 the United States?  
18 Q. Does the plate actually say AGCO  
19 Corporation, Duluth, Georgia?  
20 A. In conclusion, I think that the tractor --  
21 I was believed that the tractor was made here. I  
22 don't know what that tells you, but I was believed  
23 that the tractor was made -- assembled here in the  
24 United States.  
25 Q. But nobody at AGCO told you that before

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1 you purchased the tractor?  
2 A. At some point it's got -- I'm sure it's  
3 got -- it's their product. It goes back to them.  
4 It's their product.  
5 Q. These are the claims that --  
6 A. At least that's what I know.  
7 Q. Okay. And I'm just trying to figure out  
8 the claims that you are asserting against AGCO, the  
9 one that we're specifically talking about is civil  
10 conspiracy. So --  
11 A. Can you explain what is that?  
12 Q. I'm asking you what did AGCO do, along  
13 with others, that damaged you? Do you think AGCO has  
14 specific intent or ill will to you specifically?  
15 A. I think that they are doing this not just  
16 to me. I think they know what they're doing. I  
17 think that they're doing to every single customer  
18 that buy their products. They just haven't been  
19 caught, maybe. That's the truth. That's what I feel  
20 now.  
21 Q. And you would agree that what AGCO did to  
22 you was they have paid for Nance to repair the  
23 tractor five times, right?  
24 A. What?  
25 Q. You would agree that AGCO paid Nance for

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<p>1 those warranty repairs? That's who would have paid? 2 A. I guess. 3 Q. And they paid for a loaner when they 4 didn't have to? 5 A. I'm not sure of that, who paid for what. 6 Q. Okay. And then David, an AGCO employee, 7 came out, a mechanical engineer, to inspect your 8 tractor? 9 A. Which is a concern. Why would you send an 10 engineer, someone with a degree, to inspect a tractor 11 that it should not have problems? That alone is a 12 worry. It worries me. 13 Q. Well, I'm trying to reconcile -- my 14 question is going to you're saying that AGCO has done 15 something wrong to you and everybody in South 16 Carolina, right? 17 A. I think that they're doing this and they 18 probably thought they could get away with it, 19 especially with me. And I don't know what they're 20 trying to do now is beyond me. 21 Q. And what they did, they repaired your 22 tractor, correct? 23 A. Let me tell you what they done. 24 Q. I'm asking -- 25 A. I know they fixed the tractor. I know</p>	<p>1 verbatim what he said. Thousands of lawyers, he 2 says. He tried to intimidate me. He threatened me. 3 So what else? I don't know what else to tell you. 4 Q. Okay. Let's go to page 16 of Exhibit 2, 5 page 137 -- sorry, paragraph 137. You say, "AGCO 6 conceals that its iconic Massey Ferguson tractors are 7 manufactured in China." My question is: When did 8 AGCO conceal that fact to you? Was it before the 9 purchase? 10 A. I think that -- no. They never told me 11 any of that. If they would have told me that tractor 12 was from China, I would have never touched it. I'm 13 not saying anything. I'm just -- I have no 14 confidence on the machinery. 15 Q. But you didn't ask anybody if it was 16 manufactured in China before you bought it? 17 A. I don't think there's a lot of things here 18 in the United States that are made specifically from 19 China like that. So I would have definitely -- I 20 think that they would have -- I think they had an 21 obligation to tell me that the tractor was made 22 specifically from China because this is a tractor. 23 But, again, the plate -- no where -- they never told 24 me the tractor was from China. 25 Q. And you never asked?</p>
Page 99	Page 101
<p>1 they fixed it. If you answer -- if the answer you're 2 looking for is they fixed my tractor numerous times, 3 I get it. They did fix the tractor. But you forget 4 that the tractor, it is a one tractor -- lifetime 5 tractor. You're not supposed to be fixing a machine 6 with that little hours so fast, so soon. You 7 shouldn't be doing that much work. You shouldn't be 8 sending an engineer to my property to inspect a brand 9 new tractor with less than 300 hours. I mean, that 10 tells you that there's something funny there. 11 And the more I look into it now, now I 12 realize that the tractor is not made in the United 13 States. It was assembled somewhere else. Okay? I 14 lose -- I lose complete confidence. I will never buy 15 a tractor from Massey Ferguson. Okay? It cost me 16 almost my marriage. It cost me a lot of money. What 17 else -- what else do you -- I mean, what else do you 18 want me to tell you? 19 They pretty much stole my tractor by 20 taking it, not telling me where they're taking it, 21 not even complying -- if they would have called me 22 and told me, "Look, we don't want this to go further. 23 Here is where the tractor is. Let's just figure out 24 a solution." They didn't. They keep on. They were 25 actually happy to throw more lawyers at me. That's</p>	<p>1 A. I shouldn't have to ask. I mean, it's 2 something that I feel like they should have at least 3 informed me and gave me that choice. 4 MR. CARROLL: Why don't we take a 5 break for lunch? 6 (Off the record.) 7 BY MR. CARROLL: 8 Q. Mr. Aguilar, we're back on the record 9 after lunch. Did you talk about the deposition with 10 anyone over your break? 11 A. No, sir. No. 12 Q. Other than your attorney, who did you talk 13 to in preparing for this deposition? 14 A. Nobody. 15 Q. Did you talk your wife about this 16 deposition? 17 A. Yeah. That I was coming here. 18 Q. Okay. But other than that? 19 A. No. 20 Q. I'm going to show you what I'm going to 21 mark as Exhibit 10. 22 (DEF. EXHIBIT 10, Collection of 23 Documents, Bates stamped 001-00149, was marked for 24 identification.) 25 BY MR. CARROLL:</p>

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<p>1 Q. This is the set of documents that your 2 counsel produced to us. If you notice on the top 3 right-hand side, there is a three-digit number, 001. 4 A. Yes. 5 Q. We refer to that as a Bates number. And 6 throughout the next few minutes, I may ask you that 7 specific page number. So that's what I'm referring 8 to when I say the Bates number, is that three-digit 9 number at the top in bold. Does that make sense? 10 A. I think so. Yes. 11 Q. So looking at page 1 and 2, what is this 12 series of e-mails about? Sorry. And 3. 13 A. So I believe this is Jackie. I call her 14 Jackie. She is for the Clemson Extension for 15 agriculture. So that was one of the things that I 16 wanted to -- I wanted to reach out to them because I 17 wanted to test my soil and to really get accurate as 18 to what I needed for my soil to be right for trees. 19 That's what that e-mail is for. 20 Q. Okay. For your tree farm? 21 A. Correct. 22 Q. Page 4 is just an invoice for the purchase 23 of the equipment, right, from Nance? 24 A. Yeah. 25 Q. Did they give you copies of this invoice</p>	<p>1 and handwritten on the bottom is "paid in full." Did 2 you write that note or whose handwriting is that? 3 A. That would probably be my wife. 4 Q. The next page is -- which is page 23 on 5 the top right-hand side. Do you see that? There's a 6 handwritten note, "Three hundred thirty-three point 7 seven hours on the tractor April 2021." 8 A. Yes. 9 Q. Whose handwriting is that? 10 A. I would think that's my wife's writing. 11 Q. But you would agree that as of April 2021, 12 there were 300 hours on the tractor? 13 A. Yes. Yeah. But I don't know if these 14 days are within what -- she wouldn't know about the 15 tractor and the specifics. She would probably just 16 write the hours based on the time she wrote it. I'm 17 not sure what to make of that. That would be a 18 question for her. 19 Q. No questions about page 24. Is page 25 20 also your wife's handwriting, the "Paid \$399"? 21 A. Yes. 22 Q. Now, at the top of this invoice, this 23 is -- this was sold to you personally, right? 24 A. Yes. 25 Q. Let's go to page 27 and this appears to be</p>
Page 103	Page 105
<p>1 when you purchased the tractor? 2 A. I don't recall, but I'm sure. I'm sure 3 they would have, I would assume. Yes. 4 Q. Now, if you go to page 8, at the top it 5 says, "Dual Interest Property Installment Sales 6 Certificate." Is this just property insurance for 7 the tractor? Is that what this certificate 8 describes? 9 A. I guess, yes. 10 Q. Now, AGCO Finance is no longer in the 11 case, correct? You settled with AGCO Finance, right? 12 A. I believe so. I'm not sure. 13 Q. You don't recall AGCO Finance paying 14 \$10,000 to get out of this case? 15 A. Maybe so. I guess. This thing has been 16 going on for years. I mean, if they did, they did. 17 So I guess. I don't know. I'm assuming they did. 18 Q. Let's flip through to page 17. It's the 19 retail installment contract and security agreement. 20 Is this the same document that we looked at in 21 Exhibit 2, which was the first amended complaint -- 22 I'm sorry, fourth amended complaint? 23 A. I guess it is. 24 Q. Then let's go to page 22. This is a 25 letter dated June 4, 2019 from AGCO Finance to you</p>	<p>1 a copy of a check of 2169 for \$399. Is this for the 2 towing charges? 3 A. No. I believe that's for the previous 4 invoice we just looked at. It says \$399 there. So 5 it's probably for that. 6 Q. So I have to ask your wife what this \$399 7 invoice is for, I guess. But you recall paying \$399, 8 specifically, to have the tractor towed, right, to 9 Nance? 10 A. We definitely paid for taking it 11 somewhere. 12 Q. Even though this was your personal truck, 13 you had Capital Stone and Landscape, LLC pay for the 14 towing? 15 A. That's correct. 16 Q. Now, can you go to page 29, please? 17 A. Yes. 18 Q. And this is an invoice for \$106.80. Did 19 you all pay this amount? 20 A. I don't remember. 21 Q. The next page, page 30. This is an 22 invoice for \$6,997.80. Did you all pay this invoice? 23 A. No. 24 Q. Who paid? 25 A. I don't think we did.</p>

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1 Q. The note on the bottom of this invoice  
2 says paid cash \$200 tow fee. Is that you or your  
3 wife?  
4 A. My wife probably done that.  
5 Q. Just making sure. Page 31 is an e-mail  
6 from your wife. Thirty-two is a work order we  
7 already talked about. Now, 33 is an e-mail that you  
8 wrote to AGCO -- I'm sorry, to Nance Tractor, right?  
9 A. That would probably be an e-mail that my  
10 wife sent or something like that.  
11 Q. So at the bottom -- this is page 33. At  
12 the bottom is written your name, Eswin Aguilar?  
13 A. Right. And she does that sometimes  
14 because it's coming from me, I mean, in a way.  
15 Q. Okay. And then page 34, can you show  
16 me -- well, can you take this pen and mark on that  
17 picture where the sticker is that says you're  
18 responsible for maintenance?  
19 A. For?  
20 Q. Repairs, maintenance. You mentioned --  
21 you testified earlier that there was a sticker you  
22 said when you lift up --  
23 A. Yeah. That's not for maintenance. That's  
24 responsible for anything, like if you have to take  
25 the tractor to the shop.

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1 Q. Can you show me where that sticker is,  
2 whatever it says?  
3 A. I can try my best, but it's -- see that  
4 arm right here?  
5 Q. Yes.  
6 A. It's right behind this thing in there,  
7 like right behind that. So you can only see it  
8 when...  
9 Q. It's lifted?  
10 A. Yeah. And in order for you to see it,  
11 then you have to go under the tractor and lift it so  
12 you can actually see it or at least that's what mine  
13 was. That's where they put mine. I don't know if  
14 that was a coincidence.  
15 Q. Then page 35 is another picture, I guess,  
16 of the -- do you recall what this picture was trying  
17 to convey?  
18 A. That was just -- it's hard to say in this  
19 picture, but one of the things in there was just  
20 messy.  
21 Q. Thirty-six, can you tell what this picture  
22 is?  
23 A. That is glass that has been broken that  
24 they didn't even bother to clean up.  
25 Q. What is 37?

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1 A. You can see the caulking in there. Can  
2 you imagine having the caulking on your windshield in  
3 your car like that?  
4 Q. Thirty-eight?  
5 A. Same. This is glass inside the cabin.  
6 Broken glass.  
7 Q. Page 39?  
8 A. So this is engine -- the engine of the  
9 tractor where it shows glass all over the bells and  
10 engine compartment, which is broken glass in there.  
11 Q. Okay. What about page 40?  
12 A. So I guess what they were trying to show  
13 here was the grease. You can probably see a little  
14 in here. That may sound a little picky, but, again,  
15 this tractor is not an ordinary tractor. It is a cab  
16 with AC in it. It's supposed to be nice and clean.  
17 They have grease hands all over things in there. So  
18 I guess that's what the picture show.  
19 Q. This was all when Nance returned the  
20 tractor?  
21 A. Yeah.  
22 Q. And, at this point, AGCO Corporation was  
23 not involved, right?  
24 A. AGCO Corporation has been involved from  
25 the beginning.

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1 Q. Because they manufactured the tractor?  
2 A. Because that's who I have talked to them  
3 from the beginning. They're the ones -- all I can  
4 tell you is they've been involved from the beginning.  
5 Q. What is 41?  
6 A. I would think that that's the same there  
7 showing you how messy the tractor was returned and  
8 obviously that's a black and white picture there. So  
9 you don't get to see that in color.  
10 Q. Page 42?  
11 A. Page 42, you see hydraulic hoses just  
12 pretty much hanging in there. They are supposed to  
13 be sitting in specific brackets of metal that hold  
14 them in place because they're high pressure hoses.  
15 They're all zigzagging. They're not in order and you  
16 can see zip ties in there hanging in there.  
17 Q. Whose hand is that on the left-hand side?  
18 A. That's my hand.  
19 Q. What is page 43?  
20 A. That is glass debris somewhere in the  
21 engine and you can see where there's oil filters in  
22 there and some damage and some kind of hose.  
23 Q. Okay. What about page 44?  
24 A. That would be a clearer picture of page 43  
25 in addition to that.

<p style="text-align: right;">Page 110</p> <p>1 Q. Is that fitting for the tube corroded?</p> <p>2 A. It just looks like it's somehow damaged.</p> <p>3 How, I don't know. But it's also glass everywhere in</p> <p>4 the bottom of there.</p> <p>5 Q. This was from the broken windshield,</p> <p>6 right, the glass?</p> <p>7 A. Yeah.</p> <p>8 Q. How did that windshield break?</p> <p>9 A. That would be a question for them.</p> <p>10 Q. Them?</p> <p>11 A. Whoever worked on my tractor.</p> <p>12 Q. So Nance?</p> <p>13 A. Whoever is fixing my tractor. I cannot</p> <p>14 answer that question. I don't know.</p> <p>15 Q. Okay. Forty-five, what am I looking at</p> <p>16 here?</p> <p>17 A. Again, that's a black and white picture.</p> <p>18 So I'm not sure what I'm looking at here. Maybe --</p> <p>19 maybe some bolts -- one of those bolts not being</p> <p>20 tight. That may be the reason why I took that</p> <p>21 picture there. These are big bolts. I mean, that</p> <p>22 shouldn't be loose.</p> <p>23 Q. Were these pictures originally taken in</p> <p>24 color?</p> <p>25 A. I'm sure.</p>	<p style="text-align: right;">Page 112</p> <p>1 you know, a bolt in it.</p> <p>2 Q. Page 50?</p> <p>3 A. Page 50, you can see a light plug pretty</p> <p>4 much just hanging in there. It was not plugged.</p> <p>5 Q. I'm sorry. A plug?</p> <p>6 A. Light plug that was never connected.</p> <p>7 Q. Okay. Page 51, an e-mail string from you.</p> <p>8 I want you to go to the middle of the page. It</p> <p>9 starts with on Thursday, October 1, 2020, 10:02 p.m.,</p> <p>10 Eswin Aguilar wrote. Do you see that on your page?</p> <p>11 A. Yeah.</p> <p>12 Q. Can you read the next sentence?</p> <p>13 A. It says, "Not sure why." Is that...</p> <p>14 Q. Yes.</p> <p>15 A. It says, "I'm not sure why AGCO has</p> <p>16 anything to do with this." Is that what you want me</p> <p>17 to read?</p> <p>18 Q. Yes, that e-mail. Can you read it?</p> <p>19 A. It says, "Not sure why AGCO has anything</p> <p>20 to do with this. These issues are workmanship</p> <p>21 problems with the mechanic or whoever is working on</p> <p>22 the tractor. Call me as soon as you can. Also would</p> <p>23 like the name of the representative you are speaking</p> <p>24 with and the number. This is not warranty issues."</p> <p>25 I guess I'm -- I guess you just try to say what's in</p>
<p style="text-align: right;">Page 111</p> <p>1 Q. Do you still have them?</p> <p>2 A. I'm pretty sure we have them somewhere.</p> <p>3 Q. This is how these pictures were produced</p> <p>4 to us. So that's why I'm asking. What is page 46?</p> <p>5 A. Forty-six shows that main hoses for the</p> <p>6 loader that lift things up and down not sitting</p> <p>7 properly. So when the machine -- when you lower up</p> <p>8 and down, it creates a tight pressure on the hose,</p> <p>9 almost like trying to keep the pipe in there. That</p> <p>10 was not set properly. That was the reason why I took</p> <p>11 the picture there.</p> <p>12 Q. Forty-seven?</p> <p>13 A. Forty-seven is a door hinge. Am I saying</p> <p>14 that right, hinge?</p> <p>15 Q. Uh-huh.</p> <p>16 A. You can clearly see that thing was not put</p> <p>17 all the way in and then the other one was missing.</p> <p>18 Q. The pin was not put all the way in?</p> <p>19 A. That's a lock-in pin for that door -- the</p> <p>20 hinge to work. Clearly you see they didn't put it</p> <p>21 all the way in and the next picture shows more clear</p> <p>22 on that, but it was missing them.</p> <p>23 Q. Page 49?</p> <p>24 A. You can clearly see the space between the</p> <p>25 fender there that it was not put back together with,</p>	<p style="text-align: right;">Page 113</p> <p>1 your mind in the moment because I'm responding to,</p> <p>2 perhaps, what he might say. But I don't know how</p> <p>3 they're doing their business there.</p> <p>4 Q. Who is "they"? Who are "they" doing the</p> <p>5 business?</p> <p>6 A. The tractor -- AGCO and the people that</p> <p>7 sold me the tractor.</p> <p>8 Q. Nance?</p> <p>9 A. Yeah.</p> <p>10 Q. Well, on October 1, 2020 when these issues</p> <p>11 were happening, you wondered why AGCO had anything to</p> <p>12 do with this?</p> <p>13 A. Because AGCO is a weird -- I mean, it's</p> <p>14 like -- I never heard AGCO in tractor business, but</p> <p>15 apparently they are involved here. Now they are</p> <p>16 somehow. I never heard AGCO, like, John Deere.</p> <p>17 John Deere is John Deere tractors. Now we have here,</p> <p>18 apparently -- I didn't know at that point that AGCO</p> <p>19 was tractor.</p> <p>20 Q. So --</p> <p>21 A. That's why -- because, I mean, he pretty</p> <p>22 much -- the people didn't want to deal with me. The</p> <p>23 dealership did not want to deal with me. They pretty</p> <p>24 much just said talk to these people. That was the</p> <p>25 response based on that.</p>

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1 Q. And you say on October 1, 2020 this is not  
2 a warranty issue?  
3 A. But you don't know what I was referring  
4 to.  
5 Q. Well, yes. I'm asking you what is not a  
6 warranty issue?  
7 A. I don't remember what we were talking  
8 about then. I don't know if it was the tire  
9 originally. I don't know if it was something minor.  
10 I just don't remember. If I was to guess -- I don't  
11 like to guess. But if I was to guess, this was the  
12 tire to begin with and that's how we started. I  
13 don't know.  
14 Q. So October 1st of 2020, you knew that  
15 there was a warranty because you said this is not a  
16 warranty issue?  
17 A. Because they probably -- I don't remember  
18 when this happened.  
19 Q. October 1st of 2020.  
20 A. Well, automatically you know things have a  
21 warranty. I mean, you don't buy something new and  
22 don't have a warranty on it. So automatically you  
23 know there's a warranty. So I'm just assuming that  
24 there was a warranty issue, but I'm not sure what I  
25 was referring to this right here. I could only

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1 assume that this was probably the tire. So at that  
2 point I'm thinking you shouldn't have that problem,  
3 so this shouldn't be a warranty issue. If this was  
4 so significant, why should you have to go to warranty  
5 issue.  
6 Q. And then you also just said October 1,  
7 2020, who is AGCO, right? That's what you said. You  
8 didn't know AGCO, but you said you talked to  
9 Jacob Willis at the beginning?  
10 A. Yeah. Because from the beginning -- from  
11 the beginning, they pretty much told me that I needed  
12 to talk to Jacob Willis. And I was always curious  
13 why -- why was I talking to Jacob Willis when I  
14 bought the truck from Nance. They pretty much was,  
15 "Hey, talk to that guy." So then AGCO become my guy  
16 to call when my tractor problems were coming up and  
17 that's all I can tell you.  
18 Q. Well, that doesn't align with what the  
19 e-mail that we just looked at on page 33 where you  
20 don't e-mail AGCO. You e-mail  
21 michael@nancetractor.com, right?  
22 A. Page 33?  
23 Q. Yes. Which is just the day before. So  
24 we're September 29, 2020, you e-mail Nance?  
25 A. I cannot tell you dates.

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1 Q. Well, you don't have to tell me the date.  
2 I'm asking you who you e-mailed?  
3 A. You're asking me who I e-mailed?  
4 Q. Yes. Michael at Nance Tractor; is that  
5 right?  
6 A. If that's what it says in there, I guess  
7 that's what we did. I don't know exactly what I was  
8 referring to at that time. I'm not sure. I mean,  
9 this has been going on for years and it's so much  
10 problems that I don't even know which one is which  
11 and what is what.  
12 Q. Okay. Let's go back to that too. So you,  
13 before lunch, said that in April of 2021, AGCO stole  
14 your tractor, right?  
15 A. That's my conclusion. Yes.  
16 Q. Okay. And then you hired an attorney two  
17 weeks later who sent a letter, May 11, 2021.  
18 Remember that from this morning?  
19 A. Yeah.  
20 Q. And then you sued AGCO on June 6, 2021.  
21 So a month afterwards?  
22 A. Uh-huh.  
23 Q. In your lawsuit you did not accuse AGCO of  
24 stealing or conversion at that point of your tractor.  
25 Why not?

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1 A. Because I always try to have people do the  
2 right thing, I guess. I was hoping they would still  
3 come back -- look, I mean, the reality is, whether I  
4 did or not, the truth is clear. They took my  
5 tractor. They didn't tell me where they were taking  
6 it.  
7 Q. You didn't --  
8 A. It stayed --  
9 Q. -- ask them?  
10 A. -- a long time. Yeah. But we're dealing  
11 with something specific. It's a tractor. It's not  
12 something else, I mean. And then dealing with all  
13 these problems, I mean, you have to, at some point,  
14 hey, what is this? I gave him options. He didn't  
15 comply with it. He come get my tractor. He didn't  
16 tell me when he was coming to get it. So pretty much  
17 stole my tractor.  
18 Q. And then when he told you that it was  
19 available to come pick it up, you didn't go get it?  
20 A. Again, that was months into this situation  
21 already and I had -- I had already seeked counsel.  
22 So I asked him to reach out to him and figure it out.  
23 So I don't know the procedure for that, but I was  
24 expecting him to reach out or do something.  
25 Q. And he did reach out. He told you that it

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1 was repaired and ready to be picked up, correct?  
2 A. Is that your conclusion?  
3 Q. No. I'm asking you is that a correct  
4 statement, he did reach out? He called you and told  
5 you that it was repaired and ready to be picked up?  
6 A. I don't remember exactly what he said, but  
7 I do remember him calling me and I told him to talk  
8 to my lawyer.  
9 Q. Okay. So then let's go to page 52 of  
10 Exhibit 10. Is this a summary of the issues that we  
11 looked at in the pictures on pages 34 through 49?  
12 A. I mean, I would say most of it. Probably.  
13 Yeah.  
14 Q. Did you end up cleaning the tractor?  
15 A. You're asking me if I cleaned the  
16 transmission?  
17 Q. No. So the red clay, for example, did you  
18 clean that out or did somebody else clean it?  
19 A. Nobody cleaned it out that I know. Since  
20 that problem happened, it went back to back to back  
21 problems.  
22 Q. Okay. And then October 6th, which is --  
23 I'm sorry. Page 53. Now, again, October 6th, you  
24 e-mail Michael at Nance Tractor. You don't e-mail  
25 AGCO, right? You're not e-mailing Jacob Willis.

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1 This is an e-mail just to Nance Tractor, right?  
2 A. Okay.  
3 Q. Why didn't you e-mail AGCO?  
4 A. I'm not sure. I'm not sure why. But, I  
5 mean...  
6 Q. So the reason I'm asking is because you  
7 said it's been AGCO the whole time, but it hasn't  
8 been AGCO the whole time because you were dealing  
9 with Nance, right?  
10 A. I deal with Nance because they sold me the  
11 tractor, but who is Nance for? Who are they with?  
12 Who are they dealing with? Are they with John Deere?  
13 No. They're with AGCO. So AGCO is them. Somehow  
14 they are together.  
15 Q. Doesn't Nance also sell bush hog  
16 equipment?  
17 A. I don't know what they sell.  
18 Q. Well, you bought a bush hog from them. So  
19 do they sell bush hog equipment?  
20 A. I guess.  
21 Q. Do they sell Kuhn implements?  
22 A. That would be a question for you to ask  
23 them. I don't know.  
24 Q. Maybe. If you go back to page 30 of  
25 Exhibit 10, top right-hand side. Is there a

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1 trademark on the top right-hand side of page 30?  
2 A. Okay.  
3 Q. It says Kuhn?  
4 A. Okay.  
5 Q. So is Nance Tractor Kuhn too?  
6 A. I don't know how they operate their  
7 business. I'm not in the business of figuring out  
8 who is who.  
9 Q. Is Capital Stone the same as  
10 Eswin Aguilar?  
11 A. Yes.  
12 Q. Do you file one tax return for both?  
13 A. Yes. But when it comes to problems, I  
14 mean, if Capital Stone messes up, that's my name. So  
15 at the end of the day -- I mean, you can play this  
16 around. At the end of the day, it's AGCO. This is  
17 an AGCO product. If there's a problem, they just --  
18 I'm not sure. Really I'm not sure what to answer.  
19 I'm not sure what you're asking. I mean, at the end  
20 of the day, if you're not responsible, why are you  
21 even involving yourself, then? Why are you even  
22 offer all these things? Why even -- I don't get it.  
23 I don't understand. What is your question?  
24 Q. Well, you've sued AGCO Corporation?  
25 A. Right.

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1 Q. Nance Tractor has paid to get out of this  
2 case?  
3 A. That's their own doing.  
4 Q. Okay. How much did they pay to get out of  
5 the case?  
6 MR. STUDEMAYER: Objection.  
7 MR. CARROLL: What is the objection?  
8 MR. STUDEMAYER: I'm objecting  
9 because we've already objected to this in discovery.  
10 You're not entitled to that information until it's  
11 time for an offset and there is no offset to apply  
12 right now.  
13 MR. CARROLL: So the basis is --  
14 MR. STUDEMAYER: We've already --  
15 MR. CARROLL: -- attorney privilege?  
16 MR. STUDEMAYER: -- cited the case --  
17 we've already cited the case law, if you want to go  
18 there.  
19 MR. CARROLL: Well, yes, I would like  
20 to. So the basis of the objection -- what is the  
21 basis of the objection? Because you've got four  
22 bases under the rules. You have privilege.  
23 Attorney-client privilege, work product protection,  
24 trade secret protection, and privileges based on the  
25 United States Constitution. Which privilege are you

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1 objecting based on?  
2 MR. STUDEMAYER: I'm saying that  
3 you're not entitled to that information at this point  
4 in litigation.  
5 MR. CARROLL: And are you instructing  
6 him not to answer?  
7 MR. STUDEMAYER: I am.  
8 MR. CARROLL: Okay. So for the  
9 record, the question was: How much did Nance Tractor  
10 pay to settle out of the case? Did I state that  
11 correctly?  
12 MR. STUDEMAYER: (Counsel nods head.)  
13 MR. CARROLL: And you objected and  
14 that's it on the basis that we're not entitled to  
15 that information on discovery?  
16 MR. STUDEMAYER: That is correct.  
17 MR. CARROLL: Okay. Which is not a  
18 proper basis for objection under the rules, but we  
19 will continue.  
20 BY MR. CARROLL:  
21 Q. Page 53, Mr. Aguilar, you e-mailed Nance.  
22 "Four-wheel drive on my tractor is not working." Did  
23 you all -- did Nance come and pick up the tractor  
24 after you sent this e-mail?  
25 A. I don't know who has been sending people

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1 to pick up the tractor. I don't know who calls,  
2 "Hey, go pick up the tractor." So I can't tell you  
3 who picked up the tractor, but I will talk to -- the  
4 people that I always talked to was either someone  
5 from Nance or Jacob Willis. How they did it, I don't  
6 know.  
7 Q. Page 54, the next page. You e-mail the  
8 next day and you also e-mail  
9 michael@nancetractor.com, correct?  
10 A. Okay.  
11 Q. Is that correct?  
12 A. Yeah.  
13 Q. And on page 55 is the top of that e-mail  
14 that Michael Nance says, "We'll pick it up Monday and  
15 put it straight in the shop when it gets back." Did  
16 I read that correctly?  
17 A. That's what it says here.  
18 Q. Is there any reason so far for the first  
19 55 pages I have any reason to doubt the authenticity  
20 or validity of these documents?  
21 A. I don't think I understand that question.  
22 Q. You have not altered these documents in  
23 any way, right?  
24 A. No. They may not be in the right order,  
25 the time, but I would never do that.

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1 Q. Okay. Let's go to page 58. And is this  
2 you asking Michael at Nance Tractor if you need --  
3 that you need to get a loaner if your tractor is  
4 gone? Is that what you're asking in this e-mail?  
5 A. Yes.  
6 Q. And did Nance give you a loaner?  
7 A. I don't remember if this was the time  
8 where they provide me the loaner. I don't remember  
9 if this was that time.  
10 Q. Now, page 60 is an invoice from Liner  
11 Source, Inc. --  
12 A. Yes.  
13 Q. -- to Emerald Hills Farm, LLC?  
14 A. Yes.  
15 Q. Are you expecting -- or are you seeking  
16 payment for these trees from AGCO?  
17 A. I don't know. I'm not sure. They caused  
18 me a lot of loss. A lot. A lot of frustration. So  
19 I will have to -- I'm not sure what to answer to  
20 that.  
21 Q. This order was the first time you were  
22 going to go into the tree business, right? That's  
23 what you testified to earlier?  
24 A. Could be. Could be the first order.  
25 Q. Aside from asking Clemson about your soil,

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1 did you talk to anyone else about how to enter into  
2 the tree growing business?  
3 A. No. I'm a self made, whatever you call  
4 it, person. I like to figure things out and I have  
5 knowledge. I remember planting. I know how to grow  
6 things and I, you know -- so...  
7 Q. Why didn't you install irrigation when you  
8 first planted these trees?  
9 A. Well, it depends on what you're trying to  
10 do. You can't put in irrigation and then put a tree  
11 because you damage your irrigation. So you've got to  
12 plant the tree first and then you put in irrigation.  
13 Q. Was your plan to always put in irrigation  
14 for the trees?  
15 A. Yes.  
16 Q. Go to page 62. Now, let's go to the  
17 middle of the page. February -- sorry. Friday,  
18 October 23, 2020, you e-mail Nance -- Michael Nance  
19 and say, "Talked to AGCO rep earlier today. He's  
20 getting with the regional service guy to see when he  
21 and someone from the dealership can meet you at your  
22 place to check it out." Was this when David from  
23 AGCO finally came?  
24 A. Yes.  
25 Q. Okay. At this point, October of 2020, you

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1 have owned the tractor for 18 months, right?  
2 A. Yes. But it has been more time in the  
3 shop than in my farm.  
4 Q. Next let's go to page 69. Now, in your  
5 document production, this is the first e-mail we see  
6 from Mr. Willis. Did you have any prior e-mail  
7 communications with Jacob Willis?  
8 A. I don't remember.  
9 Q. Well, so your tire issue --  
10 A. The e-mails?  
11 Q. Yes.  
12 A. I don't remember. Calls from the  
13 beginning.  
14 Q. And Jacob Willis says, "He reviewed what  
15 had been done and we compared your tractor to other  
16 tractors. It is my understanding they are going to  
17 try to get it delivered to you this afternoon. I  
18 will provide to you in writing what was done. We are  
19 also going to provide an enhanced warranty to extend  
20 your coverage by one additional year. I will provide  
21 this in writing once we have purchased it next week.  
22 Please let me know if you have any questions."  
23 Was the tractor returned to you later that  
24 day or the next day?  
25 A. I believe so.

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1 Q. Okay. And then from that point on,  
2 January, according to the timeline which is Exhibit 4  
3 that your wife prepared, you did not have another  
4 issue until April 21st.  
5 A. I don't remember that time.  
6 Q. I'll just represent to you that's what the  
7 exhibit indicates. Now, going to page 71. Is this  
8 the work order for the work that Nance performed  
9 January 8, 2021?  
10 A. If that's what it says there. Again, you  
11 know --  
12 Q. And you did not pay for this work?  
13 A. No.  
14 Q. AGCO paid for that work?  
15 A. Yes, I guess. Somebody paid for it. They  
16 must have.  
17 Q. Now, let's go to page 72. This is an  
18 e-mail to Jacob from you and I want to focus on the  
19 last sentence of your e-mail where it says, "IF the  
20 tractor has any more issues, I will need it replaced  
21 with a new one." Was this the time where you gave  
22 Jacob two options?  
23 A. No. I was just telling him that if the  
24 tractor comes -- no. This was before that. That  
25 was -- he give me no choice. I mean, this tractor

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1 has been going back and forth several times. So,  
2 yes, I told him -- I said I need this tractor. This  
3 is when he ensured me the tractor will be overseen by  
4 me or someone from AGCO to make sure that it's put  
5 back together right.  
6 Q. And then you had no issues for three  
7 months, according to the chart?  
8 A. Again, I mean, if that's what it says,  
9 that's fine. But some of the time when the tractor  
10 come back, I couldn't get to the tractor, like, the  
11 next day and just work on it. It will probably sit  
12 there for, some cases, a month, you know. I remember  
13 one instance they brought my tractor back and all I  
14 did just covered my tractor, put it in the shed  
15 because the weather, and I didn't move the tractor  
16 for, like, a month to two months after that.  
17 Q. So you stored the tractor in a shed when  
18 it was not in use?  
19 A. A little shed.  
20 Q. Okay. Other than the work performed by  
21 Nance, did anyone else work on the tractor?  
22 A. You're asking me if I worked on the  
23 tractor?  
24 Q. No. Anyone else?  
25 A. No.

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1 Q. Anybody else perform maintenance --  
2 A. No.  
3 Q. -- or anything like that?  
4 A. No. Because the first time the tractor  
5 broke down, it was the maintenance -- they actually  
6 did the maintenance there.  
7 Q. Did they charge you for that?  
8 A. I think that was -- that was one of the  
9 only thing that he said, "I'm going to throw that in  
10 because it broke down." But that was just an oil  
11 change, I believe, or something. I can't remember  
12 what it was.  
13 Q. Okay. Let's go to page 79. Is this where  
14 you gave Jacob the two options?  
15 A. Perhaps.  
16 Q. If not, was there another time that comes  
17 to mind?  
18 A. All I can tell you -- I don't know the  
19 dates, but, I mean, it could be the last -- because I  
20 believe that she probably sent an e-mail to that  
21 after I had talked to him -- spoke with Jacob. Later  
22 I talked to my wife and she probably suggested to  
23 send that e-mail to him so it would be in writing.  
24 So I would assume, yes.  
25 Q. Okay. And so you send -- you tell him,

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1 "Jacob, I used the tractor for the first time this  
2 weekend to cut the grass." So do I read that e-mail  
3 to say from January 14th to April 21st, you did not  
4 use the tractor at all?  
5 A. Again, sometimes the tractor would sit  
6 there for weeks or months after it's been replaced.  
7 I don't remember if this was that time.  
8 Q. I'm just trying to read your e-mail and  
9 understand what you were saying, but is it -- you did  
10 not draft this e-mail?  
11 A. My wife draft -- she must have wrote the  
12 e-mail based on the conversation we had.  
13 Q. Okay. There's no real reason to say -- or  
14 to lie in this e-mail, right?  
15 A. Oh, my gosh. No. Why?  
16 Q. That's what I'm asking. So if you say, "I  
17 used the tractor for the first time this weekend to  
18 cut the grass" --  
19 A. Right.  
20 Q. -- then that is probably the first time  
21 you've used it in three months?  
22 A. Uh-huh.  
23 Q. Okay. And then you say again, "This is  
24 the first time using it since it was returned this  
25 winter after being fixed for the fifth time. I got

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1 in the tractor this morning to water my tree farm."  
2 So, at this time, you had -- did you put the forks  
3 into the pallet for your water tank?  
4 A. Right.  
5 Q. "In the middle of watering my trees, the  
6 tractor stopped, locked up, would not go any  
7 further." Was this an issue with the four-wheel --  
8 the automatic four-wheel drive, do you think? Just  
9 in your opinion.  
10 A. All I can tell you is at that point, I  
11 probably give up. There was oil leaking everywhere.  
12 It was just another time the tractor breaking down.  
13 Q. Okay. "I looked under the tractor. It  
14 looks like it was leaking a lot of oily substance."  
15 A. Yeah. That was the last time. That was  
16 the final straw for me.  
17 Q. And then you say, "I have done -- I have  
18 had nothing but problems with this tractor and I do  
19 not have faith in your products anymore," which is  
20 consistent with your prior testimony. "I am  
21 requesting a full refund of \$57,101.76 and \$10,000  
22 for the bush hog." What is confusing to me is AGCO  
23 did not manufacturer the bush hog. So why does AGCO  
24 have to pay for the bush hog?  
25 A. Because when I bought it, I bought it as a

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1 package and I understood that. I guess that was my  
2 assumption. I don't know. What is the issue one or  
3 the other? I mean, I don't understand that. I don't  
4 think I understand your question.  
5 Q. So my question is: AGCO is involved --  
6 you testified that AGCO is involved because it  
7 manufactured the tractor.  
8 A. Okay.  
9 Q. If AGCO manufactured the bush hog, then it  
10 would be responsible for the bush hog too?  
11 A. Okay.  
12 Q. But if Bush Hog manufactured the bush  
13 hog --  
14 A. Okay.  
15 Q. -- then it would be Bush Hog's problem?  
16 A. So, at minimum, you take the bush hog out  
17 and still leave with the tractor. I'm not saying  
18 that that's the case. I'm just saying in theory,  
19 that would be what we can conclude, I guess. I don't  
20 know.  
21 Q. And you say a full refund would be  
22 \$57,000, but you paid \$51,000 for the tractor?  
23 A. Right.  
24 Q. So where is the extra \$6,000?  
25 A. What?

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1 Q. Because you paid \$51,000 for the tractor,  
2 but you're asking for \$57,000.  
3 A. You can see how -- I mean, honestly, it's  
4 beyond me why we're still here. You can see that  
5 we've been going on for years on this. At this  
6 time -- at this point in time, I'm asking these guys  
7 for \$5,000 for my aggravation. That's just for a  
8 peace of mind for all the headache they cost me, but  
9 they're so greedy that they won't even do nothing.  
10 Here we are years after, hundreds of thousands of  
11 dollars possibly wasted. So I don't know why \$5,000  
12 has anything to do with that.  
13 Q. Well, I'm just asking why you chose  
14 \$57,000 as the refund price when it was \$51,000 that  
15 you paid?  
16 A. Maybe it's -- I don't know. I couldn't  
17 tell you how she come up with that number.  
18 Q. Okay. Did Jacob respond to this e-mail?  
19 A. I don't think he respond. I don't know.  
20 I couldn't -- I don't remember, but I told him  
21 verbatim on a phone call. We had a conversation.  
22 That's when my wife wrote that e-mail. I told him,  
23 "I'm done with this tractor. Your options are pay my  
24 tractor, give me a new one, or I'm seeking legal  
25 actions." So that was the time when I told him that.

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1 And he told me, again, "We've got more lawyers than  
2 you." That was his response.  
3 Q. Is it possible the reason that we are  
4 still here today because you filed a fourth amended  
5 complaint just three months ago?  
6 A. I think we're here today because they  
7 refuse to do the right thing. That's why we're still  
8 here today.  
9 Q. And the right thing in your mind is paying  
10 you \$72,101.76?  
11 A. I think it's too late for that at this  
12 point. I think we passed that point now. This was  
13 years ago.  
14 Q. Okay. So you want more money than that?  
15 A. I mean, what would you do? I just don't  
16 want these people to keep doing what they did to me.  
17 It's not fair to other customers. It's not right.  
18 Q. So you sent this e-mail at 10:06 a.m. Are  
19 you saying that you talked to Jacob before that?  
20 Because your wife drafted this after your phone call.  
21 A. I think I talked to Jacob before she sent  
22 this. Somehow it's related to this e-mail. I'm not  
23 sure -- I'm not exactly sure, but it's somehow  
24 related to that e-mail. So I guess -- I guess it is.  
25 Q. But definitely you did not draft this.

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1 Your wife did?  
2 A. If she did, that's because I told her.  
3 Q. Okay. Let's go to page 80. So this is  
4 the next day, April 22nd, 1:36 p.m. "Jacob, tried to  
5 call you. I am out of my tractor again and this is  
6 peak season for me. I need to get this resolved. I  
7 consider this an emergency on my part. And due to  
8 the past of how this was handled, I cannot afford to  
9 be without a tractor. I need a phone call today."  
10 Did Jacob respond to this e-mail?  
11 A. What page are we in?  
12 Q. Page 80.  
13 A. Okay. Got you. What was the question?  
14 Q. Did Jacob respond to this e-mail?  
15 A. I don't remember.  
16 Q. You don't remember if he called you?  
17 A. I don't think he did. I would guess -- I  
18 don't think he did.  
19 Q. So you previously testified that you and  
20 Jacob had a conversation where he offered the  
21 depreciated amount of the tractor. Was that around  
22 this time period? Did that conversation --  
23 A. I don't know --  
24 Q. -- happen?  
25 A. -- dates. But the last conversation I had

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1 with him, other than the phone call he gave me --  
2 other than the phone call -- last phone call he gave  
3 me, the last conversation I had with him was, "I'm  
4 done with this tractor. I lost confidence in this  
5 tractor." I probably said this is garbage. "I need  
6 you to replace this tractor with another tractor or  
7 refund my money or I'm going to seek legal actions."  
8 That was the last serious conversation I had with  
9 him.  
10 Other than that, he called me months  
11 after -- after we already have seeked legal action  
12 and told me your tractor is ready, which is funny  
13 because based on the phone call he gave me, some of  
14 the papers there shows that the tractor was not  
15 fixed. So I'm not sure what that was about.  
16 Q. So during that last conversation where you  
17 said this is garbage, did he tell you that AGCO was  
18 coming to pick up the tractor?  
19 A. I don't think so. Quite frankly, I don't  
20 know what was going to happen.  
21 Q. Well --  
22 A. The next thing I know, somebody buzzed me  
23 at my gate, told me they were there to pick up the  
24 tractor.  
25 Q. Okay. So what I'm trying to do is get you

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1 to reconcile these facts because you are the person  
2 who knows them the best. And at least in your  
3 complaint, you say that plaintiff authorized AGCO to  
4 pick up the tractor to perform repairs on April 22,  
5 2021.  
6 A. Yeah. But that's not that time, though.  
7 This is where it gets confusing. I don't know who  
8 did this. Him, somebody, you guys, somebody altered  
9 that date on e-mails.  
10 Q. So the e-mail in your document  
11 production --  
12 A. Not in my document.  
13 Q. This is your document production.  
14 A. Not in my document.  
15 Q. Exhibit 10 is your document production.  
16 That's not a question. And it says that on Thursday,  
17 April 22, 2021, you sent an e-mail to Jacob about  
18 your tractor.  
19 A. Right.  
20 Q. And then in your complaint, which is a  
21 filed document that is also not altered, it says,  
22 "The plaintiff," which is you, "authorized AGCO to  
23 pick up the tractor to perform repairs on April 22,  
24 2021."  
25 A. Yeah. But that would not be the very last

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1 time, I would think, because I would not allow them  
 2 to keep working on the tractor because I'm done with  
 3 that tractor.  
 4 Q. Okay. Well, you just testified that that  
 5 was the very, very last time that you spoke to  
 6 Jacob Willis before October 2021 when he told you the  
 7 tractor was ready?  
 8 A. Right.  
 9 Q. So then you must have authorized AGCO to  
 10 pick up the tractor to perform repairs?  
 11 A. I don't think -- I don't remember. I  
 12 don't think I did. I don't -- I don't remember. I  
 13 don't think I did. I believe I didn't. For the very  
 14 final time -- last, last time, I don't know dates, I  
 15 don't remember telling him take my tractor and fix it  
 16 because I am done with this tractor. I was done with  
 17 that tractor. I did not want the tractor to be fixed  
 18 because all these problems. So the solution was to  
 19 give me the money for the tractor or you give me a  
 20 new tractor. There was no reason for me to tell him,  
 21 "Well, you take it and you fix it."  
 22 Q. You didn't want the tractor to be fixed  
 23 and you didn't want the tractor at all, right?  
 24 A. No. I didn't want my tractor at all. I  
 25 wanted them to replace me the tractor. I didn't want

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1 that tractor. I'm still there trying to give them  
 2 the benefit of the doubt so they can replace the  
 3 tractor.  
 4 Q. Now you've sued AGCO for stealing the  
 5 tractor for conversion. So that's a little different  
 6 now.  
 7 A. To you, maybe. But, in my world, it's  
 8 not. You take my tractor. You don't tell me where  
 9 it is. You stole it. If you take my tractor to get  
 10 it fixed for a couple of weeks, it takes a month, at  
 11 least give me a call at least I know where it is. I  
 12 know where it is. I didn't even know where they took  
 13 the tractor. I never knew where they took the  
 14 tractor.  
 15 Q. And you didn't ask?  
 16 A. Sir?  
 17 Q. And you didn't ask?  
 18 A. Because I didn't know what their  
 19 intentions was. I didn't know what they were trying  
 20 to do. I thought he was going to give me a new  
 21 tractor or he's going to call me and say, "Hey, we're  
 22 going to give you a new tractor or we're going to go  
 23 ahead and pay you money." That was my understanding.  
 24 He took my tractor. I took legal actions. It's just  
 25 simple. I'm not sure what the confusion is. He

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1 stole my tractor.  
 2 Q. Let's go to page 83. What is this a  
 3 picture of?  
 4 A. That is the plate that is in the tractor.  
 5 It's telling you what the tractor is and, according  
 6 to me, that's who made the contractor.  
 7 Q. So you knew by this plate that AGCO  
 8 manufactured the tractor?  
 9 A. Right.  
 10 Q. But you just testified that you didn't  
 11 know who AGCO was?  
 12 A. Now we know. I mean, I didn't know this  
 13 information like -- you know, when I bought this  
 14 tractor, I didn't bought this tractor to be in these  
 15 problems. I didn't bought a tractor to be in a  
 16 situation. I didn't bought stress. I bought a  
 17 tractor to work, to do something, to make something  
 18 with this tractor. If I knew that we were going to  
 19 be in this issue, I would have investigated this to  
 20 the T. If you buy something, will you go with that  
 21 in mind that you have to check every single little  
 22 thing? No, you don't. You buy with faith. You buy  
 23 with what you think, what you know. But as I start  
 24 having all these problems, then I started looking  
 25 into it. I started searching and seeing it's not

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1 what it's supposed to be.  
 2 Q. Are you familiar with the term "buyer's  
 3 remorse"?  
 4 A. No.  
 5 Q. Let's go to the next page, which is 84, I  
 6 think. It says, "AGCO Corporation, Duluth, Georgia  
 7 USA." Is that what you interpreted to say made in  
 8 USA?  
 9 A. If it says -- 100 percent, you know. If I  
 10 look at my watch and it says Corsa (phonetic), I  
 11 think the brand is Corsa. If it says made in Esomar  
 12 (phonetic), then I say it's made there.  
 13 Q. Well, it doesn't say "made in" on this  
 14 plate.  
 15 A. To my understanding, all my years, I mean,  
 16 that plaque -- that sticker means a lot. It means  
 17 made in Georgia, to my understanding. So when I see  
 18 that and I read that in there, it tells me that the  
 19 tractor not only -- this I came to know later on. It  
 20 tells me that this tractor is a year older than what  
 21 I was told it to be and then it's symbol made in  
 22 Georgia, United States.  
 23 Q. Let's talk about that. So the model, you  
 24 believed that the tractor was a 2019 Massey Ferguson;  
 25 is that correct?

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1 A. You said what?  
2 Q. You said that the tractor was a year older  
3 than you thought it was.  
4 A. No. I was buying a new tractor, but I  
5 ended up getting an older tractor than it was  
6 supposed to be.  
7 Q. And what do you mean by that? You were  
8 buying a 2019 and you got a 2018; is that --  
9 A. Kind of the thing. '20. You get a '19  
10 year old -- I mean, older. I didn't know that.  
11 Q. And are you saying that because the date  
12 of manufacturer is listed 20/18/09?  
13 A. Correct.  
14 Q. Okay. Have you ever bought a car before?  
15 A. Yes.  
16 Q. Have you ever bought a new automobile  
17 before -- brand new automobile?  
18 A. Yes.  
19 Q. So, for example, the 2025 Chevrolet  
20 Silverado will come out fairly soon, if it has not  
21 come out, right?  
22 A. I guess.  
23 Q. And we're in 2024?  
24 A. Right.  
25 Q. And you can get the new 2025 Chevy

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1 Silverado and presumably it could be delivered to you  
2 in 2024?  
3 A. I get it. I understand.  
4 Q. So there's no misrepresentation there,  
5 right?  
6 A. Tractors are different, though.  
7 Q. How?  
8 A. It's a machine. Not a car. It's  
9 equipment. It's different -- I would think it was  
10 different standards how you make a tractor. It's  
11 something that you use for work. So I think it would  
12 be more legitimately up to date, I would think. I  
13 don't know. I think it's a little funny, though.  
14 That's just what I make out of this.  
15 Q. But nobody at AGCO ever told you that it  
16 was made after --  
17 A. Huh-uh.  
18 Q. -- 2019?  
19 A. I was buying a brand new tractor that  
20 year. That's what I knew.  
21 Q. How many hours did the tractor have on it  
22 when it was delivered to you?  
23 A. I was excited. I was guessing it probably  
24 had a couple of hours. Maybe five or six hours and  
25 that's probably, you know, from moving around the

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1 yard, probably.  
2 Q. You were right the first time. It had two  
3 hours on it. Next page, 86. And what is this page?  
4 A. So when we first did this, we were coming  
5 up with a projection of what would it take -- that's  
6 basically all the cost it took me to get my stuff for  
7 my trees ready. That's the only thing I can tell  
8 you.  
9 Q. Now, you testified this morning that you  
10 have seen zero revenue from the trees, right?  
11 A. Yeah. Because it's not -- do you know  
12 what a tree farm is?  
13 Q. Yes.  
14 A. So you plant trees and they grow. And  
15 when they are a specific height, you sell them. So  
16 that's basically what I was trying to do.  
17 Q. And your trees have not grown?  
18 A. No. I've got trees that are grown. They  
19 don't have to do with this. Some trees grow and some  
20 trees are already grown.  
21 Q. And you haven't sold those yet?  
22 A. No.  
23 Q. Do you have any plans to sell them?  
24 A. Of course.  
25 Q. When?

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1 A. I don't know. Maybe next year, maybe two  
2 years. I don't know.  
3 Q. The first column, the cost of the  
4 trees/plants, did you buy these as seedlings?  
5 A. Yes.  
6 Q. How long does it take to grow, for  
7 example, Catawba Crepe Myrtle to the point where you  
8 can sell it?  
9 A. You can sell them at any height.  
10 Obviously, you get less money. The bigger the tree,  
11 the more tree you get -- the more money you get for  
12 the tree.  
13 Q. When did you intend to sell, for example,  
14 the Natchez Crepe Myrtles?  
15 A. I mean, maybe two years after I planted.  
16 Q. Okay. You planted these in October of  
17 2022?  
18 A. So '22, '23, '24. Around this time, I  
19 guess.  
20 Q. Right. And you filed suit less than a  
21 year after you planted these trees, right?  
22 A. Repeat that question.  
23 Q. You filed this lawsuit less than a year  
24 after you planted these seedlings?  
25 A. Less than a year?

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1 Q. Yes.  
2 A. That was planted -- I was planting those  
3 trees before we sued you guys, before we even got  
4 into this.  
5 Q. Right. So you planted the trees in  
6 October of 2020. You filed suit in June of 2021.  
7 A. Okay.  
8 Q. So this that time period -- well, when did  
9 you put the irrigation in?  
10 A. So that was part of the reason with the  
11 tractor behind. I needed it in time so I can use the  
12 tractor to water the trees. And so if I would have  
13 had a tractor that would do that for me, I would  
14 have, say, a couple of months, maybe a month or so.  
15 So I would have needed the tractor in order to do  
16 that because it takes time to run irrigation.  
17 Q. So when did you install irrigation?  
18 A. After I planted the trees, I would say  
19 maybe -- because of the issue with the tractor, I  
20 lost a lot of trees. If I was to guess -- I don't  
21 remember. If I was to guess, I don't know, six  
22 months after. Because the tractor was very crucial  
23 for us not only to water the trees, but to clean the  
24 trees. Keep it clean.  
25 Q. So six months, give or take, after -- from

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1 October would be February of 2021, that's when you  
2 put in irrigation?  
3 A. No. I would say that's when I probably  
4 got everything completed that way I wanted it, if I  
5 got lucky, to the best of my recollection.  
6 Q. Okay. Just so I'm clear, can you give me  
7 your best guess of when you remember installing  
8 irrigation on your trees?  
9 A. I'm guessing six months after that.  
10 Q. Okay. And six months after October of  
11 2020 would be February of 2021?  
12 A. I'm not good with dates.  
13 Q. Okay. And between October of 2020 and  
14 February of 2021, you had a loaner tractor and then  
15 you had your own tractor?  
16 A. Again, I don't know dates. I don't know  
17 times. So...  
18 Q. Okay.  
19 A. So the first time -- I mean, I didn't  
20 plant it just that time. We were, you know, trying  
21 to get more trees. He did -- the loaner did help me  
22 from the beginning, but that was gone. And then the  
23 second time, there was no show. So kind of messed me  
24 up.  
25 Q. Did you have a -- what other implement

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1 were you going to use to cultivate the ground before  
2 you planted the seedlings?  
3 A. Cultivator, tiller, hiller.  
4 Q. Did you have a tiller?  
5 A. Yes.  
6 Q. An attachment or a separate piece of --  
7 A. Those things are called attachments.  
8 Q. And you had all of those?  
9 A. Yes.  
10 Q. Now, you say here you manually installed  
11 11,600 drip misters. Was that you who did that?  
12 A. Yes.  
13 Q. Once you have the drip misters, why do you  
14 need the water tank?  
15 A. At that point, you still need the tractor  
16 to -- emergencies just because, you know, you may  
17 have a timer go bad. If you don't have it, then you  
18 need to get in the tractor, get it full of water, and  
19 just water the trees. So, I mean, the tractor is  
20 crucial. However you put it, the tractor was a  
21 guarantee that I could just get on my tractor and  
22 just do stuff with my trees.  
23 Q. So we previously read that the warranty  
24 excludes liability for loss of crops, loss of profits  
25 or revenue, other commercial losses and

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1 inconvenience?  
2 A. So then why are we even talking about the  
3 trees, then?  
4 Q. Why are you seeking damages for trees?  
5 A. Okay.  
6 Q. The next page -- sets of pages are phone  
7 bills, 90 through 149. My question is: Why didn't  
8 you -- well, why -- why did you produce these?  
9 A. I don't know. I'm not sure why. I mean,  
10 look, this has been going on a long time. I don't  
11 know.  
12 Q. Could you get your phone bills for April  
13 20th through the 27th of 2021? Are those still  
14 available?  
15 A. I don't know.  
16 MR. CARROLL: Okay. Let's take a  
17 five-minute break.  
18 (Off the record.)  
19 (DEF. EXHIBIT 11, Collection of  
20 Documents, Bates stamped AGCO 00044-00082, was marked  
21 for identification.)  
22 BY MR. CARROLL:  
23 Q. Okay. Back on the record. Mr. Aguilar,  
24 I'm going to show you another set of documents now.  
25 So, Mr. Aguilar, this is AGCO's second document

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1 production and they are Bates stamped on the bottom  
2 right-hand corner AGCO 44 through 82. Have you ever  
3 seen these documents before? To make it easier,  
4 these were given to your counsel. Aside from  
5 litigation, you probably would not have seen them, if  
6 that makes it easier.  
7 A. I don't think I've ever seen this. I  
8 don't even know -- I'm not aware of any of this.  
9 Q. Okay. So this first page is AGCO 44 on  
10 the bottom right-hand corner and this is an e-mail  
11 from Michael Craft to Missy at Powell Tractor. Have  
12 you ever talked to Missy at Powell Tractor?  
13 A. No. I don't know who that person.  
14 Q. Do you have any reason -- hold on.  
15 (Off the record.)  
16 BY MR. CARROLL:  
17 Q. Back on the record. Mr. Aguilar, can you  
18 tell me about the transmission issues that you  
19 experienced on the tractor?  
20 A. So the first time the transmission problem  
21 occurred, I was actually hanging lights in a tree and  
22 it just made a very loud sound and it just codes on  
23 the tractor -- every light on the tractor came on  
24 telling me it was danger, danger. So I stopped  
25 immediately.

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1 Q. Okay. So it happened one time?  
2 A. No. That was the first time.  
3 Q. Okay. Do you remember when in the  
4 sequence of events you first had issues with the  
5 transmission?  
6 A. I don't know the time/date that was other  
7 than the tire was the first problem. The tire was  
8 the original first problem. The tire was splitting  
9 up and we covered that, I think. But the  
10 transmission -- serious problem with the  
11 transmission, that was the first time.  
12 Q. Okay.  
13 A. And, you know, reading this e-mail right  
14 here, I couldn't imagine -- I would be in the loss  
15 completely if I would have taken this tractor back.  
16 If I would have allowed them to repair my tractor one  
17 more time, I would be at a complete loss. I'm  
18 already in a loss now. But here in this e-mail,  
19 which I never heard and never seen this e-mail right  
20 here, if you read the last paragraph there, it tells  
21 you.  
22 Q. So what about the last paragraph tells  
23 you?  
24 A. It tells you right there that -- I don't  
25 know where this come from, but it says there this

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1 thing was -- this tractor was heading for a  
2 catastrophe failure.  
3 Q. "Don't know if this came from past repairs  
4 not being done correctly or misalignment in the  
5 transmission itself, but was certainly headed for a  
6 catastrophic failure." And this was after AGCO  
7 picked up the tractor, right?  
8 A. I'm assuming. I've never seen this. I'm  
9 assuming that this is from somewhere else where  
10 possibly my tractor is now. That's where this comes  
11 from.  
12 Q. July 18, 2021 was after April 28, 2021.  
13 You would agree with that at least, right?  
14 A. Again, I don't know dates. I was thinking  
15 this was coming from where the tractor is now or  
16 whoever has got my tractor or repaired my tractor.  
17 Q. Okay. So the next page, if you look,  
18 is -- this is an AGCO internal document, warranty  
19 claim details. And you will note on the unit usage,  
20 which is on the first top part column, 335 hours,  
21 which I believe is consistent with your prior  
22 testimony that the tractor had 335 hours on it?  
23 A. At the very end, yes.  
24 Q. And the amount here, credit debit amount,  
25 is the amount that AGCO paid to have the tractor

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1 repaired, \$8,843.61. Now, this is -- sorry. Still  
2 on the first page under warranty claim details,  
3 there's a date that's listed as repair date of  
4 October 4, 2021. Do you see that?  
5 A. Where?  
6 Q. Under warranty claim details and then  
7 repair date. Do you see that?  
8 A. I believe so.  
9 Q. Is that date consistent with your  
10 testimony that Jacob Willis called you in October of  
11 2021 to tell you that your tractor had been repaired?  
12 A. I don't know. I don't think so. I don't  
13 remember.  
14 Q. Okay. Let's go to the next two pages,  
15 AGCO 48 in the bottom right-hand corner. Now, this  
16 is a declaration from Amy Ganter, an inventory  
17 analyst of AGCO Corporation, stating that your  
18 tractor was manufactured by AGCO in China. Do you  
19 see that?  
20 A. Yeah, I see that.  
21 Q. And that is consistent with your  
22 understanding when you found out that the tractor was  
23 manufactured in China, right?  
24 A. I did not know the tractor was made in  
25 China.

<p style="text-align: right;">Page 154</p> <p>1 Q. Well, at some point you found out, though, 2 right? 3 A. Right. After trying to search into it. 4 Yes. 5 Q. How did you -- how did you learn that the 6 tractor was manufactured in China? 7 A. Probably by searching, I would guess. 8 Q. I want to go to AGCO 51. Do you know of a 9 man named Phillip Conner? 10 A. I don't remember. I don't think so. 11 Phillip? Phillip Conner? 12 Q. This is an e-mail produced to your counsel 13 from Phillip Conner to himself, October 11, 2019. It 14 says, "I spoke with Mr. Eswin on October 6th in 15 regards to the initial complaint about the Trelleborg 16 tire that was damaged." 17 A. Who is this Phillip guy? 18 Q. He is an AGCO employee. 19 A. I honestly -- I do not remember. I'm 20 pretty sure I didn't talk to anybody named Phillip. 21 Q. So you testified earlier that you talked 22 to someone at AGCO about your tire, right? 23 A. Jacob Willis. 24 Q. And you are absolutely sure that it was 25 Jacob you talked to --</p>	<p style="text-align: right;">Page 156</p> <p>1 Q. Do you remember whether or note you picked 2 up the tire? 3 A. I don't remember, but I'm pretty sure I 4 picked it up from Nance. 5 Q. From Nance? 6 A. Yeah. That's my best recollection. 7 Q. And then he says, "Chris and Henry, it was 8 determined that the tire was most likely cut from a 9 three point implement and was not a defective tire." 10 Is this what you were referring to they said that you 11 caused the tire issue instead of -- 12 A. Someone. This is -- this is really hard 13 for me because, you know, it aggravates me and I hope 14 I get a chance to -- to tell the jury this. You guys 15 have done nothing but try to put this on me, make me 16 look bad, put things on me. Beyond me -- what I 17 don't understand is the last time we had evaluation, 18 they told me that I had cut the tire. They had run 19 ballistics on the tire. They accused me of cutting 20 the tire. 21 Have you seen a tractor tire? I'm not 22 trying to be funny to you. Have you seen how big 23 those tires are? Can you imagine trying to cut the 24 tire purposely? You can get a chainsaw, you probably 25 will not cut the tire to the level of what this tire</p>
<p style="text-align: right;">Page 155</p> <p>1 A. One hundred percent. 2 Q. -- about your tire? 3 Do you dispute that it was a Trelleborg 4 tire? 5 A. I don't remember. You're talking about 6 the brand of the tire? 7 Q. Yeah, the manufacturer. 8 A. I can't remember who the manufacturer of 9 the tire was. 10 Q. Well, so do you recall reading in the 11 warranty that the rubber tires -- the original tire 12 manufacturer was responsible for replacement? 13 A. I understand. I mean, I'm not trying to 14 be hard to you guys, but I understand what you mean. 15 But keep in mind, this is a new tractor. 16 Q. So Phillip then goes on to say in this 17 e-mail, "Customer believes that the issue was from a 18 defective tire." Phillip contacted Schneider Tire in 19 Charlotte, who is a dealer for Trelleborg, and asked 20 them to take a look at the damage and determine if it 21 was a warrantable issue. Do you recall talking to or 22 dealing with Schneider Tire in Charlotte? 23 A. Nobody looked. Nobody called. Nobody 24 talked to anybody. The only person I talked to was 25 Jacob Willis.</p>	<p style="text-align: right;">Page 157</p> <p>1 was. It was -- in my experience, the tire was 2 defective. It was splitting apart. 3 So I don't understand. It blows my mind 4 and, quite frankly, it makes me angry for people to 5 assume that I cut the tire or any implement would cut 6 the tire. Implements do not touch the tire. 7 Implements are set to be a specific distance from 8 tires. You cannot touch the tires with any 9 implements. That would be a hazard. That would be a 10 tremendous liability for anybody who sell implements 11 that would cut tires. There's no such thing. 12 Q. But he references a three point implement. 13 Is he referencing the type of connection that the 14 implement uses, a three point hitch? 15 A. No. There is no such thing. But they run 16 ballistics to determine I cut the tire. 17 Q. Who ran ballistics? 18 A. Someone from your... 19 Q. Nance? 20 A. Somebody. 21 Q. Because I don't represent Nance. 22 A. Okay. Well, then the other guys. 23 Q. So then he says, "Friday, October 11th, I 24 called the customer to let him know the information 25 that I had found out." Again, this is Phillip Conner</p>

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1 talking. "He immediately started saying it was not  
2 his fault. He was going to have somebody, whether it  
3 be AGCO or Nance, pay for a replacement tire. To  
4 help smooth the situation, I offered to pay for the  
5 pickup and delivery of the tractor since it was in  
6 the shop for another warranty issue that was covered  
7 under warranty at the same time."  
8 A. Who is this guy?  
9 Q. This is Phillip Conner.  
10 A. I never -- I don't remember talking to any  
11 guy named Phillip. I don't -- I don't remember that.  
12 Q. "Ultimately, the customer became very  
13 upset and said he would be getting his lawyer  
14 involved at this time. We ended the conversation."  
15 A. That's not true. Why would I -- I mean,  
16 that's just definitely not true.  
17 Q. Why isn't it true?  
18 A. It's a tire. I just wanted to fix it.  
19 Why would I -- I mean, we're just starting with this  
20 tractor. I would have never said that.  
21 Q. Okay. Next page, AGCO 52. We'll  
22 represent to you this is another AGCO warranty claim  
23 and you would agree that, again, you had no dealings  
24 with Powell Tractor, right?  
25 A. I'm not sure who they are.

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1 Q. Okay. Have you ever taken any effort to  
2 learn who Powell Tractor is?  
3 A. No.  
4 Q. Okay. Let's go to page 59. This is  
5 October 12, 2019 and this was an amount \$300 paid to  
6 Nance for hydraulic clutches for speed range of  
7 reverser control and they replaced the failed  
8 component. Do you see the note at the bottom of the  
9 claim failure information external comments,  
10 "Approved per e-mail from Phillip Conner."  
11 A. Right.  
12 Q. Do you see that?  
13 Okay. You did not pay Nance Tractor for  
14 any repairs, right?  
15 A. No.  
16 Q. Let's go to AGCO 61. This is an AGCO  
17 warranty claim. At this point, the unit had 184  
18 hours. Do you see that?  
19 A. Yeah.  
20 Q. And the repair date listed is September 4,  
21 2020. Do you see that?  
22 A. Yes.  
23 Q. And the amount AGCO paid for the repairs  
24 was \$3,820.89. Do you see that?  
25 A. Yes.

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1 Q. So far to summarize, and we're in  
2 September of 2020, they have paid for a tire and at  
3 least \$4,200 in repairs?  
4 A. Right.  
5 Q. Okay. Let's go to AGCO 63 and the  
6 warranty notes for this additional failure details  
7 listed. "The customer claimed that a rock was thrown  
8 from a Mack truck which busted the front windshield  
9 out of the tractor while they were on the way to our  
10 shop to get their hydraulic and electrical problems  
11 fixed." And --  
12 A. The customer, me?  
13 Q. Yes. That is what they note you claimed  
14 was a rock was thrown from a Mack truck which busted  
15 the front windshield out of the tractor.  
16 A. They're saying that I called?  
17 Q. No. That's just what you said, I guess,  
18 to Nance. No?  
19 A. This is false.  
20 Q. Okay. But either way, that's at least  
21 why -- is that a possible reason why the windshield  
22 could have broken?  
23 A. I don't know how the windshield was  
24 broken. I don't know why would someone say that I  
25 had any knowledge or involvement with the windshield

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1 broken. In fact, there's an e-mail from Nance --  
2 from Michael Nance, the owner, complaining about the  
3 tractor being in the shop. He makes it no money. He  
4 wants it out of there, but he can't get it out  
5 because one of his employees broke the windshield.  
6 So it's a lot of contradiction on this paperwork.  
7 Makes no sense. And all of that is on you guys. I  
8 had nothing to do with the windshield. I have no  
9 knowledge of that.  
10 Q. That's why we're here today, is to try to  
11 figure out what happened. Okay. Let's go to AGCO  
12 65. This is for the rear lights not working  
13 correctly. Can you tell me about that issue?  
14 A. What do you mean, lights not working?  
15 Q. Well, I'm just reading the additional  
16 failure details. Do you see that on AGCO 65?  
17 A. Yeah. Where is this paper from, though?  
18 Q. So all of these are AGCO warranty claim  
19 details.  
20 A. From?  
21 Q. AGCO.  
22 A. Okay. I have not seen this paper, so you  
23 know. I don't know where this come from. I don't  
24 know. I haven't seen it. So this is new for me,  
25 like, literally.

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1 Q. Well, okay. Fair enough. You never  
2 remember an issue with the rear lights not working?  
3 A. We had a lot of issues, but I don't  
4 remember a rear light not working. That would be  
5 relevant to the problems we're going over, I guess.  
6 Q. Do you dispute that AGCO paid \$684 to  
7 correct rear lights on your tractor?  
8 A. I don't know what they paid. I don't know  
9 any of this.  
10 Q. Let's go to 67 -- AGCO 67. Again, this is  
11 still September of 2020. This record reflects AGCO  
12 paid \$284.87 to repair a loose connection for a fuel  
13 gauge. Do you remember a faulty fuel gauge?  
14 A. No. All those problems are completely  
15 you. So I'm not sure where this come from.  
16 Q. Let's go to AGCO 69. AGCO 69, this report  
17 indicates that the sleeve on the drive shaft was worn  
18 and not holding a bolt. Nance replaced the sleeve  
19 after doing diagnostics. \$305.21. Do you recall a  
20 sleeve issue being repaired?  
21 A. No.  
22 Q. Okay. Next let's go to AGCO 71. This  
23 report reflects the repair of a bleeder screw and  
24 AGCO paid \$46.87 to replace. Do you dispute that?  
25 A. I don't remember any of that. I never --

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1 again, I don't -- I never seen any of this.  
2 Q. Okay. Next page is AGCO 73. And I  
3 believe you testified previously about the hydraulic  
4 system, right?  
5 A. Somehow.  
6 Q. And Jacob Willis said that they were going  
7 to supervise it themselves, right, was your  
8 testimony?  
9 A. When Jacob Willis sent an engineer to my  
10 property to kind of figure out what is wrong with the  
11 tractor, I met David Summer there with a mechanic for  
12 Nance and he proceeded to do some series of tests to  
13 the tractor. He determined that the tractor was not  
14 calibrated properly. He also determined that the  
15 tractor was not up to date. He spoke with the  
16 mechanic and asked him if the hydraulic was flushed  
17 out of the engine or pump, whatever, three times and  
18 the mechanic didn't give no response to him. He then  
19 followed that was the procedure to do that. That's  
20 all I know about flushing anything. But to my  
21 understanding, that was a procedure that they failed  
22 to do, according to David. Which, quite frankly, he  
23 was upset about that.  
24 Q. How much did you pay for your Kubota  
25 tractor?

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1 A. I don't remember. I think that's  
2 somewhere. I don't know off the top of my head.  
3 Q. I haven't seen it anywhere either. Can  
4 you give me a ballpark range?  
5 A. I'll be guessing wrong, but I will say  
6 70-plus, maybe. Because when you buy a tractor --  
7 for some reason when you buy a tractor, you have  
8 to -- the implements -- some implements don't work.  
9 So you have to buy all of it again. That was the  
10 reason why I had to finagle the old bush hog, change  
11 some things, because I didn't want to spend ten  
12 thousands of dollars again to buy another bush hog.  
13 Q. So around \$70,000, you would say?  
14 A. I mean, if you want an accurate number, we  
15 can figure it out. But I don't know.  
16 Q. Okay. Have you taken any efforts to  
17 determine the value of a used Massey Ferguson 4700  
18 series, 2019 model, 335 hours?  
19 A. No.  
20 Q. And you have not attempted to trade in  
21 your Massey Ferguson tractor or tried to get any kind  
22 of value from it, right?  
23 A. After reading this e-mail right here on  
24 the front of the first page, I will be doing wrong to  
25 somebody if I do that. I mean, if you read this all

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1 right here, which we covered in the beginning, it  
2 would be immoral for me to sell or try to sell that  
3 machine to somebody because it's wrong. I couldn't  
4 do that to anybody.  
5 Q. And you noticed -- so you read the first  
6 page and then did you read the next page with the  
7 \$8,800 of work performed, this is AGCO 45, by Powell  
8 to repair and replace the failed components that  
9 Mr. Craft was mentioning?  
10 A. I see it now and I read it. I mean, at  
11 what point do you lose confidence?  
12 Q. I'm trying to figure out what steps you  
13 have taken to reduce your loss. You've talked a lot  
14 today about the loss that you have encountered  
15 because of this tractor.  
16 A. Okay. Well, first, I went and bought me a  
17 new tractor, which I was obligated to do so.  
18 Otherwise, I would have lost thousands of more trees.  
19 So...  
20 Q. So you bought a replacement tractor?  
21 A. Yeah. But, I mean, who has \$60,000 or  
22 \$70,000 to just go and get something? I mean, that's  
23 a lot.  
24 Q. Did you finance the Kubota?  
25 A. The Kubota, yes.

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1 Q. Did you pay it off?  
2 A. Isn't that personal? Do I have to answer  
3 that question?  
4 Q. Yes, you have to answer. Well, your  
5 counsel can tell you.  
6 MR. STUDEMAYER: Go ahead.  
7 THE WITNESS: No. I'm still paying  
8 on the tractor.  
9 BY MR. CARROLL:  
10 Q. And you would agree that as of October of  
11 2021, you knew that you could go pick up your Massey  
12 Ferguson 4700. Jacob Willis told you that, right?  
13 A. He didn't tell me where it was.  
14 Q. But he said it was repaired and ready for  
15 pickup, right?  
16 A. He called me and told me the tractor is  
17 ready. I told him I need to talk to my counsel.  
18 Keep in mind, this is a long time ago from when he  
19 took the tractor. It didn't happen, like, next week  
20 or a month later. This happened a long time. We're  
21 already into counsel. We're already doing things. I  
22 mean, so I can't talk to this guy. So I have to  
23 defer him to him, which that's all it went. No  
24 effort to his lawyers or you guys to him. So it  
25 didn't go nowhere.

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1 Q. Okay. How long is it -- can you tell me  
2 what is the period of time between April of 2021 and  
3 October of 2021? How many months is that?  
4 A. April '21?  
5 Q. April '21 to October '21, how many months  
6 is that?  
7 A. Seven months. Seven or eight months, give  
8 or take, I mean, depending on...  
9 Q. And then from October '21 until today, how  
10 long is that?  
11 A. From October '21 till now?  
12 Q. Uh-huh.  
13 A. I feel like you put me on the spot. I'm  
14 not good with numbers or math or dates.  
15 Q. Two and a half years.  
16 A. Okay.  
17 Q. So you've had two and a half years to pick  
18 up your tractor if you wanted to. You could have  
19 asked where it was.  
20 A. Would you pick up that tractor after all  
21 these things? Will you take that tractor? I hate to  
22 ask you that, but...  
23 Q. I'm saying you have not picked it up in  
24 the last two and a half years, correct?  
25 A. Because I didn't know where it was.

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1 Q. And Jacob Willis told you in April 2021  
2 that tractors depreciate, right?  
3 A. No.  
4 Q. You had a depreciated value?  
5 A. He never told me what it was and that was  
6 in talking based on what I have asked him.  
7 Q. You're a businessman, Mr. Aguilar,  
8 correct?  
9 A. Right.  
10 Q. You are aware of depreciation?  
11 A. To a point, yes.  
12 Q. Okay. So in October of 2021, the tractor  
13 had a certain value. It has since depreciated until  
14 today, right?  
15 A. Today?  
16 Q. It's lost even more value?  
17 A. Today?  
18 Q. Yes.  
19 A. Right. I get that.  
20 Q. You have not tried to pick it up, correct?  
21 You haven't tried to pick it up?  
22 A. No.  
23 Q. As of today, it is on the record that you  
24 know that it is at Powell -- it is at Powell Tractor  
25 in Westminster, South Carolina?

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1 A. Okay. And that would be advice that I  
2 would have to get from my lawyer to pick it up.  
3 Q. I'm justing saying as of today you know?  
4 A. Today.  
5 Q. There is no dispute today?  
6 A. No. I understand that.  
7 Q. You could go pick it up?  
8 A. Now we know. Now.  
9 Q. Okay. But you haven't gone to pick it up  
10 and you think morally you cannot sell that piece of  
11 equipment?  
12 A. I think I'll be doing somebody wrong if I  
13 go ahead and sell the tractor to somebody else that's  
14 going to deal with the problem. I think it's not  
15 right.  
16 Q. If you sold it to a dealership?  
17 A. If I sold it to a dealership, you're  
18 asking me?  
19 Q. (Counsel nods head.)  
20 A. I won't sell that tractor to anybody. I  
21 think it's wrong. I really think it's wrong. I  
22 don't know the answer to that question.  
23 Q. And you think that AGCO should have to pay  
24 for your decision not to try to sell the tractor?  
25 Essentially that's what you're asking?

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1 A. I don't understand that question.  
2 Q. Well, so you won't sell the tractor?  
3 A. Huh-uh.  
4 Q. It's not AGCO's tractor. So what's  
5 supposed to happen to the tractor?  
6 A. I gave those people a choice from the  
7 beginning. Give me a new tractor or pay me my money.  
8 That was very simple. So I don't know why we're here  
9 keep wasting time and money. I did that a long time  
10 ago and they refused to do so. So now you're asking  
11 me to go get this tractor that I wouldn't even sell  
12 to anybody because I don't know -- given all these  
13 problems, I don't think, in my opinion, it's fair to  
14 give to somebody else. I don't think it's right for  
15 that, but I do believe that whoever made this tractor  
16 is responsible for the tractor. AGCO is responsible.  
17 What is a tractor for these people? These are big  
18 guys. This is nothing for them.  
19 Q. Are you familiar -- do you know what a  
20 contract is, right?  
21 A. It depends, I guess.  
22 Q. Do you have contracts in your  
23 landscaping -- your hardscaping business?  
24 A. Yes.  
25 Q. And you give out -- you give a price

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1 quote, right?  
2 A. Yes.  
3 Q. Do you warrant your work?  
4 A. One hundred percent.  
5 Q. For how long?  
6 A. A long time.  
7 Q. How long?  
8 A. If I plant a tree, I will replace a tree  
9 several times. If I do a -- let's say a fancy patio  
10 for you, I will stay behind -- I have gone ten years.  
11 My warranty -- nobody can beat my warranty because I  
12 care for people. I have values and I'm not going to  
13 take your money and just screw anybody. I won't do  
14 that.  
15 Q. Do you have a written warranty?  
16 A. I'm sure, yeah.  
17 Q. You do?  
18 A. I'm sure.  
19 Q. Okay.  
20 A. For my business?  
21 Q. Yeah.  
22 A. I'm sure.  
23 Q. Okay. And you understand, then, that  
24 exhibit -- we talked about Exhibit 3, the AGCO  
25 limited warranty, right? Do you remember talking

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1 about that?  
2 A. Yeah. We talked about that.  
3 Q. Do you understand that the AGCO limited  
4 warranty is a contract between you and AGCO?  
5 A. I guess.  
6 Q. It's just like the warranty in your  
7 business. Just like you warrant your work, AGCO  
8 warrants what they manufacture, right?  
9 A. Right.  
10 Q. And we talked -- can you pull back up to  
11 Exhibit 3 and go down to the second part in the  
12 footnotes. No. 4, can you read that?  
13 A. "In addition to the standard warranty."  
14 Is that the one?  
15 Q. Yes.  
16 A. "The company will repair or replace, at  
17 its option, without charge for parts or labor, during  
18 normal working hours, any device -- any defective  
19 engine, transmission, drive axle casting, and/or  
20 components enclosed within these castings for an  
21 additional 12-month period provided the tractor has  
22 not been used for more than 2,000 hours."  
23 Q. Right. And so repair or replace at its  
24 option, does that mean that AGCO can choose whether  
25 or not to repair or replace? It has to do one of

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1 those two things?  
2 A. I think that's fair to say, but, I mean,  
3 to what point? I feel like they failed to fix it.  
4 They just failed to replace -- to fix the problem. I  
5 think that that goes with them saying, "Okay. I'm  
6 going to be responsible to fix -- to fix it." What  
7 does that mean? That means you're going to fix it.  
8 But when you don't fix it, that means you failed to  
9 fix it. That's what I understand that part. So,  
10 yeah, I'm giving you the chance. And believe me when  
11 I tell you this, I have gone above and beyond to give  
12 them chances and chances to fix my tractor and they  
13 failed and failed and failed. So at what point that  
14 doesn't set with anyone that something is wrong  
15 there. It's not fair. It's not right.  
16 Q. You would agree that the point is that  
17 they agreed to do that for two years or 2,000 miles  
18 -- 2,000 hours, whatever came first?  
19 A. Right. Which the tractor never exceeded  
20 it, though. It doesn't have 2,000 hours. It broke  
21 down way even before the time.  
22 Q. But two years has passed, right?  
23 A. But they failed to fix it.  
24 Q. Well, have you inspected the tractor since  
25 October 2021 when Jacob Willis called you?

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1 A. I gave them plenty of chances to fix the  
2 tractor.  
3 Q. And they did every time.  
4 A. They failed to fix the tractor. That's  
5 the part you and I are not seeing. They failed to  
6 fix the tractor because fixing to me is you fix  
7 something and it doesn't break down again. If this  
8 table is broken, then I fix it. Fixed. If it breaks  
9 again, then I didn't do my job good. You didn't fix  
10 the problem.  
11 That's the way I look at things and that's  
12 just common sense. They failed to fix my tractor. I  
13 don't know what else -- how else to explain that.  
14 And this started way before the 2,000 hours, way  
15 before the time of the warranty. So I don't  
16 understand it.  
17 Q. You haven't told me an instance where  
18 they -- where you told AGCO or told Nance there was a  
19 problem with the tractor and they did not come to try  
20 and fix it. You can't tell me an instance where they  
21 didn't do that.  
22 A. Okay. But at one point do you -- I mean,  
23 do you keep just letting things happen? Because  
24 that's what's happening here. If you read that  
25 e-mail right here -- if you go back to your paper,

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1 this right here says it was in the way for  
2 catastrophe. If I keep letting them do this and  
3 patch it, I would have passed the warranty. I would  
4 have been passed the warranty completely. I would be  
5 out of that and I would be with a broken tractor, out  
6 of thousands of dollars, which I already am. So  
7 this, to me, it was just always walking into a  
8 hole -- into a trap. That's what this is right here  
9 and it's clarified in there by some guy I've never  
10 heard of telling you that right there. You're asking  
11 me did they work on my tractor and they fix it and  
12 they did this. It makes no sense.  
13 Q. So you testified the second to last time  
14 that you talked to Jacob Willis, you e-mailed him.  
15 We read the e-mail and you said, "This has got to  
16 stop. My tractor is having an issue."  
17 A. Uh-huh.  
18 Q. Then you testified AGCO came and picked up  
19 your tractor. Then we saw in Exhibit 11, AGCO 44,  
20 Mike Craft agreed with you there was an issue. It  
21 needed to be resolved. AGCO -- and on the next page,  
22 AGCO 45, paid \$8,800 to fix the issue that you  
23 e-mailed Jacob Willis about on April 21st. Then you  
24 testified that on October 4th, Jacob Willis called  
25 you to tell you the repair had been completed and you

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1 said talk to my counsel and you washed your hands of  
2 it?  
3 A. It's not that simple the way you're  
4 putting it, though. I mean, that's not -- everything  
5 has -- everything worked up in order and the reason  
6 we got to the point is because it broke down so many  
7 times. So it just didn't break down once and I'm  
8 done with you. That's not fair. That's not true. I  
9 mean, I got to the point because enough is enough.  
10 How many more times is this tractor going to be  
11 broken for you guys to -- AGCO failed me by replacing  
12 my tractor with a new tractor. AGCO failed me by  
13 standing behind and saying, "You know what? We  
14 messed up with this tractor. Maybe you got a lemon  
15 or maybe this tractor was assembled in China and they  
16 didn't put it right. We're going to give you a new  
17 tractor. We're going to make it right for you  
18 because, as a customer, you shouldn't have to deal  
19 with that." That's where AGCO failed me. But,  
20 instead, here we are again. So I don't understand.  
21 I mean, it's simple the way you said it, but it's not  
22 simple because we got to the point for all these  
23 headaches, all these problems and aggravation and  
24 loss of money on top of that.  
25 Q. So this is how you -- well, you have sued

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1 AGCO for breach of express warranty, breach of  
2 contract.  
3 A. Not just that. I mean, it's a lot more.  
4 Q. Oh, I know. We went through that. And  
5 I'm focused just right now on this warranty. And  
6 AGCO told you they would repair or replace at their  
7 option and AGCO did exactly what they said they would  
8 do, right, in this express warranty?  
9 A. You may see it that way. I don't.  
10 Q. Well, they agreed to repair or replace.  
11 A. They did not replace.  
12 Q. No. They repaired.  
13 A. The tractor keeps breaking down. How do I  
14 know if I go pick up the tractor now and three months  
15 go by and it breaks down again and then what? Will  
16 you come pay me for my tractor? You see what I'm  
17 saying?  
18 Q. Well, we will never know because --  
19 A. I lost faith on that tractor. I lost  
20 faith on the product because they failed to fix my  
21 tractor numerous times. I hate that I'm showing you  
22 emotion because I don't want -- I'm not trying to  
23 beat you down. I know you're just doing your job,  
24 but I gave them plenty of choices and they failed to  
25 fix my tractor. So how much more do I need to keep

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1 taking? I don't understand this.  
2 Q. Okay. But on the express warranty, you  
3 would agree AGCO could repair or replace at its  
4 option and they decided to repair?  
5 A. Uh-huh.  
6 Q. You didn't give them the option to repair.  
7 You said either refund my money or replace?  
8 A. I gave them plenty of options.  
9 Q. Well, this last time, April --  
10 A. How many times does it need to be the last  
11 time? We're dealing with a limited warranty. We're  
12 dealing with -- obviously they're giving you time.  
13 They're giving you hours. You want me to keep taking  
14 this until we run out of that so that I'm in a -- I'm  
15 in a hole? I gave them plenty of options -- plenty  
16 of times to fix this tractor. I mean, this went back  
17 and forth four or five times and they didn't get it  
18 right.  
19 You're talking about this very specific  
20 last time. Maybe he should have done that from the  
21 beginning, taken it somewhere else. I don't know.  
22 If the tractor would have broke down one time and he  
23 would have fixed it and I'm fine with it and we see  
24 the warranty, we wouldn't be here. I get that. But  
25 he failed to fix my tractor. They failed to fix my

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1 tractor because they couldn't fix my tractor.  
2 Q. But you don't dispute AGCO paid every  
3 single time that Nance repaired it. AGCO paid  
4 Powell. AGCO called you and told you that the  
5 repairs had been made and that's what they told you  
6 they would do in this limited warranty?  
7 A. I mean, that's what you believe.  
8 Q. Well, no. Can you tell me any specific  
9 term that AGCO breached in this limited warranty?  
10 A. All I know is I am not buying a new car  
11 without having some kind of responsibility behind it.  
12 Someone has to be responsible for that. My truck --  
13 brand new truck, GMC, went back to the shop three  
14 weeks ago. They put two new batteries, replaced a  
15 bunch of cables, warranty, no problem. That's how  
16 you fix problems. I don't have anymore problems with  
17 my truck. They didn't do that. They fixed it, came  
18 back, broke down again. So what does that tell you?  
19 They didn't fix the problem.  
20 Then on the e-mail you see here that you  
21 just gave me, it clarified -- tells you right there  
22 that whatever -- all the repairs that they did, all  
23 the attempts that they tried to fix it, they didn't  
24 get it. They didn't get it right because it says  
25 right here it was headed for a catastrophe. So that

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1 tells you that they failed to fix the problem.  
2 Q. That's Nance. Nance failed. AGCO, who  
3 you are suing, AGCO --  
4 A. AGCO because they are responsible for  
5 fixing my tractor. Where they send my tractor is  
6 their problem, not mine.  
7 Q. AGCO says you take it to an authorized  
8 AGCO dealer and AGCO will pay. That's what Exhibit  
9 3, limited warranty, says. You take it to an AGCO  
10 dealer and AGCO will pay for the repairs. That's  
11 what they told you they would do, repair or replace.  
12 So can you tell me any instance where they didn't do  
13 what they said they were going to do in this limited  
14 warranty?  
15 A. I can't because my way of understanding  
16 that is different from yours and I believe it's  
17 different from everybody else. For me fixing  
18 something, you fix it. It's broken, fix it, it's  
19 fixed. There's no more problems up until you are  
20 released from the problem. Which I get what you're  
21 saying, 200 hours warranty. I get it, but they  
22 failed to do that. So they failed me on that,  
23 though. I don't -- I don't understand why. Maybe  
24 I'm the only one that sees it that way. They failed  
25 to do so.

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1 Q. As of October 4th, they told you that they  
2 had, again, done what they said they were going to  
3 do, but you didn't go pick it up?  
4 A. Because it's a little too late for that.  
5 Q. Well, it wasn't too late for AGCO to pay  
6 for it?  
7 A. It's their tractor. It's their  
8 manufacturer. It's their product.  
9 Q. And they did what they said they were  
10 going to do with it. They paid Powell to repair it.  
11 A. I don't think they did. They may have  
12 now. I don't know. But they put too many bandages  
13 on the tractor that I'm not comfortable. I'm just  
14 not. I lost faith on the tractor. I lost faith on  
15 the manufacturer. I just can't.  
16 Q. So you don't want the tractor back?  
17 A. Not that tractor.  
18 Q. Okay. While we're on the subject of  
19 contracts, let's go back to Exhibit 2. Are you  
20 feeling okay? Do you need a break, Mr. Aguilar?  
21 A. I'm good. Thank you.  
22 Q. Exhibit 2. We're going to go to Exhibit A  
23 in Exhibit 2 again. We talked about this earlier,  
24 but I want to make sure. The first page of that  
25 we're talking about the retail installment contract

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1 and security agreement. And, again, on the first  
2 page the buyer is listed as your name and signature,  
3 right, on the bottom?  
4 A. That's correct.  
5 Q. And then the seller's name is Nance  
6 Tractor & Implement, Inc., right?  
7 A. I believe so.  
8 Q. Is that Andy who signed that?  
9 A. I don't know. It appears. I couldn't  
10 tell you.  
11 Q. Okay. And then the other party -- so  
12 those are two contract parties, right? You as the  
13 buyer and Nance as the seller, right, on the first  
14 page? That's what the bottom says in the buyer's  
15 signature block is Eswin Ariel Aguilar -- is it  
16 Pineda?  
17 A. Pineda. That's what it appears to be. I  
18 mean, it's hard to read this, though.  
19 Q. Well, I'll I'm just --  
20 A. I mean -- I mean, and if I knew I would be  
21 in this situation, I would not have signed this. I  
22 would have never agreed to this. I would have  
23 never -- I would never have done that. So just so  
24 you know. So you try to have a little bit of faith  
25 on a product, so you try to possibly overlook

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1 something like this.  
2 Q. Well, AGCO isn't a party to this document.  
3 It's AGCO Finance, LLC, right?  
4 A. AGCO is everything. AGCO is the tractor.  
5 Q. Okay. If AGCO is everything, then why did  
6 you sue three separate people?  
7 A. Because they all three are in. They are  
8 all together. I mean, I don't know -- I don't know  
9 how they run the business. I mean, they all are  
10 together. That's the best way I can describe it to  
11 you.  
12 Q. I mean, I understand how -- what you're  
13 describing. I'm saying -- let's go back to the  
14 example of you're a businessman. When Capital Stone  
15 commits to a project, it is Capital Stone and it is  
16 your name on the line personally, right?  
17 A. Yes, sir.  
18 Q. And then your customer?  
19 A. Yes, sir.  
20 Q. But your wife isn't a party to that  
21 contract, right? She didn't sign it?  
22 A. She's part of the company. She's part of  
23 it.  
24 Q. Okay. What about Emerald Farms? Are they  
25 involved?

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1 A. No. That's a different business.  
2 Q. Okay. So you understand that. There's a  
3 different business even though Emerald Farms does the  
4 trees, right?  
5 A. I guess.  
6 Q. Okay. So Emerald Farms would not be  
7 involved in your Capital Stone -- they wouldn't be a  
8 party to that contract?  
9 A. Okay. But if Emerald Hills Farms sells  
10 trees to some random person, then I have to somehow  
11 be liable for that. I can't sell trees that are not  
12 good. I've got to sell trees that are healthy, that  
13 are good trees.  
14 Q. Well, yeah. So then that person would sue  
15 Emerald Farms and Capital Stone and you?  
16 A. I mean, it depends.  
17 Q. It depends on what?  
18 A. If they're together, I guess. But if  
19 they're not, I guess. I don't know. Listen, I don't  
20 know. Again, I don't know how they run the business  
21 there, but all I can tell you this is AGCO product.  
22 That makes him a problem. So if it's not a problem,  
23 why did he even assume responsibility to fix my  
24 tractor then?  
25 Q. Well, because of this contract, the

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1 limited warranty, Exhibit 3. That's why AGCO is  
2 involved, right? AGCO is all over this document,  
3 right?  
4 A. But if it's not yours, why even bother to  
5 be part of that, then?  
6 Q. But it is. AGCO Corporation manufactured  
7 the product, right?  
8 A. Yeah. It's an AGCO tractor.  
9 Q. Yes.  
10 A. It's AGCO problem.  
11 Q. Yes. And AGCO issued a limited warranty  
12 for those problems and that's this contract?  
13 A. Which they failed to do so.  
14 Q. Okay. But now going back to this  
15 contract, this is for AGCO Finance to finance the  
16 purchase of the tractor, right?  
17 A. (Witness shrugs shoulders.)  
18 Q. So you're familiar with the purchase of  
19 your Kubota tractor. You financed it?  
20 A. Okay.  
21 Q. That was your testimony, right?  
22 A. Right.  
23 Q. Okay. And you're making monthly payments,  
24 right?  
25 A. Right.

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1 Q. Just like this contract says, right?  
2 A. Okay.  
3 Q. And so that contract is your financing  
4 contract, right? This contract doesn't say anything  
5 about replacing or repairing or number of hours.  
6 A. Is this part of this? Is this part of  
7 this?  
8 Q. Yes.  
9 A. Can you read all that?  
10 Q. Yes. I can continue to read it all day.  
11 A. You'll probably get exhausted. You  
12 probably don't want to do that. I can't read that.  
13 Q. You'd be surprised.  
14 A. Well, more power to you because I can't  
15 read this. There's no way I can read this.  
16 Q. Okay. So what I will read to is -- and  
17 you can follow along and tell me if I'm making a  
18 mistake. On the second page and there's paragraph  
19 four that begins, "Assignment Acknowledgments of  
20 Buyer." Do you see that on the fourth right there?  
21 A. Okay.  
22 Q. Do you see, "Assignment Acknowledgments"?  
23 A. Okay.  
24 Q. And if you go down to the -- there's all  
25 caps language that says, "In no case buyer/seller

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1 assignee shall be liable for any incidental or  
2 consequential damages." Do you see that? I'm not  
3 going to read the rest of that sentence, but I want  
4 you to look at the sentence right after the all caps  
5 language, the second page of Exhibit A of Defendant's  
6 Exhibit 2. And it says, "Buyer further  
7 acknowledges." Buyer is you. Would you agree with  
8 that? Yes, buyer is you?  
9 A. I mean, I guess.  
10 Q. "Buyer further acknowledges each of the  
11 following: Assignee," which we know from the first  
12 page is AGCO Finance, LLC, "is not the manufacturer  
13 of the machinery or the manufacturer's agent or an  
14 agent therein. The machinery is of a size, design,  
15 capacity, description, and manufacturer selected by  
16 buyer. Buyer is satisfied with the machinery, is fit  
17 for buyer's purpose. Assignee has no knowledge  
18 or" -- now I will admit that is a hard word to read,  
19 so I'm going to skip that. "Regarding the condition  
20 or suitability of the machinery for buyer's purposes  
21 and assignee has relied upon buyer's warranties,  
22 agreements, and covenants therein."  
23 So that is what that says. This is the  
24 contract. So the manufacturer, you would agree, is  
25 AGCO? That's what you've testified. AGCO

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1 manufactured the tractor?  
2 A. Right.  
3 Q. So AGCO is not a party to this agreement  
4 and you specifically acknowledged that in this  
5 contract?  
6 A. I can't agree to that. I don't -- I'm  
7 not -- I can't agree to that.  
8 Q. Well, you did agree when you signed this  
9 agreement.  
10 A. Yeah. But what options do I -- okay. I  
11 will give this paper to anyone randomly other than  
12 you and myself and I would ask them to sign this, but  
13 they've got to agree to that. I can assure you  
14 that -- I can almost be 100 percent sure that ten out  
15 of ten would not be able to read that. You expertise  
16 as a lawyer is to know these things. I don't as a  
17 customer. I don't -- this is not my trade. This is  
18 your trade. So you know about warranties. You know  
19 about all of this. I don't.  
20 A random person that goes, they're not  
21 going to have -- they're not going to have the time  
22 to read this. They don't know these things. I don't  
23 know what this is. So you expect me to be able to  
24 read this and understand it? You can't even read  
25 these things.

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1 Q. Respectfully, you are a -- you are a  
2 businessman?  
3 A. I understand that. But, I mean, we go  
4 back to the point that, you know, how is it  
5 possible -- how is it a good practice to create a  
6 product that we're just going to shove -- shove to  
7 the client and we're just going to let him deal with  
8 that? How is that a good practice?  
9 Q. That is not a good practice, but that's  
10 not what AGCO did. AGCO issued a limited warranty  
11 and it did exactly what it --  
12 A. That's what they did because they  
13 manufactured a tractor in China and sold it to me  
14 saying that it's made in Georgia, No. 1. No. 2.  
15 Okay. No. 2, then they say that they're going to  
16 stay behind the tractor by fixing it with the  
17 warranty. They failed to fix it. So how can that be  
18 a good practice?  
19 Q. So in your prior testimony you said that  
20 nobody from at AGCO talked to you before you bought  
21 the tractor. So nobody from AGCO told you it was  
22 made in America or China or otherwise. That was your  
23 prior testimony. Do you care to change it now?  
24 A. I don't understand the question.  
25 Q. So you previously told me you talked to

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1 nobody from AGCO before you bought the tractor.  
2 A. Right.  
3 Q. Is that still your testimony?  
4 A. Yeah. I didn't talk to anybody before  
5 buying the tractor.  
6 Q. Okay. My questions regarding this  
7 installment contract are: Is AGCO Corporation -- I  
8 want you to agree with me that AGCO Corporation is  
9 not a party to this contract.  
10 A. You're asking me to agree to something  
11 that you cannot read. That's my point to you,  
12 though. So I don't think -- and I'm not  
13 disrespecting you. I'm just telling you. You asked  
14 me to agree that even though I signed this document  
15 here, you ask me to agree that somewhere in here AGCO  
16 is not involved. You're asking me to agree and you  
17 cannot read all of this.  
18 Q. No. What I'm really asking you to agree  
19 is you've got a signature from you as the buyer on  
20 the first page. You've got a signature from Nance  
21 that's buyer on the first page. You go to the third  
22 page and you've got a signature from AGCO Finance,  
23 LLC. So you have three signatures here.  
24 A. Okay.  
25 Q. You don't have four signatures because you

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1 don't -- you don't have AGCO Corporation signing.  
2 A. But AGCO is using -- I mean, is working  
3 with these people there to sell tractors -- their  
4 tractors.  
5 Q. Yes. And for that, they issued a limited  
6 warranty.  
7 A. It's their tractors. I mean, we -- look,  
8 I don't know. We can dance around this thing. At  
9 the end of the day, you're asking me to -- you're  
10 asking me to agree to something that I cannot agree  
11 now. Obviously we have this problem and I can't  
12 agree to that. So I don't know what else makes any  
13 sense to you. I mean, I'm sorry. I can't.  
14 Q. Well, you would agree that there are only  
15 three signatures on this -- or there are three  
16 parties that signed this document?  
17 A. Obviously it's only three. We can't find  
18 four.  
19 Q. Okay. That's what I needed to know. And  
20 then going back to Exhibit, B and you can look  
21 through it, but I see -- and tell me if you see  
22 something differently. I see the name AGCO Finance  
23 who received \$150 on each of these transactions.  
24 A. Right.  
25 Q. And then I see a list of dealers that

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1 received fees, but I don't see AGCO Corporation  
2 listed as someone who received fees on any of these  
3 pages. Do you see?  
4 A. Either way it's baloney to me.  
5 Q. Well, that's not my question. My question  
6 was: Do you see AGCO Corporation? I see Nance. I  
7 see Powell, Atlantic Southern, Harrington.  
8 A. I guess what -- I guess what -- I guess my  
9 confusion is AGCO is for Nance. They're working  
10 together. They are -- you know, they represent --  
11 they are representing them.  
12 Q. Yeah. As a dealership.  
13 A. That's your product. I mean, not you  
14 literally. I'm talking about them. So that's you.  
15 That's the way I look at it.  
16 Q. But Nance also represents other products.  
17 Bush Hog, Kuhn.  
18 A. Maybe. I don't know.  
19 Q. And then you e-mailed them separately too.  
20 So they are separate entities.  
21 A. Well, you can -- I mean, that's just the  
22 way the world works. I mean, you can't e-mail one  
23 person, you know. You get an e-mail, she gets an  
24 e-mail. It's the same company, different people.  
25 Q. We saw earlier in your e-mails this was

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1 not an AGCO issue. This is a workmanship issue for  
2 Nance?  
3 A. I mean, at some point someone has to take  
4 some responsibility. I mean, isn't that the way it  
5 works? At some point, someone has to take some  
6 responsibility. This is an AGCO problem no matter  
7 how you look at it. They built a machine that is no  
8 good. Okay? And they failed to fix it and they  
9 failed to stay right by me as a customer. I don't  
10 know what else I can say on that.  
11 Q. Well, AGCO actually did do something and  
12 they came and picked up the tractor and now you're  
13 claiming they stole it.  
14 A. Because they did. Because of the  
15 definition of you -- your definition of fixing  
16 something is different from mine. That doesn't mean,  
17 I mean, you're wrong, I'm wrong, or somebody is  
18 wrong. I mean, it can -- you can say they fixed  
19 it -- you can't say that they fixed it when they  
20 didn't fix it. So my opinion is if they failed to  
21 fix it, they should replace it, which I gave them the  
22 choice. From the beginning, I gave them plenty of  
23 choice. My tractor -- new tractor. It's still their  
24 product, which to this point I don't want nothing to  
25 do with Massey Ferguson. Okay? But I still give

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1 them a choice to replace -- give me another tractor  
2 or give me my money back. They refused to do so. So  
3 I feel like I gave them plenty of choices plenty of  
4 times and they failed every single time. They  
5 failed. And in conclusion, they stole my tractor.  
6 It's just obvious. You don't see it that way. I  
7 don't know what else to tell you, but they pretty  
8 much stole my tractor. That's just the bottom line.  
9 Q. And then when they told you it was  
10 repaired and you didn't go try to pick it up, you're  
11 fine with them stealing your tractor?  
12 A. I'm not fine with nobody stealing  
13 anything, just to be clear. I'm not fine with  
14 anybody stealing my tractor, but they did by failing  
15 to tell me where my tractor was. We pushed them to  
16 ask. You guys didn't even know where my tractor was  
17 until recently.  
18 Q. But you didn't ask where the tractor was.  
19 A. But you took my tractor. So you are  
20 obligated to tell me what's wrong with my tractor.  
21 Is it not fair to say you are obligated to tell me?  
22 You go to the doctor. What do you expect from the  
23 doctor? You expect him to diagnose you and tell you  
24 what's wrong with you. Okay. Otherwise, you won't  
25 pay. Simple. That's the reason. It's just common

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1 sense. You took my tractor. Tell me what's wrong  
2 with my tractor. Tell me what you're going to do.  
3 Figure it out. But they failed to do so. They  
4 didn't tell me where my tractor was going. They  
5 didn't tell me what was wrong with my tractor up  
6 until, what did you say, eight months or a year.  
7 Q. October 4th they tell you that -- well,  
8 you testified October 4th he told you it was  
9 repaired.  
10 A. How long, in your opinion, is it enough  
11 time for you to determine when something is stole or  
12 not? How long do you think?  
13 Q. That is not a question for me to answer.  
14 A. I get it. Maybe I'm not -- I get that.  
15 Q. So in your scenario, though, what do you  
16 think would happened if you went to the doctor and he  
17 said, "Well, I need to look at the test results."  
18 And before the test results come back, you hire a  
19 lawyer and sue him for looking at you wrong?  
20 A. If you hire a lawyer the next day, I guess  
21 you're wrong. I didn't hire a lawyer the next day.  
22 Okay?  
23 Q. Okay.  
24 A. But if you wait around, you'd be stressed  
25 as crap. You're not going to get an answer from your

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1 doctor. I tell you that.  
2 Q. Well, he's not going to talk to you after  
3 you hire a lawyer, right?  
4 A. Yeah. But, again, if your doctor don't  
5 call you in two weeks, I think you'd be worried. So  
6 there's got to be a limit of time.  
7 Q. Let's do a little bit of new material.  
8 (DEF. EXHIBIT 12, AGCO Registration  
9 Submittal, was marked for identification.)  
10 BY MR. CARROLL:  
11 Q. Mr. Aguilar, this was produced by Nance  
12 when Nance was still in the case before they settled  
13 and this appears to be a registration submittal for  
14 your tractor. Any reason to dispute that Nance  
15 produced this document one way or the other?  
16 A. Just to be clear, I don't trust any  
17 documents that come from you guys. Just to be clear.  
18 Q. I know. But do you have any reason to  
19 dispute --  
20 A. Well, I do have reasons, but, I mean,  
21 I'm --  
22 Q. Any reason you know of today right now?  
23 A. Well, there was a date wrong on some  
24 documents in there. So just to be clear -- I just  
25 want to be sure we're clear on that.

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1 Q. Are you aware that that -- the date issue,  
2 specifically what you're referring to, in e-mails was  
3 addressed to the court earlier this year?  
4 A. The question is if I agree with the date?  
5 Q. No. I was asking if you were aware of the  
6 specific issue you mentioned, the wrong -- the  
7 incorrectly dated e-mails, that that was resolved  
8 with the court?  
9 A. Listen, that probably will be a question  
10 for him, but it was wrong.  
11 Q. Are you aware that that's been addressed?  
12 A. I guess to a point. I don't -- I have no  
13 choice the accept whatever is happening, but, I  
14 mean...  
15 Q. Okay. And according to this document --  
16 A. I don't think it was an accident, though.  
17 Q. According to this document, the tractor  
18 was delivered with two hours. Do you see that?  
19 A. Yes.  
20 Q. Is that consistent with your recollection?  
21 A. When I first bought it, yes.  
22 Q. Now, did you tell Nance -- do you remember  
23 at some point if you were going to use the tractor  
24 for livestock production?  
25 A. If I told Nance I was going to use the

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1 tractor for livestock?  
2 Q. Yeah.  
3 A. I don't remember that question. I don't  
4 remember that.  
5 Q. And then so on the checklist, Nance says  
6 -- so there's Y's listed. Y's mean yes, assuming,  
7 and then N means no and they have indicated yes to  
8 everything except for the extended warranty purchase.  
9 Do you see that?  
10 A. Yeah.  
11 Q. And you did not purchase an extended  
12 warranty at the time?  
13 A. Yeah. But after the tractor broke down a  
14 few times, not only he agreed to extend the warranty,  
15 but he actually said, "We will give you an enhanced  
16 warranty," which goes -- that's pretty -- my opinion,  
17 the way I understand it, that's like a specific --  
18 Q. Jacob Willis?  
19 A. -- I will take extra care of your dog,  
20 kind of way. I'm not just going to take care of your  
21 dog. I'm going to take extra care of your dog.  
22 That's the kind of way I look at it when he says, "I  
23 want to give you extended warranty -- an enhanced  
24 extended warranty" when my tractor was broken down  
25 first few times.

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1 Q. That was Jacob Willis?  
2 A. Yeah. So, again, why would Jacob Willis  
3 be telling me this if I'm going to have to be dealing  
4 with this?  
5 Q. And you still don't believe it's because  
6 they've issued this limited warranty to you that says  
7 they're going to repair or replace for two years?  
8 A. But, again, they failed to do so.  
9 Q. Well, at least at some point he offered an  
10 extended warranty, right?  
11 A. Yes.  
12 Q. Is there -- for your tractor where the  
13 operator's manual is, is it underneath the seat or is  
14 there a compartment?  
15 A. There is a little compartment on the back  
16 of the seat on the side. More like in the back, I  
17 think.  
18 Q. Do you remember when AGCO picked it up on  
19 April 28th -- the operator's manual was in that  
20 thing. Do you think there were any other documents  
21 in there?  
22 A. I don't remember seeing anything else.  
23 Q. When Andy delivered the tractor, you don't  
24 remember any other documents?  
25 A. (Witness shakes head.)

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1 Q. What about the -- what about the manual  
2 for the bush hog? Where is it?  
3 A. I don't remember, honestly. I mean, it  
4 was -- it was literally quick. I mean, like I said  
5 -- like I stated before, you know, you buy the  
6 tractor and after that, it's almost like done deal.  
7 They don't want to spend no more time with you, which  
8 I get it to a point.  
9 Q. On the retail installment contract, did  
10 you sign that in Nance -- like, at the dealership?  
11 A. Yes.  
12 Q. Okay. You mentioned something about -- so  
13 is there a fence around your property?  
14 A. My property?  
15 Q. Yes.  
16 A. Yes.  
17 Q. And it's gated too?  
18 A. Yes.  
19 Q. Is there, like, a code to get in or are  
20 they motorized gates?  
21 A. Yes.  
22 Q. Is there a code to get in?  
23 A. Yes.  
24 Q. Okay. Did you give Jacob Willis the code  
25 to get in your gate to move the tractor?

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1 A. No. Jacob Willis did not pick up my  
2 tractor.  
3 Q. Who came to pick up your tractor?  
4 A. I have no idea.  
5 Q. Any idea --  
6 A. I don't know who or what come and got my  
7 tractor. Somebody came and got my tractor, but it  
8 was not Jacob Willis.  
9 Q. How did they get in your gate?  
10 A. Somebody -- he must have sent somebody out  
11 there or somebody came out to my property and got the  
12 tractor. If somebody is at the gate, normally if we  
13 see them -- if I'm not at the house, my wife sees  
14 them, she more likely opened the gate because  
15 obviously someone was trying to get in. So I don't  
16 remember, but maybe she did open the gate for someone  
17 to come in and assumed because I have vendors coming  
18 in and out or people come in and drop things, stuff  
19 like. Maybe she had some hay. Maybe he had somebody  
20 coming to pick up hay. So she probably let him in.  
21 I can't remember exactly.  
22 Q. Do you have one or two gates?  
23 A. Two.  
24 Q. Are they both motorized?  
25 A. Yes.

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1 Q. You said you work 15 hours or so a day.  
2 Do you work -- are you generally away from home  
3 during the day?  
4 A. No. I mean, like you start working.  
5 You're just working.  
6 Q. But you're not, like, up on a --  
7 A. I'm not leaving at 5:00 --  
8 Q. -- job site?  
9 A. -- and coming back at 8:00. That's not  
10 what I meant.  
11 Q. Okay. So you are generally at home?  
12 A. I would think that 50 percent of the time  
13 I'm at home.  
14 Q. But you were not home the day they came  
15 and picked up the tractor?  
16 A. No. I would have been home if I would  
17 have known. I would have made an effort to be home  
18 because that is a big deal to me.  
19 MR. CARROLL: Does anybody need a  
20 break?  
21 (Off the record.)  
22 (DEF. EXHIBIT 13, AGCO's First  
23 Document Production, Bates stamped AGCO 00001-00041,  
24 was marked for identification.)  
25 BY MR. CARROLL:

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1 Q. Mr. Aguilar, this is AGCO's first document  
2 production in this case and I want to revisit an  
3 issue that you just mentioned about the e-mail dates.  
4 And just to shortchange it, the first thing you have  
5 -- your counsel had issue with, I believe, was AGCO  
6 20.  
7 A. Yes.  
8 Q. And at the top I believe there's the first  
9 value archived, right?  
10 A. Right.  
11 Q. At the top of AGCO 20, there's an archived  
12 value from Willis, Jacob G. and then sent Thursday,  
13 July 8, 2021 at 4:07 p.m., right? And there's a "To"  
14 and then "Subject" and "Sensitivity." And are you  
15 familiar with Outlook?  
16 A. No.  
17 Q. Okay. I'll represent to you that Outlook  
18 is a Microsoft app -- application that, among other  
19 things, operates to organize e-mails. Am I correct  
20 in remembering that the issue is this e-mail was not  
21 actually sent on July 8, 2021, but much earlier in  
22 January, the e-mail from Jacob?  
23 A. I believe so.  
24 Q. And then are you aware that we  
25 investigated your allegation of misdating the

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1 e-mails? Are you aware of that?  
2 A. Are you asking if I'm aware that you guys  
3 did what?  
4 Q. Looked into this issue of the date on the  
5 e-mail. Are you aware of that?  
6 A. Yes.  
7 Q. Okay. And it was discovered that July 8th  
8 was the date that this e-mail was forwarded to me?  
9 A. I guess.  
10 Q. Okay. But that that issue has --  
11 A. If that's what you guys want to call it,  
12 yes. I mean, if that's what you guys concluded. I  
13 don't know who concluded this okay, though.  
14 Q. Okay.  
15 A. So I think it's funny, my point to you,  
16 though. It looks just very, very, very funny.  
17 Q. But then other than the -- other than the  
18 date up here at the top, there's nothing else  
19 different between these e-mails?  
20 A. Well, I mean, not that I'm aware of. I  
21 mean, you see all these papers in here. You have  
22 thousands of pages. I can't keep up with all the  
23 stuff.  
24 Q. Now, let's go to -- let me make sure there  
25 was nothing else in here. I'm done with this, then.

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1 Let's go back to Exhibit 2, paragraph 139, which is  
2 on page 17.  
3 A. Page what?  
4 Q. Seventeen. In paragraph 139 you say,  
5 "AGCO misled the plaintiff concerning its ability to  
6 cure the defects in the tractor and strung the  
7 plaintiff along for over two years while its warranty  
8 expired, depriving the plaintiff of the benefit of  
9 his bargain." Is that paragraph essentially saying  
10 that AGCO didn't do what it was supposed to do under  
11 this agreement?  
12 A. I would think so. Yeah. Because, you  
13 know, it's almost like you're buying time just until  
14 my warranty runs out.  
15 Q. Okay. And then paragraph 140, AGCO  
16 included contractual provisions in its retail  
17 installment contracts. You raised this issue -- the  
18 retail installment contract issue in your first  
19 complaint, right?  
20 A. Right.  
21 Q. And then paragraph 141, breached its  
22 express warranty by failing to repair the tractor  
23 despite five attempts to do so, selling the plaintiff  
24 a lemon. That is, again, you're asserting a claim  
25 against AGCO based on the limited warranty. They

<p style="text-align: right;">Page 206</p> <p>1 didn't do what they were supposed to do under the 2 limited warranty, right? That's what that paragraph 3 141 -- 4 A. I think so. 5 Q. -- is saying? 6 And then 142, AGCO has allowed its 7 authorized dealers to charge the administrative fees 8 for the sole purpose of generating additional 9 revenue. You raised this issue on the administrative 10 fees in your first complaint? 11 A. Right. 12 Q. Okay. And then AGCO engaged in fraud by 13 fabricating discovery. Is that allegation 14 specifically related to the e-mail date issues? 15 A. I mean, that adds onto the -- I mean, 16 that -- I mean, yeah. 17 Q. Let's do this. We talked about your -- in 18 Exhibit 10, I asked you if you had those pictures 19 still in color, right? The pictures we looked at in 20 Exhibit 10? 21 A. Yeah. 22 Q. You didn't give me those pictures in 23 Exhibit 10, right? 24 A. You're asking me I didn't give you 25 pictures?</p>	<p style="text-align: right;">Page 208</p> <p>1 clearly says that they were trying to show that they 2 had to reach out to me or communicated with me or 3 shared some kind of information with me and put the 4 date on it to justify that they had tried to do 5 something early on. That's what that e-mail clearly 6 says. And, to me, that's very funny. It's just very 7 suspicious. 8 Q. Is it suspicious to you that I didn't get 9 color photos? 10 A. No. That's -- that's -- we'll get you 11 colors. 12 Q. Just like we got you the correct e-mails? 13 A. We can get you -- there are color photos 14 in there. Not all of it, but there are color photos 15 in there. I can show you color photos now on my 16 phone, if you want me to. There's -- there's no 17 hiding. You can't compare color photos with that. 18 That's just different things. Because color is just 19 only going to show -- that's irrelevant to that, 20 though. That's not fair for you to say that, compare 21 one to the other. 22 MR. CARROLL: Do you have any 23 questions, Ryan, follow-up questions? 24 MR. STUDEMAYER: I do. 25 MR. CARROLL: Okay. I'll go ahead</p>
<p style="text-align: right;">Page 207</p> <p>1 Q. Not in color, right? 2 A. No. I mean, but, you know, we will 3 provide -- I guess we will provide that to you. 4 Q. Okay. So it is possible that an issue 5 with discovery could just be a mistake, an oversight, 6 right? 7 A. No. That misstates -- that's very -- I 8 don't -- I mean, I don't buy that. Who did this 9 e-mail anyway? Was it you? Was it -- I'm not trying 10 to be funny. 11 Q. Remember, I can't answer questions. 12 A. Okay. Well, I'm sorry. I think that that 13 was a very specific date, very specific e-mail, and 14 it was -- the e-mail was intended to show that this 15 guy, Jacob Willis, called me to tell me that the 16 tractor was ready when the tractor was not even far 17 from being ready. It was -- it was -- that's not 18 even accurate at all. So someone took the time to 19 put a wrong date on that e-mail to show that they're 20 making an effort to call me about my tractor. 21 Q. Okay. But the e-mails we looked at, they 22 weren't talking about your tractor being ready, were 23 they? 24 A. It said something about notifying me about 25 something. I'm not sure of the specifics, but it</p>	<p style="text-align: right;">Page 209</p> <p>1 and turn him over to you, then. 2 EXAMINATION 3 BY MR. STUDEMAYER: 4 Q. Mr. Aguilar, are you prepared to answer a 5 few questions from me? 6 A. Sure. 7 Q. I appreciate you being patient with us. 8 You've talked a good bit today about a gentleman 9 named Jacob Willis. Do you trust Jacob Willis? 10 A. Not at all. 11 Q. Do you believe anything that Jacob Willis 12 tells you? 13 A. No. 14 Q. Did you feel that way the last time you 15 spoke to him on the phone? 16 A. Yes. 17 Q. You've been told today that your tractor 18 has been repaired and is at Powell Tractor right now. 19 Do you really believe that your tractor is as good as 20 new right now? 21 A. No. That's -- that's -- no. I don't 22 believe it. 23 Q. Did you -- 24 A. Given -- 25 Q. I'm sorry.</p>

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1 A. Given the circumstances that we went  
2 through all this and papers -- I mean, hundreds of  
3 papers showing all the repairs and what people have  
4 done to my tractor, I mean, I don't think there's  
5 anyone that can agree with you on that. And that's a  
6 very fair statement. Any farmer that you ask that  
7 has owned a tractor will laugh at you when you show  
8 him all this and you tell him that this tractor is  
9 good as new. And that is a fair statement there.  
10 Q. Did you agree to give your tractor back to  
11 AGCO for free?  
12 A. No.  
13 Q. So you didn't agree to give the tractor  
14 back to AGCO in exchange for nothing?  
15 A. I did not agree to that.  
16 Q. Would you agree if you allow someone, even  
17 with permission, to take something that belongs to  
18 you that you paid for and they don't return it in a  
19 reasonable time -- in a reasonable amount of time  
20 that it is still stealing?  
21 A. Yeah. That's what we talked about early  
22 on. At what point do you classify that as stealing?  
23 Q. Okay. Well, if somebody offers to give  
24 you your property back after taking it for six  
25 months, did they still steal it six months ago?

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1 A. I believe so.  
2 Q. Okay. Supposing that Powell Tractor will  
3 actually release the tractor to you, do you think  
4 it's fair for you to have to travel to Westminster,  
5 South Carolina to go pick it up?  
6 A. No, it's not.  
7 Q. Do you have the equipment necessary to go  
8 do that even if you wanted to?  
9 A. I don't -- I don't think I do.  
10 Q. Do you know where Westminster, South  
11 Carolina is?  
12 A. I have no clue.  
13 Q. Do you know how far away it is from your  
14 house?  
15 A. Not -- no. I mean, if I Google it, I  
16 would know where it is, but no.  
17 Q. Did Jacob Willis tell you that the tractor  
18 was ready?  
19 A. When he called me he said that the tractor  
20 was fixed, but I told him that I needed to -- he  
21 needed to talk to my counsel.  
22 Q. Did he tell you where it was?  
23 A. No.  
24 Q. Did Jacob Willis tell you that the tractor  
25 was ready to be picked up?

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1 A. I think he said it was ready -- the  
2 tractor is ready, but that's all he said. Because,  
3 again, I told him he needed to talk to my counsel.  
4 Q. When you last spoke to Jacob Willis, had  
5 you already ordered the Kubota tractor at that point;  
6 do you remember?  
7 A. Yes.  
8 Q. Okay. Speaking of, does the Kubota  
9 tractor work?  
10 A. Yeah, it works.  
11 Q. Have you had any major trouble with the  
12 Kubota tractor?  
13 A. Zero.  
14 Q. Let's suppose you did go and pick up that  
15 tractor when Jacob Willis called you, do you think  
16 the tractor would have worked for very long?  
17 A. Given the circumstances what I've gone  
18 through, no way. I mean, I can't expect any better  
19 from after all of that. I have no confidence.  
20 Q. You may have gained some perspective on  
21 this question today, but I'll ask it. Do you agree  
22 that you need a lawyer to represent you in this case?  
23 A. Yeah.  
24 Q. Now, you knew by the time that you had  
25 hired us that there was some kind of warranty

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1 involved in this case?  
2 A. Yes.  
3 Q. In your free time, do you spend any of it  
4 reading warranties?  
5 A. No.  
6 Q. You've been told today that a warranty is  
7 a contract. Exhibit 3, if you could get that in  
8 front of you, I want to ask you if you had ever seen  
9 it before you hired us to represent you?  
10 A. No. That's what, you know -- this is the  
11 first time I see it.  
12 Q. Is it fair to say that you've been held to  
13 account for a contract you didn't physically have  
14 with a party you had never heard of until months or  
15 years after you bought the tractor?  
16 A. That's accurate, actually.  
17 Q. Did you hire us to determine what was  
18 covered under this limited warranty?  
19 A. Yes.  
20 Q. Have you determined that AGCO gave you a  
21 powertrain warranty for two years and 2,000 miles?  
22 A. Yes.  
23 Q. Have you determined that AGCO warranted  
24 that the tractor was free of defects and materials  
25 and workmanship?

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1 A. Yes.  
2 Q. But the tractor had those defects, didn't  
3 it?  
4 A. And more, yes.  
5 Q. Nance, an authorized dealer of AGCO, as  
6 well as AGCO itself, attempted to fix the tractor on  
7 a number of occasions, didn't they?  
8 A. That's correct.  
9 Q. Did they ever really fix the tractor?  
10 A. No.  
11 Q. In fact, didn't you testify earlier that  
12 the tractor was spending more time in the shop than  
13 on your property?  
14 A. That is correct.  
15 Q. So AGCO didn't really honor the warranty,  
16 not if they couldn't repair the tractor, right?  
17 MR. CARROLL: Objection.  
18 THE WITNESS: That's correct.  
19 MR. STUDEMAYER: Do you need to state  
20 the grounds for your objection?  
21 MR. CARROLL: I didn't think we were  
22 supposed to.  
23 MS. SPIRES: Form.  
24 MR. STUDEMAYER: That's fine. He can  
25 still answer?

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1 MR. CARROLL: Yeah.  
2 BY MR. STUDEMAYER:  
3 Q. Okay. What's your answer? I'm sorry.  
4 A. I don't remember the question.  
5 Q. Okay. Let's do this again. So AGCO  
6 didn't really honor the warranty, not if they  
7 couldn't repair the tractor, right?  
8 A. That's correct.  
9 Q. Let it be noted that there was an  
10 objection to the form.  
11 Let me ask you this: Have you ever  
12 formerly studied the law?  
13 A. No.  
14 Q. Okay. Let's look at Exhibit 2. It's the  
15 fourth amended complaint. Do you remember we looked  
16 at this today?  
17 A. Okay.  
18 Q. Did you authorize me to draft this  
19 complaint on your behalf?  
20 A. Is that No. 2?  
21 Q. Yes.  
22 A. Yes.  
23 Q. So you did authorize me to draft this  
24 complaint on your behalf?  
25 A. Yes.

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1 Q. Do you agree that everything that I  
2 drafted in this complaint was accurate or at least,  
3 you know, in as earnest attempt to be accurate as  
4 possible?  
5 A. Correct.  
6 Q. Now, you bought the tractor, was it 2018  
7 or 2019? About five years ago. Does that sound  
8 right?  
9 A. Yes.  
10 Q. In the last five years, have you forgotten  
11 some things?  
12 A. Oh, I forgot a lot.  
13 Q. Okay. So even though you mean to be as  
14 accurate and truthful as possible, is it possible  
15 that dates can sometimes get mixed up and --  
16 A. For sure.  
17 Q. -- and facts can become confusing?  
18 A. Yes.  
19 Q. All right. You've said today that you  
20 don't want the tractor back. Now, is that because  
21 you don't think it will work reliably?  
22 A. Yes. I lost faith in the tractor. And I  
23 feel like if get the tractor back and it's just going  
24 to outrun the warranty. According to what we  
25 discussed today, the warranty has already ran out.

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1 So I would be really on a gambling deal with this  
2 tractor. And given the circumstances of being --  
3 spending more time in the shop than me, I don't want  
4 the tractor. So those are the reasons why. I mean,  
5 it's very, very -- you can't ask me to trust  
6 something that has failed and failed.  
7 Q. And I believe you also expressed today  
8 some hesitation about selling it to a third party  
9 because the same thing might happen; is that correct?  
10 A. One hundred percent. I won't do that to  
11 anybody.  
12 Q. Okay. Let me ask you this: Based on your  
13 knowledge and experience with this tractor, do you  
14 think it's worth much of anything anyway?  
15 A. I couldn't -- if -- if -- if I tell  
16 someone what has been done to this tractor, they  
17 won't buy it. So I don't know what that tells you.  
18 Q. Let me ask you this: For what price would  
19 you buy that tractor back?  
20 A. I won't buy it. I won't buy the tractor.  
21 Q. What if I sold it to you for \$5, would you  
22 buy it back?  
23 MR. CARROLL: Object to the form.  
24 BY MR. STUDEMAYER:  
25 Q. You can still answer.

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1 A. I mean, I'd be buying a problem. I mean,  
2 that's what all of this says. I'd be buying a  
3 problem. Why would someone buy a problem? That's a  
4 fair answer, I guess.  
5 Q. Earlier today, we're talking still about  
6 Exhibit 2, this fourth amended complaint, you were  
7 asked about a tort called civil conspiracy and we've  
8 also talked about an administration fee that you paid  
9 when you entered into the retail installment  
10 contract. Do you recall that?  
11 A. Yes.  
12 Q. Okay. Now, that retail installment  
13 contract that I'm referring to is actually an  
14 exhibit. I think it's Exhibit A to the complaint,  
15 which is itself Exhibit 2 in this deposition. So I'm  
16 going to turn to that and I'd like you to do the same  
17 with your copy, please.  
18 A. What page is that?  
19 Q. Right there. Now, can you find on this  
20 page where the administration fee is?  
21 A. I mean, now that we may be looking at it  
22 thoroughly, maybe I find it. Now we're looking for a  
23 specific issue, I guess, yeah. But, at that time, I  
24 don't think I did.  
25 Q. So you don't recall if you noticed it or

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1 not at the time?  
2 A. No. I mean, no.  
3 Q. Did you know what this fee was for?  
4 A. No.  
5 Q. Did anyone tell you what it was for?  
6 A. No.  
7 Q. However, you've been sitting here today,  
8 do you think you had any choice when it came to  
9 whether or not to pay this administration fee if you  
10 wanted to buy the tractor?  
11 A. I don't think I -- I don't think I was  
12 given the choice and I don't think -- I mean, I think  
13 I was -- I had no choice to pay. If I want this  
14 tractor, that's what I had to pay.  
15 Q. All right. Now, we've established that  
16 this is, in fact, your name and signature in the  
17 bottom left corner of this first page of the retail  
18 installment contract. Do you agree?  
19 A. That's correct.  
20 Q. Okay. Now, did you sign this contract  
21 anywhere else on page 2 or page 3, perhaps?  
22 A. No.  
23 Q. Did you initial either of those pages?  
24 A. No.  
25 Q. Did you read any of those pages?

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1 A. You can't read that. No.  
2 Q. Well, that was actually going to be my  
3 next question. I was going to ask could you read it.  
4 And your answer?  
5 A. No. I can't read that.  
6 Q. Did anybody attempt to read it to you?  
7 A. No.  
8 Q. Did anybody tell you to look at it?  
9 A. No.  
10 Q. Okay. So even though you signed the first  
11 page, is it correct, then, that you didn't know what  
12 you were agreeing to on page 2; is that correct?  
13 A. That's correct.  
14 Q. And I think we've already been over this,  
15 but I want to confirm. You did not have a copy of  
16 Exhibit 3, which is the limited warranty, until after  
17 you had hired us to represent you; is that correct?  
18 A. That's correct.  
19 Q. Now, you were asked a few times about your  
20 business, Capital Stone. Is that an LLC?  
21 A. Yes.  
22 Q. That stands for Limited Liability Company,  
23 right?  
24 A. Correct.  
25 Q. Okay. So Capital Stone, LLC and

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1 Eswin Aguilar do, in fact, file tax returns, don't  
2 they?  
3 A. Yes.  
4 Q. You testified earlier that you purchased a  
5 bush hog with the Massey Ferguson tractor from Nance;  
6 is that correct?  
7 A. Yes.  
8 Q. And, again, I don't want to characterize  
9 your testimony. You tell me. My understanding was  
10 that you said it was sold as a package deal; is that  
11 correct?  
12 A. That's correct.  
13 Q. Okay. But that bush hog wasn't compatible  
14 with the Kubota tractor, was it?  
15 A. No.  
16 Q. Okay. And when did you order the Kubota  
17 about?  
18 A. I don't know a specific time or date, but  
19 that was after I had seeked counsel. Months into  
20 that. I don't remember exactly, but months into it.  
21 Q. And did it take months for that Kubota to  
22 arrive?  
23 A. Yeah. I needed a specific tractor, so I  
24 had to order the tractor.  
25 Q. So is it fair to say that you were without

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1 a reliable tractor for a number of months?  
 2 A. Oh, for sure. Definitely.  
 3 Q. And I want to be specific. I'm talking  
 4 about the period from April 28, 2021 onward after  
 5 AGCO had picked it up for the last time. You were  
 6 without a tractor for a substantial period of time?  
 7 A. That's correct.  
 8 Q. All right. Now, we've been over this a  
 9 number of times as well. Under the limited warranty,  
 10 AGCO warranted that it would repair or replace. Did  
 11 AGCO sufficiently do either of those things?  
 12 A. No, no, no.  
 13 Q. Do you think AGCO only purchased an  
 14 extended and enhanced warranty because they knew they  
 15 hadn't honored the base warranty?  
 16 MR. CARROLL: Object to the form.  
 17 You can answer.  
 18 BY MR. STUDEMAYER:  
 19 Q. You can answer.  
 20 A. I don't know what their intentions were,  
 21 but they only offered me that because I pushed them  
 22 onto something in return because it's just too many  
 23 times the tractor breaking down.  
 24 Q. Am I correct in my understanding that at  
 25 some point, even before you obtained a copy of

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1 Exhibit 3, the limited warranty, that you had been  
 2 told any time the tractor broke down, you had to  
 3 transport it to an AGCO dealer in order for it to get  
 4 fixed?  
 5 A. Yeah. I didn't realize up until when the  
 6 tractor start breaking down, which it was fairly fast  
 7 because it happened right after I bought it, that  
 8 apparently there is a sticker on the tractor which  
 9 is -- in my case, in my tractor, they decided to put  
 10 it right there with the arms of the loader. I don't  
 11 know if it was intentional, but it was high from you  
 12 seeing it. The only time you could see it is by you  
 13 lifting the loader so you can see that in there.  
 14 Q. And Nance is an authorized AGCO dealer,  
 15 aren't they?  
 16 A. Yeah.  
 17 Q. How far away is Nance from your property?  
 18 How long does it take to get to Nance?  
 19 A. Give or take, 30 minutes, 40 minutes.  
 20 Q. Do you know where Clemson, South Carolina  
 21 is?  
 22 A. I have a very good idea.  
 23 Q. Okay. If I were to represent to you that  
 24 Powell Tractor is a little beyond Clemson, South  
 25 Carolina and I told you you had a choice between

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1 taking your tractor every time it broke down to Nance  
 2 or to Powell Tractor, where would you take the  
 3 tractor?  
 4 A. Obviously the closest place to me.  
 5 Q. Okay. All right. Now, I just want to  
 6 turn briefly back to the retail installment contract,  
 7 which you still have in front of you. You pointed  
 8 out earlier that we lawyers are in the business of  
 9 reading these sorts of documents and interpreting  
 10 them and drafting them, even. So maybe we're a  
 11 little better at guessing what these things say, but  
 12 I'm going to ask you to read me as much as you can of  
 13 the paragraph that I believe is No. 5. It's going to  
 14 be after the one that opposing counsel read to you.  
 15 Can you read this one right here? Read as much of  
 16 that as you can to me.  
 17 A. I mean, I'm not trying to be funny, but I  
 18 don't think I can read that.  
 19 Q. Any of it? Do you see a No. 5?  
 20 A. No. I thought it was No. 1. I mean,  
 21 seriously.  
 22 Q. Now, I want to be clear. You're not okay  
 23 with AGCO stealing your tractor, right?  
 24 MR. CARROLL: Object to form. You  
 25 can answer.

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1 THE WITNESS: No. I mean, I don't  
 2 think nobody is.  
 3 BY MR. STUDEMAYER:  
 4 Q. Is that one of the reasons that you filed  
 5 this lawsuit?  
 6 A. Yes.  
 7 Q. Okay. Now, is it your understanding that  
 8 we did ask where the tractor was in discovery?  
 9 A. Correct.  
 10 Q. Okay. Is it your understanding that AGCO  
 11 has previously responded that they didn't know?  
 12 A. Correct.  
 13 Q. Is it your understanding that this answer  
 14 didn't change until last fall?  
 15 A. That's correct.  
 16 Q. This is going to be in Exhibit 13. I  
 17 believe that starts with this document. It's  
 18 actually going to be 10. My apologies. Exhibit 10.  
 19 You were asked to look at an e-mail. Let's see.  
 20 It's going to be numbered 0051. Can you turn to that  
 21 document for me, please?  
 22 A. What page is it?  
 23 Q. 0051. It's up here in the top right  
 24 corner.  
 25 A. 0051?

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1 Q. Yes, sir. Okay. Now, earlier you were  
2 asked about that e-mail that's in the middle of the  
3 page. It's dated on Thursday, October 1, 2020 at  
4 10:02 p.m., Eswin Aguilar. Do you see that?  
5 A. Yes.  
6 Q. Now, when you sent this e-mail October 1,  
7 2020, did you have a copy of the limited warranty  
8 yet?  
9 A. I don't think. No. I don't think so.  
10 Q. Okay. So, again, this document that's  
11 been used in this deposition today as Exhibit 3, you  
12 hired us and we obtained a copy of this document for  
13 you; isn't that correct?  
14 A. That's correct.  
15 Q. Before that, had you ever seen it?  
16 A. No. No, I haven't seen it.  
17 Q. Now, this case was filed in 2021. This  
18 e-mail was sent in October of 2020; isn't that  
19 correct?  
20 A. I believe so.  
21 Q. Okay. So when you're referring to  
22 workmanship problems, you're not quoting a warranty  
23 that you've never seen before, are you?  
24 A. No.  
25 Q. Okay. In fact, you can't really be

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1 referencing this document at all if you've never seen  
2 it; isn't that right?  
3 MR. CARROLL: Object to form.  
4 THE WITNESS: That's correct.  
5 BY MR. STUDEMAYER:  
6 Q. So when you said, "Not sure what AGCO has  
7 anything to do with this," you weren't saying that  
8 this document was not in effect, were you?  
9 MR. CARROLL: Object to form.  
10 THE WITNESS: That's correct.  
11 BY MR. STUDEMAYER:  
12 Q. Okay. This is the time I want you to  
13 please turn to Exhibit 13. I was mixed up earlier.  
14 I apologize for that for muddying up the record.  
15 Exhibit 13, the page number is going to say AGCO  
16 00020. You were asked about this e-mail as well  
17 earlier. We're going to talk about the e-mail that's  
18 on the top half of the page. Okay?  
19 A. Okay.  
20 Q. All right. Now, who does it say that this  
21 e-mail is from?  
22 A. This is Jacob Willis.  
23 Q. Who does it say that this e-mail is to?  
24 A. Me, Eswin Aguilar.  
25 Q. Do you see Mr. Carroll's name anywhere on

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1 this e-mail?  
2 A. Mister who?  
3 Q. Mr. Carroll. The man sitting across from  
4 you.  
5 A. No.  
6 Q. And what is this e-mail dated?  
7 A. It says there July 8, 2021.  
8 Q. Now, we've been talking about the impact  
9 of this e-mail today and it being misdated. So I  
10 want to briefly go over the contents of this e-mail.  
11 In fact, in this e-mail, didn't Jacob Willis promise  
12 that your tractor was going to be delivered to you  
13 that afternoon?  
14 A. That's what it says.  
15 Q. Okay. Does it also express hope that you  
16 would find the condition of the tractor to be to your  
17 satisfaction?  
18 A. That's what it says.  
19 MR. STUDEMAYER: I have no further  
20 questions, but Mr. Carroll might. So please answer  
21 them.  
22 MR. CARROLL: Yes.  
23 REEXAMINATION  
24 BY MR. CARROLL:  
25 Q. Mr. Aguilar, do you know how much you have

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1 paid your attorney to date?  
2 A. Not off the top of my head. I could tell  
3 you it is more than \$100,000. I don't know if that  
4 matters.  
5 Q. Do you know if you're on a contingency fee  
6 arrangement with your attorney?  
7 A. No.  
8 Q. Did you sign an engagement letter with  
9 your attorney?  
10 A. I believe so. I'm not sure, but I think  
11 so.  
12 Q. Going back to Exhibit 2, the retail  
13 installment contract. I believe your testimony was  
14 you could not read page 2. Is what is in front of  
15 you the actual retail installment contract you signed  
16 at Nance?  
17 A. I'm sorry. I blanked for a minute. I was  
18 trying to remember. I know I answered the question  
19 about signing -- the previous question. I don't  
20 remember. But, I mean, we can find out whether we  
21 did or not.  
22 Q. Would you agree with me that it is a copy  
23 of what you signed, though? It's not the original  
24 document?  
25 A. Yeah.

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1 Q. It's a copy because it was filed with the  
2 court, right?  
3 A. Right.  
4 Q. And if we go back to the first page of the  
5 retail installment contract, the bottom right-hand  
6 corner of it, if you want to pull it up. We're in  
7 Exhibit 2. Bottom right-hand corner -- very bottom  
8 right-hand corner, what does it say? Do you see what  
9 it says?  
10 A. You're asking me what it says in the  
11 bottom corner?  
12 Q. Yeah.  
13 A. I believe it's somebody's signature.  
14 Q. No, no. Past that. Down there at the  
15 very bottom.  
16 A. Somebody's name.  
17 Q. No. Past that too. At the very bottom.  
18 A. You're talking about the page number?  
19 Q. Yes. And then if you turn to the next  
20 page, is that same -- it also has a page number,  
21 right, the next page of Exhibit A?  
22 A. I guess so.  
23 Q. And then on the next page, there's also a  
24 page number?  
25 A. Correct.

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1 Q. And if we go back to the first page, would  
2 you agree with me that that page number is page 1 of  
3 3? Is that what it says?  
4 A. Page 1 of 3?  
5 Q. Yes.  
6 A. I mean, I guess, you -- yes. You can  
7 conclude that. Yes. I get it.  
8 Q. And you have no idea how many times this  
9 agreement has been copied or maybe faxed or  
10 transmitted before it was printed and attached to  
11 your fourth amended complaint, right?  
12 A. I'm sure we have original paper that we  
13 got from them.  
14 Q. Do you?  
15 A. At some point. I mean, we have this.  
16 Q. Okay. Have you taken any efforts to find  
17 that document?  
18 A. To find...  
19 Q. The original?  
20 A. This page right here?  
21 Q. Yes.  
22 A. I don't know. I don't think I understand  
23 that question. I mean, for what purpose? It would  
24 be the same paper.  
25 Q. Well, right. Is it possible that the

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1 original one could have been easier to read?  
2 A. I don't think it is.  
3 Q. Okay. When you look at Exhibit 3, which  
4 is the limited warranty, you would agree with me that  
5 Exhibit 3 is easier to read than exhibit -- than the  
6 retail installment contract, right?  
7 A. It's fair to say. Yes.  
8 Q. Would you agree with me that it is  
9 possible that the same font size is used in both  
10 agreements if we were to see the original retail  
11 installment contract?  
12 A. I don't understand that question.  
13 Q. It was a bad question. We'll move on.  
14 Let's go to Exhibit 10, page 0051 that your counsel  
15 asked you about.  
16 A. Exhibit what?  
17 Q. Ten.  
18 A. Page?  
19 Q. Fifty-one.  
20 A. Okay.  
21 Q. The e-mail right below on October 1, 2020  
22 at 9:36 p.m., Michael Nance wrote, "Working on that  
23 extended powertrain warranty for you." Was it Nance  
24 who offered and got the extended warranty or AGCO?  
25 A. I don't know how they come out with this.

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1 But in conclusion, to my knowledge, it came from AGCO  
2 from Willis. Jacob Willis was confirming that the --  
3 Michael, he probably mentioned it. But I think later  
4 on we asked for -- in writing and I think that's when  
5 Jacob Willis was confirming that, I believe. I'm not  
6 sure. To my knowledge, it came from AGCO.  
7 Q. Are you aware that -- well, sorry. Also  
8 on this e-mail, if we go to the next page, 52,  
9 October 4, 2020. You've BCC'd a  
10 BBartlett@bartlettlawfirm.com. Do you see that?  
11 A. Yes.  
12 Q. Had you already engaged an attorney to  
13 represent you as of October 2020 in this case?  
14 A. I'm not sure. No. What I think happened  
15 was -- if I try to remember -- keep in mind that it's  
16 hundreds of papers here. So I'm trying to put this  
17 together. I believe that -- I'm trying to think. I  
18 don't know if I remember that far back. I don't  
19 know. I guess I would have to look into it. I can't  
20 remember exactly why.  
21 Q. If you don't remember, that's fine. Are  
22 you aware that during our early neutral evaluation, I  
23 personally told your counsel that the tractor was at  
24 Powell's in Westminster, South Carolina?  
25 A. You're asking me if I'm aware that you

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1 told my counsel at an earlier evaluation where my  
2 tractor was?  
3 Q. Yes.  
4 A. I don't remember. But if that happened --  
5 if that happened, we were already at least a year  
6 into this at a minimum. So what difference would  
7 that make?  
8 Q. Well, I'm just trying to clarify your  
9 answer to a question that your counsel asked saying  
10 that AGCO didn't say until last fall.  
11 A. I don't -- I don't think that -- I don't  
12 think I was aware. I don't remember.  
13 Q. Okay. Let's go back to -- keep that and  
14 go to page 69. Then I want you to keep that open,  
15 but then also pull up Exhibit 13. We're going to  
16 compare the two. So page 69 of this. We'll leave  
17 that open. And then Exhibit 13, if you go to AGCO  
18 20. This is the e-mail your counsel asked about from  
19 Jacob Willis to Aguilar -- to you. So if you go to  
20 page 20.  
21 A. You said page 20?  
22 Q. Yes. You would agree with me that other  
23 than the dates, that these e-mails are exactly the  
24 same? The one date. Just July 8th.  
25 A. The question -- repeat the question,

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1 please.  
2 Q. You would agree with me that the e-mail on  
3 page 69 of Exhibit 10 and the e-mail on AGCO 20 is  
4 exactly the same except for the date listed as sent  
5 at the top?  
6 A. The e-mail appears to be the same e-mail,  
7 but the date is different. That's the -- that's  
8 the -- I stated early on it looks funny because the  
9 intention is to show that this guy, Jacob Willis,  
10 reached out to me with this e-mail on a different  
11 time/date to show that he reached out to me with the  
12 tractor. That's what this whole thing is about on  
13 that e-mail part.  
14 Q. And does it also look funny that it's  
15 replying to an e-mail from January 4th? On AGCO 20  
16 it's replying to an e-mail from January 4th, right?  
17 A. I'm not sure the question. What would be  
18 the question there you're asking me?  
19 Q. Doesn't that also seem funny?  
20 A. Why would that look funny?  
21 Q. Well, just like the July 8th date looks  
22 funny to you, I'm assuming.  
23 A. No. I guess what I'm saying is this  
24 e-mail happened.  
25 Q. Right.

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1 A. This conversation happened. So there's no  
2 question on the e-mail.  
3 Q. It happened on January 8th, right?  
4 A. Huh-uh. So this e-mail happened during my  
5 tractor breaking down. This was a question and  
6 answer to the e-mail that related to the problems  
7 that were happening early on. But then later on, the  
8 days changed to me to show that he has reached out to  
9 me to make me aware of where the tractor was or to  
10 give me knowledge that he had reached out to me with  
11 the whereabouts of where my tractor is, which he  
12 didn't. And, to me, I don't know about paperwork,  
13 but, I mean, that's very, very specific. And I'm not  
14 sure why.  
15 Q. Well, when the issue was raised to  
16 counsel, are you aware that it was explained?  
17 A. Explained to my counsel?  
18 Q. Yes.  
19 A. I will let -- because I hire him, I will  
20 let him to advise me on what's best and go from  
21 whatever he thinks is best.  
22 Q. So to ask it again: Were you aware when  
23 the issue was brought to our attention that it was  
24 explained?  
25 A. I guess to a point, I guess, it's being

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1 explained. I don't know. I'm not aware of that. I  
2 think that it's still an ongoing situation about why.  
3 I mean, because obviously we're here asking the same  
4 question. So I guess that's still a question. So I  
5 guess it hasn't been clarified or cleared by whoever  
6 needs to clarify that.  
7 MR. CARROLL: Okay. No further  
8 questions.  
9 MR. STUDEMEYER: Can we leave the  
10 record open, but go off the record for a moment?  
11 (Off the record.)  
12 MR. STUDEMEYER: I don't have any  
13 follow-up questions to that. Thank you.  
14 (The witness, after having been  
15 advised of his right to read and sign this  
16 transcript, does not waive that right.)  
17 (The deposition concluded at 5:06 p.m.)  
18  
19  
20  
21  
22  
23  
24  
25

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1 CERTIFICATE OF REPORTER  
 2 I, Kimberly T. Power, Court Reporter  
 3 and Notary Public for the State of South Carolina at  
 4 Large, do hereby certify that the foregoing  
 5 transcript is a true, accurate, and complete record.  
 6 I further certify that I am neither  
 7 related to nor counsel for any party to the cause  
 8 pending or interested in the events thereof.  
 9 Witness my hand, I have hereunto  
 10 affixed by official seal this 30th day of July, 2024,  
 11 at Lexington, Lexington County, South Carolina.  
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Kimberly T. Power  
 My Commission Expires: 4/24/2025

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1 Ryan G. Studemeyer, Esq.  
 2 ryan@studemeyerlawfirm.com  
 3 July 30, 2024  
 4 RE: Aguilar, Eswin v. Agco Corporation  
 5 6/27/2024, Eswin Aguilar (#6769538)  
 6 The above-referenced transcript is available for  
 7 review.  
 8 Within the applicable timeframe, the witness should  
 9 read the testimony to verify its accuracy. If there are  
 10 any changes, the witness should note those with the  
 11 reason, on the attached Errata Sheet.  
 12 The witness should sign the Acknowledgment of  
 13 Deponent and Errata and return to the deposing attorney.  
 14 Copies should be sent to all counsel, and to Veritext at  
 15 cs-southeast@veritext.com.  
 16 Return completed errata within 30 days from  
 17 receipt of testimony.  
 18 If the witness fails to do so within the time  
 19 allotted, the transcript may be used as if signed.  
 20  
 21  
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Yours,  
 Veritext Legal Solutions



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[year - zip]

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South Carolina Rules of Civil Procedure

Part V. Depositions and Discovery

Court Rule 30

(e) Submission to Witness; Changes; Signing.

When the testimony is fully transcribed the deposition shall be submitted to the witness for examination and shall be read to or by him unless such examination and reading are waived by the witness and by the parties. Any changes in form or substance which the witness desires to make shall be entered upon the deposition by the officer with a statement of the reasons given by the witness for making them. The deposition shall then be signed by the witness, unless the parties by stipulation waive the signing or the witness is ill or cannot be found or refuses to sign. If the deposition is not signed by the witness within 30 days of its submission to him, the officer shall sign it and state on the record the fact of the waiver or of the illness or absence of the witness or the fact of the refusal to sign together with the reason, if any, given therefor; and the deposition may then be used as fully as though signed unless on a motion to suppress under Rule 32(d)(4) the court holds

that the reasons given for the refusal to sign  
require rejection of the deposition in whole or in  
part.

DISCLAIMER: THE FOREGOING CIVIL PROCEDURE RULES  
ARE PROVIDED FOR INFORMATIONAL PURPOSES ONLY.  
THE ABOVE RULES ARE CURRENT AS OF APRIL 1,  
2019. PLEASE REFER TO THE APPLICABLE STATE RULES  
OF CIVIL PROCEDURE FOR UP-TO-DATE INFORMATION.

VERITEXT LEGAL SOLUTIONS

COMPANY CERTIFICATE AND DISCLOSURE STATEMENT

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STATE OF SOUTH CAROLINA	)	
COUNTY OF YORK	)	IN THE COURT OF COMMON PLEAS
	)	SIXTEENTH JUDICIAL CIRCUIT
Eswin Aguilar,	)	Civil Action No. 2021-CP-46-01792
	)	
Plaintiff,	)	
	)	
v.	)	
	)	<b><u>DEFENDANT AGCO CORP.'S</u></b>
Nance Tractor and Implement, Inc., AGCO	)	<b><u>RESPONSE TO PLAINTIFF'S FIRST SET</u></b>
Corp., and AGCO Finance, LLC,	)	<b><u>OF INTERROGATORIES</u></b>
	)	
Defendants.	)	
	)	
	)	

Defendant, AGCO Corp. ("AGCO"), by and through its counsel, and pursuant to Rule 33, SCRCF hereby answers and responds to Plaintiff's First Set of Interrogatories, dated August 10, 2021, as follows.

**INTERROGATORIES**

1. Identify all contracts, photographs, plats, sketches, videotapes, audiotapes, electronic data files, emails, web pages, or other documents or materials now or previously in possession, custody, or control of the Defendant that relate to the Plaintiff.

**ANSWER:** Objection—this Interrogatory is overbroad, unduly burdensome, vague, and ambiguous to the extent that it relies on the terminology "all [documents] that relate to the Plaintiff." Moreover, this Interrogatory is not limited in time or scope, as it appears to request identification of any and all documents that relate to Plaintiff, without regard to the dates and time referenced in the Amended Complaint.

Subject to and without waiving this objection, AGCO is still investigating the claims and defenses asserted in this lawsuit, and its response to this interrogatory will be supplemented to

the full extent required under the rules of civil procedure when such investigation is complete. At this time, AGCO identifies the following documents:

- a) Plaintiff's Amended Complaint;
- b) AGCO Limited Warranty Terms and Conditions — United States, Canada, and Mexico Effective for Equipment Retailed and Delivered After January 1, 2019;
- c) Retail Installment Contract and Security Agreement dated April 24, 2019;
- d) Warranty Registration Records;
- e) Maintenance Work Order(s) created by Defendant Nance Tractor and Implement, Inc.; and
- f) Electronic correspondence by and between AGCO employees and Plaintiff.

2. Give the names and addresses of persons known to the parties or counsel to be witnesses concerning the facts of the case and indicate whether written or recoded statements have been taken from the witnesses and indicate who has possession of such statements.

ANSWER: AGCO is still investigating the claims and defenses asserted in this lawsuit, and its response to this interrogatory will be supplemented to the full extent required under the rules of civil procedure when such investigation is complete. At this time, AGCO identifies the following persons or entities that may possess knowledge or information of any fact or circumstances relevant to the claims or allegations in Plaintiff's Complaint or AGCO's defenses thereto:

Name:	Address:	Summary of Knowledge:
Aguilar, Eswin	Counsel for Plaintiff	Plaintiff is expected to have knowledge about the allegations raised in his Amended Complaint, including, but not limited to, information related to the purchase and repair of the subject tractor.

Blackwell, Cole	Counsel for Defendant Nance	Mr. Blackwell is expected to have knowledge about his communications about and observations of the subject tractor, his communications about and observations of powertrain warranties, the history of work and repair on the subject tractor, and other relevant information related to the subject tractor.
Hinson, Brittany	Counsel for Defendant Nance	Ms. Hinson is expected to have knowledge about her communications with and observations of Plaintiff, her communications about and observations of the subject tractor, the history of work and repair on the subject tractor, and other relevant information related to the subject tractor. At the times relevant to the Complaint, Ms. Hinson was the Service Manager at Nance; however, she has since moved to the sales division.
Markley, Gale	Counsel for Defendant Nance	Mr. Markley is expected to have knowledge about his communications with and observations of Plaintiff, his communications about and observations of the subject tractor, the history of work and repair on the subject tractor, and other relevant information related to the subject tractor.
Nance, Michael	Counsel for Defendant Nance	Mr. Nance is expected to have knowledge about his communications with and observations of Plaintiff, his communications about and observations of the subject tractor, his communications about and observations of the powertrain warranty, the sale of the subject tractor, the history of work and repair on the subject tractor, the financing of the subject tractor, and other relevant information related to the subject tractor.

Willis, Jacob	Counsel for Defendant AGCO	Mr. Willis is expected to have knowledge about his communications with and observations of Plaintiff, his communications about and observations of the subject tractor, his communications about and observations of the powertrain warranty, the sale of the subject tractor, the history of work and repair on the subject tractor, the financing of the subject tractor, and other relevant information related to the subject tractor.
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Responding further, AGCO directs Plaintiff to the business records produced contemporaneously herewith. AGCO states is not aware of any written or recorded statements taken from the witnesses identified in this answer, or otherwise.

3. For each person known to the Defendant or counsel to be a witness concerning the facts of the case, set forth either a summary sufficient to inform the Plaintiff of the important facts known to or observed by such witness, or provide a copy of any written or recorded statements taken from such witnesses.

ANSWER: AGCO directs Plaintiff to its response to Interrogatory No. 2 above.

4. Set forth the names and addresses of all insurance companies that have liability insurance coverage relating to the Plaintiffs claims and set forth the number or numbers of the policies involved and the amount or amounts of liability coverage provided in each policy.

ANSWER: AGCO objects to this interrogatory on the basis that it seeks information outside its control or custody—specifically, Interrogatory No. 4 seeks information for insurance companies of Defendants AGCO Finance and Nance Tractor, of which AGCO has limited knowledge. Subject to, and without waving said objection, AGCO states that it is not aware of any insurance companies that may have liability insurance coverage relating to the Plaintiff's claims.

AGCO is self-insured for claims generally related to comprehensive general liability and product liability.

**5. Identify the names and addresses of any expert witnesses that Defendant proposes to use during the trial of this case. Set forth the opinion each expert is expected to render and identify the facts and documents relied upon in arriving at their opinion.**

**ANSWER:** AGCO has not yet made a determination as to what expert witness(es) it intends to offer at trial in this matter. AGCO reserves the right to supplement and/or amend this response and disclose the identity of said witnesses, and any relevant information, pursuant to any discovery schedule set forth in this matter and pursuant to the South Carolina Rules of Civil Procedure.

**6. Set forth a list of all employees or representatives who communicated with the Plaintiff regarding the Tractor.**

**ANSWER:** AGCO states that Jacob Willis communicated with Plaintiff. AGCO is still investigating the claims and defenses asserted in this lawsuit, and its response to this interrogatory will be supplemented to the full extent required under the rules of civil procedure when such investigation is complete.

**7. For each party identified in response to Interrogatory 6, indicate the date and substance of the communications.**

**ANSWER:** In accordance with Rule 33(c), SCRPC, AGCO directs Plaintiff to the business records produced contemporaneously herewith. AGCO is still investigating the claims and defenses asserted in this lawsuit, and its response to this interrogatory will be supplemented to the full extent required under the rules of civil procedure when such investigation is complete.

8. Set forth a list of all employees or representatives who inspected or performed repairs on the Plaintiffs tractor.

ANSWER: In accordance with Rule 33(c), SCRCP, AGCO directs Plaintiff to the business records produced contemporaneously herewith. AGCO is still investigating the claims and defenses asserted in this lawsuit, and its response to this interrogatory will be supplemented to the full extent required under the rules of civil procedure when such investigation is complete.

9. For each employee or representative identified in response to Interrogatory 8, indicate their mechanical credentials at the time of repairs, including, but not limited to, professional certifications and degrees.

ANSWER: Objection — this Interrogatory is overly broad, unduly burdensome, and not reasonably calculated to lead to the discovery of relevant evidence. Moreover, this Interrogatory appears to seek information that is completely irrelevant to the claims and defenses at issue in this case. Subject to and without waiving said objection, AGCO is still investigating the claims and defenses asserted in this lawsuit, and its response to this interrogatory will be supplemented to the full extent required under the rules of civil procedure when such investigation is complete.

10. For each employee or representative identified in response to Interrogatory 8, list every AGCO Corp. and/or Massey Ferguson training course, seminar, or other continuing education module consistent with Section 2.10.5 of the MF 4707 Operator's Manual that the employee attended or participated in during the last three (3) years.

ANSWER: Objection — this Interrogatory is overly broad, unduly burdensome, and not reasonably calculated to lead to the discovery of relevant evidence. Moreover, this Interrogatory appears to seek information that is completely irrelevant to the claims and defenses at issue in this case. Subject to and without waiving said objection, AGCO is still investigating the claims and

defenses asserted in this lawsuit, and its response to this interrogatory will be supplemented to the full extent required under the rules of civil procedure when such investigation is complete.

11. Set forth the date on which production of the Massey Ferguson MF 4707 sold to the Plaintiff (Serial Number MC040EJ5236016) was completed.

ANSWER: AGCO is still investigating the claims and defenses asserted in this lawsuit, and its response to this interrogatory will be supplemented to the full extent required under the rules of civil procedure when such investigation is complete.

12. Set forth the date on which the Massey Ferguson MF 4707 sold to the Plaintiff (Serial Number MC040EJ5236016) was transferred to Nance Tractor and Implement, Inc.

ANSWER: In accordance with Rule 33(c), SCRCP, AGCO directs Plaintiff to the business records produced contemporaneously herewith.

13. Set forth a list of any Massey Ferguson dealerships to which the Massey Ferguson MF 4707 sold to the Plaintiff (Serial Number MC040EJ5236016) was transferred prior to being transferred to Nance Tractor and Implement, Inc.

ANSWER: Objection — this Interrogatory is overly broad, unduly burdensome, and not reasonably calculated to lead to the discovery of relevant evidence. Moreover, this Interrogatory appears to seek information that is completely irrelevant to the claims and defenses at issue in this case.

14. Set forth a list of any occasions on which the Massey Ferguson MF 4707 sold to the Plaintiff (Serial Number MC040EJ5236016) was reacquired due to claims of defects.

ANSWER: Objection — this Interrogatory is overly broad, unduly burdensome, and not reasonably calculated to lead to the discovery of relevant evidence. Moreover, this Interrogatory appears to seek information that is completely irrelevant to the claims and defenses at issue in this

case. Subject to and without waiving said objection, AGCO is still investigating the claims and defenses asserted in this lawsuit, and its response to this interrogatory will be supplemented to the full extent required under the rules of civil procedure when such investigation is complete.

15. Set forth a list of all written warranties identified in paragraph 44 of Defendant AGCO Corp.'s Answer to Plaintiffs Complaint.

ANSWER: AGCO directs Plaintiff to the AGCO Limited Warranty Terms and Conditions – United States, Canada, and Mexico.

16. Set forth a list of payments or credits provided to Nance Tractor and Implement, Inc. for repairs performed on the Massey Ferguson MF 4707 sold to the Plaintiff (Serial Number MC040EJ5236016) under AGCO Corp.'s warranties.

ANSWER: Objection — this Interrogatory is overly broad, unduly burdensome, and not reasonably calculated to lead to the discovery of relevant evidence. Moreover, this Interrogatory appears to seek information that is completely irrelevant to the claims and defenses at issue in this case. Subject to and without waiving said objection, AGCO is still investigating the claims and defenses asserted in this lawsuit, and its response to this interrogatory will be supplemented to the full extent required under the rules of civil procedure when such investigation is complete.

17. Set forth a list of any records in your possession, custody, or control related to the replacement of a tire on the Massey Ferguson MF 4707 sold to the Plaintiff (Serial Number MC040EJ5236016).

ANSWER: AGCO is still investigating the claims and defenses asserted in this lawsuit, and its response to this interrogatory will be supplemented to the full extent required under the rules of civil procedure when such investigation is complete.

18. Set forth a list of any technical service bulletins issued concerning the Massey Ferguson MF 4707 within the last three (3) years.

ANSWER: AGCO is still investigating the claims and defenses asserted in this lawsuit, and its response to this interrogatory will be supplemented to the full extent required under the rules of civil procedure when such investigation is complete.

19. Set forth a list of agreements entered into with Nance Tractor and Implement, Inc., related to Nance Tractor and Implement, Inc.'s repair obligations.

ANSWER: Objection — this Interrogatory is overly broad, unduly burdensome, and not reasonably calculated to lead to the discovery of relevant evidence. Moreover, this Interrogatory appears to seek information that is completely irrelevant to the claims and defenses at issue in this case. Subject to and without waiving said objection, AGCO is still investigating the claims and defenses asserted in this lawsuit, and its response to this interrogatory will be supplemented to the full extent required under the rules of civil procedure when such investigation is complete.

20. With regards to paragraph 75 of Defendant AGCO Corp.'s Answer to Plaintiffs Complaint, identify the purpose for which a representative was sent to the Plaintiff's property.

ANSWER: AGCO is still investigating the claims and defenses asserted in this lawsuit, and its response to this interrogatory will be supplemented to the full extent required under the rules of civil procedure when such investigation is complete.

21. With regards to paragraph 75 of Defendant AGCO Corp.'s Answer to Plaintiff's Complaint, identify the representative who was sent to the Plaintiff's property.

**ANSWER:** AGCO is still investigating the claims and defenses asserted in this lawsuit, and its response to this interrogatory will be supplemented to the full extent required under the rules of civil procedure when such investigation is complete.

22. With regards to paragraph 80 of Defendant AGCO Corp.'s Answer to Plaintiff's Complaint, identify any payments or credits issued to Nance Tractor and Implement, Inc. in exchange for furnishing a loaner tractor.

**ANSWER:** AGCO is still investigating the claims and defenses asserted in this lawsuit, and its response to this interrogatory will be supplemented to the full extent required under the rules of civil procedure when such investigation is complete.

23. With regards to paragraph 94 of Defendant AGCO Corp.'s Answer to Plaintiff's Complaint, identify the terms and conditions under which a loaner tractor was offered to the Plaintiff.

**ANSWER:** AGCO is still investigating the claims and defenses asserted in this lawsuit, and its response to this interrogatory will be supplemented to the full extent required under the rules of civil procedure when such investigation is complete.

24. Identify the role AGCO Corp. played in drafting the retail installment contract form presented to the Plaintiff in connection with his purchase of the Massey Ferguson MF 4707 (Serial Number MC040EJ5236016).

**ANSWER:** Objection—this Interrogatory is vague and ambiguous with its use of the phrase “role AGCO Corp. played in drafting”—which is subject to multiple meanings and interpretations. Subject to and without waiving said objection, AGCO is still investigating the claims and defenses asserted in this lawsuit, and its response to this interrogatory will be

supplemented to the full extent required under the rules of civil procedure when such investigation is complete.

**25. Identify the parties to whom AGCO Corp. has distributed the above-mentioned retail installment contract form.**

**ANSWER:** AGCO Corp. has not distributed the above-mentioned retail installment contract form to any parties.

**26. Please indicate where the Massey Ferguson MF 4707 (Serial Number MC040EJ5236016) sold to Plaintiff was taken on April 28, 2021.**

**ANSWER:** AGCO is still investigating the claims and defenses asserted in this lawsuit, and its response to this interrogatory will be supplemented to the full extent required under the rules of civil procedure when such investigation is complete. At this time, AGCO does not know where the subject tractor was taken on April 28, 2021.

**27. Set forth a list of the repairs that have been performed on the Massey Ferguson MF 4707 (Serial Number MC040EJ5236016) sold to Plaintiff since April 28, 2021.**

**ANSWER:** AGCO is still investigating the claims and defenses asserted in this lawsuit, and its response to this interrogatory will be supplemented to the full extent required under the rules of civil procedure when such investigation is complete. At this time, AGCO has no knowledge as to what repairs have or have not been performed on the subject tractor since that time.

**28. Please indicate where the Massey Ferguson MF 4707 (Serial Number MC040EJ5236016) sold to Plaintiff is currently being held.**

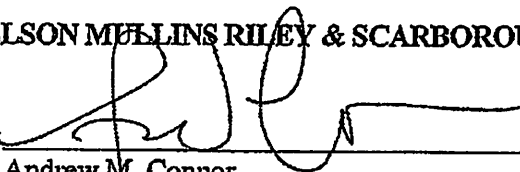
**ANSWER:** AGCO is still investigating the claims and defenses asserted in this lawsuit, and its response to this interrogatory will be supplemented to the full extent required under the

rules of civil procedure when such investigation is complete. At this time, AGCO is not aware of where the Tractor is currently being held.

29. Set forth a list of documents that have been generated since April 28, 2021 concerning the retrieval and/or repair of the Massey Ferguson MF 4707 (Serial Number MC040EJ5236016) sold to Plaintiff.

ANSWER: Defendant objects to this Interrogatory on the grounds that it seeks or appears to seek information protected by the attorney-client privilege and/or the doctrine of work product immunity. Defendant further objects to this Interrogatory on the grounds that it seeks the mental impressions of its attorneys. The initial complaint in this matter was filed on June 8, 2021, and any documents generated since that time would have been prepared in anticipation of litigation and would be privileged.

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*Attorneys for AGCO Corporation*

Charleston, South Carolina

October 13, 2021



**in this case. More specifically, the phrase “office or place of business” is not defined and is subject to multiple interpretations. Subject to and without waiving said objection, AGCO responds: Admitted.**

3. Admit that AGCO Corp. distributes the operator’s manuals which accompany the purchase of a Massey Ferguson tractor to its authorized dealers in South Carolina.

**RESPONSE: Admitted.**

4. Admit that Jacob Willis sent an email to the Plaintiff on January 8, 2021.

**RESPONSE: Admitted.**

5. Admit that the Tractor was repaired at Nance Tractor and Implement, Inc. (“Nance”), on or about January 8, 2021.

**RESPONSE: Despite making a reasonable inquiry, the information known or readily obtainable by AGCO is insufficient to enable AGCO to admit or deny this request. AGCO admits only that Nance Tractor’s Work Order No. WM04649 (AGCO 00035) is dated January 8, 2021. AGCO cannot state with complete certainty whether the repairs listed in Work Order No. WM04649 were performed on the exact date listed on the Work Order.**

6. Admit that AGCO does not possess any maintenance work orders indicating that the Tractor was taken back to Nance after the repairs listed on Maintenance Work Order # WM04649 were completed.

**RESPONSE: Admitted.**

7. Admit that the document produced by the Defendant as AGCO 00020 shows that Jacob Willis’ email, which was allegedly sent on July 8, 2021, was in response to an email from the Plaintiff dated January 4, 2021.

**RESPONSE: Denied. AGCO does not allege that Jacob Willis responded by email on July 8, 2021 to Plaintiff's January 4, 2021 email. Upon information and belief, the emails produced as AGCO 00020, AGCO 00021, AGCO 00023, and AGCO 00024 showed a July 8, 2021 sent date that was produced through the archive process and features of Microsoft Outlook when the emails were converted to PDF for production. The dates on these emails were not modified in bad faith or through any fraudulent action on the part of AGCO. Contemporaneously with these responses, AGCO is producing the native email files, which reflect the correct sent date.**

8. Admit that the documents produced as AGCO 00020, AGCO 00021, and AGCO 00023 show that Jacob Willis allegedly sent three separate emails to the Plaintiff on July 8, 2021, within just six seconds.

**RESPONSE: Denied. AGCO does not allege that Jacob Willis sent three emails to Plaintiff on July 8, 2021 within six seconds. Upon information and belief, the emails produced as AGCO 00020, AGCO 00021, AGCO 00023, and AGCO 00024 showed a July 8, 2021 sent date that was produced through the archive process and features of Microsoft Outlook when the emails were converted to PDF for production. The dates on these emails were not modified in bad faith or through any fraudulent action on the part of AGCO. Contemporaneously with these responses, AGCO is producing the native email files, which reflect the correct sent date.**

9. Admit that the document produced as AGCO 00024 allegedly shows that Jacob Willis sent an email to David Sumner on July 8, 2021, within exactly one second after sending the email to the Plaintiff produced as AGCO 00023.

**RESPONSE: Denied. AGCO does not allege that Jacob Willis sent an email to David Sumner on July 8, 2021 within one second after sending the email produced as AGCO 00023. Upon information and belief, the emails produced as AGCO 00020, AGCO 00021, AGCO 00023, and AGCO 00024 showed a July 8, 2021 sent date that was produced through the archive process and features of Microsoft Outlook when the emails were converted to PDF for production. The dates on these emails were not modified in bad faith or through any fraudulent action on the part of AGCO. Contemporaneously with these responses, AGCO is producing the native email files, which reflect the correct sent date.**

10. Admit that Work Order #WO79876, produced as AGCO 00043, shows that the repair of the Tractor at Powell Tractor, Inc. (“Powell”) continued until at least January 3, 2022.

**RESPONSE: Despite making a reasonable inquiry, the information known or readily obtainable by AGCO is insufficient to enable AGCO to admit or deny this request. AGCO admits only that Powell Tractor Inc.’s Work Order No. WO79587 is dated January 3, 2022. AGCO cannot state with complete certainty whether the repairs listed in Work Order No. WO79587 were performed on the exact date listed on the Work Order.**

11. Admit that AGCO agreed to purchase an extended “enhanced” warranty for the Plaintiffs Tractor on or about January 12, 2021.

**RESPONSE: Admitted.**

12. Admit that every retail installment contract arising out of the purchase of Massey Ferguson tractor from an authorized AGCO dealer in the State of South Carolina is assigned to AGCO Finance, LLC.

**RESPONSE: Objection — this Request is overly broad, unduly burdensome, and not reasonably calculated to lead to the discovery of relevant evidence. Moreover, this Request**

appears to seek information that is completely irrelevant to the claims and defenses at issue in this case. Subject to and without waiving said objection, despite making a reasonable inquiry, the information known or readily obtainable by AGCO is insufficient to enable AGCO to admit or deny this request. The Retail Installment Contract and Security Agreement is an AGCO Finance LLC form distributed by AGCO Finance LLC. AGCO is not a party to the Retail Installment Contract and Security Agreement.

13. Admit that AGCO's authorized dealers in South Carolina are permitted to charge an additional fee, which is not separately disclosed to the customer, as part of the "administration fee" which appears on the Retail Installment Contract and Security Agreement.

**RESPONSE: Objection — this Request is overly broad, unduly burdensome, and not reasonably calculated to lead to the discovery of relevant evidence. Subject to and without waiving said objection, despite making a reasonable inquiry, the information known or readily obtainable by AGCO is insufficient to enable AGCO to admit or deny this request. The Retail Installment Contract and Security Agreement is an AGCO Finance LLC form distributed by AGCO Finance LLC. AGCO is not a party to the Retail Installment Contract and Security Agreement.**

Respectfully submitted this 10th day of April, 2024.

[signature on following page]

**NELSON MULLINS RILEY & SCARBOROUGH LLP**

By: s/Carmen H. Thomas

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*Attorneys for AGCO Corporation*

Columbia, South Carolina


April 10, 2024

**CERTIFICATE OF SERVICE**

I, the undersigned Administrative Assistant of the law offices of Nelson Mullins Riley & Scarborough LLP, counsel for AGCO Corp, do hereby certify that I have served all counsel in this action with a copy of the pleading(s) hereinbelow specified by mailing a copy of the same by United States Mail, postage prepaid, to the following address(es):

Pleadings: Defendant AGCO Corp.'s Response to Plaintiff's  
Second Requests to Admit

Counsel Served: Joseph G. Studemeyer, Esq.  
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*Counsel for Plaintiff*

  
\_\_\_\_\_  
Roxanne D. Englin  
Administrative Assistant

Dated: April 10, 2024

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	SIXTEENTH JUDICIAL CIRCUIT
COUNTY OF YORK	)	CASE NO.: 2021-CP-46-01792
Eswin Aguilar,	)	
	)	
Plaintiff,	)	
	)	
v.	)	<b><u>DEFENDANT AGCO CORP.'S RESPONSE</u></b>
	)	<b><u>TO PLAINTIFF'S THIRD SET OF</u></b>
AGCO Corp.,	)	<b><u>INTERROGATORIES</u></b>
	)	
Defendant.	)	
	)	

Defendant, AGCO Corp. ("AGCO"), by and through its counsel, and pursuant to Rule 33, SCRPC, hereby answers and responds to Plaintiff's Third Set of Interrogatories to Defendant AGCO Corp., dated March 11, 2024, as follows.

**INTERROGATORIES**

1. Give the names and addresses of the person(s) and/or entities who drafted and distributed the Retail Installment Contract and Security Agreement used by authorized AGCO dealers in South Carolina.

**ANSWER: The Retail Installment Contract and Security Agreement is an AGCO Finance LLC form distributed by AGCO Finance LLC. AGCO does not have knowledge of who specifically drafted the Retail Installment Contract and Security Agreement. Further, AGCO is not a party to the Retail Installment Contract and Security Agreement.**

2. Provide a description of each and every location where the Plaintiff's 2019 Massey Ferguson MF4707 tractor (the "Tractor") Tractor was taken, for how long, and the extent of repairs performed at that location, if any, after the Tractor was picked up by AGCO for repairs in April of 2021.

**ANSWER: On April 28, 2021, the Tractor was taken to Nance Tractor & Implement, Inc. (“Nance”). Plaintiff later requested that Nance not perform any further work on the Tractor, and to meet Plaintiff’s request, the Tractor was taken to Powell Tractor Inc. (“Powell”) at 2154 Highway 59, Westminster, SC, 29693, in July 2021. When Plaintiff was made aware the tractor was repaired, Plaintiff refused to accept delivery of the repaired Tractor on October 29, 2021, noting that he was pursuing legal action. The Tractor remains at Powell in Westminster, SC. In further response, in accordance with Rule 33(c), SCRPC, AGCO directs Plaintiff to the business records produced by AGCO, which show the repairs Powell performed on the Tractor after April of 2021.**

3. Identify every communication of any kind, including but not limited to phone calls, emails, letters, text messages, etc., between any representative of AGCO and the Plaintiff about the whereabouts of the Tractor or the status of the repairs performed on the Tractor after it was picked up by AGCO in April of 2021.

**ANSWER: On April 28, 2021, the Tractor was taken to Nance. Shortly after the tractor was taken to Nance, Plaintiff requested during a telephone call with Jacob Willis of AGCO that Nance not perform any further work on the Tractor. Mr. Willis responded that AGCO would arrange to have the Tractor taken to another dealer for repairs. The Tractor was transferred to Powell in Westminster, SC in July 2021. Mr. Willis informed Plaintiff during a telephone call on October 29, 2021, that Powell had completed repairs on the Tractor, and that the Tractor was ready to be delivered to him. Plaintiff responded that he did not want the Tractor and that he was pursuing legal action. Mr. Willis has not communicated with Mr. Aguilar since the October 29, 2021 telephone call.**

4. Describe how the amount of the hidden fee which AGCO's authorized dealers in South Carolina charge customers as part of the "administration fee" is calculated.

**ANSWER: AGCO objects to this interrogatory on the grounds that it is vague, overly broad, and unduly burdensome. The terms "hidden fee" and "administration fee" are not defined, and AGCO objects to the characterization of any such fees as hidden. Subject to and without waiving said objection, AGCO states: AGCO is not a party to the Retail Installment Contract and Security Agreement, which is an AGCO Finance LLC form distributed by AGCO Finance LLC. AGCO has no involvement in determining the amount of any fee charged by dealers related to the Retail Installment Contract and Security Agreement. AGCO therefore cannot describe how the fee is calculated.**

5. Explain why the Plaintiff allegedly refused to accept the loaner tractor the day before it was to be delivered in April of 2021.

**ANSWER: AGCO agreed to provide Plaintiff a loaner tractor while his Tractor was being repaired. The day before the loaner was to be delivered, Plaintiff told AGCO he did not want the loaner. Plaintiff did not give AGCO a reason for his refusal to accept the loaner tractor.**

6. Provide a summary sufficient for the Plaintiff to understand the full extent of the repairs that were performed on the Tractor at Powell Tractor Inc. according to the documents produced as AGCO 00042 – 00043.

**ANSWER: AGCO objects to this interrogatory on the grounds that it is vague, overly broad, and unduly burdensome. Specifically, AGCO does not know what would be sufficient for Plaintiff to understand the full extent of the repairs performed by Powell. Subject to and without waiving said objection, AGCO states: In accordance with Rule**

33(c), SCRCF, AGCO directs Plaintiff to the business records previously produced by AGCO as AGCO 00042-00043. Please also refer to the documents produced contemporaneously herewith as AGCO 00044-00047, 00052-00056, and 00081-00082.

Respectfully submitted this 10th day of April, 2024.

**NELSON MULLINS RILEY & SCARBOROUGH LLP**

By: s/Carmen H. Thomas

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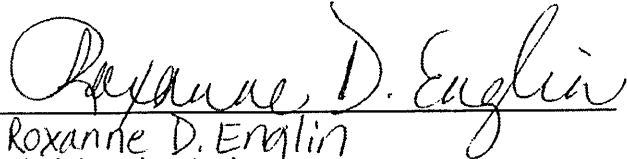
April 10, 2024

**CERTIFICATE OF SERVICE**

I, the undersigned Administrative Assistant of the law offices of Nelson Mullins Riley & Scarborough LLP, counsel for AGCO Corp, do hereby certify that I have served all counsel in this action with a copy of the pleading(s) hereinbelow specified by mailing a copy of the same by United States Mail, postage prepaid, to the following address(es):

Pleadings: Defendant AGCO Corp.'s Response to Plaintiff's Third Set of Interrogatories

Counsel Served: Joseph G. Studemeyer, Esq.  
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*Counsel for Plaintiff*

  
\_\_\_\_\_  
Roxanne D. Englin  
Administrative Assistant

Dated: April 10, 2024

STATE OF SOUTH CAROLINA	)	
	)	IN THE COURT OF COMMON PLEAS
COUNTY OF YORK	)	SIXTEENTH JUDICIAL CIRCUIT
Eswin Aguilar,	)	Civil Action No. 2021-CP-46-01792
	)	
	)	
Plaintiff,	)	
	)	
v.	)	
	)	<b><u>DEFENDANT AGCO CORP.'S</u></b>
	)	<b><u>SUPPLEMENTAL RESPONSES TO</u></b>
AGCO Corp.,	)	<b><u>PLAINTIFF'S FIRST SET OF</u></b>
	)	<b><u>INTERROGATORIES</u></b>
	)	
Defendant.	)	
	)	
	)	
	)	

Defendant, AGCO Corp. ("AGCO"), by and through its counsel, and pursuant to Rule 33, SCRCP hereby supplements certain responses to Plaintiff's First Set of Interrogatories, dated August 10, 2021, as follows:

**INTERROGATORIES**

22. With regards to paragraph 80 of Defendant AGCO Corp.'s Answer to Plaintiff's Complaint, identify any payments or credits issued to Nance Tractor and Implement, Inc. in exchange for furnishing a loaner tractor.

**RESPONSE: None. Plaintiff was offered a loaner tractor. Plaintiff informed AGCO that he would not accept the loaner the day before the loaner was scheduled to be delivered to him.**

23. With regards to paragraph 94 of Defendant AGCO Corp.'s Answer to Plaintiff's Complaint, identify the terms and conditions under which a loaner tractor was offered to the Plaintiff.

**RESPONSE:** Plaintiff was offered a loaner tractor to use while his Tractor was being repaired. Plaintiff refused to accept the loaner the day before it was scheduled to be delivered to him.

26. Please indicate where the Massey Ferguson MF 4707 (Serial Number MC040EJ5236016) sold to Plaintiff was taken on April 28, 2021.

**RESPONSE:** In accordance with Rule 33(c), SCRCP, AGCO directs Plaintiff to the business records previously produced. Specifically, as noted in Jacob Willis' July 8, 2021 email to Plaintiff (AGCO00020), the Tractor was at Nance Tractor and Implement, Inc. ("Nance") as of July 2021. The Tractor was taken to Nance on April 28, 2021. Plaintiff later requested that Nance not perform any further work on the Tractor, and the Tractor was taken to Powell Tractor Inc. in Westminster, SC.

27. Set forth a list of the repairs that have been performed on the Massey Ferguson MF 4707 (Serial Number MC040EJ5236016) sold to Plaintiff since April 28, 2021.

**RESPONSE:** In accordance with Rule 33(c), SCRCP, AGCO directs Plaintiff to AGCO's supplemental business records labeled AGCO00042-00043.

28. Please indicate where the Massey Ferguson MF 4707 (Serial Number MC040EJ5236016) sold to Plaintiff is currently being held.

**RESPONSE:** The Tractor is currently located at Powell Tractor Inc. at 2154 Highway 59, Westminster, SC 29693. Jacob Willis of AGCO contacted Plaintiff on or about October 29, 2021, and informed him that the Tractor had been repaired and ready to be delivered to him. Plaintiff responded that he did not want the tractor and that he was pursuing legal action.

29. Set forth a list of documents that have been generated since April 28, 2021 concerning the retrieval and/or repair of the Massey Ferguson MF 4707 (Serial Number MC040EJ5236016) sold to Plaintiff.

**RESPONSE: Defendant objects to this Interrogatory on the grounds that it seeks or appears to seek information protected by the attorney-client privilege and/or the doctrine of work product immunity. Defendant further objects to this Interrogatory on the grounds that it seeks the mental impressions of its attorneys. The initial complaint in this matter was filed on June 8, 2021, and any documents generated since that time would have been prepared in anticipation of litigation and would be privileged. Subject to and without waiving said objection, in accordance with Rule 33(c), SCRPC, AGCO directs Plaintiff to AGCO's supplemental business records labeled AGCO00042-00043.**

**NELSON MULLINS RILEY & SCARBOROUGH LLP**

By: /s/ Carmen Harper Thomas

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*Attorneys for AGCO Corporation*

Columbia, South Carolina

October 19, 2023

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	FOR THE SIXTEENTH JUDICIAL CIRCUIT
COUNTY OF YORK	)	
	)	Civil Action No.: 2021-CP-46-01792
Eswin Aguilar,	)	
	)	<b>DEFENDANT AGCO CORP.'S</b>
Plaintiff,	)	<b>MOTION AND MEMORANDUM IN</b>
	)	<b>SUPPORT OF SUMMARY JUDGMENT</b>
v.	)	
	)	
AGCO Corp.	)	
	)	
Defendant.	)	
	)	

Defendant AGCO Corp. (“AGCO”) moves for summary judgment on Plaintiff Eswin Aguilar’s (“Plaintiff”) Fourth Amended Complaint, pursuant to Rule 56(c), SCRPC. In support of this Motion, AGCO respectfully shows and states unto the Court as follows:

**I. BACKGROUND**

In April 2019, Plaintiff purchased a new 2019 Massey Ferguson MF4707 tractor (the “Tractor”) from Nance Tractor and Implement, Inc. (“Nance”). *See* Statement of Undisputed Material Facts (“SUMF”) ¶ 5. Nance extended credit to Plaintiff, per the terms and conditions of a Retail Instalment Contract and Security Agreement (the “Instalment Contract”). *Id.* ¶ 6. The Instalment Contract was signed by Plaintiff and Nance. *Id.* ¶ 7. Nance then assigned the Instalment Contract to AGCO Finance, LLC (“AFC”). *Id.* ¶ 8. But AGCO is not a party to, or third-party beneficiary of, the Instalment Contract. *Id.* ¶ 7.

The Tractor was sold with AGCO’s two-year Limited Warranty, which warranted the Tractor to be free from defects in material and workmanship for 24 months or 2,000 hours, whichever comes first. *Id.* ¶¶ 11–13. The Limited Warranty does not cover transportation costs or rental of replacement equipment. *Id.* ¶ 14. The Limited Warranty does not entitle the owner to recover incidental, special, or consequential damages. *Id.* ¶ 15. Besides the standard warranty,

AGCO also had the “option” to “repair or replace” the Tractor for an additional 12-month period. *Id.* ¶ 18.

In April 2019, the Tractor was dropped off at Plaintiff’s property in South Carolina. *Id.* ¶ 24. After one of the Tractor’s tires was damaged shortly after delivery, AGCO provided a replacement tire as a courtesy. *Id.* ¶¶ 25–26. *See id.* ¶ 16 (Exceptions from the Limited Warranty: “Rubber tires are warranted directly by the respective manufacturer only and not by AGCO.”). Plaintiff just had to pay to have the Tractor towed to Nance. *Id.* ¶ 27.

In addition to that courtesy replacement, AGCO ensured that every issue covered by AGCO’s two-year Limited Warranty was repaired at no cost to Plaintiff:

<u>Date</u>	<u>Concern</u>
October 9, 2019	Tractor displayed an error code. <i>Id.</i> ¶ 28.
July 20, 2020	Tractor displayed an error code. <i>Id.</i> ¶ 29.
October 6, 2020	Tractor’s four-wheel-drive function had issues and Tractor made noises. <i>Id.</i> ¶ 31.
October 20, 2020	AGCO dispatched a representative to “perform a diagnostic on the tractor,” update the software, and calibrate the Tractor. <i>Id.</i> ¶ 32.
January 4, 2021	Plaintiff requested an extended warranty on the Tractor. <i>Id.</i> ¶¶ 34–35.
April 21, 2021	Tractor displayed an error code. <i>Id.</i> ¶ 38.

<u>Date</u>	<u>Resolution</u>
November 5, 2019	Tractor was repaired at no cost to Plaintiff. <i>Id.</i> ¶ 28.
September 28, 2020	Tractor was repaired at no cost to Plaintiff. <i>Id.</i> ¶ 29.
October 15, 2020	Tractor was repaired at no cost to Plaintiff. <i>Id.</i> ¶ 31.
October 30, 2020	Tractor was taken in for repairs and loaner tractor was provided at no cost to Plaintiff. <i>Id.</i> ¶ 33.
January 8, 2021	Tractor was repaired at no cost to Plaintiff. <i>Id.</i> ¶¶ 33, 36.
January 8, 2021	AGCO provided “an enhanced warranty to extend [Plaintiff’s] coverage by 1 additional year.” <i>Id.</i> ¶¶ 36–37.
April 28, 2021	AGCO picked up the Tractor, took it to Nance for repairs, and offered to provide a loaner tractor at no cost to Plaintiff. But Plaintiff did not want a loaner. <i>Id.</i> ¶¶ 40, 41–42, 46.
July 2021	Tractor was transferred to Powell Tractor, Inc. <i>Id.</i> ¶ 46.
October 2021	Tractor was repaired at no cost to Plaintiff. <i>Id.</i> ¶¶ 46–48.

As for the April 2021 repair, AGCO picked up the Tractor. *Id.* ¶ 40. When asked if AGCO had permission to pick up the Tractor, Plaintiff said, “Maybe so. But I don’t remember. [T]hey didn’t tell me when they were coming to pick it up.” *Id.* ¶ 43. Because Plaintiff’s property requires a gate code to enter, Plaintiff or his spouse must have provided a gate code to AGCO or manually opened the gate for AGCO to pick up the Tractor. *Id.* ¶ 44. Although Plaintiff “did not ask” where the Tractor was going, he likely knew it was taken to Nance, because he requested that Nance not perform any more work on it. *Id.* ¶¶ 40, 45, 46. In response to that request, AGCO agreed to have the Tractor taken to Powell for repair. *Id.*

On October 29, 2021, AGCO informed Plaintiff that “Powell had completed the warranty repairs” and that “the Tractor was ready to be delivered.” *Id.* ¶ 48. But Plaintiff did not want the Tractor. *Id.* When AGCO told Plaintiff the Tractor was ready, Plaintiff “did not ask” where the Tractor was, what condition it was in, whether Plaintiff could pick it up, or whether AGCO could deliver it. *Id.* ¶ 49. Instead, on June 8, 2021, Plaintiff filed suit against Nance, AFC, and AGCO to revoke his acceptance of the Tractor. *Id.* ¶ 62; *see generally* Compl.

Plaintiff’s Fourth Amended Complaint now asserts six causes of action solely against AGCO: (1) breach of express warranty (Fourth Am. Compl. ¶¶ 83–94); (2) conversion (*id.* ¶¶ 95–107); (3) negligent bailment (*id.* ¶¶ 108–16); (4) civil conspiracy (*id.* ¶¶ 117–24); (5) violations of the South Carolina Unfair Trade Practices Act (“SCUTPA”) (*id.* ¶¶ 125–31); and (6) violations of South Carolina’s Fair Practices of Farm, Construction, Industrial, and Outdoor Power Equipment Manufacturers, Distributors, Wholesalers, and Dealers Act (“S.C. Fair Practices Act”) (*id.* ¶¶ 132–45); and seeks to recover actual, incidental, consequential, and treble damages, including attorneys’ fees arising out of the purchase.

AGCO fully performed its obligations under the Limited Warranty, repaired each purported defect, and informed Plaintiff that the Tractor was ready to be delivered to him. *See* SUMF ¶¶ 48, 52–54. But Plaintiff “didn’t want the [T]ractor.” *Id.* ¶ 48. It has been at Powell since July 2021. *Id.* Accordingly, this Court should grant AGCO’s motion for summary judgment. The undisputed material facts show: (1) AGCO did not breach—but fully performed—the Limited Warranty; (2) Plaintiff authorized AGCO to pick up the Tractor; (3) Plaintiff’s negligent bailment claim is barred by the economic loss rule, and if it were not barred, there is no loss or damage to the Tractor; (4) AGCO did not act with the intent to harm Plaintiff or in furtherance of a conspiracy; (5) AGCO did not engage in unfair or deceptive acts or practices; and (6) Plaintiff’s S.C. Fair Practices Act claim is invalid because the Instalment Contract is not covered by the Act.

## **II. LAW AND ARGUMENT**

### **A. Summary Judgment Standard**

Summary judgment is proper when “there is no genuine issue as to any material fact” and “the moving party is entitled to judgment as a matter of law.” *Baughman v. Am. Tel. & Tel. Co.*, 306 S.C. 101, 114–15, 410 S.E.2d 537, 545 (1991) (quoting Rule 56(c), SCRCP). When a plaintiff fails to establish an element essential to his case, there can be no genuine issue as to any material fact, since a failure to establish even one essential element of a party’s case renders the cause of action insufficient as a matter of law. *S.C. State Ports Auth. v. Booz-Allen & Hamilton, Inc.*, 289 S.C. 373, 376, 346 S.E.2d 324, 325 (1986). The court may rely on the “pleadings, depositions, answers to interrogatories, and admissions on file, together with the affidavits, if any,” to make that determination. *See* Rule 56(c), SCRCP. When applying this standard, “the

evidence and all reasonable inferences must be viewed in the light most favorable to the non-moving party.” *Fleming v. Rose*, 350 S.C. 488, 493–94, 567 S.E.2d 857, 860 (2002).

**B. Plaintiff’s breach of express warranty claim is invalid because of AGCO’s performance of the Limited Warranty (Count I).**

Plaintiff’s first cause of action against AGCO asserts a claim for breach of express warranty. To establish a cause of action for breach of an express warranty, a plaintiff must show “the existence of the warranty, its breach by the failure of the goods to conform to the warranted description, and damages proximately caused by the breach.” *First State Sav. & Loan v. Phelps*, 299 S.C. 441, 448, 385 S.E.2d 821, 825 (1989) (citations omitted). AGCO’s two-year Limited Warranty warranted the Tractor to be free from defects in material and workmanship for 24 months or 2,000 hours. *See* SUMF ¶¶ 11–13.

Plaintiff has failed to establish a breach of the Limited Warranty. Without any support, Plaintiff claims that “AGCO failed to remedy the defects.” Pl.’s Mot. for Summ. J. at p. 17; *see also* Fourth Am. Compl. ¶ 89. But Plaintiff’s testimony and the warranty records demonstrate AGCO’s compliance with the Limited Warranty. *See, e.g.*, SUMF ¶¶ 28–29, 31–33, 36, 40, 46–48, 52–55 (AGCO paid to repair the Tractor several times and at no cost to Plaintiff). Each purported defect in the warranty period was repaired or otherwise acted upon by AGCO:

- AGCO provided a replacement tire for the Tractor—despite tires being “warranted directly by the respective manufacturer,” not AGCO. *Id.* ¶¶ 16, 26.
- October 9, 2019, Tractor displayed error code; repaired on November 5, 2019. *Id.* ¶ 28.
- July 20, 2020, Tractor displayed error code; repaired on September 28, 2020. *Id.* ¶ 29.
- October 6, 2020, Tractor made noises; repaired on October 15, 2020. *Id.* ¶ 31.
- October 20, 2020, AGCO dispatched representative to perform diagnostic, update software, and calibrate Tractor; taken in for repairs on October 30, 2020 and loaner tractor provided; repaired on January 8, 2021. *Id.* ¶¶ 32–33, 36.

- On April 21, 2021, Tractor displayed error code; picked up by AGCO on April 28, 2021. *Id.* ¶¶ 38, 40–42, 46.
- April 24, 2021, Warranty period ends for the Tractor. *Id.* ¶ 39.
- April 28, 2021, AGCO picked up the Tractor, took it to Nance for repairs, and offered to provide a loaner at no cost to Plaintiff. But Plaintiff did not want a loaner. *Id.* ¶¶ 40–42, 46.
- July 2021, Tractor transferred to Powell. *Id.* ¶ 46.
- October 2021, Tractor repaired. *Id.* ¶¶ 46–48.

Plaintiff made no further claims after the October 2021 repair. *Id.* ¶¶ 48–51. Because AGCO fully performed its obligations under the Limited Warranty, summary judgment should be entered in favor of AGCO on Count I.

To the extent an enhanced warranty exists for the Tractor, *see id.* ¶¶ 34–37, the mere existence of an enhanced warranty is not sufficient. As noted above, Plaintiff must also show “breach by the failure of the goods to conform to the warranted description, and damages proximately caused by the breach” of the enhanced warranty. *Phelps*, 299 S.C. at 448, 385 S.E.2d at 825. Thus, Plaintiff must show what was warranted by AGCO under the enhanced warranty, and how the enhanced warranty was breached. Plaintiff provides no evidence of either element.

Instead, Plaintiff cites law that the warrantor cannot cause “unreasonable delay” in the repair or “indefinitely tinker.” *See* Pl.’s Mot. for Summ. J. at pp. 18–19. That issue was not raised in Plaintiff’s breach of express warranty claim. *See* Fourth Am. Compl. ¶¶ 84–94. Even so, AGCO offers evidentiary support that AGCO did not “tinker” with the Tractor. Neither did Powell nor Nance. *See* SUMF ¶ 46. And if there was any delay, it is undisputed that it stemmed from COVID-19 related supply constraints or Plaintiff’s lack of effort to pick up the Tractor after the October 2021 repair. *Id.* ¶¶ 46, 48–51.

Therefore, summary judgment in AGCO's favor is required on Count I of the Fourth Amended Complaint for breach of the Limited Warranty, or an enhanced warranty.

**C. Plaintiff's conversion claim is invalid because Plaintiff authorized AGCO to pick up the Tractor (Count II).**

"Conversion is 'the *unauthorized* assumption and exercise of the right of ownership over goods or personal chattels belonging to another to the exclusion of the owner's rights.'" *Bank of New York v. Sumter Cnty.*, 387 S.C. 147, 158, 691 S.E.2d 473, 479 (2010) (emphasis added) (citing *Moore v. Weinberg*, 383 S.C. 583, 589, 681 S.E.2d 875, 879 (2009)). Plaintiff's conversion claim must fail because Plaintiff authorized AGCO to pick up the Tractor for repair and Plaintiff has since refused to accept its return. *See* SUMF ¶¶ 43–44, 48–51.

The Fourth Amended Complaint makes clear that Plaintiff authorized AGCO to pick up the Tractor: "Plaintiff authorized AGCO to pick up the Tractor to perform repairs on April 22, 2021, and AGCO arrived to pick up the Tractor on April 28, 2021." Fourth Am. Compl. ¶ 96. The evidence—Plaintiff's own deposition testimony—shows the same: Q. "And then AGCO picked up the tractor, right?" A. "Yeah." *See* SUMF ¶ 40. While Plaintiff contends that he "was not at home when the Tractor was picked up," Pl.'s Mot. for Summ. J. at p. 20, he answered, "[m]aybe so" when asked whether AGCO had permission to pick up the Tractor. *See* SUMF ¶ 43. Because Plaintiff's property requires a gate code to enter, Plaintiff or his spouse must have provided the gate code to AGCO or opened the gate for AGCO to pick up the Tractor. *Id.* ¶ 44. When AGCO picked up the Tractor, Plaintiff "did not ask" where it was going. *Id.* ¶¶ 40, 45. But Plaintiff knew the Tractor was taken to Nance because he requested that Nance not perform any more work on it. *Id.* ¶ 46. In response to that request, AGCO took the Tractor to Powell, and later informed Plaintiff that "Powell had completed the warranty repairs to his Tractor and that the Tractor was ready to be delivered to him." *Id.* ¶¶ 46, 48.

These facts do not state a conversion claim under South Carolina law. Plaintiff has not provided, and cannot provide, any support for the elements of conversion: that AGCO's possession was unauthorized when picked up for repairs; that Plaintiff demanded AGCO return the Tractor to him; or that AGCO refused to return the Tractor to Plaintiff upon such a demand. Instead, the facts show that Plaintiff authorized AGCO to pick up the Tractor; once AGCO completed the warranty repairs, AGCO told Plaintiff that "the [T]ractor was ready to be picked up"; but Plaintiff refused to take it. *See* SUMF ¶¶ 48–51. For these reasons, summary judgment in AGCO's favor is required on Count II of the Fourth Amended Complaint for conversion.

**D. Plaintiff cannot maintain his claim for negligent bailment because there was no "loss" or "damage," and it is barred by the economic loss rule (Count III).**

Plaintiff claims that AGCO breached its bailment duties by failing to "account for the status or whereabouts" of the Tractor "for six months," and that Plaintiff "suffered actual damages" as a result. Pl.'s Mot. for Summ. J. at p. 22; Fourth Am. Compl. ¶¶ 113, 115. Under South Carolina law, negligent bailment must result in "loss or damage" of the bailed property. *Shoreland Freezers, Inc. v. Textile Ice & Fuel Co.*, 241 S.C. 537, 541, 129 S.E.2d 424, 425 (1963).

Here, Plaintiff does not allege what damages he incurred—just "losses that are the natural consequence and proximate result of AGCO's negligence." Fourth Am. Compl. ¶ 116. Plaintiff cannot contend there was any actual damage to the Tractor, as AGCO paid to "complete[] the warranty repairs." SUMF ¶ 48. And Plaintiff does not, and cannot, allege there was any lost income. *See generally* Fourth Am. Compl. (no allegation of lost income); SUMF ¶ 15 (agreeing that the Limited Warranty "excludes liability for loss of crops, loss of profits or revenue, other commercial losses and inconvenience"), ¶ 62 (Plaintiff "agreed not to" seek lost profits from

AGCO.). Moreover, the Limited Warranty does not entitle Plaintiff to a “refund” or a “new tractor” as Plaintiff may have wanted. *See* Pl.’s Mot. for Summ. J. at p. 21; SUMF ¶¶ 11–18.

Without any damage, Plaintiff proceeds under a loss theory. Under a loss theory, “the bailor must prove delivery to the bailee and *his refusal to return*” the bailed property. *Fleischman, Morris & Co. v. S. Ry.*, 76 S.C. 237, 56 S.E. 974, 977 (1907) (emphasis added). That theory also fails, because AGCO contacted Plaintiff on October 29, 2021, and informed him that “Powell had completed the warranty repairs to his Tractor and that the Tractor was ready to be delivered to him.” SUMF ¶ 48. But Plaintiff did not want the Tractor. *See id.* (“No. I didn’t want my [T]ractor at all.”). AGCO did not lose the Tractor, and AGCO did not cause any damage to the Tractor. It has been at Powell since July 2021. *Id.* ¶ 50. However, Plaintiff did not ask where the Tractor was, what condition it was in, whether he could pick it up, or whether AGCO could deliver it to him. *Id.* ¶¶ 49, 51.

To the extent Plaintiff seeks damages for purely economic losses,<sup>1</sup> his remedies are limited by the economic loss rule, to include the prohibition against tort-based causes of action. “The economic loss rule is a creation of the modern law of products liability. Under the rule, there is no tort liability for a product defect if the damage suffered by the plaintiff is only to the product itself. In other words, tort liability only lies where there is damage done to other property or personal injury.” *Sapp v. Ford Motor Co.*, 386 S.C. 143, 147, 687 S.E.2d 47, 49 (2009) (citation omitted). The economic loss rule bars tort actions, including negligence actions, when a

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<sup>1</sup> The Fourth Amended Complaint seeks “judgment for all losses that are the natural consequence and proximate result of AGCO’s negligence.” Fourth Am. Compl. ¶ 116. Plaintiff’s prayer for relief is for “actual damages, incidental damages, consequential damages, [and] treble damages.” *See id.*, WHEREFORE clause. But there are no actual, incidental, or consequential damages here: the Tractor was repaired; Plaintiff turned down a loaner tractor; and his tree farm was “not yet a functional tree farm.” *See* SUMF ¶¶ 4, 44–45. Thus, Plaintiff appears to seek damages for purely economic losses.

duty is created solely by contract. *Tommy L. Griffin Plumbing & Heating Co. v. Jordan, Jones & Goulding, Inc.*, 320 S.C. 49, 54–55, 463 S.E.2d 85, 88 (1995) (“A breach of a duty which arises under the provisions of a contract between the parties must be redressed under contract, and a tort action will not lie.”). “Where a purchaser’s expectations in a sale are frustrated because the product he bought is not working properly, his remedy is said to be in contract alone, for he has suffered only ‘economic’ losses.” *Kennedy v. Columbia Lumber & Mfg. Co., Inc.*, 299 S.C. 335, 345, 384 S.E.2d 730, 736 (1989). “Conversely, where a purchaser buys a product which is defective and physically harms him, his remedy is in either tort or contract.” *Id.* As the South Carolina Supreme Court has explained, “[c]ontract law seeks to protect the expectancy interests of the parties,” while “[t]ort law . . . seeks to protect safety interests and is rooted in the concept of protecting society as a whole from physical harm to person or property.” *Sapp*, 386 S.C. at 147, 687 S.E.2d at 49.

Plaintiff’s negligent bailment claim is barred by the economic loss rule because the only duty AGCO owed to Plaintiff related to the repair of the Tractor arises out of the contract between Plaintiff and AGCO: the Limited Warranty—the same contract for which Plaintiff also seeks to recover damages from AGCO’s alleged breach. *See* SUMF ¶¶ 11–18. Accordingly, because the duty AGCO owed to Plaintiff arises out of the Limited Warranty (a contract), the economic loss rule bars Plaintiff’s claim for negligent bailment, and Plaintiff’s negligent bailment claim must be dismissed. *See Tommy L. Griffin Plumbing & Heating Co.*, 320 S.C. at 54-55, 463 S.E.2d at 88 (economic loss rule bars a negligence action “where duties are created solely by contract”).

For these reasons, summary judgment in AGCO’s favor is required on Count III of the Fourth Amended Complaint for negligent bailment.

**E. Plaintiff's civil conspiracy claim is invalid because AGCO did not act with the intent to harm, or in furtherance of a conspiracy (Count IV).**

Under South Carolina law, “a plaintiff asserting a civil conspiracy claim must establish (1) the combination or agreement of two or more persons, (2) to commit an unlawful act or a lawful act by unlawful means, (3) together with the commission of an overt act in furtherance of the agreement, and (4) damages proximately resulting to the plaintiff.” *Paradis v. Charleston Cnty. Sch. Dist.*, 433 S.C. 562, 574, 861 S.E.2d 774, 780 (2021), *reh'g denied* (Aug. 18, 2021). Plaintiff's civil conspiracy claim fails for at least two reasons.

First, a critical element is missing: An agreement to commit an unlawful act. Plaintiff merely alleges that “AGCO conspired to distribute adhesion contracts,” the Instalment Contract. Fourth Am. Compl. ¶ 119. But AGCO is not a party to, or third-party beneficiary of, the Instalment Contract. SUMF ¶ 7. That was strictly between Plaintiff and Nance, and subsequently assigned to AFC. *Id.* ¶¶ 7–8. Thus, Plaintiff cannot show that there was an agreement with AGCO to commit an unlawful act. AFC—not AGCO—charged Plaintiff an administrative fee for the Tractor. *Id.* ¶ 10. AFC is not the manufacturer or AGCO's agent. *Id.* ¶ 9. The inquiry ends there.

Second, Plaintiff cannot show that AGCO acted with the intent to harm him. The Supreme Court in *Paradis* confirmed that “[s]ince civil conspiracy is an intentional tort, an intent to harm, which has also been discussed in our conspiracy law, remains an inherent part of the analysis.” *Paradis*, 433 S.C. at 575 n.9, 861 S.E.2d at 780 n.9. Where, for example, alleged conspirators acted out of a general desire to make a profit rather than to harm the plaintiff, a claim for civil conspiracy cannot lie. *See Bivens v. Watkins*, 313 S.C. 228, 235, 437 S.E.2d 132, 136 (Ct. App. 1993). Plaintiff does not allege, and cannot show, that AGCO acted with malice, nor does he allege that the AGCO's actions were directed specifically to him. *See* Fourth Am.

Compl. ¶ 118–24. Rather, the evidence shows that Plaintiff did not talk to anyone at AGCO before he purchased the Tractor from Nance. SUMF ¶ 19. To the extent Plaintiff claims AGCO intended to “mislead, deceive, and oppress consumers” generally, there is no factual support. *See id.* ¶ 119. Because Plaintiff cannot show that AGCO conspired with the intent to injure him, his claim for civil conspiracy must fail.

For these reasons, summary judgment in AGCO’s favor is required on Count IV of the Fourth Amended Complaint for civil conspiracy.

**F. Plaintiff’s SCUTPA claim is invalid because AGCO did not engage in unfair or deceptive trade practices (Count V).**

Plaintiff’s SCUTPA claim is invalid because AGCO did not engage in unfair or deceptive trade practices. To maintain a private cause of action under SCUTPA, a plaintiff must show: “(1) the defendant engaged in an unfair or deceptive act in the conduct of trade or commerce; (2) the unfair or deceptive act affected public interest; and (3) the plaintiff suffered monetary or property loss as a result of the defendant’s unfair or deceptive act(s).” *Austin v. Stokes-Craven Holding Corp.*, 387 S.C. 22, 50, 691 S.E.2d 135, 149 (2010) (quoting *Wright v. Craft*, 372 S.C. 1, 23, 640 S.E.2d 486, 498 (Ct. App. 2006)); *see generally* S.C. Code Ann. § 39-5-140. Plaintiff bases his SCUTPA claim on six allegations. Each is unsupported by facts or law.

First, Plaintiff cites to 16 C.F.R. § 702.3, claiming that AGCO failed to provide a copy of the Limited Warranty before he purchased the Tractor. *See* Fourth Am. Compl. ¶ 127(a). However, 16 C.F.R. 702.3 applies to consumer products, not commercial products. *See* 16 C.F.R. § 702.3(b)(1)(i)(A) (“Provid[e] a copy of the written warranty with every warranted *consumer product*.”) (emphasis added). Plaintiff purchased the Tractor for his commercial, not consumer, use. SUMF ¶¶ 4, 6.

Second, Plaintiff claims it was unfair and deceptive to require him to pay for towing the Tractor, “even when the repairs are necessitated by equipment defects.” Fourth Am. Compl. ¶ 127(b). Yet, the Limited Warranty is clear that “[i]t is the responsibility of the Owner to transport the [Tractor]” to a dealer for repairs (SUMF ¶ 14), and Plaintiff cannot show how a *purchaser’s* decision to buy a Tractor that has a Limited Warranty requiring him to tow that Tractor to the service shop is somehow an unfair or deceptive practice of *AGCO*. Nor can Plaintiff cite any authority, statute, or regulation in South Carolina or otherwise that requires a tractor manufacturer like *AGCO* to advance payment to farmers for transportation costs to and from dealers for warranty repairs. Other than a \$399.00 towing charge and a \$200.00 towing charge, Plaintiff has not had to paid for any repairs to the Tractor under the Limited Warranty. SUMF ¶¶ 27, 55.

Third, Plaintiff claims that *AGCO* disseminates an Instalment Contract that has inconspicuous provisions and allows *dealers* to charge an “administration fee.” Fourth Am. Compl. ¶ 127(c). *AGCO* is not the dealer; Nance is. *See* SUMF ¶¶ 2, 5–6. Indeed, Plaintiff glosses over the key fact that *AGCO* is not a party to the Instalment Contract in any capacity—the only parties to the Instalment Contract are Plaintiff, Nance, and *AFC*. *See id.* ¶ 7 (*AGCO* is not a party to, or third-party beneficiary of, the Instalment Contract.). Nance’s administration fee cannot be imputed to *AGCO*. *See, e.g., First v. Rolling Plains Implement Co., Inc.*, 108 F.4th 262, 272 (5th Cir. 2024) (“[W]e cannot impute [employee of corporate farm implement dealer’s] statements to *AGCO* Corporation. [That employee] worked for . . . a different company and legal entity.”).

Nor can Plaintiff cite any authority, statute, or regulation in South Carolina or otherwise that would prohibit a tractor manufacturer from providing a form contract to its dealers—

particularly when Plaintiff has not alleged that AGCO has any involvement in the collection or charging of the challenged administration fees. See SUMF ¶ 10. Quite the opposite: “[A] take-it-or-leave-it contract of adhesion is not necessarily unconscionable, even though it may indicate one party lacked a meaningful choice.” *Mart v. Great S. Homes, Inc.*, 441 S.C. 304, 318, 893 S.E.2d 360, 367 (Ct. App. 2023) (citation omitted) (declining to find unconscionable an adhesion contract between home seller and home purchaser); see also, e.g., *Munoz v. Green Tree Fin. Corp.*, 343 S.C. 531, 541, 542 S.E.2d 360, 365 (2001) (declining to find unconscionable an adhesion contract between consumer and lender); *Lackey v. Green Tree Fin. Corp.*, 330 S.C. 388, 402, 498 S.E.2d 898, 905 (Ct. App. 1998) (declining to find unconscionable an adhesion contract between lender and borrowers).

To the extent Plaintiff claims that the Instalment Contract is unfair and deceptive, it is the lack of adequate disclosures, or the presence of omissions, that could constitute deceptive acts or practices—not written disclaimers or waivers, such as the waiver of the right to a jury trial here. See *State ex rel. Wilson v. Ortho-McNeil-Janssen Pharms., Inc.*, 414 S.C. 33, 70, 777 S.E.2d 176, 195 (2015) (“[T]here must be a representation, omission, or practice that is likely to mislead the consumer . . .”). Plaintiff signed the Instalment Contract and, in doing so, acknowledged reading any such disclaimer or waiver:

3. BUYER ACKNOWLEDGES HAVING READ THE ENTIRE CONTRACT (INCLUDING THE ADDITIONAL TERMS AND CONDITIONS CONTAINED ON PAGE 2) AND ACKNOWLEDGES RECEIPT OF A TRUE COPY AT THE TIME OF ITS EXECUTION.	
BUYER'S NAME (PRINT) GSwik Ariel Aguilar Queda	BUYER'S SIGNATURE <i>[Signature]</i>
BUYER'S ADDRESS (PRINT) [Redacted]	BUYER'S PHONE NUMBER (PRINT) [Redacted]
BUYER'S CITY (PRINT) [Redacted]	BUYER'S STATE (PRINT) [Redacted]
BUYER'S ZIP (PRINT) [Redacted]	BUYER'S TITLE (PRINT) [Redacted]

SUMF ¶ 6.

Fourth, Plaintiff claims that AGCO failed to disclose that the Tractor was manufactured in China. Fourth Am. Compl. ¶ 127(d). Under SCUTPA, an act is considered “unfair” if it is offensive to public policy or is immoral, unethical, or oppressive, and “deceptive” if it has a

tendency to deceive. *See deBondt v. Carlton Motorcars, Inc.*, 342 S.C. 254, 269, 536 S.E.2d 399, 407 (Ct. App. 2000). The facts show that Plaintiff never asked where the Tractor was manufactured; he was just “of the impression that it was from [the United States].” SUMF ¶ 21. *See id.* (Plaintiff was asked: “When did AGCO conceal [where the Tractor was manufactured]? Was it before the purchase?” AGCO “never told [him]” it was manufactured in the United States.). Plaintiff’s impression is not an unfair or deceptive practice by AGCO. *See id.* ¶¶ 21–22.

Fifth, Plaintiff claims that AGCO threatened him with lawyers “rather than honor its obligations.” Fourth Am. Compl. ¶ 127(e). But there is no factual basis to support that allegation. Instead, Jacob C. Willis, an Account Manager with AGCO, testified that he did not threaten Plaintiff with lawyers. SUMF ¶ 60. Rather, once Plaintiff informed Mr. Willis that he was involving an attorney, Mr. Willis responded that “all future communications with AGCO would have to go through counsel.” *Id.* Moreover, AGCO’s involvement of an attorney—which is alleged to have been unfair or deceptive—does not fall within the definition of “trade or commerce” under SCUTPA as it did not involve the advertisement, sale, or distribution of services or property within a business context. *See, e.g., Health Promotion Specialists, LLC v. S.C. Bd. of Dentistry*, 403 S.C. 623, 638–39, 743 S.E.2d 808, 816 (2013) (Promulgation of emergency regulation did not satisfy the requirement that the alleged unfair act occurred “in the conduct of any trade or commerce.”).

Sixth, Plaintiff claims that AGCO fabricated discovery. Fourth Am. Compl. ¶ 127(f). SCUTPA is designed to address unfair or deceptive acts or practices in trade or commerce that affect the public interest, *not private disputes or issues related to legal procedures* such as discovery. *See* S.C. Code Ann. § 39-5-20. Even so, any incorrect dates on emails that AGCO “produced through the archive process and features of Microsoft Outlook when the emails were

converted to PDF for production . . . were not modified in bad faith or through any fraudulent action on the part of AGCO.” SUMF ¶ 36 n.1.

For these reasons, summary judgment in AGCO’s favor is required on Count V of the Fourth Amended Complaint for Plaintiff’s SCUTPA claim.

**G. Plaintiff’s S.C. Fair Practices Act claim is invalid because the Instalment Contract is not covered by the Act (Count VI).**

Plaintiff’s sixth cause of action is barred because the S.C. Fair Practices Act does not apply to the Instalment Contract. Specifically, S.C. Code Ann. § 39-6-120 defines the types of agreements covered by the Act: “The provisions of this chapter apply to all written and oral agreements *between a manufacturer, distributor, wholesaler, distributor branch or division, factory branch or division, or wholesale branch or division and an equipment dealer . . . .*” (Emphasis added.) In fact, nowhere in the definitions of the S.C. Fair Practices Act is the word “consumer” listed. *See* S.C. Code Ann. § 39-6-20 (The statute’s definitions are specifically directed at the business relationships within the supply chain, not at consumer transactions.). Plaintiff is not an equipment dealer. He operates a tree farm in Ridgeway, South Carolina. *See* SUMF ¶ 4. To the extent Plaintiff alleges violations of the S.C. Fair Practices Act related to the challenged Instalment Contract, it is not covered by the Act.

If Plaintiff’s sixth cause of action was not barred, it would still fail for the reasons addressed above. *See, e.g.*, Fourth Am. Compl. ¶¶ 137 (alleging the Tractor is manufactured in China), 140 (alleging there are “inconspicuous disclaimers” in the Instalment Contract), 141 (alleging AGCO breached the express warranty), 142 (alleging “dealers” charge “administrative fees”), 143 (alleging AGCO “fabricat[ed] discovery”). Accordingly, summary judgment in AGCO’s favor is required on Count VI of the Fourth Amended Complaint for Plaintiff’s S.C. Fair Practices Act claim.

**III. CONCLUSION**

For these reasons, AGCO requests that this Court enter an Order granting its motion for summary judgment, and for any additional relief this Court deems appropriate.

Respectfully submitted,

**NELSON MULLINS RILEY & SCARBOROUGH LLP**

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February 24, 2025

**CERTIFICATE OF SERVICE**

I, the undersigned Administrative Assistant of the law offices of Nelson Mullins Riley & Scarborough LLP, counsel for AGCO Corp., do hereby certify that I have served all counsel with a copy of the pleading(s) below specified by mailing a copy of the same by United States Mail, postage prepaid, to the following address(es):

Pleadings: Defendant AGCO Corp.'s Motion for Summary Judgment

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/s/ Kelli Diamond Martin  
Administrative Assistant

Dated: February 24, 2025

**EXHIBIT A**  
*(Defendant AGCO Corp.'s Statement  
of Undisputed Material Facts in  
Support of Summary Judgment)*

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	FOR THE SIXTEENTH JUDICIAL CIRCUIT
COUNTY OF YORK	)	
	)	Civil Action No.: 2021-CP-46-01792
Eswin Aguilar,	)	
	)	<b>DEFENDANT AGCO CORP.'S</b>
	)	<b>STATEMENT OF UNDISPUTED</b>
Plaintiff,	)	<b>MATERIAL FACTS IN SUPPORT</b>
	)	<b>OF SUMMARY JUDGMENT</b>
v.	)	
	)	
AGCO Corp.	)	
	)	
Defendant.	)	
	)	

Defendant AGCO Corp. (“AGCO”) files this statement of undisputed material facts in support of its motion for summary judgment on Plaintiff Eswin Aguilar’s (“Plaintiff”) Fourth Amended Complaint.

1. AGCO Corp. manufactures tractors and other farm equipment, including Massey Ferguson tractors. Fourth Am. Compl., ¶ 6; Answer to Fourth Am. Compl., ¶ 6.
2. AGCO sells its equipment through a network of independent dealers, including Nance Tractor and Implement, Inc. (“Nance”). Fourth Am. Compl., ¶ 10; Answer to Fourth Am. Compl., ¶ 10.
3. AGCO Finance, LLC (“AFC”) is engaged in the business of financing farming equipment. Fourth Am. Compl., ¶ 16; Answer to Fourth Am. Compl., ¶ 16.
4. Plaintiff operates a tree farm in Ridgeway, South Carolina. Aguilar Dep. 13:6–12.
5. On or about April 24, 2019, Plaintiff purchased a new 2019 Massey Ferguson MF4707 tractor (the “Tractor”) from Nance for \$51,200. Fourth Am. Compl., Ex. A; Aguilar Dep. 12:12–14, 142:2–144:1, 197:17–21.
6. Nance extended credit to Plaintiff for the purchase price of the Tractor, according to the terms and conditions of a “Retail Instalment Contract and Security Agreement (Agricultural

and Commercial Use)” dated April 24, 2019 (the “Instalment Contract”). Plaintiff read the Instalment Contract’s terms and conditions. Fourth Am. Compl., ¶ 14, Ex. A (“BUYER ACKNOWLEDGES HAVING READ THE ENTIRE CONTRACT”); Answer to Fourth Am. Compl., ¶ 14; Aguilar Dep. 18: 21–19:15 (Instalment Contract was for “Agricultural and Commercial Use”), 20:18–20.

7. Plaintiff and Nance signed the Instalment Contract; however, AGCO is not a party to, or third-party beneficiary of, the Instalment Contract. Fourth Am. Compl., Ex. A; Aguilar Dep. 23:1–24:18; AGCO’s Resp. to Pl.’s Second Reqs. to Admit, ¶ 12; AGCO’s Resp. to Pl.’s Third Set of Interrogatories, ¶ 1.

8. Nance assigned the Instalment Contract to AFC. Fourth Am. Compl., ¶ 16, Ex. A; Answer to Fourth Am. Compl., ¶ 16.

9. AFC “is not the manufacturer of the machinery or the manufacturer’s agent or an agent therein.” Aguilar Dep. 187:10–188:2; Fourth Am. Compl., Ex. A at p. 2.

10. AFC charged Plaintiff an administrative fee for the Tractor. AGCO has never charged Plaintiff such a fee. Fourth Am. Compl., ¶ 24, Ex. B; Answer to Fourth Am. Compl., ¶ 24; Aguilar Dep. 26:19–27:2; AGCO’s Resp. to Pl.’s Second Reqs. to Admit, ¶ 13; AGCO’s Resp. to Pl.’s Third Set of Interrogatories, ¶ 4.

11. The Tractor was sold to Plaintiff with AGCO’s two (2) year Limited Warranty. Fourth Am. Compl., ¶ 65; Answer to Fourth Am. Compl., ¶ 65; Aguilar Dep., Ex. 3 at AGCO 00001.

12. AGCO expressly warranted the Tractor to be free from defects in material and workmanship for twenty-four (24) months or two thousand (2,000) hours, whichever came first:

TRACTORS	ALL TRACK TRACTORS <sup>1,4</sup> , AGRICULTURAL WHEELED TRACTORS <sup>2</sup> , EXCEPT FENDT <sup>3</sup>	TWENTY-FOUR (24) MONTHS OR TWO THOUSAND (2000) HOURS WHICHEVER COMES FIRST
	1500, 1900, 4600M, 4700 AND STA SERIES POWERTRAIN <sup>4</sup> , EXCEPT 1526 AND ZT TRACTORS	TWENTY-FOUR (24) MONTHS OR TWO THOUSAND (2000) HOURS WHICHEVER COMES FIRST
	1526, 1700, 1700E, GC1700, 2600H AND 2700E SERIES	TWENTY-FOUR (24) MONTHS OR TWO THOUSAND (2000) HOURS WHICHEVER COMES FIRST

Fourth Am. Compl. ¶ 84; Answer to Fourth Am. Compl., ¶ 84; Aguilar Dep. 33:4–34:14, Ex. 3 at p. 1.

13. The Limited Warranty was for 24 months or 2,000 hours, which Plaintiff does not dispute. *See* Aguilar Dep. 173:16–23 (Q. “You would agree that [AGCO] agreed to do that for two years or 2,000 hours, whatever came first?” A. “Right.”), 213:23–214:1.

14. The Limited Warranty does not cover transportation costs or rental of replacement equipment:

**OWNER’S OBLIGATION**

*It is the responsibility of the Owner to transport the equipment . . . to the service shop of an authorized AGCO Dealer or alternatively to reimburse the Dealer for any travel or transportation expense involved in fulfilling this warranty. This Warranty does NOT cover rental of replacement equipment during the repair period, damage to products which have been declared a total loss and subsequently salvaged, overtime labor charges, freight charges for replacement parts, or special handling requirements (such as, but not limited to, the use of cranes).*

Aguilar Dep., Ex. 3 at p. 2 (emphasis added).

15. The Limited Warranty does not entitle the Owner to recover incidental, special, or consequential damages, such as the cost of rental or replacement equipment:

**EXCLUSIVE EFFECT OF WARRANTY AND LIMITATION OF LIABILITY**

**THIS WARRANTY IS IN LIEU OF ALL WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PURPOSE OR OTHER REPRESENTATIONS, WARRANTIES OR CONDITIONS, EXPRESSED OR IMPLIED. The remedies of the Owner set forth herein are exclusive. The Company neither assumes nor authorizes any person to assume for it any other obligation or liability in connection with the sale of covered machines. Correction of defects, in the manner and for applicable period of time provided above, shall constitute fulfillment of all responsibilities of AGCO to the Owner, and AGCO shall not be liable for negligence under contract or in any manner with respect to such machines, IN NO EVENT SHALL THE OWNER BE ENTITLED TO RECOVER FOR**

*INCIDENTAL, SPECIAL OR CONSEQUENTIAL DAMAGES SUCH AS . . . COST OF RENTAL OR REPLACEMENT EQUIPMENT.*

Aguilar Dep. 38:16–39:14, Ex. 3 at p. 2 (emphasis added); Aguilar Dep. 148:23–149:5 (Q. “So we previously read that the warranty excludes liability for loss of crops, loss of profits or revenue, other commercial losses and inconvenience?” A. “So then why are we even talking about the trees, then?” Q. “Why are you seeking damages for trees?” A. “Okay.”).

16. The Limited Warranty has additional exceptions, including that rubber tires are warranted directly by the respective manufacturer, not AGCO:

**EXCEPTIONS FROM THIS WARRANTY . . . .**

**Repairs and Maintenance Not Covered Under Warranty** - This warranty does not cover conditions resulting from misuse, natural calamities, use of non-AGCO parts, negligence, alteration, accident, use of unapproved attachments, usage which is contrary to the intended purposes, or conditions caused by failure to perform required maintenance. Replacement of Wear or Maintenance items (unless defective) such as but not limited to, filters, wiper blades, fuses, brake linings, clutch friction disc, coolants, hoses, belts, lubricants, refrigerant, light bulbs, window glass, injections nozzles, wheel alignment, brake and clutch adjustment, tightening of nuts, belts, bolts, and fittings, service tune-up, headlight alignment, computer parameter adjustments and general adjustments which may from time to time be required are not covered.

**Rubber Tire Warranty** - *Rubber tires are warranted directly by the respective manufacturer only and not by AGCO.*

Aguilar Dep. 34:15–22, 35:22–36:4, Ex. 3 at p. 2 (emphasis added).

17. Plaintiff understood that the Limited Warranty was, indeed, “limited.” Aguilar Dep. 171:23–172:5.

18. The Limited Warranty provides that AGCO also had the “option” to “repair or replace” the Tractor “for an additional (12) month period”:

<p><small>In addition to standard warranty, the company will repair or replace, at its option, without charge for parts or labor, during normal working hours, any defective engine, transmission, drive axle casing, and/or components enclosed within these coatings for an additional (12) month period provided the tractor has not been used for more than 2000 hours, whichever comes first.</small></p>
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Aguilar Dep. 171:23–173:2, 178:2–5, Ex. 3 at AGCO 00001.

19. Plaintiff did not talk to any AGCO representative before he purchased the Tractor from Nance. Aguilar Dep. 15:7–9, 189:25–190:5.

20. Plaintiff thought that the Tractor was made in the United States, but no one from AGCO represented to him that the Tractor was made in the United States. Aguilar Dep. 96:3–97:10.

21. Plaintiff did not ask AGCO where the Tractor was manufactured prior to purchasing it; Plaintiff was just “of the impression that it was from here.” Aguilar Dep. 80:24–81:5, 100:4–101:3 (Q. “You say, ‘AGCO conceals that its iconic Massey Ferguson tractors are manufactured in China.’ My question is: When did AGCO conceal that fact to you? Was it before the purchase?” A. “[N]o. They never told me any of that.”).

22. The Tractor was “manufactured by AGCO Corporation in China.” Aguilar Dep. 153:14–154:7, Ex. 11 at AGCO 00048 (Decl. of Amy Ganter); AGCO’s Resp. to Pl.’s Second Set of Interrogatories, ¶ 1; AGCO’s Resp. to Pl.’s First Req. for Admis., ¶ 1.

23. The plate on the Tractor states, “AGCO Corporation, Duluth GA - USA”; however, it does not state “*Made in Duluth, Georgia.*” Aguilar Dep. 141:5–24, Ex. 10 at 0083–85.

24. On or about April 29, 2019, Nance dropped off the Tractor at Plaintiff’s property in Ridgeway, South Carolina. Aguilar Dep. 27:10–18.

25. Plaintiff alleges that one of the Tractor’s tires was discovered to be damaged shortly after delivery. Fourth Am. Compl., ¶ 33.

26. AGCO provided a replacement tire at no charge to Plaintiff. Aguilar Dep. 28:8–29:7, 46:25–5, 154:12–158:20, Ex. 11 at AGCO 00051 (“I offered to pay for the pickup and delivery of the [T]ractor since it was in the shop for another warranty issue that was covered under warranty at the same time.”).

27. Plaintiff paid \$399.00 to have the Tractor towed to Nance. Aguilar Dep. 36:17–19; 105:6–11.

28. On October 9, 2019, the Tractor displayed an error code. Fourth Am. Compl., ¶ 34; Answer to Fourth Am. Compl., ¶ 34; Aguilar Dep. 29:15–25. On November 5, 2019, Nance repaired the Tractor under the Limited Warranty at no cost to Plaintiff:

<b>CLIENT NAME</b>	ESWIN AGUILAR	<b>ORDER DATE</b>	<b>ORDER NUMBER</b>
<b>CLIENT PHONE</b>	(803) 238-9063	11/5/2019	WM03665
<b>WORK LOCATION</b>	SHOP LOCATION		
<b>SERVICE TYPE</b>	Warranty, No Charge		
<b>WORK DESCRIPTION</b>	Replaced broken gear in transmission housing.		
<b>ADDITIONAL NOTES</b>	Service is covered under Powertrain Warranty		

Fourth Am. Compl., ¶ 38; Answer to Fourth Am. Compl., ¶ 38; Aguilar Dep. 48:23–49:4 (“Service type warranty no charge. Replace broken gear in transmission housing.”), 64:5–10 (Q. “There was no charge for these repairs on November 5, 2019, right?” A. “Yes.” Q. “AGCO paid for these?” A. “Yes.”), Ex. 5 at 0026, Ex. 13 at AGCO 00032 (Nov. 5, 2019 Maint. Work Ord.).

29. On July 20, 2020, the Tractor displayed an error code. Plaintiff had the Tractor towed to Nance. On September 28, 2020, Nance repaired the Tractor under the Limited Warranty at no cost to Plaintiff:

<b>CLIENT NAME</b>	ESWIN AGUILAR	<b>ORDER DATE</b>	<b>ORDER NUMBER</b>
<b>CLIENT PHONE</b>	(803) 238-9063	9/28/2020	WM04279
<b>WORK LOCATION</b>	SHOP LOCATION		
<b>SERVICE TYPE</b>	Warranty, No Charge		
<b>WORK DESCRIPTION</b>	Replaced broken shaft in transmission, software update, replaced fuel gauge		
<b>ADDITIONAL NOTES</b>	Service is covered under Powertrain Warranty		

Fourth Am. Compl., ¶ 44; Answer to Fourth Am. Compl., ¶ 44; Aguilar Dep. 42:1–9, 64:11–14 (Q. “There was no charge for this work, correct?” A. “Yes.”), Ex. 5 at 0032, Ex. 13 at AGCO 00033 (Sept. 28, 2020 Maint. Work Ord.).

30. On October 1, 2020, Plaintiff emailed Nance: “Not sure why AGCO has anything to do with this. These issues are workmanship problems with the mechanic or whoever worked on the [T]ractor”:

On Thu, Oct 1, 2020, 10:02 PM Eswin Aguilar <capitalstone01@yahoo.com> wrote:

Not sure why Agco has anything to do with this. These issues are workmanship problems with the mechanic or whoever worked on the tractor. Call me as soon as you can. Also would like the name of the representative you are speaking with and the number. This is not a warranty issue.

Aguilar Dep. 112:7–116:11, Ex. 10 at 0051.

31. On October 6, 2020, the Tractor was making noises and its four-wheel-drive function had issues. On October 15, 2020, Nance repaired the Tractor under the Limited Warranty at no cost to Plaintiff:

<b>CLIENT NAME</b>	ESWIN AGUILAR	<b>ORDER DATE</b>	<b>ORDERNUMBER</b>
<b>CLIENT PHONE</b>	(803) 238-9063	10/15/2020	WM04561
<b>WORK LOCATION</b>	SHOP LOCATION		
<b>SERVICE TYPE</b>	Warranty, No Charge		
<b>WORK DESCRIPTION</b>	Fixed 4WD issue and replaced bleeder screw		
<b>ADDITIONAL NOTES</b>	Service is covered under Powertrain Warranty		

Fourth Am. Compl., ¶ 47; Answer to Fourth Am. Compl., ¶ 47; Aguilar Dep. 64:15–18 (Q. “[On] October 15, 2020, no charge for this work; is that right?” A. “They didn’t charge me for anything . . . .”), 122:21–123:25, Ex. 5 at 0059, Ex. 10 at 0053–56, Ex. 13 at AGCO 00034 (Oct. 15, 2020 Maint. Work Ord.).

32. On October 20, 2020, AGCO dispatched a representative, David Sumner, to Plaintiff's property to "perform a diagnostic on the [T]ractor," update the software, and calibrate the Tractor. Fourth Am. Compl., ¶ 53; Answer to Fourth Am. Compl., ¶ 53; Aguilar Dep. 125:16–126:3, Ex. 10 at 0062; AGCO's Second Suppl. Resps. to Pl.'s First Set of Interrogatories, ¶¶ 20–21.

33. On October 30, 2020, the Tractor was taken in for repairs and a loaner tractor was provided at no cost to Plaintiff. On January 8, 2021, Nance repaired the Tractor under the Limited Warranty at no cost to Plaintiff:

<b>CLIENT NAME</b>	ESWIN AGUILAR	<b>ORDER DATE</b>	<b>ORDER NUMBER</b>
<b>CLIENT PHONE</b>	(803) 238-9063	1/8/2021	WM04649
<b>WORK LOCATION</b>	MET AT CUSTOMER LOCATION, FIXED AT SHOP LOCATION		
<b>SERVICE TYPE</b>	Warranty, No Charge		
<b>WORK DESCRIPTION</b>	Replaced hydraulic pump, flushed hydraulic system		
<b>ADDITIONAL NOTES</b>	Service is covered under Powertrain Warranty		

Fourth Am. Compl., ¶¶ 57, 61–62; Answer to Fourth Am. Compl., ¶¶ 57, 61–62; Aguilar Dep. 38:2–6, 49:16–50:9 (“A. They gave me a loaner. That’s correct.” Q. “Even though they didn’t have to?” A. “I understand.”), 55:9–12, 78:9–11, 126:23–127:16, Ex. 5 at 0071, Ex. 13 at AGCO 00035 (Jan. 8, 2021 Maint. Work Ord.).

34. On January 4, 2021, Plaintiff requested an extended warranty on the Tractor. Fourth Am. Compl., ¶¶ 60, 64; Answer to Fourth Am. Compl., ¶¶ 60, 64; Aguilar Dep., Ex. 13 at AGCO 00028–29.

35. Plaintiff did not purchase an extended warranty when he purchased the Tractor. Aguilar Dep. 198:11–13.

36. On January 8, 2021,<sup>1</sup> AGCO advised Plaintiff that “[Nance is] going to try to get [the Tractor] delivered to you this afternoon,” and that AGCO would provide “an enhanced warranty to extend your coverage by 1 additional year.” Aguilar Dep. 93:21–23, 126:4–25, 199:9–11, 235:2–236:14, Ex. 10 at 0069, Ex. 13 at AGCO 00051; AGCO’s Resp. to Pl.’s Second Reqs. to Admit, ¶¶ 4, 11.

37. The “enhanced” warranty covered the Tractor’s “hydraulic components” and would not “exceed 36 months or 2000 total hours, including the MFR Base Warranty Period.” It had a \$250.00 deductible, which AGCO “w[ould] cover” if Plaintiff “ever need[ed] to use it.” Aguilar Dep., Ex. 13 at AGCO 00028–31.

38. On April 21, 2021, the Tractor displayed an error code. Fourth Am. Compl., ¶ 66; Aguilar Dep. 47:23–25.

39. Plaintiff purchased the Tractor on or about April 24, 2019; thus, the Warranty period ended on April 24, 2021. *See* Aguilar Dep., Ex. 3 at p. 1.

40. On April 28, 2021, AGCO picked up the Tractor for repair. Fourth Am. Compl., ¶ 67; Answer to Fourth Am. Compl., ¶ 67; Aguilar Dep. 66:7–67:2 (Q. “And then AGCO picked up the tractor, right?” A. “Yeah.”); AGCO’s Resp. to Pl.’s Third Set of Interrogatories, ¶ 2.

41. AGCO agreed to provide Plaintiff a loaner tractor while the Tractor was being repaired. The loaner tractor was offered at no cost to Plaintiff. The day before the loaner tractor was supposed to be delivered to Plaintiff, Plaintiff informed Jacob C. Willis, an Account Manager with AGCO, that he did not want it. Fourth Am. Compl., ¶¶ 97–98; Answer to Fourth Am. Compl.,

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<sup>1</sup> AGCO clarified in its Response to Plaintiff’s Second Requests to Admit that dates of emails, such as “January 8, 2021,” were “produced through the archive process and features of Microsoft Outlook when the emails were converted to PDF for production. The dates on these emails were not modified in bad faith or through any fraudulent action on the part of AGCO.” AGCO’s Resp. to Pl.’s Second Reqs. to Admit, ¶¶ 7–9.

¶¶ 97–98; Oct. 17, 2024 Aff. of Jacob Willis ¶ 4; AGCO’s Suppl. Resps. to Pl.’s First Set of Interrogatories, ¶¶ 22–23; AGCO’s Resp. to Pl.’s Third Set of Interrogatories, ¶ 5.

42. Plaintiff refused the loaner tractor because he did not want to insure it. Aguilar Dep. 55:12–23, 66:7–13.

43. When asked, “Did you give AGCO permission to pick up the [T]ractor?”, Plaintiff replied, “Maybe so. But I don’t remember. But what I do know, they didn’t tell me when they were coming to pick it up.” Aguilar Dep. 69:19–25.

44. Because Plaintiff’s property is fenced and gated, and requires a gate code to enter, Plaintiff or his spouse would have had to provide a gate code to AGCO or manually open the gate on that date for AGCO to pick up the Tractor. Aguilar Dep. 200:12–201:25.

45. Plaintiff “did not ask where [the] [T]ractor was going,” nor has he ever asked AGCO where the Tractor is located. However, Plaintiff is currently aware of the Tractor’s location. Aguilar Dep. 67:5–69:13, 70:1–5, 70:22–71:5; *see also* Oct. 17, 2024 Aff. of Jacob Willis ¶ 6 (“Between April 28, 2021 and October 29, 2021, Mr. Aguilar did not ask me where the Tractor was located, nor did he contact me to ask about the status of the warranty repairs to the Tractor.”).

46. The Tractor was taken to Nance on April 28, 2021. Shortly thereafter, Plaintiff requested that Nance not perform any further work on the Tractor. In response, AGCO agreed to have the Tractor taken to another dealer for repair, and the Tractor was transferred to Powell Tractor, Inc. (“Powell”) in Westminster, South Carolina in July of 2021. Powell completed warranty repairs to the Tractor by October 2021. The warranty repairs performed by Nance and Powell were completed within a reasonable amount of time in light of the COVID-19 related supply constraints that AGCO operated under in 2020 and 2021. AGCO did not tinker with the Tractor. Neither did Powell or Nance. *See* Oct. 17, 2024 Aff. of Jacob Willis ¶ 5; *see also* Aguilar

Dep. 50:20–51:7 (Plaintiff acknowledged that the repairs may have been slowed down because of COVID-19 related supply constraints.), Ex. 3 at AGCO 00042–43 (Powell Invoices); AGCO’s Suppl. Resps. to Pl.’s First Set of Interrogatories, ¶ 26; AGCO’s Resp. to Pl.’s Third Set of Interrogatories, ¶¶ 2–3.

47. A July 18, 2021 email shows that Powell “[r]eplaced [the] complete transmission” of the Tractor under the Limited Warranty and it “drives fine now.” Aguilar Dep. 150:9–152:16, Ex. 11 at AGCO 00044–46.

48. Mr. Willis contacted Plaintiff on October 29, 2021 and informed him that “Powell had completed the warranty repairs to his Tractor and that the Tractor was ready to be delivered to him.” Plaintiff responded that he did not want the Tractor, that he was pursuing legal action, and that he needed to contact his attorney. Mr. Willis has not heard from Plaintiff since that October 29, 2021 telephone call with him. Oct. 11, 2023 Aff. of Jacob Willis ¶ 3; Oct. 17, 2024 Aff. of Jacob Willis ¶ 7; Fourth Am. Compl., ¶ 79; Answer to Fourth Am. Compl., ¶ 79; Aguilar Dep. 82:2–83:12, 93:24–94:5, 94:19–95:2, 117:25–118:8, 181:16–17, 138:22–138:3 (Q. “You didn’t want the [T]ractor to be fixed and you didn’t want the [T]ractor at all, right?” A. “No. I didn’t want my [T]ractor at all. I wanted them to replace [] the [T]ractor. I didn’t want that [T]ractor.”), 211:17–212:3 (Q. “Did Jacob Willis tell you that the [T]ractor was ready to be picked up?” A. “I think he said it was ready—the [T]ractor is ready . . . .”); AGCO’s Resp. to Pl.’s Third Set of Interrogatories, ¶ 3.

49. When Mr. Willis told Plaintiff that the Tractor was ready, Plaintiff “did not ask” where the Tractor was, what condition it was in, whether Plaintiff could pick it up, or whether AGCO could deliver it to Plaintiff. Aguilar Dep. 83:20–84:10, 95:3–22, 96:1–2.

50. AGCO did not lose Plaintiff's Tractor. It has been at Powell since July 2021. Aff. of Phillip Conner ¶¶ 2–3; Oct. 17, 2024 Aff. of Jacob Willis ¶ 8; AGCO's Suppl. Resps. to Pl.'s First Set of Interrogatories, ¶ 28.

51. Plaintiff has not made any effort to pick up the Tractor. Aguilar Dep. 87:21–24, 167:9–168:22.

52. AGCO paid to repair the Tractor numerous times. Aguilar Dep. 97:21–98:2, 98:25–99:3 (Plaintiff stated, "I know they fixed the [T]ractor. I know they fixed it. . . . [I]f the answer you're looking for is they fixed my [T]ractor numerous times, I get it. They did fix the [T]ractor.>").

- a. AGCO paid \$3,510.87 for the October 11, 2019 repairs to the shaft of the Tractor when it had 20 hours on it. Aguilar Dep., Ex. 11 at AGCO 00057–58.
- b. AGCO paid \$300.00 for the October 12, 2019 repairs to the hydraulic clutches of the Tractor when it had 335 hours on it. Aguilar Dep. 159:4–15, Ex. 11 at AGCO 00059–60.
- c. AGCO paid \$3,820.89 for the September 4, 2020 repairs to the shafts, gears, and bearings of the Tractor when it had 184 hours on it. Aguilar Dep. 159:16–160:4, Ex. 11 at AGCO 00061–62.
- d. AGCO paid \$684.00 for the September 19, 2020 repairs to the rear lights of the Tractor when it had 184 hours on it. Plaintiff "claimed that a rock was thrown from a Mack truck, which busted the front windshield out of the [T]ractor while . . . on the way to [the] shop to get their hydraulic and electrical problems fixed." Aguilar Dep. 160:5–161:9, Ex. 11 at AGCO 00063–66.
- e. AGCO paid \$284.87 for the September 19, 2020 repairs to the fuel gauge of the Tractor when it had 184 hours on it. Aguilar Dep., Ex. 11 at AGCO 00067–68.

- f. AGCO paid \$305.21 for the October 15, 2020 repairs to the sleeve of the drive shaft of the Tractor when it had 185 hours on it. Aguilar Dep., Ex. 11 at AGCO 00069–70.
- g. AGCO paid \$46.87 for the October 15, 2020 repairs to the bleeder screw of the Tractor when it had 186 hours on it. Aguilar Dep., Ex. 11 at AGCO 00071–72.
- h. AGCO paid \$1,651.16 for the February 2, 2021 repairs to the hydraulic system of the Tractor when it had 220 hours on it. Aguilar Dep., Ex. 11 at AGCO 00073–74.
- i. AGCO paid \$500.00 for the March 11, 2021 “Goodwill” repairs to the hydraulic system of the Tractor when it had 230 hours on it. Aguilar Dep., Ex. 11 at AGCO 00077–78.
- j. AGCO paid \$1,536.15 for the July 28, 2021 repairs to the transmission/gear box/drive train of the Tractor when it had 335 hours on it. Aguilar Dep., Ex. 11 at AGCO 00052–53.
- k. AGCO paid \$8,483.66 for the July 21, 2021 repairs to the gears of the Tractor when it had 335 hours on it. Aguilar Dep., Ex. 11 at AGCO 00081–82.
- l. AGCO paid \$8,843.61 for the October 4, 2021 repairs to the rear housing and bearings housing of the Tractor when it had 335 hours on it. Aguilar Dep., Ex. 11 at AGCO 00054–56.

53. Plaintiff could not dispute that AGCO paid for every repair to the Tractor, and he could not identify any specific term of the Limited Warranty that AGCO breached. Aguilar Dep. 179:2–180:25.

54. “AGCO complied with the terms of its Limited Warranty for the Tractor by repairing or otherwise acting upon each purported defect in the Tractor during the warranty period.” Oct. 17, 2024 Aff. of Jacob Willis ¶ 9.

55. Plaintiff paid a \$399.00 towing charge and a \$200.00 towing charge, but has not paid for any repairs to the Tractor. Aguilar Dep. 36:20–22; 58:12–16; 86:7–16.

56. Plaintiff demanded that AGCO pay him a “[t]otal refund [of] \$72,101.76” for the Tractor:

I am requesting a full refund of \$57,101.76 and \$10,000 for the bush hog. I do not want to use the bush hog on another brand of tractor and at this point it breaking as well. I am also requesting another \$5,000.00 for the aggravation I have been through and losing some of my trees that I was not able to plant because of the tractor breaking down.

**Total refund \$72,101.76.** I need this immediately so I can purchase another tractor as I am ordering more trees to plant.

Aguilar Dep. 80:14–23, Ex. 8 at 0080, Ex. 10 at 0079–80, Ex. 13 at ACGO 00004; Oct. 11, 2023 Aff. of Jacob Willis ¶ 1; Oct. 17, 2024 Aff. of Jacob Willis ¶ 1.

57. AGCO offered Plaintiff the value of the Tractor, minus 200 hours of depreciation. Aguilar Dep. 58:22–60:13 (“What we can do is depreciate your [T]ractor for a new tractor.”).

58. Plaintiff confirmed there were 300 hours on the Tractor as of April 2021. Aguilar Dep. 104:4–18, 152:17–23, Ex. 10 at 0023 (“333.7 Hours on Tractor Apr. 1, 2021”), Ex. 11 at AGCO 00045 (“Unit Usage 335.00 Hours”).

59. But Plaintiff did not “take[] any efforts to determine the value of a used Massey Ferguson 4700 series, 2019 model, 335 hours.” Aguilar Dep. 164:16–19.

60. Plaintiff claims he was “threatened [] with lawyers.” Aguilar Dep. 58:17–19, 99:24–100:3. But Mr. Willis confirmed there was no such threat: “I did not inform Mr. Aguilar that ‘legal action would be futile because AGCO could afford more lawyers than him.’ Rather, once Mr. Aguilar informed me that he was involving an attorney, I responded that if he was hiring

an attorney, all future communications with AGCO would have to go through counsel.” Oct. 17, 2024 Aff. of Jacob Willis ¶ 10.

61. On June 8, 2021, Plaintiff filed the instant action. *See generally* Compl.

62. Plaintiff’s Answers to AGCO’s First Set of Interrogatories indicate that he calculated lost profits as part of his alleged damages, but he subsequently “agreed not to” seek lost profits from AGCO in this case. Rather, Plaintiff’s alleged damages include the price of the Tractor, the towing fee, and \$2,400.00 to modify the Bush Hog. Aguilar Dep. 89:22–90:11, Ex. 9 at No. 9.

63. Plaintiff agreed that AGCO is not responsible for the Bush Hog since AGCO did not manufacture it. Aguilar Dep. 132:9–20.

64. Nance paid Plaintiff \$90,000.00 to settle its portion of the case. Aguilar Dep. 76:2–4; Aguilar Continued Dep. 5:24–6:24; Aff. of Plaintiff ¶ 5.

65. AFC paid Plaintiff \$10,000 to settle its portion of the case. Aguilar Dep. 103:10–17; Aff. of Plaintiff ¶ 5.

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February 24, 2025

ELECTRONICALLY FILED - 2025 Feb 26 11:04 AM - YORK - COMMON PLEAS - CASE#2021CP4601792

**CERTIFICATE OF SERVICE**

I, the undersigned Administrative Assistant of the law offices of Nelson Mullins Riley & Scarborough LLP, counsel for AGCO Corp., do hereby certify that I have served all counsel with a copy of the pleading(s) below specified by mailing a copy of the same by United States Mail, postage prepaid, to the following address(es):

Pleadings: Defendant AGCO Corp.'s Statement of Undisputed Material Facts  
in Support of Summary Judgment

Counsel Served: Joseph G. Studemeyer, Esq.  
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Irmo, SC 29063  
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*Counsel for Plaintiff*

/s/ Kelli Diamond Martin  
Administrative Assistant

Dated: February 24, 2025

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	SIXTEENTH JUDICIAL CIRCUIT
COUNTY OF YORK	)	CASE NO.: 2021-CP-46-01792
	)	
Eswin Aguilar,	)	
	)	
Plaintiff,	)	<b>PLAINTIFF’S MEMORANDUM IN</b>
	)	<b>OPPOSITION TO DEFENDANT</b>
v.	)	<b>AGCO CORP.’S MOTION FOR</b>
	)	<b>SUMMARY JUDGMENT</b>
AGCO Corp.,	)	
	)	
Defendant.	)	
_____	)	

**INTRODUCTION**

On September 16, 2024, the Plaintiff filed a motion for summary judgment and memorandum in support which was based on the pleadings, depositions, answers to interrogatories, admissions on file, and affidavits—including the affidavit of Jacob Willis previously filed on October 12, 2023 (hereinafter, “Affidavit of Jacob Willis I”). A hearing was scheduled for Monday, October 21, 2024.

Late in the afternoon on October 18, 2024, Defendant AGCO Corp. (“AGCO”) filed a second affidavit of Jacob Willis (hereinafter, “Affidavit of Jacob Willis II”). Therein, Willis attested to the content of communications he allegedly had with the Plaintiff in 2021 which were omitted from the prior affidavit.<sup>1</sup> Nevertheless, Willis’ eleventh-hour recollections created the appearance of a genuine issue of material fact as to preclude summary judgment with respect to Plaintiff’s claims for conversion, negligent bailment, violation of the South Carolina Unfair

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<sup>1</sup> In paragraph 5, Willis attested: “Shortly thereafter [April 28, 2021], during a phone call I had with Mr. Aguilar, he requested that Nance not perform any further work on the Tractor.” In response, AGCO agreed to arrange for the Tractor to be taken to another AGCO dealer for repair. If AGCO performed unauthorized repairs as suggested by Willis, then AGCO admits that it is liable for conversion. See Green v. Waidner, 284 S.C. 35, 324 S.E.2d 331 (1984).

Trade Practices Act, and violation of the South Carolina Fair Practices of Farm, Construction, Industrial, and Outdoor Power Equipment Manufacturers, Distributors, Wholesalers, and Dealers Act.

AGCO has since moved for summary judgment. AGCO's motion for summary judgment relies in large part upon the Affidavit of Jacob Willis II. In the same sense that this sworn statement created a genuine issue of material fact such that the Plaintiff could not prevail on its motion for summary judgment, AGCO's own motion fails.

The evidentiary facts are largely in dispute. As to the facts not in dispute, there is a fundamental disagreement concerning the conclusion to be drawn from those facts. As such, AGCO is not entitled to summary judgment.

### **BACKGROUND**

The Plaintiff resides on a 42-acre tract in Ridgeway, South Carolina. On or about April 24, 2019, the Plaintiff purchased a 2019 Massey Ferguson MF4707 tractor (the "Tractor"), which was manufactured and distributed by AGCO, from Nance Tractor and Implement, Inc. ("Nance") for the sum of \$51,200.00, which was financed by AGCO Finance, LLC ("AGCO Finance"). AGCO designs, manufactures, and distributes agricultural equipment under multiple brands, including Massey Ferguson.

The Plaintiff alleges that the terms of the retail installment contract ("RISC") presented to him at the time of purchase violated the South Carolina Unfair Trade Practices Act. It is alleged that AGCO conspired with its authorized dealers and AGCO Finance<sup>2</sup> to distribute these adhesion contracts containing unconscionable terms with the intention to mislead, deceive, and oppress consumers, including the Plaintiff.

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<sup>2</sup> According to AGCO's website ([www.agcocorp.com/finance.html](http://www.agcocorp.com/finance.html)), AGCO Finance specializes in providing loan and lease financing to AGCO's retail customers to buy tractors, combine harvesters, and other farm equipment.

The Plaintiff alleges that AGCO further violated the South Carolina Fair Practices of Farm, Construction, Industrial, and Outdoor Power Equipment Manufacturers, Distributors, Wholesalers, and Dealers Act. The Plaintiff alleges that AGCO engaged in unfair methods of competition and unfair and deceptive acts or practices declared unlawful by S.C. Code Ann. § 39-6-50, including but not limited to: allowing its authorized dealers and AGCO Finance—a joint venture of AGCO and Rabobank<sup>3</sup>—to charge administrative fees and hidden add-on fees as an additional revenue stream, and by refusing to refund or to replace the Plaintiff’s defective Tractor after two years of constant mechanical failure.

The Plaintiff alleges that AGCO breached the terms of the express “AGCO LIMITED WARRANTY” (the “warranty”) which accompanied the purchase of the Tractor because the Tractor was not “free from defects in material and workmanship” at the time of purchase or at any other time during the two-year warranty period. Finally, the Plaintiff alleges that AGCO committed actionable conversion as well as negligent bailment. AGCO hauled the Tractor away on April 28, 2021, after the fifth breakdown suffered during the warranty period. The Plaintiff demanded a refund or a replacement. Unbeknownst to the Plaintiff, AGCO spent no fewer than the next six months tinkering with the Tractor before misplacing it for two years thereafter.

#### **STATEMENT OF UNDISPUTED FACTS**

1. AGCO is engaged in the business of designing, manufacturing, and distributing farming equipment under various brands, including Massey-Ferguson. (Fourth Amended Complaint ¶ 6; Answer to Fourth Amended Complaint ¶ 6).

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<sup>3</sup> See ([www.agcofinance.com/en/About-us](http://www.agcofinance.com/en/About-us)).

2. Prior to the Plaintiff's purchase of the Tractor, AGCO advertised Massey-Ferguson branded tractors alongside the marketing slogan "The Last Tractor You'll Ever Need." (AGCO's responses to Plaintiff's Second Requests to Admit, # 1).
3. The Plaintiff needed a large tractor to mow the grass on his 42-acre tract in Ridgeway, as well as to plant and water trees he hoped to someday use in his landscaping business. (Eswin Aguilar Depo. 13: 6-19; 15: 17-25; 16: 1-3).
4. Nance is an authorized dealer of farm equipment manufactured and distributed by AGCO. (Fourth Amended Complaint ¶ 10; Answer to Fourth Amended Complaint ¶ 10).
5. On April 24, 2019, the Plaintiff visited Nance and executed a "Retail Instalment Contract and Security Agreement" ("RISC") which was to be assigned to AGCO Finance. (Fourth Amended Complaint ¶14; Answer to Fourth Amended Complaint ¶¶ 14).
6. Therein, the Plaintiff agreed to purchase a 2019 Massey Ferguson MF 4707 from Nance for \$51,200.00. (Fourth Amended Complaint ¶¶ 11; Answer to Fourth Amended Complaint ¶¶ 11).
7. Pursuant to the RISC, the Plaintiff agreed to pay AGCO Finance 36 monthly installments of \$1518.16. (Eswin Aguilar Depo. 20: 21-24).
8. The Plaintiff satisfied his obligation under the RISC within a matter of weeks and owned the Tractor free and clear. (Eswin Aguilar Depo. 27: 7-9 and Exhibit 10, 0022).
9. The RISC required a signature only on the first page. (Fourth Amended Complaint, ¶ 17; Answer to Fourth Amended Complaint ¶ 17).
10. The Plaintiff neither signed nor initialed any other pages of the RISC. (Eswin Aguilar Depo. 219: 15-24).

11. Unbeknownst to the Plaintiff, production of his 2019 model year Tractor took place in 2018 in Changzhou, China. (AGCO's responses to Plaintiff's First Requests for Admission, # 1).
12. This came as a surprise to the Plaintiff since there was a stamped metal plate on the Tractor which stated, "AGCO Corporation: Duluth, Georgia." (Eswin Aguilar Depo. 96: 13-24; 141: 5-12; Exhibit 10, 0084).
13. The Plaintiff would not have purchased the Tractor if he knew it had been manufactured in China. (Eswin Aguilar Depo. 100: 4-12).
14. The second page of the RISC contains boilerplate terms and conditions which are largely illegible. (Exhibit A to Answer to Third Amended Complaint).
15. On the second page of the RISC, buried in fine print, is a disclaimer of express and implied warranties. (Fourth Amended Complaint ¶ 19; Answer to Fourth Amended Complaint ¶ 19).
16. On the second page of the RISC, buried in fine print, is a limitation of damages clause purporting to bar the recovery of special, incidental, or consequential damages. (Fourth Amended Complaint ¶ 21; Answer to Fourth Amended Complaint ¶ 21).
17. On the second page of the RISC, buried in fine print, is a waiver of the right to a jury trial. (Fourth Amended Complaint ¶ 23; Answer to Fourth Amended Complaint ¶ 23).
18. The Plaintiff testified that he was unable to read the second page of the RISC at all. (Eswin Aguilar Depo. 186: 1-15; 219: 25; 220: 1-5; 224: 5-21).
19. Nobody at Nance attempted to read the terms and conditions on the second page of the RISC to the Plaintiff. (Eswin Aguilar Depo. 220: 6-9).

20. As a result, the Plaintiff had no idea what terms and conditions he had agreed to when he signed the RISC. (Eswin Aguilar Depo. 220: 10-13).
21. Even if someone had read the terms and conditions to the Plaintiff, he would not have understood them because they are in complex, boilerplate language, and he is not an attorney. (Eswin Aguilar Depo. 188: 8-25).
22. The RISC included a \$175.00 “administration fee.” (Fourth Amended Complaint, ¶ 24; Answer to Fourth Amended Complaint ¶ 24).
23. The RISC itself did not explain the purpose for the fee, except that “all or a portion of this fee may be shared between the Assignee and the Seller and that Assignee and Seller may make a profit on this fee.” (Fourth Amended Complaint, ¶ 25; Answer to Fourth Amended Complaint ¶ 25).
24. Nobody at Nance told the Plaintiff what the fee was for, but the Plaintiff understood that he had to pay the fee if he wanted to buy the Tractor. (Eswin Aguilar Depo. 219: 3-14).
25. The Plaintiff’s purchase of the Tractor was accompanied by an express warranty that the goods were “free from defects in materials and workmanship” and that the Massey Ferguson 4700 series of tractors had powertrain warranty coverage for “TWENTY-FOUR (24) MONTHS OR TWO THOUSAND (2000) HOURS WHICHEVER COMES FIRST.” (Fourth Amended Complaint, ¶ 84; Answer to Fourth Amended Complaint ¶ 84); (Eswin Aguilar Depo. Exhibit 10, 0026).
26. AGCO’s powertrain warranty stated that “the company will repair or replace, at its option, without charge for parts or labor, during normal working hours, any defective engine casting, transmission casting, drive axle casting, and/or components enclosed within these castings for an additional twelve (12) month period provided that the tractor

has not been used for more than 2000 hours, whichever comes first.” (Fourth Amended Complaint, ¶ 85; Answer to Fourth Amended Complaint ¶ 85); (Eswin Aguilar Depo. Exhibit 10, 0026).

27. The Tractor and the operator’s manual were delivered by Nance to the Plaintiff’s property in Ridgeway on April 29, 2019. (Eswin Aguilar Depo. 27: 10-14).
28. The Plaintiff began to experience mechanical problems with the Tractor almost immediately. (Eswin Aguilar Depo. 28: 1-4).
29. On October 9, 2019, the Tractor broke down for the first time. (Eswin Aguilar Depo. 29: 15-23).
30. The Plaintiff called Nance, an AGCO dealer, because he understood that the Tractor was covered by a robust warranty. (Eswin Aguilar Depo. 30: 18-25; 31: 1-25; 32: 1-5).
31. Without knowing the specifics of the warranty, the Plaintiff assumed that if the Tractor was indeed the “last [he would] ever need,” any major mechanical failure would be covered for a reasonable amount of time after purchase. (Eswin Aguilar Depo. 62: 1-15).
32. A representative of Nance directed the Plaintiff to instead contact Jacob Willis (“Willis”). (Eswin Aguilar Depo. 48: 1-17; 113: 10-25; 115: 6-17).
33. Willis, an employee of AGCO, offered the Plaintiff a loaner tractor while his Tractor underwent the first round of repairs, which the Plaintiff gladly accepted. (Eswin Aguilar Depo. 49: 12-25; 50: 1-12).
34. A maintenance work order from Nance dated November 5, 2019, confirms that a broken gear in the transmission housing needed to be replaced and the repairs were covered under the manufacturer’s warranty. (Fourth Amended Complaint ¶ 38; Answer to Fourth Amended Complaint ¶ 38); (Eswin Aguilar Depo. Exhibit 10, 0026).

35. The Tractor was not returned until January 1, 2020. (Eswin Aguilar Depo. 50: 10-12).
36. On July 20, 2020, the Tractor broke down again. (Eswin Aguilar Depo. 42: 1-18).
37. A maintenance work order dated September 28, 2020, confirms that a broken shaft in the transmission as well as a fuel gauge needed to be replaced, and that Nance was required to perform a “software update,” all of which were covered under the manufacturer’s warranty. (Fourth Amended Complaint ¶ 44; Answer to Fourth Amended Complaint ¶ 44); (Eswin Aguilar Depo. Exhibit 10, 0032).
38. A maintenance work order dated October 15, 2020, confirms that repairs to the 4-Wheel Drive (4WD) system and the replacement of a “bleeder screw” were covered under the manufacturer’s warranty once again. (Fourth Amended Complaint ¶ 47; Answer to Fourth Amended Complaint ¶ 47); (Eswin Aguilar Depo. Exhibit 10, 0059).
39. AGCO dispatched a representative, David Sumner, to the Plaintiff’s property shortly after the Tractor was returned on October 20, 2020, to perform a diagnostic inspection. (Fourth Amended Complaint, ¶ 53; Answer to Fourth Amended Complaint, ¶ 53; AGCO’s Second Supplemental Responses to Plaintiff’s First Set of Interrogatories, # 2).
40. The Tractor was subsequently taken to Nance, and a maintenance work order dated January 8, 2021, confirms that Nance replaced the hydraulic pump and flushed the hydraulic system multiple times, and that the repairs were covered under the warranty as well. (Fourth Amended Complaint ¶ 61; Answer to Fourth Amended Complaint ¶ 61); (Eswin Aguilar Depo. Exhibit 10, 0071).
41. On April 22, 2021, the Tractor broke down again, on the first occasion that the Plaintiff attempted to use it after the latest round of warranty repairs. (Eswin Aguilar Depo. 129: 13-26; 130: 1-25; 131: 1-16).

42. Although the Plaintiff contacted Willis with AGCO as previously instructed, no loaner tractor was offered this time. (Eswin Aguilar Depo. 55: 7-12).
43. When the Plaintiff inquired about a loaner tractor, he was informed that none would be provided unless he purchased insurance coverage for the loaner. (Eswin Aguilar Depo. 55: 12-25; 56: 1-3).
44. The Tractor was picked up by AGCO on April 28, 2021. (Eswin Aguilar Depo. 66: 25; 67: 1-8); (AGCO's answers to Plaintiff's Third Set of Interrogatories, # 2).
45. The Plaintiff was unaware of AGCO's plans and was not at home when the Tractor was picked up. (Eswin Aguilar Depo. 200: 12-25; 201: 1-25; 202: 1-18).
46. The Plaintiff had asked Willis for a full refund or a new tractor. (Eswin Aguilar Depo. 57: 1-25; 58: 1-5; 130: 1-25; 131: 1-25; 132: 1-25; 133: 1-25).
47. The Plaintiff was not informed where the Tractor would be taken and did not care since he wanted a refund or replacement. (Eswin Aguilar Depo. 92: 17-25; 93: 1-2).
48. For several years, AGCO reportedly "[did] not know where the [Tractor] was taken on April 28, 2021." (AGCO's responses to Plaintiff's First Set of Interrogatories, # 26).
49. For several years, AGCO reportedly "[had] no knowledge as to what repairs [had] or [had not] been performed on the [Tractor]." (AGCO's responses to Plaintiff First Set of Interrogatories, # 27).
50. Though defective, the Plaintiff did not agree to give the Tractor away in exchange for nothing. (Eswin Aguilar Depo. 68: 1-11; 139: 3-25; 140: 1; 194: 9-17; 210: 10-25; 211: 1).

51. AGCO has recently asserted that the Tractor was taken to Nance, before being transported to Powell Tractor Inc. ("Powell") in Westminster, South Carolina in July of 2021. (AGCO's Supplemental Responses to Plaintiff's First Set of Interrogatories, # 26).
52. AGCO produced what was purported to be an email sent by a representative, Willis, to the Plaintiff on July 8, 2021 (AGCO 00020) to inform him of the whereabouts of the Tractor and to provide an update. (AGCO Supplemental Responses to Plaintiff's First Set of Interrogatories, # 26); (Eswin Aguilar Depo. 203: 17-25; 204: 1-6; 207: 12-20).
53. AGCO has recently acknowledged that the email (AGCO 00020) was actually sent on *January* 8, 2021, although it denies that it engaged in any bad faith or fraud in previously presenting these emails to rebut the Plaintiff's conversion and negligent bailment claims. (AGCO Responses to Plaintiff's Second Requests to Admit, # 7 – 9).
54. AGCO further admits that it does not possess any records such as maintenance work orders which would prove that the Tractor was ever taken to Nance as claimed by Willis. (AGCO's responses to Plaintiff's Second Requests to Admit, # 6).
55. In fact, during those years, AGCO reportedly was "not aware of where the Tractor [was] currently being held." (AGCO's responses to Plaintiff's First Set of Interrogatories, # 28).
56. AGCO has since claimed that it advised the Plaintiff on October 29, 2021, that the Tractor was at Powell and had been repaired. (Affidavit of Jacob Willis I, ¶ 3).
57. Willis did not tell the Plaintiff where the Tractor was being stored. (Eswin Aguilar Depo. 166: 10-20; 167: 23-25).

58. Willis did call the Plaintiff around that time and represented that the Tractor was “ready,” but since litigation was ongoing, the Plaintiff told Willis to contact his attorney. (Eswin Aguilar Depo. 83: 1-19).
59. The Plaintiff lost faith in AGCO’s ability to repair the Tractor long before it was lost. (Eswin Aguilar Depo. 55: 1-6; 177: 10-25; 178: 10-25; 179: 1; 180: 9-15).
60. The Plaintiff no longer trusted Willis or believed anything he said. (Eswin Aguilar Depo. 209: 8-16).
61. In other words, the Plaintiff was not convinced that the Tractor had been repaired simply because Willis or AGCO said so. (Eswin Aguilar Depo. 209: 17-25; 210: 1-9; 212: 14-19; 216: 19-25; 217: 1-6).
62. AGCO has also admitted that there are work orders related to the repair of the Tractor that are dated through January 3, 2022. (AGCO’s responses to Plaintiff’s Second Requests to Admit, # 10).
63. AGCO attempted to repair the Tractor during the warranty period and replaced defective parts, but the Tractor never operated reliably. (Eswin Aguilar Depo. 174: 1-23; 177: 4-21); (Fourth Amended Complaint ¶¶ 38, 44, 47, 61; Answer to Fourth Amended Complaint ¶¶ 38, 44, 47, 61).
64. The Plaintiff was able to operate the Tractor for just 355 hours over a two-year period because the Tractor frequently broke down. (Eswin Aguilar Depo. 60: 2-6; 152: 17-23).
65. The original warranty period expired, yet the Tractor continued to experience mechanical failure due to poor workmanship and/or defective parts. (Eswin Aguilar Depo. 173: 2-15; 205: 4-14).

66. As of October 11, 2023, the Tractor was still being stored at Powell Tractor, Inc. in Westminster, South Carolina. (Affidavit of Phillip Conner, ¶ 3).

67. The Plaintiff has no idea where Westminster, South Carolina is located. (Eswin Aguilar Depo. 211: 10-12).

### **STANDARD FOR SUMMARY JUDGMENT**

Under Rule 56, SCRCP, summary judgment is appropriate only where the pleadings, depositions, answers to interrogatories, and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact and that moving party is entitled to judgment as a matter of law. Belton v. Cincinnati Ins. Co., 360 S.C. 575, 602 S.E.2d 389 (2004). All ambiguities, conclusions, and inferences arising from the evidence must be construed most strongly against the moving party. Schmidt v. Courtney, 357 S.C 310, 592 S.E.2d 326 (Ct. App. 2003).

Summary judgment should not be granted even where there is no dispute as to evidentiary facts if there is disagreement concerning the conclusion to be drawn from those facts. Ellis v. Davidson, 358 S.C. 509, 595 S.E.2d 817 (Ct. App. 2004). Because it is a drastic remedy, summary judgment should be cautiously invoked to ensure that a litigant is not improperly deprived of a trial on disputed factual issues. Helena Chem. Co. v. Allianz Underwriters Ins. Co., 357 S.C. 631, 594 S.E.2d 455 (2004).

In determining whether any triable issues of fact exist, the evidence and all the inferences that can be drawn therefrom must be viewed in the light most favorable to the nonmoving party. Legette v. Piggly Wiggly, Inc., 368 S.C. 576, 579, 629 S.E.2d 375, 376 (Ct. App. 2006).

## ARGUMENT

### 1. BREACH OF EXPRESS WARRANTY

To establish a cause of action for breach of express warranty, the buyer need only show that the goods do not conform to a promise or affirmation of fact made by the seller. Herring v. Home Depot, Inc., 350 S.C. 373, 565 S.E.2d 773 (Ct. App. 2002); See also S.C. Code Ann. § 36-2-313.

The Plaintiff's purchase of the Tractor was accompanied by AGCO's Limited Warranty. AGCO asserts that the Plaintiff has failed to establish a breach of the Limited Warranty because he has offered no support for the contention that AGCO failed to remedy the defects. In fact, AGCO asserts that the weight of the evidence would suggest that AGCO complied with the Limited Warranty.

AGCO breached the warranty by manufacturing and distributing a Tractor that did not conform to the affirmation of fact that it was "free from defects in material and workmanship," and by failing to remedy the myriad of defects which arose during the warranty period as promised. Undoubtedly, this presents a genuine issue of material fact which would preclude summary judgment in favor of AGCO.

AGCO expressly warranted that its 4700 series of tractors would be "free from defects in material and workmanship" for "TWENTY-FOUR (24) MONTHS OR TWO THOUSAND (2000) HOURS WHICHEVER COMES FIRST." (Fourth Amended Complaint, ¶ 84; Answer to Fourth Amended Complaint, ¶ 84). AGCO did not keep that promise. In fact, AGCO broke that promise when it first distributed the Tractor into the stream of commerce.

AGCO further warranted that it would "repair or replace, at its option, without charge for parts or labor, during normal working hours, any defective engine casting, drive axle casting,

and/or components enclosed within these castings for an additional (12) month period provided that the tractor had not been used for more than 2000 hours, whichever comes first.” (Fourth Amended Complaint, ¶ 85; Answer to Fourth Amended Complaint, ¶ 85). As it turns out, AGCO could not repair the Tractor and refused to replace it.

The Tractor did not conform to the express warranty because it was sold to the Plaintiff in a defective state, and AGCO failed to remedy the defects during the warranty period. In the first fifteen (15) months of the Plaintiff’s ownership of the Tractor, it underwent repairs covered by the warranty on (4) four separate occasions, including replacing faulty parts and repairing defective workmanship. (Fourth Amended Complaint ¶¶ 38, 44, 47, 61; Answer to Fourth Amended Complaint ¶¶ 38, 44, 47, 61); (Eswin Aguilar Depo. Exhibit 10: 0026, 0032, 0059, 0071). These repairs often took several months to complete. (Eswin Aguilar Depo. 42: 14-18; 52: 12-13). The Plaintiff was able to operate the Tractor for just 335 hours before it broke down for the fifth and final time in April of 2021, at the conclusion of the warranty period. (Eswin Aguilar Depo. 137: 15-25; 152: 17-23).

AGCO asserts that its unsuccessful attempts to repair the Tractor are evidence that it fulfilled its responsibility under the warranty. *A warranty fails of its essential purpose if the seller is unwilling or unable to repair or replace the product or if there is an unreasonable delay in the repair or replacement of the product.* Herring, 350 S.C. at 378-79, 565 S.E.2d at 776 [*Emphasis added*]. AGCO was unable to repair the Tractor, there was an unreasonable delay during AGCO’s attempts to do so, and AGCO refused to replace the Tractor.

By April 2021, the Plaintiff had lost faith that AGCO was able to repair the Tractor. (Eswin Aguilar Depo. 91: 6-25; 136: 2-5; 222: 2-7). The Plaintiff demanded that AGCO provide a refund or replacement tractor; AGCO indicated that it was unwilling to do either. (Eswin

Aguilar Depo. 93: 3-21; 131: 15-21; 133: 18-25; 136: 5-7). When AGCO picked up the Tractor, the Plaintiff did not ask where it was going, and AGCO did not offer that information, either. (Eswin Aguilar Depo. 67: 3-22; 68: 12-18).

AGCO asserts that the Tractor was first taken to Nance, and then to Powell Tractor when Plaintiff allegedly protested that he did not want Nance to work on the Tractor. (AGCO's Supplemental Responses to Plaintiff's First Set of Interrogatories, 26); (Affidavit of Jacob Willis II, ¶ 5). However, AGCO admits that it does not possess any records which prove that the Tractor was ever taken to Nance. (AGCO's responses to Plaintiff's Second Requests to Admit, # 6). The Plaintiff has also pleaded that "AGCO never told [him] where the Tractor was taken." (Complaint, ¶ 71).

According to AGCO, the repairs took six months to complete. (Affidavit of Jacob Willis I, ¶ 3). The six-month timeframe is the best-case scenario for AGCO—which also requires one to suspend any disbelief and imagine that AGCO actually "repaired" the Tractor.<sup>4</sup> On the other hand, AGCO has admitted that there are additional work orders from Powell Tractor related to repairs performed on the Tractor which are dated in January of 2022. (AGCO's responses to Plaintiff's Second Requests to Admit, # 10). As such, it appears that the repairs may have been undertaken for a period exceeding eight (8) months. In either case, supposing AGCO managed to repair the Tractor to the extent that it would operate reliably for the first time since it had been distributed into the stream of commerce, the delay was still unreasonable.

AGCO failed to provide the Plaintiff with the benefit of his bargain—a Massey-Ferguson 4700 series tractor free of defects with respect to materials and workmanship for two years or

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<sup>4</sup> There appears to be a fundamental dispute in this case over what constitutes "fixing" or "repairing." The Plaintiff has testified that AGCO "failed to fix the tractor because fixing to me is you fix something and it doesn't break down again." (Eswin Aguilar Depo. 174: 1-16).

two thousand hours. The Tractor was defective at the time of purchase and throughout the warranty period which commenced immediately upon executing the RISC. What AGCO provided was so riddled with defects that the Plaintiff believed it would be immoral to sell it to anyone else. (Eswin Aguilar Depo. 164: 20-25; 165: 1-4; 169: 9-22; 217: 7-11).

In other words, AGCO, itself and through its authorized dealer, not only failed to manufacture and sell a Tractor which conformed to the warranted description at the time of sale, but subsequently failed to repair the defects as promised in the warranty. Even if the warrantor attempts many repairs, it has long been the law of this State that a warrantor “does not have an indefinite length of time within which to remedy the defect” and the buyer is not obligated to permit the warrantor to “indefinitely tinker.” Cannon v. Pulliam Motor Co., 230 S.C. 131, 138, 94 S.E.2d 397, 400 (1956).

AGCO had four previous opportunities to repair the Tractor which were unsuccessful. (Fourth Amended Complaint ¶¶ 38, 44, 47, 61; Answer to Fourth Amended Complaint ¶¶ 38, 44, 47, 61). After AGCO picked up the Tractor on April 28, 2021, it was clearly “tinkering,” which is not sufficient under South Carolina law.

## 2. CONVERSION

“Conversion” is the unauthorized assumption and exercise of the right of ownership over goods or personal chattels belonging to another, to the alteration of the condition or the exclusion of the owner’s rights. Hawkins v. City of Greenville, 358 S.C. 280, 297, 594 S.E.2d 557, 566 (Ct. App. 2004). Conversion is a wrongful act which emanates by either a wrongful taking or a wrongful detention. Id. 358 S.C. at 297, 594 S.E.2d at 566. Performing unauthorized repairs is an act of conversion. See Green v. Waidner, 284 S.C. 35, 324 S.E.2d 331 (1984).

AGCO asserts that the Plaintiff's conversion claim is invalid because the Plaintiff authorized AGCO to pick up the Tractor on April 28, 2021. That much is true, AGCO was authorized to pick up the Tractor the fifth time that it broke down. To the extent AGCO argues that the initial authorization to pick up the Tractor constituted permission to retain the Tractor and attempt repairs for an indefinite period of time, that is a matter of contention.

AGCO's position substantially relies upon the Affidavit of Jacob Willis II, wherein Willis attested in paragraph 5 that he called the Plaintiff in the period "shortly thereafter" April 28, 2021. Willis claims that the Plaintiff requested that Nance not perform any work on the Tractor, which resulted in the Tractor being transferred to Powell Tractor, Inc. ("Powell") in Westminster, SC in July of 2021. In paragraph 6 of the same affidavit, Willis attested: "Between April 28, 2021, and October 29, 2021" there was no communication between him and the Plaintiff regarding the whereabouts of the Tractor or the ongoing repairs.

This affidavit was filed in October of 2023, against the backdrop of AGCO facing a default judgment and in desperate need of a meritorious defense. Until October of 2023, AGCO reportedly "[did] not know where the [Tractor] was taken on April 28, 2021." (AGCO's responses to Plaintiff's First Set of Interrogatories, # 26). Furthermore, AGCO reportedly "[had] no knowledge as to what repairs [had] or [had not] been performed on the [Tractor]." (AGCO's responses to Plaintiff First Set of Interrogatories, # 27). At best, this can only create a genuine issue of material fact, because it is contrary to the allegations in the complaint that AGCO never told the Plaintiff where the Tractor was taken. (Fourth Amended Complaint ¶ 100).

The Tractor was picked up by AGCO on April 28, 2021. (AGCO's answers to Plaintiff's Third Set of Interrogatories, # 2). The Plaintiff was not at home when the Tractor was picked up, and he had no idea what AGCO intended to do with it. (Eswin Aguilar Depo. 200: 12-25;

201: 1-25; 202: 1-18). The Plaintiff had previously demanded a refund or a new tractor because he was sick of owning a lemon. (Eswin Aguilar Depo. 57: 1-25; 58: 1-5; 130: 1-25; 131: 1-25; 132: 1-25; 133: 1-25). Even though the Plaintiff believed the Tractor was a lemon, however, he never agreed to give it to AGCO in exchange for nothing. (Eswin Aguilar Depo. 68: 1-11; 139: 3-25; 140: 1; 194: 9-17; 210: 10-25; 211: 1).

AGCO has since claimed that it advised the Plaintiff on October 29, 2021, that the Tractor was at Powell and had been repaired. (Affidavit of Jacob Willis, ¶ 3). This came as a surprise, since the Plaintiff had not requested or authorized further repairs. (Eswin Aguilar Depo. 200: 12-25; 201: 1-25; 202: 1-18). *See Waidner*, supra. The Plaintiff has admitted that Jacob Willis called him and said something to the effect that the Tractor was “ready” around that time but denies that Willis divulged its location to him. (Eswin Aguilar Depo. 166: 10-20; 167: 23-25). By AGCO’s own admission, other than the call referenced in paragraph 5 of the Jacob Willis II affidavit—which the Plaintiff denies ever occurred—AGCO did not contact the Plaintiff again until October 29, 2021. There is even evidence to suggest that the Willis update may have been a misrepresentation—repair orders related to the Tractor have been produced which are dated in January of 2022. (AGCO’s responses to Plaintiff’s Second Requests to Admit # 10).

Notwithstanding the fact that AGCO had permission to pick up the Tractor on April 28, 2021, it did not have permission to retain the Tractor indefinitely. To the extent that AGCO asserts that the Plaintiff made no effort to travel to Powell Tractor in Westminster, South Carolina, to pick up the Tractor—which he is ill-equipped to do—AGCO likewise made no effort to return the Tractor that it was able to haul off previously. (Eswin Aguilar Depo. 211: 7-9). With all ambiguities, conclusions, and inferences arising from the evidence construed against AGCO, it is not entitled to summary judgment on this issue. *Schmidt*, supra.

### 3. NEGLIGENT BAILMENT

“A constructive bailment arises when one person has lawfully acquired possession of another person’s personal property, other than by virtue of a bailment contract, and holds it under such circumstances that the law imposes on the recipient of the property the obligation to keep it safely and redeliver it to the owner.” Bank of New York v. Sumter County, 387 S.C. 147, 158, 691 S.E.2d 473, 479 (2010).

AGCO asserts that the Plaintiff’s claims for negligent bailment fail for lack of “loss” or “damage” of the bailed property. AGCO reportedly “[did] not know where the [Tractor] was taken on April 28, 2021” until October of 2023. (AGCO’s responses to Plaintiff’s First Set of Interrogatories, # 26). It is disingenuous to argue that there was no “loss” of property when AGCO quite literally lost the Tractor for over two years after repairs purportedly concluded.

Plaintiff ultimately gave up on the possibility of the return of his Tractor and ordered a replacement tractor manufactured by Kubota. (Complaint, ¶ 78). To the extent that AGCO further claims that the economic loss rule bars any recovery by the Plaintiff for lack of any actual, incidental, or consequential damages, that is demonstrably false. The above damages are incidental to the delay in repair and subsequent loss of the Tractor, and the duties breached pursuant to the negligent bailment claim arise under operation of law, not under the warranty.

### 4. CIVIL CONSPIRACY

“A plaintiff asserting a civil conspiracy claim must establish (1) the combination or agreement of two or more persons; (2) to commit an unlawful act or a lawful act by unlawful means; (3) together with the commission of an overt act in furtherance of the agreement; and (4) damages proximately resulting to the Plaintiff.” Paradis v. Charleston County School District, 433 S.C. 562, 574, 861 S.E.2d 774, 780 (2021).

AGCO asserts that the Plaintiff's claim fails for failure to allege an agreement to commit an unlawful act. Broadly, the Plaintiff has asserted that AGCO, its authorized dealers, and AGCO Finance were engaged in a civil conspiracy to distribute adhesion contracts, the RISC, which were to be assigned exclusively to AGCO Finance, and with the intention to mislead, deceive, and oppress consumers in South Carolina.

Specifically, the Plaintiff has alleged that "AGCO, its authorized dealers, and AGCO Finance entered into an agreement to commit an unlawful act;" that is: "AGCO conspired to distribute adhesion contracts, called a 'Retail Instalment and Security Agreement' containing unconscionable terms, to be assigned by its dealers exclusively to AGCO Finance, with the intention to mislead, deceive, and oppress consumers in South Carolina in the course of offering agricultural equipment for sale." (Complaint, ¶¶ 119-120).

Nance is an AGCO dealer, and AGCO Finance is a joint venture between AGCO and DLL, a global financial solutions provider and subsidiary of Rabobank. ([www.agcofinance.com/en/About-us](http://www.agcofinance.com/en/About-us)). It is not necessary that AGCO itself be a party to or a third-party beneficiary of the RISC. Contrary to AGCO's assertion, it is not an element of a civil conspiracy that the parties all sign a written agreement assenting to the terms of the conspiracy. To the extent AGCO would argue that it was not involved in the use of the RISC, which was distributed to and exclusively used by its authorized dealers as well as drafted by its own joint venture, that is simply nonsense. (Defendant AGCO Corp.'s Responses to Plaintiff's Second Requests to Admit, # 12).

AGCO further argues that civil conspiracy is an intentional tort, and the Plaintiff cannot show that AGCO intended to harm him. The RISC is an adhesion contract with unconscionable terms in miniscule, blurry font, designed to mislead and deceive consumers, including the

Plaintiff. *See* Exhibit A to Answer to Third Amended Complaint, (Eswin Aguilar Depo. Exhibit 10, 0017-0019). This manner of deception is unlawful under the UTPA. *See* S.C. Code Ann. § 39-5-20(a). Those unconscionable terms include: charging a bogus “administration fee” which was collected as additional profit; waiver of the right to a jury trial; waiver of the right to relief under the theory of any express or implied warranty; and waiver of the right to recover special, incidental, or consequential damages. (Fourth Amended Complaint, ¶¶ 19, 21, 23, 24-25; Answer to Fourth Amended Complaint ¶¶ 19, 21, 23, 24-25). The intent to harm and oppress the Plaintiff is obvious.

#### 5. SOUTH CAROLINA UNFAIR TRADE PRACTICE ACT

“To recover in an action under the UTPA, the plaintiff must show: (1) the defendant engaged in an unfair or deceptive act or practice in the conduct of trade or commerce; (2) the unfair or deceptive act affected the public interest; and (3) the plaintiff suffered monetary or property loss as a result of the defendant’s unfair acts or practices.” Health Promotion Specialists, LLC v. South Carolina Bd. of Dentistry, 403 S.C. 623, 638, 743 S.E.2d 808, 816 (2013).

AGCO claims that the UTPA claim is invalid because AGCO did not engage in unfair or deceptive practices. The Plaintiff asserts that AGCO is liable for violating the South Carolina Unfair Trade Practices Act (“UTPA”), S.C. Code Ann. § 39-5-10, et seq, in multiple respects. AGCO distributed the Operator’s Manual that accompanied the purchase of the Tractor. (Defendant AGCO Corp.’s Response to Plaintiff’s Second Requests to Admit, # 3). Contained on page 63 of the Operator’s Manual was the following language:

“When selling new products to its dealers, the manufacturer provides a warranty which, subject to certain conditions, guarantees that the goods are free from defects in material and workmanship. Since this book is published worldwide, it is impossible to detail the exact terms and conditions of warranty that apply to all

retail customers in all countries. *Purchasers of new Massey Ferguson equipment must therefore request full details from their supplying dealer.*” (emphasis added).

It is a violation of 16 C.F.R. § 702.3 to fail to provide a copy of the limited warranty before or at the time of purchase. While AGCO attempts to evade liability by declaring that the Plaintiff’s intentions for purchasing the Tractor were for commercial use, the fact is that the Plaintiff testified that he primarily used the Tractor to mow his lawn. (Eswin Aguilar Depo. 43: 1-8). The Plaintiff has further testified that his use of the Tractor during all relevant times “had nothing to do with my business.” (Eswin Aguilar Depo. 43: 17-18).

By concealing the above language on page 63 of the Operator’s Manual and then placing the onus upon consumers to request a copy of the warranty from the dealer, AGCO attempted to conceal a major exclusion in the warranty—if the equipment turns out to be defective, the consumer is responsible for the cost of towing it to the nearest AGCO dealer for repairs. (Eswin Aguilar Depo. Exhibit 10, 0026). As a result, the Plaintiff incurred charges of several hundred dollars each time the Tractor broke down due to defective workmanship or materials, even though the repairs by AGCO were the exclusive remedy under express warranty. *See* Eswin Aguilar Depo. Exhibit 10, 0026: “The remedies of the Owner set forth herein are exclusive.”

A breach of warranty may itself constitute a violation of the UTPA. Haley Nursery CO., Inc. v. Forrest, 298 S.C. 520, 524, 381 S.E.2d 906, 908 (1989); *See also* S.C. Code Ann. § 39-5-160: “The powers and remedies provided by this article shall be cumulative and supplementary to all powers and remedies otherwise provided by law”. As described above in the analysis for breach of an express warranty, AGCO further violated the UTPA by breaching the warranty.

As described above in the analysis for civil conspiracy, AGCO—through a joint venture with Rabobank to form AGCO Finance—has drafted and distributed a RISC containing

unconscionable terms in inconspicuous and illegible font on the second and third page of the RISC. The Plaintiff, like other consumers, was only required to sign the first page, so that he would be ignorant of the material terms of his purchase. (Fourth Amended Complaint, ¶ 17; Answer to Fourth Amended Complaint ¶ 17); (Eswin Aguilar Depo. 219: 15-24).

This also allowed AGCO's authorized dealers to charge consumers hidden "add on" fees as part of an arbitrary "administration fee," which was purely for profit. *See* Exhibits A - B to Fourth Amended Complaint; (Fourth Amended Complaint ¶¶ 24-26; Answer to Fourth Amended Complaint ¶¶ 24-25). The Plaintiff, and every consumer that purchased an AGCO product on credit since the iteration of this form, has been damaged by this unfair trade practice and the impact upon the public interest is clear.

Finally, as described above in the analysis for conversion, AGCO picked up the Tractor to perform repairs, but subsequently lost the Tractor and could not produce any record of ever performing any repairs. (AGCO's responses to Plaintiff's First Set of Interrogatories, # 26 – 27). AGCO previously produced what was purported to be an email sent by Jacob Willis to the Plaintiff on July 8, 2021 (AGCO 00020), informing him of the whereabouts of the Tractor and providing an update. (AGCO Supplemental Responses to Plaintiff's First Set of Interrogatories, # 26); (Eswin Aguilar Depo. 203: 17-25; 204: 1-6; 207: 12-20).

However, AGCO has since admitted that the email was sent on *January* 8, 2021, before the Tractor broke down for the final time. (AGCO Responses to Plaintiff's Second Requests to Admit, # 7 – 9). Only when faced with a default judgment after three years into this litigation did AGCO claim to have records of repairs and to have only failed to communicate with the Plaintiff for just six months after it picked up the Tractor. (AGCO's Supplemental Responses to

Plaintiff's First Set of Interrogatories, # 26); (Affidavit of Jacob Willis, ¶ 3). These actions are unfair and deceptive.

The Plaintiff plainly suffered monetary and property loss as a result of AGCO's unfair and deceptive conduct. The Plaintiff paid \$51,200.00 for the Tractor, which only operated for 355 hours over a period of two years before AGCO picked it up for the final time on April 28, 2021. (Fourth Amended Complaint ¶ 11; Answer to Fourth Amended Complaint ¶ 11); (Eswin Aguilar Depo. 60: 2-6; 152: 17-23); (AGCO's answers to Plaintiff's Third Set of Interrogatories, # 2). Between the warranty, the marketing campaign, and the price, the Plaintiff believed he had purchased a tractor which would last for the rest of his life. The Plaintiff ultimately had no choice but to order a substitute Kubota tractor, which cost quite a bit more in 2021 than the Tractor did in 2019. (Eswin Aguilar Depo. 40: 14-25; 135: 19-25; 136: 1-15; 165: 12-25).

**6. VIOLATION OF THE SOUTH CAROLINA FAIR PRACTICES OF FARM, CONSTRUCTION, INDUSTRIAL, AND OUTDOOR POWER EQUIPMENT MANUFACTURERS, DISTRIBUTORS, WHOLESALERS, AND DEALERS ACT**

S.C. Code Ann. § 39-6-40 provides that “unfair methods of competition and unfair or deceptive acts or practices are unlawful as provided in Section 39-6-50.” S.C. Code Ann. § 39-6-50 further provides that “it is a violation for a manufacturer, factory branch, factory representative, distributor, or wholesaler...to engage in an action that is *arbitrary, unconscionable, or in bad faith* and that causes damage to...the public.” (*Emphasis added*).

AGCO seeks to escape liability on a summary judgment motion based on the fact that Section 39-6-120 mentions the types of agreements covered by the Act, and agreements with “consumers” are not explicitly mentioned. It is worth noting that this particular statute contains the following catch-all provision: “...and all other agreements in which the manufacturer,

distributor, wholesaler, distributor branch or division, factory branch or division, or wholesale branch or division has any direct or indirect interest.”

AGCO is a “manufacturer” and “distributor.” It has a direct interest in the warranty. It has, at least, an indirect interest in the Retail Instalment Contract that its joint venture created and distributed to AGCO dealers.

Section 39-6-120 does not contain express language that it is meant to be read in isolation. Therefore, rather than merely adopting AGCO’s interpretation, the rules of statutory interpretation should be observed, particularly the rule that sections which are part of the same general statutory law must be construed together and each one given effect. Duke Energy Corp. v. S.C. Dep’t of Revenue, 415 S.C. 351, 355, 782 S.E.2d 590, 292 (2016). Section 39-6-140 states that a “person who is injured in his business or property by reason of a violation of this chapter may sue in the court of common pleas and may recover only the actual damages sustained by him and the cost of the suit, including a reasonable attorney’s fee.” In Section 39-6-20, “person” is defined as including “a natural person.” The Plaintiff is a “natural person.”

Section 39-6-140, titled “Legislative basis for unfair competition,” states that unfair methods of competition or deceptive acts or practices are unlawful as provided in Section 39-6-60 as well as “Chapters 5 and 7 of Title 39.” By invoking the Unfair Trade Practices Act, which was explicitly adopted for the purpose of consumer protection, it is clear that a comprehensive reading of the South Carolina Fair Practices of Farm, Construction, Industrial, and Outdoor Power Equipment Manufacturers, Distributors, Wholesalers, and Dealers Act is far more inclusive than AGCO would suggest.

**CONCLUSION**

For the foregoing reasons, this Court should deny AGCO's motion for summary judgment in its entirety.

STUDEMAYER LAW FIRM, P.C.

/s/ Ryan G. Studemeyer

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March 10, 2025

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	SIXTEENTH JUDICIAL CIRCUIT
COUNTY OF YORK	)	CASE NO.: 2021-CP-46-01792
	)	
	)	
Eswin Aguilar,	)	
	)	<b>PLAINTIFF'S MOTION TO</b>
Plaintiff,	)	<b>ALTER OR AMEND</b>
	)	
v.	)	
	)	
	)	
AGCO Corp,	)	
	)	
Defendant.	)	
	)	

**TO: JAKE CARROLL, ESQ., AND JAMES H. BURNS, ESQ., ATTORNEYS FOR DEFENDANT AGCO CORP.:**

**PLEASE TAKE NOTICE** that the Plaintiff, through his undersigned counsel, will move before the Honorable William A. McKinnon, on the tenth (10<sup>th</sup>) day after service hereof, or at such other time and place as is convenient to the Court, for an Order to alter or amend the Order on Defendant AGCO Corp.'s Motion for Summary Judgment pursuant to Rule 59(e), SCRPC. This motion is based upon the Order, the pleadings, depositions, answers to interrogatories, admissions on file, and affidavits, the South Carolina Rules of Civil Procedure, the hearing transcript, and such other and further case and statutory law as may be appropriate.

**BACKGROUND**

On February 26, 2025, Defendant AGCO Corp. ("AGCO") filed a motion for summary judgment pursuant to Rule 56(c), SCRPC. The parties appeared before the Court for a hearing via Webex on March 13, 2025.

At the conclusion of the hearing, the Court granted summary judgment in favor of AGCO as to Plaintiff's causes of action for conversion, civil conspiracy, violation of the South Carolina

Unfair Trade Practices Act, and violation of the South Carolina Fair Practices of Farm, Construction, Industrial, and Outdoor Power Equipment Manufacturers, Distributors, Wholesalers, and Dealers Act (the “S.C. Fair Practices Act”). Summary judgment was denied as to Plaintiff’s causes of action for breach of express warranty and negligent bailment.

The Court directed AGCO’s counsel to prepare a proposed Order. AGCO submitted the proposed Order on March 21, 2025, which was adopted by the Court verbatim and filed on March 27, 2025. The Order reflects improper burden-shifting at the hearing and cites a number of “undisputed” facts which are hotly disputed.

### LAW

Pursuant to Rule 59(e), SCRPC, “ a motion to alter or amend the judgement shall be served not later than 10 days after receipt of written notice of the entry of the order.” The proper procedure for correcting factual errors in an order is to file a motion to alter or amend pursuant to the Rules of Civil Procedure. Doe v. Doe, 324 S.C. 492, 478 S.E.2d 854 (Ct. App. 1996).

In Elam v. South Carolina Dept. of Transp., 361 S.C. 9, 21-22, 602 S.E.2d 772, 778-779 (2004), the Supreme Court of South Carolina stated the following:

“[I]t is proper to view a Rule 59(e) motion not only as a vehicle to request the trial court ‘alter or amend the judgment,’ but also as a vehicle to seek ‘reconsideration’ of issues and arguments. A motion under Rule 59(e) has long been viewed as a ‘motion for reconsideration’ despite the absence of those words from the rule. Consequently, a party usually is allowed to ask the court to reconsider its decision even if it means rehashing all or part of an argument previously presented.

...

There is nothing inherently unfair in allowing a party one final chance not only to call the court’s attention to a possible misapprehension of an earlier argument, but also to revisit a previously raised argument. It is inherently unfair to disallow such an opportunity.”

## ARGUMENT

### I. THE COURT ERRONEOUSLY PLACED THE BURDEN UPON THE NON-MOVING PARTY TO DEMONSTRATE THE PRESENCE OF A GENUINE ISSUE OF MATERIAL FACT

The burden placed upon the moving party in Rule 56(c), SCRCP is canonized in civil law much like the due process right to a presumption of innocence in criminal law. In both cases, the burden is on the party who seeks the judgment of the court to establish the necessary facts to a high degree of certainty. Summary judgment is appropriate when “the pleadings, depositions, answers to interrogatories, and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact.” Rule 56(c), SCRCP. The party *seeking* summary judgment has the burden of clearly establishing the *absence* of a genuine issue of material fact by the above-described means. Brandt v. Gooding, 368 S.C. 618, 630, S.E.2d 259 (2006) [*Emphasis added*].

When, at the outset of the hearing, the burden is placed upon the party opposing summary judgment to convince the court that there is a genuine issue of fact, it is equivalent to requiring that a criminal defendant prove their innocence at trial. The appellate courts would never tolerate such a denial of due process. The hearing transcript, which was ordered immediately after the hearing and will be filed upon receipt, will reflect that the Court admitted at the outset that it was unfamiliar with the case and yet the burden of proof was almost immediately placed upon the Plaintiff, the party opposing summary judgment, to prove that AGCO was not entitled to the relief sought.

Only once the moving party carries its initial burden does the burden shift to the non-moving party to “come forward with specific facts that show there is a genuine issue of fact remaining for trial.” Sides v. Greenville Hosp. System, 362 S.C. 250, 255, 607 S.E.2d 362, 364

(Ct. App. 2004). AGCO did not carry its initial burden as it was not required to offer any argument in support of summary judgment as to Plaintiff's claims for conversion, civil conspiracy, violation of the South Carolina Unfair Trade Practices Act, and violation of the S.C. Fair Practices Act.

The Order states that AGCO is not liable for conversion because it was authorized to pick up the Tractor. However, in response to this precise argument, this Court previously ruled that it was a question of fact whether AGCO could keep the Tractor indefinitely thereafter.<sup>1</sup> The Court's subsequent ruling in the Order as to the conversion claim is inconsistent.

## **II. THE ORDER CONTAINS FINDINGS OF FACT WHICH ARE ALLEGEDLY UNDISPUTED YET NOT SUPPORTED IN ANY WAY BY THE RECORD**

The Order contains a section titled "Findings of Fact." Therein, it is stated that "AGCO is not a party to, or third-party beneficiary of, the Instalment Contract" (hereinafter, the "RISC"). It is undisputed that AGCO is not a party to the RISC. However, it is hotly disputed whether AGCO is a third-party beneficiary of the RISC. In fact, the only matter which is undisputed with respect to this particular question of fact is that the RISCs were distributed by and exclusively assigned to AGCO Finance,<sup>2</sup> which is a joint venture of AGCO and Rabobank<sup>3</sup>. Whether that constitutes a sufficient interest to render AGCO a third-party beneficiary of the RISC has not been decided, but Plaintiff asserts that it should be sufficient.

Exhibit A to AGCO's motion for summary judgment contains a document titled "Defendant AGCO Corp's Statement of Undisputed Material Facts in Support of Summary Judgment." Paragraph 7 of these "undisputed" material facts, in identical fashion to the Order, asserts that AGCO is neither a party nor a third-party beneficiary of the RISC. Not a single

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<sup>1</sup> August 15, 2023 Hearing Transcript: 8: 7-25; 9: 1

<sup>2</sup> See AGCO Corp.'s Responses to Plaintiff's Second Request to Admit, # 12.

<sup>3</sup> See [www.agcofinance.com/en/About-us](http://www.agcofinance.com/en/About-us)

source cited establishes that AGCO is not a third-party beneficiary of the RISC. This was AGCO's burden to establish. The inclusion of this "undisputed" material fact in the Order on numerous occasions was a *critical error* because it served as the basis for granting AGCO's motion for summary judgment as to the Plaintiff's civil conspiracy claim and UTPA claim. **[Emphasis added]**.

The "Findings of Fact" also contain the following statement regarding the events of April 2021:

"Though Plaintiff did not inquire about the Tractor's destination, *he likely knew* it was taken to Nance, as he later requested that no more work be done there and agreed for it to be sent to Powell Tractor, Inc, for repairs."

On its vey face, this is not a statement of fact, much less is it "undisputed." This is purely argument and speculation, and it is improper to grant summary judgment on the basis of argument and speculation. To the extent this finding of "fact" influenced the Court's decision to grant summary judgment as to Plaintiff's conversion claim, it should be reconsidered.

In the section of the Order titled "Conclusions of Law," the Court states that "it is also undisputed that after completing warranty repairs, Defendant informed Plaintiff that the Tractor was ready to be returned, and Plaintiff thereafter refused to accept delivery." First, this statement does not accommodate for the undisputed fact that there are work orders related to work performed on the Tractor by Powell Tractor, Inc. ("Powell") dated through January 3, 2022.<sup>4</sup>

While the affidavit of Jacob Willis filed on October 18, 2024 ("Affidavit of Jacob Willis II") states that repairs were completed by October 29, 2021, this is, by definition, not an "undisputed" fact. If repairs were completed by October 29, 2021, then the work orders reflecting work performed through January 3, 2022, create a genuine issue of material fact.

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<sup>4</sup> See AGCO's responses to Plaintiff's Second Requests to Admit, # 10.

Second, while the affidavit of Jacob Willis filed on October 12, 2023 (“Affidavit of Jacob Willis I”) states that he called the Plaintiff on October 29, 2021, the content of that conversation is in dispute. The Affidavit of Jacob Willis I states that the Plaintiff told Willis that he did not want the Tractor. However, none of the sources cited in the Order or AGCO’s Exhibit A to the motion for summary judgment establishes that this is “undisputed” or even factual.

For instance, the Order and Exhibit A cite Paragraph 79 of the Fourth Amended Complaint, which does not contain any statement which could possibly be construed to mean that Plaintiff refused to accept delivery. There are multiple citations to the Plaintiff’s deposition transcript, but not one states that the Plaintiff refused delivery. Admittedly, the Plaintiff stated that he did not want the Tractor at the time of his deposition on June 27, 2024, and testified that he told Willis to contact his counsel, but that is not equivalent to him admitting that he refused delivery in October 2021. Given when the Plaintiff ultimately gave up on AGCO’s ability to repair the Tractor, this is a genuine issue of material fact precluding the entry of summary judgment.

### **III. THE COURT COMMITTED AN ERROR OF LAW WHEN IT FOUND THAT A BREACH OF WARRANTY CANNOT BE AN UNFAIR TRADE PRACTICE**

The Court indicated that it was skeptical regarding the viability of Plaintiff’s breach of express warranty claim<sup>5</sup> at the very outset of the hearing yet fortunately spared it from summary judgment. However, the Court granted summary judgment as to Plaintiff’s claim for violation of the South Carolina Unfair Trade Practices Act (“UTPA”) on the basis that a breach of warranty does not constitute an unfair trade practice. This conclusion contradicts the established law of this State. In Haley Nursery Co., Inc. v. Forrest, 298 S.C. 520, 381 S.E.2d 906 (1989), which was cited in Plaintiff’s memorandum in opposition and raised during the hearing, the Supreme

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<sup>5</sup>A lemon law claim is a breach of warranty. See S.C. Code Ann. § 56-28-30.

Court of South Carolina found that a breach of warranty can be an unfair trade practice. The impact upon the public interest is palpable due to the potential for repetition; that is, repeated publication of the misrepresentation to other consumers. 298 S.C. at 525, 381 S.E.2d at 908.

The Order recites another “undisputed” fact that Plaintiff purchased the Tractor for “commercial, not consumer, use” to support the finding that 16 C.F.R. § 702.3 does not apply and the violation thereof does not constitute an unfair trade practice. There are citations to the pleadings and the Plaintiff’s deposition, none of which establish that the Plaintiff’s intentions for the Tractor were purely “commercial, not consumer.” The Order and AGCO emphasize that there is miniscule language at the top of the RISC, in parentheses, which states: “Agricultural and Commercial Use” and seemingly considers this dispositive evidence that the Tractor was used for commercial purposes. While the Plaintiff indeed testified that he at one time intended to grow trees on approximately two acres for the benefit of his landscaping business, he also testified that one of his primary considerations was buying a tractor suitable for mowing his forty-two acres of grass.<sup>6</sup> The Plaintiff bought the Tractor in his name and not in the name of his business.

### **CONCLUSION**

For the foregoing reasons, the Plaintiff’s motion to alter or amend should be granted and the Order on Defendant AGCO Corp.’s Motion for Summary Judgment should be vacated.

The undersigned certifies pursuant to Rule 11, SCRCPP, that consultation with opposing counsel would serve no useful purpose.

*Signature appears on the following page.*

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<sup>6</sup> See Eswin Aguilar Depo. 16: 1-3; 43: 1-18

STUDEMEYER LAW FIRM, P.C.

/s/ Ryan G. Studemeyer

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Ryan G. Studemeyer  
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(803) 393-4399  
Attorneys for Plaintiff

Irmo, South Carolina

April 4, 2025

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	
COUNTY OF YORK	)	CASE NO. 2021-CP-46-01792
	)	
Eswin Aguilar,	)	
	)	
	)	
	)	
	)	
Plaintiff,	)	
	)	
v.	)	<b><u>AFFIDAVIT OF</u></b>
	)	<b><u>PHILLIP CONNER</u></b>
AGCO Corp.	)	
	)	
	)	
Defendant.	)	
	)	

The undersigned, being duly sworn and under penalty of perjury, attests as follows:

1. I am Phillip Conner, a Field Aftersales Manager with AGCO Corporation. I held that position at all times mentioned in this affidavit.
2. Jarrad Powell is the owner of Powell Tractor Inc. in Westminster, SC.
3. I called Mr. Powell on October 11, 2023 to confirm that Powell Tractor Inc. was still in possession of Eswin Aguilar’s Massey Ferguson MF4707 tractor. Mr. Powell confirmed that Mr. Aguilar’s tractor is still located at Powell Tractor Inc. as of October 11, 2023.
4. The statements made in this affidavit are based upon my personal knowledge and I believe these statements to be true and accurate. If I learn additional information after executing this affidavit, I reserve the right to supplement or amend this affidavit.

FURTHER AFFIANT SAYETH NOT

[signature on following page]

[signature page for Affidavit of Phillip Conner]

Executed this 11th day of October, 2023

  
Phillip Conner

Sworn to and subscribed before me

This 11<sup>th</sup> day of October 2023.

  
Notary Public

My Commission Expires 5/24/2025



STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	
COUNTY OF YORK	)	CASE NO. 2021-CP-46-01792
	)	
Eswin Aguilar,	)	
	)	
	)	
	)	
	)	<b><u>AFFIDAVIT OF</u></b>
v.	)	<b><u>JACOB WILLIS</u></b>
	)	
AGCO Corp.	)	
	)	
	)	
	)	
	)	
	)	
	)	
	)	
	)	
	)	
	)	
	)	

The undersigned, being duly sworn and under penalty of perjury, attests as follows:

1. I am Jacob Willis, an Account Manager with AGCO Corporation. I held that position at all times mentioned in this affidavit.

2. I have personal knowledge of my communications with Eswin Aguilar.

3. I called Eswin Aguilar by telephone on October 29, 2021 and informed him that Powell Tractor Inc. in Westminster, SC had completed repairs to his Massey Ferguson MF4707, and that the tractor was ready to be delivered to him. Mr. Aguilar responded that he did not want the tractor and that he was pursuing legal action. I have not heard from Mr. Aguilar since the October 29, 2021 telephone call with him.

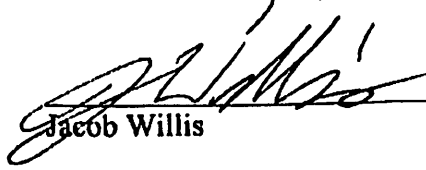
4. The statements made in this affidavit are based upon my personal knowledge and I believe these statements to be true and accurate. If I learn additional information after executing this affidavit, I reserve the right to supplement or amend this affidavit.

FURTHER AFFIANT SAYETH NOT

[signature on following page]

[signature page for Affidavit of Jacob Willis]

Executed this 11th day of October, 2023

  
Jacob Willis

Sworn to and subscribed before me

This 11<sup>th</sup> day of October 2023.

Steven J. Cull  
Notary Public

My Commission Expires 5/24/2025



ELECTRONICALLY FILED - 2023 Oct 12 10:45 AM - YORK - COMMON PLEAS - CASE#2021CP4601792



requested that Nance not perform any further work on the Tractor. In response, AGCO agreed to arrange for the Tractor to be taken to another dealer for repair. The Tractor was transferred to Powell Tractor, Inc. ("Powell") in Westminster, SC in July of 2021. Powell completed warranty repairs to the Tractor by October 2021. The warranty repairs to the Tractor performed by Nance and Powell were completed within a reasonable amount of time in light of the COVID-19 related supply constraints that AGCO operated under in 2020 and 2021. AGCO did not tinker with the Tractor, nor did Powell or Nance.

6. Between April 28, 2021 and October 29, 2021, Mr. Aguilar did not ask me where the Tractor was located, nor did he contact me to ask about the status of the warranty repairs to the Tractor.

7. I called Mr. Aguilar on October 29, 2021 and informed him that Powell had completed the warranty repairs to his Tractor and that the Tractor was ready to be delivered to him. Mr. Aguilar responded that he did not want the Tractor, that he was pursuing legal action, and that he needed to contact his attorney. Mr. Aguilar did not tell me to contact his attorney directly. I have not heard from Mr. Aguilar since my October 29, 2021 telephone call with him.

8. The Tractor has been at Powell since July of 2021, as Mr. Aguilar refused to accept delivery of the repaired Tractor. AGCO did not lose Mr. Aguilar's Tractor.

9. AGCO complied with the terms of its Limited Warranty for the Tractor by repairing or otherwise acting upon each purported defect in the Tractor during the warranty period.

10. I did not inform Mr. Aguilar that "legal action would be futile because AGCO could afford more lawyers than him." Rather, once Mr. Aguilar informed me that he was involving an attorney, I responded that if he was hiring an attorney, all future communications with AGCO would have to go through counsel.

11. The statements made in this affidavit are based upon my personal knowledge and I believe these statements to be true and accurate. If I learn additional information after executing this affidavit, I reserve the right to supplement or amend this affidavit.

FURTHER AFFIANT SAYETH NOT

Executed this 17 day of October, 2024

*Jacob Willis*  
\_\_\_\_\_  
Jacob Willis

Sworn to and subscribed before me

This 17<sup>th</sup> day of October 2024.

*Steven Jacob Currell*  
Notary Public  
My Commission Expires 5/24/25





Page 2

1 APPEARANCES OF COUNSEL:  
 2 ATTORNEYS FOR THE PLAINTIFF  
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 7 ryan@studemeyercrlawfirm.com  
 8  
 9  
 10 ATTORNEYS FOR THE DEFENDANT  
 11 NELSON MULLINS RILEY & SCARBOROUGH  
 12 BY: JAKE CARROLL, ESQUIRE  
 13 MORGAN SPIRES, ESQUIRE  
 14 SETH ELMORE, ESQUIRE  
 15 21 17th Street NW, Suite 1700  
 16 Atlanta, GA 30363  
 17 jake.carroll@nelsonmullins.com  
 18  
 19  
 20  
 21  
 22  
 23 (INDEX AT REAR OF TRANSCRIPT)  
 24  
 25

Page 3

1 ESWIN AGUILAR,  
 2 being first duly sworn, testified as follows:  
 3 EXAMINATION  
 4 BY MR. CARROLL:  
 5 Q. Please state your name for the record.  
 6 A. Eswin Aguilar.  
 7 MR. CARROLL: This is the deposition  
 8 of Eswin Aguilar in the civil matter of Eswin Aguilar  
 9 vs. AGCO Corporation, Cause No. 2021-CP-46-01792  
 10 pending in York County, South Carolina. This  
 11 deposition is being taken for cross-examination  
 12 appropriate purposes. If counsel agrees, all  
 13 objections except those as to the form of the  
 14 question and responsiveness are reserved until  
 15 further use of the deposition or at the time of  
 16 trial.  
 17 MR. STUDEMEYER: Yes, I agree.  
 18 BY MR. CARROLL:  
 19 Q. Mr. Aguilar, my name is Jake Carroll and I  
 20 represent AGCO Corporation in this case. I'm going  
 21 to ask you some questions about the claims brought  
 22 against AGCO in this case.  
 23 Let me ask you: Have you ever been  
 24 deposed before?  
 25 A. No.

Page 4

1 Q. Okay. So I'll go over a few ground rules.  
 2 If you do not hear or understand one of my questions,  
 3 let me know and I can either repeat or rephrase the  
 4 question. I'm not trying to trick you. If you  
 5 answer a question, I will assume you heard and  
 6 understand the question and you've given me an answer  
 7 that's truthful to the best of your knowledge. Is  
 8 that fair?  
 9 A. Yes.  
 10 Q. You've done a good job so far, but please  
 11 make sure you give verbal responses to my questions.  
 12 Don't shake your head uh-huh or huh-uh in response to  
 13 a question. The court reporter is taking down  
 14 everything that we say and we need to verbalize  
 15 everything for her sake.  
 16 A. Understood.  
 17 Q. And do you understand that this deposition  
 18 is being transcribed by the court reporter and that  
 19 everything said here today will be recorded?  
 20 A. Yes.  
 21 Q. If you want a break, just let me know and  
 22 we can stop for a few minutes. Did your attorney  
 23 discuss with you signing of the deposition transcript  
 24 and whether you want to read the transcript or not  
 25 after it's prepared?

Page 5

1 A. No.  
 2 MR. CARROLL: Okay. Do you all want  
 3 to read and sign?  
 4 MR. STUDEMEYER: Yes, please.  
 5 BY MR. CARROLL:  
 6 Q. During this deposition I'm going to  
 7 present several documents for you to look at. The  
 8 first one I'm going to give you -- I'm going to go  
 9 ahead and mark this as Defendant's Exhibit 1.  
 10 (DEF. EXHIBIT 1, Amended Notice of  
 11 Taking Deposition of Eswin Aguilar, was marked for  
 12 identification.)  
 13 BY MR. CARROLL:  
 14 Q. Mr. Aguilar have you other seen this  
 15 before?  
 16 A. Yes.  
 17 Q. Did your counsel give you a copy of this  
 18 notice?  
 19 A. Yes.  
 20 Q. A couple of more questions. Just  
 21 background. Are you under the influence of any  
 22 alcohol or medication today?  
 23 A. No.  
 24 Q. Do you have any medical condition that  
 25 would impair your ability to understand my questions

Page 6

1 or answer them truthfully?  
2 A. No. I do, however -- now, obviously,  
3 English is my second language. So I might ask you to  
4 repeat that question, hopefully not too many times.  
5 I speak better than I understand, but just to make  
6 you aware of that.  
7 Q. Okay. Well, just let me know and I'm  
8 happy to answer. Okay. Have you ever been known by  
9 any other names?  
10 A. My full name is Eswin Ariel  
11 Aguilar-Pineda.  
12 Q. And then you go by Eswin Aguilar?  
13 A. Yes.  
14 Q. What is your date of birth?  
15 A. 12/10/1980.  
16 Q. December 10?  
17 A. Yes, December 10.  
18 Q. What is your current address?  
19 A. 2868 East Peach Road, Ridgeway 29130.  
20 Q. And what county is that in?  
21 A. That's Fairfield County.  
22 Q. Do you have any plans to move from there  
23 in the next six or 12 months?  
24 A. (Witness shakes head.)  
25 Q. Where did you attend high school?

Page 7

1 A. A.C. Flora.  
2 Q. Can you say that again?  
3 A. A.C. Flora High School.  
4 Q. What year did you graduate?  
5 A. 2000, probably.  
6 Q. Did you attend college?  
7 A. Yes.  
8 Q. Where?  
9 A. Midlands Tech. Midlands Technical  
10 College.  
11 Q. Did you graduate with a degree?  
12 A. No.  
13 Q. Do you have any other formal training or  
14 education?  
15 A. No.  
16 Q. Did you serve in the military?  
17 A. No.  
18 Q. Did you seek employment after high school?  
19 A. Yes.  
20 Q. What is your current occupation?  
21 A. I'm self-employed.  
22 Q. And what is the name of the company that  
23 you --  
24 A. Capital Stone.  
25 Q. How long have you worked there?

Page 8

1 A. Possibly 20 years plus.  
2 Q. Okay. So did you start work -- did you  
3 start working there right after graduating high  
4 school?  
5 A. Uh-huh. Yes.  
6 Q. And what do you do at Capital Stone?  
7 A. Specifics what do we do or what do I do?  
8 Q. What does Capital Stone do first?  
9 A. It's a hardscape company --  
10 landscape/hardscape company.  
11 Q. And what is your role there?  
12 A. Manage. Foresee and manage.  
13 Q. Do you have a specific title?  
14 A. The owner.  
15 Q. Okay. How many hours a week would you say  
16 you worked at Capital Stone?  
17 A. Twelve, 15 hours.  
18 Q. Every day?  
19 A. Yeah.  
20 Q. Do you have any other employees? Does  
21 Capital Stone have any other employees?  
22 A. Yes.  
23 Q. Did you work anywhere else prior to  
24 Capital Stone?  
25 A. Yes.

Page 9

1 Q. And where was that?  
2 A. I don't remember.  
3 Q. In addition to your work at Capital Stone,  
4 are you also engaged in farming?  
5 A. Yes.  
6 Q. Have you always farmed and worked at the  
7 same time?  
8 A. I was brought up as a kid in the fields  
9 planting. Yes.  
10 Q. Okay. Have you ever owned an AGCO product  
11 before?  
12 A. No.  
13 Q. Okay. I'm going to show you the next  
14 document. Mr. Aguilar, have you ever seen this  
15 document before?  
16 A. Yes.  
17 Q. Okay. I'm going to mark this as  
18 Defendant's Exhibit 2.  
19 (DEF. EXHIBIT 2, Fourth Amended  
20 Complaint, was marked for identification.)  
21 BY MR. CARROLL:  
22 Q. Mr. Aguilar, would you agree with me that  
23 at the top of the page in bold letters it says,  
24 "Fourth Amended Complaint"?  
25 A. Repeat that question.

Page 10

1 Q. Would you agree that at the top of the  
2 page in bold letters it says, "Fourth Amended  
3 Complaint"?  
4 A. Yes.  
5 Q. Okay. And did you authorize your attorney  
6 to file this on your behalf?  
7 A. I believe so.  
8 Q. Okay. And if you go to page 2, do you  
9 agree -- do you agree with me that paragraph 11  
10 mentions a 2019 Massey Ferguson MF 4707 tractor?  
11 A. If I agree with you on?  
12 Q. Does paragraph 11 mention a 2019 Massey  
13 Ferguson tractor?  
14 A. Yes.  
15 Q. And is the tractor what you understand is  
16 that dispute in this case?  
17 A. Yes.  
18 Q. Okay. Paragraph 11 also mentions a  
19 Bush-Whacker MD-144 brush cutter, correct?  
20 A. Yes.  
21 Q. Is the brush cutter also in dispute in  
22 this case?  
23 A. I believe so.  
24 Q. Okay. And who is the manufacturer of the  
25 Bush-Whacker MD-144?

Page 11

1 A. The MD-144 is the brand of the bush hog.  
2 Bush hog is an implement. That's what they call it.  
3 But I believe it could also be the name of that bush  
4 hog.  
5 Q. So do you understand that Bush Hog is the  
6 manufacturer of that implement?  
7 A. Yes.  
8 Q. And AGCO is not the manufacturer of that  
9 product?  
10 A. It's a product of AGCO.  
11 Q. Okay. How do you understand that AGCO  
12 manufacturers Bush Hog brush cutters?  
13 A. When I bought it, I understood that that  
14 was a product from AGCO. That's all I know.  
15 Q. Okay. Did anybody at Nance tell you that?  
16 A. I don't remember.  
17 Q. Okay. Do you still have the bush hog?  
18 A. Yes.  
19 Q. Do you still use it?  
20 A. Yes.  
21 Q. When was the last time you used it?  
22 A. Maybe a couple of months ago.  
23 Q. Okay. Now, I'm going back up to -- we're  
24 still on page 2. I understand that you purchased the  
25 tractor to mow a 42-acre tract in Ridgeway, South

Page 12

1 Carolina. Is that your residence as well?  
2 A. Yes.  
3 Q. Okay. Who did you talk to about  
4 purchasing a tractor in early 2019?  
5 A. Andy Miller.  
6 Q. Who is he with?  
7 A. With Nance, I believe.  
8 Q. The complaint also says that you visited  
9 John Deere and Kubota dealerships to shop for  
10 tractors; is that correct?  
11 A. Yes.  
12 Q. Okay. But in early 2019, you decided to  
13 buy the Massey Ferguson tractor from Nance, correct?  
14 A. That is correct.  
15 Q. Did you talk to anybody at those John  
16 Deere or Kubota dealerships before you went to Nance?  
17 A. Yes.  
18 Q. And, at the time, why didn't you buy  
19 either a John Deere or a Kubota tractor?  
20 A. I believe the John Deere was not  
21 available. I had to wait a little bit because I was  
22 looking for a specific tractor. So what I was  
23 looking for, John Deere had a delay. So that was the  
24 reason.  
25 Q. Okay. Now, at the time you purchased the

Page 13

1 tractor and bush hog in 2019, how many years had you  
2 been farming?  
3 A. I have a background of farming since I was  
4 little. I've been planting and growing things since  
5 I was little.  
6 Q. Okay. So you were also planned to  
7 cultivate a small tree farm on approximately two  
8 acres of the 42-acre tract; is that correct?  
9 A. Yes.  
10 Q. Are you still operating a small tree farm  
11 today?  
12 A. Yes.  
13 Q. Would you say it's still approximately two  
14 acres?  
15 A. Yes.  
16 Q. Okay. And then do you use these plants as  
17 part of Capital Stone's hardscape and landscape  
18 business?  
19 A. That was the plan. That is the plan.  
20 Q. Okay. So prior to 2019, you had never  
21 grown small trees or had a small tree farm operation?  
22 A. Yeah. I guess -- I guess that's an  
23 answer, but I've been raised growing things. So I  
24 have pretty good knowledge on that.  
25 Q. Okay. Yeah. I'm just asking about the

<p style="text-align: right;">Page 14</p> <p>1 tree operation specifically. Did you have anyone 2 else help you when you decided to start the tree 3 farm? 4 A. My nephew. 5 Q. Okay. What is his name? 6 A. Nathan. 7 Q. Last name? 8 A. Segura, but he's help, though. My wife 9 also. It's a family thing. So... 10 Q. Okay. I want to ask you about paragraph 11 12. It says AGCO advertised Massey Ferguson's 12 tractor as the last tractor you'll ever need. Where 13 was that -- where did you see that advertisement? 14 A. So I started looking for a tractor because 15 that was the idea. I wanted a tractor that would do 16 a specific job and, you know, as you know, you buy a 17 tractor, you buy a tractor for life pretty much. So 18 I wanted a John Deere. They had what I needed, but I 19 had to wait. I went to Kubota, but they also didn't 20 have the tractor there. 21 So I stopped by the dealership close to my 22 house, actually, Tractor Mart, but they are not 23 authorized to sell tractors bigger than a specific 24 size tractors. And I knew Massey Ferguson. I grew 25 up in a way, you know, Massey Ferguson tractors are</p>	<p style="text-align: right;">Page 16</p> <p>1 the trees and being able to handle the amount of 2 grass on 42 acres. I had to be able to cut that 3 grass. 4 Q. Okay. And this is -- did you have a 5 waterer already or a tank? 6 A. Yeah. 7 Q. Okay. You did? 8 A. Yeah. Water was ready. Tank was ready. 9 Everything was ready. 10 Q. And who manufactured your -- what kind of 11 equipment do you have to water your tractor -- or did 12 you have to water your tractors -- I'm sorry, water 13 your trees? 14 A. It's just a tank. Like a plastic 15 container tank. So nothing specific. Just a tank. 16 Q. Is it on a trailer? 17 A. On a pallet and the tractor just picks it 18 up either with the loader or you lift it with the 19 back of the tractor. So the water container is on a 20 pallet and that's how you -- 21 Q. Okay. And then how does the water -- do 22 you have a sprayer attached to the tank? 23 A. Yes. Custom, you know. Custom made. 24 Nothing fancy, but custom made. 25 Q. And then in order to water the trees,</p>
<p style="text-align: right;">Page 15</p> <p>1 good tractors. So that's what I knew and you see 2 advertisements and stuff like that. So... 3 Q. Okay. Before you purchased the tractor 4 from Nance, did you ever talk to anybody at AGCO 5 specifically? 6 A. Repeat the question. 7 Q. Before you purchased the tractor at Nance, 8 did you talk to anyone at AGCO Corporation? 9 A. No. 10 Q. Okay. And as of April 2019, who was going 11 to help you with your tree farm? 12 A. Just me. Pretty much just me. Nobody. I 13 mean, my wife. That's it. 14 Q. And then going back to something you just 15 said. What were the specific tasks that you needed 16 the tractor to be able to do? 17 A. I mean, just like anything specific, you 18 know. You buy things for specific reasons. The 19 tractor needed to be a bigger tractor. So I was 20 looking for a bigger tractor. I needed it to plow 21 the area where I was going to plant the trees and, 22 specifically, I needed it to be a bigger tractor so I 23 could lift a water container so I could water my 24 trees. That was the main -- the think the most 25 important thing on the tractor was the watering of</p>	<p style="text-align: right;">Page 17</p> <p>1 would you drive down each row -- 2 A. Yes. 3 Q. -- of trees? 4 Okay. How much revenue do you typically 5 make in a year from tree sales? 6 A. Nothing. It's not yet a functional tree 7 farm. 8 Q. Okay. So without this tree farm, do you 9 have any other way to order trees for Capital Stone? 10 A. Nurseries. 11 Q. Okay. And do you order and sell trees 12 from other nurseries? 13 A. Yeah. When we have a client that wants 14 any kind of planting, we buy them from nurseries. 15 Q. Okay. And is your plan to run the tree 16 sales through Capital Stone or your personal tax 17 returns or how are you going to -- 18 A. Separate. 19 Q. Okay. So is it Capital Stone? 20 A. No, it's separate. It's another business. 21 Q. What's the name of that business? 22 A. My wife is the one that runs that. 23 Eventually that will be a separate business. 24 Q. Do you know the name of it? 25 A. I believe it's -- I believe it's Emerald</p>

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1 Hills. Emerald Hills Tree Farm, I believe.  
 2 Q. Do you have an accountant prepare your tax  
 3 returns?  
 4 A. Yes, tax lady.  
 5 Q. And what is her name?  
 6 A. Dianna. I believe that's all I know.  
 7 Q. How long has she been doing your tax  
 8 returns?  
 9 A. For a while. I don't remember. My wife  
 10 would know that question.  
 11 Q. Okay. Let me go to -- we're still going  
 12 to be in this exhibit, but I want you to turn to  
 13 Exhibit A.  
 14 A. What page number?  
 15 Q. It's not numbered, but it's further back.  
 16 It looks like that. Yes. Right there. Have you  
 17 seen this document before?  
 18 A. Yes.  
 19 Q. Did you review this document in  
 20 preparation for your deposition today?  
 21 A. I don't remember.  
 22 Q. Okay. You would agree with me at the top  
 23 of the page the document is entitled, "Retail  
 24 Installment Contract and Security Agreement  
 25 Agricultural and Commercial Use," right?

Page 19

1 A. You're asking me if I agree to what?  
 2 Q. The title of this document is, "Retail  
 3 Installment Contract and Security Agreement  
 4 Agricultural and Commercial Use."  
 5 A. Where do you read that?  
 6 Q. At the very top. First line.  
 7 A. Yeah.  
 8 Q. You would agree --  
 9 A. Yeah.  
 10 Q. -- that's what it's titled?  
 11 A. I suppose.  
 12 Q. And what do you understand this document  
 13 to be?  
 14 A. I would think that this is a document that  
 15 I signed when I purchased the tractor.  
 16 Q. Okay. And what does it say?  
 17 A. I would probably need a scope to read this  
 18 thing thoroughly, but, I mean, that's what I was  
 19 asked to sign in order to purchase the tractor.  
 20 Q. Okay. So at the top it lists the buyer's  
 21 name as Eswin Ariel Aguilar-Pineda, right?  
 22 A. That's correct.  
 23 Q. Did I say that correctly?  
 24 A. (Witness nods head.)  
 25 Q. And it lists your address as 238 Rimer

Page 20

1 Pond Road. When did you live there?  
 2 A. Three years before -- before now. Three  
 3 years before now. That was my previous address. We  
 4 built a new home, so we sold that. That's the reason  
 5 for that address there. That was my previous home.  
 6 Q. That makes sense. Which county is -- or  
 7 what county is that in?  
 8 A. I believe that was Richland County, I  
 9 think. I'm not sure.  
 10 Q. When did you move into your current home?  
 11 A. Three years ago. Three or four years ago.  
 12 Somewhere in there. I'm not good with dates, so --  
 13 specific dates.  
 14 Q. It was after you purchased this tractor?  
 15 A. It was right around -- yes. It was right  
 16 around that time. But, yeah, I definitely remember  
 17 moving in after buying the tractor.  
 18 Q. Okay. And this document lists the  
 19 contract date as April 24, 2019, right?  
 20 A. Yes.  
 21 Q. And it says you're going to pay AGCO  
 22 Finance, LLC 36 payments of \$1,586.16, right,  
 23 monthly?  
 24 A. If that's what it says there, yes.  
 25 Q. Had you ever heard of AGCO Finance before

Page 21

1 you purchased the tractor?  
 2 A. I don't recall. I don't remember.  
 3 Q. Were they the financing company you used  
 4 to purchase the tractor?  
 5 A. I really don't -- I'm not sure. I'm not  
 6 sure how that works. I don't remember how that  
 7 works, honestly.  
 8 Q. Okay. Did Nance or anybody at Nance  
 9 explain to you how AGCO Finance was involved?  
 10 A. I don't think so. I don't think they  
 11 explained it the way that they should. I don't know  
 12 how that works, really.  
 13 Q. How do you think they should have  
 14 explained it to you?  
 15 A. I mean, I assume that if you do a  
 16 business, you try to make everything clear. That's  
 17 just my opinion in business. If I ask your name, I  
 18 expect you to tell me your name and who are with, you  
 19 know. Otherwise, you're just a random person. So I  
 20 was expecting them explaining everything. That's the  
 21 way I look at things. I don't know if that answered  
 22 your question.  
 23 Q. Well, yes. So did you understand that  
 24 AGCO Finance was the -- was a bank that you would  
 25 have to pay back for the tractor?

Page 22

1 A. To my best knowledge, I would think that  
 2 AGCO is the tractor people -- tractor manufacturer,  
 3 in my opinion. I don't know. That's just what I...  
 4 Q. Okay. Now, on this agreement, it lists  
 5 the tractor for \$51,200, but it does not list the  
 6 bush hog, right?  
 7 A. If that's what it says there, I guess.  
 8 Yes.  
 9 Q. So you did not finance the purchase of the  
 10 bush hog?  
 11 A. No. I bought the bush hog, you know. I  
 12 financed the tractor and I bought the bush hog.  
 13 Q. Okay. Now, did you accept delivery at the  
 14 dealership or did Nance deliver it to you?  
 15 A. They delivered it to me.  
 16 Q. And they delivered the tractor and the  
 17 bush hog?  
 18 A. Yes.  
 19 Q. Okay. Now, on this document, you would  
 20 agree that AGCO Corporation is not listed as a party  
 21 to the contract, correct?  
 22 A. You're asking me if I agree?  
 23 Q. Yes.  
 24 A. I'm not -- I don't know. I don't think  
 25 that's -- I don't think I understand your question.

Page 23

1 Q. Okay. Well, let's go to the third page of  
 2 this exhibit. So page 1 and then page 2 and then  
 3 this is page 3. And on this page we saw your  
 4 signature at the bottom of the retail installment  
 5 contract and on this page we see two other  
 6 signatures, correct?  
 7 A. Yes, I see that.  
 8 Q. One signature is from Nance Tractor &  
 9 Implement, Inc., correct?  
 10 A. If you say so, yeah.  
 11 Q. And then the other party is listed as AGCO  
 12 Finance, LLC, correct?  
 13 A. Again, if you say so, that's correct.  
 14 Q. Well, you're -- are you disagreeing with  
 15 me or agreeing with me?  
 16 A. No, I'm agreeing. If that's what that is,  
 17 then that's what that is.  
 18 Q. But there is no mention of AGCO  
 19 Corporation on this signature page either?  
 20 A. I'm not sure I understand your question.  
 21 Q. Well, I'm just saying -- what I'm asking  
 22 in Exhibit A, is there any mention of AGCO  
 23 Corporation?  
 24 A. I mean, yeah, it is.  
 25 Q. Okay. Where?

Page 24

1 A. I don't know. I mean, it's -- it's -- I'm  
 2 not sure, but I'm sure it's somewhere there. I don't  
 3 know.  
 4 Q. And so if I told you that AGCO Corporation  
 5 is not listed in any of these three pages in Exhibit  
 6 A, you would disagree with me?  
 7 A. I don't think I understand your question.  
 8 Q. Okay. My question is: Where in these  
 9 three pages of Exhibit A to the fourth amended  
 10 complaint is AGCO Corporation mentioned? That's my  
 11 question.  
 12 A. You can't read this page. So you're  
 13 asking me to read this here. I mean, if you look at  
 14 page -- I mean, this page right here?  
 15 Q. Yes. Page No. 2.  
 16 A. Can you read that and tell me that AGCO is  
 17 not in there?  
 18 Q. I can, yes.  
 19 A. You can? You tell me you can read this?  
 20 Q. Uh-huh. But can you read it? I can read  
 21 it back to you. So No. 1, "Delivery and acceptance.  
 22 Buyer acknowledges receipt of the machinery in good  
 23 order and condition and, to the extent permitted by  
 24 applicable law, waives any and all rights buyer may  
 25 have to rescind the contract, rights to the

Page 25

1 machinery, or revoke acceptance of the machinery."  
 2 But okay.  
 3 Do you -- Exhibit A is a true and accurate  
 4 copy of the retail installment contract and security  
 5 agreement you entered into between Nance Tractor &  
 6 Implement as assigned to AGCO Finance, LLC, correct?  
 7 A. I'm still not sure where this question is  
 8 going. All I know is I bought the tractor. It was  
 9 an AGCO deal with it, you know. It's AGCO tractor.  
 10 I mean, they -- they manufacture the tractor. They  
 11 have something to do with the tractor. I don't know  
 12 how to explain it to you. I mean, if I'm not giving  
 13 you the answer you want, I don't know what to answer.  
 14 Q. Okay. Let's go to Exhibit B. What is  
 15 Exhibit B?  
 16 A. This?  
 17 Q. Yes.  
 18 A. You want me to tell you what is this?  
 19 Q. Yes, sir.  
 20 A. I see numbers.  
 21 Q. So you don't know what Exhibit B is?  
 22 A. I mean, I see numbers. I see dates. I  
 23 see amount of money. I guess it's some kind of fee.  
 24 Q. Right. It says, "Admin fee received by  
 25 AGCO Finance" at the top of the column?

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1 A. Okay.  
2 Q. You understand that you have filed this  
3 complaint against AGCO, right, this Exhibit 2?  
4 A. Well, yeah. Now that makes sense.  
5 Q. Okay. And you filed it in York County,  
6 South Carolina, correct?  
7 A. That's correct.  
8 Q. Do you have any relatives in York County?  
9 A. No.  
10 Q. Okay. Do you have any persons who you  
11 consider good friends that live or reside in York  
12 County?  
13 A. Not that I'm aware of in York County. I  
14 don't think so.  
15 Q. Prior to purchasing this tractor, had you  
16 ever worked with Nance before? Had you ever bought  
17 anything from them before?  
18 A. No.  
19 Q. Okay. Do you know why Exhibit B is  
20 attached to your fourth amended complaint?  
21 A. I guess because it's -- I'm pretty sure  
22 it's a fee in there that they probably charged me  
23 for. I'm not sure. Now that I see these numbers,  
24 that's what it looks like.  
25 Q. Okay. That AGCO Finance charged you,

Page 27

1 right?  
2 A. Yes.  
3 Q. Let's go back to the complaint. Let's go  
4 to page 4 and I'm at paragraph 30, which you said you  
5 paid for the Bush-Whacker in full on April 26, right?  
6 A. Yes.  
7 Q. Okay. And then you made three other  
8 payments to AGCO Finance fairly quickly, right?  
9 A. Yes.  
10 Q. Okay. And then paragraph 32 says on  
11 April 29, tractor and various documents, including an  
12 operator's manual, were dropped off at your property  
13 in Ridgeway, South Carolina, right?  
14 A. Yes.  
15 Q. Okay. What were the various other  
16 documents besides the operator's manual that was  
17 dropped off?  
18 A. That's it. I believe that was all I got.  
19 Just to add onto that, that was a drive-by type  
20 thing. I mean, like, the guy was in a hurry. He  
21 dropped my tractor. Didn't explain nothing. That  
22 was it. Which there is a point because you go in and  
23 they talk to you into buying something, just like  
24 anything else. And then when you complete the sale,  
25 it's like they move on. So...

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1 Q. Okay. It says almost immediately after  
2 delivery, you began to experience problems with the  
3 tractor including a damaged tire, correct?  
4 A. Yes.  
5 Q. And that AGCO failed to provide a  
6 replacement until July, correct?  
7 A. Yes.  
8 Q. But AGCO did provide a replacement tire,  
9 right?  
10 A. I mean, it's not as simple as it sounds.  
11 It's not as easy as it sounds, you know. The tire --  
12 they gave me a lot -- a lot -- a lot of problems, a  
13 lot of headaches, you know. They assumed that I cut  
14 the tire. They assumed a lot of things before even  
15 considering giving me the tire. Brand new tractor.  
16 I mean, brand new tractor. The tire was split apart.  
17 That was the issue on the tractor. They pretty much  
18 shooshed me off with the tire and I had to,  
19 obviously, just keep pushing until they replaced  
20 that.  
21 But they gave me everything you can think  
22 of to pin it on me to the extent that I had run the  
23 tractor on top of something that had cut the tire  
24 off. My yard, my 42 acres, there's nothing to cut  
25 the tire. I even asked the guy to come check my

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1 property. They just didn't care. But eventually  
2 after -- I'm trying to conclude that. But after  
3 headaches and going through trying to explain that,  
4 they gave me a used tire.  
5 Q. Did you have to pay for the tire?  
6 A. No. But I had to -- I believe I had to  
7 pick it up. I think I had to pick it up.  
8 Q. And then did you have to install it  
9 yourself?  
10 A. Yes. So add to my headache. Do you know  
11 how big a tractor tire is?  
12 Q. Was it a front tire or back tire?  
13 A. Back tire.  
14 Q. Okay. Yes. I know how big they are.  
15 Okay. So going to the next page. October 9, 2019,  
16 the tractor broke down for the first time and you  
17 contacted Nance and informed them of the breakdown,  
18 right?  
19 A. I believe so.  
20 Q. I'm just reading your complaint.  
21 A. Yeah. The dates may not be accurate and  
22 they may not be in the order they happened, but yes.  
23 Yes. The tractor broke down. I called them. Yes.  
24 Q. Okay. And what did you expect Nance to do  
25 for this issue when you called?

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1 A. I expected them to fix it. Would you not  
2 expect someone to fix your brand new car? I hate to  
3 ask the question to you.  
4 Q. So with that expectation, did you know  
5 that the tractor came with a warranty?  
6 A. Yeah.  
7 Q. Did Nance tell you about the warranty that  
8 the tractor came with?  
9 A. No. I had to -- matter of fact, no. I  
10 had to find that out. Those were the only things  
11 that I had to ask for because they failed to give me  
12 the warranty.  
13 Q. When did you ask for that document?  
14 A. I think it was referring to this tractor  
15 constantly breaking down.  
16 Q. Okay. Do you remember around about time?  
17 A. No. I don't remember the time.  
18 Q. So in 2019 -- October 2019, we're on page  
19 5 of your complaint, you called Nance and asked  
20 them -- you expect them to fix it based on a warranty  
21 that you had never seen before, correct?  
22 A. That's fair to say. But, again, you're  
23 buying a brand new something, you know. We're not  
24 buying a blender here, now. Would you buy a \$50,000  
25 car and have it break down maybe a couple of hundred

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1 miles in? What would you do?  
2 Q. Did you ever ask -- did you ever wonder  
3 what was covered under the warranty?  
4 A. I mean, my knowledge when you buy a  
5 vehicle, there's a bumper to bumper. This is a very  
6 expensive tractor, so I would expect the same.  
7 Q. Did you know how long the warranty was  
8 for?  
9 A. I don't think it's for life, but I'm sure  
10 it would be enough to -- within whatever problems I  
11 had with the tractor. That's just common sense.  
12 Q. Now, you know that Nance has said that  
13 they gave you a copy of the warranty when the tractor  
14 was delivered?  
15 A. I don't remember seeing it. I don't think  
16 they gave it to me, but, I mean, it's neither here  
17 nor there. I wouldn't know. All I can tell you is I  
18 was very excited. The tractor looked good. I was  
19 very excited about the tractor. And after talking to  
20 Andy, he assured me that was the tractor. After I  
21 explained to him what I needed it for and what I was  
22 working into, he said, "This is your tractor."  
23 Q. Okay. I'm going to give you the next  
24 document. Mr. Aguilar, were you told there was a  
25 warranty on the tractor when you purchased it?

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1 A. I'm pretty sure.  
2 Q. Did Andy mention a warranty when he was  
3 telling you that this was the tractor that you  
4 needed?  
5 A. I'm pretty sure he did.  
6 Q. The document in front of you, do you agree  
7 at the top it states, "AGCO Limited Warranty Terms  
8 and Conditions - United States, Canada, Mexico -  
9 Effective for Equipment Retailed and Delivered After  
10 January 1, 2019"? Do you agree that's what it says?  
11 A. You're asking me if I agree what this  
12 document is saying here?  
13 Q. Yes.  
14 A. Yes, I agree. I understand what this  
15 says.  
16 Q. I'm going to mark this as Defendant's  
17 Exhibit 3.  
18 (DEF. EXHIBIT 3, AGCO Limited  
19 Warranty Terms and Conditions, Bates stamped AGCO  
20 00001-00002, was marked for identification.)  
21 BY MR. CARROLL:  
22 Q. When was the first time you saw this  
23 document?  
24 A. I don't remember, really.  
25 Q. And then the applicable warranty on this

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1 table, we're talking about a 4700 series tractor,  
2 right?  
3 A. Yes.  
4 Q. Okay. So under "Tractors," the second  
5 line reads, "Twenty-four months or 2,000 hours,  
6 whichever comes first," correct?  
7 A. Right.  
8 Q. Okay. So do you understand that the  
9 tractor is warranted for 24 months or 2,000 hours,  
10 whichever comes first?  
11 A. Yeah, I see that.  
12 Q. And that's what you understand the  
13 warranty to be?  
14 A. What that means. Yes. What that means.  
15 Q. Let's go to the first line of the limited  
16 warranty. "What is warranted." Can you read the  
17 first sentence of that to me?  
18 A. "Application, equipment, major drivetrain  
19 components, is warranted for two years or 2,000  
20 hours." Is that what you're talking about?  
21 Q. No. I'm talking about the first line at  
22 the top. Right here. "What is warranted."  
23 A. Okay. "What is warranted."  
24 Q. Yeah.  
25 A. Goodness. "AGCO Corporation warrants its

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1 new equipment to be free of defect and materials and  
2 workmanship at-time of delivery to the first retail  
3 purchase renter or lease. These terms apply to all  
4 brands of new equipment originally warranted in the  
5 United States, Canada, and to Challenger branded  
6 equipment only originally made in -- marketed in  
7 Mexico."  
8 Q. Okay. And so AGCO Corporation warrants  
9 its equipment for 24 months or 2,000 hours, whichever  
10 comes first in this case, right?  
11 A. You're asking me to...  
12 Q. I'm asking you if that's correct, if I'm  
13 reading this document correctly?  
14 A. Yeah. I mean, you're reading it. Yeah.  
15 Q. Let's turn to page 2. And at the top of  
16 the page in bold letters, there's a title,  
17 "Exceptions from this warranty." Do you see that?  
18 A. "Exceptions from this warranty." Okay.  
19 Q. And then under the bullet -- under the  
20 list of exceptions from this warranty, "Repairs and  
21 maintenance are not covered under the warranty,"  
22 right?  
23 A. If that's what it says here, I guess. So,  
24 you know, I don't think I ever seen this thing.  
25 Q. You've never seen it?

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1 A. I mean, I don't -- I don't really -- I  
2 don't remember seeing this thing, I mean, to the  
3 specifics. But we can proceed, I guess.  
4 Q. You just testified that you saw it -- you  
5 asked for a copy?  
6 A. I mean, after. I mean, after later on.  
7 We hadn't had it.  
8 Q. Okay. And you never asked AGCO or Nance  
9 for a copy of the limited warranty, right?  
10 A. You know, honestly, I assumed they would  
11 give it to me and maybe he did explain some of it,  
12 but that's all I can remember, honestly.  
13 Q. Do you still have the operator's manual?  
14 A. I believe -- no. I don't think so. Well,  
15 I don't remember. Maybe I do.  
16 Q. Like, at your house?  
17 A. I think it was in the tractor.  
18 Q. Okay. Do you think it's still in the  
19 tractor?  
20 A. Probably so. It's supposed to be in the  
21 tractor. It's an operator's manual. So...  
22 Q. So then the next bullet point says,  
23 "Rubber tire warranty. Rubber tires are warranted  
24 directly by the respected manufacturer only and not  
25 by AGCO." Did I read that correctly?

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1 A. Yeah. You read that correctly.  
2 Q. Do you remember who the manufacturer of  
3 your split tire was?  
4 A. No.  
5 Q. No. The next section says, "Owner's  
6 obligation." Do you see that?  
7 A. Right.  
8 Q. And the sentence says, "It is the  
9 responsibility of the owner to transport the  
10 equipment or parts to the service shop of an  
11 authorized AGCO dealer or, alternatively, to  
12 reimburse the dealer for any travel or transportation  
13 expense involved in fulfilling this warranty." Did I  
14 read that correctly?  
15 A. Yeah. I mean, you're reading it  
16 correctly.  
17 Q. Okay. Now, you've paid \$399 to have the  
18 tractor towed once, right?  
19 A. Yes.  
20 Q. Other than that, have you paid for any  
21 other repairs to the tractor?  
22 A. I don't think so.  
23 Q. As you sit here today, do you want the  
24 tractor back?  
25 A. I don't think so. Would you want your car

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1 if it's been fixed seven times -- four, seven times.  
2 I don't even remember how many times it's been fixed.  
3 I just found out not too long ago where my tractor  
4 was. Would you want your car back?  
5 Q. This is not my deposition.  
6 A. Okay. And I hate to ask that, but, you  
7 know.  
8 Q. So the next sentence says, "This warranty  
9 does not cover rental or replacement equipment during  
10 the repair period."  
11 A. So they did tell me that, but, you know --  
12 and, to a point, I get that. But they put a sticker  
13 that says on the tractor that I'm responsible for  
14 shipping the tractor, the levers, whatever. I get  
15 that, but they put it in a spot you can't see it. Or  
16 you have to get in the tractor, work the tractor,  
17 lift the loader like an arm -- because it has arms,  
18 is what the loader is. So you have to lift the thing  
19 so you can read that sticker where it says owner  
20 responsible for delivering the tractor for  
21 maintenance or repairs. So I don't know if that  
22 answers that question.  
23 Q. Well, who told you that? Did somebody at  
24 Nance also tell you the warranty doesn't cover rental  
25 or replacement equipment?

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1 A. Yes.  
2 Q. Okay. But you did get a loaner tractor at  
3 least one time, right?  
4 A. Yes.  
5 Q. Did you have to pay for that?  
6 A. No.  
7 Q. Okay. And then the next paragraph under  
8 "Owner's Obligation," do you see the bold statement  
9 there -- the statement in bold and all caps?  
10 A. I'm not sure.  
11 Q. Under "Owner's Obligation."  
12 A. Okay.  
13 Q. The next statement in bold and all caps.  
14 A. Okay. It says, "This warranty does not  
15 cover rental replacement." Okay.  
16 Q. So the next one is, "This warranty is in  
17 lieu of." Do you see that?  
18 A. I don't even know what that means.  
19 Q. But do you see it?  
20 A. Yeah.  
21 Q. Can you read that whole sentence?  
22 A. "This warranty is in lieu -- lieu,"  
23 whatever you call it, "of all warranties of  
24 merchantability, fitness for a purpose or other  
25 representations, warranties or conditions, expressed

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1 or implied." Keep going?  
2 Q. No. Then the last sentence says, "In no  
3 event shall the owner be entitled to recover for  
4 incidental, special, or consequential damages such as  
5 loss of crops, loss of profits or revenue, other  
6 commercial losses, inconvenience, or cost of rental  
7 or replacement equipment," correct? Did I read that  
8 correctly?  
9 A. That's what it says here.  
10 Q. This is the second time that the warranty  
11 talks about not covering rental or replacement  
12 equipment, right?  
13 A. I mean, I guess that's what it says there.  
14 That's what it says there.  
15 Q. And then going down to -- going back to  
16 something that you said. Tractor Mart, right, was  
17 the first place you went?  
18 A. A few of the places I went. But Tractor  
19 Mart for Massey Ferguson, yes.  
20 Q. And you did not buy a tractor from them  
21 because they could not service the tractor -- the  
22 kind of tractor that you needed, right?  
23 A. They don't provide -- they only go to a  
24 specific horsepower tractor. They're a small dealer.  
25 Q. Okay. That's for warranty service; is

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1 that right?  
2 A. They just don't -- don't sell tractors as  
3 big as mine. They sell small tractors.  
4 Q. Do they have a service department?  
5 A. I'm not sure. When I think about it,  
6 that's where I got this promotion. I think he's the  
7 one that gave me that Nancy Ferguson, one tractor for  
8 life, I think.  
9 Q. The brochure?  
10 A. Yeah.  
11 Q. Did you look AGCO online when you were  
12 researching tractors?  
13 A. To a point, I think I did.  
14 Q. Okay. Now, at some point you bought a  
15 Kubota tractor, right?  
16 A. Yes.  
17 Q. Do you still have that tractor?  
18 A. Yes.  
19 Q. Is that what you use to mow your grass --  
20 A. Yes.  
21 Q. -- with the bush hog?  
22 A. Yes.  
23 Q. Do you also use it to water your trees and  
24 other ornamental plants?  
25 A. Yes.

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1 Q. Okay. So that's No. 3.  
2 A. But, you know, that bush hog I had -- I  
3 had to do some work to that bush hog for that to work  
4 on my new tractor because it doesn't -- it didn't fit  
5 on my tractor. I had to finagle that thing, change  
6 some parts to make it work on my new tractor so it's  
7 clear because the questions you're asking me are  
8 almost simple without explanation.  
9 Q. Okay. So let's go back to Exhibit 2,  
10 which is your fourth amended complaint, page 5. And  
11 I want to go to paragraph 40. It says because of the  
12 seasonal nature of the plaintiff's business, that you  
13 were unable to fully test out the repairs performed  
14 on the tractor until April of 2020. So when is your  
15 busy season?  
16 A. Well, I think what this is saying is the  
17 tractor -- you normally use the tractor the most in  
18 the summer because that's when the grass grows. And  
19 I think what this is referring to here is when they  
20 fixed my tractor and they brought it back, the season  
21 of me doing a lot of the work with the tractor that  
22 needed to be done was past. Now I had to wait until  
23 next summer to really figure it out, to pretty much  
24 use the tractor again. I don't know if that explains  
25 that.

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1 Q. That does. And then on July 20th, page  
2 42, it said the tractor broke down a second time.  
3 You were required to pay \$200 to have the tractor  
4 towed to Nance, correct?  
5 A. At that point -- at that point, we were  
6 dancing back and forth with them. They asked me -- I  
7 just want my tractor to get fixed.  
8 Q. And Nance fixed it?  
9 A. That's correct.  
10 Q. Okay.  
11 A. But you're making it sound so simple and  
12 easy, though. I want you to be fair with me, though.  
13 Q. I get it.  
14 A. I mean, you know, this was a nightmare  
15 from the beginning. Every time my tractor went to  
16 get fixed, I had to argue with these people. And  
17 then when my tractor went in, it took months to come  
18 back. Season was over. I had to struggle with a  
19 1965 old tractor that I had, that I had to finagle  
20 that thing. It's not fun to cut 42 acres with a  
21 tractor that had no good seat on. That's the  
22 aggravation that I want you to understand here.  
23 Q. So did you use the -- sorry. Were you  
24 going to say something?  
25 A. Sorry?

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1 Q. Did you use the tractor primarily for  
2 mowing?  
3 A. For everything. That new tractor was  
4 supposed to do everything.  
5 Q. But all we've talked about so far really  
6 is mowing your 42 acres of grass?  
7 A. Well, we were talking about that because  
8 you said season.  
9 Q. Okay. Well, yes. So then going back to  
10 the allegation in paragraph 40, it says, "Because of  
11 the seasonal nature of plaintiff's business." So is  
12 your business the grass mowing or is your business  
13 the tree farm?  
14 A. I think there's maybe a little confusion  
15 there, business with the tractor. The tractor was to  
16 cut the grass and to get my tree farm going. That's  
17 what the tractor was for. The tractor had nothing to  
18 do with my business -- with my Capital Stone  
19 business.  
20 Q. Okay. I'm going to show you the next  
21 document. Do you recognize this document?  
22 A. Yes.  
23 Q. And what is it? What is it?  
24 A. Are you asking me? I'm sorry.  
25 Q. Yes.

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1 A. I didn't hear your question. We're  
2 smiling at each other. I was waiting for your  
3 question. I apologize. This seems to be a time  
4 frame of -- this is my wife's work. She probably put  
5 this together as an overall idea of what happened  
6 with the tractor. It may not be accurate with dates  
7 because, you know, I'm the one dealing with the  
8 tractor and she's probably just trying to put this  
9 together with e-mails and stuff like that. But  
10 overall, it gives you an idea of what it is and what  
11 we went through, in a way.  
12 Q. It's a timeline, right?  
13 A. Yes. But what I'm saying is the dates may  
14 not be accurate.  
15 Q. Okay. I'll mark this as Defendant's  
16 Exhibit 4.  
17 (DEF. EXHIBIT 4, Timeline, was marked  
18 for identification.)  
19 THE WITNESS: Or the right order, per  
20 se.  
21 BY MR. CARROLL:  
22 Q. Yeah, I get it. This was prepared by your  
23 wife?  
24 A. Yeah, I believe so.  
25 Q. Okay.

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1 A. Probably so.  
2 Q. And on this document it says, "March 1,  
3 2020 moved into house on Peach Road." Do you have  
4 any reason to dispute that?  
5 A. I guess she was probably -- are you asking  
6 me if this is accurate or not?  
7 Q. Yes.  
8 A. Yes.  
9 Q. Okay. Now, this timeline doesn't mention  
10 anything about the tire problem we talked about,  
11 right, in 2019?  
12 A. Yeah. Again, she -- I don't do paperwork,  
13 really. I mean, I'm in the field. I'm out there  
14 talking and dealing with people, customers, just to  
15 give you an idea. So when it comes to this tractor,  
16 I'm pretty much doing all of the physical work. And  
17 any kind of paperwork, she's the one that does it.  
18 So she's, again, not aware of maybe some things in  
19 here. She's not going to know exactly what is behind  
20 every single thing and dates, perhaps. So if you  
21 want me to, I will tell you how it started.  
22 Q. Well, I want to ask -- let's go to page 2.  
23 And October 20, 2020, it says, "Sent e-mail to Nance  
24 about squealing noise. Said it was normal. Refused  
25 any other solution. Had to contact AGCO. AGCO rep

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1 (not Jacob ) David came out and said tractor was  
2 never updated." Do you remember David's last name?  
3 A. I think it's Summer or somewhere in there.  
4 David Summer, if I'm not mistaken.  
5 Q. Okay. David Summer. And so after -- when  
6 you contacted AGCO, AGCO fixed what they could and  
7 then said it had to go back to Nance, right?  
8 A. I mean, yeah. But it's not -- again, it's  
9 not so simple the way you put it because that is  
10 specific time. We are already on the third of fourth  
11 time the tractor has broken down. So you had jumped  
12 from zero to 60 already. And AGCO is already -- by  
13 that point already been involved. Matter of fact,  
14 AGCO was involved from the beginning with the tire.  
15 They told me to call AGCO when the tire -- when I had  
16 a problem with the tire.  
17 Q. Nance did?  
18 A. Uh-huh. So back -- so AGCO is this  
19 tractor, what I'm trying to tell you. Because the  
20 tire broke down, they pretty much told me to call  
21 AGCO.  
22 Q. And then AGCO got you a new --  
23 A. AGCO was involved with this from the  
24 beginning.  
25 Q. And you would agree AGCO got you a new

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1 tire, right?  
2 A. After arguing for months, yes.  
3 Q. Even though under the warranty tires are  
4 excluded, they did still that?  
5 A. I understand that. But you buy a new  
6 tractor -- you just buy a car and you take it home  
7 and the tire is cut, I mean, that's the logic that  
8 we're looking at here. I understand what you're  
9 trying to say about the warranty. I get that. But  
10 the tractor is, like, new. I mean, it's, like I say,  
11 you buy a car, you take it to your house, and then a  
12 week after that you see the tire splitting. I mean,  
13 I hate to tell you, but that's pretty much common  
14 sense. I mean, we're not talking about a year after,  
15 two years after, 50,000 miles. I mean, I believe  
16 it's fair to say that it is a problem whether --  
17 regardless of what the warranty says. I don't know  
18 what to tell you.  
19 Q. So you have sued -- let's go back to --  
20 you can put your timeline to the -- or your wife's  
21 timeline to the side. We're going to go back to the  
22 fourth amended complaint, which is Exhibit 2, and I  
23 want you to go to page 8 now. Paragraph 66,  
24 April 21st, tractor broke down again. Display saying  
25 error code. You contacted Jacob Willis with AGCO

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1 Who is Mr. Willis?  
2 A. I talked to Jacob Willis when my tire was  
3 cut, just to tell you when I talked to Mr. Willis.  
4 According to Andy, he's the guy I needed to talk to  
5 for problems. That's what I understood.  
6 Q. Okay. And so in paragraph 66 when it says  
7 April 21st, you contacted Jacob Willis, what were you  
8 asking Jacob Willis to do at that point?  
9 A. I am not sure exactly what I was asking  
10 him. But, again, we're jumping from A to B without  
11 you know -- we got to the point for specific reasons.  
12 So this is not the first time. So I'm not sure  
13 exactly where we are in here. Jacob Willis pretty  
14 much complained about the tire. He told me about me  
15 cutting the tire. So that's when the first I talked  
16 to Jacob Willis. My tractor broke down, they pretty  
17 much told me to talk to him. So I'm not sure.  
18 Q. Okay. It might be easier for us to go  
19 back to this. I'm going to mark this as Exhibit 5.  
20 (DEF. EXHIBIT 5, Maintenance Work  
21 Orders, was marked for identification.)  
22 BY MR. CARROLL:  
23 Q. Mr. Aguilar, page 1, Exhibit 5, order date  
24 November 5, 2019. It's a maintenance work order from  
25 Nance Tractor. Do you see that?

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1 A. Yes.  
2 Q. It says, "Service type warranty no charge.  
3 Replace broken gear in transmission housing."  
4 A. Okay.  
5 Q. So that was our first problem, right, that  
6 you talked about after the tire?  
7 A. I'm not sure the dates, but this happened  
8 several times. So you know.  
9 Q. So the date -- let's get a time frame. So  
10 we have April 2019 you buy the tractor?  
11 A. Yes.  
12 Q. And you can get your wife's timeline out  
13 too to help. April 2019 we buy the tractor -- you  
14 buy the tractor?  
15 A. Yes.  
16 Q. 7/20/2020, tractor broke down. Picked up  
17 for same error code.  
18 A. Tractor broke down 10/9/2019.  
19 Q. Yeah.  
20 A. That's, like, four months.  
21 Q. Okay.  
22 A. Six months, somewhere in there, after I  
23 purchased the tractor.  
24 Q. During that time period you received a  
25 loaner, right?

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<p>1 A. Yes. Again, I had to hassle with these 2 people. Bring the tractor way under the warranty. I 3 shouldn't even argue. Nobody should even question 4 that. And it broke down in the middle of me using 5 the tractor. Brand new tractor. 6 Q. And they gave you a loaner? 7 A. They gave me a loaner. That's correct. 8 Q. Even though they didn't have to? 9 A. I understand. 10 Q. And then January 1, 2020 it was returned, 11 right? 12 A. I guess, yes. 13 Q. And then tractor broke down again July 20, 14 2020. Picked up for same error code; is that 15 correct? 16 A. Yes, same problem. 17 Q. Okay. 18 A. Only this time it took almost a hot minute 19 to get it back. 20 Q. Well, what was going on in 2020 that might 21 have slowed the repairs down? 22 A. That would be a question for them. I 23 don't know. 24 Q. Like COVID was in 2020? 25 A. I don't know. I guess. I don't know.</p>	<p>1 right away and I needed my tractor. So it goes there 2 and it comes back fixed. I think it was a delay for 3 me using the tractor because of the time frame when 4 they brought it back in and I could use my tractor 5 right away. 6 So when I used the tractor for a couple of 7 months, broke down again. The same problem again. I 8 have to talk to these people again and then we know 9 the deal. I have to pay to take it out there. And 10 Willis is already involved in here. Jacob Willis is 11 already aware of all this. 12 Tractor goes and they fix the tractor. 13 They bring it back months after, only this time they 14 bring my tractor like garbage. This is a Cadillac 15 tractor. It has AC on it. It has air suspension 16 seat and my tractor is garbage inside. A kid would 17 work on the tractor that known could not do what they 18 did to my tractor. 19 They broke the windshield. It had nothing 20 to do with the engine, but somehow they broke the 21 windshield. They had to replace the windshield. 22 Glass all over the engine. The tractor comes back, 23 the hose is not set up properly. You know how 24 frustrating this is? You spend that kind of money 25 and pay somebody to fix tractor and then it comes</p>
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<p>1 But what does COVID have to do with repairing my 2 tractor? I mean, I could understand about the years 3 together. But the tractor is mechanic. 4 Q. So one of the issues that has been 5 discussed in discovery in this case is that there 6 were supply chain issues that delayed the delivery of 7 chips, shortage of chips. That's why you all had a 8 difficult time getting your bush hog to work with 9 your Kubota; isn't that right? 10 A. No. Again, you're jumping way up there. 11 We're still at the bottom. I mean, the tractor broke 12 down -- the tire problem first happened. 13 Q. Right. 14 A. I don't know the dates. I'm telling you 15 the order it happened. The tire problem took months 16 for them to get me a tire, which that was fine. Then 17 my tractor broke down not too long after the tire 18 issue. We have to finagle. We realized I had to pay 19 for my tractor to go back for maintenance because 20 they told me the sticker is on the door. Excuse my 21 attitude, I guess. So I had to find the sticker 22 there. So it said, yes, I'm responsible for paying 23 that. 24 So my tractor goes there. It takes -- I 25 don't know. I don't remember exactly, but it wasn't</p>	<p>1 back and all these headaches? 2 So many problems. So I reached out to 3 these people there at Nance and they send out a 4 mechanic, a kid. He was no mechanic. But they sent 5 this mechanic to fix my tractor with zip ties. You 6 know what zip ties are, right? 7 Q. (Counsel nods head.) 8 A. You don't put hoses -- hydraulic hoses 9 that carry a lot of pressure. They are fit properly 10 on metal brackets and they send this guy to put it 11 back with zip ties. And then he's trying to put 12 caulking on my window and it's just a mess and I told 13 him just don't worry about this caulking. I can deal 14 with that. Plugs not plugged in. Lights not plugged 15 in. The four-wheel drive not even engaged. They 16 didn't even connect the four-wheel drive. Do you 17 know what a four-wheel drive is? I hate to ask. I'm 18 not trying to be funny. Do you know what a 19 four-wheel drive is on a vehicle? 20 Q. Yes. 21 A. That is a major deal on a tractor. I 22 mean, that's a big, big deal. It doesn't even 23 engage. So -- and I'm just almost concluding fast 24 what happened, but it's a nightmare. Oil leaking. 25 Hoses not tied up.</p>

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1 So I get on the phone and tell this guy,  
2 "Listen, I mean, this is a serious problem." Jacob.  
3 At that point, he says, "We're going to send an  
4 engineer." So now I'm thinking this is serious now.  
5 Why would a mechanical engineer come to my property  
6 to look at my tractor? I mean, that's a serious  
7 thing.  
8 He comes up there, this is when David  
9 comes in, checks my tractor. And then after I'm not  
10 there and they're talking and after going through all  
11 of that, he concluded that the tractor was not put  
12 back properly, period. It was not being calibrated.  
13 It was not being updated in codes. It hasn't been  
14 done the proper procedure to change what needed to be  
15 changed. The engine and stuff like that had to be  
16 flushed three times. Verbatim what David says. This  
17 man actually got a little mad with the mechanic  
18 asking questions to this guy. He's not even  
19 answering. That's the level of frustration. That's  
20 what's happening here.  
21 The days I'm not sure, but that's the  
22 order that happens and I'm still giving these guys a  
23 chance to fix my tractor. All of this and I'm -- I  
24 bent over backwards for them to fix my tractor.  
25 Right? So they take my tractor. Then I tell

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1 Willis -- I talk to Jacob and I tell him, I say,  
2 "Look, I'm losing confidence. This is the third  
3 time. I'm losing confidence in these people to fix  
4 my tractor." He said, "I assure you, I will make  
5 sure I'm there or I'll have someone there from AGCO  
6 to oversee this."  
7 My tractor goes back and they kept it for,  
8 again, a while. They refused to give me the loaner  
9 because -- they offered me a loaner the first time,  
10 no questions asked. No questions asked. They just  
11 brought the loaner from the first time my tractor  
12 broke down. But now they don't want to give me the  
13 loaner unless I put insurance on it. They demanded I  
14 provide insurance on the loaner they give me. I'm  
15 not going to do loaner (sic) on your equipment. It's  
16 not my -- it's not my tractor. Why would I do that?  
17 I'm not using the tractor for any -- my  
18 tractor is on the farm. It will be on the farm.  
19 There's nothing there. But they're asking me that if  
20 I don't provide insurance on the tractor, they won't  
21 give me a loaner. I said, "I can't accept it. I'm  
22 not responsible for your tractor. I'm already here  
23 struggling with you guys. Take care of my tractor."  
24 Can you imagine if I would have taken  
25 their tractor and had a problem with their tractor?

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1 It would be a nightmare. Would you do it? I'm sure  
2 you won't do it. So I didn't. That was the reason  
3 why they didn't give me the loaner the second time.  
4 But my tractor went up there and get it  
5 fixed, comes back out. At that point, I'm losing  
6 confidence. They still took my tractor to get it  
7 fixed. I talked to Jacob Willis. I said, "Jacob,  
8 this is beyond stress. I don't know what to tell  
9 you. I can't keep dealing with this. The tractor  
10 keeps breaking down in the middle of when I needed it  
11 the most." Okay. And I told him, "If the tractor  
12 breaks down one more time, we're going to have to  
13 figure out a completely new solution." So that's  
14 when he assured me, "I will make sure I have someone  
15 there from AGCO. If it's not someone, it will be me  
16 overseeing the repairs on this tractor." And it  
17 comes back and guess what happened.  
18 Q. What?  
19 A. The obvious. It breaks down again, oil  
20 everywhere, after we just had the conversation. At  
21 that point --  
22 Q. And so then what did Jacob do?  
23 A. At that point, I'm telling Jacob, "Jacob,  
24 I mean, I can't do this no more. I'm not going to do  
25 this no more. I mean, this is out of the question."

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1 I said, "I need my money back. I need a new tractor.  
2 I need you guys to replace this tractor. I don't  
3 want this tractor because apparently you guys cannot  
4 fix it."  
5 It's beyond -- I mean, how many times does  
6 a tractor need to be fixed in order to determine the  
7 tractor is garbage? How many times? Would you take  
8 a car that's been fixed that many times? You won't.  
9 I know it's not about you. I get it. This is about  
10 what's right, what's fair.  
11 So I asked him for my money or I asked him  
12 for a tractor five times, possibly. So I bent over  
13 backwards for this people. Give them a chance, and  
14 chance, and chance, after chance. How many more  
15 times do I have to take this? He says, "We're not  
16 going to give you your money. Forget it. We're not  
17 going to give you a new tractor. We are -- what we  
18 can do," he said, "I can take your tractor,  
19 depreciate it because you had it for 200 hours." Do  
20 you know what 200 hours on a tractor is? It's like  
21 maybe 500 miles on your car brand new. That's  
22 nothing.  
23 "Depreciation will give you the value of  
24 the tractor for something else. You can put that  
25 money for another tractor." I said, "That's not

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1 acceptable. You're going to give me my money back.  
2 You're going to give me a new tractor. Those are  
3 your options. If that's not your option -- if that's  
4 not your option, you're forcing me to seek legal  
5 action." Guess what his response was?  
6 Q. This is Jacob?  
7 A. Jacob Willis. He said, "We've got more  
8 lawyers than you." Verbatim. Do you know how  
9 frustrating it is for me to sit here and tell you  
10 guys that? It sucks. I spent a lot of money, hard  
11 working money, for this tractor to work.  
12 Q. So you spent \$399 to tow it and then \$200  
13 to tow it again. But other than that, you haven't  
14 paid for any repairs, right?  
15 A. I don't think you're listening to what I'm  
16 saying, man.  
17 Q. Well, then let's go back. So  
18 Jacob Willis, you tell him I either want my money  
19 back or a new tractor, right?  
20 A. Yeah. He refused it. Instead, he  
21 threatened me with lawyers.  
22 Q. Well, but then he came back -- I think you  
23 just testified -- I want to understand what you said.  
24 He said we will give you the value of the tractor,  
25 but depreciate it for the 200 hours?

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1 A. No. I just told you that my tractor had  
2 200 hours. He never said nothing about hours. He  
3 just said that my tractor was depreciated.  
4 Q. But then he offered you the money -- the  
5 value of the tractor depreciated -- the depreciated  
6 value?  
7 A. Garbage.  
8 Q. So my question is: Did he offer the  
9 depreciated value of the tractor to put towards a new  
10 tractor?  
11 A. It's a new tractor. I guess your question  
12 is yes, but, I mean, that's just -- it's, like,  
13 insulting me. That's insulting someone when you buy  
14 a new tractor or new car and say, "Well, I'm going to  
15 bring it back. It's a new car, but I'm going to go  
16 ahead and depreciate your car because you had it for  
17 50 hours." You just bought the machine, like, months  
18 ago. It shouldn't be depreciated. That's your  
19 problem. It's your machine. Your problem. You fix  
20 it. Make it right. This is not a tractor that's  
21 been sitting there working for thousands of hours and  
22 years. It's a brand new tractor. It still had the  
23 paper on the seat.  
24 Q. But it had been two years since you  
25 bought --

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1 A. Ongoing.  
2 Q. -- the tractor?  
3 A. Ongoing problem. This tractor spent more  
4 time at the dealership -- at the shop than at my farm  
5 if you put it all together. I didn't buy a tractor  
6 to be in the shop.  
7 Q. But I'm trying to ask when Jacob Willis  
8 offered the depreciated value of the tractor --  
9 A. He did not offer. He just mentioned it.  
10 I don't know if that's an offer or what that is, but  
11 that's all he said. "What we can do is depreciate  
12 your tractor for a new tractor." That's not  
13 acceptable.  
14 Q. Okay.  
15 A. I want my money back or replace the  
16 tractor. That was -- that was the demand. That's  
17 what I wanted because I think it's more than fair.  
18 Depreciation should have never come up.  
19 Q. And the money back that you asked for was  
20 \$71,000, right?  
21 A. Compared to now, it should change, to be  
22 honest with you.  
23 Q. So you asked for the purchase price of the  
24 tractor, \$51,000, right?  
25 A. It's beyond me why they didn't do the

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1 right thing. It's in there on the paper what I asked  
2 for. It just blows my mind. Here we are wasting  
3 time and more money. I don't understand it.  
4 Q. So you sued AGCO, right?  
5 A. After I exhausted all my patience and  
6 willingness for them to fix my tractor. I did  
7 everything I could. I don't think anybody in here or  
8 anywhere else I would be aware of would tolerate what  
9 I tolerated with these people and this tractor.  
10 Q. Okay. So you asked AGCO pay me for my  
11 tractor, \$51,000, pay me \$10,000 for the bush hog,  
12 plus \$5,000 for your other stress, right? That's  
13 what you asked for?  
14 A. Okay. Yeah.  
15 Q. Do you agree with me?  
16 A. That's what it says in there. Yes.  
17 Q. And then --  
18 A. I thought that was a very generous,  
19 generous question.  
20 Q. So it was either \$71,000 or a new tractor  
21 and that's it?  
22 A. I thought that was fair to make it right.  
23 I'll still give you guys a chance to make it right.  
24 That's what it -- I mean, if you want to conclude  
25 with the money, yes.

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1 Q. Okay. Now, under the limited warranty,  
2 AGCO told you that they would repair your equipment,  
3 right?  
4 A. Okay.  
5 Q. Right? Do you agree?  
6 A. I mean, again, I don't -- I never saw  
7 that, but okay.  
8 Q. Okay.  
9 A. I was under the assumption I paid a lot of  
10 money for the tractor, you know, I was expecting a  
11 good warranty on it. I mean, quite frankly, more  
12 than a car or vehicle. Again, you buy a tractor for  
13 life. You don't buy a tractor to be sold for two,  
14 three years down the road. I mean, that's maybe just  
15 me, but that's common sense.  
16 Q. Okay. So what exactly did AGCO not do  
17 under the limited warranty?  
18 A. They failed to fix my tractor right. They  
19 gave me baloney every single time. They refused to  
20 take care of me after they take my money. They  
21 pretty much screwed me over. They sold me equipment  
22 that they said was supposed to work for one tractor  
23 you ever need and it's false. I mean, this thing is  
24 not even -- now I know it's not even made in the  
25 United States. I mean, it's not even from here.

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1 Q. Can you mow your grass without four-wheel  
2 drive?  
3 A. Yes and no.  
4 Q. Okay. Can you explain that a little?  
5 A. Okay. If it rains the day before, then  
6 you more likely need the four-wheel drive because it  
7 may get in areas where it may need a four-wheel  
8 drive. If you go up on a hill -- now, remember, this  
9 is a Cadillac tractor. It has automatic four-wheel  
10 drive. So it engages when it needs it based on the  
11 power of what it's pulling. So it's automatic when  
12 it needs it. So I guess yes and no. I mean, if it's  
13 flat, you probably won't need it.  
14 But forgive me for saying this. No  
15 disrespect to you. A four-wheel drive on a tractor,  
16 it is a critical thing. And for a mechanic not to  
17 put a four-wheel drive -- not to put it together  
18 beyond -- I mean, on top of all these other problems,  
19 that is beyond me. It's in question what kind of  
20 person does this? Who is this guy? Does this  
21 mechanic have credentials in place? I mean, it goes  
22 on.  
23 Q. That mechanic was from Nance, right?  
24 A. It's AGCO, man. Excuse me.  
25 Q. So AGCO is -- we've heard David and Jacob

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1 Willis.  
2 A. They are responsible for this tractor. I  
3 mean, they assured me that this tractor would be  
4 fixed. So I hold them accountable, AGCO.  
5 Q. Let's go back to Exhibit 5, the  
6 maintenance work order, first page. There was no  
7 charge for these repairs on November 5, 2019, right?  
8 A. Yes.  
9 Q. AGCO paid for these?  
10 A. Yes.  
11 Q. This was after AGCO paid for the tire.  
12 Then on the next page, order date 9/28/2020. There  
13 was no charge for this work, correct?  
14 A. Yes.  
15 Q. And then on the next page, October 15,  
16 2020, no charge for this work; is that right?  
17 A. They didn't charge me for anything, if  
18 that's your conclusion.  
19 Q. That's what I'm asking. You didn't have  
20 to pay for any of the work. Yes, there was a  
21 headache. I understand. You conveyed that well.  
22 But as far as money being paid out, the only thing  
23 you've paid are the two towing charges?  
24 A. The thing is, I mean, you can go back to  
25 the reality. The reality is, I mean, what confidence

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1 do I have? The tractor is supposed to work for life.  
2 Now what confidence do I have? I had to fight them  
3 on the warranty as well. These people are -- I'm not  
4 sure why. It's beyond me why they're still going on  
5 with this.  
6 Q. Let's go back to Exhibit 2.  
7 MR. STUDEMEYER: Jake, if I can just  
8 intervene real quick. We've been going for about an  
9 hour and a half. Can we take a bathroom break soon?  
10 MR. CARROLL: Yeah. We can stop now  
11 and take a break.  
12 (Off the record.)  
13 BY MR. CARROLL:  
14 Q. Back on the record. Mr. Aguilar, I think  
15 we're going to go back to Exhibit 2, which is your  
16 fourth amended complaint. And on the right-hand side  
17 do you see where it says, "Electronically Filed," on  
18 the document in blue?  
19 A. Yes.  
20 Q. Did you know this was filed on  
21 February 20, 2024?  
22 A. That's what it says there.  
23 Q. So we'll go back to page 8 of Exhibit 2.  
24 While you're flipping there, so if it is not -- if it  
25 has not recently rained at your property, can you

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1 still mow the grass without four-wheel drive?  
2 A. I couldn't tell you properly. I won't do  
3 it because that shouldn't -- that tells me that  
4 something is not working the way it should. So I  
5 won't want to do that to my tractor. So I couldn't  
6 answer you that question, I guess.  
7 Q. So we're at paragraph 67. "On April 22,  
8 Jacob Willis informed plaintiff AGCO had picked up  
9 the tractor for further repairs and provided a loaner  
10 tractor in the interim." And I believe you testified  
11 at this point you refused the loaner tractor because  
12 you did not want to put insurance on it, right?  
13 A. That's correct.  
14 Q. Was the insurance requirement, like,  
15 included in some kind of signed document or how --  
16 how did the insurance requirement come up, I guess?  
17 A. We never got the specifics because I  
18 denied that immediately. I didn't want to put  
19 insurance on something that's not mine. So I don't  
20 know what.  
21 Q. Did you know you had to put insurance on  
22 your tractor for AGCO Finance when you purchased the  
23 tractor?  
24 A. Uh-huh. Yes, I'm aware.  
25 Q. And then AGCO picked up the tractor,

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1 right? And we're talking about --  
2 A. Yeah.  
3 Q. -- April 28. And then paragraph 68,  
4 "Tractor was picked up by AGCO on April 28, 2021."  
5 And did you ask where the tractor was going?  
6 A. Are we talking about the very last time?  
7 Q. Yes. Very last time.  
8 A. The very, very last time, I had enough of  
9 this tractor. No, I did not ask where my tractor was  
10 going.  
11 Q. Why not?  
12 A. Because I thought I was being clear when I  
13 told them that the options were new tractor, my  
14 money. That was -- that was clear. Quite frankly,  
15 they didn't even tell me they were going to come pick  
16 up my tractor, as I recall, because my gate was  
17 closed and they had to call me to open the gate.  
18 Shocker.  
19 Q. You didn't know AGCO was going to come  
20 pick up the tractor?  
21 A. I mean, they told me they were going to  
22 pick it up, but they didn't tell me when.  
23 Q. Okay. And with your demand, the money or  
24 the new tractor, you didn't ever want to see this  
25 tractor again?

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1 A. It's still my tractor.  
2 Q. So you do want to see your tractor again?  
3 A. I mean, it's not -- your question is a  
4 little -- I mean, I'm not saying in a bad way to you.  
5 I'm just saying the question is a little tricky,  
6 though, because it's still my tractor. I paid for  
7 it. It's paid for. It's my tractor.  
8 Q. Have you tried to go pick it up?  
9 A. Where? I mean, I didn't even know where  
10 they took my tractor. As far as I'm concerned, they  
11 stole my tractor.  
12 Q. No one had ever told you where your  
13 tractor is?  
14 A. Believe it or not, no one ever told me  
15 where my tractor was.  
16 Q. Sitting here today, you do not know where  
17 your tractor was?  
18 A. One hundred percent. Nobody told me where  
19 my tractor was. We find out year -- year into this.  
20 I don't know the dates.  
21 Q. So you do know where the tractor is?  
22 A. Now we know. Apparently it's somewhere  
23 else, but now we know.  
24 Q. So you just told me you don't know where  
25 it is. Do you --

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1 A. We didn't know where it was. We didn't  
2 know where the tractor went. We didn't know where  
3 they took it. We didn't even know what they did with  
4 it. We didn't know nothing.  
5 Q. Did you ask?  
6 A. I thought it was very clear when I told  
7 them that my tractor needed to be replaced or...  
8 Q. Your money back?  
9 A. -- my money back or I was going to take  
10 legal action. He gave me no choice. I exhausted --  
11 matter of fact -- I mean, is he here for some of  
12 these questions? Because, I mean, I'm kind of  
13 what --  
14 Q. No. This is for you today.  
15 A. Okay. I didn't mean to throw you under  
16 the bus, you know.  
17 Q. Okay. So let's go back. Page 8. We're  
18 still here. April 28, AGCO picked up the tractor.  
19 Let's just be clear. Did you give AGCO permission to  
20 pick up the tractor?  
21 A. You know, I just don't know. I don't  
22 remember. I don't remember. Fair? Maybe so. But I  
23 don't remember. But what I do know, they didn't tell  
24 me when they were coming to pick it up. They didn't  
25 tell me where they took it. That I know.

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1 Q. And then you never reached out back to  
2 say, "Hey, where is my tractor," right?  
3 A. After that I thought it was pretty clear  
4 what I mentioned to him. So I seek legal action and  
5 went from there.  
6 Q. So I'm going to show you what I would like  
7 to mark as Exhibit 6.  
8 (DEF. EXHIBIT 6, Letter from  
9 Mr. Studemeyer, was marked for identification.)  
10 BY MR. CARROLL:  
11 Q. This is a letter, May 11. So we were at  
12 April 28. I don't know. What is that? Roughly two  
13 weeks later, Nance gets a letter -- or it's addressed  
14 to Nance saying that you are represented.  
15 A. Two weeks after?  
16 Q. So it's from April 28 to May 11.  
17 A. I don't know if these dates are accurate,  
18 but, yes, that's kind of where this is going.  
19 Q. Okay. That says you are represented by  
20 counsel?  
21 A. Uh-huh.  
22 Q. At this time period, May 11 -- by May 11,  
23 did you ask AGCO where your tractor was?  
24 A. I think that -- no. I think that they  
25 were obligated to tell me where -- what their

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1 intentions were. I think that's a fair question.  
2 They took my tractor. They should have called me and  
3 tell me, "Hey, this is the procedure we're going to  
4 do," or so on and so on. Nobody communicated with me  
5 on that. So --  
6 Q. When --  
7 A. Because they didn't.  
8 Q. Oh, sorry.  
9 A. And, so, anyway.  
10 Q. Didn't AGCO tell you they were going to  
11 fix it?  
12 A. They never told me anything. Jacob Willis  
13 did not tell me anything after the last conversation  
14 I had with him.  
15 Q. So you previously testified that he said  
16 he was going to fix it?  
17 A. That's the last -- we talked about that.  
18 He told -- the very last time -- the last very  
19 time -- I had enough of this. The last conversation  
20 I had with him was, "You give me my money for my  
21 tractor, you go ahead and give me a new tractor, or I  
22 will seek legal actions." He replied back and told  
23 me that he had more lawyers instead and that was it.  
24 Q. He had what? Can you say that --  
25 A. That he had more lawyers than me.

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1 Q. Okay. He had more lawyers than you. That  
2 was in April?  
3 A. That was the last conversation I had with  
4 him. Yes.  
5 Q. Okay. And then the letter -- the May 11  
6 letter, your counsel requests a copy of the limited  
7 warranty. Is that the first time you saw the limited  
8 warranty, was after this letter?  
9 A. Now that -- I think so. I believe so.  
10 That was the time I was able to see that.  
11 Q. So there was a response to that letter, I  
12 guess, if you got a limited warranty?  
13 A. Is that a question for me or for my  
14 lawyer?  
15 Q. For you. Is it fair to assume that if you  
16 got a copy of the limited warranty that somebody  
17 responded to that letter?  
18 A. I guess, yeah.  
19 Q. I'm not trying to trick you.  
20 A. No, no. Listen, I get it.  
21 Q. Okay. I'm going to show you what's going  
22 to be No. 7.  
23 (DEF. EXHIBIT 7, Summons and  
24 Complaint, was marked for identification.)  
25 BY MR. CARROLL:

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1 Q. Mr. Aguilar, this is a document dated  
2 June 8, 2021 filed in York County. Can you look  
3 through this and confirm this is a complaint that you  
4 filed against Nance Tractor, AGCO Corporation, and  
5 AGCO Finance regarding your tractor?  
6 A. Would that be a question for me?  
7 Q. Yes.  
8 A. I have seeked legal action. So, I guess,  
9 yes.  
10 Q. Okay. Turn to the second page and this is  
11 a complaint. This is the first one that you filed  
12 June 8, 2021 and you name AGCO Corporation, AGCO  
13 Finance, LLC, who financed the equipment, right, the  
14 tractor?  
15 A. Okay.  
16 Q. And then Nance, the dealer that we've  
17 talked about, right?  
18 A. Okay.  
19 Q. Okay. Let's go in this exhibit to page  
20 10. And on the top of the page it says, "First Cause  
21 of Action as to Defendant Nance (Revocation of  
22 Acceptance)." Do you see that?  
23 A. Yes.  
24 Q. Do you understand what you were seeking  
25 from Nance in this complaint?

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1 A. That would be him to answer that question.  
2 I mean, I don't know how to answer that question. Is  
3 that something he can answer that?  
4 Q. No. I just asked -- so you -- well, you  
5 answered it. At the bottom of the page it says,  
6 "Breach of implied warranty of merchantability,"  
7 right? Do you see that second cause of action  
8 against Defendant Nance in the middle of the page,  
9 page 10?  
10 A. Yes.  
11 Q. Page 11 has two more causes of action  
12 against Defendant Nance, right?  
13 A. Okay.  
14 Q. And then page 12, there's a fifth cause of  
15 action, negligent repair.  
16 A. Okay.  
17 Q. So you sued Nance -- and let's look at  
18 paragraph 126. For example, "Upon return of the  
19 tractor, it was immediately apparent that the repairs  
20 had been done haphazardly. Glass shards covered the  
21 engine, hoses were unseated and, instead, attached to  
22 the tractor with zip ties and a plethora of other  
23 obvious problems were present." Did I read that  
24 correctly?  
25 A. Uh-huh.

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1 Q. And that's what you talked about, right?  
2 A. Yeah.  
3 Q. Earlier that's what we had talked about.  
4 Okay. And these are your claims against Nance,  
5 right?  
6 A. I think that -- I don't think that's all,  
7 but yeah. I mean, in a nutshell, I think it is.  
8 Q. There were more. That was just the fifth  
9 cause of action. Then on page 13, the sixth cause of  
10 action, unfair trade practices, right?  
11 A. Page 13?  
12 Q. Yes.  
13 A. Okay.  
14 Q. So those were all against Nance, the  
15 dealer, correct? All those claims that we just --  
16 A. I think that's -- I'm not sure how to  
17 answer that question, but I would think that that's  
18 AGCO.  
19 Q. Well, so you sued three people, correct?  
20 A. I mean, the people involved was  
21 responsible for my problems -- my issues that I had  
22 with the tractor.  
23 Q. Yes. Well, you understand that Nance --  
24 you sued Nance separately, you sued AGCO Finance  
25 separately, and you sued AGCO separately?

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1 A. I understand that.  
2 Q. Nance has since paid you to settle this  
3 case, right?  
4 A. Yes.  
5 Q. Okay. Now, let's go to the next page,  
6 page 14. "Breach of Action as to Defendant" -- I'm  
7 sorry. "First Cause of Action as to Defendant AGCO  
8 (Breach of express warranty)." Did I read that  
9 correctly?  
10 A. Yes.  
11 Q. And so in this claim you say that AGCO  
12 warranted the goods were free from defects in  
13 material and workmanship and warranted that its 4700  
14 series of tractors were covered for 24 months or  
15 2,000 hours, whichever come first, right? That's  
16 what paragraph 144 --  
17 A. Is that what it says there?  
18 Q. Well, that's what I'm asking you. Did I  
19 read that correctly?  
20 A. I'm not good with paperwork, to be honest  
21 with you. Sometimes I don't understand things in  
22 here. So I'm not sure exactly where to go on that  
23 question. I don't know if I can answer that  
24 question.  
25 Q. So breach of express warranty, do you

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1 understand that to mean that AGCO did not do what it  
2 said it would do in its limited warranty?  
3 A. I think AGCO failed me. I think everybody  
4 failed me. I mean, that's -- I don't know if that  
5 answers your question. Everybody failed me when it  
6 comes to this tractor. If your name is in it, then  
7 you failed me too. And I hate to say that, but  
8 that's pretty much what it is.  
9 You can't -- the way I understand your  
10 question, it's like you're trying to AGCO -- remove  
11 AGCO from this issue. AGCO is part of this. AGCO  
12 made this tractor. AGCO is the tractor. So I'm not  
13 sure how that's not AGCO issue, if I was to give you  
14 an answer, I guess.  
15 Q. Well, and you would agree that because  
16 AGCO made the tractor, AGCO warranted the tractor to  
17 you based on the terms of its warranty, right?  
18 A. I mean, I don't think I understand your  
19 point. I mean, I hate to say this to you because  
20 that's the best way that I can say. This makes no  
21 sense the way you describe it even though it's in  
22 paper there. I don't understand this question. I  
23 don't understand why there's so much going around  
24 when it's so simple. The tractor is a brand new  
25 tractor. It's way under the warranty.

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1 I'm not sure what we're going back to this  
2 24 months. The tractor broke down way before the 24  
3 months. You're talking about 2,000 hours there.  
4 This tractor had -- do you know how many hours the  
5 tractor had? Three hundred forty-three hours, I  
6 believe. And that's at the very end. So the tractor  
7 must have way under 2,000 hours. Again, it's a new  
8 tractor.  
9 Q. You also had a loaner tractor, right,  
10 during that period?  
11 A. One time.  
12 Q. Okay. And you also don't use the tractor  
13 during the winter, right, when the grass isn't  
14 growing?  
15 A. No. I didn't say that I don't use it,  
16 period. But that's when your big time is. That's  
17 when you really rely on the tractor to do the best  
18 because grass is growing, trees need to be watered,  
19 and so on. But you still can use the tractor in the  
20 winter. I just -- for other personal circumstances,  
21 I just -- sometimes I couldn't use the tractor. I  
22 also had a collision, so I had to deal with my arm  
23 and I couldn't use the tractor. But that's  
24 irrelevant to that, you know.  
25 Q. Okay. So June -- this was June 2021. You

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1 filed legal action. At this point, did you ask AGCO  
2 where your tractor was?  
3 A. I think that would be a question for him  
4 because he's -- I mean, I'm relying on my lawyer now  
5 to take this over. So does that matter at this  
6 point? I mean, because we are already in a  
7 situation. At some point, I think that is your  
8 responsibility to tell me where my tractor is.  
9 If you are clean -- and I don't mean you  
10 literally, but I'm talking about the people who took  
11 my tractor. If you literally wanted to do the right  
12 thing, why didn't you call me immediately when you  
13 received this letter that I'm suing you or whatever  
14 I'm doing with you and try to diffuse the situation?  
15 Why didn't you reach out to say, "Hey, we've got your  
16 tractor. We took it here. We're going to fix it.  
17 We're going to give you options."  
18 It's gone. I mean, nobody did that.  
19 Nobody called me. Nobody reached out to me. I don't  
20 think nobody reached out to him because he would have  
21 told me that. Instead, they proceed -- they just  
22 pretty much went with this problem, you know --  
23 problem with the suit. I can almost tell you that if  
24 they would have reached out to me then, this would  
25 have never happened. But nobody did.

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1 Q. If AGCO would have reached out to you?  
2 A. What is it?  
3 Q. I wanted to clarify. You're saying if  
4 AGCO would have reached out to you to resolve this  
5 situation?  
6 A. I would. Before, you know, when we  
7 started it, avoid all these headaches, but they  
8 didn't.  
9 Q. Okay. I'm going to show you our next  
10 exhibit, which is No. 8.  
11 (DEF. EXHIBIT 8, E-mail Transmittals,  
12 was marked for identification.)  
13 BY MR. CARROLL:  
14 Q. This is a collection of e-mails that your  
15 counsel produced to us and I want to go to the last  
16 page. It's April 21. This is when you e-mailed  
17 Jacob Willis demanding your \$72,101.76, correct?  
18 A. I don't think the days are -- again, you  
19 need to keep in mind, you know, my wife does the best  
20 she could to put dates on these things. Some of  
21 these dates may not be accurate. They may or may not  
22 be, but, yes, I guess. This has been a long time  
23 ago. I may not remember it clearly, really.  
24 Q. Let's go back to Exhibit 2 now and let's  
25 go to page 9. So prior to purchasing this tractor,

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1 did you ever ask where it was manufactured?  
2 A. No, I did not. But I was of the  
3 impression that it was from here just because I grew  
4 up knowing Massey Ferguson just like John Deere and  
5 all the products. So yeah.  
6 Q. Okay. Paragraph 78, "After months of  
7 waiting and no answers, the plaintiff ordered a  
8 substitute Kubota tractor on September 25, 2021."  
9 A. What page are we in?  
10 Q. Page 9.  
11 A. What paragraph?  
12 Q. Seventy-eight. Who did you order the  
13 Kubota tractor from?  
14 A. Maybe mine is not in order. Page 8 or 9?  
15 I'm on page 9, but I don't have 78.  
16 Q. Are you looking at Exhibit 2?  
17 A. No, I'm sorry.  
18 Q. Who did you order the Kubota tractor from?  
19 A. I ordered it from -- it's a tractor dealer  
20 in Cayce.  
21 Q. Okay. Has it arrived, the Kubota tractor?  
22 A. Yeah. The tractor is on my property.  
23 Q. And then 79 --  
24 A. I did have to order it, though. It took a  
25 couple -- I mean, at least six months. So I had to

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1 order it. I had no choice.  
2 Q. Paragraph 79. "Jacob Willis of AGCO  
3 called the plaintiff in late October of 2021 after  
4 this action had been commenced and the plaintiff  
5 instructed Willis to contact his attorney." Did I  
6 read that sentence correctly?  
7 A. I think you read it right, but there's  
8 something wrong with that, though. Seriously wrong  
9 with dates and I don't know. I don't know if it's  
10 got something to do with you guys, but some of the  
11 dates are a little funny with e-mails and stuff.  
12 Q. So Exhibit 2, you previously agreed, was  
13 your fourth amendment complaint you filed against  
14 AGCO, right?  
15 A. Right.  
16 Q. And you authorized your attorney to file  
17 this on your behalf. That's what you testified?  
18 A. Yes, yes.  
19 Q. So what is stated in this complaint is  
20 accurate, to the best of your knowledge, right?  
21 A. Yeah. But are you talking about his call?  
22 Q. Yes. I'm asking about --  
23 A. So he called me after all -- we're  
24 already, you know, with the lawyer. And that was it,  
25 he called me.

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1 Q. What did he say?  
2 A. He called me and the phone call lasted,  
3 like, seconds. He called me and told me, "Got your  
4 tractor ready." And I told him that he needed to  
5 talk to my lawyer. Because, I mean, if I'm not  
6 mistaken, we already had an earlier evaluation on  
7 this. It was way into it. So that was it.  
8 Q. So he had your tractor ready and what was  
9 your response?  
10 A. To talk to my counsel. Talk to him.  
11 We're already into this mess and I needed him to talk  
12 to him so my lawyer can advise me properly.  
13 Q. And at this point, did you want the  
14 tractor back?  
15 A. I was expecting him to talk to my lawyer.  
16 I was expecting him to have a conversation with him  
17 and see what's -- you know, that's a good question.  
18 I don't know. At that point, I just -- but he didn't  
19 reach out to my lawyer. So we'll never know.  
20 Q. Did you ask Jacob Willis where your  
21 tractor was when he told you it was ready?  
22 A. I did not ask him. I don't remember  
23 asking him and neither he offered.  
24 Q. Did you ask him when you could pick it up?  
25 A. No.

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1 Q. Did you ask AGCO to bring it back to you?  
2 A. I had counsel. Any conversation, you  
3 know, should have been for him, not directly to me.  
4 And the fact that the part he reached out to me, I  
5 told him about that and he did not follow, that's a  
6 little concerning, honestly. I'm not sure why he  
7 didn't do that. I felt like I still -- even though  
8 we were into this mess, way into it, I feel like at  
9 that point I still give him a choice to talk to  
10 him -- to my lawyer and that never happened.  
11 Q. Do you know that -- are you aware under  
12 South Carolina law your counsel is not allowed to  
13 talk directly to AGCO without counsel?  
14 A. You're asking me if I know the law that my  
15 counsel is not allowed to talk to Jacob Willis?  
16 Q. Yes.  
17 A. I did not know that, but that doesn't mean  
18 that he could not -- well, he could have reached out  
19 to you, then. Did he reach out to you? Was there  
20 any effort? Was there any effort shown on him, you  
21 AGCO, anybody? Was there any effort there, then?  
22 Q. Well, you just testified that Jacob Willis  
23 called and told you that the tractor was ready to be  
24 picked up. What more effort do you want?  
25 A. More effort do I want?

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1 Q. What more effort could AGCO have done?  
2 A. Reach out to my counsel because we  
3 already -- I mean, you know, we're already in this  
4 situation here. I'm already a lot of money into  
5 this. So I would have expected you guys to --  
6 someone to reach out -- figure it out and advise me,  
7 you know. This is so complicated and you guys not --  
8 I don't know.  
9 AGCO, obviously you guys are hired by  
10 them. You guys made it so complicated and it should  
11 have been so simple. But the more it goes in, the  
12 more complicated it gets. Maybe that's what they  
13 wanted to do. I don't know, but it's so simple.  
14 Someone would reach out to my lawyer, it would  
15 probably solve the issue back then even though we're  
16 already into it -- a lot into it, a lot of money, and  
17 a lot of paperwork. But nobody did.  
18 So the fact is still the same. Nobody  
19 reached out to him other than he just called me and  
20 that was it. Quite frankly, very unprofessional  
21 because he knew already this was already with you  
22 guys. Did he reach out to you guys and tell you that  
23 he reached out to me? Does he reach out to his  
24 lawyer? Are you guys his lawyers?  
25 Q. So you can't ask -- you can't ask

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1 questions.  
2 A. Well, forgive my ignorance, then. I'm  
3 just saying. I mean...  
4 Q. I'm just telling you to make it a little  
5 easier.  
6 A. Okay. Well...  
7 Q. You mentioned a lot of money that you've  
8 paid. Other than the \$399 towing and the \$200 for  
9 towing, what else have you paid for this tractor?  
10 A. Is that a serious question?  
11 Q. Well, yeah. You said you paid a lot of  
12 money. Are you talking about your attorney's fees?  
13 Is that what you're talking about? Are you talking  
14 about --  
15 A. Nobody gave you the tractor. I bought the  
16 tractor. So did I not?  
17 Q. Okay. So then the \$51,000 that you paid  
18 for the tractor?  
19 A. The bush hog. The tractor and bush hog.  
20 Q. You're still using the bush hog, though,  
21 right?  
22 A. I had to fix it pretty much. I had to  
23 change parts. I mean --  
24 Q. How much does that cost?  
25 A. At least -- if I was to put a number,

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1 we're looking at, at least, maybe, I don't know,  
2 \$2,400 plus my time to fix it. You're talking about  
3 hoses, gear, a cylinder because the tractor is a  
4 specific fit to one tractor. So you have to change  
5 things. Otherwise, you break it or it won't work.  
6 And, quite frankly, I mean, I shouldn't have done  
7 that.  
8 Q. And you do realize you're seeking damages  
9 from AGCO for your attorney's fees, right?  
10 A. I think it's more than fair. Why would I  
11 pay -- why would I spend money to be in a problem? I  
12 mean, that makes no sense. This is your counsel --  
13 your -- whatever you call it, problem. Not mine.  
14 Q. Well, as of October 2021, you just  
15 testified that AGCO told you that the tractor was  
16 ready to be picked up. You did not want the tractor,  
17 correct?  
18 A. I told him -- I did not say that I did not  
19 want my tractor. I told him he needed to talk to my  
20 counsel. I never told him I don't want the tractor.  
21 Q. After October of 2021, have you made any  
22 efforts since then to go and pick up your tractor?  
23 A. No. I'm already -- I had to be advised by  
24 him on what to do as far as the tractor.  
25 Q. Is all you are looking for now money

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1 damages?  
2 A. I'm looking for you guys to make it  
3 right -- for them to make it right. I'm not sure  
4 that would be a question for me. I guess that would  
5 be a question for my counsel or at least I think. I  
6 don't know.  
7 Q. I'm asking you specifically what would  
8 make it -- how can AGCO make it right, in your  
9 opinion, at this stage?  
10 A. Do you know -- maybe this is way out of  
11 line, but do you know that it almost cost my  
12 marriage, this tractor? Do you guys -- to give you  
13 an idea how much stress this put me through, that it  
14 almost cost my marriage, this tractor. Are you  
15 married? You probably would understand me. You guys  
16 are married. You understand.  
17 Q. I am going to show you a new exhibit.  
18 (DEF. EXHIBIT 9, Plaintiff's Answers  
19 to Defendant Nance Tractor & Implement, Inc.'s First  
20 Set of Interrogatories, was marked for  
21 identification.)  
22 BY MR. CARROLL:  
23 Q. This is your answers to Defendant Nance  
24 Tractor & Implement, Inc.'s first set of  
25 interrogatories. Have you ever seen this document

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1 before?  
2 A. I'm sure.  
3 Q. I want you to go to page 7. Do you  
4 understand those dollar amounts on page 7 of what  
5 those dollar amounts are?  
6 A. Yeah.  
7 Q. What are they?  
8 A. So originally we were trying to figure out  
9 what would it be, you know, tractor cost, everything  
10 that I purchased the tractor. And, you know, we  
11 ordered thousands of trees to be planted and this  
12 tractor failed me to do that -- to keep up with those  
13 things. So that was part of that as well. So that's  
14 why that is in there. My projection of planting, the  
15 trees not surviving and dying, production, whatever.  
16 Q. But you are not seeking those amounts from  
17 AGCO, correct?  
18 A. The longer this keeps going, that may  
19 change. I don't know. That's an honest answer. I  
20 mean, this just keeps going on and on and on. It's  
21 beyond me. I don't understand it.  
22 Q. Are you aware that you have agreed not to  
23 seek lost profits from AGCO Corporation in this case?  
24 A. I think so. I mean, I think so.  
25 Q. Okay. And that agreement was reached

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1 because we agreed not to ask for the tax returns of  
2 your two entities, Capital Stone and the other?  
3 A. Yeah, I agree. I mean, I guess.  
4 Q. So then with that, your damages are the  
5 price of the tractor that you're claiming and then  
6 the towing fee, right?  
7 A. Yes.  
8 Q. And then you said \$2,400 to modify the  
9 bush hog, right?  
10 A. I was just guessing. Yes. That's a fair  
11 guess.  
12 Q. Okay. Now, you sent these to Nance and  
13 you said that Nance has since been dismissed from the  
14 case. What about AGCO Finance? Have they settled  
15 out as well?  
16 A. AGCO?  
17 Q. AGCO Finance?  
18 A. I'm not sure. I'm not sure. I don't  
19 remember.  
20 Q. So the lender, you don't remember if you  
21 settled out with them?  
22 A. I know -- I don't remember. I really  
23 don't remember. Maybe. I can't remember.  
24 Q. Okay. But you are aware that the only  
25 person you're suing now is AGCO?

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1 A. I believe so. I believe so. So I guess  
2 that answers the question.  
3 Q. Okay. Let's go back to Exhibit No. 2.  
4 Page 11 of Exhibit 2.  
5 A. Okay.  
6 Q. Now, you have sued AGCO for stealing your  
7 tractor. Did you know that?  
8 A. It's pretty obvious. Yeah.  
9 Q. Okay. Even though -- so you told AGCO  
10 that they could come pick it up, right?  
11 A. At some point you have to wonder what  
12 classifies as stealing and what classifies -- I mean,  
13 you know, again, I hate to tell you, that's common  
14 sense. I mean, even if I tell you you can take my  
15 laptop, if I don't bring it back at a specific time,  
16 you have to start wondering what happened to my  
17 laptop.  
18 Q. And then in that scenario, you would ask  
19 somebody where the laptop is?  
20 A. It depends. I mean, we're talking about a  
21 tractor. We're talking about a problem.  
22 Q. We're talking about stealing.  
23 A. Exactly.  
24 Q. That's what I'm asking about.  
25 A. I think that they stole my tractor by

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1 refusing to tell me where my tractor is, by refusing  
2 to tell me any information, and by given the length  
3 of time that they have taken it without any -- any  
4 communication, that classifies to me as stealing.  
5 We're talking about a lot of money.  
6 Q. Okay. So you initially -- and this is  
7 paragraph 96 on page 11. You authorized AGCO to pick  
8 up the tractor to perform repairs on April 22, 2021.  
9 That is a correct statement?  
10 A. I did not authorize. The very last time  
11 the tractor went, I gave him a choice. I didn't tell  
12 him to come pick up my tractor, you fix it, and bring  
13 it back. Let's be clear on that. That was never  
14 agreement on that. I told him the -- what the  
15 options were then because I had enough of this  
16 tractor.  
17 Q. So you didn't want him to repair the  
18 tractor anymore?  
19 A. The tractor had to be fixed. I don't know  
20 what they wanted to do with it, but, I mean, it's  
21 still my tractor. But they had to fix it. But I  
22 didn't -- I was so frustrated with my tractor going  
23 back and forth to the same place. I have no faith  
24 and I told him that. I have no faith in these people  
25 to fix my tractor. He didn't tell me where my

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1 tractor was going. That alone right there is  
2 stealing.  
3 Q. Okay. So then this statement is  
4 incorrect: You did not authorize AGCO to pick up the  
5 tractor to perform repairs on April 22. That's your  
6 testimony today?  
7 A. Yeah. I don't -- I don't remember telling  
8 them -- I don't recall telling them, "Okay. Come get  
9 my tractor and fix it." That was their -- their  
10 choice. Their -- whatever they wanted to do. The  
11 options that I gave them was give me my money for my  
12 tractor or replace a tractor for a new tractor. Very  
13 clear. I had enough of this. For years I deal with  
14 this.  
15 I gave them plenty of choices to fix my  
16 tractor. How many more chances did they need to fix  
17 my tractor? It's going on back and forth, back and  
18 forth. I can't afford these guys to take my tractor  
19 and fix it and then -- quite frankly, I think that  
20 they were just playing me so the warranty -- pass the  
21 warranty so they could just wash their hands. And  
22 that was one of the reasons I asked for an extended  
23 warranty there, which I had to fight them too.  
24 Q. So then AGCO took the tractor and they  
25 called you in October -- well, they called you in

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1 October of 2021 and told you it was ready to be  
2 picked up. That's correct? That's what you  
3 testified to just a second ago, right?  
4 A. He called me and told me that tractor was  
5 ready and I told him he needed to talk to my counsel.  
6 Q. If someone has stolen something and they  
7 offer for you to come pick it up, are they still  
8 responsible for stealing?  
9 A. The stealing already has taken place. Now  
10 he's just trying to -- I don't know what he is  
11 trying -- what they were trying to do. As far as I'm  
12 concerned, they already stole it. I feel like --  
13 and, quite frankly, when he reached out to me, that  
14 tractor was still not fixed. When he called me and  
15 told me that, I don't think the tractor was fixed.  
16 Q. When do you think it was fixed?  
17 A. I'm not sure, but I don't think it was  
18 fixed. I believe that it was not fixed.  
19 Q. Okay. Do you want the tractor back?  
20 A. I don't want the tractor back. Why would  
21 I want that tractor that is -- God knows what it is,  
22 where it's been, who put hands on. It's been gone  
23 two, three years now. Why would I want that  
24 tractor -- that specific tractor?  
25 Q. So is that no, you do not want the tractor

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1 back?  
2 A. No. I don't want the tractor.  
3 Q. Okay. Did you ask Jacob Willis in October  
4 of 2021 what the condition of the tractor was after  
5 he said it was repaired?  
6 A. No.  
7 Q. To the best of your knowledge, it is just  
8 sitting at a dealership repaired and waiting for you  
9 to pick it up?  
10 A. I don't know. I guess.  
11 Q. Do you have any reason to doubt that it is  
12 sitting in Westminster, South Carolina at Powell's?  
13 A. I have no confidence in anybody from AGCO,  
14 period. I have zero confidence them telling me the  
15 truth. I have zero confidence them telling me  
16 anything that is good. So I don't know if that  
17 answers your question.  
18 Q. No. So my question was: Do you have any  
19 reason to doubt that the tractor is sitting at  
20 Powell's Equipment in Westminster, South Carolina  
21 right now?  
22 A. I guess I don't know.  
23 Q. And you haven't gone to inspect the  
24 equipment?  
25 A. No.

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1 Q. You haven't asked where it is, right?  
2 A. No.  
3 Q. Okay. Going to page 13 now of Exhibit 2,  
4 you have asserted a claim against AGCO for civil  
5 conspiracy. Can you tell me what exactly AGCO did or  
6 conspired to do against you?  
7 A. So I think that, for once, I thought I was  
8 buying a tractor that was assembled here in America.  
9 So that alone right there is a concern and it just  
10 sucks.  
11 Q. But nobody at AGCO ever told you that it  
12 was made in America, right?  
13 A. Well, it's got a big plate on the truck  
14 that says, "Made in Georgia." So that's a little  
15 sneaky right there. So if it's not made in Georgia,  
16 why would you put a plate that says it's made here in  
17 the United States?  
18 Q. Does the plate actually say AGCO  
19 Corporation, Duluth, Georgia?  
20 A. In conclusion, I think that the tractor --  
21 I was believed that the tractor was made here. I  
22 don't know what that tells you, but I was believed  
23 that the tractor was made -- assembled here in the  
24 United States.  
25 Q. But nobody at AGCO told you that before

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1 you purchased the tractor?  
2 A. At some point it's got -- I'm sure it's  
3 got -- it's their product. It goes back to them.  
4 It's their product.  
5 Q. These are the claims that --  
6 A. At least that's what I know.  
7 Q. Okay. And I'm just trying to figure out  
8 the claims that you are asserting against AGCO, the  
9 one that we're specifically talking about is civil  
10 conspiracy. So --  
11 A. Can you explain what is that?  
12 Q. I'm asking you what did AGCO do, along  
13 with others, that damaged you? Do you think AGCO has  
14 specific intent or ill will to you specifically?  
15 A. I think that they are doing this not just  
16 to me. I think they know what they're doing. I  
17 think that they're doing to every single customer  
18 that buy their products. They just haven't been  
19 caught, maybe. That's the truth. That's what I feel  
20 now.  
21 Q. And you would agree that what AGCO did to  
22 you was they have paid for Nance to repair the  
23 tractor five times, right?  
24 A. What?  
25 Q. You would agree that AGCO paid Nance for

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<p>1 those warranty repairs? That's who would have paid? 2 A. I guess. 3 Q. And they paid for a loaner when they 4 didn't have to? 5 A. I'm not sure of that, who paid for what. 6 Q. Okay. And then David, an AGCO employee, 7 came out, a mechanical engineer, to inspect your 8 tractor? 9 A. Which is a concern. Why would you send an 10 engineer, someone with a degree, to inspect a tractor 11 that it should not have problems? That alone is a 12 worry. It worries me. 13 Q. Well, I'm trying to reconcile -- my 14 question is going to you're saying that AGCO has done 15 something wrong to you and everybody in South 16 Carolina, right? 17 A. I think that they're doing this and they 18 probably thought they could get away with it, 19 especially with me. And I don't know what they're 20 trying to do now is beyond me. 21 Q. And what they did, they repaired your 22 tractor, correct? 23 A. Let me tell you what they done. 24 Q. I'm asking -- 25 A. I know they fixed the tractor. I know</p>	<p>1 verbatim what he said. Thousands of lawyers, he 2 says. He tried to intimidate me. He threatened me. 3 So what else? I don't know what else to tell you. 4 Q. Okay. Let's go to page 16 of Exhibit 2, 5 page 137 -- sorry, paragraph 137. You say, "AGCO 6 conceals that its iconic Massey Ferguson tractors are 7 manufactured in China." My question is: When did 8 AGCO conceal that fact to you? Was it before the 9 purchase? 10 A. I think that -- no. They never told me 11 any of that. If they would have told me that tractor 12 was from China, I would have never touched it. I'm 13 not saying anything. I'm just -- I have no 14 confidence on the machinery. 15 Q. But you didn't ask anybody if it was 16 manufactured in China before you bought it? 17 A. I don't think there's a lot of things here 18 in the United States that are made specifically from 19 China like that. So I would have definitely -- I 20 think that they would have -- I think they had an 21 obligation to tell me that the tractor was made 22 specifically from China because this is a tractor. 23 But, again, the plate -- no where -- they never told 24 me the tractor was from China. 25 Q. And you never asked?</p>
Page 99	Page 101
<p>1 they fixed it. If you answer -- if the answer you're 2 looking for is they fixed my tractor numerous times, 3 I get it. They did fix the tractor. But you forget 4 that the tractor, it is a one tractor -- lifetime 5 tractor. You're not supposed to be fixing a machine 6 with that little hours so fast, so soon. You 7 shouldn't be doing that much work. You shouldn't be 8 sending an engineer to my property to inspect a brand 9 new tractor with less than 300 hours. I mean, that 10 tells you that there's something funny there. 11 And the more I look into it now, now I 12 realize that the tractor is not made in the United 13 States. It was assembled somewhere else. Okay? I 14 lose -- I lose complete confidence. I will never buy 15 a tractor from Massey Ferguson. Okay? It cost me 16 almost my marriage. It cost me a lot of money. What 17 else -- what else do you -- I mean, what else do you 18 want me to tell you? 19 They pretty much stole my tractor by 20 taking it, not telling me where they're taking it, 21 not even complying -- if they would have called me 22 and told me, "Look, we don't want this to go further. 23 Here is where the tractor is. Let's just figure out 24 a solution." They didn't. They keep on. They were 25 actually happy to throw more lawyers at me. That's</p>	<p>1 A. I shouldn't have to ask. I mean, it's 2 something that I feel like they should have at least 3 informed me and gave me that choice. 4 MR. CARROLL: Why don't we take a 5 break for lunch? 6 (Off the record.) 7 BY MR. CARROLL: 8 Q. Mr. Aguilar, we're back on the record 9 after lunch. Did you talk about the deposition with 10 anyone over your break? 11 A. No, sir. No. 12 Q. Other than your attorney, who did you talk 13 to in preparing for this deposition? 14 A. Nobody. 15 Q. Did you talk your wife about this 16 deposition? 17 A. Yeah. That I was coming here. 18 Q. Okay. But other than that? 19 A. No. 20 Q. I'm going to show you what I'm going to 21 mark as Exhibit 10. 22 (DEF. EXHIBIT 10, Collection of 23 Documents, Bates stamped 001-00149, was marked for 24 identification.) 25 BY MR. CARROLL:</p>

<p style="text-align: right;">Page 102</p> <p>1 Q. This is the set of documents that your 2 counsel produced to us. If you notice on the top 3 right-hand side, there is a three-digit number, 001. 4 A. Yes. 5 Q. We refer to that as a Bates number. And 6 throughout the next few minutes, I may ask you that 7 specific page number. So that's what I'm referring 8 to when I say the Bates number, is that three-digit 9 number at the top in bold. Does that make sense? 10 A. I think so. Yes. 11 Q. So looking at page 1 and 2, what is this 12 series of e-mails about? Sorry. And 3. 13 A. So I believe this is Jackie. I call her 14 Jackie. She is for the Clemson Extension for 15 agriculture. So that was one of the things that I 16 wanted to -- I wanted to reach out to them because I 17 wanted to test my soil and to really get accurate as 18 to what I needed for my soil to be right for trees. 19 That's what that e-mail is for. 20 Q. Okay. For your tree farm? 21 A. Correct. 22 Q. Page 4 is just an invoice for the purchase 23 of the equipment, right, from Nance? 24 A. Yeah. 25 Q. Did they give you copies of this invoice</p>	<p style="text-align: right;">Page 104</p> <p>1 and handwritten on the bottom is "paid in full." Did 2 you write that note or whose handwriting is that? 3 A. That would probably be my wife. 4 Q. The next page is -- which is page 23 on 5 the top right-hand side. Do you see that? There's a 6 handwritten note, "Three hundred thirty-three point 7 seven hours on the tractor April 2021." 8 A. Yes. 9 Q. Whose handwriting is that? 10 A. I would think that's my wife's writing. 11 Q. But you would agree that as of April 2021, 12 there were 300 hours on the tractor? 13 A. Yes. Yeah. But I don't know if these 14 days are within what -- she wouldn't know about the 15 tractor and the specifics. She would probably just 16 write the hours based on the time she wrote it. I'm 17 not sure what to make of that. That would be a 18 question for her. 19 Q. No questions about page 24. Is page 25 20 also your wife's handwriting, the "Paid \$399"? 21 A. Yes. 22 Q. Now, at the top of this invoice, this 23 is -- this was sold to you personally, right? 24 A. Yes. 25 Q. Let's go to page 27 and this appears to be</p>
<p style="text-align: right;">Page 103</p> <p>1 when you purchased the tractor? 2 A. I don't recall, but I'm sure. I'm sure 3 they would have, I would assume. Yes. 4 Q. Now, if you go to page 8, at the top it 5 says, "Dual Interest Property Installment Sales 6 Certificate." Is this just property insurance for 7 the tractor? Is that what this certificate 8 describes? 9 A. I guess, yes. 10 Q. Now, AGCO Finance is no longer in the 11 case, correct? You settled with AGCO Finance, right? 12 A. I believe so. I'm not sure. 13 Q. You don't recall AGCO Finance paying 14 \$10,000 to get out of this case? 15 A. Maybe so. I guess. This thing has been 16 going on for years. I mean, if they did, they did. 17 So I guess. I don't know. I'm assuming they did. 18 Q. Let's flip through to page 17. It's the 19 retail installment contract and security agreement. 20 Is this the same document that we looked at in 21 Exhibit 2, which was the first amended complaint -- 22 I'm sorry, fourth amended complaint? 23 A. I guess it is. 24 Q. Then let's go to page 22. This is a 25 letter dated June 4, 2019 from AGCO Finance to you</p>	<p style="text-align: right;">Page 105</p> <p>1 a copy of a check of 2169 for \$399. Is this for the 2 towing charges? 3 A. No. I believe that's for the previous 4 invoice we just looked at. It says \$399 there. So 5 it's probably for that. 6 Q. So I have to ask your wife what this \$399 7 invoice is for, I guess. But you recall paying \$399, 8 specifically, to have the tractor towed, right, to 9 Nance? 10 A. We definitely paid for taking it 11 somewhere. 12 Q. Even though this was your personal truck, 13 you had Capital Stone and Landscape, LLC pay for the 14 towing? 15 A. That's correct. 16 Q. Now, can you go to page 29, please? 17 A. Yes. 18 Q. And this is an invoice for \$106.80. Did 19 you all pay this amount? 20 A. I don't remember. 21 Q. The next page, page 30. This is an 22 invoice for \$6,997.80. Did you all pay this invoice? 23 A. No. 24 Q. Who paid? 25 A. I don't think we did.</p>

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1 Q. The note on the bottom of this invoice  
2 says paid cash \$200 tow fee. Is that you or your  
3 wife?  
4 A. My wife probably done that.  
5 Q. Just making sure. Page 31 is an e-mail  
6 from your wife. Thirty-two is a work order we  
7 already talked about. Now, 33 is an e-mail that you  
8 wrote to AGCO -- I'm sorry, to Nance Tractor, right?  
9 A. That would probably be an e-mail that my  
10 wife sent or something like that.  
11 Q. So at the bottom -- this is page 33. At  
12 the bottom is written your name, Eswin Aguilar?  
13 A. Right. And she does that sometimes  
14 because it's coming from me, I mean, in a way.  
15 Q. Okay. And then page 34, can you show  
16 me -- well, can you take this pen and mark on that  
17 picture where the sticker is that says you're  
18 responsible for maintenance?  
19 A. For?  
20 Q. Repairs, maintenance. You mentioned --  
21 you testified earlier that there was a sticker you  
22 said when you lift up --  
23 A. Yeah. That's not for maintenance. That's  
24 responsible for anything, like if you have to take  
25 the tractor to the shop.

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1 Q. Can you show me where that sticker is,  
2 whatever it says?  
3 A. I can try my best, but it's -- see that  
4 arm right here?  
5 Q. Yes.  
6 A. It's right behind this thing in there,  
7 like right behind that. So you can only see it  
8 when...  
9 Q. It's lifted?  
10 A. Yeah. And in order for you to see it,  
11 then you have to go under the tractor and lift it so  
12 you can actually see it or at least that's what mine  
13 was. That's where they put mine. I don't know if  
14 that was a coincidence.  
15 Q. Then page 35 is another picture, I guess,  
16 of the -- do you recall what this picture was trying  
17 to convey?  
18 A. That was just -- it's hard to say in this  
19 picture, but one of the things in there was just  
20 messy.  
21 Q. Thirty-six, can you tell what this picture  
22 is?  
23 A. That is glass that has been broken that  
24 they didn't even bother to clean up.  
25 Q. What is 37?

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1 A. You can see the caulking in there. Can  
2 you imagine having the caulking on your windshield in  
3 your car like that?  
4 Q. Thirty-eight?  
5 A. Same. This is glass inside the cabin.  
6 Broken glass.  
7 Q. Page 39?  
8 A. So this is engine -- the engine of the  
9 tractor where it shows glass all over the bells and  
10 engine compartment, which is broken glass in there.  
11 Q. Okay. What about page 40?  
12 A. So I guess what they were trying to show  
13 here was the grease. You can probably see a little  
14 in here. That may sound a little picky, but, again,  
15 this tractor is not an ordinary tractor. It is a cab  
16 with AC in it. It's supposed to be nice and clean.  
17 They have grease hands all over things in there. So  
18 I guess that's what the picture show.  
19 Q. This was all when Nance returned the  
20 tractor?  
21 A. Yeah.  
22 Q. And, at this point, AGCO Corporation was  
23 not involved, right?  
24 A. AGCO Corporation has been involved from  
25 the beginning.

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1 Q. Because they manufactured the tractor?  
2 A. Because that's who I have talked to them  
3 from the beginning. They're the ones -- all I can  
4 tell you is they've been involved from the beginning.  
5 Q. What is 41?  
6 A. I would think that that's the same there  
7 showing you how messy the tractor was returned and  
8 obviously that's a black and white picture there. So  
9 you don't get to see that in color.  
10 Q. Page 42?  
11 A. Page 42, you see hydraulic hoses just  
12 pretty much hanging in there. They are supposed to  
13 be sitting in specific brackets of metal that hold  
14 them in place because they're high pressure hoses.  
15 They're all zigzagging. They're not in order and you  
16 can see zip ties in there hanging in there.  
17 Q. Whose hand is that on the left-hand side?  
18 A. That's my hand.  
19 Q. What is page 43?  
20 A. That is glass debris somewhere in the  
21 engine and you can see where there's oil filters in  
22 there and some damage and some kind of hose.  
23 Q. Okay. What about page 44?  
24 A. That would be a clearer picture of page 43  
25 in addition to that.

<p style="text-align: right;">Page 110</p> <p>1 Q. Is that fitting for the tube corroded?</p> <p>2 A. It just looks like it's somehow damaged.</p> <p>3 How, I don't know. But it's also glass everywhere in</p> <p>4 the bottom of there.</p> <p>5 Q. This was from the broken windshield,</p> <p>6 right, the glass?</p> <p>7 A. Yeah.</p> <p>8 Q. How did that windshield break?</p> <p>9 A. That would be a question for them.</p> <p>10 Q. Them?</p> <p>11 A. Whoever worked on my tractor.</p> <p>12 Q. So Nance?</p> <p>13 A. Whoever is fixing my tractor. I cannot</p> <p>14 answer that question. I don't know.</p> <p>15 Q. Okay. Forty-five, what am I looking at</p> <p>16 here?</p> <p>17 A. Again, that's a black and white picture.</p> <p>18 So I'm not sure what I'm looking at here. Maybe --</p> <p>19 maybe some bolts -- one of those bolts not being</p> <p>20 tight. That may be the reason why I took that</p> <p>21 picture there. These are big bolts. I mean, that</p> <p>22 shouldn't be loose.</p> <p>23 Q. Were these pictures originally taken in</p> <p>24 color?</p> <p>25 A. I'm sure.</p>	<p style="text-align: right;">Page 112</p> <p>1 you know, a bolt in it.</p> <p>2 Q. Page 50?</p> <p>3 A. Page 50, you can see a light plug pretty</p> <p>4 much just hanging in there. It was not plugged.</p> <p>5 Q. I'm sorry. A plug?</p> <p>6 A. Light plug that was never connected.</p> <p>7 Q. Okay. Page 51, an e-mail string from you.</p> <p>8 I want you to go to the middle of the page. It</p> <p>9 starts with on Thursday, October 1, 2020, 10:02 p.m.,</p> <p>10 Eswin Aguilar wrote. Do you see that on your page?</p> <p>11 A. Yeah.</p> <p>12 Q. Can you read the next sentence?</p> <p>13 A. It says, "Not sure why." Is that...</p> <p>14 Q. Yes.</p> <p>15 A. It says, "I'm not sure why AGCO has</p> <p>16 anything to do with this." Is that what you want me</p> <p>17 to read?</p> <p>18 Q. Yes, that e-mail. Can you read it?</p> <p>19 A. It says, "Not sure why AGCO has anything</p> <p>20 to do with this. These issues are workmanship</p> <p>21 problems with the mechanic or whoever is working on</p> <p>22 the tractor. Call me as soon as you can. Also would</p> <p>23 like the name of the representative you are speaking</p> <p>24 with and the number. This is not warranty issues."</p> <p>25 I guess I'm -- I guess you just try to say what's in</p>
<p style="text-align: right;">Page 111</p> <p>1 Q. Do you still have them?</p> <p>2 A. I'm pretty sure we have them somewhere.</p> <p>3 Q. This is how these pictures were produced</p> <p>4 to us. So that's why I'm asking. What is page 46?</p> <p>5 A. Forty-six shows that main hoses for the</p> <p>6 loader that lift things up and down not sitting</p> <p>7 properly. So when the machine -- when you lower up</p> <p>8 and down, it creates a tight pressure on the hose,</p> <p>9 almost like trying to keep the pipe in there. That</p> <p>10 was not set properly. That was the reason why I took</p> <p>11 the picture there.</p> <p>12 Q. Forty-seven?</p> <p>13 A. Forty-seven is a door hinge. Am I saying</p> <p>14 that right, hinge?</p> <p>15 Q. Uh-huh.</p> <p>16 A. You can clearly see that thing was not put</p> <p>17 all the way in and then the other one was missing.</p> <p>18 Q. The pin was not put all the way in?</p> <p>19 A. That's a lock-in pin for that door -- the</p> <p>20 hinge to work. Clearly you see they didn't put it</p> <p>21 all the way in and the next picture shows more clear</p> <p>22 on that, but it was missing them.</p> <p>23 Q. Page 49?</p> <p>24 A. You can clearly see the space between the</p> <p>25 fender there that it was not put back together with,</p>	<p style="text-align: right;">Page 113</p> <p>1 your mind in the moment because I'm responding to,</p> <p>2 perhaps, what he might say. But I don't know how</p> <p>3 they're doing their business there.</p> <p>4 Q. Who is "they"? Who are "they" doing the</p> <p>5 business?</p> <p>6 A. The tractor -- AGCO and the people that</p> <p>7 sold me the tractor.</p> <p>8 Q. Nance?</p> <p>9 A. Yeah.</p> <p>10 Q. Well, on October 1, 2020 when these issues</p> <p>11 were happening, you wondered why AGCO had anything to</p> <p>12 do with this?</p> <p>13 A. Because AGCO is a weird -- I mean, it's</p> <p>14 like -- I never heard AGCO in tractor business, but</p> <p>15 apparently they are involved here. Now they are</p> <p>16 somehow. I never heard AGCO, like, John Deere.</p> <p>17 John Deere is John Deere tractors. Now we have here,</p> <p>18 apparently -- I didn't know at that point that AGCO</p> <p>19 was tractor.</p> <p>20 Q. So --</p> <p>21 A. That's why -- because, I mean, he pretty</p> <p>22 much -- the people didn't want to deal with me. The</p> <p>23 dealership did not want to deal with me. They pretty</p> <p>24 much just said talk to these people. That was the</p> <p>25 response based on that.</p>

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1 Q. And you say on October 1, 2020 this is not  
2 a warranty issue?  
3 A. But you don't know what I was referring  
4 to.  
5 Q. Well, yes. I'm asking you what is not a  
6 warranty issue?  
7 A. I don't remember what we were talking  
8 about then. I don't know if it was the tire  
9 originally. I don't know if it was something minor.  
10 I just don't remember. If I was to guess -- I don't  
11 like to guess. But if I was to guess, this was the  
12 tire to begin with and that's how we started. I  
13 don't know.  
14 Q. So October 1st of 2020, you knew that  
15 there was a warranty because you said this is not a  
16 warranty issue?  
17 A. Because they probably -- I don't remember  
18 when this happened.  
19 Q. October 1st of 2020.  
20 A. Well, automatically you know things have a  
21 warranty. I mean, you don't buy something new and  
22 don't have a warranty on it. So automatically you  
23 know there's a warranty. So I'm just assuming that  
24 there was a warranty issue, but I'm not sure what I  
25 was referring to this right here. I could only

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1 assume that this was probably the tire. So at that  
2 point I'm thinking you shouldn't have that problem,  
3 so this shouldn't be a warranty issue. If this was  
4 so significant, why should you have to go to warranty  
5 issue.  
6 Q. And then you also just said October 1,  
7 2020, who is AGCO, right? That's what you said. You  
8 didn't know AGCO, but you said you talked to  
9 Jacob Willis at the beginning?  
10 A. Yeah. Because from the beginning -- from  
11 the beginning, they pretty much told me that I needed  
12 to talk to Jacob Willis. And I was always curious  
13 why -- why was I talking to Jacob Willis when I  
14 bought the truck from Nance. They pretty much was,  
15 "Hey, talk to that guy." So then AGCO become my guy  
16 to call when my tractor problems were coming up and  
17 that's all I can tell you.  
18 Q. Well, that doesn't align with what the  
19 e-mail that we just looked at on page 33 where you  
20 don't e-mail AGCO. You e-mail  
21 michael@nancetractor.com, right?  
22 A. Page 33?  
23 Q. Yes. Which is just the day before. So  
24 we're September 29, 2020, you e-mail Nance?  
25 A. I cannot tell you dates.

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1 Q. Well, you don't have to tell me the date.  
2 I'm asking you who you e-mailed?  
3 A. You're asking me who I e-mailed?  
4 Q. Yes. Michael at Nance Tractor; is that  
5 right?  
6 A. If that's what it says in there, I guess  
7 that's what we did. I don't know exactly what I was  
8 referring to at that time. I'm not sure. I mean,  
9 this has been going on for years and it's so much  
10 problems that I don't even know which one is which  
11 and what is what.  
12 Q. Okay. Let's go back to that too. So you,  
13 before lunch, said that in April of 2021, AGCO stole  
14 your tractor, right?  
15 A. That's my conclusion. Yes.  
16 Q. Okay. And then you hired an attorney two  
17 weeks later who sent a letter, May 11, 2021.  
18 Remember that from this morning?  
19 A. Yeah.  
20 Q. And then you sued AGCO on June 6, 2021.  
21 So a month afterwards?  
22 A. Uh-huh.  
23 Q. In your lawsuit you did not accuse AGCO of  
24 stealing or conversion at that point of your tractor.  
25 Why not?

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1 A. Because I always try to have people do the  
2 right thing, I guess. I was hoping they would still  
3 come back -- look, I mean, the reality is, whether I  
4 did or not, the truth is clear. They took my  
5 tractor. They didn't tell me where they were taking  
6 it.  
7 Q. You didn't --  
8 A. It stayed --  
9 Q. -- ask them?  
10 A. -- a long time. Yeah. But we're dealing  
11 with something specific. It's a tractor. It's not  
12 something else, I mean. And then dealing with all  
13 these problems, I mean, you have to, at some point,  
14 hey, what is this? I gave him options. He didn't  
15 comply with it. He come get my tractor. He didn't  
16 tell me when he was coming to get it. So pretty much  
17 stole my tractor.  
18 Q. And then when he told you that it was  
19 available to come pick it up, you didn't go get it?  
20 A. Again, that was months into this situation  
21 already and I had -- I had already seeked counsel.  
22 So I asked him to reach out to him and figure it out.  
23 So I don't know the procedure for that, but I was  
24 expecting him to reach out or do something.  
25 Q. And he did reach out. He told you that it

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1 was repaired and ready to be picked up, correct?  
 2 A. Is that your conclusion?  
 3 Q. No. I'm asking you is that a correct  
 4 statement, he did reach out? He called you and told  
 5 you that it was repaired and ready to be picked up?  
 6 A. I don't remember exactly what he said, but  
 7 I do remember him calling me and I told him to talk  
 8 to my lawyer.  
 9 Q. Okay. So then let's go to page 52 of  
 10 Exhibit 10. Is this a summary of the issues that we  
 11 looked at in the pictures on pages 34 through 49?  
 12 A. I mean, I would say most of it. Probably.  
 13 Yeah.  
 14 Q. Did you end up cleaning the tractor?  
 15 A. You're asking me if I cleaned the  
 16 transmission?  
 17 Q. No. So the red clay, for example, did you  
 18 clean that out or did somebody else clean it?  
 19 A. Nobody cleaned it out that I know. Since  
 20 that problem happened, it went back to back to back  
 21 problems.  
 22 Q. Okay. And then October 6th, which is --  
 23 I'm sorry. Page 53. Now, again, October 6th, you  
 24 e-mail Michael at Nance Tractor. You don't e-mail  
 25 AGCO, right? You're not e-mailing Jacob Willis.

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1 This is an e-mail just to Nance Tractor, right?  
 2 A. Okay.  
 3 Q. Why didn't you e-mail AGCO?  
 4 A. I'm not sure. I'm not sure why. But, I  
 5 mean...  
 6 Q. So the reason I'm asking is because you  
 7 said it's been AGCO the whole time, but it hasn't  
 8 been AGCO the whole time because you were dealing  
 9 with Nance, right?  
 10 A. I deal with Nance because they sold me the  
 11 tractor, but who is Nance for? Who are they with?  
 12 Who are they dealing with? Are they with John Deere?  
 13 No. They're with AGCO. So AGCO is them. Somehow  
 14 they are together.  
 15 Q. Doesn't Nance also sell bush hog  
 16 equipment?  
 17 A. I don't know what they sell.  
 18 Q. Well, you bought a bush hog from them. So  
 19 do they sell bush hog equipment?  
 20 A. I guess.  
 21 Q. Do they sell Kuhn implements?  
 22 A. That would be a question for you to ask  
 23 them. I don't know.  
 24 Q. Maybe. If you go back to page 30 of  
 25 Exhibit 10, top right-hand side. Is there a

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1 trademark on the top right-hand side of page 30?  
 2 A. Okay.  
 3 Q. It says Kuhn?  
 4 A. Okay.  
 5 Q. So is Nance Tractor Kuhn too?  
 6 A. I don't know how they operate their  
 7 business. I'm not in the business of figuring out  
 8 who is who.  
 9 Q. Is Capital Stone the same as  
 10 Eswin Aguilar?  
 11 A. Yes.  
 12 Q. Do you file one tax return for both?  
 13 A. Yes. But when it comes to problems, I  
 14 mean, if Capital Stone messes up, that's my name. So  
 15 at the end of the day -- I mean, you can play this  
 16 around. At the end of the day, it's AGCO. This is  
 17 an AGCO product. If there's a problem, they just --  
 18 I'm not sure. Really I'm not sure what to answer.  
 19 I'm not sure what you're asking. I mean, at the end  
 20 of the day, if you're not responsible, why are you  
 21 even involving yourself, then? Why are you even  
 22 offer all these things? Why even -- I don't get it.  
 23 I don't understand. What is your question?  
 24 Q. Well, you've sued AGCO Corporation?  
 25 A. Right.

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1 Q. Nance Tractor has paid to get out of this  
 2 case?  
 3 A. That's their own doing.  
 4 Q. Okay. How much did they pay to get out of  
 5 the case?  
 6 MR. STUDEMAYER: Objection.  
 7 MR. CARROLL: What is the objection?  
 8 MR. STUDEMAYER: I'm objecting  
 9 because we've already objected to this in discovery.  
 10 You're not entitled to that information until it's  
 11 time for an offset and there is no offset to apply  
 12 right now.  
 13 MR. CARROLL: So the basis is --  
 14 MR. STUDEMAYER: We've already --  
 15 MR. CARROLL: -- attorney privilege?  
 16 MR. STUDEMAYER: -- cited the case --  
 17 we've already cited the case law, if you want to go  
 18 there.  
 19 MR. CARROLL: Well, yes, I would like  
 20 to. So the basis of the objection -- what is the  
 21 basis of the objection? Because you've got four  
 22 bases under the rules. You have privilege.  
 23 Attorney-client privilege, work product protection,  
 24 trade secret protection, and privileges based on the  
 25 United States Constitution. Which privilege are you

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1 objecting based on?  
2 MR. STUDEMAYER: I'm saying that  
3 you're not entitled to that information at this point  
4 in litigation.  
5 MR. CARROLL: And are you instructing  
6 him not to answer?  
7 MR. STUDEMAYER: I am.  
8 MR. CARROLL: Okay. So for the  
9 record, the question was: How much did Nance Tractor  
10 pay to settle out of the case? Did I state that  
11 correctly?  
12 MR. STUDEMAYER: (Counsel nods head.)  
13 MR. CARROLL: And you objected and  
14 that's it on the basis that we're not entitled to  
15 that information on discovery?  
16 MR. STUDEMAYER: That is correct.  
17 MR. CARROLL: Okay. Which is not a  
18 proper basis for objection under the rules, but we  
19 will continue.  
20 BY MR. CARROLL:  
21 Q. Page 53, Mr. Aguilar, you e-mailed Nance.  
22 "Four-wheel drive on my tractor is not working." Did  
23 you all -- did Nance come and pick up the tractor  
24 after you sent this e-mail?  
25 A. I don't know who has been sending people

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1 to pick up the tractor. I don't know who calls,  
2 "Hey, go pick up the tractor." So I can't tell you  
3 who picked up the tractor, but I will talk to -- the  
4 people that I always talked to was either someone  
5 from Nance or Jacob Willis. How they did it, I don't  
6 know.  
7 Q. Page 54, the next page. You e-mail the  
8 next day and you also e-mail  
9 michael@nancetractor.com, correct?  
10 A. Okay.  
11 Q. Is that correct?  
12 A. Yeah.  
13 Q. And on page 55 is the top of that e-mail  
14 that Michael Nance says, "We'll pick it up Monday and  
15 put it straight in the shop when it gets back." Did  
16 I read that correctly?  
17 A. That's what it says here.  
18 Q. Is there any reason so far for the first  
19 55 pages I have any reason to doubt the authenticity  
20 or validity of these documents?  
21 A. I don't think I understand that question.  
22 Q. You have not altered these documents in  
23 any way, right?  
24 A. No. They may not be in the right order,  
25 the time, but I would never do that.

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1 Q. Okay. Let's go to page 58. And is this  
2 you asking Michael at Nance Tractor if you need --  
3 that you need to get a loaner if your tractor is  
4 gone? Is that what you're asking in this e-mail?  
5 A. Yes.  
6 Q. And did Nance give you a loaner?  
7 A. I don't remember if this was the time  
8 where they provide me the loaner. I don't remember  
9 if this was that time.  
10 Q. Now, page 60 is an invoice from Liner  
11 Source, Inc. --  
12 A. Yes.  
13 Q. -- to Emerald Hills Farm, LLC?  
14 A. Yes.  
15 Q. Are you expecting -- or are you seeking  
16 payment for these trees from AGCO?  
17 A. I don't know. I'm not sure. They caused  
18 me a lot of loss. A lot. A lot of frustration. So  
19 I will have to -- I'm not sure what to answer to  
20 that.  
21 Q. This order was the first time you were  
22 going to go into the tree business, right? That's  
23 what you testified to earlier?  
24 A. Could be. Could be the first order.  
25 Q. Aside from asking Clemson about your soil,

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1 did you talk to anyone else about how to enter into  
2 the tree growing business?  
3 A. No. I'm a self made, whatever you call  
4 it, person. I like to figure things out and I have  
5 knowledge. I remember planting. I know how to grow  
6 things and I, you know -- so...  
7 Q. Why didn't you install irrigation when you  
8 first planted these trees?  
9 A. Well, it depends on what you're trying to  
10 do. You can't put in irrigation and then put a tree  
11 because you damage your irrigation. So you've got to  
12 plant the tree first and then you put in irrigation.  
13 Q. Was your plan to always put in irrigation  
14 for the trees?  
15 A. Yes.  
16 Q. Go to page 62. Now, let's go to the  
17 middle of the page. February -- sorry. Friday,  
18 October 23, 2020, you e-mail Nance -- Michael Nance  
19 and say, "Talked to AGCO rep earlier today. He's  
20 getting with the regional service guy to see when he  
21 and someone from the dealership can meet you at your  
22 place to check it out." Was this when David from  
23 AGCO finally came?  
24 A. Yes.  
25 Q. Okay. At this point, October of 2020, you

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1 have owned the tractor for 18 months, right?  
2 A. Yes. But it has been more time in the  
3 shop than in my farm.  
4 Q. Next let's go to page 69. Now, in your  
5 document production, this is the first e-mail we see  
6 from Mr. Willis. Did you have any prior e-mail  
7 communications with Jacob Willis?  
8 A. I don't remember.  
9 Q. Well, so your tire issue --  
10 A. The e-mails?  
11 Q. Yes.  
12 A. I don't remember. Calls from the  
13 beginning.  
14 Q. And Jacob Willis says, "He reviewed what  
15 had been done and we compared your tractor to other  
16 tractors. It is my understanding they are going to  
17 try to get it delivered to you this afternoon. I  
18 will provide to you in writing what was done. We are  
19 also going to provide an enhanced warranty to extend  
20 your coverage by one additional year. I will provide  
21 this in writing once we have purchased it next week.  
22 Please let me know if you have any questions."  
23 Was the tractor returned to you later that  
24 day or the next day?  
25 A. I believe so.

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1 Q. Okay. And then from that point on,  
2 January, according to the timeline which is Exhibit 4  
3 that your wife prepared, you did not have another  
4 issue until April 21st.  
5 A. I don't remember that time.  
6 Q. I'll just represent to you that's what the  
7 exhibit indicates. Now, going to page 71. Is this  
8 the work order for the work that Nance performed  
9 January 8, 2021?  
10 A. If that's what it says there. Again, you  
11 know --  
12 Q. And you did not pay for this work?  
13 A. No.  
14 Q. AGCO paid for that work?  
15 A. Yes, I guess. Somebody paid for it. They  
16 must have.  
17 Q. Now, let's go to page 72. This is an  
18 e-mail to Jacob from you and I want to focus on the  
19 last sentence of your e-mail where it says, "IF the  
20 tractor has any more issues, I will need it replaced  
21 with a new one." Was this the time where you gave  
22 Jacob two options?  
23 A. No. I was just telling him that if the  
24 tractor comes -- no. This was before that. That  
25 was -- he give me no choice. I mean, this tractor

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1 has been going back and forth several times. So,  
2 yes, I told him -- I said I need this tractor. This  
3 is when he ensured me the tractor will be overseen by  
4 me or someone from AGCO to make sure that it's put  
5 back together right.  
6 Q. And then you had no issues for three  
7 months, according to the chart?  
8 A. Again, I mean, if that's what it says,  
9 that's fine. But some of the time when the tractor  
10 come back, I couldn't get to the tractor, like, the  
11 next day and just work on it. It will probably sit  
12 there for, some cases, a month, you know. I remember  
13 one instance they brought my tractor back and all I  
14 did just covered my tractor, put it in the shed  
15 because the weather, and I didn't move the tractor  
16 for, like, a month to two months after that.  
17 Q. So you stored the tractor in a shed when  
18 it was not in use?  
19 A. A little shed.  
20 Q. Okay. Other than the work performed by  
21 Nance, did anyone else work on the tractor?  
22 A. You're asking me if I worked on the  
23 tractor?  
24 Q. No. Anyone else?  
25 A. No.

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1 Q. Anybody else perform maintenance --  
2 A. No.  
3 Q. -- or anything like that?  
4 A. No. Because the first time the tractor  
5 broke down, it was the maintenance -- they actually  
6 did the maintenance there.  
7 Q. Did they charge you for that?  
8 A. I think that was -- that was one of the  
9 only thing that he said, "I'm going to throw that in  
10 because it broke down." But that was just an oil  
11 change, I believe, or something. I can't remember  
12 what it was.  
13 Q. Okay. Let's go to page 79. Is this where  
14 you gave Jacob the two options?  
15 A. Perhaps.  
16 Q. If not, was there another time that comes  
17 to mind?  
18 A. All I can tell you -- I don't know the  
19 dates, but, I mean, it could be the last -- because I  
20 believe that she probably sent an e-mail to that  
21 after I had talked to him -- spoke with Jacob. Later  
22 I talked to my wife and she probably suggested to  
23 send that e-mail to him so it would be in writing.  
24 So I would assume, yes.  
25 Q. Okay. And so you send -- you tell him,

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1 "Jacob, I used the tractor for the first time this  
2 weekend to cut the grass." So do I read that e-mail  
3 to say from January 14th to April 21st, you did not  
4 use the tractor at all?  
5 A. Again, sometimes the tractor would sit  
6 there for weeks or months after it's been replaced.  
7 I don't remember if this was that time.  
8 Q. I'm just trying to read your e-mail and  
9 understand what you were saying, but is it -- you did  
10 not draft this e-mail?  
11 A. My wife draft -- she must have wrote the  
12 e-mail based on the conversation we had.  
13 Q. Okay. There's no real reason to say -- or  
14 to lie in this e-mail, right?  
15 A. Oh, my gosh. No. Why?  
16 Q. That's what I'm asking. So if you say, "I  
17 used the tractor for the first time this weekend to  
18 cut the grass" --  
19 A. Right.  
20 Q. -- then that is probably the first time  
21 you've used it in three months?  
22 A. Uh-huh.  
23 Q. Okay. And then you say again, "This is  
24 the first time using it since it was returned this  
25 winter after being fixed for the fifth time. I got

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1 in the tractor this morning to water my tree farm."  
2 So, at this time, you had -- did you put the forks  
3 into the pallet for your water tank?  
4 A. Right.  
5 Q. "In the middle of watering my trees, the  
6 tractor stopped, locked up, would not go any  
7 further." Was this an issue with the four-wheel --  
8 the automatic four-wheel drive, do you think? Just  
9 in your opinion.  
10 A. All I can tell you is at that point, I  
11 probably give up. There was oil leaking everywhere.  
12 It was just another time the tractor breaking down.  
13 Q. Okay. "I looked under the tractor. It  
14 looks like it was leaking a lot of oily substance."  
15 A. Yeah. That was the last time. That was  
16 the final straw for me.  
17 Q. And then you say, "I have done -- I have  
18 had nothing but problems with this tractor and I do  
19 not have faith in your products anymore," which is  
20 consistent with your prior testimony. "I am  
21 requesting a full refund of \$57,101.76 and \$10,000  
22 for the bush hog." What is confusing to me is AGCO  
23 did not manufacturer the bush hog. So why does AGCO  
24 have to pay for the bush hog?  
25 A. Because when I bought it, I bought it as a

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1 package and I understood that. I guess that was my  
2 assumption. I don't know. What is the issue one or  
3 the other? I mean, I don't understand that. I don't  
4 think I understand your question.  
5 Q. So my question is: AGCO is involved --  
6 you testified that AGCO is involved because it  
7 manufactured the tractor.  
8 A. Okay.  
9 Q. If AGCO manufactured the bush hog, then it  
10 would be responsible for the bush hog too?  
11 A. Okay.  
12 Q. But if Bush Hog manufactured the bush  
13 hog --  
14 A. Okay.  
15 Q. -- then it would be Bush Hog's problem?  
16 A. So, at minimum, you take the bush hog out  
17 and still leave with the tractor. I'm not saying  
18 that that's the case. I'm just saying in theory,  
19 that would be what we can conclude, I guess. I don't  
20 know.  
21 Q. And you say a full refund would be  
22 \$57,000, but you paid \$51,000 for the tractor?  
23 A. Right.  
24 Q. So where is the extra \$6,000?  
25 A. What?

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1 Q. Because you paid \$51,000 for the tractor,  
2 but you're asking for \$57,000.  
3 A. You can see how -- I mean, honestly, it's  
4 beyond me why we're still here. You can see that  
5 we've been going on for years on this. At this  
6 time -- at this point in time, I'm asking these guys  
7 for \$5,000 for my aggravation. That's just for a  
8 peace of mind for all the headache they cost me, but  
9 they're so greedy that they won't even do nothing.  
10 Here we are years after, hundreds of thousands of  
11 dollars possibly wasted. So I don't know why \$5,000  
12 has anything to do with that.  
13 Q. Well, I'm just asking why you chose  
14 \$57,000 as the refund price when it was \$51,000 that  
15 you paid?  
16 A. Maybe it's -- I don't know. I couldn't  
17 tell you how she come up with that number.  
18 Q. Okay. Did Jacob respond to this e-mail?  
19 A. I don't think he respond. I don't know.  
20 I couldn't -- I don't remember, but I told him  
21 verbatim on a phone call. We had a conversation.  
22 That's when my wife wrote that e-mail. I told him,  
23 "I'm done with this tractor. Your options are pay my  
24 tractor, give me a new one, or I'm seeking legal  
25 actions." So that was the time when I told him that.

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1 And he told me, again, "We've got more lawyers than  
2 you." That was his response.  
3 Q. Is it possible the reason that we are  
4 still here today because you filed a fourth amended  
5 complaint just three months ago?  
6 A. I think we're here today because they  
7 refuse to do the right thing. That's why we're still  
8 here today.  
9 Q. And the right thing in your mind is paying  
10 you \$72,101.76?  
11 A. I think it's too late for that at this  
12 point. I think we passed that point now. This was  
13 years ago.  
14 Q. Okay. So you want more money than that?  
15 A. I mean, what would you do? I just don't  
16 want these people to keep doing what they did to me.  
17 It's not fair to other customers. It's not right.  
18 Q. So you sent this e-mail at 10:06 a.m. Are  
19 you saying that you talked to Jacob before that?  
20 Because your wife drafted this after your phone call.  
21 A. I think I talked to Jacob before she sent  
22 this. Somehow it's related to this e-mail. I'm not  
23 sure -- I'm not exactly sure, but it's somehow  
24 related to that e-mail. So I guess -- I guess it is.  
25 Q. But definitely you did not draft this.

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1 Your wife did?  
2 A. If she did, that's because I told her.  
3 Q. Okay. Let's go to page 80. So this is  
4 the next day, April 22nd, 1:36 p.m. "Jacob, tried to  
5 call you. I am out of my tractor again and this is  
6 peak season for me. I need to get this resolved. I  
7 consider this an emergency on my part. And due to  
8 the past of how this was handled, I cannot afford to  
9 be without a tractor. I need a phone call today."  
10 Did Jacob respond to this e-mail?  
11 A. What page are we in?  
12 Q. Page 80.  
13 A. Okay. Got you. What was the question?  
14 Q. Did Jacob respond to this e-mail?  
15 A. I don't remember.  
16 Q. You don't remember if he called you?  
17 A. I don't think he did. I would guess -- I  
18 don't think he did.  
19 Q. So you previously testified that you and  
20 Jacob had a conversation where he offered the  
21 depreciated amount of the tractor. Was that around  
22 this time period? Did that conversation --  
23 A. I don't know --  
24 Q. -- happen?  
25 A. -- dates. But the last conversation I had

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1 with him, other than the phone call he gave me --  
2 other than the phone call -- last phone call he gave  
3 me, the last conversation I had with him was, "I'm  
4 done with this tractor. I lost confidence in this  
5 tractor." I probably said this is garbage. "I need  
6 you to replace this tractor with another tractor or  
7 refund my money or I'm going to seek legal actions."  
8 That was the last serious conversation I had with  
9 him.  
10 Other than that, he called me months  
11 after -- after we already have seeked legal action  
12 and told me your tractor is ready, which is funny  
13 because based on the phone call he gave me, some of  
14 the papers there shows that the tractor was not  
15 fixed. So I'm not sure what that was about.  
16 Q. So during that last conversation where you  
17 said this is garbage, did he tell you that AGCO was  
18 coming to pick up the tractor?  
19 A. I don't think so. Quite frankly, I don't  
20 know what was going to happen.  
21 Q. Well --  
22 A. The next thing I know, somebody buzzed me  
23 at my gate, told me they were there to pick up the  
24 tractor.  
25 Q. Okay. So what I'm trying to do is get you

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1 to reconcile these facts because you are the person  
2 who knows them the best. And at least in your  
3 complaint, you say that plaintiff authorized AGCO to  
4 pick up the tractor to perform repairs on April 22,  
5 2021.  
6 A. Yeah. But that's not that time, though.  
7 This is where it gets confusing. I don't know who  
8 did this. Him, somebody, you guys, somebody altered  
9 that date on e-mails.  
10 Q. So the e-mail in your document  
11 production --  
12 A. Not in my document.  
13 Q. This is your document production.  
14 A. Not in my document.  
15 Q. Exhibit 10 is your document production.  
16 That's not a question. And it says that on Thursday,  
17 April 22, 2021, you sent an e-mail to Jacob about  
18 your tractor.  
19 A. Right.  
20 Q. And then in your complaint, which is a  
21 filed document that is also not altered, it says,  
22 "The plaintiff," which is you, "authorized AGCO to  
23 pick up the tractor to perform repairs on April 22,  
24 2021."  
25 A. Yeah. But that would not be the very last

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1 time, I would think, because I would not allow them  
 2 to keep working on the tractor because I'm done with  
 3 that tractor.  
 4 Q. Okay. Well, you just testified that that  
 5 was the very, very last time that you spoke to  
 6 Jacob Willis before October 2021 when he told you the  
 7 tractor was ready?  
 8 A. Right.  
 9 Q. So then you must have authorized AGCO to  
 10 pick up the tractor to perform repairs?  
 11 A. I don't think -- I don't remember. I  
 12 don't think I did. I don't -- I don't remember. I  
 13 don't think I did. I believe I didn't. For the very  
 14 final time -- last, last time, I don't know dates, I  
 15 don't remember telling him take my tractor and fix it  
 16 because I am done with this tractor. I was done with  
 17 that tractor. I did not want the tractor to be fixed  
 18 because all these problems. So the solution was to  
 19 give me the money for the tractor or you give me a  
 20 new tractor. There was no reason for me to tell him,  
 21 "Well, you take it and you fix it."  
 22 Q. You didn't want the tractor to be fixed  
 23 and you didn't want the tractor at all, right?  
 24 A. No. I didn't want my tractor at all. I  
 25 wanted them to replace me the tractor. I didn't want

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1 that tractor. I'm still there trying to give them  
 2 the benefit of the doubt so they can replace the  
 3 tractor.  
 4 Q. Now you've sued AGCO for stealing the  
 5 tractor for conversion. So that's a little different  
 6 now.  
 7 A. To you, maybe. But, in my world, it's  
 8 not. You take my tractor. You don't tell me where  
 9 it is. You stole it. If you take my tractor to get  
 10 it fixed for a couple of weeks, it takes a month, at  
 11 least give me a call at least I know where it is. I  
 12 know where it is. I didn't even know where they took  
 13 the tractor. I never knew where they took the  
 14 tractor.  
 15 Q. And you didn't ask?  
 16 A. Sir?  
 17 Q. And you didn't ask?  
 18 A. Because I didn't know what their  
 19 intentions was. I didn't know what they were trying  
 20 to do. I thought he was going to give me a new  
 21 tractor or he's going to call me and say, "Hey, we're  
 22 going to give you a new tractor or we're going to go  
 23 ahead and pay you money." That was my understanding.  
 24 He took my tractor. I took legal actions. It's just  
 25 simple. I'm not sure what the confusion is. He

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1 stole my tractor.  
 2 Q. Let's go to page 83. What is this a  
 3 picture of?  
 4 A. That is the plate that is in the tractor.  
 5 It's telling you what the tractor is and, according  
 6 to me, that's who made the contractor.  
 7 Q. So you knew by this plate that AGCO  
 8 manufactured the tractor?  
 9 A. Right.  
 10 Q. But you just testified that you didn't  
 11 know who AGCO was?  
 12 A. Now we know. I mean, I didn't know this  
 13 information like -- you know, when I bought this  
 14 tractor, I didn't bought this tractor to be in these  
 15 problems. I didn't bought a tractor to be in a  
 16 situation. I didn't bought stress. I bought a  
 17 tractor to work, to do something, to make something  
 18 with this tractor. If I knew that we were going to  
 19 be in this issue, I would have investigated this to  
 20 the T. If you buy something, will you go with that  
 21 in mind that you have to check every single little  
 22 thing? No, you don't. You buy with faith. You buy  
 23 with what you think, what you know. But as I start  
 24 having all these problems, then I started looking  
 25 into it. I started searching and seeing it's not

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1 what it's supposed to be.  
 2 Q. Are you familiar with the term "buyer's  
 3 remorse"?  
 4 A. No.  
 5 Q. Let's go to the next page, which is 84, I  
 6 think. It says, "AGCO Corporation, Duluth, Georgia  
 7 USA." Is that what you interpreted to say made in  
 8 USA?  
 9 A. If it says -- 100 percent, you know. If I  
 10 look at my watch and it says Corsa (phonetic), I  
 11 think the brand is Corsa. If it says made in Esomar  
 12 (phonetic), then I say it's made there.  
 13 Q. Well, it doesn't say "made in" on this  
 14 plate.  
 15 A. To my understanding, all my years, I mean,  
 16 that plaque -- that sticker means a lot. It means  
 17 made in Georgia, to my understanding. So when I see  
 18 that and I read that in there, it tells me that the  
 19 tractor not only -- this I came to know later on. It  
 20 tells me that this tractor is a year older than what  
 21 I was told it to be and then it's symbol made in  
 22 Georgia, United States.  
 23 Q. Let's talk about that. So the model, you  
 24 believed that the tractor was a 2019 Massey Ferguson;  
 25 is that correct?

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1 A. You said what?  
 2 Q. You said that the tractor was a year older  
 3 than you thought it was.  
 4 A. No. I was buying a new tractor, but I  
 5 ended up getting an older tractor than it was  
 6 supposed to be.  
 7 Q. And what do you mean by that? You were  
 8 buying a 2019 and you got a 2018; is that --  
 9 A. Kind of the thing. '20. You get a '19  
 10 year old -- I mean, older. I didn't know that.  
 11 Q. And are you saying that because the date  
 12 of manufacturer is listed 20/18/09?  
 13 A. Correct.  
 14 Q. Okay. Have you ever bought a car before?  
 15 A. Yes.  
 16 Q. Have you ever bought a new automobile  
 17 before -- brand new automobile?  
 18 A. Yes.  
 19 Q. So, for example, the 2025 Chevrolet  
 20 Silverado will come out fairly soon, if it has not  
 21 come out, right?  
 22 A. I guess.  
 23 Q. And we're in 2024?  
 24 A. Right.  
 25 Q. And you can get the new 2025 Chevy

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1 Silverado and presumably it could be delivered to you  
 2 in 2024?  
 3 A. I get it. I understand.  
 4 Q. So there's no misrepresentation there,  
 5 right?  
 6 A. Tractors are different, though.  
 7 Q. How?  
 8 A. It's a machine. Not a car. It's  
 9 equipment. It's different -- I would think it was  
 10 different standards how you make a tractor. It's  
 11 something that you use for work. So I think it would  
 12 be more legitimately up to date, I would think. I  
 13 don't know. I think it's a little funny, though.  
 14 That's just what I make out of this.  
 15 Q. But nobody at AGCO ever told you that it  
 16 was made after --  
 17 A. Huh-uh.  
 18 Q. -- 2019?  
 19 A. I was buying a brand new tractor that  
 20 year. That's what I knew.  
 21 Q. How many hours did the tractor have on it  
 22 when it was delivered to you?  
 23 A. I was excited. I was guessing it probably  
 24 had a couple of hours. Maybe five or six hours and  
 25 that's probably, you know, from moving around the

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1 yard, probably.  
 2 Q. You were right the first time. It had two  
 3 hours on it. Next page, 86. And what is this page?  
 4 A. So when we first did this, we were coming  
 5 up with a projection of what would it take -- that's  
 6 basically all the cost it took me to get my stuff for  
 7 my trees ready. That's the only thing I can tell  
 8 you.  
 9 Q. Now, you testified this morning that you  
 10 have seen zero revenue from the trees, right?  
 11 A. Yeah. Because it's not -- do you know  
 12 what a tree farm is?  
 13 Q. Yes.  
 14 A. So you plant trees and they grow. And  
 15 when they are a specific height, you sell them. So  
 16 that's basically what I was trying to do.  
 17 Q. And your trees have not grown?  
 18 A. No. I've got trees that are grown. They  
 19 don't have to do with this. Some trees grow and some  
 20 trees are already grown.  
 21 Q. And you haven't sold those yet?  
 22 A. No.  
 23 Q. Do you have any plans to sell them?  
 24 A. Of course.  
 25 Q. When?

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1 A. I don't know. Maybe next year, maybe two  
 2 years. I don't know.  
 3 Q. The first column, the cost of the  
 4 trees/plants, did you buy these as seedlings?  
 5 A. Yes.  
 6 Q. How long does it take to grow, for  
 7 example, Catawba Crepe Myrtle to the point where you  
 8 can sell it?  
 9 A. You can sell them at any height.  
 10 Obviously, you get less money. The bigger the tree,  
 11 the more tree you get -- the more money you get for  
 12 the tree.  
 13 Q. When did you intend to sell, for example,  
 14 the Natchez Crepe Myrtles?  
 15 A. I mean, maybe two years after I planted.  
 16 Q. Okay. You planted these in October of  
 17 2022?  
 18 A. So '22, '23, '24. Around this time, I  
 19 guess.  
 20 Q. Right. And you filed suit less than a  
 21 year after you planted these trees, right?  
 22 A. Repeat that question.  
 23 Q. You filed this lawsuit less than a year  
 24 after you planted these seedlings?  
 25 A. Less than a year?

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1 Q. Yes.  
2 A. That was planted -- I was planting those  
3 trees before we sued you guys, before we even got  
4 into this.  
5 Q. Right. So you planted the trees in  
6 October of 2020. You filed suit in June of 2021.  
7 A. Okay.  
8 Q. So this that time period -- well, when did  
9 you put the irrigation in?  
10 A. So that was part of the reason with the  
11 tractor behind. I needed it in time so I can use the  
12 tractor to water the trees. And so if I would have  
13 had a tractor that would do that for me, I would  
14 have, say, a couple of months, maybe a month or so.  
15 So I would have needed the tractor in order to do  
16 that because it takes time to run irrigation.  
17 Q. So when did you install irrigation?  
18 A. After I planted the trees, I would say  
19 maybe -- because of the issue with the tractor, I  
20 lost a lot of trees. If I was to guess -- I don't  
21 remember. If I was to guess, I don't know, six  
22 months after. Because the tractor was very crucial  
23 for us not only to water the trees, but to clean the  
24 trees. Keep it clean.  
25 Q. So six months, give or take, after -- from

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1 October would be February of 2021, that's when you  
2 put in irrigation?  
3 A. No. I would say that's when I probably  
4 got everything completed that way I wanted it, if I  
5 got lucky, to the best of my recollection.  
6 Q. Okay. Just so I'm clear, can you give me  
7 your best guess of when you remember installing  
8 irrigation on your trees?  
9 A. I'm guessing six months after that.  
10 Q. Okay. And six months after October of  
11 2020 would be February of 2021?  
12 A. I'm not good with dates.  
13 Q. Okay. And between October of 2020 and  
14 February of 2021, you had a loaner tractor and then  
15 you had your own tractor?  
16 A. Again, I don't know dates. I don't know  
17 times. So...  
18 Q. Okay.  
19 A. So the first time -- I mean, I didn't  
20 plant it just that time. We were, you know, trying  
21 to get more trees. He did -- the loaner did help me  
22 from the beginning, but that was gone. And then the  
23 second time, there was no show. So kind of messed me  
24 up.  
25 Q. Did you have a -- what other implement

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1 were you going to use to cultivate the ground before  
2 you planted the seedlings?  
3 A. Cultivator, tiller, hiller.  
4 Q. Did you have a tiller?  
5 A. Yes.  
6 Q. An attachment or a separate piece of --  
7 A. Those things are called attachments.  
8 Q. And you had all of those?  
9 A. Yes.  
10 Q. Now, you say here you manually installed  
11 11,600 drip misters. Was that you who did that?  
12 A. Yes.  
13 Q. Once you have the drip misters, why do you  
14 need the water tank?  
15 A. At that point, you still need the tractor  
16 to -- emergencies just because, you know, you may  
17 have a timer go bad. If you don't have it, then you  
18 need to get in the tractor, get it full of water, and  
19 just water the trees. So, I mean, the tractor is  
20 crucial. However you put it, the tractor was a  
21 guarantee that I could just get on my tractor and  
22 just do stuff with my trees.  
23 Q. So we previously read that the warranty  
24 excludes liability for loss of crops, loss of profits  
25 or revenue, other commercial losses and

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1 inconvenience?  
2 A. So then why are we even talking about the  
3 trees, then?  
4 Q. Why are you seeking damages for trees?  
5 A. Okay.  
6 Q. The next page -- sets of pages are phone  
7 bills, 90 through 149. My question is: Why didn't  
8 you -- well, why -- why did you produce these?  
9 A. I don't know. I'm not sure why. I mean,  
10 look, this has been going on a long time. I don't  
11 know.  
12 Q. Could you get your phone bills for April  
13 20th through the 27th of 2021? Are those still  
14 available?  
15 A. I don't know.  
16 MR. CARROLL: Okay. Let's take a  
17 five-minute break.  
18 (Off the record.)  
19 (DEF. EXHIBIT 11, Collection of  
20 Documents, Bates stamped AGCO 00044-00082, was marked  
21 for identification.)  
22 BY MR. CARROLL:  
23 Q. Okay. Back on the record. Mr. Aguilar,  
24 I'm going to show you another set of documents now.  
25 So, Mr. Aguilar, this is AGCO's second document

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1 production and they are Bates stamped on the bottom  
 2 right-hand corner AGCO 44 through 82. Have you ever  
 3 seen these documents before? To make it easier,  
 4 these were given to your counsel. Aside from  
 5 litigation, you probably would not have seen them, if  
 6 that makes it easier.  
 7 A. I don't think I've ever seen this. I  
 8 don't even know -- I'm not aware of any of this.  
 9 Q. Okay. So this first page is AGCO 44 on  
 10 the bottom right-hand corner and this is an e-mail  
 11 from Michael Craft to Missy at Powell Tractor. Have  
 12 you ever talked to Missy at Powell Tractor?  
 13 A. No. I don't know who that person.  
 14 Q. Do you have any reason -- hold on.  
 15 (Off the record.)  
 16 BY MR. CARROLL:  
 17 Q. Back on the record. Mr. Aguilar, can you  
 18 tell me about the transmission issues that you  
 19 experienced on the tractor?  
 20 A. So the first time the transmission problem  
 21 occurred, I was actually hanging lights in a tree and  
 22 it just made a very loud sound and it just codes on  
 23 the tractor -- every light on the tractor came on  
 24 telling me it was danger, danger. So I stopped  
 25 immediately.

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1 Q. Okay. So it happened one time?  
 2 A. No. That was the first time.  
 3 Q. Okay. Do you remember when in the  
 4 sequence of events you first had issues with the  
 5 transmission?  
 6 A. I don't know the time/date that was other  
 7 than the tire was the first problem. The tire was  
 8 the original first problem. The tire was splitting  
 9 up and we covered that, I think. But the  
 10 transmission -- serious problem with the  
 11 transmission, that was the first time.  
 12 Q. Okay.  
 13 A. And, you know, reading this e-mail right  
 14 here, I couldn't imagine -- I would be in the loss  
 15 completely if I would have taken this tractor back.  
 16 If I would have allowed them to repair my tractor one  
 17 more time, I would be at a complete loss. I'm  
 18 already in a loss now. But here in this e-mail,  
 19 which I never heard and never seen this e-mail right  
 20 here, if you read the last paragraph there, it tells  
 21 you.  
 22 Q. So what about the last paragraph tells  
 23 you?  
 24 A. It tells you right there that -- I don't  
 25 know where this come from, but it says there this

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1 thing was -- this tractor was heading for a  
 2 catastrophe failure.  
 3 Q. "Don't know if this came from past repairs  
 4 not being done correctly or misalignment in the  
 5 transmission itself, but was certainly headed for a  
 6 catastrophic failure." And this was after AGCO  
 7 picked up the tractor, right?  
 8 A. I'm assuming. I've never seen this. I'm  
 9 assuming that this is from somewhere else where  
 10 possibly my tractor is now. That's where this comes  
 11 from.  
 12 Q. July 18, 2021 was after April 28, 2021.  
 13 You would agree with that at least, right?  
 14 A. Again, I don't know dates. I was thinking  
 15 this was coming from where the tractor is now or  
 16 whoever has got my tractor or repaired my tractor.  
 17 Q. Okay. So the next page, if you look,  
 18 is -- this is an AGCO internal document, warranty  
 19 claim details. And you will note on the unit usage,  
 20 which is on the first top part column, 335 hours,  
 21 which I believe is consistent with your prior  
 22 testimony that the tractor had 335 hours on it?  
 23 A. At the very end, yes.  
 24 Q. And the amount here, credit debit amount,  
 25 is the amount that AGCO paid to have the tractor

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1 repaired, \$8,843.61. Now, this is -- sorry. Still  
 2 on the first page under warranty claim details,  
 3 there's a date that's listed as repair date of  
 4 October 4, 2021. Do you see that?  
 5 A. Where?  
 6 Q. Under warranty claim details and then  
 7 repair date. Do you see that?  
 8 A. I believe so.  
 9 Q. Is that date consistent with your  
 10 testimony that Jacob Willis called you in October of  
 11 2021 to tell you that your tractor had been repaired?  
 12 A. I don't know. I don't think so. I don't  
 13 remember.  
 14 Q. Okay. Let's go to the next two pages,  
 15 AGCO 48 in the bottom right-hand corner. Now, this  
 16 is a declaration from Amy Ganter, an inventory  
 17 analyst of AGCO Corporation, stating that your  
 18 tractor was manufactured by AGCO in China. Do you  
 19 see that?  
 20 A. Yeah, I see that.  
 21 Q. And that is consistent with your  
 22 understanding when you found out that the tractor was  
 23 manufactured in China, right?  
 24 A. I did not know the tractor was made in  
 25 China.

<p style="text-align: right;">Page 154</p> <p>1 Q. Well, at some point you found out, though, 2 right? 3 A. Right. After trying to search into it. 4 Yes. 5 Q. How did you -- how did you learn that the 6 tractor was manufactured in China? 7 A. Probably by searching, I would guess. 8 Q. I want to go to AGCO 51. Do you know of a 9 man named Phillip Conner? 10 A. I don't remember. I don't think so. 11 Phillip? Phillip Conner? 12 Q. This is an e-mail produced to your counsel 13 from Phillip Conner to himself, October 11, 2019. It 14 says, "I spoke with Mr. Eswin on October 6th in 15 regards to the initial complaint about the Trelleborg 16 tire that was damaged." 17 A. Who is this Phillip guy? 18 Q. He is an AGCO employee. 19 A. I honestly -- I do not remember. I'm 20 pretty sure I didn't talk to anybody named Phillip. 21 Q. So you testified earlier that you talked 22 to someone at AGCO about your tire, right? 23 A. Jacob Willis. 24 Q. And you are absolutely sure that it was 25 Jacob you talked to --</p>	<p style="text-align: right;">Page 156</p> <p>1 Q. Do you remember whether or note you picked 2 up the tire? 3 A. I don't remember, but I'm pretty sure I 4 picked it up from Nance. 5 Q. From Nance? 6 A. Yeah. That's my best recollection. 7 Q. And then he says, "Chris and Henry, it was 8 determined that the tire was most likely cut from a 9 three point implement and was not a defective tire." 10 Is this what you were referring to they said that you 11 caused the tire issue instead of -- 12 A. Someone. This is -- this is really hard 13 for me because, you know, it aggravates me and I hope 14 I get a chance to -- to tell the jury this. You guys 15 have done nothing but try to put this on me, make me 16 look bad, put things on me. Beyond me -- what I 17 don't understand is the last time we had evaluation, 18 they told me that I had cut the tire. They had run 19 ballistics on the tire. They accused me of cutting 20 the tire. 21 Have you seen a tractor tire? I'm not 22 trying to be funny to you. Have you seen how big 23 those tires are? Can you imagine trying to cut the 24 tire purposely? You can get a chainsaw, you probably 25 will not cut the tire to the level of what this tire</p>
<p style="text-align: right;">Page 155</p> <p>1 A. One hundred percent. 2 Q. -- about your tire? 3 Do you dispute that it was a Trelleborg 4 tire? 5 A. I don't remember. You're talking about 6 the brand of the tire? 7 Q. Yeah, the manufacturer. 8 A. I can't remember who the manufacturer of 9 the tire was. 10 Q. Well, so do you recall reading in the 11 warranty that the rubber tires -- the original tire 12 manufacturer was responsible for replacement? 13 A. I understand. I mean, I'm not trying to 14 be hard to you guys, but I understand what you mean. 15 But keep in mind, this is a new tractor. 16 Q. So Phillip then goes on to say in this 17 e-mail, "Customer believes that the issue was from a 18 defective tire." Phillip contacted Schneider Tire in 19 Charlotte, who is a dealer for Trelleborg, and asked 20 them to take a look at the damage and determine if it 21 was a warrantable issue. Do you recall talking to or 22 dealing with Schneider Tire in Charlotte? 23 A. Nobody looked. Nobody called. Nobody 24 talked to anybody. The only person I talked to was 25 Jacob Willis.</p>	<p style="text-align: right;">Page 157</p> <p>1 was. It was -- in my experience, the tire was 2 defective. It was splitting apart. 3 So I don't understand. It blows my mind 4 and, quite frankly, it makes me angry for people to 5 assume that I cut the tire or any implement would cut 6 the tire. Implements do not touch the tire. 7 Implements are set to be a specific distance from 8 tires. You cannot touch the tires with any 9 implements. That would be a hazard. That would be a 10 tremendous liability for anybody who sell implements 11 that would cut tires. There's no such thing. 12 Q. But he references a three point implement. 13 Is he referencing the type of connection that the 14 implement uses, a three point hitch? 15 A. No. There is no such thing. But they run 16 ballistics to determine I cut the tire. 17 Q. Who ran ballistics? 18 A. Someone from your... 19 Q. Nance? 20 A. Somebody. 21 Q. Because I don't represent Nance. 22 A. Okay. Well, then the other guys. 23 Q. So then he says, "Friday, October 11th, I 24 called the customer to let him know the information 25 that I had found out." Again, this is Phillip Conner</p>

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1 talking. "He immediately started saying it was not  
2 his fault. He was going to have somebody, whether it  
3 be AGCO or Nance, pay for a replacement tire. To  
4 help smooth the situation, I offered to pay for the  
5 pickup and delivery of the tractor since it was in  
6 the shop for another warranty issue that was covered  
7 under warranty at the same time."  
8 A. Who is this guy?  
9 Q. This is Phillip Conner.  
10 A. I never -- I don't remember talking to any  
11 guy named Phillip. I don't -- I don't remember that.  
12 Q. "Ultimately, the customer became very  
13 upset and said he would be getting his lawyer  
14 involved at this time. We ended the conversation."  
15 A. That's not true. Why would I -- I mean,  
16 that's just definitely not true.  
17 Q. Why isn't it true?  
18 A. It's a tire. I just wanted to fix it.  
19 Why would I -- I mean, we're just starting with this  
20 tractor. I would have never said that.  
21 Q. Okay. Next page, AGCO 52. We'll  
22 represent to you this is another AGCO warranty claim  
23 and you would agree that, again, you had no dealings  
24 with Powell Tractor, right?  
25 A. I'm not sure who they are.

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1 Q. Okay. Have you ever taken any effort to  
2 learn who Powell Tractor is?  
3 A. No.  
4 Q. Okay. Let's go to page 59. This is  
5 October 12, 2019 and this was an amount \$300 paid to  
6 Nance for hydraulic clutches for speed range of  
7 reverser control and they replaced the failed  
8 component. Do you see the note at the bottom of the  
9 claim failure information external comments,  
10 "Approved per e-mail from Phillip Conner."  
11 A. Right.  
12 Q. Do you see that?  
13 Okay. You did not pay Nance Tractor for  
14 any repairs, right?  
15 A. No.  
16 Q. Let's go to AGCO 61. This is an AGCO  
17 warranty claim. At this point, the unit had 184  
18 hours. Do you see that?  
19 A. Yeah.  
20 Q. And the repair date listed is September 4,  
21 2020. Do you see that?  
22 A. Yes.  
23 Q. And the amount AGCO paid for the repairs  
24 was \$3,820.89. Do you see that?  
25 A. Yes.

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1 Q. So far to summarize, and we're in  
2 September of 2020, they have paid for a tire and at  
3 least \$4,200 in repairs?  
4 A. Right.  
5 Q. Okay. Let's go to AGCO 63 and the  
6 warranty notes for this additional failure details  
7 listed. "The customer claimed that a rock was thrown  
8 from a Mack truck which busted the front windshield  
9 out of the tractor while they were on the way to our  
10 shop to get their hydraulic and electrical problems  
11 fixed." And --  
12 A. The customer, me?  
13 Q. Yes. That is what they note you claimed  
14 was a rock was thrown from a Mack truck which busted  
15 the front windshield out of the tractor.  
16 A. They're saying that I called?  
17 Q. No. That's just what you said, I guess,  
18 to Nance. No?  
19 A. This is false.  
20 Q. Okay. But either way, that's at least  
21 why -- is that a possible reason why the windshield  
22 could have broken?  
23 A. I don't know how the windshield was  
24 broken. I don't know why would someone say that I  
25 had any knowledge or involvement with the windshield

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1 broken. In fact, there's an e-mail from Nance --  
2 from Michael Nance, the owner, complaining about the  
3 tractor being in the shop. He makes it no money. He  
4 wants it out of there, but he can't get it out  
5 because one of his employees broke the windshield.  
6 So it's a lot of contradiction on this paperwork.  
7 Makes no sense. And all of that is on you guys. I  
8 had nothing to do with the windshield. I have no  
9 knowledge of that.  
10 Q. That's why we're here today, is to try to  
11 figure out what happened. Okay. Let's go to AGCO  
12 65. This is for the rear lights not working  
13 correctly. Can you tell me about that issue?  
14 A. What do you mean, lights not working?  
15 Q. Well, I'm just reading the additional  
16 failure details. Do you see that on AGCO 65?  
17 A. Yeah. Where is this paper from, though?  
18 Q. So all of these are AGCO warranty claim  
19 details.  
20 A. From?  
21 Q. AGCO.  
22 A. Okay. I have not seen this paper, so you  
23 know. I don't know where this come from. I don't  
24 know. I haven't seen it. So this is new for me,  
25 like, literally.

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1 Q. Well, okay. Fair enough. You never  
2 remember an issue with the rear lights not working?  
3 A. We had a lot of issues, but I don't  
4 remember a rear light not working. That would be  
5 relevant to the problems we're going over, I guess.  
6 Q. Do you dispute that AGCO paid \$684 to  
7 correct rear lights on your tractor?  
8 A. I don't know what they paid. I don't know  
9 any of this.  
10 Q. Let's go to 67 -- AGCO 67. Again, this is  
11 still September of 2020. This record reflects AGCO  
12 paid \$284.87 to repair a loose connection for a fuel  
13 gauge. Do you remember a faulty fuel gauge?  
14 A. No. All those problems are completely  
15 you. So I'm not sure where this come from.  
16 Q. Let's go to AGCO 69. AGCO 69, this report  
17 indicates that the sleeve on the drive shaft was worn  
18 and not holding a bolt. Nance replaced the sleeve  
19 after doing diagnostics. \$305.21. Do you recall a  
20 sleeve issue being repaired?  
21 A. No.  
22 Q. Okay. Next let's go to AGCO 71. This  
23 report reflects the repair of a bleeder screw and  
24 AGCO paid \$46.87 to replace. Do you dispute that?  
25 A. I don't remember any of that. I never --

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1 again, I don't -- I never seen any of this.  
2 Q. Okay. Next page is AGCO 73. And I  
3 believe you testified previously about the hydraulic  
4 system, right?  
5 A. Somehow.  
6 Q. And Jacob Willis said that they were going  
7 to supervise it themselves, right, was your  
8 testimony?  
9 A. When Jacob Willis sent an engineer to my  
10 property to kind of figure out what is wrong with the  
11 tractor, I met David Summer there with a mechanic for  
12 Nance and he proceeded to do some series of tests to  
13 the tractor. He determined that the tractor was not  
14 calibrated properly. He also determined that the  
15 tractor was not up to date. He spoke with the  
16 mechanic and asked him if the hydraulic was flushed  
17 out of the engine or pump, whatever, three times and  
18 the mechanic didn't give no response to him. He then  
19 followed that was the procedure to do that. That's  
20 all I know about flushing anything. But to my  
21 understanding, that was a procedure that they failed  
22 to do, according to David. Which, quite frankly, he  
23 was upset about that.  
24 Q. How much did you pay for your Kubota  
25 tractor?

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1 A. I don't remember. I think that's  
2 somewhere. I don't know off the top of my head.  
3 Q. I haven't seen it anywhere either. Can  
4 you give me a ballpark range?  
5 A. I'll be guessing wrong, but I will say  
6 70-plus, maybe. Because when you buy a tractor --  
7 for some reason when you buy a tractor, you have  
8 to -- the implements -- some implements don't work.  
9 So you have to buy all of it again. That was the  
10 reason why I had to finagle the old bush hog, change  
11 some things, because I didn't want to spend ten  
12 thousands of dollars again to buy another bush hog.  
13 Q. So around \$70,000, you would say?  
14 A. I mean, if you want an accurate number, we  
15 can figure it out. But I don't know.  
16 Q. Okay. Have you taken any efforts to  
17 determine the value of a used Massey Ferguson 4700  
18 series, 2019 model, 335 hours?  
19 A. No.  
20 Q. And you have not attempted to trade in  
21 your Massey Ferguson tractor or tried to get any kind  
22 of value from it, right?  
23 A. After reading this e-mail right here on  
24 the front of the first page, I will be doing wrong to  
25 somebody if I do that. I mean, if you read this all

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1 right here, which we covered in the beginning, it  
2 would be immoral for me to sell or try to sell that  
3 machine to somebody because it's wrong. I couldn't  
4 do that to anybody.  
5 Q. And you noticed -- so you read the first  
6 page and then did you read the next page with the  
7 \$8,800 of work performed, this is AGCO 45, by Powell  
8 to repair and replace the failed components that  
9 Mr. Craft was mentioning?  
10 A. I see it now and I read it. I mean, at  
11 what point do you lose confidence?  
12 Q. I'm trying to figure out what steps you  
13 have taken to reduce your loss. You've talked a lot  
14 today about the loss that you have encountered  
15 because of this tractor.  
16 A. Okay. Well, first, I went and bought me a  
17 new tractor, which I was obligated to do so.  
18 Otherwise, I would have lost thousands of more trees.  
19 So...  
20 Q. So you bought a replacement tractor?  
21 A. Yeah. But, I mean, who has \$60,000 or  
22 \$70,000 to just go and get something? I mean, that's  
23 a lot.  
24 Q. Did you finance the Kubota?  
25 A. The Kubota, yes.

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1 Q. Did you pay it off?  
2 A. Isn't that personal? Do I have to answer  
3 that question?  
4 Q. Yes, you have to answer. Well, your  
5 counsel can tell you.  
6 MR. STUDEMAYER: Go ahead.  
7 THE WITNESS: No. I'm still paying  
8 on the tractor.  
9 BY MR. CARROLL:  
10 Q. And you would agree that as of October of  
11 2021, you knew that you could go pick up your Massey  
12 Ferguson 4700. Jacob Willis told you that, right?  
13 A. He didn't tell me where it was.  
14 Q. But he said it was repaired and ready for  
15 pickup, right?  
16 A. He called me and told me the tractor is  
17 ready. I told him I need to talk to my counsel.  
18 Keep in mind, this is a long time ago from when he  
19 took the tractor. It didn't happen, like, next week  
20 or a month later. This happened a long time. We're  
21 already into counsel. We're already doing things. I  
22 mean, so I can't talk to this guy. So I have to  
23 defer him to him, which that's all it went. No  
24 effort to his lawyers or you guys to him. So it  
25 didn't go nowhere.

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1 Q. Okay. How long is it -- can you tell me  
2 what is the period of time between April of 2021 and  
3 October of 2021? How many months is that?  
4 A. April '21?  
5 Q. April '21 to October '21, how many months  
6 is that?  
7 A. Seven months. Seven or eight months, give  
8 or take, I mean, depending on...  
9 Q. And then from October '21 until today, how  
10 long is that?  
11 A. From October '21 till now?  
12 Q. Uh-huh.  
13 A. I feel like you put me on the spot. I'm  
14 not good with numbers or math or dates.  
15 Q. Two and a half years.  
16 A. Okay.  
17 Q. So you've had two and a half years to pick  
18 up your tractor if you wanted to. You could have  
19 asked where it was.  
20 A. Would you pick up that tractor after all  
21 these things? Will you take that tractor? I hate to  
22 ask you that, but...  
23 Q. I'm saying you have not picked it up in  
24 the last two and a half years, correct?  
25 A. Because I didn't know where it was.

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1 Q. And Jacob Willis told you in April 2021  
2 that tractors depreciate, right?  
3 A. No.  
4 Q. You had a depreciated value?  
5 A. He never told me what it was and that was  
6 in talking based on what I have asked him.  
7 Q. You're a businessman, Mr. Aguilar,  
8 correct?  
9 A. Right.  
10 Q. You are aware of depreciation?  
11 A. To a point, yes.  
12 Q. Okay. So in October of 2021, the tractor  
13 had a certain value. It has since depreciated until  
14 today, right?  
15 A. Today?  
16 Q. It's lost even more value?  
17 A. Today?  
18 Q. Yes.  
19 A. Right. I get that.  
20 Q. You have not tried to pick it up, correct?  
21 You haven't tried to pick it up?  
22 A. No.  
23 Q. As of today, it is on the record that you  
24 know that it is at Powell -- it is at Powell Tractor  
25 in Westminster, South Carolina?

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1 A. Okay. And that would be advice that I  
2 would have to get from my lawyer to pick it up.  
3 Q. I'm justing saying as of today you know?  
4 A. Today.  
5 Q. There is no dispute today?  
6 A. No. I understand that.  
7 Q. You could go pick it up?  
8 A. Now we know. Now.  
9 Q. Okay. But you haven't gone to pick it up  
10 and you think morally you cannot sell that piece of  
11 equipment?  
12 A. I think I'll be doing somebody wrong if I  
13 go ahead and sell the tractor to somebody else that's  
14 going to deal with the problem. I think it's not  
15 right.  
16 Q. If you sold it to a dealership?  
17 A. If I sold it to a dealership, you're  
18 asking me?  
19 Q. (Counsel nods head.)  
20 A. I won't sell that tractor to anybody. I  
21 think it's wrong. I really think it's wrong. I  
22 don't know the answer to that question.  
23 Q. And you think that AGCO should have to pay  
24 for your decision not to try to sell the tractor?  
25 Essentially that's what you're asking?

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1 A. I don't understand that question.  
2 Q. Well, so you won't sell the tractor?  
3 A. Huh-uh.  
4 Q. It's not AGCO's tractor. So what's  
5 supposed to happen to the tractor?  
6 A. I gave those people a choice from the  
7 beginning. Give me a new tractor or pay me my money.  
8 That was very simple. So I don't know why we're here  
9 keep wasting time and money. I did that a long time  
10 ago and they refused to do so. So now you're asking  
11 me to go get this tractor that I wouldn't even sell  
12 to anybody because I don't know -- given all these  
13 problems, I don't think, in my opinion, it's fair to  
14 give to somebody else. I don't think it's right for  
15 that, but I do believe that whoever made this tractor  
16 is responsible for the tractor. AGCO is responsible.  
17 What is a tractor for these people? These are big  
18 guys. This is nothing for them.  
19 Q. Are you familiar -- do you know what a  
20 contract is, right?  
21 A. It depends, I guess.  
22 Q. Do you have contracts in your  
23 landscaping -- your hardscaping business?  
24 A. Yes.  
25 Q. And you give out -- you give a price

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1 quote, right?  
2 A. Yes.  
3 Q. Do you warrant your work?  
4 A. One hundred percent.  
5 Q. For how long?  
6 A. A long time.  
7 Q. How long?  
8 A. If I plant a tree, I will replace a tree  
9 several times. If I do a -- let's say a fancy patio  
10 for you, I will stay behind -- I have gone ten years.  
11 My warranty -- nobody can beat my warranty because I  
12 care for people. I have values and I'm not going to  
13 take your money and just screw anybody. I won't do  
14 that.  
15 Q. Do you have a written warranty?  
16 A. I'm sure, yeah.  
17 Q. You do?  
18 A. I'm sure.  
19 Q. Okay.  
20 A. For my business?  
21 Q. Yeah.  
22 A. I'm sure.  
23 Q. Okay. And you understand, then, that  
24 exhibit -- we talked about Exhibit 3, the AGCO  
25 limited warranty, right? Do you remember talking

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1 about that?  
2 A. Yeah. We talked about that.  
3 Q. Do you understand that the AGCO limited  
4 warranty is a contract between you and AGCO?  
5 A. I guess.  
6 Q. It's just like the warranty in your  
7 business. Just like you warrant your work, AGCO  
8 warrants what they manufacture, right?  
9 A. Right.  
10 Q. And we talked -- can you pull back up to  
11 Exhibit 3 and go down to the second part in the  
12 footnotes. No. 4, can you read that?  
13 A. "In addition to the standard warranty."  
14 Is that the one?  
15 Q. Yes.  
16 A. "The company will repair or replace, at  
17 its option, without charge for parts or labor, during  
18 normal working hours, any device -- any defective  
19 engine, transmission, drive axle casting, and/or  
20 components enclosed within these castings for an  
21 additional 12-month period provided the tractor has  
22 not been used for more than 2,000 hours."  
23 Q. Right. And so repair or replace at its  
24 option, does that mean that AGCO can choose whether  
25 or not to repair or replace? It has to do one of

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1 those two things?  
2 A. I think that's fair to say, but, I mean,  
3 to what point? I feel like they failed to fix it.  
4 They just failed to replace -- to fix the problem. I  
5 think that that goes with them saying, "Okay. I'm  
6 going to be responsible to fix -- to fix it." What  
7 does that mean? That means you're going to fix it.  
8 But when you don't fix it, that means you failed to  
9 fix it. That's what I understand that part. So,  
10 yeah, I'm giving you the chance. And believe me when  
11 I tell you this, I have gone above and beyond to give  
12 them chances and chances to fix my tractor and they  
13 failed and failed and failed. So at what point that  
14 doesn't set with anyone that something is wrong  
15 there. It's not fair. It's not right.  
16 Q. You would agree that the point is that  
17 they agreed to do that for two years or 2,000 miles  
18 -- 2,000 hours, whatever came first?  
19 A. Right. Which the tractor never exceeded  
20 it, though. It doesn't have 2,000 hours. It broke  
21 down way even before the time.  
22 Q. But two years has passed, right?  
23 A. But they failed to fix it.  
24 Q. Well, have you inspected the tractor since  
25 October 2021 when Jacob Willis called you?

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1 A. I gave them plenty of chances to fix the  
2 tractor.  
3 Q. And they did every time.  
4 A. They failed to fix the tractor. That's  
5 the part you and I are not seeing. They failed to  
6 fix the tractor because fixing to me is you fix  
7 something and it doesn't break down again. If this  
8 table is broken, then I fix it. Fixed. If it breaks  
9 again, then I didn't do my job good. You didn't fix  
10 the problem.  
11 That's the way I look at things and that's  
12 just common sense. They failed to fix my tractor. I  
13 don't know what else -- how else to explain that.  
14 And this started way before the 2,000 hours, way  
15 before the time of the warranty. So I don't  
16 understand it.  
17 Q. You haven't told me an instance where  
18 they -- where you told AGCO or told Nance there was a  
19 problem with the tractor and they did not come to try  
20 and fix it. You can't tell me an instance where they  
21 didn't do that.  
22 A. Okay. But at one point do you -- I mean,  
23 do you keep just letting things happen? Because  
24 that's what's happening here. If you read that  
25 e-mail right here -- if you go back to your paper,

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1 this right here says it was in the way for  
2 catastrophe. If I keep letting them do this and  
3 patch it, I would have passed the warranty. I would  
4 have been passed the warranty completely. I would be  
5 out of that and I would be with a broken tractor, out  
6 of thousands of dollars, which I already am. So  
7 this, to me, it was just always walking into a  
8 hole -- into a trap. That's what this is right here  
9 and it's clarified in there by some guy I've never  
10 heard of telling you that right there. You're asking  
11 me did they work on my tractor and they fix it and  
12 they did this. It makes no sense.  
13 Q. So you testified the second to last time  
14 that you talked to Jacob Willis, you e-mailed him.  
15 We read the e-mail and you said, "This has got to  
16 stop. My tractor is having an issue."  
17 A. Uh-huh.  
18 Q. Then you testified AGCO came and picked up  
19 your tractor. Then we saw in Exhibit 11, AGCO 44,  
20 Mike Craft agreed with you there was an issue. It  
21 needed to be resolved. AGCO -- and on the next page,  
22 AGCO 45, paid \$8,800 to fix the issue that you  
23 e-mailed Jacob Willis about on April 21st. Then you  
24 testified that on October 4th, Jacob Willis called  
25 you to tell you the repair had been completed and you

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1 said talk to my counsel and you washed your hands of  
2 it?  
3 A. It's not that simple the way you're  
4 putting it, though. I mean, that's not -- everything  
5 has -- everything worked up in order and the reason  
6 we got to the point is because it broke down so many  
7 times. So it just didn't break down once and I'm  
8 done with you. That's not fair. That's not true. I  
9 mean, I got to the point because enough is enough.  
10 How many more times is this tractor going to be  
11 broken for you guys to -- AGCO failed me by replacing  
12 my tractor with a new tractor. AGCO failed me by  
13 standing behind and saying, "You know what? We  
14 messed up with this tractor. Maybe you got a lemon  
15 or maybe this tractor was assembled in China and they  
16 didn't put it right. We're going to give you a new  
17 tractor. We're going to make it right for you  
18 because, as a customer, you shouldn't have to deal  
19 with that." That's where AGCO failed me. But,  
20 instead, here we are again. So I don't understand.  
21 I mean, it's simple the way you said it, but it's not  
22 simple because we got to the point for all these  
23 headaches, all these problems and aggravation and  
24 loss of money on top of that.  
25 Q. So this is how you -- well, you have sued

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1 AGCO for breach of express warranty, breach of  
2 contract.  
3 A. Not just that. I mean, it's a lot more.  
4 Q. Oh, I know. We went through that. And  
5 I'm focused just right now on this warranty. And  
6 AGCO told you they would repair or replace at their  
7 option and AGCO did exactly what they said they would  
8 do, right, in this express warranty?  
9 A. You may see it that way. I don't.  
10 Q. Well, they agreed to repair or replace.  
11 A. They did not replace.  
12 Q. No. They repaired.  
13 A. The tractor keeps breaking down. How do I  
14 know if I go pick up the tractor now and three months  
15 go by and it breaks down again and then what? Will  
16 you come pay me for my tractor? You see what I'm  
17 saying?  
18 Q. Well, we will never know because --  
19 A. I lost faith on that tractor. I lost  
20 faith on the product because they failed to fix my  
21 tractor numerous times. I hate that I'm showing you  
22 emotion because I don't want -- I'm not trying to  
23 beat you down. I know you're just doing your job,  
24 but I gave them plenty of choices and they failed to  
25 fix my tractor. So how much more do I need to keep

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1 taking? I don't understand this.  
2 Q. Okay. But on the express warranty, you  
3 would agree AGCO could repair or replace at its  
4 option and they decided to repair?  
5 A. Uh-huh.  
6 Q. You didn't give them the option to repair.  
7 You said either refund my money or replace?  
8 A. I gave them plenty of options.  
9 Q. Well, this last time, April --  
10 A. How many times does it need to be the last  
11 time? We're dealing with a limited warranty. We're  
12 dealing with -- obviously they're giving you time.  
13 They're giving you hours. You want me to keep taking  
14 this until we run out of that so that I'm in a -- I'm  
15 in a hole? I gave them plenty of options -- plenty  
16 of times to fix this tractor. I mean, this went back  
17 and forth four or five times and they didn't get it  
18 right.  
19 You're talking about this very specific  
20 last time. Maybe he should have done that from the  
21 beginning, taken it somewhere else. I don't know.  
22 If the tractor would have broke down one time and he  
23 would have fixed it and I'm fine with it and we see  
24 the warranty, we wouldn't be here. I get that. But  
25 he failed to fix my tractor. They failed to fix my

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1 tractor because they couldn't fix my tractor.  
2 Q. But you don't dispute AGCO paid every  
3 single time that Nance repaired it. AGCO paid  
4 Powell. AGCO called you and told you that the  
5 repairs had been made and that's what they told you  
6 they would do in this limited warranty?  
7 A. I mean, that's what you believe.  
8 Q. Well, no. Can you tell me any specific  
9 term that AGCO breached in this limited warranty?  
10 A. All I know is I am not buying a new car  
11 without having some kind of responsibility behind it.  
12 Someone has to be responsible for that. My truck --  
13 brand new truck, GMC, went back to the shop three  
14 weeks ago. They put two new batteries, replaced a  
15 bunch of cables, warranty, no problem. That's how  
16 you fix problems. I don't have anymore problems with  
17 my truck. They didn't do that. They fixed it, came  
18 back, broke down again. So what does that tell you?  
19 They didn't fix the problem.  
20 Then on the e-mail you see here that you  
21 just gave me, it clarified -- tells you right there  
22 that whatever -- all the repairs that they did, all  
23 the attempts that they tried to fix it, they didn't  
24 get it. They didn't get it right because it says  
25 right here it was headed for a catastrophe. So that

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1 tells you that they failed to fix the problem.  
2 Q. That's Nance. Nance failed. AGCO, who  
3 you are suing, AGCO --  
4 A. AGCO because they are responsible for  
5 fixing my tractor. Where they send my tractor is  
6 their problem, not mine.  
7 Q. AGCO says you take it to an authorized  
8 AGCO dealer and AGCO will pay. That's what Exhibit  
9 3, limited warranty, says. You take it to an AGCO  
10 dealer and AGCO will pay for the repairs. That's  
11 what they told you they would do, repair or replace.  
12 So can you tell me any instance where they didn't do  
13 what they said they were going to do in this limited  
14 warranty?  
15 A. I can't because my way of understanding  
16 that is different from yours and I believe it's  
17 different from everybody else. For me fixing  
18 something, you fix it. It's broken, fix it, it's  
19 fixed. There's no more problems up until you are  
20 released from the problem. Which I get what you're  
21 saying, 200 hours warranty. I get it, but they  
22 failed to do that. So they failed me on that,  
23 though. I don't -- I don't understand why. Maybe  
24 I'm the only one that sees it that way. They failed  
25 to do so.

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1 Q. As of October 4th, they told you that they  
2 had, again, done what they said they were going to  
3 do, but you didn't go pick it up?  
4 A. Because it's a little too late for that.  
5 Q. Well, it wasn't too late for AGCO to pay  
6 for it?  
7 A. It's their tractor. It's their  
8 manufacturer. It's their product.  
9 Q. And they did what they said they were  
10 going to do with it. They paid Powell to repair it.  
11 A. I don't think they did. They may have  
12 now. I don't know. But they put too many bandages  
13 on the tractor that I'm not comfortable. I'm just  
14 not. I lost faith on the tractor. I lost faith on  
15 the manufacturer. I just can't.  
16 Q. So you don't want the tractor back?  
17 A. Not that tractor.  
18 Q. Okay. While we're on the subject of  
19 contracts, let's go back to Exhibit 2. Are you  
20 feeling okay? Do you need a break, Mr. Aguilar?  
21 A. I'm good. Thank you.  
22 Q. Exhibit 2. We're going to go to Exhibit A  
23 in Exhibit 2 again. We talked about this earlier,  
24 but I want to make sure. The first page of that  
25 we're talking about the retail installment contract

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1 and security agreement. And, again, on the first  
2 page the buyer is listed as your name and signature,  
3 right, on the bottom?  
4 A. That's correct.  
5 Q. And then the seller's name is Nance  
6 Tractor & Implement, Inc., right?  
7 A. I believe so.  
8 Q. Is that Andy who signed that?  
9 A. I don't know. It appears. I couldn't  
10 tell you.  
11 Q. Okay. And then the other party -- so  
12 those are two contract parties, right? You as the  
13 buyer and Nance as the seller, right, on the first  
14 page? That's what the bottom says in the buyer's  
15 signature block is Eswin Ariel Aguilar -- is it  
16 Pineda?  
17 A. Pineda. That's what it appears to be. I  
18 mean, it's hard to read this, though.  
19 Q. Well, I'll I'm just --  
20 A. I mean -- I mean, and if I knew I would be  
21 in this situation, I would not have signed this. I  
22 would have never agreed to this. I would have  
23 never -- I would never have done that. So just so  
24 you know. So you try to have a little bit of faith  
25 on a product, so you try to possibly overlook

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1 something like this.  
2 Q. Well, AGCO isn't a party to this document.  
3 It's AGCO Finance, LLC, right?  
4 A. AGCO is everything. AGCO is the tractor.  
5 Q. Okay. If AGCO is everything, then why did  
6 you sue three separate people?  
7 A. Because they all three are in. They are  
8 all together. I mean, I don't know -- I don't know  
9 how they run the business. I mean, they all are  
10 together. That's the best way I can describe it to  
11 you.  
12 Q. I mean, I understand how -- what you're  
13 describing. I'm saying -- let's go back to the  
14 example of you're a businessman. When Capital Stone  
15 commits to a project, it is Capital Stone and it is  
16 your name on the line personally, right?  
17 A. Yes, sir.  
18 Q. And then your customer?  
19 A. Yes, sir.  
20 Q. But your wife isn't a party to that  
21 contract, right? She didn't sign it?  
22 A. She's part of the company. She's part of  
23 it.  
24 Q. Okay. What about Emerald Farms? Are they  
25 involved?

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1 A. No. That's a different business.  
2 Q. Okay. So you understand that. There's a  
3 different business even though Emerald Farms does the  
4 trees, right?  
5 A. I guess.  
6 Q. Okay. So Emerald Farms would not be  
7 involved in your Capital Stone -- they wouldn't be a  
8 party to that contract?  
9 A. Okay. But if Emerald Hills Farms sells  
10 trees to some random person, then I have to somehow  
11 be liable for that. I can't sell trees that are not  
12 good. I've got to sell trees that are healthy, that  
13 are good trees.  
14 Q. Well, yeah. So then that person would sue  
15 Emerald Farms and Capital Stone and you?  
16 A. I mean, it depends.  
17 Q. It depends on what?  
18 A. If they're together, I guess. But if  
19 they're not, I guess. I don't know. Listen, I don't  
20 know. Again, I don't know how they run the business  
21 there, but all I can tell you this is AGCO product.  
22 That makes him a problem. So if it's not a problem,  
23 why did he even assume responsibility to fix my  
24 tractor then?  
25 Q. Well, because of this contract, the

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1 limited warranty, Exhibit 3. That's why AGCO is  
2 involved, right? AGCO is all over this document,  
3 right?  
4 A. But if it's not yours, why even bother to  
5 be part of that, then?  
6 Q. But it is. AGCO Corporation manufactured  
7 the product, right?  
8 A. Yeah. It's an AGCO tractor.  
9 Q. Yes.  
10 A. It's AGCO problem.  
11 Q. Yes. And AGCO issued a limited warranty  
12 for those problems and that's this contract?  
13 A. Which they failed to do so.  
14 Q. Okay. But now going back to this  
15 contract, this is for AGCO Finance to finance the  
16 purchase of the tractor, right?  
17 A. (Witness shrugs shoulders.)  
18 Q. So you're familiar with the purchase of  
19 your Kubota tractor. You financed it?  
20 A. Okay.  
21 Q. That was your testimony, right?  
22 A. Right.  
23 Q. Okay. And you're making monthly payments,  
24 right?  
25 A. Right.

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1 Q. Just like this contract says, right?  
2 A. Okay.  
3 Q. And so that contract is your financing  
4 contract, right? This contract doesn't say anything  
5 about replacing or repairing or number of hours.  
6 A. Is this part of this? Is this part of  
7 this?  
8 Q. Yes.  
9 A. Can you read all that?  
10 Q. Yes. I can continue to read it all day.  
11 A. You'll probably get exhausted. You  
12 probably don't want to do that. I can't read that.  
13 Q. You'd be surprised.  
14 A. Well, more power to you because I can't  
15 read this. There's no way I can read this.  
16 Q. Okay. So what I will read to is -- and  
17 you can follow along and tell me if I'm making a  
18 mistake. On the second page and there's paragraph  
19 four that begins, "Assignment Acknowledgments of  
20 Buyer." Do you see that on the fourth right there?  
21 A. Okay.  
22 Q. Do you see, "Assignment Acknowledgments"?  
23 A. Okay.  
24 Q. And if you go down to the -- there's all  
25 caps language that says, "In no case buyer/seller

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1 assignee shall be liable for any incidental or  
2 consequential damages." Do you see that? I'm not  
3 going to read the rest of that sentence, but I want  
4 you to look at the sentence right after the all caps  
5 language, the second page of Exhibit A of Defendant's  
6 Exhibit 2. And it says, "Buyer further  
7 acknowledges." Buyer is you. Would you agree with  
8 that? Yes, buyer is you?  
9 A. I mean, I guess.  
10 Q. "Buyer further acknowledges each of the  
11 following: Assignee," which we know from the first  
12 page is AGCO Finance, LLC, "is not the manufacturer  
13 of the machinery or the manufacturer's agent or an  
14 agent therein. The machinery is of a size, design,  
15 capacity, description, and manufacturer selected by  
16 buyer. Buyer is satisfied with the machinery, is fit  
17 for buyer's purpose. Assignee has no knowledge  
18 or" -- now I will admit that is a hard word to read,  
19 so I'm going to skip that. "Regarding the condition  
20 or suitability of the machinery for buyer's purposes  
21 and assignee has relied upon buyer's warranties,  
22 agreements, and covenants therein."  
23 So that is what that says. This is the  
24 contract. So the manufacturer, you would agree, is  
25 AGCO? That's what you've testified. AGCO

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1 manufactured the tractor?  
2 A. Right.  
3 Q. So AGCO is not a party to this agreement  
4 and you specifically acknowledged that in this  
5 contract?  
6 A. I can't agree to that. I don't -- I'm  
7 not -- I can't agree to that.  
8 Q. Well, you did agree when you signed this  
9 agreement.  
10 A. Yeah. But what options do I -- okay. I  
11 will give this paper to anyone randomly other than  
12 you and myself and I would ask them to sign this, but  
13 they've got to agree to that. I can assure you  
14 that -- I can almost be 100 percent sure that ten out  
15 of ten would not be able to read that. You expertise  
16 as a lawyer is to know these things. I don't as a  
17 customer. I don't -- this is not my trade. This is  
18 your trade. So you know about warranties. You know  
19 about all of this. I don't.  
20 A random person that goes, they're not  
21 going to have -- they're not going to have the time  
22 to read this. They don't know these things. I don't  
23 know what this is. So you expect me to be able to  
24 read this and understand it? You can't even read  
25 these things.

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1 Q. Respectfully, you are a -- you are a  
2 businessman?  
3 A. I understand that. But, I mean, we go  
4 back to the point that, you know, how is it  
5 possible -- how is it a good practice to create a  
6 product that we're just going to shove -- shove to  
7 the client and we're just going to let him deal with  
8 that? How is that a good practice?  
9 Q. That is not a good practice, but that's  
10 not what AGCO did. AGCO issued a limited warranty  
11 and it did exactly what it --  
12 A. That's what they did because they  
13 manufactured a tractor in China and sold it to me  
14 saying that it's made in Georgia, No. 1. No. 2.  
15 Okay. No. 2, then they say that they're going to  
16 stay behind the tractor by fixing it with the  
17 warranty. They failed to fix it. So how can that be  
18 a good practice?  
19 Q. So in your prior testimony you said that  
20 nobody from at AGCO talked to you before you bought  
21 the tractor. So nobody from AGCO told you it was  
22 made in America or China or otherwise. That was your  
23 prior testimony. Do you care to change it now?  
24 A. I don't understand the question.  
25 Q. So you previously told me you talked to

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1 nobody from AGCO before you bought the tractor.  
 2 A. Right.  
 3 Q. Is that still your testimony?  
 4 A. Yeah. I didn't talk to anybody before  
 5 buying the tractor.  
 6 Q. Okay. My questions regarding this  
 7 installment contract are: Is AGCO Corporation -- I  
 8 want you to agree with me that AGCO Corporation is  
 9 not a party to this contract.  
 10 A. You're asking me to agree to something  
 11 that you cannot read. That's my point to you,  
 12 though. So I don't think -- and I'm not  
 13 disrespecting you. I'm just telling you. You asked  
 14 me to agree that even though I signed this document  
 15 here, you ask me to agree that somewhere in here AGCO  
 16 is not involved. You're asking me to agree and you  
 17 cannot read all of this.  
 18 Q. No. What I'm really asking you to agree  
 19 is you've got a signature from you as the buyer on  
 20 the first page. You've got a signature from Nance  
 21 that's buyer on the first page. You go to the third  
 22 page and you've got a signature from AGCO Finance,  
 23 LLC. So you have three signatures here.  
 24 A. Okay.  
 25 Q. You don't have four signatures because you

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1 don't -- you don't have AGCO Corporation signing.  
 2 A. But AGCO is using -- I mean, is working  
 3 with these people there to sell tractors -- their  
 4 tractors.  
 5 Q. Yes. And for that, they issued a limited  
 6 warranty.  
 7 A. It's their tractors. I mean, we -- look,  
 8 I don't know. We can dance around this thing. At  
 9 the end of the day, you're asking me to -- you're  
 10 asking me to agree to something that I cannot agree  
 11 now. Obviously we have this problem and I can't  
 12 agree to that. So I don't know what else makes any  
 13 sense to you. I mean, I'm sorry. I can't.  
 14 Q. Well, you would agree that there are only  
 15 three signatures on this -- or there are three  
 16 parties that signed this document?  
 17 A. Obviously it's only three. We can't find  
 18 four.  
 19 Q. Okay. That's what I needed to know. And  
 20 then going back to Exhibit, B and you can look  
 21 through it, but I see -- and tell me if you see  
 22 something differently. I see the name AGCO Finance  
 23 who received \$150 on each of these transactions.  
 24 A. Right.  
 25 Q. And then I see a list of dealers that

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1 received fees, but I don't see AGCO Corporation  
 2 listed as someone who received fees on any of these  
 3 pages. Do you see?  
 4 A. Either way it's baloney to me.  
 5 Q. Well, that's not my question. My question  
 6 was: Do you see AGCO Corporation? I see Nance. I  
 7 see Powell, Atlantic Southern, Harrington.  
 8 A. I guess what -- I guess what -- I guess my  
 9 confusion is AGCO is for Nance. They're working  
 10 together. They are -- you know, they represent --  
 11 they are representing them.  
 12 Q. Yeah. As a dealership.  
 13 A. That's your product. I mean, not you  
 14 literally. I'm talking about them. So that's you.  
 15 That's the way I look at it.  
 16 Q. But Nance also represents other products.  
 17 Bush Hog, Kuhn.  
 18 A. Maybe. I don't know.  
 19 Q. And then you e-mailed them separately too.  
 20 So they are separate entities.  
 21 A. Well, you can -- I mean, that's just the  
 22 way the world works. I mean, you can't e-mail one  
 23 person, you know. You get an e-mail, she gets an  
 24 e-mail. It's the same company, different people.  
 25 Q. We saw earlier in your e-mails this was

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1 not an AGCO issue. This is a workmanship issue for  
 2 Nance?  
 3 A. I mean, at some point someone has to take  
 4 some responsibility. I mean, isn't that the way it  
 5 works? At some point, someone has to take some  
 6 responsibility. This is an AGCO problem no matter  
 7 how you look at it. They built a machine that is no  
 8 good. Okay? And they failed to fix it and they  
 9 failed to stay right by me as a customer. I don't  
 10 know what else I can say on that.  
 11 Q. Well, AGCO actually did do something and  
 12 they came and picked up the tractor and now you're  
 13 claiming they stole it.  
 14 A. Because they did. Because of the  
 15 definition of you -- your definition of fixing  
 16 something is different from mine. That doesn't mean,  
 17 I mean, you're wrong, I'm wrong, or somebody is  
 18 wrong. I mean, it can -- you can say they fixed  
 19 it -- you can't say that they fixed it when they  
 20 didn't fix it. So my opinion is if they failed to  
 21 fix it, they should replace it, which I gave them the  
 22 choice. From the beginning, I gave them plenty of  
 23 choice. My tractor -- new tractor. It's still their  
 24 product, which to this point I don't want nothing to  
 25 do with Massey Ferguson. Okay? But I still give

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1 them a choice to replace -- give me another tractor  
 2 or give me my money back. They refused to do so. So  
 3 I feel like I gave them plenty of choices plenty of  
 4 times and they failed every single time. They  
 5 failed. And in conclusion, they stole my tractor.  
 6 It's just obvious. You don't see it that way. I  
 7 don't know what else to tell you, but they pretty  
 8 much stole my tractor. That's just the bottom line.  
 9 Q. And then when they told you it was  
 10 repaired and you didn't go try to pick it up, you're  
 11 fine with them stealing your tractor?  
 12 A. I'm not fine with nobody stealing  
 13 anything, just to be clear. I'm not fine with  
 14 anybody stealing my tractor, but they did by failing  
 15 to tell me where my tractor was. We pushed them to  
 16 ask. You guys didn't even know where my tractor was  
 17 until recently.  
 18 Q. But you didn't ask where the tractor was.  
 19 A. But you took my tractor. So you are  
 20 obligated to tell me what's wrong with my tractor.  
 21 Is it not fair to say you are obligated to tell me?  
 22 You go to the doctor. What do you expect from the  
 23 doctor? You expect him to diagnose you and tell you  
 24 what's wrong with you. Okay. Otherwise, you won't  
 25 pay. Simple. That's the reason. It's just common

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1 sense. You took my tractor. Tell me what's wrong  
 2 with my tractor. Tell me what you're going to do.  
 3 Figure it out. But they failed to do so. They  
 4 didn't tell me where my tractor was going. They  
 5 didn't tell me what was wrong with my tractor up  
 6 until, what did you say, eight months or a year.  
 7 Q. October 4th they tell you that -- well,  
 8 you testified October 4th he told you it was  
 9 repaired.  
 10 A. How long, in your opinion, is it enough  
 11 time for you to determine when something is stole or  
 12 not? How long do you think?  
 13 Q. That is not a question for me to answer.  
 14 A. I get it. Maybe I'm not -- I get that.  
 15 Q. So in your scenario, though, what do you  
 16 think would happened if you went to the doctor and he  
 17 said, "Well, I need to look at the test results."  
 18 And before the test results come back, you hire a  
 19 lawyer and sue him for looking at you wrong?  
 20 A. If you hire a lawyer the next day, I guess  
 21 you're wrong. I didn't hire a lawyer the next day.  
 22 Okay?  
 23 Q. Okay.  
 24 A. But if you wait around, you'd be stressed  
 25 as crap. You're not going to get an answer from your

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1 doctor. I tell you that.  
 2 Q. Well, he's not going to talk to you after  
 3 you hire a lawyer, right?  
 4 A. Yeah. But, again, if your doctor don't  
 5 call you in two weeks, I think you'd be worried. So  
 6 there's got to be a limit of time.  
 7 Q. Let's do a little bit of new material.  
 8 (DEF. EXHIBIT 12, AGCO Registration  
 9 Submittal, was marked for identification.)  
 10 BY MR. CARROLL:  
 11 Q. Mr. Aguilar, this was produced by Nance  
 12 when Nance was still in the case before they settled  
 13 and this appears to be a registration submittal for  
 14 your tractor. Any reason to dispute that Nance  
 15 produced this document one way or the other?  
 16 A. Just to be clear, I don't trust any  
 17 documents that come from you guys. Just to be clear.  
 18 Q. I know. But do you have any reason to  
 19 dispute --  
 20 A. Well, I do have reasons, but, I mean,  
 21 I'm --  
 22 Q. Any reason you know of today right now?  
 23 A. Well, there was a date wrong on some  
 24 documents in there. So just to be clear -- I just  
 25 want to be sure we're clear on that.

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1 Q. Are you aware that that -- the date issue,  
 2 specifically what you're referring to, in e-mails was  
 3 addressed to the court earlier this year?  
 4 A. The question is if I agree with the date?  
 5 Q. No. I was asking if you were aware of the  
 6 specific issue you mentioned, the wrong -- the  
 7 incorrectly dated e-mails, that that was resolved  
 8 with the court?  
 9 A. Listen, that probably will be a question  
 10 for him, but it was wrong.  
 11 Q. Are you aware that that's been addressed?  
 12 A. I guess to a point. I don't -- I have no  
 13 choice the accept whatever is happening, but, I  
 14 mean...  
 15 Q. Okay. And according to this document --  
 16 A. I don't think it was an accident, though.  
 17 Q. According to this document, the tractor  
 18 was delivered with two hours. Do you see that?  
 19 A. Yes.  
 20 Q. Is that consistent with your recollection?  
 21 A. When I first bought it, yes.  
 22 Q. Now, did you tell Nance -- do you remember  
 23 at some point if you were going to use the tractor  
 24 for livestock production?  
 25 A. If I told Nance I was going to use the

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1 tractor for livestock?  
2 Q. Yeah.  
3 A. I don't remember that question. I don't  
4 remember that.  
5 Q. And then so on the checklist, Nance says  
6 -- so there's Y's listed. Y's mean yes, assuming,  
7 and then N means no and they have indicated yes to  
8 everything except for the extended warranty purchase.  
9 Do you see that?  
10 A. Yeah.  
11 Q. And you did not purchase an extended  
12 warranty at the time?  
13 A. Yeah. But after the tractor broke down a  
14 few times, not only he agreed to extend the warranty,  
15 but he actually said, "We will give you an enhanced  
16 warranty," which goes -- that's pretty -- my opinion,  
17 the way I understand it, that's like a specific --  
18 Q. Jacob Willis?  
19 A. -- I will take extra care of your dog,  
20 kind of way. I'm not just going to take care of your  
21 dog. I'm going to take extra care of your dog.  
22 That's the kind of way I look at it when he says, "I  
23 want to give you extended warranty -- an enhanced  
24 extended warranty" when my tractor was broken down  
25 first few times.

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1 Q. That was Jacob Willis?  
2 A. Yeah. So, again, why would Jacob Willis  
3 be telling me this if I'm going to have to be dealing  
4 with this?  
5 Q. And you still don't believe it's because  
6 they've issued this limited warranty to you that says  
7 they're going to repair or replace for two years?  
8 A. But, again, they failed to do so.  
9 Q. Well, at least at some point he offered an  
10 extended warranty, right?  
11 A. Yes.  
12 Q. Is there -- for your tractor where the  
13 operator's manual is, is it underneath the seat or is  
14 there a compartment?  
15 A. There is a little compartment on the back  
16 of the seat on the side. More like in the back, I  
17 think.  
18 Q. Do you remember when AGCO picked it up on  
19 April 28th -- the operator's manual was in that  
20 thing. Do you think there were any other documents  
21 in there?  
22 A. I don't remember seeing anything else.  
23 Q. When Andy delivered the tractor, you don't  
24 remember any other documents?  
25 A. (Witness shakes head.)

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1 Q. What about the -- what about the manual  
2 for the bush hog? Where is it?  
3 A. I don't remember, honestly. I mean, it  
4 was -- it was literally quick. I mean, like I said  
5 -- like I stated before, you know, you buy the  
6 tractor and after that, it's almost like done deal.  
7 They don't want to spend no more time with you, which  
8 I get it to a point.  
9 Q. On the retail installment contract, did  
10 you sign that in Nance -- like, at the dealership?  
11 A. Yes.  
12 Q. Okay. You mentioned something about -- so  
13 is there a fence around your property?  
14 A. My property?  
15 Q. Yes.  
16 A. Yes.  
17 Q. And it's gated too?  
18 A. Yes.  
19 Q. Is there, like, a code to get in or are  
20 they motorized gates?  
21 A. Yes.  
22 Q. Is there a code to get in?  
23 A. Yes.  
24 Q. Okay. Did you give Jacob Willis the code  
25 to get in your gate to move the tractor?

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1 A. No. Jacob Willis did not pick up my  
2 tractor.  
3 Q. Who came to pick up your tractor?  
4 A. I have no idea.  
5 Q. Any idea --  
6 A. I don't know who or what come and got my  
7 tractor. Somebody came and got my tractor, but it  
8 was not Jacob Willis.  
9 Q. How did they get in your gate?  
10 A. Somebody -- he must have sent somebody out  
11 there or somebody came out to my property and got the  
12 tractor. If somebody is at the gate, normally if we  
13 see them -- if I'm not at the house, my wife sees  
14 them, she more likely opened the gate because  
15 obviously someone was trying to get in. So I don't  
16 remember, but maybe she did open the gate for someone  
17 to come in and assumed because I have vendors coming  
18 in and out or people come in and drop things, stuff  
19 like. Maybe she had some hay. Maybe he had somebody  
20 coming to pick up hay. So she probably let him in.  
21 I can't remember exactly.  
22 Q. Do you have one or two gates?  
23 A. Two.  
24 Q. Are they both motorized?  
25 A. Yes.

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1 Q. You said you work 15 hours or so a day.  
2 Do you work -- are you generally away from home  
3 during the day?  
4 A. No. I mean, like you start working.  
5 You're just working.  
6 Q. But you're not, like, up on a --  
7 A. I'm not leaving at 5:00 --  
8 Q. -- job site?  
9 A. -- and coming back at 8:00. That's not  
10 what I meant.  
11 Q. Okay. So you are generally at home?  
12 A. I would think that 50 percent of the time  
13 I'm at home.  
14 Q. But you were not home the day they came  
15 and picked up the tractor?  
16 A. No. I would have been home if I would  
17 have known. I would have made an effort to be home  
18 because that is a big deal to me.  
19 MR. CARROLL: Does anybody need a  
20 break?  
21 (Off the record.)  
22 (DEF. EXHIBIT 13, AGCO's First  
23 Document Production, Bates stamped AGCO 00001-00041,  
24 was marked for identification.)  
25 BY MR. CARROLL:

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1 Q. Mr. Aguilar, this is AGCO's first document  
2 production in this case and I want to revisit an  
3 issue that you just mentioned about the e-mail dates.  
4 And just to shortchange it, the first thing you have  
5 -- your counsel had issue with, I believe, was AGCO  
6 20.  
7 A. Yes.  
8 Q. And at the top I believe there's the first  
9 value archived, right?  
10 A. Right.  
11 Q. At the top of AGCO 20, there's an archived  
12 value from Willis, Jacob G. and then sent Thursday,  
13 July 8, 2021 at 4:07 p.m., right? And there's a "To"  
14 and then "Subject" and "Sensitivity." And are you  
15 familiar with Outlook?  
16 A. No.  
17 Q. Okay. I'll represent to you that Outlook  
18 is a Microsoft app -- application that, among other  
19 things, operates to organize e-mails. Am I correct  
20 in remembering that the issue is this e-mail was not  
21 actually sent on July 8, 2021, but much earlier in  
22 January, the e-mail from Jacob?  
23 A. I believe so.  
24 Q. And then are you aware that we  
25 investigated your allegation of misdating the

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1 e-mails? Are you aware of that?  
2 A. Are you asking if I'm aware that you guys  
3 did what?  
4 Q. Looked into this issue of the date on the  
5 e-mail. Are you aware of that?  
6 A. Yes.  
7 Q. Okay. And it was discovered that July 8th  
8 was the date that this e-mail was forwarded to me?  
9 A. I guess.  
10 Q. Okay. But that that issue has --  
11 A. If that's what you guys want to call it,  
12 yes. I mean, if that's what you guys concluded. I  
13 don't know who concluded this okay, though.  
14 Q. Okay.  
15 A. So I think it's funny, my point to you,  
16 though. It looks just very, very, very funny.  
17 Q. But then other than the -- other than the  
18 date up here at the top, there's nothing else  
19 different between these e-mails?  
20 A. Well, I mean, not that I'm aware of. I  
21 mean, you see all these papers in here. You have  
22 thousands of pages. I can't keep up with all the  
23 stuff.  
24 Q. Now, let's go to -- let me make sure there  
25 was nothing else in here. I'm done with this, then.

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1 Let's go back to Exhibit 2, paragraph 139, which is  
2 on page 17.  
3 A. Page what?  
4 Q. Seventeen. In paragraph 139 you say,  
5 "AGCO misled the plaintiff concerning its ability to  
6 cure the defects in the tractor and strung the  
7 plaintiff along for over two years while its warranty  
8 expired, depriving the plaintiff of the benefit of  
9 his bargain." Is that paragraph essentially saying  
10 that AGCO didn't do what it was supposed to do under  
11 this agreement?  
12 A. I would think so. Yeah. Because, you  
13 know, it's almost like you're buying time just until  
14 my warranty runs out.  
15 Q. Okay. And then paragraph 140, AGCO  
16 included contractual provisions in its retail  
17 installment contracts. You raised this issue -- the  
18 retail installment contract issue in your first  
19 complaint, right?  
20 A. Right.  
21 Q. And then paragraph 141, breached its  
22 express warranty by failing to repair the tractor  
23 despite five attempts to do so, selling the plaintiff  
24 a lemon. That is, again, you're asserting a claim  
25 against AGCO based on the limited warranty. They

<p style="text-align: right;">Page 206</p> <p>1 didn't do what they were supposed to do under the 2 limited warranty, right? That's what that paragraph 3 141 -- 4 A. I think so. 5 Q. -- is saying? 6 And then 142, AGCO has allowed its 7 authorized dealers to charge the administrative fees 8 for the sole purpose of generating additional 9 revenue. You raised this issue on the administrative 10 fees in your first complaint? 11 A. Right. 12 Q. Okay. And then AGCO engaged in fraud by 13 fabricating discovery. Is that allegation 14 specifically related to the e-mail date issues? 15 A. I mean, that adds onto the -- I mean, 16 that -- I mean, yeah. 17 Q. Let's do this. We talked about your -- in 18 Exhibit 10, I asked you if you had those pictures 19 still in color, right? The pictures we looked at in 20 Exhibit 10? 21 A. Yeah. 22 Q. You didn't give me those pictures in 23 Exhibit 10, right? 24 A. You're asking me I didn't give you 25 pictures?</p>	<p style="text-align: right;">Page 208</p> <p>1 clearly says that they were trying to show that they 2 had to reach out to me or communicated with me or 3 shared some kind of information with me and put the 4 date on it to justify that they had tried to do 5 something early on. That's what that e-mail clearly 6 says. And, to me, that's very funny. It's just very 7 suspicious. 8 Q. Is it suspicious to you that I didn't get 9 color photos? 10 A. No. That's -- that's -- we'll get you 11 colors. 12 Q. Just like we got you the correct e-mails? 13 A. We can get you -- there are color photos 14 in there. Not all of it, but there are color photos 15 in there. I can show you color photos now on my 16 phone, if you want me to. There's -- there's no 17 hiding. You can't compare color photos with that. 18 That's just different things. Because color is just 19 only going to show -- that's irrelevant to that, 20 though. That's not fair for you to say that, compare 21 one to the other. 22 MR. CARROLL: Do you have any 23 questions, Ryan, follow-up questions? 24 MR. STUDEMAYER: I do. 25 MR. CARROLL: Okay. I'll go ahead</p>
<p style="text-align: right;">Page 207</p> <p>1 Q. Not in color, right? 2 A. No. I mean, but, you know, we will 3 provide -- I guess we will provide that to you. 4 Q. Okay. So it is possible that an issue 5 with discovery could just be a mistake, an oversight, 6 right? 7 A. No. That misstates -- that's very -- I 8 don't -- I mean, I don't buy that. Who did this 9 e-mail anyway? Was it you? Was it -- I'm not trying 10 to be funny. 11 Q. Remember, I can't answer questions. 12 A. Okay. Well, I'm sorry. I think that that 13 was a very specific date, very specific e-mail, and 14 it was -- the e-mail was intended to show that this 15 guy, Jacob Willis, called me to tell me that the 16 tractor was ready when the tractor was not even far 17 from being ready. It was -- it was -- that's not 18 even accurate at all. So someone took the time to 19 put a wrong date on that e-mail to show that they're 20 making an effort to call me about my tractor. 21 Q. Okay. But the e-mails we looked at, they 22 weren't talking about your tractor being ready, were 23 they? 24 A. It said something about notifying me about 25 something. I'm not sure of the specifics, but it</p>	<p style="text-align: right;">Page 209</p> <p>1 and turn him over to you, then. 2 EXAMINATION 3 BY MR. STUDEMAYER: 4 Q. Mr. Aguilar, are you prepared to answer a 5 few questions from me? 6 A. Sure. 7 Q. I appreciate you being patient with us. 8 You've talked a good bit today about a gentleman 9 named Jacob Willis. Do you trust Jacob Willis? 10 A. Not at all. 11 Q. Do you believe anything that Jacob Willis 12 tells you? 13 A. No. 14 Q. Did you feel that way the last time you 15 spoke to him on the phone? 16 A. Yes. 17 Q. You've been told today that your tractor 18 has been repaired and is at Powell Tractor right now. 19 Do you really believe that your tractor is as good as 20 new right now? 21 A. No. That's -- that's -- no. I don't 22 believe it. 23 Q. Did you -- 24 A. Given -- 25 Q. I'm sorry.</p>

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1 A. Given the circumstances that we went  
2 through all this and papers -- I mean, hundreds of  
3 papers showing all the repairs and what people have  
4 done to my tractor, I mean, I don't think there's  
5 anyone that can agree with you on that. And that's a  
6 very fair statement. Any farmer that you ask that  
7 has owned a tractor will laugh at you when you show  
8 him all this and you tell him that this tractor is  
9 good as new. And that is a fair statement there.  
10 Q. Did you agree to give your tractor back to  
11 AGCO for free?  
12 A. No.  
13 Q. So you didn't agree to give the tractor  
14 back to AGCO in exchange for nothing?  
15 A. I did not agree to that.  
16 Q. Would you agree if you allow someone, even  
17 with permission, to take something that belongs to  
18 you that you paid for and they don't return it in a  
19 reasonable time -- in a reasonable amount of time  
20 that it is still stealing?  
21 A. Yeah. That's what we talked about early  
22 on. At what point do you classify that as stealing?  
23 Q. Okay. Well, if somebody offers to give  
24 you your property back after taking it for six  
25 months, did they still steal it six months ago?

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1 A. I believe so.  
2 Q. Okay. Supposing that Powell Tractor will  
3 actually release the tractor to you, do you think  
4 it's fair for you to have to travel to Westminster,  
5 South Carolina to go pick it up?  
6 A. No, it's not.  
7 Q. Do you have the equipment necessary to go  
8 do that even if you wanted to?  
9 A. I don't -- I don't think I do.  
10 Q. Do you know where Westminster, South  
11 Carolina is?  
12 A. I have no clue.  
13 Q. Do you know how far away it is from your  
14 house?  
15 A. Not -- no. I mean, if I Google it, I  
16 would know where it is, but no.  
17 Q. Did Jacob Willis tell you that the tractor  
18 was ready?  
19 A. When he called me he said that the tractor  
20 was fixed, but I told him that I needed to -- he  
21 needed to talk to my counsel.  
22 Q. Did he tell you where it was?  
23 A. No.  
24 Q. Did Jacob Willis tell you that the tractor  
25 was ready to be picked up?

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1 A. I think he said it was ready -- the  
2 tractor is ready, but that's all he said. Because,  
3 again, I told him he needed to talk to my counsel.  
4 Q. When you last spoke to Jacob Willis, had  
5 you already ordered the Kubota tractor at that point;  
6 do you remember?  
7 A. Yes.  
8 Q. Okay. Speaking of, does the Kubota  
9 tractor work?  
10 A. Yeah, it works.  
11 Q. Have you had any major trouble with the  
12 Kubota tractor?  
13 A. Zero.  
14 Q. Let's suppose you did go and pick up that  
15 tractor when Jacob Willis called you, do you think  
16 the tractor would have worked for very long?  
17 A. Given the circumstances what I've gone  
18 through, no way. I mean, I can't expect any better  
19 from after all of that. I have no confidence.  
20 Q. You may have gained some perspective on  
21 this question today, but I'll ask it. Do you agree  
22 that you need a lawyer to represent you in this case?  
23 A. Yeah.  
24 Q. Now, you knew by the time that you had  
25 hired us that there was some kind of warranty

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1 involved in this case?  
2 A. Yes.  
3 Q. In your free time, do you spend any of it  
4 reading warranties?  
5 A. No.  
6 Q. You've been told today that a warranty is  
7 a contract. Exhibit 3, if you could get that in  
8 front of you, I want to ask you if you had ever seen  
9 it before you hired us to represent you?  
10 A. No. That's what, you know -- this is the  
11 first time I see it.  
12 Q. Is it fair to say that you've been held to  
13 account for a contract you didn't physically have  
14 with a party you had never heard of until months or  
15 years after you bought the tractor?  
16 A. That's accurate, actually.  
17 Q. Did you hire us to determine what was  
18 covered under this limited warranty?  
19 A. Yes.  
20 Q. Have you determined that AGCO gave you a  
21 powertrain warranty for two years and 2,000 miles?  
22 A. Yes.  
23 Q. Have you determined that AGCO warranted  
24 that the tractor was free of defects and materials  
25 and workmanship?

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1 A. Yes.  
2 Q. But the tractor had those defects, didn't  
3 it?  
4 A. And more, yes.  
5 Q. Nance, an authorized dealer of AGCO, as  
6 well as AGCO itself, attempted to fix the tractor on  
7 a number of occasions, didn't they?  
8 A. That's correct.  
9 Q. Did they ever really fix the tractor?  
10 A. No.  
11 Q. In fact, didn't you testify earlier that  
12 the tractor was spending more time in the shop than  
13 on your property?  
14 A. That is correct.  
15 Q. So AGCO didn't really honor the warranty,  
16 not if they couldn't repair the tractor, right?  
17 MR. CARROLL: Objection.  
18 THE WITNESS: That's correct.  
19 MR. STUDEMAYER: Do you need to state  
20 the grounds for your objection?  
21 MR. CARROLL: I didn't think we were  
22 supposed to.  
23 MS. SPIRES: Form.  
24 MR. STUDEMAYER: That's fine. He can  
25 still answer?

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1 MR. CARROLL: Yeah.  
2 BY MR. STUDEMAYER:  
3 Q. Okay. What's your answer? I'm sorry.  
4 A. I don't remember the question.  
5 Q. Okay. Let's do this again. So AGCO  
6 didn't really honor the warranty, not if they  
7 couldn't repair the tractor, right?  
8 A. That's correct.  
9 Q. Let it be noted that there was an  
10 objection to the form.  
11 Let me ask you this: Have you ever  
12 formerly studied the law?  
13 A. No.  
14 Q. Okay. Let's look at Exhibit 2. It's the  
15 fourth amended complaint. Do you remember we looked  
16 at this today?  
17 A. Okay.  
18 Q. Did you authorize me to draft this  
19 complaint on your behalf?  
20 A. Is that No. 2?  
21 Q. Yes.  
22 A. Yes.  
23 Q. So you did authorize me to draft this  
24 complaint on your behalf?  
25 A. Yes.

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1 Q. Do you agree that everything that I  
2 drafted in this complaint was accurate or at least,  
3 you know, in as earnest attempt to be accurate as  
4 possible?  
5 A. Correct.  
6 Q. Now, you bought the tractor, was it 2018  
7 or 2019? About five years ago. Does that sound  
8 right?  
9 A. Yes.  
10 Q. In the last five years, have you forgotten  
11 some things?  
12 A. Oh, I forgot a lot.  
13 Q. Okay. So even though you mean to be as  
14 accurate and truthful as possible, is it possible  
15 that dates can sometimes get mixed up and --  
16 A. For sure.  
17 Q. -- and facts can become confusing?  
18 A. Yes.  
19 Q. All right. You've said today that you  
20 don't want the tractor back. Now, is that because  
21 you don't think it will work reliably?  
22 A. Yes. I lost faith in the tractor. And I  
23 feel like if get the tractor back and it's just going  
24 to outrun the warranty. According to what we  
25 discussed today, the warranty has already ran out.

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1 So I would be really on a gambling deal with this  
2 tractor. And given the circumstances of being --  
3 spending more time in the shop than me, I don't want  
4 the tractor. So those are the reasons why. I mean,  
5 it's very, very -- you can't ask me to trust  
6 something that has failed and failed.  
7 Q. And I believe you also expressed today  
8 some hesitation about selling it to a third party  
9 because the same thing might happen; is that correct?  
10 A. One hundred percent. I won't do that to  
11 anybody.  
12 Q. Okay. Let me ask you this: Based on your  
13 knowledge and experience with this tractor, do you  
14 think it's worth much of anything anyway?  
15 A. I couldn't -- if -- if -- if I tell  
16 someone what has been done to this tractor, they  
17 won't buy it. So I don't know what that tells you.  
18 Q. Let me ask you this: For what price would  
19 you buy that tractor back?  
20 A. I won't buy it. I won't buy the tractor.  
21 Q. What if I sold it to you for \$5, would you  
22 buy it back?  
23 MR. CARROLL: Object to the form.  
24 BY MR. STUDEMAYER:  
25 Q. You can still answer.

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1 A. I mean, I'd be buying a problem. I mean,  
2 that's what all of this says. I'd be buying a  
3 problem. Why would someone buy a problem? That's a  
4 fair answer, I guess.  
5 Q. Earlier today, we're talking still about  
6 Exhibit 2, this fourth amended complaint, you were  
7 asked about a tort called civil conspiracy and we've  
8 also talked about an administration fee that you paid  
9 when you entered into the retail installment  
10 contract. Do you recall that?  
11 A. Yes.  
12 Q. Okay. Now, that retail installment  
13 contract that I'm referring to is actually an  
14 exhibit. I think it's Exhibit A to the complaint,  
15 which is itself Exhibit 2 in this deposition. So I'm  
16 going to turn to that and I'd like you to do the same  
17 with your copy, please.  
18 A. What page is that?  
19 Q. Right there. Now, can you find on this  
20 page where the administration fee is?  
21 A. I mean, now that we may be looking at it  
22 thoroughly, maybe I find it. Now we're looking for a  
23 specific issue, I guess, yeah. But, at that time, I  
24 don't think I did.  
25 Q. So you don't recall if you noticed it or

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1 not at the time?  
2 A. No. I mean, no.  
3 Q. Did you know what this fee was for?  
4 A. No.  
5 Q. Did anyone tell you what it was for?  
6 A. No.  
7 Q. However, you've been sitting here today,  
8 do you think you had any choice when it came to  
9 whether or not to pay this administration fee if you  
10 wanted to buy the tractor?  
11 A. I don't think I -- I don't think I was  
12 given the choice and I don't think -- I mean, I think  
13 I was -- I had no choice to pay. If I want this  
14 tractor, that's what I had to pay.  
15 Q. All right. Now, we've established that  
16 this is, in fact, your name and signature in the  
17 bottom left corner of this first page of the retail  
18 installment contract. Do you agree?  
19 A. That's correct.  
20 Q. Okay. Now, did you sign this contract  
21 anywhere else on page 2 or page 3, perhaps?  
22 A. No.  
23 Q. Did you initial either of those pages?  
24 A. No.  
25 Q. Did you read any of those pages?

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1 A. You can't read that. No.  
2 Q. Well, that was actually going to be my  
3 next question. I was going to ask could you read it.  
4 And your answer?  
5 A. No. I can't read that.  
6 Q. Did anybody attempt to read it to you?  
7 A. No.  
8 Q. Did anybody tell you to look at it?  
9 A. No.  
10 Q. Okay. So even though you signed the first  
11 page, is it correct, then, that you didn't know what  
12 you were agreeing to on page 2; is that correct?  
13 A. That's correct.  
14 Q. And I think we've already been over this,  
15 but I want to confirm. You did not have a copy of  
16 Exhibit 3, which is the limited warranty, until after  
17 you had hired us to represent you; is that correct?  
18 A. That's correct.  
19 Q. Now, you were asked a few times about your  
20 business, Capital Stone. Is that an LLC?  
21 A. Yes.  
22 Q. That stands for Limited Liability Company,  
23 right?  
24 A. Correct.  
25 Q. Okay. So Capital Stone, LLC and

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1 Eswin Aguilar do, in fact, file tax returns, don't  
2 they?  
3 A. Yes.  
4 Q. You testified earlier that you purchased a  
5 bush hog with the Massey Ferguson tractor from Nance;  
6 is that correct?  
7 A. Yes.  
8 Q. And, again, I don't want to characterize  
9 your testimony. You tell me. My understanding was  
10 that you said it was sold as a package deal; is that  
11 correct?  
12 A. That's correct.  
13 Q. Okay. But that bush hog wasn't compatible  
14 with the Kubota tractor, was it?  
15 A. No.  
16 Q. Okay. And when did you order the Kubota  
17 about?  
18 A. I don't know a specific time or date, but  
19 that was after I had seeked counsel. Months into  
20 that. I don't remember exactly, but months into it.  
21 Q. And did it take months for that Kubota to  
22 arrive?  
23 A. Yeah. I needed a specific tractor, so I  
24 had to order the tractor.  
25 Q. So is it fair to say that you were without

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1 a reliable tractor for a number of months?  
 2 A. Oh, for sure. Definitely.  
 3 Q. And I want to be specific. I'm talking  
 4 about the period from April 28, 2021 onward after  
 5 AGCO had picked it up for the last time. You were  
 6 without a tractor for a substantial period of time?  
 7 A. That's correct.  
 8 Q. All right. Now, we've been over this a  
 9 number of times as well. Under the limited warranty,  
 10 AGCO warranted that it would repair or replace. Did  
 11 AGCO sufficiently do either of those things?  
 12 A. No, no, no.  
 13 Q. Do you think AGCO only purchased an  
 14 extended and enhanced warranty because they knew they  
 15 hadn't honored the base warranty?  
 16 MR. CARROLL: Object to the form.  
 17 You can answer.  
 18 BY MR. STUDEMAYER:  
 19 Q. You can answer.  
 20 A. I don't know what their intentions were,  
 21 but they only offered me that because I pushed them  
 22 onto something in return because it's just too many  
 23 times the tractor breaking down.  
 24 Q. Am I correct in my understanding that at  
 25 some point, even before you obtained a copy of

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1 Exhibit 3, the limited warranty, that you had been  
 2 told any time the tractor broke down, you had to  
 3 transport it to an AGCO dealer in order for it to get  
 4 fixed?  
 5 A. Yeah. I didn't realize up until when the  
 6 tractor start breaking down, which it was fairly fast  
 7 because it happened right after I bought it, that  
 8 apparently there is a sticker on the tractor which  
 9 is -- in my case, in my tractor, they decided to put  
 10 it right there with the arms of the loader. I don't  
 11 know if it was intentional, but it was high from you  
 12 seeing it. The only time you could see it is by you  
 13 lifting the loader so you can see that in there.  
 14 Q. And Nance is an authorized AGCO dealer,  
 15 aren't they?  
 16 A. Yeah.  
 17 Q. How far away is Nance from your property?  
 18 How long does it take to get to Nance?  
 19 A. Give or take, 30 minutes, 40 minutes.  
 20 Q. Do you know where Clemson, South Carolina  
 21 is?  
 22 A. I have a very good idea.  
 23 Q. Okay. If I were to represent to you that  
 24 Powell Tractor is a little beyond Clemson, South  
 25 Carolina and I told you you had a choice between

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1 taking your tractor every time it broke down to Nance  
 2 or to Powell Tractor, where would you take the  
 3 tractor?  
 4 A. Obviously the closest place to me.  
 5 Q. Okay. All right. Now, I just want to  
 6 turn briefly back to the retail installment contract,  
 7 which you still have in front of you. You pointed  
 8 out earlier that we lawyers are in the business of  
 9 reading these sorts of documents and interpreting  
 10 them and drafting them, even. So maybe we're a  
 11 little better at guessing what these things say, but  
 12 I'm going to ask you to read me as much as you can of  
 13 the paragraph that I believe is No. 5. It's going to  
 14 be after the one that opposing counsel read to you.  
 15 Can you read this one right here? Read as much of  
 16 that as you can to me.  
 17 A. I mean, I'm not trying to be funny, but I  
 18 don't think I can read that.  
 19 Q. Any of it? Do you see a No. 5?  
 20 A. No. I thought it was No. 1. I mean,  
 21 seriously.  
 22 Q. Now, I want to be clear. You're not okay  
 23 with AGCO stealing your tractor, right?  
 24 MR. CARROLL: Object to form. You  
 25 can answer.

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1 THE WITNESS: No. I mean, I don't  
 2 think nobody is.  
 3 BY MR. STUDEMAYER:  
 4 Q. Is that one of the reasons that you filed  
 5 this lawsuit?  
 6 A. Yes.  
 7 Q. Okay. Now, is it your understanding that  
 8 we did ask where the tractor was in discovery?  
 9 A. Correct.  
 10 Q. Okay. Is it your understanding that AGCO  
 11 has previously responded that they didn't know?  
 12 A. Correct.  
 13 Q. Is it your understanding that this answer  
 14 didn't change until last fall?  
 15 A. That's correct.  
 16 Q. This is going to be in Exhibit 13. I  
 17 believe that starts with this document. It's  
 18 actually going to be 10. My apologies. Exhibit 10.  
 19 You were asked to look at an e-mail. Let's see.  
 20 It's going to be numbered 0051. Can you turn to that  
 21 document for me, please?  
 22 A. What page is it?  
 23 Q. 0051. It's up here in the top right  
 24 corner.  
 25 A. 0051?

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1 Q. Yes, sir. Okay. Now, earlier you were  
2 asked about that e-mail that's in the middle of the  
3 page. It's dated on Thursday, October 1, 2020 at  
4 10:02 p.m., Eswin Aguilar. Do you see that?  
5 A. Yes.  
6 Q. Now, when you sent this e-mail October 1,  
7 2020, did you have a copy of the limited warranty  
8 yet?  
9 A. I don't think. No. I don't think so.  
10 Q. Okay. So, again, this document that's  
11 been used in this deposition today as Exhibit 3, you  
12 hired us and we obtained a copy of this document for  
13 you; isn't that correct?  
14 A. That's correct.  
15 Q. Before that, had you ever seen it?  
16 A. No. No, I haven't seen it.  
17 Q. Now, this case was filed in 2021. This  
18 e-mail was sent in October of 2020; isn't that  
19 correct?  
20 A. I believe so.  
21 Q. Okay. So when you're referring to  
22 workmanship problems, you're not quoting a warranty  
23 that you've never seen before, are you?  
24 A. No.  
25 Q. Okay. In fact, you can't really be

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1 referencing this document at all if you've never seen  
2 it; isn't that right?  
3 MR. CARROLL: Object to form.  
4 THE WITNESS: That's correct.  
5 BY MR. STUDEMAYER:  
6 Q. So when you said, "Not sure what AGCO has  
7 anything to do with this," you weren't saying that  
8 this document was not in effect, were you?  
9 MR. CARROLL: Object to form.  
10 THE WITNESS: That's correct.  
11 BY MR. STUDEMAYER:  
12 Q. Okay. This is the time I want you to  
13 please turn to Exhibit 13. I was mixed up earlier.  
14 I apologize for that for muddying up the record.  
15 Exhibit 13, the page number is going to say AGCO  
16 00020. You were asked about this e-mail as well  
17 earlier. We're going to talk about the e-mail that's  
18 on the top half of the page. Okay?  
19 A. Okay.  
20 Q. All right. Now, who does it say that this  
21 e-mail is from?  
22 A. This is Jacob Willis.  
23 Q. Who does it say that this e-mail is to?  
24 A. Me, Eswin Aguilar.  
25 Q. Do you see Mr. Carroll's name anywhere on

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1 this e-mail?  
2 A. Mister who?  
3 Q. Mr. Carroll. The man sitting across from  
4 you.  
5 A. No.  
6 Q. And what is this e-mail dated?  
7 A. It says there July 8, 2021.  
8 Q. Now, we've been talking about the impact  
9 of this e-mail today and it being misdated. So I  
10 want to briefly go over the contents of this e-mail.  
11 In fact, in this e-mail, didn't Jacob Willis promise  
12 that your tractor was going to be delivered to you  
13 that afternoon?  
14 A. That's what it says.  
15 Q. Okay. Does it also express hope that you  
16 would find the condition of the tractor to be to your  
17 satisfaction?  
18 A. That's what it says.  
19 MR. STUDEMAYER: I have no further  
20 questions, but Mr. Carroll might. So please answer  
21 them.  
22 MR. CARROLL: Yes.  
23 REEXAMINATION  
24 BY MR. CARROLL:  
25 Q. Mr. Aguilar, do you know how much you have

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1 paid your attorney to date?  
2 A. Not off the top of my head. I could tell  
3 you it is more than \$100,000. I don't know if that  
4 matters.  
5 Q. Do you know if you're on a contingency fee  
6 arrangement with your attorney?  
7 A. No.  
8 Q. Did you sign an engagement letter with  
9 your attorney?  
10 A. I believe so. I'm not sure, but I think  
11 so.  
12 Q. Going back to Exhibit 2, the retail  
13 installment contract. I believe your testimony was  
14 you could not read page 2. Is what is in front of  
15 you the actual retail installment contract you signed  
16 at Nance?  
17 A. I'm sorry. I blanked for a minute. I was  
18 trying to remember. I know I answered the question  
19 about signing -- the previous question. I don't  
20 remember. But, I mean, we can find out whether we  
21 did or not.  
22 Q. Would you agree with me that it is a copy  
23 of what you signed, though? It's not the original  
24 document?  
25 A. Yeah.

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1 Q. It's a copy because it was filed with the  
2 court, right?  
3 A. Right.  
4 Q. And if we go back to the first page of the  
5 retail installment contract, the bottom right-hand  
6 corner of it, if you want to pull it up. We're in  
7 Exhibit 2. Bottom right-hand corner -- very bottom  
8 right-hand corner, what does it say? Do you see what  
9 it says?  
10 A. You're asking me what it says in the  
11 bottom corner?  
12 Q. Yeah.  
13 A. I believe it's somebody's signature.  
14 Q. No, no. Past that. Down there at the  
15 very bottom.  
16 A. Somebody's name.  
17 Q. No. Past that too. At the very bottom.  
18 A. You're talking about the page number?  
19 Q. Yes. And then if you turn to the next  
20 page, is that same -- it also has a page number,  
21 right, the next page of Exhibit A?  
22 A. I guess so.  
23 Q. And then on the next page, there's also a  
24 page number?  
25 A. Correct.

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1 Q. And if we go back to the first page, would  
2 you agree with me that that page number is page 1 of  
3 3? Is that what it says?  
4 A. Page 1 of 3?  
5 Q. Yes.  
6 A. I mean, I guess, you -- yes. You can  
7 conclude that. Yes. I get it.  
8 Q. And you have no idea how many times this  
9 agreement has been copied or maybe faxed or  
10 transmitted before it was printed and attached to  
11 your fourth amended complaint, right?  
12 A. I'm sure we have original paper that we  
13 got from them.  
14 Q. Do you?  
15 A. At some point. I mean, we have this.  
16 Q. Okay. Have you taken any efforts to find  
17 that document?  
18 A. To find...  
19 Q. The original?  
20 A. This page right here?  
21 Q. Yes.  
22 A. I don't know. I don't think I understand  
23 that question. I mean, for what purpose? It would  
24 be the same paper.  
25 Q. Well, right. Is it possible that the

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1 original one could have been easier to read?  
2 A. I don't think it is.  
3 Q. Okay. When you look at Exhibit 3, which  
4 is the limited warranty, you would agree with me that  
5 Exhibit 3 is easier to read than exhibit -- than the  
6 retail installment contract, right?  
7 A. It's fair to say. Yes.  
8 Q. Would you agree with me that it is  
9 possible that the same font size is used in both  
10 agreements if we were to see the original retail  
11 installment contract?  
12 A. I don't understand that question.  
13 Q. It was a bad question. We'll move on.  
14 Let's go to Exhibit 10, page 0051 that your counsel  
15 asked you about.  
16 A. Exhibit what?  
17 Q. Ten.  
18 A. Page?  
19 Q. Fifty-one.  
20 A. Okay.  
21 Q. The e-mail right below on October 1, 2020  
22 at 9:36 p.m., Michael Nance wrote, "Working on that  
23 extended powertrain warranty for you." Was it Nance  
24 who offered and got the extended warranty or AGCO?  
25 A. I don't know how they come out with this.

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1 But in conclusion, to my knowledge, it came from AGCO  
2 from Willis. Jacob Willis was confirming that the --  
3 Michael, he probably mentioned it. But I think later  
4 on we asked for -- in writing and I think that's when  
5 Jacob Willis was confirming that, I believe. I'm not  
6 sure. To my knowledge, it came from AGCO.  
7 Q. Are you aware that -- well, sorry. Also  
8 on this e-mail, if we go to the next page, 52,  
9 October 4, 2020. You've BCC'd a  
10 BBartlett@bartlettfirm.com. Do you see that?  
11 A. Yes.  
12 Q. Had you already engaged an attorney to  
13 represent you as of October 2020 in this case?  
14 A. I'm not sure. No. What I think happened  
15 was -- if I try to remember -- keep in mind that it's  
16 hundreds of papers here. So I'm trying to put this  
17 together. I believe that -- I'm trying to think. I  
18 don't know if I remember that far back. I don't  
19 know. I guess I would have to look into it. I can't  
20 remember exactly why.  
21 Q. If you don't remember, that's fine. Are  
22 you aware that during our early neutral evaluation, I  
23 personally told your counsel that the tractor was at  
24 Powell's in Westminster, South Carolina?  
25 A. You're asking me if I'm aware that you

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1 told my counsel at an earlier evaluation where my  
2 tractor was?  
3 Q. Yes.  
4 A. I don't remember. But if that happened --  
5 if that happened, we were already at least a year  
6 into this at a minimum. So what difference would  
7 that make?  
8 Q. Well, I'm just trying to clarify your  
9 answer to a question that your counsel asked saying  
10 that AGCO didn't say until last fall.  
11 A. I don't -- I don't think that -- I don't  
12 think I was aware. I don't remember.  
13 Q. Okay. Let's go back to -- keep that and  
14 go to page 69. Then I want you to keep that open,  
15 but then also pull up Exhibit 13. We're going to  
16 compare the two. So page 69 of this. We'll leave  
17 that open. And then Exhibit 13, if you go to AGCO  
18 20. This is the e-mail your counsel asked about from  
19 Jacob Willis to Aguilar -- to you. So if you go to  
20 page 20.  
21 A. You said page 20?  
22 Q. Yes. You would agree with me that other  
23 than the dates, that these e-mails are exactly the  
24 same? The one date. Just July 8th.  
25 A. The question -- repeat the question,

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1 please.  
2 Q. You would agree with me that the e-mail on  
3 page 69 of Exhibit 10 and the e-mail on AGCO 20 is  
4 exactly the same except for the date listed as sent  
5 at the top?  
6 A. The e-mail appears to be the same e-mail,  
7 but the date is different. That's the -- that's  
8 the -- I stated early on it looks funny because the  
9 intention is to show that this guy, Jacob Willis,  
10 reached out to me with this e-mail on a different  
11 time/date to show that he reached out to me with the  
12 tractor. That's what this whole thing is about on  
13 that e-mail part.  
14 Q. And does it also look funny that it's  
15 replying to an e-mail from January 4th? On AGCO 20  
16 it's replying to an e-mail from January 4th, right?  
17 A. I'm not sure the question. What would be  
18 the question there you're asking me?  
19 Q. Doesn't that also seem funny?  
20 A. Why would that look funny?  
21 Q. Well, just like the July 8th date looks  
22 funny to you, I'm assuming.  
23 A. No. I guess what I'm saying is this  
24 e-mail happened.  
25 Q. Right.


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1 A. This conversation happened. So there's no  
2 question on the e-mail.  
3 Q. It happened on January 8th, right?  
4 A. Huh-uh. So this e-mail happened during my  
5 tractor breaking down. This was a question and  
6 answer to the e-mail that related to the problems  
7 that were happening early on. But then later on, the  
8 days changed to me to show that he has reached out to  
9 me to make me aware of where the tractor was or to  
10 give me knowledge that he had reached out to me with  
11 the whereabouts of where my tractor is, which he  
12 didn't. And, to me, I don't know about paperwork,  
13 but, I mean, that's very, very specific. And I'm not  
14 sure why.  
15 Q. Well, when the issue was raised to  
16 counsel, are you aware that it was explained?  
17 A. Explained to my counsel?  
18 Q. Yes.  
19 A. I will let -- because I hire him, I will  
20 let him to advise me on what's best and go from  
21 whatever he thinks is best.  
22 Q. So to ask it again: Were you aware when  
23 the issue was brought to our attention that it was  
24 explained?  
25 A. I guess to a point, I guess, it's being

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1 explained. I don't know. I'm not aware of that. I  
2 think that it's still an ongoing situation about why.  
3 I mean, because obviously we're here asking the same  
4 question. So I guess that's still a question. So I  
5 guess it hasn't been clarified or cleared by whoever  
6 needs to clarify that.  
7 MR. CARROLL: Okay. No further  
8 questions.  
9 MR. STUDEMEYER: Can we leave the  
10 record open, but go off the record for a moment?  
11 (Off the record.)  
12 MR. STUDEMEYER: I don't have any  
13 follow-up questions to that. Thank you.  
14 (The witness, after having been  
15 advised of his right to read and sign this  
16 transcript, does not waive that right.)  
17 (The deposition concluded at 5:06 p.m.)  
18  
19  
20  
21  
22  
23  
24  
25

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1 CERTIFICATE OF REPORTER  
 2 I, Kimberly T. Power, Court Reporter  
 3 and Notary Public for the State of South Carolina at  
 4 Large, do hereby certify that the foregoing  
 5 transcript is a true, accurate, and complete record.  
 6 I further certify that I am neither  
 7 related to nor counsel for any party to the cause  
 8 pending or interested in the events thereof.  
 9 Witness my hand, I have hereunto  
 10 affixed by official seal this 30th day of July, 2024,  
 11 at Lexington, Lexington County, South Carolina.  
 12  
 13  
 14  
 15  
 16  
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 18  

 19 Kimberly T. Power, Court Reporter  
 My Commission Expires: 4/24/2025  
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 23  
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1 Ryan G. Studemeyer, Esq.  
 2 ryan@studemeyerlawfirm.com  
 3 July 30, 2024  
 4 RE: Aguilar, Eswin v. Agco Corporation  
 5 6/27/2024, Eswin Aguilar (#6769538)  
 6 The above-referenced transcript is available for  
 7 review.  
 8 Within the applicable timeframe, the witness should  
 9 read the testimony to verify its accuracy. If there are  
 10 any changes, the witness should note those with the  
 11 reason, on the attached Errata Sheet.  
 12 The witness should sign the Acknowledgment of  
 13 Deponent and Errata and return to the deposing attorney.  
 14 Copies should be sent to all counsel, and to Veritext at  
 15 cs-southeast@veritext.com.  
 16 Return completed errata within 30 days from  
 17 receipt of testimony.  
 18 If the witness fails to do so within the time  
 19 allotted, the transcript may be used as if signed.  
 20  
 21  
 22  
 23  
 24  
 25

Yours,  
 Veritext Legal Solutions

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ELECTRONICALLY FILED - 2024 Sep 13 4:35 PM - YORK - COMMON PLEAS - CASE#2021CP4601792