



# ONLINE EQUIPMENT SALES: BARGAIN HUNTING OR BUYER BEWARE?

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My dad, a retired dairy cattle broker, has three things he religiously checks online: Ohio State football sites, certain news outlets and equipment sales pages. Although my family doesn't farm anymore and doesn't have any equipment needs beyond our existing 4440 and 4430 tractors, he still loves to keep tabs on the farm equipment market.

For the most part, our clients speak very highly of their online equipment purchasing experiences, mostly because they appreciate the simplicity of the transaction and access to great deals. However, some producers have had negative experiences with these transactions. Here are a few legal considerations that might help you avoid a negative online machinery deal.

### Do your due diligence

Part of our job as attorneys is to constantly question. It is a crucial part of giving clients good legal advice. As an equipment purchaser, I suggest asking the seller a thorough list of questions about the item's features, condition, previous use, hours and maintenance record. If possible, ask for additional photos or videos to confirm condition. Even doing a simple Google search for the seller can make a difference. The additional information can help you make a good buying decision. If you're making a large purchase, perhaps employ a third party in the area to buy on your behalf or inspect the goods before purchasing.

Also, since you might not be able to perform an inspection until pickup or delivery, putting money down is risky. If the deal falls through, the seller may keep your down payment, and you'll have to resort to legal action to recover that money. Furthermore, be very careful about distributing bank account information or completing a wire transfer. Sometimes these actions are used to commit fraud.

### Inspect at pickup or delivery

Pickup or delivery is an important step in the process because it's when you take actual possession of the machinery. It's crucial that you conduct a final

inspection before accepting the equipment. Make sure the condition matches the photos, the hours are correct, the bargained-for features are included and there are no major defects. If there are problems, give the seller a chance to fix them. If the deficiencies are left unaddressed, then you should reject the machinery and terminate the agreement.

Also, make sure shipments include all necessary parts, attachments or implements for successful operation. Don't find yourself fighting with a dealer or seller to get missing parts delivered or picked up.

### Check for existing liens

Purchasing encumbered machinery can be risky because a third-party creditor may get involved in the deal. Ask the seller about any existing liens or encumbrances on the piece for sale and whether those will be paid prior to transfer. If the seller does not cooperate, a good practice is to perform a UCC search for any equipment liens. For most states, the secretary of state is responsible for maintaining UCC records, and those filings are available online. Online court records or county records offices can be other places to check on liens against a seller.

### Who is paying for the equipment?

Some farmers may be purchasing equipment for use in a business entity. It's a relatively minor detail, but make sure you are paying for the machinery with business funds. This is part of operating a business in a legitimate manner, and it can be important for liability management purposes. If you pay for the item with personal funds, talk with your attorney or accountant about the steps to transfer ownership to the business. For tax reasons, this step should be completed before you claim any depreciation on the equipment.

There is an element of "buyer beware" that should be employed in these situations. If you run into a problem with purchased equipment in Ohio, sometimes the sale or auction website will assist if you report the problem. Otherwise, talk to your attorney about next steps. Your attorney may recommend retaining out-of-state counsel to assist with non-Ohio purchases.

