

## Farm Management

# Enforcing a breach of contract

**A** BREACH of contract occurs when one party to a contract does not fulfill his or her obligations. At some point, anyone operating a business will almost assuredly face a breach of contract. Maybe a piece of machinery is purchased but does not perform as promised, or a landlord refuses to honor a lease. Producers involved in a breach of contract situation should understand that they have legally enforceable rights, but they should also understand that enforcing these rights must be balanced with the time and costs to do so.

The first step to address a breach of contract is to discuss the matter with the other party. Sometimes a breach is created by a misunderstanding by one of the parties and can be easily remedied. Also, the party that breached the contract may not want to compromise his or her business reputation and will make things right.

The other possibility is that the discussion will not be successful and the parties will not be able to come to an agreeable resolution.

### Assess the dollars involved

The next step then is to assess the amount of money involved. The more the innocent party is damaged by the breach of contract, the more likely legal counsel should be sought. If the damages are only a few hundred dollars or less, it is probably not worth the cost of hiring an attorney. If damages are more than that, the damaged party should consider hiring an attorney.

Hiring an attorney does not mean the matter will go to litigation and an expensive trial; hiring an attorney can be limited to an explanation of the person's legal position and a demand letter. This limited engagement may only cost a few hundred dollars.

The demand letter can be an effective means of resolving a matter. A demand letter on an attorney's letterhead often gets results when the direct discussion does not. The letter should make clear why a breach of contract has occurred, the law supporting the claim, and a demand to correct the breach. Depending upon the situation, the letter may be cordial and non-confrontational, or it may be stern and threatening. In any event, the demand letter is a relatively inexpensive way to perhaps make the other party understand the importance of the issue and persuade them to resolve the matter.

### Expensive litigation

If the demand letter is unsuccessful, the next step is to consider litigation. If the damages are less than \$3,000, the claim must be submitted to small-claims or county court. This is a simple process of filling out a form with the court

## Country Counsel

By ROBERT MOORE

and going to a hearing with a magistrate or referee. The hearing is informal and typically lasts less than 30 minutes. Small-claims court claims can usually

be handled without the need for an attorney, although some people feel more comfortable having one involved.

If the claim is more than \$3,000, the matter must go to the municipal court or common pleas court. Litigation is very expensive, time consuming and stressful, and should only be initiated after a thorough discussion with an at-

torney. Litigation costs will be tens of thousands of dollars at a minimum if the matter is not settled quickly. If the damages are not at least \$10,000, litigation should probably not be initiated as legal costs will likely be more than the damages. Before filing a lawsuit, be sure to have a detailed discussion with the attorney as to fee arrangements.



**SEE THE ALL-NEW  
ARTICULATED  
LOADERS  
COMING TO YOU  
THIS SUMMER!**

**VISIT US AT THE  
FARM SCIENCE  
REVIEW**

SEPTEMBER 21 - 23, 2010  
LONDON, OH

We've endured a civil war, two world wars, and a great depression . . .

Throughout history we haven't backed down from anything, and we're not about to start!

The all-new Articulated Loaders, manufactured in Yankton, South Dakota, are ready to turn heads. Versatile and compact, these units easily maneuver in tight confines while inflicting minimal ground damage. With three models, there is a machine for every budget and application.

See them at the Farm Science Review, September 21-23 in London, OH.

See the [Articulated Loaders](http://www.gehl.com/turnheads) in action at [www.gehl.com/turnheads](http://www.gehl.com/turnheads)

Moore is an attorney with  
Wright Law Co. LPA  
614-791-9112  
[rmoore@wright-law.net](mailto:rmoore@wright-law.net)

If you have legal questions for this  
column, e-mail them to  
[twhite@farmprogress.com](mailto:twhite@farmprogress.com)

 Find us on  
Facebook

**GEHL**  
gehl.com