

ELFA LEGAL FORUM



REQUIREMENTS



APRIL 28-30, 2019 • OMNI SAN DIEGO HOTEL • SAN DIEGO, CA

SUNDAY, APRIL 28th

6:30 am – Depart

7:30 am – Tee-Time

GOLF AT RIVERWALK GOLF COURSE

9:00 am – 12:00 pm

USS MIDWAY MUSEUM TOUR

11:30 am – 6:00 pm

ATTENDEE REGISTRATION

ONLINE ATTENDEE HANDOUTS

Sponsored by:



MOBILE APP

Sponsored by:



HOTEL KEY CARDS

Sponsored by:



Lease Enforcement Attorney Network

CONFERENCE BAGS

Sponsored by:



1:00 pm – 2:00 pm

BREAKOUT AND ROUNDTABLE SESSIONS

LEASING 101: NEGOTIATING MATERIAL TERMS IN A MASTER EQUIPMENT LEASE BREAKOUT

LOCATION:

This session provides an introduction to material terms found in lease agreements. In this interactive session, panelists, acting as counsel for the lessee and the lessor, will engage in a mock negotiation of key provisions in a master lease agreement.

Moderator:

ANDREA NICOTERA

Senior Corporate Counsel

US Bank Equipment Finance

Speakers:

MICHAEL KARPEN

Partner

Troutman Sanders LLP

SCOTT FINLINSON

General Counsel

Onset Financial, Inc.

ELIZABETH HENDERSON

General Counsel

Altec Capital Services

AIR, RAIL, MARINE ROUNDTABLE

LOCATION:

During this roundtable session, the speakers and attendees will discuss air, rail and marine finance issues of interest to the attendees. The session will begin with a group discussion by all of the speakers regarding new or developing topics in the several specific transportation asset sectors, and then the speakers and attendees will break into smaller groups focused on specific asset sectors to discuss topics of most interest to each group.

Panelists:

ROBERT GOLDBERG
Senior Company Counsel
Wells Fargo

EDWARD GROSS
Shareholder
Vedder Price P.C.

EDWARD WANG
Partner
Borden Ladner Gervais LLP (Canada)

MARJORIE KRUMHOLZ
Partner
Thompson Coburn LLP

MICHAEL BEATTIE
Principal
Baker, Donelson, Bearman, Caldwell & Berkowitz
PC

JASON HUFF
Partner, Corporate, Finance and Investments
King & Spalding

DIVERSITY AND INCLUSION: A CONVERSATION ABOUT US - BREAKOUT

LOCATION:

Moderators:

JENNIFER GOULD
Shareholder
Stark & Stark, P.C.

MIRNA CARDONA
Senior Counsel
Wells Fargo Equipment Finance

Speakers:

CATHERINE YOUNG HAGERTY
Counsel
Reed Smith LLP

RICHARD CHAPMAN
Mindy Chapman and Associates LLC

ENFORCEMENT WAR STORIES

Location:

Moderators:

MARSHALL GOLDBERG
Partner
Glass & Goldberg – A Law Corporation

JENNIFER NG
Associate General Counsel
Eastern Funding LLC

MARK STOUT
Partner
Padfield & Stout, LLP

2:00 pm – 2:15 pm

REFRESHMENT BREAK

LOCATION:

2:15 pm – 3:15 pm

BREAKOUT AND ROUNDTABLE SESSIONS

SYNDICATIONS ROUNDTABLE

Location:

Panelists:

MARK KOHLER
Shareholder
Baker, Donelson, Bearman, Caldwell & Berkowitz,
PC

JOHN HENINGER
Chief Counsel
U.S. Bank Equipment Finance

STEVE PATTERSON
Attorney
Nutter McClennen & Fish LLP

UCC BASICS BREAKOUT – HELPFUL HINTS TO AVOID POTENTIAL TRAPS

LOCATION:

The panelists will discuss topics of interest to both relatively newer attorneys as well as to those who may be more experienced. Potential traps to be avoided include issues relating to filling out UCC filings; post-closing changes to the debtor that may require changes to your filings; regarding mixed equipment and services contracts as chattel paper; assuming that vendor/lessors can be deserving of "hell or high water" and Article 2A finance lease treatment; knowing what kinds of fraud allegations are protected by "hell or high water" clauses and waivers of defenses; and assuming that you know what "nominal additional consideration" means when analyzing whether a transaction is a true lease or a security interest.

Moderator:
SOPHIA KWON
Associate
Troutman Sanders LLP

Speakers:
MOLLY SIMON
Senior Corporate Counsel
U.S. Bank Equipment Finance

BOB DOWNEY
General Counsel-North America
Macquarie Group Limited

BOB IHNE
Attorney
DLL

MOTOR VEHICLE ROUNDTABLE – RULES OF THE ROAD

LOCATION:

This session's interactive roundtables will focus on topics including:

- Certificate of Title Issues,
- TRAC Leases Recharacterized as Loans,
- Issues Associated with Software Used to Track Equipment,
- Issues Related to Two-Tier Leasing (senior lease -> sublease by lessee -> sublease by sublessee), and
- A Recent Holding on Dangerous Instrumentality.

This is a great opportunity to learn from each other's experiences and to improve transaction and litigation strategies.

Moderator:
RACHEL BRESCOLL
Vice President
Citizens Asset Finance, Inc.

Speakers:
ANN PILLE
Partner
Reed Smith LLP

W. KENT CARTER
Partner
Gordon & Rees

JENNIFER SUCHER
Associate General Counsel
Donlen

SCOTT ADAMS
Senior Counsel – US
Volvo Financial Services

INTERNAL/EXTERNAL ROUNDTABLE

LOCATION:

Moderator:
GARY GREEN
Member
Clark Hill PLC

Speakers:
SHERRY LOWE JOHNSON
Director, Senior Counsel
Volvo Financial Services

MERRICK BENN
Partner
Womble Bond Dickinson

LISA MOORE
Sr. Counsel
PNC Equipment Finance, LLC

LENDER FINANCE 101: LENDING TO LENDERS AND SPECIALTY FINANCE COMPANIES

LOCATION:

Lender Finance can be defined as providing capital to non-depository lenders through credit facilities that are primarily secured by the equipment finance loans and leases made by the borrower to its customers. But from a practical viewpoint, what does that mean? This breakout session will explore who is using Lender Finance, common structures of credit facilities (both bilateral and syndicated), components of a typical Lender Finance transaction, common covenants and frequently negotiated provisions, the use of special purpose vehicles and related bankruptcy considerations, the role of document custodians, and much more.

Moderator:
BOB GEIS
Director / Assistant General Counsel, Equipment Finance

CIT Group Inc

Speakers:

PETER BEARDSLEY

Senior Counsel

Loeb & Loeb LLP

BILL CAREY

General Counsel

TIAA Commercial Finance, Inc.

3:15 pm – 3:30 pm

REFRESHMENT BREAK

LOCATION:

3:30 pm – 4:30 pm

BREAKOUT AND ROUNDTABLE SESSIONS

UCC ADVANCED ROUNDTABLE

LOCATION:

This roundtable will offer the opportunity to collaboratively dissect multiple fact-patterns designed to touch on a myriad of advanced UCC issues. Each of the speakers will guide smaller groups as all involved work together to spot issues and identify solutions. The results will be weaved together at the end of the session for the benefit of the entire group.

Moderators:

BEN COURT

Partner

Stinson Leonard Street LLP

KEN WEINBERG

Shareholder

Baker, Donelson, Bearman, Caldwell & Berkowitz
PC

Speakers:

BARBARA GOODSTEIN

Partner

Mayer Brown LLP

FRANK PERETORE

Member of the Firm

Chiesa Shahinian & Giantomasi PC

FRAUD ROUNDTABLE

LOCATION:

Moderators:

ALEX DARCY

Shareholder

Askounis & Darcy, PC

Speakers:

TROY KEPLER

Vice-President & Senior Corporate Counsel

U.S. Bank Equipment Finance

STEVE BRADY

Assistant General Counsel

GreatAmerica Financial Services

HOB JORDAN

EVP & General Counsel

Kingsbridge Holdings, LLC

INTRO TO STATE USURY LICENSING BREAKOUT

LOCATION:

This session will cover considerations in leasing and lending. Topics will include:

- Whether leases are loans and subject to usury issues;
- Choice of law clauses and the effect they may or may not have on usury;
- The differences in usury throughout the 50 states;
- How inside and outside counsel should approach usury issues.

Moderators:

MARSHALL GOLDBERG

Partner

Glass & Goldberg – A Law Corporation

ANDREW ALPER

VP and Shareholder

Frاندzel Robins Bloom & Csato, L.C.

MATT CLEAVES

Senior Counsel

Wells Fargo Equipment Finance

LEASING FOR EMERGING ASSET CLASSES BREAKOUT

LOCATION:

This session will cover:

- Emerging asset classes – autonomous vehicles and vessels, robotics, and other disruptive technological trends in the world economy
- Regulatory issues in the United-States and Canada:
 - Safety

- Liability
- Certification
- Hacking and data breaches
- Issues when leasing these items
 - Lack of experience with novel asset class
 - Bundled contracts, retaining title or first rank (PMSI), and the relative value of the hardware, software, and installation costs
 - Insurance issues in the United-States and Canada
 - Low residual values of the hardware and software
- An Entrepreneur's Perspective: Changing your Lens on New Technology Equipment Leasing and Financing
 - Hear from an entrepreneur's experience bringing a new technology forward and the challenges he had to overcome when pursuing equipment finance and leasing.
 - Your standard process probably doesn't work for most startups and you might be missing many big opportunities.
 - You will leave with a list of things you should review about your process or potential pitfalls to avoid

Moderator:
BEN GROSS
 Partner
 Borden Ladner Gervais LLP

Speakers:
JONATHAN TODD
 Partner
 Benesch, Friedlander, Coplan & Aronoff LLP

RENE PEINADO
 COO and Co-Founder
 OSL Concrete, Inc.

MARTIN ABADI
 Counsel
 Borden, Ladner, Gervais, LLP

4:30 pm- 5:30 pm
NEWCOMERS RECEPTION
LOCATION:

5:30 pm – 7:00 pm

OPENING RECEPTION

LOCATION:

MONDAY, APRIL 29th

7:00 am – 8:00 am

CONTINENTAL BREAKFAST

LOCATION:

8:00 am – 8:45 am

GENERAL SESSION

LOCATION:

WELCOMING REMARKS

MIRNA CARDONA

Senior Counsel
 Wells Fargo Equipment Finance
 Legal Committee Chair

STATE OF THE ASSOCIATION AND STATE OF THE INDUSTRY

RALPH PETTA

President & Chief Executive Officer
 Equipment Leasing and Finance Association

8:45 – 10:45 am

LEGAL UPDATE

Location:

Panelists:
JENNIFER GOULD
 Shareholder
 Stark & Stark, P.C.

KENNETH WEINBERG

Shareholder
 Baker, Donelson, Bearman, Caldwell & Berkowitz
 PC

ARLENE GELMAN

Shareholder
 Vedder Price P.C.

FRANK PERETORE

Member of the Firm
 Chiesa Shahinian & Giantomasi PC

10:45 – 11:00 am

REFRESHMENT BREAK

LOCATION:

11:00 am – Noon

BREAKOUT SESSIONS AND ROUNDTABLES

LEGAL UPDATE TRANSACTIONAL BREAKOUT

LOCATION:

Speakers:

SCOTT FINLINSON

General Counsel
Onset Financial, Inc.

RUTHANNE HAMMETT

Partner
Thompson Coburn LLP

LEGAL UPDATE: A DEEPER DIVE FOR LITIGATORS

LOCATION:

How will the latest court decisions affect the way you advise your clients? Will the latest case law precedent change the way you formulate your arguments in your brief? What are your colleagues' views on that quirky holding? Come to the Legal Update Litigation Breakout to hear knowledgeable litigators' perspectives on the latest case law affecting the equipment finance industry. Attendees are invited to bring their questions and comments from the Legal Update as well as their own experiences in order to facilitate a robust discussion of the important takeaways from select litigation issues.

Moderators:

MIRNA CARDONA

Senior Counsel
Wells Fargo Equipment Finance

Speakers:

DEBBIE DEVASSY BABU

Shareholder
Askounis & Darcy, PC

BRITTANY OGDEN

Attorney, Partner
Quarles & Brady LLP

MATT MCKEON

SVP & Assistant General Counsel
Key Equipment Finance

BLOCKCHAIN – PRACTICAL APPLICATION IN EQUIPMENT FINANCE

LOCATION:

Blockchain has received a lot of hype lately, sometimes called the future of all business. This session will discuss what blockchain is and how it might be used in the equipment finance industry.

Speakers:

SCOTT KEARNS

Legal Director
Dell Financial Services

SIMON PAYNE

Founder & CEO
Ferrum

Noon - 1:30pm

HOSTED LUNCHEON

LOCATION:

1:30 pm - 2:30 pm

BREAKOUT SESSIONS AND ROUNDTABLES

LEGAL UPDATE BANKRUPTCY BREAKOUT

LOCATION:

Moderators:

ALEX DARCY

Shareholder
Askounis & Darcy, PC

MARC HAMROFF

Partner
Moritt Hock & Hamroff LLP

LISA PETERS

Partner
Kutak Rock LLP

PRIVACY BREAKOUT

LOCATION:

Consumer privacy law is rapidly expanding into the business to business sector. Europe's General Data Protection Regulation (GDPR), effective last May, and the new California Consumer Privacy Act (CCPA), effective January 2020, both have broad scope and application. This panel will explore the impact of these and other privacy laws on the Equipment Finance and Leasing industry. Topics include the interplay between the GDPR and CCPA, how restrictions on the sale of data apply to the purchasing of leases and loans, algorithms and data aggregation, and potential federal preemption.

Speakers:

MOORARI SHAH

Counsel

Buckley LLP

DANIEL GOLDBERG

Counsel

Frankfurt Kurnit Klein & Selz PC

NOVEL CONTRACT STRUCTURES AND MANAGED/BUNDLED SERVICES ROUNDTABLE

LOCATION:

The moderators will lead an audience driven, interactive roundtable session designed to encourage a lively and open discussion regarding current best practices regarding Managed/Bundled Services Agreements and other Novel Contract Structures.

Moderators:

DOMINIC LIBERATORE

Deputy General Counsel

DLL

BEN COURT

Partner

Stinson Leonard Street LLP

BRUCE MASTERSON

General Counsel

First American Equipment Finance, an RBC / City National Company

CROSS-BORDER LEASE TRANSACTIONS BREAKOUT

LOCATION:

This session will focus on what a US lawyer should consider when undertaking a non-US transaction. This session will include the thoughts of US lawyers, as well as take an unusual approach to this subject by having non-US lawyers discuss what a US lawyer should consider based on their experience as foreign counsel and the concerns that the instructing lawyer should consider. The panelist experience in this area are both as lawyers who receive instructions and who provide them. Key takeaways will be:

- A checklist of matters that should always be considered;
- Lessons on what pitfalls to avoid
- How to control legal fees;

- Examples of how this checklist applies to a foreign jurisdiction – using the Province of Quebec as an example;
- War stories of dealing with Latin American, African and European lawyers and common issues that you would never consider.

The focus of the panel will be audience involvement such that the attendees can gain from the experience of all of those present and not just the panel.

Moderator:

JONATHAN FLEISHER

Partner

Cassels Brock & Blackwell, LLP

Speakers:

CARLA POTTER

Lawyer

Cassels Brock & Blackwell LLP

MITCHELL NEIDER

Managing Director – Associate General Counsel

Banc of America Leasing

MELISSA KOPIT

Associate

Vedder Price P.C.

ANDREW HODHOD

Senior Associate

Borden Ladner Gervais LLP

2:30 pm - 2:45 pm

REFRESHMENT BREAK

LOCATION:

2:45 pm – 3:45 pm

BREAKOUT AND ROUNDTABLE SESSIONS

INTRODUCTION TO RENEWABLE ENERGY EQUIPMENT FINANCE BREAKOUT

LOCATION:

This session will cover various structures for solar and wind power equipment finance transactions, including the documents used and unique issues such as tax credits and site access.

Moderator:

ANDREA NICOTERA

Senior Corporate Counsel

U.S. Bank Equipment Finance

Speakers:

MELANIE GNAZZO

Partner

Chapman and Cutler LLP

STEPHEN WHELAN

Partner

Blank Rome LLP

WILLIAM TOKASH

Senior Research Analyst

Navigant Research

INSURANCE – BASICS AND BLOCKCHAIN BREAKOUT

LOCATION:

This session will focus on:

- How Blockchain Could Change Insurance,
- ACORD Form Basics and Understanding Coverage Specified on the Forms, and
- Recent Developments in Force-Placed Insurance and Risk Fees.

This is a great opportunity to learn more about the expanding use of Blockchain and to ask your questions about insurance coverage and the ACORD forms.

Moderators:

RACHEL BRESOLL

Vice President

Citizens Asset Finance, Inc.

KEN WEINBERG

Shareholder

Baker, Donelson, Bearman, Caldwell & Berkowitz
PC

Speakers:

STEVE DINKELAKER

President

American Lease Insurance

SEAN GILLEN

Partner

Kutak Rock

VENDOR PROGRAM AGREEMENTS – STRUCTURES AND BEST PRACTICES BREAKOUT

LOCATION:

This panel discussion will provide an overview of the various vendor program agreement structures, as well as best practices for incorporating key provisions. Topics discussed to include unique private label considerations, changes to finance documents in light of new licensing requirements, recourse, indemnification, certain key representations and warranties, UCC filings, and UNL agreements.

Moderators:

AMANDA COOK

V.P., Counsel

TIAA Commercial Finance, Inc.

DOMINIC LIBERATORE

Deputy General Counsel

DLL

Speaker:

MARC FROHMAN

Principal

Frohman & Associates, LLC

BLOCKCHAIN – PRACTICAL APPLICATION IN EQUIPMENT FINANCE (Repeat)

LOCATION:

Blockchain has received a lot of hype lately, sometimes called the future of all business. This session will discuss what blockchain is and how it might be used in the equipment finance industry.

Speakers:

SCOTT KEARNS

Legal Director

Dell Financial Services

SIMON PAYNE

Founder & CEO

Ferrum

3:45 pm - 4:00 pm

REFRESHMENT BREAK

LOCATION:

4:00 pm - 5:00 pm

BREAKOUT SESSIONS

TAX ISSUES ROUNDTABLE

LOCATION:

Moderator:

BOB GEIS

Director / Assistant General Counsel, Equipment Finance
CIT Group Inc

GOLDBLOCKS AND THE THREE LESSORS

LOCATION:

Do you know your client? Who they are? What they think? And what really matters to them? Come join an open discussion with the in-house teams representing Independents, Banks, and Vendor Finance Companies. This panel will explore the unique motivators and pain points of these business models, giving you all the background and information you need to make deal, workout, and litigation decisions “just right.”

Moderator:

ELIZABETH FELLA

Partner

Quarles & Brady LLP

Panelists:

JEANETTE DANNENFELSER

Vice President and General Counsel

Summit Funding Group, Inc.

BRIAN KESTENBAUM

Senior Vice President and General Counsel

LEAF Commercial Capital Inc.

DUSTIN LEE

VP, Associate General Counsel

Fifth Third Bank

INTERNAL/EXTERNAL ROUNDTABLE (Repeat)

LOCATION:

Moderator:

GARY GREEN

Member

Clark Hill PLC

Speakers:

SHERRY LOWE JOHNSON

Director, Senior Counsel

Volvo Financial Services

MERRICK BEN

Partner

Womble Bond Dickinson

LISA MOORE

Sr. Counsel

PNC Equipment Finance, LLC

SYNDICATIONS ROUNDTABLE (Repeat)

LOCATION:

Panelists:

MARK KOHLER

Shareholder

Baker, Donelson, Bearman, Caldwell & Berkowitz, PC

JOHN HENINGER

Chief Counsel

U.S. Bank Equipment Finance

STEVE PATTERSON

Attorney

Nutter McClennen & Fish LLP

5:00 pm - 5:45 pm

WOMEN'S COUNCIL RECEPTION

LOCATION:

5:45 pm - 7:00pm

HOSTED RECEPTION

LOCATION:

Sponsored by:

DRESSLERPETERS



ATTORNEYS AT LAW
A PROFESSIONAL CORPORATION

TUESDAY, APRIL 30th

7:00 am - 8:00 am

CONTINENTAL BREAKFAST

LOCATION:

8:00 am - 9:00 am

BREAKOUT SESSIONS AND ROUNDTABLES

HOT TOPICS ROUNDTABLE

LOCATION:

Moderator:

SCOTT KEARNS

Legal Director

Dell Financial Services

eLEASING AND CYBERSECURITY ROUNDTABLE

LOCATION:

The moderators will lead an audience driven session designed to facilitate an open discussion regarding current operational best practices regarding eLeasing and related cybersecurity considerations.

Moderators:

DOMINIC LIBERATORE

Deputy General Counsel
DLL

BOB COHEN

Partner
Moritt Hock & Hamroff LLP

RAYMOND DUSCH

Senior Corporate Counsel
Cisco Systems, Inc.

UCC ADVANCED ROUNDTABLE (Repeat)

LOCATION:

This roundtable will offer the opportunity to collaboratively dissect multiple fact-patterns designed to touch on a myriad of advanced UCC issues. Each of the speakers will guide smaller groups as all involved work together to spot issues and identify solutions. The results will be weaved together at the end of the session for the benefit of the entire group.

Moderators:

BEN COURT

Partner
Stinson Leonard Street LLP

KEN WEINBERG

Shareholder
Baker, Donelson, Bearman, Caldwell & Berkowitz
PC

Speakers:

BARBARA GOODSTEIN

Partner
Mayer Brown LLP

FRANK PERETORE

Member of the Firm
Chiesa Shahinian & Giantomasi PC

STATE LEGISLATIVE AND REGULATORY BREAKOUT

LOCATION:

This panel will touch upon a number of the current state legislative and regulatory risks affecting equipment financiers and lessors, including the potential impact of state legislative efforts across the country to mandate consumer-style disclosures, licensure, and privacy restrictions threatening to impact commercial lending and leasing transactions.

Moderators:

MOORARI SHAH

Counsel
Buckley LLP

Speaker:

SCOTT RIEHL

Vice President, State Government Relations
ELFA

9:00 am – 9:15 am

REFRESHMENT BREAK

LOCATION:

9:15 am – 10:15 am

GENERAL SESSION

LEGAL ETHICS: FACING THE CHALLENGES OF TODAY

LOCATION:

Maximizing production, revenue and profits for clients are important, but at the same time, equipment leasing and finance (ELF) lawyers must comply with attorney ethics requirements that can present new challenges in today's evolving environment. The panel will discuss some of the critical ethical concerns facing ELF lawyers today, including risks for leasing lawyers practicing in multiple jurisdictions, how far attorneys can go in using social media, and the issues raised through use of vehicle tracking and monitoring technology. In addition, the panel will address such important and timeless topics as ethical issues in negotiating contracts, preventing legal malpractice in everyday practice, representing multiple leasing clients in the same matter and more. This lively, interactive panel discussion will provide 1 hour of ethics CLE credit in many states (please check with your state bar for details).

Moderator:

ILESE FLAMM

General Counsel
Donlen Corporation

Speakers:

KENNETH PETERS

Attorney
Dressler & Peters, LLC

SIDNEY SCHEINBERG

Attorney
Godwin Bowman PC

JAMES UGALDE

Partner
Quarles & Brady LLP