

2023 ELFA Legal Buyers Guide

SEEKING LEGAL GUIDANCE?

These equipment leasing and finance lawyers are ready to serve you.

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ELFA
EQUIPMENT LEASING AND
FINANCE ASSOCIATION

Hot Legal Issues in Equipment Finance 2023

What are the latest developments and trends in the law affecting equipment finance? Here's a list of some of the top legal issues facing ELFA members:

Factors to Consider When Structuring a True Sale

Whether in sales, syndications or securitization of equipment leases and loans, it is important—and often essential—that the assets be transferred from the seller to the buyer in a so-called “true sale.” Sometimes well-meaning parties will include provisions in sale documents that are intended to protect the buyer, but that backfire and result in the buyer’s holding the legal equivalent of an exploding cigar. In the [March/April 2022 Leasing Law column](#), Stephen T. Whelan examines factors to avoid that can result in recharacterization of sold receivables as a loan.

When Goods Become Fixtures Under Real Property Law

When equipment is attached to real estate in a way that allows rights to arise under real property law, such goods become fixtures. Merging of the Uniform Commercial Code and property law is important because it influences how lenders secure first priority liens in fixtures. In the [May/June 2022 Leasing Law column](#), Molly Simon and Dominic Liberatore explain the definition of fixtures, provide example of items that may constitute fixtures, and examine how equipment finance lenders secure first priority liens in fixtures.

Municipal Leasing 201: Non-Appropriation and Mitigation

In a follow-up to the 2021 Leasing Law article [Municipal Lease 101: A Primer on the Basics](#), Michael P. Gallo continues the discussion of frequently raised issues with regard to state and local government municipal lease agreements. For a closer look at the types of termination risks and ways of mitigating those risks from a credit underwriting perspective, read the [July/August/September 2022 Leasing Law column](#).

UCC Amendments for Emerging Technologies

In summer 2022, the American Law Institute and the Uniform Laws Commission completed their approval of the project on the Uniform Commercial Code and Emerging Technologies. This major revision of the UCC will be a major boost for equipment finance, but only if it is enacted into law at the state level. In the [October 2022 Leasing Law column](#), Edward K. Gross and Stephen T. Whelan highlight the most significant changes for equipment finance practitioners.

Federal Cannabis Banking Reform

Ten years after the first U.S. states decriminalized or legalized cannabis operations, federal legislation has yet to pass prohibiting federal

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banking regulators from penalizing a federally regulated depository institution for providing banking services to cannabis businesses despite bipartisan support. In the [November/December 2022 Leasing Law](#) column, Whitney Hodges examines the status of legislative efforts being made to secure the ability of cannabis businesses to raise capital, obtain loans and process payments.

Florida UCC Filings Require Absolute Precision

When filing a financing statement to perfect a security interest in collateral, failing to satisfy the legal requirements of filing could result in an otherwise secured lender ending up with an unsecured loan. A recent case decided by the Florida Supreme Court highlights the importance of

employing absolute precision in a debtor's name on a financing statement. Read more in the [January/February 2023 Leasing Law](#) column by Brad Salyer.

Protecting Federal Contracts

As the single largest procurer of goods and services in the world, the U.S. government's significant buying power, coupled with U.S. procurement laws, affords it the unique authority to terminate federal contracts and leave federal contractors (and their lenders) at a potential loss. In the [March/April 2023 Leasing Law](#) column, Shomari B. Wade, Aaron M. Levin and Jordan Malone explore how certain contract terms may limit the government's discretion when it comes to contract options and potential remedies.

ELFA Legal Resources

Are you looking for information about legal issues pertaining to the equipment leasing and finance business? Visit our Legal Issues page at www.elfaonline.org/industry-topics/legal-resources to take advantage of numerous ELFA member benefits, including:

LEGAL FORUM – The premier annual event for attorneys serving the equipment finance industry. www.elfaonline.org/events

STATE TAX MANUAL* – Reference guide designed to aid equipment finance companies in tax compliance and planning. Provides state-by-state analysis of sales and property taxes. www.elfaonline.org/knowledge-hub/state-tax-manual

STATE LAW COMPENDIUM* – 50-state guide to compliance with selected state statutes and regulations. www.elfaonline.org/knowledge-hub/state-law-compendium

LEGALTALK* – An online community of ELFA members focused on legal subjects. www.elfaonline.org/knowledge-hub/discussion-groups

LEGAL COMMITTEE – A member and staff resource on legal issues impacting the equipment finance industry. For more information, contact Ed Rosen at erosen@elfaonline.org.



*These tools are part of the ELFA Knowledge Hub, the source for business intelligence on the equipment finance industry. Learn more at www.elfaonline.org/KnowledgeHub.

Legal Services Listings

The listings in this directory are paid listings.
Information was provided by each law firm.



This symbol indicates the firm is an ELFA member

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Buchanan's attorneys find solutions that work for our equipment finance and leasing clients with respect to both business and industrial equipment. Our team has unique experience in the commercial and private aviation industry. Aside from exercising our client's remedies under the Uniform Commercial Code, we litigate collateral recovery and deficiency collection actions in state, federal and bankruptcy court. The Buchanan team's thorough understanding of the complex issues that impact our bank and other financial institution creditors during reorganization proceedings, allows us to anticipate all aspects of bankruptcy proceedings, and protecting and advocating your rights and interests. We also seek practical resolution through non-judicial loan restructurings and workouts. Because our bankruptcy and banking and finance attorneys work together seamlessly, we have the front-end lending knowledge and experience with deal structures and stress points to provide guidance if your deal runs into trouble. Our depth means we can also support you with attorneys from our corporate finance, banking, real estate, litigation, and other practices whenever needed.

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With more than 250 attorneys, Chapman represents equipment finance companies and funding sources in a variety of transactions, including asset-based loans, conduit warehousing and term securitizations. We represent finance and bank leasing companies in individual equipment finance transactions, portfolio acquisitions and dispositions and other strategic transactions, and provide regulatory, tax and commercial law advice. We also represent clients in distressed and troubled equipment finance transactions, including in litigation and bankruptcy matters.

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Cohn & Dussi, LLC is a full-service business law firm based in Boston with over 25 years of experience in collections on breaches of equipment lease and finance agreements, workouts, litigation, bankruptcies, replevins, real estate, documentation and other general matters. Our value proposition goes beyond superior performance to include a national, 50-state solution that supports alternative fee arrangements such as contingency fee and flat fees, in addition to the traditional hourly approach.

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Denius Law P.A. is a Florida law firm with extensive experience helping equipment finance and leasing companies collect monies owed, recover property/collateral through replevin, and enforce judgments. We help creditors get paid by aggressive asset inquiry and determination, contempt proceedings, placement of judgment liens on property, bank garnishments and recording/domesticating foreign judgments. We also assist creditors in bankruptcy proceedings by filing proofs of claims, motions for relief from stay, plan objections and prosecuting adversary proceedings.

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Foster & Wolkind, P.C. is a New York law firm offering a broad range of legal services to the financial services community. We vigilantly represent and advise financial institutions of all sizes throughout New York State and specialize in equipment finance litigation and creditors' rights. For more than 25 years, we have maintained a culture of providing personalized, attentive and cost-effective services. Contact us to learn more about how we can work together.

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Founded in 1981 with a goal of providing financial service companies with experienced counsel in all facets of their business, we regularly represent equipment leasing companies and commercial lenders in lease and loan documentation, real estate financings, workout negotiations, portfolio acquisitions, collections, litigation and bankruptcy matters. We offer our leasing and lending clients practical legal solutions to protect them from operational, compliance and legal risks and defend their collateral while maximizing recovery.

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Glass & Goldberg has served the equipment leasing and financial industries for over 40 years and is the recipient of the Ed Groobert Excellence in Leasing Award presented by the ELFA Legal Committee. Showcased in Forbes Magazine as the exclusive Southern California choice for outstanding law firm in the areas of Bankruptcy, Property, Commercial and Creditor/Debtor Rights law and selected for inclusion in "Super Lawyer" Magazine for the past 13 consecutive years, we are familiar with your issues, proficient in the law and prepared to handle your matters throughout the State of California.

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Hemar, Roussio & Heald, LLP is a Los Angeles-based law firm specializing in equipment leasing, commercial law, creditors' rights and bankruptcy. For more than 40 years, we have served the equipment leasing and financial industry with distinction in such areas as pre-judgment writs, recovery of collateral, workouts, receiverships, bankruptcy litigation and judgment enforcement. We handle cases throughout California diligently, aggressively and with an eye toward cost-effectiveness.

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Latimer LeVay Fyock LLC is committed to providing sophisticated and attentive legal services to its clients over a wide array of legal disciplines. Our aim is to deliver sound legal advice to our clients within the specific context of their respective business and personal objectives. We counsel equipment lessors, banks and other financial institutions in all aspects of equipment lease and finance transactions, including initial structuring of the transaction, documentation, litigation, collection, restructurings and bankruptcy representation. We represent our clients in commercial litigation in state and federal courts, at the trial and appellate levels, on a national basis.

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Messerli Kramer is a well-established full service law firm based in Minneapolis. Our Equipment Leasing & Creditors' Remedies team has extensive experience in all aspects of equipment leasing and finance; secured transactions; asset-based lending; and banking and finance litigation. We routinely handle lease and loan negotiation; documentation and enforcement matters; inventory/dealership financing; replevins; collections and judgment enforcement; business and fraud litigation; portfolio acquisitions; bankruptcies and workouts; receiverships; and appeals throughout the Midwest and across the country.

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Moritt Hock & Hamroff LLP is a full-service, AV-rated commercial firm with 20 areas of practice and 80+ attorneys based in New York with offices on Long Island and in New York City. We have attained a national reputation over the past 40 years, representing members of the equipment leasing and finance industry, including asset-based lenders, finance and leasing companies, banks and independent companies of varying size and specialty. Some of the largest, most well-known companies in the industry rely on us for services that include drafting, negotiation and structuring of loan and lease agreements, creating and documenting specialized programs, transactions and portfolio sales, capital markets, formation, purchase and sale of leasing companies, as well as workouts, litigation, creditors' rights and bankruptcy representation.

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Nutter is a full service, Boston-based law firm. Our commercial finance team represents equipment lessors and lenders in syndication and origination transactions involving all types of equipment and other capital assets. In the last five years, we have advised clients on more than 500 transactions having an aggregate deal value exceeding \$5 billion. Nutter is recognized by clients for technical sophistication, deep knowledge of market conditions and deal structures, client responsiveness and practical business judgment.

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When a deal goes bad in California, lenders feel confident knowing that Oswald Law Firm is on their side. We collect collateral, move matters forward through litigation, and enforce judgments. We investigate assets and leverage a wide range of post-judgment remedies to help turn assets into funds. Our approach is results driven, emotionally intelligent, strategic, and bold to help clients most efficiently meet their goals. View testimonials and book a free consultation at oswaldfirm.com.

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A full-service corporate law firm with more than 500 attorneys with offices in Arizona, California, Colorado, Florida, Illinois, Indiana, Minnesota and Washington, D.C., Quarles provides sophisticated, experienced counsel to companies in all types of lease documentation, acquisition, negotiation, workout and

enforcement, including litigation and bankruptcy. Our attorneys provide detail-oriented, cost-effective services to minimize risk and maximize recovery, investing in our clients' success and helping them achieve their business goals.

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Formed in 1940, Ray Quinney & Nebeker is Utah's top financial institutions law firm. For many decades, we have represented leasing companies, banks and other commercial lenders in documenting lease and loan transactions and handling real estate financings, workouts, collections, litigation and bankruptcy matters. We also have many years of experience in specialized areas, such as aircraft transactions, regulatory compliance and entity formation. Our objective is to make meaningful contributions to our clients' success.

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Reed Smith's Equipment Finance team is a diverse, global group of experienced subject matter experts, including former in-house counsel, offering practical and operationally focused wing-to-wing services from origination through workout/bankruptcy and related litigation across industries, including transportation and automotive, manufacturing, commercial and private aviation, bitcoin mining, oil and gas, rolling stock, renewable energy, construction, software, shipping, and healthcare. Our team also focuses on inventory finance, including vendor and program finance, receivables finance, capital markets, and securitizations.

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Stinson attorneys leverage deep legal knowledge and experience to deliver sophisticated corporate, litigation, financing, tax and bankruptcy solutions to equipment lessors and numerous financial institutions nationwide. We have significant experience documenting lease and loan transactions for independent, captive and bank-affiliated finance companies and routinely enforce the rights of lessors and secured creditors. We blend a collaborative environment, innovative project management and excellent service to deliver value and a distinctive experience.

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Taft is a full-service, 800-plus attorney corporate law firm. Taft has an experienced leasing and finance law team, providing “cradle to grave” services to our clients on lease and loan matters, including origination, enforcement, litigation, collection, insolvency, receivership and bankruptcy assistance. Taft also provides corporate law support to our leasing and finance clients, including such matters as choice of structure, tax, financings, merger, disposition, employment, acquisition and regulatory support.

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Thompson Coburn attorneys understand the complexities of equipment leasing and finance, helping clients find practical and cost-effective solutions to their challenges. From structuring, negotiating and documenting deals to handling tax issues and corporate Issues, closings, workouts, litigation and bankruptcy, we provide a full spectrum of services and guide our clients through the entire transaction cycle. We represent lenders and lessors in various industries, including aviation, maritime, motor vehicles, industrial, commercial and manufacturing equipment. Our nationally recognized maritime practice has a stellar track record handling virtually any matter affecting the shipping industry.

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Wright Law Group, PLLC is a boutique commercial financing and leasing enforcement law firm practicing exclusively in asset recovery, deficiency balance suits, judgment collection and creditors' rights in bankruptcy. As highly focused practitioners of financing and leasing enforcement law, our attorneys are experts in the field. Lenders and portfolio owners are our only clients, so we understand speed and efficiency are top priorities when it comes to resolution and recovery. Our deep understanding of equipment financing and leasing allows us to immediately help you formulate the right enforcement strategy for any bad deal. The firm's core business values focus on the client experience, and include fast turnaround of assignments, effective reporting, and resolving cases quickly and efficiently.