

2021 ELFA Legal Buyers Guide

SEEKING LEGAL GUIDANCE?

These equipment
leasing and finance
lawyers are ready
to serve you

ELFA
EQUIPMENT LEASING AND
FINANCE ASSOCIATION

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Hot Legal Issues in

What are the latest developments and trends in the law affecting equipment finance?

The Truth About the CCPA

The highly-anticipated California Consumer Privacy Act (CCPA) took effect on Jan. 1, 2020, leaving some businesses scrambling to understand the applicability of the CCPA's expansive obligations. The [March/April 2020 Leasing Law column](#) by Amanda R. Lawrence, Moorari K. Shah, Sherry-Maria Safchuk and Doris Yuen debunked three key misconceptions about the CCPA's applicability, including:

- Misconception #1: The term “consumers” does not include individuals involved in commercial transactions.
- Misconception #2: Financial institutions subject to the Gramm-Leach-Bliley Act are exempt from the CCPA.
- Misconception #3: The business-to-business exemption applies to all personal information collected in commercial transactions.

The Governing Law Provision Doesn't Always Govern

It is standard practice for parties to a contract to agree to the application of a certain state and/or jurisdiction's law, otherwise known as a “choice of law” or “governing law” provision, and/or a forum selection clause of a contract. However, various jurisdictions are finding an increasing number of exceptions that may invalidate governing law and/or forum selection clauses, potentially resulting in ramifications for which any lender and/or lessor in the equipment leasing and secured lending industry may have never bargained. In the [May/June 2020 Leasing Law column](#), Marc L. Hamroff and Julia Gavrilov touch on a few of these exceptions as they may apply to your business.

Understanding the LIBOR Transition

The London Interbank Offered Rate (LIBOR) is the most widely used reference rate in the world, used to set the rates for a wide variety of financial transactions, including business loans, corporate bonds and derivatives. LIBOR serves as a reference rate for tens of millions of transactions worth more than \$400 trillion globally. However, regulators worldwide have called on market participants to prepare for a transition away from LIBOR by the end of 2021 and a global effort is underway to replace LIBOR by that date. The [Summer 2020 Leasing Law column](#) by Emily Speak gives a brief overview of why the LIBOR transition is happening, the organization leading the U.S. transition, the rate expected to replace LIBOR and key steps for legal counsel advising equipment lenders that have loans or agreements with LIBOR as their adjustable interest rate.

The Law Says It Is Inventory

Most goods financed by the equipment finance industry spend at least part of their existence as “inventory” as defined by the Uniform Commercial Code (UCC). Failing to understand when goods constitute inventory can have disastrous consequences for equipment lenders and lessors. Understanding early in the financing process that transactions can be considered inventory can prevent problems for a finance company's business, its customers and the vendor of the goods throughout the process. The [October 2020 Leasing Law column](#) by Ryan Thompson examines what constitutes “inventory” under the UCC, why it matters and tips for avoiding the “inventory” trap.

Equipment Finance

Here's a list of some of the top legal issues facing ELFA members:

Air, Rail and Marine Legal Update

Given the wide spectrum of state, federal and international legal considerations when financing rail, marine and aircraft assets, participants in those financings must not only be and remain aware of prospective or existing changes in those laws, but also must consider how best to conform their transactional practices and policies when entering into and managing rail, marine and aircraft financings. The [November/December 2020 Leasing Law column](#) by Bob Goldberg, Edward Gross, Marjorie Krumholz and Melissa Kopit outlines regulatory initiatives, new implications of long-standing legislation and published commercial law opinions, all relating to rail, marine or aircraft financings during the previous year.

5 Things Traditional Lessors Can Learn from Our Fintech Counterparts

With a goal of bringing speed and simplicity to the industry, Fintechs have emerged as a disruptive force to traditional sources for equipment finance and leasing, including banks, captives and independents. The [January/February 2021 Leasing Law column](#) by Scott Adams examines several legal areas where Fintechs have challenged the status quo and provide new ways of thinking about longstanding pain points, including: (1) Transaction Complexity and Legal Documents; (2) Creativity for Navigating UCC Requirements; (3) Security, Fraud Risks and Mitigation; (4) Regulatory and Legal Structure; and (5) Collections and Recovery.

Note: Access the articles referenced above at www.elfaonline.org/Magazine-Archive

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. Don't miss these resources:

2021 LEGAL FORUM LIVE! – The premier event for attorneys serving the equipment finance industry, May 4-5.

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.

STATE LAW COMPENDIUM – 50-state guide to compliance with selected state statutes and regulations

LEGALTALK – An online community focused on legal subjects.

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

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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Leasing is a specialized, technical and very important part of Bernstein-Burkley's practice.

We represent small-, middle- and large-ticket equipment lessors in the enforcement of their leases. Whether in state or federal court, our firm is well-qualified to represent the interests of equipment lessors and others in the leasing industry. Partner Robert S. Bernstein created and founded the first national network of attorneys with proven expertise in lease enforcement, LEAN (Lease Enforcement Attorney Network).

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With more than 65 lawyers across the country in our Financial Services Group, BLG finds business-focused solutions to help you structure a lending transaction, or negotiate governmental, corporate,

commercial or project financings. Clients depend on BLG for corporate and commercial loans, bilateral and syndicated loans, securitizations, structured finance, derivatives, asset-based lending, equipment leasing and leasing arrangements to help move their businesses to the next level across the country and around the world.

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With more than 230 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 Boston based law firm.

For more than 25 years, the firm has built a reputation

for excellence in practice areas that include collection on breach of equipment lease and finance agreements, workouts, litigation, bankruptcies, replevins, real estate, documentation and other general matters. We are uniquely positioned to meet the specific needs of equipment lease and finance entities due to our expertise in the space, and our powerful national attorney network which supports a national footprint.

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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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FERNs, ADAMS & ASSOCIATES is a California law firm

representing numerous banks, commercial financial companies, credit unions and leasing (both auto and equipment) companies, in all aspects of a creditors' rights such as: collections, replevin actions, defense litigation, bankruptcy litigation and documentation review. The principals of Ferns, Adams & Associates have been involved in the equipment leasing industry for over 36 years and have been very active in both the ELFA and NEFA. We have appeared in most every state and federal court in California and are very aggressive in our approach to litigation and collections in general.

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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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Andrew K. Alper is a Vice President and shareholder at the firm who specializes in representation of all lenders and secured creditors with a large concentration of clients in the equipment leasing and real and personal property secured transactions areas. Andrew's practice includes litigation, documentation, insolvency, transactional matters and all matters affecting lenders and lessors except for tax related matters.

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Glass & Goldberg has served the equipment leasing and financial industries for over 39 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 11 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, Rousso & 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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Jaffe Raitt Heuer & Weiss is a Michigan based, full-service, 110-plus attorney corporate law firm. Jaffe 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. Jaffe 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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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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Michael Best & Friedrich represents Utah's leading equipment finance companies in all aspects of leasing and financing transactions, including litigation, nationwide. When defaults and disputes happen, our leasing and finance team has extensive experience assisting clients to successfully obtain possession of equipment so it can be auctioned; litigating and settling cases in a cost-effective manner; and obtaining successful decisions at trial. Contact us to learn how partnering with Michael Best can help you.

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Moritt Hock & Hamroff LLP is a full-service, AV-rated commercial firm with 20 areas of practice and 75+ attorneys based in New York with offices on Long Island and in Manhattan. 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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Platzer, Swergold et al., is a full-service New York City-based law firm. With roots that go back more than 50 years, the Firm has built a reputation for excellence in practice areas which include equipment finance, commercial finance, real estate lending, purchase and sale transactions of real estate and business assets, commercial litigation, corporate law, corporate restructuring and insolvency, debtor and creditors' rights, secured transactions and related legal matters.

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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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Robbins, Salomon & Patt, Ltd. is a full-service business law firm. We represent equipment lessors, banks and other financial institutions in lease and loan documentation, litigation, workouts and restructurings. We represent our clients in commercial litigation, in state and federal courts, at the trial and appellate levels, on a national basis. We also represent our creditor clients in bankruptcy court matters on a routine basis. Innovation, efficiency and attention to detail are RSP's hallmarks.

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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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Thompson Coburn attorneys understand the complexities of equipment leasing and finance and help clients find effective and creative solutions to their challenges. From structuring, negotiating and documenting deals to handling tax issues, closings, workouts, litigation and bankruptcy, we provide a full spectrum of services. We represent lenders and lessors in various industries, including motor vehicle, industrial, commercial and manufacturing equipment. We also have a niche practice in transportation with a nationally recognized maritime practice.

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Wright Law Group, PLLC is a boutique commercial financing enforcement law firm practicing exclusively in collateral recovery, deficiency balance suits, judgment collection and creditors' rights in bankruptcy. As highly focused practitioners of financing 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 collections. Our deep understanding of equipment financing allows us to immediately help you formulate the right enforcement strategy for any bad deal. The firm's core business values include reasonable flat fees for routine work, fast turnaround of assignments, and resolving cases quickly and efficiently.

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Womble Bond Dickinson is a transatlantic law firm with 27 office locations throughout the US and UK. Our equipment finance team has extensive experience in complex financial transactions representing lenders and lessors in all aspects of equipment finance, with an emphasis on transportation assets and renewable energy transactions. Our lawyers manage deals across the country, working closely with financial institutions and law firms in New York, Chicago, Washington, D.C., Baltimore, Boston, San Francisco and other cities nationwide.