



At the intersection of commercial finance, technology, and the law, this bi-monthly newsletter explores the emerging legal topics impacting the secured lending and equipment finance industry. Thought-leading attorneys from **Moritt Hock & Hamroff's Secured Lending and Equipment Finance (SL&EF)** practice share their legal insight, experience, and best practices on this rapidly evolving area of law and invite your thoughts and questions.

Our Team at Legal Forum



Marc Hamroff, Managing Partner of MH&H, is the winner of ELFA's 2022 Edward A. Groobert Award for Legal Excellence and poses with ELFA Legal Committee Chair Jeanette N. Dannenfelser and ELFA President and CEO Ralph Petta on May 2 at the Legal Forum.



Nate Gibbons of QuickFi by Innovation Finance, Kristin Knox Esche of John Deere Financial, Julia Gavrilov of MH&H and Moderator Lexie Dressman were panelists in the first DE&I panel held at the ELFA Legal Forum.



Dominic Liberatore of DLL, Bob Cohen of MH&H and Paul Bent of The Alta Group lead a session on how to avoid "e-problems" when going digital.

Marc Hamroff Receives the Edward A. Groobert Award for Legal Excellence



Marc L. Hamroff, Esq., managing partner of Moritt Hock & Hamroff LLP (MH&H), was honored on May 2 with the Edward A. Groobert Award for Legal Excellence. The award was presented during the Equipment Leasing and Finance Association's Legal Forum, held in Washington, D.C.

For over 30 years, Marc has been actively involved in the ELFA, including regularly speaking at its Annual Convention, Legal Forum, Captive Finance Conference and Credit & Collections Conference. He has also served two terms as a member of the ELFA Legal Committee and has been featured on multiple occasions as one of the speakers providing the Legal Update and other sessions at the Legal Forum.

His contributions to the leasing and finance industry further expand to educating its future leaders. Marc has served as an adjunct professor of law at Hofstra University School of Law where, for the last 10 years, he has taught courses on Secured Transactions, UCC Article 9 and related matters, including a portion devoted to equipment leasing. This year, Hofstra Law inducted him into its inaugural Hall of Fame during its 50th Anniversary Gala on April 5.

Steadfast commitment to the professional growth and advancement of younger lawyers also extends to his MH&H colleagues. "Marc is, and always has been, a staunch proponent of the growth and advancement of women. This is a core value of Moritt Hock & Hamroff that Marc was largely responsible for fostering early on in the firm's history," said Julia Gavrilov, a partner of the firm. "Since I joined the firm as an associate in 2015, Marc has taken me under his wing and served as a trusted mentor, sponsor and friend. Having always believed in my potential, Marc encouraged me to take on challenges that expanded my skill set and provided me with a platform to make a difference within the legal and the leasing and finance industries."

Marc joined MH&H out of Hofstra Law in 1983 and became a name partner in 1989. He spearheaded the firm's growth to become one of the 10 largest on Long Island, according to *Long Island Business News*. Marc helped grow MH&H from four employees and one office when he joined to its present status of 85 attorneys and over 150 employees in three offices.

The Edward A. Groobert Award for Legal Excellence recognizes extraordinary contributions to both the ELFA and the legal, leasing and finance industries at

large. Honorees have played an outstanding leadership role in representing the ELFA to constituencies outside of the association and its membership.

Bridging the Gap: Women in Leasing

More than a million women left the workplace during the pandemic, according to the most recent research, and the question remains: How many will return? As the demand for equipment leasing and financing rises but the competition for talent remains fierce, the need to bring women back into the equipment financing and secured lending space has never been greater. Not only do more gender-diverse C-suites report greater returns, the changing expectations of both a growing client base and its stakeholders demand new perspectives.

At the most recent National Equipment Finance Association Finance Summit in March, Julia presented on Diversity, Equity & Inclusion (DE&I), a topic she has helped propel into mainstream discussion both at MH&H and in her participation as a writer and speaker in the legal, leasing and finance industries.

The session, moderated by Jesse Johnson of JDR Solutions, discussed the extent of the gender gap as it pertains to diversity, the effects the pandemic has had in widening that gap and what measures can be taken by companies to bridge the gender gap. What resonated the most with attendees, according to Julia, were the DE&I ranks at every organizational level in corporate America. How steep the drop is in representation of women and people of color in C-suite ranks and how the Great Resignation, together with the demands for data transparency, are the driving forces helping to further DE&I initiatives.

Julia notes that while progress has been made in the representation of women and people of color at almost every level of the corporate pipeline, they continue to be dramatically underrepresented at high levels, according to McKinsey's latest "Women in the Workplace" report.

Advocating for diverse employees can be built into institutional practices. To help bridge this gap in the representation of women and minorities between entry and executive levels, companies can, among other things:

- Invest in a corporate officer to move the organization's diversity efforts forward by keeping the organization informed and action oriented, e.g., assisting in setting appropriate goals and measuring progress toward them;
- launch various diversity initiatives, policies and resources;
- mandate training to combat implicit bias in performance reviews and hiring;
- implement a mentorship and sponsorship program within the organization.

Julia chairs the Women's Initiative at MH&H and is an active member of the firm's Diversity and Inclusion Committee. She is also a frequent contributor to industry trade publications on this topic.

"While MH&H has always been proactive and intentional in the hiring and promoting of women, the Women's Initiative has provided women at the firm with knowledge and resources to further assist in their advancement and growth as leaders and rainmakers, including, among other things, insightful interactive workshops, networking opportunities and an internal mentorship program," she said.

Julia was joined at the ELFA Women's Leadership Forum in Chicago this April by Bob Cohen, a former ELFA women's council member, who was one of only ten men in attendance to support their female colleagues at the 250-person conference.

Taking Care of Business

A new regular feature of our newsletter, Taking Care of Business introduces thought leaders from other practice areas to offer advice on general business matters.

Succession Planning for the Independent Lender or Broker



Brett Garver, partner and chair of MH&H's Secured Lending practice group, interviews Jill Braunstein, partner with the MH&H's Corporate, M&A and Securities practice group.

Succession planning is a linchpin of any profitable, enduring business, and because many SL&EF professionals own their own businesses, this topic is of critical importance to their continued success. In the following Q&A, Jill Braunstein, partner with the firm's Corporate, M&A and Securities practice group and co-chair of its Closely-Held/Family Business practice group, discusses the unique and often complex issues involved in the ownership of a closely-held or family business with Brett Garver, a partner of the firm and chair of the Secured Lending Practice Group. It is our hope that this discussion will help you *take care of business*.

Q: I'm sure you'd agree, Jill, that proper succession planning for businesses requires a well-structured, written agreement among the owners. While the obvious question is "who controls a business entity after the current owner's death?", what else should this agreement include?

A: Here are some top priorities. Among other matters, the agreement among the owners should address: (1) the management and operation of the business (e.g., who will execute daily operations, who will approve major decisions and actions of the company, who will honor the strategic vision of the company, etc.); (2) the imposition of restrictions on transfers or other dispositions of ownership interest so as to maintain continuity in ownership, along with provisions concerning the future disposition of ownership interests upon the occurrence of certain events (e.g., disability, divorce, retirement and death); and (3) restrictive covenants, such as non-competition and non-solicitation provisions, upon an owner's departure from the business so as to protect the future financial viability of the company.

Q: Is this a static document, or should it be updated at some point?

A: This type of agreement certainly requires ongoing review and revision from time to time. From a tax standpoint, the ever-changing federal and state tax laws prompt the need for the continued analysis of a business's (and its owners') current circumstances, with a focus on the future. From a business standpoint, there may be unexpected fluctuations in the business and its personnel that require the

current owners to periodically review their agreement. For example, a particular employee who was envisioned to assume a management role may underperform under the new circumstances, or may suffer an event that leaves him or her unwilling or unable to assume the role. While this is, of course, not an exhaustive list, these examples demonstrate the significance of regular evaluation of, and adjustment to, business succession plans.

Q: Does succession planning affect how the business runs before an exit?

A: Brett, an effective succession plan will facilitate a smooth transition of the business from one generation to the next, with minimal disruption to day-to-day operations. Current owners will phase out of the company as both managers and equity holders, but an effective succession plan will enable them to maintain a degree of control as the company changes hands (e.g., the succession plan may entail an extended buy-out period or even a sweat-equity component). If anything, an effective succession plan will enable companies to identify, and rectify, vulnerabilities and gaps in their business before the exit of its current leaders, which will improve the way in which the business runs and perhaps its valuation after they move on.

Our practice group routinely works with business owners to address complex succession planning, business governance, and other concerns raised by our clients. Protecting the business, its owners and the owners' family members requires, among other things, a review of life insurance, property and casualty insurance, disability insurance and business continuity insurance. We work with insurance professionals to help identify and minimize potential risks. We are also invested in maximizing wealth, reducing taxes, defining and satisfying exit planning objectives and achieving the mission of the business enterprise. All of these are critical components of effective succession planning.

Q: What questions should closely-held entity owners, and this agreement, be able to answer about family businesses, Jill?

A: Here are some of the major considerations we account for in succession planning to help ensure an exit is as seamless as possible and to ensure the long-term viability and continued success of the business:

- What are the current, and the intended future, roles of the current owners and their family members?
- At what age or under what circumstances can the next generation join the business, and what requirements must they have to handle the job?
- How often do the owners or family members meet to discuss the goals of the business and its current state of affairs?
- What is the mission of the family doing the planning and its business? Are these missions and the culture compatible?
- Who makes decisions concerning salaries, distributions and capital structure—and what are the distribution priorities?
- How can non-family key employees be rewarded and incentivized to stay on board?
- Will the business support other family members to pursue other careers?
- Should the business provide loans to owners or their family members?
- Does the business have both a real estate component and an operating component? If so, are leases structured for income to beneficiaries or protection of the business continuity or both?
- What is the ultimate goal for the business?
- Will you sell the business to a third-party strategic buyer, or should the business be sold or gifted to the next generation of family members?
- Should use of trusts be incorporated? If so, what is the purpose of the various trusts, and who should be a trustee?

This is not an exhaustive list of considerations. Best practice should always be to consult with counsel to plan for a successful transition of your business to the next generation or other exit.

News Briefs

Allison Arotzky, an associate of the firm, outlined the finer points of the restructuring of continuing-care retirement communities in the May edition of the American Bankruptcy Institute Journal. She finds restructurings on the rise as many CCRCs face complex challenges such as honoring commitments to current and former residents, maintaining regulatory compliance, addressing long-term debt obligations and preparing for potential future shortfalls. The market views CCRCs as offering tax-exempt investment opportunities, Allison writes. With buy-in from all stakeholders, including ownership, residents and regulators, there is potential for value-enhancing restructurings.

<https://www.morithock.com/wp-content/uploads/2022/04/ABI-May-Journal-Allison-Arotzky.pdf>

Marc Hamroff, managing partner of the firm, was selected as one of 50 alumni of Hofstra University School of Law to be inducted into its inaugural Hall of Fame as part of its 50th Anniversary Celebration. Nominated by their peers, Hall of Fame inductees are recognized for their exemplary careers and contributions to the Hofstra Law community and beyond.

[Marc Hamroff Named to Hofstra University School of Law's Hall of Fame](#)

Theresa Driscoll, a partner of the firm, was named one of the Top Power 25 in Law for 2022 by *Long Island Business News*. The award acknowledges the inspiring impacts the selected attorneys have made in the lives of their clients, to the region's legal community and to the advancement of the profession.

[Theresa Driscoll Recognized as Top Power 25 in Law for 2022 by Long Island Business News](#)

Christine H. Price, counsel at MH&H, was named one of SFNet's 40 Under 40 recipients for 2022 in the legal services category. The awards represent "the future of the secured finance community," according to SFNet. Christine focuses her practice on all aspects of complex commercial lending and real estate matters.

[Christine Price Named SFNet Top 40 Under 40 Professionals](#)

Who We Are: Meet Some of Our Secured Lending and Equipment Finance Attorneys



Marc Hamroff

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Bob Cohen

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Brett Garver

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Theresa Driscoll

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Julia Gavrilov

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Brian Boland

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