

Practice Leader Insights From V&E's David Berkery

By **David Berkery** (September 8, 2025)

In this Law360 U.K. Expert Analysis series, practice group leaders share thoughts on keeping the pulse on legal trends, tackling difficult cases and what it takes to make a mark in their area.

In this installment, David Berkery, head of the aviation finance team at Vinson & Elkins, discusses the challenges of striking an asset-backed securitization deal after the 2008 financial crisis rewrote the rules, why sustainable aviation goals need more government encouragement, and why young attorneys should focus on finding people they enjoy working with.

The Most Challenging Matter I've Worked On

In 2014, I worked on the securitization of 79 aircraft subject to commercial leases for Castlake LP underwritten by Goldman Sachs.

The aviation asset-backed security market had completely frozen since the global financial crisis, and even though this deal included a lot of the features of the precrisis deals, there were some significant structural differences.

Until that point, aviation asset-backed security debt had been wrapped by monoline insurers, meaning insurers offered investors protection that no matter what happened to the underlying deal or the aircraft and lease collateral, the debt was guaranteed by AAA-rated institutions.



David Berkery

However, many of these institutions suffered major losses during the global financial crisis and had their credit ratings downgraded so that same credit protection was no longer as solid as it had previously been. Without that insurance wrapper, every element of the deal, the structure and the underlying assets had to be reevaluated and carefully considered.

I remember facing investor questions as the deal was being marketed and not knowing where the next question was coming from or what was going to be the focus for any particular investor. That meant we had to know the documents inside-out and be ready for anything.

For weeks, my wife had to listen to me sleep-talking about payment waterfalls and notional outstanding principal balance — a sure sign the deal had fully taken over my subconscious.

Even now, over a decade later, I can recall the limitations on liability that were so heavily negotiated. The aviation asset-backed security structure and deal documents have barely changed since that groundbreaking transaction — which is either a testament to its robustness or a collective industry decision not to relive the experience.

Laws and Regulations in Need of Reform

Climate change is undoubtedly the biggest issue facing humanity today and everything

should be viewed through that prism, in my opinion.

The aviation industry understandably faces its share of scrutiny, and there has been a significant increase in focus, commitment and investment toward achieving ambitious net-zero carbon goals.

There are so many good intentions in the industry to address these issues, but things like making sustainable aviation fuel affordable and readily available, redrawing global route maps so airlines can take the shortest route from A to B, and establishing global carbon offsetting programs are too big and ambitious for the industry to handle alone without international government support.

I would argue that there need to be more carrots to match the sticks being used to change behaviors and encourage a more sustainable future for aviation.

Important Developments and Trends I'm Tracking

There is currently a shortage of available commercial aircraft. New deliveries are long behind schedule as manufacturers continue to grapple with COVID-19-era supply chain issues and a great focus on ensuring safety when it comes to outsourced components.

One impact this has had is the increase in the residual values on older aircraft that would have otherwise been expected to have been retired but are instead still flying with airlines and generating lease income for the aircraft's owners.

But obviously the impact of selling without replacing aircraft is that some lessor's portfolios have shrunk, so generating new income is more difficult.

We have seen some lessors seek to reduce their overheads to account for this and others looking at ways to sell aircraft to investors but to maintain the day-to-day management for a servicing fee.

That may have an impact on asset manager-type servicers who do not own any aircraft but whose model is to buy aircraft for investors and then manage them going forward.

In this business, the butterfly effect is very real — a single hiccup on one side of the world can cause turbulence on the other.

A Lawyer I Admire

I was lucky enough to spend my formative senior associate years working with Drew Fine at Milbank LLP. Drew has really set the gold standard for lawyers in our space, and despite having an incredibly busy practice, he could not be more generous with his time to teach and support other lawyers.

I so often come across lawyers who seem to want to find problems or reasons to say no, whereas the best finance lawyers will always find creative solutions to make things work. Drew very much fits in that category.

But the lawyer who has impressed me the most is definitely my wife, Lyn Brennan of William Fry LLP. Not only is she one of Ireland's top finance lawyers, but she is also an incredible mother to our four kids, a very patient wife, especially during the aforementioned asset-backed security sleep-talking phase, and a recent winner of the St. Michael's

preschool moms' 40-meter dash on Sports Day — so incredibly impressive overall.

My Advice to Junior Lawyers

Our sector is truly international. I've been lucky enough to live in New York, London, Dublin and Amsterdam thanks to aviation finance — it's a career that comes with a decent number of air miles. If you have a global mindset and enjoy working collaboratively with lawyers across jurisdictions, it's a really exciting area in which to practice law.

But despite its global reach, the number of players is relatively small, so over the years I've really gotten to know my clients and peers — many of whom I now consider friends. I started working in aviation not because I loved planes, but because I liked the people.

My advice to junior lawyers? Don't stress too much about the perfect area of law. Find good people, learn as much as you can and, if you're lucky, the rest tends to take off on its own.

David Berkery is a partner and the head of the aviation finance team at Vinson & Elkins LLP.

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