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Learonal, Inc. v. ACL Electronics (USA), Inc. 1997 WL 458767 (S.D.N.Y. 8/11/97)

The good news is that this case upheld the forum selection clause, permitting the lessor to sue in New York. The bad news (although the ruling seems correct) is that the lessor was unable to obtain summary judgment where only a portion of the equipment was delivered and accepted. The lessee objected to the functioning of some of the equipment which it accepted and refused to take delivery of the remaining equipment.

The lessor was unsuccessful in claiming that a default existed as to this remaining equipment as the lease term did not start. Message: Be very careful in the commencement phase of a lease! If the lessee refuses to accept delivery, your lease probably does not begin and, unless you have a separate agreement with respect to the lessee's responsibility, you may have no contract.

Marks & Weinberg, PC is a law firm with significant experience in dealing with virtually every type of equipment and facility lease financing. The lawyers of the firm have participated in leasing financings for more than a billion dollars of equipment and are recognized throughout the industry. If you would like more cases or articles on leasing, or have any questions or comments about this Article or other leasing issues, please visit leaselawyer.com or contact Barry Marks at 205.251.8303 or Ken Weinberg at 205.251.8307.

