

**Minutes for the Bankruptcy/Uniform Commercial Code  
Committee of the Business Law Section of the Florida Bar**  
Labor Day Retreat Meeting  
Thursday, September 3, 2020, 10:00am – 12:00pm  
Zoom Meeting<sup>1</sup>

Jennifer Morando, Chair  
Jim Moon, Legislative Vice-Chair  
Mariane Dorris, Vice-Chair  
Hon. Catherine Peek McEwen, Judicial Chair  
Prof. Jeff Davis, Academic Chair

**I. Welcome and Approval of Minutes from the Prior Meeting**

Jennifer Morando

**EXHIBIT A**

Adina Pollan motion to approve, Justin Luna second motion  
*Approved, no discussion*

Introduction and welcome of the Fellows (Amanda Finely, Nicole McLemore, Juan Mendoza, April Stone, Dana Robbins)

**II. Introductions of Special Guests and Pro Bono Reminder**

Jennifer Morando

**III. Business Law Section Update & Welcome**

Leyza Blanco, Section Chair  
Kacy Donlon, Section Chair-Elect  
Doug Bates, Section Treasurer  
Mark Stein, Section Secretary

Leyza Blanco introductory remarks. Thursday Newsletters send information to Adina Pollan Chair of Communications. If any Committee Chair has information to share, please advise Adina Pollan. Save the date for April 7-11, 2021 for potential in-person EC Retreat.

Doug Bates report regarding Northern District of Florida, EC Resolution from February, and June 2020, regarding 2<sup>nd</sup> Bankruptcy Judgeship. Every 2 years a submission day for request and review, Judge Specie asking EC to send a letter to support 2<sup>nd</sup> judgeship in Northern District. Third letter from practitioners to support 2<sup>nd</sup> Bankruptcy Judgeship (September 8).

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<sup>1</sup> Registration Link: [https://us02web.zoom.us/meeting/register/tZAvC--qgJluHdfttvJS9b40KiBoVil\\_GYz](https://us02web.zoom.us/meeting/register/tZAvC--qgJluHdfttvJS9b40KiBoVil_GYz)

Send Mark Stein a written summary for the EC report.

Manny Farach (Chair) Stephanie Lieb (Vice Chair) of Legislation Committee: Pandemic and Covid-19 will be focus of legislation as well as social justice issues. 3 million behind budget. Busy March 2021 legislative session. Asking that before you bring a triple motion, have the legislative text, a white paper, and review the legislative positions of BLS and Bar. Do not take positions EC has not voted on because it creates difficulty for Doug and Amy when negotiating on legislation BLS is supporting.

Judgment lien issue-Aimee Diaz suggested have EC support at this stage but not at the point for a triple motion (no white paper, no text, or legislative positions form). Manny Farach-need white paper and text of bill, . . . it would just be for talking purposes so we can get input.

Aimee Diaz Lyon since it is a 2022 bill, should bring it to EC in January 13-16 meetings so we can socialize it. She does not think we need to rush. Manny Farach noted that it would make it easier.

Proposal adopted by Bankr/UCC Already have approval to clarify §55.205 to cross reference. If proposing a statutory change, then need separate text.

#### **IV. Legislation**

##### *A. Legislative Overview for 2021 Session*

Manny Farach, Legislation Committee Chair

Aimee Diaz Lyon, Section Lobbyist

##### *B. Legislative Review Subcommittee*

Jim Moon

Need volunteers to review upcoming legislation. (around December)

##### *C. Reports from Study Groups for 2021 Legislative Initiatives*

\*\*\*VOTING ITEMS\*\*\*

###### *a. Kearney Fix (Re: Requirements for Waivers of Exemptions)*

John Hutton

Looking at RRPTL fix to Kearny case. S.A. to lender granted lien on "all assets" no mention of exempt assets. Blanket lien language problematic. Study Group has come up with a recommendation. 1. Bankr/Ucc should support effort, exemptions should not be unknowingly waived. 2. RRPTL created a form similar to waiving rights in wages (222.1) and we have broadened it and created more disclosures, to include all categories of exemptions.

Motion to approve attachments-adopt Kearney fix and provide friendly amendments to RRPTL. (JH)  
Seconded -Sharon Sperling

Comments/questions: none  
Motion carries.

**Exhibits B-1 & B-2 (friendly amendment to RRPTL fix)**

*b. Foreclosure Notice Bill*

April Stone

Notice to Homeowners in Foreclosure 702.13. Purpose is to give Homeowners alternatives, including Chapter 13, mortgage modification mediations, and advise of scams. Curing arrearages. Language designed to fix perception that alternatives “promising” results. Withdraws requirements regarding fonts, etc. Made a motion to approve bill language submitted to committee.

Judge McEwan seconded.

Judges Hyman, Colton, Williamson Isacoff abstained

**Exhibit C**

*c. Judgment Lien Amendments*

Prof. Jeff Davis

Jodi Dubose

Would like vote taken by Committee so Aimee can negotiate more strongly with the Department of Motor Vehicles.

Statutory Amendments-Certificate of Title statutes, does not identify judgment liens. Need to clarify problem-effective on titled goods, and then create process to get lien noted of the title. 1-statutory procedure (department has its own

process which is complicated-we are trying to add judgment liens be added to the process. 2. Procedure-Court to order through Supplementary Proceedings “Judge shall” order to note lien on the title. Once Department gets court order, it has a procedure to note on the title. 3, Final thing-broaden reach beyond just tangibles. Expand scope of judgment lien to include accounts and payments intangibles located in Florida.

Request Committee approve statutory amendments.

Denis Levine second the motion

Nothing has happened with DMV. The DMV has refused to read the proposal and did not want to do any additional tasks. Uncertain about economic impact. Talks to Chief Counsel for DMV but would like force of BLS to begin talks with DMV. Uncertain if can obtain cooperation with DMV.

Effect on Mobile Homes by this legislation? Procedure would allow to be noted on mobile home certificate of title, but only enforced by judicial action, no self-help. So homestead would be protected by court process.

Motion carries.

**Exhibit D**

*D. Reports from Other Ongoing Study Groups*

*a. Aviation Committee Legislation*

Lynn Sherman

Contacted by Aviation new person want to make ore changes to aviation lien statutes. Looking for volunteers.

*b. UCRERA-FRCP Task Force*

Kenny Murena

Now a UCRERA rules assessment task force to see if any rule changes are necessary. Rule 1.620 (Receiver Rules) (b) small change so Court has discretionary as to when inventory should be filed.

*c. Proposed Amendments to UCC 9-406 and 9-408*

(Joint with Corporations)

Jeff Davis

Matt Hale

Florida versions-over ride clauses. Act to override terms do not apply to LLC and LP-ownership issues. Can pledge ownership only with consent of other members and partners.

Add 2018 Official amendments to Florida language.

Corporations also considering language. Premature to vote at this time.

Stephanie Lieb noted it is important to fix so we can be up to date. Aimee and Doug will advise when is best time to push this.

*d. Bankruptcy Venue Reform Act*

John Hutton

Hon. Catherine Peek McEwen

Real traction right now to enact as part of next Care Act legislation. Circulated blast email to enable members to send support letters to legislators.

Judge McEwen: There are 19 co-sponsors HR4421 (4-Floridians). Members of Judiciary committee of the House (Miami, and Orlando ValDemmings, Deutch, Gaetz, Powell) We have lost a lot of bankruptcies to Delaware and NY. Not a lot traction in the Senate. No sponsors in Senate.

- e. *Chapter 48 Amendments Task Force*  
Adina Pollan  
Meeting and fully changed provisions of service of LLC and Partnerships. Goal is to make sure service provisions are easier and working with Secretary of State. Will not be ready until 2022 year.
- f. *Proposed Amendments to the Florida Rules of Civil Procedure Task Force*  
Bart Valdes/TBD  
Co-Chair Civil rules task force. Harmonize Federal and State court procedural rules. Please provide comments to Task Force.

**Exhibit E**

*E. Items to be Monitored-No reports*

- a. *Financial Literacy Task Force*  
Amanda Finley
- b. *Northern District Judgeships/Divisions*  
Hon. Karen Specie  
Jodi Dubose  
Doug Bates
- c. *Judicial Term Limits/Legislative Oversight of Judicial Decisions*  
Doug Bates  
Jodi Dubose
- d. *Fla. Stat. § 689.151 Revisions (RPPTLS proposed TBE legislation)*  
Andy Layden
- e. *Uniform Voidable Transaction Act Amendments*  
John Hutton
- f. *Digital/Cryptocurrency Regulation Task Force*  
John Hutton

**V. Continuing Legal Education, Communications, and Publications**

*A. Bankruptcy/UCC Committee CLE Programs*

- a. *Previously Held CLE Programs-All available online. BLS has a YouTube Channel. Listed on website.*
  - i. *UCRERA CLE*

Kenny Murena

- ii. *Basics of Bankruptcy Law* (Joint with Tax Section)  
Andrew Layden  
On Demand Viewing:  
<https://www.youtube.com/watch?v=uZfMdhYUDhA&t=4s>
- iii. *BLS CLE Programs on Demand*  
Visit: <https://www.flabizlaw.org/cle/>

b. *Future Programs*

- i. *Tax Planning for Insolvency and the Discharge of Indebtedness: State and Local Tax Considerations* (Joint with Tax Section)  
8/31/2020, 12:00pm – 1:00pm (Zoom)
- ii. *Analyzing Bankruptcy vs. Workout Options: How to Communicate with Clients* (Joint with Tax Section)  
9/9/2020, 12:00pm – 1:00pm (Zoom)
- iii. *View from the Bench*  
Hon. Michael Williamson  
11/5/2020 (Tampa)  
11/6/2020 (Miami)  
Williamson going forward with virtual event on Zoom.
- iv. *Future CLE Opportunities*  
Jennifer Morando  
Andrew Layden will stay on as Chair of the Sub-Committee. Requesting volunteers to help with arranging and speaking at CLE programs.

B. *Communications Committee Report & Newsletter*

Adina Pollan

Weekly Newsletters. Updating websites, December 31, 2020 should go live. Added Amicus Briefs. Doing spotlights of members and Fellows. Social news (birth announcements) Blog Articles. If you are a committee chair or task force, have a liaison on the Communication Committee.

C. *Out of State Division Newsletter Submissions*

Hon. Catherine Peek McEwen

Don Workman

[www.flabaroutofstater.org](http://www.flabaroutofstater.org). Send articles, please participate. Hyperlink to you and your firm. 15,000 circulation. Let me know if you want to get published.

## **VI. Cross-Committee Partnership and Other Liaison Reports**

### *A. Current Partnership Initiatives*

Mariane Dorris: looking forward to implementing CLE Diversity policy and working with other committees and voluntary bar associations to increase diversity and inclusion .

### *B. Other Liaison Reports*

- a. *CLE Committee* – Andrew Layden upcoming events. Legislative Updates. Looking for new CLEs, send us concepts and topics.
- b. *IMF Committee* – Lorna Brown-Burton. IMF Networking Event tonight, upcoming events-Halloween party and pumpkin carving contest. IMF adopted a CLE Diversity Policy to be presented at EC. Email Michelle Suarez or Marine Dorris for specifics. New Mentor/Mentee pledge.
- c. *Membership Committee* – Dana Robbins virtual platform to help get members involved.
- d. *Pro Bono* – Judge Isicoff and Carlos Sardi. Section reported of 81,818 hours of pro bono hours. Pro Bono pledge continues. The following Section members as our 2019 BLS Pro Bono Heroes for reporting the fulfillment of their 2019 Pro Bono Pledge of at least 20 hours of pro bono work during the year: Brian Barakat; Giacomo Bossa; Jay Brown; Irwin Gilbert; Robert Kain; Shobah Lizaso; John B. MacDonald; James B. Murphy; Adina Pollan; Terry Sanks; Carlos E. Sardi; and Grey Squires. Committee discussed the “One Promise” Campaign, which is the 2.0 version of the “One Campaign” of ‘One Client. One Attorney. One Promise’ back in 2009/2010. The revised version consists of a new video designed as a marketing tool for attorneys committed to doing pro bono work. The project is currently being managed and developed by The Pro Bono Legal Services Committee of The Florida Bar chaired by Hon. Catherine McEwen. The project is estimated to cost a total of \$30,000. The Florida Bar Foundation has committed to be the receptor of funds. Committee made a motion to bring to the Executive Council to approve a one-time gift to The Florida Bar Foundation earmarked for this endeavor in the sum of \$2,500. The motion overwhelmingly passed by acclamation without opposition.

## **VII. Old Business**

### *A. Creating an App for FRBP/Code*

Scott Underwood: still working on app and should share soon.

## **VIII. New Business**

### *A. Warehouse Liens (\$713.585)*

Dennis LeVine

Abuses regarding towing, repair, and storage liens. January 1, 2020 amended statutes. Charges to sell vehicles-warehouse statutes being used inappropriately. Trying to get DMV to realize not permitted. Stop fraudulent use of other statutes for sale of vehicles. Need a legislative fix. Want a study group. Please email Dennis.

**Exhibit F**

**B. Other New Business**

Revisiting Exemptions, Life Insurance proceeds, etc. Looking into starting a study group. Dennis Levine-would be happy to be involved head the study group. Jim Moon concurs it makes sense to look into.

**IX. Future Meeting Dates**

January 13-16, 2021: The Florida Bar Winter Meeting; Rosen Shingle Creek, Orlando (not yet decided if in person or online)

June 23-26, 2021: Annual Florida Bar Convention; Boca Raton Resort & Club, Boca Raton

**X. Adjourn**

Jim Moon moved to adjourn. April Stone seconded motion to adjourn.