

Labor Day Retreat 2021

Business Law Section of the Florida Bar
Business Litigation Committee

Meeting Minutes

Saturday, September 4, 2021

1:30 p.m. – 4:00 p.m.

Allison Leonard, Chair
Paige Greenlee, Vice-Chair
Chris DeCort, Second Vice-Chair
Judge Darrin Gayles, Federal Judicial Chair
Judge Edward LaRose, State Judicial Chair

1. Pro Bono Pledge – The Chair recited the Pro Bono Committee mission.

The mission of the Pro Bono Committee is to achieve 100% participation in Pro Bono Service by Business Law Section members and attorneys in their firms.

2. Judicial Chairs were introduced and welcomed.
3. Introductions were made.
4. Approval of Annual Meeting Minutes
 - a. The Annual Meeting Minutes were approved without opposition and noting abstentions of members of the judiciary.
5. Allison Leonard reviewed the following:
 - a. Website and Resources
 - b. Chair reviewed technology tools at committee's disposal
 - i. Manny Farach's case law update also through mailing list.
 - c. Committee Level Listserv
 - i. Sign up: <http://lists.flabizlists.org/listinfo.cgi/bizlit-flabizlists.org>
 - d. Legislation Subcommittee
 - i. Sign up: <http://lists.flabizlists.org/listinfo.cgi/bizlitlegislation-flabizlists.org>
 - ii. Review of resources on the website
 - iii. Session starts Jan. 10, 2022
6. Allison Leonard presided over discussion of the following action Items:
 - a. Service of Process -
 - i. Chapter 48 Task Force
 - Giacomo Bossa provided an update and moved to request a triple motion as set forth below.
 - Russell Landy seconded the motion.

- The motion thereafter passed without opposition and noting abstentions of members of the judiciary.
- The Committee adopted a motion to approve of the Chapter 48 Task Force presenting the following Triple Motion to EC:

Supports changes to Ch. 48, F.S. and Ch. 15, F.S. and other statutory provisions addressing service of process to (1) simplify the methods of service of process on business entities to eliminate redundancies and inconsistencies, (2) clarify the statutory scheme to avoid confusion, (3) better elucidate the methods for effectuating service of process in foreign countries, and (4) modernize the methods and procedures for service of process on business entities, while ensuring compliance with fundamental notions of due process.

ii. RPPTL Service of Process

- Manny Farach provided an update and explained that RPPTL wants to have its amendment to Ch. 49 added to our service of process bill. Deals with service of process on unknown parties in eviction proceedings
- Peter Valori moved for the Committee to make triple to support RPPTL.
- Russell Landy seconded the motion.
- The motion thereafter passed without opposition and noting abstentions of members of the judiciary.
- The Committee adopted a motion to approve presentation of the following Triple Motion to EC:

Support the Real Property Probate and Trust Law Section of the Florida Bar's position to create Section 49.072, Florida Statutes, establishing a process to serve unknown parties in possession of real property.

b. Judgment Lien (UCC)

c. Chapter 517, the Florida Securities and Investor Protection Act

- Stuart Cohn provided an update and presented on the goal and final work product of the task force. There was no opposition from the Committee.

d. Amicus Task Force

- Dineen Wasylik provided an update. The task force has issued proposed guidelines for requesting amicus briefs and plans to bring the proposal to EC for a triple motion. There was no opposition from the Committee.

7. Interactive CLE Presentation: Focus Groups

Tom Culmo, Co-Founder & Partner of Damian & Valori | Culmo Trial Attorneys presented

on the use of focus groups in trial work.

See the case through the eyes of your decision makers – the jurors. Well-conducted interactive focus groups will help you analyze case selection, themes, claims, defenses, and evidence to make your case better, and is a powerful trial strategy that provide feedback that is critical to trying a winning case.

8. Discussion Items:

a. Business Law Section Legislative Update

i. Restrictive Covenants

- Brian Barakat provided an update. Task force members met with Representative Tom Leek. For now, legislative effort not moving forward. Taskforce will meet about 6 months after President Biden’s taskforce meets for the first time.

ii. Offers of judgment

- Allison Leonard provided an update. The Committee opposed proposed changes to statute, and EC supported.

iii. Cy pres

- Allison Leonard provided an update. The Committee remains interested in monitoring the issue.

iv. Data Privacy

- Allison Leonard provided an update. The Committee remains interested in monitoring the issue.

v. Residential Evictions

- Peter Valori provided an update. He explained that there is an ongoing movement to move to a non-summary procedure and described some potential concerns such as clogging up court dockets and depriving landlords of rent and/or new tenants for more extended periods of time.

vi. Decentralized Autonomous Organizations – no additional discussion

vii. UCC Virtual Currency – no additional discussion

viii. Warehouse liens

- Allison Leonard provided an update. A triple motion is being made to amend Ch. 713 to, *inter alia*, clarify procedure for foreclosing on motor vehicle and vessels.

b. Legislative Proposals of other Bar Sections

- i. Allison Leonard discussed and requested comments on the following legislative proposals for which materials had been provided in advance of the meeting. No comments were given.

- RPPTL

- Probate Division

- IRA in Divorce (holdover from 2020, 2021)
- The Kearney Fix (holdover from 2021)

- Independent Actions (pending BOG approval)
 - Guardianship – Chapter 745 (pending BOG approval)
 - Trustee Resignation (pending BOG approval)
 - Real Property Division
 - Service of Process (coordinating with BLS on SOP legislation, pending BOG approval)
 - DOC Stamp Trust fix (pending BOG approval)
 - Rental income during foreclosure
 - MRTA (holdover from 2020, 2021)
 - Construction Liens and Bonds (holdover from 2020, 2021)
 - Hurricane Protection
 - Tax Law Section
 - Amendments to section 736.0505
- c. Substantive Committees Update
- i. Bankruptcy/UCC - No update provided.
 - ii. Computer & Technology Law - No update provided.
 - iii. Corporations, Securities & Financial Services - No update provided.
 - iv. Intellectual Property - No update provided.
- d. Task Force Update
- i. Business Courts
 - Melanie Damian provided an update. The task force has reconstituted after taking a year off from COVID. Looking to tag along with workgroup discussed below for this legislative session.
 - ii. Workgroup on Amendments to the Civil Rules
 - Jon Polenberg informed the committee that a working group appointed by the Florida Supreme Court was charged with evaluating how to improve efficiency and clearance rate for civil cases in Florida. That group has authored a 169 report that, among other things, proposes significant rule changes which effectively overhauls state court practice in Florida. **The committee adopted a motion to recommend the creation of a task force to review and evaluate, monitor, and provide recommendations concerning the proposed rule changes of the Florida Supreme Court working group. Chair recommends that Russell Landy be appointed chair of the Task Force.**

- Russell Landy moved for the Committee to request a triple motion to create a task force to study the workgroup recommendations.
- Joe Van de Bogart seconded the motion.
- The motion thereafter passed without opposition and noting abstentions of members of the judiciary.

iii. Financial Literacy

- Amanda Finley provided an update. Looking for volunteers to assist with the creation of a master financial literacy website.

iv. Ch. 607

- Phil Schwartz requested input from the Committee on whether modifications are necessary to the standards established for when actions are direct vs. derivative under s. 607.0750 of the FBCA and s. 605.0801 of FRLCA
 - Workgroup created to consist of: Giacomo Bossa, Peter Valori, Morgan Levine

v. UCRERA

- Amanda Fernandez provided update. Task force has been reinstated to draft Glitch Bill. Reptiles created first draft, which task force reviewed at their meeting this weekend. They are targeting the 2023 legislative session for the glitch bill.

e. Standing Committees Update

i. Pro Bono

- Allison Leonard provided an update. The 2021 pledge up on the Section website. This year's ask is 20 hours per Section member. The Pro Bono committee will also be proposing implementing a section pro bono award.

ii. Communications

- The main ask is for a newsletter content.

iii. CLE

- Chris DeCort provided an update. The CLE Committee has one upcoming CLE on the books. Mediation for Business Litigation and Bankruptcy, via Zoom on October 5th. They also asked for Florida Bar Journal article submissions starting with the March/April edition. Submission deadline is February 1st and can be sent to Chris DeCort to forward on to

the CLE Committee. Submission guidelines can be found on the Section website.

iv. IMF/Membership

f. CLE/Hot Topic

- i. Allison Leonard explained that for this year's Committee meetings, we will be offering Committee members the opportunity to speak on a "Hot Topic" for approximately ten minutes.
- ii. Allison Leonard and Chris DeCort explained that the CLE goal for each substantive committee is one per quarter. Chris DeCort will lead CLE efforts for the Committee this year. They will likely be on Zoom. Ideas for CLE's, or offers to present, can be sent to Chris.

9. **Adjournment**

- a. Amanda Fernandez made a motion to adjourn the meeting.
- b. John Polenberg seconded the motion.
- c. Meeting adjourned at 3:59 pm.