

**Agenda for Meeting of the Opinion Standards Committee
of the Business Law Section of the Florida Bar
Wednesday, January 26, 2022
3:00 p.m. to 4:00 p.m.**

Zoom

<https://us02web.zoom.us/join/91710608081>

- I. Welcome** Robert W. Barron, Co-Chair
 Gary Teblum, Co-Chair
- II. Pro Bono Reminder**
- III. Business Law Section Update & Welcome from Section Chair**
- IV. First Supplement to December 3, 2011 Third Party Legal Opinion Customary Practice in Florida Report.**
- Emailed to all members of both Sections and posted on webpages
 - RPPTL Email Glitch
 - Still working on creating a “composite” version of the Report that can be made available to Section members – status, need for assistance and timing
- V. Topics for Further Supplements**
- Opinions under the Investment Company Act of 1940
 - Opinions dealing with federal reserve board margin regulations
- VI. Update Regarding Working Group on Legal Opinions Foundation**
- VII. Update Regarding TriBar Projects**
- VIII. Miscellaneous Opinion Issues for Discussion**
- A. Need to go “up the chain” to give an authority opinion for an LLC – Florida Bar Report vs. TriBar (see attached materials) – presentation and inquiry by David Peterson
- B. Opinions on Delaware business entities given by non-Delaware lawyers – *Bandera Master Fund LP v. Boardwalk Pipeline Partners, LP* 2021 WL 5267734 (Nov. 12, 2021)
- C. Consideration of eliminating enforceability opinions in loan transactions with sophisticated lenders’ counsel
- D. Follow on Opinions
- Kinds of deals

- Types of amendments
- Assumptions needed?
 - Original documents were enforceable before amendment
 - No defaults
 - Consideration for amendment
 - All conditions to effectiveness are satisfied or waived
 - All actions have been taken
- Scope of remedy opinion
 - Amendment only
 - Original agreement and amendment
- Perfection opinion
 - No new collateral versus added collateral
 - No adverse effect/no impairment?
 - Should a new UCC-1 be filed or UCC-3?
 - Continue to be perfected
- No violation/breach opinions – appropriate?
 - Organization Documents
 - Applicable Laws
- Novation issue – check for no novation provision
- Should we develop and publish a standard template for such a follow on opinion?

E. SPACs and Legend Removal Opinions

- One year period measured from de-SPAC and Form 10 filing
- Filed all 34 Act periodic reports for at least 12 months prior
- S-1 Shelf Registration
- Holding period of shares acquired by exercise of warrants

F. “not aware” vs “to our knowledge”

G. No violation/breach opinion

- How can this opinion be given if governing law is not the law of state of opinion giver?
- Violation/breach of material agreements – where material agreements are governed by law other than law of state of opinion giver

H. VC/PE Opinion Letters

- When are opinions appropriate or customary?
- VC vs. PE
- Model NVCA Legal Opinion
- Alternative entity opinions
- When to bring in Delaware counsel to give building blocks

IX. Good and Welfare