

**Minutes of Meeting of the Bankruptcy/UCC Committee  
of the Business Law Section of the Florida Bar**

Winter Meeting

Thursday, January 27, 2022, 10:00am – 12:00pm

Zoom Meeting

James Moon, Chair

Mariane Dorris, Legislative Vice-Chair

Kenny Murena, Vice-Chair

Hon. Catherine Peek McEwen, Judicial Chair

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

James Moon

Roy Kobert moved to approve Minutes to Labor Day Retreat Meeting (Exhibit B to Agenda)

Motion seconded

No discussion

Motion unanimously passed

Leadership introduction and announcements

*Kacy Donlon (Chair)*

- Introduced other executive committee members: Doug Bates (Vice Chair), Mark Stein (Treasurer), Manny Farach (Secretary), Stephanie Lieb (Legislative Chair)
- Asked for participation in the Section's Task Forces
- Asked members to volunteer to assist April Stone (Chair) with the organizing the Labor Day Retreat
- Explained that Don Workman is the Liaison for Florida Institute of CPAs, that it continues to have quarterly meetings, and that he could use assistance with participation so she asked member to reach out to Don to assist with the engagement with that organization.
- IMF Scholars and Fellows Retention Task Force is seeking mentors for Fellows and asked Judge Mindy Mora Mindy Mora to provide overview.
  - o Judge Mora acknowledged that several members of the Section (and the Committee) have volunteered to serve as mentor to the Fellows and Scholars, which means a lot to them, especially during the pandemic when we're not meeting in the same physical space, to have someone in the Section with which they can connect and help them become more active in the Section. Invited members to sign up to serve as mentors for Fellows and Scholars by email ([mamora@flsb.uscourts.gov](mailto:mamora@flsb.uscourts.gov)).

*Doug Bates*

- Thanked Committee for all the work it does and invited members to contact him and other Leadership with any thoughts and ideas to help members of the Section or people outside the Section become more involved or discuss what is important about the section or ideas for the future.

*Mark Stein*

- Encouraged substantive committees to do create as many of the 1-hour Zoom/Webinar CLEs, and to make it a regular practice, because they are good money makers for the Section and great opportunities for members to get their names out there.

*Stephanie Lieb*

- Explained that legislative session began January 11, 2022 and will continue through March 11, 2022. There have been over 3,500 bills filed so far but only approximately 300 will make it to the Governor.
- Explained that the legislative review team have been hard at work and helped make Section look good during a very active legislative session.
- 6 proactive issues/bills we are working on: (1) Service of Process from Ch. 48 Task Force and Business Litigation Committee; (2) UCC/Pick Your Partner from Bankr/UCC Committee – going very well; (3) Kearney fix – going very well; (4) Chapter 517 from Task Force and Corporations; (5) Judgment Liens from Bankr/UCC; and (6) Financial Literacy
- Also, we are providing from Computer Law group technical input on data privacy and digital currency.
- Invited members to reach out to her with questions, comments or concerns regarding these matters.
- Reminded members that during the next Session we will have Warehouse Liens and the UCRERA Glitch Bill, and asked Committee to let her know if anything else will be coming out of the Committee as soon as possible because any 2023 initiatives will need to be completed by the 2022 Labor Day Retreat.
- Invited Aimee Diaz Lyon to provide a more substantive update on each of the pieces of legislation that the Legislative Committee are working through.
- Acknowledged Matt Hale for all of his work on UCC, including contacting legislators and driving to Tallahassee and has been instrumental in getting us as far as we are.

*Aimee Diaz Lyon*

- UCC/Pick Your Partner – On the floor and we expect it to pass in the next couple of weeks and head to the Governor for signing.
- Kearney fix will have its last committee hearing in the Senate today and we anticipate that bill should pass and head to the Governor for signing soon.
- Judgment Liens – first year for that - trying to get bill up in Committee next week working with Professor Davis and his Task Force which has put a lot of effort into it.

Met with lots of other groups to support the bill, including Florida Bankers, Florida Justices Association and other groups and people to support the bill.

- Financial Literacy – this Committee has worked hard on getting it passed. Judge Isicoff, Carlos Sardi and the Task Force has sent letters to legislators and encouraged other committee members to do the same. No hearing yet but hoping for one soon to move it along.

*Jim Moon*

– commends Matt Hale for doing yeoman’s work (but he wasn’t present to hear it).

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

James Moon

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

Kacy Donlon, Section Chair

Doug Bates, Section Chair-Elect

Mark Stein, Section Treasurer

Manny Farach, Section Secretary

(See Above)

## **IV. Legislation**

### *A. Legislative Overview for 2022 Session*

Stephanie Lieb, Legislation Committee Chair

Aimee Diaz Lyon, Section Lobbyist

(See Above)

### *B. Legislative Review Subcommittee*

*Mariane Dorris*

- Acknowledged members of the Subcommittee who have been extremely active and involved, including Jody Dubose, Andrew Layden, Carlos Sardi, and Kelly Roberts (Exemption Study Group, which looked at some legislation for the Committee even if they weren’t on the Legislative Subcommittee)
- Invited members to get involved in the Subcommittee, which does much of the substantive work of the Committee and is a great result-oriented Subcommittee to be on.

*Jim Moon*

- Acknowledged Jim Silver who did great work with the Subcommittee
- Explained the purpose and importance of the Subcommittee and encouraged members to participate in this Subcommittee as a great way to get involved and increase responsibilities in the Committee.
- Invited members to let Jim Moon or Mariane Dorris know if they want to get more involved.
- Referred members to the Florida legislature's website to learn about the bills and their status, history, sponsors, lobbyists.

C. *Reports from Legislative Study Groups*

**2022 Legislative Items**

a. *Judgment Lien Amendments*

Prof. Jeff Davis

Jodi Dubose

HB 1173 introduced by Rep. Benjamin on 1/4/22 now in Civil Justice & Property Rights Subcommittee

SB 1785 was filed on 1/7/22 but no apparent action on it

*Aimee Diaz Lyon*

- Bills filed in House and the Senate. We have had several calls with Bankers Association and working on a call with the Justices Association. We have shared the bills with various business groups.
- Our next step is to meet with House and Senate staff to walk them through any concerns they may have. We are now working on getting it on the agenda and moving. We have not seen or heard any opposition yet but that usually happens after it is on the Agenda.
- We have not heard from DHSMV nor has the legislators as of the last time she spoke with them. Representative Benjamin has been working it very hard.

*Jim Moon*

- Asked if there is any reason for concern that HB 1173 might be moving but there is no apparent action on SB 1785.

*Aimee Diaz Lyon*

- Neither bill has had a hearing yet in House or Senate. Working on trying to get both of the bills heard. We are trying to get a hearing before the Civil Justice Committee in the House first.
  - Because this was a complicated issue, we originally had issues with RPPTLS, which did not want us to include mobile homes but Andy Layden, who will be RPPTLS liaison on this, worked it out so that it would be dealt with next year. We do not know if this will be resolved this year or if it is a two-year project. If DHSMV comes out against us strong, it will take us longer to get it across the finish line.
- b. *“Pick Your Partner” SB 336 and HB 519 reflect updates recently made to Article 9 of the UCC clarifying that certain overrides of restrictions on transferability do not apply to an ownership interest in a GP, LP or LLC*  
 (Joint with Corporations)  
 Jeff Davis  
 Matt Hale

Effective Date Jan. 1, 2023

SB 336 passed the Rules Committee on 1/20, On Special Order Calendar  
 HB 519 Reported out of Judiciary Committee, Added to Second Reading Calendar

Need to Create CLE Program for Bankers to Explain this Law once entered  
 – Need CLE program ready for summer. VOLUNTEERS NEEDED TO CREATE CLE PROGRAM

*Aimee Diaz Lyon*

- Explained that this is conforming to model law – 5 or 6 have passed this legislation
- Both bills have passed 3 committees of reference on each side so we are in great posture
- It is on the Senate floor tomorrow so we think we will get it out of the Senate next week and over to the House and hopefully we can get it out of the House in the next week or two.
- We anticipate this will go to the Governor in the next 3 weeks. There is a very good chance of this passing.
- One issue is that the Florida Bankers Association is concerned about educating their members, including underwriters, on this change, so we didn’t want to mess up the effective date so we (including Professor Davis) worked with a group within the Florida Bankers Association to come up with a delayed effective date – Jan. 1, 2023 – and they would like to do a joint CLE with us to educate practitioners, underwriters and bankers on this bill.
- Robert Barren on behalf of Corporations, has been working on this and has come to Tallahassee as well as Matt, and he is our contact at Corporations.

*Mark Wolfson*

- Commented that this proposed amendment is relevant to Corporations because it impacts LLCs, so we need to make sure that group is involved in any CLE presentation.
- This is a pro-business change made by uniform commissioners and supported by all corporate lawyers across the country.

*Jim Moon*

- Encouraged members interested in working on the CLE or otherwise working on these issues to reach out to Professor Davis or Matt Hale and members of Corporations.
- If we are invited to participate in the CLE, we would like to add substantively to its development and production and he encouraged diverse members to participate.

- c. *Chapter 48 Amendments Task Force*  
(Joint with Business Litigation Committee)  
Jim Murphy, Co-Chair  
Adina Pollan, Bankruptcy/UCC Liaison

*Triple motion made (by Biz Lit) at June 2021 EC meeting*

*Adina Pollan*

- We have made a lot of progress and have been working with Rep. Beltran on this and he is a lawyer and would like a lot of unique additions which the Task Force has been working on over the summer.
  - o He would like a certain number of attempts at service on a business to be deemed reasonable.
  - o Task Force has had several heated conversations about how to best approach that and balance the right verbiage to accomplish that against what is fair to small business owners and others that may not have knowledge regarding the requirements of service of process without having a chilling effect on litigation.
  - o Task Force has dealt with these issues successfully as of a couple of days ago, according to Aimee Diaz Lyon

*Aimee Diaz Lyon*

- This is super technical and complicated because we have actual litigators in the Legislature involved.
- Scheduled for second committee of reference in the Senate on Monday.

- We will make both bills identical
- Last stop in House will be the Judiciary Committee
- We may be able to get it to the floor in Week 5 or 6 of 9-week legislative session
- Commended Task Force, including Jim Murphy, Adina Pollan, and Giacomo \_\_\_\_\_, who put in countless days hours on this and addressed the changes that came back from the legislators ask they looked at the bill.
- We have had to interact the process servers, who had several changes
- Family law section had piece dealing with squatters that we had to address
- RPPTLS added a piece to the legislation
- Our bill is the base bill and several others added to it.

*d. Warehouse Lien Amendments (§713.585)*

Dennis LeVine

Passed EC at Labor Day Retreat 2021 (Sept. 2021)

Not a 2022 session issue...looking at 2023

*Dennis LeVine*

- In 2020 the Legislature updated statutes to close loopholes allowing fraudsters to send out notices and empty envelopes and, under the statute, could schedule lien sales and go to DMV and get clean title. It was a way to use statute to steal vehicles.
- Statute did not clarify that, with regard to storing vehicles, that 713.78 should be exclusive way that a party trying to impose a lien for storage charges can foreclose that storage lien.
- Fraudsters were trying to foreclose a lien for storage using the warehouse or landlord/tenant statutes, which do not have same protections for owners and lenders (including the right to post a bond)
- Legislation harmonizes the treatment of storage liens and makes it clear that 713.78 is the exclusive statute to use to foreclose a lien for storage of a vehicle.
- In addition, there were changes made in terms of posting a bond so you can get a car before a lien sale, but they don't apply technically to storage liens. They only apply to repair liens. So the legislation has same language of other statutes and the same rules are applied

*Jim Moon*

- *This is not on for this year because there are a finite number of bills we can get sponsors for and we had to prioritize other bills for this year but this bill is very important to us and will be on for 2023.*

*Judge McEwen*

- Asked Aimee Diaz Lyon if we or the Bankers see an opening during this session to tack this on to another bill that is germane to the topic, can we try to tack it on.
- Asked if Bankers will help us on this because they are a natural ally.
- Explained, based on Jim Moons question, that Germanity is a limit to what you can add on to a bill – it has to be germane to the subject matter and Aimee Diaz Lyon agreed.

*Aimee Diaz Lyon*

- Explained that we are going to try to have this added on to something this year if possible.
- She doesn't know if the Bankers will help us but she will inquire today.
- Explained that, in addition to the Germanity requirement, Florida has the single subject requirement – a bill needs to be about one topic.

*Dennis LeVine*

- Explained that there is legislation pending to amend other parts of 713.78, which he will send to Committee Leadership so there may be another bill that exists that this amendment can be tack on to during this session.

*e. Prohibition on Causing Breach of Contract / Unjust Interference with Business Relationship (HB 313/SB1313)*

**EXHIBIT B**

*James Moon*

- This legislation is apparently designed to prohibit a person from causing breach or violation of lawful contract or intentionally unjustly interfering with or disrupting business relationship; authorizes injured person to bring civil cause of action; authorizes injunctive relief & specified damages; prohibits enforcement of certain contracts.
- This is now in the hands of Business Litigation Committee, which prepared White Paper opposing legislation. Invited member of that Committee to talk about it.
- Described this as an attempt to codify tortious interference and explained the genesis of this legislation.
- Explained that we would join with Business Litigation Committee at the right time to oppose any statutory codification of tortious interference, which opposition will be set forth in the White Paper created by a Subcommittee of Business Litigation (approved unanimously), which will be distributed to this Committee
- Concerns with the bill – there is no need for it because it's a claim well developed in the common law and the bill would be a departure from that. One sided fees for plaintiffs and liability for tortious interference.

- Aimee Diaz Lyon will send the latest White Paper to Jim to circulate to Committee

### ***2021 Legislative Items – Carrying Over to 2022***

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

Jennifer Morando

John Hutton

HB 451 Passed Judiciary Committee 1/20, Placed on Calendar on Second Reading  
SB 406 On Agenda for Appropriations 1/27 (11:30 am)

*Jennifer Morando*

- Nothing to add to what Aimee reported earlier in meeting.

*Aimee Diaz Lyon*

- The Bill is up today at 11:30 in last committee of reference in the Senate
- It already passed all committees of reference in the House
- Trying to get it to the Governor as soon as possible because we have a retroactive application to the bill so that there is no ambiguity with respect to things that happened since Kearney was passed .
- Hope to get it out of the Senate and over to the Governor in the next few weeks and get it signed as soon as possible.

*John Hutton*

- Asked for the latest version of the legislation.
- Pleased with positive movement of the bill.

*Aimee Diaz Lyon*

- Explained that it is the same as the last submitted version except they added the retroactive application.
- She put in chat box the latest version of the bill.

#### *g. Foreclosure Notice Bill*

April Stone

Judge McEwen

*Judge McEwen*

- Purpose is to provide notice on first page of foreclosure complaint that informs individual homeowner of potential remedy of Chapter 13 bankruptcy to keep the house and warns against rescue scammers.

- She did not push the bill or circle back to Rep. Beltran who expressed an interest to assist because, given Delta and Omicron, we do not expect an avalanche of foreclosures and with the moratoriums in place and other relief by the banks, so there's not a need right now, so we will put in our pocket for now.
- Most recent two years foreclosures are way down.

#### *D. Reports from Other Ongoing Study Groups*

##### *a. Florida Exemption Review/Revisions*

*Kelly Roberts*

HB 265 – 1<sup>st</sup> reading 1/14, now in Insurance & Banking Subcommittee  
SB 528 – Introduced 1/11

**EXHIBIT C** – HB 265 Auto Exemption Increase

**EXHIBIT D** – HB 265 Bill Tracking / History

- Performed a survey to get feedback regarding all exemptions available nationally and what is available in Florida.
- Very similar bills introduced in October 2021 in the House and Senate
- Only change to exemptions is increase from \$1,000 to \$5,000 for auto exemptions
- Rep. Gotlieb filed HB 265 on Oct. 21, 2021
- Sen. Polsky filed SB 528 on Jan. 11, 2022
- Attached as Exhibit to the Agenda is revised version of the House Bill
  - o Increase only applies to Florida debtors in Bankruptcy
  - o 222.25 would get changed and segmented into exemptions available to all debtors
  - o Subsection 2 would increase auto exemption but only to those in Bankruptcy

*Judge McEwen*

- “That’s crazy!” Said that was crazy and nuts and will encourage people to file for bankruptcy and ruin their credit just because they will get more by filing for bankruptcy than not filing for bankruptcy. “That’s absolutely nuts!”

*Kelly Roberts*

- Explained that before the bills were filed, she reached out to Rep. Gotlieb to let him know that we had a Study Group that was working on this and that we would like to provide input and discussion before filed to talk about the logistics and pragmatic results of what he was proposing on Sept. 7, 2021 and received no response so she was unable to get in touch with anyone prior to this being filed.

*Judge McEwen*

- Spoke to people who drafted it this week and asked how they arrived at the \$5,000 and they said it just sounded like a good number.
- Impetus for the bill is that one of them – maybe Rep. Gotlief – has a friend who is a bankruptcy attorney who said it would be nice if they would increase the automobile exemption. But they didn't realize that by making it not across the board (not just in bankruptcy) it would have a serious disadvantage to those they were trying to benefit because of 10-year mark on credit report.
- She provided a significant amount of input regarding other remedies related to exemptions and she thinks it will be changed to make the increased exemption amount the same across the board (regardless of whether filed for bankruptcy).
- She explained that based on the date the \$1,000 exemption amount was set, today it should increase to about \$2,000.

*Judge Williamson*

- Not sure the State can do what the bill is proposing to do.
- States can opt out of federal exemptions and then you operate under the State's exemptions.
- To make exemption only apply in a bankruptcy case may exceed a State's authority and be unconstitutional.
- We need to look at that legal issue to make sure we are not missing something.

*Jim Moon*

- Sounds like something we would oppose
- Asked Kelly if Task Force can prepare a White Paper to oppose this and leadership will support.

*Aimee Diaz Lyon*

- Original bill just changed exemption from \$1,000 to \$5,000. Judiciary staff made further changes regarding bankruptcy.
- She got the staff on the phone with Judge McEwen to answer some technical questions about how bankruptcy works and how this would move people into bankruptcy that maybe otherwise shouldn't be there.
- Bill has not moved in the Senate but it could be up at Senate Judiciary next week but we are not sure.
- It is up today in the Insurance and Banking Subcommittee in the House but they didn't want to do an amendment and wanted to hold all amendments to the Senate Judiciary Committee because they are the experts.

- Next step is for Study Group to speak to Rep. Gotlieb and need meeting with House Judiciary staff to walk them through the foregoing points and finally with Senate Judiciary staff to make sure it doesn't move forward.
- 2 options: (1) technical and practical input without Florida Bar approval; (2) if we want to oppose raising exemption – we would need White Paper and get triple motion approval
- Recommended technical White Paper and speak to House and Senate Judiciary Staff
- They know that changes need to be made.

*Kelly Roberts*

- Through the survey, they received many responses from Ch. 7 and 13 Trustees, staff attorneys, debtors' attorneys, Ch. 11 debtor and creditor attorneys, and encouraged participation by a diversity of practice areas and feedback from RPPTLS attorneys.
- Important to get feedback from the Section regarding its opposition to raising the exemption this way or through other means. Feedback so far indicates that members are not necessarily opposed to raising the exemptions, just not in this way. People mainly worried about their household functioning and keeping their appliances. They don't want to worry about a trustee seizing appliances or tools of their trade.
- Study Group was look at things that other states have and Florida does not and what would help prevent the devastation of a family. Other states have periodic adjustment of exemption based on inflation changes.

*Aimee Diaz Lyon*

- She will have better sense of the viability of the bill next week and we will know how much time we have to prepare and assert an opposition or provide input.
- Because it already passed 2 committees in the House and it will be up in House Judiciary in the next 2 weeks so she encouraged us to focus on the most important issues as soon as possible.

*Jim Moon*

- Asked members to review the bills as quickly as possible and provide input to Kelly.

*Kelly Roberts*

- Study Group does not have a meeting on the books because the updates on the bills is very recent but she invited members to reach out to help her and have discussions about this bill and provide tips.
- She talked to RPPTLS about what the Study Group is doing. But right now, they are not interested in the bill right now.

*Aimee Diaz Lyon*

- Asked Kelly Robert to put together a list of members and times they are available so she could put together Zoom call for Monday to help team to walk through next steps and who will meet with Rep. Gotlieb and Senate Judiciary staff.

UCRERA Glitch Bill

*Adina Pollan*

- Explained that there was a title issue with a case in which Stephanie Lieb was involved.
- RPPTLS tried to coordinate with key title people in the State to come up with their own glitch fix to the issue. It is overbroad and causes many problems from a litigation standpoint, including Due Process and Notice.
- We tried to resolve issue with RPPTLS
- RPPTLS have a 3 motion system and the 1<sup>st</sup> motion passed. They agreed to put on hold so we can coordinate with them and get comfortable with the language they are proposing without disrupting the intended nature of the fix.
- We need help with this.
- Manny Farach has been working on something like Section 363 motion, and we need to address issues including that a sale order isn't necessarily final, non-appealable order, issues with notice, issues with bonds, and intervening liens after the fact.
- Need input from members
- We are going to move very fast on this – will have a meeting in the next couple of weeks.

*b. ABC Glitch Bill Study Group*

Jodi Dubose

Patricia Redmond

*Patricia Redmond*

- Study group is substantially finished with what they've been tasked to do.
- Acknowledged work of Matt Hale, Andy Layden, John Hutton, Dan Stermer, Mark Healy, Phil von Kahle, Nicole McLemore (Reporter)
- Have a very comprehensive study – 2 issues raised by Business Litigation working on the next couple of weeks
- Will have a White Paper to submit to this Committee by the end of March / early April 2022
- Intend to have a town meeting so invited Committee members to contact her with any issues or input.
- Intend to bring it for passage in this Committee in at the June meeting

*Jodi Dubose*

- Noted that the town hall meeting is a fantastic idea.
- Invited members to reach out if they want to participate because the town hall meeting will be before the Bankruptcy Judicial Liaison Committee meeting in June and encouraged members to raise issues at that meeting before this Committee's meeting the next morning by when they plan to have the report completed.
- Study Group is trying to have the Glitch Bill ready before Retreat. The goal is to have it approved at this Committee's meeting in June, then have Executive Council consider and approve it, and have it completed so we can get sponsors for the 2023 session.

*c. Article 9*

Juan Mendoza

No report

*d. Bankruptcy Venue Reform Act*

John Hutton

Hon. Catherine Peek McEwen

*Judge McEwen*

- We have 2 Florida sponsors to join as co-sponsors
- Thank Kathy Caster and Charlie Christ.
- Rep. Stuby and Rackin may join and, if so, we will have two pairs of Bi-partisan support
- Still no movement on the Senate side and no movement at all with regard to the bills generally.
- Florida Attorney General Ashley Moody joined in the letter with Attorneys General around the country supporting the bill, so we should thank her too.

*E. Items to be Monitored*

*a. Financial Literacy Task Force*

Amanda Finley

Veteran's Financial Literacy Program held on Oct. 30, 2021 (hybrid in-person / virtual)

SB 1054 (re-do of 2019 legislation the section supported) which would enact a separately credited financial literacy course as a prerequisite for high school graduation and a standard high school diploma has been referred to the Senate Education Committee first.

HB 1115 has been referred to Secondary Education & Career Development Sub; PreK-12 Appropriations Sub; Education and Employment Committee.

*Carlos Sardi*

- Program held in October in South Florida and it was a very successful event. It was a panel discussion spearheaded by Judge Isicoff, Jim Moon and Carlos Sardi.
- Great showing by Section – we had enough volunteers to serve veteran registrants
- We compiled database for future veterans programs that will be put together throughout the State
- We sent out special thanks to all who participated in the event.
- We had the help of General Charles Walker – Bankruptcy Judge M.D. Tenn. – he put together a moving video for veterans.
- Special thanks to Judge Isicoff for putting together the program together in wonderful fashion in short amount of time.

*Judge Isicoff*

- Acknowledged involvement of everyone involved, including the Task Force who put the program together and got the volunteers.
- We are taking the program Statewide, with many judges volunteering to be “robes on the ground”.
- Many volunteers for future events

*Jim Moon*

- Loved Judge Isicoff’s donuts - “every flavor known to man and I still taste them.”

*Carlos Sardi*

- Seconded the donuts compliment.
- Bill first introduced in the Senate and that it has moved to Senate Education and Rules Subcommittees.
- They have posted sample support letters on financial literacy task force webpage so others can send letters to Senators who are on those Subcommittees to support this legislation
- The House bill is gaining traction recently was referred to the Secondary Education and Career Development Subcommittee, the Pre-K-12 Appropriations Subcommittee, and the Education and Employment Committee.
- We will soon be posting sample letters that members can send to members of those House committees and subcommittees to express support for the bill.
- Legislation is moving fast and furious and so the Section needs to be moving fast and furious.
- We have a standing position on the legislation, so we don’t need to seek any more approvals. We just need Section members to show their support and help.

*b. Northern District Judgeships/Divisions*

Hon. Karen Specie

Jodi Dubose

Doug Bates

*Jodi Dubose*

- No update on this. The numbers for the last year the last time it came around didn't support making a request because the numbers had dipped. But we expect the numbers to go up as the District has been busy with Chapter 11 cases so Judge Specie is pretty busy.
- We expect that we will have another request in the future and will be looking to the Section for support.

*c. Judicial Term Limits/Legislative Oversight of Judicial Decisions*

Doug Bates

Jodi Dubose

*Jodi Dubose*

- No news is good news. That legislation hasn't been filed again and we're keeping our fingers crossed it won't be.
- Suggested we take this off agenda. Rumblings that we would see it again have gone by the wayside and perhaps the Legislature is busy with much more important things.

*Jim Moon*

- Will take off the Agenda for now and if it comes up again, it will be added to the Agenda immediately.

*d. Fla. Stat. § 689.151 Revisions (RPPTLS proposed TBE legislation)*

Andrew Layden

*Andy Layden*

- No update. It has been dormant.
- Suggests removing it from the Agenda and he will bring it back if it comes up again.

*Jim Moon*

- We will move it off the Agenda.

*e. Uniform Voidable Transaction Act Amendments*

*John Hutton*

- Nothing to report.

*f. Digital/Cryptocurrency Regulation Task Force*

John Hutton

James Moon (re: OFR reach out and Virtual Currency Task Force Creation question)

*Jim Moon*

- Nothing to add for this Task Force

*g. Nondebtor Release Prohibition Act of 2021*

*Hon. Catherine Peak McEwen*

Would virtually eliminate the use in bankruptcy cases of non-consensual, non-debtor releases in private claims and those brought by the government.

Introduced by Rep. Jerry Nadler in July 2021, no movement in House since.

*Judge McEwen*

- Confirms above status.
- Other legislation: There is a technical bill to amend Sabra to extend the sunset of the debt cap increase (it went from 2.\_\_\_\_ to 7.5). That lapses March 27, 2022.
- This bill, though filed in August 2021 and hadn't gone anywhere, is starting to get attention and they are looking at using this as a vehicle to extend the debt cap.

**V. NCBJ Sponsorship**

Marine Dorris

NCBJ – Marriott World Center, Orlando, FL, October 18, 2022 – October 22, 2022

Bank/UCC has formed a Sub-Committee to fund raise and assist in planning the State Bar Welcome Reception for the National Conference of Bankruptcy Judges (NCBJ) taking place on October 19, 2022, at the Marriott World Center in Orlando, Florida. As such, Bank/UCC is requesting the Executive Council approve the following: **(i) permit the BLS to serve as the host of the NCBJ Welcome Reception; (ii) solicit and collect funds to plan and pay for the Welcome Reception; and (iii) contribute [TBD] as the Host Sponsor of the needed \$160,000 budget for the Welcome Reception. All funds collected will be deposited with the BLS, all payments to vendors will be made by the BLS, and any remaining funds will be maintained by the BLS for any future Welcome Reception.**

*Mariane Dorris*

- Welcome reception will be held on Oct. 19, 2022 at Marriott World Center
- NCBJ purchased the entire hotel so the reception will be held at the hotel rather than offsite because we have a free venue.
- Judge McEwen is on the planning committee and asked if there is anything BLS can do in terms of bodies and sponsorship to get this project underway.
- Request that BLS sponsor the welcome reception in the amount of \$10,000
- Materials show what BLS would get for that \$10,000.
- Historically, BLS has supported NCBJ and sponsored the event – the last amount was \$5,000 in 2015.
- Want increase the amount because of the difficulty in fundraising during pandemic and that BLS has more money to offer, so asking for \$10,000.
- Asking for volunteers from BLS and this Committee serve on a Subcommittee to help Judge McEwen, NCBJ and Central Florida Bankruptcy Law Association, which might be the host committee, who Mariane has been in talks with to help plan the event. Judge McEwen has a list of restaurants that she would like reviews on. So, we want to hear from people who have been to restaurants in the area and who like to plan large parties.
- The budget is \$160,000 – \$200,000 and they expect 800-1000 people at the reception so we need help to fundraise and plan the event and we need sponsorship from this Section.

**Marianne Dorris moved to request from Executive Council approval for BLS to make a \$10,000 sponsorship for the NCBJ welcome reception at the NCBJ Conference in Orlando this year.**

- Roy Kobert seconded

*Jim Moon*

- It is a point of pride to have this event in Florida and it is a Florida-wide event that will benefit all of Florida (it is not just Central Florida or CFBLA event) and he highly recommends that BLS support it and show NCBJ a great welcome.
- Asked everyone to ask their respective firms and voluntary associations like the BBA to sponsor the event.

*Mariane Dorris*

- We have a list of potential sponsors and will be reaching out.

Jim Moon called the vote

- 84% support

- No opposed
- 16% abstained (the Judges)

#### Civil Rules Task Force

##### *Russell Landy*

- Background – A Work Group of the Supreme Court’s Judicial Management Council has submitted a final report (exceeding 300 pages) making major revisions to the Florida Rules of Civil Procedure to improve efficiency and resolution of civil litigation in Florida civil courts. It makes broad sweeping changes to rules that affect litigation on a day-to-day basis, including adding case management tracks, how motions and hearings are handled, setting cases for trial. It has robust sanctions addition throughout the Rules.
- The Section would like the opportunity to comment.
- Initially, the work group solicited comments to narrow groups, including the Florida Bar Civil Rules Committee, which commented and the work group incorporated some of their comments but not all.
- As it sits now, the report of Work Group is sitting with the Court which is deciding what they are going to do with it.
- It’s anticipated that the Section will be able to provide its comments but that could be at any time. It will likely be a broad window of comment because of the scope of the changes but we don’t know how long or when that will be.
- Task Force has worked hard to create a working comment so it can seek approval of the EC and then provide comment on behalf of the Section.
- Some materials were circulated with the Committee’s Agenda, including Work Group’s Report and a draft comment, which sets out the new proposed rule, the Task Force’s comments, and then leaves room for additional comments, including broad or narrow redline-like comments for Committee to make.
- Goal is to have comments ready as soon as possible so Task Force is asking Committee to provide comments within the next 2 weeks so Task Force can incorporate them into a more substantive, persuasive comment to the Court when given the opportunity.

##### *Jim Moon*

- Page 6 of the Agenda references this specific issue and the Exhibits are on the BLS website with hyperlinks to Exhibits E – H on the Agenda.

## **VI. Continuing Legal Education, Communications, and Publications**

A. *Bankruptcy/UCC Committee CLE Programs*

a. *Previously Held CLE Programs*

i. *10/5/2021 -- Mediation Perspectives: From Business Litigation to Bankruptcy*

Juan Mendoza  
Kelly Roberts

*Juan Mendoza*

- The panelists were very informative.
- Thanked the panelists.
- We got really good reviews.

b. *Future Programs*

i. *View from the Bench 2022 – Tampa and Miami  
(POSTPONED – NEW DATES TBD)  
Hon. Michael Williamson*

*Judge Williamson*

- We had to pivot because the pandemic was at its height when the program was scheduled.
- Through the work of the Moderator Russ Blain, joined by Paul Singerman and Liz Green - Standing members of the Committee – and Stephanie Lieb – a powerhouse in Tampa – we have been able to move all dates and preserve all the deposits for dinners, including Joe’s Stone Crab in Miami and dinner at the Vault in Tampa,
- New dates are Thursday, May 12, 2022 in Tampa and Friday, May 13 in Miami with social events the nights before.
- 200-300 people are expected to attend and the reception and dinner events sold out.

Sign up posted in the chat.

ii. *CLE Planning*

Tara Trevorrow

- This is a hold over from the last Agenda.

- Had a heated debate yesterday about trying to include more diverse speakers at CLE events, which will be discussed at EC meeting.
- She volunteered to be a point person to facilitate future CLE planning that incorporates and includes young and diverse participants as panelists for CLEs and not just research and behind the scenes people.

*Marianne Dorris*

- Section had adopted CLE diversity and inclusion policy that Florida Supreme Court *sua sponte* struck down as being in violation of laws with respect to quotas.
- Subsequently, we submitted comment in support of our policy and opposition to the Florida Supreme Court's decision.
- But, simultaneously to drafting that comment, last June 2021, we drafted and submitted for Florida Bar leadership review a revised CLE policy which eliminated any potential quotas and numbers and just became aspirational policy saying that the Section will strive to make sure its CLE programming is diverse and inclusive and we will implement this policy by having oversight by IMF Committee, which will require applications for CLE programs. IMF will review and determine if the panel was diverse and inclusive or, if not, could we include more inclusion and diversity with the speakers, and, if not, is there acceptable reason why we can't and should the CLE program move forward. Ultimately, the decision of whether the Section would sponsor the program and whether it should go forward would be decided by the Chair of Section.
- We decided to table that amended rule/policy, waiting for the Florida Supreme Court to decide whether it would change its mind on the original policy, but the Court did not change its mind. So at the IMF meeting, that Committee decided to request that EC bring up the revised rule/policy that IMF passed June 2021 for consideration. IMF circulated the revised policy at its meeting and it was overwhelmingly approved by Committee, but there were some members who were concerned with moving forward with the issues.
- IMF thinks it is in the Section's and its members' best interest to move forward with commitment to diversity and inclusion which was started in 2006. IMF believes that the Section should continue to be at the forefront of diversity and inclusion in the legal system.

*Jim Moon*

- This Committee has for some time taken the position that it should support the diversity initiatives of the Section, as has the EC.
- Spoke about implementation of the policy that is respectful to the Florida Supreme Court but also true to the Section's mission of increasing diversity and inclusion.
- There may be differences on how to do this but there is universal support for doing it.

- Invited those interested in the issue to attend EC Meeting at which there will be a robust discussion on the issue, which is now at the EC level and for EC to decide.

*iii. Contact James Moon or Mariane Dorris if you would like to present a CLE or share ideas for future topics*

*B. Communications Committee Report & Newsletter  
Chris Thompson*

- Discussed a project that Committee is working on in the next couple of weeks. Due to COVID, we haven't had the opportunity to socialize with each other and we have many new Bankruptcy Judges (5 appointed in the last 2 years and 2 more to come).
  - o Plan to conduct interviews of the Judges to get to know them on personal level and, if possible, will publish them on the BLS YouTube channel.
- Asked for articles and newsletter content. The blog is a great way to get publicity for members and their firms. The BLS blog publishes articles 800-1000 words and has a large readership
- Reminded members to fill out membership profiles on BLS website.

*Jim Moon*

- Asked about the Out of State Newsletter

*C. Out of State Division Newsletter Submissions  
Hon. Catherine Peek McEwen  
Don Workman*

*Judge McEwen*

- Encouraged members to submit articles
- Proposed that younger members prepare article on what it takes to be a great mentor.

*Jim Moon*

- Encouraged younger members and fellows to submit articles to get their names out there and for the fellows it will fulfill some of their substantive requirements.

*Don Workman*

- Thanked Judge McEwen for encouraging members to submit articles and assured members they would be published with a link to their bios.
- He was the letter editor and former President and is now a member of the Board of Governors of the Out of State Division.
- Judge McEwen is a great source of ideas and will assist members.

- Articles will reach the 15,000 person readership
- Invited members to reach out to him and provided email address.

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

### *A. Other Liaison Reports*

- a. CLE Committee – Andrew Layden*
- b. IMF Committee – Christina Taylor*
- c. Membership Committee – Terry Sanks*
  - o No Report
- d. Pro Bono – Amanda Finley*
  - o The Committee had a well-attended meeting yesterday.
  - o Will be automating the pledge so it can be done online.
  - o Will roll out the pro bono award that was approved at last EC committee meeting.
- e. \*Civil Rules Task Force – Russell Landy*

**EXHIBIT E** – BLS Civil Rules Taskforce Draft Comment

**EXHIBIT F** – IRCC – Final Report

**EXHIBIT G** – IRCC – Final Report (Appendix)

**EXHIBIT H** – Final Letter Workgroup on Improved Resolution of Civil Cases

## **VIII. Old Business**

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

Mark Healy

- We are done. On Jan. 13, 2022, an email went out that had the links to the App. He posted it on the chat.
- Don't need to go to Google or have 19 separate links.
- With the help of Chris Thompson and Tracy at BLS, a page was created with lots of helpful information.
- Invited members to a send additional information that would helpful for everyone and it can be added to the App.

## **IX. New Business**

## **X. Future Meeting Dates**

*Jim Moon*

- EC Council Retreat Trip (Ireland):
  - Pre-Trip: March 12, 2022 – March 15, 2022
  - Main Trip: March 15, 2022 – March 20, 2022
  - Post-Trip: March 20, 2022 – March 23, 2022
  
- Encouraged members to reach out to Kacy Donlon for additional information
- A pdf brochure of the trip was posted.
- Will be in Belfast for St. Paddy's Day
- Jim will attend and encouraged others to attend and to notify leadership so it can finalize the numbers of attendees.
- COVID issues should not be much of a problem. Ireland lifted some of its restrictions and projections suggest that infections are declining.
  
- 2022 Annual Florida Bar Convention – June 22, 2022 – June 25, 2022  
14100 Bonnet Creek Resort Lane  
Orlando, FL 23821

*Judge Paul Hyman*

- Must be vaccinated to go into any pub or restaurant.
- Must take a COVID test to get back into the US.

*Judge Mindy Mora*

- Some of her best memories of her involvement in the Section are from these retreats.
- She has attended 10-15 retreats, before and after she was Chair of the Section.
- Relationships develop when travel with people are terrific.
- Because of the number of people traveling, we are able to hire great travel consultants that plan wonderful itineraries, with activities planned for every day, legal groups to talk to, visit to the courts, learning about the country, residents, culture, architecture.
- This trip will include visits to whiskey distilleries and pubs so it should create a lot of good memories.
- Strongly encouraged members to attend.

*Lori Vaughan*

- The day before NCBJ, partnering with ABI, there will be a trial skills workshop focused on bankruptcy in the Orlando Courthouse. Applications are due May 1, 2022.
- Invited members to participate in the program.

*Andy Layden*

- CLE Committee has 2 goals: (1) ensure robust pipeline of articles in the Bar Journal (there are a couple in the pipeline but always looking for good content so invited members to submit articles); and (2) drive to put out high quality CLEs over the inter-reach platform virtually (invited members to put together CLEs).
- Committee is here to facilitate putting together CLEs for all the Committees and members of BLS.
- Today at 1:30 pm, the Blockchain Task Force has a 1-hour CLE on introduction to blockchain, cryptos, and NFTs that is free to attend. He can send registration link to interested members.

*Jim Moon*

- Final comments
- Reminded members to look at the chat to copy information or click on links provided related to matters discussed during this meeting.

Jim Silver - Motion to close

Dan Stermer – Seconded

Passed unanimously

**XI. Adjourn**