

EXHIBIT A

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

2022 Labor Day Retreat Meeting

Saturday, September 3, 2022, 1:30 p.m. – 4:00 p.m.

Registration for Zoom Meeting:

<https://us02web.zoom.us/meeting/register/tZYpdeyrrTlrH9KtNhal36xyeA1vYMEYIMfM>

Mariane Dorris, Chair
Kenny Murena, Legislative Vice-Chair
Adina Pollan, Vice-Chair
Hon. Mindy Mora, Judicial Chair

I. Welcome and Approval of Minutes from the Prior Meeting

Mariane Dorris

Minutes were attached to Meeting Agenda as **Exhibit A**

Motion to approve the Minutes – Scott Shuker

Seconded – Roy Kobert

II. Introductions of Special Guests and Pro Bono Reminder

Mariane Dorris

Encouraged 100% participation

Provided information regarding Judge Jay Brown’s online portal for pro bono cases

III. Legislation

A. Legislative Overview for 2023 Session

Peter Valori, Legislation Committee Chair

Aimee Diaz Lyon, Section Lobbyist

B. Legislative Review Subcommittee

Kenny Murena introduced the Legislative Review Committee, including Jodi Dubose, Andrew Layden, James Silver, Luis Rivera, Thomas Zeichman

C. 2023 Legislative Items

a. Judgement Lien Amendments

Prof. Jeff Davis, Jodi Dubose

b. ABC Gitch Bill

Patricia Redmond, Jodi Dubose

*c. Warehouse Lien Amendments (§713.585) - **EXHIBIT B***

Dennis Levine

Passed last year. Finally moving forward. Legislation is ready to go, looking for sponsors. Reached out to Florida DMV – looking for contacts in the general counsel office.

IV. Business Law Section Update & Welcome

Doug Bates, Section Chair

Mark Stein, Section Chair-Elect

Manny Farach, Section Treasurer

Stephanie Lieb, Section Secretary

Doug

Introduced himself, Chair Elect, Treasurer, Secretary, Chair and First Vice Chair of Legislative Committee, and Legislative Consultants

Provided Legislative update

Passed the financial literacy bill. President Lesser mentioned the bill earlier. Peter Valori – legislative chair. Make sure you have white paper, draft legislation, legislative form and triple motion. Try to circulate it before so as not to disrupt the process.

Doug Bell – nothing on the calendar yet. May be an interim meeting in December. Session is March through May, 60 day session. January and February will be full of committee weeks, when most of the work is done. Make sure legislation is heard during those weeks. Backing up we have to have lead time. 2024 session begins in January (early). Compressed for 2023.

Peter Valori – if you receive a request for technology, please respond ASAP. May be minutes before information is needed.

Doug Bates – thank you for producing a CLE. Looking for 50 minute CLEs to sell after market. Good for constituents. Also run for 18 months after so good exposure. A lot of great events left – casino night is tonight. Security – be sure to wear your lanyard.

V. Legislation continued

d. Kearney Fix (Re: Requirements for Waivers of Exemptions)

John Hutton provided update. Originally a RPPTL issue. Passed but was vetoed because of retroactive. Waiting to hear back from RPPTL. Imagine will be without retroactivity.

Aimee Diaz Lyon – RPPTL has not made their decision. They haven't had their retreat. Will happen in the next month or 2. Then she'll be in touch to see. Governor vetoed several pieces of legislation because of retroactive application, so all going forward will need to get rid of that requirement. This committee will need to decide about legislation without a retroactive element, and what will happen to

those coming before. Or will we just fight it out in the courts. Need to figure out what that means for current legislation. Aimee will pass along whatever we decide.

e. Motor Vehicle Exemption

Kelly Roberts

Aimee Diaz Lyon – this was something debated extensively last year. \$1,000 to \$5,000. A lot of pushback from legislature. Decision was made by sponsors and legislative staff to only make it in bankruptcy cases. Governor vetoed because of bankruptcy and didn't want to incentivize bankruptcy. Legislators will refile with across the board not just bankruptcy. We currently have that in place for across the board and it's similar. We need to give to the legislative committee – not sure if it will pass. They plan on refiling. If we want to support, we can champion behind the scenes and make sure it doesn't change. Or should we go forward and try to actively get it passed. Also, is \$5,000 the right number? We think that's where they'll start.

Judge Mora – question. When we did it before for those claiming Florida homestead, is that a potential backup. Aimee says yes. We just need to let Aimee know.

Luis Rivera – this was his study group. Rep. Gottlieb's bill caught everyone by surprise. The section's position was that we wanted to take a position, that's not necessarily what happened with the study group. Is that really the best way to provide relief to debtors? May have had alternative procedures or proposals. Gottlieb was unwilling to engage. May want to approach sponsors for a more holistic approach. A lot more equity, but not every debtor has \$5,000 in cars. They may have it in other personal property. Consensus was holistic versus one particular asset.

Mariane Dorris – is there anything formal in writing from the study group?

Luis Rivera – there is a lot of data compiled, not necessarily a white paper. Came up in the spring. Rumors Gottlieb would present. Response was you'll see it when everyone else sees it. We stopped and waited then full speed ahead. Committee substitute caught everyone by surprise. Luis will check with Kelly.

Mariane Dorris – what should we do?

Aimee Diaz Lyon – this is a perfect time for the study group to reconvene. Rep. Polski was also engaged. Both have said they want to work with us. There is opportunity now. Polski and Gottlieb want to get on a call. Aimee's recommendation is that we need to decide which approach. They want to get something passed in the motor vehicle space so they can go to work. While holistic is a great idea it might not yet be ripe. We'll get a call, educate them with white paper, then we'll let them know which one. Yes, study group should meet and give them direction.

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Mariane Dorris – when are they looking to file?

Aimee Diaz Lyon – right away. They can file as early as November. They want to have it in December or January. So pretty quick. We have between now and December. Have about 2 months to decide. Need to make sure we work with legislative staff. Judge McEwen helped with that last year. We need to explain the purpose, how it works, etc. A lot of educating to do but soon.

Luis Rivera – wants to clarify. Holistic – increasing from \$1,000 to \$5,000 will only help a certain class of debtors. Are there other exemptions to shift the wildcard? Tools of the trade exemption or increase the wildcard or on an index. If you increased Household goods, they can shift to what they need. Maybe jewelry and not a vehicle. This bill will not help all the debtors.

Question – who was involved? Kelly Roberts, staff attorney from Chapter 13 trustee's office, Judge Burgess was on the committee. This is just who happened to sign up. If anyone wants to help, reach out to Luis or Mariane.

Aimee – this committee will be super busy, so helpful if only 2-3 people as direct contacts for each legislation. Judgment liens is coming up from Professor Davis. Will potentially be working on Kearney. Then warehouse liens. If we are going proactive on all 4 issues, then will need volunteers to come to Tallahassee. Past 2 years have been virtual. If you volunteer, then 2-4 people to come to Tallahassee on 2 days' notice. She'll know at 5 pm on a Tuesday for 8 am Thursday. Will be a really active legislative session, and that doesn't include the defensive stuff. There will be ESG legislation that we likely won't get involved in because of divisiveness. Data privacy will be coming back.

Judge Mora – glitch bill for UCRERA that RPPTL's trying to push.

Mariane Dorris – Scott Shuker is chairing study group on FDUPTA fix. Daniel Stermer will reach out to Ashley Moody. Is that something that was talked about?

Aimee Diaz Lyon – if we could do a call update with Doug and her to educate them then they can call the AG's office to see what they're anticipating. So reactive or proactive.

Judge Mora – we will be proactive. The sooner we can educate them, the better. Also think about who would be friendly on this issue. Always great to get additional friends – maybe bankers or chamber. We're the lead and bring them along, and just having them there is a big help. Could be 6 bills.

f. Series LLC – EXHIBIT C

Lou Conti, Series LLC Study Group

Lou Conti appeared via Zoom. Just got off phone with corporations where just passed triple motion to adopt LLC provisions. Have we circulated the white paper? For those of us who've participated in task force meetings, quick overview. These

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are modeled on uniform protective series act. Provisions would allow for creation for Florida series LLC's and governing foreign series LLC's currently doing business in Florida. This number will grow even if we don't adopt. Concept utilized by businesses that want to have a mothership umbrella legal entity and then create series within the mothership that can separately run their own business. Example – franchise owners with a bunch of franchise operations. Whether one state or multiple. Private equity funds who want to offer protection to sources of capital. Some operating series for bricks and mortar. E-commerce. Focus of uniform law commission was to provide for more transparency and more creditor protection that continues to be a problem for those without transparency or record keeping. Nevada and Wyoming are heavily utilized. There is a lot of anonymity built within. This would not allow anonymity. Would require recordkeeping. Concept is these plugs into existing LLC act, so all of the provisions would be the same for series as regular LLC's. Department of State has been fully engaged in the process. Actively working with us to help. We think it has comprehensively considered the concept. Delaware was the first in 1996. Been around for a long time. Illinois has 30,000 series. Texas, Virginia. Of the 21 jurisdictions, only 5 have adopted the uniform act but relatively young act. It'll be interesting to see which states will adopt. Would be good at getting rid of shell games. That's why we're using the uniform as the model.

John Hutton – whether a member series under the mothership would be able to separately file for bankruptcy. Clarifying language one way or the other. There is statutory language that says a protective series is a person for bankruptcy. The definition comes from the UCC as far as history. We decided it was up to the bankruptcy code to figure out if it can be treated as separate bodies. Only one legal entity – the mothership. The series would be a legal person but not a legal entity. Didn't think it was the place for anything relating to bankruptcy. That's for the courts and the act but it is a person.

Mariane Dorris – does anyone have a motion.

Scott Shuker moved, and James Moon seconded. Discussion.

Mark Wolfson – not a fan about leaving it up to the courts about bankruptcy. Doesn't allow for planning. What were the pros and cons about addressing that issue?

Lou Conti – the discussion was that fundamentally, most of the people were not bankruptcy lawyers on the task force. They were uncomfortable with stating what should happen for something that already is out there – Delaware. Couple cases – anecdotally – that have been filed where this isn't any filing by a series. Maybe that's because Delaware or Texas just operating in Florida. Didn't have the expertise to add something. If this committee believes that should be in there, we have time. We have the draft and white paper, and continuing meetings through January 2023 to clean up any mistakes. Also taking input from the entire BLS so if we want a subgroup to take a look at, please do so.

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Mark Wolfson – separate tax ID number?

Lou Conti – yes, everyone is separate per IRS and require a separate filing. Any foreign registered to do business in Florida, is treated as a separate filing. They get their own number. The Dept. of Revenue is treating each entity dealing with tax liability. But we don't tax LLCs, only if they make the election to be taxed.

John Hutton – he agrees with Mark Wolfson. Should come up with some clarity. If that could be left open and have some people from this committee.

Lou Conti – it is treated as a legal organization. It can contract and hold property, etc. Thought there was a fairly broad catch all clause that may deal with this.

John Hutton – unincorporated entity.

Mariane Dorris – we should be fine, but we need to work out the definition of person.

Lou Conti – Mothership can. If it does, then all of the protected series are also protected. Series LLCs don't have their own legal position. If mothership dissolves, then all series dissolve as well. What will the bankruptcy court do?

Mariane Dorris – running short on time, so will vote.

Lou Conti – amendment. Drafting committee will, to the extent there is clarification, it will be clarified so this committee is satisfied. All in favor of supporting triple motion subject to Lou's clarification? No objections. Judicial abstentions. Motion carried.

D. Legislative Items to be Monitored

a. Foreclosure Notice Bill

April Stone, Hon. Catherine Peek McEwen

Judge McEwen. Still under advisement by Tracy Koster.

b. UCRERA Glitch Bill

Hon. Mindy A. Mora

Judge Mora. Still negotiating with RPPTLs. Their concern is title company's ability to issue title insurance in connection with receivership appointment. Language says it's a final order and it deals with transfer of property. Under appellate rules, it's interlocutory appeal. That wasn't good enough. Want a new suggestion about posting a bond by appellant. If no bond, then the sale would still be final. Similar to what's done with lis pendens. Waiting to hear if the addition of that clause will be satisfactory. If so, we'll work with them by November.

c. Bankruptcy Venue Reform Act of 2021 (H.R. 4193/ S.2827)

John Hutton

No update

d. Sackler Act –

Also no action in over a year. Judge McEwen – that’s right

E. Study Groups

a. UCC Article 12

Robert Kain

Very active, lots of CLE programming. We’ll have a CLE

b. FDUTPA

R. Scott Shuker. Pearlman case. Despite a fix to the statute getting rid of *in pari delicto*, court dismissed the case because there was no injury. Formed a study group to try to cure that. Similar to 544 of the bankruptcy code. May have application in other receivership fiduciary cases. Meeting on November 7. Will reach out to AG’s office as well. If you want to join, email Scott Shuker.

c. UVTA

John Hutton. Deferring now

VI. CLE/Communications

A. Upcoming

Mariane Dorris – 2 CLEs in May. Bankruptcy update. Reginald Sanvil provided update. August was “Pick your Partner Legislation” CLE.

Future programs – November 2-3 View from the Bench.

Tara Trevorrow – Judge Mora’s career law clerk. There will be some upcoming CLEs. Financial literacy task force has been forming CLE for new lawyers. November 9 piggy backing off FICPA meeting in Ft. Lauderdale. 7-8 people working together. Coordinating with YLD to make sure they will watch. Want to get young people who get their first paycheck to plan for the future. New hires – young associates.

Judge Colton – reminder that NCBJ in Orlando in October. Take advantage of the opportunity to be there. New program – Friday October 21 at 3:30, informal session of 11th circuit judges and lawyers. Paul Battista moderating. Things we deal with in the 11th circuit. Right before the cocktail hour.

Judge Mora – Judge Cristol is retiring in January, so we’re doing something after VFTB in Miami. Planning a luncheon. Please sign up.

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Mariane Dorris – Section is a sponsor the NCBJ welcome reception. We have 8 tickets for those who have not registered. There are 7 remaining tickets. First come first served.

B. Out of State Division Newsletter Submissions

Judge McEwen. Due Date October 7.

VII. Cross-Committee Partnership and Other Liaison Reports

A. Other Liaison Reports

a. CLE

Utibe Ikpe. Is the chair. Spots available for articles for publication. January edition Florida Bar Journal. Pushing for CLEs, keep them in the loop for resources.

b. IMF

Adam Gilbert. One of our new fellows. Met yesterday with a CLE on intergenerational communication. A lot of scholars here, please say hi

c. Membership

Dana Robbins. 15 BLS scholars. Business practitioners' initiative. Identify practitioners who are not members. Please encourage them to join. Outreach project.

d. Pro Bono

Kathleen S. McLeroy. Legal Services of Greater Miami chose BLS for an award. Section created a BLS pro bono award. Nomination process will open October 1 and close January 1. Criteria on the website.

e. Veterans Task Force

Carlos Sardi – no update

VIII. New Business

A. ABI Liaison

Appearance is lacking. Adina Pollan will be liaison.

B. Regional bankruptcy bar associations

We need one liaison to reach out to them and give reports. Reach out to Mariane.

IX. Future meetings

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Talked about NCBJ. Midyear will not be with big bar. We need to figure out CLE on January 25. More practical CLE. EC Retreat in Sedona