

REVISED Agenda for the Bankruptcy/UCC Committee
of the Business Law Section of the Florida Bar 2023 Annual Meeting

Thursday, June 22, 2023, 12:30 p.m. – 4:00 p.m. Grand Ballroom H

Mariane Dorris, Chair mdorris@shukerdorris.com
Kenny Murena, Legislative Vice-Chair kmurena@dvllp.com
Adina Pollan, Vice-Chair apollan@mcglinchey.com
Hon. Mindy Mora, Judicial Chair

I. Welcome & Approval of Minutes from the Prior Meeting - Exhibit A
Mariane Dorris

II. Introductions of Special Guests and Pro Bono Reminder
Mariane Dorris

The Section reaffirms its goal to achieve 100% participation in pro bono service by Business Law Section members and attorneys in their firms. One way to achieve this goal is to participate in the Veterans' Financial Literacy Project and the Middle District of Florida Bankruptcy Court's Districtwide Virtual Pro Se Clinic (Volunteer attorneys and unrepresented parties who want a virtual consult with a volunteer attorney can register at: <http://www.bankruptcyproseclinic.com> and will then be matched up for a virtual consult at a mutually convenient time).

III. Business Law Section Update & Welcome
Doug Bates, Section Chair
Mark Stein, Section Chair-Elect
Manny Farach, Section Treasurer
Stephanie Lieb, Section Secretary
Gregory Yadley, Section Chair of Long Range Planning
Kacy Donlon, Section Immediate Past Chair

IV. Legislation

A. Legislative Overview for 2023 Session
Peter Valori, Legislation Committee Chair
Aimee Diaz Lyon, Section Lobbyist

B. Legislative Review Subcommittee
Adina Pollan, Legislative Vice Chair
Jodi Dubose, Andrew Layden, James Silver, Luis Rivera, Thomas Zeichman

C. 2023 Legislative Items
a. Judgment Lien Amendments
Prof. Jeff Davis, Jodi Dubose

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HB 27 by Rep. Benjamin (D-Miami Gardens)

b. *ABC Glitch Bill*

Patricia Redmond, Jodi Dubose

SB 600 by Sen. Martin (R-Fort Myers)

c. *Warehouse Lien Amendments (§713.585)*

Dennis LeVine

Wrecker and Towing-storage Operators HB 1085 by Rep. Maney
(R-Fort Walton Beach)

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

Jennifer Morando, John Hutton

Secured Transactions / Kearney SB 978 by Sen. Bradley (R-
Fleming Island)

e. *Motor Vehicle Exemption*

Kelly Roberts, Luis Rivera

Value of Motor Vehicles Exempt from Legal Process

HB 981 by Rep. Benjamin (D-Miami Gardens)

SB 1014 by Sen. Polsky (D-Boca Raton)

D. Expected 2024 Legislative Items

a. *Warehouse Lien Amendments (§713.585)*

Dennis LeVine

b. *FDUTPA: Revisions to Fla. Stat. § 501.207(3)*

R. Scott Shuker, Michael A. Friedman

c. *Judgment Lien Glitch Bill – **Composite Exhibit B***

Prof. Jeff Davis, Jodi Dubose

d. *UCRERA Glitch Bill*

Kathleen DiSanto

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E. Legislative Items to be Monitored

- a. *Foreclosure Notice Bill*
April Stone, Hon. Catherine Peek McEwen
- b. *H.R.1017 - Bankruptcy Venue Reform Act*
118th Congress (2023-2024)
John Hutton, Hon. Catherine Peek McEwen

F. Study Groups

- a. **New: UCC 9-Financing Statements**
Adina Pollan apollan@mcglinchey.com
Mark Wolfson mwolfson@foley.com
The 11th Circuit decision in the case *In re NRP Lease Holdings, LLC*, 50 F.4th 979 (11th Cir. 2022) which held that under Florida law, because the Florida Secured Transaction Registry did not employ “standard search logic” for searches of financing statements, the statutory safe harbor for financing statements that fail to correctly name the debtor could not apply, and so the financing statements filed by creditor that incorrectly named debtor were “seriously misleading” and ineffective to perfect creditor's security interest in debtor's assets. In answering the 11th Circuit’s certified questions, the Florida Supreme Court in *1944 Beach Boulevard, LLC v. Live Oak Banking Co.* 346 So.3d 587, 593 (Fla. 2022) adopted “the definition of ‘standard search logic’ accepted in the secured transactions industry, which requires the search to identify specific hits, if any,” and held that “the search option offered by the Registry, which returns the entire index, is not a ‘standard search logic.’” The court held that “section 679.5061(3) provides one way and one way only to search the filing office's records for purposes of determining whether the safe harbor applies to a financing statement that incorrectly names a debtor—i.e., ‘using the filing office's standard search logic, if any.’” *Id.* As a result, the court explained that “[b]ecause the Registry lacks a ‘standard search logic,’ the search contemplated by section 679.5061(3) is impossible, which means that filers are left with the zero-tolerance rule of section 679.5061(2).” *Id.* Because the zero-tolerance rule applies “until the Registry employs a standard search logic, ... any financing statement that fails to correctly name the debtor

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as required by section 679.5031(1) is ‘seriously misleading’ and therefore ineffective.” Id.

Study group is to make recommendation regarding possible legislative proposal to bring Florida’s search registry into the 21st century and provide a safe harbor as well as review other states with the requisite search logic which could serve as a model.

- b. *New: Commercial Financing Product Brokers & Providers*
HB 1353 by Rep. Bankson (R-Apopka)
Diane Wells, Mark Wolfson, John Hutton

The bill creates the “Florida Commercial Financing Disclosure Law,” which requires a provider that consummates more than five commercial financing transactions of \$500,000 or less in a 12-month period to give each business that enters into a consumer financing transaction certain written disclosures regarding the total cost of the transaction, and the manner, frequency, and amount of each payment. The bill provides exemptions to these disclosures. The bill provides that a provider’s characterization of accounts receivable purchase transaction as a purchase is conclusive that the transaction is not a loan or a transaction for the use, forbearance, or detention of money.

Study group is to make recommendation regarding possible legislative proposal to address definition of “business,” “business purpose transaction,” accounts receivable purchase transaction,” the Attorney General as the “exclusive” authority to enforce legislation, as well as any other matters deemed necessary.

- c. *UCC Article 12-CLE Program will address **Exhibit C***
Robert Kain rkain@conceptlaw.com
Hon. Mindy A. Mora
- d. *Florida Exemption Study Group*
Kelly Roberts, Luis Rivera

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V. Continuing Legal Education, Communications, and Publications

A. Bankruptcy/UCC Committee CLE Programs

a. Previously Held CLE Programs

i. View From the Bench

November 3 (Tampa) 4 (Miami), 2022

Stephanie Lieb, Brad Saxton

ii. Panel Discussion: Benefits and Pitfalls of Subchapter V

Course No. 6887

January 25, 2023

Moderated by: R. Scott Shuker

Panelists: Luis E. Rivera, Amy Denton Mayer, Judge Roberta Colton, Judge Jacob Brown, and Judge Jason Burgess

Sponsored by: Shuker & Doris, P.A., Gray Robinson and Stichter, Riedel, Blain & Postler, P.A,

iii. A.B.C. (Fla. Stat. §727): The State Court Alternative to Bankruptcy Court

April 12, 2023: 12:00 p.m. – 1:00 p.m. Webinar.

Course No. 6721

Speakers: R. Scott Shuker, Mark C. Healy, & Patricia Redmond

Fee: \$50.00 Members, \$110.00 Non-Section Members

iv. Practices & Procedures: Bankruptcy Judges of the Jacksonville Division of the Middle District of Florida Course No. 7165

March 30, 2023: 12:00 p.m. – 1:00 p.m. Webinar with In-Person Attendance in Courthouse

Speakers: United States Bankruptcy Judges for the Middle District of Florida, Jacksonville Division, Honorable Jacob Brown, and Honorable Jason Burgess

Moderator: Adina Pollan

Fee: Free

v. Practices & Procedures: Bankruptcy Judges of the Orlando Division of the Middle District of Florida Course No. 7163

April 19, 2023: 4:00 p.m. – 5:15 p.m. Webinar

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Speakers: United States Bankruptcy Judges for the Middle District of Florida, Orlando Division, Honorable Tiffany Geyer, Honorable Grace Robson, and Honorable Lori Vaughan
Moderator: Ana DeVilliers, Staff Attorney with Chapter 13 Trustee Office
Fee: Free

b. Future Programs

i. Bank/UCC & BDA Committees Present the New UCC Article 12: Why, When and What Does It Do? Course No. 7455

June 22, 2023; 2:00 p.m. – 4:00 p.m.

The Boca Raton, Grand Ballroom J

Speakers: United States Bankruptcy Judge for the Southern District of Florida, West Palm Beach Division, Honorable Mindy A. Mora, Robert Kain, Jaime Leggett, Michael Dunn, Edwin Smith, Steven Wiese, and Andrew Hinkes

ii. Labor Day Retreat CLE

September 2, 2023 (TBD)

iii. View From the Bench 2023 – Tampa and Miami

November 2 (Tampa), Reception (11/01/2023): New Location

USF Health CAMLS (124 S Franklin St, Tampa, FL 33602)

November 3 (Miami)

B. Communications Committee Report & Newsletter

Shirley Palumbo Shirley.Palumbo@gmlaw.com

Requesting articles and blogs for the section newsletters and social media outlets. Here are the submission guidelines for your reference.

<https://flabizlaw.org/blog-submission/>

Topics: what your committee/task force is doing this year, including CLEs, meetings, projects, etc. If any CLE presenter would like to provide a written synopsis of their presentation, we welcome that as well.

C. CLE Committee Report & Fla. Bar Journal

Luis Rivera Luis.Rivera@gray-robinson.com

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- D. Out of State Division Newsletter Submissions*
Hon. Catherine Peek McEwen, Don Workman

VI. Cross-Committee Partnership and Other Liaison Reports

A. Other Liaison Reports

- a. *IMF Committee* – Adam Gilbert
- b. *Financial Literacy* – Carlos Sardi
- c. *Membership Committee* – Dana Robbins, Juan Mendoza
- d. *Pro Bono* – Hon. Laurel Myerson Isicoff
- e. *Regional Bankruptcy Bar Liaisons*
Megan Murray mmurray@underwoodmurray.com
(BBA-ND Fla., BBA-SD Fla., TBBA)
Christian Haman chaman@dallagolaw.com (CFBLA, JBBA, SFBPA)
- f. *ABI Liaison* – Adina Pollan
July 20-23, 2023
Southeast Bankruptcy Workshop
Ritz-Carlton, Amelia Island, FL
- g. *CLLA* – Robert Charbonneau

VII. New Business

VIII. Future Meeting Dates & Events

Labor Day Retreat – September 1 – September 4, 2023, Ritz Carlton, Naples
FL

The Florida Bar, Winter Meeting– January 24-27, 2024, Rosen Shingle
Creek, Orlando, FL

Annual Florida Bar Convention– June 19–22, 2024, Signia by Hilton
Orlando, Bonnet Creek & Waldorf Astoria, Orlando, FL

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IX. CLE Program

X. Adjourn