

**Bankruptcy/UCC Committee Meeting Minutes**  
**June 22, 2023**

- Mariane Dorris, Chair [mdorris@shukerdorris.com](mailto:mdorris@shukerdorris.com)
- Kenneth Murena, Legislative Vice Chair [kmurena@dvllp.com](mailto:kmurena@dvllp.com)
- Adina Pollan, Second Vice Chair [apollan@mcglinchey.com](mailto:apollan@mcglinchey.com)
- Judge Mindy Mora, Judicial Chair [mamora@flsb.uscourts.gov](mailto:mamora@flsb.uscourts.gov)

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

Motion to Approve the Minutes by Dan Stermer, Luis Rivera (second). Approved unanimously. No abstentions.

**II. Legislation**

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

Discussed below in Section III.

- b. *Legislative Review Subcommittee*  
Adina Pollan, Second Vice Chair  
Jodi Dubose, Andrew Layden, James Silver, Luis Rivera, Thomas Zeichman

- c. *2023 Legislative Items*  
i. *Judgment Lien Amendments*  
Prof. Jeff Davis, Jodi Dubose

Ric Geller spoke on glitch bill. Attached to agenda. Motion presented by Diane Wells. Seconded by Scott Shuker. Passed with judges abstaining. (Continued below after Section III.)

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

Doug Bates, Section Chair  
Mark Stein, Section Chair-Elect  
Manny Farach, Section Treasure  
Stephanie Lieb, Section Secretary  
Gregory Yadley, Section Chair of Long Range Planning  
Kacy Donlon, Section Immediate Past Chair

Mark Stein spoke about Scotland. If you are interested in golf, please book it early.

Peter Valori – 2023 is an early session, we need to have everything buttoned up by Labor Day. Aimee Diaz Lyon – we still need to get EC approval and big bar approval, which is October, which is kind of late. If this Committee needs to get Article 12 or FDUTPA done, communicate to the team to please have it done by Labor Day for anything new.

- ii. *ABC Gitch Bill*  
Patricia Redmond, Jodi Dubose  
SB 600 by Sen. Martin (R-Fort Myers)

Passed and signed. Thanks to everyone on the Committee who helped. Some curveballs last minute. Team effort with white paper. Nicole McLemore was the secretary. Special thank you. Trish Redmond – Uniform Law Commission needs a committee to draft a uniform statute. Important to have our think tank to respond.

- ii. *Warehouse Lien Amendments*  
(§713.585) Dennis  
LeVine

**Wrecker and Towing-storage Operators [HB 1085](#)** by Rep. Maney (R-Fort Walt on Beach)

Section approved the amendments. Bill introduced in both houses during last session. Told it had backing of leadership of both houses. The Bar’s lobbyists are amazing. Went to Tallahassee in March and testified. Towing lobby was very organized and attempted to stop to no avail. Didn’t make the agenda at the last committee stop. Sponsor to take up the bill again in the next session, so will try again next session. Will need help – still a committee of one. One of the changes trying to make the ability to inspect a vehicle held hostage by a towing company came up. Reach out to Dennis if you want to help; Fellows please get involved. You can also reach out to Mariane or Adina.

Judge Mora – any attorneys Dennis runs into on these deals might be people we could bring into the Section and get them involved on this project. Dennis is going to reach out to them and encourage them to do so.

- iv. *Kearney Fix (Re: Requirements for Waivers of Exemptions)*  
Jennifer Morando, John Hutton  
**Secured Transactions / *Kearney* [SB 978](#)** by Sen. Bradley (R- Fleming Island)

Passed and signed this past Tuesday. Related to invalidating a blanket lien on accounts or other entitlements that are exempt under chap. 222.13-222.16 (life insurance policies, cash surrender value of life insurance policies and annuities, wages, unemployment compensation), 222.18 (disability income benefits), and 222.201-222.22 (federal bankruptcy exemptions, pension money, 529 plans, medical savings accounts and Coverdell education savings accounts), unless the specific type of collateral is specifically listed. Passed last year but vetoed because retroactive. This version is not retroactive.

- v. *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)

Luis Rivera – we started this task force last year to look at the exemptions in general. Dennis LeVine is also on that committee. Work was stymied by a bill that was introduced that would have increased exemption on cars to \$5,000 but only for debtors in bankruptcy. New bill proposed for all judgment debtors – bill died in committee both in house and senate. Work continues despite legislators not interested in helping. The Committee will look into how to try to revive this.

*d. Expected 2024 Legislative Items*

- i. Warehouse Lien Amendments (§713.585)*  
Dennis LeVine

Discussed above.

- ii. FDUTPA: Revisions to Fla. Stat. § 501.207(3)*  
R. Scott Shuker, Michael A. Friedman

Scott Shuker – after approval from the triple motion, we didn’t get a sponsor, so it’s sitting and waiting for a sponsor to be identified.

Dan Stermer – F.S. sec. 501.2073 – appointment of a receiver. Language on *in pari delicto*. Study group was supposed to fix *Pearlman* to make it clearer what the legislature said in prior legislation. New legislation is awaiting a sponsor for next year. While this is limited to the AG office, we use this as an analogy for other courts.

Judge Mora – talk about interplay with ABC statute. Dan Stermer – after sec. 501.207 was cleaned up, then ABC cleaned up to say *in pari delicto* doesn’t apply. Trying to keep our fiduciaries able to bring actions against third parties. Eleventh Circuit said language was not clear enough.

Mariane Dorris – no direct contact? Dan Stermer – no, we have not. AG is supportive of this, but no response yet.

- iii. UCRERA Glitch Bill*  
Kathleen DiSanto

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

Judge Mora – RPPTLS making lots of noise. Received a proposed glitch bill – some concerns about their understanding about how litigation works. We cleansed it. They sent us another draft that said Response to BLS Wordsmithing. They’ve backed off. They’re still grumbling. But there is a division between the title insurance people and the traditional real estate lawyers so there’s a standstill. They’ve put it in our hands so we’re letting it lie for now. We’ll make up our minds by the Labor Day retreat.

- iv. *Judgment Lien Glitch Bill - **Composite Exhibit B***  
Prof. Jeff Davis, Jodi Dubose

Discussed above. Continued after Section IV.

**IV. 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).

*e. Legislative Items to be Monitored*

*i. Foreclosure Notice Bill*

April Stone, Hon. Catherine Peek McEwen

Judge McEwen – not going to pursue until foreclosures go up.

*ii. H.R. 1017 • Bankruptcy Venue Reform,  
Act 118th Congress (2023-2024)*

John Hutton, Hon. Catherine Peek McEwen

Pending with bipartisan report. Rep. Kathy Castor (D.- Fl.) is sponsoring. We need Republican cosponsors. Please thank Rep. Castor. As of right now no companion Senate bill. Don't expect any traction, but maybe will get there one day.

Bob Charbonneau – have another sponsor. Up to 10. SD TX is now a hot venue and thinks venue reform isn't good, so Senator Warren will help.

Judge McEwen – Rep. Laurel Lee (R. – Fl.) is mulling it over.

FEDERAL UPDATES

Mariane Dorris – three bills pending regarding student loans. 2 House and one Senate.

H.R. 306 – Stopping Abusive Student Loan Collection Practices in Bankruptcy Act of 2023; Attorney's fees and costs for the debtor if ultimately discharged.

H.R. 138 – Private Student Loan Bankruptcy Fairness Act of 2023; private student loans to be discharged regardless of undue hardship.

S. 136 – ISA Student Protection Act of 2023; educational income share agreements would not be subject to same undue hardship standard typical of student loan discharges.

Two federal exemption pieces. HB 962 – Protecting Gun Owners in Bankruptcy Act. Increase the exemption for firearms to \$3,000, and clarifies that such firearms are household goods not subject to liens in bankruptcy. Judge Olsen – are there any Chapter 7 trustees that administer guns? Mariane – think some do. You can sell them back to gun shops. This hasn’t moved.

Health Savings Accounts – H.R. 2959 and companion S.2621. Seeking, among other things, to exempt HSA’s from creditor claims under federal bankruptcy exemptions (Note: Florida law already provides for this in F.S. sec. 222.22.)

*f. Study Groups*

*i. New: UCC 9-Financing Statements*

Adina Pollan [apollan@mcglinchey.com](mailto:apollan@mcglinchey.com); Mark Wolfson [mwolfson@foley.com](mailto:mwolfson@foley.com)

The 11th Circuit in the case *In re NRP Lease Holdings, LLC*, 50 F.4th 979 (11th Cir. 2022), 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 as required by section 679.5031(1) is ‘seriously misleading’ and therefore ineffective.” *Id.*

Study Group is to make recommendations 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.

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

Mariane Dorris – this needs to be fixed. Please sign up.

Diane Wells – Candace Zeredot at Stetson is chairing that committee with Jocelyn. Need a Study Group but going to see what's going on nationwide. Not clear what Florida does – requirement for small commercial loans. Study Group needs to look at it.

Judge McEwen – if you don't like the bill, there is a way to get that into the bill package. The sponsor is very receptive to those kinds of packages because he does not want to be embarrassed either.

Diane Wells – it's a very vague bill.

Mariane Dorris – no standing position on this issue

John Hutton – didn't know about the opportunity to do that. Will be worthwhile to put together a position paper.

Diane Wells suggested that the Committee form a Study Group to review the following proposed legislation:

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 commercial 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 an 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 recommendations 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.

- iii. *UCC Article 12-CLE Program will address **Exhibit C***  
Robert Kain [rkain@conceptlaw.com](mailto:rkain@conceptlaw.com)  
Hon. Mindy A. Mora

Will skip for now – other articles will have to be tweaked. Robert Kain – head of the Task Force.  
Just finished a chart that will be shared.

- iv. *Florida Exemption Study Group*  
Kelly Roberts , Luis Rivera

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

### *A. Bankruptcy/UCC Committee CLE Programs*

#### *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,

Both available online

- iii. *ABC (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

Very well attended

- 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  
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

*Future Programs*

- i. *Bank/UCC & EDA 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, Andrea Hartley, Edwin Smith, Steven Weise, and Andrew Hinkes.
- ii. *Labor Day Retreat CLE*  
September 2, 2023 (TBD)  
  
Litigating confirmation issues sponsored by Shuker & Dorris, P.A.
- 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)

Brad Saxton – please volunteer, especially if you’re new. Judge Williamson started a case digest database for all bankruptcy related cases. Had associates help for years. Turned that over to this group. Part of this group for 30+ years now. Need 10-12 volunteers to digest all the cases for one month for bankruptcy cases. Will send you cases and instructions. Will go on a database. All the cases are digested by code section. Sign-up sheet. Will contact you in the next couple of weeks. Takes about 5-6 hours

Judge Colton – Michael G. Williamson View from the Bench. Tampa will be same; Miami will be at the Coven Center to provide free parking. Hoping for great attendance. Next year is the 40<sup>th</sup> anniversary of the program.

Mariane Dorris – Fellows, please sign up to help Brad out, will help with your project requirement.

*B. Communications Committee Report & Newsletter*

Shirley Palumbo [Shirley.Palumbo@gmlaw.com](mailto:Shirley.Palumbo@gmlaw.com)

Shirley Palumbo - Requesting articles and blogs for the section newsletters and social media outlets. Here are the submission guidelines for your reference. <https://fl.abizlaw.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@grayrobinson.com](mailto:Luis.Rivera@grayrobinson.com)

Luis Rivera – robust discussion about the role of the committee. Do substantive committees want to participate? Stephanie Lieb shared the guide to putting on the VFTB. Look at the website. Also edit and manage the BLS column in the Bar Journal. Opportunity to publish an article. Was a robust pipeline during Covid, but now things are slowing down. Get articles – Fellows, young lawyers, good opportunity to get your name out and show a publication on your resume. Opening for the September/October edition – get by July 1. Article that’s 75% done – will help to get your article finished and conform to style guidelines. Will also help substantively edit.

Mariane Dorris – another way for Fellows to meet the project requirement.

*D. Out of State Division Newsletter Submissions*

Hon. Catherine Peek McEwen, Don Workman

Don Workman – I can guarantee if you send me an article, it will be published. Can build in hyperlinks. Good way to get your name out there and highly recommend it for new lawyers. Every edition has something from the Bankruptcy/UCC committee. Passed around some editions for everyone to view.

Mariane Dorris – for those interested in writing, there is a way to get CLE credit for writing an article.

## VI. Cross-Committee Partnership and Other Liaison Reports

### A. Other Liaison Reports

#### i. IMF Committee-Adam Gilbert

Adam Gilbert – IMF met yesterday. Three Fellows were in attendance and were introduced: Elizabeth Brusa, Kameron Fleming, and Ian M. Corp.

Mariane Dorris – 10<sup>th</sup> anniversary so there will be an event at the retreat on Friday night.

#### ii. Financial Literacy - Carlos Sardi

Carlos Sardi – Florida now recognizes April as Financial Literacy month; Judge Isicoff and Judge Brown, Judge Specie – thank you all for helping get this month recognized. Task Force is planning this year to go statewide with its veteran’s financial literacy program. We need volunteers to help go statewide. Go to the pro bono web page and sign up.

#### iii. Membership Committee- Dana Robbins, Juan Mendoza

Juan Mendoza – funding motion \$16,000. \$11,000 will be to have \$450 registration fee and \$100 stipend for expenses. Additional \$5,000 for a survey to gather information as to what we can do to increase membership in the state. And to fund events and swag. Will be presenting to EC.

Mariane Dorris – reach out to law schools in Florida. 2 students per law school. Qualified candidates come to the retreat to learn about BLS. We’ve been doing it for 6-7 years.

#### iv. Pro Bono - Hon. Laurel Myerson Isicoff

Judge Isicoff – dinner last night. John MacDonald and Maxine Long received the Section’s first Pro Bono Service awards. Reminded the members of the Section’s mission statement. For those of you who signed pro bono pledge, you are obligated. Will have a table at the retreat. Will now be publishing in weekly newsletter and monthly a list of all the volunteers who’ve taken cases. Kathy McElroy served as chair of committee.

#### v. Regional Bankruptcy Bar Liaisons

- a. Megan Murray [mmurray@underwoodmurray.com](mailto:mmurray@underwoodmurray.com)  
(BBA-ND Fla., BBA-SD Fla., TBBA)

TBBA – dinner with new slate and Judge Williamson honored. VFTB in November in Tampa. Zoom attendance for luncheons.

BBA – June 1-4 was annual retreat. Stories of financial distress. BBA also had an awards ceremony for high schoolers who wrote essays on financial literacy. Will expand to other cities. Working to reinvigorate its Pro Bono program. Also hosts brown bag lunches in person and online.

SWFBPA. Had to push back 10<sup>th</sup> annual Judge Paskay memorial dinner but it was held in Ft. Myers. Chief Judge Delano presented.

CFBLA – annual seminar coming up. Can attend via Zoom and look at past CLE.

JBBA – August 11 annual meeting

NBBA – September 29 annual meeting in Destin. Reaffirmation assistance program. Off to a great start for pro se debtors.

Miami VFTB needs advance sign-up for free parking.

Christian Haman [chaman@dallagolaw.com](mailto:chaman@dallagolaw.com) (CFBLA, JBBA, SFBPA)

- a. *ABI Liaison* - Adina Pollan  
July 20-23, 2023  
Southeast Bankruptcy Workshop  
Ritz-Carlton, Amelia Island, FL
- b. *CLLA* - Robert Charbonneau

Bob Charbonneau – ex officio membership on model committee. Looming deadlines. Subchapter V debt limits are set to expire next March. We want to make them permanent. Chapter 13 debt limits to sunset in June.

## **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

## **IX. CLE Program**

## **X. Adjourn**