

Minutes for the Meeting of the Bankruptcy/UCC Committee of the Business Law Section of the Florida Bar at the Labor Day Retreat

Saturday, August 31, 2024, 1:00 p.m. – 3:30 p.m., Naples, Florida

Adina Pollan, Chair adina@hakimian.us

Matthew Hale, First Vice-Chair (Legislative) mhale@srbp.com

Andrew Layden, Second Vice-Chair (Study Groups/CLE) alayden@bakerlaw.com

Hon. Mindy Mora, Judicial Chair

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

Chair Adina Pollan commenced meeting at 1:05pm. Ms. Pollan introduced committee leadership and welcomed attendees.

Paul Giordano made a motion to approve the minutes. Luis Rivera seconded the motion. Motion carried unanimously.

II. Introductions of Special Guests and Pro Bono Reminder

Ms. Pollan discussed the BLS's commitment to achieve 100% participation in pro bono service by BLS members and attorneys in their firms. Ms. Pollan discussed the ways in which Subcommittee members and their colleagues can participate in pro bono initiatives in Florida. These include the following, which Ms. Pollan presented to the Subcommittee:

- Veterans' Financial Literacy Project (<https://flabizlaw.org/pro-bono-pledge/veterans-financial-literacy-program/>).
- The Middle District of Florida Bankruptcy Court has a 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.
- The Northern District of Florida Bankruptcy Court also has a Pro Bono Initiative. Information can be found here: <https://www.flnb.uscourts.gov/ndflbba-pro-bono-initiative>
- The Southern District of Florida Bankruptcy Court has Pro Bono Opportunities, which can be found here: <https://www.flsb.uscourts.gov/legal-assistance-debtors>

III. Business Law Section Update & Welcome

Manny Farach, Section Chair

Stephanie Lieb, Section Chair-Elect

Peter Valori, Section Treasurer

Robert Barron, Section Secretary

Gregory Yadley, Section Chair of Long-Range Planning

**Agenda for the Meeting of the Bankruptcy/UCC Committee
of the Business Law Section of the Florida Bar at the Annual Meeting**

Saturday, August 31, 2024, 1:00 p.m. – 3:30 p.m., TBD

Mark Stein, Section Immediate Past Chair

Section leadership arrived and Chair Manny Farach introduced the Executive Council members and thanked the Subcommittee for their efforts. Mr. Valori mentioned two initiatives for the Section (1) increasing ongoing CLE presentations by each Subcommittee, and (2) increasing Section membership; Mr. Valori asked for the Subcommittee's continued efforts in these initiatives. Dineen Wasylik addressed the Subcommittee and provided an overview of the triple motion process.

IV. Legislation

A. Legislative Overview for 2025 Session

Woody Pollack, Legislation Committee Chair

Dineen Wasylik, Legislation Vice Chair

Aimee Diaz Lyon, Section Lobbyist

There was no appearance or update on this item at the meeting.

B. Legislative Review Subcommittee

Matt Hale, Legislative Vice Chair

Thomas Zeichman, Bob Charbonneau, Jodi Dubose, Andrew Layden, James Silver, Luis Rivera, Dave Slenn, Ivan Reich, Jessey Krehl, Joseph Pack, Zach Hyman

Mr. Hale explained the purpose of the Legislative Review Subcommittee and distributed a sign-up list for volunteers to the Legislative Review Subcommittee. Ms. Pollan thanked the current Legislative Review Subcommittee members by name, and encouraged Subcommittee members to join the Legislative Review Subcommittee.

C. 2025 Legislative Items Advanced by or of Interest to Committee

There was no appearance or update on this item at the meeting.

D. Legislative Items Being Monitored

1. *Foreclosure Notice Bill*

April Stone, Hon. Catherine Peek McEwen

There was no appearance or update on this item at the meeting.

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

R. Scott Shuker, Michael A. Friedman

**Agenda for the Meeting of the Bankruptcy/UCC Committee
of the Business Law Section of the Florida Bar at the Annual Meeting**

Saturday, August 31, 2024, 1:00 p.m. – 3:30 p.m., TBD

There was no appearance or update on this item at the meeting.

3. *Federal Legislative Updates*

- a. *H.R.1017 - Bankruptcy Venue Reform Act*
(There is no companion bill in the Senate)
118th Congress (2023-2024)
John Hutton, Hon. Catherine Peek McEwen

John Hutton provided that a national group, The Commercial Law League, is monitoring and advocating for this position in this law. BLS has a standing position to support it. Otherwise, no update.

- b. Subchapter V Debt Cap Ceiling Sunset

There was no appearance or update on this item at the meeting.

- c. Amendments to Federal Rules of Civil Procedure 16 and 26 regarding privilege logs

There was no appearance or update on this item at the meeting.

E. *Study Groups*

1. *UCC Article 9 - Financing Statements*
Adina Pollan adina@hakimian.us
Mark Wolfson mwolfson@foley.com

Ms. Pollan provided the report for this study group and stated that the study group is continuing to monitor this matter.

2. *UCC Article 12 – New Fla. Stat. § 669 and Related UCC Amendments*
Robert Kain rkain@conceptlaw.com
Matthew Hale
Hon. Mindy A. Mora

Mr. Kane (Chair of the Article 12 Task Force) and Michael Dunn (one of the Vice-Chairs of the Article 12 Task Force) appeared. Mr. Kane described the Study Group's efforts and the development of the White Paper, Memo, and other documents attached to the August 31, 2024 Subcommittee Agenda as exhibits. Mr. Kane also provided a high-level summary of certain key provisions of the proposed

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

Saturday, August 31, 2024, 1:00 p.m. – 3:30 p.m., TBD

Article 12 statute. Mr. Kane offered to answer any questions or comments on the proposed statute.

Mr. Hale discussed that members of the Subcommittee participated in the Article 12 task force and separately reviewed the proposed legislation and stated that approximately 26 states have already adopted Article 12. Mr. Hale voiced his support for the Article 12 legislation. Mr. Hale also mentioned a Florida-specific issue involving central bank digital currency. The proposed Florida statute excludes central bank digital currency from the scope of Article 12. Mr. Kane responded that he believed this change resolved any the political concerns over this issue.

Judge Mora discussed the governing law provisions of Article 12. There was a suggestion that the governing law should be that of the owner of the digital asset owner, while the Uniform Law Commission’s model law generally applied the law applicable to the intermediary holding the digital asset. The law being proposed in Florida would maintain the Uniform Law Commission’s governing law provisions.

Mr. Dunn made a motion for the Subcommittee to support approval of the Article 12 legislation proposed by the Article 12 Task Force as Fla. Stat. § 669. The motion was seconded by Diane Wells. The motion passed unanimously with abstentions by all judges present.

3. *Commercial Financing Disclosure Law - Product Brokers & Providers*
[HB 1353](#) by Rep. Bankson (R-Apopka)
Jocelyn Macelloni, Matt Hale, Diane Wells, Mark Wolfson, John Hutton

Mr. Hale stated that there was not a significant update other than an upcoming whitepaper.

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

Mr. Rivera provided the update on this study group. Mr. Rivera stated that the increased Florida exemption for vehicles recently went into place. Mr. Rivera suggested re-forming the study group. This matter will be addressed at the winter meeting.

4. *ABC Study Group*
Trish Redmond, Jodi Dubose

Patricia Redmond provided the update on this study group. Ms. Redmond stated that the drafting commission of the Uniform Law Commission has a working draft

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

Saturday, August 31, 2024, 1:00 p.m. – 3:30 p.m., TBD

of a proposed assignment for the benefit of creditors statute, and once of the significant issues is how to harmonize or deal with distinctions between judicially supervised and non-judicially supervised assignment for the benefit of creditor processes. In response to a question about the scope of the proposed law versus Florida's extensive ABC statute, Ms. Redmond stated that the draft uniform law cut significant provisions from Florida's existing ABC statute.

V. Continuing Legal Education

A. 2024 Bankruptcy/UCC Committee CLE Programs Since 2024 June Meeting

1. Bankruptcy Law Case Update – Webinar

July 29, 2024, 1 hour

Presentation and discussion of recent bankruptcy case law developments from November 2023 through April 2024.

Mariane Dorris - Shuker & Dorris P.A. Orlando, FL

Lauren Stricker - Shuker & Dorris P.A. Orlando, FL

Reginald Sainvil - Baker & McKenzie LLP Miami, FL

2. Ethical Dilemmas in Bankruptcy – Webinar

June 26, 2024, 1 hour

Presentation and discussion of recent bankruptcy case law regarding ethical issues arising under Federal Rules of Bankruptcy Procedure 2014, 2016, & 2019 and 11 U.S.C. §362(a) & (k).

Mariane Dorris - Shuker & Dorris P.A. Orlando, FL

R. Scott Shuker - Shuker & Dorris P.A. Orlando, FL

Jill Kelso - U.S. Dept. of Justice Office of U. S. Trustee Orlando, FL

3. Practical Preservation, Collection and Use of ESI and Digital Evidence During Litigation and Trial – Live

June 21, 2024, 3.5 hours

This practical seminar by the Electronic Discovery and Digital Evidence Committee provided attendees first with an overview of the latest development in ESI-related law, followed by discovery holds, preservation and production obligations from an attorney well-seasoned in supporting ESI-centric litigation and trials. The ever-popular mock hearing then followed, with substantial judicial participation perspective, and then the seminar concluded with a judicial panel and open Q&A for the panelists and all seminar participants.

Avery S. Chapman, Esq.

Valerie David, Esq. and Jacinda Beraud

Harry Dorcy, Esq.

**Agenda for the Meeting of the Bankruptcy/UCC Committee
of the Business Law Section of the Florida Bar at the Annual Meeting**

Saturday, August 31, 2024, 1:00 p.m. – 3:30 p.m., TBD

*Hon. Scott M. Grossman (U.S. Bankruptcy Court) and Hon. Jared Strauss
(U.S. Magistrate)*

Ms. Pollan reported on the recently completed CLEs listed above.

B. Upcoming 2024 CLE Programs Sponsored by Other Committees or Organizations

1. CLE: A Cautionary Tale for Lawyers: Recognizing and Climbing out of Addiction
September 26, 2024 at 12 pm EDT
Scott discusses his own struggle with alcohol, dependency, and mental health and shares his journey to serve as a role model for others.
Scott Spradley, Esq.
2. The Judge Michael G. Williamson View from the Bench & Bar and Judicial Reception
November 7 and 8, 2024
Tampa and Miami, Florida

Ms. Pollan reported on the upcoming CLEs listed above.

C. Future CLE Programs Relevant to this Committee

There was no appearance or update on this item at the meeting.

D. Ideas for Future CLEs:

Second Vice-Chair Andrew Layden provided an update to the Subcommittee on potential CLE topics under consideration to be presented by the Subcommittee: (1) dismissal of bankruptcy cases based on bad faith filings; (2) the effect of the U.S. Supreme Court's *Purdue Pharma* decision on Chapter 11 practice in Florida; (3) What Litigators Need to Know About Bankruptcy; (4) Insolvency Options for Florida Businesses; (5) Bankruptcy Evidence (led by Doug Bates); (6) How to Effectively Work with the Office of the U.S. Trustee.

Judge Mora suggested that a panel involving Subchapter V Trustees could be of interest to the Subcommittee.

E. CLE Committee Report & Florida Bar Journal

Kathleen DiSanto kdisanto@bushross.com

Dan Etlinger

The Hon. Caryl Delano

**Agenda for the Meeting of the Bankruptcy/UCC Committee
of the Business Law Section of the Florida Bar at the Annual Meeting**

Saturday, August 31, 2024, 1:00 p.m. – 3:30 p.m., TBD

Kathleen DiSanto thanked the Subcommittee for its CLE efforts. Ms. DiSanto also discussed the current strong pipeline of articles for the Florida Bar Journal and suggested that the CLE Committee is always looking for Subcommittee members willing to write articles.

VI. Communications Committee Report & BLS Newsletter

April Stone astone@tmppllc.com

DeeDee Bitran

Emma Refuveille

The Hon. Paul Hyman

Judge Hyman stated that the Communications Committee was meeting at 3:30 p.m. after conclusion of the Bankruptcy/UCC Subcommittee.

VII. Out of State Division Newsletter Submissions

Don Workman, Hon. Catherine Peek McEwen

There was no appearance or update on this matter.

VIII. Cross-Committee Partnership and Other Liaison Reports

A. *IMF Committee* – **Katherine Van de Bogart**, Valerie David, The Hon. Lori Vaughn,
The Hon. Virginia Norton

There was no appearance or update on this matter.

B. *Financial Literacy* – **John Hutton**, Tara Trevorrow, The Hon. Jay Brown

Mr. Hutton stated that the Financial Literacy Committee was meeting today after conclusion of the Bankruptcy/UCC Subcommittee.

C. *Membership Committee* – **Christina Taylor**, Luis Rivera, Zach Evangelista, The Hon. Karen Specie

There was no appearance or update on this matter.

D. *Pro Bono* – **Tara Trevorrow**, Raina Shipman, Luis Rivera, The Hon. Laurel Myerson Isicoff

**Agenda for the Meeting of the Bankruptcy/UCC Committee
of the Business Law Section of the Florida Bar at the Annual Meeting**

Saturday, August 31, 2024, 1:00 p.m. – 3:30 p.m., TBD

There was no appearance or update on this matter. Ms. Pollan encouraged the Subcommittee members to volunteer for pro bono efforts.

- E. *Scholar and Fellows Retention Task Force* – **Zack Hyman**, Chris Broussard, The Hon. Catherine McEwen

Zach Hyman provided that a written report is anticipated to be complete in January 2025, after which the Task Force’s work may be complete.

- F. *Regional Bankruptcy Bar Liaisons*

These reports were provided at the Bankruptcy Judicial Liaison Meeting and were not repeated at the Subcommittee’s meeting.

Jim Moon provided a reminder to the Subcommittee that the Bankruptcy Courts have a policy of making reasonable accommodations for those with communication disabilities (this includes witnesses, lawyers, etc.) and that to request such accommodations parties should contact the coordinator (whose contact information is available on the Bankruptcy Courts’ respective websites).

- G. *American Bankruptcy Institute (ABI)*
Adina Pollan

There was no appearance or update on this matter at the Subcommittee meeting.

- H. *Commercial Law League of America (CLLA)* – **Robert Charbonneau**

There was no appearance or update on this matter at the Subcommittee meeting.

- I. *Florida Institute of CPAs (FICPA)* – **Don Workman**

There was no appearance or update on this matter at the Subcommittee meeting.

IX. New Business

- A. *Business Litigation Task Force on the Voluntary Trial Resolution statute is currently working on a rewrite of section 44.104, Florida Statutes.*

There was no appearance or update on this matter at the Subcommittee meeting.

- B. *Service of Process*

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

Saturday, August 31, 2024, 1:00 p.m. – 3:30 p.m., TBD

Jim Murphy addressed the Subcommittee about Florida’s statute on service of process. Mr. Murphy talked about the service of process task force, created around 2019, to study whether changes should be made to service of process rules in Florida. Ultimately, a bill was drafted, proposed, and ultimately passed into law around 2022. After statute was adopted in 2022, the task force monitored how the statute was implemented. The most significant implementation issue arose as to when the bill become effective – some courts have held that the applicable rule depends on when the underlying cause of action accrued (not when service of process occurred). This dispute creates a risk, especially as to default judgments, where there could be a basis to set the default aside. The Task Force is proposing a “glitch bill.” Among other things, the glitch bill would (i) create a safe harbor for compliance with old or new law, (ii) extend hours for proper service, (iii) added that registered agents could be served in additional ways, (iv) addressed issues with respect to service on Florida Secretary of State; and (v) clarified how to serve entities in receivership. Mr. Murphy has provided a Whitepaper to Subcommittee leadership, and said he is available to address any questions or concerns.

C. Implementation of Judgment Lien Bill

Dennis Levine addressed the Subcommittee about the implementation of the recently enacted judgment lien statute. Mr. Levine stated that the Florida DMV administratively has not had an effective method of implementing the provisions of the bill relating to noting liens on vehicle titles. Mr. Levine asked that if anyone is willing to help him in working with the DMV and other agencies on implementing the new judgment lien statute, he would appreciate any assistance. Doug Bates suggests also contacting the tax collators offices about this – since tax collector is involved in the process.

D. Northern District of Florida Additional Judgeship.

Mr. Bates addressed the Subcommittee about the U.S. Bankruptcy Court for the Northern District of Florida’s effort to obtain an additional bankruptcy judgeship. Mr. Bates spoke about ND Bankruptcy Court judge (Judge Specie) covering a large district which limits the ability to have in-person hearings. The Bankruptcy Court for the N.D. Florida’s goal is to add one additional judgeship to the N.D. Florida Bankruptcy Court. The ND gets substantial assistance from the U.S. Bankruptcy judges in the S.D. Alabama, but there is a need for additional assistance in the N.D.

**Agenda for the Meeting of the Bankruptcy/UCC Committee
of the Business Law Section of the Florida Bar at the Annual Meeting**

Saturday, August 31, 2024, 1:00 p.m. – 3:30 p.m., TBD

Florida. The U.S. Bankruptcy Court for the N.D. Florida is seeking a triple motion for the BLS to support a letter from Judge Specie to the Eleventh Circuit Court of Appeals to request one additional judgeship for Bankruptcy Court in the N.D. Florida. Mr. Bates presents the triple motion (the text of which was included in the materials and read aloud at the meeting by Ms. Pollan). The motion is seconded by Roy Kobert. The motion passed unanimously.

E. *Judge Williamson Portrait.*

Paul Singerman addressed the Subcommittee about the ongoing effort to raise funds for a portrait of the late Judge Michael Williamson. Mr. Singerman is leading that effort, along with Leonard Gilbert and Stephanie Lieb. The goal is to raise approximately \$65,000 for a portrait and a reception in honor of Judge Williamson. The TBBBA has agreed to be the intermediary to accept and hold the donations. The request is \$750 per contributing party.

X. Future Meetings, Retreats

- Virtual Fall Florida Bar Meeting – October 14-19, 2025
- The Florida Bar Winter Meeting – January 21-26, 2025 at Rosen Shingle Creek, 9939 Universal Blvd., Orlando, FL
- Annual Florida Bar Convention – June 25-29, 2025 at The Boca Raton, 501 East Camino Real, Boca Raton, FL

Ms. Pollan provided notice of the above-referenced upcoming meetings.

The meeting was adjourned at approximately 2:12 p.m. ET, after which Subsection sponsor RealAdvice presented a one-hour CLE.

###