

Report and 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 30, 2025, 1:00 p.m. – 3:30 p.m., Calusa 11-12

Matthew Hale, Chair mhale@srbp.com

Andrew Layden, Vice-Chair (Legislative) alayden@bakerlaw.com

Kathleen DiSanto, Second Vice-Chair (Study Groups/CLE) kdisanto@bushross.com

The Hon. Mindy Mora, Judicial Chair

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

Matthew Hale

Matthew Hale called the meeting to order at approximately 1:04 p.m. and invited attendees to make introductions.

Matthew Hale requested approval of June 2025 meeting minutes. Roy Kobert made motion to approve minutes, Judge Colton seconded motion. Minutes approved by voice vote.

II. Introductions of Special Guests and Pro Bono Reminder

Matthew Hale

Matthew Hale provided overview of pro bono resources and opportunities to provide pro bono service.

The Section reaffirms its goal to achieve 100% participation in pro bono service by Business Law Section members and attorneys in their firms.

Congratulate our very own Carlos Sardi, past chair of this Committee, for winning the Section Pro Bono Award.

One way to achieve this goal is to participate in the **Veterans' Financial Literacy Project** (<https://flabizlaw.org/pro-bono-pledge/veterans-financial-literacy-program/>), or by visiting the **Florida Pro Bono Matters** website to locate a case you can help with (<https://fundingfla.org/florida-pro-bono-matters/>).

Interested volunteers can also participate in one of the many pro se clinics statewide:

- 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.bankruptcy_pro_se_clinic.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->

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initiative

- The Southern District of Florida Bankruptcy Court has Pro Bono Opportunities, which can be found here: <https://www.bankruptcyproseclinicfls.com/>

III. Business Law Section Update & Welcome

Stephanie Lieb, Section Chair
Peter Valori, Section Chair-Elect
Robert Barron, Section Treasurer
Woodrow Pollack, Section Secretary
Gregory Yadley, Section Chair of Long-Range Planning
Manny Farach, Section Immediate Past Chair

Chair Lieb introduced leadership and thanked attendees for all their work with CLE and legislation. Chair Lieb shared an overview of the remaining retreat events. Dineen Wasilsk requested notification to legislative committee as soon as possible if proposed legislation is anticipated from substantive committee.

IV. Legislation

- A. *Legislative Overview for 2026 Session*
Dineen Wasylik, Legislation Committee Chair
Mariane Dorris, Legislation Vice Chair
Aimee Diaz Lyon, Section Lobbyist

- B. *Legislative Review Subcommittee*
Andrew Layden, Legislative Vice Chair

Richard Fechter, Michael Lessne, Jason Burnett, Katelyn Garciga, Daniel Halperin, Jennifer Morando, Elena Paras Ketchum, Jeffrey Schlerf, Jim Moon, Jessey Krehl, Andrew Wit, Christian Haman

Andrew Layden noted that list of members of Legislative Review Subcommittee had been pared down and invited attendees to join committee by contacting him. Legislative sessions starts in January and efforts will begin gearing up soon, with bills being filed shortly.

- C. *Legislative Items Being Monitored*

Reports were consistent with Agenda, except as otherwise noted or supplemented below.

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1. *Florida Statute § 28.222(3)(f)*

Matt Hale

This issue relates to whether Florida clerk's offices will accept for recording Notices of Commencement of bankruptcy cases. Section 549(c) of the Bankruptcy Code provides a bona fide purchaser protection for transferees of real property who lack notice of the bankruptcy case. A trustee can limit this protection by recording "a copy or notice of the petition" in the real property records.

Although the Bankruptcy Code permits recording a "copy *or* notice of the petition," Fla. Stat. § 28.222(3)(f)—which governs which types of documents clerks can accept for recording—only expressly permits clerks to accept for recording "[c]ertified copies of petitions, with schedules omitted, commencing proceedings under the Bankruptcy Act of the United States, decrees of adjudication in the proceedings, and orders approving the bonds of trustees appointed in the proceedings." The list does not include "notices of petitions."

Some trustees prefer to record Notices of Commencement because they are shorter, court-generated, and contain more information to put parties on notice of applicable deadlines.

Judge McEwen has contacted the Hillsborough County Clerk of Court, who stated that their position would be that under the current Florida Statute, a Notice of Commencement is not a recordable document.

The Committee will discuss whether to pursue legislative action to add the Notice of Commencement to Fla. Stat. § 28.222(3)(f).

This issue was raised by Michael Bakst, chapter 7 trustee, who records notice of commencement of case in official records. The clerk's office has been reluctant to accept the notice of commencement. Matt Hale invited discussion as to whether study group should be created or whether the issue did not require further action. Judge Mora would prefer to see notice of commencement filed in official records, as it puts parties on notice as to dates by which they need to take certain actions. Judge Specie suggested attaching notice of commencement to petition. Luis Rivera suggested the recording of an affidavit or declaration providing the information set forth in the notice of commencement. He also noted that the statute requires a recordation of a certified copy of the petition, and if there is going to be an amendment to the statute, to eliminate the requirement that the recorded copy of the petition be certified. The group opted to create a task force to further evaluate the issue.

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2. *Foreclosure Notice Bill*

April Stone, Hon. Catherine Peek McEwen

Still holding off on foreclosure notice bill until we see big upturn in foreclosures. Reports indicate that foreclosure rates remain low.

No updates at this time.

3. *Federal Legislative Updates*

a. *Bankruptcy Administration Improvements Act of 2025*

Hon. Catherine Peek McEwen

The BAIA (H.R. 3867, S. 1659), which has the FLSB and FLMB temporary judgeship extensions embedded in, has passed the Senate and was sent to the House on 8/8/25. The bill needs some tweaking — which the House will have to undertake -- and then has to be returned to the Senate with those changes. The tweaks are to satisfy some concerns of the U.S. Trustee Program regarding funding of the chapter 7 trustees' guaranteed extra \$60 per case, which is unrelated to the judgeship extensions.

b. *H.R.1017 - Bankruptcy Venue Reform Act*

John Hutton, Hon. Catherine Peek McEwen

Rep. Zoe Lofgren announced at the House Judiciary hearing in July (at which our own Megan Murray spoke) that she would be filing a bill in this 119th Congress similar to the one she filed in the 118th Congress. A co-sponsor is being sought.

John Hutton mentioned that a group addressing these issues will be meeting at NCBJ.

c. Amendments to Federal Rules of Civil Procedure 16, 26 and new Rule 16.1; Bankruptcy Rules 3002.1 and 8006; Evidence Rule 801.

FRCP 16, 12/1/24 – Amendments went into effect

Bankruptcy Rules 3002.1, 12/1/25 – Rule slated to go into effect

d. Amendments to Bankruptcy Rule 2002; Official Forms 101 and 106C; Evidence Rules 609 and 707.

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Matt Hale

The Judicial Conference Committee on Rules of Practice and Procedures recently published for public comment proposed amendments to Bankr. Rule 2002 and Official Forms 101 and 106C, and FRE 609 and 707. A link can

The proposals and supporting materials are posted on the Judiciary's website at: <https://www.uscourts.gov/rules-policies/proposed-amendments-published-public-comment>.

The Public comment period is now open and closes on **February 16, 2026**.

While not on the agenda, Matt Hale discussed increase of subchapter V debt limit and possibility of being included in a defense bill. The debt limits for chapter 13 from the prior act would also be carried forward.

D. Study Groups

1. Judicial Sales Procedures

Matthew Hale

In 2024, a newspaper article brought to light that certain parties were conducting judicial foreclosure sales that deviated from the standard foreclosure sale process set forth in Section 45.031 of the Florida Statutes. For the 2025 legislative session, a Florida senator filed SB 48, which proposed numerous amendments to Section 45.031 of the Florida Statutes governing “judicial sales procedure.” The BLS approved a triple motion to oppose the legislation as originally drafted because the proposed legislation appeared to substantially impair the existing rights and remedies of secured lenders in foreclosure sales. For example, the legislation contained limits on credit bidding and included a minimum sale price requirement of 75% of the tax-assessed value.

A study group was formed, which collaborated with RPPTLS and the Florida Bankers Association, to provide comments on several amended versions of SB 48 that were introduced during the 2025 legislative session. SB 48 ultimately did not pass in the 2025 legislative session.

For discussion, attached as **Exhibit B** are our proposed comments to the last iteration of the proposed SB 48, which were jointly drafted with RPPTLS.

The study group will remain active in the event that similar legislation is proposed

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for the 2026 legislative session.

No additional updates.

2. *MCA/Commercial Financing Disclosure Law Study Group* **Daniel Etlinger**

At the June 2025 committee meeting, this study group was reconstituted and broadened to review and advise on certain issues relating the merchant cash advance agreements, including language contained in the Commercial Financing Disclosure Law (Fla. Stat. § 559.9613), identification of secured parties in UCC-1 financing statement, and service of process issues.

Daniel Etlinger reported that the study group held its initial meeting. The group will focus on commercial disclosure laws and issues with respect to UCC-1 Financing Statements and identifying real party in issue. The next meeting is from September 11, 2025, from 12:00 p.m. to 1:00 p.m. via Zoom.

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

The ABC Study Group has been recommissioned to review the Uniform Assignment for Benefit of Creditors Act (the “Uniform ABC Act”), which was approved by the Uniform Law Commission at its recent annual meeting in July 2025. Below is a statement published by the Uniform Law Commission on the new Uniform ABC Act. Attached as **Exhibit C** is a copy of the Uniform ABC Act as approved by the Uniform Law Commission.

From the Uniform Law Commission:

Uniform Assignment for Benefit of Creditors Act

An assignment for benefit of creditors (ABC) is a voluntary, debtor-initiated state law alternative to the bankruptcy process, state receiverships and voluntary workouts. An assignment is a liquidation procedure in which the "assignor" voluntarily assigns all of its assets to an "assignee", a fiduciary, which liquidates the assets and distributes the proceeds to the assignor's creditors. The assignment operates through the creation of a fiduciary relationship with the assignor's creditors as the beneficiaries. The Uniform Assignment for the Benefit of Creditors Act is intended to provide greater clarity and consistency to the assignment process. The act provides for a streamlined assignment process, allowing states to modernize their assignment statutes and codify aspects of common law. It sets out a straightforward process for commencing and

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completing an assignment and provides a scheme for distributions to the assignor's creditors. It lays out the duties and powers of the assignor and assignee, a process for allowing and disputing claims, and limitations on liability for the assignor and assignee.

Patricia Redmond reported that group remains active, with approximately 25 members, and plans to meet soon. The group will study Uniform Law Commission's proposed uniform model law, which could bring uniformity nationwide for receivers. The model law has no real court supervision and rights for assignment are contained in a negotiated agreement, rather than statute.

V. Continuing Legal Education

A. 2025 Bankruptcy/UCC Committee CLE Programs

1. *Monkey Business - Navigating the Shifting Terrain of Dischargeability in Subchapter V*

August 25, 2025, 1 hour

Hon. Jason A. Burgess; Jonathan Sykes; Luis Rivera

2. *A Whole New World: What Florida Litigators Need to Know About Bankruptcy*

June 10, 2025, 1 hour

Chris DeCort, Kathleen DiSanto, Eyal Berger, Megan Murray

3. *ABCs, Receiverships & Beyond*

May 15, 2025, 1.5 hours

Mark Healy, Jodi Dubose, Phil Birkhold, Adina Pollan

4. *Insolvency Options for Florida Businesses*

March 12, 2025, 1 hour

Joe Luzinski, Kenny Murena, Elena Ketchum, Brett Lieberman, Christian Haman

B. Upcoming 2025 CLE Programs Sponsored by Other Committees or Organizations

1. *E-Discovery Fundamentals: A Practical Introduction for New Florida Litigators*

September 10, 2025, 1 hour

Rasheed Nader

2. *2025 Legislative Update*

October 7, 2025

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C. Future CLE Programs Relevant to this Committee

1. *Unique Tales of Sales – Strategies and Complications with Getting the Deal Done*
August 30, 2025 (Labor Day Retreat)

Elena Paras Ketchum, John Page, Mark Healy, Bradley Tennant
Sponsored by RealAdvice

2. *Practical Evidence*
October 9, 2025, 12:00 – 1:00

Doug Bates, Scott Underwood
Virtual (Zoom)

3. *View from the Bench*

Tampa
November 6, 2025
USF CAMLS (Downtown Tampa)

Miami
November 7, 2025
Akerman LLP (Brickell)

4. *Wealth Transfers and Fraudulent Transfers*
Jan/Feb 2026 – date TBD

David Slenn, John Hutton

D. Ideas for Future CLEs

1. Bankruptcy Evidence
2. The Evolving “Bad Faith” Dismissal Standard for Chapter 11 Bankruptcy Cases
3. Intro. To Bankruptcy Primer for Young Lawyers
4. How to Effectively Work with Trustees in Bankruptcy Cases
5. The Effect of *Purdue Pharma* and Related Cases on Bankruptcy Practice

E. CLE Committee Report & Florida Bar Journal

Kathleen DiSanto kdisanto@bushross.com
The Hon. Caryl Delano

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Kathleen DiSanto is the CLE liaison for this Committee and can provide updates.

Brad Saxton to discuss the view from the bench case digest project.

Kathleen DiSanto provided report regarding CLE efforts and invited production of additional CLE webinars and solicited articles for The Florida Bar Journal.

VI. Communications Committee Report & BLS Newsletter

Deedee Bitran deedeeb@standwithus.com

Emma Refuveille

The Hon. Paul Hyman

VII. Out of State Division Newsletter Submissions

Don Workman, Hon. Catherine Peek McEwen

VIII. Cross-Committee Partnership and Other Liaison Reports

A. *IMF Committee* – **Valerie David**, April Stone, Jessey Krehl, Hon. Virginia Norton

Jessey Krehl provided report. He expressed interest in involving fellows in CLE webinars and invited members to serve as mentors for fellows to reinvigorate mentorship program.

B. *Financial Literacy* – **Tara Trevorrow**, Brett Lieberman. Hon. Lori Vaughan

Tara Trevorrow provided report. Task force is creating a program for elders to address reverse mortgage and issues with living on fixed budget in face of inflation. The task force will meet today at 3:30 p.m. in Calusa 5.

C. *Membership Committee* – **Carlos Sardi**, Kristina Feher, Amanda Fernandez, Hon. Karen Specie

Carlos Sardi provided report. The group is excited about three initiatives: focusing on recruitment of younger members and encourage members to return who abandoned section post-pandemic, welcoming new members, and welcoming suggestions from existing members to ensure satisfaction.

D. *Pro Bono* – **Raina Shipman**, Terry Sanks, Lauren Stricker, The Hon. Laurel Myerson Isicoff

Raina Shipman provided report. Please share pro bono experiences so that they

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can be featured in newsletter.

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

Remove from agenda. Disbanded in June.

- F. *Regional Bankruptcy Bar Liaisons*

Megan Murray mmurray@underwoodmurray.com (BBA-ND Fla., BBA-SD Fla., TBBA)

Megan Murray provided report for TBBBA. View from the Bench will be held in Tampa. Judge Williamson's portrait unveiling will be the day before View from the Bench. The View from the Bench reception will be merged with the portrait unveiling and will be free of charge this year, but please be sure to RSVP timely.

Michael Niles provided report for Northern District and invited all to the seminar in May.

Christian Haman chaman@dallagolaw.com (CFBLA, JBBA, SFBPA)

Jennifer Morando reported for CFBLA. CFBLA is soliciting nominations for Pro Bono Award. CFBLA will be holding putt putt golf tournament on November 14, 2025.

Adina Pollan reported for JBBA. Membership drive is open, and annual meeting was held a few weeks ago. In October, JBBA will have a happy hour to honor attorneys providing pro bono service.

Christian Haman reported for SWFBPA. Membership is free, and Christian invited attendees to join. Paskay Dinner will be held on November 19, 2025. Please be sure to consider sponsoring the dinner.

- G. *American Bankruptcy Institute (ABI)*

Adina Pollan

- Southeast Bankruptcy Workshop – July 24-27, 2025 at The Ritz-Carlton, Amelia Island
- Winter Leadership Conference – December 4-6, 2025 in Tucson, Arizona
- Annual Spring Meeting – April 23-25, 2026 in Washington, DC

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Adina Pollan provided report, and Judge Delano shared that ABI is working to secure a location for the Paskay seminar.

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

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

IX. New Business

A. Insolvency Options for Florida Cannabis Businesses
Jim Moon

Existing Florida law does not appear to have a viable framework for addressing the insolvency of legal cannabis businesses, specifically, what happens when such a business fails, needs to be reorganized, or liquidated. Medical Marijuana Treatment Centers (MMTCs) are governed by Fla. Stat. § 381.986. Federal bankruptcy law is not an insolvency option for these businesses. Florida's state-law remedies, such as receivership or assignment for the benefit of creditors (ABC), may be viable options, but licensing and other issues may pose challenges.

Attached as **Exhibit D** is an explanation from Jim Moon discussing these issues further. The formation of a study group to further analyze these issues will be proposed.

Jim Moon recommended forming study group to evaluate these issues. Patricia Redmond made a motion to form study group, which was seconded by Roy Kobert. A sign-up sheet was circulated.

X. Future Meetings, Retreats

- Virtual Fall Florida Bar Meeting – October 14-19, 2025
- Winter Meeting – January 28-29, 2026, at Sunseeker Resort in Charlotte Harbor
- Executive Council Retreat – March 4-8, 2025, Iceland

Motion to adjourn by Adina Pollan, seconded by Jennifer Morando.