

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

Held on Wednesday, June 21, 2017, at 9:00 a.m.

At Boca Raton Resort Club, Grand Ballroom I/J, in Boca Raton, Florida

Jodi Daniel Cooke, Chair

Carlos E. Sardj, Vice Chair

Hon. Catherine Peek McEwen, Judicial Chair

**I. Welcome and Approval of Minutes - Jodi Cooke, Chair**

The meeting was called to order at 9:00 am by the Chair. She welcomed everyone and introduced herself, the Vice Chair, and the Judicial Chair. The Chair reminded everyone to identify themselves before speaking so the minutes would be accurate. Subsequently, attendees introduced themselves, and the meeting commenced.

The previously circulated minutes from the committee meeting held in Orlando at the Semi-Annual Meeting were discussed and unanimously approved upon motion by Jason Burnett, and seconded by Ivan Reich.

**II. Introduction of Special Guests and Pro Bono Reminder - Jodi Cooke**

Chair called out the fellows to introduce themselves to the members, but none were present at the meeting.

Judge Isicoff intervened, and introduced her Judicial Clerk and summer interns. In addition, a student from the University of Miami, School of Law introduced himself, and the Chair welcomed him to our meeting.

Chair also reminded everyone to take a pro bono case for this year.

**III. Business Law Section Update & Welcome - Jon Polenberg, Section Chair, Melanie Damian, Section Chair-Elect, and Michael Chesal, Section Treasurer**

Jon Polenberg, Section Chair provided a summary report of his tenure. He praised our committee and its members. He praised the Bankruptcy/UCC Committee for always having the highest attendance and for its very active participation. He further congratulated our committee for its efforts in trying to get the proposed Uniform Voidable Transaction Act ("UVTA") passed by the Florida Legislature, which the leadership will continue to support despite opposition by the RPPTL and Tax Sections.

Melanie Damian, Section Chair-Elect, likewise thanked our committee, expressed her continued support for its efforts, and reminded the members that this year we will be

celebrating the 30<sup>th</sup> anniversary of the original retreat, and encouraged members to sign up and attend the BLS Labor Day Retreat where there will be a lot of fun activities.

#### **IV. Legislative Update** - Jay Brown, Section Legislative Chair and Aimee Diaz-Lyon, Section Lobbyist

Jay Brown, Section Legislative Chair gave a brief update on the legislative activity at the Florida Legislature during the past session. He advised our members that the next legislative session starts on January 9, 2018, and therefore, the Legislative Committee needs white papers for any proposed legislation from our committee by no later than the upcoming BLS Labor Day Retreat. The Chair advised Mr. Brown that there were none at the moment.

Jay Brown then proceeded to praise our committee for its work and job done during the last legislative session. He went on to highlight and described these efforts. He announced that corporations committee advanced on “fictitious name” legislation. UVTA also was up. Jay praised John Hutton for his outstanding efforts with UVTA. Jay advised our members that we are not done yet with UVTA, and said that it progressed a lot further than anticipated. He assured our members that the Section and its leadership will renew efforts next session, and that the Legislative Committee is committed to it. Jay believes is going to be a multi-year fight, but that we will eventually get there.

Jay Brown also noted that financial literacy legislation progressed further than in the past. He believes that it is gaining momentum, and gaining more friends every year. He advised our members that the Section will continue to work on this multi-year effort.

Mr. Brown then proceeded to highlight other legislation that will likely come back despite our opposition, particularly, judicial term limits. He asked members to remind legislators and friends about our position. Pre-judgment interest and mortgage foreclosure issues are expected to also come back. He also believes that new legislation on digital currency may potentially be up.

Lastly, Mr. Brown proudly announced that legislation passed to get salary raises for our state court judges and staff. He praised our committee’s efforts on this multi-year effort, which finally paid off.

On judicial term limits, the Chair reminded members about the upcoming Constitutional Revision Commission (“CRN”) which she believed can be used as a different platform to oppose the measure than just fighting the legislation. Doug Bates intervene, and noted that we should act now, as if the measure would be in the ballot this November, and that the issue needs to be addressed now. The Chair agreed with Mr. Bates in that once the measure passes at the CRN level, it is over.

Based on the above, Mr. Bates proposed to create a sub-committee for this issue, and the Chair agreed. Accordingly, the Chair sent a sign-up sheet to members who want to participate in the sub-committee.

**V. Bankruptcy Judicial Liaison Committee Meeting Report** - Hon. Paul J. Hyman, BJLC Judicial Chair and Lynn Sherman, BJLC Co-Chair

Hon. Paul J. Hyman, BJLC Judicial Chair, gave an update on the on the BJLC meeting, which occurred one day prior to ours. Judge Hyman summarized the various issues discussed, particularly the effect of the temporary judgeships on the Southern District if these are not extended or made permanent.

Judge Hyman announced that, after ten years of service, he had presided his last meeting as Chair of the BJLC, and passed the baton to Hon. Roberta Colton. Judge Colton then briefly addressed the members to announce a new BJLC program for the BLS Labor Day Retreat on the critical subject of fee applications, which, as she described it, will be a “MUST SEE TV” program for all who practice bankruptcy law. Judge Colton also advised the Chair that she will not be imparting reports to our committee as Judge Hyman had done in the past.

**VI. Reports from Study Groups**

- a. *Uniform Commercial Real Estate Receivership Act* (joint with Business Litigation Committee) - - Lynn Sherman and Kenny Murena

Kenny Murena provided the report. Study group split into five different sub-committees to address the different components of the legislation. Each of the sub-committees has been working diligently for the past five months, and have already given their reports to the study group chairs for further discussion. All members of the study group agreed to continue working on the uniform law, and will provide a further report at a later date.

- b. *HB 713/SB 562* (proposed amendments to Fla. Stat. § 559.72 – Prohibited Practices under the Florida Consumer Collection Practices Act) - - Jodi Cooke

The Chair provided an update on this old bill. The bill did not come back up at the last legislative session, but will advised that our committee will remain vigilant in case it does come up again in the future.

- c. *FBA foreclosure amendment* (proposed amendments to Fla. Stat. § 702.12 – Foreclosure of Mortgages and Statutory Liens) - - Mindy Mora

Mindy Mora provided an update and summary about the proposed legislation. She explained that bankers tagged on the proposed additional language to the legislation with our assistance, but, that despite that effort, it did not pass. While there were apparently some

concerns about the application of federal bankruptcy law, Ms. Mora expects to see the legislation come up again in the next legislative session in January of 2018.

d. *Amendments to Uniform Voidable Transaction Act* - - John Hutton

John Hutton provided an update on UVTA. He explained that the proposed bill died in the legislature. Mr. Hutton explained that he believes the dispute between our Section and the RPPTLs on the measure was also an issue. He expects the bill to come up again next year, and it will need legislative support for the bill from all angles. Mr. Hutton thanked the study group for their hard work, and also invited other members to participate in the study group. He advised that legal research will be needed, and suggested that probably law school students, fellows or interns could assist in that endeavor.

e. *Digital/Cryptocurrency Regulation* - - Stephanie Lieb

Stepanie Lieb provided an update on possible legislation. The sub-committee is putting together a study group for representative white and will report back on another date about its progress.

f. *Collaborative Law* - - Patricia Redmond/Hon. Laurel Isicoff

No report.

g. *Northern District Judgeships/Divisions* - - Doug Bates and Jodi Cooke

Doug Bates provided an update. He advised that he has contacted influential members of the House to gain support. Mr. Bates explained that the Senate's Judiciary Committee is very divided on the issue. Mr. Bates believes that our committee should get creative to gain judges in the Northern District, where there is only one judge traveling back and forth among all the divisions throughout the Florida panhandle.

Judicial Chair intervened and made a comment about one South Dakota judgeship position opening up with the possibly of also sitting in Pensacola to alleviate the problem in the Northern District. Judge Williamson advised that it may be doable and that Mr. Bates may perhaps give a call to Judge Schreier to pitch the idea. Judge Isicoff intervened to state that while she believes Judge Schreier may be opened to the idea, that there are a lot of other districts reaching out and competing for the part-time judge.

The Chair then inquired on the time frame. Judge Colton stated that we only have a few more months to work on this (October 2017). The Chair then suggested to revisit this issue at the BLS Labor Day Retreat.

The Chair also reminded the members of the situation with the Panama City Division in the Northern District, where the building lease is expiring and may be forced to close. The Chair expressed her concerns with the impact the closure of the division will have to clients and

practitioners in the area, and asked the members to come up with ideas to support Judge Specie. For the time, the Chair had no update, but emphasized our need to assist Judge Specie with this critical issue.

## **VII. Continuing Legal Education**

### *a. ABI/Stetson Seminar - Hon. Caryl Delano*

Judge Delano provided an update, and advised our members that the ABI/Seminar will be held on January 18 and 19, 2018 with an opening reception the day before, on January 17, 2018. Judge Delano explained that panelists for the program come from all over the state, giving the seminar a statewide appeal. Judge Delano advised that while the program had issues with the facilities in the past, this year something different is being done about to try something new. In this regard, Judge Delano announced that the seminar will be hosted at the Bryan Glazer Family JCC, and that participants will be able to stay at the Epicurian Hotel, which will shuttle people back and forth to the new location. Judge Delano called on members for substantive ideas for the program.

### *b. View from the Bench Seminar/Case Review - Hon. Michael Williamson and Brad Saxton*

Judge Williamson provided a report, and advised that the next program will be held on Thursday, November 2, 2017 in Tampa, and Friday November 3, 2017 in Miami at the same locations as last year. He also announced that the receptions at each location the night before will be at same venues as in the past. Judge Williamson also announced that the moderator for this year's program will be Paul Singerman.

Judge Williamson reminded the members about the database of bankruptcy cases hosted through the Middle District's website, and made a call for volunteers to work on case digests and a sign-up sheet was passed for that purpose.

### *c. Bankruptcy Law Education Series (BLES) - - Hon. Michael Williamson*

Judge Williamson explained the BLES history and activities, and provided a brief status of its financial affairs. Judge Williamson likewise reminded members to encourage their local voluntary bankruptcy bar associations to contribute 5% of their revenues to BLES as they previously committed to doing.

### *d. Bankruptcy Deposition Boot Camp – May 19, 2017 (Orlando) - - Jennifer Morando*

Jennifer Morando provided an update on the program. Ms. Morando advised that the program was well attended, and a raving success. She admitted that while the program had a rough start with registration issues, that it got off the ground and running after that.

e. *YLD Bankruptcy Basics CLE* - - Doug Bates

Doug Bates provided the report. He explained that the CLE program in Tampa ended up being very well attended. Mr. Bates suggested to update the CLE every two years. In this regard, he suggested to create a sub-committee to follow through with updates for future programs. He also thanked those involved despite the short time to pull it off. Chair then suggested having a standing liaison for the CLE program. In this regard, Mr. Bates agreed to be a liaison, and suggested this be permanently on the committee's agenda to keep an eye on it.

f. *Future CLE Programs* - - Kathleen DiSanto and Brett Lieberman

Nothing to report. Brett Lieberman anticipates having news shortly about a new program. Stephanie Lieb suggested having one for the Spring 2018. The Chair suggested putting one together for the Retreat. The Judicial Chair proposed a CLE on involuntary bankruptcies. Mr. Lieberman agreed to put a program together on that topic.

### VIII. **Liaison Reports from Other BLS Committees**

a. *Pro Bono Committee* - - Jennifer Morando

John McDonald provided the report, and let the members know about the statewide roll-out of "**Florida Pro Bono Matters**," the Florida Bar Foundation's new internet based platform for the on-line, real-time posting of pro bono cases available in Florida for assignment. The pro bono platform is already up and running through the Florida Bar Foundation's webpage. Mr. McDonald explained that the system is unique and not available in other states, and that it will be the highlight of the upcoming Pro Bono Committee meeting. Mr. McDonald invited all members to attend the meeting.

b. *IMF Committee* - - Jim Moon

Jim Moon provided a report on IMF Committee. He advised that new class of fellows has been selected. He indicated that the number of applications went up drastically this year, not only in quantity but also in quality of applicants. Mr. Moon invited the members to reach out to the new Fellows and say hello. He also invited members to attend the upcoming IMF Committee meeting at 1:30 pm. Mr. Moon also discussed the mentoring program, and highlighted the mentoring process and matching criteria according to the expectation of the mentee. He provided the link at the IMF Committee's webpage, which is currently available for mentors to sign up. Mr. Moon also spoke about past events in Miami, Orlando, and Tampa, and encouraged members to participate in all future activities.

c. *Membership Committee* - - Zach Hyman

Hon. Paul J. Hyman provided the report on behalf of Zach Hyman. Judge Hyman advised about success of the joint task force with CLE. He also informed the member of the BLS happy

hours having been well attended. Lastly, Judge Hyman announced that the scholar program is running on time, with a tremendous response from the law schools around the state. He expects the program to be a success again this year.

d. *Young Lawyers Division* - - Christian George

No report.

e. *CLE Committee* - - Stephanie Lieb

Stephanie Lieb provided an update, and advised members that she is also looking for new articles. Jim Moon intervened to volunteer Fellows to assist with editing articles. Ivan Reich intervened to proposed having Fellows also work on a database for cases dealing with student loan discharge, which can be particularly useful for pro bono matters. The Judicial Chair reminded members that the Fellows are practicing attorneys, and may not have enough time to take on the endeavor. The Chair also suggested putting together a CLE to assist attorneys to take these kind of cases. Ms. Lieb advised that she will report on what can be done in this regard.

f. *Communications Committee* - -Chris Broussard

Chris Broussard provided an update. He advised that the Communications Committee had already met, and was well attended. Mr. Broussard announced the Communications Committed discussed three main ideas: videos, lexology, and blog. In addition to the usual pictures, short video interviews of 30 seconds or less will be produced to address what keeps members coming back or what members appreciate the most about our Section. On the lexology front, Mr. Broussard explained that another round of opt-in emails will be sent, and to keep an eye out for two to be send in short order. Last, Mr. Broussard explained that the Communications Committee is in the midst of reviewing the content creation process for the BLS blog, particularly on how to get and edit the content and to do so fast enough to keep up with the news cycle.

**IX. Old Business**

a. *Each One, Reach One Campaign* - Hon. Catherine Peek McEwen

The Judicial Chairs advised that this five-year old campaign is dead in the water. She explained that it was meant to have each member bring one member of the firm and invite them to our meeting to create diversity. Judicial Chair asked that this item to be permanently taken off our agenda, and suggested that the IMF take the lead on this initiative.

- b. *H.R. 2266/S. 1107 (Bankruptcy Judgeship Act of 2017)* - - Hon. Catherine Peek McEwen

The Judicial Chair gave an update, and explained that the measure was trying to make its way to the floor, but that nothing has happened yet. The Judicial Chair advised that the measure will continue to be monitored for its progress.

- c. *Anticipated Legislation from International Law Section* - - Keith Bell

- Florida International Commercial Conciliation Act
- Amendments to Chapter 684, Fla. Stat.
- Judicial Assistance to Foreign & International Arbitral Tribunals

The Chair provided an update on the above referenced pieces of legislation. There may be a push to get these moving forward, but nothing has happened yet. The Chair advised that we will continue to monitor and advise accordingly.

- d. *HB 121 & 125 (Federal Court Rulings)*- - Jodi Cooke

The Chair advised that the legislative oversight of judicial decisions did not pass. The bill intended to urge the U.S. Congress to propose to states an amendment to the U.S. Constitution that allows the U.S. Congress to deem law that has been declared void by certain federal courts active and operational. The Chair believes that the proposed legislation will be back. The Chair advised that we will continue to monitor and keep an eye on it through the newly formed judicial term limits sub-committee.

- e. *Out of State Division Newsletter Submissions* - - Don Workman & Hon. Catherine Peek McEwen

The Judicial Chair provided a brief summary of the newsletter and spoke about the topics included in last issue. The Judicial Chair asked for articles and explained to members that the newsletter can be a way of getting your name outside of Florida.

- f. *C.A.R.E. & Money\$mart\$ Programs* - -Hon. Laurel Isicoff

Hon. Laurel Isicoff updated everyone about the programs, and wanted members to be aware about the three new teaching modules available at CARE's website. She explained that anyone can sign up to be volunteer at the local level from the website, and that one would then be contacted to go out to your local schools. Judge Isicoff also briefly discussed the Money\$mart\$ and ElderCare programs, and encourage members to volunteer for these as well.

## **X. New Business**



a. *Aviation Committee Legislation* - - Lynn Sherman

Lynn Sherman apprised the members on the Aviation Committee looking to the BLS to collaborate on putting together a study group to look at amendment to the aviation lien statute. The Chair circulated a sign-up sheet to members who may want to participate in this endeavor. Ms Lynn will report back on her progress at the upcoming BLS Labor Day Retreat.

b. ABI – Consumer Law Bankruptcy Commission - - Dennis Levine

Dennis Levine advised that hearings already started at the National Association of Consumer Bankruptcy Attorneys Annual Meeting in Orlando. Mr. Levine explained that the Commission was formed by the ABI to examine and modernize the consumer bankruptcy system and issue a report with recommended improvements that can be implemented within the existing structure. Mr. Levine encouraged members to testify on any issue that is of interest to members in the consumer practice. For example, Mr. Levine announced that the bankruptcy trustee compensation model is being revisited by the Commission, and will likely make recommendations to change it.

**XI. Future Meeting Dates**

- a. BLS Annual Labor Day Retreat – September 1-4, 2017  
(Eau Palm Beach Resort and Spa, Palm Beach, Florida)

**XII. Adjourn**

Chair moved to adjourn the meeting and the meeting was concluded at 10:30 a.m.