

**BUSINESS LAW SECTION OF THE FLORIDA BAR  
COMPUTER LAW AND TECHNOLOGY COMMITTEE**

Meeting Minutes – September 2019  
Telephone Conference in lieu of Annual Retreat  
September 10, 2019 3:00 – 4:00 p.m.

Chair: Steven Blickensderfer

Vice Chair: Peter Maskow

Second Vice Chair: Joshua Marks (not present)

Academic Chair: Professor Vicenc Feliu, Nova Law School (not present)

CLE Liaison: Joshua Marks (not present)

Pro Bono Liaison: Marisa Dorough (not present)

Attendance

1. Steve Blickensderfer
2. Peter Maskow
3. Doug Bell
4. Mark Stein
5. Scott Curry
6. Danielle Dudai
7. Jim Matulis
8. Chioma Deere
9. Garrett LaBorde
10. Terry Sanks
11. Robert Kain
12. Darren Spielman
13. Doug Cherry
14. Howard Cohen
15. Anessa Santos
16. Kenneth Dante Murena
17. Larry Kunin
18. Kevin M. Levy
19. Sara Paris
20. Steve Teppler
21. Don Conwell

Minutes

Steven Blickensderfer, Chair of the Committee, called the meeting to order. Steven announced roll call was to be conducted via email given the impracticability of doing so via phone.

Scott Curry moved to confirm minutes of the July 2019 meeting, Robert Kain seconded, and the motion was unanimously approved.

Mark Stein of the Legislation Committee presented on issues anticipated to arise during the next legislative session in Florida. He explained it is likely the session will commence before the next meeting of this Committee is held. He anticipates several issues will be raised during this session, including: UCRERA, a judgment lien bill, and a bill concerning notice to homeowners in foreclosure. Should other bills be filed that more closely impact this Committee, the Committee will be notified. If appropriate, the Committee will be asked to advise of its position or to provide a white paper.

The Committee was asked to offer its position on UCRERA. Kenneth Murena gave a brief presentation on UCRERA. Kenneth advised that the UCC/Bankruptcy Committee approved it, and that the Business Litigation is expected to approve it during its meeting. Only one minor change to section 6 of UCRERA had been proposed.

Steven asked if there were any objections to a position of deferring its position on UCRERA to the UCC/Bankruptcy and the Business Litigation Committees. No objections were made, and the motion passed. The Committee defers its position on UCRERA to the UCC/Bankruptcy and the Business Litigation Committees.

Steven explained the biometric privacy bill introduced in 2018 received a technical paper from this Committee during the last legislative session, and that a similar bill is expected to be filed again. Steven asked for discussion on a position in event it is reintroduced. He explained that the 2018 bill, intended to regulate the processing and collection of biometric information of business in Florida, initially included a private right of action. The private right of action was later removed. The bill was patterned on Illinois's biometric privacy law. The bill presented in 2018 required businesses to obtain consent to the use and collection of biometric information. Enforcement would be by the Attorney General.

Don asked for an explanation of the definition of consent in the 2018 bill. Anessa Santos stated that she located the technical comments, but could not locate the text of the 2018 bill on the Committee's website. Robert Kain stated last year's proposed bill can be pulled from legislative record, but that the Committee should wait until a new bill is offered before taking a position. Steven noted that the Technical Paper that is linked is not the correct one, and would be fixed.

Steven Teppler said Illinois's bill was successful because it had private right of action, and excluding a private right of action from a bill in Florida would lack teeth. Scott said that after soliciting input from members of the Committee last year – and receiving none – the white paper was drafted and then blowback was given afterwards from major technology companies. Scott recommended participation when opinions are solicited to prevent this from reoccurring. Scott also said that Florida has a constitutional right to privacy, and that a right of action may be obtained through that mechanism. Steven Teppler concurred with Scott's comments about the constitutional implications and the need for participation.

Doug Bell stated he spoke with Rep. Bobby Debose, the bill's sponsor last year, and reported that the representative was uncertain if he will file a similar bill this legislative session. Doug concurred with Robert that substantive dialogue is premature until a bill is filed, if one should be filed.

Steven emphasized that the Committee needed to react quickly to drafts of bill quickly last year, and the Committee needs to be ready to address bills quickly again this year. Steven Tepler and Scott Curry concurred.

Mark Stein said that bills flagged for this Committee would be distributed quickly. He emphasized that a quick reaction, and, if necessary, a concise white paper will be needed.

Robert gave an update on the Business Law Section Cryptocurrency Task Force. He also provided an update on statewide Legislative Task Force created by the legislature last year. Woody Pollack is the only one appointed currently to the Legislative Task Force. The BLS Task Force is scheduled to meet via telephone on September 17. Robert was uncertain if the Legislative Task Force will delay any other blockchain efforts by another member of Florida House or Senate this year. Robert emphasized that interest will grow in this area over time, and that medical records and smart contracts may pose serious "moral conflicts."

Doug advised he met with the Florida Chief Financial Officer's staff as to their appointments to the Legislative Task Force. There is a website up and live for the Legislative Task Force. A total of 3 people have now been appointed. Robin Wescott – formerly an insurance regulator – and Mayor Suarez from the City of Miami, have been appointed in addition to Woody. The remainder of the CFO's appointments are expected on Friday. The Governor is waiting for the CFO to make his appointments. The first Legislative Task Force meeting is on September 23, and it could be February before a report and recommendation is made. Doug did not expect the Task Force would push the legislature off doing anything, but does not expect blockchain bills will be pursued while the Task Force report is pending.

Steven provided an update on CLE work the Committee is performing. He and Joshua Marks will present a CLE on data privacy on October 1. Steve called for others to put together a CLE, and specifically noted the webinars have been a success. He referenced this year's CLE on ADA Website Compliance as an example. He announced the Committee also hopes to present a CLE at the upcoming Winter Meeting.

Peter Maskow presented the Hot Topics. He discussed (1) recent action by the FTC against Facebook; (2) GDPR fines that have started to issue; (3) Congress's efforts to legislate against the threats of deepfakes; (4) limitations imposed on personal twitter accounts by public officeholders using their accounts as a public forum; and (5) a Southern District Court's refusal to enter default on an ADA website claim. Steven also mentioned the recent decision of *Salcedo v. Hanna*, issued by the Eleventh Circuit, finding a lack of standing to assert a TCPA claim based upon a single text message.

Steven advised the Committee continues to fix and update the website.

Steven encouraged recruitment for the Committee especially because of the opportunity to make an impact on Florida law and the number of hot topics the Committee faces.

Steven addressed old business. He moved to table the discussion of the Committee's name change, and asked for objections. Hearing no objections, the matter was tabled.

Steven asked if any member wished to discuss new business. No member brought any topics before the Committee.

Steven reminded attendees to email him to confirm their attendance.

Scott moved to adjourn the meeting, Robert seconded, and the meeting was adjourned.