

**Minutes for Meeting of the Bankruptcy/Uniform Commercial Code
Committee of the Business Law Section of the Florida Bar**

**Mid-Year Meeting
Held on January 22, 2014 at 2:00 P.M.
Location: Reunion Resort & Club, Grande E**

Robert Charbonneau, Chair
Cori Lopez-Castro, Vice-Chair
Hon. Catherine P. McEwen, Judicial Chair

- I. Welcome and Approval of Minutes. The meeting was called to order at 2:00 p.m. The minutes from the meeting held on August 31, 2013 were amended (on motion by Doug Bates) to reflect that the vote on financial literacy was deferred. On motion by Roy Kobert and second by Mindy Mora, the minutes (as amended) were approved.
- II. **Pro Bono Reminder** – Members were encouraged by the Chair to take at least one pro bono case.
- III. **Legislative Update** – Greg Black provided a legislative update.
 - a. Amendment of Fla. Stat. § 55.10 to include final orders of state agencies – Diane N. Wells advised that, for the second year, this amendment did not pass and would be removed for the remainder of the year.
 - b. Proposed amendments to the covenants not to compete statute. Mindy Mora advised that this was removed from the agenda this year.
 - c. Continuing Work with Business Litigation Committee regarding charging order and execution procedures. The Chair reported that this topic has been subsumed within the proceedings supplementary task force.
 - d. RPPTL proposed legislation re UFTA/creditors'/pay on death issue. The Chair advised that the RPPTL has asked the BLS to review legislation dealing with life insurance proceeds to address the holding in *Morey v. Everbank* (Fla. 1st DCA). The BLS has generated a white paper, concluding that legislation was not needed and the *Morey* decision was based upon the wording of the trust instrument at issue in that case. The Chair recommended that the BLS not take a position on the proposed legislation because it will have minimal impact. Doug Bates expressed concern that the *Morey* language was included as boilerplate in many trusts and/or the holding would be applied retroactively. Motion by Mindy Mora and second by Doug Bates that the Section not oppose the RPPTL *Morey* legislation, was approved unanimously.

IV. Update and Welcome form the Section Chair Steph Nagin, Chair Elect Hon. William VanNortwick, and Treasurer Alan Howard.

Chair, Steph Nagin, updated the Committee on current projects of interest to all Section members:

- Revising the bylaws, which have not been updated in some time.
- Ways to use technology to facilitate the work of the Section and Committees.
- Revisions to the BLS website are underway with the chosen website developer.
- Vancouver retreat will be held on May 21-25. A great program has been planned.

Chair Elect, Hon. William VanNortwick addressed the Committee:

- Vancouver is a lovely location for the EC retreat.
- The Section has purchased video equipment for use at meetings, as well as conference phones for use at Committee meetings. The BLS continues to evaluate other technology that will enhance and improve Committee meetings.

Treasurer, Alan Howard, addressed the Committee:

- The EC retreat is a lovely location, but the most important reason for attending is camaraderie.

V. Judicial Liaison Committee Report – J. Hyman, Judicial Chair, reported that the report would be provided at the Committee meeting later.

VI. Continuing Legal Education

- a. Report on View from the Bench Seminar – Hon. Michael Williamson reported that record attendants of 560, with a net to the Section of \$78,000.00. Stephanie Lieb, Lisa Schiller, and Brad Saxton were recognized and commended for their efforts in making the seminar a success.
- b. Bankruptcy Law Education Series (BLES) update - Hon. Michael Williamson reported that BLES has filed its application with the IRS for 501(c)(3) status. Broad and Cassel and Roy Kobert were thanked for legal and tax work. BLES will be funded with contributions and sanctions. BLES sponsors bankruptcy clinics and FAMU and Stetson law schools. A check from the Section to BLES in the amount of \$25,000 will be presented at the ABI/ Paskay seminar.
- c. CLE Seminar Sub-Committee Tom Messina, Co- Chairs, reported on the upcoming receivership seminar on 5/2/2014 in Miami. The Section is looking for a local bar association to act as co-sponsor. A mixer will be held the night before the seminar. Stephanie Lieb, Co-Chair, Jay Brown, and Phil vonKahle were thanked for their efforts in coordinating and planning the seminar.

Stephanie Lieb, Co-Chair, reported that there will be a residential mortgage mediation summit held in Orlando on February 27, 2014, and attended by all Bankruptcy Judges in the Middle District of Florida, Chapter 13 Trustee, and Clerks of the Court. Lori Weatherford is heading up the summit.

Hon. Michael Williamson reported on plans for the upcoming ABI/Stetson seminar, the speaker roster, and topics. Seminar to be held on March 13-15, 2014 at the Marriott Waterside, Tampa.

VII. Liaison Reports

- a. Pro Bono Committee – Stephanie Lieb reported on upcoming projects to be held on February 19, 2014 in Ft. Lauderdale, and May 14, 2014 in Tallahassee. The Best Practices for firm pro bono was approved. The Committee is looking for volunteers for a reaffirmation project, and a volunteer list was circulated for signature.
- b. Diversity Committee – Leyza Blanco reported that there will be an upcoming networking social on February 22 in Tampa, with the BLS is sponsoring. A request was made for volunteers to interface with students attending. A trip to a BLS meeting will be raffled to a law student at the event. Inclusion/Mentoring/Fellowship is the new name of this committee. The Committee needs volunteers to act as mentors at social events. The Committee thanked those who attending the Kozyak minority mentoring picnic and the FAMU picnic sponsored by the Section.
- c. Membership Committee – Because of ongoing scheduling conflicts, a new membership Liaison is needed.
- d. Young Lawyers Division –
- e. Webpage –Lynn Sherman reported that development of the new webpage is underway, and input from the substantive committees is needed. Brad Saxton reported that the goal is to produce Bankruptcy Case updates monthly in the future. Esther McKean, Sam Miller, Ryan Yant, Kathleen DiSanto, and Susan Sharp were recognized for their efforts in producing past monthly case updates. Hon. Cathy McEwen suggested including the view from the bench electronic database on the new website. Tom Messana suggested that the BLS Journal and suggested language created by receivership task force should also be included on the webpage.

VIII. Reports from Study Groups

- a. Proceedings supplementary joint subcommittee/study group with Business Litigation – Donald Kirk reported that the task force is analyzing the statute to see if perceived problems exist and options for solutions. The project is expected to take 2-3 years. Approximately 8 topics have been delegated to various team leaders, who are reviewing the statute, case law, and legislative history pertaining to the topic.

- b. Chapter 9 bankruptcy cases – Doug Bates reported that the study group is working on defining its mission.
- c. Receivership Study Group – Tom Messina reported that the group has met with the RPPTL subcommittee and is working on legislation to address issues created by the 4th DCA’s decision in *Shubh Hotels Boca, LLC v. Federal Deposit Insurance Corp.*
- d. Committee of districts/divisions on mortgage modification procedures was addressed in connection with CLE.
- e. Updating Bankruptcy Reaffirmation Flow Chart – no report.
- f. Bankruptcy Venue Legislation – no report.

IX. Old Business

- a. Each One, Reach One Campaign: the Chair reminded members of the importance of getting new members involved.
- b. Out of State Division/Newsletter Submissions– Don Workman/ Hon. Catherine P. McEwen reported that the newsletter is published 4 times each year, to a circulation of 14,000 out of state members of The Florida Bar. Members were encouraged to contribute articles of interest.
- c. Committee Publications – report provided previously
- d. CARE program – financial literacy was addressed in connection with New Business.
- e. Amicus Briefs—no report.

X. New Business

- a. Financial Literacy –Hon. J. Isicoff reported that legislation is pending (see -- www.requirethemoneycourse.com for full senate and house bills, and white paper on issue) to require ½ hour of credit in financial literacy for high school graduation. Presently, 1 bill introduced in the House and 1 bill in the Senate. The Florida Bankers’ Association and Florida Chamber of Commerce support the legislation. Only 6 other states that presently have a financial literacy requirement for high school graduation. Florida Council of Economic Education is a sponsor also.

Judge Isicoff made the following motion:

“The Bankruptcy UCC Committee of The Florida Bar Business Law Section recommends that the Florida Bar Business Law Section support enactment of a separately credited financial literacy course as a

prerequisite for high school graduation and a standard high school diploma, consistent with the requirements set forth in HB 367 and SB 212.

The Motion was seconded and unanimously approved.

- b. Update on *Executive Benefits Insurance Agency v. Arkison*, and implications for bankruptcy courts and magistrates. The Committee filed amicus brief in this case, which addresses the jurisdiction of Bankruptcy Judges.
- c. Judge McEwen congratulated Stichter, Reidel, Blain and Prosser, who will be receiving the 2014 Chief Justices' Law Firm Commendation Pro Bono Service Award.

Judge McEwen also recognized the CFBLA for receiving the 2014 Voluntary Bar Association Pro Bono Award.

XI. Future Seminar Dates

- a. BLS Meeting/Annual Florida Bar Convention June 24-28, 2014 Gaylord Palms, Orlando, FL
- b. March 13-15, 2014 ABI/Stetson seminar, Tampa
- c. March 20th Receivership Presentation to Judges of 11th Judicial Circuit

XII. Adjourn Upon motion by Judge Hyman, which was seconded by Dennis Levine, the meeting was adjourned.