The Cramdown

Newsletter for the Tampa Bay Bankruptcy Association

Editor-in-Chief, Ryan Yant
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Summer 2024

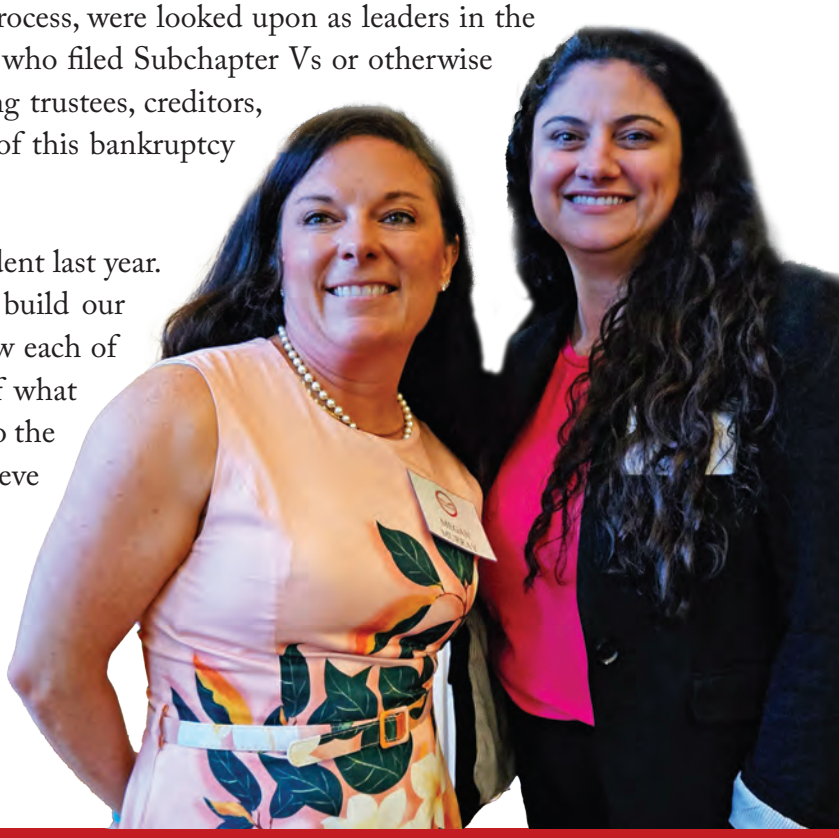
PRESIDENT'S MESSAGE

by Megan Murray
Underwood Murray PA

As my term comes to a close, I want to express my heartfelt gratitude to each of you for making this past year exceptional. We have achieved new milestones and strengthened our organization's reputation for professionalism in the community. We held over a dozen CLEs (both consumer and commercial bankruptcy), we created an annual sponsorship program, we increased attendance at the exceptional monthly luncheons, and we increased post-COVIC togetherness in every sense of the word.

Importantly, we also continue to elevate the practice in our bar in the Middle District. It is no surprise that cases continued to be filed in our district, both small and large, at an exponential level. Our professionals and bench bring a level of practice and professionalism not seen in other districts across the country. Our welcoming and skilled professionals, and our clear and concise local rules, make it a favorable forum to reorganize. We should all be proud of the district in which we practice, and we should continue to protect our bar's local practices and traditions, and local rules to ensure the highest level of practice across the country.

Many of you know that in addition to serving as president of the TBBBA, I served on the ABI's subchapter V task force last year, in which many of you participated at some level. It should come as no surprise that our bar, who embraced new changes in the bankruptcy process, were looked upon as leaders in the national SubV bankruptcy community. Each of you who filed Subchapter Vs or otherwise participated in the Subchapter V practice representing trustees, creditors, debtors, or fiduciaries, should be proud to be a part of this bankruptcy community that embraces change and excellence.



Thank you for trusting me with the role as your president last year. I have spent nearly ten years on the board helping build our organization, and it has been an honor to get to know each of you and serve you during this period. I am proud of what continue to accomplish together, and I look forward to the continued growth and success our association will achieve next year under Nicole's new leadership.

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In This Issue

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2021-2022 ..... Noel R. Boeke
2022-2023 ..... Barbara Hart

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Upcoming Dates

Mortgage Modification Mediation – Back to Basics
August 6, 2024, 12:00 pm
Consumer brown bag lunch webinar
Join us for the first Consumer Lunch of the year with
Robert Branson, Tammy Branson, and Liz McCausland, free for all members with prior registration.
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View from the Bench Reception
November 6, 2024, 5:30 pm at Le Meridien

View from the Bench
November 7, 2024, 8:00 am

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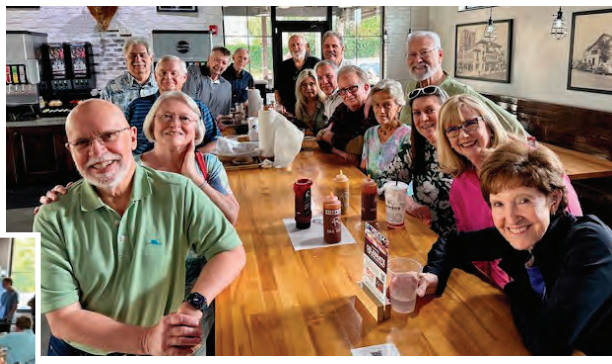
• **There was an "Old Timers" reunion** at 4 Rivers BBQ on May 17, 2024. In attendance were (clockwise from bottom left) Judge Rodney May, Shirley Arcuri, Terry Dmith, John Brook, Jay Harpley, Jay Passer, Gary Carnal, Randy Hiepe, Andrea Bauman, Chuck Moore, Barry Clark, Cindy Turner, Dan Herman, Judge Cathy McEwen, Judge Caryl Delano, Diane Jensen.



• **The TBBBA has elected a new board.** Nicole Noel will be succeeding Megan Murray as president. We thank Megan for her years of dedication, leadership, and guidance; our bar is truly better because of her service. We look forward to Nicole's leadership.

The board for the upcoming year is as follows:
Megan Murray – Chair
Nicole Noel –President
Ryan Reinert – Vice President
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Erik Johanson – Treasurer
Dan Fogarty – Cramdown
John Landkammer – Membership
Ryan Yant – CLE
Dan Etlinger – CLE
Kristina Feher – Pro bono / Community Service
Matt Hale – CARE
Dana Robbins – Social
Scott Underwood – Technology
Teresa Hair - Consumer
Benjamin Lambers – Judicial Liaison

• This year's annual dinner included the first ever Bankies Awards, with Ryan Yant serving as host. The awards this year included:
- The TBBBA Fairy Godmother Award, presented for somebody who is no longer on the TBBBA board but continues to provide a substantial contribution to the bar, won by Kathleen DiSanto
- The Best Cramdown Article, won by Nicole Carnero for her article Partial "Dirt-For-Debt" Plans in an Uncertain Real Estate Market
- The Law Firm of the Year, won by Stichter Riedel Blain & Postler, P.A.
- Best Zoom Appearance Award won by Jake Blanchard.

• Megan Murray was elected to the ABI's Board of Directors.

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• On May 2nd, Legal Aid Service of Collier County recognized Dal Lago Law as the Law Firm of the Year 2024. "The Barrister's Bash event honors those who have made significant contributions to the success of their Legal Aid organization and its mission. This gala became the signature annual social event for the local legal community, and highlights the life changing free legal services Legal Aid provides to those in need and how they positively impact the entire community."

Dal Lago Law is a boutique business and bankruptcy law firm based in Southwest Florida with offices in Naples and Fort Myers. All three attorneys are members of the ABI. They provide customized legal solutions for businesses and individuals alike and place an emphasis on proactive, creative and value-added strategies. Utilizing a holistic multidisciplinary legal approach, the team of attorneys focuses on every stage in the lifecycle of a business – from formation and corporate governance to growth and maintenance. In times of financial distress, we offer clients value-added expertise and strategies through out-of-court reorganizations, restructurings, and workouts. Where appropriate, we help individual and corporate clients obtain bankruptcy relief through Chapter 11 (particularly with Subchapter V) reorganizations, or Chapter 7 liquidations, if necessary.

With more than 24 years of corporate bankruptcy law experience, the firm's founder, Mike Dal Lago, moved his practice in 2012 from New York City to Naples, Florida where he applies the problem-solving skill set that he previously acquired to the legal challenges in Florida. The Dal Lago Law team prides itself on cultivating long lasting partnerships with its clients as well as the Naples and greater Southwest Florida community.

"Winning the Legal Aid Law Firm of the Year award is not just a recognition of our firm's dedication to excellence in legal services, but a testament to our unwavering commitment to supporting the vital work of this organization over the years," said Mike Dal Lago, a Board Certified attorney in Business Bankruptcy. "We are deeply honored to receive this accolade. It inspires us to continue our mission of providing access to our legal system for all and ensuring that justice applies just as equally to those in need."

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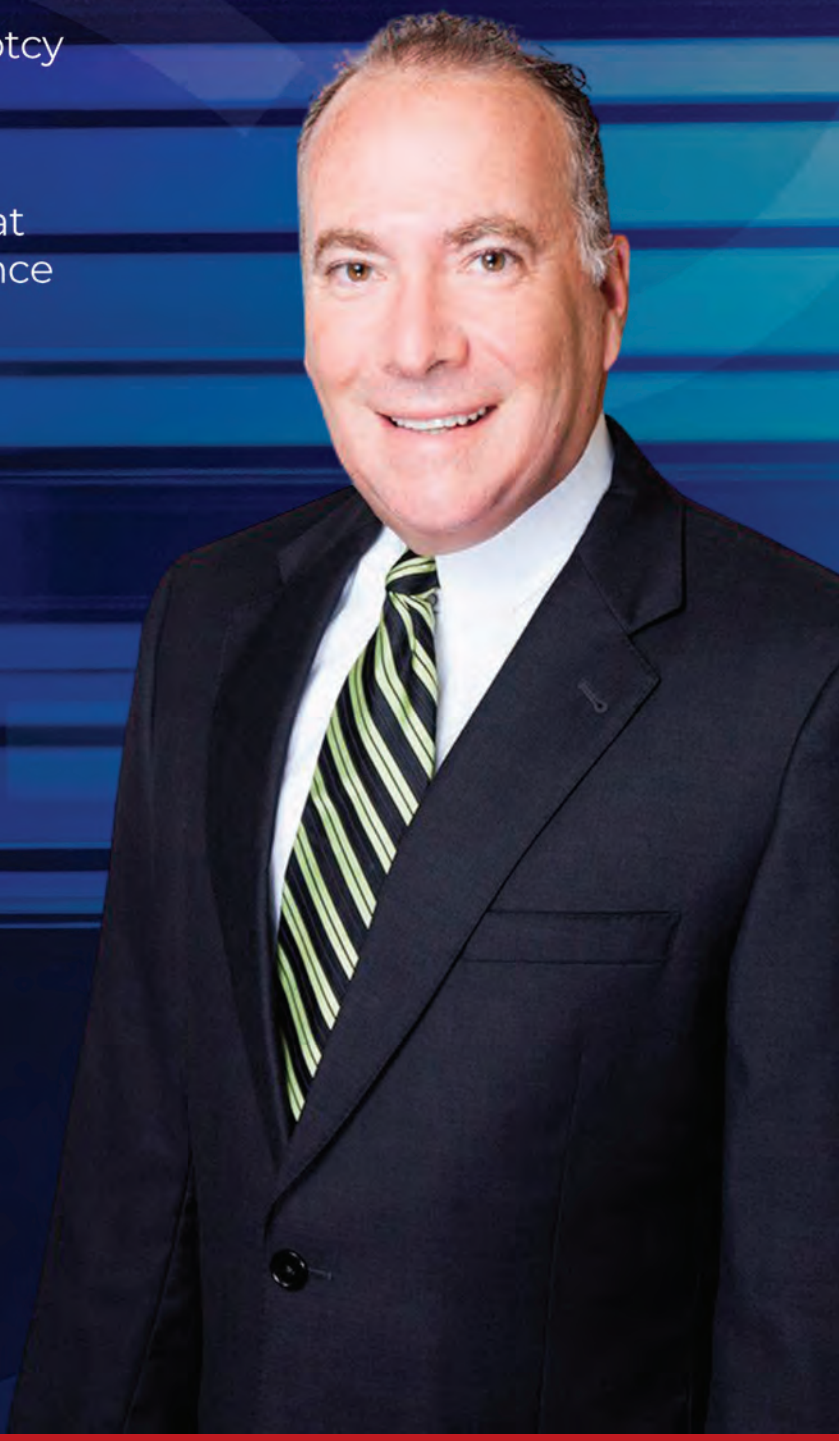

GRAYROBINSON

The Value of the Subchapter V Trustee: A Success Story

By Amy Denton Mayer, Esq.
Stichter Riedel Blain & Postler

The American Bar Association Business Law Section hosted its Spring Meeting in Orlando in April of this year. I had the pleasure of participating on a panel with The Honorable Scott M. Grossman (United States Bankruptcy Judge for the Southern District of Florida, Fort Lauderdale Division) and Megan W. Murray (Underwood Murray PA, Tampa, Florida) regarding "Subchapter V – How is the Experiment Working?" The conclusion of the panel, much like the conclusion of the American Bankruptcy Institute's Subchapter V Task Force, is that Subchapter V is working as intended by Congress and that the $7.5 million debt limit should remain intact in the long-term.

With the exception of the moderator, all of the panelists practice in or preside over cases in the Middle and Southern Districts of Florida. The Middle District has the most Subchapter V activity of any district in the country and the Southern District is not too far behind. During the panel discussion, a couple of attendees rose to offer their experiences with Subchapter V and, specifically, the Subchapter V trustee, in other districts across the country. Much to my dismay, they reported that Subchapter V filings are few and far between, that the Subchapter V trustees function more like Chapter 7 trustees and are not helpful to the reorganization process, and that the typical fees of the Subchapter V trustee are in the range of $20,000-$25,000 compared to approximately $5,000-$10,000 in the Middle District of Florida. This experience is disheartening to this Subchapter V trustee.

There is significant value to the parties if they utilize the Subchapter V trustee optimally. The primary role of the Subchapter V trustee is to "facilitate the development of a consensual plan of reorganization." 11 U.S.C. § 1183(b)(7). In order to facilitate the development of a consensual plan, the trustee may have to facilitate resolution of other contested matters and adversary proceedings including, without limitation, eligibility objections, stay relief/adequate protection motions, objections to claims, objections to confirmation, as well as adversary proceedings seeking an injunction, avoidance and recovery of chapter 5 causes of action, and to deny the debtor's discharge or the dischargeability of a particular debt.

The case of Carla & Ambrose, LLC (the "Debtor"), is a recent success story where the Subchapter V trustee actively engaged the parties and their counsel early in the case, settling a number of disputes and resulting in the filing of a consensual plan just fifty-five days after the petition date.

In January 2023, the Debtor purchased a bar on Linebaugh Avenue in Tampa known as ThunderBay. In 2023, various disputes arose between Lovie Hudson, who purported to own 100% of the membership interests in the Debtor, and Jacqueline Oliverio Miller, who purported to own 50% of the membership interests in the Debtor, and her husband, Luke Miller, both of whom operated the bar since the Debtor's acquisition.

On January 18, 2024, O and A Real Estate Investment LLC ("OA RE") obtained an Amended Uniform Final Judgment of Foreclosure (the "Foreclosure Judgment") with respect to an alcoholic beverage license (License Number 3900441 4COP) previously owned by a non-debtor, but which had been transferred to the Debtor by Ms. Hudson. A foreclosure sale of the Liquor License was scheduled and looming in early 2024.

On March 9, 2024, the Debtor filed a voluntary petition for relief under Chapter 11 of the Bankruptcy Code in the United States Bankruptcy Court for the Middle District of Florida, Tampa Division, and made an election to proceed under Subchapter V. The case was filed by Ms. Hudson, as the 100% purported owner of the Debtor. Ms. Miller filed a motion to dismiss the bankruptcy case asserting that Ms. Hudson did not have the authority to file the case. OA RE indicated that it intended to file a motion to dismiss the case as well as a motion for relief from stay to proceed with the foreclosure sale of the Liquor License.

On March 24, Ms. Hudson, based upon her assertion that the Millers denied her access to the Debtor's premises, its assets, and its records, filed an emergency motion to enforce the automatic stay and to compel the Millers to turn over the Debtor's assets and records. The Bankruptcy Court held a hearing on the turnover motion on March 27.

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Success Story

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Prior to the hearing, I consulted with counsel for the parties to determine whether they would be willing to participate in a settlement conference with me, as the Subchapter V trustee. Two of the three parties and their counsel indicated that they were willing to participate. One party was skeptical about the favorable prospects of settlement and declined to participate voluntarily. At the March 27 hearing, I made an ore tenus motion to compel the Debtor, the Millers, and OA RE to participate in a settlement conference. The Court granted my ore tenus motion.

On April 3, the parties and their counsel participated in a three-hour settlement conference with me via Zoom. Between April 3 and April 25, I conducted several, separate follow up settlement conferences with counsel for the parties and exchanged several drafts of a proposed settlement agreement. On April 25, the Bankruptcy Court held a hearing on the motion to dismiss. At the hearing, the parties announced the terms of a tripartite settlement agreement. The agreement was executed on April 26, and on April 29, the Debtor filed a motion seeking approval of the compromise.

The settlement provides for: (i) Ms. Miller to execute such documents as are necessary and appropriate to ratify the Debtor's filing of the bankruptcy case; (ii) the motion to dismiss to be abated until the entry of a final order approving the compromise, and thereafter for the motion to dismiss to be withdrawn with prejudice; (iii) the Millers (or their designee) (the "Purchaser") to purchase all the Debtor's assets except for the Liquor License and a malpractice claim for the sum of $24,000 (the "Purchase Price") payable in 5 installments; (iv) the Purchase Price to be remitted to and held by the Subchapter V trustee; (v) the lease for the business premises to be assigned to the Purchaser; (vi) the Millers to operate and manage the bar prior to and following closing (or such other persons as they shall designate); (vii) the Debtor to file a plan consistent with the settlement agreement that extinguishes all membership interests in the Debtor and issues 100% of the membership interests in the reorganized debtor to Ms. Hudson; (viii) the Debtor to have the discretion to appeal the Foreclosure Judgment; (ix) monthly payments of $2500 to be remitted (first by the Subchapter V trustee and then the reorganized debtor once funds held by the Subchapter V trustee have been exhausted) to OA RE during the pendency of the appeal; and (x) the Debtor to sell the Liquor License or OA RE to proceed with foreclosure of the Liquor License in the event the Debtor declines to pursue the appeal or is not successful on appeal; (xi) a nondisparagement provision between Ms. Hudson and the Millers; and (xii) general mutual releases between the parties except for rights, claims, defenses, counterclaims, and crossclaims relating to the Liquor License, the Foreclosure Judgment, the state court action, the appeal, or OA RE's claim in the bankruptcy case.

On May 3, just fifty-five days after the case was filed, the Debtor filed a plan which mirrors the compromise motion and the settlement agreement attached thereto. The Bankruptcy Court is scheduled to consider the compromise motion and confirmation of the plan on July 11. If the plan is confirmed as contemplated, it will have been confirmed in just 124 days, or just over the exclusivity period in a traditional Chapter 11. More importantly, by embracing (or being forced to embrace) the role of the Subchapter V trustee early in the process, the Debtor and the Millers obtained a business divorce, the Debtor obtained the time and money to prosecute its appeal with respect to foreclosure of the Liquor License, OA RE obtained compensation akin to adequate protection/supersedeas bond during the appeal period, and the parties and the Court avoided time-consuming litigation over a number of contested matters.

The Tampa Bay Bankruptcy Bar Association's
Annual Installation Dinner
Held May 2, 2024 at Palma Ceia Golf & Country Club.
Thank you to all that attended

Transcript of the Invocation presented by Mark Wolfson at the Annual Installation Dinner

As you can see, I'm not Father Tim. Thank you Meagan Murray for the honor of letting me deliver this evening's invocation. While I'm not a priest, minister, or rabbi, I did preach once from the pulpit in 1970 during my Bar Mitzvah.

On a more solemn note, if it your custom, you are welcome to bow your head at this time.

God, we are thankful that the lawyers and judges who are members of this association represent the best in our legal system. Your guidance surely helps each member with professionalism, commitment to the rule of law, and seeking justice. We humbly ask that you continue to inspire all of us to do our part to make our special sector of the legal system better for those whom we serve.

We regard to this evening's program; we are here before you to mark the official transition of the leadership of this steadfast and productive bankruptcy bar association. With the installation of Nicole Noel as President, this will mark a new milestone—the first time in its 36-year history that three female lawyers will have served consecutively as the leader of this august organization. This occasion should be celebrated.

God, we ask that your spirit guide Nicole and all of the officers and directors in their efforts to serve the membership as well as the broader Tampa Bay community to the best of their abilities. We all understand that, because we are human, things may not run perfectly during the course of the year, so God please continue to encourage our leaders in those difficult moments and remind the membership of the importance of patience as the leaders carry out their responsibilities.

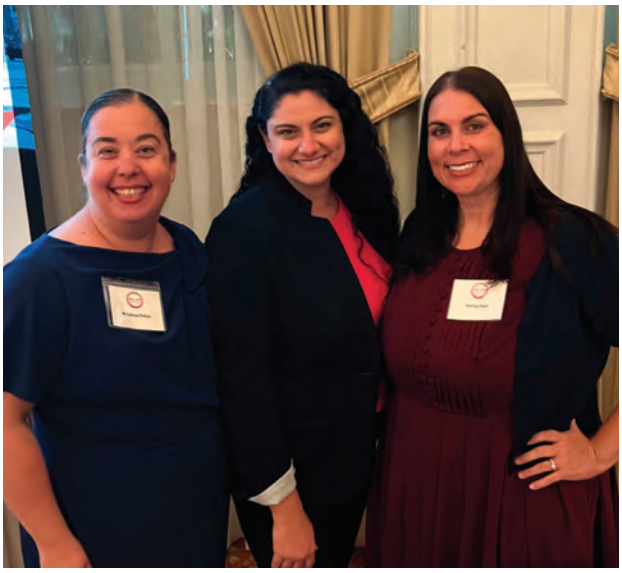
In Judaism, when there is a special occasion, we recite the Shekyanu prayer:

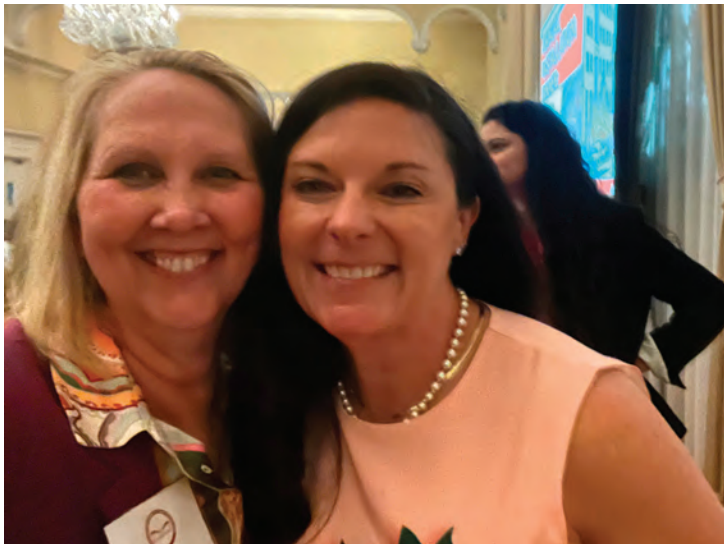
Hebrew transliteration: Baruch atah, Adonai Eloheinu, Melech haolam, shehecheyanu, v'kiy'manu, v'higiyanu laz'man hazeh.

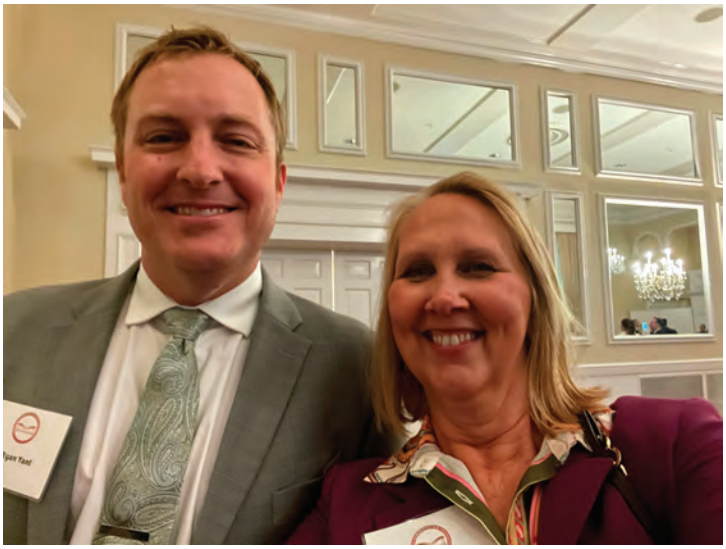
English translation: Blessed are You, Adonai our God, Sovereign of all, who has kept us alive, sustained us, and brought us to this moment.

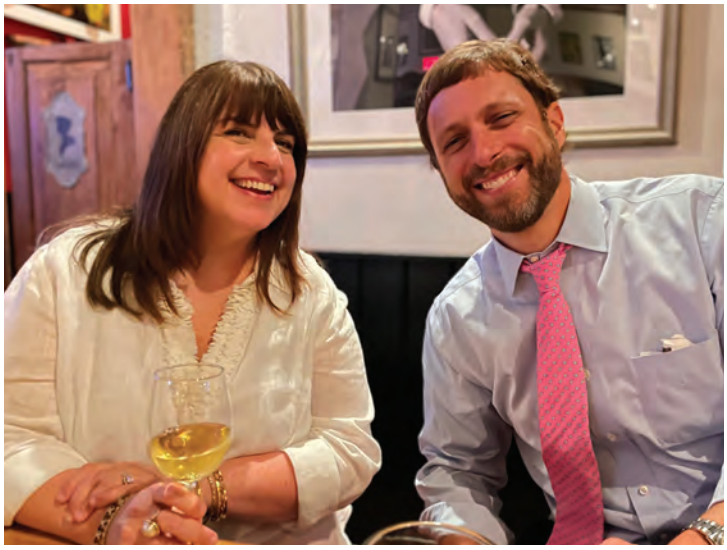
Together we say: Amen.

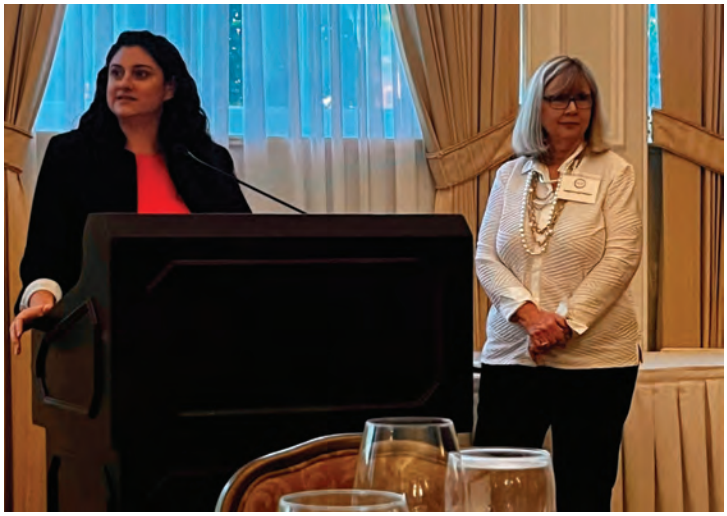
Mark J. Wolfson, Esq., Foley & Lardner LLP



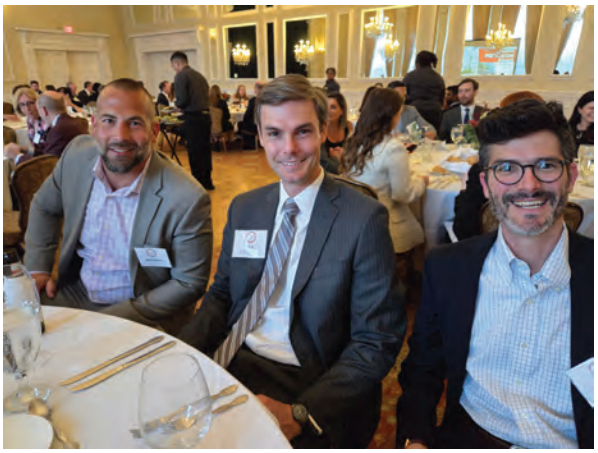


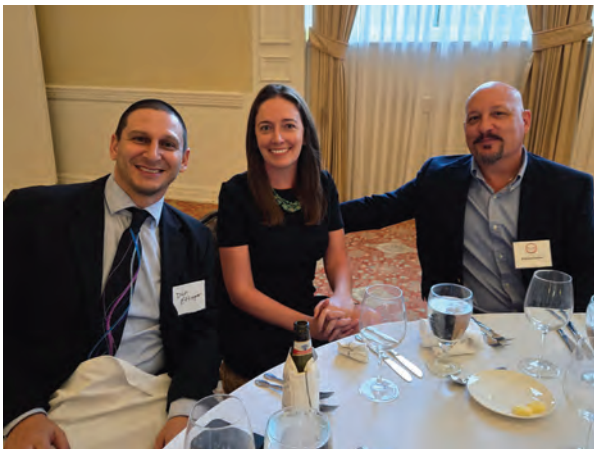


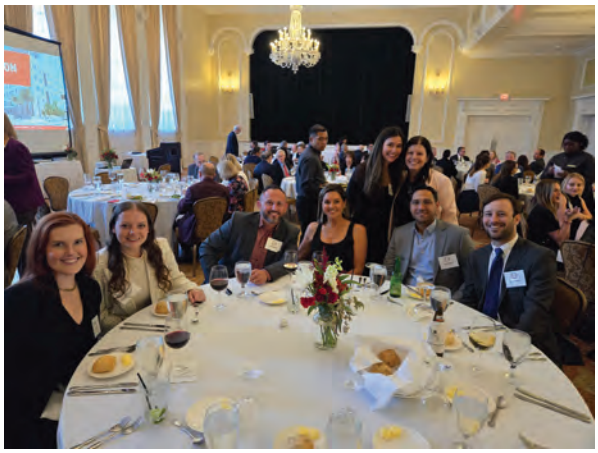


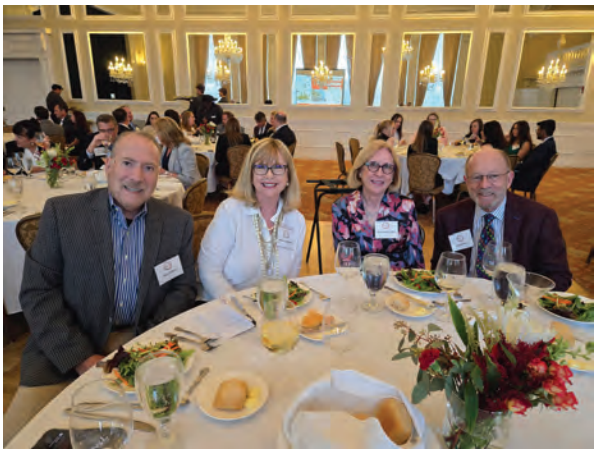


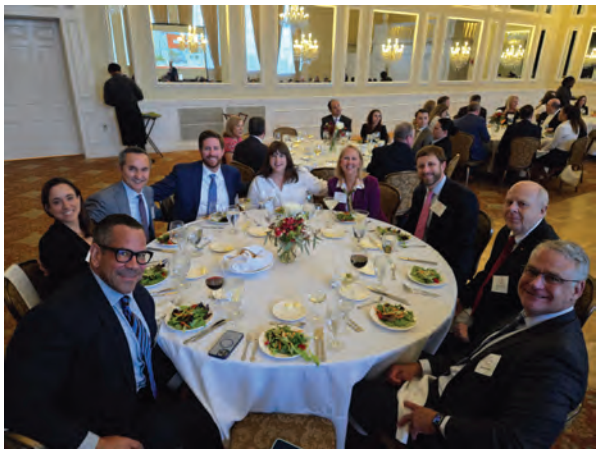
The TBBBA Annual Installation Dinner, continued

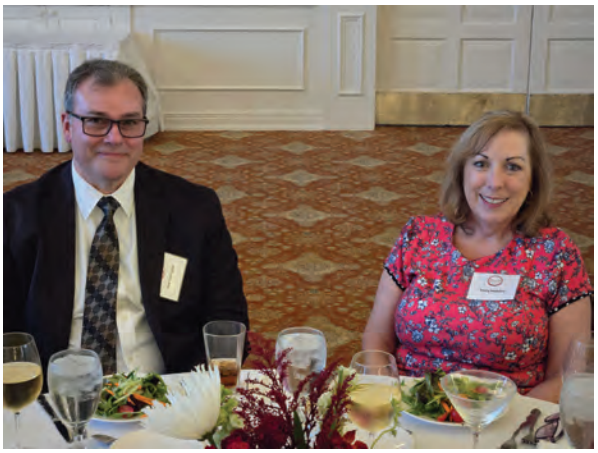


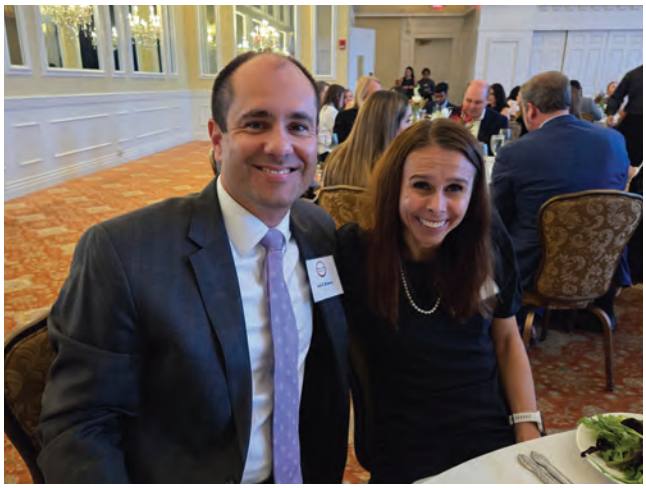


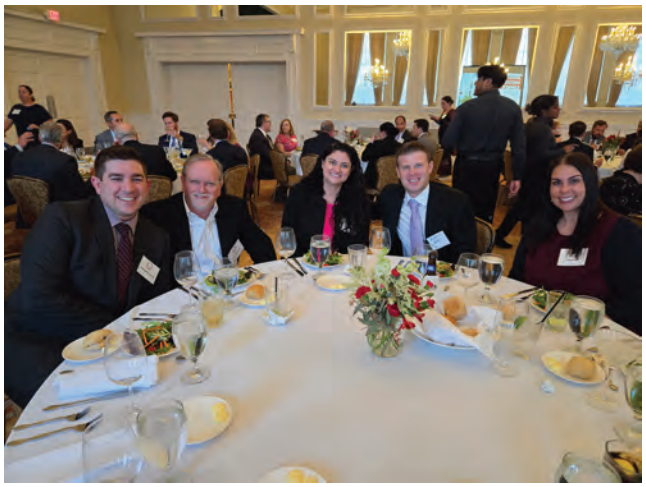


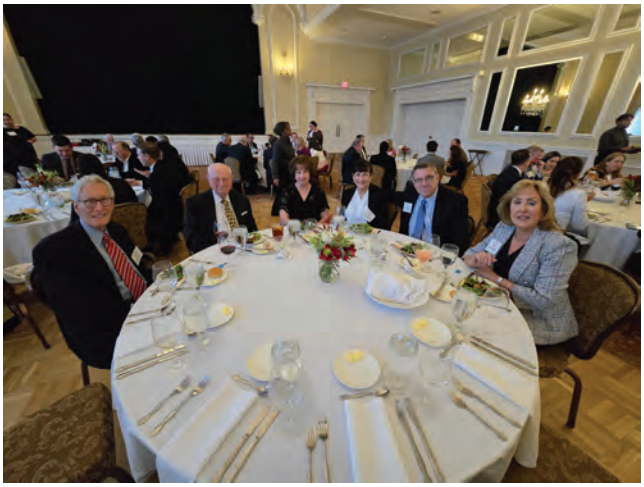


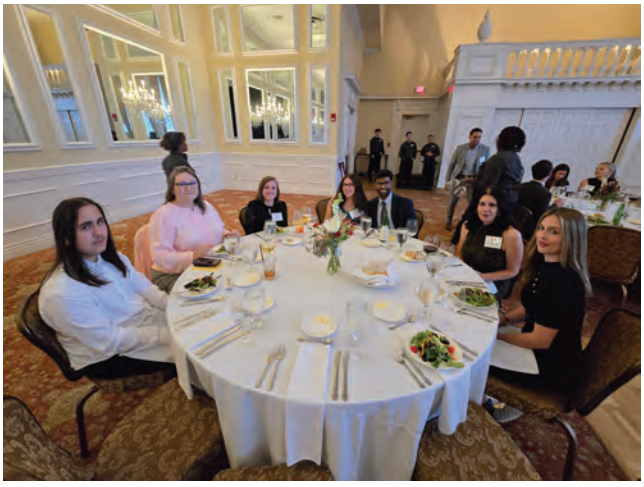












Pre-Suit Mediation: "Why?" or "Why Not?"

By Roy Kobert
Florida Certified Civil Mediator

Facts in dispute? Pre-Suit Mediation is not for you. Law is not well settled? Pre-Suit Mediation is not for you.

Need to avoid the public eye? Pre-Suit Mediation is for you. You can accomplish more for your client by sharing a draft complaint? Pre-Suit Mediation is for you.

Unless you need the element of surprise, consider modifying your legal practice by providing a courtesy copy of your lawsuit in advance to known opposing counsel. As the old adage goes, once filed, "you can't put the Genie back in the bottle." Consider this: you may not know the motivations of the opposing party. If there is leverage to be had with pre-suit mediation, it is obviously lost once the case filing renders it a public dispute.

Pros:

If the mediation is unsuccessful, then nothing is lost. Before leaving pre-suit mediation you should ask opposing counsel if she would accept service of process to expedite the case. There may be other creative ways to short-circuit the litigation. If the dispute involves a substantive contentious fact, perhaps counsel can agree to focus on that issue, exchange informal discovery relative to that particular issue, and agree on an expedited deposition schedule.

Early pre-suit mediation would make scheduling a continued mediation session prior to trial a healthy exercise. Many times, pre-suit mediation ends in a draw because there's just too much that the parties disagree over. If you actively participate in pre-suit mediation you will definitely learn something about your case that you didn't know before.

And if the case is successfully resolved, obviously pre-suit mediation is substantially less expensive than actual litigation and is a timesaver. I recommend in the business divorce scenario, the parties agree to language

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Why or Why Not?

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to explain the new status of the business relationship to the public such as, "we have amicably decided to go our separate ways." Consider liquidated damages for every violation. Is the mediator going to be the one delegated with decisional authority regarding a violation, or will you have to file a new lawsuit to adjudicate that breach?

Moreover, if the case involves a business divorce, pre-suit mediation is a wonderful way to avoid airing your dirty laundry for the benefit of common competitors or any adverse impact on your existing customers. A pre-suit mediation business divorce allows the litigants to part ways while still maintaining the going concern value and the goodwill associated with the underlying business.

Cons:

If a settlement is not achieved, then the time spent to initiate the litigation has been lost.

If a settlement is achieved, there is no ready court case to bless the outcome. One way around this problem is to file a generic lawsuit and have the settlement reviewed in camera and by order sealed from public view depending on the circumstances.

Early on, one party may elect to stay with their business lawyer while the other side has retained litigation or bankruptcy counsel. This puts the parties on unequal footing which normally would not occur during active litigation.

During the discovery phase of litigation, you may learn a pivotable fact which dramatically changes your whole outlook and consensus on how you value the case. With pre-suit mediation, you may never learn of these crucial facts and data which would alter your calculus in terms of exposure and damages.

Conclusion:

Pre-Suit Mediation is another arsenal in your litigation toolbox. Use it when appropriate.

By Christie Arkovich
info@christiearkovich.com

Helping your clients take their lives back from their student loans sometimes involve bankruptcy related solutions. While filing bankruptcy has typically NOT been helpful for those with overwhelming federal student loan debt, there is good reason for re-evaluation of that view now. Not only do we have the Student Loan Management Program here in the Middle District of Florida, reducing student loan debt in bankruptcy has become much easier in 2024 due to two new programs rolled out by the Department of Education ("ED").

Bankruptcy is becoming a very good solution for those with high student loan debt with two new programs – BK IDR and the Attestation Process.

First, a new process allowing for Income Driven Repayment ("IDR") credit for debtors in bankruptcy will begin July 1, 2024. Rather than penalizing a debtor by simply placing the debtor into an administrative forbearance, (with capitalized interest and negative amortization) the new Bankruptcy IDR will give a debtor a month of credit toward loan forgiveness for each month the debtor makes a required plan payment under a confirmed Chapter 13 plan. 34 C.F.R. § 685.209(k)(4)(iv)(K).

A debtor will receive IDR credit for a plan payment even if no IDR payment is made. Neither ED nor the debtor is required to file a proof of claim for the federal student loan(s), nor is there any requirement that ED receive any distributions under the debtor's plan. Even if the Chapter 13 Plan is not completed, a debtor shall receive IDR credit for the successful plan payments that were made during the pendency of the bankruptcy case. A special plan provision is not required, but is recommended. Separate classification of the student loans is not required to stay on an IDR plan which eliminates a reason for the United States Trustee or ED to object to the plan.

It is also advisable for the debtor to enroll in an IDR plan before filing a Chapter 13 case, or immediately after the case is closed to avoid errors in the final count toward forgiveness.

This program is particularly valuable for those borrowers with high income who also have large mortgage debt or

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Student Loan Sidebar

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medical expenses which can be used to reduce disposable income in a bankruptcy to reduce or even eliminate a student loan payment. These types of expenses cannot be used to reduce an IDR payment outside of bankruptcy. It appears that ED will use the Chapter 13 Standing Trustee's Uniform Report and Account form that is filed by the trustee within 150 days of the final distribution to creditors in the case. Item #6 of that Report lists: "Number of months from filing or conversion to last payment." If a debtor completes 24 plan payments in a 60 month plan, the trustee would report 24 in response to Item #6 and ED would give the debtor 24 months of IDR forgiveness credit. In the event that this number is wrong, debtor's counsel may file a motion to confirm the number of plan payments and seek an order compelling the servicer and ED to give IDR credit per 34 C.F.R. § 685.209(k)(4)(iv)(K).

Second, many full or partial discharges of federal student loans are being awarded due to a new attestation process that went into effect in November, 2022 (the "Guidance"). The rollout of this program was initially slow, but it is quickly picking up speed. The process allows for the Department of Justice ("DOJ") to work with ED to review and approve circumstances allowing for discharge in a process that is more transparent and consistent, with less burdens placed upon debtors by simplification of the fact gathering process. Instead of traditional discovery such at requests to produce, interrogatories and depositions, the intent is to have the debtor fill out a questionnaire and attest to the hardship and other impositions that repayment of the student loans would create. In this manner, the goal is to be much less expensive and far quicker than a traditional adversary proceeding. Using the Guidance, certain presumptions for discharge now exist that did not exist previously. Assessment of the debtors' future circumstances and whether ED considers the debtors to have made good faith efforts to repay their student loans still occurs. Once ED reaches a recommendation in accordance with the Guidance, the Court would still need to approve of the outcome. In most circumstances, the Court would likely approve of the parties' decision to discharge any student loan debt.

Traditionally, it was nearly impossible to discharge federal student loan debt in bankruptcy under the *Brunner* standard. Under Section 523(a)(8) of the Bankruptcy Code, certain student loans may not be discharged in bankruptcy unless the bankruptcy court determines that payment of the loan "would impose an undue hardship on the debtor and the debtor's dependents." 11 U.S.C. § 523(a)(8); *United Student Aid Funds, Inc. v. Espinosa*, 559 U.S. 260, 278 (2010). This inquiry is undertaken through a formal adversary proceeding in the bankruptcy court.

The most common framework for assessing undue hardship is the *Brunner* test, emanating from *Brunner v. New York State Higher Education Services Corp.*, 831 F.2d 395 (2d Cir. 1987). To discharge a student loan under the *Brunner* test, a bankruptcy court must find that the debtor has established that (1) the debtor cannot presently maintain a minimal standard of living if required to repay the student loan, (2) circumstances exist that indicate the debtor's financial situation is likely to persist into the future for a significant portion of the loan repayment period, and (3) the debtor has made good faith efforts in the past to repay the student loan. *Id.* at 396. This *Brunner* standard exists in the majority of states including the State of Florida. Other courts have applied a "totality of circumstances" test. The Totality Test looks to: (1) the debtor's past, present, and reasonably reliable future financial resources; (2) a calculation of the debtor's and their dependents' reasonably necessary living expenses; and (3) any other relevant facts and circumstances surrounding each particular bankruptcy case. The new Guidance applies in both *Brunner* and Totality Test jurisdictions.

While the *Brunner* and Totality Tests still apply, the Guidance allows for an easier review by ED with the added benefit of certain presumptions of discharge. The Guidance creates presumptions that the inability to repay will persist if:

- The debtor is 65 or older;
- The debtor has a disability or injury impacting income potential;
- The debtor has been unemployed for five of the last 10 years;
- The debtor failed to obtain degree for which the loan was procured;
- The debtor's loan has been in repayment status for 10 years.

Traditionally, these factors were not given a presumption

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Student Loan Sidebar

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of discharge as they are now. Of course, the presumptions are rebuttable if there is concrete evidence that the debtor would have the future ability to pay.

Pre-bankruptcy Planning: It's important pre-bankruptcy to ensure that the debtor's situation will be viewed in the best possible light once the bankruptcy is filed. That means possible consolidation to a Direct Loan to take advantage of the Guidance and if needed, the lowest possible IDR repayment plan for the duration of the bankruptcy. The Guidance is available under both Chapter 7 or Chapter 13.

Any good litigator understands that controlling the facts can be helpful in future litigation. Therefore, encouraging the debtor to undertake an IDR, communicate with their servicer, consolidation, applying for non-bankruptcy programs etc. may all be viewed as evidence of good faith which is a major focus of the Guidance.

Evidence of good faith can include things such as:

- making a payment;
- applying for a deferment or forbearance (other than in-school or grace period deferments);
- applying for an IDR plan;
- applying for a federal consolidation loan;
- responding to outreach from a servicer or collector;
- engaging meaningfully with ED or their loan servicer regarding payment options, forbearance and deferment options, or loan consolidation; or
- engaging meaningfully with a third party they believed would assist them in managing their student loan debt.

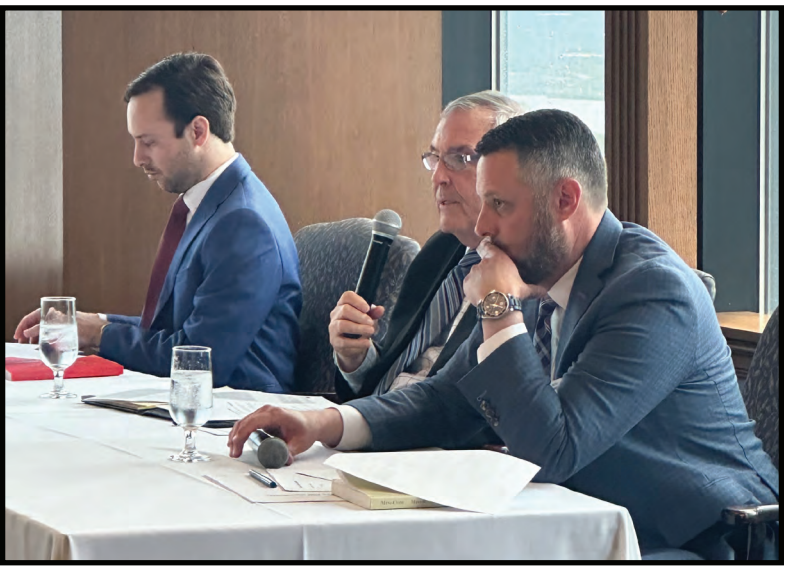
The key is to look for opportunities to help the debtor fit the criteria above to allow for discharge of his or her student loan debt.

The bottom line is that bankruptcy is becoming a rather good solution for those with student loan debt now that the landscape has changed and new programs come online which allow for far more discharge of student loan debt.

The information provided in this Sidebar does not, and is not intended to, constitute legal advice. For a 1-on-1 consultation, please email info@christiearkovich.com or call (813) 258-2808.

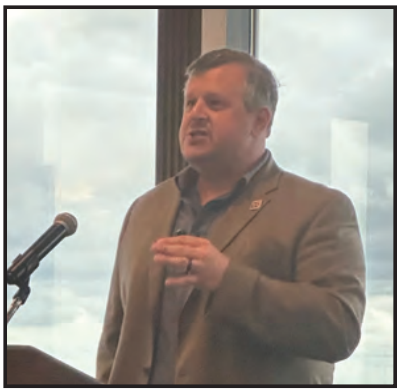
• **On April 2, 2024**, Matthew Hale and Daniel Fogarty discussed a variety of issues and trends in individual subchapter V chapter 11 cases, including eligibility, calculation of projected disposable income, and plan confirmation issues for the TBBBA's consumer lunch CLE titled "Intro to Individual Subchapter V Cases for Consumer Bankruptcy Practitioner." The presentation focused on comparing the procedure and unique benefits of an individual subchapter V bankruptcy to a typical chapter 13 bankruptcy. Subchapter V's streamlined procedure and benefits for individuals makes it an important tool in the bankruptcy lawyer's toolbox for those individuals who qualify.

• **On May 14, 2024**, Jeff Warren and Adam Gilbert presented, accompanied by Scott Underwood as moderator, on the bankruptcy court's post confirmation jurisdiction. The presentation provided a general overview of the operative statutes and case law governing the analysis to resolve disputes after a plan has been confirmed, and in part, how that differs from the pre confirmation analysis. The panel also focused on practical considerations for attorneys to consider regarding this matter at varying stages of the case.



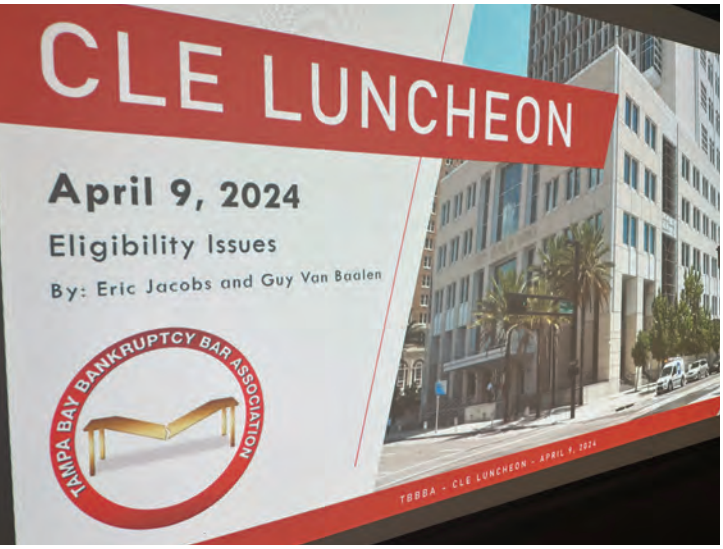
• **On May 28, 2024**, Judge McEwen presented the consumer lunch CLE Mayday! Mayday! Avoiding Mayhem from Chapter 7 and 13 Trustees. Panelists included Chapter 7 trustees Traci Stevenson and Stephen Meininger, and Chapter 13 trustees Jon Waage and Kelly Remick.

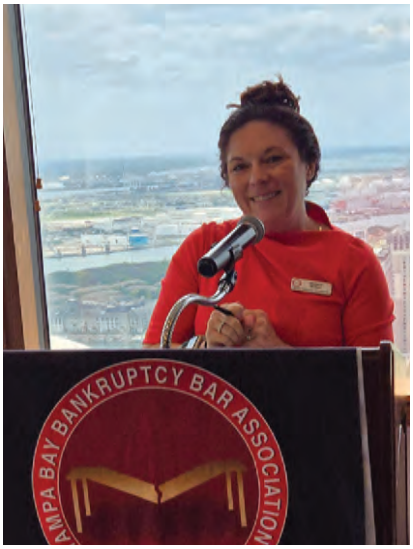
• **On June 6, 2024**, Judge McEwen held a quarterly brown bag lunch titled One White Board: A Fast-Paced Overview of the Progression of a Chapter 11 Case and What Code Sections are Implicated at Each Stage.

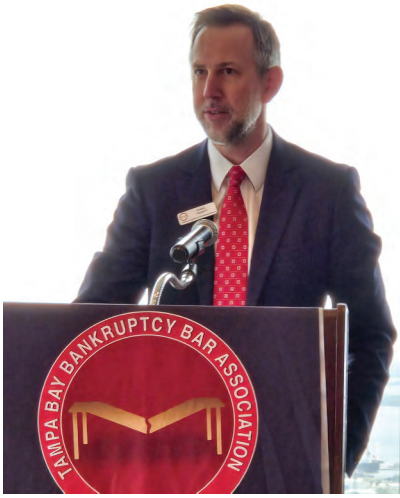


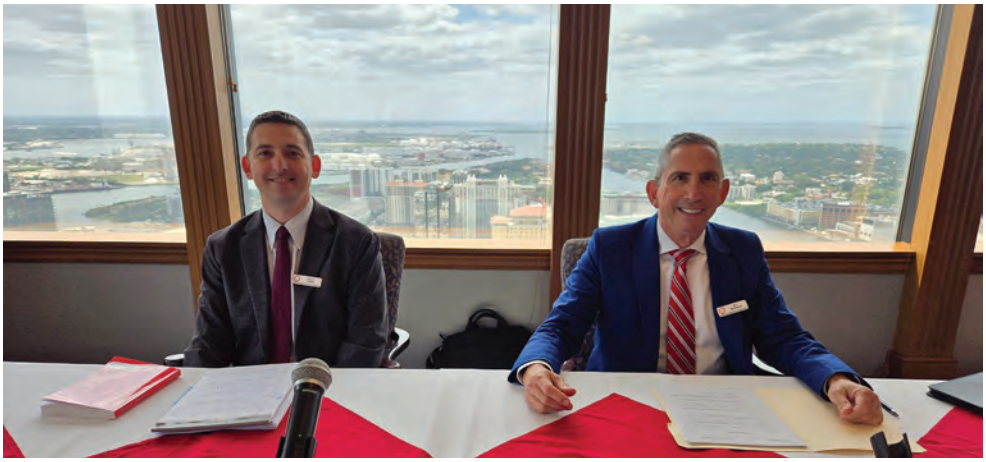
• **On June 11, 2024**, Professor Charles Nyce (of the Florida State University) presented The (D)Evolution of the FL Homeowners' Insurance Market: 30+ Years Since Hurricane Andrew on Florida's property insurance market to close out this term's CLE luncheons. Hurricane Andrew made landfall in South Florida in August 1992 as a Category 5 Hurricane. The repercussions of that event are still being felt today in Florida's property insurance market. Florida currently has the highest property insurance rates in the U.S., yet most insurance companies are reluctant to provide property insurance in the State of Florida. The result is a financially insecure property insurance market with significant costs borne by property owners (both residential and commercial). The presentation provided a review of how we have arrived at this point of market development, discussed the impact this market has on individuals and businesses that operate in Florida, and discussed potential

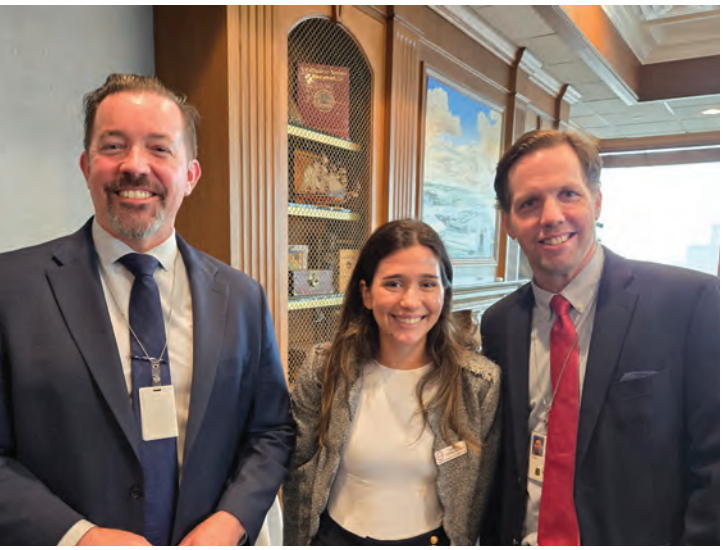
• **On April 9, 2024**, Assistant United States Trustee Guy Van Baalen and Eric Jacobs presented on elibiglity issues arising in bankruptcy chapters 7, chapter 11 - subchapter v, 12 13 and 15. Some of the notable cases and issues were – is an LLC a person or entity for eligibility purposes? Is there a good faith element? Is a monorail a municipality? And, the pair examined the recent Eleventh Circuit stemming from In re Talal Qais Abdulmunem Al Zawawi, which looked at whether a chapter 15 debtor is in fact a "debtor".

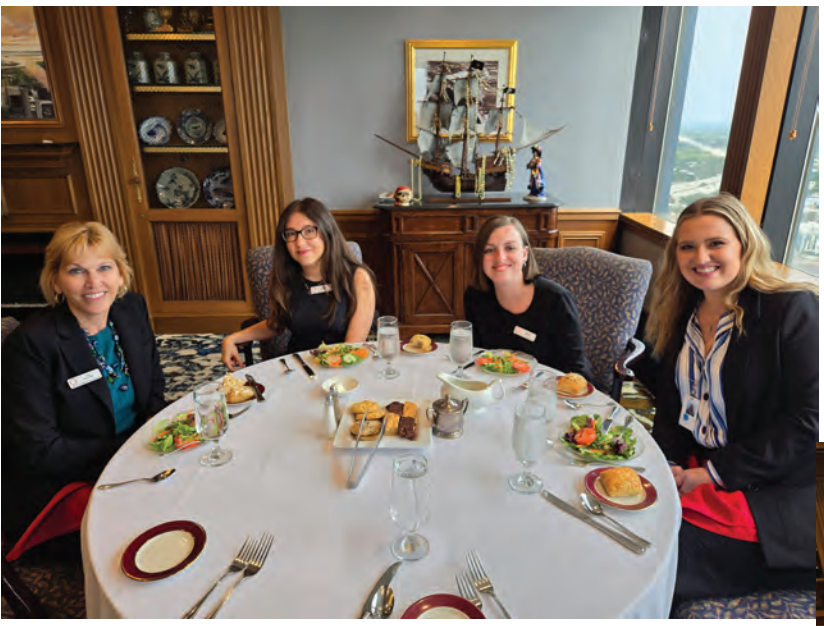


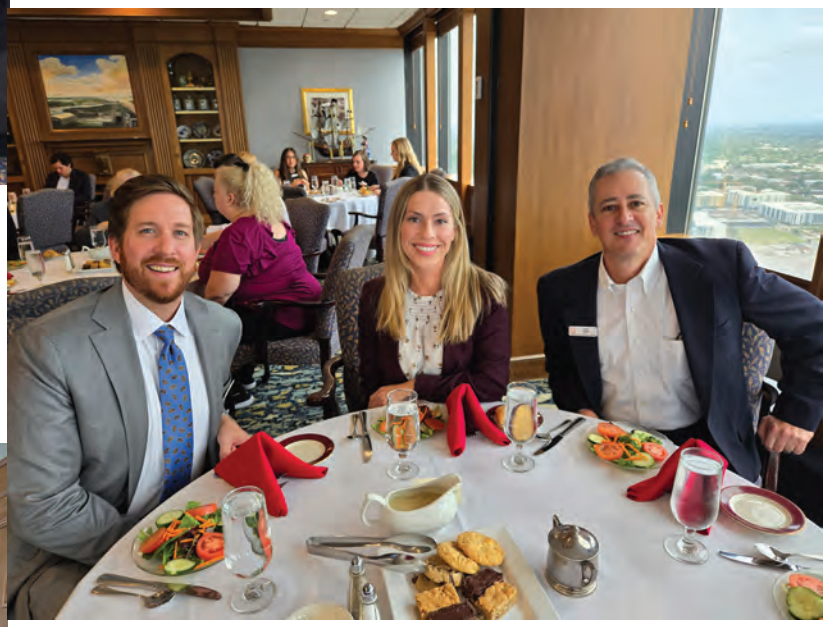


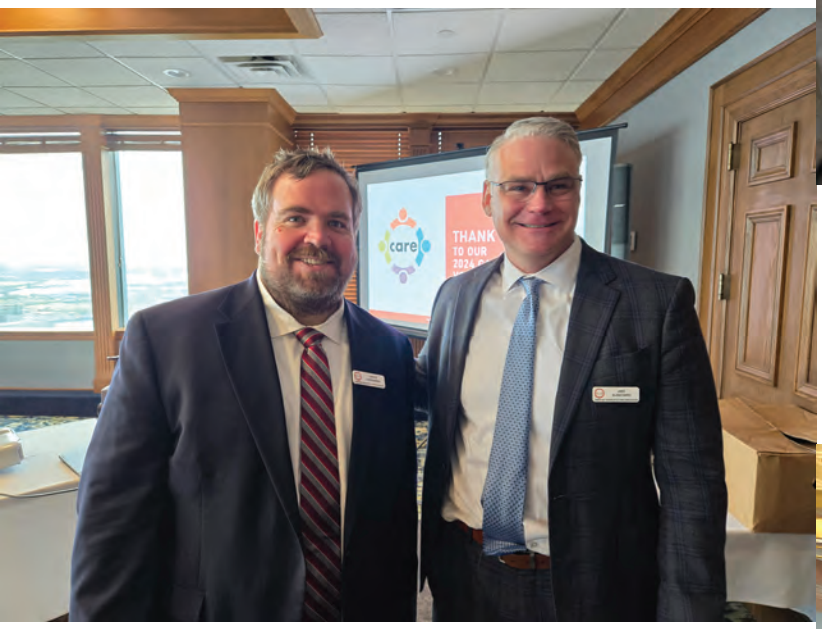








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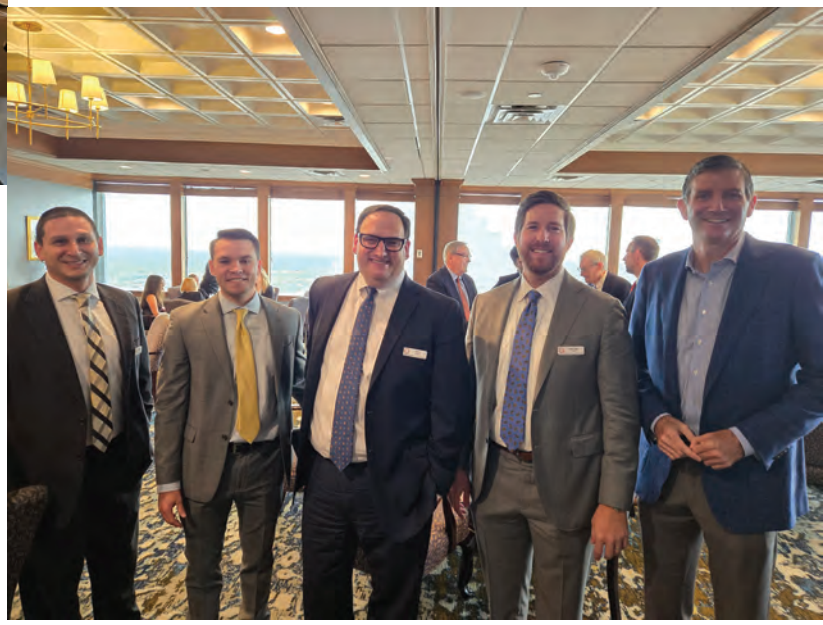

Preparing Financial Projections for Long Term Success

By Dr. Ruediger Mueller
Certified Turnaround Professional and Subchapter V Trustee, President, TCMI

A key element in any good workout plan is the financial projection contained therein. Unfortunately, it is this element where plans are typically lacking. Not surprisingly then, depending on which source one uses, anywhere from half to over 3/4 of bankruptcies do not survive five years after successful confirmation. It can be argued that a key reason for this statistic can be found in inadequate planning. Indeed, this author would argue that financial projections are often treated as an afterthought and not given the attention they deserve. The reason for this is simple. The principals of businesses filing for bankruptcy, and especially Sub V bankruptcies, are often fairly unskilled with respect to the financial affairs of their organizations. More often than not they are individuals with a great deal of subject matter expertise but not necessarily experience in running a business. Likewise, with few exceptions, their counsel has only limited experience in financial planning, given their background in bankruptcy law and not management. Finally, accountants also tend to lack the requisite experience. The fundamental difference between accountants and financial managers is their perspective. Accountants report what happened, financial managers plan what will happen and financial plans require a forward perspective.

The first part of a financial plan is fairly simple. It is typically based on a profit and loss or cash flow statement. The starting point for this part is the creation of a template. The Internet is full of examples some of which are excellent. The process starts with a template with line items are extracted from an existing profit and loss statement or other financial data if such a statement is not available, which is often the case in smaller businesses. They are listed on the vertical axis of a typical Excel spreadsheet. On the horizontal axis the years for the plan horizon are entered. Most plans look forward three to five years with five years being recommended. In the first year it is strongly recommended that the plan contains monthly data whereas annual data tend to be sufficient for years two to five unless the business operates in an industry with strong seasonal fluctuations. Monthly projections for the first year are recommended because the business has just emerged from bankruptcy, cash is tight, and even relatively small deviations from the plan can have a devastating impact on the business.

The true challenge is the population of this template with meaningful data. It is here where problems begin. As bankruptcy council can attest to, many businesses have trouble keeping their records straight and especially in Sub V cases the accounting system consist of the proverbial shoe boxes. Asking the same businesses to meaningfully project financial data for a year, let alone three to five years, is at best irrationally exuberant. Hiring an experienced chief restructuring officer for the business is typically financially infeasible for all but the largest companies. Still, projections are not as difficult as they may appear to the uninitiated. In order to understand how to meaningfully create financial plans one has to keep in mind that financial projections are nothing but a numeric representation of the business plan going forward. Furthermore, this numeric framework serves as a reality check for the business because it shows what the results of anticipated operations of the business will be. It is also extremely important to realize that the financial plan is not simply a means to get a plan confirmed. It is the plan for the business to survive and grow and with that the road map for success. Treating the plan any other way is a recipe for disaster and eventual failure.

When creating a financial projection, it is best to base it on a profit and loss or cash flow statement. Furthermore, it is recommended to treat the three core sections of a statement, revenues, cost of sales, and operating expenses, separately because projections and the methods used to create them differ significantly.

To create projections for the first section, revenues, starts with looking at recent history. It is appropriate to project

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Preparing Financial Projections
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historic sales forward and then modify these projections based on the following factors:

• A downward trend in recent developments does not necessarily have to be negative. If the company experienced an unusual peak due to extraordinary circumstances, for example construction after a hurricane, a downward adjustment of sales to more sustainable levels may be perfectly normal. It is important to evaluate whether stabilization of sales is anticipated and what steps the business will undertake to ensure this.

• Conversely, a strong upward trend in sales, although generally good, is not always a positive development if the business lacks the infrastructure and funds to accommodate such growth.

• If the business experiences strong seasonal fluctuations, monthly projections are especially important. In these cases, the cash conversion cycle, the period of time that passes between cash outlays for materials and operations, becomes a critical factor in the success of the business going forward. Monthly projections help identify periods of deficient and excess cash flow and with that the need to obtain financing from serious lenders or even vendors.

• Dependent on the nature of the business a single top line projection or a more detailed breakdown of sales may be required:

  - If the business offers a fairly homogeneous product or service a single revenue projection may suffice.

  - If the business offers more diverse products, product lines, or services with different profitability, a breakdown of projections by product line is recommended and will help identify products or services that may be a drain on profitability.

  - If returns and discounts account for a significant portion of overall sales, projections should break out gross revenues, returns and allowances, and other items. Returns and allowances should be shown separately because of the need to be monitored and used as an early warning system for potential future problems such as manufacturing issues, service issues, and so on.

The next major section in projections should be cost of sales. The difference between this and the previous section shows whether the business generates enough income from the sale of its products and services to contribute to operating expenses (gross margin). If projections show a zero or negative gross margin and business owners and managers cannot determine a strategy to move the gross margin into positive territory, the way forward maybe liquidation or sale. Regardless of the magnitude of the gross margin, cost of sales need to be closely inspected in order to determine ways to improve the organization's profitability. Depending on the type

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of business, it is likely that there will be opportunities to improve profitability. This is best demonstrated with an example. A manufacturer of hurricane impact resistant windows and doors had an assembly line manufacturing sliding doors. Two stations at this line each connected the side frames to the top and bottom parts respectively. Each connection is secured with two different screws of a different size and workers use pneumatic screwdrivers to do so. Given the different screws, the workers have to change bits once for each of the two corners they work on. High end pneumatic screwdrivers cost at most $ 200.00. An investment of $ 400.00 plus less than $ 100.00 to add the required air drops doubled line throughput with the resulting cost reductions. Subsequent minor re-engineering reduced the number of different screws and other parts across all lines, resulting in additional cost savings due to reduced parts inventory, increased manufacturing speed, and warranty claims due to incorrect parts usage. Almost every business has cost optimization potential that can be identified through similar analyses.

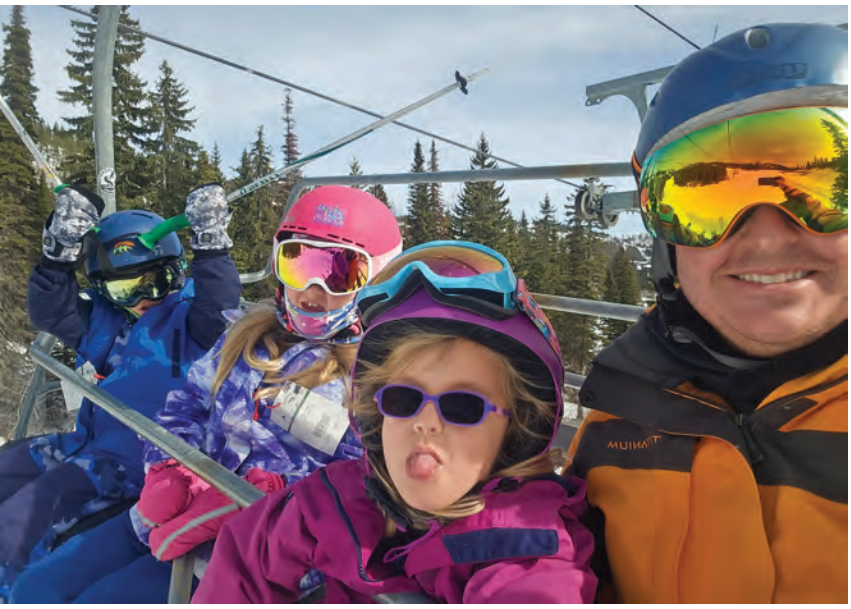
The third major section in projections are operating expenses. Once again it is appropriate to start with recent history and project these data forward. However, the project cannot stop there. Just like in the previous section, every line item needs to be carefully reviewed with respect to savings potential. Questions, for example whether leases should be continued, or the debtor should move into a less expensive facility, need to be asked for every line item. It is quite likely that additional and potentially significant cost reduction potential can be found.

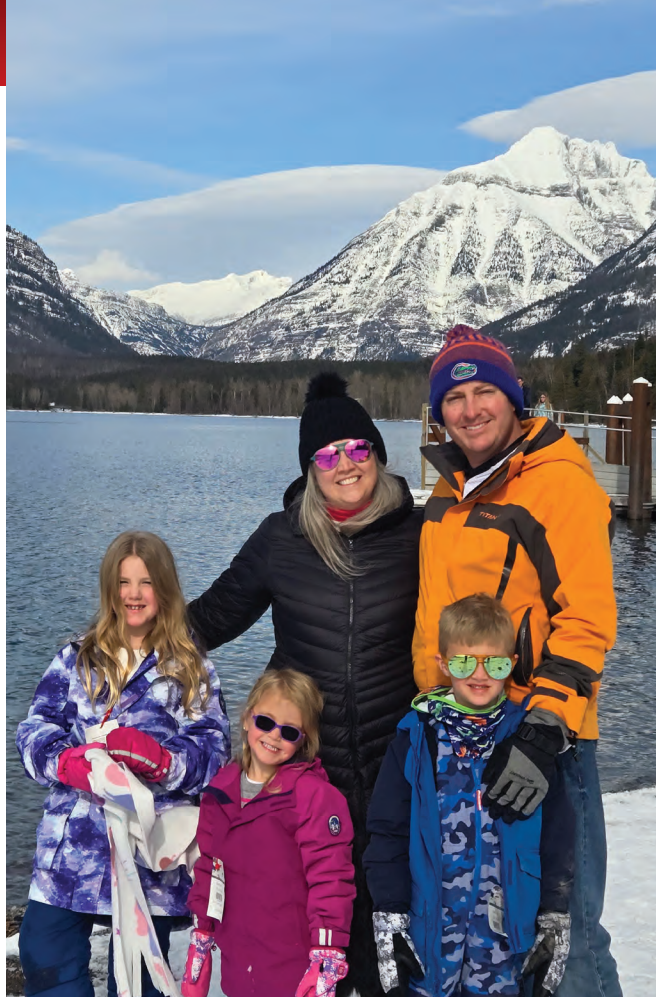
It is unlikely debtor's principals or management are able to prepare good financial projections. Even in larger companies with highly experienced financial personnel, representatives of the debtor tend to be too close to be able to identify every potential savings opportunity. In large companies turn around and restructuring consultants can provide an unbiased perspective and review finances. In smaller bankruptcies and especially Sub V bankruptcies this role likely falls onto debtor's counsel and the Sub V trustee. While neither may have training in financial analyses, they can still provide critical and probing questions with respect to every line item and therefore get the debtor to think about alternative solutions. While not as effective as outside expert advice, it is a viable alternative to retaining expensive experts.

Observation indicates that in many plans financial projections are treated as an afterthought and are often superficial. This may be sufficient to get a company through bankruptcy and to a confirmed plan. But unless financial projections are prepared carefully and diligently, they only set the business up for failure. In well-managed bankruptcies financial projections should be started early in the process and as a natural extension of the initial budget. Doing so will show the business and its counsel whether long term survival and profitability beyond the date of confirmation is possible and even likely. Furthermore, it will aid debtor and counselor determining the amount of funds available for creditors without jeopardizing long term survival.

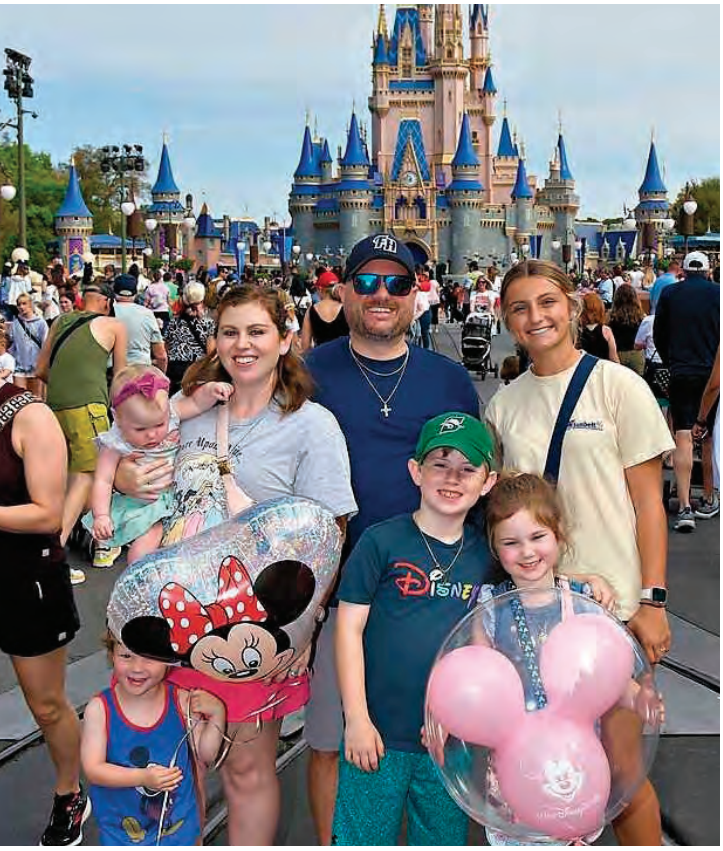
Spring Break 2024

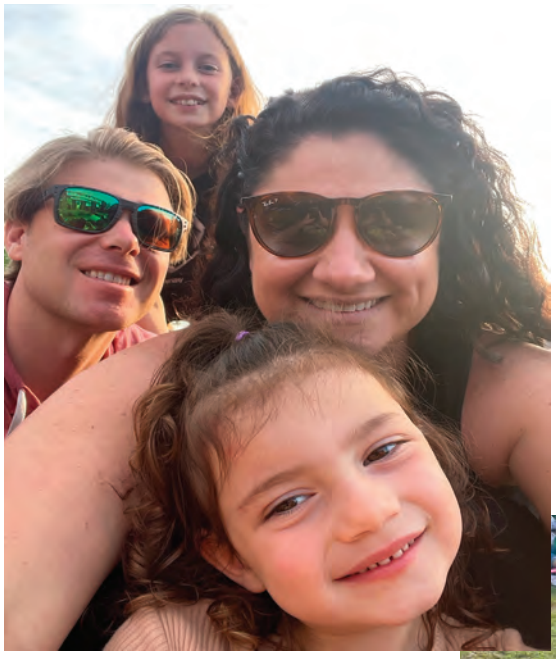
Ryan Yant went skiing in Whitefish, Montana



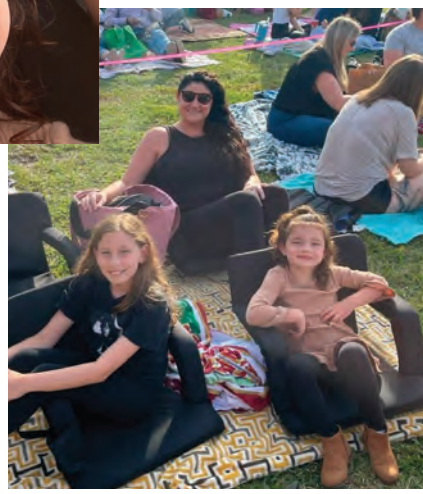


Ryan Reinart went to Disney World





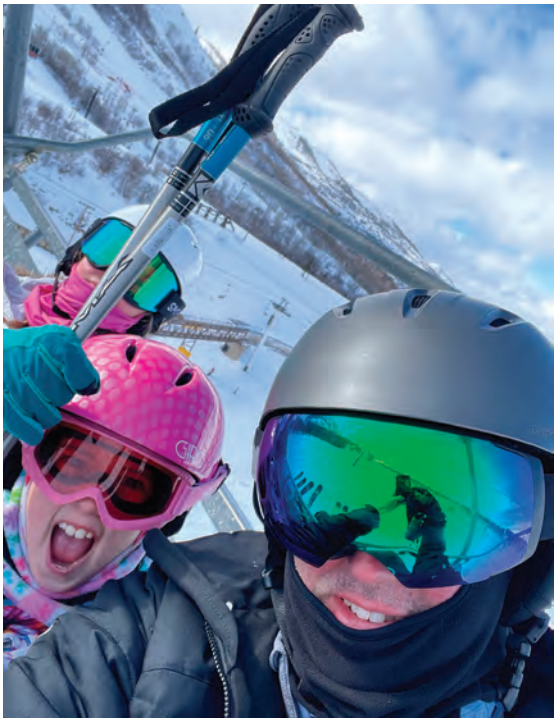
Nicole Noel
went to New York City

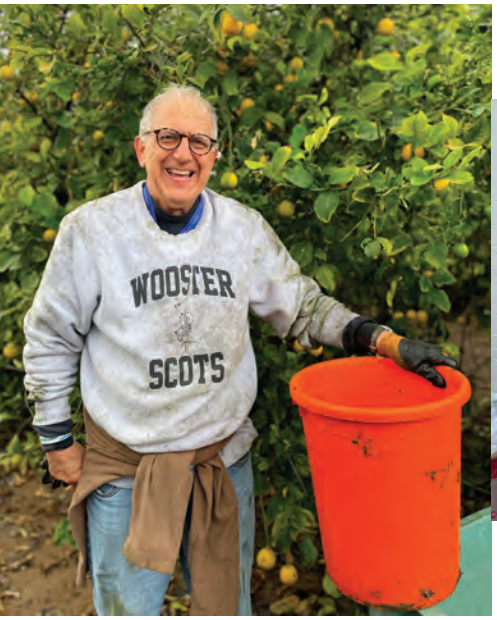


Spring Break 2024

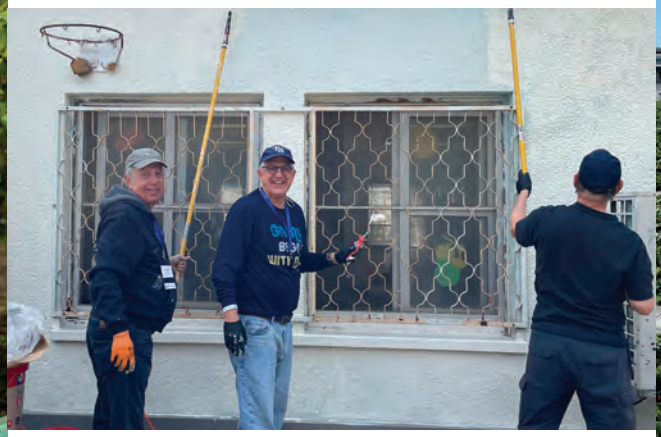
Erik Johanson went to Alabama

Dan Fogarty went skiing in Park City, Utah

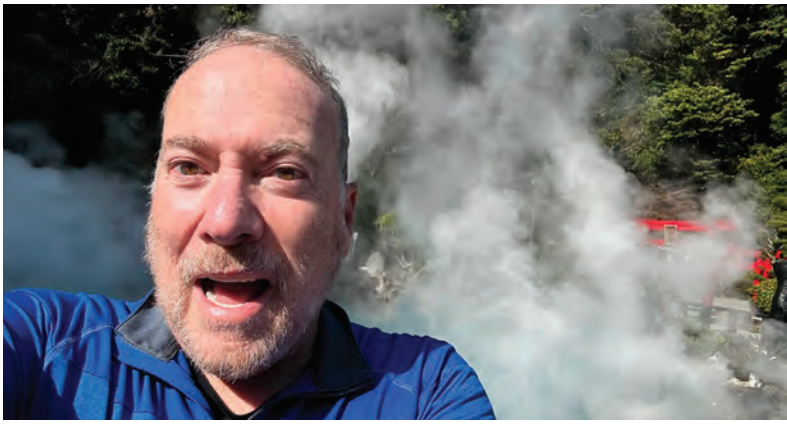




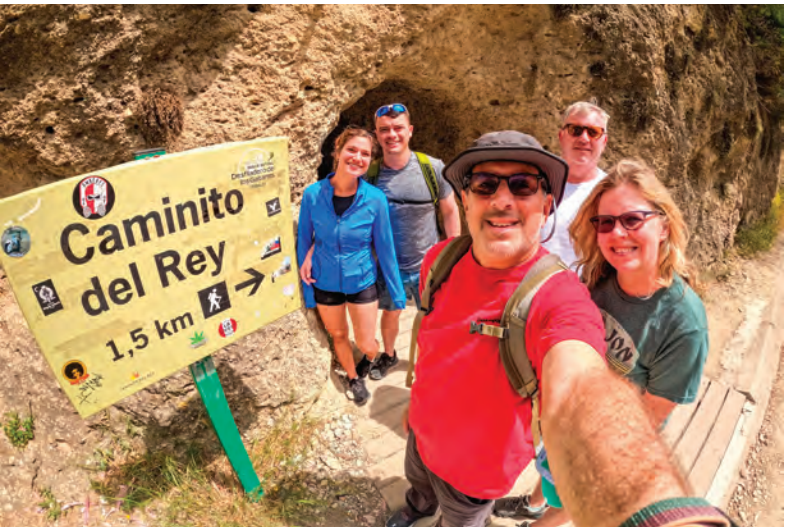
Dennis LeVine
volunteered in Isreal

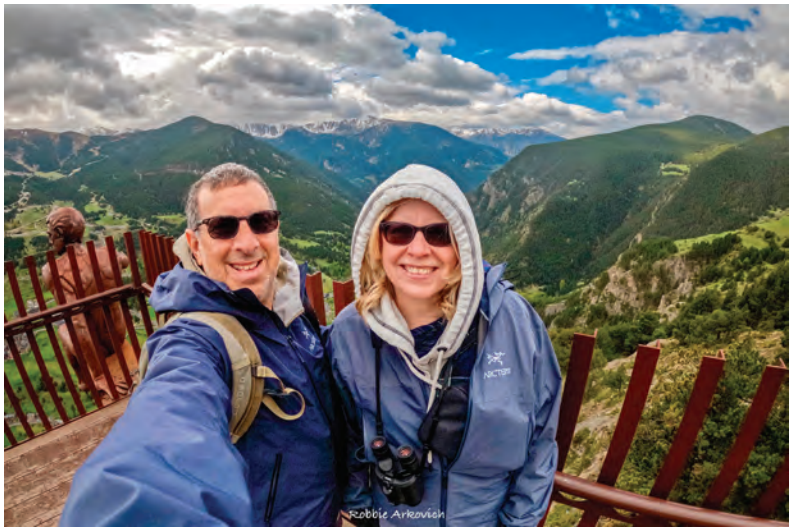


Roy Kobert went to Japan

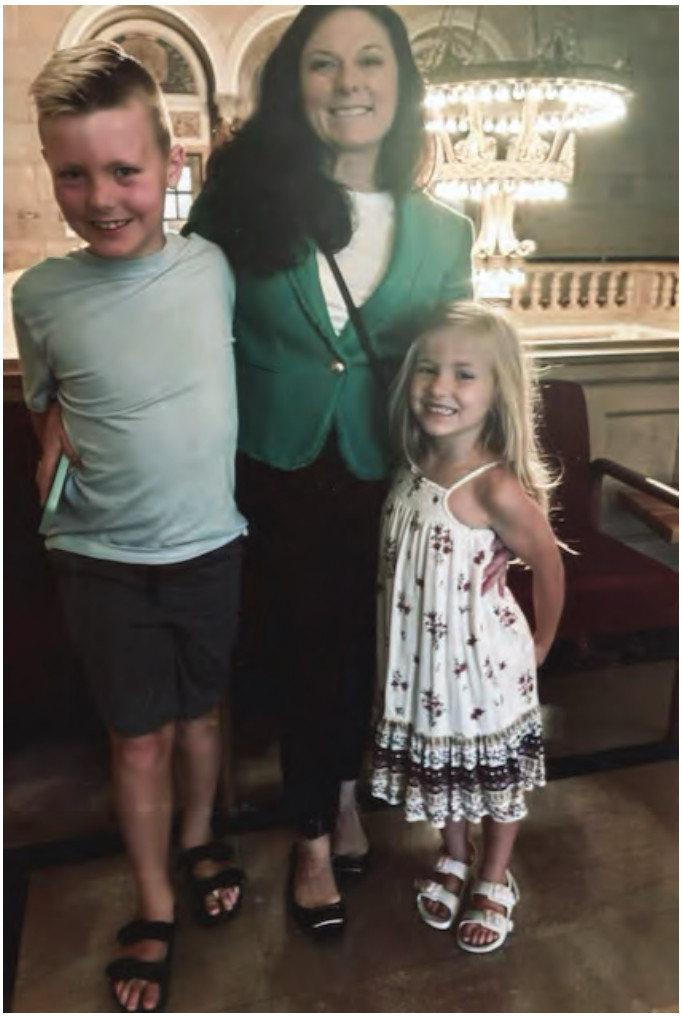


Christie Archovich went to Spain





Megan Murray – a visit to "Mimi"



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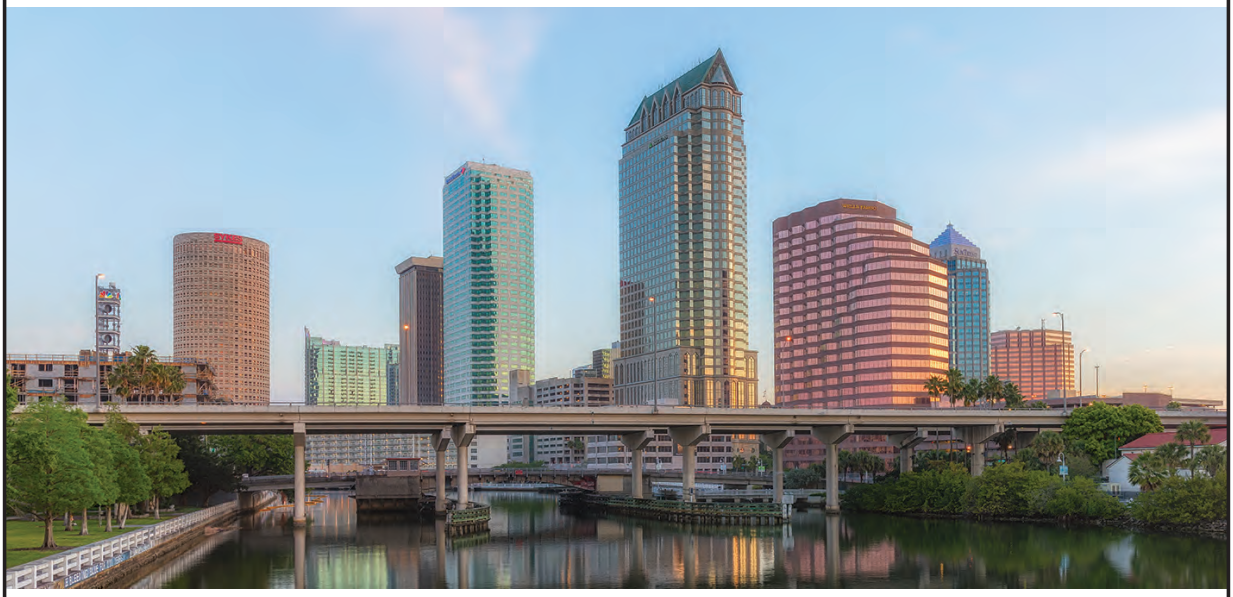

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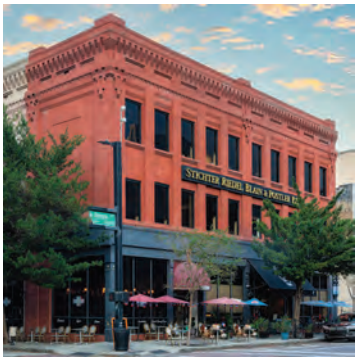

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Transforming Family Dynamics: Guidance on Florida's New Parenting and Timesharing Law in 2023

By Kristina Feher
Feher Law, P.L.L.C.

On July 1, 2023, Florida implemented a significant overhaul of its parenting and timesharing laws, reshaping the way child custody and visitation arrangements are determined in divorce and separation cases. This article aims to provide an insightful exploration of the key aspects of Florida's new parenting and timesharing law, as well as discuss the ways this new law will impact parents, children, and family law professionals. These changes affect all timesharing cases (including divorce) that are filed with the Court after July 1, 2023.

Key Changes in the Timesharing Law

• Best Interests of the Child: The new law reiterates the state's commitment to safeguarding the best interests of the child. It emphasizes that all parenting and timesharing decisions must prioritize the child's welfare above all else.

• Shared Parenting as the Default: Florida shifted towards a presumption of shared parental responsibility and equal timesharing as the default arrangement. The law recognizes the importance of both parents being actively involved in their child's life, promoting a more balanced distribution of parenting responsibilities.

• Rebuttable presumption: There is a rebuttable presumption that equal time-sharing of a minor child is in the best interests of the minor child. To rebut this presumption, a party must prove by a preponderance of the evidence that equal time-sharing is not in the best interests of the minor child.

• Timesharing Plans: The new law requires parents to create comprehensive timesharing plans that outline the specifics of how they will share parenting responsibilities, including the child's daily routine, holidays, and special occasions. These plans must be submitted to the court for approval. Download a copy of the Parenting Plan from the Florida Supreme Court **HERE**.

The new parenting and timesharing law is poised to have a profound impact on Florida families:

• Child-Centric Approach: The new law continues to underscore the importance of prioritizing the well-being of the child above all else, ensuring that parenting decisions align with the child's best interests.

• Shared Parenting: The default presumption of shared parenting emphasizes the significance of both parents actively participating in their child's life, fostering a more equitable and collaborative co-parenting dynamic.

• Structured Parenting Plans: The continued requirement for detailed parenting plans encourages parents to collaborate on scheduling and parenting responsibilities, reducing potential conflicts and uncertainties.

• Mediation and Resolution: By continuing to promote alternative dispute resolution methods, the law aims to minimize adversarial court battles, easing the emotional strain on parents and children.

The entire Florida Statute, Florida Statute §61.13, regarding timesharing can be found **HERE**.

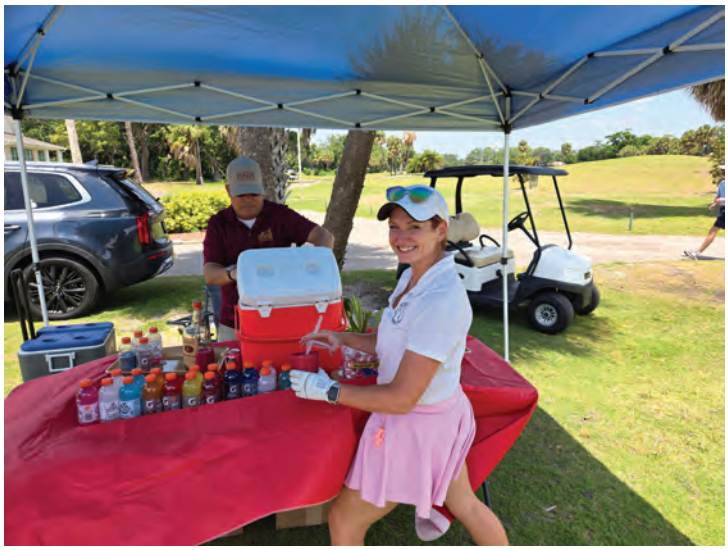
Bankruptcy Consideration

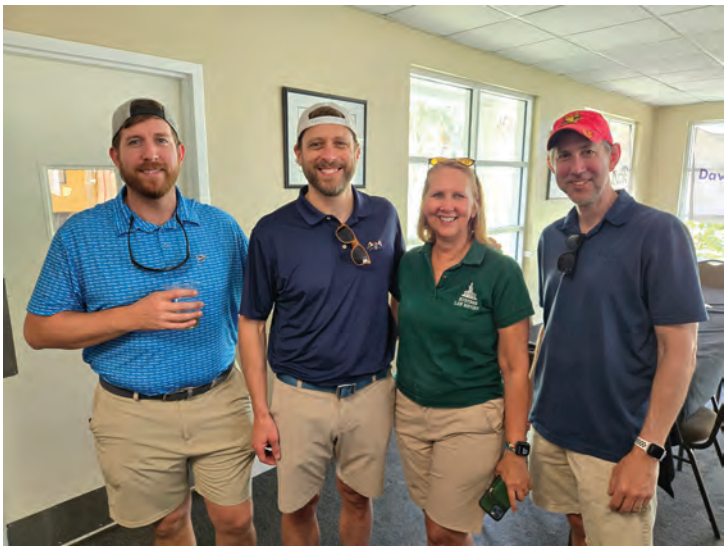
The application of Florida's timesharing law to bankruptcy cases will occur in the change of child support. Where a family court orders a change in timesharing, child support is often modified as well. Regardless of whether a Chapter 13 Debtor is the payor or the recipient of child support, practitioners should review the effective date of the new child support amount. Most likely, the Chapter 13 plan will need to be modified for the new child support payment amount.

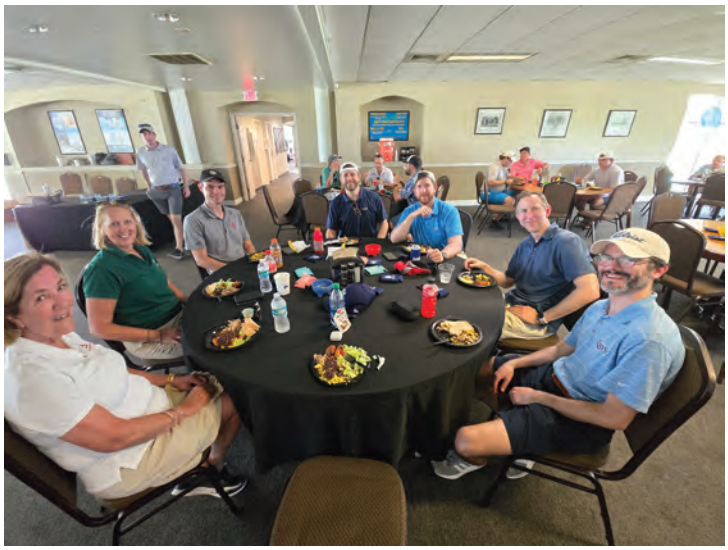
Florida's new parenting and timesharing law, effective as of July 1, 2023, reflects a commitment to creating more child-centered and equitable solutions in cases of divorce or paternity matters. By prioritizing shared parenting, structured timesharing plans, and alternative dispute resolution, the law seeks to minimize the emotional toll on families while ensuring the best interests of the child remain paramount.

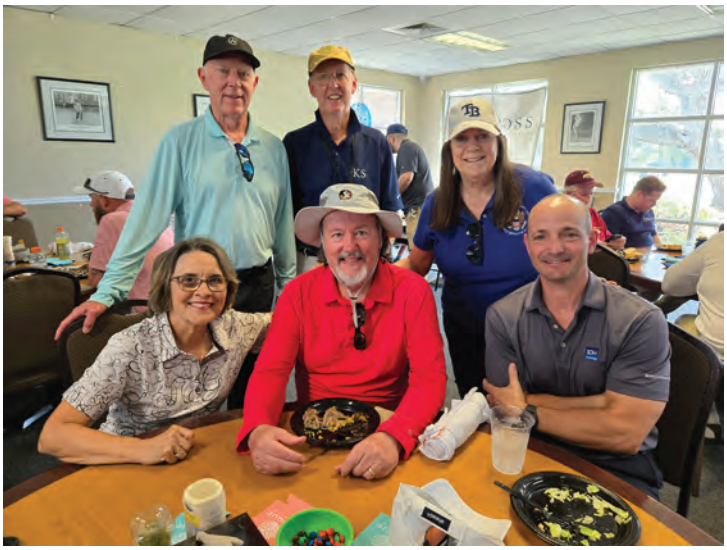
TBBBA Annual Paul M. Glenn Memorial Golf Tournament

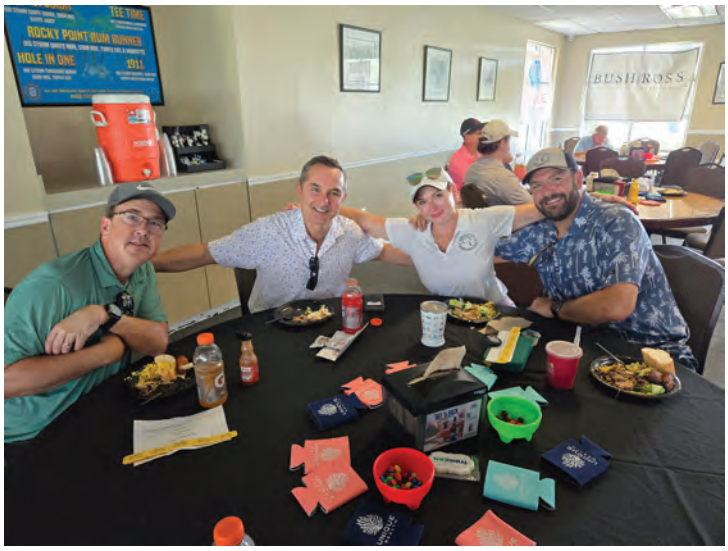
The TBBBA held its annual Paul M. Glenn Memorial Golf Tournament on April 26, 2024, at Rocky Point Golf Course. Thank you all that participated!

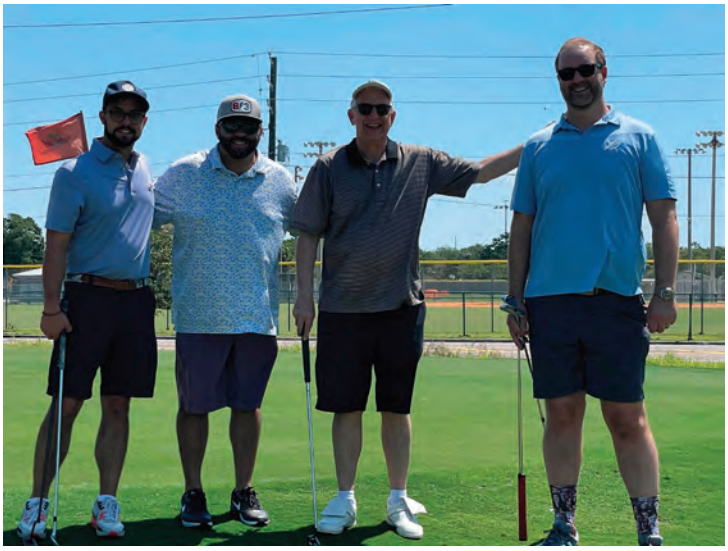












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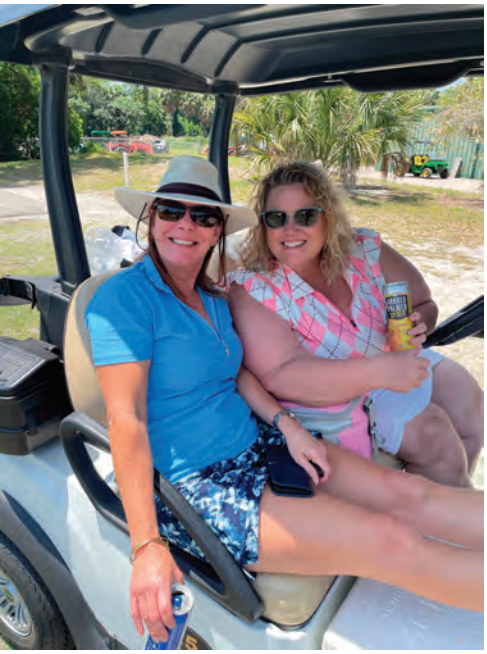
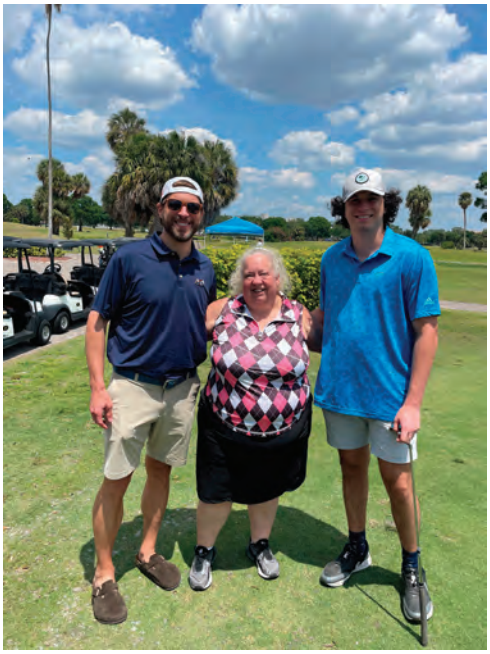
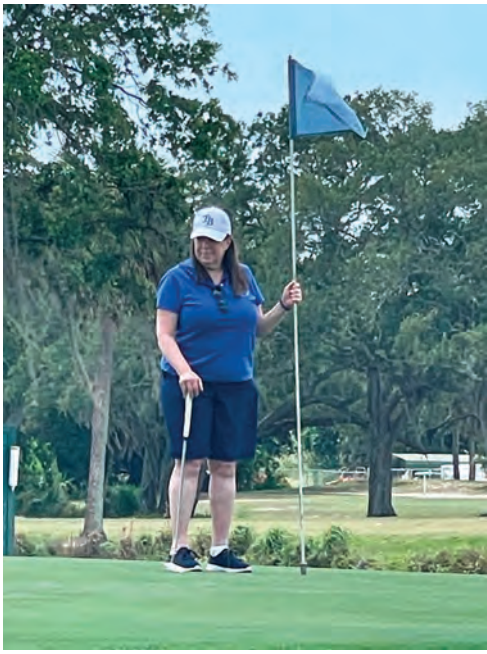
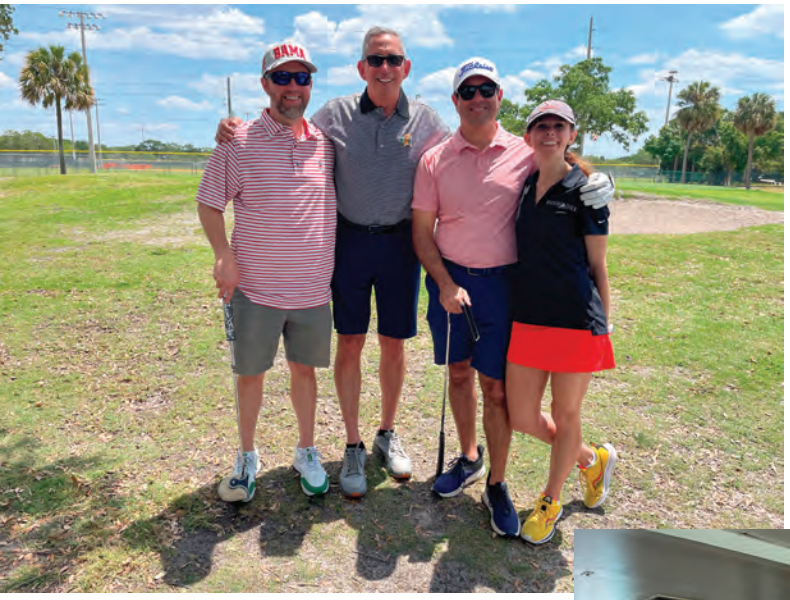
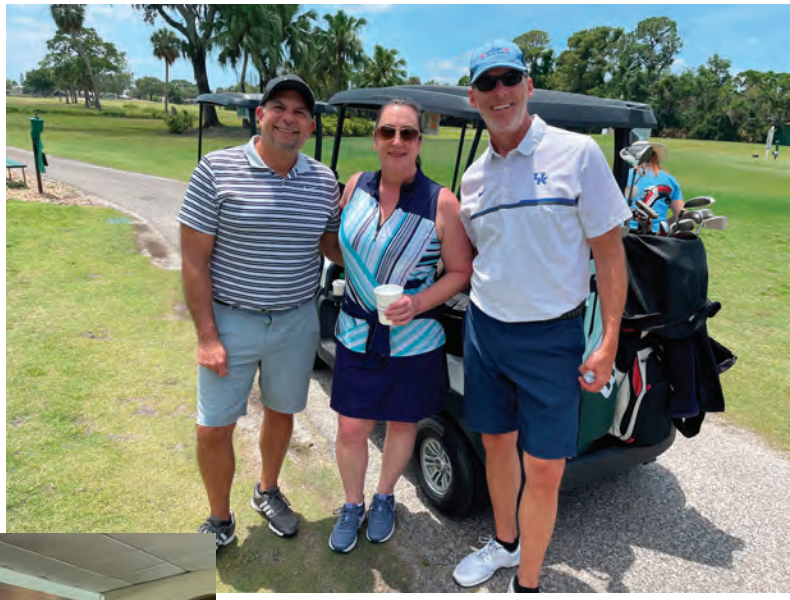
TBBBA Annual Paul M. Glenn Memorial Golf Tournament

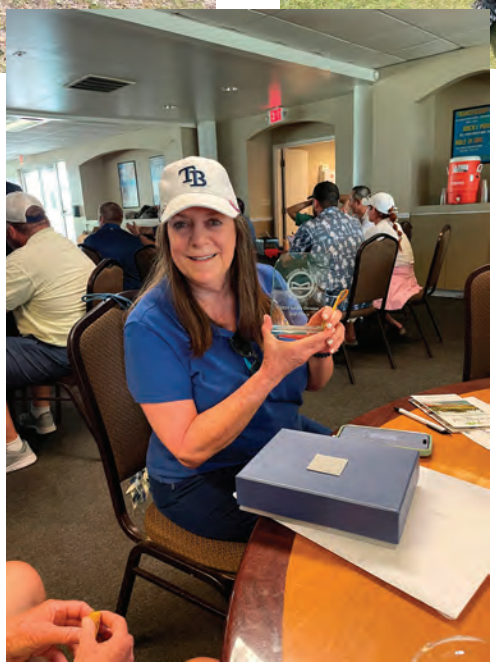












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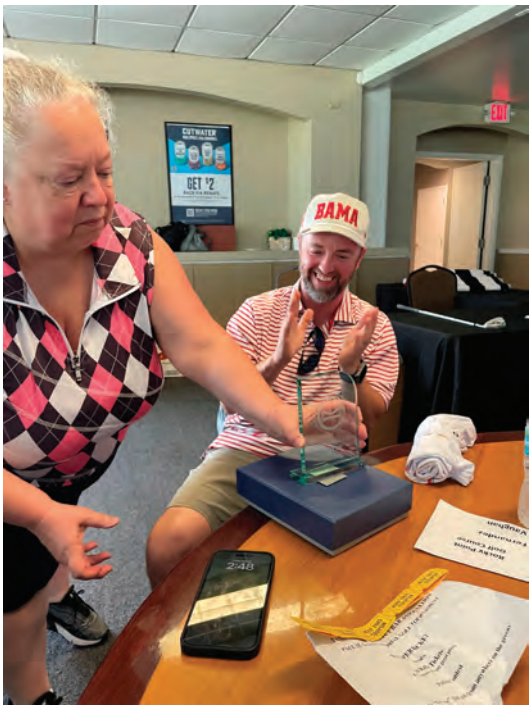

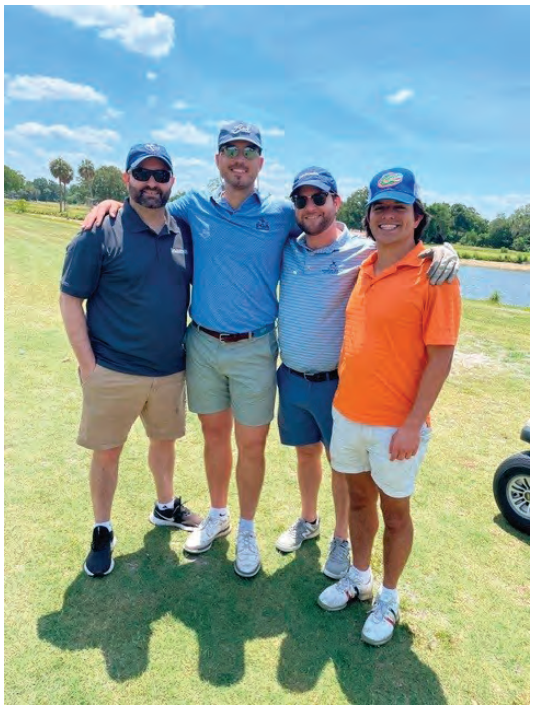

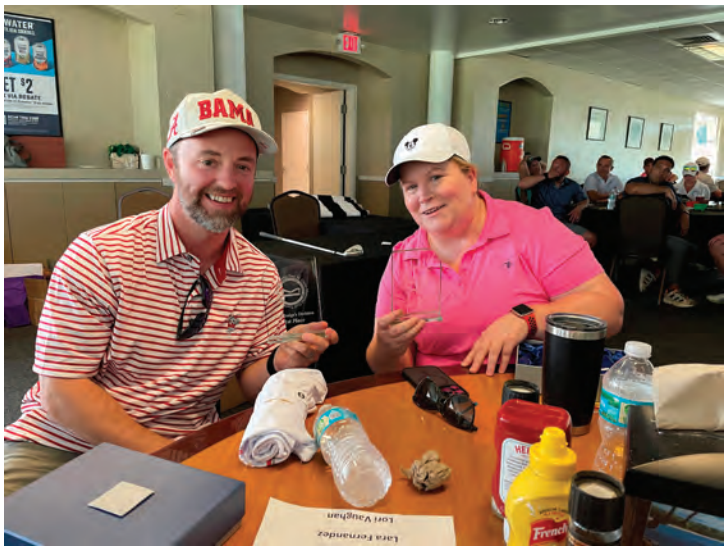

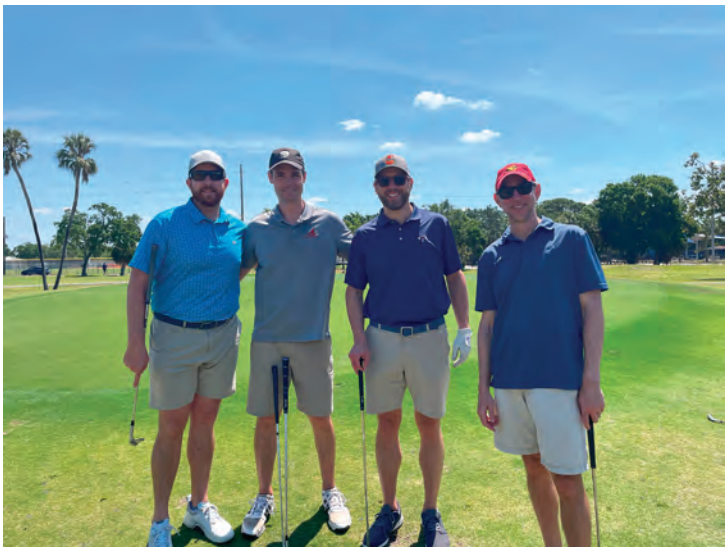

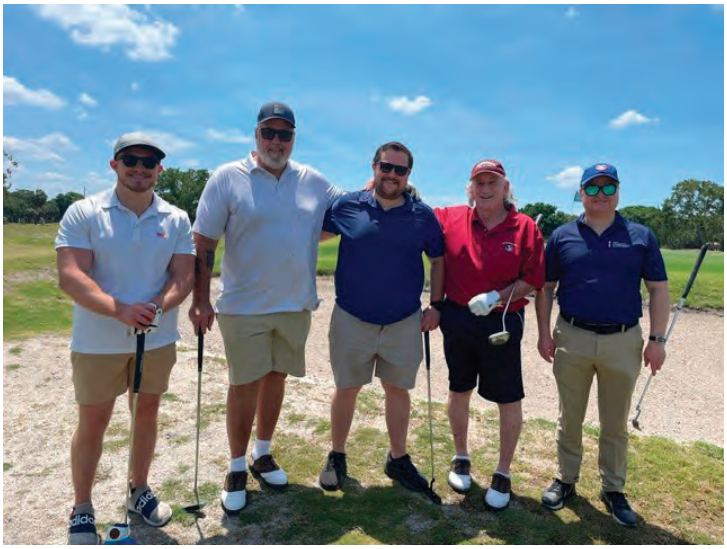

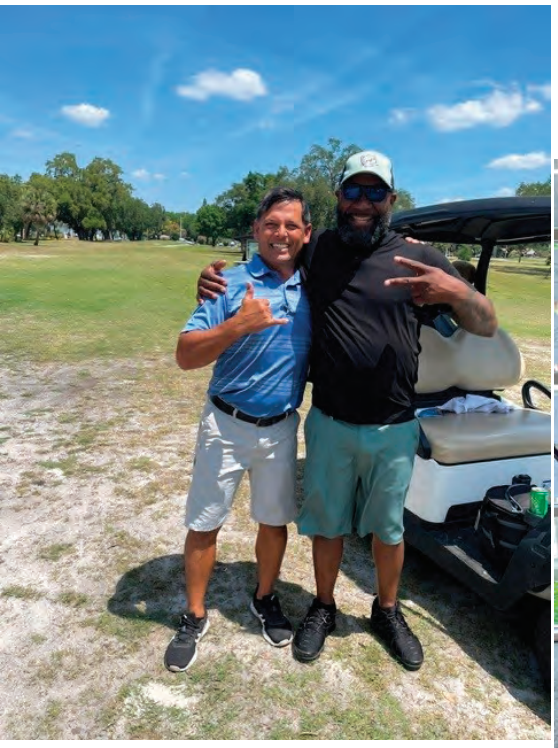

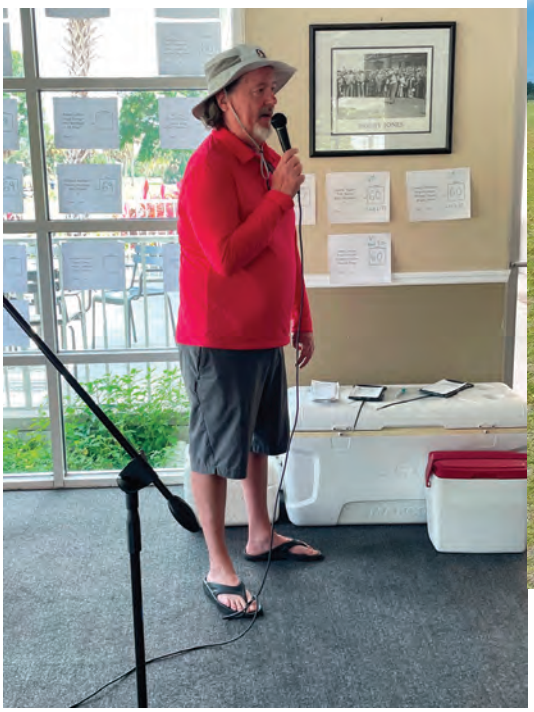

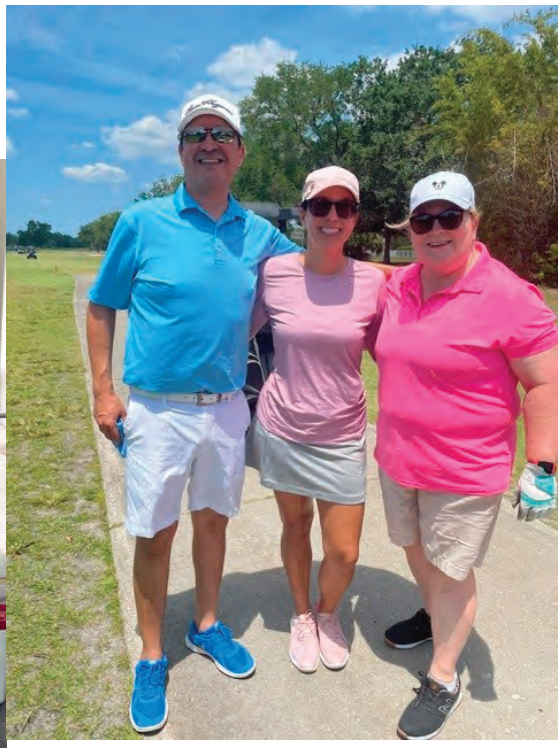

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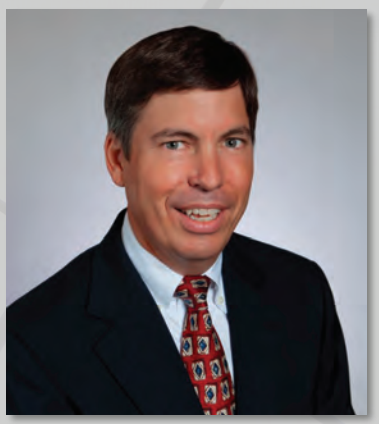

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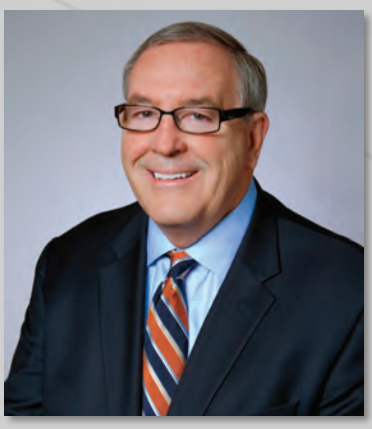

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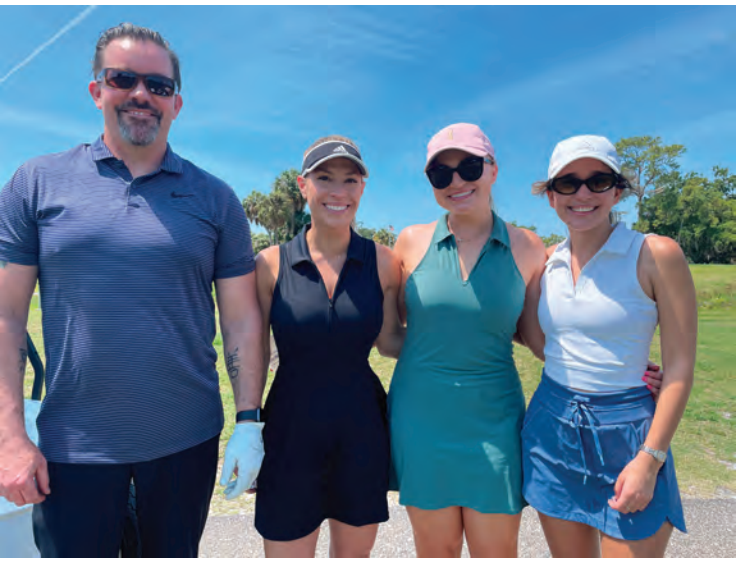

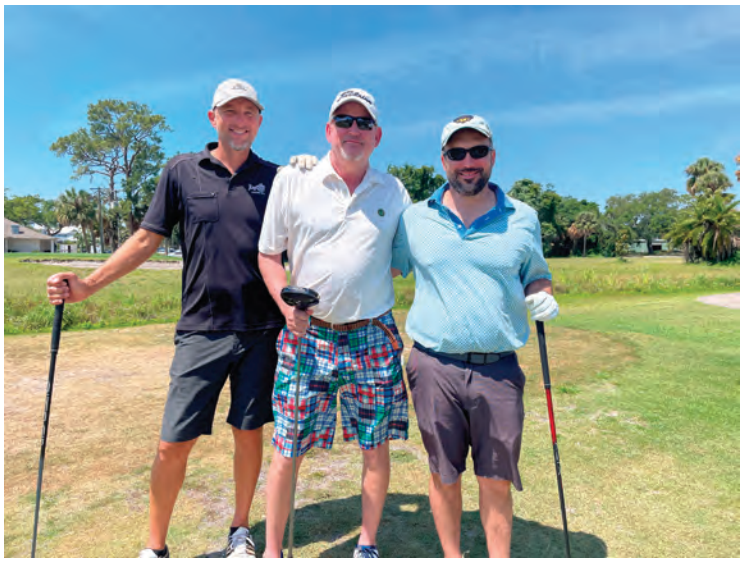

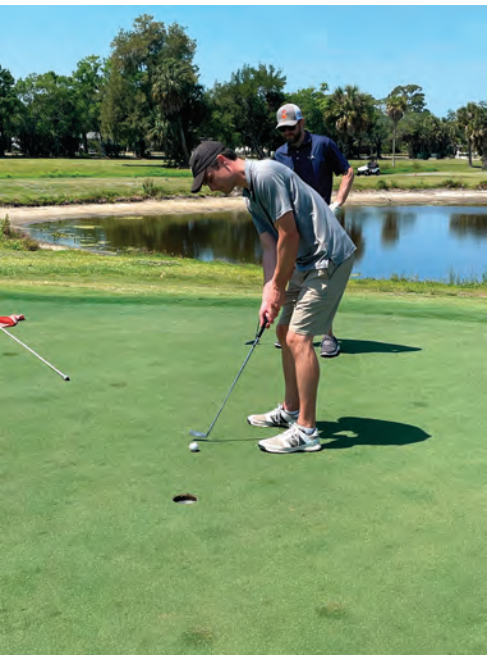

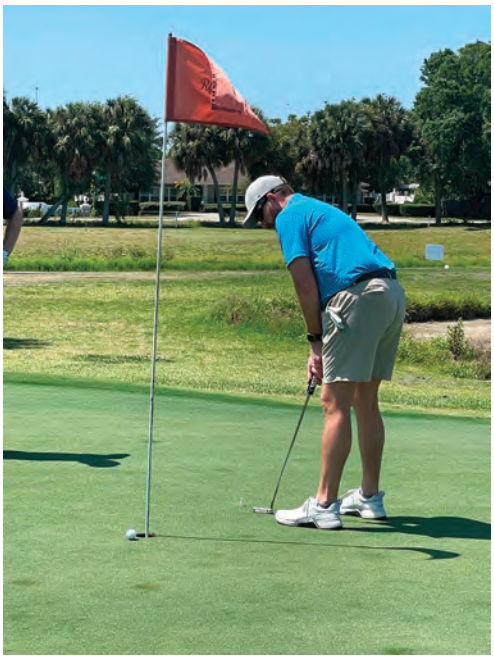

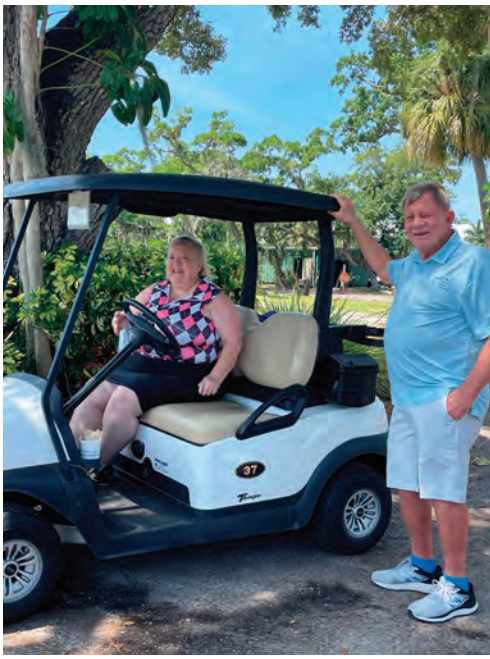

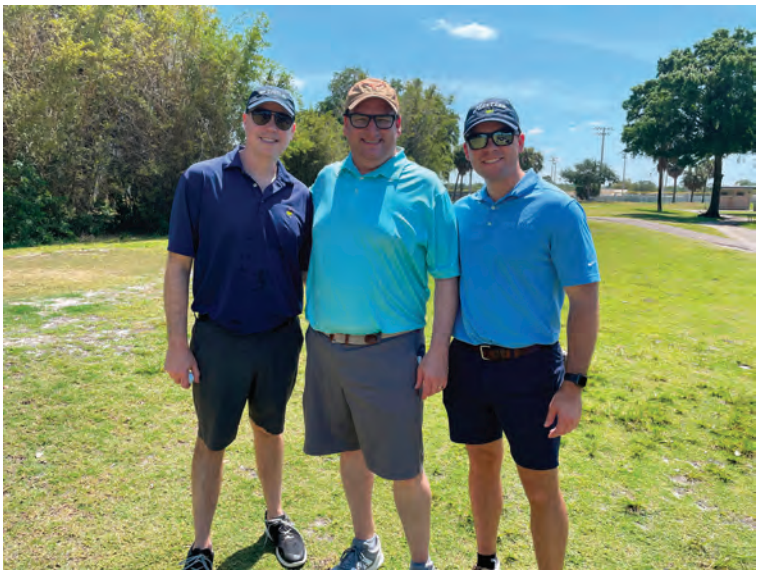

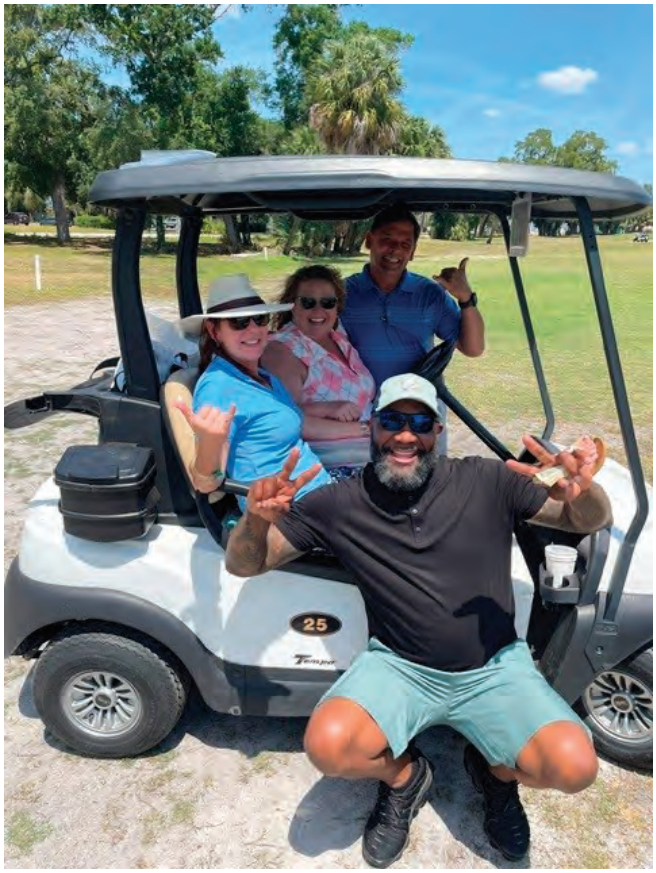
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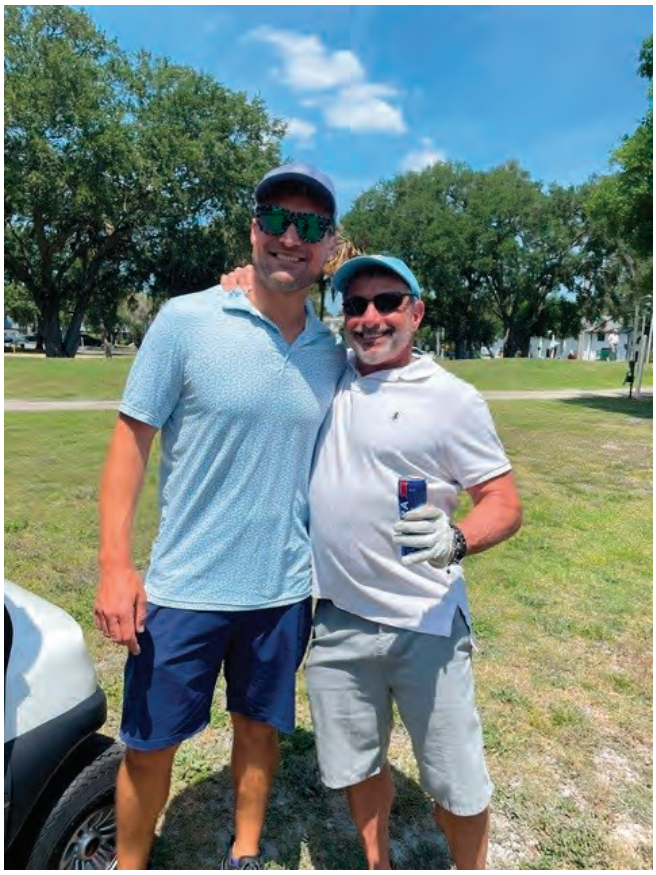

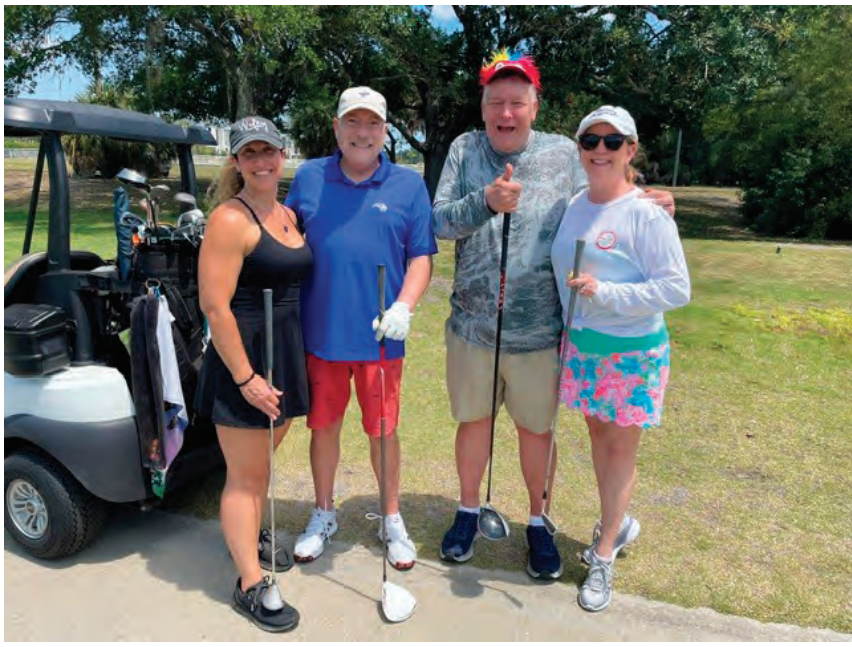

Case Law Updates

Editors:
Bradley M. Saxton, Esq. & Lauren M. Reynolds, Esq.
Winderweedle, Haines, Ward & Woodman, P.A. and
Kathleen L. DiSanto, Esq. Bush Ross, P.A.

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The Alabama Creditors v. Dorand (In re Dorand) 95 F.4th 1355 (11th Cir. 2024) Before the debtor filed for chapter 7 bankruptcy, his creditors obtained a $1.6 million default judgment against him. Dorand's creditors attempted to enforce their judgment against his individual retirement account. Dorand took the position that the funds in the account were exempt from collection under Alabama's statutory exemptions, but this argument was rejected by the trial court, which, in turn, authorized Morgan Stanley to initiate the transfer of the funds. Before the transfer of the funds from Dorand's retirement account, however, Dorand filed his bankruptcy petition. So, as of the petition date, the funds remained in Dorand's account. The bankruptcy court concluded that it had jurisdiction to determine whether Dorand's retirement account was property of the bankruptcy estate or subject to a claim of exemption because the Alabama judgment did not extinguish Dorand's interest in his retirement account before he filed his bankruptcy petition. The bankruptcy court held that the funds in the retirement account were exempt under Alabama law. On direct appeal to the Eleventh Circuit, the Eleventh Circuit affirmed.

Jaspup Prop. Holds., LLC v. Lekhraj (In re Lekhraj) 2024 WL 1357168 (Bankr. M.D. Fla. Mar. 29, 2024) (Vaughan, J.) Debtor's discharge was barred under section 727(a)(4) based on Judge Vaughan's finding that the debtor acted with the necessary fraudulent intent in omitting several property interests and transactions on her bankruptcy schedules. The debtor used and paid the expenses for a BMW, but she failed to disclose her ownership of the vehicle on her schedules despite being listed on the car's title. The debtor claimed she believed the BMW and an Infiniti, which the debtor co-owned with her daughter and disclosed on her schedules, belonged to her daughter. Judge Vaughan found that claim incredulous. The debtor also failed to disclose rental income on her schedules and statement of financial affairs, in addition to the sale of real property, the proceeds of which were used to pay off a lien on her home. Although those failures may not have independently been sufficient to bar the debtor's discharge, but taken together, Judge Vaughan concluded they evidenced a pattern of nondisclosure that warranted the denial of the debtor's discharge.

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Case Law Updates

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In re Jordan (Bankr. M.D. Fla. Mar. 28, 2024) (Geyer, J.) Judge Geyer ruled that a proof of claim based on a loan installment agreement was not time barred because a partial payment made by the debtor tolled the five-year statute of limitations under Florida law.

HG Wellness, LLC v. Caro (In re Caro) 657 B.R. 888 (Bankr. M.D. Fla. 2024) (Geyer, J.) Judge Geyer ruled that a chapter 7 debtor, who waived his discharge in a prior bankruptcy case, did not establish good cause to set aside a clerk's default obtained against him in a proceeding objecting to his discharge (and the dischargeability of a debt) in the debtor's second bankruptcy case. Judge Geyer found that the debtor willfully or intentionally disregarded the proceeding by failing to communicate with the creditor, failing to offer a countervailing affidavit opposing the motion for entry of clerk's default, and failing to attend a hearing on the motion for entry of clerk's default. Although Judge Geyer concluded she did not need to decide whether further good cause existed to set aside the default, she nevertheless reviewed the debtor's proposed answers and defenses and concluded that the debtor failed to establish a meritorious defense.

In re Lincoln 2024 WL 878193 (Bankr. M.D. Fla. Feb. 29, 2024) (Colton, J.) Judge Colton had entered an order dismissing debtor's chapter 13 case with prejudice and enjoining the debtor from filing another case for six months. The debtor filed a motion that Judge Colton construed as a motion for reconsideration. Judge Colton denied the request for reconsideration, ruling that her prior dismissal order and injunction were appropriate because the debtor had filed numerous prior cases in multiple jurisdictions, had been sanctioned in his local court and failed to pay the sanction, failed to file a plan, and failed to provide the proper identification to conduct the § 341 meeting in this case.

In re Friends of Citrus & the Nature Coast, Inc. 2024 WL 838035 (Bankr. M.D. Fla. Feb. 28, 2024) (Delano, C.J.) Chief Judge Delano previously ruled that the debtor was entitled to prevailing party attorney's fees and costs on its successful objection to a creditor's proof of claim seeking indemnification under an asset purchase agreement. Judge Delano determined the debtor was entitled to fees and costs based on a prevailing party fee provision in a real estate purchase agreement, which Judge Delano determined was an integrated contract with the asset purchase agreement. The debtor filed a supplemental fee motion setting forth the amount of fees it claimed entitlement to. The creditor sought reconsideration under Rule 60(b)(6), asserting for the first time that the debtor's fee claim was governed by the parties' escrow agreement. The case was previously assigned to Judge Williamson, and the creditor also argued that Judge Williamson's passing provided grounds for relief under Rule 60(b)(6). Judge Delano concluded that the creditor failed to establish a basis for reconsideration of the fee entitlement order under Rule 60(b)(6). However, Judge Delano rejected the debtor's argument that the creditor was barred under the doctrine of res judicata from challenging the reasonableness of debtor's fees, which had previously been approved through the fee application process.

In re JWB Overland LLC 656 B.R. 518 (Bankr. M.D. Fla. 2024) (Geyer, J.) Judge Geyer dismissed the chapter 7 case of a dissolved corporation with no assets under § 707(a). Judge Geyer first concluded that good faith is a requirement of all debtors seeking relief under any chapter of the Bankruptcy Code. Judge Geyer went on to find that the case was filed in bad faith. The debtor was not eligible for a discharge. And because the debtor was a dissolved corporation with no assets, it lacked an intent to achieve an orderly liquidation for the benefit of creditors.

In re Peterson 657 B.R. 271 (Bankr. M.D. Fla. 2024) (Burgess, J.) Judge Burgess reopened a chapter 13 case to allow the debtor to file a motion for sanctions against purchase of assets for violating the discharge injunction. The purchaser asserted, among other things, that its remedy of specific performance was not a "claim" subject to discharge. Judge Burgess disagreed, finding that where Florida law provides an alternative remedy such as monetary damages, the claim is subject to discharge.

Pro Bono Corner

Thank You Volunteers

March
Fehintola Oguntebi
Peter Zooberg
Katelyn Vinson
Daniel Fogarty
Michael Barnett

April
Daniel Fogarty
Peter Zooberg
Kelley Petry
Katelyn Vinson
Scott Stichter
Megan Klotz
Kemi Oguntebi
Laura Gallo

Middle District Virtual Pro Se Clinic

The TBBBA's Pro Se Assistance Clinic is looking for volunteers. We can't do it without you. The clinic relies on volunteers to staff the hours every Wednesday between 2:00 pm and 4:00 pm.

New Signup: In an effort to streamline the sign-up process for our Clinic volunteers, we have created a Sign Up Genius space for the remainder of the slots for the Clinic through July 2024. A clickable link, and a copy of the link, are included below. Hopefully this will open up the opportunities for those who have wanted to volunteer but have not been able to sign up. If you have any questions about signing up or volunteering, please contact Dan Fogarty or email tbbbaprobonoclinic@gmail.com. Please consider signing up for a slot.

Sign up for Wednesday Pro Se Assistance Clinic **HERE**

CARE Corner

Credit Abuse Resistance Education (CARE) provides opportunities for volunteers to address middle school, high school and college age kids about the best practices and pitfalls regarding their credit in an attempt to start them off on the right path. It was created in 2002 by John C. Ninfo, II, retired bankruptcy judge, and now boasts approximately 55 nationwide chapters including 5 in Florida. The Tampa chapter in particular was launched in 2007 by Rodney May, retired bankruptcy judge, who has passed the torch to Judges Catherine Peek McEwen and Michael Hooi. If you have a connection with a school or youth organization who could benefit from a presentation (free and approximately 1 hour long), or, you would like to volunteer as a presenter please contact our Tampa Bay Bankruptcy Bar Association's Scott Underwood. You can also visit the chapter's website **HERE**

Legal Assistance Program

The Middle District Virtual Pro Se Clinic also needs volunteers. Volunteers can set the dates and times they are available for a 30 minute consultation with a pro se client. We have both debtors and creditors seeking assistance. Please sign up to help at bankruptcyproseclinic.com. Thank you.

The Middle District Bankruptcy Court has created a Legal Assistance Program for low income debtors and is requesting that members of the bankruptcy bar volunteer to be assigned cases under the program. The goal is for a sufficient number of attorneys to volunteer so that each attorney is assigned to a case every 3 or 4 years.

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Legal Assistance Program

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The scope of representation is limited only to the following cases:

- Adversary proceedings relating to the debtor's entitlement to a discharge and/or the non-dischargeabilty of a debt.

- Contested matters concerning the debtor's claim to a homestead exemption and subsections 522(o)-(q) of the Bankruptcy Code.

- Representation of spouses and former spouses of debtors in connection with the dischargeability of obligations under marital settlement agreements or judgments for the dissolution of marriage.

In 2022, during the four months of the virtual clinic's operation (September to December), Middle District attorneys conducted 87 "no charge" consultations. In 2023, our attorneys conducted 492 consultations. And from January through March 2024, attorneys conducted 137 consultations.

Thanks to all the attorneys who have donated their time to consult with pro se parties (a full list is below, noting those who conducted ten or more consultations) and a special shout out to Traci Stevenson, who consulted with a whopping 285 pro se parties in 2023!

Now on to the not-so-good news. Although 192 attorneys have registered to provide consultations through the virtual clinic, only 22 attorneys actually conducted a consultation in 2023, and, between January and March, 2024, only eight attorneys have consulted with a pro se party. In other words, while we applaud those who have signed up to serve as volunteer attorneys, what's really important, especially as bankruptcy filings continue to increase, is for attorneys to follow up and provide consultations through the virtual clinic. If you have questions on how to get more involved, please go to www.bankruptcyproseclinic.com or contact the clinic's Website Administrator, John Schumpert, at johnschumpert@gmail.com.

Please consider participating in this worthwhile program.

Thank you to the following volunteers for holding virtual appointments:

Alec Solomita

Kathleen DiSanto

Luis Rivera

Michael Barnett

Traci Stevenson

Thank you to the following volunteers for holding in-person appointments:

Laura Gallo

Megan Klotz

Katelyn Vinson

Peter Zooberg

UNITED STATES BANKRUPTCY COURT
MIDDLE DISTRICT OF FLORIDA

Request to Attorneys to Volunteer for the Court's Legal Assistance Program

The Court has established a legal assistance program to enable low-income debtors (and in some instances their spouses and former spouses) to receive free legal services in the following types of cases:

- Adversary proceedings relating to the debtor's entitlement to a discharge and/or the non-dischargeabilty of a debt.
- Contested matters concerning the debtor's claim to a homestead exemption and subsections 522(o)-(q) of the Bankruptcy Code.
- Representation of spouses and former spouses of debtors in connection with the dischargeability of obligations under marital settlement agreements or judgments for the dissolution of marriage.

The Court requests that members of the bar volunteer for assignment under this program. The Court's goal is for a sufficient number of attorneys to volunteer so that each attorney is assigned to a case every three or four years.

The following procedures apply:

1. Applicants for legal assistance submit an application, including financial information, on a form available on the Court's website and at the Clerk's Office.

2. The application, and the applicant's bankruptcy schedules and statement of financial affairs, will be reviewed by the judge assigned to the adversary proceeding or contested matter.

3. Generally, the Court will grant an application if: (a) the applicant's current income does not exceed 200% of the current year's U.S. Department of Health and Human Services Poverty Guidelines for the applicant's family size, and (b) the applicant does not have sufficient assets to pay for the needed representation.

4. If the application is granted, the Court will enter an order appointing an attorney from the list of attorneys who have volunteered to provide representation in this program. Assignments will be made based upon Division in which the case is pending and the location of the attorney. If requested, the Court will provide the assigned attorney with pertinent papers and pleadings and the debtor's bankruptcy petition, schedules, statement of financial affairs.

5. If an attorney case wishes to decline the appointment to a case, the attorney, within seven days from the date of the appointment, may file and serve on the proposed client a motion for relief from the appointment order. If a motion is granted, the Court will enter another order of appointment.

6. Separate lists of volunteer attorneys will be maintained for each Division of the Middle District. A volunteer attorney seeking to discontinue participation in the program should send a letter to the Clerk of Court.

The Court urges you to volunteer for this important program. To volunteer, please complete the form below and return it to the Court. Thank you for your help.

Caryl E. Delano
Chief United States Bankruptcy Judge

Revised 10/1/2019

UNITED STATES BANKRUPTCY COURT
MIDDLE DISTRICT OF FLORIDA

I wish to volunteer for the Court's Legal Assistance Program.

Name: _____
[Please print or type]

Address: _____

_____

Telephone: _____
[Please include area code]

Division(s) in which I am willing to accept assignments (check all that apply): **__FM, __JAX, __ORL, __TPA.**

Please return this form by email to: flmb_probono@flmb.uscourts.gov

Revised 10/1/2019