2023 Alexander L. Paskay Memorial Bankruptcy Seminar

Exemptions! Exemptions! Exemptions!

Hon. Tiffany Payne Geyer, Moderator
U.S. Bankruptcy Court (M.D. Fla.) | Orlando

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2023

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U.S. Bankruptcy Judge

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Property of the Estate

11 U.S.C. § 541(a)(1)

"All legal or equitable interests of the debtor in property as of the commencement of the case."

"An estate in bankruptcy consists of all the interests in property, legal and equitable, possessed by the debtor at the time of filing, as well as those interests recovered or recoverable through transfer and lien avoidance provisions." *Owen v. Owen*, 500 U.S. 305, 308, 111 S. Ct. 1833, 1835, 114 L. Ed. 2d 350 (1991).

How can some property of the estate be freed from the Trustee's reach?

Exemptions! Exemptions! Exemptions!

Property must be part of the bankruptcy estate to then be exempt from it. 11 U.S.C. § 522(b); *Owen v. Owen*, 500 U.S. at 308, 111 S. Ct. at 1835, 114 L. Ed. 2d 350.

Exempt property is "immunized against liability for prebankruptcy debts." *Owen v. Owen*, 500 U.S. at 308, 111 S. Ct. at 1835, 114 L. Ed. 2d 350.

What law provides the exemptions?

11 U.S.C. § 522(b)

- ❑ Debtor selects between a list of federal exemptions (set forth in § 522(d)) and the exemptions provided by the Debtor's state, unless the Debtor's state opts out of the federal list. *Owen v. Owen*, 500 U.S. at 308, 111 S. Ct. at 1835, 114 L. Ed. 2d 350.
- ❑ "If a State opts out, then its debtors are limited to the exemptions provided by state law." *Owen v. Owen*, 500 U.S. at 308, 111 S. Ct. at 1835, 114 L. Ed. 2d 350.
- ❑ "A State's power to restrict the scope of its exemptions is unlimited." *Owen v. Owen*, 500 U.S. at 308, 111 S. Ct. at 1835, 114 L. Ed. 2d 350.

Florida:

Opted out of federal exemptions.

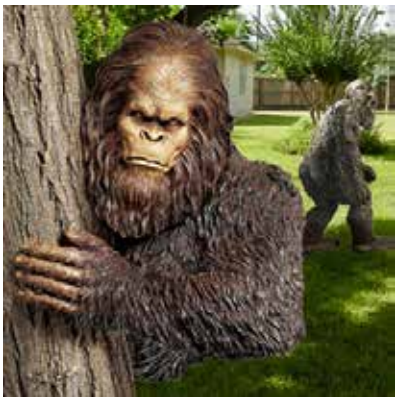
Fla. Stat. § 222.20

- ❑ residents are not entitled to the federal exemptions provided in 11 U.S.C. § 522(d))
- ❑ § 222.20 does not affect the exemptions given to residents of this state by the Florida Constitution and the Florida Statutes

Miscellaneous Exemptions

Tenancy by the Entireties

Creature special to Florida (like the Florida Skunk Ape)



11 U.S.C. § 522(b)(3)(B): Any interest in property in which the debtor had, immediately before the bankruptcy case began, an interest as a tenant by the entirety or joint tenant to the extent that such interest as a tenant by the entirety or joint tenant is exempt from process under applicable nonbankruptcy law.

But whose "applicable nonbankruptcy law" do we apply?

The law of the situs of the property controls. *E.g. In re Cauley*, 374 B.R. 311 (Bankr. M.D. Fla. 2007).

Property held by spouses as tenants by the entireties possesses six characteristics:

(1) unity of possession (joint ownership and control);
(2) unity of interest (the interests in the account must be identical);
(3) unity of title (the interests must have originated in the same instrument);
(4) unity of time (the interests must have commenced simultaneously);
(5) survivorship; and
(6) unity of marriage (the parties must be married at the time the property became titled in their joint names).

In re Romagnoli, 631 B.R. 807, 811 (Bankr. S.D. Fla. 2021); *Beal Bank, SSB v. Almand & Assocs.*, 780 So. 2d 45, 52 (Fla. 2001).

Only creditors of both the husband and wife, jointly, may attach property held as a tenancy by the entireties; the property is not divisible on behalf of one spouse alone, and therefore it cannot be reached to satisfy the obligation of only one spouse. *Beal Bank*, 780 So. 2d at 53.

When a married couple holds property as a tenancy by the entireties, each spouse is said to hold it "per tout," meaning that each spouse holds the "whole or the entirety, and not a share, moiety, or divisible part." *Beal Bank*, 780 So. 2d at 53.

Tenancy by the entireties can exist in real or personal property. *Beal Bank*, 780 So. 2d at 53-54.

Tenancy by the entireties is a form of ownership unique to married couples. *Beal Bank*, 780 So. 2d at 52.

TENANCY BY THE ENTIRETIES
JOINT CREDITOR ISSUES

FACTS:

- Debtor and non-debtor spouse own real property as tenants by the entireties with a fair market value of $500,000.00.
- Debtor and his non-debtor spouse have a joint credit card obligation of $15,000.00 that is not disputed but is not reduced to judgment.
- Debtor has $1 million in individual debts.

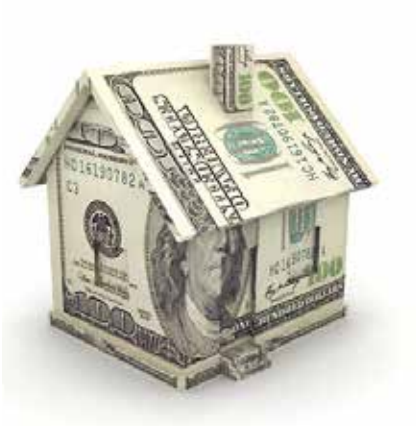
QUESTIONS:

1. Can a Chapter 7 trustee administer the tenancy by the entireties property?
2. Assuming the Chapter 7 trustee can administer the property, is the trustee limited to administering $15,000 (the amount of the joint debt)?
3. Assuming the Chapter 7 trustee administers all or a portion of the property, do all creditors share in the distribution of proceeds or just joint creditors?
4. If the facts are changed such that Debtor and his non-debtor spouse each have separate credit card accounts with the same bank, may the trustee administer the tenants by the entireties property?

Homestead

Art. 10, § 4(a), Fla. Const.

- Homestead exemption does not apply to taxes on the property and obligations contracted to buy, improve, or repair the property
- Applies to homestead of ½ acre contiguous land within municipality, limited to the residence, and 160 acres of contiguous land outside a municipality
- Applies to $1,000 of personal property



"[P]rotects homesteads from creditors regardless of the manner in which title to the homestead is held." *In re Romagnoli*, 631 B.R. 807, 813 (Bankr. S.D. Fla. 2021)

When exemptions can be limited in Bankruptcy – Sections 522(o), (p) and (q)

522(o) prevents a debtor from claiming a homestead exemption to the extent the debtor acquired the homestead with nonexempt property in the previous 10 years "with the intent to hinder, delay or defraud a creditor."

522(p) caps a debtor's homestead exemption to $189,050 if acquired 1,215 days before the petition date (excepting a family farmer).

522(q) caps a debtor's homestead exemption to $189,050 if the debtor was convicted of certain felonies that show that the filing of the case was an abuse of the bankruptcy code or the debtor owes certain types of debts, such as debts based on violations of securities law or misconduct that caused serious physical injury or death to another in the preceding 5 years.

Barclay v. Boskoski, 52 F.4th 1172 (9th Cir. 2022)

- The Debtor can avoid a lien "to the extent that such lien impairs an exemption to which the debtor would have been entitled." 11 U.S.C. § 522(f)(1).
- 11 U.S.C. § 522(f): test for determining when a lien impairs an exemption: when "the sum of (i) the lien; (ii) all other liens on the property; and (iii) the amount of the exemption that the debtor could claim if there were no liens on the property" is greater than "the value that the debtor's interest in the property would have in the absence of any liens." *Barclay*, 52 F.4th at 1175 (quoting § 522(f)(2)(A)).
- Under 11 U.S.C. § 522(f), ask whether the lien impairs an exemption to which the Debtor would have been entitled to but for the lien. *Barclay*, 52 F.4th at 1177.
- State exemptions must be applied "along with whatever other competing or limiting policies the [Bankruptcy Code] contains." *Barclay*, 52 F.4th at 1177-78.
- In *Barclay*, under the Bankruptcy Code, the Debtor was entitled to a $600,000 homestead exemption, because that is what he would have been entitled to if there was not a lien on his home on the date of his bankruptcy filing, not the lesser amount of the homestead exemption that state law provided back when the lien was first recorded, even though California law would have valued the exemption as of the date the lien was first recorded. *Barclay*, 52 F.4th at 1177-78.

- *Owen v. Owen*, 500 U.S. at 308, 111 S. Ct. at 1835, 114 L. Ed. 2d 350
    - Facts – creditor recorded a certified copy of a judgment in Sarasota. However, it wasn't until 9 years later that the debtor purchased property (homestead) in Sarasota. Can the debtor utilize § 522(f)?
- *Farrey v. Sanderfoot*, 500 U.S. 29, 1111 S. Ct. 1825, 114 L. Ed. 2d 337 (1991)
    - Facts – debtor and creditor (ex wife) seek a divorce. Court issues a divorce decree simultaneously giving the debtor an interest in property (homestead) and ex-wife a lien on that very same property. Can the debtor utilize § 522(f)?
- Supreme Court focused on the term "fixing" which they reasoned was a temporal event presupposing an object (i.e., interest) which the liability could fasten to.
- Therefore, debtor cannot utilize § 522 to avoid a lien on an interest acquired after the lien attached or avoid a lien when the interest and the lien arise simultaneously.

§ 222.21(2)(a), Fla. Stat. and
11 U.S.C. § 522(b)(3)(C):

Retirement funds to the extent that those funds are in a fund or account that is exempt from taxation under section 401, 403, 408, 408A, 414, 457, or 501(a) of the Internal Revenue Code of 1986.

Section 522(b)(3)(C)'s reference to "retirement funds" means sums of money set aside for the day an individual stops working.

Clark v. Rameker, 573 U.S. 122, 127, 134 S. Ct. 2242, 2246, 189 L. Ed. 2d 157 (2014).

Both traditional IRAs and Roth IRAs are eligible for exclusion under the Bankruptcy Code under Georgia law.

In re Hoffman, 22 F.4th 1341, 1345 (11th Cir. 2022).

But funds held in inherited IRAs are not "retirement funds" within the meaning of § 522(b)(3)(C)'s bankruptcy exemption.

However, Inherited IRAs are exempt from creditor collection under Florida statutes. There was a legal issue in past years as to whether Florida's IRA exemption extended to rollover IRAs and inherited IRAs. The Florida legislature resolved the issue in 2011. A 2011 amendment to Florida Statute 222.21 expanded the definition of an exempt IRA to include both rollover and inherited IRA accounts. Florida's statutory protection of inherited IRAs takes precedence over a U.S. Supreme Court ruling that inherited IRAs are not exempt under bankruptcy law.

Clark v. Rameker, 573 U.S. 122, 127, 134 S. Ct. 2242, 2246, 189 L. Ed. 2d 157 (2014).

Objective inquiry: look to the legal characteristics of the account in which the funds are held, asking whether, as an objective matter, the account is one set aside for the day when an individual stops working.

Clark v. Rameker, 573 U.S. 122, 127, 134 S. Ct. 2242, 2246, 189 L. Ed. 2d 157 (2014).

In re Chaudury, 581 B.R. 279 (Bankr. M.D. Tenn. 2018)

- ❑ Debtor had an IRA worth close to $700,000. If it was not exempt, then the unsecured creditors would be paid in full; if exempt, they would receive less than 1%. *In re Chaudury*, 581 B.R. at 282.
- ❑ Trustee argued that the exemption was lost when the Debtor, who was older than 59 ½, removed $300,000 to purchase a home jointly with his spouse, and then returned $240,000 back to the same IRA within sixty days of the withdrawal with money from a mortgage loan. *In re Chaudury*, 581 B.R. at 283.
- ❑ "[U]sing the money for interim funding for the purchase of a house before the home mortgage was put in place did not destroy the exempt status of the Debtor's IRA." *In re Chaudury*, 581 B.R. at 289.
- ❑ "[T]he 60–day rollover rule is not dependent on how the money was used in the interim, is not limited to merely facilitating portability from one IRA to another, and does not require that the exact same funds go back into the IRA when the rollover occurs." *In re Chaudury*, 581 B.R. at 289.
- ❑ "The overriding requirement of the rollover rule is simply that the rollover occur within the specified time period." *In re Chaudury*, 581 B.R. at 289.

Willis v. Menotte, No. 09-82303-CIV, 2010 WL 1408343 (S.D. Fla. Apr. 6, 2010), *aff'd sub nom. In re Willis*, 424 F. App'x 880 (11th Cir. 2011)

- ❑ The Debtor lost his IRA exemptions by borrowing from it, including moving money from it to a non-IRA account with his wife, then transferring the money to a third party to fund a real property mortgage, and finally borrowing from family and friends to repay the IRA within sixty days of the withdrawal. *Willis v. Menotte,* No. 09-82303-CIV, 2010 WL 1408343, at *1-2.
- ❑ Under § 522(b)(4)(A), the bankruptcy court could consider evidence to rebut the presumption that the IRA accounts were qualified. *Willis v. Menotte,* No. 09-82303-CIV, 2010 WL 1408343, at *5.
- ❑ Because the Bankruptcy Code refers to the Internal Revenue Code in determining what qualifies as exempt IRAs, the Bankruptcy Code requires the court to evaluate IRAs using non-bankruptcy law. *Willis v. Menotte,* No. 09-82303-CIV, 2010 WL 1408343, at *6.
- ❑ The Debtor exercised discretionary authority and responsibility over the administration of his IRA, making him a fiduciary and thus, a disqualified person. *Willis v. Menotte,* No. 09-82303-CIV, 2010 WL 1408343, at *7.
- ❑ The Debtor engaged in two prohibited transactions: the direct or indirect "'transfer to, or use by or for the benefit of, a disqualified person of the income or assets of a plan,' 26 U.S.C. § 4975(c)(1)(D), and 'lending of money or other extension of credit between a plan and a disqualified person.' *Id.* § 4975(c)(1)(B)." *Willis v. Menotte,* No. 09-82303-CIV, 2010 WL 1408343, at *7.

In re Rogers, 538 B.R. 158 (Bankr. N.D. Ga. 2015)

- ❑ Profit-sharing plan governed by § 401 of the Internal Revenue Code. *In re Rogers*, 538 B.R. at 162.
- ❑ "A qualified profit-sharing plan is, among other things, a definite written program communicated to employees and established and maintained by an employer to allow employees 'to participate in the profits of the employer's trade or business.'" *In re Rogers*, 538 B.R. at 163 (quoting 26 CFR § 1.401–1(a)(2)(ii)).
- ❑ Denied both parties' motions for summary judgment for insufficient evidence regarding whether the plan qualified under § 401 or whether it was in substantial compliance with the tax code. *In re Rogers*, 538 B.R. at 174.
- ❑ The court was missing evidence regarding the details of (a) how the use of the Plans' funds for the Debtor's living expenses were treated by the Plan and for tax purposes; (b) any loans the Plan made to the Debtor; (c) whether any loans made to the Debtor were permitted by the Plan when they were made and followed the Plan's requirements; (d) the loan made to a particular entity; (e) if that loan is in default, the default and any efforts the Debtor made for the Plan to collect; (f) benefits the Debtor received by making that loan; (g) who owns the entity the loan was made to; (h) the Debtor's considerations when making investments for the Plan and those investments; and (i) the Debtor's attempts at marketing and selling the boat after the Plan purchased it. *In re Rogers*, 538 B.R. at 174.

CARES ACT

(Coronavirus Aid, Relief, and Economic Security Act, enacted March 27, 2020)

Section 2202:

- ❑ can take coronavirus-related early distributions from retirement plans, up to $100,000, without paying the early distribution tax
- ❑ increased the limit on the amount a qualified individual may borrow from an eligible retirement plan (not including an IRA)
- ❑ permits providing qualified individuals up to an additional year to repay the plan loans
- ❑ Section 2203 waived the Required Minimum Distributions for taxpayers for Tax Year 2020.

"Qualified Individuals"

- ❑ You, your spouse, or your dependent diagnosed with COVID-19 by a test approved by the CDC.
- ❑ You experienced adverse financial consequences because of being quarantined, furloughed or laid off, or reduced work hours due to COVID-19.
- ❑ You experienced adverse financial consequences because of being unable to work due to lack of childcare caused by covid or because of a business you own or operate closing or reducing hours due to COVID-19.

"Coronavirus-Related Distribution"

- ❑ Distribution made from an eligible retirement plan to a qualified individual from January 1, 2020, to December 30, 2020, up to $100,000 from all plans and IRAs.
- ❑ The additional 10% tax on early distributions does not apply to a coronavirus-related distribution.
- ❑ Permitted from a 401(k) plan even if the distribution occurs before an otherwise permitted distributable event, i.e., employment loss, disability, or reaching age 59½.

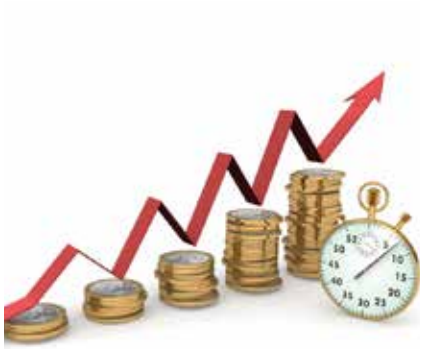
Annuity Contracts

§ 222.14, Fla. Stat.

Life insurance policies and proceeds of annuity contracts are exempt as to creditors of the insured or the beneficiaries of the annuity contracts.

In re Bauer, 638 B.R. 476 (Bankr. M.D. Fla. 2022)

- Annuity proceeds that become property of the estate post petition can be claimed as exempt under 11 U.S.C. § 541(a)(5). *In re Bauer*, 638 B.R. at 481.
- 11 U.S.C. § 522(b) allows debtors to exempt certain property (such as annuity proceeds under § 222.14, Florida Statutes) from "property of the estate," which includes property inherited 180 days post petition.



Spendthrift Trusts

Spendthrift trusts are excluded from the bankruptcy estate to the extent they are protected from creditors under applicable state law.

U.S.C. § 541(a)(1) and (c)(2)

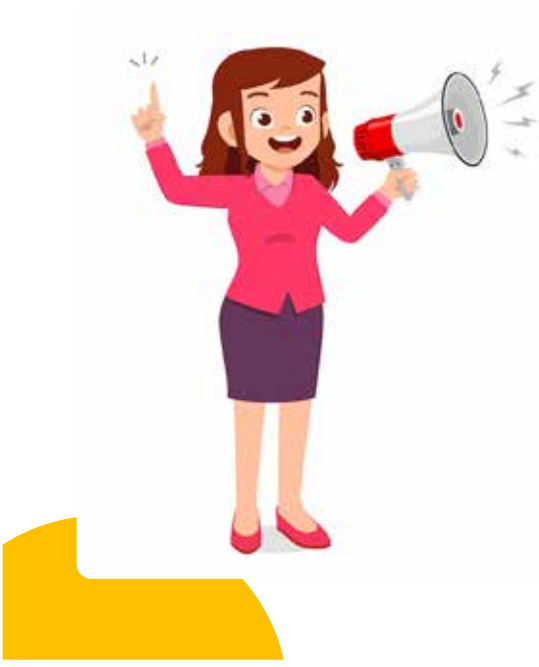
> [T]he bankruptcy estate is comprised of: ... all of the following property, wherever located and by whomever held:
> (1) Except as provided in subsections (b) and (c)(2) of this section, ...
> ...
> (c)(2) A restriction on the transfer of a beneficial interest of the debtor in a trust that is enforceable under applicable nonbankruptcy law is enforceable in a case under this title.

In Florida, the bankruptcy estate does not include the debtor's interest as the beneficiary of a spendthrift trust, due to 11 U.S.C. § 541(a)(1) and (c)(2). *In re Ciano*, 433 B.R. 431, 433–34 (Bankr. N.D. Fla. 2010).

Florida Exception to Spendthrift Trust Exemption

In re Brown, 303 F.3d 1261, 1265 (11th Cir. 2002)

- Florida law protects trusts containing valid spendthrift provisions from creditors, if the beneficiaries cannot exercise dominion over the trust assets. *In re Brown*, 303 F.3d at 1265-66.
- But, if the beneficiary funds the trust, the beneficiary's interest can be reached by creditors. *In re Brown*, 303 F.3d at 1265-66.
- Florida law defines spendthrift trusts as "those trusts that are created with a view of providing a fund for the maintenance of another, and at the same time securing it against his own improvidence or incapacity for self-protection." *In re Brown*, 303 F.3d at 1266.
- Although creditors can reach the beneficiary's interest in the trust if the beneficiary funded the trust, the creditors cannot reach the trust's corpus. *In re Brown*, 303 F.3d at 1270.

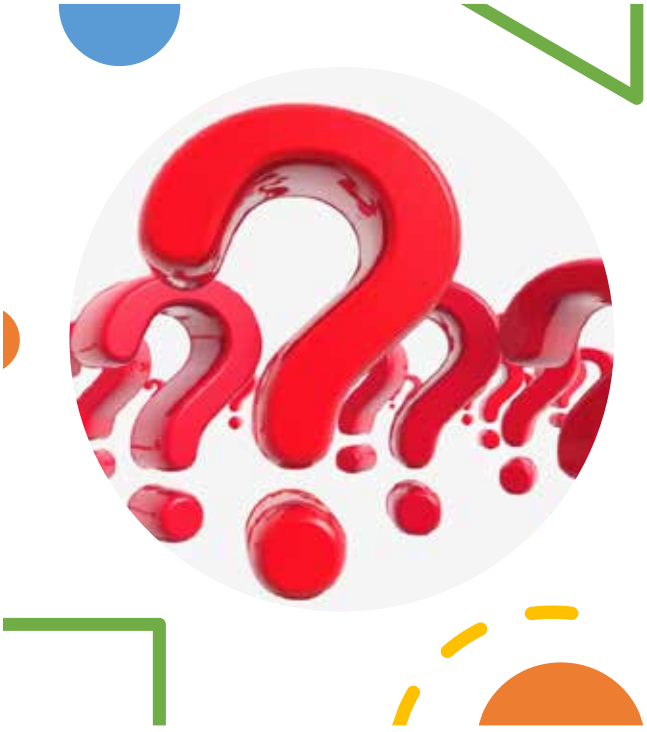


Cautionary Tale,
or in other words,

Disclose! Disclose! Disclose!

In re Green, 268 B.R. 628 (Bankr. M.D. Fla. 2001)

- ❑ Debtors failed to disclose $800,000 in assets on original schedules until filing amended schedules 18 months after initiating bankruptcy case. *In re Green*, 268 B.R. at 639-40.
- ❑ Debtors did not bring all financial records to the 2004 examination. *In re Green*, 268 B.R. at 639.
- ❑ The amended schedules reflected assets that could have been exempt, such as accounts funded by a retirement plan. *In re Green*, 268 B.R. at 642.
- ❑ Trustee had the burden to prove, by a preponderance of the evidence, that the Debtors were not entitled to the exemptions claimed. Once the Trustee made a prima facie showing that the exemptions should be disallowed, the burden shifted to the Debtors to prove that the exemptions were legally valid. *In re Green*, 268 B.R. at 653.
- ❑ "Exceptional circumstances" prevented the effect of the amended schedules; i.e., the Debtors' attempts to conceal the assets and the prejudice to the creditors by the Trustee expending fees and investigative costs of over $47,000 to discover the assets, which constitute administrative costs paid before the unsecured creditors. *In re Green*, 268 B.R. at 655-56.
- ❑ Failing to disclose resulted in losing almost $800,000 in exemptions.



Questions?

Faculty

Jake C. Blanchard is the managing attorney at Blanchard Law, P.C. in Largo, Fla., and focuses on bankruptcy law. He is a veteran of the U.S. Navy, where he served as a welder and firefighter. He was honorably discharged in March 2001. After completing his military service, Mr. Blanchard worked in collateral recovery to repossess collateral for a variety of lenders. As the owner of a well-regarded collateral-recovery firm in the Tampa Bay area for 10 years, he learned firsthand about the difficulties that often lead people to personal bankruptcy and business reorganization. When he decided to change his focus to the law, he knew that his knowledge in debt-collection procedures and property repossession would give him a firm foundation to assist his clients in reclaiming their financial lives. During law school, Mr. Blanchard was a judicial intern at the U.S. Bankruptcy Court in Tampa, Fla., and upon graduation became a partner at Reissman and Blanchard in Tampa, where he often assisted debtors in chapter 7, 13 and 11 bankruptcies, collection proceedings and foreclosures. He is licensed to practice in all Florida courts and in the U.S. District Court for the Middle District of Florida. Mr. Blanchard is the president of the Tampa Bay Bankruptcy Bar Association and BNI Success Masters, and is a former member of the Rotary Club of St. Petersburg West. he received his B.S. *summa cum laude* in management information services from the University of South Florida and his J.D. *magna cum laude* from Stetson University College of Law, where he served as an articles and symposia editor for the *Stetson Law Review*.

Daniel Etlinger is a partner with Jennis Morse Etlinger in Tampa, Fla., where he focuses his practice on transactional representation, particularly in commercial bankruptcies, corporate law, financial services and real property law. He was the first attorney to confirm a subchapter V bankruptcy in the Middle District of Florida. Mr. Etlinger has authored several articles on bankruptcy matters, including "Credit Bids in Bankruptcy Real Estate Sales with Multiple Creditors" in the Real Property, Probate and Trust Law Section of the Florida Bar's *ActionLine* journal. In addition, he serves as a frequent presenter, including as a panelist at a Florida Institute of CPAs presentation titled, "Re-Imagine Your Future Under Subchapter V: A Chapter 11 Survival Tool," and at a Tampa Bay Bankruptcy Bar Association presentation titled, "Everything You Always Wanted to Know About TBE* (*But Were Afraid to Ask)." Mr. Etlinger has earned Avvo's and Martindale-Hubbells's highest ratings, Superb and AV-Preeminent, respectively. He received his B.A. from the University of Rochester and his J.D. and M.B.A. from the University of Pittsburgh.

Lara Roeske Fernandez is a shareholder with Trenam Law in Tampa, Fla. She currently serves on the firm's Executive Board and is a former practice group leader for the firm's Bankruptcy and Creditors' Rights Practice Group. Ms. Fernandez is Board Certified in Business Bankruptcy Law by the American Board of Certification, and her clients include financial institutions, fiduciaries/trustees and private-equity groups in the areas of business reorganizations, trustee representation, bankruptcy litigation, commercial foreclosures and workouts, and loan modifications. Ms. Fernandez has served as a chapter 11 trustee and liquidation trustee. Prior to joining Trenam, she clerked for Hon. Alexander L. Paskay, Chief Bankruptcy Judge Emeritus of the U.S. Bankruptcy Court for the Middle District of Florida, from 2001-04 and for a year after graduating from law school. Ms. Fernandez is AV-rated by Martindale-Hubbell and listed in *Chambers USA*, *The Best Lawyers of America*, *Super Lawyers* and *Florida Super Lawyers*. She received both her B.A. and J.D. from Emory University.

Hon. Tiffany Payne Geyer is a U.S. Bankruptcy Judge for the Middle District of Florida in Orlando, appointed by the Eleventh Circuit Court of Appeals on March 25, 2022. Previously, she was a partner with BakerHostetler in Orlando and practiced primarily in the areas of bankruptcy and creditors' rights. Judge Geyer represented both corporate and individual debtors in chapter 11 cases and individuals in chapter 7 cases, and her clients included health care businesses and medical professionals, investment bankers and financial advisors. She also represented clients in the hospitality sectors, assisted in representing debtors in the energy sectors, and negotiated multiple settlements of guarantor liability and assignments for the benefit of creditors. She also represented secured creditors, unsecured creditors, landlords and panel trustees. Judge Geyer has been listed in *Chambers USA* for Bankruptcy/Restructuring in Florida and in *The Best Lawyers in America* in 2020 for Bankruptcy and Creditor/Debtor Rights/Insolvency and Reorganization Law. She began her legal career in Orlando clerking for Bankruptcy Judge Karen S. Jennemann, and she volunteered at a Florida nonprofit organization devoted to housing and educating young adults struggling with homelessness. Judge Geyer received her B.A. with honors in political science and public administration in 1998 from the University of Central Florida, and her J.D. in 2000 from the University of Florida Levin College of Law, where she received the Book Award for Legal Drafting and was a member of a trial competition team.

Soneet R. Kapila, CPA, CFF, CFE, CIRA is a founding partner of KapilaMukamal, LLP in Fort Lauderdale, Fla., and ABI's President-Elect For more than 25 years, he has concentrated his efforts in the areas of consulting in insolvency, fiduciary and creditors' rights matters. Mr. Kapila is a federal bankruptcy trustee and serves as an examiner, CRO, chapter 7 and 11 trustee, subchapter V trustee, liquidating trustee, corporate monitor (SEC appointments), and as a state and federal court-appointed receiver. He has been appointed in numerous matters in the Southern and Middle Districts of Florida. As a trustee plaintiff, Mr. Kapila has managed complex litigation in significant cases. He advises and represents debtors, secured creditors and creditors' committees in formulating, analyzing and negotiating plans of reorganization. As a recognized expert in fraudulent conveyance, Ponzi schemes and insolvency issues, Mr. Kapila has provided expert testimony and litigation-support services to law firms involving complex insolvency issues and commercial damages. He has worked in conjunction with the SEC, FBI and U.S. Attorney's Office, and he has served both as a consultant and expert witness for litigation matters in state and federal courts. Mr. Kapila has spoken to various groups, including ABI, New York Law School, St. Thomas University Law School, and the National Conference of Bankruptcy Judges, Southeastern Bankruptcy Law Institute, National Association of Bankruptcy Trustees (NABT), Receiver's Forum, Association of Insolvency and Restructuring Advisors, Florida Institute of Certified Public Accountants, Turnaround Management Association, University of Miami School of Law, Florida International University School of Law, American Bar Association and the National Business Institute on topics related to insolvency, underperforming businesses and insolvency taxation. He is a Fellow of the American College of Bankruptcy and a past-president and past-chairman of the Association of Insolvency & Restructuring Advisors, for which he serves on its board of directors. Mr. Kapila has served on the advisory boards of ABI's Southeast Bankruptcy Workshop and Caribbean Insolvency Symposium. He also co-authored ABI's *Fraud and Forensics: Piercing Through the Deception in a Commercial Fraud Case* (2015). Mr. Kapila received his M.B.A. in 1978 from Cranfield School of Management.

Angelina E. Lim is a partner with Johnson Pope Ruppel & Burns, LLP's Creditor/Debtor Rights Department in Tampa, Fla., where she handles all aspects of bankruptcy representation, such as creditors' rights, debtors' rights, chapter 11s, subchapter Vs, complex chapter 7s, foreclosure defense and

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