

LEGISLATIVE POSITION REQUEST FORM

GOVERNMENTAL AFFAIRS OFFICE

Date Form Received _____

GENERAL INFORMATION

Submitted By Richard R. Gans, Chair, Estate & Trust Tax Committee of the Real Property Probate & Trust Law Section (RPPTL Approval Date: September 25, 2010)

Address Fergeson, Skipper, Shaw, Keyser, Baron & Tirabassi, P.A., 1515 Ringling Boulevard, Suite 1000, Sarasota, FL 34236
Telephone: (941) 957-1900

Position Type Estate & Trust Tax Committee, RPPTL Section, The Florida Bar
(Florida Bar, section, division, committee or both)

CONTACTS

Board & Legislation Committee Appearance

William R. Lane, Jr., Holland & Knight LLP, 100 North Tampa Street Suite 4100, Tampa, FL 33602, Telephone (813) 227-6470.
Lauren Y. Detzel, Dean, Mead, 800 North Magnolia Avenue, Suite 1500, Orlando, FL 32803, Telephone (407) 428-5114
Richard R. Gans, Fergeson, Skipper, Shaw, Keyser, Baron & Tirabassi, P.A., 1515 Ringling Boulevard, Suite 1000, Sarasota, FL 34236, Telephone (941) 957-1900
Michael J. Gelfand, Gelfand & Arpe, P.A., Regions Financial Tower, Suite 1220, 1555 Palm Beach Lakes Blvd., West Palm Beach, FL 33401, Telephone (561) 655-6224
Peter M. Dunbar, Pennington, Moore, Wilkinson, Bell & Dunbar, P.O. Box 10095, Tallahassee, Florida 32302-2095, Telephone (850) 222-3533
Martha J. Edenfield, Pennington, Moore, Wilkinson, Bell & Dunbar, P.O. Box 10095, Tallahassee, Florida 32302-2095, Telephone (850) 222-3533

(List name, address and phone number)

Appearances Before Legislators

William R. Lane, Jr., Holland & Knight LLP, 100 North Tampa Street Suite 4100, Tampa, FL 33602, Telephone (813) 227-6470.
Lauren Y. Detzel, Dean, Mead, 800 North Magnolia Avenue, Suite 1500, Orlando, FL 32803, Telephone (407) 428-5114
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(List name and phone # of those having face to face contact with Legislators)

Meetings with Legislators/staff

William R. Lane, Jr., Holland & Knight LLP, 100 North Tampa Street Suite 4100, Tampa, FL 33602, Telephone (813) 227-6470.
Lauren Y. Detzel, Dean, Mead, 800 North Magnolia Avenue, Suite 1500, Orlando, FL 32803, Telephone (407) 428-5114
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PROPOSED ADVOCACY

All types of partisan advocacy or nonpartisan technical assistance should be presented to the Board of Governors via this request form. All proposed legislation that has *not* been filed as a bill or a proposed committee bill (PCB) should be attached to this request in legislative format - Standing Board Policy 9.20(c). Contact the Governmental Affairs office with questions.

If Applicable,

List The Following

N/A

(Bill or PCB #)

(Bill or PCB Sponsor)

Indicate Position

Support _____

Oppose _____

Tech Asst. _____

Other _____

Proposed Wording of Position for Official Publication:

“Support clarification that the charging order lien is the sole and exclusive remedy which judgment creditors of a member use to satisfy a judgment from a judgment debtor’s membership interests in a multi-member LLC, including an amendment to F.S. §608.433.”

Reasons For Proposed Advocacy:

The Florida Supreme Court Case of *Olmstead v. Federal Trade Commission*, Case No. SC08-1009 (June 24, 2010) concluded that a charging order was not the sole remedy for judgment creditor seeking to satisfy claims against the owner of an interest in a single member Florida LLC. The rationale of the result reached in *Olmstead* has created substantial uncertainties about the scope of remedies available to a judgment creditor of an owner of an interest in a multi-member Florida LLC. Clarification that the charging order is the exclusive remedy available to a judgment creditor of an owner of an interest in a multi-member LLC interests is imperative. If uncertainty on this point remains, the use of multi-member LLCs in Florida will decline substantially because owners of businesses will choose to create their business entities in jurisdictions in which the charging order is the sole remedy.

PRIOR POSITIONS TAKEN ON THIS ISSUE

Please indicate any prior Bar or section positions on this issue to include opposing positions. Contact the Governmental Affairs office if assistance is needed in completing this portion of the request form.

Most Recent Position

RPPTL- Legislation Position #43

“Supports limitation of creditor remedies against partner interests in general and limited liability partnerships and member interests in limited liability companies to charging liens and to prohibit foreclosure against such interests.”

(Indicate Bar or Name Section)

(Support or Oppose)

(Date)

Others

(May attach list if more than one)

NONE

(Indicate Bar or Name Section)

(Support or Oppose)

(Date)

REFERRALS TO OTHER SECTIONS, COMMITTEES OR LEGAL ORGANIZATIONS

The Legislation Committee and Board of Governors do not typically consider requests for action on a legislative position in the absence of responses from all potentially affected Bar groups or legal organizations - Standing Board Policy 9.50(c). Please include all responses with this request form.

Referrals

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| Florida Bar Tax Section (Name of Group or Organization) | Support (Support, Oppose or No Position) |
| Florida Bar Business Law Section (Name of Group or Organization) | Currently considering: understood to support as relating to multi-member entities, but would seek to apply to single member which is beyond this proposal. (Support, Oppose or No Position) |
| (Name of Group or Organization) | (Support, Oppose or No Position) |
| (Name of Group or Organization) | (Support, Oppose or No Position) |

Please submit completed Legislative Position Request Form, along with attachments, to the Governmental Affairs Office of The Florida Bar. Upon receipt, staff will further coordinate the scheduling for final Bar action of your request which usually involves separate appearances before the Legislation Committee and the Board of Governors unless otherwise advised. For information or assistance, please telephone (904) 561-5662 or 800-342-8060, extension 5662.