**LEASING ISSUES IN BANKRUPCTY**

**Landlord/Tenant Committee Meeting**

**RPPTL Section of the Florida Bar**

**February 7, 2014**

*Rod Anderson and Rick Eckhard, Holland & Knight LLP*

**I. BASICS OF BANKRUPTCY**

**A. Liquidation—Chapter 7**

**B. Business and Individual Reorganization—Chapter 11 and Chapter 13**

**II. LANDLORD AND TENANT IN BANKRUPTCY**

**A. Continuing Right to Operate Business Under Chapter 11**

**B. Leases under Bankruptcy Code**

**i. What is a "lease"?**

**ii. "Residential" v. "Nonresidential"**

**C. Right to Assume or Assign Leases**

**i. Lease Must Be in Effect on Petition Date**

**ii. Time Within Which to Assume or Reject Leases**

**III. DEBTOR-TENANT PERFORMANCE PENDING LEASE ASSUMPTION OR REJECTION**

**A. Obligations Under Unexpired Commercial Leases**

**i. Performance of Monetary Provisions**

**ii. Performance of Nonmonetary Provisions**

**B. Protection Payments**

**IV. LEASE ASSUMPTIONS**

**V. LEASE REJECTIONS**

**A. Tenant and Landlord Rights and Effect of Reject**

**B. Lease Rejection Damages**

**VII. UNENFORCEABLE LEASE PROVISIONS**

 **A. Ipso Facto**

 **B. Restrictions on Assignment**

**VIII. Q&A**