

Florida Courts Technology Commission Meeting

FCTC Action Items/ Summary of Motions

January 30-31, 2013

A meeting of the Florida Courts Technology Commission was held at the Orange County Courthouse in Orlando, Florida on January 30-31, 2013. The meeting convened at 1:00 P.M. on the first day, Chair Judge Lisa T. Munyon presiding.

Members of the Commission in attendance

Judge Lisa T. Munyon, Chair, 9th Circuit
Judge Manuel Menendez, Jr., 13th Circuit
Judge George S. Reynolds, 2nd Circuit
Barbara Dawicke, Trial Court Administrator, 15th Circuit
Ted McFetridge, Trial Court Administrator, 8th Circuit
Thomas Genung, Trial Court Administrator, 19th Circuit
Ken Nelson, CTO, 6th Circuit
Dennis Menendez, CTO, 12th Circuit
Mary Cay Blanks, Clerk of Court, 3rd DCA
Karen Rushing, Clerk of Court, Sarasota County
Sharon Bock, Clerk of Court, Palm Beach County
Charles C. Hinnant, Ph.D., Florida State University

Judge Sheree Cunningham, Palm Beach County
Judge Stevan Northcutt, 2nd DCA
Judge Scott Stephens, 13th Circuit
Judge Robert Hilliard, Santa Rosa County
Judge Martin Bidwill, 17th Circuit
Jannet Lewis, CTO, 10th Circuit
Paul Regensdorf, Esq., Jacksonville
Laird A. Lile, Esq., Naples
Murray Silverstein, Esq., Tampa
Kent Spuhler, Esq., Florida Legal Services
David Ellspermann, Clerk of Court, Marion County

Members not in attendance

Judge C. Alan Lawson, 5th DCA
Thomas Woods, Tallahassee

OSCA and Supreme Court Staff in attendance

Lisa Goodner
Tom Hall, Clerk of the Supreme Court
Chris Blakeslee
Lakisha Hall
Jeannine Moore

Patty Harris
Alan Neubauer
Maggie Geraci
Laura Rush
Scott Higgins

Other Attendees

Steve Shaw, CTO, 19th Circuit
Jon Lin, CTO, 5th Circuit
Isaac Shuler, CTO, 2nd Circuit
Allen Reed, CTO, 11th Circuit
Mark Van Bever, Trial Court Administrator, 18th Circuit
Carolyn Weber, Florida Court Clerks and Comptrollers
Colleen Reilly, Orange County Clerk of Court
Melvin Cox, Director of Information Technology, Florida
Court Clerks and Comptrollers
Deb Ivankow, Orange County Clerk of Court
Douglas Bakke, Hillsborough County Clerk of Court

Fred Buhl, CTO, 8th Circuit
Mike Smith, CTO 4th Circuit
Noel Chessman, CTO, 15th Circuit
Craig Van Brussel, CTO 1st Circuit
Tim Smith, Clerk of Court, Putnam County
Laura Roth, Volusia County Clerk of Court
Randy Long, Florida Court Clerks and
Comptrollers
Jeff Taylor, Manatee County Clerk of Court
Brian Murphy, Mentis Technology
Dave Johnson, Mentis Technology

Other Attendees cont'd.

Jessica Reyes, Orange County Clerk of Court
John Tomasino, Florida Public Defenders Association
Ramin Kouzehkanani, Hillsborough Clerk of Court
Jim Harris, National Center for State Courts
Robyn Arey, ProVest
Mark Snyder, ProVest
Mike Schneider, Associated Press

Akilya Drake, Palm Beach County Clerk
Charles Schaeffer, Florida Department Law
Enforcement
Carole Pettijohn, Manatee County Clerk
Steve Moerbe, Tyler Technologies
Chris Stewart, Pioneer Technology Group
Byron Tiller, Pioneer Technology Group

The meeting began with Judge Munyon welcoming the commission members and other participants, calling the meeting to order and advising everyone the meeting was being recorded.

AGENDA ITEM II. Approval of October Minutes

Minutes from October 10-11, 2012 meeting of the Florida Courts Technology Commission were unanimously approved.

AGENDA ITEM III. ePortal/eFiling update (Authority Board, FCCC, etc)

Judge Munyon gave an overview on the new e-filing dates as defined by the Supreme Court in SC11-399. The dates will be mandatory at 12:01a.m. on the following:

- Supreme Court – February 27, 2013
- 2nd DCA – July 22, 2013
- 3rd DCA – September 27, 2013
- 4th DCA – October 31, 2013
- 5th DCA – November 27, 2013
- 1st DCA – December 27, 2013

Judge Stephens gave a review of e-Service and said the clerks have an e-Service function in the portal. E-Service will not substitute for service of process. The portal will be able to receive, maintain and make available for reuse a service list of email addresses for each case. Judge Stephens explained there are technical issues that must be determined if the FCTC wants to go with the federal style and utilize long term resources. He stated there are still some issues that need to be worked out regarding bounced emails. E-Service needs for appellate cases will be considered at future discussions. Karen Rushing wanted to know about the certificate of service and how they are processed. Judge Stephens explained that every lawyer is responsible for editing the service list. Paul Regensdorf raised the issue of confidential documents. Judge Stephens explained that the e-Service came up with service outside the area.

Motion for Judge Stephens to report to the e-Service workgroup the FCTC likes the direction the e-Service workgroup is going in

MOTION OFFERED: Paul Regensdorf
MOTION SECONDED: Karen Rushing

MOTION CARRIED UNANIMOUSLY

Tom Hall gave an overview of the EPortal Authority Funding. The Florida Court Clerks and Comptrollers (FCCC) have agreed to pay for and build the portal. An agreement has been worked out to go to the legislature and seek funding for items not covered in the contract. The biggest concern is funding the portal. Mary Cay Blanks wanted to know if the numbers presented for recurring funding for the portal included help desk support. Tom replied that it does not take into account the non-attorney users. Paul Regensdorf wanted to know if all functionality of the portal has been discussed or is the FCTC and the FCCC going to have to keep going back to the legislature for funding. Tom said there is an agreement on what is paid for and who pays for it. Any growth in the portal is going to cause shortfalls because the budget is for current development. Tom said the one million dollars permits some growth. Paul explained that the concern is the back end of the portal. He questioned has the FCTC looked at all the functionality of the portal; is the FCTC going to continuously go to the legislature to have every need met; are there going to be increased needs as we move forward with the portal; and as the portal increases does it generate more money? Tom Hall responded, no. Mary Cay suggested adding cost does not cover pro se in the narrative.

Melvin Cox gave an update on the Appellate portal interface. He explained since last October there has been a lot of activity within the portal. The portal has the capability to file documents to the Supreme Court and the DCA. The functionality associated with the portal was tested in January. The FCCC developed a number of test cases, training video, and went through the acceptance process. The FCCC found some issues that are being updated in software and are continuing with the test cases. In February, the FCCC will be focusing on getting the lawyers trained on using the portal. The FCCC is on target with the Supreme Court's February deadline for mandatory e-filing. Tom Hall said his office has successfully tested and verified e-filing at least six cases from the beginning to the end of the portal. Paul Regensdorf asked if it was necessary to put dates in the administrative order if the dates are continuously not met. Karen Rushing explained that this was a political issue.

Melvin Cox reported on e-Filing. In 2012 there were 20,000 registered e-Portal users with 360,000 total filings. Circuit civil still leads in the type of cases being filed, with family being second. As of January 2013, 75,000 filings have been done through the portal. Melvin gave an overview of cases that are e-Filed, 94% are on existing cases and 6% are on new cases. Criminal filings are slowly beginning to start filing on the portal. Melvin reminded everyone of the deadline dates for Civil is April 1, 2013 and Criminal is October 1, 2013. As for Civil Readiness, the FCCC is tracking circuit civil, county civil, probate and family (juvenile dependency is not being tracked in circuit civil), which fall into the April 1, 2013 mandatory civil e-filing deadline. Fifty-eight counties have full capability to meet the April 1, 2013 deadline and nine counties are trying to meet the deadline. Melvin discussed the waiver process for those counties that do not meet the mandatory deadline. Karen Rushing asked about the civil and criminal waiver compliance and the Clerks that are in transition to CMS systems. Judge Munyon suggested holding the discussion until Judge Reynolds report which should address these issues. Judge Reynolds spoke up and said these counties are not ready for e-filing at all. Melvin indicated all counties will be capable on April 1, 2013 and if not, they will start the waiver process. Paul Regensdorf said there was an issue with the 90-day paper follow-up rule as it has changed. The old rule required to keep the 90 days of paper follow-up. Judge Munyon asked to hold that until after Melvin's report. Mary Cay Blanks wanted to know if Melvin had any statistics on documents being filed by each circuit. Melvin indicated that next time the FCCC could start to look at that.

Melvin indicated Alabama is the only one other state that has mandatory e-filing statewide. Compared to nationally, Florida is on the verge of a tremendous accomplishment and should be commended.

The Supreme Court will begin accepting e-filings on February 27, 2013. Paul Regensdorf wanted to know what to do when an appellate court is ready to accept electronic notices of appeal or the filing fee but the district court is not ready to accept them. Tom Hall replied most trial courts are ready to accept electronic notices of appeal. Appellate courts do not have redaction software, however; they are currently obtaining and testing redaction software.

Melvin Cox gave an update on criminal e-filing. The FCCC's approach was to develop a pilot program coordinated between the Clerk's offices, the State Attorney's Association and the Public Defender's Association to create a process to initiate subsequent criminal e-filings through a batch interface process. The batch interface has begun but has not been completed, due to some programming issues and will be getting ready for the October 1, 2013 deadline. The FCCC will report the progress on batch interface process at future meetings. Judge Munyon wanted to know could the batch file process be utilized by large government filers, like Department of Revenue. Melvin indicated it was intended to be utilized by large law firms and civil law firms that have their own systems. He explained it is a more robust approach and it does require more from the buyer and they have to contain the required software. Paul Regensdorf was concerned that private criminal defense attorneys are not required to file through the portal. Judge Munyon advised that is an issue that was raised in Judge Reynolds committee this morning and he clarified that subsequent filings would be through the portal and any of the initiations are not through the portal.

Judge Reynolds discussed non-attorneys filing through the portal. He explained there is a unique small group of people that want to file through the portal that are not attorneys. This group includes: mediators, healthcare providers, court reporters, process servers; all considered non-litigants. Judge Munyon suggested the lawyers should start using the portal first, and then add pro se litigants. Karen Rushing brought up having to file a waiver even though she has an e-filing system but is not currently going through the portal. Karen said the FCTC needs to define mandatory e-filing. Judge Munyon stated the standards indicate all clerks will have to go through the portal for e-filing. Karen was concerned about asking for a waiver because Sarasota County has been e-filing for ten years. Judge Reynolds explained that the issue is that the portal is going to serve attorneys not non-attorneys. As Karen's system goes onto the portal, the non-attorneys/non-litigants will be out until the portal is in a position to accept them. Judge Reynolds suggests the e-Portal subcommittee could look into an alternative resolution for this. Judge Munyon asked if the FCTC wants to allow the free standing systems to be used for e-filing until the portal has the same capabilities as the free standing systems. Mary Cay Blanks asked if Karen's system is in compliance if she has a link on the portal to her local system or whether or not she has to obtain a waiver. Further discussion of the waiver process was done to determine if a waiver needs to be completed. It was decided that Orange, Sarasota, Pasco and Clay counties are currently migrating to the portal and their deadline for civil e-filings should be extended to October 1, 2013 to avoid requesting a waiver because they have an approved operational local e-filing system.

FCTC recommends the clerks in Sarasota and Clay counties (both of which currently have an operational approved local electronic filing system) be permitted to continue to accept filings through their systems until October 1, 2013, provided the systems are linked to the statewide e-Portal.

MOTION OFFERED: Judge George Reynolds
MOTION SECONDED: Judge Manuel Menendez
MOTION CARRIED: UNANIMOUSLY

Judge Reynolds would like the date and time stamp issue to be postponed until the May meeting. Jannet Lewis agreed to run tests on fonts to see how much space would be needed to affix the date and time stamp.

AGENDA ITEM V. e-Portal Subcommittee

Judge Reynolds went over recommendations made by the e-Portal subcommittee and the mandatory use of the statewide portal. Civil divisions are mandated April 1, 2013 and would include initial and subsequent filings by attorneys. Criminal divisions are mandated October 1, 2013 and only include subsequent filings. Judge Reynolds explained initial criminal filings that are initiated by law enforcement agencies should not have to go through the statewide portal if all required data elements are captured by the clerk's CMS and reported to the state. Judge Reynolds stated the requirement as to electronic access to court records needs to be available from all 67 clerks. Currently, some of the clerks only provide the docket and will not allow the individual documents to be accessed. Ted McFetridge wanted to know would judges who write their own Orders be required to go through the portal. Judge Reynolds replied no and explained the portal is a universal access point.

Motion for the FCTC to recommend initial criminal filings initiated by law enforcement agencies are not required to go through the statewide portal if all required data elements are captured by the clerks CMS and reported to the state. In addition, judges will not be required to file through the portal, shall be allowed to directly file through the clerk's local CMS system.

MOTION OFFERED: Judge Reynolds
MOTION SECONDED: Karen Rushing
MOTION CARRIED UNANIMOUSLY

Judge Reynolds discussed how to handle attorneys who do not file electronically by April 1, 2013 and rules 4.8.1(c) & 4.8.4(d) regarding attorney conduct in following court Orders. The e-Portal subcommittee did not make any recommendations on this issue. It was suggested to wait and see after the April 1, 2013 deadline just how many attorneys are not complying and review the issue at the May 2013 FCTC meeting. Karen Rushing said the Authority Board voted to ask the Chief Justice to refuse filings that were not done electronically. Judge Reynolds suggested the e-Portal subcommittee make a recommendation that the clerks be allowed to refuse a filing and recommend to the Supreme Court that the Florida Bar investigate attorneys for not using the portal and are continuing to use paper and do not have the proper exemptions. Judge Munyon stated ultimately it may be the individual judge and case that has to deal with the lawyer.

Judge Reynolds stated how attorneys are the main functional users of the portal. The subcommittee suggested some user groups from the Florida Bar be set up as they are the ones that are utilizing the portal. The subcommittee suggested the FCTC recommend to the Supreme Court to have Tom Hall and Laird Lile be in charge of the appellate and trial court user groups, respectively.

Motion for the FCTC to recommend to Supreme Court, Florida Bar to develop a user group to review the functionality of the statewide portal and to coordinate with the e-Portal Authority on issues and concerns they discover.

MOTION OFFERED: Judge Reynolds

MOTION SECONDED: Paul Regensdorf

MOTION CARRIED UNANIMOUSLY

Judge Reynolds described the types of documents that can be submitted through the portal and some changes to the portal that were needed. The subcommittee suggested the FCCC make a change to case style/case name so when a filer gets to this point in the portal they can access the file with case information they have. Melvin Cox said the FCCC would look into making this change. Judge Reynolds stated another recommendation was for the FCCC to add “must” and “word perfect” to the type of documents that can be submitted via the portal.

AGENDA ITEM VI. Appellate court records standards

Judge Northcutt discussed the issues related to transmission of electronic record on appeal. The first issue is transmissions from the trial courts to the district courts of appeal and the Florida Supreme Court (Death Cases). The FCCC has reported that in the 35 counties using Clericus, application programming changes can be made that would allow the trial courts to send electronic records based on the standard. The FCCC sent out an advisory bulletin asking for feedback on capabilities of trial courts in meeting the standard. They received one response from Tyler Technologies. Tyler had questions regarding the method of transmission and the PDF standards. OSCA/ISS has responded to the FCCC and Tyler Technologies that in the short term there will be some flexibility regarding the method of transmission, but the PDF submissions must follow standards already specified by the court. Judge Northcutt advised since no other responses were received, OSCA communicated directly with the remaining 25 counties. The counties indicated they were working diligently to meet the mandated date but could not guarantee they will be able to do so. Alan Neubauer stated that Tiburon-Facts informed ISS that there is absolutely no way they can meet the deadline. Judge Northcutt indicated that numerous executive branch agencies that transmit electronic records to the district courts of appeal are not mandated to transmit electronically to the appellate courts. OSCA staff is reaching out to these agencies to offer assistance and encourage compliance pursuant to administrative order.

Judge Northcutt advised on the other issue regarding transmissions from the district courts of appeal to the Supreme Court. The First District Court of Appeal and the Fifth District Court of Appeal are currently accepting electronic filings from the iDCA/eDCA system. The ACTC has approved implementation of iDCA/eDCA at the Third District Court of Appeal and the Fourth District Court of Appeal on an interim basis until eFACTS is implemented statewide. iDCA/eDCA does not comply with the technical specification for electronic records, but can work with ISS to become compliant with minimal programming enhancements. The district courts of appeal ability to transmit electronic records to the Supreme Court depend on the compliance of the circuit court clerks with the technical specification for electronic records. Electronic and paper records will continue to be transmitted from the district courts of appeal to the Supreme Court in the format received at the district courts until statewide compliance is achieved. Judge Northcutt advised

this report is due on February 1, 2013 and recommend FCTC approval. Mary Cay Blanks wanted to clarify the Supreme Court recommend they will take records the way the district court receives them. Judge Northcutt replied the ACTC did not put it into a form of a recommendation. Mary Cay also wanted to know if the committee took into account when records are transmitted electronically from the circuit court and then sent to the Supreme Court. The clerk of the district court is required to add additional documents to the record that is already submitted to the district court and that our systems may not interact the same. Judge Northcutt indicated the committee did not discuss this issue. Tom Hall indicated that ISS technical staff should work on the different systems that the district courts are utilizing. Judge Munyon said the last sentence seems to be a mandate to the Supreme Court, instead of a recommendation and would feel more comfortable if it read, "Therefore, both electronic and paper records, *should* continue to be transmitted from the district courts of appeal to the Supreme Court in the format received at the district courts until statewide compliance is achieved." Further discussion of rewording the last sentence was done.

Motion for the FCTC to approve report to Supreme Court on issues related to Transmission of the Electronic Record on Appeal Response to SC11-399 Order dated November 28, 2012 with noted language tweaks by Judge Munyon

MOTION OFFERED: Judge Northcutt
MOTION SECONDED: Judge Reynolds
MOTION CARRIED UNANIMOUSLY

AGENDA ITEM VII. Rules update

Paul Regensdorf gave an update of three rules that were of concern. The first one was rule 2.420 which deals with public access to judicial records and will impact how people file things electronically. There has been a rule proposal at the Court for quite some time to improve the rule. The issue is with mental health records. The reports are sensitive and should not be published on the internet. Paul advised that he has volunteered the FCTC to assist if needed, on putting together a packet, reviewing, constitutionality, etc. Paul advised there has not been any coordinated effort to write a package of laws to protect mental health records. The issue is still pending and the Court is delaying further action seeking more information. The other two rules of interest are rule 2.516 which deals with e-mail service and rule 2.525 which deal with e-filing. E-mail service and e-filing were approved by the Supreme Court on June 21, 2012. E-mail service has been amended a couple of times with a new report in the process of going up to the Supreme Court. E-filing went into effect in June 2012 and a subsequent order was issued in October 2012. E-filing is moving slowly, but coming along.

Paul discussed the rule change that may require the commission's action regarding back-up paper filing. The clerks were forced to keep documents for a period of 90 days after approval of electronic filing. The RJA got rid of all the language dealing with follow-up paper since the court is moving towards e-filing. Back-up paper follow-up is omitted in the rule. Paul asked if the FCTC as monitors of court technology of the State of Florida want to have a continuing check on the accuracy of that system. Also, does the FCTC want new systems that come on board to prove their accuracy through OSCA as they have been doing? Paul asked before systems prove their reliability what is the Commission's feeling on reinstating paper

requirement? May Cay was against requiring paper again. Sharon Bock stated paper is difficult to deal with, expensive and inefficient.

Judge Munyon asked what should happen to those counties that already have a letter of approval with a 90-day back up. Paul said the clerks cannot maintain a paper back up if the lawyers do not give them the paper to back up. He suggested OSCA send out a letter to each of the approved counties still within the 90-day period stating the Supreme Court has removed 90-day paper follow up and they no longer have that obligation. Judge Munyon wanted to know how many are we talking about. Chris Blakeslee explained that it is by division and not by clerk. Every time the clerk does a request for a division they have to do the 90-day follow-up. The FCTC approved to discontinue the 90-day paper follow-up if that division was approved after the revised order. Chris could not give the exact figure, but indicated there have been a lot of requests to discontinue the paper follow-up. Lisa Goodner stated this is a transitional issue and once the rule goes into effect OSCA would not require the 90-day follow-up from that date forward. Tom Genung advised the distinction between e-filing a document and conducting electronic processes to the courtroom. The Chief Judge has the ability to say when a court goes paperless. Karen said the clerks need to address this issue as there is confusion between no paper back up and continuing to provide a paper copy to the court. Judge Munyon said a lot will depend on when the courts will receive funding for the judicial viewer. Judge Munyon advised the date of rule SC11-399 was November 1, 2012 and the clerks will have to follow whatever approval letter they have at this stage. Some clerks will have 90-days in their letters and some will not.

Paul further discussed the /s regarding paralegals and assistants. Judge Munyon advised that The Florida Bar has rendered an ethics opinion regarding paralegals and secretaries e-filing for the lawyer under the lawyer's identification number in the e-portal. Paul Regensdorf stated the ethics opinion authorizes assistants to take a fully completed document, signed by the lawyer, ethically and professionally, and e-file it under the lawyer's credentials. The opinion did not address fixing the signatures. The real issue was can the legal assistant use /s at the direction of the lawyer. Paul indicated that he spoke with a Florida Bar representative who went through the committees on this and they were adamant that they are going to go with personally affixing the "/s" by the lawyers. The Supreme Court passed a rule that indicated signatures can be done several ways: blue ink; electronic signatures using /s by or at the direction of the person signing. Paul does not feel the Supreme Court nor the Bar considered or presented to the court the ethical issue involved. Paul said concerns were raised that lawyers would get in a difficult situation and deny the signature. Paul stated one suggestion was allowing paralegals or assistants their own credentials. Paul presented the question should the FCTC look into a system that can credential these as sub-authorize signature people. Judge Munyon indicated there is a real challenge meeting the April 1, 2013 deadline and getting all civil divisions on-line and all lawyers filing on-line before we start tinkering with the portal. Paul said he was not suggesting doing anything before April 1, 2013, maybe assigning this task to a workgroup. Judge Munyon stated there is already a workgroup assigned to deal with portal upgrades. Judge Reynolds stated the e-Portal subcommittee would look into enhancing the portal to include assigning people their own credentials. John Tomasino advised it has been a concern of the public defenders as well as the state attorneys and they were looking into setting up actual ID's in the portal. Tom Hall said this issue should be something the Florida Bar or the RJA deals with.

AGENDA ITEM VIII. National Center for State Courts (NCSC) Report

Jim Harris reviewed the National Center for State Courts report. He went over the principles that were proposed for this report. The NCSC recognized there are a lot of existing systems out there and the court should take advantage of those systems instead of bringing in a new statewide system. The funding and cost associated with implementing a system like this should be shared. The policy in Florida has been against using a "user fee" for e-filing or access to electronic documents. However, there have been other states who have adopted policy to apply user fees to access electronic documents and an opportunity to fund some of the work that goes into making this a useful system. Karen Rushing had a question where the NCSC indicated minimize the complexity is to our advantage, does that fall within the lines of creating standards for a case management system even though there are different vendors a court can rely on a standard that would meet by all clerks purchasing those systems. Jim replied one or two of the recommendations allude to that and that it starts with the judicial functional requirements so you have that starting point of what a judicial view of the electronic case file should be. The complexity comes into play when you create this integrated system with all these interactions between the different systems involved and to the extent you can standardize those interactions you will minimize the complexity and increase your success. Ted McFetridge talked about the four CMS systems in his circuit and the NCSC report does not point out to minimize the systems to just one. Jim responded by indicating the report was done on a statewide basis and not a circuit basis. However, the report was clear enough in reducing the number of systems involved reduces the number of interfaces that are required to be held therefore, reducing the complexity and reducing the costs. David Ellspermann asked could a court viewer be standardized and accepted statewide in a clerk's information system and have the same function. David clarified clerk operations under CMS gather the information as long as the clerks can communicate to a standardized court viewer system. Jim replied, no, the NCSC is not talking about standardizing the exchanges of information between those systems. To create those standards, you have to agree on what needs to be shared to support functions on both ends of the equation. David explained if clerk systems can meet those standards we do not need to standardize into one system. Jim replied correct, although some of the recommendations explain if you minimize the number of systems involved that will decrease your costs, due to those interfaces still have to be developed. Karen commented that if the standards are set and they are met, then that minimizes the complexity; therefore, it can put us further towards achieving goals of interconnected systems, taking advantage of the resources and limited revenue we have. Sharon Bock advised that areas needing to be changed are easier to accomplish as opposed to attempting to change a whole CMS system to meet technical requirements to interface with a judicial viewing system that has required technical standards. It is certainly a more efficient and inexpensive way to make changes to case management systems to meet requirements.

Jim Harris discussed the recommendations in the NCSC report. One of the recommendations was to adopt a current design for the statewide system integration. He discussed a diagram that illustrates case management functions, distance of the clerk's systems and interactions that need to take place. Chris Hinnant wanted to know what the NCSC process was in developing this analysis. Did NCSC get the data from OSCA or from other places that already exists? Did NCSC gather data themselves? How did the NCSC do the actual analysis? Jim replied it was a combination of all those things; some data from OSCA, some of the explanations are based from NCSC's own experiences with projects like this in other states with an understanding of the things involved. Ted McFetridge wanted to know how the proposal moves forward with the funding. Jim replied the key element is around the access fees and share funding at the state and

local levels. He further suggested access fees should be revisited as it is a way to fund electronic case records. Chris Hinnant wanted to review information from other states on access fees life cycle. Jim replied the NCSC could gather that information for him. Lisa Goodner wanted to know how prevalent a fee to fund technology is in other states versus the state legislature in funding this technology out of the general fund. Jim replied he does not know, but both do exist. Paul Regensdorf discussed the issue with users funding access to public records. He says the FCTC needs to look at the total funding of the court and the way filing fees are funding the court system. If the users are already paying on the front end, why pay on the back end. Jannet Lewis wanted to know if the NCSC report took into account the legislation deciding how the money collected is being used. Judge Stephens asked about commercial enterprises that are going to want to gather this information on a massive basis and are going to make money. Does the court want to bring in some of that revenue?

AGENDA ITEM IX. TIMS Final Report

Patty Harris stated during the last year or so, members of the Commission on Trial Court Performance and Accountability (TCP&A) and the Court Statistics and Workload Committee, under the direction of the State Courts Administrators Office have been working to identify the information needs of judges and court managers for purposes of determining standardized data that would need to be tracked in a future TIMS system. To identify this information, six divisional workgroups were formed to help examine core business processes of the courts. These workgroups mapped several case flows and identified various performance measures. OSCA was able to bring together a common set of data that could be outlined as part of a statewide court data model. Ultimately, the court data model that resulted from these efforts provides a starting point for continued data integration efforts of case processing and resource management systems. If the data model is implemented, it could be used overtime to continue building upon based on evolving case management needs. To implement the data model TCP&A asked the Supreme Court to approve the work that has been completed and allow TCP&A and the FCTC to begin looking at ways to begin incorporating these standards as part of current systems. There were three recommendations that were submitted to the Supreme Court on December 1, 2012 and are currently pending before the Court. The report focuses on information, data and management needs. The report did not mention a lot regarding technology plans because the NCSC report was still pending. It was noted due to the impact of this work, a hand off would need to occur between TCP&A to FCTC to allow the data and technology issues to be combined together in an implementation scheme as directed by the FCTC. Patty said the court data model identifies data elements and the relationships between the data elements. Information is gathered in a way that allows meaningful description of how cases are processed and resources surrounding those case processes are being used. The court data model in its conceptual form is targeted around basic level data that is common to all jurisdictions. It also focuses on capturing case activity information as opposed to case content. The hope is that the court can establish a uniform data language to share between the different systems. The court would be able to leverage existing systems towards sharing data. Ultimately, the court will be able to capture information to see how the court is doing and better improve the use of state court system resources.

Day 2 – January 31, 2013

AGENDA ITEM I. FCTC recommendations to the Supreme Court on the NCSC Report

Judge Northcutt gave a brief overview of the FCTC recommendations to the Supreme Court on the NCSC report. The recommendations were grouped into four topic areas (funding, consolidation, digital document strategy and standards). Judge Northcutt explained that staff made a list of recommendations for the FCTC to consider and recommend to the Supreme Court. Recommendations can be made to the Court for consolidation and standards, however, for the digital document strategy and funding there are too many questions that need to be resolved before a recommendation can be made. Judge Northcutt advised he would put together a workgroup to take a closer look at these areas and come back to the funding subcommittee with some recommendations.

AGENDA ITEM II. Status update on CMS standards

Karen Rushing discussed the CMS standards and advised she is trying to get some direction. The clerks have looked at what has been done with TIMS and the viewer and their thought is the CMS has to contain all the data elements that will be necessary for the court to meet its needs through whatever viewer they have. Karen distributed a document that identified criminal and civil data elements that were presently in the clerk's systems for judicial viewers. She said it is less important to have standardized codes, but more important to identify standard descriptions for documents. This is an attempt to identify what the clerks believe a case management system needs to contain in order to provide the needed services of the court. Tom Hall said there is a standardized set of choices in the portal, so that no matter which county a filer is filing in the choices are the same and that also has to interact with the backend of the CMS. Judge Munyon suggested that Karen should work with Judge Stephens' subcommittee who did the CAPS standards to come up with a cohesive document. Judge Stephens asked about the use of a statewide convention for numbering documents in the file which would make it easier to identify the documents. Judge Reynolds indicated that labeling is going to be important and that is what we are moving towards.

Lisa Goodner asked about the TIMS report that Patty Harris presented. If the court approves this report, does that information become part of the case management systems? Chris Blakeslee explained that TIMS will pull data from the clerk's system and that is why the court model is being developed. Chris further explained that TIMS is at the OSCA level for the state reporting piece and the judicial viewers are at the local level. Lisa stated TIMS has the capacity to report data within this court data model that has been proposed to the court for us to be able to view data, so data has to come from the clerk's systems as that is where the data resides, initially. Chris reminded the FCTC that the clerks are not going to have all of this data so some of the data will come from other agencies.

AGENDA ITEM III. Certification subcommittee

Judge Reynolds stated the job of the subcommittee is to certify court viewers. The subcommittee developed standards and the FCTC adopted those standards. To date, Mentis Technologies is the only vendor that has been provisionally certified. Provisionally certification allows a vendor 6 months to meet certain standards to become fully certified. Mentis has until May 2013 to meet all standards. Mentis provides monthly status reports to update the subcommittee on their progress in achieving full

certification. Pioneer Technologies, New Dawn and the 13th circuit will demonstrate their product in February.

AGENDA ITEM IV. Moratorium on Remote Electronic Access to Court Records

Judge Hilliard wanted to thank OSCA staff for their hard work on this project. He discussed the work on the access security model and the changes. Judge Hilliard suggested there should be a structure or a plan to keep the model current and accurate with rules and statutes and who will be a keeper of the model. Karen Rushing asked if this is supported does this mean Clerks can make documents available over the internet. Judge Munyon stated this is a recommendation to the court and they would have to approve the model. Dennis Menendez asked once this is approved by the Supreme Court do all clerks have to put court records on the web or is it up to the clerk to determine that. Judge Munyon responded it would depend on how the Court writes the rule. Jannet Lewis said she thinks right now it would be optional because every Clerk has different abilities. Chris Blakeslee stated if the Supreme Court lifted the Moratorium the FCTC could possibly develop an approval process so everyone will not provide electronic access to court records at one time and the FCTC would be able to monitor the counties. Paul Regensdorf wanted to know if the document stated that this is the best effort to incorporate the legal requirements by statute however, in the event of any disagreement between this and any statute, the statute controls. Judge Munyon stated there was nothing in this document but she was sure that the Supreme Court will address that if they adopt this model. Paul explained if we are sending this to them, he suggested somewhere we say that. Judge Hilliard responded with submitting it with a suggested disclaimer.

Motion for the FCTC to recommend the Supreme Court to lift the moratorium on access to court records over the web based upon the security model.

MOTION OFFERED: Judge Robert Hilliard

MOTION SECONDED: Judge George Reynolds

MOTION CARRIED UNANIMOUSLY

Judge Hilliard discussed the summary of the bulk data survey results. There are more counties that sell data than do not. No images are sold at this time. Karen Rushing wanted to know why this committee is given permission to the clerk's to sell data that is authorized/required by statute. Laura Rush stated it was part of the privacy committee's recommendations. The court has taken the position that it is part of the court's policy to agree to the sale of bulk data as opposed to individual public records. Lisa Goodner advised that the court in a previous order wanted a recommendation from FCTC on the sale of bulk data. Paul Regensdorf wanted to know if the public and the lawyers who represent the public would be charged more than that marginal cost. Judge Hilliard responded no, unless there are statute changes. Sharon Bock stated she had an issue with the court rules and the statutory authority already given. David Ellspermann wanted to get clarification on confidential records and eliminating access to images under Chapter 119, F.S. Laura stated that the model deals with the release of images and the context of sale of bulk data. None of the Clerks are selling records at this point due to the moratorium. David Ellspermann explained that it is not to eliminate the clerk's ability to produce an image if it is redacted or held under the rules of confidentiality. It is a place holder if there will be any changes in the future to the language the FCTC is recommending. Judge Stephens stated he was unclear as to what the language was intended to accomplish when it was required by statute.

The Florida Courts Technology Commission recommends that the Supreme Court adopt a policy permitting clerks of court to provide bulk images to commercial and other users of court records at the statutory costs for copies of, or remote access to, court records under section 119.07, F.S., as incorporated by rule 2.420(i)(3), Florida Rules of Judicial Administration, within the restrictions imposed by the security access model.

MOTION OFFERED: Judge Hilliard

MOTION SECONDED: Karen Rushing

MOTION CARRIED: 14 approve; 5 against; MOTION CARRIES

AGENDA ITEM V. Technical Standards Subcommittee

Jannet Lewis reported to the Commissions that the technical standards subcommittee looked into electronic signature formats of /s, s/, /s/. The technical standards subcommittee recommends changing the language in the Standards for Electronic Access to the Courts. Judge Munyon wanted to know if this standard complies with the rules of judicial administration. Jannet stated that the rules of judicial administration indicate /s/, but in the federal courts they indicate the 's' on either side. Judge Munyon was concerned with adopting something that was contrary to court rule. Judge Stephens indicated that the RJA committee put together an outside report and is asking the Supreme Court to change that in exactly the same fashion the standards committee recommended.

Motion to modify section 5.0 Electronic Signatures, of the Standards for Electronic Access to the Courts to include "Electronic signature formats of /s, s/ or /s/ are acceptable."

MOTION OFFERED: Jannet Lewis

MOTION SECONDED: Ted McFetridge

MOTION CARRIED: UNANIMOUSLY

Judge Stephens said /s is not an electronic signature and is easy for someone to forge. He would like the technical standards subcommittee to work with the RJA committee to tweak the language on validating authentication. Tom Hall advised there is a Florida Electronic Signature Act and the FCTC needs to make sure the standards are in compliance with that Act. Murray Silverstein said the FCTC needs to be consistent with the RJA committee.

AGENDA ITEM VI. Reports Subcommittee

Ken Nelson advised at the last meeting the reports subcommittee summarized the results received from the Standards for Electronic Access to the Courts survey. The survey results are posted on the Florida Courts website http://www.flcourts.org/gen_public/technology/bin/SurveyResponseByCircuit.pdf. There were 134 possible responses, 97 were received, of those 66 stated they were only storing TIFF images, 8 responded that they were storing TIFF and PDF. Ken wanted the commission to make a decision on mandating PDF as a standard. He also asked if a TIFF image is ADA compliant. Judge Munyon advised this was one of the bullet points in Judge Northcutt's tasks for assignment. Ken stated the subcommittee will

be working on revising the Integration & Interoperability document. The subcommittee will also work with Alan Neubauer on creating an online database to track the inventory and detail that was previously in the technology operations standards. Melvin Cox wanted clarification as the rule stands today if a clerk CMS stores the image as a TIFF and they provide either paper or searchable document to the judge are they in compliance with the rule. Chris Blakeslee indicated they are with the standards. Judge Munyon stated they have to comply with ADA and other federal and state statutes. Ken advised there is an e-service rule that states attorneys must serve each other with searchable PDF documents. Tom Hall indicated that the statute requires a document to be ADA compliant. If you take a searchable PDF document and convert it to a TIFF for the purpose of storage, you have created a document and that document should be ADA compliant. Lisa Goodner advised the e-filing standards allow for storage in TIFF and there are a lot of issues that need to be resolved. Alan Neubauer stated there is not a single document that is stored on any electronic media that is accessible. None of us are capable of reading electronic ones and zeros. How the document is presented at the time it is requested is what is important. That is why the standard right now permits storage of TIFF images. Judge Munyon stated each of the clerks will have to make their own decisions until the FCTC comes up with a more definitive standard.

AGENDA ITEM VII. Update on Implementation of ITCAS (Integrated Trial Court Adjudicatory System)

Lisa Goodner reported that the Courts received about five million dollars in the National Foreclosure Settlement Fund. Around \$3.7 million was provided for technology for the trial courts. This funding will help build the interface between the local clerk CMS and the judicial viewer. This gives the judges the opportunity to use electronic documents. Of the twenty circuits, sixteen circuits requested funds for hardware, software and programming cost to build these interfaces within their circuits. The third, seventh, eleventh, fourteenth and eighteenth circuits are not sufficiently far enough down the road to be able to build a judicial interface. There is another chance for supplemental funding, as there is another \$2 hundred million of settlement money to be appropriated. OSCA is drafting another request to the legislature that focuses on the five circuits that did not request funding. A judicial viewer will be in every circuit.

AGENDA ITEM VIII. E-Warrants/e-Signature Initiative

Charlie Schaeffer gave a presentation of e-Warrants and e-Signatures. He advised the Palm Beach Sheriff Office approached FDLE about expediting electronic search warrants and at the same time FDLE was looking into expediting arrest warrants. In the ninth circuit, Judge Perry sent a request to lobby legislation discussing electronic signatures for arrest/search warrants. The issue is identity management for signing documents electronically and who is signed on and what role do they play in identity. FDLE was given a grant to prove a warrant could exist from birth to finish in the electronic world. Some of the main subjects focused on were data quality, lessen data entry errors and shorten the timeframe warrants. Charlie explained there is a finite group of people who can request and approve a warrant and FDLE wants to get the right tools to the people processing the warrants. FDLE completed the initiation phase and conducted design workshops. A prototype will be deployed in the summer and a pilot implementation will be done in the fall. FDLE plans on going to the Legislature with the results to see if the system can be rolled out statewide. He gave an overview of the flow chart process of different levels according to

county process of e-warrants and a review of proposed legislation language for e-signature for arrest/search warrants. Ted McFetridge wanted to know where the pilot implementation was. Charlie said FDLE has been working with Lee, Dade, St. Lucie, Alachua, Okaloosa and Palm Beach counties. Judge Menendez stated that the Supreme Court upheld the electronic signatures in Agriculture. Charlie agreed that they have referenced that in their discussions.

Judge Stephens asked about challenging the validity of /s and identity management. Charlie indicated that he feels someday someone is going to challenge the /s and say how do you know that was the person that did that. The question becomes how did the /s get there. Paul Regensdorf said what if that /s came from an approved source that had your name and your credentials on it. Charlie said that would be ok, but how do you credential in an automated world. Ted asked if there is a better way to secure electronic signatures. Charlie indicated FDLE is looking into credentialing people based on their roles so FDLE can departmentalize what the individual can have access to. Judge Northcutt brought up the issue regarding authentication and the reasons for it. Charlie indicated the proposed legislation looks at how FDLE can make the sworn statement.

AGENDA ITEM IX. System Modification Application Form

Chris Blakeslee stated at the last meeting there was a discussion of approval processes of new CMS. The Notification of System Modification form was developed with the assistance of Karen Rushing and Randy Long. This form should be submitted to OSCA when a change that affects the judiciary is done. OSCA will compile the forms and give a status report at the FCTC meetings. Randy Long agreed to distribute the form to the clerks. Sharon Bock wanted to know if there was a disagreement with the chief judge where does it go. Judge Reynolds stated FCTC approval is required if clerks purchase a CMS system or make modifications to their CMS system. Judge Munyon suggested changing the form to Notification of System Modification and adding a box for appellate.

Motion to approve form with the modification of the title to Notification of System Modification and then adding a block for appellant

MOTION OFFERED: Judge Scott Stephens
MOTION SECONDED: Judge George Reynolds
MOTION CARRIED: UNANIMOUSLY

AGENDA ITEM X. Other Items/Wrap up

John Tomasino discussed Public Defender's not having access to juvenile records in CCIS. The Public Defender's Association has successfully tested with the FCCC and has drafted legislation that allows public defenders access to juvenile files. The Public Defender's Association would like the FCTC's support on the proposed legislation.

The next Commission meeting is anticipated for May 2013. OSCA staff will poll Commission members regarding their availability.