

Florida Courts Technology Commission Meeting

FCTC Action Items/ Summary of Motions

May 4, 2011

A regular meeting of the Florida Courts Technology Commission was held at the Supreme Court Building in Tallahassee, Florida on May 4, 2011. The meeting convened at 9:00 AM, Chairman Judge Judith Kreeger presiding.

Members of the Commission in attendance

Judge Judith L. Kreeger, Chair, 11th Circuit
Judge Manuel Menendez, Jr., 13th Circuit
Ken Nelson, CTO, 6th Circuit
Ted McFetridge, Trial Court Administrator, 8th Circuit
Judge C. Alan Lawson, 5th DCA
Dennis Menendez, CTO, 12th Circuit
Mary Cay Blanks, Clerk of Court, 3rd DCA
Thomas Genung, Trial Court Administrator, 19th Circuit
Karen Rushing, Clerk of Court, Sarasota County
James B. Jett, Clerk of Court, Clay County
Charles C. Hinnant, Ph.D., Florida State University

Paul Regensdorf, Esq., Fort Lauderdale
Murray Silverstein, Esq., Tampa
Judge Scott Stephens, 13th Circuit
Judge George S. Reynolds, 2nd Circuit
Jannet Lewis, CTO, 10th Circuit
Judge Lisa Taylor Munyon, 9th Circuit
Judge Stevan Northcutt, 2nd DCA
Laird A. Lile, Esq., Naples
Judge Robert Hilliard, Santa Rosa County
Kent Spuhler, Esq., Executive Director,
Florida Legal Services

Members of the Commission not in attendance

Jim Fuller, Clerk of Court, Duval County
Dale Brill, Ph.D., Florida Chamber Foundation
Carol Ortman, Trial Court Administrator, 17th Circuit
Judge Sheree Cunningham, Palm Beach County

OSCA and Supreme Court Staff in attendance

Alan Neubauer	Justice Barbara J. Pariente, Justice Liaison	Denise Overstreet	Maggie Geraci
Blan Teagle	Tom Hall, Clerk of the Supreme Court	Belynda Shadoan	Patty Harris
Chris Blakeslee	Jenna Simms	Gregory Youchock	Donna Brewer
Lakisha Hall	Andrew Johns	Candace Causseaux	Susan Dawson

Other Attendees

Steve Shaw, CTO, 19th Circuit
Craig McLean, CTO, 20th Circuit
Jon Lin, CTO, 5th Circuit
Ken Kent, Executive Director, Florida Association
of Court Clerks and Comptrollers
Melvin Cox, Director of Information Technology,
Florida Association of Court Clerks and Comptrollers
Jerra Chitwood, Leon County Clerk's Office

Fred Buhl, CTO, 8th Circuit
Craig Van Brussel, CTO, 1st Circuit
Isaac Shuler, 2nd Circuit Court Administration
Karl Youngs, Manatee County Clerk's Office
Jim Reynolds, ePortal Project Administrator,
Florida Association of Court Clerks and
Comptrollers
John Stott, Leon County Clerk's Office

The meeting began with Judge Kreeger welcoming the Commission members and other participants and calling the meeting to order.

Agenda Item I. Rules Update

Judge Kreeger thanked Paul Regensdorf for his work and efforts on drafting the Commission's comment to the rules petition for amendment to Rule 3.030 (Case No. SC11-399). Paul stressed the need to stay focused as we take the court system through the transition from a paper system to an electronic one. Every participant in court proceedings and the public will all be significantly affected; we are changing how everyone conducts their business with the court.

- Rule 2.420 – Rule on Confidentiality of Court Documents – amendments became effective in October 2010 and this rule prepares the field for electronic courts. The RJA (Rules of Judicial Administration) Committee is working on ameliorating any glitches. There are some issues that will need to be readdressed by the Supreme Court. The issue of e-filing is making its way to the Supreme Court, in an effort to move forward. The RJA will probably file its report with the Supreme Court in June 2011.
- Rule 2.425 – Minimization Rule – argued before the Supreme Court in February 2011. The petition proposes a rule that should minimize filing of unnecessary personal information in court documents. Personal identifiers should not be included in court filings unless required. Files should be scrubbed of all unnecessary personal information. As of the meeting date, the Court has not yet issued an opinion.
- Rule 3.030 – E-Filing – used to be rule 2.090. The Court requested all Rules Committees to come together and present one document/package for their consideration. The petition that the rules committees submitted is not entirely homogeneous. The Rules of Criminal Procedure Committee identified numerous types of documents that it proposed should be excepted from any e-filing requirement. However, as Paul stated, most of those particular documents appear to have any particular significance that would militate towards a requirement that they be filed in a case in paper form. Paul and Laird noted that wills and codicils are not “filed” with the court, rather they are “deposited” into the clerk’s custody. Paul noted that Chips Shore deserves credit for his work in opposing the exception. Judge Lawson asked how the proposed rule deals with documents that are filed in open court. Paul clarified that there is a general exception from e-filing for documents filed during court proceedings. Paul also recognized that implementation of any opinion from the Supreme Court would need to be phased in. The Court has yet to schedule arguments for this case. The period for to file any response to the comments is until May 23, 2011.
- Rule 2.516 – Email Service – oral argument is scheduled for June 8, 2011. Paul stated that this is less vital than e-filing, but some sort of electronic service is still necessary. It has been two years from inception to the scheduled oral argument. Email service could begin immediately upon the Supreme Court’s direction. There are some lawyers working on an ad hoc basis with email service; there are a number of entities working with email service – DOAH; 1DCA; PACER, among others. Paul mentioned that he had not heard of any issues concerning e-service from attorneys.

Judge Kreeger noted that this is a fascinating task. An orderly transition requires a network of new business practices and rules of procedure, together with a process to get there. This is that process.

Ted McFetridge asked for a quick refresher on how to find all of the rules changes. Murray Silverstein suggested that links to all rules cases related to court technology be placed on the FCTC's webpage.

AGENDA ITEM II. Committee Updates

Electronic Filing Committee

Judge Menendez provided a brief update on the number of e-filing approvals – 1DCA and 5DCA; 57 counties approved for multiple/all court divisions; 9 counties approved for probate division only; 1 county not approved. Judge Menendez then discussed the motion made at the February Commission meeting to expand the committee and suggested the motion be rescinded. Judge Kreeger added that rule 2.236 takes care of the functions and composition of this committee that were the reason for that motion.

Motion to undo motion made and unanimously approved at February 2011 FCTC meeting to request that the Supreme Court expand the E-Filing Committee by administrative order

MOTION OFFERED: Judge Manuel Menendez

MOTION SECONDED: Paul Regensdorf

MOTION CARRIED

Judge Menendez also mentioned that suggested updates to the e-access standards will be discussed later in the day. The E-Filing Authority Board and FCTC members worked on section 3.1.11 (Local Examination Process) and suggestions for simplifying and clarifying section 3.1.12 (Time Stamp) came after the February FCTC meeting.

Appellate Court Technology Commission (ACTC)

Judge Northcutt provided the update on the activities of the ACTC. In March the committee submitted a listing of apps for iPads and smartphones to the Chief Justice. Judge Northcutt then discussed the two appellate courts solutions – eFACTS and iDCA/eDCA. The iDCA/eDCA solution is in full use at the 1DCA and is in voluntary use in some suites at the 5DCA. The eFACTS solution is a two phase project – Phase I is an overlay on the current CMS (case management system); Phase II will replace the current CMS. Phase I implementation took place in April. Implementation in the Supreme Court will take place in May and the 2DCA will follow with implementation in June. Phase II includes moving the current functionality to the new CMS and acceptance of filings through the statewide e-portal.

Paul asked if the eFACTS would replace the 1DCA system. Judge Northcutt said the 1DCA was directed to develop a system for workers compensation cases. The Supreme Court will choose which system the appellate courts will use. All DCAs and the Supreme Court will use one system and the statewide portal. Ted asked if this will connect with the TIMS project. Alan Neubauer responded that all data used in the trial courts can be transferred to the appellate courts. Tom Hall added that data will help populate the system at the appellate level.

ePortal Committee

Judge Reynolds thanked the Leon County Clerk's Office, the 2nd Circuit Public Defender's Office, and OSCA staff for their work on drafting a list of envelope data elements for the remaining five divisions (County Criminal, Circuit Criminal, Civil Traffic, Criminal Traffic, and Juvenile Delinquency). The purpose was to identify what is needed to get a case started in the system. The next step will be to work with the various stakeholder groups - Prosecuting Attorneys Association; Public Defender Association; Sheriffs Association; Private Attorney; Department of Highway Safety & Motor Vehicles; FDLE; and DJJ – to review the list of elements. Only State Attorney's and Law Enforcement agencies can initiate a criminal case filing. All other filings will provide different information.

Judge Reynolds recognized that the criminal and traffic divisions are different from the civil divisions and varying methods can be used when filing electronically. Judge Reynolds asked if civil and criminal traffic filings should flow through the portal. Law enforcement agencies already file electronically, but should they be required to go through the portal? The ePortal committee proposed that in Criminal Traffic cases, Law Enforcement Officers will use TCATS; all others (SAO/PD/Private Atty) will use elements identified by this committee. As for civil traffic cases, legislation has been passed to allow for citations to be submitted paperless without signature. Citations are filed directly with the local clerk's office. Citation- based infraction filings should use TCATS elements, which is the existing standard.

Judge Reynolds also addressed the issue of a need for a uniform statute table. The ePortal committee recommended using the FDLE statute table. The significance of the statute table is three-fold: (1) the violation that causes the arrest (arrest phase); (2) what the defendant is charged with (charging phase); and (3) what the defendant is convicted of (court phase). It is counterproductive to not use the same information in all three phases. There is a disconnect with the information in all phases because the various State Attorneys use different categorizations. Tom Hall added that whatever is decided will should be highly configurable. He stated he is on a workgroup with the National Center for State Courts to create a nation-wide standard to allow for the U.S. Department of Justice to run statistics across all states. Karen added that it becomes difficult to match data when different identifiers are used. Judge Northcutt added that ultimately the legislature can change the statutes and requirements.

Motion to approve the draft list of data elements and allow for ePortal committee to work with the various stakeholders on finalizing the list

MOTION OFFERED: Karen Rushing

MOTION SECONDED: Laird A. Lile & Judge Robert Hilliard

MOTION CARRIED

The committee will need to communicate with the leadership of the various stakeholder associations, using the lists as a starting point, and then discuss the uniform table for reporting purposes. Judge Kreeger will contact each of the involved agencies by letter to request their participation. The committee will present a final list of proposed elements at the September 2011 FCTC meeting.

It was also suggested that the portal committee identify those elements that may allow "unknown" as a response that may allow a filing to be completed through the e-portal, i.e., essential elements versus non-essential informational items. Paul stated that the portal should not prevent the filer from filing any

differently than the filer would file in person. An additional column will be added to the criminal and traffic listing for subsequent filing requirements. Additionally, the requirements for the civil divisions, i.e. UCN, will need to match those requirements of the criminal and traffic divisions. OSCA staff will coordinate a meeting with the workgroup members to identify the essential and non-essential data elements among the civil elements that the FCTC previously approved.

Technical Standards Committee

Jannet Lewis provided an update on the Integration and Interoperability (I&I) document. She said it is essentially a very technical document that court technology officers use. She added that it is important that the document be kept current. The committee has been meeting via phone conference twice per month and then more recently weekly in an effort to finalize the document for the FCTC meeting. She discussed the changes that have been made – removed the section on e-filing and added sections on CLOUD computing, PDAs and handheld devices. Karl Youngs asked if he could ask a few questions he had regarding the content. Jannet reminded the Commission that these are minimum standards. Judge Reynolds added that a minimum standard on monitor size should be added for judges. He suggested that monitors for judges update to 22inches or such other size as may be approved by the chief judge. Judge Kreeger added that the Funding Committee will be working on issues related to costing out doing business in a paper world and an electronic world, i.e., hardware, lighting in courtroom, etc.

Motion to approve the document today and revise as needed. The I&I document is a “living” set of standards and will be updated yearly.

MOTION OFFERED: Judge Robert Hilliard

Motion to add “monitor that is 22inches or greater” to the document.

MOTION OFFERED: Judge George Reynolds

Judge Reynolds also suggested adding a section for courtroom bench computers, judge’s chambers, judges in the courtroom and judges individually.

Motion to revise the I&I document to include a separate standard for judges

MOTION OFFERED: Judge George Reynolds

MOTION SECONDED: Judge C. Alan Lawson

Judge Kreeger asked if Jannet and others would work during the lunch break and come back to the Commission with proposed language for a section on monitors for judges that would satisfy members. Judge Reynolds offered to assist Jannet with drafting the proposed standard.

Motion to accept the document as is, with the exception of additional section on standard for judges regarding monitor size.

MOTION OFFERED: Judge Scott Stephens

MOTION SECONDED: Laird A. Lile

MOTION CARRIED

Motion to revise language of I&I document – desktop standards section 3.2.1.1. – to include specifics for courtroom/hearing room, judge’s chambers, and judge’s portable devices.

Courtroom/Hearing Room

Monitors size: Courtroom and hearing room monitors shall have sufficient screen size that has the ability to display multiple electronic documents. 30" monitor or better preferred. Monitor placement should be in a manner that prevents obstruction of the judge's view of the courtroom or hearing room.

Judge's Chamber

Monitor size: 22" or greater with capability for dual monitors

Judge's Portable Device

Portable devices such as tablet computers should be provided to judges to allow remote access to court files.

MOTION OFFERED: Jannet Lewis

MOTION SECONDED: Judge George Reynolds

MOTION CARRIED

Funding Committee

Judge Northcutt stated that the Funding Committee is working with the National Center for State Courts on the proposal for a consultant to review the current funding structure for technology in the courts statewide, as well as funding options for projects on the horizon – e-filing, appellate courts solution, e-courts, etc. The committee expects the Supreme Court Court Administrator to apply for the grant from the State Justice Institute (SJI) in August.

Manatee Oversight Committee

Judge Menendez stated that the Manatee County pilot program for electronic access to court records completed a successful phase II. Karl Youngs from the Manatee Clerk’s office added that anything is possible at this point because the data is there; any time an attorney logs in, that attorney’s e-filing history is there. Karl Young made a request to move from a pilot phase and expand statewide. Judge Kreeger reminded the Commission that there is presently a moratorium in effect and asked that discussion about modifying or eliminating the moratorium be added to the agenda for the next Commission meeting to be held in September. She reminded members that the report given to the members the day before the meeting is a draft, and not a final report. She asked all members to read the draft report prepared by the National Center for State Courts, as well as other documents relating to the project, and be prepared for further discussion at the next meeting. Karl Youngs requested permission to continue to operate under the pilot project in Manatee County as well as eliminate the monthly reports.

Motion to relieve the Manatee County Clerk's office of the requirement to send monthly reports to OSCA and continue operations as the pilot project

MOTION OFFERED: Judge Manuel Menendez

MOTION SECONDED: Judge C. Alan Lawson

MOTION CARRIED

Paul added that public records are a big piece of this greater issue. The National Center for State Courts (NCSC) recommends statewide remote electronic access to court records. Paul noted that the report provided by the NCSC is a "draft" report and the Commission would need to have a "final" report before any action could be taken. Judge Kreeger reiterated that the Commission needs to give a considerable amount of thought to the issue. She asked the Manatee Oversight Committee, chaired by Judge Menendez, to come back to the FCTC in September with recommendations on any limitations on remote electronic access to court records that they may have based upon the final report from the NCSC. Karl Youngs volunteered to work with Judge Menendez and the committee on the directive.

Education & Outreach

Judge Kreeger notified the Commission that the chair of the education and outreach committee had to step down and thus there is no chair at the moment. She asked for a volunteer to chair this important committee. Murray Silverstein volunteered to serve as chair. He added that The Florida Bar needs to be heavily involved in the educational effort, especially as it relates to rule 2.420, as there is a lack of information and uniformity across the state. Judge Kreeger would like the committee to do more with CLEs and CJs, a more "nuts and bolts" type education. Alternative methods will have to be explored as there has been a reduction in education opportunities due to budget cuts.

Annual Reports Committee

Ken Nelson reported that the committee is working with the technical standards committee on the I&I document. There is also discussion regarding a database for CTOs to upload inventory information, as an alternative to the previous hard copy report submitted to the OSCA. The committee has also added a few more members to assist with its efforts.

AGENDA ITEM III. Commission's Yearly Report to the Supreme Court

Judge Kreeger noted that preparing the yearly report was a useful exercise as it provided the opportunity to review minutes of Commission meetings and email correspondence from the past nine months and reflect on the vast accomplishments of the FCTC. The first task of the Commission was to develop operational procedures, which are included as an attachment to the report and by way of the report the Commission requested that the Supreme Court approve those procedures. The report contains a summary of the activities of each of the formed committees/workgroups, as well as the activities of the ACTC and E-Filing Committee. Additionally, as discussed at the February FCTC meeting, the report contains a recommendation to the Court to mandate e-filing in Florida courts for all attorneys, using a phased in approach.

AGENDA ITEM IV. E-Access Standards

Judge Munyon provided an update on the proposed modifications to standard 3.1.11. Local Examination Process. At their February meeting, the E-Filing Authority Board recommended a workgroup be formed to modify the existing e-access standard entitled local examination process. Three members of the authority board and three FCTC members were asked to serve on the workgroup.

- Karen Rushing, Clerk, Sarasota County
- Jimmy Jett, Clerk, Clay County
- Chips Shore, Clerk, Manatee County (non board member)
- Judge Lisa Munyon, 9th circuit, FCTC member
- Mary Cay Blanks, 3rd DCA, FCTC member
- Laird Lile, FCTC member

The workgroup met in late March and proposed changes to the current standard. The proposed language is expected to address the receiving and review process for the clerk. No filing can be rejected. Any filing that conflicts with any court rules or standards or is unable to be accepted into the local case maintenance system will be placed in a pending queue. Those include:

- Documents that cannot be associated with a pending case;
- A corrupt file – which refers to a document that cannot be open or read; and/or
- An incorrect filing fee associated with the filing.

The document will be placed in the pending queue for up to five business days, during which time the clerk should attempt to contact the filer and correct the identified issue(s). The filer will be notified via email notification, or by logging on to the portal, of the status of the filing. If corrections cannot be made, the filing will be docketed as filed and processed for judicial review. Judge Munyon, on behalf of the workgroup, asked the FCTC to approve the proposed language for 3.1.11. Local Document Receiving Process.

Motion to adopt changes to Standard 3.1.11. Local Document Receiving Process

MOTION OFFERED: Laird A. Lile

MOTION SECONDED: Karen Rushing

MOTION CARRIED

The standard 3.1.12. Time Stamp/Acceptance of Filing was also discussed with proposed language for the Commission to consider. The standard was modified to not require a secondary stamp by the clerk's office. It will be up to the local clerk's office to add a second stamp to the document should that clerk deem it necessary. The official time stamp will be when the document is filed through the statewide e-portal.

Motion to adopt changes to Standard 3.1.12. Time Stamp

MOTION OFFERED: Paul Regensdorf

MOTION SECONDED: Judge Stevan Northcutt

MOTION CARRIED

AGENDA ITEM V. Trial Court Integrated Management Solution (TIMS) Committee

Judge Stephens and Greg Youchock provided an update on the TIMS project. They noted it was an audacious undertaking and the project has two main focuses – to gather more reliable and comparable data for the various uses by the Supreme Court, OSCA, chief judges, line judges, court staff, etc. as well as to ensure that a computer system is in place to enhance judicial case flow and work processes. Phase I of the project focuses on the needs of the court and is not to be limited based on the present availability of funds. Phase II will focus on how to accomplish the end results and to gain consensus on what is wanted/needed from the system and/or process to be considered successful. The FCTC TIMS committee has not yet delved into the work. The current project tasks are being completed by the Commission on Trial Court Performance and Accountability (TCP&A) and the Court Statistics and Workload Committee (CSWC). The OSCA's Strategic Planning unit is also working on the project by developing performance measures.

AGENDA ITEM VI. Legislative Update

Blan Teagle stated that session is on track to conclude on Friday, May 6th as planned. OSCA staff received the proposed budget for FY11/12 and it is under close review by staff. The court reform issue is no longer included; however \$400,000 will be appropriated for OPPAGA to hire a third party consultant to conduct a study of the state courts system. There is a projected \$3.8 million restoration to the budget - \$38.9 million additional appropriation for current fiscal year, which will cover June 2011 and repay the loan previously granted by the Governor for \$19 million. Should it be necessary, there is up to a \$52-\$54 million loan available for the first quarter of FY11/12. The allocations for Supreme Court Commissions and Committees have not been finalized. The chief justice will allocate the funds appropriated to the state courts system.

AGENDA ITEM VII. ePortal/eFiling Update

Melvin Cox provided the Commission an update on the e-portal and e-filing to date. Over 3,000 documents have been filed through the portal in counties including Miami-Dade, Broward, Duval, among others. The FACC anticipates that Palm Beach County will begin e-filing through the portal by the end of the current week. The FACC needs to build a technical interface between the portal and each county's local system. The FACC anticipates additional counties being added at a quicker pace over the course of the year. There are currently 20-30 counties actively testing on the portal test site.

Discussion then moved to electronic summons. Melvin said they hope to have electronic summons available through the e-portal.

Melvin Cox also discussed the standard regarding confidential documents (3.1.16. Documents Exempt from Public Access). A box was added to the portal for the filer to click to designate the file as confidential. In addition, the Notice of Confidential Information Within Court Filing will be available, as well as language explaining to the filer that if confidential information is contained within the filing, the filer should complete the Notice and file it with the document. Murray Silverstein asked if an acknowledgement/certification/disclaimer or the like needs to be added. Melvin Cox requested

language and Murray Silverstein agreed to draft something and work with Melvin Cox to finalize it. Paul Regensdorf added that there should be two boxes – one that states confidential information is contained in the document and the second box to select if no confidential information is contained within the filing. Paul Regensdorf and Tom Hall offered to assist Murray Silverstein with drafting the disclaimer language.

Laird Lisle asked if there was any feedback from attorneys who use the portal. Judge Kreeger asked the OSCA staff to draft a survey and work with the FACC to distribute it. Mary Cay asked what is the process to inform clerks when changes are made to the portal. Melvin Cox said that there is a release type update and added that the clerks will be informed of the newest changes regarding the examination process and rejections/acceptance of filings.

With regard to searchable documents, Melvin Cox said the local clerk makes the request about the format of the document - .pdf or .tiff, depending upon the local system. Justice Pariente added that if information received by the trial courts is not searchable and is not infinitely superior to paper copies, e-filing will not be successful. Jannet asked if there was a standard about what file type should be used, i.e. PDF/A. Justice Pariente stated that ideally the standards/format would match the appellate courts. Jannet will work with OSCA staff to review the appellate standards and draft similar standards for the trial courts. Tom Genung asked if counties will be able to continue to e-file outside of the e-portal. Judge Kreeger said that at some point there may be a recommendation to mandate e-filing through the portal, but counties that are currently e-filing will be able to continue with current practices. Justice Pariente said the goal is a system that is good for litigants, lawyers, judges, et al and to ensure that the system works in real life scenarios to effectively and efficiently process a case.

Appellate Courts E-Portal

Tom Hall and Belynda Shadoan presented the webpage for the Portal Authority. They anticipate final approval of the design at the June Authority board meeting. The webpage will serve multiple purposes – as the business page for the Authority board and as the main entrance into the statewide portal. The portal can be used for things other than simply filing documents, i.e. public records requests, etc. In the interim there is a link to the eDCA (1DCA e-filing system) which redirects the visitor to the 1DCA portal. All appellate courts have online dockets already, so visiting this webpage will just be another method to reach the respective court dockets. Filings filed through the portal will be fed directly into the CMS (case management system). Mary Cay asked if there is any way to automate documents into separate filings, should they be too large to file as a single filing. Filings can be created multiple ways, and they will need to work out issues along the way. Justice Pariente added that the Court is enthusiastically behind these efforts. Tom Hall reminded the Commission that as we move forward with e-filing there will be a number of revisions to the page, as well as the process. He added that the project is moving along well and that he hopes to roll out into a pilot phase soon.

AGENDA ITEM VIII. Other items/Wrap-up

Judge Kreeger asked OSCA staff to email Commission members and poll for their availability in September to hold the next FCTC meeting. The meeting will be two days in Orlando – 1 day for committee meetings and 1 day for the full Commission to meet. Details will be made available once

they are finalized. She thanked all those in attendance. There being no further business, the meeting was adjourned.