

# Florida Courts Technology Commission Meeting

## FCTC Action Items/ Summary of Motions

November 16-17, 2009

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### Commission Members Present

Judge Judith L. Kreeger, Chair, 11<sup>th</sup> Circuit

Judge Manuel Menendez, Jr. , 13<sup>th</sup> Circuit

Judge Gary M. Farmer, 4<sup>th</sup> DCA

Judge C. Alan Lawson, 5<sup>th</sup> DCA

Mary Cay Blanks, Clerk of Court, 3<sup>rd</sup> DCA

Judge Belle Schumann, 7<sup>th</sup> Circuit

Ken Nelson, CTO, 6<sup>th</sup> Circuit

Carol Ortman, Trial Court Administrator, 17<sup>th</sup> Circuit

Murray Silverstein, P.A., St. Petersburg

Paul Regensdorf, P.A., Fort Lauderdale

Ted McFetridge, Trial Court Administrator, 8th  
Circuit

Jim Fuller, Clerk of Court, Duval County

Kent Spuhler, Executive Director, Florida Legal  
Services

### Members Not Present

Judge Angela Cox, Duval County

Judge Marci Goodman, 1<sup>st</sup> Circuit

Judge Charles Williams, 12<sup>th</sup> Circuit

Sally Heyman, Miami-Dade Board of County Commissioners

### Supreme Court Staff Present

Tom Hall

### OSCA Staff Present

Lisa Goodner

Donna Brewer

Laura Rush

Greg Smith

Chris Noel

Jenna Simms

Greg Youchock

George Roberts

Chris Blakeslee

Blan Teagle

Sharon Buckingham

Charlotte Jerrett

Maria Arnold

Steve Henley

Rose Patterson

Barbara French

Lakisha Hall

### Other Attendees

Joe Brigham, Staff Director, TRW

Colleen Birch, Chief Legislative Analyst, TRW

Laird Lile, P.A., Naples, Florida

Paula O'Neil, Pasco County Clerk of Court

Ann Whiting, LexisNexis

Tom Genung, TCA, 19<sup>th</sup> Circuit

Doug Smith, CTO, 2<sup>nd</sup> Circuit

John Lake, CTO, 3<sup>rd</sup> Circuit

Jon Lin, CTO, 5<sup>th</sup> Circuit

Jannet Lewis, CTO, 10<sup>th</sup> Circuit

Dennis Menendez, CTO, 12<sup>th</sup> Circuit

Gary Hagan, CTO, 14<sup>th</sup> Circuit

Sunny Nemade, CTO, 17<sup>th</sup> Circuit

Steve Shaw, CTO, 19<sup>th</sup> Circuit

Craig McLean, CTO, 20<sup>th</sup> Circuit

Melvin Cox, Director of Information Technology,  
Florida Association of Clerk Courts and  
Comptrollers

## **Day 1 – November 16, 2009**

### **Agenda Item I. Welcome/Opening Remarks**

Judge Kreeger opened the meeting by thanking everyone for all of their efforts in meeting the requirements set by SB 1718. The E-Portal ITN Workgroup has been meeting via conference call every two weeks to develop an ITN. Statewide E-filing will begin in the Probate Division of the Circuit Court. The Probate Data Elements Workgroup has been working since August 2009, including meeting in person for 6 days (3 two-day meetings), to define the data elements needed for e-filing in the Probate division. Judge Kreeger has begun working with Jim Fuller and Karen Rushing from the FACC and Portal Work Group members to define additional information that should be captured at the beginning of the e-filing process, to ensure that a good case management system is created for each case type within the division.

### **Agenda Item II and III Technology Review Workgroup and FCTC Summary of Work of TRW as it relates to Work of FCTC**

Joe Brigham, Staff Director of the Technology Review Workgroup (TRW), offered a PowerPoint presentation that defined the role of the TRW. Mr. Brigham's PowerPoint presentation can be referenced for detailed information regarding the requirements of the TRW's proposed plan for identifying options for implementing the integrated computer system established in s. 29.008(1)(f)2., F.S. The following questions posed to the FCTC by the TRW will be addressed and answers will be provided to Mr. Brigham.

- What court functions need to be automated/ integrated in the various court divisions?
  - What is the recommended business priority and implementation sequence?
- What specific uniform technical and substantive standards have been or need to be developed?
  - What process is needed to implement such standards?
  - What is the recommended/established governance structure for ensuring compliance with such standards?
- What security precautions are necessary to protect confidential and private information in the automatic extraction of information in court records?
- Have any "user" fee-based funding models been identified for potential statewide implementation?
  - If such funding models were implemented, what role would the FCTC play in their statewide implementation?
- What role should the FCTC play to ensure adequate integration of technology?
  - What is the process for fully integrating the technology utilized at all levels of the State Courts System?
  - What criteria are used to determine what business process and systems must be integrated?
- What ongoing role does/should the FCTC play in technology integration in the State Courts System?

Although there was considerable member discussion during this agenda item, there are a few questions/answers of special interest provided below:

- Judge Kreeger asked Mr. Brigham if the results of the surveys would be available to the FCTC before the final summary is provided to the Legislature (the plan is due for submission to the Senate and House by February 1, 2010). He responded that he would have to check with his principals group.
- Ted McFetridge mentioned that basically everything in the court system is initiated with law enforcement and questioned whether they should have been included in this exercise. The response was that law enforcement was not included because the entity is not part of the statutory definition of the state courts system.
- Paul Regensdorf asked about including The Florida Bar in a survey. He also mentioned that the attorneys ultimately pay for many of the automated systems, but don't get included in the survey/inquiry level regarding the systems. Judge Kreeger also reiterated that the TRW should consider involving outreach to the attorneys. Mr. Brigham responded that TRW's thought process did not think the Bar should be involved in these initial steps. There is a possibility that the Bar could be included in the next steps, but right now, the Bar is not seen as a surveyable entity.
- Ken Nelson requested a blank copy of the survey that the County Commissions will be completing. Mr. Brigham indicated that the TRW staff would post that survey on their website so the members could access it.

#### **Agenda Item IV. Report on Rules of Judicial Administration Committee work related to FCTC**

Paul Regensdorf presented a draft Florida Rules of Judicial Administration - Service of Pleadings and Documents. This draft rule will address the reduction/elimination of paper and replace it with electronic versions of the documents. This rule does not impact the court. It will allow attorneys to work more effectively and efficiently with one another. Issues discussed with regard to this subject included:

- The need to require the electronic versions to save trees, paper, postage;
- Paul stated that email is as efficient as the paper process, and if an attorney does not want to provide the electronic documents they would have to show cause.
- The public would not be forced to use the electronic process.
- Compare this Rule to Rule 1.280
- Also need to address changes to the Electronic Filing Rule, especially as it relates to the portal.
- Five day rule. Is e-service the same as hand delivery or mail? If the email is sent after 5 p.m. it is treated as mail and the attorney has five days to respond.

Judge Kreeger mentioned that other rules will also be affected by the portal and they are being reviewed.

## **Agenda Item V. Status Reports from FCTC Workgroups**

**Portal ITN Workgroup:** Ted McFetridge stated that a Request for Information had been issued on October 7, 2009 and responses from 6 vendors were received. Currently, the workgroup is finalizing the Governance language of the ITN and should have a draft version completed and ready for review no later than November 25, 2009. The goal is to have an ITN ready for release to vendors in the first week of December, 2009.

**Subcommittee on Access to Court Records:** Judge Kreeger indicated that the committee was asked to recommend an effective date for Rule 2.420 and the recommendation is October 1, 2010. She believes the Rule will be adopted by the end of the year. The reason for the recommended delay in implementation is the need for massive education in regards to confidential/sealed information and filings. Murray Silverstein indicated he might be interested in providing education to lawyers for Continuing Legal Education credit on access to court records and confidentiality. Judge Lawson said lawyers should look at ethics rules. There is a section in the rules on sanctions for violations. However, we cannot educate the Bar about the new rule until the court approves the rule change. Paul Regensdorf reminded the Commission that Rule 2.420 does not talk about electronics, it talks about privacy. The proposed rule puts the responsibility on the filer - a cover sheet is being created for this purpose. Judge Kreeger established a User Policy Workgroup to address security issues pursuant to [AOSC07-59](#).

### **Manatee Project Oversight Workgroup:**

Chris Blakeslee reminded the Commission that it approved that the Manatee County Pilot Project proceed to Phase II during the June 15, 2009 FCTC meeting. However, at this time Phase II has not begun. A new General Counsel is going to be hired for the Clerk, and Manatee County is currently in testing phase. Within three weeks, they should begin Phase II. Phase II will be run for six months, then the National Center for State Courts will perform an evaluation and issue its final report. At that point, the final report will come back to the FCTC for presentation to the Court. We will need monthly interim reports as Phase II gets underway.

### **User Policies Workgroup:**

Pursuant to [AOSC07-59](#), Judge Kreeger has appointed a User Policies Workgroup to complete certain projects that originated from the Report and Recommendations of the Committee on Privacy and Court Records, as referenced in [AOSC06-20](#). The workgroup will be chaired by Carol Ortman. Please reference the User Policies Workgroup Summary for member information and responsibilities.

### **Probate Data Element Workgroup**

Tom Genung shared that the workgroup has identified the data elements required to implement e-filing for six case types within the Probate Division (Probate, Guardianship, Medical/Mental Health, Adult Protective Services, Marchman Act, and Trust). He stressed that standardization was critical in this process. Chris Blakeslee provided the definitions for "XML envelope" and "Schemas". The workgroup does need to reconvene to determine the searchable data elements for case management purposes as well as process flows. A meeting is to be scheduled for December 14-15, 2009. The Pending Probate Data Elements can be found at [http://www.flcourts.org/gen\\_public/technology/e-filinginfostatus.shtml](http://www.flcourts.org/gen_public/technology/e-filinginfostatus.shtml)

Kent Spuhler raised a question as to why “Hispanic Origin” was listed as one of the data elements on the Mental/Medical Health Data Elements Requirements spreadsheet. Staff later provided the ‘Cover Sheet to Agency for Health Care Administration’ form to the FCTC to show that on the form “race” is asked for and additionally, if the person is of Hispanic origin.

**Motion to Adopt the Data Elements Defined in the Documents (with the understanding that additional elements be submitted to the Commission for approval at a later date)**

**Motion to Utilize the 17<sup>th</sup> Circuit Guardianship Forms, Including the Schemas with Associated Forms**

Discussion: Jim Fuller states that he doesn’t particularly like the model, but the forms are ok. The motion isn’t beneficial to capturing everything. Tom clarified that the workgroup is not recommending the system, just the forms.

**MOTION PASSED BY UNANIMOUS VOTE**

**Motion to Approve Updated Language in the Standards for Electronic Access to the Courts with regard to replacing “cover sheet” with “XML Envelope”**

Discussion: Paul Regensdorf indicated that “XML Envelope” may make users feel that they did not have the necessary software to use the e-filing system and recommended “XML Envelope” be changed to “E-Filing Envelope”

**MOTION PASSED BY UNANIMOUS VOTE**

**FCTC Discussion to Recommend the Sequence of Divisions for Approval of New E-Filing Projects:**

Rose Patterson, Chief of Court Improvement, presented Dependency Talking Points to the Commission.

The Commission discussed Dependency versus Civil, and pros and cons for each division being implemented next were discussed. The question was raised as to whether both divisions could be implemented at the same time, but Chris Noel indicated that other OSCA units and/or statewide assistance would be needed as ISS staff is stretched with its current responsibilities and the numerous workgroups and committees already being supported by staff. Lisa raised the issue of identifying funding sources and Murray suggested funding from the Florida Bar. Judge Farmer suggested the Supreme Court call upon the Florida Bar to achieve this goal and provide compelling reasons to implement each division. Murray will draft a resolution.

The issue surrounding uniform docket codes was also discussed. Jim Fuller stated that docket codes are currently uniform. The local docket codes are translated to uniform codes once they are transferred into CCIS.

**Motion to Propose a Plan for the Orderly Implementation of the Following Divisions, In Order:**

Dependency, Criminal/Delinquency, Civil, Small Claims, Family, Traffic

MOTION OFFERED: Paul Regensdorf

MOTION SECONDED: Murray Silverstein

**MOTION PASSED BY UNANIMOUS VOTE**

OSCA staff will identify all case types within each division and provide to the Commission.

## **AGENDA ITEM VI. Legislative Update**

Lisa Goodner presented the Commission with the current budget situation for FY 2010-2011. Currently, a \$2.8 Billion shortfall is expected. The Legislature has requested agencies and the courts perform a 10% budget reduction exercise. On a positive note, the new State Courts Revenue Trust Fund is working – the incoming revenue to date has been sufficient in meeting the SCS' obligations for this fiscal year. Eighty percent of the filing fee revenues received have been from mortgage foreclosures, so the court is aware that the filing fee revenues will eventually decrease as the economy improves.

Lisa also mentioned an OPPAGA study will look at court functions and clerk functions. This report is due January 15, 2010. The TRW report will take into account the OPPAGA report. There has been no consensus between the clerks and courts on business processes.

**Day 2 – November 17, 2009**

**AGENDA ITEM VII. Governance Workgroup Update**

Tom Hall provided a draft version of the new proposed Rule of Judicial Administration for the FCTC to review. The primary purpose of the proposed rule is to establish a Florida Courts Technology Commission, modeled after Rule 2.230, which established the Trial Court Budget Commission. He indicated that if this Rule is adopted by the Supreme Court, it will be a fundamental change in the way the courts are operating. The rule would apply a system of governance that would provide statewide oversight regarding technology – all technical upgrades/changes would require approval by the FCTC. If adopted by the Supreme Court, this would create staffing and budget issues.

Lisa expressed her concern with the charge of the OSCA due to the mention of auditing requirements and new functions that would be required. OSCA cannot absorb these requirements internally. Also, the regulatory function of auditing has traditionally been beyond the scope of OSCA.

**Motion to Edit:**

**Section (b)(6): Add “for technology” before “to determine”; add “technology” before “policies”; add “technical” before procedures.**

**Section (c)(2): Delete “auditing the” from the section.**

**Section(c)(6): Delete “and supervise” from first sentence; Add “technology” before “policies” in the first sentence; Delete last two sentences from section; Move last sentence to Section (b)(14).**

MOTION OFFERED: Tom Hall

MOTION SECONDED: Ken Nelson

**MOTION PASSED BY UNANIMOUS VOTE**

**AGENDA ITEM VIII. FCTC Remaining Tasks/Projections for FY 10/11**

In regards to the defining of data elements, subject experts will be needed in determining requirements for each division. One or two lawyers from the substantive rules committees would be helpful. If we approach the Bar, we must articulate exactly what we need them to do. Additional divisions could follow Probate template or we could bring in consultants. The goal from the last JAD (Joint Application Development) session was to determine what judges need.

The next FCTC meeting will be scheduled in late January or early February, 2010. Another meeting will be scheduled before June 2010.

There being no further business, the meeting was adjourned.