

Florida Courts Technology Commission Meeting

FCTC Action Items/ Summary of Motions

October 10-11, 2012

A meeting of the Florida Courts Technology Commission was held at the George Edgecomb Courthouse in Tampa, Florida on October 10-11, 2012. 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, 9 th Circuit	Judge C. Alan Lawson, 5 th DCA
Judge Manuel Menendez, Jr., 13 th Circuit	Judge Stevan Northcutt, 2 nd DCA
Judge George S. Reynolds, 2 nd Circuit	Judge Scott Stephens, 13 th Circuit
Barbara Dawicke, Trial Court Administrator, 15 th Circuit	Judge Robert Hilliard, Santa Rosa County
Ted McFetridge, Trial Court Administrator, 8 th Circuit	Judge Martin Bidwill, 17 th Circuit
Thomas Genung, Trial Court Administrator, 19 th Circuit	Jannet Lewis, CTO, 10 th Circuit
Ken Nelson, CTO, 6 th Circuit	Paul Regensdorf, Esq., Jacksonville
Dennis Menendez, CTO, 12 th Circuit	Laird A. Lile, Esq., Naples
Mary Cay Blanks, Clerk of Court, 3 rd DCA	Murray Silverstein, Esq., Tampa
Karen Rushing, Clerk of Court, Sarasota County	Thomas Woods, Tallahassee
Sharon Bock, Clerk of Court, Palm Beach County	David Ellspermann, Clerk of Court, Marion County
Charles C. Hinnant, Ph.D., Florida State University	

Members not in attendance

Judge Sheree Cunningham, Palm Beach County
Kent Spuhler, Esq., Executive Director, Florida Legal Services

Supreme Court Justice in attendance

Justice Barbara J. Pariente

OSCA and Supreme Court Staff in attendance

Lisa Goodner	Tom Hall, Clerk of the Supreme Court
Alan Neubauer	Chris Blakeslee
Lakisha Hall	Candace Causseaux
Laura Rush	Eric Maclure

Other Attendees

Judge Judith Kreeger, 11 th Circuit	Judge Margaret Steinbeck, 20 th Circuit
Steve Shaw, CTO, 19 th Circuit	Fred Buhl, CTO, 8 th Circuit
Craig McLean, CTO, 20 th Circuit	Jon Lin, CTO, 5 th Circuit
Mark Van Bever, Trial Court Administrator, 18 th Circuit	Noel Chessman, CTO, 15 th Circuit
Chips Shore, Clerk of Court, Manatee County	Tim Smith, Clerk of Court, Putnam County
Tom Morris, Florida Prosecuting Attorneys Association	Levi Owens, ePortal Administrator, Florida
Ken Kent, Executive Director, Florida Court Clerks and Comptrollers	Court Clerks and Comptrollers
Melvin Cox, Director of Information Technology, Florida Court Clerks and Comptrollers	Randy Long, Florida Court Clerks and Comptrollers
	Henry Sal, Computing Systems Innovations
	Victor Lee, Computing System Innovation

Other Attendees cont'd.

Douglas Bakke, Hillsborough County Clerk of Court
Holly Kapacinskas, Florida Court Reporters Association
John Tomasino, Florida Public Defenders Association
Isaac Shuler, CTO, 2nd Circuit
Paulita E. Kundid, Florida Court Reporters Association
Donna Kanabay, Florida Court Reporters Association
Jessica Reyes, Orange County Clerk of Court

Brian Murphy, Mentis Technology
Dave Johnson, Mentis Technology
Marti Harkness, Senate Criminal and Civil
Justice Appropriations Committee
Laura Roth, Volusia County Clerk of Court
Deb Ivankow, Orange County Clerk of Court
Darrell Wilson, Image API

The meeting began with Judge Munyon welcoming the commission members and other participants and calling the meeting to order. Judge Munyon introduced Judge Bidwill and Sharon Bock as the two new members of the commission.

AGENDA ITEM II. Approval of May Minutes

Motion to approve the minutes from May 8-9, 2012 meeting of the Florida Courts Technology Commission

MOTION OFFERED: Laird Lile
MOTION SECONDED: Ted McFetridge
MOTION CARRIED UNANIMOUSLY

AGENDA ITEM III. ePortal/eFiling open discussion

Judge Munyon gave a brief overview of SC11-399 and discussed mandatory electronic filing. The Supreme Court has goals of a fully electronic court system and wants to provide public access to electronic records that are not confidential. The rule requires all attorneys to file electronically, serve each other electronically via email, requires clerks to maintain electronic court records and to convert paper records into electronic documents. The court also requires clerks to electronically transmit records on appeal to the appellate courts. The court recognizes the educational need for court staff, Bar members and the general public on electronic filing.

Judge Reynolds gave an update on criminal eFiling. The issue discussed was where a criminal case initiation should begin. Last year a workgroup identified the data elements necessary for the initiation of a criminal filing. In July of this year, another workgroup was formed to identify how criminal cases could be initiated electronically. It was decided that electronic transfer of booking information at the time of booking is the best place to initiate a criminal filing. The workgroup met and recommended pushing the responsibility of entering the data electronically from the clerks to the local jails. The jails would enter the data electronically and then forward the information to the clerks. The question was raised whether the court could control this because it involves law enforcement. The workgroup recommended writing a letter to the Florida Sheriff's Association asking them to cooperate with the court on seeking legislation making it a requirement for the jail upon booking to enter the information electronically in the system therefore initiating the case. Judge Munyon asked if most sheriffs already have electronic records for their arrests. Chris Blakeslee responded that most of the jails do with the exception of maybe two or three. Judge Menendez asked if standardizing coding for booking information among counties was discussed amid the workgroup. Judge Reynolds said it had been discussed along with a statute table. There should

be uniform data elements for booking. Lisa Goodner questioned why legislation was needed to require the criminal case initiation to begin at the jails. Judge Reynolds responded, the Supreme Court cannot order a local jail to do something, that has to be done under FDLE. Lisa Goodner said legislation is not necessary if all sheriffs formally agree to it. Judge Reynolds said the letter would ask for their agreement.

Motion to send a letter to the Sheriff's Association

MOTION OFFERED: Ted McFetridge

MOTION SECONDED: Tom Woods

MOTION CARRIED UNANIMOUSLY

Karen Rushing stated that there are various administrative orders throughout the state that require non-attorneys to electronically file documents, but the portal is only configured to allow attorneys to electronically file. Laird Lile wanted to know if the FCTC ever stated that only attorneys could file through the portal. The answer was that the FCTC decided to start electronic filing with attorneys and eventually move to pro se filers. Karen Rushing wanted to know if there was a way to add another class/role to the portal so that non-attorneys can file through the portal. Melvin Cox said roles could be added where bar numbers are not required. Judge Munyon said there is a statewide mediator database that the Florida Court Clerk and Comptrollers (FCCC) can ping off of like they do for the Florida Bar. Judge Munyon wanted to know how do you verify that a filer is of a specific role. Tom Hall said the FCTC needs to define a list of non-attorneys who will need to e-file through the portal. Murray Silverstein said there should be a certification tutorial that all filers would have to complete before being allowed to electronically file through the portal. The course could be made available on the portal website, Florida Bar website, court technology website, and OSCA website. Melvin Cox said the FCCC has documentation on using the portal but not an official tutorial. Judge Munyon suggested the ePortal subcommittee make a specific recommendation regarding which individuals should be permitted to file electronically.

Judge Reynolds discussed waiver procedures for clerks and attorneys as it relates to e-filing. The individual judge must determine whether to exempt an attorney from e-filing service on a case by case basis. He said clerks should be evaluated on a case by case basis to determine e-filing readiness and they should submit a waiver to the court if they are not ready to accept electronic filings. Tom Hall informed the commission that there is an administrative order coming out that says clerks at the trial court level have to apply to the court for a waiver if they are not filing through the portal even if they have their own e-filing system. Judge Reynolds said there are three types of exceptions for filing through the portal; 1) attorneys who are not ready to efile or do not want to participate, 2) clerks who are not ready to efile and 3) people who are already filing one way and do not want to change. Paul Regensdorf said he does not think it is a good idea to allow attorneys to opt out of electronic filing.

Judge Stephens discussed waiver procedures for non-party governmental and public agencies as it relates to e-filing. In July of this year, the Rules of Judicial Administration (RJA) Committee examined the issue of the type of process that should be in place for e-filing by pro se filers or non-party, non-attorney filers (non-party governmental or public agencies or business entities acting on behalf of them). At this point, a workgroup has been assigned by the RJA to establish a process and FCTC does not need to appoint a new subcommittee to address this issue.

AGENDA ITEM IV. ePortal users/filers

John Tomasino of the Public Defender's Association (PDA) wants any employee who works for a public defender to be able to file on behalf of any of the assistant public defenders who works at the leisure of that elected public defender. The PDA is requesting that one legal assistant who might be supporting between four and eight attorneys have the ability to log into the system and file on behalf of the attorneys employed by the elected public defender. They want support staff personnel to have their own credentials for logging into the portal and be able to file on behalf of any attorney within that governmental agency. Paul Regensdorf wanted to know if the PDA was asking for the support staff to have the ability to log in as a non-lawyer and file documents or for a generic login to be created and file documents. Regensdorf suggested there has to be some accountability for the documents that are filed and the lawyer has to have his/her name or bar number linked to the filing. The question is whether the public defender wants his/her name on every single pleading. Mr. Tomasino said each attorney would still electronically sign the documents and he is not sure if the bar number registered with the portal to do the filing actually does the filing through the portal. Tom Hall said this topic should be worked on more before this type of logon could be granted as this has huge implications. When rule SC11-399 came out, the Supreme Court received calls from huge law firms on designating email addresses and having other people file on their behalf. Murray Silverstein said it is a question of accountability and the RJA has recommended a revision to rule 2.515 which deals with signature of attorneys. Judge Scott Stevens said in the electronic filing world the event that binds the lawyer to the document and holds him/her responsible for the submission of that document in court is not the putting of /s on the word processor before it is printed out. Instead, it is the transmission of that document through a secured channel with an authenticated password. Laird Lile suggested speaking with the portal staff on arranging for users to have the ability to jump around the portal without logging all of the way out of the portal and changing user IDs. This will keep the accountability and avoid the need to log out and log back in several times a day. Tom Morris said the Florida Prosecuting Attorneys Association will encounter the same issues the public defenders are having. However, Mr. Morris said it is not a good idea from an information technology security standpoint to have multiple users for one logon. Paul Regensdorf questioned if someone files a document an attorney has signed using /s and uses another attorney's number, who is responsible for the filing of the document? Is it the person's whose name is on the document or the persons whose logon information was used to put it in the system? Tom Hall said under Florida's electronic signature law, when you receive a unique username and password and use it that constitutes an electronic signature. Judge Munyon asked Melvin Cox if he had any concerns about the technical issues. Melvin responded they might be able to set the portal up to allow a logged in user to tie a filing to an attorney and file another document and tie it to another attorney while logged in as one user. Tom Hall said at the appellate level there is a workbench type of concept that allows a firm the capability for someone to log on and put in all of the necessary information for a brief while someone else is finishing the brief and once it is ready the brief can be filed. This allows someone else to do all of the setup work, but the brief has to be approved by the attorney before it is filed. Tom Morris asked if the electronic signature that is following the document all the way through the process or merely a delivery method to get the piece of paper to the clerk's office. Paul Regensdorf said it is a delivery method. /s is just a means of signing. Murray said 2.515(c) deals with the form of signatures. The affixing of the electronic signature in whatever format is acceptable in the court of law as the signature of the transmission. Mary Cay Blanks asked if the certification of confidentiality is done through transmission how that affect the electronic signature. Murray responded, you have the document you are signing by electronic means and then the transmission of the document is also being certified that information in the document follows confidentiality and minimization rules. Mary Cay said if the lawyer is not responsible for the transmission of the document the certification should be in

the document. Once the lawyer puts the electronic signature on the document he/she is free and clear then the transmission can be done by anyone as well as the certification. Murray said the certification language on the portal was changed to say, "The attorney filing, or directing and authorizing this filing (including all attachments), certifies that it contains no confidential or sensitive information, or that any such confidential or sensitive information has been properly protected by complying with the provisions of Rules 2.420 and 2.425, Florida Rules of Judicial Administration." The point is all responsibility resides with the lawyer filing no matter what.

Motion for the FCTC to request the parties that have issues to identify them and discuss with the managers of the ePortal system solutions other than issuing credentials for non-attorneys at this time and to report back to the commission and not take any other action

MOTION OFFERED: Laird Lile

MOTION SECONDED: Paul Regensdorf

MOTION CARRIED UNANIMOUSLY

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

Levi Owens gave a presentation on the status of the portal. As of September 30, 2012, there were 15,449 registered ePortal users with 168,845 total filings. Circuit Civil still leads in the types of cases filed at 37% and Family is right behind with 32%. At present, fifty-two counties have the capability established for civil efilings through the portal. Judge Reynolds asked if anyone was going to have to apply for a waiver. Levi Owens said by April 1, 2013 all clerks will be able to receive and store documents electronically. Judge Kreeger said getting the electronic document is not effective if the judge is not able to use the document electronically. Until there are case management systems in play to use those electronic documents in a meaningful and efficient fashion nothing really has been accomplished. What has been accomplished is shifting the burden of printing the piece of paper from the lawyer's office or the filer's office to the court. Tom Woods wanted to know if staff was tracking where the court is in relation to case management. Lisa Goodner said the court is tracking that information. A chart has been created of all case management systems used across the state and some analysis based on the system each county is using for their readiness to implement a judge viewer. Sharon Bock wanted to know if there was a subcommittee established to look into the issue of making sure the case management system is set up structurally. Judge Munyon said there is a committee that has established standards. Ted McFetridge wants to add a report to the eFiling Readiness report on how many clerks will still be printing efiled documents and scanning them into their document management system. Judge Munyon said it would be helpful to know those who truly have established the electronic path and those who have not and when they anticipate that final step will be taken to establish the path. Levi Owens said he could provide that report but he would need direction from the E-Filing Authority Board.

Levi Owens discussed the readiness of mandatory efilings in the appellate courts. Tom Hall said there was discussion in the Access subcommittee meeting on whether the electronic record that comes up from the trial court will be the redacted version, the unredacted version or both. The Access subcommittee determined they were not the appropriate body to make that decision and that it be taken up with the ACTC. Karen Rushing said it would be helpful to have information technology people look at the issue and determine which would be the most efficient way to do that. At the local level it would probably be hard for the clerk to send two versions and at the appellate level it might be burdensome to strip out the

redacted version so that the document could be viewed. Judge Northcutt said it would really depend on why the document was redacted. Tom Hall said he thinks it will depend on what access to electronic records is ultimately given to the public. The 1DCA makes the electronic documents available to the attorneys and the parties in the case and no one else.

Levi Owens next discussed the portal readiness to accept criminal efilings. He stated the portal at a trial court level is 100 percent ready to accept filings. Data elements for existing cases are part of the portal. Currently, twelve counties have been identified for the criminal pilot program and are determining if state attorneys and public defenders in their circuit will be able to participate in testing and live efilings verification existing criminal cases. He said the FCCC is on target to make the October 1, 2013 mandatory deadline for criminal efilings. Judge Bidwell wanted to know the current limitation on batch efilings. Levi Owens said there are limited resources to make those coding changes.

Tim Smith discussed the funding of the portal. Approximately \$3 million has been spent on the portal to date. The statement of work (SOW) initially did not indicate that the portal would be responsible for eService. However, funding needs to be identified for support desk for efilers, notification of filing and maintenance of the portal which are all items that were not anticipated in the initial scope. Judge Munyon said eService was in the Interlocal Agreement as well as Section 3.1.1.7, Electronic Service of the SOW. Tim Smith said scope meant notification. Murray Silverstein asked how much it would cost to add eService to the portal. Tim Smith said the Authority Board currently does not know the exact figure; however, they are gathering that information to provide to the FCTC. He also said if the portal was supposed to provide eService, why the Supreme Court would issue an order saying eService had to be done amongst attorneys. Murray Silverstein asked what type of registration/user fee the FCCC has in mind for funding the portal. Tim Smith suggested enhanced service subscription fees. He said the parties need to get back together to amend the agreement. Ken Kent said notification is what was initially agreed upon in the Interlocal Agreement and SOW. SC11-399 was not in place when the agreements were signed; therefore, new rules implemented after the fact does not fall into the scope of the original agreements. Judge Kreeger said the Office of the State Courts Administrator (OSCA) created a proposal to solicit bids to build a statewide portal. In 2009 the clerks had already developed the portal without consulting the court. The court sat down and negotiated in good faith with the clerks and the clerk's assurances to the court at that time were 100% it would not cost the court any money because the clerks had already paid for the portal. All of the rules surrounding the implementation of the shift from a paper system to a digital court record system were in process. The rule process takes time for those court cases to find their way up to the Supreme Court, but they were in process and they were contemplated in order to implement this shift to digital court. Neither Service nor maintenance is anything new. Judge Munyon recalls that existing systems such as Pacer were used as models for what the courts wanted and they contain eService. eService was always a part of the project. Tom Woods asked if the courts share in the risk would they share in the reward. Tim said the Authority Board needs to work with OSCA and FCCC to come up with an agreement on funding the portal. Judge Munyon asked if a funding model was in place for the portal and Tim Smith said no it's just in the beginning stages. Judge Northcutt said on a funding subcommittee conference call, Fred Baggett identified several things FCCC thought were outside the realm of the agreement and suggested OSCA and the FCCC go before the Legislature and seek additional funding options. A proposal was made on how to move forward with the portal. A request was made for the FCCC to get together with OSCA staff to open up their books and show where they were financially. The clerks then decided they would continue to fund the portal, but now the clerks are stating that they need help in funding the portal. Judge Northcutt wanted to know what kind of assurances the FCCC could give the FCTC on reaching the

end of having a portal that provides the functionality needed and how much it is going to cost. Judge Munyon wants a list of services the FCCC believes is not included in the contract so the FCTC knows the scope of additional items the FCCC is seeking funding for. Laird Lile said the FCTC needs to make a list of items it believes the portal should be doing but is not. Lisa Goodner said the contracts have termination clauses that would give the responsibility of the portal to OSCA if either party terminates. Terminating the portal within 90 days would send the state in chaos because OSCA does not have the expertise to support the portal. Lisa Goodner said there needs to be some clear understanding of what is FCCC's long-term commitment to the portal. Tim Smith said terminating the portal would be a last effort. He does not know one clerk who would want that to happen. FCCC has put a lot of work and integrity into developing the portal. He said the initial agreement should have included a regular time to review the agreement and see if the needs of all of the parties are being met. He suggested that OSCA work with FCCC to come up with a new agreement. Tom Hall wanted to clarify that Tim Smith was speaking on behalf of the FCCC and not the Authority Board. The FCCC is not interpreting the scope of the agreement correctly. Judge Munyon stated she was concerned about the representations made by FCCC. The FCTC made recommendations to the court based off of those representations. Judge Lawson said the FCCC needs to let the funding subcommittee know why they cannot meet the original scope identified in the contract and how they would meet the needs of the court. After such, the funding subcommittee would make a recommendation to the FCTC. Murray Silverstein said according to the contract, it is the responsibility of the Authority Board to call out the deficiencies of the FCCC and he wanted to know if the Authority Board intended to do so. Tim Smith said he would review the corrective action plan.

Melvin Cox discussed the portal time stamp issue. The portal stamps the date and time of every document filed in the top right corner of the document. The time is currently in Eastern Standard Time (EST). The portal has no way of knowing which time zone the document was filed from. Melvin said the time stamp complies with section 3.1.12 of the Standards for Electronic Access to the Courts. Judge Munyon directed the ePortal subcommittee to develop time stamp standards.

AGENDA ITEM VI. Future e-Service

Noel Chessman did a demonstration of e-Service in the 15th circuit. It was deployed in September 2012 and has approximately 1,300 users. It was developed to assist the judiciary in utilizing email service as authorized by Florida Rules of Judicial Administration 2.516. The system allows attorneys and pro se litigants to receive email service from participating judicial divisions. The system is not integrated with the clerk case maintenance system. The system loads email addresses weekly that attorneys have on file with the Florida Bar, attorneys can add up to ten alternate email addresses for their profile, the system imports a list of cases to which the attorney is party for the attorney to review, they attorney has the ability to dynamically designate specific secondary email addresses on a case by case basis and the system is compatible with the court administration's online scheduling system.

AGENDA ITEM VII. Rules Update

Paul Regensdorf discussed eService and what it means. Email service is an interim system the Bar has that allows documents to be served between attorneys. eService is the automatic service through the portal. eFiling is the preliminary step that takes data and sends it to the court. eAccess covers judges being able to work with files they have to have the interface and it has to be faster than paper. Back in early 2000 the court began to work towards an eCourt. Confidentiality of documents was one of the first steps the court took. The court entered an order that adjust 2.516 Email Service rule. RJA has a proposed glitch bill on

rule 2.516 that it is expecting to send up to the court. He said there are going to be adjustments to rules from time to time.

Karen Rushing said clerks are unclear if a certified copy is the redacted document or the original document. Paul Regensdorf said he does not think the clerk should certify a document that has confidential information in it. The certified copy should be what is publically available. Judge Reynolds wanted to know if he was a party in a case could he receive an unredacted copy of what was in the record. Paul said an issue was raised if the person who submits the document to the court and complies with rule 2.420 and then a week later decides he/she wants to have the order back; the question is what does the court file say as far as access. Paul said he does not think the clerk should be making a decision on access unless the information is perfectly clear that the information is no longer confidential and has been released by court order. Laird Lile said Judge Reynolds would not be entitled to the unredacted information unless the order specified the unredacted copy should be provided. Judge Reynolds said we're protecting ourselves from ourselves. Laird said that is the way rule 2.420 is being interpreted by the FCCC's counsel. Laird suggested RJA revisit rule 2.420. Judge Munyon suggested maybe the probate and family law sections of the Florida Bar write a letter to the RJA and ask them to address the issue of parties and attorneys representing parties on the case having unredacted access to information pertained in the case. Karen said attorneys are filing documents with three to four titles on the document. She wanted to know what the document get filed as so the court can most easily access it. Justice Pariente proposed educating attorneys on naming documents. Murray Silverstein recommended asking Alex Rieman, chair of the RJA to review the issue and develop some protocols or standardization. Tom Hall said he informed Alex of the issue and it is going to be an agenda item for the next RJA meeting. Paul discussed rule 2.236 which gives the FCTC authority to make policy decisions. Paul said the commission should be out front in thinking of the policy issues the court faces tomorrow and the members should come to the FCTC meetings with proposals and ready to discuss the issues. Judge Kreeger said the commission has acted on big policy issues. Judge Munyon said it would be a win for the clerks, the court, the lawyers, and the public if we had an adequate and functioning portal and electronic access to the court and eCourt. We have to work as one to accomplish that. She asked the eFiling Committee to look at policy considerations behind eAccess and portal filings. She asked the ePortal committee to look at what the FCTC hopes the portal will look like in the future and what functionality the portal can provide to the clerks and to the public. Judge Stephens questioned if everything should go through the portal. If that's the case, it needs to be made clear now. He suggested adopting a general policy approach that explicitly says what the portal should be used for so there will be uniformity in what is expected from the portal and then adopt another policy that says each court can or cannot develop systems on their own. Judge Munyon said she does not think the FCTC is ready to vote on that just yet. She thinks it needs to be vetted through a smaller committee and then bring the recommendation to the FCTC. Judge Menendez said the initial concept was everything was supposed to look the same regardless of what county the filer was in. Judge Munyon said this is a very broad issue. Tom Hall said the FCTC needs to think about policies that will allow clerks to send information to and from each other using systems other than the portal.

AGENDA ITEM VIII. Discussion of Report due to the Supreme Court November 1, 2012

Judge Munyon said the FCTC has to report on the recommendation of the ePortal Authority and the FCTC in regards to the time standards for eFiling. The OSCA, Supreme Court, DCA's and the ePortal Authority have worked together to develop new mandatory eFiling deadline dates for the appellate courts. Lisa Goodner discussed a chart detailing the dates outlined thus far. Mandatory eFiling for civil, criminal, the

Supreme Court and the DCA's will be accomplished April 1, 2013, October 1, 2013, December 1, 2012 and April 1, 2013, respectively. Judge Lawson said there's an order in place that allows chief judges to mandate efilng earlier. He wanted clarification that the revised order does not supersede previous order.

Motion for Judge Munyon to file a report to the Supreme Court that the FCTC has no objection to the phased-in approach recommended by the ePortal Authority in conjunction with working with the Supreme Court but would allow chief judges of each of the DCA's by administrative order to require efilng

Tom Hall said the report should also include the deadline for the electronic record on appeal.

Amended motion to allow Judge Munyon to include the deadline for the record on appeal in the report

Ted McFetridge asked about including the eService issue in the report as well. Judge Munyon said the Supreme Court asked the FCTC to report on the implementation schedule not the other aspects of efilng. Justice Pariente said if there's an issue about eService it should be included in the report so that the court could be aware of it. Lisa Goodner suggested including what efilng means. Some people are still printing and scanning the court file.

MOTION OFFERED: Paul Regensdorf

MOTION SECONDED: Laird Lile

MOTION CARRIED UNANIMOUSLY

Day 2 – October 11, 2012

Justice Pariente discussed the court's view on technology and moving towards an eCourt environment. She expressed her appreciation for everything the FCTC does in an effort to make the court accessible to all Floridians.

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

Judge Hilliard described the work the Access Governance Board had done to update the Statewide Standards for Electronic Court Access and the access security model. Judge Hilliard wanted to defer approval of the access security model in order to do more research and provide statutory sources for the access levels in the model. Jannet Lewis said one of the benefits of having the model is to reduce the redundant work that is being done around the state and figuring out how to apply the statute to application development. The goal was to develop a universal model. Judge Kreeger suggested contacting Tim McLendon. He worked with the access committee some years ago and made a master chart of statutory exemptions regarding confidentiality.

Motion to approve the updated Statewide Standards for Electronic Court Access

MOTION OFFERED: Tom Genung

MOTION SECONDED: Murray Silverstein

MOTION CARRIED UNANIMOUSLY

AGENDA ITEM II. TIMS Subcommittee

Judge Stephens gave background on the TIMS project. He simplified some of the previous presentations in a way that hopefully clarifies the vision of TIMS and offers less opportunity for confusion and distraction. There is a global TIMS project that was initiated as a policy matter by the Supreme Court several years back. That was developed basically to collect data for management and reporting. In the process of making sure we had good data for administrative people, it was decided we should support the function of judges doing their job and try to automate the function as much as possible. He described the Integrated Trial Court Adjudicatory Subsystem diagram. The CAPS standards which specify the ultimate functions the systems had to have were approved at the May FCTC meeting.

Motion to approve the Integrated Trial Court Adjudicatory Subsystem diagram with noted changes

MOTION OFFERED: Judge Robert Hilliard

MOTION SECONDED: Judge George Reynolds

MOTION CARRIED UNANIMOUSLY

Murray Silverstein asked that staff publish dates of all subcommittee meetings to the full commission so that members who are interested in participating in those meetings could.

AGENDA ITEM III. Review of Memorandum of Understanding

Lisa Goodner discussed the issue of access to local clerk data and CCIS. The intent of the MOU is to govern the access of the courts to local data. The OSCA and FCCC went back and reviewed the MOU and clarified some of the language. Primary changes in 1a were to address read-only access to the court data stored locally in the clerk's system and provide OSCA and the judiciary access to that data (clerks were concerned about this). This gives the court the ability to have a replicate database so the court can report for their own purposes and not interfere with the clerk's system. Language was added that allows courts to notify the OSCA if they feel information is missing or insufficient in CCIS. A procedure was set up that the court would notify the OSCA and OSCA would work with FCCC on remedying the situation. Also, the MOU sets forth the process for chief judges if they have the same kind of concern for a local database that they are using. A process for chief judges and clerks to look at those local databases and resolve the information questions that the judges have at the local level and take into consideration the cost the clerks would have to incur locally to do program changes to provide the requested data. Paul Regensdorf said 5a sites the old rule of confidentiality and needs to be changed from 2.051 to 2.420. He also raised the issue of public access to CCIS. Karen Rushing said the database was not designed with public access in mind. She said the access security model should be approved first because there are confidential records in CCIS and layers of security need to be established. There is still a moratorium. Lisa said reporting can come from different sources but CCIS would be the primary source of court-related data maintained by the clerks to be utilized in any statewide case reporting system(s) developed by the courts. The word management was removed and replaced with reporting systems. Judge Reynolds wanted to know if the MOU covers the judicial viewer systems. Will the clerks cooperate with court in implementing a CAPS system? Lisa said this agreement does not deal with that. It deals with case maintenance systems. Lisa said consultants were hired to develop a high-level implementation plan for TIMS. A map was developed that shows all case maintenance systems in use or scheduled to be in use in the clerks' office throughout the state. Once judge viewers are in use they can migrate. Karen said getting those standards developed were critical. Judge Munyon said the concept behind the standards was that any judicial viewer can be set on top of any case management system so that they are not inter-dependent on one another. Judge Reynolds wanted to know if the MOU addressed a clerk with a different case maintenance system than the vendor for the

CAPS system/judicial viewer will agree and cooperate with the implementation of the CAPS viewer on top of their case maintenance system. Lisa said the MOU did not contemplate that and does not deal with that level of detail. It was initiated from the interface from CCIS to JIS. Ken Nelson had issues with read-only access. In order to do calendaring data needs to be pushed back so access needs to be bi-directional. Also with read only access, someone is going to have to maintain that second database. If the court could get full access the court could do everything it needs. Ted McFetridge said the MOU tends to limit the courts access rather than broaden it. He said it should be local access and CCIS. He questioned having CCIS as the primary source to receive data because of the limitations and imperfections at the moment. The state should be able to get the data from anywhere it wants to and not be limited to CCIS. Lisa said we were trying to limit the number of interfaces built. Melvin Cox said he received a list of deficiencies in CCIS from Fred Buhl and he will take a look at those and address them with Ted. Alan Neubauer said if you have a large county do a query statewide and beat up a smaller county's case management system and they are not designed to handle that type of traffic flow and as a result the local county's performance is hurt. If you are doing a query within your circuit you will hit your local clerk database, but if you are doing a query outside your circuit you will hit CCIS. Ted said getting CAPS information should be addressed before voting on the MOU.

Motion to approve the MOU with changes recommended by the State Courts Administrator

MOTION OFFERED: Laird Lile

MOTION SECONDED: Judge Alan Lawson

MOTION CARRIED

AGENDA ITEM IV. Rule 2.526 Accessibility of e-filed documents

Alan Neubauer said there was a question that rule 2.526 was in conflict with rule 2.430. Rule 2.430 address how all records transcripts, videotapes, and stenograph tapes are retained electronically. Rule 2.526 deals with the accessibility of efiled documents. The topic was discussed in a workgroup and the consensus was the standard does not define the technology required to store documents. Regardless of how documents are stored they need to be accessible when requested. Laura Rush stated that the two rules do not contain a conflict of interest and does not recommend a change to either rule. Levi Owens asked if documents need to be filed as ADA compliant and searchable or if they need to be stored as ADA compliant and searchable. Alan said how a document is stored is important, but it is second to accessibility. When it is stored on a disc it is stored as ones and zeros. However the application that does the presentation to the user needs to be able to present the document in a way that is accessible and searchable.

Chris Blakeslee discussed the process in place for implementing an eProcess. Currently, an application has to be completed and OSCA sends it to the eFiling Committee to get approval. Several people have inquired why eSignatures have to be sent as an approval. It is pretty standard right now. OSCA is asking that eSignatures be approved without having to go through the eFiling Committee and can approved at the local level. There is a standard process in place and it is common. Tom Genung asked what electronic processes need to be instituted at the local level without approval. Chris said if it's a process that affects the court it needs to come before the eFiling Committee. The committee does not have a list. Judge Munyon said the FCTC approved standards for when things needed to come before the commission. If

there were significant changes in a system that affects the court, such as the clerk's case maintenance system, it had to come to the commission for approval, but that is not happening.

Motion to discontinue sending eSignatures to the eFiling Committee for approval

MOTION OFFERED: Paul Regensdorf
MOTION SECONDED: Judge George Reynolds
MOTION CARRIED UNANIMIOUSLY

AGENDA ITEM VIII. Committee Updates

Appellate Court Technology Committee (ACTC)

Judge Northcutt gave a status on the eFACTS project. The committee has run into some problems with the interaction between eFACTS and the old case management system. As a result, they have postponed the rollout to the other courts until problems are fixed. The ACTC is working with OSCA ISS to translate some of the functionality of iDCA to eFACTS. The ACTC has approved electronic record technical specifications. The electronic record will be transmitted to the appellate courts through a hosted website and not the portal. Keep in mind this is just the transmission and not electronic filing.

Motion to adopt the technical specifications for electronic records for the appellate courts with the provision that changes will be reviewed after clerks have had a chance to look over them

MOTION OFFERED: Judge George Reynolds
MOTION SECONDED: Paul Regensdorf
MOTION CARRIED UNANIMIOUSLY

Funding Subcommittee

Judge Northcutt said the subcommittee is awaiting the report from the National Center for State Courts. In July, the consultants came to Tallahassee and met with the Chief Justice Polston, Judge Munyon, Judge Northcutt, and OSCA staff and discussed the TIMS system. A result of that meeting was the integrated trial court adjudicatory subsystem diagram that was presented by Judge Stephens. The report deadline has been extended to the end of December.

Education & Outreach Subcommittee

Judge Kreeger said there has been some difficulty in trying to get education going for judges. So far it appears the subcommittee will only be available to do distance learning. The OSCA staff will produce continuing judicial education programs and the Florida Bar staff has expressed a willingness to do so. With regard to educating lawyers the real challenge is reaching the 90,000 attorneys. The subcommittee wants to pull together any education material people have used to deliver information collectively and have that information available to local groups around the state. Judge Kreeger said the subcommittee is interested in putting together education material on privacy and public records and eFiling. Murray is going to reach out to the Florida Bar and local bar associations to make these programs available statewide. Laird Lile said the Florida Bar has provided notice to all attorneys about a free one hour webinar that can be accessed on the Bar's website. Judge Kreeger said there's still a lot of confusion in the judicial community about minimization. Paul Regensdorf said the biggest issues identified were in rules 2.420 and 2.425.

Reports Subcommittee

Ken Nelson reported to the Commission that the Reports Subcommittee has developed a survey dealing with the Standards for Electronic Access to the Courts. The results of the survey is over 500 pages long so the survey will be made available on the court technology website for those interested in reviewing the document. Another survey was sent to the court technology officers inquiring as to the case management systems that are in use in the circuits. There are 11 different systems being used. The subcommittee also plans on doing an online database that keeps inventory information on the court's hardware. Judge Kreeger wanted to know if the information would be forwarded to the compliance subcommittee and Ken responded yes.

Compliance Subcommittee

Judge Kreeger said the compliance subcommittee has not met because the one matter they were given seems to have resolved itself before the subcommittee needed to take any action. The subcommittee is presently waiting on information from the reports subcommittee to see if any county is not in compliance with the Standards for Electronic Access to the Courts. Judge Reynolds said it might be time to develop an approval process for systems. He said Clericus is being implemented in Leon County and he does not recall an application for approval being brought before the FCTC. Chris Blakeslee said a process is not set up to approve systems due to no standards currently in place for CMS'. Judge Reynolds said according to rule 2.236, any new system or modification of an existing system has to come before the FCTC and apply for approval. He said the clerks case maintenance systems should not be left out because they intertwine with the court case management systems. Judge Munyon said we need standards in place before we can approve systems. Karen Rushing said, focus on standards and then make sure whoever is selling their ware meets the standards. Paul suggested writing exceptions to the approval process until standards are created. Sharon Bock said there is a time constraint and financial constraint for the clerks. The concept of setting standards for vendors is the only process that will work. She said there is no one on the FCTC that has the skill set to look at what the clerks have to look at before they purchase a case management system. They are extremely complicated. She said it is not a small insignificant process. Infrastructure, size, and volume are all taken into consideration. Chris Blakeslee said developing case maintenance system standards would include organizations outside of the court. Judge Munyon suggested coming up with solutions regarding standards and perhaps the clerks could take the lead on developing standards. David Ellspermann asked if the courts will be standardizing. Judge Munyon directed OSCA to develop a notification form to notify the FCTC when a clerk makes major modifications to current systems, or implements new systems

Motion to exempt the clerks from the requirement of rule 2.236 that says systems have to be approved by the FCTC until standards are created and adopted

Jon Lin asked that a form or application be developed that notifies the FCTC and all of the people involved in using those systems. Laird Lile offered a friendly amendment.

Amended motion clerks can be exempt from the requirement of rule 2.236 that says systems have to be approved by the FCTC until standards are created and adopted and that once the notification is received clerks will receive corrective issue waivers until standards are developed

MOTION OFFERED: Paul Regensdorf

MOTION SECONDED: Karen Rushing

MOTION CARRIED

Judge Munyon directed OSCA staff to create a notification template.

Email Service “glitch” workgroup

Laird Lile reported on the email glitch rule. The workgroup was tasked with reviewing the email service rule, Rule 2.516, Florida Rules of Judicial Administration and identify glitches. He went over the letter of recommendation to the Supreme Court. The letter identified three glitches 1) electronic signature format (“/s”, “s/”, “/s/”) 2) the email service by the clerks was optional and not mandatory and 3) delivering a document via a hyperlink to the clerks website should be as good as attaching the document by email. The court dealt with the clerk issue as a supplement opinion on August 30, 2012 making it clear that the clerks did not have to serve by email. Judge Stephens was concerned about /s issue in rule 2.520. A pro se filer could file a document with only /s and it would be valid under what is proposed in the rule. Paul Regensdorf said rule 2.515 does not say how a document has to be signed. Judge Munyon said this issue is going to be taken up by RJA. She said uniformity is needed for electronically signing a document.

Certification Subcommittee

Judge Reynolds said the certification subcommittee is set up to review vendors or local court viewers (CAPS) and certify them. Standards have been developed that vendors have to adhere to in order to become certified. aiSmartBench is the only vendor that has applied for certification thus far. Provisional certification is offered for vendors who do not meet all of the standards defined. Dennis Menendez was concerned if a vendor is granted provisional certification is the vendor allowed to sell during that provisional period. Language should be allowed in the contract that money will not be paid until the full certification is met. Judge Stephens said provisional certification was added to make it possible for vendors who were not 100% compliant now but had a plan to become compliant. Provisional certification will have an expiration date.

AGENDA ITEM VII. Access to juvenile and mental health cases on CCIS

John Tomasino said currently the public defenders do not have access to juvenile or mental health cases through CCIS. He is worried when the mandatory deadline for criminal e-filing hits on October 1, 2013, the public defenders will be able to have access to their files because they will only be available electronically and they do not have access to CCIS. Randy Long questioned what access a public defender should have. Judge Munyon said the public defender would only have access to cases that they are the attorney of record. Paul Regensdorf said the reason the state attorney has access to the information is because they are a law enforcement officer. He said attorneys should have equal access to case information. Judge Munyon asked FCCC how long it would take to make public defender files available in CCIS if the access standards are approved and it is mandatory by the court. Randy said it would take time and money to make programming changes. He said it is difficult to deal with access locally. It needs to be done on a statewide level. Paul suggested using an Interlocal agreement between the clerks and CCIS.

Motion to direct the FCCC to work with the Public Defender’s Association and explore if this issue can be solved with an Interlocal agreement

MOTION OFFERED: Paul Regensdorf

MOTION SECONDED: Karen Rushing

MOTION CARRIED UNANIMIOUSLY

AGENDA ITEM IX. Other items/Wrap-up

Ted McFetridge wanted the record to reflect that although he voted against the MOU, he appreciates the importance of the document and the tremendous amount of effort from the State Courts Administrator and the FCCC to put the document together.

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