

Florida Courts Technology Commission Meeting

FCTC Action Items/ Summary of Motions

September 26-27, 2011

A meeting of the Florida Courts Technology Commission was held at the Orange County Courthouse in Orlando, Florida on September 26-27, 2011. The meeting convened at 1:00 P.M. on the first day, Judge Judith Kreeger, Chair, 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

Judge Sheree Cunningham, Palm Beach County

Charles C. Hinnant, Ph.D., Florida State University

Jim Fuller, Clerk of Court, Duval County

Barbara Dawicke, Trial Court Administrator, 15th Circuit

Paul Regensdorf, Esq., Jacksonville

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

James B. Jett, Clerk of Court, Clay County

Kent Spuhler, Esq., Executive Director, Florida
Legal Services

OSCA and Supreme Court Staff in attendance

Alan Neubauer

Lisa Goodner

Jenna Simms

Chris Blakeslee

Blan Teagle

Lakisha Hall

Tom Hall, Clerk of the Supreme Court

Susan Dawson

Other Attendees

Steve Shaw, CTO, 19th Circuit

Greg Chavarria, CTO, 11th Circuit

Sunil Nemade, CTO, 17th Circuit

Chips Shore, Clerk of Court, Manatee County

Ken Kent, Executive Director, Florida Association of
Court Clerks & Comptrollers

Melvin Cox, Director of Information Technology, Florida
Association of Court Clerks & Comptrollers

Mark Ware, Directory of Appeal, Jury, Mental Health
and Probate, Hillsborough County Clerk

Thomas Morris, IT Director, Florida Prosecuting
Attorneys Association (8th Circuit)

Jeff Taylor, Project Manager, Manatee County Clerk

Carole Pettijohn, Director of Technology Services,
Manatee County Clerk

Fred Buhl, CTO, 8th Circuit

Jon Lin, CTO, 5th Circuit

Bob Inzer, Clerk of Court, Leon County

Vickie Miner, Florida Association of Court
Clerks & Comptrollers

Jim Reynolds, ePortal Administrator, Florida
Association of Court Clerks & Comptrollers

Dave Johnson, Aptitude Solutions

Jeff Stanford, Director of System Development,
Hillsborough County Clerk

Bill Eddins, President, Florida Prosecuting
Attorneys Association (1st Circuit)

Melissa Bennefield, Florida Association of
Court Clerks and Comptrollers

Brian Murphy, Mentis Technology

Other Attendees cont.

John Tomasino, Public Defender, 2nd Circuit
Jami Gentry, Asst. to the Clerk, Orange County Clerk
Lee Anna Klele, US District Court, Florida Middle District

Lydia Gardner, Clerk of Court, Orange County
Steve Rumsey, Pioneer Technology Group
Sheldon Gusky, Executive Director, Florida
Public Defender Association

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

AGENDA ITEM II. Trial courts ePortal demonstration & AGENDA ITEM III. Clericus demonstration

Melvin Cox, Florida Association of Court Clerks and Comptrollers (FACC), presented a PowerPoint presentation and discussed the different types of systems (filing, case and access). A Filing system is the system by which information enters court records. An example of a filing system is the ePortal. A Case system maintains the official court record. An example of a case system is Clericus. An Access system may be at a local, county or state level and can satisfy a wide variety of needs. An example of an access system is the Comprehensive Case Information System (CCIS). The goal is to have a complete electronic process for court records from end to end that allows all of these systems to integrate with each another. Judge Kreeger asked Melvin Cox about the level of participation of clerks of court. Melvin Cox responded that by the end of 2011, 35 counties will have the ability to electronically file in all civil divisions through the ePortal. The goal is to have all 67 clerks connected to and using the portal by June 2012 in the civil divisions and December 2012 in the criminal divisions.

Melvin Cox began the Clericus demonstration by explaining that Clericus is a case maintenance system which the FACC developed for use throughout the State of Florida. Clericus is built in a layered approach; document management and workflows are also built into Clericus. Clericus can be integrated with judicial dashboards, state attorneys' systems, public defenders' systems and jail systems, and it provides documents in real-time through CCIS. Clericus encompasses all case types, and is a Microsoft-based application. It can be programmed to identify case requirements, fulfillment of those requirements, and to generate form notices and orders that address those requirements. Clericus is programmed with a number of reports that can be exported into Excel. In addition, Clericus allows plug-ins to create customized reports. Stakeholders within the court system are the only persons who will have access to such reports.

Commission members made various comments and suggestions while viewing the demonstration of the portal. Mary Cay Blanks questioned the usefulness of having filed "on behalf of" as an option when "primary party" was also an option. Melvin Cox stated at one point the FACC was told that a case could involve multiple plaintiffs. Karen Rushing suggested that "primary party" be removed if that designation does not relate to other necessary information. Judge Kreeger said it may be significant, depending on the case type. For instance, "primary party" is not significant in a probate case, but may be relevant in other civil case types. Judge Reynolds offered to have the ePortal committee follow up on this issue. The Commission continued to make suggestions to improve the look and user friendliness of the portal. Laird Lile said it would be helpful if a filer could view a document in an email before the document is attached and submitted through the portal. Melvin stated that in addition to the ability to save information and

return to it at a later date, this is an enhancement that the FACC is currently adding. Kent Spuhler suggested that there should be a drop down box to select the reason for requesting a waiver of fees. Melvin Cox said the FACC would have to develop a form that can be completed on-line. Murray Silverstein suggested adding the statutory reference for the convenience fee. Melvin Cox agreed that the FACC would update the portal to include the statute number and language. When a filing is submitted through the portal, a filing reference number is provided to the filer. This number is applied to all case related documents, until a case number is assigned. Tom Hall asked if the clerks would have access to the filing reference number and if the reference number would be included on all correspondence. The notice, sent from the portal, informs the filer "if you should contact the court about any document in this filing, please provide this filing number to help us locate this filing." Laird Lile suggested modifying the language to include "until a case number is assigned", since a case number will be included with subsequent filings. Mary Cay Blanks asked Melvin Cox about the "reject" button, to which Melvin replied that the button is being relabeled as "pending". The pending filing will be sent to a queue for further review by the clerk's office. A notice is saved on the portal and a notification is sent to the filer via email. Ken Nelson inquired about what type of document is being sent to the clerk from the portal. Melvin responded that the documents are in searchable PDF form, but the portal also has the ability to send a Word document upon request. With regard to security, Melvin stated that Clericus has different ways of securing information. The document can be sent to a queue for clerk review of confidential information and the clerk also has the ability to redact on demand.

Melvin explained that E-Citation is an automated process within Clericus that allows law enforcement officers to transfer information automatically into Clericus. Searches can be done by all demographic information as well as by a driver license number, but the searches can only be performed on local systems, not statewide. The clerk has the ability to create a new ID or add a citation to an existing ID.

With regard to e-filing, Tom Morris said it is difficult to design a local state attorney system before the clerk's system is operating. However, he believes that many state attorneys' offices will be progressing their designs towards utilizing the statewide ePortal, and will report their progress to the legislature in March 2012. Tom Hall stated that the public defender's office in the 2nd judicial circuit has been e-filing with the First District Court of Appeal for a while without experiencing any problems.

AGENDA ITEM IV. Public Access to Court Electronic Records (PACER) demonstration

Lee Anna Klele gave background information about PACER and the local Electronic Case File (ECF) system. ECF is the filing system, while PACER is the mechanism used to view and print documents. PACER is updated immediately when electronic dumps of ECF data are received from the district courts. ECF training is a 1.5 hours program, and requirements vary by district. In Florida's middle district the training is not required; however, users are required to complete the training in the southern district. Pro se litigants have access to PACER, but they are not allowed to file unless they receive special permission from the court in which they wish to file. Any pro se filer who is approved to file must first complete a tutorial and training.

Susan Dawson asked Lee Anna to briefly discuss any exceptions regarding criminal court documents that have to be filed in paper format, i.e. charging documents. Lee Anna said charging documents are

delivered to the clerk in paper form and are then scanned into the ECF system. Judge Scott Stephens wanted to know what happens to the paper document after it is scanned into the system. Lee Anna said the districts vary in their practices. The middle district keeps the paper in folders and files them. So in essence, the paper document is retained. Judge Stephens also asked if there is an OCR (optical character recognition) process to allow documents to be searched. Lee Anna confirmed that all documents can be searched. Jim Reynolds wanted to know how long PACER and ECF have been in existence. Lee Anna said PACER existed before attorneys could electronically file. Attorneys began electronically filing in 2004 or 2005.

Lee Anna explained some of the daily processes, such as the clerk staff running an activity report each morning to see what was filed the previous day. Each document has a 5 megabyte size limit. With regard to security and confidentiality, Lee Anna stated that attorneys are subject to sanctions if he/she submits a document containing confidential information. Paul Regensdorf wanted to know if use of the last four digits of the social security number is permitted in PACER. Lee Anna said that it is, because there is a federal statute which provides that the last four digits of the social security number can be included in a filing. Viewing restrictions can be placed on each document or on the case as a whole. Lee Anna discussed a few other features of the PACER and ECF systems: searches can be done in PACER by name or case number, every document has an “e-filed” stamp at the top of each page, an inter-district transfer event allows the sharing of documents between courts, and civil coversheets must be included with initial complaint.

Mentis aiSMARTBENCH demonstration

Dennis Menendez demonstrated aiSMARTBENCH, the case management system used in Manatee County. Mary Cay Blanks wanted to know how information appears on the judge’s calendar. Dennis responded that after the clerks schedule an event in their case maintenance system, that information is automatically loaded onto the judge’s calendar. Dennis proceeded to show that the columns were sortable, push-pins allows text to be highlighted, snippets allow sections of a document to be saved and a user may return directly to the saved document later, and how documents were available in a queue that a judge can sign individually or in batches. The find feature allows word search within a document or in the entire case file. aiSMARTBENCH provides the ability to compare documents side by side. Judges can keep notes on a case; the notes can only be deleted by the judge and are not available to the public. Judges also have the ability to merge cases. After a case is merged, an email is sent to the clerk’s office to assure that in fact the cases involve the same person. Ted McFetridge asked how a proposed order would get into the system. Dennis said the order could be scanned and sent to the judge.

Day 2 – September 27, 2011

AGENDA ITEM I. ePortal/eFiling update

Melvin Cox and Tom Hall gave an update about the statewide portal. Melvin said the goal is to have all counties connected and using the portal, at least to some degree, by the end of 2011. As of today, twenty counties are using the portal to some degree, and five additional counties are e-filing through local systems, and are linked to the portal. Melvin said the number of filings increased by 40% in August. Approximately 15,000 documents have been filed through the portal since January.

Karen Rushing said that e-filing has been available in Sarasota County since 2001, but the majority of attorneys will not efile because they are not familiar with the process and most people resist change. Karen added that strong leadership and training is needed, and she believes that attorneys will not e-file until they are required to do so. Dr. Chris Hinnant recommended performing a survey to gauge usage and to understand/uncover some possible barriers that inhibit people from using the portal. Melvin said the idea of a survey was brought to the Court E-Filing Authority, but they wanted to wait until more users filed by using the portal. Dr. Hinnant suggested looking at what the American Bar Association does. Tom Hall said appellate attorneys are eager to efile. Judge Munyon added that attorneys in Orlando love the ability to file documents at all hours of the day. Chips Shore emphasized that over 50% of attorneys are e-filing in Manatee County and added that if you have a system that is easy to use, the attorneys will use it. Paul said reluctance to efile is not a technology problem, it is a people problem. Melvin Cox stated that the FACC will continue to make enhancements to the portal. Technical discussions with the state attorneys' offices will continue as the FACC moves forward towards opening the ePortal to accept filings in the criminal divisions. Judge Reynolds wanted to know if the state attorneys will have to file through the portal or if they will be able to file directly through the clerk's case maintenance system. Melvin said he was unable to answer that question because the FACC has not had that discussion with the state attorneys. However, the FACC will program the portal to allow state attorneys to file through the portal by integrating with their local systems. Lydia Gardner, chair of the Court E-Filing Authority, welcomed feedback from users and stakeholders and reiterated that the system is not static. There will be improvements, and the goal is to get things working in the easiest way. Paul Regensdorf raised the issue of confidentiality, suggesting strengthening the confidentiality language on the ePortal by forcing the attorneys to confirm if confidential information is or is not contained within the filing. Murray Silverstein suggested including the applicable rule within the certification language. Paul recommended that the filer should have to check the confidentiality box each time he/she submits a filing. Judge Lawson said the confidentiality checkbox should be mandatory, and a filing should not be completed until certification is acknowledged. Laird Lile questioned if this language should be part of the Standards for Electronic Access to the Courts. Judge Kreeger agreed that it should and Murray Silverstein suggested adding the language to section 3.1 E-Filing Standards.

Motion to add the following certification statement to the portal "I certify that the filing transmitted through the portal, including all attachments 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."

MOTION OFFERED: Paul Regensdorf
MOTION SECONDED: Judge Manuel Menendez
MOTION CARRIED UNANIMOUSLY

AGENDA ITEM II. FCTC Supplemental Comment in Case No. SC11-399

Judge Kreeger gave background information on e-filing. She explained that e-filing is the means by which documents are transmitted to a local system, but it is not the means by which judges utilize those documents to do their work. In order for e-filing to be mandated, the court must have document management programs and other electronic features that enable its judges to use electronic documents. Judge Kreeger reminded the Commission that on February 2, 2011 they voted unanimously to recommend to the Supreme Court to phase in electronic filing and make it mandatory for all attorneys. On May 2, 2011, in response to In Re: Amendments to the Florida Rules of Civil Procedure, Florida Rules of Judicial Administration, Florida Rules of Criminal Procedure, Florida Probate Rules, Florida Small Claims Rules, Florida Rules of Juvenile Procedure, Florida Rules of Appellate procedure, Florida Family Law Rules of Procedure, Case No. SC11-399 (March 2, 2011), Judge Kreeger filed a supplemental comment of the Florida Courts Technology Commission urging that e-filing be made mandatory for attorneys in all Florida courts.

Judge Kreeger proceeded to outline the events that have transpired thus far. On August 8, 2011, the Supreme Court issued an order directing the FCTC, in consultation with the Board of Directors of the Statewide E-Filing Authority, within 30 days to submit an implementation plan for phased in mandatory e-filing by attorneys. The plan was to address any unique issues regarding implementation of mandatory e-filing in the criminal divisions of the circuit courts and criminal appellate matters. On August 15, 2011, Judge Kreeger filed a motion that requested rescheduling of oral arguments and an extension of time for filing the supplemental comment of the FCTC and the Court E-Filing Authority. Judge Kreeger met with OSCA staff and constituted the SC11-399 workgroup, consisting of the Clerk of the Supreme Court, two trial court clerks (representing an urban county and a rural county), the chair of the FCTC E-Filing Committee, the chair of the FCTC TIMS Committee, a Florida Bar Board of Governors member, a state attorney representative, a public defender representative, regional conflict counsel and private criminal defense counsel.

Before the first meeting of the SC11-399 workgroup, the FACC surveyed its members to determine the status of their technological readiness to commence receiving documents e-filed through the statewide portal. It was reported that all 67 counties had sought and received FCTC approval of their plans for e-filing in some or all divisions and 16 counties were receiving some documents that were efiled through the statewide portal. On September 8, 2011, the SC11-399 workgroup held its first meeting via video conference. Judge Kreeger asked the members to identify issues that challenge county clerks in implementing e-filing. They identified lack of resources and requirements for system conversion, as well as funding. In addition to legislative changes that should be made, criminal stakeholders will have to adapt their business practices in order to conform to an electronic world. On September 26, 2011, Ken Kent provided Judge Kreeger with an updated draft implementation plan recognizing disparate readiness across the state. FACC suggested setting some target dates for e-filing and those counties that are ready to e-file can move forward.

As the deadline to file the plan for phased-in implementation of mandatory e-filing by attorneys was near, Judge Kreeger informed the FCTC that she would like to request a 60-90 day extension from the Court to produce a workable plan. Judge Kreeger suggested an approach where a chief judge and the clerk of that county would let the FCTC know when they are ready for mandatory e-filing. Developing and testing the portal is essential and Judge Kreeger commended the clerks for their prudent approach in bringing counties onto the portal.

Paul Regensdorf said SC11-399 came about in an unprecedented package, through a proposal to amend Rule 3.030. Paul agreed that e-filing needs to be forced upon attorneys. In his view, resistance from the criminal stakeholders is a function of their just not wanting to e-file and not solely an issue of resources. He advocated that the FCTC needs to have a readiness process and give specific deadlines for mandatory e-filing. Once the technology is available, all parties should confirm their ability to e-file and move forward. Kent Spuhler was concerned with the legislature establishing unrealistic deadlines and that the court should remain in control of implementation. Unless the Court establishes reasonable deadlines, the legislature will come up with a date and expect others to comply; the implementation plan needs to include hard deadlines. Judge Kreeger stated that the legislature did not do an economic study; therefore, they are not aware of the amount of money that would need to be spent at the outset, in order to save money over time. She reported to the Commission that the OSCA applied for a technical assistance grant from the State Justice Institute (SJI) to hire a consultant from the National Center for State Courts (NCSC) to complete an analysis of the funding Florida courts need in order to receive, maintain and distribute court records electronically, to process cases using electronic records and to perform their accountability functions utilizing electronic data. The OSCA was awarded the grant from the SJI and will begin working with the NCSC on the analysis.

Ted McFetridge suggested that the 20 counties that are currently using the portal should be the first ones required to e-file. Jimmy Jett expressed his view that it is a fallacy to believe that judges are going to be ready for e-filing. Judge George Reynolds questioned if the FCTC was mixing e-filing and e-courts. He stated there will be a period of time, as the transition is made, where there will be paper and electronic filings. Judge Kreeger said the two need to go hand in glove; we may not have state of the art systems, but something needs to be in place. Ken Nelson said until new case management systems are in place it is ridiculous to enforce something and then have to change the processes. He suggested a process whereby if a chief judge refused to accept e-filing, the clerk could petition the FCTC to move forward without the chief judge's approval.

Laird Lile said he had a different interpretation of what the Supreme Court was asking for in SC11-399. He said the Court asked for a proposed phased-in implementation plan for mandatory e-filing, and he raised concerns about the FCTC requesting a second extension. He believed the Commission could establish a plan by the October 7th deadline. The plan could include and reference other issues that need to be considered, such as any issues with criminal cases, but not necessarily outline them in detail. Judge Kreeger said the FCTC invited the Court's request based on a recommendation it sent to the Court in the April 2011 annual report. Consequently, the Supreme Court asked for a plan as to how a phased in approach for requiring mandatory e-filing by all attorneys would be carried out, and a timeline for that approach. Murray Silverstein said a phased-in approach is doable, but at the same time barriers need to be identified. He agreed that the Commission should not delay the response to the Court in an effort to produce a "perfect" response; the FCTC should endeavor to meet the established deadline and submit a

response. Murray said in May 2010, The Florida Bar passed a resolution mandating e-filing. Jimmy Jett added that the Court E-Filing Authority is looking at challenges surrounding criminal e-filing, and recommended a two-phased approach. Phase one would begin the process and comply with the statute via “simple” e-filing. Phase two would include capturing the data elements that are being identified by the workgroups and move away from the “simple” process. Judge Lawson agreed with Laird Lile and believes the Court is only asking for target dates. Judge Menendez said when a clerk is ready to accept and transmit e-filings, the local court would need to respond with its readiness. If the court is not ready, the chief judge will need to give a plan for readiness, which would include a date when the court would be ready to accept and utilize electronic filings. Judge Lawson stated it was simpler to set general deadlines for everyone and if they can’t be met, a motion could be filed.

Murray Silverstein withdrew his motion.

Motion to circulate a skeletal draft of a phased-in implementation plan for mandatory e-filing between the SC11-399 workgroup and the FCTC and not request another extension

MOTION OFFERED: Murray Silverstein

MOTION SECOND: Laird Lile

MOTION CARRIED UNANIMOUSLY

Discussion continued as Susan Dawson reported how other states have confronted the challenges of receiving, maintaining and distributing records electronically. Susan said the e-filing committee in Kansas created an interim plan for their state and perhaps the FCTC should review that plan and follow Kansas’ method. Karen Rushing said the FACC has come to a consensus that all 67 counties should be ready to accept e-filed civil documents through the portal by July 1, 2012 and criminal documents by December 31, 2012. Kent Spuhler said if the clerks can make e-filing available, the court and lawyers need to be ready also. Judge Stephens believes the counties that want to do e-filing have submitted applications, and now a process needs to be developed for those counties that are not able to implement mandatory e-filing. Judge Cunningham reiterated that the only way to get people on board with e-filing is to mandate it. Jim Fuller informed the FCTC that in his county, the judges and judicial assistants are being trained on the processes surrounding e-filing and what everything will look like. Judge Lawson said the first step is determining when e-filing will be available and the next step is when e-filing should be made mandatory. Murray Silverstein said the FCTC is charged with compiling information and reporting it to the Court, and the FCTC, being the conduit, should take the lead.

Motion to recommend to the Supreme Court that by July 1, 2012, all clerks shall be ready to accept e-filings through the statewide ePortal in the civil divisions (defined as circuit civil, county civil, probate, family and juvenile dependency) and by December 31, 2012 for the criminal divisions (defined as circuit criminal, county criminal, criminal traffic, civil traffic and juvenile delinquency).

MOTION OFFERED: Paul Regensdorf

MOTION SECOND: Jim Fuller

Amend Motion to include the dates identified by the FACC: The FCTC shall accept, as a basis for the proposed plan, the dates identified by the clerks, based on readiness

MOTION OFFERED: Laird Lile
MOTION SECONDED: Murray Silverstein
MOTION CARRIED UNANIMOUSLY

Judge Menendez also thought it was necessary to specify that e-filing should become mandatory for all attorneys within a certain number of days or months after the July and December 2012 deadlines. Judge Reynolds wanted to know how the clerks arrived at the dates. Karen Rushing responded by saying the dates had been vetted and consulted through all appropriate entities. Mary Cay Blanks questioned whether these dates were to e-file through the statewide portal or through the local clerk's systems. Karen said the recommendation is through the statewide portal, but there may be an exception.

Judge Kreeger asked about the appellate courts. Paul Regensdorf said the current focus is on trial courts.

Motion that e-filing becomes mandatory in the trial courts, effective no later than nine months after July 1, 2012 for all civil divisions and nine months after December 31, 2012 for all criminal divisions

MOTION OFFERED: Paul Regensdorf
MOTION SECONDED: Murray Silverstein
MOTION CARRIED with 17 in favor and 5 in opposition

Judge Reynolds wanted one deadline and said it should be the same for both civil and criminal divisions. Bill Eddins said there are significant issues that are different in criminal case types. He thinks a separate date for the criminal divisions becoming mandatory is a good plan, as the criminal sector is just beginning to focus on electronic filings.

Amend Motion to include mandatory deadline for all divisions: e-filing become mandatory in all divisions of the trial courts 9 months after December 31, 2012

MOTION OFFERED: Judge George Reynolds
MOTION FAILED

The Motion remains the same. Mandatory e-filing should become effective no later than March 1, 2013 for all civil divisions of the trial courts and no later than September 30, 2013 for all criminal division of the trial courts.

Fred Buhl raised questions about wills and codicils being electronically filed. Laird Lile clarified that wills do not have to be filed; rather they are required to be "deposited". Judge Scott Stephens added that the FCTC is not trying to do away with evidentiary significance. Tom Morris wanted to know how long it typically takes for a clerk to get connected to the portal. He added that the state attorneys would have to change their system to be ready for e-filing, and that workflows will have to be built. Tom Genung asked Tom Morris what time frame the state attorneys would need to be ready to e-file. Tom Morris said that was difficult to answer because the clerk would first have to be ready to accept e-filings, and the state attorneys have to design a system on the front end. Judge Menendez said and Chips Shore confirmed that public defenders and state attorneys are electronically filing in Manatee County. Ted McFetridge believes that nine months is too long and the FCTC should look at 2012 dates. Kent Spuhler suggested that what has been established by the trial courts should coincide with the appellate courts as well. Judge Northcutt

said appellate judges require briefs to be emailed to them. The First District Court of Appeal requires all attorneys (including public defenders) to be a part of their eDCA system; eDCA is an electronic filing system developed for the Office of Judges of Compensation Claims. Judge Lawson said in order to be effective, the appellate courts would need the record to be transmitted electronically from the trial court. Tom Hall added that it will need to be confirmed that the record can be sent electronically. Karen Rushing said it may be an initial challenge to provide paper records electronically for large counties because all records would have to be digitized to send to the appellate courts. Tom Hall believes the appellate courts could make the July 1, 2012 deadline.

Motion that all appellate court clerks shall accept e-filings from attorneys by July 1, 2012 and e-filing in appellate cases shall become mandatory for all attorneys by October 1, 2012

MOTION OFFERED: Paul Regensdorf
MOTION SECONDED: Karen Rushing
MOTION CARRIED UNANIMOUSLY

Mary Cay Blanks questioned the effect e-filing would have on the DCAs submitting or transferring records electronically to the Supreme Court. Tom Hall said it could be worked out because the numbers are so small.

Motion that all clerks shall submit and transmit all records on appeal electronically and the electronic record shall be electronically indexed and searchable by the appellate court on or before December 31, 2012

MOTION OFFERED: Judge C. Alan Lawson
MOTION SECONDED: Laird Lile
MOTION CARRIED UNANIMOUSLY

Motion to allow clerks to implement e-filing before the established deadlines

MOTION OFFERED: Paul Regensdorf
MOTION SECONDED: Judge Sheree Cunningham
MOTION CARRIED UNANIMOUSLY

Judge Kreeger will send all motions passed by the FCTC to the Court E-Filing Authority for their consideration and discussion at their September 28, 2011 meeting.

AGENDA ITEM III. Manatee Oversight Committee

Judge Menendez gave background on the Manatee Model. He described the different phases of the pilot project. Phase I of the project allowed Manatee County to put certain documents on-line. Phase II allowed Manatee County to put all documents on-line. Phase II of the project has been up and running for about eight months. In April 2011, the National Center for State Courts (NCSC) submitted a final report that approved the pilot project. The NCSC included three recommendations in their report: 1) The pilot

should become a permanent court service; 2) The public access service should be provided statewide; and 3) No identifying data about public users (IP addresses, cookies) should be retained by the courts. The Manatee Oversight Committee has had several meetings discussing the report and the project. Paul Regensdorf expressed concerns about the level of access that the general public would have. Chips Shore explained that Manatee County has developed a security matrix and this matrix, based on docket codes, is used by his staff to determine the appropriate level of access for the user/requestor. Chris Blakeslee said OSCA staff plan to work with the FCTC annual reports committee to design a template and application that the clerks will have to complete and submit to the FCTC for approval, much like what is done now for e-filing. Jimmy Jett wanted to know why the clerks would have to apply for approval if the standards have been met locally. Judge Menendez said the application would serve as a means for the clerk to certify that they are in compliance with the adopted standards. Jannet Lewis' Technical Standards Committee is developing Statewide Standards on Access to Electronic Court Records, using the Manatee Model, reports from the NCSC, and the User Access standards as a starting point.

Motion to lift moratorium on public access to court records and each system that wants to provide electronic public access will have to comply with the Statewide Standards on Access to Electronic Court Records

MOTION OFFERED: Karen Rushing

MOTION SECONDED: Jimmy Jett

MOTION CARRIED with 12 in favor, 10 opposing, and 2 abstaining

Jimmy Jett said the FCTC should proceed with recommending to the Supreme Court that the moratorium on public access to electronic court records be lifted and the technical standards for public access be adopted. Mary Cay Blanks wanted to know if his proposal also included the permanency of the Manatee Public Access system. The response was yes. Murray Silverstein said that according to AOSC06-20, the FCTC needs to submit a report to the Court. Murray said the motion on the floor can still be approved because it is subject to adoption of the public access standards. Dr. Hinnant asked if the NCSC physically came to Manatee County to view the system. Chips Shore said NCSC came for phase one of the pilot, but not for phase two. Paul said the NCSC looked at a pilot in Manatee County, but not any other counties in Florida, to which he raised concerns that the other clerks may not code levels of security in a similar fashion, on the front-end. Chips said the matrix of security is determined based on docket codes and all clerks follow the process of determining levels of access.

Paul Regensdorf expressed serious concerns about lifting the moratorium statewide, as opposed to just in Manatee County. He believes there are issues with family law cases being available on a publically accessible website. Chips Shore said he understood that the FCTC was only going to vote on making the pilot project a permanent fixture in Manatee County and not address a recommendation about lifting the moratorium statewide. Tom Hall clarified that any recommendation by the FCTC to lift the moratorium statewide would still have to go to the Supreme Court for approval. Paul Regensdorf said there are two issues that the FCTC has not addressed. The first is F.S. 28.2221 - Electronic Access to Official Records - which states, "no county recorder or clerk of the court may place an image or copy of a public record, including an official record, on a publicly available Internet website for general public display if that image or copy is of a military discharge; death certificate; or a court file, record, or paper relating to matters or cases governed by the Florida Rules of Family Law, the Florida Rules of Juvenile Procedure, or the Florida Probate Rules." The second is the recommendation from the Committee on Privacy and Court Records

that automated search technologies not be prohibited. Paul said the FCTC has never discussed this second issue. Jannet Lewis said the User Policy workgroup submitted a report and did not agree with spider search capability. The workgroup stated, “[An] access system should not allow automated programs that search, index or copy court records. Entities seeking high volumes of data should enter into contracts for bulk records. Access by public, litigant, subscriber, and government users should incorporate mechanisms that require direct human interaction to view individual records methods and prevent automated program searches.”

Due to the fact that there were so many unresolved issues and concerns, Laird Lile suggested a revote after the Statewide Standards on Access to Electronic Court Records have been reviewed and approved by the FCTC. Judge Kreeger agreed and another vote will be taken by email after the Statewide Standards on Access to Electronic Court Records have been finalized.

Reconsider Motion to lift moratorium on public access to court records and each system that wants to provide electronic public access will have to comply with the Statewide Standards on Access to Electronic Court Records

MOTION OFFERED: Judge George Reynolds
MOTION SECONDED: Judge Manuel Menendez
MOTION CARRIED with 17 in favor and 2 abstaining

After the reconsideration of the motion was completed, another vote was taken on Karen Rushing’s original motion.

Motion to lift moratorium on public access to court records and each system that wants to provide electronic public access will have to comply with the Statewide Standards on Access to Electronic Court Records

MOTION OFFERED: Karen Rushing
MOTION SECONDED: Jimmy Jett
MOTION FAILED with 6 in favor

Discussion ensued and Paul Regensdorf suggested that the FCTC look at the spider search issue and study the probate, juvenile and family rules. Judge Scott Stephens said recommending the lifting of the moratorium may be premature.

Motion to give permanent status to Manatee County Public Access system and FCTC should prepare to approve statewide standards

MOTION OFFERED: Murray Silverstein
MOTION SECONDED: Mary Cay Blanks
MOTION CARRIED with 20 in favor and 1 opposing

AGENDA ITEM IV. Committee Updates

Appellate Court Technology Commission (ACTC)

Judge Northcutt reported that the ACTC met via teleconference in June. A printer refresh has been completed and a server refresh is coming up. Supplemental funding was received for the iDCA/eDCA system, which is used in the 1st DCA and 5th DCA. The requested funding will allow modifications to be made in order for the CMS and electronic eDCA system to communicate with respect to the parties, and will turn off the CMS portion that distributes notices via USPS. Currently the system is not integrated, thereby requiring the DCA to mail all attorneys and parties paper copies because the system cannot differentiate whether cases have been received manually or electronically. In addition, the system lacks the ability to generate orders in iDCA/eDCA and it does not support E-Vote. The OSCA has executed a contract to modify the system to fix this issue, which will result in a future savings estimated at \$20,000 regarding postage.

ePortal Committee

Judge Reynolds discussed the work of the criminal data elements workgroup. The workgroup identified the minimum number of data elements required for a clerk to receive and accurately process initial and subsequent filings. The workgroup also identified data elements that were required, optional, generated by the portal, or not applicable. The data element spreadsheet is a living document and can be modified.

Motion to adopt envelope data elements defined for county criminal, circuit criminal, civil traffic, criminal traffic and juvenile delinquency

MOTION OFFERED: Judge George Reynolds

MOTION SECONDED: Mary Cay Blanks

MOTION CARRIED UNANIMOUSLY

Motion to adopt modifications made to civil data elements

MOTION OFFERED: Judge George Reynolds

MOTION SECONDED: Murray Silverstein

MOTION CARRIED UNANIMOUSLY

Funding Committee

Judge Northcutt reported that the OSCA applied for and was awarded a technical assistance grant from the State Justice Institute to hire a consultant from the National Center for State Courts (NCSC) to conduct an analysis of the current state of technology in Florida's courts and develop a high level implementation and funding strategy to modernize the technology in Florida's courts. OSCA staff and the Funding Committee will work with the NCSC on this project over the course of the next year.

TIMS (Trial Court Integrated Management Solution) Committee

Judge Scott Stephens said the TIMS Committee is tasked with defining data elements necessary to move a case through the trial court process. The Committee is in the process of developing functional requirements for TIMS. The Committee is working on organizing a high-level principles document that would incorporate Judge Lee Haworth's Principles for Design of Trial Court Clerk Applications functionalities list. In the near future, the Committee will start reviewing and analyzing existing judicial interfaces by setting up demonstrations with vendors.

Technical Standards Committee

Jannet Lewis reported that in an effort to develop statewide standards on public access to court records, the Committee has looked at various documents from the NCSC, User Policy workgroup, etc. to begin developing statewide standards for public access to electronic court records. The Committee worked closely with staff from the Manatee County Clerk's office on these standards, since they currently have a pilot system in place and could provide "lessons learned". The Committee also worked on developing a security matrix to determine user access; the Committee would recommend that a statewide security access matrix be developed.

Additionally, the Committee is looking into PDF/A as a standard for archiving. The Committee believes there should be a separate standard for searchability. Tom Hall added that the NCSC has a group looking at backwards compatibility. The next project for the Committee will be to review and update the digital court recording standards.

Motion to add the following language to the Florida Supreme Court Standards for Electronic Access to the Courts "Electronic records shall be archived in a manner that allows for presenting the information in the future without degradation, loss of content, or issues with software compatibility relative to the proper rendering of electronic documents."

MOTION OFFERED: Jannet Lewis

MOTION SECONDED: Murray Silverstein

MOTION CARRIED UNANIMOUSLY

Education & Outreach

Murray Silverstein said professional educational requirements should include e-courts and e-filing. The target audience needs to be identified. The Committee is working on defining a mission and deciding how it is going to get the word out about e-filing. Paul Regensdorf and Judge Kreeger produced a webinar on Rule 2.420, which is available on the Florida Bar's website: www.flabar.org. Murray Silverstein suggested possibly doing a Live Meeting seminar where judges would be offered CJE credits for completing the training. Judge Kreeger suggested developing modules for educating groups of users (i.e., rule 2.420, rule 2.425 and how to e-file). Laird Lile suggested adding some education to seminars that are already being offered by The Florida Bar sections. It was reiterated that education needs to be made a priority.

Annual Reports Committee

Ken Nelson reported to the Commission that the Annual Reports Committee has been a bit stagnant, but with the addition of four new members, the Committee plans to begin developing a template that all clerks will have to complete in order to provide the public with electronic access to court records.

Electronic Filing Committee

Judge Menendez reported that the E-Filing Committee has continued to review and approve e-filing and e-process requests, and will continue to do so until all counties and DCAs are approved to accept e-filings in all court divisions. A majority of counties are approved to accept e-filings in all court divisions and there

are just a few that are only approved for the probate division or a selection of divisions (but not all). Additionally, two of the six appellate courts have been approved for e-filing.

AGENDA ITEM V. Uniform Statute Table

Judge Kreeger reported that at the May 2011 FCTC meeting, during the ePortal Committee update Judge Reynolds raised the issue of a need for a uniform statute table. The Commission recommended that the ePortal Committee communicate with various stakeholder groups and discuss the need for a statewide uniform statute table for reporting purposes. Since the May meeting Judge Reynolds realized that during the 2010 legislative session a bill (HB5401) was enacted directing FDLE and the CJJIS Council to modify the existing statewide uniform statute table, thereby alleviating the need for FCTC work on the issue at this time. The bill language states:

Florida House Bill (HB) 5401 – 2010 Legislative Session re: uniform statute table

The Department of Law Enforcement, in consultation with the Criminal and Juvenile Justice Information Systems Council established in s. 943.06, shall modify the existing statewide uniform statute table in its criminal history system to meet the business requirements of state and local criminal justice and law enforcement agencies. In order to accomplish this objective, the department shall:

- (a) Define the minimum business requirements necessary for successful implementation.
- (b) Consider the charging and booking requirements of sheriffs' offices and police departments and the business requirements of state attorneys, public defenders, criminal conflict and civil regional counsel, clerks of court, judges, and state law enforcement agencies.
- (c) Adopt rules establishing the necessary technical and business process standards required to implement, operate, and ensure uniform system use and compliance.

The required system modifications and adopted rules shall be implemented by December 31, 2012.

<http://myfloridahouse.com/Sections/Documents/loaddoc.aspx?FileName=h5401er.docx&DocumentType=Bill&BillNumber=5401&Session=2010>

AGENDA ITEM VI. Rules Update

Amendments to Rules 2.420 and 2.425 will become effective on October 1, 2011. Oral Arguments in case SC11-399, regarding mandatory e-filing and Rule 3.030, will be held on November 3rd.

AGENDA ITEM VII. Other items/Wrap-up

The next Commission meeting is expected to be in January 2012. OSCA staff will poll Commission members regarding their availability.

As previously discussed during the Manatee County Oversight Committee and Technical Standards Committee updates, the Commission will receive an email to vote on the Statewide Standards on Access to Electronic Court Records.

Additionally, Judge Kreeger will circulate to Commission members by email a draft supplemental comment to the Commission, no later than Tuesday, October 4, 2011. The comment will be filed on behalf of the FCTC and Court E-Filing Authority in Case No. SC11-399 on or before October 7th.

Judge Kreeger thanked everyone for attending the meeting. There being no further business, the meeting was adjourned.