

Florida Courts Technology Commission Meeting

FCTC Action Items/ Summary of Motions

January 10-11, 2012

A meeting of the Florida Courts Technology Commission was held at the Edgecomb Courthouse in Tampa, Florida on January 10-11, 2011. The meeting convened at 1:00 P.M. on the first day, Chairman Judge Judith Kreeger presiding.

Members of the Commission in attendance

Judge Judith L. Kreeger, Chair, 11th Circuit

Murray Silverstein, Esq., Tampa

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

Barbara Dawicke, Trial Court Administrator, 15th Circuit

James B. Jett, Clerk of Court, Clay County

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

Paul Regensdorf, Esq., Jacksonville

Jim Fuller, Clerk of Court, Duval County

Judge Scott Stephens, 13th Circuit

Judge George S. Reynolds, 2nd Circuit

Jannet Lewis, CTO, 10th Circuit

Judge Lisa Taylor Munyon, 9th Circuit

Judge Stevan Northcutt, 2nd DCA

Laird A. Lile, Esq., Naples

Judge Robert Hilliard, Santa Rosa County

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

Members not in attendance

Judge Sheree Cunningham, Palm Beach County

Judge Manuel Menendez, Jr., 13th Circuit

Karen Rushing, Clerk of Court, Sarasota County

OSCA and Supreme Court Staff in attendance

Alan Neubauer

Jenna Simms

Lakisha Hall

Chris Blakeslee

Blan Teagle

Tom Hall, Clerk of the Supreme Court

Susan Dawson

Other Attendees

Steve Shaw, CTO, 19th Circuit

Lolitta Thornton, 11th Circuit

Sunil Nemade, CTO, 17th Circuit

Craig McLean, CTO, 20th Circuit

Craig Van Brussel, CTO, 1st Circuit

Sene Bauman, Leon County Clerk's Office

Mary Lynn Sullivan, Tyler Technologies

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

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

Dave Johnson, Mentis Technology

Steve Rumsey, Pioneer Technology Group

Fred Buhl, CTO, 8th Circuit

Jon Lin, CTO, 5th Circuit

Rick Ford, 8th Circuit

Gerald Land, CTO, 16th Circuit

Gypsy Bailey, Leon County Clerk's Office

Chips Shore, Clerk of Court, Manatee County

Dale Bolmer, Hillsborough County Clerk's Office

Jeff Stanford, Hillsborough County Clerk's Office

Laura Roth, Volusia County Clerk's Office

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

Brian Murphy, Mentis Technology

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

AGENDA ITEM II. Leon County Judicial Website Demonstration

Dr. Sene Bauman, Chief Information Officer for the Leon County Clerk of Court, gave an overview and presented the Leon County Judicial Website, which was developed in house about 10 years ago in an effort to automate some court functions, including the ability to present data and reports to the court on demand. The Judicial Website, officially entitled “2nd Judicial Circuit: Leon County Judicial Website,” <http://judicial.clerk.leon.fl.us/>, is a webpage that pulls data from Leon County’s criminal and civil applications for display in a number of formats, for a number of different parties – the Judiciary, State Attorney’s Office, Public Defender’s Office, Department of Health, Department of Children and Family Services, law enforcement agencies, private attorneys, etc. The Leon County Clerk’s Office developed the site as a case management tool for the judiciary, and it has evolved over time to meet other needs as well. The site acts as an overlay to applications, pulling data from the civil application owned by the Clerk (CourtView) and the criminal application owned by the County (JIS). The site provides both civil and criminal data in reports, and currently permits write-back of data to the Clerk’s civil application. Leon County’s case maintenance systems were designed and developed more than 10 years ago to provide tools to input case information. These tools were developed in a “paper world” where judges used physical files to accomplish their case management activities. Now judicial partners are using computers and working from images both in their offices and from the bench. The objectives in developing the judicial website were twofold – (1) to provide the judiciary and other partners all necessary tools in one location at the lowest possible cost, and (2) to improve the efficiency of judicial system participant through the use of electronic processes in a “one stop shop” at the lowest possible cost. It is clear that different tools are needed in the electronic world than those used in the paper world. The Leon County Clerk’s Office focus has been on designing an electronic tool that is focused on workflow-oriented efficiencies, like electronic injunctions, electronic forms and judicial signatures for use in court, and electronic forms and signatures for case managers. The site is driven by the menu bar, which contains 8 tabs: Judicial, Clerk, Agency, Attorney, Dockets, Search, Help, and Admin. The ability to view cases and images under these tabs, to use electronic signatures, etc., is based on user setup and permissions. For example, private attorneys have access to the site, but their permissions level allows them to see only the Attorney tab, Dockets, Search, and Help. The Goal of the site is to achieve efficiencies and bring automation to the work environment. It was added that all of the sites’ information and functionality will be built into their new Benchmark system.

The website includes a link to the Statewide ePortal. It was also reported that e-service is used in mental health cases. Ted McFetridge asked what the site does to accommodate pro-se filers. Gypsy Bailey, General Counsel for the Leon County Clerk’s Office, stated that judicial assistants send the notices by USPS. The judiciary has not yet approved sending the notices via e-mail. However, if the attorneys consent to electronic notice, the notice will be sent via email. Tom Hall asked if the other five counties in the second judicial circuit have a similar site(s). Dr. Bauman responded that they do not. Leon County is unique in this regard; however, data can be shared with anyone requesting the information and can be sent in the format specified by the requestor. Dennis Menendez asked about attorney access to the site and also about calendaring ability. Dr. Bauman confirmed that the site is available to users on a 24/7 basis, but stated that calendaring is not officially in place. He said judicial assistants usually schedule hearings in family law cases and the clerk handles the scheduling in other divisions.

AGENDA ITEM III. 8th Circuit ICMS (Integrated Case Management System) Demonstration

Fred Buhl and Rick Ford, court administration staff from the 8th circuit, gave a demonstration of the ICMS. There are six counties in the 8th circuit, and three different vendors that provide the clerks' case maintenance systems. The ICMS was developed in house and is also being shared with the 15th circuit. The ICMS allows a common view for all six counties, and is used by multiple stakeholders – judges, court staff, clerks, clerk staff, state attorneys, public defenders, DCF, RCC, GAL, etc. Search features allow for full or partial names and case numbers. While the court has access, it is a read-only type of access, which is a particular challenge for calendaring. Information is only pulled from one county, not a consolidated view of all six counties in the circuit. Additionally, there are images being pulled in four of the six counties from CCIS. The ICMS is also capable of generating a custom .pdf, which prepares a bookmarked packet for the appellate court. "Case age" reflects the number of working days the court has had the case, not the number of days since a warrant, summons, or other document initiating the case, was issued. Reports are provided "on demand," which is inspired by the Summary Reporting System (SRS), but the ICMS provides a case centric view, while SRS is defendant-based. The response time of the system is currently not fast enough for in- court use, so the system is used along with paper. The ICMS provides the state attorney's office information on defendant history, within the SAO system, through the site (there isn't a need for a separate log in). A general magistrate in the dependency division requested editable fields, and a notes page was developed for her own use. The fields are populated by clerk data and edited by the general magistrate. Forms and/or orders are generated electronically, and sometimes sent to the clerk's printer (depending on case type), along with an email explaining distribution/service necessary. There is also a cross over with OpenCourt functionality; if recording is available for view an icon will display in detail level of the case.

AGENDA ITEM IV. 13th Circuit JAWS (Judicial Automated Workflow System) Demonstration

JAWS, Judicial Automated Workflow System, is the primary interface between the court, the people and organizations that have business with the court. JAWS provides a variety of services to users and the 13th circuit is working to expand its functionalities. Over 9,000 attorneys and assistants are using the system. Development for JAWS began in 2008 and daily development continues. Presidio and the 13th circuit have a joint agreement and the code is owned by the 13th circuit. Data regarding when service is logged, but no read receipt is sent to confirm that the notice was actually received. Only the case number is being entered; all other data is pulled directly from the clerk's system. The JA only schedules events if the capability is not available through JAWS. Currently the following modules in use in the 13th are:

- **Docket Planner** supports time management for judicial staff. Docket Planner is a general purpose scheduling engine designed to accommodate various different scheduling models. The Court can (1) set matters on its schedule or its own initiative, without consulting the parties or counsel; (2) expose available times to the public, allowing the parties to coordinate the scheduling and place the matter on the Judge's calendar; or (3) allow the public to view available times, and request that the JA reserve a specific mutually agreeable time, with the final confirmation being communicated via email. The judge's can limit available time to specific purposes or impose specific sets of rules on what may be heard at the time.

Parties file their document in paper with the clerk. However, the court may require the filer to upload the pleading, motion, or response at the time it is set for hearing or input specific data elements pertaining to a specific event. Each court division can allocate time to a specific purpose in advance, as far or as near as they wish, with high or low degrees of specificity as desired. There are preferences associated with each event that the JA selects. The application supports an entire range of choices for the JA to set up the schedule, limit cases per time slot, naming the types of events, etc. If the JA selects the setting "allow public viewing," then this event and time allocation will be made available for external users to view/scheduled time over the Internet. When a matter is scheduled, parties are notified via email.

The Docket Planner module also supports associated parties, view/upload files, case notes, case history, emailing of the dockets to the clerks, docket printing and case search features.

- **Case Management** is a module within JAWS that is currently utilized in the family division. The family law judges have the ability to record case notes, look up clerk filings, generate orders, and distribute orders while in court.
- **Case Orders** is a part of the Case Management module that can create date aware orders so when the order is generated it is scheduled automatically.
- **Pro Se Case Management** is part of the case management module used by case managers to track the progress of pro se cases.
- **Independent Living** case management module tracks the progress of children in foster care coming of age in the independent living program. This module supports docket creation, order generation, case management functions, and statistical reporting and query capabilities.
- **Drug Court** case management module tracks the progress and collects statistical information of drug offenders.
- **Juvenile Diversion Program** case management application tracks the progress and collects statistical information of juveniles who enter any juvenile diversion program.

Ted McFetridge suggested that perhaps the 20 circuits get together and not reinvent this process, but rather share resources.

Day 2 – January 11, 2012

AGENDA ITEM V. Committee Updates

Subcommittee on Access to Court Records

Paul Regensdorf began his report by reminding the Commission of the issue of "spider searches" that was raised by the Privacy Committee, along with a number of other recommendations outlined in their 2006 report. The main concern is that everyone's information will be easily accessible online. The recommendation to not prohibit "spider searches" was sent to the FCTC for action, and Paul reminded the group that nothing has been done with it yet. Paul stated that he contacted the members of the Privacy

Committee to seek their recollection about why the recommendation was given (to not prohibit “spider searches”), but he did not receive any responses.

Motion to Report to the Supreme Court that the FCTC accepts Recommendation 20 re: “spider searches” and not expressly prohibit bots or spiders.

MOTION OFFERED: Paul Regensdorf

MOTION SECOND: Ted McFetridge

Discussion on the issue continued and Jannet stated a need to differentiate between roles and access. The security standards (section of the statewide standards for access to electronic court documents) recommend different techniques. She further stated that according to the proposed standards, subscribers are limited depending on their role. Judge Munyon expressed great concern for personal data to be mined worldwide and said that anonymous bots are of concern. Tom Hall commented that when the record is prepared, appellate lawyers want the capability to have records searchable because it helps them when writing their briefs. It was also stated that there is a need to be able to search entire databases for similar or related cases. Murray Silverstein asked for clarification on the levels of access. It was stated that no one will ever have direct access via applications to internal live data. Ken Nelson said the database is searchable now. Some files only allow viewing access of images and not the ability to search. Jon Lin suggested that the definition of a “searchable PDF” be better defined for purposes of this discussion. Paul asked the group to focus on the motion, which is to accept the recommendation of the Privacy Committee and agree that the FCTC will not prohibit “spider searches.” Ted McFetridge called the question and cut off debate. The Commission voted on the motion.

IN FAVOR: 9

OPPOSED: 9

ABSTAINED: 1

Paul said that the Commission must do something, and that we can keep the status quo. Judge Kreeger charged the Technical Standards Committee with addressing the recommendations and directed that Committee to report back to the FCTC. She suggested that FCTC members be included in the discussion surrounding the motion. Jannet mentioned that the statewide standards state “limited” access, but Kent Spuhler argued that it is all semantics - “limiting” is “prohibiting.”

Electronic Filing Committee

Jenna Simms, on behalf of Judge Menendez, reported that the E-Filing Committee is still receiving requests from the counties for e-filing in the remaining court divisions (all have been approved for probate) and some requests to eliminate the requirement of the paper follow up filing by attorneys. The OSCA and FACC continue to work together to get all 67 counties and appellate courts approved for e-filing in all court divisions through the statewide ePortal. Jenna provided clarification on the elimination of paper follow up filing and the elimination of paper altogether. After a clerk of court is approved to accept e-filings, that clerk must submit at least 90 days of reports to the chief judge and to the OSCA. After an acceptable amount of time, the chief judge and clerk must submit a joint request and certification that the system is reliable, effective, efficient, and meets the demands of the parties, at which time a request to eliminate the follow up filing is considered. Each letter of authorization issued to a clerk outlines the requirement to still provide paper to the judiciary until the chief judge authorizes the elimination of paper files, as follows:

“The Clerk of Court must continue to provide paper to the judiciary until the chief judge authorizes the elimination of paper files. At such time, the Clerk of Court must convert all documents, beginning on the date of Supreme Court or Florida Courts Technology Commission (FCTC) approval, to a searchable document.”

Appellate Court Technology Commission (ACTC)

Judge Northcutt reported that the eFACTS project is underway in a pilot phase in the Supreme Court and 2DCA and progress continues to be made. He referenced the detailed weekly emails sent out by OSCA staff on the project. He also reported on the use of iPads for court conference and review panels.

ePortal Committee

Judge Reynolds deferred the report of the ePortal committee to the later agenda item of the ePortal update being provided by Tom Hall and Melvin Cox.

Technical Standards Committee

Jannet Lewis gave background information on the development of the statewide standards for access to electronic court documents. She 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 standards for access to electronic court documents. 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 and the Committee recommends 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. Ted McFetridge asked why the public is prohibited from family law cases. Jannet responded that a statute prohibits public access to those cases. Users may have that access only if they are subscribers and are a party to the case. Murray Silverstein asked the distinction between a “litigant” and a “party.” A litigant cannot look at documents that are sealed by the court. A member suggested that the term “sealed” be changed to “prohibited.” Kent Spuhler disagreed and believed the category of “litigant” should remain. Laird Lile agreed with him. Tom Hall said the issue of access by law office staff needs to be addressed. Paul expressed his reservations about any judicial staff having access to confidential records. Judge Kreeger disagreed and stated that the judiciary and judicial assistants should have access to all cases because related cases may be relevant to a particular case. Tom Genung added that there is a certain level of local control over who has access to what type of documents. Murray suggested that the committee identify judicial staff who are approved under present administrative directives to have access to case files, and allow access based on those criteria.

Motion to Delete first clause under section on attorneys as group

MOTION OFFERED: Murray Silverstein

MOTION SECOND: Laird A. Lile

Judge Lawson asked if this would mean that an attorney would have access to all records. Murray said no, because the clause includes rule 2.420. Laird offered to work on the language with Murray and Jannet.

ALL IN FAVOR OF CONCEPT OF MOTION

MOTION CARRIES

Mary Cay Blanks asked if differences between trial and appellate cases should be recognized, because appellate clerks can see all case types.

Judge Munyon suggested that the standards address the issue of judges having access to unredacted documents as the default view.

Motion to Allow judges to have access to unredacted documents as their default view

MOTION OFFERED: Judge Lisa Taylor Munyon

MOTION SECOND: Laird A. Lile

ALL IN FAVOR – MOTION CARRIES

Tom Genung added that “DCF or authorized service providers” need to be added to the section on DCF. Judge Kreeger suggested an enhancement to the redaction section, to enforce/suggest more strongly the use of automated redaction software. Jim Fuller responded that it is difficult at this time to enforce redaction because of financial constraints that limit the ability to purchase necessary software. Judge Kreeger asked if there was a way to pool money to spread the cost to a manageable level in an effort to get the job done. It was clarified that most pricing models for redaction software are on a per page basis, so it would not make sense to lump multiple counties together.

Paul suggested a name change of the public access standards document to not confuse it with the statewide standards on electronic access to the courts (e-access standards).

Motion to Modify the user maintenance section

MOTION OFFERED: Laird A. Lile

MOTION SECOND: Murray Silverstein

ALL IN FAVOR – MOTION CARRIES

Motion to Strike “and law firm” from the user maintenance section.

MOTION OFFERED: Laird A. Lile

MOTION WITHDRAWN

Murray suggested just simplifying the language and make it more discretionary. A number of additional suggestions were given and Jannet Lewis will work on incorporating all of them into the standards document. Judge Kreeger asked Jannet to redraft the document with all of the proposed changes and distribute the revised document electronically for comment.

Funding Committee

Judge Northcutt reported that he and OSCA staff, along with Judge Kreeger, continue to work with the National Center for State Courts on the scope of the project. A conference call will be scheduled soon to clarify any issues and discuss what is needed to move forward on the project.

Education & Outreach

Murray Silverstein deferred to Paul Regensdorf to provide the update on the Education and Outreach Committee. Paul reported that the committee discussed a number of areas where education is needed, but the group focused on three topics – rules 2.420 and 2.425, rule 2.526, and e-filing/e-service. Paul and Judge Kreeger will work on a webinar for judges on rules 2.420 and 2.425, expected to be offered in the spring of 2012 (the Bar has already given a class to attorneys on the changes). Paul will also contact the Bar regarding appellate lawyers and the projected dates for mandatory e-filing to prepare/educate the filers. Rule 2.526 went into effect on January 1 and requires that any document that is or will become a judicial branch record and that is transmitted in electronic form must be formatted in a manner that complies with all state and federal laws regarding accessibility. OSCA and Supreme Court staff has developed a training program on creating accessible documents so staff will look into whether or not that training can be modified/used for attorneys, judges, court staff, clerks, clerk staff, etc. Paul will also contact the Bar regarding specific training on ADA compliance.

Annual Reports Committee

Ken Nelson reported to the Commission that the group met earlier in January and will continue to have meetings on the first Thursday of each month. The current focus of the group is replacing the technology plan with a database and to create a survey/report to send to the clerks to determine the varying levels of compliance with e-access. The committee also discussed changing its name to better reflect its work, and it will now be referred to as the “Reports Committee.”

Judge Kreeger reminded the group that the FCTC has a role of oversight and that it is needed, especially considering the current economic environment. She asked judges and others on the FCTC to volunteer to serve on a “compliance” committee.

TIMS (Trial Court Integrated Management Solution) Committee

Judge Scott Stephens explained the joint efforts of the FCTC, TCP&A, and CSWC to develop a statewide system. The TIMS committee has adopted an approach on what they want the end product to look like. He also reported that the TIMS committee has viewed judge access systems from three vendors and have drafted a comprehensive document (functional requirements) that tried to identify the needs of the judge. OSCA staff will distribute a copy of the functional requirements document to the FCTC and the public for comment and feedback. After the comment period, the document will be distributed to the FCTC for vote.

AGENDA ITEM VI. ePortal/eFiling update (CEFA, FACC, etc.)

Melvin Cox and Tom Hall provided a report on the status of e-filing and the statewide ePortal. Melvin discussed the proposed implementation dates for e-filing.

- The Clerks of the Circuit Court (Clerks) shall meet the following dates for acceptance of electronic filing through the E-Filing Court Records Portal (the ePortal)
 - July 1, 2012, for the 67 clerks to have completed implementation of the capability to accept filings for civil divisions of the court through the ePortal.
 - December 31, 2012, for the 67 clerks to have completed implementation of the capability to accept filings for criminal divisions of the court through the ePortal.
- The Clerks support the Supreme Court or the Legislature establishing a date for mandatory e-filing at an appropriate time subsequent to the dates set forth above.
- A limited waiver process should be established for any clerk who for good cause cannot accept electronic filing through the ePortal by the dates set forth above. The length and conditions of the

waiver shall be based on the severity of the impediments and hardships involved in moving to mandatory e-filing. Waiver requests shall be made to the Florida Courts E-Filing Authority for recommendation to the Florida Supreme Court for final consideration and determination.

- Definition of **“Capability through the ePortal to accept filings”**
 - County’s E-Filing Codes are loaded in the ePortal
 - County has access to an electronic queue to review and accept E-filings into their local CMS
 - County has demonstrated the capability to accept E-Filings end-to-end
 - County may implement new and existing E-filings all at once **or** in a phased approach
 - County may implement court divisions all at once **or** in a phased approach
 - **Does not mean** that E-Filing is mandatory or that all filings received by the county are E-Filed

Melvin added that there are currently 42 counties with the capability to accept e-filings through the ePortal, 5 counties that are linked to the ePortal, and 20 counties that are in the process of connecting to the ePortal. FACC staff is working with each county to develop an implementation plan to meet the 2012 deadlines. Melvin provided some statistics from the first year of ePortal use. He reported that there have been 35,000 documents e-filed, there are 6,155 registered users, and 1,517 users that have filed documents through the ePortal. Melvin also addressed the ePortal development priorities for 2012 – criminal e-filing functionality, appellate and supreme court functionality, mandated changes, e-service, and quarterly releases (deficiencies/enhancements). Tom reported that The Florida Bar is expected to issue an ethics opinion regarding the use of username/passwords and anything filed under that user’s name. Judge Reynolds asked if there is a policy about how judges’ orders that are drafted in a judge’s office or elsewhere will be filed. Melvin responded that the ePortal will be built to accept all types of filings, and other exceptions can be made. It was asked how we this process can be standardized across the state. Melvin stated that the FCTC has that authority and can have standards in place to ensure uniformity. The Florida Prosecuting Attorneys Association (FPAA) representative commented that the State Attorneys appreciate the progress that has been made with regard to criminal e-filing. It was stated that eventually all state and local agencies need to be integrated with the ePortal. We need to put efforts there in the future. Melvin asked for a workgroup to assist with developing e-service procedures/specifications for development. The FCTC needs to make policy decisions regarding notice/e-service of documents not filed through the ePortal. Additionally, as we move forward, training should be readily available to attorneys.

Tom Hall also reported that the Court E-Filing Authority (CEFA) is going to put issue a request for proposals to redesign the website. He also reported that they are working on putting the Notice of Appeal online and are presently working on an appellate workbench that retains documents and allows the user to come back to documents that the user previously worked on.

AGENDA ITEM VII. SC11-399 – e-filing implementation – SC order requesting joint report

Judge Kreeger reported that a workgroup was formed in response to a Supreme Court Order issued in December 2011, requesting a joint report from the FCTC and RJA on or before February 6, 2012. The group has been meeting via conference calls to address three issues – (1) the workgroup should develop a revised proposal narrowing the list of proposed exemptions from electronic filing in criminal cases, as well as whether specific exemptions in criminal cases are, in fact, necessary; (2) the workgroup should address whether non-parties, especially “institutional” non-parties, should be required to file documents electronically, and if so determined, the workgroup should propose appropriate rule amendments; and (3) the workgroup should address how the phase-in schedule for electronic filing suggested by the FCTC in

case no. SC11-399, will impact the implementation of the mandatory electronic services rules proposed in case no. SC10-2101, in particular, if the deadlines for e-filing should apply to e-service.

There is a question about who should be the custodian of certain documents in paper format: “if there are certain documents that need to be retained, in paper form, who should be the custodian of that document?” It has been determined that not all documents in rule 3.030(c) need to be kept in paper form. The Florida Prosecuting Attorneys Association expressed a concern if it is decided that the prosecutor should be charged with being the custodian of evidence, since they are not a neutral body, and they are not designed to keep official records. It was stated that the clerks are the logical custodian of any official record that would be considered evidentiary. It was also stated that a change should be made to the statutes to recognize the electronic file as the official record, because the clerk should not have to keep an original and an electronic copy; the electronic can become the original. One of the members stated that in criminal cases a hard copy of a judgment of conviction with the fingerprint(s) would need to be kept. Judge Lawson stated that the legislature needs to change the statute, but until then, if there are documents that need to be maintained, we must identify them. Judge Kreeger invited members of the Commission to comment on the proposals of the workgroup and ensure the views of the Commission are being appropriately expressed.

Motion to Recommend temporary solution which would allow for prosecutors or others to file a hard copy of those documents deemed needed.

- 1. With respect to criminal judgments (in those jurisdictions that still affix non-electronic fingerprint exemplars to the judgment), the clerk of court shall retain original judgments until such time that the clerk has sufficiently demonstrated its ability to secure and maintain an electronic copy of the exemplars of sufficient quality to permit a fingerprint expert to consistently and readily use the electronic version to reliably render an opinion as to whether the exemplar affixed to the judgment matches the fingerprint of an accused.**
- 2. With respect to the specifically identified document types which may be needed as evidence in a later criminal prosecution, the original shall be filed by physical delivery to the clerk until such time that the best evidence rule can be amended to expressly recognize an electronic court record as an original document for purposes of the rule. Upon physical delivery of a specified document to the clerk, the clerk may scan or otherwise create and retain an electronic version of the document, and need not retain the original after scanning.**

MOTION OFFERED: Judge C. Alan Lawson

MOTION SECOND: Laird A. Lile

PASSED UNANIMOUSLY

AGENDA ITEM VIII. FLSSI (Florida Lawyers Support Services, Inc.) Forms and the statewide ePortal

Rohan Kelley, a probate lawyer who is a supplier of these forms, began by asking if the ePortal accepts, today, third party bulk filing. Melvin responded that that ability is not in place today, but has always envisioned and will be in place in the near future. Rohan stated that probate filings amount to 12% of total court filings. At some point in time, the packet of data which is currently keyed in) will be captured when the document is created. He proposed to create a “smart” set of documents – XML based – that are created by the law office, captured as data, and would be a system to system transfer when filing. This

process would also allow for a data packet to be sent to the Supreme Court for data reporting purposes. The Florida Bar Probate System is in its 4th edition at present and the 1st electronic edition is being developed. If “smart” forms are distributed to the practicing bar, the data will be captured in any court division. Judge Kreeger clarified that there is no requirement for probate attorneys to use the FLSSI forms; this would apply to only those forms through the probate system. Judge Kreeger asked how the confidentiality statement and the fee payment will be handled, if the filing does not go through the statewide ePortal. Rohan said it would be taken care of through his proposed system. Judge Stephens also asked if the content of the data packet is within the document, what would be the need to send the document? Rohan stated that the form is populated by XML, but does not have to send the form if it is not requested/needed. Only text can be sent, rather than including the physical form. The user is logging on to the server to complete the form. Rohan added that if the ePortal had all of the forms, it could be done through the ePortal. It is theoretically possible, but not in the foreseeable future. It was asked if any lawyer can create any “smart” form, or would they have to go through FLSSI? Rohan agreed that it could be done with any form. Judge Kreeger encouraged Rohan to continue working with the probate attorneys and the RJA and to continue the dialog with Melvin and others working on the ePortal.

AGENDA ITEM IX. Rules Update

There was discussion with reference to various rules throughout the day. Therefore, in the interest of time, it was decided that an additional update was not necessary.

AGENDA ITEM X. Annual Report to the Supreme Court

In the interest of time, Judge Kreeger quickly stated that she would work with OSCA staff on drafting the report that is due to the Supreme Court on April 1st. That report will outline activities of the past year, and will be distributed to the Commission to review and provide input prior to submission to the Court.

AGENDA ITEM XI. Other items/Wrap-up

The next Commission meeting is anticipated for late April or May, 2012. OSCA staff will poll Commission members regarding availability.

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