

Florida Courts Technology Commission Meeting

FCTC Action Items/ Summary of Motions

May 8-9, 2012

A meeting of the Florida Courts Technology Commission was held at the Orange County Courthouse in Orlando, Florida on May 8-9, 2012. The meeting convened at 1:00 P.M. on the first day, Chair Judge Judith Kreeger presiding.

Members of the Commission in attendance

Judge Judith L. Kreeger, Chair, 11th Circuit
Judge George S. Reynolds, 2nd Circuit
Ken Nelson, CTO, 6th Circuit
Ted McFetridge, Trial Court Administrator, 8th Circuit
David Ellspermann, Clerk of Court, Marion County
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
Charles C. Hinnant, Ph.D., Florida State University
Barbara Dawicke, Trial Court Administrator, 15th Circuit

Paul Regensdorf, Esq., Jacksonville
Murray Silverstein, Esq., Tampa
Judge Scott Stephens, 13th Circuit
Judge C. Alan Lawson, 5th DCA
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
Thomas Woods, Tallahassee

OSCA and Supreme Court Staff in attendance

Alan Neubauer
Chris Blakeslee
Tom Hall, Clerk of the Supreme Court

Lisa Goodner
Candace Causseaux
Lakisha Hall

Other Attendees

Steve Shaw, CTO, 19th Circuit
Craig Van Brussel, CTO, 1st Circuit
Sunil Nemade, CTO, 17th Circuit
Walt Smith, Trial Court Administrator, 12th 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
Victor Lee, Computing Systems Innovations
Ann Kirkbride, Mentis Technology

Fred Buhl, CTO, 8th Circuit
Jon Lin, CTO, 5th Circuit
Craig McLean, CTO, 20th Circuit
Karl Youngs, Manatee County Clerk's Office
Levi Owens, ePortal Administrator, Florida
Association of Court Clerks & Comptrollers
Bob Inzer, Clerk of Court, Leon County
Henry Sal, Computing Systems Innovations
Brian Murphy, Mentis Technology
Dave Johnson, Mentis Technology

The meeting began with Judge Kreeger welcoming the commission members and other participants and calling the meeting to order. Judge Kreeger introduced David Ellspermann and Thomas Woods as the two new members of the commission. Judge Kreeger also announced the leadership passing, naming Judge Lisa Munyon as the new chair of the FCTC, effective July 1, 2012.

AGENDA ITEM II. Technical Standards Subcommittee

Technical Standards Subcommittee

Jannet Lewis gave a background on what the technical standards subcommittee had done in the past. The subcommittee developed Standards for Access to Electronic Court Documents and recommends having a statewide security access model. Presently there is a moratorium limiting remote electronic access to public records in all counties except Manatee County. Having a well-defined security access model and policy is essential to: 1) Reduce redundant work on access models throughout the state that may lead to different legal interpretations about levels of access; 2) Allow for a single statewide set of standards and 3) Allow for centralized review and vetting of future changes to maintain a consistent model for all applications.

A workgroup convened on April 4, 2012 to compare the various matrices that have been developed by individual clerks, FACC, and OSCA. The workgroup determined that one statewide security access model and policy is feasible, and could be developed from the work completed on existing models. At this meeting, the workgroup identified the following areas that needed further development and review in order for a statewide access model and policy to be successful: 1) Security would start at the case level and then be detailed down to the docket level; 2) Clarify and provide more detail about the authorized roles and other technical requirements to access unredacted information versus redacted versions of images; 3) Provide more detail of the docket information that may be shown if images are not allowed based on current court administrative orders; 4) Create a process that allows a docket type to be assigned to a case level security category; 5) Create minimum standards for redaction identifying what case types and documents require only automated redaction with software and those that also require an additional manual review; 6) Create levels of security for reports; 7) Create a separate security category for warrants and 8) Create levels of security for common federal agencies that request access. The workgroup recommended that an Access Governance Board be established under the FCTC to develop and maintain a consistent statewide access model and policy. This board should also develop a reference guide for a high level overview of the access and associated policies, and web catalog of the security model for application developers. This board should include at least eight members, consisting of a judge, clerk of court, staff attorney, general counsel, clerk IT, CTO, clerk court management and FACC. Judge Robert Hilliard will chair this board. The workgroup also recommended that the Manatee Security Matrix and web catalog be used as the base model for further development of the statewide security model. The workgroup is not yet ready to ask the FCTC to adopt the matrix, but will be soon after the above issues are addressed.

AGENDA ITEM III. Report on statewide redaction software

Judge Kreeger had asked OSCA staff to explore the possibility of creating redaction software in-house. The Information Systems Services (ISS) department within the OSCA determined that developing the software was beyond the scope of the current ISS staff. Alan Neubauer is working with vendors to find out what software is available. He will begin setting up demonstrations and will negotiate reduced pricing if the

court agrees to use certain vendors. The intent was to make the redaction software available to clerks who do not currently have the funds to individually purchase the software. This will in no way impede or replace the redaction software that some clerks currently utilize. ISS is trying to make the software readily available so that all clerks can provide the redacted documents in a more efficient and effective manner.

AGENDA ITEM IV. Moratorium on Remote electronic access to court records

Judge Kreeger discussed a letter received from an attorney in the 11th judicial circuit regarding redacting family law cases. According to that letter, the clerk in the 11th judicial circuit said he would have to spend \$1.5 million to redact files so that attorneys who are not of record can access both open and closed files. As a result, the clerk has to manually redact the documents and this delays attorneys from receiving the documents in a timely manner (it takes up to three days for the attorney to receive the documents). Chips Shore said he thought the rules changed and allowed attorneys of record to access the unredacted version of the document. In addition, the attorney's client could send a note to the clerk's office giving the client's permission to the clerk to release the documents to the attorney. Karen Rushing said three days to redact information is not unrealistic. Murray Silverstein said the Standards for Access to Electronic Court Documents dealt with access. It was decided that the attorney box in the access standards was too broad. Tom Genung said he thought there was something in the moratorium administrative order that granted attorneys of record access. Paul Regensdorf suggested changing the first sentence in the attorney box under the content column.

Motion to add the following language to the Standards for Access to Electronic Court Documents "in cases which the attorney is counsel of record or in which an attorney is authorized by a party"

MOTION OFFERED: Judge Lisa Munyon
MOTION SECONDED: Jannet Lewis
MOTION CARRIED UNANIMOUSLY

The attorney block now reads "Access to all records in cases in which the attorney is counsel of record or in which an attorney is authorized by a party except those records sealed/prohibited or expunged by court order, unless access is granted by court order. To all other court records, access to all records except those records listed in Rule 2.420(d)(1) or by court order under Rule 2.420(c)(8), Rule 2.420(e), (f) or (g), or any record sealed/prohibited or expunged by court order.

AGENDA ITEM V. Rules Update

Paul Regensdorf said case number SC11-399, Rule 2.420 (public access to records) and proposed Rule 2.516 (e-service) are all pending before the Supreme Court awaiting decision. Therefore there was nothing new to report. Judge George Reynolds said the FCTC should advise the Court where the FCTC is in regards to electronic filing before the Commission ask the court to make a decision on the pending rules.

AGENDA ITEM VI. Annual Report to the Supreme Court

Judge Kreeger gave an overview of the annual report filed with the Supreme Court on April 1, 2012. The Commission and its subcommittees accomplished a substantial amount of work throughout the past year.

AGENDA ITEM VII. ePortal / eFiling update (Authority Board, FACC, etc.)

Melvin Cox, Florida Association of Court Clerks and Comptrollers (FACC), reported that much has happened since the last FCTC meeting. FACC continues to work on adding appellate and criminal filings to the ePortal. FACC is working with the Florida Appellate Courts Technology Solution (FACTS) development team on developing the eFiling to eFACTS interface. Appellate filings will be submitted to the eFACTS. The design is in place for web service for criminal filings, which will facilitate batch filings. Testing of the web service should begin about June 1, 2012. To date the primary focus for the ePortal support and rollout has been the implementation of civil divisions. Levi Owens, FACC, gave a report on eFiling "readiness" throughout the state. There was a lot of discussion on what "readiness" means and what "complete" means. Readiness is defined as verifying that the clerk has the capability to accept eFilings and configure them through its network. Paul Regensdorf wanted to know if readiness means that a county can accept and sort documents electronically as well as put the documents in a court file electronically. Melvin Cox responded affirmatively. Karen Rushing said she has spoken to some clerks who said it is going to be really difficult for them to be ready to accept electronic filings through the ePortal. Judge George Reynolds said the FCTC should let the court know where the counties are in regards to eFiling. Tom Hall said the Florida Courts E-Filing Authority Board is in the process of filing a report with the court asking for an exemption with new dates for the percentage of counties that are not ready to eFile.

Ted McFetridge said the ePortal is not really "complete" because judges do not have electronic access to documents. Melvin disagreed and said the ePortal is ready from a filer's perspective. The ePortal is not an entire system, and it is not for case management. Judge Alan Lawson inquired if current appellate systems (iDCA/eDCA) could integrate with the ePortal and Melvin's response was that the ePortal cannot integrate with old systems. However the ePortal will integrate with eFACTS. Paul asked if "readiness" means that the attorneys who file the documents will have electronic access to those documents from their office. Melvin said in the purest sense "readiness" means taking a file to court and nothing else. Levi said "complete" means the counties have established the capability to accept electronic filings through the ePortal.

As of April 30, 2012, twenty-seven counties are using the portal to some degree. Presently there are 2,360 active eFiling users. Approximately 65,000 cases have been filed through the portal and 89,000 documents have been filed through the portal since January 2011. Seventy-five percent of filings through the ePortal are in existing cases while twenty-five percent are in new cases. Paul asked about Santa Rosa county going paperless. Judge Robert Hilliard said SmartBench has integrated with Clericus. All of the judges accepted the system and were anxious to use it. On the first day of deployment with 109 cases on his docket, Judge Hilliard said he did not touch one piece of paper and he has not touched paper since the deployment. Santa Rosa county is completely paperless, in that judges are using the electronic system to view cases. Tom Hall said the Florida Courts E-Filing Authority Board has established a committee to enforce standardization in the ePortal. There are variances in counties even when filing the same type of

case. If a filer is filing a probate case he/she should be asked to provide the same information regardless in which county the filing occurs.

Tom Hall gave a status report about when the appellate courts will be ready to accept electronic filings. The Appellate Court Technology Commission (ACTC) approved rollout dates for each appellate court. The rollout will be done in stages. The Supreme Court will be ready to accept electronic filings by June 2012; the 1DCA June 2013; the 2DCA July 2012; the 3DCA October 2012; the 4DCA January 2013 and the 5DCA March 2013. Mary Cay Blanks wanted to know if electronic filing will be completed or beginning on those dates. Tom Hall said these are beginning dates.

Karen Rushing said the FACC has announced that they will no longer fund ongoing maintenance of the ePortal after the ePortal is completed. They will commit to funding the ePortal until 2013 and will continue to seek funding from the Legislature; however, they will not be able to fund the ePortal after 2013 if they do not receive additional funding. Judge Kreeger said that FACC had made assurances to the Court that there would be no cost to the court for operating the ePortal. Karen stated the FACC wants to work with the courts, but there is no way the FACC could continue to support the ePortal without additional funding. Lisa Goodner wanted to know if there was a plan going forward past 2013 if funding is not received. Murray Silverstein said there should be registration fees and/or user fees and exceptions can be made for indigent individuals. He suggested that the FCTC should come up with a fee structure and make a recommendation to the Court. Judge Kreeger said the cost-benefit analysis that is in progress should be completed before discussing raising user fees to fund the judicial system. Judge Alan Lawson said Florida has one of the most expensive court systems for users in the United States. Thomas Woods suggested the FCTC should form a tactical campaign to get in front of the Legislature to show them how important the ePortal is and the immediate benefits to the Florida. Tom Hall said Florida is ahead of other states when it comes to technology across all courts. Judge Scott Stephens wanted to know if a judge wanted to electronically file a document whether that filing would have to go through the ePortal or if the judge would file it directly through a document management system. Jannet Lewis said the technical standards subcommittee will need to develop standards to address this issue.

AGENDA ITEM VIII. Committee Updates

Subcommittee on Access to Court Records

Judge Kreeger and Paul Regensdorf said they will contact The Florida Bar regarding further educating lawyers about access to court records.

Appellate Court Technology Committee (ACTC)

Alan Neubauer reported that the ACTC met via video conference on May 3, 2012. The server refresh is currently taking place. ACTC continues to collaborate with FACC on developing eFACTS. All DCAs are ascertaining how to meet the July 1, 2012 eFiling deadline. Mary Cay Blanks said clerks in the trial courts are becoming more anxious about the eFiling deadline and preparing records. iDCA/eDCA has been deployed in the 1DCA and 5DCA. In order to inform the clerks of the direction the courts are heading in, the technical standards subcommittee is going to develop standards for internal filing processes such as judges' orders and pro se filings, as well as define direct and indirect methods and required standards for providing the portal notifications and links for filed information. The clerks will be notified that they will need to adhere to these standards.

Funding Subcommittee

In Judge Northcutt's absence, Chris Blakeslee reported that the OSCA is working closely with the National Center for State Courts (NCSC) to conduct an analysis of the current state of technology in Florida's courts. The NCSC will provide the OSCA with a draft report in August with a final report due in September.

Education & Outreach Subcommittee

Murray Silverstein said the judicial education video developed by Paul Regensdorf and Judge Kreeger about Rule 2.420, needs to be distributed to lawyers and judges. Paul said he does not think it is necessary to do the outreach now as judges have not had formal training about Rule 2.420. Murray said in order to be consistent with the theme of uniformity, the best way to outreach the information is thorough the ePortal. Tom Hall agreed that it was a good idea, but believes that any education material which is posted should come from The Florida Bar and the education component could possibly be funded by The Florida Bar.

ePortal Subcommittee

Judge Reynolds did not have an update to give for the ePortal subcommittee as they have been on hold for some time.

TIMS (Trial Court Integrated Management Solution) Subcommittee

Judge Scott Stephens gave an overview of the functional requirements document which outlines the minimum standards that a court application processing system should entail. Chris Blakeslee discussed OSCA's concern about not having internal systems approved. Judge Stephens said it was addressed in the document.

Motion to adopt functional requirements document for court application processing system

MOTION OFFERED: Ted McFetridge

MOTION SECONDED: Paul Regensdorf

MOTION CARRIED UNANIMOUSLY

Reports Subcommittee

Ken Nelson reported to the Commission that the Reports Subcommittee has been diligently working on a survey to be completed in order to verify compliance with the Standards for Electronic Access to the Courts. The survey will be disseminated to the Court Technology Officers in the near future. The survey results will then be distributed to the compliance subcommittee. OSCA will work with the Reports Subcommittee to create a survey as well as a database that maintains the technology data for all circuits.

Compliance Subcommittee

Judge Lisa Munyon said the compliance subcommittee was tasked with setting up a process for determining compliance with the Standards for Electronic Access to the Courts and initiating a process to enforce compliance. The compliance subcommittee is mostly interested in ascertaining whether legacy systems are going to be "grandfathered" in. It is difficult to develop standards when the subcommittee does not know whether they are dealing with existing systems or only new systems going forward. The subcommittee is awaiting the survey information from the reports subcommittee, TIMS functional requirements for a court application processing system, and the Standards for Access to Electronic Court

documents from the technical standards subcommittee. Little progress can be made until the subcommittee receives this information. After it receives that information, the subcommittee will bring non-compliance issues to the full Commission.

Paul Regensdorf said the rules committee is in the process of writing proposed Rule 2.516 which deals with electronic service of pleadings and documents. The primary service rule is Rule 1.080, but it will be moved to Rule 2.516. Paul wants the compliance subcommittee to address local systems that have been developed in various places. Paul is uneasy about having a system that does not allow for e-service. Judge Munyon stated there are many things lawyers exchange among themselves that do not traditionally go through the courts. Paul said systems need to be alike instead of disparate. Paul suggested the compliance subcommittee address the local communication systems that are currently in place. There needs to be guidance for existing and future systems.

Walt Smith questioned the language in paragraph 1(a)&(b) of the Memorandum of Understanding (MOU) between OSCA and the FACC. He said that there is confusion about what "unrestricted access" means. Lisa Goodner and Ken Nelson said this means access to local clerk data. However, Ken Kent said it means the court should have access to CCIS. Fred Buhl said the MOU was developed because of the Judicial Inquiry System and it was to enable access to local clerk data. Ted McFetridge said the court should have access to both CCIS and the local clerk data. The objective is to get the best data. Lisa said for clarity purposes the OSCA and FACC need to revisit the MOU.

Murray Silverstein raised the issue of the TIMS functional requirements document only addressing orders. Judge Munyon said the TIMS standards only deal with court applications developed. Walt Smith said when the ePortal is fully developed local clerk systems will be obsolete and everyone will file documents through the ePortal. Chris Blakeslee stated that all eFiling approval letters include language which provides that after the ePortal is fully developed all counties will have to migrate to the ePortal. Karen Rushing wanted to know if the FCTC has jurisdiction over every municipality and the consensus of the Commission was no.

AGENDA ITEM IX. Other items/Wrap-up

Laird Lile stated that there was not a policy from The Florida Courts E-Filing Authority Board about non-attorney certification with Rule 2.420. If the filer is supposed to certify that the filing complies with Rule 2.420, then the filings should only be completed by attorneys. The issue is whether attorneys share credentials with non-attorneys for the purpose of filing through the ePortal. This issue is being referred to The Florida Bar Ethics committee for an opinion. The certification language presently reads, "I certify that the filing transmitted through the ePortal, 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 for the FCTC to withdraw the need for affirmative certification of compliance with Rule 2.420

MOTION OFFERED: Laird Lile

MOTION SECONDED: Karen Rushing

MOTION FAILED with 5 in favor

Murray asked for a friendly amendment to Laird's motion.

Motion that the certification issue be tabled pending the opinion of The Florida Bar Ethics committee

Murray Silverstein withdrew his motion.

Discussion continued as Judge Kreeger stated the attorney is ultimately responsible for what is filed through the ePortal. Judge Kreeger does not think the certification statement should be removed for the reason that there are far too many attorneys who do not understand Rule 2.420 and having to complete that statement calls the Rule to their attention. Judge George Reynolds agreed with Laird Lile about removing the certification language. Tom Hall said in preliminary discussions, The Florida Bar did not have concerns with paralegals or someone other than the attorney filing the document through the ePortal. Murray Silverstein said the reason for including the certification statement was to educate the filer. Judge Alan Lawson said Rule 2.515 says, "...The signature of an attorney shall constitute a certificate by the attorney that the attorney has read the pleading or other paper; that to the best of the attorney's knowledge, information, and belief there is good ground to support it; and that it is not interposed for delay". Paul Regensdorf said automatic certification have very little impact on what is being filed. Judge Lawson said the certification statement should probably be put in the pleading itself instead of the filing page on the ePortal. Judge Kreeger said AOSC06-20 says the court was concerned with those who would violate the minimization rule and people's privacy. Murray said maybe Rule 2.515 should include the certification language. He thinks the certification checkbox is for sanctions instead of education. Laird said in a paper world an attorney does not have to sign a second certification. Mary Cay Blanks said attorneys should make an effort to certify that the document does not have confidential information contained in it. Judge Kreeger said Florida is one of two states whose constitutions protect a right of privacy, and because of that the Supreme Court has been very concerned with minimizing confidential information that is placed in court files.

Motion that certification language in the ePortal be changed to, "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."

MOTION OFFERED: Murray Silverstein
MOTION SECONDED: Judge C. Alan Lawson
MOTION CARRIED UNANIMOUSLY

The next Commission meeting is anticipated for September 2012. OSCA staff will poll Commission members regarding their availability.

To commemorate Judge Kreeger's service as chair of the FCTC for the past five years, Lisa Goodner presented her with a plaque from the Chief Justice. Judge Kreeger thanked everyone for attending the meeting. There being no further business, the meeting was adjourned.