

Florida Courts Technology Commission Meeting

FCTC Action Items/ Summary of Motions

May 14, 2014

A meeting of the Florida Courts Technology Commission was held at the Orange County Courthouse in Orlando, Florida on May 14, 2014. The meeting convened at 9:00 A.M., Chair Judge Lisa T. Munyon presiding.

Members of the Commission in attendance

Judge Lisa T. Munyon, Chair, 9th Circuit
Judge Stevan Northcutt, 2nd DCA
Judge George S. Reynolds, 2nd Circuit
Mary Cay Blanks, Clerk of Court, 3rd DCA
Thomas Genung, Trial Court Administrator, 19th Circuit
Barbara Dawicke, Trial Court Administrator, 15th Circuit
Ken Nelson, CTO, 6th Circuit
David Ellspermann, Clerk of Court, Marion County

Judge Scott Stephens, 13th Circuit
Judge Robert Hilliard, Santa Rosa County
Judge Martin Bidwill, 17th Circuit
Murray Silverstein, Esq., Tampa
Dennis Menendez, CTO, 12th Circuit
Jannet Lewis, CTO, 10th Circuit
Karen Rushing, Clerk of Court, Sarasota County
Sharon Bock, Clerk of Court, Palm Beach County

Members not in attendance

Judge Manuel Menendez, Jr., 13th Circuit
Ted McFetridge, Trial Court Administrator, 8th Circuit
Charles C. Hinnant, Ph.D., Florida State University
Laird A. Lile, Esq., Naples
Thomas Woods, Tallahassee

Judge C. Alan Lawson, 5th DCA
Judge Sheree Cunningham, Palm Beach County
Kent Spuhler, Esq., Florida Legal Services
Paul Regensdorf, Esq., Jacksonville

OSCA and Supreme Court Staff in attendance

PK Jameson
Eric Maclure
Alan Neubauer
Lakisha Hall
Susan Dawson

Tad David
John Tomasino, Clerk of the Supreme Court
Chris Blakeslee
Jeannine Moore
Alex Krivosheyev

Other Attendees

Judge Margaret Steinbeck, 20th, Circuit
Judge Judith L. Kreeger, 11th Circuit
Noel Chessman, CTO, 15th Circuit
Steve Shaw, CTO, 19th Circuit
Jon Lin, CTO, 5th Circuit
Isaac Shuler, CTO, 2nd Circuit
Fred Buhl, CTO, 8th Circuit
Kristina Velez, 8th Circuit
Jose Morato, 11th Circuit
Melvin Cox, Director of Information Technology,
Florida Court Clerks and Comptrollers

Judge Robert Roundtree, 8th Circuit
Sandy Lonergan, 11th Circuit
Craig McLean, CIO, 20th Circuit
Mike Smith, CTO, 4th Circuit
Craig Van Brussel, CTO 1st Circuit
Gerald Land, CTO, 16th Circuit
Robert Adelardi, CTO, 11th Circuit
Adam Conley, 11th Circuit
Tim Smith, Clerk of Court, Putnam County
Ken Kent, Executive Director, Florida Court
Court Clerks and Comptrollers

Other Attendees cont'd.

Carolyn Weber, Florida Court Clerks and Comptrollers
Tom Morris, Florida Prosecuting Attorneys Association
Ana-Klara Anderson, Thomas & LoCicero
Henry Sal, Computing System Innovations
Dave Johnson, Mentis Technology
Victor Lee, Computing System Innovations
Laura Roth, Volusia County Clerk of Court
Angel Colonnese, Manatee County Clerk of Court
Akilya Drake, Palm Beach County Clerk of Court
Ernie Nardo, Broward County Clerk of Court
Cindy Guerra, Palm Beach County Clerk of Court
Brent Holladay, Lake County Clerk of Court
Marco Valdez, Palm Beach County Clerk of Court
Gerald Cates, Duval Clerk of Court
Repps Galusha, Orange County Clerk of Court
Lendy Davis, Escambia County Clerk of Court
Frank Martinez, Miami-Dade County Clerk of Court
H. Lyle Bulman, Polk County Clerk of Court
Jimmy Midyette, Florida Legal Services, Inc.
Benjamin Carpenter, Community Legal Services
Krys Godwin, The Florida Bar

Jennifer Fishback, Florida Court Clerks and
Comptrollers
Nichole Hansom, Public Defenders Association
Tim Nemethy, American Cadastre (AMCAD)
Brian Murphy, Mentis Technology
Harold Sample, Pasco County Clerk of Court
Jeff Taylor, Manatee County Clerk of Court
Carole Pettijohn, Manatee county Clerk of
Court
Tony Landry, Volusia County Clerk of Court
Doris Maitland, Lee County Clerk of Court
Toni Bleiweiss, Lee County Clerk of Court
Tyler Winik, Brevard County Clerk of Court
Melissa Geist, Orange County Clerk of Court
Tom James, Miami-Dade County Clerk of Court
Kim Hudson, Polk County Clerk of Court
Shelley Taylor, Polk County Clerk of Court
Michelle Yodonis, Polk County Clerk of Court
Bill Abbuehl, Community Legal Services
Steven Watkins, New Vision Systems

The meeting began with Judge Munyon welcoming the commission members and other participants to the meeting and introducing PK Jameson the new State Courts Administrator, Tad David the new General Counsel for the court and Eric Maclure the Deputy State Courts Administrator. Judge Munyon called the meeting to order advising everyone the meeting was being recorded.

AGENDA ITEM II. Approval of August Minutes

Motion to approve the minutes from the February 19-20, 2014 meeting of the Florida Courts Technology Commission.

MOTION OFFERED: Tom Genung
MOTION SECONDED: Murray Silverstein
MOTION CARRIED UNANIMOUSLY

AGENDA ITEM III. Trial Court Budget Commission (TCBC) Funding Workgroup

Judge Steinbeck, chair of the TCBC discussed a letter received from the chief justice asking the TCBC to look at funding the technology needs for the courts. The TCBC established a funding technology workgroup. Although there are a variety of funding streams, the needs of the courts are complex because of the integration of the systems in the counties, circuits, appellate courts and the Supreme Court. The TCBC needs help to quantify the needs and figure out a monetary amount to support those needs identified in the *Technology Funding and Sustainability Needs* chart included in the FCTC materials. The TCBC will then advocate for the funding stream. The TCBC is going to reach out to the clerks to get their

input to develop an integrated system and a funding stream that will support the needs of the clerks in maintaining the record as well as the judicial system in accessing the record and the case management piece. The TCBC is committed to working collaboratively with the FCTC. One of the charges of the chief justice is for the TCBC to look at the idea of user fees that may support some of the technology needs. While user fees can support the technology needs, they can also adversely impact access if they are too high. In spite of the challenges, the FCTC and the TCBC have the expertise to address the needs in a thoughtful way and develop an integrated system to support the mission of the courts throughout the state. Judge Roundtree would like another name other than “viewer” and “CAPS”. Viewer gives the impression of a monitor and CAPS is not descriptive enough. The system encompasses a great deal (i.e., document management, electronic signing, and electronic service). Judge Munyon and Office of the State Courts Administrator’s (OSCA) staff will work on coming up with a more descriptive name.

AGENDA ITEM IV. On-Going Plan for Technology Dollars

- a. Chris Blakeslee discussed funding technology statewide. Over the last eight years, an LBR (legislative budget request) has been submitted to fund due process which includes supporting court reporting and court interpreting. The *Technology Funding and Sustainability Needs* chart outlines the money needed to support the courts on an annual basis. An LBR for 4.9 million dollars was requested for FY 15-16 to finish implementing criminal judicial viewers statewide. Foreclosure funding was received to purchase equipment and servers and licenses, but there is no money for recurring costs for maintenance. Some circuits are at a standstill right now unless funding can be found to implement the criminal judicial viewers. Chris went on to discuss other system needs outlined in the chart. The chart will go to the funding workgroup and the TCBC for their approval.
- b. Judge Munyon tasked the access governance board to work with the funding workgroup to develop standards that define different access levels, parameters and standardize the data and information for access to electronic records. These standards will be provided to the TCBC funding workgroup to make a determination of how much to charge for different access levels.
- c. Chris Blakeslee said there is not enough support staff statewide to support the implementation of different systems in the court. There is a plan to work with the court technology officers in the circuits to start drilling down the needs in the circuits to support the different technologies.

AGENDA ITEM V. Comments on Administrative Order SC14-19

Judge Munyon discussed AOSC14-19 which granted electronic access to documents over the internet after a period of verification and an application process. Lawyers for the media provided comments on AOSC14-19 expressing concerns that attorneys had immediate electronic access to documents and the media is not privy to those documents. The Florida Court Clerks and Comptrollers (FCCC) sent two letters to the chief justice asking for assistance and clarification on AOSC14-19. Karen Rushing said the FCCC responded to allegations that the clerks were not eager to make public records available online. The administrative order is not simple and it is going to take significant effort to make sure access is provided to those who are entitled to see records and records that should be protected are protected. The clerks are working diligently to close the gap between attorneys and the public when it comes to access to electronic court records. The FCCC is working with the OSCA on a few questions with respect to the meaning of the administrative order as it relates to the access security matrix. The FCCC would like to map out all of the information requirements to develop an implementation plan on getting the clerks on board with providing access to electronic court records. Chris Blakeslee stressed that at this time there is not a mandate that the clerks put their records online. Murray Silverstein said AOSC14-19 supersedes the

restrictions imposed by AOSC07-49 and wanted to know if it is generally understood that AOSC14-19 lifted the moratorium. Judge Munyon said that is the general understanding.

AGENDA ITEM VI. FCTC Approved Items

Chris Blakeslee said OSCA staff will start developing a list of items that were approved at the previous FCTC meeting and include in the upcoming FCTC meeting materials. Murray Silverstein suggested posting this list on the court technology page along with the minutes from the meeting.

AGENDA ITEM VII. Judicial Viewer Update

Chris Blakeslee discussed the implementation schedule of the judicial viewers outline in the *Judicial Viewer Implementation by Circuit and County* chart. This chart is updated monthly. Currently 30 counties have a judicial viewer implemented in both the civil and criminal divisions. The criminal dates may continue to be postponed depending on funding received. Without the proper funding some circuits may not have a criminal viewer. The foreclosure money has to be expended by June 30, 2014, for that reason, the civil implementation has been made a priority. Hopefully funding will be received to implement criminal judicial viewers and to cover recurring maintenance costs.

AGENDA ITEM VIII. Certification Subcommittee Update

Judge Reynolds said Pioneer's Benchmark and the 8th circuit's Integrated Case Management Solution (ICMS) have received full certification. There are four in-house systems (Seminole County, the 4th, 15th and 17th circuits) that are working towards getting their internally developed systems certified. They have indicated they will come before the certification subcommittee, however a firm date has not been set.

AGENDA ITEM IX. e-Portal/e-Filing update (Authority Board, FCCC, etc)

a. Jennifer Fishback discussed the e-portal usage statistics. In the month of April, 1,159,359 filings were filed through the Portal and there are a total of 60,636 registered users. Of cases that are e-filed, approximately 95% are on existing cases and 5% are on new cases.

b. Jennifer Fishback updated everyone on criminal e-filing. In the month of April, 244,481 criminal filings were completed. All 67 counties are accepting criminal filings, of which, 55% are submitted using the batch process and 45% are submitted using single session. Eighteen circuits are using batch e-filing in production. The circuits are continuing to implement per the extensions granted in AOSC13-48. E-filings sent to the pending queue is at 2.3%. The FCCC will continue to assess how things end up in the pending queue. Roughly 6.7% of new case e-filings are returned to the pending queue. The FCCC will focus their attention on this number to see where improvements can be made. It takes about .99 days to get something to "filed" status. The speed at which something is filed continues to improve. Of the 1,159,359 filings submitted through the Portal, 864,087 used e-service. The FCCC has several projects going on including; working with the A2J (Access to Justice) software to build interviews; begin training for judges filing through the Portal; and planning releases for June 20, 2014, October 24, 2014, and April 24, 2015. The June 20, 2014 release includes website upgrades which incorporates online help directly in the application, online user manuals and videos, a more consistent screen layout and session timeout notification. Clerks will have the ability to associate a filer role to a docket code and associate users to a work queue. The FCCC incorporated the following filers on the Portal: self-represented litigants, process servers, court reporters, mediators, mental health professionals, law enforcement and state agencies.

Although these filers have been added to the Portal, they will not have the ability to file on the Portal until the FCTC approves them. Jennifer has been in contact with judges who would like to start e-filing through the Portal. Carolyn Weber is going to train the Trial Court Administrators on how to create and manage the judge accounts. Carolyn and Jennifer will train the judges on filing through the Portal.

c. Melvin Cox gave an update on the Portal service desk. The service desk takes in calls regarding customer service incidents and technical and system support incidents. The number of incidents received increased in March and April due to implementation of criminal e-filing and a new release. There is usually a spike in the number of incidents received when new groups are added to the Portal, different case types are added to the Portal, or new releases or new functionality are added to the Portal. The FCCC tracks the acknowledgment time per incident, which is how quick the service desk lets the filer know their incident is being worked on. They also track the resolution time, which is how quickly an issue is resolved. The average resolution time is around four hours. These numbers will help determine if the level of service provided is appropriate. The resolution time for the technical and system support calls is roughly six hours. The service desk is ready to take on adding new filers to the Portal. The service desk receives most of their incident reports via email (73% for customer service incidents and 92% for technical and system support). Tom Genung asked if the FCCC anticipates an increase in service desk calls once pro se filers are added to the Portal. Melvin said the FCCC is trying to get some training material together and let pro se filers know there are resources available on the Portal to help them. Judge Reynolds complimented Melvin and the FCCC for all of their hard work in getting the Portal up and running and adding new users. Judge Kreeger wanted to know if there was any information gathered on cost savings. Judge Munyon said this is still the implementation phase and not the cost savings phase.

d. John Tomasino gave an update on the appellate portal interface. The Information Systems Services department in the Office of the State Courts Administrator is getting eFACTS rolled out to the 3DCA, 4DCA, and 5DCA to replace legacy case management systems. Administrative order AOSC14-28, which pushes back the appellate e-record date to June 30, 2015 was issued May 7, 2014.

AGENDA ITEM X. e-Portal Subcommittee Status

a. Ken Kent summarized the results of a survey the FCCC sent to clerks regarding attorney's noncompliance with the e-filing requirement. Approximately 52% of the clerks who responded to the survey reported paper filings create a moderate and significant negative impact in their office while 48% of the clerks reported no impact or minimal negative impact in their office. More medium to large counties reported moderate to significant negative impact while more small counties reported no impact to minimal negative impact. Roughly 15,600 paper filings were received statewide in one month, excluding criminal filings. Based on the survey results, the e-Portal subcommittee recommends there be a time limited transition to eliminating paper filings by attorneys. Judge Reynolds would like the RJA to look into amending rule 2.520(f) that states clerks have to accept paper filings. Judge Stephens said it is necessary to let the RJA know if the FCTC wants them to take the recommendation out of cycle or to wait until the regular cycle. Chris Blakeslee discussed having the Supreme Court do an administrative order to implement those two dates and not wait for the RJA to make a rule change because it could take up to two years to do so. Ken Nelson said rule 2.520 is presently out for comment. However, John Tomasino said the portal time stamp issue is actually out for comment, but the court is making stylistic changes to rule 2.520(f). The new rule will read "No clerk of court shall refuse to file any document because of noncompliance with this rule. However, upon request of the clerk of court, noncomplying documents shall be resubmitted in accordance with this rule." Murray Silverstein said this is an out of cycle rule

amendment and should be considered by RJA as one of the exceptions listed in rule 2.525(d). Judge Reynolds said the FCTC should let the RJA know this should be out of cycle and let the court enter an administrative order to authorize these dates. The FCTC is prepared to use the authority of the court to have attorneys comply with the rules. Krys Godwin, the Director of Legal Publications with the Florida Bar said there is the ability for RJA to get things moving quickly and there should not be a delay. She does not recommend doing a rule amendment through comments. Judge Reynolds said an administrative order would be the most expeditious way to get the process started while the RJA looked at the time frames authorizing the clerk to refuse accepting paper filings unless listed in rule 2.525. Judge Reynolds offered a two part motion.

Motion to recommend a time limited transition to eliminating paper filings by attorneys with a deadline of September 2014 for civil court filings, September 2015 for criminal court filings and later for those circuits implementing criminal court mandatory e-filing after February 2014.

Motion to recommend the RJA take this issue up out of cycle and amend rule 2.520(f) to provide by date certain, clerks the opportunity to return paper filings to attorneys unless: disputed – Clerk to refer matter to Chief Judge; allow paper filings for emergency only with declaration of emergency provided by the filer; allowed by rule 2.525 or filer provides the legal authority for paper filings. In addition, ask the Supreme Court to adopt an administrative order adopting this process in the interim until a rule change can be effectuated.

MOTION OFFERED: Judge George Reynolds

MOTION SECONDED: Karen Rushing

Murray Silverstein offered a friendly amendment to the second motion.

Amended motion to ask the RJA to also look at the exceptions to e-filing in rule 2.525(d).

Judge Reynolds said this was a separate issue. Karen Rushing asked if Murray's friendly amendment was to allow for more paper documents or a general way of characterizing the things enumerated in the e-Portal subcommittee report. Murray said there are circumstances in a family setting where you would need a paper file and technically the rule would not allow for a paper file. Murray said if there is no consensus to add another category for paper filing he would not propose it to RJA.

Murray Silverstein withdrew his friendly amendment.

MOTION CARRIED UNANIMOUSLY

Judge Reynolds discussed establishing a workgroup to determine if paper filings for certain designated document types would still be allowed. There are several documents that will still need to be in paper until electronic notary or a verification of documents is in place. Judge Munyon asked if this was an issue that should be taken up by RJA that oversees rule 2.525. Judge Reynolds said it is an RJA issue as they should be deciding what documents should be coming in and out. Ken Kent prefers the FCTC establish a workgroup to provide input on these issues. Murray Silverstein said this is something the RJA could review. Mary Cay Blanks said there is a fear of receiving more paper documents if a workgroup is set up to

review the issue. She wanted to wait to see the workload of the clerks if the attorneys are compliant after the September 2014 and 2015 deadlines. After listening to Mary Cay's comments, Ken Kent agreed to drop the recommendation of a workgroup being established.

b. Melvin Cox demonstrated judges e-filing through the Portal. Judge e-filing through the Portal will be implemented on June 20, 2014. Judge accounts must be created by court administration who in turn will create the judge role. Carolyn Weber said judge role does not appear on the registration drop down list for all registrants. The process would be the same as attorneys. The judges will have an email log linked to their account that shows all of the emails they have received through the Portal. E-service will be provided on the documents they file, however, the judge's name will not be automatically added to the e-service list. They can receive a copy of the document if they choose. When the attorneys or other filers log in the judge's name is not visible to that filer. Judicial filings will be annotated so clerks will know when a judge has filed a document. The clerk of court will have the ability to establish work queues for judicial documents and handle in a priority order. Carolyn reminded everyone it is not mandatory for judges to e-file through the Portal. It is for their convenience. Some enhancements were made to the Portal to accommodate judges e-filing through the Portal. The filer role is visible throughout the Portal, online help videos are on specific pages the help pertains to and the ability to limit docket codes to the filer role were added. For example, a judge would only see Orders that would be filed by a judge. Conversely, a pro se litigant would not be able to submit an Order to be filed. Tom Genung asked about batch filing for judges. Carolyn said it is single session filing through the Portal, but judges have the ability to batch file through the judicial viewers. Tom also inquired about emergency filings from the judiciary. Carolyn said there is an emergency icon that can be used on the case information page to alert the clerk of the urgency and the assumption is the clerk would handle that filing with the utmost priority.

Motion to adopt the recommendation of the e-Portal subcommittee to allow judges to e-file through the Portal as of June 20, 2014.

MOTION OFFERED: Judge Reynolds

MOTION SECONDED: Murray Silverstein

MOTION CARRIED UNANIMOUSLY

c. Judge Bidwill discussed the exhibit language change for standard 3.1.17 Exhibits in the *Standards for Electronic Access to the Courts*. The e-Portal subcommittee modified this section by deleting the word "transformed" and adding the word "converted".

Motion to change the language on standard 3.1.17 Exhibits in the *Standards for Electronic Access to the Courts* to read "Each documentary exhibit marked for identification or admitted into evidence at trial shall be treated in accordance with Florida Rule of Judicial Administration 2.525(d)(4) or (6), and then converted by the clerk and stored electronically in accordance with rule 2.525(a)."

MOTION OFFERED: Judge Martin Bidwill

MOTION SECONDED: Judge George Reynolds

MOTION CARRIED UNANIMOUSLY

d. Judge Reynolds discussed Florida Rule of Judicial Administration 2.516(b) Service of Pleadings and Documents. The e-Portal subcommittee raised the question of whether or not the judge should have an

email address for service where the judges are required to be served by law. Judge Munyon said according to the rule there is a limitation because the judge would not be a party or a party represented by an attorney. Mary Cay Blanks said a judge would be a party in a writ of prohibition. Murray Silverstein stated circuit courts and county courts have counsel. Judge Munyon said the counsel may not represent judges in a particular case. Judge Reynolds said this is a complex issue. Should judges be exempt from electronic service unless they consent to it?

Motion a judge cannot be served by email or any other electronic means a motion or pleading in a case where the judge is required to be served by law unless the judge consents to service by email.

MOTION OFFERED: Judge George Reynolds

Mary Cay Blanks asked if this was an issue for the FCTC to tell someone they cannot serve a judge by a particular means. Judge Reynolds said it was an RJA issue on the service, but it is a FCTC issue on the technological ability to electronically serve people. Judge Reynolds asked if someone sends a judge a motion by email is that service. Tom Genung said it is not in the purview of the FCTC to determine effective service. Murray Silverstein said addressing the technological part there is no doubt a substantive issue and should go before the rules committee. The mischief potential of an ex parte communication is so great there should not be a requirement for judges to have public email addresses. Judge Kreeger said in some counties the clerks and judicial assistants have set up queues within the judge's office for matters that need to be brought to the judge's immediate attention. Maybe there is a way to mechanically link emergency motions to a quick queue. Judge Munyon said many counties do not have that ability at this date. Murray said he would not recommend this issue be referred to the RJA because it is not an issue in terms of overall priorities. Judge Munyon said the issue is somewhat addressed in rule 2.516 b(1)(C). If someone has an attorney representing them as a party in the proceeding that attorney has to receive e-service. Just because someone is a judge or an attorney it cannot be assumed that the person can or would represent themselves in a proceeding. Judge Reynolds said under that rule if he has not designated an email address he could not be served electronically. Murray said when you are talking about initiation of prohibition or disqualification, it is likely to be the first time the judge has become a party and service is going to be effectuated by physical service and then the judge appears through counsel. Mary Cay said in eDCA judges can register and be assigned to the cases they are on and receive service from the court electronically. When a judge registers in a case they are consenting to electronic service. On a writ of prohibition when a trial is scheduled to begin, if the lawyer does not electronically serve the judge when the court issues a rule to show cause the clerk has to serve the judge. In those cases, judges would appreciate electronic service. Mary Cay does not think the FCTC can mandate how attorneys serve judges.

Judge Reynolds withdrew his motion as rule 2.516 b(1)(C) addresses how judges should be served.

e. Judge Bidwill thanked all of the members of the e-Portal user group and he commended the Portal staff for taking the suggestions into consideration and making the changes suggested by the e-Portal user group.

AGENDA ITEM XI. Date for Clerks to No Longer Accept Paper

The date for clerks to no longer accept paper filings was discussed in detail under Agenda Item X a. e-Portal Subcommittee Status. Please refer to that section for the update.

AGENDA ITEM XII. Consolidated Pro Se Workgroup Update

Sharon Bock discussed pro se litigants being added to the Portal. In the past, the FCTC asked the FCCC put the pro se filers at the top of the list to be the next user group added to the Portal. The Access Governance Board, the Authority Board and the Consolidated Pro Se committee have agreed to allow the Portal to have the technological ability for pro se filers to e-file through the Portal on June 20, 2014. Sharon said there is not an anticipation of a lot of use of the Portal right now. However, that will change after Phase 2 which includes education and training. This will include collaboration with the courts, legal aid, the Bar, clerks, etc. Jennifer Fishback said the registration process for pro se filers is basically the same. They have to specify their name, email address, phone number, etc. The main difference is the pro se litigants are not credentialed. Pro se filers will have a drop down just like the attorneys, whereas judges will have the ability to file Orders. Judge Stephens asked what prevents impersonation. Judge Munyon said nothing. Mary Cay Blanks asked if pro se filers could be related to existing cases. Karen Rushing said pro se filers cannot file on someone else's case. Mary Cay said the majority of pro se filers will already have an existing case and the clerks should be able to identify if the pro se litigant is only associated with the case being filed. Jennifer said the pro se filer will enter a case number, submit a document to that case number, the clerk will review the filing and perform the appropriate action. Karen said clerks do not go into each case and check to see if the pro se filer should be in another case. She stated it is more likely to be misbehavior in an automated system than there is in the paper world. The question arose if there should be more stringent review of pro se filed cases. Judge Munyon said in a high profile case there is the possibility for strangers to file letters or even unusual motions to cases. Jennifer said it is up to the review process of the individual clerk. On the Portal a person can submit a document to a case and that document will be transmitted to the clerk. Sharon Bock said documents are submitted today by mail and other methodologies. The clerks will docket the document and it will be up to the judge and the attorneys to look at the case and determine what should or should not be a part of the case. The system is anticipated to work just like the paper world does today. Sharon reiterated this is a technical release and not a published or marketing campaign. The technical release allows the pro se litigant to file, however, it does not mean they are going to file. Judge Kreeger asked if there was going to be a way to designate if a filer was a party or nonparty to a case in the in the registration process. It is very common in a low profile domestic relations case to receive a Dear Judge letter to make recommendations and this should not automatically put the person on the service list. There should be a box to designate if the filer is a party to the case. Judge Reynolds said this has huge potential for abuse. It is a leap of faith. Mary Cay asked if pro se filers would have remote access. Judge Munyon said they would not because pro se filers are not credentialed and they could see confidential information. Sharon said AOSC14-19 has standards and the access security matrix. The access governance board made the decision that there are two pieces of access to the system for pro se filers; the actual access to the courts via entry through the Portal and viewing the documents which is remote viewing. Remote viewing will be attached to the access security matrix. Jennifer said the Portal cannot identify if a pro se filer who created an account today is the same pro se filer who created an account yesterday just with a different ID. However, pro se filers have to register with a username and password and the IP addresses are on the pro se filer's documents. In the Portal there is an audit trail on everything. Carolyn Weber said the clerk has the ability to deactivate a filer from filing documents electronically if they are up to mischievous tasks. Judge Stephens said the Portal

should alert filers of the criminal sanctions for falsifying documents and impersonating individuals. Jennifer said the FCCC is in favor of adding any language the FCTC wants to the registration process for pro se filers. Mike Smith asked if interlopers who are not a party to the case files on the case, will he/she be automatically added to the e-service list. Jennifer said yes the filer would be added to the e-service list if they have an account with the Portal. She said there is not a way to identify if the filer is a party on the case. It is incumbent upon the attorney to make sure the service list is correct. Dennis Menendez asked if a pro se filer who is abusing filing privileges could he/she be cut off from filing on a case. Karen Rushing said there are orders for vexatious litigants where clerks reject documents. Jennifer said the clerks have that ability, but it could not be done at the Portal. Dennis asked if the functionality could be built into the Portal. Mary Cay said the person could not file electronically until the clerk approves the filing. Sharon said all of these things being discussed are hypothetical. If they do happen the FCCC would shut the Portal down for pro se filers and go back and review the issues. This is an enormous first step for access to justice.

Motion to allow the technical launch of pro se filers being able to electronically file through the Portal on June 20, 2014. The clerk shall contact the assigned judge if filing abuse is suspected in any case.

MOTION OFFERED: Sharon Bock

MOTION SECONDED: Karen Rushing

A lot of discussion ensued and the commission stopped for lunch. Once the commission arrived back from lunch discussion started on Agenda Item XV. Numbering Docket Entries. Judge Reynolds wanted pro se filers to consent to electronic service. Judge Reynolds wants the clerks to be required to contact the assigned judge if filing abuse is suspected in any case. The above motion was made and seconded, however, a formal vote was not taken on the motion as it was agreed by the commission to take this issue up with the access governance board update as it all ties in together. A new motion is restated under the access governance board update.

AGENDA ITEM XIII. Access Governance Board Subcommittee Update

Judge Hilliard said the access governance board recommends that there should not be a verification process for pro se filers.

Motion there should not be a verification process for non-attorneys (including pro se litigants) to electronically file through the e-Portal. Therefore, non-attorneys (including pro se litigants) will be allowed to electronically file through the e-Portal, but not view cases through the e-Portal. Non-attorneys (including pro se litigants) will have remote electronic access to cases as each county implements AOSC14-19.

MOTION OFFERED: Judge Robert Hilliard

MOTION SECONDED: Judge George Reynolds

MOTION CARRIED

Murray Silverstein asked if pro se filers would have access to his/her case once AOSC14-19 is implemented. He wants the three access methods (direct access via application to internal live data, web-based application for replicated or live data with security, and web-based portal for public viewing of

replicated data and variable levels of security based on user role) that were approved in AOSC14-19 defined. Sharon Bock said the concept of access is bigger than the standards. The access governance board is looking at access defined in terms of security and viewing. As far as security, the access security matrix will be followed. Access to the courts is being able to file, but not being able to remotely view documents. Judge Munyon said the pro se filers will be able to send documents to the clerk system, but no information will be received other than an email saying the filing has been accepted. They will have the ability to use e-service, but they will not have access to the court file until the other security measures are put in place. Mary Cay Blanks asked if attorneys and pro se litigants have equal access to their cases at the same time once the administrative order is implemented. If not, the pro se litigants will still be at the end when it comes to viewing the document. Judge Munyon said once the AO is fully implemented by the clerks, pro se litigants will have the ability to fully view cases online. Karen Rushing said the AO does not require clerks to give remote access. Mary Cay said it does not seem like anything has been accomplished on the pro se side if a party who is represented by an attorney has immediate access to the court file as opposed to a pro se litigant who would have to come into the clerk's office to view the case file. Judge Kreeger said some time ago there was discussion on assigning unique identifiers to users of the courts. She encouraged renewing the unique identifier conversation. Perception is very important. As evident in the letter the media sent to the chief justice inquiring why attorneys have electronic access to court documents and the media does not. Judge Munyon said the FCCC has requested the court to clarify whether they can provide access to attorneys if they are not able to provide the same access to the general public or a pro se litigant. Jannet Lewis said the moratorium was just lifted and some clerks do not have remote viewing capability in place. The perception that all attorneys statewide can remotely view documents is not true. It depends on the individual clerk. The access governance board decided it was important to at least allow the pro se litigants the capability to electronically file documents and then tackle the issue of remote viewing. Sharon said the designation process is outlined in AOSC14-19. The Manatee model has been in place and working for five years. Pro se litigants will be able to see documents in their case if they have e-service. It will just be a practical reality of service. This is a first step in this very complex issue. Both the Pro Se committee and the Access Governance Board will continue to work on access to the actual documents.

Motion to allow pro se litigants to begin filing through the Portal on June 20, 2014 and by using the Portal the pro se litigants are consenting to e-service. The FCCC will add the following language to the Portal: "By electronically filing through the Portal I understand and agree that I may receive future electronic court documents in this case at the email address(es) I provided."

MOTION OFFERED: Judge George Reynolds

MOTION SECONDED: Sharon Bock

MOTION UNANIMOUSLY

AGENDA ITEM XIV. Technical Standards Subcommittee

a. Jannet Lewis discussed the data transmission language. A new section 3.3.1.2 Data Transmission will be added to the *Integration and Interoperability (I&I)* document. A separate section will be added to the I&I document for standard data exchanges. A data exchange workgroup has been set up to develop standardized data exchanges. Standard data exchanges deals with standardized transmission and standardized content management. By the next FCTC meeting the subcommittee hopes to have some language and maybe some adjustments to other areas of the I&I that have general language about data

exchanges. This will also include how to publish those standardized exchanges so that clerks and developers can have access to them.

Motion to add the following language to the *Integration and Interoperability* document “3.3.1.2 Data Transmission. Protocols for transmission, between distinct entities, of data governed by this document must be generally available, nonproprietary, and protected by the most secure methods reasonably available to all participants. Each repository of data shall provide its data in accordance with this document and such other standards as may be adopted under the authority of the Supreme Court.”

MOTION OFFERED: Jannet Lewis

MOTION SECONDED: Judge George Reynolds

MOTION CARRIED UNANIMOUSLY

b. Jon Lin discussed the data exchange workgroup. The workgroup met in April and established a primary goal to develop standardized data exchange standards. The initial focus will be on the case maintenance systems and the judicial viewer’s interfaces. The workgroup also discussed the different types of exchanges i.e., circuit to circuit, circuit to county, state to circuit and external agencies to state. The workgroup is going to compare the data elements required in the JDMS (Judicial Data Management System) to the NIEM standards and CCIS 3.0. The workgroup will meet monthly to develop the data exchange standards. Chris Blakeslee informed the commission that development of the CMS standards have been put on hold until the data exchanges are identified.

AGENDA ITEM XV. Numbering Docket Entries

Karen Rushing discussed numbering dockets. The FCCC surveyed the clerks of court to see how much it would cost for them to modify their case maintenance systems to include docket numbers in the docket page. The survey results showed it would cost close to 1.3 million dollars to implement docket numbering statewide. Some of the systems have docket numbering already. There are significant hours associated with implementing this. Judge Munyon said in the federal system each docket has a docket entry number and all of the attachments can be associated to that docket entry. Judge Northcutt said it would be helpful if dockets on appeal had docket numbers as well. Currently, the appellate courts only receive paginated records and hyperlinks to the documents. The appellate courts would benefit tremendously as with the trial courts if the dockets were numbered. Alan Neubauer said eFACTS natively captures line items for docket numbers, but the developers have to figure out how to display the numbers in a meaningful way. Karen said the clerks do not have enough information to implement docket numbering right now. The main obstacle is the financial resource. In order to move forward, the clerks need to have real numbers, a real timeframe and a real revenue source. Ken Nelson asked specifically if a quote was received from Tyler regarding Odyssey because a number of circuits use Odyssey and the change should only be required one time. The quote received from Tyler to make the change was \$660,000 (worst case scenario). Judge Munyon asked Karen to submit a recommendation to the FCTC detailing a realistic timeframe for the clerks of court to implement docket numbering, including sufficient time the clerks would need to obtain any funding to implement docket numbering. Karen thinks it would take about two years. It would take approximately a year to receive the money and a year to implement. Judge Stephens said docket numbering in a unique way is something that has to be done to build a database system, therefore, it is not a luxury and it should have been obvious when the systems were built. Tom James, the Chief Information Officer for the clerk in Miami-Dade county said if legacy systems are excluded from requiring

docket numbering the cost would go down tremendously. Judge Reynolds believes the issue is important to the Florida Bar and is willing to work with the clerks on the expense issue and to build in an exception process to help counties like Miami-Dade to implement docket numbering.

A new standard on exhibits have been put before the FCTC which provides each exhibit accompanying a docket shall be separately attached and denominated with a title referencing the document to which it relates. Karen said numbering exhibits was not a part of the initial questionnaire submitted to vendors to determine pricing for numbering the docket page, therefore, numbering exhibits will be an additional cost. Numbering exhibits influences the case maintenance system and the Portal because the Portal is going to have to be able to capture that the filer is filing a single document with multiple attachments. Karen said if docket numbering is mandated clerks will get busy working on a business plan and a budget proposal to make it happen. Judge Reynolds said he is trying to parse the issue of the association of an exhibit to a document. Karen said the commission could take the approach of the docket lines being numbered that accommodates the requirement of the exhibit standard. This would require all vendors to standardize the numbering of the exhibits. Judge Reynolds also questioned the additional cost to add exhibits to docket numbering. The exhibits could just take on the next sequential number in the docket entry and then adhere to the exhibit standard set forth in the *Florida Supreme Court Standards for Electronic Access to the Courts* (e.g., Exhibit A, Part 1 of 5, Part 2 of 5, etc.). Each document in the progress docket has a separate number identifying it and the number does not necessarily relate back to anything other than the title in the progress docket. Karen said until everyone has to file through the Portal, docketing is happening simultaneously. Documents have to be bundled when filed so they come in as a package and then associate it. If anything happens in the middle you have to separate the documents and then the court will not know which exhibit goes with which complaint without having to read it. Judge Reynolds said if the filer denominate the document with a title referencing the document to which it relates the documents should be easy to identify. Judge Reynolds wants docket entries to be labeled. If it is going to be a substantial cost to relate exhibits back to the document, Judge Reynolds thinks everyone could live with each document getting a number. Judge Munyon said in the federal system the attachments carry the document number to which it is attached. Carolyn Weber said the Order that is entered reference back to the motion that was filed by the number and there is a link to that motion attached to the number. Exhibits are a subset of the motion that was filed. Judge Reynolds said that is consistent with the proposed exhibit language. John Tomasino asked if hyperlinks could be used instead of numbering dockets. It seems to be easier to hyperlink documents as opposed to a numbering system that has to be transposed. Murray Silverstein said this is a big issue because ideally this will assist with what the overall electronic court system will evolve to. In the federal system an email gets served with a hyperlink to the document. The progress dockets in the federal system have permanent embedded document numbers. Full functionality service includes a hyperlink to the document that syncs with the docket number. Mary Cay Blanks asked John if he was referring to exhibits being hyperlinked to the documents or hyperlinks for service. John said he was referring to hyperlinking the title of a document. A number would not matter because the hyperlink would be to the title. Clicking on the hyperlink would take the user directly to the motion being referenced in the Order. Judge Stephens said the trial courts have more than one thing called motion for summary judgment so there is a need for disambiguation. The way that the automation works is when the systems could machine read the difference between documents. Sequential numbering is not important, therefore, ordinality is more important than cardinality. Karen said every document has a number internally. Although the number is not sequential to the case, it is sequential to the activity going on in the system. It is a big number and might not be useful to the court. Judge Stephens said

converting that to a single sequential number only requires a hashtag. Tom James said the judicial viewers will be using the number as well so that needs to be taken into consideration. Judge Reynolds said the database should be replicated so the cost would not increase. Numbering docket entries will be referred to the technical standards subcommittee for further review and will be determined at a later date which document the standard will be added to. Numbering docket entries will be from date of implementation and not retroactive. Judge Stephens asked if this was approval in concept or if this is a concrete plan that action will be taken immediately. Judge Reynolds said it is a little of both. The concept is not illusive nor imaginary. The FCCC has a lot to do, but the subcommittee would like to get this on their agenda.

Motion the clerks shall individually number each document filed and associate each exhibit to the relevant docket entry. The progress docket shall reflect the title of each document along with a sequential numbering for each document.

MOTION OFFERED: Judge George Reynolds

MOTION SECONDED: Judge Steven Stephens

MOTION CARRIED

AGENDA ITEM XVI. Trial Court Integrated Management Solution (TIMS) Update

a. Judge Stephens stated at the previous FCTC meeting, the proposed changes to the Court Application Processing System (CAPS) standards were approved in concept by the commission. The standards were then published to allow vendors to provide feedback. The certification and TIMS subcommittees met to discuss the changes put forward by the vendors and updated the standards accordingly. Implementation of the new CAPS standards was moved from 180 days to one year.

Motion to adopt the changes to the Functional Requirements Document for Court Application Processing System 3.0.

MOTION OFFERED: Judge George Reynolds

MOTION SECONDED: Tom Genung

MOTION CARRIED UNANIMIOUSLY

AGENDA ITEM XVII. Electronic Court Filing Standard Workgroup

a. The exhibit language was discussed in detail under Agenda Item X c. Exhibits 3.1.16. Please refer to that section for the update.

AGENDA ITEM XVIII. Certify Compliance with Rule 2.425 through the Portal

Murray Silverstein discussed compliance with rule 2.425. The certification compliance language dealing with rule 2.425 was taken out of the Portal. Rule 2.515 says the attorneys are certifying compliance with rules 2.420 and 2.425 in that the document does not contain any confidential or sensitive information when they affix their signature to a filing. There is an inconsistency in the Portal when an attorney files. The certification for 2.425 checkbox is no longer there. There is a page with three checkboxes that references rule 2.420 and the attorney gets the popup and completes the confidentiality form, but on the last page there is not a checkbox, however, both rules are referenced. This issue was approved at the

February 19-20, 2014 FCTC meeting, however, Murray wants the issue to be put on the agenda for the upcoming FCTC meeting in August for further discussion.

AGENDA ITEM XIX. Technology Rules Workgroup

Murray Silverstein said Tom Hall, David Ellspermann and himself were appointed to a workgroup to determine if there are items within the rules of judicial administration that could be moved to the purview of the FCTC. It appears a lot of rules, specifically rule 2.516 have a lot of technological stuff added in it. It came to the attention of the RJA and the commission, the process for amending the rule is traditional, cumbersome and not timely. Rule changes may not keep pace with technological changes, therefore, the question arose, "is there a better way to keep the rules in sync with technology?" The technology rules workgroup concluded that some of these tasks could be extricated from RJA to the FCTC. Under Florida Rules of Judicial Administration 2.236, the court delegated the FCTC to oversee, manage, and direct the development and use of technology within the judicial branch under the direction of the Supreme Court. One of the responsibilities of the FCTC is to recommend statutory and rule changes or additions relating to court technology. In the past the FCTC has made a referral to RJA to amend the rule by submitting a rule package to the court, but it seems rule 2.236(b)(13) allows the FCTC to make the recommendations directly to the court. The overarching question is should certain things in the rules be removed from the rules sets. Perhaps a subcommittee of the RJA should be developed to do a thorough review of the rules. Murray gave several examples where technical standards were embedded in the rules. He wanted to know if there was a general consensus among the commission to allow these types of technical issues to be handled through the FCTC. Jannet Lewis said a lot of these were initially in the standards and the consensus then was they needed to be added to the rules to align with the standards. Rules carry more weight than standards. If the technical standards are removed from the rules, the lawyers may choose to ignore the technical standards. Murray said there are various portions of the rules that have incorporated by reference AOs. Rule 2.525(b) has a description of the ECF (Electronic Case Filing) procedures that essentially incorporates by reference AOSC09-30. In order to have the dynamic flexibility of having rules readily on point, you can continue to the process of using a rules set that incorporates by reference the AO. Murray wants to append the AOs and technical standards to the rules of judicial administration. The RJA can write a rule that says attorneys are hereby required to abide by the standards describe in a particular AO. Traditionally those AOs that deal with e-filing, e-service or electronic access to the courts are somewhat inaccessible to attorneys. However, if they become a part of a rule of court you have the oomph because it is incorporated by reference specifically and appended to become a part of the rule. The rules of judicial administration currently has an appendix that could be added to.

Motion for the FCTC to approve in concept the idea to relocate the technical issues from the rules of court back into the technical standards of the FCTC.

MOTION OFFERED: Murray Silverstein

MOTION SECONDED: David Ellspermann

David Ellspermann said the intent was not to remove any direction from the rule itself. Susan Dawson suggested appointing an ad hoc workgroup to look at the implications of scrubbing the rules down. Judge Munyon said Murray Silverstein, David Ellspermann and Tom Hall were assigned to do that. Murray Silverstein said the scrubbing should be done at the RJA level. Judge Kreeger said the collaborative process with RJA is a 10-15 year process with regard to the shift to electronic record keeping and has

required a lot of interaction. Many members of the RJA look at rules with very different lens than members of the commission with regards to matters that affect court technology. Judge Kreeger does not believe many attorneys know where to look for technical standards, but they are more likely to look at the rules of judicial administration. Rule 2.236(b)(15) says the FCTC is supposed to coordinate proposed amendments to rules of court to the Bar's rules committees. Jurisdictional, rule 2.236(b)(14)(C) gives the FCTC the ability to initiate a recommendation. Based on this rule the FCTC has the right to identify an issue that requires attention in the judicial branch.

MOTION CARRIED UNANMIOUSLY

AGENDA ITEM XX. Other Items/Wrap up

Tom Genung raised the issue of electronic access to public records. There is a concern about prospective jurors on criminal cases being able to access the particular case in which they are sitting as a juror. It is significantly different because in a paper world the juror cannot go down and get the file and look at it. Tom Hall said there is a proposed rule to take away all of the juror's electronic devices while they are serving. Judge Munyon decided to put the issue on the next FCTC agenda.

Motion to adjourn the FCTC meeting

MOTION OFFERED: Tom Genung

MOTION SECOND: Judge Martin Bidwill

MOTION CARRIED UNANMIOUSLY

Meeting was adjourned. The next Commission meeting is scheduled for August 28-29, 2014 in Tampa.