

# Florida Courts Technology Commission Meeting Summary

## October 26, 2017

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A meeting of the Florida Courts Technology Commission was held at the Mission Inn Resort in Howey-in-the-Hills, Florida on October 26, 2017. 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, 9<sup>th</sup> Circuit  
Judge Martin Bidwill, 17<sup>th</sup> Circuit  
Judge Josephine Gagliardi, Lee County  
Judge Terence Perkins, 7<sup>th</sup> Circuit  
Lonn Weissblum, Clerk of Court, 4<sup>th</sup> DCA  
Jim Kowalski, Jr., Esq., Jacksonville Area Legal Aid  
Thomas Genung, Trial Court Administrator, 19<sup>th</sup> Circuit  
Sandra Lonergan, Trial Court Administrator, 11<sup>th</sup> Circuit  
David Ellspermann, Clerk of Court, Marion County  
Karen Rushing, Clerk of Court, Sarasota County  
Sharon Bock, Clerk of Court, Palm Beach County  
Matt Benefiel, Trial Court Administrator, 9<sup>th</sup> Circuit

Judge Ross Bilbrey, 1<sup>st</sup> DCA  
Judge Robert Hilliard, Santa Rosa County  
Judge Ronald Ficarrota, 13<sup>th</sup> Circuit  
Judge Scott Stephens, 13<sup>th</sup> Circuit  
Laird Lile, Esquire, Naples  
Murray Silverstein, Esq., Tampa  
Christina Blakeslee, CTO, 13<sup>th</sup> Circuit  
John M. Stewart, Esquire, Vero Beach  
Noel Chessman, CTO, 15<sup>th</sup> Circuit  
Mike Smith, CTO, 4<sup>th</sup> Circuit  
Elisa Miller, Akerman LLP

### **Members not in attendance**

Judge Stevan Northcutt, 2<sup>nd</sup> DCA

Tanya Jackson, Adam Street Advocates

### **OSCA and Supreme Court Staff in attendance**

John Tomasino, Clerk of the Supreme Court  
Alan Neubauer  
Jeannine Moore

Roosevelt Sawyer, Jr.  
Lakisha Hall

### **Other Attendees**

Robert Adelardi, CTO, 11<sup>th</sup> Circuit  
Craig McLean, CIO, 20<sup>th</sup> Circuit  
Steve Shaw, CTO, 19<sup>th</sup> Circuit  
Terry Rodgers, CTO, 5<sup>th</sup> Circuit  
Jim Weaver, 6<sup>th</sup> Circuit  
Isaac Shuler, CTO, 2<sup>nd</sup> Circuit  
Yvan Llanes, CTO, 18<sup>th</sup> Circuit  
Melvin Cox, Director of Information Technology,  
Florida Court Clerks and Comptrollers

Craig Van Brussel, CTO, 1<sup>st</sup> Circuit  
Fred Buhl, CTO, 8<sup>th</sup> Circuit  
Gerald Land, CTO, 16<sup>th</sup> Circuit  
Brian Franza, CTO, 10<sup>th</sup> Circuit  
Dennis Menendez, CTO, 12<sup>th</sup> Circuit  
Mitch Stanford, 2<sup>nd</sup> Circuit  
Carolyn Weber, Florida Court Clerks and  
Comptrollers  
Tom Hall, Florida Court Clerks and Comptrollers

Maryanne Marchese, Florida Court Clerks and  
Comptrollers  
Justin Horan, Clay County Clerk of Court  
Dave Winiecki, Sarasota County Clerk of Court  
Carol LoCicero, Thomas and LoCicero  
Brent Holladay, Lake County Clerk of Court  
Gerald Cates, Duval County Clerk of Court  
Doug Bakke, Hillsborough County Clerk of Court  
Harold Sample, Pasco County Clerk of Court  
Chris Short, Pinellas County Clerk of Court  
Repps Galusha, Orange County Clerk of Court  
Kimberly Stenger, Polk County Clerk of Court  
Paul Jones, Palm Beach County Clerk of Court  
Laurie Rice, Brevard County Clerk of Court  
Mary Lynn Sullivan, Tyler Technologies  
Doris Maitland, Lee County Clerk of Court  
Frances Cox, Vista Solutions Group  
Stephanie Modica, Lake County Bar Association  
Don Johnson, Mentis Technology Solutions  
Carissa Schneider, Palm Beach County Clerk of Court

Thomas Morris, State Attorney 8<sup>th</sup> Circuit  
Tara Green, Clay County Clerk of Court  
Nancy Owens, Thomson Reuters  
Justin Ebright, Pioneer Technology  
Mike Phelps, Polk County Clerk of Court  
Gary Blankenship, Florida Bar News  
Krys Godwin, The Florida Bar  
Tyler Winik, Brevard County Clerk of  
Court  
Carole Pettijohn, Manatee County Clerk  
Court  
David Lane, Charlotte County Clerk of  
Court  
Barbara Leach, Florida Association of  
Women Lawyers  
Jean Sperbeck, Alachua County  
Clerk of Court  
Jess Irby, Alachua County Clerk of Court  
Brian Murphy, Mentis Technology Solutions  
Matt Whyte, Manatee County Clerk of Court

### **AGENDA ITEM I. Welcome**

- a. Judge Munyon welcomed the commission members and other participants to the meeting. She called the meeting to order and advised everyone the meeting was being recorded. Judge Munyon recognized Chief Judge Sue Robbins and thanked her for her hospitality in hosting the Florida Courts Technology Commission (FCTC) meeting in her circuit. Judge Munyon went on to acknowledge James Argento, Lake County Bar Association Vice President; Barbara Leach, Florida Association of Women Lawyers; and Matt McClain, Legislative Assistant to Senator Baxley. She expressed gratitude to the Lake County Bar Association, Law Office of Jacob Stuart, and McLin & Bursed for sponsoring breakfast. Judge Munyon recognized Judge Ross Bilbrey as the newest member of the FCTC. Judge Bilbrey is from the First District Court of Appeal. He replaced Judge Cory Ciklin from the Fourth District Court of Appeal.
- b. Jeannine Moore called roll and noted a quorum was present.

### **AGENDA ITEM II. Approval of August Meeting Summary**

#### **Motion to approve the meeting summary from the August 3, 2017 meeting of the Florida Courts Technology Commission.**

MOTION OFFERED: Laird Lile

MOTION SECONDED: Murray Silverstein

MOTION CARRIED UNANIMOUSLY

### **AGENDA ITEM III. Approval of August FCTC Action Summary**

#### **Motion to accept the action summary from the August 3, 2017 meeting of the Florida Courts Technology Commission.**

MOTION OFFERED: Clerk Karen Rushing

MOTION SECONDED: Laird Lile

MOTION CARRIED UNANIMOUSLY

### **AGENDA ITEM IV. Judicial E-Filing of Orders by Judges**

Judge Munyon said at the August 3, 2017 FCTC meeting, the Commission passed on the second reading a motion to recommend to the Supreme Court that judicial officers electronically file and serve orders through electronic means by September 1, 2018. Judge Munyon sent a letter to the Supreme Court and was invited by the Chief Justice to discuss the issue at the Chief Judge's Quarterly meeting. In discussing the issue, it was abundantly clear that the majority of the chief judges were not opposed to judges electronically filing their orders. One issue that came up was what to do with orders prepared in court. The court seems to be making progress towards judicial e-filing. Laird Lile said the consistency of processing orders is important to the Florida Bar. Mr. Lile asked if there was any discussion on orders that were filed by attorneys that could be e-filed to the judges. Judge Munyon said by and large she did not sense any concerted resistance from chief judges regarding chamber's orders being e-filed. The chief judges will have to talk to their individual judges. Judge Munyon said the recommendation will not change any process where circuits are actually e-filing their orders. Tom Hall, with the Florida Court Clerks and Comptrollers asked if orders are being filed in paper in the civil divisions because the court is choosing not to use the electronic file or if the attorneys are still filing in paper. Judge Munyon said she thinks it is a bit of both because there is a lack of uniformity throughout the state regarding how orders are received. Tom Genung said he thinks as the court gets closer to rolling out the proposed order functionality, more circuits and judges could receive orders from attorneys in an electronic format and the judges could electronically file the documents, thus the e-filing process could be very simple and not that far away. Judge Munyon said eventually in some of the divisions that have traditionally been paper, orders will be generated electronically, given to the judge for signature by the clerk electronically, and given back to the clerk for filing electronically.

### **AGENDA ITEM V. Court Application Processing System (CAPS) Update**

a. Alan Neubauer said the Office of Information Technology (OIT) staff within the Office of the State Courts Administrator (OSCA) is in the process of updating the format of the report that is provided to the FCTC. Judge Munyon said there was some confusion on the definitions used by various circuits regarding implementation. The new report will have clear definitions of implemented and deployed to ensure uniformity across the state. Clerk Rushing asked if there was a landscape on who has CAPS viewers and who does not. Mr. Neubauer said that OSCA has provided that information to the FCTC; however, OSCA can provide the information in a map to visually show which vendor solution is deployed in each county. Mr. Neubauer said in the past, conflicting information has been presented to the FCTC in regards to which counties had CAPS viewers deployed versus implemented. In order to alleviate ambiguity, OSCA will firm up the definitions to make certain the information that is reported at the FCTC meetings is consistent with

what is presented to the Legislature. Clerk Rushing said she was asking for budget reasons and inquired if the majority of the counties had CAPS viewers. Mr. Neubauer stated yes. Judge Munyon said the level of implementation varies throughout the state. Some counties may have proposed order functionality built into their CAPS viewers while others do not.

### **AGENDA ITEM VI. Portal Progress Report**

a. Carolyn Weber discussed the Portal usage statistics. The Portal was below the normal submissions in the month of September due to Hurricane Irma. Ms. Weber stated the Portal never went down during the hurricane. There were 991,461 submissions through the Portal, of which 989,698 were submissions to the trial courts; 434 were submissions to the Department of Corrections (DOC); 56 were submissions to the Second District Court of Appeal; 932 were submissions to the Florida Supreme Court; and 345 were submissions to the Bureau of Vital Statistics. The Portal has over 169,000 registered users. On average, it takes less than a day to docket a filing; however, the number of days to docket increased to two days because offices were closed due to the hurricane. Ms. Weber noted August had the highest monthly submissions to date of 1,422,856, highest number of documents submitted to date of 2,084,214, and most new cases filed during a given month of 72,800. Roughly, 1.70% of filings were returned to the correction queue. Of the returned filings, approximately 46% of filings were returned to the correction queue and resubmitted by the filer, while 54% of filers created a new submission or abandoned the filing. The number of self-represented litigants continues to grow. There are approximately 80,760 registered self-represented litigant accounts. Ms. Weber went on to provide an update on submitting proposed orders. Judges in 12 counties are receiving proposed orders electronically through the Portal. Most of the judges are using the sign and file feature and serving through the Portal as well. Judges in 28 counties are e-filing orders via their CAPS viewer to the Portal. Ms. Weber went on to discuss the following projects that the FCCC is currently working on: providing technical support to third party vendors to help them implement system-to-system e-filing; working with the FCTC Portal Subcommittee to scope out the process for criminal case initiation; working with DOC to add Reception Centers to accept Commitment Packages through the Portal; adding Access to Justice (A2J) interviews to the Portal to assist self-represented litigants; providing technical support to the CAPS viewer vendors to receive proposed orders and proposed violation of probation (VOP) warrants from the Portal; providing training to the judiciary regarding proposed orders and VOP warrants; and a maintenance release was completed on October 21, 2017. John Stewart inquired on the high number of self-represented accounts. He asked if the same self-represented filer could create multiple accounts and Ms. Weber responded yes. Some self-represented users create a new account because they do not remember their credentials. Clerk Bock said the E-Filing Authority Board has asked the FCCC to begin setting parameters to purge multiple accounts so that an accurate number of accounts can be reported to the FCTC. John Stewart asked if Ms. Weber knew what the correlation was between the high number of accounts created compared to the low number that actually filed. Ms. Weber said a lot of the self-represented litigants will create an account and not file anything. Judge Munyon said unfortunately there is not a mechanism to inactivate an account even after the case is over. The 83,000 self-represented litigants is cumulative since the Portal's inception in 2013. Judge Stephens asked if there would be an advantage to having a rule that said a person could only have one account. Ms. Weber said no because an attorney and judge can have multiple accounts for their legal and judicial assistants. Chris Blakeslee asked about a firm's ability to remove a person from a service list on the

Portal. She said a lot of attorneys are being served on cases and they should not be. Ms. Weber said the onus is on the attorney to remove themselves from the service list and the best way to do that is via “Manage My E-Service” on the Portal. The FCCC is going to create a utility that will allow service desk administrators to remove individuals from the service list. Ms. Blakeslee asked if the circuit administrators could have that same capability and Ms. Weber said they could possibly extend that to the circuit administrators as well. Laird Lile asked if legal assistants have a separate account from attorneys. Ms. Weber said some attorneys create a second account that their legal assistant uses. Mr. Lile wanted to clarify that it is the attorney who has the account and not the legal assistant. Ms. Weber said that is correct. The attorney can have two accounts and designate one for use by his/her legal assistant.

b. Carolyn Weber gave an update on the Portal service desk. The service desk takes calls regarding customer service incidents along with technical and system support incidents. In September 2017, the service desk received 2,042 customer service incidents of which 1,724 were attorney incidents; 5 were judge incidents; and 313 were self-represented litigant incidents. On average it took 19 minutes to respond to a customer service incident and 49 minutes to resolve. A total of 272 technical/system support incidents were received during September 2017. On average it took 21 minutes to respond to a technical/support incident and 4 hours and 1 minute to resolve an incident. Ms. Weber showed the top 10 types of incidents the service desk received from attorneys, self-represented litigants and judges. A couple of the projects the service desk worked on included cleaning up the pending filings. On November 1, 2015, there were 78,000 pending filings; however, as of August 31, 2017, that number is down to 5,609. Additionally, the service desk did onsite visits to provide training and support to Dixie and Escambia counties.

c. Carolyn Weber discussed third party batch filing. The Portal is now receiving filings from three third party vendors; ABC Legal, eFileMadeEasy, and TSI Legal. The vendors submitted a total of 24,340 submissions. The FCCC is working with other vendors to get them certified and filing through the Portal in the next couple of months. The FCCC extended documentation to include case initiation for county and circuit civil cases. The interest in third party vendors is increasing. A Certified Vendors tab has been added to the [Florida Courts E-Filing Portal](#) page.

d. Carolyn Weber said that in July 2017, the Change Advisory Board met and considered some enhancement requests from attorneys. These enhancements were presented and approved by the E-Filing Authority Board. The FCCC will evaluate the requests and include them in future releases.

e. John Tomasino gave an update on the Appellate Portal Interface. Clerk Tomasino said as of October 21, 2017, filing in the Florida Supreme Court is more akin to simple e-filing. The “Parties” tab dropped off because the case management system was not consuming the data; therefore, there was not a reason to make the party enter the information when filing a new case in the Supreme Court. To that end, Clerk Tomasino is doing a demonstration to DCA clerks on simple e-filing to show them how similar simple e-filing is to how parties currently file on eDCA. He is also working with Carolyn Weber and the OIT staff within OSCA to come up with a way the lower court clerks can transmit the record on appeal using the Portal, without concern for file size limitations. The Portal would look at the role of the filer as the clerk of court which can remove the file size restriction.

As an aside, Judge Munyon said during Hurricane Irma several parts of the State were without internet access for significant periods of times. This raised questions by attorneys regarding what should be done if internet access is not available. The Rules of Judicial Administration are clear on

what needs to be done when the clerk does not have internet access to receive e-filed documents. One can figure out from the Rules what to do if the attorneys do not have widespread internet access. Judge Munyon asked if the RJAC discussed making more clear to attorneys what they need to do when there is an issue with internet access. Tom Hall said he thinks it is already clear in the RJA, but he is willing to have the RJAC look at the issue.

### **AGENDA ITEM VII. Portal Maintenance Motion**

Judge Munyon discussed a motion regarding maintenance of the Portal that was approved on first reading at the FCTC's August 3, 2017 meeting.

**Second Reading: Motion to require the Portal E-Filing Authority to schedule maintenance so that the conclusion will occur on the same day as the commencement. For instance, a 5-hour scheduled maintenance should begin no later than 6 PM. Ideally, scheduled maintenance should begin shortly after midnight.**

MOTION OFFERED: Laird Lile

MOTION SECONDED: Murray Silverstein

MOTION CARRIED

### **AGENDA ITEM VIII. CCIS 3.0 Update**

Maryanne Marchese gave an update on CCIS 3.0. The benefits of CCIS 3.0 are: local CMS sends new or changed data to CCIS immediately; court documents are retrieved from local CMS in real-time; additional data in local databases is retrieved in real-time; and additional data elements were added to enhance search capabilities. Judge Munyon asked how many counties actually provide documents electronically to CCIS as opposed to just case or docket information. Ms. Marchese said 66 counties are live on CCIS 3.0 and the remaining county, Brevard is testing. Laird Lile asked if Brevard County was using a vendor that no other county was using. Ms. Marchese said yes. Tyler Winik from Brevard County Clerk of Court said some counties do not send specific case data or specific case images on certain case types electronically, particularly those that might be confidential. Judge Munyon asked what was that total. Ms. Marchese said she can research that information and provide an answer to Judge Munyon. Clerk Rushing said several years ago, the clerks asked the Legislature to make providing information to CCIS mandatory for all clerks because there was a concern by some that a confidential status did not allow certain documents to be sent to CCIS. If there is still an issue, the clerks need to know with whom so it can be addressed. Ms. Marchese went on to discuss the metrics measuring CCIS use. Currently there are 46,026 active users; 167 agencies are using CCIS; 149,547 case searches have been executed; 342,196 person searches have been executed; and 546,828 document image requests. Chris Blakeslee asked about the number of court users of CCIS for the Thirteenth Judicial Circuit. Ms. Blakeslee said users in the Thirteenth Judicial Circuit access CCIS via the Judicial Inquiry System (JIS) and wanted to know if the data was the same version. Ms. Marchese said it is the same version and should include real-time data and images. Ms. Marchese said enhancing CCIS is part of the Clerk's 2017-19 I&T Strategic Plan. Some of the goals are to implement a CCIS Data Quality Process; update the CCIS security model to align with Access Security Matrix; and develop new reporting and notification functionality. In order to accomplish these goals, a CCIS Data

Quality Management (DQM) Program was created. The DQM will advance continuous process improvements and audit CCIS data quality. A DQM framework and charter have been documented. Additionally, three workgroups will work under the DQM: Data Quality Workgroup; Reporting Workgroup; and Security Workgroup. The workgroups will focus on ensuring the data is validated, reliable, secure, available and audited. Mr. Lile said CCIS 3.0 was expected to be ready to provide validated data by the end of December 2017. He asked if something occurred that caused a delay in the readiness of CCIS. Melvin Cox said that once the matrix is implemented in CCIS, non-governmental agencies will have access to CCIS. Mr. Cox said the FCCC is still on schedule to have this implemented in CCIS by the end of 2017. Judge Munyon asked when the DQM anticipates completion of auditing the quality of the data. Ms. Marchese said the DQM was just put together and they will begin meeting in November. The charter and framework have been built and will be rolled out to the three workgroups. The judicial caseload activity report will be put in the framework to audit the data. Mr. Cox said the FCCC is working on a framework that can be ongoing. Roosevelt Sawyer asked if there were target goals for quality and to validate the data. Mr. Cox said the FCCC is working on reporting functionality that allows the Clerks of Court Operations Corporation (CCOC), the entity that works on the clerk's budget, to pull information directly from CCIS. Traditionally, the CCOC would gather data by surveying individual clerk's offices. For example, a case count report could be run in CCIS, audited, and reconciled. The CCOC could pull these case counts from CCIS to compare budgets as opposed to going to individual clerks to get the information. Clerk Rushing said there are issues that need to be discussed with the judiciary. Cases are still being assigned to retired judges and judges who are no longer on the bench. There are differences in the way cases are assigned in different circuits. A statewide policy needs to be developed so when the information comes out of CCIS the clerks and judiciary are all reporting the same thing. Sandra Lonergan said there are cases that have to be assigned to a specific judge, not a division. For example, a death case follows a judge until the judge leaves the bench, regardless of the division the judge sits in. There has to be the ability to do that. Clerk Rushing said that is an anomaly that was identified with the report. There needs to be communication between the court and the clerk to ensure the court is confident with the data that is being reported. Paul Jones from the Palm Beach County Clerk's Office said the scope of the data is huge. The DQM will work on a plan to clean up the data. The DQM will bring a framework that will analyze, fix, and sustain the data. Judge Stephens asked what metrics were used before to measure data quality and what metrics will be used going forward. Mr. Cox said historically the data was run like other statewide reporting. The data is loaded and, if there were errors, the errors were sent back to the county and then the county corrects the errors and resubmits the data. The DQM will go beyond what was done in the past. The initiatives will focus on business outcomes of reporting to find specific issues to address the reporting capabilities. Judge Stephens asked if there would be a way to make a before and after comparison with the new metrics. Mr. Cox said yes. Alan Neubauer asked if court staff could be a part of the DQM. Ms. Marchese said yes and they would like to include subject matter experts on the DQM as well. Mr. Lile said the court and clerks should be working together for the betterment of Florida.

### **AGENDA ITEM IX. Criminal Case Initiation Workgroup Update**

Judge Bidwill gave an update on the ability to initiate criminal cases through the Portal. Carolyn Weber developed a schematic of the various possibilities of how criminal cases could be initiated through the Portal. The short-term and low cost method would allow local law enforcement entities

and state attorney offices to file through the Portal in a single session procedure that would allow the filing party to input a limited set of data, which would be transferred to the clerk's CMS. The long-term and more expensive method would require substantial changes to the Portal and would allow local law enforcement entities and state attorney offices to file through the Portal in batch data sessions in which all, or a majority, of the data necessary for criminal case is transferred directly to the clerk's CMS. The workgroup decided to send a survey to the clerks to evaluate the interest in implementing criminal case initiation. The clerks have until November 17, 2017 to respond to the survey. The workgroup will get together to discuss where to go in regards to the short-term project. The workgroup will try to supplement and increase the participation of the various criminal justice system stakeholders in looking at the more long-term process of criminal case initiation through the Portal.

### **AGENDA ITEM X. Portal Subcommittee Update**

a. Judge Bidwill discussed converting filings to PDF/A. The FCTC approved PDF/A as the filing format. At the last meeting, there was discussion of the Portal beginning the process of converting documents to PDF/A if they were not received in that format. Judge Bidwill discussed Portal statistics regarding the type of documents received from October 1, 2017 through October 22, 2017. A total of 1,248,415 documents were received in PDF format, 72,946 were received in Word format, and 68 were received in Word Perfect format. Approximately 33.47% of the PDF documents received were text based as opposed to scanned, 18.11% of the PDF documents had links, and 3.51% of the PDF documents had bookmarks. The Portal subcommittee had dialogue on determining if the Portal should begin the process of converting these documents, or having the clerks engage in the process of converting the documents. The specific cost is not known; however, the cost was approximately \$60,000 when Melvin Cox looked into it three years ago.

**First Reading: Motion to recommend the Portal, for those documents not filed as PDF-A, begin the process to ultimately convert received documents to PDF-A, understanding that the Portal will continue to provide the documents to each individual clerk in the format that the clerk can process. In support of this process, the Portal will educate the filers as to the requirement of filing documents in PDF/A format.**

MOTION OFFERED: Judge Martin Bidwill

MOTION SECONDED: Clerk Sharon Bock

Judge Stephens said the motion is pretty much what the proposed change in the RJA would be intended to accomplish if adopted by the Supreme Court. Tom Hall asked what the issue was with bookmarks. Alan Neubauer said currently when a document is submitted and has intelligence embedded in it, the intelligence is lost once the document is flattened from a PDF to a TIFF. The intelligence would be retained if the document came in as a PDF/A. Mr. Hall said the Supreme Court just approved a new rule that says all appendices have to be bookmarked and it appears that the intelligence will be lost if the clerk's systems are not capable of maintaining the document in its original format. Murray Silverstein said if the filing bypasses the Portal and goes directly to the court, the conversion process will not take place and the document will maintain its original intelligence.

Judge Perkins asked if the objective was to require the Portal to convert received filings to PDF. If so, the motion should state that and then discuss what the Portal will provide. Laird Lile offered a friendly amendment to the motion.

**First Reading: Amended motion to recommend the Portal, for those documents not filed as PDF-A, begin the process to ultimately convert received documents to PDF-A, understanding that the Portal will continue to provide the documents to each individual clerk in the format that the clerk can process. In support of this process, the Portal will notify and provide educational opportunities to the filers as to the requirement of filing documents in PDF/A format.**

Tom Hall said there is not a requirement in the Rules of Judicial Administration to file in PDF/A. The rule currently says PDF. He does not understand how you can adopt a policy saying the Portal will educate people as to the requirement of filing in PDF/A when there is no current requirement for PDF/A. Judge Stephens said the reason the RJA only says PDF and not PDF/A is because many of the clerk's case maintenance systems alter documents once they are received by converting them to different file formats that strips a lot of useful information out of the documents. The RJAC did not think they had the authority to tell the clerks they could not do that. Instead, the rules committee said the filer had to file in PDF, in the hopes that the documents would not be altered in the future, and they would be stored in the format they were received. This would allow authentication of the document. Judge Munyon asked if the RJAC had any proposal to change the rule to PDF/A. Judge Stephens said if the FCTC recommended this change the proposal could be taken up by the RJAC for second reading. Murray Silverstein said there is a corollary that goes to not only filing, but also storage and retention. The frontend deals with the manner in which a document is filed and the backend deals with the manner in which the document is stored and retained. Mr. Silverstein said a decision needs to be made if filers are going to be required to file a PDF/A document and if the document is going to be stored in PDF/A format. Mr. Silverstein suggested having the RJAC work in conjunction with the FCTC on this matter. Mike Smith said the rule refers to the standards so PDF/A should be defined in the standards and not the rules.

MOTION CARRIED WITH OPPOSITION

Mr. Silverstein discussed a motion in relation to this issue as well. He stressed that the motion is prospective. There has always been discussion that PDF/A would be a day forward initiative.

**First Reading: Motion to refer and recommend to the Florida Rules of Judicial Administration Committee consideration of amendments to the court records retention rule – rule 2.430 – to:**

- **Clarify the retention schedule for electronic court records, which have been Permanently Recorded;**
- **Require that prospective court records that have been Permanently Recorded be retained in the format, PDF/A; and,**
- **Consider and include a date by which Permanently Recorded court records shall be maintained in the format, PDF/A.**

**Additionally, recommend the creation of a Florida Courts Technology Standard that would provide guidance and technical information on the retention and storage of Permanently Recorded court records under amended rule 2.420.**

MOTION OFFERED: Murray Silverstein

MOTION SECONDED: Judge Terence Perkins

Mr. Silverstein said a logical time for this to take place would be September 2018 to coincide, if passed by the Florida Supreme Court, with the time the courts would be required to electronically file documents. Mr. Silverstein said there needs to be a records retention schedule for permanently recorded documents. The records retention schedule of 75 years for felony records is for documents that have not been permanently recorded; meaning they are still paper. He said there is not a definition of what “permanent” means. Formatting of the document is not included in the rules nor the technology standards. A date by which this will start needs to be decided as well. When the RJAC was working on this, they were doing it in regards to court records and the retention of court records, or in the creation of a court record. The RJAC was not looking at the burden of the clerks of court as to how long documents should be retained digitally or in paper. If the FCTC does not bring the issue that has been created by the clerks of court to the RJAC’s attention, it is unlikely to get done; therefore, the FCTC needs to have an ongoing collaborative relationship with the RJAC. The records retention issue has not always been at the top of the RJAC’s agenda because the rule on court records was addressed by a separate Supreme Court committee and Rule of Judicial Administration 2.440 deals with the retention of administrative records. Mr. Silverstein said the RJAC could include this recommendation into the packet that was approved in June at first reading that deals with all of the other elements of an e-filing system (i.e., filing, service, definition of court record, etc.). Judge Bidwill asked where does the requirement that the filer file documents in PDF/A format fit into this rule structure. Mr. Silverstein said the requirement would have to be added in Rule of Judicial Administration 2.525. Judge Bidwill said this would be a burden on the clerks because they are required to retain documents in PDF/A format, on the contrary, they are not always receiving the documents in PDF/A. Mr. Silverstein said there is a technology standard that requires clerks to maintain files in PDF, but not in PDF/A. Judge Stephens said the new rule proposes that documents filed by attorneys have to be in PDF format. Chris Blakeslee said PDF/A requirement is not in the current version of the *Florida Supreme Court Standards for Electronic Access to the Courts*. Mr. Silverstein said, if necessary, he would modify the motion to ask the RJAC to consider amending Rule of Judicial Administration 2.525 requiring that attorneys must file documents in PDF or PDF/A format. Tom Genung said if a document is received in a searchable format it should remain searchable. Tom Hall said that the current rules of judicial administration requires PDF and defines permanently recorded. Mr. Hall said there was an effort to remove technology standards from the rules so that the court could adopt the technology standards and eliminate the need to go through the rule making process. Adding this to the rules is going backwards. The FCTC could ask the Florida Supreme Court to redefine permanently recorded. Mr. Hall said the clerk can get rid of paper once a case is closed if the case is permanently recorded in electronic form, but the electronic file has to be maintained for 75 years because that is a different requirement. Mr. Silverstein said the court is not going to address interpreting a rule unless there is a case in controversy, or if there is a petition for amendment to the rule. Mr. Silverstein said Rule of Judicial Administration 2.430 includes the definition of permanently

recorded, but does not include PDF/A, which is what he is suggesting be added. He said historically, the standards do not have the same imprimatur as court rules. Mr. Silverstein stated there is no requirement for clerks to permanently record documents in a way to keep them in PDF/A format. Judge Munyon said the rule tells the clerks to record things in accordance with the standards adopted by the Supreme Court as those standards change from time to time. Mr. Silverstein said there is a standard that exist requiring clerks to record documents in PDF format but the standard is not being followed. Chris Blakeslee said that the current standard only requires clerks to render documents in searchable PDF format, but does not address storage of documents. Tyler Winik said Rule 2.430(c) refers to recording “public records” and he wants to ensure that this does not set a precedent that official records systems will have to record and store in PDF/A. Mr. Silverstein said the definition at the beginning of the rule clearly defines court records and official records are not part of this. Mr. Winik said official records and public records are used interchangeably more so than court records and public records. Judge Perkins said there is an inconsistency in the format in which documents are filed and then received by the court. Judge Perkins said a discussion needs to be had, and ultimately a decision needs to be made, on the format that documents will be required to be stored. This discussion should include the ramifications with regard to storage and deadlines. Judge Bidwill asked Judge Perkins if there was a clear pronouncement that filers have to file documents in PDF/A it would address his concerns because if documents are received in PDF/A format there would not be a need to convert them. Judge Perkins stated yes and also a discussion on a deadline, budget, and the technology needed to make that happen. Judge Munyon stated some clerk case maintenance systems cannot process and store PDF/A documents. Jim Kowalski asked if there was a more expeditious way to enforce PDF/A as the storage format. Mr. Silverstein said the FCTC can make a recommendation to the Supreme Court stating there is a technology standard that states filings should be in PDF. The FCTC can clarify the standard and make it broader to include storage and language that states filings should be stored in no less than PDF format; thereby, including PDF/A. Judge Munyon could write a letter to the Supreme Court for their consideration saying this is a proposed change to the *Florida Supreme Court Standards for Access to the Courts*. Rule 2.430 already states, “...in accordance with standards adopted by the Supreme Court of Florida.” Because of this, the change could be effectuated immediately. Judge Munyon said the current standard states rendered in PDF so the Technical Standards Subcommittee will need to take this issue up to modify the standard. Laird Lile said he does not think the RJA is the correct place for this issue. The FCTC has tried to delink the technical standards from the rules. If the standards are not being enforced or do not state what they need to, the FCTC needs to deal with it and not the RJAC. Mr. Hall said although people do not like the current permanently recorded standard, they are complying with it. The RJAC needs to look at the retention schedule. Judge Perkins asked if the Technical Standards Subcommittee would have a robust discussion on this issue. Ms. Blakeslee said the Technical Standards Subcommittee has decided on PDF/A, and this will be added to the standards. A timeframe needs to be established for this standard to go into effect. Judge Perkins proposed a friendly amendment to table Mr. Silverstein’s motion until the Technical Standards Subcommittee addresses the issue. Mr. Silverstein accepted the friendly amendment. Mr. Silverstein said the referral from the FCTC would allow the RJAC to better understand the component of the court system that is managed by the clerks. The clerks are having difficulty with an undefined schedule for retaining records that are still defined in paper. The retention schedule should not be a part of the Technical Standards Subcommittee review. After more consideration, Mr. Silverstein did not accept the friendly

amendment and wanted the FCTC to vote on the current motion.

MOTION CARRIED WITH (5) OPPOSING

b. Judge Bidwill said an issue was raised regarding emergency e-filings not being identified quickly. The Portal Subcommittee discussed the process for enhancing the ability for filers to identify emergency filings and for clerks to see them. Ultimately, getting the information to the judges more expeditiously. Carolyn Weber said there is a checkbox on the Portal and document codes that identifies emergency filings when they are filed. There was a possibility to enhance the Portal by adding some further identifying area to ensure the filing gets done and is brought to the attention of the clerk and the judge as to the nature of the emergency. Ms. Weber will do a HEAT ticket to evaluate further supplements to the Portal. She will present that to the Portal Change Advisory Board and report back to the FCTC at the February 2018 meeting.

### **AGENDA ITEM XI. Operational Procedure Review Workgroup Update**

Judge Gagliardi said the workgroup is diligently working on updating the Operational Procedures; however, the workgroup is not ready to present a finished product. The workgroup will present a document for approval at the February 2018 meeting.

### **AGENDA ITEM XII. Access Governance Board Update**

a. Judge Hilliard briefly discussed Wakulla County's online electronic records certification request.

**Motion for the FCTC to make a recommendation to the Supreme Court that Wakulla County move its online electronic records access system from the pilot phase into production and to discontinue the submission of monthly progress reports be approved. Within 90 days from the Court's approval, the clerk must implement their access system in accordance with AOSC17-47.**

MOTION OFFERED: Judge Robert Hilliard

MOTION SECONDED: Judge Terence Perkins

MOTION CARRIED UNANIMOUSLY

b. Judge Hilliard discussed the draft Agency Agreement, Registered User Agreement and Gatekeeper Management Form that were composed to create uniformity statewide. The agreements outline clerk, agency and registered users responsibilities, gatekeeper administration, and limitations and liabilities. These agreements were previously presented to the FCTC and are ready for a second reading. The agreements will be disseminated to the FCCC to promulgate to the clerks of court.

**Second Reading: Motion to approve the Agency Agreement, Registered User Agreement, and Gatekeeper Management Form.**

MOTION OFFERED: Judge Robert Hilliard

MOTION SECONDED: Chris Blakeslee

MOTION CARRIED UNANMIOUSLY

c. Judge Hilliard discussed proposals to update the *Access Security Matrix* and the *Standards for Access to Electronic Court Records*.

i. After scrutinizing the Financial Miscellaneous case type on the matrix, the Board ultimately decided this case type was for clerk accounting purposes and did not need to be on the matrix and is not synonymous in all counties.

**First Reading: Motion to remove Financial Miscellaneous case type from the Access Security Matrix.**

MOTION OFFERED: Judge Robert Hilliard

MOTION SECONDED: Clerk David Ellspermann

MOTION CARRIED UNANMIOUSLY

Judge Hilliard went on to discuss the Board's recommendation to add a Gatekeeper definition to the standards. There was some confusion on what an Administrative user role encompassed (i.e., gatekeeper, IT staff, etc.). The original intent was to define the role of a gatekeeper and not necessarily the security of what a gatekeeper does. Although the Board is presenting this definition for first reading, the Board plans to flesh out the definition more and have an updated definition at the February FCTC meeting.

**First Reading: Motion to add a Gatekeeper definition to the Standards for Access to Electronic Court Records.**

**Gatekeeper.** In an effort to effectively manage access and ensure security, an agency may utilize a gatekeeper, who shall be an employee of that agency, for the purpose of adding, updating, and deleting user or agency information. A gatekeeper shall only add users commensurate with an agency's user role type and/or as registered users. Each agency shall be responsible for ensuring that each user added by the gatekeeper is only given access that is commensurate to their job duties. Nothing in this definition shall nullify any other duty imposed upon the gatekeeper by the Access Governance Board.

MOTION OFFERED: Judge Robert Hilliard

MOTION SECONDED: Judge Perkins

MOTION CARRIED UNANMIOUSLY

ii. Judge Hilliard discussed updating the User Maintenance section in the *Standards for Access to Electronic Court Records*.

**First Reading: Motion to update the User Maintenance section in the Standards for Access to Electronic Court Records to the following:**

#### USER MAINTENANCE AGREEMENTS

~~Each state or local government agency or law office with personnel who access electronic records in a role that must be authenticated must assign a gatekeeper to notify clerk's office staff of employee or contractor changes. Each agency and law office must remove terminated employees or contractors and must accept responsibility for unauthorized access. The FCTC, in conjunction with the clerks, must develop and maintain agreements clearly defining responsibilities for user maintenance access.~~

- Clerks may use an online agreement, instead of a paper agreement, that requires users to agree to terms using an online click-through (for example, clicking on the "I AGREE," button, as with other online term agreements) as long as the agreement terms are versioned so that updates can be tracked.
- When agreement terms change, users are required to accept the new terms, either electronically or in paper.
- A sworn agreement is required for each user role, except for the Registered User role as defined by the Access Security Matrix.
- Clerks may conduct periodic reviews of users and user groups to determine compliance with the agreement terms.

MOTION OFFERED: Judge Robert Hilliard

MOTION SECONDED: Judge Terence Perkins

MOTION CARRIED UNANIMIOUSLY

d. Judge Hilliard said a small workgroup consisting of Board members and clerk representatives from Brevard, Manatee, and Polk counties are trying to rectify the discrepancies in the *Access Security Matrix* and the *Standards for Access to Electronic Court Records*. He asked Tyler Winik to give an update on the workgroup's progress. Mr. Winik said general counsel from Brevard and Manatee counties went through every rule and statutory citation in the standards. The citations were rated either green, yellow, or red. Green indicates that a statute is fairly on point and allows access as indicated; yellow indicates that there is a slight indication the statute may apply, but is not completely on point; red indicates that the statute indicated does not grant access to that role type for that type of record, and should be removed. The workgroup would like to remove the red items that do not apply to the individual user roles in the standards. These changes would coincide with the gatekeeper definition and the User Agreement section in the standards. Judge Hilliard emphasized that the standards will not go before the Supreme Court until all changes in the *Standards for Access to Electronic Court Records* and the *Access Security Matrix* have been made.

**First Reading: Motion to accept the proposed changes to the *Standards for Access to Electronic Court Records* removing the statutory citations that does not apply to the individual user role for which it is listed.**

MOTION OFFERED: Judge Robert Hilliard

MOTION SECONDED: Judge Terence Perkins

MOTION CARRIED UNANIMIOUSLY

As an item of interest, Judge Hilliard said the *Standards for Access to Electronic Court Records* are now available on Westlaw in print and electronically.

### **AGENDA ITEM XIII. Technical Standards Subcommittee Update**

- a. Mike Smith said the Technical Standards Subcommittee developed a standard for Backup of Electronic Records. Alan Neubauer is going to submit the proposed standard to Gartner, a worldwide technology research company, to have them review the standard and provide feedback before bringing it before the FCTC for a vote.
- b. Mike Smith said the issue of emergency filings was raised in the Fourth Judicial Circuit. Mr. Smith initially wanted to add language to the *Standards for Access to the Courts* stating it was the responsibility of the filer to ensure the emergency option was checked on the Portal; however, he recently found out there is a way for each individual clerk to identify document types to be put in a queue for emergency regardless if the "Emergency Filing" box is checked on the Portal. Therefore, this issue has been referred to the Portal Subcommittee for review.

### **AGENDA ITEM XIV. Certification Subcommittee Update**

Judge Perkins said when the Functional Requirements for a Court Application Processing System were initially established, a fundamental decision was made that the CAPS viewers would be used to view court files, receive and access information through the CAPS viewer, and manage and work on the file through the CAPS viewer. This included receiving, signing, and distributing court orders through the CAPS viewer. A new channel to the Portal allows the court to receive and distribute orders. Judge Perkins said all CAPS viewers have the capability of distributing orders. One of the strengths of the CAPS viewers is that every vendor does it a little different, as a result there is enormous creativity in the way orders are distributed. On the other hand, one of the weaknesses is that everyone is doing it different and some are doing it badly. There was discussion on whether or not the certification committee should look at the Portal as the statewide system to file and distribute orders to allow for consistency. Judge Perkins appointed a Certification Subcommittee Technical Workgroup to look at utilizing the Portal channel through the CAPS viewers and how to go about doing that. There is a three step process: (1) come to a decision on whether or not to use the channel that the Portal provides; (2) get input from the vendors; and (3) make a motion to the FCTC to change the standards. Judge Perkins also informed the FCTC that six vendors are up for recertification in the next six months.

### **AGENDA ITEM XV. Other Items/Wrap Up**

Tom Genung discussed the need for case maintenance system (CMS) standards. There are technical and functional standards for CAPS viewers, but there are not any standards for the clerk's CMS. It is important that the clerk CMS have clear functional and technical standards so they can meet the clerk's business objectives, while providing the court and the attorneys the information they need to meet their objectives. Mr. Genung said some time ago Clerk Karen Rushing was working on CMS standards for clerk systems. Clerk Rushing said standards are important. The clerks have a statutory role and have to report to a number of agencies (e.g., Florida Department of Law Enforcement, Bureau of Vital Statistics). The Legislature is discussing all agencies connecting to one system. Clerk Rushing said

there are some standards but they lack consistency in the wording. The clerks are trying to put standards in place and redefine what the standards mean. Mr. Genung made the following motion for first reading.

**First Reading: Motion that the Clerks of Court develop technical and functional standards for their case maintenance systems to assure that such systems meet the needs of the clerks of the court, the Bar, and other court partners.**

MOTION OFFERED: Tom Genung

MOTION SECONDED: Murray Silverstein

Mr. Genung said during conversations, it has been stated that clerk systems are on different postures and not all functioning on the same level. From a business perspective, standards need to be developed before money is invested in upgrades or new systems. Judge Munyon offered a friendly amendment to Mr. Genung's motion.

**First Reading: Amended motion that the Clerks of Court, in consultation with the Court, develop technical and functional standards for their case maintenance systems to assure that such systems meet the needs of the clerks of the court, the Bar, and other court partners.**

Mr. Genung and Mr. Silverstein accepted the friendly amendment. Clerk Rushing said she was confused as she thought the FCTC was already doing this. When the FCTC develops standards that are approved by the Court, or when the Florida Department of Law Enforcement promulgate a rule, the clerks have to incorporate those changes into their system. Additionally, analytical needs for budgetary purposes are added to the clerk's systems. Judge Munyon said the motion is stating it would be helpful for the clerks and their vendors to have a set of standards for which future case maintenance systems are built so the clerks do not have to do change orders on the fly, similar to what was done with the CAPS standards. Clerks get systems that meet their needs as opposed to having to retrofit the systems. Mr. Silverstein said there is a lack of uniformity. In 2008, the Court developed the [Long Range Plan for the Florida Judicial Branch](#) where the Court envisioned instituting policies to build a comprehensive uniform statewide electronic court system. Mr. Silverstein said there are different vendor systems driving the way business is done throughout the state. For example, all of the clerk's offices are not retaining documents the same. Some are using PDF and others are using TIFF. Mr. Silverstein said the FCTC needs to get consistent with the Court's mandate of the Commission to create uniform statewide standards. Tyler Winik said in order to promulgate standards for clerks, it would be helpful if all twenty judicial circuits were doing business the same way. The clerks are at a disadvantage because of this. Judge Munyon said she understands the motion is not for the FCTC to determine what the standards should be, instead to ask the clerks of the court to create those standards.

MOTION CARRIED WITH (1) OPPOSING

Tom Hall said in 2008, the Court said there would be a single electronic court system. Although the Court adopted a rule to mandate electronic filing five years ago, there is still not a plan in place to get rid of paper. The clerks are inundated with paper. The FCTC should establish a workgroup to look at a

long-range plan to get rid of paper as part of having a single electronic court system. Judge Munyon asked if a Commission member wanted to make a motion to establish a workgroup to look at a long-range plan to get rid of paper. Mr. Silverstein said the Joint FCTC/RJAC Workgroup submitted a report in May proposing eliminating/reducing paper documents retained by clerks. The only result from the report was the elimination of standard 3.5.3 Original Documents or Handwritten Signatures from the *Florida Supreme Court Standards for Electronic Access to the Courts*. Judge Bidwill said unfortunately, the workflow in the courtroom is still built around a paper-oriented process. Judge Stephens said the RJA has tried to eliminate the stream of paper entering and leaving the clerk's systems. He urged the new workgroup to look at the rules and see what else needs to be done. An official motion was not made, but Judge Munyon informed Commission and non-Commission members to let Lakisha Hall or Jeannine Moore know of their interest in participating on the workgroup.

Judge Munyon advised everyone the next FCTC meeting is scheduled for February 8-9, 2018 in St. Augustine. There being no further business, Judge Munyon asked for a motion to adjourn the FCTC meeting.

**Motion to adjourn the FCTC meeting**

MOTION OFFERED: Judge Josephine Gagliardi

MOTION SECOND: Judge Terence Perkins

MOTION CARRIED UNANIMIOUSLY