

# Florida Courts Technology Commission Meeting

## FCTC Action Items/ Summary of Motions

May 14, 2015

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A meeting of the Florida Courts Technology Commission was held at the Supreme Court Building in Tallahassee, Florida on May 14, 2015. 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 Stevan Northcutt, 2<sup>nd</sup> DCA

Judge George S. Reynolds, 2<sup>nd</sup> Circuit

Judge Josephine Gagliardi, Lee County

Thomas Genung, Trial Court Administrator, 19<sup>th</sup> Circuit

Sandra Lonergan, Trial Court Administrator, 11<sup>th</sup> Circuit

Mary Cay Blanks, Clerk of Court, 3<sup>rd</sup> DCA

Sharon Bock, Clerk of Court, Palm Beach County

Ken Nelson, CTO, 6<sup>th</sup> Circuit

Dennis Menendez, CTO, 12<sup>th</sup> Circuit

Elisa Miller, Akerman LLP

Judge Robert Hilliard, Santa Rosa County

Judge Martin Bidwill, 17<sup>th</sup> Circuit

Judge Ronald Ficarrotta, 13<sup>th</sup> Circuit

Judge Scott Stephens, 13<sup>th</sup> Circuit

Murray Silverstein, Esq., Tampa

John M. Stewart, Esq., Vero Beach

David Ellspermann, Clerk of Court, Marion County

Karen Rushing, Clerk of Court, Sarasota County

Jannet Lewis, CTO, 10<sup>th</sup> Circuit

Kent Spuhler, Esq., Florida Legal Services

Tanya Jackson, Adam Street Advocates

### **Members not in attendance**

Matt Benefiel, Trial Court Administrator, 9<sup>th</sup> Circuit

Laird Lile, Esq., Naples

Judge C. Alan Lawson, 5<sup>th</sup> DCA

### **Supreme Court Justice in attendance**

Justice Ricky Polston, Supreme Court

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

PK Jameson

Eric Maclure

Tad David

Jeannine Moore

Beth Schwartz

John Tomasino, Clerk of the Supreme Court

Alan Neubauer

Lakisha Hall

Kris Slayden

Justin Meyer

### **Other Attendees**

Chris Blakeslee, CTO, 13<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

Noel Chessman, CTO, 15<sup>th</sup> Circuit

Robert Adelardi, CTO, 11<sup>th</sup> Circuit

Fred Buhl, CTO, 8<sup>th</sup> Circuit

Isaac Shuler, CTO, 2<sup>nd</sup> Circuit

**Other Attendees cont'd.**

Mike Smith, CTO, 4<sup>th</sup> Circuit  
Paul Regensdorf, Esq., Jacksonville  
Tara Green, Clay County Clerk of Court  
Douglas Baake, Hillsborough County Clerk of Court  
Melvin Cox, Director of Information Technology,  
Florida Court Clerks and Comptrollers  
Carolyn Weber, Florida Court Clerks and Comptrollers  
Tom Hall, Florida Court Clerks and Comptrollers  
Fred Baggett, Florida Court Clerks and Comptrollers  
Kimberly Stenger, Polk County Clerk of Court  
Frank Martinez, Miami-Dade County Clerk of Court  
Ernie Nardo, Broward County Clerk of Court  
Doris Maitland, Lee County Clerk of Court  
Tony Landry, Volusia County Clerk of Court  
Toni Bleiweiss, Lee County Clerk of Court  
Repps Galusha, Orange County Clerk of Court  
David Winiecki, Sarasota County Clerk of Court  
Gary Blankenship, The Florida Bar  
Steve Moerbe, Tyler Technologies

Gerald Land, CTO, 16<sup>th</sup> Circuit  
Paul Silverman, 8<sup>th</sup> Circuit  
Justin Horan, Clay County Clerk of Court  
Nichole Hansom, Public Defenders Association  
Christopher Campbell, Florida Court Clerks and  
Comptrollers  
Jennifer Fishback, Florida Court Clerks and  
Comptrollers  
Terry Brown, 2<sup>nd</sup> Circuit  
Tyler Winik, Brevard County Clerk of Court  
Laurie Reaves, Miami-Dade County Clerk of Court  
Harold Sample, Pasco County Clerk of Court  
Brent Holladay, Lake County Clerk of Court  
Angel Colonnese, Manatee County Clerk of Court  
Akilya Drake, Palm Beach County Clerk of Court  
Gerald Cates, Duval Clerk of Court  
Carol LoCicero, Thomas & LoCicero  
Jimmy Midyette, Florida Legal Services, Inc.

The meeting began with Judge Munyon welcoming the commission members and other participants to the meeting. She recognized Justice Polston and State Courts Administrator PK Jameson. Judge Munyon called the meeting to order advising everyone that the meeting was being recorded.

**AGENDA ITEM II. Approval of February Minutes**

**Motion to approve the minutes from the February 18, 2015 meeting of the Florida Courts Technology Commission.**

MOTION OFFERED: Tom Genung  
MOTION SECONDED: Judge Robert Hilliard  
MOTION CARRIED UNANIMOUSLY

**AGENDA ITEM III. Approval of FCTC Approved Items**

**Motion to approve the Florida Courts Technology Commission's Approval Items from the February 18, 2015 meeting.**

MOTION OFFERED: Judge Josephine Gagliardi  
MOTION SECONDED: Murray Silverstein  
MOTION CARRIED UNANIMOUSLY

#### **AGENDA ITEM IV. FCTC Annual Report**

Judge Munyon discussed the annual report that was submitted to the Chief Justice. The annual report summarizes the work of the Commission from April 2014 through March 2015. The Commission did not make any recommendations to the Court in the annual report.

#### **AGENDA ITEM V. Comprehensive Plan for Technology Funding Update**

Eric Maclure gave an update on the technology plan. The Trial Court Budget Commission in conjunction with the FCTC have been working on a comprehensive trial court technology funding strategy. There was a recognition that technology is indispensable to the administration of justice. There was an effort to look at technology funding requests comprehensively rather than individually to identify the business capabilities the trial courts need and the corresponding technological needs that make the administration of justice possible. The technology plan was approved by the Supreme Court in January 2015 and is posted on the Court Technology page <http://flcourts.org/resources-and-services/court-technology/current-projects.stml>. The technology plan was the building block for a substantial legislative budget request for \$25.6 million during the 2015 legislative session to address the technology needs for the trial courts. The idea was to seek non-recurring dollars for the first year and propose to the legislature funding streams that could support and sustain the technology going forward. The idea was to address gaps and the capability, where appropriate, to sustain the technology. The request focused on secure case management and processing through the Court Application Processing System (CAPS), addressing due process specifically in court reporting and court interpreting needs, and ensuring a minimum level of technology services across the state. The 2015 legislative session ended without an approved budget. The request was not included in either budget; however, it was well received by legislative staff in meetings that judges and OSCA staff had with them. They respected the importance of technology to trial court operations. The workgroup was hopeful if additional dollars were freed up there would be a chance that the court could get some of that funding. A special legislative session is tentatively planned for June 1 through June 20, 2015. Currently there is not a legislative call, so it is difficult to know the scope of that session beyond the budget. It is not known if the legislature will start from scratch or from where they left off with each chamber having passed a budget. Other technology budget requests the judicial branch submitted included a replacement for routers for the entire wide area network for the court system. That issue was picked up in the House budget, but not in the Senate. If they go forward with the bill that was passed it will be in play during conference negotiations. Additional positions were requested to help with the appellate court electronic technology solution, some were picked up from an OSCA staffing position, and positions to support the judicial data management services initiative. There has been cooperative and ongoing work with the Clerks of Court to ensure alignment between the approved *Trial Court Comprehensive Technology Strategic Plan* and the *Clerk's Information & Technology Strategic Plan*.

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

a. Alan Neubauer discussed the implementation schedule of the judicial viewers outlined in the *CAPS Viewer Implementation Timeline* chart. Currently, 49 counties have a judicial viewer implemented in both the civil and criminal divisions. Of the 49 counties, 47 counties have judges that are utilizing the system and 2 counties are resolving the issues that are preventing the judges from using the system. Of the 18 remaining counties: 10 counties are in the process of implementing their judicial viewer by July 2015; 7

counties anticipate implementation by December 2015; and Miami-Dade County is planning implementation by 2018. Judge Reynolds said certification and recertification demonstrations for judicial viewers are scheduled for August and September.

### **AGENDA ITEM VII. e-Portal/e-Filing Progress Report**

a. Carolyn Weber discussed the Portal usage statistics. In the month of March, there were 1,213,293 filings through the Portal and there are a total of 82,372 registered users. Of the cases that are e-filed, approximately 95.4% were on existing cases and 4.6% were on new cases. The highest volume day was February 24, 2015 with 57,629 documents submitted. The peak hour was 3:00-4:00 p.m. on March 16 with 8,096 documents being filed. It takes approximately 0.92 days for a document to be approved by a clerk and reach the docket. Approximately 2.2% of filings are sent back to the filer for correction. Attorneys embody the largest filer role on the Portal with 62,423 while mental health professionals represent the smallest with 83.

Carolyn Weber updated everyone on criminal e-filing. Extensions to implement criminal e-filing were given to circuits under AOSC13-48. The Florida Court Clerks and Comptrollers (FCCC) is continuing to implement the remaining state attorneys and public defenders with batch e-filing. The FCCC is working to implement batch e-filings for the judicial circuits, appellate courts, and law enforcement agencies. Release 2015.01 was implemented on April 24, 2015. A second release is scheduled for September 11, 2015.

Carolyn Weber gave a quick status update on judicial e-filing implementation. She referred everyone to the documents in the materials that outline the counties and circuits and the number of judicial filings.

b. Carolyn Weber discussed the Portal Change Advisory Board report. She briefly highlighted the releases that are scheduled. There are quite a few release items that pertain to the counties and portal revision for people who are actually approving the documents. The FCCC is trying to streamline that process and make it as quick and easy for them as possible. Some items will affect the filers, such as implementing A2J software into the Portal and adding the Workbench to the trial court filing path, include the UCN in the subject line or Notice of Inclusion on e-service recipient list and display the complete email address on the e-service page. Sandy Lonergan said some mediators have complained that the mediator report is not available. Carolyn said all of the counties have linked document types to the filer roles of the mediator. Judge Munyon said the docket descriptions are county by county and each clerk decides what docket description goes into that list. The clerks and court are working on making those docket descriptions standard.

c. Carolyn Weber gave an update on the Portal service desk. The service desk takes calls regarding customer service incidents and technical and system support incidents. Roughly 3,271 incidents were received during March 2015. Of that total, 3 were from judges, 205 were from pro se filers, and 3,063 were from attorneys. On average it took 55 minutes to respond to an incident and 2 hours and 55 minutes to resolve an incident. Carolyn showed the top 10 types of incidents the service desk receives from attorneys, judges and pro se filers.

d. Carolyn Weber discussed an advisory bulletin that went out regarding an internal time sync issue with the Portal. On April 16, 2015, for submissions filed between 4:30 p.m. and 5:06 p.m. and 7:56 p.m. and 9:21 p.m., EDT, the file stamp affixed to the documents was in error. The time stamp was either one hour ahead or one hour behind of when the filing was received. The FCCC put a fix in place along with a monitoring system to ensure the incident did not reoccur. On April 17, 2015, the FCCC put out an advisory

bulletin letting everyone know of the incident. The FCCC also sent out over 4,000 emails to the filers who may have been impacted by the time sync issue. The FCCC offered to provide an affidavit to correct the time stamp. Approximately 12 people requested an affidavit; however, after the FCCC spoke with those individuals and explained the situation, they only sent 4 letters.

### **AGENDA ITEM VIII. Appellate Portal Interface Update**

John Tomasino gave an update on the appellate portal interface. The Office of the State Courts Administrator Information Systems Services team has a goal of late August to retire a legacy case management system. Once that is complete, staff resources will be dedicated to looking at eDCA to be combined with the eFACTS system.

### **AGENDA ITEM IX. CCIS 3.0 update**

Jennifer Fishback discussed a couple of major components to CCIS 3.0. One is the method in which data is sent to CCIS to be more real-time. FCCC is working on improving the quality of the data. ClerkNet has been updated statewide. In addition, the FCCC was tasked with coming up with a pilot program on how the data would be exchanged. This is comprised of two components. One is receiving data in a batch mode overnight from the Clerk CMS. This has been enhanced by validating data as it comes in and adding fields to accommodate docket numbering and AOSC14-19. The other component is the web service that allows real-time communication. The design was completed earlier this year. The pilot occurred in Volusia County. They worked with the FCCC on what data elements are needed in CCIS and integrating with their judicial viewer to provide the data. This is a comprehensive solution for court data to be exchanged real-time. The data was put on a server for clerks, their IT staff, and vendors to access. The data can be put into the backend and it will interface with CCIS. The FCCC will start working on a project plan to implement CCIS 3.0. The differences in the system will not be seen until later this year. The user interface will look different. The counties will have an opportunity to implement CCIS 3.0 in a phased approach. The FCCC will know more after the Clerk's summer conference. The vendors will have had an opportunity to look at CCIS 3.0 and decide how they plan on implementing it. Judge Reynolds asked what the CCIS user interface would look like after CCIS 3.0. Jennifer said the FCCC does not have a user group that is requesting modifications to the CCIS application. The FCCC is focusing on data that is accessible in the Clerk's system that is needed to be potentially viewed. The code that is being used by the judicial viewer to pull data from the Clerk system is the same code that is being used to show the data in CCIS 3.0. Judge Reynolds asked if the viewers will function differently. Jennifer said she cannot speak as to how the viewers will function. Instead, CCIS 3.0 will be a resource that will be available to users and will have all cases in it. Clerk Rushing said CCIS 3.0 is more or less a link to access information. Chris Blakeslee said CCIS is not a CAPS judicial viewer. It is however, a query system to look at cases statewide. It does not have the functionality to do orders or case notes. It is a viewer to view cases. CCIS and the judicial viewers should be kept separate. Jennifer reiterated that CCIS 3.0 is upgrading and enhancing the way the data is being received and enhancing the screens to be more modernized. John Tomasino said with CCIS 3.0, all 67 counties' user interface will basically look the same and the dockets will be listed the same. Jennifer said CCIS 3.0 will be a standardized implementation. Murray Silverstein asked if CCIS 3.0 had the capacity to pull information from the ePortal. Jennifer said CCIS 3.0 could display the filings on a case. She said this is a business requirement that has not been requested. Murray asked if there was a way to rectify inconsistent listings of counsel of record through the progress docket maintained by the Clerks through their respective CCIS

system and the listing counsel of record on the service list through the ePortal. Judge Munyon said the FCCC has indicated they would welcome input as to the ultimate look of CCIS 3.0. Jennifer said it is easy for attorneys because they have Bar IDs, but for other filers it would not be so easy. She said the FCCC's CCIS committee has discussed this issue. She said a user group is needed for people who want to see enhancements to CCIS 3.0. Judge Munyon established a joint workgroup of the FCCC and the FCTC to work on CCIS 3.0 enhancements and interface. Judge Reynolds is going to chair the workgroup. The completion date for CCIS 3.0 is March 31, 2016. Jennifer will have a better update on the implementation plan at the August FCTC meeting.

### **AGENDA ITEM X. e-Portal Subcommittee Status**

Carolyn Weber discussed the ePortal standardization project. E-Filing Authority Board (Board) approved the *E-Filing Portal Standardization Project* document. This document asks the 67 Clerks of Court to make their division, case type, sub type drop downs the same to allow for standardization statewide. This is in accordance with the Summary Reporting System (SRS) defined division's case types and sub types. The standardization will be at case initiation, then circuit civil case types, and a location code will be next to those drop downs. Carolyn showed the attendees the division, case type and sub type drop down menus on the ePortal. She demonstrated how an attorney adds a document to the ePortal. The filer now has the option to search for a document by entering a name instead of using the document group which has a list of all documents. Next the filer will have the option to select a document type based on the document group that was selected. Using the search feature eliminates scrolling through the list of documents in the document group and document type drop downs. The filer will not need to know what document group or document type a specific document is in. The functionality of the document group and document type drop downs are handled in the search box.

### **Motion to approve the removal of Document Group and Document Type drop downs from the Document Tab in the ePortal.**

MOTION OFFERED: Judge George Reynolds

MOTION SECONDED: Judge Josephine Gagliardi

MOTION CARRIED UNANIMIOUSLY

a. Judge Reynolds discussed metadata language being added to the ePortal. Judge Munyon gave a little background on the metadata issue. At the February 2015 FCTC meeting, the Access Governance Board recommended that the clerks and the ePortal no longer be responsible for stripping metadata from the document. When metadata is stripped from a document, usable metadata, such as bookmarks, is also being stripped. The stripping of metadata should be the responsibility of the filer. Under AOSC14-19, it is a requirement that the Clerks strip all metadata related to creator, editor, and contributor. If the FCTC recommends that Clerks no longer have the responsibility of stripping metadata, a warning message and education needs to be provided to the filers letting them know if they leave metadata in the document it can become part of the public record. Judge Reynolds presented the proposed metadata language. If a filer clicked on the word metadata they would be hyperlinked to either a YouTube video on metadata or further instructions of what metadata is. Murray Silverstein said searchable PDF should be considered. There is an inconsistency in standard 3.1.15 Document Fidelity and Authenticity in the *Standards for*

*Electronic Access to the Courts.* This standard states a mechanism must be provided to ensure the authenticity of the electronically filed document.

**Motion that the removal of metadata be the responsibility of the filer and not the custodian of the court record.**

MOTION OFFERED: Clerk Karen Rushing

MOTION SECONDED: Clerk Sharon Bock

Clerk Bock said the new president of the Florida Bar has suggested that 6 additional continuing legal education (CLE) credit hours be added to the current 30 CLE hours. Those 6 hours must be in the area of technology. Kent Spuhler said pro se filers do not know what the consequences are if they cannot strip metadata. Judge Hilliard said if the responsibility falls upon the Clerk that is asking them to modify the document. Clerk Bock said there is not a requirement for pro se filers to use the ePortal. Surveys have shown that most pro se filers go into the courts and are not using the ePortal. John Stewart said the Document Storage Workgroup is going to propose how documents should be filed and asked if the removal of metadata diminishes the function of searchable documents. Steve Shaw said removal of metadata in a PDF document should not affect the function at all.

Clerk Rushing offered a friendly amendment to her motion and Clerk Bock accepted the friendly amendment.

**Amended motion that the FCTC recommend to the Supreme Court that the removal of metadata be the responsibility of the filer and not the custodian of the court record. The following language will be added to the ePortal regarding metadata, "Warning: Removal of document metadata is the responsibility of the filer. Any document metadata remaining may become part of the public record."**

MOTION CARRIED

Judge Reynolds said the e-Portal Subcommittee made an advisory approval of the stated enhancements in the *Portal Change Advisory Board Report* for the 2015.02 ePortal release on September 11, 2015. The release includes that a filer can remove themselves from a service list on the ePortal. Judge Reynolds suggested having two different colors on the ePortal e-service list that differentiated filers from the local Clerk's CMS and filers that are only on the ePortal. Carolyn Weber said on the e-service list there is an avatar that shows a filer to the case and a different avatar that shows an interested party or attorney that was added to the e-service list.

**Motion to approve the stated enhancements in the *Portal Change Advisory Board Report* for the 2015.02 ePortal release on September 11, 2015.**

MOTION OFFERED: Judge George Reynolds

MOTION SECONDED: Judge Josephine Gagliardi

MOTION CARRIED UNANIMOUSLY

b. Tom Genung gave background information on the data elements workgroup. A number of years ago, the workgroup developed an e-filing envelope and outlined the data elements that would be included in the e-filing envelope. Some of this information was to be collected and used by the court to ensure due process services were provided. Over the past couple of years, the court has amended rules governing interpreters. It is important for the court to have a way to identify when an interpreter is needed and at present there is not a way to do this. The court hopes to eventually move towards shared video remote interpreting statewide. This would essentially allow interpreters the ability to video remote into any court proceeding and immediately provide interpreting services. Until such time as the court has the funding, technology, and interpreter resources, the court needs to develop a way to provide due process to those in need of an interpreter. An Interpreter Data Workgroup was created to determine the best method to associate an interpreter to a case and the events occurring in the case and the cost to do such.

### **AGENDA ITEM XI. Proposed Order Workgroup Update**

Judge Bidwill said the proposed order workgroup was tasked with evaluating the possibility of creating an option on the ePortal for a filer to upload a proposed order directly to the judiciary bypassing the Clerk in a separate process, but within the same transaction, (in a sense of filing the motion to which the proposed order would apply). The objective was to improve the ease of use for the filer to eliminate some of the frustration that has been expressed by filers for lack of uniformity amongst circuits and amongst judges in circuits as to their preference of how proposed orders should be submitted to the court. Carolyn Weber put together a *Proposed Order Change Order* document. Each circuit, at their own pace and in the manner they would prefer, would choose the ePortal's option to use to submit proposed orders. The orders would be routed by the ePortal to dedicated email addresses within specific divisions or to a judicial viewer. Because the FCCC does not want to spend the money to implement this function and the courts not use it, the workgroup decided to develop a survey and distribute to trial court administrators in each circuit to get their position and find out if it is something they would use.

### **AGENDA ITEM XII. Batch Filing for Private Attorneys**

Judge Munyon discussed a letter from a private attorney forwarded by John Tomasino at the direction of the Chief Justice. The attorney would like batch filing to be an option for private attorneys. The letter has been provided to the E-Filing Authority Board (Board). The Board is exploring how they can accommodate batch filing for private attorneys who have a very large volume of filings, such as a ticket business in Miami-Dade County.

### **AGENDA ITEM XIII. Update on RJA Committee Actions**

Murray Silverstein said the RJA committee is considering several issues at its upcoming meeting in June at the annual Florida Bar convention. One issue involves appearances of attorneys and termination of appearances in cases. The Board of Governors (BOG) approved that unbundling of legal services should be embraced. Unbundled legal services is a method that allows lawyers to provide discrete types of services to clients. This will also encourage more pro se work especially with the Access to Justice (A2J) initiative. Rule 2.505 will be updated to specifically include limited scope representation which allows an attorney to appear on a limited basis. Murray is hopeful the proposal will come under final consideration by the RJA by the end of June and be filed by the Supreme Court for consideration.

Murray Silverstein discussed an article in the Florida Bar Journal regarding rules 2.420 and 2.425. The article gives an example of an attorney who filed a breach of contract complaint with an exhibit attached. The exhibit was a contract containing protected information such as, the individual's entire social security number, bank account number, and telephone number. Rule 2.425 prohibits a filer from filing a document with unredacted confidential information; however, rule 2.420 allows a filer to file the document without redacting the confidential information and the clerks will redact the confidential information from the document. This is an interplay between two rules. Murray thinks this issue should be addressed in tandem with the RJA. Attorneys are the largest stakeholders in the court system, the largest filers, and the ones with the most responsibility. Judge Munyon asked if the BOG is aware of this situation and if it is on their agenda as a discipline issue. John Stewart said the issue is not specifically on the BOG agenda. Murray said this may not be appropriate for disciplinary action right now because the judicial system is at the advent of a lot of changes to the practice of law, appearances in courts, filing through the ePortal, and the way documents are retained. Justice Polston said nothing waives the responsibility of the lawyer in rule 2.425. Potential overlap in rules 2.420 and 2.425 does not alleviate the lawyer's responsibility. The article points out filing certain sensitive information is explicitly forbidden. The attorneys are duty bound to follow the rules. This issue is worthy of disciplinary action if an attorney is knowingly violating a rule of court. Justice Polston said it is not a gap that needs to be filled because the issue is addressed. The Clerk's responsibility will apply to pro se filers. At most, there is an overlap of dual responsibility. Murray said there is a dilemma on what to do about the issue. When rule 2.420 was being rolled out and publicized, Judge Judith Kreeger and Paul Regensdorf produced an educational video that was accessible to everyone. On several occasions the FCTC has discussed how to provide education to the filers as they are filing through the ePortal. The end result is this is essentially putting an undue burden on the Clerks of Court.

#### **AGENDA ITEM XIV. FCTC/RJA Joint Workgroup Update**

Murray Silverstein said the purpose of the FCTC/RJA Joint Workgroup is to identify technology standards that overlap with rules of court. The workgroup created a spreadsheet that identifies overlapping rules and standards. There are approximately six rules of judicial administration that directly impact the technology standards. The intent is to go through all rule sets, court's administrative orders, statutes, etc. The workgroup is compiling a database that will allow them to review all of these documents. The ultimate goal is to streamline the standards and the rules of court and make them harmonious, insuring that information that is overly technical and does not need to be in a rule of court, such as the definition of electronic filing in rule 2.525, is in a standard instead of the rules of court. When something gets to the point of being accepted and common usage in practice, it should be eliminated from both the rules and standards. If something bears on technical provisions that vary from time to time, such as the megabyte limit for filing or service, it should be put in a standard and not a rule because the rule amendment process is slow and deliberate and standards are more adaptive and dynamic. A Standards Consolidation Workgroup will be created and chaired by Jannet Lewis. This workgroup will be responsible for reviewing and updating all of the technical and functional standards. Judge Stephens will work with the RJA committee to look at the RJA rule sets. The ultimate goal is to find standards that apply to the practice and are in the nature of the court rule and make a recommendation to the FCTC and ultimately to the court as to whether those standards should be elevated to the level of a rule of court. The next step would be to decide how to do that. The

technical standards could be transformed, rebranded and user friendly. Should they be incorporated into the rules of judicial administration by reference, should they be physically attached to the rules of judicial administration, should they be attached as an appendix to the rules of judicial administration? These questions will continue to be worked on by the workgroup. The Fifteenth Circuit has created a virtual concordance database that indexes all of the standards, rules of court, administrative orders, statutes, etc. and allows you to search those indexes using a single resource.

### **AGENDA ITEM XV. Florida Bar Vision 2016 Commission Report**

John Stewart said the Technology Committee has recommended a rule change to increase the number of continuing legal education (CLE) credits from 30 hours to 36 hours. Attorneys will be obligated to obtain at least six hours in technology competencies. It is anticipated the Board of Governors will review the recommendation at its next meeting. If the recommended rule change is approved it will be voted on in July of this year. The Technology Committee is also requesting establishing two committees. Currently there is a special committee on technology, but the committee is suggesting that the Technology Committee remain and become a standing committee. The standing committees are populated by lawyers interested in specific subject matters and are staffed by the Florida Bar. The Board of Governors (BOG) has its own set of committees. The Vision Technology Committee is recommending that a Technology Committee be created at the BOG level. Having a BOG level Technology Committee will allow the BOG to be more aware and up to speed enabling them to make more timely decisions in the area of technology. The Committee also recommends a change to the comment on competency. If approved, the comment on competency is going to be reflected to read, “Competent representation may also involve the association or retention of a non-lawyer advisor of established technological competence in the field in question. Competent representation also involves safeguarding confidential information relating to the representation, including, but not limited to, electronic transmissions and communications.” Additional language regarding maintaining competence was added that states, “To maintain the requisite knowledge and skill, a lawyer should keep abreast of changes in the law and its practice, engage in continuing study and education, including an understanding of the benefits and risks associated with the use of technology, and comply with all continuing legal education requirements to which the lawyer is subject.” These are issues to heighten Florida lawyer’s awareness of technology in order to practice competently. If the Florida Bar passes the CLE rule and it is ultimately passed by the Supreme Court, Florida will be the first state to mandate technology related CLE for lawyers. Tom Hall said the committee also recommended judges receive training in technology as well for their continuing judicial education. Judge Munyon said the FCTC may want to consider recommending that the Supreme Court look at voluntary hours for judges in technology.

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

a. Judge Hilliard said the Access Governance Board (Board) pondered recommending to the FCTC the publication of clarification language in the Access Security Matrix regarding redactions and remote viewing of court documents through web-based applications. The Board ultimately decided not to recommend the publication of the language.

b. Judge Hilliard said the Board has considered indemnification for a few meetings. The Clerks want statutory immunity to protect them from the inadvertent release of information due to security issues. The Rules of Judicial Administration Committee (RJAC) and the Florida Court Clerks and Comptrollers legal counsel are contemplating the issues that surround indemnification. The Board decided to recommend the

RJAC fast track the proposed change to the Rules to include the indemnity issue. The Board will provide an update on indemnification once the RJAC has addressed the issue.

c. Judge Hilliard informed the FCTC that the Board received Online Electronic Records Access Applications from Civitek and Pasco County to begin implementation of phase two of their online electronic records access system.

**Motion to approve phase two Online Electronic Records Access Applications received from Civitek and Pasco County**

MOTION OFFERED: Judge Robert Hilliard

MOTION SECONDED: Clerk David Ellspermann

MOTION CARRIED UNANIMIOUSLY

Judge Hilliard discussed changes made to the Access Security Matrix since the February FCTC meeting. These changes include removing reference to Chapter 119 where it was not necessary and striking the words “including redactions” from Access Level B. The language now reads, “All but expunged, or sealed under Ch. 943 or sealed under rule 2.420”. Karen Rushing asked if Judge Munyon had an idea of how quickly the Supreme Court would move to make a decision on the recommended changes to the matrix because the Clerks are developing their system within a limited timeframe as outlined in AOSC14-19. Judge Munyon said the changes were not substantive, but rather clean up. Clerk Rushing asked if the debate about mental health being a public record and the sensitivity of mental health records being available online was addressed in the matrix change. Judge Hilliard said no. Clerk Rushing said there is some confusion as to whether the Clerks have to react when the FCTC changes something, or do the Clerks wait until the Supreme Court changes its order. Programming changes are underway and the Clerks would like to know how quickly they can notify their vendor that there is a new matrix they should be following. Judge Munyon said she will do her best to get the issue to the Supreme Court as soon as possible.

**Motion to approve the changes made to the Access Security Matrix**

MOTION OFFERED: Judge Robert Hilliard

MOTION SECONDED: Clerk David Ellspermann

MOTION CARRIED UNANIMIOUSLY

Clerk Rushing discussed the Board’s decision regarding redaction and what attorneys of record have access to. The Supreme Court is trying to move towards uniformity; however, the matrix now invites lack of uniformity. Judge Munyon said some Clerks are only making redacted records available to anyone and some Clerks are allowing parties and attorneys of record to have access to the entire court file. Justice Polston said the goal is to have public access for everyone and not just access for attorneys. Clerk Rushing emphasized access to court records by attorneys of record and parties on a case would be different based on the county he or she was accessing the records. In some counties an attorney of record will be able to see the entire court file and in other counties they will not. Judge Munyon said to wait until the Clerks systems are operating online and then move towards a different approach, if necessary. Jannet Lewis said some Clerks have the technical capability to offer unredacted records to attorneys of record and some do not. Uniformity will come in time as technologies evolve. Judge Munyon reminded everyone that the

Clerks were not mandated to offer records online. Judge Reynolds summarized the discussion by saying in some counties an attorney of record and a party to a case will be able to access a court file online and see the unredacted documents, while in other counties the attorney of record and a party to a case will only be able to access the redacted documents online.

Murray Silverstein said as a result of the referral of indemnification to the RJAC, the Access Governance Board recommended the RJAC fast track the indemnity issue to review with the rules.

**Motion to recommend the Rules of Judicial Administration Committee fast track the referral of indemnification to the Rules of Judicial Administration.**

MOTION OFFERED: Judge Robert Hilliard

MOTION SECONDED: Clerk David Ellspermann

MOTION CARRIED

**AGENDA ITEM XVII. Standards for Electronic Access to the Courts**

In conjunction with this agenda item, Clerk Ellspermann discussed the issue of judicial signatures. The *Standards for Access to Electronic Court Records* states, "The order will be available to the requestor only after the redaction or application of security protocols have been implemented to protect the judicial signature." Clerk Ellspermann would like the Supreme Court to reconsider that sentence. There are millions of documents presently available to the public in official records that have judicial signatures in them. Clerk Ellspermann expressed that it will be stressful for the Clerks to implement this requirement with their limited resources and their ability to redact. He would like the Supreme Court to consider eliminating the language or make it effective when the judicial viewers are operational within the system. Judge Munyon indicated that about two years ago a couple of inmates crafted their own orders which resulted in them being released. Because of this incident, the standard was created and a recommendation to the Supreme Court was made to protect judicial signatures from fraud. Judge Munyon indicated that currently there are business processes in place between the courts and clerks to prevent this. Clerk Rushing said that the consequence of keeping this requirement would mean all orders of the court would not be viewable over the internet. PK Jameson indicated that it would be helpful to the Supreme Court to have documentation of what steps have been taken to prevent the fraudulent use of judicial signatures. Clerk Ellspermann said the FCCC presented the business process to the legislature. Clerk Rushing stated a confidential and secure electronic connection tunnel can be created between the clerk and the prison system. She said the signature is the concern and not so much the significance of the replication of the Order to Dismiss. John Stewart asked if judges were e-filing signed orders through the ePortal. Judge Munyon indicated that the court was currently e-filing and they are single instance filings through the ePortal and not through the judicial viewer; therefore, they do not have the watermark that is placed on the signature when filed through the judicial viewer. John Stewart asked if the rule is changed does it address the instance where the judges are directly submitting their orders. Judge Munyon said the Clerks would either have to VOR the documents with the signatures that do not have the watermark or the signatures will be out there like the historic signatures. Clerk Rushing said if the purpose of the standard was due to the resentencing issue, the Clerks have solved that problem because of the protected method of delivery. The future issues should be approached in that same manner. Judge Munyon asked if

most Clerks have put a business process in place for all orders generated by their judiciary be either handed to a Clerk in open court, retrieved by a Clerk from the judge's chambers, or provided over the counter by an attorney that is identified and known. Clerk Ellspermann said he believes that is only on orders on release from corrections or modifications of sentence. Clerk Rushing said there are some protocols in place as long as it affects the jail or allows a release. Justice Polston said the court needs to make sure they have an appropriate level of confidence that the incident from a couple of years ago will not happen again. If there are processes that have been put in place across the state that gives the court confidence then this is a discussion worthwhile to have. Clerk Rushing said this has been addressed statewide. Judges are certifying their signature and they are not accepting orders from anyone other than a Clerk and the Clerks are only accepting orders from judges. Judge Munyon asked PK Jameson if the legislature would be satisfied if there was a uniform business process throughout the state that protected judicial signatures. PK said the legislature did not have a preconceived idea of what should happen, but they want to know the issue has been addressed. Clerk Ellspermann suggested getting a small subcommittee together to revisit the issue and come up with a plan with the understanding that the Clerks will move forward and analyze the issue.

**Motion to have the FCTC recommend to the Supreme Court to have the last sentence removed from the Standards for Access to Electronic Court Records which states, "The order will be available to the requestor only after the redaction or application of security protocols have been implemented to protect the judicial signature."**

MOTION OFFERED: Clerk David Ellspermann

MOTION SECONDED: Judge Robert Hilliard

MOTION CARRIED UNANIMIOUSLY

**Companion Motion to eliminate the requirement out of AOSC14-19 because the Clerks have put security measures in place for the transmission of documents from correction facilities.**

Judge Munyon suggested the FCCC develop a business process that protect judicial signatures in all case types. Clerk Rushing said the Clerks have a best practice that they are following and they have ePortal design and protocol on how the Department of Corrections receives the orders. Justice Polston said it is important to have a process in place that protects the receipt of orders directly from the judges. Clerk Rushing said Clerks no longer have in-baskets on their counter where signed orders can be deposited and processed. Judge Stephens said the watermark only protects the signature from being lifted off of the order and put on something else. Judge Munyon requested Clerk Rushing send her a copy of the best practice the Clerks are abiding by to ensure an order processed by the Clerk came from a judge for inclusion in Judge Munyon's letter that will be sent to the Supreme Court. Clerk Ellspermann informed the group that if something comes by mail regarding modification of a sentence the Clerk does not accept the order without going to the judge and validating the document before processing. Eric Maclure said the protocols that were put in place after the inmates released themselves stem from an administrative order that was issued by the Supreme Court directing the Clerks to set up a process relating to sentence modification orders.

In addition to protecting judicial signatures, Judge Stephens said there are no provisions in the rules or technical standards that validate electronic signatures made by Clerks.

**Motion to add a new section to the *Standards for Electronic Access to the Courts* to read, “5.5. Clerk Signature. Clerks and Deputy Clerks are authorized to electronically sign any documents that require the signature of the clerk, subject to the same security requirements that apply to a judge signature under standard 5.4.1.”**

MOTION OFFERED: Judge George Reynolds

MOTION SECONDED: Clerk Karen Rushing

Judge Munyon asked if there was a statute that required a Clerk to physically ink sign anything. Clerk Rushing said not that she knew of, but there is a registration requirement for facsimile signatures. Judge Reynolds said there are a few things that require a judge and a Clerk to sign. Clerk Rushing said those are exemplified copies that are typically going out of state. Clerk Rushing said that is under the Hague Agreement and she’s not sure if an actual signature is required. Tony Landry said in Volusia County some summons were being invalidated because they did not have a clerk’s ink signature. Tom Hall said the only thing he had to sign as the Clerk of the Supreme Court were certificates in good standing.

Judge Reynolds offered a friendly amendment to his motion and Clerk Rushing accepted the friendly amendment.

**Amended motion to add a new section to the *Standards for Electronic Access to the Courts* to read, “5.5. Clerk Signature. Unless otherwise required by law, Clerks and Deputy Clerks are authorized to electronically sign any documents that require the signature of the clerk, subject to the same security requirements that apply to a judge signature under standard 5.4.1.”**

MOTION CARRIED

### **AGENDA ITEM XVIII. Data Exchange Workgroup Update**

Robert Adelardi said the pilot project in Volusia County to implement CCIS 3.0 is underway. The Data Exchange Workgroup is waiting to receive technical documentation from Volusia County. The workgroup will meet in July to review the documentation and will present something to the FCTC at the August meeting.

### **AGENDA ITEM XIX. Document Storage Workgroup Update**

Steve Shaw said the Document Storage Workgroup was asked by the FCTC to make a recommendation concerning the future direction of e-filing document format and storage. The workgroup would like to further research some of the different elements required to move in a particular direction. It is likely the workgroup will propose PDF, PDF/A, or some specific version of PDF as the preferred document storage format. The workgroup would like to distribute a questionnaire to judges, attorneys, state attorneys, public defenders, and other agencies that use electronic documents inquiring as to what they expect to gain from using PDF. If PDF is the preferred storage method, some of the case management systems, clerk

case maintenance systems, and judicial viewers might have to be retooled to accept PDFs to make them functional. The workgroup needs to determine what costs are associated with making a switch to PDF. Will the benefits received from changing to PDF outweigh the costs associated with the change? Who pays for the mandated costs if it is significant to make the change? The workgroup discussed educating judges, attorneys, case managers, etc. on creating PDFs, saving PDFs, and preserving certain content that comes in PDFs such as bookmarks, metadata, font size, and font type. The workgroup came to a consensus that they do not have all of the information right now to make a recommendation on the document format. Some Clerks are storing both TIFFs and PDFs and that is a new significant cost. If a PDF is not created properly it could be a large document. The education would show users how to initially create a PDF from a word processing document like Microsoft Word and sending it to a PDF tool. Creating a PDF this way enables the storage space to be smaller. The educational process of creating a PDF/A should extend beyond our local agency. The workgroup has a far reaching task ahead of them. Workflow changes need to be identified as well as hardware, software and programming requirements. A few timeframes were associated with mandating a specific document storage format. The educational process could occur within two to three years, but the Clerk portion could take more years depending on the cost. The workgroup will have tangible objectives at the next FCTC meeting. Judge Stephens asked if the workgroup knows of any electronic filing system or governmental document archival system that does not use PDF. Steve responded many Clerks use TIFFs effectively to do a lot of things. The ultimate goal is to have fillable forms online or fillable forms that can be downloaded and received. The data elements will be saved in a database and large documents associated with the data will not need to be saved. When it is time to repopulate or distribute the documents the data elements will be put back in the forms and presented to the user. Steve said PDF is where the workgroup would like to go, but is not in a position as of yet to make that recommendation. Judge Munyon indicated fillable forms are useful for some things, but they will not be usable for all areas of practice in the court system; therefore, we will have to have some form of storage platform that is retrievable and archivable. Judge Stephens said the first iteration of the electronic filing system in workers compensation in Florida used PDF fillable forms exactly in the fashion that Steve is describing. The data was saved and the form was repopulated when people needed it. It was in the existing capability ten years ago, so he does not understand how fillable forms will justify the delay in adopting a PDF standard. Steve said there is a better way to handle documents than what is being done right now. Mary Cay Blanks asked why can't the workgroup make the recommendation to go to PDF or PDF/A after which the workgroup could focus on how to make the implementation happen. Steve said before the workgroup makes the recommendation and mandates the Clerks to use PDF or PDF/A he would like to reach out to the Clerks for input. Melvin Cox said the workgroup would like to give the FCTC a plan on how to move forward with PDF or PDF/A and provide realistic timeframes. Tony Landry said PDF is not the solution, but rather a container that contains the solution. There are other functionalities contained within a PDF that the court may not want to have and before there is a blanket recommendation to move towards PDF, the workgroup should define what functionalities those PDFs should contain. Clerk Bock said the workgroup should be specific and say PDF is the direction the court is moving towards; however, some Clerks may not be able to get there in two years. Judge Munyon suggested adding a caveat that the implementation schedule is yet to be determined. Clerk Bock expressed her interest in joining the document storage workgroup.

**Motion to identify PDF as the document storage method and let the workgroup work out the details over a period of time to let the clerks know that PDF is the direction the court is moving towards.**

MOTION OFFERED: Tom Genung

MOTION SECONDED: Judge Scott Stephens

Tony Landry asked what are the Clerks supposed to do with old TIFFs. Mary Cay Blanks said the workgroup has not decided what to do with historical documents and that could be decided going forward. Judge Stephens said the motion did not call for the Clerks to go back and retrofit all documents in PDF. It is a complicated process; therefore, the workgroup needs to pick a direction now in order to start dealing with all of the details. Tom Hall said the standard should be adopted and an implementation deadline should be set. If for some reason a Clerk cannot meet the established deadline, they can apply for an extension. Murray Silverstein said in the *Standards for Electronic Access to the Courts* standard 3.1.2. Document Format states documents have to be filed in searchable format and standard 3.1.3 Document Rendering states Clerks shall render document images in searchable PDF format. Murray inquired if the ePortal converts the documents to PDF. Judge Munyon said the ePortal puts a PDF wrapper on the document, but that does not necessarily mean the document is searchable. Murray asked if a document retains its attributes if it is filed through the ePortal as a PDF. Judge Munyon responded that it depends on how the Clerk's case maintenance system stores the documents. There are standards on how the document is filed and rendered, but not on how the document is stored. That is a reason the court wants some standardization. Melvin Cox said 37% of the documents that are filed through the ePortal meet the standard and only 2% of the documents have bookmarks. Melvin said there are two parts. First, educating filers on how to file documents in the correct format through the ePortal and second, is to store the documents as they come in. Murray said the lawyers can help with the first part. John Stewart said lawyers will have to incur a cost to purchase a particular product in order to file documents in a particular format through the ePortal. Judge Munyon said lawyers can save a Word document in searchable PDF and not have to buy additional software. John said he is not sure if that will be in compliance with what the document storage workgroup was discussing. Ken Nelson said there are alternatives other than Adobe. Steve said Adobe may want to provide service based solutions to the Florida Bar or the ePortal so Word documents coming into the ePortal could be converted properly. Judge Munyon stated adopting the standard does not mean the FCTC has adopted an implementation schedule.

MOTION CARRIED

**AGENDA ITEM XX. FCTC Response to Comments Filed by Various Media Entities in SC14-569**

Judge Munyon gave background information on the FCTC sending a petition to the Supreme Court to amend Florida Rule of Judicial Administration 2.420. The Media and the First Amendment Foundation filed comments to that petition. The Court adopted the suggested amendments and sent a letter to Judge Munyon asking her to address some of the Media and First Amendment Foundation's concerns. On behalf of the FCTC, Judge Munyon and Tad David drafted a report to the Supreme Court on the issues addressed by both entities.

**Motion to send the report to the Supreme Court addressing comments received from the Media and the First Amendment Foundation.**

MOTION OFFERED: Judge Scott Stephens

MOTION SECONDED: Judge Stevan Northcutt

MOTION CARRIED UNANIMIOUSLY

**AGENDA ITEM XXI. Other Items/Wrap up**

John Tomasino said the Court issued opinion SC15-765 amending Florida Rule of Appellate Procedure 9.200 requiring mandatory statewide electronic records on appeal with an effective date of October 1, 2015. All comments must be filed with the Court on or before July 13, 2015.

**Motion to adjourn the FCTC meeting**

MOTION OFFERED: Judge Robert Hilliard

MOTION SECOND: Judge Martin Bidwill

MOTION CARRIED UNANIMIOUSLY

Meeting was adjourned. The next Commission meeting is scheduled for August 6-7, 2015 at the George Edgecomb Courthouse located in Tampa.