

Florida Courts Technology Commission Meeting Summary

August 3, 2017

Tallahassee, FL

A meeting of the Florida Courts Technology Commission was held at the Florida Supreme Court Annex in Tallahassee, Florida on August 3, 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, 9th Circuit
Judge Robert Hilliard, Santa Rosa County
Judge Ronald Ficarrotta, 13th Circuit
Judge Scott Stephens, 13th Circuit
Elisa Miller, Akerman LLP
Sharon Bock, Clerk of Court, Palm Beach County
Jim Kowalski, Jr., Esq., Jacksonville Area Legal Aid
Thomas Genung, Trial Court Administrator, 19th Circuit
Karen Rushing, Clerk of Court, Sarasota County
David Ellspermann, Clerk of Court, Marion County

Judge Martin Bidwill, 17th Circuit
Judge Josephine Gagliardi, Lee County
Judge Terence Perkins, 7th Circuit
Laird Lile, Esquire, Naples
Tanya Jackson, PinPoint Results LLC
Murray Silverstein, Esq., Tampa
Christina Blakeslee, CTO, 13th Circuit
Noel Chessman, CTO 15th Circuit
Mike Smith, CTO, 4th Circuit
John M. Stewart, Esquire, Naples

Members not in attendance

Judge Stevan Northcutt, 2nd DCA
Matt Benefiel, Trial Court Administrator, 9th Circuit
Sandra Lonergan, Trial Court Administrator, 11th Circuit

Judge Cory Ciklin, 4th DCA
Lonn Weissblum, Clerk of Court, 4th DCA

OSCA and Supreme Court Staff in attendance

Justice Ricky Polston
John Tomasino, Clerk of the Supreme Court
Eric Maclure
Lakisha Hall

P.K. Jameson
Roosevelt Sawyer, Jr.
Alan Neubauer
Jeannine Moore

Other Attendees

Robert Adelardi, CTO, 11th Circuit
Craig McLean, CIO, 20th Circuit
Steve Shaw, CTO, 19th Circuit
Jim Weaver, CTO, 6th Circuit

Dennis Menendez, CIO, 12th Circuit
Craig Van Brussel, CTO, 1st Circuit
Terry Rodgers, CTO, 5th Circuit
Gerald Land, CTO, 16th Circuit

Isaac Shuler, CTO, 2nd Circuit
Carolyn Weber, Florida Court Clerks & Comptroller
Doug Bakke, Hillsborough County Clerk of Court
Maryanne Marchese, Florida Court Clerks & Comptroller
Jean Sperbeck, Alachua County Clerk of Court
Laurie Reaves, Miami-Dade County Clerk of Court
Laura Roth, Volusia County Clerk of Court
Justin Horan, Clay County Clerk of Court
Gary Blankenship, Florida Bar News
Deborah Stevens, Agency for State Technology
Gerald Cates, Duval County Clerk of Court

John Lake, CTO, 3rd Circuit
Laurie Rice, Brevard County Clerk of Court
Kim Stenger, Polk County Clerk of Court
Tyler Winik, Brevard County Clerk of Court
Doris Maitland, Lee County Clerk of Court
Michael Phelps, Polk County Clerk of Court
Harold Sample, Pasco County Clerk of Court
Steve Green, Equivant
Carol LoCicero, Thomas & LoCicero
Andy Thomas, Public Defender, 2nd Circuit

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. She thanked the Real Property, Probate & Trust Law Section of the Florida Bar for providing the refreshments. Judge Munyon recognized and welcomed, Mr. Josh Doyle, the new Executive Director at the Florida Bar. She also recognized Jannet Lewis who recently accepted a position with the National Center for State Courts. Judge Munyon presented Jannet with an award and thanked her for her years of dedicated service to the Florida Courts Technology Commission (FCTC). Jannet expressed her gratitude and thanked everyone for the award. Being at the national level, she expressed Florida's advancement in technology compared to the other states. Judge Munyon recognized the other award members of FCTC, Justice Alan Lawson, Ken Nelson and Mary Cay Blanks who were unable to attend today's meeting and thanked them for their many years serving on the Commission.
- b. Jeannine Moore called roll and noted a quorum was present.

AGENDA ITEM II. Approval of May 2017 Meeting Summary

Murray Silverstein stated a correction in the May 2017 meeting summary on page 14, half way down, "He said *proposed* Rule...." should be "He said *existing* Rule..." noting this is significant due to the existing rule defines the official court file is a set of electronic documents.

Motion to approve the meeting summary from the February 2, 2017 meeting of the Florida Courts Technology Commission with the noted correction.

MOTION OFFERED: Laird Lile
MOTION SECONDED: David Ellspermann
MOTION CARRIED UNANIMOUSLY

AGENDA ITEM III. Acceptance of the FCTC Action Summary

Motion to accept the action summary from the February 2, 2017 meeting of the Florida Courts Technology Commission.

MOTION OFFERED: Laird Lile

MOTION SECONDED: David Ellspermann

MOTION CARRIED UNANIMOUSLY

AGENDA ITEM IV. Court Application Processing System (CAPS) Update

- a. Alan Neubauer referenced the progress report and noted out of the three remaining counties left to deploy their solution, Putnam County is the only county that has deployed their solution since the last FCTC meeting. There were no changes in deployment of the remaining criminal divisions or the functionality of e-signing/filing orders through the CAPS systems, via the Portal. Alan commented on two circuits, the 2nd and the 19th, which are currently testing ICMS and could possibly transition to the ICMS solution in FY 17/18.
- b. Alan Neubauer provided statistics regarding the counties that electronically accept proposed orders, via their CAPS system. Since inception in 2013 till present, the 13th circuit has received 365,000 proposed orders via their CAPS system. The 15th circuit received 16,651 in 2016 to present and the 17th circuit has received 67,031 in the past year. Alan noted OIT will be updating the CAPS system functionality matrix and anticipate revision by the next FCTC meeting. Judge Munyon inquired about the revision. Alan explained there have been challenges on definitions and the varying responses received from the circuits on deployment and implementation of their CAPS systems. This variation in responses has made it difficult to summarize the state of the CAPS systems to the legislature regarding funding concerns. Once definitions are finalized they will have an impact on the way we reflect the CAPS information on these documents. Judge Munyon clarified that OIT will be comparing apples to apples instead of the circuits giving their own definition of what has been asked in the past. Alan confirmed and commented that OIT will work with Judge Munyon and others to ensure proper descriptions are prepared. Alan noted an inquiry from the judicial branch in Puerto Rico regarding their modernization project to go to electronic documents. Alan had an opportunity to speak with their project manager, who conveyed their appreciation of the FCTC and the documented processes regarding the CAPS systems.

AGENDA ITEM V. Portal Progress Report

- a. Carolyn Weber discussed the Portal usage statistics. In the month of June, there were 1,372,749 filings through the Portal, of which 1,370,256 were submissions to the trial courts; 738 were submission to the Department of Corrections (DOC); 82 were submissions to the Second District Court of Appeal; 1,368 were submission to the Florida Supreme Court; and 305 were submissions to the Bureau of Vital Statistics. Carolyn noted June had the highest average submissions per weekday at 61,675 and the most new cases filed during a given month at 71,980. The Portal has a little over 159,000 registered users. A comparison was given on the increase of filings in the month of June over the past five years since mandatory e-filing began in 2013. Judges in Escambia, Okaloosa, Walton, Washington, Bay, Jackson, Leon, Wakulla, Sumter, Brevard and Lee counties are receiving proposed orders electronically through the Portal. On average, it took a little over a day

to docket a filing. Approximately, 1.78% of filings were returned to the correction queue. Attorneys remain the most predominant followed by judges, process servers and self-represented litigants. Roughly, 52% of filings returned to the correction queue were resubmitted by the filer, while 48% of filers created a new submission or abandoned the filing. The self-represented litigant accounts continues to grow at 72,138, with 8,629 submissions. Fifteen counties are submitting proposed orders to the Portal via their CAPS systems, with Palm Beach County the first county to go over 20,000 in a month, at 20,723. Over 25,000 judicial single session filings have occurred through the Portal. The Florida Court Clerks and Comptrollers (FCCC) continue to provide technical support to third party vendors and CAPS system vendors, as well as adding Access to Justice (A2J) interviews to the Portal and analyzing heat tickets to formulate the October Release 2017.02. Judge Munyon inquired on breaking down the statistics by county regarding the average number of days to docket. Carolyn responded that she has that information and can provide at the next meeting. Karen Rushing noted a request from judges to provide a report on the number of pro se filings that have an attorney in their case as well. Clerk Rushing questioned any statewide request to know the number of attorneys representing the other party, where the pro se litigant is representing himself and could this be captured at the Portal level. She wasn't sure on the interest and assumes it complicates the issue for the court in proceedings. Judge Munyon stated as judges, we always have an interest in knowing how many of our cases are pro se on both sides, how many are pro se on one side and attorney on the other side, and how many have attorneys on all sides. P.K. Jameson noted this could be useful from the access and case management perspective. Judge Munyon requested that Carolyn research and determine if figures can be captured within a reasonable costs and time perspective. Laird Lile questioned the trend upwards regarding the days to docket. Carolyn was unsure on the spike regarding the time it takes the county to process the file status and thought staff resources could have affected this with vacations scheduled during the timeframe. Like Judge Munyon's request on the county's individual statistics, he requested a graph of the date range as some counties are taking 5 days to docket where as some are nearly instantaneous.

Laird noted the notifications Portal filers receive when the Portal is scheduled down for maintenance. He requested scheduled maintenance begin and end on the same day, rather than spanning two days. He gave an example of a filer waiting till around that timeframe, for whatever reason, to file and realizes they cannot because the Portal is down. If that certain day is significant, they don't have another chance on that day to submit the filing. Whereas, if the scheduled maintenance would have begun at 1:00 am, this would allow the filer to still submit the filing within the same day. Laird requested the Portal to schedule maintenance at a time that the anticipated conclusion of the maintenance is the same day as the beginning of the maintenance. Carolyn stated she will take this issue back to the technology department of the FCCC and relay the importance of scheduling the release all in one day. Clerk Rushing noted an issue with a new judge working extensive hours in the evening and when he prepares his orders, he wants them held until the workhour day so the attorneys don't feel the sense that they should respond immediately.

Judge Munyon noted on the example given, she would have given it to her judicial assistant to file the next morning. Judge Ficarrota advised speaking to the Chief Judge in regards to the issue. Mike Smith inquired with Carolyn on Nassau County not being on the list of e-filed orders via the CAPS system to the Portal. Carolyn responded she discovered that she is not capturing all of the data that is required for this particular slide. With the way, some of the circuit administrators have been creating accounts, some numbers are missing. This was brought to her attention at the end of June and by the next Portal Progress report, it will be cleared up.

First 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 begin shortly after midnight.

MOTION OFFERED: Laird Lile

MOTION SECONDED: Judge Ronald Ficarrota

MOTION CARRIED UNANIMOUSLY AS A 1ST READING

Murray Silverstein noted a comparison in April 2017 Portal progress report indicating over 150,000 registered users of the Portal and where several counties are receiving proposed orders electronically through the Portal. In June's report, the same counties are receiving proposed orders electronically through the Portal and inquired why there has not been any increase. Alan commented the ability to electronically sign orders is different than the ability to receive orders. Murray noted the CAPS report indicating 61 counties have deployed their CAPS system and the functionality report of the CAPS indicating 40 counties have the ability to electronically sign and file orders through their CAPS systems via the Portal. Judge Munyon explained that does not mean they have the ability to receive orders into the CAPS system and a lot is driven by funding. Murray inquired on e-signing/filing orders through the CAPS system and if it goes through the Portal. Alan stated receiving orders from the Portal into the CAPS system gives the capability to electronically sign and file orders by the judge through the Portal. There are two different processes to sign and file orders that are generated by the CAPS system and to sign and file orders that are received electronically through the CAPS system. The ability to receive orders is where attorneys can submit them via the Portal and end up in the CAPS systems Judge Munyon stated there are two different ways to receive proposed orders through the Portal: receive them into the CAPS system, where you attach your electronic signature and e-file it back through the CAPS system and a separate process that was set up by the Portal just like individual filings for an attorney. A filer can sign into a Portal account and view a proposed order. If the filer cannot electronically sign it, they can print the order, sign it and scan it back then file it back through the Portal as a single session filing without going through the CAPS system. Judge Munyon clarified there are only 11 counties that can receive proposed orders in their CAPS system where they can sign and file them electronically through their CAPS system. Murray questioned when a judge single session files an order through the Portal, will

all parties that are included on the service list receive a copy of the electronic order. If the judge is not included on the service list, will the judge be able to view the order. Judge Munyon responded that once the order goes into the clerk's CMS, it will be pulled into the CAPS system to be able to view. Murray replied most all orders that are now saved in the Clerk's CMS systems are printed and scanned. Carolyn answered that the counties that are using the proposed order functionality through the Portal, utilize the sign and file feature in the Portal. The sign and file feature in the Portal affixes the wet ink signature to the document. These are the 11 counties that are being tracked in the Portal progress report. Documentation has been provided to Mentis and ICMS regarding proposed orders being brought into the CAPS system to implement in their systems. Murray questioned the funding on moving the other 56 counties to this functionality, and with Revision 7, should this be a required county responsibility. Judge Munyon said it would depend on how communications equipment is viewed. When Revision 7 was drafted, the technology that was being used were fax machines and copiers not what we are utilizing today. The dollars that are set aside from filing fees that are provided to the county are not sufficient to pay for what we are asking to be done. Murray asked if the legislature agrees with these requests to fulfill funding amounts required by the vendors. P.K. Jameson responded that OSCA has requested technology funding from the legislature every year and part of the response has always been that it is a county responsibility. It is a no-win situation, as some counties do not have or will never have the funding to provide. They have been unsuccessful at getting the legislature to review the Revision 7 language that defines technology based on very old terms versus what is essential today. Murray mentioned the other vendors around the state that do not have this functionality. Carolyn responded that she has only worked with Mentis and ICMS. Brian Murphy from Mentis commented that Mentis is offering the integration to their clients at no additional charge and is scheduled for the first quarter of 2018. Tom Genung stated this requirement was part of the last CAPS 4.0 version of the standards and the CAPS systems were certified to meet the requirement by June 2018. The other requirement is if the courts can afford the costs associated with the upgrade. Judge Perkins added the other concern was when the order is brought in, the option to sign, file, and distribute the order or ability to reject the order. There wasn't a mechanism to revise the orders without an elaborate process. Some of the CAPS systems have been experimenting and modifying their systems, where the ability to make revisions to the orders coming into the system without having to start the process all over. Laird pointed out the constitution uses the phrase "cost of communication services" and that is the issue. The same part of the constitution that says counties shall be required to fund the costs of communication services, i.e., existing radio systems, multi-agency criminal justice information systems and cost of construction or lease, etc., begins with no county or municipality is required to provide any funding for the state courts system. There is a legitimate issue when it is said that the counties are supposed to provide technology; this is not what the constitution says and it is a definitional issue. This is an opportunity to change the constitution. Noel Chessman stated in terms of being a cost issue, Mentis just advised they are providing functionality at no charge and Fred Buhl from the 8th Circuit has contractors funded by the TCBC that are working on this functionality, between these two, it is a time and effort issue and not a funding one. In addition, there are several counties that are getting proposed orders in, have the ability to edit them, and file them directly

through the CAPS system. Clerk Rushing commented on the communication services component of the constitution, counties have interpreted this to be related to telephone communications, faxes, and internet fiber optic kinds of costs and not the technology costs being spoken about. Mike stated in Duval County the argument has been that the \$2 filing fee funds are there for the county to utilize first for county operations and then the county will supplement anything afterwards. Judge Munyon pointed out in past discussions on increasing the \$2 filing fee however, Florida has some of the highest filing fees in the nation. Noel commented on Florida Statute 29.008 in conjunction with 28.24, the recording fee revenue is collected and can be proposed for specific items. The FCCC's attorney sent a report to the West Palm Beach Commission indicating the counties are not definitively limited to those dollars. Craig McLean pointed out the 20th circuit received end of year funding to fund two of their counties to aid implementing the return integration via the Portal through their CAPS system. Another area of concern is the \$1.2 million in recording equipment that needs to be funded as well. The digital court reporting desperately needs upgrades and hasn't had any equipment upgrades since 2008-2009. It is not a funding issue just for the CAPS systems. Judge Munyon pointed out each year the Trial Court Budget Commission sets priorities regarding the legislative budget requests. The CAPS systems have not been a top priority due to the due process funding issues. Murray stated Florida has built one of the preeminent electronic court systems in the country and the significant clog of the process is the Courts not rendering orders electronically. Judge Munyon pointed out if it wasn't for OSCA obtaining funds from the tobacco settlement, most counties would not have a CAPS system at all. Judge Bidwill stated besides the 11 counties mentioned in the report, there is a bigger number of what is being processed through the CAPS system, outside the Portal. He suggested capturing the numbers outside the Portal as well to see the overall reporting. Christina suggested adding them to the CAPS matrix chart. Alan stated OIT will be modifying the chart to include these figures. Mike identified next year, over half of the counties will be filing electronic orders through the CAPS system or the Portal. Murray commented on past discussions regarding statewide uniformity where everything is filed through the Portal. Judge Perkins mentioned in the 7th circuit, the order is not just being electronically signed and filed, they are being electronically distributed outside the Portal. Christina added in the 6th circuit, the e-service addresses are obtained from the Portal, where orders are processed efficiently outside the Portal and it shouldn't matter as long as they are being done. Justice Polston stated it is patchwork, with years of statutory and constitutional law that got us here today. With 67 clerks, all having different processes, different funding sources from the counties and Revision 7 Article V that did not provide complete statewide funding because technology today didn't exist; therefore, we have a work in process that takes longer than we would like. Nonetheless, we have made progress but have a long way to go. There are opportunities to work with the Constitution Revision Commission on constitutional revisions and next year will be a busy year for the Courts where funding sources will continue to be worked on.

- b. Carolyn Weber continued with the Service Desk report. The service desk takes calls regarding customer service incidents along with technical and system support incidents. In June 2017, the service desk received 2,889 customer service incidents of which 2,247 were attorney incidents; 5 were judge incidents; and 637 were self-represented litigant incidents. On average, it took 14

minutes to respond to a customer service incident and 40 minutes to resolve. A total of 360 technical/system support incidents were received during June 2017. On average, it took 20 minutes to respond to a technical/support incident and 3 hours and 30 minutes to resolve an incident. Carolyn showed the top 10 types of incidents the service desk received from attorneys, self-represented litigants and judges. Jim Kowalski inquired on email and fraudulent email issues. Carolyn replied that she was uncertain of these incidents but would go back and find out from the manager of the service desk. Judge Hilliard stated it was reported that a fraudulent email went out that appeared to have come from the Portal. Jim asked if a self-represented litigant with a Portal account created the email. Carolyn stated there was an email that went out appearing to come from the Portal on a notice to appear. She will check with the service desk manager and report back at the next meeting. The service desk is continuing to work on cleaning up the pending filings. On November 1, 2015, there were 78,000 pending filings; however, as of June 30, 2017, that number is down to 1,816. The service desk report included at-a-glance statistics that broke down the service desk calls, filings, and documents by year and month for customer service and technical incidents for the past three years.

- c. Carolyn discussed the third party batch filing vendors. There were nine vendors that were certified by the E-Filing Authority Board and a list was provided on the division they were certified in along with their certification and any restrictions. There are currently four vendors filing through the Portal and the FCCC is continuing to work with new vendors on certification.
- d. Carolyn gave an update on the Portal Release 2017.02. There is a short list of new functionality in the Portal to be included in this second release of 2017 due to the time in working with the third party batch filing vendors. Judge Munyon inquired on inactivating a Pro Se filer for one case only. Carolyn replied it is when a pro se filer that has more than one account or more than one case and a judge has restricted them on filing to that case. Counties will have the ability for a Clerk to deactivate a pro se filer on a case by cases basis.

AGENDA ITEM VI. Appellate Portal Interface Update

Alan Neubauer said OSCA's OIT office is continuing to work on the appellate case management system, EFACTS. During this past development cycle, there have been no changes on the appellate portal interface.

AGENDA ITEM VII. Electronic Judicial Filing and Service of Orders

Murray Silverstein discussed the proposed motion and questioned the July 1, 2018 date being a realistic timeframe to accomplish. Murray referenced the previous CAPS update and requiring the terminology to be more specifically defined for filing orders through the CAPS systems or the Portal. Judge Munyon stated the CAPS systems have till June 30, 2018 to be compliant with the proposed order functionality. Mike commented on the motion being limited to single session e-filing and signing of orders and requested language to include filing orders through the CAPS system. Jim agreed it would be helpful to know the non-Portal capacities on a state-wide level. Noel stated the 15th circuit's CAPS system has the technical capability but operationally doesn't allow for pro se litigants that are not

registered for e-service. Jim replied that the motion doesn't address this scenario, the e-filing rule addresses if the pro se litigant hasn't opted in, and the pro se litigant will receive a mailed copy of the electronically filed order. Alan clarified the earlier discussion in the Portal progress report was regarding the ability to *receive* proposed orders. In the CAPS report, there are 40 counties that have the capability to electronically sign and file their orders. There are two different processes and the balance is to obtain the functionality from the other 27 counties. Judge Perkins pointed out this would punish the circuits that have allocated resources when the deadline wasn't impending. Putting a finite deadline and embracing the technology allows for simplicity. He explained in the 7th circuit he has the capability to electronically receive, revise, sign, file and distribute orders. He requested an amendment to the first reading motion.

Second Reading: Amended motion to recommend to the Supreme Court that judicial officers electronically file and serve their orders through electronic means by July 1, 2018.

Judge Munyon suggested an amendment for a September 1, 2018 deadline due to the circuit and county judges conference is set for late July 2018 and additional time would allow for training purposes.

Second Reading: Amended motion to recommend to the Supreme Court that judicial officers file and serve their orders through electronic means by September 1, 2018.

MOTION OFFERED: Judge Terrence Perkins
MOTION SECONDED: Murray Silverstein

Judge Stephens added the proposed rules for electronic filing has a similar provision in it with a different date. The result of this vote would drive the change of that date in the drafted rules to coincide with the FCTC.

MOTION PASSED UNANIMOUSLY

Jim Kowalski requested the non-Portal stats be available at the next FCTC meeting to represent the rest of the state being electronically compliant.

AGENDA ITEM VIII. CCIS 3.0 UPDATE

Maryanne Marchese, the new CCIS project manager, gave an update on CCIS 3.0 and began by providing the benefits of CCIS 3.0. CCIS 3.0 allows for real-time access to electronic court documents, more case information and enhanced searches. All of the 67 counties provide case data to CCIS in accordance with Florida Statute 28.24(12)(e). Of those, 65 counties have implemented the CCIS 3.0 real-time web service, with the remaining 2 counties planning to implement by the 3rd quarter of 2017. For the month of June 2017, there are 44,370 active CCIS users, with 167 federal, state, circuit and local agencies utilizing CCIS. There have been 214,858 case searches and 459,630 person searches executed

along with 765,092 docket image requests. Part of the clerk's 2017-2019 strategic plan is to enhance CCIS implementing a CCIS data quality process; developing a new reporting and notification functionality; and updating the CCIS Security Model to align with AOSC16-14. Maryanne explained the CCIS Data Quality Workgroup was formed to advance continuous process improvement and to audit the CCIS data quality. Their four areas of focus include: judge code maintenance; CCIS report integrity; audit checking; and CMS programming for webs services and batch feeds. Maryanne reminded the group the goal of enhancing CCIS data is to provide validated, reliable, secure, available and audited data by working with the local CMS systems.

AGENDA ITEM IX. Criminal Case Initiation Workgroup Update

Judge Bidwill gave an update on the workgroup's progress regarding evaluating the initiation of criminal cases through the Portal. With many different variations on initiating criminal cases statewide, a change order was proposed by the FCCC as a short-term solution that would provide additional functionality of the Portal in allowing for criminal case initiation. A long-term solution and a more complex modification of the Portal would require a cost benefit analysis. Therefore, for purposes of criminal justice systems interest, a survey will be created and sent to the clerks, as the point entity for the other stakeholders in their respective jurisdictions, to gauge their level of interest in the Portal moving forward with the short-term solution. In taking the time to fund a more extensive modification to the Portal, a workgroup was formed to create an additional survey for a detailed evaluation of the various stakeholders on criminal case initiation. In addition, the workgroup will be reaching out to the various criminal justice stakeholders to solicit participation on the workgroup as they move forward.

AGENDA ITEM X. Portal Subcommittee Update

- a. John Stewart discussed the Florida Bar attorney status validation issue where an attorney registers to use the Portal and the Portal confirms status of the attorney through the Florida Bar. If the attorney is in good standing, the attorney receives his credentials to file through the Portal. There is no rule, best practice, or standard for the E-Filing Authority to later confirm that the attorney is still in good standing with the Florida Bar. Currently, the Florida Bar has numerous reasons for a member not to be in good standing, from being delinquent to being disbarred. There are some counties that independently check periodically with the Florida Bar on an attorney's status. John confirmed the Portal should not be denying filing privileges through the Portal for attorneys that are not in good standing. This would cause punishment to the client rather than the attorney. He learned that there are some counties that are doing this in different ways by not allowing an attorney to set hearings or by sending warnings to the attorney and not allowing them to make subsequent filings. John will discuss further with the Florida Bar for a more uniform application throughout the state. One suggestion as an interim measure was to have the Portal hit the web service and when an attorney not in good standing is found, the Portal sends a message to the attorney as well as the Florida Bar, notifying them of the status.

- b. Judge Bidwill discussed the conversion of filings to PDF/A. The question was posed as to how many clerks can currently accept PDF/A filings. The response was over 50 counties could not. Motion language has begun to be drafted but requires further work. A small sub-group has agreed to work on the language to recommend a potential motion in the future.

AGENDA ITEM XI. Operational Procedure Review Workgroup Update

Judge Gagliardi stated the workgroup is continuing to revise the Operational Procedures and will have an update at the next meeting.

AGENDA ITEM XII. ACTC Update

In Judge Northcutt's absence, Alan reported the ACTC has not been able to meet this quarter and therefore, an update will be given at the next FCTC meeting.

AGENDA ITEM XIII. Access Governance Board Update

- a. This item was for informational purposes regarding the proposed statutory changes.
- b. Judge Hilliard stated the Board received inquiry on the matrix allowing judges to have level "G" access (case number only) to Financial Miscellaneous case types. Further research is being done and will be reported at the next FCTC meeting.
- c. Judge Hilliard discussed the statewide agreements and that the Gatekeeper agreement needs more work and therefore, the Board will defer to the October meeting before recommending approval of all three agreements.
- d. Jeff Taylor gave an update on aligning the Access Security Matrix with the *Standards for Access to Electronic Court Records*. The workgroup is making progress and hopes to complete the process in the coming months. Upon completion, the workgroup will present a draft of the updated *Standards for Access to Electronic Court Records* to the Access Governance Board by the October 2017 FCTC meeting.

AGENDA ITEM XIV. Technical Standards Subcommittee Update

- a. Chris Blakeslee discussed the new standard for backup of Electronic Records based on the recommended hardened facility or 50-mile rule. The subcommittee wanted to take out the 50-mile rule and concentrate on the hardened facility. The subcommittee visited several data centers to determine how they were certified as a hardened facility. Two entities, FEMA and GSA, were referenced as criteria for hardened facilities. These standards are presented for backup of records and not for courthouses to make changes to their facilities but for the clerks of court to look for facilities that meet these standards.

Motion to the FCTC recommending approval of the Backup of Electronic Records language as a first reading.

MOTION OFFERED: Christina Blakeslee

MOTION SECONDED: Mike Smith

MOTION CARRIED

- b. The subcommittee discussed the issue of sealing documents through the Portal and agreed the requirement did not warrant a standard. When a sealed document is submitted through the Portal, it is identified as such. The clerk will receive it in a queue and knows to seal that document when it comes in.
- c. Brent Holladay discussed the FCCC's position on the PDF/A standard. The FCCC has committed to implementing the PDF/A standard in a 2-year window. The FCCC's Executive Committee has approved the commitment and is taking the motion to the Executive Board and to all the clerks. To meet this timeframe, certain "conditions precedent" must occur and is where the role of the FCTC plays a part. First, resolution of outstanding issues that have been referred to the other FCTC subcommittees. Second, the funding sources need to be secured. The clerks are making it a priority to obtain the funding for the PDF/A initiative; however, the total costs will not be known until the outstanding issues are resolved. Third, the CAPS development must move in parallel. Fourth, other priorities or resources cannot displace the PDF/A initiative. To make documents into TIFF is simple. PDF is a step-up in sophistication in the way clerks handle documents. Going from PDF to PDF/A is an additional step in sophistication and complexity in the way these documents are processed. Murray requested clarification between PDF and PDF/A as it relates to storage and archival purposes along with the possibility to convert documents from PDF to PDF/A in the Portal. Brent confirmed it is possible to convert documents from PDF to PDF/A in the Portal. PDF's are simpler to process than PDF/A's due to the complexity of requiring more sophisticated tools to modify. Brent further explained PDF/A's come in as a read-only document. The PDF/A standard was approved for its long term archival ability to produce documents. In addition, PDF/A has security features that are valuable. Brent discussed the clerks CMS vendors where Clericus represents 38 of the 67 counties. Clericus version 2.6 is anticipated to be implemented in the spring of 2018 that will include a 64-bit architecture and PDF capabilities. Other vendor systems are moving forward with bringing in the PDF capabilities. In addition, redaction vendors CSI Intellidact and Mentis aiRedact have been working for several years on PDF/A capabilities for an additional cost. The International PDF/A Committee is continuing evolution of PDF/A with version 4 currently in process and the simplification of eliminating the subtypes. Once funding has been determined, it is estimated the Portal will take a year to become compliant with the PDF/A standard. Progress updates will be provided to the FCTC. To ensure both sides are covered, the CAPS development will move forward in parallel timeframe. The proposal is for the Portal to receive documents in PDF, PDF/A, Word and WordPerfect formats. During the transition period, the Portal will convert these documents to the requested format of the individual Clerk, either PDF, PDF/A or TIFF. There is a Clerk/Vendor workgroup comprised of 2 clerk representatives for each CMS vendor, plus the in-house systems, along with the vendor representatives that will focus on how to prepare the implementation. Any challenges will be returned to the FCTC for resolution. Jim commented on the document assembly software of the DIY project and if it should be building a PDF/A viable document. Brent replied yes, it will need to move forward as well. The Portal will be

the entity to ensure it is converted properly for the clerk to receive in the proper format. Carol LoCicero pointed out the access to records throughout the state is in the delay of the clerk's redaction process. She inquired how PDF/A will affect redaction in further delaying public access. Brent replied that once issues are resolved, the ultimate solution should not cause any further delays in the process. Carol requested the clerk/vendor workgroup to consider the transparency issue. Judge Perkins questioned the date for the clerks to begin processing in PDF/A. Brent replied that there is no set deadline however; a two year conditional window has been set for certain conditions to be met before implementation can begin. Christina said once the clerks receive the funding, the two-year window would begin. In addition, she suggested reviewing the CAPS standards to ensure they align with any of the changes. Noel questioned the request of the CAPS moving forward in generating or processing the PDF/A. Brent replied as the Portal is moving forward, for the CAPS to move forward with all the PDF/A functionality as well. Assuming funding issues can be addressed, he foresees six months to a year then the two year window can begin. Judge Stephens stated processing documents in PDF is easier to manipulate than in PDF/A and questioned to file in PDF, until storage, then convert to a PDF/A. He asked if the rule governing E-filing, should reflect filers to file in PDF, and not PDF/A. Brent wanted to communicate with other technical staff to ensure this would be the correct way to move forward. Justice Polston agreed with Judge Stephens on making the requirement PDF that is achievable now. It may be easier to receive the documents in PDF format to have the ability to modify and apply stamps, and then store them in the archival PDF/A format. This will be something for the clerk and vendors to ultimately decide. Mike pointed out regardless of PDF or PDF/A, a storage change to the clerk's CMS system will need to occur and could affect the timeframe. Murray stated the 1st reading was approved by the RJAC that adopted the PDF standard requirement for filers. The long term issue has been with the retention in the CMS systems. When someone requests to access court files, the CMS system produces different documents than when they were originally created. When a document is retrieved from the CMS archival storage, the document is retrieved as the document was retained after "flattening." The document no longer has the attributes with which it was originally created.

AGENDA ITEM XV. RJA Update

- a. Judge Stephens discussed the proposed changes to several rules. The last draft of rules that were circulated to the FCTC, were approved by the RJAC in May 2017 as first reading. The second reading will occur in October 2017. Judge Stephens requested the members to review the proposed rules as the RJA will be proposing these rule changes to the Supreme Court by December 2017.

AGENDA ITEM XVI. Joint FCTC/RJA Workgroup Update

- a. Murray presented the second reading of the motion regarding the elimination of technology standard 3.5.3 Original Documents or Handwritten Signatures in the *Standards for Electronic Access to the Courts*. Mike inquired about the phrase "original documents." The Fourth Circuit is

reviewing the original document being “born” digitally, given to the clerk digitally, and resides digitally. There will never be an original “hard” copy. Murray stated for the past six years, the E-filing rule 2.525 states original documents is a series of electronic documents that have been created into a court file.

Second Reading: Motion to delete standard 3.5.3 Original Documents or Handwritten Signatures in the Standards for Electronic Access to the Courts, which states “Original documents, such as death certificates, or those that contain original signatures such as affidavits, deeds, mortgages and wills must be filed manually until further standards have been adopted.

MOTION OFFERED: Murray Silverstein

MOTION SECONDED: Judge Terrence Perkins

Mike pointed out aside from this standard, there are other rules that state, “original” and wanted to confirm that paper is no longer to be saved by the clerk. Murray replied yes, the documents in the official court file are deemed original (digital) for all purposes except as otherwise provided by statute or rule. The Rules Committee of the Florida Bar is reviewing all the rule sets to eliminate the “original” (paper) from the rules. Laird requested for the record that the “original paper” doesn’t impact wills and codicils that are required to be deposited. In addition, the Real Property, Probate & Trust Law Section of the Florida Bar is working on an electronic notarization statute in the coming year that will alleviate a lot of issues. Judge Stephens pointed out that a change to an all-electronic court file doesn’t change the rules of evidence. If an affidavit might be needed in the future to show that it really happened, the proponent is expected to retain it. Mike confirmed the responsible party of the original document (paper) is retained by the filer instead of the clerk. If the original filer of the document is the Court where it is created electronically, there is no paper to receive. Murray responded that the rule reflects the original is digital.

MOTION CARRIED

AGENDA ITEM XVII. Other Items/Wrap Up

- a. This item was completed under agenda item I a.

AGENDA ITEM XVIII. Next Meeting

- a. Judge Munyon advised everyone the next FCTC meeting is scheduled for October 25-26, 2017 in Howey-in-the-Hills. Meeting dates for 2018 will be polled in the near future to prepare calendars accordingly.

Motion to adjourn the FCTC meeting

MOTION OFFERED: Judge Josephine Gagliardi

MOTION SECONDED: Elisa Miller

MOTION CARRIED UNANIMIOUSLY