

# Florida Courts Technology Commission Meeting

## FCTC Action Items/ Summary of Motions

August 2, 2013

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A meeting of the Florida Courts Technology Commission was held at the George Edgecomb Courthouse in Tampa, Florida on August 2, 2013. 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 Scott Stephens, 13<sup>th</sup> Circuit  
Judge Robert Hilliard, Santa Rosa County  
Barbara Dawicke, Trial Court Administrator, 15<sup>th</sup> Circuit  
Ted McFetridge, Trial Court Administrator, 8<sup>th</sup> Circuit  
Thomas Genung, Trial Court Administrator, 19<sup>th</sup> Circuit  
Ken Nelson, CTO, 6<sup>th</sup> Circuit  
Mary Cay Blanks, Clerk of Court, 3<sup>rd</sup> DCA  
Kent Spuhler, Esq., Florida Legal Services  
Charles C. Hinnant, Ph.D., Florida State University  
David Ellspermann, Clerk of Court, Marion County

Judge Manuel Menendez, Jr., 13<sup>th</sup> Circuit  
Judge George S. Reynolds, 2<sup>nd</sup> Circuit  
Karen Rushing, Clerk of Court, Sarasota County  
Judge Martin Bidwill, 17<sup>th</sup> Circuit  
Jannet Lewis, CTO, 10<sup>th</sup> Circuit  
Paul Regensdorf, Esq., Jacksonville  
Dennis Menendez, CTO, 12<sup>th</sup> Circuit  
Laird A. Lile, Esq., Naples  
Murray Silverstein, Esq., Tampa  
Sharon Bock, Clerk of Court, Palm Beach County

### Members not in attendance

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

Judge Sheree Cunningham, Palm Beach County  
Judge Stevan Northcutt, 2<sup>nd</sup> DCA

### OSCA and Supreme Court Staff in attendance

Alan Neubauer  
Chris Blakeslee  
Lakisha Hall

Tom Hall, Clerk of the Supreme Court  
Jeannine Moore  
Laura Rush

### Other Attendees

Steve Shaw, CTO, 19<sup>th</sup> Circuit  
Jon Lin, CTO, 5<sup>th</sup> Circuit  
Allan Reed, CIO, 11<sup>th</sup> Circuit  
John Lake, CTO, 3<sup>rd</sup> Circuit  
Wayne Fountain, CTO, 18<sup>th</sup> Circuit  
Jim Weaver, CTO, 6<sup>th</sup> Circuit  
Melvin Cox, Director of Information Technology, Florida Court Clerks and Comptrollers  
Carolyn Weber, Florida Court Clerks and Comptrollers  
Tim Smith, Clerk of Court, Putnam County  
Deb Ivankow, Orange County Clerk of Court  
Akilya Drake, Palm Beach County Clerk

Craig McLean, CIO, 20<sup>th</sup> Circuit  
Isaac Shuler, CTO, 2<sup>nd</sup> Circuit  
Craig Van Brussel, CTO 1<sup>st</sup> Circuit  
Charlie Cramer, CTO, 13<sup>th</sup> Circuit  
Gerald Land, CTO, 16<sup>th</sup> Circuit  
Victor Lee, Computing System Innovations  
Jennifer Fishback, Florida Court Clerks and Comptrollers  
Dave Johnson, Mentis Technology  
Chris Stewart, Pioneer Technology  
Jessica Reyes, Orange County Clerk of Court  
Laura Roth, Volusia County Clerk of Court

### **Other Attendees cont'd.**

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| Ramin Kouzehicani, Hillsborough County Clerk of Court  | Jeffrey Taylor, Manatee County Clerk of Court       |
| Angel Colonnese, Manatee County Clerk of Court         | Ernie Nardo, Broward County Clerk of Court          |
| Tyler Winik, Brevard County Clerk of Court             | Donna Moon, Brevard County Clerk of Court           |
| Kimberly Collins, Pasco County Clerk of Court          | Harold Sample, Pasco County Clerk of Court          |
| Kristina Velez, 8 <sup>th</sup> Judicial Circuit       | Robin Rosenz, FCF                                   |
| Gareth Marchant, Palm Beach County Clerk of Court      | Marco Valdez, Palm Beach County Clerk of Court      |
| Cindy Guerra, Palm Beach County Clerk of Court         | John Tomasino, Florida Public Defenders Association |
| Nichole Hanscom, Florida Public Defender Association   | Jimmy Midyette, Florida Legal Services, Inc.        |
| Holly Kapacinskis, Florida Court Reporters Association | Marti Harkness, Senate Appropriations               |
| Jenny Bunch, Mentis Technology                         | Brian Murphy, Mentis Technology                     |
| Steve Rumsey, Pioneer Technology                       | Henry Sal, Computer System Innovations              |

The meeting began with Judge Munyon welcoming the commission members and other participants, calling the meeting to order and advising everyone the meeting was being recorded. Chris Blakeslee reminded everyone to scan their travel vouchers and send to Candace Causseaux, at OSCA for review prior to submitting.

### **AGENDA ITEM II. Approval of May Minutes**

#### **Motion to approve the minutes from the May 2, 2013 meeting of the Florida Courts Technology Commission.**

MOTION OFFERED: David Ellspermann  
MOTION SECONDED: Ted McFetridge  
MOTION CARRIED UNANIMOUSLY

### **AGENDA ITEM III. E-Warrants update**

Charlie Schaeffer gave an update on the e-warrants system. The E-warrants system is still in the prototype development stage and will be going live in late fall or early December 2013. A pilot will be done for three to six months to gather data and evaluate any issues that may arise. Charlie gave an overview of the flow chart method of processing e-warrants and how the warrants will conclude in the FCIC/NCIC system to be queried. Judge Stephens asked who officially owns the system. Charlie said it was designed in the State of Florida however, it is officially owned by the country since federal grants allowed the system to be developed.

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

Tim Smith, Clerk of Court, Putnam County gave an update on e-filing via the Florida Courts e-Filing Portal. To date, progression of e-filing is going smoothly and the number of filings in the pending queue is continuing to go down. The focus is beginning on Criminal e-filing. Tim thanked Tom Hall for his approach and efforts in making the e-portal a success.

- a. Judge Stephens gave an update on e-Service. The process is still anticipated to happen along the timelines initially planned, but a specific date is not available. Development has proceeded on how to deal with emails that have been bounced back. Laird Lile stated the FL Bar offers free Continuing Legal Education (CLE) courses on e-service.

- b. Tom Hall gave an update on the Appellate portal interface. The Supreme Court is live on the e-portal and has received around 5,000 filings in June. The 1<sup>st</sup>, 3<sup>rd</sup>, 4<sup>th</sup> and 5<sup>th</sup> District Courts of Appeals are using either e-DCA or IDCA. The 2<sup>nd</sup> District Court of Appeals will be coming on line August 19, 2013 for optional e-filing and will become mandatory on October 1, 2013. Tom Hall said the only major problem in bringing the portal to the Appellate Courts is their old case management system. The Appellate Courts are currently working on a new case management system called e-FACTS, which will integrate with the e-portal, for a complete technology solution. The first phase is to be completed by the end of August 2013. Tom explained to get documents transferred to the 2<sup>nd</sup> District Court of Appeals in electronic format there will be a “clerk to clerk” element of the portal that will become live on August 19, 2013.
- c. Jennifer Fishback gave an overview of e-filing through the e-portal. In the month of June, 770,271 filings were filed through the e-portal and there are currently a total of 48,001 registered users. The support desk received 8,083 calls in June. The FCCC is focusing on the 2<sup>nd</sup> DCA’s implementation and on criminal e-filing. The FCCC is in analysis phase on the second release of the portal with some recommendations from the e-Portal User Group. Laird Lile suggested adding the number of docket filings to the FCCC’s report. Karen Rushing wanted to know what should be done if lawyers are ignoring the e-filing rule? Laird Lile suggested all clerks keep a list of attorneys who are in violation of this rule and impose sanctions. Sharon Bock, as an E-filing Authority member, asked the Supreme Court if they would set a definite date for the Clerk’s to refuse to take paper over the counter. The Supreme Court sent the issue back to the E-filing Authority for their suggested date. The E-filing Authority thought it would be best to bring this issue up to the FCTC for awareness of the issue and input so the E-filing Authority can respond back to the Supreme Court as to how they should proceed. Judge Munyon advised this topic will be put on next agenda. Tom Hall said the Supreme Court accepts the paper the first time and issues an order signifying, “*do not file in paper again*”. If the person does it again, the Clerk’s Office will not accept it. Further discussion on this issue resulted in Judge Reynolds suggesting this issue be referred to the e-portal subcommittee to adopt a procedure for attorney’s who are non-compliant. Karen Rushing brought up the issue of administrative orders issued by various chief judges of the circuits, specifically Pasco County. Judge Munyon stated we will review Pasco’s administrative order and any other similar orders, and put on agenda for next meeting. Chris Blakeslee will pull the Pasco County administrative orders and others, if any, and send out to the FCTC members to review for any recommendations.
- d. Jennifer Fishback went on to discuss the pilot program with the State Attorney’s and Public Defender’s. The FCCC in partnering with the Clerk’s offices, the State Attorney’s Association and the Public Defender’s Association created a process to initiate subsequent criminal e-filings through a batch interface process. In order to circumvent the issue of standardization that occurred during preparation for civil e-filing, a standard list of criminal docket codes have been developed and vetted through the Best Practices committee. During the month of June, 48 counties submitted their standard criminal docket descriptions (SCDD) for mapping. Having a standardized list of docket descriptions that will map into a local county CMS enables the batch process to occur. The FCCC has received a criminal readiness survey from the Clerk’s that described the scope of work that remains to be completed.

- e. Carolyn Weber stated the FCCC is going to offer a web service for Judges and Clerks to access the e-service list for each case filed through the portal. The only downfall in sending orders through the portal is the delay in getting the orders in the clerk systems. Judge Munyon explained AOSC13-12 indicates that judges are not required to file orders through the portal. Judge Reynolds gave advantages of filing through the portal utilizing e-service. Judge Stephens wanted a recommendation on whether or not orders should go through the portal thereby, building a process to accommodate such. Sharon Bock suggested the issue be brought to the E-Filing Authority Board to look at the portal interfaces, the efficiencies and what local clerks systems can do and bring back a report at next FCTC meeting. Judge Munyon stated she has asked the E-Filing Authority to emphasize security concerns when looking at judges filing through the portal.

**Motion to recommend the Supreme Court mandating judges orders be filed through the portal by July 1, 2014.**

MOTION OFFERED: Judge George Reynolds  
MOTION SECONDED: Murray Silverstein  
MOTION CARRIED UNANIMOUSLY

Judge Kreeger suggested the FCTC get input from the E-Filing Authority Board to find out when they would be ready to accept orders. Ken Nelson suggested checking with Clerks and Judges on this issue as well.

**A motion was made to table the previous motion until the October FCTC meeting.**

MOTION OFFERED: Laird Lile  
MOTION SECONDED: Judge Menendez  
MOTION CARRIED WITH (1) OPPOSING

- f. Jannet Lewis discussed the quality of e-filed documents. The documents that clerk's are getting through e-filing are of low quality. Jannet recommended making guidelines on what software is required by attorneys when e-filing documents. Melvin Cox said the FCCC accepts the documents based on the standards currently in place. Tom Hall said there is a lot of low quality documents received at the appellate level. Tom explained that attorneys' file documents as a Word Perfect document and then the document is converted to a Word document before it is sent to the portal. During this conversion, some internal systems perceive the document as corrupted. E-filed documents should only be received in PDF format. Tom recommended eliminating Word and Word Perfect. Tom Genung said the quality of the documents being filed in his circuit is problematic. The filer has an obligation to ensure what they are filing is legible. The consensus of the group agreed no action was necessary at this time.

**AGENDA ITEM V. e-Portal Subcommittee**

- a. Judge Reynolds discussed the time stamp standard that was addressed at the May 2013 meeting and reviewed the location of each stamp. The 3x3 upper right corner is already reserved for official record time stamps; the e-portal time stamp would be in the upper left corner; the circuit clerk and county

clerk time stamps would be in the bottom margin; the Supreme Court and two DCA's time stamps would be in the left hand margin; Administrative agencies would be in the right hand margin.

**Motion to recommend to the Rules of Judicial Administration to amend rule 2.520(c) to incorporate administrative agencies time stamp in the right hand margin.**

MOTION OFFERED: Judge George Reynolds

MOTION SECONDED: Karen Rushing

MOTION CARRIED UNANIMOUSLY

- b. Murray Silverstein discussed revising section 3.1.16 of the e-Access Standards. Murray proposes additional language in standard 3.1.16 that exhibits would be separate and not to exceed 25 mb. Paul Regensdorf brought up appendices to be identified as well or a bookmark system when having multiple exhibits. Murray and Judge Bidwill will tweak language to standard 3.1.16 and present later in the meeting.
- c. Judge Bidwill discussed sub-accounts for paralegals or legal assistants. The concern was there would be a disconnect between the attorney and the filed pleading. The discussion of the work group was to allow paralegals and legal assistants to register on the portal and the attorney would authorize the paralegal or legal assistant to file on his/her behalf. John Tomasino discussed the need to have sub-accounts for paralegals/legal assistants as attorneys will lose all accountability when sharing credentials. Further discussion of the issue was a concern the paralegals/legal assistants would have access to cases. Sharon Bock said the E-Filing Authority worked on a report looking at other jurisdictions and how law firms control access to attorney's accounts. Information obtained from this report determined the portal be set up for attorneys to control access to their account. Sharon will bring more information from the E-Filing Authority report at the next FCTC meeting in October.

**Motion for the e-Portal subcommittee to do more research on the issue of subaccounts for paralegals/legal assistants.**

MOTION OFFERED: Judge George Reynolds

MOTION SECONDED: Murray Silverstein

MOTION CARRIED WITH (6) OPPOSING

- d. Judge Reynolds discussed validating user groups to be added to the portal. There would be no independent validation required in order for an "other specified user" to register and file on the Portal. There will be limited access accounts in the portal for other specified users. All "other specified users" would be subject to three (3) business rules: filer can only see or view the case file to the extent the case file is public; the filer can only file limited document types such that they are consistent with their role; and automatic registration cancellation if no log-on within previous year. Ted McFetridge stated pro se filers should be brought to the front of the line for using the portal as opposed to moving them to the end. Judge Reynolds said Sharon Bock stated earlier the e-filing authority having a pro se committee; the e-Portal subcommittee will coordinate with the e-Filing Authority Board's Pro Se Committee in prioritizing the user groups and bring a recommendation back to the FCTC.

- e. Judge Reynolds discussed the docket entries and numbering them. Many CMS systems are not set up to number the docket entry. This issue will be referred back to the subcommittee for further research. The subcommittee will work with Karen Rushing for specific language to the CMS Standards and bring a recommendation back to FCTC.

### **AGENDA ITEM IX. E-Signatures – Ethic Opinion on signing for Attorneys**

- a. Laird Lile said rule amendment to 2.515(c) indicates “/s”, “s/” and “/s/” are acceptable formats for electronic signatures by or at the direction of the person signing. The Florida Bar ethics opinion 87-11 states an attorney should not under any circumstance permit any nonlawyer employees to sign notices of hearings. Laird stated he is working with the Bar’s ethics committee to clarify if rule 2.515(c) is in conflict with opinion 87-11.
- b. Murray Silverstein discussed ethics opinion 12-2. This opinion deals with attorneys delegating authority in allowing his/her staff to sign documents through the portal. Murray said there are three issues in regards to this opinion: 1 - Can a lawyer delegate authority to a nonlawyer when filing a document through the portal? 2 - Will the lawyer’s certification under Rule 2.515 be met, if the lawyer did not actually sign? 3 - What to do about privacy and redaction? The “directing or authorizing” has become unnecessary after the adoption of Ethics Opinion 12-2. Further, attorneys can delegate certain duties as long as staff is supervised and filing may be deemed a ministerial task. Additional language was added to the certification language contained in the Attorney Signature Rule 2.515 to certify confidential or sensitive information and redaction was in compliance. The issue remains, whether the lawyer’s oath is still being adhered to in an electronic scenario.

### **AGENDA ITEM X. Confidentiality (checkbox issue)**

Paul Regensdorf discussed the issue of checkboxes and protecting confidential information. There is not an immediate consequence for lawyers including confidential information in files. Paul said lawyers are not complying with Rule 2.420. It is the duty of the filer to identify if confidential information is contained within the filing and submit a certification of confidentiality. The responsibility of protecting the information extends to the clerks as custodians of the court record, but the burden is on the filer to identify the confidential information. Paul urged the FCTC to place the certification language in the portal, next to the submit button at the top of the screen and require the filer to check one of two boxes: 1) I hereby certify that there is no confidential information in this document or 2) I hereby certify that there is confidential information in this document and I have appropriately protected it. This forces the lawyers to make an intellectual choice and thereby comply with rule 2.420.

**Motion to add two certification statements in red with check-boxes at top of filing page, next to the submit button: 1) I hereby certify that there is *no* confidential information in this document or 2) I hereby certify that there *is* confidential information in this document; that forces filers to check it to comply with rule 2.420 before a filing can be made.**

MOTION OFFERED: Karen Rushing

MOTION SECONDED: Judge Manuel Menendez

MOTION CARRIED WITH (1) OPPOSING

Kent Spuhler said to change lawyer behavior, more reinforcement and support is needed to ensure filers are aware of the enforcement. Kent suggested a hyperlink to the rules with a summary indicating this is an

important requirement. Murray Silverstein said the language can be tweaked to certify that the submission contains no confidential or sensitive information and to add a hyperlink to the rule. Melvin Cox said the FCCC will put the checkboxes into the next portal release 2013.02. Judge Reynolds offered a friendly amendment.

**Amend motion to replace the word “document” with “submission” in each of the checkbox language and include hyper linking if possible.**

Paul Regensdorf and Murray Silverstein both accepted the amended motion.  
MOTION CARRIED

**AGENDA ITEM XI. Access to sealed/expunged records under Chapter 943**

Laura Rush discussed Chapter 943.0585 and 943.059, Fla. Stat., regarding judges using judicial viewers to access sealed/expunged records. In short, under F.S. 943.0585(4), judges do not have the right or ability to view *expunged* records. Under F.S. 943.059(4), judges have the right and ability to view *sealed* records as part of their decision making process.

**AGENDA ITEM XII. Status update on CMS standards**

Karen Rushing discussed developing case management standards. Information from the NCSC indicates there are thirteen business functions that a case management system should include. A draft document of data elements that all case management systems should contain was created. A substantial amount of work has been done on standardizing docket description as it relates to case types. The objective is to have standardized docket descriptions to identify the treatment required for a particular document. Karen said there will be more documents for handouts at the next meeting. Judge Munyon said once documents are reviewed then this committee can integrate with the Technical Standards committee to come up with some standards and functional requirements of the case management systems.

**AGENDA ITEM XVI. Access Governance Board update**

Judge Hilliard presented the online Electronic Records Access application for approval. This process allows Clerks to be certified to put their case information on the web.

**Motion for the FCTC to recommend the Supreme Court approve the online Electronic Records Access application.**

MOTION OFFERED: Judge Robert Hilliard  
MOTION SECONDED: Karen Rushing  
MOTION CARRIED UNANIMOUSLY

**AGENDA ITEM XII. Technical Standards Subcommittee**

- a. Jannet Lewis discussed the survey that was developed to access the readiness of the Clerk’s migration towards searchable PDFs as a standard. Most clerks currently store documents as a TIFF image. Clerks have agreed to develop a plan to start receiving searchable PDF’s from the portal. Judge Stephens questioned if there was any consideration of following the federal courts path in adopting the archive subset of PDF/A format. Jannet said the searchable PDF format includes the archive format as well but she will ensure that it is included in the discussion.

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

Judge Reynolds discussed the three vendors that will demonstrate their product this month - Pioneer, Tyler Technologies and the Eighth Judicial Circuit. Mentis Technologies and the Thirteenth Judicial Circuit's Judicial Automated Workflow System (JAWS) received full certification. Chris Blakeslee said New Dawn was provisionally certified in February 2013 but they have not submitted any status reports to date. Judge Reynolds said New Dawn's provisional certification is about to expire, so they may default themselves. The majority of issues the courts are having are the calendaring system and integration costs.

#### **AGENDA ITEM XV. Compliance Subcommittee**

Judge Kreeger discussed the local administrative orders that were received by the compliance subcommittee to review for compliance issues. The committee decided the local orders from the Tenth Circuit, Pinellas and Pasco County were not compliance issues. In the Seventeen Circuit, Judge Weinstein issued an administrative order stating that in the Probate Division there will not be any hybrid files and the Clerk could not discontinue paper without his consent. The compliance subcommittee requested an opinion from OSCA's general counsel on FCTC's authority to require local courts compliance with technology standards and policies. The opinion gave the FCTC the authority to enforce local courts compliance with technology standards and policies. The committee recommended inviting Chief Judge Weinstein and Clerk Howard Forman of the Seventeenth Circuit to appear before the Commission at the next FCTC meeting to discuss their issue, if they are unable to resolve it before that time.

#### **Motion to invite Chief Judge Weinstein and Clerk Howard Forman to appear before the Commission at the next FCTC meeting to discuss their issue, if they are unable to resolve it before that time.**

MOTION OFFERED: Judge Scott Stephens

MOTION SECOND: Ted McFetridge

MOTION CARRIED UNANIMOUSLY

Discussion continued on hybrid files. Ernie Nardo asked the committee if a clerk maintains a hybrid system, is that office required to print files. Judge Stephens said Rule 2.525 includes language for hybrid files. Judge Reynolds clarified hybrid systems are not back scanning files. Judge Kreeger agreed, unless requested to do so. Tom Hall requested minutes of the subcommittee in regards to counties in compliance to discuss at the E-Filing Authority Board meetings.

#### **AGENDA ITEM XIV. Other Items/Wrap up**

Judge Munyon stated items that were not discussed will be put on the next FCTC agenda. Murray Silverstein and Judge Bidwill will tweak language regarding exhibits and bring to the next FCTC meeting.

#### **Motion to adjourn the FCTC meeting**

MOTION OFFERED: (SEVERAL)

MOTION CARRIED UNANIMOUSLY

Meeting was adjourned at 3:30 pm. The next Commission meeting is scheduled for October 16-17, 2013 in Tampa.