



**The Florida Courts E-Filing Authority
Minutes**

Florida Courts E-Filing Authority Board of Directors met on February 14, 2013, at 10:00 a.m. by WebEx. The following members were present: Tim Smith, Putnam County Clerk, Chair; Joseph E. Smith, St. Lucie County Clerk, Vice Chair; Bill Kinsaul, Bay County Clerk, Secretary/Treasurer; Tom Hall, Clerk, Supreme Court; Bob Inzer, Leon County Clerk; Karen Rushing, Sarasota County Clerk; Sharon Bock, Esq., Palm Beach County Clerk; and Lynn Hoshihara, Esq., Authority General Counsel. P. Dewitt Cason, Columbia County Clerk, was unable to attend.

- I. Mr. Tim Smith, Chair, opened the meeting at 10:00 a.m. with a roll call. He welcomed those on the WebEx. He also welcomed new board member, Hon. Don Barbee, Hernando County Clerk, the new District IV designee, recently elected at the District IV Caucus meeting.
- II. Mr. Smith asked for a motion to adopt the agenda. Mr. Bill Kinsaul moved adoption of the agenda. Mr. Joe Smith seconded the motion. All voted to accept the agenda as presented.
- III. Mr. Smith recognized Mr. Kinsaul to present the January 2013 minutes. Hearing no suggested changes, Mr. Kinsaul moved adoption of the minutes. Ms. Sharon Bock, Esq., seconded the motion. All voted favorably to accept the minutes.
- IV. Mr. Smith recognized Mr. Kinsaul to present the December 2012 and January 2013 financial reports. There were no questions.
- V. Progress Reports

Monthly status: Mr. Smith recognized Mr. Levi Owens, e-portal project manager, to review the monthly status report. Mr. Owens reported that there had been an uptick in the number of documents filed—from about a month to over 70,000 this past month.. He said there almost 22,000 registered users. He reported that the percentage of documents initiating new cases was slightly up—from 6% to 7%, and that of the cases filed in general, half the filings were in the circuit civil area. Currently, 58 counties have completed live e-filing in the civil divisions. Of the nine counties that were still in the

process of connecting to the portal, some would be working hard up to the April 1 deadline. There was discussion that Pinellas would not be connected until later in April. Mr. Smith asked Mr. Owens to make sure that Pinellas County was aware of the process for requesting a waiver if they ended up needing one.

Mr. Owens reported that the connectivity with the Supreme Court was going well.

Criminal Pilot: Mr. Owens briefed the board on the criminal pilot project. He said that the standardized document descriptions and CMS codes were complete. The pilot team met with the STAC vendor and the State Attorney and Public Defender representatives regarding batch interfaces and now had a target date for testing. Ms. Smith confirmed that batches are currently coming through the portal. Mr. Owens confirmed that they were on existing cases only.

Supreme Court e-filing: Mr. Hall provided an update on Supreme Court e-filing efforts. He reported that testing was on-going and going well. He said that as long as it continued to go well, that he wanted to open up the portal for certain cases on February 20, then make e-filing optional on February 27. As long as it continued to go well, he thought the Court would work toward moving the mandatory date for Supreme Court e-filing to April 1.

E-Service: Ms. Carolyn Weber reported that the e-service workgroup was meeting each Friday and would be finalizing the business requirements and other documents, and approve them, this week. She also reported that they were meeting with the e-service vendor on February 21, 2013 to get estimates for cost and time.

District Caucus Issues Report: Mr. Kent told the board that he heard a number of issues from Clerks as he attended the Clerks' district caucus meetings around the state. He reported that some of the issues were operational, such as having to still print out paper, or dealing with the "dual system" issue: handling pro se in filings on paper but attorney filings in electronic format. He mentioned that many counties spoke to having to deal with what they perceived would be a huge increase in the volume of filings through the portal during a short period of time. He said several Clerks were concerned with color images and larger documents being problematic.

VI. Subcommittee Reports:

- a. **User Forum:** Mr. Owens reported that 2013.01 release was on the website and several items have impact to Clerk vendors. The date of the next release is July 15, 2013.
- b. **Website Subcommittee:** Mr. Hall showed a mock-up of a website homepage that the website vendor had already begun as an example.. He recognized Lynn Hoshihara, Board Attorney to present the proposed contract with the vendor, ArnAmy. She noted it was a standard contract for services at the pricing set in the rfp response, \$8,910.

Mr. Hall suggested the contract be brought back at the next authority meeting for

final approval. There was comment about making sure that the legal name of the portal was put in the document as well as shown on the website. After some discussion, Ms. Karen Rushing moved to call the portal the “Florida Courts E-Filing Portal.” Mr. Hall seconded the motion, noting the capital “E” and capital “F.” There was comment that the name would then be consistent with the Authority name. All were in favor of the name for the portal. There was general discussion of the potential for the website and how it would be used. Mr. Smith asked Mr. Hall to be aware of the need to be able to manage the content after it is designed.

- c. Funding Subcommittee: Ms. Sharon Bock, Esq., briefed the board on the funding proposal for portal services that was discussed at the Florida Courts Technology Commission meeting in late January and their support of it. She also mentioned the National Center For State Courts report that was given at the FCTC meeting does present a funding model for e-filing that the board may want to review at some point.

VII. New Business

- a. Portal Access by Disciplined Attorneys: Mr. Hall led a discussion about how to deal with attorneys who file who have been disbarred or otherwise suspended. There was discussion of needing a technical solution to keep attorneys who shouldn’t be filing from accessing the portal. Mr. Hall mentioned that court would be reviewing rule 2.052 that requires the Clerk take filings on paper.

Mr. Smith mentioned that he had sent a letter to Chief Justice Polston asking for guidance on how to best handle the e-filing mandate in SC 11-399 and rule 2.052, Rules of Judicial Procedure, wherein the clerk cannot refuse a document filed on paper. The Chief Justice responded by asking for a recommendation from the board. Mr. Smith suggested the board track the issue for a while to see what sort of recommendation would work best. Ms. Rushing shared an incident where a disbarred attorney was filing in her office. She said that anything from a technical perspective would help with this issue.

b. Portal Documentation

- i. Terms of Use: Ms. Hoshihara reviewed the terms of use documentation. Mr. Inzer moved adoption of option 2 as revised. Mr. Hall seconded the motion. All voted favorably.

Mr. Hall moved that as a part of the registration process, that attorneys accept and agree to the terms of use. He added that these technical changes would have to be made as soon as technically feasible. Mr. Inzer seconded the motion. All voted favorably.

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- ii. Accessibility Notice: Ms. Hoshihara reviewed the accessibility notice. Mr. Hall moved that the board adopt option 2. Mr. Inzer seconded the motion, All voted favorably.
 - iii. Privacy Policy: Ms. Hoshihara reviewed the privacy policy. Mr. Hall moved the board adopt option 2. Mr. Inzer seconded the motion. All voted favorably.

Ms. Hoshihara noted that all the documentation would be reviewed to make sure that the portal name was correctly listed.

VIII. Other Business

Use of portal by U.S. Attorneys

Mr. Smith asked Ms. Hoshihara to review the issue for the board. She explained that there is little case law, but there is a federal law that authorizes federal attorneys to appear in state and local courts. It is her opinion that the U.S. attorneys, who all have U.S. Bar numbers, should be allowed access to the portal as they would be classed as attorney filers. Mr. Hall agreed noting that revised opinion SC 11-399 mandates that all attorneys must file through the portal.

Mr. Inzer asked if there could be a simple solution found for now and a better solution developed later on. Mr. Hall suggested portal staff include this issue for the next revision. Mr. Smith directed portal staff to report at the next meeting a simple work-around to accommodate those “other” attorney filers.

Use of portal by Non-Attorneys

As for non-attorney filers, Mr. Smith asked for clarification—this had been mentioned at the FCTC meeting late January. Mr. Hall remarked that it was the idea that the portal would not be ready to move to accepting non-attorney filers until after the October 1 deadline to allow attorneys and Clerks to get accustomed to the new process flow. He suggested that would be the time for the non-attorney filers, such as mental health providers, and law enforcement—those other filers pertinent to a case who are not attorneys. This did not encompass or include pro se filers.

Policy on attorneys who are exempt from payment

There was a lengthy discussion on how the portal would be able to determine whether an attorney was accurately portraying that he or she was exempt from paying a filing fee? Mr. Owens said there were two ways to go about this—to allow attorneys to select whether to pay a fee for a filing on a case-by-case basis, or, he suggested the preferred method was to set up a state agency, or other exempted agency, as a law firm and set it up as a “no fee” agency. Mr. Inzer suggested the fee should be assessed based on who you are filing on behalf of, not who the attorney is. He made a motion that the portal continue to use what is in place today and it would up to the filers to designate if they were exempt or not. Mr. Joe Smith seconded the motion. Mr. Owens suggested there would be

something in the July release that would assist with this issue. He said currently agencies or other attorneys who are exempt from the fees use the indigency form and write N/A to file without charge. Some counties, he explained, use a document type that has no fee associated with it for those to choose when filing. There was discussion as to how to make sure Clerks and agencies knew that there was an option. Mr. Tim Smith asked Mr. Kenneth Kent to make sure the issue was included on the FAQs page. All voted favorably on the motion.

Mr. Tim Smith reminded the board members that the next meeting, to be held March 12, 2013, would be held from 3:30-5:30 p.m. at the Aloft Hotel in Tallahassee.

Public Comment:

Joel Rosenthal, JTL Process, a process serving agency, asked about if process servers could be considered as non-attorney filers. Mr. Owens commented that the portal may result in negating the need for process servers. Ms. Weber noted that process servers were not allowed to file through the Orange County Clerk's portal. Ms. Rushing noted that she did allow process servers in her local system. Mr. Smith suggested there may be a need to form a subcommittee to review those non-attorney filers, not including pro se filers.

John Tomasino, Second Circuit Public Defenders' Office, raised the issue of attorney's support staff and paralegals possibly having their own credentials. He noted that Judge George Reynolds' FCTC Committee on E-Filing would be looking into it. He also spoke very favorably as to the efforts being made on the criminal pilot project.

Mark Snyder, ProVest, asked if there would be any batch filing efforts being made for civil cases? Mr. Owens noted that there was currently no direction to do so. Mr. Snyder also asked about summonses. Mr. Owens suggested he contact the Clerk's Office about how they will handle summonses.

XI. The meeting was adjourned at 12:08 p.m.