



The Florida Courts E-Filing Authority Minutes

Florida Courts E-Filing Authority Board of Directors held a regular meeting on October 10, 2013, at 10:00 a.m., EDT, by WebEx. The following members were present: Tim Smith, Putnam County Clerk, Chair; Joseph E. Smith, St. Lucie County Clerk, Vice Chair; Tara Green, Clay County Clerk, Secretary/Treasurer; Tom Hall, Clerk, Supreme Court; Bob Inzer, Leon County Clerk; Don Barbee, Hernando County; Sharon Bock, Esq., Palm Beach County Clerk; Alex Alford, Walton County Clerk; Karen Rushing, Sarasota County Clerk; and Lynn Hoshihara, Esq., Authority General Counsel. All members were present.

- I. Mr. Tim Smith, Chair, opened the meeting at 10:02 a.m. with a roll call. He welcomed those on the WebEx. He also recognized and welcomed John Tomasino, incoming Clerk of the Supreme Court.

Mr. Tim Smith noted that this was Mr. Tom Hall's last Authority meeting and thanked him for his important service over the past three years.

Mr. Tim Smith thanked Ms. Karen Rushing for her presentation before the Legislature and aptly explaining the status of the portal.

Mr. Joe Smith moved adoption of the agenda. Ms. Rushing seconded the motion. All voted favorably.

- II. Mr. Tim Smith recognized Ms. Tara Green to present the minutes from the September 16, 2013, meeting and the September 27, 2013, workshop. Hearing no suggested changes, Ms. Green moved adoption of the minutes. Mr. Don Barbee seconded the motion. All voted favorably to accept the minutes.

- III. Mr. Smith recognized Ms. Green to present the September 2013 financial reports. She noted that the financial statements showed a year-to-date profit of \$238,000.

- IV. Progress Reports:

Ms. Fishback reported that for the month of September there were over 815,000 filings, equaling about 1.4 million documents. Filings on criminal cases comprised 20,000 of those filings. She reported that it was still consistent to report that six percent of the

filings are those that initiate cases. Currently, there were almost 54,000 registered filers. The Service Desk received 6,646 new calls in September. Still, statistics show that filers are sending documents to the portal every day of the week, most hours of the day.

Ms. Fishback reported the status of the criminal e-filing efforts across the counties.

Mr. Hall remarked that at least one circuit is having an issue interpreting the administrative order with two of the counties in the two-county circuit having an extension. The Clerks and Chief Judge of the Circuit have met and are to write to the Court asking clarification. If there are any other interpretation problems with the order in those counties where an extension was granted, he felt that counties should let the Court know so it can respond and address them all together. There was general discussion as to how to, or if the board should, notify the circuits where this situation was taking place.

Mr. Tim Smith noted that Clerks should be mindful of the document that the association sent to them regarding the steps that needed to be taken to be ready for the criminal electronic interface. He urged Clerks to be working collaboratively with their local partners so all can meet the deadlines together. Mr. Hall asked, other than posting on the website, how to best get the information to the local State Attorney Offices, Public Defender Offices and Courts? Mr. Tim Smith suggested that the Authority notify the local parties, along with the OSCA staff, also post it on the Courts' and E-Filing websites.

DCA update: Mr. Hall reported that all was going well. He commented that there was still difficulty matching filings with the fees. He reviewed how the fees used to be paid and how he would, ideally like to see them flow along with electronic filing. He acknowledged that he was in discussion with association staff and would not want to roll out to the other District Courts of Appeal until this aspect is fixed. Mr. Hall also remarked that the eDCA system also makes document images available to attorneys and those appellate clerks using eDCA do not want to switch until the portal allows access to images as well. He believed there was much work to be done on the courtside to make this happen.

Mr. John Tomasino told the board that he was beginning to get inquiries from the Public Defender Appellate offices about the e-record, asking if it was ready yet. Mr. Cox responded that Clerks could submit the older standard. Mr. Hall remarked that if the Clerks could take it and the Supreme Court could take it, then the Public Defenders and courts should both be able to take it.

Ms. Fishback informed the board that there were more updates in process. A member of the audience asked for the update documentation. Ms. Fishback said it would be published next week.

Ms. Carolyn Weber reported to the board that e-service had gone “live” two weeks prior and it had gone very smoothly. She mentioned that there is a web service in test for Clerks and Judges. The Supreme Court was working on an order to clarify that service through the portal was legally valid service. She informed the board that she was still holding portal training for attorneys and continued to have more than 200 attendees for each session. The sessions are advertised on The Florida Bar’s E-Filing Resources website and Tweeted. The session is also recorded on WebEx and posted on the E-Filing Portal website.

Mr. Tomasino reported that the Florida Public Defender Association was asking to delay e-service until February 2014. Mr. Hall urged them to go ahead and file the request and get it clarified.

Mr. Tyler Winik, Brevard Clerk’s Office, inquired about getting access to the test environment.

Ms. Fishback was asked when release 2013.2 would be available for filer testing? She reported it would possibly be available the last week of October.

V. Other Business

Ms. Lynn Hoshihara, Esq., reported to the Board that, based on the supplemental agreement approved at the September meeting, the Authority must meet prior to November 1, 2013, to approve or adopt, the policies and procedures. She suggested the Board hold a WebEx meeting later in the month specifically to consider that matter. She wanted to distribute the agreement prior to the meeting for the members to review a week prior to the meeting.

Mr. Barbee, in his role as chair of the Rules Subcommittee, asked for guidance. In trying to plan the next meeting, he discussed assigning each subcommittee member to a specific Bar rules committee. He asked Mr. Tim Smith what the proper avenue when a person raises an issue and it is more of a statutory change? Mr. Tim Smith suggested broadening the scope of the subcommittee to include statutes so the members could suggest the needed statutory revisions. He suggested any statutory changes needed be sent to Ms. Hoshihara and she would coordinate with the proper partners, such as FCCC or OSCA. Mr. Hall suggested OSCA could help with legislative changes.

Mr. Barbee followed with a query as to who should make the initial contact with each committee. Mr. Tim Smith offered to draft a letter and send it to Ms. Hoshihara, with Don’s review and signature as well.

Mr. Hall suggested that, up to October 31, that he was a liaison to all the committees. He also noted that the requirement of keeping paper in court files was a problem that he would like added to the Rules Subcommittee agenda.

Mr. Tim Smith reminded everyone that the Florida Courts Technology Commission meeting was to be held the next week in Tampa.

Public Comment: There were no comments.

Mr. Hall offered remarks to the Board, noting it was his final meeting. He further thanked everyone for their hard work over the past three years.

Mr. Tim Smith thanked Mr. Hall for his spirit of cooperation and being able provide liaison between the Clerks and the Courts. He told Mr. Hall that the entire board was proud of the work that had been done.

V. Adjourn

The meeting was adjourned at 11:43 p.m.

Shore8/14/13 sent at 4: 15 p.m.

MEMBER REQUEST: Message from Manatee Clerk Chips

Dear Court Clerks & Comptrollers:

The following is a message from Hon. R.B. "Chips" Shore (Manatee) that he requested be sent to all members:

Fellow Clerks - Please review the attached document that I have provided discussing the reasons that Manatee abandoned a "long form" e-filing process in favor of simple e-filing and the risks I see in not re-thinking our implementation of the portal. There are several upcoming meetings in which consistency in the e-filing process will be discussed that you should be involved in. Additionally, the FCCC will be doing a demo of both simple e-filing and regular e-filing at a future date to be determined. Clerks and their staff should participate in this demo so that some consensus can be reached. Please feel free to contact my IT Director, Carole Pettijohn, directly at 941-742-5851 or me if you have any questions about the attached document or wish to discuss this issue further.

Thanks-
Chips

Chips Shore
Manatee County Clerk of Circuit Court and Comptroller

Florida has a very broad Public Records Law. This agency is a public entity and is subject to Chapter 119 of the Florida Statutes, concerning public records. E-mail communications are covered under such laws & therefore e-mail sent or received on this entity's computer system, including your e-mail address, may be disclosed to the public or media upon request.

Uniformity in E-Filing

In his address to the Clerks Association at the Summer Conference Justice Polston stressed the need for uniformity in e-filing. He said that uniformity is essential to compliance by the legal community. It is also essential to the integrity and accuracy of the official court case file of which the Clerk is the custodian.

In the paper world we had uniformity. The attorney, attorney staff or a courier brought the document(s) to be filed to the Clerk's office and handed it to the Clerk for filing. The Clerk accepted the filing, processed the correct fee required and entered the filing into their respective case/document systems. As the State has moved into the electronic world we have lost the simplicity and uniformity of the paper process and instead have created a process that is complicated and fraught with errors. It has increased the difficulty of filing on the part of attorneys and therefore increased the number of support calls and frustration with the implementation of e-filing.

Manatee County has a decade of experience with e-filing. Initially we attempted e-filing with a system very similar to the system used by most counties through the statewide portal. Attorneys were required to enter any number of fields prior to e-filing their document. Our experience is that clerks were correcting errors in over 60% of the electronic filings and that the Quality Assurance (QA) of all of the electronic attorney entries took longer than having an experienced intake clerk handle the filing when it

Florida Courts E-Filing Authority • P.O. Box 180519, Tallahassee, FL 32318 • 850-921-0808 • http://www.flclerks.com/eFiling_authority.html

In governance of Florida's eFiling portal, the statewide access point for electronic transmission of court records, www.myflcourtagency.com.

was a paper process. This prompted Clerk Shore to envision simple e-filing or our “one button e-filing” process that we have used for the past six years. When we changed from “long form” e-filing to simple e-filing our e-filing transactions went from approximately 12% of filings to approximately 55% of filings that were e-filed. This was prior to mandatory e-filing and saved the Clerk from having to scan paper filings and QA the long form e-filings. Our productivity and accuracy increased exponentially.

By attempting to create a uniform e-filing process complete with document descriptions and docket codes, we are by default creating a level of complexity in the process in several ways:

- The Clerks use many different systems with different parameters, docket codes and descriptions. The paper process accommodated each Clerk having autonomy. Having to agree on common codes, etc. has been an ongoing effort that has not been very successful. The effort needed to come up with a common set is not something to be quickly accomplished. Additionally, the level of effort to create and maintain document types and docket codes by Clerk staff should also be considered.
- Once a common set has been defined, if other docket codes are needed, how is that going to be decided? If a County needs to add a code based on a local administrative order, will that have to be staffed with all 67 counties before the County can add a code to their list? If Clerks can add local docket codes, you have defeated the uniformity aspect.
- If the Clerk decides to process the paperwork as entered by the filer without QA or correction, we are abdicating our role as custodian of the official court record and diminishing the integrity of the court case file. Anecdotally, we have been told by a number of Clerks that their staff is making corrections to the filer selections on 50-80% of their recent filings. So the Clerk has to validate 100% of the entries to correct over half of them or risk having errors in a majority of their filings. If you have to take the time to validate filer entries we may as well do it right the first time and save the filer the effort.
- According to current procedure, if the attorney gets any of the selected fields wrong in the filing, the filing is pended and the attorney has to resubmit a corrected filing in order to be accepted which affects the timeliness and the level of effort required by the filer.
- As more circuits use various bench applications, standard document descriptions will make it increasingly difficult for Judges to quickly find specific documents unless the Clerk takes the time to modify the document description, which defeats the purpose of the clerks not having to enter data. The Judges want to be able to review the document descriptions on the bench application docket and determine which motion, order, etc., is the document that they want to review without having to perform a word search or opening each document until they find the correct one. In the middle of a court proceeding this additional time creates downtime on heavy court dockets.

Chapter 28.211, Florida Statute - Clerk to Keep Docket states *“the Clerk of the Circuit Court shall keep a progress docket in which he or she shall note the filing of each pleading, motion, or other paper and any step taken by him or her in connection with each action, appeal, or other proceeding before the court.*

The Clerk may keep separate progress dockets for civil and criminal matters. The Clerk shall keep an alphabetical index, direct and inverse, for the docket.” With the current long form e-filing, the filer becomes the de facto docketer with the Clerk merely validating the filer selections. If the Clerk relinquishes the docketing function, it is only a matter of time before we are asked to also relinquish or reallocate budget (especially to State Attorney and Public Defender offices). The average time it takes to complete a new case filing is approximately 10-15 minutes which increases their workload substantially. In Manatee we have always viewed this as the Clerk’s responsibility and have made the effort to making filing as easy as possible for the filer.

If we truly want uniformity and the Clerks to maintain their autonomy, we would imitate the paper world and move to simple e-filing across the board. We could be uniform immediately and work on making certain aspects of the current implementation of simple e-filing work even better for Clerks. It is in our interest to incentivize e-filing as it saves the Clerk time and money. If we make it easy for filers (attorney and non-attorney alike), it will benefit the interests of the Clerks and the Court over the long term. Our staff have far more competence in determining what is required by our systems than filers. Before we progress much farther down the path to a “paperless” process, we think it is advisable to reconsider our current implementation and err on the side of filer simplicity.