



The Florida Courts E-Filing Authority Minutes

Florida Courts E-Filing Authority Board of Directors met on September 16, 2013, at 2:00 p.m. CDT at the Sandestin Hilton in Destin, Florida. 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; Alex Alford, Walton County Clerk; and Lynn Hoshihara, Esq., Authority General Counsel. Sharon Bock, Esq., Palm Beach County Clerk; and Karen Rushing, Sarasota County Clerk; were not in attendance. A quorum was present.

- I. Mr. Tim Smith, Chair, opened the meeting at 2:03 p.m. CDT with a roll call. He welcomed those in the room and on the WebEx.
- II. Mr. Smith asked for a motion to adopt the agenda. Mr. Alex Alford moved adoption of the agenda. Mr. Tom Hall seconded the motion. All voted to accept the agenda as presented.
- III. Mr. Tim Smith recognized Ms. Tara Green to present the minutes from the August 15, 2013, meeting and the September 5, 2013, meeting. Hearing no suggested changes, Ms. Green moved adoption of the minutes. Mr. Don Barbee seconded the motion. All voted favorably to accept the minutes.
- IV. Mr. Smith recognized Ms. Green to present the August 2013 financial reports. She noted that the financial statements showed a year-to-date profit of \$85,000.
- V. Mr. Smith recognized Ms. Lynn Hoshihara, Authority Attorney, to provide the board an update on the supplemental agreement. She reported that agreement had been reached. In addition to Help Desk services, that the supplemental agreement that was agreed to required the Association to develop an education outreach program. The agreement also authorized the Association to cover specific costs of the board's governance, such as the annual audit, insurance and legal expenses.

Mr. Hall asked Ms. Hoshihara if the board was protected if the contract was not directly with the services group. She responded that it was. In follow up, Mr. Hall asked as a credit card processor, was there a way to see the break-down of the Association's actual

costs of processing the credit cards. Mr. Kent offered to provide the board a comparison of what other service providers charge and the Association charges. There was a general discussion of how the income was shown.

Mr. Barbee made a motion to accept the agreement for services and clarified that it would go to the Association Executive Board for approval as well. Ms. Green seconded the motion. All voted favorably.

Mr. Smith told the board that once the Executive Committee approved the agreement, that they can begin developing the portal more and would be in a better position for Help Desk Services.

VI. Progress Reports:

Ms. Fishback reported that for the month of August there were over 862,496 filings, equaling more than 1,471,109 documents, over 38,500 documents filed a day. During the month of August, she noted, 24 counties were accepting criminal filings and there were over 11,089 criminal documents filed. She reviewed criminal batch readiness.

Currently, there are more than 50,000 registered filers. The Service Desk received 7,101 new calls in August, slightly down from the July call numbers. Still, statistics show that filers are sending documents to the portal every day of the week, almost all 24 hours of the day. She also mentioned that there were 814 filings were sent through the portal for the 2nd DCA.

Ms. Fishback noted that there had been infrastructure improvements over the month of August. As requested by the board, she also noted, there was now a redundant Internet connection.

Mr. Hall reported that for appellate filings, there had been no major problems that he was aware of, that the portal seemed to be working fine with the eFACS system. He spoke to meeting recently with the 3rd DCA at the Appellate Clerks' Conference and hoped that they would be on the portal by January 2014 and that another DCA would come on every two months after that.

E-Service: Ms. Carolyn Weber spoke to hoping that e-service would be going live by 9/27/13. She said training was on-going and that a series of FAQs were being written to address various aspects of the new service. MR. Hall noted that the Public Defender Association asked for criminal e-filing to be put off if e-service was not going to be available, but it wouldn't matter if it was live.

Ms. Fishback commented that there would be a release 2013.02 that as in development and would include some search capabilities and payment reconciliation aspects.

Mr. Smith asked Ms. Weber to demonstrate the e-service component for the meeting attendees. She showed how to use the aspect and noted that it was an optional service, that filers could still serve other attorneys by email.

Mr. Bob Inzer asked that notice of this be put in the news feed at the top of the map page and in The Florida Bar News. He noted that each county had been given a guide for how to use the news feed on their pages, as well.

Ms. Weber noted that there would be five classes made available statewide beginning this week. She was also providing a training class for the Orange County Bar Association. It was noted that the classes were advertised in The Florida Bar News and posted on the Bar's E-Filing Resources page and pushed out through Twitter.

Ms. Alexandra Reiman asked how will the courts access the email list? Ms. Weber said it would be through a web service and instructions would be made available. Mr. Hall suggested that the OSCA would send out an advisory on the issue to the chief judges of the various circuits and district courts.

Mr. Neil Soder, Software engineer from Minnesota, asked the board if there would be API for e-filing? Mr. Kent answered that there would not be at this time.

Ms. Sue Murray asked if private attorneys could use the e-service module to e-file with state attorneys on criminal cases. Ms. Weber suggested that the service could be used for criminal cases as well.

Mr. Hamilton Davies, the Public Defender Miami-Dade, asked if state attorney email addresses could be automatically added to the service list. Ms. Weber said yes, the State Attorney are going to be added based on case types; not the individual assistant state attorneys, but the elected state attorneys, but she would check on the progress.

Mr. Hall inquired if the e-service could automatically add the Attorney General and State Attorney at the appellate level.

VII. Subcommittee reports:

Rules Subcommittee: Mr. Barbee reported that his committee held an organizational meeting on August 30. They discussed membership and how to track the rules changes. He commented he would work with Mr. Tim Smith on how to best contact those chairs.

He also mentioned that the subcommittee wanted to work with Judge Bidwill's committee to address the next filer groups to be added to the portal.

He said the next meeting would be held in early October and would look at specific rules to review.

VIII. New Business

Criminal Readiness Matrix: Mr. Tim Smith said he would review the issues and finish his letter to the Chief Justice to send it Tuesday, September 17, 2013. Mr. Tim Smith suggested that some would make further progress between now and the first of October.

Ms. Green noted that the entry for court readiness was not correct for Clay County and would send the correction to Christina Blakeslee for inclusion.

IX. Other Business

Sunshine Law Review: Ms. Lynn Hoshihara provided the Board a brief review of the Florida Sunshine Laws. Mr. Bob Inzer asked how to handle it if he, as a Clerk, was a member of two public bodies, both the E-Filing Authority and the Florida Clerk of Courts Operations Corporation? Or, he followed, are there notice requirements if several board members were also members of the Florida Courts Technology Commission? Ms. Hoshihara suggested advertising those meetings on the Authority website as a safeguard.

Public Comment:

Ms. Laurie Reaves, Miami-Dade Clerk of Courts Office, asked if the Clerks would get a copy of what was going to be sent to the Chief Justice. Mr. Tim Smith said he would send the package out tomorrow.

Mr. Neil Soder asked if there was not going to be API, could he reverse-engineer the front end to help his Florida clients? Ms. Weber responded that there was no capability to do such a thing right now. She explained that perhaps later on there would be capability to batch file civil cases, such as large foreclosure companies may need

Mr. Tim Smith closed the public comment portion of the meeting.

He commented that he was looking forward to having a full e-filing WebEx demonstration on Friday, September 27, 2013. He suggested it would be scheduled for an hour, beginning at 10:00 a.m. EST.

X. Adjourn

The meeting was adjourned at 3:35 p.m. CDT.

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

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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.