



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

Florida Courts E-Filing Authority Board of Directors met on August 15, 2013, at 10:00 a.m. by WebEx. The following members were present: Tim Smith, Putnam County Clerk, Chair; Tara Green, Clay County Clerk, Secretary/Treasurer; Tom Hall, Clerk, Supreme Court; Bob Inzer, Leon County Clerk; Sharon Bock, Esq., Palm Beach County Clerk; Alex Alford, Walton County Clerk, and Karen Rushing, Sarasota County Clerk; and Lynn Hoshihara, Esq., Authority General Counsel. Joseph E. Smith, St. Lucie County Clerk, Vice Chair, was not in attendance. A quorum was present.

- I. Mr. Tim Smith, Chair, opened the meeting at 10:04 a.m. with a roll call. He welcomed those on the WebEx and those in the room.
- II. Mr. Smith asked for a motion to adopt the agenda. Mr. Tom Hall moved adoption of the agenda. Mr. Don Barbee seconded the motion. All voted to accept the agenda as presented.

Mr. Smith recognized Judge Lisa Taylor Munyon out of order to give an overview of the Florida Courts Technology Commission (FCTC) meeting. She briefly reported that one of the major issues that arose was the ability for judges to use the portal to file orders and other documents. Judge Munyon expressed desire to make sure that judge log-ins are secure.

Judge Munyon also spoke to the desire of the FCTC ePortal Subcommittee, led by Judge George Reynolds, to work with the E-Filing Authority Pro Se Subcommittee so as not to duplicate efforts.

Judge Munyon spoke to Ms. Bock's issue of wanting to refuse to take paper from attorneys. She reported that the FCTC would be taking up the issue at their October meeting and would be making a recommendation to the Authority afterwards. Ms. Bock asked that the issue be placed on the September E-Filing Authority agenda.

Judge Munyon also told the Board that the FCTC voted to put the two check boxes back on the portal page re: the confidentiality rule. Mr. Melvin Cox confirmed that it would be

a minor change, but would require users to click a few more times and may generate a few more calls.

Mr. Hall noted that he was aware of judges who had successfully registered and were currently filing Florida Bar referee reports through the portal. He noted that receiving the reports in paper and electronically is causing confusion, so the Supreme Court was working on a process with the Florida Bar. He also shared that some judges expressed preference to signing on with the role identification as “judge,” rather than “attorney.”

On the issue of security, Mr. Hall suggested there be vigorous enforcement against anyone who tried to defraud the system and provided an anecdotal example. He urged the FCTC and E-Filing Authority Board of Directors to ask the State Attorneys to continue to enforce the law for this issue. Judge Munyon agreed and offered to speak to the State Attorneys at the next FCTC meeting. Mr. Tim Smith suggested the Authority agree and stand together with the FCTC on the issue.

Judge Munyon reiterated that she felt that there should be a separate type of verification process for judges so it is more secure than registering as an attorney.

- III. Mr. Tim Smith recognized Ms. Tara Green to present the July 2013 minutes. Hearing no suggested changes, Ms. Green moved adoption of the minutes. Mr. Hall seconded the motion. All voted favorably to accept the minutes.
- IV. Mr. Smith recognized Ms. Green to present the July 2013 financial reports. She noted that the financial statements showed a year-to-date profit of \$109,475.
- V. Mr. Smith recognized Ms. Lynn Hoshihara, Authority Attorney, to provide the board an update on the usage of excess portal fees. She reported that she hoped to bring an agreement to the September meeting. Mr. Hall reported that the Court was in agreement in principle, but wanted some specific language included in the agreement to make sure all are covered.
- VI. Progress Reports:
Ms. Fishback reported that for the month of July there were over 851,000 filings, equaling more than 1,432,100 documents. Currently, there are more than 50,000 registered filers. The Service Desk received 8,820 new calls in July. Still, statistics show that filers are sending documents to the portal every day of the week, most hours of the day.

Criminal E-Filing: Ms. Fishback reported that 53 counties had single session criminal filing in some sort of progress. She spoke to the complexity of needing to test every connection with every system in the network, clerk/pd/state attorney. Especially, she

noted Clerks with a criminal case maintenance system that is different that the civil system must be diligent at testing. She reminded Clerks that they should be testing single session filing, as well as batch filing.

She reviewed each county status for criminal e-filing, told the board it was well-recognized that it took a great deal of effort on everyone's part and expressed concern that not all would be complete to meet the October 1 deadline.

DCA update: Ms. Fishback reported that the 2nd DCA software was going in Friday night, along with the map and the new website homepage.

Mr. Hall reported that everything appeared to be in place for the optional DCA efilg to begin August 19, 2013, as planned. He also said they were working to make the local DCA case maintenance system, EFACS, was also ready in time. He also told the board that the other DCAs, the 1st, 3rd, 4th and 5th, were on the eDCA system and didn't want to go through the portal until it was two-way, as is eDCA. He suggested that the roll-out scheduled for the other DCAs every few months may change. He said the courts would work with FCCC to come up with a revised schedule, but commented that the current end date of mid-2014 would stay the same, just vary the dates in between.

Mr. Hall also commented regarding criminal and overall readiness. He said the courts would like a comprehensive chart of clerk readiness to pair with the court readiness information shared at the meeting. He offered to coordinate the effort with staff to help each county assess their readiness so the Supreme Court could assess the "go" dates as it is felt that some clerks and courts will not be ready. He told the board that Chief Justice Polston would consider that chart as a request for an extension for both the clerks and the courts.

Mr. Tim Smith extended thanks to Chief Justice Polston for the offer. He recognized that no one wanted to be perceived as being an impediment to a delay in the October 1 deadline, but wanted to move together as partners in any delay needed. He reiterated that the portal is ready: the capacity, the infrastructure is there for criminal filings.

Ms. Bock skipped to agenda item X.a. and said this action took care of it. Mr. Barbee agreed that it took care of X.a. as well. Mr. Barbee spoke to the FLCCOC committee of which he was chair, that was undertaking a survey to document the cost of maintaining a dual system.

Mr. Hall commented that the letter heard by the Board a month or two ago from the Hon. Ken Burke, Pinellas County Clerk, had a second question: If you are electronic, are you ready to go paperless? The Chief Justice doesn't want to burden the clerk with printing or

hamstringing judges with if they are not ready and cannot do their business, but there had to be an objective standard that both must meet. The Chief wants to solve it in civil, criminal and even at the Appellate level.

Mr. Smith agreed it was a pressing issue that needed continued discussion.

Mr. Smith asked the Board to be on notice, that between now and October 1 there may need to be a few extra meetings to deal with this issue.

Mr. Hall told the board that there needed to be a final count of those counties that are not going to be ready by the September 16 board meeting. He asked if the board could go a little longer that day. Mr. Smith asked if the task could be done ahead of time and discussed at one of the suggested interim board meetings. He asked Tom to work with Jennifer Fishback to put together the list of which judges, and go from there. Mr. Hall suggested the need for the other players to be involved as well—state attorneys and public defenders. It would not be worthwhile going live with criminal if those entities were not ready. He felt there needed to be an official commitment by the State Attorney and Public Defender groups. Mr. John Tomasino said that the elected Public Defenders recently took a position that they would be ready for the October 1 deadline. Mr. Smith asked that they still be part of the decision with the other players.

E-Service: Ms. Carolyn Weber reported that while the DCA roll-out was going in place, the e-service component would be being tested. They would be working in the test environment for a few weeks, then work toward getting it out and into production.

VI. Subcommittee reports:

Website Subcommittee: Mr. Hall described the process that the subcommittee had undertaken and reported that the new homepage would be live along with the 2nd DCA functionality. He acknowledged that there would probably need to be some tweaks, such the sign in is still not on the front page, but that would have to be done at a later time in order to get the homepage out.

Pro Se Subcommittee: Ms. Bock asked Mr. Tim Smith to reactivate the Pro Se Subcommittee and suggested it be focused toward pro se as a more complex user. She made a motion to reactivate and expand the Authority Pro Se Subcommittee to include the FCCC and the FCTC Pro Se committee members. Mr. Barbee seconded the motion. All voted favorably.

IX. New Business

- a. Sworn Documents: Mr. Barbee noted that paper will still be kept in criminal files due to the number of sworn documents required to be filed in original format. He asked, due to the confusion has heard from filers, if the Authority should work to create a list of paper documents that should be followed up? Mr. Tim Smith suggested that the

Board work with FCTC to create some standards and possible modifications to the requirements and asked Judge Munyon how to best resolve. Mr. Hall agreed that it was an issue, that the same issue has existed in federal court where they are still managing paper filed in federal cases.

Ms. Karen Rushing moved the appointment of an Authority Rules Committee. Ms. Bock seconded the motion. Mr. Tim Smith asked Mr. Barbee to chair the committee.

Mr. Bob Inzer agreed that this tied into the sworn document issue and keeping of paper and wanted to ask for expedited consideration of the issue.

Judge Munyon noted that the Rules of Judicial Administration (RJA) decides the rules. FCTC members can be on those rules committees if they are attorneys. She and Ms. Christina Blakeslee explained that the FCTC also has a rules committee that makes recommendations to the RJA. Ms. Rushing asked that as many clerk attorneys represented as possible. Ms. Bock clarified that the committee should be open to attorneys in clerk's offices. Ms. Alexandra Reiman told the Authority that rules dealing with electronic filing were going to the court as soon as possible. She encouraged input with the current chair, Judge Morgan.

All voted favorably.

Mr. Tim Smith appointed Mr. Barbee as chair, and asked him to make recommendations as to other members of the committee, looking at Authority members first, such as Ms. Bock.

VIII. New Business

State attorneys initiating cases through the portal:

A discussion took place regarding the wording in AOSC 13-12, paragraph 3, and the fact that it does not include an exemption for state attorneys initiating cases through the Florida Courts E-Filing Portal. There was a general discussion about this part of the order addressing local systems to continue to be used by the jails, booking agents or other local law enforcement.

Mr. Inzer commented that setting up the portal for acceptance of initial criminal case documentation would cause a great deal of programming. Mr. Cox reminded the board that the decision to not require criminal case initiation through the portal was made by the FCTC several years prior. He noted it was strictly a data element issue. Mr. Tom Morris, State Attorney's Office, Eighth Circuit, agreed that case initiation through the portal for State Attorneys would be difficult at this point.

Mr. Tim Smith asked Mr. Hall, Mr. Cox and Ms. Blakeslee to discuss the issue and make a report with suggested wording at to the September meeting on what we needed as an Authority to seek. Mr. Hall suggested that Mr. Barbee's Rules Committee for a good explanation to the Chief as to the need for amending the order, AOSC 13-12. Mr. Tim

Smith agreed to that action. Mr. Hall expressed desire that the sentiment of what Mr. Morris said should be included in the letter from the Rules Committee to the Chief.

Prioritization of Access to the Portal:

Ms. Bock told the board that at the FCTC meetings there was a great deal of discussion as to what filer types should be allowed to access the portal after attorneys. She asked that the issue be referred to the Rules Committee, that the FCTC asked for a report at the October meeting. Mr. Tim Smith reminded the board that Judge Bidwill had an FCTC Committee that would be examining and prioritizing potential portal users. He expressed that any discussions held by the committee should include anything Judge Bidwill's committee could share. Further, it was noted that Judge Bidwill's committee would be reporting to the FCTC at the October meeting. Mr. Tim Smith referred to the issue to the Rules Committee.

Reconciliation of payments through the portal:

Mr. Hall told the board that there was still an issue matching up payments to case filings. He illustrated a situation wherein the DCA case was dismissed because the lower court was paid via the portal filing, but the corresponding check was not sent to the DCA. The attorney was in a situation of writing a check and then disputing the charge on his credit card.

Policy issue: Should all court records be filed through the portal?

Ms. Bock expressed no need for discussion as the topic was covered at the beginning of the meeting. Mr. Tim Smith asked that the Rules Committee review the issue. There was also mentioned that the issue would be discussed at the October FCTC meeting.

IX. Other Business

Mr. Inzer spoke to his letter and felt it would be best if there could be a full presentation of the portal at the September meeting. Mr. Smith mentioned an email from Hon. Chips Shore with an opposing view received the night before. (appended to the minutes) Ms. Rushing believed that balance could be found on the issue of standardization. Mr. Smith asked that those who wished to be on a Standardization Committee to email Beth Allman. Ms. Rushing said if there was going to be a committee to review standardization, she would volunteer to be part of it.

Mr. Hall told the Authority that he discussed the issue with the Chief Justice. The Chief Justice wants uniformity and consistency and wants to make it easy for attorneys. He further told the board that Chief Justice Polston directed him to tell the board that if the board adopted the "simple" e-file approach, he would oppose it. He wishes to find some middle ground.

Ms. Rushing suggested that, given the level of review, there should be attorneys from Clerk's offices on the group, as it needed review by those who knew the rules and other legal requirements. Mr. Shore asked that his and his attorney's name be put on the committee.

Mr. Tim Smith agreed that the Chief Justice's desire is clear. He also recalls hearing Clerks asking to make it simple for the filers. He expressed that he would like to end up with "full e-filing lite." He asked Mr. Hall to express to the Chief Justice that there will not be any ultimate decisions until he, as chairman, lets the Chief Justice know in what direction the Authority is going.

Public Comment:

Seeing no questions, Mr. Tim Smith recognized the Clerks of the large counties for their efforts in civil e-filing.

b. Adjourn

The meeting was adjourned at 12:15 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

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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.