



The Florida Courts E-Filing Authority Minutes

Florida Courts E-Filing Authority Board of Directors met on September 5, 2013, at 9:00 a.m. by WebEx for an emergency meeting. The following members were present: Tim Smith, Putnam County Clerk, Chair; Joe Smith, Vice Chair, St. Lucie County Clerk; Tara Green, Clay County Clerk, Secretary/Treasurer; Tom Hall, Clerk, Supreme Court; 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. Bob Inzer, Leon County Clerk, was not in attendance. A quorum was present.

- I. Mr. Tim Smith, Chair, opened the meeting at 9:02 a.m. with a roll call. He welcomed those on the WebEx.
- II. Mr. Smith asked for a motion to adopt the agenda. Mr. Joe Smith moved adoption of the agenda. Mr. Tom Hall seconded the motion. All voted to accept the agenda as presented.
- III. Mr. Smith recognized Mr. Hall to speak on behalf of the Chief Justice and the Court. He told the board that although the Chief Justice recognized that all parties were working hard to be ready for the October 1 deadline, that some would not make it. He wishes to enter an order by no later than September 20 and asks for a letter from the Authority denoting the status of each the four major entities in each circuit, by county (clerk, court, state attorney, public defender). Chief Justice Polston does not want to give a blanket extension, but will accept the report of “go” “no go” as the status for October 1, 2013. If, in the letter, an entity denotes a “go” or “no go,” the Chief will accept that representation by the Authority on their behalf. He cautioned, if an entity does not report a “no go,” they are a “go,” and end up not making it, that entity will need to file their own individual request for exemption with the Chief. He asked that there be language in the letter that addresses the issue of criminal case initiating documents still being in paper or sent through existing systems.

Mr. Tim Smith asked what if in one county, Clerk and Public Defender, are ready, but the State Attorney and the court are not, what do we need to provide for those who are not ready? Mr. Hall responded that the chief would accept the chart as showing who was ready and who would not be. At this point no backup for the “ready” date was being asked for, but the Chief Justice may want a something more later. Mr. Tim Smith offered

for the Board to provide status report to the Chief Justice to keep him apprised on those who are reporting “not ready.”

Ms. Green asked: if one of the four entities in a county is not ready would the whole county be a “No go”? Mr. Hall felt the Chief Justice wanted to focus on where all four are ready, then address where not all are ready. This may be an item of discussion at this meeting, he commented. Mr. Tim Smith noted that if any of the four entities are ready, they should go ahead. He spoke to encouraging any who are ready to move forward and not delay.

Mr. Hall also suggested that someone explain in the letter to the Chief why criminal case initiation was not included in the portal design so he understands why it is not part of the order.

Ms. Karen Rushing echoed the chair’s sentiment that if the Clerk is ready, they should go ahead and accept what they can.

Mr. Hall asked Ms. Rushing if she will be needing the same extension in criminal as she had in civil? She said they were in the middle of a new case maintenance application, scheduled to go live September 16, 2013, and hope not to disconnect those who previously had authorization.

Mr. Smith said in order to get his letter and the status report to the Chief Judge he would be wrapping up the report by next week. The Authority was going to meet on September 16th but would prefer not to wait. Mr. Hall said the Chief Judge doesn’t want to assess blame but does want to go electronic as quickly as possible.

Mr. John Tomasino asked, of the four, if one or two are not ready, would it be optional? Mr. Hall was not certain but does know that the court does want to move ahead. It was mentioned that e-service was mandatory through the portal on October 1. Mr. Cox reported that e-service was in the QA environment being tested and he was still looking to be in production by October 1. Mr. Smith suggested there be a fall-back position if e-service was not ready by October 1.

Laurie Rice, Brevard County Clerk’s Office, asked if it was optional for the State Attorney or Public Defender to do batch or single session criminal filing to determine readiness? Mr. Hall said if the state attorney or public defender was ready to do single session, they needed to say so.

Lourdes Muina, 20th Circuit State Attorney’s Office, if the Clerk can accept batch but he Clerk if printing for judges is that a reason not to be ready? Mr. Tim Smith commented that many Clerks are still printing in civil. Mr. Hall recognized that the courts are still in the process of getting the judge viewers online, but the Chief and the court feels that if

the Clerk is ready to accept criminal filings, they should be shown as ready. Mr. Tim Smith said they were all aware that it is a cost to the Clerk, but we should not let this stop us. Mr. Tomasino a few circuits (Public Defenders) maybe ready, but due to volume, they may need to do batch. He told the board that the 5th Circuit and the 11th Circuit are in that position.

Mr. Cox told the board that staff has been testing batch with several circuits and that it required coordination of the local sending and receiving software. They were currently working with the STAC vendor and the testing would continue. His plan was to be ready by October 1.

Ms. Stacey Butterfield asked if being ready hinged on being able to accept juvenile dependency and mental health cases by October 1. There was a brief discussion about that perhaps making the decision of ready or not too complex. Mr. Tim Smith asked that if a county was in that position to let us know and perhaps it could be footnoted.

Mr. John Miller, 14th Circuit, asked if batch filing was required to be tested before October 1? Mr. Cox responded by noting that single session if working in that circuit, that is sufficient for readiness.

Mr. Hall offered that the Chief asked the board to recommend to him as to how to determine readiness logistics for those who say they are not ready. Mr. Smith asked that the chart be sent to all Clerks for review. It was again stated by the board, that if an entity was ready for single session, that should not delay the readiness for October 1. Mr. Hall suggested the Authority post on the website who was ready and update it as more come on. Mr. Smith asked each entity to send their list to each of their groups for verification as to readiness and return it to the board by close of business September 11, 2013. The State Attorney and Public Defender lists should show Y/N and add SS/CBI.

Mr. Bryan Buckles, 3rd Circuit State Attorney's Office IT Director, told the board that the circuit was not considering single session at all, but would need batch. Single session filing would mean a major restructuring of the workflow in the state attorney offices. He felt that the Clerks were not ready, so how could he say they (State Attorneys) were ready? Mr. Tim Smith responded that if the Clerk is not ready on the day that he was to report, then he could not be ready. He told the board and those attending the meeting by WebEx, that on behalf of the Chief Justice, it sounded like he wanted each of the individual groups, Clerk, Courts, State Attorney and Public Defenders, to do their own report.

Mr. Hall made the distinction that if the individual offices were not ready because they had not tested, that is different than being able to do single session filings but choose not to do it.

Ms. Rushing told the group that she was well aware that going electronic changes the way offices do business. She urged everyone to accept that be more collaborative than we have been in the past. Mr. Hall echoed Ms. Rushing's comments. He told everyone that his office has had to completely restructure how they did business. He shared that the experience was not unlike those in other states he hears when he attends the National Conference of Appellate Clerks—Everyone has had to completely change how they did business. He said if single session can be done, then they should say they are ready. If the office wants an exemption for specific reasons, they should tell the Chief why.

Mr. Tim Smith reiterated that each group needed to put the checks in the boxes and let the Board know. He acknowledged that it is going to be hard for the next few months but, he commented, we need to be honest. We have a path and an opportunity to state our concerns.

Mr. David Field, 9th Circuit Public Defender Office, would like to show the status of single session and batch. But, he felt the Clerks in his circuit were not ready for batch, but they were single session filing.

Ms. Jean Howard, 15th State Attorney's Office, said they needed to batch so as not to interrupt attorneys in their attendance in court.

Mr. Tim Smith again told those in attendance that if we didn't have a certain date to work for, we would never get there. He told Ms. Howard, if you feel that way, check the boxes in the manner you choose on your list. We want each entity to put the checks in their own boxes and those decisions are made on a local, case-by-case basis.

Mr. Dan Johnson, 5th Circuit State Attorney's Office, asked if they noted yes to single session but no to batch, do they get an exemption? Mr. Hall responded that he was not sure how the Chief would decide.

Mr. Tim Smith acknowledged that batch is important and suggested that the Chief ask for batch to be complete by a date certain.

Ms. Bobbie, 18th Circuit State Attorney's Office, told the board it would be hard not to go batch.

Mr. John Tomasino spoke to the single session/batch issue and suggested adding a third column as to whether the office needed an exemption and why.

Ms. Kathy LeCourte, 5th Circuit State Attorney's Office, commented that just because the portal is ready for batch doesn't mean the State Attorney will be ready.

Mr. Tom Morris, 8th Circuit State Attorney's Office, told the board that the FPAA was having a conference call the next day to determine where they are.

Ms. Tara Green commented that if a state attorney or public defender cannot do batch filing, there may need to be a timeframe put in place for them to tell the board when they will be ready to do so. There was further discussion as to how to set the timeframe.

Mr. Tim Smith posed the question: If the board gets a report from FPAA that says yes single session/no batch, and that office requests a waiver, then the Authority could say 30 days after batch is available, then go back to those who have asked for an exemption and ask how much longer do you need? The Board would then respond to the Chief Justice with their progress.

Mr. Hall responded that the Chief has already denied an across the board exemption. He suggested the State Attorneys group tell the Authority Board that they can pass on to the Chief why the logistics of anything but batch is untenable.

Ms. Rushing acknowledged that while there was some value in setting a date certain, it made more sense to be looking at the first of 2014.

Ms. Bock spoke to a preference to taking documents from those who are ready to file.

Mr. Tim Smith said he believed that the Chief Justice has been clear and doesn't want an overall date shift, but will take the suggestion of those who need an exemption. There was a general discussion of February 1, 2014, as being a more reasonable date for batch filing. Mr. Joe Smith asked, if a filer was ready for single session, could the portal be used? Ms. Fishback responded that it could be. Mr. Joe Smith continued and remarked that it appeared that the State Attorneys just believe they need batch to be more efficient. Ms. Fishback noted there were already 13 counties accepting single session filing of criminal documents and several more would enable criminal divisions by 10/1/13. Mr. Joe Smith told the board that he agreed with Ms. Rushing, that there needs to be stringent deadline in order to move forward.

Mr. Tim Smith initiated board discussion for a possible motion. He said the board should produce a matrix for the Chief Justice and show whether each of the four entities should state whether they are ready or not, noting if the entity can single session or batch file.

Mr. Don Barbee moved the concept in the following form: The Authority Board will develop a matrix showing all four parties, Clerks, State Attorneys, Public Defenders, Courts, that the State Attorneys or Public Defenders would have extra columns to show if they are able to single session file, batch file and then a third column noting whether they need an exemption or not, even if they can single session file, until February 1, 2014.

Ms. Green seconded the motion.

In discussion of the motion, Mr. Hall remarked that he could not vote for this motion. He explained that he felt that the motion allowed all to put off criminal filing until February. Mr. Hall offered an amendment to the motion that the state attorneys would be required to come online 30 days after the individual Clerk certified that they were ready for batch filing, with February 1, 2014, being the absolute deadline. Mr. Barbee and Ms. Green accepted the amendment to the motion. All voted favorably on the amended motion.

Mr. Tim Smith clarified for the board and for those attending the meeting: all groups please take your lists back to your groups and provide an updated list from your agencies by county, by circuit, by the close of business Wednesday, September 11, 2013. Those lists will be compiled and sent to the Chief Justice. He urged all groups to attend the regularly schedule meeting to be held on September 16, 2013.

IV. Adjourn

The meeting was adjourned at 12:15 p.m.