



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

Florida Courts E-Filing Authority Rules Subcommittee met on October 28, 2013, at 9:30 a.m. by WebEx. The following members were present: Don Barbee, Esq., Hernando County Clerk, Chair; Tara Green, Clay County Clerk; Tom Hall, Clerk, Supreme Court; Sharon R. Bock, Esq., Palm Beach County Clerk; Tim Smith, Putnam County Clerk; Angel Colonnese, Esq., Manatee County Clerks' General Counsel; Laura Roth, Esq., Volusia County Clerk's General Counsel; and Lynn Hoshihara, Esq., Authority General Counsel. All members were present.

- I. Mr. Don Barbee, Esq., Chair, opened the meeting at 9:47 p.m. with a roll call.
- II. Mr. Barbee asked for approval of the minutes. Mr. Tim Smith moved approval of the minutes. Ms. Laura Roth, Esq., seconded the motion and the motion carried favorably.
- III. Discussion:  
Initial Rules Review and Assignment: Mr. Barbee noted that he would send out a survey for the subcommittee members to fill out expressing their interest in which rules committee they wished to monitor. All members agreed to this approach.

Mr. Tom Hall provided background to the rules committees, that each committee may have differing operating procedures, the committee chairs change each year, but a Bar staff person is the liaison for all the committees. He explained how rules are assigned to the RJA Committees and noted there might need to be four members assigned to those committees. Mr. Hall told the subcommittee that there was a formal way to communicate with the rules committees to advise them of any issues. Ms. Lynn Hoshihara, Esq., noted that if a committee member and an Authority member monitor the same committee to be aware of the Sunshine laws.

- IV. Prioritization of access to the portal:  
Ms. Sharon Bock, Esq., provided a recap of the discussion held at the Florida Courts Technology Commission (FCTC) regarding the filer types that wanted to file through the portal. She mentioned process servers, non-attorney mediators, probation officers and mental health professionals were among the groups. She asked what change would be needed in the portal to allow the non-attorney user to log on?

Mr. Melvin Cox asked what level validation would the board want to have to be able to verify that the user is who he or she says they are? He noted that at the August FCTC meeting that the commission discussed having no independent validation of non-attorney users. He raised the October news events of the Franklin County prison release with fraudulent documents as a reason the board may want to consider this issue. He suggested policies be discussed for each filer type, what credentials are required

Mr. Tim Smith agreed with Mr. Cox regarding concerns for security. He felt the subcommittee, and even the board, should discuss this issue to find the right registration procedure for validation. There was discussion of what other states were doing, how they validated, or did they? Mr. Hall remarked that in North Carolina, a potential portal user is required to send in a written request for access. He offered to ask several questions on the national listserve he was a member of. The issues to ask are:

- 1) Inquire about the validation process.
- 2) How much of a case can a non-attorney filer view?
- 3) Is there a limitation on the types of documents or cases a pro se filer can file?
- 4) Is there a limitation on the length of time the registration lasts for non-attorney filers?

Ms. Bock agreed that due to security issues that validation was something that should be examined. Mr. Barbee suggested this topic was not for the Rules Subcommittee, but referred the issue to the Authority Board as whole. Ms. Bock and Mr. Tim Smith, Authority chair, agreed with that referral.

A discussion ensued regarding what a non-attorney filer, specifically pro se filer, could view when filing on a case. It was noted that being an attorney, an officer of the court, carried with it certain ethics rules and, ultimately, the threat of disbarment. There were not any noted sanctions for non-attorney filer types. Ms. Bock suggested that pro se filers be allowed to file limited document types. Mr. Cox noted that it would take programming to build a second database for each new group of filers and there would need to be a method for providing credentials. Ms. Bock asked if the Authority could develop an online form or an electronic method of validation that would provide a filer number?

Mr. Tim Smith noted that it was the responsibility of the Authority to manage the portal and establish the rules. It was agreed to take this issue to the full Authority Board at the November meeting to discuss a process for validating and credentialing other user groups. Mr. Hall echoed Mr. Smith by stating that the Authority makes the business rules and the FCTC makes the policies. He felt the debate may be about whether this is a business rule or a policy.

Mr. Hall noted that the FCTC also sent to the Authority the issue of establishing a policy of when the courts should stop accepting paper once they have judge viewers. Mr. Smith

---

remarked that the Authority could only make rules for the portal and could not stop paper filings.

There was discussion of when to suggest paper could cease. Ms. Bock recalled for the group that the FCTC discussed two aspects: when will the court go paperless and what is the drop dead date for attorneys to no longer file paper. She said the FCTC asked the Authority to make a recommendation to the FCTC as to what attorneys are not filing and what is it costing the clerks. Mr. Tim Smith asked for a motion to be made to allow the subcommittee to send a recommendation to the full board at the next meeting. Ms. Bock made a motion to phase out taking or printing paper 90 days after judge viewers were in place, or sooner with the agreement of the chief judge and the Clerk. Ms. Tara Green seconded the motion. The motion carried. The subcommittee asked Mr. Barbee to make this recommendation to the full board in November.

There was a brief discussion on the lifting of the moratorium to public access. It was noted that the FCTC has filed an issue to lift the moratorium, which may go to the RJA or they may ask the court to amend the previous administrative order. The members discussed if the moratorium was lifted, would the portal then be able to allow access to images by filers? Using the matrix for confidentiality was thought to be a good starting point. Ms. Roth asked how the portal would regulate the access. Mr. Cox explained that it would not be the portal, but the local case maintenance systems (CMS). Further, he felt that a website could be put in front of the CMS' to filter the users. Again, a concern was raised regarding access by pro se filers.

- V. Should all court records be sent through the portal
- A discussion was held in regards to taking paper and rule 2.525(d). Ms. Bock noted that the FCTC asked the Authority to advise them of when Clerks would stop taking paper. She mentioned that she allowed attorneys to scan their documents in the courthouse so they could be placed in the court file electronically. Mr. Hall suggested Clerks document the cost of taking paper. Mr. Tim Smith asked Mr. Ken Kent to undertake such documentation and bring it to the Rules Subcommittee for consideration.

- VI. Court Reporters
- Ms. Janet McKinney introduced herself and other reporters, Holly Kapacinkas and Paulita Kundid. Ms. Kundid told the subcommittee that they did not understand why they may be required to file their documents through the portal. She explained that they felt the rules were inconsistent and that there were little safeguards in place once the transcript was in electronic format. Their greatest concern was the ability to safeguard the integrity of the transcript. She mentioned that once electronic, they would lose money on transcripts. As an example, Ms. Kundid commented that some states only showed the cover, index and reporter certification page. Mr. Hall asked if they could put all their

issues in a written list and submit it to the Authority. Mr. Smith asked for the list to be sent to Authority staff.

Mr. Hall suggested that their best venue would be the RJA committee and that committee could make the recommendation to the Supreme Court. Mr. Tim Smith offered to forward their list of issue to the RJA from the Authority.

VII. Conclude:

Mr. Barbee said he would send out a preferences form, assign committees to monitor and then set the next meeting.

The meeting adjourned at 11:40 a.m.