



The Florida Courts E-Filing Authority Minutes

Florida Courts E-Filing Authority Board of Directors held a regular meeting on January 28, 2014, at 9:00 a.m., EST, at the Hyatt Regency, Jacksonville, FL, and 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; John Tomasino, Clerk, Supreme Court; Alex Alford, Walton County Clerk; Don Barbee, Esq., Hernando County; Sharon Bock, Esq., Palm Beach County Clerk; Bob Inzer, Leon County Clerk; Karen Rushing, Sarasota County Clerk; and Lynn Hoshihara, Esq., Authority General Counsel.

- I. Mr. Tim Smith, Chair, opened the meeting at 9:03 a.m. with a roll call. All members were present. He welcomed those in the room and on the WebEx. He recognized Hon. Paula O'Neil, President, Florida Clerks & Comptrollers, and asked her to join the board at the table. He also recognized the other Clerks of the Circuit present in the room.

Mr. Joe Smith moved adoption of the agenda. Mr. Bob Inzer seconded the motion. All voted favorably.

- II. Mr. Tim Smith recognized Ms. Tara Green to present the December minutes. Hearing no suggested changes, Ms. Green moved adoption of the minutes. Ms. Karen Rushing seconded the motion. All voted favorably to accept the minutes.
- III. Mr. Smith recognized Ms. Green to present the 2013 year-end financial reports. She reported that the year-end profit totaled approximately \$600,000. There were no comments.
- IV. Progress Reports:
Ms. Fishback provided December statistics and an annualized overview. She reported that there were there were over 56,000 registered filers at this point. During the month of December, there were 859,893 filings equaling 1.4 million documents. She also told the board that the percentage of filings going into the pending queue had dropped to 2.5 percent and was still improving, an indicator of increased filer and clerk experience. She also noted that the average days to docket a filing had greatly decreased to 1.05 days,

from an average of 4.35 days. The timeframe was measured on a 24-hour period. Ms. Karen Rushing confirmed that counties with longer than normal times to docket were being contacted so that they were aware of the issue. Mr. Smith urged the members to keep the focus on the portal and commented that the time to docket could take longer in some counties for various operational reasons. After a brief discussion of timeliness, Mr. Tim Smith suggested there be a mechanism so clerks could check their timeliness. Mr. Tom Hall also commented that this issue was going to come up at the FCTC meeting schedule in mid-February. Judge Lisa T. Munyon, FCTC Chair, told the board that she felt it was important to manage attorney expectations. Attorneys think the docketing is instantaneous and they just cannot expect that if the clerk is going to have time to do their review. Hon. Paula O'Neil asked for assistance from the board on the timeliness issue. She also noted that the Association was doing a survey on the issue.

Ms. Fishback continued her report. She told the board that the portal had only been down two times over the past month: December 15, the portal was down for a few hours while the technical staff changed the IP address, creating redundancy in Internet providers; and December 18, there was a network outage that impacted the portal.

She also reported that there was filer training being offered during February. She also reviewed projects in progress and planned enhancements.

Service Desk Report:

Mr. Smith recognized Mr. Melvin Cox to give a report on the progress for the Service Desk. Mr. Cox gave the board an overview of the new Service Desk and felt that December was the first month of full staffing with 9 employees, and training was continuing. He explained that there were two types of service being requested, technical support and customer service/filer support. At this point, both had a 5-day requirement for response time, but were being closed much more quickly, especially filer issues. Technical calls were being acknowledged in less than half a day.

He showed graphs of call received and those resolved, or still open at month's end, showing dramatic improvement in resolution by the end of December. Mr. Cox clarified that it was a 5-day to acknowledge a call, after which it is escalated to the right area to begin resolution. Ms. Green asked when it would appropriate to begin looking at standards? Mr. Cox responded that he would like to gather data for a quarter to give staff time to become more fully trained and allow for the criminal filing to get well underway, as it may cause another spike in call volume.

Ms. Karen Rushing asked if there was any training being held for the State Attorney and Public Defender offices, perhaps through their associations.

Mr. Cox also mentioned that the staff was holding frequent training session for attorneys.

Mr. Tim Smith also noted that the Ms. Fishback was holding weekly calls with State

Attorney and Public Defender offices. Mr. Hall observed that private attorneys still may need some training on criminal e-filing.

Mr. Cox notes that calls go to voice mail or email. The voice calls generate an email in the call-tracking system. He showed that the majority of the contacts are made through email. (December 2013: 2071 emails, 946 calls-69%/31%) Ms. Green asked if there was any consideration to “live answer”? Mr. Cox said he would take direction on that from the board.

Supreme Court/Appellate E-filing:

Mr. John Tomasino reported that the 2nd DCA was hoping to be able to accept notices of appeal by February 3, 2014, and that the EFACS team was at the 3rd DCA doing a gap analysis.

V. Florida Courts Technology Commission Issues

FCTC Emergency Meeting Recap:

Mr. Tim Smith recognized Judge Munyon who gave a brief recap of the emergency, or quickly called, meeting held by the FCTC in late December. She said the FCTC Funding Subcommittee sent the issue of funding judicial viewers to the Trial Court Budget Commission, which constituted a Technology Funding Subcommittee to deal with technology funding. Judge Munyon was appointed to that subcommittee. The subcommittee asked FCTC to weigh in some very discrete issues: could FCTC recommend that state funding would be only available if the local court was connecting directly to the portal. The court would need to use local funds if the local court wanted to connect to the local clerk case maintenance system. The FCTC did approve this issue at the brief meeting. The issue has been reported back to the TCBC Technology Funding Subcommittee.

Additionally discussed, was the issue of files that are confidential in their entirety, by statute or rule. There was currently no way on the portal not to file a confidentiality statement, or to designate that the entire file was confidential. The outcome was an interim solution to leave the existing check-boxes as they currently appear, to add an additional checkbox that reads, “The entire file is maintained as confidential either by statute, court rule or court order and pursuant 2.420(d)(2), neither a certification or notice of confidential information with court filing is required.” The language was approved and sent to Mr. Cox for technical review.

Mr. Bob Inzer asked if the issue of funding was the cost of connection or for the basic system itself? Judge Munyon said the TCBC was looking for funding of the entire system itself. But in paring it down, it was just the connection to the local portal.

Clarification of non-Attorney Filers:

Mr. Tim Smith recognized Mr. Hall to speak to the clarification of non-attorney filers, using the list of the filers groups provided by Judge Munyon at the last meeting. He explained that there was no way to know who these people were and whether they should have access to certain documents in a file or not. He felt pro se filers were a primary priority but didn't want to impair the ability to add other user groups if they were easier to get on. He recommended sending the issue back to the FCTC for clarification on what can the filers groups get access to in a case file to which they are a party and whether they should be credentialed or not. Mr. Tim Smith asked Judge Munyon to be aware that he would bringing this issue back for clarification on those two issues. Mr. Hall remarked that the 2nd DCA offered to test pro se once the Clerk to Clerk function was available.

Attorneys filing paper:

Mr. Tim Smith recognized Mr. Hall. Mr. Hall suggested that this topic is not really an Authority issue as it more involves the Clerks' Offices. He noted that various rules suggest the clerk can refuse the paper, others suggest the Clerk must accept it. He felt that there not accepting the paper can cause issues. He offered some alternatives, one of which was to stamp the document and return it for electronic filing. Ms. Rushing agreed that would stop the paper. Mr. Tim Smith told the board he wanted to send this back to the FCCC for their review and then provide a solution that would work for all. Mr. Hall suggested sending the issue to the Chief Justice. Ms. Rushing suggested the issue be reported back to the FCTC as a courtesy. Mr. Don Barbee asked to be part of the issue discussion at the association level.

Addition of Judges as portal users:

Mr. Tim Smith recognized Mr. Melvin Cox who recommended two ways the judges can potentially file: through the portal, or through a judge viewer. If judges want to file through the portal, he commented, a drop-down for judges can be added. For security purposes, he proposed that judges not be allowed to add themselves, but that the 20 Circuit Court Administrators would be better able to keep track of who is currently on or off the bench. Mr. Hall reported that OSCA was willing to undertake this task and that he Appellate Clerks would maintain the judge profiles at the Appellate Court level. Mr. Tim Smith moved to accept the staff recommendation to add judges to the portal. Mr. Joe Smith seconded the motion. All voted favorably. Mr. Tim Smith said he would convey this to the FCTC.

VI. Committee Reports

a. Rules Committee:

Mr. Barbee told the board that Mr. Hall had recently attended the Bar Rules meetings. Mr. Hall said he was invited to make a presentation about the various conflicting rules at the various committees and was met with acceptance. He told the Bar Rules groups that the Authority committee wanted to monitor the various Bar committees as related to e-filing. He said it was anticipated that the Authority committee would be incorporated no later than the June Rules meetings, but may be some subcommittee meetings before that that could be attended.

Judge Munyon remarked that she would like to get in touch with the Chief Judges to make sure that they had no issues with their Court Administrators adding them to the portal, and that the Court Administrator had the capability of doing this.

b. Pro Se Committee:

Ms. Bock reviewed the Association Pro Se committee meeting held recently and passed out a document at the table showing recommendations made by that committee and asked for acceptance by the board so she could take it to the Authority's Joint Pro Se Committee. She reviewed the Association committee's recommendations:

1) The Service Desk is the Service Desk for the pro se filers.

Mr. Tim Smith asked that the document be amended to reflect that the "Service Desk" only assists in filing, not what document to file.

2) Assistance for pro se filers be maintained locally at the Self Service Centers.

3) Use online tutorials, such as Access to Justice (A2J).

4) Pro se filers have no need for credentials.

Ms. Rushing observed that there are two types of pro se filers: those who occasionally file or those that file more frequently such as in landlord tenant cases.

5) Recommended authenticating prose filers, but not verifying them as there is no database to match them against.

Ms. Bock asked if the board would accept the recommendations? She said she would like the Joint Committee to discuss the recommendations before taking them the FCTC.

Mr. Joe Smith moved to send the recommendations to the Joint Committee. Mr. Bob Inzer seconded the motion. He asked how would the information be saved if the filer was half way through filling out the online A2J questionnaires? Mr. Smith asked that the question be deferred to staff.

All voted favorably to send the recommendations as amended to the Joint Committee.

Mr. Tim Smith recognized Mr. Ken Burke, Clerk of Pinellas County, to make a public comment. Mr. Burke thanked the board for all their dedication to e-filing. He had two issues. First, he explained, when an attorney leaves a firm often certain documents are not filed, such as motion to leave the case, etc. Mr. Tim Smith offered to put it in the FAQs or send it to the Florida Bar. Mr. Burke said he was writing an article for his local Bar Association and offered to share the article.

Second, he is the Clerks' liaison with the RPPTL section of the Florida Bar. When he goes to the meetings, he hears attorneys express frustration with the statewide lack of standardization. He suggested a special commission, half Clerks and half Judges, to look at the issues. He raised the issue of the local judicial orders for his circuit, requiring things that were not the same as what was required in other jurisdictions. He told the board he was going to ask for such a committee at the Association's Board of Director's meeting.

Mr. Inzer told the board that he had held a meeting locally of the attorney who frequently were using the portal to get their feedback on e-filing. They expressed frustration with portal being different county to county. He urged the board to get back to that issue.

VII. New Business

Local Clerks' Network Storage:

Mr. Barbee expressed concern that the e-filed documents have greatly increased the storage needs locally. He suggested a filter on the portal to assist in that. Mr. Tim Smith asked Mr. Cox to report on that issue at the next meeting.

Pasco Record on Appeal:

Ms. Lynn Hoshihara updated the board on the Pasco Clerks' issue of needing to maintain paper copies of records. She reported that the issue was more logically that of the Association not the Authority. Chairman Smith asked her to write a letter to Mr. Kenneth Kent, Association Executive Director, and Dr. O'Neil, Association Chair, so the issue can keep moving.

VIII. Old Business

IX. Chief Justice's Four Areas of Concern:

Chairman Smith reviewed the four items raised by the Chief Justice at the 2013 Summer Conference:

- 1) The need for increased Help Desk services;
- 2) Filers should be able to see the documents in a case;
- 3) The Portal should be a two-way street; and,
- 4) Standard drop-down menus for filers.

Mr. Tim Smith reported that over the past months, the Authority and portal staff have taken those issues to heart and made great headway. on the first issue of increased Help Desk services, there has been substantial progress in staffing the Service Desk. In regard to the two-way communication, he noted the staff has been working diligently on the Clerk-to-Clerk interface. Adding the judiciary will also amplify the two-way issue. He recognized that the board needed to get back to working on standardization, but there have been changes for the filer in using the "map view," also the criminal drop-down menus are standardized. So, he continued, he felt that the effort was more than halfway through with standardization and would like to begin looking at it again starting in February or March.

On the issue of what filers should be able to view, it is still an issue under discussion here and at the FCTC as we move to adding more filer types, but overall, there are some Clerks linking images to the filings. But there is still work to be done on the idea of how documents are viewed and what filer types can view what documents.

Mr. Smith told the board that the Chief Justice was coming to the next meeting, March 10, 2014, to be held in Tallahassee, and would be given a tour of the new Service Desk area after the meeting.

Ms. Rushing spoke to her recent efforts in creating a standardization document and recognized the effort it will take to standardize in civil. Chairman Smith responded that it

has taken until now to get back to having time to deal with this issue. Mr.Hall commented that there has recently been an issue with combined documents, attorneys putting several motions into one document, then callig the document whichever motion form they chose. Ms. Rushing offered her document to anyone who wished to have it.

Public Comment: There were no comments.

- X. Adjourn
The meeting was adjourned at 11:21 a.m.