



The Florida Courts E-Filing Authority Minutes

Florida Courts E-Filing Authority Board of Directors met on January 10, 2013, at 10:00 a.m., at the Renaissance Orlando Airport Hotel, Orlando, Florida. The meeting was also available by WebEx. The following members were present: Tim Smith, Putnam County Clerk, Chair; Joseph E. Smith, St. Lucie County Clerk, Vice Chair; Bill Kinsaul, Bay County Clerk, Secretary/Treasurer (by WebEx); Tom Hall, Clerk, Supreme Court; Bob Inzer, Leon County Clerk; P. Dewitt Cason, Columbia County Clerk; Karen Rushing, Sarasota County Clerk; Sharon Bock, Esq., Palm Beach County Clerk; and Lynn Hoshihara, Authority General Counsel.

- I. Mr. Tim Smith, Chair, opened the meeting at 10:00 a.m. with a roll call. He welcomed those in the room and on the WebEx. He also told the board that Gloria Hayward, District IV designee, had stepped down from the board, that the replacement could be chosen at the District IV Caucus meeting scheduled for February.
- II. Mr. Smith recognized Mr. Bill Kinsaul to present the December minutes. Hearing no suggested changes, Mr. Kinsaul moved adoption of the minutes. Mr. Bob Inzer seconded the motion. All voted favorably on approval of the December 2012 minutes.
- III. Mr. Smith noted that there were no financial reports available yet this month, but they would be sent to the board members as soon as they became available.
- IV. Mr. Smith then recognized Mr. Levi Owens, e-portal project manager, to review the monthly status report. Mr. Owens reported that, year to date, there were over 515,313 filings. He said there were 20,126 registered users, more coming on each day. He reported that 94 percent of the documents filed were on existing cases, the remaining 6 percent were documents filed initiating new cases. He noted that the volume of filings had leveled out, November and December being the typical months that filings slowed down due to the holidays. Mr. Owens informed the board that because the most recent court order moved Juvenile Dependency from the list of civil cases to the criminal, combining it with Juvenile Delinquency, that allowed a few more counties to meet compliance in the civil case types. Currently, 58 counties were connected.

Mr. Inzer asked if there was any awareness to the volume the portal is seeing now versus the actual number of filings normally seen in paper? Mr. Melvin Cox reported that they

were using an SRS number of 4 million filings and expected that the portal was seeing about 10 percent of what would be coming over the next year.

Mr. Owens offered to get the board more information from the remaining nine counties in regard to their implementation status. Ms. Karen Rushing confirmed that the dates on the status report were the expected completion dates for those nine counties. She asked if anyone was in danger of not making the mandatory dates. Mr. Owens felt every county would meet the dates.

Mr. Smith told the board that the Clerks' district caucuses were coming up and asked Ken Kent to mention the dates and discuss readiness at those meetings, then report back any issues to the board at the next meeting. He suggested if there was a need, the board could discuss waivers at the February meeting. Ms. Rushing stated that she and Mr. Smith had made the Chief Justice aware that deadlines and the real status of counties is important. Mr. Smith reiterated that the portal is ready, but the board has a need to be able to report to Chief Justice Polston the accurate status of each county's connectivity and ability to handle in-coming electronic case filings.

Mr. Inzer suggested there were actually three issues: 1) is the portal ready—he remarked that it was; 2) are the Clerks ready; and, 3) are attorneys ready? He felt the third issue was the biggest issue. He went on to say that in his county, Leon, his office had done a great deal of training and outreach, but still only about 10 percent of the attorneys were filing electronically. He expressed concern about “the wave” coming in April.

Mr. Smith noted that the portal could handle any amount of volume, that the discussions to be held at the Clerk's caucus meetings should emphasize that the Clerks should be getting the word out to attorneys. He felt that the April 1 deadline needed to be accepted and worked toward. He expressed that it was realistic to expect that there will be issues as everyone begins to file on April 1. He expected that by the time criminal is mandatory, October 1, 2013, the issues will have been worked through and it will not be as difficult.

A discussion ensued in regard to the April 1 date being mandatory, or could there be a phase-in period starting at that time. It was agreed that the board take assessment of any potential issues beginning at the February meeting.

The board also discussed the appellate process and if it was feasible to get the notice of appeal from the trial courts to the Appellate Courts through the portal, was that expected that the trial court clerk use the portal for that purpose? Melvin Cox, Association staff, noted that the Florida Courts Technology Commission (FCTC) had issued standards for this in October of 2012. The FCTC planned to review those standards again at their meeting in late January 2013. Mr. Hall suggested that due to the lack of response when

the standards were sent out, that there be another notice sent to make sure all are aware of these standards.

Mr. Owens recognized that education and outreach is important for all these issues, for both the appellate and trial courts. He reported that the development team was looking at some digital content to assist filers.

Mr. Inzer noted that some of the larger counties would not be ready to accept electronic filings until the deadline and it will certainly be harder on the attorneys in those counties.

Mr. Smith recognized Mr. Owens to continue his report. Mr. Owens mentioned that the Supreme Court team began acceptance testing with six attorneys this week and it was going well. He then reviewed the criminal pilot project. He reported that all the pilot counties have the criminal docket codes loaded and are ready to begin testing Friday, January 11. The State Attorney and Public defenders would begin testing next week. There was some discussion on the batch process and it was determined that the “batch” would look the same to the receiving clerk and they could handle it the same way they did paper coming from the State Attorneys or Public Defender’s offices. In the pilot counties, the batch will come into the portal and once accepted, will flow into the Clerk’s case maintenance systems.

Mr. Smith recognized Mr. Tom Hall to provide a status report on Supreme Court connectivity. He noted that the testing had been going well, that items were still being tweaked and checked, but next week they would be spending a great deal of time testing with attorneys. He confirmed for Mr. Smith that he expected that the Supreme Court would be on target to meet the February 27 deadline and said that appellate attorneys wanted to do this. Mr. Smith felt that the Supreme Court coming up may give the board a smaller view of what will happen when all documents must be electronically filed. Mr. Hall said it is not an issue of the portal being ready, but the case management systems being installed in the appellate courts, eFacts. Mr. Hall mentioned that the Chief Justice understands that are going to be issues, but as long as everyone is trying, the Chief Justice accepts that.

The was a lengthy discussion of the trial clerks needing strong direction from the highest level in how they were to handle paper filings potentially being submitted after the mandatory date. Ms. Sharon Bock made a motion to ask the Supreme Court for guidance for the Clerks and the Chief Judges of each circuit as to how to handle paper after the mandatory deadlines. Mr. Inzer seconded the motion. Ms. Rushing asked for clarification. Other board members expressed the need for direction on the issue, Mr. Inzer explained that his chief judge required him to take a document filed on paper after the deadline. He felt that defeated the Supreme Court’s mandate. Ms. Rushing amended the motion to state: Authorize the chair to write a letter to Chief Justice Polston asking if it his opinion

that the trial clerks could refuse paper 90 after the April 1 date. Ms. Bock accepted the amendment and Mr. Inzer seconded the amended motion. There was discussion on the amended motion. Mr. Smith said there needed to be a state standard for accepting paper or not. Mr. Smith recognized Mr. Tom Morris, 8th Circuit State Attorney's Office. He told the board that a test period for Clerks and attorneys was crucial prior to the mandates. He also asked the board to wait to find out the magnitude of the issue before asking the court for direction. Mr. Hall offered another amendment to the motion: When April 1 comes, do Clerks have the authority to reject paper filings? And allow Clerks to use common sense in allowing paper if they needed to. Ms. Bock accepted the amendment to the amended motion. Mr. Inzer seconded the motion. There was brief discussion and all voted favorably asking Mr. Smith to write such a letter to Chief Justice Polston.

Mr. Smith moved on to recognize Ms. Carolyn Weber to speak about the e-service workgroup effort. She told the board that the e-service workgroup had an initial meeting and would be meeting weekly to develop documentation on the current business process and workflow, and a vision document. Mr. Owens suggested the workgroup develop a draft schedule and send it to the board next week. He anticipated the work being done by April 1.

The board took a 5-minute recess.

VI. Subcommittee Reports

- A. User Forum Subcommittee: The chair recognized Mr. P. Dewitt Cason to give the User Forum report. Mr. Cason noted that many counties have submitted questions about the new release and made a motion asking the board to direct staff to move forward with suggestions in the next release, 2013.01. Mr. Hall seconded the motion and all voted favorably.
- B. Funding Subcommittee: Mr. Smith recognized Ms. Bock, Funding Subcommittee Chair to report on the work the subcommittee had been doing. Ms. Bock told the board that the Funding Subcommittee has met twice over the past month and developed a document that showed the expenses of the items that were agreed as not being included in the Interlocal Agreement. She explained that those expenses are a service desk function, user training, and board operation expenses, comprised of director's and officer's insurance, legal and financial audits. The total for all aspects was \$1.09 M. Ms. Bock made a motion to approve the number and seeking funding for these aspects, moving the issue to the Association's Legislative Committee. Mr. Cason seconded the motion. Mr. Inzer asked if there was judicial concern about funding the portal. Ms. Bock clarified that the costs included did not cover the portal itself, but were only those that were not covered in the Interlocal Agreement. Ms.

Bock also noted that the Subcommittee also asked Mr. Kent to compile the costs of staffing and meetings of the Board, although those costs were covered in the Interlocal Agreement. She suggested that the board was not willing to amend the Interlocal Agreement for that purpose at this time. Other board members agreed. Mr. Smith, however, asked that the costs of staffing and meetings be tracked anyway. Mr. Hall asked that the accounting for those items be shown in the budget.

All voted favorably on the motion.

VII. New Business

Mr. Smith asked Ms. Lynn Hoshihara, Authority Attorney, to review the issues presented by the U.S. Attorney at the last meeting and bring back to the board a review of the actual requirements for those attorneys in filing in the state courts. Mr. Hall remarked that at the appellate level those attorneys are not required to pay the pro hac vice fees.

Mr. Inzer reported to the Board that the Best Practices Committee was finalizing their product. He then asked what the role of the board was in encouraging consistency for each county's look and feel? He asked if the suggested drop down menus and docket codes were to be discretionary or mandatory. Ms. Rushing, Mr. Hall and Mr. Inzer discussed the need for standardization.

Mr. Smith urged the board to focus on April 1 and connectivity. He asked the board to allow the Best Practices Committee to finish their task then analyze whether there is a problem or not.

Ms. Rushing asked, as Association Legislative chair, can the board agree as to what's on and not on the record regarding standardization? Does the board agree there is only one way to file when coming through the portal? She asked, how do we get to that point, that nobody has the authority to ask for any different functionality?

Mr. Smith responded and noted that that he felt that all should get to April 1, then see if we have a problem, that the best practice should be done by then. He commented that once we are all filing through the portal, then we can begin to refine. Mr. Bill Kinsaul cautioned the board that having one standard set may not work for everyone. He urged the board not to make it too complicated for those using the system. Ms. Rushing countered that if Clerks did it more than one way, there would be an argument against it being a unified system. Mr. Hall commented that if the board allowed some to use simple e-file and others to use regular e-file, then it is not consistent. Mr. Smith again urged the board to focus on April 1.

Hon. Chips Shore, Manatee County Clerks was recognized to speak. He asked why the board would want to make filers go through hoops that they did not have to do so before.

Mr. Smith asked for a motion to extend the meeting to 12:15 p.m. Mr. Cason made the motion and Ms. Bock seconded the motion. All were in favor of the motion.

Mr. Inzer commented that just like the federal system coming, compliance will come along because it is going to be mandatory. He said he felt there was already a standard established and it is working, that the board should find the greatest efficiency that works for the system—that should be the goal.

VIII. Other Business

Mr. Smith reminded the board members that the next meeting, to be held February 14, 2013, would be held by WebEx.

Public Comment: There were no comments by the public.

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