



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

Florida Courts E-Filing Authority Board of Directors held a regular meeting on August 7, 2014, at 10:00 a.m., EDT, by WebEx. The following members were present: Tim Smith, Putnam County Clerk, Chair; Don Barbee, Esq., Hernando County, Vice Chair; Tara Green, Clay County Clerk, Secretary/Treasurer; John Tomasino, Clerk, Supreme Court; Alex Alford, Walton County Clerk; Bob Inzer, Leon County Clerk; Gail Wadsworth, Flagler County Clerk; Karen Rushing, Sarasota County Clerk; and Lynn Hoshihara, Esq., Authority General Counsel. Sharon Bock, Esq., Palm Beach County Clerk was not present.

- I. Mr. Tim Smith, Chair, opened the meeting at 10:01 a.m. with a roll call. He welcomed all on the WebEx and reminded all those on the WebEx to mute their phones and keep extraneous noise to a minimum. He welcomed new member Gail Wadsworth. He also recognized Don Barbee's appointment to the Fifth Circuit Judicial Nominating Commission and Sharon's Bock's election as chair of the Florida Clerks of Court Operations Corporation.

Mr. Don Barbee moved adoption of the agenda. Ms. Karen Rushing seconded the motion. All voted favorably.

- II. Reading and Approval of Minutes  
Mr. Tim Smith recognized Ms. Green to present the June 2014 minutes. Hearing no suggested changes, Ms. Green moved to approve the minutes. Mr. Bob Inzer seconded the minutes and all voted favorably.
- III. Financial Report  
Mr. Smith recognized Ms. Green to present the Treasurer's Report. She reviewed the June month-end statement. Mr. Bob Inzer moved to accept the Treasurer's report. Mr. John Tomasino seconded the motion. There were no questions and all voted favorably. Ms. Green reminded the board that she had asked counsel to develop a draft budget amendment policy.

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She recognized Ms. Lynn Hoshihara, Authority General Counsel, to present the draft budget amendment policy. Ms. Hoshihara explained that the purpose of the policy was to allow for the transfer of money between approved budget categories, within certain thresholds with Treasurer approval, but without needing board approval. After brief discussion, Mr. Don Barbee moved to adopt the policy. Ms. Karen Rushing seconded the motion and all voted favorably.

#### IV. Progress Reports

E-Filing Authority Progress Report: Mr. Smith recognized Ms. Jennifer Fishback, FCCC Portal Project Manager, to review the monthly status report. Ms. Fishback reported that the number of filings and registered users were still increasing. At this point, she told the board, there were over 65,000 registered users—177 judges, 2,253 pro se filers, 57,930 attorneys and 4,526 “others.” The number of filings in July was the highest to date since the inception of the portal. She noted all Clerks were receiving batch criminal filings and overall it was still taking about 1 day to docket.

Ms. Fishback shared details of the next release with the board. The September 20 release will add the other filer types that the FCTC asked for: court reporters, law enforcement, mediators, mental health providers, process servers and state agencies.

Mr. Smith asked if these new filer types would follow the same process for registration as an attorney? Ms. Fishback confirmed that they would, although without credentials. The filer type would be identified by the role they select.

Ms. Fishback then reviewed the October 24, 2014, 2014.03 release highlights for filer enhancements. For Clerks, she explained they would be able to file to the Department of Corrections and there would some review queue enhancements. For filers, the State attorneys would be added as a matter of course for all e-service in criminal cases and there would be other efficiencies for better maintaining service. Additionally, she noted that the seop-down menus would go away and be replaced with a search feature. End-user notes would be sent to Clerks for testing on September 8, 2014.

Mr. Matthew Hitchcock, Esq., Provest LLC, asked if there was a way to submit document types for documents that they regularly filed, and what would be the best way for his company to provide that list?

Ms. Karen Rushing raised the issue of uniformity and ease of use, exploring the different models. Mr. Smith agreed, stating that he would rather be on the side of minimalist, fewer selections rather than more. He spoke to wanting to improve the filer experience and be sensitive to those who have to manage the documents once submitted. He said he would like to work with the vendor (FCCC) to see what can be done, but still would have to be able to accept the document that doesn't fit the usual document types. He suggested those with ideas communicate them to Jennifer Fishback.

Ms. Rushing stated that she would like the content of the review come before the board before they were put into a release so they were done from a policy perspective. She

asked if there was a place where there could be a list to review? Ms. Fishback responded that they only implemented what the board gives her.

Ms. Marcia Johnson, Franklin County Clerk and chair of the association Best Practices Committee offered to assist Mr. Hitchcock.

Ms. Laurie Rice, Brevard County Clerk's Office asked several technical questions about the functionality of the Department of Corrections (DOC) interface in October release. Ms. Rushing commented that it was her hope that in the future that DOC would not require the court verification form, but they are not in favor or doing away with it right now. Ms. Rice asked if Clerks would have to follow it up with paper? Ms. Fishback clarified that DOC indicated to her that they did not want documentation in both paper and electronic forms. She mentioned she was working with the Best Practices Committee and DOC to be in lockstep together.

Ms. Rice suggested an advisory or release notes to help Clerks know what is happening. Ms. Fishback said she would do so. Ms. Rice asked if there would be functionality to direct specific filers to specific work queues, Ms. Fishback responded not at this time. Ms. Rice asked about judicial magistrates and hearing officers not being able to file? Ms. Fishback said the portal was only revised to add filer types when directed by the board.

Mr. Joel Rosenthal, JIL Processing, asked what documents would be in the drop downs for process servers? He commented that he did not want it to be an assumption as to what documents process servers could file. Ms. Rushing suggested that the issue of who can file which documents was more in the purview of the Florida Courts Technology Commission (FCTC).

Mr. Smith queried, "If we mimic, as much as we can, the paper world, why do we care?" Ms. Rushing responded, "Because in the paper world, the process servers were couriers. The lawyers prepared the documents. And, we don't want to mimic the paper world.. It doesn't matter to the Authority board who 'files' the document."

Mr. Jeff Stanford, Provest, asked if there was a list where they could review the release details for October? Ms. Fishback said they were still working on it.

Mr. Smith asked for a board motion to approve the enhancements being proposed as presented in the Progress Report for September and October. Ms. Gail Wadsworth moved approval and Mr. John Tomasino seconded the motion. All voted favorably.

#### Service Desk Report

Ms. Brenda Standish reviewed the monthly statistics. She noted that there had not been many calls from pro se filers, but the Service Desk was taking more time to assist these callers.

She acknowledged that they had offered training to the Service Desk employees of what can and cannot be said to pro se filers.

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Ms. Green asked if the incidents coming in are prioritized by time or user role. Ms. Standish reported that calls are prioritized by user role; Clerks are top priority, then Judges have seniority.

V. Florida Courts Technology Commission

Mr. Smith presented a bulleted document detailing a process to formalize a communication process with FCTC. He reminded the board that in June after the changing of the e-service component, there were concerns expressed about not enough consultation and communication with FCTC. He reviewed the steps shown in the document on the screen. He summarized them for the board: the board would approve enhancements and communicate them not less than 30 days prior to implementation; the FCTC would have 10 days to communicate back the board if they had any concerns. He asked the board members to review the document shown. If they approved the process, he noted that he would send it to Judge Munyon, FCTC chair, by letter.

Mr. Tomasino asked if the timeframes could be moved to “no less than 45 days” and give FCTC “20 days to respond,” rather than the 10 days suggested in the document, in order to provide more notice to FCTC? He also suggested the timeline be sent to FCTC to ask for their blessing. Mr. Smith responded that if the board adopted it today, he would send it to Judge Munyon. He felt he could not control the FCTC schedule. He also commented that the paragraph did take into account a longer timeframe and enhancements were already being noted for April 2014, the next upgrade after October.

Mr. Tomasino moved that the changes be made as he had suggested earlier—revise the document to reflect that the 30 days be revised to 45. He did not want to include the “10 days revised to 20 days” in this motion. For point of clarification, Ms. Fishback commented that she has decreased the number of upgrades from four a year to two a year and might even go to one to make it easier for all the end users who have to program and train. The motion died for lack of a second.

Ms. Rushing moved the document as presented by Mr. Smith. Ms. Wadsworth seconded the motion. There was no discussion. Mr. Smith, Mr. Barbee, Ms. Green, Mr. Alex Alford, Mr. Bob Inzer, Ms. Wadsworth and Ms. Rushing voted favorably on the motion. Mr. Tomasino voted against the motion.

VI. Committee Reports  
Rules Committee

Mr. Barbee provided a recap on the Bar Rules Committee meetings and the experience of the Clerk liaisons. He reported it was a great start. He also told the board, and any others who were attending the meeting, that if they knew of any rules that needed changed to please let him know. Mr. Smith thanked him and asked that he keep the board updated.

VII. Other Business  
Judicial Management Council Status

Mr. Smith recognized Mr. Tomasino who told the board that in their April session the Supreme Court had adopted a recommendation regarding pro se filers. Chief Justice

Labarga wanted to focus on Access to Justice and he sees the A2J as a crucial component of this. The Court was working on how the items will flow from the JMC to the Florida Bar Committee to the Florida Court Clerks & Comptrollers. He reported that, in general, they were still working on the flow between the JMC, to The Bar committees to the FCCC, for the proposal, adoption, testing and releasing of the family law forms and such. He hoped within the next month or two that they would be getting closer to the final court action needed to get it onto the portal. He also shared that the Chief wants to make sure there was commitment that there will never be a charge to pro se users for using the A2J, the forms or filing the forms through the portal. Mr. Smith said he would also like to look into that and have general counsel help with the answer to that.

#### Requesting Changes to the Portal

Mr. Smith recognized Mr. Tom Hall who reported that the staff was getting requests from all different types of users for a variety of changes or uses of the portal. He noted that at one point the Board had a User Group and that there is a change management policy and change control procedure in the Interlocal Agreement that could be reviewed, that the vendor should have these policies in place. Some of the changes being requested should clearly come before the board for approval prior to implementation. He suggested staff work with counsel to develop a process for handling the various type requests and bring the issue back at the next meeting with a specific proposal for board consideration.

Mr. Smith recalled there used to be a list of enhancements kept by the project manager, and asked if that was still the case? Mr. Hall was not aware of any except for the previous User Group or the policy in the Interlocal Agreement. For clarification, he noted the change order policy in the Interlocal may apply only when the courts want a change, it does not appear to apply to the users. He was not even sure that the best practices needed to come before the board. He explained that what staff wanted was a process so that others are aware, know who can sign off on it, and how this will work for uniformity. It is becoming more difficult to figure out what changes should be made, or not.

Mr. Hall and Ms. Fishback discussed the type requests for non-court documents, administrative documents and the potential for using the portal for more than court records. She explained, this is really about the scope of what the portal could be used for.

Ms. Rushing commented that all things should come before the board, miniscule or other. The board should have an opportunity to prioritize what is important. We have not had a chance to discuss a policy on docket descriptions, not until now has there been a discussion on the Best Practices, and the board should have that discussion before all the work is done so that the direction is provided prior to the work. She wants to make it clear that the policy ought to drive change and drives use of the portal. Mr. Inzer agreed. He felt that the board should be the policymaking body for changes. He encouraged the board to hold a face-to-face meeting where there is time to have a policy discussion.

Ms. Hoshihara, Authority Board Counsel, commented that the change order process found in the Interlocal Agreement only references the vendor or board.

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Mr. Smith appointed a committee chaired by Alex Alford to work with Tom, Jennifer, and Lynn to look at a policy to address the multiple layers of those who make requests, and address the need for board approval and prioritization of the requests. He asked the group to bring that policy back to the next meeting to discuss.

Mr. Smith also noted that he would look at calendars and set a 4-hour workshop session for the board. Ms. Wadsworth asked to take Advisory 14-067 Docket Codes into consideration. Ms. Rushing suggested the subcommittee look at the state, not just Clericus. Mr. Smith explained that the policy would encompass a change process/policy for how to process and prioritize changes, then allow the board to discuss the requests.

Ms. Tara Green moved to establish the committee chaired by Mr. Alford. Mr. Barbee seconded the motion. All voted favorably.

#### Public Records Policy

Mr. Smith recognized Ms. Hoshihara to present to the board a public records policy. She explained that it was intended more as a policy that the general public should be aware of and that the Authority has been complying with chapter 119, Florida Statutes. She noted that if the board approved the policy, it would be posted on the website. She reviewed the policy, noting that in it the Authority designated FCCC as the custodian as they already serve as staff to the Authority. Mr. Tomasino asked if the records fell under Rule 2.420, Rules of Judicial Administration (RJA) as “case-related” information? There was a brief discussion of the types of records being requested. Ms. Rushing commented that if the requests were for court records, that staff should be careful of not releasing confidential information. Mr. Hall clarified that the portal does not store the court documents being sent through it. The requests have been more about the technical function of the portal. Mr. Smith asked Ms. Hoshihara to speak further with Mr. Tomasino, if needed, and return in September with her thoughts if the policy should be revised in any way. Ms. Hoshihara suggested that if the policy need to, that it could have a statement about documents that the FCCC did not hold.

Ms. Alexandra Reiman, Attorney for the 17<sup>th</sup> Circuit Court, commented that if the portal was operating under the authority of the Florida Supreme Court, it would be subject to Rule 2.420. Mr. Hall responded that the Authority did not operate under the Supreme Court, but was established as an interlocal governmental agency under ch. 163, F.S. that may relieve it from being subject to Rule 2.420, RJA.

#### Report on National Conference of Appellate Court Clerks

Mr. Smith recognized Mr. Hall to report on his trip and panel discussion on e-filing at the national conference. Mr. Hall shared with the board what he learned about statewide e-filing systems across the country. He said it was clear from the panel discussion that Florida was far ahead of other states. He referred to the document from the conference posted with meeting materials. He noted that there were still 18 states without e-filing at the appellate level. Florida, at all levels, he remarked, was ahead of the curve in the nation. Florida’s volume is dramatically higher in comparison to the other states. In fact, he said, most of states were struggling to build single statewide systems, not integrated

systems such as what Florida has, and that approach has held them back. He complemented the board on the great job they have done and that they shouldn't lose sight of that as other states are looking at Florida and how we did it.

Mr. Smith said he was looking forward to enhancing and fine-tuning what we have. He once again recognized Justice Polston and his leadership in the effort. He remarked that the system was built at little cost to the state and hoped we could continue to keep up our work.

#### Public Comment

There were no comments.

Mr. Smith told the board that he would work to get a meeting or workshop date in September where the board can discuss policy concerns.

Mr. Alford asked if the board could revisit why the portal did not accept Visa. He said he had looked into it and found out it was due to fees. But, he felt, with the volume going up, he thought it might be time to look into it again. Mr. Smith agreed that should be on the agenda.

#### VIII. Adjourn

The meeting was adjourned at 11:50 a.m.