



DRAFT

The Florida Courts E-Filing Authority

Florida Courts E-Filing Authority Board of Directors met on September 28, 2011, at 10:00 a.m. The meeting was located at Orange County Courthouse, 23rd Floor Gene Medina Conference Room, 425 N. Orange Ave., Orlando, FL 32801. The following members were present: Lydia Gardner, Orange County Clerk, Chair; Tom Hall, Clerk, Supreme Court, Vice Chair; Karen Nicolai, CPA, Hernando County Clerk, Secretary/Treasurer; Sharon Bock, Esq., Palm Beach County Clerk; Bob Inzer, Leon County Clerk; James B. Jett, Clay County Clerk; Bill Kinsaul, Bay County Clerk; Karen Rushing, Sarasota County Clerk; and Teresa Prince, Authority General Counsel. Joseph E. Smith, St. Lucie County Clerk, was absent.

The meeting was called to order at 10:10 a.m. by Hon. Lydia Gardner, Chair

- I. Hon. James B. Jett moved the acceptance of the agenda. The motion passed.
- II. The June meeting minutes were moved and passed by general consent of the board.
- III. Ms. Gardner read the public meeting notice regarding the meeting of the Pro Se Subcommittee occurring immediately after the Authority meeting.
- IV. A. Report by Mr. Melvin Cox, FACC Director of Technology, regarding status of e-Portal implementation. Mr. Cox also reported that both Martin and Charlotte counties were ready to receive electronically filed documents as submitted through the portal. He reported that the criminal and traffic data elements were passed by the Florida Courts Technology Commission on September 27, 2011. He was also asked about how any calls about the portal were handled. Mr. Cox explained that the FACC Service Desk had dedicated staff for those persons who either emailed or called about the portal. He informed that group that all calls were tracked and that both the questions and answers were documented. Hon. Bob Inzer noted for the board that not all counties that are connected can accept all civil case types. He suggested that by July 1, 2012, all counties should work to accept all five civil case types. Ms. Gardner asked that the board be given a report at each meeting showing expectations/milestones for all Clerks showing where they are in connecting to the portal, by case type and date for implementation. She felt this chart would be helpful to have updated for each meeting and may want it posted on the authority website as well. Hon. Tom Hall, Vice Chair, also asked that the appellate courts' readiness be included too.

Mr. Inzer addressed a potential recommendation that the Authority ask the Association put on more staff/assign more resources to the project. Mr. Cox spoke positively for the need for more programming staff.

B. Ms. Gardner introduced Hon. Bill Eddins, State Attorney for the First Circuit, and President of the Florida Prosecuting Attorneys Association (FPAA), Mr. Tom Morris,

Eight Circuit State Attorney's Office, and Mr. John Tomasino, Second Circuit Public Defender's Office. Mr. Eddins stated that the State Attorneys as a group were just beginning to focus on what was needed to implement SB 170. He named Mr. Morris as the FPAA e-filing liaison. Mr. Tomasino explained he was attending on behalf of the Public Defender's Association (PDA) President, Hon. Nancy Daniels, Second Circuit Public Defender. He is the e-filing liaison for the PDA. Mr. Morris spoke to the State Attorney concerns for electronic filing which centered around their office workflow, the handling of documents that are required to be notarized and cannot be electronically handled, and the filing of discovery as presented in the courtroom. He spoke to the Manatee pilot as being helpful to deciding which documents should be filed electronically as it can serve as a test environment. He also spoke about a bulk download feature to assist in the workflow volumes. Ms. Bock asked if the State attorney would be open to electronic notarization. Mr. Eddins said they would be and there was a general discussion that laws and rules may need to be revised to assist in this effort.

Mr. Tomasino spoke to the Public Defenders supporting a county-by-county chart so that they would know when the counties in each of their circuits would be ready to receive electronically filed documents. He told the Board that Public Defenders had several issues:

1. Public Defenders do not have access in CCIS to their own county Juvenile, Probate or Baker Act cases and would like to have access to those cases.
2. Wanted the portal to accommodate documents filed in criminal cases from non-lawyer parties, such as mental health providers, Department of Juvenile Justice, arrest paperwork and the like. He suggested that the Board take this into account while moving forward with the portal.
3. Use of attorney log-ins and passwords by legal assistants, creating workflow slow-downs.
4. Web services and using data exchange behind the scenes/take into account current data exchange processes.

He addressed that fact that the technology available in many courtrooms across the state was not consistent and did provide barriers. Ms. Gardner asked for the information about courtrooms without computers to be brought to the board. Christina Blakeslee, Florida Supreme Court, IT staff, offered to bring the information to the Board.

The chair recognized Mr. Sheldon Gusky, Executive Director for the PDA. Mr. Gusky described the report required in SB 170 that the Public Defenders and State Attorneys must submit to the Legislature next March. He asked the board to help with the report and Ms. Gardner agreed that the Board could provide him some information for that effort.

- V. A. Mr. Jett reported that his subcommittee was working well. He was working locally with his Public Defender (PD), State Attorney (SA) and local law enforcement agencies to work through the steps for a pilot criminal e-filing process. He reported that Phase I was to simple e-file. Phase II would take move toward the connection of local systems with the portal and could begin as the data elements are developed and used at the portal level. Ms. Gardner asked Mr. Jett to include the PD and SA liaisons in his discussions. Mr. Hall also asked if Ms. Blakeslee could be included in this effort. Mr. Jett noted that there were legal impediments, especially the requirement that notarization could not be done electronically. There was general discussion about the need for legislative changes to accommodate this requirement. Ms. Rushing asked for any changes needed to be provided to her by Monday so she could include them in a bill she was working on.

Mr. Jett expressed that the ultimate goal was to coordinate e-filing with in-court processing to make sure the efforts on the criminal side worked efficiently.

B. The chair recognized Mr. Hall to report on the website subcommittee. He explained that in working with the Authority website, that it was apparent that the portal site was static and the Authority site was ever-changing. He felt it might be best to reconsider having one site, and perhaps allow for two. Mr. Hall moved to reconsider the vote by which the motion to have only one site passed at a previous meeting. The motion was seconded. Hon. Sharon Bock asked if the website issue could be reconsidered at a broader level through his subcommittee and asked for the subcommittee to be expanded. Ms. Gardner noted that her site was only one site. She asked the subcommittee to meet and bring back the information to the group at the next meeting. The question was called and the motion failed.

C. Hon. Karen Rushing was recognized by the chair to discuss county readiness. She shared the position of Florida's Clerks on the implementation of mandatory e-filing. The chair asked Ms. Rushing to work with FACC to help those Clerks who were not on board yet.

D. Hon. Karen Nicolai reported that there was little activity in the Authority's bank account. Mr. Ken Kent told the board that the auditor's report will be finalized soon, that they were taking time to document what FACC had spent on portal development. Ms. Nicolai mentioned that she thought that \$22,500 was too high for the audit and asked staff to negotiate the cost down for next year.

Mr. Inzer moved to go on record with the Legislature regarding the cost of the portal and asking for a source of funding for the entity. The motion was seconded. In discussion, Ms. Rushing asked how the authority would go about communicating this need. Mr. Inzer suggested that the letter be addressed to the House Speaker, Senate President and the Governor explaining the cost and that there was no source of on-going financial support. The motion passed.

There was general discussion about FACC staff being stretched too thin. Mr. Inzer made a motion that the Authority request FACC to provide additional resources to support the portal. He noted that additional resources would assist in bringing on counties and other partners, such as SA's and PD's. The motion passed.

- VI. A. Ms. Teresa Prince, general counsel, was recognized to present amendments to the Authority's Interlocal Agreement, as a requested carry-over item from the previous meeting. She explained that the first step in amending the Interlocal Agreement was to amend section 5.6 of the agreement to allow for changes to the agreement to be made by the Board of Directors, not the entire membership. Allowing the board to make decisions in this way, she explained, would be more expedient and enable to the board to work more efficiently in making the minor administrative policies they felt were necessary. She explained that all members of the Authority must vote favorably for the change to take effect. Mr. Hall noted that when he signed it would bind all the appellate courts. Mr. Jett moved that the resolution allowing for change to the Interlocal Agreement be accepted. The motion passed.

B. Ms. Prince further explained that once the Interlocal Agreement is changed to give authority to the board to make decisions, then the board could handle procedural issues, like the purchasing policies or signing of documents by written motion of the board. Mr. Inzer moved that counsel develop a recommended policy for procurement and signatures of documents and present it to the board. Mr. Hall supported having a written policy. The motion passed.

- VII. A. Ms. Nicolai explained the board had approved a shell budget at the previous meeting, but asked staff to bring back a balanced budget. She explained that the budget document in the packets as the same budget as passed previously, but shown as balanced by partner support. Mr. Inzer moved to accept the budget as shown. The motion passed, seven yeas, one nay. Mr. Hall asked Mr. Kent if there was any partner support yet? Mr. Kent reported that there was not. Ms. Rushing asked if there was any value of the portal that could be shown in the audit? Mr. Kent responded that Lanigan and Associates would be providing a footnote disclosure of the costs incurred to date. There was further discussion as to whether the value should be shown. Mr. Hall suggested that Lanigan be asked to give the board an opinion as to whether it should be or not.

B. Ms. Gardner opened a discussion as to when the meeting notices would be posted. She told the board that the information would be posted at a minimum of 48 hours prior to a meeting. She noted that the minutes from a previous meeting generally included the meeting date and time, giving board members notice. Ms. Prince said that notices should be posted on the authority website, inclusive of information for accommodation.

C. Mr. Hall moved to reconsider the vote by which the board took in allowing

paralegals to have their own credentials. He explained that in the technical world, this would be viewed as a security breach for Internet access. He also said that there was concern with paralegals having their own credentials. He suggested that the board should not take apposition on the issue and allow attorneys to handle it however they saw fit. Both Ms. Bock and Laird Lile, Esq., representative of The Florida Bar, felt that the board should not take apposition on how to run a law office, and agreed that the board remain neutral on the issue. Mr. Morris felt the FPAA would be neutral o the issue as well. The motion passed.

D. Mr. Inzer did not address his emailed questions, but, rather, opened a general discussion about standardization of elements for the portal, requiring each Clerk to use a common template for docket codes and the location of other elements seen on the website. Ms. Gardner expressed concern that meeting deadlines and getting connected should be of paramount importance. Location of items seen on a webpage could be refined at a later point.

Mr. Inzer moved that the FACC Best Practices Committee develop a template for optional use. The motion passed, 6 yeas, 2 nays. Ms. Gardner asked that Mr. Inzer serve as the authority liaison to that committee.

E. Mr. Kent reviewed the plan of action created by the Florida Courts Technology Commission (FCTC) workgroup as presented to the FCTC the day prior to the board meeting. There was general discussion about the rapid timeframes shown for e-filing implementation for both clerks and users. Mr. Jett moved to accept the FCTC plan. The motion passed.

F. Ms. Jenna Sims, Florida Supreme Court FCTC staff, told the board that the FCTC had passed the criminal and traffic data elements at their meeting, the day prior to this board meeting. Mr. Inzer moved to accept the criminal and traffic data elements. The motion passed.

G. Ms. Gardner asked Mr. Inzer, Mr. Kinsaul to serve along with Mr. Smith on a statewide e-filing education and outreach committee.

H. Mr. Hall clarified to the board that the court would not approve waiving the 90-day test period wherein there needed to be paper follow-up. Ms. Christina Blakeslee, Florida Supreme Court FCTC staff, also reiterated that once one court area was approved, that the 90-day test period was not necessary in any other court area as long as the same case maintenance software was being used. The chief judges have the authority to waive the test period in those instances.

VIII. The next meeting was scheduled for November 2, 2011, from 10:00 a.m. to noon, to be held in conjunction with the FACC conference at the Hotel at the Florida Mall in Orlando.

The meeting of the E-Filing Authority Board adjourned at 1:05 p.m.