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The Florida Courts E-Filing Authority

Florida Courts E-Filing Authority Board of Directors met on November 2, 2011, at 10:20 a.m. The meeting was located at The Florida Hotel at the Florida Mall, 1500 Sand Lake Rd., Orlando, FL 32809. The following members were present: Lydia Gardner, Orange County Clerk, 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; Joseph E. Smith, St. Lucie County Clerk; and Teresa Prince, Authority General Counsel. Tom Hall, Clerk, Supreme Court, Vice Chair; Karen Rushing, Sarasota County Clerk; were absent.

The meeting was called to order at 10:25 a.m. by Hon. Lydia Gardner, Chair.

Before the adoption of the agenda Ms. Gardner recognized Mr. Mark Fletcher and Mr. Jonathan Keillor, auditors from Lanigan and Associates, to provide the audit results of the SAS 70 audit and the financial audit to the board. They presented the SAS 70, an evaluation of internal controls, and told the board that the audit opinion was "unqualified." Mr. Keillor then reviewed the financial audit. He acknowledged that there was little financial activity over the period, September 2010 to June 2011. He reviewed the FACC contributions to the development and implementation of the portal. Ms. Gardner moved to accept the reports.

In discussion, Hon. Bob Inzer asked why there was no capital value assigned to the Authority for the portal. Mr. Keillor responded that accounting standards do not address something like the portal; it would be difficult to value the portal or assign it a fair market value. He explained that the portal is a subcomponent of a much larger system and was difficult to break out just the e-filing piece. Mr. Inzer asked how the contributed capital was represented. Mr. Keillor explained that GASB 33 non-exchange transfers governs that aspect and that the portal didn't fit this situation. Mr. Inzer continued by posing the question, if the E-Filing Authority were to seek funding from the Legislature, what would the Authority ask for? How would the FACC in-kind costs be reflected? Kenneth A. Kent, FACC Executive Director, explained that the money spent by the Association is not flowing through the portal and, as such, it is not flowing through the Authority books, so the funds will not show up in the Authority e financial statements. Mr. Inzer registered that he still had concerns.

The audit reports were unanimously approved.

- I. Ms. Gardner then asked for a roll call and welcomed all in the room.
- II. Hon. James B. Jett moved the acceptance of the agenda. The motion passed.
- III. The October meeting minutes were moved and passed by general consent of the board.

- IV. Mr. Melvin Cox, FACC Director of Technology, gave a report regarding status of e-portal implementation. He explained to the board that the timeline for getting counties connected to the portal was now being driven by the mandates for Civil, July 2012, and Criminal, December 2012. Mr. Cox also clarified that “mandatory” meant being able to accept documents filed through the portal. He showed the board a report showing expectations/milestones for all Clerks showing where they are in connecting to the portal, by case type and date for implementation. He reviewed the estimated costs associated with the programming needed to get the portal to the point it can handle both the Civil and Criminal filings. FACC has budgeted \$246,000 for programming costs for the 2011-2012 fiscal year, and \$204,000 for fiscal year 2012-2013. At the end of 2012, e-service is planned to be an added service of the portal. He also mentioned that the development team was waiting for the rule to be promulgated in order to provide direction. Thus, the highest priority is the capability to e-file. To that end, Mr. Cox committed to providing specific updates on county readiness at each meeting. Mr. Cox also noted that there would be programming releases each quarter to add enhancements to the portal so that the portal could be brought up to the level needed to handle the “mandatory” e-filing. Hon. Sharon Bock asked about the definition of “mandatory,” did it include the court having to use the electronic record as well? Mr. Jett remarked that the FCTC was encouraging the judges to use the electronic file when available, but it has not made it mandatory. Mr. Laird Lile, Esq., agreed with Mr. Jett, that the Supreme Court may encourage the judges to move toward use of the electronic record. Ms. Bock suggested that the Authority board should emphasize the cost of maintaining two systems and its impact on the limited resources.

Ms. Gardner said she wanted to make sure that there is a proper forum for questions about the portal and progress being made.

Mr. Inzer made a motion to establish the priorities for the actions to be programmed for the portal releases, such as handling re-open fees. Ms. Bock seconded the motion. Ms. Gardner asked Mr. Cox to bring back recommendations to the next meeting as to a suggested priority list, with re-opens being a high priority. The motion was unanimously adopted.

V. Subcommittee Reports

A. Website Subcommittee

Ms. Bock reported that the subcommittee discussed the look of a potential homepage that would lead viewers to either more information about the Authority or to the e-filing portal. She asked the board, in the form of a motion, if they would authorize the subcommittee to issue a competitive procurement such as an Invitation to Negotiate, for the design and development of a homepage and request funding from the FACC Services Group. Hon. Joseph E. Smith seconded the motion. Ms. Teresa Prince, Esq., asked that the subcommittee bring back the results of a request to the board for review. Hon. Bill Kinsaul and Hon. Karen Nicolai expressed concern about asking the Services Group for any more money. The motion passed, 5 yeas and 2 nays.

B. Pro Se Subcommittee

Ms. Bock discussed the portal being made available to pro se filers. As such, she said the subcommittee recognized that it would not be ready to accept pro se filings until at least fiscal year 2012/13. The subcommittee felt they should focus their efforts with the FACC Pro Se/Self Help Committee in developing the A to J software.

C. Portal Budget and Revenue Subcommittee

Ms. Nicolai reported that there was \$11 profit this year. She expressed concern about the partner support needed and where it would come from for this fiscal year. Ms. Nicolai asked that the finance report be placed on the agenda after the minutes at the next meeting.

VI. Unfinished Business

Amendment to Section 5.6 of the Interlocal Agreement

Ms. Gardner explained that the amendments that the board passed the previous month did not pass the membership with the required 68 votes. She asked Ms. Prince to explain how she redrafted the amendments to allow for more specificity, that the first amendment would allow for unanimous adoption by the board. The Chair recognized Ms. Bock, who had an alternate amendment that would allow the board to adopt amendments to the Interlocal Agreement while retaining the individual votes of the members. Ms. Gardner recognized Hon. Dwight Brock, Collier Clerk, from the audience. He spoke in support of Ms. Bock's proposed amendments to the Interlocal Agreement. He spoke against any revisions to section 5.6 and confirmed that Ms. Bock's suggestions did not show any revisions to that section. Ms. Gardner directed Ms. Prince to work with Ms. Bock to redraft the resolution reflecting Ms. Bock's proposed language and have it ready for a vote at the next meeting. Ms. Prince noted that once the board approved a new resolution, it would need to be sent out again to all members for approval. Hon. Chips Shore, Manatee County Clerk, asked from the audience if he could see a copy of the redrafted resolution before it was given to the board for final vote. The chair made a motion to allow Ms. Bock and Ms. Prince to formalize the language to allow for more efficient operation. The motion carried unanimously.

VII. New Business

The chair spoke to a letter that Hon. Ken Burke, Pinellas County Clerk, had received from his chief judge regarding the portal. She again mentioned the need for an appropriate forum to be held to allow users or stakeholders a venue to ask questions or make comments. The chair asked Mr. Jett to head up the effort. He accepted and recognized Hon. Howard Forman, Broward County Clerk, to discuss the issues he detailed in a letter he had written to the board the previous month. Mr. Forman thanked the board for creating the forum and said he would meet with Mr. Jett.

In reference to the letter from the Pinellas chief judge, Mr. Jett explained that many of the issues raised should be addressed by the FCTC and the Supreme Court regarding the 90-day trial period.

Ms. Gardner recognized Hon. Buddy Irby, Alachua County Clerk, and his chief deputy, Chuck Stiles, who asked if there would be any rules written regarding rejecting documents. Mr. Stiles also asked if there was a way to send court orders through the portal to the individual case systems. Mr. Jett noted that the TIMS committee was discussing this as a part of In-Court Processing.

VIII. The next meeting was discussed as needing to be mid-to late January. A date would be determined at a later date and sent to everyone.

The meeting of the E-Filing Authority Board adjourned at 12:00 p.m.

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