

# E-COURT MEETING MINUTES

## E-COURT

### A Subcommittee of the Commission on Technology

Monday, August 18, 2008

1:30 PM - 3:30 PM

ARIZONA SUPREME COURT  
Administrative Office of the Courts  
1501 W. Washington  
Phoenix, AZ 85007

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CONFERENCE ROOM 107

AUDIO PHONE NUMBER: (602) 452-3192

AUDIO ACCESS CODE: 1112

#### MEMBERS PRESENT

Andrew Hurwitz, *Chair*  
Robert Brutinel, *General Jurisdiction*  
Diane Drain, *State Bar*  
Karl Heckart, *AOC*  
Donald Jacobson, *Court Administrators*  
Michael Jeanes, *Clerks*  
Sheri Newman, *Clerks*

#### GUESTS

Rich McHattie, *Maricopa COSC*

#### MEMBERS ABSENT

Dennis Lusk, *Limited Jurisdiction*

#### AOC STAFF

Stewart Bruner, *ITD*  
Jim Price, *ITD*

\* indicates appeared by telephone

## WELCOME AND OPENING REMARKS

Justice Hurwitz

Andrew Hurwitz, Chair, called the e-Court meeting to order at 1:30 p.m. After introducing those on the phone and in the room, he briefly outlined the purpose of the meeting and reviewed the short agenda.

## UPDATE

## STATEWIDE E-FILING RFP AND TIMELINE

Karl Heckart

Karl Heckart brought members up to date with activities on the request for proposal for the statewide electronic case filing since the last meeting. Following meetings with Commission on Technology (COT), the Arizona Judicial Council (AJC), and two separate development teams, a request for proposals (RFP) was published in early August. Justice Hurwitz requested that Stewart e-mail the link to the RFP to members. AOC held a pre-bid conference last week and seven or eight vendors attended. Karl described the structure of the RFP, which takes a different approach from most commodity-price-based procurements. This one has matrices of requirements and pricing considerations but also is designed to solicit creative ideas from bidders. Pricing is done from multiple perspectives, assuming certain case types are excluded: 1) the direct cost to filers on non-excluded case types, 2) the monthly cost to the Court for operating the entire system, and 3) the one-time-per-case fee charged to filers on non-excluded case types. Types of filings covered include form-based, free-form, bulk, and system-to-system using an XML interface.

Karl responded to members' questions about whether the RFP stated that the alternative free-filing options would go away and what date it specified for mandatory e-filing. Justice Hurwitz reminded members that the Court is committed to mandatory filing but not until a system is in place to handle it and sufficient time has passed to inform and train State Bar members. Michael Jeanes reminded members that filing could be done on behalf of a Bar member by a vendor or a qualified person in his or her office. He also mentioned an upcoming CLE on electronic filing to take place Friday, August 22, and that education efforts continue in support of an eventual mandate.

Karl provided a timeline for activities following the close of bids on September 26 with a goal of piloting the system using subsequent filings on civil cases in Maricopa sometime in the spring of 2009. The initial limited jurisdiction application will likely be small claims filings. More discussion will be held at COT. Policy issues related to any contracted vendor's approach will come through e-Court, likely in the spring.

Members then discussed the access level for electronically filed documents. Justice Hurwitz pointed out that opening access beyond parties and counsel exposes Rule 123-related issues, especially to third parties of the case. Michael Jeanes, chair of the current Rule 123 team, added that other states seem to focus on tackling the problem day forward and leaving access to retrospective documents at the clerk's counter only. There is no talk of removing access to documents at the clerk's counter.

There was a brief update on the timeline for Maricopa's administrative order (AO) mandating acceptance of e-filed cases in all courtrooms and all case types prior to a second AO mandating attorney e-filing throughout Maricopa Superior. Michael pointed out that e-filing has become a

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survival strategy for clerks' offices in the bad budget environment. He urged that the timeline for arriving at a contract for a statewide solution take into account the dire situation in which clerks find themselves. Karl stated that vendor and court preparations must progress in concert to be successful.

## UPDATE

### APPELLATE e-FILING EFFORT

Justice Hurwitz

Justice Hurwitz provided a brief update on the state of e-filing in the Supreme Court Clerk's Office. He anticipates subsequent filings on criminal cases will be received electronically from the Attorney General within the next few months, although the Clerk still requests a paper copy during the pilot, just in case. He also gave updates on various rules-related items at the Supreme Court that have gone electronic. There is hope of spreading the e-filing approach to Division One, especially for cases coming from Maricopa Superior on appeal.

## UPDATE

### TECHNICAL REQUIREMENTS FOR DESTROYING PAPER

Karl Heckart

Karl provided the context for setting technical requirements that would enable clerks to destroy paper documents for which equivalent electronic records exist. The bottom line is that any electronic record of the court must be protected by certain technology items. COT's Technical Advisory Council (TAC) reviewed requirements drafted by the e-Records subteam of the Limited Jurisdiction Courts Committee (LJC) and deemed them insufficient. In response, a TAC e-Records subteam that included representatives from the LJC e-Records subteam has created a more detailed set of requirements which are still being reviewed by TAC and the LJ e-Records subteam on the way to COT for approval. The subteam is recommending the requirements become a code section, reviewed by AJC subcommittees and ultimately approved by AJC for publication.

Discussion focused on other topics that might be appropriate to include in the requirements document, especially whether the court must remain in possession of the electronic records at all times or simply have the top level of access to the records. AOC Legal will be asked to research requirements regarding clerks' custodianship of electronic records. There was some understanding among e-Court members that the court must maintain control of court records at all times. This would preclude use of a vendor or county resources or crafting a shared arrangement with justice partners. Justice Hurwitz stated that Maricopa may have been given those restrictions at the start of their pilot project, but that he's not sure they all still apply in today's world.

## Upcoming Meeting:

TBD, Fall 2008

AOC – Conference Room TBD

## MEETING ADJOURNED

2:35 PM