

**Commission on Trial Court Performance and Accountability**  
**Meeting**  
**Conference Call**  
**July 22, 2011**

**Minutes**

**Members in attendance:**

Judge Terry Terrell, Judge Paul Alessandrone, Judge Brian Davis, Judge Leandra Johnson, Judge Peter Marshall, Judge Ellen Sly Masters, Judge Elizabeth Metzger, and Judge Diana Moreland.

**Members absent:**

Judge Dawn Caloca-Johnson, Judge Kathleen Kroll, Mike Bridenback, Gay Inskeep, Justice Jorge Labarga (Liaison), and Judge Lisa Davidson (Liaison).

**Staff in attendance:**

Maggie Geraci, Patty Harris, and Kristine Slayden.

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Judge Terrell called the meeting to order at 12:05 p.m. The roll was taken and a quorum was present.

**I. Approval of the June 30, 2011 Meeting Minutes**

Judge Davis offered a motion to approve the minutes. Judge Marshall seconded the motion. The motion was approved by majority vote.

**II. Update on Supreme Court Action:**

**A. TCP&A Request to Amend Court Reporting Policy Producing Copies of Recordings**

Patty Harris provided an update on the policy amendment request sent to the court. She noted that the court approved the request at the last court conference. She stated that as soon as the revised administrative order is received, it will be sent to the circuits to implement.

**B. Court Interpreting Recommendations**

Maggie Geraci provided an update regarding the court's action with the Court Interpreting Recommendations submitted by the Commission. She noted one of the major points of the report that drew the most concern was the expansion of the provision of spoken language court interpreter services to ALL court proceedings and court-managed activities. At the June 29 court conference, the court requested that the recommendations be submitted to the TCBC for financial estimate of the proposal and to determine whether any of the recommendations could be done within existing resources, including implementation in stages. They are to report back by December 1. Ms. Geraci noted that staff had developed a strategy to address the court's request, which includes three major steps. First, the Commission will determine those recommendations that have a fiscal impact and those that do not. Second, the TCBC will provide cost estimates of those recommendations that do have a fiscal impact. Finally, based on the cost estimates provided by the TCBC, the Commission will determine a strategy for implementation. A chart,

in the meeting materials, provides staff's initial attempt at identifying those recommendations that may have a fiscal impact. She noted that staff did not consider the general recommendations to other committees as having a fiscal impact, as they were only suggestions for consideration.

Additionally, Ms. Geraci read an email comment sent by Gay Inskeep that stated in regards to action items, "the TCP&A should consider all costs when creating an estimated budget impact and also include costing out the best practices since we want to encourage those practices, even though they are not standards."

Judge Terrell asked members to share the chart with their staff in the circuits. He noted that this was an approach to help TCBC cost out these recommendations and that members should provide their response via email within two weeks. Staff would then revise the chart based on the comments received and members would vote approval of the changes via email. The first response would be considered a motion, the second response would be considered a second of the motion.

Ms. Geraci asked Judge Terrell if the Commission could address the questions in the write-up, including whether the TCBC should focus on providing estimates for staffing as opposed to expense related needs such as brochures, travel for training, and remote technology and if the best practices, which are not mandatory, be included in the cost estimates. Ms. Harris noted that a previous fiscal impact was done on the court reporting standards and best practices, and focused on staffing needs.

Judge Davis stated that he agrees with Ms. Inskeep's email that best practices need to be included in the cost estimates as well, but he is unsure about expenses. He asked what was considered an expense. Ms. Harris replied that items such as travel for training, creating signs and brochures, and remote technology equipment would be considered expenses. She noted that it would be difficult to provide cost estimates for remote technology because the technology market for remote interpreting is fairly new and circuits may have varying needs. Judge Davis stated that he felt any information that could be provided regarding costs would be better than none and that he would rather have rough estimates made on both staffing and expense, which could then provide the opportunity to make more informed decisions.

Judge Davis offered his response as a motion to have the TCBC focus on providing estimates for both staff and expense related needs. Ms. Harris indicated that a fiscal impact survey to the circuits may be used to accomplish this.

Judge Masters and Judge Davis expressed concerns regarding the Commission getting involved in a directive to TCBC. Judge Johnson replied that her understanding is that the Commission is able to consider the financial impact of their decisions. Judge Masters discussed how the Commission had acknowledged the fiscal impact within the report, and her understanding of the focus is that the Commission can consider economic impact, but stops at that point. Ms. Geraci responded that the intent of this approach was to allow for the Commission, as the subject matter experts, to aide in giving direction to the TCBC in determining which recommendations would have a fiscal impact, but the TCBC would determine the cost estimates. Judge Terrell asked staff to send the Court Interpreting Recommendations Draft cost chart to the Commission members to allow a period of review. Once members are able to send their comments, staff will revise the chart accordingly and email it to the members for email vote.

### **C. Self-Help Implementation**

Ms. Harris provided an update on the self-help report that was submitted to the court for approval. The court, at conference, decided to table the report. Justice Pariente would coordinate with the OSCA and Tom Hall to explore the role of Clerks, the Bar, and the judiciary in providing self-help services, with the advent of e-filing and some software available to the clerks allowing pro se litigants to fill out forms online. Ms. Harris noted that the Commission does not need to take any action at this point. Judge Davis asked if the court gave any timeframe on this issue. Ms. Harris responded that the court did not. Judge Terrell noted that self-help overlaps with the many issues of the Commission. Judge Terrell asked that staff provide updates as they arise.

### **III. Court Reporting Format Issue**

Judge Terrell noted that the members have been provided a draft of the letter to Judge Menendez, chair of the E-Filing Committee of the Florida Courts Technology Commission. Ms. Harris provided an update on the issue, noting that at the June 30, 2011 TCP&A meeting, the members agreed to draft the letter to request that the E-Filing Committee consider submitting a proposal to the Supreme Court to amend AOSC07-41 to require court reporters to submit, in addition to paper copies of transcripts, an electronic copy of a transcript in a PDF attachment to email rather than Word document on a CD-Rom. Ms. Harris stated that while drafting this letter, staff in ISS indicated that by changing the format of delivery to email, this may constitute e-service. ISS staff reported that there are proposed rule amendments for e-service currently pending before the court. Ms. Harris contacted OSCA's general counsel and it was suggested that the letter include a statement to alert the E-Filing Committee that this issue may be impacted by the proposed rule changes related to E-Service submitted to the Supreme Court by the Florida Bar Rules Committee in Case No. SC11-399.

Judge Masters moved to approve the letter as drafted. Judge Johnson seconded the motion. The motion was approved.

Judge Terrell directed staff to affix his electronic signature and submit to Judge Menendez.

### **IV. Review of Outreach Comments on Resolving Civil Disputes**

Ms. Geraci noted that at the June 30, 2011 TCP&A meeting, the Commission discussed the recommendations due to the legislature on January 2, 2012, on resolving civil disputes in a timely manner. At that meeting, it was suggested to outreach to the circuits for ideas on financial or other incentives. The outreach was completed and five circuits responded. A chart of the comments was provided in the meeting materials. Ms. Geraci stated that the comments received included a variety of suggestions mostly focusing on rule changes, case management, and automation. Few comments were received on incentives. In fact, it was generally noted that incentives should not be given for performing services the judiciary are already required to perform. Ms. Geraci stated the Commission, at the last meeting, voted on no individual incentives of any kind for judges or staff and no financial incentives for judicial performance other than appropriations by the legislature for additional staff resources. Additionally, the Commission voted to recommend a fund for grants, potentially differentiated among the circuits

based on a structure that ensures equality and no erosion of due process secondary to speed. The members agree options should be explored for differentiated case management.

Judge Masters offered a motion for staff to begin drafting the recommendations based on differentiated case management, focusing on adequate funding as opposed to incentives, and including a grant fund for creative pursuits in resolving civil disputes. Judge Davis seconded the motion. Motion approved.

Ms. Geraci indicated that upon drafting the initial recommendations, the circuits could be provided with an additional opportunity to give feedback on the recommendations. Judge Terrell noted that it would be necessary to tweak the timeline that had been approved by the Commission at the last meeting. Ms. Geraci stated that the timeline would change some, but there was still time to complete both the draft and an outreach. She suggested that she would update the timeline and send to the members for review.

Judge Terrell adjourned the meeting at 12:54 p.m.