

>> We will now move to the
second case on our docket.

In the amendments to the Florida
Rules of Civil Procedure and
various other rules.

>> Council you may proceed.

>> May it please the court?

My name is Keith Park and I'm
from West Palm Beach in the
current chair of the rules
committee.

I am here arguing on behalf of
the RJA in place of basically
Judge John Morgan who chaired
the subcommittee that did the
vast majority of work on the
rule part.

I see this as being sort of a
two-part situation here where
one part we are talking about
rule changes in the other part
we are talking about
implementation.

I am here to talk about the rule
part.

And from our perspective,, and I want to go out of my way to thank Judge Morgan and the people who worked on part on all of the committees putting this together because it was quite an effort on their part.

>> Can I put this in perspective?

Now to implement E-filing, the clerks have at least told us that without it being mandatory, we are really going to have the system and it is not going to be efficient and not going to be effective.

So we are really dealing here with making this mandatory, correct?

>> Yes, maam.

>> And the other part is somehow this has to work in conjunction with E-Service?

>> I think that is conceptually how to spin look at because the

rules also refer to the proposed
fee service rule of 2.516.

And I think is part of that, the
unfortunate reality is that for
at least some period of time we
are looking at perhaps the idea
of maintaining two files.

I think the hardest part that
both the RJA faced and the
people trying to help the RJA
were looking at these exemptions
which I find to be probably the
most controversial part of what
we have to deal with.

We have a mandatory E-filing
situation and we have at the
same time issues regarding what
might need to be maintained as
the original documents.

I think part of that is going to
work itself out over time.

Part of it may require some
statutory changes about what
disability might mean.

>> But also it is a conceptual

change about how much we trust
the electronic world.

You will see some of the
Justices have iPads up here and
we have got our summaries and
the petitions on there.

When I annotate now I can search
the document, and now I see an
advantage to it that is
different than just paper versus
electronic and I think the
challenge, and I know Manatee
county has worked on it, is what
this electronic world is has to
be not only user-friendly but it
has to show both judges and
lawyers that it is actually
going to give them great benefit
and how they do their work.

So that is where I think a
buy-in comes and the challenge
for the clerks.

If all you do is take a paper
file and now you take all those
papers and you put it in and ask

some judge to search 2000 pages
to try to find, to go through
their paper with, that is not
improvement.

On the other hand --

[INAUDIBLE]

Or you can find this term.

[INAUDIBLE]

>> My husband is not going to
read my Kindle.

So we say it costs \$100, at some
point so-and-so will say wait
maybe that makes some sense.

Maybe not to my husband.

[LAUGHTER]

>> Are you listening?

>> Actually he is reading on
his -- it is interesting.

What we are really talking about
is that is making it mandatory
and everything has to work
together.

What were the exceptions and
what were the concerns about,
like again we have the probate

committee doing a great job and saying the caucus will have to stay in their original paper state.

We have other things like that and we could say no matter what else happens, this has to stay in its paper state.

>> I think and as I said as time goes on I think we will find these things will work themselves out just like the probate and we will talk about that.

Working down to basically caucus souls.

That was part of the problem we were having dealing with some of the other disciplines as well.

Heart of the problem has to do with I think eventually having items in for instance the criminal specter that are accessible electronically but are not part of.

>> You need all those

documents.

Is something you are going to get is a plea form, you need all the things electronically.

Then you are going to have to go electronically for others but maybe that challenge is really within the criminal field, the criminal lawyer field to figure out how to make sure that they are all accessible in one place for one file at one-time.

>> I think they are the biggest challenge and probably the biggest challenge for getting on line as well.

>> They are the ones we didn't realize the last time the legislature says you have got to do it, so I wish we had known that when we have the service.

It already had been mandated to do this.

>> Now if they just come up with

the money.

>> That's important and we have to make that strongly.

I think one of the first times both sides of the prosecution agreeing to do this they need the resources.

>> That may be one of the biggest issues that we have to face.

>> You have about 30 seconds left.

Is there anything you would like to address regarding some of the opposition?

>> No, I think there really isn't an opposition.

I think we are all on the same page.

The question is with regard to these exceptions how we are going to were put them and I think we all agreed is something that will probably work itself out over time and I think this

may be a work in progress
concerning this particular rule
and I think some statutory
changes may well help some of
that along as well.

Some of the things that they are
dealing with that will
eventually become part of
perhaps an electronic file
somewhere along the line are
really not per se part of the
court file.

Just as some of the discovery
that lawyers exchange and civil
work won't become part of the
file.

I thank the court, appreciate it
and I would like to thank the
FCTC for all their fine work in
this.

>> Good morning.

May it please the court.

I am Donald Sacaglione the
current chair of the
subcommittee.

We are arguing on behalf of pleadings prepared for us by Mr. Bob Strain in the past year submitting pleadings on this behalf.

I see the courts interest seems to be a lot on the exceptions.

I have reviewed all the documents and I have looked at the pleadings on behalf of Mr. Jacobson and the FAA as well as the public defenders Association and I've find they really don't have a problem with imposition if some of the exceptions are there.

The criminal rules committee has made --

[INAUDIBLE]

>> One of the problems is that they need to have a system where they can batch the files.

So are we talking about when we use that term, what are we really talking about?

Are we talking about multiple documents for the file or lots of files at the same time, or what is it that bad actually encompasses?

>> I have to concede that I am not very technical on a lot of those issues.

I assume from their pleadings they are talking about a mass number of files to be delivered on individual cases as well as numerous cases within the court's office.

The criminal rules committee made up of public defenders, state attorneys and public attorneys in private lawyers, we reviewed their concerns and that is why we drafted the amendments to the criminal procedure.

With those exceptions.

As Mr. Park said this is a work in progress.

We are going to be working off

of different files for a time
period until such time the
legislature --

I see their main concern seems
to be the funding to be able to
get this technology in order.

I think all of us are in
agreement that this would be a
wonderful program and I also
agree with Justice Periente
saying the clerks saying until
someone mandates that no one
won't take this forward.

Our hands are tied basic of you
don't have the funding to
implement it and until such time
to large governmental agencies
completely dependent upon the
budgetary system of the
legislature as this court is.

>> But we have to then major
problems.

One is this batch filing you
referred to in the E-filing and
E-Service and I don't know if

you have seen this come out.

But the other is that there are exceptions which I understand aren't because of workload issues but because of things that need to be in the file.

And so, there were a lot of exceptions that you say no matter what they need to be in paper form so could you address those?

>> The exceptions are laid out in Mr. Strain's response and interested parties.

He laid them out and described them clearly.

For example the information and indictments as well as the original affidavits that need to be followed up.

Be but those are in every case, so are you suggesting -- what is the legal reason and I understand we better have that original, but I'm not sure I

understand the information which
is just something generated
needs to be the original or the
affidavits need to be the
original in terms of paper form
is supposed to it ding
electronic.

>> I believe you will find in
Mr. Strain's response that there
is a lot of authority for some
of these.is to be in writing.

I believe one is affidavits of
violation of probation.

>> If we deal with it in the
session, the same legislature
that mandated everything be
electronically done, it seems
that someone needs to go back
and say this doesn't make sense.

What I want to understand, are
you a criminal defense lawyer?

>> I was a prosecutor.

>> Oh, I'm sorry.

I am not sorry you are --

[LAUGHTER]

What is it then, from an integrity of the criminal process, needs to be original paper copies?

That is what I want to understand.

You know, if this was a civil case, I can't think of anything in particular that would have to absolutely be on paper and obviously the federal courts have and so what is it in the criminal round that no matter what else you have all the money, you had all of those statutes that has to be maintained on paper?

>> You have talked me into a corner.

You are asking my personal opinion?

>> Well I guess we always deal with this as chair but we need the perspective of you know, of the experience that you would

offer in that regard, so you know if you want to be clear that this is what hat you are wearing.

>> I believe that we need to establish a uniformity across the state of Florida between 20 state if attorneys and 20 state defenders.

I believe there is not a consistency.

What they do in Orlando is not what happens in the Fifth Circuit or the Sixth Circuit of Pinellas county.

Until that new authority is established in their operating procedures it is going to be very hard to craft a uniform rule other than just mandating what the Supreme Court wants done.

>> Give us an example of what you are talking about because I'm not sure exactly what you

mean.

>> Mr. Tomasina, who is here to argue on behalf of the public defenders office gave you a packet.

That would not impact my county or my circuit in any way because they don't file those types of documents so it should not be part of the court file.

So that is just the difference right there and the attachments he provided so it depends on the jurisdiction you are in.

>> Can you give an example of the document like a will or a codicil that gives a criminal case must exist in paper or not because of the statute but because we have that as an exception if the statute mandates it and we can't change that.

It must be there for the integrity of the criminal

prosecution.

>> I would say the original
arrest warrants, the original
affidavits on probation because
they all have to be under oath
and under signature as well as
the indictments which need to be
sealed until they are served
upon.

>> What happened is those will
be filed electronically but then
you will ask the clerk to
maintain the clerk to file?
Is that how it would work
because from the judges pointed
view it would be easier to have
it all in one place.

>> I think as Mr. Park brought
up is a work in progress.
I think this will develop into a
retention issue that once these
documents are filed and held why
the state attorney's office or
the party that there would be
the ability to dispose of them

up there was no appeal taken on
the issue.

>> Wouldn't we have to have some
kind of file anyway for physical
objects?

>> I know you can make a copy of
a knife and file it
electronically, but you
certainly need to have the
physical knife or the gun or
whatever other pieces of
evidence that our physical
there, so to some extent you
were going to have something
that is being kept not
electronically so are you
suggesting that these original
indictments and other things you
mentioned with the in that kind
of file?

>> The tangible evidence has to
be maintained by the clerks
office.

I think until you get to the
destruction and retention of

records the office must maintain
the tangible evidence and I
think that can be separated from
the documentary evidence that
the clerk maintains in their
paper file.

If there were no other questions
I see I'm out out of time.

>> Thank you, judge.

>> Good morning.

May it please the court.

I am with the attorneys
Association.

When I walked in this morning
the bailiff said give us your
phone if you are going to
organize and I'm not going to
argue.

You can have my phone.

I'm good to be inside.

I'm not here to argue that
anything.

I think everybody is moving in
the right direction.

>> Making sure I understand, the

prosecutors attorneys are not
opposed to the 2012 mandate for
the prosecutors?

Is that time period sufficient?

>> What I wanted to say was we
are not opposed to what is going
on.

We are concerned about our
ability to meet deadlines, and I
think that the legislature,
committee substitute for Senate
Bill 170 Senator Bennett when he
went through the process was
trying to say all the things
will be done I want you to do
that and the legislature will
need to do that.

We wanted to work with him so
what we have is a report that is
due March 1.

Where we are in this process and
what the problems are, and we
are working on that report.

So I think we are starting to
realize you want all these boats

to rise at the same time you
have to put real water under
them and right now there is not
any water out there.

The Bill that was to mandate us
fell back to the clerks and
local Government.

>> What about what they said on
operating practices.

Some of them want the circuit to
file all of these things.

Let's leave aside the timeframe.

We all say 15 or --

[INAUDIBLE]

[LAUGHTER]

>> What is it though, in the and
bolts, no matter how much money
you have, it has to be kept on
paper.

Obviously the physical evidence,
the video and photographs will
be in the record if we can have
those color copied
electronically, so what is it
that on the exceptions?

>> If we were in a perfect world
and we had all the money we
would still have to work out
what those things are.

>> But give me -- does the
arrest affidavit always need to
be on paper?

>> Let's talk about in the rule
of 4.303, the city says the
things that should be originals
are charging documents,
indictments information's
petitions and affidavits.

>> But why?

I am asking you they started
with a long list and they got it
down to something reasonable.

What is it that is necessary
about all those pieces of paper?

>> You see that is the proposed
rule.

Before you list all these
documents and Senate Bill 170
lists other documents.

I think we are whittling them

down from our standpoint and we
can whittle them down much
smaller than that was.

>> I'm asking you in your
experience, give me, no matter
what else happens, I'll what
should be on paper?

>> I think the document was
given to her earlier would be a
reasonable list.

>> I don't understand.

I'm still not understanding why
it needs to be on paper?

>> The indictment as an example
is kept under seal until the
party arrested is notified or
whatever so the information, so
that kind of thing, and
last -- .

>> Why can't it be filed under
seal electronically?

>> As was said earlier it's a
matter of trusting can we trust
the system to maintain the
integrity of those documents.

>> I'm sure the people in Broward county when they had the flood would have been very happy to have this filed electronically.

>> Yes, maam.

I don't disagree with what you say that there is concern about that and concern about perjury, to pursue perjury cases because of the lack of original documents.

Those are things of which we are concerned but again our attitude is such that we want to work to get it done.

H. L. Mencken said, when it is not about money, it is going to be about money and that is a problem here is far as we are concerned.

We have wonderfully talented people in most every circuit, but our resources are exhausted.

I think it is really unfair with

the clerks have been asked to do
without funding.

These are state issues and not
local issues and ought to be
handled by properly filing them.

Am I over yet?

>> You are about a minute over.

>> Thank you very much.

It is difficult for me to say
hello and four minutes.

Thank you very much.

Appreciate it.

>> Good morning.

John Tomasina on behalf of the
public court.

I thank the judge for giving me
two minutes of this time this
morning so that is how much time
we have.

I want to him discuss the
exemptions however fortunately I
have an opinion on it.

I believe Justice Pariente, the
list is too long and I'm not
finding a rational reason.

There's administrative order by
this court with access to
electronic records in
administrative order 0930 that I
believe gives the paper
documents once they are
electronically filed all of the
inherent rights of the paper
document.

There is a way to be notarized
in Florida statute so 117.0 21 I
believe, so the problems we are
seeing with the exemptions we
are not following.

We believe it has been addressed
in other areas of Florida
business and commerce and we
have to bring the courts there.

The public defenders are in
support of this if we can get
access to 100% electronic file.

Our concern is even when we talk
about these exemptions, the
police reports are not filed by
party.

>> Okay, right now, is it filed
on paper?

>> Yes.

>> In the court file?

>> I believe the initial police
report I would save 90%, that is
the first document that goes
into the court filed.

>> Who, what, where and maybe
why.

>> The report is furnished to
the state attorney in discovery.

Are you saying that you want
that as well?

>> Our circuit and many other
circuits that we poll in all six
counties in the second judicial
circuit, that initial report
goes first to the clerk of
courts.

>> Again you say initial.

Are you talking about probable
cause?

>> Yes, Sir.

>> I'm talking about, making

sure we are the same, is the
actual report filed, maybe 300
or 1000 pages long?

Are you saying that -- are you
saying you want that particular
report also to be on line?

>> We believe that report if
they would come to us from the
state attorney through
discovery, that would be covered
by E-Service.

We are not trying to add
anything to the court filed.

>> Those are typically not
filed.

>> The initial reports are not
filed by a party but they are in
the court file.

>> We are going back to the
issue of the report.

I am talking about the big
report, not filed in the clerks
office.

The state attorney has it.

That is usually provided in

discovery.

Are you saying you want the state attorney's office to file that particular file to also be in E-filing?

[INAUDIBLE]

>> You want just the initial?

>> That would come as E-Service.

There is also provision of the courts.

>> We have Mr. Jacobs and the 20 public defenders trying to get uniformity and it will enhance the public defenders and something that is several hundred pages being copied.

As you said that will be an advantage hopefully.

So I guess the question -- and you are out of your time -- is what do we need to do with the rules or the role of judicial administration if you will address whatever concern you are raising.

>> We believe the rule needs to be enlarged to require the clerk to provide electronic access to the complete court file at the same time the parties are required to E-file.

That is all it is.

>> We will find out.

>> Thank you.

>> May it please the court.

My name is John Moran.

>> We are here for the sole purpose of drawing your attention to an exception mentioned several times are ready this morning relating to wills and codicils.

The proposed rule package before you includes new probate rule 5.043 and it sounds like the court is well aware of this exception.

Essentially provides that any original will or codicil deposited with the court must be

retained in its original form
and must not read disposed of or
destroyed or 20 years after
submission.

>> The reason I brought it up is
we thought what the rules
committee went through started
with a very long list.

>> It is a process.

>> We appreciate that because
again it shows what we are
trying to do is complied and
make sure we are not
inadvertently damaging anybody's
rights and again we all
appreciate the matter what else
happens we have that original
will and things like that that
are important to keep on paper.
Maybe in 10 years we won't think
so.

>> Our prejudice on behalf of
the probate rules is too narrow
and two reasons why, the
documents above others on the

list are important to keep in original form.

The second is wills and codicils are originally deposited and not filed but once the probate proceeding is initiated with the administration, the clerk actually removes the will from that safekeeping deposit so to speak and files that in the court file.

Now as the rule is drafted, you could scan in electronic format.

Otherwise the clerk had to discard anything to prevent that and the other reason and perhaps more port and is something that comes up in any will contest or litigation, is the intangible evidentiary value of having your original will.

Oftentimes there will can depend upon the physical features of the document itself.

For example the signature.

A document examiner are
handwriting analyst needs to see
the original.

Sometimes they will test the ink
if it helps them.

>> Is really more in a way like
an exhibit and I think we
analogize it is in a case the
contract so it is an exhibit in
a way.

>> Exactly Your Honor.

Not only is it a contract that
the ink is tested.

There have been cases where
pages are removed to be
replaced.

It is a narrowly tailored
exception we think it is
extremely important for
practitioners to the extent that
any E-filing rule package
adopted by this court and we
asked have said that exception
for will and codicils will be
part of the rule.

>> Again if it ends up not being
filed because it is electronic,
we start out -- where do they
keep it for safekeeping?

That is really the key though,
if you want that to be maybe
where the evidence is in cases
because you don't want it in a
file.

Once it gets the whole punches
it is not in the original form
and people can look through it.
Nobody can spill their coffee on
it.

>> Clerks deal with it in
different ways.

In Palm Beach county the
original will is right in there
and you can examine it.

You can do the test on the
signature and check out the
file.

But in other counties my
understanding is there are boxes
in the basement.

>> I'm sure we found out how
paper files are kept.

If we really knew --

>> Our concern is to make sure
in the rule that that is adopted
does not allow these documents
to be scanned and discarded.

>> Thank you.

>> Thank you.

>> The test to make sure it's
an original signature and not a
copy.

[LAUGHTER]

Thank you.

>> May it please the court.

Paul Regensdorf.

I am wearing a number of hats
today.

>> Where is Mr. Baggett?

>> We have to go in that order
but I think Mr. Baggett and the
Judge may --

I have a couple of other hats
that will help you on some of
the rules questions.

I think it is eminently
manageable.

Will it cost money?

In terms of cause we will have
to train ourselves to do things
differently but the benefits to
the system and that is what you
are talking about really aren't
in the E-filing.

They are an axis during the
creation of the electronic
record we don't happen and we
can all use it, judges, lawyers
everyone and that is the
benefit.

U.S. people in the federal
system in E-filing day none of
them would go back to the paper
system so state lawyers who
think there will be a tremendous
benefit.

There will be some cause and
some struggle but the benefit of
the long run is unquestionable
and costs and improve access to.

>> In the transcript, there is a division of the rule that says the transcript shall be stored in electronic format sufficient to keep the original in a readable format.

Is this going to mean the entire come in this started because the appellate courts are going to E-filing but we need the record electronically and we need it in a readable form.

Is this going to mean that the court reporter is going to file an electronic copy in a readable form as opposed to the clerk having to scan and what we have in some of these papers?

>> Yes.

Some of those documents will have to come in paper and have to be scanned and.

>> How did the court do it? Did they do it electronically?

>> Absolutely.

>> We had to be able to say to the court reporters -- and the court reporters won't be happy about this but there is no reason they have to charge for paper copies.

>> I don't want to get into charges but I think there is going to be similar charges.

There may be savings there as well.

Let me put my vice chair had on.

The appellate lawyers want this implemented yesterday.

They have a July 1 that he.

There any group of lawyers other than probate that are ready to go, that really is an implementation but let me take that hat off again.

>> It is good we can do this perhaps and for me to have the system ready to file electronically but unless you have the backup in the court it

is not going to be of any real
and dataset.

>> Absolutely.

One of the main users has to be
the judges and that is going to
be a social problem.

Older lawyers and older judges
need to change.

>> It's not that.

It is developing or doing the --
or whatever you call a.

>> The Thames program or other
desktop programs for judges.

Let me go to the exceptions.

I filed a response on that for
the FTCT.

There to list you need to
realize the difference.

One is in 3.030C and justice.

To my feeling is, none of these
documents have the level of
significance that it will or
codicil has.

Lawyers don't want to change.

These documents should be an

electronic file so that is one less.

The second list is the list that Mr. Tomasino and the public defenders put in his reporter, and that is a different list.

That is a list of documents of things that get cord file from nonlawyers.

They may be the police officer or the Department of Corrections officer or maybe in examining psychiatrist.

Those things today are in the court file.

They have a court filing paper and Mr. Tomasino is correct.

I'm not sure the rule precisely addresses it.

When those papers come into the court file largely from nonlawyers, nonparties if you will, the clerk needs to scan them in so that not only the public defenders by prosecutors

and judges have available and that electronic file the access to the entire electronic file.

>> Don't they put the same requirement on third-party filers?

If we are talking about who would be filing?

>> The Department of Corrections presentence investigation reports, psychiatrists, psychologists.

>> Doesn't it go first to the parties?

>> Many of these documents go directly to the clerk and they get placed in the file.

[INAUDIBLE]

>> It this court has the ability to order all of those disparate agencies to utilize the report that would be great.

I'm not sure you want to on day one.

Eventually they will put those

second list of papers and

Mr. Tomasina's filing the need

to get into the electronic file

so that it is usable.

>> I'm not really following you.

Why would the department send

something --

[INAUDIBLE]

>> It I am not a criminal

attorney and I have too drawn

people I've spoken to.

My understanding is the

presentence investigation

reports for example.

>> It is a been my experience of

those are sent to the state

attorney.

>> I've been told that they

sometimes go directly to the

clerk's office.

I may be totally 100% wrong so

me may exclude them as a

nonparty but they're a number of

documents as they swing criminal

files, primarily criminal files

that get in there that may not
get scanned.

They need to get into the
electronic file and that is the
second list.

>> Most third parties that are
filing things have no right to
be filing them anyway.

>> A separate issue.

Let me address the bulk filing
question that Justice Quince
asked about a few minutes ago.

As a lawyer, this really needs
to be mandatory.

We need to put in a deadline and
get people moving.

What good example is some of the
criminal attorneys are concerned
about bulk filing which is
largely I think filing
repetitive filings in multiple
files and I think more often it
is the same pleading in multiple
files.

They're concerned about having

to login 50 times for 50

documents.

Today there is not a solution

but because of this mandatory

nature of this is coming up I

hope from this court, the FCTC

and I can speak for them but I

believe public defenders

Association and the prosecutors

Association have gotten together

with their technical people

their vendors and they I believe

what I'll tell you this is a

solvable problem.

The criminal side of the

E-filing doesn't even begin to

have to begin until December 31,

January 1, 2013, mandatory under

the FTCT proposal until nine

months later.

That is two years from now.

I believe everyone of those

organizations represent this

court.

This is a solvable problem.

That is the bulk filing issue.

That really is the other issue.

One issues the exceptions of
3.03C not anywhere significant
enough to be on paper.

>> If they are required to be
statutorily there it it is
covered?

>> Absolutely correct.

There's a statute that says
forward a reason the indictment
shall be kept on paper or
whatever, but the point is with
the confidentiality rules, if
there is something that needs to
be protected from public view
that would be handled by the
appropriate protective order or
the statute itself.

I'm going to yield whatever
personal time the FCTC has
because I think Mr. Baggett is
going to dress you.

Thank you.

>> May it please the court.

My name is Fred Baggett.

I'm here as general counsel for
the quarter clerk's.

>> We thank you for being here.

What we really were concerned
about is that you are presented
with his rule that is an
implementation is the key.

We wanted to make sure, and it's
a wonderful thing and I thanked
you and your association and you
and the FCTC had read on what is
a mutual schedule.

We just wanted to hear to the
court that yes this is doable
and the commitment is to
continue to do as much as the
court can do to make this a
system that is not only
sufficient but also superior for
all of the citizens in the
state.

>> Just as Pariente, the answer
to your question is yes.

At the request of the FTCT, the

clerks and their technical staff determined what were the reasonable dates within which the clerks can be ready to receive E-filing on a statewide basis.

>> You said to me and in connection with this case, unless we make this mandatory the whole thing isn't going to were.

>> If we don't may could mandatory the cost to the clerks and to the courts will increase significantly due to the fact of having to keep two sets of files, an electronic file and a paper file and the difficulties that will create.

>> Mr. Baggett, when we are talking about E-filing and making all of this mandatory, are we still talking about the eve portal also?

As I understood these documents

there are a number of clerks
offices that are not prepared
yet to take documents through
the e-file portal.

So the question is what kind of
schedule is there for the clerks
offices to be able to get these
documents to the court?

>> First of all all counties
have very E-filing plans
approved by this court for all
or some.

We have 10 different -- so all
the E-filing plans have been
approved.

As of November 1, 41 clerks are
accepting some E-filing's
through the statewide portal.

There are five clerks maintained
in the E-filing systems that
connect to the portal that are
not receiving from the portal
but are connected to it and we
have 21 folks who are in some
stage of progress in their

connection to the portal.

We have determined while it is an aggressive schedule the clerks are committed to be capable of filing all civil cases through the portal no later than July 1 of 2012 and all the criminal cases through the portal no later than December 31, 2012.

>> I understand the clerk and portal authority are working on all the filing problems.

>> Yes, maam.

We are working with the state attorneys with the questions they have raised, bulk filing being one of them.

>> Something that would allow them to punch the button.

That hopefully will make that much easier to them.

>> It makes it easier for them and makes it easier for the clerk.

>> I can imagine if you had 1000
filed in one day, someone would
have to be there and print out
1000 files and bring it over the
versus pushing a button on the
file.

>> That issue will be filed
before those mandatory dates,
yes maam.

>> What about the transcripts?
Are those going to be
electronic?

>> It is my understanding they
will be electronic.

>> Through the court reporter
sending them electronically?

I envision that the record then,
all filed electronically with
the push of a button comes to
our clerk and now we have the
entire record.

Is that going to have been?

>> Have been working with your
clerk very closely and we feel
that the progress has been made

in the appellate E-filing process is probably ahead of everything else and that has been made priority of hours.

I would hope the court understands that E-filing is not the same thing as an E-court system.

It is merely a high way to get a document from point A 2.E.

Their biggest challenge here is in their development and implementation of their electronic case system.

For them to be able to, as they do an opinion filed today to coordinate that file together.

Similarly the challenge to the courts being their case management system which the clerks are working with the courts on in helping to develop so there is the common use of the electronic case file that the clerks develop in their

maintenance system is consistent
and a friendly used to the
court.

This is the beginning.

E-filing, none of this can
happen until we get E-filing but
E-filing is not the Nirvana of
the E-court system that we all
are looking forward to.

As I heard earlier today it is a
work in progress.

I will take just a minute to
address a couple of issues.

The nonparty filings.

Sarasota county with the
authority from the edge,
Sarasota county is an electronic
court system.

The clerk there does not have --
now receiving E-filing for 10
years.

When the third party comes in
with that original arrest
report, he simply takes it and
scans it and puts it in the

E-filing and gets rid of the
paper.

>> What if it is the original
affidavit?

That goes into the original
e-file.

If there are any needed
statutory tweaks to accomplish
electronic signature, clarified
electronic memorization, the
clerks have this year prefiled
and have their sponsors for a
general house-cleaning.

THE BOOKING SLIP WITH THE
FINGERPRINTS.

THERE ARE GOING TO HAVE TO
BEEN SOME DOCUMENTS THAT
NEED TO BE THERE IN PAPER.

OTHERWISE, YOU'RE NOT GOING
TO BE ABLE TO PROVE IT.

>> IN EVIDENCE, AS WE HEARD
BEFORE, EVIDENCE IS A
PHYSICAL HAPPENING.

A LOT COULD DEPEND ON WHAT
THIS COURT DOES IN THE RULES

AS WE GO THROUGH THE NEXT
TWO YEARS.

>> THE BOOKING SLIPS ARE NOT
EVIDENCE IN THE SENSE THAT
WE'RE TALKING ABOUT
PHOTOGRAPHING A KNIFE OR A
GUN OR WHATEVER.

THIS IS USUALLY WHEN YOU GET
BOOKED WHAT THEY TAKE FROM
YOU AT THE BOOKING DESK.

AND THAT GETS FILED INTO THE
COURT FILE.

AND THAT'S HOW YOU PROVE
THIS WARRANT CHARGE.

>> BASED UPON THIS COURT'S
DETERMINATION, THAT KIND OF
NECESSARY PHYSICAL DOCUMENT
COULD BE CONSIDERED SIMILAR
TO EVIDENCE IN THAT IT BE
MAINTAINED SEPARATELY.

BUT TO HAVE TWO SEPARATE
RECORDS, IT'S JUST --
WE MIGHT AS WELL NOT BE
DOING THIS.

>> LET ME CLARIFY SOMETHING,

AND IN SARASOTA, THE CASES
ARE FILED ELECTRONICALLY
ALSO?

>> MY UNDERSTANDING.

>> AND SO THEY'RE NOT
KEEPING THE INDICTMENT OR
THAT LIST OF DOCUMENTS THAT
--

>> JUSTICE QUINCE, I DON'T
WANT TO SAY THAT.

IT'S MY UNDERSTANDING AND
CLERK RUSHING HAS CONFIRMED
THAT SHE IS OPERATING A
PAPERLESS COURT NOW.

I CAN CONFIRM THAT TO YOU
AND SUBMIT IT TO THE COURT
AFTER WARDS AND I WILL HAVE
HER DO THAT IF THAT IS
ACCEPTABLE TO YOU.

>> SINCE WE HAD SO MANY
QUESTIONS IN THE CRIMINAL
AREA THAT WOULD BE GOOD.

>> WE'RE VERY SENSITIVE TO
THE CRIMINAL SIDE.

>> I WANT TO THANK YOU FOR

ALL THE WORK THE CLERKS HAVE
DONE ON THIS IMPORTANT
ISSUE.

IT'S TAKEN A LOT OF PEOPLE
AND WE APPRECIATE THE
COOPERATIVE EFFORT THAT'S
BEEN MADE, AND THE GREAT
COLLABORATION THAT THE
JUDICIAL BRAN HAS WITH THE
CLERKS.

>> THANK YOU VERY MUCH,
MR. CHIEF JUSTICE.

>> GOOD MORNING, MAY IT
PLEASE THE COURT, I'M JUDY,
AS YOU KNOW THE CHAIR OF THE
CTC, AND I'M THE CLEAN-UP
CREW THIS MORNING.

THERE WERE A NUMBER OF
QUESTIONS THAT WERE ASKED
THAT I JUST THROW IN
ADDITIONAL ANSWERS TO.

FIRST OF ALL, I THINK YOU
SHOULD KNOW THAT THE
COMMISSION WAS UNANIMOUS IN
ACCEPTING THE DEADLINES THAT

THE CLERKS ASSURED US THEY
COULD MEET.

WE HAD A VERY LENGTHY
DISCUSSION, THOUGHTFUL
DISCUSSION, THAT RESULTED IN
THE RESOLUTIONS THAT CAME
OUT OF THE LATE SEPTEMBER
MEETING.

AND THE COMMISSION WANTED TO
SAY 100% THAT IT WAS BEHIND
THIS RULE, THAT IT WAS GIVEN
TIME FRAMES BY THE CLERKS
THAT THEY FELT THEY COULD
MEET, AND REPRESENTATIVES OF
THE CRIMINAL PRACTICE AREA
AS WELL AS JUDGES WHO SIT
REGULARLY ON THE CRIMINAL
BENCH PARTICIPATED IN THE
DISCUSSIONS WITH REGARD TO
THE ADDITIONAL TIME THAT
THE CRIMINAL PRACTICE AREA
WOULD NEED TO WORK THROUGH
SOME OF THE ISSUES THAT WERE
RAISED.

I THINK THE COMMISSION

RECOGNIZES THERE IS A NARROW
CATEGORY OF DOCUMENTS THAT
SHOULD BE MAINTAINED IN
PAPER FORMAT.

BECAUSE THEY MAY BE THE
BASIS FOR LATER LEGAL
ACTION, SIMILAR TO THE WILLS

--

PARDON ME, THE WILLS AND
CONSULTS.

FINGERPRINTS MAY BE AN
EXAMPLE OF THAT, BUT A
VERIFIED DOCUMENT OR
AFFIDAVIT --

IF YOU HAVE A RULE THAT SAYS
THAT A VERIFIED INSTRUMENT
CAN BE THE BASIS FOR PERJURY
PLOS --

PROSECUTION, AND THE STATUTE
THAT DEFINES PERJURY
INCLUDING THAT VERIFIED
DOCUMENT IN PAPER OR DIGITAL
FORMAT, YOU HAVE TAKEN CARE
OF THAT PROBLEM.

>> THAT'S NOT FOR US.

>> NO.

>> AND THE OTHER ISSUE IS IT
SOMEONE CONTESTS IT'S NOT
THEIR SIGNATURE.

BUT IS THAT, RIGHT NOW,

DEALT WITH BY THE RULE

ITSELF THAT SAYS THAT FIRST

OF ALL, A JUDGE CAN ALWAYS

SAY IN THE INTEREST OF

JUSTICE PRIOR --

REQUIRE IT BE FILED.

AND IT ALSO SAYS THAT UNLESS

OTHERWISE REQUIRED BY

STATUTE.

SO I WANT TO MAKE SURE --

THE EXCEPTIONS IN THE 3.030C

ARE NOT NECESSARY.

>> NOT ALL OF THEM.

>> WHICH ONE --

>> CORRECT.

>> HOW DO WEED DID WHICH

ONE IF NOT ALL?

>> IT WOULD BE PRESUMPTUOUS

FOR ME, SPECIFICALLY BASED

ON MY PERSONAL EXPERIENCE,

WHICH DOES NOT ENCOMPASS
EXPERIENCE IN THE CRIMINAL
PRACTICE AREA AS A LAWYER OR
JUDGE FOR ME TO TAKE THAT
CRITICAL EYE FOR ME TO SAY
WHICH DOCUMENTS WOULD BE
DIFFICULT.

>> WHY DON'T WE ON THAT ONE
SEND THAT BACK TO HAVE ALL
OF THE WONDERFUL MINDS IN
THE ROOM WORK TO NARROW THE
LIST SO --

THIS IS A WORK IN PROGRESS.
WE ALSO HAVE THAT MARCH
REPORT BY THE PD AND THE
ATTORNEY WITH THE
LEGISLATURE.

SO WOULDN'T THAT BE A BETTER
WAY TO DO THAT?

>> IT MAY BE WITH A SHORT
ANSWER TIME.

WHEN --

AS I SAID IN THE
SUPPLEMENTAL COMMENT I FILED
ON BEHALF OF THE COMMISSION,

WHEN I FIRST GOT THE ORDER,
I THOUGHT I WOULD WORK THE
WAY I WORK WITH WORK GROUPS
TO DEAL WITH DISCREET ISSUES
TO PUT TOGETHER A WORK GROUP
THAT HAD FOUR OUT OF 12 OR
13 MEMBERS FROM THE CRIMINAL
PRACTICE AREA TO LOOK AT
THAT SECOND SENTENCE OF THE
AUGUST 7TH OR AUGUST 8TH
ORDER.

AND TO PHYSICALLY GET THAT
GROUP TOGETHER IN A VERY
SHORT TURN AROUND TIME WAS
DIFFICULT.

WE STARTED TO ADDRESS THE
ISSUES COLLECTIVELY IN TWO
MEETINGS THAT WE HAD BY
VIDEO CONFERENCE, AND I
THINK IT WOULD BE HELPFUL,
PERHAPS, TO SEND THAT BACK
FOR A RELATIVELY SHORT
PERIOD OF TIME BUT TO GIVE
PEOPLE AN OPPORTUNITY TO
FINE TOOTH COME THE LIST.

>> THIS IS THE KIND OF THING
THAT IF I HAD MY WAY WE
WOULD SIT HERE INSTEAD OF
DOING THAT IN A FORMAL WAY

--

>> ARE YOU LAUGHING OR WHAT,
THIS WAS MY THOUGHT LAST
NIGHT THAT I COMMUNICATED
EVERYONE, WHY NOT ASK KEITH
PARK TO SAY IT'S ABOUT TWO
HAD THINGS, HOW ABOUT
RESPECTFULLY SUGGESTING TO
THE COURT THAT WE SUSPEND
THE NORMAL ADVERSARIAL
PRESENTATION FOR THIS
PARTICULAR SUBJECT MATTER,
AND COME TO COURT AND SAY
WE'RE HERE COLLECTIVELY TO
ANSWER YOUR QUESTIONS, AND
THEN TAKE YOUR QUESTIONS.
BUT IT WAS REJECTED BY SOME
OF US, SO --

>> LET ME SAY THIS ON THE
IMPLEMENTATION, MY BELIEF IS
THAT IN OUR RULE, WE NEED TO

SAY IT WILL BE MANDATORY
ASSET FORTH IN A SEPARATE
ADMINISTRATIVE ORDER.
BECAUSE THAT WILL ALLOW US
THAT IF ANY OF YOU GO, OH MY
GOD, WE CAN'T DO AUGUST, WE
CAN DO THIS MONTH, WE DON'T
HAVE TO COME BACK AND AMEND
THE RULE.

THAT'S WHAT I'M THINKING,
AND THEN IT DOESN'T HAVE TO
BE IN THE FLORIDA BAR THAT
THIS IS THE TIME, AND WE
WILL PUT IT IN OUR OPINION,
BUT WE WILL NOT PUT THE DATE
IN THE RULE.

AND FRANKLY THE REASON WE
ASK FOR THE COMMENT IS YOU
SAID IN YOUR REPORT THAT THE
COURT SHOULD FIGURE OUT THE
PHASE IN PLAN.

AND I'M LIKE, THE COURT
DOESN'T KNOW THIS, WE NEED
THE CLERKS AND THE COURT TO
TELL US.

SO THIS IS WHY WE NEED --

AND THE SAME THING WITH THE
RULE.

JUSTICE LABARGA HAS VAST
EXPERIENCE IN THE CRIMINAL
AREA.

IT'S REALLY WHAT'S ON THE
GROUND, WHAT LEGALLY IS
REQUIRED.

THE WAY I SEE IT AND I'M
HEARING IT, I DON'T SEE WHY
ANY EXCEPTIONS ARE NECESSARY
UNLESS THEY'RE COVERED BY
THE RULE.

THE RULE AT THIS JUNCTURE
REQUIRES ATTORNEYS TO
E-FILE, NOT THIRD PARTIES,
NOT SELF-REPRESENTED
LITIGANTS, ONLY ATTORNEYS.

SO THE TYPES OF THINGS LIKE
PRESENTENCE INVESTIGATION
REPORTS, A-FORMS.

THOSE ARE NOT DOCUMENTS THAT
ARE FILED BY LAWYERS.

THEY'RE FILED BY THIRD

PARTIES.

THE COMMISSION WAS NOT READY
TO GO TO A DROP DEAD DAY FOR
THIRD PARTIES TO FILE
ELECTRONICALLY BECAUSE
THERE'S TOO MANY THINGS THAT
NEED TO BE WORKED OUT ABOUT
THAT.

>> I'M TALKING ABOUT 3.030C.

AND THE LIST.

I THOUGHT THERE HAD BEEN THE
RULES OF JUDICIAL
ADMINISTRATION, AND THEY SAY
NO, NONE OF THOSE DOCUMENTS
SHOULD BE IN PAPER.

THAT'S WHAT I WAS TRYING TO
DEAL WITH.

>> OKAY, I'M SORRY, I WAS
FOCUSED ON THE MANDATORY
E-FILING.

I THINK IF YOU SENT BACK
THAT LIST, WITH A DIRECTIVE
TO REPORT BACK TO THE COURT
WITHIN SOME NUMBER OF
MONTHS, THAT THAT CAN BE

FINE TUNED.

I THINK THE PART OF OUR
CALCULATION OF THE
IMPLEMENTATION PLAN DATES
INCLUDED RECOGNIZING THAT
THERE ARE PROBABLY OTHER
RULES AND PROCEDURE OR
JUDICIAL ADMINISTRATION THAT
WILL KNEAD --
NEED TWEAKING INTO WORKING
WITH DIGITAL RECORDS AS WELL
AS LEGISLATIVE TWEAKING
WHICH WON'T HAPPEN THIS
SESSION.

BUT, WE ALLOWED ENOUGH TIME
FOR THE NEXT SESSION.

AND IF HE HAS HIS BILL BUT

--

>> THEN HE CAN AMEND HIS
BILL TO PUT SOME OF THIS ON.
LET'S TRY TO GET WHAT WE CAN
GET DONE THIS SESSION SO WE
DON'T HAVE THAT PROBLEM.

>> NO QUESTION, BUT I DON'T
KNOW THAT IT CAN BE READY

FOR THIS SESSION.

WE FELT THAT WE NEEDED TO
ALLOW ONE MORE.

THIS IS A REDISTRICTING
SESSION, AS A PRACTICAL
MATTER, WE DIDN'T KNOW THAT
IT COULD ALL BE ACCOMPLISHED
THIS COMING SESSION.

THAT GIVE IT ONE MORE IN
ORDER TO GO THROUGH THAT
PROCESS.

AND TO GO THROUGH THE RULE
MAKING PROCESS THAT HAS TO
COME UP TO THE COURT.

SO WE CONSIDERED THOSE
THINGS IN THE DEADLINE.

WE WERE INFORMED ABOUT THE
BATCH FILING SITUATION.

IT WAS FIRST ADDRESSED TO ME
BY CARLOS MARTINEZ, THE PD
IN THE JUDICIAL CIRCUIT, AND
I KNOW THAT HARVEY ALREADY
HAD A MECHANISM FOR THAT IN
THE 11TH, IT'S BEEN
DISCUSSED BE THE PORTAL

PEOPLE AND THEY'LL BE ABLE

TO WORK THAT OUT.

I DON'T THINK THAT WILL BE A

PROBLEM GIVEN THE TIME WE

ALLOWED FOR THE CRIMINAL

PRACTICE AREA.

THE BIG TICKET ISSUE IS THE

RESOURCE ISSUE IN THE

IMPLEMENTATION PLAN.

I LOOK BACK AT THE

LEGISLATIVE REPORTS THAT

ACCOMPANIED THE BILL THAT

MADE IT MANDATORY IN THE

CRIMINAL PRACTICE AREA, AND

INTERESTINGLY, THE

LEGISLATURE DID NOT DO ANY

REAL FISCAL IMPACT STUDY TO

SEE HOW MUCH IT WAS GOING TO

COST.

AND THIS IS SORT OF TYPICAL

TO ME.

AND THERE IS AN UPFRONT

EXPENSE IN ORDER TO REALIZE

WHAT WE ALL ANTICIPATE IS

ULTIMATELY GOING TO BE A

COST SAVING MEASURE ACROSS
GOVERNMENT BY THIS
TRANSITION.

ONE OF THE THINGS RECENTLY
ACCOMPLISHED IS THAT THE
COURT ADMINISTRATOR HAS
GOTTEN A GRANT FROM THE
STATE JUSTICE INSTITUTE TO
ENGAGE A CONSULTANT WITH
FINANCIAL BACKGROUND TO DO

--

BACKGROUND TO DO A COST
BENEFIT ANALYSIS HOW MUCH IT
WILL COST THE COURT TO GET
THERE INTO E-COURTS.

IT WILL TAKE SOME TIME.

AND FINALLY, THE EDUCATIONAL
CHALLENGE, THAT IS SOMETHING
WE HAVE BEEN DISCUSSING
INTERNALLY WITH THE COURT
EDUCATION DEPARTMENT.

THERE IS A RELUCTANCE.

LAWYERS, JUDGES, AND FOLKS

ARE SLOW TO CHANGE

SOMETIMES, AND THERE'S GOING

TO HAVE TO BE AN EDUCATIONAL
PERIOD.

I EXPERIENCED THIS, MOST OF
YOU KNOW IN THE 11TH
CIRCUIT, THE FAMILY DIVISION
OPERATES WITH ELECTRONIC
DOCUMENTS AND HAS SINCE
2008.

AND IT TOOK THREE YEARS FOR
THAT --
OF PLANNING, FOR THAT TO
HAPPEN.

THEY HAD TO DEVELOP THE
PROGRAMS, ALL OF COURT STAFF
AND THE JUDGES HAD TO BE
TRAINED TO USE THEM.

I THINK IT WAS PAUL WHO SAID
BEFORE, OR FRED WHO SAID
BEFORE THAT E-FILING IS ALL
WELL AND GOOD, BUT UNLESS WE
GET TO THE POINT WHERE
JUDGES ARE GIVEN THE CASE
RECORDS IN A WAY THAT THEY
CAN WORK WITH THEM,
UNIFORMLY ACROSS THE STATE,

IT REALLY DOESN'T DO ANY
GOOD TO HAVE E-FILING
BECAUSE ALL THAT HAPPENS IF
YOU DON'T HAVE THE WAY TO
WORK WITH THE DOCUMENTS, IS
THAT YOU SHIFTED THE BURDEN
OF PRINTING THE PAPER FROM
THE FILER TO THE COURT.

AND THAT DOESN'T DO ANY OF
US ANY GOOD.

>> ENI UNDERSTAND MANATEE
COUNTY, --

I THINK THE CHIEF JUDGE
THERE IS VERY HAPPY WITH
WHAT THEY'RE ABOUT TO BE
DOING.

>> THEY ARE, BUT THERE IS
SOME REAL WRINKLES TO THAT.
FROM WHAT I UNDERSTAND,
ALTHOUGH CHIP HAS BEEN
SAYING HIS SYSTEM, WHICH HE
CALLS THE LEGO SYSTEM
BECAUSE YOU CAN SNAP IT ON,
THAT IT'S NOT THAT EASY TO
LAY IT ON THE OTHER VENDOR

SYSTEMS.

NUMBER TWO WE HAVE A ADDRESS
AN ATTORNEY AND WE HAVE A
COMMITTEE COMMISSION WORKING
ON THIS WHICH IS THE
MULTICOUNTY CIRCUITS AND
HAVING UNIFORMITY IN THE
MULTICOUNTY CIRCUITS SO THAT
THE CHIEF JUDGE, FOR
EXAMPLE, CAN UNIFORMLY VIEW
THE CASE FILES AND WHAT HIS
JUDGE OR HER JUDGES ARE
DOING IN EACH OF THE
COUNTIES AND NOT HAVE TO GO
TO 6 DIFFERENT CASE
MANAGEMENT PROGRAMS TO LOOK
AT WHAT'S GOING ON OUT IN
THE FIELD OR IF A JUDGE IS
RIDING CIRCUIT AND SITTING
IN SEVERAL COUNTIES.
THEY DON'T HAVE TO SUDDENLY
VIEW IT IN ONE WAY IN ONE
PLACE AND ANOTHER SECOND WAY
IN ANOTHER PLACE AND A THIRD
WAY IN ANOTHER PLACE.

IT'S ONE THING THAT
CONFRONTS US WHEN THE CLERKS
ARE INDIVIDUALLY BUYING
THEIR CASE MANAGEMENT AND
PRACTICE PACKAGES.

AND WE CAN'T CHANGE THAT, WE
JUST HAVE TO ADDRESS IT SO
THAT LINE JUDGES CAN DO
THEIR JOB EFFICIENTLY, THE
ADMINISTRATIVE JUDGES CAN DO
THEIRS AND THE CHIEF JUDGES
CAN DO THEIRS, AND YOU AS
THE OVERALL SUPERVISORS CAN
DO IT IN A UNIFORM FASHION
TO DO WHAT YOU NEED TO DO TO
MANAGE A JUDICIAL PIECE OF
GOVERNMENT.

AND IF THERE ARE NO OTHER
QUESTIONS, I'LL SAY THANK
YOU VERY MUCH.

AND TAKE MY PEN AND PAPER
BACK TO THE PLACE WHERE I
HAVE MY IPAD.

>> WE WANT TO THANK YOU FOR
YOUR LEADERSHIP OF THE

COMMISSION, AND YOUR
DILIGENT WORK ON THESE VERY
COMPLICATED ISSUES, THANK
YOU.

>> IT'S MY PLEASURE, BEEN A
FASCINATING JOURNEY.

>> AND I THANK EVERYONE HERE
AND WE APPRECIATE EVERYONE
AND YOUR CONTRIBUTION TO
THIS PROCESS.

THANK YOU VERY MUCH.

WE NOW WILL MOVE TO THE
THIRD CASE ON TODAY'S --

ACTUALLY, AFTER A 10 MINUTE
RESESSION IN, WE'LL MOVE --

AFTER A RECESS WE'LL MOVE TO
THE THIRD CASE ON THE
DOCKET.

SUPREME COURT OF FLORIDA IS
NOW IN SUGGESTION, PLEASE BE
SEATED.