

**Meeting Minutes of the 193rd
Judicial Information Systems Council (JIFFY)
Judicial Information Division (JID)
Thursday, June 16, 2011
9:38 a.m.-12:04 p.m.**

Voting Members present:

Judge Michael Bustamante, Chair
Judge Karen Mitchell, Vice Chair
Judge Camille Martinez-Olguin
Judge Clay Campbell (*via video*)
Judge Duane Castleberry
Judge Alan Kirk
Juanita Duran
Jan Perry
Robert Mead
Brian Gilmore
Tobie Fouratt (*via video*)

Voting Members absent:

Judge Richard Knowles
Dennis Jontz

JID Staff present:

Marlin Mackey
Grace Catanach

Minutes taken by: LaurieAnn Trujillo

Judge Michael Bustamante called the meeting to order at 9:38 a.m. and established a quorum.

I. Approval of Agenda. No changes to the agenda were requested.

II. Budget and Revenue

Fiscal Year 2011 Projection Report.

JID Revenue Pipeline.

Oscar Arevalo reported the following:

- When he reconciled the numbers, he inadvertently double-counted the red light camera revenue in the JID component of about \$160,000.00. The correct formulas were not in place and he accepted full responsibility for the error.
- Because of a gap adjustment that the Judiciary is required to do this year, he is booking a thirteenth month of revenue for Fiscal Year 2011, so the revenue outlook for this fiscal

year will be approximately \$4.1 million if June revenue comes in at \$300,000.00. Twelve months of revenue will be booked to every fiscal year going forward.

- The federal government determined that there were overcharges to the entire state relative to telecommunications rates charged by the New Mexico Department of Information Technology (NMDoIT). At this point, he is not sure how this will affect the Judiciary, but he estimated \$10,000-15,000 worth of credit that the Judiciary will have with NMDoIT going forward.
- He referred to the document entitled *Case Management SCAF Receipts Breakdown by Court Type-Fund 078 Fiscal Year 2011*, which was included in the *JID Pipeline Report* that was attached to agenda. This fund was zeroed out, but there might be some changes relative to the two appropriations that close at the end of this fiscal year—the final \$2 million and the first wave of \$895,000.00.

There was discussion on the State of New Mexico's income—6.2% was the projected growth and revenue; however, it is actually 6.8% due to a jump in business tax revenue and the oil and gas activity. Civil case filings of all types are down.

Action Item: Mr. Arevalo offered to provide JIFFY with a cash flow analysis at the July JIFFY meeting, so JIFFY can provide him with input for him to present at the Budget Hearings scheduled on August 10th and 11th.

III. JIFFY Sub-Committee Activities

Odyssey Steering Committee. Judge Karen Mitchell reported the following:

- After the last JIFFY meeting, Tyler Technologies (Tyler) provided the informal electronic (e-filing) working group a demonstration of the new e-filing product. The Odyssey Steering Committee (OSC) Executive Committee accepted the informal e-filing working group's recommendation to run a pilot of the upgraded e-filing version, and the Supreme Court adopted the recommendation.
- Target dates for go live with the new e-filing product were discussed.
- The Supreme Court endorsed granting a one-hour Continuing Legal Education credit to attorneys who participate in the e-filing training.
- She asked if OSC needed to further address retrofitting the smaller magistrate courts to accommodate in-court processing. Karen Janes advised that she is working with JID Staff and the magistrate courts on business processes that the smaller magistrate courts will use to resolve this issue.

There was discussion on the following points:

- The Thirteenth Judicial District Court (Thirteenth) identified three law firms (Keleher & McLeod, P.A.; Montgomery & Andrews; and Farrell & Seldin) that will partner with the Thirteenth to pilot the new e-filing product. The Thirteenth will meet with these law firms next Friday to kickoff the pilot, and they plan to test the application next month.

- **Justice Petra Jimenez Maes clarified the following points:**
 - **The Supreme Court approved the following e-filing implementation dates:**
 - **E-filing in the Thirteenth will become mandatory on September 1st.**
 - **E-filing will be voluntary in the First Judicial District Court (First) and in the Second Judicial District Court (Second).**
 - **E-filing will become mandatory in the First on October 3rd.**
 - **E-filing will become mandatory in the Second on October 31st.**
 - **Everyone will pay the fees from the beginning and no more waivers will be granted.**
 - **The Minimum Continuing Legal Education Board will provide one credit to attorneys who attend the e-filing training.**
 - **Chief Justice Charles Daniels will conduct a presentation at the State Bar Convention on July 15th wherein an e-filing demonstration will be provided to attorneys, and he will also explain when the trainings will be available.**
 - **The Supreme Court adopted a rule that will allow attorneys to apply for a waiver from having to file electronically.**
 - **The Supreme Court will have one statewide e-filing rule, rather than different local rules. Joey Moya is working with the courts to provide information to the Supreme Court.**
 - **The Supreme Court is very excited about the new e-filing product.**

IV. CIO Report. Steve Prisoc reported the following:

- Odyssey releases. The project team determined that it would not implement more than one new Odyssey release per year. Odyssey 2011 is now available but due to the current time constraints to rollout Odyssey, the project team will forego testing and implementing Odyssey 2011, but plans to test and implement Odyssey 2012 in the summer of 2012. The Bernalillo County Metropolitan Court (BCMC) plans to go live with the criminal module in late 2012, which provides the project team the opportunity to test Odyssey 2012 beforehand. All of the modifications that are being written for the BCMC are being written to Odyssey 2011 and those will convert seamlessly when the Judiciary converts to Odyssey 2012.
- Electronic citations (e-citations) project. The Las Cruces Magistrate Court will go live with Odyssey soon and the project team hopes to have e-citations in place by then. He pointed out the following:
 - The Judiciary has been dependant upon the New Mexico Department of Transportation (NMDOT) to install server infrastructure in their computer room that would allow for the exchanges to take place.
 - He just received an offer from NMDOT to provide federal grant funds to the AOC to offset staff and other expenses to have JID Staff host the e-citations servers at JID.
 - The Judiciary would have a better chance of meeting their deadline of having e-citations in place at the Las Cruces Magistrate Court if JID Staff created the

server infrastructure and located that exchange at JID. Arthur Pepin added that as part of the federal funds that would come from the NMDOT, he is endorsing the notion that it fund a full-time employee or a contract person to support the project because JID does not have available resources at this time. Mr. Prisoc thanked Ms. Janes and Mr. Pepin for their help in this regard. They will further investigate NMDOT's offer and report back to JIFFY.

- Work on the electronic abstract (e-abstract) project has been temporarily reduced to allow JID Staff to focus on the e-citations project. The e-abstract project will provide magistrate courts with the ability to electronically send abstracts to the New Mexico Motor Vehicle Division, which they currently send manually.
- The Taos District Court move was difficult for all concerned. The court did without information technology and telephone service for one week after their move. This was the first time that JID ran out of appropriations, so it was difficult to cover the unexpected infrastructure expenses for the Taos District Court. He noted that future district court moves needed to be planned more carefully. He recognized Ruth Dygert for managing a successful Taos Magistrate Court move.
- JID Staff developed a state-of-the-art personnel evaluation system in concert with the court administrators, and the First is now testing the application.
- He received a letter from Rose Sena, a property manager in Bernalillo County, advising that the BCMC is limiting her ability to screen potential tenants by not displaying addresses for landlord/tenant cases. He asked if this discussion should be deferred to next month when Brian Gilmore will talk more about this issue.
- Mr. Prisoc then referred to the handouts entitled *FY13 One Page Business Case Judicial Case Management Application Administrative Office of the Courts Agency 218 Priority #1* and *FY13 One Page Business Case Judicial Case Management Services Administrative Office of the Courts Agency 218 Priority #2*. These cases are for e-filing and disaster recovery and need to be submitted to NMDoIT in mid-July.

There was discussion on the following points:

- Historically, the AOC has not been involved in district court moves. However, it is imperative that district courts plan for financial contingencies and involve JID Staff on the information technology side. There was discussion about the problems encountered when the Aztec District Court did a major retrofit that affected the magistrate court's connection as well as the problems that the Thirteenth faced when the county wired the district attorney's office together with them.
- The statewide public Case Lookup system has never displayed addresses; however, the BCMC system did. The BCMC is receiving numerous inquiries about why the BCMC is denying access. The Supreme Court rule does not prohibit the display of addresses in civil cases. Odyssey is capturing addresses, but the project team will need time to determine if it is possible to display addresses.
- With regard to the Judiciary's business cases, a suggestion was made to include them as part of capital outlay.

Action Item: Mr. Prisoc offered to let Robert Mead know if implementing Odyssey 2012 could delay the appellate court project.

Action Item: Per Justice Maes, the First to provide an in-person report to JIFFY at the July JIFFY meeting about potential information technology needs relative to their upcoming move.

Action Item: Per Judge Bustamante, JID Staff to add to the July JIFFY agenda Mr. Gilmore's request to discuss displaying addresses on the public court websites.

Action Item: Judge Bustamante asked Mr. Gilmore, Judge Mitchell, Mr. Prisoc, Tobie Fouratt, and a designee from the Second to meet and discuss displaying addresses on public court websites.

Action Item: Mr. Prisoc asked JIFFY members to contact him if they have any comments to be incorporated into the documents entitled "FY13 One Page Business Case Judicial Case Management Application Administrative Office of the Courts Agency 218 Priority #1" and "FY13 One Page Business Case Judicial Case Management Services Administrative Office of the Courts Agency 218 Priority #2".

V. Purchase Requests - No purchase requests were received this month.

VI. Review and Approval

Report on Contract Negotiations with Tyler Technologies. Mr. Pepin noted that the Judiciary has been involved in intense negotiations with Tyler on the e-filing product. He is awaiting a revised contract and will report back to JIFFY.

There was discussion on the structure of e-filing charges.

E-Documents Committee's Proposal. Judge Bustamante referred to the document entitled *Electronic Documents in the Judiciary, Recommendations of the Public Access Committee and the Electronic Filing Committee Prepared for the Judicial Information Systems Council June 16, 2011*, which was attached to the JIFFY agenda; and he asked Greg Ireland to report on it. Mr. Ireland spoke of the following:

- He thanked the E-Documents Committee members for their help in drafting the document. He gave special recognition to Judge Camille Martinez-Olguin, Juanita Duran and Mr. Mead.
- There is not much precedent to follow when drafting a policy for electronic documents.
- Justice Maes asked that the E-Documents Committee make it clear in the introduction that the proposed policy applies to those courts that have e-filing capability. She spoke of her concerns relative to smaller courts that do not have funding to support electronic document initiatives.
- The E-Documents Committee proposed the following nine recommendations:
 - Recommendation 1, page 1: *All electronic documents shall have the same full*

force and effect as traditional paper documents.

- Justice Maes suggested that the language be modified to incorporate the appropriate language of “*the official record of the court*”.
- Mr. Gilmore asked the E-Documents Committee to clearly note if the proposed policy involved all electronic documents or only those documents filed with the court.
- Recommendation 1, a., page 2: *Paper documents filed by traditional means may be scanned by the court for conversion into an electronic document. Once scanned, the electronic form of the document is the official court record and the paper document shall be destroyed.*
 - Justice Maes asked the E-Documents Committee to change the words “*may be*” to “*shall*”. She felt that the recommendation should be rewritten because the Judiciary is not precluding filing by traditional means.
- Recommendation 1, b., page 2: *If a court maintains an electronic record then the court shall purchase and maintain a means to provide public access to the electronic record at no charge.*
- Recommendation 2, page 2: *Public access to “protected personal identifier information” in electronic documents shall be prevented to the extent possible. See, e.g., Supreme Court Order 10-8500 “In the Matter of Policies Regarding Public Access to Court Records Via the Internet” Section A; Rules 1-079(D), 5-123(D), and 10-166(D) NMRA. To do so, limit the use of protected personal identifier information in electronic documents and promote the judiciary’s use of redaction technology to prevent public access to protected personal identifier information that is included in electronic documents.*
- Recommendation 2, a., pages 2-3: *Revise rules of procedure to require parties to use a cover sheet procedure whenever protected personal identifier information must be referenced or relied upon in a document filed with the court, except for certain types of documents to be enumerated in those rules that must, by their nature, contain personal identifier information. The cover sheet shall be automatically designated in the electronic record as a sealed document that is only available for access by court employees, the parties to the action, and other designated individuals and entities authorized to have access under those rules. The cover sheet shall not be made available through any court-sponsored public electronic portal. Notwithstanding the protections suggested by these recommendations, as noted above, some documents by their nature must contain personal identifier information. Attached is a list of documents the working group believes should continue to incorporate personal identifier information.*
 - Mr. Ireland pointed out the following:
 - The cover sheet concept consists of placing the protected personal identifier information in a separate electronic cover sheet, so they are not in pleadings. The court can then make the cover sheet a non-public document.

- This transition may be difficult because part of this recommendation also states that at some point, the Judiciary will trust redaction technology to redact protected personal identifier information. Once that happens, the cover sheet requirement will dissipate.
 - Redaction technology is expensive and is not currently budgeted for.
- Recommendation 2, b., page 3: *To emphasize that the parties are responsible for restricting their use of protected personal identifier information, revise Rule 1-011(A) NMRA to provide the following: “The signature of an attorney or party constitutes a certificate by the signer that the signer has read the pleading, motion or other paper; that to the best of the signer’s knowledge, information and belief there is good ground to support it; that it complies with the required protections of personal identifier information in Rule 1-079 NMRA; and that is not interposed for delay.”*
 - Mr. Ireland noted that this recommendation involved amending Rule 1-011(A) to ensure that attorneys help the courts to protect personal identifier information. The Judiciary is required by law in some cases to provide documents to other government agencies. Once that information is released, the information is no longer in the Judiciary’s control.
- Recommendation 2, c., page 3: *Redaction technology designed to prevent public disclosure of specific personal identifiers should be adopted by the judiciary as part of a regular software improvement and enhancement effort.*
- Recommendation 2, d., page 3: *Any redaction technology deemed necessary shall be structured as “date forward” from the date implemented. Any redaction technology employed shall be real-time and on-demand such that the original electronic document is not altered, but that personal identifiers shall be blocked to public display when the document is accessed.*
- Recommendation 2, e., page 3: *In some instances, such intergovernmental agency exchange, the judiciary recognizes that some protected personal identifier information required by law to be provided to another entity, such as the Federal government or the New Mexico Motor Vehicle Department, might be re-distributed by those entities and therefore it may not be within the court’s control to protect the privacy, or prevent the resale, of that information.*
 - Mr. Gilmore suggested that the specific government agencies noted in this recommendation be removed. He noted concerns with law enforcement agencies requiring personal identifier information in order to serve warrants.
 - Mr. Ireland suggested removing the language “*required by law to be provided to another entity, such as the Federal government or the New Mexico Motor Vehicle Department,*”.
 - Justice Maes asked that this recommendation be rewritten. She asked that the recommendations be put into a policy format that she could present to

the Supreme Court.

- Recommendation 3, pages 3-4: *Public access to electronic documents shall be limited by the same rule provisions that apply to paper documents. For example, if a court record is fully or partially sealed by an applicable rule of procedure then that limitation on public access applies whether the court record is a paper or electronic document.*
 - Justice Maes suggested that the language in this recommendation be simplified to clearly state that the E-Documents Committee is proposing that the same conceptual strategy that the Judiciary currently practices for paper documents be adopted for electronic documents. She also asked the E-Documents Committee to verify that their recommendations were not contradicting the Supreme Court order on public access to court records via the internet.
- Recommendation 4, page 4: *Data in court repositories is valuable and can generate revenue that benefits the New Mexico judiciary. See Supreme Court Order 10-8500 Paragraph C.*
 - Mr. Ireland noted that this recommendation recognized that the court is in control of the documents and it should also be in control of the revenue that is derived from providing data. Justice Maes voiced concern that the language in this recommendation did not clearly state that recognition. She also noted concern that attorneys may think that the Judiciary could generate revenue to cover all e-filing fees. She asked that this recommendation be rewritten.
- Recommendation 5, page 4: *Any charges for access to electronic data bases or electronic documents should, at a minimum, equal the costs associated with providing such access.*
 - Justice Maes asked that this recommendation be rewritten.
- Recommendation 6, pages 4-5: *A public access model similar to the United States Federal Court's Public Access to Court Electronic Documents (PACER) should be used by New Mexico state courts for providing public access.*
 - *a. With the exception of public access at court clerk's offices all access to electronic documents shall be by secure unique login of registered users.*
 - *b. Entities with statutorily waived fees have access to electronic documents and records at no cost. Parties and their attorneys also shall have access to electronic documents and records in their cases at no cost.*
 - *c. Reviewing electronic documents shall be without charge to the court clerk's office. However, documents printed into paper form from public access terminals shall be assessed a charge consistent with traditional paper documents.*
 - *d. Pursuant to Supreme Court's authority under NMSA 1978, Section 31-1-1C "to establish by rule reasonable electronic service fees to cover the expense of providing electronic services to the public, including electronic document filing, access to electronic documents and ancillary services",*

an electronic services fee should be imposed by rule to provide funding for the filing, access and use of electronic documents and information.

- Justice Maes asked that this recommendation be rewritten for the following reasons:
 - The federal court system should not be cited to in this document.
 - The Judiciary is no longer advocating an e-filing system--the Supreme Court has decided that e-filing will be implemented.
 - Chief Justice Daniels will conduct a presentation to attorneys on e-filing, so there is not a need to make this document a selling point to attorneys.
- Judge Mitchell suggested that JIFFY decide the philosophical position they supported, so the document could be written to represent that position.
- Mr. Gilmore voiced concern with that the way the document is currently written because the public cannot access files unless they physically go to a court, and they can only access information through a secure login.
- Mr. Ireland noted that the Committee's intent was to charge a break-even cost. Justice Maes voiced concern with the Judiciary restricting itself. She noted that non-parties will have to pay for information, which assures attorneys that they are not funding the entire bill.
- There was question as to the audience the document is intended for, and Mr. Mead advised that it is intended for non-parties. Justice Maes asked that the document clearly note this fact. She asked that this recommendation be rewritten.
- There was discussion on commercial miners versus data consolidators.
- Justice Maes noted that proposed court policies are not published for public comment, but rules are.
- Recommendation 7, page 5: *To facilitate the acceptance of an electronic record by New Mexico Records Center and Archives for permanent retention pursuant to applicable administration regulations, the Judiciary should adopt a statewide policy for the maintenance and retention of electronic documents for those courts who accept electronic documents or who scan traditional paper documents for conversion into an electronic document.*
 - *a. The Second Judicial District Court's policy, which was recently approved by New Mexico State Records Center and Archives, should serve as a model for the statewide policy and procedure for the Judiciary.*
 - *b. Until an electronic record is accepted by New Mexico State Records Center and Archives for permanent retention, courts should maintain any electronic documents on multiple servers to ensure the preservation of the electronic record.*
 - *c. Until an electronic record is accepted by New Mexico State Records Center and Archives for permanent retention, courts accepting and creating electronic documents should transfer them to New Mexico State*

- Records Center and Archives in a computer-output microfilm format to facilitate the eventual transmission of the electronic record.*
- Recommendation 8, pages 5-6: Audio and stenographic transcripts of in-court proceedings will not be incorporated by the court into the electronic record for a case unless portions of a transcript are incorporated into a pleading or other electronic document. However, when feasible, any existing electronic files containing recordings of events or transcripts should be attached to the docket within the Odyssey case management system for ease of retrieval and use. The use of such files should be in compliance with the most appropriate retention schedule at the time of filing and should provide adequate protection for the copyright interests of the individual court reporters who created the file.*
- Recommendation 9, page 6: The policies and procedures embodied in these recommendations should provide the framework for the development of recommendations for similar policies and procedures to govern the creation, use, maintenance, and retention of electronic documents by the appellate courts and courts of limited jurisdiction.*

There was discussion on the equipment and software costs associated with remote document storage and concerns that the smaller courts may not be able to fund such expenses.

Action Item: Mr. Prisoc offered to work with Mr. Ireland on specific cost ranges that would be associated with remote document storage for the courts.

Action Item: Mr. Ireland will arrange a meeting with Justice Maes and Mr. Moya to go through Justice Maes' concerns relative to the document entitled "Electronic Documents in the Judiciary, Recommendations of the Public Access Committee and the Electronic Filing Committee Prepared for the Judicial Information Systems Council June 16, 2011".

Review of Second Judicial District Court's Go Live. Renee Cascio reported the following:

- This is the fourth day that the Second has been live with Odyssey and it seems to be working fine.
- The Second's staff was very easy to work with.
- She recognized Frank Dimaggio and his staff for all of their help.
- The project team is working with Sandra Trujillo of the Second on processes that need to change.
- Users from the Odyssey district courts were involved in the Second's go live, except the First as they are fairly new to the system.
- There was only one problem with the conversion that related to arraignments and probation violation hearings in the old case management calendar. The project team attempted to resolve the problem through a post-conversion script, but it could not be done, so the project team and the criminal division supervisor are manually correcting

those hearings.

- The only way the judges' calendars can be converted is to put them into a conversion session and have all of the hearings start at the same time, and the project team continues to have issues with Trial Court Administrative Assistants (TCAAs) changing the hearing start times to the correct times prior to go live dates.

Ms. Duran shared the following:

- As mentioned at the Court Administrators Council meeting of yesterday, courts may want to consider having staff work the weekend prior to go live to provide them the opportunity to get into the system, see how it works and perform case processing. This made a big difference in the comfort level for the Second's staff.
- The Second did something different than any other district had done by converting all of their July calendar hearings for every judge to electronic documents, so they had almost 70,000 documents sitting in a queue that needed to be linked to the register of actions. The Second is working hard to complete this process and they now have about 15,000 left. Starting on July 5th, judges will have electronic documents versus paper documents. The Second is encouraging the internal use of the electronic file, and the paper file will serve the public.
- She commended the Second's staff, especially Mr. Dimaggio and Deborah Torres-Gutierrez.
- There are some TCAAs at the Second who continue to maintain a record book.
- The Second is working on changing some processes.
- Overall, the conversion to Odyssey at the Second went smooth.
- She thanked JID Staff for their help.
- Public access of electronic documents still needs to be addressed.
- There was a handful of TCAAs that did not stay to correct the judges' calendars.

Action Item: Justice Maes offered the Odyssey project team her assistance to ensure that TCAAs complete the job of moving calendar events and setting the correct time for hearings prior to go live dates.

Action Item: Judge Bustamante asked that the Odyssey project team include in the Odyssey Memorandum of Understanding that TCAAs need to complete the calendar tasks prior to go live dates.

VII. Future Meetings. Judge Bustamante advised that the next JIFFY meeting would be held on Thursday, July 21, 2011 at 9:30 a.m. at the Judicial Information Division.

Ms. Duran advised that she would notice Judge Bustamante and the Supreme Court of who the Second's new chief executive administrator would be, so a new Supreme Court Order could be issued assigning that person to replace Ms. Duran on JIFFY.

VIII. Additional Attachments. There was no discussion relative to the *JIFFY Project Status Reports*, which were attached to the JIFFY agenda.

IX. Adjourn. Judge Bustamante adjourned today's meeting at 12:04 p.m.

Final Minutes Approved by Judge Bustamante on June 27, 2011.