

Benefiting from the World of Change

By David Langham

Leveraging technology is nothing new. Since the invention of the wheel, mankind has engaged in the process of innovation, adaptation, and reinvention. Heraclitus of Ephesus is credited with saying “the only constant is change.” Even accepting the inevitability of change, it seems as if change is occurring at ever increasing speed, allowing us ever shorter opportunities to grasp change and adapt personally and professionally before the next wave crashes ashore.

The Office of Judges of Compensation Claims (“OJCC”) and the Florida First District Court of Appeal have worked for many months to change the method in which appellate records are prepared and delivered in workers’ compensation cases. We have analyzed the existing “paper” system that is dependent upon expensive duplication and transportation of large volumes of paper. We have developed a new process that delivers a better product at a significantly decreased consumer cost. The new process also produces savings for the people of Florida by saving the Court and the OJCC significant expense. And if that were not enough, our new process is incredibly environmentally friendly.

In workers’ compensation, the OJCC is responsible for preparing the appellate record. Each Judge has the responsibility for appointing a court reporter to perform this task in a particular case. The preparation usually involves mailing the original trial exhibits to the reporter, along with a compact disc recording of the hearing(s). The reporter transcribes the testimony, incorporates the documentary exhibits, and assembles the combination into a bound, paper record. Copies are produced for the parties, and the (usually) three iterations (original and two copies) are mailed to the assigned Judge for certification. After certification, the Judge mails a copy to each party and the original to the Court. After the Court decides the appeal, the original record is returned to the OJCC for records retention and storage. In this digital age, that record is scanned and stored as images, and the paper is sent for recycling.

The facts are these. The “average” workers’ compensation record on appeal is about 800 pages, and currently costs about \$1,621.73 to prepare. The postage costs associated with shipping the various iterations during the preparation and delivery is approximately \$37.00. The Court averages about 500 workers’ compensation appeals annually.

In the new process, trial exhibit images are prepared at the assigned Judge’s office. Many of these are existing images “copied” from the OJCC electronic filing system, having already been converted to portable document format (PDF) by the lawyer that filed them. Others are scanned “post-trial” by the assigned Judge’s staff. The hearing recording and these document “images” in PDF form are transmitted electronically to the reporter. There is no postage cost for this transfer. The reporter prepares the record transcript and “imports” the documentary exhibit PDF images into the document, along with a table of contents and other ancillary elements. The result is a digital PDF document that includes everything that a paper record would have. This combined PDF document is electronically transmitted back to the assigned Judge for certification. The assigned Judge may then transmit this digital record to the Court and the parties electronically. Each step also requires no postage. When the Court concludes its review, there is no need to transfer the record back for storage, as the OJCC already has a digital image “on file.”

This process will result in average savings of over \$1,000.00 per case for appellants. Over the average 500 appeals annually, this will result in annual consumer savings of approximately \$500,000.00. The process will also eliminate the postage expense for the OJCC. For the 500 average annual appeals, this will produce a savings to the people of Florida in the amount of about \$18,000.00.

These monetary savings are significant, but there are other significant benefits to this new process. Environmentally, the use of digital images rather than paper records will eventually produce significant reductions in paper use. There are many estimates as to how many pages of paper a tree will yield; in

many respects the differences result from the many different sizes and shapes of trees, and the various processes used to reduce them to the cellulose used in paper. A reasonable average is likely about 40,000 pages of paper produced from an “average” tree.

The 1,250,000 pages that will not be used in Florida workers’ compensation appeal records, in the coming digital method, will therefore save about 32 trees annually. In addition to each tree, fuel will not be burned to harvest, transport, and process it to paper. Likewise, fuel will not be burned to package and transport those reams of paper. A similar environmental benefit can be easily discerned in the elimination of transporting records by U.S. Mail, as described above.

The financial and environmental savings from this process are significant. Similar savings are already demonstrable from the electronic filing process deployed by the OJCC in 2006; a process that the Florida Court and Clerk functions are focused on implementing soon. Since OJCC electronic filing was deployed in 2006, over 600,000 documents have been e-filed with the OJCC. Attorneys have already saved in excess of \$405,000.00 in postage and paper, and enjoyed countless savings in time. The OJCC has already saved in excess of \$667,000.00 in processing, docketing, and filing efforts of staff. The overall financial savings to date in the relatively small practice area of Florida worker’s compensation exceeds \$1,000,000.00 after only three years. Significantly, this also represents about 87 trees that have been saved. Based upon the figures for last fiscal year, the OJCC electronic filing will perpetually save about 47 trees annually. Combined with the conservation resulting from the new electronic record on appeal, use of document images will conserve about 80 trees annually, and the energy required to harvest, transport, and process those trees, in addition to the energy required to transport the paper to the attorney/consumer.

The digital process saves time also. Reviewing filed documents in the digital age involves review of a digital docket, in which documents can be repeatedly and instantly retrieved at minimal expense and without printing. The process is far simpler than searching for paper documents in a file. Judges can access pleadings without the time and labor cost of transporting a paper file from a file room to the Judge. Any need for an extra “courtesy copy” of a motion or other pleading sent directly to the assigned Judge is eliminated. Lawyers can access filings from the convenience and comfort of their own desk, and with cellular technology from virtually anywhere else. In a digital docket system, multiple parties and the assigned Judge can even simultaneously review the same file, and documents within it. In the digital process, there is no expense of sorting, categorizing, documenting and physically filing those incoming pleadings. This savings accrues to the people through a more efficient clerk’s office, and to the practitioner through more efficient use of office staff time.

Finally, the digital record will afford attorneys with a more effective and efficient record to use in preparation of their brief. The PDF image record can be “searched” to locate words, phrases, and therefore record citations. Quotes can be “copied” from the PDF image record and “pasted” directly into the appellate brief, eliminating expense of re-typing. Locating, analyzing and using evidence within the record will be faster and more efficient, thus decreasing costs.

These demonstrable results in the microcosm of Florida workers’ compensation should encourage clerks and courts to persevere in implementing a similarly effective electronic filing process. The potential for financial and time savings in the Florida court system is undeniable. Implementing e-filing at the trial level will undoubtedly require significant time and continued effort. However, the digital record process, and its benefits, is currently ripe for duplication in the Court process.

The environment benefits from the new process. The lawyer benefits financially from the new process. The judicial system benefits from the new process. The downside? There is usually at least some stress in change. However, understanding the broad benefits of these new processes should encourage all lawyers, clerks, and stakeholders in our judicial system to embrace and encourage these changes and adapt through the inevitable short-term stress. The future is now, ready or not. Don’t miss it.