**ECF5 Spec Feedback and Considerations - 7**

This document contains additional questions and commentary resulting from a review at the Electronic Court Filing Version 5.0 Working Draft 11.

1. **Attorney to Party Association**

It appears that the way in which attorney to party associations are done in ECF5 is a little bit different than in ECF4.

In ECF4, this was done using CaseOfficial within ecf:CaseAugmentation. The attorney was identified using nc:RoleOfPersonReference, and the represented parties were identified using CaseRepresentedPartyReference.

In ECF5, it appears that j:CaseOfficial within j:CaseAugmentation would be used instead. The attorney is identified using nc:RoleOfPerson, and the represented parties are identified using ecf:CaseRepresentedParty in CaseOfficialAugmentation.

I cannot find anywhere in the specification document where this is described or even hinted at. Those migrating from ECF4 to ECF5 may not have much trouble adopting the revised approach, but anyone new to ECF might only figure this out once stumbling upon the ecf:CaseRepresentedParty element and observing its description.

The closest the specification comes to addressing this is in section 6.2.8 ‘Filer and Party Identifiers’. Following the non-normative example, it states:

“Attorney elements MAY reference the parties they represent with party identifiers.”

I cannot find any example of this in any of the provided FilingReview examples.

Therefore, I submit that the following illustrates this:

First of all, the parties need to be included with Party Identifiers (i.e. ecf:FilingPartyID).

 <j:CaseInitiatingParty>

 <nc:EntityPerson structures:id="Person1">

 <nc:PersonName>

 <nc:PersonGivenName>John</nc:PersonGivenName>

 <nc:PersonMiddleName>W.</nc:PersonMiddleName>

 <nc:PersonSurName>Doe</nc:PersonSurName>

 </nc:PersonName>

 <ecf:PersonAugmentation>

 <ecf:CaseParticipantRoleCode>Defendant</ecf:CaseParticipantRoleCode>

 <ecf:FilingPartyID>

 <nc:IdentificationID>10</nc:IdentificationID>

 </ecf:FilingPartyID>

 </ecf:PersonAugmentation>

 </nc:EntityPerson>

 </j:CaseInitiatingParty>

 <j:CaseInitiatingParty>

 <nc:EntityPerson structures:id="Person2">

 <nc:PersonName>

 <nc:PersonGivenName>Jane</nc:PersonGivenName>

 <nc:PersonMiddleName>K.</nc:PersonMiddleName>

 <nc:PersonSurName>Doe</nc:PersonSurName>

 </nc:PersonName>

 <ecf:PersonAugmentation>

 <ecf:CaseParticipantRoleCode>Defendant</ecf:CaseParticipantRoleCode>

 <ecf:FilingPartyID>

 <nc:IdentificationID>20</nc:IdentificationID>

 </ecf:FilingPartyID>

 </ecf:PersonAugmentation>

 </nc:EntityPerson>

 </j:CaseInitiatingParty>

Next, the attorney must be elaborated:

 <j:CaseInitiatingAttorney>

 <nc:RoleOfPerson structures:id="Person3">

 <nc:PersonName>

 <nc:PersonGivenName>Jack</nc:PersonGivenName>

 <nc:PersonMiddleName>R.</nc:PersonMiddleName>

 <nc:PersonSurName>Jones</nc:PersonSurName>

 </nc:PersonName>

 </nc:RoleOfPerson>

 <j:JudicialOfficialBarMembership>

 <j:JudicialOfficialBarIdentification>

 <nc:IdentificationID>100001</nc:IdentificationID>

 </j:JudicialOfficialBarIdentification>

 </j:JudicialOfficialBarMembership>

 <ecf:CaseOfficialAugmentation>

 <ecf:CaseParticipantRoleCode>Attorney</ecf:CaseParticipantRoleCode>

 </ecf:CaseOfficialAugmentation>

 </j:CaseInitiatingAttorney>

And finally, the attorney party relationships must be described:

 <j:CaseOfficial>

 <nc:RoleOfPerson structures:ref="Person3"/>

 <j:JudicialOfficialBarMembership>

 <j:JudicialOfficialBarIdentification>

 <nc:IdentificationID>100001</nc:IdentificationID>

 </j:JudicialOfficialBarIdentification>

 </j:JudicialOfficialBarMembership>

 <ecf:CaseOfficialAugmentation>

 <ecf:CaseRepresentedParty>

 <nc:EntityPerson structures:ref="Person1"/>

 </ecf:CaseRepresentedParty>

 <ecf:CaseRepresentedParty>

 <nc:EntityPerson structures:ref="Person2"/>

 </ecf:CaseRepresentedParty>

 </ecf:CaseOfficialAugmentation>

 </j:CaseOfficial>

Although the above j:CaseOffical element set is not too complex, and identifying the represented parties is straight forward, note that this was not done using Party Identifiers.

If Party Identifiers are to be used, then it becomes:

 <j:CaseOfficial>

 <nc:RoleOfPerson structures:ref="Person3"/>

 <j:JudicialOfficialBarMembership>

 <j:JudicialOfficialBarIdentification>

 <nc:IdentificationID>100001</nc:IdentificationID>

 </j:JudicialOfficialBarIdentification>

 </j:JudicialOfficialBarMembership>

 <ecf:CaseOfficialAugmentation>

 <ecf:CaseRepresentedParty>

 <nc:EntityPerson>

 <ecf:PersonAugmentation>

 <ecf:CaseParticipantRoleCode>Defendant</ecf:CaseParticipantRoleCode>

 <ecf:FilingPartyID>

 <nc:IdentificationID>10</nc:IdentificationID>

 </ecf:FilingPartyID>

 </ecf:PersonAugmentation>

 </nc:EntityPerson>

 </ecf:CaseRepresentedParty>

 <ecf:CaseRepresentedParty>

 <nc:EntityPerson>

 <ecf:PersonAugmentation>

 <ecf:CaseParticipantRoleCode>Defendant</ecf:CaseParticipantRoleCode>

 <ecf:FilingPartyID>

 <nc:IdentificationID>20</nc:IdentificationID>

 </ecf:FilingPartyID>

 </ecf:PersonAugmentation>

 </nc:EntityPerson>

 </ecf:CaseRepresentedParty>

 </ecf:CaseOfficialAugmentation>

 </j:CaseOfficial>

This is no longer as concise or as easy to parse. Additionally, the ecf:CaseParticipantRoleCode must be repeated. Of course a different case participant code value could be provided, in which case this party now has multiple CasePartiicpantRoleCodes.

The ECF4 approach is more like the first example of j:CaseOfficial above which employees structures:ref and not ecf:FilingPartyID. With ECF4, the only way to identify the party was by using the s:ref attribute (equivalent to structures:ref).

In my opinion, the structures:ref attribute method is the superior method. Rather than suggesting in the specification that attorneys MAY reference the parties they represent using party identifiers, I think we should say that instead they MUST use structures:ref attributes to reference represented parties.

It appears that a chief problem with ECF5, perhaps rooted in NIEM changes, is that it is too flexible. This flexibility allows too many different ways to mark-up the same information.

If we just consider the above situation in which we have two parties, and one attorney, and we want to describe that the attorney represents both parties. It seems that there are myriad ways to do this. It is not reasonable to expect message consumers to be able to understand all possible legitimate mark-ups. Preferably, there is one and only one right way to do it. This right way needs to be spelled out in the specification.

Even if we can agree on the ‘one and only right way’, then to restrain this wanton flexibility, we will need to write a lot of ‘thou shalt’ and ‘thou shalt not’ rules. As such, XML schema is doing less and less for us in establishing that which is normative, and more and more must be done in prose.

To illustrate, for the moment, let’s assume that the approach illustrated above is the ‘right way’. In addition to clear examples (which are typically not normative), normative guidance would need to be provided.

How might tis be done in the specification?

Perhaps additions could be made to ‘Message Rules’, but the same rules would apply to many messages. This would be redundant. So instead, perhaps there should be a new section for ‘OverArching Rules’ – a set of rules that apply everywhere and for every applicable message. In many respects, this would be similar to the Identifier Rules section which is also “overarching”.

A rule such as this might be written as follows:

**Attorney Party Relationship**

The relationship of a case party or parties to the attorney or attorneys representing the party or parties in a law suit MUST be done using the j:CaseOfficial element within j:CaseAugmentation.

The attorney in the relationship MUST be identified using nc:RoleOfPerson. When identifying the attorney using nc:RoleOfPerson reference, then two methods are supported. One and only one of these two methods MUST be used. The two methods are:

1. The attorney is identified using the structures:ref attribute on nc:RoleOfPerson. This is the preferred and recommended method.
2. The attorney details are elaborated within nc:RoleOfPerson.

When using the first method, the value of structures:ref MUST correspond to a person type entity with a matching value for structures:id. The nc:RoleOfPerson element MUST not have any sub-element content.

When using the second method, the structures:ref attribute in nc:RoleOfPerspon MUST not be used. The attorney person details MUST be elaborated with sub-elements of nc:RoleOfPerson.

The element j:JudicialOfficialBarMembership and j:JudicialOfficialRegistrationIdentification MAY only be used within j:CaseOfficial, when they have not been used within the attorney person elaboration.

(Not sure what to say about j:CaseOfficialCaseIdentification – seems like the rule above should apply here too).

To identify the parties represented by the attorney, ecf:CaseOfficialAugmentation MUST be substituted for j:CaseOfficialAugmentationPoint. An ecf:CaseRepresentedParty element MUST be used within ecf:CaseOfficialAugmentation to identify each party represented by the attorney. If the attorney represents more than one party on the case, then multiple ecf:CaseRepresentedParty elements should appear. When an attorney represents more than one party on a case, multiple j:CaseOfficial elements SHOULD not be used as an alternative to using multiple ecf:CaseRepresentedParty elements within a single j:CaseOfficial element.

The ecf:CaseRepresentedParty element MUST contain a valid entity type element which has been substituted for nc:EntityRepresentation. The appropriate element will depend upon the nature of the case party; whether it is a person party, an organization party, or a property/item party.

When identifying the party represented by the attorney, there are two methods supported. One and only one of these two methods MUST be used. The two methods are:

1. The party is identified using the structures:ref attribute on the substituted entity type element. This is the preferred and recommended method.
2. The party entity details are elaborated within the substituted entity type element (e.g. EntityItem, EntityOrganization or EntityPerson).

When using the first method, the value of structures:ref MUST refer to an entity type element with a corresponding entity type and which has a structures:id attribute with a matching value. The entity type element substituted for nc:EntityRepresentation MUST not have any sub-element content. The element ecf:CaseParticipantRoleCode MUST not be used when using the first method.

When using the second method, the structures:ref attribute in the substituted entity type element MUST not be used. The entity details MUST be elaborated using sub-elements of the entity type element substituted for nc:EntityRepresentation. The ecf:CaseParticipantRoleCode within ecf:CaseOfficialAugmentation MAY only be used if the entity is an item type entity. For organization and person type entities, use the ecf:CaseParticipantRoleCode available within the entity augmentation.

Note: the above attorney – party relationship rule is an example. Whereas I have attempted to be as complete as possible so that the challenges in crafting such rules become apparent, it may not represent all the particular choices the TC may make if adopting any attorney – party relationship rules.

Even with the detail in the illustrative rule above, some aspects have not been specified that may also need to be specified. Such as whether mixing of methods for specifying the attorney or parties is permitted.

Another issue not mentioned in the example rule that would need to be addressed would be any additional rules necessary for circumstances when there are more than one attorney representing the same litigants (i.e. case parties). In this circumstance, there would be multiple j:CaseOfficial elements, one for each attorney. These multiple j:CaseOfficial elements would be identifying the same litigants using ecf:CaseRepresentedParty elements. If method 1 is used in all the applicable j:CaseOfficial elements, then there should not be any issues. However, if method 2 is used in one j:CaseOffiical element, the same litigant MUST not be identified in the other applicable j:CaseOffical elements also using method 2; method 1 would need to be used instead.