

1 MEETING OF THE ADVISORY COMMITTEE
2 ON CHILD SUPPORT GUIDELINES AND ENFORCEMENT
3 FOR THE STATE OF ALABAMA

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 The following proceedings were held
12 in the meeting of the Advisory Committee on
13 Child Support Guidelines and Enforcement for the
14 State of Alabama on Friday, December 15, 2017,
15 commencing at approximately 10:02 a.m. at the
16 Heflin-Tolbert Judicial Building, 300 Dexter
17 Avenue, Montgomery, Alabama, and was taken
18 before Haley Tunnell, Court Reporter and
19 Commissioner for the State of Alabama at Large.

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1 APPEARANCES

2 THE HONORABLE JULIE A. PALMER, Chair
3 Domestic Relations Division
4 Retired Circuit Judge

5 MS. LATHESIA SAULSBERRY
6 Director of Child Support Enforcement Division
7 Alabama Department of Human Resources

8 JENNIFER M. BUSH, Esquire
9 State-level Child Support Attorney,
10 Alabama Department of Human Resources

11 PROFESSOR PENNY A. DAVIS, Esquire
12 Adjunct Professor, University of Alabama School
13 of Law, Tuscaloosa, Alabama

14 THE HONORABLE LYN STUART
15 Chief Justice
16 Alabama Supreme Court

17 THE HONORABLE WILLIAM THOMPSON
18 Presiding Judge, Alabama Court of Civil Appeals

19 MELODY BALDWIN, Esquire
20 Assistant District Attorney
21 Fifth Judicial Circuit over Child Support
22 Division

23 THE HONORABLE DON McMILLAN
24 Perry County Circuit Judge

25 MR. MICHAEL POLEMENI-via telephone
26 Family Rights Association

27 MS. ANGELA CAMPBELL

28 AMANDA COX, Esquire

29 STEPHANIE BLACKBURN, Esquire

30 JIM JEFFRIES, Esquire

31 BRYANT WHITMIRE, Esquire

- 1 MR. KENNETH PASCHAL
- 2 BRAD MEDARIS, Esquire
Supreme Court Clerk's Office
- 3
- 4 BOB MADDOX, Esquire
Administrative Office of Courts
- 5 NATHAN WILSON, Esquire
Administrative Office of Courts
- 6
- 7 CHRIS COLEE, Esquire
Administrative Office of Courts
- 8 SCOTT HOYEM, Esquire
Administrative Office of Courts
- 9
- 10 MS. JULIE SINCLAIR

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1 THE HONORABLE PALMER: It is
2 10:02 on December the 15th. We're here for
3 a meeting of the Advisory Committee on Child
4 Support Guidelines and Enforcement to the
5 Alabama Supreme Court. I'm going to remind
6 everybody to turn your phones to at least
7 silent, please. And, right now, Marshal
8 Willie James would like to say a few words
9 to us.

10 Sir, you have the floor.

11 (Off-the-record discussion.)

12 THE HONORABLE PALMER: Okay. With
13 that, I want to welcome everybody. This is
14 the meeting.

15 The news release of this meeting
16 went out on November the 16th to the press
17 and to the website, so that was done.

18 I'm going to ask that everybody
19 now begin introducing themselves. And,
20 Ms. Davis, I'm going to start with you,
21 please.

22 MS. DAVIS: My name is Penny Davis.

23 THE HONORABLE McMILLAN: Don

1 McMillan.

2 MS. BLACKBURN: Stephanie Blackburn.

3 CHIEF JUSTICE STUART: Lyn Stuart.

4 THE HONORABLE THOMPSON: Bill

5 Thompson.

6 MS. BUSH: Jennifer Bush.

7 MS. SAULSBERRY: Lathesia

8 Saulsberry.

9 MS. BALDWIN: Melody Baldwin.

10 MS. CAMPBELL: Angela Campbell.

11 MS. COX: Amanda Cox.

12 MR. PASCHAL: Kenneth Paschal.

13 THE HONORABLE PALMER: And Julie

14 Palmer.

15 Also here we've got Brad Medaris,

16 You've got Bob Maddox. We've got Scott

17 Hoyem, and --

18 MR. WILSON: Nathan Wilson.

19 THE HONORABLE PALMER: -- Nathan

20 Wilson. And Nathan is with AOC Legal. And

21 we've got two new members here, so y'all be

22 sure to introduce yourself. We've got

23 Kenneth Paschal, who is the alternate, and

1 then we've got Stephanie Blackburn, who is
2 with Legal Aid. And Stephanie's dad and I
3 went to law school together, and she used to
4 practice in front of me, so I'm just very
5 glad to see her. And, yes, she is going to
6 have a baby soon. You can ask her that.
7 She told me, so y'all can ask her that.

8 MS. BLACKBURN: Thank you.

9 THE HONORABLE PALMER: Get that off
10 the table.

11 Okay. Has everybody had a chance
12 to read the transcript from our last meeting
13 of May the 15th?

14 Okay. Does anybody have any
15 corrections to that transcript?

16 (No response.)

17 THE HONORABLE PALMER: Okay. Then I
18 would say that that transcript is approved.

19 MR. MADDOX: Judge Palmer, I think
20 it was actually the transcript of May 12th.

21 THE HONORABLE PALMER: May 12th and
22 not May 15th, okay. May the 12th.

23 Okay. Well, thank you.

1 While Marshal James was speaking,
2 Brad handed out a Child Support Guidelines
3 Standing Committee, their proposed changes
4 to Rule 47. Everybody should have that in
5 front of them.

6 Let the record reflect that Jim
7 Jeffries just stepped in, and Drew Whitmire.
8 Wow. We are honored today.

9 MR. MADDOX: I believe Michael
10 Polemeni is on the conference call.

11 THE HONORABLE PALMER: Michael is on
12 the phone, okay.

13 Michael, are you there?

14 MR. POLEMENI: Yes, ma'am.

15 THE HONORABLE PALMER: All right.
16 And then, Mr. Maddox, I think maybe Mary
17 Moore was going to appear via phone as well.

18 MR. MADDOX: I sent the conference
19 call number to her. I don't know if she's
20 going to be able to join us or not. I
21 haven't heard from her.

22 THE HONORABLE PALMER: So, right
23 now, Michael Polemeni is the only one on the

1 line.

2 And I do believe we have a
3 quorum; is that correct, Mr. Medaris?

4 MR. MEDARIS: Yes, ma'am, we do.

5 THE HONORABLE PALMER: Okay. Great.

6 Okay. With that is Nathan Wilson
7 and Julie Sinclair.

8 MS. SINCLAIR: Yes, ma'am.

9 THE HONORABLE PALMER: I'm going to
10 let y'all discuss the CS-47, please.

11 MS. SINCLAIR: While the memo to the
12 committee is actually from the chair, Teresa
13 Allen, who is the chair of the
14 Administrative Judicial Rules Committee, and
15 they had, as you can tell from the memo,
16 started looking at the CS-47.

17 They were looking generally at
18 forms to be used, and they were in
19 conversations with AOC Legal, starting back
20 in January of this year, and they just
21 happened upon your CS-47 as part of the
22 other forms they were looking at.

23 And the biggest concern was that

1 it is apparently now used almost exclusively
2 to docket and begin domestic relations cases
3 throughout the state. But it still reads as
4 a child support information sheet.

5 And so they started playing
6 around with the idea of calling it a
7 domestic relations/child support information
8 sheet in the hopes that they could get more
9 people to recognize that, yes, you do have
10 to fill this out to initiate a case,
11 regardless of whether child support is going
12 to be an issue.

13 What really led to bringing this
14 memo to you was the fact that we would have
15 to change the wording in Rule 32.1 to
16 designate the sheet with a new title
17 essentially. And as you can see on the
18 sheet, they just moved all of the child
19 support information from the top of the
20 sheet to the bottom of the sheet.

21 And if you have any questions
22 about what the committee discussed or if you
23 have questions to send back to the

1 committee, Nathan and I -- they're going to
2 meet again in January.

3 THE HONORABLE PALMER: Okay.
4 Justice Stuart?

5 CHIEF JUSTICE STUART: Yes. In
6 reviewing the proposed rule, in my opinion,
7 it's not acceptable to strike child support.
8 It needs to say -- if you want to add
9 domestic relations, I don't have a problem
10 with that, but it needs to say domestic
11 relations and child support information
12 sheet, and that's true throughout the entire
13 rule.

14 They've tried to remove the words
15 child support, and that's got to remain.

16 THE HONORABLE PALMER: Well, on me,
17 down there on the bottom of the biggest
18 highlighted part, it says, Do you have
19 children that are subject to this action?
20 Yes or no.

21 That used to be on the very top,
22 so that if there were no children subject to
23 this action, you just clicked on that or

1 checked that, and then none of the other
2 information was needed, because this was
3 pretty much developed, I believe, under some
4 federal regulations for the purpose of
5 following up on to collect child support.

6 MS. SINCLAIR: Absolutely.

7 THE HONORABLE PALMER: Whereas, if
8 there's no children involved, there's no
9 child support to be collected, so that the
10 people shouldn't have to put in their
11 employer, their Social Security number, if
12 there's no children, in my opinion.

13 So Jennifer Bush?

14 MS. BUSH: There is a federal
15 regulation, a federal statute, and there is
16 a state statute that requires what's called
17 a federal state registry and a state case
18 registry, and certain informational data is
19 needed for those state registries or the
20 federal registry. And the whole purpose of
21 the form in the beginning was to capture
22 that information; such as, Social Security
23 number.

1 One thing I would like to know is
2 if Alacourt captures this electronically. I
3 don't do a lot of filing. But my memory is
4 when you open a case on AlaFile and you
5 originally populate everyone's name, their
6 Social Security number, addresses, ages,
7 dates and everything, I don't know and would
8 like to know if that information is then
9 used in the data transfer between AOC and
10 DHR.

11 And this form may still be
12 needed, but this form was generated when
13 everything was paper, and the clerk would
14 get it, it's my understanding, and they'd
15 put it in. I'm not saying we don't need it.
16 But I'd like to know if the data is captured
17 somewhere else, because I don't know now
18 with electronic filing if you fill this out
19 and scan it, if anybody is actually going
20 back, a clerk or anybody, and actually using
21 this form and transferring this
22 information --

23 MS. SINCLAIR: Oh. I see what

1 you're saying.

2 MS. BUSH: -- electronically to the
3 computer.

4 MS. SINCLAIR: That, I wouldn't
5 know. That's a circuit clerk duty.

6 MR. COLEE: Chis Colee with AOC
7 Legal. I have checked around on this.

8 Apparently, the process now is
9 that form is actually built behind the
10 scenes when someone is filing in AlaFile.
11 They don't actually fill the form out.
12 They're entering the information, and then
13 that information is populated into the form.
14 And then the form comes out in the packet
15 that's generated in Alacourt Plus for the
16 clerk.

17 Now, in the public view, my
18 understanding is that everything but the
19 last three digits of the Social Security
20 number is redacted, but the clerk has the
21 ability to pull up an unredacted view. And
22 our understanding is that the clerks are
23 actually either e-mailing that to DHR or

1 mailing it, either way. I'm imagining
2 majority are probably e-mailing. That's
3 what we found.

4 MS. BUSH: Yeah. My understanding
5 is it's a computer data transfer that occurs
6 overnight, but I'm not a computer person.
7 That's just what I've been told.

8 MR. COLEE: Right. And the data may
9 be. That could be the case, but the form is
10 not. Maybe that's what's holding on the
11 form. It's just the data that's
12 transferred.

13 If that's the case, I mean, I can
14 look into it further, but I would imagine
15 the whole Social is transferred.

16 What I was telling Bob and Nathan
17 currently, right now, we do not require the
18 filers to input the full of any Social
19 Security number, and I looked into that.
20 Apparently, that was the case in the past.
21 We did require it. And we got a ton of
22 calls from filers, saying I don't have their
23 Social information, and we weren't letting

1 them proceed without it. We can do that
2 again. We can make that change. But I'm
3 just pointing that out, that apparently that
4 was the problem before. That's why that was
5 changed. But whatever you guys decide, we
6 can program and make it work that way,
7 however we need to do it.

8 MS. BUSH: I understand the need to
9 keep a person's Social Security number
10 private from public view. DHR is just
11 interested in getting the information,
12 inputting it into the computer, so that we
13 can have that data and pass it on to the
14 state case registry and federal registry.

15 And we certainly don't want it to
16 appear on the document. I just didn't know
17 if there was a way for that to occur behind
18 the scenes at a computer level.

19 THE HONORABLE PALMER: And I don't
20 know either. I know if you fill all of this
21 information in on just the general, it
22 doesn't say CS-47 when you file a new
23 divorce complaint, but then when you pull up

1 the documents, on the judge's side, if you
2 click on view documents, there is a CS-47
3 that pops up.

4 So somehow, wherever you put it
5 in, the CS-47 is completed and made part of
6 the case action summary file.

7 MS. BUSH: And, again, talking about
8 Alacourt, it may be helpful, if it's the
9 case, if attorneys and filers were to know
10 that if they input the full Social Security
11 number into AlaFile, that it would not then
12 be displayed to the public.

13 I think there is a fear and
14 people have been told to not put the full
15 Social, and we certainly don't want that out
16 there. But if a person could put the full
17 Social into AlaFile and it not be shown, we
18 might be able to collect that data.

19 But I know I've had questions
20 from our child support attorneys. There is
21 some confusion about believing they should
22 not put that into AlaFile. They should not
23 put the Social Security number, and that's

1 messing up our state case registry and our
2 federal registry.

3 THE HONORABLE PALMER: So, today, do
4 we need to vote as to rename this? Do we
5 need to look at this some more? Do you need
6 to go back to your committee? What do you
7 --

8 MS. SINCLAIR: It's at your
9 pleasure. We're just making
10 recommendations. I mean, I recognize that
11 all of the Rules of Judicial Administration,
12 we're working our way through all of them.
13 And this was just one that apparently had
14 caused a lot of problems in paternity
15 actions and also other domestic relations
16 actions, where they weren't getting the
17 information up front.

18 They would look -- particularly
19 with pro se filers, they would look at the
20 form and say, well, we don't have any
21 children, and they throw the form away, and
22 then they'll go to a court hearing, and then
23 the clerk would have to send them back to

1 fill out the information so that they could
2 actually docket the case so that it could
3 actually move forward. So there's been
4 apparently some processing hiccups.

5 Now, we hadn't gotten into the
6 whole Social Security data, because we knew
7 this committee was looking at that, because
8 you have to follow the federal regs on that,
9 and we understand that as well.

10 A lot of our forms do
11 require -- other forms require Social
12 Security data, and we're waiting for
13 instruction from AOC on how much we can
14 actually delete out and what can be
15 essentially sealed just for court view, as
16 opposed to the general public view, and we
17 know that that takes a specific kind of data
18 entry program that may not be statewide yet.
19 But we're just sort of nickel and diming our
20 way as we work our way through all of the
21 rules.

22 THE HONORABLE PALMER: Well, it's my
23 understanding, as we sit here today, we took

1 care of the CS-41 that now only has the last
2 three numbers of a Social. If you pull up,
3 I believe, a 47 that's put in, it's only the
4 last three numbers of the Social that an
5 attorney puts in at the office. It's not a
6 scanned document.

7 I believe the same is true for
8 the income withholding order. If that's
9 entered through a judge or through a
10 proposed order, only the last either three
11 or four numbers show up.

12 So I'm not sure that the -- at
13 least the DR/child support part doesn't have
14 that covered.

15 MS. SINCLAIR: It sounds like you've
16 answered their question about it, and I will
17 be sure to report it back to my chairman.
18 And like I said, we'll have a meeting in
19 January. If there are any specific other
20 requests that you would have of the Judicial
21 Administration, we would be glad to relay
22 that.

23 THE HONORABLE PALMER: Anybody --

1 Stephanie?

2 MS. BLACKBURN: I have a question.
3 What about pro se litigants? They'll be
4 filling out documents and just handing them
5 into the clerk's office. I mean, is their
6 Social Security going to be -- obviously,
7 DHR needs the full Social Security number,
8 but would that not be scanned into the
9 system and then --

10 MR. COLEE: The clerks now have a
11 tool that allows them to -- once they scan
12 it in, they can redact on the screen, and it
13 will redact that, and they can save that to
14 the public view, and then save the
15 unredacted version to a private view so that
16 only the clerks and the attorneys of record
17 will be able to see that.

18 MR. WILSON: And another thing we
19 can look at, if it's not been done already,
20 for the forms that are auto populated from
21 AlaFile and then to Alacourt, perhaps we can
22 look at an automatic redaction, because I
23 know we do that with traffic tickets.

1 When a traffic ticket has a
2 Social Security number on it and it gets
3 populated into the Alacourt system,
4 that -- I think up to the last three digits
5 are redacted.

6 MR. COLEE: The CS-47 does that.

7 MR. WILSON: It does the same thing.
8 So for the ones that are populated
9 electronically, it may take care of the
10 issue. But the paper filed ones, yeah, that
11 would still be an issue, and the new
12 redaction tool could take care of that.

13 And we will report that
14 information back to this committee, and that
15 may alleviate their concerns about the
16 Socials.

17 THE HONORABLE PALMER: All right.
18 But I believe what's in front of us today is
19 possibly deleting the word child support per
20 the page two of the handout. Where they've
21 got domestic relations and it's struck
22 through that says child support, and,
23 Justice Stuart, it's your belief that we

1 have to keep using the word child support?

2 CHIEF JUSTICE STUART: I think we
3 need it. I think it will create total
4 confusion to remove it.

5 MR. WILSON: But adding the word
6 domestic relations, would that be suitable?

7 CHIEF JUSTICE STUART: Not it alone.
8 It's okay with me, if you want to add it.

9 THE HONORABLE PALMER: Yeah. I
10 don't think it would hurt to add it.

11 CHIEF JUSTICE STUART: You can't
12 remove child support, because it's used in
13 so many cases that are not domestic
14 relations cases.

15 MS. SINCLAIR: If I take back your
16 recommendation to the Judicial Rules
17 Committee that we call it the domestic
18 relations and child support information
19 sheet, like the draft form that AOC has put
20 together, would that be the committee's
21 recommendation, and I'll make sure I take
22 that to the --

23 THE HONORABLE PALMER: Drew?

1 MR. WHITMIRE: I think that's
2 necessary.

3 THE HONORABLE PALMER: Okay. And
4 Drew Whitmire walked in. He's here, ma'am.
5 Okay. Anybody else? Yes,
6 Amanda.

7 MS. COX: On the memo, it actually
8 says domestic relations/child support, so
9 would this be used for domestic relations or
10 child support, and/or? You see what I'm
11 saying?

12 It wouldn't necessarily have to
13 be an and there. Maybe I'm being nit-picky.
14 Or I guess it would be used for domestic
15 relations and child support.

16 THE HONORABLE PALMER: Because some
17 cases are just strictly child support.
18 That's your CS numbers, of course, and then
19 domestic relations, if children are
20 involved. So I don't know if an and or a
21 slash. I don't know.

22 MS. COX: I don't know which one is
23 going to be better either. I just noticed

1 that they put the slash there.

2 THE HONORABLE PALMER: Well, I vote
3 for the word "and."

4 Anybody have a motion on that,
5 request that they use the word "and,"
6 instead of the slash?

7 Okay. That is the committee's
8 recommendation, that you use the word "and,"
9 rather than a slash.

10 MS. CAMPBELL: I have a question.

11 THE HONORABLE PALMER: Yes, ma'am.

12 MS. CAMPBELL: Do we need to take
13 off the asterisk on the form that deletes
14 Social Security number, so that if we need
15 the full Social Security number on the form,
16 we need to take off the asterisk in the
17 fields that get rid of the first five
18 digits, correct?

19 THE HONORABLE PALMER: Well, I think
20 for the self-represented filer, they need to
21 put the whole number, and then that now
22 would be redacted is my understanding.

23 MS. SINCLAIR: Yes.

1 THE HONORABLE PALMER: So I believe
2 that those asterisks then would need to come
3 out for the self-represented litigant in
4 this, because the computer is going to do
5 that.

6 And then what about what I
7 mentioned earlier where do you have any
8 children subject to this action? That used
9 be on the very top. And then if you put no,
10 you didn't have to put in any of this other
11 information, because it really didn't
12 matter.

13 So I'd like to get that moved
14 back to the top so that, again, the
15 self-represented litigant would know that
16 they don't need to fill out the rest of this
17 form.

18 MS. SINCLAIR: That is what led to
19 all of this. The whole point was is if they
20 check no and then don't fill out the rest of
21 them from, you can't start a paternity
22 action using this sheet, because they won't
23 fill it out. You don't get either of the

1 adults' information. You don't get any of
2 their information relating to Social
3 Security or employment, so there's no file
4 to create for, say, a paternity action.

5 THE HONORABLE PALMER: But do you
6 file this in a paternity action --

7 MS. SINCLAIR: Yes.

8 THE HONORABLE PALMER: -- if all
9 you're doing is getting custody and not
10 child support?

11 MS. SINCLAIR: Yes, ma'am.

12 MS. COX: But you would have to
13 check yes.

14 MS. BUSH: You would also use this
15 in a dependency case, child welfare case,
16 protection from abuse, anywhere where you're
17 ordering child support. It's not domestic
18 relations.

19 And there's also a federal
20 statute that requires Social Security
21 numbers in divorce decrees. So,
22 theoretically, if you have individuals who
23 do not have children but are getting a

1 divorce, you still would need their Social
2 Security number to populate that divorce
3 certificate.

4 THE HONORABLE PALMER: And that
5 shows up in the certificate of divorce. It
6 does. But I don't know that it's --

7 MS. SINCLAIR: It comes from this
8 form. That's the only way you get it, at
9 least that was my understanding from -- that
10 that was my feeling from the committee.

11 THE HONORABLE PALMER: So when you
12 put in the Social Security number, it
13 populates this, and it populates the
14 certificate of divorce. It populates other
15 things?

16 MR. COLEE: We're talking
17 electronically filed or --

18 MS. SINCLAIR: Once you've moved
19 through the system. This starts the case,
20 and then at the end, it would populate your
21 final form.

22 MR. COLEE: The Social for the
23 certificate of divorce is coming from the

1 filer in AlaFile.

2 MS. SINCLAIR: In AlaFile, right.

3 That's what we thought. It starts here, and
4 it end ups there, after you've moved through
5 the process.

6 THE HONORABLE THOMPSON: Judge
7 Palmer, may I ask a question?

8 THE HONORABLE PALMER: Please, sir.

9 THE HONORABLE THOMPSON: And it may
10 be a silly question. But, I mean, this
11 information sheet says it's to be filed when
12 you're seeking to modify or determining
13 child support or determining paternity.

14 Why are people using this in
15 situations where there are no children?

16 THE HONORABLE PALMER: It came in in
17 19 -- what year was that -- 1998, when this
18 was first used by federal mandate, and it
19 had to be filed with every divorce.

20 But, again, if there were no
21 children, you just checked on there no
22 children, and the rest of the form was
23 blank.

1 So now you use it for apparently
2 various other things that I was not aware
3 of.

4 MS. SINCLAIR: I think it had
5 something to do with the way the courts --
6 the local circuit clerks, they were
7 discussing this, that they didn't have a
8 form to begin a case when we were moving
9 from paper to electronic filing, so they
10 used this form to get the initial data on
11 all domestic relations, paternity cases,
12 dependency cases.

13 This form has basically by
14 default become the form that they use to
15 populate the fields from which the judges
16 moved forward to a judgment.

17 Now, if this committee prefers,
18 we can come up with a new form for use, but
19 that just adds another layer to the circuit
20 clerk, since Teresa Allen's committee is
21 heavily weighted to the circuit clerk's
22 input.

23 THE HONORABLE PALMER: Okay. Well,

1 it says on here that this rule was drafted
2 to comply with Child Support Reform Act of
3 1997, codified under 30-3-190 of the Alabama
4 Code. The domestic relations, which it
5 looks like what y'all have added, child
6 support information sheet will allow the
7 Department of Human of Resources to maintain
8 essential repository of case information.
9 The information sheet must be filed by both
10 parties in all divorce actions, even those
11 in the cases where the parties have no minor
12 children. In that event, the parties will
13 not complete the block concerning minor
14 children.

15 So this is from 1997.

16 MS. SINCLAIR: Right. It's been in
17 use that long.

18 MS. COX: Why don't we just --
19 whatever is not actually needed for a
20 divorce with no children put that under -- I
21 mean, is everything, even the employment --

22 MS. SINCLAIR: Yeah. Everything.

23 MS. COX: All of that is needed for

1 a divorce with no children?

2 MS. SINCLAIR: Right. Everything to
3 the line asking about children has to be
4 filed in every action in order to complete
5 the action. That was my understanding.

6 THE HONORABLE PALMER: Well, not
7 right now. With the form on the very top,
8 where it says, Are there no children to this
9 action, you click no. As of right now, you
10 don't put that in your paperwork.

11 Do you, Jim?

12 MR. JEFFRIES: I think you do.

13 THE HONORABLE PALMER: Okay. I'm
14 looking at the old form here.

15 MR. JEFFRIES: That sounds like
16 that's the problem. There's a
17 misunderstanding that that's what you do,
18 and that's wrong.

19 THE HONORABLE PALMER: Well, back in
20 the good, old paper days, that's all you
21 checked. You handed it to the clerk's
22 office. That was it. You filled out in
23 circuit court of whatever county plaintiff's

1 name, defendant's name, there are no
2 children, you signed it, and you went on
3 your way.

4 Ms. Davis?

5 MS. DAVIS: I'm going back to the
6 judge and Amanda's comments. It seemed to
7 be cleaner. If it's to be used for a DR
8 case, we have a DR number, and was DR -- if
9 you could use 47 just to make it that way.

10 And so those without children to
11 use a DR-47, if you could use that
12 appropriately, and those that have children
13 it would be a CS-47. Because the
14 distinction -- they're there for a purpose,
15 and it details the cases. You have the CS
16 cases, and then you have the DR cases.

17 THE HONORABLE PALMER: But DR cases
18 might have children in them, though.

19 MS. DAVIS: Well, okay. Well, if
20 they have children, then they would have to
21 file this. If they don't, then they don't.
22 I mean, that would solve the confusion --

23 THE HONORABLE THOMPSON: Child

1 support.

2 MS. DAVIS: -- of whether they have
3 -- pardon?

4 THE HONORABLE THOMPSON: I agree
5 with you. It's following under child
6 support.

7 MS. DAVIS: Right. I mean, that's
8 the court's designation separately. And if
9 the confusion is you do or don't, if you
10 have to have, some people are filing out the
11 CS form if they don't have children, and
12 some that are not filing, then you would
13 just know, okay, you have to file the --
14 we'll call it the DR-47 in all cases, if
15 it's domestic relations cases.

16 If you also have children, where
17 child support is going to be involved in
18 that, then you do the CS, for example.

19 MS. SINCLAIR: So are you
20 recommending then that we add a form?

21 MS. DAVIS: I'm not recommending
22 either, because I don't do that. Y'all do
23 that.

1 MS. SINCLAIR: Well, there is no
2 domestic relations form, to my knowledge.

3 CHIEF JUSTICE STUART: I think it's
4 acceptable to have it just stay the CS-47,
5 because we've always used CS-47s in domestic
6 relations cases that involved children.

7 Apparently, the confusion is just
8 this act that changed the law that now
9 requires that this information be collected.
10 So I think we just need to collect the
11 information and go on. I mean, it's not
12 optional. You have to get it.

13 THE HONORABLE PALMER: Yeah.

14 MS. DAVIS: My only other thought
15 was since a lot of the pro se people, like
16 Stephanie were talking about, would be
17 involved in this, we know that there will be
18 redaction of the Social Security number.
19 They won't. There's going to be some
20 concerns and questions that the clerks are
21 going to have to answer in every case.

22 Could we add a little notation at
23 the bottom that full Social Security number

1 will be redacted and only available to the
2 court personnel or something to that effect,
3 so that the people that are not represented,
4 don't have this background, will have that
5 comfort level in knowing that it will not be
6 made public.

7 MS. BUSH: Penny, I think that
8 information is needed for the Bar, because I
9 think a lot of attorneys are --

10 MS. DAVIS: Well, just put it on all
11 of the forms, just on the bottom or
12 somewhere, to inform -- just a matter of
13 informing whether it's the lay people and
14 the attorneys and the judges or whoever that
15 the information will be redacted and will
16 not be public.

17 THE HONORABLE PALMER: Okay. Well,
18 I don't know.

19 Julie, maybe you didn't get more
20 than what you planned for today. So as far
21 as changing the name, I don't even know if
22 we need to vote on that. I think it just
23 needs to stay Domestic Relations and Child

1 Support CS-47.

2 MR. JEFFRIES: You would need to
3 change the proposed amendment and comment as
4 well to add the word "and," and not strike
5 child support, right?

6 THE HONORABLE PALMER: Yes.

7 MR. JEFFRIES: Just so everything is
8 clear.

9 THE HONORABLE PALMER: Okay.
10 Anything else on this topic?

11 (No response.)

12 MS. DAVIS: Would you want to add in
13 the comment or reference to the fact of the
14 redaction of the Social Security?

15 THE HONORABLE PALMER: I believe
16 that's for them to do with their committee,
17 right? To add a line on the bottom here,
18 the Child Support Act of 1997, and just to
19 let both the attorneys and especially the
20 self-represented litigants know that once
21 this get scanned in, the Social Security
22 numbers will be redacted, but they need to
23 put it in now.

1 MS. SINCLAIR: In the bottom on the
2 form?

3 THE HONORABLE PALMER: Is that what
4 I'm hearing?

5 MR. WILSON: I will just throw this
6 out there. I think most circuit clerks are
7 cognitive of the fact that we have an issue
8 with Social Security numbers, and a lot of
9 them are proactive in doing what they can to
10 alleviate that problem.

11 There is an existing rule of
12 judicial administration that puts the burden
13 on the filer to make the redaction. I don't
14 know if this will be one area where the
15 clerk is going to need to know ahead of
16 time. So there may be a little bit of
17 conflict there.

18 MR. JEFFRIES: I was just going to
19 add that that is my understanding as well.
20 This committee issued an order or comment of
21 some kind that we are not to include the
22 full Social Security numbers; is that right?

23 MS. SINCLAIR: Federal law requires

1 it is what I heard today, and then it's up
2 to the clerk to redact --

3 MR. JEFFRIES: Maybe earlier in the
4 year.

5 MS. BUSH: Yes. I mean, federal law
6 requires the full Social Security number.
7 It's my understanding if you input that
8 electronically into AlaFile, the computer
9 will capture the full number, and then it
10 will be redacted from any public view. So
11 if you looked at it or printed it, it
12 wouldn't have the full Social Security
13 number.

14 But I agree with you. There's
15 confusion in that people, I believe, think
16 that they should not input the full Social
17 Security number into AlaFile.

18 MR. JEFFRIES: That's what I'm
19 saying. And I'm sure my confusion is
20 derived from the fact that I'm not the one
21 that actually inputs the information when
22 I'm filing an action. My staff does that.
23 So I may be wrong.

1 But I can remember, hey, okay,
2 we're going to get in trouble if we keep
3 putting the full Social Security number in
4 there, so don't do that. But I don't know
5 how it actually functions.

6 CHIEF JUSTICE STUART: I think
7 that's the point that Nathan is trying to
8 make, that there already is full judicial
9 administration that makes attorneys and
10 parties responsible for redacting
11 information.

12 This clearly is going to be a
13 conflict with that. And I think Rules of
14 Judicial Administration Committee is going
15 to have to try to figure out how to resolve
16 that conflict.

17 MR. WILSON: I'll just throw this
18 thought out there. What if we made the
19 entire form here confidential where it's
20 only accessible by the Court and the parties,
21 out of public record. Of course, the
22 attorneys and the parties.

23 Maybe that's taking a

1 sledgehammer to swat a fly.

2 THE HONORABLE PALMER: Well, when
3 you file something online now from the
4 attorney's side, there is big red
5 capitalized letters, and you click on it,
6 and you click on there affirming that you've
7 redacted all of the personal information on
8 there before you hit file. That's on the
9 attorney's side of that.

10 MS. DAVIS: My concern was,
11 Jennifer, don't y'all have to have all of
12 that information, though, and how do you use
13 it if it's confidential? We can't do
14 something that violates y'all's use of it.

15 MS. BUSH: My understanding is now
16 when you input that data into AlaFile, there
17 is a data transfer between DHR and AOC
18 computer-wise. We don't get this in actual
19 physical form and do anything with it.

20 This form is just used to capture
21 the information that is electronically
22 transferred to us.

23 MS. DAVIS: But if that's made

1 confidential so that only court personnel
2 can have it, how will that impact on your
3 having to capture all of that information
4 and getting it and using it?

5 MS. BUSH: And I wonder if it could
6 be made confidential so that just attorneys
7 and the attorney of record could get it.

8 But my expert is back here. This
9 is Clifford Smith. He's my expert back
10 here.

11 THE HONORABLE PALMER: We got about
12 two more minutes on this subject, and then
13 we're going to have to move on.

14 MS. BUSH: We do use that, because
15 what will happen sometimes is if someone has
16 a non-DHR case and they file a divorce, and
17 this is in the court record, when we get the
18 new case, we will go in there and use this
19 to populate our child support computer. So
20 we would need access to it.

21 But I do like the idea of it
22 being sealed, if we can somehow get access
23 to it. That would protect it from misuse

1 but allow us to get the information we need.

2 CHIEF JUSTICE STUART: I think this
3 is outside the purview of this committee. I
4 think we should move on.

5 THE HONORABLE PALMER: All right.
6 So thank you, Julie. Thank you, Nathan.

7 MS. SINCLAIR: Thank you. And I
8 will return with all of this information to
9 the committee.

10 THE HONORABLE PALMER: Okay. Now,
11 if everybody will turn to, in your packet
12 that's in front of you, Proposed Amendments
13 of Rule 32, Rules of Judicial Administration
14 and Comments. This is what was sent after
15 our May the 12th meeting to the clerk of the
16 Alabama Supreme Court that, I guess, at that
17 point then was presented to the Alabama
18 Supreme Court as far as the modifications
19 that we wanted and we were suggesting.

20 MR. JEFFRIES: Julie, I have two
21 different packets about recommended rules
22 changing.

23 Can you make sure I'm on the

1 right --

2 THE HONORABLE PALMER: It says,
3 Memorandum, and it's from me to Julie Weller
4 from Julie Palmer, May 15th, 2017, Proposed
5 Amendments to Rule 32.

6 MR. JEFFRIES: Okay. I got it.

7 THE HONORABLE PALMER: Everybody
8 have that?

9 Okay. One of the first rules
10 that we did was the proposed changes to
11 child-care cost associated with training or
12 education of a parent necessary to obtain a
13 job or enhance earning potential.

14 Now, I wasn't at the meeting, but
15 Ms. Davis was, and she's going to enlighten
16 us on the responses that the Court had.

17 So, Ms. Davis, let's start with
18 that one.

19 MS. DAVIS: Okay. Well, I was asked
20 by the Supreme Court to come and speak with
21 them about the proposed rules.

22 THE HONORABLE PALMER: Penny, I'm
23 going to ask that you speak up just a little

1 bit. I can hear you, but I'm not sure that
2 everybody over there can.

3 MS. DAVIS: All right. I was
4 contacted by the Supreme Court and asked to
5 come speak to the Court en banc as I had
6 done once before when prior recommendation
7 was made.

8 THE HONORABLE PALMER: And just for
9 a second. And that recommendation is on
10 page three. There's a handwritten three on
11 the bottom.

12 Okay. Thank you.

13 MS. DAVIS: Yes. Well, the Court
14 asked me about all of these, so I'll just
15 speak as we go through about those.

16 Is that okay?

17 THE HONORABLE PALMER: Yes. So now
18 we're on the child care.

19 MS. DAVIS: Okay. The Court asked
20 me to come and speak and do sort of a brief
21 overview of what the rules were, and then
22 they asked questions. And I confirmed with
23 Justice Stuart earlier that I'm free to

1 discuss with y'all the issues that were
2 raised and the concerns that they had, but
3 not necessarily speak about each individual
4 justice and what he or she may have said.

5 Justice Stuart indicated that a
6 lot of the questions were, in fact,
7 representative of the thought of a lot of
8 different committee members, but in the
9 interest of time, maybe one person ask a
10 specific question, so it was not necessarily
11 only that justice's question.

12 So the first issue is as Judge
13 Palmer suggested on the bottom of page three
14 in Subsection (g), this is under the
15 categories of reasons from deviating from
16 the guidelines. Our Subsection (g) says, In
17 appropriate cases, the Court may consider
18 the child-care cost associated with training
19 or education of a parent necessary to obtain
20 a job or enhanced earning potential, not to
21 exceed a reasonable time as determined by
22 the Court, if the parent proves by
23 preponderance of the evidence that the job

1 training or education will benefit the child
2 being supported.

3 My recollection is the original
4 thought process behind this particular
5 suggestion came from some judges that I
6 spoke to at the 4-H Club. It was raised in
7 reference to a case that had held that they
8 could not use, that when a parent is
9 receiving training or education, then they
10 could not consider that with regard to
11 child-care cost, as opposed to when you're
12 going and seeking a job, you can get the
13 child-care cost considered.

14 So members of the Court raised
15 some questions about the appropriateness of
16 this in the sense that you could have people
17 who were either married or not married and
18 one going to school, the girl gets pregnant,
19 and then all of a sudden, the other party is
20 charged with a degree of a financial
21 responsibility for that person continuing
22 education in the sense that the Child
23 Support Guidelines would be impacted by it.

1 And so there was some concerns
2 about that. I indicated to them that we had
3 some concerns also about when it would be
4 appropriate to consider this; for example,
5 if you had a child that was 18 and somebody
6 was going to do an education program that
7 they would not complete until the child
8 reaches the age of, you know, 19 in six
9 months, then how much would the child really
10 benefit from the enhanced economic ability
11 that that parent gets by, you know,
12 completing an education program.

13 And so that was a discussion. I
14 think when I went back and reread the
15 Advisory Committee notes from the --

16 THE HONORABLE PALMER: May 12th?

17 MS. DAVIS: -- May 12th, and I think
18 there was one committee meeting before that
19 that we discussed it. We had had a lot of
20 discussions about some of the same questions
21 and issues that were raised by the Supreme
22 Court.

23 And so while I was not there at

1 the end when they made the vote, I think
2 they had some concerns about that, about the
3 appropriateness of that.

4 We did feel like when our
5 committee was drafting this, that we gave
6 the Court the discretion by adding the words
7 "in appropriate cases." That would mean
8 that the judge would have to look at each
9 individual case to determine whether the
10 education that was being pursued was
11 necessary to obtain a job or to enhance the
12 earning potentials that was here and to
13 allow the Court the discretion to limit the
14 amount of time that was involved, and it did
15 require preponderance of the evidence.

16 But, obviously, the Court felt
17 like the negatives outweighed the positives
18 on that.

19 Is there anything else, Justice
20 Stuart, relating to that you can think of?

21 CHIEF JUSTICE STUART: No. And I
22 would say that there are several members of
23 the Court that have issues with this

1 provision. The Court did not take a
2 specific vote on this provision, so I don't
3 know whether it would have passed or not had
4 there been a vote.

5 The Court's ultimate decision was
6 to send everything back, rather than to deal
7 with certain pieces. And so it's probably
8 really up to this committee if they want to
9 just send this back to the Supreme Court
10 again or change it and whichever is fine.
11 In the end, the Court by majority will do
12 whatever it decides to do.

13 And, again, I don't know whether
14 there would be a majority opposed to this or
15 not, but there were several. It would be
16 close.

17 MS. DAVIS: Right. And it may be if
18 the committee wants to, we could -- I can't
19 remember if we did a subcommittee on this
20 one before or not. We could probably go
21 back and maybe address some of the specific
22 needs; although, one way, perhaps, you could
23 do it is by having an enhanced standard of

1 evidence, you know, clear and convincing,
2 instead of preponderance, for example.

3 But the amount of dollars
4 involved were not that great, and I touched
5 on that with the Court. But I think if we
6 were taking that one, if we took it
7 piecemeal and went back up to the Court and
8 had some examples, because the child support
9 costs are already limited, that DHR sends
10 out every year, the amount that's limited.
11 So it's not that they're not paying the
12 tuition of somebody to do it. They're not
13 paying for the welder to go -- if the welder
14 who wants to go from a welder one to a
15 welder two, and it costs a thousand dollars
16 to get into that program, they're not paying
17 that. They're just paying for the person to
18 have childcare during that time, so --

19 THE HONORABLE PALMER: One of the
20 reasons this was brought up is that the new
21 alimony law statute comes into effect
22 January 1st, 2018, where, first, you have
23 to -- certain circumstances, but first, you

1 award rehabilitative alimony. And for
2 somebody to get back to rehabilitate
3 themselves, maybe you have an IT degree, but
4 you've not done that in seven years. You
5 have a teaching certificate, but you let
6 that lapse. You were in school, and now the
7 only thing left is your -- in nursing
8 school, you've got a practicum left. You
9 are in school, and you got to do your
10 practice teaching, something like that, so
11 that it's not four years worth of daycare
12 expenses. If it's in appropriate, I
13 believe, cases that maybe something is
14 already going on, or you can see that I know
15 I've got to get back into the workforce, but
16 I can't do that and not have childcare at
17 the same time.

18 MS. DAVIS: Yeah. That's right.
19 That discussion was reflected in the
20 transcript.

21 MR. PASCHAL: I just have a question
22 about that.

23 THE HONORABLE PALMER: This is

1 Kenneth Paschal.

2 MR. PASCHAL: Yeah. That needs some
3 work.

4 But trying to move forward, if
5 childcare is needed, if there is two
6 parents, I would think a clause or reference
7 would be the guided course in that
8 direction, saying use this if the other
9 parent is not available to provide the
10 childcare themselves.

11 THE HONORABLE PALMER: Well, I think
12 this is, though, just to be able to allow
13 the Court to award the daycare expenses, not
14 necessarily address the custodial
15 arrangements.

16 But anybody have any other
17 comment about that?

18 MR. PASCHAL: What I'm saying is if
19 you have -- if another parent is available,
20 I know y'all are not trying to address the
21 custodial part, but we need to look at that.
22 If a parent is available, why pay for
23 childcare if you have another mechanism and

1 use this as a next option. You know, it's
2 something like a flowchart. Like A, B, C,
3 and so forth.

4 THE HONORABLE PALMER: Well, I guess
5 we're under the assumption that the person
6 is going to be going back to school during
7 the daytime, when these daycares are open,
8 and the other former spouse is at work as
9 well, because I agree with you.

10 If the other person is not at
11 work, unless they work 3:00 to 11:00, then
12 there is possibly no need for that person to
13 have daycare expenses. This is when they
14 are going to have childcare expenses to go
15 back to get a new job, a job, renew a
16 certificate, something like that.

17 All right. Anybody?

18 THE HONORABLE THOMPSON: Well, I see
19 this as just allowing the trial courts to
20 have the flexibility to consider that and to
21 make changes when necessary to hopefully
22 further down the line allow that
23 noncustodial parent to be able to reduce

1 that child support obligation through the
2 increased earning capacity of the custodial
3 parent.

4 Having that flexibility seems
5 like a good thing to me.

6 THE HONORABLE PALMER: Okay. Do I
7 hear a motion that we resend this childcare
8 cost language and possibly with some
9 examples back to the Alabama Supreme Court
10 for their review and possible approval?

11 Jim?

12 MR. JEFFRIES: Can I make a
13 comment --

14 THE HONORABLE PALMER: Yes, sir.

15 MR. JEFFRIES: -- before we decide
16 on whether we send it back?

17 As I sit here and read this
18 language, one issue that I see as far as the
19 way it's written is that there's obviously a
20 limit on the time that this type of daycare
21 cost being added to a child support form
22 would be appropriate.

23 And my question would be how do

1 we instruct courts to deal with the limited
2 timeframe? Are you going to say -- the
3 Court has to determine what a reasonable
4 time is, but what happens after that
5 reasonable time?

6 Do the parties have to come back
7 and resubmit a motion with new guidelines,
8 because the person is now working and is not
9 using the work search or educational-related
10 daycare.

11 THE HONORABLE PALMER: Well, I would
12 think it would be a petition to modify,
13 because whomever was getting the benefit of
14 the childcare expense in there now has a
15 better job or a job, and so it would be a
16 petition to modify, in my opinion. Or
17 unless you already knew -- and I don't think
18 the Court can do it, but I know in agreement
19 you can do it. I graduate in June of '18.
20 I am going to get a job teaching school at
21 \$32,000 a year, because I'm already a
22 substitute teacher. I just have to get my
23 certification back up. And I believe at

1 least in agreement you could go ahead and
2 automatically change it.

3 Judge McMillan?

4 THE HONORABLE McMILLAN: I agree.
5 But I also see the point Mr. Paschal was
6 making too. And it does give the Court an
7 opportunity for discretion. Generally
8 speaking, just from laymen's term, just
9 putting boots on the ground, you got two
10 folks standing in front of you in court and
11 somebody, I guess -- the noncustodial
12 parent, from what I understand, is saying, I
13 got to go back to school. And if I go back
14 to school, I'll make 10,000 more dollars a
15 year. Right now, we got some custody
16 arrangement, but during my time, I'm not
17 going to be able to keep my child, so I'm
18 going to have to put my child in daycare.

19 Is that kind of what we're
20 looking at?

21 THE HONORABLE PALMER: Well, I think
22 it's with both parties. Maybe the
23 noncustodial parents or -- let's say it's a

1 week and a week, okay? It's true joint
2 physical custody.

3 During my week, I'm in school.
4 I'm doing my practice teaching. I'm there
5 for the next two and a half months, doing my
6 practice teaching. I have to have daycare
7 expenses. You're working. You're on the
8 bench from 8:00 o'clock to 5:00 o'clock, and
9 so you can't keep the child. So now I've
10 got to go pay that expense during my
11 custodial time.

12 MR. PASCHAL: Would that be good
13 language to insert in here? You know,
14 absent either parent having the ability to
15 fulfill the obligation, then proceed on.

16 THE HONORABLE PALMER: Penny?

17 MS. DAVIS: I think the Child
18 Support Guidelines should stick with the
19 support aspect only. I think that the
20 guidelines relating to child support are by
21 court rule. The custodial is not by court
22 rule. It's by the judge's decisions. I
23 think you're going to have a real problem

1 when you start having the rules --

2 THE HONORABLE PALMER: And that
3 should be part of the argument in court, I
4 would think. If they're arguing that I need
5 daycare expenses because I need to go back
6 to school, then the other side can say,
7 well, Your Honor, my client is capable of
8 keeping the child while the other party is
9 in school. If it's two nights a week, then
10 drop the child off at my residence, pick the
11 child up when you're finished with school.
12 I think that would be part of the argument
13 in trial.

14 THE HONORABLE McMILLAN: Sort of the
15 catchall language in appropriate cases?

16 THE HONORABLE PALMER: Yes.

17 THE HONORABLE THOMPSON: And
18 necessary.

19 THE HONORABLE PALMER: And
20 necessary. And then that's again for the
21 Court to decide: Is it really necessary? A
22 master's in Art, is that really going to get
23 you a better job in Hamilton, Alabama,

1 versus in Birmingham, Alabama? In
2 Birmingham, it might get you a better job.
3 In Hamilton, Alabama, it's probably not,
4 so.

5 MS. DAVIS: Can I go back to Jim's
6 question?

7 THE HONORABLE PALMER: Yes, ma'am.

8 MS. DAVIS: About the modification.

9 Every year, the amount of child
10 support is potentially -- the amount of
11 impact on the childcare cost goes up or
12 down, probably up. It could go up every
13 year, because the maximum that the DHR
14 allows goes up or down.

15 And so if the amount goes up \$10
16 a month, let's say, then at that point,
17 independent of this issue of work-related
18 versus training-related child-care costs.
19 If it's work-related child-care costs, so
20 that right now, both parents are working and
21 the child is in daycare Monday through
22 Friday, when it goes up, the cost goes up.
23 At that point, either parent has the option

1 of going in and seeking modification. And
2 if it's more than a 10 percent deviation,
3 then we have that built in as a presumption.
4 If it's less than that, you can still get
5 it, but you have to go in.

6 So I don't see this being any
7 different, because the reality is if a
8 person is staying at home and they're going
9 to school three days a week to get a job,
10 once they get that job, they're still going
11 to be having child care, because instead of
12 being at school, they're going to be at
13 work. So I think it's more than likely it
14 would go up, the child-care cost would go
15 up.

16 In the example where you have the
17 two joint custodies, if right now child-care
18 cost is only for two weeks out of the month,
19 and then a person goes to school, they're
20 now certified as a welder two, and they now
21 get a job, then that child for those other
22 two weeks are now going to be in daycare
23 full-time, because that parent is now going

1 to have to have child care too, because both
2 parents are working during the day.

3 So I don't think it's going to
4 matter that much once it's ordered, because
5 if anything, I think it will go up, because
6 they'll then be working full-time.

7 THE HONORABLE PALMER: Or should
8 have a better paying job. They might still
9 be working full-time.

10 MS. DAVIS: That's right. Which
11 would then mean they would do what they do
12 now, which is look and see if it results in
13 10 percent deviation, because now the parent
14 that has gone and gotten the advanced
15 education now has gotten the better job.

16 And if they're now making the
17 \$10,000 more, then, yeah, you go back, and
18 you get a child care -- you look at the
19 whole Rule 32 amounts. In fact, the other
20 parent may wind up paying less, because this
21 other person now is making more.

22 THE HONORABLE PALMER: Well, with
23 that discussion, does anybody have a motion

1 that we send this back to the Alabama
2 Supreme Court?

3 MS. DAVIS: My motion would be that
4 we have a subcommittee to look at these
5 issues, and rather than send it back exactly
6 as it's drafted, to see if we can address
7 some of the Court's concerns more
8 effectively.

9 If we had the subcommittee, Billy
10 Bell was probably the chair, so I would
11 suggest we get a practitioner that's like --

12 THE HONORABLE PALMER: Well, Judge
13 McMillan?

14 THE HONORABLE McMILLAN: I'll be
15 glad to or one of these gentleman. Sure.

16 MS. DAVIS: I think it would be
17 helpful if we have lawyers and judges both,
18 but I'm thinking at least those two.

19 MR. JEFFRIES: I'll help.

20 MS. DAVIS: I'll help.

21 THE HONORABLE PALMER: So Jim.
22 Judge, do you mind being the chair of that
23 subcommittee?

1 THE HONORABLE McMILLAN: Yes, ma'am,
2 that'd be fine.

3 THE HONORABLE PALMER: And then,
4 Jim, do you accept to be on that
5 subcommittee?

6 MR. JEFFRIES: Yes.

7 THE HONORABLE PALMER: Okay. And
8 Penny?

9 MS. DAVIS: I'll be happy to.

10 THE HONORABLE PALMER: Steve Arnold
11 is not here. Steve Wright is not here.

12 MS. DAVIS: Do we need to have
13 someone from DHR, because we are talking
14 about child-care cost?

15 MS. BUSH: The way it's written, I
16 don't see any impact on our regulations or
17 our statutes. I mean, if you come back with
18 language that's different that impacts a
19 certain rule, we'll tell you. But right
20 now, it wouldn't have any impact on us.

21 THE HONORABLE PALMER: Okay. All
22 right. So I hear a motion that we develop a
23 subcommittee to further review this and

1 report back hopefully before our next
2 meeting, so everybody will have a chance to
3 look at it, and then at our next meeting,
4 then we look at it and possibly vote on it
5 at that time.

6 And that's Penny's motion. So
7 anybody objecting to that motion?

8 (No response.)

9 THE HONORABLE PALMER: All in favor
10 say aye.

11 MR. JEFFRIES: I'll second.

12 THE HONORABLE PALMER: Okay. Thank
13 you. Jim seconds.

14 Aye?

15 (Committee members who favored the
16 motion so indicated.)

17 THE HONORABLE PALMER: Opposed?

18 (No response.)

19 THE HONORABLE PALMER: All right.

20 Then the next matter that was presented was
21 -- if you'll look on pages nine and ten.
22 That was Credit for Third Party Payments to
23 the Child.

1 And everything that's, I believe,
2 underlined is what was submitted.

3 MS. DAVIS: Are you ready for me?

4 THE HONORABLE PALMER: Yes, ma'am.

5 MS. DAVIS: Okay. There was a
6 subcommittee that worked, I think, on this
7 credit for third party payments. Part of
8 the reason we wanted to add this goes back
9 to the number of pro se people that are not
10 aware of credit that they are allowed to
11 receive in certain instances, and so we
12 wanted to make sure that when people were
13 filling out their forms, that they were
14 aware of the ability to get credit for
15 certain resources, like as you see listed
16 here: Social Security Retirement,
17 Survivor's Disability, Veteran's benefits,
18 that sort of thing, that's paid on behalf of
19 the work record of the paying obligor.

20 And there is case law that will
21 give them credit if they go to court, but
22 it's not on the form. And so we wanted to
23 make it a part of the rule so that the

1 people who are perhaps not as aware of the
2 law changes and not utilizing an attorney to
3 ask the Court for credit for those payments
4 would be aware of it and could ask the Court
5 for credits.

6 If you look on page ten, little
7 (i), there are also third party payments
8 that would not be credited towards child
9 support obligations. And the list that you
10 see there is based upon the current law in
11 Alabama, case law in Alabama.

12 So what we essentially sent to
13 the Supreme Court was a compilation of the
14 existing case law relating to the custody
15 for third party payments to the children.

16 Now, most of the cases that we
17 relied on, the committee relied on, were the
18 Civil Court of Appeals cases, which meant
19 that the Supreme Court had not necessarily
20 reviewed whether a particular payment should
21 be credited towards support.

22 And so once we went forward with
23 this proposal, some of the members of the

1 Court had some concerns about specifically
2 some of the cases that we filed that were
3 enumerated under two little (ii);
4 specifically, at the bottom of page ten,
5 number three, and the top of page 11, number
6 four, because the way it would read is, The
7 following payments to a child by a third
8 party shall not be credited toward the
9 support obligor's child support obligation.

10 And we said that number three was
11 any payment received in excess of the amount
12 of child support owed to the child, and
13 that's the current case law.

14 And the other one they
15 specifically had questions with was number
16 four: Any payment received by the child
17 shall not be credited against arrearage that
18 accrued before the receipt of the obligor's
19 benefit.

20 And so the questions that they
21 raised was what about the situation where a
22 person has not been able to work, because
23 they were disabled, and then once -- it

1 takes a while, of course, to get that
2 disability categorization by the feds.

3 Once they get that, there is an
4 arrearage that has occurred, because the
5 parent has not been able to work. And so it
6 didn't seem fair to the members of the Court
7 that that arrearage could not be -- that the
8 amount that was being paid that was
9 particularly in excess to what they were
10 getting, could not at least go back to the
11 arrearage when there was a direct
12 connection.

13 And, obviously, there would be
14 some situations where a person has not paid
15 for a long time when they were capable of
16 paying, employed, and then they later became
17 disabled. But there are certainly a number
18 of situations where people pay every penny
19 every month, and then they're extremely hurt
20 in a car accident or, you know, driving a
21 truck or something for the company or
22 wherever, and then all of a sudden, they
23 can't work, and so that's when the clock

1 starts.

2 And so the way our proposal was,
3 this made no difference between those two
4 scenarios, and so some of the members of the
5 Court had some real concerns about that.
6 And I told them that what we had done was
7 just to take the existing law and put it
8 together. We had not debated the merits of
9 each one of these cases that had occurred
10 over the number of spans of years.

11 So that was the concerns that
12 they raised about that. I did not get the
13 impression they had problems with -- and I
14 might be wrong about that, with the idea of
15 putting something in there, but they just
16 did not agree with what we put in there.

17 THE HONORABLE PALMER: Justice
18 Thompson?

19 THE HONORABLE THOMPSON: Well, I
20 have been looking at number four on page 11.
21 Would the problem be with the use of the
22 word receipt of the obligor's benefit and
23 not maybe eligibility for or -- because when

1 they pay a large check, they're capturing
2 those dates that occurred before the
3 receipt.

4 MS. DAVIS: I think the problem --

5 THE HONORABLE THOMPSON: Unless you
6 interpret receipt differently.

7 MS. DAVIS: Right. Yeah. I think
8 the reality is that our committee took the
9 language that was in the court cases. We
10 captured that language. We put it in the
11 rule.

12 And the language that was -- as
13 with a lot of cases when they're decided,
14 they're based on the facts of that
15 particular case. And in hindsight, we
16 probably should have looked and spent more
17 time looking at the ruling that the Court
18 considered. And then when you're putting
19 that ruling and making it apply broadly to
20 all cases, we probably should have spent a
21 little more time looking at whether that
22 particular language was appropriate when
23 it's broadly going to be applied, as opposed

1 to that one case.

2 Because, you know, once the
3 justice talked about that, I thought, yeah,
4 that's right. We probably should have
5 distinguished between those two examples
6 that I gave you.

7 THE HONORABLE THOMPSON: And I think
8 that was part of the letter that Jim
9 forwarded to us too.

10 MS. DAVIS: Right. And so --

11 THE HONORABLE THOMPSON: And what
12 was the problem with number three on
13 page ten?

14 MS. DAVIS: Again, it was if you
15 receive a payment in excess of the amount
16 that's owed, you know, why shouldn't there
17 be some sort of consideration. It was kind
18 of like a windfall to --

19 THE HONORABLE PALMER: Like, if I
20 only owe \$400 in child support, but the
21 check because of the disability that Penny
22 gets is \$450, so that extra \$50, she doesn't
23 have to write a check back to me, because

1 that's the child's money. That's not my
2 money. And that's, I believe, is the intent
3 of number three, that any payments received
4 in excess of the amount of the child support
5 owed to the child.

6 THE HONORABLE THOMPSON: I think we
7 recently had a case in which someone had
8 overpaid their child support and then wanted
9 a credit for it a couple of years down the
10 road, and we said that was not allowed. And
11 I don't know where that case is, so I won't
12 go further with it.

13 But I think the thinking was
14 that, you know, it puts the parent with
15 custody of the child in a position of I have
16 to save that money now. I had to put that
17 in somewhere separate so just in case that
18 person wants to come back and get a credit
19 for it.

20 So that's the way I read that
21 particular provision. And I don't know if
22 that was based on Social Security or if it
23 was just on any payment.

1 MS. DAVIS: Right. And I think
2 that's the problem. All of these were based
3 on cases that we had. And they're
4 referenced in the commentary. We can go
5 back and look at the case. But that is a
6 broad statement.

7 And I think when it said any
8 payment received in excess of the amount of
9 child support owed, you know, I think that's
10 a little bit different, because this is
11 talking about a third party that's paying
12 it, and your scenario, I think, you're
13 talking about --

14 THE HONORABLE THOMPSON: Right. It
15 does say third party. I'm sorry. Yes.

16 MS. DAVIS: But it's the same
17 concept. And I just think we didn't really
18 flush out all of these. And I think we need
19 to think more in terms of the appellate
20 court that made the decision made the right
21 decision. We're in agreement with that.

22 But is that the language that we
23 need to have to capture what was the thought

1 there. And if it's written in a way that
2 we're trying to figure out what it means
3 here, then that means we haven't drafted it
4 in a tight enough language that people can
5 figure it out who haven't had the benefit of
6 this discussion.

7 THE HONORABLE PALMER: Amanda?

8 MS. COX: I have a question on
9 Subsection 4. Would it be any different if
10 the obligor parent had filed a petition to
11 modify and gotten their obligation suspended
12 while they weren't working, as opposed to
13 one who did not, and it's therefore
14 accumulated arrearages. Would that be
15 different as it relates to Subsection 4?

16 And while I'm talking, this is
17 not substantive, but on number six, I think
18 it needs to be reworded to say a child with
19 special needs. I don't know if anybody else
20 noticed that.

21 THE HONORABLE PALMER: Special needs
22 child?

23 MS. COX: It's supposed to be person

1 first, like child with special needs. I
2 just noticed that too. But my main question
3 was about number four, about how that was
4 different.

5 MS. DAVIS: I think the result would
6 be different in the sense that if Jim is
7 supposed to pay me \$400 a month, and his arm
8 is crushed in something and he can't work,
9 then at that point, he could go in and ask
10 the Court for a modification, because he's
11 no longer making, you know, \$2,000 a month
12 or whatever he was making.

13 And so once it's modified, it no
14 longer becomes an arrearage. The problem is
15 you don't immediately think I need to go
16 into court. You know, if he's laid up in
17 the hospital for weeks, months, burn unit or
18 whatever, someone may not do that. And then
19 by the time it gets to court for the Court
20 to look at, there's been a period of time.

21 THE HONORABLE PALMER: Well -- and
22 to follow up on what Justice Thompson said,
23 it's my understanding you have to wait at

1 least six months before you can even file
2 for SSDI once disability has hit.

3 Does anybody know that to be true
4 or not? That's my understanding.

5 So you've got at least six months
6 there. In your mind you're disabled, but
7 you can't even get it before a federal court
8 to apply for your disability for at least
9 six months, and then you're six months,
10 one year to 18 months down the road before
11 you finally get your hearing, so now you've
12 got two years of arrearage. And then when
13 you do get approved, the person who's
14 injured gets a lump sum, but the child also
15 gets a lump sump. And that's, I believe,
16 where the problem is towards the arrearage
17 that don't want to get credit for.

18 MS. DAVIS: I think Amanda's point
19 was to some extent, you could have a lesser
20 amount of arrearage if you went ahead and
21 did what you should.

22 THE HONORABLE PALMER: But most
23 people don't, just like you said, because

1 they are in a burn unit, or they don't have
2 money. If they don't have money to pay
3 child support, they don't have money to hire
4 an attorney to get their child support
5 reduced or at least stopped, temporarily
6 stopped. And then it usually doesn't get
7 done until the person who's owed the child
8 support files something, usually through
9 DHR, that says, you know, it's two years.
10 I've got to have some child support, so
11 that's where we are.

12 Judge McMillan?

13 THE HONORABLE McMILLAN: You're
14 exactly right. It comes in on a contempt
15 petition, because somebody is not paying,
16 and there it is.

17 THE HONORABLE PALMER: And then the
18 other side says, Well, Your Honor, I've
19 applied for SSDI. I'm in the line. Here's
20 my paperwork. I'm showing you I've got it
21 there. Notice, I filed it in January of
22 2017. I'm doing my best, but I cannot work
23 right now. And I'm doing what I understand

1 I'm supposed to be doing as far as getting
2 this.

3 But, sir, you haven't filed a
4 petition to modify, have you?

5 No, I haven't.

6 But at the same time, you'd hate
7 for somebody to get a \$5,000 check, and
8 there's \$5,400 due in back child support,
9 plus interest, and then they don't get one
10 penny credit for that \$5,000.

11 MR. JEFFRIES: I think it seems that
12 we have already addressed this issue with
13 the rule. We are specifically dealing with
14 situations where a child gets direct
15 payments because of the disability or other
16 circumstances of an obligor.

17 THE HONORABLE PALMER: Yes.

18 MR. JEFFRIES: Back to the lump sum
19 example that Ginger Hayes mentioned and you
20 mentioned it as well, Julie, if the child
21 gets part of that lump sum -- I don't know
22 whether they do or not, but if the child
23 gets part of that lump sum on behalf of the

1 obligor, then they get credit for that
2 pursuant to this rule.

3 If there's an additional
4 arrearage that has arisen because of their
5 failure to pay before they received that
6 lump sum, that's a separate issue that is
7 not really addressed by this rule.

8 THE HONORABLE PALMER: Well, I think
9 one thing that has to be looked at is how is
10 that money applied. Is it applied for
11 November '17, October '17, goes back that
12 way, or does it start with March of 2010
13 when I was working and I just wasn't paying?
14 Where does that money go? Does it go from
15 the most recent payment backwards or the
16 furthest out forwards?

17 MR. JEFFRIES: I think it would --

18 THE HONORABLE PALMER: Because you
19 got all of your interest and everything else
20 you got to account for.

21 MR. JEFFRIES: If I understand
22 correctly, it would depend on when the
23 obligor petitioned for the benefit in the

1 first place. If he has an arrearage of six
2 months that has accrued, he or she has an
3 arrearage of six months before they file the
4 disability claim, then they're not going
5 to -- the child, I'm guessing, is not going
6 to get any payment that accrued before the
7 filing of the petition for the disability
8 claim in the first place.

9 So that's on the obligor to deal
10 with however they would deal with it
11 otherwise.

12 THE HONORABLE PALMER: Okay. Any
13 other suggestions?

14 MS. CAMPBELL: I will tell you, at
15 DHR, the way our computer system will post
16 the money, the money is going to be posted
17 towards arrears the date it comes in. And
18 what it will do is if there's any kind of
19 adjustment needed to the interest, the
20 older -- the 12 percent interest is what is
21 paid first, rather than the seven and a half
22 percent. So it does apply to the arrears on
23 the older interest.

1 So I don't know if that answers
2 your question about the arrears and
3 interest. But it's going to come in, and
4 whatever arrears balance is, it's going to
5 just reduce that arrears balance. But if
6 the payment comes in as a lump sum, there's
7 nothing going to happen to the interest,
8 because if you still have unpaid child
9 support arrears, that unpaid child support
10 arrears is still going to accrue the
11 interest. And if it pays the entire debt
12 off, the child support principal arrears
13 off, then your interest is going to stop
14 accruing at that point until additional
15 arrears accrue.

16 THE HONORABLE PALMER: Okay. Well,
17 Justice Thompson, do you have something
18 else?

19 THE HONORABLE THOMPSON: Yeah. I
20 was just going to say, if it helps, we
21 recently had a case in 2016 called Namati
22 versus Lowhorn, which it deals with the
23 Social Security payments received on behalf

1 of -- well, received by the child due to an
2 obligation attributable to the obligor.

3 So in that case, the father
4 received Social Security benefits, the child
5 did, and the father started reducing his
6 child support obligation and in paying only
7 the amount that was due over what the child
8 was receiving as far as the Social Security
9 benefits. And the mother, obviously, was
10 seeking the additional child support over
11 and above what the father was paying. And
12 the trial court did not credit the father
13 with the payments from Social Security.

14 And our Court said that the trial
15 court was wrong not to do that, and those
16 were payments received by the child based
17 on, you know, the obligor's receiving Social
18 Security, so that those could profitably be
19 credited to this obligation, even though he
20 had not filed for a modification. And the
21 trial court reviewed it as an arrearage and
22 as an obligation that each month became a
23 final payment due.

1 So that's a case that's somewhat
2 instructive on this particular subject.

3 MS. DAVIS: I think one thing that
4 may be a little confusing to the parents is
5 that when you get a third party that's
6 paying, your obligation to pay support, the
7 amount remains the same. It's just that
8 you're getting credit for something that's
9 owed.

10 And so part of our thought here,
11 we were trying to capture the concept of
12 credit for payment so that not necessarily
13 just the pro se, but certainly the pro se
14 people, if at the time of the initial
15 divorce or later, when they're trying to
16 seek modification or whatever, there would
17 be a place on the form that they could
18 perhaps put, you know, that they were
19 receiving that or credit or some, you know,
20 information.

21 And we went into detail about
22 when credit was permitted, which is Roman
23 Numeral I; when credit was not permitted,

1 Roman Numeral II is the instructions so that
2 you didn't have to litigate every time.

3 We had like, what, 30 new judges
4 coming in circuit -- was it like
5 30-something, 20-something new judges that
6 came in, and so we thought it would be
7 instructive to the new judges particularly
8 if we captured in some place a listing and
9 enumerate when it was appropriate to allow
10 that credit and when it's appropriate not
11 to, and so it was just capturing that
12 information.

13 I think we probably ought to go
14 back and rethink this.

15 THE HONORABLE PALMER: Well, do we
16 need to -- was it just number three on ten
17 and number four on 11 that was rejected?
18 Was the rest of this, just to give the
19 credit for the third party, was that
20 acceptable?

21 MS. DAVIS: I could not make that
22 statement, because all I can tell you is the
23 issues that were raised. As Justice Stuart

1 indicated, I guess the same thing would be
2 the case, and if they didn't vote on this
3 particular rule one way or the other, and
4 just because those were the only questions
5 that were particularly raised to me doesn't
6 mean that there weren't additional questions
7 that some of the members of the Court might
8 have had.

9 It would seem to me that at a
10 minimum, before we go forward again, since
11 we told them what we did was send what the
12 current law is, but we didn't do any
13 independent thought as to what would be
14 appropriate, like a lot of times we do with
15 the committee, that we ought to at least do
16 that before, not just turn around and send
17 it back to them.

18 And, you know, you could not
19 include when the credits are and when
20 they're not and just have them take care of
21 it -- you know, just on the form say that
22 they're applying for credit and then leave
23 it up to the individual judges to then have

1 to deal with that, but this gives
2 clarification.

3 THE HONORABLE PALMER: Well, what
4 form are you talking about as far as the
5 self-represented litigant is going to be
6 filing?

7 MS. DAVIS: If you look at the child
8 support right now, we give credit for child
9 care. You know, that's on the form where
10 you take away whatever. If you look at the
11 income, the income is X amount. Well, if
12 you're not working, your income was blank.
13 I don't know that we need to adjust it, you
14 know, how we could adjust it.

15 Because we put in the rule
16 exactly when we didn't talk about that. I
17 just don't know if we need to broaden the
18 discussion to include something different, a
19 different approach to this, or if you just
20 want to continue to look at this and then
21 delve into the rationale of the appellate
22 courts when they made these decisions.

23 THE HONORABLE PALMER: Well, does

1 anybody have any comment about either
2 modifying three or four with new language or
3 just taking three and four out and then
4 resubmitting what was done just about giving
5 credit for third party sources for child
6 support and just leave it for the judges to
7 make a decision as to when to apply and when
8 not?

9 MS. BALDWIN: As to paragraph four,
10 I just wonder if would be -- I'm not quite
11 sure I understand what the objection might
12 have been, but maybe this would clear it up.

13 As I understand case law
14 regarding application of arrearages, Social
15 Security, if we put in that last sentence
16 where it says, Before receipt of obligor's
17 benefit, if we said something like before
18 the date of onset of the obligor's
19 disability as determined by the Social
20 Security Administration or something like
21 that, I think that might -- as I understand
22 the case law, and it's how we apply. That's
23 how we apply it. That would make that

1 paragraph, to me, a little clearer.

2 I don't know that that fixes
3 whatever the concerns were, but it just
4 makes it, to me, clearer as the case law had
5 applied it.

6 MR. WHITMIRE: I think that's
7 correct. It will make it a lot easier for
8 the judges. And you would also have a
9 ruling from an administrative judge at that
10 point setting out the onset so that the
11 trial court or the state courts could look
12 at that and make that ascertainment before
13 modification as well as how we're dealing
14 with this section itself.

15 So I think that would be quite
16 helpful to the court system.

17 THE HONORABLE PALMER: Amanda?

18 MS. COX: I agree with that too.
19 And I also think that that would make it
20 easier for crediting. You go with the month
21 of the onset as determined by the Social
22 Security Administration. That should
23 coordinate with what month you're applying

1 it to, you know, which month of arrearage.
2 I think that would be the easiest way to do
3 it.

4 MS. BALDWIN: And can I add
5 something else in discussion to that, not
6 necessarily to add into that paragraph?

7 But just that is for maybe any
8 payments the child receives or the family
9 allowance. That's what the benefit of the
10 child is called, the family allowance. But
11 if we were to get any lump sums from the --
12 this is how I understand case law and how
13 we've been applying it.

14 If the obligor, NCP, received a
15 lump sum that goes to him, that's his money.
16 And if we have intercepted that, if we've
17 been able to get that, that's applied to any
18 arrearage, because that's his money. So
19 that applies to any arrearage he's ever
20 accrued, even before the onset of the
21 disability.

22 So if that is part of the
23 concerns as well, that would credit him

1 more, because sometimes, that does happen,
2 that the child gets a family allowance that
3 gets credited. After the onset of
4 disability, we attach or intercept his lump
5 sum, and that can be applied to any
6 arrearage, because that's money that's
7 applied to him.

8 THE HONORABLE PALMER: Well, I don't
9 know that this third party credit is for
10 that part.

11 MS. BALDWIN: Right.

12 THE HONORABLE PALMER: But I do like
13 the language that you just suggested as
14 determined by the Social Security
15 Administration as far as when the disability
16 starts.

17 MS. BUSH: I think the only thing
18 you might want to be careful about is not
19 being specific to Social Security
20 Administration, because you have Veteran's
21 benefits, Railroad.

22 MS. BALDWIN: And I put or any
23 agency determining the disability.

1 THE HONORABLE PALMER: Maybe not
2 even Social Security, but any agency.

3 THE HONORABLE THOMPSON: Again, that
4 limits it. I mean, would this involve any
5 kind of insurance policies or any other
6 third party payments outside of a
7 governmental?

8 THE HONORABLE PALMER: Like, if you
9 got long-term disability or short-term
10 disability, insurance policy through your
11 employer that you buy as a separate policy,
12 that type of thing?

13 THE HONORABLE THOMPSON: Well, I'm
14 just thinking of what else it might apply to
15 other than some type of governmental
16 assistance.

17 THE HONORABLE PALMER: Well, I don't
18 know that a child, though, would get a
19 benefit of a long-term disability that
20 you've gotten through your employer. I
21 don't know about that.

22 MR. JEFFRIES: I was just going to
23 point out at the bottom of page nine, there

1 is sort of a catchall set of words that
2 says, Or any other third party payments paid
3 for the children based on the support
4 obligor's earnings record or other
5 eligibility requirement attributable to the
6 support obligor.

7 Whether an insurance policy or
8 other payment would get credited would have
9 to satisfy that language.

10 THE HONORABLE THOMPSON: But if we
11 put something in four saying a determination
12 by an agency, then are you limiting that?

13 MR. JEFFRIES: You're talking about
14 back to four?

15 THE HONORABLE THOMPSON: Yeah. Back
16 to four. We add that language.

17 MR. JEFFRIES: Little two (ii),
18 right, yeah.

19 THE HONORABLE PALMER: Or any agency
20 versus a disability policy saying.

21 MS. BUSH: Could we change the
22 language from agency to entity?

23 MS. DAVIS: Or agency and/or entity.

1 MR. WHITMORE: Or refer back to the
2 little (i), the first one. When the chair
3 was just referring to as a reference, any
4 entity or agency as stated in line one or
5 line (i).

6 MS. DAVIS: Well, I think the way I
7 look at it is probably an
8 oversimplification. Little (i) giveth and
9 two little (ii) take it away.

10 So, you know, little (i) can be
11 written broadly, but if you take it away in
12 two little (ii) by having language that's
13 too limiting, then I think that just may not
14 be what we intend.

15 THE HONORABLE PALMER: All right.
16 Well, we still got a few more of these to go
17 through. We've got lunch scheduled for
18 11:30. We've got 45 minutes scheduled for
19 lunch, but I'd like to suggest half an hour.

20 While we're eating lunch, why
21 don't everybody put on their real big
22 thinking caps and think of some good
23 language for when we come back to possibly

1 substitute for number four, little (i), to
2 page 11, and then also if anybody wants to
3 look at, while you're having lunch, the next
4 one on the list would be bottom of page 11,
5 number 11, Joint Physical Custody, a
6 definition of that, and then page 26 of the
7 same document.

8 So with that, I show it to be
9 11:34. Let's come back at 12:04.

10 (Lunch break.)

11 THE HONORABLE PALMER: All right. I
12 believe everyone is back now. The delicious
13 lunch was provided through a grant of --

14 MR. MADDOX: Access and Visitation
15 Grant.

16 THE HONORABLE PALMER: -- Access
17 and Visitation Grant, so not State funds.

18 MS. DAVIS: So we can be guilt-free
19 except for the calories?

20 THE HONORABLE PALMER: Except for
21 calories, and only those that ate the
22 dessert. Everything else was rather
23 healthy.

1 Well, let's get back to language,
2 if anything, that is needed on page, for me,
3 number four, page 11. I heard everybody
4 enjoying their time. I didn't hear anybody
5 thinking.

6 Right now, the language that I
7 have as determined by any entity determining
8 disability.

9 MS. BALDWIN: What I suggested was
10 strike out receipt and put date of onset.

11 THE HONORABLE PALMER: Strike out
12 receipt, date of onset.

13 MS. BALDWIN: Of the obligors,
14 strike out benefits and put disability as
15 determined by the agency or entity
16 determining the disability.

17 MS. DAVIS: Disability of what?

18 MR. JEFFRIES: Of the obligor.

19 MS. BALDWIN: Date of onset of the
20 obligor's disability as determined by the
21 agency or entity determining the disability.

22 THE HONORABLE PALMER: Okay.

23 Comments, suggestions?

1 Judge Thompson?

2 THE HONORABLE THOMPSON: I think
3 something along those lines is what is
4 needed, instead of the receipt, obviously.

5 THE HONORABLE PALMER: Okay. And,
6 again, in a practical matter both through
7 DHR, on the bench, private practitioners,
8 they usually come to see you only after a
9 Rule Nisi has been filed, or they finally
10 get their lump sump obligation, or they've
11 been approved, and now they need some
12 relief, or somebody has suggested to them.

13 All right. Well, let's go back
14 to page 10, number three: Payment received
15 in excess of the amount of child support
16 owed to the child.

17 Does anything need to be added or
18 subtracted from that? That's page 10,
19 number three.

20 MR. JEFFRIES: I don't see why you
21 just don't delete it.

22 THE HONORABLE PALMER: Jim's
23 suggestion was just delete it.

1 MS. BALDWIN: I have a question
2 about that.

3 Does that mean if there's an
4 excess that the child receives that month,
5 is there going to be an ability for that
6 excess to be credited in a new sort of way
7 if we take it out?

8 MR. JEFFRIES: That would depend on
9 whether it qualifies under the first part of
10 the rule, I think. I mean, that kind of
11 gets to why I think it's not necessarily
12 really needed.

13 MS. BALDWIN: But it is for the
14 obligor's benefit.

15 THE HONORABLE PALMER: Like the
16 example I said, I'm supposed to pay \$400 a
17 month in child support. Because of my
18 disability, the child is now receiving \$450.

19 I don't think that \$50 -- the
20 custodial parent doesn't have to write me a
21 check every month for \$50. Now whether or
22 not that additional \$50 would go towards an
23 arrearage --

1 MS. BALDWIN: And right now under
2 case law, my understanding is it should not.

3 THE HONORABLE PALMER: It should
4 not. That's my understanding of it as well.

5 MS. DAVIS: That's what this
6 reflects.

7 MS. BALDWIN: I don't want anything
8 to change that unless it's going to be
9 changed.

10 MS. DAVIS: That's what this is
11 reflecting here.

12 MR. JEFFRIES: Okay. I didn't think
13 about that. I see what you're saying now.

14 MS. DAVIS: Judge Palmer indicated
15 we have a limited amount of time, which I
16 know that we do.

17 THE HONORABLE PALMER: The building
18 closes at 3:30, and we're scheduled to leave
19 at 2:00 o'clock anyhow, so.

20 MS. DAVIS: My thought, this is a
21 very important issue, and it impacts on a
22 lot of parents out there that are perhaps
23 not receiving credit that they should. And

1 I hate to rush through this.

2 I know we want to do it as
3 quickly as possible, but I also would be
4 uncomfortable sending it back to the Court
5 and not doing our due diligence and then
6 getting it sent back a second time.

7 So there's a lot of information
8 that these folks know that was not fully
9 vetted before when we just took the Court's
10 rule that I think maybe it would be
11 appropriate to give it further consideration
12 than just trying to eat through these
13 changes. It seems to me that every time
14 somebody says something, somebody else has
15 something else that is also an important
16 issue too. That's just personal view.

17 THE HONORABLE PALMER: Any response
18 to that?

19 (No response.)

20 THE HONORABLE PALMER: Well, you
21 know, we worked on this for almost a year to
22 try to get it like this, so I would like to
23 have something for this. I believe if we

1 change the language, and this is what I'm
2 hearing, that number four, on page 11, would
3 read now: Any payments received by the
4 child shall not be credited against
5 arrearage that accrued before the date of
6 onset of the obligor's disability as
7 determined by any agency or entity
8 determining disability.

9 MR. JEFFRIES: Is disability too
10 limiting? I'm sorry to keep parsing words,
11 but is it --

12 THE HONORABLE PALMER: I don't know
13 what else -- because sometimes it's
14 retirement. Sometimes it's SSRI. It's not
15 SSDI.

16 MR. JEFFRIES: This rule applies to
17 way more types of payments than just
18 disability payments.

19 MS. BUSH: Could you use the word
20 "eligibility," as opposed to disability?

21 THE HONORABLE PALMER: Date of onset
22 of obligor's eligibility versus disability?

23 MS. BUSH: That's the only thing I

1 can think of that might take into account
2 Social Security or other triggering events
3 that are not disability.

4 MS. CAMPBELL: Well, it will be
5 eligibility for the third party payments is
6 what it would be, so that would work.

7 MR. JEFFRIES: Which satisfy this
8 rule.

9 THE HONORABLE PALMER: Chief
10 Justice?

11 CHIEF JUSTICE STUART: I think it
12 probably needs that clarification.

13 THE HONORABLE PALMER: Eligibility,
14 instead of disability.

15 And then change the other word:
16 As determined by agency or entity
17 determining eligibility, versus disability.

18 Again, we're talking about SSRI,
19 the retirement, versus SSDI or Railroad or
20 an insurance that has long-term disability
21 or like that, okay?

22 All right. Let's try this again.
23 Any payment received by the child shall not

1 be credited against arrearages that accrued
2 before the date of onset of the obligor's
3 eligibility as determined by the agency or
4 entity determining eligibility.

5 MR. JEFFRIES: I think that's
6 better.

7 MS. CAMPBELL: Do we want to say
8 determining eligibility of the third party
9 payment? Be that specific or no?

10 THE HONORABLE PALMER: I don't.

11 THE HONORABLE THOMPSON: Is onset
12 still needed? You're not talking about
13 disability.

14 THE HONORABLE PALMER: Well, still,
15 though, I think if -- well, maybe the word
16 onset, but we do need some sort of
17 triggering date in there, even if it's SSRI,
18 Social Security Retirement.

19 MR. WHITMIRE: Could you say
20 commencement of the eligibility?

21 THE HONORABLE PALMER: Commencement?
22 Anybody have any comment about that?

23 (No response.)

1 THE HONORABLE PALMER: Okay. Going
2 to try it again.

3 Any payment received by the child
4 shall not be credited against arrearages
5 that accrue before the date of commencement
6 of obligor's eligibility as determined by
7 agency or entity determining eligibility.

8 Jennifer, you've got a look on
9 your face.

10 MS. BUSH: I'm just trying to think
11 of a plain way of saying it so that we can
12 put it out there in plain language.

13 MS. CAMPBELL: Accrued before the
14 date the obligor was eligible to receive a
15 third party payment.

16 THE HONORABLE PALMER: All right.
17 Say it one more time. Everybody write this
18 down.

19 MS. CAMPBELL: That accrued before
20 the date the obligor --

21 THE HONORABLE PALMER: Okay. Hold
22 on. Accrued before the date --

23 MS. CAMPBELL: -- The obligor was

1 eligible to receive the third party payment
2 or -- would that work?

3 THE HONORABLE THOMPSON: Deemed
4 eligible.

5 THE HONORABLE PALMER: Okay. One
6 more time. Accrued before date the obligor
7 was -- I have eligible, but I think Justice
8 Thompson --

9 THE HONORABLE THOMPSON: Was just
10 going to say deemed eligible.

11 THE HONORABLE PALMER: Was deemed.

12 MS. CAMPBELL: To receive the third
13 party payment.

14 THE HONORABLE PALMER: Okay. So now
15 we're going to try it again.

16 MR. HOYEM: Can I ask a question,
17 Judge Palmer?

18 THE HONORABLE PALMER: This is Scott
19 Hoyem.

20 MR. HOYEM: I'm with the
21 Administrative Office of Courts. And I was
22 just curious.

23 You went through a discussion of

1 your process for applying credits and
2 overpayments. Would any of that change
3 based on this rule in your interpretation?

4 MS. BALDWIN: Based on the
5 suggestions?

6 MR. HOYEM: The way you apply
7 credits for overpayments, because I'm trying
8 to think of a reason why you would not want
9 a disabled person, for instance, to receive
10 full credit for an overpayment, because
11 that's the only chance they have to retire
12 an arrearage.

13 And as I look at this, it doesn't
14 even exclude credits that are being paid
15 pursuant to court order towards arrearages
16 that are judgments that exist prior to being
17 approved for this.

18 I'm just curious why. Why is
19 that we -- is it law?

20 MS. BALDWIN: It's case law.

21 CHIEF JUSTICE STUART: The only
22 explanation that I have is that this money
23 that's being received is being paid to the

1 child and not to the obligor.

2 MS. BALDWIN: That payment -- we
3 started out talking in Social Security
4 terms. That family allowance never goes to
5 the obligor. It's not his money. It never
6 goes to him. The family allowance goes to
7 the child. If he had no children, that
8 money would just go -- it wouldn't exist.

9 MR. HOYEM: So the rationale is the
10 arrearage is owed to the custodial parent?

11 MS. DAVIS: To the child.

12 MR. WHITMIRE: To the child.

13 MR. HOYEM: The arrearage itself,
14 the child support arrearage.

15 MS. BALDWIN: The case law says that
16 that family allowance payment to the child
17 is received directly from Social Security.
18 It's determined to be that child's payment
19 or entitlement under the Social Security
20 disability that belongs to that child, not
21 to the obligor or to the --

22 MR. HOYEM: In the example you gave,
23 you accounted for the money through credits

1 each month.

2 And my question is, with this
3 rule and the change that we would propose,
4 would any of the way that you credit that
5 money now change?

6 MS. BALDWIN: I don't think so. I
7 think all of this is based on the case law
8 that now exists, is my understanding, and
9 so, no, it would still be the same, as it is
10 presently credited pursuant to case law.

11 MR. PASCHAL: This is state? You're
12 saying state case law?

13 MS. BALDWIN: Uh-huh.

14 THE HONORABLE PALMER: Okay. All
15 right. So the language right now that's
16 proposed, and y'all help me with this: Any
17 payment received by the child shall not be
18 credited against arrearages that accrued
19 before the date the obligor was deemed to
20 receive the third party payment?

21 MR. JEFFRIES: Deemed eligible.

22 THE HONORABLE PALMER: Deemed
23 eligible. Sorry. Deemed eligible to

1 receive the third party payment.

2 MR. JEFFRIES: I don't mind that.

3 THE HONORABLE PALMER: That seems
4 much simpler.

5 All right. Do I hear a motion
6 that we substitute that language for number
7 four?

8 MS. BALDWIN: Motion.

9 THE HONORABLE PALMER: Okay.
10 Melody?

11 MR. WHITMIRE: Second.

12 THE HONORABLE PALMER: Drew
13 seconded.

14 All in favor?

15 (Committee members who favored the
16 motion so indicated.)

17 THE HONORABLE PALMER: Opposed?

18 (No response.)

19 THE HONORABLE PALMER: Okay. Then
20 we're going to substitute that language for
21 number four and then resubmit at least the
22 credit for third party payments to child to
23 the Alabama Supreme Court.

1 MS. DAVIS: Amanda had raised
2 something relating to number six. I don't
3 know if we wanted to vote on that.

4 THE HONORABLE PALMER: Just the
5 language?

6 MS. COX: Yeah. Just because it's
7 person -- you know, people with disabilities
8 prefer, and I think just people in general
9 prefer, a person being listed and then with
10 special needs.

11 MS. DAVIS: So you'd say child with
12 special needs?

13 MS. COX: Yeah. They just prefer
14 that, because it's not -- it's just a more
15 pleasant way.

16 THE HONORABLE PALMER: Sure.

17 MS. COX: Instead of saying special
18 needs child.

19 THE HONORABLE PALMER: Is that a
20 motion that we substitute that language?

21 MS. COX: Yes, ma'am.

22 THE HONORABLE PALMER: Second?

23 MS. DAVIS: Second.

1 THE HONORABLE PALMER: Penny says
2 second.

3 All in favor, aye?

4 (Committee members who support
5 motion so indicated.)

6 THE HONORABLE PALMER: Nays?

7 (No response.)

8 THE HONORABLE PALMER: So then
9 number 11, number six: Adoption subsidy
10 paid to the adoptive parents of a child with
11 special needs pursuant to Section 26-10-20
12 of the Alabama Code.

13 Okay. Anything else on the third
14 party credit?

15 (No response.)

16 THE HONORABLE PALMER: All right.
17 Now we're going to joint custody, which is
18 page 11, number 11.

19 MS. DAVIS: Okay. There were
20 basically some language problems that were
21 brought to my attention, and I agreed with
22 members of the Court that we could have
23 drafted some of the language better.

1 But more pertinent to the problem
2 that we saw was that there was a problem
3 with the formula that was submitted in the
4 back, and this was a formula that Billy Bell
5 had used.

6 And I think we looked at -- Jim
7 was, I think, on the committee. There were
8 two different formulas that different judges
9 used, and we decided to use the one that
10 Billy Bell, because of simplicity to use
11 that one.

12 But when I was asked to speak to
13 the Court, and I began to look and study and
14 looked at the example that was submitted to
15 the Court, it didn't make sense to me
16 logically. So I delved into it. And I
17 think the formula was wrong that we
18 presented to them, and this is the reason
19 why I think it's wrong, and this is what I
20 told the Court I thought we had erred in the
21 formula that was sent.

22 If you look on page 16, relating
23 to, of course, the language here is

1 visitation, which we hope to get away from
2 that. The schedule of child support
3 obligation is premised on the assumption
4 that the noncustodial parent will exercise
5 customary visitation rights, including
6 summer visitation. Any abatement of child
7 support because of extraordinary visitation
8 should be based on visitation in excess of
9 the customary visitation.

10 And once you looked at the
11 numbers that were presented, in the example
12 on page 30 that they gave, did not make any
13 sense. And so I think the problem is with
14 the formula that is on page 12 that we sent
15 them, where it talks about how to calculate
16 child support relates to using the numerator
17 in which the number of the nights of the
18 year the child will spend with the parent
19 who has a lesser obligation over 365.

20 But the problem is that the
21 number calculation already considers the
22 customary amount of visitation in the
23 calculation, so that was not included in

1 this. And so that's why the numbers were
2 off when you looked at it.

3 THE HONORABLE PALMER: Well, I have
4 found the state of Virginia has a really
5 good website as far as child support.
6 You've got basic child support, which they
7 consider 90 days or less, and it's pretty
8 much what we have on our -- what most people
9 would refer to as standard visitation.

10 And then they have 91 days or
11 more. So if one parent has 200 days, and
12 the other parent has 165 days, it breaks it
13 down basically by day, 185 and 180 type of
14 thing. And it breaks it down really nicely.
15 And I think it's something that our IT
16 department could do for us, rather than
17 us -- the judges have to make a formula and
18 numerators and denominators and that sort of
19 thing.

20 It's already out there that other
21 states use as far as the dates.

22 MS. DAVIS: Yeah. I think the
23 problem is, if I understand this correctly,

1 and I called Bob to see if he knew, the
2 calculations that are already there for the
3 numbers already assume that one parent gets
4 the 90 days.

5 So the amount that is calculated
6 currently is based on the assumption that
7 one parent is already receiving 90 days.
8 And so what we're really talking about when
9 you go from -- we use the calculation of
10 40 percent of the overnights -- is if you're
11 looking at -- let's say that the 90 days
12 translates to 30. For simplicity, we'll use
13 30 percent, so the difference is really the
14 10 percent.

15 MR. JEFFRIES: I see what you're
16 saying.

17 MS. CAMPBELL: If they take
18 standardized visitation into account, plus
19 the 90 days, that would be more like 142
20 days if they got them every other weekend,
21 correct?

22 MS. DAVIS: We would have to look at
23 what they are. But what I'm saying is if

1 you read what it says that the calculations
2 are already based on, the calculations, when
3 you apply the formula now, already is built
4 into those calculations the normal amount of
5 time, the standard every other day,
6 including the summer that is already built
7 in there.

8 And the formula that we sent the
9 Court does not consider that. It goes from
10 as if that's not already included in there.

11 MS. CAMPBELL: And I misspoke. If
12 you do 90 days summer visitation, plus every
13 other weekend, it would be 27 weekends,
14 right? That would be 152 days.

15 THE HONORABLE PALMER: Well, of
16 course, every county, every sub county, like
17 in Birmingham, there's two courthouses,
18 there's a Birmingham standard; there's a
19 Bessemer standard. I'm sure there's a Pell
20 City standard. There's probably an Ashville
21 standard, even within the same county.
22 Baldwin County has got four or five
23 different courthouses. They've got

1 different standards that they use.

2 The ones that we calculated it on
3 are about 90 days, which is 24.6 percent of
4 the time that's already included in there.
5 So, yes, we do need to go back in there and
6 see where we are on that.

7 MS. DAVIS: So I think if you
8 used -- and I'd like to think through this,
9 because I was trying to think through this
10 again last night. We want it simple.

11 And it seems to me that really
12 what you're talking about is giving credit
13 for the differential between the customary,
14 and we'll have to come up with what was the
15 customary, whether you say it's 90 days or
16 120 days or whatever it happens to be, and
17 they wind up having the child 10 percent
18 more, then they need credit for that amount
19 of time.

20 So that the amount that they pay
21 should be, you know, that 10 percent, the
22 differential between what's customary and
23 what they're ordered. Because if it's joint

1 custody, it may not be 50/50. It may be
2 45/55 or whatever it happens to be.

3 THE HONORABLE PALMER: So we just
4 need to go through -- Michael?

5 MR. POLEMENI: Can the Supreme Court
6 mandate a standard that all courts must
7 follow about those days?

8 CHIEF JUSTICE STUART: We can, but I
9 don't know that we want to.

10 THE HONORABLE PALMER: I don't know
11 if you heard that.

12 MS. DAVIS: Michael, Justice Stuart
13 has a throat problem, so she can't speak
14 loudly. She essentially said, yes, the
15 Court has that authority, but perhaps the
16 court might not want to utilize that
17 authority to do so.

18 But, for example, I think, in our
19 formula, we could say the assumption is that
20 the custodial parent will already -- the
21 noncustodial parent will already have X
22 number of days, and if you're being ordered
23 in excess of X number of days, then, you

1 know, they should get credit for those days.
2 And it wouldn't even have to be in the joint
3 custody scenario.

4 You know, we could do that as a
5 just in general, you know, just say the
6 formula that's currently used already
7 calculates that the noncustodial parent will
8 have, I'll say, 100 days just because it's
9 simple -- 100 days, and if you're ordered --
10 if you, in fact, as a noncustodial parent
11 have that child, you know, 130 days or
12 200 days or whatever it happens to be, then
13 that should be considered in the
14 calculation.

15 THE HONORABLE PALMER: And that
16 language, for those who have this, if you
17 look on page 22, number three. It says,
18 Visitation: The schedule of basic child
19 support obligation is premised on the
20 assumption that the noncustodial parent will
21 exercise customary visitation rights,
22 including summer visitation. Any abatement
23 of the child support because of

1 extraordinary visitation should be based on
2 visitation in excess of the customary
3 visitations.

4 MS. DAVIS: Yeah. And the formula
5 that we sent was in contradiction to that.

6 THE HONORABLE PALMER: Because in
7 the past it was, well, I need -- you know,
8 I've got the child 30 days, 28 days out of
9 the summer, so I need to get some credit,
10 because I've got the child for two weeks,
11 and I'm buying the food, I'm buying the
12 groceries, and so that's why that is in
13 there. There has to be an extraordinary
14 amount of time over the customary amount.

15 And, Justice Thompson, I think
16 you had something?

17 THE HONORABLE THOMPSON: Well, I was
18 just wondering if we know what was built
19 into the guidelines, if they based it on
20 90 days or whatever.

21 Could we just subtract that from
22 the 195 days that we have in here or
23 whatever it is?

1 MS. DAVIS: Right. That's what I
2 think that would be simple, do the
3 numerator, by saying if you go -- and that's
4 essentially what we're saying when you talk
5 about the difference between the number of
6 days they have them, which is the numerator,
7 minus the 90 or 100 days or whatever, then
8 that comes up with it.

9 But I think we can say it simpler
10 than we say it. What I was thinking is if
11 you've got joint custody, you basically look
12 at -- let's say you've got plaintiff and
13 defendant here. You don't have who has
14 custody and doesn't.

15 So the one that has the higher
16 income, you look at them. They're the one
17 that's going to be writing the check. And
18 you say, okay, instead of writing the check
19 for X amount, which would be what you use
20 based on this.

21 THE HONORABLE PALMER: Page 30.

22 MS. DAVIS: Yeah. I'm sorry. Then
23 you would be able to -- whatever you want to

1 call it, credit it or however you want to
2 say it. But you would not have to pay that
3 amount, because you actually have the child
4 more than that amount of time that's
5 calculated in there.

6 THE HONORABLE PALMER: Well, we can
7 go back to -- if they still exist, Bob, the
8 transcripts of 2008.

9 MR. MADDOX: They're all on our
10 website back to 2004.

11 THE HONORABLE PALMER: Because at
12 that time is when we were meeting, and we
13 literally went through -- like the one from
14 Jefferson County, the one from Mobile, the
15 one from Huntsville, and just added up and
16 kind of came up with an average number
17 throughout the state of what the
18 noncustodial parent at that time would be
19 getting, and that was applied to the formula
20 in '08 before the new guidelines were issued
21 in '09. So we would have to go back and
22 look, but we definitely can do that.

23 MR. JEFFRIES: Isn't the discrepancy

1 that we're talking about, isn't it already
2 addressed by the formula that we've come up
3 with, because we do two different
4 calculations where both parties have custody
5 of the children, and what one pays the
6 other, which would assume that that other
7 has a certain number of days, then you flip
8 it and do the same calculation again, which
9 would take into account the 90 days or
10 whatever we're talking about.

11 So it's really already in -- it
12 is in the calculation, if you ask me.

13 THE HONORABLE PALMER: Anybody?

14 Kenneth, you're shaking your
15 head.

16 MR. PASCHAL: You're right. The
17 current Rule 32 is structured where you can
18 do that, you know. But what we need is
19 something a little bit simpler, even though
20 that is pretty simple, but we need it to be
21 real simple for the Court's use.

22 MR. JEFFRIES: As far as the
23 simplicity and the formula goes, you know,

1 my experience is that if you have a joint
2 physical custody arrangement, then it's
3 going to be pretty close to 50/50 anyway.
4 So why have the formula?

5 Why not just say in the last --
6 the last step is to cut it in half, rather
7 than having to go and count the days for who
8 gets what exact time over the course of the
9 year. I just think that's problematic. I
10 think it's difficult to do that. Why not
11 just cut it in half?

12 CHIEF JUSTICE STUART: This is one
13 problem that I think was raised among the
14 justices. And that is apparently in a lot
15 of parts of the state, it's not 50/50, and
16 it's not close to 50/50.

17 In a lot of places in the state,
18 there are people that maybe have, you know,
19 one-third, but they want to get some kind of
20 credit for it. And there may be others that
21 are closer to 40 percent. There's huge
22 disparity across the state, which really is
23 the reason it's so problematic.

1 MR. JEFFRIES: I see what you're
2 saying. But, I guess, my scenario would
3 address that, because if you have one-third,
4 for example, then you wouldn't have joint
5 physical custody. You would have a primary
6 custodial parent and a nonprimary custodial
7 parent.

8 THE HONORABLE PALMER: And that's
9 why we put a definition in that 40 percent
10 or more of the time is considered joint
11 physical custody.

12 Anything other than that would be
13 basic custody or standard customary, and
14 it's already calculated in the formulas.

15 MR. JEFFRIES: Right.

16 THE HONORABLE PALMER: And that's
17 why we wanted to come up with some sort of
18 number, where does joint custody start,
19 because in all of the bills that have come
20 out recently, last year, the year before, it
21 says equal or substantially equal. Forty
22 percent is substantially equal.

23 But when do you start giving that

1 extra credit towards technically, possibly
2 not the noncustodial parent just because
3 I've got 40 percent and you've got 60
4 percent of the time. But most people still
5 call that joint legal and physical custody,
6 even with the 40 percent.

7 MR. JEFFRIES: My point is even if
8 you have 40 percent and you leave that part
9 in the proposed rule that we submit, you can
10 still say that it's close enough to 50/50 to
11 just cut it in half as far as the formula
12 goes. That's my only point.

13 MS. CAMPBELL: Would you need to cut
14 it in half? Couldn't we just stop at Step C
15 and just get rid of D altogether?

16 MR. JEFFRIES: Well, I know that
17 I have had comments from other
18 practitioners, Ginger Hayes included, that
19 agree with that, that once you start cutting
20 it in half that it gets to be too much of a
21 differential. And I've had this
22 conversation with Michelle Thomason in
23 Baldwin County, who does joint physical

1 custody week to week as her default custody
2 arrangement.

3 And she can go through the whole
4 explanation with you and explain to you why
5 that last step of cutting it in half is
6 exactly appropriate. And I'm not sure I
7 follow her all the time, but she will
8 convince you if you're talking to her.

9 THE HONORABLE PALMER: Well, I'm
10 going to suggest that we table this one. I
11 don't know if we've got enough time today to
12 work this.

13 Jim, were you and Billy on this
14 committee last time?

15 MR. JEFFRIES: I believe so.

16 MS. BUSH: And me.

17 THE HONORABLE PALMER: Okay. Well,
18 I'm going to ask that maybe you head it up
19 again this time and maybe Angela and
20 Stephanie?

21 MS. BLACKBURN: I'd be happy to.

22 THE HONORABLE PALMER: So, Jim,
23 would that work out for you, that we table

1 this until our next meeting?

2 MR. JEFFRIES: Sure.

3 THE HONORABLE PALMER: And you chair
4 the subcommittee on this? And I will show
5 you that Virginia calculation.

6 And, Melody, are you willing to
7 work on this?

8 MS. BALDWIN: Sure.

9 THE HONORABLE PALMER: And Stephanie
10 is that a yes for the record?

11 MS. BLACKBURN: Yes. I'll be happy
12 to.

13 THE HONORABLE PALMER: Everybody in
14 agreement that we table this until our next
15 meeting and come back with a report from the
16 subcommittee?

17 MR. JEFFRIES: I think that's fine.

18 THE HONORABLE PALMER: All right.
19 Thank you.

20 Now, we got one more, and that's
21 page 26. No, I don't think it's page 26.

22 MS. DAVIS: This is the comments, I
23 think.

1 THE HONORABLE PALMER: Or is that
2 it? I thought there were four things sent
3 to the Court, and we've gone over three.

4 MS. DAVIS: Well, wasn't one of
5 them --

6 MR. JEFFRIES: Federal. Jennifer
7 Bush has a federal regulation discussion.

8 THE HONORABLE PALMER: Well, yes.
9 But that wasn't part of what was sent to the
10 Alabama Supreme Court for their approval.

11 MS. DAVIS: Well, could it be the
12 proposal relating to the CS-41? Is that
13 maybe what you're thinking about?

14 THE HONORABLE PALMER: We did that
15 one and got sent and was approved, but maybe
16 that was the fourth one.

17 MR. MADDOX: Correct.

18 THE HONORABLE PALMER: That was the
19 fourth one, Bob says.

20 So out of what was recommended at
21 our last meeting on the May 12th and sent to
22 Julia Weller on May the 15th, the child-care
23 cost when seeking education, I believe, we

1 got a subcommittee on that; is that correct?

2 Number two, the Credit for the
3 Third Party Payments. We're going to resend
4 that.

5 MR. JEFFRIES: I'm sorry. I wasn't
6 paying attention, yes.

7 THE HONORABLE PALMER: Thank you,
8 Jim.

9 And then Credit for the Third
10 Party Payments, we're going to resubmit that
11 one with substituting the language on number
12 four to what was discussed.

13 And the Joint Custody, we're
14 going to send that back to a subcommittee as
15 well. Is that everyone's understanding as
16 to what's going to happen? Everybody that
17 says they think it is say yes or aye.

18 (Committee members in agreement so
19 indicated.)

20 THE HONORABLE PALMER: Okay.
21 Anybody that has any other understanding
22 than that, speak up.

23 (No response.)

1 THE HONORABLE PALMER: Okay. And,
2 now, if you'll go through your paperwork.

3 Jennifer Bush, who was here last
4 time and started going over this and shocked
5 us all about these new coming things, is
6 going to discuss proposed changes to Child
7 Support Guideline Rules and forms per the
8 federal regulations.

9 MS. BUSH: Okay. You have the
10 federal regulations in your packet.

11 THE HONORABLE PALMER: Is it the
12 guideline ones?

13 MS. BUSH: Well, it's going to look
14 like this one. I'm not going to go over all
15 of those again. I did that at the last
16 meeting. We can certainly reference them if
17 we need to. But at the last meeting, I read
18 a lot of the regulations verbatim. I just
19 don't think that's necessary, unless we have
20 a question.

21 There was an internal DHR
22 committee that included but is not limited
23 to our director, Lathesia Saulsberry, and

1 there are three people behind me who compose
2 our policy unit with DHR, and they looked at
3 this with a fine tooth comb as well as I:
4 Tim Smith, Tiffany Gates, and Daphne Hudson.

5 And so the changes that you are
6 going to see, you're going to see Rule 32.
7 It's not going to have any of the changes we
8 just discussed in the meeting. It's going
9 to have only the proposed changes according
10 to the federal regulations and amend those
11 federal regulations.

12 So what I'd like to do is go over
13 the changes we have suggested that will meet
14 the federal regulations. So if you'll start
15 with -- again, the document's -- it's got
16 draft, and it's got different parts to it.

17 MR. JEFFRIES: It's the proposed
18 guidelines that have typed --

19 THE HONORABLE PALMER: It's Rule 32.

20 MR. JEFFRIES: Yeah. It has a typed
21 page number and not a handwritten number?

22 MS. BUSH: Yes, that's right.

23 That's right.

1 And there are several changes in
2 the regulations and in the rule that are
3 repetitive. For example, you will see a
4 change of the word "award" to "order,"
5 things that are repetitive, and so I'll
6 address them in depth the first time, and
7 then I may just reference back. That way,
8 can get through this.

9 Okay. The first change we're
10 looking at is on page one. It's A: Child
11 support guidelines established. And this is
12 really just a language change. The federal
13 regulations, and it's 45-C.F.R.-302.56,
14 those are also all listed in the comments.
15 If you want to go back and look at the
16 comments, it will list the changes.

17 They have changed the language in
18 the federal regulation from "award" to
19 "order." And that does seem appropriate.
20 As opposed to an award, it is an order of
21 the Court. And so throughout Rule 32,
22 whenever the word award appeared, we change
23 that to order. It matches the federal

1 regulation. It seems a little more
2 appropriate.

3 Do y'all have any questions?

4 I don't want to go too fast.

5 Do y'all see where I'm talking
6 about?

7 Okay. On page two, if you look
8 under Stipulations. Federal Regulation
9 302.56(g) has some language that talks about
10 how if there is a stipulation, the record
11 and the court file still needs to have the
12 amount of support that would have been
13 required under the guidelines, even in an
14 event that there is stipulation that
15 deviates. And so we have included that, if
16 you see it, in the underlined area under
17 two.

18 THE HONORABLE PALMER: Well, don't
19 we do that now? If you go back to the
20 handout that Penny had and you turn to
21 page --

22 MS. BUSH: To the CS-47?

23 THE HONORABLE PALMER: Turn to

1 page 30, the CS-42 has that amount in there
2 that would be required, and then when you
3 fill out a CS-43, you put in there the
4 guidelines have not been followed, and then
5 you put a checkmark as to why. But that the
6 amount normally is on the 42 that's part of
7 the file anyhow, and then if they're not
8 paying that amount, then they put in the
9 order, in the agreement, why they're not
10 paying that amount and on the CS-43.

11 MS. BUSH: We were going to
12 propose -- and if you'll look in your
13 packet, you'll see a proposed -- you'll see
14 changes to CS-43. It's your CS-43 form with
15 proposed changes by us.

16 We were going to propose that a
17 line be placed in that form that actually
18 tells you the amount of child support, so
19 that we will know.

20 THE HONORABLE PALMER: On the 43?

21 MS. BUSH: Yes, ma'am.

22 THE HONORABLE PALMER: That is going
23 to be paid or would have been paid?

1 MS. BUSH: Would have been paid.

2 The federal regulations require if you're
3 going to pay something different, then at
4 least put in there what the guideline amount
5 would have been.

6 THE HONORABLE PALMER: But you have
7 that on your 42. Isn't that just
8 duplicating the effort on the 43?

9 MS. BUSH: We have found there are
10 times that when people stipulate, they don't
11 always do the guidelines. They will just
12 stipulate and skip the 42. I don't think
13 they're supposed to.

14 THE HONORABLE PALMER: They're not.
15 It's a voidable order, if there's not a 42
16 in there.

17 MS. BUSH: But that is one
18 suggestion. And so, you know, I believe
19 it's supposed to be in there. I agree with
20 you. But that would be a place for it to be
21 put it there, on the CS-43.

22 THE HONORABLE PALMER: Okay. Any
23 conversation about that?

1 Jim, as a practitioner, what do
2 you think about that?

3 MR. JEFFRIES: I mean, my first
4 thought about that is that all that is just
5 another way for this agreement that I've
6 hammered out to fall apart.

7 When one party or the other sees
8 something like that, you know, if it's
9 required, it's required.

10 THE HONORABLE PALMER: And then
11 while we're on the 43, where it says because
12 it would be unjust or inappropriate, to me,
13 that's too subjective. You know, it needs
14 to be because they've got extra travel time.
15 They've got extra medical bills. They need
16 some sort of concrete reason -- or sometimes
17 it's just as agreed to by the parties, not
18 because it's unjust or because it's
19 inappropriate. It's just agreed to by the
20 parties.

21 MS. BUSH: Well, that's the language
22 that's in the federal regulations.

23 MS. DAVIS: That's what the regs

1 require.

2 MS. BALDWIN: I think that's
3 supposed to be in the order anyway, isn't
4 it?

5 MS. DAVIS: Uh-uh.

6 MS. BUSH: Yeah. Inappropriate
7 would be for whatever reason. I don't think
8 there's a negative connotation, just unjust
9 and that someone has additional time or for
10 whatever reason.

11 But that's the language that's
12 in -- if you want to look at this federal
13 regulation, if you go to this document right
14 here, and if you go to -- it's a number at
15 the bottom, page four. And at the very top,
16 it's going to be (g). So right here,
17 page four (g), it says, A written finding or
18 specific finding on the record of a judicial
19 or administrative proceeding for the award
20 of child support that the application of the
21 guidelines established under paragraph (a)
22 of this section would be unjust or
23 inappropriate in a particular case would be

1 sufficient to rebut the presumption in that
2 case as determined under criteria
3 established by the State. Such criteria
4 must take into consideration the best
5 interests of the child. Findings that rebut
6 the guidelines shall state the amount of
7 support that would have been required under
8 the guidelines and include a justification
9 of why the order varies from the guidelines.

10 MR. JEFFRIES: I don't see that
11 language as being required, though. I think
12 that's a general guide, it seems to me.

13 MS. BUSH: Well, if you read the
14 Rule 32 and on the stipulations, what it
15 says is -- so let's go back to Rule 32 and
16 stipulations. What this says is,
17 Stipulations presented to the Court shall be
18 reviewed by the Court before approval. No
19 hearing shall be required; however, the
20 Court shall use the guidelines in reviewing
21 the adequacy of child support orders
22 negotiated by the parties by the parties and
23 shall review income statements that fully

1 disclose the financial status of the
2 parties. The Court, however, may accept
3 from the parties and/or their attorneys of
4 record a Child Support Guidelines Notice of
5 Compliance, CS-43, that indicates compliance
6 with this rule, or in the event that
7 guidelines have not been followed, the
8 reason for deviation therefrom, and then it
9 stops.

10 So what it says, as written, is
11 if you want to deviate, the Court can do
12 that, set out its reasons, and then you file
13 the CS-43. It doesn't say you have to file
14 the CS-41 or 42.

15 It says the Court has to review
16 it, and it says, however, you can file the
17 CS-43, but the CS-43 does not include the
18 amount the child support would have been.

19 THE HONORABLE PALMER: No. Because
20 you've got it on the 42. That's the whole
21 thing. And I don't -- I mean, maybe there
22 are some courts that don't do that.

23 MR. PASCHAL: Can I ask a question

1 on that?

2 THE HONORABLE PALMER: Yes, sir.

3 MR. PASCHAL: Are the Courts
4 supposed to do it?

5 THE HONORABLE PALMER: Do what?

6 MR. PASCHAL: Complete the --

7 THE HONORABLE PALMER: If it's a
8 tried matter, you don't have a 43.
9 Forty-threes are only if it's by an
10 agreement. You put the 43 in there.

11 MR. PASCHAL: No. I'm talking about
12 the 42.

13 THE HONORABLE PALMER: Forty-twos
14 have to be in there.

15 MR. PASCHAL: If they are supposed
16 to do it, we need to make sure they do it.

17 THE HONORABLE PALMER: In the big
18 picture, yes, sir, they need to be sure it's
19 in there. That's what they teach us in
20 judge's school, so, and lawyer school.

21 MS. BUSH: The language of the --

22 THE HONORABLE THOMPSON: And we'll
23 send them back, if they don't have the

1 proper forms.

2 MS. BUSH: The language of the
3 stipulation, as it's written, indicates you
4 can just file the CS-43, because it says the
5 Court, however, may accept when the parties
6 and/or the attorneys of record a Child
7 Support Guidelines and Notice of Compliance
8 Form, CS-43.

9 I agree with you. It would be
10 great if they would do the 41 and 42 in
11 every case. And I think it may go to the
12 Court of Civil Appeals, they do send them
13 back.

14 And so our suggestion was just to
15 put that in here.

16 THE HONORABLE PALMER: What do you
17 say, Don?

18 THE HONORABLE McMILLAN: It's a lot
19 of forms to keep up with, just from a
20 practical standpoint, but I can see the
21 reason. I can also see where an agreement
22 might fall apart when they say this is what
23 I was supposed to be getting. It says so in

1 this form.

2 But if it's a requirement that we
3 comply with it, I guess, that's what we need
4 to do.

5 THE HONORABLE PALMER: But you're
6 saying that that line -- y'all are just
7 throwing that in. The federal government is
8 not saying this has got to be in there,
9 because if that's the case, I don't even
10 know why we're discussing these. If we're
11 going to have to put them in there anyhow,
12 let's just -- you know.

13 MS. BUSH: What they say is the
14 amount that would have been paid under the
15 guidelines has to be in the court record.

16 THE HONORABLE PALMER: And, I guess,
17 that's where I'm saying it's already in
18 there in the CS-42. It's supposed to be.
19 If you're calculating child support, those
20 forms have got to be part of the file.

21 MS. BALDWIN: But then Jennifer said
22 that in that paragraph that says
23 stipulations, it indicates that the Court

1 can just accept the CS-43 and not require
2 the 42, even though the Court of Civil
3 Appeals may be turning them down. I think
4 that's --

5 MS. BUSH: That's how I'm -- that's
6 how we read it, and it's --

7 THE HONORABLE THOMPSON: I'm not
8 saying that we have had that before us,
9 where we had a CS-43 and not a 42. So I
10 couldn't answer what we would do with that.

11 But, I mean, obviously, we're
12 going to require them to have -- if they're
13 deviating from the guidelines, we want to
14 know what the guidelines would have provided
15 for in that situation.

16 MS. BUSH: Right.

17 THE HONORABLE PALMER: All right.
18 What's the next one?

19 MS. BUSH: The next one, on page
20 three. If you look at page three, it is
21 3(c), Modification (c). We simply changed
22 the word "award" to "order."

23 Down at the bottom, if you see

1 underlined language, it's more substantive
2 language, and this has to do with the
3 children's health care needs. So we added a
4 Subsection (f), and what it says is, The
5 need to provide for the children's health
6 care needs in order through health insurance
7 or other means is an adequate basis to
8 modify an order, regardless of whether a
9 modification of the dollar amount of child
10 support is necessary.

11 And that is from Federal
12 Regulation 303.8. That is included -- if
13 you want to look at that federal regulation,
14 it is included in your material, and it's
15 303.8(d).

16 THE HONORABLE PALMER: What page?

17 MS. BUSH: I believe you have a
18 document that looks just like this. It's a
19 separate 303.8.

20 THE HONORABLE PALMER: Okay. So
21 it's not part of this?

22 MS. BUSH: It's not part of that
23 one.

1 THE HONORABLE PALMER: Okay.

2 MS. BUSH: And it's going to be
3 subsection (d). It's on my third page.

4 THE HONORABLE PALMER: Subsection
5 (d) under health care?

6 MS. BUSH: 303.8(d).

7 THE HONORABLE PALMER: Okay. So
8 it's page three, right before you get to
9 Statutory Authority. Health care needs,
10 second paragraph.

11 MS. BUSH: And 303.8, the whole
12 topic of that rule is reviewing adjustment
13 of child support orders. So when you read
14 (d), it may seem incomplete, but what it is
15 saying is health care needs must be an
16 adequate basis. The need to provide for the
17 child's health care needs in the order,
18 through health insurance or other means,
19 must be an adequate basis under State law to
20 initiate an adjustment of an order,
21 regardless of whether an adjustment in the
22 amount of child support is necessary.

23 So if the child's health care

1 insurance changes or it becomes available,
2 that would be a reason to go back and modify
3 the order, regardless of the monetary amount
4 of child support.

5 THE HONORABLE PALMER: So whether if
6 that 10 percent, what we use now, that
7 10 percent that's in the guidelines?

8 MS. BUSH: Regardless of that
9 10 percent. To address the child's health
10 care needs, that is a basis to modify the
11 order or to go back and review the order.

12 THE HONORABLE PALMER: For the
13 award, for somebody to be ordered to pay?

14 MS. BUSH: If there's money
15 involved, it may change the dollar amount.
16 But the point of the regulation is the
17 dollar amount is irrelevant when it comes to
18 the child's health care needs.

19 THE HONORABLE PALMER: Okay. So are
20 y'all, y'all being DHR, going to file a
21 petition to modify for somebody?

22 MS. BUSH: We would file a petition
23 to modify, yes. And it may not change.

1 It's in the child support guidelines, but it
2 may not impact the dollar amount at all. It
3 may. But it's irregardless of the dollar
4 amount.

5 The child's health care needs
6 need to be addressed by a change of
7 insurance or something else, dollar amount
8 regardless, it's a basis for modification.

9 THE HONORABLE PALMER: Okay.

10 Comments? Does everybody
11 understand that, or am I just having a
12 turkey and rice food hangover here?

13 CHIEF JUSTICE STUART: Isn't the
14 point that -- let's say a child is under a
15 child support order, has something
16 catastrophic happen and needs additional
17 health care for whatever reason. Even if
18 you go in and the calculation of the child
19 support wouldn't change for whatever reason,
20 you can still modify it to order additional
21 medical support, period, just because the
22 child needs it, regardless of what the
23 situation of the parents is.

1 MS. BUSH: I do think you could. I
2 do think you could. And some of these
3 regulations, I don't know that they're going
4 to change what we do as a practical matter.
5 But when these federal regulations came out
6 and the changes came out, we went and
7 reviewed everything and want to make sure
8 it's addressed in Rule 32.

9 So I agree with you. There may
10 already be a mechanism in place to address
11 health care needs. But the federal
12 regulation specifically says monetary amount
13 aside, if you need to modify an order to
14 address those needs, it has to be a basis.

15 THE HONORABLE PALMER: So, I guess,
16 where I'm confused, if we're not talking
17 about money, I was ordered to keep the
18 health care on the children, and now through
19 whatever reason, I don't have access to
20 health care anymore. I lost my job. And so
21 then Kenneth is the children's father.

22 So then he can come to y'all and
23 say, okay, help me modify this, so now that

1 I'm obligated to pay the health care for
2 these children or go tell her to go apply
3 for Medicaid or All Kids. I just -- you
4 know, I'm sorry.

5 I just don't understand this. I
6 just don't understand where it's coming.

7 CHIEF JUSTICE STUART: Another
8 example I can think of is you've got it,
9 you've got health insurance. Let's say your
10 copay used to be \$30. All of a sudden your
11 insurance goes to where your copay is \$200,
12 and you don't have \$200. So you'd be able
13 to go in for modification to get the other
14 parent to contribute to the copay so that
15 the child can actually receive medical care.

16 MS. BUSH: And you wouldn't have
17 somebody able to come in as a defense and
18 say there's not been a material change in
19 circumstances. There's not a 10 percent
20 change in child support. Yes, that there's
21 a different copay, but that's not going
22 to --

23 CHIEF JUSTICE STUART: Affect the

1 calculation, but it affects whether the
2 child receives care or not.

3 MS. BUSH: Exactly.

4 THE HONORABLE PALMER: Okay.

5 Because I know most orders that I did in
6 agreements, it was I'm going to pay 75
7 percent of the out-of-pockets, and Kenneth
8 is going to pay the 25 percent of the
9 out-of-pockets. That that is already
10 addressed in an order as to how the
11 out-of-pockets are going to be paid.

12 CHIEF JUSTICE STUART: That is not
13 in a lot of places, Julie. You are more
14 thorough than a lot of the orders we see.

15 THE HONORABLE PALMER: Okay. Next?

16 Anybody have any questions about
17 that?

18 (No response.)

19 THE HONORABLE PALMER: Okay. Thank
20 you. Next?

21 MS. BUSH: Okay. Number four --
22 page four. I apologize. Page four and
23 number four. And we're back on Rule 32,

1 where is says Health-care needs.

2 Under Federal Regulation 302.56
3 and 303.31, they have changed the definition
4 of health care needs. And it has changed --
5 you know, we're so used to thinking of
6 private health insurance, and do you have
7 health insurance available through your
8 employer.

9 But there's been, as we know, a
10 lot of changes with health care coverage.
11 And so the federal definition has changed,
12 and you'll see underlined and struck through
13 that it's private or public health care
14 coverage. And we struck out the word
15 "insurance," because that is struck out in
16 the federal regulation, and they have added
17 the word "public."

18 Private or public health care
19 coverage and/or cash medical support. That
20 is the new federal definition. Normally,
21 health care coverage can be obtained --
22 normally, health care coverage that can be
23 obtained for the children should be required

1 if it is available to either parent through
2 his or her employment or pursuant to any
3 other plan -- and we struck the word
4 group -- at a reasonable cost and is
5 accessible to the children.

6 So what you're going to see here
7 and throughout other places in the rule is
8 you no longer see health insurance. You see
9 health care coverage, and it's private or
10 public. So there's no longer a situation
11 where you might not consider Medicaid as
12 health care coverage. It is now considered
13 health care coverage.

14 THE HONORABLE PALMER: Okay. Any
15 comments?

16 MS. CAMPBELL: The only comment I
17 have is there's a typo on either, the word
18 either.

19 THE HONORABLE PALMER: Okay. So
20 noted.

21 Okay. Next?

22 MS. BUSH: Page four, number two,
23 Gross income (a).

1 Now, this is not part of the
2 federal regulations. We had found we get so
3 many questions under gross income when it
4 come to Veteran's benefits, because it
5 includes Social Security benefits, but it
6 doesn't include Veteran's benefits.

7 So we had thought to suggest to
8 the committee, just to put Veteran's
9 benefits in there. It's not a federal
10 regulation. That's just as we were going
11 through, we thought that might be helpful.

12 THE HONORABLE PALMER: And that
13 should be in our third party credits. I
14 believe we added Veteran's benefit and
15 Railroad benefits and some other things like
16 that, so I believe that's added now, or it's
17 proposed to be sent.

18 MS. BUSH: It is proposed, and so we
19 thought -- and we knew about that, and in
20 light of that, we thought it might be
21 helpful to go ahead and just put it in the
22 definition, but that's not a federal.
23 That's just as we were going through, we

1 thought that might help.

2 MR. JEFFRIES: I have a comment
3 about that.

4 There is a case out there, and I
5 know this, because you have to go and look
6 at this particular case every time you
7 have -- and I know that what we're talking
8 about is in the definition of gross income.

9 There is a specific case that
10 says -- I always have to go look at it to
11 read it to be able to deal with it with my
12 client, but it says something to the effect
13 of Veteran's benefits that are taken in lieu
14 of retirement or -- there's a distinction to
15 be made. Judge Thompson may remember. Not
16 to put you on the spot or anything.

17 THE HONORABLE THOMPSON: Well, there
18 are -- there are certain --

19 MR. JEFFRIES: This seems kind of
20 broad.

21 THE HONORABLE THOMPSON: --
22 Veteran's benefits that are not.

23 MR. JEFFRIES: That are specifically

1 not included.

2 THE HONORABLE THOMPSON: Yes. By
3 federal law that are not to be included. I
4 believe it's federal disability.

5 MS. DAVIS: Disability cannot be
6 credited.

7 THE HONORABLE PALMER: Well, and
8 I'll tell you the case. It's Goldman v.
9 Goldman. Came out September the 1st, 2015.
10 It was my case. I can tell you exactly. I
11 got it tattooed right up this arm, down the
12 back. Kind of like Billy Bell used to say.
13 Haven't quite brushed that one off yet.

14 THE HONORABLE THOMPSON: Just
15 because that's the only case you ever got
16 reversed?

17 THE HONORABLE PALMER: Just about
18 it, by the way. I did pretty good. But
19 when I mess them up, I mess them up big.

20 What they did on that one was for
21 the purposes of calculating child support,
22 you get to calculate the whole amount of the
23 benefit. For the purposes of calculating

1 alimony, it's only that portion that's not
2 considered disability. Like, if they get
3 \$5,000 a month and \$1,500 of that is actual
4 retirement and the other half is considered
5 disability, then you can only include \$1,500
6 a month for the purposes of calculating
7 child support -- I mean, of alimony.

8 For the purposes of calculating
9 child support, as I remember it, you get to
10 include the whole amount of the money.

11 MR. JEFFRIES: I thought there was a
12 specific distinction for child support for
13 the determination of what is gross income
14 according to A.R.J.A. 32.

15 THE HONORABLE PALMER: Yeah.

16 MR. JEFFRIES: I'm sure you remember
17 that case well. And I can't give you a cite
18 or anything. I just wanted to throw that
19 out there, because Veteran's benefits is
20 very broad.

21 THE HONORABLE PALMER: I think
22 Kenneth is -- you're a veteran, Kenneth?

23 MR. PASCHAL: Yes, I am. You got

1 something called retirement concurrent
2 dealing with disability, which is disability
3 being stripped away from your retirement,
4 and that's the portion you're not supposed
5 to be able to touch.

6 MR. JEFFRIES: That's right. That
7 sounds exactly right. The veteran can
8 choose or there's a determination of what
9 amount of the funds that are being received
10 by the veteran is one versus the other. And
11 that sounds like exactly what I'm talking
12 about.

13 MS. DAVIS: What she's saying that's
14 for alimony, not for child support.

15 THE HONORABLE PALMER: That's for
16 alimony. The VA says you're 85 percent
17 disabled, so 85 percent of that check is
18 considered disability, and 15 percent of
19 that check is now considered retirement.
20 And you can keep going back and get more
21 disabled classified with more disabilities
22 and more disabilities is how I understood it
23 at the time.

1 THE HONORABLE THOMPSON: I think the
2 thinking in a lot of these cases is that
3 income is income that they would get if they
4 were intact, intact family that would be
5 available for use of those children. But
6 under federal law, as you say, restricts
7 that in alimony situations.

8 THE HONORABLE PALMER: Uh-huh.
9 Okay. All right.

10 Jennifer, next?

11 MS. BUSH: And I do think there's a
12 difference between what you can include for
13 calculating child support versus what you
14 can actually attach.

15 THE HONORABLE PALMER: Yes. But you
16 can garnish. Now, that part is true
17 definitely.

18 MS. BUSH: Page five, and this is
19 under Unemployment or underemployment. And
20 this comes from Federal Regulation 302.56.
21 You'll see some language that's struck
22 through and then some underlined language.
23 I'm going to start pretty much -- I'll just

1 read this whole section five.

2 This is Underemployment.

3 Underemployment. If the Court finds that
4 either parent is voluntarily unemployed or
5 underemployed, it shall estimate the income
6 that parent would otherwise have and shall
7 impute to that parent that income. The
8 Court shall calculate child support based on
9 that parent's imputed income. In
10 determining the amount of income to be
11 imputed to a parent who is unemployed or
12 underemployed, the Court should -- and
13 here's where the change takes place -- take
14 into consideration the specific
15 circumstances of the parent to the extent
16 known, including such factors as the
17 parent's assets, residence, employment and
18 earnings history, job skills, educational
19 attainment, literacy, age, health, criminal
20 record, and other employment barriers, and
21 record of seeking or as well as the local
22 job market, the availability of employers
23 willing to hire the parent, prevailing

1 earnings level in the local community, and
2 other relevant background factors in the
3 case.

4 This added language, some of
5 these factors overlap the factors that were
6 already in Rule 32 that were struck out.
7 But this mirrors the federal regulation of
8 all the things that they want.

9 THE HONORABLE PALMER: Well, go
10 ahead and read the last sentence in there
11 too. That needs to be added in.

12 MS. BUSH: Yes. And so another
13 part -- if you skip down a little bit, it
14 says, Incarceration may not be treated as
15 voluntary unemployment in establishing or
16 modifying child support, and that comes from
17 the 302.56(c)(3).

18 THE HONORABLE PALMER: Now, isn't
19 there some current case law in the state of
20 Alabama that says the opposite of that?

21 MS. BUSH: Yes, ma'am. Yes, ma'am.
22 That will be a change. I don't think
23 there's a big change in concept with what

1 you need to consider for underemployment or
2 unemployment. It just expands the factors.
3 But the voluntary incarceration or the
4 voluntary employment due to incarceration,
5 that is a change.

6 MR. PASCHAL: I just have a question
7 on this.

8 Is there any way -- the answer
9 may be no -- we can require the Courts to
10 write down and specify how they got to their
11 findings?

12 The reason I ask that question, I
13 know here in Montgomery County of a case
14 where the father walked into court, and the
15 referee looked at the father and said, You
16 have a nice haircut, you have nice clothes,
17 and I think you should be making this much
18 based on that, and he put underemployment.

19 So my question is saying, people
20 like that, they're unable to hire an
21 attorney, they're unable to defend
22 themselves. But if the Courts is required
23 to write down why or how they got to that

1 underemployment, it will at least be some
2 means of for appellate review, for example.

3 So the question is saying, can we
4 require the Courts to put down their
5 findings or facts specifying why or how they
6 achieve?

7 THE HONORABLE THOMPSON: Yeah. I
8 think we do require them to indicate why and
9 how they arrived at an amount, if they're
10 finding someone to be voluntarily unemployed
11 or underemployed.

12 One thing about this, the way
13 this is written, it says the Court should
14 take into consideration the specific
15 circumstances of the parent to the extent
16 known, and then you say including such
17 factors, and you start talking about things
18 that would be evidentiary issues.

19 But in the way it's worded, to
20 me, seems almost like the Court is supposed
21 to have some kind of background knowledge as
22 far as what's going on in the local
23 community. You know, I don't know if the

1 words "to the extent known" -- to the extent
2 presented, you know, because it seems to
3 require some knowledge on the part of the
4 judge of some of these factors.

5 MS. BUSH: Yes, sir. I do
6 understand what you're saying.

7 We pretty much cut and paste the
8 federal regulation. It says the word "to
9 the extent known." On this, we pretty much
10 just cut it and put it in here. And it says
11 "to the extent known."

12 So I agree with you. It would be
13 an evidentiary matter, and then testimony of
14 whoever is present, if both parties are
15 present or whoever is present, about these
16 factors. It does not require it to be in
17 the record. We didn't put that in there.
18 Whether the Court wants it to be in the
19 record, but we didn't put that, because it's
20 not a burden -- it's not in the federal
21 regulation that it has to be any kind of
22 form or anything like that. It just says
23 the Court has to consider it.

1 MR. JEFFRIES: Do we have the
2 regulation here?

3 MS. BUSH: You do. Okay. If you
4 look at this, the form that looks like this,
5 on page two, and it's going to be three of
6 little (iii). So, like, right here; the big
7 paragraph, right here.

8 MS. DAVIS: Julie, could I address
9 the judge's question for just a moment?

10 THE HONORABLE PALMER: Yes. Penny
11 has asked for the floor.

12 MS. DAVIS: I've forgotten this, but
13 when I went back and reread the transcript,
14 we talked last time about the possibility of
15 working with the Department of Labor to try
16 to get some documentation so that -- because
17 my concern was the parents out there can't
18 afford to hire experts to come and testify
19 as to, you know, what the current labor
20 market is and whether the unemployment is X
21 amount.

22 If it was possible that we could
23 work with the Department of Labor and at

1 least have some annual statistics from
2 Alabama, as localized as the Department
3 already gets, that could be submitted to the
4 Court as stipulation and updated every year,
5 so that we can comply with the federal
6 requirements.

7 We don't have any leeway as far
8 as requiring and otherwise we lose money.
9 But, you know, the reality is if each parent
10 has to hire people, they just can't afford
11 to do that. So if we could somehow work
12 with -- it made sense to me -- the
13 Department of Labor. That may not be who it
14 is, but somebody like that, just like we
15 work with DHR every year to come up with
16 sort of standardized child support,
17 standardized --

18 THE HONORABLE PALMER: -- daycare?

19 MS. DAVIS: Thank you. Daycare
20 amounts. And I think it will be helpful to
21 the circuit judges that are sitting there,
22 and whether it's Jefferson, Shelby County,
23 or Lamar County with that information. And

1 if it's stipulated to by the parties, you
2 know, they could supplement if they know
3 something, can hire an expert, but,
4 otherwise, that would be something.

5 Would that be in compliance with
6 the federal law?

7 MS. BUSH: Well, talking about the
8 language to the extent known, to me, that is
9 if you don't know, and there's no one -- I
10 don't know that you have to hire an expert.
11 You may not know this. So to the extent you
12 know it, you have to consider it.

13 But if you don't know it, I don't
14 know that there is a burden to go out there
15 and prove each one of these elements. But
16 if you have the person there, I certainly
17 think you might want to elicit testimony
18 about their criminal history, their job
19 experience, their illiteracy, where they
20 worked before, were they laid off, was a
21 plant closed.

22 THE HONORABLE THOMPSON: Well, we
23 don't see very many instances of judges just

1 pulling it out of the air whatever that
2 amount is. It's usually some testimony as
3 to what jobs this person has worked, you
4 know, what their educational level is. But,
5 you know, I can see that a lot of this
6 information is going to be out of the
7 general knowledge of somebody sitting there,
8 trying to make that determination.

9 MS. DAVIS: And in some cases there
10 won't be somebody there, because you may
11 only have one parent in front of you in
12 these cases, where you're dealing with
13 paternity. The person may or may not show
14 up or maybe got identified and then he,
15 she's gone, and they're not there to talk
16 about their work record.

17 MS. BUSH: We placed into the rule
18 the way the federal regulation is written.
19 And I hear your concern.

20 MR. JEFFRIES: What I was going to
21 say is you have language in there like what
22 their assets are and their residence, which
23 generally are not includable in determining

1 gross income, but it's -- I mean, it's right
2 from the regulation. I don't know what real
3 difference it makes.

4 MS. BUSH: Yes, sir. That's why we
5 put it in there. It's in the federal
6 regulation as to what they want you to
7 consider, so we put it in the rule. What a
8 judge would do with that information, I
9 guess, would depend on the evidence
10 presented.

11 If someone is living in a home
12 that's mortgage free, that's very valuable,
13 versus someone who is --

14 THE HONORABLE PALMER: Living in
15 subsidized housing.

16 MS. BUSH: You know, it's just a
17 factor for the Court to consider with
18 unemployment or underemployment.

19 THE HONORABLE PALMER: Okay. Next?

20 MS. BUSH: Well, just so you'll
21 know, if you're looking at these federal
22 regulations that we're looking at, the very
23 next page, page three, to the right is where

1 they added the part about incarceration may
2 not be treated as voluntary unemployment in
3 establishing and modifying support orders.

4 THE HONORABLE PALMER: Well, I
5 guess, my question is, and Justice Thompson
6 and Chief Justice Stuart, we've got to
7 present these to them, don't we, for the
8 Court to adopt?

9 MS. BUSH: Yes, ma'am.

10 THE HONORABLE PALMER: But some of
11 this is against case law. They have ruled
12 directly opposite of this, so is this now
13 telling them they can't do this anymore if
14 it's in this federal regulation, that the
15 Court of Civil Appeals and/or the Alabama
16 Supreme Court can't follow their own rulings
17 for the last 20 years, 30 years?

18 CHIEF JUSTICE STUART: I think if
19 the law changes, the law changes. It
20 doesn't change anything that's passed and
21 final. I think we have would have to follow
22 it going forward, but only going forward. I
23 want to be clear on that, only going

1 forward.

2 MR. JEFFRIES: We have lots of
3 provisions that are required by the -- all
4 the health insurance language, we added that
5 years ago just because it was required.

6 THE HONORABLE PALMER: Okay. I just
7 want to -- I don't want them to reject it
8 because it's like, well, no, this isn't how
9 we do it in Alabama and that kind of thing.

10 Okay. Next?

11 MS. BUSH: On page six of Rule 32,
12 you'll see under (6) Preexisting child
13 support obligations. Again, it's just a
14 change of the language from "award" to
15 "order."

16 Under number (7), Health
17 insurance -- it used to be Health insurance
18 coverage/cash medical support. That
19 language was changed to health care coverage
20 to be in line with the federal regulations.

21 And then the changes under (a),
22 we take out the word "insurance" and place
23 in the word "care," and we do that under

1 7(a) and (b). I can read that, if you want
2 to me to.

3 THE HONORABLE PALMER: No. That's
4 fine.

5 MS. BUSH: That's really just a
6 semantic language change so that we can
7 include public health care and public -- in
8 addition to health insurance.

9 On page seven, you will see --
10 and it's going to be under 7(c)(2), again,
11 changing the language from health insurance
12 to health care coverage, and this is a
13 definition. I will go ahead and read it.

14 Health care coverage. Health
15 care coverage includes a fee for service,
16 health maintenance organization, preferred
17 provider organization, and other types of
18 private health insurance and public health
19 care coverage -- and the federal regulation
20 struck out that is available to either
21 parent, so we struck that out -- under which
22 medical services could be provided to the
23 dependent children.

1 And the federal regulation for
2 this is 303.31(a).

3 THE HONORABLE PALMER: I guess my
4 question on that one is only because of
5 semantics, it's being called health care
6 coverage in everything, but in that one,
7 where it says private health insurance, so
8 we're going to leave that insurance in that
9 one particular spot only?

10 MS. BUSH: Yes, ma'am. Every once
11 in a while, they'll keep the language health
12 insurance, and so yes.

13 THE HONORABLE PALMER: Okay.

14 MS. BUSH: And, in fact, I'm looking
15 at the federal regulation, just to make
16 sure. Yes, that's what they do.

17 Number (3), Reasonable cost.
18 This also changed in the federal regulation.
19 They struck out some language, and so we
20 struck it out. And whenever we put this in,
21 I believe it was in 2009, we did it in
22 response to a change in federal regulations.
23 We put this change in. Now that they've

1 changed it, we've taken part of it out. So
2 we struck -- well, let me read the whole
3 thing.

4 Reasonable cost. Cash medical
5 support or the cost of -- struck out
6 private -- health insurance is considered
7 reasonable in cost if the cost of the parent
8 responsible for providing medical support
9 does not exceed 10 percent of his or her
10 gross income.

11 It had language about applying
12 the 10 percent standard. That language has
13 been removed, so we just took that out.

14 THE HONORABLE THOMPSON: I thought
15 that language that was added was added in
16 response to case law.

17 It seems we had a case in which
18 the parent providing the insurance was
19 claiming the entire amount of the insurance
20 for the insurance policy that he was paying
21 and was being credited with that amount,
22 rather than the amount that was attributable
23 to adding the child to his policy. And I

1 thought that that's why that was added, but
2 I may be --

3 THE HONORABLE PALMER: Well, I want
4 to say, back in 2015 or maybe '16, it got
5 changed to where it's proportioned. There's
6 five people covered on the policy. Three of
7 them are children, so then that --

8 THE HONORABLE THOMPSON: Is that
9 picked up somewhere else?

10 THE HONORABLE PALMER: Yes.

11 THE HONORABLE THOMPSON: Okay. So
12 it's not a problem cutting it here.

13 THE HONORABLE PALMER: Yes, sir.

14 THE HONORABLE THOMPSON: I believe
15 that I remembered seeing that formula
16 somewhere later on.

17 THE HONORABLE PALMER: Yes, sir.

18 THE HONORABLE THOMPSON: As long as
19 it's picked back up, it's fine.

20 MS. BUSH: Yeah. I think we leave
21 in the pro rata. That doesn't change. We
22 leave in the pro rata part, which I think
23 comes into play at the end of page seven.

1 THE HONORABLE THOMPSON: Okay.

2 MS. BUSH: This number (3) is
3 Reasonable cost. And then number (4), you
4 see, Accessible. But, again, that was just
5 a change from health insurance to health
6 care coverage.

7 Letter (d), we struck out the
8 words "of a premium," because premiums may
9 not apply. And so under (d), the actual
10 cost to provide health care coverage for the
11 children, and then it goes on. So instead
12 of it using the language actual cost of a
13 premium to modify health insurance, it's
14 just the cost of health care coverage.

15 That's, again, 302.56 and 303.31.

16 (e), this is the amount that's to
17 be added in, and so it does not change the
18 pro rata portion. But, again, you're going
19 to see change in language from health
20 insurance to health care coverage, medical
21 insurance premium to health care coverage
22 cost, medical insurance premium to health
23 care coverage cost, and that continues on.

1 Those type of changes continue on
2 on page eight for section (f) and (g). I
3 don't think it's going to change what we do.
4 It's going to change the language.

5 And just so you'll know, we have
6 a proposed change to the CS-41 to match
7 that. I don't know if you want to look at
8 that now.

9 THE HONORABLE PALMER: Do we have
10 that?

11 MS. BUSH: You have that. We can
12 look at it now, or we can look at it -- why
13 don't we look at it when we're done with
14 this, and we'll just keep going with this?

15 THE HONORABLE PALMER: All right.

16 MS. BUSH: I think we are done with
17 insurance. Okay.

18 So let's look at the CS-41. You
19 were provided with a form. Because when the
20 language changed in the rule, we looked at
21 the form to see if that would change as
22 well, and our proposed changes start under
23 five, number five of CS-41.

1 The children of the parties are
2 and there are checkboxes. And the first
3 checkbox is not covered by health -- we
4 struck out insurance and put care coverage,
5 from me and/or my employer. And so that is
6 -- there's no health care coverage.

7 The second checkbox would be
8 health care coverage is available at a cost
9 of X dollars per much, and that's added in,
10 or checkbox covered by Medicaid or other
11 public health care coverage at no cost to
12 me. So that way, you know whether there is a
13 cost or not a cost.

14 And then there's another checkbox
15 where we just changed the language from
16 health insurance to health care coverage.

17 And then, of course, we keep the
18 pro rata language in there. It says, The
19 pro rata portion of the health care coverage
20 cost attributable to the child or subject of
21 the support order, which shall be calculated
22 by dividing the total -- we struck out
23 medical insurance premium and put in health

1 care coverage cost, and then we added
2 language in there about the health care
3 coverage company's name and address are. We
4 put that in there.

5 We're required by federal law to
6 send what's called a National Medical
7 Support Notice, and so that just captures if
8 you do have health insurance or health care
9 coverage, you provide that information, and
10 we can send that notice to the insurance.

11 And then, of course, under number
12 six, I pay the following total amount for
13 child support or alimony. I think, number
14 six, I don't know that that's a -- that's
15 not federal regulation change. I think
16 sometimes, in our cases at least, we want to
17 make sure we capture all of the multiple
18 cases you may pay child support.

19 Do y'all have any questions about
20 those?

21 CHIEF JUSTICE STUART: Only question
22 I have is, is there a deadline for us
23 adopting this language?

1 MS. BUSH: My belief is -- I want to
2 confirm. Our deadline for this is
3 four years plus a year, so five years from
4 our last review, and our last review was
5 December 1st of 2016, so we have until
6 December of 2021. We hope not to wait that
7 long. Only because if they're already
8 changes, we have to change our policy. We
9 have to change our computer and stuff. We
10 do have some time.

11 CHIEF JUSTICE STUART: I guess the
12 reason I raise that issue is I didn't know
13 if we needed to go ahead and adopt these or
14 if we can wait for the other recommendations
15 and do them all at one time.

16 MS. BUSH: I think we can wait and
17 do them all at one time.

18 THE HONORABLE PALMER: Okay.

19 MS. BUSH: And I know I'm going
20 fast. So it may be, as you look at this
21 later, there may be some questions or
22 discussion about --

23 THE HONORABLE PALMER: So we were on

1 page nine, I think, is where we stopped --
2 page eight. I don't see any changes on page
3 nine.

4 MS. BUSH: On 10, number (2),
5 Computation of child support coverage,
6 change the language from "insurance" to
7 "care coverage."

8 Number (4), on page 10, is
9 additional amounts for child support.
10 Instead of using the word "order" here -- we
11 did initially plug in the word "order," but
12 when we did that, we found it read as if
13 there would be multiple orders, and it
14 became a little confusing.

15 So in this instance, we plugged
16 in the word "amounts," instead of "award,"
17 so that it wouldn't look like you would have
18 different orders. These would be just
19 different amounts in one order.

20 So additional amounts for child
21 support. In addition to the recommended
22 child support order, the Court may order
23 additional amounts for extraordinary

1 medical, dental, and educational expense if
2 the parties have agreed in writing to these
3 amounts, as opposed to order, but amounts or
4 the Court upon reviewing the evidence
5 determines that these amounts are in the
6 best interest of the children and states its
7 reasons for ordering these amounts.

8 We felt that captured the
9 essence, but made it a little clearer that
10 we're not talking about multiple orders but
11 just additional amounts of child support in
12 one order.

13 Okay. Bottom of 10, these are
14 the standardized child support guidelines
15 forms, and we have added in some language
16 about the Child Support Guidelines Notice of
17 Compliance, CS-43. Let me just read the
18 rule.

19 A standardized child support
20 Guidelines Form (CS-42 as appended to this
21 rule) and a child support Obligation Income
22 Affidavit Form (CS-41 as appended to this
23 rule) and -- because the one thing we

1 realized as we're going through this rule,
2 and we talked about the stipulations
3 earlier, you have CS-43 mentioned under
4 stipulations on page two, but you don't
5 necessarily have it mentioned anywhere else.
6 So we put it in here, saying that if you are
7 going to use it, it has to be part of the
8 court file -- and a Child Support Guidelines
9 Notice of Compliance (CS-43 as appended to
10 this rule) shall be filed in each action to
11 establish or modify child support and shall
12 be of record and shall be deemed to be
13 incorporated by reference in the Court's
14 child support.

15 So we made that change. If you
16 see on the top of page 11, it says, In
17 conformance to Section (A)(2) of this rule,
18 in stipulated cases, the Court may accept
19 the filing of a Child Support Guidelines
20 Notice of Compliance Form (form CS-43 as
21 appends to this rule.) The form content --
22 that just says it's by ADC.

23 We made those changes just to try

1 to make it clear that you're going to put
2 the 43 -- when we read it the first time, it
3 appeared that you only used the 43 in a
4 stipulated case, and we don't think that's
5 the case. We think you use the 43 every
6 time, and you put it in there. But it was
7 not in here as having to be required to be
8 filed.

9 THE HONORABLE PALMER: Now, on my
10 page 11 that you just read, that's struck
11 through on my copy, what you just read.

12 MS. BUSH: That is struck through.
13 We struck that through.

14 THE HONORABLE PALMER: Okay.

15 MS. BUSH: Because that's
16 saying -- if you take out the language we
17 put in, what it says is you have to have a
18 CS-42, and a 41 shall be filed in each
19 action to establish or modify child support.
20 It shall be of record.

21 And then if you look at the
22 struck out language, it says, In conformance
23 to meet Section (A)(2) of this rule, in

1 stipulated cases, the Court may accept the
2 filling of a Child Support Guidelines Notice
3 of Compliance Form CS-43, and then it refers
4 to that.

5 THE HONORABLE PALMER: But you
6 struck that out?

7 MS. BUSH: We've struck that out.

8 If you look at it, that may be
9 open to other discussion, if you want to
10 discuss it after you look at it, because it
11 does go back to the changes we made under
12 the stipulations.

13 Those are the last changes in the
14 rule itself. You will see Proposed
15 Comments. I can go over those, if you want
16 to. But what those do for every single
17 change that is in the text of the rule, this
18 references the actual federal regulation and
19 what the change was, so these were our
20 proposed comments.

21 THE HONORABLE PALMER: Okay.
22 Comments from the committee? Any?

23 (No response.)

1 THE HONORABLE PALMER: Well, I'm
2 going to -- okay. Anything else?

3 MR. JEFFRIES: Only thing we did not
4 agree to was in the stipulations part, not
5 changing 43 to add what the CS --

6 THE HONORABLE PALMER: That amount?

7 MR. JEFFRIES: Right. Isn't that
8 right? Everything else we --

9 THE HONORABLE PALMER: Well, if the
10 rules already say that the 41s and 42 are
11 required forms and should be part of the
12 record, I don't see why that has to be on
13 the 43, because that section says the 41s
14 and 42 shall become part of the record.

15 MR. JEFFRIES: Right. I agree.

16 THE HONORABLE PALMER: So I just
17 don't think we need it on that 43.

18 MR. JEFFRIES: I agree.

19 THE HONORABLE PALMER: Because I
20 thought that was supposed to been done a
21 long time ago, but -- well, I'm with Justice
22 Stuart in that I really would like to look
23 at this and read over it just a little bit

1 more, because when you went over it, was it
2 May of last year or May this year, when you
3 first presented it to us, you gave us -- I
4 think you went over this portion mainly, and
5 then now that I've seen it like this, I
6 would like to just look at this just a
7 little bit more.

8 But for the most part, other than
9 the word Veteran's benefits, this is a
10 federal regulation, and we don't have much
11 of a choice but to except these as written,
12 right?

13 MS. BUSH: Yes, ma'am, with the
14 Veteran's benefit. The language on the
15 CS-43 was not verbatim. Everything else is
16 pretty much verbatim. We cut and paste it
17 out of the federal regulation and put it in
18 the rule.

19 When it came to the CS-43, we
20 read the rule, read the regulation, and it
21 appeared to us that we needed to change it,
22 but that language is not verbatim.

23 THE HONORABLE PALMER: Okay. But, I

1 guess, my question is whether we adopt this
2 today or whether we adopt this in December
3 of 2021, this is going to have to be adopted
4 by the State one way or other, or y'all are
5 going to lose your funding?

6 MS. BUSH: Yes, ma'am. Yes, ma'am.
7 It is a lot of information, and so I do
8 encourage you to go back and read the rule,
9 sort of side by side read the rule and the
10 regulation and compare the two.

11 THE HONORABLE PALMER: Okay.

12 MS. BUSH: I didn't mention it, but
13 let me go ahead. On the CS-42 minor change,
14 just to the language of health care coverage
15 and health insurance coverage.

16 We just took out insurance and
17 put in care coverage, just like anything
18 else. But that form didn't change in
19 substance.

20 THE HONORABLE PALMER: Okay.

21 MS. BUSH: Also, one more thing.
22 I've said it before, but I want to make
23 sure.

1 If you're reading through and you
2 want to know our reasoning, the proposed
3 comments do provide a guide. So that's
4 going to provide you a line-by-line guide of
5 what regulation you should look at for that
6 particular change.

7 THE HONORABLE PALMER: Yes. If
8 you'll look on the Proposed Comments,
9 page 12, where it says subsection (B)(2)(a)
10 was amended to add to Veteran's benefits to
11 the definition of gross income to clarify
12 that these benefits can be included as
13 income to calculate child support, Goldman
14 v. Goldman.

15 MR. JEFFRIES: That's you.

16 THE HONORABLE PALMER: That's me.
17 Alabama Court of Civil Appeals 2015.

18 So for purposes of calculating
19 child support it's all included. But for
20 the purposes of including alimony, it's a
21 very good definition. But for purposes of
22 collecting, let's say, child support
23 arrearage or alimony arrearage, that's when

1 your definition breaks down again as far as
2 what part of that check you can collect it
3 from.

4 All right. Well, I'm going to
5 make the recommendation that we review these
6 proposed changes to the Rule 32 that
7 Jennifer has just presented to us the next
8 time that we meet to give everybody a chance
9 to review this.

10 However, I know that Justice
11 Stuart, y'all don't like to piecemeal, but
12 as far as the credit for the third party,
13 I'd like to go ahead and represent that to
14 y'all so that people can start getting
15 credit for that out there that have some
16 arrearages, and I think it could help a lot
17 of people get out of some arrearage.

18 So that would be my
19 recommendation, is that we resend the credit
20 for third party payments back to the Court
21 as modified.

22 Does anybody object to that?

23 (No response.)

1 THE HONORABLE PALMER: Now, if we
2 send this to y'all soon --

3 CHIEF JUSTICE STUART: We meet in
4 January?

5 THE HONORABLE PALMER: January.
6 Okay. Great.

7 CHIEF JUSTICE STUART: Conference on
8 31st.

9 THE HONORABLE PALMER: Okay. Great.
10 That would be great.

11 And then we're going to work on
12 the child-care cost while somebody is
13 seeking training or education, and then
14 we're going to work on the joint custody as
15 far as how to calculate child support in
16 that and may even have to go back, like I
17 said, as far as the transcript from 2008,
18 just to see exactly how many days were in
19 there.

20 Okay. Anybody have anything else
21 on this that Jennifer has just presented to
22 us?

23 (No response.)

1 THE HONORABLE PALMER: All right.
2 We might actually be finishing on time. You
3 had 21 seconds left, Jennifer. You did an
4 excellent job.

5 All right. Now, we've got
6 comments from the public. And I don't know
7 where my list is, Bob. I know you handed it
8 to me, but I've covered myself up with
9 Jennifer's paperwork. Here it is.

10 Now, this portion is for the
11 public to comment on what you've heard today
12 and anything else about the guidelines.
13 It's not a comment about how you were in
14 Jefferson County, Birmingham division, and
15 that judge just wasn't fair, or you haven't
16 seen your kids in five years or anything
17 like that.

18 This is about child support. So
19 we do want to hear what you have to say;
20 especially, about all these regulations that
21 have been presented to us and anything else
22 that we're going to present to the Alabama
23 Supreme Court to adopt, but that's why we're

1 here.

2 I've got my handy dandy timer
3 here. I've got five people. I'm going to
4 give y'all seven minutes, and that should
5 get us finished. Hold on. Let me make sure
6 what time it is. I'm going to give y'all
7 five minutes, and that should keep us on
8 schedule here.

9 Is it Sherrie Sanders?

10 MS. SANDERS: Yes, ma'am. It's
11 Sherrie Sanders.

12 THE HONORABLE PALMER: Okay.
13 Ms. Sanders, go ahead.

14 MS. SANDERS: Thank you.

15 THE HONORABLE PALMER: Go ahead and
16 identify yourself to the group, please.

17 MS. SANDERS: Okay. Let me take my
18 hat off.

19 THE HONORABLE PALMER: Okay. Thank
20 you.

21 MS. SANDERS: I would like to thank
22 everyone for giving us this opportunity to
23 attend this meeting and to address some of

1 these issues.

2 My name is Sherri Sanders, and I
3 work as an activist in this state. I am
4 handling some DHR issues currently. But to
5 speak towards what has been spoken about
6 today, I do have some concerns.

7 First, as a parent and a
8 stepparent sitting in this audience, I
9 respect the fact that you, ma'am, have been
10 able to present your own personal issues in
11 this meeting to interject with what has
12 happened to you in your life into this
13 meeting, and I find that as powerful.

14 But what we, as the parents and
15 the stepparents in this audience, want to
16 convey to this meeting or me personally,
17 since we're only limited to what subject
18 matter you were speaking towards, when it
19 comes to the third party monies that we were
20 speaking about earlier, I believe that we
21 have dropped the ball in this case in the
22 state of Alabama.

23 You have only listed third

1 parties when it comes from a paycheck, a
2 Social Security, the Veteran's
3 Administration, these kind of things.
4 Understand that there are other third
5 parties that sometimes have to come into
6 play to help these parents pay these dues
7 each month to child support, to DHR.

8 In my case we had to use my
9 husband's parents, which my husband is the
10 father of the two children in question that
11 the child support issue was about. In these
12 cases, in what happened with my family, he
13 was, as you would say, underemployed. But
14 what wasn't taken into consideration by the
15 judge is that the ex-wife had made multiple
16 accusations of sexual misconduct, beatings,
17 and other things that when we would go to
18 court, she would not show up. So every
19 arrest ended up on his record.

20 When we attempted to get him a
21 better job, because he worked in
22 construction, and he would get the job, they
23 would then do the subsequent check of his

1 criminal record, and I can't speak to how
2 many jobs he lost. But one in specific that
3 I would like to bring up is I worked at
4 Huntsville Hospital. I got him a job at our
5 hospital, and he lost the job the same day
6 he got it based on accusations that the
7 ex-wife never showed up in court for,
8 leaving him to work only in construction,
9 which is where his skills and labor have
10 been his entire life.

11 He didn't graduate high school
12 until he was 20, so he is not a college
13 graduate. And he is not someone that would
14 be looked at in a lot of jobs in this
15 country as someone that you would want to go
16 after, because his skills is in labor, and
17 his labor skills was in construction.

18 So the fact that I was able to
19 get him a job and then that he lost that job
20 and then subsequently the income that he
21 would have made would have been taken into
22 consideration against him, I find that
23 outrageous.

1 In front of all of you, I would
2 like for you to understand that in our case,
3 the judge in our case ordered that he would
4 pay child support in what the judge felt
5 like he should be making in his job.

6 Now, what we did in our case, and
7 what y'all have not taken into consideration
8 is on this third party situation, we could
9 not provide more income through DHR, which
10 is Title IV funding, and you make your money
11 that way. We understand in this audience
12 that you want this money coming through DHR,
13 so you can make your Title IV funding.

14 But in our case, in my family, we
15 gave her a car. We gave her a house. His
16 parents gave her \$35,000 to dump on a
17 restaurant that she lost three months later.
18 All of that money was not taken into
19 consideration when it came to arrearages.

20 So when my husband was picked up
21 for arrearages, even though we had given his
22 ex-wife multiple, by this point, cars, a
23 place to live, a restaurant that she blew

1 away, none of that money was taken into
2 consideration for my family. My husband was
3 sent to jail on a contempt of court charge
4 for failure to pay all of his child support
5 where he spent nearly seven and a half
6 months in jail.

7 Now, once he had been taken into
8 custody, I was able to get a Federal
9 Magistrate in Birmingham, Alabama, to sign a
10 habeas corpus to release him as he was being
11 held for a debt. And in the state of
12 Alabama, you can't be held for a debt as we
13 know by our law. We still can't be held by
14 a debt.

15 So in his case he was being held
16 for a debt he shouldn't have been. I got a
17 federal magistrate in Birmingham to file a
18 habeas corpus for his release in January.
19 Morgan County kept him four and a half more
20 months in prison for debts that I couldn't
21 pay. My son -- we have twins, and my son is
22 legally blind.

23 So when y'all put -- and I say

1 y'all, I meant Morgan County. When he was
2 placed in custody for not being able to pay
3 arrearages or child support in a position
4 that he had been offered jobs that were then
5 taken away due to something outside of his
6 purview, as it was the ex-wife who had made
7 complaints.

8 So there are situations in this
9 room that has not been taken care of by the
10 language that you are speaking about. You
11 have forgotten the other third party
12 situations that can come into play.

13 The reason why we only had one
14 car left for me to go to work on a second
15 shift is because my husband had given her
16 the car, and then she spent two weeks
17 driving it and blew the engine up.

18 THE HONORABLE PALMER: Okay. Ma'am,
19 you've got 30 more seconds.

20 MS. SANDERS: But the point that I
21 would like to make is this: We have a
22 situation in this building right now that
23 you could take the lead across this country

1 and to fix problems that are devastating
2 families. Everyone in this room back here
3 could probably speak to their own egregious
4 that has happened.

5 But let me also end with saying
6 this: Despite all that has been done to my
7 family, I stand before you now as an
8 activist. And just to drop this one final
9 line, if you will give me this one moment.
10 What I have not heard today and it is
11 disappointing is that nothing has been said
12 towards parents that have had their children
13 taken by DHR, and then those parents are
14 asked to pay child support while they're
15 fighting to get their children back when
16 they were taken with no cause.

17 DHR in this state is known to
18 take children where there was no causes to
19 be had and parents have no recourse.

20 THE HONORABLE PALMER: Thank you
21 very much, Ms. Sanders.

22 MS. SANDERS: Thank you very much.
23 And thank your for the opportunity to speak.

1 THE HONORABLE PALMER: Yes, ma'am.

2 Marcus Echols?

3 MR. ECHOLS: Yeah, that was good. I
4 won't get into a whole lot of stories,
5 because I'm with Huntsville Black.com online
6 digital magazine and Blog Talk Radio. I got
7 my own radio show, and each Saturday, we do
8 a show called the Child Support Hustle.

9 It was written by a veteran
10 who -- it took her eight years to get out
11 of the system. She was almost jailed a few
12 times for trying to get out. They did
13 everything to talk her down to keep that
14 Title IV rolling in.

15 And the main problem -- what's
16 breaking Social Security is Title IV-D
17 funding, five to one. You are creating an
18 incentive where people are foaming at the
19 mouth, following over each other, inserting
20 language to go after these people to destroy
21 them and using words and terminology, like
22 deadbeat parent, which some parents use to
23 alienate the child against the other parent.

1 But those terms are used and
2 inserted to beat a person down into the
3 corner. You beat them down in the corner,
4 where they can't fight back.

5 Okay. So anybody who wants to
6 hear any of my shows, I have did hundreds of
7 shows. The author of the Child Support
8 Hustle is on my network on Saturdays. And
9 you can go to my website and listen to all
10 of these stories across Alabama. Horror,
11 horror stories. And if I'm permitted, I'm
12 not going to go into the stories like I know
13 except for this one experience.

14 A lady put a baby on a man. Nine
15 years later -- seven years later, the guy
16 found out the baby wasn't his. So they went
17 back and forth and back and forth to court,
18 and the lady ended up having to pay the guy
19 back. Her income was taken to pay back
20 everything that he said she owed.

21 All right. Child is nine years
22 old. She comes through with the real
23 father. Gets the Court -- guess what? They

1 want nine years arrearage for that child
2 that he did not know that she lied and
3 committed paternity fraud. DHR did nothing.
4 They wanted the whole nine years. A battle
5 was fought. Shouldn't have paid a penny,
6 because the person didn't know.

7 How can you be responsible for
8 something you didn't know? So when it came
9 down to it, they were charged with five
10 years back time. They felt graced, I guess,
11 to get the four years off. But they took
12 five years and multiplied it by \$400 over
13 five years, hit it with the interest, and we
14 all know what goes when it comes to Title
15 IV-D funding and the arrearage. You can
16 make your payments faithfully, but every
17 30 days that that total amount isn't paid,
18 it's going to get hit with interest. You're
19 putting people in a permanent hamster wheel
20 of poverty.

21 And I say this on the show:
22 Child support is financial slavery. No
23 other way to put it in. Impugned income is

1 a fraud.

2 I'm just going to go through --
3 I'm going to be shorter than her.

4 THE HONORABLE PALMER: Okay. You
5 got two minutes left.

6 MR. ECHOLS: Okay. I'm just going
7 to list all the things that people come on
8 my program, to say you can go back and look
9 at my program.

10 THE HONORABLE PALMER: Okay. Well,
11 you got two minutes.

12 MR. ECHOLS: Yes. It's just ten
13 things. This is -- don't look at me. I
14 know there's going to be a lot of red faces
15 in here when I get finished. Don't look at
16 me like I'm saying this. You can actually
17 go to my site and listen to these cases,
18 okay?

19 Most concerns of the public. The
20 unspoken drag on Social Security is
21 Title IV-D funding with huge allotments
22 given out creating this incentive. And
23 people said this: Meetings -- they're not

1 talking about this particular meeting,
2 because this happened before.

3 But meetings like this only share
4 tactics on how to acquire more Title IV-D
5 funding. And people are mad and angry about
6 the arrogance of some of these workers and
7 people sitting in the courts, talking to
8 people like they're trash, because you're
9 sitting up there. So that's why we're
10 demanding more cameras in the courtroom, so
11 some of these attitudes can be exposed to
12 the public.

13 Okay. And there's a need --
14 people are calling for a need for a federal
15 independent audit; especially, of the
16 Alabama DHR. And there's a need to enforce
17 court ordered visitation, like they do child
18 support. Get a person in court. They can
19 be alienating the child, not letting the
20 child see. You can't even bring up
21 visitation, but they'll tell you it's all
22 about the child.

23 If it's all about the child, you

1 should be able to talk about visitation.
2 But, no, they want to talk about Title IV-D
3 funding. That's their cause. That's their
4 401-k.

5 Okay. There needs to be a fair
6 way to calculate child support. Experts out
7 of California agree child support should be
8 set at a lower level and gradually raised
9 up, but we're not going to do that when we
10 got the incentive of five to one coming in.
11 You're going to try to set it as high as you
12 can and spend the next 18 years climbing to
13 the top. Experts totally disagree with what
14 you're doing.

15 And everyone agrees, all the
16 child experts agree, 50/50 shared parenting
17 should be the norm and is better for the
18 child. If this is all about the child, why
19 don't we have 5/50 parenting? Title IV-D
20 funding.

21 Okay. DHR and family court --
22 she touched on this -- are the only place in
23 America where debtors prisons are still

1 used. And DHR and courts need to decide,
2 because I've had cases where people said --

3 THE HONORABLE PALMER: Sir, you got
4 30 more seconds.

5 MR. ECHOLS: I've had cases where
6 people said that they were ordered to keep
7 the insurance, but the mother was still was
8 on Medicaid. They need to stop beating the
9 system like that. If you're going to give
10 an order for a father or a mother -- because
11 I've heard some female horror stories too --
12 to have that insurance, they should be
13 disqualified from draining the public. They
14 shouldn't be double dipping.

15 Okay. My last thing I want to
16 say is senators, legislators, and judges
17 need to discuss ways in which child support
18 laws and payments affect family structure,
19 teenage delinquency, and income disparities
20 between parents.

21 You look at these cases. You're
22 dogging parents out so bad and creating this
23 giving one parent power over another to

1 abuse the other one when the relationship
2 has broken down and then putting up walls
3 between those two parents where they can't
4 work things out. You're creating a river of
5 wounded children. It's going to repeat the
6 cycle over and over.

7 THE HONORABLE PALMER: Thank you,
8 Mr. Echols.

9 Eric Davis?

10 MR. DAVIS: Good afternoon. I'm
11 Eric Davis, and I'm from the Autauga County
12 area. And I have made plenty written
13 complaints, and I haven't received any
14 answer to anything yet.

15 But, today, I just want to come
16 before this committee and just ask a couple
17 of questions.

18 One of the questions are, like
19 with came through on the phone was, are
20 these guidelines that are state regulated,
21 are they mandatory for every courtroom in
22 the state, or do each courtroom has an
23 option to do whatever they want to do, amend

1 or go with whatever they want to go?

2 Are these mandatory guidelines,
3 this Rule 32? That's one of the things I
4 wanted to ask.

5 Another thing was with the child
6 support. Do child support comes before
7 divorce, or does it come after the divorce,
8 or do child support has the right to
9 intervene in a divorce, because one of the
10 parties decide they want to claim support?

11 All right. Also, in these cases,
12 a lot of cases are not heard by judges;
13 especially, not in Autauga County area.

14 So how can we find the findings
15 when like you said I don't have the money to
16 give 1,500 or \$2,000 to an attorney to where
17 we have a civil case that is contracted with
18 a criminal case.

19 So when we have that, we're
20 subordinate the child support people, but
21 we're giving the rights to the criminals to
22 have an attorney appointed to them, but in
23 child support, you don't have that.

1 So another thing, the gross
2 income. We have a gross income before taxes
3 are taken out that the noncustodial, the
4 ones that's going to pay, he's already
5 paying state, federal taxes out of his
6 insurance, get a percentage out of that for
7 the taxes, he get a percentage taken out for
8 the state, he get a percentage that goes
9 into Medicare and Social Security.

10 So he's already taxed before the
11 gross. Then he comes back and get court
12 ordered to pay additional. And then where
13 is this interest going? How did this
14 interest even get involved in this?

15 These are things I want to know.
16 I have asked all of the superiors that I
17 thought that was here for us.

18 And where can father,
19 noncustodial, go to make a complaint, like
20 on DHR, for a case worker not following
21 through or not returning phone calls or not
22 setting up the proper meetings, to make sure
23 that all the proper channels are taken and

1 not -- inappropriate handling the papers.

2 Because like said in here, I'm
3 seeing a lack of knowledge amongst all of us
4 on what should be and what -- we're dealing
5 with people. We're dealing with people's
6 liberal rights that we're just taking. Hey,
7 we're going to take this, and we're going to
8 make money off of them, and we're going to
9 take them, and we're going to just do
10 whatever we want to do, whatever we want to
11 do. That's not fair.

12 Now, in my county, I went and
13 asked -- we got on the stipulations. They
14 said, 2009, we're no longer under the
15 stipulation guidelines, so which is it?

16 Is my county exempt from the
17 stipulation guidelines, or is it a state
18 required guideline?

19 And, also, I wanted to know if
20 you have a complaint, who do you who go --
21 who can you go and really talk to that's
22 going to really hear your complaint and make
23 sure that your investigation go through

1 properly and going to fight for you, the
2 individual, that's the noncustodial, because
3 that's a problem.

4 We say we're here for the
5 well-being of the children. Children don't
6 never see none of this money, none of it.
7 We say the parents don't have to spend the
8 money. But, hey, we understand that it
9 costs. I'm not against child support. But
10 I want to know what is the actual due
11 process to be put through child support, and
12 are we following the due process of child
13 support in a lot of these cases, because I
14 see a lot of parents in dispute all the time
15 about money.

16 I have a case, whenever mine
17 don't get money, she runs. But she don't
18 take into consideration we're still legally
19 married.

20 THE HONORABLE PALMER: You got 30
21 seconds, sir.

22 MR. DAVIS: And that's all I wanted
23 to know.

1 THE HONORABLE PALMER: Okay. And I
2 will help you with some of these questions
3 when we hear from everybody. You and I will
4 sit down in a minute.

5 Tiffany Willis?

6 MS. WILLIS: Hello.

7 THE HONORABLE PALMER: Hello.

8 MS. WILLIS: I'll be hopefully short
9 and sweet.

10 So I wanted to just touch on -- I
11 know that you said in the agenda it would be
12 helpful to talk about things that you
13 discussed in the agenda, so I'm going to go
14 to those really, really quickly.

15 In the very beginning, you talked
16 about being able to -- not being able to
17 access records because of the Social
18 Security numbers and those type of things.

19 I want to make you aware of a
20 situation. In our particular instance, we
21 would like to be pro se, just because after
22 a while, attorneys get very, very expensive.

23 The first issue, when going into

1 DHR, and you say that you're pro se, well,
2 you need to see your case file, because you
3 want to prepare, just as an attorney would.
4 The first thing you're told is because of
5 privacy reasons, they can't show you the
6 file. Well, how can someone be pro se if
7 you can't see your own file?

8 Another question I ask, you know,
9 my husband is not here, he's at work. I am
10 the stepmother of this situation. But one
11 of the things that I said, well, can you
12 have non-attorney representatives? I spent
13 ten years working in the Social Security
14 Administration, and the number one thing we
15 get is whoever you would like to represent
16 you. There are clients that can't
17 articulate themselves well. We were told in
18 Mobile County, you cannot have a
19 non-attorney representative. The only
20 people that are allowed in the courtroom or
21 in the proceeding where there's a referee is
22 the custodial and noncustodial, the two
23 parents. If they have an attorney, you can

1 have an attorney.

2 The noncustodial parent -- I'm
3 sorry. The custodial parent, who filed the
4 DHR case, gets a free attorney, gets any
5 representation, gets to ask questions. But
6 that noncustodial parent, who may or may not
7 have the ability to pay, doesn't get any
8 assistance. If you call and ask
9 questions -- I implore any of you to pick up
10 the phone one day, star 67 your number out,
11 and call DHR and ask a question about that
12 case, and the first thing they want to know,
13 are you the custodial or noncustodial
14 parent. When you say that you're not the
15 noncustodial parent, their response is, you
16 need to hire an attorney to answer that. We
17 do not give legal advice.

18 But if I -- because I'm a female,
19 could say, oh, I'm the custodial parent,
20 they'd never know. I'm the custodial
21 parent, conversation would go on for 25
22 minutes. I get every answer I wanted to
23 know as long as it's in favor of the

1 custodial parent.

2 So I implore you to -- I don't
3 know. You guys work hard. I've sat here
4 for a long time. I didn't realize what all
5 you do. But I do read every transcript, and
6 I've read them all the way down to 2007.
7 It's taken me four months to do that. So I
8 do know that you work hard. But there -- at
9 some point, something has to be addressed.

10 Another thing you talked about,
11 the shared versus joint custody and how many
12 nights and days and those types of things.
13 One of the thing that we have in Mobile
14 County -- I can only speak to Mobile.
15 That's where I live -- you know, most
16 lawyers will tell you, our judge just
17 doesn't give joint custody. Well, let's
18 flip over to stipulations. In your own
19 regulation, the federal regulation, it says
20 you must tell them why you're not doing so.
21 Well, what's the reason that that doesn't
22 happen? If both parents, I'm going to
23 say -- use the word normal. Nobody is a

1 pedophile, nobody is crazy, nobody is a
2 sicko, why can't joint custody be given?

3 Is it to put a windfall on the
4 noncustodial parent? So if you're going to
5 split the days in the way that you guys have
6 discussed, and I know it's been tabled to
7 the next time, split the days, whether you
8 have that legal title, because depending on
9 the county, depending on the judge, they may
10 say, well, we'll give visitation. Oh, we'll
11 give joint shared custody. We'll give --
12 there's a thousand different terminologies
13 out of it.

14 But what I do know is when we do
15 have our kids, they have to be fed. The
16 minute that they show up and there's no
17 lights, water, and gas, or foreclosure, the
18 custodial parent is running back to court
19 and saying that they're unfit. How can they
20 have a weekend if it's dark in there, if
21 they're hungry?

22 And I do have a daughter. Need
23 not anybody ever tell me my child went a

1 weekend hungry, but that's something we face
2 every -- we may not have the legal title of
3 joint shared custody, but we still have
4 them, and we do have them a number of days.
5 So I do implore you to look at the number of
6 days that we have them, because the children
7 still have to eat on those days.

8 Okay. So we talked about
9 stipulations. In one of the things that you
10 said and one of the changes that you made,
11 you removed the word "premium," which is
12 very important to me, and I'm glad you
13 brought that up. So.

14 When you removed the word
15 "premium" from health care, are you saying
16 that now the deductibles, as you know just
17 between 2016 and now or 2015 and now,
18 insurance has skyrocketed. Well, we pay
19 insurance. But we have a \$6,000 deductible.
20 There's no credit given for that deductible.

21 Now, you deleted the word
22 "premium." Does that mean now we get full
23 credit for all that we pay, or when you say

1 that if the health care should be split
2 50/50 amongst the -- does it count for that
3 \$6,000 deductible?

4 Well, according to the way it's
5 really open ended, in our instance, the
6 courts justifying that as the \$25 copay.
7 That should be 50/50. Well, my God, if I
8 made a \$200 payment every paycheck towards
9 that insurance, and I've got to make a
10 \$6,000 deductible before that -- I got 30
11 seconds?

12 THE HONORABLE PALMER: Yes, ma'am.

13 MS. WILLIS: \$6,000 deductible, my
14 gosh, that's not calculated in that CS-42
15 form.

16 Lastly, the preexisting child
17 support. I would love to know why the
18 regulation when it starts, it says
19 stipulations -- I mean, You should be given
20 or shall be given credit for a preexisting
21 arrangement, court order.

22 But then one or two sentences
23 down from that, if they're not currently

1 under an order under DHR system as CS
2 number, then it says, The judge may give you
3 credit for intact under roof children.

4 Why is that so discretionary? If
5 there are other children, are you
6 bastardizing children who don't come to DHR
7 or those parents don't come to DHR, or as a
8 married woman, should I go to DHR and file a
9 case so that my kids can be covered, because
10 they live under the roof with their dad?

11 Because according to Mobile
12 County, they only give it if you have a CS
13 case number. If the case didn't -- so
14 you're forcing people to say we're not going
15 to give you credit for those other little
16 kids, unless you come to us.

17 Now, we can work together and
18 decide we don't need that. But you give no
19 credit for those children. So, I guess,
20 they don't have to eat or they're
21 bastardized. I don't really understand. So
22 I ask you to look at these things as you go
23 further.

1 THE HONORABLE PALMER: Thank you
2 very much.

3 Erick Wright?

4 MR. WRIGHT: Hello. Hello.

5 THE HONORABLE PALMER: Hello.

6 MR. WRIGHT: I won't be long at all.
7 Thank you for giving me an opportunity to
8 speak for a just moment.

9 My name is Erick, E-R-I-C-K for
10 the record. And I'm just here as a parent.
11 I actually have seven boys, two sets of
12 twins.

13 THE HONORABLE PALMER: Wow. Bless
14 you.

15 MR. WRIGHT: I am the custodial
16 parent for four of my boys and noncustodial
17 parent, as they call it, for my other boys,
18 but I only have two current child support
19 cases. And that was just a couple of things
20 I just wanted to brush by.

21 Some things cannot be put on
22 paper and calculated when determining the
23 amounts for child support. Two of my boys,

1 two of my twins, were born with delayed
2 speech and with a speech impediment, and it
3 caused me throughout their elementary years
4 to be at the school more often than I would
5 have quite liked to. It caused more
6 attention to detail in their education.

7 I have a son that has been
8 diagnosed with severe brain seizures, and he
9 takes medication for that. That takes me
10 away from having a substantial 9:00-to-5:00
11 job. It pushes me into alternate forms of
12 finding income, because I need to be
13 available for my boys a lot.

14 So I just urge you all to please
15 take into consideration, when we're looking
16 at underemployed and unemployed people, we
17 don't need to look at them like they're
18 avoiding work. We need to take into
19 consideration their situations.

20 My situation by myself with my
21 kids, it causes me to always be at the
22 hospital, to always be at the school, to
23 always be at a meeting or evaluation or

1 something like that, and it doesn't leave
2 time for a 9:00-to-5:00 job.

3 So you can look at I have a
4 bachelors and a masters, and you can look at
5 maybe when I had 9:00-to-5:00 job and I
6 worked for a corporation, I was able to buy
7 a large house, but now I don't have the
8 funds. Now I don't have the funds.

9 So if I am to come in front of a
10 referee, to let them know that I don't make
11 what I used to make, I understand what the
12 paper says, but my life requires something
13 different of me. So that's one thing I
14 definitely want to let you know.

15 I just wanted to throw something
16 out there just so you can take it home and
17 kind of think about it. But another thing I
18 wanted to touch on was the interest rates
19 for arrearage.

20 Interest rates are pretty high.
21 You can get a mortgage rate cheaper. You
22 get a mortgage rate cheaper. Student loan
23 debt is like a life sentence, but they're

1 cheaper, you know. So why would we place
2 this kind of burden on our citizens, knowing
3 full well that they could never really pay.
4 They will never be able to clear it. That's
5 one thing.

6 The second thing is mental
7 health. We need to take mental health more
8 serious, because if we notice the cases that
9 come to court, they're majority
10 African-American, black. Our people has
11 dealt with a lot of issues throughout
12 history.

13 But as of right now, 40 percent
14 of the all African-American women has faced
15 some kind of sexual assault, something like
16 that in the history. That's known to be
17 fact, you know. It's -- let's see. It's
18 20 percent -- 20 percent of all pregnant
19 black females have postpartum depression.
20 Like, that's something you have to take into
21 consideration, and there needs to be some
22 sort of evaluation once someone comes to DHR
23 or comes looking for child support.

1 We need to make sure they're of a
2 competent party, and they're not totally
3 stressed out, and this is not something, the
4 spur-of-the-moment decision they're making
5 out of passion, hatred, et cetera, because
6 this is a lifelong decision that's going to
7 affect everybody.

8 And the last thing I just wanted
9 to run by, because I'm a father and now I
10 find myself with a lot of more time. I have
11 a farm. And I would like to teach my boys
12 farming.

13 If you do know, the kids still go
14 to school on a farmer schedule. That's why
15 they have the long summers off. If you do
16 have a discipline, even if it's not farming,
17 it could be welding, it could be any
18 specialized knowledge, there should be some
19 kind of situation that we can allow fathers
20 to pass that information on to share that
21 forward in order to teach their kids.

22 If they're able to do that,
23 they'll be able to spend more time with

1 their kids; especially, throughout the
2 summertime. Because they do go to school on
3 a farmer's schedule, they should be required
4 to be with their father doing things of that
5 nature, where they can actually use their
6 hands and be more productive in society.

7 THE HONORABLE PALMER: You've got 30
8 seconds.

9 MR. WRIGHT: That's all I needed.
10 Thank you very much.

11 THE HONORABLE PALMER: Thank you.

12 All right. Well, I do believe
13 just -- and I want to talk especially about
14 the mandatory guidelines. I've got two
15 Ericks here.

16 But as far as the interest rate
17 goes, I believe, that's a legislative act,
18 and that's on all judgments, not just child
19 support, that seven and a half percent. It
20 used to be 12 percent, and then it got
21 dropped down on, like, September 1st, 2013,
22 to seven and a half percent.

23 So that's -- as far as getting

1 that interest rate changed, that's who you
2 need to go see is your legislator. We don't
3 have any control over that interest rate
4 here, just to let you know that.

5 MR. ECHOLS: You could make a
6 recommendation, though. A recommendation
7 would help. It would show some type of
8 care.

9 THE HONORABLE PALMER: All right.

10 MR. ECHOLS: That we have never
11 seen.

12 THE HONORABLE PALMER: Okay.

13 Well, and with that, does anybody
14 have anything else? When do we want to try
15 to meet again? March? April?

16 I know we want to stay away from
17 spring break in March. Well, start over
18 here.

19 Jim?

20 MR. JEFFRIES: Anytime.

21 THE HONORABLE PALMER: Judge
22 McMillan?

23 THE HONORABLE McMILLAN: April would

1 be better.

2 THE HONORABLE PALMER: When are you
3 due, Stephanie?

4 MS. BLACKBURN: I'm due in March.

5 THE HONORABLE PALMER: So April
6 would be better.

7 MS. BLACKBURN: I'm due March 22nd,
8 so.

9 THE HONORABLE PALMER: Well, you can
10 bring your baby with you, if we meet in
11 April. That would be fine.

12 Chief Justice Stuart?

13 CHIEF JUSTICE STUART: Anytime.

14 THE HONORABLE PALMER: Justice
15 Thompson?

16 THE HONORABLE THOMPSON: I prefer
17 April.

18 MS. BUSH: April is fine.

19 THE HONORABLE PALMER: Lathesia?

20 MS. SAULSBERRY: April.

21 THE HONORABLE PALMER: Melody?

22 MS. BALDWIN: April.

23 THE HONORABLE PALMER: Angela?

1 MS. CAMPBELL: April.

2 THE HONORABLE PALMER: Amanda?

3 MS. COX: April.

4 THE HONORABLE PALMER: Kenneth?

5 MR. PASCHAL: Anytime is fine.

6 THE HONORABLE PALMER: Okay.

7 Michael, you still on that phone?

8 Did we lose Michael finally?

9 Okay. He's been a sport about being on that
10 phone now.

11 April is fine with me. So Bob --

12 MR. POLEMENI: I had it on mute.

13 THE HONORABLE PALMER: Oh, okay.

14 Hey there. Is April still good for you?

15 MR. POLEMENI: April is good.

16 THE HONORABLE PALMER: Okay. So we
17 will probably send out a memo sometime after
18 the holidays, don't want to get it lost in
19 the holidays, after the holidays with some
20 April dates on there and get a response from
21 everybody.

22 Bob, is there anything else that
23 we need to discuss?

1 MR. MADDUX: I don't think so.

2 MR. MEDARIS: Judge, I have one
3 thing. In that packet I handed out at the
4 beginning of the meeting, there's a copy of
5 the roster.

6 If you would just look over that
7 and make sure your contact information is
8 accurate, please, and if it's not, I'll
9 update and send out a correct one.

10 THE HONORABLE PALMER: You have your
11 name tags in front you. Just leave them
12 there, and we'll pick them up and use them
13 next time.

14 Yes, Kenneth?

15 MR. PASCHAL: Yes. Just an
16 administrative question. I know I'm
17 appointed as an alternate on the committee.
18 I'm here from Alabama, you know, playing
19 football, baseball. I'm not used to sitting
20 on the bench.

21 So my question is, who or what
22 level of authority -- what do we need to do
23 to make me a member, a voting member of the

1 committee, at the committee level?

2 CHIEF JUSTICE STUART: You can write
3 a letter to the Alabama Supreme Court, and
4 we make appointments generally in August or
5 September of every year of the future year.
6 We can't just add you, because this
7 committee is governed by a federal lawsuit
8 that pretty well stipulates who is supposed
9 to be on the committee.

10 But if you'll apply, you may
11 replace somebody. But we'll certainly
12 consider that.

13 MR. PASCHAL: Okay. So if I'm
14 hearing correctly, the Supreme Court?

15 CHIEF JUSTICE STUART: The Supreme
16 Court appoints the committee in accordance
17 with the federal lawsuit.

18 THE HONORABLE PALMER: Okay. Thank
19 you. Everybody have a wonderful holiday.
20 I'll see you in April.

21 (The meeting concluded at 2:20
22 p.m.)

23

WORD INDEX

| | | | |
|---|---|--|---|
| < \$ > | 188:9 225:20 | 2016 81:21 179:5 217:17 | 32.1 9:15 |
| \$1,500 156:3, 5 | 12:04 94:9 | 2017 1:14 43:4 77:22 231:7 | 365 112:19 |
| \$10 59:15 | 120 116:16 | 2018 50:22 | < 4 > |
| \$10,000 61:17 | 12th 6:20, 21, 22 42:15 47:16, 17 128:21 | 2021 179:6 187:3 | 4 74:9, 15 175:3 180:8 231:9 |
| \$2,000 75:11 208:16 | 130 118:11 | 20-something 84:5 | 40 114:10 123:21 124:9 125:3, 6, 8 223:13 |
| \$200 149:11, 12 218:8 | 142 114:19 | 21 191:3 | 401-k 205:4 |
| \$25 218:6 | 15 1:14 157:18 231:6 | 22 118:17 | 41 141:10 183:18 |
| \$30 149:10 | 152 115:14 | 22nd 227:7 | 41s 185:10, 13 |
| \$32,000 55:21 | 15th 4:2 6:13, 22 43:4 128:22 | 230 231:9 | 42 134:6 135:7, 12, 15 139:14, 20 140:12 141:10 143:2, 9 185:10, 14 |
| \$35,000 196:16 | 16 111:22 174:4 | 24.6 116:3 | 43 134:20 135:8 136:11 140:8, 10 183:2, 3, 5 185:5, 13, 17 |
| \$400 71:20 75:7 97:16 202:12 | 165 113:12 | 25 150:8 214:21 231:17 | 45 93:18 117:2 |
| \$450 71:22 97:18 | 16th 4:16 | 26 94:6 127:21, 21 | 45-C.F.R.-302.56 132:13 |
| \$5,000 78:7, 10 156:3 | 17 79:11, 11 | 26-10-20 110:11 | 47 7:4 19:3 32:9 |
| \$5,400 78:8 | 18 47:5 55:19 76:10 205:12 231:17 | 27 115:13 | 4-H 46:6 |
| \$50 71:22 97:19, 21, 22 | 180 113:13 | 28 119:8 | < 5 > |
| \$6,000 217:19 218:3, 10, 13 | 185 113:13 | < 3 > | 5 205:19 |
| < 0 > | 19 28:17 47:8 231:17 | 3 143:21 160:17 172:17 175:2 | 5:00 57:8 |
| 02 231:17 | 195 119:22 | 3:00 53:11 | 50 117:1, 1 123:3, 3, 15, 15, 16, 16 125:10, 10 205:16, 16, 19 218:2, 2, 7, 7 |
| 08 121:20 | 197 30:3, 15 36:18 | 3:30 98:18 | 55 117:2 |
| 09 121:21 231:17 | 198 28:17 | 30 84:3 112:12 114:12, 13 119:8 120:21 134:1 169:17 198:19 202:17 206:4 211:20 218:10 225:7 231:17 | < 6 > |
| < 1 > | 1st 50:22 155:9 179:5 225:21 | 303.31 151:3 172:2 175:15 | 6 170:12 |
| 1,500 208:16 | < 2 > | 303.8 144:12, 15, 19 145:6, 11 | 60 125:3 |
| 10 60:2 61:13 96:14, 18 114:14 116:17, 21 146:6, 7, 9 149:19 173:9, 12 180:4, 8 181:13 | 2 171:10 180:4 182:17 183:23 188:9 | 30-3-190 30:3 | 639 231:17 |
| 10,000 56:14 | 2:00 98:19 | 30-something 84:5 | 67 214:10 |
| 10:02 1:15 4:2 | 2:20 230:21 | 31st 190:8 | < 7 > |
| 100 118:8, 9 120:7 | 20 169:17 195:12 223:18, 18 | 32 42:13 43:5 61:19 122:17 131:6, 19 132:21 138:14, 15 148:8 150:23 156:14 160:6 170:11 189:6 208:3 | 7 170:16 171:1, 10 75 150:6 |
| 11 67:5 69:20 84:17 94:2, 4, 5 95:3 100:2 110:9, 18, 18 182:16 183:10 | 200 113:11 118:12 | | < 8 > |
| 11:00 53:11 | 2004 121:10 | | 8:00 57:8 |
| 11:30 93:18 | 2007 215:6 | | 85 157:16, 17 |
| 11:34 94:9 | 2008 121:8 190:17 | | < 9 > |
| 12 80:20 112:14 | 2009 172:21 210:14 | | |
| | 2010 79:12 | | |
| | 2013 225:21 | | |
| | 2015 155:9 174:4 188:17 217:17 | | |

| | | | |
|---|--|---|--|
| 9:00-to-5:00 221:10 222:2, 5 | 103:13, 19, 22 104:6 107:18 | 124:3 132:6 146:9 148:10, 14 164:8 178:3 192:23 | 93:4 95:15, 21 100:7 101:16 102:3 103:7 |
| 90 113:7 114:4, 7, 11, 19 115:12 116:3, 15 119:20 120:7 122:9 | accruing 81:14 accumulated 74:14 accurate 229:8 231:9 | addressed 78:12 79:7 122:2 147:6 148:8 150:10 215:9 | agenda 212:11, 13 ages 12:6 ago 170:5 185:21 agree 33:4 38:14 53:9 56:4 69:16 88:18 125:19 135:19 141:9 148:9 163:12 185:4, 15, 18 205:7, 16 |
| 91 113:10 | accusations 194:16 195:6 | addresses 12:6 adds 29:19 adequacy 138:21 adequate 144:7 145:16, 19 | agreed 110:21 136:17, 19 181:2 agreement 55:18 56:1 73:21 127:14 129:18 134:9 136:5 140:10 141:21 agreements 150:6 agrees 205:15 ahead 37:15 56:1 76:20 153:21 160:10 171:13 179:13 187:13 189:13 192:13, 15 |
| < A > | achieve 162:6 acquire 204:4 | Adjunct 2:8 adjust 86:13, 14 adjustment 80:19 145:12, 20, 21 | Aid 6:2 air 167:1 |
| a.m 1:15 | Act 30:2 34:8 36:18 225:17 | Administration 17:11 19:21 37:12 39:9, 14 42:13 87:20 88:22 90:15, 20 194:3 213:14 | ALABAMA 1:3, 14, 17, 19 2:5, 7, 8, 9, 11, 12 4:5 30:3 42:16, 17 54:9 58:23 59:1, 3 62:1 66:11, 11 108:23 110:12 128:10 160:20 165:2 169:15 170:9 188:17 191:22 193:22 197:9, 12 201:10 204:16 229:18 230:3 231:2, 5, 16 |
| A.R.J.A 156:14 | action 10:19, 23 16:6 25:8, 22 26:4, 6 31:4, 5, 9 38:22 182:10 183:19 | Adopt 169:8 179:13 187:1, 2 191:23 | AlaFile 12:4 13:10 16:11, 17, 22 20:21 28:1, 2 38:8, 17 |
| abatement 112:6 118:22 | actions 17:15, 16 30:10 | adopted 187:3 adopting 178:23 Adoption 110:9 adoptive 110:10 | |
| ability 13:21 47:10 57:14 65:14 97:5 214:7 | activist 193:3 199:8 | adults 26:1 advanced 61:14 advice 214:17 | |
| able 7:20 16:18 20:17 52:12 53:23 56:17 67:22 68:5 89:17 120:23 149:12, 17 154:11 157:5 193:10 195:18 197:8 198:2 205:1 212:16, 16 222:6 223:4 224:22, 23 | actual 40:18 156:3 175:9, 12 184:18 211:10 | ADVISORY 1:1, 12 4:3 47:15 231:7 | |
| absent 57:14 | ADC 182:22 | Affect 149:23 206:18 224:7 | |
| Absolutely 11:6 | add 10:8 22:8, 10 33:20 34:22 36:4, 12, 17 37:19 65:8 89:4, 6 92:16 185:5 188:10 230:6 | Affidavit 181:22 affirming 40:6 afford 164:18 165:10 | |
| abuse 26:16 207:1 | added 30:5 54:21 96:17 121:15 144:3 151:16 153:14, 16 160:4, 11 169:1 170:4 173:15, 15 174:1 175:17 177:9 178:1 181:15 | African-American 223:10, 14 | |
| accept 63:4 139:2 141:5 143:1 182:18 184:1 | adding 22:5 48:6 173:23 | afternoon 207:10 age 47:8 159:19 agency 90:23 91:2 92:12, 19, 22, 23 | |
| acceptable 10:7 34:4 84:20 | addition 171:8 180:21 | | |
| access 41:20, 22 94:14, 16 148:19 212:17 | additional 79:3 81:14 82:10 85:6 97:22 137:9 147:16, 20 180:9, 20, 23 181:11 209:12 | | |
| accessible 39:20 152:5 175:4 | address 49:21 52:14, 20 62:6 | | |
| accident 68:20 | | | |
| account 79:20 101:1 114:18 122:9 | | | |
| accounted 106:23 | | | |
| ACCR 231:17 | | | |
| accrue 81:10, 15 103:5 | | | |
| accrued 67:18 80:2, 6 89:20 100:5 102:1 | | | |

| | | | |
|---------------------------|---|----------------------------|---------------------------|
| 40:16 | 146:3, 15, 17 147:2, 4, 7 148:12 155:22 | Appeals 2:12 | April 226:15, 23 |
| alienate 200:23 | 156:10 157:9 | 66:18 141:12 | 227:5, 11, 17, 18, 20, |
| alienating 204:19 | 159:10 162:9 | 143:3 169:15 | 22 228:1, 3, 11, 14, |
| alimony 50:21 | 164:21 167:2 | 188:17 | 15, 20 230:20 |
| 51:1 156:1, 7 | 173:19, 21, 22 | appear 7:17 15:16 | area 37:14 133:16 |
| 157:14, 16 158:7 | 175:16 178:12 | APPEARANCES | 207:12 208:13 |
| 178:13 188:20, 23 | 185:6 202:17 | 2:1 | arguing 58:4 |
| Allen 8:13 | amounts 61:19 | appeared 132:22 | argument 58:3, 12 |
| Allen's 29:20 | 165:20 180:9, 19, | 183:3 186:21 | arisen 79:4 |
| alleviate 21:15 | 20, 23 181:3, 3, 5, 7, | appellate 73:19 | arm 75:7 155:11 |
| 37:10 | 11 220:23 | 86:21 162:2 | Arnold 63:10 |
| allotments 203:21 | amounts, 180:16 | appended 181:20, | arrangement 56:16 |
| allow 30:6 42:1 | and, 24:5, 8 36:4 | 22 182:9 | 123:2 126:2 |
| 48:13 52:12 53:22 | ANGELA 2:19 | appends 182:21 | 218:21 |
| 84:9 224:19 | 5:10 126:19 | application 87:14 | arrangements 52:15 |
| allowance 89:9, 10 | 227:23 | 137:20 | arrears 67:17 |
| 90:2 106:4, 6, 16 | angry 204:5 | applied 70:23 | 68:4, 7, 11 75:14 |
| allowed 65:10 | annual 165:1 | 77:19 79:10, 10 | 76:12, 16, 20 79:4 |
| 72:10 213:20 | answer 34:21 | 88:5 89:17 90:5, 7 | 80:1, 3 82:21 89:1, |
| allowing 53:19 | 143:10 161:8 | 121:19 | 18, 19 90:6 97:23 |
| allows 20:11 59:14 | 207:14 214:16, 22 | applies 89:19 | 100:5 105:12 |
| alternate 5:23 | answered 19:16 | 100:16 | 106:10, 13, 14 |
| 221:11 229:17 | answers 81:1 | apply 70:19 76:8 | 188:23, 23 189:17 |
| altogether 125:15 | anybody 6:14 | 80:22 87:7, 22, 23 | 202:1, 15 222:19 |
| AMANDA 2:20 | 12:19, 20 19:23 | 91:14 105:6 115:3 | arrears 74:14 |
| 5:11 23:6 74:7 | 23:5 24:4 52:16 | 149:2 175:9 | 87:14 102:1 103:4 |
| 88:17 109:1 228:2 | 53:17 61:23 64:7 | 230:10 | 105:15 107:18 |
| Amanda's 32:6 | 74:19 76:3 87:1 | applying 85:22 | 189:16 196:19, 21 |
| 76:18 | 94:2 95:4 102:22 | 88:23 89:13 105:1 | 198:3 |
| amend 131:10 | 122:13 129:21 | 173:11 | arrears 80:17, 22 |
| 207:23 | 150:16 189:22 | appointed 208:22 | 81:2, 4, 5, 9, 10, 12, |
| amended 188:10 | 190:20 201:5 | 229:17 | 15 |
| amendment 36:3 | 216:23 226:13 | appointments 230:4 | arrest 194:19 |
| Amendments 42:12 | anymore 148:20 | appoints 230:16 | arrived 162:9 |
| 43:5 | 169:13 | approach 86:19 | arrogance 204:6 |
| America 205:23 | Anytime 226:20 | appropriate 45:17 | Art 58:22 |
| amount 48:14 | 227:13 228:5 | 47:4 48:7 51:12 | articulate 213:17 |
| 50:3, 10 59:9, 10, | anyway 123:3 | 54:22 58:15 70:22 | ascertainment |
| 15 67:11 68:8 | 137:3 | 84:9, 10 85:14 | 88:12 |
| 71:15 72:4 73:8 | AOB 5:20 8:19 | 99:11 126:6 | Ashville 115:20 |
| 76:20 82:7 83:7 | 12:9 13:6 18:13 | 132:19 133:2 | aside 148:13 |
| 86:11 96:15 98:15 | 22:19 40:17 | appropriately 32:12 | asked 43:19 44:4, |
| 112:22 114:5 | apart 136:6 141:22 | appropriateness | 14, 19, 22 111:12 |
| 115:4 116:18, 20 | apologize 150:22 | 46:15 48:3 | 164:11 199:14 |
| 119:14, 14 120:19 | apparently 9:1 | approval 54:10 | 209:16 210:13 |
| 121:3, 4 133:12 | 13:8 14:20 15:3 | 128:10 138:18 | asking 31:3 |
| 134:1, 6, 8, 10, 18 | 17:13 18:4 29:1 | approved 6:18 | aspect 57:19 |
| 135:4 138:6 | 34:7 123:14 | 76:13 96:11 | assault 223:15 |
| 139:18 142:14 | | 105:17 128:15 | assets 159:17 |
| 144:9 145:22 | | approximately 1:15 | 167:22 |

| | | | |
|-----------------------------|--------------------------|----------------------------|----------------------------|
| black 223:10, 19 | Building 1:16 | 218:14 220:22 | 18 147:5, 17 |
| Black.com 200:5 | 98:17 198:22 | calculates 118:7 | 148:11, 18, 20 |
| BLACKBURN | built 13:9 60:3 | calculating 142:19 | 149:1, 15 150:2 |
| 2:21 5:2, 2 6:1, 8 | 115:3, 6 119:18 | 155:21, 23 156:6, 8 | 151:4, 10, 13, 18, 21, |
| 20:2 126:21 | burden 37:12 | 158:13 188:18 | 22 152:9, 12, 13 |
| 127:11 227:4, 7 | 163:20 166:14 | calculation 112:21, | 170:19 171:7, 12, |
| blank 28:23 86:12 | 223:2 | 23 114:9 118:14 | 14, 15, 19 172:5 |
| Bless 220:13 | burn 75:17 77:1 | 122:8, 12 127:5 | 175:6, 10, 14, 20, 21, |
| blew 196:23 | BUSH 2:6 5:6, 6 | 147:18 150:1 | 23 177:4, 6, 8, 11, |
| 198:17 | 11:13, 14 13:2 | calculations 114:2 | 16, 19 178:1, 2, 8 |
| blind 197:22 | 14:4 15:8 16:7 | 115:1, 2, 4 122:4 | 180:7 187:14, 17 |
| block 30:13 | 26:14 35:7 38:5 | California 205:7 | 198:9 217:15 |
| Blog 200:6 | 40:15 41:5, 14 | call 7:10, 19 22:17 | 218:1 226:8 |
| BOB 3:2 5:16 | 63:15 90:17 92:21 | 33:14 121:1 125:5 | care , 170:23 |
| 14:16 114:1 121:7 | 100:19, 23 103:10 | 214:8, 11 220:17 | careful 90:18 |
| 128:19 191:7 | 126:16 128:7 | called 11:16 81:21 | cars 196:22 |
| 228:11, 22 | 130:3, 9, 13 131:22 | 89:10 114:1 157:1 | case 9:10 11:17 |
| boots 56:9 | 133:22 134:11, 21 | 172:5 178:6 200:8 | 12:4 14:9, 13, 20 |
| born 221:1 | 135:1, 9, 17 136:21 | calling 9:6 204:14 | 15:14 16:6, 9 17:1 |
| bottom 9:20 10:17 | 137:6 138:13 | calls 14:22 209:21 | 18:2 26:15, 15 |
| 34:23 35:11 36:17 | 140:21 141:2 | calories 94:19, 21 | 27:19 29:8 30:8 |
| 37:1 44:11 45:13 | 142:13 143:5, 16, | cameras 204:10 | 32:8 34:21 41:16, |
| 67:4 91:23 94:4 | 19 144:17, 22 | CAMPBELL 2:19 | 18 46:7 48:9 |
| 137:15 143:23 | 145:2, 6, 11 146:8, | 5:10, 10 24:10, 12 | 65:20 66:11, 14 |
| 181:13 | 14, 22 148:1 | 80:14 101:4 102:7 | 67:13 70:15 71:1 |
| boys 220:11, 16, 17, | 149:16 150:3, 21 | 103:13, 19, 23 | 72:7, 11, 17 73:5 |
| 23 221:13 224:11 | 152:22 153:18 | 104:12 114:17 | 81:21 82:3 83:1 |
| BRAD 3:2 5:15 | 158:11, 18 160:12, | 115:11 125:13 | 85:2 87:13, 22 |
| 7:2 | 21 163:5 164:3 | 152:16 228:1 | 88:4 89:12 98:2 |
| brain 221:8 | 166:7 167:17 | capable 58:7 68:15 | 105:20 106:15 |
| break 94:10 | 168:4, 16, 20 169:9 | capacity 54:2 | 107:7, 10, 12 |
| 226:17 | 170:11 171:5 | capitalized 40:5 | 137:23 138:2 |
| breaking 200:16 | 172:10, 14 174:20 | caps 93:22 | 141:11 142:9 |
| breaks 113:12, 14 | 175:2 176:11, 16 | capture 11:21 | 154:4, 6, 9 155:8, |
| 189:1 | 179:1, 16, 19 180:4 | 38:9 40:20 41:3 | 10, 15 156:17 |
| brief 44:20 | 183:12, 15 184:7 | 73:23 83:11 | 160:3, 19 161:13 |
| bring 195:3 | 186:13 187:6, 12, | 178:17 | 169:11 173:16, 17 |
| 204:20 227:10 | 21 227:18 | captured 12:16 | 183:4, 5 193:21 |
| bringing 9:13 | buy 91:11 222:6 | 70:10 84:8 181:8 | 194:8 196:2, 3, 6, |
| broad 73:6 154:20 | buying 119:11, 11 | captures 12:2 | 14 197:15 208:17, |
| 156:20 | | 178:7 | 18 209:20 211:16 |
| broaden 86:17 | < C > | capturing 70:1 | 213:2 214:4, 12 |
| broadly 70:19, 23 | calculate 112:15 | 84:11 | 219:9, 13, 13 |
| 93:11 | 155:22 159:8 | car 68:20 196:15 | cases 9:2 22:13, 14 |
| broken 207:2 | 188:13 190:15 | 198:14, 16 | 23:17 29:11, 12 |
| brought 50:20 | 205:6 | care 19:1 21:9, 12 | 30:11 32:15, 16, 16, |
| 110:21 217:13 | calculated 114:5 | 44:18 60:11 61:1, | 17 33:14, 15 34:6 |
| brush 220:20 | 116:2 121:5 | 18 85:20 86:9 | 45:17 48:7 51:13 |
| brushed 155:13 | 124:14 177:21 | 144:3, 6 145:5, 9, | 58:15 66:16, 18 |
| BRYANT 2:23 | | 15, 17, 23 146:10, | 67:2 69:9 70:9, 13, |

| | | | |
|--|--|---|--|
| 20 73:3 158:2 167:9, 12 178:16, 18 182:18 184:1 194:12 203:17 206:2, 5, 21 208:11, 12 211:13 220:19 223:8 cash 151:19 170:18 173:4 catastrophic 147:16 catchall 58:15 92:1 categories 45:15 categorization 68:2 cause 199:16 205:3 231:12 caused 17:14 221:3, 5 causes 199:18 221:21 certain 11:18 49:7 50:23 63:19 65:11, 15 122:7 154:18 certainly 15:15 16:15 68:17 83:13 130:16 166:16 230:11 certificate 27:3, 5, 14, 23 51:5 53:16 231:1 certification 55:23 certified 60:20 certify 231:6, 11 cetera 224:5 Chair 2:2 8:12, 13 62:10, 22 93:2 127:3 chairman 19:17 chance 6:11 64:2 105:11 189:8 change 9:15 15:2 36:3 49:10 56:2 92:21 98:8 100:1 101:15 105:2 107:3, 5 132:4, 9, 12, 22 146:15, 23 147:6, 19 148:4 149:18, 20 159:13 160:22, 23 161:5 169:20 170:14 171:6 172:22, 23 | 174:21 175:5, 17, 19 176:3, 4, 6, 21 178:15 179:8, 9 180:6 182:15 184:17, 19 186:21 187:13, 18 188:6 changed 15:5 34:8 98:9 132:17 143:21 151:3, 4, 11 170:19 172:18 173:1 174:5 176:20 177:15 226:1 changes 7:3 43:10 53:21 66:2 99:13 130:6 131:5, 7, 9, 13 132:1, 16 134:14, 15 146:1 148:6 151:10 169:19, 19 170:21 176:1, 22 179:8 180:2 182:23 184:11, 13 189:6 217:10 changing 35:21 42:22 171:11 185:5 channels 209:23 charge 197:3 charged 46:20 202:9 cheaper 222:21, 22 223:1 check 25:20 26:13 70:1 71:21, 23 78:7 97:21 120:17, 18 157:17, 19 189:2 194:23 checkbox 177:3, 7, 10, 14 checkboxes 177:2 checked 11:1 13:7 28:21 31:21 checkmark 134:5 Chief 2:10 5:3 10:5 22:2, 7, 11 34:3 39:6 42:2 48:21 101:9, 11 105:21 117:8 123:12 147:13 | 149:7, 23 150:12 169:6, 18 178:21 179:11 190:3, 7 227:12, 13 230:2, 15 CHILD 1:2, 13 2:4, 6, 14 4:3 7:2 9:4, 7, 11, 18 10:7, 11, 15 11:5, 9 16:20 19:13 21:19, 22 22:1, 12, 18 23:8, 10, 15, 17 26:10, 15, 17 28:13 30:2, 5 32:23 33:5, 17 35:23 36:5, 18 41:19 44:18 46:1, 22 47:5, 7, 9 50:8 54:1, 21 56:17, 18 57:9, 17, 20 58:8, 10, 11 59:9, 21 60:11, 21 61:1, 18 64:23 66:8 67:7, 9, 12, 12, 16 71:20 72:4, 5, 8, 15 73:9 74:18, 22 75:1 76:14 77:3, 4, 7, 10 78:8, 14, 20, 22 80:5 81:8, 9, 12 82:1, 4, 6, 7, 10, 16 86:7, 8 87:5 89:8, 10 90:2 91:18 96:15, 16 97:4, 17, 18 100:4 101:23 103:3 106:1, 7, 11, 12, 14, 16, 20 107:17 108:22 109:11, 18 110:10 112:2, 6, 16, 18 113:5, 6 116:17 118:11, 18, 23 119:8, 10 121:3 130:6 132:10 134:18 137:20 138:5, 21 139:4, 18 141:6 142:19 144:9 145:13, 22 146:4 147:1, 14, 15, 18, 22 149:15, 20 150:2 155:21 156:7, 9, 12 157:14 | 158:13 159:8 160:16 165:16 170:12 173:23 177:20 178:13, 18 180:5, 9, 20, 22 181:11, 14, 16, 19, 21 182:8, 11, 14, 19 183:19 184:2 188:13, 19, 22 190:15 191:18 194:7, 11 196:4 197:4 198:3 199:14 200:8, 23 201:7, 21 202:1, 22 204:17, 19, 20, 22, 23 205:6, 7, 16, 18, 18 206:17 208:5, 6, 8, 20, 23 211:9, 11, 12 216:23 218:16 220:18, 23 223:23 225:18 231:7 childcare 50:18 51:16 52:5, 10, 23 53:14 54:7 55:14 59:11 child-care 43:11 45:18 46:11, 13 59:18, 19 60:14, 17 63:14 128:22 190:12 children 10:19, 22 11:8, 12 17:21 23:19 25:8 26:23 28:15, 21, 22 30:12, 14, 20 31:1, 3, 8 32:2, 10, 12, 18, 20 33:11, 16 34:6 66:15 92:3 106:7 122:5 148:18 149:2 151:23 152:5 158:5 171:23 174:7 175:11 177:1 181:6 194:10 199:12, 15, 18 207:5 211:5, 5 217:6 219:3, 5, 6, 19 children's 144:3, 5 148:21 |
|--|--|---|--|

| | | | |
|---|--|---|---|
| <p>child's 72:1 106:18 145:17, 23 146:9, 18 147:5</p> <p>Chis 13:6</p> <p>choice 186:11</p> <p>choose 157:8</p> <p>CHRIS 3:5</p> <p>Circuit 2:3, 14, 16 13:5 29:6, 19, 21 31:23 37:6 84:4 165:21</p> <p>circumstances 50:23 78:16 149:19 159:15 162:15</p> <p>cite 156:17</p> <p>citizens 223:2</p> <p>City 115:20</p> <p>Civil 2:12 66:18 141:12 143:2 169:15 188:17 208:17</p> <p>claim 80:4, 8 208:10</p> <p>claiming 173:19</p> <p>clarification 86:2 101:12</p> <p>clarify 188:11</p> <p>classified 157:21</p> <p>clause 52:6</p> <p>cleaner 32:7</p> <p>clear 36:8 50:1 87:12 169:23 183:1 223:4</p> <p>clearer 88:1, 4 181:9</p> <p>clearly 39:12</p> <p>clerk 12:13, 20 13:5, 16, 20 17:23 29:20 37:15 38:2 42:15</p> <p>clerks 13:22 20:10, 16 29:6 34:20 37:6</p> <p>Clerk's 3:2 20:5 29:21 31:21</p> <p>click 16:2 31:9 40:5, 6</p> <p>clicked 10:23</p> | <p>client 58:7 154:12</p> <p>clients 213:16</p> <p>Clifford 41:9</p> <p>climbing 205:12</p> <p>clock 68:23</p> <p>close 49:16 123:3, 16 125:10</p> <p>closed 166:21</p> <p>closer 123:21</p> <p>closes 98:18</p> <p>clothes 161:16</p> <p>Club 46:6</p> <p>Code 30:4 110:12</p> <p>codified 30:3</p> <p>cognitive 37:7</p> <p>COLEE 3:5 13:6, 6 14:8 20:10 21:6 27:16, 22</p> <p>collect 11:5 16:18 34:10 189:2</p> <p>collected 11:9 34:9</p> <p>collecting 188:22</p> <p>college 195:12</p> <p>comb 131:3</p> <p>come 25:2 29:18 43:20 44:5, 20 55:6 63:17 72:18 81:3 93:23 94:9 96:8 116:14 122:2 124:17, 19 127:15 148:22 149:17 153:4 164:18 165:15 194:5 198:12 203:7 207:15 208:7 219:6, 7, 16 222:9 223:9</p> <p>comes 13:14 27:7 50:21 77:14 80:17 81:6 120:8 146:17 158:20 160:16 174:23 193:19 194:1 201:22 202:14 208:6 209:11 223:22, 23</p> <p>comfort 35:5</p> <p>coming 27:23 84:4 130:5 149:6 196:12 205:10</p> | <p>commencement 102:20, 21 103:5</p> <p>commencing 1:15</p> <p>comment 36:3, 13 37:20 52:17 54:13 87:1 102:22 152:16 154:2 191:11, 13</p> <p>commentary 73:4</p> <p>comments 32:6 42:14 95:23 125:17 127:22 132:14, 16 147:10 152:15 184:15, 20, 22 188:3, 8 191:6</p> <p>COMMISSION 231:17</p> <p>Commissioner 1:19 231:5, 16</p> <p>committed 202:3</p> <p>COMMITTEE 1:1, 12 4:3 7:3 8:12, 14 9:22 10:1 17:6 18:7 21:14 22:17 27:10 29:17, 20 36:16 37:20 39:14 42:3, 9 45:8 47:15, 18 48:5 49:8, 18 64:15 66:17 70:8 85:15 108:15 110:4 111:7 126:14 129:18 130:22 153:8 184:22 207:16 229:17 230:1, 1, 7, 9, 16 231:7</p> <p>committee's 22:20 24:7</p> <p>community 160:1 162:23</p> <p>company 68:21</p> <p>company's 178:3</p> <p>compare 187:10</p> <p>competent 224:2</p> <p>compilation 66:13</p> <p>complaint 15:23 209:19 210:20, 22</p> <p>complaints 198:7 207:13</p> | <p>complete 30:13 31:4 47:7 140:6</p> <p>completed 16:5</p> <p>completing 47:12</p> <p>compliance 139:5, 5 141:7 166:5 181:17 182:9, 20 184:3</p> <p>comply 30:2 142:3 165:5</p> <p>compose 131:1</p> <p>Computation 180:5</p> <p>computer 13:3 14:5, 6 15:12, 18 25:4 38:8 41:19 80:15 179:9</p> <p>computer-wise 40:18</p> <p>concept 73:17 83:11 160:23</p> <p>concern 8:23 40:10 164:17 167:19</p> <p>concerning 30:13</p> <p>concerns 21:15 34:20 45:2 47:1, 3 48:2 62:7 67:1 69:5, 11 88:3 89:23 193:6 203:19</p> <p>concluded 230:21</p> <p>concrete 136:16</p> <p>concurrent 157:1</p> <p>conference 7:10, 18 190:7</p> <p>confidential 39:19 40:13 41:1, 6</p> <p>confirm 179:2</p> <p>confirmed 44:22</p> <p>conflict 37:17 39:13, 16</p> <p>conformance 182:17 183:22</p> <p>confused 148:16</p> <p>confusing 83:4 180:14</p> <p>confusion 16:21 22:4 32:22 33:9 34:7 38:15, 19</p> |
|---|--|---|---|

| | | | |
|----------------------------|--------------------------|----------------------------|---------------------------|
| connection 68:12 | corporation 222:6 | 7 52:13 54:9 55:3, | 172:6 175:6, 10, 14, |
| connotation 137:8 | corpus 197:10, 18 | 18 56:6, 10 57:21, | 20, 21, 23 177:4, 6, |
| consider 45:17 | correct 8:3 24:18 | 21 58:3, 21 62:2 | 8, 11, 16, 19 178:1, |
| 46:10 47:4 53:20 | 88:7 114:21 | 65:21 66:3, 4, 13, | 3, 9 180:5, 7 |
| 113:7 115:9 | 128:17 129:1 | 18, 19 67:1 68:6 | 187:14, 15, 17 |
| 152:11 161:1 | 229:9 | 69:5 70:9, 17 | covered 19:14 |
| 163:23 166:12 | corrections 6:15 | 73:20 75:10, 16, 19, | 174:6 177:3, 10 |
| 168:7, 17 230:12 | correctly 79:22 | 19 76:7 82:12, 14, | 191:8 219:9 |
| consideration | 113:23 230:14 | 15, 21 85:7 88:11, | COX 2:20 5:11, |
| 71:17 99:11 138:4 | cost 43:11 45:18 | 16 99:4 105:15 | 11 23:7, 22 26:12 |
| 159:14 162:14 | 46:11, 13 54:8, 21 | 108:23 110:22 | 30:18, 23 74:8, 23 |
| 194:14 195:22 | 59:11, 22 60:14, 18 | 111:13, 15, 20 | 88:18 109:6, 13, 17, |
| 196:7, 19 197:2 | 63:14 128:23 | 115:9 117:5, 15, 16 | 21 228:3 |
| 211:18 221:15, 19 | 152:4 172:17 | 128:3, 10 132:21 | crazy 216:1 |
| 223:21 | 173:4, 5, 7, 7 175:3, | 133:11 138:17, 18, | create 22:3 26:4 |
| considered 46:13 | 10, 12, 14, 22, 23 | 20 139:2, 11, 15 | creating 200:17 |
| 70:18 118:13 | 177:8, 11, 13, 13, 20 | 141:5, 12 142:15, | 203:22 206:22 |
| 124:10 152:12 | 178:1 190:12 | 23 143:2 159:3, 8, | 207:4 |
| 156:2, 4 157:18, 19 | costs 50:9, 15 | 12 161:14 162:13, | Credit 64:22 65:7, |
| 173:6 | 59:18, 19 211:9 | 20 163:18, 23 | 10, 14, 21 66:3 |
| considers 112:21 | counsel 231:12 | 165:4 168:17 | 72:9, 18 76:17 |
| construction | count 123:7 218:2 | 169:8, 15, 16 | 78:10 79:1 82:12 |
| 194:22 195:8, 17 | country 195:15 | 180:22 181:4 | 83:8, 12, 19, 22, 23 |
| contact 229:7 | 198:23 | 182:8, 18 184:1 | 84:10, 19 85:22 |
| contacted 44:4 | County 2:16 31:23 | 188:17 189:20 | 86:8 87:5 89:23 |
| contain 231:9 | 115:16, 16, 21, 22 | 191:23 194:18 | 90:9 98:23 105:10 |
| contempt 77:14 | 121:14 125:23 | 195:7 197:3 | 107:4 108:22 |
| 197:3 | 161:13 165:22, 23 | 201:17, 23 204:17, | 110:14 116:12, 18 |
| content 182:21 | 191:14 197:19 | 18 205:21 209:11 | 118:1 119:9 121:1 |
| continue 86:20 | 198:1 207:11 | 216:18 218:21 | 123:20 125:1 |
| 176:1 | 208:13 210:12, 16 | 223:9 230:3, 14, 16 | 129:2, 9 189:12, 15, |
| continues 175:23 | 213:18 215:14 | 231:4, 15 | 19 217:20, 23 |
| continuing 46:21 | 216:9 219:12 | courthouses 115:17, | 218:20 219:3, 15, |
| contracted 208:17 | 231:2 | 23 | 19 |
| contradiction 119:5 | couple 72:9 | courtroom 204:10 | credited 66:8, 21 |
| contribute 149:14 | 207:16 220:19 | 207:21, 22 213:20 | 67:8, 17 82:19 |
| control 226:3 | course 23:18 | Courts 3:4, 5, 7, 8 | 90:3 92:8 97:6 |
| conversation | 39:21 52:7 68:1 | 29:5 53:19 55:1 | 100:4 102:1 103:4 |
| 125:22 135:23 | 111:23 115:16 | 86:22 88:11 | 107:10, 18 155:6 |
| 214:21 | 123:8 177:17 | 104:21 117:6 | 173:21 |
| conversations 8:19 | 178:11 | 139:22 140:3 | crediting 88:20 |
| convey 193:16 | Court 1:18 2:11, | 161:9, 22 162:4 | credits 66:5 85:19 |
| convince 126:8 | 12 3:2 4:5 17:22 | 204:7 206:1 218:6 | 105:1, 7, 14 106:23 |
| convincing 50:1 | 18:15 31:23 35:2 | court's 33:8 49:5 | 153:13 |
| coordinate 88:23 | 39:20 41:1, 17 | 62:7 99:9 122:21 | criminal 159:19 |
| copay 149:10, 11, | 42:16, 18 43:16, 20 | 182:13 | 166:18 195:1 |
| 14, 21 218:6 | 44:4, 5, 13, 19 | coverage 151:10, | 208:18 |
| copy 183:11 229:4 | 45:17, 22 46:14 | 14, 19, 21, 22 152:9, | criminals 208:21 |
| corner 201:3, 3 | 47:22 48:6, 13, 16, | 12, 13 170:18, 19 | criteria 138:2, 3 |
| | 23 49:1, 9, 11 50:5, | 171:12, 14, 15, 19 | crushed 75:8 |

| | | | |
|---|--|---|--|
| <p>CS 23:18 32:15 33:11, 18 185:5 219:1, 12</p> <p>CS-41 19:1 128:12 139:14 176:6, 18, 23 181:22</p> <p>CS-42 134:1 142:18 181:20 183:18 187:13 218:14</p> <p>CS-43 134:3, 10, 14, 14 135:21 139:5, 13, 17, 17 141:4, 8 143:1, 9 181:17 182:3, 9, 20 184:3 186:15, 19</p> <p>CS-47 8:10, 16, 21 15:22 16:2, 5 21:6 32:13 34:4 36:1 133:22</p> <p>CS-47s 34:5</p> <p>curious 104:22 105:18</p> <p>current 66:10 67:13 85:12 122:17 160:19 164:19 220:18</p> <p>currently 14:17 114:6 118:6 193:4 218:23</p> <p>custodial 52:14, 21 54:2 57:11, 21 97:20 106:10 117:20 124:6, 6 213:22 214:3, 13, 19, 20 215:1 216:18 220:15</p> <p>custodies 60:17</p> <p>custody 26:9 56:15 57:2 66:14 72:15 94:5 110:17 117:1 118:3 120:11, 14 122:4 123:2 124:5, 11, 13, 18 125:5 126:1, 1 129:13 190:14 197:8 198:2 215:11, 17 216:2, 11 217:3</p> | <p>customary 112:5, 9, 22 116:13, 15, 22 118:21 119:2, 14 124:13</p> <p>cut 123:6, 11 125:11, 13 163:7, 10 186:16</p> <p>cutting 125:19 126:5 174:12</p> <p>cycle 207:6</p> <p>< D ></p> <p>dad 6:2 219:10</p> <p>dandy 192:2</p> <p>Daphne 131:4</p> <p>dark 216:20</p> <p>data 11:18 12:9, 16 14:5, 8, 11 15:13 16:18 18:6, 12, 17 29:10 40:16, 17</p> <p>date 80:17 87:18 95:10, 12, 19 100:5, 21 102:2, 17 103:5, 14, 20, 22 104:6 107:19</p> <p>dates 12:7 70:2 113:21 228:20</p> <p>daughter 216:22</p> <p>DAVIS 2:8 4:20, 22, 22 32:4, 5, 19 33:2, 7, 21 34:14 35:10 36:12 40:10, 23 43:15, 17, 19 44:3, 13, 19 47:17 49:17 51:18 57:17 59:5, 8 61:10 62:3, 16, 20 63:9, 12 65:3, 5 70:4, 7 71:10, 14 73:1, 16 75:5 76:18 83:3 84:21 86:7 92:23 93:6 94:18 95:17 98:5, 10, 14, 20 106:11 109:1, 11, 23 110:19 113:22 114:22 116:7 117:12 119:4 120:1, 22 127:22 128:4, 11 136:23</p> | <p>137:5 155:5 157:13 164:8, 12 165:19 167:9 207:9, 10, 11 211:22</p> <p>day 61:2 113:13 115:5 195:5 214:10</p> <p>daycare 51:11 52:13 53:13 54:20 55:10 56:18 57:6 58:5 59:21 60:22 165:18, 19</p> <p>daycares 53:7</p> <p>days 31:20 60:9 113:7, 10, 11, 12 114:4, 7, 11, 19, 20 115:12, 14 116:3, 15, 16 117:7, 22, 23 118:1, 8, 9, 11, 12 119:8, 8, 20, 22 120:6, 7 122:7, 9 123:7 190:18 202:17 215:12 216:5, 7 217:4, 6, 7</p> <p>daytime 53:7</p> <p>deadbeat 200:22</p> <p>deadline 178:22 179:2</p> <p>deal 49:6 55:1 80:9, 10 86:1 154:11</p> <p>dealing 78:13 88:13 157:2 167:12 210:4, 5</p> <p>deals 81:22</p> <p>dealt 223:11</p> <p>debated 69:8</p> <p>debt 81:11 197:11, 12, 14, 16 222:23</p> <p>debtors 205:23</p> <p>debts 197:20</p> <p>December 1:14 4:2 179:5, 6 187:2 231:6</p> <p>decide 15:5 54:15 58:21 206:1 208:10 219:18</p> <p>decided 70:13</p> | <p>111:9</p> <p>decides 49:12</p> <p>decision 49:5 73:20, 21 87:7 224:4, 6</p> <p>decisions 57:22 86:22</p> <p>decrees 26:21</p> <p>deductible 217:19, 20 218:3, 10, 13</p> <p>deductibles 217:16</p> <p>Deemed 104:3, 10, 11 107:19, 21, 22, 23 182:12</p> <p>default 29:14 126:1</p> <p>defend 161:21</p> <p>defendant 120:13</p> <p>defendant's 32:1</p> <p>defense 149:17</p> <p>definitely 121:22 158:17 222:14</p> <p>definition 94:6 124:9 151:3, 11, 20 153:22 154:8 171:13 188:11, 21 189:1</p> <p>degree 46:20 51:3</p> <p>delayed 221:1</p> <p>delete 18:14 96:21, 23</p> <p>deleted 217:21</p> <p>deletes 24:13</p> <p>deleting 21:19</p> <p>delicious 94:12</p> <p>delinquency 206:19</p> <p>delve 86:21</p> <p>delved 111:16</p> <p>demanding 204:10</p> <p>denominators 113:18</p> <p>dental 181:1</p> <p>Department 2:5, 7 30:7 113:16 164:15, 23 165:2, 13</p> <p>depend 79:22 97:8 168:9</p> <p>dependency 26:15</p> |
|---|--|---|--|

| | | | |
|---------------------------|-----------------------------|----------------------------|---------------------------|
| 29:12 | 205:21 206:1 | 157:17, 21 | 20:4 |
| dependent 171:23 | 209:20 213:1 | disagree 205:13 | document's 131:15 |
| depending 216:8, 9 | 214:4, 11 219:1, 6, | disappointing | dogging 206:22 |
| depression 223:19 | 7, 8 223:22 | 199:11 | doing 26:9 37:9 |
| depth 132:6 | diagnosed 221:8 | discipline 224:16 | 57:4, 5 77:22, 23 |
| derived 38:20 | difference 69:3 | disclose 139:1 | 78:1 99:5 205:14 |
| designate 9:16 | 114:13 120:5 | discrepancy 121:23 | 215:20 225:4 |
| designation 33:8 | 158:12 168:3 | discretion 48:6, 13 | dollar 144:9 |
| Despite 199:6 | different 42:21 | 56:7 | 146:15, 17 147:2, 3, |
| dessert 94:22 | 45:8 60:7 63:18 | discretionary 219:4 | 7 |
| destroy 200:20 | 73:10 74:9, 15 | discuss 8:10 45:1 | dollars 50:3, 15 |
| detail 83:21 221:6 | 75:4, 6 86:18, 19 | 130:6 184:10 | 56:14 177:9 |
| details 32:15 | 111:8, 8 115:23 | 206:17 228:23 | Domestic 2:2 9:2, |
| determination | 116:1 122:3 | discussed 9:22 | 7 10:9, 10 17:15 |
| 92:11 156:13 | 131:16 135:3 | 47:19 129:12 | 21:21 22:6, 13, 17 |
| 157:8 167:8 | 149:21 180:18, 19 | 131:8 212:13 | 23:8, 9, 14, 19 |
| determine 48:9 | 216:12 222:13 | 216:6 | 26:17 29:11 30:4 |
| 55:3 | differential 116:13, | discussing 29:7 | 33:15 34:2, 5 |
| determined 45:21 | 22 125:21 | 142:10 | 35:23 |
| 87:19 88:21 90:14 | differently 70:6 | discussion 4:11 | DON 2:16 4:23 |
| 95:7, 15, 20 100:7 | difficult 123:10 | 47:13 51:19 61:23 | 141:17 |
| 101:16 102:3 | digital 200:6 | 74:6 86:18 89:5 | double 206:14 |
| 103:6 106:18 | digits 13:19 21:4 | 104:23 128:7 | DR 19:13 32:7, 8, |
| 138:2 | 24:18 | 179:22 184:9 | 8, 16, 17 |
| determines 181:5 | diligence 99:5 | discussions 47:20 | DR-47 32:11 33:14 |
| determining 28:12, | diming 18:19 | disparities 206:19 | draft 22:19 131:16 |
| 13 90:23 95:7, 16, | dipping 206:14 | disparity 123:22 | drafted 30:1 62:6 |
| 21 100:8 101:17 | direct 68:11 78:14 | displayed 16:12 | 74:3 110:23 |
| 102:4, 8 103:7 | direction 52:8 | dispute 211:14 | drafting 48:5 |
| 159:10 167:23 | directly 106:17 | disqualified 206:13 | drag 203:20 |
| 220:22 | 169:12 | distinction 32:14 | draining 206:13 |
| devastating 199:1 | Director 2:4 | 154:14 156:12 | Drew 7:7 22:23 |
| develop 63:22 | 130:23 | distinguished 71:5 | 23:4 108:12 |
| developed 11:3 | disabilities 109:7 | District 2:14 | driving 68:20 |
| deviate 139:11 | 157:21, 22 | dividing 177:22 | 198:17 |
| deviates 133:15 | Disability 65:17 | Division 2:2, 4, 15 | drop 58:10 199:8 |
| deviating 45:15 | 68:2 71:21 76:2, 8 | 191:14 | dropped 193:21 |
| 143:13 | 78:15 80:4, 7 | divorce 15:23 | 225:21 |
| deviation 60:2 | 87:19 89:21 90:4, | 26:21 27:1, 2, 5, 14, | due 78:8 82:1, 7, |
| 61:13 139:8 | 15, 23 91:9, 10, 19 | 23 28:19 30:10, 20 | 23 99:5 161:4 |
| Dexter 1:16 | 92:20 95:8, 14, 16, | 31:1 41:16 83:15 | 198:5 211:10, 12 |
| DHR 12:10 13:23 | 17, 20, 21 97:18 | 208:7, 7, 9 | 227:3, 4, 7 |
| 15:10 20:7 40:17 | 100:6, 8, 9, 18, 20, | docket 9:2 18:2 | dues 194:6 |
| 50:9 59:13 63:13 | 22 101:3, 14, 17, 20 | document 15:16 | dump 196:16 |
| 77:9 80:15 96:7 | 102:13 106:20 | 19:6 94:7 137:13 | duplicating 135:8 |
| 130:21 131:2 | 155:4, 5 156:2, 5 | 144:18 | duty 13:5 |
| 146:20 165:15 | 157:2, 2, 18 | documentation | < E > |
| 193:4 194:7 196:9, | disabled 67:23 | 164:16 | |
| 12 199:13, 17 | 68:17 76:6 105:9 | documents 16:1, 2 | |
| 202:3 204:16 | | | |

| | | | |
|---|---|--|---|
| earlier 25:7 38:3 44:23 182:3 193:20 | 20 103:6, 7 | especially 36:19 191:20 204:15 208:13 225:1, 13 | 124:4 132:3 149:8 162:2 |
| earning 43:13 45:20 48:12 54:2 | eligibility , 100:20 | Esquire 2:6, 8, 12, 20, 21, 22, 23 3:2, 2, 5, 5, 8 | examples 50:8 54:9 71:5 |
| earnings 92:4 159:18 160:1 | eligible 103:14 104:1, 4, 7, 10 107:21, 23, 23 | e-mailing 13:23 14:2 | exceed 45:21 173:9 |
| easier 88:7, 20 | e-mailing 13:23 14:2 | employed 68:16 | excellent 191:4 |
| easiest 89:2 | employed 68:16 | essential 30:8 | excess 67:11 68:9 71:15 72:4 73:8 96:15 97:4, 6 112:8 117:23 119:2 |
| eat 99:12 217:7 219:20 | employer 11:11 91:11, 20 151:8 177:5 | essentially 9:17 18:15 66:12 117:14 120:4 | exclude 105:14 |
| eating 93:20 | employers 159:22 | establish 182:11 183:19 | exclusively 9:1 |
| Echols 200:2, 3 203:6, 12 206:5 207:8 226:5, 10 | employment 26:3 30:21 152:2 159:17, 20 161:4 | established 132:11 137:21 138:3 | exempt 210:16 |
| economic 47:10 | en 44:5 | establishing 160:15 169:3 | exercise 112:4 118:21 |
| education 43:12 45:19 46:1, 9, 22 47:6, 12 48:10 61:15 128:23 190:13 221:6 | encourage 187:8 | estimate 159:5 | exist 105:16 106:8 121:7 |
| educational 159:18 167:4 181:1 | ended 194:19 201:18 218:5 | et 224:5 | existing 37:11 66:14 69:7 |
| educational-related 55:9 | enforce 204:16 | evaluation 221:23 223:22 | exists 107:8 |
| effect 35:2 50:21 154:12 | ENFORCEMENT 1:2, 13 2:4 4:4 231:8 | event 30:12 133:14 139:6 | expands 161:2 |
| effectively 62:8 | engine 198:17 | events 101:2 | expense 55:14 57:10 181:1 |
| effort 135:8 | enhance 43:13 48:11 | everybody 4:6, 13, 18 6:11 7:4 42:11 43:7 44:2 64:2 93:21 95:3 103:17 127:13 129:16 147:10 189:8 212:3 224:7 228:21 230:19 | expenses 51:12 52:13 53:13, 14 57:7 58:5 |
| egregious 199:3 | enhanced 45:20 47:10 49:23 | everyone's 12:5 129:15 | expensive 212:22 |
| eight 176:2 180:2 | enjoying 95:4 | evidence 45:23 48:15 50:1 168:9 181:4 | experience 123:1 166:19 201:13 |
| eights 200:10 | enlighten 43:15 | evidentiary 162:18 163:13 | expert 41:8, 9 166:3, 10 |
| either 13:23 14:1 15:20 19:10 23:23 25:23 33:22 46:17 57:14 59:23 87:1 152:1, 17, 18 159:4 171:20 | entered 19:9 | exact 123:8 | experts 164:18 205:6, 13, 16 |
| electronic 12:18 29:9 | entering 13:12 | exactly 62:5 77:14 86:16 126:6 150:3 155:10 157:7, 11 190:18 | Expires 231:17, 17 |
| electronically 12:2 13:2 21:9 27:17 38:8 40:21 | entire 10:12 39:19 81:11 173:19 195:10 | example 33:18 47:4 50:2 60:16 78:19 97:16 106:22 111:14 112:11 117:18 | explain 126:4 |
| elementary 221:3 | entitlement 106:19 | | explanation 105:22 126:4 |
| elements 166:15 | entity 92:22, 23 93:4 95:7, 15, 21 100:7 101:16 102:4 103:7 | | exposed 204:11 |
| elicit 166:17 | entry 18:18 | | extent 76:19 159:15 162:15 163:1, 1, 9, 11 166:8, 11 |
| eligibility 69:23 92:5 100:22 101:5, 13, 17 102:3, 4, 8, | enumerate 84:9 | | extra 71:22 125:1 136:14, 15 |
| | enumerated 67:3 | | extraordinary 112:7 119:1, 13 180:23 |
| | equal 124:21, 21, 22 | | extremely 68:19 |
| | Eric 207:9, 11 | | |
| | Erick 220:3, 9 | | |
| | E-R-I-C-K 220:9 | | |
| | Ericks 225:15 | | |
| | erred 111:20 | | |

| | | | |
|--|---|---|--|
| ex-wife 194:15 195:7 196:22 198:6 | avored 64:15 108:15 | 197:17 213:2, 6, 7 219:8 | 136:3 177:2 183:2 186:3 193:7 212:23 213:4 214:12 |
| < F > | fear 16:13 | filed 21:10 27:17 28:11, 19 30:9 31:4 67:2 74:10 77:21 78:3 82:20 96:9 182:10 183:8, 18 214:3 | five 24:17 115:22 158:18 159:1 174:6 176:23, 23 179:3 191:16 192:3, 7 200:17 202:9, 12, 13 205:10 |
| face 103:9 217:1 | fed 216:15 | filer 24:20 28:1 37:13 | fix 199:1 |
| faced 223:14 | federal 11:4, 14, 15, 17, 20 15:14 17:2 18:8 26:19 28:18 37:23 38:5 76:7 128:6, 7 130:8, 10 131:10, 11, 14 132:12, 18, 23 133:8 135:2 136:22 137:12 142:7 144:11, 13 148:5, 11 151:2, 11, 16, 20 153:2, 9, 22 155:3, 4 158:6, 20 160:7 163:8, 20 165:5 166:6 167:18 168:5, 21 169:14 170:20 171:19 172:1, 15, 18, 22 178:5, 15 184:18 186:10, 17 197:8, 17 204:14 209:5 215:19 230:7, 17 | filers 14:18, 22 16:9 17:19 | fixes 88:2 |
| faces 203:14 | file 15:22 16:6 26:3, 6 32:21 33:13 40:3, 8 41:16 76:1 80:3 133:11 134:7 139:12, 13, 16 141:4 142:20 146:20, 22 182:8 | files 77:8 | flexibility 53:20 54:4 |
| fact 9:14 36:13 37:7 38:20 45:6 61:19 118:10 172:14 193:9 195:18 223:17 | filed 12:3, 18 13:10 29:9 33:10, 12 38:22 80:7 86:6 182:19 | filling 20:4 65:13 184:2 | flip 122:7 215:18 |
| factor 168:17 | fill 9:10 12:18 13:11 15:20 18:1 25:16, 20, 23 134:3 | filled 31:22 | floor 4:10 164:11 |
| factors 159:16 160:2, 5, 5 161:2 162:17 163:4, 16 | final 27:21 82:23 169:21 199:8 | filling 20:4 65:13 184:2 | flowchart 53:2 |
| facts 70:14 162:5 | finally 76:11 96:9 228:8 | financial 46:20 139:1 202:22 | flush 73:18 |
| failure 79:5 197:4 | find 193:13 195:22 208:14 224:10 | finding 137:17, 18 162:10 221:12 | fly 40:1 |
| fair 68:6 191:15 205:5 210:11 | female 206:11 214:18 | Findings 138:5 161:11 162:5 208:14 | foaming 200:18 |
| faithfully 202:16 | females 223:19 | finds 159:3 | folks 56:10 99:8 |
| fall 136:6 141:22 | fields 24:17 29:15 | fine 49:10 63:2 127:17 131:3 171:4 174:19 227:11, 18 228:5, 11 | follow 18:8 75:22 117:7 126:7 169:16, 21 |
| families 199:2 | Fifth 2:14 | finished 58:11 192:5 203:15 | followed 134:4 139:7 |
| Family 2:18 89:8, 10 90:2 106:4, 6, 16 158:4 194:12 196:14 197:2 199:7 205:21 206:18 | fight 201:4 211:1 | finishing 191:2 | following 1:11 11:5 33:5 67:7 178:12 200:19 209:20 211:12 |
| far 35:20 42:18 54:18 78:1 82:8 86:4 90:15 113:5, 21 122:22 125:11 162:22 165:7 189:1, 12 190:15, 17 225:16, 23 | fighting 199:15 | first 24:17 28:18 43:9 45:12 50:22, 23 75:1 80:1, 8, 21 93:2 97:9 132:6, 9 | food 119:11 147:12 |
| farmer 224:14 | figure 39:15 74:2, 5 | | football 229:19 |
| farmer's 225:3 | file 15:22 16:6 26:3, 6 32:21 33:13 40:3, 8 41:16 76:1 80:3 133:11 134:7 139:12, 13, 16 141:4 142:20 146:20, 22 182:8 | | forcing 219:14 |
| farming 224:12, 16 | | | foreclosure 216:17 |
| fast 133:4 179:20 | | | forgotten 164:12 198:11 |
| father 82:3, 5, 11, 12 148:21 161:14, 15 194:10 201:23 206:10 209:18 224:9 225:4 | | | form 11:21 12:11, 12, 21 13:9, 11, 13, 14 14:9, 11 17:20, 21 22:19 24:13, 15 25:17 27:8, 21 28:22 29:8, 10, 13, 14, 18 31:7, 14 33:11, 20 34:2 37:2 39:19 40:19, 20 54:21 65:22 83:17 85:21 86:4, 9 134:14, 17 141:8 142:1 163:22 |
| fathers 224:19 | | | |
| favor 64:9 108:14 110:3 214:23 | | | |

| | | | |
|---|--|--|--|
| 164:4 176:19, 21 181:20, 22 182:20, 20, 21 184:3 187:18 218:15 former 53:8 forms 8:18, 22 18:10, 11 20:20 35:11 65:13 130:7 141:1, 19 142:20 181:15 185:11 221:11 formula 111:3, 4, 17, 21 112:14 113:17 115:3, 8 117:19 118:6 119:4 121:19 122:2, 23 123:4 125:11 174:15 formulas 111:8 124:14 forth 53:3 201:17, 17 Forty 124:21 Forty-threes 140:9 Forty-twos 140:13 forward 18:3 29:16 52:4 66:22 85:10 169:22, 22 170:1 224:21 forwarded 71:9 forwards 79:16 fought 202:5 found 14:3 113:4 135:9 153:2 180:12 201:16 four 19:11 51:11 67:6, 16 69:20 75:3 84:17 87:2, 3, 9 92:11, 14, 16 94:1 95:3 100:2 108:7, 21 115:22 128:2 129:12 137:15, 17 150:21, 22, 22, 23 152:22 179:3 197:19 202:11 215:7 220:16 fourth 128:16, 19 fraud 202:3 203:1 | free 44:23 168:12 214:4 Friday 1:14 59:22 231:6 front 6:4 7:5 17:17 21:18 42:12 56:10 167:11 196:1 222:9 229:11 fulfill 57:15 full 14:18 16:10, 14, 16 20:7 24:15 34:23 37:22 38:6, 9, 12, 16 39:3, 8 105:10 217:22 223:3 full-time 60:23 61:6, 9 fully 99:8 138:23 functions 39:5 funding 187:5 196:10, 13 200:17 202:15 203:21 204:5 205:3, 20 funds 94:17 157:9 222:8, 8 further 14:14 53:22 63:23 72:12 99:11 219:23 231:11 furthest 79:16 future 230:5 < G > garnish 158:16 gas 216:17 Gates 131:4 general 15:21 18:16 109:8 118:5 138:12 167:7 generally 8:17 56:7 167:23 230:4 generated 12:12 13:15 gentleman 62:15 getting 15:11 17:16 26:9, 23 41:4 55:13 68:10 78:1 83:8 99:6 | 121:19 141:23 189:14 225:23 Ginger 78:19 125:18 girl 46:18 give 56:6 65:21 84:18 86:8 99:11 156:17 189:8 192:4, 6 199:9 206:9 208:16 214:17 215:17 216:10, 11, 11 219:2, 12, 15, 18 given 196:21 198:15 203:22 216:2 217:20 218:19, 20 gives 86:1 giveth 93:8 giving 87:4 116:12 124:23 192:22 206:23 208:21 220:7 glad 6:5 19:21 62:15 217:12 go 17:6, 22 34:11 41:18 44:15 49:20 50:13, 14 53:14 56:1, 13, 13 57:10 58:5 59:5, 12 60:5, 14, 14 61:5, 17 65:21 68:10 72:12 73:4 75:9, 15 79:14, 14 84:13 85:10 88:20 93:16 96:13 97:22 106:8 114:9 116:5 117:4 120:3 121:7, 21 123:7 126:3 130:2, 14 131:12 132:15 133:4, 19 137:13, 14 138:15 141:11 146:2, 11 147:18 149:2, 2, 13 153:21 154:5, 10 160:9 166:14 171:13 179:13 184:11, 15 187:8, 13 189:13 190:16 192:13, 15 194:17 195:15 | 198:14 200:20 201:9, 12 203:2, 8, 17 208:1, 1 209:19 210:20, 21, 23 212:13 214:21 219:8, 22 224:13 225:2 226:2 God 218:7 goes 59:11, 14, 15, 22, 22 60:19 65:8 79:11 89:15 106:4, 6, 6 115:9 122:23 125:12 149:11 175:11 202:14 209:8 225:17 going 4:5, 18, 20 6:5 7:17, 20 8:9 9:11 10:1 12:19 20:6 23:23 25:4 32:5 33:17 34:19, 21 37:15, 18 39:2, 12, 14 41:13 43:15, 23 46:12, 18 47:6 51:14 53:6, 6, 14 55:2, 20 56:17, 18 57:23 58:22 60:1, 8, 10, 12, 22, 23 61:3 70:23 80:4, 5, 16 81:3, 4, 7, 10, 13, 20 86:5 91:22 97:5 98:8 103:1 104:10, 15 108:20 110:17 120:17 123:3 126:10, 18 129:3, 10, 14, 16 130:4, 6, 13, 14 131:6, 6, 7, 8 134:11, 16, 22 135:3 137:16 142:11 143:12 145:2 146:20 148:3 149:21 150:6, 8, 11 152:6 153:10, 23 157:20 158:23 162:22 164:5 167:6, 20 169:22, 22, 23 171:10 172:8 175:18 176:3, 4, 14 179:19 182:1, 7 |
|---|--|--|--|

183:1 185:2 187:3,
5 188:4 189:4
190:11, 14 191:22
192:3, 6 201:12
202:18 203:2, 3, 6,
14 205:9, 11 206:9
207:5 209:4, 13
210:7, 7, 8, 9, 22
211:1 212:13, 23
215:22 216:4
219:14 224:6
Goldman 155:8, 9
188:13, 14
good 31:20 54:5
57:12 93:22 113:5
155:18 188:21
200:3 207:10
228:14, 15
gosh 218:14
gotten 18:5 61:14,
15 74:11 91:20
governed 230:7
government 142:7
governmental 91:7,
15
graced 202:10
gradually 205:8
graduate 55:19
195:11, 13
grant 94:13, 15, 17
Great 8:5 50:4
141:10 190:6, 9, 10
groceries 119:12
Gross 152:23
153:3 154:8
156:13 168:1
173:10 188:11
209:1, 2, 11
ground 56:9
group 152:4
192:16
guess 23:14 42:16
53:4 56:11 85:1
124:2 142:3, 16
148:15 168:9
169:5 172:3
179:11 187:1
201:23 202:10
219:19
guessing 80:5

guide 138:12
188:3, 4
guided 52:7
Guideline 130:7, 12
135:4 210:18
GUIDELINES 1:2,
13 4:4 7:2 45:16
46:23 55:7 57:18,
20 119:19 121:20
131:18 132:11
133:13 134:4
135:11 137:21
138:6, 8, 9, 20
139:4, 7 141:7
142:15 143:13, 14
146:7 147:1
181:14, 16, 20
182:8, 19 184:2
191:12 207:20
208:2 210:15, 17
225:14 231:8
guilt-free 94:18
guy 201:15, 18
guys 15:5 215:3
216:5

< H >

habeas 197:10, 18
haircut 161:16
Haley 1:18 231:4,
15, 15
half 57:5 80:21
93:19 123:6, 11
125:11, 14, 20
126:5 156:4 197:5,
19 225:19, 22
Hamilton 58:23
59:3
hammered 136:6
hamster 202:19
handed 7:2 31:21
191:7 229:3
handing 20:4
handling 193:4
210:1
handout 21:20
133:20
hands 225:6
handwritten 44:10

131:21
handy 192:2
hangover 147:12
happen 41:15 81:7
90:1 129:16
147:16 215:22
happened 8:21
193:12 194:12
199:4 204:2
happens 55:4
116:16 117:2
118:12
happy 63:9 126:21
127:11
hard 215:3, 8
hat 192:18
hate 78:6 99:1
hatred 224:5
Hayes 78:19
125:18
head 122:15
126:18
health 144:3, 5, 6
145:5, 9, 15, 17, 18,
23 146:9, 18 147:5,
17 148:11, 18, 20
149:1, 9 151:4, 6, 7,
10, 13, 18, 21, 22
152:8, 9, 12, 13
159:19 170:4, 16,
17, 19 171:7, 8, 11,
12, 14, 14, 16, 18, 18
172:5, 7, 11 173:6
175:5, 5, 10, 13, 14,
19, 20, 21, 22 177:3,
6, 8, 11, 16, 16, 19,
23 178:2, 8, 8
187:14, 15 217:15
218:1 223:7, 7
Health-care 151:1
healthy 94:23
hear 44:1 54:7
63:22 95:4 108:5
167:19 191:19
201:6 210:22
212:3
heard 7:21 38:1
95:3 117:11
191:11 199:10
206:11 208:12

hearing 17:22
37:4 76:11 100:2
138:19 230:14
heavily 29:21
Heflin-Tolbert 1:16
held 1:11 46:7
197:11, 12, 13, 15
Hello 212:6, 7
220:4, 4, 5
help 62:19, 20
107:16 148:23
154:1 189:16
194:6 212:2 226:7
helpful 16:8 62:17
88:16 153:11, 21
165:20 212:12
helps 81:20
hey 39:1 210:6
211:8 228:14
hiccups 18:4
high 195:11
205:11 222:20
higher 120:15
highlighted 10:18
hindsight 70:15
hire 77:3 159:23
161:20 164:18
165:10 166:3, 10
214:16
history 159:18
166:18 223:12, 16
hit 40:8 76:2
202:13, 18
Hold 103:21 192:5
holding 14:10
holiday 230:19
holidays 228:18, 19,
19
home 60:8 168:11
222:16
Honor 58:7 77:18
HONORABLE 2:2,
10, 12, 16 4:1, 12,
23 5:4, 13, 19 6:9,
17, 21 7:11, 15, 22
8:5, 9 10:3, 16
11:7 15:19 17:3
18:22 19:23 21:17
22:9, 23 23:3, 16
24:2, 11, 19 25:1

| | | | |
|---|--|---|---|
| 26:5, 8 27:4, 11 28:6, 8, 9, 16 29:23 31:6, 13, 19 32:17, 23 33:4 34:13 35:17 36:6, 9, 15 37:3 40:2 41:11 42:5, 10 43:2, 7, 22 44:8, 17 47:16 50:19 51:23 52:11 53:4, 18 54:6, 14 55:11 56:4, 21 57:16 58:2, 14, 16, 17, 19 59:7 61:7, 22 62:12, 14, 21 63:1, 3, 7, 10, 21 64:9, 12, 17, 19 65:4 69:17, 19 70:5 71:7, 11, 19 72:6 73:14 74:7, 21 75:21 76:22 77:13, 17 78:17 79:8, 18 80:12 81:16, 19 84:15 86:3, 23 88:17 90:8, 12 91:1, 3, 8, 13, 17 92:10, 15, 19 93:15 94:11, 16, 20 95:11, 22 96:2, 5, 22 97:15 98:3, 17 99:17, 20 100:12, 21 101:9, 13 102:10, 11, 14, 21 103:1, 16, 21 104:3, 5, 9, 11, 14, 18 107:14, 22 108:3, 9, 12, 17, 19 109:4, 16, 19, 22 110:1, 6, 8, 16 113:3 115:15 117:3, 10 118:15 119:6, 17 120:21 121:6, 11 122:13 124:8, 16 126:9, 17, 22 127:3, 9, 13, 18 128:1, 8, 14, 18 129:7, 20 130:1, 11 131:19 133:18, 23 134:20, 22 135:6, 14, 22 136:10 139:19 140:2, 5, 7, 13, 17, 22 141:16, | 18 142:5, 16 143:7, 17 144:16, 20 145:1, 4, 7 146:5, 12, 19 147:9 148:15 150:4, 15, 19 152:14, 19 153:12 154:17, 21 155:2, 7, 14, 17 156:15, 21 157:15 158:1, 8, 15 160:9, 18 162:7 164:10 165:18 166:22 168:14, 19 169:4, 10 170:6 171:3 172:3, 13 173:14 174:3, 8, 10, 11, 13, 14, 17, 18 175:1 176:9, 15 179:18, 23 183:9, 14 184:5, 21 185:1, 6, 9, 16, 19 186:23 187:11, 20 188:7, 16 190:1, 5, 9 191:1 192:12, 15, 19 198:18 199:20 200:1 203:4, 10 206:3 207:7 211:20 212:1, 7 218:12 220:1, 5, 13 225:7, 11 226:9, 12, 21, 23 227:2, 5, 9, 14, 16, 19, 21, 23 228:2, 4, 6, 13, 16 229:10 230:18 honored 7:8 hope 112:1 179:6 hopefully 53:21 64:1 212:8 hopes 9:8 Horror 201:10, 11 206:11 hospital 75:17 195:4, 5 221:22 hour 93:19 house 196:15 222:7 housing 168:15 HOYEM 3:8 5:17 104:16, 19, 20 | 105:6 106:9, 13, 22 Hudson 131:4 hug 123:21 203:21 Human 2:5, 7 30:7 hundreds 201:6 hungry 216:21 217:1 Huntsville 121:15 195:4 200:5 hurt 22:10 68:19 husband 194:9 196:20 197:2 198:15 213:9 husband's 194:9 Hustle 200:8 201:8 < I > idea 9:6 41:21 69:14 identified 167:14 identify 192:16 ii 67:3 84:1 92:17 93:9, 12 iii 164:6 illiteracy 166:19 imagine 14:14 imagining 14:1 immediately 75:15 impact 41:2 59:11 63:16, 20 147:2 impacted 46:23 impacts 63:18 98:21 impediment 221:2 implore 214:9 215:2 217:5 important 98:21 99:15 217:12 impression 69:13 Impugned 202:23 impute 159:7 imputed 159:9, 11 inappropriate 136:12, 19 137:6, 23 210:1 Incarceration 160:14 161:3, 4 169:1 | incentive 200:18 203:22 205:10 includable 167:23 include 37:21 85:19 86:18 138:8 139:17 153:6 156:5, 10 158:12 171:7 included 112:23 115:10 116:4 125:18 130:22 133:15 144:12, 14 155:1, 3 188:12, 19 includes 153:5 171:15 including 112:5 115:6 118:22 159:16 162:16 188:20 income 19:8 86:11, 11, 12 120:16 138:23 152:23 153:3 154:8 156:13 158:3, 3 159:5, 7, 9, 10 168:1 173:10 181:21 188:11, 13 195:20 196:9 201:19 202:23 206:19 209:2, 2 221:12 incomplete 145:14 incorporated 182:13 increased 54:2 independent 59:17 85:13 204:15 indicate 162:8 indicated 45:5 47:2 64:16 85:1 98:14 108:16 110:5 129:19 indicates 139:5 141:3 142:23 individual 45:3 48:9 85:23 211:2 individuals 26:22 inform 35:12 information 9:4, 7, 19 10:11 11:2, 22 |
|---|--|---|---|

| | | | |
|---|---|---|---|
| 12:8, 22 13:12, 13 14:23 15:11, 21 17:17 18:1 21:14 22:18 25:11 26:1, 2 28:11 30:6, 8, 9 34:9, 11 35:8, 15 38:21 39:11 40:7, 12, 21 41:3 42:1, 8 83:20 84:12 99:7 165:23 167:6 168:8 178:9 187:7 224:20 229:7 informational 11:18 informing 35:13 initial 29:10 83:14 initially 180:11 initiate 9:10 145:20 injured 76:14 input 14:18 16:10 29:22 38:7, 16 40:16 inputs 38:21 inputting 15:12 insert 57:13 inserted 201:2 inserting 200:19 instance 105:9 180:15 212:20 218:5 instances 65:11 166:23 instruct 55:1 instruction 18:13 instructions 84:1 instructive 83:2 84:7 insurance 91:5, 10 92:7 101:20 144:6 145:18 146:1 147:7 149:9, 11 151:6, 7 152:8 170:4, 17, 17, 22 171:8, 11, 18 172:7, 8, 12 173:6, 18, 19, 20 175:5, 13, 20, 21, 22 176:17 177:4, 16, 23 178:8, 10 180:6 187:15, 16 | 206:7, 12 209:6 217:18, 19 218:9 insurance , 151:15 intact 158:4, 4 219:3 intend 93:14 intent 72:2 intercept 90:4 intercepted 89:16 interest 45:9 78:9 79:19 80:19, 20, 23 81:3, 7, 11, 13 181:6 202:13, 18 209:13, 14 222:18, 20 225:16 226:1, 3 interested 15:11 231:13 interests 138:5 interject 193:11 internal 130:21 interpret 70:6 interpretation 105:3 intervene 208:9 introduce 5:22 introducing 4:19 investigation 210:23 involve 91:4 involved 11:8 23:20 33:17 34:6, 17 48:14 50:4 146:15 209:14 irregardless 147:3 irrelevant 146:17 issue 9:12 21:10, 11 37:7 45:12 54:18 59:17 78:12 79:6 98:21 99:16 179:12 194:11 212:23 issued 37:20 121:20 issues 45:1 47:21 48:23 62:5 84:23 162:18 193:1, 4, 10 223:11 its 139:12 181:6 IV 196:10, 13 200:14 | IV-D 200:16 202:15 203:21 204:4 205:2, 19 < J > jail 197:3, 6 jailed 200:11 James 4:8 7:1 January 8:20 10:2 19:19 50:22 77:21 190:4, 5 197:18 Jefferson 121:14 165:22 191:14 JEFFRIES 2:22 7:7 31:12, 15 36:2, 7 37:18 38:3, 18 42:20 43:6 54:12, 15 62:19 63:6 64:11 78:11, 18 79:17, 21 91:22 92:13, 17 95:18 96:20 97:8 98:12 100:9, 16 101:7 102:5 107:21 108:2 114:15 121:23 122:22 124:1, 15 125:7, 16 126:15 127:2, 17 128:6 129:5 131:17, 20 136:3 138:10 154:2, 19, 23 156:11, 16 157:6 164:1 167:20 170:2 185:3, 7, 15, 18 188:15 226:20 JENNIFER 2:6 5:6 11:13 40:11 103:8 128:6 130:3 142:21 158:10 189:7 190:21 191:3 Jennifer's 191:9 JIM 2:22 7:6 31:11 54:11 62:21 63:4 64:13 71:8 75:6 111:6 126:13, 22 129:8 136:1 226:19 Jim's 59:5 96:22 | job 43:13 45:20, 23 46:12 48:11 53:15, 15 55:15, 15, 20 58:23 59:2 60:9, 10, 21 61:8, 15 148:20 159:18, 22 166:18 191:4 194:21, 22 195:4, 5, 19, 19 196:5 221:11 222:2, 5 jobs 167:3 195:2, 14 198:4 join 7:20 joint 57:1 60:17 94:5 110:17 116:23 118:2 120:11 123:1 124:4, 10, 18 125:5, 23 129:13 190:14 215:11, 17 216:2, 11 217:3 Judge 2:3, 12, 16 6:19 19:9 28:6 32:6 45:12 48:8 56:3 62:12, 22 77:12 88:9 96:1 98:14 104:17 154:15 163:4 168:8 191:15 194:15 196:3, 4 215:16 216:9 219:2 226:21 229:2 judges 29:15 35:14 46:5 62:17 84:3, 5, 7 85:23 87:6 88:8 111:8 113:17 165:21 166:23 206:16 208:12 judge's 16:1 57:22 140:20 164:9 judgment 29:16 judgments 105:16 225:18 Judicial 1:16 2:14 8:14 17:11 19:20 22:16 37:12 39:8, 14 42:13 137:18 Julia 128:22 |
|---|---|---|---|

| | | | |
|---|---|---|---|
| JULIE 2:2 3:8 5:13 8:7 35:19 42:6, 20 43:3, 4 78:20 150:13 164:8 | 123:19 154:19 155:12 162:21 163:21 170:9 194:3 222:17 223:2, 15 224:19 | 212:11 213:8 214:12, 20, 23 215:3, 8, 15 216:6, 14 217:16 218:17 222:10, 14 223:1, 17 224:13 226:4, 16 229:16, 18 | 186:14, 22 187:14 198:10 200:20 |
| June 55:19 | knew 18:6 55:17 114:1 153:19 | knowing 35:5 223:2 | lapse 51:6 |
| Justice 2:10 5:3 10:4, 5 21:23 22:2, 7, 11 34:3 39:6 42:2 44:23 45:4, 5 48:19, 21 69:17 71:3 75:22 81:17 84:23 101:10, 11 104:7 105:21 117:8, 12 119:15 123:12 147:13 149:7, 23 150:12 169:5, 6, 18 178:21 179:11 185:21 189:10 190:3, 7 227:12, 13, 14 230:2, 15 | know 7:19 12:1, 7, 8, 16, 17 13:5 15:16, 20, 20 16:9, 19 18:17 20:23 23:20, 21, 22 25:15 27:6 33:13 34:17 35:18, 21 36:20 37:14, 15 39:4 47:8, 11 49:3, 13 50:1 51:14 52:20 53:1 55:18 57:13 68:20 71:2, 16 72:11, 14, 21 73:9 74:19 75:11, 16 76:3 77:9 78:21 81:1 82:17 83:18, 19 85:18, 21 86:9, 13, 14, 17 88:2 89:1 90:9 91:18, 21 93:10 98:16 99:2, 8, 21 100:12 109:3, 7 116:21 117:9, 10 118:1, 4, 5, 11 119:7, 18 122:18, 23 123:18 125:16 126:11 134:19 135:18 136:8, 13 142:10, 12 143:14 148:3 149:4 150:5 151:5, 9 154:5, 7 161:13 162:23, 23 163:2 164:19 165:9 166:2, 2, 9, 10, 11, 12, 13, 14 167:4, 5 168:2, 16, 21 176:5, 7 177:12 178:14 179:12, 19 188:2 189:10 191:6, 7 197:13 201:12 202:2, 6, 8, 14 203:14 209:15 210:19 211:10, 23 | known 159:16 162:16 163:1, 9, 11 166:8 199:17 223:16 | Large 1:19 70:1 222:7 231:5, 16 |
| justices 123:14 justice's 45:11 justification 138:8 justifying 218:6 | kin 231:11 | known 159:16 162:16 163:1, 9, 11 166:8 199:17 223:16 | Lastly 218:16 |
| < K > | keep 15:9 22:1 39:2 56:17 57:9 100:10 141:19 148:17 157:20 172:11 176:14 177:17 192:7 200:13 206:6 | known 159:16 162:16 163:1, 9, 11 166:8 199:17 223:16 | LATHESIA 2:4 5:7 130:23 227:19 |
| keeping 58:8 | kind 18:17 37:21 56:19 71:17 80:18 91:5 97:10 121:16 | known 159:16 162:16 163:1, 9, 11 166:8 199:17 223:16 | Law 2:9 6:3 34:8 37:23 38:5 50:21 65:20 66:2, 10, 11, 14 67:13 69:7 85:12 87:13, 22 88:4 89:12 98:2 105:19, 20 106:15 107:7, 10, 12 145:19 155:3 158:6 160:19 166:6 169:11, 19, 19 173:16 178:5 197:13 |
| KENNETH 3:1 5:12, 23 52:1 122:14 148:21 150:7 156:22, 22 228:4 229:14 | kind 18:17 37:21 56:19 71:17 80:18 91:5 97:10 121:16 | known 159:16 162:16 163:1, 9, 11 166:8 199:17 223:16 | laws 206:18 |
| kept 197:19 | kind 18:17 37:21 56:19 71:17 80:18 91:5 97:10 121:16 | known 159:16 162:16 163:1, 9, 11 166:8 199:17 223:16 | lawsuit 230:7, 17 |
| Kids 149:3 191:16 216:15 219:9, 16 221:21 224:13, 21 225:1 | kin 231:11 | known 159:16 162:16 163:1, 9, 11 166:8 199:17 223:16 | lawyer 140:20 |
| legally 197:22 211:18 | kin 231:11 | known 159:16 162:16 163:1, 9, 11 166:8 199:17 223:16 | lawyers 62:17 215:16 |
| legislative 225:17 | kin 231:11 | known 159:16 162:16 163:1, 9, 11 166:8 199:17 223:16 | lay 35:13 |
| legislator 226:2 | kin 231:11 | known 159:16 162:16 163:1, 9, 11 166:8 199:17 223:16 | layer 29:19 |
| legislators 206:16 | kin 231:11 | known 159:16 162:16 163:1, 9, 11 166:8 199:17 223:16 | laymen's 56:8 |
| lesser 76:19 112:19 | kin 231:11 | known 159:16 162:16 163:1, 9, 11 166:8 199:17 223:16 | lead 198:23 |
| | kin 231:11 | known 159:16 162:16 163:1, 9, 11 166:8 199:17 223:16 | leave 85:22 87:6 98:18 125:8 172:8 174:20, 22 222:1 229:11 |
| | kin 231:11 | known 159:16 162:16 163:1, 9, 11 166:8 199:17 223:16 | leaving 195:8 |
| | kin 231:11 | known 159:16 162:16 163:1, 9, 11 166:8 199:17 223:16 | led 9:13 25:18 |
| | kin 231:11 | known 159:16 162:16 163:1, 9, 11 166:8 199:17 223:16 | leeway 165:7 |
| | kin 231:11 | known 159:16 162:16 163:1, 9, 11 166:8 199:17 223:16 | left 51:7, 8 191:3 198:14 203:5 |
| | kin 231:11 | known 159:16 162:16 163:1, 9, 11 166:8 199:17 223:16 | Legal 5:20 6:2 8:19 13:7 125:5 214:17 216:8 217:2 |
| | kin 231:11 | known 159:16 162:16 163:1, 9, 11 166:8 199:17 223:16 | legally 197:22 211:18 |
| | kin 231:11 | known 159:16 162:16 163:1, 9, 11 166:8 199:17 223:16 | legislative 225:17 |
| | kin 231:11 | known 159:16 162:16 163:1, 9, 11 166:8 199:17 223:16 | legislator 226:2 |
| | kin 231:11 | known 159:16 162:16 163:1, 9, 11 166:8 199:17 223:16 | legislators 206:16 |
| | kin 231:11 | known 159:16 162:16 163:1, 9, 11 166:8 199:17 223:16 | lesser 76:19 112:19 |

| | | | |
|---|--|--|---|
| letter 71:8 175:7 230:3 | 122:19 133:1 160:13 164:6 | 161:15 176:20 195:14 | 193:9 198:18 200:1 218:12 |
| letters 40:5 | 180:14 181:9 | looking 8:16, 17, 22 | mad 204:5 |
| letting 14:23 204:19 | 185:23 186:7 219:15 | 18:7 31:14 56:20 69:20 70:17, 21 | MADDOX 3:2 5:16 6:19 7:9, 16, 18 94:14 121:9 |
| level 15:18 35:5 160:1 167:4 205:8 229:22 230:1 | live 196:23 215:15 219:10 | 114:11 132:10 168:21, 22 172:14 221:15 223:23 | 128:17 229:1 |
| liberal 210:6 | living 168:11, 14 | looks 30:5 144:18 164:4 | magazine 200:6 |
| lied 202:2 | loan 222:22 | lose 165:8 187:5 228:8 | Magistrate 197:9, 17 |
| lieu 154:13 | local 29:6 159:21 160:1 162:22 | lost 148:20 195:2, 5, 19 196:17 228:18 | mailing 14:1 |
| life 193:12 195:10 222:12, 23 | localized 165:2 | lot 12:3 17:14 18:10 34:15 35:9 37:8 45:6, 7 47:19 70:13 85:14 88:7 98:22 99:7 123:14, 17 130:18 141:18 150:13, 14 151:10 158:2 167:5 187:7 189:16 195:14 200:4 203:14 208:12 211:13, 14 221:13 223:11 224:10 | main 75:2 200:15 |
| lifelong 224:6 | logically 111:16 | lots 170:2 | maintain 30:7 |
| light 153:20 | long 30:17 68:15 174:18 179:7 | loudly 117:14 | maintenance 171:16 |
| lights 216:17 | 185:21 214:23 215:4 220:6 224:15 | love 218:17 | majority 14:2 49:11, 14 223:9 |
| liked 221:5 | longer 75:11, 14 152:8, 10 210:14 | lower 205:8 | making 17:9 56:6 61:16, 21 70:19 75:11, 12 161:17 196:5 224:4 |
| limit 48:13 54:20 | long-term 91:9, 19 101:20 | Lowhorn 81:22 | 75:11, 12 161:17 196:5 224:4 |
| limited 50:9, 10 55:1 98:15 130:22 193:17 | look 14:14 17:5, 18, 19 20:19, 22 48:8 52:21 61:12, 18 62:4 64:3, 4, 21 66:6 73:5 75:20 86:7, 10, 20 88:11 93:7 94:3 103:8 105:13 111:13, 22 114:22 118:17 120:11, 16 121:22 130:13 132:15 133:7 134:12 137:12 143:20 144:13 154:5, 10 164:4 176:7, 12, 12, 13, 18 179:20 180:17 183:21 184:8, 10 185:22 186:6 188:5, 8 203:8, 13, 15 206:21 217:5 219:22 221:17 222:3, 4 229:6 | lump 76:14, 15 78:18, 21, 23 79:6 81:6 89:11, 15 90:4 96:10 | man 201:14 |
| limiting 92:12 93:13 100:10 | looked 14:19 38:11 70:16 79:9 111:6, 14 112:10 113:2 131:2 | lunch 93:17, 19, 20 94:3, 10, 13 | mandate 28:18 117:6 |
| limits 91:4 | | LYN 2:10 5:3 | mandatory 207:21 208:2 225:14 |
| line 8:1 31:3 36:17 53:22 77:19 93:4, 5 134:17 142:6 170:20 199:9 | | < M > | manner 231:13 |
| line-by-line 188:4 | | ma'am 7:14 8:4, 8 23:4 24:11 26:11 59:7 63:1 65:4 109:21 134:21 160:21, 21 169:9 172:10 186:13 187:6, 6 192:10 | March 79:12 226:15, 17 227:4, 7 |
| lines 96:3 | | | Marcus 200:2 |
| list 66:9 94:4 132:16 191:7 203:7 | | | market 159:22 164:20 |
| listed 65:15 109:9 132:14 193:23 | | | married 46:17, 17 211:19 219:8 |
| listen 201:9 203:17 | | | Marshal 4:7 7:1 |
| listing 84:8 | | | Mary 7:16 |
| literacy 159:19 | | | masters 222:4 |
| literally 121:13 | | | master's 58:22 |
| litigant 25:3, 15 86:5 | | | match 176:6 |
| litigants 20:3 36:20 | | | matches 132:23 |
| litigate 84:2 | | | material 144:14 149:18 |
| little 34:22 37:16 43:23 66:6 67:3 70:21 73:10 83:4 88:1 92:17 93:2, 8, 9, 10, 12 94:1 | | | matter 25:12 35:12 61:4 64:20 96:6 140:8 148:4 163:13 193:18 |

| | | | |
|--|--|---|--|
| 63:1 77:12, 13 141:18 226:22, 23 mean 14:13 17:10 20:5 28:10 30:21 32:22 33:7 34:11 38:5 48:7 61:11 63:17 85:6 91:4 97:3, 10 136:3 139:21 143:11 156:7 168:1 217:22 218:19 means 74:2, 3 144:7 145:18 162:2 meant 66:18 198:1 mechanism 52:23 148:10 MEDARIS 3:2 5:15 8:3, 4 229:2 Medicaid 149:3 152:11 177:10 206:8 medical 136:15 147:21 149:15 151:19 170:18 171:22 173:4, 8 175:20, 22 177:23 178:6 181:1 Medicare 209:9 medication 221:9 meet 10:2 131:13 183:23 189:8 190:3 226:15 227:10 MEETING 1:1, 12 4:3, 14, 15 6:12 19:18 42:15 43:14 47:18 64:2, 3 121:12 127:1, 15 128:21 130:16, 17 131:8 192:23 193:11, 13, 16 204:1 221:23 229:4 230:21 Meetings 203:23 204:3 209:22 MELODY 2:12 5:9 108:10 127:6 227:21 member 229:23, 23 | members 5:21 45:8 46:14 48:22 64:15 66:23 68:6 69:4 85:7 108:15 110:4, 22 129:18 memo 8:11, 15 9:14 23:7 228:17 Memorandum 43:3 memory 12:3 mental 223:6, 7 mention 187:12 mentioned 25:7 78:19, 20 182:3, 5 merits 69:8 mess 155:19, 19 messing 17:1 MICHAEL 2:16 7:9, 11, 13, 23 117:4, 12 228:7, 8 Michelle 125:22 mind 62:22 76:6 108:2 mine 211:16 minimum 85:10 minor 30:11, 13 187:13 minus 120:7 minute 212:4 216:16 minutes 41:12 93:18 192:4, 7 203:5, 11 214:22 mirrors 160:7 misconduct 194:16 misspoke 115:11 misunderstanding 31:17 misuse 41:23 Mobile 121:14 213:18 215:13, 14 219:11 modification 59:8 60:1 75:10 82:20 83:16 88:13 143:21 144:9 147:8 149:13 modifications 42:18 modified 75:13 189:21 | modify 28:12 55:12, 16 74:11 78:4 144:8 146:2, 10, 21, 23 147:20 148:13, 23 175:13 182:11 183:19 modifying 87:2 160:16 169:3 moment 164:9 199:9 220:8 Monday 59:21 monetary 146:3 148:12 money 72:1, 2, 16 77:2, 2, 3 79:10, 14 80:16, 16 89:15, 18 90:6 105:22 106:5, 8, 23 107:5 146:14 148:17 156:10 165:8 196:10, 12, 18 197:1 208:15 210:8 211:6, 8, 15, 17 monies 193:19 Montgomery 1:17 161:13 231:2 month 59:16 60:18 68:19 75:7, 11 82:22 88:20, 23 89:1 97:4, 17, 21 107:1 156:3, 6 194:7 months 47:9 57:5 75:17 76:1, 5, 9, 9, 10 80:2, 3 196:17 197:6, 20 215:7 Moore 7:17 Morgan 197:19 198:1 mortgage 168:12 222:21, 22 mother 82:9 206:7, 10 motion 24:4 54:7 55:7 61:23 62:3 63:22 64:6, 7, 16 108:5, 8, 16 109:20 110:5 mouth 200:19 | move 18:3 41:13 42:4 52:4 moved 9:18 25:13 27:18 28:4 29:16 moving 29:8 multiple 178:17 180:13 181:10 194:15 196:22 multiplied 202:12 mute 228:12 < N > Namati 81:21 name 4:22 12:5 32:1, 1 35:21 178:3 193:2 220:9 229:11 NATHAN 3:5 5:18, 19, 20 8:6 10:1 14:16 39:7 42:6 National 178:6 nature 225:5 Nays 110:6 NCP 89:14 nearly 197:5 necessarily 23:12 45:3, 10 52:14 66:19 83:12 89:6 97:11 182:5 necessary 23:2 43:12 45:19 48:11 53:21 58:18, 20, 21 130:19 144:10 145:22 need 12:15 15:7, 8 17:4, 5, 5 22:3 24:12, 14, 16, 20 25:2, 16 27:1 34:10 35:22 36:2, 22 37:15 41:20 42:1 52:21 53:12 58:4, 5 63:12 73:18, 23 75:15 84:16 86:13, 17 96:11, 17 102:16 116:5, 18 117:4 119:7, 9 122:18, 20 125:13 130:17 136:15 140:16, 18 |
|--|--|---|--|

| | | | |
|--|--|---|---|
| 142:3 144:5 | nine 64:21 91:23 | 124:18 129:2, 11 | obviously 20:6 |
| 145:16 147:6 | 180:1, 3 201:14, 21 | 131:21, 21 137:14 | 48:16 54:19 68:13 |
| 148:13 161:1 | 202:1, 4 | 150:21, 23 152:22 | 82:9 96:4 143:11 |
| 185:17 204:13, 14, 16 206:1, 8, 17 | Nisi 96:9 | 170:16 172:17 | occur 15:17 |
| 213:2 214:16 | nit-picky 23:13 | 175:2, 3 176:23 | occurred 68:4 |
| 216:22 219:18 | non-attorney | 178:11, 13 180:4, 8 | 69:9 70:2 |
| 221:12, 17, 18 | 213:12, 19 | 213:14 214:10 | occurs 14:5 |
| 223:7 224:1 226:2 | noncustodial 53:23 | 217:4, 5 219:2, 13 | o'clock 57:8, 8 |
| 228:23 229:22 | 56:11, 23 112:4 | numbers 19:2, 4, 11 23:18 26:21 | 98:19 |
| needed 11:2, 19 | 117:21 118:7, 10, 20 121:18 125:2 | 36:22 37:8, 22 | October 79:11 |
| 12:12 30:19, 23 | 209:3, 19 211:2 | 112:11 113:1 | offered 198:4 |
| 35:8 52:5 80:19 | 213:22 214:2, 6, 13, 15 216:4 220:16 | 114:3 212:18 | Office 3:2, 4, 5, 7, 8 |
| 95:2 96:4 97:12 | non-DHR 41:16 | Numeral 83:23 | 19:5 20:5 31:22 |
| 102:12 179:13 | nonprimary 124:6 | 84:1 | 104:21 |
| 186:21 225:9 | norm 205:17 | numerator 112:16 | Off-the-record 4:11 |
| needs 10:8, 10 | normal 115:4 | 120:3, 6 | Oh 12:23 214:19 |
| 20:7 35:23 49:22 | 215:23 | numerators 113:18 | 216:10 228:13 |
| 52:2 74:18, 19, 21 | normally 134:6 | nursing 51:7 | Okay 4:12 6:11, 14, 17, 22, 23 7:12 |
| 75:1 101:12 | 151:20, 22 | < O > | 8:5, 6 10:3 22:8 |
| 109:10, 12, 18 | notation 34:22 | object 189:22 | 23:3, 5 24:7 29:23 |
| 110:11 133:11 | noted 152:20 | objecting 64:7 | 31:13 32:19 33:13 |
| 136:13 144:3, 6 | notes 47:15 | objection 87:11 | 35:17 36:9 39:1 |
| 145:9, 15, 17 | Notice 77:21 | obligated 149:1 | 42:10 43:6, 9, 19 |
| 146:10, 18 147:5, 16, 22 148:11, 14 | 139:4 141:7 178:7, 10 181:16 182:9, 20 184:2 223:8 | obligation 54:1 | 44:12, 16, 19 54:6 |
| 151:1, 4 160:11 | noticed 23:23 | 57:15 67:9 74:11 | 57:1 63:7, 21 |
| 205:5 223:21 | 74:20 75:2 | 82:2, 6, 19, 22 83:6 | 64:12 65:5 80:12 |
| negative 137:8 | November 4:16 | 96:10 112:3, 19 | 81:16 95:22 96:5 |
| negatives 48:17 | 79:11 | 118:19 181:21 | 98:12 101:21 |
| negotiated 138:22 | number 7:19 | obligations 66:9 | 103:1, 21 104:5, 14 |
| neither 231:11 | 11:11, 23 12:6 | 170:13 | 107:14 108:9, 19 |
| network 201:8 | 13:20 14:19 15:9 | obligor 65:19 | 110:13, 19 120:18 |
| never 106:4, 5 | 16:11, 23 20:7 | 74:10 78:16 79:1, 23 80:9 82:2 | 126:17 129:20 |
| 195:7 211:6 | 21:2 24:14, 15, 21 | 89:14 92:6 95:18 | 130:1, 9 132:9 |
| 214:20 223:3, 4 | 27:2, 12 32:8 | 103:14, 20, 23 | 133:7 135:22 |
| 226:10 | 34:18, 23 38:6, 9, 13, 17 39:3 65:9 | 104:6 106:1, 5, 21 | 144:20 145:1, 7 |
| new 5:21 9:16 | 67:5, 5, 10, 15 | 107:19 | 146:19 147:9 |
| 15:22 21:11 29:18 | 68:17 69:10, 20 | obligors 95:13 | 148:23 150:4, 15, 19, 21 152:14, 19, 21 158:9 164:3 |
| 41:18 50:20 53:15 | 71:12 72:3 74:17 | obligor's 67:9, 18 | 168:19 170:6, 10 |
| 55:7 84:3, 5, 7 | 75:3 84:16, 17 | 69:22 82:17 87:16, 18 92:4 95:20 | 172:13 174:11 |
| 87:2 97:6 121:20 | 94:1, 5 95:3 96:14, 19 100:2 108:6, 21 | 97:14 100:6, 22 | 175:1 176:17 |
| 130:5 151:20 | 109:2 110:9, 9, 18 | 102:2 103:6 | 179:18 181:13 |
| news 4:15 | 112:17, 21 117:22, 23 118:17 120:5 | obtain 43:12 | 183:14 184:21 |
| nice 161:16, 16 | 121:16 122:7 | 45:19 48:11 | 185:2 186:23 |
| nicely 113:14 | | obtained 151:21, 23 | 187:11, 20 190:6, 9, 20 192:12, 17, 19 |
| nickel 18:19 | | | 198:18 201:5 |
| night 116:10 | | | 203:4, 6, 10, 18 |
| nights 58:9 112:17 | | | |
| 215:12 | | | |

| | | | |
|---------------------------|---------------------------|--------------------------|-----------------------|
| 204:13 205:5, 21 | 148:13 150:10 | packet 13:14 | 61:7, 22 62:12, 21 |
| 206:15 212:1 | 170:15 177:21 | 42:11 130:10 | 63:3, 7, 10, 21 64:9, |
| 217:8 226:12 | 180:10, 19, 22, 22 | 134:13 229:3 | 12, 17, 19 65:4 |
| 228:6, 9, 13, 16 | 181:3, 12 206:10 | packets 42:21 | 69:17 71:19 74:7, |
| 230:13, 18 | 218:21 219:1 | page 21:20 44:10 | 21 75:21 76:22 |
| old 31:14, 20 | 224:21 | 45:13 66:6 67:4, 5 | 77:17 78:17 79:8, |
| 201:22 | order, 132:4 | 69:20 71:13 91:23 | 18 80:12 81:16 |
| older 80:20, 23 | 180:11 | 94:2, 4, 6 95:2, 3 | 84:15 86:3, 23 |
| once 20:11 27:18 | ordered 61:4 | 96:14, 18 100:2 | 88:17 90:8, 12 |
| 36:20 44:6 60:10 | 116:23 117:22 | 110:18 111:22 | 91:1, 8, 17 92:19 |
| 61:4 66:22 67:23 | 118:9 146:13 | 112:12, 14 118:17 | 93:15 94:11, 16, 20 |
| 68:3 71:2 75:13 | 148:17 196:3 | 120:21 127:21, 21 | 95:11, 22 96:5, 22 |
| 76:2 112:10 | 204:17 206:6 | 131:21 132:10 | 97:15 98:3, 14, 17 |
| 125:19 172:10 | 209:12 | 133:7, 21 134:1 | 99:17, 20 100:12, |
| 197:7 223:22 | ordering 26:17 | 137:15, 17 143:19, | 21 101:9, 13 |
| ones 21:8, 10 | 181:7 | 20 144:16 145:3, 8 | 102:10, 14, 21 |
| 116:2 130:12 | orders 138:21 | 150:22, 22 152:22 | 103:1, 16, 21 104:5, |
| 209:4 | 145:13 150:5, 14 | 158:18 164:5 | 11, 14, 17, 18 |
| one-third 123:19 | 169:3 180:13, 18 | 168:23, 23 170:11 | 107:14, 22 108:3, 9, |
| 124:3 | 181:10 | 171:9 174:23 | 12, 17, 19 109:4, 16, |
| online 40:3 200:5 | organization | 176:2 180:1, 2, 2, 8 | 19, 22 110:1, 6, 8, |
| onset 87:18 88:10, | 171:16, 17 | 182:4, 16 183:10 | 16 113:3 115:15 |
| 21 89:20 90:3 | original 46:3 | 188:9 | 117:3, 10 118:15 |
| 95:10, 12, 19 100:6, | originally 12:5 | pages 64:21 231:9 | 119:6 120:21 |
| 21 102:2, 11, 16 | ought 84:13 85:15 | paid 65:18 68:8, | 121:6, 11 122:13 |
| open 12:4 53:7 | out-of-pockets | 14 80:21 92:2 | 124:8, 16 126:9, 17, |
| 184:9 218:5 | 150:7, 9, 11 | 105:14, 23 110:10 | 22 127:3, 9, 13, 18 |
| opinion 10:6 | outrageous 195:23 | 134:23, 23 135:1 | 128:1, 8, 14, 18 |
| 11:12 55:16 | outside 42:3 91:6 | 142:14 150:11 | 129:7, 20 130:1, 11 |
| opportunity 56:7 | 198:5 | 202:5, 17 | 131:19 133:18, 23 |
| 192:22 199:23 | outweighed 48:17 | PALMER 2:2 4:1, | 134:20, 22 135:6, |
| 220:7 | overlap 160:5 | 12 5:13, 14, 19 6:9, | 14, 22 136:10 |
| opposed 18:16 | overnight 14:6 | 17, 19, 21 7:11, 15, | 139:19 140:2, 5, 7, |
| 46:11 49:14 64:17 | overnights 114:10 | 22 8:5, 9 10:3, 16 | 13, 17 141:16 |
| 70:23 74:12 | overpaid 72:8 | 11:7 15:19 17:3 | 142:5, 16 143:17 |
| 100:20 108:17 | overpayment | 18:22 19:23 21:17 | 144:16, 20 145:1, 4, |
| 132:20 181:3 | 105:10 | 22:9, 23 23:3, 16 | 7 146:5, 12, 19 |
| opposite 160:20 | overpayments | 24:2, 11, 19 25:1 | 147:9 148:15 |
| 169:12 | 105:2, 7 | 26:5, 8 27:4, 11 | 150:4, 15, 19 |
| option 53:1 59:23 | oversimplification | 28:7, 8, 16 29:23 | 152:14, 19 153:12 |
| 207:23 | 93:8 | 31:6, 13, 19 32:17 | 155:7, 17 156:15, |
| optional 34:12 | overview 44:21 | 34:13 35:17 36:6, | 21 157:15 158:8, |
| order 19:8, 10 | owe 71:20 | 9, 15 37:3 40:2 | 15 160:9, 18 |
| 31:4 37:20 105:15 | owed 67:12 71:16 | 41:11 42:5, 10 | 164:10 165:18 |
| 132:19, 20, 23 | 72:5 73:9 77:7 | 43:2, 4, 7, 22 44:8, | 168:14, 19 169:4, |
| 134:9 135:15 | 83:9 96:16 106:10 | 17 45:13 47:16 | 10 170:6 171:3 |
| 137:3 138:9 | 201:20 | 50:19 51:23 52:11 | 172:3, 13 174:3, 10, |
| 143:22 144:6, 8 | | 53:4 54:6, 14 | 13, 17 176:9, 15 |
| 145:17, 20 146:3, | < P > | 55:11 56:21 57:16 | 179:18, 23 183:9, |
| 11, 11 147:15, 20 | p.m 230:22 | 58:2, 16, 19 59:7 | 14 184:5, 21 185:1, |

- 6, 9, 16, 19 186:23
187:11, 20 188:7,
16 190:1, 5, 9
191:1 192:12, 15,
19 198:18 199:20
200:1 203:4, 10
206:3 207:7
211:20 212:1, 7
218:12 220:1, 5, 13
225:7, 11 226:9, 12,
21 227:2, 5, 9, 14,
19, 21, 23 228:2, 4,
6, 13, 16 229:10
230:18
paper 12:13 21:10
29:9 31:20 220:22
222:12
papers 210:1
paperwork 31:10
77:20 130:2 191:9
paragraph 87:9
88:1 89:6 137:21
142:22 145:10
164:7
pardon 33:3
parent 43:12
45:19, 22 46:8
47:11 52:9, 19, 22
53:23 54:3 56:12
57:14 59:23 60:23
61:13, 20 68:5
72:14 74:10 97:20
106:10 112:4, 18
113:11, 12 114:3, 7
117:20, 21 118:7,
10, 20 121:18
124:6, 7 125:2
149:14 152:1
159:4, 6, 7, 11, 15,
23 162:15 165:9
167:11 171:21
173:7, 18 193:7
200:22 206:23
214:2, 3, 6, 14, 15,
19, 21 215:1 216:4,
18 220:10, 16, 17
parenting 205:16,
19
parents 52:6
56:23 59:20 61:2
83:4 98:22 110:10
147:23 164:17
193:14 194:6, 9
196:16 199:12, 13,
19 200:22 206:20,
22 207:3 211:7, 14
213:23 215:22
219:7
parent's 159:9, 17
paries 39:20
138:22
parsing 100:10
part 8:21 10:18
16:5 19:13 52:21
58:3, 12 65:7, 23
71:8 78:21, 23
83:10 89:22 90:10
97:9 125:8 128:9
134:6 142:20
144:21, 22 153:1
158:16 160:13
163:3 169:1 173:1
174:22 182:7
185:4, 11, 14 186:8
189:2
particular 46:4
66:20 70:15, 22
72:21 83:2 85:3
137:23 154:6
172:9 188:6 204:1
212:20
particularly 17:18
68:9 84:7 85:5
parties 30:10, 11,
12 39:10, 22 55:6
56:22 122:4
136:17, 20 138:22
139:2, 3 141:5
163:14 166:1
177:1 181:2 194:1,
5 208:10 231:12
parts 123:15
131:16
party 46:19 58:8
64:22 65:7 66:7,
15 67:8 73:11, 15
83:5 84:19 87:5
90:9 91:6 92:2
101:5 102:8
103:15 104:1, 13
107:20 108:1, 22
110:14 129:3, 10
136:7 153:13
189:12, 20 193:19
196:8 198:11
224:2
PASCHAL 3:1
5:12, 12, 23 51:21
52:1, 2, 18 56:5
57:12 107:11
122:16 139:23
140:3, 6, 11, 15
156:23 161:6
228:5 229:15
230:13
pass 15:13 224:20
passed 49:3 169:20
passion 224:5
paste 163:7 186:16
patent 200:23
paternity 17:14
25:21 26:4, 6
28:13 29:11
167:13 202:3
pay 52:22 57:10
68:18 70:1 75:7
77:2 79:5 83:6
97:16 116:20
121:2 135:3
146:13 149:1
150:6, 8 178:12, 18
194:6 196:4 197:4,
21 198:2 199:14
201:18, 19 209:4,
12 214:7 217:18,
23 223:3
paycheck 194:1
218:8
paying 50:11, 13,
16, 17 61:8, 20
65:19 68:16 73:11
77:15 79:13 82:6,
11 83:6 129:6
134:8, 10 173:20
209:5
payment 66:20
67:11, 16 71:15
72:23 73:8 79:15
80:6 81:6 82:23
83:12 92:8 96:14
101:23 102:9
103:3, 15 104:1, 13
106:2, 16, 18
107:17, 20 108:1
218:8
Payments 64:22
65:7 66:3, 7, 15
67:7 72:3 78:15
81:23 82:13, 16
89:8 91:6 92:2
100:3, 17, 18 101:5
108:22 129:3, 10
189:20 202:16
206:18
pays 81:11 122:5
pedophile 216:1
Pell 115:19
PENNY 2:8 4:22
35:7 43:22 57:16
63:8 68:18 71:21
78:10 110:1
133:20 164:10
202:5
Penny's 64:6
people 9:9 11:10
16:14 28:14 33:10
34:15 35:3, 13
38:15 46:16 65:9,
12 66:1 68:18
74:4 76:23 83:14
109:7, 8 113:8
123:18 125:4
131:1 135:10
161:19 165:10
174:6 189:14, 17
192:3 200:18, 20
202:19 203:7, 23
204:5, 7, 8, 14
206:2, 6 208:20
210:5 213:20
219:14 221:16
223:10
people's 210:5
percent 60:2
61:13 80:20, 22
114:10, 13, 14
116:3, 17, 21
123:21 124:9, 22
125:3, 4, 6, 8 146:6,
7, 9 149:19 150:7,

| | | | |
|--|---|--|--|
| 8 157:16, 17, 18 173:9, 12 223:13, 18, 18 225:19, 20, 22 percentage 209:6, 7, 8 period 75:20 147:21 permanent 202:19 permitted 83:22, 23 201:11 Perry 2:16 person 14:6 16:16 45:9 46:21 50:17 53:5, 10, 12 55:8 60:8, 19 61:21 67:22 68:14 72:18 74:23 76:13 77:7 105:9 109:7, 9 166:16 167:3, 13 201:2 202:6 204:18 personal 40:7 99:16 193:10 personally 193:16 personnel 35:2 41:1 person's 15:9 pertinent 111:1 petition 55:12, 16 74:10 77:15 78:4 80:7 146:21, 22 petitioned 79:23 phone 7:12, 17 207:19 209:21 214:10 228:7, 10 phones 4:6 physical 40:19 57:2 94:5 123:2 124:5, 11 125:5, 23 pick 58:10 214:9 229:12 picked 174:9, 19 196:20 picture 140:18 piecemeal 50:7 189:11 pieces 49:7 place 80:1, 8 83:17 84:8 135:20 | 148:10 159:13 170:22 196:23 205:22 223:1 placed 134:17 167:17 198:2 places 123:17 150:13 152:7 plain 103:11, 12 plaintiff 120:12 plaintiff's 31:23 plan 152:3 planned 35:20 plant 166:21 play 174:23 194:6 198:12 playing 9:5 229:18 pleasant 109:15 please 4:7, 21 8:10 28:8 192:16 221:14 229:8 pleasure 17:9 plenty 207:12 plug 180:11 plugged 180:15 Plus 13:15 78:9 114:18 115:12 179:3 point 25:19 39:7 42:17 56:5 59:16, 23 75:9 76:18 81:14 88:10 91:23 125:7, 12 146:16 147:14 196:22 198:20 215:9 pointing 15:3 Polemeni 7:10, 14, 23 117:5 228:12, 15 POLEMENI-via 2:16 policies 91:5 policy 91:10, 11 92:7, 20 131:2 173:20, 23 174:6 179:8 pops 16:3 populate 12:5 27:2, 20 29:15 41:19 | populated 13:13 20:20 21:3, 8 populates 27:13, 13, 14 portion 156:1 157:4 175:18 177:19 186:4 191:10 position 72:15 198:3 positives 48:17 possibility 164:14 possible 54:10 99:3 164:22 possibly 21:19 53:12 54:8 64:4 93:23 125:1 post 80:15 posted 80:16 postpartum 223:19 potential 43:13 45:20 potentially 59:10 potentials 48:12 poverty 202:20 power 206:23 powerful 193:13 practical 96:6 141:20 148:4 practice 6:4 51:10 57:4, 6 practicum 51:8 practitioner 62:11 136:1 practitioners 96:7 125:18 Preexisting 170:12 218:16, 20 prefer 109:8, 9, 13 227:16 preferred 171:16 prefers 29:17 pregnant 46:18 223:18 premised 112:3 118:19 premium 175:13, 21, 22 177:23 217:15, 22 | premium, 175:8 217:11 premiums 175:8 prepare 213:3 preponderance 45:23 48:15 50:2 present 163:14, 15, 15 169:7 191:22 193:10 presented 42:17 64:20 111:18 112:11 138:17 163:2 168:10 186:3 189:7 190:21 191:21 presently 107:10 Presiding 2:12 press 4:16 presumption 60:3 138:1 pretty 11:3 113:7 122:20 123:3 155:18 158:23 163:7, 9 186:16 222:20 230:8 prevailing 159:23 primary 124:5 principal 81:12 printed 38:11 prior 44:6 105:16 prison 197:20 prisons 205:23 privacy 213:5 private 15:10 20:15 96:7 151:6, 13, 18 152:9 171:18 172:7 173:6 pro 17:19 20:3 34:15 65:9 83:13, 13 174:21, 22 175:18 177:18, 19 212:21 213:1, 6 proactive 37:9 probably 14:2 49:7, 20 59:3, 12 62:10 70:16, 20 71:4 84:13 93:7 101:12 115:20 199:3 228:17 |
|--|---|--|--|

| | | | |
|--|--|--|--|
| problem 10:9 15:4 31:16 37:10 57:23 69:21 70:4 71:12 73:2 75:14 76:16 111:1, 2 112:13, 20 113:23 117:13 123:13 174:12 200:15 211:3 | provided 94:13 143:14 171:22 176:19 | 177:4, 23 178:4 182:6 183:1, 6, 17 186:17 187:17 197:23 201:14 202:23 211:11 216:3 220:21 | rata 174:21, 22 175:18 177:18, 19 |
| problematic 123:9, 23 | provider 171:17 | puts 19:5 37:12 72:14 | rate 222:21, 22 225:16 226:1, 3 |
| problems 17:14 69:13 110:20 199:1 | providing 173:8, 18 | putting 39:3 56:9 69:15 70:18 202:19 207:2 | rates 222:18, 20 |
| proceed 15:1 57:15 | provision 49:1, 2 72:21 | < Q > | rationale 86:21 106:9 |
| proceeding 137:19 213:21 | provisions 170:3 | qualifies 97:9 | reaches 47:8 |
| proceedings 1:11 231:10 | public 13:17 15:10 16:12 18:16 20:14 35:6, 16 38:10 39:21 151:13, 17, 18 152:10 171:7, 7, 18 177:11 191:6, 11 203:19 204:12 206:13 | question 19:16 20:2 24:10 28:7, 10 45:10, 11 51:21 54:23 59:6 74:8 75:2 81:2 97:1 104:16 107:2 130:20 139:23 161:6, 12, 19 162:3 164:9 169:5 172:4 178:21 187:1 194:10 213:8 214:11 229:16, 21 | read 6:12 54:17 67:6 72:20 100:3 115:1 130:17 138:13 143:6 145:13 154:11 159:1 160:10 171:1, 13 173:2 180:12 181:17 183:2, 10, 11 185:23 186:20, 20 187:8, 9 215:5, 6 |
| process 13:8 28:5 46:4 105:1 211:11, 12 | pull 13:21 15:23 19:2 | questions 9:21, 23 16:19 34:20 44:22 45:6 46:15 47:20 67:15, 20 85:4, 6 133:3 150:16 153:3 178:19 179:21 207:17, 18 212:2 214:5, 9 | reading 188:1 |
| processing 18:4 | pulling 167:1 | quickly 99:3 212:14 | reads 9:3 |
| productive 225:6 | purpose 11:4, 20 32:14 | quite 87:10 88:15 155:13 221:5 | ready 65:3 |
| Professor 2:8, 8 | purposes 155:21, 23 156:6, 8 188:18, 20, 21 | quorum 8:3 | real 57:23 69:5 93:21 122:21 168:2 201:22 |
| profitably 82:18 | pursuant 79:2 105:15 107:10 110:11 152:2 | < R > | reality 60:7 70:8 165:9 |
| program 15:6 18:18 47:6, 12 50:16 203:8, 9 | pursued 48:10 | Radio 200:6, 7 | realize 215:4 |
| proper 141:1 209:22, 23 | purview 42:3 198:6 | Railroad 90:21 101:19 153:15 | realized 182:1 |
| properly 211:1 | pushes 221:11 | raise 179:12 | really 9:13 25:11 47:9 49:8 58:21, 22 73:17 79:7 97:12 113:4, 14 114:8, 13 116:11 122:11 123:22 132:12 171:5 185:22 210:21, 22 212:14, 14 218:5 219:21 223:3 |
| proportioned 174:5 | put 11:10 12:15 16:4, 14, 16, 22, 23 19:3 22:19 24:1, 21 25:9, 10 27:12 30:20 31:10 35:10 36:23 56:18 69:7, 16 70:10 72:16 83:18 86:15 87:15 90:22 92:11 93:21 95:10, 14 103:12 124:9 134:3, 5, 8 135:4, 21 140:10 141:15 142:11 153:8, 21 154:16 161:18 162:4 163:10, 17, 19 168:5, 7 172:20, 23 | raised 45:2 46:6, 14 47:21 67:21 69:12 84:23 85:5 109:1 123:13 205:8 | reason 65:8 105:8 111:18 123:23 136:16 137:7, 10 139:8 141:21 146:2 147:17, 19 148:19 161:12 179:12 198:13 215:21 |
| proposal 66:23 69:2 128:12 | put 11:10 12:15 16:4, 14, 16, 22, 23 19:3 22:19 24:1, 21 25:9, 10 27:12 30:20 31:10 35:10 36:23 56:18 69:7, 16 70:10 72:16 83:18 86:15 87:15 90:22 92:11 93:21 95:10, 14 103:12 124:9 134:3, 5, 8 135:4, 21 140:10 141:15 142:11 153:8, 21 154:16 161:18 162:4 163:10, 17, 19 168:5, 7 172:20, 23 | | reasonable 45:21 55:3, 5 152:4 |
| propose 107:3 134:12, 16 | | | |
| proposed 7:3 10:6 19:10 36:3 42:12 43:4, 10, 21 107:16 125:9 130:6 131:9, 17 134:13, 15 153:17, 18 176:6, 22 184:14, 20 188:2, 8 189:6 | | | |
| protect 41:23 | | | |
| protection 26:16 | | | |
| prove 166:15 | | | |
| proves 45:22 | | | |
| provide 52:9 144:5 145:16 | | | |

| | | | |
|--|--|--|---|
| 172:17 173:4, 7 175:3 reasoning 188:2 reasons 45:15 50:20 139:12 181:7 213:5 rebut 138:1, 5 receipt 67:18 69:22 70:3, 6 87:16 95:10, 12 96:4 receive 65:11 71:15 103:14 104:1, 12 105:9 107:20 108:1 149:15 received 67:11, 16 72:3 73:8 79:5 81:23 82:1, 4, 16 89:14 96:14 100:3 101:23 103:3 105:23 106:17 107:17 157:9 207:13 receives 89:8 97:4 150:2 receiving 46:9 82:8, 17 83:19 97:18 98:23 114:7 recognize 9:9 17:10 recollection 46:3 recommendation 22:16, 21 24:8 44:6, 9 189:5, 19 226:6, 6 recommendations 17:10 179:14 recommended 42:21 128:20 180:21 recommending 33:20, 21 record 7:6 20:16 39:21 41:7, 17 65:19 92:4 127:10 133:10 137:18 139:4 141:6 142:15 159:20, 21 163:17, 19 167:16 | 182:12 183:20 185:12, 14 194:19 195:1 220:10 records 212:17 recourse 199:19 red 40:4 203:14 redact 20:12, 13 38:2 redacted 13:20 21:5 24:22 35:1, 15 36:22 38:10 40:7 redacting 39:10 redaction 20:22 21:12 34:18 36:14 37:13 reduce 53:23 81:5 reduced 77:5 reducing 82:5 refer 93:1 113:9 referee 161:15 213:21 222:10 reference 36:13 46:7 52:6 93:3 130:16 132:7 182:13 referenced 73:4 references 184:18 referring 93:3 refers 184:3 reflect 7:6 reflected 51:19 reflecting 98:11 reflects 98:6 Reform 30:2 regard 46:10 regarding 87:14 regardless 9:11 144:8 145:21 146:3, 8 147:8, 22 registries 11:19 registry 11:17, 18, 20 15:14, 14 17:1, 2 regs 18:8 136:23 regulated 207:20 regulation 11:15 128:7 132:18 133:1, 8 137:13 144:12, 13 146:16 | 148:12 151:2, 16 153:10 158:20 160:7 163:8, 21 164:2 167:18 168:2, 6 169:14 171:19 172:1, 15, 18 178:15 184:18 186:10, 17, 20 187:10 188:5 215:19, 19 218:18 regulations 11:4 63:16 130:8, 10, 18 131:10, 11, 14 132:2, 13 135:2 136:22 148:3, 5 153:2 168:22 170:20 172:22 191:20 rehabilitate 51:2 rehabilitative 51:1 reject 170:7 rejected 84:17 relates 74:15 112:16 relating 26:2 48:20 57:20 66:14 109:2 111:22 128:12 Relations 2:2 9:2, 7 10:9, 11 17:15 21:21 22:6, 14, 18 23:8, 9, 15, 19 26:18 29:11 30:4 33:15 34:2, 6 35:23 relationship 207:1 relay 19:21 release 4:15 197:10, 18 relevant 160:2 relied 66:17, 17 relief 96:12 remain 10:15 remains 83:7 remember 39:1 49:19 154:15 156:9, 16 remembered 174:15 remind 4:5 | remove 10:14 22:4, 12 removed 173:13 217:11, 14 rename 17:4 renew 53:15 repeat 207:5 repetitive 132:3, 5 replace 230:11 report 19:17 21:13 64:1 127:15 reported 231:7 Reporter 1:18 231:4, 15 REPORTER'S 231:1 repository 30:8 represent 189:13 213:15 representation 214:5 representative 45:7 213:19 representatives 213:12 represented 35:3 request 24:5 requests 19:20 require 14:17, 21 18:11, 11 48:15 135:2 137:1 143:1, 12 161:9 162:4, 8 163:3, 16 required 133:13 134:2 136:9, 9 138:7, 11, 19 151:23 161:22 170:3, 5 178:5 183:7 185:11 210:18 225:3 requirement 92:5 142:2 requirements 165:6 requires 11:16 26:20 34:9 37:23 38:6 222:12 requiring 165:8 reread 47:14 164:13 |
|--|--|--|---|

| | | | |
|--|---|---|---|
| resend 54:7 129:3 189:19 | reviewed 66:20 82:21 138:18 148:7 | 37:11 42:13 43:5 57:21, 22 61:19 63:19 65:23 70:11 78:13 79:2, 7 85:3 86:15 96:9 97:10 99:10 100:16 101:8 105:3 107:3 122:17 125:9 131:6, 19 132:2, 21 138:14, 15 139:6 145:12 148:8 150:23 152:7 160:6 167:17 168:7 170:11 176:20 181:18, 21, 23 182:1, 10, 17, 21 183:23 184:14, 17 186:18, 20 187:8, 9 189:6 208:3 | 52:8, 18 56:12 92:11, 20 98:13 103:11 107:12 109:17 114:16, 23 120:3, 4 124:2 142:6, 8, 17 143:8 145:15 157:13 161:19 162:3 163:6 182:6 183:16 199:5 203:16 216:19 217:15 |
| residence 58:10 159:17 167:22 | reviewing 10:6 138:20 145:12 181:4 | ruled 169:11 | says 10:18 21:22 23:8 28:11 30:1 31:8 43:2 45:16 77:9, 18 87:16 92:2 99:14 106:15 110:1 115:1 118:17 124:21 128:19 129:17 136:11 137:17 138:15, 16 139:10, 15, 16 141:4, 23 142:22 144:4 148:12 151:1 154:10, 12 157:16 160:14, 20 162:13 163:8, 10, 22 172:7 177:18 182:16, 22 183:17, 22 185:13 188:9 215:19 218:18 219:2 222:12 |
| resolve 39:15 | reworded 74:18 | Rules 8:14 17:11 18:21 22:16 39:13 42:13, 21 43:9, 21 44:21 58:1 130:7 185:10 | scan 12:19 20:11 |
| Resources 2:5, 7 30:7 65:15 | rice 147:12 | running 216:18 | scanned 19:6 20:8 36:21 |
| respect 193:9 | rid 24:17 125:15 | runs 211:17 | scenario 73:12 118:3 124:2 |
| response 6:16 36:11 64:8, 18 99:17, 19 102:23 108:18 110:7, 15 129:23 150:18 172:22 173:16 184:23 189:23 190:23 214:15 228:20 | right 4:7 7:15, 22 14:8, 17 21:17 28:2 30:16 31:2, 7, 9 33:7 36:5, 17 37:22 42:5 43:1 44:3 49:17 51:18 53:17 56:15 59:20 60:17 61:10 63:19, 22 64:19 70:7 71:4, 10 73:1, 14, 20 77:14, 23 86:8 90:11 92:18 93:15 94:11 95:6 96:13 98:1 101:22 103:16 107:15, 15 108:5 110:16 115:14 120:1 122:16 124:15 127:18 131:22, 23 137:13, 16 143:16, 17 145:8 155:11 157:6, 7 158:9 164:6, 7 168:1, 23 176:15 185:7, 8, 15 186:12 189:4 191:1, 5 198:22 201:21 208:8, 11 223:13 225:12 226:9 | rush 99:1 | scenes 13:10 15:18 |
| responses 43:16 | right 2:18 112:5 118:21 208:21 210:6 | Saturday 200:7 | schedule 112:2 118:18 192:8 224:14 225:3 |
| responsible 173:8 | Rights 2:18 112:5 118:21 208:21 210:6 | Saturdays 201:8 | scheduled 93:17, 18 98:18 |
| responsibility 46:21 | river 207:4 | SAULSBERRY 2:4 5:7, 8 130:23 227:20 | School 2:8 6:3 46:18 51:6, 8, 9 53:6 55:20 56:13, 14 57:3 58:6, 9, 11 60:9, 12, 19 140:20, |
| responsible 39:10 202:7 | road 72:10 76:10 | save 20:13, 14 72:16 | |
| rest 25:16, 20 28:22 84:18 | rolling 200:14 | saw 111:2 | |
| restaurant 196:17, 23 | Roman 83:22 84:1 | saying 12:15 13:1 14:22 23:11 38:19 | |
| restricts 158:6 | roof 219:3, 10 | | |
| resubmit 55:7 108:21 129:10 | room 198:9 199:2 | | |
| resubmitting 87:4 | roster 229:5 | | |
| result 75:5 | Rule 7:4 9:15 10:6, 13 30:1 | | |
| results 61:12 231:13 | | | |
| rethink 84:14 | | | |
| retire 105:11 | | | |
| Retired 2:3 | | | |
| Retirement 65:16 100:14 101:19 102:18 154:14 156:4 157:1, 3, 19 | | | |
| return 42:8 | | | |
| returning 209:21 | | | |
| reversed 155:16 | | | |
| review 54:10 63:23 138:23 139:15 146:11 162:2 179:4, 4 189:5, 9 | | | |

| | | | |
|--|--|--|--|
| 20 195:11 221:4, 22 224:14 225:2 SCOTT 3:8 5:16 104:18 screen 20:12 se 17:19 20:3 34:15 65:9 83:13, 13 212:21 213:1, 6 sealed 18:15 41:22 search 55:9 second 44:9 64:11 99:6 108:11 109:22, 23 110:2 145:10 177:7 198:14 223:6 seconded 108:13 seconds 64:13 191:3 198:19 206:4 211:21 218:11 225:8 section 88:14 110:11 137:22 159:1 176:2 182:17 183:23 185:13 Security 11:11, 22 12:6 13:19 14:19 15:9 16:10, 23 18:6, 12 20:6, 7 21:2 24:14, 15 26:3, 20 27:2, 12 34:18, 23 36:14, 21 37:8, 22 38:6, 12, 17 39:3 65:16 72:22 81:23 82:4, 8, 13, 18 87:15, 20 88:22 90:14, 19 91:2 101:2 102:18 106:3, 17, 19 153:5 194:2 200:16 203:20 209:9 212:18 213:13 see 6:5 9:17 12:23 20:17 23:10 51:14 53:18 54:18 56:5 60:6 61:12 62:6 63:16 65:15 66:10 96:8, 20 98:13 114:1, 15 116:6 124:1 131:6, | 6 132:3 133:5, 16 134:13, 13 138:10 141:20, 21 143:23 150:14 151:12 152:6, 8, 8 158:21 166:23 167:5 170:12 171:9 175:4, 19 176:21 180:2 182:16 184:14 185:12 190:18 204:20 211:6, 14 213:2, 7 223:17 226:2 230:20 seeing 174:15 210:3 seek 83:16 seeking 28:12 46:12 60:1 82:10 128:23 159:21 190:13 seen 186:5 191:16 226:11 sees 136:7 seizures 221:8 self-represented 24:20 25:3, 15 36:20 86:5 semantic 171:6 semantics 172:5 senators 206:16 send 9:23 17:23 49:6, 9 54:16 62:1, 5 85:11, 16 129:14 140:23 141:12 178:6, 10 190:2 228:17 229:9 sending 99:4 sends 50:9 sense 46:16, 22 75:6 111:15 112:13 165:12 sent 7:18 42:14 66:12 99:6 111:21 112:14 115:8 119:5 128:2, 9, 15, 21 153:17 197:3 sentence 87:15 160:10 222:23 sentences 218:22 | separate 72:17 79:6 91:11 144:19 separately 33:8 September 155:9 225:21 230:5 serious 223:8 service 171:15 services 171:22 set 92:1 139:12 205:8, 11 231:10 sets 220:11 setting 88:10 209:22 seven 51:4 80:21 171:9 174:23 192:4 197:5 201:15 220:11 225:19, 22 severe 221:8 sexual 194:16 223:15 shaking 122:14 share 204:3 224:20 shared 205:16 215:11 216:11 217:3 sheet 9:4, 8, 16, 18, 20, 20 10:12 22:19 25:22 28:11 30:6, 9 Shelby 165:22 Sherri 193:2 Sherrie 192:9, 11 shift 198:15 shocked 130:4 short 212:8 shorter 203:3 short-term 91:9 show 19:11 94:8 127:4 167:13 194:18 200:7, 8 202:21 213:5 216:16 226:7 showed 195:7 showing 77:20 shown 16:17 shows 27:5 201:6, 7 sicko 216:2 | side 16:1 40:4, 9 58:6 77:18 187:9, 9 sign 197:9 signed 32:2 silent 4:7 sill 27:1 silly 28:10 simple 116:10 118:9 120:2 122:20, 21 simpler 108:4 120:9 122:19 simplicity 111:10 114:12 122:23 simply 143:21 SINCLAIR 3:8 8:7, 8, 11 11:6 12:23 13:4 17:8 19:15 22:15 24:23 25:18 26:7, 11 27:7, 18 28:2 29:4 30:16, 22 31:2 33:19 34:1 37:1, 23 42:7 single 184:16 Sir 4:10 28:8 54:14 78:3 140:2, 18 163:5 168:4 174:13, 17 206:3 211:21 sit 18:23 54:17 212:4 site 203:17 sitting 165:21 167:7 193:8 204:7, 9 229:19 situation 67:21 143:15 147:23 152:10 196:8 198:22 212:20 213:10 221:20 224:19 situations 28:15 68:14, 18 78:14 158:7 198:8, 12 221:19 six 47:8 74:17 76:1, 5, 9, 9 80:1, 3 |
|--|--|--|--|

| | | | |
|------------------------------------|------------------------------|----------------------------|-----------------------------|
| 109:2 110:9 | 113:18 124:17 | 101:18 102:17 | stay 34:4 35:23 |
| 170:11 178:12, 14 | 136:16 165:16 | staff 38:22 | 226:16 |
| skills 159:18 195:9, 16, 17 | 187:9 223:22 | stand 199:7 | staying 60:8 |
| skip 135:12 160:13 | sounds 19:15 | standard 49:23 | step 123:6 125:14 |
| skyrocketed 217:18 | 31:15 157:7, 11 | 113:9 115:5, 18, 19, | 126:5 |
| slash 23:21 24:1, 6, 9 | sources 87:5 | 20, 21 117:6 | STEPHANIE 2:21 |
| slavery 202:22 | spans 69:10 | 124:13 173:12 | 5:2 6:1 20:1 |
| sledgehammer 40:1 | speak 43:20, 23 | standardized | 34:16 126:20 |
| Smith 41:9 131:4 | 44:5, 15, 20 45:3 | 114:18 165:16, 17 | 127:9 227:3 |
| Social 11:11, 22 | 111:12 117:13 | 181:14, 19 | Stephanie's 6:2 |
| 12:6 13:19 14:15, | 129:22 193:5 | standards 116:1 | stepmother 213:10 |
| 18, 23 15:9 16:10, | 195:1 199:3, 23 | Standing 7:3 56:10 | stepparent 193:8 |
| 15, 17, 23 18:6, 11 | 215:14 220:8 | standpoint 141:20 | stepparents 193:15 |
| 19:2, 4 20:6, 7 | speaking 7:1 56:8 | star 214:10 | stepped 7:7 |
| 21:2 24:14, 15 | 193:18, 20 198:10 | start 4:20 25:21 | Steve 63:10, 11 |
| 26:2, 20 27:1, 12, | special 74:19, 21 | 43:17 58:1 79:12 | stick 57:18 |
| 22 34:18, 23 36:14, | 75:1 109:10, 12, 17 | 124:18, 23 125:19 | stipulate 135:10, 12 |
| 21 37:8, 22 38:6, | 110:11 | 131:14 158:23 | stipulated 166:1 |
| 12, 16 39:3 65:16 | specialized 224:18 | 162:17 176:22 | 182:18 183:4 |
| 72:22 81:23 82:4, | specific 18:17 | 189:14 226:17 | 184:1 |
| 8, 13, 17 87:14, 19 | 19:19 45:10 49:2, | started 8:16 9:5 | stipulates 230:8 |
| 88:21 90:14, 19 | 21 90:19 102:9 | 82:5 106:3 130:4 | stipulation 133:10, |
| 91:2 101:2 102:18 | 137:18 154:9 | starting 8:19 | 14 141:3 165:4 |
| 106:3, 17, 19 153:5 | 156:12 159:14 | starts 27:19 28:3 | 210:15, 17 |
| 194:2 200:16 | 162:14 195:2 | 69:1 90:16 218:18 | Stipulations 133:8 |
| 203:20 209:9 | specifically 67:1, 4, | STATE 1:3, 14, 19 | 138:14, 16, 17 |
| 212:17 213:13 | 15 78:13 148:12 | 9:3 11:16, 17, 17, | 142:23 182:2, 4 |
| Socials 21:16 | 154:23 | 19 15:14 17:1 | 184:12 185:4 |
| society 225:6 | specify 161:10 | 88:11 94:17 | 210:13 215:18 |
| solve 32:22 | specifying 162:5 | 107:11, 12 113:4 | 217:9 218:19 |
| somebody 47:5 | speech 221:2, 2 | 121:17 123:15, 17, | stop 81:13 125:14 |
| 50:12 51:2 56:11 | spend 112:18 | 22 138:3, 6 145:19 | 206:8 |
| 77:15 78:7 96:12 | 205:12 211:7 | 160:19 187:4 | stopped 77:5, 6 |
| 99:14, 14 146:13, | 224:23 | 193:3, 22 197:11 | 180:1 |
| 21 149:17 165:14 | spent 70:16, 20 | 199:17 207:20, 22 | stops 139:9 |
| 167:7, 10 190:12 | 197:5 198:16 | 209:5, 8 210:17 | stories 200:4 |
| 230:11 | 213:12 | 231:2, 5, 16 | 201:10, 11, 12 |
| somewhat 83:1 | split 216:5, 7 218:1 | stated 93:4 | 206:11 |
| son 197:21, 21 | spoke 46:6 | State-level 2:6 | stressed 224:3 |
| 221:7 | spoken 193:5 | statement 73:6 | strictly 23:17 |
| soon 6:6 190:2 | sport 228:9 | 84:22 | strike 10:7 36:4 |
| sorry 73:15 | spot 154:16 172:9 | statements 138:23 | 95:10, 11, 14 |
| 100:10 107:23 | spouse 53:8 | states 113:21 181:6 | stripped 157:3 |
| 120:22 129:5 | spring 226:17 | statewide 18:18 | struck 21:21 |
| 149:4 214:3 | spur-of-the-moment | statistics 165:1 | 151:12, 14, 15 |
| sort 18:19 44:20 | 224:4 | status 139:1 | 152:3 158:21 |
| 58:14 65:18 71:17 | SSDI 76:2 77:19 | statute 11:15, 16 | 160:6 171:20, 21 |
| 92:1 97:6 102:16 | 100:15 101:19 | 26:20 50:21 | 172:19, 20 173:2, 5 |
| | SSRI 100:14 | statutes 63:17 | 175:7 177:4, 22 |
| | | Statutory 145:9 | |

| | | | |
|--|---|--|---|
| 183:10, 12, 13, 22 184:6, 7 structure 206:18 structured 122:17 STUART 2:10 5:3, 3 10:4, 5 21:23 22:2, 7, 11 34:3 39:6 42:2 44:23 45:5 48:20, 21 84:23 101:11 105:21 117:8, 12 123:12 147:13 149:7, 23 150:12 169:6, 18 178:21 179:11 185:22 189:11 190:3, 7 227:12, 13 230:2, 15 Student 222:22 study 111:13 stuff 179:9 sub 115:16 subcommittee 49:19 62:4, 9, 23 63:5, 23 65:6 127:4, 16 129:1, 14 subject 10:19, 22 25:8 41:12 83:2 177:20 193:17 subjective 136:13 submit 125:9 submitted 65:2 111:3, 14 165:3 subordinate 208:20 Subsection 45:14, 16 74:9, 15 144:4 145:3, 4 188:9 subsequent 194:23 subsequently 195:20 subsidized 168:15 subsidy 110:9 substance 187:19 substantial 221:10 substantially 124:21, 22 substantive 74:17 144:1 | substitute 55:22 94:1 108:6, 20 109:20 substituting 129:11 subtract 119:21 subtracted 96:18 sudden 46:19 68:22 149:10 sufficient 138:1 suggest 62:11 93:19 126:10 153:7 suggested 45:13 90:13 95:9 96:12 131:13 suggesting 42:19 suggestion 46:5 96:23 135:18 141:14 suggestions 80:13 95:23 105:5 suitable 22:6 sum 76:14 78:18, 21, 23 81:6 89:15 90:5 summary 16:6 summer 112:6 115:6, 12 118:22 119:9 summers 224:15 summertime 225:2 sump 76:15 79:6 96:10 sums 89:11 superiors 209:16 supplement 166:2 SUPPORT 1:2, 13 2:4, 6, 14 4:4 7:2 9:4, 7, 11, 19 10:7, 11, 15 11:5, 9 16:20 19:13 21:19, 22 22:1, 12, 18 23:8, 10, 15, 17 26:10, 17 28:13 30:2, 6 33:1, 6, 17 36:1, 5, 18 41:19 46:23 50:8 54:1, 21 57:18, 19, 20 59:10 66:9, 21 67:9, 9, 12 71:20 | 72:4, 8 73:9 77:3, 4, 8, 10 78:8 81:9, 9, 12 82:6, 10 83:6 86:8 87:6 92:3, 6 96:15 97:17 106:14 110:4 112:2, 7, 16 113:5, 6 118:19, 23 130:7 132:11 133:12 134:18 137:20 138:7, 21 139:4, 18 141:7 142:19 144:10 145:13, 22 146:4 147:1, 15, 19, 21 149:20 151:19 155:21 156:7, 9, 12 157:14 158:13 159:8 160:16 165:16 169:3 170:13, 18 173:5, 8 177:21 178:7, 13, 18 180:5, 9, 21, 22 181:11, 14, 16, 19, 21 182:8, 11, 14, 19 183:19 184:2 188:13, 19, 22 190:15 191:18 194:7, 11 196:4 197:4 198:3 199:14 200:8 201:7 202:22 204:18 205:6, 7 206:17 208:6, 6, 8, 10, 20, 23 211:9, 11, 13 218:17 220:18, 23 223:23 225:19 231:8 supported 46:2 supposed 74:23 75:7 78:1 97:16 135:13, 19 137:3 140:4, 15 141:23 142:18 157:4 162:20 185:20 230:8 Supreme 2:11 3:2 4:5 42:16, 18 43:20 44:4 47:21 49:9 54:9 62:2 66:13, 19 108:23 | 117:5 128:10 169:16 191:23 230:3, 14, 15 sure 5:22 19:12, 17 22:21 38:19 42:23 44:1 62:15 65:12 87:11 109:16 115:19 126:6 127:2, 8 140:16, 18 148:7 156:16 172:16 178:17 187:23 192:5 209:22 210:23 224:1 229:7 Survivor's 65:17 suspended 74:11 swat 40:1 sweet 212:9 system 20:9 21:3 27:19 80:15 88:16 200:11 206:9 219:1 < T > table 6:10 126:10, 23 127:14 tabled 216:6 tactics 204:4 tags 229:11 take 21:9, 12 22:15, 21 24:12, 16 49:1 69:7 85:20 86:10 93:9, 11 97:7 101:1 114:17 122:9 138:4 159:13 162:14 170:22 183:16 192:17 198:23 199:18 210:7, 9 211:18 221:15, 18 222:16 223:7, 20 taken 1:17 154:13 173:1 194:14 195:21 196:7, 18 197:1, 7 198:5, 9 199:13, 16 201:19 209:3, 7, 23 215:7 takes 18:17 68:1 159:13 221:9, 9 |
|--|---|--|---|

| | | | |
|--|---|--|---|
| talk 86:16 120:4 167:15 200:6, 13 205:1, 2 210:21 212:12 225:13 | testimony 163:13 166:17 167:2 | 62:16 65:6 70:4, 7 71:7 72:6, 13 73:1, 7, 9, 12, 17, 18, 19 74:17 75:5, 15 76:18 78:11 79:8, 17 83:3 84:13 87:21 88:6, 15, 19 89:2 90:17 93:6, 13, 22 96:2 97:10, 11, 19 98:12 99:10 101:1, 11 102:5, 15 103:10 104:7 105:8 107:6, 7 109:8 111:6, 7, 17, 19 112:13 113:15, 22 116:7, 8, 9 117:18 119:15 120:2, 9 123:9, 10, 13 127:17, 21, 23 129:17 130:19 135:12 136:2 137:2, 7 138:11 141:11 143:3 148:1, 2 149:8 156:21 158:1, 11 160:22 161:17 162:8 165:20 166:17 169:18, 21 174:20, 22 176:3, 16 178:13, 15 179:16 180:1 183:4, 5 185:17 186:4 189:16 222:17 229:1 | 193:19, 23 194:4 196:8 198:11 Thomason 125:22 THOMPSON 2:12 5:4, 5 28:6, 9 32:23 33:4 53:18 58:17 69:18, 19 70:5 71:7, 11 72:6 73:14 75:22 81:17, 19 91:3, 13 92:10, 15 96:1, 2 102:11 104:3, 8, 9 119:15, 17 140:22 143:7 154:15, 17, 21 155:2, 14 158:1 162:7 166:22 169:5 173:14 174:8, 11, 14, 18 175:1 227:15, 16 thorough 150:14 thought 28:3 34:14 39:18 45:7 46:4 71:3 73:23 83:10 84:6 85:13 98:20 111:20 128:2 136:4 153:7, 11, 19, 20 154:1 156:11 173:14 174:1 185:20 209:17 thousand 50:15 216:12 three 13:19 19:2, 4, 10 21:4 44:10, 10 45:13 60:9 67:5, 10 71:12 72:3 84:16 87:2, 3 96:14, 19 118:17 128:3 131:1 143:20, 20 145:8 164:5 168:23 174:6 196:17 throat 117:13 throw 17:21 37:5 39:17 156:18 222:15 throwing 142:7 ticket 21:1 tickets 20:23 |
| talked 71:3 164:14 182:2 212:15 215:10 217:8 | text 184:17 | | |
| talking 16:7 27:16 34:16 63:13 73:11, 13 74:16 86:4 92:13 101:18 102:12 106:3 114:8 116:12 122:1, 10 126:8 133:5 140:11 148:16 154:7 157:11 162:17 166:7 181:10 204:1, 7 | Thank 6:8, 23 42:6, 6, 7 44:12 64:12 127:19 129:7 150:19 165:19 192:14, 19, 21 199:20, 22, 23 207:7 220:1, 7 225:10, 11 230:18 | | |
| talks 112:15 133:9 | that'd 63:2 | | |
| tattooed 155:11 | theoretically 26:22 | | |
| taxed 209:10 | therefrom 139:8 | | |
| taxes 209:2, 5, 7 | thereof 231:13 | | |
| teach 140:19 224:11, 21 | thing 12:1 20:18 21:7 51:7 54:5 65:18 79:9 83:3 85:1 90:17 91:12 100:23 113:14, 19 139:21 162:12 170:9 173:3 181:23 185:3 187:21 206:15 208:5 209:1 213:4, 14 214:12 215:10, 13 222:13, 17 223:5, 6 224:8 229:3 | | |
| teacher 55:22 | things 27:15 29:2 128:2 130:5 132:5 153:15 160:8 162:17 194:3, 17 203:7, 13 207:4 208:3 209:15 212:12, 18 213:11 215:12 217:9 219:22 220:19, 21 225:4 | | |
| teaching 51:5, 10 55:20 57:4, 6 | think 6:19 7:16 16:13 21:4 22:2, 3, 10 23:1 24:19 29:4 31:12 34:3, 10 35:7, 9, 22 37:6 38:15 39:6, 13 42:2, 4 47:14, 17 48:1, 20 50:5 52:6, 11 55:12, 17 56:21 57:17, 19, 23 58:4, 12 60:13 61:3, 5 | | |
| technically 125:1 | | | |
| teenage 206:19 | | | |
| telephone 2:16 | | | |
| tell 8:15 63:19 80:14 84:22 149:2 155:8, 10 204:21 215:16, 20 216:23 | | | |
| telling 14:16 169:13 | | | |
| tells 134:18 | | | |
| temporarily 77:5 | | | |
| ten 64:21 66:6 67:4 71:13 84:16 203:12 213:13 | | | |
| Teresa 8:12 29:20 | | | |
| term 56:8 | | | |
| terminologies 216:12 | | | |
| terminology 200:21 | | | |
| terms 73:19 106:4 201:1 | | | |
| testify 164:18 | | | |

| | | | |
|---|--|--|--|
| Tiffany 131:4 212:5 | 205:13 | 99:12 103:10 105:7 116:9 167:8 200:12 | 161:1, 18 162:1 168:18 |
| tight 74:4 | topic 36:10 145:12 | tuition 50:12 | underlined 65:2 133:16 144:1 151:12 158:22 |
| Tim 131:4 | total 22:3 177:22 178:12 202:17 | Tunnell 1:18 231:4, 15, 15 | understand 15:8 18:9 56:12 77:23 79:21 87:11, 13, 21 89:12 113:23 147:11 149:5, 6 163:6 194:4 196:2, 11 211:8 219:21 222:11 |
| time 37:16 45:9, 21 48:14 50:18 51:17 54:20 55:4, 5 56:16 57:11 64:5 68:15 70:17, 21 75:19, 20 78:6 83:14 84:2 95:4 98:15 99:6, 13 103:17 104:6 115:5 116:4, 19 119:14 121:4, 12, 18 123:8 124:10 125:4 126:7, 11, 14, 19 130:4 132:6 136:14 137:9 154:6 157:23 164:14 179:10, 15, 17 183:2, 6 185:21 189:8 191:2 192:6 202:10 211:14 215:4 216:7 222:2 224:10, 23 229:13 | totally 205:13 224:2 | turn 4:6 42:11 85:16 133:20, 23 | understanding 12:14 13:18, 22 14:4 18:23 24:22 27:9 31:5 37:19 38:7 40:15 75:23 76:4 98:2, 4 107:8 129:15, 21 |
| timeframe 55:2 | touch 157:5 212:10 222:18 | turning 143:3 | understood 157:22 |
| timer 192:2 | touched 50:4 205:22 | Tuscaloosa 2:9 | unemployed 159:4, 11 162:10 221:16 |
| times 85:14 135:10 200:12 | traffic 20:23 21:1 | twins 197:21 220:12 221:1 | Unemployment 158:19 160:15 161:2 164:20 168:18 169:2 |
| title 9:16 196:10, 13 200:14, 16 202:14 203:21 204:4 205:2, 19 216:8 217:2 | training 43:11 45:18 46:1, 9 190:13 | two 5:21 21:20 41:12 42:20 50:15 52:5 56:9 57:5 58:9 60:17, 18, 20, 22 62:18 67:3 69:3 71:5 76:12 77:9 92:17 93:9, 12 111:8 115:17 119:10 122:3 129:2 133:7, 17 152:22 164:5 182:4 187:10 194:10 198:16 203:5, 11 207:3 213:22 218:22 220:11, 18, 23 221:1 225:14 | unfit 216:19 |
| today 7:8 17:3 18:23 21:18 35:20 38:1 126:11 187:2 191:11 193:6 199:10 207:15 | training-related 59:18 | type 54:20 91:12, 15 113:13 176:1 212:18 226:7 | unit 75:17 77:1 131:2 |
| told 6:7 14:7 16:14 69:6 85:11 111:20 213:4, 17 | transcript 6:12, 15, 18, 20 51:20 164:13 190:17 215:5 | typed 131:18, 20 | University 2:8 |
| ton 14:21 | transcription 231:10 | types 100:17 171:17 215:12 | unjust 136:12, 18 137:8, 22 |
| tool 20:11 21:12 | transcripts 121:8 | typo 152:17 | unpaid 81:8, 9 |
| tooth 131:3 | transfer 12:9 14:5 40:17 | < U > | unredacted 13:21 20:15 |
| top 9:19 10:21 25:9, 14 31:7 67:5 137:15 182:16 | transferred 14:12, 15 40:22 | Uh-huh 107:13 158:8 | unspoken 203:20 |
| | transferring 12:21 | Uh-uh 137:5 | update 229:9 |
| | translates 114:12 | ultimate 49:5 | updated 165:4 |
| | trash 204:8 | unable 161:20, 21 | ups 28:4 |
| | travel 136:14 | uncomfortable 99:4 | urge 221:14 |
| | treated 160:14 169:2 | underemployed 159:5, 12 162:11 194:13 221:16 | use 24:5, 8 26:14 29:1, 14, 18 30:17 32:9, 11, 11 40:12, 14 41:14, 18 46:8 52:8 53:1 69:21 100:19 111:9, 10 113:21 114:9, 12 116:1 120:19 122:21 138:20 |
| | trial 53:19 58:13 82:12, 14, 21 88:11 | underemployment 158:19 159:2, 3 | |
| | tried 10:14 140:8 | | |
| | triggering 101:2 102:17 | | |
| | trouble 39:2 | | |
| | truck 68:21 | | |
| | true 10:12 19:7 57:1 76:3 158:16 231:9 | | |
| | try 39:15 99:22 101:22 103:2 104:15 164:15 182:23 205:11 226:14 | | |
| | trying 39:7 52:4, 20 74:2 83:11, 15 | | |

| | | | |
|--|---|--|---|
| 146:6 158:5 182:7 183:5 194:8 200:22 215:23 225:5 229:12 usually 77:6, 8 96:8 167:2 utilize 117:16 utilizing 66:2 | vote 17:4 24:2 35:22 48:1 49:2, 4 64:4 85:2 109:3 voting 229:23 | 201:5 water 216:17 way 14:1 15:6, 17 17:12 18:20, 20 27:8 29:5 32:3, 9 49:22 54:19 63:15 67:6 69:2 72:20 74:1 79:12 80:15 85:3 89:2 93:6 97:6 100:17 103:11 105:6 107:4 109:15 132:7 136:5 155:18 161:8 162:12, 19 167:18 177:12 187:4 196:11 202:23 205:6 215:6 216:5 218:4 | 89:23 90:8 91:13, 17 93:6, 16 95:1 96:13 98:4 99:20 101:4 102:14, 15 113:3 115:15 119:7, 17 121:6 125:16 126:9, 17 128:4, 8, 11 129:15 130:13 131:3 133:18 136:21 138:13 154:17 155:7 156:17 159:21 160:9 166:7, 22 168:20 169:4 170:8 173:2 174:3 176:22 185:1, 9, 21 189:4 203:10 213:1, 6, 11, 17 215:17, 21 216:10 217:18 218:4, 7 223:3 225:12 226:13, 17 227:9 230:8 well-being 211:5 Weller 43:3 128:22 went 4:16 6:3 32:2 47:14 50:7 66:22 76:20 83:21 104:23 121:13 148:6 164:13 186:1, 4 201:16 210:12 216:23 We're 4:2 17:9, 12 18:12, 19 27:16 39:2 41:13 44:18 53:5 56:19 73:21 74:2 88:13 93:20 98:18 101:18 104:15 108:20 110:17 114:8 120:4 122:1, 10 129:3, 10, 13 132:9 136:11 142:10, 10 143:11 148:16 150:23 151:5 154:7 168:22 172:8 176:13 178:5 181:10 182:1 190:11, 14 191:22, 23 193:17 |
| < V > VA 157:16 valuable 168:12 varies 138:9 various 29:2 verbatim 130:18 186:15, 16, 22 version 20:15 versus 59:1, 18 81:22 92:20 100:22 101:17, 19 157:10 158:13 168:13 215:11 veteran 156:22 157:7, 10 200:9 Veteran's 65:17 90:20 153:4, 6, 8, 14 154:13, 22 156:19 186:9, 14 188:10 194:2 vetted 99:9 view 13:17, 21 15:10 16:2 18:15, 16 20:14, 15 38:10 99:16 violates 40:14 Virginia 113:4 127:5 Visitation 94:14, 17 112:1, 5, 6, 7, 8, 9, 22 113:9 114:18 115:12 118:18, 21, 22 119:1, 2 204:17, 21 205:1 216:10 visitations 119:3 voidable 135:15 voluntarily 159:4 162:10 voluntary 160:15 161:3, 4 169:2 | < W > wait 75:23 179:6, 14, 16 waiting 18:12 walked 23:4 161:14 walls 207:2 want 4:13 10:8 15:15 16:15 22:8 36:12 49:8 76:17 86:20 90:18 98:7 99:2 102:7 105:8 116:10 117:9, 16 120:23 121:1 123:19 132:15 133:4 137:12 139:11 143:13 144:13 148:7 160:8 166:17 168:6 169:23 170:7, 7 171:1 174:3 176:7 178:16 179:1 184:9, 15 187:22 188:2 191:19 193:15 195:15 196:12 202:1 205:2 206:15 207:15, 23 208:1, 10 209:15 210:10, 10 211:10 212:19 213:3 214:12 222:14 225:13 226:14, 16 228:18 wanted 42:19 65:8, 12, 22 72:8 109:3 124:17 156:18 202:4 208:4 210:19 211:22 212:10 214:22 220:20 222:15, 18 224:8 wants 49:18 50:14 72:18 94:2 163:18 | ways 206:17 website 4:17 113:5 121:10 201:9 week 57:1, 1, 3 58:9 60:9 126:1, 1 weekend 114:20 115:13 216:20 217:1 weekends 115:13 weeks 60:18, 22 75:17 119:10 198:16 weighted 29:21 welcome 4:13 welder 50:13, 13, 14, 15 60:20 welding 224:17 welfare 26:15 Well 6:23 7:17 10:16 17:20 18:9, 22 24:2, 19 29:23 31:6, 19 32:19, 19 34:1 35:10, 17 36:4 37:19 40:2 43:19 44:13 52:11 53:4, 9, 18 55:11 56:21 58:7 61:22 62:12 69:19 75:21 77:18 78:20 79:8 81:16 82:1 84:15 86:3, 11, 23 88:13 | |

204:9 205:9
 208:19, 21 210:4, 5,
 6, 7, 7, 8, 9, 14
 211:4, 18 219:14
 221:15
we've 5:15, 16, 21,
 22 6:1 34:5 89:13,
 16 93:17, 18 122:2
 126:11 128:3
 169:6 173:1 184:7
 191:5
wheel 202:19
whichever 49:10
WHITMIRE 2:23
 7:7 23:1, 4 88:6
 102:19 106:12
 108:11
WHITMORE 93:1
WILLIAM 2:12
Willie 4:8
willing 127:6
 159:23
Willis 212:5, 6, 8
 218:13
WILSON 3:5 5:18,
 18, 20 8:6 20:18
 21:7 22:5 37:5
 39:17
wind 61:20 116:17
windfall 71:18
 216:3
withholding 19:8
woman 219:8
women 223:14
wonder 41:5 87:10
wonderful 230:19
wondering 119:18
word 21:19 22:1,
 5 24:3, 5, 8 36:4
 69:22 100:19
 101:15 102:15
 132:4, 22 143:22
 151:14, 17 152:3,
 17 163:8 170:22,
 23 180:10, 11, 16
 186:9 215:23
 217:11, 14, 21
worded 162:19
wording 9:15

words 4:8 10:14
 48:6 92:1 100:10
 163:1 175:8
 200:21
work 15:6 18:20
 52:3 53:8, 11, 11
 55:9 60:13 65:19
 67:22 68:5, 23
 75:8 77:22 101:6
 104:2 126:12, 23
 127:7 164:23
 165:11, 15 167:16
 190:11, 14 193:3
 195:8 198:14
 207:4 213:9 215:3,
 8 219:17 221:18
worked 65:6
 99:21 166:20
 167:3 194:21
 195:3 222:6
worker 209:20
workers 204:6
workforce 51:15
working 17:12
 55:8 57:7 59:20
 61:2, 6, 9 74:12
 79:13 86:12
 164:15 213:13
work-related 59:17,
 19
worth 51:11
wounded 207:5
Wow 7:8 220:13
Wright 63:11
 220:3, 4, 6, 15
 225:9
write 71:23 97:20
 103:17 161:10, 23
 230:2
writing 120:17, 18
 181:2
written 54:19
 63:15 74:1 93:11
 137:17 139:10
 141:3 162:13
 167:18 186:11
 200:9 207:12
wrong 31:18
 38:23 69:14 82:15

111:17, 19

< Y >

y'all 5:21 6:7
 8:10 30:5 33:22
 40:11 45:1 52:20
 107:16 133:3, 5
 142:6 146:20, 20
 148:22 178:19
 187:4 189:11, 14
 190:2 192:4, 6
 196:7 197:23
 198:1
y'all's 40:14
Yeah 14:4 21:10
 22:9 30:22 34:13
 51:18 52:2 61:17
 70:7 71:3 81:19
 92:15, 18 109:6, 13
 113:22 119:4
 120:22 131:20
 137:6 156:15
 162:7 174:20
 200:3
year 8:20 28:17
 38:4 50:10 55:21
 56:15 59:9, 13
 76:10 99:21
 112:18 123:9
 124:20, 20 165:4,
 15 179:3 186:2, 2
 230:5, 5
years 51:4, 11
 69:10 72:9 76:12
 77:9 169:17, 17
 170:5 179:3, 3
 191:16 200:10
 201:15, 15, 21
 202:1, 4, 10, 11, 12,
 13 205:12 213:13
 221:3