

1 MEETING OF THE ADVISORY COMMITTEE
2 ON CHILD-SUPPORT GUIDELINES AND ENFORCEMENT
3 FOR THE STATE OF ALABAMA
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11 The following proceedings were held
12 in the meeting of the Advisory Board on Child
13 Support Guidelines for the State of Alabama
14 on Friday, July 25, 2014, commencing at
15 approximately 10:00 a.m., at the Heflin-
16 Torbert Judicial Building, 300 Dexter Avenue,
17 Montgomery, Alabama 36104, and was taken
18 before Stacey L. Johnson, Certified Court
19 Reporter and Commissioner for the State of
20 Alabama at Large.
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APPEARANCES

HONORABLE AUBREY FORD
Macon County District Judge

HONORABLE LYNN STUART
Associate Judge,
Alabama Supreme Court

HONORABLE SCOTT DONALDSON
Alabama Court of Civil Appeals

STEPHEN WRIGHT, ESQUIRE
Birmingham, Alabama

JIM JEFFRIES, ESQUIRE
Mobile, Alabama

MARY MOORE
Perry County Circuit Clerk

JULIE KIMBROUGH, ESQUIRE
Shelby County

HONORABLE JULIE PALMER
Domestic Relations Division
Birmingham Division

RANDY NICHOLS, ESQUIRE
Birmingham, Alabama

PENNY DAVIS
Alabama Law Institute

HONORABLE WILLIAM BELL
Madison County Circuit Judge

1 MICHAEL POLEMENI
Alabama Family Rights Association
2 National Parents Organization

3 ANGELA CAMPBELL
Mobile County Department of Human Resources
4 Child Support Program Manager

5 JENNIFER BUSH, ESQUIRE
Alabama Department of Human Resources

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7 BOB MADDOX

8 Administrative Office of Courts

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1 CHAIRMAN FORD: Good morning. It's
2 now ten o'clock, and we're going to get
3 started on time so that hopefully we can
4 get finished on time, whatever that time
5 may be.

6 Again, welcome to everyone. We just
7 appreciate you coming this morning for
8 our advisory committee meeting on our
9 child support guidelines. We do have a
10 very full agenda.

11 My name is Aubrey Ford. I'm district
12 judge of Macon County. And I am one of
13 the original members of this committee,
14 so you know how old I am. And Gordon
15 Bailey is our chairman. Unfortunately,
16 Gordon is not available. He sent an
17 email that he would like me to bring to
18 your attention. He indicates that he is
19 ordering me to explain that he is not at
20 the meeting because he's taking
21 chemotherapy treatments in Atlanta, and
22 he intends to be here at the next
23 meeting. So please keep him in your

1 concerns and prayers as he undergoes
2 those treatments. And we look forward to
3 seeing him at the next meeting. Whether
4 I'll be at the next meeting, I don't
5 know, because after January, I'll be
6 unemployed. I'm retiring. So we shall
7 see.

8 But let's begin by introducing
9 ourselves to everyone and the members of
10 the public. We want to welcome the
11 members of the public. We want to
12 welcome the other AOC staff that's
13 present here. For those who are members
14 of the public, you will have a comment
15 period at the end of the meeting. We ask
16 that you keep your comments to about a
17 ten-minute presentation, but that will
18 come at the end of the meeting. So let
19 us introduce ourselves. Oh, one other
20 person. The most important person here.
21 I want to introduce Ms. Stacey Johnson,
22 who is our reporter for the morning.
23 Please when you're speaking, would you

1 please say your name first so that she
2 will know who you are. I know she can
3 look at name tags, but many times when
4 you're reporting, you don't have an
5 opportunity to do so. And so it will be
6 very important that you identify yourself
7 so that she can make sure she gets your
8 comments, which I know will be very
9 important for the entire body here. With
10 that, let us introduce ourselves to each
11 other.

12 My name, of course, is Aubrey Ford.
13 Again, I'm the acting chair this morning.
14 And I'm Macon County district judge.

15 JUSTICE STUART: I'm Lynn Stuart.
16 I'm an associate judge on the Alabama
17 Supreme Court.

18 JUDGE DONALDSON: And my name is
19 Scott Donaldson. And I'm a judge on the
20 Alabama Court of Civil Appeals.

21 CHAIRMAN FORD: Scott is our newest
22 member.

23 MR. WRIGHT: I'm Steve Wright. I'm a

1 practicing attorney from Birmingham.

2 MR. JEFFRIES: I'm Jim Jeffries. I
3 have a divorce practice in Mobile.

4 MS. MOORE: I'm Mary Moore, circuit
5 clerk in Perry County.

6 MS. KIMBROUGH: Julie Kimbrough. I'm
7 a sole practitioner in Shelby County.

8 JUDGE PALMER: Julie Palmer, judge,
9 domestic relations division, Birmingham
10 division. And I've been on the
11 committee, I think, since '04.

12 MR. NICHOLS: My name is Randy
13 Nichols. I'm an attorney in private
14 practice in Birmingham. And this is my
15 first meeting on the committee.

16 MS. DAVIS: I'm Penny Davis with
17 Alabama Law Institute.

18 JUDGE BELL: Billy Bell. I'm a
19 circuit judge for Madison County.

20 MR. POLEMENI: Michael Polemeni,
21 Alabama Family Rights Association member
22 and lead for the National Parents
23 Organization.

1 I'd also like to apologize to
2 Ms. Bush for my comments last meeting. I
3 cannot find the hard drive. I know we've
4 heard this a lot. But I'm still looking
5 for the documents that I said I would
6 get.

7 MS. CAMPBELL: I'm Angela Campbell.
8 I'm the Mobile County DHR Child Support
9 Program manager.

10 MS. BUSH: And I'm Jennifer Bush, DHR
11 legal counsel.

12 CHAIRMAN FORD: Thank you-all again
13 for coming this morning for our meeting.

14 You will have in your packet the
15 transcript of the December 13 committee
16 meeting. Please look through that.
17 There are some noted corrections. If you
18 look through that and see any other
19 corrections that should be indicated,
20 please bring that to our attention.

21 What is your pleasure regarding the
22 approval of the transcript for the
23 December 13 minutes -- December meeting?

1 I'm sorry.

2 JUDGE BELL: I move they be approved.

3 CHAIRMAN FORD: There's been a motion
4 that the transcript of that meeting be
5 approved. Is there a second?

6 MR. POLEMENI: I'll second.

7 CHAIRMAN FORD: We have a move and a
8 second that the transcript be approved.
9 That was Honorable Billy Bell who made
10 the motion, and Mr. Michael Polemeni who
11 made the second.

12 Ready for the question? All in favor
13 say aye.

14 (All members in favor of the motion
15 so indicated.)

16 All opposed likewise?

17 So ordered.

18 We'll now enter into the real meat of
19 our discussion.

20 MR. MADDOX: Judge Ford, I'm Bob
21 Maddox with AOC. I just wanted to note
22 on the Record that notice of this meeting
23 was sent to the media. Scott, my public

1 information officer, sent it on June
2 30th.

3 CHAIRMAN FORD: Thank you, Bob. And
4 I'm sorry. I did make that omission.

5 So the public was notified by the
6 usual media outlets so that they would
7 have the opportunity to be here.

8 For those persons who are members of
9 the public, we do thank you and welcome
10 you to this meeting.

11 Again, now we get to the real meat of
12 the discussion, and that's the update of
13 our schedule. The schedule that we're
14 operating under now was updated in 2008,
15 and went into effect on January 1, 2009.
16 So the first thing we must consider is
17 whether or not we need to update our
18 schedule. And if so, I will receive a
19 motion from someone indicating that we
20 would like to update the schedule.

21 JUDGE PALMER: Well, Judge Ford, in
22 the email that I got from Mr. Maddox
23 maybe Tuesday or Wednesday, I got

1 something that looks like a schedule, but
2 I'm not sure exactly what this is because
3 there was not an explanation attached to
4 it. And this only goes to like \$9,976,
5 and I think the maximum is 20 now, right,
6 for a total combined incomes? So I just
7 don't know what this is. If somebody
8 could just explain to me.

9 CHAIRMAN FORD: Bob, could you
10 explain the information that you sent out
11 by email, please?

12 MR. MADDOX: From my best
13 recollection, Judge, and other committee
14 members --

15 JUDGE PALMER: And I'm Judge Julie
16 Palmer.

17 MR. MADDOX: From my best
18 recollection, that was an attachment to
19 an email from, I believe, Penny Davis,
20 who got an email from Amy Creech, an
21 attorney in Huntsville. I don't think it
22 was intended to be a full schedule. I'm
23 not sure. Penny, could you elaborate on

1 that?

2 MS. DAVIS: Yeah. That's probably
3 relating to -- I don't want to get too
4 far out of order. We have some proposals
5 later in the agenda relating to the
6 deviation from the guidelines for the
7 child support and -- as it relates to
8 child care. And so I suspect that she
9 just copied a portion of it. I don't
10 think there's any indication that she
11 thinks it ought to be altered in that
12 regard. It really relates to the
13 payments that are being calculated now
14 when one of the parents -- when the
15 custodial parent is either seeking
16 employment or is employed and child care
17 is necessary for the children.

18 JUDGE PALMER: All right. Thank you.

19 CHAIRMAN FORD: Any other discussion
20 regarding that particular memorandum?

21 So let's get back to the question
22 ahead. Do you think we need to update
23 our current schedule? If so, I'll

1 receive a motion to that effect.

2 MS. DAVIS: I'll make that motion.

3 CHAIRMAN FORD: Sorry?

4 MS. DAVIS: I'll make that motion.

5 CHAIRMAN FORD: It's been moved by
6 Honorable Penny Davis that we modify or
7 update our schedule. Is there a second?

8 JUDGE BELL: Second.

9 CHAIRMAN FORD: Seconded by Honorable
10 Judge Bell.

11 Ready for the question? All in favor
12 say aye.

13 (All members in favor of the motion
14 so indicated.)

15 All opposed likewise.

16 So ordered.

17 So we have decided that we need to
18 update our schedule, which, of course, it
19 has some age on since it was not updated
20 last -- it was updated last -- sorry --
21 in 2008.

22 Secondly, the second question
23 proposed is who do you want -- who do we

1 want to do the update. And if so, with
2 any limitations that we want. I would
3 ask Bob, who is our liaison to our
4 committee, to sort of give us some update
5 about who did the last schedule and those
6 kind of things so we can be informed as
7 to how that schedule was prepared.

8 MR. MADDOX: Bob Maddox, AOC. As
9 stated, I believe, in the previous
10 meeting, this update of the schedule has
11 been accomplished in different ways.

12 Roughly about 11 years ago you have a
13 copy of a request for proposal that was
14 sent by then administrative director of
15 court Randy Helms to really over 1100
16 vendors that we got from the Division of
17 Purchasing at the State Department of
18 Finance basically consulting or cost
19 estimating services, which admittedly a
20 lot of them were not probably relevant
21 but we wanted to make sure we covered
22 everybody. We sent that to those 1100
23 people as well as 29 colleges and

1 universities around the state of Alabama
2 with economics departments, as well as
3 five other individuals who were
4 recommended economists. And at the time,
5 I believe only one proposal was
6 submitted, and that was from then Policy
7 Studies Institute of Denver, Colorado,
8 on -- specifically Jane Venohr is the
9 individual who did the study at that
10 time.

11 Back in 2005 I believe, the committee
12 decided to get that schedule updated and
13 also wanted Mark Rogers, another
14 consultant, to conduct a similar study.
15 And we had both those individuals come, I
16 believe, to a meeting in 2006 and present
17 their views. And, ultimately, I think
18 the Jane Venohr schedule was adopted by
19 this committee in 2008, which is the
20 current schedule, which goes up to
21 \$20,000. So there's been different ways
22 of handling this in the past. We've had
23 anywhere from two individuals to sending

1 it out to the world on our cost
2 estimators, consultants at least.

3 CHAIRMAN FORD: Okay. Do you have
4 any ideas as to how we want to -- who we
5 want to send our RFP to to redo the
6 schedule? Do we want to do it as we did
7 in the past? Do we have some other
8 methodology? What is your pleasure?

9 JUDGE PALMER: We had talked at one
10 of the last meetings that I went to about
11 just doing a cost of living increase,
12 using the same numbers that we have and
13 then just seeing what the cost of living
14 has been and adjusting the numbers that
15 way versus getting all of these studies
16 done and everything that cost so much
17 money last time. I just didn't know
18 where that was in the mix of things.

19 MR. POLEMENI: Is that a cost of
20 living up or down?

21 JUDGE PALMER: I believe so, yes,
22 sir. Whatever -- at one point, there was
23 a negative cost of living.

1 CHAIRMAN FORD: So, apparently, there
2 was some discussion. I must say I did
3 not attend the last meeting, so I was
4 not --

5 JUDGE PALMER: I don't think it was
6 the December one. It was the one before
7 that.

8 CHAIRMAN FORD: So there's been some
9 discussion at one of our meetings about
10 just a cost of living increase and not
11 doing an entire study. Any other
12 discussion? Any other ways that you
13 think we need to do this?

14 MS. DAVIS: I think we asked Bob to
15 check on any availability for funding for
16 the -- any cost that -- there obviously
17 will be cost incurred in updating when
18 you hire experts, so I'd like to hear
19 from Bob what he's found out.

20 CHAIRMAN FORD: Bob, would you give
21 us an update on that, please.

22 MR. MADDOX: I confirmed with both
23 state DHR and our current administrative

1 director of courts Rich Hobson that we
2 will commit funding to this project
3 whatever. It's currently budgeted in our
4 4D budget with state DHR we get
5 66 percent reimbursement for. So the
6 federal government through the Title 4D
7 program through state DHR will reimburse
8 our office 66 percent if it's chosen for
9 our office to enter into an agreement
10 with whatever vendor.

11 MS. DAVIS: So who will pick up the
12 remaining percentage?

13 MR. MADDOX: I've gotten a commitment
14 from our administrative director or
15 courts that our office will.

16 MS. DAVIS: Okay. It will still be
17 incumbent upon us to be mindful that we
18 are using state resources as well.

19 MR. MADDOX: Yes, ma'am.

20 MS. DAVIS: Taxpayer resources,
21 either way.

22 MR. MADDOX: Absolutely.

23 CHAIRMAN FORD: We have to be

1 diligent.

2 MS. DAVIS: That's right. That's
3 right.

4 CHAIRMAN FORD: Any other discussion
5 about who we want to ask to do the study?
6 We're going to ask the persons who did it
7 last time to make it more universal and
8 ask the entire number of people to do it?
9 I mean, any thoughts on that?

10 MR. NICHOLS: I'm just -- obviously
11 I'm new here, but I'm curious about
12 whether we really need to reinvent the
13 wheel. I mean, there are 50 states that
14 have guidelines and have to update them
15 from time to time. Would there be any
16 way to find out who's doing it for other
17 states and what they're charging?

18 MS. DAVIS: I don't know. I can't
19 remember if I sent it to -- did you send
20 out Jane -- this article from the --

21 CHAIRMAN FORD: No.

22 MS. DAVIS: For those of you who are
23 members of the American Bar Association

1 family law section, you've probably
2 already gotten this. But in the fall
3 2013 book, there was an article by Jane
4 Venohr. It's called Child Support
5 Guidelines and Guideline Reviews, States,
6 Differences, and Common Issues. And I
7 don't know what the possibility of
8 getting permission to send that out would
9 be, but I'm sure you can get a copy from
10 the library or some source. I mean, I've
11 got the book, so I can make it available
12 to our law library. I don't know what
13 the legalities are related to entering
14 the library, sending information. But
15 anyway, that's -- there is information --
16 I think it's been accumulated here --
17 that might be helpful.

18 In addition, we have a law clerk
19 that's doing some studies that I think is
20 in your packet that has different states
21 and some of the things that they're doing
22 that might be helpful. None of this do I
23 know particularly relates to who's

1 charging what to different resources.
2 But that's at least a source that might
3 help you.

4 MR. POLEMENI: Georgia is in the same
5 position we're in right now, and they're
6 doing a lot with that at this time, as
7 well as their calculation of child
8 support. So that may be a resource. And
9 I'd like to recommend that we keep our --
10 whatever group we select, we keep it
11 within the Southeast area rather than
12 going out to California or Massachusetts
13 or...

14 CHAIRMAN FORD: Further comments?

15 JUDGE BELL: I think Randy made a
16 good point. I guess as a committee we've
17 got to decide do we want to just carry
18 forward with what we've already got and
19 update it, which, I think, is what we're
20 charged to do as a committee, or do we
21 want to go back and revisit it and see
22 whether or not new guidelines or new
23 calculations need to be done. I

1 personally don't want to go back and
2 reinvent the wheel. I think we ought to
3 keep what we've got, the basic
4 philosophy. Because I think if we go
5 back and we try to change it, no matter
6 which way it changes, it is going to be
7 the biggest mess we've ever seen. So I
8 think we ought to start with what we've
9 got, get somebody to update it based upon
10 the economic changes that may have
11 occurred since it was last adopted.

12 JUSTICE STUART: I wonder whether
13 we're required to bid it or request
14 proposals in order to get the most
15 financially feasible mechanism. I
16 mean -- so I suppose I would sort of be
17 in favor of throwing it wide open and
18 seeing what kind of proposal we get.

19 JUDGE BELL: I agree with that.

20 CHAIRMAN FORD: Bob, is there any
21 limit about how we do this?

22 MR. MADDOX: No, sir.

23 CHAIRMAN FORD: So we can just send

1 it to as many people as we want.

2 MR. NICHOLS: Mr. Chairman, so
3 there's no confusion, I wasn't referring
4 to restarting the entire guidelines
5 process. I was talking about just the
6 numbers.

7 JUDGE BELL: Right. No, I
8 understood. I understood. Sometimes I
9 don't understand you, but...

10 MR. NICHOLS: You're not alone,
11 Judge.

12 MS. DAVIS: So, Judge Ford, is --
13 what I'm understanding the conversation,
14 our first decision needs to be do we want
15 a massive review of the way we calculate
16 child support, or do we just want to
17 update our current charts to reflect the
18 economic changes. Is that --

19 CHAIRMAN FORD: That's a very good
20 conclusion that you've come to.

21 MS. DAVIS: Well, at this juncture,
22 I'd like to make a motion that we just
23 update the current charts to reflect the

1 economic changes since the last charts
2 have been created.

3 MR. NICHOLS: Second.

4 CHAIRMAN FORD: It's been moved by
5 member Penny Davis and seconded by member
6 Randy Nichols that we update our current
7 schedule as opposed to -- just update our
8 current schedule, expound upon that.
9 You've heard the motion.

10 Ready for the question? All in favor
11 say aye.

12 (All members in favor of the motion
13 so indicated.)

14 All opposed likewise?

15 So we will update the current
16 schedule as opposed to going through and
17 trying to reinvent whatever we have.
18 We're still on the question at hand. And
19 the question at hand, if I could sort of
20 go through our discussions thus far, is
21 that there's been one proposal that we
22 send it out to a large university of
23 those who do this kind of work, and then

1 there has been another point that we just
2 limit it to -- look at Georgia and what
3 they're doing and maybe even look at the
4 vendors they're using, or we can just
5 limit it to the persons that we have done
6 it in the past for us. Is that a pretty
7 good distillation of the discussion? Now
8 we just need to choose one.

9 MS. DAVIS: I would like to suggest
10 that Bob also send it out to the colleges
11 and universities in Alabama. I think
12 that's a good resource. I can't
13 remember, Bob. Did you say you got one
14 response last time or more than -- did
15 you get anybody to respond last time?

16 MR. MADDOX: Not from the colleges
17 and universities.

18 MS. DAVIS: You did not?

19 MR. MADDOX: No.

20 JUSTICE STUART: I think because we
21 are limiting the scope and we're just
22 looking at the changes and the cost of
23 living, whether it's up or down between

1 2008 and 2014/2015, I suspect that we
2 will get some proposals from Alabama
3 universities.

4 MR. POLEMENI: And how soon would
5 this request go out? Because we're at
6 the -- almost to the beginning of the
7 school year, which would be more
8 advantageous of getting a response from
9 the colleges prior to the school year
10 than during the school year, in my
11 opinion.

12 CHAIRMAN FORD: I'll turn that
13 question over to you, Mr. Maddox.

14 MR. MADDOX: I'm at the committee's
15 pleasure.

16 CHAIRMAN FORD: So however soon you
17 want it to be sent out.

18 All right. Can I receive a motion
19 from the body as to what -- how you wish
20 to proceed as far as choosing a vendor
21 for this project?

22 JUDGE PALMER: Okay. Let me think
23 about this. I move that we do send

1 something to the people who prepared this
2 last time, because they may already have
3 that information out there just as far as
4 the cost of living increase; and that we
5 do send it the universities and colleges
6 within the state of Alabama. And that's
7 my motion.

8 CHAIRMAN FORD: All right. It's been
9 moved that we send this -- the RFP to the
10 persons who did the work last time in
11 addition to we send it to the
12 universities here in the state of
13 Alabama. Is there a second?

14 MS. KIMBROUGH: I second.

15 MR. WRIGHT: I second.

16 CHAIRMAN FORD: The motion has
17 seconded by Ms. Kimbrough and as well
18 as -- we'll just have Ms. Kimbrough.

19 Ready for the question?

20 MS. DAVIS: Could I can make a
21 comment? Since Michael has brought up
22 one other vendor, do you know who the
23 vendor is in Georgia?

1 MR. POLEMENI: No, I don't. I'd have
2 to find out, but I think it's a college
3 in Georgia.

4 MS. DAVIS: Would you accept a
5 friendly amendment to include the vendor
6 that one of our committee members has
7 suggested?

8 JUDGE PALMER: Well, the only
9 question I have about that is they would
10 be -- I don't -- we don't know that that
11 vendor -- I think it might be apples and
12 oranges because they -- the guidelines
13 that Georgia used versus our guidelines
14 and what numbers were used to kind of --

15 MS. DAVIS: They'll take our numbers,
16 but since it's only extrapolating
17 economics then unless --

18 MR. POLEMENI: I would recommend that
19 we just add Georgia, Tennessee, and
20 Mississippi as possible other
21 institutions -- college institutions,
22 universities to that list or a select
23 group that we can -- so it's not so broad

1 but maybe just the major universities,
2 colleges and that -- in those states.
3 Vanderbilt for one, University of Georgia
4 for the other. Something along those
5 lines. Not so unrestricted as we would
6 with Alabama.

7 MR. MADDOX: Judge Ford, before we
8 take a vote, I need some more
9 clarification.

10 CHAIRMAN FORD: Yeah, I was going to
11 ask, too.

12 MR. MADDOX: As I understand the
13 motion presented on the floor is that you
14 want me to send the RFP to the persons
15 who prepared studies before or all the
16 persons we sent the RFP to before?

17 MS. DAVIS: No. Just the people.

18 MR. NICHOLS: Just before.

19 CHAIRMAN FORD: Just the people who
20 did it before. Correct. As well as the
21 state colleges and universities.

22 MR. MADDOX: With economics
23 departments?

1 JUDGE PALMER: Yes.

2 CHAIRMAN FORD: Now we have a second,
3 I guess, sort of proposed amendment to
4 that motion by including colleges in
5 Georgia.

6 MS. DAVIS: Mine was only the one
7 vendor.

8 CHAIRMAN FORD: I understand.
9 Ms. Davis indicated it's Alabama. But
10 Mr. Polemeni indicated he would like to
11 see it expanded to Georgia, Tennessee,
12 Mississippi. Any discussion on that
13 particular issue?

14 JUDGE PALMER: I just think that
15 that's too much. I mean, I just think
16 that's just too much with that many
17 colleges. Georgia possibly because we
18 know that they're doing that right now.
19 We don't know that Tennessee or
20 Mississippi is doing that, but we do know
21 that Georgia is doing that.

22 MR. POLEMENI: And I could accept
23 that.

1 JUDGE PALMER: And I would amend,
2 then, my motion that we also send RFP to
3 Georgia. And Mr. Polemeni's going to get
4 that information to Mr. Maddox.

5 MS. DAVIS: Just the one -- my
6 suggestion was just the one that's
7 working on Georgia's now, not the whole
8 Georgia --

9 MR. POLEMENI: Yeah, I can accept
10 that.

11 JUDGE BELL: But I think we'd also be
12 comfortable if Bob does make sure that
13 we're in compliance with whatever bid
14 laws we need to get reimbursement.

15 CHAIRMAN FORD: Absolutely. Any
16 further discussion?

17 Hearing none, all in favor of the
18 motion -- and I'm going to try my best to
19 restate it -- that we send the RFP to the
20 persons or companies that did the work on
21 this particular project the last time and
22 include the colleges and universities
23 with an economics department here in the

1 state of Alabama, as well as the vendor
2 who is doing the work for the state of
3 Georgia. And then Mr. Polemeni will
4 identify that particular vendor --

5 MR. POLEMENI: Okay.

6 CHAIRMAN FORD: -- posthaste. Is
7 that the motion?

8 JUDGE PALMER: Yes, sir.

9 CHAIRMAN FORD: All in favor say aye.

10 (All members in favor of the motion
11 so indicated.)

12 All opposed likewise.

13 So ordered.

14 Lastly, if you'll look in your
15 packet, you'll see a memorandum dated
16 November 25. This was the request for
17 proposal that was sent out. If you go to
18 the very last page of that particular
19 document, you will see the work that
20 was -- that the parties were asked to do.
21 I'll give you an opportunity to get
22 there. Let's see. You should see it.
23 I'm not certain how far down it is. Yes,

1 very last page. And I will not read it
2 to you, but it delineates what we asked
3 the vendors to do and submitted to the
4 Administrate Office of Courts. So in
5 reading -- please take an opportunity to
6 read that. Then we'll get back to a
7 discussion as to whether or not you want
8 any additional work done.

9 JUSTICE STUART: I just have a
10 question. The attached request for
11 proposal was for the broad, sort of
12 all-encompassing review of the
13 guidelines. So doesn't that need to be
14 substantially scaled back? Because we do
15 not want them to do everything that's in
16 this request for proposal. That would be
17 reinventing the wheel.

18 CHAIRMAN FORD: So noted. That's a
19 very good observation.

20 MS. DAVIS: I think this whole thing
21 just needs to be rewritten.

22 CHAIRMAN FORD: Okay. Bob, do you
23 have any -- when we get to -- when we get

1 to actually approving the -- some of the
2 things that we may want to consider, of
3 course, looking at the current economic
4 data here for Alabama, but to -- I know
5 one thing that Mr. Polemeni has been an
6 advocate for is looking at joint physical
7 and legal custody, shared parenting, fit
8 parent situation -- if there's any way we
9 can kind of address that issue -- medical
10 and health insurance issue, particularly
11 under the current Affordable Care Act,
12 income of parents, all of these global
13 issues. Anything else you think we need
14 to kind of include in this update of our
15 current schedule?

16 JUDGE BELL: I didn't think we were
17 getting that global. I thought we were
18 just going to take the schedule of basic
19 child support obligation, have it updated
20 based upon the economic changes since the
21 last update. I think our committee
22 outside of that has got to deal with the
23 nuts and bolts of Rule 32 if we're going

1 to change certain things within it. But
2 I'm talking about just that schedule
3 that's attached that we go to, number of
4 children, combined gross incomes. That's
5 what I understood the limited scope would
6 be.

7 CHAIRMAN FORD: So noted. And that's
8 what the committee had decided. So our
9 scope is limited just to update the
10 current schedule, so we don't have to get
11 into global issues. So that's -- if I
12 hear the committee, we will have -- about
13 to rewrite the proposal, the RFP and
14 limit to updating the schedule that we
15 have now. Okay. Is that correct?

16 JUDGE PALMER: Yes.

17 MR. POLEMENI: So we're looking at
18 basically changes in the consumer price
19 index and changes in federal and state
20 taxes. Is that -- is that a good way to
21 state that, or is that a little broader
22 than that?

23 CHAIRMAN FORD: Mr. Polemeni, I don't

1 want to say that because I really don't
2 know. But I'm assuming that we'll take
3 what we have now and apply it -- some of
4 the -- some of those parameters so that
5 we can make sure that we're within the
6 economic conditions of Alabama as of --
7 whether it's going to be implemented.

8 MS. BUSH: And I think you would use
9 the words cost of living so you could
10 take into account the change in the
11 minimum wage, the change in the minimum
12 poverty -- you know, the minimum poverty.
13 So there are probably factors that
14 someone who is an economist would know
15 about that we may not think about.

16 MR. POLEMENI: Okay.

17 CHAIRMAN FORD: By acclamation is
18 that the -- what we want to happen? And
19 also do we agree that Bob will go ahead
20 and redo the letter or redo the request
21 for proposals and limit it to the scope
22 of what we're asking for?

23 Thank you. Let's see. Let's have --

1 we're going to have a -- next on our
2 agenda is an update on the regional
3 training.

4 MR. MADDOX: Excuse me, Judge Ford.
5 Can I get a deadline date? I didn't get
6 a deadline.

7 CHAIRMAN FORD: How soon do we want
8 this to happen?

9 MR. NICHOLS: Monday? Tuesday?

10 JUDGE BELL: It's just a letter.

11 MS. DAVIS: You mean a deadline for
12 the --

13 CHAIRMAN FORD: Request for
14 proposals.

15 MS. DAVIS: -- people to submit their
16 proposals? Is that what you're asking
17 for? Or when do you --

18 MR. MADDOX: Well, really two
19 deadlines. I would like a deadline for
20 when the committee wants the RFP to be
21 sent, as well as a deadline for when we
22 need the application sent in in the RFP.

23 CHAIRMAN FORD: Let me see if I can

1 propose something, Bob. You tell me if
2 it's unrealistic. Since we're only doing
3 an update of our current schedule, is
4 there a possibility that you could sort
5 of work up an RFP within the next two
6 weeks --

7 MR. MADDOX: Yes, sir.

8 CHAIRMAN FORD: -- and distribute it
9 to the committee members, let them review
10 it? And then if there's no glaring
11 changes, then have it sent out to the
12 proposed vendors, and they will probably
13 need about 30, 45 days to get it back. I
14 don't know.

15 MR. MADDOX: I think that's
16 reasonable. Probably six weeks.

17 CHAIRMAN FORD: Six weeks. Okay.

18 JUDGE BELL: Here's what I'd like.
19 I'd like for us to get it in time for it
20 to be sent to the committee members so we
21 could vote on it and decide so that we
22 can get moving forward on this by the
23 next meeting. Now, I don't know when our

1 next meeting is.

2 CHAIRMAN FORD: Well, I would hope
3 that maybe if we could -- if Bob can get
4 this done in the next two weeks, we can
5 distribute it by email and maybe take a
6 vote by email as opposed to having us all
7 come together again.

8 JUDGE BELL: That's good.

9 CHAIRMAN FORD: And, of course, Bob
10 will compile the vote. And if there's
11 any -- some glaring objections to what
12 Bob has written, perhaps then we can come
13 back together or we can do this by
14 another email or maybe a telephone
15 discussion.

16 JUDGE BELL: I'm good with that.

17 CHAIRMAN FORD: Is that reasonable?

18 JUDGE BELL: Yes.

19 MR. MADDOX: Thank you.

20 CHAIRMAN FORD: All right. Now,
21 Ms. Bush.

22 MS. BUSH: And DHR and AOC conducted
23 a joint training for judges, referees,

1 and district attorneys. We did it in
2 three different locations. We did it in
3 Montgomery, Birmingham, and Mobile.
4 April 1st was Montgomery, April 30th,
5 Birmingham, and April 8th in Mobile. It
6 was a four-hour training from ten to
7 three. We covered subjects such as
8 jurisdiction and venue, UIFSA, which is
9 the Uniform Interstate Family Support
10 Act, enforcement, and Alacourt and child
11 support dockets. We had 179 participants
12 statewide. There were 24 judges, there
13 were 11 referees, one circuit clerk. And
14 of those 179 participants, 142 were DHR
15 representatives, which were comprised of
16 attorneys and child support personnel --
17 non-attorney child support personnel. 85
18 attorneys, referees, and judges were
19 reported to the bar for continuing legal
20 education, so continuing legal education
21 was provided. And we had assistant
22 district attorneys speak, referees speak,
23 a district judge and got a very good

1 report as far as reports back from the
2 participants on the training.

3 CHAIRMAN FORD: Okay. You have in
4 your packet a copy of the agenda for the
5 meetings to see who presented. And there
6 were at least three members of this
7 committee who made presentations. So,
8 apparently, the response was very good.

9 Any questions of Ms. Bush?

10 JUDGE PALMER: I attended the one in
11 Birmingham. It was excellent. It was.
12 And very well attended and probably the
13 largest one. I don't know that for a
14 fact. But it was, what, about 200
15 people?

16 MS. BUSH: It was. Birmingham was
17 the largest, Montgomery was second
18 largest, and Mobile had the smallest.

19 CHAIRMAN FORD: Thank you. We hope
20 that funding will be in existence so that
21 we can do this in the future. That was
22 very helpful.

23 Judge Bell, would you give us an

1 update on the health insurance
2 subcommittee? And you have in your
3 packet a -- it's entitled Proposed
4 Changes to Rule 32, Reasons for Deviating
5 from the Guidelines. Is that correct?

6 JUDGE BELL: It is. That's what we
7 sent out. We had a really good
8 subcommittee. And this was a result of
9 our work. Penny is going to do option 1,
10 and then I'll do options 2, 3, 4, if
11 that's okay?

12 CHAIRMAN FORD: That's fine.

13 MS. DAVIS: Option 1 is that the
14 actual -- if you look at subsection E --
15 the actual cost of the family policy
16 health insurance coverage to be used in
17 the calculation, it exceeds the actual
18 cost of the premium, which would be
19 charged to the -- to provide health
20 insurance coverage solely for children
21 who are the subject of support by
22 20 percent or more. I'm sure most of you
23 went back and looked at the transcript.

1 And we had quite an extensive discussion
2 about this before. But for purposes of
3 the people that were not here, I'll just
4 kind of review a little bit of what was
5 said.

6 Historically, I've received comments
7 from a number of attorneys and judges
8 over the years that the actual cost of
9 child care was substantially different
10 than what the current guidelines allow.

11 JUDGE PALMER: Is this child care or
12 insurance?

13 MS. DAVIS: I'm sorry. Insurance.
14 And that the insurance coverage relating
15 to what's put on the calculations is such
16 that -- and I think Billy has an example
17 of one case -- because the insurance that
18 was being -- as it's now drafted under
19 the rules that was placed there results
20 in an inequity in that the -- the
21 insurance coverage is covering a lot of
22 people other than the children that are
23 the subject of the child care rules. And

1 this is a subject that we've talked about
2 for years. We sent a proposal 2008, was
3 it --

4 JUDGE BELL: Uh-huh.

5 MS. DAVIS: -- to the court to
6 consider. I guess that's what you're
7 going to be discussing --

8 JUDGE BELL: I am.

9 MS. DAVIS: -- in the other two
10 options. At that time, the court chose
11 not to change from the existing rules the
12 way we calculate insurance. And so we
13 felt like that we wanted to continue to
14 look at the inequities that occur and try
15 to deal with it, but we wanted to present
16 the court with an alternative other than
17 what we sent with them before. So we had
18 sort of a subcommittee that looked at
19 that. What we thought we would do is
20 have -- and I don't know what the
21 pleasure of the committee would be to
22 have both options that go to the
23 committee -- go up from the committee to

1 the court or choose one of these two
2 options or even three options could go to
3 the court. I don't guess the committee
4 is limited in what we can send to the
5 court to look at.

6 JUDGE BELL: If it's okay if we
7 can -- because the next options under
8 option 1 deal with other issues other
9 than the health insurance premium. So if
10 we can kind of -- I think it might be
11 better for us just to focus on this one
12 issue.

13 Rule 32, as we all know, requires
14 that in the calculation under Rule 32
15 that we use the family policy premium
16 charge for the coverage under which the
17 children involved in the case are covered
18 regardless of how many other people are
19 covered. We talked about this back in
20 2008. And it came to light to me in a
21 2012 case that I handled. It was Hein v.
22 Fuller, 93 Southern 3rd 961. It was a
23 situation where the mother had remarried

1 to a gentleman up in New York. It was a
2 modification of child support case and
3 other issues. And in using the
4 stepfather's family policy premium under
5 which he, the mother, the father's child
6 by a prior marriage who he was required
7 to cover, and the parties' two twin boys
8 were covered. And when we used that
9 premium, which was like over \$400, it
10 resulted, because of the income
11 difference between the mother and the
12 father in my case, the father would be
13 paying about \$350 a month in his child
14 support towards the medical insurance
15 premium by the stepfather that he was
16 required to carry on his own child.

17 Well, I deviated from Rule 32 and I
18 made a finding that I found that to be
19 unjust and inequitable. It got appealed.
20 I was reversed and rightfully so, because
21 the Court of Civil Appeals and it -- and
22 cert was denied, as I understand it, by
23 the Supreme Court, that Rule 32 is pretty

1 clear, that, hey, that's what we have to
2 do whether we think it's fair or not.
3 And so based upon that, that just kind of
4 reinforced to me that that's an inherent
5 flaw that we have in Rule 32 that we can
6 correct.

7 Option 1 was to add subparagraph E
8 into the Rule 32A1, which is just a --
9 provisions for deviation from the
10 guidelines. What our subcommittee really
11 is proposing is that this committee adopt
12 as a revision to Rule 32B7E either option
13 2 or option 3. And we talked about it
14 last time. That the -- option 2 is that
15 we would only include the pro rata
16 portion of the medical insurance premium
17 attributable to the child or children who
18 are the subject of this support order,
19 and you take the total premium, divide it
20 by the number of people covered, and
21 multiply it by the number of children
22 involved in that particular case and then
23 multiplying by the number of children.

1 Proposal 2 is if we're only going to
2 include a premium paid for by the parent
3 themselves. And there was some
4 discussion in December about that.

5 Option 3 is the same pro rata --
6 using the same pro rata amount, but we
7 would include that premium even if it's
8 paid by somebody other than the parent
9 and it's paid for on behalf of the
10 parent, which generally is a stepparent
11 through their employment.

12 And so those are the three options
13 that we are proposing for a vote by the
14 committee. Based upon which option is
15 selected, then the CS41 form needs to be
16 revised to put in new information that
17 would be required based upon that -- the
18 option that's -- that is adopted by this
19 committee for submission to the Supreme
20 Court for approval. So those are the
21 options.

22 I'm happy to take any questions on
23 what the proposals are.

1 CHAIRMAN FORD: Just let me make sure
2 I understand, and hopefully the other
3 committee members understand. And I'm a
4 little slow, so if I understand maybe
5 everybody else will.

6 JUDGE BELL: Well, I went to Auburn.
7 I understand perfectly.

8 CHAIRMAN FORD: We will send all
9 three options to the Supreme Court, and
10 then the Supreme Court would be the one
11 that would check -- would approve one of
12 those three options or keep it like it
13 is.

14 JUSTICE STUART: I would request that
15 this committee select one option, if I
16 can. Don't make things too confusing for
17 us.

18 JUDGE BELL: Well, and I agree.
19 That's what we need to do. And I think
20 that's what we're charged as a committee
21 with doing. And our subcommittee prefers
22 either option 2 or option 3. In the case
23 that I had what would have happened is

1 the medical insurance premium that would
2 have been included in the child support
3 calculation would have been two-fifths of
4 the stepfather's family policy premium,
5 which would have been perfectly fair. I
6 wouldn't have blinked at that. And so it
7 makes a big difference.

8 In option 2, it would have been zero
9 because it wasn't -- the premium's not
10 being paid for by the parent -- custodial
11 parent.

12 MS. DAVIS: May I interrupt just a
13 second? The difference is -- and maybe,
14 Justice Stuart, you could give us some
15 direction. And you may not feel like you
16 can at this point. We looked at option 1
17 only because we were a little reluctant
18 to send back the same type of
19 recommendation, the exact same type of
20 recommendation that we did before. But
21 we also recognize that times -- there's
22 been a time change and cases have
23 changed and the court members have

1 changed to some extent. But we didn't
2 want to be offensive to the court by
3 continuing to send back the exact same
4 option. And that's why option 1 is
5 solely to give the trial judges the
6 option of using this circumstance as a
7 deviation. And 20 percent was an
8 arbitrary figure. I think the
9 committee -- the subcommittee does prefer
10 to just change the rule itself. But then
11 I think it was Jim that brought up the
12 issue of whether we want to look at not
13 just what the parent's providing but also
14 a stepparent. And the key there, I
15 think, is that would be the only instance
16 in which a stepparent's contribution is
17 considered. So that's stepping into a
18 little bit of new ground. If I'm
19 understanding the example that the judge
20 has given, it would only have -- if we
21 make this change, the step -- the
22 contribution from the mother's side of
23 the family would have been for the

1 stepparent. So if we choose option 2,
2 then there would have been --

3 JUDGE BELL: Zero.

4 MS. DAVIS: And that would be true in
5 many cases where the noncustodial parent
6 does not have coverage through their
7 employment.

8 JUDGE PALMER: And we've had this
9 discussion in the past as far as the
10 stepparent. But do we know that that
11 stepparent hasn't already taken that
12 premium on their own divorce case and
13 used it there and now they're using it
14 again so they are getting double credit
15 for that at some point.

16 MS. DAVIS: Except that if we change
17 the rule wouldn't their coverage -- their
18 calculation would only cover their
19 children in that case eventually. Now,
20 the ones that are in existence, that
21 would certainly be true.

22 JUDGE BELL: This is was an out-of-
23 state decree anyway from New York. So I

1 couldn't tell that information. But what
2 we've got is trying to correct what I
3 think, as I said, is an inherent flaw
4 with claiming the full family policy
5 premium, which can be sky high.

6 CHAIRMAN FORD: Mr. Nichols?

7 MR. NICHOLS: Well, I think there
8 are -- I see two problems with not
9 allowing the stepparent's contribution to
10 be considered. One is that if you do
11 option 2, then the noncustodial --
12 nonproviding parent, I should say, is
13 making no contribution at all to the cost
14 of health insurance, and his children are
15 getting a benefit from what the
16 stepparent is doing.

17 JUDGE BELL: Right.

18 MR. NICHOLS: Plus it's just reality.
19 I mean, that -- I would say it's probably
20 a third to half of the cases that we deal
21 with.

22 JUDGE BELL: Uh-huh.

23 MR. NICHOLS: And I think if we don't

1 recognize that that's the -- you know,
2 the reality of how health insurance is
3 obtained.

4 The other thing is that I've always
5 thought that if you didn't include the
6 stepparent's contribution, what you
7 really -- what you ought to advise your
8 client to do is write a check to the
9 stepparent to pay for the health
10 insurance that is being provided, and
11 then you're just swapping checks. It
12 doesn't make any sense and ignores
13 reality.

14 JUSTICE STUART: I just would like to
15 say I don't think this committee should
16 be reluctant at all to submit what this
17 committee believes is the best proposal
18 and in the best interest of the children
19 and parents in the state of Alabama.

20 I cannot speak for the entire court
21 as far as what happened before, but I
22 what I will say, in speaking for both
23 myself and then in just sort of

1 generalities, is I think things were so
2 uncertain with regard to where we were
3 going for health insurance that I for one
4 and perhaps other members of the court
5 were reluctant to change the rules
6 relative to health insurance just in that
7 totally uncertain environment as it
8 existed. And I -- you know, things are
9 different.

10 JUDGE BELL: And they are. I've
11 submitted the options that our
12 subcommittee wanted to present to this
13 committee. My personal opinion is option
14 3 is the way to go. It's fair to
15 everybody.

16 MS. DAVIS: I second that motion.

17 MS. BUSH: I would like to add --

18 CHAIRMAN FORD: Before we take a
19 motion, let's get some questions and
20 comments.

21 JUDGE BELL: She messes with me all
22 the time.

23 MS. BUSH: I wanted to add to Randy

1 Nichols' comments that from a public
2 policy standpoint if you do take into
3 consideration the health insurance
4 provided by a spouse that is an incentive
5 for someone to obtain private insurance.
6 If you don't take that into
7 consideration, you may have people who
8 choose to go onto Medicaid and All Kids
9 because they have no incentive or
10 motivation for that to be included. So
11 just from a public policy standpoint, you
12 have to think about that. It doesn't
13 always benefit the custodial parent. It
14 doesn't always benefit the noncustodial
15 parent. It just depends on which
16 stepparent has the insurance. And that
17 is just depending on facts.

18 CHAIRMAN FORD: Any other discussion?

19 MR. POLEMENI: Now that the
20 Affordable Care Act has gone into place,
21 how would subsidies be calculated in
22 option 3, or would they be?

23 JUDGE BELL: I don't think there

1 is -- it's just the actual premium paid,
2 divided by number of people covered,
3 times the number of children involved in
4 the subject.

5 MR. POLEMENI: Except I don't know
6 how they -- how they get the premium
7 notice if it states your bill is \$200 and
8 your subsidy is \$300, or if they just get
9 a bill that says your premium is \$500.
10 That, I don't think anybody knows for
11 sure at this point.

12 CHAIRMAN FORD: I think perhaps
13 what's being proposed is that we have
14 some guidelines of how the Affordable
15 Care Act fits into those guidelines.
16 Hopefully, we can make what we do general
17 enough to afford what happens there to
18 come under what we have done. And it may
19 be that we have to come back later on and
20 say, well, we have to do something
21 different. But I think -- and correct me
22 if I'm wrong, Judge -- that that's what
23 we're trying to do.

1 JUDGE BELL: Yeah. And whichever
2 option we do, we've got a corresponding
3 revision to this CS41. And I know
4 somebody was doing something on CS -- the
5 child support forms, but there would have
6 to be that revision that corresponds to
7 go along with.

8 JUSTICE STUART: Just by way of
9 clarification, my understanding is that
10 under our existing rules relative to
11 health insurance and under each of the
12 proposed rules relative to the handling
13 of health insurance under the child
14 support guidelines, the only credit is
15 given for premiums actually paid.

16 JUDGE BELL: Yes, ma'am. That's
17 right.

18 CHAIRMAN FORD: That's correct.

19 JUDGE BELL: That's exactly right.

20 CHAIRMAN FORD: Any other further
21 discussion?

22 Ms. Davis, you want to renew your
23 motion?

1 MS. DAVIS: I make a motion that we
2 adopt option 3 as it relates to the
3 health insurance coverage, and in that
4 motion include that the forms be updated
5 and in an appropriate manner that is
6 adopt.

7 MR. POLEMENI: I'll second.

8 CHAIRMAN FORD: It's moved and
9 seconded that we adopt or that we send to
10 the Supreme Court option 3 and also
11 recommend the requisite changes in the
12 forms that would have to be done to
13 implement that option.

14 Ready for the question? All in favor
15 say aye.

16 (All members in favor of the motion
17 so indicated.)

18 All opposed likewise.

19 So ordered.

20 MR. MADDOX: Judge Ford, in one of
21 the last meetings, I think, Justice
22 Stuart brought up that you want this
23 proposal sent to the court immediately

1 instead of waiting on the entire Rule 32
2 schedule to be sent as a package because
3 it may take a few months to get the
4 schedule updated.

5 CHAIRMAN FORD: Okay. You've heard
6 from Bob Maddox that a -- it was the
7 pleasure of the committee at the last
8 meeting that we send this immediately to
9 the Supreme Court so that they can look
10 at it at their next rules meeting. Is
11 that still the pleasure of the committee?

12 It will be so done. Please get that
13 to them.

14 All right. We are now at --

15 MS. DAVIS: Did you want me to speak
16 to the remainder of option 1?

17 CHAIRMAN FORD: Yeah. There you go.

18 MS. DAVIS: When I speak throughout
19 the state, I let people know that I am on
20 the committee that's revising the child
21 support guidelines, and I ask for
22 attorneys and judges and anybody else to
23 submit to the committee, either through

1 me or somebody else, any suggestions.

2 And what's listed as -- now as option 1,
3 subsection F is the result of that.

4 Now, we obviously did not choose
5 subsection E, so if we go forward, reit
6 would have to be renumbered. But if I
7 might, Judge Ford, I'll just go ahead and
8 read what F is.

9 CHAIRMAN FORD: Please.

10 MS. DAVIS: F would be -- and, again,
11 under option 1, these are proposals to
12 the rule A1 so that this would be a
13 reason that the judge could deviate from
14 the guidelines. This will be an
15 additional reason. Subsection F is the
16 assumption under the schedule of basic
17 child support obligations that the
18 custodial parent would take the federal
19 and state income tax exemptions for the
20 children in his or her custody and not be
21 followed in the case. And what I was --
22 had been told is in many instances -- or
23 some instances the parties choose for a

1 number of different reasons to allow
2 someone else to take the -- allow the
3 other parent, the noncustodial parent, to
4 take the tax benefit rather than the
5 custodial parent. And the guidelines are
6 currently drafted, the amounts in the
7 guidelines, as if the custodial parent
8 would take those tax exemptions. And so,
9 again, I'm not personally pushing this,
10 but I'm presenting this as a suggestion
11 that we now allow the courts to consider
12 that as a reason to deviate from the
13 guidelines if they choose to do so.

14 CHAIRMAN FORD: You've heard the
15 proposal that the courts will consider
16 deviating from the guidelines because of
17 the state and federal income tax
18 exemption. Any discussion?

19 MR. JEFFRIES: My understanding is
20 that that is already a basis to deviate
21 from the guidelines, that the guidelines
22 assume that the custodial parent is
23 getting the state -- federal and state

1 income tax exemptions for the children.
2 That being said, I -- my experience is
3 that judges don't always exercise their
4 ability to use deviations and that any
5 specification -- any more specificity
6 maybe is a better way to say it that that
7 is an option would be helpful or could be
8 helpful.

9 CHAIRMAN FORD: Any other discussion?

10 JUDGE BELL: Jim, that's the way I
11 feel, too. And because of the -- the
12 fact that Rule 32 plainly says that
13 that's the case and it would carry the
14 reasoning forward in the family medical
15 insurance premium case, I think that this
16 is out of an abundance of caution that
17 says, judges, y'all can do that if you
18 feel like that's the fair thing to do in
19 the case. And that's the reason.

20 CHAIRMAN FORD: Discussion?

21 Comments? Motion?

22 JUDGE BELL: I make the motion that
23 we approve that. Make it subparagraph E

1 of Rule 32A1.

2 CHAIRMAN FORD: Is there a second?

3 MS. KIMBROUGH: I second.

4 CHAIRMAN FORD: Moved and properly
5 seconded that what was delineated here in
6 this form F, we make it subsection E
7 under -- or propose that we make it
8 subsection E of Rule 32A1.

9 JUDGE BELL: And if I can add to that
10 motion that the existing subparagraph E,
11 which is a catchall provision under 32A1,
12 would then become the new subparagraph F.

13 CHAIRMAN FORD: We'll make those --
14 we'll make those changes. But,
15 basically, that we -- it's been moved
16 that approve sending it to the Supreme
17 Court for adoption subparagraph F for
18 Rule 32A1.

19 JUSTICE STUART: E.

20 JUDGE BELL: Subparagraph E.

21 CHAIRMAN FORD: Yes. E. I'm sorry.

22 Ready for the question?

23 All in favor say aye.

1 (All members in favor of the motion
2 so indicated.)

3 All opposed likewise.

4 It's so ordered.

5 Mr. Jeffries, you have joint custody?

6 MR. JEFFRIES: Yes.

7 MS. DAVIS: We have one more section.

8 CHAIRMAN FORD: I'm sorry. Forgive
9 me.

10 MS. DAVIS: It's listed on your
11 proposal as subsection G. Again, the
12 numbers would have to be redone if that's
13 the pleasure of the committee.

14 Again, this is -- over the years,
15 I've had people express the sentiment
16 that the actual child care cost is
17 substantially different than the current
18 guidelines provide that the cost that's
19 put in is based on the calculations as
20 proposed to the judges. Y'all are all
21 familiar it. It's based on the age of
22 the children, the type of child care, the
23 count you're in, and then -- and so what

1 again would be proposed here is not that
2 we change that formula that's currently
3 used, but that we give the trial judges
4 the option if they look at the actual
5 cost and the actual cost incurred is --
6 would exceed the cost that's -- that
7 would be currently provided under the way
8 the guidelines are written by 20 percent,
9 then the trial court could deviate from
10 that guideline number if the guideline --
11 if the trial court feels that that would
12 be more equitable.

13 JUDGE PALMER: Well, the guidelines
14 have not been revised since October the
15 1st of 2009, and that comes from the
16 Department of Human Resources, I believe.
17 So I think we need to start there. I
18 called in 2011 and asked where the new
19 charts were -- and I don't know who I
20 spoke to -- but I was told that with the
21 cost of living, they were not going to be
22 adjusted.

23 Then in 2013, I called and nobody

1 could give me an answer why nothing had
2 been done in '13. So I think we need to
3 start there, because it is already
4 somebody's responsibility to do that.
5 It's not been done since '09. So -- and
6 that's where we are on that. And I also
7 believe that the judge already has the
8 discretion to deviate, especially if you
9 have a special needs child, if you work
10 seven at night to seven in the morning,
11 if you have some other sort of reason why
12 you need to go above what the chart says;
13 because not everybody qualifies for
14 subsidized day care expenses as well,
15 which I believe is some of the numbers
16 that are currently out there.

17 CHAIRMAN FORD: Can you delineate as
18 to where DHR is on their current
19 schedule?

20 MS. BUSH: They do review -- DHR does
21 review the day care rates every two
22 years, and if they don't see a change in
23 the cost, then it's very similar to our

1 rules. Of course, we're going to go back
2 and do ours. But they do look at it
3 every two years, and if there's not a
4 substantial change, there would not be a
5 change in the rates. And that's what's
6 occurred. It's being reviewed; it hasn't
7 been changed.

8 JUDGE PALMER: Well, and even -- you
9 know, I know it's every two years, but if
10 the Department of Human Resources could
11 at least send out some sort of memo, some
12 sort of this notice to this section --
13 or I think it has to go out to all the
14 clerks of court, the president of the
15 family law section at the time, possibly
16 this committee -- and just say we have
17 reviewed this and have found no change.
18 Because I had somebody call me up the
19 other day and said, really, is the '09
20 chart still the current chart. And I
21 said, yes, it is. And you can't find
22 that anywhere that says we've reviewed it
23 and we've decided not to increase it.

1 JUSTICE STUART: This is just a
2 suggestion because we obviously don't
3 have the authority, I don't think, to
4 require it. But it looks like it would
5 be very, very helpful if DHR would send
6 out new charts every two years that at
7 least say reviewed and not changed --

8 JUDGE PALMER: That's an excellent
9 idea.

10 JUSTICE STUART: August 2014.

11 MS. BUSH: I will make a note of that
12 and tell the powers that be that that is
13 a suggestion.

14 JUDGE BELL: By a supreme court
15 justice.

16 MS. BUSH: Justice Lynn Stuart said.

17 JUDGE BELL: Pass by acclamation.

18 CHAIRMAN FORD: With that, do we
19 still need to consider what's being
20 proposed?

21 MS. DAVIS: Well, again, you know,
22 the indications that I get from the
23 attorneys that talk to me and some of the

1 judges is that there would still be
2 even -- if the updates -- if the number
3 are the same as they were in 2009, they
4 would still -- the actual amounts being
5 paid is still substantially -- in many
6 cases, substantially more. So I guess
7 the question is a matter of policy. You
8 know, the theory is that you want to
9 encourage the parents to work and to --
10 and if their child care is so much higher
11 then they're actually getting credit for,
12 then it would be less incentive for them
13 to go out and work. If they can't get
14 credit for that, it's actually costing
15 them. And that would be one of the
16 issues as a matter of public policy.

17 JUDGE PALMER: At least in the
18 Birmingham area and Shelby County area,
19 you know, you can find a day care that's
20 \$900 a week, you know, and that's what
21 you put your child in when you're going
22 through divorce. And maybe that's what
23 y'all were in when you had these two

1 incomes coming in, and then the day after
2 the divorce is final, you take them out
3 and they're in a \$400 a week day care.
4 And then you've got to go and get things
5 adjusted. So there does need to be a
6 cap. There definitely does need to be a
7 cap. Because is it a private day care?
8 Is it the one that ha the little red
9 house on it. I can't think of what
10 that's called right now.

11 CHAIRMAN FORD: Kindercare.

12 JUDGE PALMER: Kindercare. Or, you
13 know, is at the church where you possibly
14 get subsidized or where is it? And
15 you've got such a huge range. And I
16 understand what Penny is saying because,
17 you know, you want your child to go to
18 the best because you're going to work and
19 you're leaving your precious child with
20 hopefully not strangers, but you want to
21 get the best. And if you want the ones
22 where you can look at them online while
23 you are at work and have the cameras,

1 that's going to cost more than the ones
2 where they're open from six in the
3 morning to seven o'clock at night and
4 have 500 people in there, you know.

5 CHAIRMAN FORD: That's constantly
6 been a problem as to whether or not you
7 choose to have the best or you choose to
8 have what's available. And, of course,
9 that also depends on incomes of parties.
10 And, generally, with the poor folks I
11 deal with is whatever's available. But
12 -- and as you indicated, there needs to
13 be some cap because it can be outrageous
14 what you pay for child support -- I mean
15 child care.

16 MR. NICHOLS: If I might,
17 Mr. Chairman.

18 CHAIRMAN FORD: Yes.

19 MR. NICHOLS: I think we need to keep
20 in mind this does not compel the courts
21 to deviate. This simply gives the court
22 another factor it may consider. My
23 question about it -- and I know the

1 subcommittee probably has been through
2 all of this -- but I wondered if
3 20 percent is a little low. I wonder if
4 it ought not be more of a --

5 MS. DAVIS: It was just an arbitrary
6 figure.

7 MR. NICHOLS: I wonder if not ought
8 not be 50 percent or something like that
9 if you're going to deviate. I
10 understand, you know, that may encourage
11 people to go to more expensive day cares.
12 I don't know. But you're not guaranteed
13 a deviation if you do that.

14 JUDGE DONALDSON: Let me ask a
15 question. Are you finding that the DHR
16 numbers are fairly consistent within your
17 communities of what the actual --

18 JUDGE PALMER: No. They're very,
19 very low.

20 JUSTICE STUART: Way too low.

21 JUDGE DONALDSON: They're way too low
22 from my experience. So I'm like you.
23 This would permit a deviation. If a

1 parent went out and artificially
2 increased the -- if we had a mandatory
3 inclusion of the actual cost and they
4 went out and went to the most expensive
5 day care just as punitive manner, then
6 that's different from this, because you
7 could argue to the trial judge that that
8 was done in a manner that's not
9 consistent with what the parties did
10 before. But I like this because my
11 experience was that the numbers are not
12 accurate if terms of what -- and maybe
13 because they're taking an overall view.
14 But within any particular community,
15 those parents know what's it going to
16 cost and could present that information
17 to the trial judge. And I do want to
18 emphasize this is -- if it exceeds by
19 20 percent, you may be -- are not
20 required to in certain -- the trial judge
21 could accept the argument that it's not a
22 reasonable cost.

23 JUDGE BELL: And I agree with Scott.

1 The reason I think we proposed this was
2 it just set out this is a good reason to
3 deviate if the judge finds it to be fair
4 and equitable to do so. Here's what we
5 may want to consider doing is that it
6 would be the actual child care cost
7 incurred on behalf of the children
8 because of the employment or job search
9 of either parent exceeds the DHR cap
10 allowed under the rule. And why would we
11 worry about a percentage? Isn't that
12 going to be something the judge is going
13 take into account anyway?

14 JUDGE PALMER: Well -- and I don't
15 think it's in there now about the job
16 search because that is.

17 MS. DAVIS: That's current.

18 JUDGE PALMER: Is that current?

19 MS. DAVIS: But the reason I put
20 20 percent is my assumption is almost
21 every -- not almost every -- many, many,
22 many of the cases exceed the guidelines.
23 So I wanted to limit the number of cases

1 that -- so that the trial judge doesn't
2 have to look at all the cases. Because I
3 think if I were an attorney that was
4 representing you and it exceeded, then I
5 would feel like I was obligated to ask
6 the court to deviate. So I was trying to
7 limit the number of cases. And to me if
8 you're asking for a reason to deviate,
9 then it ought to be something a little
10 bit more than just \$10 more or whatever.

11 JUDGE BELL: I'll accept that.

12 MS. DAVIS: But 20 percent just,
13 again, is an arbitrary figure. I first
14 looked at 10 percent because that's the
15 number we have in the guidelines relating
16 to the whole case, but I thought that was
17 too low. So then I doubled it to
18 20 percent. But I'm not married to any
19 number.

20 CHAIRMAN FORD: Mr. Nichols you had
21 indicated it was too low. Is there any
22 number you want to propose?

23 MR. NICHOLS: It was a question

1 whether it was a too low.

2 JUDGE PALMER: I think like the
3 maximum in Jefferson County and Shelby
4 County is \$425 a week for child care
5 expenses for one child that has more than
6 12 children that's certified. And so
7 20 percent of that would be \$82, \$85. So
8 you're still only looking at \$500
9 maximum. And most day care is anywhere
10 from 510 to \$600 a week now.

11 MS. DAVIS: So you may want to bump
12 that and say 30 percent or something. I
13 don't know.

14 JUDGE PALMER: I don't know. I'm
15 just doing math in my head and trying to
16 figure it out.

17 JUDGE BELL: All you're doing is
18 laying a threshold over which the judge
19 would have the right to deviate if they
20 felt like it was fair.

21 CHAIRMAN FORD: Okay. So what's the
22 pleasure of the committee? We can send
23 this to the Supreme Court for their

1 consideration. Is there any overwhelming
2 desire to change the percentage either up
3 or down? Where do we go?

4 JUDGE BELL: I move we adopt it as
5 written. And if we do this, then this
6 provision would become subparagraph F,
7 and then the old subparagraph E would be
8 become subparagraph G.

9 JUDGE DONALDSON: I'll second that
10 motion.

11 CHAIRMAN FORD: It's been moved and
12 properly seconded that we adopt and send
13 to the Supreme Court what is delineated
14 here subparagraph G but will become
15 subparagraph F regarding the child care
16 expense and deviation.

17 Ready for the question? All in favor
18 say aye

19 (All members in favor of the motion
20 so indicated.)

21 All opposed likewise.

22 So ordered.

23 Okay. Now I think we have

1 Mr. Jeffries. I'm sorry.

2 MR. JEFFRIES: I in a meeting or two
3 ago brought up the issue of the fact that
4 our guidelines do not address the child
5 support calculation in a true joint
6 custody, 50/50-type custody arrangement.
7 And I didn't really understand why that
8 was the case. And it had not been --
9 I've been on the committee since, I
10 think, '08 or '09, and I was not aware of
11 a discussion that had actually taken
12 place about that subject. When I raised
13 it initially, Chairman Bailey and Steve
14 Arnold were quick to inform me that that
15 is, in fact, a subject that has been
16 discussed by committee -- they have been
17 on the committee since the beginning, I
18 believe, both of them -- and that they
19 had discussed it in the past and that it
20 is a much more complicated topic than I
21 might have realized. In response to
22 that, we decided that we would discuss it
23 further, and that's how this got on the

1 agenda today. The basis for my interest
2 in the topic -- and I'll be interested to
3 see what other people's comments are --
4 is that I am definitely seeing the joint
5 physical custody arrangements more and
6 more in my practice. I have a practice
7 that may be somewhat unique in that I
8 have an office in both Mobile County and
9 Baldwin County, and we have five or six
10 different judges that I deal with on a
11 daily basis and probably three or four
12 different versions of how they all -- how
13 they each deal with joint physical
14 custody arrangements. And which is fine.
15 But I just think there ought to be some
16 discussion to get some sort of guidance
17 at least from the committee to judges and
18 practitioners and people that are
19 appearing before the court regarding the
20 joint physical custody arrangement. I
21 have -- I personally have had proposals
22 that I thought were compliant with a
23 particular judge's basis for setting up

1 child support and joint physical custody
2 only to be informed that that judge had
3 recently been to a judge's conference
4 and was then informed that the way I had
5 been calculating child support and joint
6 physical custody arrangements was
7 incorrect and that there was another
8 specific way that it had to be done. And
9 that way was explained to me. And this
10 was -- this is the way the judge said
11 that it had to be done, not the way that
12 the rules said it had to be done, which
13 is kind a different thing.

14 MR. NICHOLS: But just as important.

15 MR. JEFFRIES: More important. But
16 the result of that was that I had to then
17 go -- the agreement document that was
18 signed by both parties and the required
19 child support forms were all executed,
20 submitted to the court. They -- because
21 of that information from the judge, it
22 had to be totally redone. The agreement
23 had to be redone. The child support

1 forms had to be redone. And as we all
2 know, opinions about the agreement and
3 the benefit that they got from the
4 agreement can kind of change between that
5 time. So that case ended up being worked
6 out, but there was a significant amount
7 of possibility that our whole agreement
8 was going to fall apart because of this
9 differing way that the judge wanted to do
10 joint physical custody. So that's a
11 little bit about my basis for me
12 presenting this. After the last meeting
13 I thought what I would do is simply take
14 a survey of the lawyers in this state and
15 see what the different ways were that
16 they actually do handle joint -- true
17 joint physical custody arrangements and
18 inquired of the family law section
19 through the list serve and got zero
20 response -- zero response -- of any kind
21 of different way. I've tried the
22 committee to send -- to give different
23 ways that the committee members -- the

1 specific committee members have done it.
2 Got no response there either. And I know
3 Judge Bell and I have discussed this
4 topic before. I know that he has -- he
5 is unique, in my opinion, in that, Judge
6 Bell, you will -- you will rule that
7 joint physical custody is appropriate
8 from the bench.

9 JUDGE BELL: No.

10 MR. JEFFRIES: That is not something
11 I deal with on a normal basis. So you
12 actually do that calculation yourself and
13 have a basis to do that. Judge Bell and
14 I have discussed this, and he is willing
15 to give us a little bit of insight into
16 how and why he does it, a very brief
17 insight into how he does that, if that's
18 what the committee -- if that's the
19 committee's pleasure. I did some other
20 research as best I could that I did not
21 find any Alabama case -- any recorded
22 cases that dealt with that. The rule
23 itself does not address it except in a

1 comment -- the original comment to the
2 rules. And it basically just says that
3 it's a basis for deviation depending on
4 what the judge finds. There are -- I
5 tried to check some other states nearby
6 and ended up getting into some New Jersey
7 and Pennsylvania discussions about that
8 topic. And the one thing that I could
9 figure out was that this is not a topic
10 that is unique to the state of Alabama.
11 All states that have guidelines have
12 dealt with -- not all states, but the
13 ones that I've looked at have dealt with
14 this issue as well. It also was apparent
15 to me pretty quickly that because of the
16 differences in the other states' methods
17 of calculating child, it is really
18 impossible to have any sort of analysis
19 of how they do it in relation to how that
20 could help us. Very complicated
21 methodology in how they do it. It just
22 didn't correlate to what we do at all.
23 So really no guidance at all. And that's

1 kind of where we are. I don't want to
2 reinvent the wheel here, but I do
3 think -- just for example, I really see
4 split custody situations. But for
5 whatever reason, the original rule dealt
6 with the split custody.

7 MR. NICHOLS: Actually it didn't.
8 That was an amendment.

9 MR. JEFFRIES: An amendment. Okay.
10 For whatever reason, it's in --
11 specifically addressed in the rule. And
12 that's -- the split custody methodology
13 is how we have used -- how the lawyers
14 that I deal with and the judges have used
15 that methodology to calculate child
16 support and joint physical custody
17 arrangements. Judge Bell's method is to
18 basically use that -- and you can correct
19 me if I'm wrong -- you use that sort of
20 formula and then you cut whatever you get
21 in half.

22 JUDGE BELL: No.

23 CHAIRMAN FORD: Before we -- Judge

1 Bell is going to teach --

2 MR. JEFFRIES: I have had somebody
3 attempt to do that. I won't say that I
4 understood it.

5 CHAIRMAN FORD: Good ahead, Judge.

6 JUDGE BELL: Thank you. There is no
7 provision, as we know, in Rule 32 for
8 calculation of child support under a
9 joint custody arrangement. There is one
10 for split custody. And the -- the only
11 cases I'm aware of -- maybe the justices
12 on the appellate courts will know more --
13 but the only cases I've ever seen is
14 where a judge has used a split custody
15 formula in a -- figured child support in
16 a joint custody arrangement or vice
17 versa. In other words, they misapplied
18 the rule and it was actually a deviation.
19 But what I do and -- we had a recent
20 appellate court case that I thought a
21 real profound statement was made by Judge
22 Moore and adopted by the rest of the
23 court of civil of appeals. Joint custody

1 is the preferred manner of parenting of
2 divorced parents in this state. And
3 that's true. I think that's what the
4 lawyer requires that we look at first,
5 and I do. What I do is on a case-by-case
6 basis, I don't announce decisions from
7 the bench generally. I did when I was
8 younger on the bench, but I don't now.

9 MR. JEFFRIES: I understand.

10 JUDGE BELL: If I think that I may be
11 leaning towards joint custody, I will
12 tell the parties that if I order joint
13 custody, you have to have a parenting
14 plan under Section 30-3-153. I'm going
15 to take a break and give y'all an
16 opportunity to see if y'all can agree on
17 a parenting plan. And then I come back
18 in. If they do, we put it on the Record;
19 if they don't, I make the plan myself.
20 But I'll look at child support. If the
21 incomes are basically equal, I just say
22 support the child when they're with you,
23 divide required school expenses,

1 extracurricular non-covered medical and
2 dental expenses. If there's a disparity
3 in income, sometimes I have used the
4 split custody formula and divided it in
5 half, because split custody means you've
6 got custody of -- each party has got
7 custody of a child or children.

8 MR. JEFFRIES: All the time.

9 JUDGE BELL: All the time. So you're
10 only going to have half time, then I
11 split that. But there is no recognized
12 rule. And I don't have a hard-and-fast
13 rule other than I try to do what I think
14 is fair under the circumstance. You've
15 got to look, too, maybe one of those
16 parents in a joint custody arrangement is
17 paying a premium for medical insurance.
18 Well, that ought to be taken into
19 account, too. And I do that. So it's
20 just kind of on a case-by-case basis.

21 MR. JEFFRIES: Sure.

22 CHAIRMAN FORD: Well, what I hear is
23 this is a very complex issue. And my

1 question is --

2 JUDGE PALMER: I don't think it is
3 actually.

4 CHAIRMAN FORD: Okay. Please.

5 JUDGE PALMER: What I did both as a
6 practitioner and now on the bench is I do
7 a Rule 32. And I award a lot of true
8 joint physical custody with the mom and
9 with the dad if it can physically be done
10 and work allows it and that sort of
11 thing. Whoever's been paying the day
12 care, that goes in. Whoever's paying the
13 insurance, that goes in. And I'm
14 pointing to a -- Rule 32 -- or excuse
15 me -- CS 42 form. And then if one
16 parent -- just like Judge Bell said. If
17 it's 50/50, then I say you pay 50 percent
18 out-of-pocket medicals, 50 percent of the
19 school registration, 50 percent of the
20 class trips. When the child's with you,
21 you pay for their lunch. When the
22 child's with you, you pay for their lunch
23 at school, and that sort of thing. If

1 it's a disparity, then I do 75 percent
2 and 25 percent then. If one parent had
3 both children, I -- Randy should be
4 paying me \$750. If he both children, I
5 should be paying him \$250. So I subtract
6 one from the other, and then Randy pays
7 me \$500. If I put on my chart that I pay
8 \$500 a month in day care, then I'm still
9 responsible for paying that day care. If
10 he puts that he pays \$500 a month for
11 health insurance, then he's still
12 responsible for the health insurance.
13 And then medical is split 25/75. The
14 lunch is still paid -- the lunch is still
15 paid by each one of the parties when they
16 have lunch, but that's really the only
17 one that's kind of odd. But that's how I
18 do it. And that's how I was taught to do
19 it many years ago by other judges, so...

20 MR. JEFFRIES: Judges that you've
21 practiced in front of you?

22 JUDGE PALMER: Yes, sir.

23 MR. JEFFRIES: And that's kind of to

1 the whole point that it's -- your judges
2 had a particular way. Some other judges
3 might not.

4 JUDGE PALMER: Exactly.

5 CHAIRMAN FORD: Let me ask this
6 question this way. Do you think this is
7 an issue that should be addressed by the
8 rule or is it an issue that should be
9 addressed by training?

10 JUDGE BELL: There's no way to train,
11 I don't think. There's some benefit to
12 having a hard-and-fast rule, but I think
13 this may be -- it's important enough and
14 it's complex enough that maybe we do need
15 a subcommittee headed by Jim Jeffries
16 that can bring a proposal to us.

17 MR. JEFFRIES: I've already opened my
18 mouth, so...

19 JUDGE BELL: That's what happens.

20 JUDGE PALMER: If I got an email from
21 you and I didn't respond, I apologize,
22 because I tell people about this all the
23 time. And I believe the trend in Alabama

1 is when physically possible and you've
2 got two good parents or two bad parents
3 that it is a week and week. I do that a
4 lot. I see a lot of judges doing that a
5 lot. Again, depending on the age of the
6 child, the relationship that the parents
7 have, can they truly coparent together
8 and that sort of thing. That is, I
9 believe, the going trend in Alabama.

10 JUSTICE STUART: I do recommend that
11 there be a subcommittee, because there's
12 going to have to be a specific
13 recommendation. And I think it's going
14 to need to be presented to this committee
15 with enough advance notice so that we can
16 look at unintended consequences of that
17 kind of a rule. I mean, it is big deal
18 in Alabama. It is the preferred method
19 of parenting we. Just need to be sure we
20 do it right and not have unintended
21 consequences.

22 MR. JEFFRIES: My thought was even in
23 relation to the complexity issue that it

1 could even be an issue that needs to be
2 addressed with a consultant to see how
3 these unintended consequences might
4 become present.

5 MR. POLEMENI: To that point, this is
6 the Association of Family and
7 Conciliation Courts, April of 2014, The
8 Cost and Pitfalls Individualizing
9 Decisions and Incentivizing. They have a
10 report addressing that. Then another one
11 was Social Science and Parenting Plans
12 for Young Children. It's a consensus
13 report. Again, 2014 out of the
14 Psychology, Public Policy, and Law
15 Review. I have it on a thumb drive if
16 anybody wants a copy of those --

17 MR. JEFFRIES: Sure.

18 MR. POLEMENI: -- to review. But
19 that may help. And, again, maybe, like
20 you say, getting more information like
21 this.

22 CHAIRMAN FORD: Okay. Well, I think
23 what's being proposed is that,

1 Mr. Jeffries, if you will accept the
2 leadership.

3 MR. JEFFRIES: Sure.

4 CHAIRMAN FORD: That you head a
5 subcommittee. And I would hope that
6 either Judge Bell and Judge Palmer or
7 both of them will also serve and some
8 other practitioners in family law can
9 come up with a proposal to this entire
10 body that we can discuss fully and
11 consider recommending to the Supreme
12 Court as we have included in Rule 31
13 include.

14 All right. That you.

15 MS. DAVIS: Judge Ford, I had someone
16 send me information relating to a
17 suggestion concerning the social security
18 disability offset, which Bob sent out to
19 the committee. It's in the information.
20 Is this the appropriate time to discuss
21 that?

22 CHAIRMAN FORD: I'll tell you what.

23 Let's do this. Let's let Ms. Moore make

1 her presentation, and then we'll do it
2 afterwards.

3 MS. MOORE: Thank you. Follow-up on
4 the child support instructions, forms,
5 and update in your packet, Bob has
6 provided a copy of the Access to Justice
7 website. And that a little of what they
8 have done to resolve this situation. And
9 thank you for, Bob, for giving the update
10 on last month due to my absence. The
11 concern pretty much was that the
12 instructions and forms were not user
13 friendly. And we have made contact with
14 Ms. Daniels, the Alabama Bar, and with
15 Chandler Barrett of Access to Justice,
16 and we discussed the needs to have more
17 user friendly forms for the public. And
18 they have since then started working on
19 that and have expanded the material
20 that's listed on the website. We invited
21 Alabama Access to Justice to the circuit
22 clerks' conference midwinter in January
23 '14. They did come and brought updated

1 packet. They distributed an entire
2 packet to every circuit clerk in the
3 state of Alabama, and that packet
4 included a manual for clerks and court
5 personnel who assisted self-represented
6 litigants in Alabama courts. And it is
7 very good. But this is one of the
8 booklets and guidelines they gave us.
9 They also provided us with an
10 alabamatojustice.org pamphlet that we
11 have. They provided a poster board for
12 us to post outside of our door on our
13 bulletin board or display cabinets so
14 that we could direct individuals and pro
15 se litigants to that information. And it
16 gives just a little bit of a synopsis of
17 what they offer. But it was -- it was a
18 very good presentation that they provided
19 to our conference and to clerks. But at
20 the same time, they did a survey, and
21 that survey was to all clerks asking what
22 we thought were the top five issues that
23 self-represented faced. And some of the

1 suggestions were that we needed more
2 samples of the handouts on child support,
3 visitation modifications, how to
4 terminate child support. And they have
5 and are providing a display section for
6 us to have to distribute that
7 information. We ask -- and another
8 suggestion was that the child sport
9 guidelines and how child support is
10 calculated be also placed on that website
11 so that a parent could go in and actually
12 look and read in simple terms how to
13 understand how child support is
14 calculated, and that was one of the
15 things that was well received. We have
16 advised all circuit clerks to add a link
17 to their web page of the website when an
18 individual clicks on the clerk's office
19 and wants more information on child
20 support to add that link to Alabama --
21 atj.org, and it would pop up with that
22 information as well. But so far right
23 now we have -- we're distributing this

1 information and we have it on -- at our
2 counter. We have our posters posted
3 outside of our doors. And when someone
4 comes in what we're encouraging clerks
5 now to do is make sure that the public
6 gets this information. And I think it's
7 going to be a wonderful system and a
8 wonderful tool once we get everything in
9 place and especially simplify some
10 additional forms, add additional
11 instructions and information. And as we
12 update our information via this
13 committee, we would also like for it to
14 be updated with the alabama.org as well.
15 And that's basically my report.

16 CHAIRMAN FORD: Any questions?

17 JUDGE PALMER: How is this going to
18 be different than alabamalegalhelp.org?
19 Is it going to be different forms? Is it
20 going to be --

21 MS. MOORE: There will not be
22 different form. They work in conjunction
23 with each other because I worked with the

1 Alabama Bar and also with Alabama Access
2 to Justice, so they complement each
3 other. It's not conflicting information
4 or any different.

5 JUDGE PALMER: Just to let y'all know
6 why I've been so vocal over -- not that I
7 wouldn't be anyhow -- but 2013, Jefferson
8 County, Birmingham Division -- because
9 you know we've got a Bessemer Division
10 and a Birmingham Division -- DR filings
11 for 2013 were 4,444. Now, those weren't
12 all original divorces. They were
13 petitions to modify, petitions for rule
14 nisi, original divorces, and probably
15 about 500 PFAs in there. But that's
16 where we're coming from. And about
17 25 percent of those 4400 people are self-
18 represented litigants who are getting
19 forms from everywhere, Office Depot. I
20 always tell them to go back and get their
21 money from those. A lot of notaries are
22 practicing law. I'm trying to find those
23 people and turn them into the bar as much

1 I can. And then just people getting
2 forms from my cousin just got a divorce
3 and she just sent me her forms and I just
4 typed them up or whited out her name and
5 did that. And then they don't understand
6 why I won't grant the divorce because
7 they don't have an agreement. And that's
8 the one thing that I see on the
9 alabamalegalhelp.org. You've got the
10 complaint, you have the testimony, I
11 think you might even have an answer and
12 waiver. And I think Jim and I worked on
13 that. But there's no agreement for the
14 parties to sign. And I just can't
15 divorce people just because they file all
16 those others. I have to have some sort
17 of agreement, in my opinion, saying we
18 have no debts or we're each going to pay
19 our own debts, our property's been
20 divided, and that sort of thing that they
21 both signed. And so that -- the forms is
22 something that as a judge that I need
23 for -- to make available for those

1 people.

2 MS. MOORE: I'll add that to the list
3 of forms, and we'll go back and revisit
4 all the noncontested divorce packets.

5 CHAIRMAN FORD: Any other questions?
6 Comment? Concerns?

7 Thank you Ms. Moore for that report.
8 Penny.

9 MS. DAVIS: Yes, sir. In your
10 packet, we got an email that was from Amy
11 Creech who is a practicing attorney in
12 the Huntsville area. I think she
13 practices in your court.

14 JUDGE BELL: She does.

15 MS. DAVIS: And if it is appropriate,
16 Judge, we might give everybody a chance
17 just to read the first -- let's see --
18 first three paragraphs. It relates to a
19 suggestion that she has that we add a
20 provision relating to a social security
21 disability offset when children are
22 receiving the benefit as a result of the
23 obligor's disability. So would that be a

1 appropriate, Your Honor?

2 CHAIRMAN FORD: Yeah, that's fine.

3 MS. DAVIS: If we can just kind of
4 read that email.

5 CHAIRMAN FORD: I hope everyone has
6 that packet.

7 MS. DAVIS: It's toward the end of
8 that packet from Bob. It looks just like
9 a copy of the email.

10 MR. MADDOX: While the committee is
11 reviewing that, if there are any members
12 of the public who want to provide
13 comments, I'm going to pass the sign-in
14 sheet around just so we'll have an order
15 to it. Judge Ford?

16 CHAIRMAN FORD: Yes, please.

17 JUSTICE STUART: Penny is this a
18 practice problem as opposed to something
19 that needs to be addressed by rule? Just
20 in reading this it looks like a practice
21 problem.

22 MS. DAVIS: I think the issue goes
23 back to, I think, what Julie was saying

1 earlier you have a large percentage of
2 people who are now representing
3 themselves. And the offset that's
4 provided is by case law. It's not
5 specifically addressed in the statute.
6 So obviously while there are probably a
7 number of practitioners that are not
8 aware but certainly most of the people
9 who are nonlawyers would not be aware of
10 it, I think her thought was if you put it
11 on the form, it would at least alert
12 people to, oh, yeah I'm getting that or
13 my child's getting that. Now, the
14 concern that I had is that this would
15 not -- the rule would be reflecting what
16 a case has decided, which although I
17 don't know that it would change in the
18 future, it would not be reflective of
19 what the rule says.

20 JUDGE DONALDSON: I'd almost rather
21 see the rule change than the -- I'm not
22 suggesting it -- but I'd rule see the
23 rule changed before we change the form.

1 MS. DAVIS: To reflect a case, that
2 was my concern. I'm not anticipating the
3 court would change their case law, but...

4 JUDGE BELL: You know, we could
5 change Rule 32, I mean, as a committee if
6 we thought we need to do that and plug it
7 in, which would carry with it a
8 commensurate revision of the CS41 if we
9 wanted to.

10 JUSTICE STUART: I mean, I think we
11 certainly can change the rule if we want
12 to. I'm wondering if in this instance
13 simply changing the comments wouldn't be
14 sufficient.

15 MR. NICHOLS: Well, the only problem
16 with that is the case law does say that
17 it is a -- it's a direct offset. So I'm
18 not -- I'm not sure that's not something
19 we want to look at.

20 MS. DAVIS: And that may be something
21 you want to -- Judge Ford, I'm not
22 recommending we do anything at this
23 meeting. I'm just bringing it to the

1 attention of the committee.

2 CHAIRMAN FORD: I think maybe we need
3 to go ahead and have a little more study
4 of this, and at our next meeting or
5 perhaps even do it by email make any
6 proposed changes. I would suggest that.

7 MS. DAVIS: I would suggest that we
8 have a subcommittee with Billy Bell.

9 JUDGE BELL: No, no. I nominate
10 Randy Nichols.

11 CHAIRMAN FORD: Well, at least we
12 need to have the opportunity to study it
13 and have more in-depth discussion before
14 we --

15 MS. DAVIS: Even though I said tongue
16 in check we need to have a subcommittee,
17 I think we get more efficient work done
18 for the committee if we do have someone.
19 And although Judge Bell is my very
20 favorite person to appoint as
21 subcommittee chair obviously, Randy is my
22 second favorite. It's close. It's neck
23 and neck.

1 CHAIRMAN FORD: Who wins the race?

2 MS. DAVIS: It's up to Your Honor who
3 wins the race. Jim's my third.

4 CHAIRMAN FORD: Mr. Nichols will you
5 take that up?

6 MR. NICHOLS: I'd be happy to do it,
7 Mr. Chairman.

8 CHAIRMAN FORD: We call on Judge Bell
9 for so many things. And he's our primary
10 educator.

11 JUDGE BELL: Yeah. Right. Y'all are
12 in trouble.

13 MR. NICHOLS: I'll need Judge Bell to
14 be the first member.

15 JUDGE BELL: I'll help you.

16 CHAIRMAN FORD: We'll, Mr. Nichols
17 will take that leadership for that
18 particular issue and come back to the
19 committee with a report at the subsequent
20 meeting.

21 We're now -- unless there's anything
22 else. Yes?

23 MS. DAVIS: I have one more matter.

1 And I apologize.

2 CHAIRMAN FORD: No problem.

3 MS. DAVIS: Bob Maddox actually sent
4 me something yesterday he would like for
5 the committee to be aware of. And,
6 again, I have no recommendation
7 whatsoever.

8 CHAIRMAN FORD: Is it in the packet?

9 MS. DAVIS: It's not in the packet.
10 I mentioned to Bob maybe you would send
11 it out. But he had gotten response --
12 the issue presented to him a couple of
13 years ago from a practicing attorney and
14 he did not have time to contact that
15 attorney to make sure -- disburse the
16 email. So I'll just tell you the gist of
17 it, if that's okay, and then the little
18 research that I've done. The issue said
19 that the rule used to say the value of
20 the federal income tax credit for child
21 care shall be subtracted from the actual
22 cost to arrive at the figure for the net
23 child care cost. And then it quoted a

1 case, which is, if anybody wants to write
2 it down and look at it, the name of the
3 case is Holman v. Holman, and the cite is
4 623 Southern 2nd 326. And it was an
5 Alabama appellate case that was decided
6 in 1993. And so and I -- I pulled the
7 case and read the case, and basically
8 what the case did was the trial court had
9 calculated incorrectly and the court
10 looked at what the law was at that time,
11 which was just what I read to you, that
12 basically if you look at the actual cost
13 of child care, you take the actual cost
14 and then subtract away the child care --
15 tax child care credit and then that would
16 be the number that would be plugged in.
17 Now, as I said, in looking back, that was
18 not in the current law. I read the
19 comment -- patiently read the comments
20 and didn't see anything about it. I had
21 hoped to talk to Gordon today. He is
22 obviously not here. I mentioned it to
23 Steve earlier to see if he recalls any

1 discussion about that. He did not
2 immediately recall any discussion. I
3 think it's relevant in that we're now
4 suggesting that, you know, the court look
5 at the actual, you know, day care figures
6 and deviation. Now, whether we want to
7 do anything with this -- I don't know how
8 much -- I don't know what -- the history
9 behind why it was taken out. I just
10 don't know. But Bob did ask me to
11 mention this because since it was
12 something that had been submitted from
13 the public to him with regard to child
14 support guidelines.

15 JUSTICE STUART: I wonder if that
16 factor is taken into consideration in
17 establishing the guidelines. You know,
18 there are so many factors that are just
19 inherently built into the guidelines so
20 that you don't have to consider them
21 separately. And I don't know. I'm just
22 asking a question.

23 MS. DAVIS: And that was kind of what

1 i thought was probably the case, too, and
2 maybe why they felt like it was removed
3 at some point from the committee before
4 I was on the committee. So I'm not
5 suggesting that we do anything, but since
6 I was asked to present it, it's just
7 information.

8 CHAIRMAN FORD: Well, maybe we can
9 look at it to see whether or not it's one
10 of the factors that is considered; and,
11 if not, if there's a compelling reason
12 why it should be considered we can look
13 at it at another time.

14 MS. DAVIS: I would kind of think
15 since we drafted the law to allow the
16 courts to look at that in terms of
17 deviation that that could be presented at
18 that time to the judge, too, that, yes,
19 you think the custodial parent is paying
20 X amount more but this is an offset. So
21 I'm not sure that we need to do anything.

22 CHAIRMAN FORD: Okay. Anything else,
23 Ms. Davis?

1 MS. DAVIS: I'm sorry.

2 CHAIRMAN FORD: No problem. You're
3 always a wealth of information. We don't
4 want to leave you out.

5 This is now a period of public
6 comment. We do three members of the our
7 public who are present who wish to make
8 comments. First is -- I will call them
9 in the order that they've signed the
10 sing-in sheet. First will be Ken Holder,
11 followed by Boyd Landry, and the lastly
12 will be Jane Wright. Please have your
13 comments no more than about ten minutes.
14 And lastly, make them as relevant as you
15 can to the issues that are before the
16 committee. I understand that you may
17 have some burning desires and some
18 burning issues that you want to present,
19 but this committee has a very compact and
20 a specified role, and sometimes we can't
21 get beyond the issues that you wish to
22 address with the committee. So with
23 that, Mr. Holder, will you please come

1 forward and give you comments.

2 MR. HOLDER: I have a handout I'd
3 like everybody to look at.

4 Judge Bell and Judge Palmer, I
5 appreciate all your efforts in order to
6 keep families as intact as you can, but I
7 am going to tell you you're a rare breed.
8 There's not very many of y'all in the
9 state of Alabama according to the
10 information that I've given in my own
11 personal account, so I do commend you for
12 the efforts that you do.

13 Mr. Jeffries, I appreciate your
14 efforts. You're one of the very few that
15 I have even heard speak about joint
16 custody and split custody and equal
17 division between families and kids.

18 If you were here at the December
19 meeting, I shared this with you in the
20 December meeting. And, again, I wish I
21 had spoke to you before you acted early
22 this morning. The wheel that y'all keep
23 referring to as the last formula, in my

1 opinion, is broken. This is an account
2 of my paycheck. And let me go ahead and
3 give you a little more information. I am
4 a noncustodial parent. I also very hard
5 try to become a fit parent and have time
6 with my kids, which I'll get to that in a
7 little bit. But, again, this is a copy
8 of my budget, a copy of my paycheck.
9 You're welcome to ask me any questions
10 after the meeting about any of it. But
11 there's not any -- any deductions on here
12 that wouldn't be, you know, from
13 anybody's paycheck.

14 I'd like for you look down at the red
15 parts down at the bottom. If everything
16 goes as my budget is set out, I'm still
17 in a deficit situation. And this deficit
18 situation does not even include any
19 miscellaneous expenses that I have. I
20 have absolutely no savings and no way to
21 have savings. This -- I also have to pay
22 half of my kids' healthcare, which I have
23 \$5,000 worth of braces coming up next

1 year, and I have no means to pay for
2 that. And I have no way to pay for my
3 personal healthcare following this budget
4 and following my paycheck.

5 Now, this paycheck, of course, was
6 last year, August of -- no, it was
7 actually July of last year. My paycheck
8 is the same. It hasn't changed any. But
9 I am going to refer back to the formula.
10 The formula that you are going to be
11 looking at was based on a lady that came
12 in and did a study back in 2008, and the
13 projection went up 30-something percent
14 from the previous child support. In
15 doing that, I feel like in my
16 situation -- and I'm speaking only for me
17 and my situation -- the formula is way
18 too high. I pay \$14,000 in child support
19 and it's tax free for my ex-wife, and I
20 don't get to claim anything. It doesn't
21 take \$14,000 to raise my kids. It takes
22 a little bit and I care for them, but not
23 that much. So I want to go back to where

1 y'all acted at the beginning, which I
2 wish I could have spoken on this. It is
3 an unfair formula, and I wish that you
4 would revisit it in more than a way than
5 the cost of living and any other -- using
6 the last formula as a basis.

7 So now the only thing that I know to
8 do is share with y'all my experience that
9 I had with my divorce case and my child
10 custody issues. I wasn't fortunate
11 enough to have judges like these two good
12 judges here. My -- I was very
13 unfortunate not to have a good judge.
14 When I went to the courtroom, my ex's
15 lawyer and my lawyer, we went to rooms.
16 We were told by the judge do what you've
17 got to do to get this settled without it
18 going to court and y'all mediate it. So
19 when it got down time to discuss child
20 support and child custody, it was a
21 nonissue. My lawyer came in and said
22 this judge is going to give you standard
23 visitation. There's no law about

1 standard visitation and there's no
2 adoption. Standard visitation is what a
3 judge he wants to do or she wants to do.
4 In my case, standard visitation followed
5 what Tuscaloosa County wanted, every
6 other weekend and some time in the
7 summer. So I go from changing diapers,
8 cleaning up vomit, taking my kids to
9 school every day in which I am the
10 principal of the school. I educate my
11 kids. We ride four-wheelers, we hunt, we
12 golf, we fish, we ride boats, we do
13 everything, take vacation, did everything
14 together. I am a fit parent. It was
15 never ever mentioned because my lawyer
16 comes and says -- and I'm having to rely
17 on her -- the judge is a standard
18 visitation judge, and that's what you're
19 going to get. If you want to go to
20 court, he may take that away from you, so
21 you better take what you've got. So I
22 did. She handed me a piece of paper. I
23 said what else can I do. She said

1 nothing, you have to take what you've
2 got. I got a piece of paper that's got
3 an affidavit on there, my salary, my ex's
4 salary, and it has a formula that they go
5 figure up as the formula that I pay for
6 child support. End of story. And that's
7 it. Never any negotiating, never even
8 telling anybody any side of the story.
9 Don't even -- I asked for a guardian ad
10 litem two different times just so my kids
11 can talk, and it was denied.

12 So to go back to what you were
13 talking about, Mr. Jeffries, there needs
14 to be a distinct plan in place for a
15 judge to follow. I had a parenting plan.
16 I never got to exercise it. And it needs
17 to be enforced by all judges, not up to a
18 judge. And I know that this is a
19 monumental task for this committee, but
20 it is a severe problem.

21 And I'd like get to the second part
22 of this on why I believe that standard
23 visitation is what it is. And,

1 Mr. Maddox, I may have to refer here to
2 you in a minute and see if you can help
3 me with this. In any case, I send
4 \$14,000 of child support and it goes to
5 the AOC; is that correct? It goes to a
6 distribution center?

7 CHAIRMAN FORD: Centralized
8 collections.

9 MR. HOLDER: Okay. So my money goes
10 there along with anybody else that has an
11 income withholding order; is that
12 correct? So it all goes to that
13 distribution center. Then that money
14 goes to the custodial parent; is that
15 correct?

16 CHAIRMAN FORD: Uh-huh.

17 MR. HOLDER: The money that goes
18 through the distribution center -- this
19 is the part that I need help with -- the
20 money that goes to the distribution
21 center is turned in to the federal
22 government so DHR can get incentives.

23 CHAIRMAN FORD: No.

1 MR. HOLDER: Is that correct?

2 MS. BUSH: No.

3 MR. HOLDER: All the money that
4 DHR -- that goes through child support
5 goes through a distribution center.

6 CHAIRMAN FORD: Why don't you finish
7 making your presentation.

8 MR. HOLDER: Well, I will. But
9 here's the basis -- this is the way that
10 I understand that. All money gathered
11 through the court system -- if my ex-wife
12 and I agreed outside of court on child
13 support, say, I paid her \$500 a month and
14 I alleviated the court system, it doesn't
15 go through the distribution center;
16 correct? So there's no incentive money
17 that comes back to DHR. If it goes
18 through the court system, it goes to that
19 distribution center. If it goes to that
20 distribution center, it's turned in to
21 the federal government as an incentive
22 that goes to the DHR. So that's where
23 I'm going to get back to the why judges

1 don't do what they're supposed to do in
2 many instances.

3 If it -- in my case, I was
4 automatically deemed noncustodial parent.
5 That's make me a nonparent. I'm a
6 visitor. I visit my kids. The reason
7 that it gets to that point is because
8 judges look at, well, if I go with a fit
9 parent and half time, there's not any
10 child support money that goes anywhere.
11 So it's split. But if I make a custodial
12 and a noncustodial parent, the
13 noncustodial parent has got to pay child
14 support. And it goes through the
15 distribution center, and that
16 distribution center sends it to the
17 federal government. The federal
18 government gives it back to DHR, and it
19 comes back and it pays for salaries and
20 it pays for district attorneys, costs,
21 and et cetera. So by a judge doing what
22 you said, it would significantly decrease
23 the money that comes in to DHR. So

1 they're not going to do that. They're
2 going to stick to the noncustodial parent
3 so they are forced to pay child support.
4 And that's why the system that you are
5 bringing up will not work until the
6 federal government starts giving DHR
7 incentives to split custody and have fit
8 parents. That's the only way that will
9 work. They won't do it otherwise because
10 it's going to cost too much money. It's
11 all about the kickback and it's about the
12 money.

13 Judges are not required for family
14 plans. They're not required to talk to
15 anybody about what's going on. Each one
16 has their own way that they do things.
17 And that's wrong. It needs to be a plan
18 set out and a template for them to have
19 to follow. And it shouldn't be up to a
20 judge to determine whether I get to see
21 my kids or not. But that's my
22 explanation about why the 50/50 won't
23 work because I don't know that you're

1 going to get backing from lawyers, the
2 bar, judges, and et cetera because it's
3 all about huge amounts of money. And
4 that's what I found out. I'm going to
5 continue to dig until I get some more
6 answers.

7 I've got a question about the
8 training.

9 CHAIRMAN FORD: Two minutes, sir.

10 MR. HOLDER: Sir?

11 CHAIRMAN FORD: Two minutes.

12 MR. HOLDER: The training that -- who
13 held the training? What -- the training
14 for the judges?

15 MS. BUSH: It was the Department of
16 Human Resources and the Administrative
17 Office of Courts together.

18 MR. HOLDER: Was there an agenda for
19 that?

20 MS. BUSH: Yes, sir.

21 MR. HOLDER: I would just like to
22 look at a copy of the agenda.

23 CHAIRMAN FORD: Mr. Maddox will get

1 you a copy.

2 MR. HOLDER: In that, there was
3 objectives and -- goals an objectives and
4 et cetera that were planned out. And who
5 were the speakers for those meetings?

6 CHAIRMAN FORD: Mr. Maddox will get
7 you a copy.

8 MR. HOLDER: Was this a mandatory
9 meeting or was this just voluntary?

10 MS. BUSH: It was voluntary.

11 MR. HOLDER: Were all judges that
12 deal with divorce cases invited, or was
13 it just --

14 MR. MADDOX: Yes, sir.

15 CHAIRMAN FORD: All family court
16 judges were invited.

17 MR. HOLDER: How many of those would
18 be in Alabama?

19 CHAIRMAN FORD: All of them are
20 Alabama judges.

21 MR. HOLDER: How many of them would
22 be in Alabama? How many people would the
23 invitation have gone to? The point that

1 I'm trying to make is it shouldn't be a
2 choice. There should be a mandated --
3 and y'all call them professional
4 development of CLEs or whatever that you
5 call them. It should be mandated they go
6 to that training. It shouldn't be just
7 asked you can go if you want to go. That
8 training, according to Judge Palmer, was
9 a good training. But everybody needs to
10 go. Because in my case, my judge
11 probably didn't go. And we don't have
12 referees and juvenile court people. So
13 everybody needs to go. Anybody that
14 deals with divorce and child support and
15 the splitting up of families needs to go
16 to that training, and it needs to be a
17 mandatory training because several won't
18 go unless they need those CLEs. Because
19 you've got to get so many per so many
20 years, is that right, to maintain your
21 certification? If they don't need them,
22 they're not going to go. They need to
23 go.

1 CHAIRMAN FORD: I hate to have to cut
2 you off, sir, but we're trying to be fair
3 to everyone.

4 MR. HOLDER: I understand. I drove
5 two and a half hours to get here.

6 CHAIRMAN FORD: I understand, sir.
7 But it's an effort to be fair to
8 everyone. We did say we limiting to ten
9 minutes and you've gone about 12. So
10 we're trying to be very fair with you.
11 And we do thank you for your comments.

12 MR. HOLDER: Well, I thank you for
13 your time. And I would like to know how
14 do I get a manual for DHR policies and
15 procedures. How do I get a copy of that?

16 MS. BUSH: You can see me after the
17 meeting.

18 CHAIRMAN FORD: Than you, Mr. Holder,
19 for your comments, and we will consider
20 them during the course of what he do.

21 Mr. Boyd Landry.

22 MR. LANDRY: I'm only going to be
23 brief, and I'm going to let the rest of

1 my time go back to the gentleman in case
2 he didn't finish.

3 And it's been -- hey, Judge Bell, and
4 the rest of y'all. How y'all doing?
5 It's been a few months -- meetings since
6 I've been here. And I apologize. But I
7 wanted to kind of piggyback on what the
8 previous speaker was saying. A couple of
9 different issues. One is we have to
10 figure out a way to uniformly apply the
11 statutes and rules as they pertain to
12 Rule 32. Because, as he expressed, in
13 Tuscaloosa -- and it happens in other
14 places. It's not -- you know, we don't
15 have -- as parents, we don't have the
16 option to venue shop, for lack of a
17 better way of describing it. And if we
18 did, I certainly would find myself in a
19 different courtroom than I'm in now
20 because it makes a lot of sense to do
21 that. But we can't do that. And so I
22 don't know how we get to the point -- I
23 mean, I don't know how many different

1 ways you can write it. I don't know how
2 many different ways you specifically
3 state it. But somehow, some way we've
4 got to figure out a way to uniformly
5 apply it, so what happens in Mobile
6 County happens in Tuscaloosa County
7 happens in Madison County happens in
8 Jefferson County. So you're not
9 getting -- you're not in situations where
10 parents are talking to their friends
11 three counties over and they go, well,
12 you know, this is what happened to me
13 and, well, this is what happened to me
14 and it's nowhere near close.

15 The second thing I think that is not
16 necessarily a task for y'all except for
17 the fact that it's something that needs
18 to be thought about is as -- if the idea
19 of a checklist comes into play, whether
20 or not the court has jurisdiction needs
21 to be the first item on the list, because
22 many judges are ruling on issues without
23 jurisdiction and end up in this building

1 right here. It happens a lot. It
2 happens more than y'all probably know.
3 I'm sure Judge Stuart can speak to that.

4 The next issue is the question of age
5 of majority. Today kids are going to
6 college well before they turn 19. And in
7 light of the Christopher decision that
8 was handed down by Justice Stuart and the
9 rest of the court, there has to be some
10 discussion -- and I think it can come
11 here in your confines of what you're
12 doing -- as to whether or not it's fair
13 to the noncustodial parent who may be
14 participating in college expenses and yet
15 still paying for child support for kids
16 that don't even live at home anymore.
17 And there's only one part of the
18 definition of age of majority, and that's
19 where you have to define them as being
20 self-sufficient. And are they really if
21 they're getting assistance to go to
22 college? But, you know, the question
23 comes is the fact that they're somewhere

1 else that that creates an issue. So I
2 think that's something that y'all need to
3 think about if it falls under your
4 purview as kids go away to college.

5 And with that, I think I will leave
6 the rest of my time for the previous
7 gentleman, because that's all I really
8 had to say.

9 CHAIRMAN FORD: Thank you,
10 Mr. Landry.

11 And we will now have Ms. Wright.
12 Jane Wright?

13 MS. WRIGHT: I'm not speaking.

14 CHAIRMAN FORD: Mr. Holder,
15 Mr. Landry has given you another five
16 minutes, so we'll give you an additional
17 five minutes.

18 MR. HOLDER: If somebody overpays to
19 the distribution center, how do they go
20 about getting their money back?

21 CHAIRMAN FORD: You're asking
22 questions.

23 MR. HOLDER: Does anybody know that?

1 CHAIRMAN FORD: Mr. Holder, I don't
2 want to cut you off. Please give us
3 information. Some of these questions
4 you're asking may have to be asked of
5 persons who operate those centers or to
6 your local DHR director, because we may
7 not have those answers. We want to make
8 sure we give you good information. So
9 I'm not trying to cut you off, but I do
10 want to make sure you get correct
11 information.

12 MR. HOLDER: I would just think the
13 child support enforcement would know how
14 to get it back if it was enforced
15 wrongly.

16 CHAIRMAN FORD: Well, some of us are
17 judges, some of us are --

18 MR. HOLDER: Who would I check with?

19 MS. BUSH: You can talk to me after
20 the meeting.

21 CHAIRMAN FORD: This is your
22 resource.

23 MR. HOLDER: Within the scope of the

1 committee -- and I know y'all get a lot
2 of problems that you can't deal with.
3 But within the scope of the committee to
4 summarize, please look at the formula
5 differently than just adding on to what
6 is existing, because -- to ask for a show
7 of hands, how many is currently receiving
8 child support now that's on this
9 committee.

10 CHAIRMAN FORD: I don't think that's
11 fair either, sir. We're trying to get
12 information from you.

13 MR. HOLDER: Well, I'm trying to find
14 out about the committee that -- you know,
15 I want a voice on the committee that
16 says, you know, we need to look at this.
17 And I'm trying to make my case your case
18 so you'll look at that way.

19 CHAIRMAN FORD: I understand. And we
20 understand, also. Our committee is
21 representative, and there are those on
22 the committee who either pay or receive
23 child support. So it's fairly

1 representative. And I don't think it's
2 fair for them to have to point themselves
3 out in the public forum.

4 MR. HOLDER: How do you become a
5 committee member?

6 MS. DAVIS: Appointed by the Supreme
7 Court.

8 MR. HOLDER: How does that happen?
9 Do they just pick a name, or does
10 somebody submit a name?

11 JUSTICE STUART: Both. I mean, we --
12 we come up with names but we also have
13 people who express interest in serving on
14 committees. And we consider people who
15 express interest on serving on
16 committees.

17 CHAIRMAN FORD: And to add on to
18 that. I would also suggest if you have
19 someone that you would like to be
20 considered that you submit that name to
21 the clerk of his Supreme Court, and the
22 clerk can go ahead and make that known to
23 the Supreme Court. And at the time

1 vacancies are available that can be
2 considered.

3 JUSTICE STUART: The only other thing
4 that I would say -- because I do want to
5 be clear about this -- is that this
6 committee's makeup is not controlled by
7 the Alabama Supreme Court. This
8 committee is unique among all the
9 committees that we have, and it has a
10 specified makeup that is set forth by the
11 federal court in settlement of the
12 litigation in this case. And so we're
13 not at liberty to really adjust any kind
14 of balance on it. It has a balance
15 that's set forth by the federal court,
16 and the that's only reason I'm on this
17 committee. Because that's a violation of
18 our rules for me to be on this committee.
19 But it's mandated by the federal court
20 and so I serve.

21 MR. HOLDER: And just to summarize.
22 Within the scope of what you can and
23 can't do, please look at the formula very

1 strongly, and at the same time, keep in
2 mind if there's any influence or anything
3 that you can have within the court to
4 seek justice for the kids so that they
5 get what they need and the parents,
6 because the system that's in place now is
7 broken. And that's the bottom line. I
8 don't know how to make it any more clear.
9 All I can tell you is that I'm a fit
10 father, and I'm very limited. And I'm
11 one of many, and we're going to search
12 for more and more and more to try to get
13 more people interested. But I'm one of
14 many. And all I want is a chance to be
15 dad.

16 CHAIRMAN FORD: Thank you,
17 Mr. Holder. And we appreciate your
18 comments regarding the issues that you
19 brought before the committee.

20 Mr. Landry, we also thank you for
21 your comments. And the committee will
22 give them due consideration within the
23 context and scope of what he do.

1 MR. MADDOX: Judge Ford, for the
2 Record, I received four letters from
3 individuals as well as the committee has
4 in front of them, Howard Kirk Rainer,
5 Mark E. Davis, Dot Poss, P-O-S-S, and
6 Paul Sumners. And the last one was
7 passed around a minute ago, because I
8 just received that this morning in the
9 mail. The committee members may wish to
10 read these letters as well from the
11 public.

12 CHAIRMAN FORD: As indicated by
13 Mr. Maddox, you do have four additional
14 letters/comments from the public
15 regarding the issues that we deal with.
16 And so please at your leisure review
17 those letters, and if there's information
18 that we need to be cognizant of, we can
19 bring that up at our next meeting.

20 Any other business that we need to
21 consider at this moment?

22 Yes.

23 MR. POLEMENI: It's not a

1 consideration for this committee, but
2 Oklahoma on June 3rd instituted a new law
3 noncustodial parental -- parent
4 visitation rights bill that goes into
5 that in giving -- essentially adding
6 teeth or law to the noncompliance to
7 visitation orders. And that may be
8 something that the legislature will be
9 considering this legislative session
10 hopefully. But I wanted to make you
11 aware of it. If you want a copy of that,
12 I have that also on thumb drive as well.

13 MR. NICHOLS: You've mentioned a
14 couple of things that you have on thumb
15 drive. I think if you get those to Bob
16 that he could email them to everybody.

17 MR. POLEMENI: Right. If that's what
18 everyone wants, I'll be glad to.

19 CHAIRMAN FORD: I think that will be
20 good.

21 Any other -- anything else to bring
22 before the body? If not, we stand
23 adjourned. And I appreciate your

1 attendance, and we'll send you notice
2 when we are to get together again. And
3 perhaps we may solicit your input by an
4 email vote for any issues that we brought
5 up today.

6 Thank you and have safe travels home,
7 and we'll see you next time.

8 (Proceedings concluded at
9 12:21 a.m.)

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1 REPORTER'S CERTIFICATE

2

3 STATE OF ALABAMA

4 AUTAUGA COUNTY

5

6 I, Stacey L. Johnson, Certified Court
7 Reporter and Commissioner for the State of
8 Alabama at Large, hereby certify that on July
9 25, 2014, I reported the proceedings and that
10 pages 4 through 138 contain a true and
11 accurate transcription of the aforementioned
12 proceedings.

13 I further certify that I am neither of
14 kin nor of counsel to any of the parties to
15 said cause, nor in any manner interested in
16 the results thereof.

17

18

19

20 /s/Stacey L. Johnson
21 STACEY L. JOHNSON, CCR
22 Commissioner for the
23 State of Alabama at Large
CCR 386, Expires 9/30/2014
COMMISSION EXPIRES: 6/22/2015

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