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MEETING OF THE ADVISORY COMMITTEE  
ON CHILD SUPPORT GUIDELINES  
FOR THE STATE OF ALABAMA

August 2nd, 2013

The following proceedings were held in the meeting of the Advisory Board on Child Support Guidelines for the State of Alabama on Friday, August 2nd, 2013, at the Heflin-Torbert Judicial Building, 300 Dexter Avenue, Montgomery, Alabama 36104, and was taken down by Rena' Lanier, Certified Court Reporter and Notary Public for the State of Alabama at Large, and was open to the public.

## 1 A P P E A R A N C E S

2

3 For the Committee:

4 Gordon Bailey, Chairman

5 Judge Aubrey Ford, Jr., Co-Chairman, Macon County

6 District Judge

7 Jennifer Bush, DHR Legal Counsel

8 Faye Nelson, Alabama Child Support Director

9 Angela Campbell, DHR Program Mgr Mobile County

10 Justice Lyn Stuart, Alabama Supreme Court

11 Penny Davis, Alabama Law Insitute

12 Mary Moore, Circuit Clerk Perry County, Alabama

13 Julia Kimbrough, Attorney Shelby County, Alabama

14 Judge Julie Palmer, Circuit Judge Jefferson Co

15 Judge Billy Bell, Circuit Judge Madison County

16 Michael Polemeni, Alabama Family Rights

17 Association and National Parents Organization

18 Angela Drees, Birmingham, Alabama

19 Bob Maddox, AOC Attorney

20 Also Present:

21 Alex Jackson, Julia Weller, Melissa with Channel

22 12, Carter with Channel 8, Jim Clark, Boyd

23 Landry, Kenneth Paschal, Roy Lloyd

1           MR. BAILEY: We're going to start on  
2           time. I'm so glad everybody is here. We  
3           have lots of special guests today.

4           And, Alex, do you want to introduce our  
5           real special guest first?

6           MR. JACKSON: I do. I want to introduce  
7           my boss, Julia Weller, the new clerk of the  
8           Alabama Supreme Court. She's a welcome  
9           addition. She's doing a fine job. She's  
10          working me harder than I've worked in the  
11          23 years I've been here. She has me thinking  
12          more and more about the future that I have  
13          outside of the practice of law one of these  
14          days. She's a great boss.

15          MR. BAILEY: Wonderful.

16          MR. JACKSON: And she's done a really  
17          wonderful job of getting through the mess we  
18          have dealing with all the papers we get. And  
19          she strongly supports the committee. If you  
20          need anything, feel free to contact her or  
21          contact me.

22          MR. BAILEY: We certainly are glad to  
23          have you. Would you like to say anything to

1 the committee?

2 MS. WELLER: Our office is always open to  
3 you, and please contact us if you have any  
4 questions or we can be of any assistance.  
5 Thank you so much.

6 MR. BAILEY: Thank you for being here.  
7 Your predecessor, Bob, was a wonderful -- is  
8 a wonderful gentleman and did a great job and  
9 a real friend to all of us. Look forward to  
10 working with you.

11 MS. WELLER: Thank you very much.

12 MR. BAILEY: I'm Gordon Bailey. We're  
13 going to go around to the committee members  
14 and have them introduce themselves. I want  
15 to welcome several people.

16 Rena' Lanier is here with Freedom Court  
17 Reporting. When you say something, speak  
18 out, testify or whatever, please give her  
19 your name and title before you do so, so she  
20 can keep it all straight.

21 I want to welcome Melissa with Channel  
22 12. Are you with Melissa?

23 MR. CARTER: No, sir. I'm Carter with

1 Channel 8.

2 MR. BAILEY: I'm sorry?

3 MR. CARTER: Carter with Channel 8.

4 MR. BAILEY: Carter with Channel 8. I  
5 asked Melissa, I said, did you bring a  
6 make-up man, and she said no, but she has one  
7 on call.

8 MS. MCKINNEY: I haven't even done my own  
9 yet.

10 MR. BAILEY: She has one on call. Of  
11 course, we all met Alex Jackson at our last  
12 meeting. He's taken over for Wayne and has  
13 done a great job at his being with us on our  
14 committee. And, of course, Bob Maddox, is  
15 over here with AOC, our staff attorney.  
16 Let's go around the room and introduce  
17 ourselves.

18 I'm Gordon Bailey as I said. I've  
19 practiced law in Anniston for 35 years.  
20 Seems like 135. Was a child support referee  
21 for six or seven years after that. And I am  
22 now retired.

23 Would you like to start?

1 MS. DREES: Yes, sir. My name is Angela  
2 Drees. I'm from Birmingham, Alabama.

3 MS. KIMBROUGH: I'm Julia Kimbrough. I'm  
4 in private practice in Shelby County,  
5 Alabama. And my primary focus is family law.

6 JUSTICE STUART: I'm Lyn Stuart. I'm an  
7 Associate Justice on the Alabama Supreme  
8 Court and a former juvenile and domestic  
9 relations judge in Baldwin County.

10 I want to say for the Record that I  
11 actually am a member of this committee. And  
12 this is pursuant to a federal court order in  
13 previous litigation concerning the Alabama  
14 Child Support Guidelines.

15 I make that point to say that that is  
16 different. Justices of the Alabama Supreme  
17 Court are assigned to various committees that  
18 we have, but typically the justices serve  
19 only as a liaison to the committee, not a  
20 member of the committee. And my role in this  
21 case is unique. I want to make that point.

22 MR. BAILEY: And we're glad to have you.

23 MS. CAMPBELL: I'm Angela Campbell. I'm

1 the DHR Program Manager in Mobile County.

2 MS. NELSON: I'm Faye Nelson. I'm the  
3 Child Support Director for the State of  
4 Alabama.

5 MS. BUSH: I am Jennifer Bush, DHR legal  
6 counsel.

7 MR. BAILEY: Okay. Michael.

8 MR. POLEMENI: Michael Polemeni. I'm a  
9 private citizen and a member of the Alabama  
10 Family Rights Association and the National  
11 Parents Organization.

12 JUDGE BELL: My name is Billy Bell, and  
13 I'm a Circuit Judge in Madison County. And I  
14 practiced primarily family law for 30 years  
15 before I was elected in 2002 to the bench.

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

18 MR. BAILEY: At our meeting on  
19 February 7th, I asked people to give us the  
20 years, the number of years they've served on  
21 the committee, and I totaled up 93. So  
22 that's a lot of years for all of us to serve  
23 as a member of this committee. Total years

1 93.

2 I'll now entertain a motion to approve  
3 the transcript. Did everyone have a chance  
4 to read the transcript?

5 Bob, I believe you have a copy of it for  
6 us here?

7 MR. MADDOX: Yes, sir.

8 MR. BAILEY: Any comments? I do have one  
9 suggestion and possible correction. There  
10 was a statement on page 87, line 9 from  
11 Mr. Boyd -- Boyd Landry, attorney from Elmore  
12 County.

13 He referred to the spirit of tenus. And  
14 that was the Court of the Civil Appeals. And  
15 I think he meant ore tenus. So we'll suggest  
16 that we make that correction. You may want  
17 to check your date and see, but I think he  
18 meant ore tenus.

19 MR. LANDRY: I'm sure that's what I said.

20 MR. BAILEY: I'm sorry?

21 MR. LANDRY: I'm sure that's what I said.

22 MR. BAILEY: Boyd, is that -- are you  
23 here? I didn't see you over there. I -- I'm



1           sure you meant ore tenus.

2           MR. LANDRY: I'm -- I'm -- I'm almost  
3           positive that that's what I said.

4           MR. BAILEY: I'm not aware of the Court  
5           of Civil Appeals playing tennis during their  
6           breaks, but it could be so.

7           Let me introduce Aubrey Ford. Aubrey,  
8           you introduce yourself, Judge Ford.

9           JUDGE FORD: Aubrey Ford, Macon County  
10          District Judge. I've served for 35 years and  
11          about to quit.

12          MR. BAILEY: Judge Ford and I are two of  
13          the original members of this committee  
14          appointed in -- I was going to say --  
15          original committee members appointed back in  
16          1980. Isn't that right, Aubrey?

17          JUDGE FORD: Yes.

18          MR. BAILEY: It was a different name and  
19          a different committee organization. We're  
20          two of the original members, and we need our  
21          walkers before we leave. Good to have you.

22          JUDGE FORD: Good to see you.

23          MR. BAILEY: Transcript. Let's go back

1 to the transcript. Any other corrections?  
2 Boyd, is that -- I'm sure you meant ore  
3 tenus.

4 MR. LANDRY: And I'm not a lawyer either.  
5 So if that's the...

6 MR. BAILEY: That's the term.

7 MR. LANDRY: All right.

8 MR. BAILEY: You got it. We'll make that  
9 correction. Any other changes or corrections  
10 to the transcript from our November 7th  
11 meeting?

12 MR. PASCHAL: Sir, I'm from -- I'm just a  
13 citizen. But regarding this transcript, I  
14 don't know that it's a bigger deal, but I had  
15 an opportunity to read it.

16 The reference to Mr. Davis on several  
17 pages, I think that was incorrect. I think  
18 it should have been Mr. Smith as I was  
19 reading it. It's --

20 MR. BAILEY: Bob, I think you and I  
21 talked about that as well. We need to make  
22 that correction. Good point. I -- I omitted  
23 that. That name needs to be changed.

1           Any other suggestions, corrections,  
2           comments about the transcript?

3           (No response.)

4           MR. BAILEY: All right. With those  
5           corrections, I'll entertain a motion to  
6           accept or approve the transcript from the  
7           February 7th meeting. Do I have a motion,  
8           please?

9           MS. KIMBROUGH: So moved.

10          MR. BAILEY: That's Julia, Julia  
11          Kimbrough. Second?

12          JUDGE BELL: Second.

13          MR. BAILEY: Judge Bell. All in favor  
14          say I.

15          (Everyone responded.)

16          MR. BAILEY: Opposed?

17          (No response.)

18          MR. BAILEY: All right. The transcript  
19          is approved. All right. Our business is  
20          review of schedule starting out as our first  
21          topic number three, review of schedule.

22                 At our last meeting it was discussed that  
23          we contact Jane Venohr who helped us do all

1 the guidelines and research and do the  
2 schedule last year -- about four years ago,  
3 excuse me, about updating the schedule and  
4 how much that would cost.

5 Bob, can you give us a quick report on  
6 that, please?

7 MR. MADDOX: Yes, sir. I was unable to  
8 attend the -- the last meeting. But Gordon  
9 Bailey, Alex Jackson and the Supreme Court  
10 Clerk's Office and I got together. And we  
11 from the last transcript contacted -- I  
12 contacted Jane Venorh by e-mail. And she  
13 gave us an estimate.

14 And I probably just need to read this  
15 verbatim just to be exact what she said in  
16 her e-mail.

17 MR. BAILEY: Good idea.

18 MR. MADDOX: This was from Jane Venohr,  
19 May the 21st of this year. We're billing  
20 about \$20,000 now for a scheduled update with  
21 realignment for low income status. That  
22 includes a report, comparisons and some  
23 limited additional analysis on a specific

1 issue, for example, tax consequences. Home  
2 site presentation arranged from about \$2500  
3 to \$7000 depending on travel, length of  
4 presentation and amount of preliminary  
5 analysis. A higher amount involved something  
6 like 60 slides is a little extreme.

7 Analysis of other issues, for example,  
8 parenting time adjustments, analysis of case  
9 file data range from about \$500 to over  
10 \$10,000. If it's an issue we looked at  
11 recently, the cost could be on the low end.

12 If it's an issue we've never looked at  
13 and would require extensive data analysis of  
14 thousands of case files, the billing of the  
15 data field is on the high end.

16 So I would guesstimate that 20,000 to  
17 \$35,000 would be the total depending on  
18 whether Alabama really needed the last two  
19 tasks.

20 MR. BAILEY: All right. Obviously, our  
21 committee has no budget. Let's discuss how,  
22 what amount -- Julie, I'm sorry. I didn't  
23 see you.

1 JUDGE PALMER: I just walked in.

2 MR. BAILEY: Would you introduce  
3 yourself, please?

4 JUDGE PALMER: Julie Palmer, Circuit  
5 Court Judge, Birmingham Division, Domestic  
6 Relations.

7 MR. BAILEY: Julie, good to have you with  
8 us.

9 JUDGE PALMER: Good to be here.

10 MR. BAILEY: Let's have some discussion  
11 about what we want to ask, a recommendation  
12 to the Supreme Court about funding, how much  
13 we think we're going to need, what we'd like  
14 for Jane to do or anybody that takes this  
15 task on for us. Let's have some discussion  
16 about that.

17 Anybody want to talk about...

18 JUDGE BELL: Is she the only source for  
19 this work?

20 MR. BAILEY: Bob, you put out a request  
21 for services four years ago, five years, six  
22 years ago. And how many responses did we  
23 have?

1           MR. MADDOX:  Basically, just her.  And,  
2           certainly, Mr. Rogers --

3           MR. BAILEY:  Right.

4           MR. MADDOX:  -- came to our meeting, an  
5           he had -- we paid for -- and that was  
6           something that I did want to point out from  
7           the last transcript.

8           I think a comment was made that his cost  
9           of coming here and doing the study was fully  
10          borne by the Alabama Family Rights  
11          Association.  But we did do a contract with  
12          AOC.  They may have paid some of it, but we  
13          did do a contract between AOC and him to do  
14          the study of about \$15,000 --

15          MR. BAILEY:  Right.

16          MR. MADDOX:  -- in 2006.  So we sent out  
17          about -- we didn't know how to do this in  
18          terms of economics data analysis.  We  
19          basically sent it out from the division of  
20          purchase.  The Department of Finance sent us  
21          a list of who basically did analyses of some  
22          sort, and it was totaling over 1100 people.

23          So we sent all of that -- that was back

1 in the mail days back in 2005. So we mailed  
2 all of those out from our office as well as  
3 to all 29 universities and colleges in the  
4 state that may have business departments or  
5 economics departments.

6 And Jane Venohr was the only one that  
7 submitted a request by the deadline date that  
8 year.

9 MR. BAILEY: Right. Billy, does that --  
10 Judge Bell, does that answer your question?  
11 I'm sorry.

12 JUDGE BELL: It did. And it's just...

13 MR. BAILEY: Mike, did you want to say  
14 something?

15 MR. POLEMENI: Yes, sir. Researching in  
16 Massachusetts, they did a -- their child  
17 support committee just did their guidelines,  
18 and it went into effect yesterday, August 1.

19 New Hampshire and Iowa redid -- just did  
20 their child support guidelines. And they  
21 went into effect July 1 of 2013.

22 New Jersey was April 1, 2013.

23 Georgia is meeting today also for their



1 child support committee.

2 I don't have it written down, but I have  
3 a -- copies of their guidelines on a thumb  
4 drive.

5 There's a group out of Massachusetts that  
6 did their guidelines. And they're doing  
7 their guidelines on net income versus gross  
8 income. And there are a lot -- I've got  
9 copies of all of their guidelines they have  
10 if you want to review those. That's a lot of  
11 information.

12 MR. BAILEY: Now, when you say they redid  
13 their guidelines, you mean they redid the  
14 whole guideline approach? Adopted another  
15 model? Or they --

16 MR. POLEMENI: No. No. They -- they're  
17 doing -- they did what we did, what we're  
18 doing now.

19 MR. BAILEY: Redid the schedules?

20 MR. POLEMENI: Redid the schedules. In  
21 fact, they all -- they all lowered the  
22 schedule overall. But they're all income  
23 based also.

1           MR. BAILEY: Similar to ours that appear  
2 here?

3           MR. POLEMENI: Right.

4           MS. DAVIS: Hey, Mike, do you have any  
5 idea how much those costs?

6           MR. POLEMENI: No. No, I don't. I'd  
7 have to -- on the Massachusetts, they  
8 reference the gentleman that did it. And --  
9 but they have all of that data in -- in -- on  
10 that thumb drive if you want a copy of that.

11          MS. DAVIS: We need to follow up.

12          MR. BAILEY: Bob, didn't Jane also  
13 mention she was going to try to check with  
14 Arkansas to see if we might borrow their  
15 report to save a little money and --

16          MR. MADDOX: Yes.

17          MR. BAILEY: -- that might help us in the  
18 long run?

19          MR. MADDOX: Yes, sir.

20          MR. BAILEY: Any other -- let's talk  
21 about how much, or what direction we want to  
22 go in. Do we want to look at redoing the  
23 schedule only?

1           Do we want to look at redoing the whole  
2           concept of the guidelines? I don't think we  
3           want to do that after all 13, 15 years we've  
4           spent passing the new ones in '08.

5           Let me have some discussion from the  
6           committee please about where we want to go.

7           MR. POLEMENI: Well, I think that the  
8           guidelines are necessary when they're  
9           necessary.

10          Shared parenting would be the ideal  
11          situation. It would save the courts money.  
12          It would save the state money overall if the  
13          agreements are made and let the parents  
14          negotiate if they're -- if they're fit  
15          parents.

16          If there's no -- and I'll read something  
17          here out of the WebMD.com July and August  
18          2013. And they're talking about that parents  
19          need to stay involved. The most important  
20          thing from a man's point of view is his child  
21          wants him and his child needs him says Gordon  
22          E. Finley, Ph.D.

23          Maintaining the relationship is important

1           for your child's development outcome, social  
2           emotional and education. And then they go in  
3           there -- and I think that's some of the same  
4           things we've said here in these meetings over  
5           the years.

6           MR. BAILEY: Right. Right.

7           MR. POLEMENI: And following those  
8           guidelines, I think, you know, for fit  
9           parents shared parenting would save everyone  
10          money in the long run and do away with the  
11          guidelines completely for those specific  
12          things.

13          Now, the courts need to address the  
14          guidelines when -- when it's necessary.

15          MR. BAILEY: Aubrey.

16          JUDGE FORD: I think the only competing  
17          interest you have here is the fact that you  
18          have those persons who at one time were  
19          married and did have established  
20          relationships with their children as opposed  
21          to a majority of the cases that are probably  
22          running through the system are those persons  
23          who were never married, some of them that

1           have established a relationship with the  
2           children and some who do not.

3           And you have to take into effect how are  
4           you going to establish that relationship if  
5           indeed the person wishes to do that.

6           MR. POLEMENI: Right. Right. And that  
7           would be where the courts really need to  
8           concentrate their efforts.

9           MR. BAILEY: All right. So you would  
10          suggest that we take another look at shared  
11          parenting as it relates to child support; is  
12          that correct?

13          MR. POLEMENI: Correct.

14          MR. BAILEY: All right. Do I have a  
15          sense from the committee -- and I think,  
16          Judge Bell, you mentioned this in the last  
17          meeting that you wanted us to look at the  
18          economics involved in the schedule and see if  
19          anything has changed over the last four or  
20          five years.

21          JUDGE BELL: I would. As I understand  
22          it, that schedule hasn't been changed or  
23          looked at since 2006. I came on the

1           committee after that.

2           MR. BAILEY: Right.

3           JUDGE BELL: I think we need to look and  
4           see how the economics of Alabama will affect  
5           that. Because it's based upon the amount of  
6           child support that these parents are presumed  
7           to provide. And I think the economics of it  
8           would make a difference, or could make a  
9           difference and we need to know that.

10          MR. BAILEY: Right.

11          JUDGE BELL: What Michael was talking  
12          about I think is one of the things that we  
13          need to look at within the Rule 32  
14          guidelines.

15                 But the schedule itself I think needs to  
16                 be accurate if we're going to recommend that  
17                 it be continued at that level.

18          MR. BAILEY: I thought that you expressed  
19          that at our last meeting.

20          JUDGE BELL: I did. I did.

21          MR. BAILEY: And we should at least do  
22          that. Do we have a consensus that we would  
23          like for Jane or whomever we select to look

1 at the schedule, the economic part of the  
2 schedule? Is that a good starting point for  
3 us to begin?

4 JUDGE FORD: I agree.

5 MR. BAILEY: Penny.

6 MS. DAVIS: I agree. But as a practical  
7 matter, we ought to address, are we -- do we  
8 have authority to commit to hire someone? Or  
9 are we just going to recommend that the court  
10 hire -- that -- that that's the procedure  
11 that we follow?

12 MR. BAILEY: I don't think we have any  
13 committee funding.

14 MS. DAVIS: Well, that's what I'm saying.

15 MR. BAILEY: Our esteemed member of the  
16 Supreme Court, I -- I don't think she's going  
17 to sign the check.

18 MS. DAVIS: Okay. What are our  
19 limitations? I assume we need to figure out  
20 what kind of limitations we have before we  
21 make any decisions.

22 JUSTICE STUART: Can I ask a question?

23 MR. BAILEY: Sure.

1 JUSTICE STUART: I'm not sure about this.  
2 This is Lyn Stuart. And I'm going to ask Bob  
3 Maddox because he would know. Has this been  
4 paid for with AOC money in the past? Or how  
5 has it been paid?

6 MR. MADDOX: Well, in the past DHR has  
7 helped us reimburse the costs of these  
8 studies because it is related to child  
9 support for the child support program.

10 JUSTICE STUART: That makes me feel a  
11 little bit better.

12 MS. DAVIS: And everybody is aware that  
13 the economics are difficult. And it  
14 certainly is for the courts as well as  
15 everybody else.

16 MR. BAILEY: Absolutely. Let's hear from  
17 our finance man.

18 MS. NELSON: As -- as the DHR  
19 representative, because this is a child  
20 support issue, we draw down our 66 percent of  
21 the cost with federal dollars.

22 MR. BAILEY: Right.

23 MS. NELSON: I do have, because this was



1 an issue that I saw that was on the agenda, I  
2 have submitted a question to our federal  
3 office that if this is something that the  
4 committee recommends what would be the  
5 process by which we would have to get federal  
6 approval to pay X number of dollars.

7 You know, when you're talking about 30 to  
8 \$60,000, you may be able to pull down the  
9 federal share, but someone still has to pay  
10 that 34 percent state share.

11 So I don't know if that would come from  
12 DHR or if AOC would have to cover that  
13 34 percent cost, that difference in whatever  
14 the hundred percent cost is.

15 MR. BAILEY: Bob, I think AOC covered it  
16 last -- in '05 or '06, didn't it?

17 MR. MADDOX: Yes.

18 MS. DAVIS: Well, I make a motion --

19 MR. MADDOX: I would have to check with  
20 our office, the administrative director. I  
21 can't speak for him.

22 MR. BAILEY: Julie.

23 JUDGE PALMER: Julie Palmer. The only

1           thing that I want to mention is that the two  
2           studies last time, because I've been on the  
3           committee I think since '04, is the -- even  
4           the economic studies that they have are two  
5           to three to four years old by the time they  
6           collect all the data.

7           So there is no real time as to what  
8           happened in 2012. It's going to be 2010,  
9           2009 I would think just from the two studies  
10          there were here last time that they would be  
11          bringing any new economic data to us.

12          And we all know that the price of gas has  
13          gone up from 2009 and 2010 to, I mean, you  
14          know, I think this month alone it's gone up  
15          16 cents. Or last month.

16          So just let everybody be aware of that.  
17          That whatever data we get is going to be old  
18          in comparison.

19          MS. CAMPBELL: Well, I have a question.  
20          It's probably more ignorance than anything  
21          else.

22          My name is Angela Campbell. According to  
23          the amendment to guidelines, she did her

1 study, Ms. Venohr did her study, economic  
2 study and updated it to 2007 price levels.

3 I'm not an economist, but if we're  
4 talking about redoing guidelines which are  
5 going to be sort of permanent at least for  
6 four years, do we want to do guidelines based  
7 on the downturn in the economy? We're hoping  
8 it will go up.

9 MR. BAILEY: Good question.

10 MS. CAMPBELL: There's another question  
11 too. Income is income. Whatever income you  
12 make, things are going up. Things are going  
13 up everywhere.

14 If you're making less money than you were  
15 making five years ago, which that's me, if I  
16 had to go to court to get a child support  
17 order it will be need to be based on what I'm  
18 making now, not what I was, you know. That's  
19 what I'm talking about.

20 MR. BAILEY: Good point. We would  
21 certainly want to ask Jane what other states  
22 are doing. She's just completed the Arkansas  
23 report recently. So we could ask her what

1           they did. We could ask her how far states  
2           are going back in terms of number of years  
3           and if she has to do something currently or  
4           exactly what to do.

5           Yes, sir.

6           MR. POLEMENI: We're at the beginning of  
7           the school cycle. Could we get, you know,  
8           one of our major universities or several of  
9           our major universities to pitch in and do the  
10          study, or at least bid on the study?

11          MR. BAILEY: Bob.

12          JUDGE FORD: We tried.

13          MR. BAILEY: That's a good point though.  
14          Today is tax free day, so I think we're all  
15          here and can spend our money without paying  
16          tax.

17          MR. POLEMENI: Usually we are at the end  
18          of the semester when we do these things.

19          MR. BAILEY: Bob, did the University of  
20          Alabama or Auburn respond last time?

21          MR. MADDOX: No, sir, not timely.

22          MR. BAILEY: I didn't think they did.

23          All right. Any other discussion on this

1 issue because we've got a lot of issues to  
2 cover?

3 By the way we had a new member join.

4 MS. MOORE: Mary Moore, Circuit Clerk  
5 Perry County.

6 MR. BAILEY: Glad to have you with us.  
7 Any other discussion on the direction, Bob,  
8 we may want to give Jane in terms of putting  
9 together a bid for us before we get down to  
10 funding? Any other discussion on that?

11 JUSTICE STUART: Lyn Stuart again. I  
12 think if there's any way that we could just  
13 take Arkansas and make it applicable to  
14 Alabama that's what we need to ask her to do.  
15 I'm not sure we're in a position to pay for a  
16 completely new study.

17 MR. BAILEY: I -- I'm not sure we are  
18 either. She's offered to share the Arkansas  
19 report with us, but she's having to get  
20 permission from various levels. And we  
21 certainly understand that. So, hopefully,  
22 that will come through for us.

23 MS. DAVIS: Do you have a motion? Or...

1           MR. BAILEY: We need a motion, we need  
2           some direction for Jane too. Because Bob and  
3           I tried to talk to her about some, you know,  
4           issues to cover and get some direction and  
5           some guesstimates, but I think we need a  
6           little bit more specific direction for Jane.

7           MS. DAVIS: Well, I don't want to get the  
8           cart before the horse. I think we need to  
9           clarify the funding first.

10          MR. BAILEY: Right.

11          MS. DAVIS: So my motion would be to give  
12          the chairman authority to discuss all  
13          possible funding sources, both federal and  
14          state with DHR, AOC, the courts, the Feds,  
15          anybody, random people we see on the street  
16          and report back to the committee what funding  
17          we have to work with. At that point, I think  
18          we can then begin to give direction.

19          MR. BAILEY: All right. All right. Do  
20          we have any -- you have a second to the  
21          motion first? Or a second to the motion  
22          first?

23          JUDGE FORD: Second.

1 MR. POLEMENI: Second.

2 MR. BAILEY: All right. Judge Ford  
3 seconded. Any discussion on the motion,  
4 please?

5 (No response.)

6 MR. BAILEY: All right. All in -- let's  
7 vote. All in favor say I?

8 (Everyone responded.)

9 MR. BAILEY: Opposed?

10 (No response.)

11 MR. BAILEY: All right. I'll assume that  
12 mantle of responsibility.

13 MS. DAVIS: Good man.

14 MR. BAILEY: The next topic on the agenda  
15 is health insurance. We talked a good bit  
16 about that last time. Judge Bell, you want  
17 to pick up that ball for us?

18 JUDGE BELL: Well, that's -- that's  
19 just -- as a sitting judge dealing with child  
20 support issues, that's just one of those  
21 issues that I think we're struggling with.

22 I mentioned the case I got reversed on  
23 for deviating from Rule 32 and not including

1 the child support of a stepfather who was  
2 covering not only his new wife and the  
3 parties' two children but also his child by a  
4 prior marriage added without any premium.  
5 And I got reversed for that, and rightfully  
6 so in that Rule 32 requires that that happen.

7 We had -- at the last committee we had  
8 proposed a change to Rule 32 where we would  
9 only include in the calculation a pro rata  
10 share of the family policy premium.

11 Right now as we all know the Rule 32  
12 guidelines require that the full family  
13 premium be included in the calculation, which  
14 quite honestly can result in some injustices  
15 as it did I thought in the case that I had.  
16 But I think we need to revisit the pro rata  
17 share.

18 MR. BAILEY: Okay.

19 JUDGE BELL: And we should still have  
20 that particular recommendation. Not that we  
21 need to go exactly by that, but I do think we  
22 need to revisit that issue.

23 MR. BAILEY: Penny, I know you were



1 interested in us doing that when we convened  
2 at that point.

3 MS. DAVIS: That's still an issue with  
4 me. I think whether we -- the two thoughts  
5 that come to my mind is that we might look  
6 now a few years down the road and see what  
7 other states are doing.

8 Because there's been a lot of change in  
9 the health insurance industry, which we know,  
10 and a lot to come which even the Feds don't  
11 know I think what they did.

12 But it might be helpful, the states that  
13 Mike had talked about, I don't know if they  
14 did only schedule changes or if they also  
15 looked and tweaked some of their guidelines.

16 But it might be helpful if we could have  
17 maybe a subcommittee that Judge Bell could  
18 chair.

19 MR. POLEMENI: It's a lot of data.

20 MS. DAVIS: And that would just focus on  
21 what a number of other states have done  
22 dealing with healthcare.

23 And if we can't decide on something, I

1 think at the minimum we ought to give more  
2 flexibility or discretion with the judges so  
3 that when a judge who's looking at the whole  
4 family picture like Judge Bell did in that  
5 case --

6 MR. BAILEY: Right.

7 MS. DAVIS: -- give him discretion that  
8 the rule does not yet at this point give him.

9 MR. BAILEY: Right. Judge Bell, if I  
10 asked to you chair a subcommittee -- and to  
11 refresh everybody's memory, I thought our  
12 subcommittees four or five, six years ago  
13 really worked well in zeroing in on  
14 particular topics, particular issues.

15 And, Judge Bell, would you mind assuming  
16 that responsibility to chair a subcommittee  
17 on the health insurance revisit?

18 JUDGE BELL: I'll be happy to on one  
19 condition. That you put Ms. Davis who just  
20 volunteered me to be on the subcommittee.

21 MR. BAILEY: She gladly accepts.

22 JUDGE BELL: I'm sure she does.

23 MS. DAVIS: That's the Baptist way, isn't

1           it?

2           JUDGE BELL: I'll be happy to.

3           MR. BAILEY: Would anybody else like to  
4           serve on this subcommittee? Julie would be  
5           great. And would you like to as well? All  
6           right. Julie and Julia. Wonderful.

7           MR. POLEMENI: I can't provide any legal  
8           information, but I'm happy to help in any way  
9           I can.

10          MR. BAILEY: All right. So we've got  
11          Mike.

12          JUDGE BELL: Legal mind.

13          MR. BAILEY: All right. Judge Bell, we  
14          have your committee assembled -- Penny, Julie  
15          and Julia and Mike.

16          JUDGE BELL: Thank y'all very much.

17          MR. BAILEY: Okay. Thank y'all. That is  
18          a big issue. Because I know we had a lot of  
19          discussion about it before and spent a lot of  
20          time on that particular issue.

21          All right. Any other comments on health  
22          insurance or the health insurance issue as it  
23          relates to the guidelines?

1           MR. POLEMENI: What was the outcome of  
2           the Amendment VI issue?

3           MR. BAILEY: Well, Alex, refresh my  
4           memory. I thought you -- you were going to  
5           be furnished a brief with some cites I  
6           believe by the gentleman that addressed that  
7           issue last time.

8           MR. JACKSON: Never got anything.

9           MR. POLEMENI: Which was, you know,  
10          basically we can't -- the state can't compel  
11          someone to buy insurance, which the courts  
12          are doing in this instance.

13          JUDGE PALMER: Well, on that, the  
14          Affordable Healthcare Act is going into  
15          effect on January the 1st, 2014. Isn't the  
16          federal government compelling people to buy  
17          health insurance?

18          JUDGE FORD: They are.

19          JUDGE PALMER: Isn't that why that's  
20          going to come out?

21          MR. POLEMENI: That's why Amendment VI  
22          was approved by the voters is they don't want  
23          to be compelled.

1           JUDGE FORD:  And another issue is whether  
2           or not you can be compelled to buy family  
3           coverage or only individual coverage.  I  
4           don't know under the healthcare reform if  
5           that's the case.

6           MR. BAILEY:  Jennifer, you did a little  
7           research I believe on this recently on this  
8           issue about the conflict between the  
9           constitutional amendment and that, health  
10          insurance guidelines.

11          MS. BUSH:  Well, the research I came  
12          across indicated that the purpose of the  
13          amendment, Amendment VI, was not to address  
14          child support but was geared towards the  
15          federal healthcare mandate.  And it was not  
16          geared towards this, and that was not the  
17          purpose and the intent.

18          MR. POLEMENI:  Uh-huh.

19          MR. BAILEY:  And wasn't there --

20          MS. BUSH:  And, actually -- I don't know.  
21          This hasn't been decided by the court.  But  
22          one has to wonder if a federal statute would  
23          trump a state constitution.

1           I mean, we do have an amendment in our  
2           state constitution. But is it going to be  
3           effective over a federal statute?

4           MR. BAILEY: Right.

5           MS. BUSH: I would think federal would  
6           trump state.

7           MR. BAILEY: And refresh my memory. You  
8           did a little research I know on whether or  
9           not requiring a parent to contribute to  
10          health insurance and medical costs is or is  
11          not unconstitutional or constitutional. And  
12          the court didn't address it if I remember  
13          right.

14          MS. BUSH: The court -- what I found, the  
15          decisions I found, they did not specifically  
16          address Amendment VI and child support but  
17          indicated that it would not be  
18          unconstitutional. That it would be  
19          constitutional to require someone to provide  
20          health insurance for their child.

21          MR. BAILEY: Right.

22          MR. POLEMENI: So we're back to what  
23          Judge Stuart stated is that we're going to

1           have to run it through the system if we're  
2           going to contest it.

3           JUDGE BELL: That's right.

4           MS. BUSH: But that specific question,  
5           Amendment VI and child support, has not been  
6           decided.

7           MR. BAILEY: Right. I think that's the  
8           correct status right now. Okay.

9           All right. Any other comments,  
10          discussion on health insurance in light of  
11          what we just talked about? Any other  
12          comments?

13          (No response.)

14          MR. BAILEY: All right. Let's now go to  
15          tax deduction and dependents. We had a good  
16          bit of discussion about that at our  
17          February 7th meeting. Judge Bell, you asked  
18          us I think to take a look at that as well.

19          JUDGE BELL: I did. I seem to be causing  
20          all the problem. But that is just one of  
21          those areas --

22          MR. BAILEY: Right.

23          JUDGE BELL: -- too where I think judges

1           need to have more flexibility. Because Rule  
2           32 builds into the calculations that the  
3           custodial parent is going to get the tax  
4           exemption.

5           But we all know child support is not tax  
6           deductible by the paying party. It's not  
7           taxable to the receiving party. And that may  
8           be true, but there's a lot of cases where  
9           that is just not the fair thing to do if  
10          you've got several children and there's a lot  
11          of child support being paid.

12          I just think it's something we need to  
13          look at and make sure we can breathe into the  
14          guidelines some flexibility for the judges to  
15          deviate on that particular issue. That --  
16          that's just my...

17          JUSTICE STUART: Would it be a  
18          satisfactory solution in that particular  
19          issue to include that among the grounds for  
20          which a judge can deviate, and specifically  
21          say that in the rule? And then, I mean, I  
22          just trust the judges overall.

23          JUDGE BELL: Thank you.



1 JUSTICE STUART: I think they can use  
2 discretion given the facts in a particular  
3 case and in maybe the particular situation.

4 JUDGE BELL: I think that would be  
5 wonderful. And that might be a good thing to  
6 do on the health insurance issue too, to  
7 breathe some flexibility into it. I do think  
8 that would work like that.

9 JUSTICE STUART: I can further state that  
10 I think that is something that if this  
11 committee chose to do it it could do sooner  
12 rather than later.

13 MR. BAILEY: Right.

14 JUSTICE STUART: And certainly not wait  
15 until we look at the guidelines themselves.

16 MR. BAILEY: Absolutely.

17 JUSTICE STUART: It might really be  
18 helpful to the trial judges and the families  
19 of the state.

20 MR. BAILEY: That is an excellent point.

21 JUDGE BELL: I agree.

22 MR. BAILEY: We don't need to delay some  
23 decisions like that on funding and a new

1 economic review. We can make those decisions  
2 quickly. Good point.

3 Do we want to have some more discussion  
4 about that?

5 MR. POLEMENI: A lot of the states on my  
6 list that made decisions were going with net  
7 income versus gross.

8 And I know there are some people that lie  
9 about their net income or hide income between  
10 gross and net. But the majority -- and that  
11 would be something where the judge could, you  
12 know, get validation.

13 But if we just looked at taking out state  
14 and federal taxes as a complement of that.

15 JUDGE FORD: I see where -- I was going  
16 to ask you what is your definition of net  
17 income.

18 MR. POLEMENI: Yeah. Yeah.

19 JUDGE FORD: It can get really cloudy as  
20 we go down the list.

21 MR. POLEMENI: I would say taxes, you  
22 know.

23 JUDGE FORD: Okay.

1           MR. BAILEY: All right. Any other issue  
2 or discussion on that particular issue?

3           And to follow up on Justice Stuart's  
4 suggestion, are there any other issues that  
5 we want to address quickly in the next --  
6 maybe by the next meeting to have some  
7 language drafted other than her suggestion  
8 about deviation on that issue?

9           Any other issues that we want to -- yes.

10          MS. BUSH: Are you talking about tax  
11 deduction and health insurance, both of those  
12 issues, giving the judge the authority to  
13 deviate?

14          MR. BAILEY: I think we certainly could.  
15 And, Billy, if you could have us a report --  
16 I don't want to push you, but if you could  
17 have us a report by the next meeting, we  
18 might be able to adopt some of that language.

19          JUDGE BELL: Good. I'll do that.

20          MR. BAILEY: That was an excellent  
21 suggestion that we move forward on some of  
22 the -- tweak some of the guidelines that are  
23 not working as well as they possibly should

1 for our trial judges.

2 Any other suggestions or other issues  
3 besides those two that we could address  
4 quickly and possibly by our next meeting?

5 (No response.)

6 MR. BAILEY: Okay. We'll move on then to  
7 child support and visitation and shared  
8 placement.

9 Mike, do you want to take that over?  
10 Because I know you're interested in that  
11 issue quite a bit.

12 MR. POLEMENI: Well, basically, you know,  
13 that goes back to the shared parenting issue.  
14 And those parents that can negotiate or  
15 mediate a shared parenting arrangement should  
16 be able -- should be allowed to do so and not  
17 be hindered by the courts based on their  
18 assumption of what should be done.

19 They may want to review it. But if it's  
20 already been mediated by lawyers, why should  
21 the judge disagree?

22 And I believe the state states that in  
23 its bylines that if you have an agreement, or

1           maybe it's a rule -- I don't know. But if  
2           there's an agreement before the court, the  
3           court should accept it unless it's woefully  
4           deficient for some reason or other.

5           MR. BAILEY: Well, let's ask our judges  
6           what's going on in your courtrooms around the  
7           state as we speak.

8           Julie, you want to take that first?

9           JUDGE PALMER: Yes. My usual standard of  
10          review is if both parties are represented by  
11          counsel and they've got shared custody,  
12          whether it be four days with me and three  
13          days with you, or I get or you every other  
14          weekend during the school year, and then I  
15          get her every other weekend during the  
16          summer, however you want to call it, as long  
17          as both parties are represented by counsel  
18          and they agree to deviate from the child  
19          support guidelines, whether it be zero,  
20          whether it be zero but you're responsible for  
21          the child -- for the daycare, I'm responsible  
22          for out-of-pocket medicals, however you agree  
23          to it, then 99.9 percent of the time I will

1 sign that.

2 It's when there's one party represented  
3 by counsel and the other party is self-  
4 represented and the self-represented person  
5 gets the children but gets no child support  
6 because it's called joint custody or shared  
7 custody, I just don't sign that.

8 MR. POLEMENI: Right.

9 JUDGE PALMER: Especially, let's say they  
10 are suppose to get \$95 and they are supposed  
11 to get \$495.

12 MR. POLEMENI: Yeah. And that's a fair  
13 assessment. I would -- I would have no  
14 problem with that myself. But that's --  
15 that's -- that's -- I wish all -- and that's  
16 one of the problems that we have is 67  
17 counties in Alabama without -- with I don't  
18 know -- I don't know the number of judges in  
19 each county, but they all do something  
20 different.

21 There's no concise and consistent finding  
22 of facts. And maybe that -- maybe that's the  
23 answer is that we have not a finding of fact

1 worksheet along with the child support  
2 guidelines so that -- to address that.

3 MR. BAILEY: Well, Delaware being the  
4 smallest state with three counties has a  
5 statewide family court. So in any of the  
6 three counties you get the same visitation  
7 basically scheduled, the same family law  
8 issues are dealt with, you know, consistently  
9 in all three counties.

10 With 67 counties it's been proposed  
11 before and during my lifetime, Bob, and I  
12 know yours too that we have a statewide  
13 family court, but I don't think that's going  
14 to happen while we're still all here.

15 MR. POLEMENI: Because for -- if both  
16 parents are fit, it should be fairly easy for  
17 the courts to make a decision in my mind.

18 It's not, of course, when you have the  
19 unfit parent. That's when you get into the  
20 problems. And I think making fit parents  
21 have to go -- right now in my opinion you're  
22 making -- fit parents are being treated as  
23 unfit parents.

1 JUDGE PALMER: Well, I think -- yeah.

2 JUDGE FORD: I think a lot of it too is a  
3 training issue. We've not had a major child  
4 support training in a while.

5 And so -- and we have a new, whole new  
6 crop of judges that have come on within the  
7 last six years.

8 And so we really -- some of this could be  
9 resolved through just more concerted training  
10 of our judges in a setting so we can discuss  
11 these things and how they are applied. So we  
12 have a real training issue problem too.

13 MR. BAILEY: Mr. Landry brought that to  
14 our attention on February 7th, and we  
15 discussed a good bit of training in Alabama  
16 for judges and so on. And I'm sure that  
17 warms your heart for Judge Ford to say that.

18 MR. LANDRY: Yes, it does.

19 MR. BAILEY: And I still want to try to  
20 rein us in a little bit. Visitation schedule  
21 statewide is not our charge. We are involved  
22 with the placement of child and visitation of  
23 children as it relates to Rule 32.



1 I don't think it's our charge to develop  
2 a statewide visitation schedule that everyone  
3 will love.

4 JUDGE PALMER: And I think we've got to  
5 get away from the word "visitation" period.  
6 A parent does not visit their child. A  
7 parent is -- they -- they co-parent.

8 MR. BAILEY: Right.

9 JUDGE PALMER: You maybe have a custodial  
10 parent and a noncustodial parent, or a  
11 secondary custodial time; but, you know,  
12 we've got to get rid of the word  
13 "visitation".

14 Grandma visits and Aunt Julie visits.  
15 But parents don't visit. They parent their  
16 children. And that's one of the main things  
17 we've got to get rid of.

18 I don't think it's in any of the  
19 guidelines the word "visitation". But in all  
20 the other statutes it's in clearly there.  
21 It's called visitation. And we've got to get  
22 rid of it as a whole.

23 JUDGE BELL: Gordon, there is a Family

1 Law Task Force that is -- that is going to  
2 start meeting. The first meeting I think is  
3 next month and, maybe the end of this month  
4 as a matter of fact.

5 But going back to the training that we've  
6 talked about here, I do the family law  
7 training for the new judges orientation.  
8 They give me 45 minutes.

9 And I'm looking at these new judges who  
10 are insurance defense lawyers or criminal  
11 defense lawyers. And when I talk about Rule  
12 32 and joint legal custody, they look at me  
13 with the deer-in-the-headlight look and  
14 saying what in the world are you talking  
15 about.

16 But the only time -- and we've talked  
17 about the lack of consistency from circuit to  
18 circuit, but the only time -- I would much  
19 rather parents make their own decisions and  
20 decide their issues because they brought  
21 these children into the world.

22 MR. BAILEY: Absolutely.

23 JUDGE BELL: And I would rather they do

1           that. The only time I will send back or make  
2           them revise the agreement is if they don't  
3           use the correct terms for custody set out in  
4           Section 30-3-151, or if it's the -- the  
5           substance of it is not joint custody.

6           Sometimes people can get tricked like  
7           that, and the agreement will say -- maybe  
8           somebody is self-represented. It will say  
9           joint custody, joint legal and physical  
10          custody. The children shall reside primarily  
11          with the mother, and the other parent will  
12          get periods of joint custody as set out in  
13          the visitation schedule attached hereto as  
14          Exhibit 1.

15          Well, the appellate courts have said,  
16          look, we got to look at the substance, not  
17          the label. And I think it goes to training  
18          for lawyers. I mean no disrespect to my good  
19          lawyers, but they've got to use the right  
20          terms. They've got to understand the  
21          significance.

22          Because when it comes to a time to modify  
23          that particular order, we've got to interpret

1           what is it. And the appellate courts have to  
2           say what in the world is this. And they  
3           shouldn't have to. We have a statute that  
4           defines these things.

5           JUDGE FORD: Billy, you also have the  
6           pleasure of maybe -- I don't know whether  
7           it's a pleasure or not having attorneys in  
8           your court.

9           When you go through what I do on a  
10          district court level, you have a pro se  
11          litigant, not a pro se litigant but really  
12          two pro se litigants because DHR says we have  
13          nothing to do with parenting time.

14          So you are trying to forge an agreement  
15          between two people that for a single moment  
16          in their life loved each other, and since  
17          that time they can't stand each other.

18          JUDGE BELL: I wish we could go off the  
19          record whether I prefer my lawyers to pro se  
20          because that apples in one hand.

21          MR. BAILEY: Well, Faye, bring us up-to-  
22          date on DHR's training for your DHR child  
23          support attorneys.

1 I know, Jennifer, you have participated a  
2 lot as well. Where are y'all on the training  
3 of the DHR workers?

4 MS. NELSON: Well, you know, with funding  
5 within our department just like any other  
6 state agency --

7 MR. BAILEY: Right.

8 MS. NELSON: -- we have not had any  
9 direct group training for attorneys since we  
10 have not had our child support conferences  
11 within the past what, three years or so.

12 MR. BAILEY: About three years.

13 MS. NELSON: Jennifer does some, you  
14 know, one-on-one, you know, when we're aware  
15 of a new attorney that comes onboard. So we  
16 utilize her knowledge, you know, to have one-  
17 on-one communication with them. So she's --  
18 she's the resource that we use --

19 MR. BAILEY: Right.

20 MS. NELSON: -- for attorneys.

21 MR. BAILEY: Do you do any -- I'm sorry.  
22 Go ahead.

23 MS. NELSON: We're trying to coordinate

1 something with AOC right now to do some  
2 specialized training as it relates to, you  
3 know, the e-filing, you know, that's come  
4 about. So that's pretty much where we are,  
5 you know.

6 But as far as child support one-on-one  
7 pretty much, you know, we have not have had  
8 an opportunity to do that on a large scale,  
9 you know, with attorneys.

10 MR. BAILEY: Right. Back in the days  
11 before IV-D when it was a III-D program --  
12 I'm kidding.

13 Back in the early days of getting the  
14 program started, we used to do training for  
15 judges, new judges in different circuits when  
16 they took the child support docket over. We  
17 would assemble a team and go in.

18 Are you doing any of that now with AOC?

19 MS. NELSON: No, we're not.

20 JUDGE FORD: No.

21 MR. BAILEY: Bob, at AOC for these new  
22 judges, are you bringing in anything other  
23 for child support other than the modules that

1 the Office of Child Support developed?

2 MR. MADDOX: Not on the module. Like  
3 Judge Bell pointed out, we have new judge  
4 orientation. And we only have a very limited  
5 time on it. I go over the juvenile law. He  
6 goes over the DR law. We both have a minute  
7 amount of time to cover a lot.

8 MR. BAILEY: Right.

9 MR. MADDOX: So we're hoping to do --  
10 we're in discussions with DHR about doing  
11 some supplements next calendar year if we  
12 have the funding available --

13 MR. BAILEY: Wonderful.

14 MR. MADDOX: -- for judges, DHR attorneys  
15 and other attorneys possibly. So...

16 MR. BAILEY: Billy, is the task force  
17 going to look at training for judges and  
18 lawyers in child support? Or is that...

19 JUDGE BELL: Gordon, I really don't know.  
20 I just got appointed to the task force. And  
21 our -- we're going to have our first  
22 organizational meeting, so we don't know  
23 where we are.

1 I'm hoping we're going to look at a  
2 global family law code for Alabama to try to  
3 breathe some consistency in the process.

4 MR. BAILEY: That would be wonderful.

5 JUDGE BELL: But I don't know that for  
6 sure.

7 MR. BAILEY: Keep us updated on the  
8 family law committee.

9 Any other questions or concerns, comments  
10 about child support and placement? We won't  
11 use the term "visitation".

12 JUDGE BELL: Well -- and I brought it up  
13 last time. We've got a provision in Rule 32  
14 for how do you calculate child support in a  
15 split custody arrangement where each parent  
16 has got one or more children in his or her  
17 physical custody.

18 But we don't have any provision in there  
19 for how to calculate under joint custody  
20 other than it's a recognized reason to  
21 deviate from Rule 32.

22 And when we talk about consistency, I've  
23 talked with judges all over the state, and



1           there really is no consistency about how you  
2           should calculate under Rule 32 --

3           MR. BAILEY: Right.

4           JUDGE BELL: -- for the joint custody  
5           arrangement. That may be something we want  
6           to look at too.

7           MR. POLEMENI: Indiana parenting time  
8           guideline including amendments received  
9           through March 1, 2013, they're going into --  
10          again, the Indiana Supreme Court, you know,  
11          changed their terminology to parenting time.

12          MR. BAILEY: Right.

13          MR. POLEMENI: I have the preamble here  
14          if you want to look at that. That goes into  
15          it. And, plus, I have the whole guidelines  
16          out from Indiana on a thumb drive as well.  
17          So...

18          JUSTICE STUART: One concern that I have  
19          is if all of the legislation says visitation  
20          for us not to track the legislation would  
21          create more confusion. That may really be a  
22          legislative issues.

23          JUDGE BELL: I don't know that that's

1 something that our committee deals with. The  
2 family law task force may be -- may be  
3 looking into that.

4 MR. POLEMENI: Okay.

5 MR. BAILEY: All right. Any other  
6 comments on that issue before we hear from  
7 the public? We've got quite a few people  
8 from the public here. I'd certainly like to  
9 give them adequate time.

10 Any other comments on those issues or any  
11 other committee issues before we hear from  
12 the public?

13 Anybody else have any issues or concerns?

14 MS. DAVIS: When are we going to deal  
15 with the letter we received?

16 MR. BAILEY: That's a good question. We  
17 can deal with that now.

18 Judge Bell, do you want to give us a  
19 little background about the letter that  
20 Bob -- you sent to Bob and myself and that we  
21 sent out to all the committee members?

22 JUDGE BELL: I appreciate it. It just  
23 came to me in the mail. And it's from a lady

1           who evidently went through a child support  
2           case or cases in Limestone County. I didn't  
3           handle the case because I'm in Madison  
4           County. But I just thought it was something  
5           that since it was addressed to the Advisory  
6           Committee. She did send it to Chief Justice  
7           Moore and to Jennifer and to me and Faye --  
8           and sent it to Faye Nelson and a bunch of  
9           senators and Kimberly Essick at the news.

10           But I just thought everybody ought to  
11           know about it. I mean, there's a balancing  
12           in here about trying to be fair to everybody  
13           in trying to make this system as efficient as  
14           possible.

15           I think a lot of it probably is our fault  
16           by taking things for granted and just not  
17           explaining things the way we should.

18           MR. BAILEY: She was speaking on the  
19           perspective of both a custodial and a  
20           noncustodial parent which I thought was  
21           really interesting.

22           JUDGE BELL: It was.

23           MR. BAILEY: Faye, I know you got a copy

1 of the letter. Any comments on the letter or  
2 thoughts that you might have?

3 MS. NELSON: Well, you know, we're  
4 limited in what we can share as far as our  
5 involvement with the case --

6 MR. BAILEY: Absolutely.

7 MS. NELSON: -- because of  
8 confidentiality. But I can say that the, you  
9 know, the county department is involved with  
10 the case.

11 As noted in the letter, there is a  
12 hearing that's coming up as of next week.  
13 And they will be addressing what has been  
14 brought to the court's attention and to DHR's  
15 attention at that -- during that particular  
16 hearing.

17 MR. BAILEY: Anything else you want to  
18 add about the letter?

19 JUDGE BELL: Well, it just goes with kind  
20 of what we've been talking about. I don't  
21 know that there's a lot of consistency  
22 because I think there's a lot of moving parts  
23 in the process, including judges.

1 I am real fortunate in Madison County to  
2 have two wonderful assistant district  
3 attorneys that handle child support  
4 enforcement. They're very knowledgeable.  
5 They've taught me a lot of law.

6 But it's a situation where these things  
7 can become a nightmare for both sides. You  
8 can't get service. Maybe it's an interstate  
9 situation and, you know, it's just -- it can  
10 be a nightmare.

11 And we've got to realize most of these  
12 people are unrepresented. They're  
13 representing themselves.

14 MR. BAILEY: Absolutely.

15 JUDGE BELL: And so we've just got to --  
16 I think we've got to be more sensitive to  
17 their position.

18 MR. BAILEY: I agree. And, plus, such a  
19 volume of cases. Judge Ford, how many cases  
20 a week do you hear? Or a day.

21 JUDGE FORD: We're down to once a month  
22 because we only -- we don't have enough  
23 workers. We hired one, so now we have two.

1 But we do it once month.

2 But the real issue we have in DHR cases  
3 is they're not represented. They have --  
4 unfortunately their relationship has broken  
5 down to the point that perhaps mainly they do  
6 not speak to each other.

7 So it's difficult in trying to formulate,  
8 not only get the child support but  
9 particularly in a county like mine where  
10 employment opportunities are minimal, it's  
11 not only getting the child support but also  
12 trying to see what you can do to forward the  
13 relationship to make insure the child has  
14 parenting time with both parents. It's --  
15 it's very, very difficult. But we keep  
16 trying.

17 JUDGE BELL: Well, the problem is with a  
18 lot of these people is there's been a  
19 paternity or child support action filed.  
20 Child support is ordered but there's no  
21 visitation ordered.

22 MR. BAILEY: Right.

23 JUDGE BELL: So when you come back on an

1 enforcement, then the paying party wants  
2 visitation. They serve the assistant  
3 district attorney who immediately files a  
4 motion to quash, which is rightly so because  
5 the state doesn't represent the custodial  
6 parent, because that's an implied award of  
7 custody.

8 And I don't know if there's anything we  
9 can do about it, but it doesn't seem right  
10 there has to be two separate actions if  
11 you're going to award child support and  
12 there's an implied award of custody to the  
13 receiving party. There ought to be some  
14 mechanism by which we could deal with the  
15 parenting time for the other parent, the  
16 paying party.

17 MR. BAILEY: I know the Office of Child  
18 Support and Enforcement was looking at this  
19 several years ago and trying to create a  
20 family friendly court in terms of a lot of  
21 issues.

22 Faye, have you received anything from  
23 OCSE on it lately?

1 MS. NELSON: No, we have not. And as I  
2 stated earlier, funding hit everybody pretty  
3 hard. So any initiatives were not really  
4 implemented within the past, you know, two or  
5 three years.

6 There's a great deal of emphasis on the  
7 child support program supporting fatherhood  
8 programs --

9 MR. BAILEY: Right.

10 MS. NELSON: -- where we're trying to  
11 become more father friendly.

12 MR. BAILEY: Right.

13 MS. NELSON: And not just enforcement  
14 alone. And there's been grant opportunities  
15 that one of our counties here in the state  
16 have taken advantage of but, you know, with  
17 funding sources that would end at the end of  
18 this month. So there's just been very little  
19 opportunity to reach out and expand beyond  
20 what we're doing right now.

21 And I know you all mentioned about, you  
22 know, the number of cases on your docket and  
23 all of that. But I will say that in



1 communicating with the county about this  
2 hearing that's coming up next week, this  
3 particular docket has over 70 cases on it.

4 MR. BAILEY: Right

5 MS. NELSON: So, you know, I will say  
6 that the DHR staff are sensitive to, you  
7 know, the case situation and that, you know,  
8 I've assigned my field supervisor to also be  
9 present to try to assist in trying to work  
10 through whatever issues exist there. It's a  
11 challenge for all the parties that's  
12 involved.

13 JUDGE BELL: And when I say sensitive,  
14 I'm talking about the courts too. I'm not  
15 just talking to y'all. Everybody involved in  
16 the process needs to be sensitive to the  
17 emotions and the importance of this.

18 MR. BAILEY: Sure.

19 MS. DAVIS: One of the issues that came  
20 out of her story -- and I'm sure it's not  
21 anything you've not heard, but just sort of  
22 thinking globally is her lack of success in  
23 being able to ascertain the noncustodial's

1 actual income.

2 And I wondered if that's something we  
3 could look at just focusing on the child  
4 support aspect of it and not the other  
5 aspects. But in terms of discovery.

6 And I'd like some input or discussion  
7 from the practicing lawyers and the judges as  
8 to is there becoming -- is it more difficult  
9 to get discovery.

10 Do we need to try to think in terms of  
11 more teeth in the child support area? Or  
12 something different than you normally have  
13 which is contempt powers?

14 Should we write in some specific  
15 financial records that should be required,  
16 like your -- as an example, prior two years  
17 of your federal income tax?

18 Certainly people can cheat on their  
19 income tax but, you know, that would be a  
20 source of financial information --

21 MR. BAILEY: Right.

22 MS. DAVIS: -- that's available. Would  
23 that help the DHR people if they can say to

1           their clients you have to provide your  
2           federal income tax or your state income tax?

3           Or can we put a requirement that if they  
4           don't provide it, the court can -- or it can  
5           be subpoenaed, that sort of thing?

6           MR. BAILEY: Well, to follow up on what  
7           Judge Ford said, if you have unrepresented  
8           litigants, I had a docket in Anniston when I  
9           was refereeing of about 60 to 90 cases a day.

10          And when you have an unrepresented  
11          litigant, discovery is an unknown issue.

12          MR. DAVIS: Right. Right.

13          MR. BAILEY: It's nonexistent.

14          JUDGE FORD: It does not exist.

15          MS. BUSH: Judge Gordon --

16          MR. BAILEY: Yeah.

17          MS. BUSH: -- Rule 32 has a requirement  
18          that people bring their income statement or  
19          tax returns, but as a practical matter what  
20          has been done is people, you know, a  
21          layperson may not know the content of Rule  
22          32. They usually don't.

23          And if they come to court without that,

1           if the judge continues the case and does not  
2           set child support until that documentation is  
3           provided, it may be set two or three months.  
4           And you can, not always but you can end up  
5           with a situation where maybe somebody chooses  
6           not to bring their income just so that child  
7           support can't be calculated.

8           MR. BAILEY:   Exactly.

9           MS. BUSH:   And eventually at some point,  
10          you may have to impute minimum wage or just  
11          take other testimony if you can't.  So it may  
12          be good to have some kind of --

13          MS. DAVIS:   Penalty if they don't.

14          MS. BUSH:   -- penalty.  But I do think  
15          judges already have that contempt power.  If  
16          the judge enters an order and says custodial  
17          or noncustodial parent, whoever it is, you  
18          must bring your tax return, your state -- you  
19          know, a statement of your income and they  
20          don't provide it, the judge can still under  
21          the existing law find that person in contempt  
22          for failure to...

23          MS. DAVIS:   I think they can.  But I was

1           wondering if we could be more creative if say  
2           the person fails after ordered to do so bring  
3           their income tax then the presumption is that  
4           the other party, the amount that they suggest  
5           is presumed, and the burden is on the other  
6           party to -- to -- who has failed to bring the  
7           documentation, then they have -- that they  
8           obviously can get, then they have to overcome  
9           the burden some other way.

10           MS. BUSH: So I'm going to repeat this  
11           back to you.

12           MS. DAVIS: We're married.

13           MR. BAILEY: She's back to marrying  
14           Billy.

15           MS. DAVIS: He's the bad guy.

16           MR. BAILEY: When was the ceremony?

17           JUDGE BELL: I have grown my beard.

18           MR. BAILEY: Are you registered at  
19           Macy's?

20           MS. DAVIS: All right. He's the one  
21           that's a non -- either way, noncustodial,  
22           custodial parent. He's refusing to give  
23           information. I think he's making a lot more

1 money than he has been paying. The child  
2 support guidelines are currently based on the  
3 amount that he was making four years ago. I  
4 think he's making a lot more money.

5 And he's refusing to bring the  
6 information. And I say -- he says he's  
7 making 20,000. I say he's making 40,000.

8 If he after being ordered by the court to  
9 provide the federal income tax documentation  
10 or whatever documentation we decide, if he  
11 refuses to do so, then there become a  
12 presumption that the amount that I said is  
13 the correct amount and he has to somehow  
14 overcome that presumption.

15 MR. BAILEY: Right.

16 MS. DAVIS: Now, the court doesn't have  
17 to find him in contempt. But, clearly, if  
18 he's not making the 40,000, it's going to be  
19 to his advantage to say, okay, I'm not making  
20 20, I'm only making 30. But just try to  
21 think sort of outside the box in terms of the  
22 way that we can encourage people.

23 MR. BAILEY: Right.

1           MS. DAVIS: But I also recognize we need  
2           to balance so the children are not adversely  
3           affected by anything that we do.

4           JUDGE PALMER: Well, there was a study  
5           recently I'm pretty sure, not a study but a  
6           report that about 48 percent of the people in  
7           the United States don't file taxes.

8           And then in this case the guy was  
9           self-employed. And you've not been his wife  
10          for four years. So now how do you know he's  
11          been making 40,000 when you've not been  
12          around him for four years?

13          Maybe it's his lifestyle or something  
14          like that. And the court can take that into  
15          consideration. You make only 20,000 but your  
16          house note is a \$1000 a month and your car  
17          note is \$1000 a month and your utilities are  
18          \$1000 a month.

19          MS. DAVIS: But that's not -- it isn't  
20          just because he goes out and buys a new house  
21          or a new boat or whatever. What we're  
22          looking at is just his income. So those  
23          things don't really matter.

1           JUDGE PALMER: Well, the court gets to  
2 look at the lifestyle though. He might say  
3 he makes minimum wage but --

4           MS. DAVIS: Oh, yes. Yes. I understand  
5 what you're saying from the perspective  
6 clearly.

7           MR. POLEMENI: I agree with, you know,  
8 the way that Penny presented it sounds fair.  
9 It puts the responsibility on that person to  
10 come up with his taxes. Whether he files  
11 taxes or not he has to come up with some  
12 documentation of some sort that says this is  
13 how much I make, and I only make this much  
14 or, oh, I do make that much.

15          JUDGE BELL: Well, it ought to be on both  
16 sides. We have to have both gross incomes.

17          MR. POLEMENI: Right.

18          MS. DAVIS: Exactly. Billy in this case  
19 is the bad guy. He's he one that won't  
20 provide the information. Whoever it doesn't  
21 matter, custodial or noncustodial parent.

22          JUDGE BELL: I tell you how you might  
23 could handle that from circuit to circuit is



1           you could get a standing order from your  
2           judges -- hold my calls -- if you could get a  
3           standing order from the judges that would be  
4           served with the pleading on a rule nisi order  
5           or whatever type it is that is directed to  
6           both parties in a child support case that you  
7           are to bring to this hearing the following  
8           documents.

9           MR. BAILEY: Right.

10          JUDGE BELL: Failure to do so may result  
11          in a dismissal of this case or an entry of  
12          default judgment against you on the merits.

13          MR. BAILEY: That's a good idea.

14          JUDGE BELL: And that might be something  
15          that the child support people, we wouldn't  
16          have any problem having a standing order like  
17          that in Madison County. It would help  
18          everybody.

19          MS. CAMPBELL: It would stop the delays  
20          too. You wouldn't have to delay the case.

21          JUDGE BELL: That's where the  
22          frustrations come from is the delays.

23          MR. BAILEY: For a lot of litigants,

1 facing a child support order delay is  
2 wonderful to be honest about it.

3 JUDGE BELL: That's right.

4 MR. BAILEY: It's exactly what they're  
5 looking for.

6 MR. POLEMENI: Back at the e-mail, the  
7 woman that submitted that e-mail, but we've  
8 been hearing that type of thing for the last  
9 15 years. So men and women both.

10 And one of the issues that we have is the  
11 contempt filings for not complying with  
12 either visitation or, you know, parenting  
13 time or coming up with documents or whatever  
14 the case may be is some people get contempt  
15 and are thrown in jail and other people don't  
16 get contempt for -- for worse, you know, for  
17 worse acts.

18 So have some -- what's the word I'm  
19 looking for -- have some equity in applying  
20 the contempt whether it be good or bad.

21 MR. BAILEY: All right. Any other  
22 comments before we hear from the public?  
23 Anybody else like to join in or add

1 something?

2 (No response.)

3 MR. BAILEY: All right. Let's hear from  
4 our public members in the audience.

5 Do you have a list? Who has -- Bob, do  
6 you have the list?

7 MR. MADDOX: I haven't passed it around.

8 MR. BAILEY: That's all right. All  
9 right. I believe you were here, this  
10 gentleman was here first.

11 If you'll tell us your name. And we'd  
12 like to limit your comments to about 10  
13 minutes --

14 MR. CLARK: Okay.

15 MR. BAILEY: -- in that area if you could  
16 since we have a lot of people here. Thank  
17 you.

18 MR. CLARK: My name is Jim Clark. I'm  
19 from Autauga County. Went through a divorce  
20 in Tuscaloosa County. I got a couple of  
21 points for Judge Bell.

22 On the tax exemptions, if it's mediated  
23 and agreed upon in the divorce then

1 consideration should be the judge doesn't  
2 have discretion later to change that.

3 JUDGE BELL: Oh, I agree with that. I'm  
4 talking about contested.

5 MR. CLARK: Mine was just changed after  
6 eight years of mediated settlement.

7 The other thing for you, Your Honor, is  
8 young adult insurance needs to be considered.  
9 Now that it's up to 26, is it only the parent  
10 that carries the insurance that bears the  
11 burden of paying for it? Or do both parents  
12 share that burden?

13 JUDGE BELL: Well, that's a Bailey case  
14 consideration.

15 MR. BAILEY: Absolutely.

16 JUDGE BELL: It's before the Supreme  
17 Court right now. We can't -- that may be a  
18 non-factor.

19 MS. DAVIS: Well, the child support  
20 guidelines don't really cover that anyway.  
21 That's outside the perimeter of our...

22 MR. CLARK: But insurance is. And while  
23 my children are in college even though they

1           are post-minority, I still have the burden of  
2           sharing expenses with my ex-spouse.

3           So when she graduates from college in 10  
4           days, she doesn't have a job. Doesn't have  
5           insurance. We're going to carry insurance  
6           until she gets a job.

7           But the question is, you know, I've got  
8           an ex-spouse who is willing to do that for  
9           this child. But I know all parents aren't.

10          The second thing is, Judge Palmer,  
11          visitation is mentioned throughout Rule 32.

12          JUDGE PALMER: Is it? Well, thank you  
13          for pointing that out.

14          MR. CLARK: And as the noncustodial  
15          parent, that is important. Because I get  
16          that thrown at me all the time. The judge  
17          says you get to visit once a month.

18          I say these are my kids. You know, they  
19          live in Tuscaloosa, and I still have to drive  
20          two hours to visit my kids.

21          The main thing I would like to bring up  
22          though is military retirement.

23          MR. BAILEY: Okay.

1           MR. CLARK: I had a judge in 2011 mandate  
2           that military retirement for myself on a 1099  
3           is income countable toward child support.  
4           But she specifically mandated that it was not  
5           income for my ex-spouse even though she  
6           received the same 1099 that I did.

7           We asked for reconsideration. Two weeks  
8           later I get a reconsideration that says no,  
9           my ruling stands.

10          So I appealed at great expense. It went  
11          to the appellate court. The appellate court  
12          affirmed. No opinion.

13          Thirty days later in Santiago v. Santiago  
14          that just came out in March, they defined  
15          military retirement as income for both  
16          parties.

17          So now at expense to me I've got to go  
18          back to court to have that judge reconsider  
19          based upon a new case something that -- I've  
20          talked to lawyers in Washington, D.C.

21          I've talked to Mark Sullivan who wrote  
22          the military divorce handbook. He said, Jim,  
23          she was wrong. And I said, well, it's going

1 to cost me money to prove she was wrong.

2 And now that I've got a case and case  
3 precedent by the appellate court, I can go  
4 back and fight for that to be changed.

5 But that's -- it's not in Rule 32. Rule  
6 32 to me is specific. It says any source of  
7 income. But yet the judge said since it was  
8 divided as property at divorce it counts as  
9 property for your ex-spouse.

10 And my attorneys fought and said, well,  
11 then it's property for Mr. Clark. And the  
12 judge says no. It's income for him.

13 So I'm not asking Rule 32 gross income be  
14 defined any better because I think it's  
15 great. But I'm asking for a note to be put  
16 in there that military retirement is income  
17 for both parties.

18 MR. BAILEY: Let me share with the  
19 committee the cite of Santiago v Santiago.  
20 That's the case you're referring to?

21 MR. CLARK: Yes, sir.

22 MR. BAILEY: March 8th, 2013?

23 MR. CLARK: Yes, sir.

1 MR. POLEMENI: Yes.

2 MR. BAILEY: For the committee members  
3 that would like to take a look at it, 2013  
4 Westlaw 856670 Al.Civ.App. Thanks. Go  
5 ahead.

6 MR. CLARK: It's also on Lexis, sir.

7 MR. BAILEY: I don't want to use my time  
8 against your time. Go ahead. I'm sorry.

9 MR. CLARK: And I just have one question.  
10 And I'm not sure. But it's for the DHR  
11 folks.

12 I paid my child support within the first  
13 10 days of the month for seven years. And  
14 when I went back to court for a modification,  
15 the judge mandated that I pay my child  
16 support through Alabama Child Support  
17 Services.

18 So now when I pay my child support in the  
19 first 10 days of the month, my former spouse  
20 doesn't get that money until the 19th or the  
21 20th. And I get texts and phone calls, where  
22 is my child support, check my child support.

23 Why am I being forced to pay for your



1 service that to me doesn't benefit the  
2 relationship with my former spouse? Is there  
3 anywhere that I can't find that allows the  
4 judge to mandate that for someone who has  
5 never missed a child support payment?

6 MS. BUSH: Well, federal law requires...

7 MS. NELSON: Go ahead now. You got it.

8 MS. BUSH: Federal law requires that  
9 every child support order has an income  
10 withholding order.

11 MR. CLARK: Okay.

12 MS. BUSH: Federal law also requires the  
13 office who is holding the orders go through  
14 one central disbursement unit for every  
15 single income withholding order. Now, we  
16 have state law that corresponds with that  
17 federal law.

18 But that is why your child support order  
19 will have an income withholding in it. The  
20 judge has discretion to not issue that income  
21 withholding order to your employer, but at  
22 any time it can be issued.

23 MR. CLARK: Okay. Ms. Bush, in my case

1 I'm retired from the Air Force. I'm laid off  
2 from a job. Been laid off since 2002. Went  
3 back in the Air Force. Retired in 2009. I'm  
4 in school right now.

5 My only income is retirement. I write a  
6 check every month to Alabama Child Support  
7 Services. It doesn't come out of my paycheck  
8 because she gets 35 percent of my retirement,  
9 and child support would exceed the allowable  
10 government withholding.

11 So I have to write a check to Alabama  
12 Child Support Offices when I would rather  
13 write it to her.

14 MS. BUSH: And you're doing that  
15 according to the judge's order?

16 MR. CLARK: The judge dictated in our  
17 modification that I pay this service. She  
18 gave me the address and said this is where it  
19 goes to.

20 MR. POLEMENI: That goes back to Social  
21 Security Act, Title IV-D and how every state  
22 has to do that in order to get that Title  
23 IV-D funding to get the --

1           MS. BUSH: No. I mean, that's a judge's  
2 order. That's the judge's order that he pay  
3 directly to us.

4           MR. POLEMENI: I understand that. But  
5 that's being funneled down.

6           MS. BUSH: Was DHR involved in your case?

7           MR. CLARK: No.

8           MS. DAVIS: What you might do when you go  
9 back anyway is ask to let you pay her.

10          MR. CLARK: We asked -- in the appeal we  
11 asked for reconsideration.

12          MS. DAVIS: Well, you're going back now  
13 anyway --

14          MR. CLARK: Yes, I am.

15          MS. DAVIS: -- so you might as well ask  
16 again.

17          JUDGE PALMER: Mr. Clark, how I was  
18 taught as an attorney and how I was taught as  
19 a judge, is if the income withholding order  
20 will not be served, that's fine. We  
21 recognize that all the time.

22                 If it comes in front of me and I have to  
23 try it, I don't have any option except to

1 order an income withholding order.

2 Now, if I'm wrong, Mr. Bell, or anybody  
3 please let me know. But as attorneys  
4 that's -- that's what we were taught --

5 JUDGE FORD: Correct.

6 JUDGE PALMER: -- from day one in law  
7 school.

8 MR. CLARK: Judge Palmer, neither party  
9 brought it up. Neither party wanted this.  
10 And the judge put it on the order.

11 MS. CAMPBELL: It's not DHR or it doesn't  
12 sound like it's DHR. It sounds like it's the  
13 for the payment center.

14 MR. CLARK: That's what I --

15 MS. CAMPBELL: The central site. For the  
16 payment center is paying for the, if it's not  
17 a DHR case, it does go to ACD which is  
18 disbursement division.

19 And she has the option I believe to  
20 either get payroll -- she can have it  
21 deposited directly into her account or she  
22 can get a check. Is that correct?

23 MR. CLARK: She does get it directly in

1 her account. It's just the delay that  
2 bothers her.

3 MS. CAMPBELL: That's not DHR. That's  
4 ACD.

5 MR. CLARK: It's just the delay that  
6 causes her financial concern. Because I pay  
7 it about the same time. I pay it in the  
8 first 10 days.

9 But in talking to child support, they  
10 said Mr. Clark, you can pay it on the 25th.  
11 It's okay.

12 MS. CAMPBELL: That's why the delay is in  
13 the mail. It's mailed to Montgomery to ACD  
14 and they have to process it is what it sounds  
15 like it is.

16 MR. POLEMENI: It is the Feds, not  
17 Alabama.

18 MR. CLARK: But that's not mandatory I  
19 take it, the judge can do that?

20 MR. POLEMENI: No. From the Feds it is  
21 mandatory from what I'm read.

22 MS. CAMPBELL: Only the wage withholding  
23 orders are mandatory. It goes to the same

1 payment center.

2 Now, if DHR is involved, it is going to  
3 go to the same payment center because -- and  
4 then come to us.

5 But if DHR is not involved, the only  
6 thing that's mandatory is the payment going  
7 to the payment center at a central site in  
8 Montgomery.

9 JUDGE BELL: Unless the parties have an  
10 agreement otherwise, Judge Palmer is exactly  
11 right. That's my understanding of the law.

12 MR. BAILEY: Do you have anything else?

13 MR. CLARK: No. I just wanted to thank  
14 you. This is the first time I've been here.  
15 I think this is great. Because I think Rule  
16 32 is a little vague in some areas, and  
17 you're addressing the areas I'm concerned  
18 with. Thank you.

19 MR. BAILEY: Glad to have you. Thank you  
20 for coming. And we've got quite a few  
21 experts in this group.

22 JUDGE FORD: Depending on what you're  
23 calling an expert.

1           MR. BAILEY: Well, in my court somebody  
2           coming from 50 miles out of town with a  
3           briefcase. And I have mine.

4           Okay. Who is our next speaker from the  
5           public, please?

6           MR. PASCHAL: I'll go ahead. My name is  
7           Kenneth Paschal. As I look around the room,  
8           I know quite a few of the faces here. I'm  
9           with the Alabama Family Rights Association.  
10          I'm the director of governmental affairs for  
11          our organization.

12          And our goal is to change the family laws  
13          in Alabama that forces the child to hate one  
14          parent, one-half of themselves, and also  
15          places them in a disadvantage in society. A  
16          child needs both mom and dad.

17          So we kind of echo what Mike mentioned  
18          earlier, shared parenting. That's not an  
19          issue before this committee, but it will be  
20          resolved as we meet later on next month with  
21          our legislators and meet with Mr. Maddox.

22          But the laws will be changed come January  
23          of 2014 where Alabama will be mandated as a

1 starting point to treat parents as if they're  
2 fit.

3 For example in 2011, there's over 20,000  
4 unwed custody cases in Alabama, unwed births.  
5 That's just a lot of kids coming through the  
6 courtrooms. 20,000.

7 There's also 21,000 divorces from one  
8 child in their family to seven kids. Over  
9 \$40,000 kids each year coming through our  
10 system.

11 And we talk about child support here. I  
12 think -- I'm sorry. Reading the meeting  
13 transcript from February, I think the only  
14 training, a lack of, 40,000 kids deserve  
15 better than what they're receiving here in  
16 the State of Alabama.

17 So it starts with training. It starts  
18 with -- I like your recommendation about  
19 creating forms to share with the courts,  
20 share with the family law attorneys, share  
21 with DHR so we have at least some type of  
22 procedure mechanism as a starting point.

23 But right now this letter that you



1 received, I have about 20 in my e-mail box.  
2 We deal with 67 counties. We don't just deal  
3 with the Tuskegee area. We don't only deal  
4 with Mobile. We deal with 67 counties. And  
5 our kids are being destroyed because of no  
6 training.

7 I had the opportunity to serve our  
8 country for 21 and a half years in the  
9 military. But for the last three years I  
10 continue to serve our -- I volunteer my time,  
11 no money and travel through each county. I  
12 haven't made it to Mobile yet, but I'm  
13 coming. We have to address this issue there.

14 But this letter from this young lady  
15 is -- is -- it's occurring everywhere in our  
16 counties.

17 You mention about how to determine  
18 income. We have some judges say just give me  
19 an affidavit. Well, they put any number on a  
20 signed affidavit. That don't mean anything.

21 Well, a young lady in McCalla was evicted  
22 from her home, four kids. And the judge just  
23 turned her head.

1           So training, we need -- we need to look  
2           at our training. I don't think we can do it  
3           in this forum either. But in subcommittees,  
4           it's great to hear that.

5           One thing I would recommend on this  
6           subcommittee since it's dealing with the  
7           healthcare, health insurance, select someone  
8           with a health background, in that field.

9           I know we have a, Dr. Roy, he was  
10          selected by the governor on two different  
11          healthcare committees before. He might be a  
12          good candidate. That's one thing I would  
13          recommend on the subcommittee is have someone  
14          in the field.

15          And speaking about health committee or  
16          health insurance, I had the opportunity to  
17          spend time on the floor here with our  
18          legislators when they addressed our health  
19          insurance. And I asked that they go back and  
20          look at the intent of the bill.

21          The intent is not to discriminate whether  
22          you're divorced or whether it's a child  
23          support or not. That was not the intent of

1           this bill. The intent was not just for the  
2           federal government. The intent was for all  
3           citizens. So we do have to address that.

4           You know, if you'd like to know more  
5           information one-on-one, I'll be happy to  
6           share that because I work with our  
7           legislators one-on-one about why that  
8           Amendment VI was put on the, why they voted  
9           for it, 58 percent.

10          And it was not because -- it was not to  
11          alleviate or discriminate against our kids.  
12          You know, if we gonna have mandated health  
13          insurance, let's do it for every child. I  
14          think every child should be given the  
15          opportunity, same opportunity. It's just  
16          something to look at there.

17          And as I look around at the committee,  
18          the question -- when I first walked into the  
19          room, I was like I wonder how many of you  
20          will go to bed tonight and think about what  
21          we're discussing, how many of you is a  
22          noncustodial parent?

23          So it's good to see the public here

1           because the decisions you make or you  
2           recommend upstairs to the chief justices is  
3           going to impact these people. It's going to  
4           impact another 240,000 that's out there.

5           So -- but how many members on -- how many  
6           members are noncustodial parents? If we  
7           don't have any, I would recommend that we  
8           possibly look at that, sir.

9           JUDGE BELL: Right.

10          MS. DAVIS: Michael.

11          MR. POLEMENI: Judge fits that bill.

12          JUDGE BELL: And I have been too.

13          MR. PASCHAL: Again, as we grow younger  
14          and our lives change, what is important to  
15          us? So once again, it's something to think  
16          about.

17          Title IV-D funding, I had the opportunity  
18          to go to Washington, D.C., in February and  
19          talk about this issue. I asked them to  
20          temporarily stop the Title IV-D funding to  
21          Alabama until we fix this problem for our  
22          kids.

23          I'm heading back in probably September.

1           Hopefully, when I go back, we'll have some  
2           information I can share with them saying in  
3           Alabama we're making progress.

4           We're receiving federal money, but  
5           there's criteria, there's guidelines that we  
6           must follow. Not, not half but all.

7           And one of those requirements is  
8           parenting plans. We're receiving federal  
9           money for that. So I will probably head back  
10          to D.C., next month. And, hopefully, we will  
11          have a means to -- hopefully, I can give them  
12          this news. But we have to -- we're accepting  
13          federal money, but we're not using it for its  
14          intended purpose.

15          But overall I think that training, I  
16          think -- I think we hit it on the nose,  
17          training. If you need any input, our  
18          organization input, please let us know. You  
19          got the -- Judge Bell, I had an opportunity  
20          to sit with him a couple of years ago. Great  
21          guy, you know. No. He is. I heard a lot of  
22          bad things about him. But I sat down with  
23          him. And I was like judge is a good guy.

1           You know, I say that. But even DHR, you  
2           hear all kind of war stories about DHR. But,  
3           you know, DHR, you're doing the best you can  
4           with the hand you're dealt with.

5           I appreciate the committee, and I  
6           appreciate what you do. And we want to get  
7           the public in here more often. Thanks for  
8           your time.

9           MR. BAILEY: Thank you for being here.  
10          And we always make ourselves available to  
11          hear from the public at every meeting.  
12          That's standard operating procedure for our  
13          committee. We appreciate you being here.  
14          Thanks for your time.

15          MR. POLEMENI: Mr. Paschal, since you're  
16          going back to D.C., ask for some funding to  
17          fund that study that we need.

18          MR. BAILEY: All right. Any other  
19          members of the public?

20          MR. LANDRY: Boyd Landry, Elmore County.  
21          I thought the -- a couple of things. One is  
22          as it relates to tax deductions, the IRS is  
23          fairly clear as to how it determines tax

1           deductions. And why the state should get  
2           involved in that I'm not really sure.

3           But the IRS on the federal side says if  
4           you provide 50 percent plus one, then you  
5           should get tax deduction. And -- now, the  
6           state would have an interest in terms of the  
7           state tax deduction, but with that respect on  
8           the federal side.

9           And I think -- I think to solve another  
10          issue that was brought up today would --  
11          involves the gross income and people not  
12          bringing the documentation, standing orders  
13          that Judge Bell mentioned.

14          And I think that the CS41 and the CS42  
15          don't follow the way Rule 32 is laid out.  
16          And I bring that point up because I don't  
17          think that if -- if there's not a definition,  
18          a 1040 says income from wages. It says  
19          non-wage income. It says gifts. It says  
20          gambling. I mean, on down the line there is  
21          a list of things on a 1040 that you have to  
22          fill out.

23          Well, on a CS41 and a CS42, it just asks

1           for that one number. And so if you want to  
2           lie, you can do it. But it's a little harder  
3           to lie if it says wage earnings, gifts from  
4           other parties, you know, non-wage income, et  
5           cetera, et cetera, et cetera, on down the  
6           line, and you've got to physically go in  
7           there and put numbers.

8                     Then I think it becomes a little bit  
9           clearer to both the court and the parties,  
10          you know, as to what, you know, people --  
11          granted people will still lie. But I think  
12          by and large it lays out for the court and it  
13          lays out for the parties what's required and  
14          the documentation necessary to prove those  
15          numbers.

16                    And I think if we work in that direction  
17          I think it will become a little bit clearer  
18          for the court and then the court can decide.

19                    You know, Judge -- Judge Palmer brought  
20          up a case. I was involved -- I'm involved in  
21          a case where the custodial parent didn't even  
22          bring any documentation, and the court  
23          ordered child support and said, oh, well,



1           your numbers are right.

2                   And I'm having to bring it up and say,  
3           you know, you can't do that.  You've got to  
4           have something to -- to substantiate a  
5           number.  You can't just take an affidavit  
6           without anything.

7                   And that's the problem I think that a lot  
8           of people are -- are dealing with is, you  
9           know, because that -- because the custodial  
10          parent is represented by a lawyer probably as  
11          a result of the child support that I give her  
12          and I'm not.  Therefore, they must be right.

13                   Well, those of you that are lawyers and  
14          judges in this room, lawyers can lie in  
15          Alabama as long as they are advocating on  
16          behalf of their client.

17                   JUDGE FORD:  They're not suppose to.

18                   MR. LANDRY:  Hey --

19                   MR. POLEMENI:  It's been done.

20                   MR. LANDRY:  -- come on, judge.

21                   JUDGE BELL:  Are you saying they can?  Or  
22          they do?

23                   MR. LANDRY:  They can, and they do.

1           JUDGE BELL: Well, I tell lawyers in  
2           every single case, listen. I appreciate what  
3           y'all do. I used to be one. But what y'all  
4           say is not evidence.

5           I'm going to make my decision based upon  
6           the testimony under oath and the documents  
7           that are admitted into evidence. And that's  
8           how it's --

9           MS. MOORE: That's right.

10          MR. LANDRY: -- suppose to be. But then  
11          that tenus thing.

12          JUDGE BELL: Ore tenus.

13          MR. LANDRY: Ore tenus doesn't get --  
14          doesn't get turned on, you know, on appeal  
15          because of ore tenus. But, you know, that's  
16          the highest burden you have to jump over.  
17          It's -- it's higher than a tennis net for  
18          lack -- for a good description. And so, you  
19          know, I think those are things that need to  
20          be -- be looked at.

21          And on the health insurance question,  
22          Judge Bell, why should I be responsible to  
23          pay for the health insurance of my ex-spouse,

1 or a portion thereof when I can't afford to  
2 have insurance on myself?

3 JUDGE BELL: Well, that's the principle.  
4 That's what I'm talking about. That's the  
5 basic unfairness built into it.

6 MR. LANDRY: And I think that's something  
7 that really needs to be addressed and looked  
8 at. Because, you know, we're about to get  
9 into whole new territory when the federal  
10 government starts to dictate on health  
11 insurance. And I think that -- and I want to  
12 echo the same comments I made back in  
13 February. I think training is the absolutely  
14 imperative thing.

15 MR. BAILEY: Right.

16 MR. LANDRY: I think training needs to go  
17 from DHR level to circuit level to judge  
18 level.

19 MR. BAILEY: Absolutely.

20 MR. LANDRY: And even up to appellate  
21 level.

22 You know, with all due respect, Justice  
23 Stuart, there are not many of you that are

1 family court judges.

2 JUSTICE STUART: That's true.

3 MR. LANDRY: And you're sitting there,

4 and you might have a clerk that has an

5 interest in family law but maybe not. And,

6 you know, decisions are being written and

7 decisions are being handed down by people who

8 have no experience or very little experience.

9 And live in our shoes for a day or two

10 and you might find it's a totally different

11 world in what we have to deal with as

12 noncustodial parents and custodial parents.

13 As a noncustodial parent, there's no

14 services for us. There's nothing. We have

15 to do it all on our own.

16 I know the DHR ladies are perking up, but

17 let's face it. Let's face it. It's not in

18 your best interest to have child support

19 lowered. So you're not going to jump through

20 hoops to help somebody who wants to get their

21 child support lowered like you would to

22 collect child support.

23 MS. CAMPBELL: I do disagree with that.

1           MR. BAILEY: I'm going to give rebuttal  
2 time. Don't worry.

3           MR. LANDRY: I've sort of been there.  
4 I've seen this live and in-person and in  
5 action.

6           MR. BAILEY: If I could, let me sum up  
7 one of your points for you, and correct me if  
8 I misstate it.

9           You're suggesting that we take another  
10 look at the CS41 and 42 forms to further  
11 specifically identify income?

12          MR. LANDRY: Yeah. I think -- I think  
13 you would find that you might have an  
14 opportunity to address some of these issues  
15 with people not bringing the necessary  
16 documentation.

17          MR. BAILEY: Right.

18          MR. LANDRY: And you might want to say,  
19 you know, for wages you have to bring your  
20 last two months check stubs, you know, and  
21 the tops from all income sources. You got to  
22 bring the last two years of tax deductions.  
23 If you receive interest from some amount of

1 money you got as an inheritance, you know,  
2 that's considered income. You've got to  
3 bring your 1099s for those and on down the  
4 line.

5 MR. BAILEY: Right.

6 MR. LANDRY: Let's face it. If you just  
7 bring a W-2 and you got a raise from the  
8 state, it's not going to show up until, you  
9 know. That's why you got to have the current  
10 pay stubs.

11 JUDGE BELL: A raise from the state?  
12 What state do you work for?

13 JUDGE FORD: That's not judges.

14 MR. BAILEY: Is there anything else?

15 MR. LANDRY: No. I think -- I want to --  
16 I think it's a tremendous undertaking to  
17 address these -- these issues. But I think  
18 by and large you can alleviate a lot of  
19 trouble if you -- if we got into some shared  
20 parenting issues statewide.

21 I think there are certain pockets where  
22 that goes on around the state, but it doesn't  
23 happen everywhere.

1           And that's -- that's principally, you  
2           know, the biggest gripe I hear from family  
3           court judges, and -- I know several of them.  
4           The biggest gripe I hear from family court  
5           judges is our dockets are just littered with  
6           cases. And I think that part of that would  
7           be alleviated with training and things we've  
8           already discussed.

9           MR. BAILEY: Thank you very much for  
10          being with us. I think we have some rebuttal  
11          from this side of the room. Jennifer.

12          MS. NELSON: I'll be quiet.

13          MS. BUSH: I just wanted to say that DHR  
14          does offer help with modifications. And you  
15          can come to our office, and your local county  
16          office.

17                 If you have a problem in your particular  
18                 case, it's no -- this is not just custodial  
19                 parent, but anyone who has a problem with a  
20                 DHR case, we have an internal hearing process  
21                 where they can request a review. There's  
22                 several levels of review if you think your  
23                 particular case --

1 MR. BAILEY: Right.

2 MS. BUSH: -- something is not being done  
3 that should be done, or they're doing  
4 something they didn't do.

5 It doesn't have anything to do with the  
6 courts. It's just an internal quality  
7 assurance process that we have.

8 MR. BAILEY: Right.

9 JUSTICE STUART: I just wanted to make a  
10 comment so the record would be correct or at  
11 least clear.

12 MR. BAILEY: Yeah.

13 JUSTICE STUART: The backside of CS41  
14 does state all of these different types of  
15 income that are included in income.

16 The front side does provide those to be  
17 itemized separately as employment income,  
18 self-employment income, other employment  
19 related income, and other non-employment  
20 related income, which is like the gambling  
21 and the gifts and that type of thing.

22 MR. BAILEY: Right.

23 JUSTICE STUART: The form requires that



1 documentation be maintained, not produced for  
2 court. And that's something we might want to  
3 consider is requiring that it be produced.

4 I believe the reason that it says at the  
5 present time maintained is I don't think we  
6 all wanted all of this put in the court file.

7 MR. BAILEY: That's exactly right.

8 JUSTICE STUART: I still say we don't  
9 want it in the court file. But we could  
10 consider requiring that it be produced at the  
11 hearing and a copy provided to the opposing  
12 party.

13 MR. BAILEY: That's a great idea. Good  
14 idea. Okay. Any other members from the  
15 public? Oh, wait a second. You wanted to  
16 make a comment.

17 MS. DREES: Yes. Thank you. My name is  
18 Angela Drees, and I'm going to be speaking  
19 with the AOC lawyer about a client later  
20 today. So I just wanted to make two brief  
21 points.

22 One of the things that I wanted to do, I  
23 tried to get her to come herself but she's a

1 victim of the court system. And so when she  
2 tells her story, she can't tell it without  
3 getting emotional. And it's not very  
4 effective because the message gets lost in  
5 the emotion.

6 But I did want to say it's a case  
7 involving a lady named Angela Brasfield.  
8 It's a Tuscaloosa case. She was a pediatric  
9 nurse. And she had two very small children  
10 ages two and four.

11 Her husband was having an affair. And  
12 then he went to court in Tuscaloosa where he  
13 was able to obtain custody of these two young  
14 children away from Ms. Brasfield.

15 When the child support issue kicked in --  
16 and I guess Ms. Davis touched on this when we  
17 were talking about how do you find out about  
18 people's income.

19 Well, in this particular case -- and it  
20 happens every day -- the child support  
21 discovery process was so aggressive in her  
22 case that her employer was constantly getting  
23 subpoenaed and deposed to find the

1 information that they thought or they alleged  
2 that she was hiding. So she kept losing her  
3 jobs, and so was unable to pay her child  
4 support.

5 And then when she was incarcerated at the  
6 time that she couldn't pay her child support  
7 because she kept losing her jobs, she came  
8 out of jail and committed suicide. She  
9 basically said that was it.

10 She was not allowed to see her children,  
11 and she couldn't pay her child support. And  
12 she knew her next option was going back to  
13 jail. So she took her own life.

14 So I know these committees, you know, are  
15 often conducted in a vacuum, but I did want  
16 to bring up the issue because the mother  
17 would have been here, but she can't tell that  
18 story without getting emotional.

19 The other point I would like to make, and  
20 I think this is more in line of why we're  
21 looking for solutions here. I would  
22 challenge you to think -- and I'm a trial  
23 lawyer by trade. I've practiced civil

1 litigation for 15 years. I've tried cases in  
2 almost every court in the State of Alabama  
3 and also in other states from probate,  
4 district court, all the way up to federal  
5 court.

6 What I would challenge you to is to think  
7 about one day perhaps abolishing the family  
8 court system altogether. And I'll tell you  
9 why.

10 Litigation and court is an adversarial  
11 proceeding by its very nature. And in a  
12 case like this where the winner takes all,  
13 there is no resolving cases. The ultimate  
14 solution is winner takes all. Somebody is  
15 going to win those kids. Someone is going to  
16 lose them. And that's what the litigant  
17 looks at when they see these cases.

18 I would challenge you to say that a court  
19 system, an adversarial court proceeding is  
20 the worst place to address what we've already  
21 addressed as complex human emotions.

22 You know, you have a car wreck case. You  
23 may be somewhat emotional about it, but no

1           one is taking your children, okay? That is  
2           not the kind of case that should be put in an  
3           adversarial proceeding.

4           In addition, we have entire industries  
5           set up that do a much better job dealing with  
6           these complex emotional proceedings rather  
7           than adversarial court proceeding.

8           Our churches do a better job of dealing  
9           with these issues. Our psychology industry  
10          does a better job in dealing with these  
11          issues. And even right across the street is  
12          an entire division on alternative dispute  
13          resolution.

14          And if you ask Judith Keegan right now,  
15          she says most judges don't even go into  
16          mediation because the lawyers are too busy  
17          making money off of these types of cases in  
18          domestic court.

19          Now, I know that makes everybody  
20          uncomfortable because we all have to make a  
21          living. And I have no problem with that.

22          But if 40,000 kids are suffering as a  
23          result of this adversarial proceeding -- and,

1           again, there's no way to get out of the court  
2           system.  If one litigant wants to keep filing  
3           and filing and filing, then you're in court  
4           and you're in court perpetually, even now  
5           beyond the age of majority.

6           So think about what we're doing.  If you  
7           keep doing what you've always done, you're  
8           going to keep getting what you've always got.

9           I would challenge the entire panel to say  
10          less intervention, not more.  Reroute your  
11          resources.  Obviously, you don't have enough  
12          on any single level.  I haven't heard one  
13          person say today I've got enough money to get  
14          my job done.  Not one single person.

15          So instead of putting more people in the  
16          court system including 40,000 of Alabama's  
17          children who are going to eventually need  
18          jobs and be in positions where we're going to  
19          need them -- we don't need them in jail.  We  
20          don't need they dead on drugs.  We need them  
21          productive Alabama citizens.

22          We're last in the country on almost every  
23          issue.  I mean, if we don't start looking at

1           it from that perspective, I think we're  
2           cheating ourselves. And we have can coffee  
3           all day long, but we're not getting to the  
4           root of the problem.

5           MS. DAVIS: Can I make a comment  
6           regarding her last comment in terms of the --  
7           how we should approach the family law area in  
8           general?

9           MR. BAILEY: Yeah.

10          MS. DAVIS: This is not adversarial.  
11          Some of, you know, some of you may not know.  
12          The legislature just passed the Collaborative  
13          Law Act this last legislative session. And  
14          it's for the family law area.

15          It does not become effective until  
16          January 1st, 2014. The Supreme Court  
17          recently appointed a committee, or is in the  
18          process of appointing a committee on rules  
19          relating to that.

20          But that will be another alternative. We  
21          already have mediation that can happen in the  
22          family law area. But the collaborative law  
23          was just recently passed to allow that. And

1           it was exclusively for the family law areas  
2           and -- family law and also probate with  
3           guardianships and things like that, which  
4           hopefully will give an alternative.

5           Now, it does require both parties. It's  
6           voluntary. So both parties have to agree to  
7           do it. But it is a collaborative process.

8           Then can opt in the collaborative process  
9           or opt out at any point they want to. But it  
10          does provide a non-adversarial opportunity if  
11          the parents choose to go in that direction.

12          MR. BAILEY: Good point. Thank you very  
13          much. Thank you. Yes, sir.

14          MR. LLOYD: Good morning. My name is  
15          Warren Lloyd, and I'm a resident of Jefferson  
16          County. I'm going to try to be very mindful  
17          of my words as well as my emotions. High  
18          conflict divorce. Ten-year-old boy. I  
19          haven't seen him in five years.

20          So moving forward, there are many, many  
21          comments that -- I've made some good notes.  
22          Some of the notes.

23          It started off with a visitation issue.



1           And then it turned into a paperwork shuffle.  
2           And then it turned into the -- got to going  
3           like a dog chasing a tail. That lasted about  
4           a year and a half.

5                   That party didn't provide paperwork when  
6           it comes to income or financial statements or  
7           income because they weren't asking for  
8           attorney's fees because they already had  
9           millions in their back pocket. I didn't.

10                   So as it turns out, fast forward three  
11          years from there, it's been five years, and I  
12          still have not seen my son.

13                   I have changed careers. Been with two  
14          companies in 27 years on straight commission.  
15          Income is down. I'm a 1099 employee. I  
16          probably drive, I don't know, 34,000 miles a  
17          month. And gas is what?

18                   Part of my territory is the panhandle  
19          territory, the panhandle of Florida. Gas in  
20          Pensacola, Fort Walton, that area is 3.69 a  
21          gallon. We see 3.21 up here, but it's 3.69 a  
22          gallon there.

23                   So when you look at these calculations

1           for child support, there has to be some  
2           allowance for the judges and courts to  
3           deviate from those guidelines. And I'm just  
4           throwing gas in there.

5           I spend 800 to a thousand to \$1100 a  
6           month on gas, and that doesn't include  
7           overnight expense. So it's just a -- but  
8           meanwhile, I have the receipts. I have all  
9           the receipts that I have. I got a ton.  
10          Probably some of them in my wallet right now  
11          if you want to challenge me. I got a copy of  
12          two or three receipts in my wallet right now.

13          I would like for there to be some sort  
14          of -- in this global family law thesis that I  
15          heard about was that there be some -- some  
16          consideration given towards allowance when it  
17          comes to expenses for a self-employed person.

18          Because prior to being, you know, being a  
19          stockbroker for 27 years straight commission  
20          with two companies, I was a commissioned  
21          employee. I had no idea what outside sales  
22          was about.

23          Am I happier with it now? Yes, I am. Am

1 I making less money now? Unfortunately, yes,  
2 I am.

3 But -- and I would like to go back and  
4 address the court regarding this. Maybe have  
5 some consideration given towards reduction of  
6 child support because of the expenses. I  
7 mean, I have a daughter in college also. A  
8 junior at UAB, nursing student. I mean,  
9 that's extra expenses there.

10 But the other side has no need for the  
11 income. There's no earned income. There's  
12 nothing but dividend interest and tax-free  
13 income from a portfolio of securities. I'll  
14 never know that. We'll never get to that  
15 because that's not required on her part.

16 But on my part I am required to show that  
17 information to have a reduction. But I can't  
18 afford to go back to the court and apply for  
19 that unless I go to the DHR, one of you. And  
20 I don't know if I can do that outside of my  
21 attorney.

22 MS. BUSH: No. You can have an attorney  
23 and still come to us. Our DHR attorneys do

1 not represent the custodial parent or  
2 noncustodial parent. You can still keep your  
3 own attorney and come to us.

4 MR. LLOYD: And mediation, I would agree  
5 that medication is just -- is just another  
6 way for the legal -- for the institution,  
7 this institution when it comes to attorneys,  
8 child psychologists, the guardian ad litem,  
9 just for everybody to put more money in their  
10 pocket. I'm convinced of that. I really am.  
11 Absolutely.

12 And I think mediation is just another way  
13 for continuances to take place. I mean, I've  
14 had five years of continuances. So I know.

15 I'm mindful of this. Because one of the  
16 interested parties in this case is also in  
17 this room. I'm being very mindful of my  
18 words.

19 And I think perhaps group training would  
20 be a good -- training both for the judges and  
21 DHR as well as the new judges here. And the  
22 training, if there had been training, perhaps  
23 we might not have had the problem we're

1           experiencing up in Jefferson County right  
2           now.

3           And, finally, the last thing was I heard  
4           the word "co-parenting" posed to use. I  
5           would just love that. That would be a very  
6           nice word to use in these divorce decrees to  
7           soften the term of the visitation.  
8           Co-parenting.

9           I thank you for your time.

10          MR. BAILEY: Thank you for being here.  
11          Appreciate you joining us. Anyone else from  
12          the public that would like to be heard?

13          (No response.)

14          MR. BAILEY: Okay. Anything else from  
15          our committee?

16          MR. POLEMENI: I have one question about  
17          Ms. Drees' comment. I thought that debtor  
18          prison was illegal? This woman was put in  
19          jail for not having, being able to pay child  
20          support? Is that...

21          MS. DREES: She lost her job, so she was,  
22          you know, she was getting behind. And so the  
23          ex-husband immediately filed a petition to

1           have her held in contempt.

2           MR. POLEMENI: But she still got put in  
3           jail?

4           MS. DREES: Oh, yeah.

5           MR. POLEMENI: I know it was a contempt  
6           charge. But basically it's debtor's court.  
7           She wouldn't pay the child support. So why  
8           was she put in jail?

9           MR. BAILEY: Bob, do you have anything  
10          else we need to cover before we adjourn?

11          MR. MADDOX: No, sir. We just need to  
12          make sure all the members sign the sign-in  
13          sheet that was passed around that came in  
14          late.

15          MR. BAILEY: Yeah. Let's be sure we sign  
16          the sign-up sheet. And then, Bob, fill out  
17          the form for reimbursement for mileage.

18          Alex, anything from the court?

19          MR. JACKSON: No.

20          MR. BAILEY: Certainly are glad to have  
21          you with us. Hope you enjoyed it.

22          Anything else from the committee? Judge  
23          Bell, I know you want to speak about the

1 issue that you're driving longer than the  
2 committee meetings last.

3 JUDGE BELL: Right. And I'd like my  
4 subcommittee, if we can do it, if we can meet  
5 right now and talk just a little bit, I'd  
6 like to do that. You know, and I want to be  
7 careful with my words too. I want the result  
8 of our work to be meaningful.

9 MR. BAILEY: Absolutely.

10 JUDGE BELL: I want it to get done. This  
11 is a great committee. We've got a lot of  
12 expertise from all walks of life. I think we  
13 really need to get in, roll our sleeves up,  
14 hammer this out, make a decision and let's  
15 try to do some good with what we are charged  
16 with doing.

17 MR. BAILEY: I certainly agree with you.  
18 Judge Ford and I have been at this a long  
19 time, since 1980 on this committee. When we  
20 started in 1980, we didn't have guidelines.  
21 We didn't have income withholding. We didn't  
22 have all the things that really assist the  
23 court system now.

1           And it took a lot of work and a lot of  
2           discussion and a lot of meetings.

3           JUDGE FORD:   Yeah.

4           MR. BAILEY:   And I think, Faye, I want  
5           you to give me one figure real quick before  
6           we go.   When we started the child support  
7           program in 1975-'76, we anticipated and hoped  
8           the collections would be eight million a  
9           year.

10          What are they now?

11          MS. NELSON:   Last year we collected 327  
12          million.

13          MR. BAILEY:   And that's due to a lot of  
14          work from a lot people.   And it's directly to  
15          the benefit of the children.

16          MS. NELSON:   It goes to the children.  
17          It's not about the parents.   It goes to the  
18          children.

19          MR. BAILEY:   Any other comments or words  
20          of wisdom before we adjourn?   Anything before  
21          we...

22          MS. DREES:   I have just one question.

23          MR. BAILEY:   Sure.



1           MS. DREES: I know that a lot of judges  
2           and attorneys see a pro se litigant as sort  
3           of a less-than party in the courtroom. The  
4           problem is a lot of these folks are having to  
5           go pro se because they can either pay their  
6           child support, or they can pay to hire an  
7           attorney.

8           So I think in this particular arena, it  
9           may be inclusive in the training to say that  
10          a pro se litigant should not necessarily be  
11          viewed with contempt. It may just be a  
12          function of their budget. I think that's  
13          just -- I know even the clerks don't like pro  
14          se because it gets discombobulated.

15          But I think in this particular field I  
16          think you have to consider the fact that you  
17          can't always pay both. And attorneys are not  
18          cheap.

19          JUDGE BELL: You know, I -- and, again,  
20          I'm trying to be sensitive with my words, but  
21          judges are getting painted with a broad brush  
22          that we do not deserve.

23          I treat everybody that comes in my

1 courtroom with civility and respect, and I  
2 expect that in return.

3 Now, are there those who don't?  
4 Probably. But listen. I think training  
5 would help a whole lot of that.

6 But you've never been in my court. If  
7 you have, I would hope you wouldn't say what  
8 you just said. Everybody comes in equally,  
9 and everybody gets treated the same. And  
10 that's the way it ought to be as long as I'm  
11 I'll going to be on the bench.

12 MR. BAILEY: Faye.

13 MS. NELSON: Gordon, I've heard  
14 repeatedly in this meeting as well as the  
15 last -- training, training, training.

16 MR. BAILEY: Absolutely.

17 MS. NELSON: Training is what we need.  
18 And, you know, I will sit here and say I am  
19 committed from DHR's side to see what we can  
20 do within our funding.

21 You know, funding limits probably every  
22 department that's sitting here as to what we  
23 can do. We know the need is there, you know.

1           And I can say from our perspective that  
2           we will work with AOC to see what we can do  
3           in the way of providing training to whatever  
4           population that we can. You know, to say  
5           that we can meet all the needs that have been  
6           identified here today through a one-day or  
7           two-day training or whatever, it won't be  
8           resolved.

9           MR. BAILEY: That's right.

10          MS. NELSON: It can be a starting point.  
11          And we will make that initiative. And I will  
12          make that commitment --

13          MR. BAILEY: Wonderful.

14          MS. NELSON: -- to see what we can do,  
15          you know, to provide some level of training.

16          MR. BAILEY: If Faye says it, she means  
17          it. I can tell you that. If she says it,  
18          she means it.

19          JUDGE FORD: One thing I wanted to  
20          mention, I think better training through DHR  
21          or joint training with DHR where we both sit  
22          down with the county representatives and talk  
23          about the problems and the issues that are

1 coming up in our respective locations.

2 And perhaps, you may want to look at  
3 regional training as opposed to one large  
4 statewide training to look at the cost on  
5 those type things. But we have a lot of new  
6 judges on the bench, a lot of new judges.

7 And they're doing it like I did.

8 Somebody gave them a docket and said, hey,  
9 you try these cases. And so you're getting  
10 the kind of results that you're getting  
11 because they just don't know. They just  
12 don't know.

13 MR. POLEMENI: Along those lines, you  
14 have the pro se litigant and just the people  
15 in general that come with a grade school  
16 level constitutional knowledge that -- and  
17 over the years working with everyone on this  
18 committee it's been a pleasure to learn from  
19 each of you.

20 I know that you're doing within the scope  
21 of your charters or, you know, your job  
22 descriptions you're doing the best you can  
23 do. And maybe -- maybe there's something

1           that we can initiate to where the courts can  
2           kind of have some training session for the  
3           people out there as well, you know, to where  
4           we can be more respectful all the way around.

5           And then on the other issue, Mr. Maddox  
6           put together for the access and visitation  
7           committee, a telecom to do our committee work  
8           on that. And that was very -- didn't have to  
9           leave the house.

10           MR. BAILEY: That's great.

11           MR. POLEMENI: So maybe we can think  
12           about something along those lines and  
13           having -- and make it open to the public so  
14           that the public could also attend so they  
15           don't have to travel as much either.

16           MS. MOORE: Mary Moore, Circuit Clerk.  
17           The Alabama Bar Association has been very  
18           helpful creating forms for pro se litigants.

19           And it may be something that we could  
20           work with them on a website that will educate  
21           or have instructions and this is what this  
22           will do and this court will do.

23           Because there are so many times when the

1           pro se litigants come into the clerk's office  
2           that they are expecting us to give legal  
3           advice. It's not that we are -- we're  
4           impatient with them, but we cannot give legal  
5           advice; although, most of our -- most of the  
6           people that walk in are pro se and not  
7           represented by an attorney.

8                     So this is a serious issue, and training  
9           I think would work with that. Or maybe talk  
10          to them.

11                    MR. BAILEY: That is a great idea.

12                    JUDGE PALMER: They have one website  
13          already called the AlabamaLegalHelp.org, I  
14          believe. And it has a lot of the forms and  
15          explains this is what this form does, this is  
16          what this form does. They have taken great  
17          leaps with that.

18                    MS. MOORE: And when people come in, we  
19          actually hand them to them.

20                    JUDGE PALMER: Very good.

21                    MR. BAILEY: Bob, they did a lot of that  
22          work with the forms committee with AOC. Is  
23          that committee still in existence?

1 MR. MADDOX: Not right now.

2 MR. BAILEY: There is a committee in AOC  
3 that has worked in forms.

4 MR. MADDOX: We are greatly reduced in  
5 staff, and we've had to cut back a lot of  
6 activities.

7 MR. BAILEY: Absolutely. Any other  
8 comments for the good of the order? I'll say  
9 this. It's been a lot of challenges since  
10 1976, and I'm a living example of that.

11 When I first started in '76 in the child  
12 support program, I was seven foot tall and  
13 blond-headed. Look what happened to me.

14 Anyway, any other comments? Certainly  
15 glad to have the public with us.

16 Can I have a motion to adjourn?

17 MS. DAVIS: Move.

18 MR. BAILEY: So moved. Second?

19 MR. POLEMENI: Second.

20 MR. BAILEY: Motion passed. Thank y'all  
21 very much.

22 (The hearing concluded at 11:50 p.m.)

23

1 C E R T I F I C A T E

2

3 STATE OF ALABAMA

4 COUNTY OF ELMORE

5

6 I, Rena' Messick Lanier, Certified Court  
7 Reporter and Commissioner for the State of  
8 Alabama at Large, do hereby certify that the  
9 above and foregoing transcript of the proceedings  
10 in this matter was reported by me.

11 I further certify that the foregoing  
12 computer-printed pages contain a true and correct  
13 copy of the proceedings held in this matter.

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

17 I further certify that I am duly licensed  
18 by the Alabama Board of Court Reporting as a  
19 Certified Court Reporter.

20 Rena' Messick Lanier

21 Rena' Messick Lanier,

22 Certified Court Reporter

23 (CSR No. 0031)Exp. 9/30/2013



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