

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

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

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1 APPEARANCES

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

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

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

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

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

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

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

23 THE HONORABLE DON McMILLAN  
24 Perry County Circuit Judge

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

27 MS. ANGELA CAMPBELL

28 AMANDA COX, Esquire

29 STEPHANIE BLACKBURN, Esquire

30 JIM JEFFRIES, Esquire

31 BRYANT WHITMIRE, Esquire

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

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

10 Sir, you have the floor.

11 (Off-the-record discussion.)

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

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

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

22 MS. DAVIS: My name is Penny Davis.

23 THE HONORABLE McMILLAN: Don

1           McMillan.

2                   MS. BLACKBURN:   Stephanie Blackburn.

3                   CHIEF JUSTICE STUART:   Lyn Stuart.

4                   THE HONORABLE THOMPSON:   Bill

5           Thompson.

6                   MS. BUSH:   Jennifer Bush.

7                   MS. SAULSBERRY:   Lathesia

8           Saulsberry.

9                   MS. BALDWIN:   Melody Baldwin.

10                  MS. CAMPBELL:   Angela Campbell.

11                  MS. COX:   Amanda Cox.

12                  MR. PASCHAL:   Kenneth Paschal.

13                  THE HONORABLE PALMER:   And Julie

14           Palmer.

15                           Also here we've got Brad Medaris,

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

17           Hoyem, and --

18                   MR. WILSON:   Nathan Wilson.

19                   THE HONORABLE PALMER:   -- Nathan

20           Wilson.   And Nathan is with AOC Legal.   And

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

22           sure to introduce yourself.   We've got

23           Kenneth Paschal, who is the alternate, and

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

8                       MS. BLACKBURN: Thank you.

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

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

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

16                      (No response.)

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

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

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

23                      Okay. Well, thank you.

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

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

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

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

13                   Michael, are you there?

14                  MR. POLEMENI: Yes, ma'am.

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

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

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

1 line.

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

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

5 THE HONORABLE PALMER: Okay. Great.

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

8 MS. SINCLAIR: Yes, ma'am.

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

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

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

23 And the biggest concern was that

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

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

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

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

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

3 THE HONORABLE PALMER: Okay.  
4 Justice Stuart?

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

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

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

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

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

6                       MS. SINCLAIR: Absolutely.

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

13                      So Jennifer Bush?

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

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

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

23                   MS. SINCLAIR: Oh. I see what

1           you're saying.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

23 THE HONORABLE PALMER: Anybody --

1 Stephanie?

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

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

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

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

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

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

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

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

1           have to keep using the word child support?

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

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

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

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

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

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

23                   THE HONORABLE PALMER: Drew?

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

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

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

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

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

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

1           that they put the slash there.

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

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

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

10                   MS. CAMPBELL: I have a question.

11                   THE HONORABLE PALMER: Yes, ma'am.

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

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

23                   MS. SINCLAIR: Yes.

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

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

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

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

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

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

7 MS. SINCLAIR: Yes.

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

11 MS. SINCLAIR: Yes, ma'am.

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

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

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

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

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

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

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

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

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

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

1           filer in AlaFile.

2                   MS. SINCLAIR:   In AlaFile, right.

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

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

8                   THE HONORABLE PALMER:  Please, sir.

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

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

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

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

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

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

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

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

23                   THE HONORABLE PALMER: Okay. Well,

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

15                                So this is from 1997.

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

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

22                           MS. SINCLAIR: Yeah. Everything.

23                           MS. COX: All of that is needed for

1 a divorce with no children?

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

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

11 Do you, Jim?

12 MR. JEFFRIES: I think you do.

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

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

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

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

4 Ms. Davis?

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

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

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

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

23 THE HONORABLE THOMPSON: Child

1 support.

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

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

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

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

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

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

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

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

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

13 THE HONORABLE PALMER: Yeah.

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

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

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

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

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

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

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

1 Support CS-47.

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

6 THE HONORABLE PALMER: Yes.

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

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

11 (No response.)

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

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

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

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

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

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

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

23 MS. SINCLAIR: Federal law requires

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

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

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

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

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

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

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

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

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

23                  Maybe that's taking a

1 sledgehammer to swat a fly.

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

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

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

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

23 MS. DAVIS: But if that's made

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

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

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

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

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

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

1 but allow us to get the information we need.

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

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

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

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

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

23 Can you make sure I'm on the

1 right --

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

6 MR. JEFFRIES: Okay. I got it.

7 THE HONORABLE PALMER: Everybody  
8 have that?

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

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

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

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

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

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

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

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

12 Okay. Thank you.

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

16 Is that okay?

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

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

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

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

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

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

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

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

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

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

16                   THE HONORABLE PALMER: May 12th?

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

23                   And so while I was not there at

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

23                        THE HONORABLE PALMER: This is

1 Kenneth Paschal.

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

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

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

16 But anybody have any other  
17 comment about that?

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

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

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

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

17 All right. Anybody?

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

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

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

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

11                                  Jim?

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

14                           THE HONORABLE PALMER:   Yes, sir.

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

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

23                                  And my question would be how do

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

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

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

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

3                                 Judge McMillan?

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

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

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

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

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

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

16           THE HONORABLE PALMER: Penny?

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

1           when you start having the rules --

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

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

16                     THE HONORABLE PALMER:  Yes.

17                     THE HONORABLE THOMPSON:  And  
18          necessary.

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

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

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

7                       THE HONORABLE PALMER: Yes, ma'am.

8                       MS. DAVIS: About the modification.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

12                   THE HONORABLE PALMER:  Well, Judge  
13          McMillan?

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

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

19                   MR. JEFFRIES:  I'll help.

20                   MS. DAVIS:  I'll help.

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

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

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

6                   MR. JEFFRIES:    Yes.

7                   THE HONORABLE PALMER:   Okay.   And  
8                   Penny?

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

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

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

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

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

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

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

8 (No response.)

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

11 MR. JEFFRIES: I'll second.

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

14 Aye?

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

17 THE HONORABLE PALMER: Opposed?

18 (No response.)

19 THE HONORABLE PALMER: All right.

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

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

3                   MS. DAVIS:    Are you ready for me?

4                   THE HONORABLE PALMER:  Yes, ma'am.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 starts.

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

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

17 THE HONORABLE PALMER: Justice  
18 Thompson?

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

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

4                       MS. DAVIS: I think the problem --

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

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

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

1 to that one case.

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

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

10 MS. DAVIS: Right. And so --

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

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

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

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

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

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

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

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

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

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

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

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

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

7                         THE HONORABLE PALMER:  Amanda?

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

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

21                         THE HONORABLE PALMER:  Special needs  
22          child?

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

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

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

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

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

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

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

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

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

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

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

12                                    Judge McMillan?

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

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

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

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

5 No, I haven't.

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

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

17 THE HONORABLE PALMER: Yes.

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

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

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

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

17 MR. JEFFRIES: I think it would --

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

23 THE HONORABLE PALMER: Well, does

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

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

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

1 paragraph, to me, a little clearer.

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

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

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

17 THE HONORABLE PALMER: Amanda?

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

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

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

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

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

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

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

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

11 MS. BALDWIN: Right.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

10                                (Lunch break.)

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

14                                MR. MADDOX: Access and Visitation  
15        Grant.

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

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

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

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

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

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

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

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

17                  MS. DAVIS: Disability of what?

18                  MR. JEFFRIES: Of the obligor.

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

22                  THE HONORABLE PALMER: Okay.

23          Comments, suggestions?

1 Judge Thompson?

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 I hate to rush through this.

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

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

17 THE HONORABLE PALMER: Any response  
18 to that?

19 (No response.)

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

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

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

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

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

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

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

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

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

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

7                       MR. JEFFRIES: Which satisfy this  
8           rule.

9                       THE HONORABLE PALMER: Chief  
10          Justice?

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

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

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

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

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

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

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

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

10                   THE HONORABLE PALMER: I don't.

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

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

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

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

23                                   (No response.)

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

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

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

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

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

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

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

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

23 MS. CAMPBELL: -- The obligor was

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

3 THE HONORABLE THOMPSON: Deemed  
4 eligible.

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

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

11 THE HONORABLE PALMER: Was deemed.

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

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

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

18 THE HONORABLE PALMER: This is Scott  
19 Hoyem.

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

23 You went through a discussion of

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

4                   MS. BALDWIN:  Based on the  
5           suggestions?

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

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

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

20                   MS. BALDWIN:  It's case law.

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

1 child and not to the obligor.

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

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

11 MS. DAVIS: To the child.

12 MR. WHITMIRE: To the child.

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

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

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

1           each month.

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

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

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

13                   MS. BALDWIN: Uh-huh.

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

21                   MR. JEFFRIES: Deemed eligible.

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

1 receive the third party payment.

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

3 THE HONORABLE PALMER: That seems  
4 much simpler.

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

8 MS. BALDWIN: Motion.

9 THE HONORABLE PALMER: Okay.  
10 Melody?

11 MR. WHITMIRE: Second.

12 THE HONORABLE PALMER: Drew  
13 seconded.

14 All in favor?

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

17 THE HONORABLE PALMER: Opposed?

18 (No response.)

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

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

4 THE HONORABLE PALMER: Just the  
5 language?

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

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

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

16 THE HONORABLE PALMER: Sure.

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

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

21 MS. COX: Yes, ma'am.

22 THE HONORABLE PALMER: Second?

23 MS. DAVIS: Second.

1 THE HONORABLE PALMER: Penny says  
2 second.

3 All in favor, aye?

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

6 THE HONORABLE PALMER: Nays?

7 (No response.)

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

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

15 (No response.)

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 different standards that they use.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

21                  THE HONORABLE PALMER: Page 30.

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

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

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

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

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

23 MR. JEFFRIES: Isn't the discrepancy

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

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

13                        THE HONORABLE PALMER:  Anybody?

14                                Kenneth, you're shaking your  
15           head.

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

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

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

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

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

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

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

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

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

15                  MR. JEFFRIES: Right.

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

23                  But when do you start giving that

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

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

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

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

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

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

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

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

15 MR. JEFFRIES: I believe so.

16 MS. BUSH: And me.

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

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

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

1           this until our next meeting?

2                   MR. JEFFRIES:    Sure.

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

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

8                   MS. BALDWIN:    Sure.

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

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

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

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

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

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

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

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

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

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

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

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

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

17                  MR. MADDOX: Correct.

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

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

1 got a subcommittee on that; is that correct?

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

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

7 THE HONORABLE PALMER: Thank you,  
8 Jim.

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

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

18 (Committee members in agreement so  
19 indicated.)

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

23 (No response.)

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

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

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

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

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

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

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

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

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

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

19                        THE HONORABLE PALMER: It's Rule 32.

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

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

23          That's right.

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

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

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

1 regulation. It seems a little more  
2 appropriate.

3 Do y'all have any questions?

4 I don't want to go too fast.

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

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

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

22 MS. BUSH: To the CS-47?

23 THE HONORABLE PALMER: Turn to

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

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

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

20 THE HONORABLE PALMER: On the 43?

21 MS. BUSH: Yes, ma'am.

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

1 MS. BUSH: Would have been paid.

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

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

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

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

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

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

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

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

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

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

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

23                  MS. DAVIS: That's what the regs

1           require.

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

5                       MS. DAVIS: Uh-uh.

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

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

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

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

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

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

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

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

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

23 MR. PASCHAL: Can I ask a question

1 on that?

2 THE HONORABLE PALMER: Yes, sir.

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

5 THE HONORABLE PALMER: Do what?

6 MR. PASCHAL: Complete the --

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

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

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

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

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

21 MS. BUSH: The language of the --

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

1           proper forms.

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

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

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

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

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

1           this form.

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

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

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

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

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

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

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

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

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

16                    MS. BUSH: Right.

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

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

23                    Down at the bottom, if you see

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

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

16                           THE HONORABLE PALMER: What page?

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

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

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

1 THE HONORABLE PALMER: Okay.

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

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

6 MS. BUSH: 303.8(d).

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

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

23 So if the child's health care

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

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

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

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

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

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

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

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

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

9                         THE HONORABLE PALMER: Okay.

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

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

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

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

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

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

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

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

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

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

23 CHIEF JUSTICE STUART: Affect the

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

3 MS. BUSH: Exactly.

4 THE HONORABLE PALMER: Okay.

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

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

15 THE HONORABLE PALMER: Okay. Next?

16 Anybody have any questions about  
17 that?

18 (No response.)

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

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

1           where is says Health-care needs.

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

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

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

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

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

14 THE HONORABLE PALMER: Okay. Any  
15 comments?

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

19 THE HONORABLE PALMER: Okay. So  
20 noted.

21 Okay. Next?

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

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

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

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

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

1 thought that might help.

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

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

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

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

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

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

23 MR. JEFFRIES: That are specifically

1 not included.

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

5 MS. DAVIS: Disability cannot be  
6 credited.

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

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

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

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

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

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

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

15                        THE HONORABLE PALMER: Yeah.

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

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

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

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

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

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

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

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

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

10                                   Jennifer, next?

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

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

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

1 read this whole section five.

2 This is Underemployment.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

18                   THE HONORABLE PALMER: -- daycare?

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

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

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

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

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

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

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

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

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

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

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

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

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

14 THE HONORABLE PALMER: Living in  
15 subsidized housing.

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

19 THE HONORABLE PALMER: Okay. Next?

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

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

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

9                   MS. BUSH: Yes, ma'am.

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

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

1 forward.

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

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

10 Okay. Next?

11 MS. BUSH: On page six of Rule 32,  
12 you'll see under (6) Preexisting child  
13 support obligations. Again, it's just a  
14 change of the language from "award" to  
15 "order."

16 Under number (7), Health  
17 insurance -- it used to be Health insurance  
18 coverage/cash medical support. That  
19 language was changed to health care coverage  
20 to be in line with the federal regulations.

21 And then the changes under (a),  
22 we take out the word "insurance" and place  
23 in the word "care," and we do that under

1           7(a) and (b). I can read that, if you want  
2           to me to.

3                   THE HONORABLE PALMER: No. That's  
4           fine.

5                   MS. BUSH: That's really just a  
6           semantic language change so that we can  
7           include public health care and public -- in  
8           addition to health insurance.

9                   On page seven, you will see --  
10          and it's going to be under 7(c)(2), again,  
11          changing the language from health insurance  
12          to health care coverage, and this is a  
13          definition. I will go ahead and read it.

14                   Health care coverage. Health  
15          care coverage includes a fee for service,  
16          health maintenance organization, preferred  
17          provider organization, and other types of  
18          private health insurance and public health  
19          care coverage -- and the federal regulation  
20          struck out that is available to either  
21          parent, so we struck that out -- under which  
22          medical services could be provided to the  
23          dependent children.

1                   And the federal regulation for  
2                   this is 303.31(a).

3                   THE HONORABLE PALMER: I guess my  
4                   question on that one is only because of  
5                   semantics, it's being called health care  
6                   coverage in everything, but in that one,  
7                   where it says private health insurance, so  
8                   we're going to leave that insurance in that  
9                   one particular spot only?

10                  MS. BUSH: Yes, ma'am. Every once  
11                  in a while, they'll keep the language health  
12                  insurance, and so yes.

13                  THE HONORABLE PALMER: Okay.

14                  MS. BUSH: And, in fact, I'm looking  
15                  at the federal regulation, just to make  
16                  sure. Yes, that's what they do.

17                  Number (3), Reasonable cost.  
18                  This also changed in the federal regulation.  
19                  They struck out some language, and so we  
20                  struck it out. And whenever we put this in,  
21                  I believe it was in 2009, we did it in  
22                  response to a change in federal regulations.  
23                  We put this change in. Now that they've

1           changed it, we've taken part of it out. So  
2           we struck -- well, let me read the whole  
3           thing.

4                         Reasonable cost. Cash medical  
5           support or the cost of -- struck out  
6           private -- health insurance is considered  
7           reasonable in cost if the cost of the parent  
8           responsible for providing medical support  
9           does not exceed 10 percent of his or her  
10          gross income.

11                        It had language about applying  
12          the 10 percent standard. That language has  
13          been removed, so we just took that out.

14                        THE HONORABLE THOMPSON: I thought  
15          that language that was added was added in  
16          response to case law.

17                        It seems we had a case in which  
18          the parent providing the insurance was  
19          claiming the entire amount of the insurance  
20          for the insurance policy that he was paying  
21          and was being credited with that amount,  
22          rather than the amount that was attributable  
23          to adding the child to his policy. And I

1 thought that that's why that was added, but  
2 I may be --

3 THE HONORABLE PALMER: Well, I want  
4 to say, back in 2015 or maybe '16, it got  
5 changed to where it's proportioned. There's  
6 five people covered on the policy. Three of  
7 them are children, so then that --

8 THE HONORABLE THOMPSON: Is that  
9 picked up somewhere else?

10 THE HONORABLE PALMER: Yes.

11 THE HONORABLE THOMPSON: Okay. So  
12 it's not a problem cutting it here.

13 THE HONORABLE PALMER: Yes, sir.

14 THE HONORABLE THOMPSON: I believe  
15 that I remembered seeing that formula  
16 somewhere later on.

17 THE HONORABLE PALMER: Yes, sir.

18 THE HONORABLE THOMPSON: As long as  
19 it's picked back up, it's fine.

20 MS. BUSH: Yeah. I think we leave  
21 in the pro rata. That doesn't change. We  
22 leave in the pro rata part, which I think  
23 comes into play at the end of page seven.

1 THE HONORABLE THOMPSON: Okay.

2 MS. BUSH: This number (3) is  
3 Reasonable cost. And then number (4), you  
4 see, Accessible. But, again, that was just  
5 a change from health insurance to health  
6 care coverage.

7 Letter (d), we struck out the  
8 words "of a premium," because premiums may  
9 not apply. And so under (d), the actual  
10 cost to provide health care coverage for the  
11 children, and then it goes on. So instead  
12 of it using the language actual cost of a  
13 premium to modify health insurance, it's  
14 just the cost of health care coverage.

15 That's, again, 302.56 and 303.31.

16 (e), this is the amount that's to  
17 be added in, and so it does not change the  
18 pro rata portion. But, again, you're going  
19 to see change in language from health  
20 insurance to health care coverage, medical  
21 insurance premium to health care coverage  
22 cost, medical insurance premium to health  
23 care coverage cost, and that continues on.

1                   Those type of changes continue on  
2                   on page eight for section (f) and (g). I  
3                   don't think it's going to change what we do.  
4                   It's going to change the language.

5                   And just so you'll know, we have  
6                   a proposed change to the CS-41 to match  
7                   that. I don't know if you want to look at  
8                   that now.

9                   THE HONORABLE PALMER: Do we have  
10                  that?

11                  MS. BUSH: You have that. We can  
12                  look at it now, or we can look at it -- why  
13                  don't we look at it when we're done with  
14                  this, and we'll just keep going with this?

15                  THE HONORABLE PALMER: All right.

16                  MS. BUSH: I think we are done with  
17                  insurance. Okay.

18                  So let's look at the CS-41. You  
19                  were provided with a form. Because when the  
20                  language changed in the rule, we looked at  
21                  the form to see if that would change as  
22                  well, and our proposed changes start under  
23                  five, number five of CS-41.

1           The children of the parties are  
2           and there are checkboxes. And the first  
3           checkbox is not covered by health -- we  
4           struck out insurance and put care coverage,  
5           from me and/or my employer. And so that is  
6           -- there's no health care coverage.

7           The second checkbox would be  
8           health care coverage is available at a cost  
9           of X dollars per much, and that's added in,  
10          or checkbox covered by Medicaid or other  
11          public health care coverage at no cost to  
12          me. So that way, you know whether there is a  
13          cost or not a cost.

14          And then there's another checkbox  
15          where we just changed the language from  
16          health insurance to health care coverage.

17          And then, of course, we keep the  
18          pro rata language in there. It says, The  
19          pro rata portion of the health care coverage  
20          cost attributable to the child or subject of  
21          the support order, which shall be calculated  
22          by dividing the total -- we struck out  
23          medical insurance premium and put in health

1           care coverage cost, and then we added  
2           language in there about the health care  
3           coverage company's name and address are. We  
4           put that in there.

5                         We're required by federal law to  
6           send what's called a National Medical  
7           Support Notice, and so that just captures if  
8           you do have health insurance or health care  
9           coverage, you provide that information, and  
10          we can send that notice to the insurance.

11                        And then, of course, under number  
12          six, I pay the following total amount for  
13          child support or alimony. I think, number  
14          six, I don't know that that's a -- that's  
15          not federal regulation change. I think  
16          sometimes, in our cases at least, we want to  
17          make sure we capture all of the multiple  
18          cases you may pay child support.

19                        Do y'all have any questions about  
20          those?

21                        CHIEF JUSTICE STUART: Only question  
22          I have is, is there a deadline for us  
23          adopting this language?

1 MS. BUSH: My belief is -- I want to  
2 confirm. Our deadline for this is  
3 four years plus a year, so five years from  
4 our last review, and our last review was  
5 December 1st of 2016, so we have until  
6 December of 2021. We hope not to wait that  
7 long. Only because if they're already  
8 changes, we have to change our policy. We  
9 have to change our computer and stuff. We  
10 do have some time.

11 CHIEF JUSTICE STUART: I guess the  
12 reason I raise that issue is I didn't know  
13 if we needed to go ahead and adopt these or  
14 if we can wait for the other recommendations  
15 and do them all at one time.

16 MS. BUSH: I think we can wait and  
17 do them all at one time.

18 THE HONORABLE PALMER: Okay.

19 MS. BUSH: And I know I'm going  
20 fast. So it may be, as you look at this  
21 later, there may be some questions or  
22 discussion about --

23 THE HONORABLE PALMER: So we were on

1 page nine, I think, is where we stopped --  
2 page eight. I don't see any changes on page  
3 nine.

4 MS. BUSH: On 10, number (2),  
5 Computation of child support coverage,  
6 change the language from "insurance" to  
7 "care coverage."

8 Number (4), on page 10, is  
9 additional amounts for child support.  
10 Instead of using the word "order" here -- we  
11 did initially plug in the word "order," but  
12 when we did that, we found it read as if  
13 there would be multiple orders, and it  
14 became a little confusing.

15 So in this instance, we plugged  
16 in the word "amounts," instead of "award,"  
17 so that it wouldn't look like you would have  
18 different orders. These would be just  
19 different amounts in one order.

20 So additional amounts for child  
21 support. In addition to the recommended  
22 child support order, the Court may order  
23 additional amounts for extraordinary

1        medical, dental, and educational expense if  
2        the parties have agreed in writing to these  
3        amounts, as opposed to order, but amounts or  
4        the Court upon reviewing the evidence  
5        determines that these amounts are in the  
6        best interest of the children and states its  
7        reasons for ordering these amounts.

8                    We felt that captured the  
9        essence, but made it a little clearer that  
10       we're not talking about multiple orders but  
11       just additional amounts of child support in  
12       one order.

13                   Okay. Bottom of 10, these are  
14       the standardized child support guidelines  
15       forms, and we have added in some language  
16       about the Child Support Guidelines Notice of  
17       Compliance, CS-43. Let me just read the  
18       rule.

19                   A standardized child support  
20       Guidelines Form (CS-42 as appended to this  
21       rule) and a child support Obligation Income  
22       Affidavit Form (CS-41 as appended to this  
23       rule) and -- because the one thing we

1 realized as we're going through this rule,  
2 and we talked about the stipulations  
3 earlier, you have CS-43 mentioned under  
4 stipulations on page two, but you don't  
5 necessarily have it mentioned anywhere else.  
6 So we put it in here, saying that if you are  
7 going to use it, it has to be part of the  
8 court file -- and a Child Support Guidelines  
9 Notice of Compliance (CS-43 as appended to  
10 this rule) shall be filed in each action to  
11 establish or modify child support and shall  
12 be of record and shall be deemed to be  
13 incorporated by reference in the Court's  
14 child support.

15 So we made that change. If you  
16 see on the top of page 11, it says, In  
17 conformance to Section (A)(2) of this rule,  
18 in stipulated cases, the Court may accept  
19 the filing of a Child Support Guidelines  
20 Notice of Compliance Form (form CS-43 as  
21 appends to this rule.) The form content --  
22 that just says it's by ADC.

23 We made those changes just to try

1 to make it clear that you're going to put  
2 the 43 -- when we read it the first time, it  
3 appeared that you only used the 43 in a  
4 stipulated case, and we don't think that's  
5 the case. We think you use the 43 every  
6 time, and you put it in there. But it was  
7 not in here as having to be required to be  
8 filed.

9 THE HONORABLE PALMER: Now, on my  
10 page 11 that you just read, that's struck  
11 through on my copy, what you just read.

12 MS. BUSH: That is struck through.  
13 We struck that through.

14 THE HONORABLE PALMER: Okay.

15 MS. BUSH: Because that's  
16 saying -- if you take out the language we  
17 put in, what it says is you have to have a  
18 CS-42, and a 41 shall be filed in each  
19 action to establish or modify child support.  
20 It shall be of record.

21 And then if you look at the  
22 struck out language, it says, In conformance  
23 to meet Section (A)(2) of this rule, in

1 stipulated cases, the Court may accept the  
2 filling of a Child Support Guidelines Notice  
3 of Compliance Form CS-43, and then it refers  
4 to that.

5 THE HONORABLE PALMER: But you  
6 struck that out?

7 MS. BUSH: We've struck that out.

8 If you look at it, that may be  
9 open to other discussion, if you want to  
10 discuss it after you look at it, because it  
11 does go back to the changes we made under  
12 the stipulations.

13 Those are the last changes in the  
14 rule itself. You will see Proposed  
15 Comments. I can go over those, if you want  
16 to. But what those do for every single  
17 change that is in the text of the rule, this  
18 references the actual federal regulation and  
19 what the change was, so these were our  
20 proposed comments.

21 THE HONORABLE PALMER: Okay.  
22 Comments from the committee? Any?

23 (No response.)

1 THE HONORABLE PALMER: Well, I'm  
2 going to -- okay. Anything else?

3 MR. JEFFRIES: Only thing we did not  
4 agree to was in the stipulations part, not  
5 changing 43 to add what the CS --

6 THE HONORABLE PALMER: That amount?

7 MR. JEFFRIES: Right. Isn't that  
8 right? Everything else we --

9 THE HONORABLE PALMER: Well, if the  
10 rules already say that the 41s and 42 are  
11 required forms and should be part of the  
12 record, I don't see why that has to be on  
13 the 43, because that section says the 41s  
14 and 42 shall become part of the record.

15 MR. JEFFRIES: Right. I agree.

16 THE HONORABLE PALMER: So I just  
17 don't think we need it on that 43.

18 MR. JEFFRIES: I agree.

19 THE HONORABLE PALMER: Because I  
20 thought that was supposed to been done a  
21 long time ago, but -- well, I'm with Justice  
22 Stuart in that I really would like to look  
23 at this and read over it just a little bit

1 more, because when you went over it, was it  
2 May of last year or May this year, when you  
3 first presented it to us, you gave us -- I  
4 think you went over this portion mainly, and  
5 then now that I've seen it like this, I  
6 would like to just look at this just a  
7 little bit more.

8 But for the most part, other than  
9 the word Veteran's benefits, this is a  
10 federal regulation, and we don't have much  
11 of a choice but to except these as written,  
12 right?

13 MS. BUSH: Yes, ma'am, with the  
14 Veteran's benefit. The language on the  
15 CS-43 was not verbatim. Everything else is  
16 pretty much verbatim. We cut and paste it  
17 out of the federal regulation and put it in  
18 the rule.

19 When it came to the CS-43, we  
20 read the rule, read the regulation, and it  
21 appeared to us that we needed to change it,  
22 but that language is not verbatim.

23 THE HONORABLE PALMER: Okay. But, I

1           guess, my question is whether we adopt this  
2           today or whether we adopt this in December  
3           of 2021, this is going to have to be adopted  
4           by the State one way or other, or y'all are  
5           going to lose your funding?

6                       MS. BUSH: Yes, ma'am. Yes, ma'am.  
7           It is a lot of information, and so I do  
8           encourage you to go back and read the rule,  
9           sort of side by side read the rule and the  
10          regulation and compare the two.

11                      THE HONORABLE PALMER: Okay.

12                      MS. BUSH: I didn't mention it, but  
13          let me go ahead. On the CS-42 minor change,  
14          just to the language of health care coverage  
15          and health insurance coverage.

16                      We just took out insurance and  
17          put in care coverage, just like anything  
18          else. But that form didn't change in  
19          substance.

20                      THE HONORABLE PALMER: Okay.

21                      MS. BUSH: Also, one more thing.  
22          I've said it before, but I want to make  
23          sure.

1                   If you're reading through and you  
2                   want to know our reasoning, the proposed  
3                   comments do provide a guide. So that's  
4                   going to provide you a line-by-line guide of  
5                   what regulation you should look at for that  
6                   particular change.

7                   THE HONORABLE PALMER: Yes. If  
8                   you'll look on the Proposed Comments,  
9                   page 12, where it says subsection (B)(2)(a)  
10                  was amended to add to Veteran's benefits to  
11                  the definition of gross income to clarify  
12                  that these benefits can be included as  
13                  income to calculate child support, Goldman  
14                  v. Goldman.

15                  MR. JEFFRIES: That's you.

16                  THE HONORABLE PALMER: That's me.  
17                  Alabama Court of Civil Appeals 2015.

18                  So for purposes of calculating  
19                  child support it's all included. But for  
20                  the purposes of including alimony, it's a  
21                  very good definition. But for purposes of  
22                  collecting, let's say, child support  
23                  arrearage or alimony arrearage, that's when

1       your definition breaks down again as far as  
2       what part of that check you can collect it  
3       from.

4                   All right. Well, I'm going to  
5       make the recommendation that we review these  
6       proposed changes to the Rule 32 that  
7       Jennifer has just presented to us the next  
8       time that we meet to give everybody a chance  
9       to review this.

10                   However, I know that Justice  
11       Stuart, y'all don't like to piecemeal, but  
12       as far as the credit for the third party,  
13       I'd like to go ahead and represent that to  
14       y'all so that people can start getting  
15       credit for that out there that have some  
16       arrearages, and I think it could help a lot  
17       of people get out of some arrearage.

18                   So that would be my  
19       recommendation, is that we resend the credit  
20       for third party payments back to the Court  
21       as modified.

22                   Does anybody object to that?

23                   (No response.)

1 THE HONORABLE PALMER: Now, if we  
2 send this to y'all soon --

3 CHIEF JUSTICE STUART: We meet in  
4 January?

5 THE HONORABLE PALMER: January.  
6 Okay. Great.

7 CHIEF JUSTICE STUART: Conference on  
8 31st.

9 THE HONORABLE PALMER: Okay. Great.  
10 That would be great.

11 And then we're going to work on  
12 the child-care cost while somebody is  
13 seeking training or education, and then  
14 we're going to work on the joint custody as  
15 far as how to calculate child support in  
16 that and may even have to go back, like I  
17 said, as far as the transcript from 2008,  
18 just to see exactly how many days were in  
19 there.

20 Okay. Anybody have anything else  
21 on this that Jennifer has just presented to  
22 us?

23 (No response.)

1                   THE HONORABLE PALMER: All right.  
2           We might actually be finishing on time. You  
3           had 21 seconds left, Jennifer. You did an  
4           excellent job.

5                   All right. Now, we've got  
6           comments from the public. And I don't know  
7           where my list is, Bob. I know you handed it  
8           to me, but I've covered myself up with  
9           Jennifer's paperwork. Here it is.

10                   Now, this portion is for the  
11           public to comment on what you've heard today  
12           and anything else about the guidelines.  
13           It's not a comment about how you were in  
14           Jefferson County, Birmingham division, and  
15           that judge just wasn't fair, or you haven't  
16           seen your kids in five years or anything  
17           like that.

18                   This is about child support. So  
19           we do want to hear what you have to say;  
20           especially, about all these regulations that  
21           have been presented to us and anything else  
22           that we're going to present to the Alabama  
23           Supreme Court to adopt, but that's why we're

1       here.

2                   I've got my handy dandy timer  
3       here. I've got five people. I'm going to  
4       give y'all seven minutes, and that should  
5       get us finished. Hold on. Let me make sure  
6       what time it is. I'm going to give y'all  
7       five minutes, and that should keep us on  
8       schedule here.

9                   Is it Sherrie Sanders?

10                  MS. SANDERS: Yes, ma'am. It's  
11       Sherrie Sanders.

12                  THE HONORABLE PALMER: Okay.  
13       Ms. Sanders, go ahead.

14                  MS. SANDERS: Thank you.

15                  THE HONORABLE PALMER: Go ahead and  
16       identify yourself to the group, please.

17                  MS. SANDERS: Okay. Let me take my  
18       hat off.

19                  THE HONORABLE PALMER: Okay. Thank  
20       you.

21                  MS. SANDERS: I would like to thank  
22       everyone for giving us this opportunity to  
23       attend this meeting and to address some of

1           these issues.

2                         My name is Sherri Sanders, and I  
3           work as an activist in this state. I am  
4           handling some DHR issues currently. But to  
5           speak towards what has been spoken about  
6           today, I do have some concerns.

7                         First, as a parent and a  
8           stepparent sitting in this audience, I  
9           respect the fact that you, ma'am, have been  
10          able to present your own personal issues in  
11          this meeting to interject with what has  
12          happened to you in your life into this  
13          meeting, and I find that as powerful.

14                        But what we, as the parents and  
15          the stepparents in this audience, want to  
16          convey to this meeting or me personally,  
17          since we're only limited to what subject  
18          matter you were speaking towards, when it  
19          comes to the third party monies that we were  
20          speaking about earlier, I believe that we  
21          have dropped the ball in this case in the  
22          state of Alabama.

23                        You have only listed third

1 parties when it comes from a paycheck, a  
2 Social Security, the Veteran's  
3 Administration, these kind of things.  
4 Understand that there are other third  
5 parties that sometimes have to come into  
6 play to help these parents pay these dues  
7 each month to child support, to DHR.

8 In my case we had to use my  
9 husband's parents, which my husband is the  
10 father of the two children in question that  
11 the child support issue was about. In these  
12 cases, in what happened with my family, he  
13 was, as you would say, underemployed. But  
14 what wasn't taken into consideration by the  
15 judge is that the ex-wife had made multiple  
16 accusations of sexual misconduct, beatings,  
17 and other things that when we would go to  
18 court, she would not show up. So every  
19 arrest ended up on his record.

20 When we attempted to get him a  
21 better job, because he worked in  
22 construction, and he would get the job, they  
23 would then do the subsequent check of his

1 criminal record, and I can't speak to how  
2 many jobs he lost. But one in specific that  
3 I would like to bring up is I worked at  
4 Huntsville Hospital. I got him a job at our  
5 hospital, and he lost the job the same day  
6 he got it based on accusations that the  
7 ex-wife never showed up in court for,  
8 leaving him to work only in construction,  
9 which is where his skills and labor have  
10 been his entire life.

11 He didn't graduate high school  
12 until he was 20, so he is not a college  
13 graduate. And he is not someone that would  
14 be looked at in a lot of jobs in this  
15 country as someone that you would want to go  
16 after, because his skills is in labor, and  
17 his labor skills was in construction.

18 So the fact that I was able to  
19 get him a job and then that he lost that job  
20 and then subsequently the income that he  
21 would have made would have been taken into  
22 consideration against him, I find that  
23 outrageous.

1           In front of all of you, I would  
2           like for you to understand that in our case,  
3           the judge in our case ordered that he would  
4           pay child support in what the judge felt  
5           like he should be making in his job.

6           Now, what we did in our case, and  
7           what y'all have not taken into consideration  
8           is on this third party situation, we could  
9           not provide more income through DHR, which  
10          is Title IV funding, and you make your money  
11          that way. We understand in this audience  
12          that you want this money coming through DHR,  
13          so you can make your Title IV funding.

14          But in our case, in my family, we  
15          gave her a car. We gave her a house. His  
16          parents gave her \$35,000 to dump on a  
17          restaurant that she lost three months later.  
18          All of that money was not taken into  
19          consideration when it came to arrearages.

20          So when my husband was picked up  
21          for arrearages, even though we had given his  
22          ex-wife multiple, by this point, cars, a  
23          place to live, a restaurant that she blew

1           away, none of that money was taken into  
2           consideration for my family. My husband was  
3           sent to jail on a contempt of court charge  
4           for failure to pay all of his child support  
5           where he spent nearly seven and a half  
6           months in jail.

7                         Now, once he had been taken into  
8           custody, I was able to get a Federal  
9           Magistrate in Birmingham, Alabama, to sign a  
10          habeas corpus to release him as he was being  
11          held for a debt. And in the state of  
12          Alabama, you can't be held for a debt as we  
13          know by our law. We still can't be held by  
14          a debt.

15                        So in his case he was being held  
16          for a debt he shouldn't have been. I got a  
17          federal magistrate in Birmingham to file a  
18          habeas corpus for his release in January.  
19          Morgan County kept him four and a half more  
20          months in prison for debts that I couldn't  
21          pay. My son -- we have twins, and my son is  
22          legally blind.

23                        So when y'all put -- and I say

1 y'all, I meant Morgan County. When he was  
2 placed in custody for not being able to pay  
3 arrearages or child support in a position  
4 that he had been offered jobs that were then  
5 taken away due to something outside of his  
6 purview, as it was the ex-wife who had made  
7 complaints.

8 So there are situations in this  
9 room that has not been taken care of by the  
10 language that you are speaking about. You  
11 have forgotten the other third party  
12 situations that can come into play.

13 The reason why we only had one  
14 car left for me to go to work on a second  
15 shift is because my husband had given her  
16 the car, and then she spent two weeks  
17 driving it and blew the engine up.

18 THE HONORABLE PALMER: Okay. Ma'am,  
19 you've got 30 more seconds.

20 MS. SANDERS: But the point that I  
21 would like to make is this: We have a  
22 situation in this building right now that  
23 you could take the lead across this country

1           and to fix problems that are devastating  
2           families. Everyone in this room back here  
3           could probably speak to their own egregious  
4           that has happened.

5                         But let me also end with saying  
6           this: Despite all that has been done to my  
7           family, I stand before you now as an  
8           activist. And just to drop this one final  
9           line, if you will give me this one moment.  
10          What I have not heard today and it is  
11          disappointing is that nothing has been said  
12          towards parents that have had their children  
13          taken by DHR, and then those parents are  
14          asked to pay child support while they're  
15          fighting to get their children back when  
16          they were taken with no cause.

17                         DHR in this state is known to  
18          take children where there was no causes to  
19          be had and parents have no recourse.

20                         THE HONORABLE PALMER: Thank you  
21          very much, Ms. Sanders.

22                         MS. SANDERS: Thank you very much.  
23          And thank your for the opportunity to speak.

1 THE HONORABLE PALMER: Yes, ma'am.

2 Marcus Echols?

3 MR. ECHOLS: Yeah, that was good. I  
4 won't get into a whole lot of stories,  
5 because I'm with Huntsville Black.com online  
6 digital magazine and Blog Talk Radio. I got  
7 my own radio show, and each Saturday, we do  
8 a show called the Child Support Hustle.

9 It was written by a veteran  
10 who -- it took her eight years to get out  
11 of the system. She was almost jailed a few  
12 times for trying to get out. They did  
13 everything to talk her down to keep that  
14 Title IV rolling in.

15 And the main problem -- what's  
16 breaking Social Security is Title IV-D  
17 funding, five to one. You are creating an  
18 incentive where people are foaming at the  
19 mouth, following over each other, inserting  
20 language to go after these people to destroy  
21 them and using words and terminology, like  
22 deadbeat parent, which some parents use to  
23 alienate the child against the other parent.

1                   But those terms are used and  
2                   inserted to beat a person down into the  
3                   corner. You beat them down in the corner,  
4                   where they can't fight back.

5                   Okay. So anybody who wants to  
6                   hear any of my shows, I have did hundreds of  
7                   shows. The author of the Child Support  
8                   Hustle is on my network on Saturdays. And  
9                   you can go to my website and listen to all  
10                  of these stories across Alabama. Horror,  
11                  horror stories. And if I'm permitted, I'm  
12                  not going to go into the stories like I know  
13                  except for this one experience.

14                  A lady put a baby on a man. Nine  
15                  years later -- seven years later, the guy  
16                  found out the baby wasn't his. So they went  
17                  back and forth and back and forth to court,  
18                  and the lady ended up having to pay the guy  
19                  back. Her income was taken to pay back  
20                  everything that he said she owed.

21                  All right. Child is nine years  
22                  old. She comes through with the real  
23                  father. Gets the Court -- guess what? They

1           want nine years arrearage for that child  
2           that he did not know that she lied and  
3           committed paternity fraud. DHR did nothing.  
4           They wanted the whole nine years. A battle  
5           was fought. Shouldn't have paid a penny,  
6           because the person didn't know.

7                       How can you be responsible for  
8           something you didn't know? So when it came  
9           down to it, they were charged with five  
10          years back time. They felt graced, I guess,  
11          to get the four years off. But they took  
12          five years and multiplied it by \$400 over  
13          five years, hit it with the interest, and we  
14          all know what goes when it comes to Title  
15          IV-D funding and the arrearage. You can  
16          make your payments faithfully, but every  
17          30 days that that total amount isn't paid,  
18          it's going to get hit with interest. You're  
19          putting people in a permanent hamster wheel  
20          of poverty.

21                      And I say this on the show:  
22          Child support is financial slavery. No  
23          other way to put it in. Impugned income is

1 a fraud.

2 I'm just going to go through --  
3 I'm going to be shorter than her.

4 THE HONORABLE PALMER: Okay. You  
5 got two minutes left.

6 MR. ECHOLS: Okay. I'm just going  
7 to list all the things that people come on  
8 my program, to say you can go back and look  
9 at my program.

10 THE HONORABLE PALMER: Okay. Well,  
11 you got two minutes.

12 MR. ECHOLS: Yes. It's just ten  
13 things. This is -- don't look at me. I  
14 know there's going to be a lot of red faces  
15 in here when I get finished. Don't look at  
16 me like I'm saying this. You can actually  
17 go to my site and listen to these cases,  
18 okay?

19 Most concerns of the public. The  
20 unspoken drag on Social Security is  
21 Title IV-D funding with huge allotments  
22 given out creating this incentive. And  
23 people said this: Meetings -- they're not

1        talking about this particular meeting,  
2        because this happened before.

3                    But meetings like this only share  
4        tactics on how to acquire more Title IV-D  
5        funding. And people are mad and angry about  
6        the arrogance of some of these workers and  
7        people sitting in the courts, talking to  
8        people like they're trash, because you're  
9        sitting up there. So that's why we're  
10       demanding more cameras in the courtroom, so  
11       some of these attitudes can be exposed to  
12       the public.

13                    Okay. And there's a need --  
14       people are calling for a need for a federal  
15       independent audit; especially, of the  
16       Alabama DHR. And there's a need to enforce  
17       court ordered visitation, like they do child  
18       support. Get a person in court. They can  
19       be alienating the child, not letting the  
20       child see. You can't even bring up  
21       visitation, but they'll tell you it's all  
22       about the child.

23                    If it's all about the child, you

1           should be able to talk about visitation.  
2           But, no, they want to talk about Title IV-D  
3           funding. That's their cause. That's their  
4           401-k.

5                        Okay. There needs to be a fair  
6           way to calculate child support. Experts out  
7           of California agree child support should be  
8           set at a lower level and gradually raised  
9           up, but we're not going to do that when we  
10          got the incentive of five to one coming in.  
11          You're going to try to set it as high as you  
12          can and spend the next 18 years climbing to  
13          the top. Experts totally disagree with what  
14          you're doing.

15                       And everyone agrees, all the  
16          child experts agree, 50/50 shared parenting  
17          should be the norm and is better for the  
18          child. If this is all about the child, why  
19          don't we have 5/50 parenting? Title IV-D  
20          funding.

21                       Okay. DHR and family court --  
22          she touched on this -- are the only place in  
23          America where debtors prisons are still

1           used. And DHR and courts need to decide,  
2           because I've had cases where people said --

3                       THE HONORABLE PALMER: Sir, you got  
4           30 more seconds.

5                       MR. ECHOLS: I've had cases where  
6           people said that they were ordered to keep  
7           the insurance, but the mother was still was  
8           on Medicaid. They need to stop beating the  
9           system like that. If you're going to give  
10          an order for a father or a mother -- because  
11          I've heard some female horror stories too --  
12          to have that insurance, they should be  
13          disqualified from draining the public. They  
14          shouldn't be double dipping.

15                      Okay. My last thing I want to  
16          say is senators, legislators, and judges  
17          need to discuss ways in which child support  
18          laws and payments affect family structure,  
19          teenage delinquency, and income disparities  
20          between parents.

21                      You look at these cases. You're  
22          dogging parents out so bad and creating this  
23          giving one parent power over another to

1           abuse the other one when the relationship  
2           has broken down and then putting up walls  
3           between those two parents where they can't  
4           work things out. You're creating a river of  
5           wounded children. It's going to repeat the  
6           cycle over and over.

7                         THE HONORABLE PALMER: Thank you,  
8           Mr. Echols.

9                                 Eric Davis?

10                         MR. DAVIS: Good afternoon. I'm  
11           Eric Davis, and I'm from the Autauga County  
12           area. And I have made plenty written  
13           complaints, and I haven't received any  
14           answer to anything yet.

15                         But, today, I just want to come  
16           before this committee and just ask a couple  
17           of questions.

18                         One of the questions are, like  
19           with came through on the phone was, are  
20           these guidelines that are state regulated,  
21           are they mandatory for every courtroom in  
22           the state, or do each courtroom has an  
23           option to do whatever they want to do, amend

1 or go with whatever they want to go?

2 Are these mandatory guidelines,  
3 this Rule 32? That's one of the things I  
4 wanted to ask.

5 Another thing was with the child  
6 support. Do child support comes before  
7 divorce, or does it come after the divorce,  
8 or do child support has the right to  
9 intervene in a divorce, because one of the  
10 parties decide they want to claim support?

11 All right. Also, in these cases,  
12 a lot of cases are not heard by judges;  
13 especially, not in Autauga County area.

14 So how can we find the findings  
15 when like you said I don't have the money to  
16 give 1,500 or \$2,000 to an attorney to where  
17 we have a civil case that is contracted with  
18 a criminal case.

19 So when we have that, we're  
20 subordinate the child support people, but  
21 we're giving the rights to the criminals to  
22 have an attorney appointed to them, but in  
23 child support, you don't have that.

1                   So another thing, the gross  
2                   income. We have a gross income before taxes  
3                   are taken out that the noncustodial, the  
4                   ones that's going to pay, he's already  
5                   paying state, federal taxes out of his  
6                   insurance, get a percentage out of that for  
7                   the taxes, he get a percentage taken out for  
8                   the state, he get a percentage that goes  
9                   into Medicare and Social Security.

10                   So he's already taxed before the  
11                   gross. Then he comes back and get court  
12                   ordered to pay additional. And then where  
13                   is this interest going? How did this  
14                   interest even get involved in this?

15                   These are things I want to know.  
16                   I have asked all of the superiors that I  
17                   thought that was here for us.

18                   And where can father,  
19                   noncustodial, go to make a complaint, like  
20                   on DHR, for a case worker not following  
21                   through or not returning phone calls or not  
22                   setting up the proper meetings, to make sure  
23                   that all the proper channels are taken and

1 not -- inappropriate handling the papers.

2 Because like said in here, I'm  
3 seeing a lack of knowledge amongst all of us  
4 on what should be and what -- we're dealing  
5 with people. We're dealing with people's  
6 liberal rights that we're just taking. Hey,  
7 we're going to take this, and we're going to  
8 make money off of them, and we're going to  
9 take them, and we're going to just do  
10 whatever we want to do, whatever we want to  
11 do. That's not fair.

12 Now, in my county, I went and  
13 asked -- we got on the stipulations. They  
14 said, 2009, we're no longer under the  
15 stipulation guidelines, so which is it?

16 Is my county exempt from the  
17 stipulation guidelines, or is it a state  
18 required guideline?

19 And, also, I wanted to know if  
20 you have a complaint, who do you who go --  
21 who can you go and really talk to that's  
22 going to really hear your complaint and make  
23 sure that your investigation go through

1 properly and going to fight for you, the  
2 individual, that's the noncustodial, because  
3 that's a problem.

4 We say we're here for the  
5 well-being of the children. Children don't  
6 never see none of this money, none of it.  
7 We say the parents don't have to spend the  
8 money. But, hey, we understand that it  
9 costs. I'm not against child support. But  
10 I want to know what is the actual due  
11 process to be put through child support, and  
12 are we following the due process of child  
13 support in a lot of these cases, because I  
14 see a lot of parents in dispute all the time  
15 about money.

16 I have a case, whenever mine  
17 don't get money, she runs. But she don't  
18 take into consideration we're still legally  
19 married.

20 THE HONORABLE PALMER: You got 30  
21 seconds, sir.

22 MR. DAVIS: And that's all I wanted  
23 to know.

1                   THE HONORABLE PALMER:   Okay.  And I  
2                   will help you with some of these questions  
3                   when we hear from everybody.  You and I will  
4                   sit down in a minute.

5                   Tiffany Willis?

6                   MS. WILLIS:   Hello.

7                   THE HONORABLE PALMER:   Hello.

8                   MS. WILLIS:   I'll be hopefully short  
9                   and sweet.

10                  So I wanted to just touch on -- I  
11                  know that you said in the agenda it would be  
12                  helpful to talk about things that you  
13                  discussed in the agenda, so I'm going to go  
14                  to those really, really quickly.

15                  In the very beginning, you talked  
16                  about being able to -- not being able to  
17                  access records because of the Social  
18                  Security numbers and those type of things.

19                  I want to make you aware of a  
20                  situation.  In our particular instance, we  
21                  would like to be pro se, just because after  
22                  a while, attorneys get very, very expensive.

23                  The first issue, when going into

1       DHR, and you say that you're pro se, well,  
2       you need to see your case file, because you  
3       want to prepare, just as an attorney would.  
4       The first thing you're told is because of  
5       privacy reasons, they can't show you the  
6       file. Well, how can someone be pro se if  
7       you can't see your own file?

8                   Another question I ask, you know,  
9       my husband is not here, he's at work. I am  
10      the stepmother of this situation. But one  
11      of the things that I said, well, can you  
12      have non-attorney representatives? I spent  
13      ten years working in the Social Security  
14      Administration, and the number one thing we  
15      get is whoever you would like to represent  
16      you. There are clients that can't  
17      articulate themselves well. We were told in  
18      Mobile County, you cannot have a  
19      non-attorney representative. The only  
20      people that are allowed in the courtroom or  
21      in the proceeding where there's a referee is  
22      the custodial and noncustodial, the two  
23      parents. If they have an attorney, you can

1           have an attorney.

2                           The noncustodial parent -- I'm  
3           sorry. The custodial parent, who filed the  
4           DHR case, gets a free attorney, gets any  
5           representation, gets to ask questions. But  
6           that noncustodial parent, who may or may not  
7           have the ability to pay, doesn't get any  
8           assistance. If you call and ask  
9           questions -- I implore any of you to pick up  
10          the phone one day, star 67 your number out,  
11          and call DHR and ask a question about that  
12          case, and the first thing they want to know,  
13          are you the custodial or noncustodial  
14          parent. When you say that you're not the  
15          noncustodial parent, their response is, you  
16          need to hire an attorney to answer that. We  
17          do not give legal advice.

18                        But if I -- because I'm a female,  
19          could say, oh, I'm the custodial parent,  
20          they'd never know. I'm the custodial  
21          parent, conversation would go on for 25  
22          minutes. I get every answer I wanted to  
23          know as long as it's in favor of the

1           custodial parent.

2                       So I implore you to -- I don't  
3 know. You guys work hard. I've sat here  
4 for a long time. I didn't realize what all  
5 you do. But I do read every transcript, and  
6 I've read them all the way down to 2007.  
7 It's taken me four months to do that. So I  
8 do know that you work hard. But there -- at  
9 some point, something has to be addressed.

10                   Another thing you talked about,  
11 the shared versus joint custody and how many  
12 nights and days and those types of things.  
13 One of the thing that we have in Mobile  
14 County -- I can only speak to Mobile.  
15 That's where I live -- you know, most  
16 lawyers will tell you, our judge just  
17 doesn't give joint custody. Well, let's  
18 flip over to stipulations. In your own  
19 regulation, the federal regulation, it says  
20 you must tell them why you're not doing so.  
21 Well, what's the reason that that doesn't  
22 happen? If both parents, I'm going to  
23 say -- use the word normal. Nobody is a

1 pedophile, nobody is crazy, nobody is a  
2 sicko, why can't joint custody be given?

3 Is it to put a windfall on the  
4 noncustodial parent? So if you're going to  
5 split the days in the way that you guys have  
6 discussed, and I know it's been tabled to  
7 the next time, split the days, whether you  
8 have that legal title, because depending on  
9 the county, depending on the judge, they may  
10 say, well, we'll give visitation. Oh, we'll  
11 give joint shared custody. We'll give --  
12 there's a thousand different terminologies  
13 out of it.

14 But what I do know is when we do  
15 have our kids, they have to be fed. The  
16 minute that they show up and there's no  
17 lights, water, and gas, or foreclosure, the  
18 custodial parent is running back to court  
19 and saying that they're unfit. How can they  
20 have a weekend if it's dark in there, if  
21 they're hungry?

22 And I do have a daughter. Need  
23 not anybody ever tell me my child went a

1 weekend hungry, but that's something we face  
2 every -- we may not have the legal title of  
3 joint shared custody, but we still have  
4 them, and we do have them a number of days.  
5 So I do implore you to look at the number of  
6 days that we have them, because the children  
7 still have to eat on those days.

8 Okay. So we talked about  
9 stipulations. In one of the things that you  
10 said and one of the changes that you made,  
11 you removed the word "premium," which is  
12 very important to me, and I'm glad you  
13 brought that up. So.

14 When you removed the word  
15 "premium" from health care, are you saying  
16 that now the deductibles, as you know just  
17 between 2016 and now or 2015 and now,  
18 insurance has skyrocketed. Well, we pay  
19 insurance. But we have a \$6,000 deductible.  
20 There's no credit given for that deductible.

21 Now, you deleted the word  
22 "premium." Does that mean now we get full  
23 credit for all that we pay, or when you say

1           that if the health care should be split  
2           50/50 amongst the -- does it count for that  
3           \$6,000 deductible?

4                         Well, according to the way it's  
5           really open ended, in our instance, the  
6           courts justifying that as the \$25 copay.  
7           That should be 50/50. Well, my God, if I  
8           made a \$200 payment every paycheck towards  
9           that insurance, and I've got to make a  
10          \$6,000 deductible before that -- I got 30  
11          seconds?

12                        THE HONORABLE PALMER: Yes, ma'am.

13                        MS. WILLIS: \$6,000 deductible, my  
14          gosh, that's not calculated in that CS-42  
15          form.

16                        Lastly, the preexisting child  
17          support. I would love to know why the  
18          regulation when it starts, it says  
19          stipulations -- I mean, You should be given  
20          or shall be given credit for a preexisting  
21          arrangement, court order.

22                        But then one or two sentences  
23          down from that, if they're not currently

1           under an order under DHR system as CS  
2           number, then it says, The judge may give you  
3           credit for intact under roof children.

4                         Why is that so discretionary? If  
5           there are other children, are you  
6           bastardizing children who don't come to DHR  
7           or those parents don't come to DHR, or as a  
8           married woman, should I go to DHR and file a  
9           case so that my kids can be covered, because  
10          they live under the roof with their dad?

11                        Because according to Mobile  
12          County, they only give it if you have a CS  
13          case number. If the case didn't -- so  
14          you're forcing people to say we're not going  
15          to give you credit for those other little  
16          kids, unless you come to us.

17                        Now, we can work together and  
18          decide we don't need that. But you give no  
19          credit for those children. So, I guess,  
20          they don't have to eat or they're  
21          bastardized. I don't really understand. So  
22          I ask you to look at these things as you go  
23          further.

1 THE HONORABLE PALMER: Thank you  
2 very much.

3 Erick Wright?

4 MR. WRIGHT: Hello. Hello.

5 THE HONORABLE PALMER: Hello.

6 MR. WRIGHT: I won't be long at all.  
7 Thank you for giving me an opportunity to  
8 speak for a just moment.

9 My name is Erick, E-R-I-C-K for  
10 the record. And I'm just here as a parent.  
11 I actually have seven boys, two sets of  
12 twins.

13 THE HONORABLE PALMER: Wow. Bless  
14 you.

15 MR. WRIGHT: I am the custodial  
16 parent for four of my boys and noncustodial  
17 parent, as they call it, for my other boys,  
18 but I only have two current child support  
19 cases. And that was just a couple of things  
20 I just wanted to brush by.

21 Some things cannot be put on  
22 paper and calculated when determining the  
23 amounts for child support. Two of my boys,

1 two of my twins, were born with delayed  
2 speech and with a speech impediment, and it  
3 caused me throughout their elementary years  
4 to be at the school more often than I would  
5 have quite liked to. It caused more  
6 attention to detail in their education.

7 I have a son that has been  
8 diagnosed with severe brain seizures, and he  
9 takes medication for that. That takes me  
10 away from having a substantial 9:00-to-5:00  
11 job. It pushes me into alternate forms of  
12 finding income, because I need to be  
13 available for my boys a lot.

14 So I just urge you all to please  
15 take into consideration, when we're looking  
16 at underemployed and unemployed people, we  
17 don't need to look at them like they're  
18 avoiding work. We need to take into  
19 consideration their situations.

20 My situation by myself with my  
21 kids, it causes me to always be at the  
22 hospital, to always be at the school, to  
23 always be at a meeting or evaluation or

1 something like that, and it doesn't leave  
2 time for a 9:00-to-5:00 job.

3 So you can look at I have a  
4 bachelors and a masters, and you can look at  
5 maybe when I had 9:00-to-5:00 job and I  
6 worked for a corporation, I was able to buy  
7 a large house, but now I don't have the  
8 funds. Now I don't have the funds.

9 So if I am to come in front of a  
10 referee, to let them know that I don't make  
11 what I used to make, I understand what the  
12 paper says, but my life requires something  
13 different of me. So that's one thing I  
14 definitely want to let you know.

15 I just wanted to throw something  
16 out there just so you can take it home and  
17 kind of think about it. But another thing I  
18 wanted to touch on was the interest rates  
19 for arrearage.

20 Interest rates are pretty high.  
21 You can get a mortgage rate cheaper. You  
22 get a mortgage rate cheaper. Student loan  
23 debt is like a life sentence, but they're

1           cheaper, you know. So why would we place  
2           this kind of burden on our citizens, knowing  
3           full well that they could never really pay.  
4           They will never be able to clear it. That's  
5           one thing.

6                           The second thing is mental  
7           health. We need to take mental health more  
8           serious, because if we notice the cases that  
9           come to court, they're majority  
10          African-American, black. Our people has  
11          dealt with a lot of issues throughout  
12          history.

13                          But as of right now, 40 percent  
14          of the all African-American women has faced  
15          some kind of sexual assault, something like  
16          that in the history. That's known to be  
17          fact, you know. It's -- let's see. It's  
18          20 percent -- 20 percent of all pregnant  
19          black females have postpartum depression.  
20          Like, that's something you have to take into  
21          consideration, and there needs to be some  
22          sort of evaluation once someone comes to DHR  
23          or comes looking for child support.

1                   We need to make sure they're of a  
2                   competent party, and they're not totally  
3                   stressed out, and this is not something, the  
4                   spur-of-the-moment decision they're making  
5                   out of passion, hatred, et cetera, because  
6                   this is a lifelong decision that's going to  
7                   affect everybody.

8                   And the last thing I just wanted  
9                   to run by, because I'm a father and now I  
10                  find myself with a lot of more time. I have  
11                  a farm. And I would like to teach my boys  
12                  farming.

13                 If you do know, the kids still go  
14                 to school on a farmer schedule. That's why  
15                 they have the long summers off. If you do  
16                 have a discipline, even if it's not farming,  
17                 it could be welding, it could be any  
18                 specialized knowledge, there should be some  
19                 kind of situation that we can allow fathers  
20                 to pass that information on to share that  
21                 forward in order to teach their kids.

22                 If they're able to do that,  
23                 they'll be able to spend more time with

1       their kids; especially, throughout the  
2       summertime. Because they do go to school on  
3       a farmer's schedule, they should be required  
4       to be with their father doing things of that  
5       nature, where they can actually use their  
6       hands and be more productive in society.

7                THE HONORABLE PALMER: You've got 30  
8       seconds.

9                MR. WRIGHT: That's all I needed.  
10      Thank you very much.

11               THE HONORABLE PALMER: Thank you.

12                   All right. Well, I do believe  
13      just -- and I want to talk especially about  
14      the mandatory guidelines. I've got two  
15      Ericks here.

16                   But as far as the interest rate  
17      goes, I believe, that's a legislative act,  
18      and that's on all judgments, not just child  
19      support, that seven and a half percent. It  
20      used to be 12 percent, and then it got  
21      dropped down on, like, September 1st, 2013,  
22      to seven and a half percent.

23                   So that's -- as far as getting

1           that interest rate changed, that's who you  
2           need to go see is your legislator. We don't  
3           have any control over that interest rate  
4           here, just to let you know that.

5                       MR. ECHOLS: You could make a  
6           recommendation, though. A recommendation  
7           would help. It would show some type of  
8           care.

9                       THE HONORABLE PALMER: All right.

10                      MR. ECHOLS: That we have never  
11           seen.

12                      THE HONORABLE PALMER: Okay.

13                      Well, and with that, does anybody  
14           have anything else? When do we want to try  
15           to meet again? March? April?

16                      I know we want to stay away from  
17           spring break in March. Well, start over  
18           here.

19                      Jim?

20                      MR. JEFFRIES: Anytime.

21                      THE HONORABLE PALMER: Judge  
22           McMillan?

23                      THE HONORABLE McMILLAN: April would

1 be better.

2 THE HONORABLE PALMER: When are you  
3 due, Stephanie?

4 MS. BLACKBURN: I'm due in March.

5 THE HONORABLE PALMER: So April  
6 would be better.

7 MS. BLACKBURN: I'm due March 22nd,  
8 so.

9 THE HONORABLE PALMER: Well, you can  
10 bring your baby with you, if we meet in  
11 April. That would be fine.

12 Chief Justice Stuart?

13 CHIEF JUSTICE STUART: Anytime.

14 THE HONORABLE PALMER: Justice  
15 Thompson?

16 THE HONORABLE THOMPSON: I prefer  
17 April.

18 MS. BUSH: April is fine.

19 THE HONORABLE PALMER: Lathesia?

20 MS. SAULSBERRY: April.

21 THE HONORABLE PALMER: Melody?

22 MS. BALDWIN: April.

23 THE HONORABLE PALMER: Angela?

1 MS. CAMPBELL: April.

2 THE HONORABLE PALMER: Amanda?

3 MS. COX: April.

4 THE HONORABLE PALMER: Kenneth?

5 MR. PASCHAL: Anytime is fine.

6 THE HONORABLE PALMER: Okay.

7 Michael, you still on that phone?

8 Did we lose Michael finally?

9 Okay. He's been a sport about being on that  
10 phone now.

11 April is fine with me. So Bob --

12 MR. POLEMENI: I had it on mute.

13 THE HONORABLE PALMER: Oh, okay.

14 Hey there. Is April still good for you?

15 MR. POLEMENI: April is good.

16 THE HONORABLE PALMER: Okay. So we  
17 will probably send out a memo sometime after  
18 the holidays, don't want to get it lost in  
19 the holidays, after the holidays with some  
20 April dates on there and get a response from  
21 everybody.

22 Bob, is there anything else that  
23 we need to discuss?

1 MR. MADDUX: I don't think so.

2 MR. MEDARIS: Judge, I have one  
3 thing. In that packet I handed out at the  
4 beginning of the meeting, there's a copy of  
5 the roster.

6 If you would just look over that  
7 and make sure your contact information is  
8 accurate, please, and if it's not, I'll  
9 update and send out a correct one.

10 THE HONORABLE PALMER: You have your  
11 name tags in front you. Just leave them  
12 there, and we'll pick them up and use them  
13 next time.

14 Yes, Kenneth?

15 MR. PASCHAL: Yes. Just an  
16 administrative question. I know I'm  
17 appointed as an alternate on the committee.  
18 I'm here from Alabama, you know, playing  
19 football, baseball. I'm not used to sitting  
20 on the bench.

21 So my question is, who or what  
22 level of authority -- what do we need to do  
23 to make me a member, a voting member of the

1 committee, at the committee level?

2 CHIEF JUSTICE STUART: You can write  
3 a letter to the Alabama Supreme Court, and  
4 we make appointments generally in August or  
5 September of every year of the future year.  
6 We can't just add you, because this  
7 committee is governed by a federal lawsuit  
8 that pretty well stipulates who is supposed  
9 to be on the committee.

10 But if you'll apply, you may  
11 replace somebody. But we'll certainly  
12 consider that.

13 MR. PASCHAL: Okay. So if I'm  
14 hearing correctly, the Supreme Court?

15 CHIEF JUSTICE STUART: The Supreme  
16 Court appoints the committee in accordance  
17 with the federal lawsuit.

18 THE HONORABLE PALMER: Okay. Thank  
19 you. Everybody have a wonderful holiday.  
20 I'll see you in April.

21 (The meeting concluded at 2:20  
22 p.m.)

23



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