

CORRECTED MINUTES
SUPPORT ISSUES COMMITTEE MEETING
SEPTEMBER 22, 2010

I. WELCOME AND CALL TO ORDER BY CO-CHAIRS:

A. Introduction of Guests:

Heather thanked everyone for coming to the live meeting. She appreciates the sacrifice to attend. She then had everyone introduce themselves.

B. Attendance:

Barbara Goiran
Harvey Baxter
Barbara Beilly
Liz Alpert
Steve Berger
Michael Sasso
David Hirschberg
Heather Apicella
N. Nicole Gamot
Rosanna Ferrari
Angel Bello-Bellini
Susan Roux Keith
Tenesia C. Hall
Michael P. Sasso
Shannon Novey
Linda C. Clark
Mark Neumaier
Nancy De LaRosa-Monroe
Amy Sumacewski
Kira Willig
Kelli Murray
Steven Berzner
Ron Bornstein
Andrew Windle
Carin Porras
Maria Gonzalez

II. APPROVAL OF MINUTES: June 23, 2010 Boca Raton meeting.

Barbara Goiran moves to approve the minutes. The motion was seconded by Harvey Baxter and approved

III. OLD BUSINESS

A. On June 23, 2010 the committee was informed about the formation of an Alimony Ad Hoc Committee being chaired by Magistrate Norberto Katz

B. The Chair made a motion to dispense with the Alimony Guidelines Subcommittee as its work, if any, will be incorporated into the Alimony Ad Hoc Committee. Angel Bello-Bellini seconded the motion and it was approved.

IV. REPORTS AND UPDATES FROM SUBCOMMITTEES: These reports were out of order from the agenda because some members were still in other meetings.

A. VENUE CHANGE AND MULTIPLE ORDERS CASES-David Hirschberg

David Hirschberg reports that not much activity with this committee has occurred according to Magistrate Kirigin. There will be a focus after the meeting hoping to have more information at the January meeting. It was suggested that in the current economic climate, there may be temporary changes in circumstances because of the economy. The committee suggests that any change in statutory language to address issues of temporary economic circumstances needs to be examined for language which would allow temporary change in circumstances. Other states have included these types of changes. David Hirschberg believes any changes to the statute need to address the issue of whether any temporary downward modification will require the payor to make up for the temporary modification or if the difference in support payments for the temporary period should be Prior case law answers this for seasonal workers but it is unclear whether this would apply to other Florida residents who have temporary change in economic circumstances.. There is no clear guidance on whether the change needs to be and if the change can be made by motion or a petition to modify. Case law from the Supreme Court does indicate that the change in circumstance needs to be unforeseen, and must be ripe or the Court will not consider the modification, as it can only deal with current circumstance not something that may apply at a future time. The circumstances as they currently exist will be considered ripe. The committee also needs to address both temporary increase as well a decreases.

B. DOR Filings Related to Contempt but not Modification-Harvey Baxter.

The chair of this subcommittee, Harvey Baxter, is addressing uniformity in DOR Contempt filings in different circuits. The Contempt filings by DOR and how they are enforced are different in every Circuit. The Chair of this subcommittee feels that DOR Orders have a life of their own and they need continuity in the way they are handled in Florida. DOR orders need to be ratified by the Circuit

Court in the Chair's opinion. The subcommittees concern is that due process may be violated if the if the order is a bad or unjust ruling. The Circuit Court, in order to assure due process, should be able through statutory directive, to ratify the DOR order without the obligor having to file a Petition for Modification. There are not many cases on the due process issue in Florida but the subcommittee can look to other States, such as Virginia, that have an Administrative Process that has more due process in the rules and statutes. It was noted that most often the case is people who are dealing with support though DOR have low income and no ability to hire a lawyer in these types of cases. Due Process has not come up in DOR cases most likely due to the economic social spectrum that DOR deals with.

The Chair of the Support Committee pointed out that sometimes the original committee has to break off activities, or form subcommittees as issues come up and that bringing in different perspectives helps the support committee's work. .The Chair appreciates all of the hard work from everyone.

C. Passport/Driver License Suspension Subcommittee-Magistrate Goiran

Magistrate Goiran states that information on a passport case was dispensed at the last meeting. Driver License suspension was still an issue. The concern was again due process in this type of administrative proceeding. She hopes to have something to report at the January Meeting. She has some contacts with someone who may be able to solve some of these concerns.

D. Court Registry/SDU & Title IV-D Subcommittee-Doug Greenbaum

Doug Greenbaum, Chair of this subcommittee, was not able to be present. The Chair filled the committee in as to the current subcommittee activities. The Chair advised that nothing is happening, Doug Greenbaum, the subcommittee, chair, has been very busy with the CLE committee; it is hard because they overlap. If anyone can help the Chair of this subcommittee they were encouraged to sign up. The subcommittee has in the past discussed the issue that the Court Registry charges the recipient of support a 10% penalty and the recipient was not receiving full support. Another issue for the subcommittee has been payment for the Title IV is paid thru SDU. If the Clerk does not have the address of the recipient or the recipient does not provide an address to the Clerk SDU does not know where to send the check .How can the SDU and the Clerk work together to coordinate a common ledger. The subcommittee is also delving into whether there is protection for direct payment so that arrearage stops. .Magistrate Kirigin is concerned about this subcommittee's issues and Linda Clark was volunteered by The Chair of the support committee to co-chair this subcommittee.

E. After born Children and Child Support Calculation-Steve Berzner

Steve Berzner is the chair of this subcommittee. He has not had any telephone meetings prior to the September meeting in Orlando. One of the issues for this subcommittee is the need to clarify what to do in a situation where a Father has a child with his wife and then has another child in a subsequent relationship, since there are two cases, does he need to file a Modification in both cases? What, if any, order would take priority? Traditionally the judiciary always gives the highest priority to the first child. This subcommittee wants to also address the issue if you have established Orders, if one case gets modified by one recipient how do we deal with this in the other case. If there is a modification upward, how does this affect the other case? Heather suggested that the question of multiple order should go to the Venue Change and Multiple Support Orders Cases Subcommittee.

F. Support Establishment in DV Cases

Maria Gonzalez is the chair of this subcommittee. Maria made a motion to dispense with this subcommittee. Magistrate Beilly seconded the motion. The motion passed.

G. Venue Change & Multiple Support Orders Cases-Magistrate Kirigin

David Hirschberg stated that he would get a report from the committee chair and email it to everyone. Magistrate Kirigin has selected Lori Caldwell Carr to delve into the issue. Heather suggest that it has been determined that it would not be cost effective for the Clerks to track these orders from different counties, but perhaps there is another way to approach this issue. Instead of saying the subcommittee is dispensed, maybe litigants could have to report related cases in a more effective way. Many times the related cases do not get filed with the Clerk, or are not complete. This subcommittee needs some help with brainstorming.

H. Split Parenting Guidelines Subcommittee-Carin Porras

Magistrate Beilly gave the report for this subcommittee, which is chaired by Carin Porras. This subcommittee is delving into such issues as when one child is spending time with each parent how do you calculate support? There are several cases on the issue, therefore there needs to be some statutory guidance to help calculate these situations. The subcommittee is looking at the different formulas such as Katseris, Simpson, etc. They hope to have a formula to propose in January. The subcommittee is also trying to adjust the current method in the case law now that a new overnight sharing of 20% is part of the statute. This subcommittee was in a holding pattern until the legislature passed the new 20% threshold for overnight timesharing. They want to see how it will affect the child support calculations. In addition, mixed timesharing may effect all calculations. This subcommittee wants input from the Committee. The

subcommittee is also considering whether it may be better if the calculation may be more effective if it is discretionary to the Judge.

V. NEW BUSINESS AND NEXT LIVE MEETING

A. Heather reminds people of the Fall retreat in Key West from September 30-October 3. She encouraged everyone to attend.

B. The next live meeting is in January at the Disney Yacht and Beach Club held in conjunction with the Board Certification Review. The Chair then had everyone present tell something about themselves to become better acquainted.

C. In other new business:

(1) Kira Willig wanted to know if there had ever been a discussion regarding using gross income rather than net income for the child support calculation. Angel Bello-Billini responded that the question comes up periodically, but it is always decided to continue using the current net income calculation.

(2) Ron Bornstein brought up the issue of how to deal with situations where one spouse has an affair and a child is produced. Child support is then established in a paternity case before child support can be established in the divorce action. Then in the divorce action, the child support is reduced. Heather suggested that this issue should be considered by the After Born Children Subcommittee and added Ron to that subcommittee.

VI ADJOURNMENT

Magistrate Beilly made a motion to adjourn. The motion was seconded by Magistrate Goiran. The motion passed.

Respectfully submitted,

Liz Alpert, Esq., co-secretary

N. Nicole Gamot, Esq., co- secretary