

1  
2 JUDICIAL COMPENSATION COMMISSION  
3 STATE OF LOUISIANA  
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6 Meeting of the Judicial Compensation Commission,  
7 held on Friday, September 12, 2003, commencing at  
8 11:30 a.m., at First Circuit Court of Appeals,  
9 Baton Rouge, Louisiana.  
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11  
12 MEMBERS PRESENT:

13 JAMES J. COLEMAN, SR., ESQ., Vice Chairman  
14 JUDGE NED E. DOUCET, JR.  
15 DOUG JOHNSON  
16 JUDGE WILLIAM T. KLEINPETER  
17 REPRESENTATIVE DANIEL R. MARTINY  
18 JUDGE ULYSSES G. "GENE" THIBODEAUX  
19 REPRESENTATIVE JOSEPH F. TOOMY  
20 JUDGE FRANK A. MARULLO, JR.  
21 KIRBY NEWBURGER  
22 MARY LOU WINTERS

23 STAFF PRESENT:

24 TIMOTHY J. PALMATIER, C.P.A., Attorney,  
25 Chief Deputy Judicial Administrator,  
Supreme Court of Louisiana  
26 DIANE MERRITT, Secretary  
27 JAN JORDAN, Attorney, House Judiciary Committee

28 REPORTED BY:

29 ROSE MARIE DiVINCENTI  
30 Certified Court Reporter  
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## PROCEEDINGS

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MR. COLEMAN:

Will the Secretary call the roll

MS. MERRITT:

Mr. Coleman?

MR. COLEMAN:

Here .

MS. MERRITT:

Judge Doucet?

JUDGE DOUCET:

Here .

MS. MERRITT:

Ms. Holt? Judge Marullo?

JUDGE MARULLO:

Here .

MS. MERRITT:

Judge Kleinpeter?

JUDGE KLEINPETER:

Here .

MS. MERRITT:

Judge Thibodeaux?

JUDGE THIBODEAUX:

Here .

MS. MERRITT:

1 Senator Jones? Senator Lentini ?  
2 Representative Martiny?  
3 REPRESENTATIVE MARTINY:  
4 Here .  
5 MS. MERRITT:  
6 Representative Toomy?  
7 REPRESENTATIVE TOOMY:  
8 Here .  
9 MS. MERRITT:  
10 Mr. Johnson?  
11 MR. JOHNSON:  
12 Here .  
13 MS. MERRITT:  
14 Dr. Popwell? Ms. Winters?  
15 MS. WINTERS:  
16 Here .  
17 MS. MERRITT:  
18 And Mr. Newburger?  
19 MR. NEWBURGER:  
20 Here .  
21 MS. MERRITT:  
22 I have ten members present. We have a  
23 quorum.  
24 MR. COLEMAN:  
25 I'd just like to open the meeting with

1 a few moments of silence so we can think  
2 about the need of support after 9/11; each  
3 in your individual way, take some time.

4 Thank you so much. Vice-chair  
5 Thibodeaux and Members of the Commission, I  
6 welcome you to our meeting. At this time,  
7 I'd like to ask a motion to approve the  
8 minutes of the last meeting on November  
9 19th.

10 JUDGE DOUCET:

11 I move.

12 JUDGE THIBODEAUX:

13 Second the motion.

14 MR. COLEMAN:

15 All those in favor, signify by saying

16 Aye .

17 (Chorus of "Ayes.")

18 MR. COLEMAN:

19 All those opposed?

20 As you will recall, our Judicial  
21 Compensation Commission was created in 1995  
22 with ten members, subject to Senate  
23 confirmation: Two appointed by the Senate;  
24 two appointed by the House; one by the  
25 Governor; one by the Chief Justice; one by

1 the Conference of Court of Appeals Judges,;  
2 one by the Louisiana District Judges  
3 Association; one by the City Judges  
4 Association; and one by the Bar Association.

5 The Commission is charged to make, and  
6 I quote, "a study of salaries paid to judges  
7 by a Statute, RS13:46A." And I'm quoting  
8 again, "shall submit its recommendation to  
9 the legislature 60 days prior to the  
10 commencement of any regular session of the  
11 legislature."

12 The Commission made its original report  
13 in 1996, with a 4 percent increase in  
14 judicial salaries effective July 1st, 1996  
15 and on July 1st, 1997, with the  
16 understanding that the legislature would not  
17 report again, the Commission would not  
18 report again, until the year 2000.

19 The Commission filed its report in the  
20 year 2000, with recommendation for a 5  
21 percent increase effective July 1st, 2000;  
22 July 1st, 2001; and July 1st, 2002.

23 However, the report of the Commission was  
24 deferred one year, and the 5 percent salary  
25 increase became effective July 1st, 2001,

1 2002, and 2003.

2 We're meeting today to consider the  
3 future of the Commission, recognizing that  
4 the upcoming regular session of the  
5 legislature is the normal time for  
6 reconsideration of the level of judicial  
7 salaries.

8 We're also meeting suggesting the  
9 future of the Commission and where we stand.  
10 And Tim, I'd like you to make your complete  
11 report to the Commission.

12 MR. PALMATIER:

13 Good morning, Mr. Chairman and Members  
14 of the Commission. I'm Tim Palmatier, Chief  
15 Deputy Judicial Administrator, Louisiana  
16 Supreme Court.

17 In your package of materials are a  
18 number of things. There is a list of  
19 current Commission members and their terms  
20 of office. If you would just review it with  
21 the original documentation, I'd appreciate  
22 it .

23 And this meeting is the normal meeting  
24 of the Commission prior to the Session, and  
25 to consider what the Commission should do in

1 preparation for that Session.

2 Also, in your package is a letter from  
3 Mr. Coleman to the members as well as to the  
4 Chief Judges of the various courts, the  
5 President of the Court of Appeal Judges, and  
6 the Louisiana District Judges and the City  
7 Court Judges Association, asking for their  
8 input for the meeting today.

9 I'd like to read it into the record,  
10 and I will place a copy of this letter in  
11 the record, from Judge Michael Bagneris, who  
12 is President of the Louisiana District  
13 Judges Association, addressed to Mr.  
14 Coleman:

15 "Please be advised that the Executive  
16 Committee of the Louisiana District Judges  
17 Association held this past Saturday,  
18 September 6, 2003, a meeting at which the  
19 Association voted in support of the past  
20 work and continued success of the Judicial  
21 Compensation Commission.

22 "The Association recognizes,  
23 appreciates and is honored by the valued  
24 public service that the Commission and its  
25 members provide and looks forward to

1 receiving the Commission's report prior to  
2 the next legislative session."

3 Also in your package is a list of the  
4 salaries of judges from July 1, 1997, which  
5 is the first raise pursuant to the report of  
6 the Compensation Commission, through July 1,  
7 2003, which is the last raise that the  
8 Compensation Commission reported.

9 You'll note, for instance, that the  
10 District Court Judges have gone from \$92,520  
11 on July 1, 1997, to \$105,780.47 this year,  
12 effective July 1, 2003. That represents the  
13 last increase as a result of the previous  
14 report that the Commission filed in 2000,  
15 and acted upon by the legislation in 2001, a  
16 5 percent increase July 1, 2001; 5 percent  
17 July 1, 2002; and 5 percent July 1, 2003.

18 While the salaries have increased  
19 during that period of time, on April 1st of  
20 2002, the judges received a \$100 per month  
21 decrease in their compensation from the  
22 Judges Supplemental Compensation Fund.

23 So the numbers I just noted include the  
24 amount that is disbursed through the Judges  
25 Supplemental Compensation Fund, which is a

1 fund created by Statute that, in 1985, began  
2 assessing a \$10 fee on each civil filing,  
3 exclusive of State filings and court  
4 filings; and that fee is now \$17 per filing.

5 In the past session, judges attempted  
6 to increase it from \$17 to \$26, I believe,  
7 in the Senate Judiciary Committee meeting.  
8 After the first hearing, it was changed from  
9 \$17 to \$20; passed the judiciary aid on the  
10 Senate floor and was committed to the  
11 Finance Committee, passed to the Finance  
12 Committee, was then recommitted to -- I  
13 can't remember exactly which one, but it  
14 didn't get out of the Senate Committee.

15 So that fee, aside from the cost of  
16 living increase that's built into the law,  
17 50 cents, when the cost of living was  
18 warranted, hasn't increased in a number of  
19 years.

20 Also, last session. House Bill 597  
21 attempted to restore the Compensation  
22 Commission's report statute, in other words,  
23 to its previous level. It used to be that  
24 when a report of the Compensation Commission  
25 was filed, it was filed by concurrent

1 resolution. And it became effective by  
2 passage of the concurrent resolution.

3 By the time the 5, 5, and 5 increase  
4 was passed, that statute was submitted, and  
5 it required that it be by enactment, meaning  
6 that it still needed to go to the Governor  
7 for his signature, and also meant that the  
8 legislature could alter the recommendations  
9 that were made up or down.

10 Previously, it was strictly the  
11 Compensation Commission report was filed,  
12 and the legislature had to vote it up or  
13 down. When that bill passed down to -- the  
14 House Judiciary passed it down to the House  
15 99 to nothing, it came out of Judiciary A,  
16 and it failed on the Senate floor, 7 ayes  
17 and 26 nays.

18 The current balance through our  
19 Commission is a little over \$9,000, and I  
20 would suggest that the Commission decide on  
21 the enormity of engaging a report, that we  
22 need to think about whether we will contract  
23 with Dr. Loren Scott or someone else to redo  
24 the economic side of the report. We might  
25 also want to authorize the head of the

1 various judges associations to ask for  
2 contributions to the expenses.

3 JUDGE THIBODEAUX:

4 What was the cost of the report the  
5 last time? What was the cost of the Dr.  
6 Scott's report?

7 MR. PALMATIER:

8 That was - -

9 MR. COLEMAN:

10 It was \$15,000. Tim, have you finished  
11 your report?

12 MR. PALMATIER:

13 Yes .

14 MR. COLEMAN:

15 I'd like to talk a little bit about the  
16 last comment Tim brought up in the last  
17 legislation. This Commission is not the  
18 same commission which was originally brought  
19 before them.

20 The whole purpose of this Commission --  
21 and a copy of the bills that is in many  
22 states throughout the United States -- the  
23 purpose of it was to see that the judiciary  
24 would not be in a position where they would  
25 have to go up to the legislature and beg for

1           whatever raises it wanted to get; and it  
2           was, to me, a very undignified way of doing  
3           things.

4                     It also put the Governor in a position  
5           where he could veto anything at all that the  
6           legislature did, so far as salary increases.  
7           The judges could not get a cost of living  
8           increase, where most of the state's  
9           employees do get it.

10                    This past legislature, we went back to  
11           get the bill amended to its original form.  
12           It passed unanimously in the House  
13           Committee. It passed the Senate Judiciary  
14           Committee. Then it was changed.

15                    I think the Commission has three things  
16           that they could do. And they're very  
17           important. Three different alternatives.

18                    Number one, we can continue and go  
19           ahead individual like we did before to make  
20           the recommendation to the legislature.

21                    Number two, we could decide, if this is  
22           not the type Commission that we were all  
23           appointed for, then we could consider  
24           resigning and get out, go back to the  
25           Louisiana State Bar Association that we were

1 appointed for, what position we're in. And  
2 we would then if we took that position, it  
3 would be up to the judiciary to go ahead and  
4 see if they could get the bill amended back  
5 the way it should be or leave it like it is.

6 Number three, we could go ahead and  
7 make the recommendations as a Commission,  
8 just like we do now, and at the same time  
9 ask to have the bill amended back to the way  
10 it was originally.

11 And if you all can think of anything  
12 more than those three alternatives, then  
13 send it over. I'm certainly open to it.  
14 And I'd like to open the discussion with the  
15 consideration of those three alternatives  
16 and what you think is the best way to  
17 accomplish our purpose.

18 Before any of the members talk, I'd  
19 like to know if there's anybody that's in  
20 the audience that would like to discuss this  
21 in any way or make any recommendations or  
22 ideas.

23 JUDGE DOWNING:

24 I'm here for Judge Carter. After this  
25 last raise, the utilities went up, the

1 gasoline went up, my insurance on my car and  
2 my insurance on my house went up. We  
3 haven't had a -- if we sit down with your  
4 checkbook, we haven't had a raise.

5 We encourage you to stick with it.  
6 It's not the same. And I know you feel kind  
7 of let down that you don't have the same  
8 authority that you did. You have done a lot  
9 of hard work on this. So I'd hate to see  
10 you get discouraged, and we encourage you to  
11 keep up the job you have been doing. Thank  
12 you very much.

13 MR. COLEMAN:

14 I think now the Members are going to  
15 give their opinion as to the best way to  
16 approach it.

17 JUDGE MARULLO:

18 To answer some of your questions, we  
19 had some discussions Saturday at the  
20 Executive Committee. And I think the  
21 consensus was that any recommendation from  
22 this group dignified a request rather than  
23 us hanging in the back of the lobby of the  
24 whole state legislature and trying to  
25 directly approach the legislators with our

1 version of what we should get, what kind of  
2 raise a judge should get.

3 So I think that even though it's not  
4 the way it was intended, I think that this  
5 Commission has a useful purpose in  
6 dignifying the request. And I think maybe  
7 we ought to go back to the legislature again  
8 and try to put it back the way it was.

9 I think that was the consensus of the  
10 committee meeting on Saturday of the  
11 Louisiana District Judges.

12 MR. COLEMAN:

13 Just for the record, we should mention  
14 our name as we talk, because I'd like to  
15 have it on the record.

16 JUDGE KLEINPETER:

17 I'm Will Kleinpeter. I'm the City  
18 Judges representative. The City Judges  
19 Executive Committee also met; and again, it  
20 was they're going with the District Judges;  
21 but we prefer to have it the way it was  
22 originally set up, but keep it as it is  
23 rather than disband it.

24 Again, I was noticing only 4 out of 14  
25 members are judges. When this Commission

1 goes to legislation with a pay raise request  
2 for the judges, it's harder for the public  
3 and for the legislature to say. Oh, the  
4 judges are back asking for a raise again,  
5 and 10 of the 14 are non-judges, who can  
6 take an objective look at the judges'  
7 salaries and make a recommendation that I  
8 think carries more weight than, again, the  
9 different judges associations going up  
10 asking for an increase.

11 So the City Judges Association are in  
12 favor of at least keeping it like it is, or  
13 to work to get it back to the way it was.

14 REPRESENTATIVE MARTINY:

15 I'm Representative Danny Martiny. I  
16 agree. It's not -- if you look at the  
17 concept that was created, the idea was to  
18 try to take you out of the process as much  
19 as possible. I think that's why the board  
20 was set up that way, to where we could get  
21 the imprudent look at the numbers without  
22 all the politics involved.

23 But I think you still -- I mean, to  
24 back up, if you look at what the result  
25 would be, were you to disband, then can you

1 just leave your salaries of judges to the  
2 whim of the legislature, I think it would be  
3 utter chaos.

4 If you look at the political realities  
5 of it, probably the best thing to do would  
6 be to wait a month or so to see who the  
7 Governor is going to be.

8 That was our problem last time. If you  
9 notice, I don't think we had any problems in  
10 the House, getting it out of the House.

11 Representative Toomy and I would  
12 suggest that if Judge Marullo had been in  
13 the Senate, you would have got more than 7  
14 votes in the Senate.

15 I'm not trying to knock my colleagues  
16 in the Senate, except that I don't know that  
17 anybody in the Senate approaches it the same  
18 way as the House people.

19 It's kind of a routine thing. It's  
20 something we have to deal with. I think  
21 there are more politics involved in the  
22 Senate, because all you are going to do is  
23 inject more politics into it. We just need  
24 a stronger effort to get somebody with a  
25 little bit more -- and I don't know who

1 presented the bill in the Senate for us, but  
2 maybe with a little bit more passion on the  
3 issue, because I think, as Joe and I were  
4 saying, maybe he'll say something.

5 In the Senate, we apparently let the  
6 naysayers control the debate, and then it  
7 just kind of slides by. That's where I --  
8 in fact, I wasn't even there when we put it  
9 up. I was probably over in the Senate  
10 trying to get them to do something. But it  
11 went through 99.

12 So I think it would be a big mistake to  
13 back off the effort to restore it to what it  
14 was originally intended to do.

15 MR. NEWBURGER:

16 I'm Kirby Newburger. I'm one of the  
17 Senate appointees here. I'm just going to  
18 come in on the same side of what we've heard  
19 so far; but I think that -- I think we are  
20 all kind of leaning towards the suggestion  
21 No. 3, which would be to make our  
22 recommendation and continue with what we're  
23 doing, but push to have the legislature to  
24 change the law back to the way it was  
25 previously when the commission was put in

1 place.

2 The whole idea -- and I'm maybe just  
3 saying the same thing that's already said --  
4 the whole idea is to take the lobbying out  
5 of the process so that the judges are not  
6 going to the legislature and asking for a  
7 raise without any reason other than maybe  
8 because they have to go to ask for a raise.

9 So if we could put it into a place  
10 where that whole lobbying is no longer a  
11 part of the process, because if we make a  
12 recommendation, that still doesn't take the  
13 lobbying out of the process. You still have  
14 the judges have to go up and say. You all  
15 might take the bill recommendation or you  
16 might change it in some way; we encourage  
17 you to change it or not change it or  
18 whatever.

19 And I don't know how it is that the  
20 Senate voted that down, but I think that  
21 with a little bit of impetus from us, if we  
22 would approach the Senate and explain to  
23 them why we think that it's not in the best  
24 interest of the State to have the judges  
25 have to lobby for increases to their

1 compensation.

2 JUDGE THIBODEAUX:

3 Gene Thibodeaux. I'm a judge on the  
4 Court of Appeal in St. Charles. I'm going  
5 to have to agree with what my fellow  
6 commission members have said.

7 I think we ought to continue our  
8 existence. I think we ought to commission  
9 an economist or a similar professional to do  
10 an empirical study and present hard data to  
11 the legislature this coming year. And I  
12 think we ought to work to re-establish our  
13 status as it was before the bill was  
14 amended.

15 And in connection with that last  
16 sentiment, I think we need to devise a  
17 strategy to fulfill that, and how we go  
18 about it. There are some folks who are much  
19 more skilled in this Commission than I am,  
20 Representatives Martiny and Mr. Toomy, I  
21 would go about convincing the legislature to  
22 re-establish our former status.

23 I spoke to Judge Bagneris yesterday,  
24 and Judge Marullo is here from the Executive  
25 Judicial District Association. And he's

1 confident that the position that was  
2 reflected in the letter that Tim read; it is  
3 reflective of sentiments of all of the --  
4 most of the district judges, not all of the  
5 district judges, through our State. And  
6 I've talked to a lot of appellate judges.

7 And the position is that we ought to  
8 continue our work and continue our efforts  
9 to get our status re-established, and  
10 significantly submit some sort hard data. I  
11 think legislators and the executive branch  
12 need that sort of hard rather than soft edge  
13 to convince them of our position.

14 JUDGE DOUCET:

15 Judge Ned Doucet. I'm going to speak  
16 with the appellate judges. I represent them  
17 in the legislature. And even though we're  
18 going to be meeting in a couple of weeks to  
19 discuss this matter, I can tell you in  
20 talking to them individually they would want  
21 the Commission to proceed like it is and go  
22 back to the legislature and get it changed.

23 So the consensus is to do what you're  
24 talking about.

25 MS. WINTERS:

1           I wonder if it would not be wise for  
2 those of us here today to approach the  
3 candidates for Governor and tell them what  
4 the situation is and how we feel, to see if  
5 they are going to go along with it and  
6 perhaps get a commitment out of them.

7           I'm going to talk to Randy Ewing.

8           MR. COLEMAN:

9           I think that's an excellent suggestion  
10 for this Committee.

11          REPRESENTATIVE TOOMY:

12          Representative Toomy. It goes without  
13 saying that I firmly believe in the process  
14 that we had originally established. I still  
15 think that it would be the right thing to do  
16 to go back and try to change this process.  
17 And I would suggest, as the others have,  
18 that we stay put and stay in place and try  
19 to go back to the legislature again next  
20 year .

21          I think that we have the unique  
22 situation of having a general session next  
23 year when we can do that, and with the new  
24 administration, as was mentioned. It's not  
25 the kind of thing I'd like to try to do

1 every year; but I think because of the  
2 timing, it would be worth going back again  
3 next year one more time.

4 Perhaps we can learn from what happened  
5 this year. One thing I would say, that  
6 although we had apparently a very easy time  
7 in the House on the issue, there are some  
8 segments of concern that we've pulled back  
9 from changing the process.

10 I think the difference is the way we  
11 approached it in the House, whereas  
12 Representative Martiny was saying, we tried  
13 to get the advocate position on the floor.  
14 My recollection in the Senate is that there  
15 were only a few people that had a real  
16 problem with the issue. They kind of  
17 monopolized the limited debate, and the  
18 issue was voted on quickly.

19 I think there's a lot to be learned  
20 about it. It was handled rather late at the  
21 session; a short amount of time for  
22 discussion, a short amount of time for  
23 lobbying. Perhaps we can approach it a  
24 little different, look at the process of  
25 handling the issue during the legislative

1 session somewhat differently.

2 And I agree that whether we talk to the  
3 candidates or whether we talk to the new  
4 Governor, that surely would be a recommended  
5 course of action. Of course, it's an  
6 interesting scenario, where whoever the  
7 Governor is, we are asking them to support  
8 an issue where they wouldn't have any say in  
9 it .

10 So it's nothing that would benefit  
11 them, but I think we just need to get  
12 whoever the Governor is to understand the  
13 issue. And again, I think there were some  
14 good points brought out that it's not a  
15 Commission that's dominated by judiciary.  
16 But it's a healthy way to approach the  
17 issue, rather than it's just any typical  
18 legislative action.

19 I would very much think that we could  
20 stay in place and take one more shot and  
21 take our best shot at this coming  
22 legislative session.

23 MR. JOHNSON:

24 Doug Johnson. I'm an appointee of  
25 Senator John Hainkel. I was in chambers

1           when the measure was being voted on. I  
2           think it was more so a matter of poor timing  
3           with the introduction, the time that the  
4           bill was introduced.

5                     The senators were exhausted. They had  
6           been dealing with fiscal issues, insurance  
7           issues, they were just beat. And I think  
8           that it was a hasty vote. I would like to  
9           support Item No. 3 that you present, come  
10          back at it. But I think timing is of the  
11          essence.

12                    I think in a general session, when  
13          you're not dealing with the fiscal matters,  
14          perhaps a presentation at that time might be  
15          more powerful to the legislature. I think  
16          the intent of this Commission, the general  
17          public is in full support of, because being  
18          a businessman, I have talked to a lot of  
19          business owners around the State, and they  
20          like to see the clear separation between the  
21          judiciary and the legislature. And I think  
22          they think that the purpose of this  
23          Commission is a good one.

24                    And I would just also like to say that  
25          perhaps press releases, when the Commission

1 releases information to the legislature or  
2 to the -- perhaps more press releases around  
3 the State will build support.

4 But I think it boils down to a matter  
5 of timing, personally.

6 MR. COLEMAN:

7 Let your Commission know that we really  
8 made a study of it. We had professional  
9 advice given to us; we had some judges who  
10 just absolutely dropped out of the  
11 Commission and gone to work as a lawyer; and  
12 the first year, they got double their  
13 salary, and that they couldn't send their  
14 kids to college on it.

15 If we stay in it, I'm sure the  
16 Commission would do the same thing. I just  
17 feel that many of the senators voted without  
18 really understanding what we were trying to  
19 do and what we have done on it. I think  
20 that maybe at the time, although our timing  
21 was right, Joe will tell you we appeared  
22 before the Senate Judiciary Committee well  
23 in advance, and that committee approved it  
24 unanimously.

25 REPRESENTATIVE TOOMY:

1 It languished for a while on the Senate  
2 calendar.

3 MR. COLEMAN:

4 Some of the judges, we sent a message  
5 around to all, at least, to let the  
6 legislature know we sit on the Commission;  
7 and I don't know if we received the support  
8 that we really wanted then. That's not  
9 lobbying, just let them know that this  
10 Commission has made a study and that they  
11 need their support.

12 REPRESENTATIVE MARTINY:

13 Danny Martiny again. I think the  
14 problem that you have a lot of times is that  
15 there are only several people that this  
16 issue means anything to, probably, in the  
17 Senate.

18 And I'm not suggesting you should go  
19 lobby somebody; but I know all of the  
20 members of the Commission and all of the  
21 judges have a senator. And if somebody  
22 would just go down and sit down with them  
23 and just say. Look, this is what it's about,  
24 because what happens is -- and believe me,  
25 we were all part of that -- they don't swear

1 us in when you go to the podium up there.

2 And you know, it's very easy to say,  
3 Well, we're the ones that have to live with  
4 these people making laws that affect these  
5 judges; what's so wrong with us having the  
6 opportunity to amend it and go, well, we're  
7 just as smart as this Commission.

8 And what happens is it's an easy vote  
9 to say. Well, I didn't do that. They still  
10 have to come back to vote, and we're going  
11 to still have these Committee hearings.

12 But I go back to what I said before.  
13 Again, it goes back to what Joe said and Mr.  
14 Johnson said, it has to do with timing. But  
15 it also has to do with making that contact  
16 with that Senate Committee Chairman or the  
17 President of the Senate or the Speaker of  
18 the House to make sure that if you got to  
19 jump through those holes, you're not jumping  
20 through them at 5:00 o'clock on the last day  
21 of the session.

22 And what happens is that the debate is  
23 controlled by people that really have a  
24 strong opinion in the Senate against what  
25 we're trying to do; and we don't have

1 anybody over there to debate them. I think  
2 this is kind of what we're dealing with it.

3 So I think a concerted effort has to be  
4 made, whether it's by a judge or by somebody  
5 who has influence over each senator just to  
6 say. Look, I want 20 minutes of your time  
7 just to sit down and explain to you why  
8 we're doing this, to the point where when  
9 they have questions, they've got the  
10 information, I think, to support it.

11 Again, we haven't had that problem in  
12 the House. People tend to follow, I guess  
13 because of the number of bills we have, they  
14 tend to follow Joe on the issues that come  
15 out of the judiciary. Hopefully they follow  
16 me when things could come out of my  
17 committee.

18 My point is that's why you've seen 99  
19 to nothing, and that's why -- I don't think  
20 you can read into that vote that the Senate  
21 is just dead set against giving judges  
22 raises. I think it was just. We'll get back  
23 to you later, and they didn't.

24 So that's what I would suggest.

25 MR. COLEMAN:

1                   Tim, so the Commission can be advised,  
2                   would you walk us through a little bit about  
3                   what was done during the last legislation?

4                   MR. PALMATIER:

5                   I can tell you that each senator was  
6                   contacted by at least two judges. I don't  
7                   have my list with me, but I can tell you,  
8                   for instance. Judge Bagneris talked to a few  
9                   senators that told him they would vote for  
10                  it, and on the day of the vote, they voted  
11                  against it.

12                 Judge Guidry talked to Senator Hollis,  
13                 who pulled the bill up on his computer, and  
14                 he said he would vote for it; on the day of  
15                 the vote, he voted against it.

16                 I think as the representatives have  
17                 said, I think timing had a lot to do with  
18                 it. I think probably more than a week went  
19                 by between the time that those judges talked  
20                 to those senators and the vote, maybe more  
21                 than a week. I think probably the timing  
22                 had a lot to do with it.

23                 And we talked to former legislators who  
24                 are now judges, like Dennis Bagneris, who  
25                 actually went down to the legislature and

1 met with the senators before the vote came  
2 up.

3 MR. COLEMAN:

4 I'd like to ask the legislators a  
5 question. Is it inherent that when they  
6 feel that something is submitted to them  
7 from the Commission, they can't amend it;  
8 they can't change it; they either have to  
9 accept it or reject it?

10 Do you think that really is the holdup  
11 in the Senate? And the Governor can't veto  
12 it. We make the study, we agreed.

13 REPRESENTATIVE TOOMY:

14 I agree completely with Danny. I think  
15 that's a hang-up for a few people, not  
16 representative of the majority of the  
17 Senate. I think that's just a few people,  
18 and they are outspoken on the issue; and I  
19 think it goes back to one of the first  
20 things that was said about needing to  
21 present the issue positively with some  
22 fervor, because it gets overwhelmed with the  
23 few people talking the other way.

24 And as Danny said, it's easy to argue  
25 either side of the issue.

1           There is one thing I didn't mention  
2 earlier that, ideally, I think we had a good  
3 opportunity this past session, because we  
4 weren't asking for a raise at the same time.  
5 It was just a procedural issue we were  
6 asking for.

7           I think it's going to become trickier  
8 if, in the next session, you have an issue  
9 asking to change the process and an issue to  
10 give raises.

11           And I'm suggesting we tread carefully  
12 on that, because it's going to be somewhat  
13 more difficult to deal with two issues at  
14 one time than the luxury we had this year of  
15 dealing with the procedural issue.

16           MR. COLEMAN:

17           Are you getting back to the No. 1  
18 point? Wait until next year?

19           REPRESENTATIVE TOOMY:

20           I'm just saying that we tread  
21 carefully, because the point is, if you are  
22 bouncing around one issue and negate the  
23 other, and I think they're going to work  
24 against one another more than work in  
25 support of one another. So you need to

1 consider that in how we approach the  
2 legislation in the coming year.

3 MR. COLEMAN:

4 Judge Doucet?

5 JUDGE DOUCET:

6 I'd like to speak to that issue. As  
7 Representative Toomy said, there has to be  
8 some fervor in the process. So I went back  
9 to my local senator, and I spoke to him with  
10 fervor. And all of a sudden, he clearly  
11 understands.

12 But the point is this: The Bar  
13 Association now has raised concerns. I  
14 spoke to the incoming President of the Bar  
15 Association. After seeing this process, he  
16 has decided one of the main goals he is  
17 going to have is to form a bipartisan  
18 committee, to take issues that they can  
19 agree on, and this is one that they totally  
20 agree on, and they are going to get  
21 involved, not through the Bar Association,  
22 because they cannot do that, but through a  
23 separate entity, they can do that.

24 So I think now we can go with fervor to  
25 the legislators and tell them that this is

1 for the good of the judiciary and the public  
2 as a whole. And I think perhaps that will  
3 do it .

4 MR. COLEMAN:

5 Do we have any other discussions?

6 JUDGE MARULLO:

7 I just wanted to mention one thing that  
8 Joe is talking about, and I think that  
9 you're right on target, Joe. This is going  
10 to be two issues, and we are going to have  
11 that greedy judge kind of thing again.

12 But if we could figure a way that we  
13 could time them so far apart from each  
14 other, maybe, and decide which one of them  
15 we should go with first, that should be the  
16 strategy, to figure out. What do we do  
17 first, and try to put some distance between  
18 the two, if that's possible.

19 MR. NEWBURGER:

20 Kirby Newburger again. As  
21 Representative Toomy said, this is kind of a  
22 tricky thing, because I think that perhaps  
23 before we decide to try and generate some  
24 funding and to take it upon ourselves to do  
25 the study that we're doing and make a

1 recommendation to the legislature, we might  
2 want to find out whether or not we really  
3 have any authority, because it seems like  
4 the authority was taken away from the  
5 Commission.

6 Perhaps we ought to approach the  
7 legislature and say. Look, if you all are  
8 going to make this decision, are you going  
9 to commission the study, because we can't  
10 just sit back until you tell us whether or  
11 not you really want a Judicial Compensation  
12 Commission or you don't want a Judicial  
13 Compensation Commission.

14 If the State is going to have a  
15 Judicial Compensation Commission to have  
16 some authority with regard to judicial  
17 compensation, then that's not what we have  
18 right now.

19 MR. JOHNSON:

20 I understand your point; but I also  
21 understand, too, that if we are going to  
22 move towards good government, and I think  
23 this is a part of it, that perhaps the  
24 leadership of the House and the Senate  
25 should be brought in with the chairs of the

1 committees that will be involved with this  
2 and reaffirm the legislator's commitment to  
3 this Commission and perhaps re-educate some  
4 people on what the intent was, to begin  
5 with .

6 And perhaps not from Judges; perhaps  
7 from civilians like myself or educators in  
8 our university systems, whatever we need to,  
9 to reaffirm the intent of this Commission,  
10 because I think it's a good intent.

11 REPRESENTATIVE MARTINY:

12 Danny Martiny. I don't see any way  
13 possible you can reverse those issues. If  
14 you go with the pay raise first early in the  
15 session, you are going to get one vote out  
16 of the people. And assuming it passes, then  
17 the answer is going to be. Well, why do we  
18 need to change the system? We just got you  
19 the raise that you wanted.

20 So I think your decision is not which  
21 order you go in those issues. The issue is  
22 whether you go both with issues now or you  
23 defer one or the other. I know what's going  
24 to happen. You give -- I'm not proud to  
25 tell you this -- but you give a legislator a

1 chance to vote on two issues that affect  
2 you, you are probably going to get one vote  
3 out of him, unless you're good friends; and  
4 then once they help you, if he's uncommitted  
5 on the issue, you'll probably get one or the  
6 other, but not both. That's all.

7 MR. COLEMAN:

8 The other side of the fence, Danny, is  
9 that if we show them a good report, show  
10 them a study we made, nobody amends it or  
11 anything, then we just ask them to leave us  
12 alone and let us do the same thing again.  
13 We are capable of doing it.

14 Tim, do you have anything you want to  
15 add?

16 MR. PALMATIER:

17 Mr. Chairman, I would like to enter  
18 into the record the letter from Judge Conery  
19 of the 16th Judicial District Court in  
20 support of the work of the Committee.

21 MR. COLEMAN:

22 Do we have a motion?

23 REPRESENTATIVE MARTINY:

24 I would make a motion that we proceed  
25 with No. 3, to make another stab at the

1 legislature, and hopefully try to influence  
2 whoever is the next Governor and the  
3 leadership of the House and the Senate to be  
4 a little bit more on our side on this issue.  
5 Of course, I don't know that I'm going to be  
6 reappointed to this Commission; but  
7 hopefully, I will be.

8 I haven't heard anybody speak in favor  
9 of 1 or 2, and I don't know if there's a 4  
10 or 5 or some other proposal, but I would  
11 make a motion that we proceed along those  
12 lines.

13 JUDGE MARULLO:

14 Judge Marullo. I'll second.

15 MR. COLEMAN:

16 All right. It's open for discussion.

17 Is there any discussion on it? Are you  
18 ready to vote? All those in favor, signify  
19 by saying "Aye."

20 (A chorus of "Ayes.")

21 MR. COLEMAN:

22 Opposed? No. Approved. It's  
23 unanimous.

24 Now, the next question that was brought  
25 up was a recommendation that we send a

1 questionnaire to each one of the  
2 gubernatorial candidates and ask if they  
3 will be supportive of returning the bill  
4 back to where it was originally, and where  
5 it's now in effect in many states in this  
6 country.

7 Do you want to discuss this further or  
8 make a motion?

9 MS. WINTERS:

10 Thank you. Whoever the Governor is,  
11 we'll be dealing with him for at least four  
12 years. So I think it's very worthwhile that  
13 we ask them what their position is after we  
14 explain what our problem is and where we  
15 want to go and what we want to do in the  
16 coming session.

17 I'd like to move that letters be sent  
18 to -- how far down the list shall we go --  
19 maybe the top seven candidates for Governor,  
20 asking for their support in reinstating the  
21 Judiciary Compensation Committee to its  
22 previous status, and telling them that we  
23 are advocating a study that will be well  
24 validated for consideration in the upcoming  
25 session.

1 MR. COLEMAN:

2 Any second? It's open for discussion.

3 Do we want to show them clearly what the  
4 problem is, to the gubernatorial candidates?

5 Any discussion? Are we ready to vote on it?

6 REPRESENTATIVE MARTINY:

7 Let me make one more point. You might  
8 put somebody in a position -- Joe and I are  
9 over here talking on the side -- if you  
10 force them to take a position in the  
11 election, you may be stuck with that  
12 posit ion.

13 And where I think the problem with this  
14 issue is, is one that I don't think there's  
15 a tremendous amount of the State's  
16 population that admit that this is a big  
17 issue, too; where it would probably be  
18 better if -- you know, I mean, I'll support  
19 you, if you want to do it, that's fine.

20 But my style would be to wait and see  
21 who the next Governor is and get somebody in  
22 this guy's ear and go up there and say. Give  
23 us ten minutes or less. You know, I don't  
24 want to have to say, I know you took the  
25 position against it, or one way or the

1 other.

2 I mean, you may run into the problem  
3 that you get the answer that you don't want,  
4 and he's the Governor.

5 MS. WINTERS:

6 I certainly recognize your wisdom.  
7 Whatever the group chooses.

8 MR. COLEMAN:

9 You want to make a substitute motion  
10 that as soon as the Governor is elected that  
11 we then get him educated after the election?  
12 Well, I'll ask for a substitute motion that  
13 we - -

14 REPRESENTATIVE MARTINY:

15 At the risk of offending Ms. Winters --  
16 and I certainly don't want to do that -- I  
17 just think that, knowing the way this State  
18 works, there's a lot more done that's not --  
19 you have a better chance if you can sit down  
20 with anybody on this particular issue and  
21 explain it to them in a way that they will  
22 be supportive of you, rather than if it were  
23 to become an issue in a debate or something.

24 So I'll make the substitute motion that  
25 the Commission approach whoever is

1 elected - -

2 MR. NEWBURGER:

3 Second.

4 REPRESENTATIVE MARTINY:

5 The next Governor.

6 MS. WINTERS:

7 May I ask a question: Would you  
8 consider sending these candidates historical  
9 background information about where we are  
10 and what we're doing?

11 REPRESENTATIVE MARTINY:

12 Well, why not -- I'm going to withdraw  
13 my substitute motion, because --

14 MS. WINTERS:

15 No. Please don't.

16 REPRESENTATIVE MARTINY:

17 It's not about whether it's my motion  
18 or your motion. I think it's important  
19 that, whoever the candidates are, be  
20 educated on the issue. And how we do it I  
21 think is a matter that -- it can be done  
22 that way. It doesn't hurt us to send the  
23 information on it.

24 The only thing I want to caution you on  
25 would be to - -

1 MS. WINTERS:

2 Ask him for a commitment.

3 REPRESENTATIVE MARTINY:

4 For a commitment, because then you're  
5 stuck.

6 MS. WINTERS:

7 That's very wise. Please don't  
8 withdraw your motion on that.

9 REPRESENTATIVE TOOMY:

10 I think that would be a better tactic,  
11 as far as educating the candidates as  
12 opposed to trying to secure a position at  
13 this point. And I don't know that that  
14 necessarily helps us, but it could work  
15 against you, as Danny said.

16 I think educating the candidates would  
17 be fine. Very well, some of them may not  
18 know anything about what this Commission  
19 does or about its existence. And then once  
20 we do have a Governor identified, sit down  
21 and make the whole case.

22 JUDGE MARULLO:

23 Can I just make one comment? Judge  
24 Marullo. You know, you've got so many  
25 candidates running for Governor now, you've

1 got three and a half weeks before the  
2 campaign, I don't know how much attention  
3 they are going to give to a lot at this  
4 point, really.

5 But you do have a second primary where  
6 you're probably going to narrow it down to  
7 two people or you are going to narrow it  
8 down to two people plotting against each  
9 other.

10 And it seems that at that point, you'll  
11 have a little bit more time; it would be a  
12 good time to approach both of the people in  
13 the second primary and try to get some kind  
14 of commitment from them, and then also see  
15 the Governor or whoever the one who is  
16 elected.

17 But then you are dealing with two  
18 people. And I think a letter is fine, but I  
19 think that a live body talking to them or  
20 several live bodies talking to them, and not  
21 primarily judges, lay people, and try to get  
22 commitments from them, I think would be a  
23 better approach.

24 MR. COLEMAN:

25 I'll appoint a committee of three in

1 the second primary, as you just suggested.  
2 Does everybody agree with that? Is there  
3 any other business?

4 MR. JOHNSON:

5 Is there a time in the early portion of  
6 the session where a full body meets where  
7 the leadership might be able to remind  
8 current members of the House and the Senate  
9 that this Commission exists and its intent,  
10 as well as inform new members that are  
11 appointed?

12 REPRESENTATIVE MARTINY:

13 The speaker can basically do whatever  
14 he wants. Get in the speaker's ear or the  
15 president 's ear in the Senate, and he's  
16 passionate about the issue in the way that  
17 you want him to be passionate, or he can do  
18 it anytime.

19 But our report's going to --

20 REPRESENTATIVE TOOMY:

21 Would we necessarily be issuing a  
22 report prior to the 60 days?

23 MR. PALMATIER:

24 Yes .

25 REPRESENTATIVE TOOMY:

1                   So the opportunity is there to  
2                   communicate with all of the legislators  
3                   prior to the session?

4                   MR. PALMATIER:

5                   Yes. The statute requires that we  
6                   submit it 60 days prior to the session.

7                   REPRESENTATIVE TOOMY:

8                   Then there would be a vehicle coming  
9                   from the Commission to all of the  
10                  legislators. And I guess because of a lot  
11                  of new people, we could spend a lot of time  
12                  detailing its history in working with the  
13                  Commission.

14                  MR. JOHNSON:

15                  My point being that if education is  
16                  obviously what needs to take place or the  
17                  vote would be taken away or happen the way  
18                  it did.

19                  So it just seems to me that if there is  
20                  a vehicle and a mechanism for getting this  
21                  out in front of the legislators, whether  
22                  they're new or re-elected, it would be of  
23                  benefit.

24                  MR. COLEMAN:

25                  I think you're right. Tim, you have

1 something?

2 MR. PALMATIER:

3 I was just going to read the  
4 provisional in that statute that says the  
5 commission shall submit its recommendations  
6 to the legislature 60 days prior to the  
7 commencement of any regular session.

8 So we will have the opportunity.

9 MR. COLEMAN:

10 Read it a little bit louder.

11 MR. PALMATIER:

12 The statute reads that the Commission  
13 shall submit its recommendations concerning  
14 judges' salaries to the legislature 60 days  
15 prior to the commencement of any regular  
16 session of the legislature. So we will have  
17 the opportunity to present them with a  
18 report prior to the session.

19 MR. COLEMAN:

20 Let's get to the business now of, if  
21 we're going to make a recommendation, we  
22 certainly want a proper study made. And  
23 Tim, I'd like you to make recommendations of  
24 what we did before and what we should do now  
25 and where the funds are going to come from.

1 MR. PALMATIER:

2 What we have done in the past is we  
3 have contracted with Dr. Scott from LSU to  
4 do an economic study, a market study, about  
5 the judicial salaries.

6 MR. COLEMAN:

7 He's still available?

8 MR. PALMATIER:

9 I have not talked with him. I know  
10 he's still in the State, he does a lot of  
11 those kinds of studies. He's a very good  
12 speaker at various conferences. He looks at  
13 the economics as well as does a market study  
14 of judicial salaries. He will also look at  
15 what other states do, what their  
16 commissions -- look at what other judges  
17 make in other states, what officials in  
18 other states make, what other lawyers make.

19 MR. COLEMAN:

20 So basically you're satisfied to give  
21 them the authority to make this study within  
22 the funds we have available, if he's  
23 available.

24 JUDGE THIBODEAUX:

25 Let me make sure. Are we going before

1 the legislature and the executives to change  
2 the status and/or ask for a raise? Why do  
3 we need this study, if we're not receiving a  
4 raise ?

5 What would be the need for this study  
6 to be submitted to the legislature if we are  
7 not going to seek a raise, when our emphasis  
8 is on changing the status?

9 MR. COLEMAN:

10 I understand the scope of your  
11 question. We definitely are going to go  
12 ahead and make a recommendation on the  
13 judges' salaries; and we are going to  
14 consider whether or not it's going to be  
15 appropriate at the same time to try to get  
16 our bill back amended.

17 And if we can, we are going to do it  
18 with enough grace so that everybody would  
19 agree the Commission should remain in  
20 existence and make a report and be ready to  
21 submit it to the legislature in accordance  
22 with the present act.

23 So the Commission is agreeing that we  
24 go ahead and get this study made, select an  
25 individual to make the study, and also make

1 a request for funds from the different  
2 judges and courts to get some kind of  
3 contribution that will keep us funded. And  
4 as I understand, we have \$9,000 right now.

5 MR. PALMATIER:

6 Yes .

7 MR. COLEMAN:

8 We had a wonderful study before. It  
9 was very helpful. And we will have another  
10 meeting; and the next meeting will be when  
11 the study is ready, and he is ready to make  
12 a report. And at the same time, there will  
13 be a public meeting for any judges or anyone  
14 who wants to be present and witness on what  
15 they recommend should be done on their  
16 salaries. That is the way we handled it  
17 before, and I assume we will follow the same  
18 procedure.

19 I also called your attention to many of  
20 us, our term of office is coming, and I  
21 think we ought to attend to our own affairs  
22 to see that we are reappointed. It would  
23 make me very happy if we could keep our  
24 Commission together with the same members.

25 Is there any further business? If not,

1 Judge Doucet has asked to have a personal  
2 privilege statement in front of the  
3 Commission.

4 JUDGE THIBODEAUX:

5 Just for our consideration, my  
6 experience has been that when the  
7 legislators are approached, they are  
8 approached in the middle of the session.  
9 They've got a million people pulling at  
10 them, they've got a thousand things to  
11 consider.

12 And unless that legislator is your good  
13 buddy -- we want to prioritize his or her  
14 various interests. So I would suggest that  
15 we seriously consider approaching them  
16 before the legislature opened.

17 MR. COLEMAN:

18 Before the legislature opened, each one  
19 of them in their own area received the  
20 letter with detailed information explaining  
21 it. I know they get a lot of information  
22 that needs attention. But again, every  
23 legislator got a letter explaining to them  
24 what's coming up.

25 Anything more before Judge Doucet?

1 JUDGE DOUCET:

2 As you recall, I was going to resign at  
3 the last meeting. Mr. Coleman asked me to  
4 stay on for the legislative session. So  
5 this will be my last meeting.

6 The purpose for my resignation is very  
7 simple. In committee, Chris Ullo, Senator  
8 Ullo, suggested an amended legislation,  
9 which said that there should be more lay  
10 people on this Commission. I happen to  
11 agree with him.

12 And I also agree that we need judges on  
13 it by way of guidance and information on the  
14 Judiciary. And unfortunately, right after  
15 that motion was made, that's when Senator  
16 Darden just offhandedly made a motion that  
17 we go back to the present situation we have  
18 in regard with the Commission.

19 I want to thank the Commission. We've  
20 all belonged to a lot of commissions,  
21 committees. This has been a real privilege  
22 for me to belong to this Commission. And I  
23 want to thank the Commission members and its  
24 staff, Mr. Coleman as chairman, the previous  
25 chair people that served this Commission,

1 and it's been a real privilege for me to be  
2 here. I'm very passionate about this issue,  
3 so I'll be helping out as much as I can.

4 I will be informing the Governor of my  
5 resignation and asking the Governor to  
6 appoint a lay person to this Commission so  
7 Senator Uddo cannot say that we do not have  
8 enough lay people here.

9 I might add again, and I have said this  
10 many times, I have never met a lay person on  
11 this Commission, after looking at  
12 independent facts and figures, who did not  
13 say. What in the heck is going on? Give  
14 these people what they truly deserve.

15 So I think I am strengthening you as a  
16 Commission by asking the Governor to appoint  
17 a lay person. And I personally believe the  
18 legislature will pass it next session.

19 Thank you.

20 MR. COLEMAN:

21 Is there any other business? If not,  
22 I'll close.

23 I think we are going to have  
24 refreshments outside. We'll give you notice  
25 of the next meeting. Thank you so much for

- 1 coming.
- 2 (Proceedings concluded.)
- 3

## CERTIFICATE

1 |  
2  
3 I, ROSE MARIE DiVINCENTI, Certified Court  
4 Reporter in and for the State of Louisiana, as the  
5 officer before whom this proceeding was taken, do  
6 hereby certify that this proceeding was reported by  
7 me in the stenotype reporting method, was prepared  
8 and transcribed by me or under my personal  
9 supervision, and is a true and correct transcript  
10 to the best of my ability and understanding; that  
11 I am not related to counsel or the parties herein,  
12 nor am I otherwise interested in the outcome of  
13 this matter.

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22 ROSE MARIE DiVINCENTI  
23 Certified Court Reporter  
24  
25