MINUTES: February 24, 2016, MEETING
GEORGIA COMMISSION ON DISPUTE RESOLUTION

Chair Judge Charles E. Auslander III called the meeting to order. In addition to Judge Auslander, Commission members present were:

Chief Justice Hugh P. Thompson; Hubert J. Bell, Jr., Esq.; Raymond G. Chadwick, Jr., Esq.; Mary Donovan, Esq.; Chief Judge Sara L. Doyle; Judge C. Andrew Fuller; Melissa C. Heard, M.S.S.W.; and Timothy Hedeen, Ph.D. Stefani R. Lacour, Esq.; Judge J. Carlisle Overstreet; Edith B. Primm, Esq.; and Vjollca Young participated by phone.

AOC staff members present were: Robert Aycock, Research and Statistical Analyst; Bianca Bennett, Project Coordinator; Christopher Hansard, Director of Judicial Services; Zan Patorgis, Esq., Legal Compliance Officer; Shinji Morokuma, Esq., Director, Office of Dispute Resolution; and Linda Smith, Education Certification Officer.

Guests present were: Patti Anderson, Cobb County ADR Program; Larry Harton, DeKalb County ADR Program; Herbert H. Gray III, Esq., Mediator; Justine Lynch, Mediator; Jerry Wood, Esq., Fulton County ADR Program; David Zacks, Esq., Henning Mediation.

1. Call to Order:

Judge Auslander called the meeting to order; members and guests introduced themselves.

2. Minutes:

The minutes of the November 4, 2015, Commission meeting were approved prior to the meeting via e-mail vote.

3. Committee Reports:

Budget Committee: Judge C. Andrew Fuller

Judge Fuller provided copies of the FY 2016 budget report to date. He noted that the Commission has spent 62% of its annual budget, which is in line with expectations.

Ethics Committee: Hubert J. Bell, Jr., Esq.

Mr. Bell reported that the Committee received a complaint against a registered neutral who allegedly suggested that a party who had possession of the other party's family heirloom use the item as a bargaining chip in the mediation. The complaint was dismissed due to conflicting accounts.

In another case, the Committee issued a private reprimand to a registered mediator acting as counsel to a party in mediation. The mediator in the case was not a registered mediator. The registered mediator/attorney formed a business partnership with the mediator less than 30 days after the mediation. This business arrangement between

participants in the mediation created the appearance of mediator impropriety. It was not known if the registered neutral will appeal the Committee's decision to the full Commission. Once the appeal period expires, the Committee will prepare an ethics opinion based on the complaint, Mr. Bell said.

Training Committee: Melissa C. Heard, M.S.S.W.

Ms. Heard stated that the Committee had no new items to report.

Liaison Committee: Raymond G. Chadwick, Jr., Esq.

Mr. Chadwick discussed the Evaluative Mediation Task Force report and the comments he has received on it. Among the concerns and questions raised by dispute resolution professionals were:
-- Whether the Commission intended to prohibit evaluative mediation for any cases that are filed in any court and where there is an ADR program;
-- Mediators' confusion over certain terms used in the report, such as court-connected, court-annexed, and court referred as they relate to the Commission's jurisdiction;
-- Experienced mediators are often hired to provide opinions and evaluations, so any attempts to limit the practice for court cases would meet with resistance from mediators and their clients.

Mr. Chadwick said further discussions with mediators, advocates, and consumers of mediation will take place before the May Commission meeting.

Mr. Chadwick introduced Mr. David Zacks, Esq., who was the spokesperson for several attorney mediators. He reported that parties in their mediations overwhelmingly favor analytical, evaluative-style mediators, and he hopes that the Commission would not disturb what the market place wants. He expressed confidence that further dialogue with Commission representatives would address any concerns. Judge Auslander stated that the Commission and the report did not intend to prevent mediators from providing evaluative services. Judge Doyle recommended amending the report's last sentence to clarify that intent.

Mr. Chadwick reported on the Southeastern ADR conference that he and Mr. Morokuma attended in November. The conference brought together program administrators and chairs from several states who shared their thoughts on topics such as ADR training, mediation ethics and discipline, evolution of mediation, rules and policy, and program evaluation. Mr. Morokuma and Mr. Chadwick presented on the subject of continuing education requirements for mediators.

Mr. Morokuma said a committee has been formed to draft an advisory opinion on calculating child support arrearages, based on a March 2015 Georgia Court of Appeals decision in *Wright v. Burch*. The court stated that child support arrearages could not be reduced through settlement, negotiation, or judicial action, as such reductions would be tantamount to altering the original judicial order of child support. Judge Auslander said Cynthia Wright, former Fulton County superior court judge and former Commission member, has agreed to chair the committee, which will determine the appropriate way to

help domestic relations mediators comply with the Court of Appeals decision. The committee's recommendation is expected in May.

Judge Auslander noted that Mr. Chadwick's new book, "Successful Mediation: How to Define and Accomplish It," is being used in training classes at Emory University.

Strategic Plan Research Sub-Committee: Mr. Timothy Hedeen, Ph.D.

Dr. Hedeen reported that two surveys have been conducted since the last meeting. The first was an analysis of the hardware and software local court programs use collect to collect data. The survey data will help the Commission determine how it can best help court programs report their statistics more easily.

Mr. Aycock reported on the second survey, which asked judges, court administrators, ADR staff, registered neutrals, and local ADR boards what kind of research they would like the Commission to undertake. "Cost savings attributable to ADR" was the most frequently suggested research topic, followed by "time savings attributed to ADR" and "ADR participation barriers."

4. Director's Report: Shinji Morokuma, Esq.

Report on ADR Institute: Mr. Morokuma reported that the 22nd ADR Institute and Neutrals Conference, held on Dec 11 at the State Bar of Georgia, attracted 220 attendees. The Institute for Continuing Legal Education will show a video replay of the conference on March 22, at Mercer Law School. Mr. Morokuma reminded members that Registrar staff set up laptops and printers at last year's ADR Institute to help neutrals renew their registrations. Due to the popularity of that service, it was offered again at the 2015 ADR Institute. Customer Service Specialist Herbert Gordon assisted about 50 neutrals with their renewals at the conference. This service will be offered at every ADR Institute in the future.

Clarke Award: Mr. Morokuma reported that Ms. Edith Primm was presented the 2015 Chief Justice Harold G. Clarke Award for Outstanding Contributions to Alternative Dispute Resolution in Georgia. Judge Sara Doyle presented the award to Ms. Primm at the Justice Center of Atlanta on December 10, 2015.

Renewal Season Updates: Mr. Morokuma reported that out of the 2,130 neutrals due to renew during the 2015 renewal season, approximately 1,411 have renewed, 150 have submitted applications, and 582 are due to renew..

Mr. Morokuma introduced Ms. Bianca Bennett as the newest staff member in the AOC's Office of Court Professionals. She previously worked with the Georgia Courts Registrar and provided customer service to neutrals renewing during the 2015 renewal season. Ms. Bennett gave a brief overview of the 2015 renewal season. There were fewer requests for technical support compared to the 2014 season. She attributed the drop to improvements to the Registrar that allowed for easier submission of continuing education hours; updates that supported a variety of internet browsers; and user familiarity with the system. Most of the tech support requests were from users who forgot their login credentials.

Mr. Morokuma reported that a link to a Registrar customer service survey went out in all renewal confirmation email to neutrals. Mr. Aycock noted that while the survey results appear more positive than they were in last year's survey, the survey has had too few responses to draw conclusions. A request to complete the survey will be sent out to renewed neutrals.

Judge Auslander said he was particularly interested in the results of the survey questions that ask for about the options of multi-year renewals and earlier and longer renewal seasons.

5. Chairman's Report: Judge Charles E. Auslander III

Judge Auslander reported that substantial work on the strategic plan initiatives will begin this summer.

Judge Auslander reported that former Commission member Raye Rawls of the University of Georgia is helping to update the domestic violence screening and mediation guidelines, which date from 2004. The Georgia Commission on Family Violence has agreed to partner with the Commission on the project. Members and staff of both Commissions formed a Domestic Violence Guidelines Committee headed by Joan Prittie, editor of the Domestic Violence Benchbook. The committee met in January and agreed to update the guidelines to align with current research and best practices. Safety, self-determination, best practices, and practical implementation are the guiding principles of the project. Judge Auslander said he wants the updated guidelines to receive the approval of both Commissions.

Judge Auslander reported that the Commission will be seeking new Superior Court judge and Court of Appeals judge appointees this summer as Judge Adams' and Judge Doyle's terms have expired. Judge Auslander welcomed suggestions regarding potential appointees.

6. Adjournment

The meeting was adjourned at approximately 3:25 pm.

[Minutes prepared by Bianca Bennett and Shinji Morokuma]