MINUTES: FEBRUARY 11, 2015, 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; Emily S. Bair, Esq.; Hubert J. Bell, Jr., Esq.; Raymond G. Chadwick, Jr., Esq.; Mary Donovan, Esq.; Judge Sara Doyle (by phone); Judge C. Andrew Fuller; Melissa C. Heard, M.S.S.W.; Judge Stefani Lacour (by phone); Judge J. Carlisle Overstreet; and Edith B. Primm, Esq.

AOC staff members present were: Shinji Morokuma, Esq., Director of Certification and Licensing; Linda Smith, Education Certification Officer; Cynthia Clanton, Esq., General Counsel; Zan Patorgis, Contract Attorney; Christopher Hansard, Program Manager, Research, Planning and Data Analysis; Kimberly Miller, Research and Statistical Analyst.

Guests present were: Robert Black, recently retired mediator; Anjel F. Burgess, attorney, Burgess & Christensen; Laurence L. Christensen, Esq., attorney, Burgess & Christensen; Koya Olateru, Metro Brokers Enterprise; Paula Snively, Administrative Director, Burgess & Christensen; Brenda Sutton, Program Director, Macon and Houston Judicial Circuit ADR Program; and Gwen Wiggins, registered neutral.

1. Call to Order:

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

2. Minutes:

The minutes of the November 19, 2014, Commission meeting were approved prior to the meeting via e-mail vote.

3. Recognition of Laurence L. Christensen: Justice Thompson

Justice Thompson presented a Supreme Court Resolution to former Commission Member Laurence L. Christensen, Esq. The Resolution recognized Mr. Christensen's outstanding service on the Commission from 2010 to 2014. As Chair of the Budget and Personnel Committee, he helped lead the Commission through its most difficult budgetary period, including persuading the Dispute Resolution Section of the State Bar of Georgia to hire a forensic accountant and a lobbyist to work toward GODR's fiscal health and independence.

4. Committee Reports:

Budget Committee: Judge Fuller

Judge Fuller provided copies of the FY 2015 budget report to date, noting that the Commission has spent 59% of its annual budget and reporting that the budget is in exceptional condition.

Ethics Committee: Mr. Bell

Mr. Bell reported that GODR has no pending complaints. In August 2014, an individual applied for pre-certification, and after consideration, the Committee denied the application. The individual appealed to the full Commission, which remanded it back to the Committee for reconsideration with additional material furnished. On remand, the Committee again found the individual unfit for registration. The individual chose not appeal the second decision.

Training and Credentials Committee: Ms. Heard

Ms. Heard reported that the revised ethics exam has been approved by the Committee. Passing the exam is required of mediators who have taken training outside of Georgia but who want to register in Georgia. The new exam comprises 30 questions based on the ethics rules in Appendix C. The previous 100-question exam will still be used for educational purposes. The Commission voted to approve the new exam.

To account for the considerable staff time required to review the trainings of applicants who were not trained in an approved Georgia training, the Committee proposed a $25 application processing fee for those applicants, in addition to the regular registration fee. If the application is not accepted, the registration fee will be returned, but the application processing fee will not. The Commission voted to approve the new fee for out-of-state applicants.

The Committee denied a request for a waiver of training by an individual wishing to be grandfathered in to registration. The Committee anticipates that the individual will appeal to the full Commission. There are two pending matters before the Committee at this time. First, an individual who is not registered in Georgia has asked that his domestic relations mediation application be approved. Second, an attorney who has practiced for over 40 years and actively mediates in private settings has asked to be reinstated after several years of inactivity.

Liaison Committee: Mr. Chadwick

Mr. Chadwick reported no serious questions or concerns following a blast email sent inviting neutrals to contact him. The Committee has received a request to work with program directors for continuing education and other purposes.

5. Director's Report: Mr. Morokuma

Georgia Courts Registrar System Update: Mr. Morokuma reported that approximately 2,000 Georgia neutrals have registered and are in the new Registrar system. Just fewer than 1,700 have been approved, with approximately 300 other applicants pending due to incomplete documents.

Judge Auslander explained that the AOC requested that the Commission pay a fee of $7,560 for the continued use of the Registrar system. That money was approved by the

Budget Committee. After the initial implementation of the Registrar, the AOC entered into agreement with the vendor for enhancements costing approximately $78,000, and has requested that the Commission pay a significant portion of that cost. That payment was not approved by the Budget Committee.

Ms. Primm restated her previous concern over the Registrar system's continued use of the terms "suspended" and "revoked" to mean "inactive" and "archived," respectively. The Commission proposed and agreed that a letter will be sent requesting a fix in language by September 1, 2015, in time for the new registration period. No motion was made, as the issue was already voted on at a previous meeting.

Report on ADR Institute: Mr. Morokuma reported that there were over 200 attendees at the December 12, 2014, conference, with speakers including David Joseph from the Public Conversations Project of Watertown, Mass., who spoke on cross-cultural communication; Commission member Dr. Hedeen, who presented on the appropriate role of mediator pressure; Dr. Susan Raynes from Kennesaw State University, who spoke on innovations in online dispute resolution; and a panel of Georgia ADR court program directors, who spoke on working with *pro se* parties.

Report on Visit with Juvenile Court Judges in Atlantic Circuit: Mr. Morokuma reported that he and Ms. Lynn Goldman, an attorney and expert on juvenile court mediation, traveled to Hinesville to meet with the Atlantic Circuit judges, including the new Juvenile Court Judge Christy Balbo. Mr. Morokuma said the circuit is interested in expanding the ADR program into juvenile court and delinquency mediation, and the judges on the local ADR board agreed to green light a pilot program in McIntosh and Bryan counties, where Judge Balbo presides. Additionally, the board agreed to fund a part-time coordinator for the delinquency mediation program. GODR will help provide training for a cohort of juvenile court mediators. The board hopes to later expand mediation services into dependency cases.

Mr. Morokuma said he and Ms. Goldman also attended a delinquency stakeholders' conference in Savannah and received positive feedback regarding Chatham County's delinquency mediation program. The county wants to train more mediators in delinquency mediation before introducing dependency mediation into the system. While returning to Atlanta, Mr. Morokuma stopped by the Dublin Judicial Circuit ADR office, where he met with Superior Court Judge Jon Helton and Juvenile Court Judge Samuel Hilbun.

Report of meeting with Venezuelan Judge: Mr. Morokuma reported that through the U.S. State Department's International Leadership Program, he met with an administrative and civil judge from Venezuela visiting Atlanta. The Venezuelan judge was particularly interested in incorporating mediation and other dispute resolution processes into his courts.

State of the Judiciary Speech: Mr. Morokuma reported that the Chief Justice's State of the Judiciary Address on February 4 included mention Georgia's court-connected dispute resolution system. Copies of the speech were distributed with the paragraph on the system highlighted.

Domestic Violence Screening Trainings: Mr. Morokuma reported that GODR is planning to sponsor one or two trainings to help ADR court staff screen potential mediation cases for domestic violence and abuse issues. Emails have been sent to program directors, and the GODR found that 15-20 program staff throughout Georgia need training for this screening.

ABA DR Section Conference: Mr. Morokuma reported he plans to attend the ABA Dispute Resolution Section annual conference in April. It includes a symposium focusing on court ADR. He is particularly looking forward to a presentation by staff of Maryland's court ADR system, who are presenting research supporting the claim that dispute resolution courts provide value to the courts in terms of lower and decreased resolution times.

He added that the Southern Regional Dispute Resolution program directors will meet in Nashville in the fall to discuss ideas and issues. Commission members will be invited to attend.

Idea to Revise Mediation Confidentiality Rules Mr. Morokuma reported that AOC legal staff are currently examining the question of whether the current confidentiality rules allow for disclosure of attorney advocate misconduct that occurs in court-connected mediation. He said the Commission should consider revising the confidentiality rules to include an exception that would allow the mediator to disclose when he or she believes the attorney's conduct would be a violation of the ADR Rules or the Georgia Rules of Professional Conduct. A proposed change will be presented to the Commission at a later date.

Idea to Allow for SDV Training and Registration Through Juvenile Track: Mr. Morokuma reported on an idea to allow mediators who have gone through the juvenile mediation training track (delinquency and deprivation) to achieve Specialized Domestic Violence registration without first registering in domestic relations mediation. Currently, SDV registration is available only to registered domestic relations mediators who have completed the SDV training and who have a letter of recommendation from a superior court program director vouching for their domestic relations mediation skills. This idea is still being developed and may be presented to the Commission at a later date.

Caseload Reporting Definitions: Ms. Miller reported on new proposed standardized ADR definitions that will be used to collect ADR data from court programs across the state. Some members of the Commission voiced general concerns about the difficulty of getting all courts to adopt these definitions, but the Commission agreed that GODR should not wait for a consensus among court programs about the definitions in order to start collecting statewide ADR data.

Report on Investigations of Parker Mediation Group: Mr. Patorgis reported that a Massachusetts attorney reached out to GODR several months ago regarding complaints made to her firm about a Georgia company with a very similar name to her law firm. The Georgia entity, the Parker Mediation Group, LLC, has a website that identifies itself as a mediation firm, yet it is not associated with any legitimate mediation group or registered

mediator. The firm instead has been making harassing phone calls to people to collect false debts. The Georgia Office of Consumer Protection has received three complaints about the group, but it is not currently investigating because all of the complaints have come from outside Georgia. Mr. Patorgis reported that the Georgia entity's website has since been taken down since he started researching the entity.

6. Chairman's Report: Judge Auslander

Strategic Planning: Judge Auslander reported a draft strategy map is near completion, and he anticipates that the strategic plan will be finalized or close to finalized at the next strategic planning session, which will begin at 11:30 am on April 30, 2015.

Conflict of Interest Disclosure: Judge Auslander reported that the AOC legal department has received all required conflict of interest disclosures from Commission members.

Customer Service Survey: Judge Auslander reported the AOC Judicial Council will reinstitute its customer service survey of registered neutrals after the 2015 renewal season. The results will be presented to the Commission in 2016.

Justice Thompson Among 100 Most Influential Georgians: Judge Auslander recognized Chief Justice Thompson for being named one of the 100 Most Influential Georgians by *Georgia Trend* magazine.

Audit Report: Judge Auslander reported there was nothing of note in the AOC audit report regarding the Commission.

7. New Business: Judge Auslander

Next Meeting Date: The next meetings will held on April 29, August 12, and November 4, 2015.

The meeting was adjourned at about 3:30pm.