

Georgia Commission on Dispute Resolution
MEETING AGENDA
Thursday, September 27, 2012, 2-4 PM
State Bar of Georgia

- I. Call to Order
-- Introductions of retiring and new members, bios of new members
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- II. Minutes from May 10, 2012, meeting approved via e-mail vote
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- III. Committee Reports
-- Budget and Personnel Committee: Larry Christensen
-- Ethics Committee: Judge Charles Auslander
-
- IV. Director's Report: Shinji Morokuma
-- Augusta Circuit ADR Rules approved via e-mail vote
-- Juvenile mediation: grandfathering requests, registrations
-- Scanning neutral records completed
-- Database system as basis for new Certification & Licensing system
-- ADR Institute Dec. 14, planning already begun
-
- V. New Business
-- ADR Statute Proposed Amendment re Juvenile Code
-- Next Meeting Dates: Nov. 15, 2012; Feb. 28, 2013; May 23; August 29; Nov. 21
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- VI. Recognition of Retiring Members: Alan Granath, Marti Kitchens, Edie Primm as chair:
Judge Doyle
-
- VII. Swearing in of New Members: Timothy Hedeem, Vjollca Young, Robin Frazer Clark,
Judge Auslander as chair: Judge Doyle
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- VIII. Remarks by New Chair: Judge Auslander
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- IX. Adjournment

MINUTES: SEPTEMBER 27, 2012, MEETING
GEORGIA COMMISSION ON DISPUTE RESOLUTION

Chair Edith B. Primm, Esq., called the meeting to order. In addition to Ms. Primm, Commission members present were: Judge Charles E. Auslander III; Emily S. Bair, Esq.; Hubert J. Bell, Jr. Esq.; Laurence L. Christensen, Esq.; Judge Sara Doyle; Judge C. Andrew Fuller; Alan Granath; Melissa C. Heard; Martha Kitchens; and Judge J. Carlisle Overstreet.

GODR staff members present were: Shinji Morokuma, Esq., Director; and Cynthia Clanton, Esq., Administrative Office of the Courts;

1. Introductions of Retiring and New Commission Members:

Ms. Primm recognized Ms. Kitchens and Mr. Granath, who were stepping down after their terms on the Commission expired. She thanked them for their nearly six years of dedication and service. Ms. Primm introduced the two new Commission members who would be sworn in later: Timothy Hedeem, Ph.D., professor of conflict management at Kennesaw State University; and Vjollca Prroni Young, a securities and corporate litigation analyst at Bryan Cave LLP and a former attorney in Albania. Both Dr. Hedeem and Ms. Young are registered mediators. She thanked them for their willingness to serve on the Commission and share their wisdom and experience.

2. Visitors:

Ms. Primm welcomed the visitors: Elmira Barrow, Coweta Judicial Circuit ADR Program; Amber Gallman, Esq., DeKalb County ADR Program; Steve Gold, Esq., mediator and arbitrator; Lynn Goldman, Esq., Fulton County Juvenile Court Deprivation Mediation Program; Jacqueline Granath; Timothy Hedeem, Ph.D., Kennesaw State University; Tom LeFevre, Esq., mediator, arbitrator; Molly Perry, Administrative Office of the Courts; Betsy Primm; Lizzie Primm; Maggie Reeves, Administrative Office of the Courts; Laura Lynn Swafford, Gwinnett County ADR Program; Kirsten Widner, Esq., Barton Child Law and Policy Center, Emory University School of Law; Jerry Wood, Esq., Fulton County ADR Program; Joseph Young, Esq.; and Vjollca Prroni Young.

3. Minutes:

The minutes of the May 10, 2012, Commission meeting were approved prior to the meeting via e-mail vote.

4. Committee Reports:

Budget and Personnel Committee: Mr. Christensen

Mr. Christensen reported that GODR's budget has recovered from the elimination of state financial support beginning with FY2012. For FY13, the accrued fees from the prior years and anticipated fees from this year total about \$600,000, he reported, compared to the approximately \$350,000 the office received annually from the state in FY2006. He presented a proposed office budget for FY13. The Commission voted unanimously to approve the budget.

[Attachment 1]

Ethics Committee: Judge Charles Auslander

Judge Auslander reported on how far the Commission had come in the last year in its ability to investigate ethics matters. GODR staffing reductions necessitated by budget cuts meant that ethics matters often took much longer to resolve than they should have, he said. In addition, Director Shinji Morokuma was put in the difficult position of serving as the office's ambassador to neutrals statewide while also serving as its lead ethics investigator.

In January 2012, the Commission entered into an agreement with the Administrative Office of the Courts for the services of AOC General Counsel Cynthia Clanton to serve as ethics investigator. Since then, Ms. Clanton has handled seven ethics investigations. Of those seven cases, five are complete and two are nearing completion. Judge Auslander praised her contributions, which have allowed the committee to quickly respond to complaints and deal with them appropriately. He also thanked the Commission for approving rule changes that gave the committee more sanctioning options to resolve ethics complaints.

Judge Auslander reported that the committee convened and discussed one registration application, which was put on hold pending information from another agency. The Committee also is working on the issue of confidentiality of mediation communications. It is drafting an advisory opinion on confidentiality, he said, that will be followed by an ethics panel on confidentiality at the 2012 ADR Institute; articles on confidentiality placed in the Daily Report and Georgia Bar Journal; and an examination of a possible ethics rule amendment regarding waiver of confidentiality. He thanked Mr. Granath and attorney mediator Steve Gold for their leadership in helping the committee advance understanding of confidentiality in mediation.

Lastly, Judge Auslander reported that Ethics Committee Member Hugh Bell would take over as committee chair. Ms. Primm thanked Judge Auslander for his leadership of the committee and emphasized how vital a strong Ethics Committee was to the regulatory responsibilities of the Commission.

5. Director's Report: Mr. Morokuma

Mr. Morokuma thanked the Commission for approving amendments to the Augusta Circuit ADR Rules via e-mail vote several weeks prior the meeting.

GODR began accepting applications for grandfathering into delinquency mediation and deprivation mediation in May 2012, Mr. Morokuma said. Since then, the office has processed 33 applications for grandfathering into delinquency mediation and 16 applications for grandfathering into deprivation mediation. Several applications are being held for incomplete information.

GODR has completed digitizing all of its paper neutral records, Mr. Morokuma reported. Thousands of active, inactive and archived files have been scanned by a vendor. Now office staff can access those files through a software program called LaserFiche from any computer. The scanning has freed up much-needed office space at the AOC. He thanked the AOC for spending an expiring budget encumbrance toward the office's latest scanning bill of \$11,000.

The 2012 ADR Institute is scheduled for Friday, December 14, at the State Bar Conference Center, Mr. Morokuma said. This year's institute will feature another great line-up of interesting speakers and topics, including the ethics panel discussion on confidentiality. The ADR Institute continues to be one of the largest single-day conferences that the Institute for Continuing Legal Education organizes every year.

GODR's neutral database management system, which it purchased about five years ago, will form the basis for new database system created and managed by the AOC, Mr. Morokuma said. Molly Perry, AOC Court Services Division Director, who oversees the Certification & Licensing Section, said the new in-house system will be shared by GODR and its sister agencies in the Certification & Licensing, such as the Commission on Interpreters and the Board of Court Reporting, which currently do not have database systems. She thanked GODR Administrative Coordinator Tynesha Manuel and Mr. Morokuma for helping the AOC staff to design the new system to be functional for all of the related agencies.

6. New Business

-- Proposed Amendment to ADR Statute: Mr. Morokuma reported that the Georgia Court-Connected ADR Act of 1993, O.C.G.A. §§ 15-23-1 through -12, which allowed filing fee-based funding for local ADR programs, has been misinterpreted by some local ADR boards to deny mediation funding for juvenile courts because they do not collect civil filing fees. He said Kirsten Widner of the Barton Child Law and Policy Center has asked if the Commission would agree to amend the statute to make clear that juvenile courts are entitled to be funded by ADR filing fees collected by other courts. The amendment would remove an obstacle to the adoption of mediation by more juvenile courts in Georgia.

The proposal to amend the filing fee statute was made in conjunction with Georgia's new juvenile code, which fully contemplates and integrates mediation where the previous code was silent on mediation. Ms. Widner, who has been leading the efforts to draft and pass the new code in the General Assembly, explained that legislative counsel agrees that juvenile courts can be supported under the filing fee statute as written. However, she

said, to make the point clearer counsel has suggested a textual change to the statute that would state explicitly that juvenile courts are entitled to share in the ADR fees collected by the court. Legislative counsel has also suggested another amendment so that approved court programs would have meet the standards of all of the ADR Rules and appendices, not just the Uniform Rule for Dispute Resolution Programs, which comprises Appendix A.

Several Commission members and guests debated whether or not mediation should be conducted by juvenile courts and whether the process was more appropriately offered by other state juvenile justice agencies. Ultimately, the Commission members voted unanimously to approve the proposal for legislative counsel to attempt to amend the filing fee statute in the legislature.

[Attachment 2]

-- Next Meeting Dates: Nov. 15, 2012; Feb. 28, 2013; May 23; Aug. 29; Nov. 21. Judge Auslander said that as chair he may cancel the Nov. 15, 2012, meeting if there is no pressing business for the Commission to attend to.

7. Recognition of Retiring Members: Judge Doyle

Alan Granath and Martha Kitchens were each presented with a plaque recognizing their nearly six years of service and particularly their dedication during the years when GODR's budget was endangered by state budget cuts. Both Mr. Granath and Ms. Kitchens served on the Ethics Committee and the Budget and Personnel Committee. Mr. Granath served on the Rules Committee and chaired the ADR Court Program Liaison Committee, of which Ms. Kitchens was also a member.

Ms. Primm, who has served as Commission chair since June 2009, stepped down as chair and resumed her role as a Commission member. Judge Doyle presented Ms. Primm with a Supreme Court resolution in which the Court's seven justices thanked her for, among other significant contributions, her steadfast leadership of the Commission during "the most difficult budgetary times in its 19-year history."

8. Swearing in of New Members: Judge Doyle

Mr. Hedeem and Ms. Young were both sworn in by Judge Doyle swore to five-year terms as members of the Commission. Judge Doyle then swore in Judge Auslander as chair of the Commission, to succeed Ms. Primm

9. Remarks by New Chair: Judge Auslander

After he was sworn in, Judge Auslander thanked Mr. Granath and Ms. Kitchens for their service, and he thanked Ms. Primm for her leadership, particularly in helping the GODR survive its funding crisis. He then outlined his three goals for his term as chair of the Commission:

-- Service: Continue to focus on the Commission's core mission to serve its constituents, by efficiently registering neutrals, offering training, assisting court programs, providing strong ethics regulation and education, and publicizing the benefits of being registered;

-- Jurisdiction: More clearly define, clarify, and communicate the jurisdiction of the Commission by establishing a jurisdiction task force, chaired by Judge Doyle;

-- Registration: Promote the value of registration and the use of registered mediators among lawyers and judges, by establishing a communications/public relations committee that will strategize how to create and promote a Georgia registration "brand" and how to effectively communicate the message.

The meeting was adjourned.

The Commission went into Executive Session.

Attachments:

1. GODR budget summary
2. Proposed Amendment to ADR Act
3. Bios of new Commission members

[Minutes prepared by Shinji Morokuma, Office of Dispute Resolution]