

Georgia Commission on Dispute Resolution
MEETING AGENDA
Wednesday, August 12, 2-4 PM
State Bar of Georgia

I. Call to Order: Judge Charles Auslander

II. April 29, 2015, meeting minutes approved via email.

III. Committee Reports:

- Budget Committee: Judge C. Andrew Fuller
 - Ethics Committee: Hugh Bell
 - Training Committee: Melissa Heard
 - Request to allow CE waiver for neutrals age 70 and older
 - Request to allow CE hours to roll over from prior year
 - Liaison Committee: Ray Chadwick
 - Newsletter
 - Representing Commission at Southeastern ADR Conference
-

IV. Director's Report: Shinji Morokuma

- Atlantic Circuit Juvenile Court Mediation Rules, vote needed
 - Requested rule change to allow neutrals to drop individual registration categories
 - New website launched
 - Registrar updates
 - Registration renewal upcoming
-

V. Chairman's Report: Judge Auslander

- Strategic planning next steps
 - Data collection, technical assistance grants
 - Commission membership
-

VI. New Business: Judge Auslander

- Next Meeting Dates: November 4; February 17, 24, 25?
-

VII. Adjournment

MINUTES: AUGUST 12, 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:

Judge Gregory A. Adams (phone); Emily S. Bair, Esq.; Hubert J. Bell, Jr., Esq.; Raymond G. Chadwick, Jr., Esq. (phone); Mary Donovan, Esq. (phone); Judge Sara Doyle; Judge C. Andrew Fuller; Melissa C. Heard, M.S.S.W.; Timothy Hedeem, Ph.D.; Stefani R. Lacour, Esq.; Judge J. Carlisle Overstreet; and Edith B. Primm, Esq.

AOC staff members present were: Cynthia Clanton, Esq., Interim Director/General Counsel; Lauren Byrne, Legal Intern; Kimberly Miller, Research and Statistical Analyst; Shinji Morokuma, Esq., Director of the Office of Dispute Resolution; Zan Patorgis, Esq., Legal Compliance Officer; and Linda Smith, Education Certification Officer.

Guests present were: Patti Anderson, Cobb County ADR Program; Valerie Lyle, Ninth Judicial Administrative District ADR Program; Trina Proctor, mediator; Tiffany Scott, Macon and Houston Judicial Circuits ADR Program; Brenda Sutton, Macon and Houston Judicial Circuits ADR Program; Felicia Watkins, mediator; and Jerry Wood, Esq., Fulton County ADR Program.

1. Call to Order:

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

2. Minutes:

The minutes of the April 29, 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 final FY2015 budget report and the FY2016 budget report, noting that the Commission remained within its FY2015 budget, and that the FY2016 budget mirrors that of FY2015. There were no questions or comments.

Ethics Committee: Hubert J. Bell, Esq.

Mr. Bell reported the Committee recently investigated three undisclosed convictions on applications, two of which are still under investigation, and the third of which was approved because the conviction should have been discharged under the First Offender Act. The Committee is also investigating an applicant who is still on probation from a crime in 2000, but appears to be rehabilitated. Finally, Mr. Bell reported that Mr. Patorgis is investigating a new complaint filed against two neutrals, which has not yet been formally submitted to the Committee.

Ms. Primm expressed concern about the perception that the number of applicants with convictions is increasing or becoming a common trend. Mr. Bell expressed his opinion that there are still few instances of convictions, relative to the number of applications, and he does not feel there is any need for concern. Mr. Patorgis added that many of the Committee's investigations are triggered because of a failure to disclose a minor conviction from many years prior. For example, an individual may unintentionally fail to disclose a minor-in-possession-of-alcohol conviction.

Training and Credentials Committee: Melissa Heard

Ms. Heard reported that a neutral formally requested that the Commission consider two changes to the continuing education rules. Judge Auslander referred the request to the Training and Credentials Committee to review and provide a recommendation to the Commission. The first request was to allow neutrals over age 70 to be exempt from annual continuing education requirements. The second request was to allow neutrals to roll over excess continuing education hours from one renewal season to the next. The Committee studied both requests and recommended that the Commission not alter the continuing education rules, especially in light of the fact that neutrals are only required to complete three hours of continuing education per year, and those credits may be completed online. No Commission members motioned for a vote on these requests. Ms. Heard will submit a summary of the Committee's recommendation to Judge Auslander so that the neutral who requested the rule changes may be informed of the Commission's decision. (**Note from the Chair: this summary will be attached to the minutes in the future and made available upon request.)

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

Mr. Chadwick reported that he and Mr. Morokuma will attend the Southeastern ADR Conference in Nashville, Tenn., in November, where they will give a presentation to ADR representatives from several other southeastern states. He noted also that the ABA Dispute Resolution Section's Advanced Mediation Advocacy Institute is taking place in Atlanta in October, where many Georgia registered neutrals will be presenting.

In response to frequent questions about when Commission meetings are taking place and what is discussed there, future newsletters will now include a summary of the most recent meeting, Mr. Chadwick said.

Mr. Chadwick reported the following questions he has received from neutrals and program directors:

- 1) Must one be a registered neutral to perform mediation of any case that is filed in court? There is some confusion regarding the "court-annexed or court-referred" language in Appendix A, Rule 5. The Commission agreed that the language of the Rule clearly indicates that any court-related mediation must be performed by a registered neutral. Mr. Morokuma will draft a response stating such.
- 2) How may program directors respond if registered neutrals refuse to fulfill the pro bono requirement prescribed by Appendix C of the Rules? Judge Auslander

suggested that the courts set their own guidelines and asked Mr. Morokuma to draft a response stating such. Ms. Primm suggested that the courts not refer matters to those neutrals who refuse to fulfill pro bono requirements.

- 3) What is the Commission doing to develop ADR programs where they do not already exist?

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

Mr. Morokuma presented the new Atlantic Judicial Circuit Juvenile Court Mediation Rules for approval by the Commission. Mr. Bell expressed the need to amend the language of Rule 7(c) so that "grossly negligent and made with malice" is separated into two separate conditions. The Commission voted to approve the Atlantic Circuit rules, subject to the rule amendment. Mr. Morokuma said he would notify the Atlantic Circuit of the conditional approval and would make the same change to the Model Juvenile Court Mediation Rules, which the Atlantic Circuit rules closely followed.

Mr. Morokuma presented the updated Houston and Macon Judicial Circuit ADR Rules for approval by the Commission. The Commission voted to approve the rules.

Mr. Morokuma reported that several neutrals have requested a rule change to allow neutrals to drop the domestic relations mediation category from their registrations. Neutrals who made this request did not want to be forced to pay the additional \$25 to renew their registration in domestic relations mediation. Mr. Morokuma said the requested rule change is unexpected, as the Commission never considered the likelihood that neutrals, after spending thousands of dollars in training, would want to delete a credential in order to save \$25 per year. The rule change would require considerable investment in changes to the Georgia Courts Registrar. Mr. Morokuma said he would discuss the idea further with the Training and Credentials Committee.

Mr. Morokuma reported that GODR has a new website that is easier to navigate and shares a graphic style with other AOC agencies. Many updates to the Georgia Courts Registrar have been completed, he said. The most significant among them was a change requested by the Commission more than a year ago – to change the Registrar terms "suspended" and "revoked" to the Commission's preferred terms "inactive" and "archived." Also, neutrals can now enter their continuing education information directly online without having to download, fill out, scan, and upload paper reports. And the Registrar staff now has access to all Registrar data, not just limited fields, so it is able to fulfill requests for detailed reports on neutral registration and renewal. Later this year, neutrals will have access to privacy settings that will allow them to choose how much of their personal data appears in the online public directory. Once the privacy settings are available, then the new searchable public directory will also launch.

Mr. Morokuma reported that the first of Ms. Raye Rawls's domestic violence screening training programs took place in Savannah on August 4, 2015, and the five program directors who attended found it very helpful. The second training for program directors will take place in Jonesboro on September 18. In addition, Mr. Morokuma reported that several presenter slots have been filled for the annual ADR Institute.

Lastly, Mr. Morokuma reported that Kimberly Miller in the AOC's research office is working to help court programs collect and report ADR data more regularly and efficiently. He reported

that many court programs struggle with data collection because they cannot afford system improvements such as custom or updated software. In order to help court programs help the Commission collect data, Mr. Morokuma and Judge Auslander suggested that the Commission create a technical assistance grant program to fund improvements that make ADR data collection more efficient for local courts. Ms. Primm suggested that the grant awards include processes to ensure that the money is well spent and truly improves data collection.

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

Judge Auslander introduced AOC's interim director, Cynthia Clanton, who expressed her excitement about the strategic plan and eagerness to continue to serve the Commission better.

Judge Auslander reported that the Strategic Plan is complete and viable, but cannot be implemented until the Commission is prepared to staff it. So the Commission will determine what resources it needs and revisit the plan at the Commission's November 4 meeting and afterward in Executive Session.

Judge Auslander reported that several Commission members' terms have expired. Because of their involvement with the Strategic Plan and other critical projects, Judge Auslander asked them to stay on until the plan's implementation is well under way. He said he will create a three-year succession plan to relieve members whose terms have expired and will present it at the Commission's November 4 meeting.

6. New Business: Judge Charles E. Auslander, III

Judge Auslander reported that the Commission needs to select a date for its February 2016 meeting, and proposed February 17, 24, or 25. He asked members to notify Mr. Morokuma of any date preferences, and he will notify the group of the date selected.

Ms. Primm proposed that Mr. Morokuma, who has an AOC administrative title, use the functional title "Director of the Office of Dispute Resolution" exclusively when performing Commission duties. The Commission agreed.

7. Adjournment

The meeting was adjourned at approximately 3:05pm.

The Commission went into Executive Session.

[Minutes prepared by: Lauren Byrne, Zan Patorgis, and Shinji Morokuma]