



# Georgia Commission on Dispute Resolution Meeting

Wednesday, August 22, 2018, 2-4 PM

State Bar of Georgia, Room #1

## Conference Call Information:

877-273-4202

Conference Room#: 7260376

## AGENDA

- I. Call to Order: Judge Charles E. Auslander III
- II. Introductions
- III. Meeting Minutes from May 9, 2018: Approved via email
- IV. Standing Committee Reports:
  - Budget and Personnel Committee: Judge Auslander
  - Ethics Committee: Judge Jane C. Barwick
  - Training and Credential Committee: Ms. Melissa C. Heard, MSSW
  - Liaison Committee: Mr. Raymond G. Chadwick, Jr., Esq.
- V. Special Committee Reports:
  - Joint Working Group on Mediation Legislation in Georgia: Ms. Mary Donovan, Esq.
  - Guidelines for mediating cases with domestic violence: Ms. Tracy Johnson
  - 25<sup>th</sup> Anniversary Ad-Hoc Committee: Ms. Edith B. Primm, Esq. & Ms. Johnson
- VI. Director's Report: Ms. Johnson
  - 2018-20 Project List
  - Past and Upcoming Events
    - Southeastern Conference on Conflict: May 17-18
    - National Association of Court Management (NACM): July 22-26
    - 2018 Program Directors' Conference: September 19-21
    - Georgia Council of Court Administrators Fall Conference: October 21-24
    - 2018 ADR Institute: December 7
- VII. Chairman's Report: Judge Auslander
  - New GCDR Appointments
- VIII. New Business
  - Vote item: Rules for mediating cases with domestic violence
- IX. Upcoming Commission Dates: November 13, January 30, May 8
- X. Old Business
- XI. Adjournment

***Next Meeting Date: November 13, 2018***



# Georgia Commission on Dispute Resolution Meeting

## Minutes

Wednesday, August 22, 2018

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

Judge Jane C. Barwick; Emily S. Bair, Esq.; Raymond G. Chadwick, Jr., Esq.; Mary Donovan, Esq.; Melissa Heard, MSSW; Timothy Hedeem, Ph.D.; Judge Amanda H. Mercier; Judge M. Cindy Morris; and Patrick T. O'Connor, Esq. Justice Keith R. Blackwell; Herbert H. (Hal) Gray, III, Esq.; and Vjollca Prroni Young, LLM participated by phone.

Tracy Johnson, Executive Director, and Karlie Sahs, Program Coordinator, Office of Dispute Resolution

JC/AOC staff members present were: Alison Lerner, Esq., Legal Compliance Officer and Jeffrey Thorpe, Research Analyst

Guests present were: Patti Anderson, Cobb County Superior Court ADR Program; Lawrence Harton, Fulton County ADR Program; Caitlin Lowther, DeKalb County ADR Program; Valerie Lyle, 9<sup>th</sup> District ADR Program; Shinji Morokuma, former GODR director; Kathleen Sterne, Clayton County ADR Program; and Jennifer Thomas, Georgia Commission on Family Violence. T.J. BeMent, 10<sup>th</sup> Judicial District; Caroline Brackette, Mercer University; Constance Hawkins, DeKalb County Juvenile ADR Program; Linda McClellan, Tenth Judicial Administrative District ADR Program; and Laura Lynn Swafford, Gwinnett County ADR Program observed by phone.

### **I. Meeting called to order**

Judge Auslander called the meeting to order at 2:00 p.m.

### **II. Introductions**

Members and guests introduced themselves.

### **III. Minutes**

The minutes of the May 9<sup>th</sup> Commission meeting were approved prior to the meeting via e-mail vote on May 25, 2018.

#### **IV. Standing Committee Reports:**

##### **a. Budget and Personnel Committee: Judge Auslander**

Judge Auslander presented the Budget and Personnel Committee update on behalf of Judge C. Andrew Fuller, who was unable to participate in the meeting. A copy of the budget and financial report was provided with the meeting materials. Judge Auslander reported that all budget matters are in order, and a balance carried over from FY2018 will be utilized to implement special projects during 2018-2020, as outlined in the strategic plan.

##### **b. Ethics Committee: Judge Jane C. Barwick**

Judge Barwick reported that the Committee met earlier that day to discuss three (3) pending complaints against neutrals and five (5) neutral applications being held for ethics concerns. The group also discussed general procedures for issues moving forward.

Two (2) of the complaints against neutrals are being scheduled for hearings. For the additional complaint, decision was made by the Committee to issue a private reprimand. The Committee approved registration of four (4) neutral applications. The additional application has been tabled while additional information is being gathered.

Judge Auslander commented that time and work put into the Committee helps to build confidence with stakeholders.

##### **c. Training and Credential Committee: Ms. Melissa C. Heard, MSSW**

Ms. Heard reported that the Committee has met four (4) times since the last Commission meeting. The Committee has been actively working for 18 months to make revisions to Appendix B. So far, the Committee has worked through the Early Neutral Evaluation, Arbitration, and Domestic Relations sections. Ms. Alison Lerner, Esq. will compile the Committee's current work and reformat/prepare sections for further updates. Once the changes are made, Appendix B will return to Committee where they will continue their work on definitions. The new Specialized Domestic Violence updates will also be incorporated, and the area on General Civil mediation revamped. There is no timeline available for completion.

Ms. Heard also reported that renewal applications for general civil trainings have been received and are under review.

Judge Auslander thanked the group for their hard work.

##### **d. Liaison Committee: Raymond G. Chadwick, Jr., Esq.**

Mr. Chadwick reported that the most recent newsletter was published on June 5, which included information on continuing education and provided clarification as

to what counts for credit. All newsletters welcome any questions or concerns to be directed toward the Committee, but none have been received thus far. The Office has sent out a number of email blasts for job announcements and 25<sup>th</sup> Anniversary CE events. The Events are scheduled for seven (7) different locations, providing outreach around Georgia from the end of August through December.

At the invitation Ms. Mary Donovan, Mr. Chadwick presented to the Mercer Law School students. He plans to look for additional ways to perform outreach to various law schools.

The next newsletter is scheduled for publication in early September, following the August GCDR meeting.

**V. Special Committee Report:**

**a. Joint Working Group on Mediation Legislation in GA: Mary Donovan, Esq.**

Ms. Donovan reported that the joint working group studying the potential enactment of the Uniform Mediation Act (UMA) in Georgia presented to the Judicial Council's Legislative Committee on July 13, 2018, where it considered all legislative support requests. Judge Auslander presented on UMA with Working Group member Mr. Shelby Guilbert, and the Legislative Committee voted unanimously to support the UMA legislation concept.

On August 8, 2018, the full Judicial Council approved the Legislative Committee's recommendation, allowing the Working Group to move forward with the legislative process. The Working Group plans to approach the Georgia and Metro Atlanta Chambers of Commerce, the Dispute Resolution Section of the State Bar, and other suggested Committees. The UMA proposal will also be presented to the Atlanta Bar Association on September 5.

Judge Auslander noted that, while the Commission is not sponsoring the bill, it will remain engaged and committed to its promise to keep the Judicial Council informed on UMA's legislative progress. Mr. Patrick O'Connor will work with Ms. Donovan to advise the working group on how to present the proposed legislation to the State Bar of Georgia for consideration of support.

**b. Guidelines for mediating cases with domestic violence: Ms. Tracy B. Johnson**

Judge Auslander started the discussion by recognizing Mr. Shinji Morokuma and Ms. Raye Rawls for their foresight in transitioning the Guidelines for Mediating Cases with Domestic Violence to become rules. A copy of the new rules was provided with the meeting materials.

Ms. Johnson noted that, at the last meeting on May 9, the Commission voted to present the new rules to the Georgia Commission on Family Violence (GCFV) at their June 22 meeting. Prior to, at the request of ADR Program Directors, non-

substantive modifications had been made. On June 22, Judge Auslander asked GCFV for their endorsement of the modified rules and to support the creation of a formal joint committee that would monitor implementation, assist with the development of training, and be involved in the ongoing evaluation. The GCFV voted at the June 22, 2018 meeting to support the new rules.

Ms. Jennifer Thomas, Executive Director of GCFV, expressed her appreciation of the group and added that GCFV believes the new rules will support their vision of pursuing options that reduce barriers to those seeking safety. GCFV members are comfortable with and supportive of the initiative. Chairperson Stephanie Woodard wishes to be a part of the process, implementation, and any necessary edits in order to implement the new rules and move forward.

Judge Auslander expressed that the Commission is charged with the duty and responsibility of implementing statewide ADR Programs and monitoring the quality of those programs, which the new rules will touch on. Once the Training and Credentials Committee complete work on Appendix B, it is the intent for the Rules for Mediating Cases with Domestic Violence to become a new Appendix.

Ms. Johnson presented a comprehensive implementation plan, including start dates for processes and required steps. The proposed implementation date for the new rules would be January 1, 2021.

There was brief discussion regarding an online screening tool and making sure ADR program directors are involved in the process.

Judge Auslander called for a motion that the Commission both repeal the guidelines for mediating cases with domestic violence and enact the new rules for mediating cases with domestic violence, effective January 1, 2021. Judge Cindy Morris made the motion, seconded by Dr. Timothy Hedeem. A vote was taken with all in favor; Justice Blackwell abstained.

**c. 25<sup>th</sup> Anniversary Ad-Hoc Committee: Ms. Tracy B. Johnson**

Ms. Johnson reported on behalf of Ms. Edith Primm. A printed copy of the CODR history was presented to the group. The project will be completed within budget, and a final product will be published within 2 weeks of the meeting. The history publication will be mailed to all registered neutrals, trainers, judges, court programs, colleges in Georgia, state archives, and the State Bar. Ms. Johnson thanked Mr. Morokuma and Ms. Ashley Stollar for their work on the project.

A total of seven (7) continuing education events will be held around Georgia, free of charge. There are 221 neutrals who had already registered so far, and that number is expected to rise over the coming months.

## **VI. Director's Report: Tracy B. Johnson**

Ms. Johnson congratulated Ms. Caitlin Lowther and Mr. Larry Harton, in attendance, on their new positions with DeKalb County ADR and Fulton County ADR Programs, respectively.

### **a. 2018-2020 Project List:**

1. A 2018-2020 project list was included in the materials. Ms. Johnson reviewed the projects with Commission members, noting updated status and estimated completion dates. The Commission voted to remove the domestic violence screening training from the project list, as it is a part of the Rules for Mediating Cases of Domestic Violence implementation plan. Mr. Chadwick made the motion, seconded by Dr. Hedeem. A vote was taken with all in favor; Justice Blackwell abstained.
2. The annual ADR Program Directors Conference will be held in Athens from September 19 – 21. In total, 10 Commission Members and 28 program directors (including three scholarship recipients) will be in attendance. A copy of the agenda was included with the meeting materials.
3. One of the projects reported is an upgrade to the Office website. A mockup of the new website was provided with the meeting materials. The website will include a new case law section.

Judge Auslander commented that the project list is comprehensive, as a direct result from the strategic planning meeting held on May 9.

### **b. Past and Upcoming Events:**

1. Ms. Johnson attended the Southeastern Conference on Conflict Management in Nashville on May 17-18.
2. Ms. Johnson along with Ms. Karlie Sahs also attended the National Association of Court Management (NACM) in Atlanta on July 22-26. The conference held many sessions on online dispute resolution (ODR), which were shared with Commission members.
3. The 2018 ADR Program Directors' Conference will be held on September 19-21 at the Graduate Hotel in Athens.
4. Ms. Johnson and Ms. Sahs will be attending the Georgia Council of Court Administrators Fall Conference on October 21-24 in Savannah.
5. The Office and the Dispute Resolution Section of the State Bar are actively planning the 2018 ADR Institute and Neutrals Conference, to be held on December 7.

## **VII. Chairman's Report: Judge Auslander**

### **a. New GCDR Appointments**

1. Judge Auslander made note of member Justice Britt C. Grant's departure to the Federal Court of Appeals. Justice Blackwell noted that there are additional changes forthcoming in the Supreme Court, including Presiding Justice Harold Melton's transition to Chief Justice on September 1. All Supreme Court related issues, including any appointment of a new Justice to the Commission, are on hold at the moment.
2. Judge Auslander noted that the Commission will wait for directive from the Supreme Court regarding new appointments, but new members are hoped to be sworn in at the January Commission meeting. Potential candidates are welcomed.

## **VIII. New Business**

### **a. *Vote item: Rules for mediation cases with domestic violence: see special committee report***

### **b. *Ettrick v. Suntrust – Appellate Case, Possible Amicus Brief***

Prior to calling this matter, both Justice Blackwell and Judge Mercier excused themselves from the meeting. Neither were present for any discussions or vote. The Ethics Committee made motion that the full Commission consider whether or not to prepare an amicus brief regarding the case in the Georgia Court of Appeals. The case involves disclosure of what a mediator conferred during a mediation.

After clarifying discussion, it was decided by unanimous vote of the Commission members participating that Ms. Lerner will prepare the brief and submit it to the full Commission, with the exception of Justice Blackwell and Judge Mercier. Due to time restrictions, the brief will be shared via email prior to the November meeting. A phone conference will be scheduled, if needed.

## **IX. Upcoming Commission Dates: November 13, January 30, May 8**

The November 13 meeting will be held at the University of Georgia Law School in Athens. Ms. Johnson thanked Ms. Ellie Lanier, Associate Dean, for her assistance.

## **X. Old Business**

There was no old business to report

**XI. Adjournment**

The meeting was adjourned at approximately 3:00 P.M.

[Minutes prepared by Karlie Sahs and Tracy Johnson]

[Minutes approved via email September 7, 2018]