

Georgia Commission on Dispute Resolution
MEETING AGENDA
Thursday, August 29, 2013, 2-4 PM
State Bar of Georgia

I. Call to Order: Judge Charles Auslander

II. Minutes from May 23, 2013, meeting approved via e-mail vote.

III. Committee Reports:

-- Budget and Personnel Committee: Shinji Morokuma for Larry Christensen

-- Training and Credentials Committee: Melissa Heard

-- Ethics Committee: Hugh Bell

IV. Director's Report: Shinji Morokuma

-- Update on ADR Rules amendments approved by Supreme Court

-- HB 438 update

-- Summary jury trials in Griffin Circuit

-- Customer service survey by AOC Research Department

-- Marketing: logo, articles for PR campaign

V. Chairman's Report: Judge Charles Auslander

-- Advisory Opinion on confidentiality

-- Evaluative mediation rules

-- Next Meeting Dates: November 21; February 6, 2014

VI. Adjournment

MINUTES: August 29, 2013, 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; Judge Gregory A. Adams; Hubert J. Bell, Jr., Esq.; Judge Sara Doyle; Judge C. Andrew Fuller; Melissa Heard; Timothy Hedeem, Ph.D.; Judge J. Carlisle Overstreet; and Edith B. Primm, Esq. Emily S. Bair, Esq., and Vjollca P. Young participated by phone.

GODR staff members present were: Shinji Morokuma, Esq., Director; and Cynthia Clanton, Esq., Chief Counsel, Administrative Office of the Courts. Tynesha Manuel, Administrative Coordinator, participated by phone.

1. Visitors:

Judge Auslander welcomed the visitors: Elmira Barrow, Coweta Judicial Circuit ADR Program; Kamau Hull, trainer; Hideaki Irie, Ph.D., Kyushu University and Kennesaw State University; Tracy Johnson, Sixth District ADR Program; Brandon Marlow, Coweta Judicial Circuit ADR Program; Linda McClain, Cobb County Superior Court ADR Program; Nancy Parkhouse, Clayton County ADR Program; Bonnie Powell, Esq., Fulton County Landlord/Tenant Mediation Program; and Jerry Wood, Esq., Fulton County ADR Program. Pam Godfrey, Seventh District ADR Program, and Steven J. Gold, Esq., mediator, participated by phone.

2: Recognition of New Chief Justice Hugh P. Thompson:

Judge Auslander congratulated Justice Thompson on his recent investiture as Chief Justice of the Georgia Supreme Court and thanked him for reassigning himself to the Commission. Justice Thompson said that he wanted to stay with the Commission after working with it through several difficult challenges. He said it has been a great experience and great pleasure working with the Commission and its stakeholders.

3. Minutes:

The minutes of the May 23, 2013, Commission meeting were approved prior to the meeting via e-mail vote.

4. Committee Reports:

Budget and Personnel Committee: Mr. Morokuma for Mr. Lawrence Christensen

Mr. Morokuma reported a FY13 budget surplus of \$77,000, in part because the Commission had over budgeted for personal services. He said the FY14 budget was reduced to \$239,000 to more closely track FY13 actual expenses. The office had income just under \$300,000 and expenses of \$238,000. The report also listed cash on hand of \$400,000. Mr. Morokuma said that the office is doing well financially and that he expects the office will continue to manage its funds well.

Mr. Morokuma also reported that the office received just fewer than 500 new registrations and roughly 2,000 renewals, which accounts for the income of approximately \$300,000 in FY13. Registration numbers have remained stable and may even be increasing slightly, he added. Ms. Primm asked how much income has come from per participant training fees. Mr. Morokuma responded that the income from year-to-date training fees totals roughly \$15,000. He stated that the Justice Center of Atlanta has likely contributed the most money of any trainer.

[Attachment 1]

Training and Credentials Committee: Ms. Heard

Ms. Heard reported that delinquency mediation and deprivation mediation trainings have been scheduled for the Ninth Judicial Administrative District. The delinquency trainings will begin September 11, 2013, while the deprivation trainings are scheduled to begin in October. She stated that both classes were filled to maximum capacity and there is a waiting list for each. There are also plans to work with other counties in the state to conduct similar trainings.

Next, Ms. Heard noted that a typographical correction needed to be made to the rule regarding delinquency mediation training hours. The approved rule required 16 hours of training, but should have been 21 hours. The rule requiring 21 hours was approved by the Juvenile Mediation Subcommittee, the Training and Credentials Committee, and the Commission, but when the rule was posted to the website, a typo listed the hours at 16. She then made a motion to correct it. The motion was put to a vote, and the Commission voted unanimously in favor of correcting the error.

Ms. Heard was asked the dates of the October deprivation trainings. Mr. Morokuma answered that the trainings are scheduled for October 1 through 4, 2013. The cost of the GODR-sponsored trainings is \$160 per trainee, roughly a quarter of the cost in the private market. Ms. Heard said the hosting court program has required trainees to donate a certain number of mediation hours in juvenile court as part of benefit of taking the low-cost, GODR-sponsored training.

Ms. Heard was asked whether there are plans for GODR-sponsored juvenile mediation trainings in north and south Georgia. She replied that Ms. Lynn Goldman has been working with Mr. Morokuma set up more trainings. Ms. Barrow stated that Coweta County needs to have more trained juvenile court mediators.

[Attachment 2]

Ethics Committee: Mr. Bell

Mr. Bell reported that the committee disposed of six complaints in FY2013, three of which were against neutrals, one against a trainer, and two against court ADR programs. One was dismissed after investigation; three were dismissed with letters of instruction;

one was dismissed with a letter of instruction after a lengthy hearing; and one went to a hearing and resulted in imposition of confidential discipline. No complaints are pending at this time, he said. He reported also that one registration applicant has a criminal charge pending against him, and that the committee is waiting to rule on the application until the charge is resolved.

Mr. Bell reminded the Commission that it had considered, at its last meeting, three rule revisions to improve the ethics disciplinary process. The first was to allow the committee to initiate a complaint on its own motion, while also adding a statute of limitations for filing a complaint. The second rule was to clarify whom an investigator could consult with regarding a complaint. The third rule was to require publication of disciplinary action in the GODR newsletter and on the GODR website, and to require notice of the action be sent to court administrators and program directors.

Mr. Bell explained that the Commission had concerns over the first rule allowing the committee alone, without the full Commission, to initiate a complaint on its own motion. He said the rule is being redrafted to address those concerns.

Judge Auslander noted that there was no longer a backlog of ethics complaints thanks to Ms. Clanton, who handled all six complaints.

5. Director's Report: Mr. Morokuma

Update on ADR Rules Amendments: The Commission had voted at the May meeting to ask the Supreme Court to amend the ADR Rules, and the Court did so on June 12, 2013. The amendments comprised a statement of the Commission's jurisdiction; a definition of the term "court program"; and a change of all rules referring to "court-referred, "court-annexed" and "court-connected" program to "court program." The Court also amended Section VIII on Education, which referred to the Bridge the Gap Seminar, which ended in 2005.

HB 438: This filing fee bill raises the cap on the ADR civil filing fee from \$7.50 to \$10. If passed, the change would allow court programs to increase their filing fee up to \$10 if they so choose. The Judicial Council Policy and Legislative Committee reviewed the bill and voted to recommend to the Judicial Council that it support the bill. The Council is scheduled to meet September 13, 2013, and will vote on this matter.

Summary Jury Trials: Judge Christopher Edwards, chief judge of the Griffin Judicial Circuit, his assistants, and Mr. Morokuma continue to work on refining the order and evaluation tools for the judge's Summary Jury Trial experiment.

Customer Service Survey: The Administrative Office of the Courts research section sent out a customer service survey to all registered neutrals. The response rate was a high 46 percent. The survey summary from the research section made several recommendations based on the survey results. The first recommendation was to allow applicants to track the status of their applications, which the current database system does not allow for. Mr. Morokuma said a new database should arrive by 2014 to allow such tracking. More than 80 percent of respondents said they were content with the current system.

Another recommendation was for GODR to respond more quickly to phone calls and emails. Mr. Morokuma stated that the ODR policy is to respond to voicemails and emails within 24 business hours. But he noted that the survey was taken during Ms. Manuel's extended leave period, during which substitute staff members filled in. That may explain some of the slow responses, he said.

Judge Auslander asked what efforts GODR was making to address those recommendations. Mr. Morokuma replied that many of the problems will be addressed by the new database system that the AOC is designing for the certification and licensing agencies. Judge Auslander asked that GODR develop some specific plans to address the issues raised by the survey and report on them at the November meeting.

Ms. Primm asked whether there have been complaints from mediators about insufficient mediation work. As long as there is less work than people want, they will always be dissatisfied to some extent. Mr. Morokuma replied that there have been, but that GODR encourages neutrals to use their credentials in other areas outside the court system. He also noted that GODR has asked trainers to inform neutrals of the paucity of work.

[Attachment 3]

Marketing: GODR has been working on a new logo that registered neutrals can use on business cards and websites to show that they are registered. The AOC's communications department developed some ideas for the new logo, but refinements still have to be made. The logo is part of a larger plan scheme to distinguish registered neutrals and showcase the benefits of registration both for neutrals and for those using them. Commission members reviewed samples of proposed logos and offered suggestions.

[Attachment 4]

6. **Chairman's Report**

Judge Auslander reminded the Commission that attorney mediator Steve Gold came to the Ethics Committee about 18 months ago with concerns about confidential mediation information appearing in the *Daily Report*. The committee decided to write an Advisory Opinion on confidentiality. A draft of the opinion was distributed to the Commission, and the members were given two weeks to review it. After the two-week period, the opinion will be published, and the office will submit it to the Georgia Bar Journal. An article in *Daily Report* will follow, Judge Auslander said. He said he was very happy with the opinion, and he thanked Mr. Gold for his work on the opinion.

[Attachment 5]

Judge Auslander noted that the ADR Rules do not contemplate evaluative mediation, but that the process is practiced in Georgia. He said Mr. Gold and others made the case that the Commission needs to decide whether to regulate evaluative mediation. Judge Auslander called Ms. Heard to create a subcommittee under the Training and Credentials

Committee to determine whether the Commission should or could formulate rules that govern evaluative mediation. Judge Auslander said the Commission will re-visit the topic at the November meeting.

The Commission set future meeting dates for November 21, 2013, and February 6, 2014. Mr. Morokuma is working on dates for later 2014.

The meeting was adjourned.

Attachments:

1. GODR budget report
2. Proposed juvenile mediation rule change
3. AOC Customer Service Survey summary
4. Marketing logo ideas
5. Draft of Advisory Opinion 8

[Minutes prepared by Shinji Morokuma, Office of Dispute Resolution, and Zan Patorgis, Administrative Office of the Courts]