

MINUTES: JUNE 25, 2009, MEETING
GEORGIA COMMISSION ON DISPUTE RESOLUTION

Commission members present were: Edith B. Primm, Esq., newly appointed chair; Judge Charles E. Auslander III; Judge Debra Bernes; new member Judge Edward E. Carriere, Jr.; Bryan Cavan, Esq.; new member Judge C. Andrew Fuller; Alan Granath; new member Melissa C. Heard; Martha Kitchens; new member Judge J. Carlisle Overstreet; Justice Hugh Thompson; and Judge Cynthia Wright.

Robert S. Glenn, Esq., participated by phone.

GODR staff members present were: Shinji Morokuma, Esq., Director, and Nicky Davenport, Deputy Director.

Visitors present were: Dick Austin, Justice Center of Atlanta; Debbie Blanton, DeKalb County Dispute Resolution Program; Kim Bunker, Association for Conflict Resolution, Georgia Chapter; Nora Bushfield, Esq., Georgia Mediators Association; Dana Cohen, Court of Appeals; Larry Christensen, State Bar of Georgia Dispute Resolution Section; Pam Godfrey, Seventh District ADR Program; Susan Hamby, Ninth District ADR Program; Valerie Lyle, Ninth District ADR Program; Linda McClain, Cobb County ADR Program; Nancy Parkhouse, Clayton County ADR Program; Bonnie Powell, Esq., Fulton County Landlord/Tenant Mediation Program; Amy Saul, Court of Appeals; John Sherrill, State Bar of Georgia Dispute Resolution Section; Brenda Sutton, Houston and Macon Circuits ADR Program; Laura Lynn Swafford, Gwinnett County ADR Program; and Jerry Wood, Esq., Fulton County ADR Program.

1. Swearing In of New Members:

Justice Thompson swore in as the new chair of the Commission Edith B. Primm, Esq., Commission member and executive director of the Justice Center of Atlanta, Inc. He also swore in four new members of the Commission: Judge Edward E. Carriere, Jr., chief judge of the State Court of DeKalb County; Judge C. Andrew Fuller, chief judge of the Northeastern Judicial Circuit; Melissa C. Heard, mediator and trainer; and Judge J. Carlisle Overstreet, chief judge of the Augusta Judicial Circuit.

2. Minutes:

The Commission approved the minutes from the March 26, 2009, meeting with one amendment.

[Attachment 1]

3. Committee Reports

Committee on Ethics: Judge Wright

Judge Wright reported that the committee took up five neutral registration applications, four were approved, and one was held for additional information.

Committee on Training and Credentials: Bobby Glenn

Mr. Glenn reported that the committee discussed the complaints made by Mr. Bob Berlin at the Commission's March 26 meeting. Mr. Glenn reminded the Commission that Mr. Berlin had complained that the process by which GODR selects private trainers to train on its behalf was unfair and not transparent. Mr. Berlin had also requested that the Commission amend the ADR Rules so that GODR was not responsible for training neutrals for new court programs.

Mr. Glenn said the committee decided not to recommend any amendment to the ADR Rules. GODR clearly should remain responsible for overseeing and occasionally sponsoring trainings. However, it also asked Mr. Morokuma to draft a new office policy that addresses Mr. Berlin's concerns. The draft will be circulated to committee members, and the committee will make a formal recommendation to the full Commission at its next meeting.

4. Update on Filing Fee Statute Amendment and Budget:

Mr. Morokuma reported that GODR was considering amending the Georgia Court-Connected ADR Act (O.C.G.A. §§15-23-1 to -12), also known as the ADR filing fee statute, as a way to provide adequate and consistent funding for GODR operations. The two amendments would require a portion of the ADR filing fees collected statewide to be remitted to GODR, and would raise the filing fee cap of \$7.50 per filing.

Mr. Christensen, chair of the Dispute Resolution Section of the State Bar, and Mr. Sherrill, chair-elect of the Section, told the Commission that the Section's leaders have voted to spend some accumulated dues money to pay for a lobbyist/political consultant for GODR's legislative efforts. They said GODR plays an important role in the state's ADR system, and the Section leadership recognized that it had the means to help GODR achieve its goals. Members of the Section leadership, the Commission and GODR have already been interviewing candidates and would make a selection soon, they said. Mr. Christensen and Mr. Sherrill asked the Commission to decide if it wanted to accept the Section's help.

The Commission voted unanimously to accept the Dispute Resolution Section's offer of financial assistance to pay for a lobbyist/political consultant.

[Attachment 2]

5. Georgia Coalition of Dispute Resolution Programs: Ms. Bunker, chair of the Georgia Chapter of the Association for Conflict Resolution, and Ms. Bushfield, president of the Georgia

Mediators Association, voiced their support for GODR and pledged to the support of the Georgia Coalition of Dispute Resolution Programs. The newly formed Coalition's goal is to increase communication and cooperation between the various ADR-related groups in Georgia, such as State Bar's DR Section, the Atlanta Bar's DR Section, ACR, GMA, the Collaborative Law Center of Atlanta, universities, and several others. The group's first cooperative effort is to help generate grassroots support for GODR's legislative efforts to assure adequate funding, they said.

6. Director's Report: Shinji Morokuma

- a. Registration Renewal Season Wrap-up:** Mr. Morokuma reported that the end of the neutral registration renewal season brought interesting news about the effect of the registration fee increase to \$125 every two years. The statistics indicate that there was no significant change in the percentage of neutrals who renewed or the demographic make-up of those who did renew compared to the previous year. There was great concern among program directors and some Commission members that the increased registration fee would cause many neutrals to drop out of renewal, and that the renewing neutrals would reflect a higher percentage of lawyers. The renewal statistics show that the expected changes did not occur, Mr. Morokuma said.

[Attachment 3]

- b. New Ethics Opinion:** Mr. Morokuma said a new opinion by the Committee on Ethics has been written and will be posted on the GODR website and distributed immediately via e-mail to all registered neutrals. Ethics Opinion 3 is the result of an extensive investigation of the actions of a registered mediator, whom the committee removed from registration for egregious violations of the mediator ethics rules.

[Attachment 4]

- c. Television Show Appearance:** Mr. Morokuma said he appeared on a cable television show on Atlanta Interfaith Broadcasters. The show, regular interview program called "Law and Society," is hosted by Angie Wright-Rheaves, a law clerk in the Georgia Court of Appeals. Mr. Morokuma said he was interviewed about ADR and how the ADR system works in the courts. He said GODR would be purchasing a DVD of the show and posting it on the GODR website, with AIB's permission.

7. Atlantic Circuit ADR Rules:

Mr. Morokuma presented the ADR Rules for the Atlantic Judicial Circuit. He said he has been working closely with the circuit's main law clerk to help compose rules that meet the Commission's requirements. He recommended that the Commission approve the rules.

The Commission voted unanimously to approve the Atlantic Judicial Circuit ADR Rules.

[Attachment 5]

8. Tifton Circuit Program Application:

Mr. Morokuma presented the Tifton Judicial Circuit's application for approval to start an ADR program in the circuit. He said he has met with judges in Tifton and has worked closely with them to compose an application that meets the Commission's requirement. He recommended that the Commission approve the application so the Tifton Circuit could begin collecting the local ADR filing fee.

The Commission voted unanimously to approve the Tifton Judicial Circuit's application for an ADR program.

[Attachment 6]

7. New Business

a. Definitions and Registration: Ms. Sutton asked the Commission to develop clear definitions for court-connected and court-ordered ADR processes, as many people are confused about what types of cases must be handled by registered mediators. Judge Auslander, chair of the Rules Committee, said his committee is working on that very issue and hopes to have some recommendations by the next Commission meeting. Ms. Sutton also asked the Commission to consider a rule under which neutrals who are removed for disciplinary reasons from a local roster are also removed from state registration.

b. Next meeting dates: The Commission's next meeting dates were scheduled for September 3 and November 12.

The meeting was adjourned.

Attachments:

1. March 26, 2009, minutes
2. Filing fee statute
3. Registration renewal statistics
4. Ethics Opinion 3
5. Atlantic Circuit ADR Rules
6. Tifton Circuit application

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