



Be Neutral

March 2013

A Publication of the Georgia Office of Dispute Resolution

From the Director: Mediation Shouldn't Endanger Anyone



TV viewers of a certain vintage will remember the hit show "Hill Street Blues," a landmark serial police drama set in a gritty precinct of an unidentified U.S. city. For several seasons, virtually every show began with a shift roll call, and Sergeant Phil Esterhaus would wrap up every roll call with his trademark admonishment to his assembled cops: "Hey (*insert dramatic pause*) ... let's be careful out there." It was a paternal farewell and an ominous reminder of the grave danger the cops faced every time they marched off to wage peace on the streets. Viewers knew what was coming, yet they waited for him to say it every time.

That warning phrase came bubbling up through my memory as I read about two people being shot and killed in Phoenix at a mediation on January 30. According to news reports, the 70-year old gunman was a party to a garden-variety business dispute mediation, which was being held at a law office in a business park. Sometime during the session, one of the parties pulled out a handgun and opened fire, killing the opposing party and opposing counsel and wounding one bystander before escaping and shooting himself dead. The shooter apparently had no history of violent behavior, although he is alleged to have had a temper and had filed 10 or more prior civil lawsuits against various defendants.

I bet many of the circumstances of this terrible story could describe nearly every mediation you have done outside of a courthouse – seemingly routine issues, law office, anonymous office park, parties with no known history of violence. Yet, in Phoenix, three mediation participants were killed. And that should give you and every ADR practitioner pause. That could be you. That could be me.

Let's face this discomforting fact: ours can be a dangerous profession. After all, our job is to intervene among people who are in crisis, who are often angry, frustrated, and agitated or may become so during the mediation. If they're in a lawsuit, it is likely one of the worst experiences of their lives. They usually are not thinking clearly or rationally in the context of the dispute, and they are so stressed that if they feel at all threatened, they may react with aggression. Yes, even if all of your participants wear expensive suits. You can never be sure what kind of situation you are walking into.

That's why you – the trained mediator, protector of the process, and perhaps the only person in the room who is thinking clearly and rationally – have to ensure that sessions are conducted in as civil and productive a manner as possible. Most of the time, things go well. But mediation participants are predictably unpredictable. Even if you do everything right, you still cannot truly control the behavior of others. For example, a very experienced colleague was followed home last year and confronted in her driveway by an angry mediation participant. Her kids were at home. Think about that for minute.

Georgia-approved mediation trainings are required to include instruction on handling escalating tension and violence in mediation. You can see why such training is mandatory. But all the training in the world cannot protect you or the participants if someone draws a weapon in mediation.

Which brings to mind this axiom: where you mediate is as important as how you mediate. We have always said that mediations are safest in courthouses with functioning metal detectors and security screening systems that are staffed by law enforcement and where armed deputies or marshals are but a few steps away. Obviously not every mediation can be conducted in such a secure setting. But if you routinely conduct mediations in office parks and office buildings with no security measures and no security personnel on site, you need to be aware that there is an elevated risk of danger to you and the participants. The comfort and convenience of mediating in an office setting comes with a cost. (Of course, we know that even secured courthouses cannot guarantee safety. Eight years ago, on March 11, 2005, three people – a judge, a court

reporter, and a sheriff's sergeant – were killed in the Fulton County Courthouse by a man on trial for rape who overpowered a deputy and took her gun.)

You should also be aware that your physical safety can be jeopardized by information you post in the digital world. Michele Gibson, our marketing columnist and producer of BeNeutral, wrote in the [May 2012 issue](#) about how people can inadvertently make personal information available on the Internet.

Short of mediating in a fortress, what can you do to increase the likelihood that your mediation will begin and end safely? Here are some tips that come to mind (this is by no means an exhaustive list):

- Be explicit with participants about your policy of not bringing any weapons to mediation, remind them of it when they arrive at the mediation, and ask if they have brought any weapons;
- Be sure your court ADR program has screened the case for domestic violence or abuse issues;
- Ask if court personnel or ADR program staff have had any prior contact with the participants, and if so, what their impressions were;
- Pay attention to your instincts. If something feels wrong, it's likely to be;
- Always seat yourself so that you have clear access to the door and an exit;
- Know the layout of the mediation site, know what resources may be available to you on site, and know how to get help;
- Have your phone with you always so you can call for help;
- Talk to your office landlord and other tenants about increasing security measures;
- Consider installing panic switches in rooms routinely used for mediation;
- Review your training on how to recognize and handle tension and violence in mediation;
- Use the process to diffuse tensions (use caucus, take breaks, have snacks and refreshments available) especially in mediations that stretch more than an hour or two;
- Set a policy that mediation participants must remain on the premises during any breaks or caucuses so that weapons cannot be retrieved from vehicles or outsiders; and
- Take and maintain control over the process, and if things get hot, maintain neutrality and remain calm, and do not add to the tension through your own actions.

And hey ... let's be careful out there. Please.

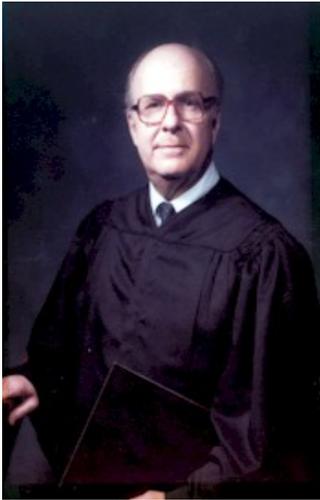
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Chief Justice Harold Clarke was Visionary Behind Courts' ADR System

ADR in Georgia lost one of its pioneers when former Georgia Supreme Court Chief Justice Harold Clarke died February 28. In the late 1980s, Justice Clarke envisioned an ADR system in the courts that could help relieve crowded dockets while providing litigants and attorneys with productive and cost-effective alternatives to trial.

In 1990, he and then State Bar of Georgia President Evans Plowden, Jr., created the Joint Commission on Dispute Resolution to study the idea of a court-connected ADR system. Jack Watson, a partner at the law firm of Long, Aldridge and Norman, was the Commission chair. In 1993, Justice Clarke's vision became reality when the Supreme Court created the Georgia Commission on Dispute Resolution and its executive arm, the Georgia Office of Dispute Resolution. Watson served as the first Chairman of the new Commission and Plowden served as co-chair.

The system that Justice Clarke created started with just a few courts in a few counties, but in 20 years has grown to cover courts in 121 Georgia counties and to help resolve tens of thousands of civil and criminal cases a year. Of all of his numerous professional accomplishments, Justice



Clarke believed that our court-connected ADR system would be his most important legacy. We are grateful for his foresight and fortitude.

If you would like to read more about Justice Clarke, please click on the links below:

Obituary in the Daily Report: <http://tinyurl.com/d4z2k95>

Letter to the Daily Report editor by Edith B. Primm, Esq., and Ansley Barton, Esq.: <http://tinyurl.com/crbexrc>

Obituary from the Atlanta Journal-Constitution: <http://tinyurl.com/dx6kfyg>

Letter to the Daily Report editor by State Bar of Georgia President Robin Frazer Clark: <http://tinyurl.com/d8huqz>



CaseWatch for Mediators: Trial Courts Have Much Discretion in Interpreting Terms of Divorce

We have reminded mediators over and over about how important it is that mediated agreements contemplate all contingencies and answer as many “what happens if” questions as possible. We are going to remind you again. In this month’s CaseWatch for Mediators, Mary Ellen Cates, Esq., divorce attorney and registered mediator, features a Supreme Court case in which the trial judge was forced to fill in the blanks of a divorce settlement, with unexpected consequences for the parties.

[Read Full Article](#)



CaseWatch for Arbitrators: Under GAC, Court Authority to Modify Awards is Limited

One thing about arbitration awards: once they are made, there are few grounds for changing the terms. That finality of resolution is both a benefit and a burden of arbitration depending on whether you like the award or not. In this CaseWatch for Arbitrators, John Allgood, Esq., veteran attorney, registered mediator and arbitrator, highlights a lawyer fee-arbitration case where the trial court tried to modify the award, but was prevented on appeal.

[Read Full Article](#)

Marketing Tip: Quick and Easy Ways to Build Your Marketing Lists



Does the thought of putting together your e-newsletter mailing list make you cringe? ANd if you already have a list, are you a bit lost on just how to get your newsletter out to them without all of your work ending up in spam filters? In this month's Marketing Tip, master marketer and mediator Michele Gibson gives you some easy and useful tips on building and using your e-marketing lists.

[Read Full Article](#)

New Child Support Commission Attorney



Please welcome Patricia K. Buonodono, the new Director of the Child Support Project. She takes over from Alice Limehouse, who left to pursue private practice. Pat is a mediator registered in General Civil, Domestic Relations, and Domestic Violence Mediation, and she is also a lawyer who ran her own legal practice for 16 years, primarily in family law and child welfare.

As she transitioned to a strictly child welfare practice, Pat served as a Fellow for the Supreme Court of Georgia Committee on Justice for Children's Cold Case Project, studying cases to improve outcomes and policies regarding children in foster care. Pat began working as Managing Attorney for Education for the Committee on Justice for Children in fall of 2010. Pat is one of Georgia's first class of Child Welfare Law Specialists, having earned that certification in 2010.

Here's Pat's contact information:

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Child Support Calculator Updated



The Georgia Child Support Commission staff is pleased to report that **version 8.7** of the two electronic Excel child support calculators has been successfully deployed to the Child Support Commission website (www.georgiacourts.gov/csc/). The "Downloadable Electronic Worksheet (Standard)" and "Downloadable Electronic Worksheet with Data Entry Form" are ready for download and use. Please share this information with mediators and ask them to download version 8.7 for immediate use.

On January 9, 2013, **version 8.7** of the Excel electronic Child Support Calculators was released. The Child Support Commission, pursuant to O.C.G.A. §19-6-53(a)(3)(B)(iv), has the statutory responsibility to adjust formulas annually that are used in calculating applicable Social Security (FICA) taxes for self-employment as related changes occur in the federal tax laws. As a result, the formulas used for calculations on Line 3 of Schedule B have been updated. In addition, a Mac informational button was added to the Child Support Website, allowing Users to quickly obtain information necessary to run the Excel Child Support Calculators on a Mac.

If you have any questions concerning this updated version of the Child Support Calculators, please contact:

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Late Renewal Season Runs Through April 30, 2013



The 2012 on-time renewal season ended December 31, 2012. Any renewal applications submitted after the on-time renewal deadline of midnight, EST, December 31, 2012, will be considered late, and late fees will apply. The late renewal deadline is midnight, **April 30, 2013**. Neutrals who do not renew by that date will be considered inactive. All neutrals will need to renew except those few whose registration expiration date is 1/1/2014. Check your information by logging into your neutral account. Find login instructions [here](#). Renewal information and instructions can be found at the [big purple box](#) on our website.

****Always send important documents to GODR via a service that offers tracking and delivery confirmation.****

Alert: Renewing neutrals will have an opportunity to give us feedback on the registration renewal process and on their contacts with our office. Please look for the link to the online survey in an e-mail. If you can spare a moment, please take the survey and tell us your thoughts. Thank you!

2013 Conference of the Atlanta International Arbitration Society



Registration is now open for the Atlanta International Arbitration Society's 2013 conference, "Convergence and Divergence in International Arbitration Practice," April 21-23, 2013, at the Four Seasons Hotel in Atlanta. Among the topics will be:

- A Peek Behind the Curtain: A Roundtable Featuring Some of the World's Leading Arbitrators
- Obtaining Evidence in the U.S. for Arbitration Abroad: Practical Lessons on When and How to Use Section 1782
- Third Party Funding of Arbitration: The Future of Global Dispute Resolution or an Ethical Black Hole?
- What is My Award Worth: And What Can I Do Before, During and After an Arbitration to Make Sure I Get Paid?
- Crafting Dispute Resolution Mechanisms in Cross-Border Business Contracts: Leveraging Party Autonomy to Reduce Risk, Improve Outcomes and Lower Costs
- Fighting (and Defending) the Leviathan: Arbitrations Involving Sovereigns and State-Owned Entities
- Arbitration and Asia
- Managing A Procedural Menu With Common Law and Civil Law Offerings - All About "Americanization" and "Civil-ization"

For more information and registration, see this link: <http://tinyurl.com/d9upd85>

GODR MEMBER BENEFIT SPOTLIGHT – PET INSURANCE

VPI Pet insurance - 5% discount for members and employees of members

GODR Registered Neutrals and employees of members seeking medical coverage for their pets may qualify for a 5% group discount with the leader in Pet Health insurance, VPI Pet insurance. A VPI Pet insurance policy helps pay for your pet's treatments, surgeries, lab fees, x-rays, and much more. VPI provides peace of mind knowing you can care for your pet no matter what the cost.



- ▶ Group discount of 5%
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- ▶ Flexibility: VPI's plans are licensed in all 50 states.
- ▶ Additional savings: Receive discounts when enrolling multiple pets - up to 5% and 10%
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Program is administered through VPI Pet Insurance, the nation's oldest and largest provider of Pet Health insurance.

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Publicly Available Resources for Georgia ADR Professionals

We encourage you to visit the [blog](#) created by Georgia State University law professor Doug Yarn and GSU law students Alex Salzillo and Alicia Mack to inform and encourage discussion. Please add it to your reading list, send the link to your colleagues, and visit often. The address: <http://georgiaadr.wordpress.com/>



And don't forget the [Georgia Mediators Network](#), a great Facebook resource for the latest mediation news and articles from around the world. The page has been visited tens of thousands of times in just the few short months it's been around. Use the information there to pump your own professional web pages and your expertise. The Georgia Mediators Network is the brainchild of registered mediator Michele Gibson, our marketing columnist and newsletter producer.

Benefits: Exclusive Insurance Products for Registered Neutrals



Georgia-registered neutrals are entitled to participate in several insurance and retirement programs that have been designed specifically for them. If you need insurance, are planning for retirement, talk to the experts at [BPC Financial](#). They manage our new exclusive insurance and retirement program, and they can advise you on your insurance needs and help you find good deals on major medical insurance, healthcare savings accounts, dental and vision insurance, term life insurance and more. Registered neutrals receive the benefits of underwriting concessions, enhanced benefits, or reduced premiums and fees compared to shopping for similar products on the open market. Check out the [GODR Registered Neutrals Insurance and Retirement Programs website](#).

We've also arranged for special benefits on professional liability insurance for registered mediators and arbitrators with [Complete Equity Markets](#). See our [website](#) for more information or contact [Betsy Thomas](#), 800-323-6234, ext. 472, and tell her you're a Georgia registered neutral!

Upcoming CE and Training Offerings

Check our [website](#) for the latest CE and training offerings. Remember, any ADR-related training you take counts as CE as long as you took it since your last renewal or your initial registration, whichever comes later. Lawyers, any CLE you took during that same time period



counts as CE. Likewise, judges and CJE. Accountants and other professionals with CE requirements, same thing.

And remember, we have posted three videos on our website that registered neutrals can watch for free to earn CE credit. Each video is one-hour long. Neutrals are free to watch the videos as many times as they wish, but we can only award 1 CE hour credit for each video once a renewal season. Please note the date you finished viewing each video so you can report it on your renewal form. Look for the link, "[Continuing Education Videos](#)," in the main menu of our website. For more information on what qualifies for CE, please see the "[Help! I Need CE!](#)" link on our website.

Be Neutral Back Issues Available Online



Be Neutral is sent monthly to all registered neutrals, generally at the beginning of the month. If you missed an issue, our back issues are posted at the bottom right of our website, under "[Newsletter Archive](#)." Please take a look. If you know people who want *Be Neutral*, please direct them to our subscription box at the bottom right of our [website](#), where they just need to enter their e-mail addresses. Please forward this newsletter to anyone who might be interested in ADR in Georgia courts. Forward it just as you would any other e-mail. If folks who are not registered neutrals want to receive the newsletter free of charge, they can submit their e-mail addresses in the subscription box at the bottom right of our [website](#). And sending us feedback is easy – just reply to this e-mail as you would any other e-mail. We want to hear from you!

Spread the Word

Please forward this newsletter to anyone who might be interested in ADR in Georgia courts. Forward it just as you would any other e-mail. If folks who are not registered neutrals want to receive the newsletter free of charge, they can use the subscription box at below this text or submit their e-mail addresses in the subscription box at the bottom right of the home page of our [website](#). And sending us feedback is easy – just reply to this e-mail as you would any other e-mail. We want to hear from you !

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