

Georgia Commission on Dispute Resolution
MEETING AGENDA
Thursday, September 1, 2011, 2 - 4 PM
State Bar of Georgia

I. Call to Order

II. Swearing in of New Members Judge Gregory Adams and Kenneth Shigley, Esq.: Justice Thompson

III. Minutes from May 26, 2011, meeting approved via e-mail vote

IV. Committee Reports

- Budget and Personnel Committee: Larry Christensen
 - Ethics Committee: Judge Charles Auslander
 - Training and Credentials Committee: Melissa Heard
 - ADR Court Program Liaison Committee: Alan Granath
 - Registration Committee: Sandy Bair
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V. Director's Report: Shinji Morokuma

- Preparation for renewal season
 - Office move, personnel changes
 - Supreme Court rule re Limited English Proficiency and ADR
 - Save the Date: ADR Institute December 9, 2011
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VI. New Business

- Next Meeting Dates: November 10, 2011; January 12, March 8, May 10, September 27, November 15, 2012
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VII. Adjournment

Executive Session

MINUTES: SEPTEMBER 1, 2011, MEETING
GEORGIA COMMISSION ON DISPUTE RESOLUTION

Chair Edith B. Primm, Esq., called the meeting to order. In addition to Ms. Primm, Commission members present were: Justice Hugh Thompson; Judge Gregory A. Adams; Judge Charles E. Auslander III; Emily S. Bair, Esq.; Hubert J. Bell, Jr., Esq.; Laurence L. Christensen, Esq.; Judge Sara Doyle; Alan Granath; Melissa C. Heard; Martha Kitchens; and Kenneth L. Shigley, Esq. Judge C. Andrew Fuller participated by phone.

GODR staff members present were: Shinji Morokuma, Esq., Director

1. Visitors:

Ms. Primm welcomed the visitors: Elmira Barrow, Coweta Judicial Circuit ADR Program; Kathy Brown-Bragg, mediator; Kingsley Buhl, mediator, arbitrator; Cynthia Clanton, Esq., Administrative Office of the Courts; Myra Crawford, DeKalb County Juvenile Court ADR Program; Amber Gallman, Esq., DeKalb County ADR Program; Lynn Goldman, Esq., Fulton County Juvenile Court Deprivation Mediation Program; Sheryl Hicks, Coweta Judicial Circuit ADR Program; Tracy Johnson, Sixth Judicial District ADR Program; James Kenworthy, mediator, arbitrator; Linda McClain, Cobb County ADR Program; Nancy Parkhouse, Clayton County ADR Program; Carol Phelps, mediator; Ashley Stollar, Administrative Office of the Courts; and Nicole Woolfork, Ninth Judicial District ADR Program. Pam Godfrey, Seventh Judicial District ADR Program, participated by phone.

2. Swearing in of New Members:

Justice Hugh Thompson swore in new Commission members Judge Gregory A. Adams of the Stone Mountain Judicial Circuit, and Mr. Kenneth L. Shigley, president of the State Bar of Georgia.

3. Minutes:

The minutes of the May 26, 2011, Commission meeting were approved prior to the meeting via e-mail vote.

4. Committee Reports:

Budget and Personnel Committee: Mr. Christensen

Mr. Christensen reported that he and Mr. Morokuma met recently over the budget with Ms. Kelly Steele, policy fiscal analyst at the Administrative Office of the Courts. GODR's financial picture looks sound, he reported. GODR has \$236,000 cash on hand, and has budgeted \$285,000 for FY12. However, a fulltime professional staff position is

vacant, so that should save about \$83,000 if it remains vacant for the fiscal year. Also, renewal season is approaching, he said. Using FY11 actual spending of \$294,000 as a baseline, the salary/benefits for the vacant staff position should be subtracted, for about \$211,000 in potential FY12 expenses. Since GODR met its target of 2000 registrants at \$125 each, for total income of \$250,000, there is the potential for a budget surplus of \$25,000-\$40,000 a year, he said. He also noted the “extraordinary” support GODR has receives from the Administrative Office of the Courts.

Still, Mr. Christensen said, GODR must be careful to spend money wisely. He suggested that it should increase the registrant target to 2400. Also, he suggested that a part-time or temporary staff member may be adequate rather than a full-time professional, especially since the renewal process is being streamlined. Potential improvements to processing include: 1) doing criminal background checks just once, at original registration, rather than every year at renewal; 2) requiring online renewal and encouraging online fee payment through PayPal. These changes have will save huge amounts of staff time. The committee would work with Mr. Morokuma to determine what kind of staffing help GODR most needs, Mr. Christensen said.

Judge Adams asked what PayPal charges GODR to process online payments. Mr. Morokuma replied that the fee is just over 2 percent of the payment amount, and the AOC’s fiscal department has said that PayPal is the least expensive way for the agency to accept online payments. Judge Doyle asked if it was possible for the PayPal fee to be borne by the payor, not the agency. Mr. Morokuma said he had asked the AOC’s fiscal department earlier, and understood that there may be some legal constraint on the agency charging a fee. He said he would investigate further with the fiscal department.

[Attachment 1]

Registration Committee: Ms. Emily S. Bair, Esq.

Ms. Bair reported that she spent several hours with GODR staff learning about the registration and renewal process. She said registration and renewal are primarily administrative tasks, and the majority of neutrals cooperate and provide all necessary information. A small percentage of registrants cause problems and take up a lot of the staff’s time. The key to streamlining the administrative process was to reduce the time staff spent on handling paper.

Ms. Primm noted that several efficiencies came out of the Registration Committee’s work, including the use of a “permanent” background check authorization form that eliminated much paper from the renewal process. The recommendation to reduce the frequency of background checks and requiring online renewal also came from the committee. She thanked Ms. Bair for her work.

Ms. Primm emphasized that it was absolutely essential that the online renewal system function properly this season without the problems that have plagued it in prior years. She set a deadline of January 31 for all on-time renewal application to be processed. It is important for court ADR programs to be able to know that their local roster members have been properly credentialed, she said.

Committee on Ethics: Judge Auslander

Judge Auslander reported that the committee has issued a decision in an ethics complaint, and that decision has been appealed to the full Commission. The appeal hearing has been set for October 2011. Two additional complaints against mediators are outstanding and are awaiting investigation. No neutral applications have come up for review, he said.

He said the committee wants to speed up the process for handling complaints against neutrals. He noted that under the ADR Rules, the entire responsibility for reviewing and investigating complaints falls solely to the GODR director. That puts the director in the awkward position of recruiting and support neutrals while also investigating them for unprofessional conduct. This conflict has the potential to undermine the director's relationship with stakeholders. The committee will review the complaint process and present to the Commission some proposals for responding more quickly, he said.

Committee on Training and Credentials: Ms. Heard

Ms. Heard reported that the committee met in July and held a conference call this week. The committee is reviewing the work presented by the juvenile mediation subcommittee, headed by Ms. Lynn Goldman. The subcommittee drafted proposed new training and registration requirements for delinquency mediators and deprivation mediators, grandfathering rules for existing juvenile mediators, and model juvenile court mediation rules.

Ms. Primm pointed out that more and more mediation is being conducted in juvenile courts. The new juvenile mediation registration requirements are critical to ensuring that mediators who handle delinquency and deprivation cases are adequately trained.

The committee also is finalizing a definition for the term "court-connected," which is expected to substitute for terms such as "court-ordered," "court-referred," and similar terms used in the ADR Rules. The committee is also partnering with the Rules Committee to comprehensively review the ADR Rules and appendices. Lastly, the committee is looking to update the Commission's domestic violence guidelines, Ms. Heard said.

ADR Court Program Liaison Committee: Mr. Granath

Mr. Granath reported on two new committee projects that grew from the findings of the mediator survey: 1) an effort to help registered neutrals find sources of professional income outside the court ADR system that capitalizes on the extensive links to ADR organizations already posted on the GODR website; 2) a speakers bureau of registered neutrals and Commission members who will use a script and presentation package to help educate the public about ADR, the Commission, and GODR throughout the state.

Mr. Granath thanked Mr. Pete Desrochers, who served as a mediator advisor to the committee. Mr. Desrochers, who led the design, implementation, and summarization of mediator survey, recently moved to Canada to take the job of executive director of the

Alberta Arbitration and Mediation Society. Mr. Granath asked for recommendations for mediators to succeed Mr. Desrochers on the committee.

Mr. Granath also thanked Mr. Morokuma for implementing a regular Quick Q&A column in the GODR's monthly e-newsletter. The column, another idea from the mediator survey, has helped to educate neutrals about the Commission, GODR, and the ADR system.

5. Director's Report: Mr. Morokuma

Registration Renewal Season: Mr. Morokuma said he is working the GODR's database vendor to fix the remaining problems with the online system for the upcoming renewal season.

Office Changes: Mr. Morokuma reported that GODR's offices moved within the Administrative Office of the Courts suite and phone service to the office should be reactivated today. Also, Deputy Director Nicky Davenport left the office. GODR is working with the Budget and Personnel Committee to assess its staffing needs.

Newsletter: Mr. Morokuma reported that an attorney contacted him after he read in the August e-newsletter that GODR could assist mediators who had been subpoenaed to testify in court. It was gratifying that information in the newsletter was of immediate practical use to a registered neutral, he said.

[Attachment 2]

Limited English Proficiency: The newsletter also reported that the Georgia Supreme Court recently issued new rules for the use of foreign-language interpreters so courts can comply with new federal mandates and Title VI of the Civil Rights Act of 1964. The rules also include the use of sign-language interpreters. With the help of Melissa Johnson, an attorney in the Administrative Office of the Courts who worked with the Supreme Court on the new rules, GODR learned that the new rules do apply to court-connected ADR programs. Courts must apply a four-part test to determine if a party is entitled to an interpreter. If the answer is yes, the court is required to pay for the interpreter. Mr. Morokuma said he intends to alert ADR court programs and trainers on how they can comply with the new rules. He said he is aware that court ADR program budgets are already strained, and compliance with the federal mandate may further strain them. Ms. Primm noted that while the cost of compliance may be large, so also are the penalties for violating the federal mandate.

2011 ADR Institute: Mr. Morokuma reminded members that the 2011 ADR Institute is scheduled for Friday, December 9, in Atlanta. A highlight will be an ethics panel discussion based on the documentary, "Out of the Ashes: 9/11," about the September 11 Victim Compensation Fund. Panel members will include the film's director, who is a professor at Seattle University School of Law, as well as an attorney who worked on the fund. 6 hours of neutral CE and CLE will be available.

6. New Business:

-- Next Meeting Dates: Next Meeting Dates: November 10, 2011; January 12, March 8, May 10, September 27, November 15, 2012

-- Judge Edward Carriere: Ms. Primm said Commission member Judge Edward Carriere suffered some complications from his recent illness and was back in the hospital. She reported that he was in good spirits, and she asked Commission members to sign a get well card to send to him.

The meeting was adjourned.

The Commission went into Executive Session.

Attachments:

1. GODR budget summary
2. GODR newsletter

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