

MINUTES: MARCH 20, 2007, MEETING
GEORGIA COMMISSION ON DISPUTE RESOLUTION

Judge Joseph Iannazzone called the meeting to order. In addition to Judge Iannazzone, Commission members present were: Judge Charles Auslander III; Judge Debra Bernes; Bobby Glenn, Esq.; Alan Granath; Elizabeth Manley; Raye Rawls, Esq.; Justice Hugh Thompson; and Judge Cynthia Wright.

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

1. Introduction of New Commission Members:

After calling the meeting to order, Judge Iannazzone welcomed two new members of the Commission -- Alan Granath and Elizabeth Manley -- who were sworn in in December 2006 so they could begin committee work but who have not had a meeting to attend until this day. Mr. Granath introduced himself as a practicing mediator since 1999 with 25 years of business experience at IBM and a degree in accounting. Elizabeth Manley introduced herself as a mediator and Licensed Marriage and Family Therapist who has been mediating since 1978 and training mediators since 1979.

2. Visitors:

Judge Iannazzone welcomed the visitors, who were: Elmira Barrow, Coweta/Carroll County ADR Program; Bev Bradburn-Stern, DeKalb County ADR Program; Chris Cannon, 7th District ADR Program; Amber Gallman, 9th District ADR Program; Tena Helms, Macon Judicial Circuit ADR Program; Debra Nesbit, Deputy Director, Administrative Office of the Courts; and Bonnie Powell, Fulton County Landlord/Tenant Mediation Program.

3. Minutes:

The minutes from the November 14, 2006, meeting were approved without amendment.

4. Director's Report: Shinji Morokuma

a. New Deputy Director

Mr. Morokuma announced that Nicky Davenport was hired in November 2006 as GODR's new deputy director. Ms. Davenport had been working for GODR on a temporary basis as a program coordinator focusing on training and continuing education. She is president of the Georgia Chapter of the Association for Conflict Resolution, and she worked previously at the Community Mediation Program in Baltimore and the Multi-Door Dispute Resolution Program in the Superior Court

of in Washington, D.C. She holds a master's degree in negotiation and conflict management from the University of Baltimore.

b. Promotion of Administrative Assistant

Mr. Morokuma said he has promoted Ashley Franklin from administrative assistant to administrative coordinator in reflection of the sophistication of the work she provides for GODR. Among other duties, Ms. Franklin hires and supervises all of GODR's interns and is the "go to" person for database queries and issues.

c. Firing of Information Systems Coordinator

Mr. Morokuma said the Information Systems Coordinator was terminated, and GODR is looking to hire someone for that position. GODR is talking with the Supreme Court Clerk's Office, which is also seeking a systems employee, to see if the two offices can coordinate hiring and pool resources.

d. Hiring Contract Attorney

Mr. Morokuma said GODR recently hired an attorney/mediator on a contract basis to help compile statistics for GODR's FY2006 Annual Report and conduct the annual continuing education audit of registered neutrals.

e. Nominations for Commission Members

Mr. Morokuma said GODR was seeking nominations for the two Commission positions occupied by Ansley Barton and Raye Rawls, whose terms have expired. The nominees for those positions must, by Supreme Court rule, be members of the State Bar of Georgia. Judge Iannazzone pointed out that the Supreme Court rules state that Commission members may serve until successors are sworn, even if their terms have expired. He said he also found a still-current appellate court decision from the 1800s that seems to support that rule.

d. Legislative Update

Mr. Morokuma said several bills mentioning ADR were introduced in this year's session of the General Assembly. Of concern was SB 18, introduced by Sen. Seth Harp, who represents a district near Columbus. As drafted, the bill would have changed the Georgia ADR Act to allow municipal courts statewide to collect the ADR filing fee and have a representative sit on the local ADR Board of Trustees. GODR and AOC staff attended the Senate Special Judiciary Committee meeting on January 22 and alerted Sen. Harp and the other committee members of the administrative problems that would be created should every municipal court start an ADR program. Among the problems would be the tremendous increase in workload for local program directors, who may have to supervise dozens of new municipal court ADR programs in their jurisdiction. Sen. Harp clarified that he intended only for the municipal court in Columbus to be affected by his bill. The

Columbus municipal court, Mr. Morokuma pointed out to the Commission, has civil jurisdiction and functions much as a state magistrate court. After listening to GODR at the hearing, Sen. Harp amended his bill to affect only municipal courts with civil jurisdiction, which would dramatically narrow the statewide impact of his bill. Mr. Morokuma noted for the Commission that the Georgia ADR Act already covers courts like Columbus's that have civil jurisdiction, so Sen. Harp's bill would have no real effect. Nonetheless, the bill as amended has passed the Senate and is being considered by the House. Since then, there have been no changes to the bill.

Justice Thompson asked if the city of Columbus had a consolidated government. Mr. Morokuma said it did. Justice Thompson said if that is the case, then Sen. Harp's bill could affect several similar courts, such as those in Athens-Clarke County, Richmond, and Albany. Mr. Morokuma predicted that except for making the inclusion of municipal courts with civil jurisdiction more explicit, the bill would have no effect on the Georgia ADR Act or on court-connected ADR in Georgia.

Mr. Morokuma said GODR has had some budget problems with the General Assembly. He reported that Nicky Davenport attended a February 13 meeting of the House Appropriations Committee, Public Safety Subcommittee, and was confronted by a legislator with the question of why GODR needs to exist and a call for the elimination of the GODR's budget. He asked Debra Nesbit, legislative liaison for the Administrative Office of the Courts, to explain further.

Ms. Nesbit said the question of the need for GODR has been raised in the legislature several times before. This year, the issue was why the work of GODR could not be done by judicial administrative district offices instead. The legislator who raised the issue this session was from the 9th Judicial Administrative District, which has a district-wide ADR program. Ms. Nesbit said she explained to the legislator that his district ADR program was unusually large and not representative of other programs throughout the state. And to run the state ADR program through judicial administrative district would require the creation of 10 ADR offices, one for each district, which would not be as cost-effective as having one state office. The legislator has since asked for additional information, and the chair of the Public Safety Subcommittee has asked Ms. Nesbit and Mr. Morokuma to meet with the legislator before the full committee passes the FY2008 budget. Ms. Nesbit said that meeting is scheduled for 10 a.m. the following day. She hopes at the meeting to explain to the legislator why GODR needs to exist, ask in what areas GODR needs to improve its functioning, and ask that funding be restored so GODR can fix any issues. Ms. Nesbit also stated that the legislator was hesitant about funding the additional position requested by GODR in the FY2008 budget. She asked Commission members for any input she could take to the meeting.

Judge Iannazzone noted that if there was no central office, neutrals would have to register in as many as 10 judicial districts in order to serve the courts and would be subject perhaps to inconsistent registration requirements in each area. Ms.

Nesbit said she pointed these issues out and emphasized to the legislator that there would always be a need for a central office for these reasons.

Judge Wright pointed out that a district-based ADR system would make it difficult to ensure the consistent quality of neutrals statewide. For example, she said, one district could decide a neutral should be de-registered while another district would not. Justice Thompson said without centralized control of court-connected ADR, there would be a lot of local variation in rules and procedures, as the court system experienced years ago. He said the courts centralized control of court rules so parties and attorneys would not be disadvantaged when in unfamiliar jurisdictions. Rural Georgians tend to consider all that happens in Atlanta with a jaundiced eye, he said, but not all things that come for Atlanta are bad. On that note, Ms. Nesbit suggested that the GODR staff make an effort in the next year to visit courts and court programs in more rural areas to raise the profile of the office and to help people understand the critical role it plays in the court-connected ADR system. Much of the legislative leadership hails from the rural areas of the state, she said. Judge Wright said it was particularly important to visit those areas where the members of the appropriations committees live and work.

Mr. Morokuma said the need to increase GODR's outreach fits with his longstanding desire to visit all of the state's ADR court programs, ADR boards and bar association, as well as areas where there are no ADR programs. Ms. Nesbit said it would also be helpful to meet with the District Court Administrators, who work closely with the ADR programs and would be able to relate any problems they saw with the office.

Judge Auslander confirmed with Ms. Nesbit that the legislature could eliminate funding for GODR but could not eliminate the office. He noted that the local court programs are approved by statute by GODR, so eliminating GODR would in effect eliminate the local programs, which makes no sense unless the statute was changed to allow local programs to self-regulate. Ms. Nesbit said the legislature might simply be trying to make a point by threatening the GODR's funding. She pointed out that these recent budget issues concern only the House. If the worst case occurred and GODR's budget was eliminated by the House, Ms. Nesbit said she felt the Senate would be more receptive to GODR's need to be funded. And Chief Justice Sears has assured Ms. Nesbit that she would be available to help whenever she is needed. Judge Wright asked how hard the GODR would press for the new position in Senate. Mr. Morokuma said he would like to continue to ask for it because the need can be justified by the increased workload of the office. Since the office staff was increased to four, the number of registered neutrals has nearly doubled and the number of court programs has increased dramatically. Helping new programs get started takes considerable staff resources, Mr. Morokuma said, and the new requested position would focus entirely on training and assisting new programs.

Ms. Nesbit said the Judiciary Subcommittee of the Senate Appropriations Committee is much smaller than its counterpart in the House, and it would be

strategic to have a Commission members lobby subcommittee members who serve their districts for help for GODR. Once the budget goes to conference committee to negotiate disagreements between the budgets proposed by the two house, the conferees, not the subcommittee or committee members, control the budget.

Justice Thompson reaffirmed that people are suspicious of things they don't understand. And the legislature is very conscious about not wasting money. So legislators are unlikely to support funding for an office whose purpose they don't understand. He said the courts will be unable to handle the workload from the increase in the state's population in the coming years, so the ADR system needs to be funded to help take the load off the judicial system.

Judge Iannazzone suggested that to enhance GODR's outreach efforts the office could create a speaker's databank. The databank would provide information on Georgia's court-connected ADR system to Commission members and others asked to speak publicly. Mr. Morokuma agreed and said that statistics such as the number of mediators, the number of court programs, the volume of ADR in the courts, and how many citizens are served can easily be made available to anyone who needs the information for a speech.

e. Public Appearances

Mr. Morokuma reported that he has tried to accept all offers to make speeches and presentations and participate in trainings since he started as GODR director in August. He counted 20 such offers he had accepted to date. An upcoming dinner with Deputy Director Nicky Davenport will include representatives from the Philippines, Nigeria, Croatia and Zimbabwe who are interested in ADR. Mr. Morokuma also said he met recently with a Fulbright scholar from Cyprus who worked in the construction industry and was interested in Georgia's court-connected ADR system. Mr. Morokuma said he planned to do more public outreach to help increase the visibility of GODR.

e. Child Support Guidelines Training

Mr. Morokuma said GODR recently sent out final notice to registered domestic relations mediators who had not yet taken an approved child support guidelines training that their domestic registrations will lapse complete as of June 30. Many of the recipients have responded, and the issues seem to be either people forgot to send in the required certification or they mistakenly thought GODR was part of the State Bar and that the Bar would have passed the required documentation to GODR.

Mr. Morokuma said he knew of only two remaining opportunities for neutrals to take an approved training: an online or video replay of ICLE's Oct. 13, 2006,

seminar, and an upcoming seminar in Atlanta led by Elizabeth Manley and Raye Rawls on April 26.

Mr. Morokuma presented a survey sent to judges by the Child Support Commission to solicit feedback on Georgia's new child support worksheets and calculators. He said he would ask the Child Support Commission and the Office of Child Support Services if they are interested in distributing the survey to registered mediators. Ms. Bev Bradburn-Stern said she already has distributed the survey to all domestic mediators on her DeKalb County roster. She also said she and her mediators have had several meetings with attorney Deborah Johnson of Atlanta Legal Aid, who helped create the new child support calculators.

[Attachment 1]

[Attachment 2]

f. Registration Renewal Process

Mr. Morokuma said GODR recently sent out a reminder letter to all neutrals who had not renewed their registration by the December 31, 2006, deadline. The response has been good, he said.

g. New Database System

Mr. Morokuma said he planned to overhaul GODR's database system, which has never seemed to work well since it was created a few years ago and which causes administrative problems for the staff. It makes no sense to layer newly needed functions onto a system that never worked in the first place, he said. GODR is in discussions with a vendor to develop a new database system from scratch. This vendor is already being used by the Court of Appeals for its new e-filing system, and the Supreme Court and the Office of Bar Admissions also close to using the same vendor to update their own database systems. Mr. Morokuma said GODR was just waiting for an estimate from the vendor. He explained that the benefits to all of the offices to using the same vendor are: the efficiency of using common computer software platforms, economies of scale, and less re-creation of work that is common to the departments. The vendor has proposed having a staff member on site for about a year to help with technical support of the systems it has designed. Mr. Morokuma said GODR is talking with Supreme Court Clerk's Office and Bar Admissions to see if the three departments can coordinate their information technology staff requirements.

g. Mediation Study Group

Mr. Morokuma said the Mediation Study Group finished a draft revision of ethics rules governing mediators' giving professional advice or opinions. The group still has to revise rules regarding self determination and coercion. Once the work

is finished, the group will present its recommendations to the Ethics Committee and the Rules Committee, then offer up the revisions for public review. Once that information is gathered, then the final recommendations will be submitted to the Commission. Mr. Morokuma said the discussions around professional advice and opinions have been spirited between those group members who believe in a more evaluative style of mediation and those who believe in a more facilitative style. The goal has been to try to revise the rules to accommodate both styles.

h. Upcoming Activities

Mr. Morokuma said planning for the May 21-22 program directors retreat continues with the help of Linda McClellan-Horvath, director of the 10th Judicial Administrative District ADR Program, and other program directors. The final activity for the two-day retreat is the May Commission meeting. The retreat and the meeting will be held at the Holiday Inn in downtown Athens. Some time has been set aside after the Commission meeting for program directors and Commission members to meet and talk. Mr. Morokuma said he hoped all Commission members would attend and take advantage of the opportunity to talk informally with the program directors, who are the backbone of the state's court-connected ADR system.

Mr. Morokuma said GODR has sponsored two trainings in May: a juvenile court mediation training in Waycross for the new Waycross Judicial Circuit, and a domestic relations mediation training for the new Augusta Circuit. GODR also plans to sponsor a general mediation training in the Piedmont Circuit, and trainings in specialized domestic violence and screening of cases of domestic violence. The latter is particularly important because many court ADR staff have changed since the training was last held, Mr. Morokuma said, and those new staff need to know how to screen domestic violence cases for appropriateness for mediation.

Mr. Morokuma said planning has begun for the 2007 ADR Institute and Neutrals' Conference with the help of ICLE, the ADR Section of the State Bar, the Friends of the ADR Institute. The Institute once again will be held in October at State Bar headquarters in Atlanta. Mr. Morokuma acknowledged that there was some interest in organizing a longer ADR Institute at a remote location, but he felt he needed to attend to the needs of GODR first before he could devote energy to a more elaborate Institute. He asked for ideas for activities for the Institute. He said a date had not been selected, but that it would coordinate with the annual meeting in October of the Association for Conflict Resolution.

5. Committee Reports

a. Committee on Training and Credentials: Bobby Glenn

Mr. Glenn said the committee discussed a problem that Ms. Elizabeth Manley had brought up at the previous meeting – that of the difficulty trainers are having in incorporating enough instruction on the new child support guidelines within their approved, 40-hour domestic relations mediation training. The committee discussed raising the domestic relations mediation training requirement to 42 hours, perhaps presented as a minimum of 40 hours of classroom time plus two hours that trainers could decide to spend on homework or other activities as they saw fit. The committee asked Mr. Morokuma to poll the approved domestic relations mediation trainers on their thoughts about raising the required number of training hours. Mr. Glenn also asked program directors to tell Mr. Morokuma if they feel mediators would protest an increase in required training time and to make him aware of any instances in which they felt mediators were inadequately trained on the new child support guidelines after completing a recent 40-hour training.

b. Committee on Ethics: Judge Wright

Judge Wright said the committee reviewed 13 neutral applications: 10 were approved, one was denied, two held for further information.

6. New Business: Judge Iannazzone

Judge Iannazzone reported that the dates of the next several Commission meetings had been decided. The dates are Tuesday, May 22, 2007; Wednesday, July 18; and Wednesday, September 19. He said some Commission members had ongoing conflicts on Tuesdays, so it was decided to try to hold meetings on Wednesdays instead. Judge Wright asked that Commission meetings sometimes be scheduled later in the week, because judges' calendars often are busy through midweek but clear up by Thursday or Friday.

The meeting was adjourned.

Attachments:

1. "Final notice" letter to domestic relations mediators
2. Child Support Commission survey