



Georgia Commission on Dispute Resolution Meeting
Wednesday, May 6, 2020
2-4 PM

Zoom Meeting

<https://zoom.us/j/933114463?pwd=UFNNSlBnL3JBL2JaM0FUanNMZW9pdz09>

Meeting ID: 933 114 463

Password: 028267

AGENDA

- I. Call to Order: Judge Jane C. Barwick
- II. Swearing in of New Commission Members: Justice John J. Ellington
- III. Introductions
- IV. Meeting Minutes from January 29: Approved via email
- V. ADR Program Spotlight: Gwinnett County ADR Program – Ms. Laura Lynn Swafford
- VI. Standing Committee Reports:
 - Budget and Personnel Committee: Judge C. Andrew Fuller
 - Ethics Committee: Judge M. Cindy Morris
 - Training and Credential Committee: Ms. Melissa C. Heard, MSSW
 - Liaison Committee: Mr. Hal Gray, Esq.
- VII. Special Committee Report:
 - UMA Working Group: Ms. Mary Donovan, Esq.
 - DV Rules Implementation Committee: Judge Charles E. Auslander, III
- VIII. GODR Report: Ms. Tracy Johnson & Ms. Karlie Sahs
 - COVID-19 response
 - 2019 Late Renewal Registration
 - 2020 ADR Institute
 - Strategic Projects update
 - Upcoming Events
 - ABA Dispute Resolution Conference (Online): May 18-22
 - National Association of Court Management: July 12-16
- IX. Chairman's Report: Judge Barwick
- X. New Business
 - Model and Uniform Rules Revisions
 - Court ADR Program Updates
- XI. Old Business
- XII. 2020 Commission Dates: August 5, November 4
- XIII. Adjournment

Next Meeting Date: August 5, 2020, State Bar, Room #1



Georgia Commission on Dispute Resolution Meeting Minutes Wednesday, May 6, 2020

Due to the public health crisis, this meeting was held virtually using Zoom; all members and guests participated by video and/or phone.

Chair Judge Jane C. Barwick called the meeting to order. In addition to Judge Barwick, Commission members and Office staff present were:

Justice John J. Ellington; Judge Charles E. Auslander, III; Emily S. Bair, Esq.; N. Staten Bitting, Jr., Esq.; Judge Clarence Cuthpert, Jr.; Mary Donovan, Esq.; Judge C. Andrew Fuller; Herbert H. (Hal) Gray, III, Esq; Melissa Heard, MSSW; Nicole W. Hull, Esq.; Judge M. Cindy Morris, Chair-Elect; Edith B. Primm, Esq.; Judge Renata D. Turner; Randall Weiland; and Peggy McCoy Wilson

Tracy B. Johnson, Executive Director; Karlie A. Sahs, Program Manager; and Janice Harkins, Program Coordinator, Office of Dispute Resolution

JC/AOC staff members present were: Alison Lerner, Esq., Staff Attorney; Jeffrey Thorpe, Research Analyst; and Maleia Wilson, Budget Director

Guests present were: Patti Anderson, Cobb County Superior Court ADR Program; Kim Brock, Fulton County Superior Court Family Division; Rita Carroll, Carroll County ADR Program; Linda Jezerinac, 7th District ADR Program; Rebecca Lindsey, Coweta Judicial Circuit ADR Program; Caitlin Lowther, DeKalb County Dispute Resolution Center; Valerie Lyle, 9th JAD ADR Program; Tamara McGee, Southern Judicial Circuit ADR Program; Kathleen Sterne, Clayton County ADR Program; Laura Lynn Swafford, Gwinnett County ADR Program; Angela Taylor, Fulton County ADR Program; and Shannon Watts, Southern Judicial Circuit ADR Program.

I. Meeting called to order

Judge Barwick called the meeting to order at 12:30 p.m. The Commission immediately went into Executive Session

II. Executive Session (12:30 p.m. – 1:30 p.m.)

III. Swearing in of New Commission Members: Justice John J. Ellington

Justice Ellington administered the oaths to new Commission members, Honorable Clarence Cuthpert, Jr. and N. Staten Bitting, Jr., Esq.

IV. Introductions

Members and guests introduced themselves.

V. **Minutes**

The January 29 Commission meeting minutes were approved prior to the meeting via e-mail vote on February 18, 2020.

VI. **ADR Program Spotlight: Gwinnett County ADR Program – Ms. Laura Lynn Swafford, Program Director**

Ms. Swafford presented an overview of the Gwinnett County ADR program. Judge Barwick and members of the Commission thanked Ms. Swafford for her impressive presentation. The Commission will hear from another program at the next meeting.

VII. **Standing Committee Reports:**

a. **Budget and Personnel Committee: Judge C. Andrew Fuller**

Budget documents were included in meeting materials. Judge Fuller reviewed the budget materials, including an overview of the reports detailing the Office’s expenditures and revenue. The FY2020 operational budget remains balanced. The percentage of expenditures used in the special projects budget is on par for this time in the fiscal year; Judge Fuller noted that it is fiscally responsible to maintain a reserve fund.

b. **Ethics Committee: Judge M. Cindy Morris**

Judge Morris reported that there are two (2) pending ethics complaints. One is in the investigation phase, and the respondent has submitted an answer to the complaint. The second complaint was recently received and is in the initial evaluation stage. Additionally, there are five (5) registration applications pending ethics review. Once staff investigations are complete, the Committee will review and approve or deny applicant registrations. Since the Commission’s last meeting, thirty-one (31) other applicants were referred to Ms. Alison Lerner, staff attorney, for review. After investigation, all thirty-one (31) were administratively approved by staff, pursuant to guidelines established by the Ethics Committee. At the request of Judge Morris, Ms. Lerner provided the Commission with an overview of the process and purpose of administrative approval. At this time, there are no pending appeals.

The Ethics Committee has not yet scheduled their next meeting.

c. **Training and Credential Committee: Ms. Melissa C. Heard, MSSW**

Ms. Heard advised that the Committee is still working on revisions to Appendix B of the ADR Rules, which they are expected to wrap-up revisions by the end of 2020. The group is now focusing their attention on the areas of domestic relations mediation and specialized domestic violence mediations, as well as continuing to explore early neutral evaluation. Staff attorney Alison Lerner is updating the rules with the proposed revisions and will present the changes to the Committee for review and further discussion at the next meeting.

The Committee has discussed training participant fees, and Ms. Heard noted that the Committee will wait on any recommendations until it can be determined the overall economic impact of the COVID-19 pandemic.

The Committee has not yet scheduled its next meeting.

d. Liaison Committee: Herbert (Hal) Gray, III, Esq.

Mr. Gray shared that a newsletter was published in March, and the next will be published before the next Commission meeting in August.

Mr. Gray also provided a review of the historical purpose of the Liaison Committee. The Committee last met on March 27 and discussed reworking its blueprint. As Mr. Gray noted, the Committee is seeking ways to increase visibility and outreach, including the idea of adding a Commission member, whom is a judge, to the Committee. The Committee is also considering a name change for the group to better illustrate its scope of work.

The Committee is planning to meet again before the next Commission meeting, but a date has not yet been set.

VIII. Special Committee Report:

a. Joint Working Group on Mediation Legislation in GA: Mary Donovan, Esq.

Ms. Donovan explained that Representative Bonnie Rich had initially agreed to sponsor the Uniform Mediation Act (UMA); however, was unable to do so after she became suddenly ill in January. Ms. Donovan then reached out to Senator John Kennedy, who introduced UMA – now Georgia Uniform Mediation Act, Senate Bill 464 – and brought it before the Senate Judiciary Committee. After the bill was Favorably Reported by the Senate Judiciary Committee, it went before the full Senate for a vote. SB 464 passed/was adopted by the Senate and then moved to the House of Representatives. The Georgia Legislature has since paused its legislative session due to the public health emergency. With eleven (11) days remaining in the legislative session, there is uncertainty as to whether the legislature will resume its regular session or decide to limit discussion to matters pertaining to the State budget. The State is waiting on Governor Brian Kemp for directive.

b. Committee for DV Rules Implementation: Judge Charles E. Auslander, III

Judge Auslander remarked that the Committee is the Commission's largest group, and he specifically thanked those court ADR program directors who are serving on this Committee. Judge Auslander then asked Tracy Johnson to brief the group on the Committee's recent work.

Ms. Johnson advised that the Committee last met on February 12. She provided synopsis of the continuing work on the implementation of the new rules:

Online Screening Tool: Improvements have been made to the Online Screening Tool to add language/tool tips to make navigation easier. Work is being done to include a function that would allow a mediator to receive a copy of the screening responses for their cases.

Supplemental training curricula: Following the initial trainings, the curricula for the DR/SDV supplemental trainings was tweaked to have a better flow in the presentation. A check-in phone call has been scheduled with trainers for May 12 to gain feedback and share information regarding the supplemental trainings. The

supplemental trainings have been going well, with the Office having completed seven (7) in-person prior to the public health emergency. Four (4) virtual versions of the trainings have been held since, with two (2) planned for the week following the Commission meeting. The trainings replaced postponed dates and were not advertised to give the Office an opportunity to assess the viability of the online format. Overall, the virtual format has been a positive learning experience, and there is confidence enough to move forward with transitioning the remainder of the trainings online. The Office will add additional trainings to make sure all who need it have access and, in general, plans to keep on track with the original implementation timeline. In total, 183 mediators have completed the trainings thus far. The court ADR program staff trainings (planned for September through December) will also transition to a virtual format, as an anticipated reduction of travel budgets may otherwise impact programs' ability to attend. Virtual staff trainings will be recorded.

A sub-committee met on April 29 and May 4 for a Q&A session regarding the new rules. All court ADR programs were asked to submit questions ahead of time, and the group discussed how to address each concern and what resources would be most helpful for the programs. Resources include access to the TPO registry. Since the process of accessing the registry has changed, updated instructions have been developed for programs and will be provided once the user list has been updated.

Though conference schedules may have been impacted by COVID-19, the Committee still hopes to move forward with planned educational opportunities for all internal and external stakeholders. Future presentations include: the Georgia Council of Court Administrators Conference (September) and the Georgia Commission on Family Violence (GCFV) Conference- in collaboration with Joan Prittie with Project Safe (September).

The next Committee meeting is scheduled for June 5.

IX. GODR Report: Ms. Tracy Johnson & Ms. Karlie Sahs

a. COVID-19 Response:

The Office has been working continuously to provide neutrals with additional resources to help them adapt in this unpredictable time of public health. Ms. Sahs developed a COVID-19 Resource webpage, which is linked to a banner on the godr.org homepage. The resource page includes links to the Georgia Judicial Gateway and National Center for State Courts (for court updates) as well as ongoing updates to resources for virtual ADR. The Virtual ADR section hosts four (4) of five (5) important virtual ADR-specific guidelines developed by Ms. Johnson: Sample Guidelines for Mediation; Sample Notice of Mediation; Video Mediation Guides for: Parties and Attorneys, Mediators; and Best Practices for Court ADR Programs (unpublished).

The Budget & Personnel Committee approved funding for two *Learn to Mediate Online* webinars, hosted by Susan Guthrie, Esq. In total, 930 registered neutrals received free training on April 17 & 21. Neutrals were credited for three (3) hours of CE and the webinar was also approved for three (3) hours of CLE with the State Bar of Georgia. Following the webinars, the ADR Institute of Canada approached GODR and offered

registered neutrals in Georgia the opportunity to attend their version of the webinar at a discounted rate.

Many Court ADR Programs are allowing for mediations to take place via video; programs include the 7th District, 9th JAD, Atlantic Judicial Circuit, Augusta Judicial Circuit, Carroll County, Cobb County Superior Court, Coweta Judicial Circuit, and Eastern Judicial Circuit. Based on feedback, it appears that any pushback has been from attorneys and not parties. The Office plans to host an informal conversation regarding how GODR can further assist courts with video mediation and invite court ADR programs and court administrators to participate.

Ms. Johnson has been attending weekly Judicial Council conference calls regarding Chief Justice Melton's Judicial Emergency Order. Accordingly, Ms. Johnson has been able to share important developments and information with the Commission, court ADR program directors, trainers, and registered neutrals (when applicable).

The Commission had previously voted to approve a provision to allow online training, issued as an Emergency Order Temporarily Suspending the In-Person Training Requirement on April 6. The Order allows pre-approved training programs to deliver in-person trainings within a virtual environment, given that the trainings abide by specific requirements for technology and number of participants. Additionally, copies of the agenda and materials must be provided to GODR ahead of the scheduled training. GODR staff must be invited observe any part of the training. Indeed, staff has attended portions of two trainings to date and observed that engagement was high and that curricula translated well to the online format. Decision is yet to be made as to when the Order should be lifted.

b. 2019 Late Renewal Registration:

In reflection of the predicted Emergency Judicial Order, the late renewal registration has been extended to May 29. Notice was sent to neutrals through the Georgia Courts Registrar (GCR) system and by direct email through the general GODR email account.

To date, 2,632 renewal registrations have been approved. Late renewal applications currently total 152, with 316 neutral registrations remaining. GODR and GCR staff will continue to communicate with those who need to renew or have pending renewal matters.

c. 2020 ADR Institute

The Office, in collaboration with the Dispute Resolution Section of the State Bar of Georgia, had previously decided to bring all event logistics and planning in-house for the 27th ADR Institute and 2020 Neutrals' Conference. GODR staff visited the Georgia Tech Hotel & Conference Center and confirmed a conference date of December 11, 2020. Unfortunately, contract negotiations were made complicated by the public health emergency. With too many unknown variables, GODR made the decision to transition the 2020 conference to a virtual format and hopes to host at Georgia Tech in December 2021. Staff will begin working on the agenda, and Ms. Johnson will forward to the Commission once it is available.

d. Strategic Projects Update

An updated copy of the Office project list was provided with the meeting materials. Ms. Johnson and Ms. Sahs provided a brief status of each project on the list, excluding those projects that had already been mentioned.

1. **Case Management System:** Ms. Johnson updated that the Office continues to work with the vendor on developing product upgraded and is getting closer to a deployment date. The new deployment is expected for June 2020.
2. **Website Upgrades:** Though the website has been completed, Ms. Sahs informed the group of the ongoing efforts to revise and improve content.
3. **Registrar Training Component:** Ms. Sahs reported that the Office completed training application renewal for the following categories: arbitration, juvenile delinquency mediation, and juvenile dependency mediation. Review for domestic relations and specialized domestic violence categories is scheduled for Fall 2020.
4. **JV Court Mediation Expansion:** Ms. Sahs provided the update that the plan to explore a pilot for Community Conferencing in Fulton County Juvenile Court has been put on hold, due to COVID-19. Judge Turner shared that the Fulton County Juvenile Court judges, including the Chief Judge, have discussed the possible pilot and are unanimously in support of the endeavor, Plans will be made to re-group over the summer months.
5. **Social Media:** Ms. Sahs shared that social media has been an essential tool in disseminating information regarding COVID-19 resources and updates to the DR/SDV supplemental training schedule.
6. **Rules for Mediation in Cases of DV, Appendix B Revisions, ATLAS/UMA, and Model Court Program Forms** were discussed earlier in the meeting. **ADR Conferences, ODR, 25th Anniversary, Mediation Prep Kit, and Statewide Partnerships & Education:** No updates to report.

e. Upcoming Events:

1. American Bar Association Dispute Resolution Conference:
 - i. May 18-22, Virtual Format
2. National Association of Court Management
 - i. July 12-16, New Orleans, Louisiana

X. Chairman's Report: Judge Barwick

a. Highlights

1. Judge Barwick welcomed new GCDR members. She also thanked GODR staff for their continued hard work and adaptability.

XI. New Business

a. Model and Uniform Rules Revisions

Model Mediation and Uniform Rules revision work was sidetracked by the emergence of the COVID-19 Public Health Emergency. However, Ms. Lerner and Ms. Johnson having been working on revisions together and they are nearly complete. The deadline for programs to submit rules will be adjusted to allow for enough time to complete updates.

b. Court ADR Program Updates

There were no Court ADR Program updates reported.

XII. Old Business

There was no old business to report.

XIII. Upcoming Commission Dates: August 5 and November 4

The next meeting is scheduled for August 5, at 2:00 p.m. in Room #1 at the State Bar of Georgia Conference Center.

XIV. Adjournment

The meeting concluded at approximately 3:40 p.m.

[Minutes prepared by Karlie A. Sahs and Tracy B. Johnson]

[Minutes approved via email May 29, 2020]

Justice John J. Ellington administering the Oath to new members Judge Clarence Cuthpert, Jr. & N. Staten Bitting, Jr. Esq. The swearing took place virtually – a GCDR first!



Hon. Clarence Cuthpert, Jr., or “Old School”, during the new-school swearing-in ceremony.



N. Staten Bitting, Jr. during the virtual swearing-in ceremony.





Members of the Georgia Commission on Dispute Resolution conducting the Commission's first ever meeting on a virtual platform! Photo was captured during Executive Session.
Pictured here: Tracy B. Johnson; Karlie A. Sahs; Peggy McCoy Wilson; Edith B. Primm, Esq. (speaking); Janice Harkins; Emily S. (Sandy) Bair, Esq; Judge Jane C. Barwick, Chair; Randall Weiland; Judge Renata D. Turner; Judge Clarence Cuthpert, Jr.; Judge M. Cindy Morris; N. Staten Bitting, Jr., Esq.; Judge C. Andrew Fuller; Mary S. Donovan, Esq.; Herbert H. (Hal) Gray, III, Esq.; Judge Charles E. Auslander, III; Melissa Heard, MSSW; Patrick T. O'Connor, Esq.; and Nicole W. Hull, Esq.