



Georgia Commission on Dispute Resolution Meeting
Wednesday, August 5, 2020
2-4 PM

Zoom Meeting

<https://us02web.zoom.us/j/84812513525?pwd=V2I5OC9RUmgxVnVvNjdLRGFyNXZCQT09>

Meeting ID: 848 1251 3525

Password: 486241

AGENDA

- I. Call to Order: Judge Jane C. Barwick
- II. Introductions
- III. Meeting Minutes from May 6: Approved via email
- IV. ADR Program Spotlight: Carroll County ADR Program: Ms. Rita Carroll
- V. 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.
- VI. Special Committee Report:
 - UMA Working Group: Ms. Mary Donovan, Esq.
 - DV Rules Implementation Committee: Judge Charles E. Auslander, III
- VII. GODR Report: Ms. Tracy Johnson & Ms. Karlie Sahs
 - New office space
 - COVID-19 updates
 - 2019 Late Renewal Registration
 - 2020 ADR Institute
 - Strategic Projects update
 - Upcoming Events
 - Georgia Commission on Family Violence, September 15
 - State Court Judges Conference, October 15
- VIII. Chairman's Report: Judge Barwick
- IX. New Business
 - ADR Liaison Committee Name Change
 - Rules for Mediating Cases Involving Issues of Domestic Violence
 - Appendix A: Uniform Rules for Dispute Resolution Programs
 - Model Court Mediation Rules
- X. Court ADR Program Updates
- XI. Old Business
- XII. 2020 Commission Dates: November 4
- XIII. Adjournment

Next Meeting Date: November 4, 2020, State Bar, Room #1



Georgia Commission on Dispute Resolution Meeting

Minutes

Wednesday, August 5, 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:

Judge Charles E. Auslander, III; 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 and Karlie A. Sahs, Program Manager

JC/AOC staff member present was Alison Lerner, Esq., Staff Attorney

Guests present were: Patti Anderson, Cobb County Superior Court ADR Program; Rita Carroll, Carroll County ADR Program; Linda Jezerinac, 7th District ADR Program; Caitlin Lowther, DeKalb County Dispute Resolution Center; Casey Martinez, Eastern Judicial Circuit ADR Program; Charity Messer, 7th District ADR Program; Patricia Murphy, The Mediation Center of the Coastal Empire; Carlene Redmond, Cobb County Juvenile Court; Kathleen Sterne, Clayton County ADR Program; Laura Lynn Swafford, Gwinnett County ADR Program; and Angela Taylor, Fulton County ADR Program.

I. Meeting called to order

Judge Barwick called the meeting to order at 2:00 p.m.

II. Introductions

Members and guests introduced themselves.

III. Minutes

The May 6 Commission meeting minutes were approved prior to the meeting via e-mail vote on May 29, 2020.

IV. ADR Program Spotlight: Carroll County ADR Program – Ms. Rita Carroll, Program Director

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

V. Standing Committee Reports:

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

Budget documents were included in meeting materials. Judge Fuller reported that the budget is healthy. He encouraged members to review and compare the budget and expenditures for FY20, which concluded on June 30, noting that the year closed under budget.

Ms. Tracy Johnson was asked to comment on whether there are any anticipated major changes to the budget. Ms. Johnson expressed that there are no known concerns at this time regarding the FY21 budget and expenditures. She also noted that the Commission continues to see a steady increase in revenue annually; there was an increase in revenue during FY20 in the amount of \$7,600, compared to FY19.

Judge Barwick thanked the Budget and Personnel Committee for their hard work on the revised MOU with the Administrative Office of the Courts.

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 being evaluated for jurisdiction at this time. At this time, there are no pending appeals.

The Committee met last on July 17, where ten (10) applicants for registration were reviewed. Eight (8) applicants were approved and two (2) applicants were denied. Of the denials, one (1) was a new applicant and the other was reviewed during a pre-certification period. Currently, there are two (2) pending applicants who are undergoing investigation by staff for a criminal background or a history of professional discipline. At the request of Judge Morris, Ms. Lerner provided the Commission with an overview of the process and purpose of the pre-certification ethics review.

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 has been busy with appeals and rule revisions. Since the May Commission meeting, the group met on both July 14 and July 30. There were four (4) appeals discussed; two (2) were regarding a lapse in neutral registration that would require re-training, per the Supreme Court ADR Rules. One (1) of these appeals was approved and the other was denied. A third appeal was regarding the sequencing of training received, which was completed out of order. The Committee voted to approve the appeal, permitting the neutral to register in each registration category in which training was completed. The final appeal regarded a prior appellant who was issued a set of stipulations by the Committee at a prior meeting. While a number of these stipulations have been met by the applicant, the pending requirements have been impacted by COVID-19. The Committee voted to waive the remaining requirements and approve registration.

Ms. Heard also reported that the Committee has nearly completed revisions to Appendix B of the ADR Rules, and the group will be ready to present a copy for full review by the full Commission prior to the November 4 meeting. There will also be a discussion with

pre-approved training programs to discuss any concerns regarding virtual training, which the Committee will look to proactively add to the Appendix B revisions. The Committee also suggested a dedicated meeting time for the Commission to review Appendix B, the Training Approval Guidelines, and a revised fee schedule. The Commission will receive drafts of all proposed revisions prior to meeting.

The Committee has not yet scheduled its next meeting.

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

Mr. Gray shared that the Committee last met on July 15. Invitation was made to Valerie Lyle, Program Director, 9th JAD ADR Program, and Laura Lynn Swafford, Program Director, Gwinnett County ADR Program, to join the Committee's work as program advisors. Discussion centered around how members of this group could better support existing projects, such as the quarterly newsletter and the annual Court ADR Program Directors Conference. Additionally, the group explored expansion of the Committee's scope to, among other things: better align Committee work with the Commission's strategic projects, create more opportunities for continuing education, and expand access to dispute resolution within courts that do not have a formally established ADR program. A plan for these goals is in development.

VI. Special Committee Report:

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

Ms. Donovan explained the legislative progress and shortfalls of the Georgia Uniform Mediation Act, otherwise known as Senate Bill 464 (SB 464). The bill was Favorably Reported by the Senate Judiciary Committee and subsequently passed by vote in the Senate, prior to the COVID-19 pandemic halting the legislative session. When the session resumed in June, SB 464 sat in the House Judiciary Committee and was not put up for a vote. The Working Group believes that the short length of the resumed session was a hindrance for further discussion regarding the bill.

The Georgia Uniform Mediation Act will be re-introduced during the next legislative session, and the group has already continued its work to get it there. On July 22, 2020, the Judicial Council's Legislative Committee approved to move forward with the bill, and support from the full Judicial Council is anticipated ahead of their August 14 meeting.

Senator John Kennedy, sponsor of the bill, continues to back the work. Group members will continue to meet with other stakeholders for new and renewed support.

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

Judge Auslander thanked GODR staff for carrying the weight of the work on DV rules implementation prior to asking Ms. Johnson to share updates on the Committee's recent work.

Ms. Johnson advised that the Committee last met on June 5. She provided synopsis of the continuing work on the implementation of the new rules:

Online Screening Tool: Improvements to the tool include: simplified data entry for contact information; the additional of instructional information and tool tip content; and the addition of mediator notification, which provides an option to have results sent to both the mediator and any court ADR program associated with the given county in instances where the mediator completes the screening form. The tool is ready for deployment. Ms. Johnson will follow up with programs who still need to submit an email address that will receive screening results.

TPO Registry: All court ADR programs may have access to the TPO Registry if they submit a request to GODR. The roster for program access has been updated and all program staff will receive login information. GODR published a one-page instruction guide and step-by-step video tutorial to assist program staff with registry access. Ms. Sahs created a TPO Registry information page, which includes all of the above information as a one-stop resource page.

Training Curriculum: Discussion from sub-committee meetings on April 29 and May 4 has evolved into the following recommendations: a Q&A resource guide for mediators, revisions to the DV Rules, and enhanced staff training.

Training logistics: To date, GODR has held eleven (11) in-person and eighteen (18) virtual supplemental trainings for domestic relations and specialized domestic violence mediators. There are six (6) additional trainings scheduled, and the Office is considering the addition of four (4) more, as registration demands. Approximately 500 have met the 2020 training requirement, and the Office is in the process of individually contacting (by phone and/or email) each mediator who has not yet met the requirement to offer assistance. Court ADR program staff screening training will be scheduled between September and December. The three (3) trainings will be recorded and then made available to programs. GODR will reach other stakeholders in the DV community with a presentation at the Georgia Commission on Family Violence annual conference in September; Ms. Johnson and Ms. Joan Prittie have been confirmation as co-presenters.

Registration and training approvals: Neutral registration renewal will begin on October 1, and mediators registered in domestic relations and specialized domestic violence categories will have the opportunity to remove one or both of those categories from their registration via an affidavit that will become available. All mediators who do not complete training requirements by December 31, 2020, will have the category(s) automatically removed. Program directors will be provided a list of such updates.

Trainer and program rule approvals: All trainers must update their current training materials to reflect the new curriculum components by December 31, 2020. Court programs must revise their rules and resubmit to GODR for review by July 1, 2021. All court program rules must be approved by the Commission.

The next Committee meeting is scheduled for October 6.

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

a. New Office Space

GODR moved into the new office space on May 1. While there are a few smaller items remaining, all the new furniture has been ordered and mostly installed. Overall, the expenditures were under budget.

While the GODR staff has been reporting to the office, the in-office hours continue to be on a part-time basis due to COVID-19. As such, decision was made not to move landline phones into the new office space. Ms. Johnson and Ms. Sahs have transitioned their mobile phones to serve as direct-line telephones. The phone number for the Georgia Courts Registrar will continue to serve as the GODR main telephone line.

b. COVID-19 Updates:

GODR continues to update the temporary COVID-19 resource page, notably with the recent addition of Zoom mediation “how-to” guides created by the Mediation Clinic at Mitchell Hamline Law School (in Minnesota). The Office has been communicating and sharing resources among counterparts in surrounding states. Additionally, a number of the COVID-19 resources created in-house have been migrated to the permanent Godr.org website, notably the video mediation guides and sample templates, under a new resources section called “Virtual ADR”. Mr. Gray volunteered to assist Ms. Sahs with adding additional resources that are specific to arbitration.

The Commission has been represented in all Judicial Council emergency sessions and civil subcommittee meetings, either by Ms. Johnson or by Ms. Sahs as her proxy. This has also allowed for information to be shared quickly among members and court ADR programs as extensions of the Judicial Emergency Order have been issued.

c. 2019 Late Renewal Registration:

Due to the original extension of the Emergency Judicial Order, the late renewal registration deadline was extended from May 1 to May 29. This allowed for an additional 17 neutrals to renew prior to becoming Inactive. GODR was able to reach out to most remaining neutrals by phone prior to the May 29 deadline.

d. 2020 ADR Institute

The 2020 conference has transitioned to a virtual format. Conference sessions will be pre-recorded, then made available for viewing on the scheduled conference date. A framework for sessions has been decided on, and the agenda is in the process of coming together. The Office continues to work with Ms. Tangel King to plan the new format and work out logistics.

e. 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 moved forward in June with a “soft launch” of the new case management system. Five (5) programs are doing system trials and providing feedback for vendor updates. A full launch is expected for September.

2. **Registrar Training Component:** Ms. Johnson reported that the Office’s review of domestic relations and specialized domestic violence categories is now scheduled for December 2020. This will complete the initial review of all trainings and reset the 3-year review cycle for training programs.
3. **JV Court Mediation Expansion:** on July 27, Ms. Johnson met virtually with Juvenile Court Judge Jason Souther and Juvenile Court Administrator Joshua Weeks, both of the Conasauga Judicial Circuit. Conversations regarding developing juvenile dependency mediation in the court will be ongoing.

Ms. Sahs updated that a potential partner program has been identified to aid in the exploration of a Community Conferencing pilot program in Fulton County Juvenile Court. A small group working on the matters, including Judge Turner, Ms. Heard, Ms. Johnson, and Ms. Sahs, will regroup on August 13 to discuss the development and revisit next steps. Ms. Donovan shared that the Georgia Justice Project may also be exploring similar work, which the group will research further.

4. **Model Court Program Forms, Mediation Prep Kit:** Ms. Johnson advised that these projects remain on the GODR radar but have been benched for now due to a shift in priorities regarding COVID-19.
5. **Rules for Mediation in Cases of DV, Appendix B Revisions, and ATLAS/UMA** were discussed earlier in the meeting. **Website Upgrades, ADR Conferences, 25th Anniversary, and Social Media** are completed projects. **ODR and Statewide Partnerships:** No updates to report.

f. Upcoming Presentations:

1. Georgia Commission on Family Violence: rescheduled to September 15 via virtual format
2. State Court Judges Conference - October 15

VIII. Chairman’s Report: Judge Barwick

The current strategic plan and projects will expire at the end of 2020. Judge Barwick asked that the Commission be available for a strategic planning session on October 21. Appendix B will be discussed at this meeting, and new or updated strategic projects will be decided upon.

IX. New Business

a. ADR Liaison Committee Name Change

To better capture the scope of the Committee’s work, Mr. Hal Gray asked that the Commission consider a motion to change its name from “ADR Court Program Liaison Committee” to “Outreach Committee”. While Ms. Edith Primm, Esq., provided the Committee’s original purpose to better reach mediators, the “Outreach Committee” would focus on the range of stakeholders: neutrals, judges, and the community at large.

Judge Barwick called for a motion. Judge Morris made the motion and Judge Fuller seconded that motion. The Commission voted unanimously in favor of the name change; none opposed, no abstentions.

b. Rules for Mediation in Cases Involving Issues of Domestic Violence

Judge Auslander explained that it had been anticipated at the onset of creating the new Rules that they would be an evolving set of rules that requiring updating as the work continues to be rolled out. It is desired that the Committee for DV Rules Implementation revisit the Rules on an ongoing basis in order to remain current. As such, revisions have been made to: 1. Add a definition for DV advocate; 2. Add GODR & local court ADR program requirements regarding liability, a section in which was lifted from the Supreme Court ADR Rules; 3. Revise to Rule 4 (phases of screening process) to allow court ADR programs more discretion as to how screening is conducted; 4. Update certain questions to caption more specific information; and 5. Outline more directly that such cases must be mediated only by those registered in the Specialized Domestic Violence registration category.

Judge Auslander then asked Judge Barwick to entertain a motion to vote to approve these revisions to the Rules for Mediation in Cases Involving Issues of Domestic Violence, which Judge Barwick agreed. Judge Fuller made the motion and Hal Gray seconded that motion. The Commission voted unanimously in favor of the revisions; none opposed, no abstentions.

The Commission will ask the Supreme Court to make these Rules a new Appendix D to the current Supreme Court ADR Rules.

c. Appendix A: Uniform Rules for Dispute Resolution Programs

In order to adapt to the changing landscape due to COVID-19, it is proposed that Appendix A of the Supreme Court ADR Rules be updated to explicitly allow appearance via virtual means. A draft of the changes being reviewed by Darron Enns, Esq., Policy Council for the Judicial Council/Administrative Office of the Courts. As a formality, Mr. Enns reviews rule changes for much of the judiciary prior to sending to the Supreme Court for approval. The Commission will receive suggested changes from Mr. Enns, and have an opportunity to review and provide any additional revisions. A final draft will then be shared with the court ADR programs and the Georgia Council of Court Administrators for limited public comment prior to a vote of the Commission for submission to the Supreme Court for final approval.

d. Model Court Mediation Rules

The Model Court Mediation Rules require revisions to reflect updated domestic violence related rules. The revision work is nearly completed, and the Commission will be presented with a draft for review and discussion prior to the next meeting. As revisions to these rules are more process-oriented than other rules and appendices, the Commission will offer final approval of revisions for subsequent implementation.

X. Court ADR Program Updates

Judge Barwick asked that ADR programs share updates, specifically those regarding experiences with virtual ADR. Ms. Carroll noted that her program is negotiating ways to best utilize interpreters within the Zoom platform. Ms. Johnson will reach out to Mr. John Botero from the Commission on Interpreters to inquire as to resources. Ms. Lerner noted that the Judicial Council COVID Taskforce is currently exploring this matter and guidance may be provided soon.

XI. Old Business

There was no old business to report.

XII. Upcoming Commission Dates: November 4

The Commission has scheduled a strategic planning meeting for October 21. The next regularly scheduled GCDR meeting is scheduled for November 4. As the State Bar of Georgia Conference Center will be closed through 2020, these meetings will be either held at a different location or within a virtual environment.

XIII. Adjournment

The meeting concluded at approximately 3:25 p.m.

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

[Minutes approved via email August 28, 2020]