



Georgia Commission on Dispute Resolution Meeting

Wednesday, November 4, 2020

2-4 PM

Zoom Meeting

**Please email gaodr@georgiacourts.gov for meeting link*

AGENDA

- I. Call to Order: Judge Jane C. Barwick
- II. Introductions
- III. Meeting Minutes from August 5: Approved via email
- IV. ADR Program Spotlight: Atlantic Judicial Circuit – Mr. Randall Weiland
- V. Research presentation: Mr. Vittorio Indovina
- 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 updates
 - 2020 Registration Renewal
 - 2020 ADR Institute
 - Appendix A and Model Court Mediation Rules revisions update
 - Strategic Projects update
 - Upcoming Events
 - ICJE Probate Judges' Training at the 2020 Fall COAG Conference – November 11, 2020
- IX. Chairman's Report: Judge Barwick
- X. New Business
- XI. Court ADR Program Updates
- XII. Old Business
- XIII. 2021 Commission Dates: February 3, May 5, August 3, and November 4
- XIV. Adjournment

Next Meeting Date: February 3, 2020

Whitfield County Courthouse



Georgia Commission on Dispute Resolution Meeting Minutes Wednesday, November 4, 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.; Herbert H. (Hal) Gray, III, Esq; Melissa Heard, M.S.S.W.; Judge M. Cindy Morris, Chair-Elect; Patrick T. O'Connor, 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 members present were Cynthia Clanton, Director; Alison Lerner, Esq., Senior Staff Attorney; and Jeffrey Thorpe, Judicial Caseload Data Specialist

Guests present were: Patti Anderson, Cobb County Superior Court ADR Program; Rita Carroll, Carroll County ADR Program; Jill Cheeks, The Mediation Center of the Coastal Empire; Timothy Hedeem, Kennesaw State University; Tim Hendrick, Southern Judicial Circuit ADR Program; Vittorio Indovina, Student; Linda Jezerinac, 7th District ADR Program; Casey Martinez, Eastern Judicial Circuit ADR Program; Charity Messer, 7th District ADR Program; Stacey Mitchener, Office of Attorney General of Georgia; Lindsay Mobley, Coweta County ADR Program; Patricia Murphy, The Mediation Center of the Coastal Empire; Jody Overcash, 7th District ADR Program; Kathleen Sterne, Clayton County ADR Program; Angela Taylor, Fulton County ADR Program; Shannon Watts, Southern Judicial Circuit ADR Program; and Rebecca Zimmerman, Registered Neutral.

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 August 5 Commission meeting minutes were approved prior to the meeting via e-mail vote on August 28, 2020.

IV. ADR Program Spotlight: Atlantic Circuit ADR Program – Mr. Randall Weiland Program Director

Mr. Weiland's presentation has been postponed to the February 3, 2021 meeting.

V. Research Presentation: Mr. Vittorio Indovina

Mr. Indovina, a Ph.D. Candidate and Kennesaw State University, gave a presentation on his current research project: *The Institutional Work Behind Maintenance of Court-Connected Mediation Programs*. As part of the research, Mr. Indovina has been interviewing court ADR programs and shared his request for continued participation. Commission Members asked questions about the research and thanked Mr. Indovina for his presentation.

VI. Standing Committee Reports:

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

Budget documents were included in the meeting materials and discussed during Executive Session. In his absence, Judge Fuller asked Ms. Johnson to provide the report.

Ms. Johnson provided that the September report reflects a budget that is on track in terms of expenses and revenue. Revenue appears to be slightly behind but is expected to reflect an increase due to the open registration renewal period.

b. Ethics Committee: Judge M. Cindy Morris

Judge Morris reported that there is one (1) pending ethics complaint, which is currently in the investigation phase. Since the August 5 Commission meeting, one (1) new complaint was received and subsequently administratively dismissed by staff. One (1) additional complaint that was pending in August has since been dismissed by Judge Morris, the Ethics Committee Chair.

There are currently three (3) pending registration applicants who are undergoing investigation by staff for a criminal background issue or a history of professional discipline. Since the August 5 Commission meeting, twelve (12) other applicants were referred to the staff attorney for review, and, after investigation, they were all administratively approved by staff pursuant to guidelines established by the Ethics Committee. There are currently no pending appeals.

Judge Barwick asked if the Ethics Committee has received any complaints that specifically address mediations conducted via video conferencing. Ms. Alison Lerner shared that the Committee has remained alert but have not yet received any such complaints.

The Ethics Committee has not yet scheduled their next meeting.

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

Ms. Heard conveyed that the Committee is working to finish revisions on Appendix B of the Supreme Court ADR Rules. Training requirements have been under further review, including specifically changes Domestic Relations Mediations requirements to replace the current rule alignment with the Association for Conflict Resolution. The Committee is also considering carryover hours and the newly adopted fee schedule. Upon completion, the Committee will allow for a stakeholder comment period and submit the changes to the full Commission for review. There are currently no pending appeals.

The Committee has not yet scheduled its next meeting.

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

Mr. Gray shared that the Committee is considering possible projects to align with the updated committee name. The goal is to identify geographic areas that are underserved by ADR and create a plan to foster buy-in for expansion of such services. The Committee will survey Commission Members to gauge who may make personal connections in these areas.

Mr. Gray thanked members of the Committee, and Judge Barwick shared her appreciation for the growing endeavor.

The Committee plans to schedule its next meeting prior to the Commission meeting on February 3.

VII. Special Committee Report:

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

Ms. Donovan advised that on September 15, 2020, the working group went before the State Bar Advisory Committee on Legislative for their renewed support of the legislation. At that meeting, there were questions raised by the Georgia Trial Lawyers Association (GTLA). Following the meeting, the Working Group met with GTLA on October 22 to address these concerns and will meet again in mid-November to continue discussions with a better understand of the apprehension.

The Working Group is on the agenda for the upcoming State Bar Advisory Committee on Legislation, scheduled for December 1. Following this meeting, the Group hopes to again bring UMA before the State Bar Board of Governors.

Ms. Donovan thanked the full Commission and GODR staff, as the Working Group has called on all Members for their support. Judge Barwick and Judge Auslander echoed her sentiment.

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

Judge Auslander asked Ms. Johnson to share updates on the Committee's recent work.

Ms. Johnson advised that the Committee last met on October 9. She provided summary of the continuing work on the implementation of the new rules:

Implementation Plan Updates: At the request of Program Directors, Ms. Alison Lerner prepared for the Committee's review some recommendations/best practices for a "safe venue", as the term is outlined in the DV Rules, as well as who can participate in a mediation session when a DV Advocate or attorney is not available to the party (support persons). Suggested revisions will be included in an updated draft and circulated to the committee for further review and feedback. The document will only serve as a resource in the staff screening training for best practices in the implementation/execution of the rules.

Online Screening Tool: The online screening tool is now live. Currently, a small test group is assessing the tool's functionality to work out any unknown issues prior to full deployment. Those programs who have volunteered include: Atlantic Judicial Circuit, Carroll County, Clayton County, DeKalb County, Dublin Judicial Circuit, and Gwinnett County. The tool will be deployed to all programs by the end of the year. Ms. Johnson thanked Mr. Sterling Perry and Ms. Juliana Tyler for their work on developing & deploying the Online Screening Tool and thanked those program directors for testing it.

Supplemental Training Updates: Between January and September, the office hosted 39 trainings – 21 for domestic relations and 18 for SDV. In total, 806 DR & SDV mediators have met the training requirement (726 completed supplemental training and 80 DR mediators completed a 14-hour SDV training). Since November 2019, GODR has provided mediators with the notice of the required training by U.S. mail, email, news blast, and phone. A list of those who have not met the requirement was sent to all program directors with the request that any discrepancies be immediately reported to GODR. There are a few trainers who have expressed an interest in offering an approved supplemental training through the end of the year (3 DR and 1 SDV have been confirmed to date). Information on available trainings will be posted on our website and emailed to those missing the requirement. GODR is making available an alternative program to those who missed a free GODR sponsored supplemental training due to extenuating circumstances. This alternative will not be made public.

ADR Staff Screening Training: The staff screening training is required for all court ADR program staff conducting screening. Although the training will be offered three times, staff only need to attend one of the events. Other applicable court staff are welcome to attend but their attendance will not be required. GODR is hosting three (3) staff training sessions through the end of the year. One training was held previously on October 27, which 9 court staff attended. The other two trainings will be on November 18 and December 8. A recording of the training will be made available for future program staff hires.

Training format:

- The training is four hours. There is a 15-minute pre-recorded and made available to participants to review in advance of the training dates. The live (virtual) portion of the training is just 3.75 hours.
- Registration is required but offered free of charge
- Staff who are neutrals will receive 4 hours of CE credit. The training is also pre-approved for 4 hours of CLE credit with the State Bar of Georgia.

Registration and Training Approvals: To streamline registration renewal, GODR has inputted CE hours into the accounts of those who attended a supplemental training or met the requirement by completing a 14-hour SDV training. Neutral registration renewal began on October 1, and mediators registered in domestic relations and specialized domestic violence categories now have the opportunity to remove one or both of those categories from their registration via the Affidavit of Registration Category Removal, which has been made available within the registration renewal application. All mediators who do not complete training requirements by December 31, 2020, will have the

category(s) automatically removed. Any category removal, whether elected by a registered neutral or administratively removed, is irreversible and cannot be reinstated unless the mediator retakes initial training in full and meets all other initial registration requirements. All programs must resubmit their local court ADR rules to GODR by June 30, 2021. Program directors have been provided with a comprehensive update of these guidelines.

Judge Auslander shared that work on the Rules began in 2015; it took 2.5 years to draft and enact the rules and another 2.5 years to implement them – a testament to a carefully paced process with the goal of ensuring the work is done correctly. He expressed appreciation for GODR staff, court ADR program directors, and Ms. Lerner for their contribution.

Unless an issue arises that needs immediate attention, the committee will plan to meet again in March 2021.

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

a. COVID-19 Updates:

While the special COVID-19 Resources page is active, work has begun to transition several the GODR resources to the main GODR website (godr.org). Such resources include video mediation guidelines and sample mediation templates. Since the August 5 Commission meeting, GODR collaborated with John Botero, Certified Court Interpreter and Program Manager for the Georgia Commission on Interpreters (JC/AOC) to translate and make available the *Video Mediation: A Guide for Parties & Attorneys* in a Spanish language version.

Following the Commission's order to temporarily suspend the in-person training requirement, pre-approved training programs continue to offer trainings- specifically those that lead to registration- within a virtual format. GODR continues to observe these trainings on a regular basis.

b. 2020 Registration Renewal

The annual neutral registration renewal period opened on October 1. As of November 3, 521 renewal applications have been approved, compared to 380 renewal applications at this time in 2019. The first reminder notice was sent to neutrals on November 1 and an additional 5 reminders are scheduled to be sent through December 31. Ms. Janice Harkins, temporary GODR staff, will call those who have not yet renewed their registration beginning in early December.

c. 2020 ADR Institute

The 2020 conference will be pre-recorded and made available beginning December 4 and through the end of the year. The sessions include representation from the Commission, and Ms. Sahs thanked Sandy Bair, Hal Gray, and Mary Donovan for being presenters. Registration is set to open within the week.

d. Appendix A and Model Court Mediation Rules Revisions Update

A public comment period has opened for Appendix A and Model Court Mediation Rules Revisions. Following a request from court ADR program directors during a check-in meeting in October, the comment period has been extended. Program directors asked GODR to coordinate a separate group to review changes and provide feedback; this group will meet virtually in December. GODR will review all feedback received at this meeting, then provide to Commission Members to review prior to bringing before the full Commission at the February 3 meeting.

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. This is the final update for the 2018-2020 projects, as work will begin on the 2021-2023 projects in January.

1. **Case Management System:** Ms. Johnson updated that the “soft launch” of the new case management system, which started in June, is coming to a close. Five (5) programs have been performing a system trials and providing feedback for vendor updates. The full launch for all planned programs will begin in December.
2. **Registrar Training Component:** Ms. Johnson reported that the Office will soon open renewal for Domestic Relations Mediation and Specialized Domestic Violence Mediation training programs. This will complete the initial review of all trainings and reset the 3-year review cycle for training programs. The cycle will restart in 2021 with General Civil Mediation trainings.
3. **JV Court Mediation Expansion:** Ms. Sahs reported that the Conasauga Judicial Circuit Juvenile Court continues work on developing a court ADR program; currently, the court is in the process of developing local rules.

Additionally, Ms. Sahs added that work continues on a Community Conferencing pilot program for the Fulton County Juvenile Court. The small group working on the effort will be meeting with the Baltimore consultant on November 6.

4. **Statewide Partnerships & Education:** Ms. Sahs shared that, via referral by the Justice Center of Atlanta, GODR was approached by the City of Atlanta Mayor’s Office of Resilience with a request for the Commission to nominate a member to work on an advisory committee for a project called AgLanta’s Grows-A-Lot program. The program concerns community urban farming on public land; the Advisory Committee will create by-laws and other sustainable practices to help participants of the program build conflict resolution techniques to manage interpersonal struggles. Nicole Hull will be representing the Commission on the Advisory Committee. More information on AgLanta can be found here: <https://www.aglanta.org/>

Work on Statewide Partnerships & Education will continue, as the project will be rolled over to the 2021-2023 project list.

5. **Rules for Mediation in Cases of DV, Appendix B Revisions, and ATLAS/UMA** were discussed earlier in the meeting.

6. **Website Upgrades, ADR Conferences, 25th Anniversary, and Social Media** are completed projects.
7. **ODR, Model Court Program Forms, and Mediation Prep Kit:** These initiatives will be folded into 2021-2023 projects.

f. Upcoming Events:

1. ICJE Probate Judges' Training at the 2020 Fall COAG (Constitutional Officers Association of Georgia) Conference – November 11, 2020: Ms. Johnson will present with Eleanor Crosby Lanier, former Associate Dean & Mediation Clinic Director, UGA School of Law. Judge Cuthbert will be in attendance. The presentation provides an opportunity to gauge probate judges regarding greater mediation expansion, including any barriers and needs.

IX. Chairman's Report: Judge Barwick

Judge Barwick shared that the Commission hopes to hold the February 3 meeting at the Whitfield County Courthouse, as Judge Morris will be sworn in as the new Commission Chair. Any changes will be shared with Commission Members prior to the meeting.

Judge Barwick also recognized the attendance of Ms. Cynthia Clanton, Director, Judicial Council/Administrative Office of the Courts. Ms. Clanton shared that it has been a pleasure to serve the Commission in several ways over the course of many years.

X. New Business

There was no new business to report.

XI. Court ADR Program Updates

Judge Barwick asked present court ADR program staff to share any local updates.

Video Mediation: Overall, programs reported that video mediation is going well; Clayton County has completed 160 since July, Coweta County is maintaining 90% by video and 10% in-person; Chatham County assigns 95% of their mediations to a video format and has completed 350 thus far; and mediations in Fulton County are entirely virtual until further notice.

Ms. Jill Cheeks shared that the Mediation Center of the Coastal Empire (TMC) has received a \$12k grant facilitated by the National Association for Community Mediation Centers through JAMS. The grant will assist TMC in training those aged 18-25 years on mediation/conflict resolution skills with the hope that they may make changes to systemic issues for marginalized members of the community.

XII. Old Business

There was no old business to report.

XIII. Upcoming Commission Dates: February 3, May 5, August 4, and November 3

The next meeting is scheduled for February 3, at 2 p.m. at the Whitfield County Courthouse.

XIV. Adjournment

The meeting concluded at approximately 3:03 p.m.

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

[Minutes approved via email November 25, 2020]