



Georgia Commission on Dispute Resolution Meeting

Wednesday, November 2, 2022

2:00 – 4:00 p.m.

State Bar of Georgia, Room #1

AGENDA

- I. Welcome: Judge M. Cindy Morris
- II. Roll call
- III. Meeting Minutes from August 17: *Approved via email*
- IV. Standing Committee Reports:
 - Budget and Personnel Committee: Judge C. Andrew Fuller
 - Ethics Committee: Hon. Renata Turner
 - Training and Credential Committee: Ms. Melissa C. Heard, MSSW
 - Outreach Committee: Mr. Hal Gray, Esq.
 - DV Rules Implementation Committee: Ms. Peggy Wilson
- V. Special Committee Report:
 - Ad Hoc Rules Committee: Ms. Mary Donovan, Esq.
- VI. GODR Report: Ms. Tracy Johnson & Ms. Karlie Sahs
 - 2022 ADR Institute Update
 - 2022 Neutral Registration Renewal
 - Strategic Projects update
- VII. New Business
 - Action Items:
 - Ethics Committee: Hon. Renata Turner
 - Ethics Opinion 7
 - Memo: Recording in Zoom
 - Data Collection Plan Proposal: Mr. Jeffrey Thorpe
 - Court Program Rules
 - Clayton County ADR Program Rules revision: Ms. Kathleen Sterne, Program Director
- VIII. Old Business
- IX. Chairman's Report: Judge Morris
- X. Recognition of outgoing members Judge C. Andrew Fuller and Judge Jane C. Barwick
- XI. 2023 Commission Dates: February 8; May 3; August 9; November 29
- XII. Adjournment

For the Zoom link, please contact GODR at gaodr@georgiacourts.gov before COB on November 1, 2022.



Georgia Commission on Dispute Resolution Meeting

Minutes

Wednesday, November 2, 2022

Chair Judge M. Cindy Morris called the meeting to order. In addition to Judge Morris, Commission members and Office staff present were:

Judge Clarence Cuthbert Jr.; Mary S. Donovan, Esq.; Judge C. Andrew Fuller; Herbert H. (Hal) Gray III, Esq.; Judge Carrie B. Markham; Edith B. Primm, Esq.; and Peggy McCoy Wilson attended in person. N. Staten Bitting Jr., Esq.; The Hon. Rebecca Crumrine Rieder; Melissa C. Heard, MSSW; Nicole W. Hull, Esq.; Patrick T. O'Connor; Judge Renata D. Turner; and Randall Weiland participated virtually.

Tracy B. Johnson, Executive Director; Karlie A. Sahs, Deputy Director; and Onaolapo Obilade, Intern, Office of Dispute Resolution

JC/AOC staff members present were Cynthia Clanton, JC/AOC Director; Carole Collier, Esq., Staff Attorney; Peterson David, JC/AOC Chief Financial Officer; Jeffrey Thorpe, Research Manager; Mitchell Redd, Research Analyst; and Andres Bosque, Research Analyst.

The following guests observed by video: T.J. Bement, Tenth Judicial Administrative District Court Administrator; Rita Carroll, Esq., Carroll County ADR Program; Abby Carter, Gwinnett Judicial Circuit ADR Program; Tina Cloud, Fulton County Juvenile Court ADR Program; Lakesiya Cofield, Fulton County ADR Program; Ashley Dulworth, Cobb County Magistrate Court; Tim Hendrick, Southern Judicial Circuit ADR Program; Rebecca Lew, Cobb Judicial Circuit Superior Court ADR Program; Amber Parker, Southern Judicial Circuit ADR Program; Lee Robbins, The Mediation Center of the Coastal Empire; Kathleen Sterne, Esq., Clayton Judicial Circuit ADR Program; Shannon Watts, Southern Judicial Circuit ADR Program; and Josh Weeks, Whitfield County Juvenile Court.

I. Welcome

Judge Morris called the meeting to order at 2:02 p.m.

II. Roll Call of GCDR Members

Judge Morris asked Ms. Karlie Sahs to conduct a roll call of all GCDR members and to acknowledge guests present.

III. Meeting Minutes from August 17: Approved via email

The minutes of the August 17 Commission meeting were approved prior to the meeting via e-mail vote on October 12, 2022.

IV. Standing Committee Reports:

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

Budget documents were included in the meeting materials.

Judge Fuller advised that the budget is sound, with the percentage of project expenditures on target with expectations. He pointed out that the next few months are typically the revenue generating months, and it is anticipated that revenues will balance out the expenses.

No further budgetary issues or personnel matters were noted.

b. Ethics Committee: Judge Renata Turner

The Ethics Committee last met on October 17, 2022.

Judge Turner reported that since the last Commission meeting, two (2) complaints were filed against separate mediators. One of these complaints was fully investigated, and the Committee found an ethical violation on behalf of the mediator. The Committee found it appropriate to privately admonish the neutral. The second complaint was dismissed, as the complaint did identify an individual registered with the GODR, and the allegations raised in the complaint did not rise to the level of an ethical violation.

Additionally, the Committee found it appropriate to privately admonish a registered neutral from a pending complaint after finding that the neutral violated the ethical standard of avoiding the appearance of impropriety.

Lastly, two (2) pending complaints were dismissed after finding the neutrals had not violated any ethical standards, and for the failure of one complainant to prosecute the complaint.

Judge Turner further reported that the drafted social media ethics opinion and an advisory memo on the recording of virtual mediation have both been circulated for the Commission's review.

At this time, there are two (2) applications pending Committee review and no pending appeals.

The Ethics Committee will not meet again until the new year (2023).

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

Ms. Heard reported that the Training and Credentials Committee met on August 19, 2022. The Committee considered one (1) request for a waiver of training requirements. The request sought to waive the renewal registration requirements after a neutral's registration had lapsed and was in inactive status. The individual requesting the waiver had allowed their registration to lapse prior to the

amendment of the Supreme Court ADR Rules, Appendix B. As such, the Committee applied the rules that governed prior to amendment of Appendix B. The previous version of Appendix B required that neutrals who have not renewed their registration for two (2) years meet initial requirements for registration, including completion of training within the last 18 months. The individual's training was initially taken over a decade ago, prior to substantive changes to the training curriculum in the category which they were registered. Additionally, while this individual had participated in many mediations throughout their career as an attorney, they had never conducted a mediation as the mediator. The Committee voted to deny the waiver request.

The Committee's next meeting is scheduled for December 16, 2022.

d. Outreach Committee: Mr. Hal Gray

The Outreach Committee last met on November 2, where members discussed the feedback from the "speed dating" session at the Spring Court ADR Program Directors' Conference and identified some possible action items. Mr. Gray noted that, of those items, the Committee narrowed down the list to the following in order of priority:

1. Assistance with training for mediators, specifically in Probate Court;
2. Education efforts for attorneys, judges, public, and program directors; and
3. Exploring possible partnerships or collaborative relationships with organizations such as the Public Library System to assist with remote mediations.

The committee's next meeting is set for the November 16, 2022, at which time members will discuss implementation plans for these initiatives. Any budgetary requests will be brought before the Commission.

e. Domestic Violence Rules Committee: Ms. Peggy McCoy Wilson

The Committee last met on October 17, 2022.

Ms. Wilson provided the following Committee updates:

1. Mediation in TPO cases update:

On September 7, Judge Morris, Judge Auslander, Ms. Niki Lemeshka, Ms. Wilson, and Ms. Johnson met with court ADR programs and several legal aid attorneys from Atlanta Legal Aid, Georgia Legal Aid, and Atlanta Volunteer Lawyers Foundation to discuss the DV Rules prohibition on the mediating matters related to a temporary protective order (TPO). The attorneys expressed their desire to mediate issues in a TPO such as no contact/communication provisions; and children's issues such as custody, visitation, and child support.

At the October 17 meeting, Committee members discussed some of the possibilities and challenges with mediating issues in TPO cases. After a lengthy discussion, members agreed on two action items:

- a. Since Niki Lemeshka could not join the meeting, Ms. Johnson would reach out to her to discuss the Georgia Commission on Family Violence's position on the idea.
- b. There is some concern regarding the modification/establishment of child support in TPO cases with children. Ms. Elaine Johnson of the Georgia Child Support Commission staff connected Ms. Tracy Johnson with Ms. Erica Thornton of the Division of Child Support Services. Ms. Thornton is amenable to further discussions and shared that their agency in the initial stages of creating a 5-year plan pursuant to the receipt of a demonstration grant from the federal Office of Child Support Enforcement to increase safe access to child support and parenting time services for domestic violence survivors – with their focus on the TPO process.
- c. Ms. Johnson has also been in contact with the GA Dept of Human Services- Office of Child Support Enforcement, who shared an eagerness to develop this idea. That office is the recent recipient of the SAVES (Safe Access for Victims' Economic Security) Grant, which will provide DV training for CS staff, attorney & judges, establish specialized domestic violence triage teams for services, and bridge the gap and foster cross-system coordination for victims to access child support in one step.

2. Court ADR Program DV Screening Inquires

For the screening tool metrics report in March, there were several programs with very few or no recorded responses. To ensure that these programs were screening all domestic relations cases ordered to mediation as required, a letter was sent to the program requesting confirmation of their compliance. All but one program has responded outlining their screening protocols, confirming compliance.

3. Updated Online Screening Tool Metrics

The latest screening tool metrics, effective October 6, 2022, were presented to the committee along with a comparison chart from November 2019 to October 6. There were 17,363 total responses received during this time. Committee members also considered ideas to encourage all programs to better utilize the tool.

4. Suggestions for best practices guide for mediators

Outside of the DV Rules Committee, Ms. Collier is developing a best practices guide for mediators. The DV Rules Committee has discussed the possible addition of tips and/or scripts for DV screening.

Starting in 2023, the committee plans to shift from a bi-annual to an annual meeting schedule. If needed, additional meetings may be scheduled. The 2023 meeting will be scheduled for May of 2023.

V. Special Committee Report:

a. Ad Hoc Rules Committee: Ms. Mary Donovan

Ms. Mary Donovan shared that there is ongoing work on the modifications the Supreme Court ADR Rules to better align with the Georgia Uniform Mediation Act. Ms. Johnson and Ms. Collier are continuing their work on drafts of the rules and will keep the Commission updated on that progress.

There is no other information to report at this time.

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

a. 2022 ADR Institute Update

Ms. Sahs presented the details of the 2022 ADR Institute to be held on Friday, November 18, at the Georgia Tech Hotel & Conference Center. She noted that tickets sales have been very positive with approximately 150 registered for in-person attendees and over 240 attendees registered for the livestream.

b. 2022 Neutral Registration Renewal

Ms. Johnson reported that to date, there are 358 completed and 55 pending registration renewals. There are still approximately 2,569 neutrals who have not yet renewed, which is typical for this time in the renewal period. A registration renewal invoice was sent on October 1, and neutrals will receive up to six (6) reminders until they complete their renewal application.

c. Strategic Projects Update: Ms. Johnson and Ms. Sahs

1. **Neutral Registration System:** AOC is working on migrating the GCR system to Amazon Web Services (AWS) to utilize its built-in security features.
2. **Court Outreach – Expansion and Enhancement:** The Office conducted four (4) CE events for 2022 on the topic of “Safety Precautions and Screening for General Civil Cases”. Mr. Lee Robbins of the Mediation Center of Savannah led the trainings, and a total of over 500 mediators attended.

Fulton Juvenile Court has a new mediation coordinator, Ms. Tina Cloud. The GODR will conduct orientation on the November 10. The RCA working group has an upcoming meeting scheduled for November 16.

3. **Probate Court:** A draft of a court mediation handbook, containing information on referrals, process, etc., as well as a finalized draft of the qualifications and training curriculum are expected by the end of the year.
4. **Case Management System:** There are now a total of 16 ADR Programs using ScheduleADR, with another program being onboarded on Friday, November 4.
5. **Public Education/Resources:** GODR's intern, Mr. Onaolapo Obilade, continues to work on public resources for the websites.
6. **Expansion of Neutral Services:** GODR held two (2) child support calculator trainings and one (1) child support lunch and learn. Another lunch and learn was scheduled for October 28 but was cancelled due to limited interest and registration. Those registered were sent a recorded version of a previous training to obtain their continuing education hour.
7. **Court Program Support:** The Court Program Handbook ad-hoc Committee met on September 16, 2022, and Ms. Johnson is in the process of putting together a first draft for their review.
8. **ADR Conference:** GODR is planning to extend the 2023 ADR Institute event to include programming specific for program directors.
9. **Statewide Partnerships:** Ms. Nicole Hull was working with AgLanta for the city of Atlanta on urban agriculture. AgLanta is in the process of regrouping, and they have a plan to revise the process which they laid out to the advisory committee. There is an opportunity for a possible crossover developing with Restorative Conferencing Atlanta.

At a recent training for special education mediation, Ms. Hull noted that there was some discussion about the nexus or crossover between the GODR and the Department of Education. While there is a requirement for neutral registration with the GODR, there are no rules or outlined procedures for mediators. The Department of Ed expressed interest in working with the GODR and to explore opportunities for support, quality control, and bridge the gap between the two agencies.

10. **Annual Report:** GODR continues exploring options for 2023 and will develop a timeline in step with the rollout of the data collection plan. One of the goals of the report is to be able to showcase the dispute resolution work being done in the state, which can be backed by data.
11. **DV Rules and UMA** were discussed earlier in the meeting. **Online Dispute resolution:** No updates to report.

d. Upcoming Events

1. Conferences

ADR Institute

The 2022 ADR Institute will be held on Friday, November 18 at the Georgia Tech Hotel & Conference Center

VII. New Business: Action Items

a. Ethics Committee: Judge Renata Turner

1. **Ethics Opinion 7:** This opinion arises out of an ethical complaint filed against a registered neutral in which the Ethics Committee reviewed and determined that an official opinion was warranted to provide guidance to all mediators.
2. Ms. Collier explained that the complaint stemmed from a virtual court calendar where a mediator, who was assigned as the on-call mediator to receive referrals directly from the bench, posted on their private Facebook page a communication that included a member of the public. This opinion highlights the dangers of social media use and the importance for mediators to maintain professional integrity. While this incident did not occur in a mediation session, the mediator was the assigned neutral and was represented on screen as such.

With the Ethics Committee approval, Judge Renata Turner presented the finalized draft of Ethics Opinion 7 to the Commission as a motion for approval, and Judge Fuller seconded the motion. All remaining Commission members voted in favor.

3. **Advisory Memo:** The advisory memo was drafted by the Ethics Committee to provide guidance to mediators on the use of virtual platforms, such as Zoom, to conduct mediations. This memo is to serve as a reminder that the Supreme Court of Georgia ADR Rules apply to ALL mediations, even those conducted online. As such, the recording of any mediation agreement is not permitted. This memo further outlines the importance of an enforceable mediation agreement and obtaining said agreement through permitted means.

With the Ethics Committee approval, Judge Turner presented the finalized draft of Ethics Opinion 7 and Advisory Memo to the Commission as a motion for approval, and Judge Fuller seconded the motion. All remaining Commission members voted in favor.

b. Court Program Rules Renewal

Ms. Kathleen Sterne, Program Director for the Clayton County ADR Program submitted a rule change to the Georgia Office of Dispute Resolution. Ms. Johnson

reviewed the change and noted that the rules conformed with *Appendix A: Uniform Rules for Dispute Resolution Programs*. As such, it was the recommendation of Ms. Johnson that the revised rules be approved. A motion was made by Hal Gray, seconded by Judge Fuller. All remaining Commission members voted in favor.

c. DATA Presentation – Mr. Jeffrey Thorpe

Mr. Thorpe presented the finalized data collection proposal to the Commission. He explained that the goal of the plan was to:

1. Expand the data collected by GODR to better explain the work done by GODR
2. Increase the quality of data collected by the GODR.
3. Establish a set of data standards to improve data integrity
4. Collect good data to enable ADR programs better advocate for themselves.

Since the plan was first shared with the Commission in February of 2022, the draft has been circulated and vetted by court program directors, first at the program directors conference and later in a meeting. Feedback collected during this time was used to update the plan accordingly. Mr. Thorpe outlined the data collection periods along with the responsibilities of both GODR and the court ADR Programs.

Ms. Edie Primm raised the difficulty in requiring the collection of the field “Date of Offense for Criminal Cases.” After some discussion, it was decided to amend the proposal to reflect that field be option, rather than mandatory.

Mr. Hal Gray made a motion to approve the plan with the amendment. The motion was seconded by Ms. Peggy Wilson, and all Commission members able to vote, did so in favor.

VIII. Old Business

No old business to report.

IX. Chairman’s Report: Judge Morris

Judge Morris noted the meeting schedule for 2023, pointing out the new formats – in-person or virtual. There will not be any hybrid meetings, as they have proven too challenging to manage. The next meeting will be in person.

X. Recognition of outgoing member, Judge C. Andrew Fuller

With Judge Fuller’s upcoming retirement from the bench, the Commission recognized his service to the Commission. Judge Fuller was appointed to the Commission in 2009 and served as the Chair of the Budget and Personnel Committee since 2014. He noted that his judicial career had spanned for over 41 years. Judge Morris expressed her appreciation of his service and commitment to the Commission and ADR in Georgia.

Judge Fuller commented on the progress of the Commission in the last 13 years as well as the growth of ADR in the court system in Georgia, expressing his sincere appreciation for the work done over the years.

XI. Upcoming Commission Dates for 2023:

The next meeting is scheduled for February 8, at 2:00 p.m. and will be in person. The remaining dates are May 3 (virtual), August 8 (virtual); November 29 (in-person).

XII. Adjournment

The meeting concluded at approximately 3:30 p.m.

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

[Minutes approved via email December 23, 2022.]



Judge C. Andrew Fuller, in recognition of his service to GCDR and ADR in Georgia