



## Be Neutral

August 2011

A Publication of the Georgia Office of Dispute Resolution

### From the Director: Courts Must Provide Interpreters, But at What Cost?



As a non-native speaker and writer of English, I have always been interested in how new U.S. residents with limited English utilize public services – like the courts – that are legally available to them. My hunch is that many simply don't because it's too difficult, and that's a shame. And when they try to access them, it can be frustrating for the people and for the institutions. So just as folks should work to improve their English, it makes practical sense for public institutions to try meet them halfway until they do.

To that end, the Georgia Supreme Court has long had a rule for the "Use of Interpreters for Non-English Speaking Persons." A few weeks ago, the court issued a revised rule, which now requires that Georgia courts provide interpreters to all Limited English Proficiency (LEP) persons at no cost in all criminal and civil proceedings, in adult courts and in juvenile courts. These revisions bring Georgia courts in compliance with U.S. Department of Justice standards, which require meaningful access to justice for all LEP persons, as outlined in Title VI of the Civil Rights Act of 1964 and Executive Order 13166. [Read the revised Supreme Court rule here.](#)

According to the Georgia Commission on Interpreters, the revised rule applies to all court managed functions, including alternative dispute resolution programs. Understandably, Georgia's judicial leaders are worried that the federal mandate will put pressure on court budgets that are already strained to the breaking point. These same budget pressures are going to hit local ADR programs, which heavily if not entirely depend on their local ADR funds to operate. Unfortunately, there seems to be no easy solution to this issue. But you may find that your local court program may have to cut services in order to handle the unanticipated and unknown costs of providing interpreter services. While we wait to see how this progresses, here's some information you may find useful.

#### Practice Tips for Mediators and Arbitrators:

- If you determine that a party needs an interpreter, notify your court program director;
- Whenever possible, use a professional interpreter who is certified through the Commission on Interpreters. Use of family members and friends as interpreters is not ideal, as they are reasonably perceived as not being neutral, and they are not professionally trained. Likewise, it is not ideal for neutrals to serve as both mediator or arbitrator and interpreter.

If you have an interpreter in your mediation or arbitration:

- Notify parties and counsel that an interpreter will be present;
- Check if the interpreter has any ties to the other participants that may reflect on his or her ability to interpret;
- Have the interpreter sign the guidelines or agreement to mediate so he or she is bound by the confidentiality rules;
- Discuss with the interpreter prior to the mediation or arbitration how you and the participants can best help him or her interpret;
- Ask about the interpreter's familiarity with mediation and arbitration terminology and process, and offer him or her a quick primer if you have time;
- Confirm that the interpreter understands his or her role in the process -- that of a neutral conveyor of information. All professional interpreters know that they are not advisors or

substitutes for legal counsel, but are like microphones – tools to enhance communication in the process.

**Resources:** For persons with Limited English Proficiency who need general information on the courts:

-- The “Guide to Georgia Courts” brochure is newly available in [Spanish and Chinese](#);

-- The “Basic Rules of Court Conduct” brochure is available in [Spanish, Arabic, Chinese, French, Korean, Somali and Vietnamese](#) (scroll to bottom of linked page);

-- Statewide domestic relations forms – including the financial affidavit and parenting plan form – are available in [Spanish](#).

For more information, contact the [Georgia Commission on Interpreters](#).

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### **Reminder: Send in Your New Background Check Authorization Form**

Just a reminder that we need a new background check authorization form from all registered neutrals. GODR has begun using this new “permanent” form through which you can authorize us to check your background whenever necessary, without your having to authorize it by signature each time. Once we have your permanent authorization, **you will never have to submit another background check authorization again** for as long as your registration status is active or inactive.

This new form simplifies the registration renewal process and eliminates several trees’ worth of paperwork.

The form is posted on our website under [“Forms and Applications.”](#) If you haven’t done so already, please fill it out, print it, sign it, and send it to us via e-mail, fax, post or express delivery as soon as possible so we can have it on file well before the 2011 renewal season starts November 1. We recommend that you always send important documents to GODR via a service that offers tracking and delivery confirmation.

### **Quick Question and Answer**



**Q:** How can a registered mediator gain more exposure to the Commission on Dispute Resolution and GODR?

**A:** The best way to learn more about the Commission and the GODR is to attend a Commission meeting. That’s where you will hear updates of GODR activities and hear discussion on important policy matters that affect the statewide court-connected ADR system. You can even address the Commission on the record. GODR staff attend, of course, as do many court program directors.

Dates of upcoming Commission meetings are always posted on our website, under the “About the Commission” link. Meetings are held every other month except during the summer. The next meeting is scheduled for Thursday, September 1, at 2 p.m., in Meeting Room 1, at the State Bar of Georgia Conference Center in downtown Atlanta. Meetings generally last an hour.

Also, the Commission has several committees, and some of those committees seek practicing neutrals as advisors. If you are available to serve as an advisor, contact GODR with your areas of interest and expertise, and we’ll keep you in mind when there’s a need.

Lastly, reading this e-newsletter every month is another way to keep in touch with what’s going with the Commission, GODR, and the state court-connected ADR system. But since you’re reading this, you already knew that.



### Did You Know ...

That GODR can help you if you are subpoenaed to testify about a court-connected mediation you conducted? We can. We have helped numerous mediators over the years quash subpoenas that seek to compel them to breach their ethical duty of confidentiality. Our office has available a “Quash Kit” – samples of motions to quash, court orders, and other documents that mediators might need to inform judges and attorneys why mediators should not testify or submit affidavits about their mediations. Occasionally, we have even been able to find local counsel who are willing to represent mediators before the court on their motions to quash.

**Practice Tip:** Know your ethical duty of confidentiality and the exceptions to confidentiality in court-connected cases; they can be found in the [Supreme Court ADR Rules](#), Section VII, and in Appendix C. If you are subpoenaed to testify about a mediation you conducted, notify your court program director immediately. Your program director may be able to talk with the judge and attorneys in your case and convince them to withdraw the subpoena. If your program director is unsuccessful, then you or the director should contact our office right away for further advice and support.



### CaseWatch for Mediators: Custody Disputes Present Pitfalls, Opportunities

All parents in divorce cases claim to have their children’s best interests at heart, right? Of course, the question of which parent’s interests are truly best is one that they can argue about for years and years. In this month’s CaseWatch for Mediators, Mary Ellen Cates, divorce attorney and registered mediator, offers a practice tip for divorce mediators and introduces a new twist on custody arrangements.

[Read Full Article](#)



### CaseWatch for Arbitrators: Failure-to-Disclose Challenges to Arbitration Awards

Neutrality and impartiality are critical qualities for arbitrators as they are for mediators. An arbitrator’s credibility – or lack thereof – can have profound effects on the arbitration process. That is why all ethical arbitrators will disclose any potential conflicts of interest or sources of bias that may exist between them and the parties and their attorneys. This month, John Allgood, Esq., veteran attorney, registered mediator and arbitrator, showcases two cases that challenged arbitration awards on the grounds that the arbitrator failed to disclose such information – with two very different results.

[Read Full Article](#)



### Marketing Tip: T Minus 30 and Counting

How has your summer been? Well, we hope. This is a good time to give your business marketing efforts and check up, and to see how well your business is doing and how you can do better. In this month’s Marketing Tip column, our marketing maven and registered mediator Michele Gibson reviews the great tips she’s shared with you over the past year and reminds you that you can’t take a (long) vacation from marketing your business if you expect success.

[Read Full Article](#)





The next meeting of the Commission on Dispute Resolution is scheduled for Thursday, September 1, 2011, at 2 pm, in Meeting Room 1 of the [State Bar of Georgia](#) Conference Center, 104 Marietta St. NW, Atlanta, GA 30303. Meetings are open to the public. Upcoming Commission meetings, agendas and minutes are always posted on our [website](#).

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### Benefits: Exclusive Insurance Products for Registered Neutrals



Georgia-registered neutrals are entitled to participate in several insurance and retirement programs that have been designed specifically for them. If you need insurance, are planning for retirement, talk to the experts at [BPC Financial](#). They manage our new exclusive insurance and retirement program, and they can advise you on your insurance needs and help you find good deals on major medical insurance, healthcare savings accounts, dental and vision insurance, term life insurance and more. Registered neutrals receive the benefits of underwriting concessions, enhanced benefits, or reduced premiums and fees compared to shopping for similar products on the open market. Check out the [GODR Registered Neutrals Insurance and Retirement Programs website](#).

We've also arranged for special benefits on professional liability insurance for registered mediators and arbitrators with [Complete Equity Markets](#). See our [website](#) for more information or contact [Betsy Thomas](#), 800-323-6234, ext. 472, and tell her you're a Georgia registered neutral!



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### Save the Date: 2011 ADR Institute

The 18th Annual ADR Institute and 2011 Neutrals' Conference will be held Friday, December 9, 2011, at the State Bar of Georgia Conference Center, 104 Marietta St. NW, Atlanta. We set an attendance record last year, and based on the speakers we are lining up, we think this year's conference will be even more popular. At least 6 hours of neutral continuing education and 6 hours of CLE (including 1 Ethics Hour) will be available. More details and conference registration will be available through [www.iclega.org](#) in November. Stay tuned!



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### Publicly Available Resources for Georgia ADR Professionals

We encourage you to visit the [blog](#) created by Georgia State University law professor Doug Yarn and GSU law student Alex Salzillo to inform and encourage discussion. Please add it to your reading list, send the link to your colleagues, and visit often. The address: <http://georgiaadr.wordpress.com/>



And don't forget the [Georgia Mediators Network](#), a great Facebook resource for the latest mediation news and articles from around the world. The page has been visited tens of thousands of times in just the few short months it's been around. Use the information there to pump your own professional web pages and your expertise. The Georgia Mediators Network is the brainchild of registered mediator Michele Gibson, our marketing columnist and newsletter producer.

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### Upcoming CE and Training Offerings



Don't wait until the 2012 renewal season to get your CEs. Check frequently at our [website](#) for the latest CE and training offerings. Remember, any ADR-related training you take counts as CE as long as you took it since your last renewal or your initial registration, whichever comes later. Lawyers, any CLE you took during that same time period counts as CE. Likewise, judges and CJE. Accountants and other professionals with CE requirements, same thing.

And remember, we recently posted two videos on our website that registered neutrals can watch for free to earn CE credit. Each video is one-hour long. Neutrals are free to watch the videos as many times as they wish, but we can only award 1 CE hour credit for each video once a renewal season. Please note the date you finished viewing each video so you can report it on your renewal form. Remember, registered neutrals are required to take at least 3 hours of CE each year in order to renew their registrations. Look for the link, "[Continuing Education Videos](#)," in the main menu of our website. For more information on what qualifies for CE, please see the "[Help! I Need CE!](#)" link on our website.

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### **Be Neutral Back Issues Available Online**



*Be Neutral* is sent monthly to all registered neutrals, generally at the beginning of the month. If you missed an issue, our back issues are posted at the bottom right of our website, under "[Newsletter Archive](#)." Please take a look. If you know people who want *Be Neutral*, please direct them to our subscription box at the bottom right of our [website](#), where they just need to enter their e-mail addresses. Please forward this newsletter to anyone who might be interested in ADR in Georgia courts. Forward it just as you would any other e-mail. If folks who are not registered neutrals want to receive the newsletter free of charge, they can submit their e-mail addresses in the subscription box at the bottom right of our [website](#). And sending us feedback is easy – just reply to this e-mail as you would any other e-mail. We want to hear from you!

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### **Spread the Word**

Please forward this newsletter to anyone who might be interested in ADR in Georgia courts. Forward it just as you would any other e-mail. If folks who are not registered neutrals want to receive the newsletter free of charge, they can use the subscription box at below this text or submit their e-mail addresses in the subscription box at the bottom right of the home page of our [website](#). And sending us feedback is easy – just reply to this e-mail as you would any other e-mail. We want to hear from you !

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