



## Be Neutral

May 2011

A Publication of the Georgia Office of Dispute Resolution

### From the Director: Peacemakers Needed More Than Ever



This spring has provided one helluva showcase for the fury and fickleness of nature. Our hearts go out to our friends in Georgia and throughout the South who have suffered an unprecedented outbreak of tornado-borne destruction. What is it like to see your worldly possessions pulverized by a mile-wide macerator? How does it feel to have your loved ones torn from your grasp into the whirling sky, never to be seen alive again? Tragically, too many people now do not have to imagine the horror.

As ADR practitioners, we know it is inevitable that out of the rubble of this latest natural disaster will arise disputes. For one reason or another, homeowners, renters, insurance companies, homebuilders, contractors, neighbors, family members, former friends and the like will find themselves at odds with each other in the storms' aftermath. Catastrophe breeds conflict. And lawsuits.

I recall a court case I mediated several months after the terrorist attacks of 9/11. It was, legally, a cut-and-dried case; the tenants were obligated to pay rent, they had not paid for several months, and now the landlord wanted his property back. In court, the case would have taken 5 minutes tops – a ruling for the landlord. Nonetheless, this judge favors mediating almost all dispossessory cases. So I mediated.

In the mediation room, I learned that the tenants, an older married couple, had rented their same house from their same landlord for 20 years. More than just tenants and landlord, they had become trusted friends. Both tenants had for most of their lives worked for companies that serviced airplanes. Air travel had virtually ceased after 9/11, so the airlines couldn't afford the companies, and the companies couldn't afford their workers. Both husband and wife lost their jobs. After searching in vain for work, they had used up their savings. Now they were six months behind on rent. Proud, hardworking folk who always paid their bills on time, they were humiliated, disheartened, and embarrassed to find themselves in court, about to lose their home.

The landlord knew all this, of course. And his feelings mirrored his tenants' – he was heartbroken, conflicted, and overcome. What could he do? He had hoped his tenants and friends would find work. But with no rental income for six months, he was about to lose his own home as well as his rental property, his sole source of income. For everyone's sake, he had to make sure that everything that had to be done was done legally and properly. But it was killing him inside.

The parties were almost paralyzed by the seriousness of what they knew they had to do. But, in the space and safety and privacy of the mediation, they did it. They discussed what they wanted and needed, and we went through all of the important legal and practical details for their last weeks together. They shared their feelings of shame, and their words of comfort, reassurance, and thanks. And embraces. And tears. (No, I didn't hug. Yes, I cried.) After an hour or so, they had agreed on a plan to end their long relationship, a plan drafted of dignity, compassion, and mutual respect.

One might ask, why take an hour to mediate a case that the judge could dispose of in 5 minutes? After all, the parties' feelings and sentiments were legally irrelevant. Did going through mediation fix the parties' larger problems? No. Were they left legally better off? Maybe. But we know that mediation is about so much more than just settling cases. It is about helping parties deal with their disputes in ways that lets them move forward productively. For my parties, I think mediation made a terrible process merely wrenching. But that's better than making things worse through litigation.

So aside from the obvious, what else can we as conflict resolution professionals do to ease the suffering of the victims of nature's latest freakish behavior? Perhaps it is simply by doing what

we do best. When their disputes arising from the tornadoes arrive at the courthouse and at mediation – and they will – we can through the mediation process validate the parties' pain, frustration, and loss in ways that judges and juries are not permitted to. Then, as much as litigation keeps people mired in fighting over the past, mediation can help parties refocus their vision and energies on their goals for their new futures.

Disaster and catastrophe will happen. Throughout it all, I hope all of you and your families and your friends remain safe and sound. If they find themselves in a dispute, we'll be there to help.

**Shinji Morokuma, Director GODR**

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Archive



### Commission Meeting in May

The next meeting of the Commission on Dispute Resolution is scheduled for Thursday, May 26, 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](#).



### Case Watch for Mediators: Taxes and Divorce

It may be obvious to most of us, but it's critical for divorcing couples to get their tax filings in order before they get divorced. Taxes owed or taxes refunded must be considered in marital liabilities and assets and divided equitably between the parties. But how far can courts go to make couples file or amend their tax returns? Mary Ellen Cates, divorce attorney and registered mediator, explains in this month's CaseWatch for Mediators.

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### Case Watch for Arbitrators: What Conception Means for Georgia Arbitrators

The U.S. Supreme Court recently issued a controversial decision in the closely watched case of AT&T Mobility LLC v. Conception. The essence of the decision: the Federal Arbitration Act trumps conflicting state law and policy. What does the decision mean for Georgia arbitrators? Find out in this installment of CaseWatch for Arbitrators by John Allgood, Esq., veteran attorney, registered mediator and arbitrator.

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### Marketing Tip: How to Touch People So They Will Remember You

You're reading one of the more effective ways to keep in touch with your clients and potential clients – the electronic newsletter. Why bother to produce one? How do you produce one? How do you send one? To whom should it go? Don't worry, dear readers, registered mediator and marketing expert Michele Gibson answers all of your questions in this month's Marketing Tip column.

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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](#), 800-324-6234, ext. 472, and tell her you're a Georgia registered neutral!

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## Publicly Available Resources for Georgia ADR Professionals

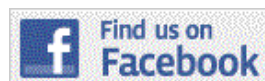
There are many free resources available to you as a neutral. From [our own archives at GODR](#)...to the [blog published by GSU law professor Doug Yarn](#) and law student Tom DeFreytas...to the collection of mediation articles published by [Georgia Mediators Network on Facebook](#) - all of them are available to you for free. Know of other resources that might be of interest to your fellow neutrals? Send them to our office and we'll publish them!

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## Georgia Mediators Network is Now on Facebook



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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## Georgia ADR Blog



We encourage you to [visit the blog](#) created by Georgia State University law professor Doug Yarn and GSU law student Tom DeFreytas 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/>



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## Upcoming CE and Training Offerings

Don't wait until the 2011 renewal season to get your CEs. Check frequently at our [website](#) for the latest CE and training offerings. Remember, any 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.

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

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