



Be Neutral

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From the Director

Did you miss your newsletter last week at the beginning of the month? We decided you deserved some time to enjoy your holiday weekend and held this month's newsletter off for a couple of days.

The 2010 registration renewal season is approaching. I know, you're thinking, "Didn't we just go through a renewal season?" Well, you're right, and we in our office are thinking the same thing. We had to delay the start of the 2009 renewal season until January 1, 2010, so our systems could accommodate late but critical changes to the ADR Rules. The 2009 season ended in March 2010. Confusing for you, and confusing for us. This year, we will return to our end-of-the-year renewal deadline, and I hope we can stay on that schedule from now on. Look for renewal season details in the October newsletter. Please don't send us renewal information yet!

Registration is now annual. All neutrals must renew their registrations by the end of this calendar year and must have taken at least 3 hours of continuing education in 2010 – not 2009, 2008, etc. The only exception is for neutrals who registered for the first time in October, November or December of 2010; they are due to renew at the end of 2011. See our [Frequently Asked Questions](#) for information on renewal fees, what counts as neutral CE and how to earn CE.

In this issue we're introducing a new feature of our newsletter: Case Watch. It's a way we can tell you about important court decisions in Georgia or nationally and why they may have an impact on your neutral practice. We want this to be a regular column. Attorney and mediator Mary Ellen Cates has generously agreed to cover domestic law cases for us. Other "correspondents" will contribute analyses of cases on non-domestic mediation, as well as arbitration, as the need arises. We hope you find the column useful. We'll be keeping these articles and copies of all our newsletters on file for you.

Shinji Morokuma, Director GODR

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Archive



Case Watch: For Mediators

When is a premarital asset not a premarital asset? Does an equitable division of assets have to be an equal division of assets? How much more can divorcing parties spend in legal fees if they don't settle in mediation? Veteran divorce attorney and registered mediator Mary Ellen Cates takes us through a 2009 Georgia Supreme Court decision that sheds light on these important questions and highlights the mediation benefits of party self-determination, outcome predictability, and lower resolution cost. Case Watch analyses will be a regular feature of this newsletter that we hope will enhance your practice as a neutral.

Read Full Article

How do I ?

Add a new category to my existing registration? It's easy. Within 18 months of your training you simply need to send us:



- 1) a short note asking us to add the category to your registration
- 2) a copy of the training certificate and any other documentation required for that category

You can find the registration requirements for each category in our [FAQs](#), or in [Appendix B](#) of the Supreme Court ADR Rules. You do not need to fill out a registration form merely to add another category (who wants to fill out that form twice?). There is no additional fee to add a registration category, except if you are adding Domestic Relations Mediation, in which case you will need to include a \$25 fee along with your documentation. And remember, always send us important documents via a service that offers tracking and delivery confirmation.

Did you know that -

GODR can help you if you are subpoenaed or ordered to testify about a court-connected mediation, arbitration or case evaluation you conducted. The rules state, “Neither the neutral nor any observer present with permission of the parties in a court-annexed or court-referred ADR process may be subpoenaed or otherwise required to testify concerning a mediation or case evaluation or early neutral evaluation conference or, unless otherwise provided by court ADR rules, a non-binding arbitration, in any subsequent administrative or judicial proceeding.” There’s a good reason for enforcing this rule: privacy and confidentiality are what set mediation apart from the very public disclosures that come with litigation. People won’t talk if they believe what they say will be used against them later, in public.

So, if you receive a subpoena as a neutral, the most important thing to do is call our office immediately. We can e-mail you a “quash kit” – a set of template documents that you or your attorney can fill out to move the court to quash the subpoena. We may also be able to help find an attorney in your area who is knowledgeable about ADR and is willing fill out the forms and represent you at a hearing to quash the subpoena. Your professional liability insurance may cover your attorney’s fees.

So what does “confidential” mean? According to the rules, confidential information is “not subject to disclosure or discovery, may not be disclosed by the neutral or program staff, and may not be used as evidence in any subsequent administrative or judicial proceeding.

What is confidential in an ADR process? Generally:

- Any statement (verbal or non-verbal) made during a court-connected mediation, arbitration or case evaluation;
- Any statement (verbal or non-verbal) made as part of intake by court program staff in preparation for a court-connected mediation, arbitration or case evaluation;
- Any document or other evidence generated in connection with a court-connected mediation, arbitration or case evaluation (except a mediated agreement);
- A neutral’s notes or records;
- A court ADR program’s notes and records, to the extent that such notes or records pertain to cases and parties ordered or referred by a court to the program.

What is not confidential in an ADR process?

- Information about whether a participant appeared at the scheduled process;
- Information that constitutes threats of imminent violence to self or others;
- Information that a child is abused or that the safety of any party or third person is in danger;
- A mediator’s lay impressions of whether a mediation participant had the capacity to understand and engage in the mediation productively.

As more litigants take advantage of ADR services offered by the courts, the more frequently neutrals are being called to reveal confidential information by well-meaning

CONFIDENTIALITY

attorneys and judges. Your promise of confidentiality to your parties increases their trust in you and is foundational to a successful and productive process. That is why you should do your zealous best to keep that promise. Call us for help.

Learn More About Exclusive Insurance Products for Neutrals

Need insurance? Planning for retirement? Confused by health-care reform? Talk to the experts at [BPC Financial](#). They manage our new exclusive insurance and retirement program for registered neutrals. 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, and more, check out the [GODR Registered Neutrals Insurance and Retirement Programs website](#).



Need a good deal on professional liability insurance for mediators and arbitrators? See our [website](#) for more information or contact [Betsy Thomas](#) at [Complete Equity Markets](#), 800-324-6234, ext. 472, and tell her you're a Georgia registered neutral !



Commission Meeting

The next meeting of the Commission on Dispute Resolution is scheduled for Thursday, September 9, 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](#).



Upcoming CE and Training Offerings

The end of the year will be here before you know it. Have you completed your required CEs for the year ? Lots of new CE and training opportunities are upcoming. Brush up on your skills or acquire new tools to assist you in your practice. Check frequently at our [website](#) for the latest CE and training offerings.

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 link at the bottom of this newsletter 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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