



Georgia Commission on Dispute Resolution Meeting

Wednesday, May 8, 2024

2:00 – 4:00 p.m.

State Bar of Georgia, Room #1

Guests are welcome to attend remotely. Please email gaodr@georgiacourts.gov by COB on May 6, 2024, to receive the Zoom link.

AGENDA

- I. Welcome: Chief Judge M. Cindy Morris
- II. Roll call
- III. Meeting Minutes from November 29, 2023: *Approved via email*
- IV. Standing Committee Reports:
 - a. Budget and Personnel Committee: Judge Clarence Cuthpert, Jr.
 - b. Ethics Committee: Ms. Jessica Farah, JC/AOC
 - c. Training and Credentials Committee: Ms. Melissa Heard & Ms. Nicole Hull
 - d. Outreach Committee: Mr. Randall Weiland
 - e. DV Rules Committee: Ms. Peggy Wilson
- V. GODR Report: Ms. Tracy Johnson & Ms. Karlie Sahs
 - a. 2023 Data Collection
 - b. Probate Mediation Implementation Plan Updates
 1. 2024 Training Sessions
 2. 2024 National Aging and Law Conference
 - c. Strategic Projects update
 - d. Upcoming conferences:
 1. National Association of Court Management: July 21-25
- VI. New Business:
 - a. Action Items
 1. Best Practices for Neutrals
 2. Rule Revisions: Appendix B
 - i. Registration of neutrals with training not approved by GODR
 - i. Non-binding arbitration registration category
 - ii. Ethics Pre-certification of Fitness to Register (*clean-up item – moved to Appendix C, Chapter II*)
 - iii. Student registrations
 3. Outreach Committee letter [*Doc #6*]
- VII. Chairman's Report: Chief Judge Morris
- VIII. Old Business

- IX. 2024 Commission Dates: August 14 (*virtual*) and December 4 @ Mercer Law School (*in person*)
- X. Adjournment



Georgia Commission on Dispute Resolution Meeting Minutes

Wednesday, May 8, 2024

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

N. Staten Bitting Jr., Esq.; The Hon. Rebecca Crumrine Rieder; Judge Clarence Cuthpert Jr.*; Presiding Judge Sara L. Doyle; Nicole W. Hull, Esq.; Representative Rob Leverett; Judge Carrie B. Markham; Patrick T. O'Connor, Esq.; Judge Pandora E. Palmer; and Randall Weiland.

Tracy B. Johnson, Executive Director; and Karlie A. Sahs, Deputy Director.

JC/AOC staff members present were Jessica Farah, Esq., General Counsel; Stephanie Hines, Judicial Services Division Director; and Ben Luke, Chief Technology Officer. Cynthia Clanton, AOC Director, observed by video.

The following guests observed by video: TJ BeMent, 10th Judicial District Court Administrator; Rita Carroll, Carroll County ADR Program; Abby Carter, Gwinnett Courts ADR Program; Lakesiya Cofield, Fulton County ADR Program; Melissa Coston, Columbia Judicial Circuit ADR Program; Ellen Lahtinen, Kennesaw State University; Rebecca Lew, Cobb County Superior Court ADR Program; Casey Martinez, Eastern Judicial Circuit ADR Program; Sabina Medina, Conasauga Judicial Circuit ADR Program; Jody Overcash, Blue Ridge Judicial Circuit ADR Program; Kathleen Sterne, Esq., Clayton Judicial Circuit ADR Program; Shannon Watts, Southern Judicial Circuit ADR Program; Brittany Whaley, Seventh Judicial Administrative District ADR Program; and Rebecca Zimmerman, Registered Neutral.

**Judge Cuthpert exited the meeting following the Ethics Committee standing report, giving his vote proxy to Patrick O'Connor.*

I. Welcome

Chief Judge Morris called the meeting to order at 2:00 p.m.

II. Roll Call of GCDR Members

Chief Judge Morris asked Ms. Karlie Sahs to conduct a roll call of all GCDR members.

III. Meeting Minutes from November 29, 2023: Approved via email

The minutes of the November 29 Commission meeting were approved prior to the meeting via e-mail vote on January 5, 2024.

IV. Standing Committee Reports:

a. Budget and Personnel Committee: Judge Clarence Cuthpert, Jr.

The Committee met on April 15, 2024, and approved a proposed FY2025 budget, which has now been adopted by the Commission.

Budget documents for the current fiscal year (FY24) were included in the meeting materials. Judge Cuthpert advised that the year-to-date revenue and expenses are comparable to FY23. As of the end of March, 70% of the operating budget had been spent – which is in line with expectations. The special projects budget covers such items as the case management system and contracts for services. This budget is set as projects are approved by the Commission, with the majority being for the maintenance of the case management system (Schedule ADR) and expenses related to the Probate Mediation implementation plan. Judge Cuthpert also briefly noted the inclusion of a report for the annual ADR Institute budget and an overview of the current fund balance.

No further budgetary issues or personnel matters were noted.

b. Ethics Committee: Ms. Jessica Farah

The Committee on Ethics last met on April 10, 2024.

Ms. Farah reported that since the last Commission meeting, four (4) complaints were filed against a mediator. Of those complaints, three (3) have been dismissed, and one (1) remaining complaint is in the preliminary stages of investigation.

Further, the Committee has received thus far this year, six (6) applications requiring Ethics Committee review. Of the six applications, one (1) has been approved, and the remaining five (5) are under investigation and pending Committee review.

There are no pending appeals at this time.

Ms. Farah shared that the Ethics Committee will be editing Chapter 1 of the Supreme Court ADR Rules, Appendix C, to add ethical standards which are more specific to other classes of neutrals, such as arbitrators. Additionally, the Committee removed the examples and recommendations and placed those in the new *Best Practices Manual for Registered Neutrals*, as the Committee felt this was a better place to include such guidance for neutrals.

The *Best Practices Manual for Registered Neutrals* manual draft was reviewed and presented to the Commission for a vote under the meeting agenda Action Items.

The Ethics Committee will meet next on August 6, 2024.

c. Training and Credentials Committee: Ms. Nicole Hull

The Committee on Training and Credentials last met on March 5, 2024, and again in a special session on March 28, 2024.

Ms. Hull reported that, at the March 5 meeting, the Committee considered three (3) requests for an external training waiver, with all having completed the same external training program. All three requests were denied, as the training did not meet the standards provided by the Supreme Court ADR Rules.

At that same meeting, the Committee reviewed one (1) request to renew a registration that was in Inactive IV status – a status which requires this committee to assign a certain amount of continuing education hours for the given neutral to complete. The neutral in question is an attorney and is also a Transition Into Law Practice Program (TILPP) instructor with the State Bar of Georgia. The neutral had submitted her continuing legal education (CLE) report from the State Bar of Georgia, showing her CLE courses taken over the last 4 years, which the Committee deemed sufficient in meeting the continuing education requirement for neutral registration reinstatement. Thus, the Committee approved her renewal, provided the neutral review provided materials covering the Georgia Uniform Mediation Act.

Ms. Hull further advised that the Committee received a request from an attorney-neutral in Inactive IV status, asking for an Americans with Disabilities Act (ADA) accommodation on account of an injury he suffered at work which caused him to be on disability since 2020. Specifically, the neutral requested that his neutral registration remain in Inactive status for an extended period of time. The Committee granted the request, looking to the State Bar of Georgia rules as guidance for how to handle similar situations. The neutral will be required to petition the Committee to be reinstated in Active status, providing documentation from a healthcare provider that the neutral is no longer qualified as disabled.

Changes to Appendix B, approved by the Committee on March 28, were presented to the Commission for a vote under the meeting agenda Action Items.

The Committee's next meeting is scheduled for May 20, 2024.

d. Outreach Committee: Mr. Randall Weiland

The Outreach Committee last met on January 22, 2024.

Mr. Weiland advised that Ms. Tracy Johnson met with the new ADR Program Director for the Conasauga Judicial Circuit, Sabina Medina, on January 8, and asked Ms. Johnson to share any reflections from that meeting. Ms. Johnson noted that she had been asked by the Court Administrator, Brad Butler, to sit on the interview panel for that position. Ms. Johnson was impressed with Ms. Medina during her interview and is glad to see that she was selected for the position. The all-day orientation was held at the Whitfield County courthouse in Dalton. Ms. Medina was viewing the Commission meeting virtually and received a warm reception from the group.

The final draft of the Outreach Committee letter was presented to the Commission for a vote under the meeting agenda Action Items.

The committee's next meeting is set for July 15, 2024.

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

The Committee last met on May 15, 2023.

On behalf of Ms. Wilson, Ms. Johnson shared that the Committee meets annually and does not have any updates to report at this time.

The Committee is scheduled to meet next on September 18, 2024.

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

a. 2023 Data Collection

GODR has concluded ADR data collection for calendar year 2024 (CY23). Ms. Johnson was pleased to announce 100% compliance by court ADR programs. She thanked Ms. Stephanie Hines and her team for their assistance with this year's data collection success. Ms. Johnson is currently working with the AOC Office of Research on the reports for the expanded data collection with the CY22 report anticipated this August.

b. Probate Mediation Implementation Plan Updates

1. 2024 Training Sessions

GODR has held three (3) of the five (5) scheduled Probate Mediation trainings: Marietta (March 21-22), Macon (April 11-12), and Lawrenceville (April 25-26). Much appreciation was given to court ADR program directors and their staff, who have been a significant help in coordinating and running logistics of these trainings. Importantly, GODR also extended gratitude for those Probate Court judges in attendance, as their support has been indispensable.

Currently, 67 mediators have been trained in Probate Mediation (including approved ADR trainers and court ADR program directors). The final two (2) trainings are scheduled for Columbus (June 20-21) and Savannah (July 19-20).

2. 2024 National Aging and Law Conference

The conference will be held in Miami, FL, on May 16-18, where Eleanor (Ellie) Crosby Lanier, Judge Markham, and Ms. Johnson will present a session. Though Ms. Lanier will need to present virtually, due to a family emergency, Judge Markham and Ms. Johnson will attend the conference in-person. A brief description of the presentation was provided: *This session will help advocates know when and how a client would benefit from using mediation or a settlement conference to explore a non-adversarial resolution to guardianship or probate disputes, how to effectively represent a client in these sessions, and what a judge needs to approve a settlement agreement.*

Chief Judge Morris extended thanks to Judge Markham for her impactful leadership role in the Probate Mediation project.

c. Strategic Projects Update

The current Strategic Projects Plan covers calendar year 2021-2023 but was extended through Fiscal Year 2024 so that future strategic projects align with fiscal years instead of calendar years. Last fall, the Commission established a new list of strategic projects, which take effect on July 1, 2024.

1. **Neutral Registration System:** Mr. Ben Luke provided a report for updates to the Georgia Courts Registrar (GCR) integration.

Mr. Luke explained that the system required re-writing from legacy technology, making it less dependent on current technologies. Now, business will drive the technology and not the other way around. Every report from the GCR which has been requested by GODR has been turned into a dashboard, making the ability to run future reports less manual and time consuming. Eventually, that functionality will be a button, allowing access to real time data – which is now stored in a commonsense, secure way.

2. **Court Outreach – Expansion and Enhancement:** Ms. Johnson thanked Mr. Hal Gray for his leadership on the Outreach Committee letter.
3. **Public Education/Resources:** Kennesaw State University created mediation preparation videos for parties and has given permission to GODR to share on godr.org as a public resource. GODR is pending the final edited version of the video.
4. **Expansion of Neutral Services:** GODR learned of substantial changes coming to the Child Support Guidelines and Child Support Calculator. As such, the office will team up with the Georgia Child Support Commission staff to send out informational updates to mediators. Two (2) mediator-only informational webinars covering the updates are scheduled for July 12 and August 9.

Additionally, the *Best Practices Manual for Registered Neutrals* was presented to the Commission for a vote.

5. **ADR Conference:** The 2023 Court ADR Program Director Conference was held November 15 through Friday 17, 2023, and this project has been completed. However, Ms. Sahs noted that the 31st Annual ADR Institute is scheduled for November 21, 2024, at the State Bar of Georgia Conference Center, and program directors are encouraged to attend.
6. **Statewide Partnerships:** Emory University is creating a new center for conflict management, mediation, and peacebuilding; GODR sees this as an opportunity to offer support or partnership with the impending center and their new initiatives. It is understood that the center will not open until 2025 (or later), and GODR plans to reach out sometime in 2024.

7. **Online Dispute Resolution and Annual Report:** No new updates to report. **Case Management System, DV Rules, UMA, and Court Program Support:** Projects completed.

d. Upcoming Conferences

1. **2024 National Aging and Law Conference: May 16-18**
Miami, FL; Judge Markham, Ms. Johnson, and Ellie Lanier will present
2. **National Association of Court Management: July 21-25**
New Orleans, LA; Ms. Johnson and Ms. Sahs will attend

VI. New Business

a. Action Items

1. Best Practices Manual for Registered Neutrals

Ms. Farah advised that the Best Practices Manual for Registered Neutrals has been finalized and approved by the Ethics Committee. Ms. Farah provided a review of main topics covered in the Manual, which will serve as a guide to assist neutrals in being efficient practitioners while complying with the rules and standards set forth by the Supreme Court of Georgia. Main topics include: 1) an overview of ethical standards, with examples and recommendations, as previously outlined in the Supreme Court Rules, Appendix C, Chapter 1; 2) references to ethical and advisory opinions; 3) a review of mediation guidelines and best practices for before, during, and after mediation; 4) guidance for advertising services and interacting on social media; 5) a review of common and preferred practices for virtual ADR sessions; 6) an overview of the Georgia Uniform Mediation Act; 7) a sample motion to quash for addressing a subpoena of a neutral; and 8) information regarding ethical complaints, including the timeline of the complaint process. The Ethics Committee expects this manual to be a “living document”, expected to be published on the GODR website this summer.

A motion was made by the Ethics Committee to approve the *Best Practices Manual for Registered Neutrals* as presented, with an updated list of GCDR members; Mr. Weiland seconded the motion, and all present members voted in favor.

Ms. Johnson thanked Ms. Carole Griffith (Collier) for her hard work on the development of the Manual.

2. Rule Revisions: Appendix B

Ms. Johnson shared that, to clear up confusion expressed by neutrals contacting GODR, the arbitration term will be bifurcated to draw a clear

distinction between the registration credential and the practice of arbitration by:

1. Reverting the registration category from “Non-binding Arbitration” back to “Arbitration” in both Appendix B and the Training Program Guidelines. This will help to clarify that a neutral registered in “Arbitration” would be eligible to conduct 1) non-binding arbitrations in court cases and 2) binding arbitrations for private cases
2. Retaining all references to the non-binding arbitration process in the Supreme Court ADR Rules definition and its Appendix A, to clarify that courts may only order non-binding arbitration.

Ms. Sahs explained that, especially since the COVID-19 pandemic and subsequent changes made to allow certain synchronous virtual trainings, GODR has experienced a sharply rising influx of applications for neutral registration from those who did not complete mediation training from approved training providers. To maintain a focus on quality, the section of Appendix B which outlines the registration of neutrals with training not approved by GODR would undergo a substantial change to:

1. Remove all existing language and replace with guidance for those existing practitioners applying from out of state who seek reciprocity in Georgia; and
2. Create an internal evaluation process and develop application forms to solicit needed information from such applicants.

Ms. Sahs also stated that GODR held a meeting in January with approved academic ADR programs to receive feedback about the student neutral registration process, learning that there was much improvement to be made to better meet the needs of academic programs and their students. Currently, no formal rules exist under Appendix B, but the process is administratively tied to the fee schedule, via the Fitness to Register ethics procedure, in a way which does not benefit most academic programs or students. Thus, the Training and Credentials Committee seeks to add formal rules under Appendix B, outlining that:

1. No Fitness to Register be required, but one may be provided at the school’s request;
2. All students must access the waiver within 18 months of completing training;
3. Students can only access the waiver while they are in school (enrolled in an affiliated degree program at least part-time, verified annually by GODR). When exiting their degree program, the student’s first registration renewal will be at the regular renewal rate of \$150; and
4. Only students enrolled in or having completed an approved academic ADR training program are eligible.

The Fee Schedule will be updated accordingly.

A motion was made by the Training and Credentials Committee to approve the changes to Appendix B as presented; Chief Judge Morris seconded the motion, and all present members voted in favor.

Once filed with the Supreme Court of Georgia, the changes will become effective on July 1, 2024.

3. Outreach Committee letter

Mr. Weiland provided that, to connect with courts not currently served by an approved court ADR program, the Committee has drafted a letter intended for the Chief Superior Court Judge for the circuits of the 48 identified counties which lack an affiliated program. The letter has a link to the newly published *Court ADR Program Handbook*, which details information on available resources and information for new and existing programs. It is the Committee's hope that the letter will generate interest in those areas of Georgia currently underserved by ADR, especially with the assurance of support from both the GCDR and GODR.

A motion was made by the Outreach Committee to approve the letter as presented; Presiding Judge Doyle seconded the motion, and all present members voted in favor.

VII. Chairman's Report: Chief Judge Morris

Chief Judge Morris shared that GCDR member Patrick O'Connor was present for the GCDR meeting, following a long recovery from a harrowing incident in August of 2023. She asked Mr. O'Connor to share his story, including his three (3) inspirational takeaways: 1) don't take the day for granted; 2) don't be afraid to talk about your faith, whatever it may be, because one day you will need it; and 3) don't be afraid to tell people you love them because you may not get another chance.

VIII. Old Business

There was no old business to report.

IX. 2024 Commission Dates: August 14: December 4

The next meeting is scheduled for August 14, at 2:00 p.m. and will be held virtually. The remaining 2024 meeting will be held in-person on December 4 at the Mercer University School of Law.

X. Adjournment

The meeting concluded at approximately 2:53 p.m.

[Minutes prepared by Karlie A. Sahs and Tracy B. Johnson]
[Minutes approved via email May 24, 2024]