

MINUTES: SEPTEMBER 19, 2007, MEETING
GEORGIA COMMISSION ON DISPUTE RESOLUTION

Judge Joseph Iannazzone called the meeting to order. In addition to Judge Iannazzone, Commission members present were: Judge Louisa Abbot; Judge Charles Auslander III; Ansley Barton, Esq.; Judge Debra Bernes; Marti Kitchens; Alan Granath; Justice Hugh Thompson; and Judge Cynthia Wright. Raye Rawls, Esq., participated by phone.

GODR staff members present were: Shinji Morokuma, Esq., Director, and Nicky Davenport, Deputy Director.

1. Visitors:

Judge Iannazzone welcomed the visitors, who were: Elmira Barrow, Coweta/Carroll County ADR Program; Bev Bradburn-Stern, DeKalb County ADR Program; Linda Gernay, Eastern Circuit ADR Program; Pam Godfrey, 7th District ADR Program; Tracy Johnson, 6th District ADR Program; Tena Helms, Macon Circuit ADR Program; Linda McClellan-Horvath, 10th District ADR Program; Laura Lynn Swafford, Gwinnett County ADR Program; and Jerry Wood, Fulton County ADR Program.

2. Minutes:

The minutes from the May 22, 2007, meeting were approved without amendment.

3. Director's Report: Shinji Morokuma

a. Administration Coordinator Resignation

Mr. Morokuma reported that Ashley Franklin, GODR's administrative coordinator, resigned her post the previous week after three years in the office. While that leaves the office with only two full-time staff members plus a paid intern, he said he is holding off on hiring her successor until he hears whether or not the office was awarded a grant from the Georgia Bar Foundation. If the funds become available, Mr. Morokuma said he would like to hire Tynesha Manuel, the office's intern, to fill the administrative coordinator position because she has already been performing many of that job's functions during her internship.

b. Budget Update

Mr. Morokuma said the Georgia Bar Foundation board meets on September 28, and he expect to hear soon after that date whether the office's grant request was awarded. He reminded the Commission that the office had applied for a one-time emergency grant of \$250,000 to replace FY2008 state funds cut by the legislature.

Using figures provided by the Administrative Office of the Courts (AOC), Mr. Morokuma presented possible budget scenarios for the office if the grant was not awarded. In a handout to the Commission, he showed that the monthly office expense for salary and benefits was about \$24,000 with a staff of three full-time staff members. Without the grant, the office would be able to remain open only until mid-December 2007 relying only on FY08 state funds. If the just-vacated administrative coordinator position is allowed to remain open, the office would save \$12,000 in salary and benefits and could remain open through the end of December, he predicted. If only the director's position and the intern's position were filled, the office could remain open until the end of February 2008 using only state funds.

Alternatively, neutral registration fees could be used to keep the office operating. The office collects more money annually in registration fees than he realized, Mr. Morokuma said. In FY06, \$76,000 was collected; in FY07 \$67,000 was collected. So far in FY08, only \$6,300 has been collected because most of the money comes in during registration renewal season at the end of the year. The total of available registration funds right now is \$160,000, Mr. Morokuma said, of which \$46,000 is earmarked to pay for the redesign of the office's new online neutral registration database. Registration funds are to be used by the office to fund training and continuing education programs for registered neutrals and court programs. However, the remaining registration funds, plus what the office could expect to collect in the coming months, could be used to keep the office open with a staff of three through June 30, 2008, the end of FY08. However, doing so will deplete all registration funds, leaving no money for programming, he said.

Mr. Morokuma said all plans for the office are on hold for two weeks until he hears from the Bar Foundation. He assured members that he would make a formal request to the Commission if it becomes necessary to begin spending registration funds on office operating expenses. He also said that he would continue to seek the counsel of the Strategic Planning Committee on office operations.

Judge Auslander asked if the Georgia Bar Foundation has released information on how much money it has available for grants this year and how many grant applications the Bar Foundation has received. Mr. Morokuma replied that he has heard nothing from the Bar Foundation, but knows that there is always more money requested than is available to award. GODR's request of \$250,000 is a large one, but he said the fact that it is a one-time request will increase the office's chances of getting the funding. Mr. Morokuma said he has heard rumors that the foundation was simply going to award 50 percent of the amount requested for every grant application, but he said he did not think the foundation would make grant decisions in such a casual way.

GODR has the advantage of former Georgia Chief Justice Harold Clarke being on the foundation board. The court-connected ADR system was Justice Clarke's vision, Mr. Morokuma said, and Justice Clarke has told Ms. Barton that he intends to be at the bar foundation meeting at the end of September and advocate

vigorously for GODR's award to be granted. Mr. Morokuma said he and Justice Thompson have spoken with several foundation board members and elicited their support for GODR's grant application. Mr. Morokuma said he also spoke at great length earlier in the year with Len Horton, long-time executive director of the Bar Foundation, about how to maximize GODR's chances for winning a grant. Mr. Horton is a supporter of GODR's work, and Mr. Morokuma thought Mr. Horton would do what he could to help GODR's grant application succeed.

Judge Abbot, a former Bar Foundation trustee, said she knows that the number of grant applications doubled last year, when almost \$2 million in grants were awarded, and she assumes a similar number of requests was submitted this year. The foundation always takes requests from the Supreme Court or Supreme Court offices seriously, and after talking with Mr. Horton, she felt very good about GODR's prospects for a grant this year. It will not hurt, however, for Commission members to approach foundation trustees they know and ask for their support for GODR's request, she said.

Mr. Morokuma said GODR has a good track record of cooperation and support from the Bar foundation. The office has received a total of about \$600,000 in grants from the foundation through the years to be used as seed money to start new court ADR programs, he said.

Judge Abbot reminded the Commission that it was critical that the Bar Foundation, if it awards GODR money, makes clear that the grant is a one-time award. Otherwise, she said, the legislature will see that GODR has another source of operating funds in the bar foundation and will be motivated to cut state funding for GODR.

Justice Thompson said he understands that the Bar Foundation is clear that GODR's request is for emergency support. He also said the future income for the Bar Foundation is likely to increase because several cooperating banks have agreed to raise the interest rate on lawyer trust accounts that is the source of the foundation's funding.

Ms. Barton asked if the grant money, if awarded, could be used for personnel costs. Mr. Morokuma replied that he was not aware of any conditions that the foundation intended to place on how the funds were spent. GODR was clear that the request was for operating funds, and Mr. Horton approved of GODR's application for them.

Mr. Granath said that at the last Commission there was discussion of increasing neutral registration fees to support GODR operations and programs. He asked whether that was still a possibility and what the Commission needs to do to implement the increase. Mr. Morokuma said the increase in registration fees was one idea for how to support GODR operations. He thought it would be prudent to wait until the Bar Foundation announced the grants before proceeding with that idea. It may not be necessary to increase fees if GODR receives its grant, he said.

Judge Wright noted that GODR's annual income from registration fees was estimated at \$25,000 to \$30,000, according to the minutes from the last meeting. However, the AOC now has reported to GODR that the annual income from fees is nearly double the earlier estimate. She asked how that changed the budget picture for GODR. Mr. Morokuma said that it is fortunate that GODR collects more money in fees than he had expected. However, even doubling the fees from their current rate is not likely to double the income and certainly would not come close to replacing the \$250,000 that was cut from GODR's budget. Nonetheless, he said GODR needs to be spending that registration money on training and education programs for neutrals and court programs throughout the state. Judge Wright asked who determines what registration funds are spent on. Mr. Morokuma responded that GODR is expected to determine the best use of those funds, but he wanted to hear from program directors on how they thought GODR should spend those funds to support their activities. He noted that if the budget situation requires that registration funds be tapped to keep GODR operating, that decision should be left to the Commission.

Ms. Gernay said creating new court programs was important, but there was much that GODR could do to use registration fees to support local court programs. She said she would like to see GODR sponsor training and education programs and seminars closer to the court programs outside of Atlanta, visiting with local bar associations and meeting local neutrals. Mr. Morokuma agreed that focusing more on support local court programs was vital to GODR's immediate future.

[Attachment 1]

c. Online database

Mr. Morokuma reported that the office had contracted with a Virginia company named TriVir to design a new online registration and neutral database system to replace the balky one currently in use. TriVir, a database specialist, is the same vendor that has contracted with the Supreme Court, the Court of Appeals, and the Office of Bar Admissions to provide them with new electronic filing, or e-filing, systems. He said he hoped begin testing the system soon and to unveil the office's new registration renewal system by mid-November.

Mr. Morokuma said the office's old online system actually created more work for the staff than it saved. By working closely with TriVir and ensuring that the vendor understood the office's needs, the new system should greatly improve the efficiency of processing neutral applications and prove to be a worthwhile investment.

d. Program Relations

Mr. Morokuma said his office was finally able to conduct a juvenile mediation training in Waycross in July after the fires in the nearby Okefenokee Swamp delayed the training. In addition to meeting Program Director Brenda Sutton, he said he took the opportunity to visit Lisa Sutton, ADR program director for the

Alapaha Circuit in Homerville; Tim Hendrick, Tamara McGee and Shannon Watts of the Southern Circuit ADR Office in Valdosta; and Judge John Pridgen of the Cordele Circuit, who wants to improve the circuit's ADR program. Mr. Morokuma said the programs he visited could not recall the last time a member of the state office had visited them, and so they appreciated the contact.

e. Annual Report

Mr. Morokuma said the FY2006 Annual Report is almost finished and is waiting to be printed. He said the office budget will determine how many copies will be reproduced and how widely it will be distributed. He said he did not know why the annual report production was so far behind the end of its fiscal year, but he hoped to be working on the FY2007 report soon.

Judge Wright asked if the office or Commission was required to submit the annual report to the legislature. Mr. Morokuma replied that he did not believe so. However, he had talked with Debra Nesbit of the AOC about sending copies of the annual report to key legislators along with budget reports. She advised him that it was unlikely they would read anything that long, so instead he said he plans to produce a one-page summary of the office's work and the contributions of Georgia's court ADR system to distribute to legislators.

Judge Wright reiterated that state statutes often require state offices to submit reports to the legislature, and asked if GODR was required to do so. Ms. Barton said that office was created by Georgia Supreme Court rule, not by statute, so there was no requirement for the office to report to the General Assembly. Judge Wright then asked if there was requirement in the Supreme Court rules that the office submit reports to the court. Justice Thompson replied that all of the justices that liaison with groups like the Commission report to the rest of court monthly on the activities of their groups, and so the court is kept abreast on the work of its commissions.

Ms. Barton reported that she and Doug Yarn, in their meetings with ADR program directors, learned that they thought it would be helpful for the office to post an electronic copy of the annual report on the GODR website. Mr. Morokuma replied that previous years' reports are available on the website, and that the new one will be also. He noted also that in previous years, the annual report has been mailed to nearly every judge in the state, but regardless of the budget situation, the office must be smarter about to whom it sends reports.

Justice Thompson reminded the office that it was critical to make sure the legislature was aware of the contributions of the office and the state's ADR system through concise and precise distributions of information. Mr. Morokuma said the office profile has been too low, not only in the judicial branch, but in the legislature. He said he intends to "beat the drum" for office more loudly so people know the office exists and there is good reason for it to exist.

f. CE Audit

Mr. Morokuma reported that the office has completed its annual audit of the continuing education credits submitted by registered neutrals on their registration renewal forms. Every spring, a group of renewing neutrals is randomly selected and asked to send in certificates for the CE they claimed to have taken in the prior two years. A total of 57 neutrals were audited this year, and all were able to produce the necessary documentation.

g. Deskbook Updates

Mr. Morokuma said that he would e-mail members several updates to the Commission Deskbook, including Commission membership, Commission contact information, committee membership, and rules changes.

h. Upcoming Activities

Mr. Morokuma reported on several upcoming activities:

-- The 14th Annual ADR Institute and 2007 Neutrals' Conference was scheduled for October 19 at State Bar headquarters. The conference is an annual collaboration with the ADR Section of the State Bar. This year, the agenda was simplified from offering three tracks to two tracks. One track will be a refresher course on Georgia's new child support statute, conducted Jill Radwin of the AOC, and the second track will be speakers and panels by Georgia and outside speakers. One invited speaker is John Lande from the University of Missouri, and the other is Chris Guthrie from Vanderbilt University.

[Attachment 2]

-- GODR, along with Kennesaw State University and the Georgia chapter of the Association for Conflict Resolution, is sponsoring several local activities during the national observance of Conflict Resolution Week in the third week of October. Ms. Davenport, who is president of the Georgia Chapter of ACR, explained that the purpose of the Conflict Resolution Week activities is to promote discussion around several films depicting various disputes, in an effort to raise conflict resolution awareness and increase community outreach. In addition to the discussions at KSU, the groups will sponsor similar presentations at an Atlanta-area high school and a local middle school. The office also will be making a presentation at the Conflict Resolution Day ceremony on Oct. 18 in the Capitol rotunda. Representing the Executive Branch will be Edward Tate, deputy executive counsel in Governor Sonny Perdue's office. Ms. Davenport will represent ACR. Mr. Morokuma invited Commission members and program directors to attend the festivities. Mr. Morokuma thanked Ms. Davenport for her initiative in engaging the office in these activities because they serve to raise the profile of the office with the public, the academic community and the Governor's Office.

5. Committee Reports

Committee on Training and Credentials: Judge Iannazzone

Judge Iannazzone reported that the Training and Credentials Committee did not have a quorum so did not conduct business. However, he said the Committee on Ethics has asked the Training and Credentials Committee to consider provisional credentialing for students who are mediating as part of a law school class. Because law students who mediate for credit have a limited opportunity to do so, the provisional credentialing would allow them to quickly begin their schoolwork as mediators and apply for full credentials later.

Committee on Ethics: Judge Wright

Chair Judge Cynthia Wright reported that the committee reviewed about 30 applications for neutral registration. Most of those were approved, while four applications were held pending further information, and one application was denied.

Strategic Planning Group: Ms. Barton

Ms. Barton reported that she and Doug Yarn, a law professor at Georgia State University and a former Commission member, have met with the GODR staff and with program directors to discuss the work of office and what court programs need from office. She said she also met recently with Justice Thompson, Judge Bernes and Judge Abbot to discuss plans for the office and Commission in the coming months and years. They agreed that it was prudent to wait on recommending specific courses of action until after the office learned the status of its Georgia Bar Foundation grant request and its budget situation was clarified.

6. New Business: Judge Iannazzone

Judge Iannazzone reported that the dates of the next several Commission meetings had been decided. They are November 15, 2007, and January 31, 2008.

Judge Iannazzone asked Commission members to talk to their local legislators in the next few months, before the General Assembly session, and voice their support for the office and Commission.

The meeting was adjourned.

The Commission went into Executive Session.

Attachments:

1. GODR budget projection
2. Flyer for ADR Institute

[Minutes prepared by Shinji Morokuma, Office of Dispute Resolution]