

AMENDED
RULES OF THE SUPERIOR COURTS OF
SOUTHERN JUDICIAL CIRCUIT OF GEORGIA
FOR
ALTERNATIVE DISPUTE RESOLUTION

RULE I. REFERRAL TO ALTERNATIVE DISPUTE RESOLUTION ("ADR")

(a) Except as hereinafter provided, any contested civil or domestic relation cases that are still pending after 150 calendar days after the original complaint is filed shall be referred to ADR. Any domestic relation case in which domestic violence is an issue shall not be referred to ADR.

(b) Cases may, in the discretion of the Court, be referred to ADR prior to the mandatory 150 day time period. The parties and/or their attorneys may also request the Court to have their case referred to ADR. A Court "ORDER" referring the case to ADR shall be executed by the presiding Judge. The original Order shall be filed in the case file in the office of the Clerk of Court making the referral. The Clerk of Court shall be responsible for serving by mail or in person a copy of said Order on the parties and counsel of record. Cases shall be screened by the presiding Judge to determine if the case is appropriate for ADR.

(c) The following actions shall be excluded from ADR:

- (1) Appeals from rulings of administrative agencies;
- (2) In Rem Condemnations;
- (3) Habeas Corpus and extraordinary writs;

(4) Declaratory Judgements;

(5) URESA actions

RULE 2. TIMING OF ALTERNATIVE DISPUTE RESOLUTION PROCESSES

(a) Within 10 calendar days after the case is referred to ADR, the parties shall inform the Dispute Resolution Office of the neutral agreed upon by the parties. The neutral shall be chosen from the list of registered neutrals kept by the Administrator of the ADR program. Absent agreement by the parties on a neutral, it shall follow the same process as herein provided by paragraph (b) of Rule 4.

(b) Within 5 calendar days after the parties have notified the Dispute Resolution Office of the selected neutral, the selected neutral shall contact the parties and inform them of the date, time and place for the scheduled ADR session.

(c) Unless otherwise ordered by the Court, the ADR session shall be held within 15 calendar days after the parties have received notification of the ADR session.

RULE 3. EXEMPTION FROM ALTERNATIVE DISPUTE RESOLUTION

A party may, within 10 days after the case is referred to ADR, petition the Court to dispense with ADR if:

(a) The issue to be considered has previously gone through the ADR process;

(b) The issue presents a question of law only;

(c) Other good cause is shown to the presiding Judge.

RULE 4. APPOINTMENT OF NEUTRAL

(a) The parties shall have an opportunity to agree upon a neutral from the list of registered neutrals kept by the Administrator of the Dispute Resolution Office.

(b) Absent agreement by the parties on a neutral, the neutral will be appointed by said Administrator from the rotational list of registered neutrals.

(c) Any party, for good cause shown, may request the Dispute Resolution Administrator for appointment of another neutral.

RULE 5. NEUTRAL QUALIFICATIONS FOR SERVICE IN THE PROGRAM

The qualifications and training for a neutral shall not be less than the minimum qualifications set out in the Georgia Supreme Court Alternative Dispute Resolution Rules. The neutrals must be registered by the Georgia Office of Dispute Resolution.

RULE 6. COMPENSATION OF NEUTRALS

(a) The Administrator of the Dispute Resolution Office shall maintain a rotational list of registered neutrals. From this list, neutrals will be selected for cases referred to the ADR program in this circuit. Each neutral whose name appears on such list shall keep the Administrator advised of the amounts such neutral will charge for his or her services as a neutral, and shall not charge in excess of the amounts he or she has listed with such Administrator. This information shall be made available upon request to the parties in any case referred to ADR prior to the selection of a neutral in that case.

(b) The amounts charged and to be charged by a neutral in any case referred to ADR under this program shall be subject to approval or disapproval by the Superior Court Judges of the Southern Judicial Circuit.

(c) The parties in the ADR process shall be responsible for the payment of the neutral's fee,

which shall be equally divided between the parties, unless otherwise ordered by the presiding Judge. Within 120 days after the original complaint is filed, a party may apply with the Dispute Resolution Office for a determination of whether or not said party is indigent and unable to pay the fee of the neutral. If the Dispute Resolution Office determines that such party is indigent, the ADR Program will provide payment for the services of a neutral from the Southern Judicial Circuit ADR Fund.

(d) Satisfactory arrangements for payment of the neutral's fee shall be made between the parties and the neutral.

RULE 7. IMMUNITY

Neutrals acting in the ADR process are entitled to immunity as provided for in the Georgia Supreme Court Alternative Dispute Resolution Rules.

RULE 8. CONFIDENTIALITY

Confidentiality for the ADR process is governed by the Georgia Supreme Court Alternative Dispute Resolution Rules.

RULE 9. APPEARANCE

The presence of parties and attorneys of record at all ADR sessions is required, except that attorneys are not required, but are encouraged, to attend ADR mediation sessions. The requirement that a party appear at an ADR session is satisfied if the following persons are present:

- (a) The party with full authority to settle without further consultation and/or
- (b) The party's representative if that representative has full authority to settle without further consultation, and a full understanding of the dispute, and full knowledge of the facts.

RULE 10. SANCTIONS FOR FAILURE TO APPEAR

If a party or attorney fails to appear at a duly noticed ADR session after being ordered to

do so, the Dispute Resolution Office shall notify the presiding Judge. The requirements for appearance at a duly noticed ADR session are that the party:

- (a) Pay the neutral at such duly noticed ADR session; and
- (b) Listen to the opening statements of the neutral.

If the above requirements are **not** satisfied the offending party may, in the discretion of the presiding Judge, be subject to the sanctions of contempt, the imposition of the costs and fees of the neutral; attorney fees; expenses and lost wages of the other party; and such other sums as the interest of justice may require.

RULE 11. COMMUNICATIONS BETWEEN NEUTRAL AND PARTIES AND ATTORNEYS

Communication outside of the ADR session between the parties or attorneys and the neutral shall be only for the purpose of verification of appointment times and locations. In ADR mediation, the neutral may meet and consult privately with any party or any attorney during the mediation session.

RULE 12. COMMUNICATION WITH THE COURT

Communication between the Dispute Resolution Office and the Court, and between neutrals and the Court, are governed by the Georgia Supreme Court Alternative Dispute Resolution Rules. There shall be no communication between the Court and the parties during the ADR process.

RULE 13. COMPLETION OF ALTERNATIVE DISPUTE RESOLUTION

(a) ADR shall be completed within 20 days of the first ADR session. A motion asking for extension of the ADR session shall be made to the presiding Judge.

(b) Length of ADR sessions are scheduled for two hours. However, the length of the ADR session may, in the discretion of the neutral, be shorter or longer.

(c) The neutral may recess the ADR session at any time and may set times for reconvening the recessed session.

(d) If a settlement is reached, a memorandum of said settlement shall be reduced to writing by the neutral, signed by the neutral and both parties. The memorandum of settlement shall be given to the parties attorneys and said attorneys shall prepare a settlement agreement or consent order in proper legal form. The settlement agreement or consent order shall then be presented to the presiding Judge for filing with the original case file in the office of the Clerk of the referring Court. A copy of said settlement agreement shall be furnished to the Dispute Resolution Office.

(e) If a partial settlement is reached, it shall follow the same process as paragraph (d) of Rule 13.

(f) Upon any settlement or partial settlement being signed, the neutral shall notify the Dispute Resolution Office.

(g) If the parties do not reach a settlement as to any matter as a result of ADR, the neutral will report the lack of a settlement to the Dispute Resolution Office. The Dispute Resolution Office shall then notify the presiding Judge who referred the case to ADR of the lack of an

settlement.

RULE 14. CONFLICTS

For purposes of conflicts, the ADR session shall be construed as being a non-jury proceeding pursuant to the Uniform Rules of Superior Courts. The parties and counsel may rely upon said Rules in resolving and scheduling conflicts. The party or counsel who is requesting that a ADR session be rescheduled must obtain consent therefor from the neutral. The Dispute Resolution Office must also be notified of any rescheduling.

RULE 15. ADMINISTRATION OF THE ALTERNATIVE DISPUTE

RESOLUTION PROGRAM

The Administrator of the Dispute Resolution Office shall be the Circuit Court Administrator. Said Administrator shall be compensated in an amount set by the Superior Court Judges of the Southern Judicial Circuit. The compensation shall be paid from the Southern Judicial Circuit Fund for the Administration of Alternative Dispute Resolution Programs. The Administrator shall be responsible for all administrative matters pertaining to the ADR program.

These responsibilities include, but shall not be limited to:

- (a) Receiving referrals from the Superior Courts of this Circuit.
- (b) Scheduling neutrals equitably and insuring timely ADR of all cases.
- (c) Notifying presiding Judges of results of ADR.
- (d) Processing requests for payment from neutrals.
- (e) Evaluating procedures on an on-going basis and recommending changes if needed.

(f) Performing such other duties as may be directed by the Superior Court Judges.

The Superior Court Judges of the Southern Judicial Circuit shall retain ultimate authority over the ADR program.

RULE 16. EVALUATION

The Dispute Resolution Office will provide to the Georgia Office of Alternative Dispute Resolution, under the Georgia Supreme Court, information which will allow full evaluation of the program. The information will be provided on an ongoing basis.