

2017 Annual Report

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**FULTON COUNTY COURTS  
OFFICE OF ALTERNATIVE  
DISPUTE RESOLUTION**

Prepared by Jerry Wood, Director

## THE MISSION

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The ADR Office has a two-fold mission: First, to provide effective and efficient alternatives to trial in the Fulton County Courts, and second, to educate the bench, the bar, and the public about ADR processes. In 2017, the ADR Office was fully engaged in its mission, setting several high water marks in productivity, customer satisfaction, and educational offerings.

## THE ADR OFFICE AND ITS PROGRAMS

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**THE FULTON COUNTY ADR OFFICE** serves all five of the Fulton County Courts and offers several dispute resolutions options that have some advantages over traditional litigation by being:

- Faster
- Less Expensive
- More Creative, and
- Better tailored to meet all parties' underlying interests.

When appropriate settlement processes are available, many disputes can be resolved more efficiently and with greater satisfaction to all parties. Lengthy, costly litigation can be avoided, divisiveness minimized, and productive results achieved.

**THE ADR OFFICE** provides ADR services directly to the State and Superior Courts. In 2017, the ADR Office handled approximately 2,000 referrals and resolved around 68% of the cases completed. In addition, it provides oversight and administrative support to the various court ADR programs.

**THE MAGISTRATE COURT LANDLORD/TENANT PROGRAM** handles more than 4,000 dispossessory referrals each year. Specially trained law school students and experienced attorney/mediator supervisors move cases along at a rapid pace.

Landlord/Tenant agreements have been historically drafted by hand using 3-part forms. Agreements are often difficult to read due to poor penmanship. Agreements also have to be edited when parties change their minds or omit necessary terms. To address these issues, the program took its first steps toward producing digital mediation agreements in the fall of 2017.

The program's agreement forms were converted to fillable PDF forms using a special app. The program then purchased a few refurbished tablets to test the system. A mediator is now able to draft agreements and make changes digitally. After the parties' signatures are captured on the tablet, the mediator sends the agreement to the mediation office's wireless printer. A supervisor reviews the agreement with the parties. If edits are needed, the supervisor simply

makes the edits on the tablet, prints new copies, and then dismisses the parties. The end result is an agreement, without scratch-throughs or marginal notes that can be read by the parties, clerks, and judges. The program is excited for the full launch of this project as an effort to catch up with technology. Bonnie Powell is the program coordinator.

**THE MAGISTRATE COURT CRIMINAL PROGRAM** provides mediation assistance to parties who come to court prior to criminal charges being formalized. Using mediation techniques, 282 new criminal cases were kept off of the criminal case dockets in 2017. Denise Grant is the criminal case mediator.

**THE JUVENILE COURT PROGRAM** provides mediation services to approximately 400 families each year. Cynthia Tyner is the new Juvenile Court Mediation Coordinator and has been busy making necessary changes in the program to stay in line with the changes in the Juvenile Code.

- Changes were made in connection with data collection for 2017. Whereas both delinquency and dependency mediations were counted collectively, they have now been separated and include specific areas of interest for the dependency cases; such as, whether the cases are DFCS, private filing or transfers from Probate Court;
- The intake form has been revised to streamline the process of receiving mediation cases;
- Brochures/forms have been revised to include updated information about the Mediation Program;
- The Juvenile Court reduced the workforce from a mediation program coordinator and assistant to only a mediation program coordinator;
- An alert system has been implemented within JCATS to inform the mediation program coordinator of delinquent cases which require ninety (90) days to monitor for compliance before disposition; and to include an additional alert in JCATS after twenty-four (24) months has ended so that closed case files may be archived in a timely fashion;

**THE JUSTICE CENTER OF ATLANTA** contracts with the Fulton County ADR Board to provide mediation services to the Magistrate Court, Probate Court, and Juvenile Court. They provide the facilities and experienced mediators necessary for conducting the high volume of mediations that these courts generate. In addition, they work with the ADR Director to plan and provide educational opportunities for Fulton County court staff and program mediators.

## **ADR PROCESSES**

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The Fulton County Courts ADR Office offers several highly effective ADR processes through its various programs. Mediation, Arbitration, Case Evaluation and Judicially Hosted Settlement

Conference are the processes offered. Any of these processes may be initiated by court order or by the parties on their own initiative.

- **In mediation**, a specially trained, neutral third party called a "mediator" helps participants in the dispute create their own resolution. Unlike an arbitrator, the mediator makes no decision or findings about the facts of the case and makes no award. Rather, the mediator helps facilitate a discussion in which the parties reach a mutually agreed upon settlement.
- **In arbitration**, each side in the dispute presents its case to a neutral third party called an "arbitrator." The arbitrator, who is an attorney, issues an award based on the evidence. Arbitration may be "binding" or "non-binding." "Non-binding arbitration" means that the participants in the case are not required to accept the arbitrator's award; they may request a "trial de novo" which returns the case to the Court's calendar as if the arbitration had not occurred.
- **In neutral evaluation**, each party gets a chance to present the case to a neutral person called an "evaluator." The evaluator then gives an opinion on the strengths and weaknesses of each party's evidence and arguments, and about how the dispute could be resolved. The evaluator is often an expert in the subject matter of the dispute. Although the evaluator's opinion is not binding, the parties typically use it as a basis for negotiating a resolution of the dispute.
- **In a judicially hosted settlement conference**, the parties and their attorneys meet with a senior judge who conducts a conference aimed at negotiating an agreement to settle the dispute. The judge does not make a decision in the case, but assists the parties in negotiating their own settlement. The judge may evaluate the strengths and weaknesses of the case and give an opinion as to probable trial outcomes.

All of these processes are conducted by trained and approved ADR professionals who are generically referred to as "neutrals". Mediators, arbitrators, evaluators, and settlement judges are all "neutrals".

## INNOVATION AND QUALITY CONTROL

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Rule 10 of the Uniform ADR Rules requires local ADR programs to collect sufficient data to ensure the quality of the program. In 2017, the ADR Office collected more than 1,200 customer satisfaction surveys. The surveys included questions that covered both program efficiency and

mediator competence. Opportunity for open-ended comments was also given. Every survey was read, recorded, and considered. The overall customer satisfaction rating for 2017 was 93% for program efficiency and effectiveness, 95% for the process, and 98% for the competence of the neutral.

Listening to what the customers and neutrals have to say is a critical part of maintaining a quality program. In response to customer comments, the ADR Office has streamlined the customer satisfaction questionnaires to a one page format and created a database that captures, sorts, and calculates the questionnaire information in a variety of ways for analysis. This format allows the ADR Office to reach more customers, to save time in data analysis, and to move quickly to correct problems.

In addition to the customer's ratings of program neutrals, each neutral undergoes a 35 point evaluation process designed to capture information about the neutral's ability to communicate, to analyze information, to facilitate an agreement, to write a clear and concise agreement, and to follow program procedures. Every neutral on the Fulton County Roster of Neutrals is evaluated at least once every three years. The ADR Director systematically evaluates one-third of the roster each year, randomly selects neutrals from the remaining roster for evaluation, and also evaluates any neutral that gets a less than satisfactory rating from any customer.

Continuing education is a vital part of ensuring that program neutrals maintain a high level of expertise. Each neutral is required to attend at least 3 hours of approved continuing education training each year. The ADR Office provides ample opportunity for program neutrals, judges, and other court employees to receive continuing education relevant to ADR.

## **EDUCATIONAL OFFERINGS**

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Forty court personnel completed the basic mediation training course offered through the Justice Center of Atlanta.

The ADR Office also presented a 3 hour continuing education seminar focused on the inherent ethical dilemmas associated with court connected mediation. Court-connected mediation is a process within a process. The collaborative process of mediation takes place within the adversarial process of litigation. While these processes are distinct and separate, they are not mutually exclusive, and the juxtaposition inevitably leads to ethical conflicts.

This ambitious 3 hour program explored how a mindful approach to mediation theory, strategy, and practice can be applied to clarify the scope of the conflict, to identify biases that may be creating a barrier to communication and cooperation, to focus on the real interests in dispute,

and to propose a just resolution narrative consistent with the core values of mediation and the highest standards of ethics and professionalism. There were 48 in attendance.

The program included lectures, power point presentations, a short one act play, a panel discussion, and both large and small group interactions. Mediators should have come away with a better understanding of the mediation process and how it can be used to mitigate the subtle ethical conflicts involved in court connected mediation. Attorneys should have come away with a better understanding of how to be an effective advocate in the mediation context while maintaining the highest standards of professionalism and ethical conduct.

Participants gave the event an excellent rating. Several thought it was the best CE that they had ever attended. Here is what one participant had to say, “Thought the format of the seminar was fantastic. The program moved rapidly and was totally engaging. I learned things I hadn’t known and thought about things I hadn’t considered.”

## Performance Measures

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The demand for services remained high 2017. The ADR Office scheduled 9,316 cases, conducted 7,938 sessions, and resolved 5,841 cases. The chart below shows the work of the various components within the ADR Office and their respective settlement rates.

Program	Scheduled	Conducted	Settled	Resolution
<b>Family Division</b>	1467	1378	961	70%
On Site	831	832	640	77%
ADR Office	636	546	321	59%
<b>Superior-Civil</b>	195	127	50	39%
<b>State-Civil</b>	190	142	41	29%
<b>Landlord/Tenant</b>	4462	3717	3097	80%
<b>Juvenile</b>	168	137	127	93%
<b>Magistrate</b>	2723	2336	1515	65%
<b>Probate</b>	64	56	24	43%
<b>JHSC</b>	47	45	26	58%
<b>Arbitration</b>	0	0	0	
<b>Totals</b>	<b>9316</b>	<b>7938</b>	<b>5841</b>	<b>74%</b>

# Strategic Development

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The high demand for services, the changing scope of that demand, and increased public awareness stimulated new developments in the delivery of ADR services in several areas:

- Parties in all cases referred to the Judicially Hosted Settlement Conference Program were required to share the cost of providing a Senior Judge for the session by paying a fee of \$300 each.
- The addition of sitting judges to the JHSC mix has infused the process with fresh perspectives and has enabled the JHSC Program to expand and meet the demand for services.
- The Landlord/Tenant program has streamlined procedures that allow it to move more cases through the process and become virtually paperless.
- Parties in civil and domestic relations cases filed in the Superior and State Courts were also required to pay a mediation fee of \$75 per party in civil cases and \$100 per party in domestic relations cases. Fee waivers were available for parties not represented by an attorney and whose income was below federal poverty guidelines.
- Bonnie Powell continued her efforts as an adjunct professor to maintain a mediation clinic at GSU Law School. Graduates of the clinic form the backbone of our Landlord/Tenant Mediation Program

## Looking Forward

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The ADR Office has made changes that allow it to fulfill its mission going forward. Educational offerings for 2018 are already in the works, and all programs are running smoothly. The ADR office looks forward to helping parties work out fair, creative, and satisfying resolutions to their disputes.