US Courts and Online Dispute Resolution

International Forum on Online Courts

Paul Embley, NCSC
“Poor people have access to the American courts in the same sense that the Christians had access to the lions when they were dragged into a Roman arena.”

Retired California Court of Appeals Justice Earl Johnson, Jr.
Over 15,000 Courts in US

- Some states are “unified”
  - Utah
  - Colorado
  - Oregon
- Others “decentralized”
  - Texas
  - California
  - Ohio
  - Florida
Confusing Array of Courts
Litigant Portals

One of many doors in the process

The primary door for entry into the court process

Not the first step in the dispute discovery process

ODR
Going for gold

- Doing all case types
- Starting with traffic
- Followed by civil
- Family matters is last
- May do non-violent criminal
Progress in Utah
Bad Debt

- Process simplification
  - 48 steps in original process
  - Had small team reimagine the process
  - Now 17 steps (private sector has about 7)
- Pilot for 12 months
  - Involves 3 courts, 1st went live in September
  - Small claims - $11,000
- Process
  - Can negotiate with or without facilitation
  - If no resolution, proceeds to court
  - Parties can ask judge to rule based on documents submitted, or proceed to trial
Bad Debt

- Formal evaluation
- Participation rates
- Disposition times
- Court Efficiencies
- Impact to case load
  - 95,000 civil matters annually
  - 26,000 are small claims (27%)
- Impact to small business
  - Metrics allow business to streamline internal processes
  - Metrics increase efficiencies
Family
After ODR, the average number of hearings dropped from close to 400 to below 300 (down 27%).

The average number of warrants issued per month dropped from 143 to 91 (down 36.4%).

The percentage of cases resolved before the hearing jumped from 39.6% to 48.4% (up 22%).
Progress in Small Claims and Income Taxes
More than 93% reach agreement including payment plans. Previously 46%.

Increased from 54% negative case dispositions to 80% positive dispositions.

After ODR, people have increased access to court with over 31% online after court hours.
Progress in Michigan
ODR Selected Outcomes: MI Traffic/Criminal

- Serve the missing: 39%
- Save time: 80%
- Paid in 30 days: 92%

Would recommend ODR: 92%
ODR is fair: 87%
Case Study

2018 Clark County

Population
2,156,724

Ranking
12th largest county in U.S. by population

Courts
20 family courts
32 civil/criminal courts
More than 600 court employees
Participation results within the first 60 days

- ADR: 71% resolution rate
- ODR: 74% resolution rate

56% Petitioner Participation
45% Respondent Participation
Outcomes of completed disputes

Mediator Efficiencies expected since parties were able to agree to almost half of the topics prior to engaging the mediator resulting in less time during in-person mediation sessions.

Completed Online Agreements were generated for more than half of the cases where there was party engagement.

ODR is Expanding Access to Justice resulting in all party-to-party negotiated agreements being finalized outside of court hours.
Parties that successfully negotiated a parenting agreement averaged 6 days. The fastest agreement was reached in only 4 calendar days!
Assistance and evaluation

- Up to 15 states get intense support.
- Any who request help get some level of assistance (29 to date).
Industry Summit – ODR

- Hosted by NCSC and Pew
- Discussing those issues specific to US Courts
- Target attendees are ODR solution providers
- March 2019
2019 International ODR Forum

23-24 October
Williamsburg, Virginia, USA
ncsc.org/odr2019