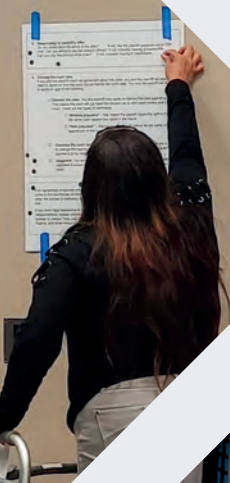


RSI



NOTICE TO DEFENDANT
ONLINE DISCOVERY
You must serve this Notice of Discovery on the party named in this Notice because:
The name is listed in the case files filed against you.

Making ODR More Accessible to Self-Represented Parties: Focus Group Perspectives



Making ODR More Accessible to Self-Represented Parties: Focus Group Perspectives

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Executive Summary

Project Overview

Early evaluations found that court text-based online dispute resolution (ODR) programs were under-utilized. To examine why this might be, RSI undertook a series of six focus groups to learn about barriers to ODR use for parties with low literacy, and how courts can more effectively communicate with self-represented litigants about ODR. The focus groups took place in geographically and demographically diverse sites around the US with participants who resembled self-represented litigants.

How We Conducted the Focus Groups

We asked participants questions about what their response would be to receiving notice that they were being sued, about their communication preferences and their thoughts about ODR in general and text-based ODR in particular. We also had the participants review and provide feedback on a Statement of Claim and Notice of ODR to Defendants (Notice), portions of self-help guides, webpages and videos.

Findings

Positive Perceptions of ODR

Most participants expressed an interest in using ODR to handle a case instead of going to a courthouse, reflecting significant potential for the use of ODR. Participants appreciated the option of settling a case from the comfort of their home without the hassles associated with going to a courthouse. However, after reviewing all the court materials, none of the participants understood that the ODR process was text-based until we explained to them that the process involves negotiating on a structured platform by writing messages back and forth.

Barrier 1: Text-Based Communication Concerns

Once we explained text-based ODR, we asked about their interest in using this process to resolve their cases. They expressed significant reservations. They were worried about misunderstandings or the other party being uncivil during negotiations. To keep people in check and accountable, many wanted someone to moderate or facilitate their communications with the other party. The majority also preferred mediating via video instead of text, though many preferred text.

Barrier 2: Skepticism & Lack of Trust

Participants questioned the legitimacy of court documents and ODR platforms.

Many participants were concerned about being scammed and wanted reassurance that the mailed court documents, such as the Notice, and the ODR platforms were legitimate. They noted that the court seal and contact information added to the sense of legitimacy.

“I just would prefer a more official state seal. Something that’s an actual representation of the court”

Barrier 3: Emotional Response

Participants’ initial reaction to receiving a notice of a lawsuit was feeling overwhelmed and unsure of their ability to respond correctly

When presented with the prospect of being sued, the participants were almost unanimous in saying they would feel overwhelmed or intimidated. These feelings were often associated with the amount of information provided, the formatting of the court documents and a general lack of confidence in their ability to navigate ODR without the help of court staff.



Participants wanted help from court staff or someone knowledgeable

Our participants expressed a strong desire to contact someone who could answer their questions and help them feel more confident navigating ODR. To enhance access to justice and have high participation in their ODR programs, it may be necessary for courts to provide a contact person who is knowledgeable about ODR for parties to get their questions answered.

Barrier 4: Lack of Clarity

Word choice appeared to affect whether information was understood

Participants responded best to plain language and wanted legal terms to be defined early in a document. They also noted a preference for step-by-step instructions, which they found easy to follow.

Participants preferred short, targeted formatting

Our focus group data confirmed the benefits of formatting that includes: question and answer or fill-in-the-blank questions, bullet points, and extra white space to separate sections and key information.

Participants wanted pictures and videos

Participants, especially those who struggled to read or knew someone who did, said that simple images on court documents helped them to understand the material. Many also wanted video to supplement the documents they received. They liked simple videos with step-by-step instructions that highlighted what the narrator was saying rather than a sophisticated, sleek video.

Barrier 5: Technological Challenges

For websites, participants want easy-to-find information and large design elements

Participants liked the additional information found in websites, including links to video tutorials. When asked what they would do first on a sample court ODR website, they readily identified the large orange button on the that told them to go to ODR. They had difficulty when given options about what their next step should be.



CLICK HERE FOR ODR

Participants were concerned about lack of internet access and digital literacy.

In every focus group, participants brought up the difficulty technology raised for them or others. They noted that many people did not have computers or mobile devices, and many did not have broadband access. In addition to the lack of technological devices and internet access, some participants raised the issue of digital literacy. One participant in his 60s said, “I’m just stuck in a different generation, so it’s hard for me to start comprehending. I’m working on it. It’s just taking me a long time.”

Delivery method may impact whether information is received.

We found significant variation in the focus group participants’ preferences for the method of receiving information about their lawsuit as well as differences in the frequency in which they checked mail, email and text. Participants were most likely to prefer to be notified by mail, but a significant portion indicated this was their least preferred way to learn about a lawsuit. They were least likely to prefer email and least likely to check their email daily.

Key Takeaways

Our findings indicate that for courts to have high ODR participation rates and ensure access to justice for all parties, they need to:

- Send parties the initial notice of ODR via multiple delivery methods.



- Offer easily understood and well-formatted documents.
- Provide information in more than one way and offer alternatives for parties who lack reliable internet access or who do not have digital literacy.
- Ensure court websites and documents appear trustworthy by including an official seal and court name.
- Provide court contact information on all communications and ensure someone knowledgeable can help parties.

Taking these steps could provide most self-represented litigants with the support they need to create an account and participate in ODR with confidence. In turn, this would reduce the number of people needing to contact court staff with questions about ODR.

It is important to note that some participants' need for help, their desire for more than one method of communication and their preference for a facilitator all indicate that courts need to consider the resources that may be required to implement text-based ODR. This is especially true for courts that are trying to reduce costs by implementing ODR.

Overview

Text-based online dispute resolution (ODR) allows parties to negotiate and/or mediate by exchanging messages on a platform. The platform enables parties to communicate both synchronously and asynchronously and to upload and view relevant documents. This type of ODR is touted as a method for increasing access to justice by being more convenient, less costly, and less intimidating to the parties. The promise is that these features will improve access to justice and reduce the default rate for debt cases, in particular. Courts have been drawn to ODR for these reasons, as well as for the hope that ODR will reduce their costs and improve their efficiency. However, early evaluations of text-based ODR programs have found only 21% to 36% of parties registering for ODR in mandatory programs, and New Mexico suspended its voluntary ODR program because of lack of participation.¹

In evaluations of text-based ODR we conducted with the University of California, Davis, from 2020 to 2022, we identified an information gap as one reason for low participation. In one program, all but one survey respondent said they did not use ODR because they did not know the option was available.² In the other, survey responses indicated that more than half did not understand how ODR worked or whether it was free.³ In Utah, a usability study found parties did not always understand the information provided and wanted more information than was presented.⁴ These evaluations point to a need for better information to apprise parties that an ODR program exists and educate them about the program so they can knowledgeably decide whether it would benefit them and learn how to use it.

¹ Donna Shestowsky & Jennifer Shack, *supra* note 1.

² Donna Shestowsky & Jennifer Shack, *Online Dispute Resolution for Debt and Small Claims Cases: A Report on a Pilot Program in a Justice of the Peace Court in Collin County, Texas*, UNIVERSITY OF CALIFORNIA, DAVIS AND RESOLUTION SYSTEMS INSTITUTE (2022), https://law.ucdavis.edu/sites/g/files/dgvnsk10866/files/media/documents/Shestowsky_Evaluation_of_Collin_County_ODR_Program_2022-05-31.pdf.

³ Donna Shestowsky & Jennifer Shack, *supra* note 1.

⁴ Stacy Butler, Sarah Mauet, Christopher L. Griffin, Jr., & Mackenzie S. Pish, *The Utah Online Dispute Resolution Platform: A Usability Evaluation Report*, INNOVATION FOR JUSTICE PROGRAM AT THE UNIVERSITY OF ARIZONA JAMES E. ROGERS COLLEGE OF LAW (Sept. 8, 2020), https://law.arizona.edu/sites/default/files/i4J_Utah_ODR_Report.pdf.

Some courts have instituted alternative dispute resolution (ADR) programs, such as the video-based eviction mediation program by Resolution Systems Institute (RSI),⁵ that involve access to a program administrator to help parties navigate the program after the first court hearing. Small claims ODR programs tend to be different. The first thing parties are told to do, via a notice they may not understand, is to register on a third-party platform for a process they likely never heard about and for which they do not have a frame of reference. There is seldom a designated staff person to help parties navigate the process. Without a person who educates the parties and answers their questions at the start, parties need other forms of support.

Informing parties properly has become especially important with the increase in self-represented litigants. Without the assistance of an attorney, many people need to rely on court communications to learn how to register and use ODR. But many people in the US struggle to read, and legal terminology can be particularly challenging. According to the Program for the International Assessment of Adult Competencies, 48% of US adults struggle to perform tasks with text-based information, such as reading directions, with 19% only capable of performing short tasks.⁶ Creating communications that use language and formatting that are accessible for people with low literacy will also make the information easier for parties with strong literacy skills. A recent readability study of court forms found that simplifying the text used in the forms increased participants' understanding of the purpose of a subpoena from 29% to 70%.⁷

The factors above led RSI to undertake the ODR Party Engagement (OPEN) project to learn the ways courts can support self-represented litigants through their communications about ODR. We conducted focus groups to hear from individuals whose backgrounds are similar to the backgrounds of typical self-represented litigants, particularly those with low incomes and low literacy. We hypothesized that there were three key reasons that parties were not informed about ODR: 1) they did not receive the information; 2) they did not understand the information they received; 3) ODR was not accessible to people with low digital literacy or insufficient access to the internet or a device.

The focus groups confirmed that lack of information and inaccessibility are important barriers, but they also revealed other reasons that parties do not use ODR. Although the concept of ODR was very appealing to our focus group participants for a number of reasons, including the convenience, ease, and comfort of handling a case from one's home, their feedback also

⁵ Jennifer Shack, *Eviction Mediation Design and Implementation in Illinois' 16th Judicial Circuit: Challenges and Keys to Success*, RESOLUTION SYSTEMS INSTITUTE (April 2022), <https://s3.amazonaws.com/aboutrsi/591e30fc6e181e166ffd2eb0/Kane-County-Eviction-Implementation-Report.pdf>.

⁶ National Center for Education Statistics, *supra* note 2.

⁷ Maria Mindlin, *supra* note 3.

highlighted several concerns that might hinder people from using these programs. These include concerns about negotiating via text, a lack of trust in the courts, and feeling overwhelmed and unsure of how to proceed.

Our findings indicate that for courts to have high ODR participation rates and ensure access to justice for all parties, they need to:

- Send parties the initial notice of ODR via multiple delivery methods
- Offer easily understood and well-formatted documents
- Provide information in more than one way and offer alternatives for parties who lack reliable internet access or who do not have digital literacy

Taking these steps could provide most self-represented litigants with the support they need to begin registering and participating in ODR with confidence. In turn, this would reduce the number of people needing to contact court staff with questions about ODR.

The focus groups pointed to various ways court communications can be made easy to understand and use for many people. While developing effective communications, such as court documents, websites and instructional videos, is a primary strategy courts can use to support self-represented litigants, it is likely some people will still need to speak to a court staff member before beginning ODR.

It is important to note that some participants' need for help, their desire for more than one method of communication and their preference for a facilitator all indicate that courts need to consider the resources that may be required to implement text-based ODR. While our recommendations may require additional resources, the ultimate goal of increasing participation in ODR should alleviate other burdens on the court, thus freeing some resources for this crucial task.

The Project

The cornerstone of the OPEN project was feedback from focus group participants who represent the populations being asked to use ODR. Over the course of several months, we conducted focus groups to obtain feedback from participants about information courts provide to parties regarding ODR. Our goal for the OPEN project was to help courts improve their education of parties about ODR in small claims cases by providing courts relevant information about how parties interact with information and providing courts new tools to use. By doing so,

we hope to make access to justice more equitable for self-represented, diverse populations who are either required or offered the opportunity to use text-based court ODR for these cases.

Focus Group Recruitment and Participants

Our goal in designing our research was to obtain a diverse array of perspectives from different regions of the country while creating homogeneous groups that would encourage open participation. To that end, we selected a former mill town in rural New Hampshire with a primarily white population; a large suburb of Houston, Texas, with a large Latino population; and Baltimore, Maryland, where we recruited Black participants. We held two focus groups at each site.

We also wanted to obtain the perspectives of individuals who resemble those who are most likely to encounter the barriers to comprehensibility and usability of court resources: self-represented litigants who have low literacy. We therefore recruited participants with no more than some college education and who had incomes of less than \$50,000. In all, 41 individuals participated across the six focus groups. (See Appendix A for more information on our focus group participants.)

How We Conducted the Focus Groups

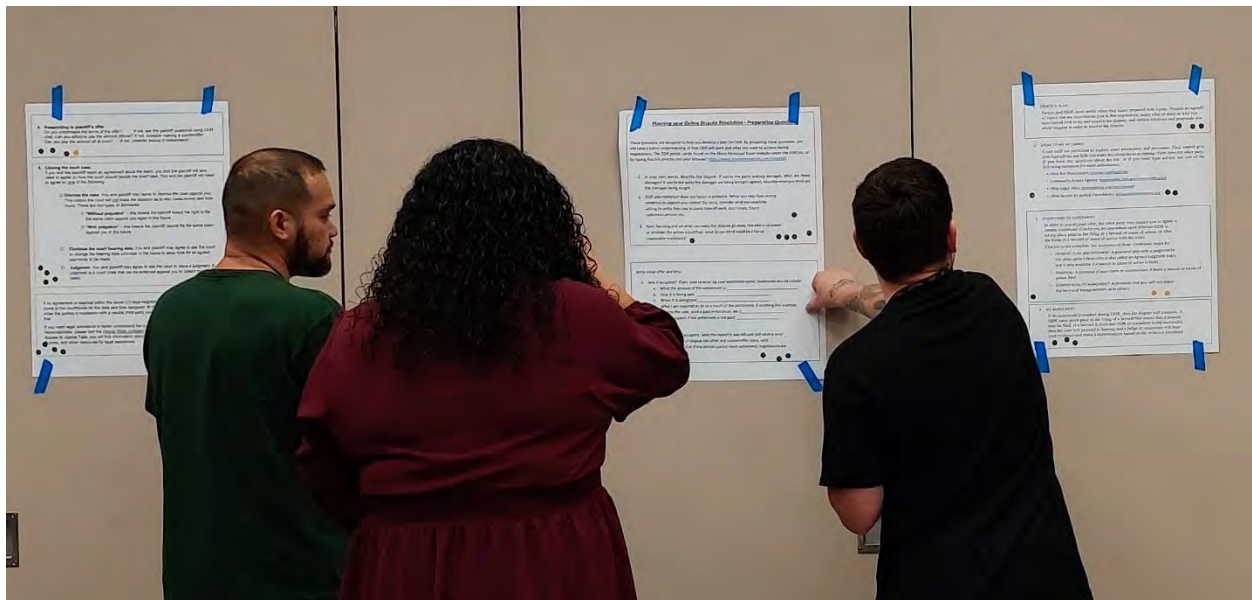
Both authors were present for all focus groups to facilitate and take notes. We followed a pre-set protocol with each group, with follow-up questions as needed to obtain clarification or more insight. (See Appendix B for the focus group protocol.) The purpose of the focus groups was to obtain insights from participants on materials courts send to parties who are required to participate in ODR. The materials we selected were from Hawaii and Ohio, two states that we knew had thoughtfully developed comprehensive informational materials geared toward self-represented litigants. We also used a video from New Mexico that we thought was easy to understand. (See Appendix C for the court documents used in the focus groups.)

During the focus groups, we asked participants to review a number of court materials:

- Hard copies of a Hawaii Statement of Claim and Notice to Defendants about ODR that they would receive in the mail from the plaintiff if they were involved in a small claims lawsuit. The Statement of Claim notifies the parties that a small claims case was filed against them. The notice states that they must participate in ODR, briefly mentions the benefits of ODR, and explains what next steps parties need to take and what to do to be exempted from ODR.

- Various sections of a Hawaii “Guide for Defendants,” an Ohio “Planning your Online Dispute Resolution Preparation Questions” guide, and an Ohio “Dispute Resolution Guidance” document. These guides provided instructions and helpful tips for participating in ODR. The sections were printed on posters and placed around each focus group room. Participants placed red stickers by sections they thought most people would find confusing and green stickers by sections they thought most people would find easy to understand.
- Homepages for either the TurboCourt or the Matterhorn ODR platforms. In addition, those who reviewed the Matterhorn ODR platform also reviewed the ODR page on the Akron, Ohio, court website. It should be noted that we did not ask participants to use the ODR platforms; therefore, their feedback is limited to the ODR platform homepage.
- Three instructional videos on how to use ODR from [Hawaii](#), [New Mexico](#) and [Ohio](#)⁸

We then asked participants for their first reactions to the materials as well as how comprehensible they were and the barriers participants might encounter when attempting to follow the instructions or use the website. At the end, we asked participants about their understanding of ODR, what they thought of text-based ODR and, for some, whether they would prefer to participate in text-based ODR or ODR via video. The focus groups lasted 90 minutes each.



Focus group participants place stickers on self-help guide text based on whether they think the text is clear or confusing.

⁸ Three groups viewed [What is OH-Resolve?](#) from The Supreme Court of Ohio and three groups viewed their [How to Start Using OH-Resolve.](#)

Findings and Recommendations

Our focus groups revealed a strong interest in using a form of ODR, but the majority of participants had reservations about text-based ODR. These concerns are one barrier to using text-based ODR. A second barrier, which surprised us, was the role that a lack of trust played in their assessment of the legitimacy of court documents and websites. We also learned about participants' initial reactions to the idea of being sued and to the documents that would inform them of a lawsuit.

Their reactions pointed to a third barrier to ODR use: their sense of overwhelm and lack of confidence in being able to move forward with their case. This is related to the fourth and most important barrier we identified through our focus groups: lack of information.

The participants also helped us to identify ways to overcome these four barriers. These include ways to address party concerns about text-based ODR; how to make documents and websites appear more official and trustworthy; what courts can do to overcome parties' initial negative reactions; and how to make court documents, websites and videos both informative and easy to understand.

Text-Based ODR

In text-based ODR, parties negotiate by messaging each other asynchronously on a platform. They can also upload documents and write up an agreement on the platform.

Many programs offer text-based mediation on the platform if negotiations fail. The mediator may communicate with each party separately or with both jointly.

Perspectives on Online Dispute Resolution

Key Takeaways:

1. Most participants expressed an interest in using ODR to handle a case instead of going to a courthouse, reflecting significant potential for the use of ODR.
2. Participants were concerned about negotiating via text. To alleviate these concerns, it is important to let parties know before they begin ODR that they will be able to access all communications with the other party while they are negotiating or mediating, but that the communications will not be shared with the judge and that their information will

remain secure. It is essential to let parties know whether their agreement is legally binding and whether it will be provided to the court.

3. Many participants wanted someone to moderate or facilitate their communications with the other party.
4. The majority of participants preferred the idea of mediating via video instead of text, but many preferred text. Courts should consider offering parties the option to mediate either via video or via text.

After our focus group participants had viewed the mailed court documents, ODR website and videos, we wanted to learn about their understanding and perspectives of online dispute resolution. While many participants had previous experience with lawsuits or knew someone who had been involved in one, none had knowledge of ODR prior to beginning the focus groups. Thus, all that they understood about ODR came from what they had seen in the court documents, on the websites and in the videos.

Misunderstandings about ODR

After reviewing the court materials, many people seemed to have a good idea that ODR was a way of handling disputes online, but none of the participants understood that the process was text-based until we described it to them. A variety of questions and misunderstandings about ODR also surfaced in these conversations. Some thought it was an online court hearing, while others thought parties would meet via video. Participants often thought a third party or witness would be present for the initial online negotiations.

The participants' lack of understanding about what process they were being asked to participate in may be attributable to the limitations of the focus groups. They could not spend a lot of time reviewing the information presented to them. However, we did not find any reference to the use of text messaging in ODR in the documents parties would have been provided or on the webpages they would initially see. It was quickly mentioned in the Ohio video that participants saw, and in the Hawaii and New Mexico videos beyond the point at which we stopped them.

Understanding of ODR

By the end of the focus groups, participants had looked over a variety of court resources on ODR, including a notice, a court website, and brief instructional videos.

After reviewing these materials, it was not clear to any participants that the negotiation or mediation process would be text-based.

Since many of our focus group participants said they either would not watch videos or were concerned that videos may take too much time, it is important to include essential information about ODR in the mailed documents and on the website in addition to the videos. Parties should be able to readily understand what text-based ODR is. This will allow parties to make the most informed decision about whether or not they want to participate in ODR.

Perceived Benefits of ODR

We did not ask participants directly whether or not they would be likely to use ODR if they were required or had the opportunity to use it. However, when asked what they understood about ODR, many participants commented on the benefits they expected ODR to provide. Our findings support the conventional wisdom that parties prefer to avoid going to court. Specifically, at least 17 people directly expressed a desire to handle a case online at home and avoid the hassles of appearing in a courthouse.

Some of these people described the issues with parking at the courthouse, being wanded by security upon entry, and generally a preference to avoid going to court. As one person said, “Nobody in their right mind wants to be in the courtroom” (NH3).

“Seems like a very simple way of solving an issue because you don’t have to go to court.”

Several other participants also explained the preference for staying in the comfort of their own home, such as one person who said, “You can be comfortably frustrated without the public watching you be frustrated,” indicating the added benefit of privacy for handling a case through ODR (MD1). Another person mentioned the benefit of having control over the outcome, saying ODR “...seems like a very simple way of solving an issue because you don’t have to go to court and come over here with each other. You can make your own plans, hopefully, and agree if this is too much, too little, what you can actually pay if you can’t pay. It lets you customize your actual dispute with each other and solve it yourself” (NH2).

Nine participants noted that handling a case online would be much easier and more convenient. Additional participants mentioned the advantages of saving time and money, and not having to take time off work or find childcare. A few people said they would prefer ODR because they could avoid a face-to-face interaction with someone they are in conflict with, or that person’s family or friends who might accompany them at the courthouse.

On the other hand, three participants in Maryland wanted to be able to speak to a court staff member in person and preferred to handle their case in the courtroom as opposed to using ODR. One Maryland participant said, “I’m going to the court. I ain’t even going to do it online” (MD14), which was followed by another participant agreeing, “Yes, I’m going to talk to somebody. Y’all deal with this. I’m not” (MD10).

Perceptions of Text-Based ODR

After we asked participants about their understanding of ODR, we explained text-based ODR to them. Perspectives on text-based ODR were mixed and differed from state to state. While many participants expressed that they wanted to see the other party — either in person or via video-based ODR — one participant specifically stated that not seeing the other party was a benefit of text-based ODR. They explained, “Because whatever the situation is, some people might lose face. They don’t want to see you, they’d rather just text you and not have to see you out of embarrassment, or anger, or whatever the situation is” (TX11). Fifteen other participants stated that they would be generally interested in using text-based ODR. In addition to the benefits of being able to negotiate from home and not personally encountering the opposing party, a few participants noted the speed and ease with which they can text. However, other participants felt that texting was actually more difficult than seeing and speaking to the other party in person or via video. The participants in New Hampshire were particularly uninterested in text-based ODR, with only one being in favor of the process. However, some were willing to try it if their concerns were addressed.

“I’d feel highly uncomfortable with texting.”

Most of the participants who specified a concern about using text to negotiate online were afraid that texts can be easily misinterpreted. For example, participants in New Hampshire noted that tone is lost in text, with one stating, “I could say something enthusiastically like, ‘Have a great day.’ But in a text, someone could take it out as like, ‘Oh, have a great day.’ You know what I mean? They don’t have tone of voice between that. It depends how they’re feeling and how they interpret it also. I’d feel highly uncomfortable with texting” (NH12). This was brought up in Maryland, too: “God forbid you got caps lock on because you’re technically yelling at the person and you did not mean for that to happen” (MD1). Another participant noted the lack of non-verbal communication, saying: “Language is like 10% verbal. You need all

that nonverbal stuff” (NH7). While some noted how easy it is to be accidentally mean via texts, other participants noted that communicating this way also makes it “easier to put some nasty stuff in a text versus saying it out loud” (NH4).

Some people asked if there would be a mediator, someone to monitor the conversation, or a judge to facilitate the online negotiations (whether by text or video). While a few people mentioned they would only feel comfortable participating in ODR if a mediator was there, eight people said they would feel more comfortable if the conversation was at least monitored by someone. Others wanted to be sure there was a recording or transcript of the conversation and that people who used ODR would not be able to erase past messages. A few people also clarified that they would want the transcript or recording deleted after the case was settled and an established time frame had passed. Based on these concerns, courts should be clear about the messages being maintained while the parties negotiate, and that their agreements are filed with the court. This can help to alleviate concerns about accountability.

Many participants felt ODR would not work to resolve disputes without a third party to facilitate. For example, one person commented, “If you could’ve worked it out verbally before, you probably would have ... I think by that point it’s probably way past texting” (NH6). The presence of a third party was considered beneficial for a variety of reasons, including as a witness to ensure both parties are held accountable for what they say, to ensure the conversation does not get too hostile, or to facilitate negotiations. One participant, who said they would only participate in an online process if a mediator was present, said, “The mediator could even possibly have power to put you both on cooldown so that you can’t type right away. You have to wait for a few minutes. That way in case you start getting too heated in the chat and people start throwing insults or threats or whatever, the mediator can just put it on pause and be like, ‘Hey, that’s not okay. You need to take a few minutes and calm down before you respond again’” (NH11).

Two participants also wanted more information about the online negotiations before deciding whether they would use ODR themselves. They wanted to know about the security of the system and who could see the conversation, and they wanted to know whether the conversation would be legally binding. Courts should make this information readily available on the ODR website before parties register, to reduce parties’ concerns and uphold the International Council for Online Dispute Resolution’s ODR Standards, which call for such transparency.⁹

⁹ International Council for Online Dispute Resolution, *Standards*, INTERNATIONAL COUNCIL FOR ONLINE DISPUTE RESOLUTION (May 2022), <https://icodr.org/standards/>.

In addition to the above concerns, a few participants were concerned that they would be unable to verify the messages were actually typed by the other party, and a couple of participants worried what would happen to their case if they broke or lost their phone and lost their ODR texts.

We asked five of the six groups whether they would prefer to resolve their dispute via video or text. The responses were mixed. All of the participants in one New Hampshire group and one Maryland group preferred video, while almost everyone in one of the Texas groups thought text would be the better option. One group did not want to negotiate by text or video without a mediator present, and in another group the participants' preferences were mixed. This indicates that courts may want to offer different options for resolving disputes online. The Supreme Court of Ohio has done this for its ODR program. Once parties there register for ODR, they are offered three options: negotiate via text with the other party, mediate via text, or mediate via video.

Concerns about Registering for ODR

Key Takeaways:

1. The participants' concerns about security and scams indicates that courts should take care to assure parties that their platforms are secure. For example, courts can be transparent about the protections provided for security by including a statement on their website about how a user's information will be stored securely and privately.
2. Courts should consider the possible negative impacts of using third-party logins, such as Facebook or Google.

Some people expressed concerns about registering to use ODR, reflecting a potential barrier to using text-based programs that require registration. Participants in five of the six focus groups did not want to create an account to register for ODR. The reasons varied. A couple of them simply expressed reluctance: "I really don't want to put my sign-in here" (NH3); "I'm tired of creating accounts" (MD14). Another participant expressed a similar sentiment, saying, "Let me tell you another reason I don't like this, though, because I got to make an account. I hate to make an account. Passwords. I do not like making accounts. That'll be intimidating for me. When I see this, like, man, I'm not trying to log in. I don't want to do all of that" (MD5). However, another found the login to be reasonable: "Y'all know why the purpose why they make us create a password and a login and all that, because when we have to go back into the

system again about our case, everything's here, so you don't have to go back to the process and start it all over, and do it all over again. That's why we have to do that" (MD4).

Others indicated a concern about providing their information, as seen with one New Hampshire participant: "Forcing you to sign in is almost a little red flag on the website for me. I don't like to sign in if I don't feel I have to for a reason" (NH11). This fear was also seen in Maryland: "It's creepy. You click on respond to a claim and then it ask you for the [case] number" (MD11). Another wanted to be able to sign in as a guest: "I would prefer if there was a guest because some people may be leery of leaving their information out there like that for this, because for all you know, somebody can hack into the system, and oh, you were hiding from someone, now they can find you" (MD1). However, a handful were not concerned: "As long as I don't have to put my Social Security number in anything on an app, I think I can deal with it. I could do it" (NH1). Another indicated that if the court wants people to register, it should be okay.

The TurboCourt site provides links for ODR participants to sign in using their Facebook, Google or LinkedIn accounts (Figure 1). Participants had diverging opinions on whether this was a benefit or a risk. Most did not want to sign in using Facebook. As one Maryland participant said, "The only thing that's irking me right here is 'continue with Facebook,' 'continue with LinkedIn.' That's my professional stuff, my LinkedIn I got my work stuff on there. Google, it's a mix of everything, y'all don't need to be on my Facebook. I'm not signing in with that. That's got to go" (MD14). Another said, "When you sign in with your Facebook, you're giving all your information on Facebook. You're giving all your information from LinkedIn. I don't want nobody to have that information but me" (NH7). Or another: "I probably would just make a separate account. Just because if you log in with Facebook, the court may have access to your Facebook and stuff. I probably would not use that, which they probably already do" (NH5). On the other hand, the same person said they would log in with Google.

Others, however, saw the ability to log in through a social media account as helpful. As one participant noted, "I use that connect with Facebook and connect with Google all the time. It's horrible because I'm super lazy. I don't want to sit there and continue typing crap out" (NH3). "I use the Google one most of the time because it's easy" (MD12).

Lack of Trust as a Barrier

Key Takeaways:

A few small details can have a big impact on perceptions of legitimacy and trustworthiness of court communications.



1. Courts can ensure that the initial notice they mail to parties includes an official seal, the court name and contact information.
2. Based on our focus group data, it is important to include the same official symbol and court name across all communications, including the court website and ODR platform, to add to people’s perceptions of the resources as legitimate.
3. Providing the court contact information on all of the communications, particularly at the bottom of the court webpage, can indicate authenticity to your audience.
4. Participants looked for a .gov domain when assessing a site’s legitimacy. Courts likely do not have much control over their domain names. It is therefore important that courts use other indicators, like an official seal and contact information, to reassure parties that their site is official.

The issue of trust was a common thread through all our focus groups. In addition to questioning the security of the registration and online system, participant discussions often related to trust, whether it was of the court, corporations, other individuals or the court communications.

Discussions around distrust in institutions such as the court arose more frequently at the groups in Maryland compared with those in the other states. A conversation among three participants in Maryland highlights some of the fears and distrust people have in the court system:

“Just going there [court], it makes you nervous, you’re like what if they find something” (MD9).

“You don’t know if you’re going to come back out” (MD13).

“Yes, you don’t know whether you’re going to come back out or not” (MD9).

“I was just saying that to the point now it’s like I don’t even want to go for a traffic ticket” (MD12).

ODR may be particularly appealing and beneficial for people who hold significant fear of, or distrust in, the courts, since they do not have to take on the risks or fears of appearing in court in person. However, these feelings and concerns could also reasonably hinder people from reaching out to the court for support when attempting to participate in ODR. It may also affect

whether someone participates in ODR at all if they do not trust the court communications or the ODR website.

The participants' concerns around trust appeared to impact how they responded to the court materials we presented them. Five of our six focus groups reacted to Hawaii's Statement of Claim and notice of ODR and the website we presented them by assessing their legitimacy, indicating that a barrier to using ODR may be a lack of trust.

Assessment of Documents

A number of participants across the three states said they would be skeptical about receiving an initial Statement of Claim in the mail if they did not know the plaintiff. This is significant because consumer lenders often sell debt to a third party, which then files suit. When this happens, defendants tend not to recognize the plaintiff, which may raise concerns about being scammed. At least four participants said they would question if the Statement of Claim was a joke, really meant for them, or a scam, "because of a lot of scamming" happens these days (MD1). One participant said he would wait to receive a second notice in the mail before trusting it. This fear of being scammed was brought up repeatedly in our focus groups.

For five participants in Texas and New Hampshire, one way to verify the legitimacy of the Statement of Claim and Notice to Defendants would be to call someone affiliated with the courthouse. A New Hampshire focus group participant said, "I would probably be making phone calls to make sure they're real, but that's just with any paperwork that I'm not expecting to get" (NH2). A participant in Texas also pointed out the importance of courts providing contact information on the paperwork. He explained, "That's what I would probably do right away will be see if there's a phone number. I mean, to me if it's a scam or not. I mean, you at least give it a try to call whatever number that is provided" (TX7).

A contact number in the initial paperwork was also seen as important to assessing the legitimacy of the website. A few participants said they would call the court to verify that the website was legitimate. For example, one participant explained, "The paperwork you're receiving, it would have the court name on it, the case number, et cetera, correct? Wouldn't you call the court and just be assured like, 'Hey, is this your website? Are you affiliated with this?' You know what I mean, that type of stuff" (NH12). While in another New Hampshire group, a person said, "I want to open this up and call and go, 'Is this your real site?'" (NH7).

Thus, one way to allay parties' fears and promote party engagement would be to provide a very visible court contact number.¹⁰

As described below, focus group participants demonstrated a lack of trust in websites in general. This flowed over into their assessment of the websites we had them review.

Assessment of Websites

As noted earlier, we asked three of our focus groups to provide feedback on the Akron Municipal Court ODR & Mediation webpage and the homepage of its ODR platform. We asked the other three focus groups to provide feedback on the homepage for Hawaii's TurboCourt website. Their reactions to the two sites were very different. Two of the three focus groups that assessed the Ohio site did not bring up the site's legitimacy; they focused on other aspects of the site. Members of the third focus group responded that it looked legitimate, although a couple were concerned that the domain extension was not .gov.

On the other hand, participants' initial reactions in all three of the focus groups who reviewed the TurboCourt site indicated a concern that the site was not legitimate. One participant in Maryland simply said, "Oh, Lord. Scam" (MD 14). A New Hampshire participant stated, "It kind of looks like a scam site" (NH2).

"I ain't trusting a dot-com for my court."

We asked participants to elaborate on the reasons the website looked inauthentic to them. In a frequent theme, nine participants said the TurboCourt website needed something to make it look more official while two more participants said the site looks "fake." For example, one Maryland participant stated, "I would like to see something more authentic looking" (MD11). Several participants noted the lack of an official state seal or court name at the top of the website. For example, one person said, "I just would prefer a more official state seal. Something that's an actual representation of the court" (NH3).

The domain extension (.com) invoked skepticism among participants as well. Five participants explained that a state court should have a .gov website and said the lack of this domain name

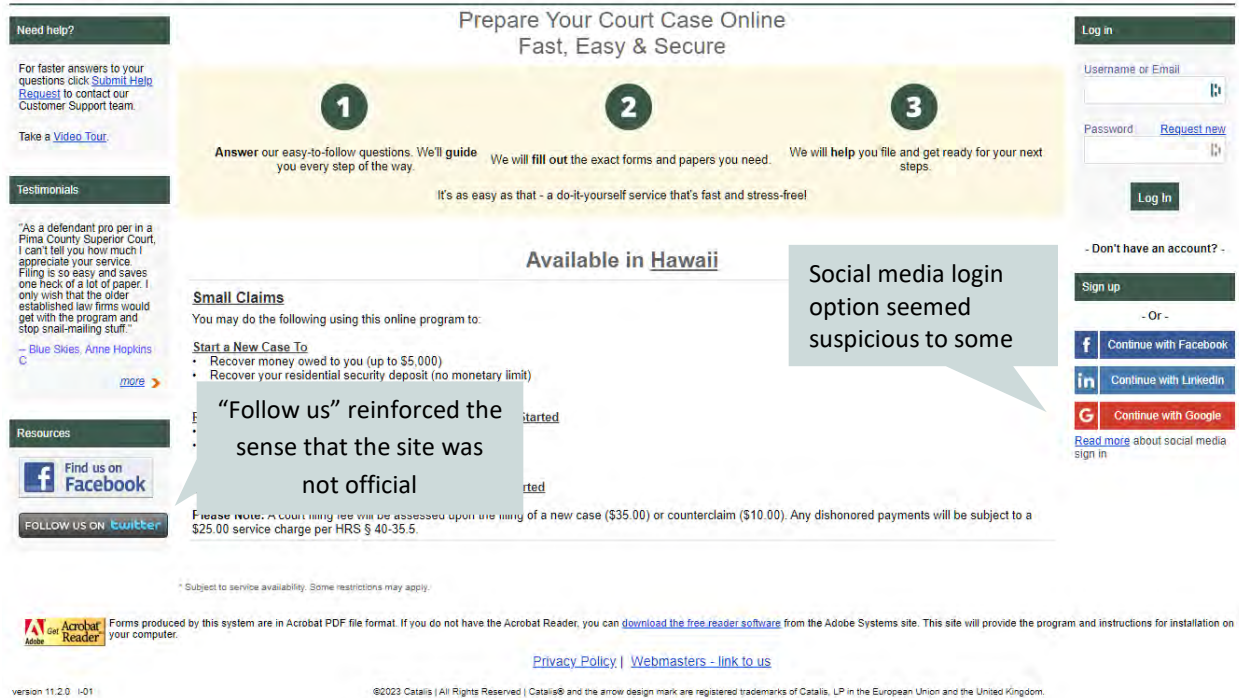
¹⁰ See our Guide, [Communicating Effectively about ODR](#), for examples and details on the best way to do this.

raises questions about whether the website is legitimate. A participant in Maryland explained, “I ain’t trusting a dot-com for my court” (MD12).

As noted above, the domain extension was also raised by a couple of participants about the Akron ODR & Mediation webpage and the homepage for its ODR platform: “I don’t think it [the ODR site] would say .com. I think it would say .gov. What kind of courthouse — there’s no such thing as a private courthouse” (TX1). “The only thing that I wouldn’t trust so much about it [the court’s ODR & Mediation page], is that it’s not a government organization website. It’s .org, it’s not .gov. ... Anything in Texas is going to be .gov. ... but I wouldn’t pay anything to an organization if I owe a courthouse. I’d be paying the state of Texas” (TX6).

Additional aspects of the TurboCourt website that raised questions were the invitations to follow the ODR provider on Facebook and Twitter and inclusions of testimonials led a few people in one of the New Hampshire focus groups to react negatively to the site. As one person explained, “The homepage needs to be more informative, not advertisement” (NH11). “I think what makes it more unprofessional is the ‘follow us on Facebook, follow us on Twitter,’ why does social media have to have anything to do with court?” (NH12). Another described the testimonials as adding to their skepticism saying, “Of course, they have a review there too, that’s all glowing” (NH7).

Entwined with the question of legitimacy was some participants’ concern about the TurboCourt site’s security. As one Maryland participant stated, “It looks like the one you get into and go into a virus.” (MD15). Another said, “It doesn’t have no security. No secure things saying that it’s a secured site” (MD14). As previously discussed, several people were also concerned about the security of logging in using their social media accounts.



Prepare Your Court Case Online
Fast, Easy & Secure

- 1 Answer our easy-to-follow questions. We'll guide you every step of the way.
- 2 We will fill out the exact forms and papers you need.
- 3 We will help you file and get ready for your next steps.

It's as easy as that - a do-it-yourself service that's fast and stress-free!

Available in Hawaii

Small Claims
You may do the following using this online program to:

- Start a New Case To
 - Recover money owed to you (up to \$5,000)
 - Recover your residential security deposit (no monetary limit)

“Follow us” reinforced the sense that the site was not official

Social media login option seemed suspicious to some

Log in

Username or Email

Password [Request new](#)

Log In

- Don't have an account? -

Sign up

- Or -

Continue with Facebook

Continue with LinkedIn

Continue with Google

[Read more](#) about social media sign in

Find us on Facebook

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Figure 1. Participants were wary of references to social media on the TurboCourt site.

What Courts Can Do to Help Users Trust their Website

To determine legitimacy, participants looked for legitimizing features at both the top and bottom of the webpage, with one of the most common recommendations being to add an official seal and/or court name at the top (Figure 2). Participants wanted to see consistency across court communications and sites, such as the same court name and official seal on the website as on the mailed documents. Additionally, they said the domain name .gov would “definitely help” since “that shows authenticity” (MD13, MD12). It should be noted that courts using third-party platforms, like TurboCourt, are not able to customize their site to add an official seal. Courts should therefore take other steps that could address this barrier, such as including court contact information on the documents for people to call to verify the legitimacy of the site.

Providing contact information at the bottom of the webpage was also seen as important for signaling legitimacy. For example, with the Akron Municipal ODR & Mediation webpage, which most people trusted and viewed as legitimate, one participant was asked to explain why he

trusted the site and he explained “With everything down here at the bottom, it just seems like it’s an actual website.” He was referring to the section of the webpage at the bottom where the court lists its name, phone number, physical address and business hours. Another participant reiterated the importance of the information at the bottom of a webpage, “First of all, where you always check to see if the website’s real or not, you scroll down to the bottom” (MD9).

For more information contact ODR/Mediation Clerk by phone at [330.375.2275](tel:330.375.2275) or by fax at [330.375.2017](tel:330.375.2017) or by email: mediation@akronohio.gov

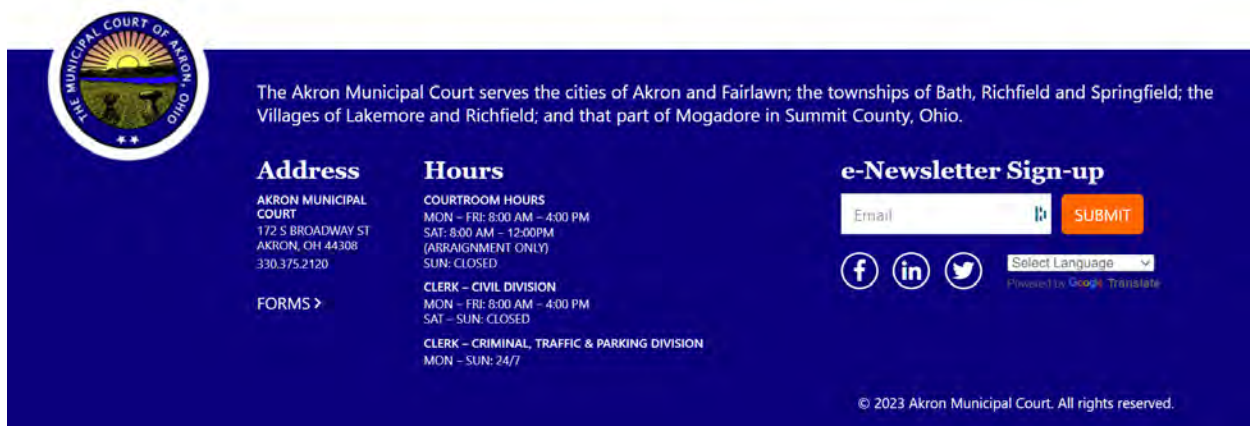


Figure 2. Participants wanted an official seal, as seen on the Akron Municipal Court site here. They also felt comfortable with the site because it provided court contact information and hours of operation.

While there was variation in how participants want to receive an initial notice and updates on their lawsuit, (through mail, text, email or phone), some participants said they would likely trust the website if the web address was listed on an official document they received in the mail. This reflects the potential importance of the initial methods of communication.

The participants who elaborated on this topic explained that receiving the document in the mail first would add legitimacy, “If I got it first, yeah. The paperwork like that, the claims when it says who is suing me, what it’s for and that had the website link on it, then, yeah. But if I got this in an email, no, I wouldn’t click on it” (NH8). Two additional New Hampshire participants agreed with this statement.

Emotional Barriers to Participation

When presented with the prospect of being sued, the participants were almost unanimous in feeling overwhelmed or intimidated. These feelings were often associated with a general lack of

confidence in one’s ability to navigate the court process and ODR without help and the need to absorb the information provided. Some were stressed about time frames; others were concerned that they would do something wrong or fail to do something that was required. For example, a Texas participant explained she would feel “panicked” learning about a lawsuit because of “[t]he whole process. Just having to read everything on my own without legal advice. Me doing it by myself. Making sure I know all the laws and make sure that I didn’t do anything wrong” (TX11).

It is important to recognize the types of emotions that many people likely experience when receiving court documents in the mail, since emotions can affect thought processes and behavior. For example, excessive stress negatively impacts a person’s ability to concentrate, process and remember new information.¹¹ Furthermore, feeling overwhelmed by a large amount of information that is difficult to understand can lead to avoidance behavior as a coping strategy.¹² Fear often initially leads to withdrawal and prevents people from taking action.¹³ If parties react to court documents with excessive stress or fear, it may hinder them from taking appropriate action to move forward with their case. Indeed, one participant said he would likely throw out the notice; another said he would wait for the second one to arrive.

Courts can help parties alleviate feelings of stress and overwhelm when they first get the notice of a lawsuit and of ODR by letting parties know how they can get help and by presenting only essential information with helpful formatting. We noted that although the participants were initially overwhelmed, many appeared to feel empowered to seek help and were able to pinpoint the next step they needed to take. Contact information and well-designed documents would aid parties in taking the steps needed for their case.

Information Overload

Many of the participants felt overwhelmed, intimidated or frustrated by the amount of information in the court documents. As one person said, “I think there’s fear of missing or not understanding something important that you need to know because there’s so much” on the documents (NH6). Another participant explained his reaction due to the challenge he had comprehending the documents, “It was really just the wording of it all ... Reading it, just the

¹¹ Madeline E. Hackney, Influence of Stress and Emotions in the Learning Process: The Example of COVID-19 on University Students: A Narrative Review, 11 HEALTHCARE 1787 (2006).

¹² Bibiana Guidice da Silva Cezar and Antonio Carlos Gastaud Macada, *Cognitive Overload, Anxiety, Cognitive Fatigue, Avoidance Behavior and Data Literacy in Big Data Environments*, 60 INFO. PROCESSING & MGMT. 103482 (Nov. 2023).

¹³ Julia F. Christensen, S. Di Costa, B. Beck, and P. Haggard, I Just Lost it! Fear and Anger Reduce the Sense of Agency: A Study Using Intentional Binding, 237 EXPERIMENTAL BRAIN RSCH. 1205 (May 2019).



wording of it made me get heart palpitations” (NH1). The participants’ reactions indicate that many people may feel overwhelmed and fearful receiving a court notice informing them they are being sued; however, for people who struggle to read, receiving paperwork with significant amounts of written information can add another layer of stress or intimidation to the experience.

“This is a lot. It’s overwhelming just thinking about it. Reading this is overwhelming. You know what I mean? It’s too many options.”

In addition to the fear of missing important information, five participants noted they would feel overwhelmed if they received Hawaii’s Notice to Defendants and Statement of Claim in the mail. One participant explained, “This is a lot. It’s overwhelming just thinking about it. Reading this is overwhelming. You know what I mean? It’s too many options” (MD2).

While overwhelm was one of the most consistent emotional reactions participants had when confronted with the court documents, they described other emotions as well, including feeling defeated, worried, confused, scared, glad it’s not them, freaked out, or having a desire to throw away the paperwork so they don’t have to worry about it. A Texas participant commented, “Anybody would be freaked out when you first get a court paper” (TX12). After initially looking over Hawaii’s Notice to Defendants and Statement of Claim, two of the 41 participants said they would feel confident about their situation and the steps they need to take if they received these in the mail. In contrast, six participants said they would not feel confident about their situation.

What Participants Wanted

Key Takeaways:

1. To promote access to justice and enhance program participation, courts should consider providing a contact person who is knowledgeable about ODR for parties to get their questions answered.
 2. Participants noted the importance of seeing court contact information on the documents and websites. Ensuring a court phone number for staff assistance is easy to find on all court communications will assist parties.
-



3. Nine participants said they would try to answer their questions on their own by searching for information on the court website. This highlights the importance of providing an easily typed link in the documents so that parties can quickly get to the site to get help. Courts should also take care to provide sufficient information and answers to common questions on their webpage.

Participants Wanted Someone to Help Them

The first thought for many participants was, what do I need to do and how can I get help? Most of the participants said they would seek help to get assurance and to figure out what steps they needed to take. This indicated that they felt empowered to act if they had the reassurance and assistance of someone who knew more than them. Reflecting a common desire among the participants to gain reassurance, one participant said he would prefer to speak to a staff person in the courthouse. “I’m trying to get a better understanding of what I’m reading. That way I just know for sure ... what’s going on” (MD7). Another participant said he wanted to go over the documents with an attorney, “... just in case I missed anything, I would want their professional opinion on it” (NH7). And another person said, “Now I need somebody to break it down for me, like an attorney to break this stuff down for me” (MD4).

There was a perception among several Maryland participants that misunderstanding one word could ruin your case. For instance, in discussing her initial response to the paperwork, a participant said, “It’s that one word that cost you everything” (MD1). Another member of this group agreed, “She was saying be that one little thing that you misread or overlooked and you go in there thinking you know it all. And then it don’t work out for you. At least a second opinion, a second overview” (MD6). Therefore, going through the paperwork with an attorney or other knowledgeable person was perceived as important.

“I oftentimes get overwhelmed as well. I have a learning disability and have trouble reading to understand. My first reaction would be having someone better make me understand.”

Getting help may also reduce parties’ stress regarding the amount of time it would take to figure out what to do within Hawaii’s three-week deadline to register and negotiate an agreement with the other party, which a few participants in Texas were particularly nervous about. Some participants indicated that talking to a knowledgeable person who can answer

ODR questions would make the process more efficient and less time-consuming. For example, a participant explained, “I think talking to someone would be probably best for me. Just so I can get straight to the point, what I’m looking for, I ain’t got to read around trying to find what I’m looking for, and maybe get a half answer from it. You know what I’m saying?” (MD7). When asked if a video tutorial would be helpful alongside the court notice and Statement of Claim, another Maryland participant said, “I prefer to sit down with someone who’s in this field because I can get it done. Get it done, it’s over with” (MD2). It should be noted that five participants mentioned that receiving pro bono help, or seeking assistance for disabilities, could also be too time-consuming.

Most often, participants wanted to speak with someone who worked with the courts or was an attorney. At least 25 participants, over half of the sample, said they would call the court if they had questions about the court documents. Additionally, some said they would call the court after getting on the ODR website if they had questions. However, a few participants said they would seek out the help of a family member or friend with stronger reading skills than themselves, more sensitivity to details, or other experience with the legal system. In New Hampshire, a participant explained that he would go to his neighbor if he received these documents in the mail, “I oftentimes get overwhelmed as well. I have a learning disability and have trouble reading to understand. My first reaction would be having someone better make me understand” (NH10).

When participants described wanting help, they most frequently said they would want to make a phone call to get their questions answered. Once they were on the ODR website, several people also expressed interest in a live chat to answer their questions, explaining that this format usually provides “quick responses, and then the right information” (TX14). A few people also preferred to meet in person with someone who could help. Regardless of the method of communication, all participants who wanted help preferred to speak with a real person, as opposed to artificial intelligence, to help them if they have questions or get stuck. The preference for speaking over the phone is confirmed by data at Illinois Court Help, a customer service platform for people who use the courts. Of the approximately 58,000 contacts they received from May 2021 to March 2023, 74.6% were by phone, 12.5% by text, 11.7% by website form, and 1.2% through email.¹⁴

Participants across all states noted that contact information for the courts or a lawyer who could help them was absent from Hawaii’s Notice to Defendants and Statement of Claim. This lack of information creates a barrier for people to move forward with their case. Participants often mistook the Americans with Disabilities Act contact information on the last page of the

¹⁴ Alison Spanner. 2024. Illinois Court Help Report on Usage Methods.

notice for a phone number they could use for general questions about ODR or their case. This misunderstanding and lack of clear contact information for assistance creates a noteworthy challenge for participation in ODR. For courts with limited resources, one option may be to have a single contact person who is knowledgeable about ODR to work remotely for several counties, courthouses or states to increase the feasibility and scalability of this type of support.

In addition to a phone number, some participants noted that the court mailing address was missing from the communications. For example, “It says if you don’t have access to necessary technology, you may submit a request to be excused from participating ... It doesn’t tell you where to send it. Where to call to do it” (NH12). In Maryland, a participant noted the need for a mailing address since there are multiple courts in the area. This information could prevent unnecessary delays due to mailing or visiting the wrong courthouse.

Participants Wanted Essential Information that Is Formatted Well

Key Takeaway:

Our focus group data confirmed the benefits of formatting that includes: question and answer or fill-in-the-blank questions, bullet points, and extra white space to separate sections and key information.

To address the sense of overwhelm that many participants experienced when looking at the court documents, some indicated they did not want redundant or nonessential information. They also discussed formatting, particularly the use of white space.

This preference for white space was seen in the participants’ views of the Hawaii Notice to Defendants and Statement of Claim. A few participants’ expressed a desire for more spacing between sentences and sections on the documents. This was particularly true for participants who said they had difficulty with reading. One participant who stated he has dyslexia described the benefits of added white space for him, “I wish there was more spacing between everything, so I can read a little better ... Just a little bit to differentiate what sentence is what, what paragraph is who ...” (NH1). Another participant said he was struggling to read the documents as well and agreed, “More spacing, yes” (NH4). According to these participants, white space improved their comprehension. Indeed, previous scholars have recommended using plenty of white space in margins, between each section, and around headings.¹⁵ The added space between paragraphs and sections differentiates them for readers more clearly.

¹⁵ Joseph Kimble, *The Elements of Plain Language*, 81 MICH. B.J. 44 (2002).

Similarly, participants found formatting of the text to impact their comprehension. The Hawaii and Ohio self-help guides contain a range of formats, such as fill-in-the-blank questions, bullet points and paragraph-form text. This variety offered an opportunity to learn about the features that participants felt the most confident understanding and thought would be easiest for most people to read. Overall, participants reacted positively to sections that used any of the four formats, but were most enthusiastic about those sections that used fill-in-the-blank questions and bullet points.

For example, one section of the “Preparation Questions” self-help guide from the Ohio Supreme Court contains five fill-in-the-blank questions (Figure 3). According to participant responses, this was one of the most comprehensible sections of all the self-help guides we presented in the focus groups. Specifically, across the six groups, all participants said the first three fill-in-the-blank questions would likely be easy for most people to understand. These three questions were relatively short, with a maximum of seven words followed by a blank line. Some participants felt the last two questions in this section were confusing.

Write initial offer and why:

5. Was it accepted? If yes, time to write up your settlement terms. Settlement should include:
 - a. What the amount of the settlement is: _____
 - b. How it is being paid _____
 - c. When it is being paid _____
 - d. What I am required to do as a result of the settlement, if anything (for example, dismiss the case, send a paid in full letter, etc.) _____
 - e. What happens if the settlement is not paid: _____

Figure 3. Participants liked the fill-in the-blank questions in Ohio’s “Dispute Resolution Guidance” guide. In particular, all thought most people would find the first three questions easy to understand.

As one participant in Texas stated when looking over this section, “It’s just filling the blank, fill it. You just answered the question. That one was the easiest” (TX2). In the other Texas group, a person responding to the same section said, “It’s a question and answer. You can answer the questions there. It’s pretty simple” (TX9). This fill-in-the-blank format allows participants to actively take steps by answering the questions, as opposed to simply reading an explanation of the process, which aligns with previous recommendations for self-help material to instruct

readers on what to do instead of explaining concepts.¹⁶ For example, most people would like to read steps for how to write up a settlement instead of a lengthy explanation defining what a settlement is. The fill-in-the-blank format is also beneficial because it typically includes extra white space around the questions and the blank line.

Another consistent theme across the three states was an appreciation for bullet points, with 11 of the 41 participants stating they were helpful. Two of the sections of the self-help guides that were consistently viewed as easy to understand contained bullet points. For instance, the majority of participants found the “Conditions to Agreement” section of Ohio’s “Dispute Resolution Guidance” document easy to understand (Figure 4). In response to this section, New Hampshire participants said, “We love bullet points” (NH4) and “That’s good. Trust me” (NH1). The other “easy to understand” section was on the Hawaii self-help guide with a question: “1. What do you think of the plaintiff’s claim against you?” followed by blank boxes and bullet points (Figure 5). A Maryland participant explained why he found this section easy to understand, saying, “Bullet points. Subtopics and the bullet points under the subtopics” (MD11).

7. CONDITIONS TO AGREEMENT

In order to accept your offer, the other party may require you to agree to certain conditions. Conditions are dependent upon whether ODR is taking place prior to the filing of a lawsuit or cause of action, or after the filing of a lawsuit or cause of action with the court.

This list is not complete, but examples of those conditions might be:

- PAYMENT PLAN AND JUDGMENT: A payment plan with a judgment in the other party’s favor (this is also called an Agreed Judgment Entry and is only available if a lawsuit or cause of action is filed).
- DISMISSAL: A dismissal of your claim or counterclaim if there is lawsuit or cause of action filed.
- CONFIDENTIALITY AGREEMENT: A promise that you will not share the terms of the agreement with others.

If you reach agreement with the other side, be sure you understand the conditions in the agreement you are signing. If you have questions, ask. If you reach agreement in mediation and the other side tells you they will send the agreement to you later for you to sign, be sure that the agreement sent contains the terms that were agreed upon. If you do not understand an agreement, or have questions about how an agreement may impact your rights or credit, ask an attorney.

Figure 4. Participants liked the bulleted list in this section.

¹⁶ Lois R. Lupica, *Guidelines for Creating Effective Self-Help Information*, INSTITUTE FOR THE ADVANCEMENT OF THE AMERICAN LEGAL SYSTEM (Nov. 2019), https://iaals.du.edu/sites/default/files/documents/publications/guidelines_for_creating_effective_self-help_information.pdf.



1. What do you think of the plaintiff’s claim against you?

- I agree that I owe the plaintiff money and I agree that I owe the amount claimed. Consider making an offer. See #2 below.
- I agree that I owe the plaintiff money but I do not agree with the amount claimed.
 - Consider making an offer. See #2 below.
 - If you have proof (evidence) that shows why you owe a different amount, consider sending a copy to the plaintiff. You may attach copies of your documents in ODR. Examples of evidence: receipts, communications (emails, letters), pictures, etc.
- I do not agree that I owe the plaintiff money.
 - Consider asking the plaintiff for proof (evidence) of the amount owed.
 - Consider presenting your own proof to the plaintiff with an explanation.

Figure 5. Participants liked the organization of this section.

Bullet points reduce the sense of effort required and likely increase the speed at which information can be consumed. Two participants in a Maryland focus group explained about the use of paragraphs, “Because you read. Run everything together, a whole paragraph, now you got to read” (MD12), “Or you got to dissect it” (MD10). As these comments suggest, full-length sentences require more effort, or at least carry the perception of requiring more time and energy to understand.

When we directly assessed the comprehensibility of the court documents by asking participants what the Hawaii Notice to Defendants is asking them to do, many participants accurately understood the first step they needed to take, which is to register. On the notice, a statement about registering is in bold and separated by extra white space above and below it. There is a blue arrow pointing to a bold phrase “To register visit: ...” that also has white space around it (Figure 6). The bold font, white space, and a distinctly colored arrow likely all contributed to the ability of many participants to accurately identify the first step they needed to take.

Registration Required

This case is included in the Hawaii State Judiciary Online Dispute Resolution (ODR) Pilot Program. **You MUST register on the online system within fourteen (14) days** of being served with the *Statement of Claim*.



To register visit: [TurboCourt Hawaii \(www.turbocourt.com/hawaii\)](http://www.turbocourt.com/hawaii). You will be directed to the TurboCourt site and choose “Hawaii” as your state.

Figure 6. The formatting of this section helped participants understand what to do next.

Contributors to Lack of Information

Formatting of information and language use, as well as delivery method, appear to contribute to whether information is received and understood. Through our focus groups we learned about the aspects of the court communications that facilitated understanding and were most appreciated among our participants, as well as the most preferred initial delivery methods for court communications. Some features of the communications also contributed to misunderstandings or a lack of information about ODR.

Comprehensibility of the Court Documents

Participants appreciated the organization, clear and simple language, and formatting of the print resources. However, the participants found some aspects of the documents to be more challenging. On the court documents, participants noted that confusing words presented a particularly significant barrier.

Participants were given paper copies of Hawaii’s Statement of Claim and Notice to Defendants to review. They also reviewed portions of Hawaii’s “Quick Guide for Defendants” and Ohio’s “Tips for Negotiating in ODR” and “Planning your Online Dispute Resolution – Preparation Questions.” (See Appendix C for all the documents.)

Five participants felt that Hawaii’s Statement of Claim was helpful and easy to understand. In particular, people with favorable views said the Statement of Claim was well organized into sections and they felt the explanations were clear. While more participants spoke positively about the Statement of Claim than the Notice to Defendants, some also liked the appearance of the notice, explaining that it was simple and the information was “straight to the point” (MD13).

In general, participants preferred information that was simple and concise. In all three states, groups regularly used terms and phrases referencing their desire for content to be “straightforward,” “direct,” “clear” or “to the point.” For example, a participant was explaining why he preferred one part of an ODR self-help guide over another section, “Because for the most part it’s not as many words and it seem like it is plain stuff. A little bit simpler and faster compared to this. This one make me got to do more reading and more deciphering to get to the actual solution” (MD13).

Many focus group participants indicated they wanted written instructions that they could refer to as they moved through each step of the court and ODR process. Self-help guides hold

significant potential for providing that guidance. When the focus group participants viewed the various sections of the Hawaii and Ohio self-help guides, they were appreciative of the information and found most sections to be easy to follow.

Sections on the self-help guides that were viewed most positively were frequently described as “self-explanatory” (TX13) or “simple” (TX9). For instance, a section titled, “Speak to an Attorney” (Figure 7) contains familiar, concise language and was considered one of the easiest parts of the self-help guides for most people to understand. Some also appreciated the links to get more help.

2. SPEAK TO AN ATTORNEY

Court staff are permitted to explain court procedures and processes. They cannot give you legal advice nor help you make decisions about accepting offers from the other party. If you have any questions about the law, or if you need legal advice, use one of the following resources for more information:

- Ohio Bar Association: ohiobar.org/legalhelp
- Community Action Agency: businesshelp.ohio.gov/home-relief-grant
- Ohio Legal Help: ohiolegalhelp.org/topic/lawyer
- Ohio Access to Justice Foundation: ohiojusticefoundation.org

Figure 7. “Speak to an Attorney” section of Ohio’s “Tips for Negotiating on ODR” – participants liked the familiar, concise language.

Although the documents were relatively easy to understand, a key barrier to comprehensibility was the use of confusing words, according to our focus group participants. This indicates the need to simplify the language used in court documents.

As previous research has identified, the use of jargon, legal terms and acronyms is difficult for readers.¹⁷ This was supported by our focus group data. For example, commenting on a self-help guide, a New Hampshire participant said, “It feels like it’s full of legal terms. It’s harder to actually read over when you can’t understand half of the words on that” (NH11). A Maryland participant also explained the importance of using plain language, “once they throw in that one Latin word, or that one over-10-letter word, then you’re like, what?” (MD1).

¹⁷ US General Services Administration, *Avoid Jargon*, PLAINLANGUAGE.GOV, <https://www.plainlanguage.gov/guidelines/words/avoid-jargon/> (last visited Jan. 11, 2024).

Specifically, participants frequently identified “ODR” as confusing in the court documents. In all groups, people expressed a desire for “ODR” to be spelled out and defined early in the document. One participant explained, “I think people abbreviating everything like that it cause confusion ... Instead of just saying what it is real quick” (MD12). In reference to the self-help ODR guides, another participant recommended, “Say what the O means, what that D means, and what the R means. It just says ODR. It’s not giving directly what it means” (MD6). It is important to note that they did not see the full Quick Guide and Ohio documents. Those documents do spell out online dispute resolution before using the acronym.

“Once they throw in that one Latin word, or that one over-10-letter word, then you’re like, what?”

In addition, “plaintiff” and “defendant” were two terms commonly identified as confusing among the participants. For example, “... a lot of people don’t know the difference between ... a plaintiff and a defendant” (TX5). Another participant simply said, “what is the plaintiff?” (MD5). While some people found the explanations of “plaintiff” and “defendant” on the Statement of Claim and the notice clear and easy to understand, several other people struggled in spite of these explanations. This indicates the documents may require a clearer definition of these fundamental terms.

The most common phrase, or specific words within the phrase, that participants highlighted as confusing was on Hawaii’s Notice to Defendants. This phrase states, “Please submit a Request for Exemption from Small Claims ODR Pilot Program.” This statement contains several terms that may be unfamiliar to people who do not work with courts. In particular, people frequently said the term “pilot program” was confusing. This term is likely new for many participants and may seem irrelevant or distracting to people who receive information that they are being sued and need to register for ODR.

Another phrase that some participants described as confusing was “small claims.” In Maryland, a participant asked, “What is small claims? What is that? What are we talking about? ...You think it’s court, it’s court. Some people never heard of small claims” (MD6). Someone in Texas explained, “I think some people may need to hear the word “court” in “small claims court” for clarification” (TX9).

Other terms that were pointed out as confusing to a few participants included “mediation,” which was confused with “meditation” by a couple of participants in two different groups.

Phrases like “exemption,” “with prejudice,” “without prejudice” and “damages” were also confusing to a few participants, but they did not come up as frequently as the other terms and phrases discussed in this section.

What Participants Want

Key Takeaways:

1. Use simple, straightforward language with familiar terms and concise sentences. If legal terms are needed, define those terms in the same familiar language.
2. Use simple pictures to depict next steps or to enhance information.
3. Provide videos as an option, but provide the same information in written form.
4. Participants preferred simple videos with a voice-over of images of the ODR platform. This shows that courts do not need to create sleek, professional videos in order to communicate well.
5. Video tutorials with step-by-step instructions are most helpful. They should be short and use a human voice. Include an image of each step, and point to that step as the narrator explains it.

Concise, Plain Language

Ten participants said the most important thing for the courts to know about how to communicate better is to simplify the information. This was the most consistent theme in response to that question. In particular, participants primarily focused on the need to simplify the language. These participants recommended that the courts “just be straightforward” and use plain or simple language. When participants were asked to elaborate on what makes a document simpler, one participant said, “the language itself. Something that we can understand. I don’t have to pull out a dictionary to find out, oh, okay, that’s what that means” (TX9). Looking over the self-help guides, another person suggested, “Take away some of the legal terms and put in some more normal terms for people to understand. Or define them” (NH11).

However, two participants who wanted the information to be simplified also cautioned against oversimplifying, explaining they dislike feeling treated as if they are unintelligent. Using plain language standards, the recommendation for most federal communications is to write for an audience with a fifth-grade reading level. Most readers prefer shorter words that are familiar and concrete, as opposed to abstract.¹⁸ This fifth-grade reading standard may be a helpful guide for ensuring court communications are not only understandable to most people, but also not overly simplified to the point of offending readers or making information less intelligible.

“Take away some of the legal terms and put in some more normal terms for people to understand.”

Language that is easy to understand helps participants comprehend information quickly with minimal effort, which is exactly what many participants in our focus groups wanted. Plain language saves time and energy for all readers and could reduce negative emotions like frustration or feeling overwhelmed, thereby alleviating several potential barriers for people who are trying to comprehend new information and take the necessary steps to register for, and participate in, ODR.

Using plain language and defining necessary legal terms early in a document are essential for reducing the information gap. Some additional recommendations for improving the language on court documents that arose throughout the focus groups include avoiding acronyms and defining terms clearly, as previously noted. A few participants also said it would be helpful for them to have a glossary of terms provided.

For specific ODR plain language suggestions see our [Guide for Courts](#). We also recommend the National Center for State Courts, [Plain Language Glossary](#) for a more comprehensive list of alternative words and phrases in place of traditional legal terms.¹⁹

Step-by-Step Instructions

One of the features participants appreciated in the court documents was step-by-step instructions. Well-written step-by-step instructions are usually concise and have the advantage of being relevant to the reader by providing information they need to move forward. As

¹⁸ Joseph Kimble, LIFTING THE FOG OF LEGALESE, 165-174 (2006).

¹⁹ National Center for State Courts. Plain Language Glossary. <https://www.ncsc.org/consulting-and-research/areas-of-expertise/access-to-justice/plain-language/glossary>

previous research has noted, readers prefer information that tells them what to do, as opposed to explaining concepts.²⁰ Our findings reaffirm this idea. Many participants expressed an appreciation for the sections of the self-help guides that had instructions clearly and directly stating what steps to take. None found these difficult, with the exception of some words. These sections were described as straightforward and easy to understand. Referring to the Notice to Defendants, one participant commented on the features he viewed positively, explaining, “It gives you a step-by-step walkthrough on where you need to go, so visual aid plus instructions. For me, it looks professional. It looks good. It looks like it’s going to take you where you need to go” (NH2).

A number of participants also noted their appreciation for step-by-step instructions in the videos. All groups viewed the same [New Mexico](#) and [Hawaii ODR](#) videos, which instruct parties on how to register for and use online dispute resolution. In addition, two groups in New Hampshire viewed Ohio’s “[What is OH-Resolve](#)” video, which explains the benefits of ODR, while the remaining four groups watched Ohio’s “[How to Start Using OH-Resolve](#),” which provides instructions on its use. When describing the best features of these videos, participants most commonly referred to the segments that provided a “good breakdown” of the information, in the format of a tutorial (TX12).

Simple Images

We specifically asked participants about their perspectives on images to aid comprehension of the court documents. Many people said they like having pictures or visual aids, while a few people found images distracting. In particular, participants who openly described challenges with reading, or knowing people who struggle to read, said pictures would be very helpful. One participant whose partner cannot read well recommended, “More pictures. If somebody can’t read, he can’t read, so pictures are more value for somebody like him” (NH9). Another person stated, “Pictures are my thing. The moment I can see it, like with the video, the moment I can see it, I’m good. If I can’t see it and I can’t learn about it that way, then I can’t do it” (NH4), while a third participant simply said, “Sometimes I need pictures” (MD12). And several participants agreed that it depends on the person whether the pictures are helpful or not. One participant explained, “Just get you a visual. I like to see what you’re saying. I like to see it. Because I’m also a hands-on learner, so I got to see” (MD5). A Texas participant said images can be more efficient and easy to interpret, explaining, “sometimes I’m doing things in a hurry. It’s like, oh here it is, right here. This is where I go” (TX8).

²⁰ Lois R. Lupica, *supra* note 21.

“Pictures are my thing. The moment I can see it...I’m good. If I can’t see it and I can’t learn about it that way, then I can’t do it”

At least two participants thought the image on the Hawaii Notice to Defendants that showed how to get help was useful (Figure 8). One said, “I do feel like this style of image where they show the website and how to actually navigate it, I feel like those are always really helpful” (NH11). And the other person said, “it’s good...to see what the webpage looks like” (MD11).

If you need legal assistance to better understand the court process and your legal rights and responsibilities, please visit the [Hawaii State Judiciary](https://www.courts.state.hi.us/) website. Under Self-Help and the Access to Justice Tabs, you will find information about Self-Help Centers, Access to Justice Rooms, and other resources for legal assistance.



Figure 8. Participants pointed out the benefit of seeing an image of the website where they could find help.

Although it was more common for participants to want pictures, a few participants cautioned that more pictures could be distracting, especially if they do not seem necessary or relevant. For example, responding to the idea of adding more pictures, one person said, “As long as it’s not being cluttered and then just distracting. I would keep it to the minimum, but the most useful parts. This is where you need to go, and this is what it looks like and stuff” (NH2).

In one focus group, a few participants felt the picture of the Statement of Claim on the Notice to Defendants was “distracting; it’s just irrelevant” (MD11). In agreement, a participant said,

“When you put too much — How you got the picture over here, so you reading it. You looking all over here. You’re frustrated already because you being sued. Now, you’re trying to read through stuff. You’ll just say forget it and just push it to the side ... When you got so much stuff people will get frustrated. Because attention span isn’t what it used to be” (MD12). Previous research recommends avoiding complex or detailed pictures, like an image of the Statement of Claim on the notice, since it is often difficult for people to know which details are important to focus on. Instead, using simple pictures is recommended.²¹

Participants’ perspectives indicate that images should be incorporated with intention, providing information that is clearly relevant and useful to parties. Simple images that show participants what their next steps will look like may be particularly helpful.

Information in Written and Video Formats

Listening to diverse groups of people from around the country, we learned it is important to offer information in a variety of formats, including a combination of written documents and videos, in order to satisfy the needs of all individuals. Throughout all of the groups, several people agreed, “options are nice,” as this is the best way to meet the variety of needs and preferences among people who resemble self-represented litigants (TX13).

When participants reviewed the court documents, we asked them whether they would prefer to get the information via a video rather than, or in addition to, the documents. Participants’ responses were mixed. Fourteen participants, including some from each state, explicitly said videos would be useful as an option in addition to the mailed court documents. In contrast, six participants from Texas and Maryland said they would not find a video helpful.

“There are times where the form of a video works wonders in comparison to throwing a chapter out of a book at me or something”

Three people across the focus groups mentioned they would be helpful as an option for certain populations, including people who have learning disabilities and elderly people. On the other hand, in Maryland, participants frequently commented on the barriers to using videos such as time constraints and the need for Wi-Fi access, a device and good digital literacy skills.

²¹ Joseph Kimble, *supra* note 20.

In the two New Hampshire focus groups, participants were particularly enthusiastic about the benefits of videos. One participant in New Hampshire stated, “I think a video would be good. Where they could break it down and explain it a little bit more in-depth” (NH3). Another person agreed, “Yeah, I think so. I mean, I’m a visual learner ... If this was on YouTube...everything would be fine. It’d be perfect” (NH1). A third participant added, “There are times where the form of a video works wonders in comparison to throwing a chapter out of a book at me or something” (NH4).

Four of the participants said videos consumed too much time. Two participants in Texas said it is quicker for them to read than to watch a video, while two Maryland participants said they did not have time to watch videos. One of these participants said, “I ain’t got time for that. I ain’t even had time to open this mail to read this crap. I ain’t got time to sit and watch no video” (MD4). A member of her group followed up, explaining, we “might not even get to the point where it says video” in the paperwork (MD5). Lastly, another Maryland participant said they might fall asleep during the video.

Referring to the idea of a video tutorial, one person recommended that courts “don’t make it mandatory,” explaining that he often skips videos (TX12). A Maryland participant reiterated the desire to skip videos, “I don’t even watch welcome videos at work, training videos at work. I just skip through it and get to the hands-on” (MD15). Another Texas participant said she generally has an easier time focusing when she is reading as opposed to watching a video. However, after viewing Ohio’s one-minute ODR video, “How to Start Using OH-Resolve,” this participant followed up by saying, “It was short enough to keep me focused” (TX9). Previous research also recommends keeping videos short, with one study finding that most people prefer required informational videos to be between three and five minutes long.²²

Another reason three people indicated videos were less useful was their feeling that it is difficult to watch a video and complete the ODR registration instructions at the same time. With paperwork, you can move more easily back and forth between completing instructions and following the document at your own pace. As one participant said, “I can always go back to this. I ain’t got to plug nothing in or do anything. I can just grab the papers as many times as I want” (MD2).

The participants’ differing perspectives on videos points to the need for courts to provide information both in writing and by video. Video is particularly important for those who struggle to read.

²² Ryan Knott, *Video Statistics, Habits, and Trends You Need to Know*, TECHSMITH, <https://www.techsmith.com/blog/video-statistics/#video-length> (last visited Jan. 17, 2024).

What Parties Want in a Video

Participants appreciated short tutorial videos narrated by a human voice. They appreciated the ODR videos that showed an image of each step involved in registering for the program. In contrast, participants generally disliked videos that looked more like an advertisement for ODR.

Seven participants specifically expressed their appreciation for the [Hawaii](#) and [New Mexico](#) videos because they provided clear instructions, with images of the registration website and a cursor, or small hand, gesturing toward the places on the webpage being discussed (Figure 9). The majority of participants said the videos were helpful and they would feel comfortable or very comfortable following the instructions after watching these two videos.

In contrast, they viewed the Ohio videos as more like an advertisement and stated that they were harder to follow. Although they commented on the professional look of the Ohio ODR videos, some disliked the images showing people happily handling their lawsuit, saying that people should not look happy in that situation. The “[How to Start Using OH-Resolve](#)” video interweaves images of people on phones and computers with images of the website, which some participants found moved too fast. This made the information in the video more difficult to grasp. One of the participants, explained, “You couldn’t catch on. You couldn’t really grasp what they was talking about because it went from one thing to the next thing, one thing to the next thing. It just moves too fast” (MD6).

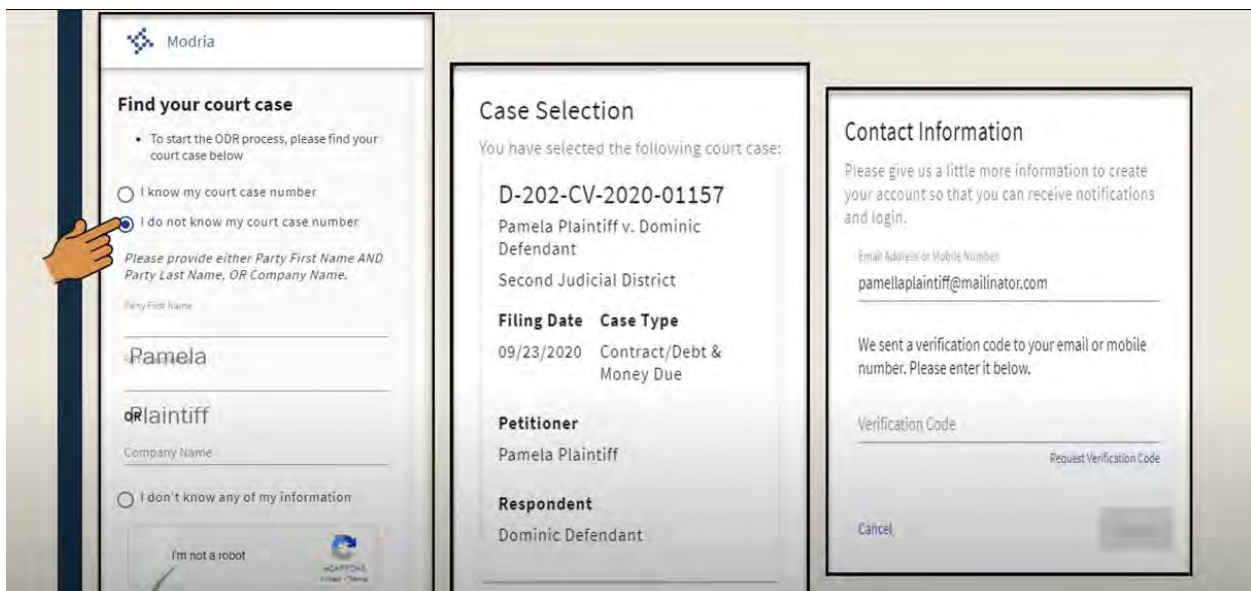


Figure 9. Participants liked having a pointer on screen that highlighted what the narrator was talking about.

Several participants disliked the narrator’s voice for two of the videos. Six participants expressed negative comments about the childlike voice on the New Mexico ODR video. And one of these participants explained she would like to hear a voice that sounds more “experienced” (TX13). The Hawaii ODR video uses a computerized voice that eight participants negatively commented on, preferring a more human-sounding voice. One person said having a real person’s voice would make it more trustworthy. In contrast to the reactions to the voices on the Hawaii and New Mexico videos, the voice in the Ohio video was either not commented on or was viewed positively, as professional or mature.

We observed at least one participant refuse to watch the Hawaii video because of the automated voice, and participants in one focus group continued to comment on the voice in the New Mexico video throughout the time the video was played. If parties are distracted by the voice, they may not be able to pay attention to the information being provided.

Despite their reactions to the voices, when asked which of the videos they preferred, Hawaii’s and New Mexico’s were always rated more highly than Ohio’s because they were more easily understood. Their distinct preference for the simpler videos with guided instructions indicates that courts do not need to make sleek, professional videos to grab parties’ attention.

Delivery

Key Takeaway:

Courts can increase the probability of parties receiving and reading court documents about ODR, including initial notices, by sending parties notifications in more than one way: by mail and text.

How parties receive information may also impact whether they learn about ODR. Focus group participants differed on how they wanted courts to communicate with them and in how frequently they checked each form of communication, demonstrating the importance of courts reaching people through various modes of communication simultaneously when possible. For example, 41% of the participants preferred to be notified of a lawsuit via postal mail. However, 13 of the 41 focus group participants stated that mail would be their least preferred way to be notified about a lawsuit.²³ Meanwhile, 22% of participants preferred to be notified via text,

²³ Participants were given the options of being notified by mail, email, text or phone and asked to rank the options from most to least preferred notification method. Many participants only checked their most preferred method. We therefore present this data as a number rather than a percentage.

and an equal number preferred a phone call. Just 15% of participants wanted to be notified by email.

As a way of assessing the efficacy of different modes of delivery, we asked the participants to indicate how often they checked their email and texts. For example, if parties do not check their email, sending information to their email address would not be helpful. Beyond the parties' preferences, we found some indication that email might be problematic. While 89% of our participants said they check their email daily, five participants (12%) said they only check their email once a week or less. In contrast, all participants across the six groups said they check their texts at least once a day. Although we only have information from the two Maryland groups regarding how frequently they check postal mail, almost all participants in these groups said they check their mail daily.

Because people check their texts most often, text may seem like a reliable way of contacting people, but cell phone plans may be intermittent for some people. At least one participant who had recently lost his job did not have a working phone at the time of the focus groups. People may also change their phone numbers and email addresses, or move to a new residence, all of which increases the challenge of adequately notifying someone.²⁴ Data limitations can also present challenges to receiving important court notifications or updates for some people. Among our sample, three participants said their phones did not have unlimited data plans. Notifying people about a lawsuit using multiple methods of contact is likely the most effective way to address these issues and reach a higher percentage of people.

Reminders may be an effective tool for increasing participation in ODR as well. In a two-part study, a summons for low-level criminal offenses was redesigned to include court contact information at the top of the page, and stated clearly in bold the consequence for not appearing in court on the front page. These changes reduced the failure to appear rate by 13% on average. For the second phase of this study, researchers first used the redesigned summons and then sent a text message reminder one week before the court appearance, which reduced the failure to appear rate by 21%.²⁵

This study highlights the importance of using effective language and formatting, as well as the benefits of sending parties' reminders to increase use of ODR. In general, ODR platforms do

²⁴ In 2021, 13% of people in the US had moved in the previous year, according to the American Community Survey (ACS). Justin V. Palarino, James K. Pugh, & Brian McKenzie, *Share of Americans who Said They Moved Declined between 2019 and 2021*, United States Census Bureau (Apr. 2023) [https://www.census.gov/library/stories/2023/04/fewer-people-moving-between-2019-and-2021.html#:~:text=Instead%2C%20the%20number%20of%20domestic,ACS\)%201%2Dyear%20estimates.](https://www.census.gov/library/stories/2023/04/fewer-people-moving-between-2019-and-2021.html#:~:text=Instead%2C%20the%20number%20of%20domestic,ACS)%201%2Dyear%20estimates.)

²⁵ Alissa Fishbane, Aureli Ouss, & Anuj K. Shah, *Behavioral Nudges Reduce Failure to Appear for Court*, 370 *Sci.* 6591 (Oct. 2020).

generate text or email reminders to register if the parties' contact information has been entered into the system. Courts may want to consider mailed reminders or reminders if party contact information has not yet been added.

Participants' Perspectives on the Websites

Key Takeaways:

1. Courts should use large buttons or other design elements to clearly indicate what the parties' next step should be.
2. Courts should have prominently placed help links on the homepage.
3. Hyperlinks should be blue and underlined when they are not formatted as buttons.

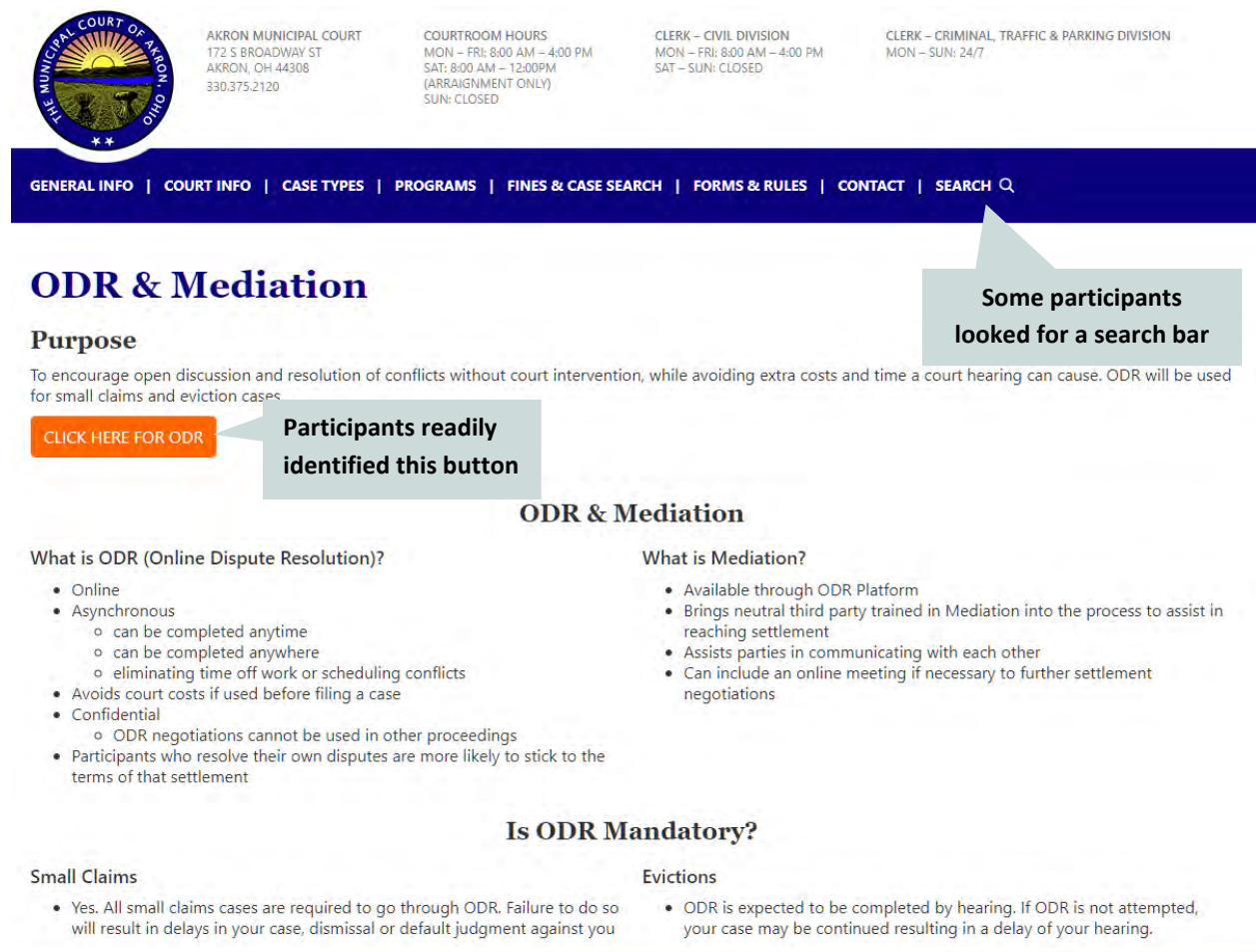
In three of the focus groups, participants viewed the [Hawaii TurboCourt website](#) (Figure 3). The remaining three groups looked at the Akron Municipal Court [ODR & Mediation webpage](#) (Figure 4) before moving to their [ODR platform homepage](#) (Figure 5). In general, participants indicated that the two ODR platform homepages were clear and concise, albeit sparse. Participants appreciated that the websites contained useful information that was not found in the court documents. However, for some people it was challenging to find the right place to register or start ODR on each platform.

Eight participants across four focus groups said the ODR websites were straightforward. For example, one person said about the TurboCourt website, "It's short, sweet, to the point" (MD9). However, three people felt the TurboCourt site looked "very sparse," with not enough information and minimal effort put into the graphics or visual appearance (NH7). Regarding the Ohio ODR platform, one person similarly commented, "It's good, but it just doesn't seem—I don't want to say professional. It just doesn't catch your attention because it's plain" (TX4).

One of the most helpful features of the websites was the amount of information provided. Ten participants liked that the websites provided additional content that was not on the court documents. For example, a Texas participant's first impression of the Akron Municipal Court ODR & Mediation page was, "It just looks really informative in different sections" (TX14). Four others who viewed this page commented on the benefits of seeing the court contact information. "It makes it feel it's useful because it has the hours of the courtrooms, it has the name of the judge on it" and phone numbers to call (TX6).

In addition to the court contact information, participants specifically expressed their appreciation for explanations about ODR, an FAQ section, a video tour and links to more resources that they found on the sites. However, it should be noted that FAQ's are generally not recommended. All important information should be on the primary webpage, not found by clicking to another page. Additionally, FAQ's often include questions that are not actually commonly asked among users and they duplicate content.²⁶

The participants' perception of the Akron Municipal Court ODR & Mediation webpage as being informational and direct was bolstered by their demonstrated understanding of how to use it. This webpage included the clearest indication for the first step to take. Among the three groups who were asked to view this webpage, many people quickly identified the orange button to click in order to begin ODR (Figure 10).



The screenshot shows the top of the Akron Municipal Court website. It features a navigation bar with links: GENERAL INFO | COURT INFO | CASE TYPES | PROGRAMS | FINES & CASE SEARCH | FORMS & RULES | CONTACT | SEARCH Q. Below the navigation bar is the main heading "ODR & Mediation" and a sub-heading "Purpose". A callout box points to a search bar with the text "Some participants looked for a search bar". Another callout box points to an orange button labeled "CLICK HERE FOR ODR" with the text "Participants readily identified this button". The main content area includes sections for "What is ODR (Online Dispute Resolution)?", "What is Mediation?", "Is ODR Mandatory?", "Small Claims", and "Evictions".

Figure 10. Participants found the Akron ODR & Mediation webpage to be informative and direct.

²⁶ Government Digital Service. "Content Design: Planning, Writing and Managing Content. Feb. 25, 2016. <https://www.gov.uk/guidance/content-design/writing-for-gov-uk#do-not-use-faqs>

Some participants were confused by what to do first after they arrived at the Akron Municipal Court’s ODR platform and wanted to begin using ODR. The options provided were to start a landlord/tenant negotiation, start a small claims negotiation, register as a mediator, or enter their case number (Figure 11). Nine people said the first step they would take is to enter their case number. This is good, as that is what the court wants them to do in order to determine whether they need to start a case or if they can just register. However, they believed that when they entered their case number, they would find information about their case. They also did not understand that they would not find their case if the other party had not registered and entered it previously and that they would have to start the case themselves.

For a couple participants, these options did not seem right for a defendant. From this feedback, it is clear that an important step courts can take to facilitate registration is to work with the ODR providers to ensure that the start buttons are large and clear. This points to the need for instructions to be readily available and for the use of plain language for the options, such as “Start Here for ODR,” “Register for ODR,” or “Create a New User Account.”

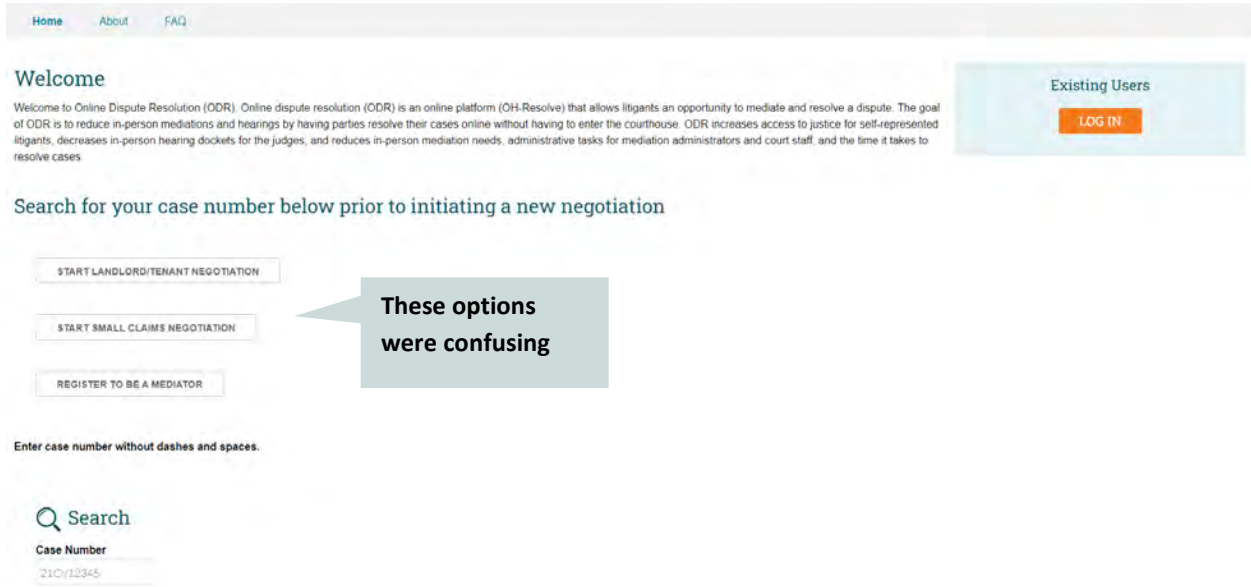


Figure 11. The Akron, Ohio, Matterhorn ODR platform homepage.

Similarly, on the TurboCourt website, some participants were not sure where to begin as a new user. While they quickly identified the Log In option and the social media buttons, they did not easily see a place to create a new account (Figure 12).

Additionally, our participants wanted more information when they reached the Akron Municipal Court ODR site. They looked for FAQs or a video tutorial, as well as a search bar. At least seven people said a search bar would be helpful. In particular, two participants who said they have difficulty reading said they would use the search bar to help them navigate the ODR information. One of these participants explained, “One thing I like about certain websites is that you can put keywords in and it takes you where you need to go ... My favorite part, that little search button. If I need any help, I will just type it in right there” (NH1). Another person, who said he was uncomfortable using the website because of his age and visual impairment, said he would “type in what I’m looking for, exactly what I’m looking for ... Me going through all this, this is intimidating to me. I would just rather go ahead and type” (MD2). However, previous research has noted that people with low literacy often avoid using digital search functions, or experience barriers when using them due to misspellings.²⁷

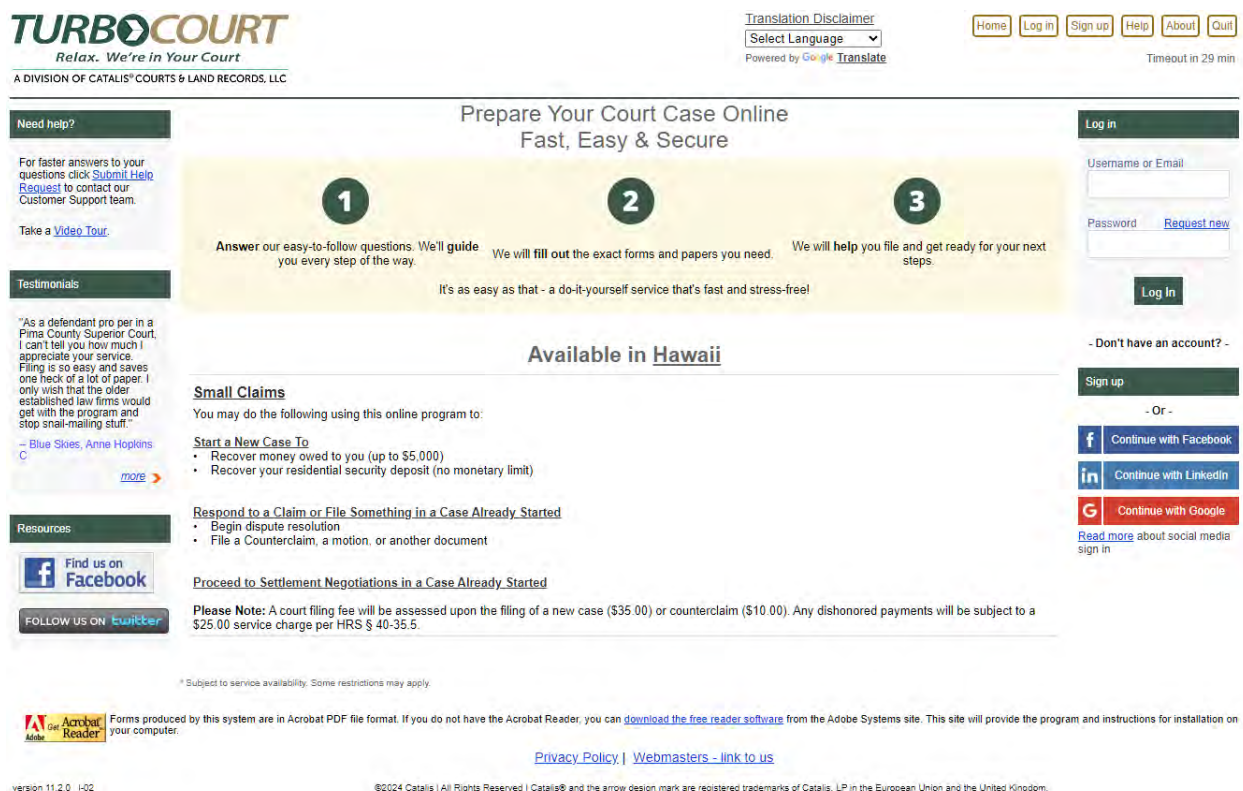


Figure 12. Participants said the website was concise, but they were confused about where to begin to create an account or register as a new user.

²⁷ Sheila Walsh, *Designing Digital Products for Adults with Low Literacy*, YOUTUBE (Jul. 25, 2022), <https://www.youtube.com/watch?v=d1MDLbZoEwQ>.

Formatting of hyperlinks is important as well. When reviewing the TurboCourt site, one participant did not recognize hyperlinks that were underlined and the same color as other text, stating, “Well, I’m looking for the hyperlink. What am I clicking on first?” (MD14). Research indicates that individuals with low literacy are more likely to recognize links that are blue and underlined.

We asked the participants what they would do if they could not find information they wanted on the website. About ten people said they would get their questions answered by using a live chat option if it were available. Five people said they would look for more information on the website, including an FAQ or Help page, or watch a video tour. It is interesting to note that the participants at this point did not say they wanted to call someone, as they did when they received the court documents.

Resource Limitations and Technological Barriers

Key Takeaways:

1. Courts and ODR providers should ensure that their sites are optimized for smartphones and tablets, including formatting for these devices.
2. Courts should provide appropriate help to parties who do not have access to the internet or who have low digital literacy, such as in-person or phone assistance.
3. Courts should work with their ODR providers to incorporate voice-to-text functionality into the ODR platform.

According to data from 2020–2021, in the United States, individuals who have at most a high school diploma and those who are in the lowest income bracket are least likely to have reliable internet access, at 59% and 57%, respectively.²⁸ Low-income individuals and those with at most a high school education are also more likely to rely solely on smartphones to connect to the internet, compared with the US adult population as a whole.²⁹

The participants were very aware of these technological limitations. In every focus group, participants brought up the difficulty technology raised for them or others. The challenges centered on either lack of access or lack of digital literacy. Lack of access was particularly

²⁸ Pew Research Center, *supra* note 5.

²⁹ *Id.*

important to participants. For a few, this was personal. One New Hampshire participant lacked any phone or other device. Another said, “I don’t have a computer” (NH7). Seven others told us they accessed the internet only by phone, indicating they did not have another device.

Other participants did not directly say whether or not they personally experience these resource limitations, but many were aware of the types of challenges people with low incomes would likely face when confronted with this situation. As one participant explained, “Most people don’t have a phone and they don’t have internet” (NH9). Another said, “Some people don’t even have a phone. I saw a woman ... up at the store, she was bragging how she just had electricity in her house for the first time in 25 years” (NH2). A Texas participant similarly said, “because a lot of people don’t use the internet, even though I think majority of people think, ‘oh everyone knows how to use the internet and go around and pull up a website.’ But yes, they’re not familiar with it. Not everybody has a computer; not everybody gets on the internet” (TX5). In addition, a New Hampshire participant noted that some people cannot receive multimedia messages on their phone. They would therefore not be able to receive instructional videos via text.

One person listed a number of concerns when reading the notice of ODR, “What if I don’t have access to a mobile device? What if I don’t have a cell phone? What if no one’s allowed me to use their cell phone? That’s a problem for me. An email address, what if I don’t have an email address? If I did, what if I don’t have a device that I check that email on? ‘Please submit a request for exemption from small claims ODR pilot program.’ What, how? ... Mail, I don’t have a stamp. Now you’re making me go to the post office, and I don’t have money for that either” (MD4).

“I’m just stuck in a different generation, so it’s hard for me to start comprehending...It’s just taking me a long time.”

In addition to the lack of technological devices and internet access, five participants raised the issue of digital literacy. A man in his 60s said, “I’m just stuck in a different generation, so it’s hard for me to start comprehending. I’m working on it. It’s just taking me a long time.” (MD2). Another participant added, “Some people are not good with computers, so going to another website would be a problem” (MD7). One person explained the challenges some might have when attempting to use ODR, stating, “Suppose you’re an older person, you don’t have Wi-Fi in your house ... You don’t have grandchildren, or your grandchildren don’t come over.” (MD2).

Lack of digital literacy was also seen in how the participants interacted with the TurboCourt site. Its homepage was not optimized for tablet or smartphone viewing. The site reduced in scale for these devices rather than being rearranged in a format that would be easier to read. This made it difficult for some of our participants to use the site. Although we offered a tablet to participants who said they primarily accessed the internet with their phone or a tablet, we observed at least three people who did not attempt to zoom in on the site; instead they tried reading the very small print. Only one of the nine was observed to have enlarged the image on the screen. Zooming in on the site created complications as well, since only part of the site could be seen at one time.

These participants' experience with the TurboCourt site, as well as the data on smartphone use nationwide, highlight the importance of considering the use of smartphones and tablets when creating websites. In addition, research has found that people type more slowly on mobile devices than on computers, and that this difference was most pronounced for older individuals.³⁰ This may lead some to become frustrated or annoyed when trying to type their thoughts during a negotiation. All of this indicates that courts should format their websites specifically with mobile devices in mind and that ODR providers should consider ways to reduce the typing burden on parties in ODR, such as providing voice to text functionality.

³⁰ Kseniia Palin, Anna Maria Feit, Sunjun Kim, Per Ola Kristensson & Antti Oulasvirta, *How Do People Type on Mobile Devices? Observations from a Study with 37,000 Volunteers*, THE 21ST INT'L CONFE. ON HUM.-COMPUT. INTERACTION WITH MOBILE DEVICES & SERVICES (Oct 2019), https://userinterfaces.aalto.fi/typing37k/resources/Mobile_typing_study.pdf.

Discussion

As our focus groups demonstrated, the underutilization of ODR, even when courts require it, may stem from a variety of barriers, including:

- Concerns about using text-based ODR
- Skepticism about the authenticity of the mailed court documents and about the ODR platform
- Stress in response to being sued, including difficulty taking in new information and a desire for help
- The presentation of information in terms of formatting and language
- Differing preferences and needs regarding the way parties learn about ODR

Developing effective court communications that are easy for many people to understand might address a number of the barriers we identified and provide sufficient support for most self-represented litigants. As a supplemental form of support, court contact information on all communications will provide added confidence in the authenticity of the communications, as well as reassurance that some people may need before participating in ODR.

Participants had various concerns about text-based ODR, . They worried that text communications could be misinterpreted, that the other party could be belligerent, and that their data would not be secure. They wanted a facilitator, such as a mediator, or a monitor to smooth communication and ensure the other party is held accountable. Alternatively, they wanted a record of the conversation to be available for greater accountability. They also wanted assurance that their data was safe and confidential. Participants' comments indicated the need for courts to be transparent early on about how they keep data on the ODR platform secure and about the extent to which communications are confidential.

Their concern about the security of their information dovetailed with their wariness about whether documents and websites are trustworthy. There are steps courts can take to enhance perceptions of legitimacy of the court communications. Use of an official seal and court name that remain consistent across the mailed documents and website indicates authenticity for some people. Providing contact information for the courts also adds to the sense of trust and allows people to alleviate their skepticism through a phone call.

When we concluded our focus groups by asking participants to reflect on the most important thing for courts to know about how to communicate better, the most common response was a request for simpler language to be used in the material, as will be discussed later. The second-most-common response was a recommendation to provide someone who can help parties through the ODR paperwork and process. The participants mentioned multiple benefits of speaking to a knowledgeable court staff person. This assistance would provide many people with reassurance of their understanding of the material and the steps they need to take, giving them the confidence to move forward with their case. Some participants felt that talking to a lawyer would ensure they did not do anything wrong in their case and could save them time through the process. And several participants said they would want to contact a court staff member to verify that court paperwork was authentic before moving forward with the instructions on the documents.

Participants also demonstrated the importance of taking technological access and digital literacy into account when providing information online or mandating ODR. Without reliable access to a computer or mobile device, broadband services or sites that take smartphone use into account, ODR users could experience lag times or other problems when trying to resolve disputes, which could lead parties to become frustrated or even to stop participating in the ODR process. Others do not have access to the internet or lack the digital literacy to be able to use ODR. For these individuals, courts should consider offering other dispute resolution options.

In addition to these more general recommendations, our findings point to specific actions that courts can take to optimize the comprehensibility of their documents, website and videos. These are discussed below.

Court Documents

Previous research³¹ and our focus group findings indicate that making minor changes to the court documents will likely improve comprehension. Courts should omit legal jargon and other unfamiliar terms, or define unfamiliar terms if they are needed. Courts should also define acronyms such as “ODR” before using them. In addition, the documents should provide clear step-by-step instructions and pictures for individuals who struggle to read. However, the images should be simple, informative and pertinent to the content. Otherwise, the pictures may be distracting rather than helpful.

³¹ Joseph Kimble, *supra* note 23.

Document format is also important to comprehension. When designing documents, courts should incorporate white space to help organize the concepts involved. Courts should also use bullet points and fill-in-the-blank questions to enhance the comprehensibility of documents and comfort of readers.

Website

In addition to wanting a court website that appears trustworthy, including an official seal, court name and contact information, our focus group members wanted to be able to quickly determine what they needed to do next after they arrived at the website. This means courts should make each step of the registration and ODR participation process the focal point of their webpages. To do this, they should use plain language labels for buttons or links, as Akron did with its large, orange “Click here for ODR” button. Our focus group findings also indicate that courts should supply step-by-step instructions as well as provide information and instructions via video and in written form.

Videos

Our participants wanted videos that were easy to follow and provided step-by-step instructions. Given their feedback, courts that create videos should show the visual of the step being explained, along with an arrow or hand pointing to the exact item being discussed. Using a human voice to narrate each step is also recommended. The video should not move too quickly from one visual to the next. The participants rated the Hawaii and New Mexico videos more highly than the Ohio video, indicating that videos with simple visuals and narration are likely more effective than sleek, professional-looking videos.

Conclusion

By taking these steps to enhance comprehension of court communications, and ensuring a knowledgeable court staff person is available to assist parties who have ODR questions, courts can address countless barriers to ODR participation. Recognizing and accounting for these barriers could in turn increase participation in online dispute resolution, relieving courts’ caseloads and providing parties with a convenient and trustworthy option for handling their cases.

See RSI’s [Guide for Courts](#) for more detailed guidance on how to create documents, websites and videos that are more accessible to individuals who have low literacy.

Appendix A: Methodology

Focus Groups

Our goal in designing our research was to obtain a diverse array of perspectives from different regions of the country. In addition, best practice for focus groups is to have homogeneous groups. We selected a former mill town in rural New Hampshire with a population in 2022 of 9,518 that was 91% white and had a median household income of \$41,658; a large suburb of Houston, Texas, that in 2022 had a population of 147,662 that was 70% Latino and had a median household income of \$64,698; and Baltimore, Maryland, which in 2022 had a population of 569,631 that was 61% Black and had a median household income of \$58,349.

We also wanted to obtain the perspectives of individuals who are most likely to encounter the barriers to comprehensibility and usability of court resources. We therefore wanted participants whose backgrounds resemble those typical of self-represented litigants, with an emphasis on individuals who have low literacy. To that end, our recruitment criteria were individuals with no more than some college and who had incomes of less than \$50,000.

Using these criteria, we recruited participants in New Hampshire through flyers at the local social services agency, at the food pantry and at town hall. Through the flyers, we recruited six participants. We recruited another six participants in person in the town's downtown area. In both our New Hampshire focus groups, many of the participants knew each other.

Because of the trouble we had recruiting in New Hampshire, we hired a professional recruitment company to find 14 participants for us in Texas and 15 participants in Maryland. The recruiter used a database of people who had registered to participate in focus groups. Although they met our criteria, these groups seemed to have on average a higher literacy and technological sophistication than most of the participants in New Hampshire. There were, however, individuals among them who lacked technological ability and/or had reading difficulties.

FOCUS GROUP DEMOGRAPHICS			
	Maryland	New Hampshire*	Texas
Education			
High School Diploma or Less	7	6	8
Some College/Trade School	8	0	6
Income			
<25,000/year	8	5	6
25,000 - \$50,000	7	1	8
Gender			
Female	6	3	7
Male	9	3	7
Age			
18 - 31	3	1	5
32 - 41	4	3	3
42 - 51	4	1	3
52 - 65	2	1	3
> 65	2	0	0
Race/Ethnicity			
African American	15	0	0
Latino	0	0	14
White	0	6	0

*We did not obtain demographic information for six participants. However, the rural city in which we recruited them is predominantly white, with 87.8% identifying as white, not Hispanic or Latino (US Census Bureau, 2022). The six individuals appeared to resemble the population of this city.

Data Collection

Prior to conducting focus groups, we developed a protocol containing all questions for participants and instructions for activities we would ask of them. Our Advisory Board reviewed the protocol and court materials we planned to show participants. They provided thoughtful feedback, which we then incorporated before receiving IRB approval through the Heartland Institutional Review Board.

The focus groups were held in person in each state and lasted 90 minutes each. All focus groups were audio-recorded. RSI’s Jennifer Shack and Rachel Feinstein were both present for all focus groups to moderate and take notes. We went over the consent form verbally, and all participants signed this before beginning. The focus group followed the questioning route on the protocol, with follow-up questions as needed to obtain clarification or more insight.

Materials

We looked at states that we knew had thoughtfully developed comprehensive informational materials geared toward self-represented litigants and selected Hawaii and Ohio. We asked participants to review hard copies of a Hawaii Notice to Defendants and a Statement of Claim that they would receive in the mail if they were involved in a small claims lawsuit. We filled in the Statement of Claim with realistic pseudo information for a small claim to simulate the content someone might be provided. We then asked questions about first reactions to the documents, the comprehensibility of the material, and what barriers participants might encounter when attempting to follow the instructions.

Additionally, we enlarged various sections of a Hawaii “Guide for Defendants,” an Ohio “Planning your Online Dispute Resolution Preparation Questions” guide, and an Ohio “Dispute Resolution Guidance” document, printed them on posters and placed them around each focus group room. During the focus groups, we instructed participants to put green stickers on sections of the guides they felt most people would find easy to understand, and red stickers on sections they thought most people would find confusing. Then we followed up with participants about each of these sections to learn why they perceived each section as easy to understand or confusing.

After participants provided their perspectives on the court paperwork, we asked them to look over one of two ODR registration platforms on laptops or tablets. For three of the focus groups, participants reviewed the Hawaii TurboCourt webpage, and for the other three focus groups, participants viewed the Akron, Ohio, court homepage and its ODR platform. We also asked participants to review ODR videos to identify the features that are most useful or that present barriers. Participants reviewed the New Mexico ODR video, “Getting Started in Online Dispute Resolution,” the Hawaii video, “Register for ODR (by Defendant)” and an Ohio ODR video. For two of our focus groups, we sought feedback on Ohio’s “What is OH-Resolve” video. After hearing participants’ perspectives on this, we recognized the need to use a video with content more similar to that of the New Mexico and Hawaii videos in order to make a clearer comparison. Therefore, for the remainder of our focus groups, we had participants review the Ohio video, “How to Start Using OH-Resolve.”

Analysis

All six focus groups were audio-recorded and then professionally transcribed. The RSI research team coded the six transcripts using the software program Dedoose. Three researchers blind-coded the first transcript and determined a coding scheme. All researchers then went through

the first transcript together and arrived at consensus for all of the codes where discrepancies existed. For the remaining transcripts, two researchers blind-coded each transcript. We then discussed and resolved discrepancies between coders.

We organized the codes into broader themes by identifying the similarities and relationships among codes. Then we examined the extensiveness of the codes in the data, or how frequently they occurred among different people. Additionally, we referred to the memos we had drafted after each focus group session, which pertained to topics that arose with more intensity or seemed to be of particular importance to participants.³²

Using the Dedoose analysis features, we observed additional patterns in the codes, such as places where the codes co-occurred with the highest frequency. For example, our code “wants help” co-occurred with “phone call” 18 times in the data, reflecting a common desire to obtain help over the phone. Our code “wording is confusing” overlapped with “comprehensibility” 31 times, which indicates challenging words were a significant barrier to comprehension. These analytical features highlighted important patterns across the data, which we could then analyze in more depth for a better understanding of why there were connections between particular codes.

Codebook
Barriers for paperwork
Emotions
Formatting (paperwork barriers)
Missing information (paperwork barriers)
Wording is confusing
Barriers for videos
Lack of Information (videos)
Reasons they would not watch the video
Barriers for website
Confusing features (website barriers)
Emotions
Lack of information (website)
Reluctance to sign'-in
General barriers
Distrust
Resource limitations
Trouble reading
General perspectives
Trust

³² R.A. Krueger & M.A. Casey, *Focus Groups: A Practical Guide for Applied Research* (5th ed. 2014).



Wants help
General solutions
Comprehensibility (general solutions)
Quick and easy
Great quotes
How often check mail
How would participants go about finding out more about the program after the initial notice?
Go to the courthouse
Help/FAQ
live chat
Online in general
Phone call
Search bar
Website for the court
In what format (video, text, FAQ, etc.) would people like more information about ODR?
Paper only
Paper with pictures
Paper with videos
Video
Website: pictures and words
Website: words only
Perspectives on ODR
Accurate interpretation (ODR)
Misunderstandings (ODR)
Text'-based ODR
Perspectives on paperwork
Assessing legitimacy of paperwork
Comprehensibility (paperwork)
Accurate interpretation
Misunderstandings
Self'-explanatory
Struggling to read
Emotions
Bad
Confidence
Good
Helpful
Visual appearance (paperwork)
Formatting
Perspectives on videos
Comprehensibility (videos)
Dislikes



Emotions
Confidence
Helpful (videos)
Likes (videos)
Visual appearance (videos)
Perspectives on website
Accurate interpretation
Assessing legitimacy of website
Comprehensibility (website)
Confusing features
Emotions
Confidence
Helpful features on website
Visual appearance (website)
Previous experience with courts (self or someone you know)
Emotions about court in general
Experience with lawsuits
Bad experience
Good experience
Prior experience with small claims
Prior experience with ODR
Relevant personal background
Solutions for paperwork
Formatting (solutions)
Helpful tools (paperwork)
Language (solutions)
Legitimacy (solutions)
More information (solutions)
Solutions for videos
General benefits of videos (video solutions)
Likes (solutions for videos)
Solutions for website
Formatting (website solutions)
Helpful Tools (website solutions)
Language (website solutions)
Legitimacy (website solutions)
More information
Sign'-in (website solutions)
Visual appearance (website)
Through what communication vehicle (letter in mail, email, phone, website, etc.) would people like information about their case?
What information do participants want that they are not getting from this material?
Contact information

Explanations of what ODR is and the process
Reasons for the lawsuit
Website for info

Limitations

Previous research has noted that people who have low literacy skills often experience shame around reading challenges, making it difficult to measure how common this is.³³ Additionally, we designed our focus group protocol with intentional sensitivity toward people who have low literacy skills and avoided asking comprehension questions that would cause people to feel pressure to discuss their reading challenges openly. (See Appendix B for focus group protocol.) While we cannot report on the number of participants in our sample who have low literacy skills, throughout the report, we made note of some comments shared by individuals who openly identified as struggling to read, since these insights may be particularly useful when designing communications for people who have low literacy. Because we recruited participants based on income and education with the intent of including a large sample of people with low literacy skills, we recognize it is very likely that additional participants also struggled with reading but did not wish to share this information with us openly, and we are unable to specify all comments associated with people who struggle with reading. However, it was also clear that some participants had a higher literacy level than we originally were seeking in participants.

Using focus groups offers many advantages, including the ability to explore topics and discover new ideas by hearing from a variety of people who build off one another's comments in the group dynamic.³⁴ However, this design does not use a random sample to generate results that are generalizable. Throughout the report we often note the extensiveness of various perspectives by indicating the number of participants who were in agreement. This is one way to gauge how common a perspective was held among our sample. However, because of the design of focus groups, we did not require all participants to answer every question, and therefore many participants may have agreed or disagreed with opinions without sharing this. The purpose of these focus groups is not to make generalizable claims but rather to unearth barriers people might experience when using various court communications and identify possible solutions that could be helpful to many people who are self-represented litigants.

³³ Sheila Walsh, *supra* note 30.

³⁴ R.A. Krueger & M.A. Casey, *supra* note 35.



Appendix B: Focus Group Protocol

Introduction

10 min

1. **Welcome:**

Thank you for coming and helping us with this project. Please help yourself to coffee and snacks now. You can grab some and take them back to your seat.

We are excited to get your valuable feedback today! But first, we want to get to know you all a little bit better. So please write your first name on your name tag. [*Hand out name tags and markers*].

2. **Introduce Ourselves** I'm Rachel Feinstein, a researcher at Resolution Systems Institute, and this is Jennifer Shack, the Director of Research. Before today, you have been talking with Jasmine, who is our Research Associate, but she is not here today.

3. **Background**

We are here with Resolution Systems Institute, also known as RSI. RSI is a non-profit in Chicago. We focus on making sure everyone has equal access to court services.

4. **Brief overview of project**

We are here today to talk about how people view information that courts give them about small claims lawsuits. Small claims lawsuits usually involve a person or company suing another person or company for money. We will ask you to look at documents that courts use to explain what someone should do for their case when they're in a lawsuit. And later, you will also look at a court website and tell us your thoughts about it.

We believe you can provide valuable information and ideas about how courts can best communicate with people who are involved in these types of legal cases. We plan to use your input to improve the courts' documents and websites.

5. **Process**

Now that you have an idea of what we are doing, let's talk about how we're going to do it. This focus group will last 1.5 hours.

First we will go over and ask you to sign the Consent Form and Code of Conduct form. If you want to stay and participate in the focus groups, we ask that you sign these forms. Then we will talk about the ground rules for our conversation today. And then start some activities and have some questions for you. At the end, you can ask us questions. You will get your \$150 debit card as a thank you once we have completed the focus group today. So, first, the Consent Forms:

[Hand Out Consent and Code of Conduct Forms]



6. Consent Forms

We are going to pass out some consent forms and a code of conduct form. We will give a summary of the forms, and at the end, let us know if you have any questions.

Paraphrase Consent Form and Code of Conduct Form:

We are required to go over this with you before we start.

First, looking at the consent form: For this study, we want to find out what people think of court documents, a website and videos. With your perspectives we will make recommendations to the courts to improve this material. We will ask you some questions to answer as a group, and some you answer on paper surveys, and we will read all the questions aloud. We will also ask you to move around the room for some activities, and get your feedback on a variety of things courts provide to people.

Being here is completely voluntary. It's your choice to participate in this focus group today. The risks are very minimal. For example, we might ask you a questions you're not comfortable answering and you do not have to answer anything you don't want to.

Because this is a group process, we ask that everyone here keep the comments and names of people here private and not share them with friends or family. However, we cannot guarantee what you say here won't be shared by someone else in the group. As researchers, we will keep your information confidential. We will be audio-recording and when the recordings are written up, we will delete the audio files, and any personal information like your name or phone number will be deleted from our records. So anything you say will not be connected to you personally.

To agree to participate today including being audio-recorded, please sign the 3rd page of the consent form.

The code of conduct form also says you are participating voluntarily and if you stay until the end you will be paid a \$150 debit card. You're being paid as a focus group participant, not an employee of RSI, you agree to participate to the best of your abilities and comfort-level, to keep your phone on mute and take it outside if you need to answer a call. And you agree to respect everyone in here, including not to discussing what is shared today with friends or family outside of this group. If you agree, please sign the code of conduct form on the 2nd page, if you agree.

[When picking up copies: Thank you! Do you want an unsigned copy?]

7. My role as the moderator is to guide the conversation. Jen and I will be mostly listening and learning from you, not agreeing or disagreeing with anyone. Jennifer will take notes, and I will ask you questions. I may ask someone who is talking a lot to hold back and give others a chance to talk more, or ask someone who is not talking if they would like to share something.
 8. There are no right or wrong answers. We are interested in your opinions. We do not work for the courts, and all we want to know are your honest thoughts about the documents and
-



website we will show you today. We expect people in this room to have different opinions. If you do disagree with what someone has said, we encourage you to speak up! We want to hear different perspectives.

OPENING QUESTION

5 min.

Warm-up Activity: 4 corners (strongly agree, somewhat agree, somewhat disagree, strongly disagree)

Now we will do a warm-up activity. I will read a statement, and if you strongly agree with it, you walk to this corner and wait there (*pointing*). If you somewhat agree, go there. Somewhat Disagree, there. And strongly disagree there. And all the corners are labeled with a sign.

1st Statement: Dogs are better than cats.

With the people in your group, introduce yourself and explain why you chose the corner you did.

Now, I will read another statement and you can move to the corner that fits your next opinion.

2nd Statement: (*Baltimore, MD*): Summer is the best season

(*Pasadena, TX*): Winter is the best season.

With the people in your group, introduce yourself and explain why you chose the corner you did.

(we will vary this statement by location to increase likelihood of varied responses among participants)

(*Berlin, New Hampshire*): Summer is the best season

1. Now you can sit back down. We will go around the room and each of you can introduce yourself—You can tell us your first name and your favorite food.

TRANSITION QUESTIONS

5 min.

[Moderator acknowledge each response with a nod, “okay,” or “it looks like 2 of you/all/none...” for recording to pick up]

Now let’s just go through some quick questions...

1. When you hear the word “court,” what is the first thing that comes to mind?
2. Raise your hand if you have heard of online dispute resolution. *Acknowledge with nod or “It looks like # of you, all/none of you,” “Okay, you can put your hands down now.” [If*



someone raises hand, follow-up: Raise your hand if you have participated in online dispute resolution?]

3. Raise your hand if you know someone who has been involved in a lawsuit. *Acknowledge with nod or “it looks like all/none of you.” [If someone raises hand, follow-up: What was your/their experience like?]*
4. Raise your hand if you know someone who has been involved in a small claims lawsuit before. *Acknowledge with nod or “It looks like all/none of you,” “Okay, you can put your hands down now.” [If someone raises hand, follow-up: What was your/their experience like?]*

[Hand out Questionnaire 1 and Pens]

5. ***[Communication Questionnaire 1]*** We will read each of these questions out loud and you can answer each one on your own by putting a check mark by your answer.
[Collect Questionnaire 1, participants keep pens]

KEY ACTIVITIES *[Meat of the discussion]*

1 hour

Activity: Review Notice of ODR that defendants receive with their summons

[Hand out highlighter with Hawaii Notice to Defendant & Hawaii Statement of Claim for each participant]

1. Look over these court documents for a minute and then we will talk about your first reaction to them. *[look them over 1 min.]*
What is your first reaction to these court documents?
2. Imagine you received these in the mail, how would you feel about your situation?
(follow-up: How confident would you feel? How overwhelmed would you feel? Would you feel anxious? Would you feel angry? Empowered?)
3. Looking at the Notice, what do you think this document is for?
4. Now, look through the Notice and highlight words or phrases that you think could be confusing to someone. *[Give 1-2 minutes]*
What are some words or phrases you highlighted?
5. The Notice says, “The Plaintiff(s) whose name is listed in the statement of claim has filed a case against you in small claims.” Raise your hand if you think most people would find this sentence unclear? *(If people raise their hand, follow-up: What parts might be unclear to someone?)*



6. And when the Notices also says, “Instead of going to trial at the courthouse, you (and your co-Defendants) and the Plaintiff(s) may negotiate between yourselves to reach an agreed resolution of your dispute using the online system,” raise your hand if you think most people would find that sentence unclear? (*If people raise their hand, follow-up: What parts might be unclear to someone?*)
7. What information would you want, if you were being sued, that you don’t see on the Notice or Statement of Claim?
8. What does the court want you to do next?
9. What would you do if you had a question about the online program talked about in these documents?
10. Do you think some people would prefer to be given a video that says all the information that’s on these court documents and explains it that way instead or along with the documents?
11. Would pictures on these documents help with understanding what they are saying?

ACTIVITY – Posters & Stickers

[Hand out smile/sad stickers to participants]

Instructions:

As you can see, we have put up posters around the room. These posters are examples of guides that courts give people when a lawsuit is filed against them. The guides have instructions for using the online dispute resolution option.

One of these guides is from Hawaii courts; the other is from Ohio. We will have half of you start over here with these two posters (*pointing to HI*) and half start with these two posters. We want you to look at these guides, and in each colored box put either a smiley face sticker if you think most people would find that section easy to understand. Or put a sad sticker if you think people would find that section confusing. And remember, there are no right or wrong answers. When you are done with the first two posters, move to the other two, then when you’re done with all of them sit back down.

This half can start over here. This half can start over there.

(We will divide the group in half, and direct one half of the group to start with the Hawaii posters and the other half to start with the Ohio posters, then move to the other as they finish the first, to counterbalance the potential influence of one court’s guides on perceptions of the other court’s guides.)



Follow-up Discussion:

12. What makes this part easy to understand for some people? [*part with smile stickers*] [*Repeat question with other Smile Face sections.*]
13. What makes this part confusing for some people? [*part with sad faces*] [*Repeat question with other sad face sections.*]
14. What could make this part better?
Cue: Do you think it would help most people to see more pictures with explanations here, or have a video that explains it, or call someone on the phone with their questions, or use a chatbot where you ask a question in a computer program on the court’s website and it answers you like you’re having a conversation with another person?
[*Repeat questions with other sections*]

ACTIVITY - Accessing and Navigating Website

[*Place laptops where we want people to sit; divided into two groups for recording Ohio: <https://akronmunicipalcourt.org/programs/odr-mediation/> For Baltimore –1 group show OHIO WEBSITE and 2nd group show Hawaii: on Notice*]

Instructions: Okay. Thank you so much for your answers. That’s the end of our questions on court documents. So now it’s time to talk about the court website. As you can see, we put laptops around the room. You are going to work with the person next to you (*moderator will specify, “person to your right/left side, if necessary*). And you and your partner are going to use the laptops to look at the court website together. Please find a laptop and your partner now. If your laptop screen is not working, please ask for help. Then follow the instructions on the Notice to get to the website. If you have any difficulty with getting to the website, please raise your hand, and one of the staff members will come over to check with you about it. When you get to the website you can scroll up and down but don’t click on anything yet.

15. What are your first impressions of this website?
16. If you received a Notice that you were in a lawsuit, and followed the instructions to get to a website like this, what would you do here first?
17. What information would you be looking for on this site? *Follow-up:* Can you find it?
18. What steps would you take if you wanted more information that you didn’t see on this page? (*Prompts:* would you search the website, call the number on the form, use a chat bot, google your question, ask a friend?)
19. What are you supposed to do once you get to this site, based on the Notice instructions?
20. How could this website be more helpful to you? (*Cue:* *videos giving instructions, pictures with short descriptions, a person you could call, a person you could text; would one of those be most helpful or something else?*)

ACTIVITY - Video Clips

[*Moderators project videos that explain ODR for group to watch together.*] (*counterbalance order of clips across focus group sessions*)



Now we are going to show you three short videos that give information about the online court program we have been talking about today. After each video I will ask you some questions to learn what you think about these videos, what you like about them, and how they could be improved.

Watch 1st clip Ohio: <https://www.ohiochannel.org/video/oh-resolve-video-1-update-2>

21. What is your first impression of this video? [*follow-up*: what do you like/not like about it?]
22. How comfortable would you be following the instructions from the video after watching it? What would still be confusing to someone after watching that?
23. What is one thing you liked about this videos?
24. What is one thing you did not like about this videos? (*prompts*: voices, robot voice, people in suits, just picture of a website with no people, music, no music, too many words on the screen, etc.?)

Watch 2nd clip Hawaii: <https://turbocourt.fleeq.io/1/ry4umfylcd-9geu5b12pa>

25. What is your first impression of this video? [*follow-up*: what do you like/not like about it?]
26. How comfortable would you be following the instructions from the video after watching it? What would still be confusing to someone after watching that?
27. What is one thing you liked about this video?
28. What is one thing you did not like about this video? (*prompts*: voices, robot voice, people in suits, just picture of a website with no people, music, no music, too many words on the screen, etc.?)

Watch 3rd Clip New Mexico: <https://www.youtube.com/watch?v=dpFeSQ9sfWM>

29. What is your first impression of this video? [*Follow-up*: What do you like/not like about it?]
30. How comfortable would you be following the instructions from the video after watching it? What would still be confusing to someone after watching that?
31. What is one thing you liked about this videos?
32. What is one thing you did not like about this videos? (*prompts*: voices, robot voice, people in suits, just picture of a website with no people, music, no music, too many words on the screen, etc.?)

ENDING QUESTIONS

10 min

33. After going through all of this today, what is your understanding of what Online Dispute Resolution is? [*follow-up*: did you feel like your understanding of it came most from the videos, poster activity, papers, other people in here, something else I said, or the combination?]



34. Thinking about everything we talked about today, what do you think is most important to tell the courts about how to communicate better with people?
35. *We provide brief oral summary of main points from discussion:* Is this a good summary of what we discussed today?
36. Are there any other main points discussed that you think we didn't summarize?

Thank you

Thank you for sharing your important opinions with us today. Are there any questions you have for us? Now we are done with our focus group. We will give you your debit cards and you can go. Thank you!



Questionnaire

Please answer some questions about how you use technology.

How often do you check email? (Please check one.)

- Once a month
- Once a week
- Once a day
- Multiple times a day
- Never

How often do you check texts? (Please check one.)

- Once a month
- Once a week
- Once a day
- Multiple times a day
- Never

How do you access the internet? (Check all that apply)

- Computer
- Smartphone
- Tablet
- None of the above
- Other: _____
- I never access the internet

If you access the internet, where do you access it? (Check all that apply)

- At home
- At work
- At the library
- At another public location (e.g. McDonalds, Starbucks)
- I do not access the internet

Do you have unlimited data?

- Yes
- No

If a court needed to let you know a lawsuit was filed against you, what is the best way to let you know? (Rank the choices from 1-4. 1 = Best and 4 = Worst.)

- _____ Mail
- _____ Text message
- _____ Email
- _____ Phone call

How would you want to receive updates on your lawsuit? (Rank the choices from 1-4. 1 = Best and 4 = Worst.)

- _____ Mail
- _____ Text message
- _____ Email
- _____ Phone call

Appendix C: Court Documents Used in Focus Groups

The court documents on the following pages were graciously provided by the Supreme Courts of Hawaii and Ohio. The use of these documents in the focus groups is described in the Methods section of this report and throughout the focus group protocol.

**Small Claims – General statement of claim and notice
(#1DC06)**

**In the Small Claims Division of the
District Court of the First Circuit
HONOLULU _____ Division
State of Hawai‘i**

Please read these instructions before you start the form

How to use this form

Use this form to file a small claims case if you believe someone owes you \$5,000 or less.

When you file this form, you are called the **Plaintiff**. The person you want a judgment against is called the **Defendant**.

This form is 3 pages and has 2 parts:

Case number: 1000-1000-1000

Part I: The **Statement of Claim**, including your sworn statement about your situation (called a **Declaration**).

Fill out Part I to give the Court the details about your case and to tell the Court what you would like to happen.

Part II: A **Notice of Hearing**. The Court Clerk will use this part of the form to schedule a hearing for your case. At the hearing, you will be able to present evidence and tell the Judge why you should win this case. The Defendant will have the same opportunity.

When you have finished the form and the Court has scheduled a hearing, you must deliver a copy of the full form to the Defendant. You can find more information on the **Service of Process Information Sheet**.

Part I

STATEMENT OF CLAIM

1 Give the Court your contact information and as much of the Defendant’s contact information as you can. If you have an attorney, give the Court your attorney’s contact information.

Your name,
address,
telephone
number, and
email:

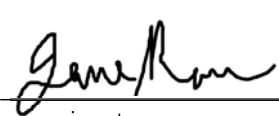
John Doe
1234 Main St.
City, State
603-888-8088
Johndoe@gmail.com

Defendant’s
name,
address,
telephone
number, and
email:

Sam Smith
4321 North St.
603-888-0000
Samsmith@gmail.com

Your attorney’s
name, attorney
number, firm
name, address,
telephone
number, and
email:

Jane Roe
Law Firm
3232 Main St.
603-000-8888



Attorney signature

On the next page, you will give the Judge more information about your case and what you would like to happen. You will then sign a Declaration, swearing that the information in this form is true.

2 Give the Court information about the money that the Defendant owes you.

The Defendant owes me this much money:

\$ 2,500.00

The Defendant has owed me this money since this date:

Month	Day	Year
03	15	2022

This is why the Defendant owes me money: (Attach another sheet if you need more room.)

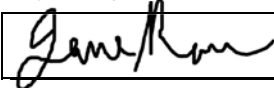
I own an auto repair shop. On 5/1/23, Sam Smith brought his car in to be repaired. I completed the repair to his satisfaction. On 5/4/23, I gave him an invoice and he took his car. I have not been paid. I am now demanding payment for work performed.

3 Read the information below and then sign the Declaration.

I would like the Court to order the Defendant to pay me the amount listed above. I would also like the Court to order the Defendant to pay me interest, costs, and fees that the Court believes are just and reasonable.

PLAINTIFF’S DECLARATION

The information in this claim is true and correct. I understand that I may be prosecuted for perjury if I have stated anything in this form that I know is not true.

Your signature: 

Today's date: 08-01-2023

Part II

NOTICE OF HEARING

4 Fill in the Defendant’s name below and then take or mail the form to the Court. Court staff will schedule a hearing and will fill out the rest of Part II then return it to you to serve.

To: Sam Smith
(Defendant’s name)

The Plaintiff has filed this Statement of Claim. A Judge will hear arguments from both the Plaintiff and the Defendant at the place and time stated here: **YOU MUST CHECK IN 15 MINUTES BEFORE YOUR COURT HEARING.**

Place:	
Honolulu Division	Kauaikeouli Hale - 1111 Alakea Street, Honolulu – 10 th Floor For remote appearance go to www.zoom.us Meeting ID 669-372-3318 or call 1 (888) 788-0099.
Ewa Division	870 Fourth Street, Pearl City, Honolulu, Hawai‘i For remote appearance go to www.zoom.us Meeting ID 779-575-4192 or call 1 (888) 788-0099.
Ko‘olaupoko /Ko‘olauloa Division	45-939 Po‘okela Street, Kāne‘ohe, Hawai‘i For remote appearance go to www.zoom.us Meeting ID 928-747-9610 or call 1 (888) 788-0099.
Wahiawā or Waialua Division	1034 Kilani Avenue, Wahiawā, Hawai‘i For remote appearance go to www.zoom.us Meeting ID 357-427-7279 or call 1 (888) 788-0099.
Wai‘anae Division	4675 Kapolei Parkway, Kapolei, Hawai‘i For remote appearance go to www.zoom.us Meeting ID 483-947-9811 or call 1(888) 788-0099.

Date & time: 08-21-2023 8:45 am

If you need to mail or deliver anything to the Court, use this address, even if your hearing is at another location:
1111 Alakea Street, Honolulu, Hawai‘i 96813 – Third Floor

Clerk's signature: /s/ Clerk Jane

Today's date: 8-02-2023

Here is more information to help both parties prepare for the hearing.

What if I don't come to the hearing?

If you are the Defendant and you do not come to the hearing on the date and time shown above, the Court may order you to pay the Plaintiff the amount requested in the Statement of Claim. This is called a Default Judgment.

If you are the Plaintiff and you do not come to the hearing, the Court may dismiss your case.

May I hire an attorney?

Yes. You may come to the hearing with or without an attorney.

May I bring witnesses and documents to support my case to the hearing?

No, the hearing is not a trial and witnesses do not need to be present. If and when the Judge schedules your case for trial, witnesses must come to court on the trial date.

At trial, you may also ask the Judge to look at documents that support your case. You must bring those documents, with at least 2 copies, to the trial.

How can I make sure my witnesses show up for the trial?

The Court can help you make sure a witness comes to the trial by issuing a subpoena. If you wish to subpoena witnesses, contact the Clerk of Court as soon as possible after you receive your trial date.

How can I get the case moved to a different court?

A small claims case can only be transferred to the Court's Regular Claims Division if the Plaintiff agrees to the transfer. If the Plaintiff agrees to the transfer, you must pay the regular claims filing fee to this Court.

Defendant, if you file a counterclaim for more than \$5,000, then either you or the Plaintiff may ask for a jury trial. Once the jury fee is paid, the Court will decide if the case should be transferred to the Circuit Court.

If I lose the case, may I appeal it?

No. In a small claims action, the Judge's decision is final. You **MAY NOT** appeal a judgment of the Small Claims Division.

Instructions to the Plaintiff about delivering this form to the Defendant

You must deliver a full copy of this form to the Defendant, either by registered or certified mail, with restricted delivery, or by personal service. Please read the Instructions on the **Service of Process Information Sheet** carefully before you try to serve the Defendant.

Restriction on personal service: This claim may not be personally delivered between 10:00 p.m. and 6:00 a.m. unless it is served at a location that is open to the public, or unless a Judge of this Court, by written order, permits personal delivery during those hours.



Americans with Disabilities Act Notice

If you need an accommodation for a disability when participating in a court program, service or activity, please contact the ADA Coordinator as soon as possible to allow the court time to provide an accommodation:

- Call (808) 538-5121; or
- Send an e-mail to adarequest@courts.hawaii.gov

The court will try to provide, but cannot guarantee, your requested auxiliary aid, service or accommodation.

If you need help with this document, please contact the District Court Service Center at **PHONE NO.** (808) 538-5629 • **VISIT** 1111 Alakea Street, Third Floor.



NOTICE TO DEFENDANT(S) OF ONLINE DISPUTE RESOLUTION

Plaintiff **must** serve this Notice to the Defendant along with the *Statement of Claim* and *Notice of Hearing*.

You have received this Notice because:

- The Plaintiff(s) whose name is listed in the *Statement of Claim* has filed a case against you in Small Claims.
- You are a Defendant in this case. If you have an attorney, give this *Notice to Defendant* to your attorney along with the *Statement of Claim*.

The image shows a thumbnail of the 'Small Claims - General statement of claim and notice' form (DC06). The form is titled 'In the Small Claims Division of the District Court of the _____ Circuit Division, State of Hawaii'. It includes instructions on how to use the form, a section for the Plaintiff's name and address, and a section for the Defendant's name and address. The form is divided into 'Part I: STATEMENT OF CLAIM' and 'Part II: A Notice of Hearing'.

Registration Required

This case is included in the Hawaii State Judiciary Online Dispute Resolution (ODR) Pilot Program. **You MUST register on the online system within fourteen (14) days** of being served with the *Statement of Claim*.



To register visit: [TurboCourt Hawaii \(www.turbocourt.com/hawaii\)](http://www.turbocourt.com/hawaii). You will be directed to the TurboCourt site and choose “Hawaii” as your state.

You must have access to a computer or mobile device, internet connection, and an e-mail address. If you do not have access to the necessary technology, you may submit a request to be excused from participating in ODR. Please submit a [Request for Exemption from Small Claims ODR Pilot Program](#) form. If you are excused from participating, you will be required to submit your court documents directly with the court in person or via U.S. mail and appear at the scheduled hearing.

How Online Dispute Resolution (ODR) Works

- Instead of going to trial at the courthouse, you (and your co-Defendants) and the Plaintiff(s) may negotiate between yourselves to reach an agreed resolution of your dispute using the online system.
- The system can be accessed at any time using a computer, tablet or smart phone with internet connection. You will receive email and/or text messages during the course of the online negotiation process to notify you when to log back into the system.

- If you agree to the amount owed, you (and your co-Defendants) and the Plaintiff(s) may work on a payment plan and submit the required court documents to close or dispose of the case with the court.
- If you do not agree with the amount owed, you (and your co-Defendants) and the Plaintiff(s) have **seven (7) days** to negotiate an agreed amount.
- If all the parties do not come to an agreement by the end of the seven (7) day negotiation period, all parties will be **required** to come to the courthouse on the date and time assigned to your case. At that time, the presiding judge may order the parties to mediation with a neutral third-party mediator before the case proceeds to trial. You may find information by looking up your case on [eCourt Kokua](#).

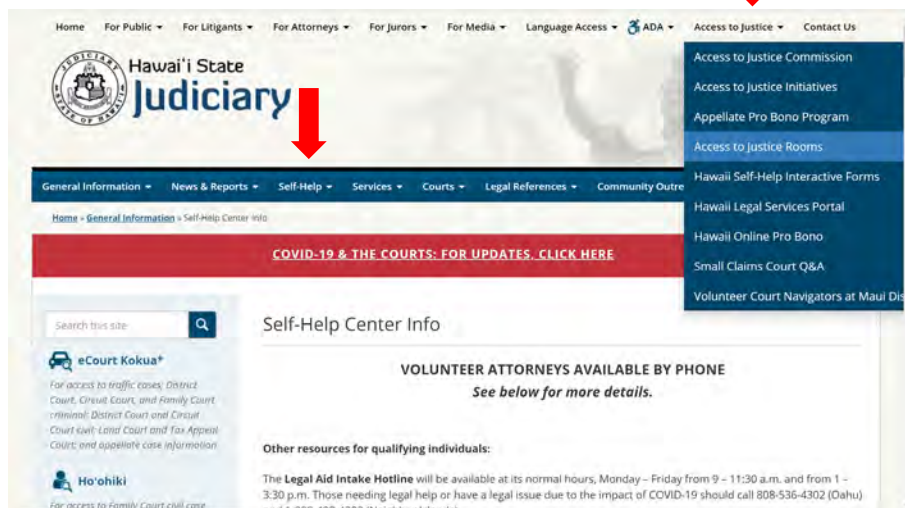
Benefits of Using ODR

- You will have an opportunity to resolve the dispute between you (and your co-Defendants) and the Plaintiff(s) online at your convenience and save time;
- You may submit your settlement agreement and other court documents online; and
- If the parties can come to an agreement, you will **not** have to come to court.

Finding Help

If you need legal assistance to better understand the court process and your legal rights and responsibilities, please visit the [Hawaii State Judiciary](#) website. Under Self-Help and the Access to Justice Tabs, you will find information about Self-Help Centers, Access to Justice Rooms, and other resources for legal assistance.

<https://www.courts.state.hi.us/>



Americans with Disabilities Act Notice



If you need an accommodation for a disability when participating in a court program, service or activity, please contact the ADA Coordinator as far in advance as possible to allow time to provide an accommodation.

Call First Circuit (Oahu) (808) 538-5121; Second Circuit (Maui) (808) 244-2855; Third Circuit (Hawaii Island): Hilo (808) 961-7629, Kona (808) 961-7629; or Fifth Circuit (Kauai) (808) 482-2347; or send an e-mail to adarequest@courts.hawaii.gov. The ADA Coordinator will work to provide, but cannot guarantee, the requested auxiliary aid, service or accommodation.

Responding to Small Claims Case Online Dispute Resolution (ODR) Pilot Program Quick Guide for Defendants



Important: This is an online program. If you do not have the required technology (access to a computer, laptop, tablet, smart phone, internet) or don't know how to use the required technology, submit *Request for Exemption from Small Claims Online Dispute Resolution Pilot Project*. This form may be found on the Hawaii State Judiciary [Small Claims ODR Pilot Project](#) website.

If you received instructions to register for Online Dispute Resolution (ODR) follow the steps below. You will need information from the **Statement of Claim**. Be sure to have this document with you. This program is free.

1. Sign up for a TurboCourt account.

Go to www.TurboCourt.com/Hawaii and choose "Hawaii" as your state. You will need to register with your e-mail address.

2. Select "Respond to a Claim"

You must be logged in to the TurboCourt program.

3. Choose your jurisdiction and court location.

Look at the court filed *Statement of Claim* you were served with. You will find the jurisdiction and court location information on the upper left-hand side of the document. If you do not have the *Statement of Claim*, look up your case on [eCourt Kokua](#).

4. Select "I want to proceed with negotiations or file a document in an existing case." Enter the case number.

It is important that you enter the correct case number. You will find this on the upper right-hand side of the *Statement of Claim*. If you do not have the *Statement of Claim*, look up your case on [eCourt Kokua](#). Search eCourt Kokua using your name or the other party's name. Review the information in eCourt Kokua to make sure you have the correct case and case ID number.

5. Follow the TurboCourt program steps to enter your information.

If you are filing a *Counterclaim*, you will be asked to enter the counterclaim amount, date you believed are owed, and explanation why you believe you are owed. If you are not filing a Counterclaim, you may choose to begin dispute resolution/start negotiating with the other party.

6. Enter your opening negotiation terms

Review the "Tips for Successful Negotiation" and the "Defendant's Worksheet" attached for more information.

7. You are now registered. Log out or continue to negotiations.

Be sure to check your e-mail and or log in frequently. You will receive messages when the other party has responded to your offer.

Additional resources can be found in your list of documents in the [TurboCourt](#) program and on the Hawaii State Judiciary [Small Claims ODR Pilot Project](#) website.

Small Claims Online Dispute Resolution (ODR) Defendant's Worksheet

This worksheet is for your own personal use to help you prepare for ODR. You do not need to share it with the plaintiff or anyone else.

ODR Goal

The purpose of ODR is to help you and the plaintiff reach an agreement instead of going through a hearing in front of a judge. ODR will ask you and the plaintiff to send each other **offers** to consider. Your offers state the specific **terms** you are proposing, such as the amount of money you are willing to pay and the date(s) you agree to pay it. If you succeed, the ODR program will generate a **Settlement Agreement** based on the agreed upon terms by you and plaintiff.

Things to think about before starting ODR

1. What do you think of the plaintiff's claim against you?

- I agree that I owe the plaintiff money and I agree that I owe the amount claimed. Consider making an offer. See #2 below.
- I agree that I owe the plaintiff money but I do not agree with the amount claimed.
 - Consider making an offer. See #2 below.
 - If you have proof (evidence) that shows why you owe a different amount, consider sending a copy to the plaintiff. You may attach copies of your documents in ODR. Examples of evidence: receipts, communications (emails, letters), pictures, etc.
- I do not agree that I owe the plaintiff money.
 - Consider asking the plaintiff for proof (evidence) of the amount owed.
 - Consider presenting your own proof to the plaintiff with an explanation.

2. Making an offer: How much can you pay and when can you pay? What amount is realistic to you based on your financial situation? What amount will the plaintiff most likely say yes to?

- I can pay all at once. \$ _____ Payment date: _____
- I can pay weekly/monthly. \$ _____ / week or month First payment date: _____
Next payment dates: _____
Final payment date: _____
- I can make ___ number of payments. \$ _____ /each Payment Dates: _____

3. Did you file a "**Counterclaim**" against the plaintiff? If so, include that counterclaim in your negotiation so there is one final Settlement Agreement for the whole case (the plaintiff's claim and your counterclaim).

- I am willing to offer \$ _____ to settle plaintiff's claim against me.
I am willing to accept \$ _____ to settle my counter claim against plaintiff. This amount will reduce the amount I am offering to pay plaintiff.

The total amount I am offering to pay plaintiff to settle both claims is \$ _____

Example:	\$ 1,500	The amount I am offering to settle plaintiff's claim.
	- 750	The amount I am willing to accept to settle my counter claim.
	<u>\$ 750</u>	The amount I am offering to pay plaintiff.

- Plaintiff owes me more money than I owe plaintiff. You may wish to use Plaintiff's Worksheet and other references located on the Hawaii State Judiciary website ([Small Claims ODR Pilot Program](#)).

4. Responding to plaintiff's offer:

Do you understand the terms of the offer? If not, ask the plaintiff questions using ODR chat.

Can you afford to pay the amount offered? If not, consider making a counteroffer.

Can you pay the amount all at once? If not, consider paying in installments.

5. Closing the court case.

If you and the plaintiff reach an agreement about the claim, you and the plaintiff will also need to agree on how the court should handle the court case. You and the plaintiff will need to agree on one of the following:

- Dismiss the case.** You and plaintiff may agree to dismiss the case against you. This means the court will not make the decision as to who owes money and how much. There are two types of dismissals:
 - 1) **"Without prejudice"** – this means the plaintiff keeps the right to file the same claim against you again in the future.
 - 2) **"With prejudice"** – this means the plaintiff cannot file the same claim against you in the future.
- Continue the court hearing date.** You and plaintiff may agree to ask the court to change the hearing date until later in the future to allow time for all agreed payments to be made.
- Judgment.** You and plaintiff may agree to ask the court to issue a judgment. A judgment is a court order that can be enforced against you to collect monies owed.

If no agreement is reached within the seven (7) days negotiation period, you will be required to come to the courthouse on the date and time assigned. At that time, the presiding Judge may order the parties to mediation with a neutral third-party mediator before the case proceeds to trial.

If you need legal assistance to better understand the court process and your legal rights and responsibilities, please visit the [Hawaii State Judiciary](#) website. Under Self-Help and the Access to Justice Tabs, you will find information about Self-Help Centers, Access to Justice Rooms, and other resources for legal assistance.

THE SUPREME COURT *of* OHIO

DISPUTE RESOLUTION GUIDANCE

Achieve Success with Online Dispute Resolution (ODR)

1. CREATE A PLAN

Parties find ODR most useful when they come prepared with a plan. Prepare an agenda of topics that are important to you in this negotiation, make a list of dates or who you have talked with to try and resolve the dispute, and outline solutions and proposals you could suggest in order to resolve the dispute.

2. SPEAK TO AN ATTORNEY

Court staff are permitted to explain court procedures and processes. They cannot give you legal advice nor help you make decisions about accepting offers from the other party. If you have any questions about the law, or if you need legal advice, use one of the following resources for more information:

- Ohio Bar Association: ohiobar.org/legalhelp
- Community Action Agency: businesshelp.ohio.gov/home-relief-grant
- Ohio Legal Help: ohiolegalhelp.org/topic/lawyer
- Ohio Access to Justice Foundation: ohiojusticefoundation.org

3. MAKE AN OFFER

In ODR, no one will force a party to accept an offer. If your offer only meets your interests and does not meet the other party's interests, it is unlikely that the other party will accept your offer.

When thinking of the terms for your offer, it may be helpful for you to imagine that you are in the other party's shoes. If you were in their shoes, what type of offer would you accept? If you were in their shoes, what type of offer would you reject?

4. RESPOND TO THE OFFER

When a party makes an offer to you, it is up to you to decide if you accept or reject that offer. If the offer works for you, say so, and then parties can discuss more about the specifics of the agreement. If the offer doesn't work for you, it is helpful if you explain why. Just saying "no" is not a productive response.

5. MAKE A COUNTEROFFER

When you decline an offer and explain why, you can make a counteroffer. The counteroffer should follow the same process as an offer. A good counteroffer moves the negotiation toward a middle ground where all the parties can come to an agreement. Often negotiations require the parties to make multiple counteroffers to reach an agreement.

6. AGREEMENT

Any agreement in ODR must be acceptable to both parties. It is up to you to propose and accept a plan that works for you and also meets the interests of the other party.

If you reach an agreement through ODR you will enter the terms of the agreement into the ODR system for all parties to sign. Any agreement should include the terms that clearly explain the responsibilities of each party. The agreement should clearly outline who will do what, where, when, and how. Most importantly, the agreement should include an outline of what will happen if a party does not follow the agreement.

7. CONDITIONS TO AGREEMENT

In order to accept your offer, the other party may require you to agree to certain conditions. Conditions are dependent upon whether ODR is taking place prior to the filing of a lawsuit or cause of action, or after the filing of a lawsuit or cause of action with the court.

This list is not complete, but examples of those conditions might be:

- PAYMENT PLAN AND JUDGMENT: A payment plan with a judgment in the other party's favor (this is also called an Agreed Judgment Entry and is only available if a lawsuit or cause of action is filed).
- DISMISSAL: A dismissal of your claim or counterclaim if there is lawsuit or cause of action filed.
- CONFIDENTIALITY AGREEMENT: A promise that you will not share the terms of the agreement with others.

If you reach agreement with the other side, be sure you understand the conditions in the agreement you are signing. If you have questions, ask. If you reach agreement in mediation and the other side tells you they will send the agreement to you later for you to sign, be sure that the agreement sent contains the terms that were agreed upon. If you do not understand an agreement, or have questions about how an agreement may impact your rights or credit, ask an attorney.

8. NO AGREEMENT

If no agreement is reached during ODR, then the dispute will continue. If ODR takes place prior to the filing of a lawsuit this means that a lawsuit may be filed. If a lawsuit is filed and ODR or mediation is not successful, then the case will proceed to hearing and a judge or magistrate will hear your evidence and make a determination based on the evidence presented.

9. PAYMENT PLANS

If you are offering a payment plan as a resolution, you may want to consider the following:

- How much will you pay in total?
- How much will each installment payment be?
- How often will you pay (weekly, monthly, etc.)?
- What are the due dates for each payment?
- How is payment to be delivered (in person, by mail, etc.)?
- What is the form of payment (check, cash, money order, etc.)?
- If you are involved in a court case, is the other side asking that you agree to a judgment in order to accept the payment plan?

Whatever you agree to, be sure that it is something that you are confident you can follow through on. If your payment plan offer becomes part of an agreement, there may be negative consequences if you fail to follow through (for example, garnishments or a judgment).

10. PERSONAL PROPERTY

Sometimes a party wants the return or repair of personal property. In ODR, parties can work out arrangements related to the return or repair of personal property on terms that work for them. However, if you file a small claims lawsuit, the small claims court cannot award the return of personal property. Only the small claims division has the authority to hear cases for monetary damages that do not exceed \$6,000, not including interest and court costs.



Planning your Online Dispute Resolution - Preparation Questions:

These questions are designed to help you develop a plan for ODR. By answering these questions, you will have a better understanding of how ODR will work and what you want to achieve during negotiations. The ODR portal can be found on the Akron Municipal Court Website under the ODR tab, or by typing this link directly into your browser: <https://www.courtinnovations.com/OHAKMC>

1. In your own words, describe the dispute. If you're the party seeking damages, what are those damages? If you're the party the damages are being brought against, describe what you think are the damages being sought.

2. Does the other side also have damages? Describe what they are or what they are alleging them to be.

3. ODR and mediation does not factor in evidence. While you may have strong evidence to support your side of the story, consider what you would be willing to settle this case to avoid time off work, court costs, future collections actions, etc.

4. Now, focusing just on what can make this dispute go away, not who is to blame or whether the action is justified, what do you think could be a fair or reasonable resolution?

Write initial offer and why:

5. Was it accepted? If yes, time to write up your settlement terms. Settlement should include:
 - a. What the amount of the settlement is: _____
 - b. How it is being paid _____
 - c. When it is being paid _____
 - d. What I am required to do as a result of the settlement, if anything (for example, dismiss the case, send a paid in full letter, etc.) _____
 - e. What happens if the settlement is not paid: _____

6. If the offer was not accepted, what the reason it was refused and what is your counteroffer and why? Repeat the offer and counteroffer steps, until settlement is reached or if the parties cannot reach settlement, negotiations are concluded.