



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



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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

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TABLE OF CONTENTS

TABLE OF CONTENTS

| | |
|----------------------------------------------------|----|
| ACKNOWLEDGEMENTS | i |
| EXECUTIVE SUMMARY | 1 |
| BACKGROUND | 8 |
| FINDINGS AND RECOMMENDATIONS | 15 |
| COSTS, STAFF TIME, CHALLENGES, AND SUCCESSES | 35 |
| OVERALL EVALUATION CONCLUSION | 48 |
| APPENDIX A: EXAMPLE EMAIL NOTICE FOR ODR | 51 |
| APPENDIX B: METHOD | 53 |
| APPENDIX C: LITIGANT SURVEY DATA | 57 |

EXECUTIVE SUMMARY

INTRODUCTION

Collin County, Texas, is a fast-growing region of the Dallas-Fort Worth metropolitan area. This growth has been associated with an increase in civil case filings, which has caused trial delays. To address this problem, the county courts instituted a pilot online dispute resolution (ODR) program for debt and small claims cases in a single Justice of the Peace (JP) Court, JP 3-1. The court decided to use Modria, a software platform offered by Tyler Technologies that allows parties or their lawyers to negotiate via asynchronous text messages. Should they want, the parties can also request a mediator, who facilitates via asynchronous text messages. The court hoped that its ODR program would increase court efficiency while also making it easier for self-represented litigants with limited resources to handle their cases. If successful, the county planned to expand the program to all civil courts.

The county requested this evaluation to determine whether the data supported expanding the program. The pilot program ran from September 2019 through August 2020, when it ended due to the merger of the JP 3-1 and JP 3-2 courts upon the retirement of the JP 3-1 judge. From March through August 2020, the pilot program ran concurrently with the COVID-19 pandemic.

Our evaluation relies on data from the JP 3-1 court, the ODR platform, litigant surveys, and judge and staff interviews to answer the following overarching questions:

- In what percentage of cases was ODR used?
- How did ODR participants use ODR?
- What did litigants know about the ODR program?
- Are litigants interested in using ODR for future cases?
- Was the use of ODR associated with how long cases took to resolve?
- Was the use of ODR associated with probability of settlement?
- How did COVID-19 pandemic impact the default rate and the time it took for cases to move from the filing of the answer to case closure?
- What effect, if any, did the adoption of ODR have on court costs and staff efficiency?

Limitations of the evaluation:

Despite varied efforts to recruit ODR users for our surveys, we did not succeed; therefore, this evaluation does not include information about the perspectives of ODR participants. We also

EXECUTIVE SUMMARY

were unable to obtain information from the court or ODR provider that would allow us to assess the probability of ODR participants reaching agreement on the platform per se, although we did obtain data that allowed us to calculate the probability of ODR participants' reaching agreement prior to trial.

JP 3-1 AND THE PILOT ODR PROGRAM

The Collin County pilot ODR program was available to all eligible debt and small claims cases filed in Justice of the Peace Court 3-1 (JP 3-1), located in Plano, Texas. At the time the pilot program was in place, the jurisdictional limit for these cases was \$10,000. During the 12-month pilot period, 1,874 debt and 274 small claims cases were filed, for a total of 2,148 cases. Defendants filed an answer in 698 cases. In 70% of the cases in which both parties used ODR, the defendant was self-represented.

| TABLE 1: JP 3-1 CASE DATA FOR PILOT PERIOD | | |
|--------------------------------------------|------------|--------------|
| | Debt Claim | Small Claims |
| | Number | Number |
| Cases Filed | 1,874 | 274 |
| Answers Filed | 578 | 120 |
| Default Judgments | 373 | 10 |

THE PILOT PROGRAM PROCESS

When a defendant filed an answer, the following occurred to enable the use of ODR:

- The civil clerk determined whether the case was eligible for ODR. It was ineligible if one side had multiple parties, the clerk or court administrator had found during their interactions with a party that the party was not equipped to use ODR, or (until the second quarter of 2020) the court did not have email addresses on file for both parties to the case or their attorneys, if they had counsel.
- If the case was eligible, the clerk uploaded the case to ODR (i.e., the clerk marked the case as eligible for ODR in the court's case management system, enabling the automatic transfer of case information from the CMS to the ODR platform).
- During the upload process, the ODR platform rejected any cases that contained errors, such as missing information or improperly entered email addresses, and sent an error report to the IT department so that the errors could be fixed.
- When case information was transferred to the ODR platform, the transfer included the parties' or attorneys' email addresses or cellphone numbers, if this information was on file with the court. When this contact information was available, the platform sent an

EXECUTIVE SUMMARY

automated email (or, after April 2020, also a text) to the parties instructing them to use ODR).

- At the time of the upload, the clerk also set the case for trial and mailed the parties, or their attorneys if they had one, a notice that included their trial date and informed them they were required to use ODR prior to that date. The notice included a link to access the platform.

Once a case was uploaded to ODR, participants had 45 days to negotiate one-on-one via the platform's chat function. Due to the limitations of the platform, only one person could participate from each side of a case. Therefore, if a litigant was represented by an attorney, the attorney participated in ODR in lieu of the litigant.

At any time during the 45-day negotiation window, either side could ask for a mediator if they could not reach agreement or if they did not want to continue negotiations. Mediation cost \$40 per party, but parties could ask mediators to waive their fees. Mediation was conducted via the platform's asynchronous text-based chat function (similar to email) and had to be completed within 30 days. Mediators could communicate with each participant separately or jointly.

If participants reached agreement on the platform, they were given the opportunity to sign an online agreed judgment form, which was then automatically sent to the case management system (CMS), and the trial was cancelled. If the participants did not reach agreement, a "Notice of Non-Settlement" form automatically went to the CMS and the parties continued to trial unless they otherwise reached agreement before the trial date. In practice, court personnel stated that many attorneys e-filed their agreements rather than sending them to the CMS via the ODR platform.

MAJOR FINDINGS AND RECOMMENDATIONS

Litigant Use of ODR

49% of cases with answers filed were uploaded to ODR

During the pilot period, answers were filed in 698 cases. These 698 cases form the subset that could potentially have been uploaded to ODR. Of these, 341 cases (49%) were eligible and did not contain errors that barred their upload. These were ultimately offered ODR. According to court staff, the most common reason that cases with answers filed were not uploaded to ODR appears to be that the court lacked email addresses for at least one side of the case.

EXECUTIVE SUMMARY

One party completed at least one activity online in 50% of cases uploaded to ODR

In 170 of 341 cases (50%), at least one case participant performed at least one activity on the ODR platform, such as asserting a claim, uploading a file, or using the chat function to communicate with the other side.

Both sides completed at least one activity on the ODR platform in about one-fourth of eligible cases

In 81 cases (24%) uploaded to ODR, both sides used the platform. Parties in small claims cases were more likely to use ODR (76%) than parties in debt claim cases (45%).

When both sides used ODR, they tended to interact at relatively the same level

On average, the plaintiff side took 54% of all actions in a case and the defendant side took 46% of all actions. These figures suggest that, on average, when both sides used ODR, their activity levels were somewhat comparable.

Litigants appear to be unaware of the ODR program

Litigant survey responses suggested that parties were generally not aware of the ODR program, despite it being required of them. Only one survey respondent out of ten indicated that they received information about the program. When asked what would make them more likely to use ODR for a similar case in the future, half said more information.

Litigants had limited access to information about the ODR program

According to court staff members, the only ways in which litigants received information from the court about the ODR program was through the notice the court sent to them (or their lawyers) about their court date and through an email or text from Modria when the court uploaded their case to the ODR platform, if their side had an email address or cellphone number on file with the court. Both of these events occurred only after the defendant filed an answer (see Appendix A for an example of the email sent to plaintiffs). Given this, it seems unlikely that the court could achieve its goal of reducing the default rate, since defaults are most commonly a result of defendants not filing an answer.

HIGHLIGHTED RECOMMENDATION: Ensure litigants know about the ODR program

- Send a notice regarding the ODR requirement directly to plaintiffs and their attorneys right after a case is filed. The notice should provide information about what ODR entails and how to learn more about it.
- Include a notice with each summons that clearly instructs defendants to use ODR and informs them about what ODR entails and how to learn more about it.
- Use the court's website to educate parties about ODR

EXECUTIVE SUMMARY

Litigants appear open to online options

None of the survey respondents participated in ODR.¹ Thus, we were unable to obtain data concerning litigants' experiences or satisfaction with the ODR program. After reading a short description of the ODR platform in our survey, two out of three respondents indicated that the option to use it in future similar cases was attractive. Similarly, when asked to consider using video mediation to resolve future similar cases, 60% responded favorably. Our sample size was too small to render a conclusive recommendation on the issue of offering video mediation; we urge the court to gather more data from its constituents.

RECOMMENDATION: Explore video mediation as a dispute resolution option

Time of ODR Use

72% of recorded ODR activity took place outside of court hours

ODR participants took advantage of the 24/7 capabilities of ODR. The vast majority of their ODR activity took place at times that would not have been available to them had they needed to visit the courthouse to resolve their case.

Outcomes and Time to Disposition

73% of cases in which both parties used ODR resolved before trial

The percentage of ODR cases that resolved before trial was similar to that of cases that did not use ODR, both before and during the ODR program.

Debt claim cases were significantly more likely than small claims cases to resolve before trial

Among pre-pilot cases and cases that used ODR, debt claim cases were significantly more likely to resolve before trial than small claim cases. Additionally, debt claim cases in which defendants were represented were significantly more likely to resolve before trial than debt claim cases in which defendants were unrepresented.

Time to resolution was, on average, 4.6 months for cases that used ODR

For cases that used ODR, the average amount of time cases took to close from the date the answer was filed was 141 days. This time to resolution included cases delayed either because of to the court's closure due to the COVID-19 pandemic or because of an upload error on a court server that developed after the ODR launch.

¹ Our initial study design anticipated surveying ODR participants from April 2020 to September 2020; ultimately few cases used ODR during this period.

EXECUTIVE SUMMARY

Program Costs

It is important to note that our workload and cost conclusions are derived from self-reports made during interviews and are inherently subjective in nature.

Direct costs to the court to implement ODR were covered by a filing fee

Interviews with court personnel suggested that the court itself paid no direct costs to implement the ODR program beyond occasional lunches served at meetings concerning the program. Litigants covered the costs through an extra \$5 filing fee the court instituted for all civil cases filed in Collin County except eviction and mental health cases. This increased the filing fee to \$307.² During the pilot period, 27,518 cases were filed, which suggests that at most \$137,590 which was paid to Tyler for use of the Modria platform and customer support.³

There were significant indirect costs to the court

Court personnel indicated that they devoted a significant amount of time to ODR during the pre-launch phase. The project manager estimated that the cost in staff time approached six figures and was largely due, in his opinion, to the numerous meetings that involved many court personnel as well as the high percentage of time that he and the responsible IT staff member spent on the project during the pre-launch phase. Some of this effort laid the groundwork for an anticipated county-wide rollout of ODR.

Costs to administer ODR were minimal

After the program's launch, the time that personnel spent on ODR appeared to drop considerably. No one we interviewed reported spending more than a couple of hours per week on the project.

ODR did not appreciably change administrative workload

The court administrator and civil clerk did not perceive an appreciable increase or decrease their workload. However, it is hard to determine what their workload may have been in the absence of the COVID-19 pandemic, or how much it would have been had greater effort been expended on promoting litigants' awareness of the program and otherwise attempting to increase ODR use.

² Filing fee obtained from *Collin County Fee Schedule*, COLLIN COUNTY, https://www.collincountytx.gov/county_courtatlaw_clerks/civil/Documents/civil_fee_schedule.pdf (last visited Apr. 12, 2022).

³ Court staff stated that about 5% of cases receive a filing fee waiver. This would reduce the total filing fee collected to pay for ODR by the same amount.

CONCLUSION

By adopting ODR, the court was hoping to reduce the burden of a growing caseload while providing access to justice through a process in which the parties did not have to miss work or travel to resolve their case. The goals were not met during the pilot due to lack of use.

Technical issues with the platform along with the court's decision to not conduct outreach until those issues were addressed likely contributed to the low usage rate. The court's lack of email addresses for potential users was also likely a key barrier to ODR use in otherwise eligible cases because, for roughly the first half of the pilot program, the court needed email addresses to direct cases to ODR.

Although both sides used ODR in only 24% of cases uploaded to the platform, those cases that did use ODR had similar rates of resolution prior to trial as those who did not use ODR, including baseline cases that were offered the opportunity to mediate. This analysis suggests that should ODR be more widely used, it would likely be as effective as in-person mediation in resolving cases before trial.

BACKGROUND

The Collin County pilot Online Dispute Resolution (ODR) program was available for eligible debt and small claims cases filed in Justice of the Peace Court 3-1 (JP 3-1), located in Plano, Texas. During the pilot (September 2019 to August 2020), the jurisdictional limit for these cases was \$10,000. As illustrated in Table 1, during the 12-month pilot, 1,874 debt claim and 274 small claims cases were filed, for a total of 2,148 cases. Defendants filed an answer in 698 cases. There were 383 defaults for cases that both were filed during the pilot period and closed within the six months after the pilot ended, accounting for 18% of all case outcomes that both opened and closed during this period. In 70% of the cases in which the defendant side used ODR, the defendant was self-represented. Although jury trials are available to debt and small claims cases, all trials held during the pilot period were heard by the judge.

| TABLE 1: JP 3-1 CASE DATA FOR PILOT PERIOD | | |
|--------------------------------------------|------------|--------------|
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The pilot program ran from September 2019 through August 2020, when it ended due to the merger of JP 3-1 and JP 3-2 courts upon the retirement of the JP 3-1 judge. In June 2021, the Collin County Courts decided to transfer the program to the newly merged court. As of the end of June 2021, the transfer was nearing completion. The pilot program took place in part during the COVID-19 pandemic, wherein courts across the United States were affected by stay-at-home orders. The JP 3-1 courthouse was closed from March 13 to June 1, 2020. During this time, the court could not schedule trials and other court hearings and cases could not be closed. Due to staff shortages, sheriff deputies were serving few small claims notices of summons.⁴

Due to the pandemic, the case data for the pilot period differs significantly from the 12-month pre-pilot period immediately preceding it. The number of cases filed was much greater during

⁴ Interview with JP3-1 Court Administrator, on Zoom (Aug. 18, 2020).

BACKGROUND

the pre-pilot period (3510 versus 2148). The number of answers filed during that time was 1022, a significantly greater number than the 698 answers filed during the pilot period. There were 700 default judgments, accounting for 24% of the outcomes for cases filed during the pre-pilot period and closed within the next six months.

RATIONALE FOR THE ODR PROGRAM

Collin County is a fast-growing region of the Dallas-Fort Worth metropolitan area, which expanded in population by 36% from 2010 to 2020.⁵ This growth has been associated with a rapid increase in civil case filings in JP3-1.⁶ At the time of the evaluation, JP 3-1 was the busiest of the five JP courts in the county, with approximately 10,000 civil filings annually.⁷ In addition to debt and small claims cases, civil filings in the JP courts include evictions and other landlord/tenant cases.

According to the JP 3-1 judge, this increased caseload caused delays in trial dates. In addition, the first hearing (usually during the mediation docket) was being scheduled four to six months after the answer was filed. The JP 3-1 judge wanted to address both of these delay issues with the same innovation to increase court efficiency. Upon seeing a demonstration of online dispute resolution, he also noted a benefit to self-represented litigants in having the opportunity to resolve their disputes without needing to visit the courthouse. He believed that if they were not required to visit the courthouse, they would more likely participate in their case.

After the JP 3-1 Judge presented the idea to the Administrative District Judge and the Administrative County Judge, the county courts began to consider whether and how to implement ODR in the county's courts. Eventually, the Collin County courts decided to pilot ODR in JP 3-1 and, if successful, roll it out later to all civil courts in the county.

TRADITIONAL COURT PROCESS

Traditionally, prior to the pilot program's launch, when a defendant to a debt or small claims case filed an answer, the court clerk would schedule the case on the mediation docket. The hearing notice stated that the parties (or, for plaintiffs in debt claim cases, their attorney in their stead) were required to appear for this hearing. Mediations were conducted by

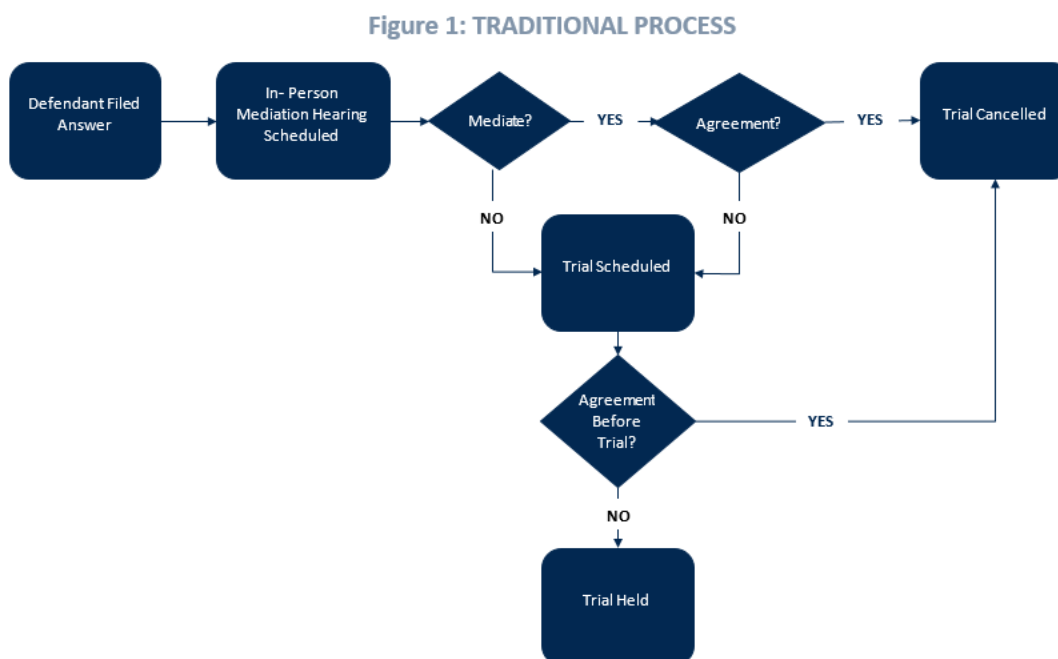
⁵ *QuickFacts Collin County, Texas*, U.S. CENSUS BUREAU, <https://www.census.gov/quickfacts/fact/table/collincountytexas#> (last visited Apr. 12, 2022).

⁶ Interview with JP3-1 Judge, on Zoom (Aug. 14, 2020).

⁷ *Id.*

BACKGROUND

professional mediators and were held once per month.⁸ When the parties arrived for mediation, the judge explained the mediation process and discussed the benefits of mediation relative to trial. The parties were also informed that mediation would cost \$50 per party. At this point, the parties were given the option to opt out of mediation. Cases that reached agreement in mediation were closed on the same day. If the parties decided not to mediate or if they did not reach agreement in mediation, their case was scheduled for trial. See Figure 1 for a depiction of the traditional (i.e., pre-ODR) process.



PROGRAM DESIGN DECISIONS

During the design phase, the county and court—with input from other stakeholders—made three significant decisions about how the program would operate. First, because one important objective for instituting ODR was to increase court efficiency, the ODR platform had to integrate well with the court’s existing case management system (CMS). This goal led the county to select Modria by Tyler Technologies (Tyler) for its program as the county was already using Tyler’s CMS. County IT staff members thought it would be easier to integrate ODR with its CMS and subsequently to support the platform if they were from the same source. Modria is an off-

⁸ Mediations of debt claim cases had a different model from those involving small claims. Small claims cases were mediated in a traditional format, involving a mediator and parties discussing the dispute in the same room. Debt claim cases generally involved plaintiff attorneys who had multiple cases that were handled simultaneously. The plaintiff attorney and the defendants for each of the attorney’s cases were separated into their own rooms and multiple mediators shuttled between the defendants and plaintiff attorney at the same time.

BACKGROUND

the-shelf software product that provides a platform for litigants or their attorneys to negotiate and mediate via the platform's asynchronous text-based chat function (similar to email).

Modria is available for common types of disputes, including debt and small claims cases, and some aspects can be customized to fit courts' specific needs.

Second, the court decided to allow parties to opt-out of ODR rather than opt-in, meaning that eligible cases would be automatically uploaded to ODR and parties would be instructed to participate unless they had a specific reason not to, such as not having internet access. Court personnel heard that other courts struggled to get parties to use opt-in ODR programs and hoped to avoid this challenge by utilizing an opt-out model, similar to the model used for in-person mediation.

Third, the court decided to replace in-person mediation with ODR for all parties except those who could not use ODR. This decision was meant to streamline the process, allowing the court to reduce time-to-resolution while continuing to provide access to an alternative dispute resolution process.

ODR PILOT PROGRAM PROCESS

When a defendant filed an answer, the following occurred to enable the use of ODR:

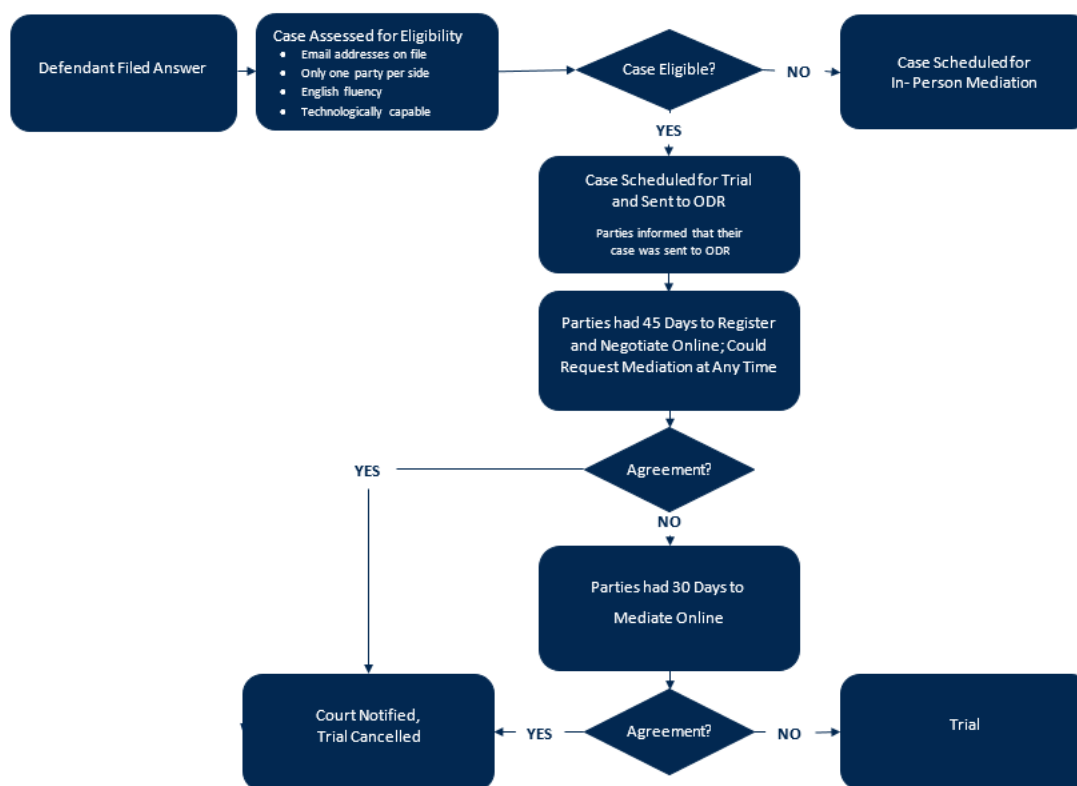
- The civil clerk determined whether the case was eligible for ODR. It was ineligible if one side had multiple parties, the clerk or court administrator determined, on the basis of their interactions with a party, that the party was not equipped to use ODR (i.e., had low technology proficiency or had trouble grasping what they needed to do for their case), or, until the second quarter of 2020, the court did not have email addresses on file for both parties to the case (or their attorneys, if they had counsel). In the second quarter of 2020, Modria rolled out an update to its platform that permitted parties and attorneys to register for ODR with their case number rather than an email address, opening eligibility to those with no email address on file.
- If the case was eligible, the clerk uploaded the case to ODR (i.e., the clerk marked the case as eligible for ODR in the court's case management system, enabling the automatic transfer of case information from the CMS to the ODR platform).
- When case information was transferred to the ODR platform, the transfer included the parties' or attorneys' email addresses or cellphone numbers, if this information was on file with the court. When this contact information was available, the platform sent an automated email (or, after April 2020, also a text) to the parties or their attorneys instructing them to use ODR. The automated email or text was sent up to twice more, if needed, to remind participants to use the platform.

BACKGROUND

- At the time of the upload, the clerk also set the case for trial and mailed the parties, or their attorneys if they had one, a notice that included their trial date and informed them they were required to use ODR prior to that date. The notice included a link to access the platform. This notice constituted the only instruction to use ODR directed to parties who did not have an email address or cellphone number on file with the court.

During the upload process, Modria rejected any entries that contained errors, such as missing information or improperly entered email addresses, and generated an error report. This error report was sent to the IT department so that errors could be corrected. Ultimately, many errors were not corrected.⁹ The ODR program process flow is depicted in Figure 2.

Figure 2: ODR PROGRAM PROCESS



The clerk set the trials for 90-120 days from the date the defendants filed their answers. In addition, the clerk advised the parties to contact the court if they could not participate in ODR for any reason. If the case was not uploaded to ODR, it followed the traditional process: it was set for in-person mediation and then set for trial if the parties decided not to participate in mediation or did not reach agreement in mediation.

⁹ See "Case Data Suggest ODR Was Underutilized," *infra* page 18, for more information on this issue.

BACKGROUND

On the day a case was uploaded to ODR, the Modria platform sent an email or, after April 2020, a text to the litigant or their attorney notifying them that they must participate in ODR and instructing them on next steps. If the litigant or their attorney did not join ODR, they received an email (or text) every three days up to ten times reminding them to do so. Due to the platform's limitations, only one person could participate from each side of a case. Therefore, if a party was represented by an attorney, the attorney received the notice and reminders to use ODR and participated in ODR on their client's behalf.

ODR in this program was a two-part process in which ODR participants first had the option to attempt to negotiate without third-party assistance, then could work with a mediator to attempt to resolve their case. ODR participants had 45 days from the date the case was uploaded to ODR to negotiate one-on-one using the platform's chat function.¹⁰ The platform guided the participants in communicating their original claim or offer and provided instructions on how to share documents or other files and message each other via the chat function. It did not provide guidance on what to parties might communicate to each other beyond claims or offers. At any time during the 45-day negotiation window, either side could ask to mediate online if they could not reach agreement or if they did not want to continue negotiations.

When parties requested mediation on the ODR platform, one of the four mediators for the program was randomly assigned to their case based upon the mediators' availability. The assigned mediator contacted the parties to request payment. Mediation via ODR cost \$40 per party, but parties could ask mediators to waive their fees. Payment transactions were handled directly between the mediator and the parties through internet-based applications such as PayPal or Venmo. Mediators also made decisions regarding whether to waive their fees in any given case. Mediation was conducted via the platform's asynchronous chat function and had to be completed within 30 days of the mediator accepting the case.¹¹ Mediators could communicate with each party separately or jointly.

Throughout the ODR process, each participant was alerted by email or text when either the other side or the mediator posted a message or uploaded a file to the platform. All those involved were nudged via email (or text) every four days to respond if they had not yet done so.

If parties reached agreement on the platform, they were given the opportunity to sign an online agreement, which was then automatically sent to the CMS, and the trial was cancelled. If the parties did not reach agreement, a "Notice of Non-Settlement" form automatically went to the

¹⁰ When the pilot launched, the two sides were given 21 days to negotiate. The court quickly received feedback that this was not enough time and extended the negotiation deadline to 45 days.

¹¹ When the pilot launched, the two sides were given 21 days to complete mediation. Due to feedback from the mediators, this was extended to 30 days.

BACKGROUND

CMS and the parties continued to trial unless they otherwise reached agreement before the trial date. In practice, court personnel stated that many attorneys e-filed their agreements rather than sending them to the CMS via the ODR platform.

FINDINGS AND RECOMMENDATIONS

To evaluate the pilot program, we gathered data from the court's CMS and Modria, administered litigant surveys, and conducted interviews with court personnel. We used these data sources to evaluate the program's success and develop recommendations to improve the program. The efficiencies associated with the shift to ODR were challenging to determine in large part due to the unanticipated COVID-19 pandemic and the court's corresponding need to shift priorities to adapt to this challenge.

ODR USE

We used a multidimensional approach to explore how ODR participants used the platform. We define *ODR activity* as including one of the following: making a claim or offer, requesting mediation or agreeing to mediate, or posting a message on the chat function to communicate with either the other side or the mediator. We consider a participant as having *used* the ODR platform if a party or their attorney completed at least one activity. *Level of engagement* refers to how many activities the participants undertook on the platform to try to resolve their case.

Case data indicate that the ODR program was underutilized during the pilot period. The reasons for this underutilization are varied, but it starts with a significant number of cases not being eligible for ODR. Survey results suggest additional reasons for this underutilization.

Case Data Suggest ODR Was Underutilized

Bilateral ODR use was limited to 12% of all debt and small claims cases with answers filed

In 81 of the 698 cases in which answers were filed, both sides registered and used the platform.

At least one party completed one activity in 50% of cases uploaded to ODR

Although there was bilateral use of ODR in only 81 out of 341 cases, in 170 of 341 cases (49.9%), at least one case participant performed at least one activity such as asserting a claim, uploading a file, or using the chat function to communicate with the other side. Together, these

Terminology

ODR Activity: Any action taken on the ODR platform: make a claim or offer, ask for or agree to mediation, upload a file, post a message to either the other side or the mediator.

ODR Use: One or both sides registered and performed at least one activity on the ODR platform.

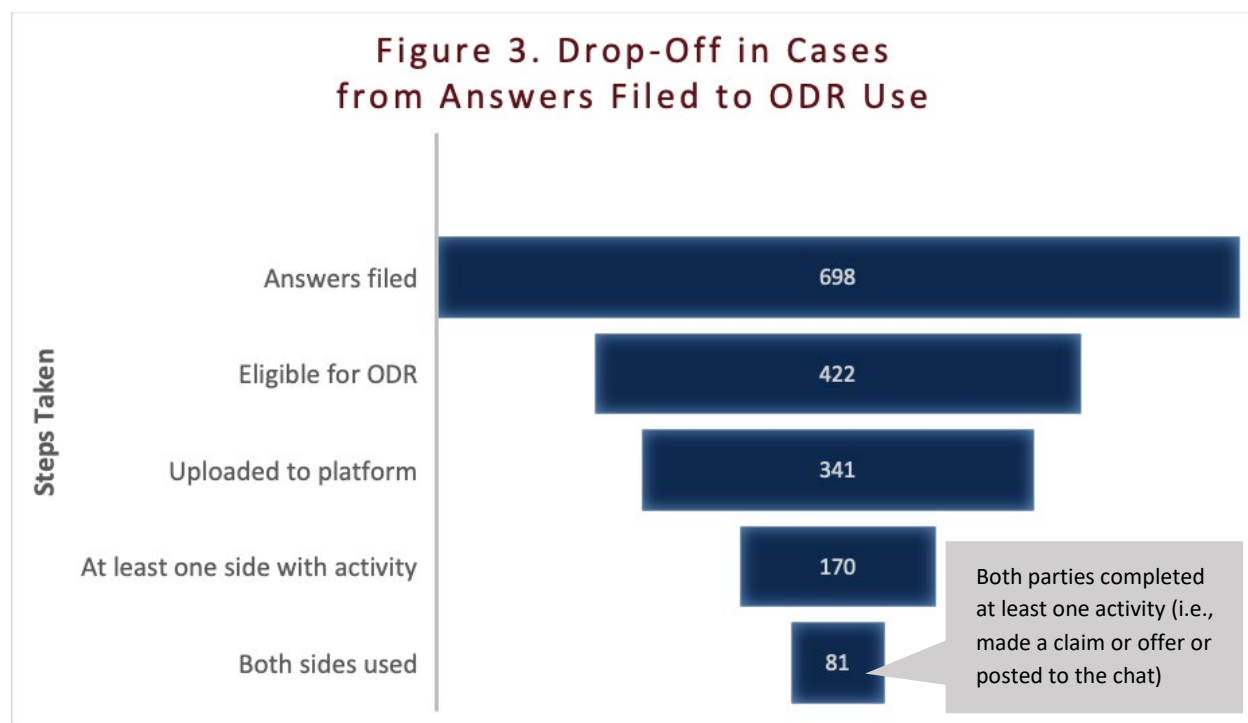
Level of Engagement: The amount to which both sides interacted on the ODR platform.

FINDINGS AND RECOMMENDATIONS

figures suggest a possible disconnect between interest in ODR by one side of a case and eventual use by both sides.

Only 49% of cases in which answers were filed were offered ODR

During the pilot period, answers were filed in 698 cases. These 698 cases form the subset that could potentially have been uploaded to ODR. Of these 698, the clerk marked 422 cases (60%) to be uploaded to ODR but only 341 cases (49%) were ultimately uploaded. The snapshot of potentially eligible cases and how they dropped off at each interval, are depicted in Figure 3.



The court's lack of email addresses for potential users was likely a key barrier to ODR access for otherwise eligible cases

The available data did not reveal why 51% of the 698 cases with answers filed were not uploaded to ODR, but it is likely primarily due to at least one side not filing an email address with the court.

Although it was not possible to obtain precise data on the number of cases for which the court lacked an email address for at least one side, our interviews suggested that other reasons for otherwise eligible cases not being uploaded were not common. Other reasons include 30 cases (4% of cases with answers filed) that were ineligible because there was more than one party on a side. According to Tyler, another 81 cases (12% of cases with answers filed) did not upload to the ODR platform due to errors, such as missing case information. On rare occasions, the court

FINDINGS AND RECOMMENDATIONS

administrator or civil clerk did not upload a case to ODR after determining that parties were not capable of navigating the ODR platform or lacked English proficiency.¹²

Plaintiff attorneys completed at least one activity on the platform in only 34% of debt claim cases

Debt claim plaintiffs had attorney representation in all but one case that was uploaded to ODR. Generally, these attorneys were members of large law firms. The low percentage of plaintiff attorneys taking action on the ODR platform may have been caused in part by a limitation in the platform that did not permit the entry of an email address that differed from the one used for e-filing. According to court personnel, large law firms that represent creditors in debt claim cases in Collin County generally use a central email address for e-filings.¹³ In these situations, all communications from the ODR platform to attorneys were directed to the central email address and may not have been forwarded to the attorney responsible for the case. If an attorney did not receive emails from the platform, they would have missed reminders about the requirement to use ODR.

Court Attempts to Increase ODR Use

During the pilot period, the judge and court administrators were aware of the underutilization of ODR. The judge remained informed through regular reports from the ODR platform. Information from these reports led court personnel to undertake steps to try to increase ODR usage. First, they worked with Tyler personnel to allow attorneys to change the email address used for the ODR platform so that they could receive alerts when the defendant, their attorney or the mediator posted messages or uploaded files. Second, the judge started to ask parties and attorneys at trial whether they had used ODR and, if they said no, he asked them to explain why they did not use it. Based on their responses (which indicated that some did not know they had to use ODR), the judge took a third action: he changed the language of the notice sent to parties and lawyers about the ODR requirement with the hope that they would better understand that using ODR was required.

Recommendations

Once ODR is available to cases with multiple parties on a side, email parties and lawyers to direct them to use ODR

Whenever the court has email addresses or cellphone numbers for both parties and lawyers for a given case, both should receive notices to use ODR as well as any reminders the court issues.

¹² Interview transcripts on file with the authors.

¹³ Interview transcripts on file with the authors.

FINDINGS AND RECOMMENDATIONS

Grant ODR access for cases with multiple parties on a side

More than 30 cases were not eligible for ODR because at least one side of the case had multiple parties. Although Modria is an off-the-shelf product, the court should ask Tyler about the possibility of allowing multiple parties per side to participate. This change could increase ODR use and court efficiency. It would also enable litigants and their lawyers to use the ODR platform together, if that is their preference.

Investigate errors that prevent cases from uploading to Modria

A large percentage of eligible cases were not offered the opportunity to use ODR due to upload errors. The court should work with Tyler to identify the sources of these errors and determine how to fix them. Errors should be monitored and addressed on a regular basis.

Conduct outreach to plaintiff's bar

Before the COVID-19 pandemic, the court had planned to conduct outreach through the bar association. The court should re-engage interest in ODR with the bar, especially lawyers who handle debt claim cases, since lawyers were more often involved in these cases

ENGAGEMENT ON THE PLATFORM

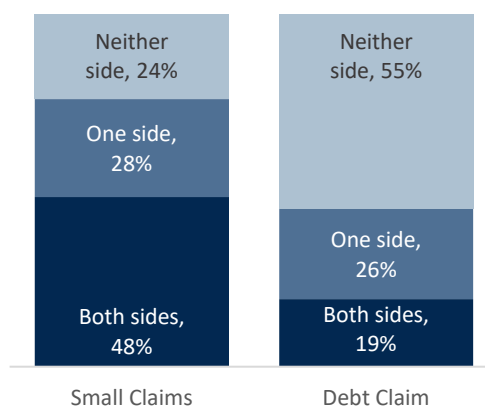
A significantly greater proportion of small claims cases used ODR compared to debt claim cases.¹⁴

Of 54 small claims cases uploaded to the ODR platform, both sides used ODR in 26 cases (48%). For debt claim cases, ODR was used by both sides in 55 of 287 cases (19%). Neither side used ODR in 55% of debt claim cases, as compared to 24% of small claims cases. These data are illustrated in Figure 4.

53% of cases in which both sides used the platform had 9 or fewer total ODR activities

The level of engagement per case varied widely, from one activity per side to 220 taken by both sides combined. However, the level of engagement was skewed to the lower end of this scale, with a median of nine activities completed by both parties combined. In 79% of ODR cases in which both sides used ODR, the parties completed a combined 20 or fewer activities.

Figure 4: ODR Use by Case Type



¹⁴ A greater proportion of small claims cases engaged in ODR compared to debt claim cases, $\chi^2(1) = 22.13$, $p < .001$.

FINDINGS AND RECOMMENDATIONS

When both sides used ODR, they tended to interact at relatively the same level

On average, the plaintiff side took 54% of all actions in a case and the defendant side took 46% of all actions. These figures suggest that, on average, when both sides used ODR, their activity levels were somewhat comparable.

We could not determine which cases reached agreement on the platform. Although the data indicated that five of the 81 cases (6%) that used the platform reached agreement, the court learned that many attorneys were e-filing agreements rather than using the platform's agreement form. Because of this lack of clarity about the number of cases that reached agreement on the platform per se, we could not draw conclusions about the relationship between the level of engagement and the likelihood of reaching agreement.

| Table 2: Level of Engagement | |
|-----------------------------------------|--------------------------|
| | # of combined activities |
| Minimum | 2 |
| 1 st Quartile (25% of cases) | 6 |
| Median (50% of cases) | 9 |
| Mean | 19 |
| 3 rd Quartile (75% of cases) | 20 |
| Maximum | 220 |

Almost half of all cases that used ODR received mediator assistance

For purposes of this evaluation, we consider mediation as having taken place if the mediator posted at least one message to both sides of the case. Using this definition, mediation occurred in 37 cases (45%) in which both parties used the platform. We could not determine from the available data the relative number of cases in which the participants attempted to negotiate prior to starting mediation.

Conclusion

ODR use was significantly higher in small claims cases than in debt claim cases. One possible reason for this pertains to the use of central email addresses for attorneys at large law firms. If attorneys did not receive emails from the platform, they would have missed reminders about the requirement to use ODR, and if they started ODR, they would have missed alerts informing them that the defendant had started ODR or used the platform to communicate with them. This limitation was addressed in part through a fix to the platform in March 2020, which allowed attorneys to switch to another email address for ODR communications after they received an email notice indicating that their case had been uploaded to the platform. However, the success of this fix hinged on the attorneys receiving the initial notice of ODR through their firm's central email address.

The level of engagement for most cases was relatively low for both case types, with a median of nine activities for both sides of a dispute combined. Due to the lack of data regarding whether

FINDINGS AND RECOMMENDATIONS

agreements were reached on the ODR platform, we could not determine whether those who did little on the platform were able to reach agreement, or whether the low activity levels were due to the participants' abandoning the process, the simplicity of their disputes, or some other cause. Anecdotally, the JP 3-1 court administrator informed the evaluation team that some lawyers indicated an interest in obtaining the other party's contact information so that they could negotiate without using the platform. It is possible that such off-platform negotiations occurred in some cases, which might explain in part the low level of engagement we observed.

When both sides used ODR, they moved from negotiation to mediation in almost half of the cases. This fact suggests that mediation was an important option for many platform users.

RECOMMENDATION: Continue to offer mediation on the platform.

LITIGANT AWARENESS OF ODR OPTION AND PERCEPTIONS OF ODR

The success of a court innovation that relies on litigant engagement depends in part on how litigants perceive it. Thus, we created a survey instrument to measure litigants' experiences in trying to resolve their ODR-eligible dispute, how well they understood key elements of the ODR program, and their perceptions of the program.¹⁵ Litigants were recruited during five Zoom trial calls in November 2021. These litigants had been eligible for ODR during the pilot program. Ten litigants responded to our survey. The methods used for recruiting parties and details concerning survey administration are reported in Appendix B.

The survey included the following questions:

- Did you use the court's ODR program to try to resolve your case?
- Those who indicated they did not use the program were asked:
 - Why not?
 - What would make you more likely to try it in the future?
- Did you receive information about the ODR program from the court?
 - Those who indicated that they received information were provided with a list of ODR program features and asked to identify the ones that reflected those specific to the court's program. answered affirmatively were asked to identify the program's features?

¹⁵ We also created a separate online survey intended to gauge attorneys' perspectives on these and similar issues during a short timeframe toward the end of the pilot period. We attempted to recruit them via email but encountered challenges locating personalized email addresses for the vast majority of recruits, despite searching for email addresses using firm websites, bar association lists, national lawyer databases, and Google. Not surprisingly, we ultimately relied on centralized email addresses to contact the vast majority of attorneys we attempted to recruit. Not a single attorney completed the survey.

FINDINGS AND RECOMMENDATIONS

- Participants who indicated did not know about the ODR program were given a description of it and asked how attractive that seemed to them.
- What is your impression of the court in which your case was filed?
- Thinking of this case from when it was filed to right now, how fairly was it handled by the court?

Litigants' Reported (non)Use of ODR

The threshold question in our survey was: *Did you use the court's online Debt and Small Claims Resolution Program to negotiate or mediate with the other party online?* We had developed a subset of questions intended for those who indicated that they had used the ODR platform. These questions were meant to explore parties' perceptions of, and experiences with, the program. Of those who completed the survey, eight litigants (80%) confirmed that they did not use the program and the remaining two litigants (20%) did not respond to this question. Although two litigants did not respond to this question, their answers to other survey questions indicated that they did not use ODR. Thus, **none of the survey respondents participated in ODR. We therefore did not obtain any data for survey questions that were intended to assess litigants' experience with the ODR platform.**

Reasons for Not Using ODR

The survey responses we received suggested that **the main reason litigants did not use ODR relates to lack of information about the ODR program**: they did know about it or believed that they did not know enough about it. Other responses reflected a lack of interest in ODR. To better understand barriers to ODR use, we asked litigants: "Please tell us why you did not use the court's online Debt and Small Claims Resolution program (ODR)." We provided a list of possible reasons, and they could check all that applied to their situation. Reasons that were selected by the respondents are tabulated in Table 3. **Half of the survey respondents indicated that they did not know they had the option to use ODR.**

| Table 3: Reasons for Not Using ODR (N = 10) | | |
|-------------------------------------------------------------------------|-------|------------|
| | Count | Percentage |
| I didn't know I had the option to use ODR | 5 | 50% |
| I just wanted to go to trial | 2 | 20% |
| I didn't believe online dispute resolution can help us with this matter | 1 | 10% |
| I wanted to mediate in person | 1 | 10% |
| ODR seemed too confusing | 1 | 10% |
| ODR seemed too expensive | 1 | 10% |

Note: One litigant selected more than one response option; therefore, percentages add up to more than 100%.

FINDINGS AND RECOMMENDATIONS

To ascertain whether litigants perceived the court as having informed them about the ODR program, we asked the following question: “Before today, did you receive information from the court about its online Debt and Small Claims Resolution Program?” **90% of respondents reported not receiving information about the ODR program from the court; only one respondent (10%) indicated that they had.**

Litigants need to be educated about the ODR program

To further explore how to improve ODR participation, we asked litigants the following open-ended question: *What would make you likely to try the online program the next time you have a small claims or debt claim case in Collin County?*

Four of the six litigants (66.7%) who responded to the question appeared open to using the ODR program in the future. Three of those indicated that they would be more likely to use it if they were given more information. The other affirmed that they would use it. On the other hand, two respondents suggested that nothing would make them more likely to use the program in the future. It is unclear what impression about ODR supported their attitudes given that both indicated they had not received information about the program. However, in answering the question about why they did not use ODR, one indicated that they did not think ODR would help to resolve their case and the other stated that they wanted to go directly to trial. These responses suggest a disinclination to engage in non-traditional processes.

Those who indicated that they might use the program if they were better informed about it had the following comments:

- “Ideally, this wont (sic) happen again. But if it does, id (sic) like to be provided with more thorough detail about how to use the system. As well as being made aware that this was an option.”
- “Access to more information and awareness of availability”
- “With the help of God I will not have to go to a small claims or debt trial ever again, however, had I been made aware of this online program, I would have considered utilizing it if it meant that my case would not have gone to trial. . . . [comment excised] Unless I didn't read my documents correctly, I was not aware of this online program.”

“[H]ad I been made aware of this online program, I would have considered utilizing it if it meant that my case would not have gone to trial.”

- Debt Claim Litigant

Comments from these three litigants point to the need to provide more information about how ODR works at the time when parties must decide whether to use it.

FINDINGS AND RECOMMENDATIONS

Comments from the litigant who indicated that they knew about the program also suggested a need for better litigant education. This respondent was asked an additional question that assessed their understanding in a more objective manner. Specifically, we provided a list of characteristics that might describe an ODR program, some of which correctly described the JP 3-1's ODR program and some that did not, and asked the litigant to indicate which features reflected JP 3-1's program. Although the litigant did not incorrectly attribute features to the ODR program, they correctly identified only one feature: that they could reach agreement online. This litigant also specified that they did not use ODR because it was too confusing. See Table C3 in Appendix C for a list of the program characteristics we examined.

Litigants Were Open to Using ODR for Future Cases

When litigants were asked why they did not use ODR, those who selected the response "I didn't know I had the option to use ODR" were presented with a brief description of the court's program and were asked to rate their interest in using it for future similar cases. Specifically, we asked: *"Now [you know about] the option of trying to resolve a case like yours online by exchanging information and settlement ideas, maybe with the help of a third party who could act as a go-between. You would send written messages to the other party online whenever you wanted, and they would reply when they could. How attractive is this option?"* The litigants used a scale to indicate their level of interest in using the program (1 = Not at all, 4 = Somewhat, 7 = Extremely). Three people responded to this question. Their responses ranged from "Somewhat" to "Extremely," indicating that **all three respondents viewed ODR at least somewhat favorably after reading the program description provided in the survey.**

As part of our attempt to collect background information on the types of parties and disputes in our survey sample, we asked litigants several questions about their experience with technology and their comfort levels using it for a variety of tasks. Their responses, which support the idea that they were overall very comfortable with using technology for a diverse set of leisure, work, and financial activities, are summarized in Appendix C. The pattern we observed, along with respondents' expressed openness to using text-based ODR for future similar cases, presents an optimistic view regarding ODR's potential in this jurisdiction.

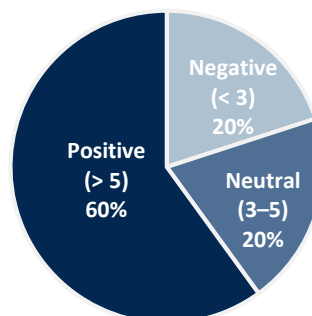
Due to the increased use of video for court procedures during the pandemic, we also asked all respondents to evaluate a video mediation option. We asked them *"Next time you have a similar case, imagine that the court offered you the option of trying to resolve your issue by mediating by video with the other party. How attractive would you find that option?"* The litigants were given a scale to indicate their level of interest in this option (1 = Not at all, 4 = Somewhat, 7 = Extremely). Eighty percent indicated that the option was at least somewhat

FINDINGS AND RECOMMENDATIONS

attractive. The majority (60%) rated video mediation toward the “extremely attractive” end of the scale.

When asked to comment on why they rated video mediation as they did, litigants expressed a range of ideas, with some suggesting that video mediation would be an easier, more convenient, or more private mechanism for resolving legal issues compared to an in-person procedure.

Figure 5: Attractiveness of Video Mediation



Respondents who were positive toward the video mediation option commented:

- Response given by the participant who received information about ODR: "It's easier for me to speak to a person when I can make eye contact. Phone calls and email lose the human aspect to communication in cases like these. A text platform gives the impression of the defendant being a number vs. a corporation."
- "I would prefer mediation."
- "Having the option to do a video mediation is better than going in person."
- "This was convenient and I didn't have to take a day off work to attend."
- "it gives a more flexible time frame"
- "It is easier"

The respondent who was neutral toward the video mediation option commented:

- "If it's free. "

Respondents who were negative toward the video mediation option commented:

- "I am a private person. It's already humiliating to have to go through resolving a debt issue, let alone doing it via video. I would rather negotiate with the other party over the phone or with an online program. I would not be interested in doing a video call."
- "Don't intend on getting another case"

The comment suggests that some litigants viewed video mediation as providing benefits that are unavailable in in-person procedures.

FINDINGS AND RECOMMENDATIONS

RECOMMENDATION: Explore the possibility of offering video mediation

Due to survey respondents' positive attitudes towards video mediation, the court might consider offering this option for its debt and small claims cases. Given the small sample size for our survey data, we urge the court to solicit additional feedback from litigants on this possibility.

Video mediation could replace in-person mediation for those cases that are not eligible for the ODR program. It could also be incorporated into the ODR program. For example, the parties could negotiate via the chat function and then be given the choice of continuing to communicate asynchronously with a mediator or shifting to video for mediation. This ODR format is currently being piloted in several courts in Ohio.

INFORMATION AVAILABLE TO LITIGANTS ABOUT THE ODR PROGRAM

At several points during the evaluation period, and after the pilot program ended, the evaluation team searched the court's website to locate publicly available information about its ODR program. Our attempts were unsuccessful. In May 2020, court personnel confirmed that information was never posted to the website.

Just prior to the pandemic, part of the evaluation team attended a marketing meeting that included court and county personnel as well as representatives from the Pew Charitable Trusts and the National Center for State Courts to discuss how best to build awareness about the ODR program. Their ideas included writing press releases and an op-ed, posting to social media, and asking local television stations and community newspapers to promote it. The court also considered adding an FAQ on its website. According to the JP 3-1 judge, court personnel planned to add information about its program to its website, but when the court encountered a problem with the configuration of the platform soon after launch, they decided to wait until the problem was fixed. The platform was not reconfigured until March 2020, after court and county personnel had to turn their focus to responding to the COVID-19 pandemic.

The evaluation team discovered that the only way litigants could learn about the ODR program was through the notice the court sent to parties about their court date, or through an email or text from Modria informing them that their case had been sent to ODR. There was no mention of the ODR program option in the parties' summons, or on the court website during the evaluation period. Accordingly, it seems doubtful the court could achieve its goal of reducing the default rate for debt claim cases, since defaults are most commonly a result of defendants not filing an answer. If defendants did not know about the ODR program before deciding whether to file an answer, then the opportunity to use the program could not influence that decision.

FINDINGS AND RECOMMENDATIONS

Recommendations for Educating Litigants and Lawyers about ODR

Notify parties and lawyers about the ODR program early

- The court could revise its e-filing materials to clearly state that parties may be required to use ODR and tell them how they will be notified if they are
- Send a notice regarding the ODR requirement directly to plaintiffs and their attorneys right after a case is filed. The notice should provide information about what ODR entails and how to learn more about it.
- Include a notice with each summons that clearly instructs defendants to use ODR and informs them about what ODR entails and how to learn more about it.

Educate litigants and lawyers more fully about the program

- Use the court's website to market ODR and educate parties and lawyers about its availability and how to use it
 - Use a multi-media approach (e.g., textually describe the ODR process on the court website but also produce and post a short video to explain the ODR process)
 - Collaborate with Tyler to create "how to use ODR" material specific to the court's platform
 - Use emails and text messages to share links to this information to litigants and lawyers about the program
- Educate parties about ODR on the platform itself, including ways in which they can get assistance (e.g., Q & A section)
- Consider offering online tutorials monthly orientations via Zoom (or equivalent) for those who want assistance regarding how to use the program

Conduct outreach to raise awareness of, and promote interest in, the ODR program

- Use outreach to educate the bar about the ODR requirement, the possible benefits of ODR, and how to use it
- Work with legal assistance to provide ODR information on its website and via its call center
- Use local media to promote the program
- Use the county and court's social media to advertise the program and educate parties and lawyers about ODR
 - Ask the bar association and ODR program mediators to do the same

IMPRESSIONS OF THE COURT

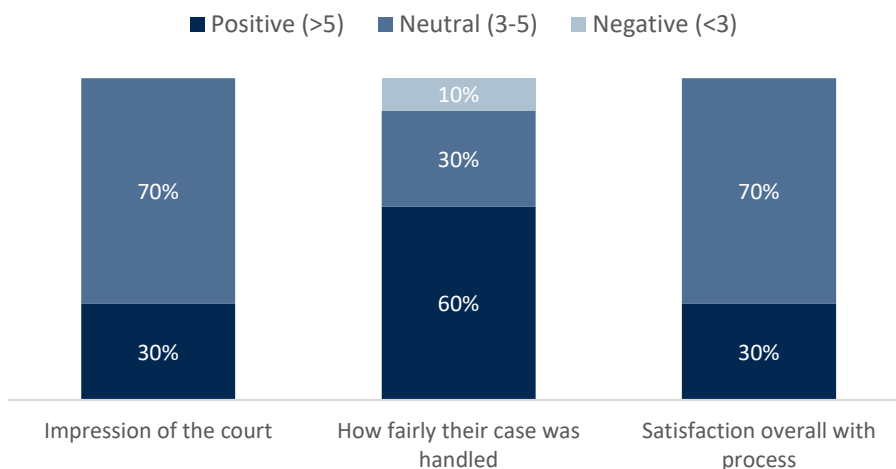
In addition to gathering information about litigants' use of, and perspectives on, ODR we asked parties a set of questions to discern their overall impressions of the court, how fairly the court

FINDINGS AND RECOMMENDATIONS

handled their case, and how satisfied they were with the process that was used. Answers to these questions were intended to provide the court with a broader perspective on litigants' experience with court services. For each question, they indicated their attitudes using a scale from 1 to 7 (1 = Extremely negative, 4 = Neutral, 7 = Extremely positive). The responses for each question are depicted in Figure 6.

When asked **"What is your impression of the court in which your case was filed?"**, the average (mean) response was 4.8, reflecting a neutral evaluation of the court. Although 30% rated the court positively, the majority (70%) rated the court neutrally.

Figure 6: Litigants' Views of Their Experience



To further understand litigants' experiences, we asked: **"Thinking of this case from when it was filed to right now, how fairly was it handled by the court?"** The average (mean) rating was 5.5, reflecting a neutral viewpoint on the issue. The majority (60%) indicated that their case was handled fairly.

We asked the litigants to elaborate on their fairness rating of the court. Six responded.

Respondents who rated the court's handling of their case as fair commented:

- Participant who received information about ODR: "With a simple debt case, the system was fair in the settlement opportunity."
- "The court sided with me in that the plaintiff did not have any proof or cause to sue me."
- "was able to reschedule and able to do it through zoom"
- "Nothing has happened"

FINDINGS AND RECOMMENDATIONS

Respondents who rated the court's handling of their case as neutral commented:

- "They did their job. They had no idea that I had reached a settlement so my case went to trial per protocol."

The respondent who rated the court's handling of their case as unfair commented:

- "I requested mediation and was not given one or any information regarding mediation. Instead my case went straight to trial."

Litigants were also asked to rate their overall satisfaction with the process used in their case. Specifically, we asked: **"Regardless of the outcome, how satisfied are you with the overall process used for your case?"** Thirty percent were satisfied with the overall process used for their case; the majority (70%) provided a neutral rating. Of note, the participant who received information about ODR ($n = 1$) indicated the maximum amount of satisfaction (i.e., gave a rating of 7).

Litigants were invited to explain the rating they provided. Five responded.

Respondents who were satisfied with the overall process:

- "It was efficient and convenient to handle this via Zoom."
- "Very nice judge easy to don" (sic)

Respondents who expressed neutral attitudes towards the overall process:

- "Not an easy question to answer. It was a small claims debt trial after all. Nothing pleasing about it. I will say that the Judge had a decent attitude considering his position compared to others and the clerk responded to my email messages when I reached out. Overall satisfied with that."
- "I had to come to trial and bring up to the judge that I had previously requested mediation. No one was aware. Very unorganized system."
- "need to see results first"

DAYS AND HOURS IN WHICH ODR WAS USED

The court implemented ODR with the expectation that it would be more convenient for court users than traditional court processes. The judge indicated that he believed ODR would be particularly helpful to self-represented litigants because they would be able to participate in ODR anytime and from anywhere rather than being limited to the court's hours of operation and physical location.

FINDINGS AND RECOMMENDATIONS

To determine whether participants were taking advantage of this benefit of ODR during the pilot period, we examined the number of times in which ODR participants used the platform outside of courthouse hours, (i.e., weekdays from 8:30 am to 4:00 pm). These hours did not change during the COVID-19 pandemic, except when the court completely closed from March 13 until June 1, 2020.

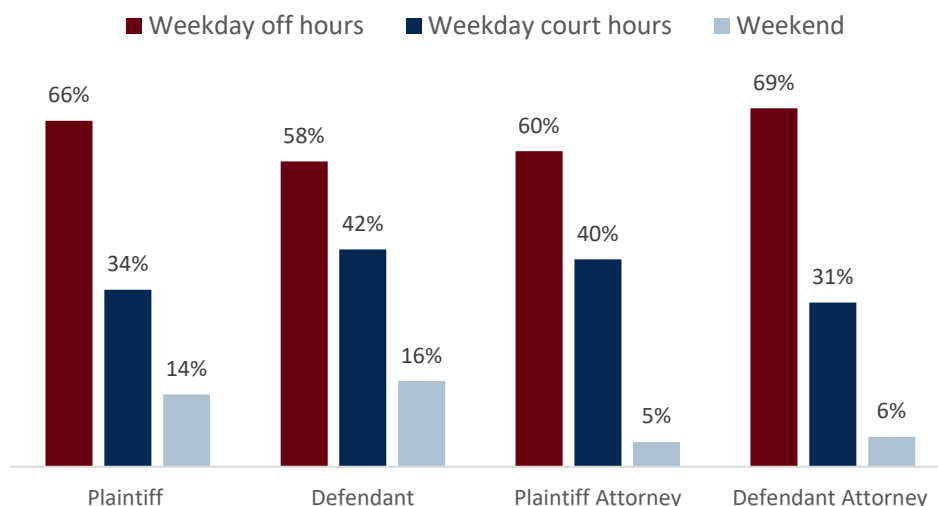
The dataset that Tyler provided to the evaluation team contained the times of the first and last action, file upload, post to the other side, and post to the mediator; therefore, the dataset does not include information regarding all activities that ODR participants may have undertaken. For example, if a participant posted five messages to the other side, we were provided only the time of the first and last message. However, because most ODR participants completed fewer than 5 total activities, our snapshot of when they used the platform appears to be relatively complete.

Participants Used ODR Primarily Outside of Court Hours

Overall, 72% of recorded ODR activity took place outside of court hours

Plaintiffs were more likely than other participant types to use the platform outside of the court's normal hours of operation, with 80% of their recorded ODR activities occurring outside of court hours. Defendants and defense attorneys also undertook most of their activities in ODR when the court was closed: 75% and 74% of their recorded ODR activities, respectively, took place outside of court hours. All participant types appeared more likely to use the platform during the workweek than on weekends. The breakdown of ODR usage by whether the court was open is illustrated in Figure 7.

Figure 7: Time of ODR Activity



FINDINGS AND RECOMMENDATIONS

This trend of using the platform outside of regular courthouse hours was observed in mediation as well as in negotiation. **In mediation, 76% of parties' recorded private posts to the mediator occurred outside of the court's regular hours of operation.** Although we could not disentangle participants' posts to the other side during mediation from the posts they made to the other side during negotiation, 80% of parties' posts to the other side overall took place outside of court hours. Mediators, too, availed themselves of ODR's flexibility. **Almost 70% of mediators' recorded posts to ODR participants were made outside of court hours.**

Conclusion

Our analysis of the available data suggests that ODR participants took advantage of the 24/7 capabilities of ODR. The majority of recorded ODR activities that we were able to evaluate took place at times that would not have been available to them had a courthouse visit been required. However, we could not determine whether their ODR activity outside of court hours replaced all activities that they would have engaged in outside of court hours in the absence of ODR. For example, in the context of the traditional process, parties might have negotiated via email or phone during hours when the courthouse was closed. This pattern of use outside of court hours is much higher than that found in Franklin County, Ohio.¹⁶

ODR participants were offered a distinct opportunity to mediate on the platform whenever it suited them. In the traditional process, mediation was conducted in person at the courthouse on specific dates during court hours. ODR participants, on the other hand, had control over when they interacted with the mediator and the other side, and they did so most often outside of the court's hours of operation. Mediators also tended to communicate with parties outside of court hours. Thus, the time convenience of ODR appeared to benefit ODR participants and mediators alike.

OUTCOMES

The court's primary motivation for introducing ODR was to increase efficiency, particularly by reducing the number of in-person mediations and trials it held. We were not provided with precise data regarding which cases reached agreement on the platform. Although the available data indicated that five of the 81 cases (6%) that used the platform reached agreement, court personnel told us that many attorneys continued to e-file agreements instead of using the platform's agreement form.¹⁷ Thus, we could not differentiate between cases that resolved on the platform itself and those that resolved after ODR but before trial.

¹⁶ *Franklin County Municipal Court ODR and Mediation Data Project*, FCMC DATA PROJECT, https://sites.google.com/view/fcmcdataport/about#h.p_03h0fs19dBnn (last visited Apr. 12, 2022).

¹⁷ Interview with JP3-1 Judge, on Zoom (Aug. 14, 2020); Interview with JP3-1 court clerk, on Zoom (Aug. 26, 2020).

FINDINGS AND RECOMMENDATIONS

Another way in which we might try to calculate the effect of ODR on the number of trials held is by comparing trial rates for the cases that used ODR to trial rates for those cases to those cases that did not use ODR. To do this, we analyzed whether cases in which the two sides used the ODR platform were more likely to resolve before trial than cases that fell into each of the following comparison groups:

- A pre-pilot period set of cases (Pre-Pilot group) with answers filed from September 2018 through August 2019, which constituted our baseline data
- Cases that were uploaded to ODR during the pilot period, but at least one side did not use the platform
- Cases with answers filed during the pilot period, but not uploaded to ODR

It is important to note that those with baseline cases were given the opportunity to use in-person mediation. Some cases that were not uploaded to ODR during the pilot period were also offered mediation, although these opportunities were limited by the court's temporary closure due to the COVID-19 pandemic.

Whether cases used ODR or not, most resolved without trial

There was no significant difference in the probability of resolving before trial between any of the comparison groups and the Used ODR group.¹⁸ Note, however, that the sample size may have been too small to detect differences between the groups.

| Table 4: Trial and Pre-Trial Resolution Rates | | | | |
|------------------------------------------------|--------------------|-----|-------|-----|
| Procedure | Resolved Pre-Trial | | Trial | |
| Used ODR | 51 | 73% | 19 | 27% |
| Pre-pilot process with mediation | 682 | 76% | 219 | 24% |
| Uploaded to ODR, did not use it | 137 | 69% | 61 | 31% |
| Not uploaded to ODR, mediation option for some | 79 | 71% | 33 | 29% |

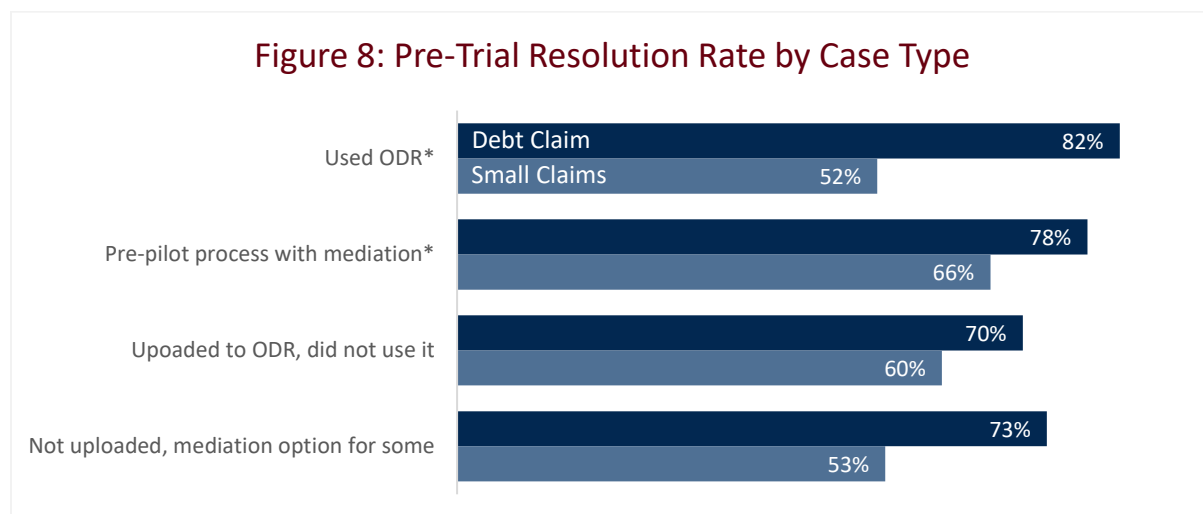
Among pre-pilot cases and cases that used ODR, debt claim cases were significantly more likely to resolve before trial than small claims cases

Debt claim cases were significantly more likely to resolve before trial than small claims cases in the Used ODR group and the Pre-Pilot group which underwent the traditional process. Of the cases that used ODR, 40 of 49 debt claim cases (82%) and 11 of 21 small claims cases (52%) resolved before trial. This difference in resolution rates across case types was statistically

¹⁸ Pre-process v used ODR: $X^2(1, N=901) = .28, p = .59$; used ODR v did not use: $X^2(1, N=380) = 0.28, p = .60$.

FINDINGS AND RECOMMENDATIONS

significant.¹⁹ Among those in the Pre-Pilot group, debt claim cases were also significantly more likely to resolve before trial than small claims cases:²⁰ 574 of 738 debt claim cases (78%) and 108 of 163 small claims cases (66%) resolved before trial. Although debt claim cases in the two comparison groups that did not use ODR during the pilot period were more likely to resolve than small claims cases that did not use ODR, the difference was not statistically significant.²¹



*Difference is statistically significant, $p < .05$.

As depicted in Figure 8, the resolution rates for debt claim cases and small claims cases were similar across the comparison groups.

Debt claim cases in which the defendant had an attorney appear to be more likely to resolve before trial

Defendant attorney representation appears to be associated with the probability of debt claim cases resolving before trial when cases used ODR. All 16 debt claim cases that used ODR in which the defendant was represented ultimately resolved before trial, compared to 24 (73%) of the 33 debt claim cases involving self-represented defendants.²²

¹⁹ Among cases that engaged in ODR, debt claim cases were more likely to resolve before trial than small claim cases (82% vs. 52%), $\chi^2 (1, N=70) = 6.36, p = .01$.

²⁰ $\chi^2 (1, N=901) = 9.63, p = .00$.

²¹ Among cases that were uploaded to ODR, but did not use it, there was no difference in the likelihood that debt claim cases versus small claim cases resolved before trial (70% vs. 60%), $\chi^2 (1, N=198) = 0.88, p = .35$. Among cases that were not uploaded to ODR (and did not use ODR), there was no difference in the likelihood that debt claim cases versus small claim cases resolved prior to trial (73% vs. 53%), $\chi^2 (1, N=112) = 2.47, p = .12$.

²² We were unable to statistically analyze whether the defendant's representation status was associated with resolution before trial because zero debt claim cases in which the defendant had an attorney went to trial.

FINDINGS AND RECOMMENDATIONS

We also found this to be true of debt claim cases in the Pre-Pilot group. For those cases, 203 of 228 cases (89%) resolved before trial when the defendant had an attorney and 371 of 510 cases (73%) resolved before trial when the defendant did not.²³

| Table 5: Resolution before trial Rate for Debt Claim Cases by Representation Status | | |
|-------------------------------------------------------------------------------------|--------------|-----------------------|
| Procedure | Had Attorney | Did not have Attorney |
| Used ODR | 100% | 73% |
| Pre-pilot process with option to mediate in person * | 89% | 73% |

* Difference is statistically significant

It is interesting to note that 73% of debt claim cases for litigants without attorneys resolved before trial when ODR was used and when the option to mediate in-person was available.

Conclusion

Our analyses indicate that, for cases that used ODR, the probability of resolving prior to trial was affected by the type of case involved and whether the defendant had an attorney.

The data indicate that the use of ODR was not associated with greater rates of resolution before trial. Given that ODR cases were compared to pre-pilot cases that had an opportunity to mediate, this is in line with the court's interest in creating greater efficiency. It appears that the court can move from in-person mediation to ODR without risking an increase in the percentage of cases that fail to resolve prior to trial.

TIME TO RESOLUTION

The court was interested in reducing the time it took for cases to move from the date on which answers were filed to when cases resolved. We examined the impact of ODR on time to disposition (the final resolution by any means) by comparing cases in which both sides used ODR to:

- A pre-pilot period set of cases (Pre-Pilot group) with answers filed from September 2018 through August 2019, which provided our baseline data
- Cases that were uploaded to ODR, but in which at least one side did not use the platform
- Cases not uploaded to ODR

²³ $\chi^2 (1, N=738) = 24.19, p = .00.$

FINDINGS AND RECOMMENDATIONS

To determine whether ODR was associated with parties resolving their cases more quickly than they would have through other means, we also compared these sets of cases in terms of the amount of time it took for cases to resolve through means other than trial.

We found that cases that used ODR resolved on average within 141 days, or 4.6 months. We could not draw conclusions from our comparisons of the pilot period groups with the Pre-Pilot group due to the variety of confounding factors involved in the comparisons, including the court's closure due to the COVID-19 pandemic and another six-week delay for ODR-eligible cases due to a server issue.

We faced similar issues when trying to compare the cases that used ODR to the other two pilot period groups; confounding factors included the delay in ODR-eligible cases and a five-month hiatus on the scheduling of mediation for non-eligible cases due to the pandemic, which changed how those cases flowed through the court process.

Conclusion

Given that the evaluation team was unable to reliably determine the effect of ODR on time to resolution during the pilot period, further investigation on this issue is warranted.

COSTS, STAFF TIME, CHALLENGES, AND SUCCESSES

To discover the time and cost impact to the court as a result of adopting ODR, we conducted interviews with five key court personnel approximately 11 months after the program launched. The interviews were also designed to elicit information that would help personnel from other jurisdictions contemplate the time, costs, and tasks involved in implementing this type of ODR program, as well as some of the challenges they might face. The interviewed individuals, who were intimately involved with the implementation of ODR and/or the administration of debt claim and small claim cases in Justice of the Peace Court 3-1, are listed below.

- The JP 3-1 judge, who originated the idea of implementing ODR at the court, was involved in determining key program characteristics and developing the court program, and heard cases before program launch and during the pilot.
- The project manager (PM), whose role was to oversee the implementation of ODR and to help troubleshoot issues after launch. He was responsible for all of the court and justice projects for the Project Management Organization, a division of Collin County's IT Department.
- The IT staff person (IT SP) whose role was to work with Tyler to implement the platform, and to troubleshoot issues and run reports after launch. As an employee of the Collin County Justice of the Peace Division, she supported all Justice of the Peace Courts in the county.
- The court administrator for JP 3-1, who was involved as a clerk in the development and implementation phases of the ODR program, and helped in case administration.
- The clerk who was responsible for case processing and answering party and attorney questions about their cases.

We also used these interviews to better understand the discrete tasks in which each individual participated to implement or administer the program. We divided these tasks into pre-launch and post-launch activities and report them in Tables 6 and 7, respectively.

COSTS, STAFF TIME, CHALLENGES, AND SUCCESSES

Ultimately, much of the information the interviewees provided helped us to evaluate perceptions of costs rather than actual costs. Our interviewees reported that they perceived no direct costs to the court for adopting ODR, either during the development of the program or after launch. However, most civil case plaintiffs incurred an additional \$5 filing fee and ODR users who wanted to mediate each had to pay their mediator \$40. This mediation fee continued the court's pre-launch requirement that those who use mediation pay their mediator, although the fee was reduced from the pre-launch in-person mediation fee of \$50. Although parties could file a fee waiver for mediation with the court due to indigence, it was more common for individual mediators to decide whether to waive their fee more informally, at the parties' request.

Beyond the filing fees, the interviewees did not identify direct costs associated with the adoption of ODR. They did, however, pinpoint somewhat significant indirect costs in the form of the staff time needed to develop and implement the court's program. Once the program was launched, however, little staff time was needed to administer it. On the other hand, the hoped-for reduction in staff time needed to administer cases was not fully realized, in part due to delayed full implementation of the ODR platform.

DIRECT COSTS

The JP 3-1 judge and the PM stated that both the state and the Collin County Commissioners Court (the county courts' governing body) indicated their support for online dispute resolution but did not offer to fund its implementation. The county courts therefore needed to establish their own funding to pay Tyler to use its ODR platform (Modria).

The Collin County Commissioners Court considered two possibilities for funding the ODR program. One option was to adopt a user-fee model, in which the parties paid for ODR; another option was to implement a filing-fee model, in which a fee is imposed on all plaintiffs when they file a case. The state allowed courts to impose a \$5 filing fee on all civil cases for the administration of alternative dispute resolution programs, including those conducted online. The Commissioners Court decided to fund the ODR program through this filing fee rather than through a user fee because JP 3-1 was going to require parties to opt out of the program only for good cause. They did not believe it was ethically appropriate to require payment for court services in this context.

The court reached an agreement with Tyler specifying that the court would charge a \$5 filing fee for all civil cases filed in Collin County, with the exception of mental health and eviction cases, and pay those fees to Tyler. This increased the filing fee to \$307.²⁴ In return, Tyler agreed

²⁴ *Collin County Fee Schedule*, *supra* note 2.

COSTS, STAFF TIME, CHALLENGES, AND SUCCESSES

to provide a subscription-based enterprise system in which it would develop and customize the platform for the county courts and provide them with ongoing support and updates. During the pilot period, 27,518 cases were filed,²⁵ which suggests that at most \$137,590 was paid to Tyler for use of the Modria platform and customer support. The cost was likely somewhat less. Court personnel reported that about 5% of civil cases receive fee waivers.²⁶ The amount paid to Tyler was likely reduced by the same percentage.

Although Tyler and the county started with implementation in JP 3-1, this agreement included expansion to all Collin County civil courts for the same \$5 filing fee arrangement. The project manager stated that, due to this arrangement, the court did not use general funds to implement or administer the program. This arrangement meant that the costs were passed on to the parties.

INDIRECT COSTS

The PM perceived the most significant indirect cost to the court for implementing ODR to be staff time, which was spread across the IT department and court personnel in JP, District, and County courts. The IT and JP 3-1 staff dedicated the most time to the project. Little staff time was needed to administer the program.

Pre-Launch Indirect Costs

According to the project manager (PM), the tasks associated with implementing ODR from when the decision to adopt ODR was made in June 2018, to when the program launched in September 2019, involved staff costs “approaching the low six figures.” He attributed much of these costs to the time that personnel spent in meetings about ODR, but also indicated that this estimate included the time he spent managing the project and the time the IT SP spent on implementing the system over the 16-month program development period.

Meetings

Between June and August 2018, the county courts held at least three meetings to decide whether to adopt ODR. These were attended by the JP 3-1 judge, the Administrative District Judge, the District Clerk, the Administrative County Judge, the County Court of Law Clerk, and the Chief Information Officer. In these meetings, Tyler also conducted demos of the platform. Once the judges decided to move forward with ODR, the purpose of the meetings changed to determining how the program would work and securing buy-in from the stakeholders. These

²⁵ Email from ODR Implementation Project Manager to Jennifer Shack, Dir. of Rsch., Resol. Sys. Inst. (Aug. 12, 2021, 1:47 PM EDT) (on file with author).

²⁶ Meeting with ODR Implementation Project Manager and IT staff person, at Justice of the Peace Precinct 3 Courthouse, Plano, Texas (Jan. 24, 2020).

COSTS, STAFF TIME, CHALLENGES, AND SUCCESSES

full-day meetings included “anyone who was going to have any degree of impact” on the project, according to the PM. Up to 20 staff members and other stakeholders attended these meetings, including the PM, the IT staff person (IT SP), court administrative staff, mediators, and a legal services representative.

In addition, the PM, District Court and County Court at Law staff (i.e., the clerk, IT SP and administrator for each court), and Tyler representatives spent two days observing in-person mediations in order to understand how best to translate the mediation process to ODR. The PM also met with JP, District Court, and County Court of Law staff to learn about their administrative processes.

| TABLE 6: PRE-LAUNCH ACTIVITIES | |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------|
| INITIAL DECISION-MAKING | |
| GOAL: Determine whether to implement ODR and which vendor to use | |
| MAJOR TASKS: | PERSONNEL INVOLVED: |
| Meet to discuss costs and benefits, make decision about moving forward | Administrative judges, pilot judge, Chief Information Officer, District Clerk |
| Select vendor | Administrative District Judge, Chief Information Officer |
| PROGRAM DESIGN | |
| GOAL: Determine how the program will operate | |
| MAJOR TASKS: | PERSONNEL INVOLVED: |
| Meet with stakeholders to get buy in and to discuss stakeholder group needs, concerns about the program | Pilot judge, project manager, court administrators, court clerks, IT staff members |
| Determine what changes need to be made to the off-the-shelf ODR platform and to court processes for the best integration with the court’s case management system and process efficiency | Pilot judge, project manager, IT staff person, JP 3-1 court administrator, JP 3-1 civil clerk |
| ODR PLATFORM TESTING AND TROUBLESHOOTING | |
| GOAL: Make sure the ODR platform is working correctly and integrates with the CMS | |
| MAJOR TASKS: | PERSONNEL INVOLVED: |
| Test platform | Project manager and IT staff person |
| Communicate issues to the vendor | Project manager and IT staff person |

COSTS, STAFF TIME, CHALLENGES, AND SUCCESSES

| ODR TRAINING | |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------|
| GOAL: Make sure that mediators and staff understand how the platform works. Mediators needed to understand the platform so they could mediate. Staff needed to understand it so they could answer questions | |
| MAJOR TASKS: | PERSONNEL INVOLVED: |
| Train mediators | IT staff person |
| Train JP 3-1 court administrator and civil clerk | IT staff person |

Based on Collin County's experience, other **courts should anticipate that their own personnel would devote a significant amount of time to developing the framework for an ODR program.**

Countywide Employee Time and Activities

Project Manager

The PM estimated that 20% of his work time was dedicated to the ODR project during its 16-month implementation phase. This estimate was based on his working on six projects at that time, with the ODR project taking up slightly more than each of his other projects. In addition to attending the meetings mentioned above, he coordinated meetings, liaised with Tyler, facilitated communication among court personnel, oversaw project progress, and created tools needed for the project. These tools included a dedicated web server to facilitate data exchange between Modria and the court's case management system (CMS) and new court email addresses to be used to contact litigants and attorneys from Modria. He also worked with his staff members from the IT department to ensure that integration packages were installed into the court's CMS to enable Modria and the CMS to work together.

The PM stressed that he had to **be able to grasp the complexities of the ODR program by understanding in detail the purpose of the project as well as court processes.** He also needed to have the necessary technological skills to communicate the court's technology capacity and needs to the ODR vendor, and to understand the functions and limitations of the ODR platform.

IT Staff Person (IT SP)

The IT staff person's tasks included managing the case management software, maintaining the courts' fee schedule, and keeping up to date on statutes that affect court operations. In this role, she estimated that she spent 40% of her time over the 16-month implementation period on the ODR project, although she noted that she did not feel confident in that estimate.

Nonetheless, it is clear that the IT SP had a major role in implementing ODR. She was responsible for integrating Modria into the court's CMS, installing and testing the ODR

COSTS, STAFF TIME, CHALLENGES, AND SUCCESSES

software, training staff and mediators, and troubleshooting issues. Once the decision to contract with Tyler was finalized, she also attended almost all of the meetings the courts held prior to the program's launch.

To integrate Modria with the court's CMS and to properly manage Modria and troubleshoot issues post-launch, the IT SP needed to understand "all the ins and outs" of the ODR platform. She acquired this understanding by getting trained on the platform and "playing" with the staging site (i.e., a version of the platform that is not live).

The IT SP instructed both staff and mediators on how to use Modria. Given that JP 3-1 staff members did not interact with the platform itself, their training lasted only about one half-hour. The four mediators who would be handling ODR cases, on the other hand, received two two-hour trainings before the platform launched.

In our interview, the PM indicated that **the IT SP was essential to the program's functioning and needed to be involved in developing a court's ODR program.**

Justice of the Peace Court 3-1 Personnel Time and Activities

Before the ODR program launched, the judge, court administrator, and civil clerk for the JP 3-1 court played key roles in implementing the project, although the roles they played were smaller than that of the PM and IT SP. Beyond attending meetings, they answered the PM's questions informally, helped to develop the court business processes that would be used for the program, and learned how ODR worked so that they could answer attorney and party questions once the program launched.

The JP 3-1 court decided to include only the court administrator and civil clerk in pre-launch tasks since they were the most heavily involved in the ODR program. Therefore, the other seven JP 3-1 court clerks had no role in, and did not spend any time on, either the program's implementation or its post-launch administration.

Other Time and Financial Costs

Other staff members were only minimally involved with the ODR program, and therefore did not appreciably add to the overall cost. Just after launch, the county created pamphlets about the new program, which were designed and printed in-house. These were available at the JP 3-1 counter. Staff members also created new forms. The only out-of-pocket costs that any of the interviewees called to mind was the cost of lunches provided to the mediators during their trainings.

COSTS, STAFF TIME, CHALLENGES, AND SUCCESSES

Note that the above-listed activities do not include more extensive efforts that were planned to market the ODR program. The court set aside its marketing plans in order to respond to issues related to the COVID-19 pandemic. Had the county undertaken those marketing efforts, staff time would have increased.

Post-Launch Indirect Costs

None of the interviewees noted significant changes to their workload due to the adoption of ODR. The PM and IT SP indicated that the time they spent on ODR was minimal; the JP administrative personnel observed little change in the amount of time they spent processing cases after the program launched. The PM and IT SP focused their time on resolving issues with the platform and related technology. The court administrator and civil clerk also devoted time to these issues, but to a lesser extent. Both the administrator and clerk observed minor case processing efficiencies due to the ODR program. It remains unclear whether or how these efficiencies would manifest over a more extended period of time or in the absence of the pandemic. Post-launch activities are reported in Table 7.

| TABLE 7: POST-LAUNCH ACTIVITIES | |
|----------------------------------------------------------------------------------------------------------------------|--------------------------------------------|
| CASE PROCESSING & ADMINISTRATION | |
| GOAL: Ensure that cases are uploaded to the ODR platform and parties have the necessary information to use it | |
| MAJOR TASKS: | PERSONNEL INVOLVED: |
| Upload eligible cases to ODR and inform parties and/or attorneys | JP3-1 civil clerk |
| Answer party and attorney questions about ODR | JP 3-1 court administrator and civil clerk |
| MANAGE THE COURT'S ODR PLATFORM | |
| GOAL: Ensure that the ODR platform runs smoothly and is updated as needed | |
| MAJOR TASKS: | PERSONNEL INVOLVED: |
| Troubleshoot platform issues | IT staff person |
| Request the vendor make changes to platform functionality | IT staff person |
| Liaise with the vendor | IT staff person |
| Install and test updates to the platform | IT staff person |

COSTS, STAFF TIME, CHALLENGES, AND SUCCESSES

| PILOT PROGRAM EVALUATION | |
|---------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------|
| GOAL: Ensure that the evaluators have the information they need to provide a reliable and useful evaluation to the court | |
| MAJOR TASKS: | PERSONNEL INVOLVED: |
| Meet with evaluators to provide background information and determine the evaluation questions and data sources | Project manager, IT staff person, JP 3-1 judge |
| Provide case data to evaluators | IT staff person |
| Liaise between evaluators and ODR vendor | Project manager |

Countywide Employee Time and Activities

Project Manager

Once the ODR program launched, the PM spent considerably less time on it. The PM stated that it was difficult to precisely estimate the amount of time he spent on ODR post-launch because he could go two to three weeks without working on the project to suddenly having to spend the “good part of a week” dealing with an issue. Post launch, the PM spent much of his ODR-related time troubleshooting a server issue and acting as the court’s point-person for the evaluation, which entailed attending numerous meetings and communicating regularly with the evaluation.

The PM indicated that he does not typically manage projects after they are launched. For this project, however, he stayed involved throughout the pilot period because he wanted to ensure that the issues with the program were resolved before the JP 3-1 judge retired.

IT Staff Person

The IT SP also devoted significantly less time on the project once the program launched. She estimated that she worked on it an average of about two hours weekly post-launch. During those hours, she tested updates to the platform (e.g., changes to the user interface and new email functionality) and submitted tickets to Tyler to request small changes or to troubleshoot minor issues. In addition, she fixed data errors that prevented cases from being uploaded to ODR.

The IT SP also trained the mediators once the user interface was updated and held another meeting with the mediators to discuss their challenges using online payment apps like Venmo or PayPal to receive payment from the parties. She also occasionally fielded calls from ODR users who were having trouble with the platform, such as those who wanted a little extra time to negotiate online and therefore needed her to manually extend the automatic deadline for

COSTS, STAFF TIME, CHALLENGES, AND SUCCESSES

mediating their case. Another of her post-launch tasks was meeting with the evaluators and providing us case data as requested.

JP3-1 needed **a staff member who was responsible for managing the ODR program after launch**. That staff member needed the technological capability to troubleshoot problems and answer questions that ODR participants had about the platform..

JP 3-1 Court Personnel Time and Activities

Court Administrator and Civil Clerk

The court administrator and civil clerk indicated that the time they spent processing cases did not increase as a result of ODR since they had to do very little to upload a case to ODR and did not have to process the case once the parties finished using ODR. However, they also did not believe that ODR made case processing more efficient. Their assessment may have been due in part to the low volume of cases handled through ODR. On the other hand, they suggested that ODR streamlined case processing in two ways: having fewer hearings to scheduling and reducing the number of cases going through in-person mediation.

Additional Time Spent on ODR

Overall, the clerk and administrator reported that routine tasks for ODR took a negligible amount of their time. The one new task added to case processing was for the clerk to let the CMS know to upload cases to ODR. This task involved checking a box in the CMS when she scheduled cases for trial.

The clerk and administrator fielded calls and emails from parties about ODR. The clerk said she fielded fewer than one call about ODR per day, on average, and these usually lasted 5-10 minutes. Some took up to 30 minutes, but those generally covered topics in addition to ODR, such as how to file an answer. Emails took about the same amount of time but were less common than phone calls. Very few people walked into the courthouse to ask questions about ODR—possibly one per week—though the pandemic likely affected the number of walk-ins. Neither felt that fielding these questions changed their workload as these interactions were a very small proportion of the calls and emails they dealt with every day.

In JP 3-1, the adoption of ODR did not appreciably increase the time that court personnel spent on routine cases in part because the platform was integrated with the court's CMS.

Reduced Time Spent on Case Processing

Prior to the launch of ODR, when an answer was filed, the clerk would schedule the case for mediation. If a party declined to mediate when they arrived in court or mediation did not

COSTS, STAFF TIME, CHALLENGES, AND SUCCESSES

resolve the case, the clerk would then schedule the case for trial. Thus, for some cases, she had to schedule two hearings—mediation and trial. After the program launched, at the same time the clerk uploaded eligible cases to ODR, she scheduled them for trial. She therefore scheduled only one hearing per eligible case, which consumed less time than scheduling two.

Both the clerk and the court administrator (who previously served as the civil clerk) estimated that it typically took 5-7 minutes to process each case for a second hearing. If this is correct, it took overall between 2 and 2.8 minutes (0.4×5 minutes - 0.4×7 minutes) more to process every case with an answer filed before ODR launched than it did to process every eligible case with an answer filed post-launch.

Determining the total effect of this change in how cases were processed would require analyzing pre-launch data on the percentage of cases in which the parties attended a mediation that later needed to be scheduled for trial. As these data were not available, we can only approximate the relative percentages. According to the judge and clerk, most parties who arrived for the mediation docket participated in mediation. The judge also estimated that about 50% of mediations ended in agreement. These two observations suggest that the majority of cases continued on after mediation and would require the clerk to schedule them for trial.

Reduction in the Number of In-Person Mediations

ODR also appeared to reduce the time-consuming once-monthly, all-day mediation dockets. On mediation days, the court administrator and clerks arrived early to set up rooms for mediation and stayed late to clean up. Prior to ODR, these days started as early as 5:30 a.m. and ended as late as 8:00 p.m., although the more common start and end times were 6:00 a.m. and 6:00 p.m. The clerk also attended the hearings, which took time away from attending to her other tasks.

Once the program was fully operational, the court expected that in-person mediations would be held only for cases that were not eligible for ODR. This alteration in how cases would be handled would greatly reduce the number of mediation docket dates and the number of mediations conducted on those dates. Due to the COVID-19 pandemic, the impact of the pilot on the number of in-person mediations held was not clear.

The JP 3-1 Judge

The JP 3-1 judge observed no difference in his workload due to the adoption of ODR. He attributed this observation to the low number of cases using the platform. The judge did observe, however, that ODR seemed to affect how trials unfolded for debt claim cases. Specifically, regarding debt claim cases that used ODR but did not reach agreement, he said hearings appeared to be shorter because the defendants seemed more ready to admit they owed the amount requested by the plaintiff.

COSTS, STAFF TIME, CHALLENGES, AND SUCCESSES

Other Activities

During the pilot period, the county courts conducted little outreach to raise awareness of the program or educate litigants about ODR. Our experience with ADR programs outside of the ODR context indicates that successful campaigns along these lines can be time-intensive. Thus, the staff members' experience of little change in their workload may have been different had they been able to undertake such endeavors.

CHALLENGES AND SUCCESSES

The interviewees identified several challenges they faced in implementing ODR and administering it post-launch, as well as a few successes. Our evaluation identified a few more of each by analyzing data and informally speaking with mediators and observing a meeting they had with court personnel.

Funding

As noted previously, one initial challenge for the court was identifying a source of funding for the program. The court opted to institute a new filing fee to pay for it, with all funds going to Tyler. While the court successfully identified a method for funding the program, this method did not cover the costs of significantly customizing the off-the-shelf product (i.e., Modria). Thus, the court was restricted in its ability to make changes.

Program Use

Each of the interviewees mentioned that the low ODR usage rate was a significant challenge for the court, and evaluation data confirms their perceptions. The JP 3-1 judge and PM pointed to another challenge—the court's reliance on central law firm email addresses for communicating with the plaintiff attorneys—as a factor that helps to explain the low use rate. Identifying and addressing this issue took approximately six months. We also noted that the court's plans for marketing the ODR program and educating potential users in order to increase use were short-circuited by the COVID -19 pandemic.

Low usage rates like the one experienced by JP 3-1's ODR program are not atypical for new court programs. Many new court programs face similar issues. The judge understood this challenge. He indicated that he had received regular updates on ODR use and attempted to address it through changes to the notice of ODR to the parties and by obtaining feedback from attorneys and litigants at trial about why they did not use ODR. However, the court's decision to defer marketing and education outreach efforts likely played a large role in maintaining low usage rates throughout the pilot period.

COSTS, STAFF TIME, CHALLENGES, AND SUCCESSES

Court personnel tracked the program's progress by obtaining regular statistical reports from its CMS and the ODR platform, which helped them identify barriers to ODR use and possible fixes. One of those barriers was the lack of marketing, which was delayed by technological issues with the ODR platform and the COVID-19 pandemic. **The court would have benefitted from marketing the ODR program before it launched and ensuring that educational materials were available to potential users from the outset.**

Mediators

The evaluation team spoke informally with mediators and observed a meeting they attended with court personnel. During these encounters, the mediators discussed their experience with the system and their challenges with it.

Mediators presented both a success and a challenge to the court. The court successfully retained experienced mediators for the ODR program. Four of the six mediators who had been conducting in-person mediations for the court had agreed to conduct online mediations as well, which allowed the court to move mediations online without needing to recruit new mediators.

The mediators' transition to ODR posed two challenges to the court. At the time the meeting with the mediators was held, the mediators, despite having begun mediating on the platform, had not yet been trained on how to use it. They were therefore uncomfortable with the online mediation process. They were uneasy with, as one said, "typing everything" and waiting three to four days for a response. One mediator said that they would prefer video mediation. Thus, although the mediators agreed to mediate online, some seemed unhappy with the text-based platform.

An additional challenge was that none of the mediators had previously used online payment systems and found it difficult to successfully complete payment transactions. They indicated that their challenges with online payment sometimes led to mediations being delayed. Further, if one party paid for mediation and the other ultimately did not, the mediator paid a fee to the online payment system when refunding the first party's payment, thereby losing money.

JP 3-1's program benefitted from having a slate of mediators that had been working with the court before the ODR program launched, which helped to maintain open communication with them before and after the program started. The mediation component of the program might have started more smoothly had the mediators been trained on how to use the platform and been given the opportunity to practice with it before the program launched. The mediators might have reported less frustration had the mediator not been required to use an online payment system, or at least been trained on how to utilize it.

COSTS, STAFF TIME, CHALLENGES, AND SUCCESSES

Development of Statewide Standards

The JP 3-1 judge identified a major success stemming from the pilot program. Due to the pilot program, which received assistance from Pew Charitable Trusts, the Texas Judicial Council adopted a framework for ODR.²⁷ This framework was instigated by Tony Fabelo, a consultant for Pew, and written in partnership with a number of organizations concerned with access to justice and consumer protection. It outlines principles and standards for courts in Texas that adopt ODR.

CONCLUSION

At the time the evaluation team conducted the interviews, which was near the end of the pilot period, it was challenging to assess ODR's full impact on court personnel time. Precise calculations were not possible because the county and courts do not record how much time is spent on particular projects, and the onset of the COVID-19 pandemic changed the court's operations for a significant period. However, we can draw a few conclusions from the interviews as a whole.

First, even when a court adopts an off-the-shelf product such as Modria, courts should plan for personnel to devote a significant amount of time setting up the ODR program. Court personnel in Collin County spent time understanding and documenting court processes in order to determine how to process cases through ODR. The court administrator and clerk, mediators, and a legal services representative were involved in configuring the program, which allowed different perspectives to be incorporated into its design. The court's IT department used a platform that it believed would integrate well with the court's CMS. Department personnel learned how to use the platform and tested it before implementation.

Second, when ODR is integrated into a court's CMS, the adoption of ODR might entail only minimal alterations to administrative processes. However, achieving a high usage rate for the program would likely require considerable effort, and thus more time, from court personnel

²⁷ Documentation regarding this framework is available at *2020 Civil Justice Committee Report and Recommendations*, TEX. JUD. COUNCIL (Sept. 2020), https://www.txcourts.gov/media/1449780/civil-justice-committee-2020_0923_final.pdf.

OVERALL EVALUATION CONCLUSION

Both sides used ODR in only 12% of cases that had answers filed during the pilot period, despite the fact that the program was intended to be mandatory in nature. Program underutilization was due both to cases not being eligible for ODR and to lack of use once a case was uploaded to the ODR platform. During the pilot period, Modria partly addressed the former issue by making it possible for parties and attorneys to use their case number rather than an email address to register for ODR. This opened eligibility to cases in which one or both sides did not have email addresses on file with the court. The court should also work with Modria to open ODR access to parties who have cases with multiple parties on at least one side.

To boost the program's usage rate, it is important to understand why those whose cases were uploaded to ODR did not ultimately use ODR. Our litigant survey results identified a number of possible reasons for the low usage rate, including lack of program awareness and inadequate access to information about the program. Improved outreach and litigant education protocols that target eligible parties and better educate them could increase program use. More public outreach would also highlight the court's efforts to help its constituents, which was one of the court's core objectives. There is significant potential for the ODR program's utilization, as evidenced by litigants' interest in using it for future cases.

While the number of ODR users was smaller than anticipated, court data from those who used the program offer important insights into how it was used. Those who used ODR tended to have limited interactions on the platform, with a median of nine total activities for both sides combined per case. The majority of those who undertook activities on the platform, did so outside of regular courthouse hours, suggesting that ODR may be more accessible and convenient for litigants than procedures that take place at the court.

Of those who used ODR, 73% resolved their case before trial. This percentage is similar to the 76% of pre-pilot cases that were resolved before trial, suggesting that a process that includes ODR may be as successful at avoiding trial as the traditional process that includes in-person mediation.

We found that case characteristics were implicated in differences in likelihood of resolution without trial, with debt claim cases being more likely to resolve than small claims cases. For the pre-pilot group, debt claim cases in which the defendant had an attorney were more likely to

OVERALL EVALUATION CONCLUSION

resolve than debt claim cases in which the defendant was self-represented. For the cases that used ODR, all debt claim cases in which the defendant had an attorney were resolved before trial, which meant that we could not statistically compare them to debt claim cases in which the defendant was self-represented.

Litigants in courts across the county paid to defray the costs of ODR whether or not they were eligible to use it based on their case-type, access to technology, or English proficiency. Court personnel who were surveyed about their experiences with the program indicated that more time was spent implementing the program than administering it. The direct costs on the court staff were imperceptible to those we interviewed. The indirect costs for the program were more substantial, and most noticeable to court personnel at the implementation phase stage.

The full scope of the program's potential for reducing court personnel workload is unclear given that our evaluation took place during the COVID-19 pandemic, which affected court operations. The county's plan to market the program, which included adding content about the program, to its website appears to have been halted in part due to the court's shifting workload priorities due to the pandemic. We highly recommend the county take up this plan as the new program rolls out. Litigant survey responses and our interviews with court personnel suggest that skipping this critical step in establishing the program was a major factor in its nonuse. Outreach and education efforts might increase the post-launch workload of court personnel in the short term but ultimately increase the percentage of cases that use ODR and therefore reduce their workload over the longer term. Outreach and education endeavors could also motivate parties and lawyers to participate in subsequent survey efforts aimed at evaluating the ODR program.

Relatedly, the court's lack of email addresses, for both the parties and attorneys, made it challenging for the evaluation team to directly solicit feedback on the program from important stakeholders. Had we been able to recruit ODR program participants for our surveys, we could have conducted analyses to discover what they found appealing about the program and what could be done to improve it from their perspective, and how it could better meet the court's efficiency and related objectives. In addition, had we been able to survey more than one individual who opted out of ODR (i.e., knew about the program but chose not to use it), we could have determined more robustly what the barriers to ODR were and how the court might try to reduce or eliminate them. We urge the court to collect demographic information as well so that evaluators can assess equity and inclusion aspects of the ODR platform.

In sum, we are optimistic that the present evaluation will help to inform the statewide ODR framework set forth by the Texas Judicial Council. Our evaluation of the pilot program signals promise for future litigants and the court's efficiency once ODR can be fully implemented, provided that the court effectively educates eligible litigants about the availability of ODR early

OVERALL EVALUATION CONCLUSION

in the litigation process and puts more enforcement behind the “requirement” that parties use it. We urge the court to assess participants’ experiences with the program through post-ODR surveys once these actions are implemented.

APPENDIX A: EXAMPLE EMAIL NOTICE FOR ODR



Hello Sara,

NOTIFICATION FROM COLLIN COUNTY JUSTICES OF THE PEACE

- Collin County Justices of the Peace, Precinct 3-1, are now using an online Debt and Small Claims Resolution Program.
- Your online participation is **required** in order to continue Sara's claim against Black.
- If you feel there is no need to mediate, you must ask permission of the Court, in writing, to opt out of mediation.
- The Resolution Program is a **free service** where both parties or their attorneys will work together to find a solution to the claim.
- Collin County Justices of the Peace hereby grants you permission to communicate with Black or Black's attorney through the Resolution Program.
- When you participate, you consent to receive communications from the other party or their attorney through the Debt and Small Claims Resolution Program, even if those communications are outside of normal communication hours (8 a.m. to 9 p.m.) or sent to a work-related email that you provided to the court.

NEXT STEPS TO CONTINUE THE CLAIM

1. Sara or Sara's attorney must click the link below to respond to a few questions about the claim and propose a solution.
2. Both parties must work together online to reach a successful resolution on or before Tuesday, February 18, 2020.
3. If you do not reach a resolution on your own, the court will order participation in online mediation at an additional cost. You also have the option to request help from a neutral mediator at anytime.

APPENDIX A

Click here to access the Collin County Justices of the Peace Debt and Small Claims Resolution Program: [31-SC-20-00005](#)

If clicking the link above does not work, copy and paste the URL below in a browser window instead.

- <https://uat-collintxsc.modria.com/#casedetails/5023?token=YmFmNDc1YTgtMDFmOS00YWZlLWFiOTgtYTglMTcwYzIzMjZhMTU4MDIyNzk5OTE4MA==>

Sincerely,

Collin County Justices of the Peace, Precinct 3-1

An innovative, efficient, and effective court

APPENDIX B: METHOD

CASE DATA

We used case data from the court and from Tyler Technologies (“Tyler”) to analyze the following:

- ODR program use
- ODR participant level of engagement
- The times participant used ODR
- Outcomes of cases: default, dismissed by plaintiff or agreed judgment, trial
- Time from filing to case resolution

Court Data

The court provided Excel spreadsheets of cases filed, answers filed, and cases uploaded to ODR for the entire pilot period. The court also provided pre-pilot (baseline) data that contained the same information for the year prior to the pilot launch. We used this data to determine the number of cases filed, the number of answers filed, case type, litigant representation status, case outcomes, and time from filing to case resolution.

It can take months and sometimes years for a plaintiff to successfully serve a defendant once a case is filed. Therefore, we used the date the answer was filed to determine which cases to include in the evaluation. Pre-pilot cases were those cases in which an answer was filed from September 2018 – August 2019. Pilot cases were cases with answers filed from September 2019 – August 2020.

From Tyler, we received a spreadsheet with data containing all cases uploaded to Modria during the pilot period, including case type and date of upload. In addition, the spreadsheet contained the date and time of the first and last action, file upload, joint post, and private post made by each participant (plaintiff, plaintiff attorney, defendant, and/or defendant attorney). We used this information to determine the number of cases that used ODR, the level of engagement, and the time stamps regarding when the participants used ODR.

We drew comparisons between pre-pilot cases and ODR cases on a number of variables:

- Number of cases filed
- Default rate

APPENDIX B

- Proportion of cases that resolved before trial
- Time to disposition

For pilot period data, we also compared cases that used ODR to those that did not use ODR on resolution before trial and time to disposition. We divided the cases that did not use ODR into two groups:

- Cases that were uploaded to ODR, but at least one side did not use the platform
- Cases that were not eligible for ODR because, for example a party email address was missing (during approximately the first half of the pilot period), there were multiple parties on at least one side, or errors prevented their upload to the platform

Comparisons were done using chi-square tests except where noted in the report.

Outcomes

Only cases with an answer filed were used to calculate the resolution rate without trial, as cases without an answer filed are never eligible for ODR. To determine whether a case resolved without trial, four case outcomes were used. A case was considered to be resolved without trial if its outcome was “non-suited or dismissed by plaintiff” or “agreed judgment.” A case was considered to be resolved with trial if its outcome was “trial/hearing by judge or hearing officer” or “trial by jury”. Cases with an outcome of “dismissed for want of prosecution” were ignored because the plaintiff did not pursue the case. There were too few answered cases with an outcome of “default judgment” to be included in the dataset.

Time to Resolution

Time to resolution was calculated as the number of days from the date the answer was filed to the date the case was closed. Cases missing an answer filed date or a closed date were excluded from the datasets. T-tests were used to determine statistical significance.

For both outcomes and time to resolution, three cases with answer filed dates after case closure were excluded from the pre-pilot dataset.

ODR Use and Level of ODR Engagement

The dataset provided by Tyler included the number of each type of activity undertaken by each side. These were: User action (claim, offer, mediation request), file upload, joint post, private post, joint post. To determine whether a side used ODR, the number of activities were summed for each side individually. If both sides to a case completed an activity, the case was considered to have used ODR. To determine level of engagement, the activities for both sides were summed together.

APPENDIX B

Time of ODR Use

The dataset provided by Tyler included the date and time of the first and last of each type of activity by each participant: first and last user action, first and last file upload, first and last joint post, and first and last private post.

The time of each of these activities was placed into four categories and summed:

- Weekday before 8:30 a.m., the time the court opened
- Weekday from 8:30 a.m. to 4:00 p.m., the time the court closed
- Weekday after 4:00 p.m.
- Weekends

SURVEYS

We sought to examine litigants' perceptions of the ODR program. Our initial study design anticipated surveying participants who utilized the Collin County, Texas, Justice of the Peace Court 3-1 (JP 3-1) ODR debt and small claims program from April 2020 to September 2020; however, the ODR program was used in fewer than two dozen cases during that timeframe. In October 2020, we learned that with the impending retirement of Presiding Judge Chuck Ruckel, JP 3-1 would merge with another courtroom, and its court call would be suspended after November 2020 as the court reorganized. Under those circumstances, it became clear that the evaluation team would not be able to get a reasonable sample size under the timeline of this project. The evaluation team then pivoted to collecting data on why individuals were not utilizing the ODR program.

After securing Institutional Review Board (IRB) approval from the University of California, Davis, for this change in research protocol, the team recruited small claims litigants from JP 3-1 during the trial call itself. Due to COVID-19 restrictions, trial call took place on Zoom. We recruited survey respondents through an invitation that was posted on the Zoom screen while participants waited for their case to be called. We also created a flyer invitation, which the court included in its USPS mailings to litigants at the close of their case. All invitations provided a link to complete an online survey using Qualtrics. Upon completion, respondents could supply their email address to receive a \$25 Amazon gift card as compensation. During the collection period of October 19, 2020, through November 20, 2020, five Zoom court calls were held in which debt and small claims litigants appeared. From them, ten litigants completed the survey.

INTERVIEWS

In an attempt to better understand the time and cost impact to the court as a result of adopting ODR, we conducted interviews with five key court personnel approximately 11 months after the

APPENDIX B

program launched. These individuals, who were intimately involved with the implementation of ODR and/or the administration of debt claim and small claim cases in JP 3-1, are listed below.

- The JP 3-1 judge, who originated the idea of implementing ODR at the court, was involved in determining key program characteristics, developing the court program, and heard cases before program launch and afterward.
- The project manager (PM), whose role was to oversee the implementation of ODR and to help troubleshoot issues after launch. He was responsible for all the courts and justice projects for the Project Management Organization, a division of Collin County's IT Department.
- The IT staff person (IT SP) whose role was to work with Tyler to implement the platform, and to troubleshoot issues and run reports after launch.
- The court administrator for JP 3-1, who was involved as a clerk in the development and implementation phases of the ODR program, and helped with case administration.
- The clerk who was responsible for case processing and answering party and attorney questions about their cases.

These semi-structured interviews, which ranged from 36 minutes to approximately three hours, focused on the effect of ODR on their perceptions of court costs and time stress experienced by court staff. The interviews were conducted by Jennifer Shack, using Zoom, and were recorded using the Zoom recording function. We used Otter.ai to transcribe these conversations, and then conducted our analysis using the transcriptions.

APPENDIX C: LITIGANT SURVEY DATA

This section presents statistics and tables not included in the body of the report. They are presented here to contextualize the survey data.

Although we recruited both plaintiffs and defendants for our survey, only defendants responded to our invitations. Six were defendants in small claims cases; four were defendants in debt claim cases. Only one defendant was represented by an attorney. A summary of demographics and other background information is provided in Table B9.

All tables report summary statistics for the raw data. When litigants answered questions using 7-point scales, responses were grouped according to the categories shown in their respective charts.

REASONS FOR NOT USING ODR

Lack of Litigant Education Regarding the ODR Program

Question: Before today, did you receive information from the court about its online Debt and Small Claims Resolution Program?

90% ($n=9$) of participants indicated they did not receive information about the program from the court.

Table C1. Litigant Receipt of Information from the Court (N = 10)

| Responses | Count | Percentage |
|--------------|-------|------------|
| Yes | 1 | 10% |
| No | 9 | 90% |
| I don't know | 0 | 0% |

APPENDIX C

Question: Please tell us why you did not use the court's online Debt and Small Claims Resolution Program (ODR). Check all that apply.

Table C2. Reasons for Not Using ODR (N = 10)

| Response Options | Count | Percentage |
|-------------------------------------------------------------------------|-------|------------|
| I didn't know I had the option to use ODR | 5 | 50% |
| I just wanted to go to trial | 2 | 20% |
| I didn't believe online dispute resolution can help us with this matter | 1 | 10% |
| I wanted to mediate in person | 1 | 10% |
| ODR seemed too confusing | 1 | 10% |
| ODR seemed too expensive | 1 | 10% |
| ODR seems too new | 0 | 0% |
| I didn't want to learn how to use it | 0 | 0% |
| I prefer talking to the other party in person or by phone | 0 | 0% |
| I prefer to text or email the other party on my own | 0 | 0% |
| I prefer not to use technology | 0 | 0% |
| I don't have regular access to a computer or smartphone | 0 | 0% |
| I don't have access to Wi-Fi | 0 | 0% |
| ODR seemed like it would take too much time | 0 | 0% |
| I already spend too much time using technology | 0 | 0% |
| I couldn't find information to learn about ODR | 0 | 0% |
| The other party did not want to use it | 0 | 0% |
| My lawyer didn't think it was a good idea | 0 | 0% |
| Other - Please describe | 0 | 0% |

Note: One litigant selected more than one response option; thus, percentages add up to more than 100%.

Litigant Understanding of the Offered ODR Program

Those who indicated that they received information about the ODR program were asked the following: **Question: What do you understand the features of the court's online dispute resolution program to be? (check all that apply)**

APPENDIX C

Table C3. Litigants' Understanding of the Features of the ODR Program (N = 10)

| Response Options | Count | Percentage |
|---------------------------------------------------------------|-------|------------|
| *We can reach agreement online | 1 | 10% |
| *The other party and I exchange written messages to negotiate | 0 | 0% |
| *A mediator helps us try to reach agreement | 0 | 0% |
| *It is free | 0 | 0% |
| The other party and I negotiate online using video | 0 | 0% |
| *It costs \$40 to participate | 0 | 0% |
| We don't get help from a mediator to try to reach agreement | 0 | 0% |
| Did not answer | 9 | 90% |

Note: Response options marked with asterisk (*) reflect features that correctly describe the program.

Attitudes about Using ODR in the Future

Question: Now [you know about] the option of trying to resolve a case like yours online by exchanging information and settlement ideas, maybe with the help of a third party who could act as a go-between. You would send written messages to the other party online whenever you wanted, and they would reply when they could. How attractive is this option? The litigants were given a scale to indicate their level of interest in this option (1 = Not at all, 4 = Somewhat, 7 = Extremely). The average (i.e., mean) response reflected a moderately high level of interest in using an online video option for a similar future case.

Descriptives of responses appear below (N = 3; N = 7 did not answer):

| Min | Max | Mean | Median | Mode |
|-----|-----|------|--------|---------|
| 4 | 7 | 5.67 | 6 | 4, 6, 7 |

As a follow-up to their response, we asked them to explain the rating that they provided. N = 7 did not answer (including the participant who received information about ODR); N = 3 answered (see below):

Respondent who was neutral toward the ODR option:

- "My case was won and done more efficiently by using a lawyer."

Respondents who were positive toward the ODR option:

- "As previously stated, I would rather try and resolve a debt issue online than to do a video call so this is something that I would be interested in should this situation happen again. It's becomes more of a private matter allowing one to discuss their shame in the privacy of their own home without the embarrassment of video call. "

APPENDIX C

- "I am aware of what mediation is and it appeals to me."

Attitudes Toward Using Video Mediation

Question: Next time you have a similar case, imagine that the court offered you the option of trying to resolve your issue by mediating by video with the other party. How attractive would you find that option?

The litigants were given a scale to indicate their level of interest in this option (1 = Not at all, 4 = Somewhat, 7 = Extremely). The average (i.e., mean) response reflected a moderate level of interest in using an online video option for a similar future case.

Descriptives of responses appear below (N = 10):

| Min | Max | Mean | Median | Mode |
|-----|-----|------|--------|------|
| 1 | 7 | 4.9 | 6 | 6, 7 |

IMPRESSIONS OF THE COURT

We asked litigants a set of questions to discern their overall impressions of the court and how fairly the court handled their case.

Overall Perceptions of the Court

Question: What is your impression of the court in which your case was filed? (1 = Extremely negative, 4 = Neutral, 7 = Extremely positive).

The average response reflected a neutral evaluation for the court. Of interest, the participant who received information about ODR ($n = 1$) gave the court an extremely positive rating (i.e., 7).

Descriptives of responses appear below (N = 10):

| Min | Max | Mean | Median | Mode |
|-----|-----|------|--------|------|
| 4 | 7 | 4.8 | 4 | 4 |

Court Fairness in Handling the Case

Question: Thinking of this case from when it was filed to right now, how fairly was it handled by the court? (1 = Not at all, 4 = Somewhat, 7 = Extremely)

Descriptives of responses are reported below (N = 10):

| Min | Max | Mean | Median | Mode |
|-----|-----|------|--------|------|
| 2 | 7 | 5.5 | 6 | 7 |

APPENDIX C

Satisfaction with Process

Question: Regardless of the outcome, how satisfied are you with the overall process used for your case? (1 = Not at all, 4 = Somewhat, 7 = Extremely)

Descriptives of responses are catalogued below (N = 10):

| Min | Max | Mean | Median | Mode |
|-----|-----|------|--------|------|
| 3 | 7 | 4.9 | 4.5 | 4 |

PROCEDURES LITIGANTS USED

To better understand the context of survey responses we obtained, we asked litigants to indicate all of the procedures they used to try to resolve their case. The majority of them experienced a remote hearing over Zoom.

Table C4. Procedures Litigants Used to Resolve Their Case (N = 10)

| Response Options | Count | Percentage |
|-----------------------------------------------------------------------------------------------------------------------------------------------|-------|------------|
| Remote trial using videoconference (Zoom) | 6 | 60% |
| Negotiation without using the court's online Debt and Small Claims Resolution Program | 2 | 20% |
| Trial at the courthouse | 1 | 10% |
| Negotiation online (used the court's online Debt and Small Claims Resolution Program to try to work things out directly with the other party) | 0 | 0% |
| Mediation online (used the court's online Debt and Small Claims Resolution Program to try to work things out with the help of a mediator) | 0 | 0% |
| Mediation in person | 0 | 0% |
| None because the other party didn't participate in the case | 0 | 0% |
| None because we settled the case right after it was filed | 0 | 0% |
| Other - Please describe: "Made payment arrangements with a third party" | 1 | 10% |

Note: Some litigants selected more than one response option; thus, percentages add up to more than 100%.

APPENDIX C

Table C5. Participants' Technology Use (N = 10)

| Variables | Mean | Median | Mode | Min | Max |
|--------------------------------------------------------------------------|------|--------|----------------|------|-------|
| Hours Spent Online for Work in a Typical Day | 6.56 | 5.50 | - | 2.50 | 12.00 |
| Hours Spent Online for Non-Work in a Typical Day | 2.55 | 2.50 | 3.00 | 0.00 | 6.00 |
| Number of Times Checking Email in a Typical Day | 6.80 | 4.50 | 3.00, 10.00 | 0.00 | 20.00 |
| Comfort Using Technology to Communicate with People You Do Not Know Well | 6.30 | 6.50 | 7.00 | 5.00 | 7.00 |

1 = Not at all, 4 = Somewhat, 7 = Extremely

Table C6. Change in Hours Spent Online by Participants due to COVID-19 (N = 10)

| Variables | Mean | Median | Mode | Min | Max |
|---------------------------------------------------------------------------|------|--------|------|------|------|
| Degree to which COVID-19 Changed Amount of Time Spent Online for Work | 2.00 | 1.00 | 1.00 | 1.00 | 4.00 |
| 1 = Increased it a lot, 4 = Didn't change it, 7 = Decreased it a lot | | | | | |
| Degree to which COVID-19 Changed Amount of Time Spent Online for Non-Work | 2.70 | 3.50 | 4.00 | 1.00 | 4.00 |
| 1 = Increased it a lot, 4 = Didn't change it, 7 = Decreased it a lot | | | | | |

Table C7. Devices Used by Participants (N = 10)

| Device Used | Count | Percentage |
|------------------|-------|------------|
| Computer at home | 8 | 80% |
| Smart phone | 8 | 80% |
| Computer at work | 5 | 50% |
| Tablet | 4 | 40% |

APPENDIX C

Table C8. Participants' Activity Online (N = 10)

| Activity Online | Count | Percentage |
|-------------------------------------------------------------------|-------|------------|
| Use Facetime, Zoom, Skype, WebEx, Google Meet or similar services | 8 | 80% |
| Watch movies, TV, YouTube videos or other media | 7 | 70% |
| Use Facebook, Twitter, Instagram or similar social media | 6 | 60% |
| Evaluation topics relevant to my life, such as health or finances | 6 | 60% |
| Homeschooling or remote learning with my children | 6 | 60% |
| Read the news | 5 | 50% |
| Book travel (e.g., flights, hotels) | 4 | 40% |
| Banking | 4 | 40% |
| Play games | 3 | 30% |
| Chat with friends or family | 2 | 20% |
| Other: "Read books" | 1 | 10% |
| | 1 | 10% |

APPENDIX C

Table C9. Survey Participant Overview

| Characteristic | Count | Percentage | | Characteristic | Count | Percentage |
|-----------------------------------------------------------|-------|------------|--|-------------------------------------------|-------|------------|
| Role in Case | | | | Age | | |
| Defendant | 10 | 100% | | 18-24 | 1 | 10% |
| Plaintiff | 0 | 0% | | 25-34 | 4 | 40% |
| Both plaintiff and defendant | 0 | 0% | | 35-44 | 3 | 30% |
| Lawyer for the plaintiff | 0 | 0% | | 45-54 | 1 | 10% |
| Lawyer for the defendant | 0 | 0% | | 55-64 | 0 | 0% |
| Other- Please describe | | | | 65 or older | 0 | 0% |
| | | | | Prefer not to say | 1 | 10% |
| Case Filed After March 1, 2020 | | | | | | |
| Yes | 6 | 60% | | Ethnicity | | |
| No | 0 | 0% | | Not Hispanic/Latino | 8 | 80% |
| I don't know | 4 | 40% | | Hispanic/Latino | 1 | 10% |
| | | | | Prefer not to say | 1 | 10% |
| Case Type | | | | | | |
| Small claims | 6 | 60% | | Race | | |
| Debt claim | 4 | 40% | | Black or African-American | 4 | 40% |
| Other – Please describe | 0 | 0% | | White | 3 | 30% |
| | | | | Asian | 2 | 20% |
| When Survey was Completed | | | | Prefer not to say | 2 | 20% |
| While waiting for remote (Zoom) trial hearing to begin | 8 | 80% | | American Indian or Alaskan Native | 1 | 10% |
| While waiting for in-person mediation to begin | 0 | 0% | | Native Hawaiian or Other Pacific Islander | 0 | 0% |
| Other – Please describe: “My trial has ended for the day” | 1 | 10% | | | | |
| Other – Please describe: “After Zoom trial over” | 1 | 10% | | Gender Identity | | |
| | | | | Female | 6 | 60% |
| Represented by Lawyer | | | | Male | 3 | 30% |

APPENDIX C

| | | | | | | |
|------------------------------------------------------|---|-----|--|-------------------------|---|-----|
| Yes | 1 | 10% | | Prefer not to say | 1 | 10% |
| No | 9 | 90% | | Prefer to self-describe | 0 | 0% |
| | | | | | | |
| Number of Previous Cases Involved in as Party | | | | Household Income | | |
| 0 | 4 | 40% | | Less than \$25,000 | 0 | 0% |
| 1 | 5 | 50% | | \$25,000-\$50,000 | 2 | 20% |
| 2 | 1 | 10% | | \$50,001-\$75,000 | 0 | 0% |
| | | | | \$75,001-\$100,000 | 4 | 40% |
| Education Level | | | | \$100,001-\$125,000 | 1 | 10% |
| Less than high school diploma | 1 | 10% | | More than \$125,000 | 1 | 10% |
| High school diploma or equivalent | 1 | 10% | | Prefer not to say | 2 | 20% |
| Some college | 0 | 0% | | | | |
| Associate degree | 2 | 20% | | | | |
| Bachelor's Degree | 3 | 30% | | | | |
| Post-graduate education | 2 | 20% | | | | |
| Prefer not to say | 0 | 0% | | | | |
| Missing data | 1 | 10% | | | | |