

## CIVIL LEGAL SYSTEM MODERNIZATION: IS ONLINE DISPUTE RESOLUTION MAKING A DIFFERENCE IN ACCESS TO JUSTICE?

### NATIONAL CENTER FOR STATE COURTS

Equal justice under the law is a core court value of most legal systems and is even chiselled into stone on the front of the United States Supreme Court building. In an increasingly complex, technology-centric world, how are courts delivering on that core value?

A pragmatic assessment of judicial integrity includes a frank reconciliation between the public's expectations and judicial systems' processes and mechanisms that purport to deliver justice. For a country that values justice, estimates are that upwards of 85% of civil legal issues never actually reach the courts. The reasons for this lack of access to justice are diverse: financial constraints, language barriers, knowledge inequalities, physical or mental health issues, caregiving responsibilities, and, ultimately, a cost-benefit determination that court processes are too expensive, complicated, and slow. If, in practice, courts are only available to those with wealth, knowledge and ample free time, who speak the majority language, then courts are failing to provide equal justice under the law.

Court-sponsored online dispute resolution (ODR) is a tangible demonstration that the judiciary is aware of the constraints the public faces when it comes to accessing the rule of law and is a pro-active step toward easing those constraints. ODR is opening the courthouse door, metaphorically speaking, to broader populations, including those with particular challenges, e.g., language barriers and physical disabilities. Removing these types of barriers improves the perception of fairness not only among individuals facing these challenges, but also among their families, friends, and the public as a whole.

Across the globe, judicial leaders are reaching the conclusion that court-connected Online Dispute Resolution can dramatically improve access to justice and, therefore, courts' adherence to the core value of equal justice under law.

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## NATIONAL CENTER FOR STATE COURTS

The National Center for State Courts is an independent, nonprofit court improvement organization in the United States. In the early 1990s, an international division was formed to offer a similar array of research, consulting, education and information services to strengthen the rule of law in countries around the world.

All of its services - research, information services, education, consulting - are focused on helping courts plan, make decisions and implement improvements that save time and money, while ensuring judicial administration that supports fair and impartial decision-making.



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### Main Issues:

Those who advocate for court-sponsored ODR see it as enhancing access and reducing the need for legalese and expert knowledge, while critics fear that an imbalance of the parties' resources and experience might aggravate inequalities and simply automate injustices. The National Center for State Courts is testing the hypothesis that online dispute resolution in civil cases – family, small claims, landlord-tenant and other civil case types – will improve Americans' access to justice. Data gathered from ODR implementations is being used to assess the real impact.

Panellists will discuss initial research results regarding the question, "is online dispute resolution making a difference in access to justice?" (Spoiler alert: the answer is "Yes!")

From these initial research findings, the panellists will discuss their hypotheses about ODR's positive impact on the public's perception of judicial integrity and the ability of courts to fulfil their promise of equal justice under the law.

### Specific Questions and Discussion Points:

- At a macro level, what benefits does ODR bring to the judicial branch and the public they serve?
- At a case-specific, micro level, what are ODR's initial impacts?
- What ODR design decisions best mitigate risks of corruption and implicit bias?
- What are ODR users' impressions of the procedure's fairness and opportunity to be heard?
- What are trial-level judicial officials saying about the cases moving through ODR into their courts?

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### **Proposed Outcomes of the Session:**

As a result of attending this session, participants will:

- recognize that technology applied in the right way can not only increase access to justice but also better utilize scarce court resources, enhance judicial integrity, mitigate some forms of bias, and improve the public's perceptions of the court.
- see the application of data-driven decision-making through ODR.
- recognize new opportunities for implementing or expanding the scope of ODR in their jurisdictions.

Hearing directly from a state supreme court justice about one US state's very positive experience with ODR can help participants see ODR as more mainstream with potential for beneficial application to a wide variety of courts processes.