Online Dispute Resolution (ODR) Opportunities and Challenges

Is it a fit for you?

BCAMI SYMPOSIUM

Erika Deines May 31, 2016

What is Online Dispute Resolution?

- ODR refers to the application of online (internet) technology to dispute resolution
- ODR is understood to involve dispute resolution platforms and processes
- ODR is either technology-based or technology-assisted
- ODR can be synchronous or asynchronous

Dispute Resolution: Online, Offline, Blended?

- Emotion
- Distance/time zones
- Literacy and language
- Speed
- Complexity/taking time to consider
- Client or audience characteristics (sociocultural)
- Safety and anonymity
- Policies & Procedures (adapt to the digital environment)
- Preference

Downsides to Technology in DR

- Lack of nonverbal communication
- Comfort with technology / power imbalance
- Faster typist leveraging the advantage
- Fear of incorporating something new (self-doubt)
- Powerful computer with fast internet connection / slow dial-up
- Confidentiality and record keeping (paper trail)
- New technologies stimulate skepticism

Benefits of ODR

- Accessibility and convenience, speedy resolution
- Reduced strain on the legal system
- Geographic distance (too expensive to travel)
- In e-commerce, possibly the only feasible option for DR
- Access to expertise not available locally (DR professionals)
- Electronic data storage and retrieval, recordings, appts.
- Synchronous and asynchronous (IM) communication
- Less visual cues to avoid negative emotions
- Disrupts limitations based on physical appearance

Benefits continued

- Easier to overcome socio-economic differences
- Change ingrained conflict dynamics, including dominance and intimidation
- Minimizes jurisdictional issues
- Security can keep location secret
- Learning environment for parties to learn rational communication skills

Experience in Online Mediation



Online Mediation Explained in 9 Minutes

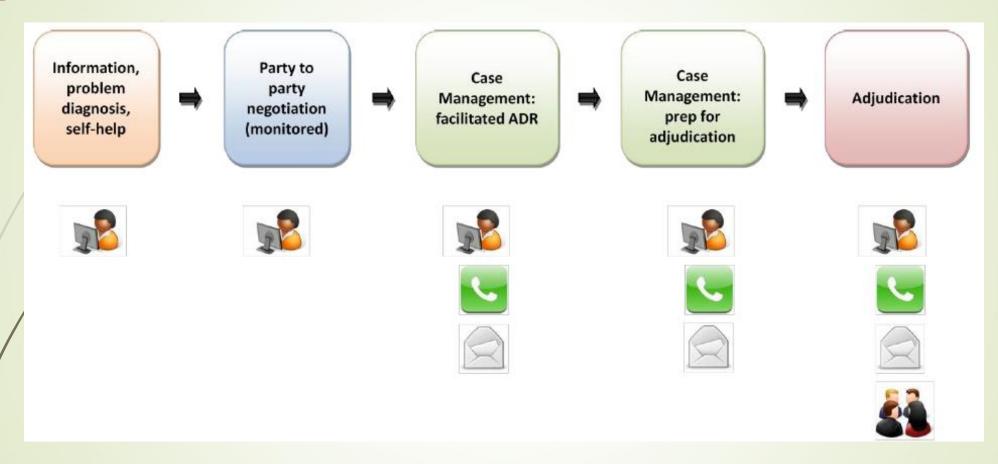
by Giuseppe Leone

http://www.virtualmediationlab.com/virtual-mediation-lab-usa-international/online-mediation-explained-in-9-minutes/

Insights

- Facilitation skills
- Pre-mediation with technology
- Plan B
- Signatures
- Payments
- Agreement to Mediate clauses for online

Tribunal Dispute Resolution Stages



ODR in Practice

- For ADR professionals interested in exploring new service offerings, ODR may be an interesting consideration
- ADR professionals with knowledge and experience in ODR will be well placed to make the transitions into these future areas of practice, if not lead them
- ADR professionals might consider ways to leverage these technologies without waiting for them to become mandated by the justice system

ODR in Practice continued

- It is currently possible to
 - Use video or text-based ODR processes to consult more efficiently with clients (if they live some distance away)
 - Exploit technology-based tools to streamline processes, even if they are only used as preliminary steps before an ultimate face-to-face mediation or arbitration

ODR in Practice continued

- The goal of ODR is to pull together these functions into a single application – easy to manage within a centralized, structured virtual 'place'
- ODR can be a very effective vehicle for doing DR, even if it is not the only way - it is nevertheless valuable and important in its own right
- Confidentiality, security, and underlying trust issues in ODR are points that need to be addressed appropriately.

Where to go for training?

http://csonline.royalroads.ca/moodle/course/view.php?id=144





Conclusions

- It is reasonable to expect ODR will eventually become part of the justice "mainstream".
- Instead of full-scale court reform, change could be transformational.
- Formalized justice systems can unlock significant improvements in terms of speed, cost and accessibility through technology.

Conclusions continued

- In BC, if the CRT approach proves successful for small claims and Strata disputes, it is reasonable to expect that ODR will be considered for higher value cases and other types of disputes.
- The benefits of remote, text-based, asynchronous communication in the DR process are changes that stand to create new services that increase access to justice and unlock other, yet undiscovered, benefits for clients and professionals alike.



Questions and personal experience?

Thank you!

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