



Simplified Divorce ODR Checklist

This document is designed to assist a court interested in implementing online dispute resolution (ODR) for simplified divorces. The checklist below represents best practices in process design and ODR implementation and should be used as a guide and comparison point for current processes during planning for ODR.

(1) Beginning the Case

- a. Send user to "landing page" getting divorce and ODR, sends user to ODR website
 - i. Posted on Court website
 - ii. SEO for Google
- b. ODR website shares relevant background information about divorce and asks user questions to populate complaint
 - i. States requirements of simplified dissolution process
 - ii. Provides cost of simplified dissolution AND ODR
 1. Identifies fee waiver option (and requirements), if applicable
 2. Shares e-pay information, if available, and cash option in person
 - iii. Spells out the ODR process and logistics (and whether mandatory)
 1. Shares ODR exemption requirements and form
 - a. ODR exemption is provided as a certification, no hearing necessary.
 2. States time limit for signing up for ODR before case dismissed
 3. Shares ODR "getting started" information
 - iv. Collects e-mail address for plaintiff and respondent (if known)
 - v. Proof of residency
 - vi. Identifies how to determine venue

(2) Start the Process (by registering for ODR/answering questionnaire)

- a. Court/ODR platform needs to ensure appropriateness for the case;
 - i. Substantive *prima facie* burdens
 1. Divorce: at least one spouse resident for 6 months (FL), neither side pregnant, no minor/dependent kids
 - ii. Qualitative review?
 1. LEP?
 2. ADA?
 3. Other cases involving same parties?
 - a. DV?
 - b. Child Support Enforcement Cases?

For more information about ODR or to talk through how to apply this in your jurisdiction, contact Danielle Hirsch at dhirsch@ncsc.org/303-308-4318 and Zach Zarnow at zzarnow@ncsc.org.



(3) Service/Notice

- a. Gold standard: court ensures service of process via email and certified mail, with complaint and helpful plain language summons.
- b. Plain language summons includes information about service of process, ODR process, logistics and exemption instructions, substantive law and referrals to any court-based or community-based self-help resources and potential limited scope legal help.

(4) Involving the respondent/responding to claim

- a. Respondent does not have to complete answer; but must sign-up for ODR process and pay applicable fees OR complete ODR exemption form within certain time period.
 1. Identifies fee waiver option (and requirements), if applicable
 2. Shares e-pay information, if available, and cash option in person
 3. ODR exemption is provided as a certification, no hearing necessary.
- b. ODR website shares relevant background information about divorce and asks user questions to populate complaint
 - i. States requirements of simplified dissolution process
 - ii. Provides cost of simplified dissolution AND ODR
 1. Identifies fee waiver option (and requirements), if applicable
 2. Shares e-pay information, if available, and cash option in person
 - iii. Spells out the ODR process and logistics (and whether mandatory)
 1. Shares ODR exemption requirements and form
 - a. ODR exemption is provided as a certification, no hearing necessary.
 2. States time limit for signing up for ODR before case dismissed
 3. Shares ODR "getting started" information
 - iv. Collects e-mail address for plaintiff and respondent (if known)
- c. If respondent does not take any action, automatic phone hearing set to evaluate whether service was completed and/or whether default judgment appropriate.

(5) ODR Process

- a. ODR platform/facilitator explains process whereby both sides share their side of the dispute (and all related documents/evidence). And then, ODR platform or



facilitator leads dispute resolution process to evaluate whether parties can come to settlement agreement.

- i. Parties can participate asynchronously;
- ii. Parties can easily upload relevant evidence and background materials;
- iii. Parties receive relevant substantive and process information about the divorce process and the consequences of a dissolution judgment.
- iv. Parties can receive information about the consequences of legal process.
 1. Parties can be alerted to alimony;
 2. Parties can be alerted to financial affidavit and consequences of divorce (related to property, debts, life insurance, retirement plans, collectables);
- b. Facilitators are well-trained in divorce process and ODR to prompt both sides to negotiate in as informed and prepared way as possible.
- c. If parties come to agreement on ODR platform, facilitator or ODR platform provide easy to complete form/template to prepare draft judgment order.
- d. Gold standard: Courts are involved to approve all agreements to ensure application of substantive law and to give process credence/confidence, and enter judgment.
- e. If parties do not come to agreement and/or one side does not participate/drops out, court conducts case management hearing via phone to determine whether to set trial date or enter default judgment.
- f. If trial set, court receives all background uploaded evidence (but not chats without both parties' consent).
 - i. Query whether court should receive facilitator report from the ODR process?
- g. If agreement approved by judge, dissolution judgment entered by court.

(6) Traditional Court Process

- a. If court sends parties to mediation before court reviews case, family law mediator explains process whereby both sides share their side of the dispute (and all related documents/evidence). And then, family law mediator leads dispute resolution process to evaluate whether parties can come to settlement agreement.
 - i. Parties can share relevant evidence and background materials;
 - ii. Parties receive relevant substantive and process information about the divorce process and the consequences of a dissolution judgment.
 - iii. Parties can receive information about the consequences of legal process.

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1. Parties can be alerted to alimony;
 2. Parties can be alerted to financial affidavit and consequences of divorce (related to property, debts, life insurance, retirement plans, collectables);
- b. Family law mediators are well-trained in divorce process and ODR to prompt both sides to negotiate in as informed and prepared way as possible.
 - c. If parties come to agreement through in-person mediation, family law mediator provides easy to complete form/template to prepare draft judgment order.
 - d. Courts approve all dissolution judgments.
 - i. If agreement approved by judge, dissolution judgment entered by court.
 - e. If parties do not come to agreement and/or one side does not participate/drops out, court conducts case management hearing (could even be via phone) to determine whether to set trial date, case management date or enter default judgment.
 - f. If trial set, court receives all background uploaded evidence (but not chats without both parties' consent).
 - i. Query whether court should receive facilitator report from the ODR process?

(7) Right to Appeal

- a. There is a clear right to appeal, and parties understand that there is a right of appeal and how to initiate appeal.
 - i. Can you come back for breach of agreement?
- b. Gold standard: appeal will be a *de novo* review by circuit/district judge.

Core Requirements:

- *ODR platform easy to use for unsophisticated, one-time users and SRL;*
- *Legal information at various steps in the ODR platform;*
- *Court-owned process for service and notice;*
 - If parties do not know each other, paper?
 - If parties know each other, can more informal notice?
 - Mass: in small claims, plaintiff sends complaint. Court sends case management/notice of trial and complaint to both parties.
- *Judicial review of ODR disposition (settlement agreements and default judgments);*
- *Right to appeal for ODR;*

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