



Access Empowers: How ODR Increased Participation and Positive Outcomes in Ohio

Alex Sanchez

Franklin County Municipal Court, Ohio

Paul Embley

Technology Services Director, National Center for State Courts

Time, money, geography, and psychological barriers contribute to the access-to-justice gap. The Franklin County Municipal Court combined ADR and ODR to bridge the gaps between access and social justice, increasing participation in the legal process and reducing default judgments.



The Franklin County Municipal Court (FCMC) in Columbus, Ohio and Court Innovations Inc. developed the first court-connected, small-claims online-dispute-resolution (ODR) platform in the United States in 2016. Since launch, the ODR platform has enhanced efficiency and fairness and improved case outcomes by empowering court users across income and race demographics to participate in the small-claims process and voluntarily resolve cases through negotiation and mediation. After more than three years of implementation and data collection, the FCMC ODR platform demonstrates how courts can bridge both the access-to-justice and social-justice gaps by combining alternative dispute resolution with online technology.

The Need for a New Civil Justice Approach

Socioeconomic factors, rather than meritorious claims and defenses, have historically determined case outcomes. In 2015 a University of Toronto study ranked Columbus fifth among large metro areas with the highest levels of overall income segregation. The Franklin County Municipal Court is the largest court in Ohio, with more than 45,000 civil cases filed annually. One out of every ten FCMC cases is a small-claims action to recover money. Between 2011 and 2015, default judgments for failure to appear at trial exceeded all other dispositions in FCMC small-claims cases. A defendant's failure to appear at trial could result in a money judgment that impacts access to credit, employment, or housing, to name a few potential consequences. Whether it is issues with transportation, employment, childcare, language, or other physical or psychological reasons, small-claims cases have a high default-judgment rate.

The 2015 National Center for State Courts' State of State Courts poll revealed court users generally had deep-seated and real concerns about inefficiency and unfairness, while African-Americans expressed significantly less faith in the courts than did the population as a whole. Surveyed court users were, however, enthusiastic about alternatives to traditional dispute resolution and the use of technology to improve customer service. That feedback provided courts with a roadmap to developing policies and programs that both strengthen public confidence in courts and enhance access to justice.

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Placing the User at the Center of Dispute Resolution

The Franklin County Municipal Court and Court Innovations contracted to address civil social justice in small-claims cases. The FCMC Small Claims Division’s experience was that when individuals participated in the legal process, whether it meant appearing in court or attending mediation, case dispositions on the whole were positive. Online dispute resolution was a way to increase participation without requiring parties to physically appear in court. Court Innovations, based in Ann Arbor, Michigan, launched its Matterhorn platform in 2014 to help courts and the public resolve cases more efficiently and equitably online. The platform combined 24/7 access with procedural information to empower the public to resolve cases that might otherwise result in negative case outcomes, such as warrants or fines. The purpose of Matterhorn is to help courts manage high-volume dockets and achieve social justice.

The FCMC ODR platform started with City of Columbus Division of Income Tax cases, a subset of small-claims cases, because they represented the largest percentage of default judgments due to defendant nonparticipation. The FCMC and Court Innovations team met with City of Columbus attorneys to design a user-friendly system that anyone familiar with text messaging could use.

The group initially discussed potential parameters for eligibility and participation restrictions but decided to create a true alternative to the traditional litigation process. The result was an asynchronous text-based system that did not have any barriers to access. Because the ODR platform was offered to users at no cost, was voluntary, and dovetailed with existing mediation options, no legislative changes or procedural rules were required to launch. The team tested the platform with individuals unfamiliar with the platform to obtain feedback. From idea to launch, the ODR platform was live within three months. Defendants in the pilot received information about ODR, along with their notice and summons to appear in court.

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Tax Case Dispositions by Income and Minority Percentage

Based on Defendant U.S. Census Tract

Income Level	Non-ODR Defendants Random Sample 2017			ODR Participants October 2016 - December 2019		
	Total Cases	Dismissal %	Minority %	Total Cases	Dismissal %	Minority %
Low	39	46	64	41	56	62
Moderate	99	34	45	113	55	47
Middle	81	35	31	94	66	28
Upper	52	56	20	75	62	21
Out-of-County or State	53	58	21	70	67	20
Total	324	46	36	393	61	36

The asynchronous, online nature of the platform allowed parties to directly message each other and negotiate from anywhere at any time. Parties could generate agreements and exchange signatures electronically without the need to pay for postage or travel to court. With more parties resolving cases online and fewer parties appearing at court, the ODR system increased the court’s efficiency and positive case outcomes. Tax cases resolved online are disposed within an average of 100 days from the start of negotiations, indicating that most defendants needed only a three-to-four-month payment plan to completely resolve their cases.

Most importantly, FCMC increased defendant participation and voluntary dismissals overall. Voluntary dismissals are significant because they indicate to the court that the case was resolved between the parties without judicial intervention and that court costs have been paid. In Ohio, government entities do not pay court costs at the time of filing; court costs are recovered from defendants either voluntarily or through collection actions. ODR-participant dismissal rates increased across income and race demographics. Defendants in low-to-middle-income neighborhoods experienced the largest increase in dismissal rates compared to non-ODR defendants.

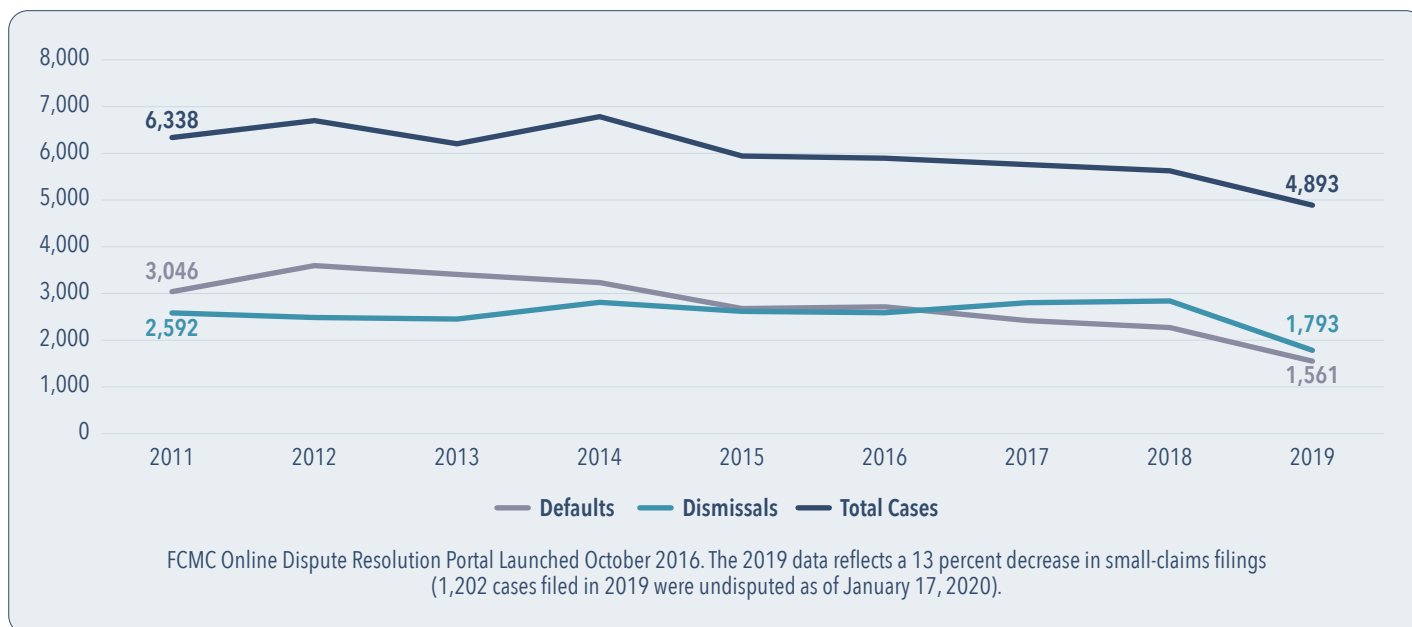
In 2017 the Ohio State Bar Association’s Judicial Administration and Legal Reform Committee presented FCMC with its *Innovative Court Programs and Practices Award* based on the success of the ODR platform. The positive results prompted FCMC and Court Innovations to expand ODR to cover all civil case types.

User Feedback and Positive Change

Participant feedback provides insight as to why ODR generates positive results. Time, money, and psychological stress are all factors that contribute to the access-to-justice gap. For most ODR participants, the option to resolve a case online not only is convenient, but also provides an opportunity to meaningfully participate in the legal process that would not otherwise exist but for the platform.

At the end of each online negotiation and mediation, users are surveyed for their thoughts and perceptions about the process. The majority of users preferred ODR (94.5 percent) over going to court (5.5 percent), found the platform easy to use (83.6 percent), thought their agreement was fair (89.8 percent), felt they were treated with respect and had an opportunity to be heard (90.1 percent), agreed they felt they gained some control over how their case would be resolved (85.2 percent), and would recommend ODR to someone else (91.2 percent). Surveyed users self-identified with the following race/ethnicity categories: white (59.5 percent), black (22.4 percent), Hispanic/Latino (5.6 percent), Native American (2.2 percent), and Asian or Pacific Islander (1.1 percent). Additional survey information is available at <https://bitly.com/fmccdata>.

Small-Claims Case Dispositions
2011-2019



ODR Satisfaction Survey Excerpts

“Very easy to use and helped me tremendously since I had just started a new job and would have been unable to go to court.”

“Because this service is free, you have nothing to lose and everything to gain by trying it first.”

“It was a very good experience. It can be overwhelming and intimidating to go to the courtroom, online made the whole process so much less intimidating and more comfortable to come up with a resolution.”

Based on Web analytics for the year 2019, the majority of ODR users access the platform via mobile phone (58 percent). Typical site users are between the age ranges of 25-34 (38 percent) and 35-44 (23 percent). They are more often male (57 percent), than female (43 percent). (Source: Google Analytics data on public use of the site, January 1-December 31, 2019; demographic characteristics are inferred by Google Analytics.)

The FCMC ODR portal continues to generate positive results:

1. User perceptions of procedural and substantive fairness are overwhelmingly positive across surveyed users.
2. The default judgment rate in City of Columbus Division of Income Tax cases is 10 percent lower than before ODR.
3. More than one-third of defendants access the ODR platform outside of business hours.
4. Dismissals now outpace default judgments across all FCMC small-claims cases.



Why ODR Works Well for Courts and the Public

As populations grow and communities evolve, courts may think they need to do more with less to serve the public. Online platforms, like ODR, allow courts and government agencies to serve a variety of community needs by leveraging technology to work within existing staff levels and budgets. The FCMC small-claims ODR platform requires minimal administrative resources because most users resolve their cases online through direct negotiations that do not require court assistance or intervention. The FCMC ODR mediation platform also works well for the court and its staff because the asynchronous nature of ODR allows administrators and mediators to work with multiple parties across different cases at the same time without coordinating schedules.

Court users may prefer ODR over coming to court because ODR represents a true alternative to the traditional in-court experience. Whereas in-person court appearances operate on strict schedules and procedural rules, ODR allows parties to select their own process at their own convenience, wherever they are comfortable. In-court experiences are often a mix of waiting long periods of time for an opportunity to be heard, and then quickly explaining a position in front of a decision maker and an opposing party under time restrictions. With ODR, public speaking and concerns about being in front of a judge or an opposing party are eliminated. ODR also works well for individuals with histories of chronic stress or trauma because it creates a physical and psychological buffer that is not available in a traditional in-court experience. ODR provides users with time to think and reflect about what they would like to say and what decisions they would like to make. Finally, parties may be more open and comfortable with resolving a case online when they feel that biases against race, religion, gender, sexual orientation, and physical appearance, for example, will not affect their case outcome.

Conclusion

Court-connected ODR is fundamentally changing how the public accesses court services. The FCMC experience demonstrates how a user-centered ODR platform can not only generate positive case outcomes, but also change the public's perception of court through positive experiences and bridge the access-to-justice gap to achieve social justice. The FCMC pilot started small and grew to cover all civil case types. After three years of implementation, the FCMC program illustrates how state courts can work within existing systems to immediately launch a successful ODR platform.

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