



#LegalTech
#ODR
#NCSC

Online Dispute Resolution in the Courts: Today's Courts, Today's Technology

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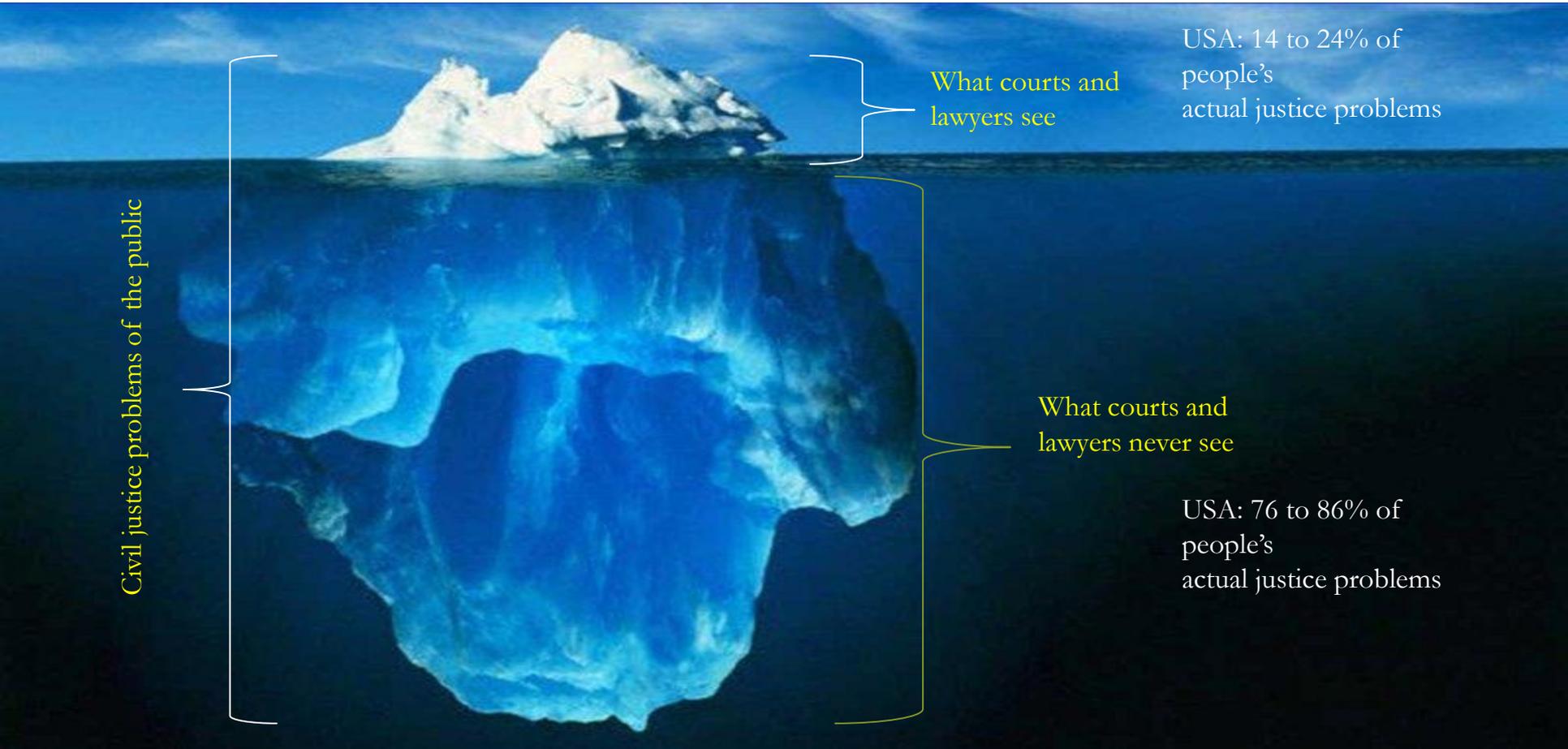
Hon. Brendan McCullagh, Judge, West Valley City
Justice Court, Utah

MJ Cartwright, Matterhorn

ncsc.org/jtc

THE SUPREME COURT of OHIO **2020**
Dispute Resolution
Conference

Most Civil Justice Problems Do Not Make It to the Justice System



Bangalore Principles

- ✓ “Even when all other protections fail, the judiciary provides a bulwark to the public against any encroachments on rights and freedoms under the law”
- ✓ Rights and freedoms are “human rights”
- ✓ Giving access to justice & rendering justice to millions of people deprived from remedy forms part of the judicial integrity, because if we cannot ensure that people have access to justice and that we are delivering justice, what purpose do the 6 values serve?
- ✓ It is our role to contribute to resolve disputes by giving access to justice while respecting the values of judicial integrity

Access to Justice

- ✓ Access to justice and access to Internet are human rights
- ✓ Impeding access to justice equates to denial of justice
- ✓ Giving access to public & private justice online contributes to cure denials to many people who have no other means to seek remedy
- ✓ No longer sustainable to keep technology outside of court rooms
- ✓ ODR assists judges with dealing with small and medium claims so that they can concentrate on more pressing matters
- ✓ We walked on the moon, yet justice is not online! Give access to justice online now and not in 2100

2019 International ODR Forum

ODR metrics tell a compelling story:

- ODR mitigates many negative impacts of bias
- 1 in 3 access ODR after court hours
- ODR benefits not only those who use it, but also improves in-person experiences
- There are better and best ways to implement ODR
- Unexpected results
 - Staff workload shifts significantly
 - Unanticipated benefits to ESL

Larger Picture

ODR is one component

- Electronic Filing
- Digital Evidence
- Electronic Payments
- Legal Portals
- Regulatory reform
- AI – augmented intelligence
- Online courts

Three Essential Components

Operates
exclusively
online



Explicitly designed
to assist litigants in
resolving their
dispute or case

(NOT a technology platform
to support judicial or court
staff decision-making)

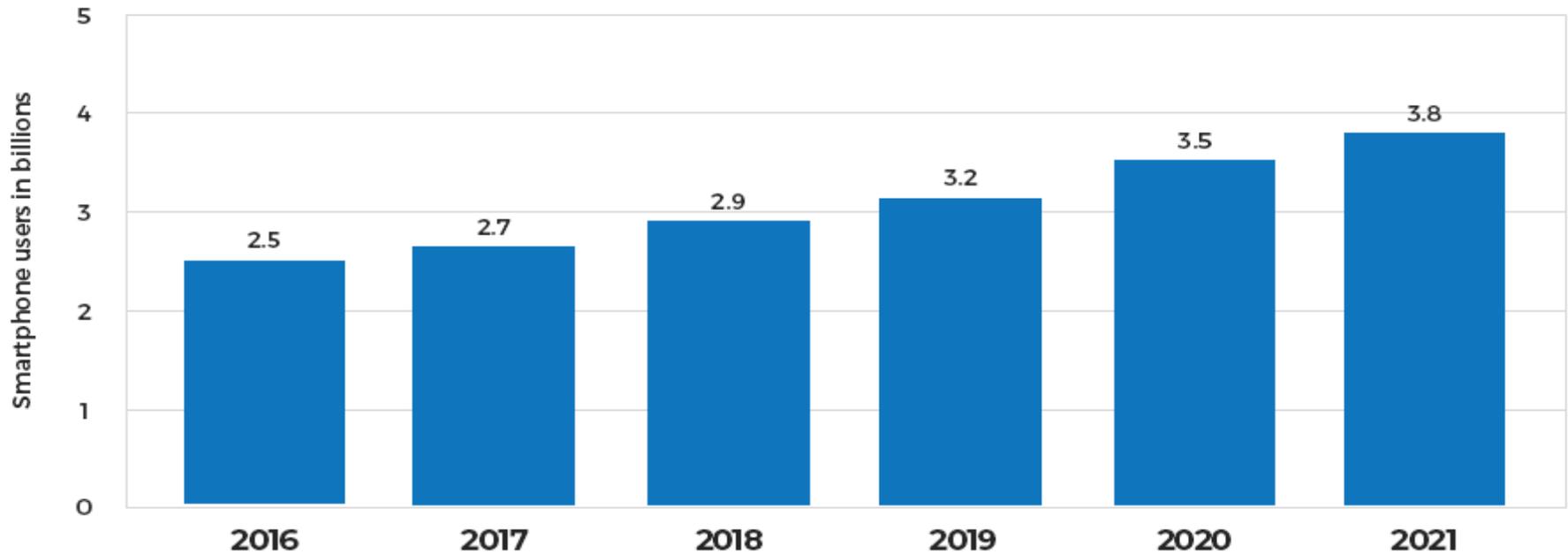
Supported and
hosted by the
judicial branch.





Number of Smartphone Users

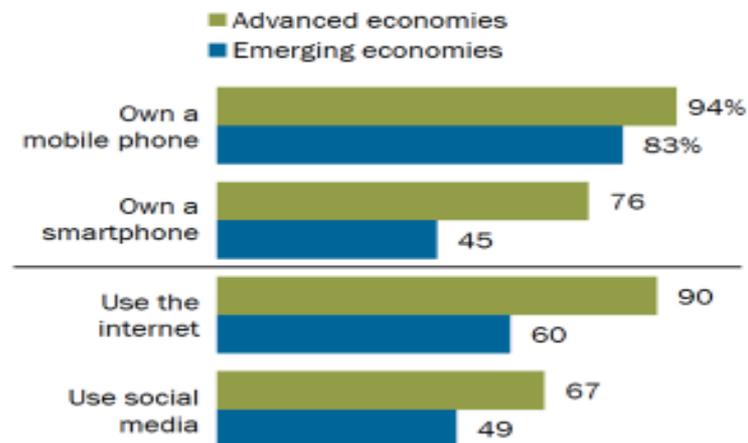
Worldwide data from 2016 - 2021 in billions



Source: Statista

Mobile technology, internet and social media use more common in advanced economies

% of adults who ...



Note: Internet users are defined as people who say they use the internet at least occasionally, own a smartphone, or use social media websites like Facebook or Twitter. Percentages are medians based on 18 advanced economies and nine emerging economies. See Appendix A for economic categorization.

Source: Spring 2018 Global Attitudes Survey. Q44, Q45, Q46, Q47.

PEW RESEARCH CENTER

FIGURE # 8

There is a clear desire for alternatives to full legal representation.

Q: “There are a number of potential alternatives to hiring a lawyer to represent you through an entire case. How likely would you be to use each of the following services – very likely, somewhat likely, a little likely, or not at all likely?”

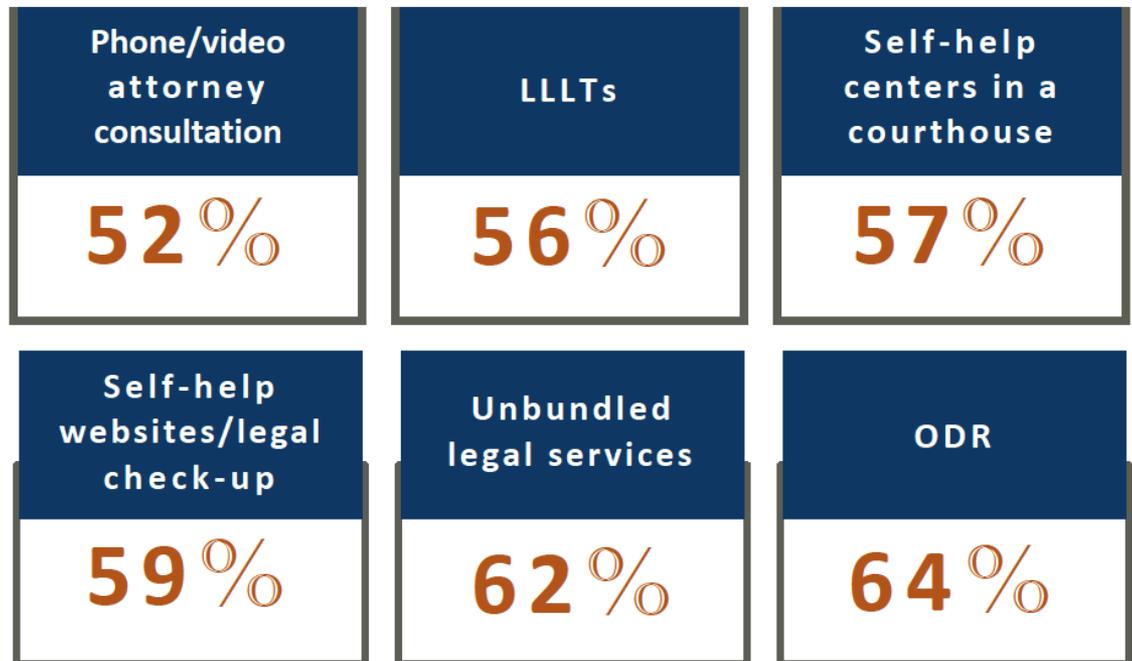
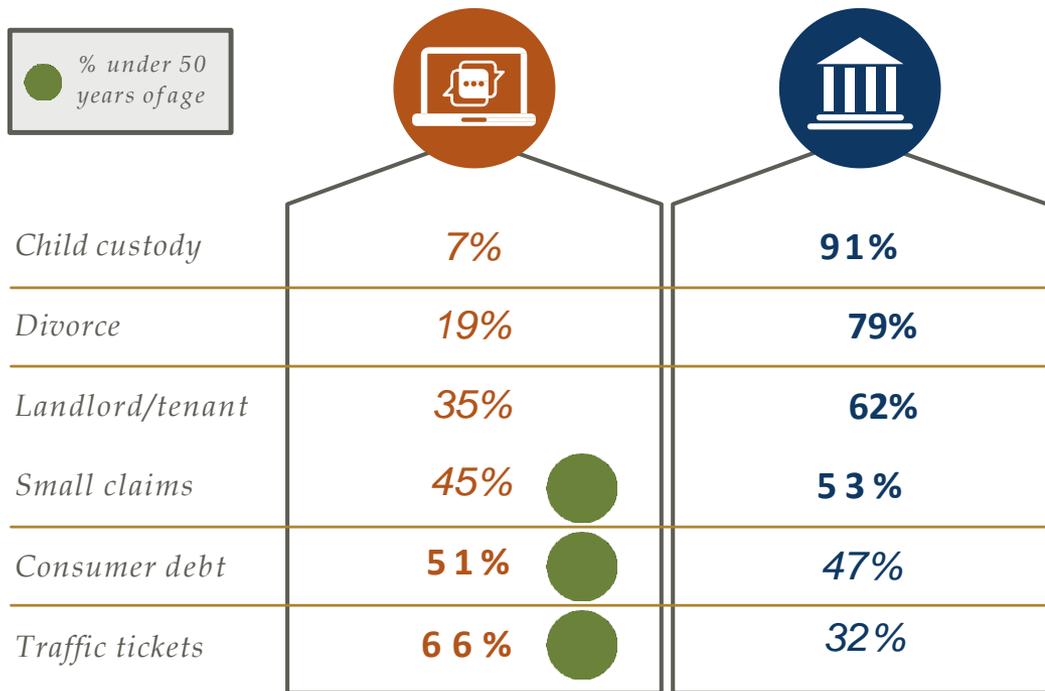


FIGURE # 9

Faced with a list of possible case types for ODR, voters identify some places to start.

Q: “If you were party to a court proceeding of this type... would you prefer to resolve this type of case online or by appearing in-person at a courthouse?”





Alaska

An interesting journey

- Considered all types
- Settled on traffic
- Plans for civil, family matters, and may do non-violent criminal





Utah



SC0000226 - STACY, SPIDER vs. MCGOW. ▾



SHANE MCGOWAN

STACY, SPIDER vs. MCGOWAN, SHANE

West Valley City Justice Court

Initiation Date: 07-12-2018
ODR Number: SC0000226
Case Number: 188700441
Original Claim: \$5,220.00
Last Document: N/A

[View Affidavit](#)

A person experienced in small claims cases (a facilitator) will be available to assist the parties after you respond below. The information you provide now is not part of the court record.

My response to SPIDER STACY is

I want options to pay this claim. >

This claim is part of a bankruptcy. >

I don't owe this claim. >

I don't agree with the claim. >

I disagree with some parts of the claim. >

I agree with most of the claim, but I can't pay it. >

I'm not ready to respond to SPIDER STACY yet. >

I want to review [information for Small Claims defendants.](#)



Arizona

Bad Debt

- Process simplification
 - Had small team reimagine the process
 - Reduced process steps by over 60%
- Pilot for 12 months
 - Involves 3 courts, 1st went live in September
 - Small claims - \$11,000
- Process
 - Can negotiate with or without facilitation
 - If no resolution, proceeds to court
 - Parties can ask judge to rule based on documents submitted, or proceed to trial



Bad Debt

- Formal evaluation
 - Participation rates
 - Disposition times
 - Court Efficiencies
- Impact to case load
 - 95,000 civil matters annually
 - 26,000 are small claims (27%)
- Impact to small business
 - Metrics allow business to streamline internal processes
 - Metrics increase efficiencies





Family

ODR Selected Outcomes Family

27%

fewer hearings
per month



After ODR, the average number of hearings dropped from close to 400 to below 300 (down 27%).

22%

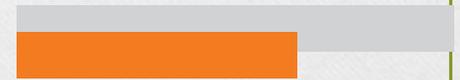
more
resolutions



The percentage of cases resolved before the hearing jumped from 39.6% to 48.4% (up 22%).

36%

fewer warrants
per month



The average number of warrants issued per month dropped from 143 to 91 (down 36.4%).

Case Study

Population

2,156,724

Ranking

12th largest county in U.S.
by population

Courts

20 family courts

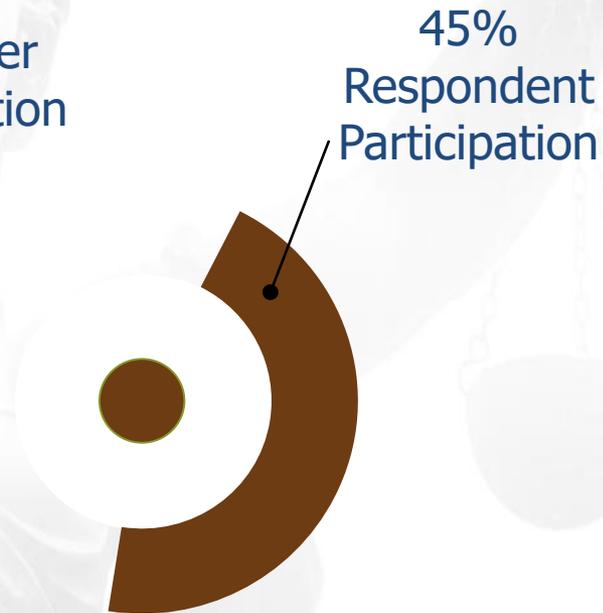
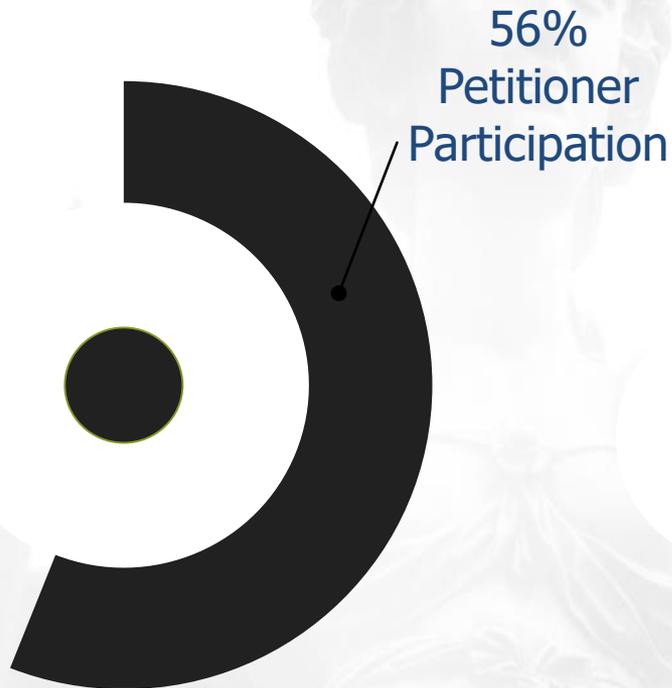
32 civil/criminal courts

More than 600 court
employees

2018 Clark County



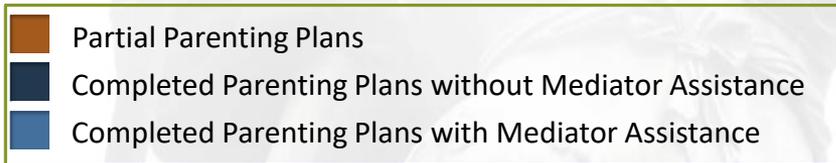
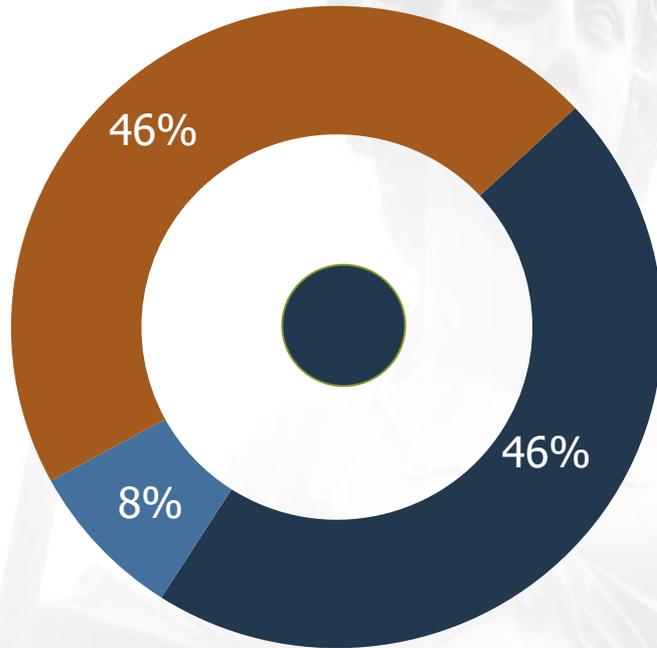
Participation results within the first 60 days



ADR: 71%
resolution
rate

ODR: 74%
resolution
rate

Outcomes of completed disputes



Mediator Efficiencies expected since parties were able to agree to almost half of the topics prior to engaging the mediator resulting in less time during in-person mediation sessions

Completed Online Agreements were generated for more than half of the cases where there was party engagement

ODR is Expanding Access to Justice resulting in all party-to-party negotiated agreements being finalized *outside of court hours*

Time to Resolution



Parties that successfully negotiated a parenting agreement averaged 6 days. The fastest agreement was reached in only 4 calendar days!

In-Per
Ap

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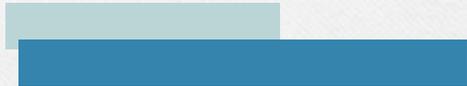


Progress in
Michigan

ODR Selected Outcomes: MI Traffic/Criminal

serve the missing

39%



save time

80%



paid in 30 days

92%



would recommend ODR

92%



ODR is fair

87%



QUESTIONS?

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