



## Simplified Divorce and Dissolution ODR Checklist

This document is designed to assist a court interested in implementing online dispute resolution (ODR) for simplified divorce and dissolution processes. 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 dissolution and ODR, sends user to ODR website
  - i. Posted on Court website
  - ii. SEO for Google
- b. ODR website shares relevant background information about dissolution 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. Provides information on payment including e-pay 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. Dissolution: at least one spouse resident for 6 months (FL), neither side pregnant, no minor/dependent kids
    2. Statutory waiting period met?
  - ii. Qualitative review?
    1. LEP?
    2. ADA?

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



3. Other cases involving same parties?
  - a. DV?
  - b. Child Support Enforcement Cases?

(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. May also include information on domestic violence and how to access assistance.

(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 family law processes and ODR to prompt both sides to negotiate in the most 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;

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- 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.
  - 1. Parties can be alerted to maintenance or support;
  - 2. Parties can be alerted to financial affidavit and consequences of dissolution (related to property, debts, life insurance, retirement plans, collectables);
- b. Family law mediators are well-trained in family law processes 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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