



USABILITY AND COURT DISPUTE RESOLUTION PLATFORMS*

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Courts around the world are implementing online dispute resolution (ODR) platforms that make it possible for parties in civil cases (e.g., small claims, tenant disputes, traffic, motor vehicle injuries, and even no-contest divorce) to proceed in legal matters online anytime, from anywhere. Simply providing an online option eliminates some of the most obvious access and convenience issues for those parties. However, court platforms have a unique usability mandate that ordinary consumer websites do not. If consumers are unable to navigate a company’s website, they can choose a different company or product. But courts have a monopoly on the resolution of most legal matters. If parties cannot navigate a court’s platform, they are not free to simply “take their business elsewhere.” A user who has difficulty navigating a court’s platform can experience harms that impact the user for years to come. Making court proceedings accessible and usable is tied very closely to making them just. As more and more courts implement digital and virtual processes, it is essential that they ensure the parties involved can successfully use them. Rigorous usability testing is essential to creating highly usable platforms.

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Online dispute resolution (ODR) is becoming more common in U.S. courts and around the world, but is ODR usable and accessible to litigants? The Utah Courts offer an example of how to measure the usability of ODR platforms.



One of the most successful and widely respected ODR systems today is British Columbia's Civil Resolution Tribunal (CRT). The platform, as well as the process, are notable for their human-centered design. Focusing on the needs of those who face the greatest barriers and conducting rigorous user testing have helped CRT create a platform that is not only aesthetically pleasing, mobile responsive, and user friendly, but highly successful at delivering on the CRT's justice objectives.¹ In fact, the CRT's continuous user-centric design process is central to its success.

The Utah Courts are another recognized leader in court technology. Like British Columbia's CRT, Utah Courts worked intentionally to create a user-centric (versus court-centric) small-claims experience. Two years after the platform launched, Utah had comparative data that showed some success. But the platform was not achieving the levels of engagement they hoped giving the public 24/7 online access would bring. Instead of assuming the issue was the users, Utah was determined to discover and address the barriers that were keeping users from successfully navigating the small-claims ODR process.

Utah recently partnered with the Innovation for Justice Program (i4J) at the University of Arizona James E. Rogers College of Law to test the usability of the court's groundbreaking small-claims ODR platform. The study, funded by a grant from the Pew Charitable Trusts, sought to systematically identify and address issues that were preventing some users from successfully navigating the small-claims platform and process. This study puts Utah courts front and center in the conversation about courts and usability.

MEASURING USABILITY

The field of user experience (UX) exists to improve users' interactions with products, services, and systems. Usability—how well things work for the people who use them—is one aspect. Systematically studying usability was a war-time innovation, dating back to World War I and the early days of aviation, when the U.S. military sought ways to help pilots avoid crashing. Usability testing helped determine the best placement of controls in the cockpit, ultimately reducing the human and financial toll of airplane crashes. This is an iterative refinement that continues today. Like human error in the cockpit, human error in the use of court processes has a notable toll. Addressing the usability failures in court platforms requires a similar determination to make improvements that quantifiably reduce negative impacts.

THE EMPATHY GAP

Usability issues often stem from an empathy gap: a cognitive bias that causes us to overvalue our own ideas and experiences. Courts have not traditionally designed their services for self-represented litigants. The civil legal system is a system built by lawyers, for lawyers, even though the vast majority of civil cases involve at least one self-represented litigant. As a result, court users are disempowered; many simply choose not to engage with the civil legal system. In short, courts have a usability problem.

In technology circles, if a significant percentage of users fail to successfully navigate a particular process, the issue is the app's design, not the users. In contrast, courts place responsibility for successful navigation squarely on the shoulders of the user. The expectation underlying the justice system is that people involved in a legal case should somehow

¹ The Civil Resolution Tribunal publishes an [annual report](https://perma.cc/8ZUW-Y4J6) (Perma link: <https://perma.cc/8ZUW-Y4J6>) as well as [monthly stats](https://perma.cc/EVA5-DYXK) (Perma link: <https://perma.cc/EVA5-DYXK>) of new and resolved cases, including how those cases are resolved (agreement, default, decision, or withdrawn).





“come up to speed” on legal terminology and processes. To help such people navigate the complexities of legal processes, many courts have created online learning resources and guidance. In essence, they have focused primarily on trying to create better pilots instead of improving the placement of controls in the proverbial cockpit.

Many court leaders do recognize the importance of usability and acknowledge the lack of usability in the way courts conduct dispute resolution. There is growing understanding of the need for usability research in emerging ODR initiatives. However, a significant cohort of judges and lawyers believe that traditional legal language and procedures are “the way court is done.” Dress codes, for example, are still a hot topic among court managers. A disconcerting empathy gap exists between the needs and lived experiences of the public and those of the designers of court processes and platforms. While this issue is not unique to the courts, public services are particularly prone. Platforms and services are often designed by people who do not use them and whose lived experience has little in common with those who do.

[1] It is common to find, for instance, designers of public transport systems who use private drivers and health experts who never received treatment in a public hospital. The result are services built on a larger empathy gap, conceived by people whose frame of reference is even more distant from everyday users (Peixoto, Kaiser, and Tran, 2020).

In its 2016 *Call to Action*, the Conference of Chief Justices called for improved usability of the civil legal system: “Those who enter the system confront a maze-like process that costs too much and takes too long. . . . Many courts lack any of the user-friendly support we rely on in other sectors” (Civil Justice Improvements Committee, 2016: 2). The chief justices’ call instructs courts to “take all necessary steps to increase convenience to litigants by simplifying the court-litigant interface and creating on-demand court assistance

services” (Civil Justice Improvements Committee, 2016: 37). In 2017 the Joint Technology Committee recommended that, “to glean the greatest benefit, ODR should be co-designed and rigorously user-tested by the public it seeks to serve. Courts must involve the public as key stakeholder participants” (p. 29). The concept of co-designing processes and rigorously testing is at the heart of UX. Utah Courts are demonstrating commitment to that effort with their ODR small-claims process and the openness to serious examination of its usability.

DESIGNING THE TEST/TESTING THE DESIGN

At the core of usability testing is a bridge in the empathy gap: To know if the court has implemented technology successfully for the people it serves, the court needs to know whether parties to a case can use it and whether it accomplishes the court’s goals. Usability testing gives judges and court administrators a fresh perspective on court processes from the viewpoint of a typical or intended court user. Rather than assume that technology ensures a process that is fair, respectful, and impartial, the court needs to evaluate the extent to which those things are in fact accomplished.

Through user research and interviews with a variety of Utah stakeholders, the i4J team at the University of Arizona identified potential vulnerabilities in the Utah small-claims platform that might be further explored through targeted testing. Researchers divided the process into 11 discrete tasks (such as understanding the summons, registering, and logging in), and then had representative users attempt those tasks while narrating their thoughts, feelings, and actions. Researchers measured key indicators:

- task completion rates
- time on task
- error rates
- user satisfaction



This form of testing allows researchers to collect data about what users do and say, how long it takes them to complete each task, where they make errors, whether they can actually complete the task, and how satisfied they were with the process. To count as successful, participants had to complete each task without help. Task completion rates on the “as is” Utah ODR platform ranged from 100 percent on some tasks down to a disconcerting 12.5 percent on others. High completion rates indicated aspects of the platform design that were very usable. Low completion rates identified areas where changes would have the most beneficial impact. Significant time on task also pointed to usability issues or platform functionality that needed refining.

Since a large percentage of Utah’s potential ODR platform users are low-income minorities who rely on cellphones for Internet access, researchers recruited study participants who mirrored those demographics. Participants used their own smartphones for testing, which was conducted at a local United Way office.

By observing and measuring how well the platform enabled typical users to navigate the small-claims process, usability testing provided Utah Courts with actionable insights into where the platform needed improvement to achieve court goals. Based on those results, researchers worked with representative users to redesign aspects of Utah’s ODR process and platform that were most challenging for participants.

WHAT UTAH LEARNED

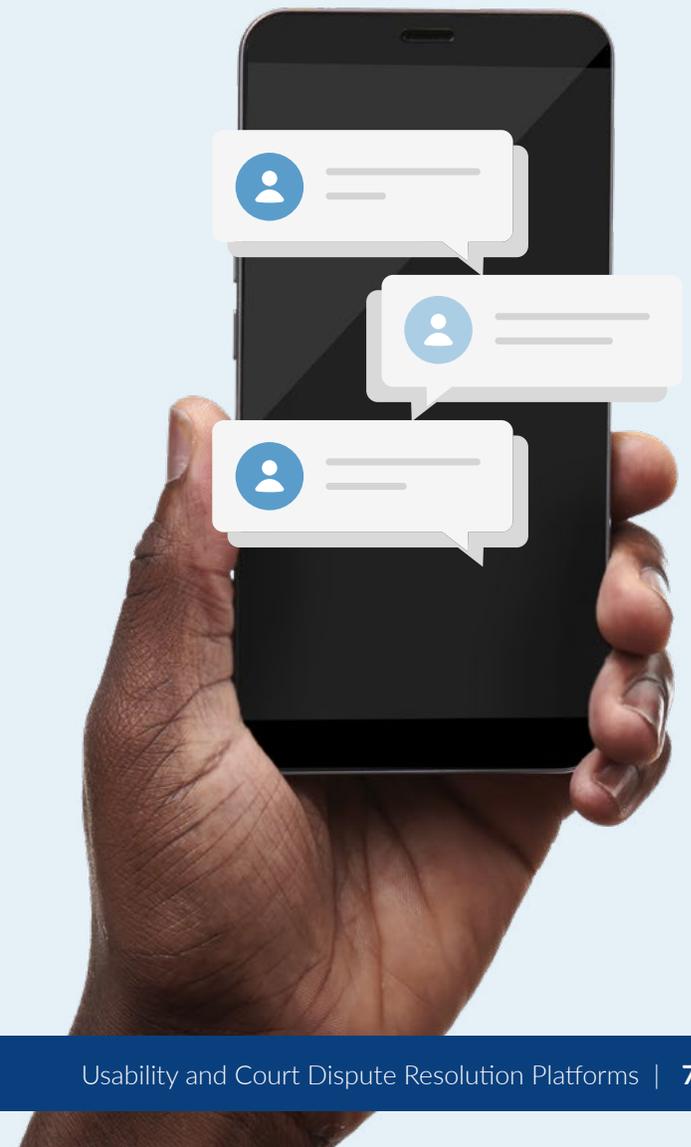
The i4J usability study confirmed Utah’s underlying premise for ODR: users are ready for ODR and online courts. But users want ODR to be intuitive and for court platforms and apps to feel and function like other apps.

The study’s findings also supported or explained Utah’s own data. For example, Utah stats showed that 64 percent of defendants do not log into the ODR platform after receiving a summons. The usability study identified specific functionality and design issues with the summons/registration/sign-in process that were contributing to task-completion failures (critical errors) and extending time on task that caused user frustration.

UX facilitators and participants then worked together to prototype adjustments. Since COVID-19 pandemic restrictions interrupted the study, researchers were forced to find creative ways to complete their work. Instead of

engaging with participants from the public, members of researchers’ households who met demographic criteria were selected to participate in the prototype-testing phase.

Prototype designs significantly reduced both critical errors and time on task. In initial testing, only 12.5 percent of participants were able to successfully register and log in without any assistance, while 75 percent of prototype participants were able to complete the prototype task. Improvements included a simplified URL, plain-language explanations, and a streamlined registration/login process. Other prototype designs incorporated status indicators, a “back” button, error-prevention mechanisms, plain-language legal terms and definitions, improved document-sharing functions, and the ability to print settlement agreements both before and after signing. Each improvement was designed in response to a specific task-completion issue identified in usability testing. Overall, the prototype improvements increased the task completion rate to 75 percent or more for each task. Utah will continue to track key metrics as platform adjustments are rolled out to real users.



IT'S NOT ROCKET SCIENCE.

The kinds of changes a usability study might recommend are often fairly simple ones. For example, simplifying a URL; incorporating a QR code; or changing the font size, color, or placement of a button or link can dramatically reduce user errors that negatively impact the user's experience and, ultimately, the fairness of outcomes.

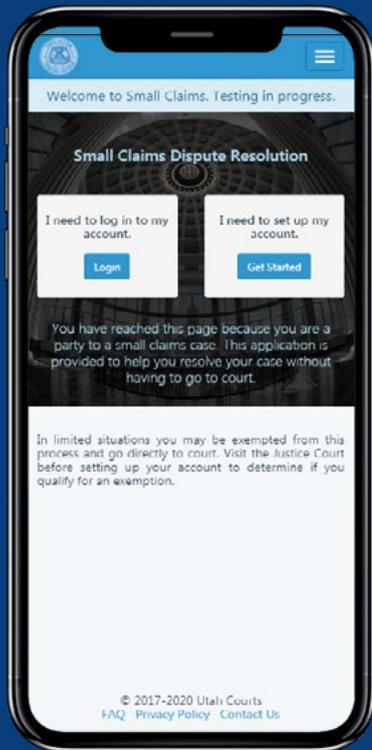
Researchers made five summary recommendations to better align the ODR platform to the needs of its users:

- ease the transition from paper to platform
- streamline the registration process
- simplify document sharing and review
- improve ODR information and help
- clarify legal information and user options

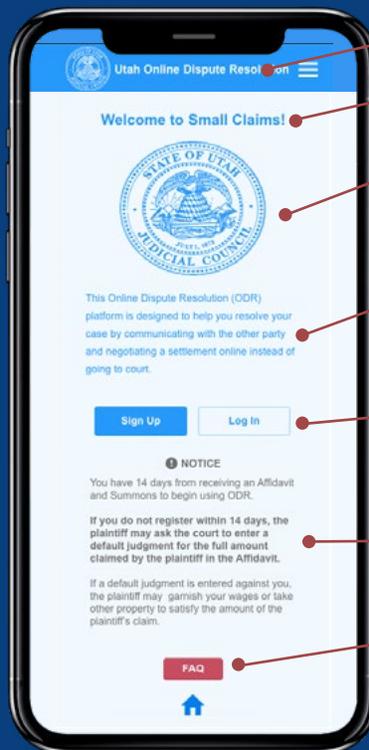
Some recommended improvements were specific to platform functionality, while others were related to content and the presentation of information. More detailed information about these recommendations is provided in the full report, which also includes comments/quotes from study participants that court managers might find applicable to their own platforms and processes. The following screen comparison illustrates one prototype redesign based on participant input.

An interactive prototype created by researchers based on input from workshop participants now forms the basis of design modifications Utah is making to the ODR process and platform. Utah plans to complete the rollout of the improved ODR platform to every county in the state by the end of 2021.

UTAH ODR LANDING PAGE



PROTOTYPE LANDING PAGE



MODIFICATIONS

Website name prominent.

A friendly welcome message.

Size and placement of official State seal to address users' concerns about legitimacy.

Brief plain-language explanation of ODR/the platform.

Button differentiation to indicate primary and secondary actions.

Surfacing essential, consequential information.

Placement, design, and function of user help/FAQ link leading to streamlined FAQ content.



INCREASING THE FOCUS ON USERS AND USABILITY

Ideally, all courts would incorporate formal UX research design principles and usability testing into their product development life cycle. While that is unlikely to happen in the immediate future, courts can take simple low-cost and no-cost steps to better understand users and discover pain points in processes by:

- attempting to navigate the system as a first-time/external user
- reviewing website analytics and help desk requests
- interviewing users (simply listening to people talk about their experiences)
- observing real people (with their permission) as they use the court's platform/app

Partnering with a local university to apply usability curriculum in a real-world justice setting is a win for the university as well as the court, students, and the public. The Utah study also engaged

a wide range of community agencies to connect with the low-income communities they serve for usability testing and participatory action research (PAR) workshops. A usability study provides an opportunity for the court to connect with the community it serves in beneficial ways.

Courts can also invest in UX design training for some staff or work with their human resources department to incorporate UX expertise requirements into future hiring, increasing organizational awareness and capabilities.²

In the same way that Utah is using their report's recommendations to improve *all* their public-facing court technology (not just the ODR platform that was tested), courts can foster UX awareness and promote user-centric design by applying recommendations from the Utah report. All courts can benefit from reading the "[Utah Online Dispute Resolution Platform: A Usability Evaluation and Report](#)" (Butler et al., 2020).

Courts inherently struggle with the concept of useful failure. Justice Himonas of the Utah Supreme Court and executive champion of the Utah ODR effort emphasizes that courts tend to learn too much from their successes and not enough from their failures. While winning and losing is the most common metric of success in court, failure is an essential component of a successful UX design process. Allowing users to "fail fast" in testing is the best way to reveal what most needs to change. Designing for end users is a process of continuous improvement.

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² A variety of reputable public and private organizations offer usability learning resources, including www.usability.gov (Perma link: <https://perma.cc/UU45-MLXY>); <https://ux-guide.18f.gov/> (Perma link: <https://perma.cc/8H5R-Q8AF>); and <https://www.nngroup.com/topic/user-testing/> (Perma link: <https://perma.cc/A9VX-FMRB>).

