

Incorporating Plain Language Legal Information in Online Dispute Resolution Platforms

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Online dispute resolution (ODR) planning gives courts the chance to revisit and simplify their processes and—as a result—improve litigants experiences with the legal system. Working with ODR vendors to design platforms that allow users to have access to critical information in real-time, within the platform, and specific to their case type has the potential to improve litigants’ experiences. It can also help establish trust in the courts and increase court efficiency by reducing the amount of staff time dedicated to assisting parties with basic questions.

Courts Can Provide Two Types of Legal Information

1. *Procedural/Process-Oriented*

Allows litigants to understand the steps they need to take to proceed with and complete their case, including court rules, practices, and procedures and any risks or fees associated with use of the platform.

Example:

Before

We must receive your completed application form on or before the 15th day of the second month following the month you are reporting if you do not submit your application electronically or the 25th day of the second month following the month you are reporting if you submit your application electronically.

After

If you submit your form . . .	We must receive it by . . .
Electronically	the 25th of the second month
Not electronically	the 15th of the second month

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2. *Substantive*

Objective information that allows litigants to understand basic terms, concepts, and their rights, without giving legal advice, to enable them to make informed decisions about their case. This does not include suggesting a specific course of action one should take.

¹Maryland Access to Justice Commission, Writing for Self-Represented Litigants: A guide for Maryland’s courts and civil legal services providers (2012), <https://www.courts.state.md.us/sites/default/files/import/mdatjc/pdfs/writingforsrls.pdf>

Example 1:

What is a Debt Claim Case?

A **debt claim case** is a special kind of lawsuit filed in a justice court to be heard by a justice of the peace to recover money that is owed. A debt claim case can be filed by:

- 1) A bank or other financial institution,
- 2) A collection agency or agent,
- 3) A person or company whose business is lending money at interest, or
- 4) A person or company who bought debt or a judgment from another person or company.

Usually, the case is filed over a loan that hasn't been repaid or outstanding credit card debt. The person or company who files the case is called the **plaintiff** and the person they file the case against is called the **defendant**.

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Example 2:

Before 389 words 11th grade reading level	Original Text	After 227 words 7th grade reading level	Transcend Plain Language - DRAFT
<p>Should I use mediation?</p> <p>Mediation is a non-adversarial, out-of-court alternative used to settle disputes. You and the other person with whom you have the dispute meet with a panel of volunteer mediators in a neutral location to discuss and attempt to resolve your dispute. There are no forms to file to start mediation. If you want to use mediation, you need to contact a mediator or an agency that provides mediation services. The mediator will contact the other side and explain the process to them. If both sides agree, then a mediation session is scheduled. If mediation is successful, the mediator will help put your agreement into writing. The agreement can be used as evidence of a contract in a later small claim action if it is broken. What is said during mediation is private and confidential. If mediation is not successful, parties can still file a claim in court. Either side can have an attorney participate at any stage of mediation.</p> <p>The mediator begins by explaining the procedures and makes sure that the participants have full authority to settle the case. Then parties make an opening statement followed by the mediator asking questions from either side. Parties then communicate directly by presenting relevant information and trying to see the other side's position as the mediator guides the discussion. The mediator may suggest a private meeting with either side to review the merits of the case and lead the party in a more constructive direction. In these meetings, you can tell the mediator information which you do not wish to disclose to the other side. The mediator will keep the information confidential.</p> <p>Mediation usually involves just one session, about two hours in length. There is little or no cost involved. Mediation allows you and the other participants to work out a solution together, rather than risking having a small claims court commissioner make a decision for you. Eighty percent of disputes brought to mediation are settled.</p> <p>You may want to consider mediation before initiating a small claims court action. However, you may initiate mediation even though you have a small claims court action pending. You can arrange to have your mediation scheduled before your court hearing. Then, if you are satisfied with mediation, you and the other party may decide to forgo the court process and dismiss the case.</p>		<p>Can I use mediation?</p> <p>Yes. In fact, some courts require you to use mediation first. Mediation is when a trained mediator works with the Plaintiff and Defendant to try to settle the case out of court. Mediation can be faster and easier than going to court. And, about 80% of cases that go to mediation get solved out of court.</p> <p>If you want to try mediation, ask the Small Claims Advisor to help you find a mediator. Ask for a mediation date that is before your small claims trial date. That way, if mediation doesn't work for you, you can still go to court on your scheduled trial date.</p> <p>How does mediation work?</p> <p>If you want to try mediation, ask the Small Claims Advisor to connect you with a mediator. Then, you contact the mediator and the mediator will contact the Defendant(s). If both sides agree to mediation, you will go to a neutral place to try and solve your case. The mediator will explain the process. What you say in mediation is private and confidential. Lawyers can participate in the mediation.</p> <p>Most mediations take a couple of hours. And, if you can agree on a solution in mediation, the mediator will help put your agreement into writing. If the Defendant doesn't follow the agreement, you can ask the court to enforce it.</p>	

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² Texas Justice Court Training Center, Self-Help Legal Information Packet- When a Debt Claim has Been Filed Against You (2019), <https://gato-docs.its.txstate.edu/jcr:8f1e111a-5421-49d5-a421-342deb2ae814/SRL%20-%20debt%20claim%20defendant.docx>

³ Transcend, <https://transcend.net/services/PL/beforeAfter.html>

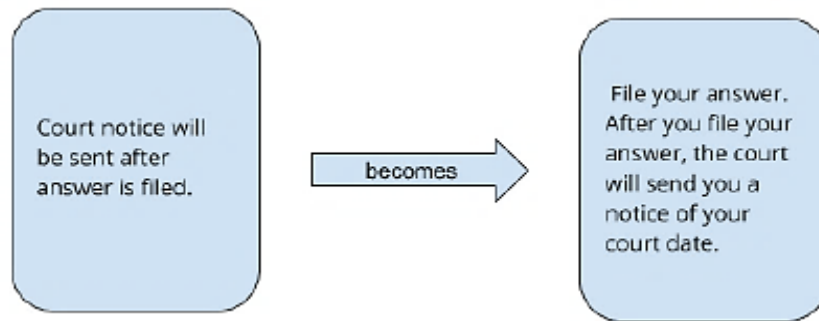
Curating Legal Information for Self-represented Litigants

In order to provide litigants with the information that best meets their needs, you should include simple, right-sized, plain language procedural and substantive legal information to all parties within online systems at various stages of the process. This allows users to access information at the moment that it is relevant, without having to navigate to multiple websites or additional sources of information.

Below are some tips on how to provide legal information for self-represented litigants:

1. *Identify the steps in the case or process when information is needed.* Map your case flow for your ODR case type. Then, consider the key decision points that a litigant will encounter, and determine what information will be relevant at each point for the litigant to make an informed decision and move to the next step in the process.
2. *Keep it simple.* Provide information that is brief and written so that someone unfamiliar with the court or the legal process can fully navigate the system and the basics of their case.

Example 1:



Example 2:

<i>Do not say:</i>	<i>Say:</i>
If you cannot make the payment of the \$100 fee, you must make an application in writing before you file your form.	If you cannot pay the \$100 fee, you must apply for a fee waiver in writing before you file your form.

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3. *Provide only what is necessary at each stage of the process.* Include only the information that a party needs to know to answer an immediate question or make a specific decision.
4. *Do not merely link out to external resources.* Including links can be a useful supplement, but do not solely rely on users navigating to multiple external sites to get the information they need to understand procedures or basic concepts about their case. This allows you to control the content provided and allows litigants to get the specific information they need in one convenient location.

⁴ National Association for Court Management Plain Language Guide: How to Incorporate Plain Language into Court Forms, Websites, and Other Materials (2019), <https://nacmnet.org/resources/publications/guides/plain-language-guide/>

5. *Partner with stakeholders to draft content.* Local legal aid attorneys, self-help centers, or statewide access to justice organizations may have plain language legal information that is already available and can be easily incorporated into your ODR platform. This will also assist you in ensuring that you are able to understand the distinction between what is legal information versus what constitutes legal advice.
6. *User-test for plain language and understanding.* User-test draft language and content, and its placement within the platform and process, with court staff and trusted internal and external stakeholders prior to the public launch of any online service. Continue to monitor and solicit feedback from users to continuously improve the quality of content.
7. *Challenge vendors to build/design systems that meet users' needs.* Courts should be clear with vendors during both their procurement process and in the design and configuration of platforms about the need for in-platform legal information at varying points. Select vendors that are responsive to courts' needs, rather than accepting off-the-shelf products that are not necessarily well suited for courts and court-users.
8. *Be creative as to how and where you can fit in brief information.* Legal information can be included on websites, in initial emails from the court or third-party neutrals, on introductory pages, in side banners or text boxes, as a parenthetical after the text of a questions, and on each page that a party navigates to within the platform. Do not let the vendor's platform configuration or design prohibit you from finding ways to include legal information.
9. *Provide information often and in varying formats.* Repeat or reincorporate information as necessary to ensure that parties are appropriately informed about procedures, rules, terms, risks, or options. Try (and user-test) varying formats, including short narrative text, bullet points, flow charts or process maps, graphics, chat boxes or chatbots, or videos.

Example 1:



⁵ National Association for Court Management Plain Language Guide: How to Incorporate Plain Language into Court Forms, Websites, and Other Materials (2019), <https://nacmnet.org/resources/publications/guides/plain-language-guide/>

Example 2:

TENANT RIGHTS

As a tenant in Minnesota, you have the following rights:

- Your landlord must follow the rules of your lease.
- Your landlord must keep your apartment free of health and safety hazards.
- Your landlord must keep your apartment in good repair. The structure, fixtures, plumbing and other equipment must be kept working safely and properly.
- You have the right to call local housing, health, safety, and fire inspectors and ask them to inspect your apartment (if available in your area).
- Your building must be insulated and weatherized if it was built before 1976.
- Your landlord must follow the laws on weather stripping, caulking, and energy efficiency standards for storm windows and doors.
- You have the right to the undisturbed and peaceful possession of your apartment. You have the right to be left alone and free of harassment. The landlord cannot allow certain illegal activities on the property like prostitution or prostitution-related activity, the unlawful use or possession of a firearm, or the manufacture, purchase, possession, sale, distribution or presence of illegal drugs or stolen property **anywhere** on the premises, including the common areas. If a landlord violates this rule, you can sue them.



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Resources to Assist with Drafting and Testing Plain Language Legal Information

The following resources provide information, checklists, and videos to assist you in drafting plain language legal information. Once you have drafted your content, use the additional resources provided to test or evaluate your language.

- [National Association for Court Management Plain Language Guide](#): How to Incorporate Plain Language into Court Forms, Websites, and Other Materials
- Maryland Access to Justice Commission, [Writing for Self-Represented Litigants: A guide for Maryland's courts and civil legal services providers](#)
- [Transcend](#)
 - [How to Write in Plain Language](#)
 - [Before and After Samples](#)
- [Legal Aid of Western New York WriteClearly](#): Plain language legal documents help unrepresented people use the justice system.
- [National Archives – Drafting Legal Documents](#)
 - [Top 10 Principles for Plain Language](#)
- OpenAdvocate [ReadClearly](#): Free Plain Language Legal Glossary for Websites
- OpenAdvocate [WriteClearly](#)
- [Federal Plain Language Guidelines](#)
 - [Checklist for Plain Language](#)
 - [Checklist for Plain Language on the Web](#)

⁶ Minnesota Legal Services Coalition, Tenants Rights in Minnesota (2017), <https://www.lawhelpmn.org/sites/default/files/2018-09/TenantsReprint%202017.pdf>

- [Center for Plain Language: 5 Steps to Plain Language](#)

Videos

- [Plain Legal English Part 1](#)
- [Plain Legal English Part 2](#)
- [General Services Administration/Digital Government Essentials of Plain Language Webinar](#)
- [How to Use Plain Language on a Government Website](#)

Testing and Evaluation

- Transcend: [Evaluation](#)
- Legal Aid of Western New York: [Plain Language User Testing Videos](#)
- Federal Plain Language Guidelines: [Testing](#)

Inserting Plain Language Legal Information into ODR Platforms

Now that you have your plain language legal information drafted, the next step is to insert it into the ODR platform at the key moments you previously identified. Use legal information to guide the parties through the process and enable them to make informed decisions.

Many vendors do not have guidelines or specific configurations that assist courts with knowing how and when to incorporate legal information into the platform. Below are screen shots from common vendors with callouts and tips on places where legal information could be inserted and the types of legal information that may be helpful. You will need to work with your vendor to configure or design your ODR platform to incorporate legal information. *Note that any legal information included in the examples below may not meet the above standards, so it is important to draft text that meets your court users' needs using the tips and illustrations above.*

The following vendors and case type examples are included:

- Matterhorn – Traffic
- Modria – Parenting Time
- Modria – Small Claims/Debt
- Utah State Courts – Small Claims

Example 1: Matterhorn Traffic ODR

Boxes and arrows indicate where and how relevant, brief legal information text and links to additional information could be inserted.

Traffic Process

Ticket-holder initiates review

- Explain the process up-front
- Enumerate the key steps in the process at the beginning
- Link to FAQs (as noted)

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- Enumerate the key steps in the process at the beginning
- Link to FAQs (as noted)

Traffic Process

Ticket-holder makes their case and uploads evidence

- Provide examples of the types of relevant things the court can consider or that litigants can share
- Explain the value of photos and what "supporting documentation" can entail
- State the timeline for when a decision will likely be made and the possible results and next steps for each

- Provide examples of the types of relevant things the court can consider or that litigants can share
- Explain the value of photos and what "supporting documentation" can entail
- State the timeline for when a decision will likely be made and the possible results and next steps for each

Traffic Process

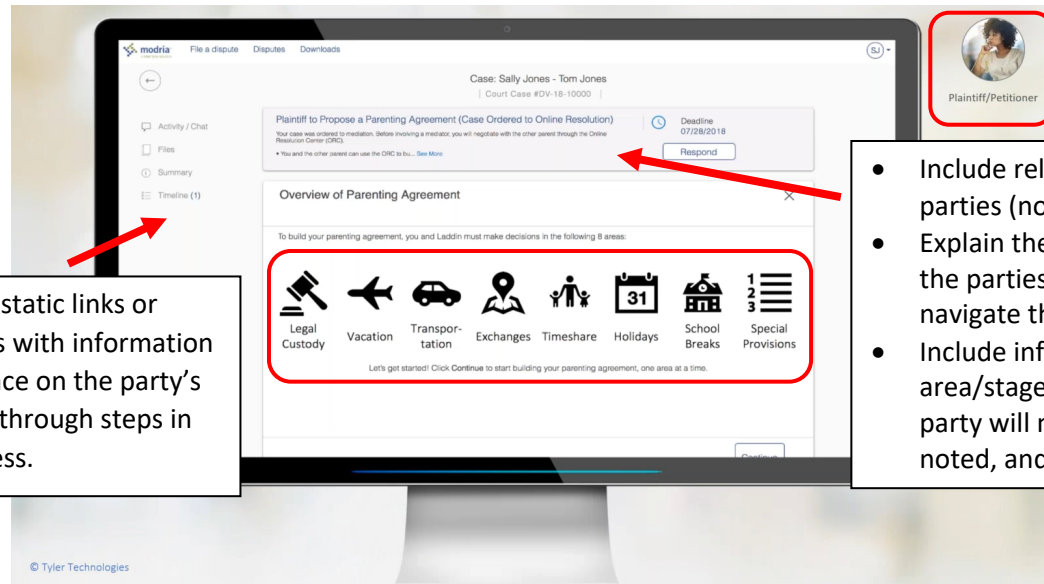
Ticket-holder can review and accept or reject their offer

- Include information about how what they are offering differs from original citation (as noted)
- Indicate the party's progress or status in the resolution process (as noted)
- Explain the party's rights to accept/reject and the potential consequences of accepting/rejecting (e.g., unable to appeal, appearing in person)

- Include information about how what they are offering differs from original citation (as noted)
- Indicate the party's progress or status in the resolution process (as noted)
- Explain the party's rights to accept/reject and the potential consequences of accepting/rejecting (e.g., unable to appeal, appearing in person)

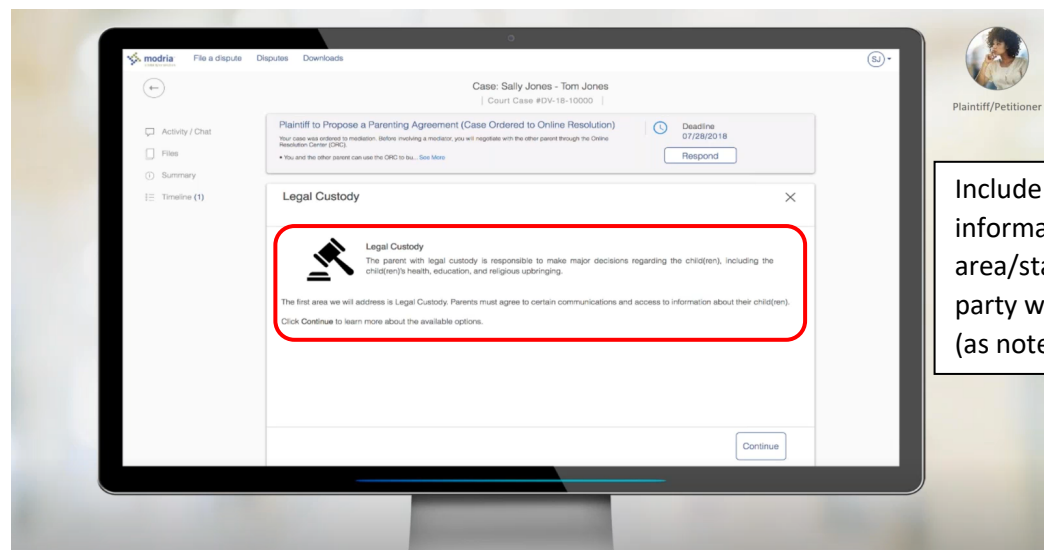
Example 2: Modria Parenting Time

The screenshots below illustrate sections where and how relevant, brief legal information can be included for both the plaintiff/petitioner and the defendant/respondent at various points in the process.

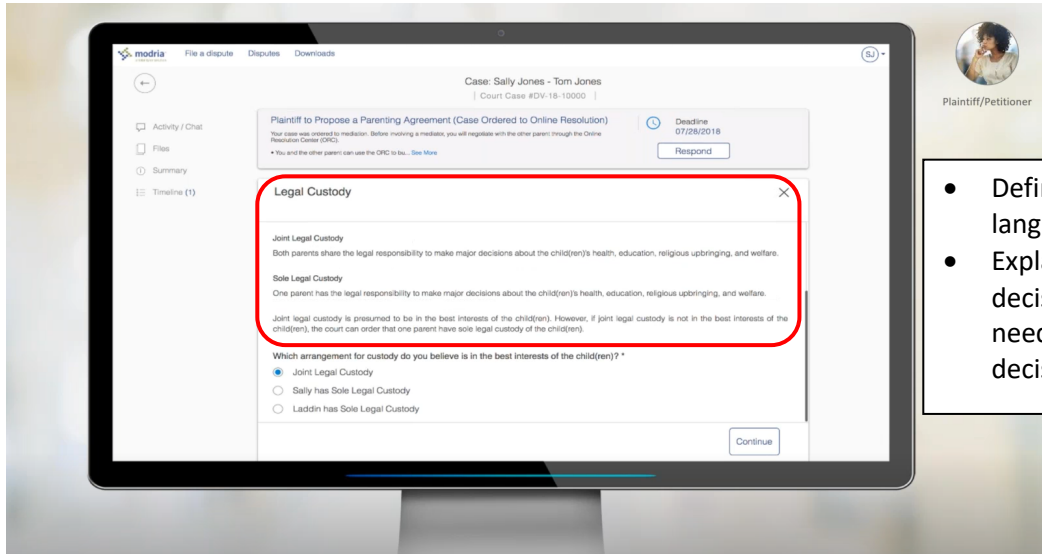


Consider static links or textboxes with information or guidance on the party's progress through steps in the process.

- Include relevant information for all parties (not just one side)
- Explain the overall process and what the parties can expect as they navigate the platform
- Include information for each area/stage of resolution, where a party will need to make a decision (as noted, and see below)

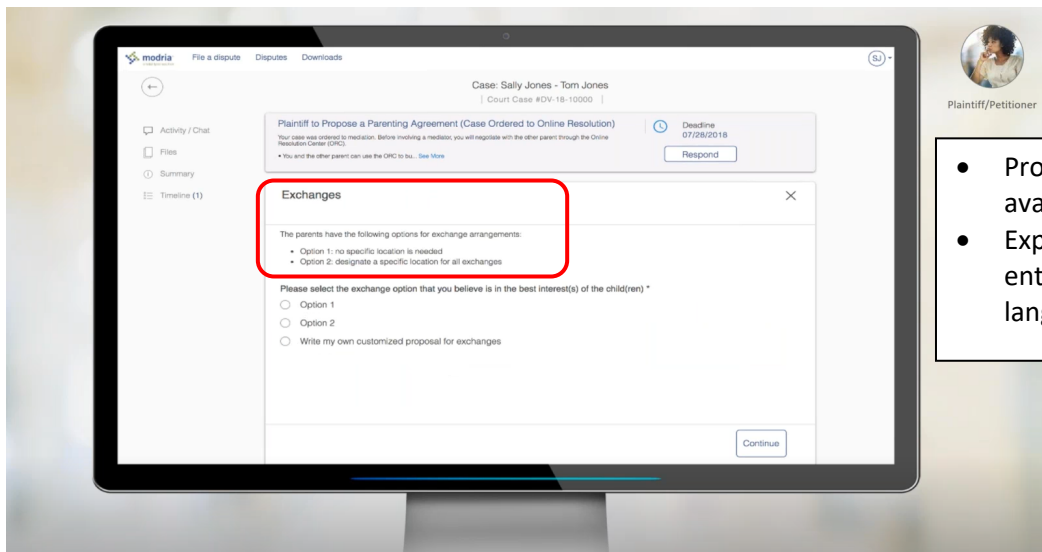


Include plain-language, brief information specific to the area/stage of resolution, where a party will need to make a decision (as noted).



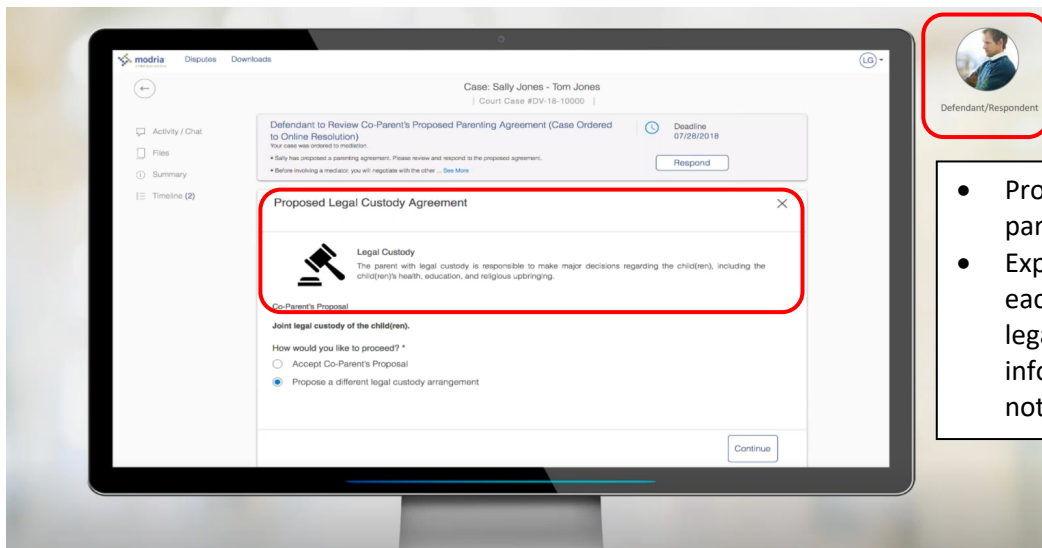
Plaintiff/Petitioner

- Define key terms in plain language (as noted)
- Explain how the court makes a decision and what the parties need to consider to make their decision (as noted)



Plaintiff/Petitioner

- Provide options when available (as noted)
- Explain what each option entails briefly, in plain language (as noted)



Defendant/Respondent

- Provide information to all parties (as noted)
- Explain the available options at each stage, and define any legal terms to allow for informed decision-making (as noted)

Example 3: Modria Small Claims/Debt

Email Notifications

Email notifications offer the opportunity to provide brief procedural information about what the parties can expect. You can also consider including links to guides, information packets, or other websites in the email. This should be in addition to legal information provided within the platform, not in lieu of it.

Initial Email to Defendant – Initiating ODR

Hello Debbie,

NOTIFICATION FROM [REDACTED] JUSTICES OF THE PEACE

- Patty or Patty's attorney proposed a solution to the claim.
- Remember, your online participation is **required** in order to resolve this claim.
- [REDACTED] Debt and Small Claims Resolution Program is a **free service** where both parties or their attorney will work together to find a solution to the claim.

NEXT STEPS TO CONTINUE THE CLAIM

1. Debbie or Debbie's attorney must click the link below to respond to the proposed solution.
2. You must work with Patty or Patty's attorney to reach a successful resolution on or before Friday, April 03, 2020.
3. If you do not reach a resolution on your own, the court will order participation in online mediation at an additional cost. You also have the option to request help from a neutral mediator at anytime.

Click here to access the [REDACTED] Justices of the Peace Debt and Small Claims Resolution Program: [31-SC-20-00059](https://www.judicialbranch.com/31-SC-20-00059)
If clicking the link above does not work, copy and paste the URL below in a browser window instead.

- Thoroughly explain the process, expectations, timelines up-front
- Enumerate the key steps in the process at the beginning
- Explain the benefits/risks of participation (and fees, if any)
- Link to relevant sources

Email to Parties from Mediator

Hello Peppu,

NOTIFICATION FROM [REDACTED] JUSTICES OF THE PEACE

- The mediator verified payment of mediator fees from both parties or their attorneys.
- Mediation is now in progress.

NEXT STEPS TO CONTINUE THE CLAIM

You have until Friday, April 03, 2020 to work with the mediator and find a solution to this claim.

Click here to access the [REDACTED] Justices of the Peace Debt and Small Claims Resolution Program: [31-SC-20-00060](https://www.judicialbranch.com/31-SC-20-00060)
If clicking the link above does not work, copy and paste the URL below in a browser window instead.

- Include a description of what mediation is and how it will proceed, including interaction with the neutral and the other party, and sharing of relevant information/documents (to be repeated in platform)
- Provide information about confidentiality and what the parties can expect
- Indicate the parties' options regarding participation and the consequences of not participating
- Provide any relevant information about fees and payment (if needed)

In Platform

Dispute: Patty Plaintiff - Debbie Defendant
Court Case #31-SC-20-00059

Welcome to the Collin County Justices of the Peace Debt and Small Claims Resolution Program

Resolve your court case from your phone or computer, without the hassle of going to court!

- You and Patty or Patty's attorney will jointly decide whether an agreement can be reached.
- The information you share is confidential and will not be shared with the court.
- There is no additional cost for using the online resolution center.
- If you can't work this issue out directly before Friday, April 03, 2020, the case will be ordered to online mediation at an additional cost.

Other Actions

Contact Support

Request help from a mediator

- Include links or static videos, process maps, or text to assist the parties in understanding the process or the specific case type (e.g. how does ODR work, what is small claims, etc.)
- Provide information about confidentiality, fees, and deadlines at the beginning within the platform, even if also in the notice (as noted)

Dispute: Patty Plaintiff - Debbie Defendant
Court Case #31-SC-20-00059

What's next?

Here's an overview of the steps you will take to reach an agreement with Patty or Patty's attorney.

- 1** Patty offers a solution.
- 2** **NOW** Debbie reviews Patty's offer. Discuss the issue and solution.
- 3** If no agreement in 21 days, court order to participate in online mediation.
- 4** Create and sign an agreement that works for both Patty and Debbie.

Continue

Use visuals to represent where a party is in the process and the immediate next steps (as noted).

Dispute: Patty Plaintiff - Debbie Defendant
Court Case #31-SC-20-00059

What's next?

- 1** Patty offers a solution.
- 2** **NOW** Debbie reviews Patty's offer. Discuss the issue and solution.
- 3** If no agreement in 21 days, court order to participate in online mediation.
- 4** Create and sign an agreement that works for both Patty and Debbie.

If you have any questions, visit the court's website for additional information about [filing a claim](#) or [information for defendants](#).

Continue

Link to relevant resources when appropriate, as a supplemental source to what is provided in platform (as noted).

Dispute: Patty Plaintiff - Debbie Defendant
Court Case #31-SC-20-00059

Activity/Chat
Files
Summary
Timeline (2)

Review the offer

Patty's Offer

Patty believes that **\$2,500.00** is a fair amount to close this case because:

This is the total amount she owes.

If Debbie agrees, Debbie will pay the total amount owed by Saturday, August 01, 2020.

The payment will be mailed or delivered to: **123 Main Street, McKinney, TX 75071.**

If Debbie agrees, a Final Agreed Judgment will be submitted to the court to close the case.

[Continue](#)

Other Actions
Contact Support
Request help from a mediator

Provide information that will assist the parties in making an informed decision, including any benefits/risks to agreeing to an offer.

Dispute: Patty Plaintiff - Debbie Defendant
Court Case #31-SC-20-00059

Activity/Chat
Files
Summary
Timeline (2)

Review the offer

If Debbie agrees, Debbie will pay the total amount owed by Saturday, August 01, 2020.

The payment will be mailed or delivered to: **123 Main Street, McKinney, TX 75071.**

If Debbie agrees, a Final Agreed Judgment will be submitted to the court to close the case.

How would you like to respond? *

Accept Patty's proposal

Propose a different solution

Communicate directly with Patty or Patty's attorney online to explore possible solutions

[Continue](#)

Other Actions
Contact Support
Request help from a mediator

If information cannot be included in the pre-populated text (as indicated above), add brief information as a parenthetical in the text of the question or the answer choices that explains each option.

Example 4: Utah State Courts Small Claims

The screenshot shows the Utah State Courts Small Claims portal. The top navigation bar includes 'Messages', 'Documents', 'My Case', 'My Profile', 'Help', and 'Logout'. The search bar contains 'SC0000226 - STACY, SPIDER vs. MCGOW.' and a search icon. On the left, a case summary for 'SHANE MCGOWAN' vs. 'STACY, SPIDER vs. MCGOWAN, SHANE' at 'West Valley City Justice Court' is displayed, including initiation date (07-12-2018), ODR number (SC0000226), case number (188700441), original claim (\$5,220.00), and last document (N/A). A 'View Affidavit' link is present. The main content area shows a message: '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.' Below this, a section titled 'My response to SPIDER STACY is' lists several options: '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.', and 'I'm not ready to respond to SPIDER STACY yet.' At the bottom, there is a link: 'I want to review information for Small Claims defendants.'

- Customize information for your particular court/process/case type
- Define key terms (e.g. facilitator) and include a brief description of the process and what parties can expect regarding ODR and confidentiality (as noted)

This screenshot is similar to the first one but shows a dropdown menu for the first response option: 'I want options to pay this claim.' The dropdown menu is open, showing three radio button options: 'I am willing to pay \$ [] to settle this claim.', 'I am willing to pay at least \$ [] per month to settle this claim.', and 'I want to offer to settle this claim. Explain.' Below the dropdown, the same list of other response options is visible, along with the 'I want to review information for Small Claims defendants.' link at the bottom.

- Include brief information about the available options and any risks/consequences associated with a particular choice.
- Provide an overview of how the case may proceed given a particular selection.