DESIGN FRAMEWORK DECISION GUIDE

The following questionnaire is to help you and your staff think through ODR design components. Most of the answers require a simple y/n response. Once you answer these questions we will help you complete and implementation plan.

(Disclaimer: This is not an exhaustive list of the requirements that you can request. Please include additional requirements at the bottom of the document.)

Court Information

Court	
Presiding Judge	
Involved staff	
City, State, Zip	
Phone	
Primary Contact Email	
Court Type (general jurisdiction, limited jurisdiction, ubiquitous, other)	

ODR Information

Who must sign off on the ODR pilot? (supreme court, individual)	
Who must sign off on the rule changes related to ODR?	
Why does the court want to adopt ODR?	
Is ODR local or statewide?	
ODR Vendor (name if selected)	
Have you seen a demo of ODR from vendors?	
Case Type for 2019 ODR Pilot (small claims, debt, landlord-tenant, divorce, child custody, traffic, etc…)	
Within this case type, are there any subcategories or party	

types that will be excluded from the pilot?	
What is your plan to ensure existing power dynamics between parties are not worsened by ODR?	
Number of Eligible Cases a Year for the Case Type (#) in the Pilot Jurisdiction	
Is the platform mandatory (opt-out/opt-in)	

Please answer the following questions:

Current Systems

1. Is your Case Management System (CMS) local or statewide?

2. Who is the CMS vendor?

3. Is your e-file system local or statewide?

4. Who is your e-file vendor?

5. Is your payment processing system local or statewide?

6. Who is your payment processing vendor?

7. Can these systems integrate with the ODR tool?

Pre/Post File

8. Will your ODR system handle pre-file, post-file, or both?

    a. Will pre-file cases avoid the court process entirely?
        i. If using pre-file, how do you plan to notify users of the system?
        ii. If using pre-file, what is your pre-filing fee structure?

    b. When will post-file cases happen?
        i. If not, when do you plan to insert ODR into your process?

Current court processes

9. How do you plan to provide notice to individuals who are using the ODR platform?

10. If the defendant does not respond, what are the steps?

11. How do your forms support your processes?

12. How many forms do you require for someone to file their initial case in the chosen case type?

13. What are the different stages of filing?

14. How do you plan to modify and streamline your current forms for this case type?

15. Do you need to change your court forms to include other modes of contact such as email?

    a. If not, how do you plan to collect email information for users of ODR?

16. If the system is opt-in, how do you plan to notify the users that they have a case that can be settled in ODR?

17. Will the ODR system allow litigants to submit evidence? (ex: pictures, bills)

18. Does the system need to verify jurisdiction?

19. Will ODR be allowed in cases where the statute of limitations has passed?

    a. If yes, what safeguards will be put into place to ensure these cases do not come into ODR?

Financial

20. How does the state/county plan to pay for ODR?

    a. Is this sustainable after the pilot?

    b. Will the court charge litigants a fee in the ODR platform?

        i. If yes, will this fee cover the cost of the platform?
        ii. If yes, will the state or court allow for fee waivers in the system for low-income residents?
            1. If so, what needs to be changed to make this happen?
        iii. How does the court handle payments and fees with ODR?
            1. What vendor do you want to use to collect ODR fees?

Legal Information

21. Do you have a legal information website?

    a.   If yes, will the information from the portal integrate with ODR?

    b.   Does the portal provide information on the case type(s) you are interested in launching in ODR?
        i.   If yes, what is the webpage to the portal?

22. Do you provide legal information in plain language to court users to navigate cases?

23. What types of legal information do you plan to provide users in the ODR tool?

Access

24. Will you allow the users to start the ODR process with party-to-party negotiations without a third-party?

25. Will your ODR system be accessible 24/7?

26. Will your ODR tool be mobile responsive?

Judges/Mediation/Facilitators/Third-Parties

27. Will a judge/magistrate be involved in the dispute resolution portion of ODR?

28. Will the ODR include mediators/facilitators?

    a.   If yes answer the following questions, if not skip to 29.
        i.   Will you charge users to access mediators?
            1.   If yes, how much?
        ii.   Do you have an existing mediation program?
            1.   If yes, do you plan to use your current mediators in ODR?

        iii.   Will mediators/facilitators be brought in at the beginning of the process or after both parties request a mediator?
        iv.   Will you assign mediators manually or allow the system to do it automatically?
        v.   Does your state/county have a rule on how mediators are utilized? Please share:
            1.   Will this rule prevent you from launching ODR with mediators?

                a.   If yes, is your state/court willing to implement a temporary rule change to launch the pilot?
                b.   If no, is your state/court willing to create a facilitator position solely for ODR?

29. Will judges be required to review and sign documents created in ODR by parties?

Communication

30. What languages do you require the vendor to offer in ODR?

31. Does your ODR include a chat function for communication between parties?

    a. Do you want a chat function that allows the plaintiff and defendant to talk one-on-one without a mediator?

    b. Do you want a chat function that allows the plaintiff and defendant to talk to the mediator in a group chat?

    c. Do you want a chat function that allows the mediator to have a private chat with either the plaintiff or defendant?

32. Do you want to include a chatbot—a computer program designed to simulate conversation with users— that answers questions for users in ODR? (legal information only)

33. Do you plan to include videoconferencing within ODR?

    a. If yes, do these videoconferences need to be recorded and stored?
    b. For how long?
    c. Do they need to be transcribed?

34. Do you want the system to diagnose parties best alternative to a negotiated agreement (BATNA) in order to prompt an automated settlement?

35. Can the system review and sign agreements online?

Court Communications and Information Sharing

36. Following a resolution, what information needs to be shared and what types of court approved documents do you want the system to generate and/or e-file?

37. If there is no resolution via ODR, what information needs to be shared and what types of court approved documents do you want the system to generate and/or e-file?

Users

38. If your system is opt-out? For what reasons can a user opt-out?

39. When can a user leave the system to go back to the traditional in-person court process?

40. If a user wants to appeal a decision, can the information from ODR come into the court?

    a. If not, does the case start from scratch?

Stakeholders

41. Who on your staff is responsible for stakeholder engagement?

    a. Who are the stakeholders you plan to engage? (state bar assoc; legal aid provider; private attorneys who do this type of work; mediators; community advocates in the relevant issue area; libraries; other)

    b. Please list your point of contact at each organization?

    c. Have you spoken with your state bar about your plans?

Data sharing

42. Does the state/court have a mechanism for providing case data to entities outside of the court?
    a. If yes, what is the process?

43. Will the state/court own the raw data in the ODR system?

44. Will the state/court be able to extract raw data from the ODR system? (including confidential information)

45. Will you require the vendor to review or walk through the process on a staging environment prior to launch?

Business process/rule changes

46. In order to streamline the process in the court and online, based on completing this guide, what rules do you anticipate need a temporary or permanent rule change?

47. Part of your commitment to this process is to redesign the way your courts do business. Based on completing this guide what processes do you anticipate need to change?

48. Do these processes add to your concerns, reduce your concerns, or not impacted?

49. What are your concerns with due process?

Marketing

50. How do you plan to make the public aware of ODR and what are your best practices?

Customer satisfaction

51. Will you include customer/stakeholder and end user surveys?

52. What are the main components on the surveys and can you compare your feedback over time and with other courts and states?

Security

53. Is the system encrypted?

Please list any other components you would like the ODR tool to have: