Preparing Mediators for Text-Based Mediations on ODR Platforms

Joseph van 't Hooft, Wan Zhang & Sarah Mader*

Abstract

The COIVD-19 pandemic has drawn an increasing level of attention to the role of online dispute resolution (ODR) in dispute resolution systems. As ODR becomes increasingly prevalent, unique characteristics of conducting text-based mediations via ODR platforms begin to surface, warranting discussion on modifying mediator practises to adapt to ODR platforms. This article shines a light on the advantages and disadvantages of text-based mediations through interviews with court administrators and mediators with text-based mediation experience. Accordingly, this article proposes recommendations on training mediators to use ODR platforms and modifying their practises to achieve the best outcomes in text-based mediations. Focusing on the qualitative data and information gathered from these conducted interviews, this article seeks to offer practical advice about preparing mediators to participate in text-based mediations.

Keywords: online dispute resolution (ODR), mediation, dispute resolution, alternative dispute resolution (ADR), mediation training, text-based systems.

Court-connected Online Dispute Resolution (ODR) programmes have experienced a proliferation in recent years. These programmes are growing in response to access to justice concerns as well as the COVID-19 pandemic's resulting focus on social distancing. The need for virtual interactions in legal, business, education and everyday life settings has escalated tremendously.

In response, state court systems throughout the United States have started exploring ODR programmes for mediation, traffic ticket disputes, and family law matters. These platforms typically rely on online, asynchronous text-based messaging as the main form of communication between the parties, mediators and third parties (i.e. legal counsel). Some ODR systems also provide synchronous video conferencing functions, allowing for virtual face-to-face mediation. Whatever form an ODR platform takes, virtual dispute resolution will continue to grow,[1] and

---

*   Joseph van 't Hooft is Juris Doctor Candidate (graduating in 2022) at The Ohio State University, Moritz College of Law. Wan Zhang is Juris Doctor Candidate (graduating in 2022) at The Ohio State University, Moritz College of Law. Sarah Mader is Juris Doctor Candidate (graduating in 2022) at The Ohio State University, Moritz College of Law.
1   *See* American Bar Association Center for Innovation, *Online Dispute Resolution in the United States: Data Visualizations*, 1, 3 (September 2020) www.americanbar.org/content/dam/aba/administrative/center-for-innovation/odrvisualizationreport.pdf (depicting a graphical trend of increasing ODR court sites from 2014 to 2019).

dispute resolution advocates face an imminent question: how can state courts and other judicial bodies prepare mediators to effectively engage with these new dispute resolution platforms?

This article was developed to help fill the current gap in ODR literature on text-based mediation training by offering considerations regarding court-connected ODR platform training and practise modifications for mediators.[2] The burgeoning area of ODR mediation training has recently welcomed significant and thoughtful attention from mediate.com's Online Mediation Training Task Force.[3] Many of the task force's considerations and recommendations overlap with our findings. However, we specifically address them within the context of court-connected ODR platforms and provide concrete training considerations for courts seeking to integrate ODR as part of their caseflow management.

To help address this issue, we conducted interviews with two groups of individuals who have pioneered court-connected ODR in their respective states. These interviewees consisted of state court administrators who oversaw the implementation of court-connected ODR[4] and mediators who use these text-based mediation platforms.[5] These seven interviewees are involved in court-connected ODR programmes in Michigan, Delaware, Florida and Ohio. Additionally, to supplement our findings from these interviews, we conducted an additional review of ODR literature and other relevant publications by legal scholars, practitioners and courts.[6]

This article first briefly examines the historical evolution of ODR and discusses its advantages and disadvantages for parties and mediators. Next, it proposes two training components that should be included when training mediators participating in court-connected, text-based ODR programmes.[7] The first training component addresses platform and system training which should be implemented for the purpose of familiarizing mediators with the digital platforms used in their jurisdictions. The second training component addresses several practise considerations for

---

2   Although there are currently no widely accepted ODR mediation training standards, ODR service-providers and other alternative dispute resolution institutions have begun offering more structured ODR mediation training. However, there is currently very little incorporation of ODR mediation training in court-connected mediation certification programmes. N. Ebner & D. Rainey, ODR and Mediation, *in* E. Katsh, D. Rainey, & A. Abdel Wahab (Eds.), *Online Dispute Resolution: Theory and Practice* (2nd ed.) Eleven International Publishing (14 May 2021), pp. 40-42.
3   *See generally* J.C. Melamed & F. Mosten, Final Report of the Mediate.com Online Mediation Training Task Force, August 2021, www.mediate.com/articles/OnlineMediationPathsForward.cfm.
4   We sincerely appreciate the opportunities to interview the following state court administrators: Doug Van Epps, Director of the Office of Dispute Resolution for the Michigan Supreme Court; Marianne Kennedy, Court Administrator for the Delaware Justice of the Peace Courts; Susan Marvin, Chief of Alternative Dispute Resolution, Florida Dispute Resolution Center.
5   Again, we sincerely appreciate the opportunities to interview the following mediators: Bill Froehlich, Dispute Resolution Professor at The Ohio State University Moritz College of Law; Teshrie Kalicharan, J.D., Assistant Director for the Ninth Circuit's Mediation Department (Florida); Judge Deborah Keenan, Deputy Chief Magistrate for Sussex County, Delaware Justice of the Peace Court; Sharon Smith, current mediator for the Community Dispute Resolution Program Center in Oakland County, Michigan.
6   For a full list of literature reviewed, please see the attached bibliography.
7   These training components are designed to supplement - rather than replace - traditional 'in-person' mediation training concepts. Traditional mediation concepts include an understanding of mediation process stages and mediation skills (i.e. active listening, reframing, reflecting, etc.).

incorporating traditional mediation training and skills into a digital platform. Finally, to illustrate these training considerations, we have developed a model ODR mediator training curriculum to serve as an example for future court-connected ODR programme developers.[8]

1 What Is Online Dispute Resolution?

'Online Dispute Resolution', also known as *ODR*, is a form of alternative dispute resolution in which parties use technology as the primary means of communication to facilitate a resolution.[9] The American Bar Association has defined ODR as 'the use of technology to settle disputes between parties'.[10] Initially, ODR was used in the commercial environment, such as to settle disputes between buyers and sellers.[11] One well known innovator of ODR in the commercial space is eBay. Since 1999, eBay has had an internal digital dispute resolution system in place that allows parties to transactions to settle disputes as they arise.[12] Use of ODR to resolve commercial disputes made sense due to their 'high-volume, low-value' nature.[13]

As time has progressed, public sector institutions have started to integrate ODR as part of their current court systems.[14] Jurisdictions have started piloting and launching programmes in order to experiment with ODR platforms such as online and text-based mediation programmes.[15] These pilot programmes focus on some particular case types, including small claims, traffic ticket disputes, appeals of property tax assessment, and family law disputes.[16]

One of the main goals of ODR programmes is to increase the public's access to justice without expending substantial resources. The American Bar Association has expressed its hope that court-connected ODR systems will be able to supply greater access to justice by removing some of the barriers currently in place that prevent citizens from resolving their disputes through traditional channels, such as litigation.[17] The barriers the ABA is concerned with include: the time costs of physical attendance at court proceedings, the intimidation factor of in-person proceedings, and the confusing nature of civil procedure rules.[18] The hope is that ODR will help

---

8   We sincerely appreciate Christopher Fields, Manager of Curriculum and Educational Services at the Supreme Court of Ohio, for his expert guidance in developing training curriculum.
9   Online Dispute Resolution systems can also include the use of artificial intelligence, blockchain technology, or other new developments in the technological sphere.
10 American Bar Association Center for Innovation, *supra* note 1, at 1.
11 *Id.*
12 *Online Dispute Resolution*, Resolution Systems Institute (2019) www.aboutrsi.org/special-topics/online-dispute-resolution.
13 'High-volume, low-value' refers to disputes that occur frequently, e.g. between buyers and sellers of goods, that deal with low monetary amounts. J.C. Melamed, Chapter 41 Online Dispute Resolution, in *Oregon State Bar's 2019 Handbook on Dispute Resolution*, 1, 3 (December 2018); K. Bailey, *Online Dispute Resolution: A Primer*, Mediate.com (February 2020), www.mediate.com/articles/bailey-primer.cfm.
14 American Bar Association Center for Innovation, *supra* note 1, at 1.
15 *Id*. At the end of 2019, 66 active sites of court-connected ODR exist in 12 states. *Id*. at 2.
16 *Id*., at 5.
17 *Id*., at 1.
18 *Id*.

increase parties' ability to come to acceptable resolutions without the need for formal court proceedings.

1.1 Party Advantages and Disadvantages of Using ODR

Like any other dispute resolution system, ODR has its own set of benefits and challenges. One of the biggest advantages ODR presents is the opportunity for parties to resolve their dispute without having to be in the same geographic location.[19] Parties can now be in different cities, states, countries or even continents while participating in a mediation.[20] This also provides reduced costs to parties because parties can avoid prolonged, costly litigation fees if the dispute is resolved early on. Likewise, an online dispute resolution platform reduces the amount of time, money and travel needed to resolve the dispute.[21] Specifically, with text-based mediation programmes, parties may respond at their leisure, or at least within the time restrictions set at the beginning of the process. Because parties are engaging in an asynchronous text conversation, they are able to think carefully before replying. Participants can take the time needed to gather the necessary information and provide accurate and thoughtful responses.

While there are several benefits of ODR, there are also a number of drawbacks to be considered. Unlike face-to-face mediations, text-based mediations can prevent the parties from perceiving emotion and body language.[22] This can cause parties to perceive a lack of warmth, empathy, immediacy and rapport.[23] Because these communications are handled via text, they are prone to 'misinterpretation and misattribution',[24] which can lead to a breakdown in communication or build unnecessary tension between the parties.

1.2 Mediator Advantages and Disadvantages of Using ODR

Many of the same ODR party advantages overlap with the advantages mediators enjoy when using an ODR platform. Asynchronous text messaging allows mediators more time to reflect on their mediation strategy. Mediators also have the ability to caucus with both parties at the same time via different chat threads. Likewise, an online platform offers an effective option to continue resolving disputes even in extenuating circumstances (i.e. public health crises, inclement weather or family circumstances) that preclude in-person meetings. Mediators may find they do not have to spend as much time managing high levels of emotion because parties are not in the same room immediately reacting to each other. Parties have more time to process their emotions. Thus, the mediator may be less likely to run

---

19   C. Rule, *Introduction to Online Dispute Resolution for Business*, Mediate.com (June 2002), www.
      mediate.com/articles/rule2.cfm.
20   *Id*.
21   Bailey, *supra* note 13.
22   *Id*.
23   *Id*. However, there may be some benefit to a mediation environment that limits emotional contexts
      and cues. For example, emotional disputes like family conflicts (i.e. divorce and custody matters)
      may prove good candidates for mediating over text-based platforms. *See* N. Rivani, *Online Mediation:
      If the Shoe Fits*, OnlineDisputeResolution.com (May 2013), www.onlinedisputeresolution.com/
      article.cfm?zfn=RivaniN1.cfm.
24   *Id*.

into a heated argument between the parties. Because text messages on the platform are always there for the parties and the mediator to refer to, mediators may not need to do as much summarization as they would otherwise for an in-person mediation.

An asynchronous online platform also presents several challenges for mediators. Mediators may encounter difficulties conducting party screenings or miss early opportunities to determine a party's sophistication or competence level with respect to communication and technological skills to participate in a text-based mediation. Text messages, inherently devoid of body language and vocal inflections, can cause mediators to misunderstand a party's position and prevent them from effectively moving the conversation forward.[25] Without these physical indicators, the mediator may not be able to assess the parties' emotions promptly and accurately. Mediators may find it challenging to get parties to participate and respond promptly, leading to longer mediations or unresolved mediations.[26] Building party trust in mediators may also be difficult as parties cannot observe the mediator's actions, words, and body language in real time. Although there are disadvantages associated with using ODR platforms for mediation, some of these disadvantages can be addressed by modifying mediator practises which will be discussed in a later section.

2 Mediator ODR System Training

Because the parties' dispute resolution process takes place on an online platform, a thorough understanding of the platform's structure and functionality is vital for mediators. The design and functionality of text-based ODR platforms will likely vary based on courts' needs and jurisdictions. Our interviews with court administrators revealed that different state courts used different ODR vendors when designing their platforms. Accordingly, platform training will need to be tailored on the basis of the platform's design. Based on the information and suggestions we have gathered from our interviews, courts may consider incorporating the following key principles as they organize training for acclimatizing mediators to these platforms:

1 **Work with the ODR vendor or developer to coordinate platform training with mediators**. Some courts relied solely on the ODR vendor to walk mediators through the platform. Others selected mediator trainers to receive training from the ODR vendors and then trained subsequent mediators. This training could be conducted in person or virtually.

---

25 *See* S. Exon & S. Lee, *Building Trust Online: The Realities of Telepresence for Mediators Engaged in Online Dispute Resolution*, Stetson L. Rev. Vol. 49, No. 1, 2019, p. 128.
26 While this assertion relies primarily on the experiences shared by mediators during our interviews, courts using ODR are beginning to collect important data to understand the lifecycle and effectiveness of these processes. For example, the Franklin County Municipal Court in Columbus, OH reviews progress indicators such as the amount of time its tax cases take to complete in its ODR system. Franklin County Municipal Court Mediation Data: ODR Tax https://docs.google.com/spreadsheets/d/e/2PACX-1vQtg4kK6OCX46KnYSBe85ya-ZzLDFCiGLSu6h9kPtmXY1E8dulhor90zBkOh4zkTdQ8MYBg-qxEcD-p/pubhtml?gid=416616941&single=true.

2   **Offer mediators a staging environment on the platform for practise**. Two court systems worked with their ODR vendors to provide mediators with access to the platform before the mediators participated in live cases. This option allows mediators to experience both how the platform functions for mediators as well as for parties. Because of the benefits provided by this platform option, such as continued practise and training, the platform should always be available to mediators.

3   **Ensure mediators know how to point parties in the appropriate direction for help if the parties experience technical issues on the platform**. Courts should understand what their ODR vendor's technical support policies are and educate their mediators on how to help parties reach these channels should technical issues arise.

4   **Inform mediators of platform data collection and confidentiality policies**.[27] As individuals shift their dispute resolution communications online, mediators should understand how the platform collects, uses and protects the data being shared. This knowledge may help make parties more comfortable with engaging openly on the platform. Additionally, the online platform environment may require that mediators modify how they explain confidentiality to parties during their opening remarks. Understanding how confidentiality principles interact with the online platform will help mediators explain any unique confidentiality items to their parties.

5   **Conduct feedback and debriefing sessions with mediators post-platform training about their technical experiences using the platform**. Courts that routinely seek technical platform feedback from the mediators (as well as parties) will likely find ways to improve or modify the platform. All platform updates should be communicated to the mediators and all major, structural updates may require additional platform training.

3   Modifying Mediator Practises for ODR Platforms

Unsurprisingly, mediations conducted through online platforms face different challenges when compared to in-person mediations. Meanwhile, ODR platforms also offer their own benefits which are absent in in-person mediations. Based on the interviews conducted for the purpose of this article, many of the interviewees stressed the importance of utilizing the same set of skills required for in-person mediations for text-based mediations. On the other hand, the mediator should evaluate and understand the advantages and disadvantages of ODR in order to utilize appropriate practises when engaging in text-based mediations. Based on the advantages and disadvantages of ODR, courts may consider the following modifications to the mediator's process when navigating text-based mediations. These considerations focus on alleviating three unique ODR challenges mediators may face rather than altering the mediation process itself.

---

27   Standard V of the Model Standards of Conduct for Mediators focuses on confidentiality, and it is important for the mediator to consider how the online platform may affect this crucial element of the process. American Bar Association, *Model Standards of Conduct for Mediators* (9 August 2005).

Joseph van 't Hooft, Wan Zhang & Sarah Mader

3.1 Beginning and Maintaining Party Engagement

One of the most troubling issues our interviewees discussed was the issue of getting the parties to respond promptly. The format of ODR allows parties to respond at their own leisure. Although this level of freedom can make mediation more accessible to some people, it can also lead to lengthy mediations or unresponsive parties. When parties do not respond promptly, this can have negative effects on the communication which may impede the overall mediation process. Our research identified several ways to address this issue.

1   **With cases referred to mediation by the courts, the mediator may use any upcoming court hearing or trial dates to motivate parties to regularly participate**. Because mediations will likely need to conclude before these 'deadlines', reminding parties about upcoming dates may help curb procrastinated responses and encourage parties to resolve the dispute before the impending court dates.

2   **Set designated time slots or response parameters with the parties for their mediation**. Mediators may find it helpful to incorporate response expectations for participants into their opening statements. Mediators should allow a certain degree of flexibility when setting those time slots. For example, the mediator may ask the parties to check the platform at least once a day.

3   **Model prompt response behaviour by setting aside specific times in the day to check in and interact with the parties on the platform**.[28] Mediators should set an example of timely responses as they interact with the parties on the platform. Mediators may designate times of the day to check on the progress of the mediation and inform parties of those times that they will be responding to messages. Mediators should make sure they can commit to these response times. As mediators respond promptly and engage regularly with the parties, this will also help increase party trust in the mediator.

4   **Suggest switching to a synchronous video mediation for unresponsive parties (if available and permitted within the ODR system)**. Many ODR platforms have a video feature which allows parties to meet via a live video call. One of the benefits of doing a video call is that mediators do not need to wait several days for the parties to respond to a message. In the event that the parties continue to fail to respond promptly, mediators may elect to move the mediation to a live video call. Mediators should also inform the parties of such a feature in the opening statement, so the parties also have the option to suggest a live video call during the mediation. Lastly, switching to a video call may be appropriate when mediators are confused about the complexities of the case being communicated over text and feel that certain issues would be better explained through a synchronous session.

5   **For unsuccessful mediations, mediators should inform the parties that the mediation is ending, and that no resolution has been reached**. If appropriate, mediators should also encourage the parties to keep talking offline, because the progress reached in mediation may help with a resolution outside of the process. Finally, mediators should remind parties to prepare for any up-

---

28   Ebner & Rainey, *supra* note 2, p. 37.

coming court meetings. Our interviews did not find notable differences between text-based mediations and in-person mediations with respect to concluding a successful mediation. The mediator should follow the same process for drafting an agreement in accordance with the court rules of the appropriate jurisdiction.

3.2 Increasing Party Trust in an 'Unseen' Mediator

Without the face-to-face interactions with the parties, one problem the mediator may run into is how to develop and increase parties' trust during the mediation. How mediators choose to communicate with the parties becomes vitally important because parties will be making trust judgments about the mediator based on the mediator's message content. The following communication considerations may help increase party trust in an 'unseen' mediator.

1 **Always review a message before sending it**. Because mediators can caucus simultaneously with both parties, it can increase the risk that mediators accidentally send a private message intended for one party to the other party. Mediators should check that every message they are sending is being sent to the correct person. Mediators should also use ODR's asynchronous advantage to ensure that their message wording reflects impartiality and neutrality. This review process should include grammar and spelling checks in order to demonstrate professionalism.

2 **Avoid using legal jargon or sending lengthy messages**. Mediators should craft their messages in ways that parties can easily understand. This conveys to the parties that the mediator is there to help with the resolution process and to create a digital environment that leads to mutual understanding among all participants. Long, complicated messages or legal jargon can alienate the parties from the mediator and decrease a desire to participate in the mediation. With respect to an inevitably lengthy message (i.e. the opening statement), the mediator may consider sending a recorded video or using bullet points for the purpose of keeping the parties engaged. Certainly, the ability to send recorded videos or use bullet points depends on the platform's capabilities.

3 **Address questions or statements to specific parties in the message**. Mediators should address any specific questions or statements to the parties intended by including the party's name before the text. This can decrease party confusion about to whom the message is being directed as well as help parties see that the mediator knows their name and addresses them in the manner they wish to be addressed.

3.3 Pacing the Mediation

As mentioned previously, asynchronous text-based platforms can mean that mediations stretch over days, weeks, or even months as participants respond at their convenience. Unlike the intense focus required for two or three hour in-person mediations, mediators must sustain their focus and exhibit more patience with parties for longer periods of time. Mediators are responsible for structuring the mediation process in which disputing parties participate. How mediators pace an asynchronous mediation can greatly contribute to a successful resolution. Below

are several considerations for mediators as they effectively pace asynchronous mediations.

1 **Ask one question at a time**. Asking one question at a time focuses a party to concentrate effort on answering one question and increases the likelihood that mediators will get an answer to each question. Including multiple questions in a text message may run the risk of parties accidentally not responding to or intentionally avoiding answering a question.

2 **Address one issue at a time**. Like asking one question at a time, taking the parties through one issue at a time can help avoid confusion. Mediators and parties will not have to spend important time trying to decipher what issue a message may be addressing if everyone knows what issue they are currently working on.

3 **Wait for parties to respond before moving on to a new topic, issue or question**. Mediators should be patient and allow parties time to address discussion items in the amount of detail the parties feel necessary. Additionally, because text-based mediation is generally asynchronous, mediators might consider using summary statements to help parties remember previously communicated information after a passage of time.[29]

4 Model Training Curriculum for Court-Connected ODR Mediation

New court-connected ODR programmes tend not to have required training for mediators using the systems beyond basic training on how to use the system. Based on our qualitative findings, we devised a suggested training curriculum for courts that have or will be embracing text-based ODR mediation platforms.[30] This curriculum is centred on three main learning objectives: (1) comfortably navigate the online system, (2) identify potential mediation process and communication obstacles while mediating on the online platform, and (3) illustrate text-based mediation adjustments through mock mediation micro-exercises on the online platform.

4.1 Comfortably Navigate the Online System

This learning objective focuses on introducing mediators to the online system itself. Mediators will learn about the available functionality of the system by observing how the platform physically appears and functions on computers, tablets or smartphones. Mediators will also practise navigating the system by observing where various messaging channels are located, how to send/upload messages or other content, and how to draft and sign an agreement. By understanding what the platform looks like and how it operates on different screen sizes and operating

---

29   *Id*.
30   This ODR mediation training assumes that an individual already possesses working knowledge of the mediation process. For individuals who have no training or experience with mediation, we recommend that individuals first obtain an understanding of the mediation process before engaging in a court's ODR mediation training. As stated before, this ODR training is meant to supplement an individual's core mediation training.

systems, mediators will be better prepared to assist users before and during the mediation.

We suggest that courts work with their ODR system developers to curate this system training as the developers generally have more experience with how the system operates. This system training might be a recorded, asynchronous demonstration that includes screenshots identifying platform features or a guided walkthrough of the platform.

4.2 Identify Potential Mediation Process and Communication Obstacles While Mediating on the Online Platform

This second objective draws on a mediator's understanding of the mediation process and introduces the mediator to thinking critically about adapting this process within a text-based online system. Content for this objective might include highlighting party and mediator advantages and disadvantages of mediating within an online, asynchronous platform and identifying important mediation principles that are uniquely implicated in an online platform (i.e. confidentiality). This module may also incorporate screenshot examples of process and communication considerations for mediators. Finally, this objective presents an excellent opportunity for knowledge checks of the purposes of each proposed process and communication modifications demonstrated in the module.

Like the online system navigation training, we suggest that courts consider presenting this training as a recorded asynchronous lecture/module with knowledge checks.

4.3 Illustrate Text-based Mediation Adjustments Through Mock Mediation Micro-exercises on the Online Platform

This final objective is designed to provide mediators with actual practise experience mediating 'mock' cases on the platform. Through a series of micro-exercises, mediators will practise discrete junctures such as:

1 crafting an opening statement,
2 asking parties questions,
3 identifying negotiating issues from parties' messages,
4 communicating with unresponsive parties,
5 identifying and suggesting times where a synchronous video conference may be appropriate, and
6 drafting an agreement and ending a successfully resolved and unsuccessfully resolved asynchronous mediation.

These simulated mediation micro-exercises will allow a mediator to practise adapting their mediation process training at various points in a text-based mediation.

Because this objective requires interaction beyond simply learning about the system, we suggest that this module's format be a group discussion/simulation with other training/trained mediators. This can be done in-person on computers or on a synchronous video call with multiple mediators who can view each other's screens during the simulation and provide feedback. Mediators should give and

Joseph van 't Hooft, Wan Zhang & Sarah Mader

receive feedback on their approaches from other mediators participating in the simulation.[31]

5   Conclusion

Text-based mediation platforms offer notable benefits and resolution possibilities for parties and mediators alike. As more courts begin incorporating ODR platforms as part of their dispute resolution processes, mediators must be equipped to successfully transfer their traditional mediation training into these platforms. Challenges inherent with resolving disputes over digital platforms require modifications to mediator practises. This article provides considerations for training mediators to use and interact with parties on these digital platforms. While there are many considerations discussed throughout this article, it is by no means an exhaustive list. As ODR continues to evolve, courts, vendors, and users may find more ways to maximize the effectiveness of text-based mediations.

Finally, the COVID-19 pandemic has certainly drawn an increased level of attention to ODR platforms, particularly in law schools. As law students are required to transition from in-person mediations to using ODR platforms, it is even more crucial that law schools incorporate appropriate trainings on using ODR platforms. ODR training in law school mediation clinics represents a unique opportunity to educate a new generation of mediators and to truly elevate the quality and future of ODR mediation.

Text-based Mediation Training Model Components

Education Need:

Provide mediators with supplemental mediation training on how to successfully apply the mediation principles and process in a text-based mediation platform.

Session Goal:
Introduce mediators to navigating an online, text-based mediation platform and potential mediation process and communication adjustments needed to effectively mediate in an asynchronous environment.

Learning Objectives:
As a result of this education, mediators will be able to….
1   Comfortably navigate the online mediation platform.

---

31   We note, briefly, the invaluable opportunity for mediators to practice these and other process points and receive feedback from other mediators. As law students who participated in a Mediation Clinic that incorporated text-based ODR, we found that interacting with our colleagues about our experiences was particularly helpful in growing as effective mediators on these platforms.

2   Identify potential mediation process and communication obstacles while mediating on the online platform.
3   Illustrate text-based mediation adjustments through practise mediation micro-exercises on the online platform.

Time Min/Hrs	LO#	Content (Main & Subtopics) In order of presentation	Methods Lecture, Panel, Group Discussion, Demo, etc.	Teaching Aids Power-Point/ Video/ Handout, Case Study, etc.
[at the discretion of the presenter; likely between 30-45 min]	1	– Navigating the online platform (i.e. observing where the various messaging channels are located, how to send/upload messages or other content, draft and sign an agreement, etc.) – Learning about the available functionality of the system (i.e. observing how the platform appears/functions on a computer, tablet, or smart-phone)	Recorded, asynchronous demonstration (can include screenshots identifying platform features or be a guided walkthrough of the platform)	Recorded video or PowerPoint
[at the discretion of the presenter; likely between 30-45 min]	2	– Highlight party advantages and disadvantages of mediating in an online, asynchronous platform. – Highlight mediator advantages and disadvantages of mediating on an online, asynchronous platform. – Identify important mediation principles that are uniquely implicated in an online platform (i.e. confidentiality) – Display screenshot examples of process and communication considerations for mediators. – Knowledge checks of the purposes of each proposed process and communication modifications demonstrated in the module.	Recorded asynchronous lecture/ module with knowledge checks	Interactive video/ PowerPoint

Joseph van 't Hooft, Wan Zhang & Sarah Mader

(continued)

Time Min/Hrs	LO#		Content (Main & Subtopics) In order of presentation	Methods Lecture, Panel, Group Discussion, Demo, etc.	Teaching Aids Power-Point/ Video/ Handout, Case Study, etc.
[45-60 min]	3	–	Provide mediators with simulated micro-exercises where they can practise (1) crafting an opening statement, (2) asking parties questions, (3) identifying negotiating issues from parties' messages, (4) communicating with unresponsive parties, (5) identifying and suggesting times where a synchronous video conference may be appropriate, (6) drafting an agreement, ending a successfully resolved and unsuccessfully resolved asynchronous mediation, etc.	Group discussion/ simulation. This can be done in-person on computers or on a synchronous video call with multiple mediators who can view each other's screens during the simulation and provide feedback.	Simulated mediation micro-exercises that allow a mediator to practise adapting their mediation process training at various points in a text-based mediation.
		–	Mediators should give and receive feedback on their approaches from other mediators participating in the simulation.		