

# RE-ENGINEERING ALTERNATIVE DISPUTE RESOLUTION WITH THE INTERNET

Judge Arthur M. Monty Ahalt (Ret.)\*

Can online dispute resolution (ODR) successfully re-engineer alternative dispute resolution (ADR)?

Recently, an investment advisor was informing clients that the opportunity the recent recession provided was advances in technology. The theory expressed was that companies who had to lay off people because of the economic downturn would not rehire the people they laid off because of the downturn. Instead they would invest in technology to reduce the number of people that it took to deliver goods and services. Terminating jobs is extremely stressful whether for good reasons or bad. It is even more stressful for the professional. The investment advisor theorized that companies would be asking themselves - how can we change our business model so that we no longer need these extra layers of employees?

According to some futurists, this dynamic, changing the business model, is already happening in the legal profession. Just recently at the annual ABA Tech Show, author [Richard Susskind](#), who has written two books outlining a new evolving business model for the legal profession, told the audience in his keynote address that the economic downturn would only accelerate powerful trends that were already in motion. The new generation of lawyers is using technology to compete in delivering quality legal services at a lower cost. Change is clearly in the air.

One needs only to look at developments in the last several years. [Virtual Law Firm](#), [Virtual Law Office](#) (this year's winner of the prestigious ABA annual [James I Keane Memorial Award](#)), [VLO technology](#), [Legal Advice Line](#), [Legal Zoom](#) and others are leading the way at an ever increasing pace. Will the current hard economic times accelerate this process? Only time will tell, but the history in other industries is making a strong case for such change. As clients change the way they do business, they will demand that their lawyers also change their ways.

## How will these developments impact ODR?

ADR has been around in commerce since the 1920's and the founding of the American Arbitration Association. Many date ADR to biblical times and King Solomon. Originally the focus was on providing commercial entities with alternatives to adjudicating their disputes in the court. During the next eight decades many barriers have been overcome; however, the paper-based alternatives of the past that paved the way for ADR have become expensive and time consuming. In some cases it's as if a new ADR bureaucracy has replaced the old judicial bureaucracy. Although face-to-face and paper-based alternative dispute resolution is not as time consuming and expensive as litigation in the courtroom, the time and expense of paper and face-to-face meetings denies many parties the opportunity of a fair and neutral resolution of a genuine dispute. Certainly the costs are also increased, unnecessarily, in many cases.

The ability of technology, especially the Internet, to make many business processes more efficient is now making it clear that online dispute resolution (ODR) is the next frontier of ADR. The internet promises to make more disputes reachable by ADR and to facilitate the resolution of disputes faster and at a lower cost. The internet also provides the legal profession the opportunity to prevent the vast waste of our scarce resources. The opportunity to use less paper and less of our precious resources is now at the legal profession's door steps. Better stewardship is achievable, but like many shifts from paper to technology, a clear strategic pathway has yet to appear.

Here are the ADR activities you can achieve using the internet.

1. Demand for Arbitration
2. Neutral Case Evaluation
3. Select a Mediator or Arbitrator
4. Schedule a Mediation or Arbitration
5. Online Arbitration
6. Online Negotiation

The main barrier to change in the way ADR occurs is the **STATUS QUO** - It is just easier to do things like we have always done them even when we know there is a more efficient way. An evolving strategy is to use ODR. Using ODR, a lawyer can now obtain the following quickly, efficiently and at a reasonable cost on the internet.

1. **NEUTRAL CASE EVALUATION.** Have an experienced neutral provide an analysis of the strengths, weaknesses and value of your case for as little as \$400. The neutral case evaluation will be helpful to you, your client and provide protection against claims of malpractice.
2. **DEMAND FOR ARBITRATION.** Initiate your case online and send an official demand for arbitration which does not bind you and your clients to costly paper based ADR providers.
3. **INVITATION THROUGH A NEUTRAL PARTY.** Often the suggestion of ADR in settlement negotiations is met with resistance because it is viewed in an adversarial light. Initiate your case online and have a neutral party send the invitation. For a complete listing of service providers see a recent article in the ALI-ABA Practical Litigator – *What You Should Know about Online Dispute Resolution*. [www.virtualcourthouse.com/news](http://www.virtualcourthouse.com/news)  
**The important thing to do is to change the way you think about ADR**

\*[Judge Ahalt](#) currently conducts private arbitration and mediation, is CEO of VirtualCourthouse.com and is recalled by the Court of Appeals as a Judge in the 7<sup>th</sup> Judicial Circuit of Maryland.