

## **Course Syllabus**

*Online Dispute Resolution: The State of the Art*

Instructors: Colin Rule

February 7-9, 2020

Santa Clara University

### **Course Overview**

Courts cannot handle online disputes. The judicial system is slow, expensive, and geographically bound. Rapidly expanding e-commerce, the growth in cross-boundary transactions, and the inability of traditional legal processes to deal with disputes arising over the web has created a need for online redress options. The international consensus is that online alternative dispute resolution is the best solution to these problems. Online ADR (or “ODR”) can resolve online disputes quickly, confidentially, and effectively. It helps parties to be at their best, it connects capable neutrals with parties in effective ways, and it brings efficiencies to inefficient online marketplaces.

ODR is the hottest area of the ADR field right now. But it is still in its infancy. Do the rules of offline ADR apply to ODR? How does technology change the equation? Can ODR be effective when parties are not looking into the other side’s eyes? How can offline neutrals best translate their skills online? How can technology merge with face-to-face ADR to make it more effective?

### **Course Objectives**

In this Seminar we’ll look at the development of ODR through the lens of DSD (Dispute Systems Design). We’ll analyze some of the new practice and ethical challenges it poses to neutrals, and look at all the major providers, administrative agencies, and international organizations currently involved. We’ll also get to try out ODR technologies through a series of simulations, and to begin to wrestle with the challenges of providing effective dispute resolution online.

### **Student Learning Outcomes**

Students will:

- Practice and demonstrate understanding of dispute resolution techniques by participating in simulations.
- Practice legal writing skills through preparation of an original research paper addressing a topic related to online dispute resolution.

### **Readings**

The readings for this course will be distributed electronically.

The primary source will be the book *The New Handshake: Online Dispute Resolution and the Future of Consumer Protection*, forthcoming from American Bar Association Press. A prerelease soft-copy of the book (please do not circulate outside of our class) is available [here](#).

The secondary text for the course is the book *Online Dispute Resolution: Theory and Practice - A Treatise on Technology and Dispute Resolution* by Mohamed S. Abdel Wahab, Ethan Katsh and Daniel Rainey, which is available online full-text here: [http://www.ombuds.org/odrbook/Table\\_of\\_Contents.htm](http://www.ombuds.org/odrbook/Table_of_Contents.htm)

Some additional readings are available online (links in this document) or on the class web page: <http://newhandshake.org/SCU/>

### **Disability Statement**

Any student with a documented disability (physical, learning, or psychological) needing academic accommodations should contact the Registrar's Office as early as possible. All discussions will remain confidential.

### **Assessment**

This is an Intensive Seminar, and we expect that each student is in the course because they want to know about the subject, and/or improve their online dispute resolution skills and understanding. You can help increase your learning by periodically asking yourself what you have learned in the course and how you might improve your learning. We welcome students' ideas for instructor attention to specific topics, or different forms of instruction. Suggestions may be made in class or outside of class.

The grade we assign will be based on my evaluation of your class participation and your final paper. The percentage of your final grade determined by each of the components is listed below:

20%: Class Participation

80%: Final research paper (8 pages) – Due April 6, 2020.

### **About the Instructor**

Colin Rule is Vice President for Online Dispute Resolution at Tyler Technologies. Tyler acquired Modria.com, an ODR provider Colin co-founded, in 2017. From 2003 to 2011 Colin was Director of Online Dispute Resolution for eBay and PayPal. He has worked in the dispute resolution field for more than 25 years as a mediator, trainer, and consultant. He is currently Co-Chair of the Advisory Board of the National Center for Technology and Dispute Resolution at UMass-Amherst and a Board Member of the Peace Tech Lab at the United States Institute of Peace. Colin co-founded Online Resolution, one of the first online dispute resolution (ODR) providers, in 1999 and served as its CEO (2000) and President. In 2002 Colin co-founded the Online Public Disputes Project (now

eDeliberation.com) which applies ODR to multiparty, public disputes. Previously, Colin was General Manager of Mediate.com, the largest online resource for the dispute resolution field. Colin also worked for several years with the National Institute for Dispute Resolution (now ACR) in Washington, D.C. and the Consensus Building Institute in Cambridge, MA. He holds a Master's degree from Harvard University's Kennedy School of Government in conflict resolution and technology, a graduate certificate in dispute resolution from UMass-Boston, a B.A. from Haverford College, and he served as a Peace Corps volunteer in Eritrea from 1995-1997.

**Friday, February 7<sup>th</sup>**     *What is ODR?*

**4:00pm – 5:30pm**

Introductions

Course Description + Goals

What is ODR?

Advantages and Disadvantages (for parties, for neutrals, for providers)

Types of ODR

History of ODR

The current state of ODR

The players

**5:30pm – 5:45pm break**

**5:45pm – 7:00pm**

Current Platforms: How do they do it?

HiiL's Rechtwijzer

ODR Ways

**Readings (to be completed before class)**

*"What Dinosaurs Can Teach Lawyers About How to Avoid  
Extinction in the ODR Evolution" by Elayne E. Greenberg and Noam Ebner*

*"Online Dispute Resolution: Stinky, Repugnant, or Drab" by Robert J. Condlin*

(distributed via email)

**Saturday, February 8<sup>th</sup>**     *ODR Applications*

**9:00am – 10:15am**

ODR System Design

International vs. domestic

The DNMEA model

Cross-border disputes

**10:15am – 10:30am break**

**10:30am – 11:15am**

Family Simulation: Bob + Susan Jeffries

Debrief

**12:00pm – 1:00pm lunch**

**1pm – 2:30pm**

Current Platforms: How do they do it?

BC CRT

Cybersettle

Youstice

SmartSettle

ODR in the Courts

Demo: Tyler Modria solution for small claims + parenting plans

**2:30pm – 2:45pm break**

**2:45pm – 3:30pm**

Workplace simulation: Hopkins International

Debrief

**3:30pm – 5:00pm**

Case Study: ICANN's UDRP

**Readings (to be completed before class)**

*The New Handshake: Online Dispute Resolution and the Future of Consumer Protection*, Part Three (Pages 83-139) [PDF](#).

"Technology and the Future of Dispute Resolution," in *Dispute Resolution Magazine*, a publication of the American Bar Association, 2015. [PDF](#).

**Sunday, February 9<sup>th</sup>**

**9:00am – 10:30am** *ODR Practice*

Being an ODR Practitioner

Translating offline skills to online

    The communication spectrum

    Online communication options

    Moving ADR online

Ethical dilemmas for online practitioners

    What cases to take?

    How to deal with threats?

    Looking up someone's history

Exercise: You be the online mediator + Debrief

**10:30am – 10:45am break**

**10:45am – 12:00pm**

Getting involved

Ramifications for new lawyers

The future of the legal field

Conclusion and wrap up