

1                   **IN THE SUPREME COURT OF THE STATE OF NEW MEXICO**

2   **September 2, 2020**

3                   **NO. 20-8500-036**

4                   **IN THE MATTER OF THE EXPANSION**  
5                   **OF THE ONLINE DISPUTE RESOLUTION**  
6                   **PILOT PROJECT FOR NEW MEXICO STATE COURTS**

7   **ORDER**

8                   WHEREAS, this Court authorized the implementation of an online dispute  
9 resolution pilot project (ODR Pilot Project) on June 3, 2019, under Order No. 19-  
10 8500-009, which was expanded in September 2019 to a statewide pilot project;

11                   WHEREAS, this matter having come before the Court upon recommendation  
12 of the Administrative Office of the Courts to expand the ODR Pilot Project to include  
13 certain landlord-tenant cases and to amend the procedures governing the ODR Pilot  
14 Project, and the Court having considered the recommendation and being sufficiently  
15 advised, Chief Justice Michael E. Vigil, Justice Barbara J. Vigil, Justice Judith K.  
16 Nakamura, Justice C. Shannon Bacon, and Justice David K. Thomson concurring;

17                   NOW, THEREFORE, IT IS ORDERED that the Administrative Office of the  
18 Courts (AOC) is authorized and directed to expand the ODR Pilot Project in  
19 coordination and consultation with all district, metropolitan, and magistrate courts  
20 in accordance with the terms of this order:

1 IT IS FURTHER ORDERED that the dispute resolution services for the ODR  
2 Pilot Project shall continue to be made available through the Modria Program  
3 provided by Tyler Technologies and operated by AOC;

4 IT IS FURTHER ORDERED that AOC shall continue to appoint and certify  
5 mediators in writing to serve as online dispute resolution mediators for the ODR  
6 Pilot Project, who shall serve as arms of the court;

7 IT IS FURTHER ORDERED that the ODR Pilot Project shall operate in  
8 accordance with the following requirements:

9 1. The ODR Pilot Project shall apply to civil cases filed in the district courts  
10 under the contract/debt and money due case type, to civil cases filed in the  
11 metropolitan and magistrate court under the general civil case type alleging a  
12 cause of action for debt and money due, and to landlord/tenant cases in all  
13 courts involving collection of money due that are referred to the ODR Pilot  
14 Project by the district, metropolitan, or magistrate court in which they are  
15 filed;

16 2. Referral to the ODR Pilot Project is mandatory for all contract/debt and  
17 money due cases in which a complaint is filed and validly served upon a  
18 defendant and that are filed in a district, metropolitan, or magistrate court  
19 during the term of the ODR Pilot Project. After a complaint is filed, the court  
20 where the case is filed shall issue a summons that includes notice to the  
21 defendant that they have been referred to participate in ODR and that provides  
22 instructions for beginning the ODR process. The plaintiff shall participate in  
23 ODR unless the defendant does not participate or opts out. Any party to the  
24 case may choose to initiate ODR before filing an answer or other responsive  
25 pleading. If ODR is not initiated by any party before the defendant files an  
26 answer, ODR shall be initiated upon the filing of an answer to the complaint;

27 3. The complaint filed in an applicable case shall include the plaintiff's email  
28 address and mobile phone number and, if known, the defendant's email  
29 address and mobile phone number, and every party to an applicable case shall  
30 obtain and provide an email address and mobile phone number to the court no

1 later than four (4) business days after the filing of the answer or other  
2 responsive pleading. The court shall make reasonable efforts with available  
3 contact information to ensure each party's compliance with this requirement;

4 4. If the parties enter into a settlement agreement through the ODR Pilot  
5 Program, the settlement agreement shall be reduced to writing and signed by  
6 the parties. No settlement agreement under the ODR Pilot Project shall  
7 include an interest rate provision among its terms that is greater than one  
8 percent (1%) of the federal discount rate. After the settlement agreement has  
9 been reduced to writing and signed, the parties' stipulation of dismissal and  
10 settlement agreement shall be filed by the Modria Program with the court;

11 5. If the parties have entered into a settlement agreement and have filed a  
12 stipulation of dismissal, the court shall close the case but shall retain  
13 jurisdiction to reopen the case at a later date, as provided by law, to enter such  
14 orders and judgments as may be appropriate to enforce the settlement  
15 agreement and to grant such other relief as the court deems just and proper;

16 6. If the parties do not enter into a settlement agreement through the ODR  
17 Pilot Program within the thirty (30) days allotted for ODR or within any  
18 extension granted by the court, or when the parties end their participation in  
19 ODR, the court shall allow the defendant an additional fifteen (15) days to file  
20 an answer if an answer has not been previously filed. After an answer is filed,  
21 and the parties have concluded their participation in ODR, the court shall  
22 schedule a date for trial or other hearing, or take such other action, as the court  
23 deems appropriate under the circumstances;

24 7. Further proceedings in a case referred to ODR Pilot Program shall be  
25 suspended pending the outcome of the ODR process. No party shall file any  
26 dispositive pleadings during this period nor shall the court act upon any  
27 dispositive pleading during this period; and

28 8. All applicable Supreme Court rules, including any local rules for each court,  
29 the Mediation Procedures Act, and other applicable laws shall apply to all  
30 cases referred to the ODR Pilot Project in a manner that is consistent with the  
31 terms of this order;

32 IT IS FURTHER ORDERED that AOC shall provide periodic updates to the  
33 Supreme Court with regard to the operation of the ODR Pilot Project that include an

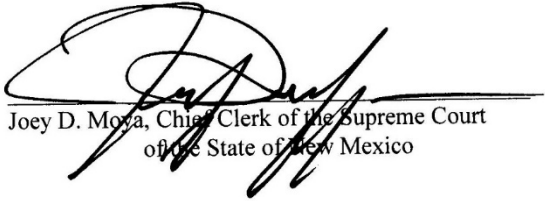
1 assessment of the effectiveness of the ODR Pilot Project and any recommendations  
2 for the continued use of online dispute resolution services in New Mexico state  
3 courts; and

4 IT IS FURTHER ORDERED that the ODR Pilot Project shall continue until  
5 further order of the Court.

6 IT IS SO ORDERED.



WITNESS, the Honorable Michael E. Vigil, Chief Justice of the Supreme Court of the State of New Mexico, and the seal of said Court this 2nd day of September, 2020.

  
Joey D. Moya, Chief Clerk of the Supreme Court  
of the State of New Mexico

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