PEPPERDINE CARUSO SCHOOL OF LAW

STRAUS INSTITUTE FOR DISPUTE RESOLUTION

**Selected Issues in Dispute Resolution: *Online Dispute Resolution***

**2282.W2**

**WIP 2025**

**Course Syllabus**

*Online Dispute Resolution*

Instructor: Colin Rule

Email: crule@odr.com

January 9-11, 2025

Pepperdine University – Straus Institute for Dispute Resolution

**Course Overview**

Courts were not designed to 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. With the arrival of the Covid-19 pandemic, online ADR (or “ODR”) is the accessible option to resolve offline and online disputes quickly, confidentially, and effectively. It connects capable neutrals with parties in effective ways, and it brings efficiencies and accessibility to a burgeoning marketplace of conflict.

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. We will 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 will 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 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

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

**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 our 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 (10-12 pages) – Due January 27th, 2025.

***Please note that the Final Paper is due by 5:00 pm on January 27, 2025, and is to be submitted directly to the dropbox on COURSES which is linked to Turnitin.com. Please use your Final Exam number (Not your Student ID number) on your final paper, instead of your name, to maintain anonymity.***

**About the Instructor**

Colin Rule is CEO of Mediate.com and ODR.com, which were acquired by the American Arbitration Association/ICDR in May 2024. From 2003 to 2011 Colin was Director of Online Dispute Resolution for eBay and PayPal. In 2011 he spun ODR technology out of eBay to found Modria, a leading ODR provider, that was acquired by Tyler Technologies in 2017. He has worked in the dispute resolution field for more than 30 years as a mediator, trainer, and consultant. Colin co-founded Online Resolution, one of the first online dispute resolution (ODR) providers, in 1999 and served as its CEO and President. Colin has received the *Frank Sander Award* (2019) and the *D’Alemberte-Raven Award* (2023) from the American Bar Association, and the *Mary Parker Follett Award* (2013) from the Association for Conflict Resolution. 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.

**Course Policies and Disclosures**

Because we are operating in a unique environment, several legal and procedural issues arise that require clarification. Below are the statements about the policies for this class around some of these important issues.

❏ **Consent to be recorded.** Because of the online nature of our class sessions, these sessions will be recorded by the professor using the Zoom recording feature for instructional purposes. Participation in the class during live sessions implies consent to the recording of those sessions. If a student does not wish to be recorded, they must contact the Vice-Dean.

❏ **Student privacy.** In order to safeguard the privacy of all our students and faculty in online learning environments, no individual may record, reproduce, screenshot, photograph or distribute any video, audio, or visual content from an online course. This restriction applies to, but is not limited to, live online sessions, recorded lectures, live discussions, and discussion boards. The only exceptions to this policy are the instructional recordings and screenshots the faculty may take for academic reasons, such as a form of taking attendance. These screenshots may not be shared or used for any other purpose. Any violation of this policy may subject the individual to disciplinary and/or legal action.

❏ **Intellectual property rights.** All class lectures and materials herein, including but not limited to, pre-recorded and live lectures, live discussions and discussion boards (and recordings thereof), posted course materials, visual materials that accompany lectures/discussions, and virtual whiteboard notes (collectively “Course Intellectual Property”) remain the intellectual property of the faculty member or other designated third-parties. No individual may record, reproduce, screenshot, photograph, or distribute any Course Intellectual Property in partial or full-format without the permission of the professor. Any violation of this policy may subject the individual to disciplinary and/or legal action.

❏ [for paper courses] **Use of TurnItIn.com.** This course may require electronic submission of essays, papers, or other written assignments through the plagiarism detection service Turnitin (http://www.turnitin.com). Turnitin is an online plagiarism detection service that conducts textual similarity reviews of submitted papers. When papers are submitted to Turnitin, the service will retain a copy of the submitted work in the Turnitin database for the sole purpose of detecting plagiarism in future submitted works. Students retain copyright on their original course work. The use of Turnitin is subject to the Terms of Use agreement posted on the Turnitin.com website. You may request, in writing, to not have your papers submitted through Turnitin. If you choose to opt out of the Turnitin submission process, you will need to provide additional research documentation and attach additional materials (to be clarified by the instructor) to help the instructor assess the originality of your work. **Your paper will automatically be run through the Turnitin database upon submission to the dropbox in Courses**

❏ **Accommodations for Students.** Pepperdine University provides services and accommodations in accordance with the ADA and section 504 of the Rehabilitation Act. Pepperdine recognizes that each student is a unique individual and that the effect of a particular disability can vary from student to student. As a result, accommodations are determined through an interactive process with the student, the Office of Student Accessibility, and medical/mental health professionals. Any student with a documented disability (physical, learning, or psychological) needing academic accommodations should contact the Office of Student Accessibility.

❏ **Right to Revise Syllabus.** The professor reserves the right to modify the syllabus as the semester progresses in response to the changing public health environment, University directives, or to advance the progress of learning in the course.

**POLICY REGARDING EXTENSIONS OF TIME ON ASSIGNMENTS IN STRAUS CLASSES:**

**Requesting Emergency Extensions on Final Assignments**

All class assignments should be submitted on or before the assigned due date.  **If an emergency arises and you are unable to submit a final assignment by the due date, it is essential that you request an extension before the assignment is due.** If the emergency is such that you cannot request the extension before the assignment is due, the request needs to be made as soon as you are able. Your professor cannot grant an extension. You must follow the procedure outlined below:

Using your Pepperdine email [please fill out and submit the Emergency Extension form](https://docs.google.com/forms/d/e/1FAIpQLScw2NzBheXx1byk2QP2wKJhb0igIy6DPPlFvBIPsS3CIOY6eQ/viewform?usp=sf_link), with supporting documentation.

The Straus Administration will handle and review your request, and email you back their decision. Please note that grade penalties may apply for extensions depending on the circumstances. You should also assume that your anonymity will be lost unless the extension is only for a very short time period. In no event will an extension be granted that extends beyond the end of the subsequent semester. Students with courses not completed by the end of the subsequent semester will receive a F and will need to retake those units.

When you are ready to submit your paper, you should email Valentina Racanati on or before your extension deadline to notify her. She will then make sure you are able to submit it on COURSES.

**\*\*\*IMPORTANT NOTE\*\*\***

The above process for requesting emergency extensions does not replace or override any relevant sections of the academic policy including the following from the JD academic policy:

6.30.F. Grade Upon Failure to Take Required Examination: Students who fail to take a required examination, produce a required paper or assignment, or meet any other criterion necessary to make the proper assessment of a course grade and who fail to show circumstances excusing such failure will be assigned a course grade of F for the affected course. (See subsection 6.31(C) for grades of “Incomplete” and subsection 12.11 for treatment of “Withdrawals.”)

**Withdrawal from a Class**

Students who are unable to submit the class assignments on time, and who do not have an approved extension, should withdraw from the course BEFORE THE FINAL ASSIGNMENT IS DUE. Students may withdraw from any course only by filling out the [appropriate withdrawal or “drop” form](https://community.pepperdine.edu/law/admissions-student-info-services/content/registration-adddrop.pdf). A notation of “W” for withdrawal will appear on the transcript for any withdrawal after the initial add/drop period. The notation of “W” **does not affect** the student’s grade point average. Withdrawals will not be allowed after the final assignment has become due and students who do not submit the required assignments risk earning a grade of F (fail).

**“Class Rules and Procedures”**

❏ **Attendance:** Attendance will be taken in this course in accordance with the law school’s attendance policy, Section 5.11 of the Academic Policy. Students will be expected to be on camera during online class sessions. Research has shown that this creates the best learning environment possible for online sessions. This means you will need to have a camera and enough bandwidth to support it.

❏ **Student Best Practices for Online Learning:** Learning through technology is a part of our lives now. Please follow these guidelines and show respect and grace for each other. For training on how to use iClickers, please watch this video. Students can access additional resources for online training here.

**Thursday, January 9th** *What is ODR?*

*We will meet online at* [*http://odr.com/zoom*](http://odr.com/zoom)

**6:00pm – 7:30pm**

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

Exercise: You be the online mediator! + AI + Debrief

**7:30pm – 7:45pm break**

**7:45pm – 9:30pm**

Current Platforms: How do they do it?

Cybersettle

Youstice

SmartSettle

Juripax

Pactanda

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

*The New Handshake: Online Dispute Resolution and the Future of Consumer Protection*, Introduction and Part One (Pages ix-46). PDF.

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

**Friday, January 10th** *ODR Systems Design*

*In person on campus*

**6:00pm – 7:30pm**

ODR System Design

International vs. domestic

Legal environments

Cultural differences

Binding vs. non-binding

Consumers vs. businesses

ODR Ethics

**7:30pm – 7:45pm break**

**7:45pm – 9:30pm**

eCommerce ODR Simulation: Sneaky Pete’s
*debrief*

eCommerce ODR

Resolution Centers

Tangible vs. intangible

Cross jurisdictional challenges

**Readings (to be completed before class)***The New Handshake: Online Dispute Resolution and the Future of Consumer Protection*, Part Two (Pages 49-80) PDF.

Ethan Katsh: ODR: A Look at History – A Few Thoughts about the Present and Some Speculation about the Future

http://www.ombuds.org/odrbook/katsh.pdf

from *Online Dispute Resolution: Theory and Practice - A Treatise on Technology and Dispute Resolution* by Mohamed S. Abdel Wahab, Ethan Katsh and Daniel Rainey

**Saturday, January 11th** *Applications for ODR*

*In person on campus*

**8:30am – 10am**

Being an ODR Practitioner

Translating offline skills to online

The communication spectrum

Online communication options

Moving ADR online

Cross-cultural communication in ODR

**10am – 10:15am break**

**10:15am – 11:30am**

Simulation: Workplace Dispute—Hopkins International + Debrief

**11:30am – 12:00pm**

Algorithmic Exercise: Silicosis

Spreadsheet creation

**12:00pm – 1:00pm lunch**

**1:00pm – 2:30pm**

Finish Algorithmic Exercise + Debrief

**2:30pm – 2:45pm break**

**2:45pm – 4:30pm**

Simulation: Family Dispute—Bob and Susan Jeffries + Debrief

Discuss paper topics

Getting involved in ODR

Conclusion and wrap up

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

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

"Designing Ethical Online Dispute Resolution Systems: The Rise of the Fourth Party" in Negotiation Journal with Leah Wing, Janet Martinez, and Ethan Katsh (January 2021). https://onlinelibrary.wiley.com/doi/epdf/10.1111/nejo.12350