

GROUND RULES FOR DISPUTE RESOLUTION VIDEO-TELECONFERENCING
USING ZOOM
(Revised 4/11/2020)

Video-teleconferencing is an effective method of communication for resolving disputes. It offers many advantages, including participant safety, convenience, and cost savings. As with any technology, it takes some getting used to. By adhering to the following Ground Rules, a video-teleconference session will go more smoothly. These Ground Rules cover technical issues, privacy and confidentiality, tips for using the Zoom video-teleconferencing platform, and what to do in case of session interruption.

It is preferable that all participants be available by video-teleconference, but it is not always possible or advisable. By mutual consent, the parties may adopt alternatives (e.g., one participant may call in by phone). In such cases, the host will discuss with the parties the security and practical implications of the alternative plan.

Dispute resolution is based on the trust and honesty of all participants. No online platform is 100% secure, and there are always trade-offs between security and convenience. If the host discusses the security aspects of the recommended video-teleconference platform and the parties have approved its use, the mediation may proceed by mutual agreement. If any participant breaches this trust, the process fails. The success of online mediation, as with any mediation, depends on all participants entering into the process in good faith and with a desire to resolve issues in a transparent manner.

Technical Issues

- Be sure to have a strong Internet connection. Having enough bandwidth and speed is critical. To increase bandwidth, reduce the number of devices using a router.
- If possible, connect to your router using an ethernet cable. This provides a more secure session because wi-fi connections are susceptible to interception.
- Under no circumstances should you use publicly available wi-fi, such as in a café or restaurant, for a session.
- It is best to use a laptop or a desktop because the viewing screen is larger than on a smartphone. Smartphones may be used as backup video-teleconference devices if your main device runs into trouble during the session. Smartphones may also be used as primary video-teleconference devices if the number of participants is small and you do not anticipate sharing any documents not stored on the phone.
- The camera on a recent model laptop or desktop should be fine. If the video quality is not optimum, try a detachable HD camera.
- The microphone on a recent model laptop should be fine. A desktop may require a plug-in microphone if you anticipate background noise.

- The audio through your laptop or desktop should be sufficient. Make sure it is turned up enough. Do not use wi-fi earbuds. It is fine to use corded earbuds that have a microphone; however, be aware that moving your head or shoulders may introduce background noise through the corded microphone.
- Do not use lighting from behind (e.g., a window behind you) because it will result in a blacked-out video picture of you. The best lighting is from the front or side. Lighting from above is not recommended.
- Position the camera so that the view is of you from the shoulders up. You may need to place the computer on a box or some books.
- Be aware that what is behind you can be seen (e.g., messy room or sensitive documents).
- Take a break from using other programs or devices. For example, do not be on social media, answering emails, or running other programs besides the ones we are using for the video-teleconferencing session.
- Ensure that you and any participants you are associated with have the most current version of the Zoom client software, downloadable from www.zoom.us.
- Turn off audible notifications from your devices, including phones, tablets, and computers.

Privacy and Confidentiality Issues

- Be sure that you conduct the session in a quiet, private place free from distractions, including cell phones, TVs, and other people.
- No one is allowed to be part of the mediation except by mutual consent of the parties. The host will admit only those participants who are authorized to participate.
- Ensure that no other people are off-camera. The host will ask at the beginning of the session for each party to verify that no other people are off-camera.
- Ensure that no other people can listen in to the session.
- Recording the session or taking screenshots is not permitted.

Using Zoom

- Zoom is a reliable and reasonably secure platform, with high quality audio and video capability, when configured properly and used for information the parties have not designated as unusually sensitive. The host is responsible for maintaining the settings in Zoom that are appropriate to the case at hand.
- Zoom is recommended for dispute resolution proceedings because, while it reportedly does not use highly secure end-to-end encryption, it uses encryption for security and confidentiality that is at least as good as that used for most emails. If a party indicates its information is unusually sensitive, other more secure platforms are available and their use should be discussed with the host.

- The host will maintain a Zoom account at no cost to the parties and there is no cost to the parties of using Zoom for the mediation.
- It is important that users are comfortable using Zoom. Try a free account (www.zoom.us) before a scheduled session and play around with its various features.
- Do not share the Zoom log-in information provided by the host with anyone not participating in the mediation. The host will call the attorneys with any password information.
- Each mediation session will have a unique and private meeting number.
- Log in to Zoom at least 15 minutes early before a scheduled session to be sure it loads and appears properly. Use the log-in information provided by the host (i.e., the neutral party), including any password if asked for it.
- When you log in, you will be placed in a waiting room. While in the waiting room, you will not be able to communicate with others in the waiting room. The host will admit everyone to the main session at the start time to preserve his neutrality. The host will admit only authorized participants.
- If you are having technical difficulties, call the host or email him/her. If you have logged on early, he/she can admit you from the waiting room for the sole purpose of trying to resolve technical issues. After the issue is resolved, the host will place you back in the waiting room until appointed start time.
- Use “gallery view” and “full screen” so that you see all participants in their respective thumbnail windows.
- Be sure the microphone and video icons in the lower left corner of the toolbar at the bottom of the screen are turned on.
- The host may communicate technical instructions to all participants using the Chat button in the center of the toolbar.
- If at the appropriate time you determine that separate meetings with the host would be productive, let him/her know (either orally or by using the Chat button) and he/she will place the appropriate individuals in a Breakout Room. While in the Breakout Room, the participants will see and hear each other but cannot be seen or heard by parties not in the Breakout Room. The host can move in and out of a Breakout Room. Parties can rejoin the main session by clicking on Leave Room. (Note that when leaving the Breakout Room and returning to the main session, you may have to restart your video by clicking on the camera icon in the lower left corner of the toolbar.) Parties in a Breakout Room can send a message to the host to enter the Breakout Room. This is useful when the party and his/her attorney have crafted a proposal and are ready to tell the host so the host can communicate it to the other party in another Breakout Room.
- Do not talk over each other during the Zoom session. If you do, Zoom may drop part of the communication. Let the speaker finish before starting to speak.

- When not speaking, mute your microphone. That way, ambient background noise will not disturb the group.
- If you want to share a document, either in the main session or in a Breakout Room, you may use the Share Screen button in the toolbar. Any program running on your machine may be used to share with participants, including Word documents, PowerPoint slides, youtube videos, and so on. Click on that running program while in Share Screen. Sharing a document during a negotiation is helpful because all can see what changes are being made. The host can save the document.
- There is also a whiteboard feature in the Share Screen button that can be used to draw or type on. The whiteboard also can be saved as a file.

What to do in Case of Session Interruption

- A session may be interrupted for any number of reasons, including an Internet failure or a computer failure. Do not panic.
- If you drop out of a Zoom session, first try logging back in using the original link provided. If that does not work, call or the host at 410 772-8821.
- If your video fails, try participating by audio (telephone).
- The host may have a backup computer running with it designated as co-host. If the host's main laptop should fail, the session should not be interrupted because the other device remains a host. Be aware that the backup device will be listed as a participant, even though it will be hidden in the background.
- Keep a phone handy in case you have technical difficulties and the host needs to reach you. As a last resort, we can revert to a standard conference call.
- The host may need to contact you by email as well. Keep a device handy that receives email, separate from the device you are using with Zoom.

Thank you for conducting your dispute resolution session remotely. While these Ground Rules may seem daunting at first, with use they quickly become second nature.

These Ground Rules are incorporated by reference into the attached Agreement to Mediate.

By signing the Agreement to Mediate:

1. The parties acknowledge they have made their own inquiries into the suitability and adequacy of Zoom for its intended use in the mediation and of any risks in using Zoom (including any risks in relation to its security, privacy, or confidentiality), or have discussed same with the mediator to their satisfaction, and request that the mediator proceed with the use of Zoom for the mediation.
2. The parties agree they will inform the mediator and each other in advance of the mediation of the names of all persons participating in the mediation and agree that no

persons will participate or be allowed to listen in on the mediation without the prior consent of all parties and the mediator.

3. The parties agree they will abide by these Ground Rules, including but not limited to the prohibition on recording or permitting the recording of all or any part of the mediation without the consent of all the parties and the mediator. The parties will ensure that each additional participant at the mediation for which that party is responsible also acknowledges and agrees to these conditions.

14 Criteria Used by Virtual Mediation Lab Mediators to Review Online Video Conferencing Software for Online Mediation

1. Intuitive User Interface
2. Easy and Simple to Use (for the mediator and, more importantly, for the parties who, most likely, have never participated in an online mediation before)
3. Easy For the Mediator to Set Up and Switch Between Joint and Private sessions with the Parties
4. Good Video/Audio Quality
5. Supports Mobile Devices (Parties can participate in an online mediation not only with their PC or Mac but also with their mobile device: Ipad, Iphone or Android)
6. Security and Privacy (e.g. The online mediation can be password protected. And the parties don't need to share any private information about themselves: e.g. usernames or email addresses)
7. Documents/Screen Sharing
8. Video Sharing
9. Annotation and Collaboration (e.g. the mediator and the parties can highlight and point everybody's attention to specific parts of the information they are sharing on their screens)
10. Online Whiteboard (e.g. for writing up a "Memorandum of Understanding" or the agenda for the mediation session)
11. Chat (to be used primarily as Plan B - if there are some video/audio connection problems before or during the online mediation)
12. Low Cost
13. Phone Call-in Number (so parties who don't have a PC, Mac or smart phone can participate in an online mediation with their landline or cellular phone)
14. Parties' Gallery View (the mediator can see the parties next to each other on his or her screen, and observe their body language while they or someone else are talking)

MPME Webinar Series Session 1, *Navigating ADR Online: An Introduction*

April 20, 2020

Panelist: John Greer

**Resources on
Best video platforms for ADR**

- <https://www.mediate.com/articles/online-mediating-zoom.cfm>
- <http://www.adrtoolbox.com/2020/03/tailoring-zoom-to-mediation-for-the-moment/>
- <https://www.cand.uscourts.gov/zoom/> (US Dist.Ct., No. CA)
- <http://www.adrhub.com/forum/topics/which-video-conferencing-software-works-best-for-online-mediati-1>

**Resources on
Comparing video platform security**

- <https://www.pcmag.com/picks/the-best-video-conferencing-software>
- <https://www.techradar.com/best/best-video-conferencing-software>
- <https://www.9to5mac.com/2020/04/01/10-zoom-alternatives-more-secure-video-calls/>

**Resources on
Video platform security TIPS**

- <https://www.computerworld.com/article/3535924/do-s-and-don-ts-of-videoconferencing-security.html>
- <https://www.fbi.gov/contact-us/field-offices/boston/news/press-releases/fbi-warns-of-teleconferencing-and-online-classroom-hijacking-during-covid-19-pandemic>

**Resources on
Criteria for considering video conferencing platforms**

- <https://www.virtualmediationlab.com/wp-content/uploads/2013/10/14-Criteria-Used-by-Virtual-Mediation-Lab-Mediators.pdf>

As shared by:

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