



How to Prepare for Your Video-Conference Mediation

The world is changing at warp speed these days and it is critical for you to do the necessary homework so it doesn't pass you by. With even the Supreme Court of the United States using video conferencing along with courts throughout the land, we are perhaps gaining an insight of things to come. If you haven't dug into some of the dos and don'ts of remote conferencing, **here are a few tips that I strongly suggest you consider before the mediation even takes place.**

- 1. Know Your Technology:** It so happens that I have gotten comfortable with Zoom. That doesn't mean that I am recommending it. It just so happens it works well for me and seems to emulate the in person mediation experience. For example, it provides breakout rooms wherein I can talk to the parties separately or I can elect to address them together. At first, it took me a little time to figure out how to do that. Whichever platform you choose, read the on-line tutorials, practice with friends or colleagues, and understand the various options that are available. Zoom provides the opportunity to share documents, or chat, and a host of other items that might work well for you.
- 2. Ask for a Practice Run with Your Mediator the day before with all Counsel:** Your clients may be wary of the process. Nothing will defeat the chance of a successful outcome more than a technical snafu. There will be a loss of confidence in the process and ultimately a failed result.
- 3. Explain Technological Expectations to Clients:** Let them know in advance how the process works and what will be happening during the mediation. By de-mystifying the process there will be a greater opportunity to get down to brass tacks.
- 4. Have a Telephone Conversation with your Mediator Prior to the Mediation:** Time is of the essence in a mediation of this nature. Clients may not have the same staying power or willingness to concentrate. This will be a subject of my next newsletter. Instead of dancing around issues by painting everything with rose-colored glasses, it is important to share with your mediator any weaknesses or troubling issues that need to be addressed and strategized in advance.
- 5. Provide a Meaningful Pre-mediation Brief (not too long), and not just a copy of the pleadings in the case.** It should break down the issues that need to be addressed, the status of any settlement discussions, and any suggested strategies. **Indicate to your mediator whether the Brief is confidential or whether it has been shared with opposing counsel.**