

Arbitration & Mediation

For Business, Technology and
Construction Industry Disputes

JEROMEROCKLAW.COM

ZOOM On-Line Video Conferencing for Mediation

OVERVIEW

Basic Introduction to ZOOM
On-Line Video Conferencing

This Outline will take you through the Learning Curve associated with the necessary steps to effectively participate in a ZOOM on-line video conference.

Coordinating Schedules and
setting times to ZOOM

I've assumed that the Users (attorneys as well as their clients) will have a very basic level of familiarity with computers; basically they know how to turn them on and access the internet. Hopefully the instructions will be clear, and we can all venture confidently into the relatively new realm of multi party video conferencing.

Pre-Hearing Conference Call
with Counsel

The training will follow the Chapters shown on the left column. Each Chapter will provide the information and further instructions necessary to achieve the objectives of the Chapter.

Attorney - Client
Video Conference Call to
prepare for Hearing

Throughout this training, I will refer to myself as either the Host, or the Mediator or Host (Mediator). If you venture onto the internet to take advantage of the ZOOM You Tube training videos, remember that I will be the Host in the video conference Hearing and will control the various options and settings. I will explain the setting choices I have selected as it becomes relevant.

ZOOM Mediation Hearing
Counsel/Clients/Mediator

I realize than many of you are participating in this video conferencing experience reluctantly, stepping outside your comfort zone and accepting that the exigent circumstances require extraordinary accommodations. When conditions permit a phased return to Business, we will still be under continuing orders to maintain social distancing. As we assimilate this new learning, I can foresee taking these same on-line skills and incorporating them into our practice in ways that will not only increase the efficiency but improve the quality of our effort. Stay with me.

Basic Introduction to ZOOM On-Line Video Conferencing

Objectives

- Set up ZOOM.com
- Test your Camera & Microphone
- Background
- ZOOM Screen Controls

ZOOM On-Line Video Conferencing for Mediation

Set up ZOOM. All participants (the attorneys, clients, others invited to the video conference) will have to download the FREE ZOOM program in advance. Go to the internet and download the FREE version at www.ZOOM.com, making sure to use the email address that you will be used for the Mediation. Zoom will send a confirmation link to that email to begin using Zoom. Follow the instructions to install and troubleshoot Zoom on your computer. Set up your Profile. The Support button at the top right corner of the ZOOM.com home page has an excellent list of detailed instructions for all installation tasks. I recommend several instructional YouTube videos that will provide sufficient instruction to set up and use ZOOM video conferencing. (8minutes) <https://www.youtube.com/watch?v=9isp3qPeQ0E> (23 Minutes) <https://www.youtube.com/watch?v=xFbWLu0n7lw>. Don't forget, you don't have to learn everything, I'm the Host of the Video Conference so I will be sending out the Meeting Invitations, setting up the conference controls and operating the on-line features. All you have to do is get ready to log into the ZOOM Meeting.

Test Camera and Microphone. Laptops will have the camera and microphone built in. If you intend to use a desktop monitor, you will have to install a webcam. The basic version is entirely adequate and available at Best Buy. <https://www.bestbuy.com/site/computer-accessories/webcams/abcat0515046.c?id=abcat0515046> When you download the ZOOM program, you will be prompted to test your camera and computer microphone. If it doesn't seem intuitive, go to the You Tube video for excellent instruction.

Background. Recognize that the background behind you during a video conference can be distracting. A few suggestions: a) the light source is best in front of the camera, not behind you. Don't let the camera face toward a window, you'll be washed out; b) set up in a home office or arrange to sit in front of a bookshelf or similar piece of furniture that will serve as your background, make it look professional; c) sit in your chair, behind your desk or table, be comfortable; this is the way you will be during the video conference. Now adjust the distance and the angle of the webcam on your monitor or the camera on your laptop so your face is in the center of the ZOOM screen. Don't get too close to the camera. Remember, this is the way you will appear to others on the video conference. The camera angle should be looking slightly down on you.

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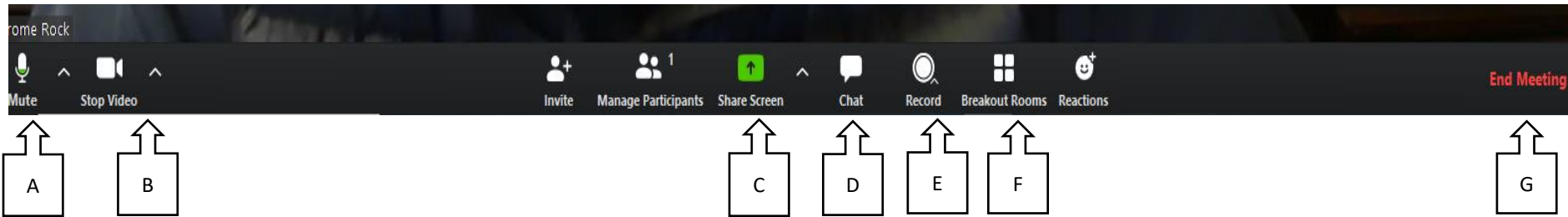
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Basic Introduction to ZOOM On-Line Video Conferencing

Objectives

- Set up ZOOM.com
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ZOOM Screen Controls. The Controls that you will use during a Meeting are located at the **bottom of the screen**:



- A. MUTE. This turns your Microphone On or Off. You want to keep your mic ON the entire Hearing. You may want to Mute, or turn OFF your mic temporarily if you are coughing, or there is a distracting noise in your background. Keep in mind your picture will be highlighted on the screen when your mic is picking up the loudest sound.
- B. STOP VIDEO. Stop Video will turn off your picture and replace it with an icon with just your name. You should stop your video if you leave the Meeting; this will notify other participants of your absence.
- C. SHARE SCREEN. This is used by the Host (Mediator) to show documents on the full screen. All participants will be able to view the document. The Host can edit the document in real time during the meeting.
- D. CHAT. This button will open a screen where you can type a message to the entire group. Generally the Host will use this function as a kind of door bell to move people into and out of the private Break out Rooms.
- E. RECORD. With the proper settings, ZOOM meetings can be recorded, both audio and video. The Host (Mediator) has not enabled any Record functions. There is NO Recording of any portion of the conference call.
- F. BREAKOUT ROOMS. The Host (Mediator) will set up private Conference Rooms, or Breakout Rooms for each party so they can talk with each other with total confidentiality. Either party may request to pause the main meeting and spend time in the Breakout room for a private conversation.
- G. END HEARING. The Host (Mediator) will end the Hearing and all parties will be disconnected.

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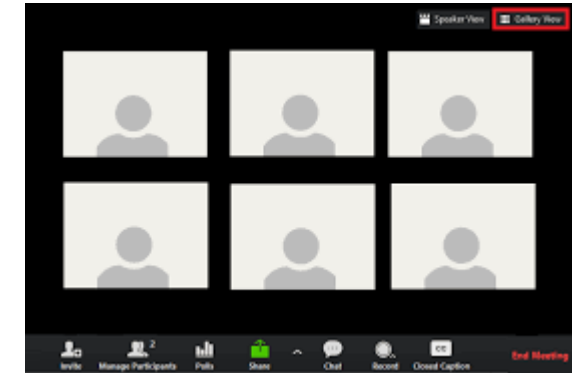
❑ Objectives

- ❑ Set up ZOOM.com
- ❑ Test your Camera & Microphone
- ❑ Background
- ➔ ❑ ZOOM Screen Controls

ZOOM On-Line Video Conferencing for Mediation

ZOOM Screen Controls. Additional ZOOM Screen Controls during a Meeting are located at the **top-right corner** of the screen.

GALLERY VIEW /SPEAKER VIEW. This button displays all participants that are in the conference, or it will display the picture in full screen of the person with the active microphone (the speaker), and the other participants will be displayed as small images along the right margin. The normal setting is Gallery View.



ENTER FULL SCREEN / EXIT FULL SCREEN. To enlarge the Zoom window, use your mouse to drag your cursor toward the upper right hand corner of the black background. A four-cornered box icon will appear at the upper right corner of the Zoom window. Hover over it and it will turn blue. Click it and it will take you to a full-screen view.

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Coordinating Schedules and setting times to ZOOM

Objectives

- Coordinate schedules
When2Meet App
- ZOOM Meeting
Invitations
- Stay Calm

ZOOM On-Line Video Conferencing for Mediation

Communication outside the Hearing will largely rely on email and telephone. It is important that I have the Email addresses for all participants, attorneys as well as clients. It is also advisable for the Host (Mediator) and Counsel to exchange mobile telephone numbers, and for Counsel to have their client's mobile numbers readily available.

When2Meet Scheduling. One of the Challenges for the Host (Mediator) involves coordinating the schedules of every participant. I use a scheduling App that makes this task manageable. (www.When2Meet.com). the link below is a short YouTube instructional video <https://www.youtube.com/watch?v=hwzgdCgmC2c>

As Host of the When2Meet app, I will create a calendar and enter the days/hours that I'm available for a business conference call or the ZOOM video conference Hearing. I will send the When2Meet link directly to each participant by email. When they open the App, they will fill out a calendar with their days/hours of availability for the designated time frame. When all necessary participants have completed their calendar entries, I will be able to identify days/times that are convenient for all participants and I will circulate the designated time by email. I will generally initiate the business conference call.

ZOOM Meeting Invitations. Once I have confirmed the day and time for the video conference, as Host (Mediator), I will set up the parameters and adjust the settings for the ZOOM video conference meeting. In the Settings section of your program, make sure to elect to load the Outlook Calendar feature and the ZOOM program will directly enter the information on the Outlook Calendar. This email will provide instructions and a one click link to download the participant to the ZOOM video conference. If you find yourself in the ZOOM Screen that asks you to **Join a Meeting**, and then asks for a **Meeting ID**, enter the **9 digit Meeting ID** that is referenced in the email Invitation.

Stay Calm – Contingency Plans. There will be problems. Guaranteed. Stay Calm and be patient with others. One of the first steps is to exit, go back to the email invitation and try joining the meeting again. As Host (Mediator), I'll know you have a problem, and I will wait for you to return. If necessary, CALL ME from your phone and I'll work you through the problem with you. 313.999.0173

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ZOOM On-Line Video Conferencing for Mediation

In my Mediation practice, I generally schedule a Pre-Hearing Conference with Counsel, and depending on the complexity of the case, I will also request a Pre-Hearing Conference with counsel and their client. Before any substantive discussion is possible, the ZOOM video conferencing platform must be set up, the features explained and the attorneys comfortable practicing with video conferencing.

Pre-Hearing Conference Call with Counsel

Objectives

- Confirm ZOOM Setup
- Breakout Rooms
- Screen Share
- Privacy & Confidentiality
- Mediation Agreement
- Document Exchange
- Mediation Strategy

Confirm ZOOM Setup. This video conference call will be used to confirm that all ZOOM set-up has been completed. I'll go through some of the meeting controls and explain the features that will be available at the Video Conference Hearing, including the Screen Sharing and Breakout Rooms.

Breakout Rooms. As Host (Mediator), I am able to set up as many private meeting rooms or Breakout Rooms as necessary; one for you and your client, one for you, your client and the Mediator, a separate room for the attorneys and the Mediator, etc. The Host (Mediator) is not able to eavesdrop on these Breakout Rooms. During our Pre-Hearing Conference we will go through an exercise for entering and exiting the private meeting rooms and discuss our Breakout Room set up for the video conference Hearing.

When you and your client log in to join the Video Conference Hearing, both of you will be sent into your private Breakout Room where you can talk privately, and wait for me. I will "knock on your door" using the Chat function, and visit your Breakout Room briefly before bringing everyone together in the group video conference. The following link is helpful if you want more information on the Breakout Rooms, and how they provide a secure and confidential place for attorney-client conversations during the Mediation Video Conference Hearing. <https://www.youtube.com/watch?v=jbPpdyn16sY>

Screen Share. ZOOM has a feature that permits the Host (Mediator) to display documents during the video conference. This document and the Mediation Agreement will be used during the Pre-Hearing Conference to demonstrate the features of the Screen Share. The Host (Mediator) also has control over settings to permit other participants to introduce documents using Screen Share. Counsel and the Host (Mediator) will agree on procedures for using Screen Share during the video conference Hearing.

ZOOM On-Line Video Conferencing for Mediation

Pre-Hearing Conference Call with Counsel

Objectives

- Confirm ZOOM Setup
- Breakout Rooms
- Screen Share
- Privacy & Confidentiality
- Mediation Agreement
- Document Exchange
- Mediation Strategy

Privacy and Confidentiality. We all want to control the video conference environment to maintain the confidentiality of the Mediation Process. We do this by making sure we conduct the video conference without letting unauthorized individuals see or hear portions of the video conference. To accomplish this, consider the following requirements:

- All parties must be on a secure wi-fi network. You may **not** use public wi-fi for the video conference mediation session, no libraries, Starbucks, etc.
- Your video conference location must be private, free of interruption or interference.
- No one can be present during any portion of the mediation unless their presence is known by all other mediation participants, and that person has signed the Mediation Agreement. The video conference should not be overheard by third parties and you should not permit others to “listen in” without permission. You will be asked to confirm that you’re alone in the video conference.
- Mediation is a confidential process. The video conference mediation cannot be recorded by the Host (Mediator) or anyone else. You may always make personal written notes during the mediation.
- Documents that are displayed at the video conference mediation using the Share Screen function in ZOOM should be designated “For Mediation Purposes Only” and subject to the confidentiality terms of the Mediation Agreement. In preparing for the Share Screen, make sure to check your computer “desktop” to avoid displaying materials not intended to be viewed by the group.

Mediation Agreement. The Mediation Agreement incorporates the above restrictions unique to video conferencing mediation and will be provided to Counsel by email. Counsel should review the Mediation Agreement with their clients and make arrangements to have the Agreement signed and returned to the Mediator using the following instructions. The recipient of the email (with the Mediation Agreement as an Attachment), will **Forward** the email to the Mediator at JRock@JeromeRockLaw.com with the following statement: “I, (fill in name) have read the Attached Mediation Agreement and this email serves as my “signature” and agreement to be bound by the terms of the Mediation Agreement.

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ZOOM On-Line Video Conferencing for Mediation

Pre-Hearing Conference Call with Counsel

Objectives

- Confirm ZOOM Setup
- Breakout Rooms
- Screen Share
- Privacy &
Confidentiality
- Mediation
Agreement
- Document Exchange
- Mediation Strategy

Document Exchange. I request that Counsel provide me with copies of their pleadings, and other documents they consider necessary for Mediation as soon as possible.

I expect that Counsel have already shared all relevant information and documents between themselves. If there are any document requests outstanding, I would like Counsel to confer prior to this Pre-Hearing Conference and there should be a schedule in place to provide the information.

To stay organized, I generally like to see a Time Line of events, matched to Key Documents. The sophistication of the Time Line is case dependent. Each Counsel should consider preparing their own Time Line as soon as possible so that I can use it for this Pre-Hearing conference. If your Time Line available on your computer, make sure it is open and it is displayed on your Desktop. I will demonstrate the Screen Share function to display your Time Line during our conference. Close all other confidential materials on your desktop, as your entire desktop will be momentarily displayed when using Screen Share.

Mediation Strategy. Counsel should be prepared to discuss prior settlement negotiations and their client's objectives at Mediation. I generally do not require formal Mediation Statements, but I want to have access to documents and background information, and a list of issues that need to be addressed at the Hearing. I need the cooperation of Counsel to assist me in understanding what motivates their client and whether there are factors "other than money" that may influence their position or lead to compromise.

Based on the Pre-Hearing Conference, I will solicit the advice and input from Counsel to prepare the Mediator's Agenda for the video conference Hearing. This structure will permit all parties to prepare for the Hearing, and will provide the outline for me to keep the discussion on track. The Agenda will be available prior to the video conference Hearing.

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Attorney - Client Video Conference Call to prepare for Hearing

Objectives

- Building Confidence
- Signing Mediation Agreement
- Prepare for Mediation

ZOOM On-Line Video Conferencing for Mediation

Building Confidence. I suggest that Counsel arrange for a ZOOM video conference call with your client. Use this call to talk about the case and your preparation for Mediation. This call will verify that the basic ZOOM program has been installed and is functional for both attorney and client. It is important for the client to actively participate in the video conference Hearing, and eliminating the distraction and confusion of the on-line set up will reduce their anxiety. If the attorney has any anxiety about losing control of the client because of the lack of physical proximity in a video conference Hearing, this is the opportunity to practice the role sharing with the client and explain how the Break Out Room feature provides the Confidential space for private conversations.

Signing the Mediation Agreement. I will email the Mediation Agreement to Counsel, and you should in turn email the Agreement to your client in advance of your video conference. This video conference will be your opportunity to review the Agreement with your client. You can practice your video conferencing skills by using the Screen Share feature to display the Agreement. This is also the time to have your client “sign” the Mediation Agreement using the following protocol:

- The recipient of the email (your client) with the Mediation Agreement as an Attachment, will **Forward** the email to the Mediator at this email address: JRock@JeromeRockLaw.com
- The following statement should be typed on the email: “I, (fill in name of client) have read the Attached Mediation Agreement and this email serves as my “signature” and agreement to be bound by the terms of the Mediation Agreement”.
- Send the email.
- I will “acknowledge” the receipt of the email, thus completing the “signature” process.

Prepare for Mediation. The Mediator’s Agenda will be available to share with your client and prepare for the video conference Hearing. Have a candid discussion with their client on the uncertainty of prevailing in litigation, as well as the cost of continuing, including attorney fees, outside expenses, as well as the commitment of their time and the disruption to their business. I have provided a BATNA exercise on my website for you to use with your client to organize this discussion on the risks of litigation and describing intangible costs.

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ZOOM Mediation Hearing Counsel/Clients/Mediator

- Objectives
 - Joining the Meeting
 - Main Conference
 - Closing Agreement

ZOOM On-Line Video Conferencing for Mediation

Joining the Meeting. Each attorney and their client will be assigned into separate Breakout Rooms. When you and your client log into the ZOOM meeting, you will be the only parties in the Breakout Room. The Host (Mediator) will visit each Breakout room separately and will provide instructions for joining all parties to the main conference.

Main Conference. The Host (Mediator) will join parties from their individual Breakout Rooms and begin the Hearing.

- Introduction of Parties
- Confirming Audio / Video
- Ground Rules for video conference Hearing
 - Privacy and confidentiality of Mediation Agreement
 - Respect and decorum, Patience
 - ZOOM Controls
 - Rules for Breakout Rooms
 - Rules for Screen Share
 - Plans for Tech failure
 - Mediator's Agenda

Closing Agreement. If the video conference Mediation Hearing results in an agreement to settle the matter, the Host (Mediator) will have a "Term Sheet" template that can be presented as a Screen Share. The Mediator can complete the document during the Main Conference, or in a Breakout Room with Counsel. The parties can "sign" the agreement using the same protocol as used to "sign" the Mediation Agreement.

At the conclusion of the video conference Hearing, if the matter is not settled, the Host (Mediator) will summarize the progress during the Hearing and suggest additional effort or activities that should be undertaken, including assignments and time schedules. The parties should then decide whether, and under what conditions, a further video conference Hearing should be scheduled.