



Claudia M. Viera, Esq.

The Benefits of Video-Conference Mediation – Available Now

By Claudia M. Viera

March 27, 2020

Attorneys (and mediators) are grappling with the best way to mediate cases, given the current Covid-19 shelter-in-place order. For attorneys concerned with supporting their clients during this difficult time, it is worth considering video-conferencing instead of re-scheduling mediation dates. While some mediations may require in-person mediations at a later date, many do not. Clients may benefit from the security of resolution sooner rather than later, and they can achieve this through the use of video-conferencing.

As a mediator with over 15 years of experience conducting in-person sessions, I have been pleased to find that the mediations I have conducted by Zoom video conference (as well as Facetime video conference) have been remarkably effective. I have found that Zoom, in particular, allows the mediator to create a reasonable simulation of the in-person joint session and confidential private caucus meetings.

Using Zoom, I have held private and fully confidential caucus meetings with different parties and their attorneys in breakout rooms (just as would occur in ordinary in-person mediations.) Zoom breakout rooms do not allow participants outside the breakout room to hear or see anything that is happening inside the room, so it effectively protects conversations from the other side and from the mediator, when desired. With Zoom, it is also possible to share documents privately with the mediator in the breakout room. In addition, it is possible to share a whiteboard which the mediator

can use to demonstrate a decision tree risk analysis for each side separately.

Protecting the Attorney-Client Privilege – Breakout Room Alternative

As a mediator, I understand that virtual private conference rooms may seem risky to some attorneys. Therefore, some attorneys might prefer using separate connection points for phone calls/video conferences with their clients to ensure total and complete privacy (even from the mediator). These options work well, as long as mediators ensure that all participants can be reconvened with no more than five or ten minutes' notice. Having all parties available at all times helps streamline the mediation process considerably.

Advance Preparation for Zoom Video-Conference Mediations

Here are some key steps to take in advance to ensure an effective use of Zoom video conference in mediation:

- 1) Hold a joint, pre-mediation telephone call with the mediator and all counsel to ensure that the logistics are clear to everyone. Ensure you discuss how the day will be structured, that the mediator will send the appropriate video link, whether there will be a joint session or if it will take place in caucus (breakout rooms), how the mediation documents will be signed, and so forth;

2) On the call, discuss whether attorneys would be more comfortable having a separate contact line with their clients which they organize themselves (and can utilize when the mediator is not in their breakout room);

3) Ensure that all cellphone numbers and email addresses are exchanged prior to the mediation (including those of the parties) as each participant will generally sign in separately during this shelter-in-place period;

4) Ensure that everyone sets aside the entire day for mediation and understands that scheduling other work calls will diminish and delay the process for all (although, of course, other work can be done and calls can be made while the mediator is with the other party);

5) Stress the importance of signing in to the mediation from a private, quiet room from a computer (rather than a cell phone) to ensure

maximum connectivity and enhanced communication. While cell phones are adequate, the screen is generally too small to allow for effective sharing of documents, photos or other image-intensive data;

6) Encourage all parties to download and practice with Zoom prior to the date of the mediation. Using the free version of Zoom to communicate with family members is an ideal way to practice in advance;

7) Be flexible! These are unusual times and may call for unusual modes of negotiation while we work to ensure your clients' needs for resolution, certainty and fairness are met effectively.

I look forward to serving you at your next mediation – whether online or eventually in person. For now, stay safe, and let's all do our part to protect each other by meeting virtually.

About the Author:

Claudia Viera, Esq., is a San Francisco Bay Area mediator focusing primarily on employment, business and contract disputes. For more information, please contact info@vieramediation.com or 510.393.7117.

www.vieramediation.com



Claudia M. Viera, Esq.

Key Security Features for Zoom Mediations - Prevent 'Zoom Bombing'

By Claudia M. Viera

April 6, 2020

Confidential and secure conversations are a hallmark of the mediation process. Mediators who use Zoom video conference for their mediations must ensure these conversations are protected and private to the greatest extent possible.

While the risk is likely low that an unwanted attendee would appear in a private mediation, or that the mediator would fail to notice, this article summarizes key security features that mediators should use to ensure their mediations are confidential and secure. Zoom (zoom.com) continues to update its security features, so new options may soon be added.

I. Use a Mediation Waiting Room

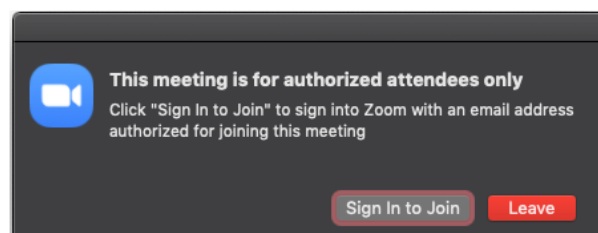
One of the best ways to use Zoom for private mediations is to enable the [Waiting Room \(link\)](#) feature. The Waiting Room is a virtual home page that stops your parties from joining the mediation until you admit them. You should admit only those you have invited to the mediation at the appointed time.

The mediator (host) can customize Waiting Room settings for additional control, and can even [personalize the message](#) attendees see when they arrive in the Waiting Room.

II. Manage Mediation Participants

Other features to help secure your Zoom mediation include:

- **[Allow only invited attendees to join:](#)** If someone tries to join your mediation and is not logged into Zoom with the email through which they were invited, they will receive this message:



The above is useful if you want to control your mediation guest list by invite only.

- **[Set up two-factor authentication:](#)** Create a password for your mediation. Generate a random Meeting ID when scheduling your mediation and require a password to join. For greater security, share the Meeting ID separately from the password by email or text message to the parties.
- **[Lock the mediation:](#)** When you lock a Zoom mediation after it has started, no new participants can join, even if they have the meeting ID and password (if you required one.) To lock the mediation after it has begun, click Participants at the bottom of your Zoom window. In the Participants pop-up, click the button that says Lock Meeting.
- **[Mute participants:](#)** Mediators can mute/unmute individual participants or all of them at once. Mediators can block unwanted, distracting, or inappropriate noise from other participants. You can also enable 'Mute Upon Entry' in your settings to keep background noise down in large mediations.

Each party can temporarily unmute themselves by pressing and holding the space bar.

- **Turn off file transfer:** File transfer allows people to share files through the in-meeting chat. Turn this off to keep the chat from receiving unwanted content.

- **Turn off annotation:** You and your attendees can highlight and mark up content together using annotations during screen share. You can disable the annotation feature.

- **Disable private chat:** Zoom has in-meeting chat for everyone, and it allows parties to message each other privately. You may restrict parties' ability to chat with each another during the mediation (which has some downsides also.) Disabling chat prevents anyone from getting messages during the mediation. One downside of disabling chat is that parties/attorneys cannot use the Help feature to contact you when they are in the breakout room and you are not. They may instead use private cell phone calls or text messages to reach you.

III. Control Screen Sharing

The mediator should not give up control of her screen, especially when hosting a large mediation. You can control this either before or during the meeting in the host control bar settings.

To **prevent parties from screen sharing** during a video-conference, use the host controls at the bottom, click the arrow next to Share Screen and then Advanced Sharing Options. Under "Who can share?" choose "Only Host" and close the window. You can also lock the Screen Share by default for all your meetings in your web settings.

At times when you would like an attorney to share the screen, you can enable this feature again during the mediation.

IV. Other Features to Control the Mediation

The following features should not be necessary if you have taken the precautions described above. However, in the case that an uninvited attendee appears:

- **Remove unwanted or disruptive participants:** From the Participants menu, you

can hover over a party's name, and several options will appear, including Remove.

- **Allow removed participants to re-join:** When you remove someone, they can't rejoin the meeting, unless you alter your settings to allow removed participants to rejoin. This is useful in the case where you accidentally remove the wrong person.

- **Put party on hold:** You can put each participant on a temporary hold, including the party's video and audio connections. Click on the party's video thumbnail and select Start Attendee On Hold to activate this feature. Click Take Off Hold in the Participants list if/when you are ready to invite them back.

- **Disable video:** Mediators can turn a party's video off. This will allow mediators to block unwanted, distracting or inappropriate attendees.

V. Mediator Best Practices

1. Do not use your personal meeting ID to set up mediations. Use an automatically-generated ID.

2. Do not record mediations or allow others to record. Specifically state at the beginning of your mediation that you do not consent to being recorded. Include a similar statement in your Agreement to Mediate and/or Confidentiality Agreement.

3. Consider potential risks before sharing documents via screen share. It may be wise, at this time, to indicate no sharing of attorney-client privilege materials via Zoom screen share.

4. Use chat only for logistics. Do not discuss attorney-client privilege materials in the chat feature.

5. Recommend that attorneys practice using Zoom with their clients prior to the day of mediation to work through technical challenges. Cellphones function, but are not ideal, and should be used as a last resort if a computer is unavailable.

VI. Other Thoughts

New flaws and fixes for those flaws are being discovered regularly. It may be that you prefer to utilize other software platforms, such as Webex,

among others. Zoom continues to update its security features weekly. In addition, Zoom's ease of use for calendaring mediations, and for hosting breakout rooms (caucuses) during mediations continues to be quite useful.

No matter what your choice of virtual platforms for your mediations, ensure you follow all security protocols and encourage your parties to be patient and flexible as we all navigate these unusual times.

I look forward to serving you at your next mediation – whether online or eventually in person. For now, stay safe, and let's all do our part to protect each other by meeting virtually.

**Ideas above are based on tips from Zoom (March 20, 2020) in How to Keep the Party Crashers from Crashing Your Zoom Event*

About the Author: *Claudia Viera, Esq., is a San Francisco Bay Area mediator focusing primarily on employment, business and contract disputes. For more information, please contact info@vieramediation.com or 510.393.7117. www.vieramediation.com*



Claudia Viera focuses on mediation of employment and other business disputes.

Mediation Areas of Expertise

- Employment Claims
- Harassment
- Discrimination
- Retaliation
- Breach of Contract
- Business Disputes
- Wage/Hour Class Actions
- Landlord/Tenant

Contact

Address:

Mediation Law Offices
1415 Webster St. #750
Alameda, CA 94501

Telephone:

510.393.7117

E-mail:

claudia@vieramediation.com

Web site:

www.vieramediation.com

CLAUDIA M. VIERA, ESQ. Mediation Law Offices of Claudia Viera

MEDIATION EXPERTISE

Claudia Viera is a highly experienced and tenacious attorney-mediator who primarily focuses on employment, contract and business disputes. Ms. Viera draws on her years of legal experience as an employment attorney with Littler Mendelson, the largest employment and labor law firm in the nation, to promote effective communication and increased understanding between parties in conflict.

Since 2001, Ms. Viera has mediated nearly a thousand tough legal disputes. Her most recent work includes race harassment and discrimination, wage and hour class actions, disability discrimination, wrongful termination, sexual harassment, business dissolutions of partnerships, age discrimination and landlord-tenant disputes. Ms. Viera mediates in Spanish and has extensive experience with pre-litigation disputes in workplaces and among co-owners or business partners.

Ms. Viera works actively with both parties to help them achieve a better resolution than either would achieve in court. Ms. Viera believes that exploration below the surface of the dispute is often necessary to reach resolutions that have lasting value to her clients. To this end, she focuses on eliciting and clarifying each side's positions and then works closely to identify the interests and underlying concerns of each party. She simultaneously encourages true cost benefit analysis of litigation alternatives as she works to orient clients toward settlement.

LEGAL EXPERIENCE

Ms. Viera previously practiced employment law at Littler Mendelson, where she dealt with labor and employment issues, including disputes arising under Title VII, the Family and Medical Leave Act, the Americans with Disabilities Act, wage and hour laws, employment contracts and a variety of California state statutes. Ms. Viera worked with a variety of Fortune 500 companies in both state and federal court and later represented plaintiffs. Ms. Viera currently conducts investigations into complaints of workplace harassment and other claims, in addition to training supervisors on their management responsibilities under the law. Ms. Viera teaches a Mediation course at UC Berkeley Extension. She taught Conflict Resolution at SF State University for 10 years, and Employment Law at Saint Mary's College of California.

PANEL MEMBERSHIPS

- U.S. District Court, N. D. Cal. ADR Panel
- California Court of Appeal, 3rd Appellate Distr. Mediation Panel
- San Francisco Bar Association Mediation Services Panel
- Alameda County Court Mediation Panel
- Equal Employment Opportunity Commission (EEOC) Panel
- Yolo County Court ADR Mediation Panel

Publications

*Worsening Economy
Brings Increased
Discrimination Charges:
How Early Mediation
Can Assist*
[http://www.mediate.com/
articles/vieraCI.cfm](http://www.mediate.com/articles/vieraCI.cfm)

*Employment Mediation at
the EEOC and DFEH:
The Models and the
Opportunities*

*Mediation Statistics at the
EEOC and DFEH*

*Harassment Prevention
Training in California:
What Employers Should
Know About AB1825*

Contact

Address:
Mediation Law Offices
1415 Webster St. #750
Alameda, CA 94501

Telephone:
510.393.7117

E-mail:
claudia@vieramediation.com

Web site:
www.vieramediation.com

MEDIATION TRAINING

Ms. Viera has participated in over 600 hours of mediation training, including:

- U.S. District Court, N. D. Cal. ADR Program
- California Court of Appeal, Third Appellate District
- Advanced Mediation Training, Center For Mediation in Law
- Northern California Mediation Center
- Harry Sloan Fellow for the Center for Mediation in Law
- Equal Employment Opportunity Commission
- Will Schutz Associates

EDUCATION

- J.D., University of California, Berkeley, Boalt Hall Law School
 - Assoc. Editor, Berkeley Journal of Employment & Labor Law
 - Assoc. Editor, Berkeley Women’s Law Journal
 - Advocate in Spanish, Central American Refugee Clinic
 - Director, East Bay Workers’ Rights Clinic
- B.A., Psychology, University of California, Berkeley, High Distinction
 - Phi Beta Kappa, 1990

PROFESSIONAL ACTIVITIES

- Instructor, UC Berkeley Extension, 40-hour Mediation Course (2020-present)
- 2016-2017 President, The Mediation Society of San Francisco, Board of Directors (Board member 2011-present)
- Five-term Co-Chair, Mediation Committee, Bar Association of San Francisco
- President, Board of Directors at SEEDS Community Resolution Center (2005-2008)
- Lecturer on Conflict Resolution, San Francisco State University
- Guest Lecturer on Mediation Skills, U.C. Berkeley, U.C. Hastings and Berkeley Law School
- Speaking Engagements on various mediation topics (see web site)
- Former Lecturer on Employment Law, St. Mary’s College
- Member - California and American Bar Associations, Association for Dispute Resolution of Northern California, Association for Conflict Resolution, The Mediation Society

Patricia Prince, Esq.

PRINCE MEDIATION



Mediator Areas of Expertise

- *Employment*
- *Business*
- *Intellectual Property*
- *Trust & Estate Disputes*
- *Spanish-Speaking Mediator*

Contact: (415) 383-8001
patricia@PrinceMediation.com



Patricia Prince is an experienced and recognized mediator, again voted "Super Lawyer of Northern California" in the field of Alternative Dispute Resolution. She is known for her skill in working effectively with parties and counsel in high-conflict cases to identify key interests and options, moving from impasse to agreement with creativity and persistence.

In the employment arena, she mediates discrimination, harassment, retaliation, wrongful termination and wage and hour individual, class and PAGA actions. She mediates a variety of business disputes, including partnership dissolution; intellectual property disputes; business torts such as breach of fiduciary duty, fraud, and unfair trade practices; breach of contract; commercial landlord/tenant disputes; trust disputes and personal injury cases. She also serves as a facilitator and mediator for business managers, officers and directors to realign business goals, resolve conflict and negotiate priorities and strategies for ongoing businesses.

Ms. Prince gained her legal expertise as a business litigator, assisting clients with licensing and trademark disputes, employment disputes, securities actions, franchise disputes, fiduciary duty issues, business torts and partnership and shareholder disputes. She has represented clients in domestic and international disputes and has practiced in state and federal courts. Ms. Prince has represented both plaintiffs and defendants, giving her valuable insight into the special issues faced by both sides in a dispute. Ms. Prince uses her legal expertise, strong negotiating ability and personable demeanor to bring parties in conflict to resolution.

Dispute Resolution and Legal Experience

- Full-time Mediator: Prince Mediation (Principal, Mill Valley, 2007-present)
- Mediator and Business Litigator: Prince Law & Mediation (Principal, Mill Valley, 1999-2007)
- Business Litigator: Makoff Kinneer Counsel (Vice President, San Francisco, 1993-1998)
- Business Litigator: Feldman, Waldman & Kline (Associate, San Francisco, 1991-1993)

Alternative Dispute Resolution Panels

- Mediation Panelist, US District Court for the Northern District of California, ADR Program
- Bay Area Mediation Services Panelist, Bar Association of San Francisco
- Settlement Conference Panelist, Marin County Superior Court
- Mediation Panelist, Contra Costa Superior Court ADR Program

Education, Professional Associations & Leadership

- University of San Francisco School of Law, J.D., 1991
- Stanford University, A.B., 1981
- Universidad de Salamanca, Spain, 1978-79
- State Bar of California, 1991-present
- Bar Association of San Francisco, 1991-present
- Marin County Bar Assn, 2002-present; ADR Chair 2004; Labor & Employment Co-Chair 2013-2016
- Queen's Bench, 1991-present; Director, 2000-2001; Various Comm. Chairs 1997-2003
- The Mediation Society, 2005-present; Board of Directors, 2006-2012; President, 2010-2011

Languages

- Fluent in Spanish; Conversant in French

For recent speaking engagements and publications,
client reviews, and further information,
see www.PrinceMediation.com

