



# Online Options for Dispute Resolution



LEARN TO  
MEDIATE  
ONLINE

# Susan Guthrie Online Mediation and Coaching

ABA Section of Dispute Resolution  
Membership Officer  
Mediation Committee Co-Chair

Learn to Mediate Online  
Founder and Principal



© Susan E Guthrie, LLC 2020

# How Do You Want to Mediate?

LIKE THIS?



OR

LIKE THIS?





LEARN TO  
MEDIATE  
ONLINE



"This really is an innovative approach, but I'm afraid we can't consider it. It's never been done before."

## The Most Expensive Words in Business:

"But that's the way we've always done it!"



LEARN TO  
MEDIATE  
ONLINE

# Online Mediation



**Conducting a Mediation through the use of an online video conferencing program.**

**Participants are remote from the mediator and may be remote from each other.**



LEARN TO  
MEDIATE  
ONLINE

# Benefits:

## **1. Convenient**

- No travel
- Can be anywhere (with some limits)

## **2. Expands Client Base**

- Clients need not be geographically close

## **3. Reduces Overhead**

- No rent, utilities. Programs are less than \$100/mo.

## **4. More Comfortable and Supportive**

- Can be in a place of safety or comfort for clients

## **5. Safer**

- Domestic violence or high conflict matters
- COVID-19 Issue, etc.

## **6. Disability Compatible**

- Clients with disabilities



LEARN TO  
MEDIATE  
ONLINE

## Cautions:

The #1 Difference Between  
Online and  
In-Person Mediation is:  
The Clients' Environment is out  
of the Mediator's Control  
**Can lead to issues with  
privacy and confidentiality**



# **1. How to Conduct a Mediation on Zoom**

# **2. Practical and Ethical Considerations**





LEARN TO  
MEDIATE  
ONLINE

# Set Up and Equipment

## Laptop or Desktop Computer

- Large screen
- Strong/Secure WiFi Connection or Ethernet Cable
- Microphone
- Camera
- Headphones

## Background

- Professional, neutral
- Virtual

## Appearance

- Lighting
- Shoulders up and ALWAYS on





LEARN TO  
MEDIATE  
ONLINE

# Meeting Set Up and Waiting Room

Always use the waiting room function when having clients log on to the Mediation session to avoid any issues or perceptions that neutrality has been breached.

Set up the meeting for the clients well in advance and let them know that they will be in a “virtual waiting room” until they have all signed on to the session at which time, they will be admitted to the meeting simultaneously.

Let them know that this is to protect the process and to preserve neutrality.

Set a time limit for how long you will wait for both to enter the waiting room and/or have a protocol for communicating (email, text, phone)

A 5 or 10-minute window after which you will bring the party or parties who are present into the room to discuss solely how to proceed.



LEARN TO  
MEDIATE  
ONLINE

# Caucus and Break Out Rooms

Zoom easily allows for putting one or more parties back in the waiting room so that there can be a private conversation.

Depending on how many parties there are and whether the mediation is primarily joint session or separate, Breakout Rooms may be more practical.

Breakout Rooms can have more than one participant in them, such as a client and their attorney.

You can have as many Breakout Rooms as needed and the mediator can move between rooms and can move people into different Breakout Rooms.



LEARN TO  
MEDIATE  
ONLINE

# Screen Sharing Documents Whiteboard, and More

It is very easy to share your screen with the mediation participants. This allows everyone who is in the meeting to see whatever you bring up on your computer screen.

Examples: Agreements, financial documents, photographs, financial software, etc.

Participants can share their screen as well.

The Screen Sharing Function has a Whiteboard as well as the ability to share the screen of your iPad, cell phone or Tablet.



# **Practical and Ethical Considerations**



LEARN TO  
MEDIATE  
ONLINE

# You Will Need to Have More Than Video- Conferencing

I use a variety of online programs to streamline function of the mediation process that would normally take place in person:

1. The sharing and storing of documents. (Dropbox, Google Docs, etc.)
2. The signing/execution of documents (DocuSign, RightSignature, etc.)
3. PAYMENT!! (Square, PayPal, Venmo)

**IMPORTANT:** Let clients know what programs you use, what requirements there are, and why you use them.



LEARN TO  
MEDIATE  
ONLINE

## **#1 TIP:**

Create a Document that  
Educates and Informs  
the Clients

Ex: My Online Guidelines & Ground Rules



LEARN TO  
MEDIATE  
ONLINE

# Privacy and Confidentiality

## Confidentiality:

Legal issue: Evidentiary Privilege under your jurisdiction's laws and Code.

Clients need to understand what the privilege means – explain this in writing.

Understand the Confidentiality provisions for mediation in your jurisdiction, if any.

## Privacy:

Mediation Issue: One of the main benefits of the process.

Also one of the most vulnerable due to the fact that the clients are remote.

No third parties, no eavesdroppers, secure WiFi, NO RECORDING





LEARN TO  
MEDIATE  
ONLINE

## Ground Rules

- 1. Interruption Free Zone**
- 2. Technology Hiatus**
- 3. Early Log On**
- 4. Respectful/Effective Online Communication**



LEARN TO  
MEDIATE  
ONLINE

# The LIFESAVER

## **HAVE SIMPLE PROTOCOLS IN PLACE IN CASE OF TECH FAILURE**

- 1. Let the clients know what to do if something goes wrong with the technology, BECAUSE SOONER OR LATER IT WILL!**
- 2. K.I.S.S.**
- 3. Tell them to log back in or call you on a designated number to discuss next steps.**
- 4. Put this IN WRITING to the clients so that when it happens, there is no panic.**



LEARN TO  
MEDIATE  
ONLINE

# FINAL WORDS

**First and foremost, add an online platform to your practice.**

**Take the time to learn how to use the programs**

**Stay calm if something goes wrong**

**Let people know you offer your services online!**



LEARN TO  
MEDIATE  
ONLINE

# **Susan Guthrie**

## **LEARN TO MEDIATE ONLINE**

[www.learntomEDIATEonline.com](http://www.learntomEDIATEonline.com)  
[susan@learntomEDIATEonline.com](mailto:susan@learntomEDIATEonline.com)  
203-295-3388