



## **GUIDELINES AND GROUND RULES FOR ONLINE (VIDEO) OR TELEPHONE (VOICE ONLY) MEDIATIONS**

With reference to the upcoming mediation, this document highlights the **Technology** we will be using, reviews **Confidentiality and Privacy** associated with mediation, and provides a final section on **Best Practices and Troubleshooting**.

### **Technology**

1. **Zoom Online Platform.** Your mediator uses the online secure platform provided by Zoom.us to conduct video mediations and telephone mediations. Zoom allows your mediator to have all participants start in a single “room” together; and then, if necessary, break into separate “rooms” for individual/private meetings with each side.

For Video Mediations Only:

- **Equipment Requirements:** All participants in a video mediation must have access to an electronic device with a camera and microphone: most newer laptops, mobile phones, and tablets have these built in. Accessories such as a USB plug-in camera and/or microphone are typically used with desk top computers.
- **Free Software/App Requirements:** All participants agree, well in advance of the mediation session, to download and install either the free Personal Use software or App from Zoom.us (as required based on the equipment you intend to use) necessary to participate in the mediation session. Once downloaded, please familiarize yourself with the operation of Zoom.us, to enable you to operate the system and participate in your mediation session. Tutorials are available at <https://support.zoom.us>.
- **Secure WiFi or Ethernet Connection:** All participants need a secure WiFi or Ethernet (hard-wired) connection for your computer or electronic device. Do NOT use a public access WiFi connection, such as those available in public spaces or businesses, as they are not secure and your information may be at risk in that situation.
- **No Warranty of Communication Security:** Like all online videoconferencing platforms, Zoom has some weaknesses. While Zoom itself works on increasing its end-to-end security, there are already several things in place that we can – and we do – use to maximize the security of any Zoom VideoADR meeting we host.
  - First, we require a password to join the meeting (according to several articles, most “Zoombombers” randomly input 10-digit Zoom Meeting IDs until they find a meeting they are able to join. With the password required, such random-input folks cannot get in).

- Second, we use the “Waiting Room” feature, so that, whenever someone first joins the meeting, s/he is kept isolated until we specifically let the person in. Note: this requires a specific, intentional act by the mediator, rather than just happening automatically. That intention adds another layer of security; if the Neutral does not recognize the person, that person is not let in.
  - Third, after all expected attendees have been admitted to the meeting, the mediator (as host) can lock the meeting, preventing anyone else from joining without an invitation from the mediator.
  - Fourth, we configure the in-meeting Chat feature so that only the mediator may send chat to everyone; all other participants may only send chat to the mediator.
  - Fifth, screen-sharing is initially controlled by the mediator, so that only intentional screen sharing, by the mediator or counsel, is allowed.
  - Even with taking these steps, ***there is no warranty, guaranty, or representation that can be given (nor is one made here) of absolute communication security. Thus, use of the Zoom platform is at your risk.*** Accordingly, if you would prefer to use another VideoADR platform, which you believe would be more secure, just let us know; we’re happy to accommodate upon agreement of all the parties.
2. Document Execution. Whenever possible, your mediator uses DocuSign.com as a secure platform for the execution of documents required during your mediation process (more information can be found at [www.docusign.com](http://www.docusign.com)). In those instances when original signatures are required, documents for execution will be transmitted to appropriate participants for print and signature. Parties are then responsible for returning the appropriately executed copies to the Mediator and/or other parties via mail or overnight delivery service at your expense and upon timing agreed to by the parties.
  3. Payment Provisions. All payments are due in accordance with the Mediation Confirmation (at the conclusion of the mediation session) and will typically be processed electronically. We use [www.paypal.com](http://www.paypal.com) for the processing of all credit card payments. If you prefer to pay directly, payments may be made through Zelle (sent to [chris@shulmanadrlaw.com](mailto:chris@shulmanadrlaw.com)). Alternative arrangements (such as check, ACH or EFT) with prior approval.

### **Confidentiality and Privacy**

4. Attendees. The named mediation party (parties), their attorneys (if any), required insurance professionals (if any), and the mediator are all considered mediation participants, and are the ONLY persons allowed to attend mediation without the express consent of all the parties. Thus ALL sides must pre-approve attendance at mediation of any “non-party” (including, e.g., the spouse, relative, friend, etc. of a party).

5. Privacy and Confidentiality. All participants will be expected to review this Guidelines and Ground Rules document in full and advise of any questions before the mediation, as we will abide by these Guidelines and Ground Rules during the mediation.
6. Absolute Prohibition on Recording. Neither you nor anyone on your behalf may audio or video record any mediation session or portion thereof. In the event you learn of an audio or video recording of any session, you will take immediate measures to destroy the recording and will not disseminate the recording to any third parties. You further agree that you will not transmit a live or deferred video or audio relay of the online mediation session(s) to third parties.<sup>1</sup>

Note, Fla. Stat. § 934.03 makes it a felony to, among other things, record a person's oral communications without their consent (or other situations that likely won't apply in mediation) and, per Fla. Stat. § 44.403(1), the commission of a crime during a mediation (such as recording their voice without consent) is neither privileged nor confidential and may be reported to relevant law enforcement. **PLEASE GOVERN YOURSELVES ACCORDINGLY.**

### **Best Practices and Troubleshooting**

7. Interruption Free Zone. All participants are to take reasonable measures to ensure you are not interrupted during the mediation. This includes arranging for appropriate child or elder care (if applicable), notifying family, friends, and colleagues of your unavailability, and making other appropriate scheduling choices.
8. Technology Hiatus. Except for the computer or mobile device upon which you are conducting your online mediation session, you agree to turn off or silence any phones, tablets, or computers and disable any alert announcements and/or texts for the duration of your online mediation session(s). Further, you agree to refrain from the use of social media, or the unnecessary use of email and/or internet search engines, during your online mediation session(s).
9. Early Log On. Please sign-in (whether video conference or telephone conference) to the scheduled mediation session at least 5 minutes in advance of the scheduled start time, so that any technology issues can be resolved and the mediation can start on time.
10. Technology Failure Protocol. Despite all best efforts, at times technology may at times not operate properly and a scheduled online mediation session may not commence on time or may be interrupted. If you are unable to join a scheduled mediation session, please immediately call your mediator at (813) 935-9922 or, if you get voicemail, send an email to your mediator at [chris@shulmanadrlaw.com](mailto:chris@shulmanadrlaw.com), to determine how to proceed. In the event the technology issues cannot be resolved in a reasonable timeframe, the online mediation session will be canceled and rescheduled at soon as possible.
11. Respectful Online Communication. Due to the nature of the online forum, it is especially important to allow each participant to finish their comment or statement before responding. In

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<sup>1</sup> Except as required for accommodation of a participant's known disability. In the event such accommodation is required, the person requiring the accommodation shall advise counsel (if any) and the mediator in advance of the hearings, to allow for timely coordination of such accommodation.

addition, the online format can amplify and exaggerate sound so maintaining a regular speaking voice is important. Finally, please remember that the camera does not always transmit hand gestures or non-verbal cues, so it is important to verbalize all communication during an online mediation session.

12. Mediator's Physical Location. Your mediator is in Tampa, Florida.