

Conducting Mediation With Zoom

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I conducted a mediation on Zoom this week for 6.5 hours. Apart from me, there were 9 people participating through 7 different connections (there were 2 groups of 2 people who were physically present with each other). The procedure worked really well.

There were three separate and distinct interest groups in the mediation, with unequal numbers of individuals among the three groups. There was no overlap in the interest groups. This meant that I would need three breakout rooms for the mediation, just as we would have three different conference rooms if we had been mediating in person.

The day before the mediation, I prepared a list of the three breakout room names that I would use, with the names of the participants who would be in the three breakout rooms. In addition to the names of the participants, I also had included the cell phone number and email address for each participant, so that I could easily contact each participant during the mediation. I printed that list and had it sitting on my desk.

The day before the mediation, I sent every participant (both counsel and their clients) an email with a detailed description of the procedures that we would follow, and included the complete list of the breakout rooms and who would be assigned to which breakout room. The contents of that email are at the bottom of this memo (edited to remove names and other identifying information).

On the day of the mediation, I created the Zoom meeting room half an hour before the scheduled start time. I then immediately created the three different breakout rooms for the three different interest groups. I also created an extra breakout room (and named it the Caucus Room), as a room where I could move people from the different breakout rooms to bring them together for discussions if needed. There is an icon for breakout rooms on the menu bar at the bottom of the screen which you use to create breakout rooms, and to give them specific names. You can also create breakout rooms during the meeting, but it's advisable to create as many rooms as you think you may need before you start the meeting.

Fifteen minutes before the scheduled start time, I sent an email invitation (generated by Zoom) to each participant with a link to the meeting, and containing a password which they had to enter. To avoid having to type in each name in the email

address box, I had a Word document open on my computer which contained all of the email addresses, each separated by a semi-colon. All I had to do was to copy the entire list in the open Word document (first by hitting the control and A keys to select all of the text, then the control and C keys to copy it), and then paste the contents (control and V keys) into the “send to” box in the email. Again, Zoom generates the email for you once you tell it what email service you are using by clicking an icon.

As each participant logged in and entered the password, I would see their names pop up on a list of people in the waiting room, waiting to be admitted by me. While they were in the waiting room, all that each participant could see was a logo that I had prepared, but they couldn't see each other or hear anything.

I would admit one connection at a time into the general meeting room, see that participant by video on my monitor to verify the person was who he or she was supposed to be, greet them, and tell them that I was going to move them from the general meeting room to their breakout room. I did that one at a time, so that no participant ever saw anyone else other than the other people in their assigned breakout room. I told each participant when I greeted them that it's like you've come to a psychiatrist's office for therapy, and you don't want anyone to know you're there or see you in my waiting room, and that I'm sending you to your therapy room. That got laughs. And that's where the participants remained for the rest of the day for the full mediation session, in their assigned breakout rooms.

I had to go back and forth between the breakout rooms to carry offers and proposals from one group to one or both of the other groups, just as I would during an in-person mediation. Because I didn't want to just barge into a breakout room without notice, I used the cell phone numbers for the participants in each breakout room to send a text message asking permission to rejoin them in their room. Once I got a text message back saying yes, I would then use my host control privileges to enter that breakout room. No one else could do that.

I told each of the participants that Zoom allows me as the host to enter any room that I want without permission, but that of course I would not do that – and even if I did, they would see me (or if I had blocked my video, then my name) on the screen for their breakout meeting room.

All of us had email connections up and running during the mediation, so we were able to email documents and spreadsheets back and forth. One side would generate spreadsheets with accompanying memos, which they would send to me, and I would then forward those to the other group or groups. The other groups could edit those (including marking them up by hand), and send back to me to transmit to the other group or groups. We did that all day long.

I was logged onto Zoom via my laptop computer. This allowed me to use my desktop computer with two monitors to log onto our firm's server, and have various documents open to refer to during the day. That worked fine. The only disadvantage is that you have to remember that you are using two different computers and therefore two different keyboards. It might be better to have a three monitor setup on one computer, but it worked well enough. Maybe it's possible to run 3 monitors on one computer, with two of the monitors showing the display as logged in on my firm's server, and one monitor showing the Zoom video display outside my firm's server, and maybe I can do that another time.

I only noticed one deficiency from my perspective as the host – I was in a breakout room when one of the participants in another breakout room had to leave the meeting for a while and then log back in again. I wasn't able to see the waiting room list (to be readmitted) unless I was in the general meeting room and not in a breakout room. Perhaps there is a way to see the list of participants waiting to be admitted when the host is in a breakout room, and I just didn't know how to see it.

Here's the email that I sent the day before to all of the participants in the mediation.

Hi, everyone. This is a reminder of the procedure that we will follow on Zoom tomorrow for our mediation.

We are scheduled to begin at 9 a.m. Around 8:45 or so, I will email each of you an invitation to join the Zoom meeting. Please remember that the email will be from my gmail address: xxxxxxxx@gmail.com. There will be a link in the email for you to join, but you will also have to enter the password that will be in the email.

You can log in whenever you wish after getting the email. Once you are in, you will receive a notice that you are in the waiting room, and that the host will admit you. I will start admitting participants one at a time, starting at 9 am or maybe just a few minutes before then.

I will have separate breakout rooms as identified below. When I admit you to the general meeting room, I will then send you to your assigned breakout room. No one will be in the general meeting room other than for the short time it takes me to place you in your breakout room. I am the only one who controls that. Once you are in your breakout room, Zoom won't let you leave it unless you leave the meeting altogether, in which event you can't get back in unless I send you another invitation.

I've found that it can take 15 seconds or so to complete a transfer of a participant to a breakout room, and for me to leave one breakout room and go to another breakout room.

People in separate breakout rooms are unable to see or hear anyone in other breakout rooms. I am the only one who can go from room to room.

There will be many times where you do not want me to enter your breakout room while you are having discussions within your group. Here is how I propose to deal with that. Once I leave your breakout room, I will not re-enter it until you give me permission to do so. (If I entered, you would see me or at least my name on the list of people in your room.) I will have to get your permission to re-enter by a phone call or text message or email. You can summon me to your breakout room, or I can ask you if I can re-enter your breakout room, by calling or texting or emailing. I have cell phone numbers for some of you, but if you don't mind, please email me at some point the preferred number you'd like me to use if I have to call you to get permission to enter your breakout room – do that by an email addressed only to me.

My cell phone number is 555 555 5555.

Here are the breakout rooms by name and participants. If any of this is incorrect, please let me know.

Brown room: Alice Brown, Brian Brown, and Alice Advocate

Jones room: Jane Jones and Charles Counselor

Smith room: Diane Smith, Frank Smith, Harold Smith, and Larry Lawyer

I will have a separate breakout room named the Caucus room. No one will be assigned to it initially. It will be reserved for putting counsel from the different rooms together if and when you want to engage in conversations with each other and me, just as sometimes happens in in-person mediation sessions.

I have not yet figured out how to move people back from breakout rooms into the general room which you first enter when I admit you to the meeting. So, in the event that we want to get everyone together, I will either use the Caucus room for that purpose or I will create another breakout room and move everyone into it.

I have read the materials that you have given me, although I have a bit more reading to do before tomorrow morning. I believe that it would be a waste of our time to try to assemble everyone together in a general session before going into separate breakout rooms. I have found as a matter of general practice that gathering everyone together at first often does not produce positive results, and only serves to make the discussions last longer. So, unless any of you strongly disagree with me, I do not intend to convene everyone together when we begin. If you do disagree, please let's talk about that by telephone tonight.

Please bear with me and with each other as we go through this process tomorrow. This will be the first mediation that I've done via Zoom. I've had a number of client meetings already through Zoom, and it has worked extremely well.

Finally, I will say this again tomorrow morning, but let me say it here as well. Anything that is said or discussed within one breakout room will not be communicated by me to anyone outside that breakout room unless you give me explicit permission to communicate it. If one of you says "gee, Bruce, your hair is getting long – how long has it been since you got it cut? And who's going to do it now?" – I cannot repeat your statement to anyone not in your room.

I look forward to working with all of you and to bringing these matters to a successful conclusion.

See you tomorrow morning –

Bruce