

Arbitration & Mediation

For Business, Technology and
Construction Industry Disputes

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Basic Introduction to ZOOM
On-Line Video Conferencing

Coordinating Schedules and
setting times to ZOOM

Preliminary Hearing
Conference Call
with Counsel

Preparing for Direct Witness
Testimony – Narrative
Witness Statements
with Counsel

Attorney - Client
Video Conference Call to
prepare for Hearing

ZOOM Arbitration Hearing

ZOOM On-Line Video Conferencing for Arbitration

OVERVIEW

This Outline will take you through the Learning Curve associated with the necessary steps to effectively participate in a ZOOM on-line video conference for Arbitration, from the Preliminary Hearing through the formal Hearing.

I've assumed that the Users (attorneys as well as their clients and the Direct Witnesses they control) will have a 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.

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.

Throughout this training, I will refer to myself as either the Host, or the Arbitrator or Host (Arbitrator). 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.

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.

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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 Arbitration

Set up ZOOM. All participants (the attorneys, clients, witnesses and 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 Arbitration. 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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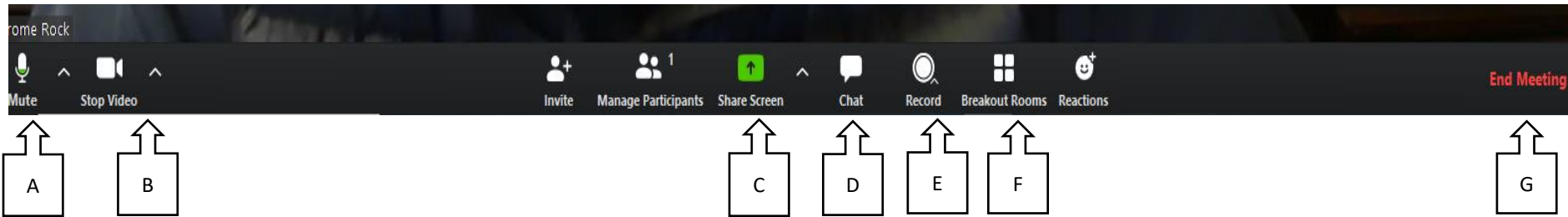
ZOOM On-Line Video Conferencing for Arbitration

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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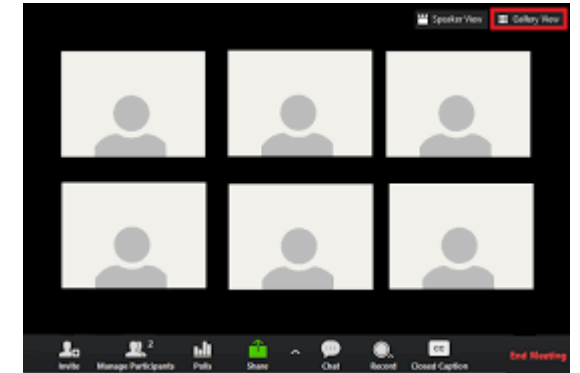
Objectives

- Set up ZOOM.com
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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 Arbitration

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 and witnesses. It is also advisable for the Host (Mediator) and Counsel to exchange mobile telephone numbers, and for Counsel to have their client's and witnesses' mobile numbers readily available.

When2Meet Scheduling. One of the Challenges for the Host (Arbitrator) 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 Preliminary Hearing, 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 (Arbitrator), 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. The same instruction applies with the meeting Pass Word.

Stay Calm – Contingency Plans. There will be problems. Guaranteed. Stay Calm and be patient with others. One of the first steps is to exit the ZOOM meeting, go back to the email invitation and try joining the meeting again. As Host (Arbitrator), 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

ZOOM On-Line Video Conferencing for Arbitration

Preliminary Hearing Conference Call with Counsel

Objectives

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

In my Arbitration practice, I generally schedule a Preliminary Hearing Conference with Counsel. 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.

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 (Arbitrator), 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 your witnesses, a separate room for the attorneys and the Arbitrator, etc. The Host (Arbitrator) is not able to eavesdrop on these Breakout Rooms. During our Preliminary 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.

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

ZOOM On-Line Video Conferencing for Arbitration

Preliminary Hearing Conference Call with Counsel

- Objectives
 - Confirm ZOOM Setup
 - Breakout Rooms
 - Screen Share
 - Privacy & Confidentiality
 - Arbitration Agreement
 - Preliminary Hearing Agenda & Order

Privacy and Confidentiality. We all want to control the video conference environment to maintain the confidentiality of the Arbitration 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 Arbitration unless their presence is known by all other participants, and that person has signed the Arbitration 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. The Host (Arbitrator) can lock out participants, much like sequestering witnesses during an in-person Arbitration.
- Arbitration is a confidential process. Upon agreement of the parties, the video conference Arbitration can be recorded by the Host (Arbitrator), but no one else can record the video conference Hearing. Conventional Transcripts are no longer required.
- During the Preliminary Hearing, we will all agree on a secured method to exchange documents and Hearing Exhibits, such as Drop Box. Documents that are displayed at the video conference Arbitration using the Share Screen function in ZOOM should be designated “For Arbitration Purposes Only” and subject to the confidentiality terms of the Arbitration Agreement.

Arbitration Agreement. The Arbitration Agreement incorporates the above restrictions unique to video conferencing and will be provided to Counsel by email. Counsel should review the Arbitration Agreement with their clients and make arrangements to have the Agreement signed and returned to the Arbitrator.

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Preliminary Hearing Conference Call with Counsel

- Objectives
 - Confirm ZOOM Setup
 - Breakout Rooms
 - Screen Share
 - Privacy & Confidentiality
 - Arbitration Agreement
 - Preliminary Hearing Agenda & Order

Preliminary Hearing Agenda & Order

I will provide Counsel with an Agenda for the Preliminary Hearing, which will include the Preliminary Hearing Checklist referenced as P-2 under the Commercial and Construction Industry Arbitration Rules and Mediation Procedures of the American Arbitration Association. The checklist can be downloaded at www.adr.org/sites/default/files/CommercialRules_Web.pdf

Narrative Witness Statements. For video conference Hearings, I am a strong advocate for the use of Narrative Witness statements for fact witnesses under the direct control of a party. This is particularly useful when the attorney and the witness cannot meet in person and must prepare direct testimony remotely. Multiple drafts of the Narrative Witness Statements can be exchanged by email and discussed by video conference. The Narrative Witness Statement becomes a written work product that is carefully reviewed for accuracy and completeness by both the attorney and the witness, affirmed under oath by the witness and ready to be submitted as direct evidence at the video conference Hearing. For further information on the Protocol for the Narrative Witness statement, go to the following link to my website: www.jeromerocklaw.com/arbitration

Based on the Preliminary Hearing Conference, I will issue an Order summarizing the commitments and establishing the schedules for the Arbitration Hearing.

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ZOOM On-Line Video Conferencing for Arbitration

Attorney - Client - Witness Video Conference Call to prepare for Hearing

- Objectives
 - Building Confidence
 - Signing Arbitration Agreement

Building Confidence. I suggest that Counsel arrange for a ZOOM video conference call with your client and all witnesses that you control. This call will verify that the basic ZOOM program has been installed and is functional for both attorney and client and witnesses. It is important for the client and witnesses to feel comfortable and relaxed; actively participating in the video conference with Counsel prior to the Hearing will assist in reducing the distraction and confusion of the on-line set up will reduce their anxiety. Schedule this video conference with your client and witnesses soon, and as many times as possible prior to the video conference Hearing.

Signing the Arbitration Agreement. I will email the Arbitration 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 Arbitration Agreement using the following protocol:

- The recipient of the email (your client) with the Arbitration Agreement as an Attachment, will **Forward** the email to the Arbitrator 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 Arbitration Agreement and this email serves as my “signature” and agreement to be bound by the terms of the Arbitration Agreement”.
- Send the email.
- I will “acknowledge” the receipt of the email, thus completing the “signature” process.

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ZOOM On-Line Video Conferencing for Arbitration

ZOOM Arbitration Hearing

- Objectives
 - Joining the Hearing
 - Video Conference Hearing Ground Rules
 - Post Hearing , Closing the Hearing

Joining the Video Conference Hearing. Each attorney and their client and witnesses 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.

Video Conference Hearing Ground Rules. The Host (Arbitrator) will visit each Breakout room separately and will provide instructions for joining all parties to the main video conference Hearing.

- Introduction of Parties
- Confirming Audio / Video
- Ground Rules for video conference Hearing
 - Privacy and confidentiality of Arbitration Agreement
 - ZOOM Controls
 - Rules for Breakout Rooms
 - Rules for Screen Share for Exhibits
 - Recording the Hearing
 - Plans for Tech failure during the Hearing
- Arbitrator's Agenda for Presentation of Evidence

Post Hearing, Closing the Hearing. At the conclusion of proofs at the video conference Hearing, the Arbitrator will issue instructions and schedules for Post Hearing submissions or briefs, as well as procedure for Closing the Hearing and issuance of the Award.