

Notes from CPR Training: ADR in the Time of COVID-19: How Neutrals & Advocates can use Zoom for Mediations & Arbitrations

March 30, 2020

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General Information:

- Over 220 participants
- Security Issues are a major concern
 - People crashing zoom rooms has happened, there are ways to prevent that
- Important Resource: ICCA-NYC Bar-CPR Protocol on Cybersecurity in International Arbitration on cybersecurity in International Arbitration as one possible reference for questions to ask yourself
 - Schedule A the “baseline security measures checklist”
 - Olivier André is a key member of the working group instrumental in creating the protocol
 - Each guideline should be adjusted to each of our practices! Specific matters that we are involved
 - Spirit of the protocol is that it is a framework within which we can ask questions and make decisions.

Mitigating some of the security concerns within a zoom meeting:

- As host of the meeting, when you invite someone into your zoom you have some control over the security measures.
 - All meetings are encrypted end to end.
 - Secure log-in using standard username and password.
 - There are tools within your set up to allow you to do that, to secure your meeting and filter who is in it.
- Inside the meeting, there are other concerns.
 - E2E encryption
 - There is a tool called waiting room, where you need to grant permission to each person before they enter, which allows you an additional measure of control. It also allows keeping people out of the meeting room before the host is there, you can also remove a participant at any time.
 - You can also lock the meeting, no one else can enter once the lock is on.
 - You can use breakout rooms in zoom that are also secured for private conversations. You can mute or unmute some or all participants.

- You can screenshare watermarks.
- You can use audio signatures.
- You can tailor each session to the level of security that you need. You can encrypt all the content, allows us to have visual identification also (by using video).
- Zoom has a detailed security [white paper](#), which is provided in participants' materials
- Manage which ID is used in the meeting
 - You can use your own personal meeting ID or your own meeting ID, change it when you are setting up something that is going to be broadcast to the public.
 - You can require a password for meetings.
 - You can require for a personal meeting ID.
 - You can set up an upcoming meeting reminder
- You can have an audio signal anytime someone enters or leaves the room
- Part of advanced features: you can identify each of the participants in the meeting

Introducing Zoom into your Practice:

- Make sure clients are ready for Zoom! Make sure you have taken a measure of your clients.
- Valenti recommends a pre-mediation conference with the parties, with or without the lawyers, to try out the different features, particularly the breakout rooms.
 - Give them some trust in the process.
 - Teaching lawyers how to use annotation features etc.
 - **Considering the ability/capacity of your clients is crucial**
- There are shortcomings. There are no guarantees that there isn't someone sitting off camera.
 - Dean Burrell, founder of Burrell Dispute Resolution, suggested a tactic he uses to deal with this issue: asking the parties to scan the room every so often to confirm no one else is there.
- Also, no guarantee that it is not being recorded.
 - But this is a concern with any other mediation or arbitration with phones!
- It is not perfect, but we are trying to make sure that everything is as secure as possible. Ask all parties whether there is someone else in the room, and not to record the session.
- Using pre-hearing conference to help familiarize clients and counsel with zoom (see below)

Using Zoom in your Arbitration Practice:

- Arbitration is supposed to be fast, cost efficient, flexible. Online rooms are an additional tool!
 - Modern arbitrator can use technology to stand out amongst your peers.
 - This is a simple online tool that has many features available.
 - We can market ourselves as having the ability to continue to push matters forward even during this difficult time.
- [CPR Rule 9.3](#) initial prehearing conference, you could add a video conference capability to familiarize yourself with the online capability of those parties and advocates (see how familiar they are), as an opportunity to speak to them about using this method.
 - So, switch from an audio/phone call to a video conference for this initial prehearing!
- Form sharing; you can complete forms with the parties with the screen sharing. (Question from Michele Riley)
- Demonstration of a witness hearing

Using Zoom in your Mediation Practice

- What cases are suitable for online mediation? Mediation skills should be there already; this type of tool should be an addition to the tool kit of an experienced mediator.
- Easy to set up documents and type up what the goals are and the agenda
 - Annotation features, including white board, polls, share screen.
 - You can pass control and have someone else type, you can use different colors for each person.
- Documents you want to share should be open on your computer before you begin your session to make access simpler.
- Must be a little more conscious about time when online than when in a physical space.
- When you have a breakout room you can “door knock”, it is too intrusive to come in without!
- Make parties aware of the one second delay
- Sometimes due to a lack of bandwidth, you may need to remind parties to shut down everything except the zoom app, but leave email open or phone if that is your Plan B in the event of lost wifi.
- Use other scheduling devices such as doodle
- Demonstration of a mediation online with [Giuseppe Leone, founder of Virtual Mediation Lab.](#)

Questions during Q&A

- Can you disable the private chat so that a party cannot coach the witness? Yes you can. You can also decide that the private chat is not saved. In most settings you would disable the private chat, to protect against interferences.
- Zoom has added paid feature to create a voice to text transcript of the audio recording, that is available. It is a third-party provider that transcribes the audio from the video recording.
- You can have a court reporter invited and produce a transcript, would want to make sure that that person had good sound quality. Can it be displayed during the hearing? We do not know, but the technology probably exists to see the LiveNote transcript.

A recording of the training will be available on CPR's new resources page, [ADR in the Time of COVID-19](#).