

Help Your Client Be More Comfortable With Mediation (Version 2: Zoom/ Virtual Mediation)

Here's a template that attorneys can provide to clients prior to an online Zoom mediation to make the client more comfortable during mediation and let them know what to expect.

Dear _____ [Client]

As you know, we are scheduled for mediation by Zoom (online) with _____ [name] on _____ [date]. We are scheduled to start at 9:00 am and the online session may continue all day, until at least 5:00 p.m., if needed, in an attempt to settle all issues in your case.

I've included a few of the most common questions about what will happen on your mediation day below, but please let me know about any other questions or concerns you have about the mediation. I want you to be as comfortable as possible with this process so we have the best chance of resolving issues that day.

Preparation for online/ use of Zoom. I need to know if you're familiar with Zoom and use it regularly, or if we need to practice with Zoom ahead of time. Please let me know your comfort level with the Zoom platform.

At a minimum, you will need the following:

- A working computer or laptop. While Zoom can be accessed through your cell phone, a cell phone is not very convenient for a long Zoom session. You will need to hold the phone steady, at least while we're meeting with the mediator, and on a cell phone, you probably won't be able to see both your attorney and the mediator at the same time, which makes communication more difficult.
- You need an excellent internet connection. A hardwired (plugged into the wall) connection is preferred as it's not subject to lapses in wifi coverage. This is another reason using a cell phone isn't your best option.
- You must be in one location, even if using a cell phone. You cannot be driving or in a vehicle, or be outside or walking around. Please be in your own house or office for the entire session.
- No matter how you are accessing Zoom, by laptop or cell phone, we need to be able to see you on video to make the mediation more successful. Just calling in on a cell phone won't work well for a true online mediation session.

Please let me know if you want to do a practice Zoom session before the mediation date.

Will I be reimbursed by the other side for the mediation fees I paid? Maybe. Those fees might be discussed as an issue to be resolved at mediation, in the same way we talk about attorneys' fees possibly being awarded to one side or the other.

Who will be present online with us? Can I bring someone as support? Please check with me before bringing or having any other person in the room with you while you are online for the mediation. Most mediators are not opposed to an additional, important person being there with you, but only if we ask ahead of time and notify the other party who you want to bring. If it

applies, we may have a business evaluator, CPA or financial advisor available to provide information to us during all or part of the meeting. I can arrange to give that person the Zoom login information. If you want to have a new significant other, or a parent, with you during the session, that always needs to be discussed with me and with the mediator ahead of time, as the mediator may not want an outsider there.

Will I be sitting there looking at the other party on my computer all day long? No. Zoom gives the mediator the option to open up separate “Breakout Rooms”, so you will not see the other party or attorney, and they won’t see you. We will be in separate online conference “rooms”. The mediator will go between the two “rooms”. When the mediator leaves our “room”, we will have privacy to talk confidentially. The mediator will leave our area and let us talk privately any time we ask.

Do we get breaks? Yes. While the mediator is meeting with the other party in the other Breakout Room, we will be able to take breaks and you can eat or walk around while waiting. If the mediator needs us, we will be texted or emailed to return to the room.

Will we sign final documents at mediation? Will I be divorced that day? Usually, the final documents necessary to present to the court will NOT be signed at the mediation session. Those are prepared later, after we reach agreements, because those documents are so detailed. You will not be divorced at the end of the mediation day. Your divorce is not final until the judge signs final documents.

If we don’t sign final documents that day, then what happens if we reach agreements? The mediator will prepare a written Memorandum of Agreement (MOA). It will have the highlights of your agreements listed, and if you agree, you’ll sign that MOA indicating that you’ll be bound to those agreements. The goal of most mediation sessions is to reach binding agreements on most or all issues, and make sure that neither party tries to back out of the agreement later. If you aren’t sure about agreeing to something, then you can always say that during the mediation session, and you will not be forced to sign anything. Please do not sign anything at this session unless you intend to be bound by that agreement.

If we are able to sign a MOA on the day of mediation, it can be signed by printing at your home, signing, and sending the signature page back, or the documents can be sent electronically, through DocuSign, for you to review, sign online, and send back.

Once there is an MOA with agreements, that document will be used by both attorneys to prepare the final documents for the judge to sign. Those final documents usually include a Decree of Dissolution of Marriage, a Property Settlement Agreement, and if you have children, a Parenting Plan. The final documents contain more detail about your agreements, and have boilerplate provisions that could be necessary to enforce or define your settlement later.

Will I be under a lot of pressure to agree to things? The goal of mediation is to reach agreements, and agreements are voluntary. The mediator has no authority to force you to accept or sign anything. The mediator may make suggestions about what you should do, or whether a proposed solution is as good as you might get in court, but those are only suggestions. I will

also be advising you about the proposals and whether an agreement is in your interest. If your mediation session is taking place very shortly before your trial date, you will feel more pressured than usual, but that's because you will shortly be going to trial. You have a chance in the mediation session to "set your own fate" by reaching agreements instead of having a judge rule, but it's always still your choice whether or not to agree.