



Sotomayor Law

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Mediation, Arbitration and
Business Dispute Services



"Remote" Mediation - Not Just for Pandemics?

Mediation is a human-centered process of resolution. Whether the party is a giant corporation or a single individual, problems arise and are resolved through people. The emotional connections, relationships, and trust that are the basis for any deal usually demand in-person contacts.

But this is 2020, and business has decentralized, internationalized, and exploded into the "cloud." People enjoy new freedom to work remotely from anywhere. Business travel is expensive and time-consuming.

We have been using technology in mediation for a long time. Briefs are mostly e-mailed. Large exhibits are shared through cloud storage services like Dropbox. Participants bring PowerPoint presentations on flash drives. Settlement agreements are generated, transmitted, and often signed electronically. So far this is the technical end of the mediation. What about the vital human connections that make or break the process?

We have long used the telephone for that purpose. Many of my mediations begin well before any of the participants arrive at the in-person session. I like to call counsel to discuss readiness for mediation, expectations about the process, special issues, and potential obstacles to resolution. The connection begins.

Often, parties request permission to participate in the session by phone. These days, many do not even ask. The efficiency and convenience are of paramount importance, especially for those who are completely prepared on the case and who regularly participate in mediations.

Today, in our business world, there is near-universal access to clear, crisp video conferencing on our desktop and laptop computers, as well as our mobile phones. Clients and counsel can "sit by the phone" pretty much anywhere because today the "phone" sits by us.

As more and more cases are mediated, and more "virtual" offices are created, attorneys and parties, while cognizant of the need for face-to-face interaction, are looking for more efficient ways of mediating cases. Many in-person mediation sessions are followed by days, weeks, or months of continued mediation by



phone anyway.

Which brings me to how well prepared we are to handle mediations seamlessly and efficiently during the current coronavirus pandemic while pretty much everything else has ground to a halt. Or even after the pandemic passes into history.

Our office is using Zoom, an application that allows any number of people to see and hear each other on computers and mobile phones. Zoom allows for separate meeting “rooms,” in which each party and their lawyers (or other participants as desired) can confer privately. The mediator can go from “room” to “room” or create other “rooms” for private talks. The participants can also share and discuss videos, PowerPoint presentations, and other documents. To participate in the mediation, all each participant needs is an internet-connected computer with a camera and a microphone, or an iPhone or Android.

The flexibility of this solution has tremendous potential for mediation, even when we return to “normal” “social distancing.” Meeting in this way might allow those uncomfortable being in the same physical space as their opponents to experience a joint session with a more secure feeling. No dodging each other at the elevators. And, those with trouble hearing and seeing participants far across a conference room might find this platform to be a vast improvement in their meeting experience.

Videoconference mediation is a close second to the in-person meeting that enables vital human connections that are key to getting deals done. It meets current requirements to prevent the spread of disease, and it meets a lot of requirements of those who are unable to travel for a world of reasons.

I confess it does not offer the same feeling as a hug. We need more of those than most of us will admit. Stay well in these trying times.

About Rande Sotomayor

Rande S. Sotomayor is a Los Angeles-based mediator with 35 years of commercial litigation and dispute resolution experience, now specializing in business, real property, employment, personal injury, and insurance disputes.

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