

The Future is Online – Why You Need to Offer Online Dispute Resolution Services

By Susan E. Guthrie

In today's fast-paced world, clients are increasingly looking for convenience and efficiency in all areas of their lives – including when it comes to dispute resolution. No more do scheduling, traffic, child care and geographic location need to influence the conduct of a mediation session. Online dispute resolution, through various electronic means such as video conferencing and messaging, is becoming the norm as our lives are more and more lived out through our devices. Today's mediator needs to consider adding online services to their practice or risk being left behind.

The advantages of mediating online are obvious. It is the ultimate in convenience. Clients need not leave their home or office in order to attend their mediation session and all participants can be in separate locations. This separation can be an added benefit in highly emotional matters allowing the parties to work through their issues while maintaining some physical distance. As a family mediator, I have found this to be especially critical in high conflict divorce matters or cases where there is domestic violence. There is safety and a sense of empowerment that comes with the distance provided by the online format, but these disputants are still able to avail themselves of the benefits of mediation when perhaps they would not have been able to if the mediation were to be conducted in person.

Another accessibility issue addressed by online mediation arises when due to a physical handicap, a party is challenged or hampered in attending in person mediation sessions. I once had a client who was a quadriplegic and due to the strain of travel to my office for his divorce mediation sessions, he started each mediation already exhausted and challenged to undergo the rigors of the actual mediation. By using video-conferencing, this client was able to attend the mediation sessions from his home and was much more capable of maintaining his stamina throughout the proceedings.

Advantages specific to the professional mediator are significant as well. First, the overhead for adding online services to your practice is extremely low. The cost of a professional membership for a video-conferencing program such as Zoom.com or GotoMeeting.com is approximately \$25.00 per month. Because the mediation participants are not physically in the same location as their mediator, there are additional programs needed to effectuate the process, such as a secure document portal, think Dropbox.com or Google Docs, and a program for clients to execute documents and agreements will be needed as well, such as DocuSign.com.¹ The cost of these programs is negligible and with rare exception, these nominal expenses are the only overhead for maintaining an online mediation practice.

With the addition of online services, a mediator instantly expands their potential client base to include clients outside their geographic area. My personal experience with online mediation services started a few years ago when, after 26 years of practice in Connecticut, I moved across the country to California. In order to continue to assist my Connecticut clients, I

¹ The reference to various online providers in this article is merely for reference sake and is not intended as a recommendation or review of the mentioned online services provided herein.

started working with couples using the online format and was able to continue to capitalize on my experience and referrals in Connecticut despite the more than 3,000 miles that separated me from my former practice. Since then I have again relocated to Chicago and I now maintain a fully online practice on both coasts and have mediated divorce cases with clients in not only California and Connecticut, but also in France, Canada and across the United States. None of this would have been possible without embracing the online platform.

Now, it would not be fair to fail to mention that there are issues with online mediation as well. However, they can be minimized or eliminated with the proper preparation. When I do trainings or present to professionals regarding the implementation of an online platform, the top three concerns that I hear are: 1.) it's too different; 2.) the technology scares me; and 3.) it loses the personal touch. These are all valid concerns but in actual practice, many of these issues are easily minimized or are not in fact, issues at all.

The first objection that is most often raised by professionals is that the practice of conducting mediations via video-conferencing is just too outside the box – it's "not how we do it". But is this true? Yes, traditionally mediations are conducted in person, usually in a conference room setting, but today more than 64% of companies have video conferencing setups for their businesses and some experts opine that fully half of the workforce will be telecommuting within 10 years². Clearly, videoconferencing is a popular and commonplace method for communicating and meeting for most Americans, so while it may be different to the mediation professionals, it is not outside the norm for most clients.

The use of new technologies also can cause concern for professionals. Becoming familiar and proficient with the online platform chosen is imperative for the client to have a seamless mediation experience. The good news is that with a little time and practice, this is an easy task. The online program providers offer many different training sources for users including webinars, videos and often, one-on-one training as part of your subscription. It is also a good idea to have a protocol in place for clients in the event there is a technology failure such as power outage or another glitch. In my own practice, I keep it simple, I simply let clients know that they should immediately call in to my land line or cell phone so that we can discuss the problem. Having a plan of action for these inevitable issues greatly minimizes the disruption to the mediation process.

Finally, there is a belief that the mediation process loses the personal touch when the participants are remote. The truth is, most human communication is through the non-verbal and our facial expressions and body language convey a much of what we are thinking and saying without words³. In online video mediations, where the participants' faces are the focus of the visual screen, transmission of emotions and communication are actually often enhanced. The participants can view each other's faces and upper bodies in isolation and emotion is usually easily transmitted through the screen. In addition, because people are remote from each other, often they find themselves more able to express themselves without concern for proximity. In my

² "The Video Conferencing Trends We'll See in 2018", VCDaily.com, Sophie D., March 16, 2018.

³ "Is Nonverbal Communication a Numbers Game?", Psychologytoday.com, Jeff Thompson PhD., September 30, 2011.

experience, people can argue as well as empathize and compromise just as easily through a screen as they can in person, sometimes even better.

Overall, as technology continues to advance, professionals must stretch and embrace new practices to enhance and streamline their practices. This is just good business sense. As I discussed with a colleague today, it wasn't that long ago that email was a new and different mode of communication for those of us who have been practicing for a while, and now most of us could not imagine our practices, or our lives, without it. Using online technologies to assist in dispute resolution is going to be the same phenomena – don't get left behind!



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