

## ONLINE MEDIATION GUIDELINES AND GROUND RULES

Online Dispute Resolution through online mediation can be as effective as in-person sessions if the technology is used correctly. The goal is to replicate, as closely as possible, the experience of an in-person mediation with breakout or caucus sessions. The following guidelines and ground rules are designed to make the online mediation experience as flawless and efficient as possible. Your mediator asks that, before the mediation session, the following is reviewed and the steps outlined are taken to facilitate a successful resolution:

### TECHNOLOGY:

1. Zoom Online Platform. Your mediator uses the online secure platform provided by Zoom.us to conduct your online mediation sessions. Well in advance of your mediation session, please download and install the software and/or apps from Zoom.us, which is necessary to participate in the Zoom online mediation sessions. You will only need to download the free Personal Use Plan software and/or app and open a personal account, or you may download the “Zoom Client” under the “Resources” tab on the Zoom.us landing page. Once you have downloaded Zoom.us, **please familiarize yourself with the operation of the Zoom platform so that you are able to operate the system and participate in your mediation sessions**. Zoom.us has tutorials available at <https://support.zoom.us>. The following security precautions are taken for each mediation: a new and unique Meeting ID and password are generated, as opposed to using a static Meeting ID. The waiting room feature is also enabled, which requires the mediator to admit each participant. These two precautions address the concern of uninvited participants joining the call. We have chosen to opt out of any data centers located in China to avoid risk of data not being secure.
2. Secure Document Transmission. Your mediator uses Dropbox.com as a secure platform for storing and transmitting documents and information relative to your online mediation process. You may utilize Dropbox.com to send and receive all documents relative to your online mediation process. More information can be found at <https://dropbox.com>.
3. Secure WiFi or Ethernet Connection. You will need a strong and secure WiFi or Ethernet (hard-wired) connection for your computer. You may NOT use a public access WiFi connection, such as those available in public spaces and businesses as they are not secure and your information may be at risk in that situation. In addition, a strong internet connection is vital to the proper function of the online videoconferencing. A poor connection will result in a frozen screen and/or audio issues that will significantly disrupt the process.

### CONFIDENTIALITY AND PRIVACY:

4. Privacy and Confidentiality. **Only the people who have executed the Mediation Agreement and Release may be present in the same rooms used**

**by participants during any online mediation session. You must confirm that only those persons are in the room and that you cannot be overheard.**

The provisions of Rule 12 of the Kentucky Model Mediation Rules shall apply to online mediations:

- a. Mediation sessions shall be closed to all persons other than parties, their legal representatives, and other persons invited by the mediator with the consent of the parties.
  - b. Mediation shall be regarded as settlement negotiations for purposes of KRE 408.
  - c. Mediators shall not be subject to process requiring the disclosure of any matter discussed during the mediation, but rather, such matters shall be considered confidential and privileged in nature except on order of the Court for good cause shown. This privilege and immunity reside in the mediator and may not be waived by parties.
  - d. Nothing in this rule shall prohibit the mediator from reporting abuse according to KRS 209.030, KRS 620.030, or other applicable law.
5. **Absolute Prohibition on Recording. You, or anyone on your behalf, may NOT audio or video record any mediation session or portion thereof. In the event that you learn of an audio or video recording of any session, you will take immediate measures to destroy the recording and will not disseminate the recording to any third parties. You further agree that you will not transmit a live or deferred video or audio relay of the online mediation sessions to third parties.**

#### BEST PRACTICES AND TROUBLESHOOTING

6. Interruption Free Zone. Please take all reasonable measures to ensure that you are not interrupted during your online mediation sessions. This includes arranging for appropriate child-care, notifying family and friends of your unavailability and making appropriate scheduling choices.
7. Technology Hiatus. Except for the computer or mobile device upon which you are conducting your online mediation session, please turn off or put on silent any phones, tablets or computers and disable any alert announcements and/or texts for the duration of your online mediation sessions. Please refrain from the use of social media, email and/or internet search engines, other than as may be necessary to conduct the session, during your online mediation sessions.

8. Early Log On. It will be helpful if you will log on to the scheduled mediation session no less than five (5) minutes in advance of the scheduled start time so that any technology issues can be resolved, and your mediation session can start on time.
9. Waiting Room. In order to preserve the neutrality of your mediator under all circumstances, you will enter the meeting each time you log on in a “virtual waiting room” until all parties have arrived. Once all parties are logged on and in the waiting room, you will be admitted into the meeting by your mediator. If all parties are not signed into the waiting room five (5) minutes after the scheduled start time for your mediation session, the mediator will admit all parties who have signed in so that a determination can be made as to how to proceed.
10. Technology Failure Protocol. Despite all best efforts, at times technology may not operate properly and a scheduled online mediation session may not commence on time or may be interrupted. If you are unable to join a scheduled mediation session, please immediately call your mediator at (502) 548-3496 to discuss how to proceed. If your connection to the meeting is interrupted, please attempt to log on again. If you are unable to log back in, please call your mediator at the number above. In the event that the technology issues cannot be resolved in reasonable time, the online mediation session will be canceled and rescheduled as soon as possible.
11. Caucus Failure Protocol. Your mediator will use breakout sessions to meet with you each separately. The Zoom.us online platform allows the mediator to “mute” one participant to the online mediation session while continuing to communicate with the other participant for a caucus. In the event that you are the muted party during a caucus or breakout session between the mediator and the other party and you are able for any reason to hear the communication intended to be private, we ask you to IMMEDIATELY terminate the Zoom.us online mediation session and call your mediator at (502) 548-3496.
12. Respectful Online Communication. Due to the nature of the online forum, it is especially important to allow each participant to finish their comment or statement before responding. In addition, the online format can amplify and exaggerate sound so maintaining a regular speaking voice is important. Finally, please remember that the camera does not always transmit hand gestures or non-verbal cues, so it is important to verbalize all communication during an online mediation session.
13. Your Mediator Entering a Breakout Session. Because there are no “doors” to the breakout sessions, or “breakout rooms” on Zoom, your mediator cannot knock before entering a breakout room. Attorneys are requested to have their cellphones available so that your mediator can text his intent to enter your separate breakout room.

14. Mediator's Physical Location. Your mediator is located at:

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2721 Taylorsville Road,  
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