

Perspective

Video Conferencing and Mediation In the New Normal

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While the news on COVID-19 grows worse and more confusing each day, one thing is clear: We are heading into a period of great uncertainty. No one knows how far the virus will spread, how much our daily lives will be impacted, whether travel and supply chains will be slowed or shut down completely, or how much our most vulnerable may suffer.

We are in the business of mediating complex disputes, and while we anticipate that the in-person participation of key individuals is going to be a challenge in the near future, we believe that the effective use of video conferencing holds promise for keeping mediations on track. In this article, we analyze the benefits of in-person participation, the historical challenges of video conferencing, and simple strategies for overcoming these hurdles.

One of the core principles of mediation and primary strategies of a successful mediator is to have “the



right people at the table.” On a *normal* day, this often involves considerable travel and disruption of routine for the participants. There is method to this madness and that method (and accompanying madness) is now threatened with quarantines, travel restrictions, and increasingly legitimate concerns of being in close proximity of others. In the past few weeks, we have struggled through awkward greetings, post-settlement elbow bumps, as well as reflexive grimacing when someone in a conference room sneezes.

While video conferencing technology has become increasingly commonplace in many business sectors, it is rare and has historically been discouraged in mediation. Recently, we have had several parties in our mediations request to participate by video or change venue to avoid potential quarantine restrictions that travelers might face upon return home. Several large insurance companies have now banned travel and many others have indicated that they are preparing to do the same. One

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