

Virtual Practice and ADR

with

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ZAMANI & ASSOCIATES PLLC

Practice Areas

❖ Adoption

- Domestic/International
- Second/Foster/Step-Parent
- Private/Agency

❖ Assisted Reproductive Technology

- Egg/Sperm/Embryo Donors
- Surrogacy/Gestational Carriers

❖ Family Law

- Prenuptial Agreements
- Custody
- Divorce
- Alimony and Child Support
- Civil Protection Matters

ADR Roles

Trusted Advisors

Negotiators

Mediators

Collaborative Professionals



*Licensed in DC and MD

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Benefits of Virtual ADR

1. Removes Barriers to Participation

2. Lowers Costs

- Eliminates costly travel time, and traffic concerns
- Reduces chance of delayed, missed meetings
- Idle time decreases due to ability to stagger meetings
- Clients save vacation hours, lost pay, and child care

3. Flexibility

- Coordinate multiple calendars with greater ease
- Opens up greater options for meeting times

Benefits of Virtual ADR

4. Convenience

- Ability to present materials, share screens, offer white boards (e.g. minutes, drafts, support calculations etc.)
- Increased communication options through confidential chats
- Enables active participation by parties
- Enables parties to account for/manage childcare more easily

5. Reduces stress and fear

- Reduces heightened emotions and associated lack of trust that occurs in-person interactions
- Posturing decreases
- Safe physical space

Concerns

1. Different Distractions

- Hard to tell if parties are distracted
- Parties may lose focus, hard to discern

2. Confidentiality and Privacy Loss

- Breaches are possible
- Less control over environment
- Sessions could be hacked

3. Technology Disruptions/Failures

- Disrupt flow and efficiency of the process
- Loss of trust
- Backtracking

4. Limited Communication

- Our ability to interpret the non-verbal – the most important form of communication – is limited
- Cannot integrate or acknowledge parties through important gestures

Creating Optimal Virtual ADR Meetings

1. Create a **productive, secure working environment** for yourself

- DO have a dedicated, private space free from distraction
- DO have a satisfactory, secure WiFi connection
- DO have all documents you need in advance and available for easy viewing
- DO account for note taking and simultaneous screen sharing
- DO have a systematic way to keep personal files out of view from camera and screen shares
- DO ensure all participants show face, torso and arms
- DO consider your own day, plan around expected interruptions
- DO turn off notifications and asks clients to do the same
- DO use quiet/in-session signs
- DO dress the part – respect the process and the solemnity of ADR



Creating Optimal Virtual ADR Meetings

2. Provide a **private, confidential** virtual meeting

- DO establish a private environment in your workspace
- DO convey the importance of privacy to parties in advance
- DO document requirements related to the use of your virtual technology (e.g. fee agreement, virtual platform use agreements)
- DO consider what options you will employ *within* your virtual platform (e.g. chats, break-outs, full-group sessions)
- DO test-run and familiarize yourself with your platform prior to use

Creating Optimal Virtual ADR Meetings

3. Memorialize **Expectations Regarding Confidentiality**

- Clients choose to participate, bear some responsibility to foster confidential environment
- Include tech and confidentiality provisions in your ADR engagement agreement including:
 - Agreement to share and store information online or through apps
 - Acknowledgments regarding limitations on privacy, security of platforms/apps
 - Requiring clients to inform you if they have heightened security requirements for any reasons
 - Agreement to use online or virtual platform for calls, meetings, chats, break-outs
 - Identify platforms and virtual technology you may use
 - Requiring clients to download, familiarize self with the apps in advance
 - Requiring clients to abide by prohibitions on recording
 - Requiring clients not to cause (directly or indirectly) purposeful or inadvertent recording
 - Requiring client to alert you if they become aware of a breach of confidentiality or privilege and to destroy any such information of which they become aware
 - Requiring clients to have an interruption-free, private space and respect meeting times
- Parties may share same physical location → discuss ground rules for privacy and in-person interactions

Creating Optimal Virtual ADR Meetings

4. **Discuss platform and tech disruption plans well in advance**

- Explain how clients may download your preferred platform
- Explain the privacy features
- Consider all features you will have enabled and explain why
 - DO have a password
 - DO enable waiting rooms
 - DO consider predesignating waiting rooms to minimize the measurable minutes it takes to get going
 - DO consider whether you will enable chat
 - DO consider whether you will screen share or use a white board
- Describe, offer a practice session on how to use the app
- Acknowledge limitations of the app
- Share plans/instructions in event of technology fail/disruptions
- Prepare back-up plan if WiFi connection fails that is automatic (e.g. conference call in-number for all; share cell phone numbers; reschedule to a pre-set back-up date)

Creating Optimal Virtual ADR Meetings

5. Clear **Communications**

- Send a clear email memorializing meetings
 - Email invitation with link in advance
 - Use a clearly identifiable subject line (uniform for ADR sessions) so you can easily re-forward as needed
 - Confirm meeting the day before and send instructions again on tech fail back-up plans
- Set a clear plan for start of meeting (agenda, timeline for group/staggered starts)
 - Be ready at least 5 min in advance
 - Share timeline in advance, disclose to all
 - Allow for a 15-minute buffer at close of meeting
 - Require all participants to show their video
- Solicit feedback after the meeting on technology
 - Be prepared not to charge for tech failure

Creating Optimal Virtual ADR Meetings

5. Clear Communications Continued...

- Lead by example– stay calm
- Have a clear vision as to how you will conduct your ADR sessions
 - Tell your clients or counsel in advance whether you will meet altogether, or individually, especially at the start of a session
 - Discuss how you will keep minutes or share a screen
 - Explain when you will take breaks and how you will signal them to come back to session
 - Explain break-out rooms and when you will use them
 - Explain any ground rules (only one person talks at a time)
- Plan on regular check-ins with both parties

Creating Optimal Virtual ADR Meetings

6. Meeting on-line is exhausting → **Plan Breaks!**

❖ ADR facilitators are tasked with:

- Taking minutes/notes
- Tending to clients and facilitating their interactions
- Actively listening, reading clients
- Managing technology
- Sharing and reviewing documents
- Monitoring confidentiality
- Managing expectations and emotions in the virtual space
- Facilitating resolution

**What issues are you encountering in your practice?
Discussion welcome!**

Thank you for your participation.

Please email any additional questions to:
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