

# FOSTER SWIFT

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Virtual mediation is the process in which parties can settle their disputes online through two-way interactive video conferencing without the need for in-person appearances by the parties or the attorneys. With the security and functionality enhancements, online video-conferencing is useful to you and your clients when face-to-face mediations are restricted. As people become more comfortable with its usefulness, cost-effectiveness and user-friendly layout, it will continue to be a staple of mediation practice and court proceedings into the future.

Although we all know there is nothing like “being in the same room” with participants, virtual facilitations are a very satisfactory option to face-to-face facilitations. Full-day mediations are possible with litigants and counsel “remoting in” from multiple locations. This includes the unique ability for you to have joint sessions, go into separate, private meetings through virtual breakout rooms with the mediator, or with individuals, and to share documents on the screen in real time.

## BENEFITS:

- Proceed with mediation, regardless of geographical location of participants
- Minimize travel time and costs
- Reduce scheduling difficulties
- Ease of sharing documents and other materials
- Greater accessibility for clients to reach mediators

## HARDWARE & SOFTWARE USED:

- A computer or WiFi enabled mobile device
- Zoom: Software used to allow parties to communicate via videoconference. It also allows screen sharing. Available for free download at <https://zoom.us>
- DocuSign: Downloadable software used to execute binding settlement agreements
- Dropbox: Used to exchange files between parties

## RECENT FEEDBACK:

*“I’m only disappointed that I haven’t utilized you sooner. You grasped the complexities of the case and the potential juror appeal and analyzed the risks as to both parties with wisdom.*

*A fellow MAJ (Michigan Association for Justice) Sustaining member is a rare thing to find as a facilitator and I believe that now is a time of opportunity for the prepared in the midst of chaos.”*

-Plaintiff’s Counsel, Dated January 27, 2020



Fred Dillely is a sought-after facilitative mediator, completing about 100 mediations each year with a very significant success rate and a large number of return users; working on a variety of complex and difficult matters ranging from business disputes to divorce cases to personal injury matters. He brings more than 35 years of experience to his facilitative mediation and arbitration practice and is highly regarded by his peers as evidenced by his election to the American College of Trial Lawyers, the National Academy of Distinguished Neutrals and the American Board of Trial Advocates. If you have questions about how to use remote conferencing for your arbitration and mediation matters, contact Fred Dillely at 616.726.2247 or by email at [fdillely@fosterswift.com](mailto:fdillely@fosterswift.com).



## Virtual Mediation Through Zoom

Although there is no substitute for being in the same room during mediation, our current situation is challenging us to find alternative solutions to resolve legal disagreements. Video and online alternative dispute resolution were growing even before COVID-19, and are now the best solution when asked to follow the recently updated “Stay Home, Stay Safe” order from Governor Whitmer. To participate in video assisted online mediation with Foster Swift, all that is required is a free Zoom account.

In setting up Zoom mediation, Foster Swift is able to follow all the typical processes of traditional mediation even though each individual will be joining from a different location. Initially, the mediator will reach out to the parties to find a common time to hold the meeting. A Zoom meeting link will be shared with each participant to join at the designated time. In this meeting, each individual will be able to join via video stream, and the mediator or any party also has the ability to share their screen with the group to potentially better explain some language or some situation dealing with the case. Further, the mediator is able to use *DocuSign* to execute binding settlements and *Dropbox* for sharing documents amongst parties.

One major benefit of using Zoom to provide mediation services is the ability to create ‘breakout rooms’ where certain groups of participants are able to meet and confer the matter privately, then rejoin the meeting. This allows private conversation with colleagues or attorneys, as well as caucuses with the mediator.

Zoom has many security features for in-meeting protection, from requiring passwords prior to joining the session, to requiring the host’s presence before the meeting can start. All Zoom online meetings can be protected with end-to-end encryption and will notify all participants if the session is being recorded. This ensures only the desired individuals are allowed to enter the meeting and the data gathered is secure in the encrypted Zoom cloud. Further, Zoom protects users’ privacy by only requiring the most basic information – name and email – to create an account. For more Zoom security details, visit <https://zoom.us/security>.

This remote online video-conferencing platform will be useful to you and your clients during this time when face-to-face mediation is restricted. And it will continue to be a staple of mediation practice and court proceedings into the future.

Here is a Zoom video explaining breakout rooms: <https://bit.ly/2xMgNRW>

### ASPECTS OF ZOOM MEDIATION/ADR:

- Host (mediator) to provide meeting link to all parties participating
- Ability to screen share for each participant to review documents
- Mediator can use *DocuSign* to execute binding settlements
- Participants can use *Dropbox* to share documents
- Mediator has ability to create breakout rooms for private conversation
- Zoom security ensures data is safe and privacy is maintained