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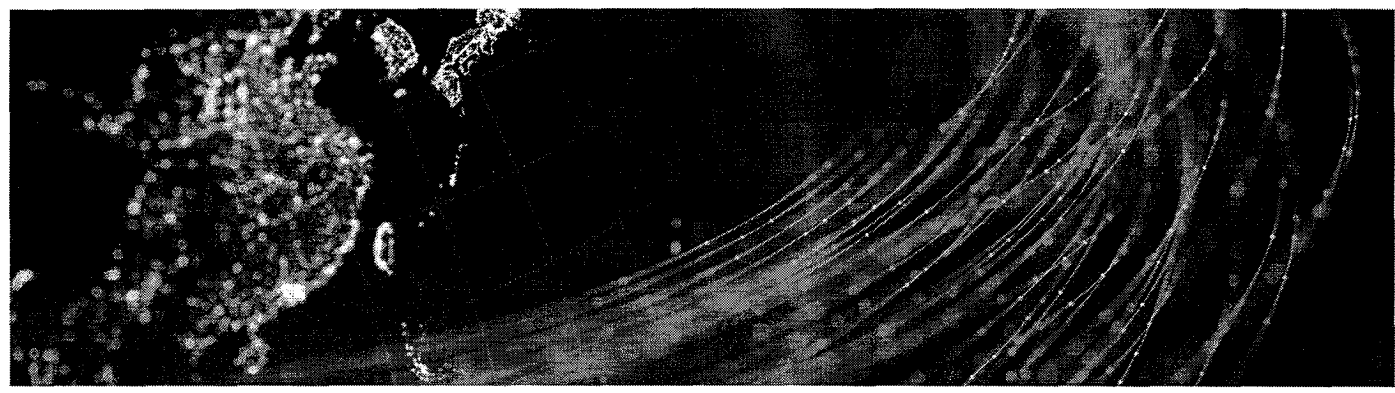
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## Online Mediation Past, Present, and Future


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Let us first go back and recall those pre-COVID days when mediation meant traveling to a jointly agreed-upon location to gather in rooms in search of a resolution. Recall the travel, the parking, the elevator, the reception area, and the windowed or windowless rooms. At that time, online mediation, if it was considered at all, was a somewhat silly notion that clearly could not and would not work. With virtual uniformity, the dispute resolution community agreed that online mediation could not create the atmosphere needed to put the parties in the correct frame of mind to focus on the dispute at hand and resolution possibilities. It was roundly agreed that the urgency and dynamics created in cramped rooms with face-to-face confrontation were necessary and simply

 Would not be replicated in a virtual environment.  
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The use of exhibits and other documents must be considered in advance and utilized flawlessly during the mediation. The mediator must also be ready for occasional technical difficulties and be ready with workarounds when they arise. In short, the online mediator must maintain all pre-COVID skills while adopting and honing new skills mandated by the online experience.

Here is more on the status of online mediation:

- Data from the U.S. Southern District of New York has shown that virtual mediation has similar settlement rates to in-person sessions for many case types, including contracts and employment disputes. USDC, *SDNY Report of the Mediation Program*, <https://www.nysd.uscourts.gov> (<https://www.nysd.uscourts.gov/sites/default/files/pdf/Mediation/Mediation%20Program%20Annual%20Reports/Annual%20Report%202022.pdf>)
- Mediators are reporting nationally that 70% of their mediations are virtual and 30% are in-person, even after COVID. *New Important Developments in Mediation*, Lakeside Mediation Center, <https://lakesidemediation.com/2024/06/17/new-important-developments-in-mediation/#:~:text=2.,engage%20parties%20in%20such%20cases> (<https://lakesidemediation.com/2024/06/17/new-important-developments-in-mediation/#:~:text=2.,engage%20parties%20in%20such%20cases>)

Stated positives of online mediation include:

- Cost savings, increased efficiency and flexibility, enhanced accessibility, increased participation from decision-makers, reduced emotional intensity, greater comfort and safety

Stated negatives of online mediation include:

- Lack of personal connection, technical difficulties, security and privacy concerns, distractions, reduced commitment, and power imbalances due to technology

While information on the future of online mediation is sparse, almost every mention discusses its growth, and it seems no one is projecting decline. The consensus appears to be rapid growth in what is already a multibillion-dollar industry, driven by technology advances, lower costs, and broad accessibility. We have been told repeatedly that AI is going to change everything, and online mediation is no exception, although just how that change will occur is a bit vague. One thing that is clear, though, is that online mediation is here to stay. Companies such as eBay, PayPal, Amazon, and Google have adopted online mediation platforms, and other companies are moving in that direction. One thing is certain: we are never going back to pre-COVID days. Online mediation is the future.



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