

# Remote Advocacy

## Resource Guide

**Karl Bayer**  
*Mediator, Arbitrator & Court Master*  
karl@karlbayer.com  
www.karlbayer.com  
www.disputingblog.com

**Sherri Wirth**  
*The Exhibit Company*  
swirth@theexhibitcompany.com  
www.theexhibitcompany.com

**Tracy McCormack**  
*UT Law Alumni*  
TMcCormack@law.utexas.edu  
www.law.utexas.edu/alumni  
www.karlbayer.com/our-team

# RESOURCE GUIDE

## Mediation and Arbitration

- [AAA-Virtual Hearings](#)  
American Arbitration Association resources about virtual hearings.
- [ABA Committee on Special Masters Seeks Feedback on Covid-19 Related Checklist](#)  
Karl Bayer provides feedback on the draft “Checklist for Making Use of Special Masters to Help Deal with the New Normal.” Article includes a link to a copy of the ABA Committee’s Checklist.
- [ADR in the Time of COVID-19: How Neutrals & Advocates Can use Zoom for Mediations & Arbitrations \(Video\)](#)  
90-minute online training session designed to teach neutrals and advocates how to use Zoom to effectively conduct arbitrations and mediations.
- [Arbitration and Mediation in the Time of Coronavirus by American Bar Association \(Video\)](#)  
Three major Alternative Dispute Resolution (“ADR”) providers discuss how they are internally handling the COVID-19 pandemic.
- [Hogan Lovells Protocol for the Use of Technology in Virtual International Arbitration Hearings](#)  
Guidelines on using technology to help parties effectively adjudicate virtual international arbitration disputes.
- [ICC Guidance Note on Possible Measures Aimed at Mitigating the Effects of the COVID-19 Pandemic](#)  
Overview of measures aimed at mitigating the effects of COVID-19, including a virtual hearings checklist.
- [JAMS-Key Steps for Mastering Virtual Mediation by Bruce Edwards](#)  
Step-by-step guide on how to conduct a virtual mediation from writing a pre-mediation letter to the use of virtual signatures.
- [JAMS Virtual Mediation & Arbitration](#)  
A variety of articles and podcasts on virtual mediation and arbitration.
- [Law in the Time of Covid-19 by Katharina Pistor](#)  
An in-depth look into the effects of COVID-19 on the domain of lawyers. Chapter 15 offers insight on dispute resolution in pandemic circumstances.
- [NEW: CPR’s Annotated Model Procedural Order for Remote Video Arbitration Proceedings](#)

International Institute for Conflict Prevention & Resolution guide addressing selection of a videoconferencing platform, preparatory activities, requirements during an arbitration proceeding, documents, witness examinations, and enforceability.

- [Patent Mediation Guide by Federal Judicial Center](#)

Comprehensive guide produced by the Federal Judicial Center that addresses some of the mechanics, timing, and other considerations for effective mediations while managing patent cases.

- [Seoul Protocol on Video Conferencing in International Arbitration](#)

Guide to best practices for planning, testing, and conducting video conferences in international arbitration.

- [Remote Hearings and Depositions in Commercial Arbitration](#)

An explanation regarding arbitrator authority to use remote technology to move arbitration proceedings forward as well as relevant rules and cases.

- [Remote Mediation: The Good, the Bad, and the Practical by Class Actions & Derivative Suits Committee \(Podcast\)](#)

A discussion with mediator Judge Jay Gandhi (Ret.) regarding remote mediation during the COVID-19 pandemic. This podcast examines how remote mediation works, some potential benefits and pitfalls, and a few of the circumstances where remote mediation should be considered.

- [The Soft Underbelly of Mediating Online by Lee Jay Berman and Gene Roberts \(Video\)](#)

A conversation about mediating online with topics ranging from visual cues to properly advocating through the screen.

- [Virtual Mediation: Give It A Chance by Jerry Spolter](#)

This article discusses the ways virtual mediation may be better than in-person mediation and offers observations and a description of the overall mediation process.

- [Virtual Arbitrations and Mediations Are Here to Stay by Steven Gilford](#)

JAMS mediator and arbitrator Steven Gilford examines the benefits and challenges of virtual ADR.

## **Additional Resources:**

- Mark L. Shope, *The International Arbitral Institution Response to Covid-19 and Opportunities for Online Dispute Resolution*, 13 CONTEMP. Asia ARB. J. 67 (2020).

This article discusses arbitral institutional reactions to the global COVID-19 situation and specific arbitral institutional rules relating to virtual interactions, protocols, and other Online Dispute Resolution (“ODR”) situations.

- Robert A. Creo, *Zoom, Zooming, Zoomed into the Future! Moving to Optimist from Skeptic on Online Mediation*, 38 *Alternatives to High Cost Litig.* 119.

This work includes opinions from mediators in the field who are in the process of transitioning to online mediation and provides helpful advice regarding making the change to an online format.

## Multi-Lingual and International Resources:

- [“Back to the Future”: Video Remote Interpreting and Other Language Access Solutions in the Time of COVID \(Video\)](#)

A review of Video Remote Interpreting (“VRI”) and how it can provide aid in international video conferences.

- [Video Remote Interpretation Solutions and Resources for Courts by NCSC](#)

Resources for identifying and implementing various teleconferencing platforms to support remote interpretation services in response to the COVID-19 pandemic.

## Court Proceedings

- [ACTL-Conducting Appellate Arguments by Use of Remote Video](#)

This article provides extensive guidelines on conducting remote arguments while maintaining a traditional courtroom atmosphere.

- [ACTL-Conducting Nonjury Trials by Use of Remote Video](#)

An extensive overview of conducting nonjury trials with explanatory guides on how to plan for trial.

- [ACTL-Conducting Remote Hearings by Use of Remote Video](#)

Recommended best practices for conducting remote hearings.

- [Courts Will Need to Adapt to the Coronavirus Crush by Bridget Mary McCormack and David Freeman Engstrom](#)

An overview regarding the need for the court system to adapt ahead of a likely wave of disputes following the COVID-19 pandemic.

- [Managing Evidence for Virtual Hearings \(JTC Quick Response Bulletin\)](#)

Guide on how to handle evidence in a virtual hearing.

- [Observing Online Courts: Lessons from the Pandemic by Elizabeth G. Thornburg](#)

This article examines the results of an observational study of 305 hearings in Texas courts and includes interviews with judges, lawyers, and Court Appointed Special Advocates.

- [Oral Arguments via Zoom for Lawyers by Blake. A. Hawthorne](#)

The Clerk of the Supreme Court of Texas discusses using Zoom for oral arguments before the state's highest court.

- [Plan for Online Jury Trials by Dr. Ken Broda-Bahm](#)

This page provides an overview of online jury trials.

- [Remote Appellate Oral Argument A Checklist for Judges & Justices by CCI/COSCA](#)

A comprehensive list of tips for justices and judges holding remote oral arguments at the appellate level.

- [Texas Judicial Branch Information Page for Electronic Hearings](#)

A Texas Judicial Branch resource for conducting remote hearings. This site provides guidance regarding Zoom set up, features, and how to stream cases on YouTube.

- [Telephonic Oral Arguments: Tips for Advocates by Benjamin Glassman](#)

This article provides helpful tips on how to conduct an oral argument over the telephone, address document overload, and speak to the court without visual cues.

- [US Court of Appeals for Federal Circuit Order for Conducting Oral Arguments](#)

March 16, 2020 federal circuit order regarding conducting oral arguments telephonically.

### **Additional Resources:**

- Doug Van Epps, *Assessing the Role- and Purposes- of ODR in Our Courts*, 26 Disp. Resol. MAG. 13 (2020).

An overview of the courts' use of ODR including various goals and considerations.

- Tracy W. McCormack, *Remote Advocacy in a Nutshell (Tentative Title)*, West Academic.

The definitive guide to the brave new world of remote advocacy for the trial and appellate practitioner—as well as law students and recent law grads. Full of keen insights and practical practice tips to help you be the best advocate you can be in remote proceedings of all types, including remote courtrooms (hearings, bench and jury trial), arbitrations, mediations, appellate practice, depositions, and other forums. This book combines the best current research on persuading audiences over remote platforms combined with tips on conquering the technical aspects of using remote platforms to your fullest potential. A useful tech section covers the basics to more advanced applications. Based on extensive trouble-shooting sessions and discussions with judges and lawyers in remote proceedings, this is the essential guide for remote

proceedings now—while recognizing the likelihood that we will continue to advocate regularly on a remote basis even after the current pandemic has abated.

## Remote Advocacy and Examples

- [First Remote Jury Trial Shows Potential for Widespread Use](#)

An overview of the first remote jury trial conducted in the United States on May 18, 2020.

- [Judge Ferguson Zoom Training Session \(Video\)](#)

This video provides guidance on how to use Zoom and discusses recent court updates regarding lifted location restrictions and technology capabilities.

- [Jury Selection Via Zoom: First Miami-Dade Case is a Glimpse of Court in the Coronavirus Era by Haley Lerner](#)

A retrospective discussion of what went right and what could be improved following virtual jury selection by a Miami court.

- [Mastering “Zoom Advocacy”](#)

Guidance on how to advocate over Zoom including how to set up Zoom, remote hearing etiquette, and client and witness training.

- [Remote Video Depositions and Examinations for Discovery](#)

Helpful tips on how to plan for remote video depositions and discovery examinations.

- [Texas Court Holds Jury Trial in Traffic Crime Case Over Zoom](#)

A discussion of how remote jurors handled attending a virtual jury trial that was held by the Honorable Judge Chu in a Travis County, Texas Justice of the Peace Court.

## Additional Resources:

- Lyle Moran, *Business as [Un]Usual: Will the COVID-19 Pandemic Fundamentally Remake the Legal Industry?*, 106 A.B.A. J. 34 (2020).

This article provides an overview of some changes to the practice of law caused by the COVID-19 pandemic.

## More Zoom Tips

- [17 Zoom Meeting Video Tricks for Looking Good- Attendees](#)

Helpful tips and tricks on improving the quality of your Zoom video.

- [How to Pull Off a Professional Video Call from Home by Kevin Purdy](#)

Guide to creating a professional environment for your video call.

- [The 10 WORST Zoom Habits \(Video\)](#)

Comical advice regarding what NOT to do while using Zoom.

- [Web-Conferencing? Don't Let Your Energy Zoom Away by Dr. Ken Broda-Bahm](#)

Tips and tricks for avoiding Zoom fatigue.

- [ZOOM 101: Zooming with Zoom by ABA Judicial Division's Court Technology Committee \(Slide Presentation\)](#)

Step-by-step guide to using Zoom and its features with a focus on the legal field.

## **Other Interesting Sources for Remote Practice**

- [Media Advisory Regarding October Teleconference Argument Audio](#)

Discusses the Supreme Court of the United States' decision to hear oral arguments by telephone conference and air the proceedings on cable network C-SPAN.

- [Providing Technology to Litigants Who Don't Have Access to It](#)

Several counties across the United States are now providing videoconferencing kiosks to litigants who may not otherwise have access to technology.

- [Virtual Trials: Necessity, Invention, and the Evolution of the Courtroom by Susan A. Bandes and Neal Feigenson](#)

An in-depth analysis of the effects of virtual trials on what is traditionally understood as the court system.