



Ministry of the Attorney General  
Court Services Branch  
P.O. Box 9249, Stn. Prov. Govt.  
Victoria, BC  
V8W 9J2

sent via email: [Jenny.Manton@gov.bc.ca](mailto:Jenny.Manton@gov.bc.ca)

June 23, 2023

Attention: Jenny Manton – Assistant Deputy Minister, Court Services Branch

Dear Ms. Manton:

**RE: User-Centered Approach to Virtual Court Interfaces and Justice Hubs**

On behalf of the Access to Justice Committee and the Court Services Committee of the Canadian Bar Association, BC Branch (CBABC), we thank you for your continued engagement with CBABC regarding the Court Services Branch’s initiatives underway to modernize the court system. We are pleased to see efforts to modernize processes such as counsel credentials, court scheduling and filing, and virtual [chambers appearances](#),<sup>1</sup> as well as the [collection of user-centered data](#) to support innovation and access to justice.<sup>2</sup>

We wish to bring to your attention an issue that lies at the intersection of these issues: the design of user-centered virtual court interfaces. When virtual courts were first rolled out broadly in response to COVID-19, they were reactively—rather than proactively—designed: as an immediate necessity, business videoconferencing technology was quickly adapted for use by courts.

Now that this urgency has largely passed, we write to encourage the Court Services Branch to consider adopting an intentional and user-centered approach to the design of our future virtual courts. We believe that this would not only promote access to justice, but also create a more positive user experience for all court users across B.C. and thereby strengthen public confidence in the court as an institution. In addition to making justice more accessible for litigants, a user-centered virtual interface would assist to increase adoption of [virtual hearings](#) amongst the judiciary by addressing their concerns and improving their user experience.

As an example of user-centered virtual court design, we wish to direct your attention to an initiative conducted by JUSTICE, a U.K. law reform organization, which involved extensive testing of virtual court platforms through sequential virtual mock jury trials.<sup>3</sup> In this experiment and others like it,<sup>4</sup> user feedback has been collected and used to improve the virtual hearing platform. The results in the JUSTICE experiment were impressive, with participants rating their user experience and the perceived fairness of

---

<sup>1</sup> See also CBABC Submission to Supreme Court of British Columbia, “[Virtual Chambers for Short Matters](#)” (October 31, 2022); see also British Columbia Ministry of Attorney General, “[Court Digital Transformation Strategy 2019-2023](#)”.

<sup>2</sup> CBABC Submission to Ministry of the Attorney General, “[Implementing Court User Experience Surveys to Support Innovation and Improve Access to Justice](#)” (October 12, 2022).

<sup>3</sup> See JUSTICE Website, “[JUSTICE COVID-19 Response](#)”.

<sup>4</sup> See e.g. David Tait & Vincent Tay, “[Virtual Court Study: Report of a Pilot Test 2018](#)” (2019).

the proceeding highly.<sup>5</sup> It is clear modest changes can produce great dividends in terms of enhancing user experience.

### **Why Does Virtual Court Interface Design Matter?**

When designed based on the feedback and experience of court users, [virtual courts](#) can be a powerful tool for promoting access to justice. Designed the wrong way, however, they can create new barriers or exacerbate existing barriers to accessing justice.

To improve accessibility and user experience of virtual court interfaces, we recommend the Court Services Branch consider the following three aspects of the virtual court experience:

#### **1. The architecture of a virtual courtroom**

Online proceedings by Microsoft Teams or Zoom lack the sense of occasion experienced by those appearing in physical courtrooms. Moreover, the lack of any intentional court-focused design can generate confusion for court users. For example, as participants set their own “labels” for the hearing and appear in random (and potentially shifting) locations on the screen, it may be difficult for a first-time court user to discern who serves what role in the hearing. Indeed, there are many stories of people appearing in virtual court from inappropriate locations (such as while performing surgery<sup>6</sup> or driving a car<sup>7</sup>), or with inappropriate dress, screen names, or “filters” (such as the infamous “Zoom cat” lawyer).<sup>8</sup> These issues are surely as frustrating for



Screenshot taken from the Ontario Bar Association’s Zoom-mediated “[Remote Criminal Trial Demonstration](#)” (October 5, 2020).

---

<sup>5</sup> Wend Teeder, Linda Mulcahy and Emma Rowden, “[Virtual courtroom experiment: Data report: Third evaluation of a virtual pilot study conducted by JUSTICE](#)”, (2020) [preprint] at 27, 31 [Teeder et al., “Third JUSTICE Evaluation”].

<sup>6</sup> BBC, “[Doctor joins Zoom court hearing while operating on patient](#)” (February 28, 2021).

<sup>7</sup> Newsweek 90, “[Man Attends Zoom Court for Suspended License While Driving in Video Viewed Over 3M Times](#)” (October 26, 2021).

<sup>8</sup> New York Times, “[‘I’m Not a Cat’, Says Lawyer Having Zoom Difficulties](#)” (February 9, 2021).



Figure 12 of Mulcahy et al., “[Second JUSTICE Evaluation](#)”.

judges as they are embarrassing for lawyers and litigants. Moreover, there is concern that judges may be perceived as less authoritative in certain virtual settings.<sup>9</sup>

In JUSTICE’s virtual jury trial experiments, customized videoconferencing software was used to address these issues, creating fixed locations and clear labels for each participant that aimed to replicate the layout of a courtroom as best as possible, with visible features such as a coat of arms incorporated to create a more formal atmosphere.<sup>10</sup> By the end of the experiment, 21 of 24 users reported that they were “extremely satisfied” when asked about the layout of the screen (pictured), the way that people appeared, the location of each person, and the user’s view of themselves and others<sup>11</sup>:

*I thought the technology was extremely user friendly. I had two links (one for the virtual court and one for the chat room). The technology was much better than I experience on a daily basis when using Skype for Business and/or Microsoft Teams. I thought the sound was very good and I had a clear view of the court at all times. I was impressed with the ease I was able to move from the virtual court to chat room and back again.<sup>12</sup>*

*It worked really well. It was clear who was speaking and what was going on. Evidence was easy to see as it appeared on the other screen. There were no significant issues. It was easy to see everyone else at all times.<sup>13</sup>*

*Having everybody facing the camera and being clearly visible brings a completely different dynamic to the court. There’s almost a sense of everyone facing inwards together, nobody has their back to you, which is unusual as an observer. The quality of the evidence being shown on screen was excellent as the press are not usually volunteered copies of the evidence (although we have the right to be shown if we*

<sup>9</sup> See e.g., David Tait & Vincent Tay, “[Virtual Court Study: Report of a Pilot Test 2018](#)” (2019) at 31.

<sup>10</sup> Linda Mulcahy, Emma Rowden and Wend Teeder, “[Exploring the case of Virtual Jury Trials during the COVID-19 crisis: an evaluation of a pilot study conducted by JUSTICE](#)”, Report, (2020) [unpublished] (online) [Mulcahy et al., “[First JUSTICE Evaluation](#)”] at 12.

<sup>11</sup> Teeder et al., “[Third JUSTICE Evaluation](#)” at 20.

<sup>12</sup> JUSTICE, “[Exploring the case for Virtual Jury Trials During the COVID-19 Crisis – an evaluation of a pilot study conducted by JUSTICE – Draft Survey Results](#)” (juror quotes and comments from the fourth trial) [JUSTICE, “[Draft Survey Results](#)”] at 1.

<sup>13</sup> JUSTICE, “[Draft Survey Results](#)” at 2.

ask).<sup>14</sup>

*Sound and images were clear. The layout gave a clear sense of the identity of all participants and was not distracting.*<sup>15</sup>

Participants in the JUSTICE initiative noted that the virtual hearings had a democratizing effect, particularly for criminal trials, where the virtual atmosphere dispenses “with the need for an enclosure of the defendant that is physically distinctive from those used by other participants”, allowing them to appear prominently in the centre of the screen and with a view of all participants’ faces.<sup>16</sup>

CBABC has [previously recognized](#) that virtual hearings may have a democratizing effect by removing some intimidating features of courtroom architecture, such as the unfamiliar setting and the elevated position of the judge, allowing litigants to better—and more comfortably—present their cases.<sup>17</sup> Similarly, one juror from the JUSTICE experiment commented that:

*[virtual court participants are] able to see and hear everyone. In many ways it may be less daunting for some. Appearing in court for the first time can be an uncomfortable feeling. This way people may not feel quite so ‘visible’ and looked at. The experience may seem less threatening.*<sup>18</sup>

While JUSTICE’s experiments aimed to create an interface that replicated the layout of a courtroom as best as possible to create a more formal atmosphere, there may be other means to achieve the same ends, and the design of virtual court interfaces provides an opportunity to consider these issues anew, potentially finding new ways to convey the authority of the court while better facilitating access to justice.

## 2. The journey into a virtual courtroom

In addition to layout, court design scholars point to the “journey”<sup>19</sup> into the courtroom as serving an important orienting function for the court user. The reviewers of the JUSTICE experiment commented that this journey is often not replicated in a virtual setting:

*Court architecture provides several behavioural cues about how to behave as participants walk through the courtroom doors, lobby, salle des par perdus, courtroom waiting areas, sound chamber and into the inner sanctum of the court... Each of these transitions help to create a sense of occasion and prepare participants for their courtroom performance. By way of contrast, in virtual trials participants can be in their sitting room one moment and in the courtroom the next. This calls for sensitivity to the need to prepare and orientate court users in different ways.*<sup>20</sup>

However, in a virtual setting, there are many creative possibilities for enhancing the “journey” into the courtroom. For example, virtual courts could include an interactive waiting room with a multilingual virtual assistant who provides tours or previews of the virtual courtroom and information about the

---

<sup>14</sup> Teeder et al., [“Third JUSTICE Evaluation”](#) at 21.

<sup>15</sup> Teeder et al., [“Third JUSTICE Evaluation”](#) at 21.

<sup>16</sup> Mulcahy et al., [“First JUSTICE Evaluation”](#) at 21.

<sup>17</sup> CBABC Submission to Ministry of Attorney General, Chief Justices, and Law Society of BC, [“Who’s Getting Left Behind? The Impact of the Ongoing Digital Transformation of the Court System on Access to Justice in British Columbia”](#) (July 19 2021) at 4.

<sup>18</sup> JUSTICE, [“Draft Survey Results”](#) at 2.

<sup>19</sup> Linda Mulcahy, [“The Unbearable Lightness of Being: Shifts towards the Virtual Trial”](#) (2008) 35:4 JL & Soc 464 at 477.

<sup>20</sup> Mulcahy et al., [“First JUSTICE Evaluation”](#) at 30.

court processes, supplementing the information sheets already provided by courts (which may not be accessible to court users with limited reading and/or English-speaking abilities).<sup>21</sup> They might also provide opportunities to interact with court staff virtually, replicating the traditional courtroom experience. Use of applied background filters to user's own interfaces may also help the sense of transition. These kinds of informational processes are shown to ease court users' anxiety, and the JUSTICE experiment's reviewers noted that the "value of simple instructions designed for use by people of all abilities was clear".<sup>22</sup>

In addition to providing a more obvious "threshold"—or a clearer division between court and the outside world—intentionally-designed videoconferencing software may also assist to address other access to justice concerns that arise from virtual hearings. For example, concerns have been raised that unrepresented individuals may be disadvantaged by their reduced proximity to physical justice system spaces and/or reduced access to justice supports services (duty counsel, mental health workers, victim/witness support workers, etc.) in a virtual setting.<sup>23</sup> Tailored virtual court technology is a way to address these concerns. One innovative example is the "Virtual Counter" service, which allows court users to click into a virtual meeting with court staff if they have questions that cannot be answered by a virtual assistant.<sup>24</sup> Similarly, dedicated virtual breakout rooms were used successfully in the JUSTICE initiative to support confidential conversations with defence counsel (and could presumably be used to support private conversations with other court services workers).<sup>25</sup>

The journey into a virtual courtroom could also include a troubleshooting session, both to ease users' anxiety and to ensure that audio and video functions are performing properly before the hearing starts. Indeed, it is important for courts to be alerted if a user's technology or internet connection might not adequately support their participation in a virtual hearing. There are concerns that witnesses who testify through low-quality technology may be judged as less credible,<sup>26</sup> and such a bias—if it exists—could have disproportionate effects on the most vulnerable users of virtual courts, due to their uneven access to technology.<sup>27</sup> A troubleshooting process before joining a virtual hearing may also be a useful touchpoint for providing additional supports to persons with disabilities, those who require translation or interpretation, or other vulnerable court users (such as children or survivors of violence).<sup>28</sup>

### 3. Hybrid appearances to ensure inclusion

CBABC has [previously](#) raised concerns that some court users will be left behind in the digital transformation of the court system—in particular, those with limited skills and/or resources to access digital spaces, those in remote communities with limited access to reliable internet, self-represented

---

<sup>21</sup> See e.g., BC Provincial Court, "[Guide for Appearing in Provincial Court Using Microsoft Teams](#)" (January 2022).

<sup>22</sup> Teeder et al., "[Third JUSTICE Evaluation](#)" at 15; see also 12.

<sup>23</sup> Mary Birdsell et al., "Access to Justice" in Sean Petrou & Akiva Stern, eds, *Virtual Advocacy: Litigating from a Distance* (Toronto: LexisNexis Canada Inc., 2023) at s. 12.04[2].

<sup>24</sup> See British Columbia, "[Virtual Counter](#)" (description of Northern region pilot project) (November 2022).

<sup>25</sup> CBABC Submission to Ministry of the Attorney General, "[Implementing Court User Experience Surveys to Support Innovation and Improve Access to Justice](#)" (October 12, 2022).

<sup>26</sup> See e.g., Elena Bild et al., "[Sound and Credibility in the Virtual Court: Low Audio Quality Leads to less Favorable Evaluations of Witnesses and Lower Weighting of Evidence](#)" (2021) 45:5 Law & Hum Behav 481.

<sup>27</sup> Mary Birdsell et al., "Access to Justice" in Sean Petrou & Akiva Stern, eds, *Virtual Advocacy: Litigating from a Distance* (Toronto: LexisNexis Canada Inc., 2023) at s. 12.04[1].

<sup>28</sup> See e.g., Mary Birdsell et al., "Access to Justice" in Sean Petrou & Akiva Stern, eds, *Virtual Advocacy: Litigating from a Distance* (Toronto: LexisNexis Canada Inc., 2023) at s. 12.04[3].

litigants who need additional guidance on the rules governing digital spaces, victims of family violence and others without safe spaces from which they can attend a virtual appearance, those requiring duty counsel or other court services, those in custody, those with special abilities and needs, and those who face language barriers.<sup>29</sup> The design of virtual courts must include routes for these court users to access justice, too.

Physical “justice hubs” are one possible way to mitigate these concerns. A justice hub was piloted in the JUSTICE experiment as a response to uneven technology access by jurors. However, the concept could be readily applied to appearances by litigants or witnesses, particularly those in remote locations or victims of family violence who may have safety concerns about appearing from their home or from the courthouse.<sup>30</sup> In the experimental justice hubs, jurors attended a community hall where they were provided with access to high quality technology and reliable internet so as to facilitate their participation in the experiment, with access to on-site technical support and adjacent facilities (washrooms, a break room, etc.).<sup>31</sup> Visual features were added to create a threshold into the virtual court space (pictured).<sup>32</sup> Akin to the concept of a “remote media room”,<sup>33</sup> virtual justice hubs could facilitate virtual appearances from neutral, community-based locations (such as libraries, community halls or Service BC centres) by court users whose technology access might otherwise be limited.



Figures 8-9 of Mulcahy et al., “[Second JUSTICE Evaluation](#)”.

### **Incorporating Users’ Perspectives Based on User-Centered Data**

Because virtual courts are still in their infancy, there is a unique opportunity to design the system from the ground up, based on the feedback and experience of all court users, to ensure [systems that work for all](#). Whether through experimental mock trials like the JUSTICE experiment or other processes (such as the collection of user feedback from those who attend virtual hearings), obtaining user data from all court users—including lay litigants, legal professionals, and the judiciary—is a critical first step and one that aligns with the Court’s Digital Transformation Strategy.<sup>34</sup> The Court Services Branch has [expressed similar interest](#) in modernizing the court system and increasing access to justice through user-centered design principles and methodologies.

Much like the collection of user-centered data through court user surveys, the collection of such data for users of virtual courts is vitally important. We understand that it is your priority to build services *with*,

<sup>29</sup> CBABC Submission to Ministry of Attorney General, Chief Justices, and Law Society of BC, “[Who’s Getting Left Behind? The Impact of the Ongoing Digital Transformation of the Court System on Access to Justice in British Columbia](#)” (July 19 2021).

<sup>30</sup> RISE, “[Creating Safety in BC Courts: Key Challenges and Recommendations](#)”, Report (October 2022) at 15, 47-49.

<sup>31</sup> Linda Mulcahy, Emma Rowden, and Wend Teeder, “[Testing the case for a virtual courtroom with a physical jury hub: Second evaluation of a virtual trial pilot study](#)” (2020) [unpublished] at 14-18, 24 [Mulcahy et al., “[Second JUSTICE Evaluation](#)”].

<sup>32</sup> Mulcahy et al., “[Second JUSTICE Evaluation](#)” at 16.

<sup>33</sup> See *e.g.*, Frederic I. Lederer, “Technology Comes to the Courtroom, and...” (1994) 43 Emory LJ at 1120-1; see also Barb Cotton & Christine Silverberg, “[Remote hearings, examination of witnesses: Practicalities](#)”, *The Lawyer’s Daily* (July 6 2020).

<sup>34</sup> British Columbia Ministry of Attorney General, “[Court Digital Transformation Strategy 2019-2023](#)” at 9-10.

rather than *for* citizens, and we believe the design of user-centered virtual courts would be a project with significant and widespread access to justice impacts, as well as one that might assist in increasing the uptake of virtual hearings more generally.

For example, a recent article published by the Provincial Court highlights some of the difficulties of “judging virtually”, with the Chief Judge noting the judiciary’s challenges with document management (having to have various documents open on the screen simultaneously), adapting quickly to new software programs, and even experiencing isolation when judging remotely (due to limited opportunities to interact with court staff).<sup>35</sup> The design of virtual courts offers opportunities to create more intuitive interfaces and to simplify the experience of “judging virtually” based on feedback from the judiciary.

### **Next Steps**

CBABC is eager to contribute our time, experience, and expertise to engage with you to explore opportunities to improve the design of virtual courts based on user data. Recognizing that access to justice is a multifaceted issue, CBABC raises the JUSTICE study as an example of innovation in this field. The JUSTICE experiment, while comprehensive, is only one of many virtual court experiments and studies that have been conducted in recent years around the world, and there is much to be learned.

We can provide research, recommendations, and feedback about how virtual courts have been designed and implemented across other jurisdictions and how user data has been collected to support the design of virtual court interfaces.

We invite your response and would welcome the opportunity to meet with you and other justice system stakeholders to discuss user-centered virtual courts and what we can do to help. We note, for example, that this proposal also engages the mandate of Honourable Lisa Beare, Minister of Citizens’ Services.<sup>36</sup> Please contact Jess Furney, Manager, Policy and Advocacy at [jfurney@cbabc.org](mailto:jfurney@cbabc.org) should you wish to arrange further discussion.

We look forward to hearing from you.

Sincerely,



Aleem S. Bharmal, KC  
2022-2023 President  
Canadian Bar Association, British Columbia Branch

CC Deputy Attorney General Barbara Carmichael, KC  
Minister of Citizens’ Services Lisa Beare  
Chief Justice Robert J. Bauman  
Chief Justice Christopher E. Hinkson  
Chief Judge Melissa Gillespie

---

<sup>35</sup> British Columbia Supreme Court, “[Judging virtually demands new skills from judges](#)” (April 5 2023).

<sup>36</sup> British Columbia, [Mandate Letter to Minister Beare](#) (December 2, 2022).