



COURT OF APPEAL

Notice to the Public Regarding Videoconference Proceedings in the Court of Appeal

Dated 9 April 2021

1. Introduction

This Notice provides information for anyone who will appear before the Court of Appeal for a video conference hearing. For more details on how the Court of Appeal is operating during the COVID-19 pandemic, see the [Notice regarding modified Court of Appeal procedures due to COVID-19](#).

Those appearing by Zoom must carefully review the step-by-step guide to appearing in a Zoom video conference proceeding below. It contains detailed information about the video conference hearing process and what to do if there are technological issues during the hearing.

2. Video Conference Appeal Hearings – Process

Step 1: Complete and Submit the Court Proceedings Form

If you are counsel or a self-represented litigant in an appeal hearing, **you must complete and submit** the [Court Proceedings Form](#) at least 7 days before the hearing to tell the Court about who will be attending the video hearing, any concerns about privacy or confidentiality involved, proposed steps to mitigate those concerns, and any other personal concerns that may require accommodation. At the appeal hearing, counsel/litigants must expect to address the nature and terms of any publication bans or sealing orders (including who is subject to such orders).

Step 2: Prepare to Video Conference using Zoom

Attached below is a guide on how to download the Zoom application and prepare for a videoconference hearing. Before the date of your hearing you must check that your webcam, speakers, and any headphones or earphones that you intend to use are working properly. To do this, you should conduct a [Zoom test call](#). You must also familiarize yourself with the mute/unmute and start/stop functions in a Zoom meeting.

Step 3: Join the Video Conference

The day before the hearing, the Court of Appeal registry will post a public link for the video hearing on the Court's [weekly hearing list](#). Check the time that your hearing is scheduled to begin, some appeals may be scheduled to begin after 10:00 am. About five minutes before the hearing is set to begin, Counsel/litigants should click on the link and follow the directions in the guide below. A few minutes before the hearing begins the Court Clerk will promote counsel/litigants from the viewing “gallery” to “presenters” using the names provided on the Court Proceedings Form.

Any member of the public who wishes to observe a video hearing can click the same public link. More information about public access to video hearings is provided in the [Notice Regarding Access to Court Proceedings During COVID-19](#).

3. Video Conference Hearing Etiquette and Decorum

To the extent that this Notice differs from the [Practice Directive \(Civil and Criminal\) on Appearing before the Court](#), the *Court of Appeal Rules*, the *Court of Appeal Criminal Rules*, or any other civil or criminal Practice Directive, this Notice prevails. Zoom hearings occur in a virtual courtroom. Despite the virtual nature of a Zoom hearing, the Court expects counsel/litigants to observe the solemnity of the court proceedings by conducting themselves, to the extent possible, in the way they would during an in-courtroom hearing. The Court recognizes that Zoom is often used for less formal social purposes, but counsel/litigants should avoid conduct reserved for less formal Zoom meetings.

Nonetheless, the Chief Justice directs that certain aspects of hearing etiquette and decorum required for in-courtroom hearings are modified for videoconference hearings during the COVID-19 pandemic:

- **Attire:** Recognizing that many lawyers store their Court attire at their offices, which may be inaccessible during the pandemic, lawyers or litigants who will make submissions to the Court should wear business attire. Lawyers **should not gown**, but must dress as they would for an in-courtroom chambers matter. Judges will gown.
- **Sitting and Standing:** Participants are not required to stand when the video hearing commences or ends, or when they are addressing the Court.
- **Bowing:** Participants are not required to bow at any time during the video hearing.
- **Decorum:** The Court understands that participants do not have the advantage of appearing in a controlled courtroom environment and may be situated in small, shared living spaces. Participants should make reasonable efforts to find a quiet, private space with a neutral background to make their submissions and should avoid using casual language. However, the Court anticipates and understands that there may be some unavoidable interruptions from children, pets, other people or background noises.

The Chief Justice also directs that participants observe these rules of etiquette specific to video hearings:

- **Mute microphone:** To minimize background noise, all participants **must** mute their microphones when they are not speaking. The attached guide includes instructions.
- **Pause for questions and avoid speaking over others during the hearing:** Pause frequently during your submissions to allow the Court to ask questions and avoid speaking over the Court or other hearing participants.
- **Choose a neutral background:** You may choose a neutral virtual background in Zoom or you may choose to position yourself in front of a neutral physical background. Avoid virtual or physical backgrounds that are distracting or which could detract from the decorum of the Court.

Dated 9 April 2021, at Vancouver, British Columbia

By Direction of Robert J. Bauman
Chief Justice of British Columbia



APPENDIX

Guide for Appearing in the Court of Appeal by Zoom Video Conference

Table of Contents

1. Participating in a Zoom Hearing.....	3
1.1 Before the Hearing.....	3
1.2 Joining the Hearing	4
2. The Hearing Process.....	5
2.1 Standing Down.....	6
2.2 Ending the Hearing.....	6
3. Technological Issues.....	7

1. Participating in a Zoom Hearing

1.1 Before the Hearing

Court Proceedings Form

At least 7 days before a video appeal hearing, litigants must complete and submit the [Court Proceedings Form](#). This Form will tell the Court about who will be attending the hearing, any concerns about the privacy or confidentiality of information involved in the appeal, proposed steps to mitigate those concerns, and any personal concerns of hearing participants that may need to be accommodated.

Technology

At least a few days before your hearing, download Zoom onto the computer that you will use for the hearing by following the instructions [here](#).

After you download Zoom, conduct a [test meeting](#) to familiarize yourself with the platform. During the test, please:

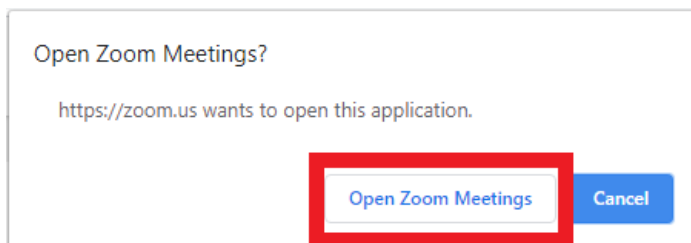
1. Follow the prompts to ensure that your webcam, microphone, and speakers/headphones are connected to Zoom and working properly.
2. Make note of the location of the mute/unmute and start/stop video buttons in the lower left-hand corner of your screen.
3. Check the positioning of your webcam, bearing in mind the following:
 - a. Try to position your webcam in line with your screen, so that when you look at the screen, you are facing the camera head-on.

- b. Consider where you will sit relative to the camera. Try to position yourself so that you are visible from your shoulders up, but too far or too close to the camera (both of which can be distracting).
 - c. Consider what can be seen behind you.
 - i. Try to find a neutral, solid background if you can.
 - ii. Ensure nothing is visible that you do not want the public to see (e.g. confidential documents).
 - iii. Consider whether the background will be distracting (e.g. an open door through which family members might be visible).
 - iv. If you prefer, you may choose a neutral virtual background in Zoom.
 - d. Check that the lighting is adequate (i.e., your face is not obscured by shadow or otherwise difficult to see).
4. Confirm that your username in Zoom is the same as the one you gave on the Court Proceedings by Video Conference Form that you submitted to the registry. This is the name that the Court Clerk will use to call you forward into the Zoom hearing so it is **very important** that it match the name you provided on the Form. If it does not match, take the following steps to change it:
- a. [Sign in](#) to the Zoom website.
 - b. Navigate to the [“Profile”](#) tab.
 - c. Click the “Edit” button to the right of your name.
 - d. Enter your name as given on the form.

1.2 Joining the Hearing

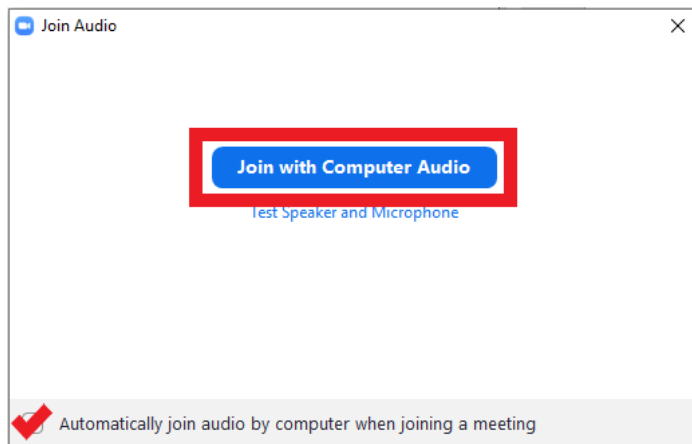
The day before the hearing, the Court of Appeal Registry will post a public link to the video hearing on the Court’s [weekly hearing list](#). Check the time that your video hearing is set to begin, some appeals may be scheduled to start after 10:00 am. About five minutes before the hearing is set to begin, please click on the link.

Your internet browser will open a new window. You may see a box pop up that says “Open Zoom Meetings?” If so, click the “Open Zoom Meetings” button.

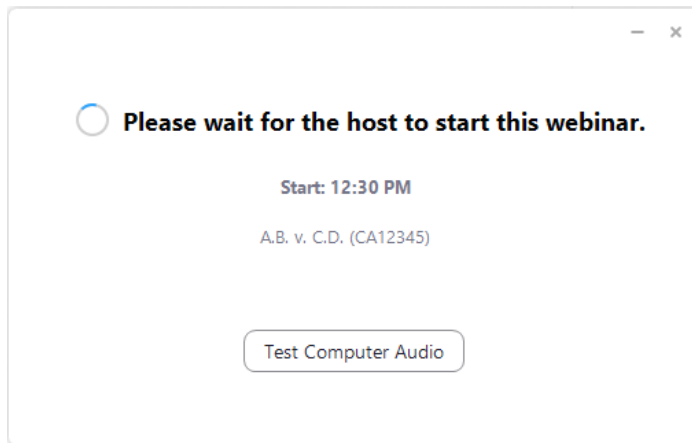


Zoom will open. If you have not yet signed in, a popup will appear asking that you enter your email and name. Please ensure that the name you enter is the name that you provided to the court on the Court Proceedings by Video Conference Form. This is the name that the Court Clerk will use to call you forward into the Zoom hearing so it is very important that it match the name you provided on the Form.

You may also see a popup that says “Join with Computer Audio.” If so, click “Join with Computer Audio”.



If the court clerk has not yet started the Zoom hearing, you will see a box that says “Please wait for the host to start this webinar.”



When the clerk starts the hearing, the judges and court clerk will appear on your screen. Note that the hearing might not start precisely on time while the Court addresses technical issues. If this is the case, please be patient and wait until the hearing is started (depending on what the problem is this could take as much as fifteen minutes, possibly even longer).

2. The Hearing Process

There are three different categories of participants in a Zoom hearing:

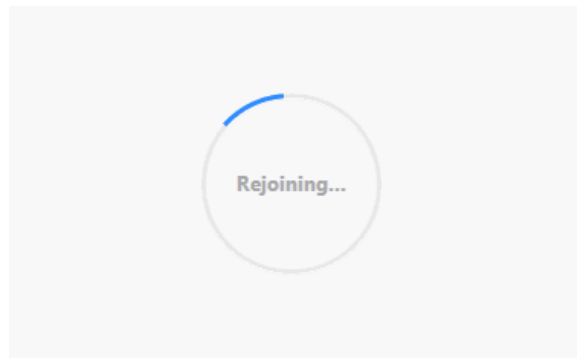
- **Attendee:** can see and hear the other participants, but cannot be seen or heard.
- **Panelist:** can be seen and heard by the other participants.
- **Host:** can be seen and heard by the participants and has a variety of administrative powers, including the ability to promote an attendee to panelist and to expel meeting participants.

More information about these roles can be found [here](#).

The court clerk will host the hearing and the judges will be panelists. At the beginning of the hearing, all other participants will be attendees. This includes lawyers, litigants, and other observers.

After starting the hearing, but before calling the case, the court clerk will promote all lawyers/self-represented litigants from attendees to panelists using the names identified on the Court Proceedings by Video Conference Form. Once you are promoted to panelist, you will be seen and heard by the judges, other panelists, and other hearing attendees (observers).

When you are promoted to panelist, your screen will be replaced by a popup that says “Rejoining...” This might take one or two minutes, so please be patient.



Once you have successfully rejoined the hearing, the video of you should be seen alongside the judges and court clerk. If your video does not appear, please turn it on by clicking the “Start Video” button in the lower left-hand corner of your screen. Please keep your video turned on throughout the hearing unless otherwise directed.

The court clerk will invite you to confirm that you can see and hear them and will ask you to say something for the record to confirm that your audio is working.

Once all lawyers/self-represented litigants are successfully promoted to panelists, the clerk will then call the case.

2.1 Standing Down

When the Court stands down (provides everyone with a break in the hearing), including over the lunch break, the hearing session will remain active. You are responsible for turning off your own microphone and webcam. **Do not leave** the Zoom hearing. If you do not turn off your microphone and webcam other participants in the video conference will be able to see and hear you.

Turn on your microphone and webcam at the end of the break. As soon as you do this, you can be seen and heard by anyone participating in the hearing. It may take a few minutes for the court clerk to confirm that all members of the division are ready to proceed before re-calling the case.

2.2 Ending the Hearing

When the division is ready to conclude the proceedings, the court clerk will end the hearing for all participants. Please remain in the Zoom hearing until it is terminated by the court clerk (unless otherwise instructed).

3. Technological Issues

Anyone who will be appearing in the Court of Appeal by Zoom can email the Canadian Bar Association at members@cbabc.org for technical support to assist you with preparing for a Zoom hearing. The Court is not able to provide technical support. Do not contact the Registry for assistance using Zoom.

In the event that you experience technological issues during the hearing you should wait to see if the issue resolves itself as the Zoom platform can become temporarily unstable at times. If the problem does not resolve on its own, tell the court clerk that you are experiencing a problem. If you are not able to communicate with the court clerk directly (e.g. because you have lost your internet connection), phone the Registry at 604-660-2468. The Registry will connect you with the court clerk; however, neither the Registry nor the court clerk will assist you with troubleshooting.

If you accidentally log out of the Zoom hearing, or otherwise lose your connection to the hearing, you should quickly attempt to rejoin by following the steps outlined in section 1.2 above.

If at anytime, due to delay, distortion or disconnection, you miss something that was said during the hearing, please let the judges know immediately so that the statement can be repeated. Likewise, please be patient and prepared to repeat your own statements if asked.