



THE LAW COURTS
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Notice to the Profession, the Public and the Media

COVID-19: EXPANSION OF COURT OPERATIONS – REMOTE VIDEO CONFERENCE HEARINGS

COVID-19 Notice No. 35

Date: **Revised June 1, 2021**

Highlighted changes:

- **Revisions to clarify that counsel or the parties must ensure any witnesses authorized by the Court to testify by Teams meet the minimum technical standards for participation in an RVC hearing.**

I. INTRODUCTION

In order to increase the number of matters that can be heard during the COVID-19 pandemic, the Supreme Court of British Columbia will begin Remote Video Conference (“RVC”) hearings, using Microsoft Teams (“Teams”) in most cases. RVC hearings are defined as those in which **all participants** – parties, counsel, presider, court clerk, **and any witnesses authorized by the Court to testify by Teams** – attend by video conference. This Notice provides information for anyone who will appear by RVC from July 7, 2020 until further notice. During this initial period, the Court’s capacity to provide RVC hearings is subject to availability of equipment and trained staff, including court clerks. At this time, no part of a trial may be heard by RVC, except in special circumstances by order of the trial judge or case management judge.

The Canadian Bar Association has produced a useful guide to Using Teams in Courtroom Online Court Proceedings (“Teams guide”), which is attached to this notice. It contains detailed information about how to prepare for and participate in a video hearing. Parties and counsel should carefully review the Teams guide together with this Notice in advance of their hearing.

Anyone authorized to appear by Teams must supply their own equipment and be prepared to set up and use Teams on their own, following the instructions in this Notice and the Teams guide. The Court cannot set up or troubleshoot the use of Teams on computers belonging to parties, counsel **or witnesses**.

Despite the Court’s approval of a hearing by RVC, it remains within the discretion of each individual presider to discontinue a hearing by RVC and to make arrangements to

continue proceedings by other means, if at any time the presider determines that it is not appropriate for the hearing to continue by RVC.

II. MATTERS THAT MAY BE HEARD BY RVC

A matter may proceed by RVC if either:

- 1) The Court orders or directs on an application or its own motion that a matter will be heard by RVC; or
- 2) The parties meet the criteria set out below and submit a request using the online form (see Part III below). The Court will review the request to determine if the RVC hearing is appropriate and notify the parties of the decision.

Criteria for RVC Hearings

All parties to a hearing must consent to appearing by RVC. It is not possible to have some parties appear in person or by telephone only without video. However, clients, members of the public, and media can listen in to an RVC hearing using audio only. See Parts V and VII below.

The following types of proceedings may proceed by RVC on request without a prior judicial order, provided sufficient equipment is available and the appropriate arrangements may be made:

- Chambers matters that are scheduled on the trial list (those longer than two hours and continuations)
- Judicial Case Conferences, if the only other option is appearing by telephone

For any other proceedings not listed above, parties must apply for a judicial order that a matter may proceed by RVC.

Unless otherwise ordered by the Court, RVC hearings **cannot** be used for any proceedings that:

- Require language interpretation, or
- Involve witness testimony

Parties must be able to meet the minimum technical standards set out below.

Parties must be prepared to submit their documents in advance of the hearing as set out below.

Teams will be the presumptive platform for all RVC hearings, unless the Court orders otherwise.

Requests to appear by Teams must be submitted a minimum of 14 clear days in advance of the hearing in order to make the necessary arrangements. Parties should expect the RVC Coordinator to be in touch within two business days of a request being submitted.

Minimum technical standards

In order to participate in an RVC hearing, counsel or the parties must **ensure that all participants appearing by video, including any witnesses authorized by the Court to testify by Teams**, meet the following minimum technical standards without assistance from the Court:

Equipment: All participants must have a working laptop or desktop computer that can run Teams with an operational camera (either an internal camera or an external mounted camera) and a microphone or headset. For an optimal experience, use of a smartphone, iPad, or similar handheld device is not recommended.

Knowledge of Teams: Participants must have working knowledge of Teams or must have undergone training on their own prior to the RVC hearing. The Court is not able to provide training in Teams.

It is recommended that participants install Teams on their computers well in advance of the RVC hearing, although it is possible also to join using a web browser such as Google Chrome. Participants should ensure that they are familiar with all the functions of Teams, as set out in the Teams guide to this notice and available here:

https://www.cbabc.org/CBAMediaLibrary/cba_bc/pdf/Resources/MS-Teams-CBABC-Desktop.pdf

Please note that it is not anticipated participants will use the screen sharing function in Teams for most hearings at the Supreme Court.

Internet speed: All participants must test their internet connection to guarantee that they have sufficient bandwidth, with a minimum internet speed of 20 MBPS down and 10 MBPS up. Participants should perform a self-test of their internet speed at <http://fast.com> or <http://speedtest.net> before requesting the RVC hearing.

For an optimal experience, it is recommended that participants join the RVC hearing using a dedicated wired internet connection, meaning that their Ethernet cable should be directly connected to their computer. Wireless internet (“wifi”) does not always provide a stable connection and can lead to issues with audio and video continuity. Wifi may be used if upload and download speeds can be consistently achieved. If wifi is used, the connection should be private and secure (password protected), and the computer should be in close proximity to the router to provide the best signal.

Participants should be aware that they may need higher internet speeds if they intend to use other online programs at the same time as Teams (for example, if they are opening documents from a remote site).

Audio: While it is preferable for participants to join using the computer audio option in Teams, participants may join using the phone audio option in Teams if the party can still also appear on screen by video. Participants should only resort to dialing in by phone without video if their Teams connection fails during the hearing. If a participant is unable to connect by video or loses the video connection, the presider will direct whether the hearing may continue by telephone.

Technical support: Participants must have their own technical support to troubleshoot any problems with audio or video that arise during the hearing.

Self-test: Parties should coordinate between themselves to hold a self-test prior to the day of hearing and reconfirm that their internet speeds and platforms are sufficient on the day of the hearing. **It is also recommended that counsel or the parties conduct a test with any witnesses they plan to call who are authorized by the Court to testify by Teams.**

III. HOW TO BOOK THE RVC HEARING

Whether the Court directs that the hearing proceed by RVC or the parties request the RVC hearing, the process the parties must follow is similar. One party must fill out the [online request form](#) on behalf of all parties to the hearing. The requesting party must provide an email address for each party or counsel who will attend the hearing, as the link to connect to the RVC hearing will be sent to participants by email. As noted above, the request form must be submitted a minimum of 14 clear days before the hearing. If the RVC hearing is approved, all parties will receive an email from the RVC Coordinator including the date and time, a link to join the RVC hearing using Teams, and further information.

IV. DOCUMENTS

Documents must be filed using existing processes as set out in the *Supreme Court Civil, Family, and Criminal Rules*, practice directions, and applicable [notices](#) issued by the Court in response to the COVID-19 pandemic. Unless parties had previously established other document management processes or the Court directs otherwise, parties must deliver hard copies of any documents for use during the hearing to the registry at which the matter will be heard. Documents may not be shared in Teams during the hearing. The Supreme Court is currently developing additional processes for document submission, and further information will be provided once they become available.

V. INVITATION TO THE HEARING

All participants who are scheduled to attend an RVC hearing will receive an invitation by email from the RVC Coordinator with a link to the RVC hearing in Teams. In hearings over multiple days, the same link will be used for the entire duration of the RVC hearing.

Participants should not share this link with others who will not be participating in the hearing. If a client or another interested person known to counsel wishes to observe the hearing, counsel should contact the RVC Coordinator to discuss arrangements for them to attend by teleconference.

VI. PARTICIPATING IN THE HEARING

The Court recognizes that there is a difference between attending by RVC and appearing in a courtroom. Some aspects of court decorum are not practical in a virtual situation. The Court also recognizes that those participating may be sharing their workspaces with family members, pets, or others, and that there may occasionally be interruptions that are beyond their control.

Most court formalities will continue to be respected.

- Parties must provide realistic time estimates and adhere strictly to them.
- Participants are expected to dress in business attire, unless they are directed otherwise by the Court.
- Participants must do their best to minimize disturbances, including with respect to noise.
- Participants may sit throughout the hearing and are not required to stand while addressing the Court. They are also not required to stand or bow when the presider enters or leaves the hearing.
- Participants may not eat and may not drink anything except water while the hearing is ongoing.
- Participants should avoid moving away from the screen/camera or should seek the permission of the judge to do so.

Parties and counsel are encouraged to prepare materials that they intend to use or rely on in advance, either by printing them or displaying them on a separate screen from the one that will be used for the RVC hearing.

The day of the hearing

Parties should follow these directions on the day of the hearing:

- Please check in at least 30 minutes prior to your scheduled hearing.
- When prompted, enter your first and last name as your screen name in Teams.

- Conduct a pre-test to ensure that your microphone, speakers, and video are working.
- After the pre-test, wait until the court clerk calls your matter. The court clerk will moderate the RVC hearing. You will be prompted to join the meeting, and you will wait until the presider enters the hearing, at which point the court clerk will call the matter and you will be asked to identify yourself verbally. The RVC hearing will then proceed much as a regular court hearing.
- If your audio fails or you have another technical issue during the hearing, you should let the court clerk know using the message function in Teams, then try to resolve the issue. If the problem persists, you should be prepared to dial in by telephone using the numbers provided by the RVC Coordinator in the invitation email you received.

During the hearing – standing down at breaks

Participants should remain connected to the hearing during breaks but should mute their audio and turn off video. At the scheduled end of breaks, participants should turn both audio and video back on, then wait for the court clerk to recall the matter.

Etiquette and decorum

Counsel or parties are expected to introduce themselves for the record as they would during any ordinary court hearing.

Counsel or parties are requested to speak slowly and clearly and to pause regularly to allow for the presider to ask questions.

If counsel or a self-represented party wishes to object, they should signal the presider by turning on their microphone and raising their hand. This should activate their Teams window, but if this does not happen, the participant should be prepared to speak to get the presider's attention.

Counsel appearing should use customary forms of address for court:

- My Lord/Lady or Madam/Mr. Justice _____ to address judges;
- Your Honour or Master/Registrar _____ to address masters and registrars; and
- Madam/Mr. Registrar to address court clerks.

Recording is not permitted

No recording of hearings is permitted, except by accredited media for the purpose of verifying notes, in accordance with the Court's [Policy on Use of Electronic Devices in Courtrooms](#).

Parties or counsel participating may be required to provide an undertaking not to record any portion of the RVC hearing in any electronic form, or presiders may read an order into the record prohibiting any recording of proceedings.

Visual appearance

As much as possible, parties should choose a location that will not be accessible to others during the RVC hearing, with adequate lighting, including on faces, and a background appropriate for a court proceeding that is plain and not distracting.

Participants are encouraged to look into the camera when speaking in order to make “eye contact” with the presider.

Sound

All parties must be on separate computers situated in separate rooms, in order to avoid feedback or other audio problems. Counsel representing one party may share a computer. The presider and court clerk will also attend from separate rooms.

As much as possible, participants are encouraged to choose a quiet location with minimum background noise.

Participants must mute their microphones whenever they are not speaking. (See the attached Teams guidelines for instructions on how to mute your microphone.)

Participants should consider using headphones or earphones for optimal audio quality.

Participants are encouraged to identify the location of their computer microphones and to be mindful of the sounds that could be picked up. Most built-in computer microphones are located next to the keyboard. Participants are discouraged from typing during the hearing or placing papers directly on top of or close to the microphone as the sound can disrupt the audio transmission.

VII. ATTENDANCE BY MEDIA AND THE PUBLIC

Accredited media and members of the public wishing to attend any RVC hearing should contact the BC Superior Courts Communications Officer, the Honourable Bruce Cohen, by email at SCJCommunicationsOfficer@BCCourts.ca. Attendance at RVC hearings by media and the public is by telephone only. In the event that accredited media or members of the public are granted authorization to access a proceeding by telephone, they must comply with the following conditions:

- the caller must dial in to the proceeding not later than 5 minutes before the time of the commencement of the proceeding;
- the dial-in details must not be shared with any person other than those authorized by the Court to dial in to the proceeding;

- the caller's telephone must be kept on mute at all times during the proceeding;
- the Court's Policy on the Use of Electronic Devices in Courtrooms applies to the caller's participation in the proceeding, meaning audio recording is prohibited (except for accredited media as a means of verifying their notes);
- if the caller does not dial in to the proceeding at the set time, they cannot be connected later; and
- if caller's line becomes disconnected, the Court will not disrupt the proceeding to connect them to the proceeding.

THE FOREGOING IS SUBJECT TO CHANGE. ANY UPDATED DIRECTIONS WILL BE POSTED ON THE COURT'S WEBSITE.

Dated **June 1, 2021** at Vancouver, British Columbia

**By Direction of Chief Justice Christopher E. Hinkson
Supreme Court of British Columbia**