

## Removing Barriers to Virtual Court

The word unprecedented has taken on new meaning these past 18 months.

Looking back now, it is hard to imagine that virtual court was not always an option available to court participants in Nova Scotia, or anywhere in the country, for that matter.

The pandemic made painfully obvious the shortfalls of the justice system when it comes to technology. A lack of resources, limited familiarity with platforms like Microsoft Teams and Zoom, and deep-rooted traditions in oral advocacy made it difficult for the Courts to adjust when COVID-19 prevented most hearings from being held in person.

Within a couple of weeks, the Judiciary had fast-tracked the adoption of processes and technology to deliver justice remotely. The Supreme Court was the first in this province to dip its toe in the water, piloting virtual court for judicial settlement conferences, pre-trial criminal conferences and some types of civil motions and applications at the Halifax Law Courts. The first virtual matters were heard and recorded on April 30, 2020.

Training for judges, court staff and counsel took place on an accelerated schedule and by the summer of 2020, virtual court options were available for many appeal, criminal, civil and family matters across Nova Scotia.

We quickly realized that the changes we previously thought improbable were not just possible, but for some types of matters, preferable. Participating virtually provided greater access for individuals who have transportation or child care issues, and saved time and money for lawyers and their clients, who would otherwise have had to travel to the courthouse.

With these changes, the Courts had taken an important step toward much-needed modernization. In a strange way, this crisis presented opportunity.

But what many perceived as improved access to justice, others saw as barriers they had not previously encountered.

Some users — judges included — experienced issues with poor or no access to Internet, which affected the ability to hold court virtually. Self-represented individuals without computers, mobile devices or videoconferencing software had no way to participate remotely. And those individuals who could take part in virtual proceedings were often working from home while also juggling family obligations.

The situation was less than ideal. Patience, flexibility and perseverance got us through those early months.

Some challenges remain, which the members of the All Courts Virtual Court Committee continue to wrestle with. In particular is the impact of virtual court proceedings on marginalized communities, an issue not unique to this province.

As a first step, the committee helped organize a pilot project to enable self-represented individuals to participate in virtual Provincial Court proceedings in the Halifax region. This location was selected in part for its wide use of virtual court and the high number of self-represented individuals.

The All Courts Virtual Court Committee considered partnering with organizations in the community, such as libraries and other public spaces, to provide access for court participants. But in the end, it was agreed that to ensure the security, dignity and privacy that court proceedings require, space would need to be identified within the courthouse.

The Judiciary and the Nova Scotia Department of Justice worked together to modify a space at the Spring Garden Road building to include the equipment needed to connect to virtual court. Processes are being finalized for sheriffs and court staff, and a system will be developed to book the space, similar to the process for supporting vulnerable witnesses.

The plan is to run the pilot for six months and evaluate its success for possible expansion to other courthouses. Space is already being considered as part of upcoming renovations at the Dartmouth Provincial Court and the Kentville Law Courts.

As noted in the CBA Task Force report on justice issues arising from COVID-19, there is no turning back now. An important shift has occurred with the pandemic and we cannot risk losing that momentum for further positive change in the justice system.

That said, it is still too early to predict how virtual options will be used by the various Courts post-pandemic. Remote proceedings will likely play an important role in addressing the significant backlog in the trials courts; but otherwise, our next steps need to be carefully considered.

Feedback from the Bar and other court participants, including self-represented individuals, will be important. So too will be any plan produced by the province's Digital Task Force to modernize the Nova Scotia Courts. The Judiciary looks forward to reviewing both in the months to come.

**The Hon. Christa M. Brothers**  
**Justice of the Supreme Court of Nova Scotia**  
**Chair, All Courts Virtual Court Committee**