

This series originally ran in the *ABA Journal*

Virtual Perspectives

By Brian Gaudet, Susan Pangborn, and Burleigh Singleton

Muting Audio and Video

It is critical that the participating attorney as well as all witnesses and client representatives be hyper-focused on appropriate muting of audio and video when doing virtual events.

Back when things were “normal,” our surroundings gave us visual cues as to whether we were in a place where we could have a private discussion. Participating in a virtual hearing, mediation, deposition or arbitration is much different. It is critical that the participating attorney as well as all witnesses and client representatives be hyper-focused on appropriate muting of audio and video when doing virtual events.

Witnesses or attorneys may have their audio muted, but otherwise be sitting on camera having a telephone conversation while waiting for a break to end. If you are facing the camera, there is a good chance that someone might be able to read the lips of the person talking and get an idea of what is being said. If it is a witness who happens to be talking to their attorney or vice versa, that could be damaging.

Sound may travel in someone’s house much further than it does in a commercial setting. Being in the next room over or standing outside of a room may not be enough to prevent sound from carrying. The best practice is to mute the audio and video on each break and always assume your computer is spying on you.

During a break, if you are talking to a witness or client representative, remind them to mute their audio and video, and step far away from the computer before continuing your discussion.

As a failsafe, have someone on your staff monitor the communications platform while you are on break. If you take a break and your witness is talking unmuted on the platform, the damage will be done before you return to notice. Ideally, your monitor would have the technical ability to quickly mute the relevant audio or video.

This will eventually all become second nature...but it is certainly is not that way now.