



AVIVA TRIAL LAWYERS

Virtual Civil Trial: *Belton v Spencer*
A Defendant's Perspective

Vancouver – Edmonton – Calgary – London, ON – Oakville – Toronto – Ottawa – Halifax – St. John's

*A presentation for the Thunder Bay Law Association
Annual CLE Program, 2021*

Presenters:

Dennis Ong
Olivier Guillaume
Christopher Missiuna

Outline: Today's Presentation (45 minutes)

- Introduction to *Belton v. Spencer*
- Panel Discussion:
 - Preparations for a Virtual Trial
 - Decision to have a complete virtual trial
 - Tour of Defence Virtual Courtroom
 - Preparation of Witnesses
 - Documents / Filing with Court
 - The Greatest Misconception of Virtual Trial
 - Technology Failures
 - Trial Time: In-Person vs. Virtual Trial
 - Communications between Counsel during Trial
- Wrap-Up: Impact of the Virtual Trial



The Importance of *Belton v. Spencer*

Milestones

- **First and longest fully-virtual trial** in Ontario (8-10 weeks)
- Trial held between: October 13 to December 2, 2020 with closings heard on December 18, 2020.
- **First case to reach the Court of Appeal** on the issue of striking civil juries post-COVID-19 pandemic
- **17** witnesses led by defence; **~20+** witnesses led by plaintiff
 - Not a single witness entered the courtroom.
 - Witnesses testified from: **Numerous locations in Ontario, Alberta, England, Florida**
- Trial conducted entirely over **Zoom**, including **8 mid-trial motions**.
- **Plaintiff team:** Laura Hillyer, James Page
- **Defence team:** Olivier Guillaume, Chris Missiuna, Martina Sagermann

Primer on *Belton v. Spencer*

Outline

- **May 31, 2010** – Plaintiff John Belton injured by a horse.
- Both parties had filed a Jury Notice.
- Originally, Trial set down for 2017 – later moved to November 2018 sittings.
- Trial adjourned 3 times.*



March 17, 2020 – Ontario Superior Court announced all in-person operations suspended – criminal , family and civil matters

Primer on *Belton v. Spencer*

Timeline

- **Sept 4, 2020:** Plaintiff moves to strike the jury – Justice Sheard (decision release)
- **September 29, 2020** (ONCA): Defendant moves to stay Justice Sheard's order;
- Plaintiff moves to quash the appeal
- Matters heard by Justice Brown, ONCA – decision release **Thursday, October 1, 2020**.
- Call with Justice Nightingale: **Friday, October 2, 2020**
- Original trial date: **Monday, October 5, 2020**
- Actual commencement: **October 13, 2020**



First Topic: PREPARATIONS FOR VIRTUAL TRIAL...

The Defendant's Lawyers



Things to consider

Our method was one option of many. Ultimately, you will need to make your own decisions about the following tech:

Video

Audio

Lighting

Background

Control Over Exhibits

Goal: 1) Eliminate Viewer Distractions

Nice to Have: 2) Look Good

What we Did - Lawyer Room



What we Did - Lawyer Room



What we Did – Lawyer Room



What we Did - Witness Room



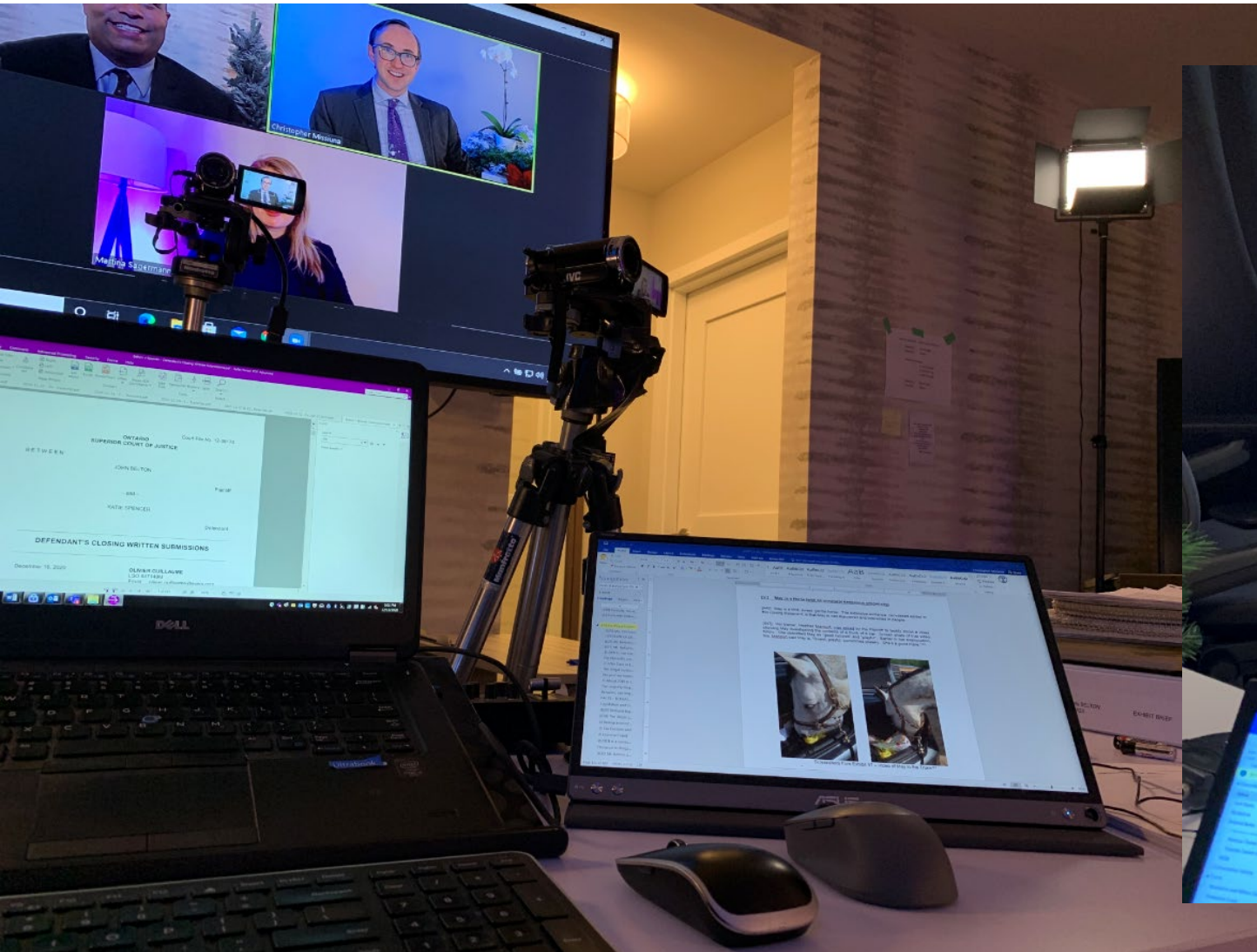
What we Did - Witness Room



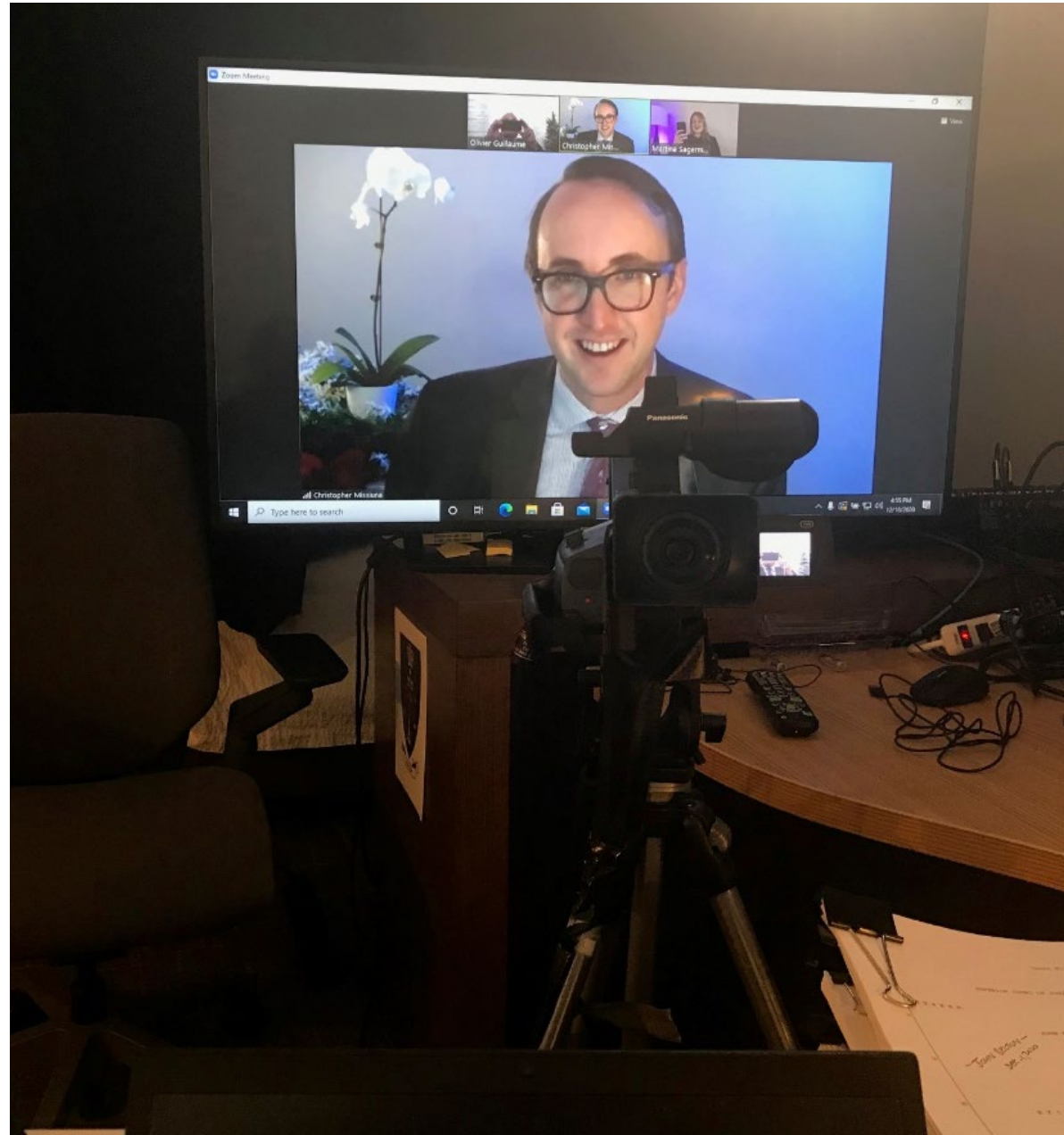
What we Did - Witness Room



Lawyer's Perspective



Witness' Perspective



It's not all virtual



It's not all virtual



End