

doctoral dissertation,³ not so recent but, in parts, still relevant) sources. Throughout the pandemic, my colleagues and I have conducted simulations on behalf of the Online Courtroom Project and as advisors to the Maricopa County (Arizona) Jury Trial Innovation Task Force, including Dr. Jeff Frederick, who has also authored an article for this issue.⁴ In addition, I have conducted post-trial interviews with actual jurors and attorneys involved in remote trials who offered their perspectives on remote witness testimony.⁵ I have also analyzed national survey data on behalf of the Judicial Division of the American Bar Association regardin

consider the demeanor of the witness when assessing credibility.⁹ Logic can be correct, or reality can be counterintuitive. Therein lies the need to test logic rather than rely alone on opinions about the advisability of remote witness testimony.

A. Jurors' Reactions to In-Person v. Remote Witness Testimony

Immediately after the nationwide shutdown due to the COVID-

Importantly, the juries saw the witness in only one mode, meaning their reactions were not based on a comparison of the two. The in-person jurors felt

²⁰ Without a doubt, courts and attorneys should discern among witnesses and circumstances to determine the advisability of having a given witness testify remotely.

III. IMPLICATIONS

perceptions of their abilities to assess a witness in different settings, not on their *accuracy* in judging credibility.²¹

emotionality in the encounter [can] be regulated by the amount of mutual

to begin with or, more to the point, if no one can be sure when mutual gaze is occurring, people will struggle to deploy their emotional intelligence to assess the situation.²⁴

This research aptly describes the problem when jurors encounter a witness who makes disconnected eye contact in a remote setting. Admittedly, this excerpt is one among many findings.²⁵ But the premise of

virtual jury, remote trials constantly adapt to remove these roadblocks and to better situate the jurors.

IV. CONCLUSION

Remote trials may remain a viable option for conducting proceedings because some jurors find that viewing a witness online strengthens their
this close-

While there still may be difficulties with conducting a remote jury trial because the jurors are not physically present with the parties, certain issues have been resolved during the pandemic. For example, a well-set room for witness testimony delivered remotely fixes the issue of poor eye contact with the finder of fact. Moreover, a simple HUE camera²⁶ is now standard for connecting a witness to the fact finder. This camera is placed in front of a monitor and enables a witness to look directly at the screen and the questioning attorney while also making strong eye contact with the jury.

24. Bandes & Feigenson, *supra* note 22, at 1295.

25. *Id.*

26. See *infra* Figure 3; *HUE HD Camera*, HUE, <https://huehd.com/products/hue-hd-camera/?ph=520e08a63daa08ffebfa06f6> (last visited Sept. 27, 2021).



Fig. 3. HUE Camera from Amazon.

As jury trials continue remotely due to COVID-19 restrictions, the point is this: though there are obstacles to remote witness testimony, there are remedies to effectuate remote proceedings.