



Working with Experts in the Age of COVID-19

December 16, 2020

Agenda

- Expert Life Cycle
- Collaborating During the Process
- Virtual “Meet Ups”
- Virtual Depositions
- Lessons Learned
- Q&A



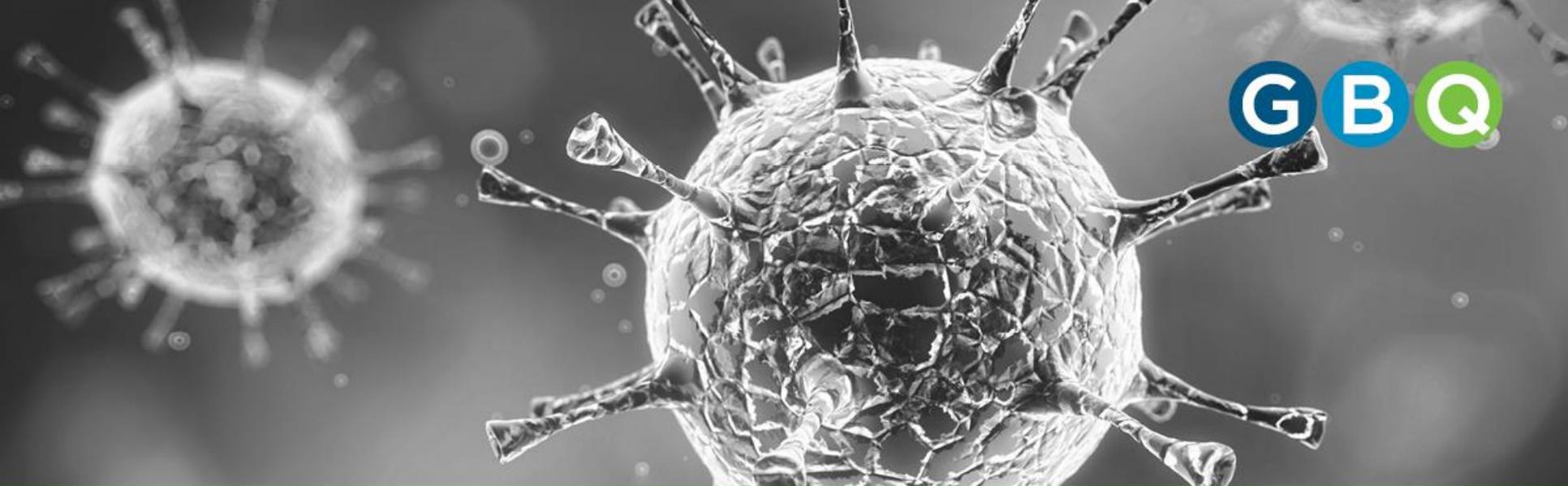
Presenters



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A detailed 3D rendering of a spherical virus particle with a textured, crystalline surface and several long, thin, protruding spikes. A second, smaller, and more diffuse virus particle is visible in the background to the left.

Working with Experts in the Virtual World

Expert Life Cycle



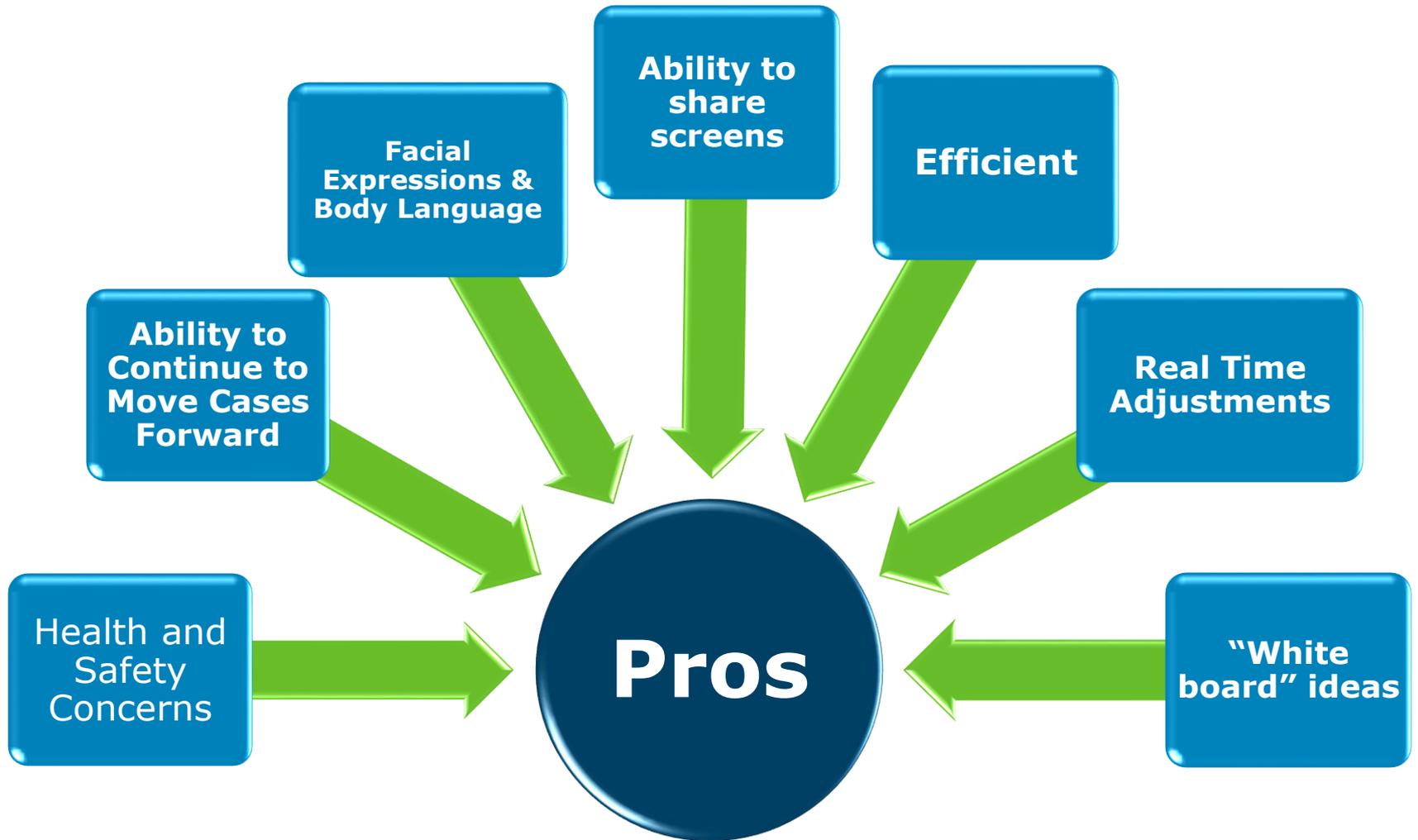
Expert Life Cycle

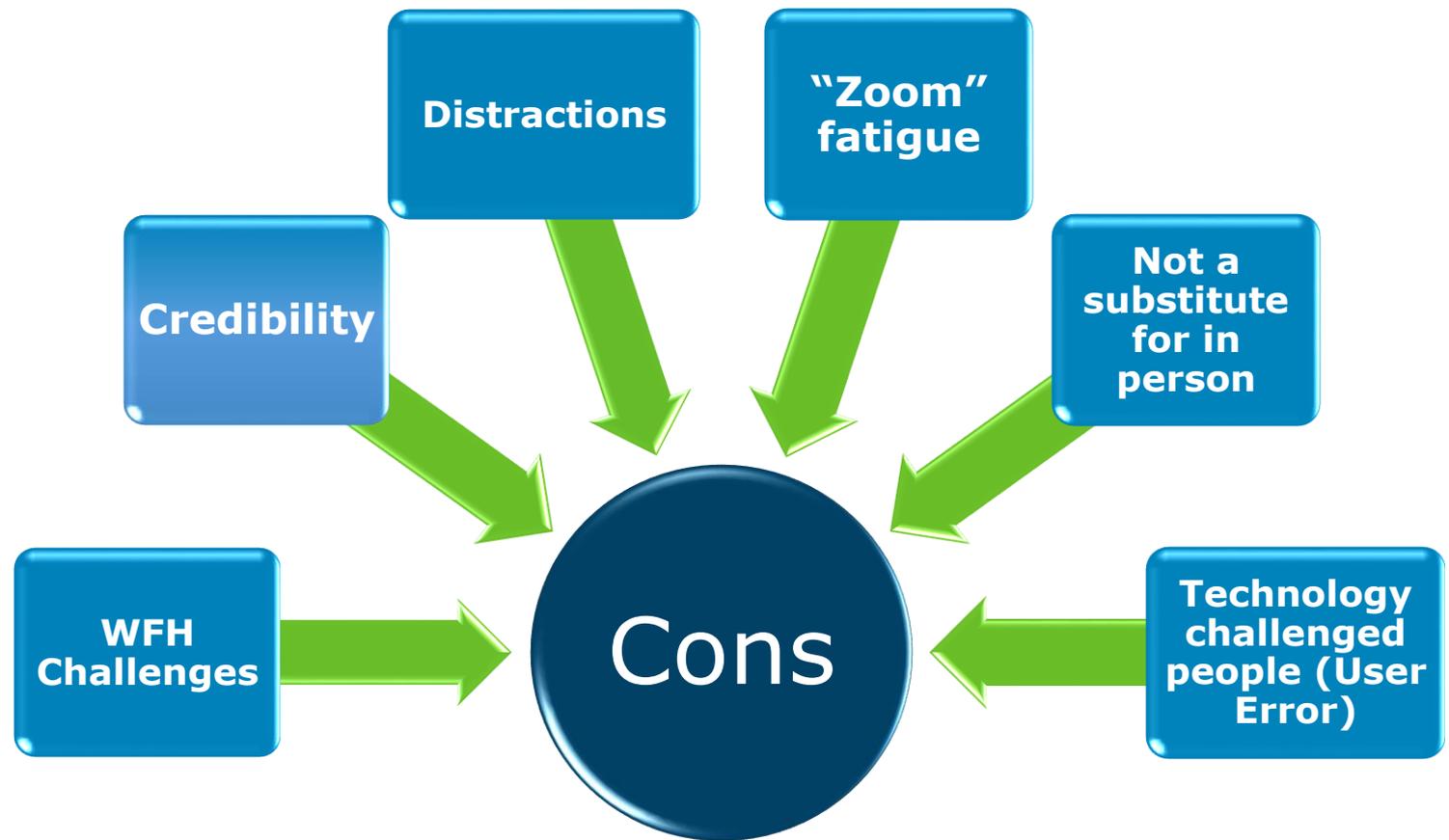


Collaborating During the Process

- Valuation, Economic Damages, Forensics, Data Analytics, Lost Wages
- Requires “back and forth” between the expert, counsel and the client
- Technology to help facilitate collaboration
 - Zoom - \$15 per month for the unlimited
 - Microsoft Teams
 - Google Hangouts
 - Loopup
 - Ring Central
 - Any others you’d recommend?

Virtual





Virtual Depositions

- Not an entirely new concept
- Have done video depositions in the past, but on a very limited basis
- Usually some combination of people are together

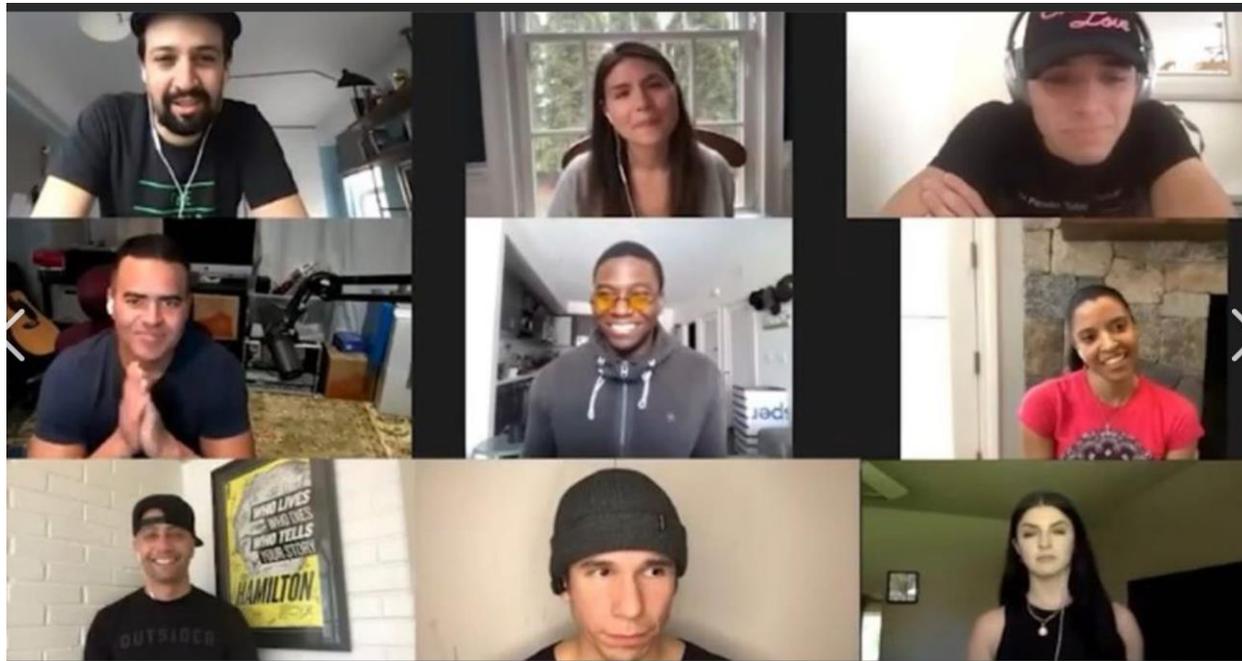


- Now everyone is on Zoom!

zoom

Zoom Basics

- View Options
 - Gallery – Think Brady Bunch
 - **Points for whomever can name this group of people!**



Zoom Basics

- View Options
- Speaker – Where the person speaking fills the screen



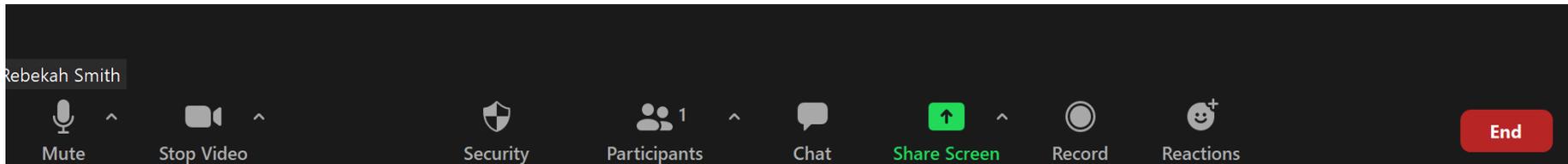
Zoom Basics

- How to toggle between the two?
 - Upper right hand corner of the screen



Zoom Basics

- Other helpful settings – all at the bottom of the screen
 - Virtual background
 - Mute
 - Muting when you are on breaks during depositions is critical
 - Turn Video on and off
 - Hide individuals with video turned off
 - This “cleans up” the screen when you have participants who are in listen mode.
 - Touch-up
 - Chat – Be careful, this can send to everyone



Deposition Preparation

- Want to do the prep via Zoom in the same location as the expert will be testifying
 - Check lighting
 - Background
 - Sound
 - Internet connection
 - Trouble shoot potential technical issues ahead of time and have a plan for how to handle if occurs during testimony
 - Virtual backgrounds – Yes or No?
- Hybrid depositions
 - Counsel and the witness are in the same location but different rooms (echoing)
 - Makes it important to ask the witness where he/she is physically

Exhibits Strategy

- Be clear on rules for screen sharing/viewing documents
- Sending the to the witness and opposing counsel “tip” your hand.
- Sometimes not all exhibits get used.
- Does the court report have a way to mark and “collect” electronic exhibits?
 - Then strategically you can send them pre-marked to the court report and post them via “screen share” or share them in the “chat” feature on Zoom [if draws objections to simply share it]
- Time consuming and results in delay
- For the witness, challenging because you cannot review the entire document

Depositions

Helpful Tips for Witnesses

Gallery view – Allows for the witness to see opposing counsel, and the court reporter. Allows the witness to be aware of potential objections or the court reporter asking for some one to slow down.

Suggest hiding individuals without video – lessens the distractions and makes video participants more visible

Pause an extra second before answering to allow extra time after a question for potential objections

Do you want to be in the same location as your expert or will you have phone calls during breaks for any necessary discussions

Suggest hiding individuals without video who are in a listen only mode

Deposition/Trial Questions

Requires a few additional background questions to understand the setting your witness is in. For example:

What is in front of you?

If they do have documents – clean copies? Bookmarks? Highlighting? Notes?

Is there anyone else in the room with you?

How many monitors do you have? Do you have documents pulled up on your computer/monitor?

If you can see the witness' eyes darting around, is it because they are looking at something off to the side or

Can you show me around the room you are in?

Challenge when doing depositions virtually – do they have someone in the room, did they write down answers of questions, did they write down some key words to say, could they be texting during their deposition?

Deposition/Trial Questions

Different questions now about the report writing process:

How many zooms/virtual meetings did you have?

Did you share your screen during those meetings?

Did you share preliminary calculations?

Did they change after that meeting? If yes, in what way?

Clearly still subject to that particular venues rules on drafts

Zoom Trials

- Speaker view
 - Found this was easier to focus in on the attorney doing the direct or cross exam. It most closely replicated the one on one of courtroom direct and cross.
 - If someone was going to object, then the speaker would switch so as the witness, able to know there was an objection.
 - Same with a question from the bench, which we had, speaker view then “jumped” to the judge
 - Did not allow for the distraction of seeing the parties’ facial expressions during testimony.
- Gallery view
 - Does not jump around between speakers and you can see everyone at once.
 - Find it requires a little extra concentration to focus in on the attorney asking questions and not get distracted

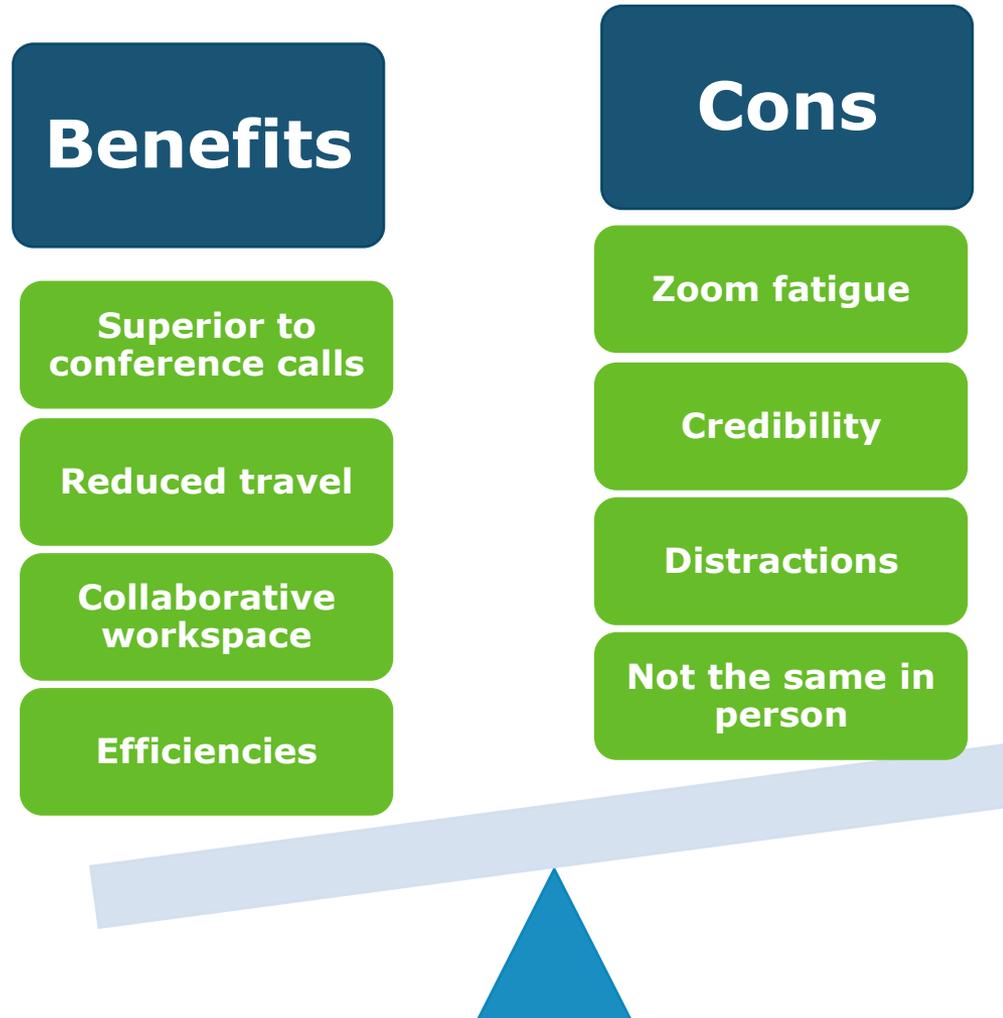
Speaker View



Lessons Learned

- There are some real benefits to virtual
 - Time savings and efficiencies!
 - Collaborative workspace
 - Reduced travel
 - Better than a conference call
- There are some “bad” things
 - Virtual is still not the same as being in person
 - More distractions when virtual (“multi-tasking”)
 - The very real Zoom fatigue!

Lessons Learned



Questions



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