

Insider look at family court lauded

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Judge Harvey Brownstone was in a state of nervous anxiety when a book he had written exposing the perils of divorce litigation hit the bookshelves this month.

In his darkest moments, Judge Brownstone of the Ontario Court of Justice, was afraid of anything from a serious scolding from his superiors to a misconduct complaint. After all, in the tightly-cloistered world of the Canadian judiciary, sitting judges simply do not write books offering insider anecdotes, advice and a critique of the court system in which they work.

Times have changed. Instead of chastisement, he received letters praising his book from Chief Justice Annemarie Bonkalo and from Ontario Superior Court Judge Heather Smith.

“They both said they fully support the book and that it should be distributed as widely as possible – including in courthouses,” Judge Brownstone said in an interview.

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“If I'm correct that there is a need for this kind of information, and that having the unique perspectives and insight of a judge is of interest and assistance to litigants ... then, this may be the dawn of a new era for judges. I hope this opens the door for other judges who have insights and information to share in other areas.”

Judge Brownstone's book, *Tug of War*, provides a candid account of the soul-destroying, financial debacle that usually results when warring couples take their differences to court. It explains the shortcomings of the family-court system, strongly advocates on behalf of the children of divorce and offers down-to-earth tips.

All of which makes it a highly-unusual venture. Another judge on the Ontario Court bench, speaking anonymously, said that Judge Brownstone has escaped criticism partly because he is channelling the proceeds of his book sales to children's charities.

He also has the benefit of being well-respected by other judges for his dedication and sincerity, he said.

“There is always a strain of criticism whenever a judge is in the media for something that is considered by some to be not ‘strictly judicial’,” the other judge said.

“A more modern view of judging is that there is some responsibility on our part to participate in activities that make the law easier to understand – as everyone agrees Justice Brownstone is doing here.”

The book also comes at a time when the judiciary is opening its doors as never before.

Two influential jurists, B.C. Provincial Court Chief Justice Hugh Stansfield and Manitoba Provincial Court Chief Justice Ray Wyant, advocate strongly in favour of judges speaking to the public through the media. Both regularly appear on radio call-in shows.

In addition, the Canadian Judicial Council broke with long-standing tradition last year by issuing a communication guide for judges that encourages them to make measured media appearances. “This will lead to greater public awareness and understanding, and may also pre-empt misunderstandings and unwarranted criticism,” the guide said.

On a more sombre note, it warned judges that: “You may find yourself and your court the subject of media stories – whether desired or not – and it is essential to develop effective communication skills.”

The range of advice in the CJC guide ranges from not “popping your ‘p’s” during a radio interview to contacting a CJC National Response Team in the event that a significant issue erupts.

Judge Brownstone said that what judges worry about most is the spectre of their neutrality being jeopardized.

“If people are getting a legal education from *Judge Judy* and *Law and Order*, then why doesn't a real judge go on TV to give them their education,” he said. “And why can't that be me? Why couldn't they get it from someone who actually knows what they are talking about?”

Judge Brownstone said he still harbours concerns that something he may say during an ambitious, upcoming schedule of media interviews could ruffle judicial feathers.

“I have an animated and emphatic personality,” he said. “When I appear in the media, I project a kind of dynamism that is not the restraint traditionally perceived as being appropriate for a judge. But I really do want to engage the public and say something; to make them understand that judges really care about the families we serve – and we feel very concerned that the impact of the litigation is harmful to people.”