

Ontario judge's TV show has legs

Move over, Dr. Phil. Here comes the judge, as in Ontario Court Justice Harvey Brownstone.

The Toronto family court judge has added a new jurisdiction to his purview on Tuesday nights at 10:30 p.m. on CHCH TV in Hamilton, Ont., as well as the CHEK network.

Brownstone discusses family law and sometimes other issues on the show, *Family Matters*. That he remains a sitting judge may raise some eyebrows, but Brownstone prefers to see himself as a trailblazer for the cause of justice.

"No one is doing this, not Oprah, no one," says Brownstone, a passionate believer in education and outreach. His book, *Tug of War: A Judge's Verdict on Separation, Custody Battles, and the Bitter Realities of Family Court*, is now in its fifth printing and is required reading for clients in some law offices because of its common-sense approach and tell-it-like-it-is advice on the pitfalls of protracted battles in family court.

Although the just-launched TV show has yet to generate any profits, as with his book, Brownstone directs any income to the Children's Wish Foundation, a charity that works with terminally ill children.

The show started as an hour-long Internet webcast last year and was an extension of the numerous speaking engagements Brownstone gives across the country on the issues and realities of family law and the downsides of an adversarial approach.

Then, as now, it's a familiar interview-style show in a studio with armchairs where he leads and questions guests. Brownstone's passion is infectious. In addition to appearances by lawyers, children and youth workers, sociologists, psychologists, and others whose practices touch on family law and related issues, three other judges will come on the show, one of them retired and two still sitting.

The TV version, however, is half an hour, a change Brownstone says was due to differences in the audiences. "We started on the Internet because that's where people go to get information," he says, noting that while TV can be just as informative, it also has to have an entertainment component and deliver the goods quickly.

As TV host, Brownstone is the antithesis of Judge Judy or her predecessor, judge Wapner. He's witty, articulate, engaged, and enthusiastic. It's that persona that immediately impressed the production team, says producer Nancy Kinney, who's based in Victoria where the series was shot.

"He's very professional," she says. "We shot 15 episodes in three days, and everyone in the studio was impressed."



Inside Queen's Park

By Ian Harvey

The Internet spots went viral, says Kinney, who's also president of AdviceScene Enterprises Inc. and whose U.S. and Canadian web sites offer free legal answers from lawyers with a mission to democratize the law.

"We're getting interest from the big national networks now," she adds.

In the TV game, series sometimes start as a small regional show from an independent producer and then get picked up by a national network like CTV, Global or the CBC or perhaps one of the digital channels like Showcase or Bravo.

That's when the audience jumps and the project becomes valuable through advertising revenue. Still, that's a long way off.

For his part, Brownstone is just happy to get the message out that no one wins in a divorce and that it's better to work things out without going to court.

With the high number of people appearing without legal counsel in family courts, he's well-versed in simplifying complex issues but realizes there are some inherent dangers. "One of the reasons judges don't speak publicly on issues is that they don't want to be seen to be speaking for the court and to not be viewed as remaining impartial and independent," he says. "I'm sure I will get complaints but I'll deal with it."

Brownstone informed Ontario Court Chief Justice Annemarie Bonkalo of his plan and says she was supportive and wished him luck. The bigger risk, he says, would be to do or say nothing while the system chokes under its own weight and leaves litigants disgruntled with more unresolved matters.

Issues covered in the show this season range from hot-button topics such as parental alienation syndrome and Internet sex addictions to wills and estates and dealing with dog bites.

Brownstone will also tackle Internet dating, something he says may be a factor in divorce itself with more people thinking that if they don't like their current relationship, there's always someone else out there online.

"The show is not just about family law," he says. "It's about being human."

Someone should call Oprah quickly. This show has legs. **LT**

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Law foundations suffering under low interest rates

Everyone is aware of the serious challenges in providing affordable and timely access to justice. One of those challenges — one that's less understood, perhaps even in the legal profession — is the impact of low interest rates on the ability of law foundations to address access to justice.

Law foundations exist in every Canadian province and territory as well as the United States. They receive the interest on mixed trust accounts that lawyers and paralegals hold on behalf of their clients. They use these funds to support work that improves access to justice, often with a focus on the needs of those at the margins of society.

Too many people in both Canada and the United States can't afford legal help. Often, they don't even have adequate information about how the law can address their problems.

Last month, North American law foundations met in Toronto in conjunction with the American Bar Association's annual meeting. All of the law foundations are caught in a squeeze between declining interest income and increasing needs for accessible legal information and services. In some jurisdictions, the situation can truly be described as critical. This is particularly so for a number of American states where available funds were spare even in better times.

Law foundations continue to play a key role in promoting access to justice despite the economic downturn. There's often no choice as so many public-interest organizations rely upon foundations for their core funding. In the face of record-breaking low interest rates, use of reserves from previous years has sometimes allowed law foundations to maintain prior funding levels for their programs.

But with interest revenue continuing to trend sharply downward and the prime rate generally expected to remain low at least into the immediately foreseeable future, law foundations will be increasingly unable to support the full range of programs that they have in the past.

In Canada, law foundations have traditionally funded a wide range of activities from support for articling positions at public interest-organizations to the Law Commission of Ontario and many programs in between. In the United States, the paucity of available funds has forced law foundations to largely focus on basic civil legal aid funding.

But in either case, the end result of the current situation, as we learned over the course of our meetings, has been plummeting numbers

and sizes of access-to-justice grants. This has left many non-profit organizations across the continent struggling to find means of supporting work that makes a crucial difference in the lives of their clients.

So what are law foundations doing about it? Alternative funding sources for access-to-justice programs were a key focal point of our discussions in Toronto.

The funding models in use elsewhere include:

- Lobbying governments for direct allocations of public funds.
- Filing fees applied to court documents in civil cases.
- A levy on the profession.
- Recognition of preferred banks that provide better returns on mixed trust accounts.
- *Cy-près* awards from class actions.

Not all of these are viable options on this side of the border. By both the terms of their mandates and by tradition, Canadian law foundations are precluded from lobbying governments, for example. Filing fees and levies, while successfully implemented in other jurisdictions, aren't something law foundations are in a position to undertake unilaterally. The preferred bank strategy is worth consideration but is also potentially more challenging in Canada where a much smaller number of banks compete than in the United States.

All that said, the *cy-près* model has recently become an option in Canada with the help of the class action community. Using a \$14.6-million award in 2009 — the largest single *cy-près* sum ever directed to a North American law foundation and the first such award in Canada — the Law Foundation of Ontario launched the national Access to Justice Fund. This fund provides grants to address access barriers of five broad types and has received further support through two other small *cy-près* awards.

Any one new revenue stream for law foundations won't close the growing access-to-justice gap here in Ontario or anywhere in North America. But the discussions at the recent Toronto meetings demonstrated the determination to reduce law foundations' vulnerability to the impact of low interest rates. **LT**

Toronto criminal lawyer Mark Sandler chairs the board of trustees at the Law Foundation of Ontario. This is the first in a series of semi-monthly columns he'll contribute to Law Times about access-to-justice issues.

Access to Justice

By Mark Sandler



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