



Family Law

Rosemarie Boll

Better than Judge Judy!

While the divorce rate in Canada has fallen since the 1990s, about 40% of Canadian marriages end in divorce. Assuming the rate of relationship breakdown is about the same in common-law families, that's a lot of people who will be looking for reliable legal advice. If you don't have a lawyer, where do you go for legal information?

Most people don't read judgments or law statutes, but they do listen to the news, watch TV, and surf the Net. We live in an information age, and the volume of information increases with every new website and blogpost. Google the word "divorce" and you'll get over fifty million hits. Thousands of websites clamour for our attention and it's hard to know where to start – or quit. Yet, despite this avalanche of information, family court judges tell us that litigants still arrive at the courtroom doors without any firm idea about their rights and obligations, procedural requirements, rules of evidence, or even the types of orders a court can and cannot make.

This problem arises for a lot of reasons. Family law varies greatly from jurisdiction to jurisdiction. Every family is unique, and even though one case may seem to be the same as another, they are never identical. Procedures vary enormously even between

cities in the same province. And some information out there is just plain wrong. Take, for example, these quotations from bloggers addressing that vexing question – when are kids old enough to decide where they want to live?

"Twelve in Manitoba why don't know but kids by that age know which is the crazy parent"

"It's 12 when they can decide which parent they want to live with"

Lawyers call this "the myth of 12". In reality, a child never gets to decide where she will live, not even at age 16.

Information is only as good as its source. The three top sources for legal information are judges, lawyers, and academics. Many lawyers and academics have an online presence, but we rarely hear from the ones at the top – the judges. Family court judges see thousands of cases, and they are undeniably the best qualified to comment on the realities of family law. Traditionally, judges have shied away from the media and public appearances. They do not speak about their decisions; they let their judgments speak for themselves. But one Canadian judge has taken advantage of his unique position and has moved off the bench and into the media spotlight – meet Mr. Justice Harvey Brownstone. A sitting Family Court judge

since 1995, Justice Brownstone has released a bestselling book: *Tug of War: a Judge's Verdict on Separation, Custody Battles, and the Bitter Realities of Family Court*, Toronto: EWS Press 2009). Written for the general public, the book informs parents about the realities of family court, and it isn't pretty: "What we judges see in family court is beyond belief and certainly more dramatic and gut-wrenching than any television show or movie." Justice Brownstone tells you why you don't want to appear in front of him (or any other judge) and recommends alternatives to litigation. He outlines how and why to pick a lawyer, explains concepts such as "the best interests of the child" and "joint custody", and summarizes the tricky rules of evidence. He gives pointers on conducting successful litigation, and the book ends with "Ten Tips for Success in Resolving Parenting Disputes."

In 2010, Justice Brownstone launched an online TV show about family law issues – *Family Matters* (Familymatterstv.com). He interviews guests from the legal community on topics such as child support, collaborative law, mediation, and child protection. Justice Brownstone also answers questions from the public using social media such as YouTube, Skype, email, and AdviceScene.com's Q&A. His talk show has branched out into a discussion on the way the justice system affects relationships: Internet dating, addictions, prenuptial agreements, mental health, adoption, surrogate parenting, same-sex and multi-cultural relationships, parenting after separation and divorce, mediation, child neglect and abuse, and child and spousal support. You can follow him on Facebook and Twitter. He hopes to expand into mainstream TV with documentaries, reality shows, and even live dispute resolution.

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