

# Harvey Brownstone, the first openly gay judge in Canada, retired in December after a law career that spanned almost 27 years in Toronto and Niagara

Also a talk show host and author, retired justice had a reputation of being unconventional, at times outrageous, but never inappropriate



By [Alison Langley](#) Review Reporter  
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“Because he’s a faggot.”

That was the flippant answer a teenage boy gave when Judge Harvey Brownstone asked why the young man had punched a classmate in face, breaking the other boy’s nose.

“That was a moment of truth for me,” the 65-year-old Brownstone recalled.

Brownstone was severely bullied as a child because he was gay.

That day in a packed courtroom, his reply to the young brute who assaulted the 14-year-old in the schoolyard simply because he believed he was gay was swift and succinct.

“Well, so am I,” Brownstone told the teen.

“I said, ‘Take a good look at this,’ pointing to myself, ‘this is what faggots grow up to be now.’

“I hope it made a difference to the victim, and, for the offender, I hope I shattered a stereotype in his mind.”

Brownstone, the first openly gay judge in Canada, retired in December after a law career that spanned almost 27 years.

He spent decades in family and criminal law in Toronto before relocating to Niagara in 2019, presiding over Ontario Court of Justice in St. Catharines.

Brownstone had a reputation of being unconventional, at times outrageous, but never inappropriate.

“I don’t regret anything I’ve said in court,” he said.

“Were eyebrows raised within the judiciary? Yes, but I don’t care.”

In 2020, for example, he ordered a Niagara Falls man who had exposed himself to a group of teenaged girls on Clifton Hill to wear “tight-fitting underwear and long pants” when outside his home for the next three years.

“Do you really think teenage girls want to look at a 60-year-old’s penis and testicles?” he told the defendant.

“Do you think any woman wants to look at your genitals? I don’t know how you can stand to look at them.”



In February 2021, he warned a 23-year-old man, who caused \$17,000 in graffiti damage to more than a dozen buildings throughout St. Catharines to quell his artistic urges in order to avoid a jail term.

“You listen to me carefully,” he told the offender.

“Don’t you dare deface anyone else’s property ever again because if you do, sir, I’m going to put you in a place where you just might find yourself getting defaced ... if you catch my drift. Get it? Got it? Good.”

Niagara lawyer Mark Evans described Brownstone as reasonable, compassionate and “topped with a heap of comedic wit.”

“His court was never a boring place to be,” the Welland lawyer said.

Despite his sometimes shocking comments from the bench, the judge also made it a point to engage offenders in conversation.

“It was a regular occurrence that clients would tell me they appreciated what he said to them and that these in-court conversations made them feel respected ... that theirs was not just another routine case of many,” Evans said.



The flip side of his compassion, however, was that Brownstone did not tolerate bullies.

“Those who hurt the disadvantaged, the vulnerable, could expect a rough go in his court,” Evans said.

Canadian judges rarely speak publicly about the work they do, or make themselves available to the media. Brownstone was a notable exception.

“If the price I paid for being unconventional is that I made myself more accessible and more relatable and more popular than other judges, it was price worth paying,” he said. “Getting respect from the public is a lot more important to me than respect from my colleagues.”

That philosophy led Brownstone down a very unconventional path compared to other judges.

As a sitting judge, he wrote a bestselling book and hosted a television series for two years.

And, now that the robe has been put away after almost 27 years in the courts, he's turning his attention to a new chapter in his life.

It's actually a role he's been cultivating for years.

As a child, he dreamed of being a talk show host. Not like the late night jokefests of today, but rather in the vein of hosts who conducted well-researched, in-depth interviews like Dick Cavett and James Lipton.

He launched "Harvey Brownstone Interviews" in February 2021.

In less than a year, an eclectic list of guests have appeared on the show — [www.harveybrownstoneinterviews.com](http://www.harveybrownstoneinterviews.com) — conducted over the Zoom platform from an office in his Niagara home that is decorated with dozens of framed celebrity autographs and posters and prints of movies and actors from the Golden Age of Hollywood.

His interviews are available on various social media platforms including YouTube and Instagram.

One of his first guests was Kathryn Sermak, author of 2017's "Miss D and Me: Life with the Invincible Bette Davis," which chronicles the time she spent as a personal assistant to the actor.

"When he interviewed me last year on the release of my book, I found him both incredibly knowledgeable, supportive, and had an innate insight into my story," Sermak said during an interview from her home in California.

The author was so impressed with the interview that she has since assisted the fledgling talk show host secure interviews with a slew of celebrities, authors and sports stars.

Many of the guests comment on Brownstone's interviewing style and his attention to detail.

Actor Burt Ward, best known for his role as Robin in the 1960s television series "Batman," was particularly impressed.

"I love it when somebody is a real pro so it makes it so easy to work with and to be myself and to get my message across," Ward said during the interview. "I have to say, 'Holy impressed person,' that I am with you Harvey."

Canadian journalist Steve Paikin has also appeared on Brownstone's talk show.

The host of TVOntario's current affairs program, "The Agenda with Steve Paikin," grew up in Hamilton and his parents were friends with the judge's parents.

"Harvey is a wonderful interviewer, mostly because of his tremendous empathy for not only his guests, but also for people in general," said the veteran interviewer.

"It's clearly a quality that he brought from the bench — the need to listen carefully to what witnesses were saying and give everyone a fair hearing."

Within three months, the show had one million subscribers. Today, it has more than three million.

His online show has caught the attention of the entertainment industry and he is in negotiations with several U.S. networks.

“The Hollywood community is completely enamoured with his meticulous research, his uncanny questions that no one else has ever asked, and his unique interviewing style, which makes his guests open up in ways they’ve never done on camera before,” Sermak said. “He’s destined for a major network deal.”

Born in France in 1956, Brownstone was raised in Hamilton.

When he came out to his parents at 19, he was kicked out of his house and spent five years struggling on welfare.

“Rejection from your parents is great motivator,” he recalled. “It made me determined to make them proud of me. I became an overachiever because I was trying to please my parents and get their approval.”

But it definitely wasn’t an easy road.

“At Queen’s University one night I called a suicide prevention hotline ... and they put me on hold. I got angry, I’m thinking of killing myself and I call for help and they put me on hold. Then, I realized if I could get angry about that, I wanted to live.”

He subsequently reconciled with his parents.

Called to the bar in 1983, he embarked on a career as a criminal and family court lawyer in Toronto.

He later applied to become a Crown attorney. As a defence lawyer he’d never lost a case. Juries liked him and he was fluent in French.

He figured he was a shoo-in for the position.

“I was told we can’t hire you because we deal with the police and this is a very macho office and you won’t fit in,” he said.

The discrimination continued when he decided to apply to become a judge. He was repeatedly told to “remain in the closet.”

But that simply wasn’t an option.

“I didn’t set out to be the first openly gay judge in Canada,” he said.

“I never hid who I was. I never announced it, but I never hid it either. I was just me.”

In Toronto in 2007 he officiated the marriage of Edith Windsor and Thea Spyer, whose union triggered the constitutional litigation in the United States Supreme Court regarding same-sex marriage.

The couple, who had been together for 40 years, travelled to Toronto to get married because their home state of New York had not yet legalized same-sex marriage.

Brownstone was presented with a proclamation by New York Sen. Thomas Duane the following year in recognition of his role in having officiated at hundreds of same-sex weddings for New Yorkers who had travelled to Toronto to get married.



A Russian couple blocked from getting married in Moscow came to Toronto to exchange vows before Brownstone in 2009.

The couple made international headlines that year when their efforts to register Russia's first lesbian marriage were rejected on the grounds that the Russian Family Code only permits marriage between a man and a woman.

After their wedding in Toronto, they travelled to Niagara Falls for their honeymoon.

One of Brownstone's early interviews for his show was with skating legend Brian Orser, who won back-to-back Olympic silver medals in men's figure skating in 1984 and 1988.

"I've been interviewed thousands of times and I must say that one of my favourites was with Harvey," Orser told the Niagara Falls Review.

"He does his homework, talks to people who he is genuinely interested in, he listens, and he is one of the funniest people I know."

Brownstone also officiated at Orser's wedding to Rajesh Tiwari in 2009.

Brownstone was a family court judge in Toronto for 12 years.

Over the years, he became frustrated by a system that saw more than 80 per cent of litigants in court without legal representation. Legal aid eligibility was low and many estranged spouses could not afford a lawyer.

"The family court system was never designed to be navigated by people who are not lawyers. There's a reason we went to law school."

Litigants were woefully unprepared for what Brownstone described as a "incredibly corrosive and adversarial" process.

“Day after day, I would see these people coming to family court with expectations that were completely unrealistic,” he recalled. “People would say they wanted justice but what they really wanted was vengeance.”

Often overlooked between warring partners were the children.

“You need to love your children more than you hate each other,” he said.

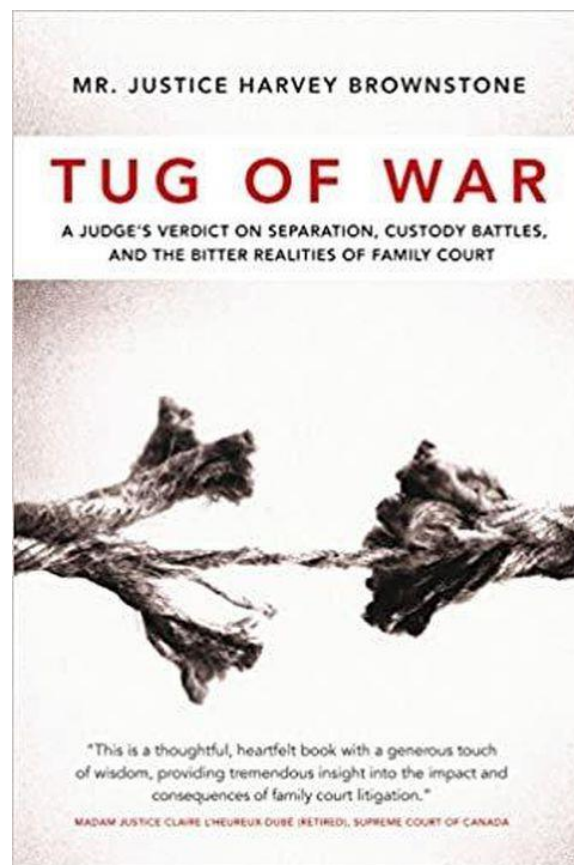
“The truth is family court is bad for families and litigation is bad for children.”

He felt if people were better informed of the process and alternatives “before they launch themselves into major battles, which would make them bigger enemies of each other at the end of the case than when they were at the beginning” it could have a better result for the family and the children.

He put pen to paper and wrote “Tug of War.”

The guide to family law and divorce was released in 2009 and it received widespread support from leading members of Canada’s legal and judicial community.

The book explains complex family law concepts and procedures in a jargon-free style and includes information on also provides alternatives to litigation such as mediation.



“Tug of War” spent 13 weeks on a national bestseller list. Proceeds from sales of the book were donated to the Children’s Wish Foundation of Canada.

After the book was released, the judge went on an 18-month press junket, appearing on television and radio shows across Canada.

Following an interview on a morning show in British Columbia, a producer asked if he'd ever considered taking the book further and creating a television show.

In 2010, he launched an online talk show called "Family Matters with Justice Harvey Brownstone." It was the first talk show to be hosted by a sitting Canadian judge.

The show dealt with various family law issues including child support, collaborative law and mediation.

The following year, a further 15 episodes appeared on Hamilton-based CHCH and stations across Canada.

A second season was filmed in 2013 and featured 16 episodes which addressed topics such as infidelity, addictions, online dating, same-sex parenting, wills and estates.

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After spending 40 years in Toronto, Brownstone relocated to Niagara in 2019 and began presiding in St. Catharines.

"I expected a very different community here than what I got," he recalled.

"I was stunned — and remember I worked in Toronto so I was used to inner city crime in the biggest city in Canada — by the sheer number of cases of mental illness and substance abuse in the Niagara region and the lack of resources to service this population of people who are really not criminals."

He said many people who came before him in court were in need of rehabilitation and mental health services — not jail.

"I'm disappointed that the criminal justice system is used as a dumping ground for mentally ill people and addicts."

St. Catharines lawyer David Protomanni called Brownstone a "trailblazer," saying he has a "true understanding" of the struggles faced by vulnerable individuals.

"I found he was always able to find the perfect balance in his sentencings, one where the offender left court having learned a hard lesson, but also left with encouraging words for future life choices."

Bobbi Walker said Brownstone "was not afraid to make a decision and was decisive in his reasoning."

"Justice Brownstone was cognizant of the over-warehousing of those suffering with addiction and mental health issues due to the lack of available resources in the community," the St. Catharines lawyer said.

The revolving door of defendants, Brownstone said, is acerbated by offenders being released on bail, only to end up being arrested again, as well as a probation office that is "completely overloaded and overwhelmed and poorly-resourced."

He also remains critical of the amount of time an offender — and victims for that matter — can spend in limbo waiting for a matter to conclude.



“Judges feel a certain obligation to write lengthy decisions that sometimes take months to deliver. I find that very problematic. We are first and foremost problem solvers, we are the people’s court, we are in the trenches, and we serve the public better by delivering expeditious decisions.”

Now retired, Brownstone is looking forward to the future, a future when who you are has no bearing on what you can achieve.

“If I could go back and talk to that kid who was not only bullied but living on welfare and struggling with his self-esteem issues, I think I would tell him that life is going to get a lot better if you pursue your dreams and don’t ever hide who you are.”

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