

Bickering judges in the spotlight

Case reveals fits of pique, squabbles

Judge called 'bully' by a colleague

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Tracey Tyler, Legal Affairs Reporter

A hearing into a high-profile judge's fitness to remain on the bench promises to reveal the Ontario Court of Justice in Brampton as it has never been seen before: Looking a lot like any other workplace.

Accusations of mismanagement, battles over parking spaces, sarcasm and name-calling are featured in a series of letters and email exchanges between judges. The material was made public yesterday when a panel of the Ontario Judicial Council convened in the case of Justice Marvin Morten.

The 61-year-old judge is alleged to have acted in a manner incompatible with judicial office.

In the documents, which cover a four-year period starting in 2000, Morten complains of being harassed by his senior administrative judge, questions the work ethic of fellow jurists, and complains of being treated like "a whipping boy" or "mule" by judges wanting him to fill in on their days off.

For their part, one judge describes Morten as "a bully," another calls him "abusive" and yet another complains that, while waiting for an elevator, Morten called him a "jerk."

The documents also deal with more general issues of court operations in Peel. Brampton has a troubled history of once being the home of the longest trial delays in Canada and a 1990 Supreme Court ruling that a man's constitutional rights were violated by having to wait nearly three years for his case to come to trial in Peel led to tens of thousands of criminal charges being thrown out of court.

While judges, lawyers and court staff have worked diligently to improve the court's efficiency and image, Morten appears deeply concerned that problems still abound, including what he describes as "absolute chaos" in the scheduling of judges and the arrival of prisoners. At one point, he alleges a fellow judge closed court early, leaving accused people in custody, so he could take his children to an 'NSync concert.

The letters and emails fill a large volume of material filed with the panel in support of a bid to close portions of the hearing to the public. Testimony from the judges will augment what is in the documents.

In an affidavit, Morten says the documents "tell only part of the story" and more will come out at the hearing.

Doug Hunt, a lawyer presenting the case to the council, argued that publication of the hearing's proceedings would undermine public confidence in the administration of justice in Brampton and across the province.

But yesterday, a judicial council panel headed by Justice Eileen Gillese of the Ontario Court of Appeal ruled the alleged harm was "speculative" and said the material does not fit within the circumstances that would justify closing the hearing, which Morten himself wants open.

The complaint against him was filed Oct. 30, 2003 by Justice Ian Cowan, the court's administrative judge in Brampton.

In a letter to the council, Cowan alleges that when he got out of his car at work that morning, Morten, who arrived at the same

time, "began laughing at me in an uproarious manner."

Cowan's letter said that a few minutes later he again ran into Morten, who once more "roared with laughter at me and in a loud voice said, `You are a pathetic piece of work.'"

Cowan claimed Morten for several years had refused to follow his directions and runs his court as he chooses, in the process becoming "ungovernable."

Three years earlier, Morten had sent a letter of complaint to Justice Anton Zuraw, the court's regional senior judge, contending Cowan had "frustrated" his ability to function.

In one instance, Morten alleged Cowan and a trial co-ordinator switched staff from assigned courtrooms at the last minute, which meant his court started nearly an hour late and a vulnerable prisoner who had undergone heart surgery while in custody was kept waiting longer than necessary.

Justice Tim Culver, the new regional senior judge, responded in November 2001, suggesting he and Morten start with a "clean slate." As a general principle, he added, he stood behind Cowan.

Culver noted, however, that Cowan had some complaints of his own, alleging that: Morten had refused to assist other judges when his court finished early; accused trial co-ordinators of ineptitude; and refused to follow the car parking "protocol" for Superior and Ontario Court judges, causing a "loss of goodwill" between the courts.

The following June, Morten sent a lengthy memo to Ontario Chief Justice Roy McMurtry and Chief Justice Brian Lennox of the Ontario Court, complaining about the lack of a "focused and visionary" response to challenges facing Peel's criminal justice system.

Adding to the problems were inexperienced judges, police and Crown attorneys, he said.

Morten sent a copy to his fellow judges, who weren't impressed and refused to meet to discuss his concerns.

"I view this memo as nothing less than an over-our-heads and behind-our-backs attack by Justice Morten on us," said Justice Bruce Duncan.

Things didn't seem to improve. In May 2004, Duncan emailed Cowan an about "an incident" two weeks earlier, when Duncan was on his way to court.

Morten was standing in front of the elevator and, after a brief exchange, uttered the word "jerk," Duncan's email stated.

Morten stepped in the elevator, looked straight at him and said "whining wimp" or "whimpering whiner," Duncan said.

The hearing is to begin May 8.