

UPDATED: Buck trial to resume January 22 following jury dismissal

By Brock Weir

A decision in Councillor Evelyn Buck's trial against members of the 2006-2010 Council will be made by a judge and judge alone.

Justice Edwards, the presiding judge in Councillor Buck's defamation suit against former mayor Phyllis Morris, incumbent Councillors Wendy Gaertner and John Gallo, and former councillors Stephen Granger, Evelina MacEachern, and Al Wilson, dismissed the six member jury on Thursday morning citing an improper submission by Kevin MacDonald, a lawyer for Councillor Buck, in his closing arguments.

After some negotiations between the lawyers and the judge in court on Friday afternoon, the trial is set to resume without a jury between January 22 and January 23.

Further arguments are expected to centre around whether or not the defendants acted in bad faith or showed malice relating to the publication of a July 2009 statement regarding Councillor Buck's conduct, in which she alleges the defendants defamed her.

Mr. Macdonald told the court he intends to bring forward an expert witness when the trial resumes and left the door open for a re-examination of both Councillor Buck and former councillor Alison Collins-Mrakas.

On Thursday, Justice Edwards weighed several options before opting to dismiss the panel of four men and two women, including providing jurors with a caution before they began their deliberations of what could and could not be considered in their talks, and a mistrial.

In making his decision, Justice Edwards said Mr. MacDonald's closing submission in which he cited case law on damages he was instructed not to, prejudiced the defence beyond something which could be remedied by strong instructions to jurors.

Councillor Buck argues a statement released by the defendants in July 2009 regarding a complaint against her conduct was an 'abuse of power' which damaged her reputation. She seeks \$1 million in damages, a further \$1 million for a breach of her Charter freedoms, \$1 million in punitive damages, and \$250,000 in aggravated damages.

The claims have not been proven in court.