

50% UP FOR ELECTION

Nothing is more essential to our court system than an independent judiciary. So it goes without saying that we all should be concerned with the partisan influence that appears to be taking shape as Bay County's historic judicial races of 2010 approach.

Fifty-percent of the local judges in the District and Circuit courts are up for election this year, and all three of the six judges who are elected will be elected as a judge in their own right for the first time. It's a historic vote for citizen involvement in our judicial system since half of our local judiciary will be decided by the voters. A rare event, indeed!

Two of the three newly elected judges will be in the District Court. Scott Newcombe, a judge for 31 years, announced his retirement effective mid-May, placing his judicial post up for grabs. If Governor Granholm appoints a temporary district judge to fill out the rest of Judge Newcombe's term to the end of the year, that newly appointed judge would have to run for election without any designation on the ballot of the temporary judge's incumbency.

Unlike all other elected public officials, including President, only judges – at all levels – have their incumbency noted right on the ballot. If Judge Newcombe had chosen to retire three weeks earlier, prior to April 27th, then whoever the governor appointed to fill out the 7 ½ months left of his term would have had incumbency indicated on the ballot. Under the name of the appointed, temporary judge would appear the words "District Judge," even though that individual was never elected to the post.

But Scott Newcombe wisely chose to retire three weeks too late for that to happen, and it's put the race wide open for his District Court seat. Two lawyers have already declared their candidacy, at least five others are circulating their petitions, and the City Attorney contemplates throwing his hat into the ring. Since there will be no incumbent designated on the ballot in the primary election for Mr. Newcombe's judgeship in District Court, voters will have the rare opportunity to select their judge from a long list of competing candidates.

That's good news because many candidates generate much interest, voter involvement, and awareness. It's healthy for the democratic process, and the community benefits through such competition that raises issues for public debate.

The same, however, cannot be said for the second District Court judgeship to be decided by the voters. Judge Alston retired last November, well before April 27th, so Governor Granholm's appointment of Dawn Klida, a county commissioner strongly backed by Judge Joseph Sheeran, will provide the new, temporary judge with incumbency on the ballot. Since the words "District Judge" will appear directly below Ms. Klida's name on the ballot, and since no one has announced any intention of running for that seat, it appears no attorney is willing to take her on and challenge her election.

Folks usually don't pay much attention to judges. Only when one behaves in some outrageous manner do people take note. That's why most sitting judges whose incumbency is noted on the ballot win the election. Unfortunately, then, for the democratic process, no one appears willing to run for the vacancy created when Judge Alston retired, and the temporary judge may win by default.

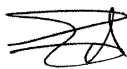
That leaves the third judicial seat to be voted on, this one in Circuit Court, and it, too, has the appearance of partisan influence. Judge William Caprathe must retire due to his age and intends to serve out his term that expires the end of the year. The race for that seat, then, should also be wide open since there will be no incumbency noted on the ballot.

So far, however, only Harry Gill has announced his intentions to run for the job amid much fanfare from our local judges. Judge Sheeran, a current circuit judge who would serve with Mr. Gill as a colleague on the three-judge Circuit Court, strongly endorsed Attorney Gill in the public announcement of his candidacy, as did Judge Karen Tighe of the Probate Court. For his part, Mr. Gill has let it be known he will spend up to \$150,000 of his own funds on the race for Circuit Judge, if need be.

All this is very discouraging for local lawyers in considering a race for Bill Caprathe's judgeship. It's hard to buck a lot of money, and the solid support of local judges when they line up behind a single candidate. And any lawyer challenging Harry Gill would be doing just that, knowingly, given the way the judges are lining up behind him. So that race may be won by default, too.

A historic judicial election year. And what happens? Two of the three newly elected judges – 66% of them – may be elected by default because the deck is stacked against any attorney who is willing to step to the plate.

Partisan influence continues to affect the core of the local judicial process, as evidenced in the Donna Yost case, and those in our community who are thrust into its throes suffer the consequences, as does the community at large.



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**PARTISAN INFLUENCE
OR VOTER CHOICE?**