

# boundaries

A GUIDE FOR PROPERTY OWNERS AND INSURERS IN A LITIGIOUS SOCIETY

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## Republicans Regain Michigan Supreme Court Majority

By Drew Broaddus

Republicans regained control of the Michigan Supreme Court in yesterday's election. Wayne County Circuit Court Judge Mary Beth Kelly and incumbent Justice Robert Young Jr. prevailed over three other candidates. With five candidates (including two incumbents) vying for two positions, Judge Kelly led all candidates with 1,411,532 votes,<sup>1</sup> followed by Justice Young with 1,314,590 votes. The candidates were nominated by political parties, but there was no party designation next to their names.

Judge (soon to be Justice) Kelly unseated incumbent Justice Alton Davis, who had been appointed to the Court in August by Governor Granholm after the resignation of Justice Elizabeth Weaver. Justice Davis' arrival gave Democrats a 4-3 edge, although they already had a working majority with Weaver, a moderate Republican, joining them in many cases. Justice Davis received 911,275 votes.

Young was challenged by Oakland County Circuit Court Judge Denise Langford Morris, a Democrat who received 814,267 votes. A fifth candidate, Bob Roddis, was affiliated with the Libertarian party and received 263,571 votes.

Tuesday's election result means conservatives will again form a 4-3 majority on the Supreme Court beginning in January, after two years in which Democrats largely had control. Certain statements made by Kelly during the campaign suggest that she is generally not in favor of overturning precedent. However, some still expect the new majority to take aim at several of the previous Court's decisions, particularly *McCormick v Carrier*. The *McCormick* decision, issued on July 31, 2010, re-defined the No-Fault Act's threshold for bringing a personal injury lawsuit. The election result is also expected to have important implications in the areas of premises

### SECRET WARDLE NOTES:

Judge Kelly's victory gives the Republicans a majority after two years in which the Democrats had functional control of the Court.

Although Judge Kelly has indicated that she is generally not in favor of overturning precedent, it is anticipated that she will frequently vote in harmony with the other three Republicans on the Court, all of whom vigorously dissented from several controversial decisions of the previous Court.

Justice Young was a vocal critic of several of the previous Court's decisions. With his party back in the majority, many expect Young to be at the forefront of efforts to reverse recent decisions such as *McCormick v Carrier*.

<sup>1</sup> These results are unofficial as of 10:52 a.m. today, per the Michigan Secretary of State website.

## CONTINUED...

liability, workers' compensation, and general liability.

Judge Kelly was appointed to Michigan's Third Circuit Court (Wayne County) in 1999 by Governor Engler. She was the Third Circuit Court's Chief Judge from 2002-07. Prior to becoming a judge, Ms. Kelly worked in commercial litigation, where her clients included Northwest Airlines, Ameritech and Deloitte & Touche. She received her undergraduate degree from the University of Michigan and her law degree from Notre Dame Law School. Judge Kelly was endorsed by the Michigan Chamber of Commerce, Michigan Farm Bureau, National Federation of Independent Businesses of Michigan, Michigan Right to Life, Police Officers Association of Michigan, Supreme Court Justices Maura Corrigan and Stephen Markman, U.S. Congressman Mike Rogers, and Congresswoman Candace Miller.

Outgoing Justice Alton Davis has not yet commented to the media. It has been suggested that, before leaving office, Governor Granholm could send him back to the Court of Appeals. Justice Davis sat on the Court of Appeals before his appointment to the Supreme Court last summer. His seat remains vacant.

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We welcome your questions and comments.

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