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## Partisanship corroding Michigan Supreme Court

Last summer, Marilyn Kelly, then chief justice of the Michigan Supreme Court, told me one of her goals was to win more respect for her state's badly tarnished legal institution.

The court has been infamous for its bitter partisan atmosphere, which included judges sniping at each other in public. Politicians have been even worse, attacking justices nominated by the opposite party in the crudest terms.

"I worry about the effect of this when it comes to respect for the court" among Michigan residents, she said.

No kidding.

Chief Justice Kelly did try, with limited success, to achieve some harmony within the court. But things outside their chambers seem worse than ever. And the process of filling two recent vacancies on the court didn't do much to help.

This all began fewer than five months ago, when controversial Michigan Supreme Court Justice Elizabeth Weaver resigned. Then-Gov. Jennifer Granholm immediately appointed a judge from the Michigan Court of Appeals, Alton Davis, to replace her. Democrats praised the choice, and independent lawyers and jurists agreed that he was a good colleague and a fine judge.

But GOP spokesman Jennifer Hoff savagely attacked him as a "politician in a robe" and a "partisan hack." This was because he was immediately nominated by the Democratic Party as their Supreme Court candidate in last November's election.

Michigan Supreme Court justices are elected on a nonpartisan ballot but usually are placed on that ballot by one of the two major parties. In recent years, nominations have tended to become more ideological and campaigns for the court nastier.

Newly appointed Justice Davis normally would have been a favorite for re-election, since the ballot listed him as an incumbent justice. People tend to re-elect sitting judges. But the GOP nominated a Circuit Court judge to run against him - Mary Beth Kelly.

For whatever reason, Kelly is a magic name in Michigan judicial elections. She defeated Justice Davis in a landslide. On New Year's Day, she became the third Supreme Court justice to hold that seat in just over four months.

That changed the partisan balance on the court from a 4-3 Democratic majority to a 4-3 GOP majority. The new majority wasted no time. It speedily replaced Marilyn Kelly as chief justice with GOP incumbent Justice Robert Young, Jr.

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Days later, another GOP-sponsored incumbent, Justice Maura Corrigan, decided to leave the court to become new Gov. Rick Snyder's director of human services. That left another vacancy.

Under Michigan law, a governor can appoint whoever she or he wants to fill an opening on the state supreme court. The candidate doesn't even have to be a lawyer, and no other body has to approve.

Appointed judges do, however, have to face the voters in the next election. For a time, it was believed that Gov. Rick Snyder was likely to appoint an appellate judge named Kirsten Frank Kelly to the state's highest court. This would have made three of the court's seven justices blonde women named Kelly.

However, on Monday the Republican governor appointed appeals court Judge Brian Zahra instead. Reaction followed swiftly, and it was the mirror image of what happened in August, when a Democratic governor appointed Judge Davis. This time, Republicans were ecstatic.

Moderates and independents, including former Detroit Mayor Dennis Archer, a Democrat, praised Mr. Zahra, a 51-year-old Detroit native, as a fair-minded and well-informed choice. But true to form, Mark Brewer, the Democratic chairman, issued a knee-jerk press release blasting Mr. Zahra as a right-wing "extremist judge who will protect insurance companies and corporations."

Fewer than three years ago, the University of Chicago law school released a study ranking the nation's state supreme courts. Michigan's was dead last. The study concluded that the court was bitterly partisan and little respected for its decisions.

Can't imagine why they felt that way.

Former Chief Justice Kelly is now co-chairman of a commission on judicial reform, including the judicial selection process. She may find it easier than ever to make the case that it is needed.

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Brain drain on the wane? Figures released by the U.S. Census Bureau last month were devastating to Ohio and Michigan, which will lose three U.S. House members between them. They've been losing population relative to the rest of the nation since the 1960s.

Kurt Metzger, a demographer and former census official who runs the nonprofit think tank Data Driven Detroit, says: "the pull of the South and Southwest is strong." But what might reverse that trend?

His advice was succinct, and threefold. Both states should do more to make young people aware of the job opportunities that do exist. They also should strive for more regional cooperation, recognizing that the real competition is not Indiana, but India.

And most of all, they should spend more on higher education if either state hopes to succeed in the post-brawn economic era.

*Jack Lessenberry, a member of the journalism faculty at Wayne State University in Detroit and The Blade's ombudsman, writes on issues and people in Michigan.*

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