

## News Story

### Hathaway sworn in as MSC's 104th justice

*By Todd C. Berg, Esq.*

Huntington Woods attorney Michael J. Kingsley stepped to the podium in the packed Michigan Supreme Court courtroom to speak about his wife, Diane M. Hathaway, the court's newest justice.

To the jurists, lawyers, family and well-wishers assembled before him, and with his wife watching lovingly from her chair just a few feet away, Kingsley last Thursday told the crowd about the qualities Hathaway, the court's 104th justice, will bring to the state's highest court.

He talked of her tenacity and her grit. And, he talked about her dedication and her kindness during her 16 years as a circuit court judge in Wayne County.

"Most importantly," Kingsley said, building to the climax, "what she'll bring to the court is ..."

He paused.

And from somewhere within the mass of business suits, high heels and wingtips, amid the hundreds who had assembled to witness the swearing-in of the first new justice in 10 years, came one whispered word: "Fairness."

That was one of the main themes of Hathaway's whirlwind, seemingly long-shot two-month campaign that unseated then-Chief Justice Clifford W. Taylor, who had served on the court since 1997. In the Nov. 4 election, Hathaway beat Taylor with 1,854,744 votes to his 1,484,924.

Hathaway stressed fairness in her campaign literature, her public appearances, and she continued with the theme in her remarks at her investiture ceremony.

She said her judicial philosophy on the Supreme Court will be the same as it always has been. She will continue to strive to be fair, impartial and follow the law, Hathaway said.

"I will decide cases based on the facts and the law," she said, "without regard to who the litigants are."

In her campaign, however, Hathaway seemed to take sides.

She suggested that, if elected, she would be the "voice" of and stand up for "middle-class families," instead of "siding with big insurance companies and polluters" and "big corporations."

Nevertheless, expectations are high for Justice Hathaway.

Justice Elizabeth A. Weaver has said, in a posting on her Web site, [www.justiceweaver.com](http://www.justiceweaver.com), that she hopes Hathaway will assist in "working to reform the selection of justices and establishing disqualification rules for justices ..."

Shortly after the election, Southfield no-fault specialist Steven M. Gursten told *Michigan Lawyers Weekly* that, with Hathaway on the Supreme Court, he and other no-fault practitioners are looking forward to seeing the court's controversial "serious impairment of body function" ruling in *Kreiner v. Fischer* overruled.

And in the investiture ceremony, 3rd Circuit Court Judge Amy P. Hathaway (no relation) predicted Hathaway will bring a much-needed, long-overdue dose of common sense to the Supreme Court's jurisprudence.

Judge Hathaway said Justice Hathaway will abide by a "reasonable person standard" because "words don't always have to be looked up in the dictionary."

Before becoming a Supreme Court justice, Hathaway served as a circuit and district court judge, and as an assistant Macomb County prosecutor.

Hathaway was an unlikely challenger to unseat the entrenched Taylor, who was appointed to the court in 1997 and elected to a full eight-year term in 2000. He served as chief justice from 2005 through 2008.

Hathaway had run unsuccessfully for the Michigan Court of Appeals in 2006. She didn't appear to be the Michigan Democratic Party's first choice to oppose Taylor, given rumors in June 2008 that attorney Marietta Robinson may be ready for a rematch with Taylor after losing to him in 2000. And, Hathaway didn't declare her candidacy until Sept. 2, slightly more than two months before the election.

But none of that mattered on Nov. 4, when she swept the Supreme Court election by more than 350,000 votes.

"May God bless Michigan and Michigan's new Supreme Court," Hathaway said at the investiture. Her term expires Jan. 1, 2017.

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