

“WHAT EVERY JUDGE SHOULD BE”

**Excerpt from remarks by Justice Elizabeth A. Weaver at
Oakland County Circuit Judge Cheryl Mathews’ investiture on January 11, 2005,
at 60th District Court, Muskegon County Judge Maria Ladas Hoopes’ investiture on December 13, 2006,
and at Benzie County Probate Judge Nancy Kida’s investiture on December 21, 2006**

After over 32 years of experience as a judge in all three types of Michigan’s trial courts and on the Court of Appeals and Supreme Court and as a Chief Justice, I’ve often been asked: “Justice Weaver, what **do you** think “**every judge should be**”?”

Here are some of my thoughts on the subject:

First of course, every judge “should be”:

- Honest
- Intelligent
- Wise
- Firm but Fair
- Forgiving
- Hardworking
- Humble
- Temperate
- Non-partisan in decisions and actions
- Service and community minded

Every judge should possess and practice (what I call) the 4 “c’s”

- Commitment
- Caring
- Courage
- COMMON SENSE**

Every Judge “should be”:

- Friendly
- Collegial
- Team Spirited
- Cooperative and willing to Compromise
- INDEPENDENT**

When principle is involved in deciding cases and/or the administration of justice, every judge must be **INDEPENDENT MINDED** and, when necessary, **INDEPENDENT ACTING**. (One cannot “go along to get along”.)

Judges must exercise –

JUDICIAL RESTRAINT

You know, it’s popular to talk about the importance of judges “**interpreting law**”, not “**creating law**”. But we all recognize that to “**interpret the law**” can be to “**create law**” and we must therefore have judges who use the **power** to **interpret** with a great deal of **self-restraint**.

The late Chief Justice Mary Coleman, who many of you know as our first woman Supreme Court Justice and first woman Chief Justice (a wise, temperate and courageous woman) was my mentor. She had me promise to always put two (2) things on my campaign literature:

The first (1st) request was very practical – it was: to always put on campaign literature: “Vote the non-partisan ballot first”. It’s good advice because many people forget to look for the separate non-partisan ballot and don’t vote.

The second (2nd) promise Chief Justice Coleman requested was to always include in my campaign literature the words and principle of “**JUDICIAL RESTRAINT**”.

(I kept my promises to Justice Coleman).

What is “**Judicial Restraint**”?

“**Judicial Restraint**” means what it sounds like – Judges exercising

SELF-RESTRAINT, and

SELF-DISCIPLINE.

“**Judicial Restraint**” means that when the law is constitutional, clear and unambiguous and is not resulting in absurd nonsense, defying common sense, the judge must follow the

statutes and laws as written and passed by the legislature (like them or not) and not personally create new laws of his or her own preference through unwarranted and unnecessary interpretation.

Judges should use the power of “interpretation” not as a **sword** to promote the agendas of those who support them, financially or otherwise, nor to promote their own personal agendas or, worst of all, to advance their own personal bias’ and prejudices.

Rather, judges should use the power of interpretation as a **shield** to protect the constitutional rights of the individual and all the people, and the constitutional acts of the legislature and the executive.