

COA Opinion: Recently appointed judge entitled to incumbency designation

18. June 2010 By Nicole Mazzocco

On June 17, 2009, the Michigan Court of Appeals released its published opinion in *Janer v. Barnes*, No. 298401. In April 2010, the plaintiffs and the defendant filed timely petitions to appear on the primary-election ballot for the position of 74th District Court Judge. The position was a non-incumbent position because the judge had announced his resignation. On April 23, 2010, Governor Granholm appointed the defendant to the position. The plaintiffs filed a complaint seeking to prevent the defendant from receiving the incumbency designation on the ballot, arguing that because the defendant was appointed after the petitions were filed and deadlines had passed the defendant was not entitled to the incumbency designation. The trial denied the requested relief. The Court of Appeals affirmed. The Court noted that the Michigan Constitution, Const. 1963, art. 6, § 24, and MCL § 168.467c(2) both mandate the identification of the incumbent judge on the ballot. These provisions do not impose other requirements. As such, the defendant was entitled to the incumbency designation.