

Name: Gordon Barnett

Date: 05/01/2023

ADM File Number: 2022-03

Comment:

What better way to proclaim the official end of the Judicial System's claim of impartiality than to publicly take sides in the "Culture Wars"? How is this to be applied and enforced when, for example, a judge fails to use an attorney's preferred pronoun? Must all such individual preferences be made from an approved "gender-free" list? Or may an attorney choose his own (Oops! Sorry. His/her/their own) preferred pronouns? Or may one choose one's own pronouns more ... idiosyncratically,... as in preferring to be referred to as "Your Majesty" as a not-too-subtle refusal to dance to the tune of the perpetually offended? Must a public apology be made to an attorney offended by a more "traditional" pronoun otherwise found in the dictionary? Indeed, is a mere apology sufficient? Must they be made publicly rather than in chambers? Are repeated judicial offenses of this nature grounds for a new trial? Or recusal of the offender? Or a complaint to the Judicial Tenure Commission? What about the effect on other judicial personnel who may address the offended attorney? May not they feel coerced to follow the court's lead? What about the coercive effect on other counsel who may have a different opinion on the subject? May a court actually require all counsel to follow this rule? Shall pronouns be announced at the time a case is called, e.g. "Smith (he/his) v Jones (their)"? May we infer that the Supreme Court has determined that requiring the use of certain words and barring others, to at least some if not all of those participating in judicial proceedings somehow violates the "freedom of speech" guarantees of neither the Constitution of the United States or the Constitution of the State of Michigan? And under what procedure, public or private, was such a determination made? When, not if, a challenge to this proposed rule makes its way to the Supreme Court, must the entire court recuse itself due its having pre-determined its own ruling on the issue in adopting this rule? In short, go ahead and adopt it and feel good about yourselves. For a while. Until, that is, any or all of these foreseeable, indeed inevitable issues begin to percolate up from the judicial trenches where they will be fought-out. Meanwhile, with apologies to Betty Davis (q.v.) "Fasten your seatbelts; it's going to be a bumpy ride."