

Our Voice: Our picks for the state Supreme Court

BY THE HERALD EDITORIAL BOARD

A political shadow has covered this year's nonpartisan state Supreme Court races.

The ongoing, contentious McCleary case, as well as the court's unpopular decision to strike down the voter-approved charter school law, put the state's top judicial branch under an unusual amount of public scrutiny.

All three state Supreme Court justices up for re-election attracted challengers.

This is the first time in recent memory that we have seen such a force of opposition to the state Supreme Court. Typically, at least one sitting judge ends up running unopposed.

In our deliberations, we considered each race separately. In two of them, we recommend the incumbents. In one, however, the challenger was so impressive he swayed us.

Here are our recommendations:

Justice Mary Yu

In what may be the most politically-tinged race, voters have a choice between incumbent Justice Mary Yu and David DeWolf, a retired law professor at Gonzaga University and vocal critic of how the state Supreme Court has handled the McCleary lawsuit.

In 2012, the state Supreme Court unanimously ruled that the state was violating its constitutional duty to amply fund K-12 public education, and last year began imposing \$100,000-a-day fines over the Legislature's continued delay in developing a plan to remedy this.

DeWolf believes the state Supreme Court overstepped its authority in this case and a course correction is in order. He has the support of several lawmakers who would like to see the court let the Legislature off the hook.

We don't think legislators should be let off so easy.

Yu was not part of the original 2012 decision because she was appointed to the state Supreme Court in 2014 after serving a long stint as a King County Superior Court judge, but said she would not second guess those justices who preceded her.

She disagrees that the Supreme Court is out of bounds.

Yu notes that the Legislature is being told to pick a plan — not what plan to pick. She has a solid record of making decisions with a practicality and care we admire, as well as a down-to-earth personality coupled with a great mind.

DeWolf is an articulate, highly knowledgeable candidate and gives an impressive interview. But he lacks Yu's judicial experience.

The Tri-City Herald recommends Justice Mary Yu for state Supreme Court Position 1.

Chief Justice Barbara Madsen



◀ 1 of 3 ▶

Mary Yu

Barbara Madsen has served on the state Supreme Court for 24 years. Her challenger is Kittitas County Prosecutor Greg Zempel, who is a devoted lawyer driven by a sense of justice.

He is frustrated with the state Supreme Court, and said it has overturned long-standing precedents in criminal cases that he feels are not warranted.

Madsen, however, defended the court's decisions in cases Zempel brought up, demonstrating that she can certainly hold her own in a legal debate.

Zempel attracted support early on from advocates critical of Madsen when she authored last year's 6-3 ruling declaring charter schools unconstitutional.

The timing of the case was horrendous. It came just days after the new schools opened their doors, leaving students and parents in limbo.

The Legislature eventually found a way to keep the schools open using an alternative revenue source, and the issue became a rallying point by some to oust Madsen.

But a 24-year legacy on the Supreme Court should not end over a recent unpopular verdict. Madsen, like her colleagues, must make decisions based on their interpretation of the law, and not what is politically safe.

We like Zempel's zeal, but it will take more than criticism in isolated cases to unseat such a distinguished justice as Madsen.

He cannot match her judicial history with the Supreme Court and the respect she has earned from her colleagues.

The Tri-City Herald recommends Chief Justice Barbara Madsen for the Supreme Court Position 5.

Judge Dave Larson

Our next recommendation has more to do with the energy and fresh, broad perspective of the challenger than any harsh criticism of the incumbent.

State Supreme Court Justice Charlie Wiggins is finishing up his first term after being elected by voters in 2010.

He is known for his analytical mind and his impartial thought-process. If he did not face off against such a high-quality challenger, it would have been easier to recommend he continue another term.

Wiggins comes across as reflective and precise, which are not bad qualities in a judge.

But Federal Way Municipal Court Judge Dave Larson has a list of achievements that are too exceptional to dismiss.

In 2008, he volunteered to take over an appointment at Federal Way's court during a time of turmoil and turned it around. He said he also once used his vacation time to help save the court in Granger from dissolving.

Larson also was president of the Federal Way School Board and, frustrated by the lack of school funding, filed a lawsuit that ended up a forerunner to the McCleary case.

Unlike other Supreme Court challengers, Larson has extensive experience on the bench, and he also has a civic determination and background in education funding that gives him an edge.

The Tri-City Herald recommends Judge Dave Larson for Supreme Court Position 6.

Look for our recommendation Thursday in the State Auditor's race.

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