

We endorse: Return three justices to Supreme Court bench



The News Tribune recommends the re-election of three sitting justices for Washington Supreme Court, from left, Charles Wiggins, Barbara Madsen and Mary Yu. Courtesy

Washington's Supreme Court has made a lot of state officials cranky. It started in 2012, the year the court raised Olympia's collective blood pressure by declaring the school funding system broken. When legislators didn't move fast enough to fix it, the court took the unprecedented step of [holding the state in contempt](#).

Contempt is also what some lawmakers feel *toward* the court; they bristle at the close oversight justices have exercised under the McCleary decision, and they're frustrated with other rulings, too. The separation-of-powers outrage reached a fever pitch when a handful of Republican senators proposed [reducing the number of justices from nine to five and having them draw straws to decide who gets to stay](#).

Alexander Hamilton would call these "ill humors" and "legislative encroachments." In his [Federalist Paper No. 78](#), he wrote about the political tendencies that threaten a strong, independent judiciary.

Our state's preferred way to shake things up is through elections, and it's notable that this year — for the first time in a century — every Supreme Court seat on the ballot has a challenger.

We endorse the re-election of **Barbara Madsen**, **Charles Wiggins** and **Mary Yu**. While the court is far from perfect, it issued its most important decision in a generation with McCleary, and has followed up boldly to press the state to meet its paramount duty: to fully fund a basic education for all children.

Madsen, a Fircrest resident, has been a capable chief justice for seven years, providing continuity in times of turnover. She is appropriately unfazed when the court's decisions are unpopular, such as the many times it's struck down Tim Eyman's tax-limiting initiatives. Despite the court's sound reasoning, majority opinions like [the one Madsen wrote last spring killing Initiative 1366](#) will never draw cheers from the crowd.

But in judicial life, as in baseball, the occasional error draws groans from the peanut gallery. Madsen wrote last year's [flawed decision](#) declaring privately operated charter schools unconstitutional. The timing of its release the week school started was embarrassing, and Madsen and her colleagues have taken some heat for it.

Her opponent, [Greg Zempel](#) of Ellensburg, received \$130,000 in contributions from charter school advocates, the most outside money in a judicial race since 2010. Zempel says he's running because he feels the court is political, unpredictable and favors criminals over victims. That's understandable for a 21-year Kittitas County prosecutor who sees justice through a tough-on-crime lens.

But Zempel lacks the perspective that comes with judicial experience. Madsen stands apart because of the well-rounded view she developed during four years as a Seattle trial judge and 24 years on the Supreme Court.

Also seeking re-election this year is [Wiggins](#), a Bainbridge resident with an agile legal mind sharpened during many years as an appellate attorney, one of the best in the state. Before his election in 2010, Wiggins served a short time on the state Court of Appeals and as a part-time superior court judge in two counties.

More than 100 opinions written by Wiggins during his productive first term show him alternating between majority, minority and dissenting views, sometimes siding with law-and-order, sometimes criminal defendants — an accomplished body of work that makes him hard to pigeonhole.

His opponent, [Dave Larson](#), has mounted an aggressive challenge. Larson runs a tight ship as presiding judge in Federal Way Municipal Court and gained "intense ground level experience" as a private litigator. Larson's tenure as Federal Way School Board president also gives him insights into the ongoing McCleary case. But Wiggins has earned another six years.

The final seat on the Nov. 8 ballot is held by [Yu](#), the court's shortest-serving justice, who was [appointed to fill a vacancy in 2014](#). A hallmark of Yu's campaign is what she calls "diversity in all its breadth" — diversity of professional experience (14 years as King County Superior Court Judge, preceded by work as a chief deputy King County prosecutor); diversity of ethnicity and life experience (the daughter of a Chinese father and Mexican mother, and the first openly gay member of the Supreme Court).

Yu distinguished herself already by writing [last year's unanimous opinion](#), centered on Pierce County Prosecutor Mark Lindquist, that said public officials' text messages on private phones can be public records. Yu also tried (and failed) to inject sense into the charter school debate by [calling for reconsideration](#) of the part of the court's decision that invalidated all public funding for the schools.

Yu is running against [David DeWolf](#), a retired Spokane law professor. He says a lifetime studying the law would give him "the long view" the court has too often ignored. He worries the justices have set themselves up for permanent supervision of public school funding.

There's much to commend about the academic-minded DeWolf, including that he would give Eastern Washington a second voice on the court. But Yu is a rising star who just might be the best appointee Gov. Jay Inslee has made to any office. She should be re-elected.

Tension between branches of government is OK, and a housecleaning isn't needed in Washington's Supreme Court. Consistent with Hamiltonian thinking, we believe justices should be given broad discretion to exercise their constitutional prerogatives and should be removed from the bench rarely and carefully.

Read more here: <http://www.thenewstribune.com/opinion/editorials/article105973207.html#storylink=cpy>