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## Let's stay the course with state Supreme Court

The Olympian Editorial Board

The Washington state Supreme Court has taken strong positions during the past few years on K-12 public school funding and the legality of state-funded charter schools. The court has since been accused of overreaching its constitutional authority in relation to the Legislature.

So it was no surprise that Chief Justice Barbara Madsen, Justice Charles Wiggins and Justice Mary Yu face challengers on the Nov. 8 ballot. If we had a significant beef with the court we might welcome the challengers, but none of them makes a convincing argument to change the nine-member court's make-up.

The justices have done well on major issues of the day, showing courage in the McCleary case that dealt with the state's unconstitutional overreliance on local school levies to pay for K-12 basic education.

This time, the court used stronger measures than in a similar 1978 case, imposing a \$100,000-per-day fine on the slow-moving state and legislators. That is less drastic than the justices could have done.

A split opinion on charter-school funding in 2015 was different. A narrow majority of the court reached back to an early 1900s law for a precedent and then, in a regrettable display of horrendous timing, announced its decision to invalidate state funding of nearly a dozen charter schools on the Friday before the new school year began.

Madsen, the lead author of the charter schools ruling, has called the timing unfortunate. The court must avoid such a gaffe in the future.

**Position 6:** Dave Larson, a Federal Way municipal court judge, is running against Wiggins. He argues that the court has lost sight of its goals in the McCleary case.

Though he agrees that the Legislature failed to meet its paramount duty in funding basic education, Larson suggests the justices should have brought the court and Legislature together. But he was unable to tell us exactly how he would have achieved his goal.

Larson does bring judicial and practical experience to the task. As a trial lawyer for more than two decades before joining the bench in 2008, he tried cases in the federal and state courts and managed complex tort cases.

Wiggins is an accomplished appellate lawyer from Bainbridge Island finishing a first term on the court. He served briefly on the state Court of Appeals two decades ago and

has been a superior court judge pro tem. He been laudably active in addressing the civil legal needs of low-income Washingtonians.

Larson criticizes Wiggins for a controversial opinion that resulted in a dismissed child-porn charge, but he earns high ratings from prosecutors and exceptionally qualified ratings from three bar groups. Almost half of the state's judiciary is endorsing Wiggins.

**Position 1:** Justice Mary Yu of Seattle was appointed to fill a vacancy two years ago and is a legal star in the making. She earned "exceptionally well qualified" ratings from every bar association that interviewed the candidates and also from the state prosecutors association.

Challenger David DeWolf is a professor emeritus for Gonzaga Law School and an expert in constitutional law rated well-qualified by the King County Bar Association and qualified by the prosecutors.

DeWolf says that the court "engaged in a policy-making venture" on the state's school funding case that amounts to judicial activism. We're not convinced.

Yu is co-chair of the court's Minority and Justice Commission that has been looking into perceptions of race bias in the criminal justice system. She recently secured a \$500,000 federal grant to help the courts study the impact of fines on poor and minority defendants. Besides her high competence and experience as a former chief deputy prosecutor and Superior Court judge, Yu brings diversity as the court's first openly gay justice; also her mother was Mexican and her father Chinese.

**Position 5:** Barbara Madsen of Fircrest joined the high court in 1992 and served as chief justice for seven years. She has created numerous committees and commissions to deal with criminal-justice system bias, racial issues and access to justice.

Kittitas County Prosecutor Greg Zempel of Ellensburg is challenging her and has backing from charter school advocates. He accuses the court of acting too politically.

Though Zempel has a strong background in criminal law and serves as civil legal adviser to his local government, his experience is less well-rounded than Madsen's. On that basis we think Madsen is the superior choice for the next six years.

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