



The state Supreme Court's most junior Justice, Mary Yu, foreground, and Chief Justice Barbara Madsen, during an event in Chimacum on Friday, said there is a coordinated effort to unseat the three justices running for re-election over two controversial school-funding rulings. (Jesse Major/Peninsula Daily News)

State Supreme Court justices decry tactics

Justice Mary Yu and Chief Justice Barbara Madsen say opponents focus on the McCleary and other decisions.

By [Jesse Major](#)

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CHIMACUM — An orchestrated effort is attempting to unseat three state Supreme Court justices over two controversial school-funding rulings, the court's most junior justice said during the Jefferson County Bar Association's Continuing Legal Education session in Chimacum on Friday.

Justice Mary Yu and Chief Justice Barbara Madsen, who are both running for re-election in the Nov. 8 general election, told the nearly 100 people who attended that their opponents are focusing on the controversy surrounding the court's 2012 McCleary and 2015 charter school decisions to unseat the three justices running for re-election.

Justice Charles Wiggins is also running for re-election but did not attend the event.

Much of the discussion revolved around the McCleary decision, in which the court ruled the state must adequately fund K-12 education. In 2014, the court held the state in

contempt and imposed a \$100,000 fine per day, a fine now totaling more than \$36 million.

The court also ruled in 2015 that charter schools were unconstitutional.

“The court is not grabbing and politicizing issues,” Madsen said. “We are not political ... we are doing our job.”

David DeWolf, a Gonzaga University law professor, is challenging Yu, Kittitas County Prosecutor Greg Zempel is looking to replace Madsen and David Larson — a Federal Way municipal court judge — is challenging Wiggins.

“The races are nonpartisan, but all three challengers share the view that the court has failed to respect the autonomy of the Legislature by holding the state in contempt in the McCleary case — a criticism frequently lobbed by Republican lawmakers over the past two years,” the Yakima Herald said.

“The three judicial candidates also take issue with the court’s 2015 decision striking down the state’s voter-approved charter school law.” the newspaper said.

Yu called attacks from Madsen’s opponent, Zempel, “vicious.”

“If people think they should unelect a sitting justice because of one case, then that is a very bad precedent,” she said.

Zempel told the Herald that he had no “real ax to grind” on either the McCleary or charter schools case — although he sees those cases as representative of what he called the court’s unpredictability.

He is primarily concerned about the court overturning long-standing precedents, he said when he announced his candidacy in May, and called the court highly-politicized. He also said the court needs more representation from Eastern Washington.

Zempel said in an interview Saturday the three challengers are no more coordinated than the justices they are seeking to unseat.

“We’re three different individuals taking on three different incumbents,” he said. “All three of us have commonalities.”

DeWolf, a Gonzaga University law professor, has testified before the state Legislature that the state Supreme Court went too far in the McCleary decision, according to the Yakima Herald.

Larson has said he decided to run against Wiggins primarily because he thinks the Supreme Court misinterpreted legal precedent when striking down charter schools last year.

Yu said she believes there is a coordinated attack on the court because the opponents that she and Madsen face are both focusing on the McCleary decision.

“When they are all singing the same song, it’s all the same script. You wonder if this is a specific orchestrated effort,” she said.

State Rep. Matt Manweller, R-Ellensburg, was active in recruiting DeWolf and Zempel to run, and also reached out to Larson, the Herald said.

Others who Manweller said worked to recruit judicial challengers included former Republican U.S. Sen. Slade Gorton and former Democratic state Sen. Rodney Tom, who until recently led a Senate coalition of mostly Republicans.

Madsen said the justices are responsible for interpreting the law and avoiding their own personal biases when making decisions.

Yu called it troubling that a minority of legislators is claiming the court overstepped its authority with the McCleary decision and showing a lack of respect for the rule of law.

Madsen called it unfair that independent groups are funding Zempel’s campaign. Two PACs, the Judicial Integrity WA PAC and the Stand for Children WA PAC, have contributed a combined \$230,000 to Zempel’s election, according to the state’s Public Disclosure Commission.

The Stand For Children PAC, which provided \$130,000 in support of Zempel, said in a 2015 article on its website referring to the court’s charter school decision that “whether or not the court’s decision has legal merit, there is no doubt that the result is morally wrong.”

Zempel’s campaign is the only judicial campaign in the state to receive more than \$200 in support from a PAC as independent expenditures.

Zempel said he is humbled he is receiving the financial support from the PACs and said there’s likely PACs waiting to support Madsen later in the campaign.

“She was offended anyone would challenge her when I filed,” he said. “Now she is complaining about the fact that money is a factor.”

“It puts the courts at risk when anybody with money determines who can be on the Supreme Court,” Madsen said.

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