



Arguably, among the most powerful people in the state of Washington are the members of the Washington Supreme Court. Despite the enormous influence they wield—on everything from death penalty cases to water rights issues—few people know much about these nine justices.

Every two years the LRC produces a thorough review of the significant liability cases decided by the court and provides a synopsis of each case and the justices' rulings.

The 60-plus members of the LRC are committed to ending lawsuit abuse by working with the state legislature and closely monitoring and highlighting the decisions of the Supreme Court.

This fifth installment of the LRC Judicial Scorecard once again shines a bright light on the Supreme Court and how they influence our civil litigation system.

## Lifetime Judicial Liability Score

1.	Jim Johnson	87%
2.	Barbara Madsen	63%
3.	Susan Owens	52%
4.	Mary E. Fairhurst	50%
5.	Gerry L. Alexander	47%
6.	Charles W. Johnson	36%
7.	Richard B. Sanders	34%
8.	Tom Chambers	13%
9.	Debra Stephens	0%

## 2010 Judicial Liability Score

Justice	Results supported by the LRC <i>Current sitting justices only</i>	Results opposed by the LRC <i>Current sitting justices only</i>	2010 score
Gerry L. Alexander	8	5	62%
Tom Chambers	1	11	8%
Mary E. Fairhurst	5	7	42%
Charles W. Johnson	7	5	58%
Jim Johnson	10	3	77%
Barbara Madsen, Chief Justice	8	5	62%
Susan Owens	6	6	50%
Richard B. Sanders	4	8	33%
Debra Stephens	0	8	0%

### Our mission:

- To limit expansion of tort liability
- To reduce lawsuit defense costs
- To speed resolution of lawsuits
- To improve fairness & certainty of civil justice system

# 2010 Judicial Scorecard

Case	LRC position	Supported result Current sitting justices only	Opposed result Current sitting justices only
<b>General liability</b>			
<p><i>Panag v. Farmers Insurance Co. of Washington</i> 166 Wash. 2d 27 (2009)</p> <p>Expands liability by allowing a plaintiff who is not in a consumer or business relationship with the defendant to bring private Consumer Protection Act (CPA) action. Expands liability by holding that CPA applies to insurance subrogation collection activities when a claim is characterized as a debt that is due. Expands liability by holding that a plaintiff alleging deceptive collection methods need not remand payment to establish injury.</p>	<b>Oppose</b>	Justice Chambers Justice Fairhurst Justice Sanders Justice Stephens	<b>Justice Alexander</b> <b>Justice Johnson, C.</b> <b>Justice Johnson, J.</b> <b>Justice Owens</b>
<b>Business liability</b>			
<p><i>Chadwick Farms Owners Association v. FHC LLC</i> 166 Wash. 2d 178 (2009)</p> <p>Expands liability by holding that individuals responsible for winding-up LLC's may be liable for improper actions related to such duties.</p>	<b>Oppose</b>	Justice Alexander Justice Fairhurst Justice Johnson, J. Justice Madsen	
<p>Limits liability by holding that a cancelled LLC cannot sue or be sued.</p>	<b>Support</b>	<b>Justice Alexander</b> <b>Justice Fairhurst</b> <b>Justice Johnson, J.</b> <b>Justice Madsen</b>	Justice Chambers Justice Owens Justice Johnson, C. Justice Sanders
<b>Insurance law</b>			
<p><i>St. Paul Fire and Marine Insurance Co. v. Onvia</i> 165 Wash. 2d 122 (2008)</p> <p>Expands liability by holding that a third-party insured has a cause of action against the insurer for bad faith and violation of the Washington Consumer Protection Act even if the insurer had no contractual duty to indemnify, settle, or defend.</p>	<b>Oppose</b>	Justice Alexander Justice Chambers Justice Fairhurst Justice Johnson, C. Justice Johnson, J. Justice Madsen Justice Owens Justice Sanders Justice Stephens	
<p><i>American Best Food, Inc. v. Alea London, Ltd.</i> 168 Wash.2d 398 (2010)</p> <p>Expands liability by holding that an insurer acts in bad faith by refusing to defend in reliance of its arguable interpretation of the case law.</p>	<b>Oppose</b>	Justice Chambers Justice Fairhurst Justice Johnson, C. Justice Sanders	<b>Justice Alexander</b> <b>Justice Johnson, J.</b> <b>Justice Madsen</b> <b>Justice Owens</b>
<b>Product liability</b>			
<p><i>Simonetta v. Viad Corp.</i> 165 Wash. 2d 341 (2008)</p> <p>Limits liability by holding that a manufacturer has no duty to warn of hazardous products it did not manufacture, sell, or supply.</p>	<b>Support</b>	<b>Justice Alexander</b> <b>Justice Fairhurst</b> <b>Justice Johnson, C.</b> <b>Justice Johnson, J.</b> <b>Justice Madsen</b> <b>Justice Owens</b>	Justice Chambers Justice Sanders Justice Stephens

Case	LRC position	Supported result Current sitting justices only	Opposed result Current sitting justices only
<b>Product liability continued</b>			
<p><i>Braaten v. Saberhagen Holdings</i> 165 Wash .2d 373 (2008)</p> <p>Limits liability by extending holding in Simonetta that manufacturer has no duty to warn of hazardous products it did not manufacture, sell, or supply to situation where the hazardous product is contained in replacement parts that defendant did not manufacture, sell, or supply.</p>	<b>Support</b>	<p><b>Justice Alexander</b> <b>Justice Fairhurst</b> <b>Justice Johnson, C.</b> <b>Justice Johnson, J.</b> <b>Justice Madsen</b> <b>Justice Owens</b></p>	<p>Justice Chambers Justice Sanders Justice Stephens</p>
<b>Government liability</b>			
<p><i>Ducote v. Department of Social and Health Services</i> 167 Wash. 2d 697 (2009)</p> <p>Limits liability by holding that a claim against a state agency for negligent investigation is limited to children, parents, guardians and custodians; stepparents are not within the class of persons for whose special benefit the statute was enacted.</p>	<b>Support</b>	<p><b>Justice Alexander</b> <b>Justice Fairhurst</b> <b>Justice Johnson, C.</b> <b>Justice Johnson, J.</b> <b>Justice Madsen</b> <b>Justice Owens</b></p>	<p>Justice Chambers Justice Sanders Justice Stephens</p>
<b>Employment law</b>			
<p><i>Danny v. Laidlaw Transit</i> 165 Wash. 2d 200 (2008)</p> <p>Expands liability by allowing a claim of wrongful termination in violation of public policy, based on the discovery of a public policy requiring employers to accommodate victims of domestic violence.</p>	<b>Oppose</b>	<p>Justice Alexander Justice Chambers Justice Fairhurst Justice Owens</p>	<p><b>Justice Johnson, C.</b> <b>Justice Johnson, J.</b> <b>Justice Madsen</b> <b>Justice Sanders</b></p>
<p><i>Briggs v. Nova Services</i> 166 Wash.2d 794 (2009)</p> <p>Limits liability by affirming dismissal of wrongful termination claims arising out of a dispute over a supervisor's managerial style.</p>	<b>Support</b>	<p><b>Justice Alexander</b> <b>Justice Johnson, C.</b> <b>Justice Johnson, J.</b> <b>Justice Madsen</b> <b>Justice Sanders</b></p>	<p>Justice Chambers Justice Fairhurst Justice Owens Justice Stephens</p>
<p><i>Morgan v. Kingen</i> 166 Wash. 2d 526 (2009)</p> <p>Expands liability by allowing personal liability to be asserted against officers in a bankrupt corporation for the failure to pay wages.</p>	<b>Oppose</b>	<p>Justice Alexander Justice Chambers Justice Johnson, C. Justice Madsen Justice Owens Justice Stephens</p>	<p><b>Justice Johnson, J.</b> <b>Justice Sanders</b></p>



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Case	LRC position	Supported result Current sitting justices only	Opposed result Current sitting justices only
<b>Medical liability</b>			
<p><i>Putnam v. Wenatchee Valley Medical Center</i> 166 Wash. 2d 974 (2009)</p> <p>Expands liability by striking down as unconstitutional Washington law that required plaintiffs in medical malpractice actions to certify at the time of filing that there was a reasonable probability the defendant’s conduct did not meet the standard of care.</p>	<b>Oppose</b>	Justice Alexander Justice Chambers Justice Fairhurst Justice Johnson, C. Justice Johnson, J. Justice Madsen Justice Owens Justice Sanders Justice Stephens	
<p><i>Ambach v. French, M.D.</i> 167 Wash. 2d 167 (2009)</p> <p>Limits liability by holding that the increased costs of an allegedly unnecessary surgery did not constitute an “injury to business or property” as required under the Consumer Protection Act.</p>	<b>Support</b>	<b>Justice Alexander</b> <b>Justice Chambers</b> <b>Justice Fairhurst</b> <b>Justice Johnson, C.</b> <b>Justice Johnson, J.</b> <b>Justice Madsen</b> <b>Justice Owens</b> <b>Justice Sanders</b>	

# THE REFORMER

A Publication of the Liability Reform Coalition  
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COMMITTED TO ENDING LAWSUIT ABUSE.