

LRC

LIABILITY REFORM COALITION

Special Report 2006 | Judicial Scorecard

The Washington Supreme Court is one of the most powerful bodies in the state of Washington, with its nine elected justices often upending the will of the state legislature, the governor and state agencies. The justices' influence can be felt in everything from the last say on initiative ballot titles to death penalty reviews.

The Court's clout is magnified because most voters do not understand the range of influence these nine elected officials hold over the way business is conducted in Washington. Its review of civil justice matters, including liability cases, repeatedly circumvents the intent of other elected officials who have put the issues through rigorous public legislative debate. Despite the great impact of the justices' decisions on daily life, voters ironically give the justices' philosophical views far less scrutiny than that of their local representatives.

The LRC has committed itself to an ongoing, biennial review of the significant liability rulings by the Court, assessing those rulings in light of the LRC's mission to curb lawsuit abuse.

Lifetime

Judicial Liability Score

1.	James M. Johnson	100%
2.	Barbara Madsen	64%
3.	Mary E. Fairhurst	63%
4.	Susan Owens*	54%
5.	Bobbe J. Bridge	52%
6.	Gerry L. Alexander*	44%
7.	Charles W. Johnson	32%
8.	Richard B. Sanders	29%
9.	Tom Chambers*	9%

* Seat up for election in 2006

2006

Judicial Liability Score

Justice	Results supported by the LRC	Results opposed by the LRC	2006 score
Gerry L. Alexander, Chief Justice	7	5	58%
Bobbe J. Bridge	11	1	92%
Tom Chambers	2	10	17%
Mary E. Fairhurst	9	3	75%
Charles W. Johnson	5	7	42%
James M. Johnson	5	0	100%
Barbara Madsen	10	2	83%
Susan Owens	8	4	67%
Richard B. Sanders	4	8	33%

LRC Mission:

To limit the expansion of tort liability, to reduce the cost of defending lawsuits, to speed resolution of civil actions, and to improve fairness and certainty in our civil justice system for everyone.

Case	LRC position	Supported result Current sitting justices only	Opposed result Current sitting justices only
Employment law			
<p><i>Berrocal v. Fernandez,</i> 155 Wash.2d 585 (2005)</p> <p>Limits liability by upholding the statutory exception to the Minimum Wage Act for employees that reside and sleep at their place of employment.</p>	Support	<p>Justice Bridge Justice Johnson, J. Justice Madsen Justice Owens Justice Sanders</p>	<p>Justice Alexander Justice Chambers Justice Fairhurst Justice Johnson, C.</p>
<p><i>Korslund v. Dyncorp Tri-Cities Services, Inc.</i> 156 Wash.2d 168 (2005)</p> <p>Limits liability by refusing to recognize a new tort of wrongful retaliation in violation of public policy.</p>	Support	<p>Justice Alexander Justice Bridge Justice Fairhurst Justice Johnson, C. Justice Johnson, J. Justice Madsen Justice Owens</p>	<p>Justice Chambers Justice Sanders</p>
<p><i>Vallandigham v. Clover Park School District No. 400,</i> 154 Wash.2d 16 (2005)</p> <p>Limits liability by holding that the exception under the Industrial Insurance Act, allowing tort claims outside of workers' compensation, is only available if the employee proves that the employer willfully disregarded actual knowledge of certain injury.</p>	Support	<p>Justice Alexander Justice Bridge Justice Fairhurst Justice Johnson, C. Justice Madsen Justice Owens</p>	<p>Justice Chambers Justice Sanders</p>
General liability			
<p><i>Barrett v. Lucky 7 Saloon,</i> 152 Wash.2d 259 (2004)</p> <p>Expands liability by holding commercial establishments to a higher standard of care when serving alcohol. This will increase liability for harm caused by third party patrons.</p>	Oppose	<p>Justice Alexander Justice Chambers Justice Fairhurst Justice Johnson, C. Justice Owens</p>	<p>Justice Bridge Justice Madsen Justice Sanders</p>
Government liability			
<p><i>Cummins v. Lewis County,</i> ___ Wash.2d ___ (2006)</p> <p>Limits liability by holding that a 911 caller claiming a negligent emergency response must prove that there was a conversation with the dispatcher, an express assurance to provide assistance, and justifiable reliance on the promise.</p>	Support	<p>Justice Alexander Justice Bridge Justice Fairhurst Justice Johnson, J. Justice Madsen Justice Owens</p>	<p>Justice Chambers Justice Johnson, C. Justice Sanders</p>
<p><i>Joyce v. State Dept. of Corrections,</i> 155 Wash.2d 306 (2005)</p> <p>Expands liability by holding the state liable for supervision of offenders for any cause of harm they may commit, not limited to the crime for which they are being supervised.</p>	Oppose	<p>Justice Alexander Justice Chambers Justice Johnson, C. Justice Madsen Justice Owens</p>	<p>Justice Bridge Justice Fairhurst Justice Sanders</p>
<p><i>Owen v. Burlington Northern and Santa Fe Railroad Company,</i> 153 Wash.2d 780 (2005)</p> <p>Expands liability by holding that cities can be liable for wrongful death that occurred at a fully-marked and signed state-of-the-art railroad crossing despite compliance with state and federal regulations and driver's disregard of the rules of the road, warning signs, and automated lights, bells and gates.</p>	Oppose	<p>Justice Chambers Justice Johnson, C. Justice Owens Justice Sanders</p>	<p>Justice Alexander Justice Bridge Justice Fairhurst Justice Madsen</p>

Case	LRC position	Supported result Current sitting justices only	Opposed result Current sitting justices only
Government liability continued			
<p>Roberson v. Perez, 156 Wash.2d 33 (2005)</p> <p>Limits liability by holding that a claim for negligent investigation of child abuse is actionable only when a faulty or biased investigation results in a harmful placement decision.</p>	Support	<p>Justice Bridge Justice Fairhurst Justice Johnson, C. Justice Johnson, J. Justice Madsen Justice Owens</p>	<p>Justice Alexander Justice Chambers Justice Sanders</p>
<p>Sheikh v. Choe, 156 Wash.2d 441 (2006)</p> <p>Limits liability by holding that the Department of Social and Health Services has no duty to protect the general public from harm caused by children placed in dependent guardianship or foster care.</p>	Support	<p>Justice Alexander Justice Bridge Justice Chambers Justice Fairhurst Justice Johnson, C. Justice Johnson, J. Justice Madsen Justice Owens</p>	<p>Justice Sanders</p>
Insurance law			
<p>Del Rosario v. Del Rosario, 152 Wash.2d 375 (2004)</p> <p>Limits liability by declining to extend principles for setting aside fairly and knowingly made settlement agreements.</p>	Support	<p>Justice Alexander Justice Bridge Justice Chambers Justice Fairhurst Justice Johnson, C. Justice Madsen Justice Owens Justice Sanders</p>	
<p>Mulcahy v. Farmers Insurance Company of Washington, 152 Wash.2d 92 (2004)</p> <p>Expands liability by holding an insurer liable for denying a claim under Washington law, which was later granted under British Columbia's compulsory automobile insurance law.</p>	Oppose		<p>Justice Alexander Justice Bridge Justice Chambers Justice Fairhurst Justice Johnson, C. Justice Madsen Justice Owens Justice Sanders</p>
<p>Quadrant Corp. v. American States Ins. Co., 154 Wash.2d 165 (2005)</p> <p>Limits liability by holding that the pollution exclusion clause in the insurance policy disclaimed coverage of injuries caused by fumes from waterproofing materials.</p>	Support	<p>Justice Alexander Justice Bridge Justice Fairhurst Justice Madsen Justice Owens</p>	<p>Justice Chambers Justice Johnson, C. Justice Sanders</p>

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LRC Members

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Green Diamond Resource Company	St. Paul Travelers	
Group Health Cooperative	State Farm Insurance Company	

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COMMITTED TO ENDING
LAWSUIT ABUSE