

STATISTICS ON WISCONSIN SUPREME COURT DECISIONS, 2009-2010

Four-to-Three Decisions¹

4-3 Alignments

Justices	Total	Case Names
Prosser, Roggensack, Ziegler, Gableman	5	<i>Tatera v. FMC Corp.</i> ; <i>State v. Henley</i> ; <i>State v. Imani</i> ; <i>Sands v. Menard</i> ; <i>Soc’y Ins. v. Labor & Indus. Review Comm’n</i>
Abrahamson, Bradley, Crooks, Gableman	1	<i>State v. Carter</i>
Abrahamson, Bradley, Crooks, Prosser	1	<i>Johnson Controls, Inc. v. London Mkt.</i>
Abrahamson, Crooks, Prosser, Ziegler	1	<i>Pries v. McMillon</i>
Crooks, Roggensack, Ziegler, Gableman	1	<i>State v. Pinkard</i>

4-3 Membership in the Majority

Justice	Votes
Abrahamson	3
Bradley	2
Crooks	4
Prosser	7
Roggensack	6
Ziegler	7
Gableman	7

4-3 Majority Opinions Authored

Justice	Opinions
Abrahamson	1
Bradley	1
Crooks	1
Prosser	0
Roggensack	2
Ziegler	2
Gableman	2
Total	9

¹ In two of these 4-3 cases there were justices who concurred in part and dissented in part (*State v. Carter* [Roggensack]; and *State v. Imani* [Crooks, Abrahamson, Bradley]). Given that the opinion of each of these justices dissented from the majority result on at least one issue, all were classified as dissents. If an opinion had concurred with the result on all issues, but disputed the majority’s reasoning, it would have been classified as a concurrence. See the note accompanying the table titled “Decisions by Vote Split” for a complete listing of decisions that included a concurrence in part and dissent in part.

Decisions by Vote Split²

7-0 (or 6-0)	6-1 (or 5-1)	5-2 (or 4-2)	4-3 (or 3-2)
25/58 (43%)	6/58 (10%)	17/58 (29%)	10/58 (17%)
<i>Estate of Sheppard v. Schleis</i>	<i>State v. Conger</i>	<i>State v. Littlejohn</i>	<i>State v. Pinkard</i>
<i>State v. Cross</i>	<i>Groshek v. Trewin</i>	<i>State v. Carroll</i>	<i>Soc'y Ins. v. Labor & Indus. Review Comm'n</i>
<i>In re Elijah W.L.</i>	<i>E-L Enters. v. Milwaukee Metro. Sewerage Dist.</i>	<i>State v. Dearborn</i>	<i>State v. Carter</i>
<i>MercyCare Ins. Co. v. Wis. Comm'r of Ins</i>	<i>Grygiel v. Monches Fish & Game Club, Inc.</i>	<i>State v. Wood</i>	<i>Sands v. Menard</i>
<i>Hocking v. City of Dodgeville</i>	<i>Brunton v. Nuvel Credit Corp.</i>	<i>State v. Kleser</i>	<i>State v. Henley</i>
<i>Leavitt v. Beverly Enters.</i>	<i>State v. Arends (5-1)</i>	<i>State v. Robinson</i>	<i>Tatera v. FMC Corp.</i>
<i>State v. Jones</i>		<i>State v. Sveum</i>	<i>Pries v. McMillon</i>
<i>McConkey v. Van Hollen</i>		<i>State v. Artic</i>	<i>State v. Imani</i>
<i>Ash Park, LLC v. Alexander & Bishop, Ltd.</i>		<i>Schill v. Wis. Rapids Sch. Dist.</i>	<i>Johnson Controls, Inc. v. London Mkt.</i>
<i>Konneker v. Romano</i>		<i>Borek Cranberry Marsh, Inc. v. Jackson County</i>	<i>Admanco, Inc. v. 700 Stanton Drive, LLC (3-2)</i>
<i>Miller v. Hanover Ins. Co.</i>		<i>State v. Smith</i>	
<i>Volvo Trucks N. Am. v. State DOT</i>		<i>Blum v. 1st Auto & Cas. Ins. Co.</i>	
<i>Roehl Transp., Inc. v. Liberty Mut. Ins. Co.</i>		<i>Milwaukee Symphony Orchestra, Inc. v. Wis. Dep't of Revenue</i>	
<i>State v. Carter</i>		<i>Md. Arms Ltd. P'ship v. Connell</i>	
<i>Zarder v. Humana Ins. Co.</i>		<i>Wis. Med. Soc'y, Inc. v. Morgan</i>	
<i>State v. Harris</i>		<i>Bank Mut. v. S.J. Boyer Constr., Inc. (4-2)</i>	
<i>State v. Ringer</i>		<i>State v. Hess (4-2)</i>	
<i>Solowicz v. Forward Geneva Nat'l, LLC</i>			
<i>Saddle Ridge Corp. v. Bd. of Review</i>			
<i>Racine County v. Oracular Milwaukee, Inc.</i>			

(continued on the following page)

² The percentages are rounded. In nine cases there were justices who concurred in part and dissented in part (*State v. Carter* [Roggensack]; *Ehlinger v. Hauser* [Prosser, Ziegler, Gableman]; *Brunton v. Nuvel Credit Corp* [Gableman]; *State v. Kleser* [Bradley, Abrahamson]; *Groshek v. Trewin* [Abrahamson]; *Blum v. 1st Auto & Cas. Ins. Co.* [Bradley, Abrahamson, Roggensack, Ziegler, Gableman]; *State v. Imani* [Crooks, Abrahamson, Bradley]; *Milwaukee Symphony Orchestra, Inc. v. Wis. Dep't of Revenue* [Roggensack, Gableman]; *Grygiel v. Monches Fish & Game Club, Inc.* [Abrahamson]). These "split votes" were categorized as either a dissent or a concurrence according to the following guidelines. If a justice's opinion dissented from the result on one or more issues, it was classified as a dissent. If the opinion concurred with the result on all issues, but disputed the majority's reasoning on one or more issues, it was classified as a concurrence. In a few instances the dividing line between a dissent and a concurrence is exceedingly thin, and views might reasonably differ as to the opinion's proper classification. However, such ambiguous opinions amount to only a handful of the hundreds of votes cast, and thus they have a negligible effect on the tables presented here. As noted above, the table does not include *Ehlinger v. Hauser*.

<i>State v. McGuire</i>
<i>Pawlowski v. Am. Family Mut. Ins. Co.</i>
<i>State v. Fischer</i>
<i>State v. Allen</i>
<i>State v. Jensen</i> (6-0)

Frequency in the Majority

These charts display how frequently each justice voted in the majority in decisions filed during the 12 months under consideration. The first chart includes all cases in which a justice voted, while the second chart tabulates only cases decided by split votes.

All Cases³

Justice	Majority Votes Cast	Total Votes Cast	Percent in Majority
Abrahamson	36	57	63%
Bradley	38	58	66%
Crooks	51	57	89%
Prosser	50	57	88%
Roggensack	52	58	90%
Ziegler	52	55	95%
Gableman	52	58	90%

Non-Unanimous Decisions

Justice	Majority Votes Cast	Total Votes Cast	Percent in Majority
Abrahamson	11	32	34%
Bradley	13	33	39%
Crooks	26	32	81%
Prosser	26	33	79%
Roggensack	27	33	82%
Ziegler	27	30	90%
Gableman	27	33	82%

³ Justice Abrahamson did not participate in *Admanco, Inc. v. 700 Stanton Drive, LLC*. Justice Crooks did not participate in *State v. Hess*. Justice Prosser did not participate in *State v. Jensen*. Justice Ziegler did not participate in *Admanco, Inc. v. 700 Stanton Drive, LLC*; *State v. Arends*; and *Bank Mut. v. S.J. Boyer Constr., Inc.* All of these decisions except for *State v. Jensen* were non-unanimous.

Opinions Authored

This chart indicates how many majority opinions a justice authored in cases decided by each of the four possible majority vote totals.

Opinion Author	7-0 (or 6-0)	6-1 (or 5-1)	5-2 (or 4-2)	4-3 (or 3-2)
Abrahamson	5	0	2	1
Bradley	4	0	1	1
Crooks	2	2	2	1
Prosser	2	0	6	0
Roggensack	4	2	1	3
Ziegler	4	1	2	2
Gableman	4	1	3	2

The chart below shows how many concurring and dissenting opinions each justice authored.⁴

Opinion Author	Concurring Opinions	Dissenting Opinions
Abrahamson	10	12
Bradley	7	6
Crooks	1	5
Prosser	3	6
Roggensack	2	3
Ziegler	5	2
Gableman	2	3

⁴ In eight cases (which do not include *Ehlinger v. Hauser*) there were justices who wrote a concurrence in part and dissent in part (*Groshek v. Trewin* [Abrahamson]; *Grygiel v. Monches Fish & Game Club, Inc.* [Abrahamson]; *State v. Kleser* [Bradley]; *Blum v. 1st Auto & Cas. Ins. Co.* [Bradley and Roggensack]; *State v. Imani* [Crooks]; *Milwaukee Symphony Orchestra, Inc. v. Wis. Dep't of Revenue* [Roggensack]; *State v. Carter* [Roggensack]; *Brunton v. Nuvel Credit Corp.* [Gableman]). The justices named here are those who wrote opinions, as opposed to joining opinions written by other justices. Justice Roggensack's opinion in *Blum* has been categorized as a concurrence, and all of the rest of the opinions as dissents—according to the guidelines specified above.

Agreement Among Pairs of Justices

The following tables show the percentage of cases in which every possible pair of justices found themselves on the same side in a decision—either both in the majority or both dissenting. The first table covers all cases; the second table narrows its focus to cases in which decisions were not unanimous. When reading the first table, for instance, one finds that Justices Crooks and Ziegler voted together in 85% of the cases, while the figure for Justices Bradley and Gableman was 59%.

Agreement Between Pairs of Justices—All Cases

	Bradley	Crooks	Prosser	Roggensack	Ziegler	Gableman
Abrahamson	53/57= 93%	40/56= 71%	32/56= 57%	30/57= 53%	32/55= 58%	30/57= 53%
	Bradley	43/57= 75%	32/57= 56%	34/58= 59%	34/55= 62%	34/58= 59%
		Crooks	43/56= 77%	46/57= 81%	46/54= 85%	46/57= 81%
			Prosser	46/57= 81%	47/54= 87%	46/57= 81%
				Roggensack	52/55= 95%	54/58= 93%
					Ziegler	48/55= 87%
						Gableman

Agreement Between Pairs of Justices—Non-Unanimous Cases

	Bradley	Crooks	Prosser	Roggensack	Ziegler	Gableman
Abrahamson	28/32= 88%	15/31= 48%	8/32= 25%	5/32= 16%	7/30= 23%	5/32= 16%
	Bradley	18/32= 56%	8/33= 24%	9/33= 27%	9/30= 30%	9/33= 27%
		Crooks	19/32= 59%	21/32= 66%	21/29= 72%	21/32= 66%
			Prosser	22/33= 67%	23/30= 77%	22/33= 67%
				Roggensack	27/30= 90%	29/33= 88%
					Ziegler	23/30= 77%
						Gableman

Days Between Oral Argument and Opinion Filing

This table shows the average number of days between oral argument and the filing of majority opinions authored by each of the justices. Given that a variety of factors could influence the length of time between oral argument and the filing of an opinion in a particular case—including the time taken by other justices to write concurring or dissenting opinions—averages for individual justices should be compared over an extended period.

	Number of Majority Opinions Authored	Ave. No. of Days From Oral Argument to Opinion Filing
Abrahamson	8	134
Bradley	6	119
Crooks	7	134
Prosser	8	185
Roggensack	10	172
Ziegler	9	156
Gableman	10	194

Number of Oral Arguments Presented⁵

The following table displays firms and agencies that participated in at least two oral arguments during the twelve months under consideration in 2009-2010.

Firms and Agencies	Number of Oral Arguments
Boardman, Suhr, Curry & Field LLP	2
Cullen Weston Pines & Bach LLP	2
Foley & Lardner LLP	2
Frank J. Remington Center	3
Godfrey & Kahn	3
Grady, Hayes & Neary, LLC	2
Henak Law Office	2
Michael Best & Friedrich LLP	4
Quarles & Brady LLP	6
State Attorney General's Office	30
State Public Defender's Office	10
Whyte Hirschboeck Dudek S.C.	3

⁵ This table includes *Ehlinger v. Hauser*.