

STATISTICS ON WISCONSIN SUPREME COURT DECISIONS, 2008-2009

Four-to-Three Decisions

4-3 Alignments

Justices	Total	Case Names
Prosser, Roggensack, Ziegler, Gableman	4	<i>Christensen; Ward; Coulee; Genrich</i>
Abrahamson, Bradley, Crooks, Prosser	1	<i>Umansky</i>
Abrahamson, Bradley, Ziegler, Gableman	1	<i>City of Milwaukee Post No. 2874 VFW</i>
Crooks, Roggensack, Ziegler, Gableman	1	<i>Ho-Chunk Nation</i>

4-3 Membership in the Majority

Justice	Votes
Abrahamson	2
Bradley	2
Crooks	2
Prosser	5
Roggensack	5
Ziegler	6
Gableman	6

4-3 Majority Opinions Authored

Justice	Opinions
Abrahamson	1
Bradley	0
Crooks	2
Prosser	1
Roggensack	2
Ziegler	0
Gableman	1
Total	7

Decisions by Vote Split¹

7-0 (or 5-0, 6-0)	6-1 (or 5-1)	5-2 (or 4-2)	4-3
35 (57%)	7 (11%)	12 (20%)	7 (11%) ²
<i>Behrendt v. Gulf Underwriters Ins. Co.</i>	<i>Apple Valley Gardens Ass'n v. MacHutta</i>	<i>Farmers Auto. Ins. Ass'n v. Union Pac. Ry.</i>	<i>Christensen v. Sullivan</i>
<i>State v. Grady</i>	<i>Baldwin-Woodville Area Sch. Dist. v. W. Cent. Educ. Ass'n - Baldwin Woodville Unit</i>	<i>Harvot v. Solo Cup Co.</i>	<i>City of Milwaukee Post No. 2874 VFW v. Redevelopment Auth.</i>
<i>PRN Assocs. LLC v. State Dep't of Admin.</i>	<i>Luckett v. Bodner</i>	<i>Heritage Farms, Inc. v. Markel Ins. Co.</i>	<i>Coulee Catholic Sch. v. Labor & Indus. Review Comm'n</i>
<i>State v. Johnson</i>	<i>Milwaukee Journal Sentinel v. Wis. Dep't of Admin.</i>	<i>Krier v. Vilione</i>	<i>Estate of Genrich v. OHIC Ins. Co.</i>
<i>Osborn v. Dennison</i>	<i>Plastics Eng'g Co. v. Liberty Mut. Ins. Co.</i>	<i>Lisowski v. Hastings Mut. Ins. Co.</i>	<i>Ho-Chunk Nation v. Dep't of Revenue</i>
<i>State v. Ferguson</i>	<i>Zellner v. Herrick</i>	<i>Phelps v. Physicians Ins. Co. of Wis., Inc.</i>	<i>State v. Ward</i>
<i>State v. Lange</i>	<i>State v. McClaren (5-1)</i>	<i>Star Direct Inc. v. Dal Pra</i>	<i>Umansky v. ABC Ins. Co.</i>
<i>Tammi v. Porsche Cars N. Am., Inc.</i>		<i>State v. Fernandez</i>	
<i>Am. Family Mut. Ins. Co. v. Golke</i>		<i>State v. Payano</i>	
<i>Blunt v. Medtronic, Inc.</i>		<i>Horst v. Deere & Co. (4-2)</i>	
<i>County of Dane v. Labor & Indus. Review Comm'n</i>		<i>Notz v. Everett Smith Group, Ltd. (4-2)</i>	
<i>D.L. Anderson's Lakeside Leisure Co. v. Anderson</i>		<i>Tensfeldt v. Haberman (4-2)</i>	
<i>De La Trinidad v. Capitol Indem. Corp.</i>			
<i>Froedtert Mem'l Lutheran Hosp., Inc. v. Nat'l States Ins. Co.</i>			
<i>Kenosha Prof'l Firefighters, Local 414 v. City of Kenosha</i>			
<i>Loth v. City of Milwaukee</i>			
<i>Noffke v. Bakke</i>			
<i>State v. Denk</i>			
<i>State v. Hoppe</i>			
<i>State v. Kramer</i>			
<i>State v. Long</i>			
<i>State v. Ndina</i>			
<i>State v. Popke</i>			
<i>State v. Romero</i>			
<i>State v. Warbelton</i>			

(continued on following page)

¹ In five cases there were justices who concurred in part and dissented in part (*Notz* [Abrahamson, Bradley]; *Tensfeldt* [Roggensack, Ziegler]; *Estate of Genrich* [Abrahamson, Bradley, Crooks]; *Star Direct* [Abrahamson, Bradley]; *Plastics* [Gableman]). For this table, and those that follow, each of these votes was 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.

² The percentages do not add up to 100 because of rounding.

<i>State v. Gajewski (per curiam)</i>
<i>State v. Welda (per curiam)</i>
<i>Bubb v. Brusky (6-0)</i>
<i>Godoy v. E.I. du Pont de Nemours & Co. (6-0)</i>
<i>Hocking v. City of Dodgeville (6-0)</i>
<i>State ex rel. Robins v. Madden (In re Doe) (6-0)</i>
<i>State v. Baron (6-0)</i>
<i>State v. Tody (6-0)</i>
<i>Nedvidek v. Kuipers (6-0 per curiam)</i>
<i>Hipp v. Murray (In re Doe) (5-0 per curiam)</i>

Frequency in the Majority

These charts display how frequently each justice voted in the majority in decisions filed during the period September 1, 2008, to August 31, 2009. The first chart includes all cases in which a justice voted, while the second chart includes only cases decided by split votes.

All Cases³

Justice	Majority Votes Cast	Total Votes Cast	Percent in Majority
Abrahamson	41	57	72%
Bradley	44	60	73%
Crooks	55	60	92%
Prosser	56	61	92%
Roggensack	55	59	93%
Ziegler	56	58	97%
Gableman	55	58	95%

Non-Unanimous Decisions⁴

Justice	Majority Votes Cast	Total Votes Cast	Percent in Majority
Abrahamson	9	25	36%
Bradley	10	26	38%
Crooks	21	26	81%
Prosser	21	26	81%
Roggensack	21	26	81%
Ziegler	22	24	92%
Gableman	22	25	88%

³ Justice Abrahamson did not vote in *State ex rel. Robins v. Madden (In re Doe)*; *State v. Baron*; *State v. McClaren*; and *Hipp v. Murray (In re Doe)*. Justice Bradley did not vote in *Nedvidek v. Kuipers*. Justice Crooks did not vote in *Hocking v. City of Dodgeville*. Justice Roggensack did not vote in *Godoy v. E.I. du Pont de Nemours & Co.* Justice Ziegler did not vote in *Bubb v. Brusky*; *Notz v. Everett Smith Group, Ltd.*; and *Horst v. Deere & Co.* Justice Gableman did not vote in *State v. Tody*; *Hipp v. Murray (In re Doe)*; and *Tensfeldt v. Haberman*.

⁴ *Horst v. Deere & Co.*; *Notz v. Everett Smith Group, Ltd.*; *Tensfeldt v. Haberman*; and *State v. McClaren* were non-unanimous decisions.

Opinions Authored⁵

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

The chart below shows how many concurring and dissenting opinions each justice authored.⁶

Opinion Author	Concurring Opinions	Dissenting Opinions
Abrahamson	6	3
Bradley	5	12
Crooks	4	3
Prosser	5	5
Roggensack	4	3
Ziegler	5	1
Gableman	1	1

⁵ Four unanimous *per curiam* decisions (*Nedvidek v. Kuipers*; *State v. Gajewski*; *Hipp v. Murray (In re Doe)*; and *State v. Welda*) are not included in these two tables.

⁶ In five cases there were justices who wrote a concurrence in part and dissent in part (*Notz* [Bradley]; *Tensfeldt* [Roggensack]; *Estate of Genrich* [Bradley, Crooks]; *Star Direct* [Bradley]; *Plastics* [Gableman]). The justices named here are those who wrote opinions, as opposed to joining opinions written by other justices. These opinions have been categorized as dissents, according to the guidelines outlined 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 Gableman voted together in 86% of the cases, while the figure for Justices Bradley and Roggensack was 64%.

Agreement Between Pairs of Justices—All Cases

	Bradley	Crooks	Prosser	Roggensack	Ziegler	Gableman
Abrahamson	55/56= 98%	43/56= 77%	38/57= 67%	35/56= 63%	38/54= 70%	36/55= 65%
	Bradley	46/59= 78%	41/60= 68%	38/59= 64%	41/57= 72%	38/57= 67%
		Crooks	52/60= 87%	51/59= 86%	50/57= 88%	49/57= 86%
			Prosser	52/60= 87%	51/58= 88%	50/58= 86%
				Roggensack	54/57= 95%	54/57= 95%
					Ziegler	53/55= 96%
						Gableman

Agreement Between Pairs of Justices—Non-Unanimous Cases

	Bradley	Crooks	Prosser	Roggensack	Ziegler	Gableman
Abrahamson	24/25= 96%	12/25= 48%	6/25= 24%	4/25= 16%	7/23= 30%	5/24= 21%
	Bradley	13/26= 50%	7/26= 27%	5/26= 19%	8/24= 33%	6/25= 24%
		Crooks	18/26= 69%	18/26= 69%	17/24= 71%	17/25= 68%
			Prosser	18/26= 69%	17/24= 71%	17/25= 68%
				Roggensack	21/24= 88%	22/25= 88%
					Ziegler	21/23= 91%
						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	9	126
Bradley	7	134
Crooks	10	111
Prosser	8	195
Roggensack	8	135
Ziegler	7	122
Gableman	8	183

Number of Oral Arguments Presented

The following table displays firms and agencies that participated in at least two oral arguments during the twelve months under consideration in 2008-2009.

Firms and Agencies	Number of Oral Arguments
Bell Gierhart & Moore, S.C.	3
Cannon & Dunphy, S.C.	3
Deutch & Weiss, LLC	2
Foley & Lardner LLP	3
Frank J. Remington Center	3
Gingras, Cates & Luebke, S.C.	2
Godfrey & Kahn	2
Hinshaw & Culbertson LLP	2
Law Offices of Joseph R. Cincotta	2
Law Offices of Thomas P. Stilp	2
McCoy & Hofbauer, S.C.	2
Quarles & Brady LLP	3
State Attorney General's Office	27
State Public Defender's Office	6
von Briesen & Roper, S.C.	3
Whyte Hirschboeck Dudek S.C.	4
Wisconsin Education Association Council	2