

STATISTICS ON WISCONSIN SUPREME COURT DECISIONS, 2011-2012

Four-to-Three Decisions

4-3 Alignments

Justices	Total	Case Names
Prosser, Roggensack, Ziegler, Gableman	3	<i>Maxwell; Gister; Crown Castle</i>
Abrahamson, Bradley, Crooks, Prosser	1	<i>Jandre</i>

4-3 Membership in the Majority

Justice	Votes
Abrahamson	1
Bradley	1
Crooks	1
Prosser	4
Roggensack	3
Ziegler	3
Gableman	3

4-3 Majority Opinions Authored

Justice	Opinions
Abrahamson	1
Bradley	0
Crooks	0
Prosser	1
Roggensack	0
Ziegler	0
Gableman	2
<b>Total</b>	<b>4</b>

Decisions by Vote Split<sup>1</sup>

7-0 (or 4-0, 5-0, 6-0)	6-1 (or 5-1)	5-2 (or 4-2)	4-3
29 (48%)	8 (13%)	19 (32%)	4 (7%)
<i>Milwaukee Journal Sentinel v. City of Milwaukee</i>	<i>Michael J. Waldvogel Trucking, LLC v. State Labor &amp; Indus. Review Comm'n</i>	<i>Wis. Pub. Serv. Corp. v. Arby Constr., Inc.</i>	<i>Jandre v. Wis. Injured Patients &amp; Families Comp. Fund</i>
<i>State v. Miller</i>	<i>Marquez v. Mercedes-Benz United States, LLC</i>	<i>Wisconsin v. Gilbert</i>	<i>Maxwell v. Hartford Union High Sch. Dist.</i>
<i>State v. Martin</i>	<i>Heritage Farms, Inc. v. Markel Ins. Co.</i>	<i>State v. Felix</i>	<i>Gister v. Am. Family Mut. Ins. Co.</i>
<i>State v. Sellhausen</i>	<i>May v. May</i>	<i>Wis. Indus. Energy Group v. PSC of Wis.</i>	<i>Crown Castle USA, Inc. v. Orion Constr. Group, LLC</i>
<i>State v. Nielsen</i>	<i>State v. Spaeth</i>	<i>DeBruin v. St. Patrick Congregation</i>	
<i>Brenner v. New Richmond Reg'l Airport Comm'n &amp; New Richmond</i>	<i>State v. Stevens</i>	<i>Weborg v. Jenny</i>	
<i>Wis. Dolls, LLC v. Town of Dell Prairie</i>	<i>State v. Hanson</i>	<i>State v. Ziegler</i>	
<i>State v. Frey</i>	<i>Aurora Consol. Health Care &amp; Sentry Ins. v. Labor &amp; Indus. Review Comm'n (5-1)</i>	<i>State v. Soto</i>	
<i>Kroner v. Oneida Seven Generations Corp.</i>		<i>State v. Negrete</i>	
<i>Lamar Co., LLC v. Country Side Rest.</i>		<i>Best Price Plumbing, Inc. v. Erie Ins. Exch.</i>	
<i>Aldrich v. Labor &amp; Indus. Review Comm'n</i>		<i>State v. Smith</i>	
<i>State v. Cain</i>		<i>Adams v. State Livestock Facilities Siting Review Bd.</i>	
<i>State v. Rowan</i>		<i>Hirschhorn v. Auto-Owners Ins. Co.</i>	
<i>State v. Sutton</i>		<i>Wadzinski v. Auto-Owners Ins. Co.</i>	
<i>State v. Goss</i>		<i>State v. Dinkins</i>	
<i>Orlowski v. State Farm Mut. Auto. Ins. Co.</i>		<i>Estate of Kriefall v. Sizzler United States Franchise, Inc.</i>	
<i>State v. Domke</i>		<i>State v. Tyler T. (4-2)</i>	
<i>Olson v. Farrar</i>		<i>State v. Dowdy (4-2)</i>	
<i>Admiral Ins. Co. v. Paper Converting Mach. Co.</i>		<i>Johnson v. Cintas Corp. No. 2 (4-2)</i>	
<i>260 N. 12th St., LLC v. State DOT</i>			

(continued on following page)

<sup>1</sup> In seven cases there were justices who concurred in part and dissented in part (*MBS-Certified Public Accountants* [Prosser, Gableman]; *Estate of Kriefall* [Abrahamson, Bradley]; *Stevens* [Abrahamson]; *Weborg* [Abrahamson, Bradley]; *Wis. Public Service Corp.* [Abrahamson, Bradley]; *Ziegler* [Abrahamson, Bradley]; *Marquez* [Roggensack]). 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.

<i>State v. Thompson</i>
<i>In the Matter of the Rehab. of: Segregated Account of Ambac Assurance Corp. (6-0)</i>
<i>Zwiefelhofer v. Town of Cooks Valley (6-0)</i>
<i>Fond du Lac County v. Helen E.F. (6-0)</i>
<i>State v. Ryan (6-0)</i>
<i>MBS-Certified Pub. Accountants, LLC v. Wis. Bell, Inc. (6-0)</i>
<i>State v. Anagnos (5-0)</i>
<i>State v. Williams (5-0)</i>
<i>State v. Abbott Labs (4-0)</i>

Frequency in the Majority

These charts display how frequently each justice voted in the majority in decisions filed during the period September 1, 2011, to August 31, 2012. The first chart includes all cases in which a justice voted, while the second chart includes only cases decided by split votes.

All Cases<sup>2</sup>

Justice	Majority Votes Cast	Total Votes Cast	Percent in Majority
Abrahamson	36	59	61%
Bradley	37	58	64%
Crooks	55	58	95%
Prosser	49	49	100%
Roggensack	54	60	90%
Ziegler	57	60	95%
Gableman	58	60	97%

Non-Unanimous Decisions<sup>3</sup>

Justice	Majority Votes Cast	Total Votes Cast	Percent in Majority
Abrahamson	8	31	26%
Bradley	10	31	32%
Crooks	28	31	90%
Prosser	27	27	100%
Roggensack	25	31	81%
Ziegler	28	31	90%
Gableman	29	31	94%

<sup>2</sup> Justice Abrahamson did not vote in *MBS-Certified Pub. Accountants, LLC v. Wis. Bell, Inc.* Justice Bradley did not vote in *State v. Williams* and *State v. Abbott Labs.* Justice Crooks did not vote in *State v. Abbott Labs.* and *State v. Anagnos.* Justice Prosser did not vote in *Zwiefelhofer v. Town of Cooks Valley*; *State v. Ryan*; *Aurora Consol. Health Care & Sentry Ins. v. Labor & Indus. Review Comm'n*; *Fond du Lac County v. Helen E.F.*; *State v. Dowdy*; *Johnson v. Cintas Corp. No. 2*; *State v. Tyler T.*; *State v. Williams*; *In the Matter of the Rehab. of: Segregated Account of Ambac Assurance Corp.*; *State v. Anagnos*; and *State v. Abbott Labs.*

<sup>3</sup> *State v. Dowdy*; *Johnson v. Cintas Corp. No. 2*; *State v. Tyler T.*; and *Aurora Consol. Health Care & Sentry Ins. v. Labor & Indus. Review Comm'n*, in which Justice Prosser did not vote, were non-unanimous decisions.

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

The chart below shows how many concurring and dissenting opinions each justice authored.<sup>5</sup>

Opinion Author	Concurring Opinions	Dissenting Opinions
Abrahamson	9	13
Bradley	3	11
Crooks	1	1
Prosser	6	0
Roggensack	3	4
Ziegler	5	2
Gableman	0	0

<sup>4</sup> *Michael J. Waldvogel Trucking, LLC v. State Labor & Indus. Review Comm'n*, a 6-1 *per curiam* decision, is not included in this table.

<sup>5</sup> In seven cases there were justices who wrote a concurrence in part and dissent in part (*Estate of Kriefall* [Abrahamson]; *Stevens* [Abrahamson]; *Weborg* [Abrahamson]; *Wis. Public Service Corp.* [Abrahamson]; *Ziegler* [Abrahamson]; *Marquez* [Roggensack]; and *MBS* [Prosser]). The justices named here are those who wrote opinions, as opposed to joining opinions written by other justices. The first six of these cases have been categorized as dissents, with the seventh (*MBS*) a concurrence—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 Bradley and Prosser voted together in 63% of the cases, while the figure for Justices Ziegler and Gableman was 98%.

Agreement Between Pairs of Justices—All Cases

	<b>Bradley</b>	<b>Crooks</b>	<b>Prosser</b>	<b>Roggensack</b>	<b>Ziegler</b>	<b>Gableman</b>
<b>Abrahamson</b>	53/57= <b>93%</b>	37/57= <b>65%</b>	28/48= <b>58%</b>	30/59= <b>51%</b>	33/59= <b>56%</b>	34/59= <b>58%</b>
	<b>Bradley</b>	39/57= <b>68%</b>	31/49= <b>63%</b>	31/58= <b>53%</b>	34/58= <b>59%</b>	35/58= <b>60%</b>
		<b>Crooks</b>	46/49= <b>94%</b>	49/58= <b>84%</b>	52/58= <b>90%</b>	53/58= <b>91%</b>
			<b>Prosser</b>	44/49= <b>90%</b>	46/49= <b>94%</b>	47/49= <b>96%</b>
				<b>Roggensack</b>	55/60= <b>92%</b>	54/60= <b>90%</b>
					<b>Ziegler</b>	59/60= <b>98%</b>
						<b>Gableman</b>

Agreement Between Pairs of Justices—Non-Unanimous Cases

	<b>Bradley</b>	<b>Crooks</b>	<b>Prosser</b>	<b>Roggensack</b>	<b>Ziegler</b>	<b>Gableman</b>
<b>Abrahamson</b>	27/31= <b>87%</b>	11/31= <b>35%</b>	7/27= <b>26%</b>	2/31= <b>6%</b>	5/31= <b>16%</b>	6/31= <b>19%</b>
	<b>Bradley</b>	13/31= <b>42%</b>	9/27= <b>33%</b>	4/31= <b>13%</b>	7/31= <b>23%</b>	8/31= <b>26%</b>
		<b>Crooks</b>	24/27= <b>89%</b>	22/31= <b>71%</b>	25/31= <b>81%</b>	26/31= <b>84%</b>
			<b>Prosser</b>	22/27= <b>81%</b>	24/27= <b>89%</b>	25/27= <b>93%</b>
				<b>Roggensack</b>	26/31= <b>84%</b>	25/31= <b>81%</b>
					<b>Ziegler</b>	30/31= <b>97%</b>
						<b>Gableman</b>

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.

	<b>Number of Majority Opinions Authored</b>	<b>Ave. No. of Days From Oral Argument to Opinion Filing</b>
Abrahamson	8	107
Bradley	8	121
Crooks	8	91
Prosser	8	205
Roggensack	9	162
Ziegler	9	115
Gableman	9	179

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 2011-2012.

<b>Firms and Agencies</b>	<b>Number of Oral Arguments</b>
Axley Brynelson LLP	3
Biersdorf & Associates, S.C.	2
Cannon & Dunphy, S.C.	2
Crivello Carlson, S.C.	2
Foley & Lardner LLP	3
Frank J. Remington Center	2
Godfrey & Kahn	2
Habush, Habush & Rottier S.C.	2
Michael Best & Friedrich LLP	5
Peterson, Johnson & Murray, S.C.	2
Quarles & Brady LLP	2
State Attorney General's Office	32
State Public Defender's Office	15
von Briesen & Roper, S.C.	2