# Four-to-Three Decisions

4-3 Alignments

Justices	Total	Case Names
Fritz, Rosenberry, Martin, Nelson	1	Holland v. Cedar Grove
Wickhem, Rosenberry, Martin, Nelson	1	Barth v. Vil. Shorewood

## 4-3 Membership in the Majority

Justice	Votes
Wickhem	1
Fairchild	0
Fritz	1
Rosenberry	2
Fowler	0
Martin	2
Nelson	2

## 4-3 Majority Opinions Authored

	Opinions
Wickhem	0
Fairchild	0
Fritz	0
Rosenberry	2
Fowler	0
Martin	0
Nelson	0
Total	2

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

7-0 (or 6-0)	6-1	5-2	4-3
313/337 (93%)	16/337 (5%)	6/337 (2%)	2/337 (1%)
Wisconsin Tel. Co. v. Public Sercice Com.	In re Rauchfuss's Estate	Haskins v. Thenell	Holland v. Cedar Grove
Wisconsin Tel. Co. v. PSC	National Guernsey Dairy, Inc. v. Department of Agric. & Mkts.	Rhea Mfg. Co. v. Industrial Com.	Barth v. Vil. Shorewood
Golden Harvest Dairy Co. v. Department of Agriculture & Markets	Bourestom v. Bourestom	Setzkorn v. Admil, Inc.	
Brinckley v. Sager	State v. Brozyna	Hustad v. Evetts	
Cleveland v. Industrial Com.	Barlow & Seelig Mfg. Co. v. Patch	Banking Com. v. Prudential Inv. Co.	
Dahlberg v. Jones	Gutknecht v. C. A. Lawton Co.	Voswinkel v. Industrial Com.	
Federal Paving Corp. v. Wauwatosa	In re West's Estate		
In re Doe's Will	Carpenter v. Spring Green		
In re Gutenkunst's Estate	Bainbridge v. Bainbridge		
In re Stevens' Will	Finnegan v. McGavock		
Jones v. Preferred Acci. Ins. Co.	Renich v. Klein		
Jos. Schlitz Brewing Co. v. City of Wilwaukee	In re Kalskop's Will		
Kaegl v. Industrial Comm'n	Halvorsen v. Peterson		
Rosenow v. Schmidt	In re Builders' Mut. Casualty Co.		
Slocum Straw Works v. Industrial Com.	Lundberg v. University of Notre Dame		
State ex rel. Cowie v. La Crosse Theaters	Estate of Townsend v.		
Co.	Bloomfield		
State ex rel. Voelkel v. Thiessen			
State v. Richter			
State v. Wagner			
Van Dale v. Karon			
Wisconsin Power & Light Co. v. Public Service Com. [232 Wis. 43]			
Wisconsin Power & Light Co. v. Public Service Com. [232 Wis. 59]			
State v. Baker			
Bohlmann v. Penn Electric Corp.			
Gagnon v. Department of Agriculture & Markets			
Alexander v. Wald			
Arneson v. Buggs			
Beck v. Fond Du Lac Highway Committee			
Bitzke v. Folger			
Blooming Grove v. Roselawn Memorial Park Co.			
Brabazon v. Joannes Bros. Co.			
Cameron v. Heinze			
Carl Miller Lumber Co. v. Federal Home Development Co.			
Emerich v. Bigsby			
Euclide v. State			
(continued on following page)		1	1

<sup>&</sup>lt;sup>1</sup> Due to rounding, the percentages do not add up to one hundred. In few instances, a justice authored a separate opinion that concurred in part and dissented in part. For this and other tables, each such vote has been 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.

Guenther v. Industrial Com.		
Haas v. Moloch Foundry & Machine Co.		
In re Kniffen's Estate		
Kaminski v. Standard Oil Co.		
Kickapoo Dev. Corp. v. Kickapoo		
Orchard Co.		
La Crosse Rendering Works v. La Crosse		
Levner v. Northland-Greyhound Lines		
Maas v. Lutz		
Munkwitz Realty & Inv. Co. v. Diederich		
Schaefer Co.		
Osgood Co. v. Peterson Const. Co.		
Petition of Salen		
Stanislawski v. Metropolitan Life Ins. Co.		
State ex rel. Cooper v. Baumann		
State ex rel. Johnson v. Aarons		
State ex rel. Kuhn v. Luchsinger		
White Eagle Bldg. & Loan Ass'n v. Freyer		
Wisconsin Power & Light Co. v. Public		
Serv. Com. [231 Wis. 390]		
In re Campbell's Estate		
Schworer v. Einberger		
Beers v. Atlas Assurance Co.		
Feiges v. Racine Dry Goods Co. [231		
Wis. 270]		
Feiges v. Racine Dry Goods Co. [231		
Wis. 284]		
Folding Furniture Works v. Wisconsin		
Labor Relations Board		
Hermance v. Braun		
Home Owners' Loan Corp. v. Robinson		
In re Advance Woodwork Co.		
In re Cullen's Estate		
In re Schlicht's Estate		
Jenks v. Hetzel		
Lindgren v. La Crosse County		
Madison Airport Co. v. Industrial Com.		
Nygaard v. Wadhams Oil Co.		
Osterloh v. Osterloh		
Qualley v. Zimmerman State ex rel. International Business		
Machine Corp. v. Board of Review		
State ex rel. International Business		
Machine Corp. v. Nesemann		
Stelzner v. Boehme T. F. Pagel Lumber Co. v. Webster		
Walsh v. Richland Center		
Woman's Home Companion Reading Club		
v. Industrial Com.		
Cegelski v. Green Bay	_	
Gaenslen v. Northwestern Mut. Life Ins.		
Co.		
Hansen v. Storandt		
In re Blahnik's Estate		
In re Pfeiffer's Will		
Jasperson v. Industrial Com.		
Kewaunee, G. B. & W. R. Co. v. Green		
Bay		
Kisten v. Kisten [231 Wis. 22]		
(continued on following nage)		

Lawrence v. Children's Home & Aid Soc.		
Manitowoc v. Manitowoc Rapids		
Northern Trust Co. v. Industrial Com.		
Peloquin v. Hibner		
Ray v. State		
Simon v. Lecker		
State ex rel. Attorney Gen. v. Manske		
State ex rel. Jackson v. Leicht		
State ex rel. Leverance v. Prey		
State ex rel. Littig v. Superior Court of		
Dane County		
State ex rel. Madison Airport Co. v.		
Wrabetz,		
State ex rel. Monty v. Tilleson		
Unger v. State		
Western Casualty & Surety Co. v. Shafton		
Bjordal v. Town Board of Delavan		
Central Wisconsin Trust Co. v.		
Schumacher		
Cleary v. Boyle		
Employers Mut. Liability Ins. Co. v.		
Industrial Com. [230 Wis. 670]		
Estate of DeWitt v. Kettenhofen		
Hannon v. Hannon		
Hansberry v. Dunn		
In re Blackburn's Estate		
In re Home's Will		
In re Koehring's Will		
In re McCanna's Estate		
In re Raasch's Will		
In re Ziehlke's Will		
Karass v. Marquardt		
Liebenstein v. Eisele		
Luebke v. Watertown		
Madden v. Reeve		
Markovich v. Schlafke		
Marshall v. Marshall		
McCartie v. Mutil		
Mitchell v. Mitchell		
State ex rel. Attorney Gen. v. John F.		
Jelke Co.		
State ex rel. Martin v. Reis		
State ex rel. Ryan v. Kjelstad		
Steenis v. Appleton		
Sundermann v. Heinrich		
Swenson v. Van Harpen		
Switzer v. Weiner		
Wilson v. Sheboygan		
Wisconsin Public Service Com. v. Public		
Service Com.		
Petition of Heil		
Anheuser v. West Lawn Cemetery Co.		
Employers Mut. Liability Ins. Co. v.		
Industrial Com. [230 Wis. 374]		
Geyer v. Milwaukee Electric R. & L. Co.		
Grand Chute v. Milwaukee County		
Greenbush v. Plymouth		
Herrick v. Luberts		
In re Kamba's Estate		
(continued on following nage)		

In re Roebken's Will		
In re Williams' Estate		
Kenyon v. State		
Linschitz v. C. A. Neuberger Co.		
Markowitz v. Milwaukee Electric R. & L.		
Co.		
Marshall & Ilsley Bank v. Ewig		
Maryland Casualty Co. v. Industrial Com.		
[230 Wis. 363]		
Northwestern Nat'l Ins. Co. v. Mortensen		
Page v. Milwaukee County		
Pessin v. Fox Head Waukesha Corp.		
Peters v. Chicago, M. S. P. & P. R. Co.		
Ray v. Milwaukee Auto. Ins. Co.		
Schwingel v. Boyd		
Sikora v. Great Northern R. Co.		
State ex rel. Dinneen v. Larson		
State ex rel. Northwestern Development		
Corp. v. Gehrz		
State ex rel. Ryan v. Board of Education		
State ex rel. Schmidtkunz v. Webb		
State v. Sinclair Refining Co.		
State v. Slowe		
Webster v. Krembs		
Badger Sav. Bldg. & Loan Ass'n v. Mutual		
Blum Bros, Box Co. v. Wisconsin Labor		
Relations Board		
Delap v. Parcell Dierkes v. White Paving Co.		
Duame v. Feltus		
Estate of Campbell v. Jensch		
Estate of Dammann v. Dammann		
Estate of Hogan v. Hogan		
Fischer v. London Guarantee & Acci. Co.		
Hofmeister v. Henter		
In re Cortte's Estate		
In re Cox's Estate		
In re Nieman's Estate		
In re Nunnemacher's Will		
In re Rahn's Estate		
International Wire Works v. Hanover Fire		
Ins. Co.		
Liskowitz v. State		
Milton v. Industrial Com.		
Milwaukee Board of Fire Underwriters v.		
Badger Mut. Fire Ins. Co.		
Milwaukee v. Snyder		
Munsert v. Farmers Mut. Auto Ins. Co.		
Nale v. Hunter		
Prentiss Wabers Products Co. v.		
Industrial Com.		
Reetz v. Kitch		
Shawano County v. Industrial Com.		
State ex rel. Paulson v. Town Board of		
Perry		
State v. Martin		
United States Fidelity & Guar. Co. v.		
Pullen		
(continued on following page)		

State ex rel. Zimmerman v. Dammann		
Andrew v. Brecker		
Bartz v. State		
Estate of Richardson v. Estate of		
Richardson		
Estreen v. Fire Ass'n of Philadelphia		
Fetzer v. State Bank of Forestville		
Hall v. McDonald		
Heffling v. Best		
Hills Dry Goods Co. v. Industrial Com.		
Hoar v. Rasmusen		
In re Burke		
In re Coloma State Bank		
In re Gallagher's Estate		
Kisten v. Kisten [229 Wis. 479]		
Littig v. Littig		
Mattox v. Gibson		
Meacham Inv. Co. v. Rubin		
Parrish v. Phillips		
Prime Mfg. Co. v. A. F. Gallun & Sons		
Corp.		
Schnick v. National Surety Corp.		
State v. Evans		
State v. Wiedenfeld		
Tregloan v. Hayden		
Wald v. Mitten		
Wedecky v. Grimes		
Wedel v. Klein		
Zuehlke v. Engel		
Anderson v. Riegel		
Burant v. Studzinski		
Dallmann v. Kluchesky		
Federal Corp. v. Radtke		
First Trust Co. v. Maxcy Gillett State Bank v. Knaack		
Gimbel Bros. v. Industrial Com.  Hardware Mut. Casualty Co. v.		
Milwaukee Auto. Ins. Co.		
Harnischfeger Sales Corp. v. Kehrein		
Bros.		
Hayden v. Newman		
In re Paulsen's Guardianship		
Isaacs v. Milwaukee Chair Co.		
Jolitz v. Fintch	 	
Kerler v. Evangelical Emanuel's Church		
Kreutzer v. Gallagher		
Masek v. Bubenheimer		
Milwaukee v. Roberts		
Milwaukee v. Taylor		
Pappas v. McDonough		
Podell v. Gronik		
Popp v. Yuenger		
State ex rel. Orvis v. Evans		
State ex rel. Peters v. Sleeman		
Waterman v. Heinemann Bros. Co.		
Benedict v. Berg		
Ehrlich v. Frank Holton & Co.		
Ellinger v. Wisconsin Tax Com.		
(continued on following page)		

Employers Mut. Liability Ins. Co. v.		
Industrial Com. [229 Wis. 121]		
Estate of Duwe v. Woelffer		
Geason v. Schaefer		
Govenor ex rel. Kadin v. Bristol		
Hancock v. Hallmann		
Hanser v. Hanser		
Heckel v. Standard Gateway Theater		
Ladegaard v. Connell		
Laurent v. Plain		
Le May v. Oconto		
Midland Nat'l Bank & Trust Co. v.		
Peterson		
Milwaukee Auto. Ins. Co. v. Felten		
Morris F. Fox & Co. v. State		
Murphy v. National Paving Co.		
Ottstadt v. Jardine		
Schweers Hardware Co. v. Davids		
State ex rel. Thein v. Milwaukee		
Webb v. Beloit		
State v. Brockman (6-0)		
Banking Com. of Wisconsin v. Hamilton		
(6-0)		
In re Will of Voellings (per curiam, 7-0)		
Vandenberg v. Industrial Com. (per		
curiam, 7-0)		
Zimmermann v. Walgreen Co. (per		
curiam, 7-0)		
A. F. Wagner Iron Works v. Convoy		
Motor Freight (per curiam, 7-0)		
Fritsch v. Fritsch (per curiam, 7-0)		
Rehder v. Lape (per curiam, 7-0)		
Schloff v. Braff (per curiam, 7-0)		
In re Estate of Pine (per curiam, 7-0)		
In re Will of Dorn (per curiam, 7-0) [231		
Wis. 678]		
In re Will of Dorn (per curiam, 7-0) [231		
Wis. 679]		
Liberty Frock Co. v. Robbins (per curiam,		
7-0)		
Melby v. Kingsbury Breweries Co. (per		
curiam, 7-0)		
Meress v. Chicago, M. S. P. & P. R. Co.		
(per curiam, 7-0) [231 Wis. 678]		
Meress v. Chicago, M. S. P. & P. R. Co.		
(per curiam, 7-0) [231 Wis. 679]		
Kalb v. Feuerstein (per curiam, 7-0)		
Kalb v. Luce (per curiam, 7-0)		
Beierle, Inc. v. Berg (per curiam, 7-0)		
Fronczek v. Sink (per curiam, 7-0)		
Milwaukee Dental Clinic v. Finn (per		
curiam, 7-0)		
Acres v. Fromm (per curiam, 7-0)		
Bankers Farm Mortg. Co. v. Industrial		
Com. (per curiam, 7-0)		
First Wisconsin Trust Co. v. O'Donnell		
(per curiam, 7-0)		
In re Will of Cleveland (per curiam, 7-0)		
(continued on following page)		

Johnston v. Keeshin Motor Express Co.		
(per curiam, 7-0)		
Hauerwas v. Zimmerman (per curiam, 7-		
0)		
Angelski v. Industrial Com. (per curiam,		
7-0)		
Blunk v. Estate of Meyer (per curiam, 7-0)		
Maryland Casualty Co. v. Industrial Com.		
(per curiam, 7-0) [230 Wis. 690]		
Paque v. Knaus (per curiam, 7-0)		
Stadelbauer v. Mayville (per curiam, 7-0)		
Townsend v. Industrial Com. (per curiam,		
7-0)		
Bank of Edgar v. Edgar Basket & Mfg.		
Co. (per curiam, 7-0)		
Erny Basket Co. v. Bank of Edgar (per		
curiam, 7-0)		
Kiedrowski v. White (per curiam, 7-0)		
Kilp v. Krueger (per curiam, 7-0)		
Calumet v. Industrial Com. (per curiam,		
7-0)		
In re Estate of Ross (per curiam, 7-0)		
In re Will of Morss (per curiam, 7-0)		
Lang v. Industrial Com. (per curiam, 7-0)		
Rohde v. Gessert (per curiam, 7-0)		
Brooks v. Industrial Com. (per curiam, 7-		
0)		
Dahl v. Bank of Dallas (per curiam, 7-0)		
Ely v. McDonough (per curiam, 7-0)		
In re Estate of Hamilton (per curiam, 7-0)		
Maierle v. Boynton Cab Co. (per curiam,		
7-0)		
Wisconsin Appleton Co. v. Industrial		
Com. (per curiam, 7-0)		
Yessa v. Nuxoll (per curiam, 7-0)		
Bludau v. Industrial Com. (per curiam, 7-		
0)		
Hardy v. Milwaukee Electric R. & L. Co.		
In re Estate of Neupert (per curiam, 7-0)		
In re Guardianship of Mandsager (per		
curiam, 7-0)		
Oshkosh Bldg. Loan & Sav. Ass'n v. Sage		
(per curiam, 7-0)		
Plaettner v. Metropolitan Life Ins. Co.		
(per curiam, 7-0)		
Sherwood State Bank v. Zahn (per curiam,		
7-0)		
Thompson v. Bareis (per curiam, 7-0)		
1 (1		

### Frequency in the Majority

These tables display how frequently each justice voted in the majority. The first table includes all cases in which a justice voted, while the second table includes only cases decided by split votes.

All Cases

Justice	Majority Votes Cast	Total Votes Cast	Percent in Majority
Wickhem	333	336	99%
Fairchild	327	337	97%
Fritz	327	337	97%
Rosenberry	335	337	99%
Fowler	332	337	99%
Martin	334	336	99%
Nelson	335	337	99%

#### Non-Unanimous Decisions

Justice	Majority Votes Cast	Total Votes Cast	Percent in Majority
Wickhem	21	24	88%
Fairchild	14	24	58%
Fritz	14	24	58%
Rosenberry	22	24	92%
Fowler	19	24	79%
Martin	22	24	92%
Nelson	22	24	92%

# Opinions Authored<sup>2</sup>

The first table indicates how many majority opinions a justice authored in cases decided by each of the four possible majority vote totals. The second table shows how many concurrences and dissents each justice wrote. If a justice dissented without authoring an opinion, he is not credited.

<b>Opinion Author</b>	7-0 (or 6-0)	6-1	5-2	4-3
Wickhem	41	3	1	0
Fairchild	29	4	1	0
Fritz	41	3	0	0
Rosenberry	24	1	0	2
Fowler	47	1	1	0
Martin	34	2	1	0
Nelson	41	2	2	0

Opinion Author	Concurring Opinions	Dissenting Opinions
Wickhem	0	1
Fairchild	0	5
Fritz	0	0
Rosenberry	0	1
Fowler	0	4
Martin	0	0
Nelson	0	0

<sup>&</sup>lt;sup>2</sup> *Per curiam* decisions are omitted.

#### Agreement Among Pairs of Justices

The following tables show the percentage of decisions in which every possible pair of justices found themselves on the same side—either both in the majority or both dissenting. The first table covers all decisions; the second table narrows its focus to decisions that were not unanimous. When reading the <u>second</u> table, for instance, one finds that Justices Fritz and Fowler voted together in 46% of the decisions, while the figure for Justices Wickhem and Rosenberry was 79%.

#### Agreement Between Pairs of Justices—All Decisions

	Fairchild	Fritz	Rosenberry	Fowler	Martin	Nelson
Wickhem	325/336= <b>97%</b>	325/336= <b>97%</b>	331/336= <b>99%</b>	330/336= <b>98%</b>	330/335= <b>99%</b>	331/336= <b>99%</b>
	Fairchild	319/337= <b>95%</b>	325/337= <b>96%</b>	326/337= <b>97%</b>	328/336= <b>98%</b>	325/337= <b>96%</b>
		Fritz	329/337= <b>98%</b>	324/337= <b>96%</b>	324/336= <b>96%</b>	327/337= <b>97%</b>
			Rosenberry	330/337= <b>98%</b>	332/336= <b>99%</b>	333/337= <b>99%</b>
				Fowler	329/336= <b>98%</b>	330/337= <b>98%</b>
					Martin	332/336= <b>99%</b>
						Nelson

### Agreement Between Pairs of Justices—Non-Unanimous Decisions

	Fairchild	Fritz	Rosenberry	Fowler	Martin	Nelson
Wickhem	13/24= <b>54%</b>	13/24= <b>54%</b>	19/24= <b>79%</b>	18/24= <b>75%</b>	19/24= <b>79%</b>	19/24= <b>79%</b>
	Fairchild	6/24= <b>25%</b>	12/24= <b>50%</b>	13/24= <b>54%</b>	16/24= <b>67%</b>	12/24= <b>50%</b>
		Fritz	16/24= <b>67%</b>	11/24= <b>46%</b>	12/24= <b>50%</b>	14/24= <b>58%</b>
			Rosenberry	17/24= <b>71%</b>	20/24= <b>83%</b>	20/24= <b>83%</b>
				Fowler	17/24= <b>71%</b>	17/24= <b>71%</b>
					Martin	20/24= <b>83%</b>
						Nelson