

Four-to-Three Decisions

4-3 Alignments

Justices	Total	Case Names
Wickhem, Rosenberry, Martin, Nelson	2	<i>Johnson v. Bradley Knitting Co.; State v. Hoffman</i>
Wickhem, Rosenberry, Fowler, Nelson	1	<i>Lester v. State</i>
Fairchild, Fowler, Martin, Nelson	1	<i>State ex rel. Milwaukee County Republican Committee v. Ames</i>

4-3 Membership in the Majority

Justice	Votes
Wickhem	3
Fairchild	1
Fritz	0
Rosenberry	3
Fowler	2
Martin	3
Nelson	4

4-3 Majority Opinions Authored

	Opinions
Wickhem	0
Fairchild	0
Fritz	0
Rosenberry	1
Fowler	0
Martin	2
Nelson	1
Total	4

Decisions by Vote Split¹

7-0 (or 6-0)	6-1	5-2	4-3
278/303 (92%)	11/303 (4%)	10/303 (3%)	4/303 (1%)
<i>State ex rel. Steffes v. Risjord</i>	<i>Buhler v. Department of Agriculture & Markets</i>	<i>Brandt v. Employers' Liability Assurance Corp.</i>	<i>Johnson v. Bradley Knitting Co.</i>
<i>In re Bowler's Will</i>	<i>Kaczmarzyk v. State</i>	<i>Estate of Tufts v. Conger</i>	<i>Lester v. State</i>
<i>In re Stanley's Will</i> [228 Wis. 530]	<i>Quinn v. City Cab Co.</i>	<i>State ex rel. Wisconsin Development Authority v. Dammann</i> [June 21, 1938]	<i>State v. Hoffman</i>
<i>Altenberg v. Superior</i>	<i>Callaway v. Kryzen</i>	<i>Stein v. Endres Home Builders</i>	<i>State ex rel. Milwaukee County Republican Committee v. Ames</i>
<i>Barneveld State Bank v. Rongve</i>	<i>Zuehls v. Zuehls</i>	<i>Gray v. Stadler</i>	
<i>Bennett v. Bennett</i>	<i>In re Risher's Will</i>	<i>Marshall & Ilsley Bank v. Greene</i>	
<i>Dairy Distributors v. Department of Agriculture & Markets</i>	<i>State ex rel. Kappa Sigma Bldg. Ass'n v. Bareis</i>	<i>In re Sauer's Will</i>	
<i>Dunham v. Wisconsin Gas & Electric Co.</i>	<i>Marathon County v. Industrial Com.</i>	<i>Nehring v. Niemerowicz</i>	
<i>Dykstra v. Hartford Acci. & Indem. Co.</i>	<i>Old Line Life Ins. Co. v. Hawn</i>	<i>Blaschke v. Watertown</i>	
<i>Ehrlich v. Frank Holton & Co.</i>	<i>State ex rel. Collins v. Brown</i>	<i>Scobie v. Wisconsin Tax Com.</i>	
<i>Gilkey v. Wisconsin Tax Com.</i>	<i>Bechthold v. Wauwatosa (per curiam)</i> [June 21, 1938]		
<i>Gitlitz v. Plankinton Bldg. Properties</i>			
<i>Hat Box v. Plankinton Bldg. Co.</i>			
<i>Hitz v. Pospychalla</i>			
<i>Homerding v. Pospychalla</i>			
<i>In re Hebblewhite's Will</i>			
<i>In re Kootz' Will</i>			
<i>Kessler v. Olen</i>			
<i>Klug v. Soldner</i>			
<i>Koelbel v. Tecktonius</i>			
<i>Kraut v. State</i>			
<i>Mark v. State</i>			
<i>Mauch v. Chicago, M. S. P. & P. R. Co.</i>			
<i>Moore v. Benjamin</i>			
<i>Peterman v. Industrial Com.</i> [228 Wis. 352]			
<i>Schulz v. Kissling</i>			
<i>State ex rel. Lang v. Civil Court of Milwaukee County</i>			
<i>State ex rel. Martin v. Ekern</i>			
<i>State v. Germana</i>			
<i>State v. Withrow</i>			
<i>Wanek v. Kott</i>			
<i>Kalb v. Luce</i>			
<i>Estate of Ott v. Calhoun</i>			
<i>Hermance v. Weisner</i>			
<i>Podell v. State</i>			
<i>Reichert v. Rex Accessories Co.</i>			
<i>Rogers Memorial Sanitarium v. Summit</i>			

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¹ 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.

<i>Victoria v. Muscoda</i>			
<i>Wisconsin Labor Relations Board v. Fred Rueping Leather Co.</i>			
<i>Banking Commission of Wisconsin v. Purves</i>			
<i>Connor v. Chippewa Falls</i>			
<i>Dunville v. Industrial Com.</i>			
<i>Hlubocky v. Schramel</i>			
<i>Jensen v. Jensen</i>			
<i>Juneau v. Badger Co-operative Oil Co.</i>			
<i>Klitzka v. Wheeler Transp. Co.</i>			
<i>Knoll v. Hess</i>			
<i>Lincoln County v. Industrial Com.</i>			
<i>Marshall & Ilsley Bank v. Stepke</i>			
<i>Milwaukee County v. Industrial Com.</i>			
<i>Old Port Brewing Corp. v. C. W. Fischer Furniture Co.</i>			
<i>Schwab v. Martin</i>			
<i>State ex rel. Nolan v. Mensing</i>			
<i>State ex rel. Tracy v. Levitan</i>			
<i>State v. Fischer</i>			
<i>State v. Hackbarth</i>			
<i>Birmingham v. State</i>			
<i>London Guarantee & Acci. Co. v. Wisconsin Public Service Corp.</i>			
<i>Baker v. Onsrud</i>			
<i>Banking Com. v. Buchanan</i>			
<i>Banks v. Chicago, M., S. P. & P. R. Co.</i>			
<i>Butts v. Ward</i>			
<i>Campbell v. Mickelson</i>			
<i>Chippewa Valley Sec. Co. v. Herbst</i>			
<i>Coughlin v. Milwaukee</i>			
<i>Estate of Bloch v. Bloch</i>			
<i>Estate of Snell v. Crane</i>			
<i>Estate of Tinker v. State Bd. of Control</i>			
<i>Guardian Agency v. Guardian Mut. Sav. Bank</i>			
<i>Harris v. Kunkel</i>			
<i>Horgen v. Chaseburg State Bank</i>			
<i>In re Patton's Will</i>			
<i>Johnson v. Andreassen</i>			
<i>Juergens v. Ritter</i>			
<i>Kar-Lac Co. v. Arnold Electric Co.</i>			
<i>Kuenzi v. Leisten</i>			
<i>Lansing v. John Strange Paper Co.</i>			
<i>Lewiston Drainage Dist. v. Diehl</i>			
<i>Locke v. General Acci. Fire & Life Assurance Corp.</i>			
<i>Logan v. Two Rivers</i>			
<i>Marinette County Highway Committee Industrial Com.</i>			
<i>Martinson v. Polk County [227 Wis. 444]</i>			
<i>Martinson v. Polk County [227 Wis. 447]</i>			
<i>Minneapolis, S. P. & S. S. M. R. Co. v. Industrial Com.</i>			
<i>Schwartzburg v. Rahtjen</i>			
<i>United Shoe Workers, etc. v. Wisconsin Labor Relations Board</i>			
<i>Woller v. Oelke</i>			

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<i>Doherty v. S. S. Kresge Co.</i>			
<i>First Wisconsin Nat'l Bank v. Pierce</i>			
<i>Gumm v. Koepke</i>			
<i>O'Connell v. Old Line Life Ins. Co.</i>			
<i>Steiger v. Phipps</i>			
<i>Bunn v. Bucknam</i>			
<i>Dromey v. Wisconsin Tax Com.</i>			
<i>Ex parte Willer</i>			
<i>Federal Farm Mortg. Corp. v. Larson</i>			
<i>French v. Continental Assurance Co.</i>			
<i>Hainz v. Kurth</i>			
<i>Hughes v. Wisconsin Tax Com.</i>			
<i>Jansky v. Two Rivers</i>			
<i>Lang v. State</i>			
<i>Meyers v. Thorpe</i>			
<i>Montello Granite Co. v. Industrial Com.</i>			
<i>Schneider v. Anderson</i>			
<i>Sell v. General Electric Supply Corp.</i>			
<i>State ex rel. Zimmerman v. Euclide</i>			
<i>State v. Ross</i>			
<i>Thorson v. Wisconsin Life Ins. Co.</i>			
<i>Waisman v. Wagner</i>			
<i>Frank v. Metropolitan Life Ins. Co.</i>			
<i>Estate of Mead v. Currie</i>			
<i>Gross v. Hoffman</i>			
<i>Kuske v. Miller Bros. Co.</i>			
<i>Willett v. Stewart</i>			
<i>Wisconsin Compensation Rating & Inspection Bureau v. Mortensen</i>			
<i>A. J. Straus Paying Agency v. Caswell Bleg. Co. [227 Wis. 353]</i>			
<i>Appeal of Cichon</i>			
<i>Bechthold v. Wauwatosa [February 15, 1938]</i>			
<i>Beck v. Wallmow</i>			
<i>Brown v. Oneida Knitting Mills</i>			
<i>Farmer v. Pick Mfg. Co.</i>			
<i>Green Bay Sugar Co. v. Industrial Com.</i>			
<i>Hartman v. Loverud</i>			
<i>Harvey v. Wheeler Transfer & Storage Co.</i>			
<i>Helbig v. Bonsness</i>			
<i>In re Morgan's Will</i>			
<i>Krudwig v. Koepke</i>			
<i>Long v. Wallmow</i>			
<i>McCormick v. Racine</i>			
<i>National Baking Co. v. Zabel</i>			
<i>Nicolai v. Wisconsin Power & Light Co.</i>			
<i>Patterson v. Edgerton Sand & Gravel Co.</i>			
<i>Prudential Ins. Co. v. Cuttone</i>			
<i>Richmond v. Lodi</i>			
<i>State ex rel. Sullivan v. Dammann</i>			
<i>Syrakas v. State</i>			
<i>Waldman v. YMCA</i>			
<i>Wenzel & Henoeh Const. Co. v. Wauwatosa [227 Wis. 26]</i>			
<i>Covnot v. Clayton</i>			
<i>De Bauche v. Green Bay</i>			
<i>Hansen v. Taylor Beverage & Candy Co.</i>			

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<i>Northern Assurance Co. v. Milwaukee</i>			
<i>A. J. Straus Paying Agency v. Jensen</i> [226 Wis. 462]			
<i>Alropa Corp. v. Flatley</i>			
<i>Binzel v. Oconomowoc Brewing Co.</i>			
<i>Creamery Package Mfg. Co. v. Industrial Com. of Wisconsin</i>			
<i>Erbe v. Maes</i>			
<i>Estate of Mierzejewski v. Kramer</i>			
<i>Estate of Smith v. Smith</i>			
<i>First Nat'l Bank & Trust Co. v. Hardy</i>			
<i>Fitzgerald v. Milwaukee Auto. Ins. Co.</i>			
<i>Forbes v. Forbes</i>			
<i>Gauthier v. Carbonneau</i>			
<i>In re Incorporation of Twin Lakes</i>			
<i>Kassowitz v. Sentinel Co.</i>			
<i>Leide v. State</i>			
<i>Leininger v. Pierce County</i>			
<i>Lueptow v. Schraeder</i>			
<i>Peterson v. Milwaukee</i>			
<i>Petition of Northfield Iron Co.</i>			
<i>St. Mary's Hospital & Training School for Nurses v. Atlas Warehouse & Cold Storage Co.</i>			
<i>State ex rel. Hull v. Larson</i>			
<i>State ex rel. Wisconsin Development Authority v. Dammann</i> [January 11, 1938]			
<i>State v. Michaels</i>			
<i>United States Fidelity & Guaranty Co. v. Waukesha Lime & Stone Co.</i>			
<i>Vacek v. Prudential Ins. Co.</i>			
<i>Eck v. Kenosha</i>			
<i>Gifford v. Thur</i>			
<i>New Dells Lumber Co. v. Chicago, S. P. M. & O. R. Co.</i> [226 Wis. 628]			
<i>New Dells Lumber Co. v. Chicago, S. P., M. & O. R. Co.</i> [226 Wis. 614]			
<i>Prudential Ins. Co. v. Kozłowski</i>			
<i>Tande v. Vernon County</i>			
<i>Baird v. Edmonds</i>			
<i>Cudahy v. Tax Comm'n</i> [226 Wis. 342]			
<i>Cudahy v. Wisconsin Tax Com.</i> [226 Wis. 317]			
<i>Davis v. Kurella</i>			
<i>Farmers & Merchants State Bank v. Schulenberg</i>			
<i>Fischer v. State</i>			
<i>Heineman Lumber Co. v. Industrial Com.</i>			
<i>In re Banski's Guardianship</i>			
<i>In re Stanley's Will</i> [226 Wis. 354]			
<i>Klauser v. Reeves</i>			
<i>Kraus v. State</i>			
<i>Nolte-Flint, Inc. v. Water-Wisconsin Co.</i>			
<i>Northwestern Loan & Trust Co. v. Bidinger</i>			
<i>People's Trust & Sav. Bank v. Wassersteen</i>			
<i>Schlitz v. Equitable Life Assurance Soc.</i>			
<i>Stammer v. Kitzmiller</i>			

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<i>State ex rel. Ford Hopkins Co. v. Watertown</i>			
<i>Wisconsin Power & Light Co. v. Public Service Com.</i>			
<i>Ottens v. Atlas Assurance Co.</i>			
<i>Cera v. Consolidated Water Power Co.</i>			
<i>James Talcott, Inc. v. Cohen</i>			
<i>Jones v. Preferred Acci. Ins. Co.</i>			
<i>Zeiler v. Zeiler</i>			
<i>Davis v. Schumacher</i>			
<i>Eckstein v. Northwestern Mut. Life Ins. Co.</i>			
<i>Fremstad v. Saugstad</i>			
<i>Ft. Howard Paper Co. v. Paper Converting Mach. Co.</i>			
<i>Heiden v. Milwaukee</i>			
<i>Knauf v. Diamond Cartage Co.</i>			
<i>Kramer v. Chicago, M. & S. P. & P. R. Co.</i>			
<i>Liberty v. Liberty</i> [226 Wis. 136]			
<i>Madison v. Steller</i>			
<i>Miller v. State</i>			
<i>Mollet v. Bloedorn</i>			
<i>Plankinton Bldg. Co. v. Laikin's, Inc.</i>			
<i>Welfare Bldg. & Loan Ass'n v. Krieger</i>			
<i>Gray v. Lord</i>			
<i>Kettenhofen v. Sterling Oil Co.</i>			
<i>Stewart v. Kenosha County</i>			
<i>Sweitzer v. Fox</i>			
<i>Curt v. Industrial Comm'n</i>			
<i>Duluth-Superior Milling Co. v. Industrial Com.</i>			
<i>Foelske v. Tegtmeyer</i>			
<i>Fox v. Racine</i>			
<i>Gannon v. Chaseburg State Bank</i>			
<i>Henderson v. Hoesley</i>			
<i>Home Owners' Loan Corp. v. Dougherty</i>			
<i>In re Bate's Will</i>			
<i>In re Heck's Guardianship</i>			
<i>In re Willard</i> [225 Wis. 562]			
<i>In re Willard</i> [225 Wis. 553]			
<i>Kuchenreuther v. Chicago, M., S. P. & P. R. Co.</i>			
<i>Lewis v. Wisconsin Banking Com.</i>			
<i>Odanah Iron Co. v. Industrial Com.</i>			
<i>Palmisano v. Century Indem. Co.</i>			
<i>Parker v. Wisconsin Tax Com.</i>			
<i>Schuster v. Bridgeman</i>			
<i>Stevens v. Jacobs</i>			
<i>Sullivan v. Standard Brass Works</i>			
<i>Wanke v. Kreul</i>			
<i>Wenzel & Henoeh Const. Co. v. Wauwatosa</i> [226 Wis. 10]			
<i>In re Estate of Hager</i> (per curiam, 7-0)			
<i>In re Will of Elsen</i> (per curiam, 7-0)			
<i>Schlueter v. Whealon</i> (per curiam, 7-0)			
<i>Connors v. Scullion</i> (per curiam, 7-0)			
<i>In re Will of Rosewall</i> (per curiam, 7-0)			
<i>Lerum v. Davidson</i> (per curiam, 7-0)			

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WISCONSIN SUPREME COURT DECISIONS, 1937-38

<i>Borrelli v. Trezise (per curiam, 7-0)</i>			
<i>In re Estate of Hellickson (per curiam, 7-0)</i>			
<i>McFadden v. Hudson (per curiam, 7-0)</i>			
<i>Narum v. Ashman (per curiam, 7-0)</i>			
<i>Quinn v. Haas (per curiam, 7-0)</i>			
<i>Clare v. Miller (per curiam, 7-0)</i>			
<i>Mananian v. Kaiserlain (per curiam, 7-0)</i>			
<i>Bukolt v. Neva (per curiam, 7-0)</i>			
<i>D'Amato v. Cash (per curiam, 7-0)</i>			
<i>In re Estate of Shriner (per curiam, 7-0)</i>			
<i>Rossbach v. Dlouhy (per curiam, 7-0)</i>			
<i>Tangney v. F. F. Mengel Co. (per curiam, 7-0)</i>			
<i>Welch v. Henry (per curiam, 7-0)</i>			
<i>Back v. Schroeder (per curiam, 7-0)</i>			
<i>Friedman v. Brunswick-Balke-Collender Co. (per curiam, 7-0)</i>			
<i>In re Estate of Rasmussen (per curiam, 7-0)</i>			
<i>In re Will of Hammer (per curiam, 7-0)</i>			
<i>Petersen v. Industrial Com. (per curiam, 7-0) [226 Wis. 675]</i>			
<i>Quiner v. Industrial Com. (per curiam, 7-0)</i>			
<i>State v. Industrial Comm'n (per curiam, 7-0)</i>			
<i>Szumiel v. Zimowicz (per curiam, 7-0)</i>			
<i>Brand v. Sheboygan Dry Goods Co. (per curiam, 7-0)</i>			
<i>Doughten v. Kennedy (per curiam, 7-0)</i>			
<i>Eisenbart v. Lindsay (per curiam, 7-0)</i>			
<i>In re Estate of Wegner (per curiam, 7-0)</i>			
<i>Schmitz v. Lehigh Valley R. Co. (per curiam, 7-0)</i>			
<i>Schumacher v. Industrial Com. (per curiam, 7-0)</i>			
<i>Consolidated Water Power & Paper Co. v. Industrial Com. (per curiam, 7-0)</i>			
<i>In re Estate of Gilford (per curiam, 7-0)</i>			
<i>National Acceptance Corp. v. Porter (per curiam, 7-0)</i>			
<i>Thousand v. Ray (per curiam, 7-0)</i>			
<i>Yule v. Scheckler (per curiam, 7-0)</i>			
<i>Brown v. Ralston Scales Corp. (per curiam, 7-0)</i>			
<i>Sharon v. Superior (per curiam, 7-0)</i>			
<i>Peplinski v. Milis (per curiam, 7-0)</i>			
<i>State ex rel. Hampel v. Mitten (6-0)</i>			
<i>Shemick v. Menominee River Boom Co. (6-0)</i>			
<i>Norman v. Kernan (6-0)</i>			
<i>Sova v. Ries (6-0)</i>			

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	299	302	99%
Fairchild	290	303	96%
Fritz	292	301	97%
Rosenberry	299	303	99%
Fowler	294	303	97%
Martin	300	302	99%
Nelson	300	303	99%

Non-Unanimous Decisions

Justice	Majority Votes Cast	Total Votes Cast	Percent in Majority
Wickhem	22	25	88%
Fairchild	12	25	48%
Fritz	16	25	64%
Rosenberry	21	25	84%
Fowler	16	25	64%
Martin	23	25	92%
Nelson	22	25	88%

Opinions Authored²

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.

Opinion Author	7-0 (or 6-0)	6-1	5-2	4-3
Wickhem	31	3	1	0
Fairchild	35	0	2	0
Fritz	33	1	1	0
Rosenberry	32	1	3	1
Fowler	40	2	2	0
Martin	36	1	0	2
Nelson	30	2	1	1

Opinion Author	Concurring Opinions	Dissenting Opinions
Wickhem	0	0
Fairchild	0	7
Fritz	1	2
Rosenberry	0	2
Fowler	0	7
Martin	0	0
Nelson	0	1

² *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 *second* 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 88%.

Agreement Between Pairs of Justices—All Decisions

	Fairchild	Fritz	Rosenberry	Fowler	Martin	Nelson
Wickhem	286/302=95%	290/300=97%	299/302=99%	290/302=96%	296/301=98%	296/302=98%
	Fairchild	287/301=95%	288/303=95%	289/303=95%	291/302=96%	291/303=96%
		Fritz	290/301=96%	287/301=95%	291/300=97%	289/301=96%
			Rosenberry	292/303=96%	296/302=98%	296/303=98%
				Fowler	291/302=96%	293/303=97%
					Martin	297/302=98%
						Nelson

Agreement Between Pairs of Justices—Non-Unanimous Decisions

	Fairchild	Fritz	Rosenberry	Fowler	Martin	Nelson
Wickhem	10/26=38%	16/26=62%	23/26=88%	14/26=54%	21/26=81%	20/26=77%
	Fairchild	12/26=46%	11/26=42%	12/26=46%	15/26=58%	14/26=54%
		Fritz	15/26=58%	12/26=46%	17/26=65%	14/26=54%
			Rosenberry	15/26=58%	20/26=77%	19/26=73%
				Fowler	15/26=58%	16/26=62%
					Martin	21/26=81%
						Nelson