

STATISTICS ON WISCONSIN SUPREME COURT DECISIONS, 2010-2011

Four-to-Three Decisions

4-3 Alignments

Justices	Total	Case Names
Prosser, Roggensack, Ziegler, Gableman	4	<i>Madison Metro; Siebert; Metropolitan Associates; Ozanne</i>
Crooks, Roggensack, Ziegler, Gableman	1	<i>Funk</i>
Abrahamson, Bradley, Crooks, Roggensack	1	<i>Day</i>
Abrahamson, Bradley, Prosser, Roggensack	2	<i>Forbush; Tews</i>

4-3 Membership in the Majority

Justice	Votes
Abrahamson	3
Bradley	3
Crooks	2
Prosser	6
Roggensack	8
Ziegler	5
Gableman	5

4-3 Majority Opinions Authored

Justice	Opinions
Abrahamson	0
Bradley	2
Crooks	0
Prosser	1
Roggensack	2
Ziegler	1
Gableman	1
<b>Total</b>	<b>7<sup>1</sup></b>

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<sup>1</sup> In addition, Justices Roggensack, Zielger, and Gableman co-authored the decision in *Ozanne*.

Decisions by Vote Split<sup>2</sup>

<b>7-0 (or 6-0)</b>	<b>6-1 (or 5-1)</b>	<b>5-2</b>	<b>4-3</b>
<b>22 (38%)</b>	<b>5 (9%)</b>	<b>23 (40%)</b>	<b>8 (14%)<sup>3</sup></b>
<i>State ex rel. Stupar River LLC v. Town of Linwood Portage County Bd. of Review</i>	<i>Covenant Healthcare Sys. v. City of Wauwatosa</i>	<i>State v. Nordberg</i>	<i>Madison Metro. Sch. Dist. v. Circuit Court</i>
<i>Northern Air Servs. v. Link</i>	<i>Dawson v. Town of Jackson</i>	<i>State v. West</i>	<i>State v. Funk</i>
<i>State v. Denson</i>	<i>Bushard v. Reisman</i>	<i>State v. Balliette</i>	<i>Siebert v. Wis. Am. Mut. Ins. Co.</i>
<i>McReath v. McReath</i>	<i>State v. Burris</i>	<i>State v. Kandutsch</i>	<i>Day v. Allstate Indem. Co.</i>
<i>State v. Gonzalez</i>	<i>State v. Carter (5-1)</i>	<i>State v. Rhodes</i>	<i>State v. Forbush</i>
<i>Lake Beulah Mgmt. Dist. v. E. Troy</i>		<i>E-Z Roll Off, LLC v. County of Oneida</i>	<i>Metro. Assocs. v. City of Milwaukee</i>
<i>Lake Beulah Mgmt. Dist. v. State Dep't of Natural Res.</i>		<i>deBoer Transp., Inc. v. Swenson</i>	<i>State ex rel. Ozanne v. Fitzgerald</i>
<i>Rasmussen v. GMC</i>		<i>Steffens v. BlueCross BlueShield</i>	<i>Tews v. NHI, LLC</i>
<i>State v. Buchanan</i>		<i>Topolski v. Topolski</i>	
<i>Brethorst v. Allstate Prop. &amp; Cas. Ins. Co.</i>		<i>Affeldt v. Green Lake County</i>	
<i>Klemm v. Am. Transmission Co., LLC</i>		<i>State v. Lamar</i>	
<i>Foley-Ciccantelli v. Bishop's Grove Condo. Ass'n</i>		<i>State v. St. Martin</i>	
<i>Emjay Inv. Co. v. Village of Germantown</i>		<i>Fischer v. Steffen</i>	
<i>State v. Harbor</i>		<i>State v. Ninham</i>	
<i>State v. Beauchamp</i>		<i>Tammy W-G. v. Jacob T.</i>	
<i>Ottman v. Town of Primrose</i>		<i>State v. Burns</i>	
<i>Brown County Dep't of Human Servs. v. Brenda B.</i>		<i>Andersen v. Dep't of Natural Res.</i>	
<i>Peter Boerst v. Mark Henn</i>		<i>State v. Marinez</i>	
<i>Nestlé USA, Inc. v. Wis. Dep't of Revenue</i>		<i>State v. Conner</i>	
<i>State v. Patterson</i>		<i>Jackson v. Buchler</i>	
<i>Kilian v. Mercedes-Benz United States, LLC (6-0)</i>		<i>Town Bank v. City Real Estate Dev., LLC</i>	
<i>BNP Paribas v. Olsen's Mill, Inc. (6-0)</i>		<i>Casper v. Am. Int'l S. Ins. Co.</i>	
		<i>Werner v. Hendree</i>	

<sup>2</sup> In four cases there were justices who concurred in part and dissented in part (*Casper* [Abrahamson, Bradley]; *Ozanne* [Abrahamson, Bradley, Crooks]; *Werner* [Abrahamson, Bradley]; *Tews* [Crooks, Ziegler, Gableman]). 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.

<sup>3</sup> The percents do not add up to 100 because of rounding.

Frequency in the Majority

These charts display how frequently each justice voted in the majority in decisions filed during the period September 1, 2010, to August 31, 2011. 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>4</sup>

Justice	Majority Votes Cast	Total Votes Cast	Percent in Majority
Abrahamson	29	58	50%
Bradley	32	58	55%
Crooks	51	57	89%
Prosser	53	57	93%
Roggensack	55	58	95%
Ziegler	54	57	95%
Gableman	55	58	95%

Non-Unanimous Decisions<sup>5</sup>

Justice	Majority Votes Cast	Total Votes Cast	Percent in Majority
Abrahamson	7	36	19%
Bradley	10	36	28%
Crooks	29	35	83%
Prosser	32	36	89%
Roggensack	33	36	92%
Ziegler	33	36	92%
Gableman	33	36	92%

<sup>4</sup> Justice Crooks did not vote in *State v. Carter*; Justice Prosser did not vote in *BNP Paribas v. Olsen's Mill, Inc.*, and Justice Ziegler did not vote in *Kilian v. Mercedes-Benz United States, LLC*.

<sup>5</sup> *State v. Carter*, in which Justice Crooks did not vote, was a non-unanimous decision.

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	4-3 <sup>6</sup>
Abrahamson	4	1	2	0
Bradley	4	1	1	2
Crooks	5	1	3	0
Prosser	1	1	6	1
Roggensack	2	0	4	2
Ziegler	2	0	5	1
Gableman	4	1	2	1

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

Opinion Author	Concurring Opinions	Dissenting Opinions <sup>7</sup>
Abrahamson	4	18
Bradley	2	12
Crooks	0	4
Prosser	5	2
Roggensack	4	3
Ziegler	3	3
Gableman	0	0

<sup>6</sup> In addition, Justices Roggensack, Zielger, and Gableman co-authored the decision in *Ozanne*.

<sup>7</sup> In four cases there were justices who wrote a concurrence in part and dissent in part (*Casper* [Bradley]; *Ozanne* [both Abrahamson and Crooks]; *Werner* [Bradley]; *Tews* [Ziegler]). The justices named here are those who wrote opinions, as opposed to joining opinions written by other justices. In each instance, the nature of these opinions indicated that they should be categorized 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 Abrahamson and Crooks voted together in 53% of the cases, while the figure for Justices Roggensack and Gableman was 90%.

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>	51/58= <b>88%</b>	30/57= <b>53%</b>	26/57= <b>46%</b>	28/58= <b>48%</b>	25/57= <b>44%</b>	26/58= <b>45%</b>
	<b>Bradley</b>	34/57= <b>60%</b>	31/57= <b>54%</b>	29/58= <b>50%</b>	28/57= <b>49%</b>	29/58= <b>50%</b>
		<b>Crooks</b>	46/56= <b>82%</b>	48/57= <b>84%</b>	51/56= <b>91%</b>	52/57= <b>91%</b>
			<b>Prosser</b>	52/57= <b>91%</b>	51/56= <b>91%</b>	52/57= <b>91%</b>
				<b>Roggensack</b>	51/57= <b>89%</b>	52/58= <b>90%</b>
					<b>Ziegler</b>	57/57= <b>100%</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>	29/36= <b>81%</b>	8/35= <b>23%</b>	5/36= <b>14%</b>	6/36= <b>17%</b>	4/36= <b>11%</b>	4/36= <b>11%</b>
	<b>Bradley</b>	12/35= <b>34%</b>	10/36= <b>28%</b>	7/36= <b>19%</b>	7/36= <b>19%</b>	7/36= <b>19%</b>
		<b>Crooks</b>	25/35= <b>71%</b>	26/35= <b>74%</b>	30/35= <b>86%</b>	30/35= <b>86%</b>
			<b>Prosser</b>	31/36= <b>86%</b>	31/36= <b>86%</b>	31/36= <b>86%</b>
				<b>Roggensack</b>	30/36= <b>83%</b>	30/36= <b>83%</b>
					<b>Ziegler</b>	36/36= <b>100%</b>
						<b>Gableman</b>

Days Between Oral Argument and Opinion Filing<sup>8</sup>

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	7	115
Bradley	8	90
Crooks	9	97
Prosser	9	173
Roggensack	8	171
Ziegler	8	114
Gableman	8	156

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<sup>8</sup> The table does not include *Ozanne*, in which the short majority opinion was co-authored by three justices and issued in expedited fashion.

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 2010-2011.

<b>Firms and Agencies</b>	<b>Number of Oral Arguments</b>
Axley Brynelson LLP	3
Crivello Carlson, S.C.	2
DeWitt Ross & Stevens S.C.	2
Foley & Lardner LLP	2
Kasdorf, Lewis & Swietlik, S.C.	4
Michael Best & Friedrich LLP	3
Niebler, Pyzyk, Roth & Carrig LLP	2
O'Neil, Cannon, Hollman, DeJohg & Laing S.C.	2
State Attorney General's Office	25
State Public Defender's Office	7
Stafford Rosenbaum LLP	4
von Briesen & Roper, S.C.	3