

STATISTICS ON WISCONSIN SUPREME COURT DECISIONS, 1986-1987

Four-to-Three Decisions

4-3 Alignments

| Justices                     | Total | Case Names                                      |
|------------------------------|-------|---|
| Steinmetz, Day, Ceci, Callow | 5     | <i>Felder; Jacobs; Nelson; McCoy; Friedrich</i> |
| Day, Heffernan, Ceci, Callow | 1     | <i>Bell</i>                                     |

4-3 Membership in the Majority

| Justice    | Votes |
|------------|-------|
| Abrahamson | 0     |
| Bablitch   | 0     |
| Steinmetz  | 5     |
| Day        | 6     |
| Heffernan  | 1     |
| Ceci       | 6     |
| Callow     | 6     |

4-3 Majority Opinions Authored

|              | Opinions |
|--------------|----------|
| Abrahamson   | 0        |
| Bablitch     | 0        |
| Steinmetz    | 1        |
| Day          | 2        |
| Heffernan    | 0        |
| Ceci         | 2        |
| Callow       | 1        |
| <b>Total</b> | <b>6</b> |

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

| <b>7-0 (or 6-0)</b>   | <b>6-1 (or 5-1)</b>  | <b>5-2</b>  | <b>4-3</b>  |
|---|--|---|---|
| <b>57/84 (68%)</b>  | <b>11/84 (13%)</b>   | <b>10/84 (12%)</b>                                  | <b>6/84 (7%)</b>  |
| <i>Gerhardt v. Estate of Moore</i>  | <i>State ex rel. Smith v. Oak Creek</i>                      | <i>State v. Penigar</i>                             | <i>Felder v. Casey</i>  |
| <i>County of Milwaukee v. Labor &amp; Industry Review Comm'n</i>              | <i>Bush v. National School Studios, Inc.</i>                 | <i>State v. Guzy</i>                                | <i>Jacobs v. Major</i>  |
| <i>Ziegler Co. v. Rexnord, Inc.</i>   | <i>Kujawski v. Arbor View Health Care Center</i>             | <i>State v. Sarlund</i>                             | <i>State v. Nelson</i>  |
| <i>Finding of Contempt in State v. Dewerth</i>                                | <i>State v. Grant</i>  | <i>Darcel, Inc. v. Manitowoc Bd. of Review</i>      | <i>State ex rel. McCoy v. Wisconsin Court of Appeals, Dist. 1</i> |
| <i>State v. Horn</i>  | <i>Marshall-Wisconsin Co. v. Juneau Square Corp.</i>         | <i>In re Custody of D.M.M.</i>                      | <i>State v. Friedrich</i>   |
| <i>State v. Evers</i>   | <i>State v. Muentner</i>                                     | <i>State v. Labor &amp; Industry Review Com.</i>    | <i>Bell v. County of Milwaukee</i>                                |
| <i>Bachowski v. Salamone</i>  | <i>Nicholson v. Home Ins. Cos.</i>                           | <i>State v. Clappes</i>                             |   |
| <i>State v. Harvey</i>  | <i>State v. Turner</i>                                       | <i>State ex rel. Unnamed Petitioners v. Connors</i> |   |
| <i>Schwochert v. American Family Mut. Ins. Co.</i>                            | <i>School Dist. v. Northwest United Educators</i>            | <i>State v. Perry</i>                               |   |
| <i>Richardson v. Richardson</i>   | <i>State v. Hanson</i>                                       | <i>State v. Washington</i>                          |   |
| <i>Perpignani v. Vonasek</i>  | <i>State ex rel. Swan v. Elections Bd. (5-1, per curiam)</i> |   |   |
| <i>La Crosse Police &amp; Fire Comm'n v. Labor &amp; Indus. Review Comm'n</i> |  |   |   |
| <i>State v. Trudeau</i>   |  |   |   |
| <i>State ex rel. Department of Dev. v. State Bldg. Com.</i>                   |  |   |   |
| <i>Hartford Ins. Co. v. Wales</i>   |  |   |   |
| <i>Kraemer Bros., Inc. v. Pulaski State Bank</i>                              |  |   |   |
| <i>State v. Anderson</i>  |  |   |   |
| <i>J.A. v. Skow</i>   |  |   |   |
| <i>In re S. B.</i>  |  |   |   |
| <i>State v. Frase</i>   |  |   |   |
| <i>Mutual Service Casualty Co. v. American Family Ins. Group</i>              |  |   |   |
| <i>Blue Cross &amp; Blue Shield United v. Fireman's Fund Ins. Co.</i>         |  |   |   |
| <i>Lawlis v. Thompson</i>   |  |   |   |
| <i>In re Proposed Guardianship &amp; Protective Placement of K.S.</i>         |  |   |   |
| <i>Watts v. Watts</i>   |  |   |   |
| <i>Gonzalez v. Franklin</i>   |  |   |   |
| <i>In re Paternity of D.L.T.</i>  |  |   |   |
| <i>In re Finding of Contempt Relative to Attorney's Fees</i>                  |  |   |   |

*(continued on following page)*

<sup>1</sup> 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>State v. Zielke</i>  |  |  |  |
| <i>State v. Pham</i>  |  |  |  |
| <i>Robinson v. Mt. Sinai Medical Center</i>                                       |  |  |  |
| <i>Green Spring Farms v. Kersten</i>  |  |  |  |
| <i>Liberty Homes, Inc. v. Department of Industry, Labor &amp; Human Relations</i> |  |  |  |
| <i>Chappy v. Labor &amp; Industry Review Com.</i>                                 |  |  |  |
| <i>State v. Malone</i>  |  |  |  |
| <i>Warmka v. Hartland Cicero Mut. Ins. Co.</i>                                    |  |  |  |
| <i>State v. Nerison</i>   |  |  |  |
| <i>Wilmot v. Racine County</i>  |  |  |  |
| <i>Empire General Life Ins. Co. v. Silverman</i>                                  |  |  |  |
| <i>Washington County v. Luedtke</i>   |  |  |  |
| <i>Lambert v. Wrench</i>  |  |  |  |
| <i>State ex rel. Newspapers, Inc. v. Showers</i>                                  |  |  |  |
| <i>Treiber v. Knoll</i>   |  |  |  |
| <i>Wood v. Milin</i>  |  |  |  |
| <i>State v. Syed Tagi Shah</i>  |  |  |  |
| <i>State v. Carrington</i>  |  |  |  |
| <i>State v. Stoehr</i>  |  |  |  |
| <i>State v. Wickstrom</i>   |  |  |  |
| <i>Bushko v. Miller Brewing Co.</i>   |  |  |  |
| <i>Jackson County Iron Co. v. Musolf</i>  |  |  |  |
| <i>Rural Mut. Ins. Co. v. Peterson</i>  |  |  |  |
| <i>Brooks v. Hayes</i>  |  |  |  |
| <i>State v. Crandall</i>  |  |  |  |
| <i>State v. Johnson</i>   |  |  |  |
| <i>In re Petition to Review State Bar Bylaw Amendments (per curiam)</i>           |  |  |  |
| <i>LaRocque v. LaRocque (6-0)</i>   |  |  |  |
| <i>Dowd v. New Richmond (6-0)</i>   |  |  |  |

Frequency in the Majority

These charts display how frequently each justice voted in the majority in decisions filed during the period September 1, 1986, to August 31, 1987. The first chart includes all cases in which a justice voted (out of the total of 84 cases specified above), while the second chart includes only cases decided by split votes.

## All Cases

| Justice    | Majority Votes Cast | Total Votes Cast | Percent in Majority |
|------------|---------------------|------------------|---------------------|
| Abrahamson | 68                  | 84               | <b>81%</b>          |
| Bablitch   | 73                  | 82               | <b>89%</b>          |
| Steinmetz  | 78                  | 84               | <b>93%</b>          |
| Day        | 79                  | 84               | <b>94%</b>          |
| Heffernan  | 75                  | 84               | <b>89%</b>          |
| Ceci       | 80                  | 84               | <b>95%</b>          |
| Callow     | 83                  | 83               | <b>100%</b>         |

## Non-Unanimous Decisions

| Justice    | Majority Votes Cast | Total Votes Cast | Percent in Majority |
|------------|---------------------|------------------|---------------------|
| Abrahamson | 11                  | 27               | <b>41%</b>          |
| Bablitch   | 17                  | 26               | <b>65%</b>          |
| Steinmetz  | 21                  | 27               | <b>78%</b>          |
| Day        | 22                  | 27               | <b>81%</b>          |
| Heffernan  | 18                  | 27               | <b>67%</b>          |
| Ceci       | 23                  | 27               | <b>85%</b>          |
| Callow     | 27                  | 27               | <b>100%</b>         |

Opinions Authored

This chart indicates how many majority opinions a justice authored in cases decided by each of the four possible majority vote totals. The two *per curiam* decisions (*State ex rel. Swan v. Elections Board* and *In re Petition to Review State Bar Bylaw Amendments*) are excluded.

| Opinion Author | 7-0 (or 6-0) | 6-1 | 5-2 | 4-3 |
|----------------|--------------|-----|-----|-----|
| Abrahamson     | 10           | 1   | 1   | 0   |
| Bablitch       | 8            | 1   | 1   | 0   |
| Steinmetz      | 8            | 1   | 3   | 1   |
| Day            | 8            | 2   | 0   | 2   |
| Heffernan      | 6            | 2   | 3   | 0   |
| Ceci           | 6            | 2   | 2   | 2   |
| Callow         | 10           | 1   | 0   | 1   |

The chart below shows how many concurring and dissenting opinions each justice authored. *State ex rel. Swan v. Elections Board* (a *per curiam* decision in which Justice Abrahamson authored a dissent) is included.

| Opinion Author | Concurring Opinions | Dissenting Opinions |
|----------------|---------------------|---------------------|
| Abrahamson     | 10                  | 13                  |
| Bablitch       | 0                   | 4                   |
| Steinmetz      | 1                   | 6                   |
| Day            | 1                   | 1                   |
| Heffernan      | 2                   | 3                   |
| Ceci           | 2                   | 3                   |
| Callow         | 1                   | 0                   |

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 84 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 Steinmetz and Heffernan voted together in 82% of the cases, while the figure for Justices Day and Ceci was 96%.

Agreement Between Pairs of Justices—All Cases

|            | Bablitch  | Steinmetz | Day       | Heffernan | Ceci      | Callow    |
|------------|-----------|-----------|-----------|-----------|-----------|-----------|
| Abrahamson | 72/82=88% | 64/84=76% | 63/84=75% | 75/84=89% | 64/84=76% | 67/83=81% |
|            | Bablitch  | 69/82=84% | 70/82=85% | 76/82=93% | 69/82=84% | 72/81=89% |
|            |           | Steinmetz | 75/84=89% | 69/84=82% | 74/84=88% | 77/83=93% |
|            |           |           | Day       | 70/84=83% | 81/84=96% | 78/83=94% |
|            |           |           |           | Heffernan | 71/84=85% | 74/83=89% |
|            |           |           |           |           | Ceci      | 79/83=95% |
|            |           |           |           |           |           | Callow    |

Agreement Between Pairs of Justices—Non-Unanimous Cases

|            | Bablitch  | Steinmetz | Day       | Heffernan | Ceci      | Callow    |
|------------|-----------|-----------|-----------|-----------|-----------|-----------|
| Abrahamson | 16/26=62% | 7/27=26%  | 6/27=22%  | 18/27=67% | 7/27=26%  | 11/27=41% |
|            | Bablitch  | 13/26=50% | 14/26=54% | 20/26=77% | 13/26=50% | 17/26=65% |
|            |           | Steinmetz | 18/27=67% | 12/27=44% | 17/27=63% | 21/27=78% |
|            |           |           | Day       | 13/27=48% | 24/27=89% | 22/27=81% |
|            |           |           |           | Heffernan | 14/27=52% | 18/27=67% |
|            |           |           |           |           | Ceci      | 23/27=85% |
|            |           |           |           |           |           | Callow    |

Days Between Oral Argument and Opinion Filing

This table shows the average number of days between oral argument and the filing of majority (or lead) 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.<sup>2</sup>

|            | Number of Majority Opinions Authored in cases that included oral argument | Ave. No. of Days From Oral Argument to Opinion Filing |
|------------|---|---|
| Abrahamson | 12  | 76  |
| Bablitch   | 7   | 71  |
| Steinmetz  | 11  | 59  |
| Day        | 12  | 94  |
| Heffernan  | 10  | 95  |
| Ceci       | 11  | 98  |
| Callow     | 9   | 67  |

<sup>2</sup> This table does not include several cases that were submitted on briefs—among them, *State v. Washington*, which was argued during the 1984-85 term, but when the case returned to the court during the 1986-87 term, it was submitted on briefs.

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.

| <b>Firms and Agencies</b>                         | <b>Number of Oral Arguments</b> |
|---|---------------------------------|
| Brynelson, Herrick, Bucaida, Dorschel & Armstrong | 2                               |
| Doar, Drill & Skow, S.C.                          | 2                               |
| Godfrey & Kahn, S.C.                              | 3                               |
| Johns & Flaherty, S.C.                            | 2                               |
| Julian & Olson, S.C.                              | 2                               |
| Kasdorf, Lewis & Swietlik, S.C.                   | 2                               |
| Kersten & McKinnon                                | 2                               |
| Milwaukee County Corporation Counsel              | 3                               |
| Perry, First, Lerner & Quindel, S.C.              | 2                               |
| Quarles & Brady                                   | 3                               |
| Racine County Corporation Counsel                 | 2                               |
| Ross & Stevens, S.C.                              | 2                               |
| Shellow, Shellow & Glynn                          | 2                               |
| State Attorney General's Office                   | 34                              |
| State Public Defender's Office                    | 7                               |
| Stolper, Koritzinsky, Brewster & Neider, S.C.     | 2                               |