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Big Business Taking over State Supreme Courts

How Campaign Contributions to Judges Tip the Scales
Against Individuals

Billy Corriher August 2012



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Introduction and summary

In state courts across our country, corporate special interests are donating money to the campaigns of judges who interpret the law in a manner that benefits their contributors rather than citizens seeking justice. Americans are starting to wake up to this danger, according to recent polls, and are worried that individuals without money to contribute may not receive a fair hearing in state courts. In a recent poll 89 percent of respondents said they “believe the influence of campaign contributions on judges’ rulings is a problem.”¹

Judges swear an oath that they will answer to the law, not campaign contributors. If a person is wronged, he or she can hope to find impartial justice in a court, where everyone—rich or poor, weak or powerful—is equal in the eyes of the law. But this principle is less and less true with each passing judicial election.

Thirty-nine states elect their high court judges,² and enormous amounts of money are pouring into judges’ campaign war chests. Fueled by money from corporate interests and lobbyists, spending on judicial campaigns has exploded in the last two decades. In 1990 candidates for state supreme courts only raised around \$3 million, but by the mid-1990s, campaigns were raking in more than five times that amount, fueled by extremely costly races in Alabama and Texas.³ The 2000 race saw high-court candidates raise more than \$45 million.⁴

Since then, corporate America’s influence over the judiciary has grown. The U.S. Chamber of Commerce, in particular, has become a powerful player in judicial races. From 2001 to 2003 its preferred candidates won 21 of 24 elections.⁵ The chamber spent more than \$1 million to aid the 2006 campaigns of two Ohio Supreme Court justices,⁶ and in the most recent high court election in Alabama, money from the state’s chamber accounted for 40 percent of all campaign contributions.⁷

Corporate interest groups are finding more ways to circumvent disclosure rules and limits on campaign contributions. Spending by independent groups (not officially affiliated with the candidates) has increased dramatically, surpassing high

court candidates' spending in 2008.⁸ According to Justice at Stake, more than 90 percent of special interest TV ads in 2006 were paid for by pro-business interest groups.⁹ Conservative groups spent \$8.9 million in high court elections in 2010, compared to just \$2.5 million from progressive groups.¹⁰ These spending figures are incomplete because the disclosure rules for outside spending vary, so the source of the money in state court elections is often hard to discern.

The public can expect even more money to flood this year's judicial elections. Since the 2010 U.S. Supreme Court decision in *Citizens United v. Federal Election Commission*, corporations, unions, and individuals are now free from limits on campaign spending.¹¹ North Carolina is the only state with a robust public financing system for judicial elections, and it is also the first state to see a super political action committee, or super PAC—an entity spawned by *Citizens United* that allows for unlimited campaign spending—established to support a pro-corporate judge in this year's election.¹² The U.S. Supreme Court has also made it harder for public financing systems to remain viable by ruling that “matching” funds, distributed to publicly funded candidates when their opponents' spending exceeds a certain level, are a violation of free speech rights.¹³

If recent history is any guide, the trends are ominous for individuals suing corporations. The states that have seen the most money in judicial elections now have supreme courts that are dominated by pro-corporate judges. The Appendix to this report lists all high court rulings on cases where an individual sues a corporation from 1992 to 2010 in the six states that have seen the most judicial campaign cash in that time period—Alabama, Texas, Ohio, Pennsylvania, Illinois, and Michigan. The data includes 403 cases from 2000 to 2010, and in those cases the courts ruled in favor of corporations 71 percent of the time.¹⁴ The high courts that have seen the most campaign spending are much more likely to rule in favor of big businesses and against individuals who have been injured, scammed, or subjected to discrimination.

With money playing such a large role in judicial elections, the interest groups with the most money increasingly have an advantage. In courtrooms across our country, big corporations and other special interests are tilting the playing field in their favor. Many Americans perceive our government and corporate institutions as interdependent components of a system in which powerful elites play by a different set of rules than ordinary citizens. Some feel that only those donating money can play a role in governing. The cozy relationship between government and big business has become increasingly clear in our judicial elections.

This report discusses how the soaring cost of judicial elections led to state supreme court decisions that favor corporate litigants over individuals seeking to hold them accountable. The report provides illustrations from six states—Alabama, Texas, Ohio, Nevada, Wisconsin, and Michigan—of how corporate interest groups that desire a certain outcome have donated money to judges, and the same judges have then interpreted the law in a manner that achieves their corporate donors’ desired outcome.

For some states, the report discusses how, after an influx of money from corporate interest groups, judges have abruptly changed the law by overruling recent precedent. In Ohio, for example, the insurance industry donated money to judges who then voted to overturn recent cases that the industry disfavored. In other states, such as Texas, the corporate-funded high court has interpreted the law to reach certain results that the state legislature rejected. This judicial policymaking by the Texas court has resulted in case law that favors energy companies funding the judges’ campaigns.

This problem is spreading to states that have never before seen expensive judicial races, such as Wisconsin, where independent spending by interest groups overwhelmed the state’s public financing system in the 2011 election. This trend is threatening a fundamental aspect of our democracy: the right of Americans to a fair trial. When judges operate like politicians, those who lack political influence cannot expect fairness.

The vast majority of legal disputes in the United States —95 percent—are settled in state courts.¹⁵ Those who have been harmed by an unsafe product or an on-the-job injury would most likely look to state courts for justice. With judges backed by big business taking over our courts, are there any remaining institutions that can hold powerful corporations accountable?

Americans will have a harder time using the courts to force employers and manufacturers not to cut back on safety to save money. Consumers will face steeper hurdles in holding accountable banks, payday lenders, and credit card companies that treat them unfairly. Millions of Americans have recently found themselves in state court for foreclosure proceedings. How would one of these struggling homeowners feel if the judges hearing the case had accepted campaign funds from big banks? Ordinary Americans cannot expect to get the same access to justice as special interests that donate millions to judges’ campaigns.

The explosion of money in judicial elections has led Americans to experience a crisis of confidence in their judiciary. According to a 2011 poll, 90 percent of those surveyed said judges should recuse themselves from cases involving campaign contributors,¹⁶ but recusal is extremely rare.

A party to a lawsuit in West Virginia repeatedly asked a state supreme court justice to recuse himself after an executive with the opposing party, a coal company, spent more than \$3 million through an independent entity to support the judge's election. The judge refused and cast the deciding vote overturning a \$50 million verdict against the coal company.¹⁷ In 2009 the U.S. Supreme Court ruled the judge should have recused himself. The court noted that the executive's contribution was three times more than the spending by the justice's own campaign. The U.S. Supreme Court stated, "Just as no man is allowed to be a judge in his own cause, similar fears of bias can arise when ... a man chooses the judge in his own cause."¹⁸

Even judges are alarmed at the growing influence of money on courts. A 2002 survey found that 84 percent of state judges are concerned about interest groups spending money on judicial campaigns.¹⁹ The Wisconsin Supreme Court recently warned of an inherent risk "that the public may inaccurately perceive a justice as beholden to individuals or groups that contribute to his or her campaign."²⁰ Justice Paul Pfeifer, a Republican on the Ohio Supreme Court, has criticized the money flowing into his state's judicial campaigns. "Everyone interested in contributing has very specific interests," Pfeifer said. "They mean to be buying a vote. ... whether they succeed or not, it's hard to say."²¹

Before the flood of corporate money began, media reports focused on judges being influenced by campaign donations from trial lawyers with cases pending before them.²² Corporate interests were concerned that donations from trial lawyers resulted in courts that favored individuals suing corporations. Businesses that were the frequent target of lawsuits, such as insurance and tobacco companies, pushed legislation to limit litigation.²³ This phenomenon also spurred big business to enter the fray of judicial politics.²⁴

As this report shows, this effort has been very successful. Even if the practice of trial lawyers donating to judicial campaign to influence judges was a problem, the corporate interests have more than compensated for any perceived disadvantage they faced. Donations from corporate America are now overwhelming donations from trial lawyers, labor unions, and groups that support progressive judicial candidates.²⁵

Some press reports and academic studies on this subject emphasize that a correlation between donations and a judge's rulings does not necessarily prove that the donations caused the judge to rule a certain way. Former Ohio Chief Justice Thomas Moyer, a supporter of public financing and tough recusal rules, suggested that interest groups donate based on "voting patterns" of the judges, not to influence a vote in a particular case.²⁶ In other words, some argue special interests are donating to obtain a judge with a certain philosophy, not a result in a particular case. This distinction, however, misses the point.

Wealthy special interests should not be able to shape the law, whether through buying a vote or buying a certain judicial philosophy. In the pages that follow, the report details how this is happening in six important states and presents a few recommendations to address this problem. To prevent the appearance of corruption, states can implement strong recusal rules to ensure parties before the court do not donate money to judicial campaigns to influence specific cases. State legislatures also should pass strong disclosure rules, so that citizens know who is funding political ads for judges.

Big business is tightening its grip on our courts. Instead of serving as a last resort for Americans seeking justice, judges are bending the law to satisfy the concerns of their corporate donors.

Alabama

Consumers kicked out of court by state judges funded by big business

In May 2009 Kimberly White borrowed \$1,700 from Alabama Title Loans, offering her car as collateral. She made two interest payments—the equivalent of a 300 percent annual interest rate—each time she rolled over the monthly loan. She then paid off the loan and got her title back. Alabama Title Loans nevertheless repossessed her car a few months later. As she handed the tow-truck driver the documentation of her repayment, she claims he pushed the gas and nearly ran over her. She grabbed the door of the truck, and a passenger allegedly pulled her inside, forcing her into the backseat. She sued the driver and the lender for assault and wrongful repossession. White produced evidence suggesting the lender forged her signature on a loan agreement.²⁷

White will never see her day in court. In July 2011 the Alabama Supreme Court reversed the trial court's and held that an arbitration clause in her contracts with the lender remained in effect, even after the loan was paid off.²⁸ White was forced to arbitrate her claims.

The Alabama judiciary has become a crucial battleground in a political war between big business and consumers. Big business is winning, and ordinary citizens like White are the casualties. The data in the Appendix include 73 rulings from 1998 to 2010 in which the Alabama Supreme Court ruled on whether to compel arbitration. In 52 of those cases, the court sided with defendants seeking to compel arbitration. Binding arbitration clauses have proliferated in consumer transactions. Anyone who owns a cell phone, credit card, or a home has almost certainly signed a contract with such a clause.²⁹

Due to a quirk in Alabama law, a disproportionate number of the court's arbitration cases involve buyers of used cars and manufactured homes (trailers).³⁰ The use of arbitration clauses in these transactions has exploded. Since 2000, when

auto dealers and mobile home manufacturers donated \$600,000 to judicial candidates,³¹ these interest groups have spent an enormous amount of money on Alabama's judicial races. The same judges who received this money have voted to limit consumers' right to a jury trial.

Many argue that arbitration is inherently biased toward corporate defendants, because the arbitrators do not get paid unless corporations choose to use their services.³² A study of one discredited arbitration firm's decisions in California revealed that it ruled against consumers in 94 percent of its cases.³³ Corporations, which usually favor arbitration over litigation in consumer cases,³⁴ have spent enormous sums of money to elect pro-corporate judges to the Alabama Supreme Court, and they have undoubtedly benefited from the court's increasing willingness to force consumers into arbitration.

Elections for the Alabama Supreme Court have been overrun by money from corporate political action committees, the Alabama affiliate of the U.S. Chamber of Commerce, and corporate-funded groups supporting "tort reform." In recent years these elections have been among the most expensive in the country. At a time when Alabama's per capita income was \$30,000,³⁵ candidates in the 2006 race spent \$13.5 million.³⁶ That figure amounts to nearly half of all the money spent on high court races nationwide in 2006.³⁷ In the most recent election, money from Alabama's Chamber of Commerce constituted 40 percent of all campaign contributions.³⁸

With one exception,³⁹ the Alabama Supreme Court is now composed entirely of judges whose campaigns were funded by big business, and the court is increasingly inclined to rule for powerful businesses over ordinary citizens.⁴⁰ Alabama courts once had a reputation for resisting arbitration and sticking up for consumers. The U.S. Supreme Court, starting in the 1980s, expanded the scope of the Federal Arbitration Act to require state courts to honor arbitration clauses.⁴¹ The U.S. Supreme Court repeatedly threw out state consumer protection laws that limited the reach of arbitration clauses.⁴² The Alabama high court resisted these efforts for years, leading the U.S. Supreme Court to overrule it twice.⁴³

The corporate money started flowing to the Alabama judiciary in the mid-1990s, when Karl Rove orchestrated the campaigns of several judicial candidates.⁴⁴ Candidates in the 2000 race spent an astonishing \$12 million, far more than any other state. The Alabama chapter of the Chamber of Commerce donated \$1.7 million to the pro-corporate candidates.⁴⁵ A study of the court's decisions between 1995 and 1999 concluded that, after conservatives obtained a majority

in 1998, arbitration law began to tilt sharply against consumers. The study found a “remarkably close correlation” between a justice’s votes in favor of arbitration and campaign donations from big business.⁴⁶ The court in 2000 abruptly reversed course on the issue of whether a warranty claim under a federal statute is subject to arbitration.⁴⁷ The court also lowered the standard for proving that a consumer agreed to arbitration.⁴⁸

Judging by the high court’s recent arbitration cases, it is hard to deny that corporate campaign contributions have been a good investment. In the last two years, the court’s docket has included 13 cases in which it reviewed a lower court’s decision on sending a case to arbitration, and it has only ruled to reject arbitration four times.⁴⁹

By expanding the reach of mandatory arbitration clauses, the court has closed the courthouse doors to more and more consumers. Thomas Keith, consumer advocacy director for Alabama Legal Services, said binding arbitration is “terrible for consumers.” The trend toward arbitration has made it harder for consumers to find legal help. “There’s not a private lawyer in town that will take a used car case,” Keith said.⁵⁰

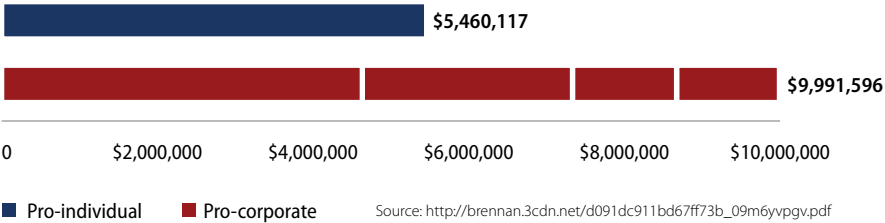
The auto dealers are already jumping in to support candidates in this year’s judicial election, having contributed more to one justice than any other group of donors.⁵¹ Chief Justice Charles Malone received money from auto dealers while considering a case in which the court ultimately granted an arbitrator broad authority to decide whether a valid arbitration agreement even existed.⁵² The dissenting judge argued there was no “legal basis” for the decision. The majority opinion was written by Malone, who received \$35,000 from the auto dealer PACs for his recent primary campaign.⁵³ Malone ended up losing the primary election to a socially conservative judge.⁵⁴

Other judges have issued similar warnings about the U.S. Supreme Court’s broad interpretation of the Federal Arbitration Act. In a 1994 concurrence Montana Supreme Court Justice Terry Triewieler said federal judges’ preference for arbitration as a remedy for “crowded dockets” demonstrates a “total lack of consideration for the rights of individuals.” Triewieler said the broad interpretations of the Federal Arbitration Act “permit a few major corporations to draft contracts regarding their relationship with others that immunizes them from accountability under the laws of the states where they do business.”⁵⁵ Consumer advocate Paul Bland says the increasing use of arbitration benefits the wealthiest and most powerful in our society.⁵⁶ “The move towards arbitration is a move towards an economy that starts to resemble ‘The Hunger Games,’” Bland said.⁵⁷

The Alabama Supreme Court’s recent arbitration decisions have made it harder for consumers to hold accountable payday lenders, used car dealers, and other unscrupulous businesses. The impact is greatest on low-income consumers and less-educated citizens who might not understand the fine print. A 2008 survey revealed that 48 percent of low-income Alabamans surveyed said they experienced a legal problem in the past year, and nearly half of those legal problems involved consumer issues.⁵⁸

These same citizens, however, are now at a real disadvantage in Alabama courts. Companies that rip off consumers have enormous amounts of money to spend influencing the judiciary. Alabamans can only hope state legislators will curb the influence of money on judicial elections. Federal regulators could soon ban arbitration clauses in some contracts.⁵⁹ Until then, Alabama consumers can expect little protection from their judicial system.

Top spenders, 2000–09	Candidate contributions	Independent expenditures	Total
Alabama Democratic Party	\$5,460,117	\$0	\$5,460,117
Business Council of Alabama	\$4,633,534	\$0	\$4,633,534
Alabama Civil Justice Reform Committee	\$2,474,405	\$224,663	\$2,699,568
American Taxpayers Alliance	\$0	\$1,337,244	\$1,337,244
Lawsuit Reform PAC of Alabama	\$1,321,250	\$0	\$1,321,250



Texas

Court shields oil company donors from liability for worker injuries

When Jose Herrera arrived for work at the Citgo refinery in Corpus Christi on February 22, 2008, he had no idea it would be his last day on the job. Herrera suffered a horrific accident. He was trapped in a safety harness while 550-degree petroleum poured all over his body for several minutes.⁶⁰ Herrera survived with severe burns and permanent injuries. His wife stated, “We can’t hug him because he hurts all over. ... he can’t hug me or hug my little boy.”⁶¹ But because of a recent Texas Supreme Court ruling, he cannot sue his employer for negligence.

After receiving millions in campaign cash from the oil industry, the justices on the Texas Supreme Court ruled that contract employees cannot sue their employers for on-the-job injuries. Their remedies are limited to workers’ compensation. Herrera says workers’ compensation only offers, at most, a few thousand dollars per month. His medical bills alone exceeded \$200,000 in the three years after the accident, and Herrera will receive no compensation for the unimaginable amount of pain he has endured.⁶²

The oil industry makes widespread use of contract workers,⁶³ and it spent years lobbying the state legislature to include contract employees in the workers’ compensation system, which permits employers to insulate themselves from liability for on-the-job injuries by purchasing workers’ compensation insurance. The legislature voted to reject this idea several times.⁶⁴ The Texas Supreme Court, in a 2007 case, gave the industry what the legislature would not, holding that contract employees are covered by workers’ compensation.⁶⁵

In the six years before the decision, the justices had accepted more than \$700,000 from energy companies.⁶⁶ Justice Don Willett, the author of the opinion, had received almost \$200,000 from the industry, more than any other justice.⁶⁷ These campaign donations may have been well worth it, given the money these companies could save in settlements with injured employees.

The oil-and-gas industry employs many people in Texas, and it is among the largest donors to candidates for the Texas Supreme Court. In recent years the court's decisions have favored employers over injured employees. The Appendix to this report includes 18 cases in which an injured employee sued his employer or its insurer for injuries sustained on the job, and the court ruled for the employer in 14 of those cases.⁶⁸

The 2007 decision on contract employees was harshly criticized for expanding the law in a manner that was repeatedly rejected by the legislature. The high court, relenting to public pressure, reheard the case but reached the same conclusion.⁶⁹ A dissenting judge charged the majority with making “a policy choice we are not at liberty to make.”

The court faced similar criticism in a dissent from a recent case abolishing a common law claim for injured workers. In 1988 the high court established a claim that allowed injured workers to sue insurance companies for unjustifiably refusing to pay claims.⁷⁰ The legislature overhauled the workers' compensation system the next year and it considered abolishing the claim but chose to adopt other reforms instead. The court nevertheless ruled that the reforms made the common law claim unnecessary, and the dissent charged the majority with “replacing the Legislature's judgment with its own.”⁷¹



ASSOCIATED PRESS PHOTO/JACK PLUNKETT
Jose Herrera, a burned survivor of the February 2008 Citgo crude oil blast in Corpus Christi, Texas, attends a Capitol press conference on liability lawsuits on April 28, 2008. Herrera encouraged lawmakers to undo a Texas Supreme Court ruling that could prevent injured workers from filing lawsuits.

The court in 2008 was faced with a lawsuit involving hydraulic fracturing, or “fracking.” While the majority declined to rule on whether fracking can give rise to a trespass lawsuit, Justice Willett's concurring opinion invoked policy reasons for insisting the court should have completely foreclosed a right to sue for fracking. “Our fast-growing State confronts fast-growing energy needs, and Texas can ill afford its finite resources, or its law, to remain stuck in the ground,” Willett stated. “Open-ended liability threatens to inflict grave and unmitigable harm, ensuring that much of our State's undeveloped energy supplies would stay that way—undeveloped.”⁷²

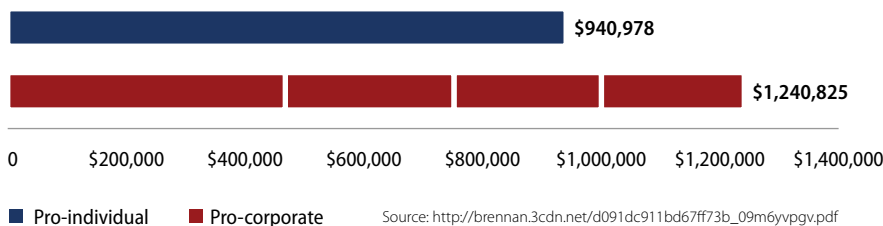
The Texas Supreme Court has a history of campaign cash scandals. In the late 1980s a “60 Minutes” news segment—“Justice for Sale”—criticized the justices' acceptance of campaign funds from plaintiffs' trial lawyers with cases before the court. Corporate interests organized in the wake of the scandal and by the mid-1990s the court was

dominated by judges funded by big business, lobbyists, and corporate lawyers.⁷³ A study of these justices' voting behaviors found that they favored corporate defendants in lawsuits against them, but plaintiffs could improve their luck with the court by donating to the justices' campaigns. The study found the success rate for plaintiffs contributing money was “more than double” the success rate for plaintiffs in general.⁷⁴

One of the justices from that era, Priscilla Owen, was nominated to the Fifth Circuit by President George W. Bush in 2005, bringing to light some unseemly campaign contributions. After her campaign accepted tens of thousands of dollars in donations from the formerly high-flying Enron Corp., Owen wrote an opinion that reduced the corporation's taxes and denied a local school district additional revenue.⁷⁵ Enron was very generous to pro-corporate candidates for the high court, donating hundreds of thousands of dollars in the mid-1990s. During this period the court accepted two out of three petitions from Enron, ruling in its favor both times,⁷⁶ and rejected all three petitions from parties opposing the company.⁷⁷

After Enron went bankrupt in 2001 and several of its executives were sentenced to jail time, other energy corporations picked up where it left off. Oil-and-gas companies, as well as the law firms that represent them, are among the largest donors to the Texas Supreme Court. The court very rarely rules against its benefactors. The data in the Appendix includes eight cases in which the named defendant is an energy company, and the court ruled for the defendants in all of those cases.⁷⁸ The employees of these companies work in dangerous settings, in close proximity to combustible materials. If they are injured, they will have a hard time holding their employers accountable in courts with close ties to oil companies.⁷⁹

Top spenders, 2000–09	Candidate contributions	Independent expenditures	Total
Texas Democratic Party	\$36,000	\$904,978	\$940,978
Vinson & Elkins	\$467,768	\$0	\$467,768
Texans for Lawsuit Reform	\$284,045	\$0	\$284,045
Haynes & Boone	\$248,464	\$0	\$248,464
Fulbright & Jaworski	\$240,848	\$0	\$240,848



Ohio

Insurers take no risks with state supreme court

Ohio has seen some of the most expensive judicial races in the country, with high court candidates raising more than \$25 million from 2000 to 2010. The surge in donations was fueled by money from corporations and insurance companies. As the money flowed in, the court abruptly reversed course on a range of issues to rule in favor of big business. *The New York Times* published an article in 2006 on the court's tendency to rule in favor of campaign contributors. The newspaper compared cases issued between 1994 and 2006 with interest groups donating to the judges' campaigns. The article concluded that the justices "voted in favor of contributors 70 percent of the time," with one judge, Justice Terrence O'Donnell, voting for his contributors in 91 percent of the cases.⁸⁰ When judges vote in favor of donors, citizens without money to donate face a real disadvantage in court.

The insurance industry began giving generously to pro-corporate candidates after several rulings against insurance companies in the late 1990s,⁸¹ including a 1999 decision that expanded employers' uninsured motorist coverage to include employees who were not on the job.⁸² Ohio judicial elections had long been among the most expensive in the country, but both the 2002 and 2004 races saw candidates spending \$6 million—double the amount spent in the 2000 election.⁸³ In 2004 the insurance industry gave candidates for the Ohio Supreme Court more than \$650,000 and donated around \$1 million to an independent group running ads that helped two pro-corporate candidates win their seats.⁸⁴

The court in 2003 overturned the 1999 decision on employers' uninsured motorist coverage that spurred the insurance industry to donate to judicial candidates,⁸⁵ but the moneyed interests didn't stop there. The 2006 campaigns of Justices O'Donnell and Robert Cupp were aided by \$1.3 million from an affiliate of the Ohio Chamber of Commerce.⁸⁶ The Ohio Supreme Court is now dominated by judges that favor corporations and insurance companies. The data in the Appendix include 36 cases from 2003 to 2010, and the high court ruled for the insurance companies or other

corporate defendants in all but four of them.⁸⁷ Since the corporate-funded justices took over, the court has abruptly overruled recent precedent to rule in favor of insurance companies. The court is a tough venue for injured plaintiffs.

The Barbee family of Lorain County, Ohio, learned that the hard way. The family was a party to a 2011 case stemming from injuries they suffered while on vacation. The Barbees were traveling through Wisconsin when two cars collided while traveling in the opposite direction. The cars careened over the median and struck the Barbees' vehicles, killing one of the other drivers and seriously injuring the Barbees. The family sought to claim benefits from its uninsured motorist policy with Nationwide Insurance. The Barbees first sued the other drivers and recovered 30 percent of their losses. Their policy said Nationwide would not pay any claims until other insurance payments were "exhausted," so the Barbees did not file an uninsured motorist claim with Nationwide until the first suit concluded, though it did notify the company of a potential claim.⁸⁸

The Ohio Supreme Court threw out the Barbees' lawsuit, relying on another provision of the insurance policy that required claimants to bring suit within three years. The court said the two provisions did not make the policy ambiguous. A dissenting judge argued the three-year deadline should have been tolled while the other claims were pursued: "Insurance companies are extremely resourceful at collecting premiums and exceedingly reluctant to pay claims—even when an accident is known to them and the claim is meritorious."⁸⁹ Nationwide has contributed more money to the 2012 candidates than any other donor so far.⁹⁰

The court has issued several recent decisions that limit the liability of employers, which are likely to have any judgments against them paid by insurance companies. The court in 2010 issued two rulings that severely curtailed the right to sue an employer for on-the-job injuries.⁹¹ The cases upheld a law saying that an injured employee can only sue if his or her employer actually *intended* to injure the employee. This 2005 statute was the legislature's third attempt to limit lawsuits against employers in this manner, but the other two statutes were ruled unconstitutional. With a new pro-insurance lineup at the court, the third time was the charm. Justice Paul Pfeifer dissented and argued that the legislature's previous statutes are "as distinguishable from the current version as a pig with lipstick is distinguishable from a pig without."⁹²

In 2008 the Ohio Supreme Court upheld a statute that threw out a widow's lawsuit against her husband's employer for his death from asbestos poisoning. The bill

applied retroactively and required certain medical evidence, which was no longer available since the employee was deceased. The Ohio constitution says the state legislature “shall have no power to pass retroactive laws,” but the court upheld the statute anyway.⁹³ The defendants and their attorneys donated more than \$25,000 to Justices Stratton and O’Connor while the case was pending.⁹⁴

Perhaps the most drastic example of the abrupt shift in the court’s jurisprudence was a young woman’s lawsuit against the makers of the Ortho Evra Birth Control Patch. The plaintiff alleged the drug caused blood clots, but the Ohio Supreme Court limited the remedy available to her by upholding a “tort reform” statute that capped punitive and noneconomic damages. The 2005 statute was, in the court’s words, “similar in language and purpose” to previous laws. The other statutes had been thrown out for violating several provisions of the Ohio constitution, most recently in 1999.⁹⁵



ASSOCIATED PRESS PHOTO/WILL SHILLING
Ohio Justice Paul Pfeifer listens to oral arguments in the Ohio Supreme Court in Columbus, Ohio. Pfeifer is often the lone dissenter to the increasingly pro-corporate decisions of the Ohio Supreme Court.

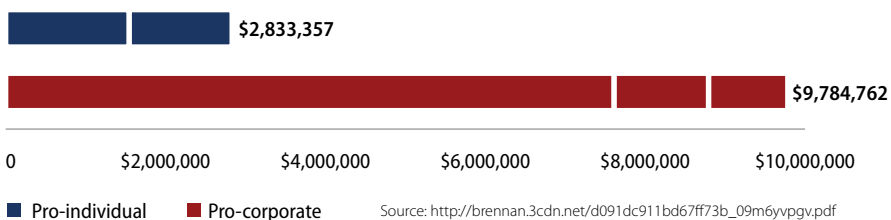
Justice Pfeifer, in dissent, said the majority “paid mere lip service” to the right to a jury trial, which includes the right to have a jury assess damages. “Under this court’s reasoning, there is nothing in the Ohio Constitution to restrain the General Assembly from limiting noneconomic damages to \$1,” Pfeifer argued. He added:

I believe that the Constitution of Ohio is the fundamental document that protects all Ohioans, not just those with the most lobbying power. ... today is a day of fulfilled expectations for insurance companies and manufacturers of defective, dangerous, or toxic products that cause injury to someone in Ohio. But this is a sad day for our Constitution and this court. And this is a tragic day for Ohioans, who no longer have any assurance that their Constitution protects the rights they cherish.⁹⁶

In recent years Justice Pfeifer has often been the lone dissenter to the increasingly pro-corporate decisions of the Ohio Supreme Court,⁹⁷ and he is a sharp critic of the system that brought Ohioans this court. In the *New York Times* piece, Pfeifer stated, “I never felt so much like a hooker down by the bus station in any race I’ve ever been in as I did in a judicial race.”⁹⁸

Judge Bill O’Neill has unsuccessfully run for a seat on the court several times, while refusing to raise money from anyone: “Do you want your case decided by a judge who took hundreds of dollars from the opposing lawyer at a cocktail party?”⁹⁹ As in most states the responsibility for policing the court’s ethics falls to the justices themselves, but the *New York Times* article found it was extremely rare for the justices to recuse themselves in cases involving campaign donors.¹⁰⁰ One recent candidate proposed mandatory recusal rules,¹⁰¹ but he lost to Justice O’Connor’s million-dollar campaign.

Top spenders, 2000–09	Candidate contributions	Independent expenditures	Total
U.S. Chamber of Commerce/Ohio Affiliates	\$49,000	\$7,560,168	\$7,609,168
Citizens for an Independent Court	\$0	\$1,543,478	\$1,543,478
Ohio Democratic Party	\$571,530	\$718,349	\$1,289,879
Ohio Republican Party	\$1,131,131	\$52,303	\$1,183,434
Ohio Hospital Association	\$50,250	\$941,910	\$992,160



Nevada

Casinos stack the deck in state supreme court

The casino and tourism industries have long wielded enormous influence in Nevada's state government, and the courts are no exception. Companies affiliated with MGM Resorts International have donated more than \$150,000 to the current justices over the years.¹⁰² Casinos are among the biggest players in a system the *Los Angeles Times* described as “a good-old-boy culture of cronyism and chumminess that accepted conflicts of interest as ‘business as usual.’” In a 2006 article on corruption in Nevada courts, the newspaper noted that one judge was kicked out of office after the ethics commission found that he told an attorney that “he was f---ed because he hadn’t contributed while others had.”¹⁰³

In recent years the casino and tourism industries have sometimes found themselves in court to fight attempts to tax them. The state faced a huge budget deficit in 2003, and because of a constitutional requirement that a supermajority (two-thirds) of the state legislature approve any increase in tax revenue, the state could not fund its schools. The high court ruled the supermajority requirement was trumped by the legislature’s constitutional duty to fund schools, and it allowed legislators to approve a tax increase on big businesses and casinos with an ordinary majority vote.¹⁰⁴

The decision engendered controversy as many accused the court of ignoring the legislative requirements laid out in the state constitution. Conservatives threatened the justices with a recall election.¹⁰⁵ Spending on Nevada Supreme Court races skyrocketed. Candidates in 2004 spent more than \$3 million—three times the amount spent in the previous election.¹⁰⁶ In 2006 donations from casinos accounted for \$300,000 of the \$2 million raised by candidates for the Nevada Supreme Court.¹⁰⁷ MGM casinos gave the candidates \$120,000 that year.¹⁰⁸ Almost all of the justices involved in the 2003 decision, many of whom had served for decades, were replaced by 2006. The new court quietly overruled the 2003 decision and reimposed the supermajority requirement for tax increases, even when it interfered with the constitutional duty to adequately fund schools.¹⁰⁹

Nevada citizens, free from the legislature's supermajority requirement, have recently sponsored referenda that would generate revenue from gaming, tourism, and other sources to fund the state's neglected education system. In 2008 the state supreme court threw out two initiatives that would have transferred money from promoting tourism to funding education. The court ruled that even though proponents had relied on signature forms provided by the state, the forms did not include some information required by state law.¹¹⁰ The court also held that state taxes do not apply to meals that are "comped" by casinos unless the patrons gave something for the meals.¹¹¹ This decision was overruled by the state tax agency, which found that customers could only receive the meals if they spent money on gaming, but an appeal to the state supreme court is expected.¹¹²

Casino money began pouring into Nevada Supreme Court elections after the 2003 decision allowing a tax bill to circumvent the supermajority requirement, and since then the high court has issued several decisions that result in casinos avoiding taxes that would fund the state's broken education system. Nevada's education system is poorly funded,¹¹³ and its tax system is one of the most regressive in the nation.¹¹⁴ The Progressive Leadership Alliance of Nevada, a social justice group, is hoping to place a referendum on the 2014 ballot that would increase revenue from wealthy Nevadans, as well as the hotel, gaming, and mining industries. The group notes that the state's current tax on mining allows for a slew of deductible expenses, resulting in two gold mines that "report zero taxable values during years when they have produced gold worth a half billion dollars or more."¹¹⁵

In recent years casinos have challenged similar revenue initiatives in court, and they are funding the campaigns of judges who rule on the lawsuits.¹¹⁶ Proponents of these initiatives lack the same political influence as the wealthy casino executives. Casino mogul Steve Wynn has been at the forefront of the opposition,¹¹⁷ and his companies have donated thousands to Nevada judges.¹¹⁸

Wynn has also found himself embroiled in a bitter labor dispute with his employees. His casinos instituted a policy requiring its dealers to share tips with managers, and the dealers organized a union to fight back.¹¹⁹ The Nevada Commissioner of Labor



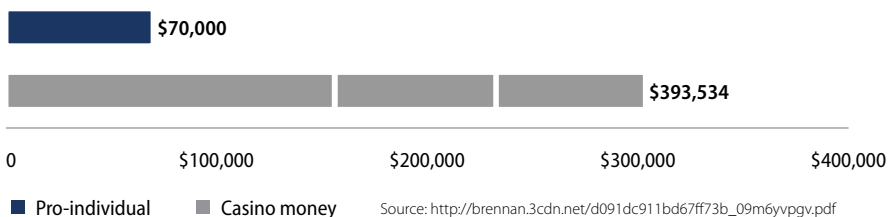
ASSOCIATED PRESS PHOTO/KIN CHEUNG
Las Vegas casino mogul Steve Wynn's companies have donated thousands to Nevada judges who support big tax breaks for casinos.

ruled in 2010 that the policy did not violate state labor laws.¹²⁰ Last November a state court disagreed, but the high court is expected to review the decision.¹²¹

Of the current members of the court, only Justice Nancy Saitta has not received campaign contributions from casinos. Saitta was, however, featured in the 2006 *Los Angeles Times* article on corruption in Nevada courts. Describing one of Saitt’s fundraisers, the *Times* said, “All 55 lawyers of law firms giving \$500 or more had cases assigned to her courtroom or pending before her.” One firm with a product liability case pending before her held a fundraiser that netted the judge \$20,000, and Saitta had ruled in the firm’s favor at least four times in the 60 days before the fundraiser.¹²²

The exposé did not deter the justice. Saitta raised \$43,000—almost all of it from lawyers—in 2008, even though she did not face reelection until this year. In December 2009 the justices adopted a new Code of Judicial Conduct, which says they will recuse themselves if their “impartiality might reasonably be questioned,” but they rejected two proposals to specify when campaign contributions require recusal.¹²³ Even after the *Los Angeles Times* illustrated how campaign money corrupts justice, 68 percent of Nevada voters rejected a 2010 referendum to have the governor appoint judges and spare them from the dirty business of politics.¹²⁴

Top spenders, 2000–09	Candidate contributions	Independent expenditures	Total
MGM Mirage	\$156,000	\$0	\$156,000
Boyd Gaming	\$90,000	\$0	\$90,000
Station Casinos	\$76,534	\$0	\$76,534
Coast Hotels & Casinos	\$71,000	\$0	\$71,000
Mainor Eglet Cottle	\$70,000	\$0	\$70,000



Wisconsin

Corporate-funded judges shut ordinary Wisconsinites out of civic participation

In recent years Wisconsin politics has been characterized by bitter partisanship and divisiveness. The Wisconsin Supreme Court is no exception. Justice Ann Walsh Bradley says the high court is “in the crossfire of the battle being fought between special interest groups.” Bradley argues the big money pouring into recent elections has led to “hyperpartisanship” on the bench. The court has seen acrimonious infighting and several ethics investigations. Chief Justice David Prosser is accused of putting Bradley in a chokehold,¹²⁵ and he has admitted referring to another colleague as a “total bitch.”¹²⁶

This rancorous atmosphere grew worse after an expensive 2011 election, which was widely viewed as a referendum on Gov. Scott Walker’s antiunion policies.¹²⁷ Gov. Walker’s anti-collective bargaining law generated vehement opposition from organized labor. The bill nearly eliminated public employees’ collective bargaining rights and strangled their unions by limiting the collection of dues.¹²⁸ Pro-labor activists occupied the statehouse for weeks. Outraged Democrats fled the state to avoid a quorum after the governor asked police to force them to the legislature.¹²⁹

To circumvent quorum requirements, Republicans carved out a separate bill for the collective bargaining provisions. Just after 4:00 p.m. on March 9, 2011, Republicans announced a 6:00 p.m. meeting on the revised bill.¹³⁰ Given the short notice the media and the public were not sure what was taking place. The stakes were enormous but Republicans essentially passed this controversial bill out of the public eye. Afterward, both sides turned their attention to the Wisconsin high court, pouring money into the race for the open seat. The high court was narrowly divided along ideological lines and it was expected to rule on the constitutionality of the bill.

It seems the justices may have seen this coming. In 2007 the entire court signed a letter calling for public financing for high court candidates, warning that “the

public may inaccurately perceive a justice as beholden to individuals or groups that contribute to his or her campaign.”¹³¹ The legislature complied by passing the Impartial Justice Act in 2009, which provided public financing for candidates who collected a certain amount in small private donations. But even with public financing, the 2011 election for chief justice saw ads funded by “independent” special interest groups flooding the airwaves.

The candidates raised a few hundred thousand dollars, mostly from public financing. Special interest groups, however, spent at least \$3.5 million on television ads.¹³² Prosser was supported by more than \$2 million from big business groups, the Tea Party of Wisconsin, and the Wisconsin Club for Growth. Nearly half of this money came from Citizens for a Strong America, a shadowy group affiliated with the Koch brothers’ Americans for Prosperity.¹³³ The group ran misleading attack ads against Wisconsin Assistant State Attorney General JoAnne Kloppenburg, Prosser’s opponent. Kloppenburg was supported by more than \$1 million from groups affiliated with Wisconsin labor unions.¹³⁴ Prosser held onto his seat by a razor-thin margin.

The corporate interests supporting Prosser cheered when the court’s conservative majority upheld Walker’s anti-collective bargaining law in the wake of the election.¹³⁵ A trial court had blocked the law because legislators violated the state’s Open Meetings Law, which requires 24-hour notice of legislative meetings. (Legislators posted a notice less than two hours before the meeting.) In upholding the statute, the high court characterized the Open Meetings Law as a rule of legislative procedure and deferred to the legislature.¹³⁶

The majority completely abdicated its responsibility to ensure the public can participate in the legislative process. In her dissent Chief Justice Shirley Abrahamson said the Open Meetings Law implicates the public’s constitutional right to access legislative proceedings, and she argued the majority’s reasoning was “clearly disingenuous, based on disinformation.” Prosser’s opinion concurring with the majority, while insisting the court must be above politics, went to great lengths to describe “the turbulent political times that presently consume Wisconsin.”¹³⁷



ASSOCIATED PRESS PHOTO/JOHN HART
Wisconsin Supreme Court Justice David Prosser poses a question during a hearing to consider whether the state court should exercise jurisdiction over matters relating to the passage of 2011 Wis. Act 10, commonly referred to as the budget repair bill, on June 6, 2011. The controversial bill, largely eliminates the collective bargaining rights of public employees.

The court's pro-corporate majority has also acted to ensure wealthy special interests can drown out the voices of ordinary citizens in the judicial arena. The court voted—along ideological lines—to weaken its recusal rule and adopt the standard suggested by the Wisconsin Realtors Association and Wisconsin's Manufacturers and Commerce,¹³⁸ a group which donated nearly \$1 million to support Prosser's reelection in 2011.¹³⁹ The new rule states that campaign donations can never be the sole basis for recusal. In dissent, Justice Bradley expressed alarm that judges' campaigns can now ask parties before the court for campaign contributions. "Judges must be perceived as beyond price," Bradley stated. She criticized the majority for adopting "word-for-word the script of special interests that may want to sway the results of future judicial campaigns."¹⁴⁰ The court seems intent on making it easier for big money to influence the judiciary, at the expense of litigants without vast resources.

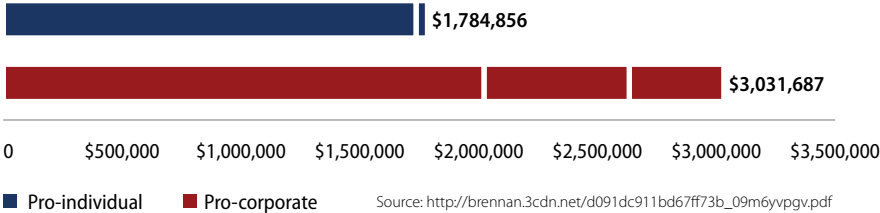
The pro-corporate majority emerged after a vicious 2008 election in which a circuit court judge, Michael Gableman, defeated incumbent Justice Louis Butler. After Justice Butler voted to expand liability for manufacturers of lead paint, big business spent millions to defeat him by running racially tinged ads that featured ominous and frightening images of criminals. Justice Gableman was charged with ethics violations for a TV spot that charged that Justice Butler had "found a loophole" which allowed a child rapist to go free and assault another child.¹⁴¹ Justice Butler, the first black justice on the high court, protested that he represented the defendant as a public defender and that he actually lost the case. The defendant only raped another child after serving his sentence.

Justice Gableman has been criticized for accepting more than \$10,000 worth of free legal services to fight the ethics charges.¹⁴² He received the services from Michael Best & Friedrich, the same law firm that defended Gov. Walker's anti-union bill. Three of the four members of the conservative majority have been charged with ethics violations, and the court recently voted—along ideological lines—not to reappoint the ethics investigator.¹⁴³ Prosser seems to have scuttled the investigation into the alleged chokehold, which occurred during the deliberation of the antiunion bill case.¹⁴⁴

The court has been an embarrassment to Wisconsin citizens and to judges everywhere. A July 2011 poll found that only 33 percent of Wisconsinites had confidence in their high court.¹⁴⁵ The justices are clearly unable to police themselves on ethical issues and conflicts of interest. Justice Bradley has criticized the relaxation of ethics standards. "We shouldn't be above the law," she said.¹⁴⁶

With the court closely divided, the judicial election next year promises to be just as contentious. The state’s public financing could not keep up with the outside corporate money in the 2011 race, but now that Republicans in the legislature have eliminated public financing in a 2011 budget bill,¹⁴⁷ citizens can expect even more corporate money in judicial elections. This time, however, the donations can go directly to the candidates, and the new recusal standard will ensure that donors’ money will be a good investment.

Top spenders, 2000–09	Candidate contributions	Independent expenditures	Total
Wisconsin Manufacturers & Commerce	\$9,600	\$2,012,748	\$2,022,348
Greater Wisconsin Committee	\$0	\$1,736,535	\$1,736,535
Club for Growth	\$0	\$611,261	\$611,261
Coalition for America’s Families	\$0	\$398,078	\$398,078
Wisconsin Education Association	\$0	\$48,321	\$48,321



Michigan

Money flooding state courts in tort reform battles

After Mattie Howard was hospitalized for a stroke in 1992, she began receiving treatment at The Wellness Center in New Buffalo, Michigan. Howard had a history of hypertension, heart disease, and renal problems. The center's physician monitored her blood pressure and treated her hypertension. In late 1993 Howard's physician referred her to a nephrologist, who began dialysis treatment in May 1994. Howard was admitted to the hospital in November 1995 and her condition deteriorated. She passed away and her seven children and seven siblings sued her health care providers for negligence in treating her conditions.¹⁴⁸ They sued the health care providers for wrongful death and the jury awarded them \$10 million in noneconomic damages. Due to Michigan's cap on noneconomic damages, however, the judge reduced that amount to \$500,000.¹⁴⁹

The Michigan legislature has passed tort reform legislation with some of the strictest limits on lawsuits. Unlike courts in other states, the Michigan high court has not acted to strike down these limits as unconstitutional. When the Illinois Supreme Court struck down a limit on damages in 2010, it acknowledged that limits on damages deny the most severely injured persons their full measure of justice¹⁵⁰ (see box on following page). Tort reform advocates assert that frivolous lawsuits are hurting the economy,¹⁵¹ but a cap on damages only affects plaintiffs that have made it through a trial and had a jury award them substantial damages.¹⁵²

Illinois Supreme Court fights tort reform

Vernon Best drove a forklift. One day in 1995, the mast of his forklift collapsed while moving slabs of hot steel. Hydraulic fluid in the machine ignited and “engulfed Best in a fireball.” He survived with severe burns on 40 percent of his body. Best sued the manufacturers of the forklift and the hydraulic fluid. Under a tort reform statute, though, he could only recover \$500,000 for noneconomic damages.

The Illinois Supreme Court, however, ruled the limit unconstitutional, finding it was not justified by the goal of reducing the cost of health care. The state constitution “does not permit the entire burden of the anticipated cost savings to rest on one class of injured plaintiffs.”¹⁵³ Best could fully recover from his injuries. The Illinois high court has thrown out several statutory caps on damages.¹⁵⁴ It has recognized

that because caps only come into play when a jury awards damages above a certain threshold, such legislation harms plaintiffs with the most severe injuries.¹⁵⁵

The Illinois Supreme Court, unlike the other courts in this report, represent certain districts in the state. This has led to a relatively consistent ideological makeup of the court, because liberal candidates have usually prevailed in urban districts, and conservative candidates in rural districts. Once judges are elected to the high court, they face uncontested retention elections. This system has resulted in a high court that is not as politicized as in other states, as the data on Illinois court cases in the appendix shows.

Faced with a deluge of corporate money in its elections, the Michigan Supreme Court has abdicated its responsibility to protect those with the most severe injuries. The high court, with a pro-corporate majority for around 12 years, upheld some of the state’s minor tort reform measures. In 2004 the court ruled that a law capping damages for plaintiffs who lease rental cars at \$20,000 does not violate the right to jury trial protected by the state constitution. The dissent argued, “The right to a jury trial is illusory in the most severe cases, those in which the amount of damages exceeds \$20,000. ... the right to a jury trial is not satisfied by providing jurors the opportunity to announce an award and then have it arbitrarily ignored with no regard for the facts of the case.”¹⁵⁶ In other cases the court simply refrained from reviewing a lower court’s decision in favor of tort reform. The Michigan Court of Appeals, relying on the high court’s rental car case, upheld a statute that limits noneconomic damages in medical malpractice actions.¹⁵⁷

During the elections that gave conservatives a majority—1998 and 2000—donations from the health care industry increased sharply, to just less than \$300,000 each year.¹⁵⁸ With pro-corporate justices in the majority for the next 10 years, the high court only ruled in favor of individuals suing insurance companies, hospitals, or other corporate defendants on very rare occasions.¹⁵⁹ The Appendix to this report shows that when

pro-corporate justices controlled the bench, nearly every single ruling involving an individual suing a corporation resulted in a 5-2 ruling for the corporation.¹⁶⁰

After conservative judges lost their majority in 2008, the new court relaxed the burden of proof in medical malpractice cases.¹⁶¹ The health care industry sounded alarm bells and increased donations to pro-corporate justices and the Michigan Republican Party.¹⁶² The insurance industry gave more than twice the amount as in the previous election. Industry groups and the Republican Party spent just less than \$1 million each on ads supporting Justice Robert Young and challenger Mary Kelly in 2010.¹⁶³ Young's opponent received just more than \$50,000 from state Democrats.¹⁶⁴ The two pro-corporate justices won, and the health care industry breathed a sigh of relief.¹⁶⁵

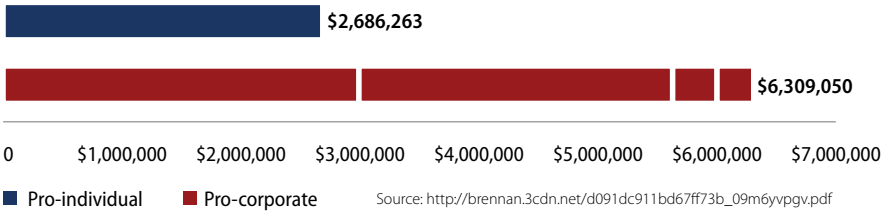
A bipartisan taskforce, which included Justice Marilyn Kelly, examined the problems surrounding Michigan's judicial elections and recently issued a scathing report. The taskforce noted that the vast majority of cases before the high court involve campaign contributors. "Michigan voters already believe that campaign spending has infected the decision-making of their judiciary."¹⁶⁶ Michigan's disclosure laws for independent spending are notoriously weak,¹⁶⁷ and spending has grown to alarming levels.¹⁶⁸

Michigan has nominally nonpartisan judicial elections, but the label does not mean much. Candidates are chosen in partisan primaries, and the state parties are often the biggest campaign spenders. So while the parties are involved at every stage of the campaigns, voters do not see party affiliation listed on the ballot. Justice Marilyn Kelly said Michigan's nominating process "infects the process with a partisan component that is hard to deny."¹⁶⁹ A 2010 University of Chicago study examined partisanship among high court judges and ranked the Michigan Supreme Court dead last.¹⁷⁰

Like other judiciaries around the country, the Michigan high court has become a political battlefield for groups that support and oppose legislative attempts to cap damages for injured plaintiffs. The state political parties fight on behalf of their supporters by pumping money into judicial elections. The question of whether capping damages for injured plaintiffs violates a litigant's constitutional rights seems to depend solely on which political party has a majority on the court. When the law shifts with the political winds, the public questions the integrity of

the judiciary. The courts seem to be yet another political branch of government, where the voices of citizens without money to contribute often go unheard.

Top spenders, 2000–09	Candidate contributions	Independent expenditures*	Total
Michigan Chamber of Commerce	\$164,140	\$2,825,255	\$2,989,395
Michigan Democratic Party	\$219,142	\$2,467,121	\$2,686,263
Michigan Republican Party	\$217,233	\$2,420,328	\$2,637,561
Citizens for Judicial Reform	\$0	\$372,094	\$372,094
Ann Arbor PAC	\$102,000	\$208,000	\$310,000



Conclusion

The independence of our judiciary is under attack. Corporate interest groups are spending enormous amounts of money to elect judges sympathetic to their causes. The flood of money into state courts has resulted in corporate-friendly courts that are not protecting individual rights.¹⁷¹ Judges might worry that ruling against wealthy corporations could harm their ability to win reelection, since the candidate with the most money usually wins.¹⁷²

Progressives are largely sitting on the sidelines as corporate interests are taking over the bench. Labor unions and trial lawyers used to give generously to liberal candidates, but these groups are being overwhelmed by corporate money. One report found that just three corporate interest groups spent 13 times the amount that unions spent in the most recent judicial election cycle.¹⁷³ In Alabama trial lawyers are now donating to socially conservative Republican candidates,¹⁷⁴ but in other states, they've given up altogether. Measures like tort reform and Wisconsin's antilabor bill make it harder for trial lawyers and labor unions to survive, let alone marshal their resources to support progressive judges. These groups cannot hope to match the resources of big business. If money keeps overwhelming judicial elections, Americans will have more and more judges who favor corporations over individuals.

It does not have to be this way. In fact, it was not always this way. When America was founded, high courts were not elected. Federal judges have never been elected. The mid-19th century saw the populist wave ushered in by President Andrew Jackson, and states began to amend their constitutions to elect high court judges.¹⁷⁵ At the time, citizens viewed elections as a means to free judges from the influence of the political branches of government, which were controlled by special interests. But now, the same special interests have taken over judicial elections. Judges appear to be just another political branch, subject to the same corrupting influence of campaign cash. How can citizens who lack political influence perceive the courtroom as a level playing field?

Polls have shown that Americans do not feel confident in their knowledge of judicial races,¹⁷⁶ yet the idea of electing judges remains popular.¹⁷⁷ Even in states that have seen their courts racked by scandals, such as Wisconsin and Nevada, citizens remain opposed to eliminating judicial elections.¹⁷⁸

The practice of electing judges is here to stay but there are steps we can take to make the system work for everyone, not just wealthy special interests. Citizens must inform themselves of candidates' qualifications and positions instead of relying on misleading ads from special interest groups. Americans should demand tough recusal standards to ensure parties to lawsuits cannot use money to influence judges. And all states should, at the very least, implement strong disclosure rules. This will allow citizens to know the source of a political ad and decide whether to trust its veracity.

In 2011 U.S. Supreme Court Justice Sandra Day O'Connor, a tireless advocate for judicial campaign finance reform since leaving the U.S. Supreme Court, wrote:

*We all expect judges to be accountable to the law rather than political supporters or special interests. But elected judges in many states are compelled to solicit money for their election campaigns, sometimes from lawyers and parties appearing before them. Whether or not these contributions actually tilt the scales of justices, three out of every four Americans believe that campaign contributions affect courtroom decisions. This crisis of confidence in the impartiality of the judiciary is real and growing. Left unaddressed, the perception that justice is for sale will undermine the rule of law that the courts are supposed to uphold.*¹⁷⁹

Our constitutional values are under attack by powerful corporate interests and we must fight to preserve them. If we want to return the judiciary to its rightful role of protecting individuals from the abuses of powerful institutions, then Americans must demand that judges and legislators stop the flood of money into judicial elections.

Appendix

To illustrate the impact of judicial campaign contributions on the law, the Center for American Progress examined high-court rulings for the six states that have seen the most money spent in judicial elections from 1992 to 2011. The rulings in this data set include cases in which an individual is the plaintiff, and the named defendant is a corporation, private employer, institutional health care provider, or other business. The data also include cases in which an individual is seeking workers compensation benefits or benefits from an insurer.

In the modern debate over tort reform, judicial activism, and the role of the judiciary, a state judge’s “ideology” often refers to the tendency to vote for either corporations or individuals in these cases. The data only includes cases with a dissenting opinion because these cases illustrate a court’s ideological divide. Unanimous cases are ostensibly uncontroversial.

In some states, the data for some years is scant, presumably because the court issued many unanimous rulings. In Texas, for example, the court has issued several unanimous rulings involving tort reform and employer liability that favor corporations, and such decisions would probably not have been unanimous had the court not had such a strong tendency to favor corporations over individuals.¹

The data excludes cases in which judges from other courts are sitting, cases involving procedural issues, legal ethics rulings, and cases decided without an opinion. The reason: Such cases do not shed light on a court’s ideological leaning. The data also excludes cases on remand from the U.S. Supreme Court and cases reheard in light of case law handed down while the appeal was pending. In those circumstances, justices often vote to apply precedent even though they disagree with the underlying decision. Similar to other studies of justices’ ideologies, the data focuses on tort and employment cases and does not include family law, property, or wills and trust issues.

Listed in chronological order by year, the cases in which the court sides with the plaintiff are in blue, and the cases decided for the defendant are in red. The dataset includes a total of 561 cases. In 195 of those cases, the high courts ruled in favor of an individual plaintiff. The courts ruled in favor of corporate defendants in 366 of the 561 cases. For the most expensive states, there is an obvious shift in favor of pro-corporate decisions after the flood of special interest money began.

Alabama

The Alabama Supreme Court is now dominated by judges who favor corporations over individuals. From 1992 to 1998 the court ruled in favor of plaintiffs over corporate defendants in 74 of the 121 cases in the data set. From 1999 to 2010, however, the court ruled for corporate defendants in 133 of 192 cases studied.

1992

***Walker v. Community Bank*, 596 So.2d**

886 (1992): The plaintiff sued back alleging wrongful payment of a check. A five-justice majority upheld the summary judgment for the defendant; two justices dissented.

Moseley v. State Farm Fire and Cas.

***Ins. Co.*, 597 So.2d 1312 (1992):** The insureds sued the home insurer alleging fraud, after it refused to pay damages from a fire that destroyed their home. A five-justice majority overruled the summary judgment for the insurer; four justices dissented.

***Hillis v. Rentokil, Inc.*, 596 So.2d 888**

(1992): An employee sued the manufacturer of a toxic chemical, which allegedly caused him to lose his voice. A

five-justice majority overruled the summary judgment for the defendant; three justices dissented.

***Elgin v. Alfa Corp.*, 598 So.2d 807**

(1992): Shareholders to mutual companies filed a class-action suit against the companies for allegedly improper loans to a related corporation. A five-justice majority reversed the dismissal of the lawsuit; two justices dissented.

***Gossett v. Twin County Cable T.V., Inc.*,**

594 So.2d 635 (1992): A cable company employee sued his employer for negligence after he was injured when a passing vehicle pulled him from an elevated “bucket,” where he was repairing a cable. An eight-justice majority reversed the summary judgment.

ment for the cable company; one justice dissented.

***Green v. Alabama Power Co.*, 597 So.2d 1325 (1992):** The plaintiff sued the power company after he was electrocuted while riding on top of a wide load, moving wires out of the way. A five-justice majority ruled that the defendant's expert testimony was improper; three justices dissented.

***Kelly v. M. Trigg Enterprises, Inc.*, 605 So.2d 1185 (1992):** Drivers injured in a car accident sued the manufacturer of "Ethyl Gaz," a substance marketed as an air freshener but commonly used as a recreational drug, after an underage driver under the influence of the drug crashed into them. A five-justice majority reversed the summary judgment for defendants; one justice dissented.

***Foster v. Charter Medical Corp.*, 601 So.2d 435 (1992):** The estate sued the decedent's mental health care provider after he committed suicide. A five-justice majority reversed the summary judgment for the defendant; three justices dissented.

***McLeod v. Cannon Oil Corp.*, 603 So.2d 889 (1992):** The father sued the gas station company after his minor son illegally purchased beer there and was killed when a friend drove their car into a lake. A six-justice majority overruled the judgment for the defendant, three justices dissented.

***Ex parte Southern Energy Homes, Inc.*, 603 So.2d 1036 (1992):** An employee sought workers' compensation after she was injured when a cabinet fell on her head. A five-justice majority ruled for the employer and held that fraud in application could be a defense; two justices dissented.

***McClendon v. Mountain Top Indoor Flea Market, Inc.*, 601 So.2d 957 (1992):** The customer sued the retailer after she slipped and fell on gravel on a hill on the defendant's property. A six-justice majority overruled the summary judgment for the defendant; two justices dissented.

***Shoals Ford, Inc. v. McKinney*, 605 So.2d 1197 (1992):** Car buyers sued the dealer for failing to disclose hail damage. A six-justice majority affirmed the judgment for the plaintiff; three justices dissented.

***Caterpillar, Inc. v. Hightower*, 605 So.2d 1193 (1992):** After he was injured while riding in a vehicle manufactured by the defendant, the plaintiff alleged the vehicle's motion caused a tree trunk to protrude into the cab, injuring his foot. A six-justice affirmed the verdict for the plaintiff; three justices dissented.

***King v. National Spa and Pool Institute, Inc.*, 607 So.2d 1241 (1992):** The estate sued after her son died after hitting his head on the bottom of a pool after jumping off a diving board. A five-justice majority ruled for the plaintiff; four justices dissented.

***Howard v. Mutual Sav. Life Ins. Co.*, 608 So.2d 379 (1992):** A widow sued her husband’s health insurer, alleging it failed to pay a claim associated with his cancer. A five-justice majority ruled for the plaintiff; three justices dissented.

***Allstate Ins. Co. v. Beavers*, 611 So.2d 348 (1992):** The insured sought UIM benefits but was denied because he violated policy by settling with a tortfeasor without notifying the insurer. A five-justice majority entered judgment for the insurer; one justice dissented.

***Delchamps, Inc. v. Larry*, 613 So.2d 1235 (1992):** A black customer sued the retailer for malicious prosecution after

he was mistakenly arrested for shoplifting. A five-justice majority affirmed the verdict for the plaintiff; three justices dissented.

***Clements v. Mississippi Valley Title Ins. Co.*, 612 So.2d 1172 (1992):** The insured sued the title insurer alleging it failed to protect them from certain liens. A five-justice majority affirmed the judgment for the insurer; two justices dissented.

***Leatherwood, Inc. v. Baker*, 619 So.2d 1273 (1992):** The homebuyers sued the sellers alleging structural damage. A five-justice majority reversed the judgment for the plaintiff; two justices dissented.

1993

***Henderson By and Through Hartsfield v. Alabama Power Co.*, 627 So.2d 878 (1993):** The plaintiffs sued the power company after a 12-year-old boy climbed an electrical tower and suffered second-degree burns after coming into contact with a power line. A six-justice majority held that a statutory cap on punitive damages was unconstitutional; three justices dissented.

***Gibson v. Southern Guar. Ins. Co.*, 623 So.2d 1065 (1993):** An employee who was injured when a falling ladder struck his head sued his employer’s workers compensation insurer over its handling of his claim. A seven-justice majority

upheld summary judgment against the employee; one justice dissented.

***Hamme v. CSX Transp., Inc.*, 621 So.2d 281 (1993):** The plaintiffs sued a railroad company, alleging that it negligently caused a collision between a train and the plaintiff’s truck. An eight-justice majority overruled the directed verdict against the plaintiff on the compensatory damages issue; one justice dissented.

***Baptist Medical Center Montclair v. Wilson*, 618 So.2d 1335 (1993):** A mother sued a hospital after her baby died from brain damage sustained

during birth. A seven-justice majority affirmed the verdict in favor of the patient; one justice dissented.

***NCNB Texas Nat. Bank, N.A. v. West*, 631 So.2d 212 (1993):** A landowner who granted a mining company the right to underground coal sued to recoup proceeds from any gas that migrated from the coal seam. A six-justice majority reversed the judgment for the coal company; one justice dissented.

***Volkswagen of America, Inc. v. Marinelli*, 628 So.2d 378 (1993):** The plaintiffs sued Volkswagen after their VW “Thing” experienced brake failure and rolled over, throwing three teens from the car. A five-justice majority affirmed the verdict for the plaintiff; one justice dissented.

***Robertson v. Travelers Inn*, 613 So.2d 376 (1993):** The plaintiff sued the motel after she slipped and fell in water left on the floor after plumbing repairs. A seven-justice majority overruled the judgment for the defendant on “wantonness” claim; one justice dissented.

***Smith v. Scott Paper Co.*, 620 So.2d 976 (1993):** The employee sued his employer for fraud, after he settled his workers’ compensation case. A six-justice majority affirmed the judgment for the employer; one justice dissented.

***Vines v. McKenzie Methane Corp.*, 619 So.2d 1305 (1993):** The landowner sued the energy company alleging it illegally

took gas underneath his property. A seven-justice majority affirmed the judgment for defendant; two justices dissented.

***L.M.S. v. Angeles Corp., Inc.*, 621 So.2d 246 (1993):** A tenant sued her landlord for inadequate security after someone broke into her apartment and raped her. A six-justice majority overruled the summary judgment for the defendant; three justices dissented.

***Williams v. Delta Intern. Machinery Corp.*, 619 So.2d 1330 (1993):** The plaintiff sued the manufacturer of the table saw on which he lost two fingers. An eight-justice majority affirmed the judgment for the defendant, using the comparative negligence standard; one justice dissented.

***Jefferson Clinic, P.C. v. Roberson*, 626 So.2d 1243 (1993):** A patient sued the hospital after it failed to diagnose a fractured spine. A five-justice majority ruled for the defendant; two justices dissented.

***Hogland v. Celotex Corp.*, 620 So.2d 621 (1993):** An employee sued the defendant alleging he contracted mesothelioma due to asbestos exposure. A six-justice majority reversed the summary judgment for the defendant; two justices dissented.

***Oden v. Pepsi Cola Bottling Co. of Decatur, Inc.*, 621 So.2d 953 (1993):** Parents sued the manufacturer of the

vending machine that fell on their son, killing him, as he tried to tilt the machine to steal drinks. A five-justice majority affirmed the summary judgment for the defendant; two justices dissented.

***Rumford v. Valley Pest Control, Inc.*, 629 So.2d 623 (1993):** The homebuyers sued the sellers and the exterminator alleging termite damage. A five-justice majority reversed the judgment for the defendants; two justices dissented.

***Soniat v. Johnson-Rast & Hays*, 626 So.2d 1256 (1993):** The homebuyers sued the seller alleging termite damage. A five-justice majority reversed the summary judgment for the defendant; one justice dissented.

***Gray v. Liberty Nat. Life Ins. Co.*, 623 So.2d 1156 (1993):** The plaintiff sued the insurer alleging it garnished payment for a policy to which he did not agree. A six-justice majority affirmed the summary judgment for the defendant on fraud claims; two justices dissented.

***Dodd v. Nelda Stephenson Chevrolet, Inc.*, 626 So.2d 1288 (1993):** A car buyer sued the dealer alleging it failed to notify him of damage to the car. A six-justice majority affirmed the summary judgment against the dealer; two justices dissented.

***Lopez v. Home Buyers Warranty Corp.*, 628 So.2d 361 (1993):** The homebuyer

sued the warranty company after she noticed several structural defects. A seven-justice majority denied a motion to compel arbitration; two justices dissented.

***Morgan v. Northeast Alabama Regional Medical Center*, 624 So.2d 560 (1993):** An employee sued his employer alleging he was fired for complaining of unsafe asbestos exposure. A seven-justice majority reversed the judgment for the employer; two justices dissented.

***Wofford v. Safeway Ins. Co. of Alabama*, 624 So.2d 555 (1993):** The insured sought benefits for an accident caused by his son, but the insurer claimed his son was not named insured. A five-justice majority affirmed the verdict for the defendant; one justice dissented.

***Jones v. BP Oil Co., Inc.*, 632 So.2d 435 (1993):** Parents sued the gas station after a driver illegally purchased beer there and then killed their son in an accident. A seven-justice majority affirmed the summary judgment for the defendant; two justices dissented.

***Fox v. CSX Transp., Inc.*, 630 So.2d 432 (1993):** The employee sued the employer alleging it failed to provide suitable working conditions, leading to injuries. A six-justice majority reversed the summary judgment for the defendant; three justices dissented.

Mardis v. Ford Motor Credit Co., 642

So.2d 701 (1994): The plaintiff sued the car seller, alleging that it misrepresented the year of a car. A six-justice majority affirmed summary judgment against plaintiffs; one justice dissented.

Green Tree Acceptance, Inc. v. Tunstall,

645 So.2d 1384 (1994): The plaintiff purchased a mobile home with financing from the defendant, including the purchase of an A/C unit, but the plaintiff sued after claiming he never received the unit. A seven-justice majority entered judgment for the defendant because the amount of money at issue was “non-identifiable”; one justice dissented.

General Motors Corp. v. Saint, 646 So.2d

564 (1994): After sustaining severe brain injuries in a car accident, the plaintiff sued the car manufacturer, alleging that a “comfort feature” made the car’s seatbelt system dangerous. A six-justice majority overruled the verdict for the plaintiff when the judge failed to instruct the jury on contributory negligence; three justices dissented.

Lowe’s Home Centers, Inc. v. Laxson, 655

So.2d 943 (1994): A customer sued a retailer after its employee dropped a box on the back of his neck while removing it from a shelf. A five-justice majority reversed the summary judgment for the plaintiff; one justice dissented.

Etheredge v. Genie Industries, Inc., 632

So.2d 1324 (1994): The plaintiff was injured using a lift manufactured by the defendant. A six-justice majority reversed the judgment for the defendant; one justice dissented.

Williams v. Spring Hill Memorial Hosp.,

646 So.2d 1373 (1994): A patient sued the hospital alleging complications from surgery. A five-justice majority affirmed the summary judgment for the defendant; two justices dissented.

Mills v. Bruno’s, Inc., 641 So.2d 777

(1994): A customer sued the retailer for a slip and fall. A six-justice majority reversed the summary judgment for the defendant; two justices dissented.

Ingram v. American Chambers Life Ins.

Co., 643 So.2d 575 (1994): The insured sued the life insurer alleging fraud in refusing to pay claim. A five-justice majority reinstated the fraud claim; two justices dissented.

Mardis v. Ford Motor Credit Co., 642

So.2d 701 (1994): Car buyers sued the dealers after they found out the age of the car was misrepresented. A six-justice majority affirmed the summary judgment for the defendant; one justice dissented.

Overton v. Amerex Corp., 642 So.2d

450 (1994): The employee sued the

employer alleging she was terminated for filing a workers' compensation claim. A six-justice majority overruled the summary judgment for the employer; two justices dissented.

***Pinyan v. Community Bank*, 644 So.2d 919 (1994)**: Borrowers sought a loan to help their son in bankruptcy. A five-justice majority overruled the summary judgment for the bank on the fraud claim; two justices dissented.

1995

***Smith v. Dunlop Tire Corp.*, 663 So.2d 914 (1995)**: An employee sued his employer after he was terminated following an on-the-job injury, alleging that he was fired in retaliation for filing for workers compensation. A six-justice majority affirmed the summary judgment for the employer; one justice dissented.

***Downey v. Mobile Infirmary Medical Center*, 662 So.2d 1152 (1995)**: A wife sued a hospital after her husband fell from his hospital bed and died. A six-justice majority overruled the summary judgment for the hospital; one justice dissented.

***Jackson v. State Farm Fire and Cas. Co.*, 661 So.2d 232 (1995)**: The plaintiff sued an insured man after he shot and killed the plaintiff's son, and the insurance company refused to indem-

***Hines v. Riverside Chevrolet-Olds, Inc.*, 655 So.2d 909 (1994)**: Car buyers sued the dealer alleging it failed to tell them about damage to the car. A six-justice majority reversed the summary judgment for the defendant; one justice dissented.

***Hall v. American Indem. Group*, 648 So.2d 556 (1994)**: The insured filed for a claim for structural damage due to water leak. A six-justice majority affirmed the judgment for the insurer; two justices dissented.

nify its insured. A five-justice majority overruled the summary judgment for the insurance company; one justice dissented.

***Jim Burke Automotive, Inc. v. Beavers*, 674 So.2d 1260 (1995)**: A consumer sued the car seller over her purchase of credit disability insurance with the car purchase, alleging that the seller assured her the insurer would pay a claim that it later did not pay. A five-justice majority denied the seller's motion to compel arbitration; two justices dissented.

***Lemond Const. Co. v. Wheeler*, 669 So.2d 855 (1995)**: A father sued the construction company after his son was killed in an accident at an unmarked road construction area. A five-justice majority affirmed the verdict for the plaintiff; one justice dissented.

Alexander v. Jitney Jungle Stores of America, Inc., 673 So.2d 402 (1995): An employee sued his employer after he was terminated following an absence to recuperate from an on-the-job injury. A five-justice majority reversed the summary judgment for the employer on the retaliatory discharge claim; one justice dissented.

Taylor v. Tennessee Farmer's Mut. Ins. Co., 659 So.2d 30 (1995): An insured sued his insurer for UIM benefits after he only collected \$50,000 from a driver who, while driving into the service bay of the mechanic shop where the insured worked, pinned the insured against the bay doors. A five-justice majority reversed the summary judgment for the insurer; one justice dissented.

Woodall v. Alfa Mut. Ins. Co., 658 So.2d 369 (1995): The insured sought indemnity from the insurer after he was sued for wrongful death when his store sold alcohol to a minor. A five-justice majority reversed the summary judgment on the fraud claim; one justice dissented.

Feley v. Diagnostic Health Corp., 659 So.2d 27 (1995): An employee sued his employer for breach of contract after he was terminated. A five-justice majority affirmed the summary judgment for the employer; two justices dissented.

Cook v. Aetna Ins. Co., 661 So.2d 1169 (1995): An employee who was struck while entering his vehicle sued for

underinsured motorist benefits after he was struck by an uninsured driver. A five-justice majority affirmed the summary judgment for the insurer; one justice dissented.

Southern Medical Health Systems, Inc. v. Vaughn, 669 So.2d 98 (1995): An employee sued his employer for breach of contract after he was terminated. A six-justice majority affirmed the verdict for the plaintiff; one justice dissented.

Clark v. Liberty Mut. Ins. Co., 673 So.2d 395 (1995): The plaintiff sued her employer's workers' compensation insurer after she sustained injuries when she fell in the employer's parking lot. A five-justice majority overruled the summary judgment on the fraud claim; one justice dissented.

Kervin v. Southern Guar. Ins. Co., 667 So.2d 704 (1995): The insured sued the home insurer over claim for damages incurred during repossession. A seven-justice majority affirmed the summary judgment for the defendant on the bad faith claim; one justice dissented.

Cruse v. Coldwell Banker/Graben Real Estate, Inc., 667 So.2d 714 (1995): Homebuyers sued the sellers alleging structural defects. A six-justice majority overruled the summary judgment for the defendant; two justices dissented.

Pryor v. Brown & Root USA, Inc., 674 So.2d 45 (1995): The plaintiff sued after

he was in a car accident with the defendant's employee, who was possibly intoxicated. A seven-justice majority reversed the summary judgment for the defendant; two justices dissented.

***Ray v. Anesthesia Associates of Mobile, P.C.*, 674 So.2d 525 (1995)**: A widow sued her husband's health care provider alleging it misplaced a tube into his esophagus during surgery, causing his death. A six-justice majority affirmed that a cap on damages is constitutional; three justices dissented.

***Bibbs v. MedCenter Inns of Alabama, Inc.*, 669 So.2d 143 (1995)**: Employees sued their employer alleging improper tip-sharing policy. A six-justice majority affirmed the summary judgment as to all but one plaintiff; two justices dissented.

1996

***Wyser v. Ray Sumlin Const. Co., Inc.*, 680 So.2d 235 (1996)**: An employee sued his employer for negligence after he fell into an unguarded elevator shaft. A six-justice majority overruled the trial court's reduction of the jury verdict; one justice dissented.

***Uniroyal Goodrich Tire Co. v. Hall*, 681 So.2d 126 (1996)**: A truck driver sued a tire manufacturer after a tire exploded and injured him while he was trying to fit the tire on a wheel rim that was a different

***Turner v. PFS Corp.*, 674 So.2d 60 (1995)**:

A truck driver sued the maker of the manufactured home he was hauling when a brake axle on the home broke, causing an accident that left him paralyzed. A five-justice majority reversed the summary judgment for the defendant; one justice dissented.

***Mardis v. Robbins Tire & Rubber Co.*, 669 So.2d 885 (1995)**: An employee sued her employer for sexual harassment. A six-justice majority reversed the summary judgment for the employer; two justices dissented.

***Rhodes v. Tractor & Equipment Co.*, 677 So.2d 194 (1995)**: The plaintiffs sued the seller of a used tire that exploded as they tried to mount it. A five-justice majority overruled the judgment for the defendant; four justices dissented.

size. A six-justice majority overruled a verdict for the plaintiff after the judge failed to instruct the jury on contributory negligence; three justices dissented.

***McCullar v. Universal Underwriters Life Ins. Co.*, 687 So.2d 156 (1996)**: The plaintiff alleged that the insurer and car dealer fraudulently sold her more insurance than she needed. A five-justice majority overruled the summary judgment for the insurance company; two justices dissented.

***Rast Const., Inc. v. Peters*, 689 So.2d 781 (1996):** The employee’s mother sued the employer for negligence after the ground on which her son was working caved in, causing a pipe to fall on him and kill him. A five-justice majority reversed the judgment for the plaintiff because her son was not a “special employee”; one justice dissented.

***Bush v. Ford Life Ins. Co.*, 682 So.2d 46 (1996):** The insured sued the insurer and dealer after it refused to pay the claim because it alleged misrepresentations on the insured’s application. A five-justice majority reversed the summary judgment for the dealer; three justices dissented.

***United Companies Lending Corp. v. McGehee*, 686 So.2d 1171 (1996):** Homebuyers sued the lenders for allegedly improper fees. A six-justice majority affirmed the judgment for the plaintiffs; three justices dissented.

***CA v. Wal-Mart, Inc.*, 683 So.2d 413 (1996):** An employee sued the employer after she was abducted from its parking lot and raped. A six-justice majority affirmed the summary judgment for the employer; two justices dissented.

***Johnson v. Anderson Ford, Inc.*, 686 So.2d 224 (1996):** A car buyer sued the dealer for breach of warranty after engine problems. A seven-justice majority affirmed the summary judgment for the defendant; one justice dissented.

***Gaylard v. Homemakers of Montgomery, Inc.*, 675 So.2d 363 (1996):** The plaintiff sued her husband’s home health care provider, alleging it burned him while bathing him. A five-justice majority granted the plaintiff a new trial; three justices dissented.

***Bence v. Alabama Coal Co-op.*, 681 So.2d 130 (1996):** An employee sued his employer for breach of contract after he was terminated. A six-justice majority affirmed the summary judgment for the employer; one justice dissented.

***Loyal American Life Ins. Co., Inc. v. Mattiace*, 679 So.2d 229 (1996):** A beneficiary filed a claim with the life insurer, which refused to pay after the insured was killed while DUI. A seven-justice majority affirmed the verdict for the beneficiary; two justices dissented.

***Ricketts v. Norfolk Southern Ry. Co.*, 686 So.2d 1100 (1996):** A father sued the defendant after his son fell from its trestle and was injured. A five-justice majority reversed the judgment for the defendant; two justices dissented.

***Register Propane Gas Co., Inc. v. Whatley*, 688 So.2d 225 (1996):** The estate sued after the decedent was killed by carbon monoxide poison leaking from heater manufactured by defendant. A five-justice majority affirmed the order granting a new trial to the plaintiff; four justices dissented.

Patrick v. Union State Bank, 681 So.2d 1364 (1996): A customer sued the bank, alleging it negligently allowed a fraudster to open an account in her name. A six-justice majority overruled the judgment for the bank; two justices dissented.

1997

Talent Tree Personnel Services, Inc. v. Fleenor, 703 So.2d 917 (1997): An employee sued her employer and management for allegedly manipulating her sales figures and defrauding her of sales commissions. A seven-justice majority affirmed the judgment for the employee; one justice dissented.

Hillcrest Center, Inc. v. Rone, 711 So.2d 901 (1997): Plaintiffs sued the defendant, alleging it had defrauded the plaintiffs by inducing them to sign a commercial lease while misrepresenting the parking space at the site. A six-justice majority affirmed the judgment for the plaintiff; three justices dissented.

First Commercial Bank v. Spivey, 694 So.2d 1316 (1997): The plaintiff alleged that the bank had fraudulently induced the plaintiff to enter into a loan agreement and then used the loan proceeds to pay off loans the plaintiff owed to the bank. A seven-justice majority affirmed the judgment for the plaintiff; one justice dissented.

Hamlin v. Norfolk Southern Ry. Co., 686 So.2d 1115 (1996): The plaintiffs sued after they were struck by a train at railroad crossing. A six-justice majority reversed the summary judgment for the defendant; two justices dissented.

Kent Corp. v. Hale, 699 So.2d 954 (1997): An employee sued his employer, alleging that he was terminated as retaliation for filing a workers compensation claim. A seven-justice majority reversed the judgment for the plaintiff and entered judgment for the defendant; one justice dissented.

Halsey v. A.B. Chance Co., 695 So.2d 607 (1997): The widow of a power company employee sued the manufacturer of the platform from which her husband fell to his death. A six-justice majority reversed the summary judgment for the defendant; two justices dissented.

Foremost Ins. Co. v. Parham, 693 So.2d 409 (1997): Plaintiffs alleged that the insurer sold them insurance through unlicensed agents, who misrepresented the terms of their policies. An eight-justice majority affirmed the judgment for the plaintiff on condition of remittitur; one justice dissented.

Fant v. Champion Aviation, Inc., 689 So.2d 32 (1997): The plaintiff sued his airplane mechanic after all but one of

the bolts in his propeller fell off during a flight, causing him to make an emergency landing. A six-justice majority reinstated the judgment for the plaintiff; one justice dissented.

***Flagstar Enterprises, Inc. v. Davis*, 709 So.2d 1132 (1997)**: A customer sued the owner of a Hardee's after he allegedly found human blood in his box of biscuits and gravy. A five-justice majority overruled the judgment for the plaintiff on a wantonness claim; three justices dissented.

***Warehouse Home Furnishing Distributors, Inc. v. Whitson*, 709 So.2d 1144 (1997)**: Customers filed a class action suit against the retailer, alleging improper finance fees. A five-justice majority ruled for the plaintiffs; four justices dissented.

***Allstar Homes, Inc. v. Waters*, 711 So.2d 924 (1997)**: The homebuyers sued the seller for fraud. A six-justice majority affirmed denial of motion to compel arbitration; three justices dissented.

***Alfa Mut. General Ins. Co. v. Oglesby*, 711 So.2d 938 (1997)**: The insured sued his home insurer when it failed to pay his claim for a fire that destroyed his home. A five-justice majority affirmed the ruling for the plaintiff; three justices dissented.

***Ryan Warranty Services, Inc. v. Welch*, 694 So.2d 1271 (1997)**: A car buyer

sued the warranty company after it denied claim for repairs. A six-justice majority declined to compel arbitration; two justices dissented.

***Liberty Nat. Life Ins. Co. v. Allen*, 699 So.2d 138 (1997)**: The insured sued his insurer over its new policy basing its payouts on Medicare payment rates. A five-justice majority entered judgment for the insurer; two justices dissented.

***Hurst v. Tony Moore Imports, Inc.*, 699 So.2d 1249 (1997)**: A car buyer sued the dealer over alleged defects. A five-justice majority ruled to compel arbitration; four justices dissented.

***Life Ins. Co. of Georgia v. Johnson*, 701 So.2d 524 (1997)**: The insured sued his insurer for fraud. A five-justice majority ruled to reduce punitive damages award; four justices dissented.

***Robinson v. JMIC Life Ins. Co.*, 697 So.2d 461 (1997)**: The insured sued the insurer for fraud in the sale of credit life insurance. A five-justice majority overruled the summary judgment for the insurer; three justices dissented.

***Carl Gregory Chrysler-Plymouth, Inc. v. Barnes*, 700 So.2d 1358 (1997)**: A car buyer sued the dealer alleging it forged his signature on a document. A five-justice majority declined to compel arbitration; four justices dissented.

***Nationwide Ins. Co. v. Nilsen*, 745 So. 2d 264 (1998)**: An insured sued his insurer after it failed to pay for damages caused by a fire, which destroyed his home. A five-justice majority affirmed the summary judgment for the insurer; four justices dissented.

***Life Ins. Co. of Georgia v. Smith*, 719 So.2d 797 (1998)**: Employees of a Christian academy sued the insurer, alleging that it fraudulently enrolled them in a “retirement plan” from which it deducted life insurance premiums, resulting in a zero cash value for the retirement plan. A six-justice majority reversed the judgment for the plaintiffs; three justices dissented.

***Ridgeway v. CSX Transp., Inc.*, 723 So.2d 600 (1998)**: A driver sued after she was struck by an Amtrak passenger train, alleging that the railroad company failed to adequately maintain the crossing. An eight-justice majority affirmed the summary judgment for the defendant; one justice dissented.

***State Farm Fire & Cas. Co. v. Owen*, 729 So.2d 834 (1998)**: An insured sued her insurer, claiming that it had fraudulently led her to believe that her engagement ring was insured at its appraised value not its replacement value. A six-justice majority reversed the judgment for the insured; one justice dissented.

***Med Center Cars, Inc. v. Smith*, 727 So.2d 9 (1998)**: Car buyers sued car dealers and insurers for alleged fraud in financing the sale of service contracts along with their cars but failing to include the costs of the contracts in the finance charges on the sales documents. A five-justice majority granted a motion to compel arbitration as to one plaintiff, denied arbitration as to other plaintiffs, and overruled the motion allowing classwide arbitration; four justices dissented from the denial of the motion to compel arbitration.

***Dunlop Tire Corp. v. Allen*, 725 So.2d 960 (1998)**: The plaintiff sued after he was terminated after several on-the-job injuries and alleged his termination was retaliation for filing a workers compensation claim. A six-justice majority threw out the punitive damages award for the employee; three justices dissented.

***Henry v. Georgia-Pacific Corp.*, 730 So.2d 119 (1998)**: An employee sued her employer after it failed to respond to her allegations of sexual harassment by a physician hired by the employer. A six-justice majority overruled the summary judgment for the defendant; one justice dissented.

***TERMINIX INTERN. CO. v. Jackson*, 723 So.2d 555 (1998)**: Homeowners sued their exterminator over a termite infes-

tation. A five-justice majority affirmed denial of motion to compel arbitration of fraud and negligence claims; four justices dissented.

***Mutual Assur., Inc. v. Wilson*, 716 So.2d 1160 (1998)**: The insured sued his insurer, which sought to compel arbitration. A seven-justice majority ruled to compel arbitration; two justices dissented.

***Kmart Corp. v. Kyles*, 723 So.2d 572 (1998)**: A customer sued the retailer after he was detained on suspicion of shoplifting. A seven-justice majority ordered a reduction in punitive damages; two justices dissented.

***Green Tree Agency, Inc. v. White*, 719 So.2d 1179 (1998)**: A homebuyer sued the financier. A five-justice majority

ruled to compel arbitration; four justices dissented.

***Hogan v. State Farm Mut. Auto. Ins. Co.*, 730 So.2d 1157 (1998)**: The insured was in an accident in a car driven by an underinsured motorist, and sued for underinsured motorist benefits. A five-justice majority ruled for the insured; three justices dissented.

***American General Finance, Inc. v. Manley*, 729 So.2d 260 (1998)**: A seven-justice majority ruled to compel arbitration; two justices dissented.

***Georgia Power Co. v. Partin*, 727 So.2d 2 (1998)**: An employee fell off a train while working and sued the defendant. A five-justice majority ruled to compel arbitration; four justices dissented.

1999

***Selma Medical Center, Inc. v. Manayan*, 733 So.2d 382 (1999)**: Employee received reimbursement from his employer for relocating expenses, but after he failed to stay at the job for three years, the parties disputed whether the employee was required to reimburse those expenses. A seven-justice majority granted the defendant's motion to compel arbitration; one justice dissented.

***White Consol. Industries, Inc. v. Wilkerson*, 737 So.2d 447 (1999)**:

Consumers sued the manufacturer of a window A/C unit after their home burned down, and an investigator determined that the unit caused the fire. A six-justice majority ruled the plaintiffs could not recover for mental anguish; one justice dissented.

***New York Life Ins. Co. v. Robinson*, 735 So.2d 463 (1999)**: Insureds sued their insurer, accusing it of misrepresenting the insurance policies it sold them. A seven-justice majority threw out the

plaintiffs' claims, finding that they were covered by a classwide settlement; one justice dissented.

***Crimson Industries, Inc. v. Kirkland*, 736 So. 2d 597 (1999):** Plaintiffs purchased mobile homes from the defendants and alleged fraud in the sale. A six-justice majority ruled that the plaintiffs must arbitrate all claims even those occurring before the agreements were signed; three justices dissented.

***Overstreet v. Safeway Ins. Co. of Alabama*, 740 So.2d 1053 (1999):** Insured plaintiffs sued their insurer after it denied their claim because they violated the UIM policy by settling with a third party without the insurer's consent. A seven-justice majority affirmed the summary judgment for the insurance company; two justices dissented.

***Daniels v. East Alabama Paving, Inc.*, 740 So. 2d 1033 (1999):** Plaintiffs were involved in a fatal accident in which their car flipped after veering over a several-inch drop-off between the travel lane and the shoulder. They sued the paving company that constructed the lanes. A six-justice majority overruled the trial court's remittitur of the plaintiff's award; one justice dissented.

***Williamson v. Indianapolis Life Ins. Co.*, 741 So. 2d 1057 (1999):** The plaintiff sued his life insurance provider and alleged that it knew that his "vanishing premiums" policy, which was supposed

to generate enough income to cover premiums after 10 years, was not viable. A five-justice majority ruled that the plaintiff could not recover for fraud; three justices dissented.

***American Bankers Ins. Co. v. Crawford*, 757 So.2d 1125 (1999):** A homeowner sued after the mortgage company purchased homeowners insurance for him, after he failed to provide proof of insurance. A four-justice majority granted the company's motion to compel arbitration because state consumer law is pre-empted by federal law; three justices dissented.

***In re: James W. Handley v. Protective Life Ins.*, 775 So.2d 141 (1999):** A consumer sued and alleged that the insurer defrauded him in the sale of credit disability insurance. An eight-justice majority rejected the request to compel arbitration because the insurer had litigated the claim; one justice dissented.

***Machen v. Childersburg Bancorporation, Inc.*, 761 So. 2d 981 (1999):** An employee sued her employer after several alleged incidents of sexual harassment by her manager. A seven-justice majority overruled the summary judgment for the defendant; one justice dissented.

***USA Petroleum Corp. v. Hines*, 770 So. 2d 589 (1999):** The plaintiff alleged that he was injured when the defendant's employee assaulted him at its gas station. An eight-justice majority affirmed

the judgment against the gas company; one justice dissented.

***Southern Energy Homes, Inc. v. Lee*, 732 So.2d 994 (1999)**: Homebuyers sued the seller for defects. A five-justice majority rejected a motion to compel arbitration, four justices dissented.

***Infiniti of Mobile, Inc. v. Office*, 727 So.2d 42 (1999)**: Car buyers sued the dealer. A six-justice majority ruled to compel arbitration; two justices dissented.

***Gray Brown-Service Mortuary, Inc. v. Lloyd*, 729 So.2d 280 (1999)**: A family sued the funeral home after the casket of their deceased relative leaked fluid while in a mausoleum. A seven-justice majority affirmed the verdict for the plaintiff, one justice dissented.

***Thompson v. Skipper Real Estate Co.*, 729 So.2d 287 (1999)**: A homebuyer sued the sellers. A five-justice majority ruled to compel arbitration; three justices dissented.

***Mann v. GTE Mobilnet of Birmingham Inc.*, 730 So.2d 150 (1999)**: The plaintiff filed a class action suit against the cell phone company over its practice of “rounding up” minutes used. A six-justice majority ruled to deny class certification; one justice dissented.

***Smith v. UNIVERSAL SCHEDULING CO.*, 736 So.2d 562 (1999)**: A widow sued a

consultant who worked for her husband’s employer after it recommended the reactivation of a machine, on which her husband was killed. An eight-justice majority ruled for defendant; one justice dissented.

***Gold Kist, Inc. v. Baker*, 730 So.2d 614 (1999)**: An employee sued his employer. A five-justice majority ruled to compel arbitration; four justices dissented.

***Southern United Fire Ins. Co. v. Knight*, 736 So. 2d 582 (1999)**: The insured sued his insurer. A seven-justice majority declined to compel arbitration; two justices dissented.

***Alabama Power Co. v. Murray*, 751 So. 2d 494 (1999)**: The plaintiffs sued the power company after a surge caused spoliation. A five-justice majority affirmed judgment for the plaintiffs; three justices dissented.

***McGregory v. LLOYD WOOD CONST. CO.*, 736 So.2d 571 (1999)**: The estate sued the construction company after its employees were killed after they came into contact with electrical wire. A five-justice majority affirmed the judgment for the defendant; four justices dissented.

***Ryan’s Family Steak Houses, Inc. v. Regelin*, 735 So.2d 454 (1999)**: Employees sued their employer for sexual harassment. A six-justice majority ruled to compel arbitration; three justices dissented.

***Woodmen of the World Life Ins. Society v. Harris*, 740 So.2d 362 (1999)**: A member of a fraternal organization sued the organization. A five-justice majority ruled to compel arbitration; three justices dissented.

***General Motors Corp. v. Hill*, 752 So.2d 1186 (1999)**: A widow sued after an employee died from hitting his head while pushing a cart through a dark area. A seven-justice majority entered judgment for the defendant; two justices dissented.

***Stringfellow v. State Farm Life Ins. Co.*, 743 So. 2d 439 (1999)**: The insured sued the insurer for fraud over “vanishing premiums” policy. A five-justice majority affirmed the dismissal of the plaintiff’s complaints; three justices dissented.

***FIRST AMER. TITLE INS. CORP. v. Silvernell*, 744 So.2d 883 (1999)**: Landbuyers sued the title insurer. A six-justice majority ruled to compel arbitration; two justices dissented.

***Usrey v. Wal-Mart Stores*, 777 So.2d 66 (1999)**: An employee sued for wrongful discharge after he was fired for alleged sexual harassment. A five-justice majority ruled for the plaintiff; four justices dissented.

***Green Tree Financial Corp. v. Vintson*, 753 So. 2d 497 (1999)**: A borrower sued the lender. A seven-justice majority

ruled to compel arbitration; one justice dissented.

***Homes of Legend, Inc. v. Fields*, 751 So. 2d 1228 (1999)**: A mobile home purchaser sued the manufacturer. An eight-justice majority affirmed an order denying motion to compel arbitration; one justice dissented.

***Jack Ingram Motors, Inc. v. Ward*, 768 So. 2d 362 (1999)**: A car buyer sued the dealership and financier over a \$450 fee, which he was told he would not pay. An eight-justice majority affirms denial of financier’s motion to compel arbitration; one justice dissented.

***Hail v. Regency Terrace Owners Ass’n*, 782 So.2d 1271 (1999)**: A seven-justice majority overturned the summary judgment for defendants; two justices dissented.

***Wal-Mart Stores, Inc. v. Bowers*, 752 So. 2d 1201 (1999)**: The plaintiff sued the defendant after it serviced its car, which later caught fire resulting in their house burning down. A seven-justice majority overturned the mental damages award; two justices dissented.

***Fountain Finance, Inc. v. Hines*, 788 So. 2d 155 (1999)**: The plaintiffs sued the defendants alleging assault. An eight-justice majority affirmed an order denying motion to compel arbitration; one justice dissented.

Cackowski v. Wal-Mart Stores, Inc.,

767 So. 2d 319 (2000): A consumer sued after a pharmacist prescribed the wrong drug, which she took for 30 days before getting the correct prescription and not before she experienced severe complications from withdrawal from the first medication. An eight-justice majority overruled the judgment for the defendant; one justice dissented.

Homes of Legend, Inc. v. McCollough,

776 So. 2d 741 (2000): A homebuyer sued the seller for manufacturing defects. A five-justice majority ruled to compel arbitration; three justices dissented.

Southern Energy Homes, Inc. v.

***Washington,* 774 So. 2d 505 (2000):** A purchaser of a mobile home sued the manufacturer for fraud, breach of warranty, and other claims after discovering several alleged deficiencies. A six-justice majority affirmed the verdict for the plaintiff; two justices dissented.

Peachtree Cas. Ins. Co., Inc. v. Sharpton,

768 So.2d 368 (2000): Claimants sued the insurer over underinsured motorist benefits. A six-justice majority ruled for the claimants; three justices dissented.

Summit Photographix, Inc. v. Scott,

763 So. 2d 956 (2000): An employee sued his employer after the employee had to issue refunds when the company failed

to redeem “vouchers” for several customers. A seven-justice majority threw out a default judgment for plaintiff, one justice dissented.

Carroll v. Shoney's, Inc.,

775 So.2d 753 (2000): A widower sued his wife's employer after she was shot to death during a robbery of the restaurant she worked in. A seven-justice majority affirmed the summary judgment for the defendant; one justice dissented.

Miller v. National Bulk Carriers, Inc.,

767 So.2d 339 (2000): The estate of a merchant mariner sued his employers and alleged that his occupation exposed him to benzene, which caused pneumonia and cancer. A seven-justice majority affirmed the summary judgment for the defendants; one justice dissented as to one defendant.

Vickers v. Dover Elevator Co.,

767 So.2d 1107 (2000): An employee was injured when he peered into an open elevator shaft and was struck by a descending elevator. A six-justice majority overruled summary judgment for the employer; three justices dissented.

Prudential Ballard Realty v. Weatherly

(2000): Homebuyers sued the sellers for fraud. A six-justice majority overruled the judgment for plaintiffs; one justice dissented.

***Kmart Corp. v. Bassett*, 769 So.2d 282 (2000)**: A customer sued after she fell when automatic doors shut on her. A five-justice majority ruled for the plaintiff; four justices dissented.

***Wal-Mart Stores, Inc. v. Manning*, 788 So.2d 116 (2000)**: A consumer sued a retailer after several boxes of VCRs fell from a riser and struck him on the head and shoulder. A five-justice majority reversed the judgment for the plaintiff and entered judgment for the defendant; four justices dissented.

***Southern Energy Homes, Inc. v. Ard*, 772 So.2d 1131 (2000)**: Homebuyers sued the manufacturer alleging defects. A five-justice majority ruled to compel arbitration; four justices dissented.

***Mitchell Nissan, Inc. v. Foster*, 775 So. 2d 138 (2000)**: A car buyer sued the seller for breaching warranty. A seven-justice majority ruled to compel arbitration; one justice dissented.

***Jim Walter Resources, Inc. v. Argo*, 779 So.2d 1167 (2000)**: An employee sued the employer for breach of contract. A six-justice majority ruled to compel arbitration; one justice dissented.

***US PIPE AND FOUNDRY CO., INC. v. Curren*, 779 So.2d 1171 (2000)**: An employee sued the employer over allegedly improper paycheck deductions. A seven-justice majority ruled to compel arbitration; one justice dissented.

***Harold Allen's Mobile Home Factory Outlet, Inc. v. Early*, 776 So.2d 777 (2000)**: A purchaser sued the retailer of a manufactured home, alleging fraud and breach of warranty. A five-justice majority granted the defendant's motion to compel arbitration; four justices dissented.

***Southern Energy Homes, Inc. v. Davis*, 776 So. 2d 770 (2000)**: A homebuyer sued the seller over manufacturing defects. A five-justice majority ruled to compel arbitration; four justices dissented.

***Southern Energy Homes, Inc. v. Nalley*, 777 So. 2d 99 (2000)**: A homebuyer sued the seller over manufacturing defects. A five-justice majority ruled to compel arbitration; four justices dissented.

***Southern Energy Homes, Inc. v. Gregor*, 777 So. 2d 79 (2000)**: A homebuyer sued the seller over manufacturing defects. A five-justice majority ruled to compel arbitration; four justices dissented.

***ICU Investigations v. Jones*, 780 So.2d 685 (2000)**: The plaintiff sued a private investigator who was hired by his employer to follow him after he filed a workers' compensation claim. A six-justice majority reversed judgment for the plaintiff; three justices dissented.

***WD Williams, Inc. v. Ivey*, 777 So.2d 94 (2000)**: A car buyer sued the seller for

breach of warranty. A six-justice majority ruled to compel arbitration; three justices dissented.

***Lacy v. Alabama Power Co.*, 779 So.2d 1184 (2000)**: Landowners sued an easement owner for damage to their land. An eight-justice majority ruled for defendant; one justice dissented.

***ConAgra, Inc. v. Turner*, 776 So.2d 792 (2000)**: An employee sued his employer for allegedly retaliating against him for filing a workers' compensation claim. A seven-justice majority affirmed punitive damages; two justices dissented.

***Southern United Fire Ins. Co. v. Howard*, 775 So.2d 156 (2000)**: An insurer sued his insurer. A five-justice majority ruled to compel arbitration; four justices dissented.

***Southern United Fire Ins. Co. v. Pierce*, 775 So.2d 194 (2000)**: An insurer sued his insurer. A five-justice majority ruled to compel arbitration; four justices dissented.

***Green Tree Financial Corp. v. Shoemaker*, 775 So. 2d 149 (2000)**: The purchasers of a manufactured home alleged that the financier of the purchase harassed them and invaded their privacy after they became delinquent in their payments. A six-justice majority granted a motion to compel arbitration; three justices dissented.

***Flagstar Enterprises, Inc. v. Foster*, 779 So.2d 1220 (2000)**: A customer sued the owner of a restaurant after she fell and broke her arm in the parking lot. An eight-justice majority reversed judgment for the plaintiff; one justice dissented.

***LIBERTY FINANCE, INC. v. Carson*, 793 So.2d 702 (2000)**: A borrower sued the lender for fraud. A six-justice majority declined to compel arbitration; three justices dissented.

***Parkway Dodge v. Yarbrough*, 779 So.2d 1205 (2000)**: Car buyer sued dealer and manufacturer. An eight-justice majority rejected manufacturer's motion to compel arbitration; one justice dissented.

***Courtaulds Fibers, Inc., v. Long*, 779 So.2d 198 (2000)**: Landowners alleged the plant caused pollution to enter their property. An eight-justice majority reversed judgment for the plaintiff; one justice dissented.

***Alabama Catalog Sales v. Harris*, 794 So.2d 312 (2000)**: The plaintiffs filed a class action suit alleging violation of payday lending law. A six-justice majority rejected motion to compel arbitration; three justices dissented.

***Liberty Nat. Life Ins. Co. v. Sanders*, 792 So.2d 1069 (2000)**: Plaintiff applied for a life insurance policy for her son, paid one premium, and submitted a claim when her son died thereafter. The insurer refused, and the plaintiff sued. An eight-

justice majority affirmed the judgment for the plaintiff; one justice dissented.

***Morris v. Terminix Services*, 782 So.2d 249 (2000)**: Homeowners sued the exterminators when termite re-infestation occurred. A seven-justice majority ruled to compel arbitration; two justices dissented.

***Cannon v. Michelin North America, Inc.* (2000)**: An employee sued his employer. A six-justice majority reinstated the summary judgment on fraudulent suppression claims; three justices dissented.

***Mitchell v. H & R BLOCK, INC.*, 783 So.2d 812 (2000)**: The plaintiffs filed a class action suit against the tax refund alleging fraud in tax refund loans. A six-justice majority granted class certification; two justices dissented.

***Nickolson v. ALABAMA TRAILER CO., INC.*, 791 So.2d 926 (2000)**: A widow sued her husband's employer and the manufacturer of the trailer from which her husband fell to his death. An eight-justice majority reversed grant of sum-

mary judgment to the manufacturer; one justice dissented.

***Southern Energy Homes, Inc. v. McCray*, 788 So.2d 88 (2000)**: A homebuyer sued the seller over manufacturing defects. A six-justice majority ruled to compel arbitration; three justices dissented.

***Miller v. Amerada Hess Corp.*, 786 So.2d 1106 (2000)**: A widow sued her husband's employer alleging asbestos exposure caused his death. An eight-justice majority rejected her appeal; one justice dissented.

***Wal-Mart Stores, Inc. v. Goodman*, 789 So. 2d 166 (2000)**: A customer sued the retailer alleging malicious prosecution after she was detained on suspicion of shoplifting. An eight-justice majority affirmed the judgment for the plaintiff; one justice dissented.

***New Plan Realty Trust v. Morgan*, 792 So.2d 351 (2000)**: A tenant sued her landlord for wrongfully removing her property from her apartment. A six-justice majority upheld judgment for the plaintiff; three justices dissented.

2001

***Sisson v. State Farm Fire and Cas. Co.*, 824 So.2d 708 (2001)**: The plaintiff sued after the insurer refused to pay the claim when her home was destroyed by a fire. A five-justice majority ruled that

the insured's denial of receipt of cancellation notice did not create an issue of fact as to whether policy was cancelled; four justices dissented.

***H & S Homes, LLC, v. McDonald*, 823 So.2d 627 (2001):** The purchaser of a manufactured home sued the seller for fraud, negligence, and conversion. An eight-justice majority rejected the motion to compel arbitration; one justice dissented.

***Oakwood Acceptance Corp. v. Hobbs*, 789 So.2d 847 (2001):** Plaintiffs alleged defendants harassed them for payment of home loans and denied owing money to defendants. A six-justice ruled to compel arbitration; two justices dissented.

***Arthur Rutenberg Homes, Inc. v. Norris*, 804 So. 2d 180 (2001):** The plaintiffs sued the defendant alleging it contracted to build their home and then defrauded them by having another company build the home. A six-justice majority overruled judgment for the plaintiff; one justice dissented.

***GEORGE H. LANIER MEM. HOSP. v. Andrews*, 809 So.2d 802 (2001):** Parents sued after the hospital donated their son's organs without their consent. A seven-justice majority reversed judgment for the plaintiffs, remanded; two justices dissented.

***AutoZone, Inc. v. Leonard*, 812 So. 2d 1179 (2001):** An employee sued alleging he was fired for filing a workers' compensation claim. A seven-justice majority affirmed judgment for the plaintiff; two justices dissented.

***Congress Life Ins. Co. v. Barstow*, 799 So. 2d 931 (2001):** The insured sued her insurer for delaying pre-authorization of benefits due to concerns about a preexisting condition. A seven-justice majority ruled for insurer; two justices dissented.

***GUBMK Constructors v. Carson*, 812 So.2d 1175 (2001):** An employee sued alleging he faced retaliation for filing a workers' compensation claim. An eight-justice majority ruled for employer; one justice dissented.

***Horton Homes, Inc. v. Brooks*, 832 So.2d 44 (2001):** The plaintiff sued the manufacturer of his manufactured home after he allegedly experienced leaks, crumbling cabinets, and warping of the floors. An eight-justice majority ordered remittitur of punitive damages; one justice dissented.

***Jim Walter Homes, Inc. v. Kendrick*, 810 So. 2d 645 (2001):** A homebuyer sued the seller, alleging defects in the home. An eight-justice majority overruled verdict for the plaintiff; one justice dissented.

***Allstate Ins. Co. v. Eskridge*, 823 So.2d 1254 (2001):** An employee sued his employer after he was terminated following sick leave. A six-justice majority overruled judgment for the plaintiff; three justices dissented.

***Green Tree Financial Corp. v. Lewis*, 813 So. 2d 820 (2001):** Homebuyers sued

the mobile home financier. A seven-justice majority ruled to compel arbitration; two justices dissented.

***Allied-Bruce Terminix Co. v. Butler*, 816 So. 2d 9 (2001):** The plaintiffs sued the exterminator alleging it negligently failed to rid their house of termites. A six-justice majority ruled to compel arbitration; three justices dissented.

***Blue Ribbon Homes Super Center, Inc. v. Bell*, 821 So. 2d 186 (2001):** Homebuyers sued the mobile home seller over defects. A seven-justice majority ruled to compel arbitration; two justices dissented.

***Auto-Owners Ins. Co. v. Abston*, 822 So. 2d 1187 (2001):** The insured sued the insurer over claims for injuries. A six-justice majority overruled judgment for plaintiffs; three justices dissented.

***Voyager Life Ins. Co. v. Hughes*, 841 So. 2d 1216 (2001):** The insured sued the insurer alleging fraud in sale of credit-disability insurance. An eight-justice majority affirmed denial of motion to compel arbitration; one justice dissented.

***Thrash v. Credit Acceptance Corp.*, 821 So. 2d 968 (2001):** The plaintiff sued the lender after its repossession service poured clear lubricant on their driveway while repossessing cars, and the plaintiff later slipped on the substance. An eight-justice majority overruled the

summary judgment for the defendant; one justice dissented.

***Alternative Financial Solutions, LLC v. Colburn*, 821 So. 2d 981 (2001):** Borrowers sued payday lenders, alleging that they violated Alabama lending laws. A seven-justice majority declined to compel arbitration because they concluded that the transactions did not affect interstate commerce; one justice dissented.

***Cavalier Manufacturing Inc. v. Jackson*, 823 So. 2d 1237 (2001):** Purchasers of a mobile home sued the manufacturer and alleged several defects in the home. An eight-justice majority rejected the motion to compel arbitration; one justice dissented.

***Ex parte Meadowcraft Industries, Inc.*, 817 So. 2d 702 (2001):** The plaintiff was working for a contractor at the defendant's plant when he was injured while repairing a conveyor belt. He sued and alleged that defendant's employees failed to maintain a safety roller on the belt. An eight-justice majority overruled the judgment for the employee; one justice dissented.

***Selma Medical Center, Inc. v. Fontenot*, 824 So. 2d 668 (2001):** Plaintiffs sought an injunction to stay the arbitration of the dispute with their employer over "excess revenue" payments. A five-justice majority lifted the order staying arbitration; four justices dissented.

***Ballard Services, Inc. v. Conner*, 807 So. 2d 519 (2001):** Plaintiffs sued a construction company hired to rebuild a burned building, alleging fraud and breach of contract. A seven-justice majority granted the order to compel arbitration; one justice dissented.

***Celtic Life Ins. Co. v. McLendon*, 814 So. 2d 222 (2001):** The plaintiff sued her insurer after it cancelled her policy, alleging that she failed to disclose a pre-existing condition. A five-justice majority ruled to compel arbitration; one justice dissented.

***Blue Cross & Blue Shield v. Woodruff*, 803 So.2d 519 (2001):** Plaintiffs filed a class-action suit against the insurer, alleging that it defrauded them by selling them policies the insurer knew was duplicative of benefits they were

entitled to receive from Medicaid. A seven-justice majority denied a motion to compel arbitration; one justice dissented.

***Travelers Indem. Co. of Illinois v. Griner*, 809 So. 2d 808 (2001):** The plaintiff was injured on the job while unloading wooden pallets, and he sued his employer and its workers compensation insurer after they allegedly delayed payment for medical expenses. A seven-justice majority affirmed the judgment for the plaintiff; one justice dissented.

***Russell Corp. Co.v. Sullivan*, 790 So.2d 940 (2001):** Plaintiffs sued the power company and textile plants for damage allegedly caused by the release of chemicals into a lake. A six-justice majority overruled the judgment for the plaintiffs; three justices dissented.

2002

***Porter v. Colonial Life & Acc. Ins. Co.*, 828 So.2d 907 (2002):** An eight-justice majority affirmed the granting of a motion to compel arbitration; one justice dissented

***Reynolds Metals Co. v. Hill*, 825 So. 2d 100 (2002):** Employees sued after their employer failed to pay the severance benefits it allegedly promised them after the sale of the employees' plan. An eight-justice majority overturned the class certification; one justice dissented.

***Keck v. Dryvit Systems, Inc.*, 830 So. 2d 1 (2002):** The plaintiff sued the defendant for negligently installing installation in their home. A six-justice majority affirmed summary judgment for defendants; one justice dissented.

***Jim Burke Automotive, Inc. v. McGrue*, 826 So. 2d 122 (2002):** A consumer sued the used-car dealer after discovering her car had previously been wrecked. A seven-justice majority granted a motion to compel arbitration; two dissented.

Liberty Nat. Life Ins. Co. v. Douglas, 826 So.2d 806 (2002): The plaintiff sued her employer after she was terminated following an on-the-job injury. An eight-justice majority declined to stay proceedings in favor of arbitration, finding that the contract did not affect interstate commerce; one justice dissented.

General Motors Acceptance Corp. v. Dubose, 834 So. 2d 67 (2002): Buyers sued the financiers of car purchases over improper fees. A six-justice majority denied class certification; three justices dissented.

Conseco Finance Corp. v. Boone., 838 So.2d 370 (2002): The plaintiffs sued the defendants, alleging fraud and other claims in connection with the sale and financing of a mobile home. A seven-justice majority affirmed the granting of a motion to compel arbitration; one justice dissented.

Conseco Finance v. Murphy., 841 So.2d 1241 (2002): The plaintiffs sued the defendants, alleging fraud. A seven-justice majority affirmed the granting of a motion to compel arbitration; one justice dissented.

Brookfield Const. Co. v. Van Wezel, 841 So.2d 220 (2002): Plaintiffs sued the company that constructed their home, alleging problems with the workmanship. An eight-justice majority affirmed the denial of the defendant's motion to compel arbitration; one justice dissented.

Leonard v. Terminix Intern. Co., LP, 854 So.2d 529 (2001): Homeowners sued the exterminators. A five-justice majority denied a motion to compel arbitration; four justices dissented.

Potter v. First Real Estate Co., Inc., 844 So.2d 540, (2002): Homebuyers sued the realtor for breach of contract. A six-justice majority affirmed the verdict for the plaintiff; three justices dissented.

Ronnie Smith's Home Center, Inc., v. Luster, 845 So.2d 764 (2002): The plaintiffs sued the company that constructed their home, alleging problems with the workmanship. An eight-justice majority affirmed the denial of the defendant's motion to compel arbitration; one justice dissented.

AmSouth Bank v. Dees, 847 So. 2d 923 (2002): A seven-justice majority granted a motion to compel arbitration; two justices dissented.

Mason v. Acceptance Loan Co., Inc., 850 So. 2d 289 (2002): Plaintiffs sued the defendants, alleging fraud and other claims in connection with the sale of credit-life and disability insurance. A seven-justice majority affirmed the granting of a motion to compel arbitration; one justice dissented.

Alabama Power Co. v. Aldridge, 854 So. 2d 554 (2002): An employee sued his employer for alleged retaliation for filing a workers compensation claim.

An eight-justice majority ruled that the defendant was entitled to a judgment as a matter of law; one justice dissented.

***Jim Walter Homes, Inc. v. Nicholas*, 843 So.2d 133 (2002):** A homebuyer sued the seller for fraud after discovering alleged defects in home. An eight-justice majority overturned verdict for the plaintiff; one justice dissented.

***Southern Bakeries, Inc. v. Knipp*, 852 So.2d 712 (2002):** An employee sued alleging damages from asbestos exposure. A six-justice majority entered judgment for the employer; three justices dissented.

***General Motors Corp. v. Kilgore*, 853 So.2d 171 (2002):** An employee sued

alleging damages from asbestos exposure. A six-justice majority entered judgment for the employer; three justices dissented.

***Cook's Pest Control, Inc., v. Rebar*, 852 So.2d 730 (2002):** The plaintiffs sued the exterminator, alleging problems with the workmanship. A six-justice majority affirmed the denial of the defendant's motion to compel arbitration; three justices dissented.

***Potts v. Baptist Health System, Inc.*, 853 So. 2d 194 (2002):** The plaintiff sued his employer for wrongful termination. A six-justice majority affirmed an order compelling arbitration; three justices dissented.

2003

***Parkway Dodge, Inc. v. Hawkins*, 845 So.2d 1129 (2003):** A car buyer sued the seller alleging it failed to disclose mechanical problems. A seven-justice majority granted a motion to compel arbitration; two justices dissented.

***Lyles v. Pioneer Housing Systems, Inc.*, 858 So.2d 226 (2003):** A homebuyer sued the manufacturer. A seven-justice majority granted a motion to compel arbitration; two justices dissented.

***Johnson Mobil Homes of Alabama v. Hathcock*, 855 So.2d 1064 (2003):** A

homebuyer sued the seller alleging that electrical problems caused the fire which destroyed the home. A seven-justice majority granted a motion to compel arbitration; two justices dissented.

***Baptist Health System, Inc., v. Mack*, 860 So.2d 1265 (2003):** An employee sued her employer alleging she was fired for filing a workers' compensation claim. A seven-justice majority granted a motion to compel arbitration; two dissented.

***Wal-Mart Stores, Inc. v. Smitherman*, 872 So.2d 833 (2003):** The plaintiff sued

the retailer after a dispute over one loaf of bread. A seven-justice majority dismissed the plaintiffs' claims; two justices dissented.

***McGuffey Health and Rehab. Center v. Gibson*, 864 So.2d 1061 (2003):** A patient sued the nursing home for malpractice after she was injured falling from her bed. A seven-justice majority granted a motion to compel arbitration; two justices dissented.

***Sears Termite & Pest Control v. Robinson*, 883 So.2d 153 (2003):** The plaintiff sued the pest control company after it guaranteed to rid her home of termites but failed to do so. A seven-justice majority granted a motion to compel arbitration; one justice dissented.

***Mack Trucks, Inc. v. Witherspoon*, 867 So. 2d 307 (2003):** An administrator sued the truck manufacturer after the decedent's truck rolled over and caught fire, resulting in his death. A seven-justice majority affirmed the judgment for the plaintiff; two justices dissented.

***Hales v. ProEquities, Inc.*, 885 So.2d 100 (2003):** The plaintiffs sued the investment company for allegedly defrauding them of their life savings. A seven-justice majority rejected order to compel arbitration; two justices dissented.

***Tyson Foods, Inc. v. McCollum*, 881 So. 2d 976 (2003):** An employee sued the employer for retaliation for filing work-

ers' compensation claim. A five-justice majority ruled for the employer; three justices dissented.

***Capitol Chevrolet & Imports, Inc. v. Payne.*, 876 So.2d 1106 (2003):** The plaintiffs sued the car dealer alleging conversion in reclaiming car. A seven-justice majority rejected order to compel arbitration; one justice dissented.

***Providian Natl Bank v. Screws.*, 894 So.2d 625 (2003):** Borrowers sued the bank over improper credit card fees. A five-justice majority rejected order to compel arbitration; three justices dissented.

***Bowen v. Security Pest Control*, 879 So.2d 1139 (2003):** Homeowners sued the exterminator. A seven-justice majority granted a motion to compel arbitration; one justice dissented.

***Liberty Natl Life Ins. Co v. Ester*, 880 So.2d 1112 (2003):** Insureds alleged insurer fraudulent induced them to buy insurance. A seven-justice majority granted a motion to compel arbitration; one justice dissented.

***Morris v. Cornerstone Propane Partners*, 884 So.2d 796 (2003):** After the plaintiffs filed a class-action complaint, the defendants moved for summary judgment. A seven-justice majority reversed the summary judgment for the defendants; one justice dissented.

***Mobile Infirmary Med. Ctr. v. Hodgen*, 884 So.2d 801 (2003)**: The patient suffered brain damage, organ failure, and amputation of a leg after nurses mistakenly administered five times the amount of a drug a doctor had prescribed. A five-justice majority ordered remittitur of punitive damages; three justices dissented.

***Coca-Cola Bottling Co. Consol. v. Hollander*, 885 So.2d 125 (2003)**: An employee alleged his employer termi-

nated him for filing for workers' compensation. A seven-justice majority entered judgment for employer; two dissented.

***State Farm Mut. Auto. Ins. Co. v. Harris*, 882 So.2d 849 (2003)**: The insured's son was driving and was hit by an uninsured motorist. He sued the insurer after it failed to pay his UIM claim, arguing he was not an "insured" under the policy. A six-justice majority overruled judgment for the plaintiff; one justice dissented.

2004

***Briarcliff Nursing Home v. Turcotte*, 894 So.2d 661 (2004)**: Administrators of patients sued the nursing home after patients died. A six-justice majority granted a motion to compel arbitration; two justices dissented.

***Dan Wachtel Ford, Lincoln, Mercury, Inc., v. Modas*, 891 So.2d 287 (2004)**: Car buyers sued the dealer. A six-justice majority granted a motion to compel arbitration; two justices dissented.

***Memberworks, Inc. v. Yance*, 899 So.2d 940 (2004)**: A customer sued the retailer after he was billed for automatically renewed membership. A five-justice majority ruled to compel arbitration; two justices dissented.

***Regions Bank v. Plott*, 897 So.2d 239 (2004)**: Customers sued the bank after

their checks were stolen and the bank's agents harassed them about bad checks. A six-justice majority ruled for the defendant; one justice dissented.

***Massey Automotive Inc., v. Norris*, 895 So.2d 215 (2004)**: Car buyers sued the dealer alleging the car had been damaged. A five-justice majority denied a motion to compel arbitration; three justices dissented.

***Chandiwala v. Pate Const. Co.*, 889 So.2d 540 (2004)**: The homeowner filed a suit against the construction companies and contractors after an inspection revealed moisture in his home. A seven-justice majority affirmed the summary judgment for the defendant; one dissented.

***Daimler Chrysler Corporation v. Morrow*, 895 So.2d 861 (2004)**: The plaintiff sued

the car manufacturer and dealer for breach of warranty after his truck exhibited problems. A seven-justice majority affirmed the summary judgment for the defendant; one justice dissented.

Regions Bank v. Plott, 897 So.2d 239 (2004): A six-justice majority ruled that the defendant was entitled to judgment as a matter of law; one justice dissented.

New Addition Club, Inc. v. Vaughn, 903 So.2d 68 (2004): A son and daughter sued the owners of a nightclub for negligence after their mother was shot and killed outside of the nightclub. A five-justice majority granted the judgment to the defendant; four justices dissented.

SCI Alabama Funeral Serv. Inc. v. Lanyon, 896 So.2d 495 (2004): Family members sued the funeral services company after the decedent's body began to decompose before the burial. An eight-justice majority granted the motion to compel arbitration; one justice dissented.

Alabama Power Co. v. Moore, 899 So.2d 975 (2004): The plaintiff sued the power company after coming into contact with an electrical wire. A seven-justice majority ruled that the defendant was entitled to judgment as a matter of law; one justice dissented.

Turner v. Westhampton Court, LLC, 903 So.2d 82 (2004): A homeowner sued the builder after the negligent installation of insulation allegedly caused moisture to seep in and warp the floor. An eight-justice majority overruled the summary judgment for the defendant on two of the plaintiff's claims; one justice dissented.

Nationwide Mut. Fire Ins. Co. v. Pabon, 903 So.2d 759 (2004): The plaintiff sued the insurer after it failed to pay a claim for a home fire because the insurer discovered several misrepresentations on the insured's application. A seven-justice majority overruled the judgment for the plaintiff; one justice dissented.

Patterson v. Liberty Nat. Life Ins. Co., 903 So.2d 769 (2004): The plaintiff sued the insurer after it failed to pay her claim on her son's life insurance policy because the insurer discovered misrepresentations on her application. An eight-justice majority overruled the judgment for the plaintiff; one justice dissented.

Flint Constr. Co. v. Hall, 904 So.2d 236 (2004): An employee sued his employer, who fired him after absences related to several on-the-job injuries. The employer claimed it was unaware of the injuries and was dissatisfied with his performance. An eight-justice majority affirmed the verdict for the plaintiff; one justice dissented.

2005

***Ex parte Family Dollar Stores of Alabama, Inc.*, 906 So.2d 892 (2005):**

A consumer sued the retailer after an employee allegedly accosted her and accused her of shoplifting. An eight-justice majority set aside a default judgment against the defendant; one dissented.

***Webb Wheel Products, Inc. v. Hanvey*, 922 So.2d 865 (2005):** An employee alleged he was fired for filing a workers' compensation claim. A five-justice majority entered judgment for the employer; four justices dissented.

***Edward D. Jones & Co. LP v. Ventura*, 907 So.2d 1035 (2005):** The plaintiff, who

received a settlement for a wrongful death claim as a child after his father was killed, sued the bank who managed the trust after he discovered it had no liquid assets. A seven-justice majority granted a motion for an order to compel arbitration; one justice dissented.

***Fortis Benefits Ins. Co. v. Pinkley*, 926 So.2d 981 (2005):** The plaintiff sued the life insurer after it refused to pay following a change of beneficiary, which the plaintiff claimed was obtained through fraud. An eight-justice majority granted the summary judgment to the defendants; one justice dissented.

2006

***Ocwen Loan Servicing, LLC v. Washington*, 939 So.2d 6 (2006):** The borrower sued her lender over the propriety and disclosure of several fees, penalties, and finance charges associated with a loan. An eight-justice majority rejected the motion to compel arbitration and found that bank waived the right to arbitration by litigating; one justice dissented.

***Jones v. Kassouf & Co., P.C.*, 949 So.2d 136 (2006):** The plaintiff sought to add the defendant to the lawsuit over

the alleged fraud after it learned that it had pleaded guilty to criminal fraud charges. An eight-justice majority affirmed the judgment for the defendant; one justice dissented.

***Jones Food Co., Inc. v. Shipman*, 981 So.2d 355 (2006):** An A/C repairman sued the owner of the premises where he was working after he fell from a ladder. An eight-justice majority ruled that the defendant was entitled to judgment as a matter of law; one justice dissented.

Davis v. Sterne, Agee and Leach, Inc.,

965 So.2d 1076 (2007): Surviving family members sued their father's investment fund manager. A seven-justice majority ruled for the defendant; two justices dissented.

Noland Health Services v. Wright,

971 So.2d 681 (2007): Relatives sued a nursing home after the patient fell and broke her neck. A five-justice majority rejected the motion to compel arbitration; four justices dissented.

Paw Paw's Camper City, Inc. v. Hayman,

973 So.2d 344 (2007): Buyers sued the seller of the camper alleging fraud. A six-justice majority rejected the motion to compel arbitration; three justices dissented.

H&S Homes, L.L.C. v. McDonald,

978 So.2d 692 (2007): Purchasers of the mobile home sued the manufacturer. A seven-justice majority entered judgment for defendant; two justices dissented.

Mobile Infirmary Ass'n v. Tyler,

981 So.2d 1077 (2007): A five-justice majority ruled that the plaintiff's damages award in malpractice action should be reduced; four justices dissented.

Burleson v. Rsr Group Florida, Inc.,

981 So.2d 1109 (2007): The estate sued the manufacturer and seller of the gun which killed the decedent. A seven-justice majority ruled for the defendant; two justices dissented.

Billy Barnes Enterprises, Inc. v. Williams,

982 So.2d 494 (2007): A "switchman" at a rail yard sued the defendant after he was injured when the defendant, driving a truck, allegedly failed to yield to an oncoming train. An eight-justice majority granted the defendant's motion to set aside settlement; one justice dissented.

Carroway Methodist Health Systems v.

Wise, 986 So.2d 387 (2007): The plaintiff was employed as general counsel for the defendant and sued for breach of contract, fraud, and other claims after he was terminated. A six-justice majority overruled judgment in favor of the plaintiff and affirmed judgment for the defendant on a cross-claim; three justices dissented.

Blue Circle Cement Inc. v. Phillips,

989 So.2d 1025 (2007): An employee sued the employer alleging retaliation for filing a workers' compensation claim. A six-justice majority ruled for the employer; three justices dissented.

***Griffin v. Unocal Corp.*, 990 So.2d 291**

(2008): A widow sued her husband's employer for wrongful death, alleging that exposure to benzene and other toxic chemicals led to his death. A five-justice majority reinstated the plaintiff's claim; four justices dissented.

***Ex Parte Morris*, 999 So.2d 932 (2008):**

An employee residing in Georgia was injured while delivering products for his employer in Alabama. An eight-justice majority affirmed denial of workers compensation benefits and held that filing for workers compensation in Georgia did not toll the statute of limitations; one justice dissented.

Johnson v. Jefferson County Racing

***Ass'n*, 1 So.3d 960 (2008):** The plaintiff sued on behalf of a class of persons to recover money spent on illegal slot machines. An eight-justice majority affirmed an order compelling arbitration; one justice dissented.

***Amerus Life Ins. Co. v. Smith*, 5 So.3d**

1200 (2008): An insured sued his insurer, alleging he was defrauded in being led to believe that his policy would be extended for 42 years without an increase in his premium. A seven-justice majority reversed the judgment for the plaintiffs and entered judgment for the defendant; one justice dissented.

***Ex Parte Dolgencorp, Inc.*, 13 So.3d 888**

(2008): A plaintiff employee was injured 33 months into her job, two months after she had been offered a salaried promotion. A seven-justice majority ruled that the employee's workers compensation benefits would be calculated using her average salary not the salary she was receiving when she was injured; one justice dissented.

***Killings v. Enterprise Leasing Co., Inc.*,**

9 So.3d 1216 (2008): The plaintiff was injured when a car leased through the defendant by his employer lost a wheel, and the defendant subsequently sold the car. A six-justice majority overruled the summary judgment for the defendant; three justices dissented.

***Brown v. Abus Kransysteme GmbH*, 11**

So.3d 788 (2008): A widow sued the manufacturer of a hoist, which was installed on a crane her husband was operating when the hoist snapped, allowing a beam to fall on her husband and kill him. An eight-justice majority affirmed the summary judgment for the defendant; one justice dissented.

KGS Steel, Inc. v. McInish (Ex parte

***McInish)*, 47 So.3d 767 (2008):** A truck driver sought workers' compensation for injuries sustained from vibration of truck. A seven-justice majority ruled for the employee; one justice dissented.

Carr v. International Refining & Mfg.

Co., 13 So.3d 947 (2009): The plaintiffs filed suit against the manufacturers of chemicals, which they said injured them in the course of their employment. An eight-justice majority overruled the trial court's dismissal of the employees' wantonness claims; one justice dissented.

Brown v. General Motors Corp., 14 So.3d

104 (2009): A car buyer sued the manufacturer for defects in the car within the five-year warranty period. An eight-justice majority ruled that the plaintiff's claims were not barred by the statute of limitations; one justice dissented.

Laster v. Norfolk Southern Ry. Co., Inc.,

13 So.3d 922 (2009): A boy lost his foot when he was playing with friends in the defendant's railyard and his foot was severed by a moving train. A seven-justice majority affirmed the summary judgment for the defendant; two justices dissented.

Cook's Pest Control, Inc. v. Rebar, 28

So.3d 716 (2009): Homebuyers sued the exterminators for failing to control a termite infestation. A seven-justice majority overruled the judgment for the plaintiff; one justice dissented.

Mobile Ob-Gyn, P.C. v. Baggett, 25 So.3d

1129 (2009): The patient was prescribed a blood pressure medication while pregnant, resulting in a miscarriage, but the

physician testified that he told the patient not to take the drugs when he learned she was pregnant. An eight-justice majority overruled the judgment for the plaintiff; one justice dissented.

DolgenCorp, Inc. v. Taylor, 28 So.3d 737

(2009): A customer sued a retailer after she tripped over two unopened boxes while shopping. A seven-justice majority overruled the judgment for the plaintiff and entered a judgment for the defendant; one justice dissented.

Collins v. Scenic Homes, Inc., 38 So.3d

28 (2009): Tenants sued the property owners after a fire destroyed the building and caused injuries. A seven-justice majority overruled the summary judgment for the defendants; two justices dissented.

Sparks v. Total Body, 27 So.3d 489

(2009): A customer sued the fitness company after ingesting diet supplements that allegedly caused them injuries. A five-justice majority ruled for the plaintiffs; four justices dissented.

Ex Parte Carlisle, 26 So.3d 1202 (2009):

The plaintiff sued her employer, alleging that her manager fondled her, "flashed" her, and made sexual remarks to her. A seven-justice majority rejected a protective order to prevent discovery of sexual harassment in the plaintiff's past sexual acts; one justice dissented.

***Owens-Ill., Inc. v. Wells*, 50 So.3d 413**

(2010): The plaintiffs sued the defendants over injuries allegedly sustained from asbestos exposure. A seven-justice majority overruled the summary judgment for the defendant; two justices dissented.

***Galaxy Cable Inc. v. Davis*, 58 So.3d 93**

(2010): A mother sued the cable company after her son tripped over a utility wire. An eight-justice majority affirmed the judgment for the mother on a negligence claim; one justice dissented.

***Weatherspoon v. Tillery Body Shop, Inc.*, 44 So. 3d 447**

(2010): The plaintiff's son stole her car and abandoned it in a parking lot, where it was towed by the defendant and sold at an auction. An eight-justice majority ruled that the plaintiff's claims are pre-empted by federal law; one justice dissented.

***Dixon v. Hot Shot Express, Inc.*, 44 So. 3d 1082**

(2010): The administrator of the decedent's estate sued the truck driver's employer after a truck in which decedent was a passenger experienced two flat tires, then hydroplaned and was struck by a tractor trailer. An eight-justice majority affirmed the judgment for the defendant; one justice dissented.

justice majority affirmed the judgment for the defendant; one justice dissented.

***Tenn. Health Mgmt., Inc. v. Johnson*, 49 So.3d 175**

(2010): The administrator of the decedent's estate sued the decedent's nursing home, alleging that while the patient was a resident, she suffered dehydration, a urinary-tract infection, and an abdominal blockage. An eight-justice majority ruled to compel arbitration; one justice dissented.

***Malool v. John Hancock Life Ins. Co.*, 60 So.3d 263**

(2010): The plaintiffs sued their insurer, alleging that it misrepresented that benefits would cover any estate taxes upon the insured's death, when the policies would likely have lapsed when the insureds were 78 years old. An eight-justice majority affirmed the judgment for the defendant; one justice dissented.

***Ex parte Regions Fin. Corp.*, 67 So. 3d 45**

(2010): Shareholders in investment funds sued the corporation, alleging securities fraud stemming from the collapse of the funds. A seven-justice majority dismissed the plaintiff's claims; one justice dissented.

Texas

The trend of increasing corporate campaign donations may have started with the Texas courts. By the mid-1990s, procorporate judges dominated the bench and routinely ruled in favor of corporate interests. Of the 100 cases in the data set, the court ruled for corporate defendants and against individual plaintiffs in 69 of the cases. As noted above, data is scant for the most recent years studied because the court reached many unanimous decisions.

1992

***Diamond Shamrock Refining and Marketing Co. v. Mendez*, 844 S.W.2d 198 (1992)**: An employee sued his employer after his former coworkers allegedly spread rumors that he was terminated for stealing. A four-justice majority affirmed the dismissal of intentional infliction of emotional distress and remanded the case for trial of a “false light” claim under the higher “malice” standard; three justices dissented.

***Russell v. Ingersoll-Rand Co.*, 841 S.W.2d 343 (1992)**: A widow sued the chemical manufacturers after her husband died from heart disease due to exposure to silica during his employment as a painter and sandblaster. The majority held that the plaintiff’s action for wrongful death was barred by the statute of limitations; two justices dissented.

***H.E. Butt Grocery Co. v. Warner*, 845 S.W.2d 258 (1992)**: The plaintiff sued the retailer after she slipped and fell in

a eight-inch puddle of water, chicken blood, and other fluids during a “bag your own chicken” promotion. A majority affirmed the trial court’s judgment for the defendants and held that the plaintiffs were not entitled to a new trial; two justices dissented.

***Shoemake v. Fogel, Ltd.*, 826 S.W.2d 933 (1992)**: A parent sued the apartment owner after her son drowned in its pool. A five-justice majority ruled to overturn a decision to reduce the jury award for the parent’s negligent supervision; four justices dissented.

***Bank One, Texas, N.A. v. Moody*, 830 S.W.2d 81 (1992)**: The plaintiff, in an earlier suit, was awarded a judgment against the mining company, and when the company refused to pay, he garnished its assets through the defendant bank. When the bank failed to respond to the writ of garnishment, the plaintiff sued. A majority granted the bank’s motion for a new trial; three justices dissented.

***Upshaw v. Trinity Companies*, 842**

S.W.2d 631 (1992): The children sued their father’s insurer, seeking to “stack” claims, but the insurance policy prohibited stacking. A majority ruled against the plaintiffs and held that the provision of policy that precluded “stacking” was not invalid; two justices dissented.

***Keetch v. Kroger Co.*, 845 S.W.2d 262**

(1992): A customer sued the grocery store after she allegedly slipped and fell when a slippery substance used to make the store’s plants appear shiny collected on the floor. A majority affirmed judgment against the defendant; three justices dissented.

***Elbaor v. Smith*, 845 S.W.2d 240 (1992):**

The patient sued her hospital and physicians after complications from the treatment of an ankle fracture left her permanently disabled. A majority ruled that the issue of contributory negli-

gence should have been submitted to a jury, and it ruled as invalid two settlement agreements, which required the defendants to participate in a trial and gave them a financial stake in the plaintiff’s recovery; three justices dissented.

***May v. United Services Ass’n of America*, 844 S.W.2d 666 (1992):**

An insured sued her insurer after her policy was transferred to another insurer and the new insurer cancelled the policy after she gave birth to a baby with congenital heart and lung disorders. A majority overruled the judgment for the plaintiff; three justices dissented.

***Havner v. E-Z Mart Stores, Inc.*, 825**

S.W.2d 456 (Tex., 1992): The estate sued the decedent’s employer after the decedent was killed at work, alleging the employer’s security was deficient. A majority ruled for the plaintiff; two justices dissented.

1993

***Otis Elevator Co. v. Parmelee*, 850**

S.W.2d 179 (1993): The administrator of the decedent’s estate sued the decedent’s employer after it failed to recognize her right to benefits, and the trial court effectively entered a default judgment against the employer for failing to participate in discovery. A majority overruled the judgment for the plaintiff; two justices dissented.

***Eli Lilly and Co. v. Marshall*, 850 S.W.2d**

155 (1993): A psychiatric patient’s family sued the manufacturer of Prozac after the patient committed suicide when he started taking the drug. A majority overruled a trial court order requiring the company to disclose certain information protected from disclosure by federal law; two justices dissented.

***General Chemical Corp. v. De La Lastra*, 852 S.W.2d 916 (1993):** The family of two fishermen sued a chemical manufacturer after the fishermen died from asphyxiation after using a chemical preservative on their catch. A majority ruled to reduce punitive damages; three justices dissented.

***First Title Co. of Waco v. Garrett*, 860 S.W.2d 74 (1993):** The land purchasers sued the title insurer after realizing that a restrictive covenant on the property prohibited the use to which they intended to put the land. A majority affirmed judgment for the plaintiff; four dissented.

***State Farm Fire & Cas. Co. v. S.S.*, 858 S.W.2d 374 (1993):** The plaintiff sued the insurer after its insured gave her herpes, but the insurer denied the claim based on the policy's exclusion for "intentional acts." A majority affirmed that the insurer was not entitled to a summary judgment; three justices dissented.

***Kramer v. Lewisville Memorial Hosp.*, 858 S.W.2d 397 (1993):** The plaintiffs sued the decedent's health care providers after they failed to diagnose the decedent's cervical cancer in time to prevent her death. A majority ruled that the plaintiffs could not pursue a claim of lost chance for survival in a medical malpractice case; three justices dissented.

***State Farm Fire & Cas. Co. v. Reed*, 873 S.W.2d 698 (1993):** The plaintiffs sued the insurer after their child died at the

insured's home child day care. A majority affirmed the summary judgment for the plaintiffs; two justices dissented.

***Ruiz v. Conoco, Inc.*, 868 S.W.2d 752 (1993):** The plaintiffs sued an oil company after he sustained severe and permanent head injuries while working at the company's oil rig. A majority granted the defendant's request to change venue; three justices dissented.

***National County Mut. Fire Ins. Co. v. Johnson*, 879 S.W.2d 1 (1993):** The insured's wife was injured, and he sued the insurer to declare invalid a family member exclusion in his policy. A five-justice majority ruled for the plaintiff; four justices dissented.

***Dresser Industries, Inc. v. Lee*, 880 S.W.2d 750 (1993):** The plaintiff sued the manufacturers of a product containing silica, which was used in his workplace, for failing to warn of the dangers presented. A majority reversed the judgment for the plaintiff and remanded; three justices dissented.

***General Motors Corp. v. Saenz on Behalf of Saenz*, 873 S.W.2d 353 (1993):** The plaintiffs sued a truck manufacturer for failing to warn of the dangers of overloading the truck after the decedent died when a tire exploded, and the truck flipped over. A majority overruled the judgment for the plaintiff and entered a judgment for the defendant; two justices dissented.

***Exxon Corp. v. Tidwell*, 867 S.W.2d 19 (Tex., 1993):** A gas station employee sued the landowner after he was shot

1994

***Forbau v. Aetna Life Ins. Co.*, 876 S.W.2d 132, 37 Tex.Sup.Ct.J. 345 (1994):** The plaintiff sued his insurer after it cancelled his policy and the new insurer refused to pay the medical expenses for his daughter. A six-justice majority ruled for the insurer; three justices dissented.

***Allstate Ins. Co. v. Watson*, 876 S.W.2d 145 (1994):** The plaintiff was injured in a car accident by the defendant's insured. She sued the insured and the insurer, alleging that the insurer acted in bad faith in settlement negotiations. A seven-justice majority ruled that a third party claimant cannot sue an insurer for unfair claim settlement practices; two justices dissented.

***Spencer v. Eagle Star Ins. Co. of America*, 876 S.W.2d 154 (1994):** The plaintiff sued his insurer after it refused to pay for damages caused by a fire. A six-justice majority overruled the appeals court's reversal of the verdict for plaintiff; three justices dissented.

***Hernandez v. Gulf Group Lloyds*, 875 S.W.2d 691 (1994):** Parents sued their insurer after their daughter was killed in an accident caused by an underinsured

during a robbery. A five-justice majority ruled for the defendant, remanded; two justices dissented.

young driver. The parents settled with the driver's insurer for the policy limits, and their insurer then denied their UIM claim for violating a provision of their UIM policy, which required the insurer's consent to settle. An eight-justice majority affirmed judgment for the plaintiffs; one justice dissented.

***Bridgestone/Firestone, Inc. v. Glyn-Jones*, 878 S.W.2d 132 (1994):** The plaintiff was injured when her car was struck by another vehicle, and she sued the manufacturer of her seat belt, alleging it was defective. A seven-justice majority ruled for plaintiff; two justices dissented.

***Goodyear Tire and Rubber Co. v. Portilla*, 879 S.W.2d 47 (1994):** An employee worked for many years under her brother, having been given approval to violate the employer's antinepotism policy, but the employee was fired after an audit revealed the violation. A seven-justice majority ruled for plaintiff; one justice dissented.

***Canadian Helicopters Ltd. v. Wittig*, 876 S.W.2d 304 (1994):** Surviving family members sued the defendant when their relatives were killed in a fatal

helicopter crash in Canada. A six-justice majority rejected the defendant's argument that the Texas courts lacked jurisdiction; three justices dissented.

***Union Bankers Ins. Co. v. Shelton*, 889 S.W.2d 278 (1994):** The plaintiff sued his insurer when it cancelled his policy for failing to disclose a pre-existing condition, of which plaintiff claimed he

was unaware when he applied for the policy. A five-justice majority affirmed the judgment for the plaintiff; three justices dissented.

***Moore v. Brunswick Bowling & Billiards Corp.*, 889 S.W.2d 246 (Tex., 1994):** A boat purchaser sued the seller for defects. A five-justice majority ruled for the plaintiff; three justices dissented.

1995

***Union Pump Co. v. Allbritton*, 898 S.W.2d 773 (1995):** An injured employee sued the manufacturer after its product caught fire, which was extinguished, and the plaintiff slipped on a pipe rack that became wet while the fire was extinguished. An eight-justice majority ruled for the defendant; one justice dissented.

***Transport Ins. Co. v. Faircloth*, 898 S.W.2d 269, 38 Tex.Sup.Ct.J. 424 (1995):** The plaintiff sued the insurer and others, claiming they defrauded her out of a claim settled when she was a child. The insurer argued that since the plaintiff was not actually the daughter of the decedents, she was entitled to nothing. A six-justice majority overruled the verdict for the plaintiff and entered judgment for the defendant; three justices dissented.

***Sonnier v. Chisholm-Ryder Co., Inc.*, 909 S.W.2d 475 (1995):** An employee sued

after part of his arm was severed while he was inspecting a tomato canning machine manufactured by the defendant. A five-justice majority ruled for the plaintiff; four justices dissented.

***State Farm Life Ins. Co. v. Beaston*, 907 S.W.2d 430 (1995):** An insured died three days after his "grace period" for missing payments resulted in cancellation of his policy, and his wife sued alleging that a dividend, payable on death, should have covered the delinquent payments. A seven-justice majority reversed the judgment for the plaintiff and ruled that she take nothing; two justices dissented.

***Abbott Laboratories, Inc. v. Segura*, 907 S.W.2d 503 (1995):** The plaintiffs sued manufacturers for allegedly conspiring to fix prices for baby formula and working with pediatricians to monopolize the market. A seven-justice majority reversed the judgment for the

plaintiffs and entered judgment for the defendant; two justices dissented.

***SmithKline Beecham Corp. v. Doe*, 903 S.W.2d 347 (Tex., 1995):** The plaintiffs

sued the drug testers. A five-justice majority threw out the plaintiff's negligence claim; three justices dissented.

1996

***Judice v. Mewbourne Oil Co.*, 939 S.W.2d 133 (1996):** The plaintiffs were due royalties for oil produced on land leased to the defendant, and the plaintiffs sued when the defendant deducted production costs pursuant to the lease. A seven-justice majority ruled for the defendant; two justices dissented.

***Saenz v. Fidelity & Guar. Ins. Underwriters*, 925 S.W.2d 607 (1996):** An employee was injured on the job and claimed that she was fraudulently induced to settle by the employer's workers compensation insurer. An eight-justice majority ruled that the plaintiff cannot recover actual or punitive damages; one justice dissented.

***Texas Beef Cattle Co. v. Green*, 921 S.W.2d 203 (1996):** The plaintiff sued the cattle company, alleging that it failed to pay him for the purchase of cattle. An eight-justice majority ruled for the defendants; one justice dissented.

***Golden Spread Council, Inc. No. 562 of Boy Scouts of America v. Akins*, 926 S.W.2d 287 (1996):** A mother sued the scouts, alleging it was negligent in failing to train or supervise a scout leader, who molested her son. An eight-justice majority ruled for the plaintiff; one justice dissented.

1997

***Grain Dealers Mut. Ins. Co. v. McKee*, 943 S.W.2d 455 (1997):** The plaintiff sued his insurer when it failed to pay claims for damages his daughter sustained in a car accident. An eight-justice majority ruled that the policy issued by the defendant insurance company does not

cover the plaintiff's claim; one justice dissented.

***State Farm Lloyds v. Nicolau*, 951 S.W.2d 444 (1997):** The plaintiffs filed a claim with the homeowners insurer for damage to the foundation of their home

caused by a water leak, and they sued after the insurer paid to fix the leak but not the foundation. A five-justice majority affirmed the judgment that the defendant acted in bad faith but denied exemplary damages; four justices dissented.

***St. Luke's Episcopal Hosp. v. Agbor*, 952 S.W.2d 503 (1997):** Parents sued the hospital where their baby suffered a permanently disabling injury to his arm during his birth. The parents alleged the hospital was grossly negligent in credentialing a physician, who had been sued several times and lacked proper insurance. A five-justice majority threw out the malpractice claim for credentialing; three justices dissented.

***Edinburg Hosp. Authority v. Trevino*, 941 S.W.2d 76 (1997):** Parents sued the hospital for negligence after their baby was stillborn, alleging that physicians

1998

***Texas Mexican Ry. Co. v. Bouchet*, 963 S.W.2d 52 (1998):** An employee was injured on the job and sued his employer, alleging that he was retaliated against for requesting medical expenses. An eight-justice majority ruled for the defendant and held that the retaliation claim was not available; one justice dissented.

***Lumbermens Mut. Cas. Co. v. Manasco*, 971 S.W.2d 60 (1998):** An employee

failed to monitor the fetal heartbeat. An eight-justice majority ruled that the plaintiffs cannot recover for wrongful death because the baby was stillborn; one justice dissented.

***Clayton W. Williams, Jr., Inc. v. Olivo*, 952 S.W.2d 523 (1997):** A contract employee was working on drilling a well on the plaintiff's oil lease when he fell from a pipe rack, landed on pipes left on the ground by the previous shift, and became partially paralyzed. An eight-justice majority overruled the judgment for the plaintiffs and found that he had not proved the defendant was liable for the negligent acts causing his injury; one justice dissented.

***Richey v. Brookshire Grocery Co.*, 952 S.W.2d 515 (Tex., 1997):** The plaintiff sued the retailer for malicious prosecution. A five-justice majority ruled for the defendant; four justices dissented.

injured his back on the job and was found to be impaired by a physician, whose ruling was overturned by a physician who re-examined him. An eight-justice majority ruled for the employer; one justice dissented.

***Collingsworth General Hosp. v. Hunnicutt*, 988 S.W.2d 706 (1998):** An employee was fired after she pled guilty to an assault, which occurred while she was off-duty. A seven-justice majority

ruled that the plaintiff's firing was justified; two justices dissented.

***Balandran v. Safeco Ins. Co. of America*, 972 S.W.2d 738 (1998):** Homeowners sued their home insurer after it refused to pay for damages resulting from a plumbing leak. A seven-justice majority ruled for the plaintiffs; two justices dissented.

***Maritime Overseas Corp. v. Ellis*, 971 S.W.2d 402 (1998):** An employee was severely injured on the job after he used a pesticide to attempt to control a roach problem on his employer's ship without diluting the pesticide. A six-justice majority affirmed the judgment for the plaintiff; two justices dissented.

***Insurance Co. of North America v. Morris*, 981 S.W.2d 667 (1998):** Investors sued the insurer of promissory notes issued by the energy company in which they invested, alleging that the company

misrepresented its past performance and other material facts. A seven-justice majority ruled against the plaintiffs; two justices dissented.

***Uniroyal Goodrich Tire Co. v. Martinez*, 977 S.W.2d 328 (1998):** The plaintiff sued the manufacturer of a tire, which exploded when he attempted to mount a 16-inch tire on a 16.5-inch rim, alleging that the warning of such a danger was inadequate. A five-justice majority ruled that the defendant was strictly liable; four justices dissented.

***State Farm Mut. Auto. Ins. Co. v. Traver*, 980 S.W.2d 625 (1998):** The insured sued her insurer, alleging that an attorney the insurer hired to defend her committed malpractice by failing to attend depositions and failing to offer a meaningful defense. A seven-justice majority ruled against the plaintiffs; two justices dissented.

1999

***Mellon Mortgage Co. v. Holder*, 5 S.W.3d 654 (1999):** The plaintiff was sexually assaulted by a police officer after he instructed her to drive into a parking garage owned by the defendant. A five-justice majority ruled to grant summary judgment to the defendant; three justices dissented.

***Provident American Ins. Co. v. Castaneda*, 988 S.W.2d 189 (1999):** The

plaintiff sued her father's health insurer after it refused to pay claims for treatment of her hereditary blood disease because she was diagnosed within 30 days of the issuance of the policy. A six-justice majority ruled for the defendants and ruled that the plaintiff take nothing; two justices dissented.

***Read v. Scott Fetzer Co.*, 990 S.W.2d 732 (1999):** The plaintiff was raped

by a door-to-door salesman and sued the manufacturer and distributor of the products being sold. A six-justice majority ruled for the plaintiff; three justices dissented.

***Gunn Infiniti v. O’Byrne*, 996 S.W.2d 854 (1999)**: A car buyer sued the car dealer after he discovered that the dealer lied about whether the car had ever been damaged and whether it had an airbag. An eight-justice majority ruled that the plaintiff could have mitigated his

damages and remanded the case; one justice dissented.

***Mid-Century Ins. Co. TX v. Lindsey*, 997 S.W.2d 153 (1999)**: The plaintiffs sued their insurer for UIM coverage after their son was shot when a boy was climbing into his parent’s truck and accidentally discharged a shotgun mounted in the truck. A six-justice majority affirmed the summary judgment for the plaintiff; three justices dissented.

2000

***Ford Motor Co. v. Sheldon*, 22 S.W.3d 444 (2000)**: Car buyers sued the manufacturer, alleging that removing primer from the painting process caused the paint to peel. An eight-justice majority ruled to decertify class; one justice dissented.

***Southwestern Refining Co. v. Bernal*, 22 S.W.3d 425 (2000)**: The plaintiffs sued after a “slop tank” at the defendant’s oil refinery exploded, allegedly spewing toxic smoke and gases into their community. A six-justice majority

ruled to decertify class action; three justices dissented.

***Amer. Airlines Empl Fed Credit Union v. Martin*, 29 S.W.3d 86 (2000)**: A customer sued his credit union after his girlfriend fraudulently added herself to his account and withdrew his money. A seven-justice majority ruled against the plaintiff because he did not object to the change in the account in the time required by his agreement with the credit union; two justices dissented.

2001

***Torrington Co. v. Stutzman*, 46 S.W.3d 829 (2001)**: Relatives of two Marines who were killed in a helicopter crash

sued the manufacturer of the bearing that failed, as well as other companies involved in the manufacture and distri-

bution of the helicopter. A seven-justice majority affirmed the judgment for the plaintiffs; two justices dissented.

***Lawrence v. CDB Services Inc.*, 44 S.W.3d 544 (2001)**: Employees injured on the job sued their employers, even though they had waived the right to assert common-law claims in their disability insurance forms. A six-justice majority

2002

***Argonaut Ins. Co. v. Baker*, 87 S.W.3d 526 (2002)**: A construction worker was injured when a third party crashed into him on the job site. After the employer did not pay any premiums, its workers compensation insurer sought reimbursement from the employee's settlement. An eight-justice majority ruled for the defendant and held that the plaintiff must reimburse the workers compensation insurer; one justice dissented.

***Columbia Hosp. Corp. of Houston v. Moore*, 92 S.W.3d 470 (2002)**: A patient's family members sued the hospital after the decedent died following surgery. A six-justice majority ruled for the defendant and held that prejudgment interest is subject to a cap on damages for medical malpractice actions; three justices dissented.

***Southwest Key Program, Inc. v. Gil-Perez*, 81 S.W.3d 269 (2002)**: The plaintiff,

affirmed the summary judgment for the employers; one justice dissented.

***Quantum Chemical Corp. v. Toennies*, 47 S.W.3d 473 (2001)**: An employee sued his employer, alleging that he was terminated due to age discrimination. A six-justice majority ruled that the plaintiff's claim could go forward; two justices dissented.

a minor, sued a "home for boys" for negligent supervision after he dislocated his knee playing tackle football. A seven-justice majority ruled that the plaintiff take nothing; two justices dissented.

***Centex Homes v. Buecher*, 95 S.W.3d 266 (2002)**: Home buyers sued the seller for breach of warranty. A five-justice majority ruled that the seller could validly disclaim the implied warranty of good workmanship; two justices dissented.

***Cvn Group, Inc. v. Delgado*, 95 S.W.3d 234 (2002)**: Home buyers contracted with home builders to construct a home and later alleged breach of contract and demanded arbitration. A six-justice majority ruled that the trial court exceeded its discretion in vacating the arbitration award for the builders; two justices dissented.

2003

***Progressive County Mut. Ins. Co. v. Sink*, 107 S.W.3d 547 (2003):** The plaintiff was injured when the insured, driving a rental car owned by his employer, caused an accident, and plaintiff filed a claim with the insurer under the insured's personal insurance policy. A six-justice majority ruled that the plaintiffs take nothing; three justices dissented.

***Wingfoot Enterprises v. Alvarado*, 111 S.W.3d 134 (2003):** A temporary employee was assigned to a stamping machine at the defendant's factory in violation of the agreement between the defendant and the temp agency, and she had the tips of three fingers sliced off by the machine. A seven-justice majority ruled that the plaintiff take

nothing in her suit against the temp company; one justice dissented.

***Natural Gas Pipeline Co. of America v. Pool*, 124 S.W.3d 188 (2003):**

Landowners sued the energy company, arguing that the parties' leases had terminated due to inactivity. A six-justice majority ruled that the company acquired leased land by adverse possession; one justice dissented.

***J.M. Davidson, Inc. v. Webster*, 128**

S.W.3d 223 (2003): An employee sued his employer, alleging that he was discriminated against for filing a workers compensation claim. A six-justice majority overruled the lower courts' ruling to compel arbitration and remanded; three justices dissented.

2004

***Fort Worth Osteopathic Hosp., Inc. v. Reese*, 148 S.W.3d 94 (2004):** A mother sued her hospital after she was admitted complaining of dizziness, nurses had trouble detecting fetal heartbeat, and baby was later stillborn. A seven-justice majority rejected the couples' wrongful death and survival claims for death of stillborn child; one justice dissented.

***Texas Farm Bureau Mut. Ins. Co. v. Sturrock*, 146 S.W.3d 123 (2004):** The insured was injured when his foot was caught while exiting his truck. A five-

justice majority ruled for the plaintiff and held that his injury was a "motor vehicle accident" for the purposes of his insurance policy; four justices dissented.

***Volkswagen of Am. Inc. v. Ramirez*, 159**

S.W.3d 897 (2004): The survivors of decedents sued after the decedents were killed when a car manufactured by the defendant lost a wheel and collided with their vehicle. A six-justice majority vacated the judgment for the plaintiff and granted judgment for the defendant; two justices dissented.

2005

***Diversicare General Partner, Inc. v. Rubio*, 185 S.W.3d 842 (2005):** The plaintiff, a resident of the defendant's nursing home, was allegedly sexually assaulted by the defendant's employee.

A six-justice majority ruled that the plaintiff's claims were barred by a statute of limitations for medical malpractice actions; three justices dissented.

2006

***Kroger Texas Ltd. Partnership v. Suberu*, 216 S.W.3d 788 (2006):** A customer sued the retailer for malicious prosecution after she was acquitted of criminal shoplifting charges. A seven-justice majority overruled the judgment for the plaintiff; two justices dissented.

***Tony Gullo Motors I, L.P. v. Chapa*, 212 S.W.3d 299 (2006):** A car buyer sued the dealer, alleging that it lied about the model of the car it sold her. A seven-justice majority threw out the damages awarded to the plaintiff; one justice dissented.

***Brookshire Grocery Co. v. Taylor*, 222 S.W.3d 406 (2006):** A customer sued the retailer after she slipped and fell on melted ice under a self-serve soft drink dispenser. A seven-justice majority overruled the judgment for the plaintiff and entered judgment for the defendant; two justices dissented.

***Bed, Bath & Beyond, Inc. v. Urista*, 211 S.W.3d 753 (2006):** A customer sued the retailer, alleging that he was injured when trashcans fell on him while an employee was seeking to retrieve merchandise from a shelf using a broom. A seven-justice majority overruled the appeals court's ruling that the plaintiffs were entitled to a new trial; two justices dissented.

2007

***F.F.P. Operating Partners, L.P. v. Duenez*, 237 S.W.3d 680 (2007):** A family was injured when a driver, who had already consumed a case and a half of beer that day, collided with their car after leaving

the defendant's convenience store to purchase more beer. A seven-justice majority vacated the judgment for the plaintiff and remanded for a new trial; two justices dissented.

***Perry Homes v. Cull*, 258 S.W.3d 580**

(2008): Home buyers sued the sellers and warranty companies after their home experienced structural and drainage problems. A five-justice majority ruled that the defendant was prejudiced by the plaintiff agreeing to arbitration after litigation had begun and vacated the arbitration award for the plaintiff; four justices dissented.

***Nationwide Ins. Co. v. Elchehimi*, 249**

S.W.3d 430 (2008): The insured sued his insurer for UIM benefits after an axle separated from a semi-truck and collided with the insured's vehicle. A seven-justice majority entered the summary judgment for the defendant because the accident was deemed not to be result of physical contact with another vehicle; two justices dissented.

***Providence Health Center v. Dowell*,**

262 S.W.3d 324 (2008): Parents sued the health care provider, alleging it was negligent in discharging their son after he made repeated suicide attempts and subsequently hung himself. A five-justice majority entered the judgment for the defendants; four justices dissented.

***General Elec. Co. v. Moritz*, 257 S.W.3d**

211 (2008): The plaintiff, an employee of an independent contractor, was injured when he fell from a ramp while unloading cargo at the defendant's

premises. A five-justice majority overruled the judgment for the plaintiff; three justices dissented.

***Forest Oil Corp. v. McAllen*, 268 S.W.3d**

51 (2008): Landowners, who had previously settled with the defendant over other issues, sued the defendant oil company for allegedly burying toxic materials on their property. A seven-justice majority ruled to compel arbitration; two justices dissented.

***In re Poly-America, L.P.*, 262 S.W.3d**

337 (2008): An employee sued his employer, alleging that he was terminated as retaliation for filing a workers compensation claim, and he had signed an arbitration agreement requiring the arbitration of disputes, a splitting of the costs of arbitration between the parties, and limited discovery. A seven-justice majority ruled to compel arbitration; one justice dissented.

United States Fidelity Guar. Co. v.

***Goudeau*, 272 S.W.3d 603 (2008):** The plaintiff exited his vehicle to help a driver injured in an accident when he was struck by another car and pinned against the disabled car. A six-justice majority ruled that the plaintiff cannot recover under his UIM policy because the policy only applied when he "occupied" the vehicle; three justices dissented.

2009

***Txi Operations, L.P. v. Perry*, 278 S.W.3d 763 (2009)**: A truck driver sued the landowner for failing to adequately warn him of a pothole, which he struck, causing him to strike his head on the roof of his truck. A six-justice majority ruled for the plaintiff; three justices dissented.

***Hcbeck, Ltd. v. Rice*, 284 S.W.3d 349 (2009)**: An employee was injured on the job and sued the company, which had contracted with his employer and obtained workers compensation insurance for the worksite. A six-justice majority entered the summary judgment for the defendant; two justices dissented.

***Energy Gulf States, Inc. v. Summers*, 282 S.W.3d 433 (2009)**: An employee was injured on the job and sued the company, which had contracted with his employer. A six-justice majority ruled that contract employees are

subject to the workers compensation statute and could not sue for negligence; three justices dissented.

***Tanner v. Nationwide Mut. Fire Ins. Co.*, 289 S.W.3d 828 (2009)**: The plaintiffs sued the insurer of a driver who struck their car while leading police on a high-speed chase. An eight-justice majority ruled for the plaintiff and held that the insurer was not entitled to summary judgment; one justice dissented.

***In re Morgan Stanley & Co., Inc.*, 293 S.W.3d 182 (2009)**: The manager of a trust fund, over which they received receivership in the same year that the customer was diagnosed with dementia, was sued after the trust fund's assets diminished significantly. A seven-justice majority declined to compel arbitration on the issue of whether the plaintiff lacked the mental capacity to sign an arbitration agreement; two justices dissented.

2010

***Leordeanu v. Am. Prot. Ins. Co.*, 330 S.W.3d 239 (2010)**: An employee sued her employer's workers compensation insurer after it refused to pay claims stemming from an accident she incurred while traveling from a sales meeting to a company-provided storage unit. An eight-justice majority ruled for the plaintiff and held that her injury

was in the course of employment; one justice dissented.

***Waffle House, Inc. v. Williams*, 313 S.W.3d 796 (2010)**: An employee sued her employer after she was sexually harassed by a coworker, and she recovered under a civil rights statute. A seven-justice majority ruled that the plaintiff

had no common-law claim for sexual harassment; two justices dissented.

***Marks v. St. Luke's Episcopal Hosp.*, 319 S.W.3d 658 (2010)**: A patient sued the hospital after he fell from a hospital bed, alleging the fall was caused by a defective footboard. A five-justice majority ruled the plaintiff's claim subject to the medical malpractice statute, which required a medical report, and dismissed the claim; four justices dissented.

***Robinson v. Crown Cork & Seal Co.*, 251 S.W.3d 520 (2010)**: A widow sued the manufacturer of an installation containing asbestos, a product with which her husband worked while in the Navy. A six-justice majority ruled for the plaintiff and held the retroactive asbestos law unconstitutional; two justices dissented.

Ohio

Ohio has long seen some of the most expensive judicial elections in the country. The abrupt and clear change in the ideology of the court is alarming. From 1992 to 2002, the court ruled for individual plaintiffs in 56 of the 68 cases studied. From 2002 to 2010, however, the court ruled for corporate defendants in 32 out of 36 cases studied.

1992

***Bowen v. Kil-Kare, Inc.*, 63 Ohio St.3d 84 (1992):** A race car driver sustained injuries during a race and sued the track owner, alleging negligence in its operation of the race. A four-justice majority ruled for the plaintiff; three justices dissented.

***Savage v. Correlated Health Serv., Ltd.*, 591 N.E.2d 1216 (1992):** A patient sued his chiropractor after his treatment resulted in a permanent condition causing loss of bowel control and sexual dysfunction. A four-justice majority affirmed the lower courts' rejection of the defendants' mistrial motion; three justices dissented.

***Derr v. Westfield Cos.*, 589 N.E.2d 1278 (Ohio, 1992):** The insured sued the insurer alleging it improperly reduced benefits for payments received from tortfeasor. A four-justice majority ruled for the insured; three justices dissented.

***State Farm Auto. Ins. Co. v. Alexander*, 583 N.E.2d 309 (Ohio, 1992):** The insured was a passenger in a car wrecked

by an underinsured driver. A five-justice majority ruled he was entitled to UIM coverage; two justices dissented.

***Motorist Mut. Ins. Co. v. Andrews*, 604 N.E.2d 142 (Ohio, 1992):** Parents sought UIM benefits after their child was killed in an accident caused by an underinsured truck driver. A six-justice majority ruled for the claimants; one justice dissented.

***Rambaldo v. Accurate Die Casting*, 603 N.E.2d 975 (Ohio, 1992):** An employee sought workers' compensation after he allegedly developed mental illness due to "dishonest" work duties. A five-justice majority ruled for the employee; two justices dissented.

***Grover v. Eli Lilly & Co.*, 591 N.E.2d 696 (Ohio, 1992):** A grandchild sued alleging that DES, a drug manufactured by the defendant and taken by her grandmother while pregnant with her mother, caused her child's birth defects. A five-justice majority ruled for the defendant; two justices dissented.

1993

***Gallimore v. Children's Hosp. Med. Ctr.*, 617 N.E.2d 1052 (1993)**: A mother sued the hospital, alleging that the hospital negligently administered an overdose of a drug to her infant child, causing him permanent hearing loss. A four-justice majority recognized the plaintiff's right to recover for the loss of consortium; three justices dissented.

***Savoie v. Grange Mut. Ins. Co.*, 620 N.E.2d 809 (1993)**: The decedent's mother sued her UIM insurer and the insurer of the driver whose negligence resulted in her daughter's death. A five-justice majority ruled for the plaintiffs and held that the provision prohibiting "intra-family stacking" of insurance claims did not bar recovery; two justices dissented.

1994

***Martin v. Midwestern Group Ins. Co.*, 639 N.E.2d 438 (1994)**: The plaintiff was injured when a drunk, uninsured driver struck him while he was riding his motorcycle. A five-justice majority ruled for the plaintiff and held invalid an exclusion in his UIM policy for vehicles owned by the insured but not listed on the policy; two justices dissented.

after it refused to pay a claim for damages resulting from a fire that destroyed his business. A five-justice majority affirmed judgment that the insurer failed to exercise good faith in the processing of a claim and held unconstitutional a law requiring the judge to assess punitive damages; two justices dissented.

***Miller v. Progressive Cas. Ins. Co.*, 635 N.E.2d 317 (1994)**: The plaintiff was injured in an accident caused by an uninsured driver, and he filed suit against his UIM insurer after they failed to agree on his claim. A five-justice majority ruled invalid a provision of the policy, which required the claimant to demand arbitration or file suit within one year of the date of the accident; two justices dissented.

***Galayda v. Lake Hosp. Sys., Inc.*, 644 N.E.2d 298 (Ohio, 1994)**: A patient sued the hospital due to post-surgery complications. A five-justice majority ruled a limit on future damages unconstitutional; two justices dissented.

***Zoppo v. Homestead Ins. Co.*, 644 N.E.2d 397 (1994)**: An insured sued his insurer

***Brennaman v. R.M.I. Co.*, 639 N.E.2d 425 (Ohio, 1994)**: Employees sued after injuries sustained when a pipe exploded and gas ignited. A four-justice majority ruled the statute of repose unconstitutional; three justices dissented.

***Gutierrez v. Police & Firemen's Disability & Pension Fund of Ohio*, 639 N.E.2d 39 (Ohio, 1994):** A police officer retired after injury and sought disability benefits. A four-justice majority ruled for the officer; three justices dissented.

***Hutchinson v. Ohio Ferro Alloys Corp.*, 636 N.E.2d 316 (Ohio, 1994):** A widow sued for workers' compensation, alleging her husband's death from pneumonia was caused by breathing silica dust. A five-justice majority ruled for the plaintiff; two justices dissented.

***Moskovitz v. Mt. Sinai Med. Ctr.*, 635 N.E.2d 331 (Ohio, 1994):** A patient sued after her physician's failure to diagnose a tumor led to the amputation of her leg and the physician then altered medical records. A four-justice majority ruled for the patient; three justices dissented.

1995

***McAuliffe v. W. States Import Co., Inc.*, 651 N.E.2d 957 (Ohio, 1995):** A bicyclist sued the bike manufacturer, alleging a design defect that caused his accident. A four-justice majority found that his claim was barred by statute of limitations; three justices dissented.

***Vance v. Consol. Rail Corp.*, 652 N.E.2d 776 (1995):** An employee sued his employer and alleged that his cowork-

***Clark v. Southview Hosp. & Family Health Ctr.*, 628 N.E.2d 46 (Ohio, 1994):** A mother sued the hospital after her daughter died of an asthma attack. A four-justice majority ruled for the plaintiff; three justices dissented.

***Hyde v. Reynoldsville Casket Co.*, 626 N.E.2d 75 (Ohio, 1994):** The plaintiff sued the defendant after its employee caused an accident in which she was injured. A five-justice majority ruled for the plaintiff; two justices dissented.

***Eastwood Mall, Inc. v. Slanco*, 626 N.E.2d 59 (Ohio, 1994):** A picketer sued the mall to challenge an injunction against the picket. A five-justice majority limited the reach of the injunction to avoid First Amendment violation; one justice dissented.

ers harassed and verbally abused him. A six-justice majority upheld the employee's intentional infliction of emotional distress claim; one justice dissented.

***Simpson v. Big Bear Stores Co.*, 73 Ohio St.3d 130, 652 N.E.2d 702 (Ohio, 1995):** The plaintiff sued the defendant after she was attacked after leaving its store. A four-justice majority ruled that the defendant was not liable; three justices dissented.

***Wright v. Honda of Am. Mfg., Inc.*, 73 Ohio St.3d 571, 653 N.E.2d 381 (Ohio, 1995):** An employee sued after she was

1996

***Hood v. Diamond Products, Inc.*, 658 N.E.2d 738 (Ohio, 1996):** An employee sued her employer, alleging she was fired for being diagnosed with cancer. A four-justice majority overruled the summary judgment for the employer; three justices dissented.

***Gallagher v. Cleveland Browns Football Co.*, 659 N.E.2d 1232 (Ohio, 1996):** A cameraman sued his employer when he was struck by NFL players while filming a game. A five-justice majority ruled for the employee and rejected assumption of risk defense; two justices dissented.

***Robb v. Chagrin Lagoons Yacht Club, Inc.*, 662 N.E.2d 9 (Ohio, 1996):** The plaintiff sued the club for malicious prosecution. A five-justice majority ruled for the defendant; two justices dissented.

***Mauzy v. Kelly Services, Inc.*, 664 N.E.2d 1272 (Ohio, 1996):** An employee sued his employer for age discrimination. A five-justice majority overruled the summary judgment for the employer; two justices dissented.

***Schaefer v. Allstate Ins. Co.*, 668 N.E.2d 913 (1996):** After a wife was injured by

fired for violating the anti-nepotism policy. A six-justice majority ruled for the employee; one justice dissented.

an uninsured motorist, her husband sued their UIM insurer, seeking damages for loss of consortium. A four-justice majority held that the claim is not subject to his wife's per-person limit; three justices dissented.

***Roberts v. Ohio Permanente Med. Group, Inc.*, 668 N.E.2d 480 (1996):** The plaintiff sued on behalf of a decedent, alleging that a health care provider's 17-month delay in diagnosing lung cancer meant that decedent lost her 28 percent chance of survival. A four-justice majority recognized the plaintiff's claim for wrongful death; three justices dissented.

***Gyori v. Johnston Coca-Cola Bottling Group, Inc.*, 669 N.E.2d 824 (Ohio, 1996):** An employee sought UIM coverage through his employer after he was in an accident. A four-justice majority found the employee was covered by UIM by operation of law; three justices dissented.

***Young v. The Morning Journal*, 669 N.E.2d 1136 (Ohio, 1996):** The plaintiff sued the defendant for libel. A five-justice majority ruled for the defendant; two justices dissented.

***Byrnes v. LCI Communication Holdings Co.*, 672 N.E.2d 145 (Ohio, 1996)**: An employee sued the employer for wrongful termination. A five-justice majority ruled for the employer; two justices dissented. 1997

***Stivison v. Goodyear Tire & Rubber Co.*, 687 N.E.2d 458 (1997)**: An employee filed a workers compensation claim after he was assaulted by a coworker after working hours. A four-justice majority ruled that the employee's injuries were not sustained in course of employment; three justices dissented.

***Kulch v. Structural Fibers, Inc.*, 677 N.E.2d 308 (Ohio, 1997)**: An employee sued his employer for wrongful termi-

nation, alleging he was fired for filing an OSHA complaint. A four-justice majority ruled for the employee; three justices dissented.

***Carrel v. Allied Products Corp.*, 677 N.E.2d 795 (Ohio, 1997)**: An employee lost some fingers working on a press manufactured by the defendant. A five-justice majority ruled for the plaintiff; two justices dissented.

***Weiss v. Thomas & Thomas Dev. Co.*, 680 N.E.2d 1239 (Ohio, 1997)**: The estate sued the gas company after the decedent was killed when his house exploded. A four-justice majority overruled the summary judgment for the defendant; three justices dissented.

1998

***Miller v. Bike Athletic Co.*, 687 N.E.2d 735 (Ohio, 1998)**: The plaintiff sued the helmet manufacturer after he was paralyzed playing high school football. A four-justice majority ruled for the plaintiff; three justices dissented.

***Texler v. D.O. Summers Cleaners & Shirt Laundry Co.*, 693 N.E.2d 271 (Ohio, 1998)**: The plaintiff sued the store after she tripped over concrete blocks propping open a door. A four-justice majority ruled for the plaintiff; three dissented.

***Ross v. Farmers Ins. Group of Companies*, 695 N.E.2d 732 (1998)**: Two insureds

sued their UIM insurers after they were denied coverage. A four-justice majority held that the plaintiffs' claims were not barred by statute of limitations because their actions accrued at the time of the accident before the limitations period was shortened; three justices dissented.

***Weiker v. Motorists Mut. Ins. Co.*, 694 N.E.2d 966 (1998)**: Daughter sued her father's insurer after he was killed in an accident caused by an underinsured driver and it denied coverage. A four-justice majority ruled for the plaintiff; three justices dissented.

***Bunger v. Lawson Co.*, 696 N.E.2d 1029 (1998)**: An employee filed a workers compensation claim for psychological injuries stemming from a robbery that occurred at her place of employment. A four-justice majority recognized a common-law remedy for her claim; three justices dissented.

***Hannah v. Dayton Power & Light Co.*, 696 N.E.2d 1044 (Ohio, 1998)**: An employee was killed when attempting a rescue operation at the power plant where we worked, after other employees failed to save him. The estate sued the employer. A four-justice majority overruled the summary judgment for the employer; three justices dissented.

1999

***Johnson v. BP Chemicals, Inc.*, 707 N.E.2d 1107 (Ohio, 1999)**: An employee sued his employer after he suffered severe burns on the job. A four-justice majority ruled unconstitutional a statute limiting intentional tort employment actions; three justices dissented.

***Wagner v. Roche Laboratories*, 709 N.E.2d 162 (Ohio, 1999)**: The plaintiff sued the manufacturer of an acne drug, alleging it caused injuries. A four-justice majority ruled for the plaintiff; three justices dissented.

***Selander v. Erie Ins. Group*, 709 N.E.2d 1161 (Ohio, 1999)**: The plaintiff was

***Williams v. Aetna Fin. Co.*, 700 N.E.2d 859 (1998)**: An elderly homeowner sued the lender for allegedly conspiring with a contractor to defraud her of money for work on her house that the contractor never performed. A four-justice majority ruled that civil conspiracy claims were not subject to arbitration and were subject to punitive damages; three justices dissented.

***Chambers v. St. Mary's School*, 697 N.E.2d 198 (Ohio, 1998)**: The plaintiff sued after he slipped on the defendant's icy steps while making a delivery. A four-justice majority ruled for the defendant; three justices dissented.

injured while driving company car in accident with underinsured driver. A four-justice majority granted the plaintiff UIM benefits; three justices dissented.

***Biddle v. Warren Gen. Hosp.*, 715 N.E.2d 518 (1999)**: A patient instituted class action against the hospital and law firm after the hospital allegedly disclosed patient information without consent to the law firm so the firm could determine if the patients were eligible for social security insurance. A five-justice majority recognized several common-law claims against the hospital; two justices partially dissented.

***Scott-Pontzer v. Liberty Mut. Fire Ins. Co.*, 710 N.E.2d 1116 (1999)**: A widow sued the insurer of her husband’s employer seeking benefits under UIM and “umbrella” policies. A four-justice majority said the employer’s UIM policy was ambiguous, construed it in favor of the claimant, and held that it covered the plaintiff’s husband, even though he was not acting within the scope of employment; three justices dissented.

2000

***Csulik v. Nationwide Mut. Ins. Co.*, 723 N.E.2d 90 (Ohio, 2000)**: The plaintiff sued the insurer over a UIM claim. A four-justice majority ruled for the plaintiff; three justices dissented.

***McMullen v. Ohio State Univ. Hosp.*, 725 N.E.2d 1117 (Ohio, 2000)**: The estate sued the hospital after decedent was deprived of oxygen, suffered irreversible brain damage, and died. A four-justice majority ruled for plaintiff; three justices dissented.

2001

***Bailey v. Republic Engineered Steels, Inc.*, 741 N.E.2d 121 (Ohio, 2001)**: An employee accidentally killed a co-worker when he ran over him with a

***Specht v. BP Am., Inc.*, 711 N.E.2d 225 (Ohio, 1999)**: An employee sued her employer over workers’ compensation. A four-justice majority ruled for the plaintiff; three justices dissented.

***Forbes v. Midwest Air Charter, Inc.*, 711 N.E.2d 997 (Ohio, 1999)**: The estate sued the pilot school after the decedent died in a crash while piloting a helicopter. A four-justice majority ruled for the plaintiff; three justices dissented.

***Gliner v. Saint-Gobain Norton Indus. Ceramics Corp.*, 732 N.E.2d 389 (Ohio, 2000)**: An employee sued employer alleging discrimination. A four-justice majority ruled for the plaintiff; three justices dissented.

***Hampel v. Food Ingredients Specialties Inc.*, 729 NE 2d 726 (2000)**: An employee sued his employer after facing harassment and retaliation from his manager. A four-justice majority declined to remand even though the jury instruction on sexual harassment was improper; three justices dissented.

tow motor, and he sought workers’ compensation benefits for depression. A four-justice majority ruled for the employee; three justices dissented.

***Royster v. Toyota Motor Sales, USA Inc.*, 750 NE 2d 531 (2001)**: The plaintiff sued the car dealer under lemon law after her car required a new head gasket nine months after she purchased it. A four-justice majority held that the plaintiff enjoyed a presumption of recovery and reinstated the summary judgment for the plaintiff; three justices dissented.

***Oberlin v. Akron Gen. Med. Ctr.*, 743 N.E.2d 890 (Ohio, 2001)**: A patient sued

2002

***Ferrando v. Auto-Owners Mut. Ins. Co.*, 781 N.E.2d 927 (2002)**: The plaintiff, a city employee, was clearing the road of debris that had fallen from a truck when the truck backed up and injured him. A four-justice majority overruled the judgment in favor of the plaintiff in his suit against his UIM insurer; three justices dissented.

***Fulmer v. Insura Prop. & Cas. Co.*, 760 NE 2d 392 (Ohio, 2002)**: The insured sued her insurer over a UIM claim. A four-justice majority ruled for the insured; three justices dissented.

***Norgard v. Brush Wellman, Inc.*, 766 N.E.2d 977 (Ohio, 2002)**: An employee sought workers' compensation benefits for a lung disease related to exposure to beryllium. A four-justice majority ruled for the employee; three justices dissented.

his health care provider after he allegedly sustained damage when an inflatable tourniquet was left on his arm too long. A five-justice majority ruled for the plaintiff; two justices dissented.

***Holeton v. Crouse Cartage Co.*, 748 N.E.2d 1111 (Ohio, 2001)**: The plaintiff sued after he was struck by the defendant's vehicle while working highway construction. A four-justice majority ruled for the plaintiff; three justices dissented.

***Gibson v. Drainage Products, Inc.*, 766 N.E.2d 982 (Ohio, 2002)**: The estate sued the decedent's employer after he was killed when a pipe exploded and molten plastic poured onto him. A five-justice majority ruled for the plaintiff; two justices dissented.

***Wiles v. Medina Auto Parts*, 773 N.E.2d 526 (Ohio, 2002)**: An employee sued his employer alleging that it retaliated against him by firing him for taking FMLA leave. A four-justice majority ruled for the employer; three justices dissented.

***Manigault v. Ford Motor Co.*, 775 N.E.2d 824 (2002)**: Car owners sued the manufacturer, alleging that the car accelerated suddenly and unexpectedly. A four-justice majority ordered new trial after the manufacturer offered misleading evidence which omitted audio of

its expert admitting that the problem occurred; three justices dissented.

***Dardinger v. Anthem Blue Cross*, 781 N.E.2d 121 (2002)**: A husband sued his wife's health insurer for mishandling her claims after it ceased paying for

a cancer treatment, although it had reduced her tumors, and his wife died. A four-justice majority reversed the lower court's overturning of the jury verdict but ordered a remittitur of the punitive damages award; three justices dissented.

2003

***Westfield Ins. Co. v. Galatis*, 797 N.E.2d 1256 (2003)**: The decedent's estate sued the UIM insurer of the decedent's employer. A four-justice majority over-

rules *Scott-Pontzer* and holds that an employers' UIM policy doesn't cover employees not within the scope of employment; three justices dissented.

2004

***Wilson v. Brush Wellman, Inc.*, 817 NE 2d 59 (2004)**: Union members sued their employer for negligence and other claims after they were allegedly exposed to toxic dust, and they sought to establish a medical monitoring fund. A five-justice majority rejected the class certification; two justices dissented.

***Howland v. Purdue Pharma L.P.*, 821 N.E.2d 141 (2004)**: Patients sued the manufacturer of OxyContin, an addictive painkiller, after they were prescribed the drug, became addicted, and suffered adverse consequences. A four-justice majority denied the class certification; three justices dissented.

***Dobran v. Franciscan Med. Ctr.*, 806 NE 2d 537 (Ohio, 2004)**: A patient sued the health care provider over skin cancer diagnosis. A four-justice majority ruled for the defendant; three justices dissented.

***Modzelewski v. Yellow Freight Sys., Inc.*, 808 NE 2d 381 (Ohio, 2004)**: A UPS employee sued the defendant after its truck driver struck him and pinned him against a loading dock. A five-justice majority ruled for the plaintiff; two justices dissented.

2005

***Rosette v. Countrywide Home Loans, Inc.*, 825 N.E.2d 599 (OH, 2005):** The plaintiffs sued the bank for allegedly failing to record satisfaction of their mortgages. A four-justice majority ruled for the plaintiffs; three justices dissented.

***Sarmiento v. Grange Mut. Cas. Co.*, 835 N.E.2d 692 (2005):** Plaintiffs sued their UIM insurer over claims for injuries sustained in an out-of-state accident. A five-justice majority ruled that the plaintiff's UIM claim was barred by the statute of limitations; two justices dissented.

2006

***Schirmer v. Mt. Auburn Obstetrics*, 844 N.E.2d 1160 (Ohio, 2006):** Parents sued for damages resulting from negligent genetic counseling tested, and sought damages for the resulting expenses of their disabled child. A four-justice majority ruled for the plaintiffs; three justices dissented.

***Hedges v. Nationwide Mut. Ins. Co.*, 846 N.E.2d 16 (Ohio, 2006):** The insured filed a UIM claim after her son was struck by a truck and killed while riding his bike. A five-justice majority ruled for the insurer; two justices dissented.

***Campbell v. Ohio State Univ. Med. Ctr.*, 843 N.E.2d 1194 (Ohio, 2006):** A patient sued after another patient injured her. A five-justice majority upheld the summary judgment for the defendant; two justices dissented.

***Arrington v. Daimlerchrysler Corp.*, 849 N.E.2d 1004, (Ohio, 2006):** An employee filed an asbestos claim against his employer. A four-justice majority ruled for the defendant; three justices dissented.

2007

***Arbino v. Johnson & Johnson*, 880 N.E.2d 420 (2007):** The plaintiff sued the manufacturer of a birth control "patch," which allegedly caused blood clots. A six-justice majority upheld the tort reform statute, which limits damages for injured plaintiffs, even

though it was similar to two other statutes ruled unconstitutional; one justice dissented.

***Ignazio v. Clear Channel Broadcasting, Inc.*, 865 N.E.2d 18 (2007):** An employee sued her employer, alleging that she

faced sex and age discrimination, as well as retaliation. A six-justice majority severed the unenforceable provision from an arbitration agreement, enforced the remainder, and compelled arbitration; one justice dissented.

***Curl v. Volkswagen of Am., Inc.*, 871**

N.E.2d 1141 (2007): A car buyer sued the manufacturer after he bought a car from the rental car company, which purchased it from the manufacturer, for breach of warranty. A six-justice majority rejected the federal warranty claim because of a lack of “privity” between parties; one justice dissented.

2008

***Ackison v. Anchor Packing Co.*, 897**

N.E.2d 1118 (2008): A widow sued her husband’s employer for allegedly exposing him to toxic asbestos and causing his death, but three months after she filed suit, a statute retroactively required certain medical documentation, which was unavailable because her husband was deceased. A five-justice majority held that the retroactive tort reform statute was constitutional; two justices dissented.

***Dombroski v. Wellpoint, Inc.*, 895 N.E.2d**

538 (2008): An insured sued her health insurer after it denied her a cochlear implant to ameliorate hearing loss because it deemed the treatment “investigational.” A six-justice majority held

***Glozzo v. Univ. Urologists of Cleveland*,**

870 N.E.2d 714 (2007): The patient filed a complaint for medical malpractice, served a handwritten letter extending the deadline for serving the defendants, and failed to perfect service. A six-justice majority threw out the malpractice suit for insufficient service, even though the defendants had responded to the complaint; one justice dissented.

***Snyder v. Am. Family Ins. Co.*, 871 N.E.2d**

574 (Ohio, 2007): The claimant sought UIM benefits. A five-justice majority ruled for the insurer; two justices dissented.

that the plaintiff could not “pierce the corporate veil”; one justice dissented.

***Burnett v. Motorists Mut. Ins. Co.*, 890**

N.E.2d 307 (2008): The plaintiff was injured in a car accident caused by her husband’s negligence and in his car. A six-justice majority upheld the statute limiting “intrafamily” coverage of the UIM policy; one justice dissented.

***Advent v. Allstate Ins. Co.*, 888 N.E.2d**

398 (2008): The administrator of the decedent’s estate sued the decedent’s UIM insurer, but the insurer claimed that it had unilaterally modified its coverage and notified the administrator of the change. A six-justice majority held that the insurer’s modification at the

beginning of the policy renewal period was valid; one justice dissented.

***Groch v. Gen. Motors Corp.*, 883 N.E.2d 377 (2008)**: The plaintiff was injured on the job by a machine manufactured by the defendant. A six-justice majority held that the products liability statute of repose was constitutional; one dissented.

2009

***Oliver v. Cleveland Indians Baseball Co.*, 915 N.E.2d 1205 (2009)**: Plaintiffs sued the baseball team owners for malicious prosecution, false arrest, and other claims after they were arrested in connection with an explosion at a baseball game and subjected to mistreatment by authorities. A five-justice majority held that the cap on compensatory damages is constitutional; two justices dissented.

***Lang v. Holly Hill Motel, Inc.*, 909 N.E.2d 120 (2009)**: The plaintiff sued after falling on a step at the defendant's motel, breaking a hip. A six-justice majority held that the "open-and-obvious doctrine" may be asserted as a defense to a claim of liability arising from a violation of state housing standards; one justice dissented.

***Casserlie v. Shell Oil Co.*, 902 N.E.2d 1 (2009)**: Gasoline purchasers alleged that oil companies set unfair prices. A six-justice majority rejected the plaintiffs' claims; one justice dissented.

***Turner v. Ohio Bell Tel. Co.*, 887 N.E.2d 1158 (Ohio, 2008)**: The estate sued the phone company after the decedent was killed when a vehicle in which he was riding struck a telephone pole. A five-justice majority ruled for the defendant; two justices dissented.

***Cundall v. U.S. Bank*, 909 N.E.2d 1244 (2009)**: Plaintiffs alleged that the bank and another trustee engaged in fraud and self-dealing. A six-justice majority said the lawsuit was barred by the statute of limitations; one justice dissented.

***Meyer v. United Parcel Service, Inc.*, 909 N.E.2d 106 (2009)**: An employee sued his employer, alleging that he was fired because of his age. A six-justice majority threw out the employee's age discrimination claim after an arbitrator found termination was justified; one justice dissented.

***Niskanen v. Giant Eagle, Inc.*, 912 N.E.2d 595 (2009)**: A mother filed a lawsuit against the retailer after her son died of asphyxiation following an altercation with its employees that occurred when her son left the store without paying for groceries. A six-justice majority threw out her claim and recognized the defense of self-defense to the negligence actions; one justice dissented.

Hayes v. Oakridge Home, 908 N.E.2d 408 (2009): A patient suffered injuries when she fell while a resident at the defendant’s nursing home. A six-justice majority held that the arbitration clause was not unconscionable due to resident’s age; one justice dissented.

Spiller v. Sky Bank-Ohio Bank Region, 910 N.E.2d 1021 (Ohio, 2009): A customer sought to redeem four decades-old CDs but the bank refused because it had no records. A six-justice majority ruled for the bank; one justice dissented.

2010

Bergman v. Monarch Constr. Co., 925 N.E.2d 116, (Ohio, 2010): An employee sued the employer for violating prevailing wage law. A five-justice majority ruled for the employer; two justices dissented.

Boley v. Goodyear Tire & Rubber Co., 929 N.E.2d 448 (2010): A widower sued his employer after his wife died from asbestos exposure that allegedly occurred when she washed her husband’s work clothes. A five-justice majority held that the defendant was not liable for claims for asbestos exposure unless the exposure occurred at the property; one justice dissented.

Estate of Hall v. Akron Gen. Med. Ctr., 927 N.E.2d 1112 (Ohio, 2010): The estate sued the decedent’s hospital after

Alexander v. Wells Fargo Financial Ohio 1, 911 N.E.2d 286 (Ohio, 2009): Borrowers sued their lenders for allegedly failing to record satisfaction of their mortgages. A six-justice majority ruled for the banks; one justice dissented.

Allen v. Totes/Isotoner Corp., 915 N.E.2d 622 (Ohio, 2009): An employee sued her employer for pregnancy and “lactatious” discrimination. A six-justice majority ruled for the employer; one justice dissented.

catheter infection and laceration, which led to death. A four-justice majority ruled for the defendant; three justices dissented.

McFee v. Nursing Care Mgmt. of America, Inc., 10 Ohio 2744 (Ohio, 2010): An employee sued her employer alleging pregnancy discrimination. A five-justice majority ruled for the employer; one justice dissented.

Stetter v. R.J. Corman Derailment Servs. LLC, 927 N.E.2d 1092 (2010); Kaminski v. Metal & Wire Prods. Co., 927 N.E.2d 1066 (2010): A six-justice majority upheld the statute that limits employers’ liability for intentional torts to situations where it actually intended to injure the employee; one justice dissented.

Michigan

The Michigan high court shows a clear tendency to rule for corporations over individual plaintiffs. Although its jurisprudence was somewhat balanced in the early 1990s, the cases studied overwhelmingly favor defendants. Out of the 134 cases in the data set, 105 resulted in a ruling for the corporate defendant.

1992

***Group Ins. Co. of Michigan v. Czopek*, 489 N.W.2d 444 (1992):** The plaintiff police officers sustained injuries while trying to subdue the insured, who was drunk and belligerent, and the insurer refused to pay the claims. A six-justice majority ruled the injuries were not covered by the insurance policy because they were not the result of an “accident”; one justice dissented.

***Rohlman v. Hawkeye-Security Ins. Co.*, 442 Mich. 520 (1992):** The plaintiff was a passenger in the insured’s van when he got out of the car to reattach a trailer, which had become unhitched from the van. The plaintiff was struck by an unidentified motorist and filed a claim with the insurer. A five-justice majority ruled the plaintiff was not covered by a personal injury policy; two justices dissented.

***Priesman v. Meridian Mut. Ins. Co.*, 441 Mich. 60 (1992):** The insured’s teenage son took her car without permission, wrecked it, and sustained severe injuries. She filed suit with her no-fault

insurer after it refused the claim. A four-justice majority found that her son was covered by the policy; three justices dissented.

***Plummer v. Bechtel Construction Co.*, 489 N.W.2d 66 (1992):** The employee of the subcontractor was injured when he fell from an unguarded scaffold and sued the general contractor. A five-justice majority affirmed the judgment for the plaintiff; two justices dissented.

***Adkins v. Thomas Solvent Co.*, 487 N.W.2d 715 (1992):** Adjacent landowners sued a solvent company alleging that chemicals emanating from its property had contaminated their drinking water. A five-justice majority dismissed the plaintiffs’ claims; two justices dissented.

***Kassab v. Michigan Basic Property Ins. Ass’n*, 491 N.W.2d 545 (1992):** The insured sued his insurer, alleging that it refused to pay his fire-loss claim due to his national origin. A five-justice majority dismissed the plaintiff’s civil rights claim; two justices dissented.

***Marzonie v. Auto Club Ins. Ass'n*, 495 N.W.2d 788 (1992):** The insured was sitting in his car when he was shot in the face following an altercation and

1993

***Schultz v. Consumers Power Co.*, 506 N.W.2d 175 (1993):** The estate sued the power company for failing to inspect and repair a power line after the decedent was fatally electrocuted while painting a home. A five-justice majority affirmed the verdict for the plaintiff; two justices dissented.

***Dudewicz v. Norris-Schmid, Inc.*, 503 N.W.2d 645 (1993):** The employee sued his employer after he was injured when his manager physically assaulted him. A six-justice majority overruled the summary judgment for the defendant; one justice dissented.

***Pierce v. General Motors Corp.*, 504 N.W.2d 648 (1993):** The plaintiff was awarded workers compensation benefits for alcoholism and a related nervous condition. A four-justice majority ruled that alcoholism cannot be part of the disability analysis for workers compensation; three justices dissented.

***Clevenger v. Allstate Ins. Co.*, 505 N.W.2d 553 (1993):** The insured sold her car to an intoxicated person, who crashed into plaintiff after the purchase. A five-justice majority ruled the policy

sued his insurer to recover under his personal injury policy. A six-justice majority entered summary judgment for the insurer; one justice dissented.

remained in effect after the insured transferred the title; one justice dissented.

***Moll v. Abbott Laboratories*, 506 N.W.2d 816 (1993):** The plaintiff and others sued the manufacturer of the drug DES, which her mother took while pregnant with her. She alleged DES caused her reproductive problems and miscarriage. A four-justice majority entered summary judgment for the defendants based on the statute of limitations; three justices dissented.

***Rood v. General Dynamics Corp.*, 507 N.W.2d 591 (1993):** Two salaried employees sued their employer for wrongful termination. A six-justice majority entered summary judgment for the defendants based on the plaintiffs' at-will employment status; one justice dissented.

***Profit v. Citizens Ins. Co. of America*, 506 N.W.2d 514 (1993):** The plaintiff insured was severely injured, and his insurer deducted social security disability benefits from his benefits. A four-justice majority ruled for the insured; three justices dissented.

***Mull v. Equitable Life Assur. Soc. of U.S.*, 510 N.W.2d 184 (1993)**: Due to a coworker's negligence, an employee's foot was crushed while hanging Christmas decorations at a mall. A four-justice majority affirmed the verdict against the employer's insurer; three justices dissented.

1994

***Sobotka v. Chrysler Corp.*, 523 N.W.2d 454 (1994)**: An employee was injured while inspecting a vehicle body when another body moved down the assembly line and pinned him between the two. A four-justice majority ruled the plaintiff was entitled to workers compensation; three justices dissented.

***Buczowski v. Allstate Ins. Co.*, 526 N.W.2d 589 (1994)**: The insured fired a gun at the defendant's car, the bullet ricocheted and struck the claimant, and the insured sought indemnification from the home insurer. A four-justice majority overruled the summary judgment for the defendant; three justices dissented.

***Gibson v. Bronson Methodist Hosp*, 517 N.W.2d 736 (1994)**: The plaintiff sued his daughter's hospital after she suffered residual effects from brain surgery. He alleged the defendant lied about the availability of a second opinion. A five-justice majority overruled the summary judgment for the defendant; two justices dissented.

***Scott v. Harper Recreation, Inc.*, 506 N.W.2d 857 (1993)**: The plaintiff sued the nightclub after he was shot six times in its parking lot. A six-justice majority entered summary judgment for the defendant; one justice dissented.

***Lawrence v. Will Darrah & Associates, Inc.*, 516 N.W.2d 43 (1994)**: The insured sued his insurer for lost profits when the insurer delayed paying his claim for the theft of his commercial truck. A five-justice majority overruled the directed verdict for the defendant; two justices dissented.

***McKissack v. Comprehensive Health Services of Detroit*, 523 N.W.2d 444 (1994)**: An employee was injured when she fell in the employer's parking lot. A four-justice majority ruled the employee was disabled for the purposes of workers compensation; three justices dissented.

***Pulver v. Dundee Cement Co.*, 515 N.W.2d 728 (1994)**: The employer of the injured employee could not find a new job assignment which she could perform, so she moved to Florida and later rejected a new offer from the employer. A four-justice majority ruled for the employee; three justices dissented.

***Skinner v. Square D Co.*, 516 N.W.2d 475 (1994)**: The estate sued the manufacturer after the decedent was electrocuted by a homemade tumbler, which included a switch made by the defendant. A five-justice majority affirmed the summary judgment for the defendant; one justice dissented.

***Paschke v. Retool Industries*, 519 N.W.2d 441 (1994)**: An employee sued his employer after his workers compensation claim was denied because when he

filed for unemployment, he claimed he was able to work. A five-justice majority reinstated the verdict for the employee; two justices dissented.

***Borman v. State Farm Fire & Cas. Co.*, 521 N.W.2d 266 (1994)**: The insured sued her insurer after it refused the claim for damage to personal property resulting from a fire that her grandson caused at his property. A four-justice majority ruled for the plaintiff; three justices dissented.

1995

***Heniser v. Frankenmuth Mut. Ins. Co.*, 449 Mich 155 (1995)**: The plaintiff sued her home insurer on a claim for fire damages that occurred after she sold the property. A five-justice majority affirmed that the plaintiff could not recover; two justices dissented.

***Auto Club Group Ins. Co. v. Marzonie*, 527 N.W.2d 760 (1995)**: After a road rage incident, the insured fired his shotgun at the claimant and injured him. A six-justice majority ruled that the plaintiff's injury was not covered by the insurance policy; one justice dissented.

***Gregory v. Cincinnati Inc.*, 538 N.W.2d 325 (1995)**: The employee's thumb was amputated after he was injured on a metal press manufactured by the defendant. A four-justice majority overruled the judgment for the plaintiff; three justices dissented.

***Phillips v. Butterball Farms Co., Inc.*, 531 N.W.2d 144 (1995)**: The employee was injured at work, filed for workers compensation, and was terminated, all within her "probationary" period. A four-justice majority ruled for the employee; two justices dissented.

***DeMeglio v. Auto Club Ins. Ass'n*, 534 N.W.2d 665 (1995)**: The plaintiff was 12 years old when she was struck by the insured's vehicle while riding her bicycle. A four-justice majority overturned the summary judgment for the plaintiff; two justices dissented.

***Bourne v. Farmers Ins. Exchange*, 534 N.W.2d 491 (1995)**: The insured was injured when his car was hijacked. A six-justice majority affirmed the summary judgment for the defendant; one justice dissented.

***Drouillard v. Stroh Brewery Co.*, 536 N.W.2d 530 (1995):** The employees alleged they were compelled to accept early retirement benefits when the plant closed, foreclosing the option of coordinating disability benefits. A five-justice majority ruled for the employer; two justices dissented.

***Bertrand v. Alan Ford, Inc.*, 537 N.W.2d 185 (1995):** Customers sued the retailer after they fell on the steps at the premises. A five-justice majority reinstated the summary judgment for the defendant; two justices dissented.

1996

***Corl v. Huron Castings, Inc.*, 544 N.W.2d 278 (1996):** The employee sued his employer, alleging wrongful termination. A four-justice majority ruled for the employer; three justices dissented.

***Ghrist v. Chrysler Corp.*, 547 N.W.2d 272 (1996):** The employee was injured when his hand was caught in a die manufacturer by the defendant. A six-justice majority overruled the summary judgment for the defendant; one justice dissented.

***Quinto v. Cross and Peters Co.*, 547 N.W.2d 314 (1996):** The employee sued her employer, alleging that her managers discriminated against her on the basis of age, gender, and national origin.

***Allstate Ins. Co. v. Keillor*, 537 N.W.2d 589 (1995):** The plaintiff sued the insured after he gave alcohol to a minor, who killed the plaintiff's wife in car accident, and the insured sought indemnification from his home insurer. A six-justice majority ruled for the insurer; one justice dissented.

***Michales v. Morton Salt Co.*, 538 N.W.2d 11 (1995):** The employee filed for workers compensation after he lost his hearing due to noise at work and claimed his manic depression was aggravated by his job. A six-justice majority ruled for the employer; one justice dissented.

A five-justice majority affirmed the summary judgment for the defendant; one justice dissented.

***Travis v. Dreis and Krump Mfg. Co.*, 551 N.W.2d 132 (1996):** An employee lost two fingers when the press she was working on malfunctioned. She sued the employer, alleging that it knew the press was faulty. A five-justice majority ruled for the defendant; two justices dissented.

***Derr v. Murphy Motors Freight Lines*, 550 N.W.2d 759 (1996):** An employee was injured and had his workers compensation benefits revoked when he refused a light-duty job but had benefits reinstated upon the employer's bankruptcy.

A four-justice majority ruled for the employer; two justices dissented.

Simkins v. General Motors Corp., 556 N.W.2d 839 (1996): An employee was

1997

Town v. Michigan Bell Telephone Co., 568 N.W.2d 64 (1997): Employees sued their employers, alleging they were discriminated against on the basis of age. A four-justice majority entered summary judgment for the defendant; three justices dissented.

Haske v. Transport Leasing, Inc., Indiana, 566 N.W.2d 896 (1997): A firefighter was injured while pulling a victim from a wrecked car and could not work as a firefighter but continued working his part-time job as an electrician. A four-justice majority reversed the denial of benefits and remanded; two justices dissented.

Mason v. Royal Dequindre, Inc., 566 N.W.2d 199 (1997): Plaintiffs sued the bar owners for a physical assault that occurred at the bar after one of the plaintiffs warned bar employees to call the police. A five-justice majority ruled for the plaintiffs; two justices dissented.

Auto-Owners Ins. Co. v. Harrington, 565 N.W.2d 839 (1997): The insured shot and killed an intoxicated and aggressive

struck by a car while walking from the employee parking lot to her workplace. A six-justice majority reversed the judgment for the employer and remanded; one justice dissented.

man who was climbing up his garage. The insured sought indemnification from the insurer. A five-justice majority entered summary judgment for the insurer; two justices dissented.

Empire Iron Min. Partnership v. Orhanen, 565 N.W.2d 844 (1997): A four-justice majority ruled that striking employees were requalified for unemployment benefits; three justices dissented.

Kidder v. Miller-Davis Co., 564 N.W.2d 872 (1997): A construction worker was impaled through the neck by a piece of jagged steel being hoisted on a crane and then burned by a torch. A four-justice majority affirmed the summary judgment for the contractor; three justices dissented.

Lindsey v. Harper Hosp., 564 N.W.2d 861 (1997): The estate sued the decedent's hospital for allegedly failing to timely diagnose a post-surgical infection, leading to amputation and death. A four-justice majority ruled the claim was barred by the statute of limitations; two justices dissented.

***Hagerman v. Gencorp Automotive*, 579 N.W.2d 347 (1998):** An employee was injured at work, drank large quantities of water per the doctors advice, and experienced complications from low sodium. A four-justice majority granted workers compensation benefits; three justices dissented.

***Klinke v. Mitsubishi Motors Corp.*, 581 N.W.2d 272 (1998):** A father sued the car manufacturer, alleging defects that contributed to accident in which his daughter was killed. A five-justice majority ruled for the defendant and held that the seat-belt statute does not apply; two justices dissented.

***Kubczak v. Chemical Bank & Trust Co.*, 575 N.W.2d 745 (1998):** The plaintiff realtor was injured when she allegedly slipped in oil and water outside a home that had been foreclosed upon by the defendant. A five-justice majority ruled against the plaintiff; two justices dissented.

***Jacobson v. Parda Federal Credit Union*, 577 N.W.2d 881 (1998):** An employee reported a potentially fraudulent bond claim by her employer and sued for retaliation. A four-justice majority ruled the claim was not barred by the statute of limitations; three justices dissented.

***Chmielewski v. Xermac, Inc.*, 580**

N.W.2d 817 (1998): An employee had a liver transplant and alleged that the employer fired him due to higher insurance premiums from the resulting medications. A five-justice majority affirmed the judgment for the defendant; two justices dissented.

***Rourk v. Oakwood Hosp. Corp.*, 580**

N.W.2d 397 (1998): An injured nurse was terminated because she was unable to do her job and sued for disability discrimination. A five-justice majority affirmed the summary judgment for the employer; two justices dissented.

***Morales v. Auto-Owners Ins. Co.*, 582**

N.W.2d 776 (1998): The insured refused to pay claims, alleging the policy lapsed due to untimely payments. A five-justice majority reversed summary judgment for the defendant, which had continued accepting late payments; two justices dissented.

***McKenzie v. Auto Club Ins. Ass'n*, 580**

N.W.2d 424 (Mich., 1998): Insured nearly suffocated when carbon monoxide leaked into trailer camper in which he was sleeping. A four-justice majority entered summary judgment for auto insurer, three justices dissented.

1999

***Hoste v. Shanty Creek Management, Inc.*, 592 N.W.2d 360 (1999):** A five-justice majority ruled that the plaintiff was not entitled to workers compensation; two justices dissented.

***Donajkowski v. Alpena Power Co.*, 596 N.W.2d 574 (1999):** Female employees sued their employer after they were the only employees assigned to a low-wage category under union contract. A five-justice majority ruled the employer could seek contribution from the union; two justices dissented.

***Henderson v. State Farm Fire and Cas. Co.*, 596 N.W.2d 190 (1999):** The plaintiff was stabbed at the insured's home. The insurer refused to indemnify tortfeasor, who was staying at the home temporarily. A five-justice majority overruled the ruling for the plaintiff; two justices dissented.

***Smith v. Globe Life Ins. Co.*, 597 N.W.2d 28 (1999):** The estate sued the life insurer after it refused to pay a claim due to the insured's misrepresentations of his health. A five-justice majority ruled

the defendant was entitled to summary judgment; two justices dissented.

***Foster v. Cone-Blanchard Mach. Co.*, 597 N.W.2d 506 (1999):** The plaintiff's hair and scalp were torn from her head after it became caught in a screw machine made by the defendant. A four-justice majority entered the summary judgment for the defendant; three justices dissented.

***Farm Bureau Mut. Ins. Co. v. Nikkel*, 596 N.W.2d 915 (1999):** The insurer refused to indemnify the insured after he caused a fatal accident while driving a company truck owned by his father's business. A five-justice majority ruled for the defendant; two justices dissented.

***Morosini v. Citizens Ins. Co. of America*, 602 N.W.2d 828 (1999):** The insured's car was struck in a fender-bender, and he was assaulted when he exited the vehicle to inspect the damage. He sued the insurer over the claim for his resulting injuries. A five-justice majority entered judgment for the defendant; two justices dissented.

2000

***DiBenedetto v. West Shore Hosp.*, 605 N.W.2d 300 (2000):** The plaintiff was injured while working as a nurse and

sought workers compensation. A five-justice majority ruled for the defendant; two justices dissented.

***Yerkovich v. AAA*, 610 N.W.2d 542**

(2000): The plaintiff's daughter was injured in a car accident and he sued the insurer over a claim for her medical expenses. A four-justice majority ruled for the insurer; one justice dissented.

***Page v. Klein Tools, Inc.*, 610 N.W.2d 900**

(2000): The plaintiff fell from a utility pole and sued a school that trained him how to climb utility poles, alleging it failed to properly train him. A five-justice majority entered summary judgment for the defendant; two justices dissented.

***Bean v. Directions Unlimited, Inc.*, 609**

N.W.2d 567 (2000): The plaintiff's developmentally disabled adult daughter was allegedly sexually abused by an employee of the defendant, a rehabilitation center. A five-justice majority reinstated the judgment for the defendant; two justices dissented.

Stitt v. Holland Abundant Life

***Fellowship*, 614 N.W.2d 88 (2000):** The plaintiff tripped over a concrete tire stop in the defendant's parking lot. A five-justice majority reinstated the judgment for the defendant; two justices dissented.

***Connaway v. Welded Construction Co.*,**

614 N.W.2d 607 (2000): An employee slipped on a pipe at a construction site

and injured her right knee. A five-justice majority ruled for the employer; two justices dissented.

***Case v. Consumers Power Co.*, 615**

N.W.2d 17 (2000): Farmers sued the power company, alleging that stray voltage was responsible for their cows' low milk production. A four-justice majority vacated the judgment for the plaintiff; two justices dissented.

Eversman v. Concrete Cutting &

***Breaking*, 614 N.W.2d 862 (2000):** After an employee was unable to work due to rain, he became intoxicated and was struck by a car while crossing the street. A six-justice majority ruled for the employer; one justice dissented.

***Chambers v. Trettco, Inc.*, 614 N.W.2d**

910 (2000): An employee sued her employer, alleging that a manager had sexually harassed her. A six-justice majority ruled for the employer on the "quid pro quo" harassment claim; one justice dissented.

Hord v. Environmental Research

***Institute*, 617 N.W.2d 543 (2000):** An employee sued his employer for allegedly misrepresenting its finances after he moved to take the job just before employer went bankrupt. A five-justice majority ruled for the employer; two justices dissented.

2001

***MacDonald v. PKT, INC.*, 628 N.W.2d 33 (2001)**: Concert attendees sued the venue owners for injuries sustained after other attendees began throwing pieces of sod. A five-justice majority ruled for the defendant; two justices dissented.

***Kelly v. Builders Square, Inc.*, 632 N.W.2d 912 (2001)**: A customer sued the retailer after he was injured by falling boxes. A five-justice majority ruled for the defendant; two justices dissented.

***Oade v. Jackson Nat. Life Ins. Co.*, 632 N.W.2d 126 (2001)**: The insured was

hospitalized for chest pains after he applied for the policy but before he was approved, and he failed to notify insurer. A five-justice majority reinstated the summary judgment for the defendant; two justices dissented.

***Wickens v. Oakwood Healthcare System*, 631 N.W.2d 686 (Mich., 2001)**: A patient sued the hospital for failing to diagnose breast cancer. A four-justice majority threw out the plaintiff's claim for reduced chance of long-term survival; three justices dissented.

2002

***Sington v. Chrysler Corporation*, 648 N.W.2d 624 (2002)**: An employee was injured when he fell on the job but continued working with restrictions. After a nonwork-related disabling injury, he applied for workers compensation. A five-justice majority ruled for the employer; two justices dissented.

***Cox v. Flint Bd. of Hosp. Managers*, 651 N.W.2d 356 (2002)**: A mother sued after a catheter inserted into her premature son slipped out, causing him to lose half his blood and suffer permanent brain damage. A five-justice majority ruled for the hospital; two justices dissented.

***Rogers v. JB Hunt Transport, Inc.*, 649 N.W.2d 23 (2002)**: A decedent was killed when his vehicle left the highway and collided with the defendant's parked tractor trailer. A six-justice majority ruled that the employer could not be held liable for the driver's refusal to litigate; one justice dissented.

***Koontz v. Ameritech Services, Inc.*, 645 N.W.2d 34 (2002)**: An employee sued after the employer closed her plant, gave her a lump-sum pension payment, and reduced her unemployment benefits by the amount she would have received from a monthly pension. A five-justice majority ruled for the employer; one justice dissented.

***Veenstra v. Washtenaw Country Club*, 645 N.W.2d 643 (2002)**: An employee was fired from his job at the country club after he separated from his wife and began living with another woman. A five-justice majority ruled for the defendant; two justices dissented.

***Kurtz v. Faygo Beverages, Inc.*, 644 N.W.2d 710 (2002)**: An employee filed a claim for workers compensation and, when it was denied, filed an appeal. A five-justice majority dismissed the appeal because a transcript was not timely filed; two justices dissented.

***Roberts v. Mecosta County General Hosp.*, 642 N.W.2d 663 (2002)**: A patient sued the hospital for allegedly misdiagnosing her and performing an unneces-

sary surgery which left her unable to have children. A five-justice majority ruled the claim was untimely; two justices dissented.

***Hesse v. Ashland Oil, Inc.*, 642 N.W.2d 330 (2002)**: Parents sued the employer of their teenage son after they were present when their son died after an explosion. A five-justice majority ruled for the defendant; two justices dissented.

***Robertson v. DaimlerChrysler Corp.*, 641 N.W.2d 567 (2002)**: An employee claims his manager demanded he work on his boat during business hours, and that when he refused, he was demoted, leading to a verbal altercation and depression. A five-justice majority ruled for the employer; two justices dissented.

2003

***Weakland v. Toledo Engineering Co., Inc.*, 656 N.W.2d 175 (2003)**: An employee was injured at work, could not walk very far, and sought reimbursement under workers compensation for a scooter and a van with which to transport the scooter. A six-justice majority ruled for the employer; one justice dissented.

***Taylor v. Smithkline Beecham Corp.*, 658 N.W.2d 127 (2003)**: The plaintiffs alleged injuries from fen-phen and another diet drug made by the defendant. A six-justice majority ruled for the

drug company and upheld the statute precluding the suit for FDA-approved drugs; one justice dissented.

***Rednour v. Hastings Mut. Ins. Co.*, 661 N.W.2d 562 (2003)**: The plaintiff was driving a car owned by the insured, stopped to change a tire, and was struck by a car. A five-justice majority ruled for the insurer and held that the plaintiff was not covered by the policy; two justices dissented.

***Wilkie v. Auto-Owners Ins. Co.*, 664 N.W.2d 776 (2003)**: The decedent was

killed when he was in the insured's car, which was struck by a negligent driver. A four-justice majority ruled for the insurer; three justices dissented.

***Anderson v. Pine Knob Ski Resort, Inc.*, 664 N.W.2d 756 (2003):** A member of high school ski team lost his balance and collided with a “timing shack.” A four-justice majority ruled the injuries of the plaintiff were inherent in the sport and entered judgment for the defendant; two justices dissented.

***West v. General Motors Corp.*, 665 N.W.2d 468 (2003):** An employee sued the employer after he was fired, claiming it was retaliation. The employer alleged that the employee misrepresented

his overtime. A five-justice majority affirmed the dismissal of the whistleblower claim; two justices dissented.

***Sniecinski v. Blue Cross and Blue Shield of MI*, 666 N.W.2d 186 (2003):** An employee sued, alleging pregnancy discrimination after a job offer expired before she started and after she went on disability due to complications. A six-justice majority ruled for the employer; one justice dissented.

***Schmalfeldt v. North Pointe Ins. Co.*, 670 N.W.2d 651 (2003):** The plaintiff was injured in a bar fight and filed a claim with the bar's insurer. A five-justice majority ruled the plaintiff was not covered by the policy; two justices dissented.

2004

***Monat v. State Farm Ins. Co.*, 677 N.W.2d 843 (2004):** The insured was injured when she was struck by another vehicle and received UIM benefits until she sued the driver for negligence. A five-justice majority entered the summary judgment for the insurer; two justices dissented.

***Phillips v. Mirac, Inc.*, 685 N.W.2d 174, (2004):** The decedent was killed in an accident in a rental car, and the estate sued the rental car company for the driver's negligence. A five-justice majority ruled for the defendant and upheld the statute capping damages for rental cars; two justices dissented.

***Roberts v. Mecosta County Hosp.*, 684 N.W.2d 711 (2004):** A patient sued the hospital for allegedly performing an unnecessary surgery, which left her unable to have children. A four-justice majority reinstated the summary judgment for the defendant; three dissented.

***Gilbert v. DaimlerChrysler Corp.*, 685 N.W.2d 391 (2004):** An employee, who was the first female hired for her job, sued her employer for sexual harassment after several incidents of lewd conduct at work. A four-justice majority granted the employer a new trial; three justices dissented.

***Craig ex rel. Craig v. Oakwood Hosp.*, 684 N.W.2d 296 (2004):** The plaintiff suffered from mental retardation allegedly caused by the defendant administering too much contraction medication during his birth. A six-justice majority vacated the judgment for the plaintiff; one justice dissented.

***Ormsby v. Capital Welding, Inc.*, 684 N.W.2d 320 (2004):** A construction worker was injured when he fell 15 feet from a negligently maintained construction site. A six-justice majority reinstated the summary judgment for the defendant; one justice dissented.

2005

***Nastal v. Henderson & Associates Invest., Inc.*, 691 N.W.2d 1 (2005):** The plaintiff filed a stalking claim against the private investigator hired by the insurer in relation to a personal injury claim. A five-justice majority granted the summary judgment for the defendant; two justices dissented.

***Burton v. Reed City Hosp. Corp.*, 691 N.W.2d 424 (2005):** The plaintiff sued the hospital, alleging he suffered internal injuries during surgery, which required further surgery. A five-justice majority reinstated the summary judgment for the defendant; two justices dissented.

***Ward v. Consolidated Rail Corp.*, 693 N.W.2d 366 (2005):** A railroad engineer

***Shinholster v. Annapolis Hosp.*, 685 N.W.2d 275 (Mich., 2004):** The estate sued the hospital for failing to recognize decedent's "mini-strikes" before they progressed. A four-justice majority ruled for the hospital; three justices dissented.

***Bryant v. Oakpointe Villa Nursing Centre*, 684 N.W.2d 864 (2004):** The estate sued the nursing home after the decedent fell partly off her bed and asphyxiated when her neck was caught between the bed and the bed rail. A five-justice majority ruled for the defendant; two justices dissented.

sued his employer, alleging safety violations after he was injured by a sudden stopping caused by faulty brake. A five-justice majority vacated the award for the plaintiff; two justices dissented.

***Magee v. DaimlerChrysler Corp.*, 693 N.W.2d 166 (2005):** An employee filed a sexual harassment suit against the employer, alleging she was groped and subject to sexual advances. A five-justice majority reinstated the summary judgment for the defendant; two justices dissented.

***Jarrad v. Integon Nat. Ins. Co.*, 696 N.W.2d 621 (2005):** The plaintiff was injured and sued his insurer for discounting his no-fault benefits for

benefits under his long-term disability policy. A five-justice majority entered the summary judgment for the defendant; two justices dissented.

***Elezovic v. Ford Motor Co.*, 697 N.W.2d 851 (2005)**: An employee sued her employer, alleging that her manager repeatedly exposed himself and requested oral sex. A four-justice majority ruled for the plaintiff; three justices dissented.

***Griffith v. State Farm Mut. Auto. Ins. Co.*, 697 N.W.2d 895 (2005)**: An insured suffered severe injuries in an accident and, after years in long-term care facilities, returned home. A four-justice majority ruled his food costs were no longer covered by the policy; three dissented.

***Henry v. Dow Chemical Company*, 701 N.W.2d 684 (2005)**: The plaintiffs sued the defendant for allegedly releasing a toxic chemical and sought a medical monitoring fund. A five-justice majority entered summary judgment for the defendant monitoring claims; two justices dissented.

***McClements v. Ford Motor Co.*, 702 N.W.2d 166 (2005)**: An employee of the contractor alleged that an employee of the defendant sexually harassed her, groping her and making sexual advances. A four-justice majority reinstated the summary judgment for the defendant; two justices dissented.

***Rory v. Continental Ins. Co.*, 703 N.W.2d 23 (2005)**: The insureds were in an accident and did not know the other driver was uninsured until suing him more than a year later. UIM policy required the claims be brought within one year. A four-justice majority entered summary judgment for the insurer; two justices dissented.

***Devillers v. Auto Club Ins. Ass'n*, 702 N.W.2d 539 (2005)**: The insured suffered brain injuries in an accident. The insurer paid for home health care until the physician said close supervision was not needed. A four-justice majority granted summary judgment to the insurer; three justices dissented.

2006

***Zsigo v. Hurley Medical Center*, 716 N.W.2d 220 (2006)**: The patient sued the hospital, alleging that she was sexually assaulted by the defendant's employee while she was in the emergency room. A five-justice majority ruled to dismiss her claims; two justices dissented.

***Greene v. A.P. Products, Ltd.*, 717 N.W.2d 855 (2006)**: The plaintiff sued the manufacturer of her hair oil, which was allegedly ingested by her infant son, leading to his death. A five-justice majority reinstated the summary judgment for the defendant; two justices dissented.

***Radeljak v. Daimlerchrysler Corp.*, 719 N.W.2d 40 (2006)**: Foreign plaintiffs sued after their vehicle, manufactured by the defendant, allegedly shifted into reverse and plunged into a ravine. A six-justice majority dismissed the plaintiff's claims; one justice dissented.

***Cowles v. Bank West*, 719 N.W.2d 94 (2006)**: A member of a class action added a new, related claim to the cause of action filed over the bank's excessive "documentation" fees. A

2007

***Perry v. Golling Chrysler Plymouth Jeep*, 729 N.W.2d 500 (2007)**: The plaintiff was sued by the driver after she purchased car from the defendant but before the transfer of the title was recorded. A five-justice majority reinstated the summary judgment for the defendant; two justices dissented.

***Miller v. Chapman Contracting*, 730 N.W.2d 462 (2007)**: The plaintiff mistakenly sued the defendant, rather than its bankruptcy trustee, and sought to amend his complaint. A five-justice majority affirmed the dismissal of the plaintiff's claims; two justices dissented.

***Al-Shimmari v. Detroit Medical Center*, 731 N.W.2d 29 (2007)**: The plaintiff sued the health care provider, alleging he suffered nerve damage during back surgery. A four-justice majority rein-

stated the summary judgment for the defendant; three justices dissented.

***Cameron v. Auto Club Ins. Ass'n*, 718 N.W.2d 784 (2006)**: A child was riding his bike when he was struck by a vehicle, resulting in a cognitive disorder. Parents sued their personal injury insurer. A four-justice majority granted summary judgment for the insurer; three justices dissented.

stated the summary judgment for the defendant; three justices dissented.

***Karaczewski v. Farbman Stein & Co.*, 732 N.W.2d 56 (2007)**: An employer transferred the plaintiff to a job in Florida, where he fell from a ladder and injured his knee. The plaintiff left the job and later claimed workers compensation. A four-justice majority ruled against the plaintiff; three justices dissented.

***Liss v. Lewiston-Richards, Inc.*, 732 N.W.2d 514 (2007)**: Landowners sued the home construction company, alleging the work was incomplete and shoddy. A five-justice majority granted summary judgment for the defendant; two justices dissented.

***Trentadue v. Buckler Lawn Sprinkler*, 738 N.W.2d 664 (2007)**: The estate discov-

ered, 16 years later, that the defendant's employee raped and murdered the decedent while working for her land-

2008

Mcdonald v. Farm Bureau Ins. Co., 747 N.W.2d 811 (2008): The insured was injured in an accident with an underinsured motorist. A four-justice majority granted summary judgment for the defendant; three justices dissented.

Ross v. Blue Care Network of Michigan, 747 N.W.2d 828 (2008): The insured developed cancer of the blood cells, sought immediate treatment after being told he had a week to live, and had his claims denied. A five-justice majority reinstated the judgment for the insurer; two justices dissented.

Ross v. Auto Club Group, 748 N.W.2d 552 (2008): The plaintiff ran a sole proprietorship and filed a claim with his insurer after being injured in a car accident. A five-justice majority ruled he was entitled to workers compensation benefits; two justices dissented.

Stokes v. Chrysler LLC, 750 N.W.2d 129 (2008): An employee filed for workers compensation after a doctor concluded that physical activity at work aggravated his arthritis. A four-justice

majority granted summary judgment for the defendant; three justices dissented.

majority overruled the decision granting benefits to the employee; three justices dissented.

Allison v. Aew Capital Management, L.L.P., 751 N.W.2d 8 (2008): The plaintiff sued the apartment complex manager after slipping on one to two inches of snow in the parking lot and breaking his ankle. A five-justice majority granted summary judgment for the defendant; two justices dissented.

Boodt v. Borgess Medical Center, 751 N.W.2d 44 (2008): The plaintiff sued for malpractice after the decedent died from heart trouble. A four-justice majority reinstated the summary judgment for the defendant because the notice of intent to sue lacked sufficient detail; three justices dissented.

Brackett v. Focus Hope, Inc., 753 N.W.2d 207 (2008): An employee did not attend a mandatory event and suffered depression after the resulting arguments with managers. A four-justice majority ruled she was not entitled to workers compensation; three justices dissented.

2009

***Petersen v. Magna Corp.*, 773 N.W.2d 564 (2009)**: An employee was injured when he fell from a truck while loading

Christmas trees. A four-justice majority affirmed the ruling for the employee on attorney's fees; three justices dissented.

2010

***Bezeau v. Palace Sports & Ent. Inc.*, 795 N.W.2d 797 (2010)**: A pro-hockey player signed a contract with the Michigan team and was injured in Canada. He then stayed there and became a resident. A four-justice majority awarded workers compensation after he was reinjured; three justices dissented.

***O'neal v. St. John Hosp. & Med. Ctr.*, 791 N.W.2d 853 (2010)**: A patient alleged the defendant's misdiagnosis and delay in treatment resulted in complications from sickle cell anemia. A five-justice majority reversed the summary judgment for the defendant; two justices dissented.

Illinois

The vast majority of judicial elections in Illinois have largely avoided the flood of special-interest money. In 2000 and 2004, however, candidates for the high court spent \$8 million and \$9 million, respectively. Elections in other years only saw candidates spending \$1 million or \$2 million. The court is not as politicized as the other courts studied, and its decisions are less predictable. High court judges are elected by district, and liberal candidates have usually prevailed in urban districts, while conservative candidates have been successful in rural districts. This means that the ideological leaning of the court has remained fairly consistent. The court ruled in favor of corporate defendants in 55 of the 87 cases in the data set.

1992

***DeGrand v. Motors Ins. Corp.*, 588 N.E.2d 1074 (1992):** The insured sustained a severe ankle injury and sued the insurer, claiming it failed to offer UIM coverage equal to the liability coverage. The majority ruled for insurer; three dissented.

***DeLuna v. St. Elizabeth's Hosp.*, 588 N.E.2d 1139 (1992):** A widow filed a malpractice action against a hospital and doctor, seeking recovery for wrongful death after his wife's common iliac artery was severed during an operation. The majority ruled for the defendant; one justice dissented.

***Jackson v. Nestle-Beich, Inc.*, 589 N.E.2d 547 (1992):** The plaintiff broke a tooth on a pecan shell in the manufacturer's candy. The majority affirmed the denial of summary judgment for the defendant; one justice dissented.

***Templeton v. Chicago and Northwestern Transp. Co.*, 603 N.E.2d 441 (1992):** An

employee filed to recover damages for injuries sustained when he fell through an opening in a bridge deck and landed on ice 31 feet below. The majority ruled for the employee; two justices dissented.

***Frye v. Medicare-Glaser Corp.*, 605 N.E.2d 557 (1992):** An administrator brought an action, alleging that pharmacists failed to warn the decedent of the dangers of combining his prescription with alcohol. The majority reinstated the summary judgment for the defendant; two justices dissented.

***Wakeford v. Rodehouse Restaurants of Missouri, Inc.*, 610 N.E.2d 77 (1992):** The plaintiff was shot three times in the defendant's restaurant and sued, alleging it failed to protect its patrons. The majority affirmed the plaintiff's motion for a new trial; one justice dissented.

1993

***Dungey v. Haines & Britton, Ltd.*, 614 N.E.2d 1205 (1993):** The plaintiffs sued the insurer, disputing an ambiguously named drivers exclusion endorsement when the company refused to pay the plaintiffs' claim. The majority affirmed the summary judgment for the defendant insurer; one justice dissented.

***Bruder v. Country Mut. Ins. Co.*, 620 N.E.2d 355 (1993):** The insured was in an accident while pregnant, and prematurely gave birth to a daughter who

suffers from cerebral palsy. The plaintiff sought to aggregate UIM coverage between the two policies issued by the insurer. The majority ruled against the plaintiff; one justice dissented.

***Colvin v. Hobart Bros.*, 620 N.E.2d 375 (1993):** The plaintiff, who was paid damages for exposure to welding fumes and smoke, alleged that his attorney defrauded him in the settlement. The majority granted summary judgment to the attorney; two justices dissented.

1994

***Mitchell v. Fiat-Allis, Inc.*, 632 N.E.2d 1010 (1994):** An injured worker sought compensation benefits after he fell from a ladder and hurt his right knee. The majority dismissed the plaintiff's appeal; one justice dissented.

***Martin v. Heinold Commodities, Inc.*, 643 N.E.2d 734 (1994):** Investors filed a class action against the broker, alleging breach of fiduciary duty. The majority ruled the broker was not entitled to a jury trial; two justices dissented.

***Fisher v. State Bank of Annawan*, 643 N.E.2d 811 (1994):** After the plaintiff filed for bankruptcy, the bank set off his personal debt against his CDs. The plaintiff sued, alleging conversion of funds.

The majority reinstated the judgment for the bank; one justice dissented.

***Zimmerman v. Buchheit of Sparta, Inc.*, 645 N.E.2d 877 (1994):** An employee sued her employer, alleging that it demoted and discriminated against her. The majority reinstated the judgment for the defendant; two justices dissented.

***Cockrum v. Kajima Intern., Inc.*, 645 N.E.2d 917 (1994):** The plaintiff sued the employer after he sustained injuries falling from a 24-foot ladder. He had asked for a lift, a suspended scaffold, or a boom, but was refused. The majority ruled for the plaintiff; one justice dissented.

***Peile v. Skelgas, Inc.*, 645 N.E.2d 184 (1994):** Consumers filed a personal injury suit against the gas distributors, alleging design defects in a furnace that

exploded. The majority granted the defendant's motion to change venue; one justice dissented.

1995

***Boyd v. Travelers Ins. Co.*, 652 N.E.2d 267 (1995):** The plaintiff was injured in a propane heater explosion while at work. When the insurer lost the heater prior to testing, he and his wife sued the insurer. The majority reinstated the plaintiff's negligence claim; two justices dissented.

decedent's children filed a wrongful death action against the hospital where their mother died after gastric bypass surgery. A majority affirmed the judgment for the plaintiff; one justice dissented.

***Walter v. Carriage House Hotels, Ltd.*, 646 N.E.2d 599 (1995):** An assault victim sued his assailant and the hotel where they had been drinking. A majority affirmed the judgment for the plaintiff; one justice dissented.

***Pasquale v. Speed Products Engineering*, 654 N.E.2d 1365 (1995):** A widower sued the race track and car part manufacturer after his wife was killed upon being struck by a piece of a malfunctioning car. The majority ruled that a bystander cannot recover for emotional damages in strict product liability cases; two justices dissented.

***Holston v. Sisters of Third Order of St. Francis*, 650 N.E.2d 985 (1995):** The

1996

***Haudrich v. Howmedica, Inc.*, 662 N.E.2d 1248 (1996):** The plaintiff sued the manufacturer and seller of his prosthetic knee for failing to warn him of the device's defective and dangerous condition. The majority affirmed the damages awarded to the plaintiff; two justices dissented.

his employer, alleged its negligence and that it caused the injuries he sustained in two accidents. The majority ruled the plaintiff was not entitled to a new trial; three justices dissented.

***Wilson v. Missouri Pacific R. Co.*, 661 N.E.2d 282 (1996):** The plaintiff sued

***O'Banner v. McDonald's Corp.*, 670 N.E.2d 632 (1996):** The plaintiff sued for personal injuries he sustained when he slipped and fell in the bathroom of a McDonald's restaurant. The majority

reinstated the summary judgment for the defendant; two justices dissented.

***Miller v. Consolidated Rail Corp.*, 671 N.E.2d 39 (1996):** A worker sued the employer for injuries sustained at work, including carpal tunnel syndrome and lumbar radiculopathy. The majority rejected the defendant’s motion to change venue; two justices dissented.

***Connick v. Suzuki Motor Co., Ltd.*, 675 N.E.2d 584 (1996):** Car owners filed a class action against the manufacturer when the car received a “not acceptable” safety rating. The plaintiffs sued for the diminution in the vehicles’ resale value. The majority threw out the breach of warranty claims; two justices dissented.

***Bryson v. News America Publications, Inc.*, 672 N.E.2d 1207 (1996):** The plaintiff sued the writer and publisher for defamation after she was called a “slut”

in *Seventeen* magazine. The majority reinstated some of the plaintiff’s libel claims; one justice dissented.

***Cramer v. Insurance Exchange Agency*, 174 Ill.2d 513 (1996):** The plaintiff sued the insurer when he was denied compensation for losses following a burglary in his home. The insurer alleged that it had cancelled the plaintiff’s policy, though he claimed he did not receive notice. The majority granted summary judgment to the defendant; two justices dissented.

***Advincula v. United Blood Services*, 678 N.E.2d 1009 (1996):** A widow filed a wrongful death suit against the blood bank that supplied her husband with an HIV-contaminated transfusion. The deceased contracted AIDS and died four years later. The majority overruled the judgment for the plaintiff; two justices dissented.

1997

***Holton v. Memorial Hosp.*, 679 N.E.2d 1202 (1997):** The patient sued the hospital after a misdiagnosis allowed her condition to progress to paralysis. She had informed the nurses of numbness, but the symptoms had not been recorded on her chart or reported to her doctor. The majority overruled the judgment for the plaintiff; two justices dissented.

***McInerney v. Charter Golf, Inc.*, 680 N.E.2d 1347 (1997):** A worker sued the employer after he was terminated, alleging he had given up a lucrative job offer in exchange for lifetime employment guarantee. The majority affirmed the summary judgment for the defendant; three justices dissented.

***Illinois Farmers Ins. Co. v. Cisco*, 687 N.E.2d 807 (1997)**: An employee was killed in an accident while driving a company car. The insurer paid benefits to his estate, but his widow was denied benefits by their own insurer. The majority ruled the defendant was not entitled to summary judgment; one justice dissented.

***Cummins v. Country Mut. Ins. Co.*, 687 N.E.2d 1021 (1997)**: The insured was injured in wreck caused by an underinsured driver and sought UIM benefits. A majority affirmed the reversal of summary judgment for the defendant; two justices dissented.

***Berlin v. Sarah Bush Lincoln Health Center*, 688 N.E.2d 106 (1997)**: The plaintiff sought UIM benefits after an accident. The majority reversed the summary judgment for the defendant; two justices dissented.

***Williams v. University of Chicago Hospitals*, 688 N.E.2d 130 (1997)**: The plaintiffs sued the hospital after an unsuccessful sterilization procedure

resulted in the birth of a child with a congenital defect. The majority affirmed the dismissal of the claim for botched sterilization; two justices dissented.

***Bridgestone/Firestone, Inc. v. Aldridge*, 688 N.E.2d 90 (1997)**: During a strike, workers were granted unemployment benefits after being fired or laid off from interim work. The majority ruled for the defendant employer; three justices dissented.

***Stern v. Norwest Mortg., Inc.*, 688 N.E.2d 99 (1997)**: The plaintiffs filed a class action suit claiming that the defendant mortgage company defrauded them. The majority affirmed the dismissal of the plaintiff's fraud claim; one justice dissented.

***Best v. Taylor Mach. Works*, 689 N.E.2d 1057 (1997)**: An employee withstood severe burns when his forklift collapsed and the fluid ignited. The majority ruled for the plaintiff and held the cap on noneconomic damages to be unconstitutional; one justice dissented.

1998

***Brogan v. Mitchell Intern., Inc.*, 692 N.E.2d 276 (1998)**: An employee was assured that the company was financially stable but was subsequently laid off by the defendant. The plaintiff sued for negligent misrepresentation.

The majority dismissed his claim; two justices dissented.

***Roubik v. Merrill Lynch, Pierce, Fenner & Smith, Inc.*, 692 N.E.2d 1167 (1998)**: The majority agreed with the plaintiff that

the arbitrator must consider the issue of punitive damages; one justice dissented.

***Buckner v. Atlantic Plant Maintenance, Inc.*, 694 N.E.2d 565 (1998):** A former employee sued for retaliatory discharge. The majority dismissed the plaintiff's charge against the supervisor; two justices dissented.

***Jespersen v. Minnesota Min. and Mfg. Co.*, 700 N.E.2d 1014 (1998):** The majority dismissed the employees' breach of contract claims; two justices dissented.

1999

***Fisher v. Lexington Health Care, Inc.*, 188 722 N.E.2d 1115 (1999):** When an elderly patient was found dead in her room due to possible negligence, the plaintiff nurses cooperated with the investigation. The majority reinstated the dismissal of the plaintiffs' retaliation claims against the employer; one justice dissented.

***First Springfield Bank & Trust v. Galman*, 720 N.E.2d 1068 (1999):** The decedent's estate sued a truck driver and his employer for negligence after the decedent was struck while crossing the street in a location obscured by an illegally parked truck. The majority entered judgment for the defendants; one justice dissented.

***Clemons v. Mechanical Devices Co.*, 704 N.E.2d 403, (1998):** An injured employee sued his employer, alleging he was discharged in retaliation for filing a workers compensation claim. The majority affirmed the reversal of the judgment for the plaintiff; three justices dissented.

***LaFever v. Kemlite Co., a Div. of Dyrotech Industries, Inc.*, 706 N.E.2d 441 (1998):** After sustaining a back injury at work, the plaintiff sued the employer for allowing its premises to remain in a dangerous condition. The majority reinstated the judgment for the plaintiff; one dissented.

***Reed v. Farmers Ins. Group*, 720 N.E.2d 1052 (1999):** The insured was injured in an accident with an uninsured driver. A majority ruled for the defendant and held that the regulation requiring arbitration of certain insurance disputes is constitutional; three justices dissented.

***McClure v. Owens Corning Fiberglas Corp.*, 720 N.E.2d 242 (1999):** The plaintiffs alleged that the defendants conspired to suppress information on the harmful effects of asbestos exposure, which led to their husbands' workplace injuries. The majority granted judgment for the defendant; one justice dissented.

***Weatherman v. Gary-Wheaton Bank*, 713 N.E.2d 543 (1999)**: Plaintiffs filed a class action claiming that certain fees constituted unfair and deceptive lending practices. The majority threw out the plaintiffs' fraud claim; one justice dissented.

***Wilson v. Norfolk & Western Ry. Co.*, 718 N.E.2d 172 (1999)**: A railroad worker sued the employer for intentional infliction of emotional distress after a supervisor allegedly made demean-

ing comments. The majority threw out the employee's claims; one justice dissented.

***Doyle v. Holy Cross Hosp.*, 708 N.E.2d 1140 (1999)**: Plaintiffs alleged the defendant terminated their employment in violation of the provisions of the employee handbook, which they claimed created contractual rights for the employees. The majority affirmed the reinstatement of the employees' claims; three justices dissented.

2000

***Jones v. Chicago HMO Ltd. of Illinois*, 730 N.E.2d 1119 (2000)**: The plaintiff sued for medical malpractice after the doctor failed to acknowledge the seriousness of her 3-month-old daughter's illness and neglected to schedule an exam, delaying treatment that could have prevented a disability. The majority reversed the summary judgment for the HMO; two justices dissented.

***Berg v. Allied Security, Inc.*, 737 N.E.2d 160 (2000)**: Plaintiffs sued for personal injuries. A majority ruled that the plaintiff's appeal was untimely; three justices dissented.

***Hills v. Bridgeview Little League Ass'n*, 745 N.E.2d 1166 (2000)**: A little league coach was attacked and beaten by opposing coaches, and sued the organizer. A majority vacated the judgment for the plaintiff; one justice dissented.

2001

***Lawrence v. Regent Realty Group, Inc.*, 754 N.E.2d 334 (2001)**: The plaintiff alleged the landlord failed to pay the interest on her security deposit. A majority affirmed the judgment for the plaintiff; two justices dissented.

***Sprietsma v. Mercury Marine*, 757 N.E.2d 75 (2001)**: The decedent fell from a motorboat onto propeller blades. His estate sued the manufacturer. A majority affirmed the dismissal of claims as preempted by federal law; one dissented.

***Burger v. Lutheran General Hosp.*, 759 N.E.2d 533 (2001)**: A patient sued the hospital after her leg injury became infected and required amputation. A majority ruled for the defendant and upheld access to the plaintiff's medical information; three justices dissented.

2002

***Dillon v. Evanston Hosp.*, 771 N.E.2d 357, (2002)**: A patient sued the hospital after a piece of a catheter was left in her chest and migrated to her heart. A majority ordered a new trial on damages for risk of future injuries; one justice dissented.

***Oliveira v. Amoco Oil Co.*, 776 N.E.2d 151, (2002)**: A customer sued a gas company for false advertising related to its claims about high-octane gas. A majority threw out the plaintiff's claim; one justice dissented.

***Clemons v. Mechanical Devices Co.*, 781 N.E.2d 1072 (2002)**: An employee

***Mak v. Rush-Presbyterian-St. Luke's*, 764 N.E.2d 1 (2001)**: A patient sued the hospital for releasing his medical records to an insurer, but he had signed a release. A majority reinstated the judgment for the defendant; one justice dissented.

alleged she was fired in retaliation for a workers compensation claim. A majority granted her request to amend the complaint; three justices dissented.

***Unzicker v. Kraft Food Ingredients Corp.*, 783 N.E.2d 1024 (2002)**: An employee slipped on a pipe and injured himself at the defendant's plant. A majority ruled against the plaintiff; one dissented.

***Roth v. Illinois Farmers Ins. Co.*, 782 N.E.2d 212 (2002)**: An insured sued the insurer for benefits for a deceased daughter. A majority threw out the insurer's appeal because of a flawed affidavit; one justice dissented.

2003

***Allen v. Woodfield Chevrolet, Inc.*, 802 N.E.2d 752 (2003)**: A car buyer sued the dealer, alleging false advertising on prices. A majority ruled for the plaintiff and held the statute benefiting dealers unconstitutional; two justices dissented.

***Dawdy v. Union Pacific RR Co.*, 797 N.E.2d 687 (2003)**: The plaintiff sued the defendant after its truck driver crashed into his vehicle. A majority granted the defendant's motion to change venue; one justice dissented.

***Vicencio v. Lincoln-Way Builders, Inc.*, 789 N.E.2d 290 (2003)**: The plaintiff prevailed in a personal injury suit. A majority ruled for the defendant in a court-costs issue; two justices dissented.

2004

***Sullivan v. Edward Hosp.*, 806 N.E.2d 645 (2004)**: A patient sued the nursing home after he fell from his bed, alleging it was negligent. A majority affirmed judgment for the defendant and upheld the exclusion of the plaintiff's expert testimony; one justice dissented.

***Borowiec v. Gateway 2000, Inc.*, 808 N.E.2d 957 (2004)**: The purchaser sued the computer manufacturer, alleging

2005

***Avery v. State Farm Mut. Auto. Ins. Co.*, 835 N.E. 2d 801 (2005)**: The insureds filed a class-action suit, alleging fraud. A majority reinstated the judgment for the defendant; two justices dissented.

***Andrews v. Kowa Printing Corp.*, 838 N.E.2d 894 (2005)**: Employees sued the employer company and its owner for unpaid vacation days and severance pay. A majority affirmed the appeals court's

***Eads v. Heritage Enterprises, Inc.*, 787 N.E.2d 771 (2003)**: A patient sued the nursing home after she fell, alleging it should not have allowed her to walk to the bathroom unattended. A majority ruled for the plaintiff; two justices dissented.

defects and warranty violations. A majority ruled to compel arbitration; two justices dissented.

***Adams v. Northern Illinois Gas Co.*, 809 N.E.2d 1248 (2004)**: The plaintiff sued the gas company after her home exploded and burned. A majority affirmed the reversal of the summary judgment for the defendant; three justices dissented.

ruling that vacated judgment against the individual defendant; one justice dissented.

***Price v. Philip Morris, Inc.*, 848 N.E.2d 1 (2005)**: Plaintiffs sued the cigarette company for fraud in advertising "low tar" cigarettes. A majority reversed the judgment against the defendant for fraud; two justices dissented.

2006

***Razor v. Hyundai Motor America*, 854 N.E.2d 607 (2006):** The car buyer sued the manufacturer for breach of warranty after the car repeatedly failed to start. A five-justice majority affirmed the consequential damages for the plaintiff; two justices dissented.

***Langenhorst v. Norfolk Southern Ry. Co.*, 848 N.E.2d 927 (2006):** A widow sued the defendant after its train collided with her husband's truck and killed him. A four-justice majority affirmed the denial of the defendant's motion to change venue; three justices dissented.

***Melena v. Anheuser-Busch, Inc.*, 847 N.E.2d 99 (2006):** An employee sued, alleging she was fired in retaliation for filing a workers compensation claim. A six-justice majority granted the employer's motion to compel arbitration; one justice dissented.

***Marshall v. Burger King Corp.*, 856**

N.E.2d 1048 (2006): A patron was injured when another patron's car struck a light pole in the defendant's parking lot, suddenly accelerated, and crashed through the restaurant. A five-justice majority ruled the plaintiff's claim should not have been dismissed; two dissented.

***York v. Rush-Presbyterian-St. Luke's*, 854**

N.E.2d 635 (2006): A patient sued the hospital, alleging it negligently administered an epidural during knee surgery, causing spinal damages. A six-justice majority affirmed the judgment for the plaintiff; one justice dissented.

***Mohanty v. St. John Heart Clinic, S.C.*, 866**

N.E.2d 85 (2006): Doctors filed a complaint against restrictive contract provisions. A six-justice majority ruled against the plaintiffs and enforced restrict covenants in employment contracts; one justice dissented.

2007

***Dowling v. Chicago Options Associates, Inc.*, 875 N.E.2d 1012 (2007):** The plaintiff was awarded damages in a breach of contract and sought to collect. A four-justice majority vacated the award for the plaintiff; three justices dissented.

***Philip Morris Usa, Inc. v. Byron*, 876**

N.E.2d 645 (2007): The plaintiffs filed a class action alleging deceptive marketing practices against the cigarette company. The plaintiffs claimed the words "lights" and "lowered tar and nicotine" led them to believe the cigarettes would be less hazardous. A four-justice majority ruled for the defendant; two justices dissented.

***Orlak v. Loyola University Health System*, 885 N.E.2d 999 (2007):** A patient sued the hospital after he contracted hepatitis C from a blood trans-

fusion. A five-justice majority affirmed the dismissal of the plaintiff's claims as barred by the statute of repose; one justice dissented.

2008

***O'Casek v. Children's Home and Aid Soc.*, 892 N.E.2d 994 (2008):** The plaintiff brought a medical malpractice suit but had the claims dismissed. A four-justice majority affirmed the reinstatement of claims; three justices dissented.

***Ready v. United/Goedecke Services, Inc.*, 905 N.E.2d 725 (2008):** A widow brought a wrongful death suit after her husband was killed by a falling wooden truss at his job site. A four-justice majority ruled for the plaintiff; two justices dissented.

***Mikolajczyk v. Ford Motor Co.*, 901 N.E.2d 329 (2008):** The decedent was killed when a car being driven at 60 miles per hour by a drunk driver smashed into the rear of his vehicle while stopped at a red light. A five-justice majority granted the defendant's motion for a new trial; one justice dissented.

***Ioerger v. Halverson Const. Co., Inc.*, 902 N.E.2d 645 (2008):** Ironworkers sued after a platform they were working on collapsed. Three were injured, one was killed. A six-justice majority ruled the defendant was immune from the suit under the workers compensation statute; one justice dissented.

2009

***Nolan v. Weil-McLain*, 910 N.E.2d 549 (2009):** A widow sued for negligence after her late husband developed mesothelioma from exposure to asbestos-containing products at work. A five-justice majority overturned the judgment for the asbestos plaintiff and ordered a new trial; one justice dissented.

***Landis v. Marc Realty, L.L.C.*, 919 N.E.2d 300 (2009):** The tenants alleged that the landlords failed to return their security deposit and pay them interest. A five-justice majority ruled that the plaintiff's claim was barred by the statute of limitations; two justices dissented.

2010

***Lebron v. Gottlieb Mem'l Hosp.*, 930 N.E.2d 895 (2010):** A mother filed a medical malpractice suit on behalf of her daughter, who had suffered severe neurological damage during her birth

by Caesarean section at the defendant hospital. A four-justice majority ruled unconstitutional a cap on noneconomic damages in medical malpractice actions; two justices dissented.

Pennsylvania

Though Pennsylvania has consistently seen expensive high-court elections, its high court remains closely divided between procorporate and proplaintiff judges. Of the 87 cases in the data set, 38 resulted in a ruling for the individual plaintiff, and 49 resulted in a ruling for the corporate defendant.

1992

***Carter by Carter v. U.S. Steel Corp.*, 604 A.2d 1010 (1992):** A teenage boy climbed the defendant’s electrical tower and was electrocuted on a wire. A four-justice majority reversed the order vacating judgment for the plaintiff; three justices dissented.

***Martin v. Lancaster Battery Co., Inc.*, 530 Pa. 11 (1992):** An employee sued his employer for allegedly withholding and altering a blood test showing he was suffering from lead toxicity. A five-justice majority affirmed the ruling for the plaintiff; two justices dissented.

***Steele v. Statesman Ins. Co.*, 530 Pa. 190 (1992):** Insureds sued the home insurer after it refused to pay for damage caused to the home when a hillside collapsed due to a neighbor’s construction. A five-justice majority ruled for the plaintiffs; two justices dissented.

***Hayward v. Medical Center of Beaver County*, 530 Pa. 320 (1992):** The patient sued his health care provider, alleging it unnecessarily removed a lung. A six-justice majority overruled the summary judgment for the defendant; one justice dissented.

***Alston v. St. Paul Ins. Companies*, 531 Pa. 261 (1992):** An employee injured his neck, spine, and wrist when he fell from a ladder. A five-justice majority ruled that the employee was not entitled to workers compensation; two justices dissented.

***Kohler v. McCrory Stores*, 532 Pa. 130 (1992):** An employee was injured when he was struck by a “pallet jack” driven by his coworker. A four-justice majority ruled for the defendant employer; one justice dissented.

1993

***Inglis House v. W.C.A.B. (Reedy)*, 634 A.2d 592 (1993)**: An employee, a nursing assistant, fell from a chair and was injured. A four-justice majority ruled to reduce workers compensation benefits; one justice dissented.

***Wellsville Terminals Co. v. W.C.A.B. (Zacharias)*, 534 Pa. 333 (1993)**: An employee fell and injured himself while

working on a barge. A four-justice majority ruled for the employer; one justice dissented.

***St. Joe Container Co. v. W.C.A.B. (Staroschuck)*, 534 Pa. 347 (1993)**: An employee injured his back at work and sought workers compensation. A four-justice majority ruled for the employee; one justice dissented.

1994

***City of Scranton v. W.C.A.B. (Rideski)*, 536 Pa. 161 (1994)**: A firefighter was injured when he fell over a hydrant while fighting a fire. A four-justice majority reinstated the benefits for the plaintiff; two justices dissented.

***McCusker v. W.C.A.B. (Rushton Min. Co.)*, 536 Pa. 380 (1994)**: A husband received workers compensation benefits after his wife died in a work-related accident. A six-justice majority affirmed the denial of the benefits; one justice dissented.

***Miller v. Keystone Ins. Co.*, 535 Pa. 531 (1994)**: The plaintiff sought life insurance benefits for her deceased son. A three-justice majority reinstated the summary judgment for the insurer; two justices dissented.

***Smith v. King's Grant Condominium*, 537 Pa. 51 (1994)**: The plaintiff sued the condo association after sewage backed up into her condo. A four-justice majority affirmed the dismissal of the plaintiff's claim; two justices dissented.

***Republic Steel Corp. v. W.C.A.B. (Petrisek)*, 537 Pa. 32 (1994)**: After the employee retired from the coal mine, he learned he was disabled due to "black lung" disease. A six-justice majority ruled that the plaintiff was not entitled to workers compensation; one justice dissented.

***Terminato v. Pennsylvania Nat. Ins. Co.*, 538 Pa. 60 (1994)**: An insured was injured in a car accident and sought benefits for her health costs. A five-justice majority ruled for the insured; two justices dissented.

1995

***Biddle v. W.C.A.B. (Thomas Mekis & Sons, Inc.)*, 539 Pa. 343 (1995)**: An employee was killed on his way home from dinner with his fellow manager. A six-justice majority denied benefits to his widow; one justice dissented.

***Martin v. W.C.A.B. (Emmaus Bakery)*, 652 A.2d 1301 (1995)**: An employee injured his back at work. A four-justice majority reinstated the benefits for the employee; three justices dissented.

***Keblish v. Thomas Equipment, Ltd.*, 541 Pa. 20 (1995)**: The decedent's estate sued the company that rented a backhoe after the decedent was crushed in it. A four-justice majority threw out the plaintiff's warranty claim; two justices dissented.

***Harle v. W.C.A.B. (Telegraph Press, Inc.)*, 658 A.2d 766 (1995)**: An employee broke his thumb while working on a press. A five-justice majority ruled the

plaintiff is not entitled to partial disability benefits; one justice dissented.

***Markle v. W.C.A.B. (Caterpillar Tractor Co.)*, 661 A.2d 1355 (1995)**: An employee injured his back at work. A four-justice majority held that his injuries were nonwork-related; two justices dissented.

***Cochran v. GAF Corp.*, 666 A.2d 245 (1995)**: A widow sued her husband's employer, claiming his exposure to asbestos caused fatal lung cancer. A four-justice majority affirmed the summary judgment for the defendant; two justices dissented.

***Cable v. W.C.A.B. (Gulf Oil/Chevron USA, Inc.)*, 664 A.2d 1349 (1995)**: An employee sought workers compensation benefits, alleging that exposure to coumene and benzene caused his bladder cancer. A four-justice majority denied him benefits; two justices dissented.

1996

***Panichelli v. Liberty Mut. Ins. Group*, 669 A.2d 930 (1996)**: An insured was injured in a car accident and filed a claim for lost wages. A three-justice majority held that the insurer could not deduct costs from the claim; two justices dissented.

***Russell v. Albert Einstein Medical Center, Northern Div.*, 673 A.2d 876 (1996)**: A mother sued the hospital, alleging it failed to timely deliver her baby via Caesarian section, causing a fatal infection. A four-justice majority ruled for the plaintiff; one justice dissented.

Harper & Collins v. W.C.A.B. (Brown), 672 A.2d 1319 (1996): The plaintiff was injured in the course of employment. A four-justice majority affirmed the award of benefits; one justice dissented.

Monteson v. W.C.A.B. (Trinity Industries), 682 A.2d 776 (1996): The plaintiff received workers compensation after an injury, was laid off, worked another job,

1997

Davis v. Berwind Corp., 690 A.2d 186 (1997): An employee lost three fingers while cleaning a blender manufactured by the defendant. A three-justice majority threw out the plaintiff's claim; two justices dissented.

Todd v. W.C.A.B. (NCR Corp. and Nat. Union/Crawford & Co.), 692 A.2d 1086 (1997): A widow received her husband's workers compensation until the employer requested termination due to her remarriage. A four-justice majority overruled the termination of benefits; one justice dissented.

Allen v. Montgomery Hosp., 696 A.2d 1175 (1997): A family sued the hospital after their daughter accidentally hung herself while restrained. A five-justice majority reinstated the judgment for the defendant; one justice dissented.

and later sought to reinstate benefits. A four-justice majority denied the benefits; one justice dissented.

Joyce v. W.C.A.B. (Ogden/Allied Maintenance), 680 A.2d 855 (1996): An employee injured his back when his forklift collided with a forklift that stopped suddenly. A three-justice majority awarded benefits; two justices dissented.

Albright v. Abington Memorial Hosp., 696 A.2d 1159 (1997): A family sued the hospital after a mentally ill patient's condition deteriorated, and she died in a fire. A five-justice majority affirmed the summary judgment for the defendant; one justice dissented.

Cheeseman v. Lethal Exterminator, Inc., 701 A.2d 156 (1997): The plaintiff sued the company after being in a car accident with its employee. A four-justice majority overruled the order granting the defendant's motion to change venue; one justice dissented.

Salazar v. Allstate Ins. Co., 702 A.2d 1038 (1997): The insureds sued their insurer for UIM benefits after they were struck in a hit-and-run. A four-justice majority affirmed the summary judgment for the insurer; two dissented.

1998

***Jordan v. W.C.A.B. (Consol. Elec. Distributors)*, 704 A.2d 1063 (1998):** An employee injured his back while working. A three-justice majority reinstated the order terminating benefits; two justices dissented.

***Bethlehem Steel Corp. v. W.C.A.B. (Baxter)*, 708 A.2d 801 (1998):** An employee's asthma was aggravated by paint fumes at steel plant. A three-justice majority denied the benefits to the employee; two justices dissented.

***Joyce v. W.C.A.B. (Ogden/Allied Maintenance)*, 705 A.2d 417 (1998):** An employee injured his back at work. A three-justice majority affirmed the denial of benefits to the employee; two justices dissented.

***Emerich v. Phila. Center for Human Dev.*, 720 A.2d 1032 (1998):** The decedent's estate sued her boyfriend's therapists after her boyfriend killed her, alleging they failed to warn her. A four-justice majority ruled for the defendants; two justices dissented.

1999

***Fonner v. Shandon, Inc.*, 724 A.2d 903 (1999):** A construction worker fell off an unguarded edge of a building onto a pile of lumber, injuring his back. A five-justice majority affirmed the judgment for the employer; one justice dissented.

***Knarr v. Erie Ins. Exchange*, 723 A.2d 664 (1999):** The insured was injured in an accident with an uninsured driver. A six-justice majority ruled to vacate the arbitration award; one justice dissented.

***Rohrbaugh v. Pennsylvania PUC*, 727 A.2d 1080 (1999):** A landlord sued the power company after it disconnected power, resulting in pipes freezing and bursting. A five-justice majority ruled for the defendant; one justice dissented.

***Commercial Credit Claims v. WCAB*, 728 A.2d 902 (1999):** An employee fell 28 feet from a catwalk while taking photos for the insurer. A six-justice majority ruled to terminate benefits; one justice dissented.

***O'Donoghue v. Laurel Savings Ass'n*, 728 A.2d 914 (1999):** Borrowers sued the bank, alleging it failed to record loans as paid on credit reports. A four-justice majority affirmed the summary judgment for the defendant; two justices dissented.

***Lucey v. WCAB (Vy-Cal & PMA Group)*, 732 A.2d 1201 (1999):** An employee alleged a bacterial infection in his lung was caused by an allergic reaction to

chemicals at work. A five-justice majority ruled for the employer; two justices dissented.

2000

Triangle Bldg. Ctr. v. WCAB (LINCH), 746 A.2d 1108 (2000): An employee suffered a cervical spine injury at work. A four-justice majority ruled for the employee; three justices dissented.

Trowbridge v. Scranton Artificial Limb Co., 747 A.2d 862 (2000): An employee with muscular dystrophy sued her employer for disability discrimination after she was fired. A five-justice majority reinstated the plaintiff's claim; two justices dissented.

McLaughlin v. Gastro. Specialists, Inc., 750 A.2d 283 (2000): An employee sued her employer, alleging she was fired for complaining of unsafe storage of toxic chemicals. A five-justice majority affirmed the dismissal of the plaintiff's claim; two justices dissented.

Davis v. WCAB (Swarthmore Borough), 751 A.2d 168 (2000): A police officer sought workers compensation for PTSD caused by job experiences. A six-justice majority denied the benefits; one justice dissented.

Vista Intern. Hotel v. WCAB, 742 A.2d 649 (1999): A housekeeper was struck on the head by a light fixture. A four-justice majority affirmed the awarding of benefits; three justices dissented.

Borgia v. Prudential Insurance Company, 750 A.2d 843 (2000): The plaintiff sought benefits from the parents' UIM policy after a crash with an underinsured driver. A five-justice majority ruled for the insurer and compelled arbitration; two justices dissented.

Dellenbaugh v. Com. CAT Fund, 756 A.2d 1172 (2000): A widower sued his wife's doctor for postsurgery complications resulting in amputation and death, and sought coverage from the fund. A five-justice majority ruled for the fund and held it was not liable; two justices dissented.

Basile v. H & R Block, Inc. 761 A.2d 1115 (2000): Borrowers filed a class action based on allegedly deceptive loans repaid with tax refunds. A five-justice majority ruled for the defendant; two justices dissented.

Fancsali v. University Health Center, 761 A.2d 1159 (2000): The plaintiff sought to sue the hospital after their newborn had a bacterial infection. A six-justice majority overruled the judgment for the defendant; one justice dissented.

Universal Am-Can, Ltd. v. WCAB (Minteer), 762 A.2d 328 (2000): A truck driver fell from his truck while securing a tarp over his load. A four-justice majority ruled for the employer and held that the plaintiff was a contractor not an employee; three justices dissented.

2001

Moorhead v. Crozer Chester Medical Center, 765 A.2d 786 (2001): The plaintiff sued the hospital after she was injured in a fall. A five-justice majority ruled that the patient could only recover damages for expenses actually paid; one justice dissented.

Duchess v. Langston Corp., 769 A.2d 1131 (2001): The plaintiff was injured while cleaning the internal parts of a machine made by the defendant. A five-justice majority granted the plaintiff's motion for a new trial; two justices dissented.

Ramich v. WCAB (Schatz Electric, Inc.), 770 A.2d 318 (2001): A widow sought

2002

Schreffler v. WCAB (Kocher Coal Co.), 788 A.2d 963 (2002): An employee helped retrieve the bodies of his coworkers after their mine was flooded and claimed psychological injuries. A five-justice majority ruled that his claim

Blum v. Merrell Dow Pharmaceuticals, Inc., 764 A.2d 1 (2000): Parents sued a drug company, alleging a drug caused their baby's clubbed feet. A five-justice majority ruled for the defendant due to inappropriate expert testimony; two justices dissented.

benefits after her husband died of asphyxiation while running a gas generator. A six-justice majority reinstated the awarding of attorneys fees; one justice dissented.

Sell v. WCAB, 771 A.2d 1246 (2001): An employee alleged her emphysema was caused by fumes from the manufacturing of chemicals. A six-justice majority reinstated benefits; one justice dissented.

Henkels & McCoy, Inc. v. WCAB, 776 A.2d 951 (2001): The plaintiff sought benefits while on probation. A six-justice majority affirmed the denial of benefits; one justice dissented.

was not barred by the statute of limitations; two justices dissented.

Burstein v. Prudential Property and Cas., 809 A.2d 204 (2002): Insureds sought UIM benefits for injuries sustained in

a company car. A four-justice majority ruled for the insurer and said the exclusion was valid; one justice dissented.

***Valles v. Albert Einstein Medical Center*, 805 A.2d 1232 (2002)**: An estate sued

the hospital after the decedent died from surgery complications. A four-justice majority affirmed the summary judgment for the defendant; two justices dissented.

2003

***Lloyd v. Medical Professional Liability Catastrophe Loss Fund*, 821 A.2d 1230 (2003)**: An estate filed a medical malpractice suit after the decedent died from a sedative overdose. A four-justice majority affirmed the summary judgment for the defendant; two justices dissented.

***Mishoe v. Erie Ins. Co.*, 824 A.2d 1153 (2003)**: The insured was injured in a crash with an underinsured driver, and sought UIM benefits. A three-justice majority ruled for the insurer; two justices dissented.

2004

***Coleman v. WCAB*, 842 A.2d 349 (2004)**: A nurse suffered a “lifting injury.” A five-justice majority granted the employer’s request for medical testing; one justice dissented.

***Ieropoli v. AC&S Corp.*, 842 A.2d 919 (2004)**: The plaintiff sued after injuries allegedly sustained from handling the defendant’s asbestos products. A four-justice majority ruled unconstitutional a statute limiting suits for asbestos; three justices dissented.

***General Elec. Co. v. WCAB (Myers)*, 849 A.2d 1166 (2004)**: A welder injured his

head. A four-justice majority ruled for the employee; two justices dissented.

***Vitac Corp. v. WCAB (Rozanc)*, 854 A.2d 481 (2004)**: A stenographer contracted carpal tunnel syndrome. A six-justice majority awarded attorney’s fees for paralegals; one justice dissented.

***Minnesota Fire and Cas. Co. v. Greenfield*, 579 Pa. 333 (2004)**: An insured sought indemnity from the insurer for damages he paid to an estate after he sold the decedent heroine and she overdosed. A four-justice majority ruled for the insurer; two dissented.

2005

***Colpetzer v. WCAB (Standard Steel)*, 870 A.2d 875 (2005)**: An employee alleged that the employer incorrectly calculated his benefits. A five-justice majority affirmed the decision for the employee; one justice dissented.

***Jeanes Hosp. v. WCAB (HASS)*, 872 A.2d 159 (2005)**: A nurse was injured when lifting a patient. A six-justice majority voted to reinstate the employee's benefits; one justice dissented.

2006

***Snizaski v. W.C.A.B. (Rox Coal Co.)*, 891 A.2d 1267 (2006)**: A widow requested a penalty after the employer delayed paying the benefits. A five-justice majority ruled for the employer; one justice dissented.

A four-justice majority reinstated the summary judgment for the defendant; two justices dissented.

***Wilkes ex rel. Mason v. Phoenix Home*, 902 A.2d 366 (2006)**: Insureds sued the insurer over allegedly improper fees.

***Egger v. Gulf Ins. Co.*, 903 A.2d 1219 (2006)**: An employee was injured when a high-pressure water hose pierced his leg and severed arteries. A five-justice majority affirmed the summary judgment for the insured; one justice dissented.

2007

***Pennsylvania Nat. Mut. Cas. Co. v. Black*, 916 A.2d 569 (2007)**: An estate sued the insurer for damages related to the son's death in car accident. A four-justice majority reinstated the summary judgment for the defendant insurer; one justice dissented.

***Sackett v. Nationwide Mut. Ins. Co.*, 919 A.2d 194 (2007)**: An insured sought UIM benefits for injuries sustained in crash with an uninsured driver. A four-justice majority overruled the summary judgment for the insured; two justices dissented.

***Dowhower v. W.C.A.B. (Capco Contracting)*, 919 A.2d 913 (2007)**: An employee was injured at work. A three-justice majority ruled for the employee; two justices dissented.

***Salley v. Option One Mortg. Corp.*, 925 A.2d 115 (2007)**: A borrower sued a subprime lender for allegedly misleading him. A five-justice majority ruled that an arbitration clause reserving judi-

cial remedy for foreclosure was valid; one justice dissented.

***Toy v. Metropolitan Life Ins. Co.*, 928 A.2d 186 (2007)**: An insured sued her

insurer alleging it sold her policy packaged as savings plan. A three-justice majority overruled the summary judgment for the defendant; two justices dissented.

2008

***C.C.H. v. Philadelphia Phillies, Inc.*, 940 A.2d 336 (2008)**: An 11-year-old girl was molested at the defendant's ball park, and she sued. A four-justice majority ruled that consent was not a defense to the civil claim; two justices dissented.

***Griffiths v. W.C.A.B.*, 943 A.2d 242 (2008)**: A farmworker became a quadriplegic after a bail of hay fell on him. A five-justice majority ruled for the employee; one justice dissented.

2009

***Freed v. Geisinger Medical Center*, 971 A.2d 1202 (2009)**: A paraplegic sued the hospital after he sustained bed sores during his stay. A four-justice majority affirmed the ruling against the defendant; two justices dissented.

***Erie Ins. Exchange v. Baker*, 972 A.2d 507 (2009)**: An insured was struck by an underinsured driver while riding his motorcycle. A four-justice majority affirmed the judgment for the insurer; three justices dissented.

2010

***Tannenbaum v. Nationwide Ins. Co.*, 992 A.2d 859 (2010)**: An insured was permanently disabled in an accident and sought UIM benefits for lost income. A three-justice majority ruled the insurer could offset the plaintiff's disability benefits; two justices dissented.

A four-justice majority ruled for the insured; two justices dissented.

***Vanderhoff v. Harleysville Ins. Co.*, 997 A.2d 328 (2010)**: An insured was injured while driving a company car.

***Summers v. Certaineed Corp.*, 997 A.2d 1152 (2010)**: An employee operated a saw at an asbestos-products manufacturing facility, leading to lung disease. A five-justice majority reversed the summary judgment for the defendant; one justice dissented.

1 *Entergy Gulf States, Inc. v. Summers*, No. 05-0272 (Tex. August 31, 2007), the court ruled unanimously that contract employees are included within the workers compensation system, despite the legislature's repeated rejections of this idea; vacated by *Entergy Gulf States, Inc. v. Summers*, 282 S.W.3d 433 (Texas, 2009), the court upheld the earlier ruling, but three justices dissented; compare *Hayes v. Mercy Hosp. and Medical Center*, 557 N.E.2d 873, 136 Ill.2d 450, 145 Ill.Dec. 894 (Ill., 1990)—when the court ruled that the statute of repose for medical malpractice claims is constitutional, with two justices dissenting—with *Methodist Healthcare Sys. of San Antonio, Ltd. v. Rankin*, 307 S.W.3d 283 (Texas, 2010), when the court unanimously upheld the statute of repose for medical malpractice claims.

About the author

Billy Corriher is the Associate Director of Research for Legal Progress at the Center for American Progress, where his work focuses on state courts and the influence of political contributions on judges. Corriher joined CAP after serving as a weekly blogger for the *Harvard Law & Policy Review* blog, Notice and Comment, with a focus on federal appellate court cases and other legal/policy matters. He has also written op-eds and blog posts for the American Constitution Society and the Bill of Rights Defense Committee. Corriher received his bachelor's degree in political science from the University of North Carolina, Chapel Hill. He received a law degree and master's in business from Georgia State University, graduating with honors in 2009. He is a member of the State Bar of Georgia.

Acknowledgements

The author would like to thank his colleagues, Andrew Blotky, April Carson, and Ed Paisley, for their helpful comments and suggestions. Jan Diehm and Kerry Mitchell designed the graphics accompanying this report. Ellie Sandemeyer assisted with compiling the data in the Appendix.

Endnotes

- 1 Joan Biskupic, "Supreme Court Case with the Feel of a Best Seller," *USA Today*, February 16, 2009, available at http://www.usatoday.com/news/washington/2009-02-16-grisham-court_N.htm.
- 2 Seven states elect judges in partisan elections: Alabama, Illinois, Louisiana, North Carolina, Pennsylvania, Texas, and West Virginia. Fourteen states have nonpartisan elections: Arkansas, Georgia, Idaho, Kentucky, Michigan, Minnesota, Mississippi, Montana, Nevada, North Dakota, Ohio, Oregon, Washington, and Wisconsin. In 17 states, judges are appointed and then run in uncontested "retention" elections, in which voters decide whether to keep the judge in place: Alaska, Arizona, California, Colorado, Florida, Indiana, Iowa, Kansas, Maryland, Missouri, Nebraska, New Mexico, Oklahoma, South Dakota, Tennessee, Utah, and Wyoming. See: "Judicial Elections in the States," available at <http://www.judicialselection.us>.
- 3 "National Overview Map," available at <http://www.followthemoney.org/database/nationalview.phtml?l=0&f=J&y=2000&abbr=1>
- 4 *Ibid.*, 2001–2012 (adding up to a total of \$197,423,968).
- 5 Robert Lenzner and Matthew Miller, "Buying Justice," *Forbes*, July 21, 2003, available at http://www.forbes.com/forbes/2003/0721/064_print.html.
- 6 "National Overview Map," Ohio, 2006.
- 7 "National Overview Map," Alabama, 2010.
- 8 Erwin Chemerinsky and James Sample, "You Get the Judges You Pay For," *The New York Times*, April 17, 2011, available at <http://www.nytimes.com/2011/04/18/opinion/18sample.html>.
- 9 Justice at Stake, Brennan Center for Justice, and National Institute on Money in State Politics, "The New Politics of Judicial Elections 2006" (2007), p. 7, available at http://brennan.3cdn.net/49c18b6cb18960b2f9_z6m62gwji.pdf.
- 10 Viveca Novak, "Under the Influence," *The American Prospect*, September 19, 2011, available at <http://prospect.org/article/under-influence>.
- 11 Ian Millhiser, "Citizens United Decision: A Rejection Of The Common Sense Of The American People," *ThinkProgress*, January 21, 2010, available at <http://thinkprogress.org/politics/2010/01/21/78365/citizens-united/>.
- 12 Craig Jarvis, "New super PAC gets involved in Supreme Court race to back Newby," *Raleigh News & Observer*, June 2, 2012, <http://www.newsobserver.com/2012/06/02/2105910/new-super-pac-formed-to-help-re.html>.
- 13 Billy Corriher, "Supreme Court Assault On Campaign Finance Reform Likely To Kill West Virginia Anti-Corruption Law," *ThinkProgress*, June 26, 2012, available at <http://thinkprogress.org/justice/2012/06/26/505379/supreme-court-assault-on-campaign-finance-reform-likely-to-kill-west-virginia-anti-corruption-law/>.
- 14 See Appendix. The data suggest that, from 2000 to 2010, the court ruled in favor of individuals in 115 cases and in favor of corporations in 288 cases.
- 15 National Center for State Courts, Court Statistics Project, "Examining the Work of State Courts" (2011), available at <http://www.courtstatistics.org/FlashMicrosites/CSP/images/CSP2009.pdf>.
- 16 Biskupic, "Supreme Court Case with the Feel of a Best Seller."
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