



# PLAYING POLITICS IN THE LEAST POLITICAL BRANCH

## OVERVIEW

Judges are elected on a non-partisan basis, and historically the judiciary has kept its distance from party politics. The liberal majority has tossed much of that legacy overboard with an aggressive agenda to remake the courts in line with its ideology and silence conservative voices.

### WHAT YOU SHOULD KNOW

- » Judges wear black robes, not red or blue jerseys for a particular political team. Even though many come to the bench from a career in public service, including past elected offices, their job is to follow and apply the law fairly and impartially. To use another image, Lady Justice is blindfolded for a reason. Yet under the current liberal majority, the Wisconsin Supreme Court has become pervasively political, as the majority uses its power to enforce its agenda.
- » The Wisconsin Supreme Court's new majority has also set a new record low for number of cases reviewed in a term, with just 14 decisions in its 2023-24 term. The Court had averaged around 50 in recent years—the dropoff could be credited to the dysfunction on the court and the number of complex political cases the court reviewed, especially redistricting. In other words, numerous litigants did not have their cases reviewed so the court could keep its calendar free for the accelerated pace necessary to get its redistricting decision done and implemented in time for the 2024 elections.

## WHAT COULD HAPPEN

The Court has vast administrative powers. The Court oversees the state bar, for instance. In some states, high courts have used their powers to rein in state bar associations from advocating on controversial issues like abortion, or DEI. The Court also oversees the rules governing lawyers and judges. Some state high courts have adopted rules that significantly impact the free speech and religious liberty of orthodox people of faith serving as attorneys. This court has also considered recusal rules and disciplinary cases that could squelch free speech during judicial elections. The Court also appoints regional senior judges and a number of committees, turning the administrative machinery of the courts over to liberals and building their judicial bench.

## WHAT'S NEXT

Chief Justice Annette Ziegler's current two-year term as chief justice ends on April 30, 2025. The Court is likely to elect the new chief for the coming two-year term before then. Despite an election taking place on April 1, the new Chief Justice will be chosen without input from the winner of the April 1 election.

## LEGAL BACKGROUND

When the new liberal majority took over, it acted quickly to assert its will, even when it meant upsetting longstanding norms:

- » Fired the well-respected Director of State Courts Randy Koschnick and tried to impose a Dane County Circuit Court judge in his place despite a constitutional prohibition on such moves. Director Koschnick was a former conservative circuit court judge.
- » Removed longtime public servant David T. Prosser Jr.'s name from the State Law Library in Madison. Justice Prosser was a conservative justice and former Republican Speaker of the Assembly.
- » Created an "administrative committee" within the Court that stripped the conservative chief justice of many of her traditional (if not constitutional) prerogatives as to scheduling and docket management.
- » Many of these changes were made unilaterally – without a scheduled meeting of the Court where all seven justices were heard and could vote.

## ZOOM IN

The courts are the third branch of government. They have a budget of \$172 million, employ thousands of people statewide, and administer numerous systems that impact law and policy in Wisconsin. The Wisconsin Supreme Court acts as the board of directors for the judicial branch, with the chief justice as chairman of the board. A liberal majority can use its power not only to decide cases, but to restructure an entire branch of government to serve its ideological agenda.

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