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Colorado Supreme Court Statistical Survey

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COLORADO SUPREME COURT STATISTICAL SURVEY

This article modestly begins what will hopefully become a *Denver University Law Review* tradition. Below is the statistical analysis of the Colorado Supreme Court from when the seven justices first starting serving together (April 24, 2000) through June 2005. The analysis does not endeavor to include all the Court's opinions. Rather, the presentation focuses on four subjects: insurance law, suppression orders, water law, and takings.

Chief Justice Mullarkey has been serving on the Court since 1987. Justice Kourlis was appointed in 1995,¹ Justice Hobbs in 1996, Justices Martinez and Bender in 1997, Justice Rice in 1998, and Justice Coats in 2000.²

Some commentators have noted and analyzed the supposed results of having six of the seven justices appointed under Governor Romer.³ This article seeks only to present two statistical results in four categories. First, a summary of the number of cases reversed or affirmed in each category. Second, the voting alliances of each justice in each category.

I. THE PROCESS

A. *Cases Reversed or Affirmed*

The charts show the number and percent of cases affirmed or reversed in each category. Note that "reversed" includes cases reversed in part.

B. *Justices in Agreement*

The percentage of agreement is calculated by dividing the number of opinions on which the two justices joined by the total number of opinions in which both justices participated in the category. Agreement amongst two justices counted only once per case. For example, if Justice Bender and Justice Martinez were to join to concur in part and dissent in part, they would only be counted as having agreed once.

1. As this article went to press, Justice Kourlis announced her resignation effective January 10, 2006. Howard Pankratz, *Kourlis Stepping Down From Colo. High Court*, DENV. POST, Dec. 6, 2005, at A1.

2. For more biographical information, see <http://www.courts.state.co.us/supct/supctjustices.htm>, last visited (Nov. 14, 2005).

3. Adam D. Feldman, *Romer Party Plus One: Managing Public Law in Colorado, 2000-2004*, 68 ALB. L. REV. 445 (2005).

II. CASES REVERSED OR AFFIRMED

A. Insurance Law

The Court ruled on twenty insurance cases.⁴

	Number	%
Affirmed	4	20.0
Reversed	16	80.0

B. Suppression Orders

The Court ruled on sixteen suppression orders entered by district courts.⁵

	Number	%
Affirmed	7	43.7
Reversed	9	56.2

C. Water Law

The Court ruled on twenty-five water law cases.⁶

4. *Smith v. Farmers Ins. Exch. & Mid-Century Ins. Co.*, 9 P.3d 335 (Colo. 2000); *Welch v. George*, 19 P.3d 675 (Colo. 2000); *Clementi v. Nationwide Mut. Fire Ins. Co.*, 16 P.3d 223 (Colo. 2001); *City of Arvada v. Colo. Intergovernmental Risk Sharing Agency*, 19 P.3d 10 (Colo. 2001); *Principal Mut. Life Ins. Co. v. Progressive Mountain Ins. Co.*, 27 P.3d 343 (Colo. 2001); *DeHerrera v. Sentry Ins. Co.*, 30 P.3d 167 (Colo. 2001); *Avemco Ins. Co. v. N. Colo. Air Charter, Inc.*, 38 P.3d 555 (Colo. 2002); *Hill v. Dewitt*, 2002 Colo. LEXIS 888 (Colo. 2002) *consolidated with* *Fasi v. Becker*, 2002 Colo. LEXIS 848 (Colo. 2002); *Giampapa v. Am. Fam. Mut. Ins. Co.*, 64 P.3d 230 (Colo. 2003); *Hawes v. Colo. Div. of Ins.*, 65 P.3d 1008 (Colo. 2003); *State Farm Mut. Auto. Ins. Co. v. Kastner*, 77 P.3d 1256 (Colo. 2003); *State Farm Mut. Auto. Ins. Co. v. Brekke*, 105 P.3d 177 (Colo. 2004) *consolidated with* *State Farm Mut. Auto. Ins. Co. v. Shaffer* (Colo. 2004); *Am. Fam. Mut. Ins. Co. v. Allen*, 102 P.3d 333 (Colo. 2004); *Goodson v. Am. Standard Ins. Co.*, 89 P.3d 409 (Colo. 2004); *Cotter Corp. v. Am. Empire Surplus Lines Ins. Co.*, 2004 Colo. LEXIS 477 (Colo. 2004); *Thompson v. Md. Cas. Co.*, 84 P.3d 496 (Colo. 2004); *Steiner v. Minn. Life Ins. Co.*, 85 P.3d 135 (Colo. 2004); *Friedland v. Travelers Indem. Co.*, 105 P.3d 639 (Colo. 2005); *Cary v. United of Omaha Life Ins. Co.*, 108 P.3d 288 (Colo. 2005); *Coors v. Sec. Life of Denver Ins. Co.*, 112 P.3d 59 (Colo. 2005).

5. *People v. Randolph*, 4 P.3d 477 (Colo. 2000); *People v. McCullough*, 6 P.3d 774 (Colo. 2000); *People v. Smith*, 13 P.3d 300 (Colo. 2000); *People v. Ramos*, 13 P.3d 295 (Colo. 2000); *People v. King*, 16 P.3d 807 (Colo. 2001) *consolidated with* *People v. Gulick* (Colo. 2001); *People v. Brazzel*, 18 P.3d 1285 (Colo. 2001); *People v. Ortega*, 34 P.3d 986 (Colo. 2001); *People v. Koverman*, 38 P.3d 85 (Colo. 2002); *People v. Heilman*, 52 P.3d 224 (Colo. 2002); *People v. Mangum*, 48 P.3d 568 (Colo. 2002); *People v. Syrie*, 101 P.3d 219 (Colo. 2004); *People v. Howard*, 92 P.3d 445 (Colo. 2004); *People v. Ramos*, 86 P.3d 397 (Colo. 2004); *People v. Allison*, 86 P.3d 421 (Colo. 2004); *People v. Platt*, 81 P.3d 1060 (Colo. 2004); *People v. Kirk*, 103 P.3d 918 (Colo. 2005).

6. *Bd. County Comm'rs v. Crystal Creek Homeowners' Assoc.*, 14 P.3d 325 (Colo. 2000); *Farmers Reservoir & Irrigation Co. v. Consolidated Mut. Water Co.*, 33 P.3d 799 (Colo. 2001); *Empire Lodge Homeowners' Assoc. v. Moyer*, 39 P.3d 1139 (Colo. 2001); *Mount Emmons Mining Co. v. Town of Crested Butte*, 40 P.3d 1255 (Colo. 2002); *City of Thornton v. City and County of Denver*, 44 P.3d 1019 (Colo. 2002); *SL Group, LLC v. Go West Indus., Inc.*, 42 P.3d 637 (Colo. 2002); *Bd. of County Comm'rs v. Park County Sportsmen's Ranch*, 45 P.3d 693 (Colo. 2002); *Farmers High Line Canal & Reservoir Co. v. City of Golden*, 44 P.3d 241 (Colo. 2002); *State Eng'r. v. Bradley*, 53 P.3d 1165 (Colo. 2002); *Double RL Co. v. Telluray Ranch Props.*, 54 P.3d 908 (Colo. 2002); *West Elk Ranch v. United States*, 65 P.3d 479 (Colo. 2002); *Groundwater Appropriators of South Platte River Basin, Inc. v. City of Boulder*, 73 P.3d 22 (Colo. 2003); *Colo. Ground Water Comm'n v. North Kiowa-Bijou Groundwater Mgmt. Dist.*, 77 P.3d 62 (Colo. 2003); *East Twin*

	Number	%
Affirmed	15	60.0
Reversed	10	40.0

D. Takings

The Court ruled on eight cases dealing with regulatory takings, eminent domain, or condemnation.⁷

	Number	%
Affirmed	2	25.0
Reversed	6	75.0

III. JUSTICES IN AGREEMENT

The following graphs represent voting alignments for each justice in each category. Each line, as defined by the legend, represents one of the four categories discussed.

LEGEND

Insurance Law: _____

Suppression Orders: - - - - -

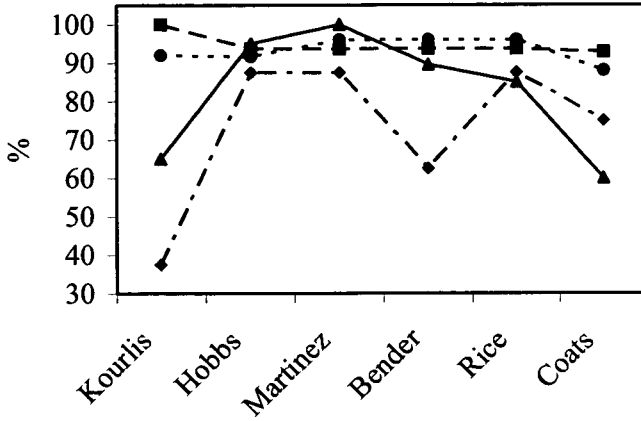
Water Law: - - - - -

Takings: - - - - -

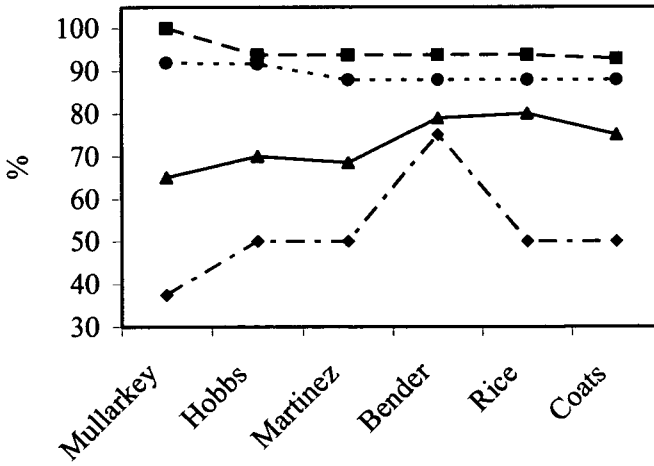
Lakes Ditches & Water Works, Inc. v. Board of County Comm'rs., 76 P.3d 918 (Colo. 2003); Moyer v. Empire Lodge Homeowners' Ass'n, 78 P.3d 313 (Colo. 2003); United States v. Colo. State Eng'r 101 P.3d 1072 (Colo. 2004); Black Hawk v. City of Central, 97 P.3d 951 (Colo. 2004); Wyse Fin. Servs., Inc. v. Nat'l Real Estate Invest. LLC, 92 P.3d 918 (Colo. 2004); Fort Morgan Reservoir & Irrigation Co. v. Groundwater Appropriators of the S. Platte River Basin, Inc., 85 P.3d 536 (Colo. 2004); City of Golden v. Simpson, 2004 Colo. LEXIS 64 (Colo. 2004); City of Aurora v. Simpson, 105 P.3d 595 (Colo. 2005); Colo. Conservation Water Bd. v. Upper Gunnison River Water Conservancy Dist., 109 P.3d 585 (Colo. 2005); East Ridge of Fort Collins v. Larimer & Weld Irrigation Co., 109 P.3d 969 (Colo. 2005); East Cherry Creek Valley Water & Sanitation Dist. V. Rangeview Metro. Dist., 109 P.3d 154 (Colo. 2005); Ready Mixed Concrete Co. v. Farmers Reservoir & Irrigation Co., 115 P.3d 638 (Colo. 2005).

7. Pub. Highway Auth. v. The 455 Co. 88 Co. 3 P.3d 18 (Colo. 2000); Fowler Irrevocable Trust 1992-1 v. City of Boulder, 2001 Colo. LEXIS 106 (Colo. 2001); Pub. Serv. Co. of Colo. v. Van Wyk, 27 P.3d 377 (Colo. 2001); Animas Valley Sand & Gravel, Inc. v. Board of County Comm'rs, 38 P.3d 59 (Colo. 2001); Jagow v. E-470 Pub. Highway Auth., 49 P.3d 1151 (Colo. 2002); Dep't of Transp. v. Stapleton, 97 P.3d 938 (Colo. 2004); E-470 Pub. Highway Auth. v. Revenig, 91 P.3d 1038 (Colo. 2004); Arvada Urban Renewal Auth. V. Columbine Prof. Plaza Assoc., Inc., 85 P.3d 1066 (Colo. 2004).

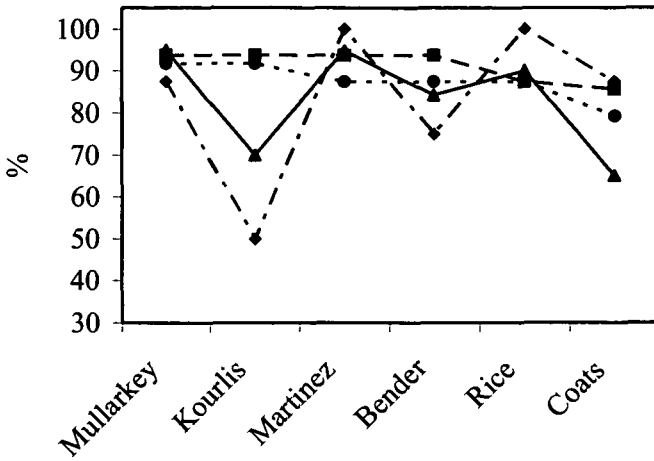
Chief Justice Mullarkey



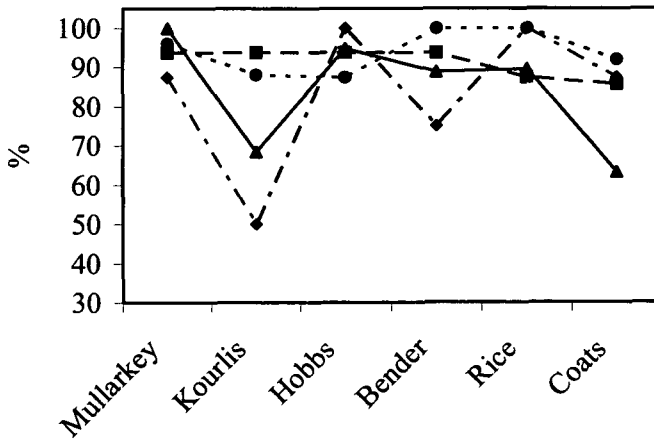
Justice Kourlis



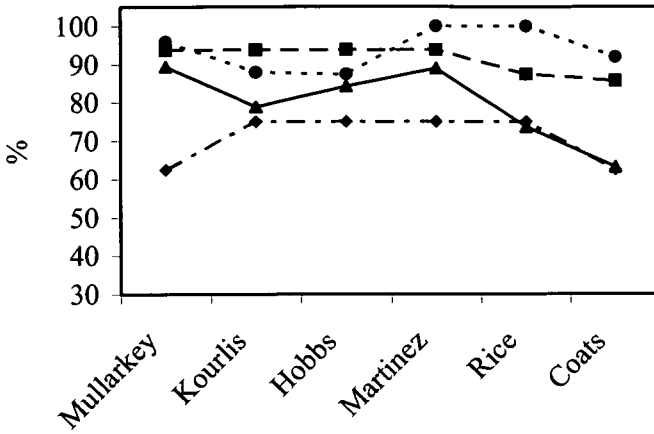
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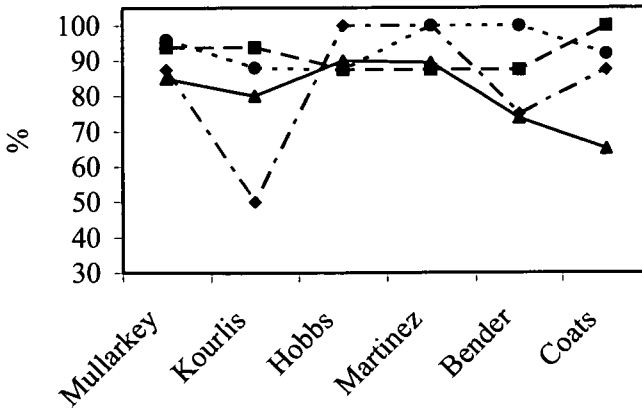
Justice Martinez



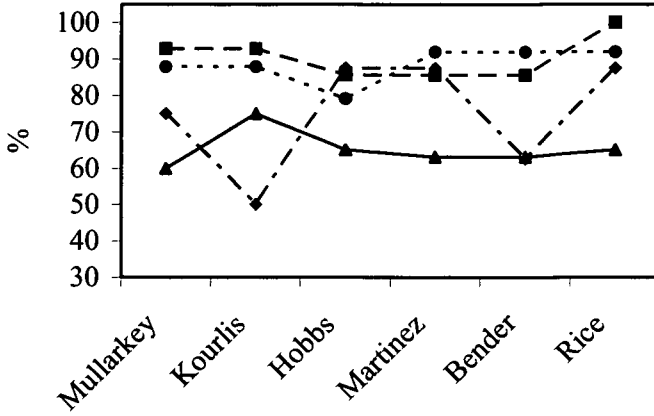
Justice Bender



Justice Rice



Justice Coats



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