

# AN EXAMINATION OF THE INDIANA SUPREME COURT DOCKET, DISPOSITIONS, AND VOTING IN 2011\*

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An era passed in 2011, as Chief Justice Randall Shepard completed his last full year on the Indiana Supreme Court. Appointed to the court in 1985 and becoming chief justice in 1987, Chief Justice Shepard's tenure spanned from a time when the Cold War was fading to when Indiana entered the modern, multi-cultural information society. Eras in U.S. Supreme Court history are often known by the then-serving chief justice, such as the Warren Court or the Rehnquist Court or, today, the Roberts Court. To apply the convention to the Indiana Supreme Court, the question posed by the chief justice's retirement is: What did the Shepard court mean to Indiana's judicial history? While only time will provide the final answer, several hallmarks of the Shepard court were evident, even in his final year on the bench.

First, from the very beginning, the Shepard court set about reviving the Indiana Constitution. The chief justice himself called for a "second wind" for the Indiana Constitution shortly after assuming his post.<sup>1</sup> The Indiana Constitution received paramount attention throughout the Shepard years. In 2011, it was the issue most frequently addressed by the justices. Setting aside attorney discipline cases, it was also the most visited issue in each of the prior five years. The Shepard court might well have prompted a cultural change in the Indiana Bar so that Indiana lawyers and judges now properly view constitutional law in terms of the dual state and federal system.

Second, the Shepard court saw a fundamental change in the types of cases heard by the court. The Indiana Constitution was amended in both 1988 and in

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\* The Tables presented in this Article are patterned after the annual statistics of the U.S. Supreme Court published in the *Harvard Law Review*. An explanation of the origin of these Tables can be found at Louis Henkin, *The Supreme Court, 1967 Term*, 82 HARV. L. REV. 63, 301 (1968). The *Harvard Law Review* granted permission for the use of these Tables by the *Indiana Law Review* this year; however, permission for any further reproduction of these Tables must be obtained from the *Harvard Law Review*.

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1. See Randall T. Shepard, *Second Wind for the Indiana Bill of Rights*, 22 IND. L. REV. 575, 575 (1989).

2000 to reduce the number of mandatory criminal direct appeals.<sup>2</sup> Prior to these amendments, virtually every murder case was appealed directly to the Indiana Supreme Court, and the court's docket was bogged down in numerous (and often routine) criminal appeals. The change in the court's jurisdiction gave it greater flexibility over the cases it hears. It has used that discretion to diversify the court's docket so as to hear cases that affect a broader range of Hoosiers. For instance, in 2011 only 45% of the court's opinions arose in criminal cases. The majority of the court's caseload arose in civil cases, which addressed topics as varied as family law, insurance, employment, personal injury, environmental law, tax law, and trust and estates. As the chief justice foresaw in a 1988 law journal article pressing for the jurisdictional change, the court has been able to use its discretionary jurisdiction to act more as a court of last resort so as "to advance its law-giving function in other areas of substantive law."<sup>3</sup>

Finally, an undeniable hallmark of the Shepard court was its ability to reach consensus. For instance, the court was unanimous in 64.8% of its cases in 2011. It was split 3-2 in only 13 of its 86 cases. This was consistent with prior years. In 2010, the court was unanimous in 72.9% of its cases and split 3-2 in only 13% of its cases. In other words, the justices of the Shepard court departed from the majority when they were compelled to do so, but division on the Shepard court was the exception, not the norm.

**Table A.** In his last full year on the court, Chief Justice Shepard had a phenomenally productive year, writing the most opinions with 23. That was the same number as Justice Rucker and Justice David combined and eight more than Justice Sullivan, the next highest justice. It was the second consecutive year that the chief justice authored the highest number of opinions.

The court again handed down more civil cases than criminal cases, as 55% of the court's opinions came in civil cases. In fact, in the past nine years, civil cases have outnumbered the criminal cases in every year except 2002 and 2007.<sup>4</sup> For the second time in three years, Justice Rucker handed down more dissenting opinions (12) than majority opinions (8).<sup>5</sup>

**Table B-1.** Justice Rucker and Justice Sullivan were the most aligned pair of justices in civil cases, as they agreed in 95.7% of all civil cases. In previous years, that pair of justices had shown some of the least amount of agreement in civil cases, as they agreed in less than 80% of civil cases in 2009 and 2008.<sup>6</sup> The next highest pair was Justice David and Justice Sullivan, who agreed in 93.2%

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2. IND. CONST. art. VII, § 4.

3. Randall T. Shepard, *Changing the Constitutional Jurisdiction of the Indiana Supreme Court: Letting a Court of Last Resort Act Like One*, 63 IND. L.J. 669, 670 (1988).

4. See Mark J. Crandley et al., *An Examination of the Indiana Supreme Court Docket, Dispositions, and Voting in 2010*, 44 IND. L. REV. 993, 994 (2011) [hereinafter *2010 Indiana Supreme Court Docket*].

5. *Id.* at 994-95.

6. See *id.* at 995.

of all cases.

The lowest level of agreement in civil cases was between Justice Dickson and Justice Rucker, who agreed in only 74.5% of civil cases. This marked the first time this pair of justices agreed in less than 80% of civil cases since 2005.<sup>7</sup> Justice Sullivan and Justice Dickson were second least aligned at 76.6%. This is consistent with prior years, as these two justices were among the least aligned in 2008-2010 with an alignment in 67.3% of civil cases in 2008.<sup>8</sup>

**Table B-2.** In criminal cases, Chief Justice Shepard and Justice David were the most aligned at 97.4%. Chief Justice Shepard and Justice Sullivan were the second most aligned at 94.9%.

Justice Rucker and Justice Dickson were the least aligned in criminal cases, as they only agreed in 71.8% of all criminal cases. The next lowest percentages also involved Justice Rucker, as he agreed with Justice David in only 79.5% of criminal cases and with Chief Justice Shepard in only 84.6% of those cases.

**Table B-3.** Looking at all cases, Justice David was the justice most aligned with his peers. The highest percentage of alignment on the court was between Justice David and Chief Justice Shepard at 94%. The second highest percentage was between Justice David and Justice Sullivan at 92.8%. Justice David nearly agreed with a third justice 90% of the time, as his alignment with Justice Dickson fell just short at 89.2%.

By contrast, Justice Rucker only agreed with a single other justice more than 80% of the time. As previously discussed, Justice Rucker wrote more dissents than majority opinions. It is therefore not surprising that the three lowest percentages of alignment involved Justice Rucker, as he aligned with Justice Dickson in 73.3% of all cases, Justice Sullivan in 77.9% of all cases, and Justice David in only 79.5% of all cases. No other justice agreed with any of his colleagues in less than 80% of all cases.

**Table C.** The percentage of unanimous opinions was slightly lower than in previous years. The court was unanimous in 64.8% of all cases in 2011. In the three previous years, the percent of opinions that were unanimous averaged about 66.1%.<sup>9</sup> As with previous years, the number of dissents far outweighed the number of concurring opinions. Of the 32 separate opinions in 2011, all but 6 were dissents. In 2010, there were 27 dissents compared to only 2 concurring

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7. See Mark J. Crandley et al., *An Examination of the Indiana Supreme Court Docket, Dispositions, and Voting in 2005*, 39 IND. L. REV. 733, 736 (2006) (noting that in 2005, Justices Rucker and Dickson were least aligned at 75.5%).

8. Mark J. Crandley & P. Jason Stephenson, *An Examination of the Indiana Supreme Court Docket, Dispositions, and Voting in 2008*, 42 IND. L. REV. 773, 776 (2009) [hereinafter *2008 Indiana Supreme Court Docket*].

9. See *2010 Indiana Supreme Court Docket*, *supra* note 4, at 995 (discussing past unanimity of the court).

opinions.<sup>10</sup> In 2009, there were 31 dissents and only 3 concurring opinions.<sup>11</sup> These numbers do not necessarily indicate fundamental disagreement among the justices. Dissents remain rare, as they crop up only in 28.6% of all cases. The relative absence of separate concurring opinions shows that the court strives for a true consensus and compromise from the justices that makes separate concurring opinions less useful or necessary. By contrast, the justices will deviate from the need for consensus when compelled to do so because they cannot agree with the majority opinion.

**Table D.** The court handed down 13 split decisions in 2011, just 15% of its total. Justice David was a key vote in 3-2 decisions in 2011, as he was in the majority in all but one of them. Justice Rucker, by contrast, joined the majority in 3-2 decisions only twice.

**Table E-1.** For many years, a grant of transfer in a civil case almost assuredly meant that the court would reverse the lower courts. For instance, in 2008 and 2007, the court reversed in 80 and 93.5% of civil cases where transfer had been granted.<sup>12</sup> While a reversal in civil cases remains more likely than not, reversals are not as automatic as they once seemed. In 2011, the court reversed in only 64.5% of civil cases where transfer was granted. In 2009 and 2010, the court reversed about 70% of the time.<sup>13</sup> Whether this is part of a larger trend remains to be seen.

**Table E-2.** After dropping for many years, the number of petitions for transfer rose sharply to 823 in 2011. This amount was at least 200 petitions more than the previous year, when only 536 petitions for transfer were filed.<sup>14</sup> There were only 728 and 764 petitions filed in 2009 and 2008, respectively.

It remains difficult to obtain transfer, as the court only granted transfer in 10.5% of all cases and only 7.7% of criminal cases. This is consistent with prior years. In 2010, for instance, the court granted transfer in only 11.1% of all cases and 8% of criminal cases.<sup>15</sup> In 2009, transfer was granted in 8.4% of all cases and only 6% of criminal cases.<sup>16</sup>

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10. *Id.* at 1001 tbl.C.

11. Mark J. Crandley et al., *An Examination of the Indiana Supreme Court Docket, Dispositions, and Voting in 2009*, 43 IND. L. REV. 541, 551 tbl.C (2010) [hereinafter *2009 Indiana Supreme Court Docket*].

12. See *2008 Indiana Supreme Court Docket*, *supra* note 8, at 784 tbl.E-1; Mark J. Crandley et al., *An Examination of the Indiana Supreme Court Docket, Dispositions, and Voting in 2007*, 41 IND. L. REV. 839, 849 tbl.E-1 (2008).

13. See *2010 Indiana Supreme Court Docket*, *supra* note 4, at 996 (discussing reversals in 2009 and 2010).

14. *Id.*

15. *Id.* at 1004 tbl.E-2.

16. *2009 Indiana Supreme Court Docket*, *supra* note 11, at 554 tbl.E-2.

**Table F.** The Indiana Constitution remains a primary focus of the court's work, as it handed down 12 cases in 2011, which mainly addressed the Indiana Constitution. Personal injury issues also played a central role in the court's 2011 decisions, as it addressed medical malpractice issues five times, negligence issues five times and the statute of limitations three times. It was a relatively quiet year for business issues before the supreme court, as there were no cases addressing the Uniform Commercial Code, corporate law or banking law, and only a single case that fell primarily in the rubric of contract law. Similarly, after handing down three administrative law cases in 2010,<sup>17</sup> the court did not address the topic in 2011. These are areas to which the court may return in 2012.

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17. 2010 Indiana Supreme Court Docket, *supra* note 4, at 1005 tbl.F.

**TABLE A**  
**OPINIONS<sup>a</sup>**

	OPINIONS OF COURT <sup>b</sup>			CONCURRENCES <sup>c</sup>			DISSENTS <sup>d</sup>		
	Criminal	Civil	Total	Criminal	Civil	Total	Criminal	Civil	Total
Shepard, C.J.	12	11	23	0	1	1	0	4	4
Dickson, J.	4	10	14	0	4	4	3	2	5
J Sullivan, J.	8	8	16	0	1	1	1	4	5
J David, J.	9	6	15	0	1	1	1	0	1
J Rucker, J.	4	4	8	0	1	1	6	6	12
Per Curiam	2	8	10						
Total	39	47	86	0	8	8	11	16	27

<sup>a</sup> These are opinions and votes on opinions by each justice and in per curiam in the 2011 term. The Indiana Supreme Court is unique because it is the only supreme court to assign each case to a justice by a consensus method. Cases are distributed by a consensus of the justices in the majority on each case either by volunteering or nominating writers. The chief justice does not have any power to “control the assignments other than as a member of the majority.” See Melinda Gann Hall, *Opinion Assignment Procedures and Conference Practices in State Supreme Courts*, 73 JUDICATURE 209, 213 (1990). The order of discussion and voting is started by the most junior member of the court and follows in reverse seniority. See *id.* at 210.

<sup>b</sup> This is only a counting of full opinions written by each justice. Plurality opinions that announce the judgment of the court are counted as opinions of the court. It includes opinions on civil, criminal, and original actions.

<sup>c</sup> This category includes both written concurrences, joining in written concurrence, and votes to concur in result only.

<sup>d</sup> This category includes both written dissents and votes to dissent without opinion. Opinions concurring in part and dissenting in part, or opinions concurring in part only and differing on another issue, are counted as dissents.

**TABLE B-1**  
**VOTING ALIGNMENTS FOR CIVIL CASES<sup>e</sup>**

	Shepard	Dickson	Sullivan	David	Rucker
O		35	39	40	36
S		0	0	0	4
D	---	35	39	40	40
N		47	47	44	47
P		79.6%	83.0%	90.9%	85.1%
O	35		36	37	32
S	0		0	1	3
D	35	---	36	38	35
N	47		47	44	47
P	79.6%		76.6%	86.4%	74.5%
O	39	36		41	33
S	0	0		0	0
D	39	36	---	41	45
N	47	47		44	47
P	83.0%	76.6%		93.2%	95.7%
O	40	37	41		35
S	0	1	0		0
D	40	38	41	---	35
N	44	44	44		44
P	90.9%	86.4%	93.2%		79.5%
O	36	32	33	35	
S	4	3	0	0	
D	40	35	45	35	---
N	47	47	47	44	
P	85.1%	74.5%	95.7%	79.5%	

<sup>e</sup> This Table records the number of times that one justice voted with another in full-opinion decisions, including per curiam, for only civil cases. For example, in the top set of numbers for Chief Justice Shepard, 35 is the number of times Chief Justice Shepard and Justice Dickson agreed in a full majority opinion in a civil case. Two justices are considered to have agreed whenever they joined the same opinion, as indicated by either the reporter or the explicit statement of a justice in the body of his or her own opinion. The Table does not treat two justices as having agreed if they did not join the same opinion, even if they agreed only in the result of the case or wrote separate opinions revealing little philosophical disagreement.

“O” represents the number of decisions in which the two justices agreed in opinions of the court or opinions announcing the judgment of the court.

“S” represents the number of decisions in which the two justices agreed in separate opinions, including agreements in both concurrences and dissents.

“D” represents the number of decisions in which the two justices agreed in either a majority, dissenting, or concurring opinion.

“N” represents the number of decisions in which both justices participated and thus the number of opportunities for agreement.

“P” represents the percentage of decisions in which one justice agreed with another justice, calculated by dividing “D” by “N.”

**TABLE B-2**  
**VOTING ALIGNMENTS FOR CRIMINAL CASES<sup>f</sup>**

	Shepard	Dickson	Sullivan	David	Rucker
O		35	37	38	33
Shepard, S		0	0	0	0
C.J. D	---	35	37	38	33
N		39	39	39	39
P		89.7%	94.9%	97.4%	84.6%
O	35		33	35	28
Dickson, S	0		0	1	0
J. D	35	---	33	36	28
N	39		39	39	39
P	89.7%		84.6%	92.3%	71.8%
O	37	33		36	32
S	0	0		0	2
Sullivan, J. D	37	33	---	36	34
N	39	39		39	39
P	94.9%	84.6%		92.3%	87.2%
O	38	35	36		31
S	0	1	0		0
David, J. D	38	36	36	---	31
N	39	39	39		39
P	97.4%	92.3%	92.3%		79.5%
O	33	28	32	31	
S	0	0	2	0	
Rucker, J. D	33	28	34	31	---
N	39	39	39	39	
P	84.6%	71.8%	87.2%	79.5%	

<sup>f</sup> This Table records the number of times that one justice voted with another in full-opinion decisions, including per curiam, for only criminal cases. For example, in the top set of numbers for Chief Justice Shepard, 35 is the number of times Chief Justice Shepard and Justice Dickson agreed in a full majority opinion in a criminal case. Two justices are considered to have agreed whenever they joined the same opinion, as indicated by either the reporter or the explicit statement of a justice in the body of his or her own opinion. The Table does not treat two justices as having agreed if they did not join the same opinion, even if they agreed only in the result of the case or wrote separate opinions revealing little philosophical disagreement.

“O” represents the number of decisions in which the two justices agreed in opinions of the court or opinions announcing the judgment of the court.

“S” represents the number of decisions in which the two justices agreed in separate opinions, including agreements in both concurrences and dissents.

“D” represents the number of decisions in which the two justices agreed in either a majority, dissenting, or concurring opinion.

“N” represents the number of decisions in which both justices participated and thus the number of opportunities for agreement.

“P” represents the percentage of decisions in which one justice agreed with another justice, calculated by dividing “D” by “N.”



**TABLE B-3**  
**VOTING ALIGNMENTS FOR ALL CASES<sup>g</sup>**

		Shepard	Dickson	Sullivan	David	Rucker
Shepard, C.J.	O		70	76	78	69
	S		0	0	0	4
	D	---	70	76	78	73
	N		86	86	83	86
	P		81.4%	88.4%	94.0%	84.9%
Dickson, J.	O	70		69	72	60
	S	0		0	2	3
	D	70	---	69	74	63
	N	86		86	83	86
	P	81.4%		80.2%	89.2%	73.3%
Sullivan, J.	O	76	69		77	65
	S	0	0		0	2
	D	76	69	---	77	67
	N	86	86		83	86
	P	88.4%	80.2%		92.8%	77.9%
David, J.	O	78	72	77		66
	S	0	2	0		0
	D	78	74	77	---	66
	N	83	83	83		83
	P	94.0%	89.2%	92.8%		79.5%
Rucker, J.	O	69	60	65	66	
	S	4	3	2	0	
	D	73	63	67	66	---
	N	86	86	86	83	
	P	84.9%	73.3%	77.9%	79.5%	

<sup>g</sup> This Table records the number of times that one justice voted with another in full-opinion decisions, including per curiam, for all cases. For example, in the top set of numbers for Chief Justice Shepard, 70 is the total number of times Chief Justice Shepard and Justice Dickson agreed in all full majority opinions written by the court in 2011. Two justices are considered to have agreed whenever they joined the same opinion, as indicated by either the reporter or the explicit statement of a justice in the body of his or her own opinion. The Table does not treat two justices as having agreed if they did not join the same opinion, even if they agreed only in the result of the case or wrote separate opinions revealing little philosophical disagreement.

“O” represents the number of decisions in which the two justices agreed in opinions of the court or opinions announcing the judgment of the court.

“S” represents the number of decisions in which the two justices agreed in separate opinions, including agreements in both concurrences and dissents.

“D” represents the number of decisions in which the two justices agreed in either a majority, dissenting, or concurring opinion.

“N” represents the number of decisions in which both justices participated and thus the number of opportunities for agreement.

“P” represents the percentage of decisions in which one justice agreed with another justice, calculated by dividing “D” by “N.”

**TABLE C**  
**UNANIMITY**  
**NOT INCLUDING JUDICIAL OR ATTORNEY DISCIPLINE CASES<sup>h</sup>**

Unanimous <sup>i</sup>			Unanimous with Concurrence <sup>i</sup>			Opinions with Dissent			Total
Criminal	Civil	Total	Criminal	Civil	Total	Criminal	Civil	Total	
28	31	59 (64.8%)	0	6	6 (6.6%)	11	15	26 (28.6%)	91

<sup>h</sup> This Table tracks the number and percent of unanimous opinions among all opinions written. If, for example, only four justices participate and all concur, it is still considered unanimous. It also tracks the percentage of overall opinions with concurrence and overall opinions with dissent.

<sup>i</sup> A decision is considered unanimous only when all justices participating in the case voted to concur in the court's opinion as well as its judgment. When one or more justices concurred in the result, but not in the opinion, the case is not considered unanimous.

<sup>j</sup> A decision is listed in this column if one or more justices concurred in the result, but not in the opinion of the court or wrote a concurrence, and there were no dissents.

**TABLE D**  
**SPLIT DECISIONS<sup>k</sup>**

<b>Justices Constituting the Majority</b>	<b>Number of Opinions<sup>l</sup></b>
1. Shepard, C.J., Dickson, J., David, J.	3
2. Shepard, C.J., Sullivan, J., David, J.	4
3. Shepard, C.J., Sullivan, J., Rucker, J.	1
4. Shepard, C.J., David, J., Rucker, J.	1
5. Dickson, J., Sullivan, J., David, J.	4
Total <sup>m</sup>	13

<sup>k</sup> This Table concerns only decisions rendered by full opinion. An opinion is counted as a split decision if two or more justices voted to decide the case in a manner different from that of the majority of the court.

<sup>l</sup> This column lists the number of times each group of justices constituted the majority in a split decision.

<sup>m</sup> The 2011 term's split decisions were:

1. Shepard, C.J., Dickson, J., David, J.: *Hopper v. State*, 957 N.E.2d 613 (Ind. 2011) (Shepard, C.J.); *Siwinski v. Town of Ogden Dunes*, 949 N.E.2d 825 (Ind. 2011) (David, J.); *Sloan v. State*, 947 N.E.2d 917 (Ind. 2011) (David, J.).

2. Shepard, C.J., Sullivan, J., David, J.: *Lucas v. U.S. Bank, N.A.*, 953 N.E.2d 457 (Ind. 2011) (David, J.); *State ex rel. Zoeller v. Aisin USA Mfg., Inc.* 946 N.E.2d 1148 (Ind. 2011), *reh'g denied* (Sept. 13, 2011) (David, J.); *Barnes v. State*, 946 N.E.2d 572 (Ind. 2011), *reh'g granted*, 953 N.E.2d 473 (Ind. 2011) (David, J.); *City of Indianapolis v. Armour*, 946 N.E.2d 553 (Ind. 2011) (Sullivan, J.).

3. Shepard, C.J., Sullivan, J., Rucker, J.: *Pierce v. State*, 949 N.E.2d 349 (Ind. 2011) (Rucker, J.).

4. Shepard, C.J., David, J., Rucker, J.: *In re A.B. v. State*, 949 N.E.2d 1204 (Ind. 2011), *reh'g denied* (Nov. 1, 2011) (David, J.).

5. Dickson, J., Sullivan, J., David, J.: *Hematology-Oncology of Ind., P.C. v. Fruits*, 950 N.E.2d 294 (Ind. 2011) (Dickson, J.); *Ind. Patient's Comp. Fund v. Brown*, 949 N.E.2d 822 (Ind. 2011) (Dickson, J.); *McCabe v. Comm'r, Ind. Dep't of Ins.*, 949 N.E.2d 816 (Ind. 2011) (David, J.); *In re O'Farrell*, 942 N.E.2d 799 (Ind. 2011) (per curiam).

**TABLE E-1**  
**DISPOSITION OF CASES REVIEWED BY TRANSFER**  
**AND DIRECT APPEALS<sup>n</sup>**

	Reversed or Vacated <sup>o</sup>	Affirmed	Total
Civil Appeals Accepted for Transfer	20 (64.5%)	11 (35.5%)	31
Direct Civil Appeals	3 (100.0%)	0 (0.0%)	3
Criminal Appeals Accepted for Transfer	19 (54.3%)	16 (45.7%)	35
Direct Criminal Appeals	0 (0.0%)	3 (100.0%)	3
Total	42 (58.2%)	30 (41.7%)	72 <sup>p</sup>

<sup>n</sup> Direct criminal appeals are cases in which the trial court imposed a death sentence. *See* IND. CONST. art. VII, § 4. Thus, direct criminal appeals are those directly from the trial court. A civil appeal may also be direct from the trial court. *See* IND. APP. R. 56, 63 (pursuant to Rules of Procedure for Original Actions). All other Indiana Supreme Court opinions are accepted for transfer from the Indiana Court of Appeals. *See* IND. APP. R. 57.

<sup>o</sup> Generally, the term “vacate” is used by the Indiana Supreme Court when it is reviewing a court of appeals opinion, and the term “reverse” is used when the court overrules a trial court decision. A point to consider in reviewing this Table is that the court technically “vacates” every court of appeals opinion that is accepted for transfer, but may only disagree with a small portion of the reasoning and still agree with the result. *See* IND. APP. R. 58(A). As a practical matter, “reverse” or “vacate” simply represents any action by the court that does not affirm the trial court or court of appeals’s opinion.

<sup>p</sup> This does not include 6 attorney discipline opinions, 3 judicial discipline opinions, and 8 original actions. These opinions did not reverse, vacate, or affirm any other court’s decision.

**TABLE E-2**  
**DISPOSITION OF PETITIONS TO TRANSFER**  
**TO SUPREME COURT IN 2010<sup>q</sup>**

	Denied or Dismissed	Granted	Total
Petitions to Transfer			
Civil <sup>r</sup>	235 (83.3%)	47 (16.7%)	282
Criminal <sup>s</sup>	528 (92.3%)	44 (7.7%)	572
Juvenile	60 (90.9%)	6 (9.1%)	66
Total	823 (89.5%)	97 (10.5%)	920

<sup>q</sup> This Table analyzes the disposition of petitions to transfer by the court. *See* IND. APP. R. 58(A).

<sup>r</sup> This also includes petitions to transfer in tax cases and workers' compensation cases.

<sup>s</sup> This also includes petitions to transfer in post-conviction relief cases.

**TABLE F**  
**SUBJECT AREAS OF SELECTED DISPOSITIONS**  
**WITH FULL OPINIONS<sup>t</sup>**

<b>Original Actions</b>	<b>Number</b>
• Certified Questions	3 <sup>u</sup>
• Writs of Mandamus or Prohibition	2 <sup>v</sup>
• Attorney Discipline	6 <sup>w</sup>
• Judicial Discipline	3 <sup>x</sup>
<b>Criminal</b>	
• Death Penalty	1 <sup>y</sup>
• Fourth Amendment or Search and Seizure	5 <sup>z</sup>
• Writ of Habeas Corpus	0
Emergency Appeals to the Supreme Court	0
Trusts, Estates, or Probate	1 <sup>aa</sup>
Real Estate or Real Property	5 <sup>bb</sup>
Personal Property	0
Landlord-Tenant	0
Divorce or Child Support	1 <sup>cc</sup>
Children in Need of Services (CHINS)	1 <sup>dd</sup>
Paternity	1 <sup>ee</sup>
Product Liability or Strict Liability	1 <sup>ff</sup>
Negligence or Personal Injury	5 <sup>gg</sup>
Invasion of Privacy	0
Medical Malpractice	5 <sup>hh</sup>
Indiana Tort Claims Act	1 <sup>ii</sup>
Statute of Limitations or Statute of Repose	3 <sup>jj</sup>
Tax, Department of State Revenue, or State Board of Tax Commissioners	2 <sup>kk</sup>
Contracts	1 <sup>ll</sup>
Corporate Law or the Indiana Business Corporation Law	0
Uniform Commercial Code	0
Banking Law	0
Employment Law	2 <sup>mm</sup>
Insurance Law	1 <sup>nn</sup>
Environmental Law	2 <sup>oo</sup>
Consumer Law	0
Workers' Compensation	1 <sup>pp</sup>
Arbitration	0
Administrative Law	0
First Amendment, Open Door Law, or Public Records Law	0
Full Faith and Credit	0
Eleventh Amendment	0
Civil Rights	2 <sup>qq</sup>
Indiana Constitution	12 <sup>rr</sup>

<sup>t</sup> This Table is designed to provide a general idea of the specific subject areas upon which the court ruled or discussed and how many times it did so in 2011. It is also a quick-reference guide to court rulings for practitioners in specific areas of the law. The numbers corresponding to the areas of law reflect the number of cases in which the court substantively discussed legal issues about these subject areas. Also, any attorney discipline case resolved by order (as opposed to an opinion) was not considered in preparing this Table.

<sup>u</sup> Snyder v. King, 958 N.E.2d 764 (Ind. 2011); George v. Nat'l Collegiate Athletic Ass'n, 945 N.E.2d 150 (Ind. 2011); Green v. Ford Motor Co., 942 N.E.2d 791 (Ind. 2011), *reh'g denied* (June 20, 2011).

<sup>v</sup> State *ex rel.* McIntosh v. Vigo Super. Ct., 946 N.E.2d 1160 (Ind. 2011); State *ex rel.* Lewis v. Vigo Super. Ct., 946 N.E.2d 581 (Ind. 2011).

<sup>w</sup> *In re* Newman, 958 N.E.2d 792 (Ind. 2011); *In re* Powell, 953 N.E.2d 1060 (Ind. 2011); *In re* McKinney, 948 N.E.2d 1154 (Ind. 2011); *In re* Parilman, 947 N.E.2d 915 (Ind. 2011); *In re* Rocchio, 943 N.E.2d 797 (Ind. 2011); *In re* O'Farrell, 942 N.E.2d 799 (Ind. 2011).

<sup>x</sup> *In re* Hughes, 947 N.E.2d 418 (Ind. 2011); *In re* Young, 943 N.E.2d 1276 (Ind. 2011).

<sup>y</sup> Baer v. State, 942 N.E.2d 80 (Ind. 2011).

<sup>z</sup> Lewis v. State, 949 N.E.2d 1243 (Ind. 2011); Garcia-Torres v. State, 949 N.E.2d 1229 (Ind. 2011); Wilkins v. State, 946 N.E.2d 1144 (Ind. 2011), *reh'g denied* (Sept. 2, 2011); Barnes v. State, 946 N.E.2d 572 (Ind.), *reh'g granted*, 953 N.E.2d 473 (Ind. 2011); Lacey v. State, 946 N.E.2d 548 (Ind. 2011), *reh'g denied* (Sept. 2, 2011).

<sup>aa</sup> Avery v. Avery, 953 N.E.2d 470 (Ind. 2011).

<sup>bb</sup> Town of Avon v. W. Cent. Conservancy Dist., 957 N.E.2d 598 (Ind. 2011); Citizens State Bank of New Castle v. Countrywide Home Loans, Inc., 949 N.E.2d 1195 (Ind. 2011); Siwinski v. Town of Ogden Dunes, 949 N.E.2d 825 (Ind. 2011); Serrano v. State, 946 N.E.2d 1139 (Ind. 2011); City of Indianapolis v. Armour, 946 N.E.2d 553 (Ind. 2011).

<sup>cc</sup> Best v. Best, 941 N.E.2d 499 (Ind. 2011).

<sup>dd</sup> *In re* A.B. v. State, 949 N.E.2d 1204 (Ind. 2011), *reh'g denied* (Nov. 1, 2011).

<sup>ee</sup> J.M. v. M.A., 950 N.E.2d 1191 (Ind. 2011).

<sup>ff</sup> Green v. Ford Motor Co., 942 N.E.2d 791 (Ind. 2011), *reh'g denied* (June 30, 2011).

<sup>gg</sup> Putnam County Sheriff v. Price, 954 N.E.2d 451 (Ind. 2011); Davis v. Animal Control, 948 N.E.2d 1161 (Ind. 2011); Pfenning v. Lineman, 947 N.E.2d 392 (Ind. 2011); Walker v. Pullen, 943 N.E.2d 349 (Ind. 2011); Green v. Ford Motor Co., 942 N.E.2d 791 (Ind. 2011), *reh'g denied* (June 20, 2011).

<sup>hh</sup> Spangler v. Bechtel, 958 N.E.2d 458 (Ind. 2011); Howard Reg'l Health Sys. v. Gordon, 952 N.E.2d 182 (Ind. 2011); Hematology-Oncology of Ind., P.C. v. Fruits, 950 N.E.2d 294 (Ind. 2011); Ind. Patient's Comp. Fund v. Brown, 949 N.E.2d 822 (Ind. 2011); McCabe v. Comm'r, Ind. Dep't of Ins., 949 N.E.2d 816 (Ind. 2011).

<sup>ii</sup> Davis v. Animal Control, 948 N.E.2d 1161 (Ind. 2011).

<sup>jj</sup> Ind. Spine Grp., PC v. Pilot Travel Ctrs., 959 N.E.2d 789 (Ind. 2011); Sloan v. State, 947 N.E.2d 917 (Ind. 2011); State v. Boyle, 947 N.E.2d 912 (Ind. 2011).

<sup>kk</sup> State *ex rel.* Zoeller v. Aisin USA Mfg., Inc., 946 N.E.2d 1148 (Ind. 2011) Ind. Dep't of State Revenue v. Belterra Resort Ind., LLC, 942 N.E.2d 796 (Ind. 2011).

<sup>ll</sup> Ashby v. Bar Plan Mut. Ins. Co., 949 N.E.2d 307 (Ind. 2011), *reh'g denied* (Nov. 1, 2011).

<sup>mm</sup> Recker v. Review Bd. of the Ind. Dep't of Workforce Dev., 958 N.E.2d 1136 (Ind. 2011); Franklin Elec. Co. v. Unemployment Ins. Appeals of the Dep't of Workforce Dev., 953 N.E.2d 1066 (Ind. 2011).

<sup>nn</sup> Ashby v. Bar Plan Mut. Ins. Co., 949 N.E.2d 307 (Ind. 2011), *reh'g denied* (Nov. 1, 2011).

<sup>oo</sup> Town of Avon v. W. Cent. Conservancy Dist., 957 N.E.2d 598 (Ind. 2011); Killbuck Concerned Citizens Ass'n v. Madison Cnty. Bd. of Zoning Appeals, 941 N.E.2d 1037 (Ind. 2011).

<sup>pp</sup> Ind. Spine Group, PC v. Pilot Travel Ctrs., LLC, 959 N.E.2d 789 (Ind. 2011).

<sup>qq</sup> Snyder v. King, 958 N.E.2d 764 (Ind. 2011); Love v. Rehfus, 946 N.E.2d 1 (Ind. 2011), *reh'g denied* (July 26, 2011).

<sup>rr</sup> State v. Econ. Freedom Fund, 959 N.E.2d 794 (Ind. 2011); Snyder v. King, 958 N.E.2d 764 (Ind. 2011); Jewell v. State, 957 N.E.2d 625 (Ind. 2011); Lucas v. U.S. Bank, N.A., 953 N.E.2d 457 (Ind. 2011), *reh'g denied* (Jan. 9, 2012); *In re* A.B., 949 N.E.2d 1204 (Ind. 2011), *reh'g denied* (Nov. 1, 2011); Lemmon v. Harris, 949 N.E.2d 803 (Ind. 2011); D.M. v. State, 949 N.E.2d 327 (Ind. 2011); Sloan v. State, 947 N.E.2d

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917 (Ind. 2011); *Coleman v. State*, 946 N.E.2d 1160 (Ind. 2011); *City of Indianapolis v. Armour*, 946 N.E.2d 553 (Ind.), *cert. granted*, 132 S. Ct. 576 (2011); *Lacey v. State*, 946 N.E.2d 548 (Ind. 2011); *Killbuck Concerned Citizens Ass'n v. Madison Cnty. Bd. of Zoning Appeals*, 941 N.E.2d 1037 (Ind. 2011).