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## *The Montana Supreme Court – The Statistics*

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## THE MONTANA SUPREME COURT – THE STATISTICS

Noah P. Hill & Shelby Towe\*

### I. INTRODUCTION

The Montana Supreme Court serves as the lone court of appeals in Montana, and thus its decisions have a dramatic impact on the law—and by extension, the legal community—in Montana. In the interest of showing how the current panel of justices decides cases,<sup>1</sup> the Authors have compiled the statistics of voting patterns and other trends of the Montana Supreme Court. This analysis<sup>2</sup> looks at Montana Supreme Court decisions for the year 2020 and serves as a continuation of previously published Montana Supreme Court statistics appearing in this Journal.<sup>3</sup> While those interested may use the data in this publication to explore a variety of different statistical avenues, including trends over time, we hope the insights published in this iteration of the *Montana Supreme Court – The Statistics* project prove useful to practitioners who find themselves litigating a case before Montana’s highest court.

### II. FINDINGS

Generally, the results show the Court has an overwhelming likelihood to speak unanimously when issuing decisions. Concurring and dissenting opinions constitute a vast minority of the total opinions issued by the Court. When members of the Court do break from the majority in cases before them, there is still little disagreement. For example, Justice McKinnon and Justice Rice—the two justices most likely to depart from majority opinions—agreed with each other more than 81 percent of the time. Justice Gustafson was credited with authorship of the most opinions in 2020, with 75

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1. The current panel of justices has remained unchanged since 2018, when Justice Gustafson took her seat on the bench. Associate Justices McKinnon and Shea both won reelection bids in the November 2020 general election.

2. This analysis includes all direct appeal cases decided during 2020, as well as all 7 original proceedings brought to the Supreme Court in 2020, for a total of 327 cases.

3. See Brent Mead & Dillon Kato, *The Montana Supreme Court – The Statistics*, 81 MONT. L. REV. 343 (2020). The Authors replicated the statistical methods used by Mead and Kato, unless otherwise noted. Given the stable composition of the Court, practitioners could use the 2020 publication alongside the 2019 publication and interpret trends in the court over the years of 2018-2020.

total majority, concurring, and dissenting opinions in published and non-published cases. The statistics also show that more than half of the opinions issued by the Montana Supreme Court are memorandum opinions, which carry no precedential value and cannot be cited by practitioners except in very limited circumstances.<sup>4</sup> The data show an engaged court, unafraid to reverse lower court rulings; the affirmation rate of district courts ranged from around 43 percent all the way to 100 percent.<sup>5</sup>

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4. See Section I, Paragraph 3(c)(i)-(ii) of the Montana Supreme Court Operating Rules. Note that practitioners may cite memorandum opinions when relevant to establishing the application of law of the case, res judicata, or collateral estoppel; or in a criminal action or proceeding involving the same defendant or a disciplinary action or proceeding involving the same person.

5. The Fourteenth Judicial District had an affirmation rate of zero percent, but the Montana Supreme Court only heard one case originating from the district. The Authors are of the opinion that one case cannot adequately represent a district court's affirmation rate and thus elected to use the next lowest affirmation rate in the Sixteenth Judicial District for the purposes of their illustration. The Sixteenth Judicial District had an affirmation rate of 42.9 percent in a total of seven cases before the Montana Supreme Court.

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TABLE I: OPINIONS WRITTEN

		Opinions of the Court <sup>6</sup>	Concurrences <sup>7</sup>	Dissents <sup>8</sup>	Concur in part, Dissent in part <sup>9</sup>	Total
McGrath	Published <sup>10</sup>	24	1	0	0	25
	Non-Published <sup>11</sup>	29	0	0	0	29
	Total	53	1	0	0	54
Shea	Published	14	3	0	1	18
	Non-Published	25	0	0	0	25
	Total	39	3	0	1	43
McKinnon	Published	17	6	11	1	35
	Non-Published	28	0	2	0	30
	Total	45	6	13	1	65
Baker	Published	33	1	4	2	40
	Non-Published	21	0	0	0	21
	Total	54	1	4	2	61
Sandefur	Published	13	1	3	2	19
	Non-Published	15	0	0	0	15
	Total	28	1	3	2	34
Rice	Published	21	4	7	2	34
	Non-Published	24	1	1	0	26
	Total	45	5	8	2	60
Gustafson	Published	26	3	5	1	35
	Non-Published	37	2	1	0	40
	Total	63	5	6	1	75
All justices	Published	148	19	30	9	206
	Non-Published	179	3	4	0	186
	Total	327	22	34	9	392

6. Opinions of the Court includes all such opinions so designated by the Court, no matter how many justices joined the opinion.

7. A justice is considered to have concurred when the justice authored an opinion concurring in part, concurring in the judgment, or concurring in both.

8. A justice is considered to have dissented whenever the justice's opinion would have disposed of the case in any manner different from the manner specified by the majority of the Court.

9. A justice is considered to have concurred in part and dissented in part when a justice's opinion both concurred with the majority of the Court on one or more issues and dissented from the majority of the Court on one or more issues.

10. Published cases are those cases decided by opinions that are citable and serve as precedent.

11. Non-published cases are those cases decided pursuant to Section I, Paragraph 3(c), Montana Supreme Court Internal Operating Rules. These cases are decided by memorandum opinion and shall not be cited, nor do they serve as precedent.

Table I shows that Justice Gustafson authored the most opinions with a total of 63 majority opinions and 75 total opinions. Justice Baker, however, authored the most *published* majority opinions, totaling 33, compared to Justice Gustafson's 26 published opinions. Conversely, Justice Sandefur authored 28 total majority opinions. Otherwise, the Court's workload appears relatively balanced between the justices, both in regards to the number of opinions authored and their classification as published or non-published.

TABLE II: UNANIMITY

	Unanimous	with Concurrence <sup>12</sup>	with Dissent <sup>13</sup>	Total
Published	110 (74%)	7 (5%)	31 (21%)	148
Non-Published	173 (97%)	2 (1%)	4 (2%)	179

Table II illustrates the noticeably high rate at which the Montana Supreme Court rules unanimously. The 97 percent rate of unanimity in non-published cases does not significantly differ from the 90 percent rate of unanimity in memorandum opinions issued by the United States Supreme Court during the 2019 term.<sup>14</sup> However, the Montana Supreme Court's 74 percent unanimity rate in published opinions in 2020 greatly exceeds the 27 percent unanimity rate of the United States Supreme Court in published opinions during its 2019 term.<sup>15</sup>

12. This column includes only those cases where a justice authored a separate concurrence and no justice dissented from the Court's opinion.

13. This column includes all cases where a justice dissented from the opinion of the Court, even in cases where a separate justice issued a concurrence, or a justice dissented in part and concurred in part.

14. *The Supreme Court – The Statistics*, 134 HARV. L. REV. 610, 615 (2020).

15. *Id.*

TABLE III: JUSTICE VOTING ALIGNMENTS

	McGrath	Shea	McKinnon	Baker	Sandefur	Rice	Gustafson
<b>McGrath</b>							
M <sup>16</sup>	—	166	133	156	154	159	160
M/C	—	1	1	0	1	0	2
C	—	0	0	0	0	0	0
D	—	1	2	1	0	2	1
D/C	—	0	0	0	0	0	0
AGREEMENT	—	168	136	157	155	161	163
TOTAL CASES	—	178	163	171	173	180	182
AGREEMENT (%)	—	94.38	83.44	91.81	89.60	89.44	89.56
<b>Shea</b>							
M	166	—	147	160	163	157	165
M/C	1	—	1	0	1	1	1
C	0	—	0	0	0	0	0
D	1	—	1	1	0	2	1
D/C	0	—	0	1	0	1	0
AGREEMENT	168	—	149	162	164	161	167
TOTAL CASES	178	—	178	180	181	178	186
AGREEMENT (%)	94.38	—	83.71	90.00	90.61	90.45	89.78
<b>McKinnon</b>							
M	133	147	—	137	139	130	151
M/C	1	1	—	0	1	0	2
C	0	0	—	0	1	1	1
D	2	1	—	2	7	4	8
D/C	0	0	—	2	1	2	2
AGREEMENT	136	149	—	141	149	137	164
TOTAL CASES	163	178	—	171	171	168	179
AGREEMENT (%)	83.44	83.71	—	82.46	87.13	81.55	91.62
<b>Baker</b>							
M	156	160	137	—	150	159	155
M/C	0	0	0	—	0	0	0
C	0	0	0	—	0	1	0
D	1	1	2	—	0	4	1
D/C	0	1	2	—	2	3	0
AGREEMENT	157	162	141	—	152	167	156
TOTAL CASES	171	180	171	—	175	178	184
AGREEMENT (%)	91.81	90.00	82.46	—	86.87	93.38	84.78

16. For each case that a justice took part in, their position was recorded as one of the following: Majority (“M”) (either authored or joined the majority opinion); Majority/Concurrence (“M/C”) (joined the majority opinion and authored or joined a concurring opinion); Dissent (“D”) (authored or joined a dissenting opinion); or Dissent/Concurrence (“D/C”) (authored or joined a concurring in part, dissenting in part opinion). Since many cases are decided with only five justices, not all justices appear on the same number of cases.

	McGrath	Shea	McKinnon	Baker	Sandefur	Rice	Gustafson	
<b>Sandefur</b>	M	154	163	139	150	—	153	166
	M/C	1	1	1	0	—	1	2
	C	0	0	1	0	—	0	1
	D	0	0	7	0	—	0	5
	D/C	0	0	1	2	—	3	2
	AGREEMENT	155	164	149	152	—	157	176
	TOTAL CASES	173	181	171	175	—	180	187
	AGREEMENT (%)	89.60	90.61	87.13	86.87	—	87.22	94.12
<b>Rice</b>	M	159	157	130	159	153	—	157
	M/C	0	1	0	0	1	—	0
	C	0	0	1	1	0	—	0
	D	2	2	4	4	0	—	0
	D/C	0	1	2	3	3	—	0
	AGREEMENT	161	161	137	167	157	—	157
	TOTAL CASES	180	178	168	178	180	—	187
	AGREEMENT (%)	89.44	90.45	81.55	93.38	87.22	—	83.96
<b>Gustafson</b>	M	160	165	151	155	166	157	—
	M/C	2	1	2	0	2	0	—
	C	0	0	1	0	1	0	—
	D	1	1	8	1	5	0	—
	D/C	0	0	2	0	2	0	—
	AGREEMENT	163	167	164	156	176	157	—
	TOTAL CASES	182	186	179	184	187	187	—
	AGREEMENT (%)	89.56	89.78	91.62	84.78	94.12	83.96	—

According to Table II, most Montana Supreme Court decisions are unanimous. An examination of each justice in Table III, and how the justices align themselves with one another in the cases in which they appear, reinforces that the Court most often finds itself in agreement. Rarely does a justice find themselves voting without the support of their colleagues. This year, Chief Justice McGrath and Justice Shea, closely followed by Justices Gustafson and Sandefur, are the two pairs of justices most likely to fully agree when both have heard a case. Chief Justice McGrath and Justice Shea signed onto the same outcome 94.38 percent of the time, while Justices Gustafson and Sandefur signed onto the same outcome 94.12 percent of the time. Even Justices Rice and McKinnon, who were more likely to disagree than any other pairing of justices, still signed on to the same outcome 81.55 percent of the time in the 168 cases they heard together during the year.

TABLE IV: VOTING PATTERNS IN NON-UNANIMOUS CASES

	Total Cases	Joining the Opinion of the Court <sup>17</sup>		Agreeing in the Disposition of the Case <sup>18</sup>	
		Number	Percentage (%)	Number	Percentage (%)
McGrath	38	32	84.21	34	89.47
Shea	37	29	78.38	33	89.19
McKinnon	40	9	22.50	16	40.00
Baker	39	25	64.10	27	69.23
Sandefur	41	27	65.85	31	75.61
Rice	39	21	53.85	24	61.54
Gustafson	38	21	55.26	26	68.42

Table IV, as with Table II, highlights the rates of agreement among the justices. In non-unanimous cases, every justice except Justice McKinnon voted with the majority more than 50 percent of the time. The agreement among the justices becomes even more apparent when factoring in concurring opinions. For example, Justice McKinnon, despite voting with the majority only 22.5 percent of the time in non-unanimous cases, agreed in the disposition of the case 40 percent of the time. The rates of agreement for the Montana Supreme Court roughly reflect the rates of agreement for the most recent term of the United States Supreme Court.<sup>19</sup> Chief Justice Roberts and Justice Kavanaugh both agreed with the disposition of the case more than 85 percent of the time; Chief Justice McGrath and Justice Shea also fall above the 85 percent threshold.<sup>20</sup> Only Justice Thomas and Justice McKinnon, at the U.S. Supreme Court and the Montana Supreme Court, respectively, find themselves in agreement with the disposition of the case less than 60 percent of the time.<sup>21</sup> The remaining justices agree with the disposition of cases in their respective courts between 60 and 85 percent of the time.<sup>22</sup>

The rates of agreement observed in this table mark a decrease from the rates observed in 2018 and 2019. In 2018 and 2019, only Justice McKinnon

17. The number of justices signing an opinion varied from four to seven. Since the Montana Supreme Court rotates which justices sit for a specific case, each justice hears a different number of non-unanimous cases.

18. This column includes both cases in which a justice joined the opinion of the Court and those cases in which a justice authored a separate concurrence agreeing in the outcome. Those cases in which a justice concurred in part and dissented in part are excluded.

19. *The Supreme Court – The Statistics*, *supra* note 13, at 615.

20. *Id.*

21. *Id.*

22. *Id.*



joined the majority opinion less than 60 percent of the time.<sup>23</sup> In the 2020 term, however, three justices joined the opinion of the Court at a rate lower than 60 percent. Similarly, all justices except Justices Rice and McKinnon agreed in the disposition of the case more than 70 percent of the time during the 2018 and 2019 terms.<sup>24</sup> In 2020, Justices McKinnon, Baker, Rice, and Gustafson all fell below the 70 percent threshold.

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23. Brent Mead & Dillon Kato, *supra* note 3, at 348.

24. *Id.*

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TABLE V: DISPOSITION BY COURT OF ORIGIN

Court of Origin <sup>25</sup>	Affirm <sup>26</sup>	Reverse	Split	Total	Affirm (%)	Reverse (%)	Split (%)
First Judicial District	29	6	2	37	78.4	16.2	5.4
Second Judicial District	8	0	1	9	88.9	0.0	11.1
Third Judicial District	4	1	0	5	80.0	20.0	0.0
Fourth Judicial District	35	5	2	42	83.3	11.9	4.8
Fifth Judicial District	6	3	0	9	66.7	33.3	0.0
Sixth Judicial District	11	1	3	15	75.0	6.3	18.8
Seventh Judicial District	3	2	0	5	60.0	40.0	0.0
Eighth Judicial District	19	4	2	25	76.0	16.0	8.0
Ninth Judicial District	5	1	1	7	71.4	14.3	14.3
Tenth Judicial District	5	1	0	6	83.3	16.7	0.0
Eleventh Judicial District	26	1	5	32	81.3	3.1	15.6
Twelfth Judicial District	6	1	1	8	75.0	12.5	12.5
Thirteenth Judicial District	34	5	4	43	79.1	11.6	9.3
Fourteenth Judicial District	0	1	0	1	0.0	100.0	0.0
Fifteenth Judicial District	2	0	0	2	100.0	0.0	0.0
Sixteenth Judicial District	3	3	1	7	42.9	42.9	14.3
Seventeenth Judicial District	2	0	0	2	100.0	0.0	0.0
Eighteenth Judicial District	20	4	2	26	76.0	16.0	8.0
Nineteenth Judicial District	5	2	3	10	50.0	20.0	30.0
Twentieth Judicial District	12	4	0	16	76.5	23.5	0.0
Twenty First Judicial District	6	1	1	8	75.0	12.5	12.5
Twenty Second Judicial District	5	0	0	5	83.3	16.7	0.0
Montana Workers' Compensation Court	2	0	0	2	100.0	0.0	0.0
Montana Water Court	2	0	1	3	66.7	0.0	33.3
Judicial Standards Commission of the Supreme Court of the State of Montana	1	0	0	1	100.00	0.0	0.0
Federal Appeals Court (9th Circuit) <sup>27</sup>	—	—	—	1	100.00	0.0	0.0
<b>Total</b>	<b>250</b>	<b>47</b>	<b>29</b>	<b>327</b>	<b>76.8</b>	<b>14.4</b>	<b>8.9</b>

25. Montana's district court system is divided into twenty-two judicial districts. Each judicial district, in addition to the Montana Workers' Compensation Court and the Montana Water Court are appealed to the Montana Supreme Court.

26. Dispositions of all cases were categorized as one of the following: Affirm, Reverse, or Split (decisions where the Court affirmed in part and reversed in part the lower court's decision).

27. Since there is no prior holding in a certified question of law from an appellate court, certified questions of law from other jurisdictions cannot be classified as "affirmed," "reversed," or "split." Thus, the case does not appear in the tally of cases affirmed, reversed or split; however, the Authors have included the case in the total to maintain consistency across tables.

According to Table V, cases originating from the Thirteenth Judicial District Court, which encompasses Yellowstone County, had the highest number of decisions from the Montana Supreme Court for the 2020 term—with 43 total decisions of the 327 appeals the Court decided during that term. Closely behind the Thirteenth Judicial District, the Fourth Judicial District Court<sup>28</sup> had 42 of the 327 appeals the Court decided. The Fourth Judicial District secured a slightly higher affirmation rate, at 83.3 percent compared to the Thirteenth Judicial District's 79.1 percent. Of the 24 courts with appeals heard by the Montana Supreme Court, this ranks the Fourth Judicial District and the Thirteenth Judicial District at ninth and tenth in terms of affirmation rate, respectively.

The highest affirmation rate for the 2020 term was 100 percent, demonstrated by three lower courts: the Fifteenth Judicial District Court,<sup>29</sup> the Seventeenth Judicial District Court,<sup>30</sup> and the Montana Workers' Compensation Court—each court held only two of the 327 appeals. The next highest rate of affirmation was 88.9 percent, from the Second Judicial District Court, which serves Silver Bow County.

During the same term, the Fourteenth Judicial District Court<sup>31</sup> represented the fewest number of appeals, with only one of the 327 decisions. Its only case was reversed, providing it the highest rate of reversal. Setting aside this court's lone appeal, the next lowest rate of affirmation was 42.9 percent, from the Sixteenth Judicial District Court.<sup>32</sup> However, of its seven cases heard by the Court, three of them resulted in a split outcome, affirmed in part and reversed in part.

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28. Composed of Missoula and Mineral Counties.

29. Composed of Daniels, Sheridan, and Roosevelt Counties.

30. Composed of Blaine, Phillips, and Valley Counties.

31. Composed of Golden Valley, Meagher, Musselshell, and Wheatland Counties.

32. Composed of Lincoln County.

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TABLE VI: PUBLISHED AND NON-PUBLISHED CASES BY SUBJECT MATTER

	Total	Published	Non-Published
CIVIL <sup>33</sup>	198	90	108
Adoptions	2	1	1
Agreement Suit	3	1	2
Amount Due	—	—	—
Bad Faith and Unfair Dealing	1	1	0
Breach of Contract	9	6	3
Civil Rights	1	1	0
Commitment - Mental Illness	5	1	4
Condemnation	—	—	—
Damages	10	3	7
Debt	—	—	—
Declaratory Judgment	14	10	4
Defamation	1	0	1
Dependent Neglect	20	8	12
Discipline-Formal Complaint	1	1	0
Discrimination	1	1	0
Domestic Relations	30	7	23
Environmental Issues	1	1	0
Eviction	1	0	1
Foreclosure	1	0	1
Foreign Judgment	—	—	—
Fraud	2	0	2
Fraudulent Conveyance	—	—	—
Guardian/Conservator	1	0	1
Injunction	3	2	1
Judicial Review	10	9	1
Justice Court Appeal	2	0	2
Municipal Court Appeal	1	0	1
Negligence	6	3	3
Other	35	21	14
Personal Injury	0	0	0
Postconviction	17	1	16
Probate	3	2	1
Product Liability	—	—	—
Professional Malpractice	1	0	1

33. Subcategories were provided by the Clerk of the Montana Supreme Court pursuant to the Court's internal filing system. Subcategories with a "—" instead of a number indicate that the Court did not hear a case falling into that subcategory in the 2020 term but has heard cases in that subcategory in prior years.

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Quiet Title	1	0	1
Real Property	2	1	1
Reinstatement of Driver's License	1	0	1
Tort	2	1	1
Unfair Trade Practices	—	—	—
Wage Claim	—	—	—
Water Rights Adjudication	3	3	0
Workers' Compensation	2	1	1
Writ of Mandamus	1	1	0
Wrongful Death	1	1	0
Wrongful Discharge	3	2	1
	<b>Total</b>	<b>Published</b>	<b>Non-Published</b>
<b>CRIMINAL</b>	122	51	71
Aggravated Kidnapping	—	—	—
Arson	—	—	—
Assault	3	2	1
Assault on a Peace Officer	2	1	1
Assault - Partner/Family Member	5	4	1
Bail Jumping	—	—	—
Burglary	1	0	1
Burglary/Theft	2	1	1
City Court Appeal	3	0	3
Cruelty to Animals	—	—	—
Dangerous Drugs	16	12	4
DUI	1	0	1
DUI-Felony	10	5	5
Endangerment-Criminal	1	0	1
Escape	—	—	—
Exploitation of an Elder Person	1	1	0
Failure to Register as a Sex Offender	1	0	1
Failure to Register as a Violent Offender	3	1	2
Forgery	—	—	—
Homicide-Attempted	2	2	0
Homicide-Deliberate	3	1	2
Homicide-Negligent	1	1	0
Incest	8	1	7
Insurance Fraud	—	—	—
Justice Court Appeal	12	1	11
Mischief - Criminal	2	1	1
Municipal Court Appeal	7	3	4
Other	13	4	9
Revocation	1	0	1

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Robbery	1	0	1
Sentencing - Probate Revocation	1	0	1
Sexual Abuse of Children	—	—	—
Sexual Assault	6	3	3
Sexual Intercourse without Consent	8	4	4
Stalking	1	0	1
Tampering with Evidence	—	—	—
Theft	5	1	4
Vehicular Homicide Under Influence	1	1	0
Violation of Protective Order	1	1	0
	<b>Total</b>	<b>Published</b>	<b>Non-Published</b>
ORIGINAL PROCEEDING	7	7	0
Federal Appeals Court	1	1	0
Supervisory Control	6	6	0

Table VI shows the subject matter breakdown of the cases the Montana Supreme Court decided during the 2020 term. The domestic relations subcategory earned the highest number of the 198 total civil cases, at 30 decisions.<sup>34</sup> For the criminal cases, the dangerous drugs subcategory comprised the most compared to the other subcategories, with 16 decisions.

A number of subcategories had high rates of publication. In civil cases, these subcategories included breach of contract, with 6 of 9 cases published; declaratory judgment, with 10 of 14 cases published, and judicial review, with 9 of 10 cases published. Similarly, in criminal cases, dangerous drugs saw 12 of 16 total cases published.

Conversely, several specific subcategories had a high rate of nonpublished opinions. For example, of the 30 domestic relations cases, only seven were published. Additionally, only one of the 17 postconviction cases was published. Finally, the dependent neglect cases only had 8 decisions published, slightly under half of the 20 total cases. These trends directly align with the trends seen for the domestic relations, postconviction, and dependent neglect cases during the 2018 and 2019 terms.<sup>35</sup>

34. Not including the “other” category.

35. Brent Mead & Dillon Kato, *supra* note 3, at 353.

TABLE VII: PUBLISHED AND NON-PUBLISHED CASES BY COURT OF ORIGIN

<b>Court of Origin</b>	<b>Published</b>	<b>Non-Published</b>	<b>Total</b>	<b>Published (%)</b>	<b>Non-Published (%)</b>
First Judicial District	20	17	37	54.05	45.95
Second Judicial District	3	6	9	33.33	66.67
Third Judicial District	1	4	5	20.00	80.00
Fourth Judicial District	21	21	42	50.00	50.00
Fifth Judicial District	5	4	9	55.56	44.44
Sixth Judicial District	4	11	15	26.67	73.33
Seventh Judicial District	3	2	5	60.00	40.00
Eighth Judicial District	14	11	25	56.00	44.00
Ninth Judicial District	5	2	7	71.43	28.57
Tenth Judicial District	3	3	6	50.00	50.00
Eleventh Judicial District	8	24	32	25.00	75.00
Twelfth Judicial District	5	3	8	62.50	37.50
Thirteenth Judicial District	18	25	43	41.86	58.14
Fourteenth Judicial District	1	0	1	100.00	0.00
Fifteenth Judicial District	1	1	2	50.00	50.00
Sixteenth Judicial District	3	4	7	42.86	57.14
Seventeenth Judicial District	0	2	2	0.00	100.00
Eighteenth Judicial District	11	15	26	42.31	57.69
Nineteenth Judicial District	6	4	10	60.00	40.00
Twentieth Judicial District	6	10	16	37.50	62.50
Twenty First Judicial District	3	5	8	37.50	62.50
Twenty Second Judicial District	1	4	5	20.00	80.00
Montana Workers' Compensation Court	1	1	2	50.00	50.00
Montana Water Court	3	0	3	100.00	0.00
Judicial Standards Commission of the Supreme Court of the State of Montana	1	0	1	100.00	0.00
Federal Appeals Court (9th Circuit)	1	0	1	100.00	0.00
<b>Total</b>	<b>148</b>	<b>179</b>	<b>327</b>	<b>45.26</b>	<b>54.74</b>

Table VII shows the number of published versus nonpublished cases by their court of origin. Of the two courts with the highest number of decisions examined by the Court, the Fourth and Thirteenth Judicial Districts, the Fourth Judicial District had nearly a 10 percent higher rate of published opinions than the Thirteenth Judicial District Court—at 50 percent and slightly under 42 percent, respectively. On the other end of the spectrum,

although the Eleventh Judicial District Court<sup>36</sup> ranked fourth in terms of total cases decided by the Court, it also only ranked fourth for number of published cases—8 of its 32 cases were published. Of the districts with less than 10 appeals at the court, most judicial districts had between 1 and 3 cases published. However, the Seventeenth Judicial District had no published cases. The Ninth<sup>37</sup> and Nineteenth Judicial Districts had 5 and 6 cases published, respectively, despite each having 10 or less cases appealed to the Supreme Court.

### III. CONCLUSION

The *Montana Law Review* plans to continue to expand on the preceding data sets during the years to come. The statistical compilations are designed to provide the reader with various insights into Montana's lone court of appeals. Notable statistics from this year's data set include the illustration of the high rate of unanimity, contrasted with the developing trend of the justices moving towards a higher rate of disagreement with the majority's opinion in non-unanimous cases. We hope you enjoy the Authors' insights and the rest of the Summer Issue.

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36. Composed of Flathead County.

37. Composed of Glacier, Pondera, Teton, and Toole Counties.



