

SUPREME COURT OF WISCONSIN

Case No.: 95-0070

Complete Title
of Case:

State of Wisconsin,
Plaintiff-Respondent-Petitioner,
v.
Wisconsin Central Transportation Corporation,
Defendant,
Wisconsin Central Ltd., and Fox Valley &
Western Ltd.,
Defendants-Third Party Plaintiffs-
Appellants,
v.
James E. Doyle, Attorney General of the State of
Wisconsin and State of Wisconsin Department of
Justice,
Third Party Defendants.

ON REVIEW OF A DECISION OF THE COURT OF APPEALS
Reported at: 200 Wis. 2d 450, 546 N.W.2d 206
(Ct. App. 1996)
PUBLISHED

Opinion Filed: May 2, 1997
Submitted on Briefs:
Oral Argument: March 4, 1997

Source of APPEAL
COURT: Circuit
COUNTY: Fond du Lac
JUDGE: Steven W. Weinke

JUSTICES:
Concurred:
Dissented:
Not Participating: Bablitch, J., w/drew from participation.

ATTORNEYS: For the plaintiff-respondent-petitioner the cause
was argued by *Thomas L. Dosch*, assistant attorney general, with

whom on the briefs *Susan K. Ullman*, assistant attorney general, and *James E. Doyle*, attorney general.

For the defendants-third party plaintiffs-appellants there was a brief by *Jon P. Axelrod*, *Joseph A. Ranney* and *DeWitt Ross & Stevens, S.C.*, Madison and *Janet Gilbert*, general counsel and *Wisconsin Central Ltd. And Fox Valley & Western Ltd.*, Rosemont, IL and oral argument by *Jon P. Axelrod*.

Amicus curiae brief was filed by *Patrick J. Nugent*, and *Canadian Pacific Legal Services*, Minneapolis, MN for the Sool Line Railroad Company.

Amicus curiae brief was filed by *Patrick K. Stevens* and *WI Manufacturer and Commerce*, Madison and *Richard M. Esenberg* and *Foley & Lardner*, Milwaukee for the Wisconsin Manufacturers and Commerce.

Amicus curiae brief was filed by *Marilyn Townsend*, Madison for the United Transportation Union.

This opinion is subject to further editing and modification. The final version will appear in the bound volume of the official reports.

No. 95-0070

STATE OF WISCONSIN : IN SUPREME COURT

**State of Wisconsin,
Plaintiff-Respondent-Petitioner,**

FILED

v.

MAY 2, 1997

**Wisconsin Central Transportation
Corporation,
Defendant,**

Marilyn L. Graves
Clerk of Supreme Court
Madison, WI

**Wisconsin Central Ltd., and Fox
Valley & Western Ltd.,
Defendants-Third Party
Plaintiffs-Appellants,**

v.

**James E. Doyle, Attorney General of
the State of Wisconsin and the State
of Wisconsin Department of Justice,
Third Party Defendants.**

REVIEW of a published decision of the Court of Appeals¹ reversing the order of the Circuit Court for Fond du Lac County, Steven W. Weinke, Judge. *Affirmed.*

¶1 PER CURIAM. The court is equally divided on whether to affirm or reverse the decision of the court of appeals. Justice Donald W. Steinmetz, Justice Jon P. Wilcox and Justice

¹ State v. Wisconsin Central Transp. Corp., 200 Wis.2d 450, 546 N.W.2d 206 (Ct. App. 1996).

Janine P. Geske would affirm; Chief Justice Shirley S. Abrahamson, Justice Ann Walsh Bradley and Justice N. Patrick Crooks would reverse. Justice William A. Bablitch withdrew from participation.

¶2 Accordingly, the decision of the court of appeals is affirmed.