

## SUPREME COURT OF WISCONSIN

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CASE No.: 99-3199

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## COMPLETE TITLE:

James Servais, Douglas Pierce, William R. Dobson, Roger Noll, Rita Noll, Byron Krueger, Melvin Schmitz, and Roger Swanson,  
Plaintiffs-Appellants-Petitioners,  
v.  
Kraft Foods, Inc., National Cheese Exchange, Inc., and Alpine Lace Brands, Inc.,  
Defendants-Respondents.

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William R. Dobson,  
Plaintiff-Appellant-Petitioner,  
v.  
Kraft Foods, Inc., and National Cheese Exchange, Inc.,  
Defendants-Respondents.

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Roger Noll, Rita Noll, Byron Krueger, Melvin Schmitz, and Roger W. Swanson,  
Plaintiffs-Appellants-Petitioners,  
v.  
Kraft Foods, Inc., National Cheese Exchange, Inc., Borden, Inc., and Alpine Lace Brands, Inc.,  
Defendants-Respondents.

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REVIEW OF A DECISION OF THE COURT OF APPEALS  
2001 WI App 165  
Reported at: 246 Wis. 2d 920, 631 N.W.2d 629  
(Published)

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OPINION FILED: April 30, 2002  
SUBMITTED ON BRIEFS:  
ORAL ARGUMENT: March 5, 2002

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## SOURCE OF APPEAL:

COURT: Circuit  
COUNTY: Dane  
JUDGE: P. Charles Jones

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JUSTICES:

CONCURRED:

DISSENTED:

NOT PARTICIPATING:

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ATTORNEYS:

For the plaintiffs-appellants-petitioners there were briefs by *Michael L. Stoker* and *Johns & Flaherty, S.C.*, La Crosse, and oral argument by *Thomas Dubbs*.

For the defendants-respondents there were briefs by *Ralph V. Topinka* and *Quarles & Brady, LLP*, Madison; *Tefft W. Smith, J. Robert Robertson, Nathaniel M. Cousins, Catherine Fazio* and *Kirkland & Ellis*, Chicago, Illinois; *Theodore L. Banks, Seth A. Eisner* and *Kraft Foods, Inc.*, Northfield, Illinois; *Michael Fischer, G. Michael Halfenger* and *Foley & Lardner*, Milwaukee; *Howard A. Pollack* and *Godfrey & Kahn, S.C.*, Milwaukee; *Thomas F. Ryan, Bruce M. Zessar, Gabriel Aizenberg* and *Sidley Austin Brown & Wood*, Chicago, Illinois; *Colleen K. Nissl* and *Borden, Inc.*, Columbus, Ohio; *Scott W. Hansen, Christopher Banaszak* and *Reinhart, Boerner, Van Deuren, Norris & Rieselbach, S.C.*, Milwaukee; and oral argument by *Tefft W. Smith*.

An amicus curiae brief was filed by *Kevin J. O'Connor*, assistant attorney general, with whom on the brief was *James E. Doyle*, attorney general.

An amicus curiae brief was filed by *James A. Buchen* on behalf of Wisconsin Manufacturers & Commerce, and *William F. White* and *Michael Best & Friedrich, LLP*, Madison, on behalf of the Wisconsin Utilities Association, Inc.

NOTICE

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

No. 99-3199  
(L.C. No. 97 CV 1212, 97 CV 1777, 97 CV 1885)

STATE OF WISCONSIN : IN SUPREME COURT

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James Servais, Douglas Pierce, William R. Dobson, Roger Noll, Rita Noll, Byron Krueger, Melvin Schmitz, and Roger Swanson,

Plaintiffs-Appellants-  
Petitioners,

v.

Kraft Foods, Inc., National Cheese Exchange, Inc., and Alpine Lace Brands, Inc.,

Defendants-Respondents.

**FILED**

APR 30, 2002

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William R. Dobson,

Plaintiff-Appellant-Petitioner,

Cornelia G. Clark  
Clerk of Supreme Court

v.

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Exchange, Inc., Borden, Inc., and Alpine  
Lace Brands, Inc.,**

**Defendants-Respondents.**

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REVIEW of a decision of the Court of Appeals. *Affirmed.*

¶1 PER CURIAM. This is a review of a published decision of the court of appeals, Servais v. Kraft Foods, 2001 WI App 165, 246 Wis. 2d 920, 631 N.W.2d 629, that affirmed a judgment of the Circuit Court for Dane County, P. Charles Jones, Judge. The court is equally divided on the question of whether the decision of the court of appeals should be affirmed or reversed. Justices N. PATRICK CROOKS, DAVID T. PROSSER, and DIANE S. SYKES would affirm; Chief Justice SHIRLEY S. ABRAHAMSON and Justices WILLIAM A. BABLITCH and ANN WALSH BRADLEY would reverse. Justice JON P. WILCOX did not participate. Accordingly, the decision of the court of appeals is affirmed.

