

NOTICE

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

No. 93-2873

STATE OF WISCONSIN

:

IN SUPREME COURT

Russell M. Ware,

Plaintiff-Appellant-Petitioner,

v.

**Adrian P. Schoone,
Richard A. Fortune and
Mark J. Leuck,**

Defendants-Respondents-Respondents,

Schoone, Fortune & Leuck, S.C.,

Defendant.

FILED

MAR 29, 1996

Marilyn L. Graves
Clerk of Supreme Court
Madison, WI

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

PER CURIAM. The court is equally divided on the question of whether the unpublished decision of the court of appeals should be affirmed or reversed, Chief Justice ROLAND B. DAY, Justice JON P. WILCOX, and Justice ANN WALSH BRADLEY being of the opinion that the decision should be affirmed, and Justice SHIRLEY S. ABRAHAMSON, Justice DONALD W. STEINMETZ, and Justice JANINE P. GESKE being of the opinion that the decision should be reversed. Justice WILLIAM A. BABLITCH did not participate.

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

SUPREME COURT OF WISCONSIN

Case No.: 93-2873

Complete Title

of Case: Russell M. Ware,
Plaintiff-Appellant-Petitioner,
v.
Adrian P. Schoone, Richard A. Fortune and
Mark J. Leuck,
Defendants-Respondents,
Schoone, Fortune & Leuck, S.C.,
Defendant.

REVIEW OF A DECISION OF THE COURT OF APPEALS
Reported at: 191 Wis. 2d 359, 530 N.W.2d 69
(Ct. App. 1995)
UNPUBLISHED

Opinion Filed: March 29, 1996
Submitted on Briefs:
Oral Argument: February 27, 1996

Source of APPEAL

COURT: Circuit
COUNTY: Racine
JUDGE: JOHN R. RACE

JUSTICES:

Concurred:
Dissented:
Not Participating: BABLITCH, J., did not participate

ATTORNEYS: For the plaintiff-appellant-petitioner there were briefs by *L. William Staudenmaier, Alexander T. Pendleton* and *Cook & Franke, S.C., Milwaukee* and oral argument by *L. William Staudenmaier*.

For the defendants-respondents there was a brief by *Thomas M. Devine, David A. Wolfe* and *Hostak, Henzl & Bichler, S.C., Racine* and oral argument by *Thomas M. Devine*.