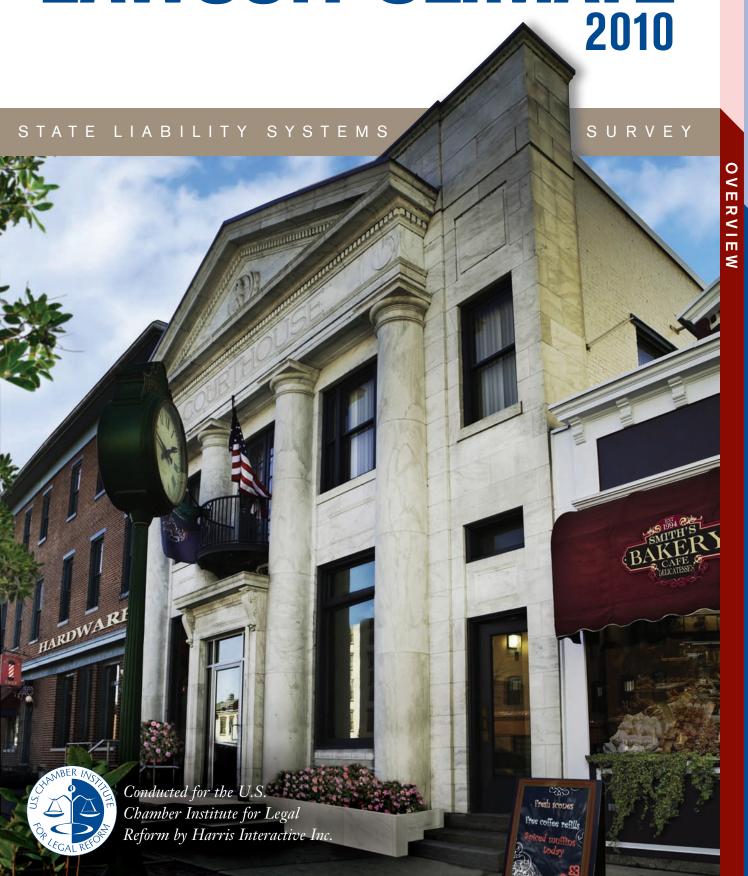
Ranking the States

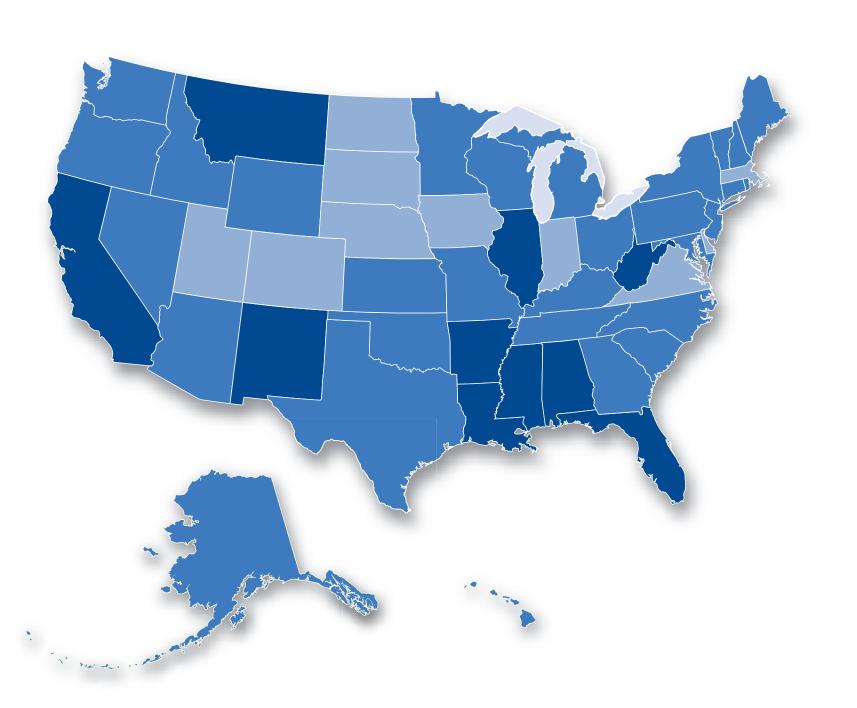
# LAWSUIT CLIMATE



SPOTLIGHT

METHODOLOGY

## **Legal Climate Overall Rankings by State**



Delaware Washington North Dakota Georgia Nebraska Nevada Indiana Ohio Iowa Michigan Virginia Oklahoma Utah New Jersey Colorado Alaska Massachusetts Pennsylvania South Dakota Hawaii Minnesota Texas Maine Missouri Arizona Rhode Island Kansas South Carolina Wyoming Kentucky New Hampshire 41. New Mexico North Carolina Florida Idaho Montana Tennessee Arkansas Maryland Illinois Oregon California Wisconsin Alabama New York 48. Mississippi Connecticut Louisiana

West Virginia

Vermont

OVEDVIEW
OVERVIEW
Average Overall Score Among All 50 States, '02-'10
Perception of State Court Liability Systems Overall
Impact of Litigation Environment on Important Decisions
Overall Rankings of State Liability Systems '02 - '10
<b>SPOTLIGHT</b>
Most Important Issues for State Policymakers
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Overall Treatment of Tort and Contract Litigation
Having and Enforcing Meaningful Venue Requirements
Treatment of Class Action Suits and Mass Consolidation Suits
Damages
Timeliness of Summary Judgment or Dismissal
Discovery
Scientific and Technical Evidence
Judges' Impartiality
Judges' Competence
Juries' Fairness
KEY ELEMENTS
Overall Treatment of Tort and Contract Litigation
Having and Enforcing Meaningful Venue Requirements
Treatment of Class Action Suits and Mass Consolidation Suits
Damages
Timeliness of Summary Judgment/Dismissal
Discovery
Scientific and Technical Evidence
Judges' Impartiality
Judges' Competence
Juries' Fairness
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The 2010 State Liability Systems Ranking Study was conducted for the U.S. Chamber Institute for Legal Reform to explore how reasonable and balanced the states' tort liability systems are perceived to be by U.S. business. Participants in the survey were comprised of a sample of 1,482 in-house general counsel, senior litigators or attorneys, and other senior executives who indicated they are knowledgeable about litigation matters at companies with at least \$100 million in annual revenues. The 2010 ranking builds on seven previous surveys¹ in which all 50 states were ranked by those familiar with the litigation environment in that state. Prior to these rankings, information regarding the attitudes of the business world toward the legal systems in each of the states had been largely anecdotal. The State Liability Systems Ranking Study aims to quantify how corporate attorneys view the state systems.

More than two in five (44%) senior attorneys view the fairness and reasonableness of state court liability systems in America as excellent or pretty good, up slightly from the last survey in 2008 (41%). A majority (56%) view the systems as only fair or

poor. Two-thirds (67%) report that the litigation environment in a state is likely to impact important business decisions at their companies, for instance, where to locate or do business, an increase from 63% in 2008 and 57% in 2007.

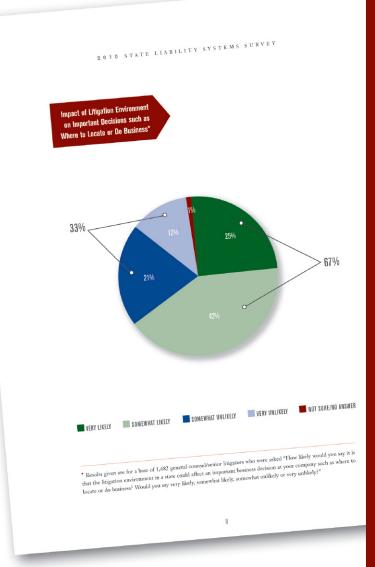
**<sup>1.</sup>** 2008, 2007, 2006, 2005, 2004, 2003, and 2002.

Respondents were first selected for their familiarity with states, and those who indicated they were very or somewhat familiar with the litigation environment in a given state were then asked to evaluate that state. It is important to remember that courts and localities within a state may vary a great deal in fairness and reasonableness. However, respondents had to evaluate the state as a whole. To explore the detailed nuances within each state would have required extensive questioning about each state and was beyond the scope and purpose of this study. Other studies have also demonstrated this variability within a state. For example, several studies have documented very high litigation activity in certain county courts such as Madison County, Illinois and Jefferson County, Texas, revealing that these counties

have "magnet courts" that are extremely hospitable to plaintiffs. Thus, it is possible that some states received low grades due to the negative reputation of one or two of their counties or jurisdictions.

#### **Overall Rankings of States**

Respondents were asked to give states a grade (A, B, C, D or F) in each of the following areas: *Having and enforcing* 



For more information on the 
"Impact of Litigation Environment
on Important Decisions", see
the chart on Page 8.

meaningful venue requirements; Overall treatment of tort and contract litigation; Treatment of class action suits and mass consolidation suits; Damages; Timeliness of summary judgment or dismissal; Discovery; Scientific and technical evidence; Judges' impartiality; Judges' competence; and Juries' fairness. They were also asked to give the state an Overall grade for creating a fair and reasonable litigation environment. These elements were then combined to create an Overall ranking of state liability systems.

Taken as a whole, general counsel and senior litigators perceive state courts to be doing better than average on the various elements. States received significantly more A's and B's (43%) than D's and F's (17%) when all of the elements were averaged together.

Since the inception of the survey, there has been a general increase in the overall average score of state liability systems.

This year's data, however, may suggest a leveling off of attitudes and perceptions.

While still high compared to past years'

Average Overall Score Among All 50 States, '02-'10

Year	Average Score
2010	57.9
2008	59.4
2007	58.1
2006	55.3
2005	52.8
2004	53.2
2003	50.7
2002	52.7

scores, the scores since 2007 have been relatively level, showing little change.

## Most Important Issues to Focus on to Improve the Litigation Environment

The study also asked respondents to name the most important issue that policymakers who care about economic development should focus on to improve the litigation environment in their states. Tort reform issues in general were mentioned by 9% of respondents as were caps/limits on damages, up significantly from 3% in 2008. Other top issues named were timeliness of decisions (8%), elimination of unnecessary lawsuits (7%), limits on discovery (7%), and speeding up of the trial process (5%).

#### **Worst Local Jurisdictions**

In order to understand if there are any cities or counties that might impact a state's ranking, respondents were asked which five cities or counties have the least fair and reasonable litigation environments. The worst jurisdiction was Chicago/Cook County, Illinois (14%), followed by Los Angeles, California (12%), the state of California in general (10%), the state of Texas in general (9%), and Madison County, Illinois (8%).

To understand why respondents feel negatively about particular jurisdictions, a follow-up question was asked to those who cited a jurisdiction. More than a third (37%) of respondents mentioned that the reason why a city or county has the least fair and reasonable litigation environment is because of biased or partial juries/judges. This is the number one reason by a large margin. The next tier includes corrupt/unfair system (8%), excessive damage awards (6%), unfair juries/judges, incompetent juries/judges, a slow process, nonadherence to the laws/rules, and personal experience (each mentioned by 5% of respondents).

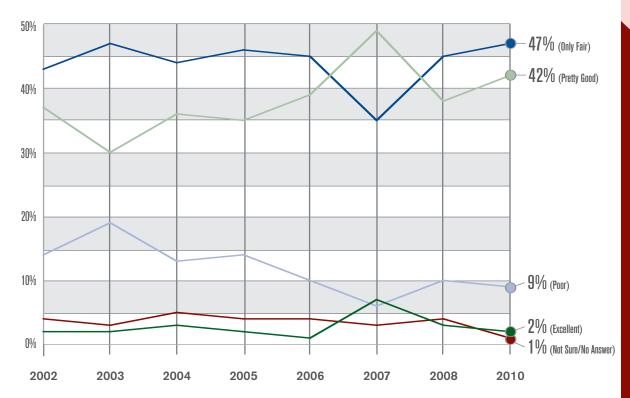
#### **Conclusion**

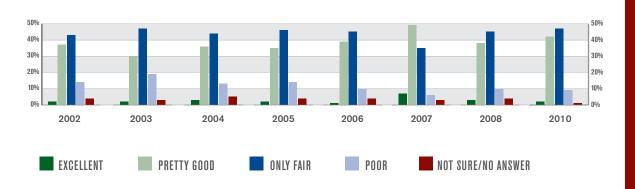
Several organizations<sup>2</sup> have conducted surveys among various constituencies of state courts to determine and understand how the state courts are perceived by these audiences. Until the annual State Liability Systems Ranking Study was initiated in 2002, there were no data on one important constituency: senior lawyers in large companies. This, the eighth State Liability Systems Ranking **Study**, finds that senior lawyers in large corporations have mixed perceptions about the fairness and reasonableness of state liability systems overall, with a significant plurality saying that they are excellent or pretty good, but the majority saying that they are only fair or poor. On average, general counsel and senior litigators give state courts more A's and B's than D's and F's on the various elements. Although recent scores reveal a material improvement in perceptions over the early years of the survey, the trend toward improvement has flattened.

An examination of individual state evaluations, however, reveals wide disparity among those states that are doing the best job and those states that are doing the worst job, with the highest performing state scoring 77 out of a possible 100 and the poorest performing state scoring only 35 out of 100. Clearly, corporate counsel see specific areas needing improvement in the individual states, and the perceptions of senior lawyers and executives in large companies matter. This survey reveals that the litigation environment in a state is likely to impact important business decisions, which could have economic consequences for the states. The challenge for the states is to focus on areas where they received the lowest score and then make improvements where they are needed. If improvements are not needed, then the states must educate corporate counsel in ways that will change these perceptions.

**<sup>2.</sup>** This includes the Public Perceptions of the State Courts: A Primer, National Center for State Courts (2000); Perceptions of the U.S. Justice System, American Bar Association (1998); Public Trust and Confidence in the Courts: What Public Opinion Surveys Mean to Judges, National Center for State Courts and University of Nebraska (1999); and Level of Public Trust and Confidence: Utah State Courts, State Justice Institute (2000).

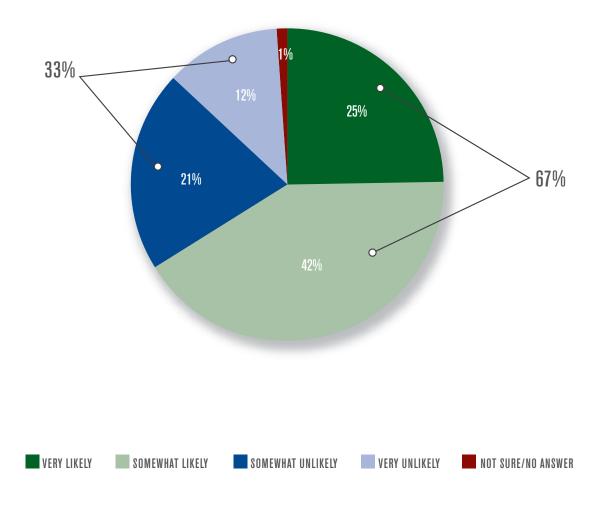
#### Perception of State Court Liability Systems Overall\*





<sup>\*</sup> Results given are for a base of 1,482 general counsel/senior litigators who were asked "Overall, how would you describe the fairness and reasonableness of state court liability systems in America—excellent, pretty good, only fair, or poor?"

Impact of Litigation Environment on Important Decisions such as Where to Locate or Do Business\*



<sup>\*</sup> Results given are for a base of 1,482 general counsel/senior litigators who were asked "How likely would you say it is that the litigation environment in a state could affect an important business decision at your company such as where to locate or do business? Would you say very likely, somewhat likely, somewhat unlikely or very unlikely?"

Overall Rankings of State Liability Systems '02-'10\*

2010	SCORE	<b>'08</b>	<b>'07</b>	<b>'06</b>	<b>'05</b>	<b>'04</b>	<b>'03</b>	<b>'02</b>
1. Delaware	77.2	1	1	1	1	1	1	1
2. North Dakota	71.1	13	20	12	3	16	6	25
3. Nebraska	69.7	2	3	2	2	2	2	6
4. Indiana	69.6	4	8	11	6	11	5	12
<b>5.</b> Iowa	69.4	7	4	4	5	4	3	5
6. Virginia	68.1	6	12	3	4	3	8	2
7. Utah	67.8	5	9	17	14	6	7	8
8. Colorado	65.8	9	21	8	13	13	12	7
<ol><li>Massachusetts</li></ol>	65.6	18	18	32	31	28	22	36
<b>10.</b> South Dakota	65.6	12	11	7	8	17	4	9
11. Minnesota	65.3	11	2	14	7	8	9	19
<b>12.</b> Maine	65.2	3	5	9	11	12	16	18
13. Arizona	65.0	15	15	13	19	14	18	11
14. Kansas	64.6	10	13	15	16	9	15	4
<b>15.</b> Wyoming	64.5	23	22	16	9	15	25	20
<b>16.</b> New Hampshire	64.2	16	6	6	12	7	10	17
17. North Carolina	64.0	21	16	10	20	19	20	16
<b>18.</b> Idaho	63.9	26	30	18	10	5	13	14
19. Tennessee	63.7	22	7	29	22	25	26	24
<b>20.</b> Maryland	63.2	30	29	20	23	21	23	24
21. Oregon	63.0	14	17	30	25	27	14	13
22. Wisconsin	62.8	24	10	23	17	10	11	15
23. New York	62.5 62.1	25	19	21	27	22	27	27
24. Connecticut	61.6	19 8	14 27	5 24	18 21	18 20	17 19	10 21
25. Vermont	61.6	27	27	24	15	24	21	3
<b>26.</b> Washington <b>27.</b> Georgia	60.9	28	31	27	28	29	39	23
<b>28.</b> Nevada	59.8	40	28	37	29	34	34	30
<b>29.</b> Ohio	59.7	32	24	19	26	32	24	26
<b>30.</b> Michigan	59.5	33	23	22	24	23	29	28
<b>31.</b> Oklahoma	59.0	17	38	33	32	31	36	41
<b>32.</b> New Jersey	57.8	35	26	25	30	26	30	32
<b>33.</b> Alaska	56.6	20	43	36	33	33	32	37
<b>34.</b> Pennsylvania	56.6	36	32	31	34	30	31	31
<b>35.</b> Hawaii	56.4	45	42	46	41	39	43	40
<b>36.</b> Texas	56.3	41	44	43	44	45	46	46
37. Missouri	56.1	31	34	35	40	41	33	29
38. Rhode Island	55.2	39	35	26	35	36	37	35
<b>39.</b> South Carolina	55.1	43	37	42	39	40	42	42
40. Kentucky	54.4	29	33	34	36	35	35	38
<b>41.</b> New Mexico	53.9	37	39	40	38	37	41	39
<b>42.</b> Florida	53.9	42	36	38	42	38	40	33
43. Montana	52.4	38	40	39	37	43	28	43
44. Arkansas	48.7	34	41	41	43	42	45	44
<b>45.</b> Illinois	47.9	46	46	45	46	44	38	34
46. California	47.2	44	45	44	45	46	44	45
47. Alabama	45.5	47	47	47	48	48	48	48
48. Mississippi	40.0	48	49	48	50	50	50	50
<b>49.</b> Louisiana	39.6	49	48	49	47	47	47	47
<b>50.</b> West Virginia	35.1	50	50	50	49	49	49	49

<sup>\*</sup> Scores displayed in this table have been rounded to one decimal point. However, when developing the ranking, scores were evaluated based on two decimal points. Therefore, states that appear tied based upon the scores in this table were not tied when two decimal points were taken into consideration. See details on p. 30.

Most Important Issues for State Policymakers\*

fort reform issues in general	9%
Caps/Limits on damages	9%
Timeliness of decisions	8%
Eliminating unnecessary lawsuits	<b>7</b> %
Limits on discovery	<b>7</b> %
Speeding up the trial process	5%
Fairness and impartiality	4%
Judicial competence	4%
Reform of punitive damages	4%
Level playing field/do not favor plaintiffs	3%
Limitation of class action suits	3%
Limiting attorney fees	3%
Appointment vs. election of judges	3%
Attorney/Court fees paid by the loser	2%
Limit on discovery cost/expense	2%

<sup>\*</sup> The responses displayed in this table were volunteered by the respondents. Mentions by at least 2% given above. Results given are for a base of 1,482 general counsel/senior litigators who were asked "What do you think is the single worst aspect of the litigation environment that state policy makers should focus on to improve the business climate in their states?"

Cities or Counties with Least Fair and Reasonable Litigation Environment\*

Chicago/Cook County, Illinois	14%
Los Angeles, California	12%
California (unspecified**)	10%
Texas (unspecified)	9%
Madison County, Illinois	8%
San Francisco, California	6%
Mississippi (unspecified)	6%
New York (unspecified)	<b>5</b> %
Louisiana (unspecified)	<b>5</b> %
New Orleans, Louisiana	4%
Miami/Dade County, Florida	4%
West Virginia (unspecified)	4%
Philadelphia, Pennsylvania	3%
Alabama (unspecified)	3%
Texas (other mentions***)	3%
Beaumont, Texas	3%
Florida (unspecified)	3%
New York Greater Metropolitan Area	3%
East Texas	2%
Illinois (unspecified)	<b>2</b> %
St. Louis, Missouri	2%
California (other mentions)	2%
Houston, Texas	<b>2</b> %
Dallas/Fort Worth, Texas	<b>2</b> %
Jackson, Mississippi	2%
Washington, DC	2%
Detroit, Michigan	2%

<sup>\*</sup> Responses displayed above were volunteered by respondents. Mentions of at least 2% given above. Results given are for a base who were asked, "Thinking about the entire country, what do you think are the five worst city or county courts? That is, which city or county courts have the least fair and reasonable litigation environment for both defendants and plaintiffs?"

<sup>\*\*</sup> Each "unspecified" parenthetical denotes a response of the state name; no specific city or county within the state was mentioned.

<sup>\*\*\*</sup> The "other mentions" parenthetical denotes miscellaneous cities and counties in that particular state that were mentioned by 1% of respondents or fewer.

Worst Specific City or County Courts by State\*

Texas**	34%
Texas (unspecified)	9%
Beaumont	3%
Other jurisdictions mentioned	22%
California**	<b>33</b> %
Los Angeles	12%
California (unspecified)	10%
San Francisco	6%
Other jurisdictions mentioned	5%
Illinois**	<b>29</b> %
Chicago/Cook County	14%
Madison County	8%
Other jurisdictions mentioned	7%
Louisiana**	11%
Louisiana (unspecified)	5%
New Orleans	4%
Other jurisdictions mentioned	2%
Florida**	10%
Miami/Dade County	4%
Florida (unspecified)	3%
Other jurisdictions mentioned	3%
Mississippi**	10%
Mississippi (unspecified)	6%
Other jurisdictions mentioned	4%
New York**	9%
New York (unspecified)	5%
Greater Metropolitan Area	3%
Other jurisdictions mentioned	1%
Alabama**	<b>7</b> %
Alabama (unspecified)	3%
Other jurisdictions mentioned	4%
West Virginia**	6%
West Virginia (unspecified)	4%
Other jurisdictions mentioned	2%
Missouri**	4%
St. Louis	2%
Other jurisdictions mentioned	2%
New Jersey**	4%
New Jersey (unspecified)	1%
Other jurisdictions mentioned	3%
Pennsylvania**	4%
Philadelphia	3%
Other jurisdictions mentioned	1%
Michigan**	<b>3%</b>
Detroit	2%
Other jurisdictions mentioned	1%

<sup>\*</sup> The responses displayed in this table were volunteered by the respondents. Mentions by at least 3% for entire state given above. Due to rounding and multiple responses, these percentages may not add up to 100%. Results given are for a base of 1,482 who were asked "Thinking about the entire country, what do you think are the five worst city or county courts? That is, which city or county courts have the least fair and reasonable litigation environment for both defendants and plaintiffs?"

<sup>\*\*</sup> Includes all mentions for that state.

Top Issues Mentioned as Creating the Least Fair and Reasonable Litigation Environment\*

Biased/Partial juries/judges	3/%
Corrupt/Unfair system	8%
Excessive damage awards	6%
Unfair juries/judges	<b>5</b> %
Incompetent juries/judges	<b>5</b> %
Slow process	<b>5</b> %
Does not adhere to laws/rules	<b>5</b> %
Heavily influenced by politics	4%
Poor quality of juries/judges	4%
Other negative jury/ judge mentions	4%
High jury verdicts	4%
Good old boy system/ Depends on who you know	3%
Composition of jury pool	3%
Unpredictable juries/judges	3%
Overburdened with cases/ Too many cases	3%
Election of judges	3%
Expensive/High court costs	3%
Uneducated jury pool	3%
Dislike the juries/judges	<b>2</b> %
Liberal juries/judges	2%
Inefficient court system	2%
Other inconvenience mentions	<b>2</b> %
Inconsistent application of the law	2%
Negative personal experience in city/county (non-specific reason)	2%

<sup>\*</sup> The responses displayed in this table were volunteered by the respondents. Mentions by at least 2% are given above. Results given are for a base of 1,001 who were asked "Why do you say [Insert Name of City or County] has the LEAST fair and reasonable litigation environment for both defendants and plaintiffs?"

	BEST	WORST		
	1. Delaware	<b>46.</b> Alabama		
Overall Treatment of Tort	2. North Dakota	<b>47.</b> California		
and Contract Litigation	<b>3.</b> Utah	<b>48.</b> Louisiana		
uma Commune amgumom	<b>4.</b> Nebraska	<b>49.</b> Mississippi		
	<b>5.</b> Iowa	<b>50.</b> West Virginia		
	1. Delaware	<b>46.</b> Alabama		
	<b>2.</b> Iowa	<b>47.</b> Arkansas		
Having and Enforcing	3. Indiana	<b>48.</b> Louisiana		
Meaningful Venue Requirements	<b>4.</b> Virginia	<b>49.</b> Mississippi		
	<b>5.</b> Arizona	<b>50.</b> West Virginia		
	<b>1.</b> Delaware	<b>46.</b> Illinois		
	2. Nebraska	<b>47.</b> Mississippi		
Treatment of Class Action Suits	3. Indiana	<b>48.</b> California		
and Mass Consolidation Suits	<b>4.</b> Utah	<b>49.</b> Louisiana		
	<b>5.</b> Virginia	<b>50.</b> West Virginia		
	1. Indiana	<b>46.</b> Alabama		
	2. Delaware	<b>46.</b> Alabama <b>47.</b> California		
	3. Nebraska	<b>48.</b> Louisiana		
Damages	4. North Dakota	<b>49.</b> Mississippi		
	5. Iowa	<b>50.</b> West Virginia		
		$\mathcal{E}$		

	BEST	WORST
Timeliness of Summary Judgment or Dismissal	<ol> <li>Delaware</li> <li>North Dakota</li> <li>Virginia</li> <li>Indiana</li> <li>Nebraska</li> </ol>	<ul><li>46. California</li><li>47. Illinois</li><li>48. Mississippi</li><li>49. Louisiana</li><li>50. West Virginia</li></ul>
Discovery	<ol> <li>Delaware</li> <li>Iowa</li> <li>Indiana</li> <li>Nebraska</li> <li>Utah</li> </ol>	<ul><li>46. Illinois</li><li>47. California</li><li>48. Louisiana</li><li>49. Mississippi</li><li>50. West Virginia</li></ul>
Scientific and Technical Evidence	<ol> <li>Delaware</li> <li>Colorado</li> <li>Massachusetts</li> <li>Utah</li> <li>Virginia</li> </ol>	<ul><li>46. Alabama</li><li>47. Arkansas</li><li>48. Louisiana</li><li>49. Mississippi</li><li>50. West Virginia</li></ul>
Judges' Impartiality	<ol> <li>Delaware</li> <li>North Dakota</li> <li>South Dakota</li> <li>Iowa</li> <li>Nebraska</li> </ol>	<ul><li>46. Illinois</li><li>47. Alabama</li><li>48. Mississippi</li><li>49. Louisiana</li><li>50. West Virginia</li></ul>

	BEST	WORST
	1. Delaware	<b>46.</b> Arkansas
	2. North Dakota	<b>47.</b> Alabama
Judges' Competence	<b>3.</b> Nebraska	<b>48.</b> Mississippi
	4. Maine	<b>49.</b> Louisiana
	<b>5.</b> Virginia	<b>50.</b> West Virginia
	1. Nebraska	<b>46.</b> California
	2. North Dakota	<b>47.</b> Alabama
Juries' Fairness	<b>3.</b> Iowa	<b>48.</b> Louisiana
	4. Indiana	<b>49.</b> Mississippi
	<b>5.</b> Delaware	<b>50.</b> West Virginia

## Overall Treatment of Tort and Contract Litigation

<b>1.</b> Delaware	<b>26.</b> Maryland
2. North Dakota	<b>27.</b> Ohio
<b>3.</b> Utah	<b>28.</b> Washington
<b>4.</b> Nebraska	<b>29.</b> Vermont
<b>5.</b> Iowa	<b>30.</b> Michigan
<b>6.</b> Indiana	<b>31.</b> Texas
<b>7.</b> Colorado	<b>32.</b> Nevada
<b>8.</b> Virginia	<b>33.</b> Alaska
9. South Dakota	<b>34.</b> South Carolina
<b>10.</b> Tennessee	<b>35.</b> Pennsylvania
<b>11.</b> Idaho	<b>36.</b> New Jersey
<b>12.</b> Massachusetts	<b>37.</b> Kentucky
<b>13.</b> Maine	<b>38.</b> Hawaii
<b>14.</b> Minnesota	<b>39.</b> Missouri
<b>15.</b> Wyoming	<b>40.</b> Florida
<b>16.</b> Arizona	<b>41.</b> Rhode Island
<b>17.</b> New Hampshire	<b>42.</b> New Mexico
<b>18.</b> New York	<b>43.</b> Montana
<b>19.</b> North Carolina	<b>44.</b> Arkansas
<b>20.</b> Kansas	<b>45.</b> Illinois
<b>21.</b> Wisconsin	<b>46.</b> Alabama
<b>22.</b> Georgia	<b>47.</b> California
<b>23.</b> Oregon	<b>48.</b> Louisiana
<b>24.</b> Connecticut	<b>49.</b> Mississippi
<b>25.</b> Oklahoma	<b>50.</b> West Virginia

#### Having and Enforcing Meaningful Venue Requirements

1.	Delaware	26.	Maryland
2.	Iowa	27.	Wyoming
3.	Indiana	28.	Pennsylvania
4.	Virginia	29.	New Jersey
5.	Arizona	30.	Idaho
6.	North Carolina	31.	South Dakota
7.	Utah	32.	Hawaii
8.	Nebraska	33.	Washington
9.	Massachusetts	34.	Texas
10.	North Dakota	35.	New Hampshire
11.	Colorado	36.	New Mexico
12.	New York	37.	Vermont
13.	Kansas	38.	Florida
14.	Tennessee	39.	Alaska
15.	Minnesota	40.	Rhode Island
16.	Ohio	41.	South Carolina
17.	Nevada	42.	Kentucky
18.	Oklahoma	43.	Montana
19.	Michigan	44.	California
20.	Connecticut	45.	Illinois
21.	Georgia	46.	Alabama
22.	Maine	47.	Arkansas
23.	Missouri	48.	Louisiana
24.	Wisconsin	49.	Mississippi
25.	Oregon	50.	West Virginia

### Treatment of Class Action Suits and Mass Consolidation Suits

1.	Delaware	26.	Wisconsin
2.	Nebraska	27.	Washington
3.	Indiana	28.	Connecticut
4.	Utah	29.	Maryland
5.	Virginia	30.	New Jersey
6.	Iowa	31.	Pennsylvania
7.	North Dakota	32.	Hawaii
8.	Tennessee	33.	Vermont
9.	Wyoming	34.	Kentucky
10.	Massachusetts	35.	Rhode Island
11.	Maine	36.	South Carolina
12.	Arizona	37.	Montana
13.	Colorado	38.	Missouri
14.	Georgia	39.	Nevada
15.	North Carolina	40.	Alaska
16.	New York	41.	Florida
17.	Minnesota	42.	Oklahoma
18.	Ohio	43.	New Mexico
19.	Michigan	44.	Alabama
20.	Kansas	45.	Arkansas
21.	Oregon	46.	Illinois
22.	Idaho	47.	Mississippi
23.	Texas	48.	California
24.	New Hampshire	49.	Louisiana
25.	South Dakota	50.	West Virginia

#### Damages

1.	Indiana	26.	Vermont
2.	Delaware	27.	Maryland
3.	Nebraska	28.	Ohio
4.	North Dakota	29.	Washington
5.	Iowa	30.	Connecticut
6.	South Dakota	31.	Oregon
7.	Idaho	32.	New Jersey
8.	Utah	33.	Missouri
9.	Colorado	34.	Texas
10.	New Hampshire	35.	Hawaii
11.	Virginia	36.	South Carolina
12.	Kansas	37.	Kentucky
13.	Maine	38.	Pennsylvania
14.	Wyoming	39.	Rhode Island
15.	Massachusetts	40.	Alaska
16.	Tennessee	41.	Florida
17.	Arizona	42.	Montana
18.	Minnesota	43.	New Mexico
19.	North Carolina	44.	Arkansas
20.	Wisconsin	45.	Illinois
21.	Georgia	46.	Alabama
22.	Oklahoma	47.	California
23.	Michigan	48.	Louisiana
24.	New York	49.	Mississippi
25.	Nevada	50.	West Virginia

#### Timeliness of Summary Judgment/Dismissal

<b>1.</b> Delaware	<b>26.</b> Connecticut
2. North Dakota	<b>27.</b> Texas
<b>3.</b> Virginia	<b>28.</b> Montana
<b>4.</b> Indiana	<b>29.</b> New Jersey
<b>5.</b> Nebraska	<b>30.</b> Oklahoma
<b>6.</b> Minnesota	<b>31.</b> Missouri
<b>7.</b> Idaho	<b>32.</b> Georgia
<b>8.</b> Iowa	<b>33.</b> South Carolina
<b>9.</b> Massachusetts	<b>34.</b> New York
<b>10.</b> Utah	<b>35.</b> Michigan
11. South Dakota	<b>36.</b> Alaska
<b>12.</b> Wyoming	<b>37.</b> Pennsylvania
<b>13.</b> Kansas	<b>38.</b> Ohio
<b>14.</b> Arizona	<b>39.</b> Rhode Island
<b>15.</b> Wisconsin	<b>40.</b> New Mexico
<b>16.</b> Oregon	<b>41.</b> Kentucky
<b>17.</b> Colorado	<b>42.</b> Arkansas
<b>18.</b> Washington	<b>43.</b> Hawaii
<b>19.</b> North Carolina	<b>44.</b> Florida
<b>20.</b> Nevada	<b>45.</b> Alabama
<b>21.</b> Maine	<b>46.</b> California
<b>22.</b> Maryland	<b>47.</b> Illinois
<b>23.</b> New Hampshire	<b>48.</b> Mississippi
<b>24.</b> Vermont	<b>49.</b> Louisiana
<b>25.</b> Tennessee	<b>50.</b> West Virginia

#### Discovery

1.	Delaware	26.	Oregon
2.	Iowa	27.	Washington
3.	Indiana	28.	Alaska
4.	Nebraska	29.	Texas
5.	Utah	30.	Ohio
6.	Wyoming	31.	Michigan
7.	North Dakota	32.	Vermont
8.	Virginia	33.	New York
9.	North Carolina	34.	Montana
10.	Colorado	35.	Hawaii
11.	Maryland	36.	Missouri
12.	Arizona	37.	South Carolina
13.	Maine	38.	New Jersey
14.	Minnesota	39.	Rhode Island
15.	Kansas	40.	Pennsylvania
16.	Idaho	41.	Florida
17.	South Dakota	42.	Kentucky
18.	Massachusetts	43.	New Mexico
19.	Oklahoma	44.	Arkansas
20.	Wisconsin	45.	Alabama
21.	Tennessee	46.	Illinois
22.	New Hampshire	47.	California
23.	Connecticut	48.	Louisiana
24.	Nevada	49.	Mississippi
25.	Georgia	50.	West Virginia

#### Scientific and Technical Evidence

1.	Delaware	26.	Texas
2.	Colorado	27.	New Hampshire
3.	Massachusetts	28.	Kansas
4.	Utah	29.	Vermont
5.	Virginia	30.	Hawaii
6.	Indiana	31.	Pennsylvania
7.	Oregon	32.	Nevada
8.	New York	33.	South Carolina
9.	Nebraska	34.	Michigan
10.	Washington	35.	Montana
11.	Minnesota	36.	California
12.	Tennessee	37.	Alaska
13.	Maine	38.	South Dakota
14.	Georgia	39.	Florida
15.	Iowa	40.	Oklahoma
16.	Arizona	41.	New Mexico
17.	Maryland	42.	Missouri
18.	Wisconsin	43.	Illinois
19.	North Dakota	44.	Rhode Island
20.	Connecticut	45.	Kentucky
21.	North Carolina	46.	Alabama
22.	Wyoming	47.	Arkansas
	Idaho	48.	Louisiana
24.	New Jersey	49.	Mississippi
25.	Ohio	50.	West Virginia

#### Judges' Impartiality

1.	Delaware	26.	Ohio
2.	North Dakota	27.	Washington
3.	South Dakota	28.	Michigan
4.	Iowa	29.	New Jersey
5.	Nebraska	30.	Oklahoma
6.	Indiana	31.	Georgia
7.	Maine	32.	Alaska
8.	Arizona	33.	Pennsylvania
9.	Virginia	34.	Missouri
10.	Massachusetts	35.	Nevada
11.	Kansas	36.	New Mexico
12.	Maryland	37.	Hawaii
13.	Minnesota	38.	Florida
14.	Connecticut	39.	Kentucky
15.	Oregon	40.	California
16.	Utah	41.	Rhode Island
17.	Colorado	42.	South Carolina
18.	New York	43.	Texas
19.	New Hampshire	44.	Montana
20.	Wisconsin	45.	Arkansas
21.	Vermont	46.	Illinois
22.	Tennessee	47.	Alabama
23.	Wyoming	48.	Mississippi
24.	North Carolina	49.	Louisiana
25.	Idaho	50.	West Virginia

ELEMENTS

#### 2010 STATE LIABILITY SYSTEMS SURVEY

#### Judges' Competence

1.	Delaware	26.	Idaho
2.	North Dakota	27.	Georgia
3.	Nebraska	28.	Ohio
4.	Maine	29.	Rhode Island
5.	Virginia	30.	Alaska
6.	Massachusetts	31.	Oklahoma
7.	Vermont	32.	New Jersey
8.	South Dakota	33.	Nevada
9.	Indiana	34.	Michigan
10.	Minnesota	35.	Pennsylvania
11.	Connecticut	36.	Hawaii
12.	Washington	37.	South Carolina
13.	Wyoming	38.	Texas
14.	Maryland	39.	Missouri
15.	Utah	40.	Kentucky
16.	North Carolina	41.	California
17.	Kansas	42.	Florida
18.	New Hampshire	43.	New Mexico
19.	Iowa	44.	Illinois
20.	Colorado	45.	Montana
21.	New York	46.	Arkansas
22.	Arizona	47.	Alabama
23.	Wisconsin	48.	Mississippi
24.	Oregon	49.	Louisiana
25.	Tennessee	50.	West Virginia

#### Juries' Fairness

1.	Nebraska	<b>26.</b> North Carolina		
2.	North Dakota	<b>27.</b> Michigan		
3.	Iowa	28.	Nevada	
4.	Indiana	29.	New York	
5.	Delaware	30.	Oklahoma	
6.	South Dakota	31.	Rhode Island	
7.	Utah	32.	Ohio	
8.	Minnesota	33.	Pennsylvania	
9.	Virginia	34.	New Jersey	
10.	Kansas	35.	Hawaii	
11.	Oregon	36.	Kentucky	
12.	Massachusetts	37.	Missouri	
13.	New Hampshire	38.	Alaska	
14.	Colorado	39.	Montana	
15.	Maine	40.	Florida	
16.	Idaho	41.	Texas	
17.	Wisconsin	42.	South Carolina	
18.	Arizona	43.	New Mexico	
19.	Connecticut	44.	Arkansas	
20.	Washington	45.	Illinois	
21.	Tennessee	46.	California	
22.	Georgia	47.	Alabama	
23.	Wyoming	48.	Louisiana	
24.	Vermont	49.	Mississippi	
25.	Maryland	<b>50.</b>	West Virginia	

The 2010 State Liability Systems Ranking Study was conducted for the U.S. Chamber Institute for Legal Reform by Harris Interactive. The final results are based on interviews with a nationally representative sample of 1,482 in-house general counsel, senior litigators or attorneys, and other senior executives who are knowledgeable about litigation matters at public and private companies with annual revenues of at least \$100 million.

Phone interviews averaging 16 minutes in length were conducted with a total of 821 respondents and took place between October 23, 2009 and January 21, 2010. Online interviews using the same questionnaire and averaging 14 minutes in length were conducted with a total of 661 respondents that took place between October 22, 2009 and January 21, 2010. The previous research was conducted during similar time frames in the years 2002-2008. A pilot survey was conducted in 2009 among 104 respondents to pretest and validate the methodology.

#### Sample Design

For the telephone sample, a comprehensive list of general counsel at companies with annual revenues of at least \$100 million was compiled using idExec, Dun & Bradstreet, AMI, and Aggressive List. An alert letter was sent to the general counsel at each company. This letter provided general information about the study, notified them of the option to take the survey online or by phone, and told them that an interviewer from Harris Interactive would be contacting them to request

their participation if they chose not to take the survey online. The letter included an 800 number for respondents to call and schedule a survey appointment, and it also alerted the general counsel to a \$50 charitable incentive or check in exchange for qualified participation in the study.

For the online sample, a representative sample of general counsel and other senior attorneys was drawn from the Association of Corporate Counsel and LinkedIn. These respondents received an electronic version of the alert letter, which included a password-protected link to take the survey. They were screened to ensure that they worked for companies with more than \$100 million in annual revenues.

#### **Sample Characteristics**

An overwhelming majority (92%) of respondents were general counsel, corporate counsel, associate or assistant counsel or some other senior litigator or attorney. The remaining respondents

were senior executives knowledgeable about or responsible for litigation at their companies. Respondents had an average of 20 years of relevant legal experience, including their current position, and had been involved in or were familiar with litigation at their current companies for an average of 8.6 years. Most respondents (82%) were familiar with or had litigated in the states they rated within the past three years. The most common industry represented was manufacturing, followed by services.

#### Telephone Interviewing Procedures

The telephone interviews utilized a computer-assisted telephone interviewing (CATI) system, whereby trained interviewers call and immediately input responses into the computer. This system greatly enhances reporting reliability. It reduces clerical error by eliminating the need for keypunching, since interviewers enter respondent answers directly into a computer

terminal during the interview itself. This data entry program does not permit interviewers to inadvertently skip questions, since each question must be answered before the computer moves on to the next question. The data entry program also ensures that all skip patterns are correctly followed. The online data editing system refuses to accept punches that are out-of-range, demands confirmation of responses that exceed expected ranges, and asks for explanations for inconsistencies between certain key responses.

To achieve high participation, in addition to the alert letters, numerous telephone callbacks were made to reach respondents and conduct the interviews at a convenient time. Interviewers also offered to send respondents an e-mail invitation so that respondents could take the survey online on their own time.

#### **Online Interviewing Procedures**

All online interviews were hosted on Harris Interactive's server and were conducted using a self-administered, online questionnaire via proprietary Web-assisted interviewing software. The mail version of the alert letter directed respondents to a URL and provided participants with a unique ID and password that they were required to enter on the landing page of the survey. Those who received an e-mail version of the alert letter accessed the survey by clicking on the passwordprotected URL included in the e-mail. Due to password protection, it was not possible for a respondent to answer the survey more than once. Respondents for whom we had e-mail addresses received an initial invitation as well as one to two reminder e-mails that were sent roughly two to three days after the previous invitation.

#### **Interviewing Protocol**

After determining that respondents were qualified, they identified which states' liability systems they were familiar with. Then the respondents were asked to identify the last time they litigated in or were familiar with the states' liability systems. From there, respondents were given the opportunity to evaluate the states' liability systems, prioritized by most recent litigation experience. On average, respondents evaluated three states via telephone and four states online.

#### **Rating and Scoring of States**

States were given a grade (A, B, C, D or F) by respondents for each of the key elements of their liability systems. The Overall Ranking of State Liability Systems table was developed by creating an index using the grades given on each of the key elements plus the overall performance grade. All of the key elements were highly correlated with one another and with overall performance. The differences in the relationship between each element and overall performance were trivial, so it was determined that each element should contribute equally to the index score. To create the index, each grade across the

elements plus the overall performance grade were rescaled from 0 to 100 (A = 100, B = 75, C = 50, D = 25, and F = 0). Then, any evaluation that contained 5 or more "not sure" or "decline to answer" responses per state was removed. A total of 6.5% of state evaluations were unusable. From the usable evaluations, the scores on the elements were then averaged together to create the index score from 0 to 100.

The scores displayed in this report have been rounded to one decimal point. However, when developing the ranking, scores were evaluated based on two decimal points. Therefore, states that appear tied based upon the scores in this report were not tied when two decimal points were taken into consideration. The scores for states that appear tied based on one decimal place are Massachusetts (65.64) and South Dakota (65.62), Vermont (61.62) and Washington (61.57), Alaska (56.58) and Pennsylvania (56.56), and New Mexico (53.89) and Florida (53.86).

For the Ranking on Key Elements, a score was calculated per element for each state based on the 0 to 100 rescaled performance grades. The states were then ranked by their mean scores on that element.

#### Reliability of Survey Percentages

The results from any sample survey are subject to sampling variation. The sampling variation (or error) that applies to the results for this survey of 1,482 respondents is plus or minus 2.5 percentage points. That is, the chances are 95 in 100 that a survey result does not vary, plus or minus, by more than 2.5 percentage points from the result that would have been obtained if interviews

were conducted with all persons in the universe represented by the sample.

Note that survey results based on subgroups of smaller sizes can be subject to larger sampling error.

Sampling error of the type so far discussed is only one type of error. Survey research is also susceptible to other types of error, such as refusals to be interviewed (nonresponse error), question wording and question order, interviewer error, and weighting by demographic control data. Although it is difficult or impossible to quantify these types of error, the procedures followed by Harris Interactive keep errors of these types to a minimum.

A full copy of the report, including grades for each state on each of the key elements, is available at www.lnstituteForLegalReform.com

