

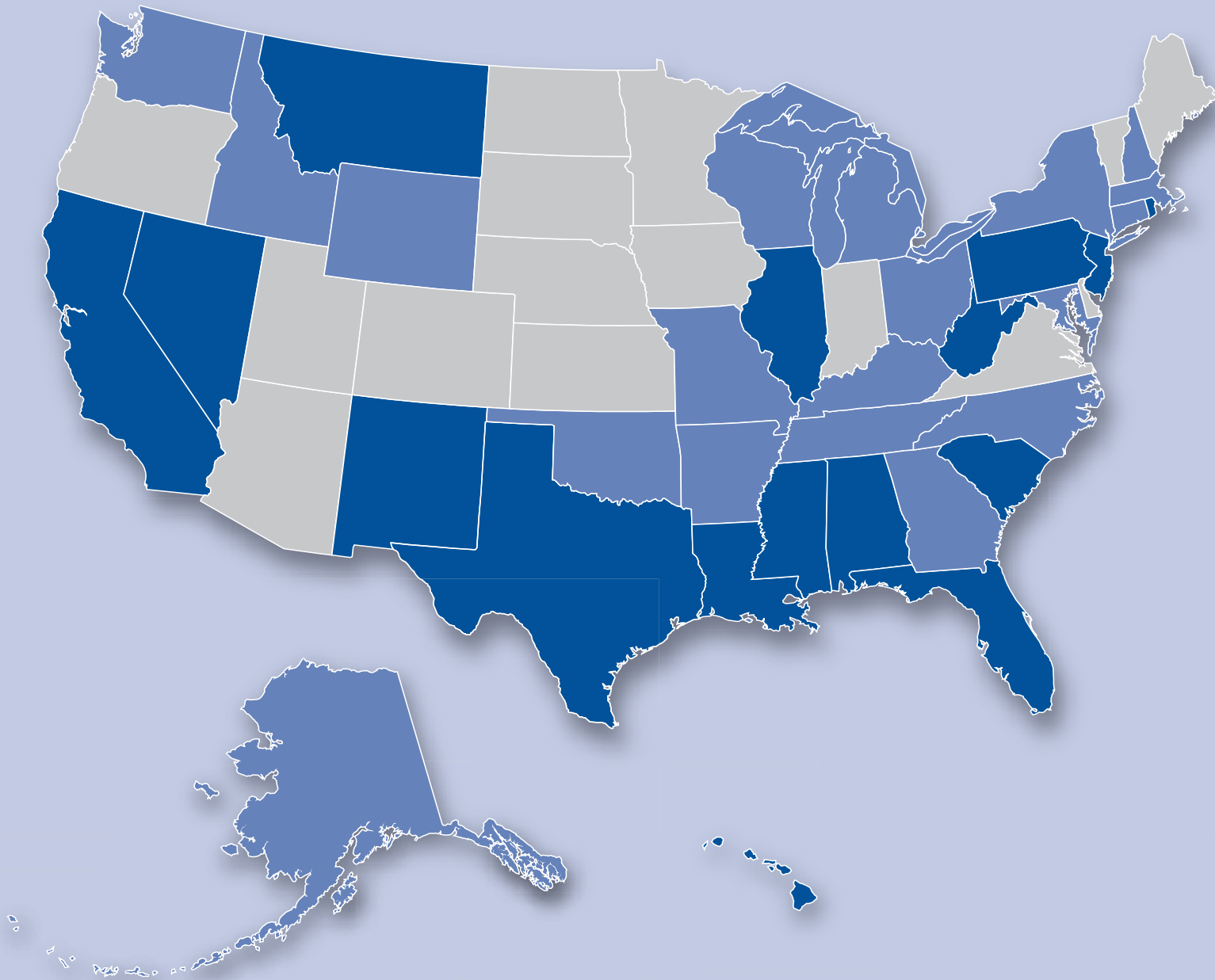
LAWSUIT CLIMATE 2008

Ranking the States

*Conducted for the U.S. Chamber
Institute for Legal Reform by
Harris Interactive Inc.*



Legal Climate Overall Rankings by State



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

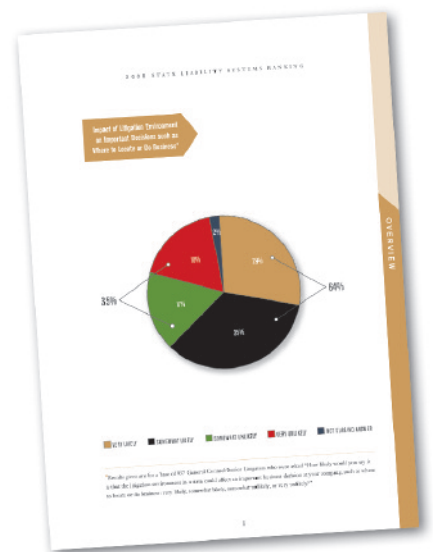
OVERVIEW	1
State Court Liability Systems Overall Rating	5
Impact of Litigation Environment on Important Decisions	6
Overall Rankings of State Liability Systems '03-'08	7
SPOTLIGHT	8
Most Important Issues for State Policymakers	8
Cities or Counties with Least Fair and Reasonable Litigation Environment	9
Worst Specific City or County Courts by State	10
Top Issues Mentioned as Creating the Least Fair and Reasonable Litigation Environment	11
Having and Enforcing Meaningful Venue Requirements	12
Treatment of Tort and Contract Litigation	12
Treatment of Class Action Suits and Mass Consolidation Suits	12
Punitive Damages	12
Timeliness of Summary Judgment or Dismissal	13
Discovery	13
Scientific and Technical Evidence	13
Non-economic Damages	13
Judges' Impartiality	14
Judges' Competence	14
Juries' Predictability	14
Juries' Fairness	14
KEY ELEMENTS	15
Overall Treatment of Tort and Contract Litigation	15
Having and Enforcing Meaningful Venue Requirements	16
Treatment of Class Action Suits and Mass Consolidation Suits	17
Punitive Damages	18
Timeliness of Summary Judgment/Dismissal	19
Discovery	20
Scientific and Technical Evidence	21
Non-economic Damages	22
Judges' Impartiality	23
Judges' Competence	24
Juries' Predictability	25
Juries' Fairness	26
METHODOLOGY	27
Recommended Allowance for Sampling Error of Proportions	31
Sampling Error of Difference Between Proportions	31

The 2008 State Liability Systems Ranking Study was conducted for the U.S. Chamber Institute for Legal Reform among a national sample of in-house general counsel or other senior corporate litigators to explore how reasonable and balanced the tort liability system is perceived to be by U.S. business. The 2008 ranking builds on previous years' work¹ where each year all 50 states are ranked by those familiar with the litigation environment in that state.

Prior to these rankings, information regarding the attitudes of the business world towards 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. While we can look to the past six years' rankings to see general movement, a direct trend can only be made from the previous two years (2006 and 2007). The reason for

this is that in 2006 we changed the survey design slightly, adding two elements— *having and enforcing meaningful venue requirements* and *non-economic damages*.

Two in five senior attorneys (41%) view the fairness and reasonableness of state court liability systems in America as



1. 2007, 2006, 2005, 2004, 2003 and 2002

excellent or pretty good while just over half (55%) view the systems as only fair or poor. A majority (63%) report that the litigation environment in a state is likely to impact important business decisions at their company, such as where to locate or do business, up from 57% in 2007.

Respondents were first screened for their familiarity with states, and those who 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 efficiency. However, respondents had to evaluate the state as a whole. To explore the detailed nuances within each state would have required extensive questioning for each state and was beyond the scope and purpose of this study. However, other

studies have 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 meaningful venue requirements, overall treatment of tort and contract litigation, treatment of class action suits and mass consolidation suits, punitive damages, timeliness of summary judgment or*

dismissal, discovery, scientific and technical evidence, non-economic damages, judges' impartiality and competence, and juries' predictability and fairness. These grades were combined to create an overall ranking of state liability systems.²

While there continues to be a wide disparity between the states in terms of those that are perceived to be the best and the worst; nonetheless, the overall trend is improving.

Most Important Issues to Focus on to Improve Litigation Environment

The study also asked respondents to name the most important issue that state policymakers who care about economic development should focus on to improve the litigation environment in their state.

Speeding up the trial process was cited by 12% of our respondents

as the most important issue. Other top issues named were reform of punitive damages (9%), eliminate unnecessary lawsuits (9%), tort reform issues in general (8%), fairness and impartiality (5%) and fee issues (5%).

Worst Local Jurisdictions

In order to understand if there are any cities or counties which might impact a



Spotlight 8

Key Elements 16

2. The "Overall Ranking of State Liability Systems" table was calculated by creating an index using the scores given on each of the 12 key elements as well as the overall performance score. All of the key element items were highly correlated with one another and with overall performance. The differences in the relationship between each item and overall performance were trivial, so it was determined that each item should contribute equally to the index score. The index was created from the mean across the 12 items, which was rescaled from 0 to 100 prior to averaging them together.

state's ranking, respondents were asked which five cities or counties have the least fair and reasonable litigation environments. The worst jurisdiction was Los Angeles, California (mentioned by 14% of the respondents), followed by Chicago/Cook County, Illinois (11%) and various cities and counties in Texas (11%).

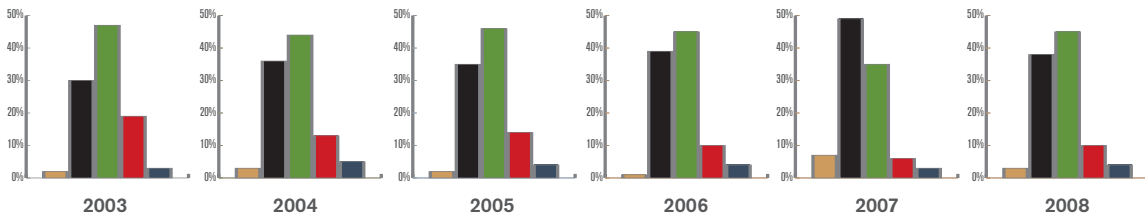
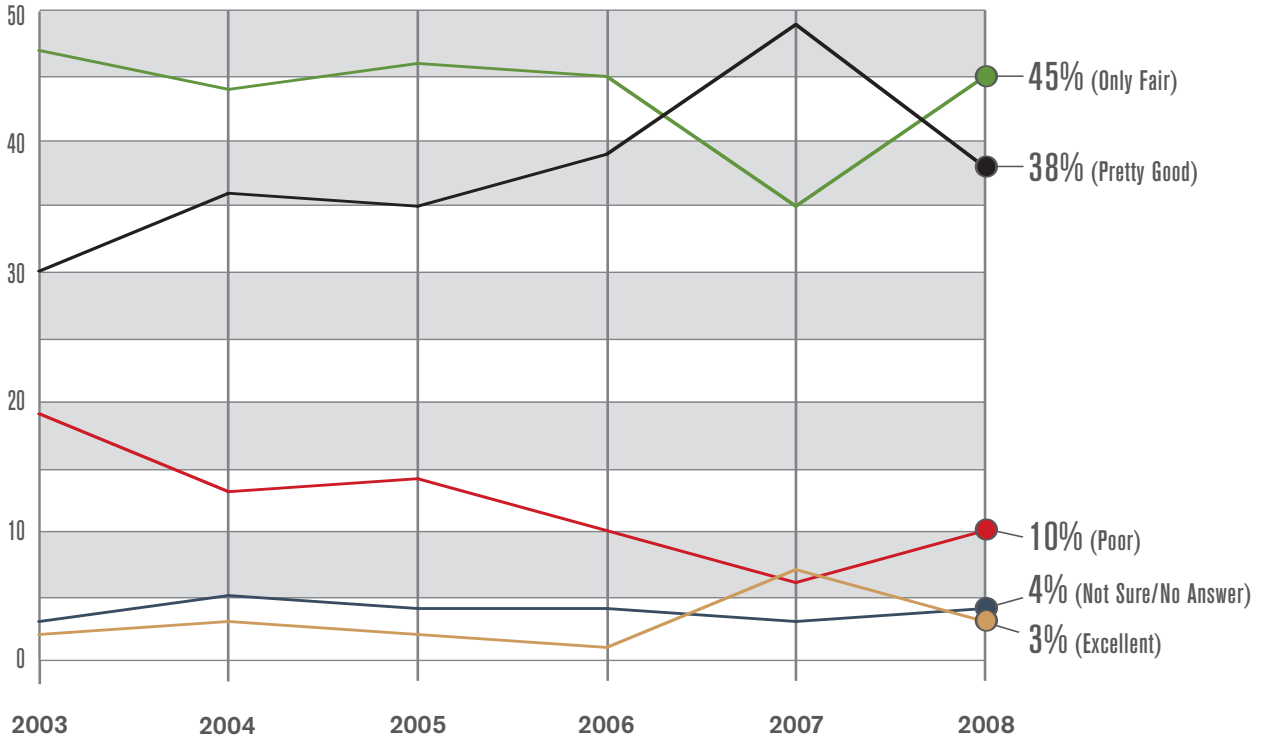
In order to understand why respondents feel negatively about particular jurisdictions, a follow-up question was asked to those who cited a jurisdiction. The top reason given as to why a city or county has the least fair and reasonable litigation environment is biased judgment, given by 20% of respondents, and is the number one reason by a large margin. The next tier included corrupt/unfair system, unfair jury/judges, have read/seen a report

on a case and unpredictable jury/judges (each mentioned by 5% of respondents).

Conclusion

One important point to note is that these rankings and results are based on the perceptions of these senior corporate attorneys. It is also important to realize that the perceptions may be heavily influenced by certain individual city or county court jurisdictions within the state. But, as we have noted in the past, perception does become linked with reality. If the states can change the way litigators and others perceive their liability systems, we may find considerable movement in their rankings in the future. Once these perceptions change, the overall business environment may be deemed more hospitable as well.

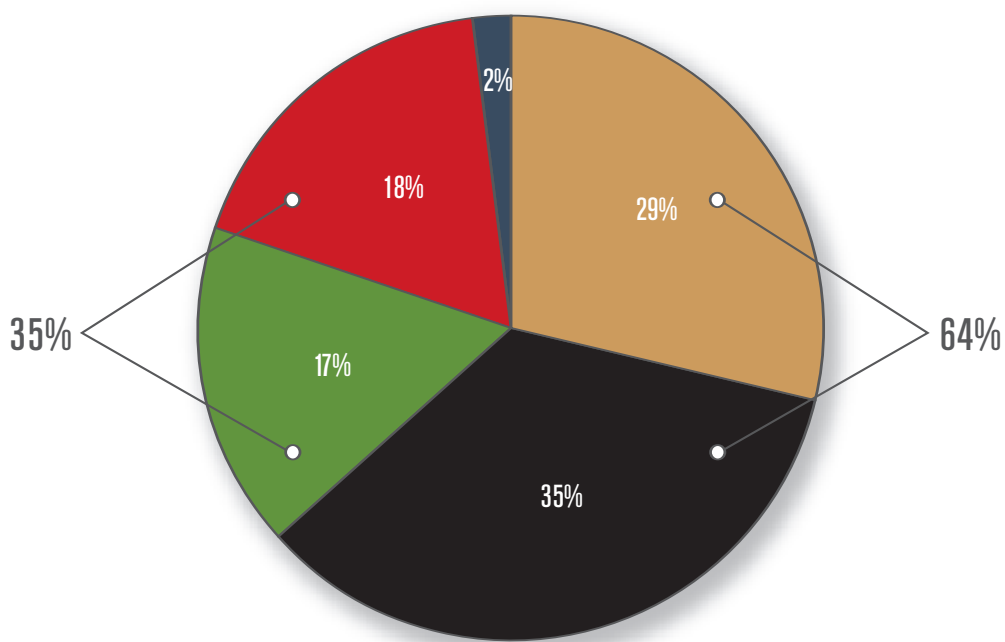
State Court Liability Systems Overall Rating*



EXCELLENT
 PRETTY GOOD
 ONLY FAIR
 POOR
 NOT SURE/NO ANSWER

*Results given are for a base of 957 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***



VERY LIKELY
 SOMEWHAT LIKELY
 SOMEWHAT UNLIKELY
 VERY UNLIKELY
 NOT SURE/NO ANSWER

*Results given are for a base of 957 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: very likely, somewhat likely, somewhat unlikely, or very unlikely?”

Overall Rankings of
State Liability
Systems '03-'08*

2008	SCORE	'07	'06	'05	'04	'03
1. Delaware	71.5	1	1	1	1	1
2. Nebraska	71.3	3	2	2	2	2
3. Maine	69.3	5	9	11	12	16
4. Indiana	69.1	8	11	6	11	5
5. Utah	68.6	9	17	14	6	7
6. Virginia	68.4	12	3	4	3	8
7. Iowa	68.0	4	4	5	4	3
8. Vermont	67.6	27	24	21	20	19
9. Colorado	67.5	21	8	13	13	12
10. Kansas	66.7	13	15	16	9	15
11. Minnesota	66.5	2	14	7	8	9
12. South Dakota	65.7	11	7	8	17	4
13. North Dakota	65.6	20	12	3	16	6
14. Oregon	65.4	17	30	25	27	14
15. Arizona	65.3	15	13	19	14	18
16. New Hampshire	64.7	6	6	12	7	10
17. Oklahoma	64.2	38	33	32	31	36
18. Massachusetts	63.5	18	32	31	28	22
19. Connecticut	63.2	14	5	18	18	17
20. Alaska	62.6	43	36	33	33	32
21. North Carolina	62.6	16	10	20	19	20
22. Tennessee	62.3	7	29	22	25	26
23. Wyoming	62.1	22	16	9	15	25
24. Wisconsin	61.8	10	23	17	10	11
25. New York	61.6	19	21	27	22	27
26. Idaho	61.5	30	18	10	5	13
27. Washington	61.5	25	28	15	24	21
28. Georgia	61.4	31	27	28	29	39
29. Kentucky	61.3	33	34	36	35	35
30. Maryland	60.6	29	20	23	21	23
31. Missouri	60.1	34	35	40	41	33
32. Ohio	60.0	24	19	26	32	24
33. Michigan	59.7	23	22	24	23	29
34. Arkansas	58.0	41	41	43	42	45
35. New Jersey	58.0	26	25	30	26	30
36. Pennsylvania	57.8	32	31	34	30	31
37. New Mexico	57.5	39	40	38	37	41
38. Montana	57.3	40	39	37	43	28
39. Rhode Island	57.1	35	26	35	36	37
40. Nevada	56.9	28	37	29	34	34
41. Texas	56.8	44	43	44	45	46
42. Florida	54.9	36	38	42	38	40
43. South Carolina	54.5	37	42	39	40	42
44. California	51.8	45	44	45	46	44
45. Hawaii	51.5	42	46	41	39	43
46. Illinois	51.3	46	45	46	44	38
47. Alabama	47.5	47	47	48	48	48
48. Mississippi	43.7	49	48	50	50	50
49. Louisiana	42.9	48	49	47	47	47
50. West Virginia	42.4	50	50	49	49	49

*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 (Alaska, 62.64; North Carolina, 62.59; Idaho, 61.53; Washington, 61.46; Arkansas, 58.02; New Jersey, 57.96).

**Most Important Issues
for State Policymakers***

Speeding up the trial process	12%
Reform of punitive damages	10%
Eliminate unnecessary lawsuits	9%
Tort reform issues in general	8%
High litigation costs	5%
Fairness and impartiality	5%
Limit liability settlements	4%
Timeliness of decisions	3%
Caps/limits on non-economic damages	3%
Limitation of class action suits	3%
Limits on discovery	3%
Anti-business environment	3%
Appointment vs. election of judges	3%
Workers' compensation	3%
Caps/limits on jury awards	2%
Judicial competence	2%
Attorney/court fees paid by the loser	2%
Forum shopping/venue selection	2%
Quality of judges	2%
Summary judgment issues	2%
More judges/judicial staffing resources	2%

*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 957 General Counsel/Senior Litigators who were asked “What do you think is the single worst aspect of the litigation environment that state policymakers should focus on to improve the business climate in their state?”

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

Los Angeles, California	14%
Chicago/Cook County, Illinois	11%
Texas (other mentions)**	11%
New York Greater Metropolitan Region	8%
Madison County, Illinois	7%
Alabama (other mentions)	6%
California (other mentions)	6%
San Francisco, California	6%
New Orleans Parish, Louisiana	5%
Miami/Dade County, Florida	5%
Philadelphia, Pennsylvania	5%
Georgia (other mentions)	3%
Houston, Texas	3%
Florida (other mentions)	3%
Mississippi (other mentions)	3%
New York (other mentions)	3%
St. Louis, Missouri	3%
New Jersey (other mentions)	3%
Dallas/Forth Worth, Texas	2%
Beaumont, Texas	2%
Louisiana (other mentions)	2%
Massachusetts (other mentions)	2%
Illinois (other mentions)	2%
Nevada (other mentions)	2%
Detroit, Michigan	2%
Washington, D.C.	2%

*Responses displayed above were volunteered by respondents. Mentions of at least 2% given above. Results given are for a base of 957 who were asked “While considering the entire country, what do you think are the five worst city or county courts? In other words, which city or county courts have the least fair and reasonable litigation environments for both defendants and plaintiffs?”

**Each “other mention” parenthetical denotes miscellaneous cities and counties in that particular state that were mentioned by less than 1% of the respondents.

Worst Specific City or County Courts by State*

California**	26%
Los Angeles	14%
San Francisco	6%
Other jurisdictions mentioned	6%
Illinois**	21%
Chicago/Cook County	11%
Madison County	7%
Other jurisdictions mentioned	2%
Texas**	19%
Houston	3%
Beaumont	2%
Dallas/Ft. Worth	2%
Other jurisdictions mentioned	11%
New York**	11%
Greater Metropolitan area	8%
Other jurisdictions mentioned	3%
Florida**	8%
Miami-Dade County	5%
Other jurisdictions mentioned	3%
Louisiana**	7%
New Orleans Parish	5%
Other jurisdictions mentioned	2%
Alabama**	6%
Pennsylvania**	6%
Philadelphia	5%
Other jurisdictions mentioned	1%
Missouri**	4%
St. Louis	3%
Other jurisdictions mentioned	1%
Michigan**	3%
Detroit	2%
Other jurisdictions mentioned	1%
Georgia**	3%
Mississippi**	3%
New Jersey**	3%

*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 957 who were asked “While considering the entire country, what do you think are the five worst city or county courts? In other words, which city or county courts have the least fair and reasonable litigation environments for both defendants and plaintiffs?”

** Includes all mentions.

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

Biased judgment	20%
Corrupt/unfair system	5%
Unfair jury/judges	5%
Have read/seen a report on a case	5%
Unpredictable jury/judges	5%
Personal experience	4%
Incompetent jury/judges	4%
Overburdened with cases/Too many cases	4%
Not enough knowledge/experience about other states	4%
High jury awards	3%
Too liberal	3%
Slow process	3%
Other corruption mentions	2%
Influenced by other parties	2%
High jury verdicts	2%
Judgment mentions	2%
Too easy to file cases there	1%
Judges are bribed	1%
Other inconvenience mentions	1%
Election of judges	1%
Expensive/High court costs	1%
Good old boy system/Depends on who you know	1%
Poor quality of jury/judges	1%
Allow forum shopping	1%
Composition of jury pool	1%
Difficult/Hostile environment/jury/judges	1%
Not enough staff/ resources	1%
A lot of statutory/legal damages	1%
Dislike the jury/judge	1%
Conservative rules	1%
Bad reputation	1%
Punitive damages awarded	1%

*The responses displayed in this table were volunteered by the respondents. Mentions by at least 1% are given above. Results given are for a base 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?"

**Having and Enforcing
Meaningful Venue Requirements**

BEST

1. Delaware
2. Indiana
3. Virginia
4. South Dakota
5. Nebraska

WORST

46. California
47. Illinois
48. Louisiana
49. Mississippi
50. West Virginia

**Overall Treatment of Tort
and Contract Litigation**

1. Delaware
2. Nebraska
3. Iowa
4. Utah
5. Vermont

46. Illinois
47. Alabama
48. Mississippi
49. Louisiana
50. West Virginia

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

1. Delaware
2. Utah
3. Nebraska
4. South Dakota
5. Colorado

46. California
47. Illinois
48. Mississippi
49. Louisiana
50. West Virginia

Punitive Damages

1. Delaware
2. Indiana
3. Maine
4. Utah
5. Kansas

46. Hawaii
47. California
48. Mississippi
49. Alabama
50. West Virginia

Timeliness of Summary Judgment or Dismissal

BEST

- 1. Delaware
- 2. Virginia
- 3. Nebraska
- 4. Vermont
- 5. Maine

WORST

- 46. Illinois
- 47. Mississippi
- 48. Alabama
- 49. West Virginia
- 50. Louisiana

Discovery

- 1. Delaware
- 2. Indiana
- 3. Utah
- 4. Virginia
- 5. Oregon

- 46. Illinois
- 47. Mississippi
- 48. West Virginia
- 49. Alabama
- 50. Louisiana

Scientific and Technical Evidence

- 1. Massachusetts
- 2. Delaware
- 3. Maine
- 4. Oregon
- 5. Virginia

- 46. Hawaii
- 47. Alabama
- 48. Mississippi
- 49. West Virginia
- 50. Louisiana

Non-economic Damages

- 1. Colorado
- 2. Nebraska
- 3. Delaware
- 4. Utah
- 5. Maine

- 46. South Carolina
- 47. Alabama
- 48. Louisiana
- 49. Mississippi
- 50. West Virginia

Judges' Impartiality

BEST

WORST

- 1. Delaware
- 2. Iowa
- 3. Virginia
- 4. Nebraska
- 5. Minnesota

- 46. Illinois
- 47. Alabama
- 48. Mississippi
- 49. Louisiana
- 50. West Virginia

Judges' Competence

- 1. Delaware
- 2. Minnesota
- 3. Virginia
- 4. Nebraska
- 5. Indiana

- 46. Hawaii
- 47. Alabama
- 48. West Virginia
- 49. Mississippi
- 50. Louisiana

Juries' Predictability

- 1. Nebraska
- 2. Indiana
- 3. Virginia
- 4. South Dakota
- 5. Utah

- 46. Alabama
- 47. California
- 48. West Virginia
- 49. Louisiana
- 50. Mississippi

Juries' Fairness

- 1. Nebraska
- 2. Indiana
- 3. South Dakota
- 4. Iowa
- 5. Maine

- 46. South Carolina
- 47. Alabama
- 48. West Virginia
- 49. Louisiana
- 50. Mississippi

**Overall Treatment of Tort and
Contract Litigation**

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

**Having and Enforcing
Meaningful Venue Requirements**

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

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

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

*Virginia and Mississippi do not have class actions but both have mass consolidation suits (source: U.S. Chamber Institute for Legal Reform).

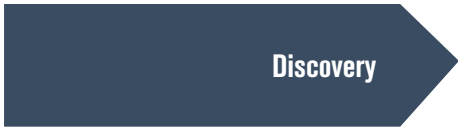

Punitive Damages*

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

*Louisiana, Massachusetts, Nebraska, New Hampshire, and Washington are not included because they do not allow punitive damages in general (source: U.S. Chamber Institute for Legal Reform).

**Timeliness of Summary
Judgment/Dismissal**

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



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

Scientific and Technical Evidence

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

Non-economic Damages

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

Judges' Impartiality

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

Judges' Competence

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

Juries' Predictability

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

Juries' Fairness

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

All interviews for The 2008 State Liability Systems Ranking Study were conducted by telephone among a nationally representative sample of in-house general counsel, senior litigators and other senior attorneys who are knowledgeable about litigation matters at companies with annual revenues of at least \$100 million. Interviews averaging 23 minutes in length were conducted with a total of 957 respondents and took place between December 18, 2007 and March 19, 2008. The sample was segmented into two main groups. Of the 957 respondents, 6% were from insurance companies, with the remaining 94% of interviews being conducted among corporations from other industries.

Sample Design

A representative sample of companies with annual revenues of at least \$100 million annually was drawn using sample from idExec, Dun & Bradstreet, AMI, and Aggressive List. An alert letter was sent to the general counsel at each company. In the cases where the general

counsel at a particular company could not be identified, the alert letter was sent to another senior person at the company such as the Chief Executive Officer or Senior Vice President. This letter provided general information about the study, notified them that an interviewer

from Harris Interactive would be contacting them and requested their participation. It also included a fact sheet about the study, the 2007 press release and an article about the 2007 results that was published by Bloomberg LLP. This year, in addition to receiving an alert letter, some contacts were told that a \$50 or \$100 donation would be made to a charity for agreement to participate in the study. This initiative was implemented toward the end of the interview period to increase cooperation and assure an adequate sample.

The sample was segmented into two main groups. Of the 957 respondents, 57 were from insurance companies, with the remaining 900 interviews being conducted among corporations from other industries. The proportion of interviews with insurance companies represents 6% of the total sample which is the typical representation of insurance

companies in the universe of companies with \$100 million or more in revenues. Since property casualty insurance companies have extensive experience with state liability systems, for the purposes of this study we worked to ensure that our proportion of insurance companies matched the overall population.

Respondents had an average of 19.3 years of relevant legal experience (including their current position), had been with their company an average of 11.6 years, and had been in their current position an average of 9.1 years.

Telephone Interviewing Procedures

The 2008 State Liability Systems Ranking Study utilized Harris' 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 on-line data editing system refuses to accept punches that are out-of-range, it demands confirmation of responses that exceed expected ranges, and asks for explanations for inconsistencies between certain key responses.

In order to achieve high respondent participation, in addition to the alert letters, numerous telephone callbacks were made in order to reach the respondent and conduct the interview at a convenient time for the respondent.

Once a qualified respondent was identified, the respondent was first asked about his/her familiarity with several states. First, 24 states out of the list of 50 possible states were presented to the respondent. Within these 24 states, the 17 states presented were the following: Alaska, Hawaii, Idaho, Iowa, Kansas, Maine, Montana, Nebraska, New Hampshire, North Dakota, Rhode Island, South Dakota, Utah, Vermont, West Virginia, Washington and Wyoming. These states were prioritized in order to get a sufficient number of evaluations, since in the past years of this study, data for these states were based on fewer evaluations. The remaining seven states were randomly selected from the remaining states not mentioned above. Respondents were then given the opportunity to name any other state, aside from the states already presented,

and specify if they are very or somewhat familiar with that state.

If the respondent was very or somewhat familiar with a given state, the respondent was then given the opportunity to evaluate that state's liability system. Similar to 2007, the maximum number of states a respondent had the opportunity to evaluate was ten. On average, each respondent evaluated four states, up from an average of three states in 2007. In previous years (2002–2006), respondents were given an opportunity to evaluate a maximum of 15 states, evaluating an average of six states. This was changed in 2007 in order to reduce the burden on respondents and increase the likelihood that they were familiar with the states they were rating.

Significance Testing

Reliability of Survey Percentages It is important to bear in mind that the results

from any sample survey are subject to sampling variation. The magnitude of this variation (or error) is affected both by the number of interviews—the base size—and by the level of the percentages expressed in the results.

The first table shows the possible sample variation that applies to percentage results for this survey. The chances are 95 in 100 that a survey result does not vary, plus or minus, by more than the indicated number of percentage points from the result that would have been obtained if interviews were conducted with all persons in the universe represented by the sample. For example, if the response for a sample size of 300 is 30%, then in 95 cases out of 100, the response in the total population would have been between 25% and 35% (+/-5%). Note that survey results based on subgroups of small size can be subject to large sampling error.

Recommended Allowance for Sampling Error of Proportions*

Sample Size	10% or 90%	20% or 80%	30% or 70%	40% or 60%	50%
1600	2	2	2	2	3
1500	2	2	2	3	3
1400	2	2	2	3	3
900	2	3	3	3	3
800	2	3	3	3	3
700	2	3	3	4	4
600	2	3	4	4	4
500	3	4	4	4	4
400	3	4	4	5	5

Sampling Error of Difference Between Proportions**

Sample Size	10% or 90%	20% or 80%	30% or 70%	40% or 60%	50%
900	3	4	4	5	5
500	3	4	5	5	6
300	4	5	6	7	7
200	5	6	7	8	8
100	6	8	10	10	10
50	9	11	13	14	14
500	4	4	6	6	6
300	4	6	7	7	7
200	6	7	8	8	8
100	7	9	10	11	11
50	9	12	13	14	15

*All percentages are +/-

**Approximate Sampling Tolerances (at 95% Confidence Level)

Significance of Differences Between Proportions

Sampling tolerances are also involved in the comparison of results from different surveys or from different parts of a sample from the same survey (subgroup analysis). The second table shows the percentage difference that must be obtained before a difference can be considered statistically significant. These figures, too, represent the 95% confidence level.

To illustrate, suppose the two percentages in question are 34% and 25%. More specifically, suppose that one group of 300 has a response of 34% “yes” to a question, and an independent group has a response of 25% to the same question, for an observed difference of 9 percentage

points. According to the table, this difference is subject to a potential sampling error of 6-7 percentage points. Since the observed difference is greater than the sampling error, the observed difference is significant.

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 (non-response 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 errors, the procedures followed by Harris Interactive, Inc. 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.InstituteForLegalReform.com

