



## 2012 State Liability Systems Survey

# LAWSUIT CLIMATE

## Ranking the States



U.S. CHAMBER INSTITUTE FOR LEGAL REFORM

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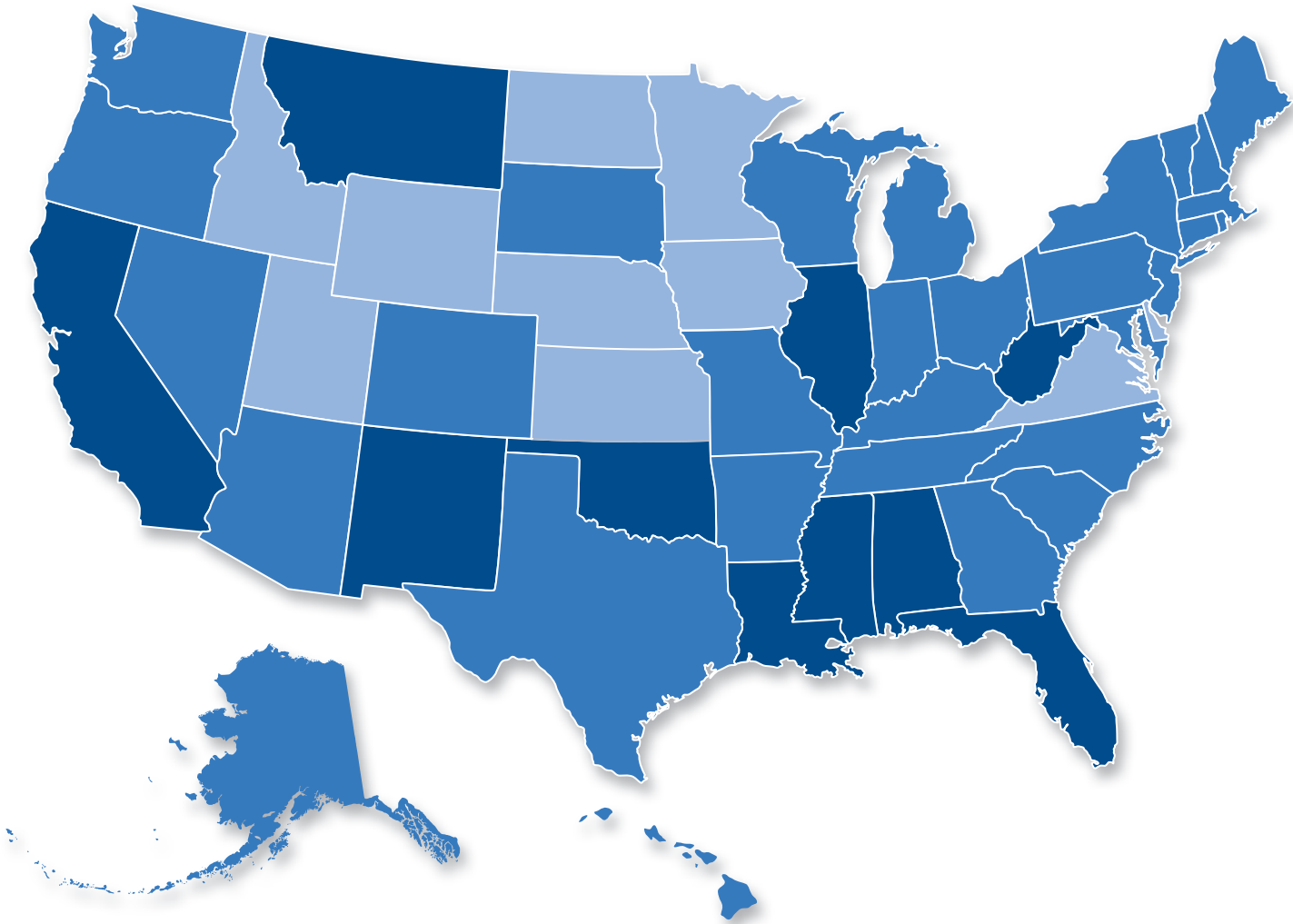
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# 2012 Legal Climate Overall Rankings by State



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

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**The 2012 State Liability Systems Ranking Study** was conducted for the U.S. Chamber Institute for Legal Reform to explore how fair and reasonable the states' tort liability systems are perceived to be by U.S. businesses. Participants in the survey were comprised of a national sample of 1,125 in-house general counsel, senior litigators or attorneys, and other senior executives who indicated that they are knowledgeable about litigation matters at companies with at least \$100 million in annual revenues. The 2012 ranking builds on previous years' work,<sup>1</sup> where in each survey 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 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.

Approximately half of all senior attorneys (49%)<sup>2</sup> view the fairness and reasonableness of state court liability systems in America as excellent or pretty good, up from 44% in the 2010 survey. The remaining 51% view the systems as only fair or poor, or declined to answer (1%). **The impact of a state's litigation environment has always been and continues to be important, with more than two-thirds (70%) reporting that it is likely to impact important business decisions** at their companies, such as where to locate or do business. This is an increase from 67% in 2010 and 63% in 2008.

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 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

<sup>1</sup> 2010, 2008, 2007, 2006, 2005, 2004, 2003, and 2002.

<sup>2</sup> Differences between this value and those on the line graph on p. 5 are due to rounding.



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 through F) in each of the following areas: 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; 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 (49%) than D’s and F’s (16%) when all of the elements were averaged together, as shown in the table below.

### Average Percentage Across All Elements Among 50 States

Grade	Average Percentage
A	12%
B	37%
C	28%
D	11%
F	5%
Not sure/ Decline to answer	7%

Since the inception of the survey, there has been a general increase in the overall average score (expressed numerically on a scale of 1 to 100) of state liability systems, and this trend continues with the 2012 survey. In fact, the 2012 survey results show a significant increase from the relatively level showing from 2007-2010. This year the score has increased by three percentage points.

**Average  
Overall  
Score  
Among  
50 States**

Year	Average Overall Score
2012	60.9
2010	57.9
2008	59.4
2007	58.1
2006	55.3
2005	52.8
2004	53.2
2003	50.7
2002	52.7

### 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. Limits on discovery were mentioned by 5% of respondents. Other top issues named were elimination of unnecessary lawsuits (4%), fairness and impartiality (4%), speeding up the trial process (3%), and tort reform (3%).

### 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 (17%), followed by Los Angeles, California (16%), the state of California in general (9%), San Francisco, California (9%), and Philadelphia, Pennsylvania (8%).

To understand why respondents feel negatively about particular jurisdictions, a follow-up question was asked to those who cited a jurisdiction. A third (33%) 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. Similar to 2010, this is the number one reason by a large margin. The next tier includes corrupt/unfair system (9%), a slow process (9%), anti-

business/anti-corporate environment (8%), unreasonable rulings/verdicts (6%), incompetent juries/judges (5%), and excessive damages awards (5%).

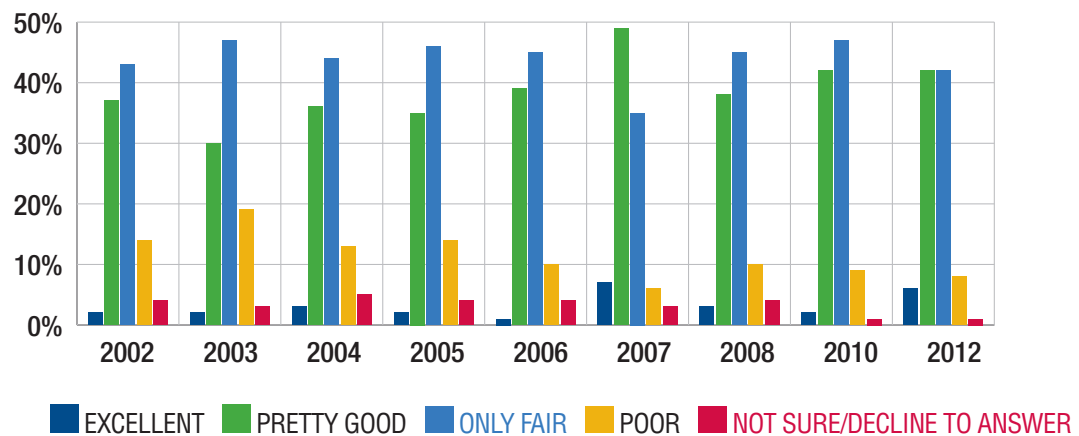
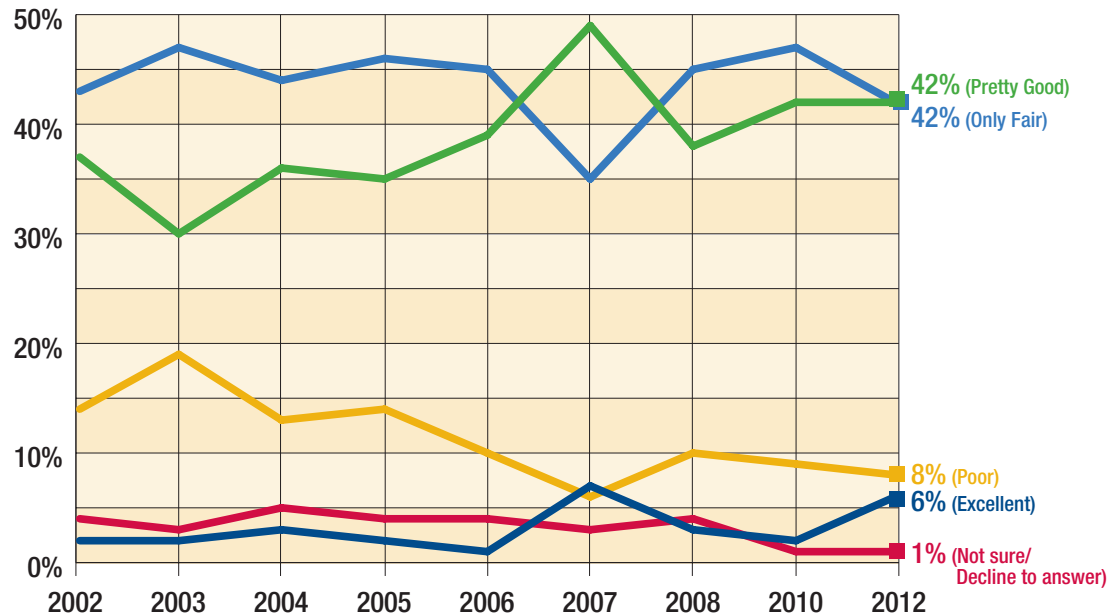
## Conclusion

Several organizations<sup>3</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 Survey** was initiated in 2002, there was no data on one important constituency: senior lawyers in large companies. This, the ninth **State Liability Systems Survey**, finds that while the overall average scores of the states are increasing, senior lawyers in large corporations still have mixed perceptions about the fairness and reasonableness of state liability systems *overall*.

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 (Delaware) scoring 76 out of a possible 100 and the poorest performing state (West Virginia) scoring 45 out of 100. However, the poorest performing state score does reflect a 10 percentage point improvement over the 2010 survey results. 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.

3 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).

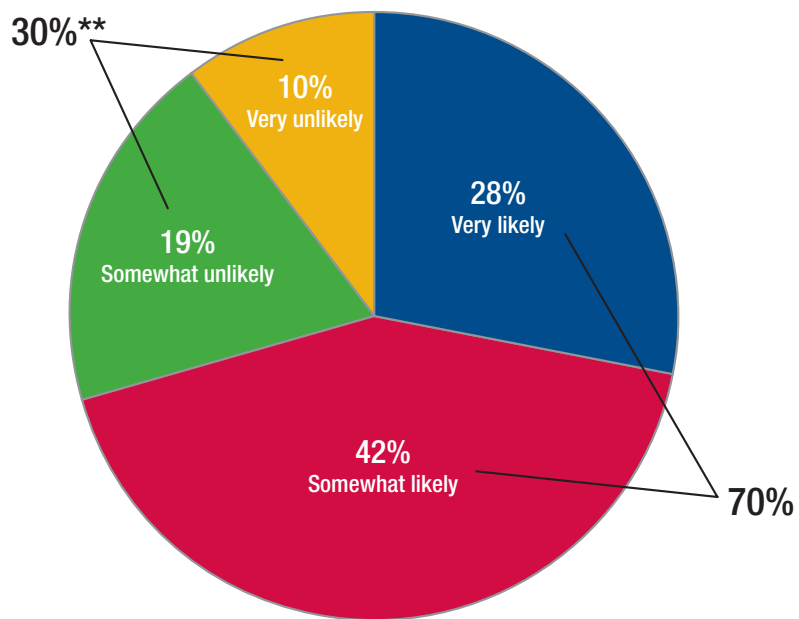
### Overall Rating of State Court Liability Systems\*



\* Results given are for a base of 1,125 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  
Business Decisions  
Such as Where to Locate or  
Do Business\***



■ VERY LIKELY ■ SOMEWHAT LIKELY ■ SOMEWHAT UNLIKELY ■ VERY UNLIKELY

\* Results given are for a base of 1,125 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?"

\*\* Note: Differences between pie chart values and nets are due to rounding.

**Overall  
Rankings  
of State  
Liability  
Systems  
2002-2012\***

STATE	'12 SCORE	'12	'10	'08	'07	'06	'05	'04	'03	'02
Delaware	75.8	1	1	1	1	1	1	1	1	1
Nebraska	74.1	2	3	2	3	2	2	2	2	6
Wyoming	72.6	3	15	23	22	16	9	15	25	20
Minnesota	71.4	4	11	11	2	14	7	8	9	19
Kansas	70.6	5	14	10	13	15	16	9	15	4
Idaho	70.5	6	18	26	30	18	10	5	13	14
Virginia	70.2	7	6	6	12	3	4	3	8	2
North Dakota	69.8	8	2	13	20	12	3	16	6	25
Utah	69.7	9	7	5	9	17	14	6	7	8
Iowa	69.5	10	5	7	4	4	5	4	3	5
South Dakota	69.5	11	10	12	11	7	8	17	4	9
Maine	69.2	12	12	3	5	9	11	12	16	18
Alaska	69.1	13	33	20	43	36	33	33	32	37
Indiana	69	14	4	4	8	11	6	11	5	12
Wisconsin	68.4	15	22	24	10	23	17	10	11	15
Vermont	67.1	16	25	8	27	24	21	20	19	21
Arizona	66.8	17	13	15	15	13	19	14	18	11
New York	66.4	18	23	25	19	21	27	22	27	27
Massachusetts	66.3	19	9	18	18	32	31	28	22	36
North Carolina	65.8	20	17	21	16	10	20	19	20	16
New Hampshire	65.7	21	16	16	6	6	12	7	10	17
Washington	65.4	22	26	27	25	28	15	24	21	3
Colorado	64.2	23	8	9	21	8	13	13	12	7
Georgia	64	24	27	28	31	27	28	29	39	23
Connecticut	63.8	25	24	19	14	5	18	18	17	10
Tennessee	63.7	26	19	22	7	29	22	25	26	24
Michigan	63	27	30	33	23	22	24	23	29	28
Oregon	62.6	28	21	14	17	30	25	27	14	13
Hawaii	62.5	29	35	45	42	46	41	39	43	40
Ohio	62.1	30	29	32	24	19	26	32	24	26
Rhode Island	60.9	31	38	39	35	26	35	36	37	35
New Jersey	60.1	32	32	35	26	25	30	26	30	32
Maryland	58.3	33	20	30	29	20	23	21	23	22
Missouri	57.8	34	37	31	34	35	40	41	33	29
Arkansas	57.2	35	44	34	41	41	43	42	45	44
Texas	57.2	36	36	41	44	43	44	45	46	46
Nevada	57	37	28	40	28	37	29	34	34	30
Kentucky	56.8	38	40	29	33	34	36	35	35	38
South Carolina	56.3	39	39	43	37	42	39	40	42	42
Pennsylvania	56.3	40	34	36	32	31	34	30	31	31
Florida	55.3	41	42	42	36	38	42	38	40	33
Oklahoma	55	42	31	17	38	33	32	31	36	41
Alabama	52.8	43	47	47	47	47	48	48	48	48
New Mexico	52.7	44	41	37	39	40	38	37	41	39
Montana	52.2	45	43	38	40	39	37	43	28	43
Illinois	51.3	46	45	46	46	45	46	44	38	34
California	50.6	47	46	44	45	44	45	46	44	45
Mississippi	46.6	48	48	48	49	48	50	50	50	50
Louisiana	46.5	49	49	49	48	49	47	47	47	47
West Virginia	44.8	50	50	50	50	50	49	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. See details on p. 27.

**Most Important  
Issues for State  
Policymakers\***

Limits on discovery	5%
Eliminate unnecessary lawsuits	4%
Fairness and impartiality	4%
Speeding up the trial process	3%
Tort reform issues	3%
Punitive damages	2%
Lack of timely decisions	2%
Cap/Limits on settlements/Damages	2%
Electronic discovery	2%

\* The responses displayed in this table were volunteered by respondents. Mentions by 2% or more are given above. Results given are for a base of 1,125 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 states?"

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

Chicago/Cook County, Illinois	17%
Los Angeles, California	16%
California (unspecified**)	9%
San Francisco, California	9%
Philadelphia, Pennsylvania	8%
Madison County, Illinois	7%
Texas (unspecified)	7%
New York (unspecified)	7%
Miami/Dade County, Florida	6%
New Orleans/Orleans Parish, Louisiana	5%
Mississippi (unspecified)	5%
Louisiana (unspecified)	4%
East Texas	3%
Alabama (unspecified)	3%
California (other mentions**)	2%
Illinois (unspecified)	2%
Houston, Texas	2%
Beaumont, Texas	2%
Dallas/Fort Worth, Texas	2%
Texas (other mentions)	2%
New York (other mentions)	2%
West Virginia (unspecified)	2%
St Louis, Missouri	2%
Detroit, Michigan	2%
Washington, DC	2%

\* Responses displayed above were volunteered by respondents. Mentions by 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?"

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

<b>CALIFORNIA (all mentions)</b>	<b>30%</b>	<b>FLORIDA (all mentions)</b>	<b>10%</b>
Los Angeles, California	16%	Miami/Dade County, Florida	6%
California (unspecified)	9%	Florida (unspecified)	1%
San Francisco, California	9%	Broward, Florida	1%
San Diego, California	1%	South Florida	1%
Oakland, California	1%	Other jurisdictions mentioned	1%
Sacramento, California	1%	<b>LOUISIANA (all mentions)</b>	<b>9%</b>
Other jurisdictions mentioned	2%	New Orleans/Orleans Parish, Louisiana	5%
<b>ILLINOIS (all mentions)</b>	<b>25%</b>	Louisiana (unspecified)	4%
Chicago/Cook County, Illinois	17%	Other jurisdictions mentioned	1%
Madison County, Illinois	7%	<b>PENNSYLVANIA (all mentions)</b>	<b>9%</b>
East St. Louis, Illinois	1%	Philadelphia, Pennsylvania	8%
St. Clair, Illinois	1%	Other jurisdictions mentioned	1%
Other jurisdictions mentioned	2%	<b>MISSISSIPPI (all mentions)</b>	<b>7%</b>
<b>TEXAS (all mentions)</b>	<b>23%</b>	Mississippi (unspecified)	5%
Texas (unspecified)	7%	Jackson, Mississippi	1%
East Texas	3%	Other jurisdictions mentioned	1%
Houston, Texas	2%	<b>ALABAMA (all mentions)</b>	<b>6%</b>
Beaumont, Texas	2%	Alabama (unspecified)	3%
Dallas/Fort Worth, Texas	2%	Birmingham, Alabama	1%
Harris County, Texas	1%	Other jurisdictions mentioned	1%
South Texas	1%	<b>WEST VIRGINIA (all mentions)</b>	<b>5%</b>
Brownsville, Texas	1%	West Virginia (unspecified)	2%
Jefferson County, Texas	1%	Charleston, West Virginia	1%
Marshall County, Texas	1%	Other jurisdictions mentioned	1%
Hidalgo County, Texas	1%	<b>NEW JERSEY (all mentions)</b>	<b>3%</b>
Other jurisdictions mentioned	2%	New Jersey (unspecified)	1%
<b>NEW YORK (all mentions)</b>	<b>10%</b>	Newark, New Jersey	1%
New York (unspecified)	7%	Other jurisdictions mentioned	1%
Bronx County, New York	1%	<b>MISSOURI (all mentions)</b>	<b>3%</b>
Brooklyn, New York	1%	St Louis, Missouri	2%
Other jurisdictions mentioned	2%	Other jurisdictions mentioned	1%

\* The responses displayed above were volunteered by respondents. Mentions by at least 3% for an entire state are 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 plaintiff?"

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

Biased/Partial judgment	33%
Corrupt/Unfair system	9%
Slow process/Delays	9%
Anti-business/Anti-corporate environment	8%
Unreasonable rulings/Verdicts	6%
Incompetent juries/Judges	5%
Other negative jury/Judge mentions	5%
Personal experience	5%
Excessive damage awards	5%
Heavily influenced by politics	4%
Poor quality of juries/Judges	4%
Composition of jury pool	4%
Good old boy system/Depends on who you know	3%
Other corruption mentions	3%
Overburdened with cases/Too many cases	3%
Discovery issues	3%
Other attorney mentions	3%
Other issues mentioned	3%
Does not adhere to laws/Rules	3%
Liberal jury/judges/System	2%
Election of judges	2%
Unpredictable juries/Judges	2%
Refusal to consider summary judgment	2%
Bad reputation	2%
Out of control system/Verdicts/Jury	2%
Frivolous litigation	2%
Other court system mentions	2%
Too easy to file cases there	2%
Difficult to get cases dismissed	2%
Expensive/High court costs	2%
Inconsistent application of the law	2%

\* The responses displayed in this table were volunteered by respondents. Mentions by at least 2% are given above. Results are given for a base of 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?"



## Summary of Top/Bottom 5 States by Key Elements

### Overall Treatment of Tort and Contract Litigation

#### BEST

Wyoming  
Nebraska  
Delaware  
Idaho  
Iowa

#### WORST

West Virginia  
Louisiana  
Mississippi  
California  
Montana

### Having and Enforcing Meaningful Venue Requirements

#### BEST

Delaware  
Indiana  
Virginia  
New York  
Minnesota

#### WORST

West Virginia  
Illinois  
Mississippi  
Louisiana  
Alabama

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

#### BEST

Indiana  
Delaware  
Virginia  
Idaho  
Alaska

#### WORST

California  
Louisiana  
Mississippi  
Illinois  
West Virginia

**Damages****BEST**

Nebraska  
Wyoming  
Delaware  
North Dakota  
Kansas

**WORST**

West Virginia  
California  
Louisiana  
Illinois  
Alabama

**Timeliness  
of Summary  
Judgment or  
Dismissal****BEST**

Nebraska  
Wyoming  
Delaware  
Alaska  
South Dakota

**WORST**

Louisiana  
West Virginia  
Mississippi  
Illinois  
California

**Overall  
Treatment  
of Tort and  
Contract  
Litigation**

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

**Having and  
Enforcing  
Meaningful  
Venue  
Requirements**

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

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

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

**Damages**

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



**Timeliness  
of Summary  
Judgment/  
Dismissal**

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

## Discovery

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

**Scientific  
and  
Technical  
Evidence**

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

**Judges' Impartiality**

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

**Judges' Competence**

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

**Juries'  
Fairness**

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



**The 2012 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 1,125 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 19 minutes in length were conducted with a total of 551 respondents and took place between March 19, 2012 and June 25, 2012. Online interviews using the same questionnaire and averaging 16 minutes in length were conducted with a total of 574 respondents that took place between March 13, 2012 and June 25, 2012. The previous research was conducted from October to January in the years 2002–2010.

### 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 (Hoovers), AMI, and ALM. 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 \$100 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 Hoovers ConnectMail, the Association of Corporate Counsel, and LinkedIn. Respondents from Hoovers ConnectMail

and the ACC received an electronic version of the alert letter, which included a password-protected link to take the survey. LinkedIn respondents received a public link. All were screened to ensure that they worked for companies with more than \$100 million in annual revenues.

### Sample Characteristics

A vast majority (83%) 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 21 years of relevant legal experience, including their current position, and had been involved in or familiar with litigation at their current companies for an average of 10 years. Most respondents (81%) were familiar with or had litigated in the states they rated within the past three years. The most common industry sector 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, it 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 password-protected 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.

## Interviewing Protocol

After determining that respondents were qualified to participate in the survey, interviewers identified the state liability systems with which the respondents were familiar. 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 four states via telephone and five states online.

## Rating and Scoring of States

States were given a grade (A through F) by respondents for each of the key elements of their liability systems, providing a rating of the states by these grades, the percentage of respondents giving each grade, and the mean grade for each element. The mean grade was calculated by converting the letter grade using a 5.0 scale where A = 5.0, B = 4.0, C = 3.0, D = 2.0, and F = 1.0. Therefore, the mean score displayed can also be interpreted as a letter grade. For example, a mean score of 2.8 is roughly a C- grade.

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 6 or more “not sure” or “decline to answer” responses per state was removed. A total of 7.1% 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 Iowa (69.49) and South Dakota (69.48), Arkansas (57.23) and Texas (57.15), and South Carolina (56.34) and Pennsylvania (56.29).

For the Ranking on Key Elements tables, a score was calculated per element for each state based on the 0–100 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 1,125 respondents is plus or minus 2.9 percentage points. That is, the chances are 95 in 100 that a survey result does not vary, plus or minus, by more than 2.9 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.



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A full copy of the report, including  
grades for each state on each of the  
key elements, is available at  
[\*\*www.InstituteForLegalReform.com\*\*](http://www.InstituteForLegalReform.com)

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