



U.S. CHAMBER

Institute for Legal Reform

2017 LAWSUIT CLIMATE SURVEY

Ranking the States

*A Survey of the Fairness and Reasonableness
of State Liability Systems*

.....
SEPTEMBER 2017



U.S. CHAMBER
Institute for Legal Reform

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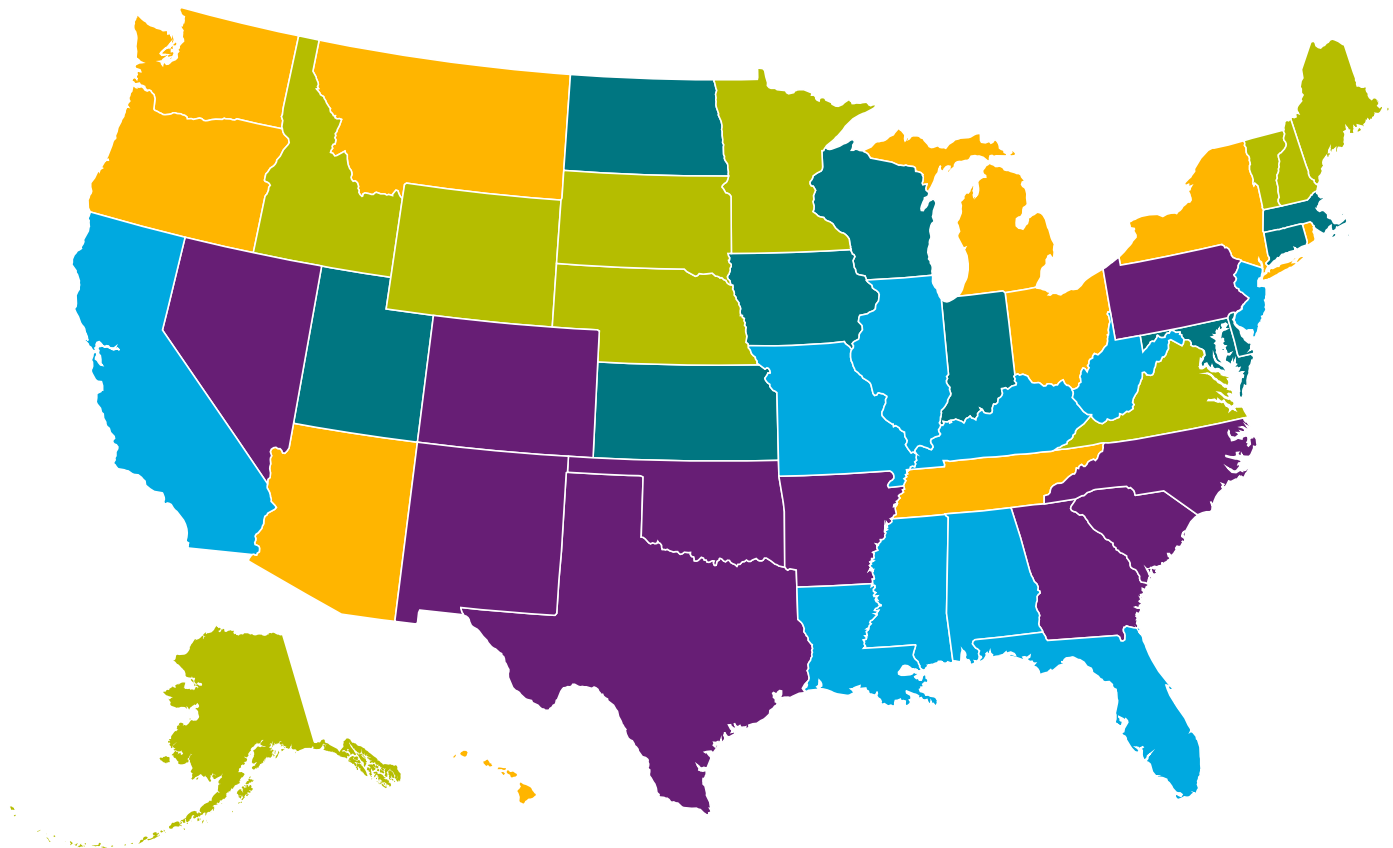
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Prepared for the U.S. Chamber Institute for Legal Reform by Harris Poll

2017 Ranking of State Liability Systems



1—10

1. South Dakota
2. Vermont
3. Idaho
4. Minnesota
5. New Hampshire
6. Alaska
7. Nebraska
8. Wyoming
9. Maine
10. Virginia

11—20

11. Delaware
12. Utah
13. Iowa
14. Massachusetts
15. Indiana
16. Connecticut
17. North Dakota
18. Kansas
19. Maryland
20. Wisconsin

21—30

21. Oregon
22. Michigan
23. Hawaii
24. Rhode Island
25. Arizona
26. Ohio
27. Montana
28. Washington
29. New York
30. Tennessee

31—40

31. Oklahoma
32. New Mexico
33. North Carolina
34. South Carolina
35. Colorado
36. Arkansas
37. Nevada
38. Pennsylvania
39. Texas
40. Georgia

41—50

41. New Jersey
42. Kentucky
43. Alabama
44. Mississippi
45. West Virginia
46. Florida
47. California
48. Illinois
49. Missouri
50. Louisiana

Overall Rankings of State Liability Systems 2010–2017

STATE	RANK	SCORE	2015	2012	2010
South Dakota	1	75.3	9	11	10
Vermont	2	75.2	2	16	25
Idaho	3	75.0	6	6	18
Minnesota	4	74.2	13	4	11
New Hampshire	5	73.9	5	21	16
Alaska	6	73.8	12	13	33
Nebraska	7	73.5	3	2	3
Wyoming	8	73.3	8	3	15
Maine	9	73.2	14	12	12
Virginia	10	72.8	11	7	6
Delaware	11	72.8	1	1	1
Utah	12	72.8	10	9	7
Iowa	13	72.6	4	10	5
Massachusetts	14	72.1	17	19	9
Indiana	15	71.9	18	14	4
Connecticut	16	71.8	22	25	24
North Dakota	17	71.5	15	8	2
Kansas	18	71.5	19	5	14
Maryland	19	70.8	28	33	20
Wisconsin	20	70.7	20	15	22
Oregon	21	70.4	32	28	21
Michigan	22	70.4	24	27	30
Hawaii	23	70.0	30	29	35
Rhode Island	24	69.9	26	31	38
Arizona	25	69.8	25	17	13
Ohio	26	68.7	27	30	29
Montana	27	68.7	34	45	43
Washington	28	68.4	29	22	26
New York	29	68.4	21	18	23
Tennessee	30	68.3	23	26	19
Oklahoma	31	68.3	33	42	31
New Mexico	32	68.2	45	44	41
North Carolina	33	68.2	7	20	17
South Carolina	34	67.7	36	39	39
Colorado	35	67.6	16	23	8
Arkansas	36	67.2	41	35	44
Nevada	37	66.6	35	37	28
Pennsylvania	38	66.3	37	40	34
Texas	39	64.3	40	36	36
Georgia	40	64.1	31	24	27
New Jersey	41	63.8	38	32	32
Kentucky	42	61.7	39	38	40
Alabama	43	61.1	46	43	47
Mississippi	44	61.1	43	48	48
West Virginia	45	60.6	50	50	50
Florida	46	60.5	44	41	42
California	47	60.0	47	47	46
Illinois	48	59.1	48	46	45
Missouri	49	58.1	42	34	37
Louisiana	50	56.6	49	49	49

Scores presented in this table have been rounded to one decimal place, but rankings are based on the unrounded number.

Overview

The 2017 Lawsuit Climate Survey: Ranking the States was conducted for the U.S. Chamber Institute for Legal Reform by the Harris Poll to explore how fair and reasonable the states' liability systems are perceived to be by U.S. businesses.

The *2017 Lawsuit Climate Survey* constitutes the eleventh fielding of the survey and builds upon previous studies, the first of which was initiated in 2002.¹ Prior to these rankings, information regarding the attitudes of the business community toward the legal systems in each of the states had been largely anecdotal. The *2017 Lawsuit Climate Survey* aims to quantify how corporate attorneys, as significant participants in state courts, view the state systems by measuring and synthesizing their perceptions of key elements of each state's liability system into a 1-50 ranking.

Participants in the survey were comprised of a national sample of 1,321 in-house general counsel, senior litigators or attorneys, and other senior executives at companies with at least \$100 million in annual revenue² who indicated they: (1) are knowledgeable about litigation matters; and (2) have firsthand, recent litigation experience in each state they evaluate.

It is important to remember that while courts and localities within a state may vary a great deal in fairness and reasonableness, respondents were asked to evaluate the state as a whole. To explore the nuances within each state would have required extensive questioning about each state and was beyond the scope and purpose of this study. It is possible that some states received low grades due to the negative reputation of one or more of their counties or jurisdictions.

The 2017 survey reveals that the overall average scores of the states are increasing, and senior attorneys and executives see the litigation environment improving generally; more than six in ten respondents (63%) view the fairness and reasonableness of state court liability systems in the United States as excellent or pretty good, up from 50% in 2015 and 49% in 2012. The remaining 36% view the system as only fair or poor, or declined to answer (1%).

Moreover, a state's litigation environment continues to be important to senior litigators, with most respondents (85%) reporting that it is likely to impact important business decisions at their companies, such as where to locate or do business. This is a significant increase from 75% in 2015 and 70% in 2012.

1. 2015, 2012, 2010, 2008, 2007, 2006, 2005, 2004, 2003, and 2002.

2. Smaller companies were not surveyed because they so infrequently have in-house law departments.

Impact of Litigation Environment on Important Business Decisions

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?

85%

of respondents reported that a state's litigation environment is likely to impact important business decisions.

5%
very unlikely

42%
very likely

43%
somewhat likely

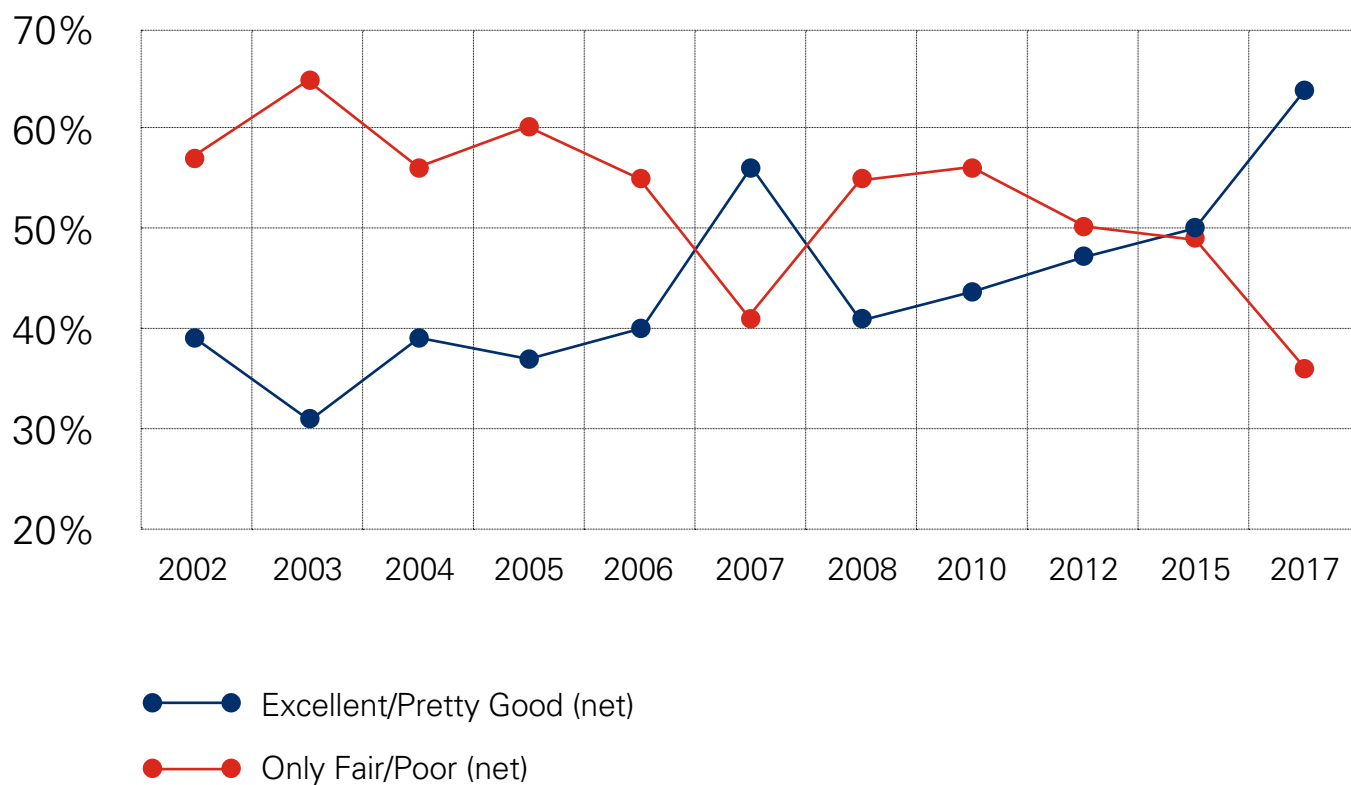
10%
somewhat unlikely

Results are given for a base of 1,321 general counsel, senior litigators or attorneys, and senior executives.



Overall Perception of State Court Liability Systems Over Time

Overall, how would you describe the fairness and reasonableness of state court liability systems in America?



2017 results are given for a base of 1,321 general counsel, senior litigators or attorneys, and senior executives.

Respondents were asked to give states a grade (A through F) in each of the following areas:

Enforcing meaningful venue requirements

Overall treatment of tort and contract litigation

Treatment of class action suits and mass consolidation suits

Damages

Proportional discovery

Scientific and technical evidence

Trial judges' impartiality

Trial judges' competence

Juries' fairness

Quality of appellate review

These key elements were then combined to create an overall ranking of state liability systems.

OVERVIEW

Taken as a whole, senior litigators and executives perceive state courts as doing better than average on the various elements. States received significantly more A's and B's (60%) than D's and F's (13%) when all of the elements were averaged together.

AVERAGE PERCENTAGE ACROSS ALL ELEMENTS AMONG 50 STATES

<i>Grade</i>	<i>Average Percentage*</i>
A	24%
B	37%
C	22%
D	9%
F	4%
Not Sure/ Decline to Answer	5%

Since the inception of the survey, there has been a general increase in the overall average score of state liability systems (expressed numerically on a scale of 1 to 100). In 2017, the average overall score among the 50 states is 67.5. Due to changes in overall ranking criteria, the 2017 score does not provide an apples-to-apples comparison to previous years; however, prior scores are provided for historical reference.

AVERAGE OVERALL SCORE AMONG 50 STATES

<i>Year</i>	<i>Average Overall Score</i>
2017	67.5
2015	61.7
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

* The percentages listed in this table are rounded to the nearest whole number.

“Clearly, corporate counsel see specific areas needing improvement in the individual states, and the perceptions of senior lawyers and executives in large companies matter.”

Worst Local Jurisdictions

In order to identify specific cities or counties that might impact a state's ranking, respondents were provided a list of cities or counties with reputations for being problematic when it comes to litigation, and were then asked to select two that have the least fair and reasonable litigation environments. According to respondents, the five worst jurisdictions (with others very close behind) were Chicago or Cook County, Illinois (23%); Los Angeles, California (18%); Jefferson County, Texas (17%); New Orleans or Orleans Parish, Louisiana (14%); and San Francisco, California (13%).

Conclusion

Several organizations and academics³ have conducted and analyzed surveys of attitudes toward the state courts held by various constituencies. The objective of these studies has been to understand how the state courts are perceived and, in some instances, to evaluate them, overall or in part. Until the Harris Lawsuit Climate Survey was initiated in 2002, no data existed on how the state courts are perceived by the business community, which is a significant user of, and participant in, the court system. This, the eleventh such survey and state ranking, finds that the overall average scores of the states are increasing and senior lawyers and executives in large corporations tend to have positive perceptions about the fairness and reasonableness of state liability systems overall. About six in ten (63%) believe that the states are doing an excellent or pretty good job with respect to their state liability systems, while about one-third (36%) believe that the states' systems are only fair or poor. Across the various elements, respondents gave state courts more A's and B's than D's and F's.

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 (South Dakota) scoring 75 out of a possible 100, and the poorest-performing state (Louisiana) scoring 57 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 85% of senior lawyers and executives feel that the litigation environment in a state is likely to impact important business decisions. Decisions such as where to locate or where to expand businesses could have economic consequences for the state. The challenge for the states is to focus on those areas where they received the lowest scores and then make improvements where needed.

3. *Analysis of National Survey of Registered Voters*, National Center for State Courts (2016); Cann, Damon M. and Yates, Jeff, *These Estimable Courts: Understanding Public Perceptions of State Judicial Institutions and Legal Policy-Making*, Oxford University Press (2016); *Citizen Perceptions of Judicial Realism in the American State Courts*, Brigham Young University Center for the Study of Elections and Democracy (2014); *Public Trust and Confidence Survey*, State of Utah Administrative Office of the Courts (2012); *Trust and Confidence in the California Courts: A Survey of the Public and Attorneys*, The Administrative Office of the Courts on Behalf of the Judicial Council of California (2005); *The Sources of Public Confidence in State Courts*, American Politics Research (2003); *Perceptions of the U.S. Justice System*, American Bar Association (1999).

Worst Local Jurisdictions

State policymakers and stakeholders inevitably want to know the reasons behind their state's ranking, particularly if the state fared poorly. Exactly what happens in the courts that businesses find unfair or unreasonable? Are the problems in an individual state's liability system statewide, or is the state's ranking skewed by one (or more) individual city or county court that is viewed as particularly unfair or unreasonable?

Respondents' answers with regard to worst local jurisdictions provide additional context to the state ranking itself. While they are not part of the actual calculation of the overall rankings of state liability systems, they simply provide additional insight for policymakers to consider.

Thinking about the entire country, and based on anything you have seen, read, or heard, which of the following do you think are the 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?

*Cities or Counties With the Least Fair and Reasonable Litigation Environment**

Chicago or Cook County, Illinois	23%
Los Angeles, California	18%
Jefferson County, Texas	17%
New Orleans or Orleans Parish, Louisiana	14%
San Francisco, California	13%
Detroit, Michigan	13%
Miami or Dade County, Florida	12%
Madison County, Illinois	12%
New York, New York	11%
St. Louis, Missouri	10%
Washington, D.C.	10%
Philadelphia, Pennsylvania	8%
Other	3%

**Respondents were asked to respond to this closed-end list of city and county courts by selecting up to two responses. Other mentions volunteered by respondents are represented by "Other" in the list. The total number is greater than 100% due to the fact that this was a multiple-response question.*

Key Elements

Most state liability systems have elements that function well and others that do not. In evaluating how the states are perceived overall, this survey attempts to illuminate the observed strengths and weaknesses of specific aspects of state liability systems. It helps to pinpoint particular areas that may have lowered or raised the overall rankings.

This section of the report shows the state rankings by key element—the ten individual elements that respondents were asked to grade in each state. These key elements are the heart of the survey and what are used to develop the (1–50) Overall Ranking of State Liability Systems, as described in the Methodology section.

The 2017 survey includes updated criteria to evaluate the legal environment in each state, resulting in changes to certain key elements to provide a more realistic, current picture of what elements truly contribute to a state’s legal climate. As a result, two key elements were dropped from the survey and not asked of respondents (i.e., timeliness of summary judgment or dismissal; and an overall state grade for creating a fair and reasonable litigation environment). A new element was added (i.e., the quality of appellate review), while other elements were modified (i.e., adding “proportional” to the discovery element; and clarifying that the judges’ impartiality and judges’ competence key elements applied to trial judges).

Summary of Top/Bottom 5 States by Key Elements

Enforcing Meaningful Venue Requirements

BEST

1. Iowa
2. Maine
3. Virginia
4. Alaska
5. Wyoming

WORST

50. Missouri
49. Louisiana
48. Illinois
47. Alabama
46. California

Overall Treatment of Tort and Contract Litigation

BEST

1. New Hampshire
2. Vermont
3. Idaho
4. South Dakota
5. Utah

WORST

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

Treatment of Class Action Suits and Mass Consolidation Suits

**Virginia was not included in this element, so the ranking is among 49 states.*

BEST

1. South Dakota/
Nebraska (tied)
3. Maine
4. Vermont
5. Idaho

WORST*

49. Louisiana
48. California
47. Missouri
46. Illinois
45. Mississippi

Damages

BEST

1. South Dakota
2. Idaho
3. Vermont
4. New Hampshire
5. Virginia

WORST

50. Illinois
49. Missouri
48. California
47. Louisiana
46. Florida

Proportional Discovery

BEST

1. Alaska
2. Idaho
3. Utah
4. Wyoming
5. Nebraska

WORST

50. Louisiana
49. Missouri
48. Alabama
47. Florida
46. California

Scientific and Technical Evidence

BEST

1. Vermont
2. Massachusetts
3. Maryland
4. Maine
5. Delaware

WORST

50. Louisiana
49. Mississippi
48. Missouri
47. Kentucky
46. Illinois

Trial Judges' Impartiality

BEST

1. Idaho
2. Alaska
3. New Hampshire
4. Vermont
5. South Dakota

WORST

50. Louisiana
49. Missouri
48. Florida
47. Illinois
46. Alabama

Trial Judges' Competence

BEST

1. Vermont
2. Delaware
3. South Dakota
4. New Hampshire
5. Minnesota

WORST

50. Louisiana
49. Alabama
48. Florida
47. Missouri
46. Kentucky

Juries' Fairness

BEST

1. South Dakota
2. Maine
3. Idaho
4. Minnesota
5. Massachusetts

WORST

50. Louisiana
49. Missouri
48. California
47. Florida
46. Illinois

Quality of Appellate Review

BEST

1. Massachusetts
2. South Dakota
3. Minnesota
4. Idaho
5. Vermont

WORST

50. Louisiana
49. California
48. Missouri
47. Florida
46. Kentucky

Enforcing Meaningful Venue Requirements

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

Overall Treatment of Tort and Contract Litigation

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

Treatment of Class Action Suits and Mass Consolidation Suits

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

* Virginia was excluded from this element.

Damages

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

Proportional Discovery

STATE	RANK
Alaska	1
Idaho	2
Utah	3
Wyoming	4
Nebraska	5
Minnesota	6
Vermont	7
Wisconsin	8
South Dakota	9
North Dakota	10
Maine	11
Kansas	12
Iowa	13
Indiana	14
New Hampshire	15
Hawaii	16
Massachusetts	17
Virginia	18
Colorado	19
Oregon	20
Michigan	21
Nevada	22
Delaware	23
Maryland	24
Rhode Island	25

STATE	RANK
Arizona	26
Ohio	27
New Mexico	28
Washington	29
Oklahoma	30
Connecticut	31
New York	32 (tied)
North Carolina	32 (tied)
Montana	34
Texas	35
Arkansas	36
Tennessee	37
Georgia	38
South Carolina	39
Pennsylvania	40
West Virginia	41
Mississippi	42
Kentucky	43
New Jersey	44
Illinois	45
California	46
Florida	47
Alabama	48
Missouri	49
Louisiana	50

Scientific and Technical Evidence

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

Trial Judges' Impartiality

STATE	RANK
Idaho	1
Alaska	2
New Hampshire	3
Vermont	4
South Dakota	5
Minnesota	6
Nebraska	7
Wyoming	8
Iowa	9
Connecticut	10
Maine	11
Wisconsin	12
Indiana	13
North Dakota	14
Delaware	15
Kansas	16
Utah	17
Massachusetts	18
Oregon	19
Hawaii	20
Maryland	21
Arizona	22
Michigan	23
Rhode Island	24
Colorado	25

STATE	RANK
Ohio	26
Virginia	27
North Carolina	28
New Mexico	29
Tennessee	30
Montana	31
Washington	32
New York	33
Oklahoma	34
Arkansas	35
South Carolina	36
Nevada	37
Pennsylvania	38
New Jersey	39
Georgia	40
Kentucky	41
California	42
West Virginia	43
Texas	44
Mississippi	45
Alabama	46
Illinois	47
Florida	48
Missouri	49
Louisiana	50

Trial Judges' Competence

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

Juries' Fairness

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

Quality of Appellate Review

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

Methodology

The 2017 Lawsuit Climate Survey: Ranking the States was conducted for the U.S. Chamber Institute for Legal Reform by Harris Poll. The final results are based on interviews with a national sample of 1,321 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 revenue of at least \$100 million.

The general counsel, senior litigators or attorneys, and other senior executives included in this study were involved in or are very familiar with litigation in the states they evaluated within the past five years. On average, each telephone respondent evaluated four states, and each online respondent evaluated six states.⁴ As a result, these 1,321 individual respondents represent a total of 7,617 responses or state evaluations.

Phone interviews averaging 23 minutes in length were conducted with a total of 312 respondents and took place between March 31, 2017 and June 26, 2017. Online interviews using the same questionnaire and averaging 16 minutes in length were conducted with a total of 1,009 respondents and took place between April 3, 2017 and June 26, 2017.

Sample Design

For the telephone sample, a comprehensive list of general counsel at companies with annual revenue of at least \$100 million was compiled using Hoovers Phone, InfoUSA, National Data Group, ALM Legal Intelligence and Leadership Directories. An alert letter was sent to the general counsel at each company when possible. This letter provided general information about the study and notified the recipient of the option to take the survey online or by phone. It told them that an interviewer from Harris Poll would be contacting them to set up an appointment for a telephone interview if that was their preference.

4. The number of evaluations was rounded to the nearest whole number. Partial evaluations of states were not included.

The letter included a toll-free number for respondents to call to schedule an appointment for a telephone interview. It also alerted the general counsel to a \$100 incentive in the form of a gift card or charitable donation given in appreciation of the time invested in taking the survey.

For the online sample, the e-mail addresses for a representative sample of general counsel and other senior attorneys were drawn from Hoovers ConnectMail, ALM Law Journal, Today's General Counsel, National Data Group, InfoUSA, Survey Sampling International, Critical Mix, Research Now, Empanel, ALM Legal Intelligence and Leadership Directories. Respondents received an electronic version of the alert letter, which included a password-protected link to take the survey. Once they accessed the survey online, all respondents were screened to ensure that they worked for companies with more than \$100 million in annual revenue and they had the appropriate title or role within the company.

Sample Characteristics

Half of respondents (51%) were general counsel, corporate counsel, heads of litigation, senior counsel/litigators, or chief legal officers. The remaining 49% of respondents were senior executives knowledgeable about or responsible for litigation at their companies. Respondents had an average of 16 years of relevant experience with litigation at their companies, including in their current position. All respondents were familiar with or had litigated in the states they rated within the past five years, the majority (76%) within the past three years.

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 also 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, as 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. Furthermore, 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 Poll'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 reminder e-mails.

Interviewing Protocol

After determining that respondents were qualified to participate in the survey using a series of screening questions, respondents identified the state liability systems with which they were familiar. The respondents were then asked to identify the last time they litigated in or were familiar with the states' liability systems; responses included in this study were from respondents who were involved in or very familiar with litigation in the state within the past five years. From there, respondents were given the opportunity to evaluate the states' liability systems, prioritized by their most recent litigation experience. As stated earlier, respondents evaluated four states, on average, via telephone and six states, on average, 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 system, 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 was developed by creating an index using the grades provided for each of the key elements. All of the key elements were highly correlated with one. To create the index, each grade across the elements was rescaled from 0 to 100 (A=100, B=75, C=50, D=25, and F=0). Then, any evaluation that contained six or more "not sure" or "decline to answer" responses per state was removed. A total of 5.9% of state evaluations were unusable. From the usable evaluations, the scores on the elements were then averaged to create the index score from 0 to 100.

**Mean
Grade
Scale**

A=5.0

B=4.0

C=3.0

D=2.0

F=1.0

**Index
Grade
Scale**

A=100

B=75

C=50

D=25

F=0

The scores displayed in this report have been rounded to one decimal point, but rankings are based on the full, unrounded number. States that appear tied based upon the scores in this report were tied when the unrounded numbers were taken into consideration.

For the Rankings on Key Elements (pages 14–23), 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 1,321 respondents is plus or minus 2.8 percentage points. That is, the chances are 95 in 100 that a survey result does not vary, plus or minus, by more than 2.8 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 (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 error, the procedures followed by Harris Poll keep errors of these types to a minimum.

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

Overall Rankings of State Liability Systems 2002–2017

STATE	2017 RANK	SCORE	N	CHANGE FROM 2015
South Dakota	1	75.3	120	8
Vermont	2	75.2	100	0
Idaho	3	75.0	110	3
Minnesota	4	74.2	118	9
New Hampshire	5	73.9	100	0
Alaska	6	73.8	108	6
Nebraska	7	73.5	127	-4
Wyoming	8	73.3	111	0
Maine	9	73.2	107	5
Virginia	10	72.8	133	1
Delaware	11	72.8	108	-10
Utah	12	72.8	139	-2
Iowa	13	72.6	132	-9
Massachusetts	14	72.1	139	3
Indiana	15	71.9	118	3
Connecticut	16	71.8	105	6
North Dakota	17	71.5	109	-2
Kansas	18	71.5	145	1
Maryland	19	70.8	116	9
Wisconsin	20	70.7	183	0
Oregon	21	70.4	107	11
Michigan	22	70.4	147	2
Hawaii	23	70.0	112	7
Rhode Island	24	69.9	122	2
Arizona	25	69.8	181	0
Ohio	26	68.7	150	1
Montana	27	68.7	119	7
Washington	28	68.4	165	1
New York	29	68.4	254	-8
Tennessee	30	68.3	113	-7
Oklahoma	31	68.3	109	2
New Mexico	32	68.2	84	13
North Carolina	33	68.2	113	-26
South Carolina	34	67.7	104	2
Colorado	35	67.6	112	-19
Arkansas	36	67.2	94	5
Nevada	37	66.6	120	-2
Pennsylvania	38	66.3	234	-1
Texas	39	64.3	268	1
Georgia	40	64.1	141	-9
New Jersey	41	63.8	180	-3
Kentucky	42	61.7	105	-3
Alabama	43	61.1	125	3
Mississippi	44	61.1	132	-1
West Virginia	45	60.6	177	5
Florida	46	60.5	273	-2
California	47	60.0	378	0
Illinois	48	59.1	244	0
Missouri	49	58.1	131	-7
Louisiana	50	56.6	147	-1

Scores displayed in this table have been rounded to one decimal point. The column labeled "N" represents the number of evaluations for a given state.

STATE	2015	2012	2010	2008	2007	2006	2005	2004	2003	2002
South Dakota	9	11	10	12	11	7	8	17	4	9
Vermont	2	16	25	8	27	24	21	20	19	21
Idaho	6	6	18	26	30	18	10	5	13	14
Minnesota	13	4	11	11	2	14	7	8	9	19
New Hampshire	5	21	16	16	6	6	12	7	10	17
Alaska	12	13	33	20	43	36	33	33	32	37
Nebraska	3	2	3	2	3	2	2	2	2	6
Wyoming	8	3	15	23	22	16	9	15	25	20
Maine	14	12	12	3	5	9	11	12	16	18
Virginia	11	7	6	6	12	3	4	3	8	2
Delaware	1	1	1	1	1	1	1	1	1	1
Utah	10	9	7	5	9	17	14	6	7	8
Iowa	4	10	5	7	4	4	5	4	3	5
Massachusetts	17	19	9	18	18	32	31	28	22	36
Indiana	18	14	4	4	8	11	6	11	5	12
Connecticut	22	25	24	19	14	5	18	18	17	10
North Dakota	15	8	2	13	20	12	3	16	6	25
Kansas	19	5	14	10	13	15	16	9	15	4
Maryland	28	33	20	30	29	20	23	21	23	22
Wisconsin	20	15	22	24	10	23	17	10	11	15
Oregon	32	28	21	14	17	30	25	27	14	13
Michigan	24	27	30	33	23	22	24	23	29	28
Hawaii	30	29	35	45	42	46	41	39	43	40
Rhode Island	26	31	38	39	35	26	35	36	37	35
Arizona	25	17	13	15	15	13	19	14	18	11
Ohio	27	30	29	32	24	19	26	32	24	26
Montana	34	45	43	38	40	39	37	43	28	43
Washington	29	22	26	27	25	28	15	24	21	3
New York	21	18	23	25	19	21	27	22	27	27
Tennessee	23	26	19	22	7	29	22	25	26	24
Oklahoma	33	42	31	17	38	33	32	31	36	41
New Mexico	45	44	41	37	39	40	38	37	41	39
North Carolina	7	20	17	21	16	10	20	19	20	16
South Carolina	36	39	39	43	37	42	39	40	42	42
Colorado	16	23	8	9	21	8	13	13	12	7
Arkansas	41	35	44	34	41	41	43	42	45	44
Nevada	35	37	28	40	28	37	29	34	34	30
Pennsylvania	37	40	34	36	32	31	34	30	31	31
Texas	40	36	36	41	44	43	44	45	46	46
Georgia	31	24	27	28	31	27	28	29	39	23
New Jersey	38	32	32	35	26	25	30	26	30	32
Kentucky	39	38	40	29	33	34	36	35	35	38
Alabama	46	43	47	47	47	47	48	48	48	48
Mississippi	43	48	48	48	49	48	50	50	50	50
West Virginia	50	50	50	50	50	50	49	49	49	49
Florida	44	41	42	42	36	38	42	38	40	33
California	47	47	46	44	45	44	45	46	44	45
Illinois	48	46	45	46	46	45	46	44	38	34
Missouri	42	34	37	31	34	35	40	41	33	29
Louisiana	49	49	49	49	48	49	47	47	47	47

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