

Ranking the States

LAWSUIT CLIMATE

2010

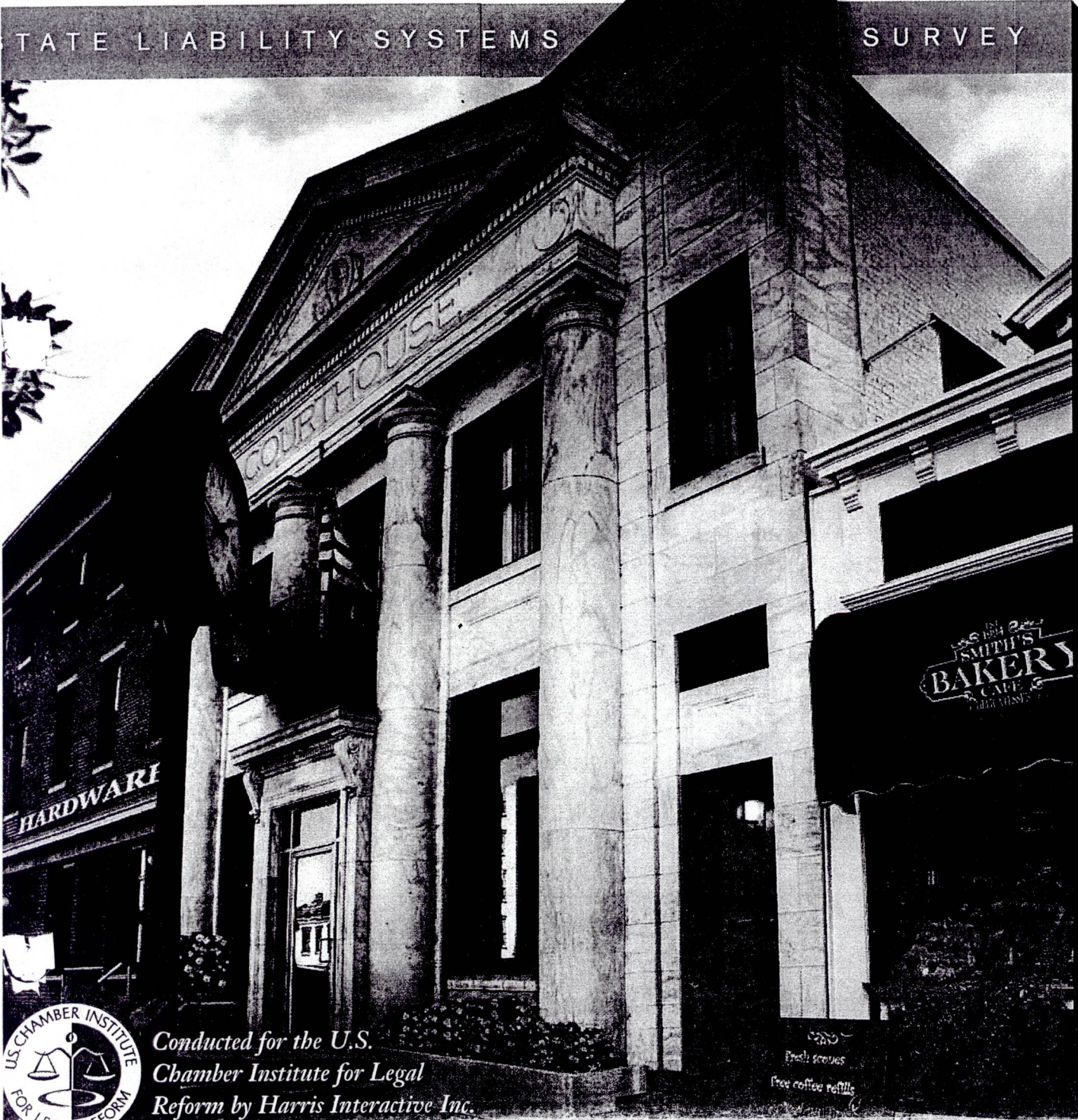
STATE LIABILITY SYSTEMS

SURVEY

OVERVIEW

SPOTLIGHT

KEY ELEMENTS



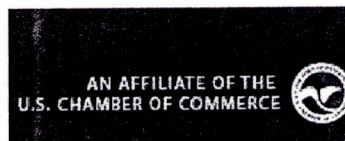
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2010 STATE LIABILITY SYSTEMS SURVEY

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

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



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Ranking

2010 **2**

2008 **13**

2007 **20**

Lawsuit Climate

North Dakota ranks second among all fifty states in the fairness of its litigation environment.

Read Press Release: West Virginia, Mississippi, Alabama, Louisiana, & California Ranked Worst Lawsuit Climates in the Nation

[View North Dakota's detailed ranking \(pdf\)](#)

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2010 STATE LIABILITY SYSTEMS SURVEY

Most Important Issues for State Policymakers*

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

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

2010 STATE LIABILITY SYSTEMS SURVEY

Judges' Competence

BEST

1. Delaware
2. North Dakota
3. Nebraska
4. Maine
5. Virginia

WORST

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

Juries' Fairness

1. Nebraska
2. North Dakota
3. Iowa
4. Indiana
5. Delaware

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

**Overall Treatment of Tort
and Contract Litigation**

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

Table 53

North Dakota

2010 Overall Ranking: 2

Ratings on Key Elements of State Liability Systems (n=50)

| | | "A" | "B" | "C" | "D" | "F" | Mean Grade | Ranking Within Element |
|---|---|-----|-----|-----|-----|-----|---------------|------------------------------|
| Having and Enforcing Meaningful Venue Requirements | % | 16 | 48 | 18 | 4 | 2 | 3.8 | 10 |
| Overall Treatment of Tort and Contract Litigation | % | 16 | 54 | 24 | 4 | * | 3.8 | 2 |
| Treatment of Class Action Suits and Mass Consolidation Suits | % | 6 | 26 | 12 | 8 | * | 3.6 | 7 |
| Damages | % | 22 | 42 | 30 | 2 | 2 | 3.8 | 4 |
| Timeliness of Summary Judgment or Dismissal | % | 12 | 54 | 22 | 2 | 2 | 3.8 | 2 |
| Discovery | % | 6 | 58 | 28 | * | 4 | 3.6 | 7 |
| Cost of Litigation and Potential for Abuse | % | 4 | 48 | 32 | 10 | 2 | 3.5 | 10 |