

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	Index Grade Scale
A = 5.0	A = 100
B = 4.0	B = 75
C = 3.0	C = 50
D = 2.0	D = 25
F = 1.0	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.