



Report of the Business Impact Committee
Survey Results

Business Impact Survey

Responses: 435

February 10, 2010

1. Please select one of the following that best describes your occupation?		
General counsel or other direct employee of a corporation or other business organization (other than a law firm).	185	43%
Partner or associate of a law firm representing corporations or other business organizations.	145	33%
Solo practitioner who represents corporations or other business organizations.	70	16%
Other - see Ques 1 tab	35	8%
Total	435	100%

2. Please select which of the following applies to you:		
Member of the Business Law Section of the State Bar of Michigan.	262	60%
Member of the Michigan Chapter of the Association of Corporate Counsel (ACC).	13	3%
Member of both the Business Law Section and the ACC.	28	6%
None of the above.	131	30%
Total	434	100%

3. Thinking about businesses and their experiences with the Michigan court system, what do you believe are the most significant procedural, structural, or substantive issues that should be addressed?		
298 responses - see Ques 3 tab		

4. Do you view the court system in Michigan as a major factor in your company's or business client's decision to locate in, remain in, expand operations, or conduct business in Michigan?		
Yes	52	13%
No	347	87%
Total	399	100%
Please explain: 188 responses - see Ques 4 tab		

5. Please indicate to what extent you agree or disagree that the following changes, if implemented, would improve the experience for businesses subject to the judicial process?					
	Strongly agree	Agree	Disagree	Strongly disagree	No Opinion
Use of video conferencing for all court pretrial and trial proceedings.	93 22%	171 40%	73 17%	24 6%	63 15%
Use of e-filing in all Michigan courts.	222 52%	146 34%	25 6%	5 1%	31 7%
Use of e-discovery in all courts.	132 31%	140 33%	53 13%	22 5%	76 18%
Use of virtual court instead of requiring parties and attorneys to attend proceedings at the courthouse.	81 19%	131 31%	109 26%	55 13%	51 12%
Assigning cases involving business issues to designated judges with training and experience in business matters.	256 60%	121 28%	23 5%	9 2%	20 5%
Creating special tracks within current courts for disputes involving businesses.	198 46%	154 36%	35 8%	4 1%	36 8%
Early and meaningful involvement of the judiciary in determining whether a legal matter would benefit from	142 33%	165 38%	66 15%	20 5%	36 8%
Creating uniformity in the statutes regarding appeal of administrative matters.	137 32%	185 44%	24 6%	7 2%	69 16%
Imposing limits on discovery similar to those contained in the federal rules.	145 34%	167 39%	35 8%	18 4%	61 14%
Allowing the use of magistrates to handle pre-trial matters.	75 18%	184 43%	79 19%	41 10%	48 11%
Requiring greater judicial involvement in business-related cases at the beginning of the case.	92 22%	157 37%	84 20%	23 5%	63 15%
Allowing the use of experts to assist judges in resolving complicated fact disputes and discovery issues.	106 25%	180 43%	64 15%	28 7%	40 10%
Promoting the use of retired judges to try cases and providing for an appeal as of right to the Michigan Court	48 11%	128 30%	107 25%	55 13%	88 21%
Creating a separate business court.	107 25%	133 31%	86 20%	46 11%	53 12%

6. With respect to State statutes and the Michigan Court Rules, are there changes you believe would promote greater efficiency and reduce costs in resolving litigation involving businesses?		
Yes	129	41%
No	186	59%
Total	315	100%
If yes, please explain: 147 responses - see Ques 6 tab		

7. If the company you work for or the clients you represent conduct business in other states besides Michigan, how would you rate Michigan's court system overall in handling the legal proceedings in which your company or clients are involved?		
About the same	236	69%
Better than average	63	18%
Worse than average	44	13%
Total	343	100%

8. Please provide any other comments that you would like to share with the Business Impact Committee as it continues its work.	
66 responses - see Ques 8 tab	

1. Please select one of the following that best describes your occupation?

35 "Other" responses

Response

- 1 Associate Attorney (In-House Counsel)
- 2 I have represented business and corporate clients during my entire legal career and in addition I served as general counsel and a senior officer of a public company for 17years.
- 3 Currently employed by Federal government, but moving back to an in-house position shortly.

- 4 Owner of a motion picture film company in MI since 1991
- 5 Business Law Professor and solo practitioner who represents business entities.
- 6 Private Investor
- 7 Special Counsel to small businesses and Contract Mgr for Fortune 50 company.
- 8 Was a partner in a large law firm and now Corporate counsel (who still goes to court)
- 9 Director Human Resources
- 10 Corporate Restructuring Executive
- 11 Currently seeking a new position. Previous experience (10 years) was as commercial VP/director & general counsel
- 12 Academia
- 13 litigator in boutique bankruptcy/workout firm representing corporations, small businesses and individual business people in a variety of commercial and workout litigation.

- 14 Sole practitioner with a general civil practice
- 15 staff judicial attorney
- 16 Insurance consultant
- 17 Of Counsel
- 18 Insurance- Client Service Exec. @ Hylant Group
- 19 family law attorney
- 20 Bank Manager
- 21 Surety Claims Attorney
- 22 Personal Injury Plaintiff Firm
- 23 I work for the judiciary
- 24 Non-practicing (for a living)
- 25 Consultant for Insurance company
- 26 retired, not actively serving clients
- 27 In house insurance defense counsel
- 28 Bankruptcy Trustee
- 29 Semi-retired, formerly #1 above, now closest to #3
- 30 litigator for and against businesses
- 31 Contract attorney.
- 32 Director, Legal Affairs Division - State government agency
- 33 Partnership in general (no Criminal or Divorce) practice with an emphasis on commercial/business.
- 34 University professor who assists corporations in legal disputes.
- 35 Solo practioner representing plaintiffs

3. Thinking about businesses and their experiences with the Michigan court system, what do you believe are the most significant procedural, structural, or substantive issues that should be addressed?

298 Responses

Response

- 1 Business competency
- 2 Unwillingness of courts to determine issues without massive discovery.
- 3 The court system is not expedient and extremely inefficient. We also need to get rid of activist judges so that business that want to relocate to Michigan will not be scared away due to Michigan being a non-business friendly environment.
- 4 The lack of business knowledge and sophistication of Judge and/or Judge and Jury. Further, the amount of time and expense of an unstreamlined system to get from start to finish. The imposition of case evaluators/mediators who are insufficient in their knowledge of applicable law, business matters in general, and, idiosyncracies of the business setting.
- 5 The Michigan Court Rules are more complex, and compliance with them is more costly than other states. In particular, the fact that virtually all contested motions are set for oral argument is burdensome, expensive, and in many instances, not necessary. Many other courts decide basic motions on the pleadings unless oral argument is requested.
- 6 Creditors rights are not being upheld by the district courts to the detriment of attracting business(es) to Michigan.
- 7 A specialized business court could be beneficial. The elected circuit court judges are sometimes unequipped to handle commercial matters.
- 8 All Michigan Courts should have e-filing capabilities. And, perhaps, webinar hearings so that counsel should not have to travel (and have their clients pay for such "down time").
- 9 1. runaway juries 2. discovery abuses, especially electronic documents
- 10 Clearly issues surrounding unions. The first ten reasons businesses don't want to come to Michigan is union issues.
- 11 promotion of the use of ADR in order to avoid the cost of litigation.
- 12 The lack of knowledge of substantive law and regulations pertaining to business law litigation, and the terribly slow ability to progress litigation to a conclusion.
- 13 The speed (or lack thereof) of the system and an existing rudimentary ADR system
- 14 Cap on compensatory damages/liability.
- 15 need better ability to get low cost summary dispositions where warranted.
- 16 Loser pays.
- 17 The sheer length of time it takes to obtain resolution of a matter discourages the use of the court system in contract disputes. The repeated need to appear for hearings that do not accomplish anything and require a several hour wait, where a procedural tasks could be accomplished by mails also discourages the resort to courts.
- 18 The breadth of discovery (particularly e-discovery). The Texas state court model which places a burden on the requesting party to prove the extent of documents needed is much more business-friendly.

- 19 The time it takes to get the matter in a position for resolution. There is an inherent tension between the lawyer's good faith (most of the time) pretrial discovery and motion practice and a business need for prompt and efficient disposition of the dispute. Also, inexperienced or incompetent trial judges often are poorly equipped to understand the complex laws involved in business litigation, because they are handling divorce, criminal, auto cases most of the time.
- 20 The court system in Michigan needs to catch up with at least the last century and get all court files online and allow online filing of all documents.
- 21 uncertainty and delay
- 22 Lack of familiarity with business issues and commercial law issues
- 23 1. Tax Tribunal restructuring to eliminate backlog and provide a way to better mediate appeals. 2. Consolidation of certain aspects of the circuit courts to handle just business disputes
- 24 a business court would add competence and organization to business litigation
- 25 Time and expense.
- 26 Send all cases to arbitration which is more timely and less cumbersome than trial in court.

- 27 A state court judiciary that has very limited knowledge of business law issues, primarily due to lack of business law experience as an attorney, either because of the young age of the judge or because the judge was a prosecutor before taking the bench.

- 28 Timeliness is a big issue; perhaps some form of "rocket docket" could be created that is available for certain size/type of cases
- 29 The cronyism in Oakland Circuit Court.
- 30 Non Competes and other restrictive covenants. Protection of a business' confidential information and trade secrets is paramount to any business operation.

- 31 Tax structure needs to be changed before a focus on Michigan courts, specifically how royalties from IP is taxed.
- 32 Elimination of mandatory mediation/case evaluation in district court cases.
- 33 time, cost, and competency
- 34 The expense of discovery is out of control. The courts are not following their own court rules when it comes to compelling discovery or awarding attorney fees when attorneys are forced to file motions to compel because attorneys play the "game" of initial general denials, then wait to the last second or at the hearing to provide some discovery, or even until after the judge orders it. All of this time is unnecessary, and attorneys wouldn't do it if judges were forced to award attorney fees instead of having discretion.

- 35 lack of predictability in judicial decisions on very similar issues
- 36 We need a judiciary that has both the knowledge base and experience to decide the complex operational and financial issues affecting businesses.
- 37 The time it takes to complete a case in litigation costs to litigate a claim
- 38 Effective access and resolution of disputes via ADR options and use of e-filings, appearances by phone, etc.
- 39 The inefficiencies and delays. Too much waiting around in court on motions. The length of time to get things done. The need for the lawyers to solve the issues because getting a judicial read will not be timely.
- 40 All of the significant lawsuits in Michigan I have been personally involved in were transferred to the Federal Courts

- 41 Need to improve speed and efficiency of processing cases.
- 42 To slow. Resolution takes too long.
- 43 The lack of a "business" court with judges experience with dealing with business law matters. Also, the mediation process is cumbersome. Finally, the discovery process is unstructured and potentially endless.
- 44 (1) High cost of discovery and compliance with discovery. (2) Non competes - if the courts will not enforce, why not just go back tot he old limited enforcability rules? (3) Should there be a "small claims" procedure where small corps/LLCs could be represented by their owners, not attorneys?
- 45 Duration of litigation, potential for harrassment and undue expense caused by vindictive or unethical lawyers
- 46 Unsure at this time. Probably the business tax that the state has continually goofed up over time.
- 47 The law of employee non-competes needs to be reformed to require much more specific business interests to be protected. Employees need the flexibility to change jobs when their salaries and benefits are cut. Some more aggressive form of loser-pays fees in business cases. Speedier appeals process.
- 48 Length of litigation process. Jury awards in Wayne county. Quality of the bench in sophisticated business issues.
- 49 frivolous lawsuits where the cost of litigation forces a company to settle.
- 50 The case backlog
- 51 The lack of judges with a business background designated to adjudicate commercial cases.

- 52 Litigation in a system clogged with criminal and other cases that have priority of a prompt resolution of a business dispute.
- 53 I practice in the tax area and have not had enough exposure to the Michigan court system to provide an informed response.
- 54 time -- takes too long
- 55 na
- 56 These courts - particularly Wayne County - are either overloaded, or the courts are not working a ten-hour day like we are.
- 57 Litigation takes took long.
- 58 Michigan is stuck with a system of elected judges, with little or no experience or understanding of business and business issues. Result? Every case is a crap shoot.
- 59 Educating the Appellate Courts about the importance of establishing an environment that is more sensitive to the needs of the business community.
- 60 The length of time litigation takes, and the archaic nature of the filing system, the lack of special master utilization despite the lack of understanding of specialized business issues. Many agreements specifically state Alternative Dispute resolution outside of the court system which is expensive as well.
- 61 lack of qualified/specialized facilitators and case evaluators
- 62 Speed in resolving issues.
- 63 Working in business cases into the schedule. Delays in the system work to the advantage of defendants. Plaintiffs have to weigh the risk of going bankrupt before being able to collect damages.
- 64 Lack of consistency in lower court decisions and application of the law

- 65 Michigan's Judiciary, as an institution, is not very experienced in respect to business matters. Very few business lawyers become judges and very few judges have a sophisticated understanding of business law issues. As a result, Michigan decisions regarding business-related issues tend to be simplistic and disorganized. Compare Michigan decisions against, for example, Delaware, Second Circuit, and Seventh Circuit decisions.
- 66 The ability to use automated or electronic methods of communication Maintaining reasonable costs of access to the court system
- 67 The members of the judiciary have little or no familiarity with business issues.
- 68 ADR; denial of motions for summary disposition
- 69 Having state court judges who specialize in business and commercial cases
- 70 The inefficiencies and costs associated with resolving low value disputes.
- 71 Time and cost of pre-trial proceedings
- 72 Efficient resolution of disputes in both time and money.
- 73 n/a
- 74 streamline the system and do away with the build in delay tactics
- 75 Litigation takes way too long -- time is money.
- 76 The system is too slow, costly and unpredictable. Most judges came from criminal law, family law or general civil litigation practices and have little understanding about business law issues. This results in many poor rulings and decisions.
- 77 Judges with a strong business law background and/or understanding of business law issues.
- 78 streamline discovery
- 79 not known
- 80 We need courts that understand business disputes and changes to discovery rules that make it more efficient to resolve business disputes.
- 81 Business relies on consistency and continuity in the interpretation of laws. Michigan's Supreme Court was known as strict constructionist court until the election of Justice Diane Hathaway. Now, all of the prior Court's decisions appear up for grabs. This gives business the impression that the written words of the statute are subject to "interpretation," and are, therefore, unreliable.
- 82 Repeal the new rules regarding reveal of justices.
- 83 Yes, I have had multiple requests for businesses looking to start up in Michigan and to each of these requests I answer the same. Start your business in any other state but Michigan. Due to the overwhelming problems in insurance coverages for businesses and residents of Michigan and the unfair practices at recovering for any insurance claim, the risk of loss due to Michigan's legislated pro- insurance company laws, it is ill advised for any business to start in Michigan. The insurance company's lawful but overwhelming bad faith in addressing coverages for claims results in Michigan being far to risky to establish a business. It is no secret thawt the Michigan legislature is bought and paidd for by the insurance industry in Michigan which has resulted in the grossly unfair laws being passed against consumers in this state that I cannot and do not recommend any business start up in Michigan. It is far easier and less risk to start a business in a neighboring State and work with your insurance carriers outside of Michigan.
- 84 The selecton/quality of judges handling commercial litigation.
- 85 Need for prompt dispute resolution.
- 86 There appears to be a relatively strong bias in favor of employees and against employers in many courts and in the administrative law in Michigan.

- 87 Default to English Rule for litigation costs.
- 88 Courts are slow. They work limited hours. Juries are unpredictable. Elected judges are not independent. Federal court experience proves appointments work.
- 89 Few concerns: Banking law in the new environment - banks have too much control and seem to simply be draining equity of the businesses. Procedural - Some businesses have simply given up involving attorneys because they can't afford the hours of procedural time required for Bankruptcy claims. Tax implications - WORSE state in the country to start/run a business from a tax perspective. LAW MUST CHANGE IF MICHIGAN HAS ANY CHANCE AT TURNING AROUND.
- 90 Busy circuit courts lack the time, resources, and expertise for complex commercial cases.
- 91 The courts are not interested in settling business disputes. I have personal experience where the judge had no interest in hearing our case and forced us to negotiate in the hall. Since we were disadvantaged from a business perspective, we were forced to accept a deal that cost us money, but I believe was a breach of our contractual rights. As a result, I do not see the MI courts as a place to seek redress for business issues and I believe this is a negative for the MI business environment.
- 92 never been to court.
- 93 The lack of business law experience in a significant portion of the MI Judiciary. The Judiciary's reliance on Summary Disposition to "thin the docket" without paying real attention to the depth of business law issues. Delays in the Court system.
- 94 Lack of certainty of outcome in Litigation.
- 95 Costs and delays. Time is money and MI businesses are lacking in both. Lack of uniformity between procedure between courts despite MCRs (which then costs time and money).
- 96 In our business, timeliness in getting to court for certain actions.
- 97 Discovery abuse. Conducting unnecessary discovery. Failure to properly respond to discovery. Pleading matters that have no reasonable basis in law or in fact. Reluctance of the court's to try cases.
- 98 cost; e-discovery guidelines; length of time
- 99 The low priority given to business litigation matters. The failure of judges to comprehend business issues
- 100 Inability to get decisions from judges.
- 101 We need specialized judges who have a deep understanding of corporate a business law. In my experience, the number one reason that clients choose to organize in Delaware is that they know if they end up in litigation with their shareholders, they will have a judge who knows corporate law, instead of a judge who does mostly criminal las, family law, and or personal injury or other torts.
- 102 If your client is a plaintiff, then you want a speedy resolution. If your client is a defendant, then you often want the matter to go very slowly until you client can find the money or a resolution. I like the trend toward mediation. If the case is subject to resolution, this will bring the parties together.
- 103 End mediation sanctions which only effectively penalize defendants.
- 104 The ability of a business to perform protected investigations of adverse events with remedial actions, with full protection and confidentiality.
- 105 The quality of the clerks - the judges rely too heavily on them, and the quality is poor.

- 106 Need fast track / expedited litigation
- 107 Judges without a good understanding and/or appreciation for business issues
- 108 Businesses need more timely treatment in the court system. Business litigation is too often delayed by legally mandated criminal matters.
- 109 Good Judges do a good job with the rules we now have, bad Judges do a bad job.
- 110 Yes
- 111 Ease and speed of concluding contested matters.
- 112 Do to the nature of my Corporation's activities, which are conducted primarily outside of Michigan; we have few, if any, dealings with Michigan Courts.
- 113 Unemployment taxes need to be reduced AND the current "case evaluation" procedure needs to be eliminated.
- 114 Limits on discovery similar to the federal rules of civil procedure.
- 115 expense of discovery; prolonged time until trial; lack of institutional motivation for early alternative dispute resolution.
- 116 More judicial involvement to remove frivolous cases, promote efficiency, and speed resolution.
- 117 Too time consuming and too costly.
- 118 Making judges accountable for being present and professional during court proceedings.

- 119 Litigation is slow and expensive. Appeals take a very long time.
- 120 Raise limit for small claims; ensure businesses are given a fair shake and not primarily viewed as deep pockets out to screw customers
- 121 The increased regulation on employers and how this increased regulations increases the cost of doing business in Michigan.
- 122 Tort Reform
- 123 There should be a separate docket for debtor/creditor lawsuits, especially in tough economic times, in order to get faster resolution.
- 124 speed and efficiency of getting from complaint filing to resolution.
- 125 na
- 126 Difficulty in scheduling motion hearings on complex business matters outside normal motion calendar. Certain overly restrictive or paternalistic court rules, such as those that require a certain waiting period before a judgment may be obtained in a court action (judicial foreclosure is an example). On the other hand, judges who don't enforce court rules uniformly.
- 127 Depends on the business size and need. Landlords want easy procedures. Small businesses want non-lawyer/self representation in district court and prompt disposition. Sometimes, all the delay of discovery, pre-trials, and ADR procedures waste more resources than a prompt 1/2 day bench trial or even a jury selected without a day or three of voir dire. Even in larger cases, procedures that require a clear, distilled presentation early on, without three years of paper chasing and posturing, would lower transaction costs, create faster dispositions, and, if done well, lose nothing as far fairness. To some degree, protracted discovery has become a burden, and some sort of business court might be a factor in attracting business.

- 128 Timely and thoughtful resolution to business issues. There needs to be a sense of urgency as many courts do not seem to understand that companies, owners, and people involved with companies are frustrated and incurring various types of loss while the court system goes through its normal routine seemingly based upon little consideration of the litigants. As a result, I do everything possible to help my clients avoid the court system.
- 129 Labor law and product liability issues.
- 130 Case Evaluation should be modified. If two out of the three members of the panel dismiss the case, then the other side should pay attorney's fees.
- 131 I don't have enough experience with the Michigan court system to answer this question.
- 132 None.
- 133 The recent move to allow the Supreme Court to vote to disqualify another member is outrageous, and inconsistent with most other states
- 134 scheduling; there is too much wasted time
- 135 The need to bring sanity to e-discovery.
- 136 Not enough contact with the Michigan court system to have an opinion.
- 137 Courts need a better appreciation of the need for urgency. The concept that damages are an adequate form of relief is outdated.
- 138 Reduce the time needed to resolve cases
- 139 The electronic discovery rules are extremely burdensome in cost and, in some cases, they are no more than a "fishing expedition"
- 140 I do not have enough experience with the court system to comment other than I would prefer to see matters handled by judges who have some experience with the industry involved in the court system rather than randomly assigned matters.
- 141 Costs associated with litigation, such as wide open discovery rules with no control from the court, the now-standard use of expensive "mediators" and "facilitators" to resolve cases that lawyers themselves used to resolve, reluctance of trial court judges to grant dispositive motions, liberal use of expensive experts.
- 142 Lack of business acumen by the judiciary.
- 143 Judges do not understand complex business issues. Judges are reluctant to shut down "nonsense" litigation. Judges are too susceptible to either the "halo" effect or their self-interest. They tend to defer to attorneys from the largest Michigan firms.
- 144 Costs in bringing/defending lawsuits: should be more strict rules in favor of prevailing parties and against attorneys that unnecessarily prolong lawsuits. Length of time in resolving lawsuits, including on appeal (ironic that the Supreme Court creates rules governing disposition of case at the trial level, only).
- 145 The timeliness in which the courts hear matters and the underlying expertise of the judges hearing the matter.
- 146 Delays and expense in the process.
- 147 Copy the Delaware model and have judges whose dockets consist only of business cases.
- 148 Appeals take WAY TOO LONG
- 149 The delays and uncertainty of courts who are unwilling to dispose of frivolous suits.
- 150 I don't know. I have never practiced law in Michigan despite being licensed in Michigan.
- 151 other partners handle the litigation issues

- 152 I hear from clients all the time who tell me that the Michigan courts take longer to resolve matters than what they experience in other states-especially at the District Court level. Also, clients tend to believe that results are less predictable in Michigan than in other states.
- 153 consistency in workers comps claims, and caps on non economic losses
- 154 None that I can think of at this time.
- 155 N/A I'm in Florida
- 156 DISSOLUTION AND THE CHALLENGES OF A FAILING BUSINESS, CREATION OF NEW BUSINESS ENTITIES
- 157 Unfortunately, the multitude of issues presented to our judges (criminal/divorce, etc.) it is very difficult for each judge to have a knowledge in all areas of the law which are put before them.
- 158 One size fits all automatic scheduling orders
- 159 There should be a commercial division to the court with judges educated in business practices, so rulings can be based on a real knowledge of what takes place in the world. Most judges are too busy with criminal matters or injury matters and don't have the time or background to fully understand complex commercial matters. The greatest task of course is achieving speedy resolutions which also get the right result under the facts and law presented.
- 160 Need state-wide uniform system of electronic filing for district, circuit, and appellate courts to reduce costs and increase convenience for attorneys and parties.
- 161 Cost. The ability to conduct unnecessary and costly discovery is an abuse in the system that is greatly discouraging to businesses. Also, the length of time to resolve matters. Risks of inconsistent rulings from Judge to Judge is very frustrating. These issues are not unique to Michigan, but addressing these issues would make our state very attractive.
- 162 I live and work in Nebraska, so my experience with the Court System in MI is from 17 years ago.
- 163 Courts, particularly Wayne County Circuit Court, should have more than 1 motion day. I recommend 2 motion days that are based on case classification codes (e.g., CZs are heard on Tuesday, PI heard on Friday).
- 164 The goal is to stay out of court. The perception is that if anything goes to court, it will go down a rabbit hole and not emerge for a decade. Also, no confidence that judges and juries understand complex technology systems.
- 165 length of time
- 166 consistency and speed to decisions
- 167 See answers to questions in #5 below
- 168 Continue to expand on use of methods for electronic filing and discovery. Assign cases to judges that are business savvy and web savvy.
- 169 The Michigan Court System should have a uniform, statewide online court access database like states such as Wisconsin have. Corporations should be permitted to be represented by an attorney in Small Claims proceedings.
- 170 In dealing with the Workers' Compensation court system, the perception by business that the courts are all "pro-plaintiff".
- 171 cost delay
- 172 At the very least, procedural fairness for defendants, which is not the case in Wayne County.
- 173 Delay. Cost of seeking justice outweighs many claims.

- 174 Have had no experience with the business court system. Our litigation department would have contact, but my practice is in federal regulatory law.
- 175 I believe that people find it difficult to "like" big companies. Thus, it is easy to use the court system to punish that which you do not like.
- 176 Judicial selection; jury service
- 177 Delays in resolution of the cases that get filed
- 178 Waste of time by the courts--waiting for many matters to be heard. Failure to use telephone conferences, fax and email to get simple things done that would eliminate much wasted time. (This is not just electronic filing, but there should be no need for appearances on motion day for stipulated matters. Court can address those by phone if questions and issue orders. Motion days are HUGE waste of resources--hundreds of attys throughout the state every week awaiting their turn. This must be fixed. Travel time and waiting time are not able to be absorbed by attys and are not able to be paid for by many clients. It still takes too long to get to trial. documentary evidence should be produced by parties as a requirement and without demand or request at the initiation of a case. Costs should be awarded in cases that are oppressive, filed as a tactical matter to put financial pressure on small parties who cannot pay lots of atty fees. Same when someone denies and has no grounds for denial or asserts claims w/o basis at all. courts should not be useful as a negotiating tool by the well heeled against the little folks. Too many judges are lazy and incompetent and inconsiderate of the attorneys practicing before them. Their hours are unpredictable, irregular (notwithstanding notices of hearing and calendars).
- 179 Out of state suppliers fear being hometowned
- 180 There should be a court specialized in business disputes.
- 181 Delay, inconsistent decisions,
- 182 Length of time
- 183 Assigning judges with business experience to handle business issues.
- 184 substantive expertise of judiciary on commercial/regulatory matters
- 185 no idea. My practice for the last 20 years has been outside of Michigan.
- 186 Taxes
- 187 Don't practice in Michigan.
- 188 Many layer and resulting complexity of departments that affect business operations. While there is a lot of talk and support for stream-lining the process for getting and keeping business, the reality is the opposite.
- 189 Nothing comes to mind.
- 190 The time and expense of discovery and the overall expense of litigation.
- 191 ?
- 192 Failure of the judges to read the material in advance of the hearing
- 193 I am not involved in my company's litigation matters (insurance claims) and therefore have no pertinent or substantive comments.
- 194 Strengthening the Offer of Judgment rule or create some other mechanism to get rid of frivolous lawsuits earlier.
- 195 taxes and corporate governance
- 196 The judges do not have sufficient background in the law. Efforts to educate judges in judicial seminars have not been sufficient, and these programs are poorly attended. Costs of litigation are outrageous. These costs might be reduced if judges were more familiar with the laws that impact their cases.
- 197 Judges should try to understand the nature of the dispute early on in a non-adversarial manner, and skip case evaluation entirely.

- 198 Speed of litigation through the court system
- 199 A feeling that both sides are being treated fairly, not dependent on whether the matter is before the trial court, Court of Appeals or the Supreme Court.
- 200 judges need help in understanding complex business issues and/or need to work to educate themselves
- 201 Many judges have little knowledge of intricate business issues. Judges already educated in business aspects, instead of being educated via briefs, would be helpful.
- 202 I'm currently in Colorado
- 203 Court location, time involved in attending proceedings and cost.
- 204 Reducing length of judicial process
- 205 The partisan nature of judicial elections makes the political affiliation of any particular judge a material consideration in a company's decision whether or not to proceed to trial. The judicial selection process needs to focus more on qualifications and not on political party affiliation.
- 206 effective management of dockets
- 207 Too many opportunities to "game" the system, hence increase the cost.
- 208 Judges that understand substantive issues involving money, interest and other basic business concepts.
- 209 1. Costs are too high. Too much attorney time required. Paying my lawyers to sit in court waiting for our matter to be called is a waste. Having to pay our lawyers to defend meritless cases through the end of discovery period is too expensive. 2. Discovery, particularly electronic records, is burdensome and expensive, even when just a 3rd party (not a party to the lawsuit). 3. workers compensation system rewards unskilled, unmotivated people who may have some medical issues but prefer to work the system (rather than work at a job for a living). Skilled and motivated people tend to find a way to get back to working with their medical condition. 4. Costs of litigating anything worth less than \$20,000 are prohibitive. 5. Some courts are not equipped to address more sophisticated business disputes, creates more uncertainty in the outcomes.
- 210 Disconnect between complex business litigation and the lack of sophistication of regular civil juries.
- 211 Businesses suffer from much of the same problems as individuals: erratic rulings from judges, judges & court staff that start late, take long lunches & leave early, etc.
- 212 I think they are treated fairly
- 213 Methods to avoid needless expenditures of time and fees. For example, if the judge is going to dispense with oral argument and read a prepared opinion, e-mail it and avoid a hearing. It also avoids unnecessary time for people who are waiting for their hearing as they won't have to listen to the opinion being read. Also, allow more appearances by telephone, especially for things like scheduling conferences where there is no need to drive and wait for a 10 minute conference. Require courts to schedule hearings when they truly intend to take the bench. For example, it is routine in the tri-county area for motions to be scheduled for 8:30 when everyone knows that certain judges never take the bench before 9:15, some as late as 9:45. Finally, and perhaps most importantly, use the court rules to sanction frivolous motions, cases, etc. It will stop or at least decrease the number of frivolous nuisance suits.
- 214 Lack of a commercial court with commercial and e-commerce experience. Election of judges (as opposed to appointment of judges).
- 215 Slowness at the trial and appellate level for resolution of contract claims.

- 216 Nothing stands out.
- 217 the lack of knowledge of how business functions. the unwillingness to take control of a case at the beginning to resolve the case speedily and cost effectively
- 218 I am haven't spent time in the MI courts.
- 219 e-filing of pleadings
- 220 quality of the judiciary
- 221 Business-only courts with judges who are very familiar with business law and business disputes would be very helpful.
- 222 Cost
- 223 having judges competent to handle business matters relying on other states incorporation laws
- 224 . . . the possibility of a judicial panel devoted to commercial law issues, or perhaps a special master system with expertise in business-related issues.
- 225 Special business law court should be established
- 226 judges that do not ahve a business background and therfore delay decisions or make the wrong ones
- 227 There should be a separate court for business disputes only, like Maritime courts. I have no confidence in our court system based on my experience as a litigant, using the best lawyers available. I win the ones I shouldn't and lose the ones I should win.
- 228 High taxes.
- 229 Nothing comes to mind.
- 230 Comprehensive modification of Discovery rules at commencement of litigation would streamline the process
- 231 Without a doubt, most business people that I represent recognize that juries favor individual plaintiffs and make every effort to find corporate defendants liable.
- 232 Most judges don't have a business background and often have difficulty understanding and adjudicating the issues.
- 233 Cost and risk associated with litigation and expediency or lack thereof.
- 234 I think the courts are for the people, not for businesses, so while there may be ways to streamline things for businesses, I think it is equally important to be mindful that procedures should not favor businesses over individual citizens. That said, standing is a major bar to litigating issues important to many non-profits. I think the problem there is the same both for individual plaintiffs as well as for corporations and non-profits. Also, judges who are knowledgeable in our area of practice would greatly add to the fairness of decisions as well as reduce the time spent by attorneys educating the judiciary on matters they deal with rarely or have little experience with.
- 235 Overall, the court system works fairly well. Concerns exist in the administrative law area. The fact that certain State Tax Commission (STC) actions, such as property classification, are not subject to judicial review, is a concern. Numerous inefficiencies and biases against the taxpayer exist at the STC, and the tax appeal process at the MTT has a tremendous backlog.
- 236 1. The slow pace of the litigation process. 2. Judges' lack of knowledge or interest regarding business litigation matters. 3. The growing hostility toward corporate or business interests, especially in administrative law courts.
- 237 income tax
- 238 Docket congestion; length of pcorceedings
- 239 ?
- 240 Lack of business expertise by the judiciary and the slowness of the process.

- 241 I have rarely had to deal with the Michigan court system, so I do not have a good answer.
- 242 All delays: hearings and decisions on matters before the court.
- 243 Businesses concerns about the tax system and the State of Michigan, in particular, the new Michigan business tax which is incomprehensible to most clients.
- 244 Cost of defending against claims that have little merit but exceed the frivolous standard.
- 245 None really.
- 246 The low priority given business litigation and the lack of business experience by trial judges who usually come from the ranks of litigators.
- 247 Lack of speed in dealing with fast-moving commercial crises.
- 248 Time to address to finality issues in business litigation through the Michigan Court system
- 249 Non election of judges
- 250 The loser of a lawsuit pays costs and reasonable attorney fees to the winner to curtail filing of frivolous lawsuits.
- 251 N/A
- 252 Abusive discovery is highly detrimental to businesses.
- 253 The cost in time and money of almost every case, whether small (in dollars) or of critical importance to the business. The docket is ridiculous in some circuits or with some of the circuit judges. And it is not necessarily the judges fault. But it probably is the fault of the chief judge/and the county commissioners and their perception of their electorate. So there is no easy local answer. Can the state do something?
- 254 Sophistication of the bench; timeliness of decision-making; clarity of precedents
- 255 No comment
- 256 Don't know.
- 257 Litigation just takes too long and is too expensive. More emphasis should be placed on early resolution of disputes.
- 258 Many trial and appellate judges never participated in the real business world and thus add guessing to the decision process
- 259 No experience with MI court system.
- 260 Quality of judges who do not understand business
- 261 Case evaluation is a costly waste. Early intervention should be required in every case. Discovery is overdone and should be more limited.
- 262 Tell Businesses court system takes a while and being patient and organized makes the process smoother.
- 263 Businesses always whine about going to court.
- 264 Excessive delays and costs.
- 265 Since I no longer practice in Michigan, I can't answer this. I do wish the courts in Illinois (where tort reform never takes and med mal caps were struck down this week and where I've practiced since 1999) had a similar concern.
- 266 civil litigation system is too slow
- 267 Shorten the appeal process.
- 268 More commercial, real estate and business law experience on the part of the judges.
- 269 Refusal of judges to honor contractual attorney fee provisions.
- 270 Terminate the Ct of Appeals as it adds nothing to the process except time and expense.
- 271 No suggestions at this time.

- 272 Delay and difficulty in promptly resolving disputes without major substantive issues presented
- 273 None. From the judicial standpoint, Michigan is the most business friendly environment in the USA. That hasn't helped us secure new businesses. The drug companies left notwithstanding their virtual immunity. I don't see a problem with offering some type of facilitative procedure directing towards contract and/or small business disputes. However, we as a bar association also represent all citizens. Are you using are bar dues to favor one side?
- 274 Local Court Rules should be abolished and Michigan should have follow the One Court one set of rules philosophy.
- 275 Competency of the jurists and the length of time for cases to reach conclusion. Delay is costly.
- 276 Depth of understanding of businesses. Knowledge of licensure schemes that apply, if any. Integration of various aspects that now militate against consistent application of rules, statutes, and caselaw as well as certainty with outcomes. Addressing these latter issues (if there is reasonable certainty of outcomes), would likely increase the number of cases that can be mediated or otherwise settled, conserving judicial resources.
- 277 Need to increase the number of courts that have e-file or fax file. Ease of access to the courts reduces cost. Also phone conference pre-trials.
- 278 employment law decisions
- 279 Whenever my clients are asked to testify, time issues are very important. If certain processes could be speeded up that would be appreciated.
- 280 time and cost
- 281 Cost of litigation, refusal of Judges to address critical interim measures.
- 282 The cost of litigation is far too high for most businesses.
- 283 many judges are former prosecutors and do not understand the sophisticated nature of this area of practice.
- 284 1. Trial Court Judges are unfamiliar with business and corporate issues. 2. Court system moves too slowly to resolve business disputes.
- 285 Inability to enforce contracts - supply chain problems
- 286 A lack of experience and knowledge in business law by the judiciary.
- 287 The Michigan courts actually operate more efficiently and move cases more quickly than the courts in other states with which I have experience. However, things can also be better and business people could be spared delay and unnecessary trips to court.
- 288 While the procedure to push cases to resolution is sometimes helpful, the judges seemed pressured--and often won't allow for any delays. In the business world, delays are often useful to allow the parties time to find a business solution. It would be helpful to allow a longer docketing time for any business-law related cases.
- 289 Delays
- 290 The biggest difficulty we see now seems to be a proclivity of some courts to refuse to follow time honored rules regarding business practice, including contract, making it difficult to counsel clients.
- 291 Court docket too long
- 292 Simplify our tax code,provide far faster depreciation for newly acquired assets and reduce the costs of hiring and firing employees.

- 293 Civil litigation, both at the District and Circuit Court levels, is too expensive and inefficient. Court ordered facilitation and/or mediation, along with case evaluation, generally does not yield the intended result. A Michigan business court, run procedurally like an arbitration proceeding, may be useful.
- 294 time frame for completion of litigated matters
- 295 Timeliness
- 296 Poor judicial experience for complex business litigation.
- 297 I do not deal with this area of the law
- 298 Time Delays from filing to completion of cases. Expense of dispute resolution through courts.

4. Do you view the court system in Michigan as a major factor in your company's or business client's decision to locate in, remain in, expand operations, or conduct business in Michigan? Please Explain.

188 Responses

Response

- 1 Yes.
- 2 Exposure to litigation is rarely a planning component. It is an after the fact issue which can impact what rights and /or decisions are made or pursued but it would not stand as an important influence as to location. If of importance in that decision it would be in the area of worker's compensation.
- 3 I am not the decisionmaker about expanding business in my current role as in-house counsel. In private practice, however, I often avoided handling Michigan cases due to the burdensome civil rules, particularly their requirements about appearances on motion day.
- 4 My clients will avoid Michigan if they cannot have their accounts receivable or assignments collected fairly. Often the courts decide to ignore the statutes as they do not agree with them.
- 5 Most of my clients are in financial difficulty, and the court system is a minor factor overshadowed by economic conditions, lack of credit, high labor costs, and high taxes. But it is nevertheless a factor.
- 6 N/A.
- 7 The courts have almost nothing to do with it. However pro-business legislature would be helpful.
- 8 based in Texas.
- 9 The percentage of litigation a book of business clients is low. More significant factors are tax and regulatory.
- 10 Tax and regulatory issues predominate
- 11 Most of our business is actually conducted outside of the state of Michigan.
- 12 The law doesn't drive my clients' decisions; I'm tasked with making my clients' decisions meet the law.
- 13 company has been in MI for over 160 years.
- 14 I do not believe many businesses consider the court system when making these decisions. Taxation and other regulatory issues are more significant. Also, my involvement in courts of other states leads me to believe there are many judicial systems where the problems are much worse than here.
- 15 Depending on the nature of the business, very few businesses are in court very often. Other states usually are not much different, in fact the Michigan experience is far better than say Florida.
- 16 Only as it relates to locating in Detroit. My clients dread having to deal with the 36th District Court for any reason
- 17 Our business operates nationally; we try to bring as many cases as we can to Michigan mostly as a way to discourage litigation by plaintiffs located outside of Michigan
- 18 Economics and money making opportunities have been the main focus for most business I've dealt with, not the court system.
- 19 N/A
- 20 The original rationale was and continues to be proximity to the auto manufacturers.
- 21 In their minds, the judicial system is far down the list of location factors because they feel the risk of becoming party to a B2B lawsuit of critical importance to the future of the business is relatively low
- 22 I only work with small businesses so this issue really hasn't come up. They have only done business in Michigan and don't know if it is better or worse in other states.

- 23 I do not believe CEO's and corporate boards give much consideration to a state's judicial system vis-a-vis conducting or relocating a business in a particular state. The primary considerations, I believe, are financial and tax related as well as (depending on the nature of the business) availability and quality of air and rail transportation. In addition, I believe quality of life issues (e.g., housing, education) and their impact on a company's employees are important considerations.
- 24 It just is not
- 25 auto worker stigma ... all the benefits and not nearly the work product. whether there is another issue. availability of financing (lack of) and incentives. marketing/assistance is lacking, especially to help those businesses we ALREADY have...always the help for the new guy, never for the guy who has been paying the bills for years.
- 26 I have clients that have moved out of state because of bad experiences in the system.
- 27 General market and business conditions are more important than how the court system operates.
- 28 While answering "no" I would say that having a business-oriented judiciary would make Michigan more attractive.
- 29 I deal mostly with worker compensation issues in the state. I find it hard to believe that businesses would move into the state given the workers compensation system and how it seems to be a general welfare system
- 30 Can't remember the last time we litigated in MI
- 31 Court reform in the personal injury area has helped, but the risk of unionization has offsets that for new business.
- 32 there are too many other factors, deemed by business people as more important.
- 33 Not a positive issue.
- 34 It's no worse than Cook County, Illinois. Only the Chamber of Commerce believes that people consider the court system when locating a business.
- 35 Michigan's tax structure is the major factor.
- 36 The lack of a "business court" ala Delaware Chancery, more often than not I recommend Delaware incorporation. Businesses leave Michigan for lots of reasons not related to our court system.
- 37 I believe the District and Circuit Courts do an effective job. The Appellate courts do not seem to have a great deal of interest in granting leave when necessary to deal with significant corporate issues.
- 38 They are cognizant of the climate and the laws of the state of Michigan and judicial interpretation.
- 39 93 years in Michigan...not an issue.
- 40 It is not much better elsewhere. However, having a better system might allow Michigan a competitive advantage.
- 41 Most clients do not wish to be involved in the legal system and act to avoid litigation - this would probably be true in any state
- 42 Not insignificant; but not major. Other factors (read: obstacles) are much more problematic.
- 43 Company operations rely on use of the Michigan court system for recovery/revenue and defense matters.
- 44 I have never had a client tell me that was an issue.
- 45 There are more important factors in making this business decision, like the tax structure.
- 46 Taxes and access to other businesses are the reasons to stay or leave Michigan
- 47 Exclusive Michigan Franchises: we are here to stay. No worries: we love our home state!

- 48 Currently, based upon the last 5 years of operation, the MI court system compared to other states is neutral to business.
- 49 n/a
- 50 family ties and tradition are the reason
- 51 Most business clients are already here. They may complain, but on balance they aren't basing those decisions on the court system. The tax system, infrastructure and general lack of support for small businesses plays a greater role.
- 52 While not a "major factor", the court system is one of many issues cited showing that Michigan is not "business friendly". It's hard to say that the court system is worse than our approach to business taxes. If we ever get the tax mess straightened out, the court system could rise to a "major factor" keeping business away.
- 53 I believe that the state taxation, the regulatory climate, the labor environment and the overall economy are much more impactful.
- 54 small business, can't relocate
- 55 Not directly affected by court system
- 56 I've never had a business client indicate that it would not locate in, remain in or expand in Michigan because of Michigan courts.
- 57 My company is very impacted by the court decisions. Any decision regarding expansion would involve a close evaluation of trends we detect in the courts.
- 58 I have had multiple requests for businesses looking to start up in Michigan and to each of these requests I answer the same. Start your business in any other state but Michigan. Due to the overwhelming problems in insurance coverages for businesses and residents of Michigan and the unfair practices at recovering for any insurance claim, the risk of loss due to Michigan's legislated pro- insurance company laws, it is ill advised for any business to start in Michigan. The insurance company's lawful but overwhelming bad faith in addressing coverages for claims results in Michigan being far too risky to establish a business. It is no secret that the Michigan legislature is bought and paid for by the insurance industry in Michigan which has resulted in the grossly unfair laws being passed against consumers in this state that I cannot and do not recommend any business start up in Michigan. It is far easier and less risk to start a business in a neighboring State and work with your insurance carriers outside of Michigan. Extend the limit for suits against the Michigan insurance companies to 24 months from the date of any occurrence and do away with the limit on torts. Also do away with the legislation that eliminates any bad faith claims against insurance companies, with no cap on damages for bad faith and do away with the prohibition on special damages against the insurance providers. This does not have to affect the business community, but the business community should likewise be protected against the overwhelming bad faith coverage practices by the insurance industry in Michigan.
- 59 I think the economy is the largest factor for companies locating or remaining in MI.
- 60 The companies which I represent are unlikely to invest in Michigan due to the labor climate, including the legal climate with respect to labor matters.
- 61 Taxes, economy, state services, etc, are much more important
- 62 They are small and have no practical choice.
- 63 This never was a consideration, but a combination of the laws and banks have made leaving the state a distinct possibility.
- 64 The court system is way down the list behind taxes and unions. Many of my clients are moving to the South for lower taxes and right-to-work, in spite of, and not because of, the court systems in those States. That said, I think that creation of a business court would be a positive selling point to businesses.

- 65 Rarely do I see a decision to locate a business or leave the state based upon the court system alone. If all other factors are equal, then this may tip the scales. I believe the bigger issue for manufacturers at least is that the state is very pro-union. I see that as being much more influence than the court system.
- 66 No, we deal with state regulators not the courts.
- 67 None of my clients have ever indicated that the Michigan courts affect their decision to do business in Michigan.
- 68 We are south eastern michigan based
- 69 Tax, workers compensation, unemployment laws and unions are the major factor.
- 70 While they may choose to incorporate in another state, my clients still keep their business operations in Michigan. More significant are utility rates and other matters controlled by the executive branch when deciding whether to keep business operations in Michigan.
- 71 Frankly, Michigan's Court system is as good as anywhere. I work with our local business development non-profit. It is very active. I can give you the greatest impediments to businesses locating in the State of Michian: higher tax rates that other available States, higher workers compensation insurance and unemployment compensation than other available states, too much and too expensive of regulation and finally look to the stanglehold that labor unions have on this State. We have over two people moving out of this state for every one moving in (See Wall Street Journal). I applaud your efforts to improve the courts as it should always be done. But it is the other factors causing businesses to locate elsewhere, driving businesses out of our state, bankrupting many of the businesses we have in the state and causing approximately 67% of all of our children that graduate from a Michigan college to leave the state.
- 72 Michigan is perceived as a liberal state for purposes of employment laws and this creates penalties for EPL Insurance premiums.
- 73 With medical malpractice expenses rising and the lack of controls on awards (except non-economic damages)and other critical basis, my company has looked at expanding in other states versus Michigan.
- 74 The company is headquartered in California.
- 75 Not a mJOR factor but I think accretive with all others.
- 76 I represent a municipal corporation
- 77 Definitely - The inability to properly manage the case load or complex issues is a direct factor for more advanced business to locate their entitie in the State.
- 78 The majority of my organizations activities are focused and conducted in jurisdictions outside of Michigan, thus, the court system is a minor consideration in our decision to locate/remain in Michigan.
- 79 My company is a utility.
- 80 Michigan law is sufficiently developed to address most commercial issues, with the exception of securities law.
- 81 The company primarily deals with student rental property near MSU. It is the location of the property, and not the Court system, that determines the company's location.
- 82 Most of my clients are owned by long time Mi residents.
- 83 I believe that it's not so much the court system as it is legislation and the economy.
- 84 The court system should refrain from making the law and strictly interpret statues and case law.
- 85 We go where the work is, and right now it's in Michigan. The strengths or weaknesses of the court system are secondary factors.

- 86 Years ago, it was a negative with big product cases and a general anti-business attitude in the metro areas. Now, courts are seen as fairly pro-business because of tort reform and employment law. Most businesses, however, deal more with government agencies such as unemployment, and those experiences are not always favorable. Try to explain to a business that hires a worker part time that the part time worker can in some circumstances collect under employment insurance benefits chargeable to the part time employer who never "unemployed" the worker.
- 87 Today's business world is based upon speed and efficiencies. Having a court system that was on the cutting edge of helping companies resolve disputes would clearly make Michigan more attractive for businesses to locate and conduct business here.
- 88 Businesses locate and create jobs where they find a business friendly environment.
- 89 Concerns re: current composition of the Supreme Court and judicial activism approach.
- 90 For the companies I've worked for, I don't believe the court system played almost any role in their decision where to locate. The deep south (AL/MS) courts are terrible for business, but companies continue to locate there based on the other cost and workforce advantages.
- 91 The courts must operate as a fair and impartial judiciary. If that perception is not present, Michigan does not look appealing to business
- 92 I believe the decision to locate in Michigan is based on market forces (customer base).
- 93 Other than the corporate law competency of courts in Delaware and New York, I don't see any state's courts distinguishing themselves in the business law field. Legislatures yes, courts no.
- 94 Fortunately, we have very little involvement with the court system as we are a private institution of higher education.
- 95 I believe there is a good possibility that if certain legislation is passed, and if certain supreme court justices are re-elected, the business climate in Michigan will deteriorate at a faster pace and prompt businesses to re-evaluate whether they stay in this state.
- 96 Although a factor, it is not a "major" one to our decision to remain here in Michigan.
- 97 Not applicable.
- 98 N/A
- 99 See my response to Question Number 5.
- 100 not much difference among states
- 101 N/A
- 102 We have significant business in Michigan so we need to be here in order to service our customers.
- 103 It might be if the court system here stood out versus courts in other states, but I doubt that is the case.
- 104 No.
- 105 We are a multi-national firm. Issues can pop up anywhere.
- 106 While business always complain about WC insurance premiums, in 20+ years of representing these businesses I have yet to see one move out of state for that reason.
- 107 Never has come up
- 108 This is not a factor for our clients.
- 109 Company has always been Michigan and will continue to be in Michigan. Owners are from Michigan, however, company has affiliates in 58 countries.
- 110 The nature of our business ties this company to Michigan.
- 111 Court system is rarely a factor in these decisions.

- 112 An efficient court system can bring many advantages to business--saves time and reduces costs of litigation. But this requires competent judges and they need to be at work during court hours, just like everyone else. If attorneys are late, they can be sanctioned, but far better scheduling and knowledge and better operations in the courts are needed. We are still practicing as we did long before internet, fax and on many cases, even telephone. Judges should be subject to examination and rating by fellow judges and by attorney who practice before them. They should be required to know, understand and analyze the law and many cannot do so.
- 113 My clients view this as an important factor.
- 114 Not a significant factor in business metrics
- 115 As an Ohio attorney, the court is viewed in the same light as I give the Michigan Division of Corporations. You need to address the legal red tape we have to go through. Only issue with court is time it takes to settle matters.
- 116 court system never seriously considered...
- 117 not in MI.
- 118 No, not yet. But given the recent changes in the court, I'm sure it will be less business (therefore job) friendly state.
- 119 The Hylant Group has been in MI for a number of years; it anticipates expansion in MI regardless of the court system.
- 120 Was not involved in decision for company to locate in MI. State could use better corporate benefits and incentives for state businesses.
- 121 Our locations in Michigan are dependent upon customer presence and concentration.
- 122 We will just keep passing the cost on to the customer's of Michigan, as a cost of doing business here.
- 123 Taxation seems to be the most prevalent negative comments I hear.
- 124 My employer is a major auto and homeowners insurance carrier. Need I say more?
- 125 courts are perceived as pro plaintiff and union
- 126 Michigan courts seem to be not so business friendly.
- 127 Dockets remain crowded in some counties; procedural due process can be very confusing to business clients and all business clients would sooner have a root canal than wait around for a hearing to start or finish. Business litigation in our current court system is disruptive to an extreme.
- 128 We are an insurance company and operate in 50 states. Michigan (currently)has favorable auto related policies...but there is movement by the Governor's ally Butch Holloway to create far bigger and unwarranted burdens for insurance companies.
- 129 I work in the health care community, but the loss of business impacts this community immensely.
- 130 Like most businesses, we try to avoid being in court, so its impact should hopefully always remain minimal.
- 131 Regrettably, many states have the same problems and I have never heard any of my clients based their business decisions on locating/remaining here on the court system
- 132 My client would not relocate out of Michigan, as it is one of the "Big 3" and its roots are here.
- 133 Other than the anti-Plaintiff tort atmosphere (which doesn't really affect my business), the judicial system in Michigan is unremarkable.
- 134 generally they either live here or have large investments here. Court proceedings are not a regular event for my clients. However, when they are involved with the court system they experience a high degree of frustration
- 135 No idea
- 136 We are a multi billion multi national with cases in most states in the US.
- 137 No

- 138 negatively; illogical rulings by federal judges in the Eastern District will run businesses out of the state
- 139 except in Wayne County at times the log jam gets to be a bit much
- 140 My clients choose Michigan chiefly because they are individuals seeking to set up and conduct a business in their state of residence. Typically, they do not consider the pros and cons of the Michigan judicial system simply because they do not contemplate litigation as a likely or inevitable outcome of doing business in this state. And, indeed, most never have any contact with Michigan courts.
- 141 I own office buildings in MI (and other businesses in TX) so it's difficult to relocate my MI real estate. I'd love to sell it even though it's profitable, and get the hell out.
- 142 Economic factors are more important than the court system.
- 143 Many business clients believe the influence of Unions affects neutrality in the court system ,
- 144 Clients don't believe Michigan juries are necessarily worse than juries in other metropolitan areas.
- 145 Taxes, pro-union laws and general economic instability are the major factors
- 146 Business has been in Michigan for 125 years.
- 147 We are here because of the people, not because of the courts. We are a state affiliate of a larger, nationwide non-profit.
- 148 Most businesses, including mine, do not make decisions on where to locate facilities based on the court system. The court system in Michigan would be considered preferable to that of some other states. The state tax system would be a stronger factor.
- 149 It hasn't so far, but may in the future.
- 150 My company's location is a matter of geography and customer base
- 151 ?
- 152 already here
- 153 I work for the major utility in southeast Michigan, which has been here for more than 100 years, and it's not a mobile business.
- 154 Since the court system is not really involved in the day-to-day activities of most businesses, it is not a priority when making decisions regarding location of new offices or new ventures.
- 155 At this time the court system is not a factor.
- 156 The primary reasons for decisions to leave the state or locate elsewhere are taxation and labor unions with their great political power
- 157 Courts and their procedures don't vary significantly from state to state.
- 158 N/A
- 159 No. Nor the tax system. Business locates where it can accomplish its mission. This is more often dictated by raw material, skilled labor, customer locations, etc., a host of business issues. Court functioning isn't high on the list.
- 160 By comparison to Delaware, there is no incentive to locate an enterprise here
- 161 My employer does not operate in MI.
- 162 irrelevant
- 163 Simply does not apply.
- 164 Litigation is not a major factor, therefore the court system is not either.
- 165 If there are major advantages to the decisions to be had in Michigan, then certainly businesses will make their growth decisions with that in mind.
- 166 Biggest problem is the tax structure and the overall economy.
- 167 N/A
- 168 Every State has Courts
- 169 See above

- 170 The domicile of the owners, the areas to be served by the business, and the tax climate are more important.
- 171 N/A
- 172 I currently work for a public employer, however before becoming a public employee many of our Firm's clients moved out of Michigan as a result of a combination of expenses: taxes, local business ordinances, and the many legal costs associated with doing business in Michigan that are not incurred in other States.
- 173 Michigan's court system is similar to others and better than some.
- 174 NOt applicable - state government agency.
- 175 fortunatley, we are influenced more by the business environment
- 176 I do medical law.
- 177 Small businesses do whatever is necessary to stay out of litigation; too expensive and too unpredictable;nuisance suits are not discouraged by sanctions
- 178 Many comany clients move out because of the court system.
- 179 Business clients who have an option to change their location do so to seek a more regulation free state, and are also influenced by the cumbersome Michigan taxes
- 180 Not something clients consider.
- 181 I am only licensed in Michigan
- 182 The company has been located in Michigan for 140 years and has experienced many changes in the MI court system.
- 183 A court system that is familiar with the types of businesses in Michigan (i.e. the auto industry) is very helpful. Other venues may not have the background for understanding issues that arise between vendors, tier ones, etc. Our company's terms and conditions lists Michigan as the venue of choice. Yes, the Michigan court system is a factor. To some extent, it does affect the company's decision to work with other local Michigan businesses.
- 184 See above (3).
- 185 Taxes and right to work are the bigger issues.
- 186 We are here in spite of the court system
- 187 But our courts are viewed as second tier.
- 188 I do not deal with this area of the law

6. With respect to State statutes and the Michigan Court Rules, are there changes you believe would promote greater efficiency and reduce costs in resolving litigation involving businesses? If yes, please explain.

147 responses

Response

- 1 See answers to question 5
- 2 Uniform e-filing and mandatory discovery disclosures.
- 3 Rules are there to allow courts to deny legally incorrect objections and motions filed by in pro per defendants but do not do so and instead hold hearings that waste valuable resources.
- 4 Minor point: The MCR numbering system should track the federal rules.
- 5 get rid of case evaluation but mandate mediation establishing a state wide panel of qualified business mediators
- 6 Without getting specific, Rules geared to specific business procedures enhancing the points noted above.
- 7 Loser pays.
- 8 Very strict limits on discovery, similar to the Texas state court model.
- 9 the changes indicated in response to Q5
- 10 no opinion
- 11 So much is unclear or poorly drafted.
- 12 Case evaluation should not be mandatory; simple
- 13 See #5 above
- 14 Some sort of mandatory attorney fee award for abuse of discovery process. Attorneys wouldn't act they way they do if it cost them or their clients money, and if the courts actually imposed the sanctions.
- 15 I am sure there are changes that could expedite the process. Litigation should not drag on for years because of mindless dilatory tactics.
- 16 noted earlier
- 17 Any change that encourages Judges to grant summary judgement and to put reasonable limits on discovery (and to uphold such decisions on appeal)
- 18 Unable to decide
- 19 See above.
- 20 Reflecting my answers above.
- 21 Go back to the old rule on non competes, i.e. only limited circumstances in which enforceable.
- 22 Shorter timelines. The longer a case drags out the more fees that are required. Litigation expands to fit its timelines. Shorter timelines won't reduce the effectiveness of the judicial process but it will cause attorneys to be more efficient.
- 23 See most of the answers to question 5.
- 24 Early compulsory mediation.
- 25 Establishing a business court.
- 26 Aside from early intervention, there is nothing to do here. The laws are on the books, but the bench isn't interested in taking dispositive motions until ten months out, after a few rounds of dilatory discovery.
- 27 See above answers.
- 28 limitations and controls on discovery

- 29 Streamlining the process.
- 30 Current discovery can be extremely burdensome and is more frequently used as a tactic by lawyers to drive up the other party's costs than to provide necessary records or information - requests should be required to be much more tailored.
- 31 Electronic communication, uniformity of procedures in local courts, uniform 'track' for business matters.
- 32 Reduce discovery time and cost
- 33 Ideas listed above.
- 34 I strongly feel if a small corporation is owned and operated by one person, that person should be able to represent the corporation without having to hire an attorney.
- 35 See answers above.
- 36 Limits on discovery, especially ESI.
- 37 Most of the problems that businesses have concern the biases of the judges, not procedural issues. Creating a Michigan Constitutional provision to clearly deny judges the ability to "interpret" the words of statutes would be the best single item to improve how business views the courts.

- 38 Default to English Rule for litigation costs.
- 39 Adopt statutes and rules from the most business respected states and use their decisions to help in the transformation.
- 40 Any change in the law to rein in over-reaching discovery would be helpful. It appears that judge do not want to be involved in discovery issues, and when they do, they seldom put limits on it. So the party with the deeper pockets can drown the other side with ongoing and over-reaching discovery requests.
- 41 Allow and use more serious cost consequences for improper motions etc.
- 42 Sanctions against Parties should be more common for gross misrepresentations made by either Litigant or representative counsel.
- 43 MCRs: more akin to Federal CR
- 44 My practice does not involve litigation. I wouldn't know.
- 45 Case evaluation should be used only when appropriate.
- 46 Employment laws create unnecessary exposures for employers. Need real right-to-work legislation and prohibitions on closed shop agreements.
- 47 I could envision a panel of physicians and seasoned malpractice attorneys to perform ADR or facilitation.
- 48 Conform to federal rules.
- 49 Not qualified to answer.
- 50 Rule 26 type procedures
- 51 ADR, the use of retired judges, and establishing a businee court.
- 52 change or eliminate "case evaluation".
- 53 Limitations on Discovery similar to federal rules of civil procedure.
- 54 streamline docketing; scheduling conference with judge rather than staff.
- 55 - Increase viability of "Rule 11" sanctions; - Force timelines for resolution
- 56 No matter how you slice it, resolving matters more quickly always saves everyone money. It would be better to do more intensive work quickly, especially now that most discovery is electronic.

- 57 Not sure
- 58 raise small claims limit

- 59 More penalties for filing frivolous cases; changing the system to a loser-pays-fees system
- 60 Shorten time frames and simplify procedures and laws regarding post-judgment collections. Allow corporations and other business entities to represent themselves in more types of proceedings. Broaden attorney/client privilege for corporate counsel.
- 61 simplify appeal routes in tax tribunal matters
- 62 See remarks to the first 5 questions.
- 63 Michigan Court Rules should support the timely and thoughtful resolution of business disputes. Rules that promote technical delay tactics and gamesmanship should be eliminated.
- 64 Do not allow attorneys to act as arbitors, only retired judges. Mandate arbitration if one party seeks it.
- 65 Loser pays provisions (or even making it easier for the winner to get attorneys fees) would deter lawsuits in general.
- 66 Limit e-discovery it is outrageously expensive for businesses with limited benefit - they can obtain the information through normal discovery.
- 67 too many areas to include here
- 68 Not enough direct experience to have an opinion.
- 69 Much like in tort reform, before an action can be filed the potential plaintiff should have to provide a written summary of what pre-litigation attempts were made to resolve a matter to insure that the lawsuit filed is truly a last resort rather than lawyers taking a template complaint and filing to induce conversation with the other party. It should include sanctions imposed on the other side if that side (the defendant) failed to respond to repeated requests to resolve the matter with the plaintiff.
- 70 The courts could exercise greater control and perhaps limit discovery; contain the use of experts to those issues that truly require testimony and are not within the general knowledge of the jury; not passing punitive laws against certain businesses to hold executives personally responsible or expanding corporate liability for perceived "injustices"; requiring active participation by judges in early resolution/litigation control conferences and not delegating this function to unelected magistrates or hiring retired judges (which adds to the cost of the judiciary).
- 71 The need for reps of the companies to be present for settlement conferences should be eliminated. Their attorneys have the power and authority to speak and act on their behalf.
- 72 loser pay
- 73 In general, Michigan business law needs to be clarified to many areas to address here.
- 74 higher sanctions against frivolous suits including pro bono actions.
- 75 An immediate pre-trial face to face conference with full participation by the judge where scheduling and ADR would be utilized based on the needs of each particular case and the desires of the parties.
- 76 Awarding costs and attorney fees to prevailing parties, more like the federal courts.
- 77 Adopt federal-style rules for briefing, permitting motions, responses, and replies. Eliminate 21-day and 7-day rules.
- 78 see above answer to Question 3

- 79 Put some serious teeth in discovery sanctions. 28 days means 28 days. Intentional delays in responded to discovery requests are unacceptable. And it doesn't help that Judges hate discovery motions. If you didn't respond to a request (and didn't receive an extension or at least request a reasonable extension), there should be a "strict liability" sanction.
- 80 No opinion.
- 81 yes, see answers to #5 above
- 82 Corporations should be permitted to be represented by an attorney in Small Claims proceedings.
- 83 see responses above
- 84 Courts should consider business' position, especially in class action, mass/toxic tort and other complex litigation cases.
- 85 Require unanimous juries or more than six jurors; limit size of appeal bonds; peg statutory interest to real market rates (i.e., T-Bills); limit discovery
- 86 See answers to 2 and 3 above
- 87 I defer to my litigation colleagues on the specifics we have already discussed in this process. One of the colleagues at my firm noted that the rule on concurrence is awkward and not efficient.
- 88 simplify and narrow discovery rules move cases more quickly
- 89 Require parties in business disputes to meet in good faith attempt to resolve dispute, including some form of requiring an exchange of "issues" each party recognizes within 30 days of responses to lawsuits being filed. I am firm believer that the quicker parties "pay attention" to disputes the faster they may move toward resolution rather than the waiting until discovery is almost over to really focus on case.
- 90 no idea.
- 91 An early evaluation of the merits of the pleadings by the judges to dispose of junk cases that clog the system.
- 92 I will leave the explanation to active litigators.
- 93 Nothing comes to mind
- 94 Discovery limitations similar to federal court.
- 95 Really, I have no opinion on this question.
- 96 Attorney fee burden on losing party.
- 97 Expand case evaluation into a true mediation service that is optional.
- 98 damage limits
- 99 By streamlining the process as suggested in #5 above.
- 100 too broad a question
- 101 Delay is simply built into the current court rules. The current rules - with respect to business litigation - need to be thrown out. Take a lesson from the early English merchant courts and start over with very few and streamlined procedures.
- 102 Use of summary jury trials. Use of masters by courts. Use of "hot tubbing", a practice in Australia which calls for the "experts" to debate the issues among themselves at a pre trial stage - flushes out the bogus opinions pretty effectively.
- 103 Changes that evolve per #5 would need to be reflected in applicable statutes/ct rules
- 104 see above
- 105 I don't know.
- 106 the rules are ok, they need to be enforced with an eye toward cost efficiency instead of letting cases, particularly discovery, get out of control

- 107 Not sure
- 108 lack of punitive damages in unfair competition cases encourages bad behavior by unscrupulous businesses.
- 109 Have all collections cases filtered through the district court and bump them up only if there are complicated issues
- 110 None come immediately to mind, but I would be greatly interested in the suggestions/recommendations of others. I look forward to publication of the results of the survey.
- 111 Separate business court
- 112 Discovery should be categorized with strict time limit deadline and strict sanctions for abuse.

- 113 Get rid of case evaluation for large business disputes. 15 minutes in front of three lawyers who may or may not have read briefs on highly complex issues produces a haphazard result that creates more problems than it solves and does not promote settlement of cases.

- 114 eFiling is one way to save a great deal of money both in copying costs and postage/travel costs. This would extend to state agencies at the administrative law level, as well.

- 115 Judges should be required to assess costs, including reasonable attorneys fees, in contested motions.
- 116 ?
- 117 Need expedited resolution processes
- 118 Reduce the scope of discovery, especially from third parties.
- 119 Limit the number of interrogatories like federal court.
- 120 Give judges more leeway to grant summary judgment over fact disputes where a claim or defense has only nominal support.
- 121 Loser pays and not just through use of mediation sanctions which often lack teeth.
- 122 Better, quicker dispositions can be done under current authority.
- 123 Simplify the statutes and Rules to prevent one litigant from unnecessarily delaying the action.

- 124 All the items I marked 3 or 4 above.
- 125 Discovery process and court time away to cumbersome.
- 126 See above
- 127 The court rules are a mess to begin with. Uniformity among courts is more desirable.
- 128 If the ideas set forth in #5 above were implemented this would go along way to accomplish these savings.
- 129 Early dispute resolution; flexible and wider use of sanctions for frivolous claims
- 130 N/A
- 131 See responses above
- 132 See above.
- 133 Local Court Rules should be abolished and Michigan should have follow the One Court one set of rules philosophy.

- 134 Many business lawsuits today are purely economic exercises and this fact should be recognized by the rules. First, Business cases should provide that (a) offers of judgment if rejected should provide for recovery of costs and fees by the offering party if they beat the offer; (b) implement a rule that the prevailing party gets their costs and fees (attorney and expert), and (3) class actions should be Opt-In not opt out.
- 135 Actually, some revision to make statutes and MCR's more specific may be beneficial; however, obtaining consistency in application from one judge to another is really the real issue. This might be resolved by training, some form of peer review, use of panels at the circuit court level, etc. Of course, some of these suggestions would necessitate statutory changes and, in smaller jurisdictions (i.e., those with only one judge), would be difficult to implement. On the other hand, if the management of such cases were handled at a state-wide, as opposed to within a specific judicial circuit, the goal of consistency may work. A regional approach is not recommended as there would still be uncertainty from one geographical area to another. The answer to the question calls for restructuring processes and changing the approach to "court management."
- 136 Drop punitive damages in malpractice cases and have nofault malpractice based loosely on the New Zealand model.
- 137 eliminate juries for breach of contract cases
- 138 Early mandatory ADR.
- 139 Train the judges
- 140 limit discovery
- 141 The changes outlined in this survey. Especially the creation of a business court.
- 142 I can't think of any at this time.
- 143 Allow stipulations to change discovery and court dates without a hearing. I find that although opposing counsel and I agree to stip to move a date, the biggest resistance is with the court because there is an artificial but high-pressured timeline to keep cases on the track. Pre-trial conferences to be telephonic. Judges routinely let the attorneys sit around waiting. If there is a settlement conference and one party does not show (but their counsel does), impose a fine. More often than not, my client shows as directed by the court, but our opposing party does not and counsel claims to have "settlement authority." This wastes one party's time.
- 144 see above
- 145 Institute loser pays in most cases and make sure that the charges are nondischargeable in bankruptcy.
- 146 Many of the changes above to streamline the discovery and alternative resolution process.
- 147 Create a separate business court...

8. Please provide any other comments that you would like to share with the Business Impact Committee as it continues its work.

66 responses

Response

- 1 Make sure that the Committee is staffed by members with experience == business and business representation, and, not with people who are there because of politics or because they are well schooled groupies as to bar activities.
- 2 As indicated above, I believe Michigan Courts can resolve a number of matters on the pleadings without making counsel and the parties appear for oral argument. I have found that the Michigan courts are often unnecessarily rude, as well. Some courts have issued standard orders that were obnoxious, so it is not limited to individual employees. For example, our firm's internet service was down for about an hour when the Court attempted to send me an electronic notice. When the Court received an automated notification that the message was undeliverable, the Court issued a nasty order threatening to sanction me for not having a functioning email address and copied my opposing counsel. I thought it was uncalled for.
- 3 Thank you for the opportunity to participate. Creditors Rights are under assault by the consumer bar and the courts are beginning to act as advocates for the unrepresented defendants. This will surely drive business from Michigan just when we need it the most.
- 4 Business Court, Speed up the process, use of masters or more ADR
- 5 The circuit courts vary from circuit to circuit and even judge to judge as to as to how cases are processed and time for the process. I understand some difference is unavoidable, but trying to advise clients about the time and cost of litigating in, for example, Wayne versus Clinton Counties is impossible.
- 6 Loser pays.
- 7 The Committee should focus on efficiencies which allow the businesses to focus on their business and not legal disputes or be tied up in a dispute for a long time. Few business owners (other than massive conglomerates) look to move their location because it's cost effective or provides better protection for officers and directors or even a lower tax liability. Most business owners (the ubiquitous "job creators") are small, locally grown businesses that have made a home whether here or elsewhere. The best we can do is give our businesses the most efficient system that allows them to focus on business and bettering our state.
- 8 wayne county juries are a problem
- 9 Many of the suggestions above could be helpful in speeding matters along.
- 10 Focus on what is possible in the current economic environment. The specialization of judges for business disputes and the early involvement of those judges for dispute resolution seems to have the most promise.

- 11 Detroit has been uniquely hard hit by the economic downturn and all business have suffered doing business there. I work with many Detroit based small businesses and cases in 36th District are a particular problem. The administrative staff in general is the most incompetent, flat-out rude, and unprofession of any court in the metro-Detroit area. The court should be split into several separate districts by legal topic. i.e. a criminal/traffic court for traffic/prelims/misdemeanors; a landlord tenant and enviromental court; and a general civil division. Judges should not be expected to cover all of these legal areas assigned to them at the same time as frequently occurs there now- especially in the volume of case the court has. The staff there frequently has to handle every conceivable kind of court document and more often than not as a result- they handle it wrong. Entire court files are frequently lost, many motions fall into a deep abiss never to be heard from again, and garnishments are entered against companies against whom no judgment has ever been entered. This provides no confidence in the legal system when a business client's court file is lost by the court for over a year or a disgruntled customer is given a granishment of the business's bank account by a court employee
- 12 See Answer 3
- 13 Reduce discovery costs. Allow magistrates to handle pretrial issues (hopefully this would allow hearings to be help sooner). Get the court involved earlier in the case to help limit the scope of the real issues.
- 14 I do not believe passing laws that attempt to curtail a Michigan resident from filing a cause of action against a particular industry (e.g., pharmeceutical) is pure folly. Many corporations choose to incorporate in Deleware because their courts are recognized for their expertise in corporate govrnance issues.
- 15 Most business executives view the local state courts much like a tax and make the decision to expand operations in a state or locate operations in another state based on the "net" the operations create. Any improvements that significantly reduce litigation costs (particularly transactional costs, such as legal fees) are likely to increase the flow of business into Michigan because it will increase the relative profitability of these operations.
- 16 Improvement can be made if we had buisness courts, with business-experienced judges, working on more expedeted schedules.
- 17 Most of my contract work is with matters in Europe adn the far east. I have not had problems in dealing with companies in the U.S.
- 18 Having judges whose dockets are occupied 90% with criminal matters also handle business matters makes no sense. Also, implementing serious early mandatory mediation would get the parties focused on a business solution.
- 19 As described in answer 3 above, I lack sufficient exposure to the court system to have an informed opinion.
- 20 Ever call Wayne County Courts after 3:30 pm? Try it sometime. They aren't answering. Multiply that by five business days.
- 21 It has been my experience that there are still drastic differences between the judges in the various counties. I would suggest that a formal ADR be set up within the court system to use specialists, use the patent court model.
- 22 Many of the survey questions in section 5 depend on the quality and business knowledge of the judges. For example greater judicial involvement can be a negative rather than a positive.

- 23 The most significant problem facing the State of Michigan, its businesses and its citizens is the insurance industry. A total overhaul of the insurance laws regarding bad faith adjustments and coverages by the insurance companies is mandatory as well as the ability to make claims against the insurance companies which should include no exemptions for bad faith adjusting and elimination of the prohibition on extraordinary damages. If you really want to benefit the business community and the citizens of Michigan who wish to attempt entrepreneurial enterprises here, then organize a political action committee with funding to provide for television, radio and newspaper advertisements that explain to the public the total lack of legal avenues available to them due to the corrupt and paid for legislators who are bribed by political campaign contributions from the Insurance Industry to the detriment of the consumers and to businesses alike.
- 24 #5 is virtually impossible to answer because it depends on the size of the client. I represent small businesses and some of the changes described could cost my clients more on the front end which they cannot afford. They will get squeezed out of a system that is fast-tracked because they may need larger fees up front that they don't/won't have to pursue/defend their situation. Those same changes appear to favor larger firms that might have better ability to absorb some of the technical costs and squeeze out small/solo practitioners that can't quite keep up with their technical ability. This is just a quick observation.
- 25 One fundamental problem is that in many business disputes, one of the parties (often the defendant) does not want an efficient process, it wants to drag out the process as long as possible. Separately, I appreciate these efforts. I recall a similar initiative 7-8 years ago that did not seem to get much traction. By itself, it will never suffice to get a business to move or stay here, but if we ever get our house in order on the issues of business tax and right to work, a streamlined business court would be a nice selling point for the State.
- 26 It is important that we have Benches which understand the business issues before them....I think having a process that more affirmatively assigns judges with this in mind would be helpful.
- 27 I practice in many courts given our businesses locations in MI. Uniformity between interpretation and application of MCRs statewide, which can be addressed at Judicial conferences, should be strongly considered.
- 28 I would probably focus more on reducing tax and regulatory impact on businesses. The courts seem to do ok. I don't think Michigan courts scare away businesses (except maybe from Wayne County). It's more the poor government and pro-union mentality than anything else.
- 29 Thank you for your efforts.
- 30 Michigan is so plaintiff friendly that defendants will inevitably choose to do business elsewhere when possible.
- 31 The current back log at the Tax Tribunal makes Michigan's unhealthy tax climate even more uncertain for business.
- 32 Discovery is an increasingly tough issue. Michigan could distinguish itself by setting up a fair and reasonable e-discovery system.
- 33 Lack of uniformity and predictability among courts and judges is a primary problem.
- 34 I believe this is an important initiative and could help support Michigan's attraction and retention of businesses in the state of Michigan.

- 35 Businesses mainly choose where to locate based on taxes (our business tax is high, confusing and constantly changing), cost structure, incentives, workforce, union presence (negative for manufacturing), and other similar issues, but in my experience the court system or court rules or legal environment only plays a minor role. Some jurisdictions are believed to be more negative toward business, but in the global economy you end up in the jurisdiction of your customers for the most part so the actual location of your business does not matter much.
- 36 can't be of much help on these issues
- 37 The pain and intimidation of appearing in court, and the expected time and cost involved, are strong deterrants to ever going there. That helps in resolution of disputes. On your question regarding experts and judges, it sounded like what you were proposing were independent experts who would be telling a judge something without either party knowing what it was... that didn't sound good. Have used the California JAMS system (sort of retired judges) and that has worked well.
- 38 I'm out of state and belong to ACC locally in the state of residence. My company, a large public company out of the UK avoids Michigan.
- 39 If by "e-discovery" above we include appointment of e-discovery Magistrates to handle e-discovery disputes then my comment is "strongly agree." Also judicial staff should be trained in various aspects of e-discovery so that the court can better preside and control e-discovery disputes, thereby enhancing efficiency.
- 40 Look at Lucas County here in Ohio. They have an expedited court system they recently implemented in various counties around the state specifically for commercial cases. You have to speed up the time the cases are in court. Have an expedited court system for any commercial matter.
- 41 I don't practice in Michigan, so it is difficult for me to answer the questions.
- 42 At the very least, fund the cyber court. It would be a small start.
- 43 The cost is exorbitant and too often litigation is used as a business tool, rather than an expeditious forum for moving disputes. Cut the cost, require compulsive disclosure and consider streamlining cases through the use of summary trials.
- 44 severe limitations on punitive damages in tort cases and in cases based on statutory remedies is out of step with the rest of the country and is a public policy mistake.
- 45 Responding to Question 7, none of my clients do business outside of Michigan, so I have no experience to offer on this interesting question. Thanks for initiating and conducting this survey.
- 46 our clients disdain litigation because of the time and costs involved. a business bench would be very helpful
- 47 It would certainly be helpful to the business community and the justice system in general if courts respected and enforced written contracts more readily.
- 48 Businesses can be sued for any or virtually no reason at all, by anyone at any time. There are a ton of these nuisance cases, often brought by desperate, D level attorneys that gum up the judicial works and create, in effect, an additional arbitrary tax on Michigan businesses. If there is a way to discourage or penalize plaintiffs and lawyers who bring these suits or provide for a more streamlined process for resolving those disputes it would revolutionize Michigan's business owners experience with jurisprudence. Most of the time the comment is, "I'm right, why do I have to pay you to defend this wacko's BS case - Or - I didn't do anything wrong, so why is it I have to pay this guy off - just because paying him off is cheaper than fighting him? I thought this was America!"

- 49 My particular practice would benefit from consistent application by Courts of Appeals of standards of review for administrative proceedings
- 50 Quality of the judiciary and the consistency of rulings and approaches varies dramatically from county to county. Judges are supposed to be public servants not tyrants.
- 51 None
- 52 The legal process in business cases has to move more quickly and efficiently with greater expertise in commercial law on the judicial end.
- 53 Businesses would find it helpful if District Courts acted consistently in regards to accepting printed SCAO forms rather than the carbon copies, as well as consistent approaches to service, execution and entry of defaults.
- 54 I think the federal (District) court handles business disputes pretty well. Magistrates handle the inevitable discovery disputes and fairly quickly. This seems to allow the judges time to handle dispositive motions and a trial docket that is more meaningful and certain.
- 55 none
- 56 call on experienced litigators especially if they have multi state and federal experience to help devise evenhanded and useful recommendations
- 57 None at this time.
- 58 #5 ideas are generally excellent. Especially if these cases can be fast- tracked
- 59 I suggest Michigan could gain a distinct advantage in attracting and retaining businesses by implementing the suggestions offered.
- 60 For relevance purposes in evaluating my responses, I have not been actively involved in litigation or dispute resolution for several years.
- 61 Good luck. Cost and political implications will likely hinder the efforts to make any meaningful changes. Any plan of action would have to consider these factors up front. With the possibility of a constitutional convention looming, that may be a mechanism to "restructure" and implement some specific changes. For example, a provision to require a form of "Business Chancery" Court that would not only address the routine "internal" aspects of entities, but also "external" or business and consumer litigation. The benefit would be a dedicated court that is consistent (can create a useful, reliable body of case law), yet one that understands all inter-related aspects and can render objective decisions (taking into account consumer protection matters).
- 62 This is a good idea. I hope it produces some tangible change.
- 63 Thank you for looking into these issues!
- 64 Litigation is always time consuming and stressful for businesses that would rather spend their resources on their business. However, it is a fact of life. Courts should do their best to expedite all matters, including those involving businesses.
- 65 Allow stipulations to change discovery and court dates without a hearing. I find that although opposing counsel and I agree to stip to move a date, the biggest resistance is with the court because there is an artificial but high-pressured timeline to keep cases on the track. Pre-trial conferences to be telephonic. Judges routinely let the attorneys sit around waiting. Have case evaluators that actually read the briefs. If one party's brief makes no mention of legal issues, it does not follow that the evaluators just "split the baby" down the middle. This has happened several times. If there is a settlement conference and one party does not show (but their counsel does), impose a fine. More often than not, my client shows as directed by the court, but our opposing party does not and counsel claims to have "settlement authority." This wastes one party's time.

66 Expert trial judges, experienced in complex business litigation would be a significant improvement in Michigan's ability to attract significant new enterprises to the state.

Cross Tab Report For Questions 1 & 4

February 10, 2010

	Total*	4. Do you view the court system in Michigan as a major factor in your company's or business client's decision to locate in, remain in, expand operations, or conduct business in Michigan?	
		Yes	No
1. Please select one of the following that best describes your occupation?	399	52	347
General counsel or other direct employee of a corporation or other business organization (other than a law firm).	173 43.40%	25 48.10%	148 42.70%
Partner or associate of a law firm representing corporations or other business organizations.	132 33.10%	13 25.00%	119 34.30%
Solo practitioner who represents corporations or other business organizations.	66 16.50%	9 17.30%	57 16.40%
Other, please describe	28 7.00%	5 9.60%	23 6.60%

* Total = The number of respondents for the entire survey who answered both questions.