

The

Going Rate

Tough economy keeping legal fees steady according to this year's Canadian Lawyer Legal Fees Survey.

By Michael McKiernan

Canada's uncertain economic outlook has the country's lawyers spooked, with a healthy majority opting against a price hike this year.

According to the results of *Canadian Lawyer's* 2016 Legal Fees Survey, 55 per cent of respondents will freeze their prices over the next year, while a further three per cent intend to cut their rates. Just 42 per cent are planning a price boost, the lowest rate in three years.

In Alberta, where the economic effects of the worldwide oil price plunge has hit hardest, the numbers are even more stark, with 66 per cent of respondents reporting a no-change approach, plus another seven per cent who will give their clients a price break in the next year. By contrast, only 28 per cent plan to increase their rates. Many respondents specifically cited the recessive economy for

the decision, including one lawyer at a mid-size Calgary firm who reported the current market had forced a price freeze on it "in spite of higher overheads."

Elsewhere in the country, a number of respondents blamed economic woes on their pricing decisions, but several predicted recent volatility could precipitate a bigger change in the legal profession as some longer-term pricing habits finally come home to roost. "The profession is going to meet firm resistance to continual fee increases. The public cannot afford them," wrote one rural sole practitioner, whose gloomy outlook was shared by another respondent who works at the opposite end of the legal spectrum: "There is a general reluctance among colleagues to admit that what worked in the past no longer works currently and certainly not in the future," wrote the lawyer from a large Bay Street firm in Toronto.

Our annual survey assesses the going rate for 45 different matters across nine practice areas: civil litigation,

corporate-commercial, criminal, family, immigration, intellectual property, real estate, wills and estates, and labour and employment.

Results are again divided by region, with 52 per cent of our 351 respondents reporting an office in Ontario, 48 per cent with an office in Western Canada (British Columbia, Alberta, Saskatchewan, Manitoba, and the North), and 12 per cent reporting offices in Quebec or Atlantic Canada. Lawyers from a wide variety of firm sizes took part in the survey, with the bulk, or 57 per cent, in firms of one to four lawyers. A further 25 per cent came from law firms with between five and 25 lawyers, and another 18 per cent from firms with more than 25 lawyers.

Fee estimates for individual matters showed a mixed bag of results in this year's survey, with the average cost of most fluctuating by less than 10 per cent up or down compared with the 2015 average. However, after a large jump in 2015, the average estimated cost of a two-day trial fell by almost 20 per cent, standing at \$25,517, down from \$31,330 last year. At \$56,963, the national average cost of a five-day trial was virtually unchanged over 2015, while the cost

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of a seven-day trial was down around four per cent at \$78,737.

Volatility was also evident in the hourly rates reported by our respondents, with lawyers called in the last five years generally charged out at lower rates compared with 2015, while their colleagues at the senior end of the scale saw significant rises in rates.

Nationally, new calls charged an average rate of \$211 per hour, down eight per cent from last year's average of \$230. Rates for five-year calls were also down, by almost four per cent, at \$280 per hour. At the other end of the scale, lawyers called before 1996 charged an average \$448 per hour, up 10 per cent over last year. For one rural Ontario lawyer, justifying their hourly rates has become a major barrier to clients, who often "balk when they are initially advised" of it, and struggle to "swallow the fees" when they are ultimately totalled up. "It can be difficult sometimes to make clients understand how much effort is put into the work we do," added the same survey respondent.

The perennially small-margin practice areas of real estate and estates law remained the most likely for respondents to cut, according to our 2016 survey, with a number also considering cutting the amount of legal aid work they do. However, for most, the decision is never straightforward: "Legal aid work is not profitable, but we likely won't phase it out as it is part of a lawyer's responsibility," wrote one Alberta practitioner.

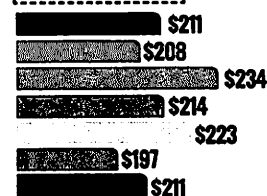
In Ontario, one mid-size firm has found a compromise solution by taking on legal aid clients, mainly to be handled by more junior lawyers. "It offers invaluable experience and opportunities" for younger associates, writes the respondent, despite costing the firm money on "virtually every legal aid certificate case" it takes because "we provide identical service" to clients whether retained on a normal retainer or through legal aid.

Read on to see how your fees match up with the competition, and discover the going rate in your area of practice. ■

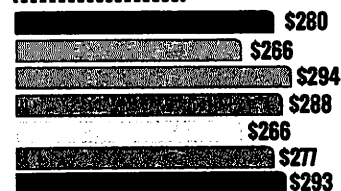
Hourly Rates (average)

- NATIONAL
- ATLANTIC/QUEBEC
- ONTARIO
- WESTERN
- 1-4 LAWYER FIRM
- 5-25 LAWYER FIRM
- 26+ LAWYER FIRM

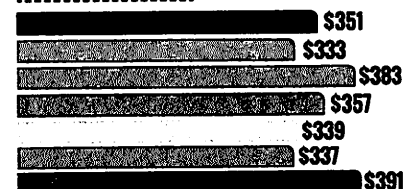
YEAR OF CALL 2015



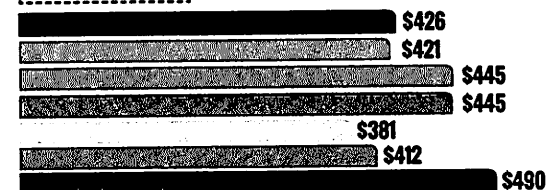
YEAR OF CALL 2011



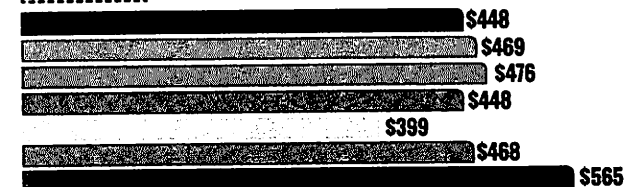
YEAR OF CALL 2006



YEAR OF CALL 1996



BEFORE 1996



National Fee Ranges

SAMPLE SIZE 351

	AVERAGE	MINIMUM	MAXIMUM
CIVIL LITIGATION			
Civil action up to trial (2 days)	25,517	16,442	48,975
Civil action up to trial (5 days)	56,963	37,296	101,823
Civil action up to trial (7 days)	78,737	55,186	127,843
Civil action appeal only	22,030	13,282	42,703
ADR, including mediation (up to 3 days)	13,900	8,822	25,388
CORPORATE			
Secured financing agreement	3,222	1,911	11,891
Simple, small business incorporation	971	761	1,549
Simple prospectus	45,586	29,174	88,892
CRIMINAL			
Summary criminal offence (1 day trial)	4,185	2,814	7,568
Bail hearing	1,535	916	3,171
Criminal offence (1 day trial)	4,791	3,172	10,080
FAMILY			
Uncontested divorce	1,772	1,274	2,676
Contested divorce	15,306	7,824	46,578
Separation agreement	2,484	1,510	5,504
Child custody and support agreement	2,620	1,606	6,452
Trial up to 2 days	18,710	12,109	28,846
Trial up to 5 days	33,564	23,082	59,365
Marriage/co-habitation agreement	2,028	1,487	4,225
Spousal support agreement	2,633	1,641	6,866
Division of property/assets agreement	3,282	1,858	10,391
IMMIGRATION			
Work permit	2,579	1,522	4,508
Family class sponsorship	4,523	3,643	6,500
Skilled worker application	4,993	3,729	7,295
Refugee protection claim	4,150	3,167	5,889
INTELLECTUAL PROPERTY			
Simple patent application	5,028	2,683	10,256
Simple trademark registration	1,605	1,364	2,594
Patent audit	1,317	883	4,400
LABOUR AND EMPLOYMENT			
Basic employment contract	1,152	768	2,385
Severance package review	1,061	770	2,691
Litigation - claim or defence up to mediation/trial	14,500	7,488	30,340
Standard workplace policies	2,850	1,746	5,917
Labour arbitration (up to 3 days)	15,625	9,786	24,429
REAL ESTATE			
Residential real estate purchase	1,024	808	1,797
Residential real estate sale	813	642	1,332
Residential real estate sale and purchase	1,722	1,424	2,881
Commercial property purchase	3,876	1,998	16,263
Commercial property sale	3,024	1,723	10,744
Commercial lease agreement	1,962	1,210	4,992
WILLS AND ESTATES			
Simple will	492	382	761
Complex will (individual)	1,135	853	2,753
Complex will (couple)	1,492	1,159	3,268
Power of attorney (individual)	196	148	285
Power of attorney (couple)	297	239	402
Handling estate file (including probate)	3,860	2,483	18,338

\$2579