



# The going rate

BY KELLY HARRIS

*Canadian Lawyer's* 2009 legal fees survey shows many sole practitioners and small firms have lowered their prices since last year.

**S**ole practice lawyers and those from smaller offices may be feeling the pinch of the slowing economy, with many of the average fees they charge down from a year ago, according to *Canadian Lawyer's* 2009 legal fees survey.

This year's survey once again looked at 26 fees charged across eight practice areas. These practice areas are civil litigation, corporate, criminal, family, immigration, intellectual property, real estate, and wills and estates. In addition, *Canadian Lawyer* wanted to know whether the change in the economy has led lawyers to lowering their fees, keeping them the same, or raising them.

The results are broken down nationally and across three regions of the country, Ontario, Western Canada, and Quebec and Atlantic Canada. The survey is also broken down by size of office: four lawyers or less, five to 25 lawyers, and 26 or more lawyers.

The fees listed in each chart represent average amounts. For example, the minimum fee of a bail hearing is the average fee charged by respondents and doesn't necessarily represent the lowest amount recorded. Some respondents may not have indicated their province or firm size, therefore their answers are included in the national fees ranges charts but not in the regional breakouts.

As is the tradition of previous legal fees surveys, more than 70 per cent of respondents came from sole practice or smaller firms of less than 25 lawyers. In all, 193 lawyers answered our survey. This year's survey had one major difference from those in the past, a broader national focus. In 2008 more than 70 per cent of respondents came from Ontario, this year the percentage of lawyers from Canada's largest province fell below 60 per cent. Making up the difference were more than 32 per cent of responses coming from Western Canada.

A regional focus is important because different parts of the country can mean drastically different fees. "We find [the] Maritime market expects corporate commercial services to be priced about 50 per cent of Toronto rates," one respondent commented.

More than half the lawyers surveyed said they would be keeping fees the same or lowering them in 2009. Meanwhile, nearly 48 per cent of those surveyed said they will raise fees this year. The average reduction in fees is between five and 10 per cent, while the average increase is between zero and five per cent.

Reduced average fees showed up in 18 of the 26 categories nationally. These included areas of civil action appeals, corporate secured finance agreements, contested divorce,

separation agreements, residential real estate sale and purchase, and complex wills.

Comparatively speaking, Ontario fees in almost 55 per cent of the categories have been reduced. Meanwhile, more than 60 per cent of Ontario lawyers responding to the survey say they will reduce or keep fees the same in 2009 from the previous year. "There is always another lawyer willing to do the work for less . . . [it's] difficult to keep fees at a reasonable level and remain competitive," says one survey respondent.

While another respondent noted, "fees are all over the map. It's more client dependent than anything else. Some clients want and can pay for Cadillac service and get it, others want and can pay for something else."

Even though the fees were lower in the 2009 survey compared to those in 2008, there are some lawyers who believe the cost of legal services is still too much. And that is not simply a

function of what lawyers are charging per hour. "It makes me heartsick to see clients spending \$50,000 to settle custody access and very small property claims (under \$20,000)," says one respondent. "I charged \$200 per hour on that file, and it still was through the roof."

Respondents also said they offer fees with a client focus, and different approaches to billing, including blended rates and fixed fees. "We offer contingent fees, fixed fees, and combinations of hourly rates and bonus billing. They are offered to convenience the clients," says one respondent. "Ninety five per cent of the time I quote block fees; most of my clients prefer that to hourly rate," says another respondent.

The client focus can also mean charging certain rates based on a client's economic situation. "I sometimes discount my rates for those of modest means. I block fee divorces," says one lawyer surveyed. **CL**

## HOURLY RATES (Average)

	Year of Call	2008	2004	1999
<b>National</b>		<b>\$231</b>	<b>\$278</b>	<b>\$365</b>
Atlantic-Quebec Region		N/A*	N/A*	N/A*
Ontario		\$281	\$324	\$382
Western Region		\$338	\$368	\$467
0-4 lawyers in firm		\$223	\$258	\$363
5-25 lawyers in firm		\$200	\$244	\$336
26+ lawyers in firm		\$254	\$319	\$397

\* Insufficient response from Québec and Atlantic Canada to include in the survey.

## NATIONAL FEE RANGES SAMPLE SIZE 193

		MIN	MAX	AVG
<b>Civil Litigation</b>	Civil action trial (two days)	\$13,983	\$54,659	\$29,436
	Civil action appeal only	\$10,540	\$38,228	\$18,737
<b>Corporate</b>	Secured financing agreement	\$1,133	\$5,191	\$1,663
	Simple, small business incorporation	\$859	\$3,544	\$1,030
	Simple prospectus	\$11,880	\$54,880	\$14,014
<b>Criminal</b>	Summary criminal offence (one day)	\$2,759	\$7,552	\$4,194
	Bail hearing	\$850	\$2,578	\$1,215
	Criminal offence (one-day trial)	\$3,010	\$8,236	\$4,808
<b>Family</b>	Uncontested divorce	\$1,135	\$2,218	\$1,342
	Contested divorce	\$6,368	\$51,330	\$12,562
	Separation agreement	\$1,186	\$5,574	\$1,830
	Child custody and support agreement	\$1,464	\$7,446	\$2,285
<b>Immigration</b>	Work permit	\$1,385	\$3,710	\$2,138
	Spousal sponsorship	\$2,167	\$4,256	\$2,465
	Skilled worker application	\$2,323	\$4,709	\$3,200
<b>Intellectual Property</b>	Simple patent application	\$5,800	\$24,356	\$7,833
	Simple trademark registration	\$1,483	\$4,573	\$1,950
	Patent audit	\$3,042	\$22,000	\$6,500
<b>Real Estate</b>	Residential real estate purchase	\$690	\$1,769	\$846
	Residential real estate sale and purchase	\$1,140	\$2,212	\$1,274
	Commercial property purchase	\$2,634	\$26,727	\$3,933
	Commercial lease agreement	\$1,289	\$7,821	\$2,111
<b>Wills and Estates</b>	Simple will	\$308	\$699	\$370
	Complex will	\$684	\$3,202	\$1,161
	Power of attorney	\$157	\$329	\$194
	Probate	\$1,574	\$5,924	\$2,473

## NATIONAL FEE RANGES – 1-4 LAWYER FIRM SAMPLE SIZE 79

		MIN	MAX	AVG
<b>Civil Litigation</b>	Civil action trial (two days)	\$10,431	\$26,888	\$16,079
	Civil action appeal only	\$8,446	\$24,731	\$15,000
<b>Corporate</b>	Secured financing agreement	\$782	\$3,393	\$1,254
	Simple, small business incorporation	\$692	\$1,308	\$871
	Simple prospectus	\$2,133	\$4,800	\$3,020
<b>Criminal</b>	Summary criminal offence (one-day)	\$2,921	\$8,082	\$4,417
	Bail hearing	\$800	\$2,473	\$1,161
	Criminal offence (one day trial)	\$2,946	\$7,880	\$4,744
<b>Family</b>	Uncontested divorce	\$1,076	\$1,687	\$1,212
	Contested divorce	\$6,900	\$55,625	\$14,416
	Separation agreement	\$1,152	\$5,798	\$1,726
	Child custody and support agreement	\$1,297	\$6,018	\$1,826
<b>Immigration</b>	Work permit	\$1,442	\$2,767	\$1,733
	Spousal sponsorship	\$2,083	\$3,467	\$2,400
	Skilled worker application	\$2,550	\$4,300	\$2,983
<b>Intellectual Property</b>	Simple patent application	\$3,600	\$14,100	\$3,750
	Simple trademark registration	\$2,050	\$7,950	\$2,463
	Patent audit	\$4,000	\$15,000	\$4,500
<b>Real Estate</b>	Residential real estate purchase	\$637	\$1,466	\$767
	Residential real estate sale and purchase	\$1,056	\$2,036	\$1,181
	Commercial property purchase	\$1,458	\$9,087	\$2,247
	Commercial lease agreement	\$939	\$4,009	\$1,423
<b>Wills and Estates</b>	Simple will	\$247	\$506	\$318
	Complex will	\$493	\$2,338	\$959
	Power of attorney	\$146	\$312	\$197
	Probate	\$1,687	\$5,417	\$2,283

## NATIONAL FEE RANGES – 5-25 LAWYER FIRM SAMPLE SIZE 35

		MIN	MAX	AVG
<b>Civil Litigation</b>	Civil action trial (two days)	\$16,222	\$44,167	\$23,350
	Civil action appeal only	\$8,286	\$37,857	\$15,375
<b>Corporate</b>	Secured financing agreement	\$850	\$3,750	\$1,030
	Simple, small business incorporation	\$1,173	\$9,529	\$1,480
<b>Criminal</b>	Summary criminal offence (one-day)	\$2,350	\$6,240	\$3,700
	Bail hearing	\$1,063	\$2,500	\$1,438
	Criminal offence (one day trial)	\$3,500	\$11,100	\$5,740
<b>Family</b>	Uncontested divorce	\$1,400	\$3,900	\$1,867
	Contested divorce	\$8,333	\$83,333	\$11,000
	Separation agreement	\$1,430	\$5,600	\$2,400
	Child custody and support agreement	\$1,638	\$6,250	\$3,500
<b>Immigration</b>	Work permit	\$1,500	\$7,500	\$2,375
	Spousal sponsorship	\$2,500	\$7,500	\$2,375
	Skilled worker application	\$2,250	\$6,000	\$3,500
<b>Intellectual Property</b>	Simple patent application	\$12,000	\$100,000	\$15,000
	Simple trademark registration	\$925	\$2,000	\$1,375
	Patent audit	\$4,000	\$20,000	\$5,000
<b>Real Estate</b>	Residential real estate purchase	\$666	\$1,978	\$793
	Residential real estate sale and purchase	\$1,140	\$1,900	\$1,263
	Commercial property purchase	\$1,304	\$7,083	\$2,008
	Commercial lease agreement	\$650	\$3,464	\$1,167
<b>Wills and Estates</b>	Simple will	\$330	\$597	\$380
	Complex will	\$981	\$3,165	\$1,547
	Power of attorney	\$108	\$218	\$120
	Probate	\$1,521	\$11,220	\$3,140

## NATIONAL FEE RANGES 26+ LAWYER FIRM SAMPLE SIZE 24

		MIN	MAX	AVG
<b>Civil Litigation</b>	Civil action trial (two days)	\$59,311	\$19,794	\$112,172
	Civil action appeal only	\$15,251	\$55,202	\$26,501
<b>Corporate</b>	Secured financing agreement	\$2,050	\$10,200	\$3,350
	Simple, small business incorporation	\$860	\$2,222	\$1,006
	Simple prospectus	\$53,000	\$260,000	\$83,000
<b>Criminal</b>	Summary criminal offence (one-day)	\$4,000	\$10,000	\$5,500
	Bail hearing	\$1,000	\$5,000	\$1,500
	Criminal offence (one-day trial)	\$2,500	\$5,000	\$3,250
<b>Family</b>	Uncontested divorce	\$900	\$2,467	\$1,467
	Contested divorce	\$2,333	\$8,500	\$4,000
	Separation agreement	\$1,400	\$5,667	\$2,267
	Child custody and support agreement	\$6,000	\$53,000	\$12,000
<b>Immigration</b>	Work permit	\$1,233	\$4,333	\$2,625
	Spousal sponsorship	\$2,250	\$5,000	\$2,750
	Skilled worker application	\$1,917	\$4,667	\$3,375
<b>Intellectual Property</b>	Simple patent application	\$5,500	\$15,167	\$8,000
	Simple trademark registration	\$1,356	\$3,644	\$1,850
	Patent audit	\$2,083	\$27,333	\$8,333
<b>Real Estate</b>	Residential real estate purchase	\$717	\$2,377	\$1,124
	Residential real estate sale and purchase	\$1,008	\$2,500	\$1,336
	Commercial property purchase	\$4,438	\$52,875	\$6,950
	Commercial lease agreement	\$1,972	\$13,722	\$3,420
<b>Wills and Estates</b>	Simple will	\$503	\$1,684	\$630
	Complex will	\$1,350	\$9,250	\$2,000
	Power of attorney	\$281	\$625	\$300
	Probate	\$2,500	\$7,000	\$13,050

## ONTARIO FEE RANGES SAMPLE SIZE 92

		MIN	MAX	AVG
<b>Civil Litigation</b>	Civil action trial (two days)	\$18,738	\$90,404	\$45,477
	Civil action appeal only	\$14,101	\$54,771	\$24,901
<b>Corporate</b>	Secured financing agreement	\$883	\$3,175	\$1,380
	Simple, small business incorporation	\$993	\$5,522	\$1,171
<b>Criminal</b>	Summary criminal offence (one-day)	\$3,215	\$10,292	\$5,107
	Bail hearing	\$923	\$3,646	\$1,471
	Criminal offence (one-day trial)	\$3,546	\$10,423	\$5,775
<b>Family</b>	Uncontested divorce	\$843	\$1,696	\$1,163
	Contested divorce	\$5,820	\$51,975	\$12,602
	Separation agreement	\$1,198	\$6,117	\$1,903
	Child custody and support agreement	\$1,673	\$12,341	\$2,658
<b>Immigration</b>	Work permit	\$1,450	\$3,700	\$2,180
	Spousal sponsorship	\$2,260	\$4,300	\$2,780
	Skilled worker application	\$2,533	\$4,933	\$3,317
<b>Intellectual Property</b>	Simple patent application	\$6,000	\$16,500	\$8,750
	Simple trademark registration	\$1,169	\$2,963	\$1,681
	Patent audit	\$3,000	\$12,000	\$5,000
<b>Real Estate</b>	Residential real estate purchase	\$671	\$1,764	\$879
	Residential real estate sale and purchase	\$1,194	\$2,082	\$1,347
	Commercial property purchase	\$1,645	\$11,958	\$2,283
	Commercial lease agreement	\$942	\$5,363	\$1,514
<b>Wills and Estates</b>	Simple will	\$295	\$637	\$364
	Complex will	\$730	\$2,393	\$1,092
	Power of attorney	\$148	\$319	\$152
	Probate	\$1,484	\$5,286	\$2,093

## WESTERN REGION FEE RANGES SAMPLE SIZE 51

		MIN	MAX	AVG
<b>Civil Litigation</b>	Civil action trial (two days)	\$281,375	\$15,000	\$81,063
	Civil action appeal only	\$175,000	\$10,000	\$39,539
<b>Corporate</b>	Secured financing agreement	\$10,350	\$525	\$1,393
	Simple, small business incorporation	\$1,600	\$575	\$943
	Simple prospectus	\$86,233	\$17,800	\$3,684
<b>Criminal</b>	Summary criminal offence (one-day)	\$6,700	\$250	\$4,150
	Bail hearing	\$1,230	\$417	\$850
	Criminal offence (one-day trial)	\$8,200	\$500	\$4,720
<b>Family</b>	Uncontested divorce	\$9,500	\$1,033	\$1,457
	Contested divorce	\$120,000	\$5,000	\$18,222
	Seperation agreement	\$9,200	\$917	\$2,100
	Child custody and support agreement	\$6,250	\$1,000	\$2,450
<b>Immigration</b>	Work permit	\$2,800	\$300	\$1,938
	Spousal sponsorship	\$1,800	\$1,200	\$1,375
	Skilled worker application	\$4,100	\$1,175	\$3,000
<b>Intellectual Property</b>	Simple patent application	\$34,800	\$8,300	\$11,500
	Simple trademark registration	\$3,500	\$1,240	\$1,908
	Patent audit	\$28,333	\$2,417	\$8,000
<b>Real Estate</b>	Residential real estate purchase	\$2,000	\$450	\$708
	Residential real estate sale and purchase	\$2,883	\$900	\$1,061
	Commercial property purchase	\$51,250	\$475	\$3,914
	Commercial lease agreement	\$14,250	\$1,258	\$2,075
<b>Wills and Estates</b>	Simple will	\$1,445	\$220	\$383
	Complex will	\$10,500	\$294	\$1,266
	Power of attorney	\$230	\$88	\$231
	Probate	\$13,100	\$925	\$3,634

## ATLANTIC/QUEBEC REGION FEE RANGES SAMPLE SIZE 24

		MIN	MAX	AVG
<b>Civil Litigation</b>	Civil action trial (two days)	\$2,000	\$366,000	\$12,056
	Civil action appeal only	\$3,333	\$166,667	\$22,850
<b>Corporate</b>	Secured financing agreement	\$500	\$10,000	\$1,188
	Simple, small business incorporation	\$450	\$2,000	\$914
	Simple prospectus	\$3,000	\$10,000	\$3,000
<b>Criminal</b>	Summary criminal offence (one-day)	\$1,250	\$5,000	\$2,429
	Bail hearing	\$500	\$3,500	\$1,250
	Criminal offence (one-day trial)	\$850	\$5,000	\$3,000
<b>Family</b>	Uncontested divorce	\$750	\$3,000	\$1,633
	Contested divorce	\$1,000	\$50,000	\$5,417
	Seperation agreement	\$500	\$4,000	\$1,286
	Child custody and support agreement	\$650	\$2,500	\$1,283
<b>Immigration</b>	Work permit	\$1,500	\$5,000	\$2,333
	Spousal sponsorship	\$1,500	\$5,000	\$2,667
	Skilled worker application	\$1,500	\$6,000	\$3,167
<b>Intellectual Property</b>	Simple patent application	\$5,000	\$25,000	\$7,667
	Simple trademark registration	\$1,567	\$25,000	\$2,963
	Patent audit	\$3,000	\$25,000	\$5,000
<b>Real Estate</b>	Residential real estate purchase	\$500	\$3,000	\$922
	Residential real estate sale and purchase	\$500	\$3,000	\$1,031
	Commercial property purchase	\$1,000	\$27,500	\$2,188
	Commercial lease agreement	\$500	\$4,250	\$1,279
<b>Wills and Estates</b>	Simple will	\$100	\$2,500	\$357
	Complex will	\$400	\$10,250	\$1,206
	Power of attorney	\$75	\$1,000	\$232
	Probate	\$500	\$1,250	\$1,850