

Canadian Lawyer's 2014 Legal Fees Survey

THE GOING RATE

shows lawyers split on whether to hike fees.

By Michael McKiernan

Canada's slow and steady economic recovery seems to be reflected in the country's legal market, with lawyers split down the middle on the merits of a price hike.

For the second year in a row, a narrow majority of respondents to *Canadian Lawyer's* Legal Fees Survey indicated plans to freeze rates over the next year, with 52 per cent opting for a no-change approach. But at the same time, average hourly rates rose across the board compared with last year's survey, while fee estimates for individual matters increased

in most categories for 2014 over 2013 responses. Based on feedback, we've expanded the survey to assess the going rate for 38 different matters across eight practice areas: civil litigation, corporate-commercial, criminal, family, immigration, intellectual property, real estate, and wills and estates.

Just four per cent of respondents intend to cut rates in 2014, and of the 44 per cent increasing fees this year, almost half (45 per cent) are planning hikes of between five and 10

per cent, well above the national inflation rate, which stood at just over one per cent in the first quarter of 2014. A further 23 per cent will boost fees by more than 10 per cent, while 32 per cent are aiming for more conservative rises, between zero and five per cent.

The most commonly cited reasons for price rises included increasing overhead costs, inflation, and greater complexity of the work lawyers are taking on. One British Columbia-based boutique opted to raise its fees because a few years of relatively static pricing had left its rates trailing "below the average rates of our competitors," while a lucky Ontario sole practitioner explained his rationale for a price rise: "I'm so busy that I can be more selective in clients."

Hourly rates are on the rise across the nation, according to our survey. One-year calls command an average rate of \$218 per hour, up 13 per cent over 2013. Rates for five-year calls and 10-year calls were each up four per cent over last year, bringing in \$267 and \$322 per hour respectively. Lawyers with 20 years at the bar averaged \$390 per hour, up seven per cent, and those with more than 20 years experience charge \$394 per hour, up

Just under

60%

charge nothing for their first meeting with a client

about four per cent. The increased levels are, however, still some way short of the 2009 peaks, when 10-year calls charged \$365 per hour, averaged across the nation.

Despite those positive signals, many respondents also expressed concerns legal fees have hit a ceiling, a view particularly prevalent among small firm and sole practitioners, who account for the bulk of survey participants. Three-quarters of our respondents practise with firms of between one and four lawyers. "There is increasing financial pressure between what fees individual and small business clients can afford and the expenses of overhead and accessing operating capital," wrote one small firm lawyer from Toronto, summarizing the pessimistic view. Another sole practitioner planned to raise fees this year, but questioned how much longer that could go on when the "market is limited and not really growing, but there are more lawyers every year."

Practice areas where lawyers particularly felt the squeeze included residential real estate and wills and estates. Despite small or non-existent profits in those areas, lawyers were split

on whether to drop them from their suite of services. Real estate is "becoming commoditized and clients are not willing to pay the true value," said one respondent who had recently stopped offering real estate services, but many others persist, viewing them as loss leaders bringing in new business — which has been the case for many years now.

Another loss leader dividing opinion among survey participants was the issue of the free initial consultation. Just under 60 per cent who answered said they charge nothing for their first meeting with a client. Smaller firms were less likely to offer free consultations, with the proportion dropping to 53 per cent among respondents in one- to four-lawyer firms. More than three-quarters of respondents in firms with five lawyers or more offered initial consultations free.

The chance of getting a free consultation also seems to shrink with the size of your community. Just 36 per cent of lawyers practising in communities with a population of 100,000 or less waived the initial fee, compared with 65 per cent of respondents from cities larger than 100,000.

Those charging a fee tend to offer a reduction on their full hourly rate, but others were adamant clients should pay right from the start. "Free initial consultations are always taken advantage of and not worth the alleged goodwill. A lot of time is wasted," wrote one rural lawyer. An estates lawyer added a "significant consultation fee" is needed in their area because "if a client is not willing to pay \$200 for an initial consultation then there is a 95-per-cent chance the meeting is going to be a waste of your time." However, a Newfoundland and Labrador lawyer said clients should not "have to pay to find out whether or not you're able to help them," but admitted spending "a lot of time not getting paid." For one Montreal sole practitioner, a free consultation is a matter of honour: "Many people are afraid to call me because they think I have a clock running and they will get a bill at the end of our first phone call. That is ridiculous. I don't know how lawyers who charge people to check them out can sleep at night."

Many of our respondents are experimenting with alternative billing structures in an effort to keep clients happy and increase efficiency. An insurance boutique began offering blended rates after a client demanded alternate fee structures as a prerequisite for firms looking to bid on its business. Volume discounts, contingency fees, and unbundled services were popular options, but one lawyer at a mid-sized Vancouver firm conceded they struggle to get the sums right. "We increasingly get clients who would like to have accurate fee estimates, or better yet flat fees, but with most areas of our practice, we find it difficult to provide estimates of flat fees," the respondent wrote.

The information on the following few pages should help. Read on to discover the going rate in your area of practice.



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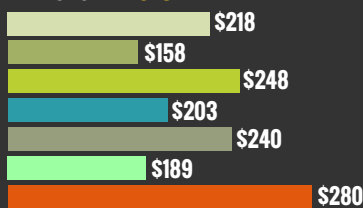
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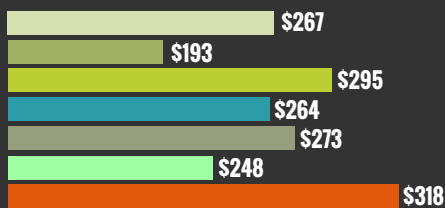
HOURLY RATES (AVERAGE)

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

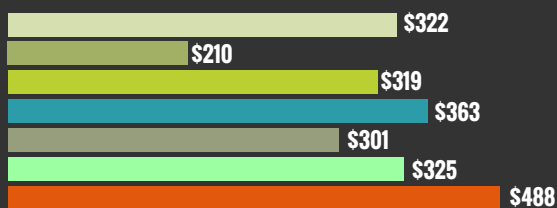
YEAR OF CALL 2013



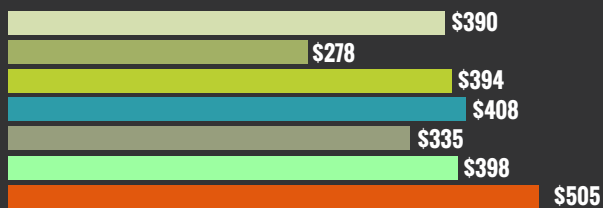
YEAR OF CALL 2009



YEAR OF CALL 2004



YEAR OF CALL 1994



YEAR OF CALL BEFORE 1994



NATIONAL FEE RANGES

SAMPLE SIZE 308

	AVERAGE	MINIMUM	MAXIMUM
CIVIL LITIGATION			
Civil action up to trial (2 days)	21,953	14,269	44,179
Civil action up to trial (5 days)	43,544	30,623	83,404
Civil action up to trial (7 days)	58,598	47,076	119,967
Civil action appeal only	22,636	13,826	41,163
CORPORATE			
Secured financing agreement	5,856	3,403	14,975
Simple, small business incorporation	1,014	787	1,398
Simple prospectus	61,843	27,240	156,200
CRIMINAL			
Summary criminal offence (one day trial)	4,092	2,667	6,864
Bail hearing	1,198	706	2,774
Criminal offence (one day trial)	4,620	3,331	8,435
FAMILY			
Uncontested divorce	1,169	920	1,739
Contested divorce	10,406	5,735	39,522
Separation agreement	2,171	1,246	6,959
Child custody and support agreement	2,237	1,384	5,754
Trial up to 2 days	12,769	7,864	27,591
Trial up to 5 days	26,591	16,800	59,700
Marriage/co-habitation agreement	1,763	1,375	4,624
Spousal support agreement	1,961	1,491	4,440
Division of property/assets agreement	2,204	1,593	5,061
IMMIGRATION			
Work permit	2,056	1,181	3,019
Family class sponsorship	3,100	2,433	4,633
Skilled worker application	3,883	3,161	5,667
Refugee protection claim	4,000	2,500	6,250
INTELLECTUAL PROPERTY			
Simple patent application	6,981	5,079	15,857
Simple trademark registration	2,111	1,477	4,329
Patent audit	5,700	2,500	14,625
REAL ESTATE			
Residential real estate purchase	853	709	1,435
Residential real estate sale	696	586	1,127
Residential real estate sale and purchase	1,434	1,150	2,015
Commercial property purchase	2,639	1,740	8,456
Commercial property sale	2,474	1,937	6,329
Commercial lease agreement	1,844	1,014	3,236
WILLS AND ESTATES			
Simple will	370	314	529
Complex will (individual)	826	584	1,614
Complex will (couple)	1,093	798	2,091
Power of attorney (individual)	191	144	292
Power of attorney (couple)	269	220	347
Probate	2,498	1,486	7,444



There is increasing financial pressure between what fees individual and small business clients can afford and the expenses of overhead and accessing operating capital.



NATIONAL (UP TO 25 LAWYERS) FEE RANGES

SAMPLE SIZE 240

	AVERAGE	MINIMUM	MAXIMUM
CIVIL LITIGATION			
Civil action up to trial (2 days)	21,519	13,748	38,566
Civil action up to trial (5 days)	43,340	30,537	84,279
Civil action up to trial (7 days)	59,625	48,325	114,088
Civil action appeal only	20,386	13,557	38,286
CORPORATE			
Secured financing agreement	6,498	3,753	16,781
Simple, small business incorporation	1,013	773	1,349
CRIMINAL			
Summary criminal offence (one day trial)	3,852	2,411	7,000
Bail hearing	1,202	718	2,852
Criminal offence (one day trial)	4,472	3,163	8,846
FAMILY			
Uncontested divorce	1,133	922	1,749
Contested divorce	10,317	6,082	40,789
Separation agreement	2,214	1,294	7,316
Child custody and support agreement	2,245	1,412	5,820
Trial up to 2 days	13,250	7,864	27,591
Trial up to 5 days	26,591	16,800	59,700
Marriage/co-habitation agreement	1,758	1,417	4,811
Spousal support agreement	1,924	1,561	4,508
Division of property/assets agreement	2,192	1,658	5,194
IMMIGRATION			
Work permit	2,130	1,171	3,129
Family class sponsorship	3,154	2,462	4,385
Skilled worker application	3,911	3,135	5,821
Refugee protection claim	4,000	2,500	6,250
INTELLECTUAL PROPERTY			
Simple patent application	5,975	4,510	16,800
Simple trademark registration	1,744	1,428	2,617
Patent audit	3,375	1,667	6,167
REAL ESTATE			
Residential real estate purchase	853	705	1,448
Residential real estate sale	694	582	1,142
Residential real estate sale and purchase	1,414	1,150	2,007
Commercial property purchase	2,570	1,726	8,556
Commercial property sale	2,431	1,937	6,329
Commercial lease agreement	1,824	1,015	3,278
WILLS AND ESTATES			
Simple will	356	301	519
Complex will (individual)	795	586	1,605
Complex will (couple)	1,029	802	2,073
Power of attorney (individual)	174	137	249
Power of attorney (couple)	262	222	352
Probate	2,371	1,483	7,341

POPULATION UP TO 500,000 FEE RANGES

SAMPLE SIZE 127

	AVERAGE	MINIMUM	MAXIMUM
CIVIL LITIGATION			
Civil action up to trial (2 days)	17,119	11,522	35,778
Civil action up to trial (5 days)	31,150	21,811	44,317
Civil action up to trial (7 days)	44,944	34,250	80,375
Civil action appeal only	16,750	14,071	31,000
CORPORATE			
Secured financing agreement	1,848	1,094	6,165
Simple, small business incorporation	854	743	1,134
CRIMINAL			
Summary criminal offence (one day trial)	3,112	1,843	5,536
Bail hearing	947	485	2,225
Criminal offence (one day trial)	3,580	2,421	7,250
FAMILY			
Uncontested divorce	1,100	881	1,608
Contested divorce	9,112	5,248	30,395
Separation agreement	1,684	1,022	4,272
Child custody and support agreement	1,907	1,182	4,155
Trial up to 2 days	13,286	7,583	24,417
Trial up to 5 days	26,000	16,600	47,400
Marriage/co-habitation agreement	1,220	1,044	2,718
Spousal support agreement	1,650	1,481	2,514
Division of property/assets agreement	1,707	1,385	2,763
IMMIGRATION			
Work permit	1,350	940	2,560
Family class sponsorship	2,500	2,000	3,900
Skilled worker application	2,875	2,125	4,375
Refugee protection claim	4,000	2,000	5,000
INTELLECTUAL PROPERTY			
Simple patent application	4,117	2,825	8,250
Simple trademark registration	1,425	938	2,083
Patent audit	N/A	N/A	N/A
REAL ESTATE			
Residential real estate purchase	847	698	1,386
Residential real estate sale	689	577	1,065
Residential real estate sale and purchase	1,429	1,182	1,959
Commercial property purchase	2,079	1,431	4,959
Commercial property sale	1,569	1,485	2,610
Commercial lease agreement	1,341	953	2,459
WILLS AND ESTATES			
Simple will	314	268	441
Complex will (individual)	697	521	1,238
Complex will (couple)	946	728	1,765
Power of attorney (individual)	153	119	193
Power of attorney (couple)	235	186	267
Probate	2,244	1,480	5,835

52% are freezing rates in 2014

ONTARIO FEE RANGES

SAMPLE SIZE 166

	AVERAGE	MINIMUM	MAXIMUM
CIVIL LITIGATION			
Civil action up to trial (2 days)	21,264	13,414	38,967
Civil action up to trial (5 days)	44,433	31,308	95,115
Civil action up to trial (7 days)	61,482	53,854	132,438
Civil action appeal only	16,250	11,750	31,409
CORPORATE			
Secured financing agreement	8,865	4,743	19,333
Simple, small business incorporation	1,131	801	1,536
CRIMINAL			
Summary criminal offence (one day trial)	3,986	2,682	6,605
Bail hearing	1,232	800	2,350
Criminal offence (one day trial)	4,642	3,497	8,559
FAMILY			
Uncontested divorce	932	767	1,263
Contested divorce	11,076	6,922	46,276
Separation agreement	2,611	1,435	10,473
Child custody and support agreement	2,468	1,431	7,597
Trial up to 2 days	11,300	6,400	27,400
Trial up to 5 days	16,200	12,200	52,400
Marriage/co-habitation agreement	1,518	1,241	4,022
Spousal support agreement	1,610	1,000	4,080
Division of property/assets agreement	2,027	1,375	4,817
IMMIGRATION			
Work permit	2,475	1,389	3,422
Family class sponsorship	3,278	2,500	4,611
Skilled worker application	4,389	3,625	6,889
Refugee protection claim	4,000	3,000	7,500
INTELLECTUAL PROPERTY			
Simple patent application	7,167	6,500	13,500
Simple trademark registration	2,408	1,894	5,730
Patent audit	10,000	5,000	40,000
REAL ESTATE			
Residential real estate purchase	901	763	1,612
Residential real estate sale	737	642	1,272
Residential real estate sale and purchase	1,529	1,271	2,246
Commercial property purchase	2,446	1,671	9,560
Commercial property sale	1,680	1,220	4,450
Commercial lease agreement	2,003	855	3,399
WILLS AND ESTATES			
Simple will	354	303	533
Complex will (individual)	784	566	1,283
Complex will (couple)	1,049	812	1,923
Power of attorney (individual)	172	127	321
Power of attorney (couple)	235	183	335
Probate	1,952	1,356	4,745

WESTERN FEE RANGES

SAMPLE SIZE 82

	AVERAGE	MINIMUM	MAXIMUM
CIVIL LITIGATION			
Civil action up to trial (2 days)	21,452	13,470	40,200
Civil action up to trial (5 days)	38,950	27,205	67,600
Civil action up to trial (7 days)	52,611	37,528	106,111
Civil action appeal only	30,844	16,625	56,500
CORPORATE			
Secured financing agreement	1,347	1,139	3,500
Simple, small business incorporation	943	785	1,254
CRIMINAL			
Summary criminal offence (one day trial)	3,744	1,944	8,438
Bail hearing	1,161	572	4,088
Criminal offence (one day trial)	4,333	2,663	10,188
FAMILY			
Uncontested divorce	1,383	1,104	2,304
Contested divorce	9,903	5,289	38,861
Separation agreement	1,706	1,219	3,458
Child custody and support agreement	1,726	1,212	3,313
Trial up to 2 days	14,500	8,900	28,300
Trial up to 5 days	37,300	21,400	67,000
Marriage/co-habitation agreement	2,418	1,956	6,275
Spousal support agreement	2,189	1,669	4,957
Division of property/assets agreement	2,370	1,785	5,356
IMMIGRATION			
Work permit	1,550	775	2,875
Family class sponsorship	3,250	2,625	5,625
Skilled worker application	3,917	3,083	4,667
Refugee protection claim	4,000	2,000	5,000
INTELLECTUAL PROPERTY			
Simple patent application	7,370	5,030	28,667
Simple trademark registration	2,261	1,255	6,338
Patent audit	6,167	2,500	16,167
REAL ESTATE			
Residential real estate purchase	747	611	1,153
Residential real estate sale	639	524	980
Residential real estate sale and purchase	1,162	940	1,627
Commercial property purchase	2,859	1,943	7,538
Commercial property sale	4,467	2,940	13,375
Commercial lease agreement	1,702	1,128	3,129
WILLS AND ESTATES			
Simple will	422	369	575
Complex will (individual)	950	667	2,329
Complex will (couple)	1,175	865	2,611
Power of attorney (individual)	260	207	426
Power of attorney (couple)	331	284	397
Probate	3,121	1,698	11,766