



BY KIRSTEN MCMAHON

THE GOING RATE

Canadian Lawyer's 2008 legal fees survey gives a cross-section of who's charging what for their services across the country.

Followers of our previous surveys will also note that this year we've added immigration and intellectual property matters to our list of usual suspects. Despite low response rates over the last couple of years, we realize the importance of this information — especially for those in small firms and are pleased to be able to once again provide it to readers.

"It is very important for sole and small-firm practitioners to get this information as I seldom know what the going rate is,"

After a few years' hiatus, the annual *Canadian Lawyer* Legal Fees Survey is back and bigger than ever. More than 300 lawyers and firms responded to our online survey, in which we asked about the going rate for 26 different legal matters.

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says one respondent from a small firm in Ontario. "Lawyers do not seem to discuss what they charge."

Good news then that 314 respondents answered a host of questions about the legal fees they charge. Those who filled out our easy, online survey could provide us with an average fee, a minimum fee, or a maximum fee — in most cases respondents provided all three.

The fees listed in each chart represent average amounts. For example, the minimum fee of a bail hearing is the average minimum fee charged by respondents and doesn't necessarily represent the lowest amount recorded. As well, while the survey pool had 314 responses, not all respondents indicated the province or the size of firm in which they practise. Those responses were included in our national fee ranges chart, but weren't included in the regional breakout charts.

Following in the tradition of previous surveys, almost 70 per cent of responses came from sole practitioners or small-firm lawyers. Lawyers in shops of five to 25 made up 27 per cent, while those in firms of 26-plus lawyers made up just five per cent.

Regionally, Ontario lawyers accounted for 70 per cent of responses, British Columbia had 19 per cent, and Alberta made up almost 11 per cent. While we had responses from across Canada, there wasn't enough meaningful data to do regional breakout charts for other areas. In practice areas where there was no response, those too have been excised from the regional breakouts.


In addition to asking about fees charged in various legal matters, we asked respondents to comment on areas of law that are no longer profitable and being phased out. It goes without saying that estate work, like preparing a simple will (for a national average of \$340) or power of attorney (average \$110) acts as a loss leader for small firms. They don't make a firm money but they create client contact and get them in the door for other legal services.

In the past, these additional services could have been real estate, but many respondents to this year's survey say they are phasing out residential real estate work. "It is hard to raise legal fees for real estate when we are constantly acting as collectors for third parties who charge high fees, lenders, software providers, government registrations and search costs, taxes, title insurance," says one Ontario lawyer. "These fees have increased exponentially but the lawyer's fee doesn't keep up." Another says: "In real estate, we are constantly asked for quotes and the realtors pressure us down, which is annoying. I turn away people if they do not want to pay the set fee."

No doubt real estate fees are a bone of contention among our respondents, as close to one-third indicated that they do work in this area.

Legal aid is another area that can't get any love from lawyers. Sure, it's never been glamorous, high-paying work, but many lawyers are operating at a loss by taking on legal aid cases — and they can no longer afford to. "The legal aid rate is abominably low," says one small-firm lawyer. "I was billed out as an articling student five years ago at a higher rate than legal aid pays me now. It is disheartening, drives lawyers away from important public-interest work, and leaves clients with less prepared, less qualified lawyers. It's a scandal that it is allowed to continue."

Another notes: "Family law is very difficult — huge retainers are required to remain profitable as they are extremely labour-intensive files, and very few people could ever afford to maintain their minimum retainer. Legal aid rates and maximum hours are laughable considering the amount of wasted time spent in court."

The overarching theme of this year's responses is that times are tough for the small-firm lawyer. In fact, our chart of hourly fees charged has remained virtually unchanged when compared to results from several years ago. "Fees have not kept pace with increasing costs," says one respondent. "My mechanic charges \$95 an hour. Relative to what I charge, that is far higher than it was 20 years ago." 

NATIONAL FEE RANGES SAMPLE SIZE 314

		MIN	MAX	AVG
CIVIL LITIGATION	Civil action, up to trial (two days)	\$15,040	\$46,480	\$25,220
	Civil action, appeal only	12,710	52,880	22,750
CORPORATE	Secured financing agreement	2,260	6,760	2,440
	Simple, small business incorporation	960	2,190	1,310
	Simple prospectus	3,540	44,880	6,810
CRIMINAL	Summary criminal offence (one-day trial)	2,150	6,290	3,190
	Bail hearing	840	2,100	1,250
	Criminal offence (one-day trial)	2,960	6,930	3,960
FAMILY	Uncontested divorce	1,450	2,860	1,620
	Contested divorce	10,040	59,060	15,050
	Separation agreement	2,960	10,010	4,820
	Child custody and support agreement	3,280	17,420	6,660
IMMIGRATION	Work permit	1,510	4,310	2,520
	Spousal sponsorship	2,200	6,380	3,110
	Skilled-worker application	3,180	8,200	4,630
INTELLECTUAL PROPERTY	Simple patent application	7,710	21,800	12,880
	Simple trademark registration	1,720	2,980	1,560
	Patent audit	1,300	6,000	3,000
REAL ESTATE	Residential real estate purchase	780	1,630	980
	Residential real estate sale and purchase	1,680	2,670	1,780
	Commercial property purchase	2,610	8,960	3,120
	Commercial lease agreement	3,510	11,590	3,750
WILLS AND ESTATES	Simple will	340	620	440
	Complex will	790	7,110	3,240
	Power of attorney	110	310	140
	Probate	1,650	17,010	2,530

NATIONAL FEE RANGES – 1-4 LAWYER FIRM SAMPLE SIZE 195

		MIN	MAX	AVG
CIVIL LITIGATION	Civil action, up to trial (two days)	\$13,850	\$34,480	\$19,340
	Civil action, appeal only	12,370	48,580	22,780
CORPORATE	Secured financing agreement	2,370	4,580	2,610
	Simple, small business incorporation	1,010	2,380	1,420
	Simple prospectus	2,000	75,000	4,050
CRIMINAL	Summary criminal offence (one-day trial)	2,280	5,590	3,400
	Bail hearing	770	2,170	1,130
	Criminal offence (one-day trial)	2,990	7,480	4,120
FAMILY	Uncontested divorce	1,540	3,190	1,670
	Contested divorce	10,300	60,570	14,590
	Separation agreement	3,160	10,890	5,010
	Child custody and support agreement	3,470	19,460	7,210
IMMIGRATION	Work permit	1,730	3,630	2,360
	Spousal sponsorship	2,300	3,320	2,750
	Skilled-worker application	3,580	5,220	4,700
INTELLECTUAL PROPERTY	Simple patent application	8,970	27,200	16,670
	Simple trademark registration	1,690	3,590	2,150
	Patent audit	NA		
REAL ESTATE	Residential real estate purchase	800	1,690	1,000
	Residential real estate sale and purchase	1,470	2,630	1,920
	Commercial property purchase	2,940	9,240	3,070
	Commercial lease agreement	3,980	9,810	4,670
WILLS AND ESTATES	Simple will	350	650	500
	Complex will	800	2,270	1,030
	Power of attorney	130	310	150
	Probate	1,740	5,230	2,470

NATIONAL FEE RANGES 5-25 LAWYER FIRM SAMPLE SIZE 77

		MIN	MAX	AVG
CIVIL LITIGATION	Civil action, up to trial (two days)	\$16,520	\$69,140	\$34,150
	Civil action, appeal only	13,720	60,400	23,050
CORPORATE	Secured financing agreement	1,690	4,810	1,710
	Simple, small business incorporation	800	1,490	950
	Simple prospectus	2,010	14,770	6,810
CRIMINAL	Summary criminal offence (one-day trial)	2,150	11,340	3,020
	Bail hearing	1,530	2,790	2,370
	Criminal offence (one-day trial)	3,380	5,560	3,940
FAMILY	Uncontested divorce	1,140	1,820	1,410
	Contested divorce	9,650	64,950	17,650
	Separation agreement	2,160	7,560	4,380
	Child custody and support agreement	2,530	10,280	4,720
IMMIGRATION	Work permit	980	6,000	2,880
	Spousal sponsorship	2,000	12,500	3,830
	Skilled-worker application	2,500	13,170	4,500
INTELLECTUAL PROPERTY	Simple patent application	6,000	17,330	11,000
	Simple trademark registration	11,200	15,200	13,000
	Patent audit	NA		
REAL ESTATE	Residential real estate purchase	730	1,510	900
	Residential real estate sale and purchase	1,370	2,800	2,370
	Commercial property purchase	2,140	8,510	3,250
	Commercial lease agreement	2,520	10,020	2,900
WILLS AND ESTATES	Simple will	250	470	310
	Complex will	670	5,850	1,200
	Power of attorney	80	170	100
	Probate	1,250	71,840	2,540

NATIONAL FEE RANGES 26+ LAWYER FIRM SAMPLE SIZE 14

		MIN	MAX	AVG
CIVIL LITIGATION	Civil action, up to trial (two days)	\$31,500	\$75,000	\$47,250
	Civil action, appeal only	14,500	62,500	31,880
CORPORATE	Secured financing agreement	1,050	100,000	4,180
	Simple, small business incorporation	710	5,450	890
	Simple prospectus			
REAL ESTATE	Residential real estate purchase	810	1,450	1,030
	Residential real estate sale and purchase	1,350	2,500	1,790
	Commercial property purchase	2,000	7,130	3,080
	Commercial lease agreement	1,050	75,750	1,750
WILLS AND ESTATES	Simple will	700	1,200	710
	Complex will	400	1,000	530
	Power of attorney	50	200	100
	Probate	1,000	3,500	2,250

HOURLY RATES

	2008 Call	2003 Call	1998 Call
National	\$220	\$310	\$310
1-4 lawyers	220	275	280
5-25 lawyers	220	350	360
26+ lawyers	190	250	330
Ontario	220	280	330
B.C.	190	290	280
Alberta	210	290	260

ONTARIO FEE RANGES SAMPLE SIZE 197

		MIN	MAX	AVG
CIVIL LITIGATION	Civil action, up to trial (two days)	\$15,440	\$56,250	\$27,450
	Civil action, appeal only	13,250	55,310	21,100
CORPORATE	Secured financing agreement	1,530	10,060	2,030
	Simple, small business incorporation	810	1,680	990
	Simple prospectus	3,200	65,500	10,000
CRIMINAL	Summary criminal offence (one-day trial)	2,290	5,910	3,530
	Bail hearing	830	2,370	1,320
	Criminal offence (one-day trial)	3,030	7,700	4,260
FAMILY	Uncontested divorce	1,220	2,430	1,230
	Contested divorce	4,870	27,780	10,170
	Separation agreement	2,180	8,460	2,640
	Child custody and support agreement	2,170	12,830	3,490
IMMIGRATION	Work permit	1,250	4,480	2,470
	Spousal sponsorship	2,200	6,380	3,110
	Skilled-worker application	3,180	8,200	4,630
INTELLECTUAL PROPERTY	Simple patent application	3,360	15,400	7,000
	Simple trademark registration	1,230	2,330	1,260
	Patent audit	NA		
REAL ESTATE	Residential real estate purchase	700	1,540	880
	Residential real estate sale and purchase	1,220	2,330	1,700
	Commercial property purchase	2,110	9,470	2,600
	Commercial lease agreement	1,670	10,170	1,740
WILLS AND ESTATES	Simple will	320	550	370
	Complex will	660	3,390	1,040
	Power of attorney	100	210	120
	Probate	1,450	19,210	2,340

BRITISH COLUMBIA FEE RANGES SAMPLE SIZE 53

		MIN	MAX	AVG
CIVIL LITIGATION	Civil action, up to trial (two days)	\$16,880	\$35,880	\$38,130
	Civil action, appeal only	15,000	66,810	34,000
CORPORATE	Secured financing agreement	3,090	4,750	3,150
	Simple, small business incorporation	1,260	3,250	2,140
	Simple prospectus	NA		
CRIMINAL	Summary criminal offence (one-day trial)	2,600	4,600	2,750
	Bail hearing	990	2,630	1,380
	Criminal offence (one-day trial)	3,820	7,200	5,000
FAMILY	Uncontested divorce	1,850	4,260	2,750
	Contested divorce	15,820	125,000	26,000
	Separation agreement	4,870	14,610	10,190
	Child custody and support agreement	5,310	29,440	13,300
INTELLECTUAL PROPERTY	Simple patent application	9,750	21,000	14,500
	Simple trademark registration	2,250	3,550	2,310
	Patent audit	NA		
REAL ESTATE	Residential real estate purchase	1,040	2,040	1,520
	Residential real estate sale and purchase	2,410	3,930	3,420
	Commercial property purchase	3,990	7,580	5,190
	Commercial lease agreement	8,800	15,200	10,250
WILLS AND ESTATES	Simple will	450	1,210	630
	Complex will	1,400	2,720	1,630
	Power of attorney	240	710	290
	Probate	2,900	5,080	4,200

ALBERTA FEE RANGES SAMPLE SIZE 30

		MIN	MAX	AVG
CIVIL LITIGATION	Civil action, up to trial (two days)	\$19,330	\$34,170	\$23,750
	Civil action, appeal only	13,500	48,170	27,500
CORPORATE	Secured financing agreement	2,590	4,160	3,500
	Simple, small business incorporation	1,080	2,580	2,150
	Simple prospectus	NA		
CRIMINAL	Summary criminal offence (one-day trial)	2,830	5,660	3,830
	Bail hearing	1,000	2,420	1,580
	Criminal offence (one-day trial)	4,750	6,500	5,000
FAMILY	Uncontested divorce	1,860	3,140	2,560
	Contested divorce	16,570	128,180	44,380
	Separation agreement	4,330	12,510	9,860
	Child custody and support agreement	4,460	19,020	12,200
INTELLECTUAL PROPERTY	Simple patent application	8,750	28,000	17,500
	Simple trademark registration	3,080	5,930	3,750
	Patent audit	NA		
REAL ESTATE	Residential real estate purchase	1,000	1,680	1,090
	Residential real estate sale and purchase	1,900	2,680	2,100
	Commercial property purchase	3,840	8,000	5,250
	Commercial lease agreement	8,730	15,350	10,500
WILLS AND ESTATES	Simple will	410	1,380	410
	Complex will	1,630	2,800	1,800
	Power of attorney	160	530	230
	Probate	2,630	5,770	3,750