



**The**

# Rate Going

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

By Michael McKiernan

**C**anada'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."

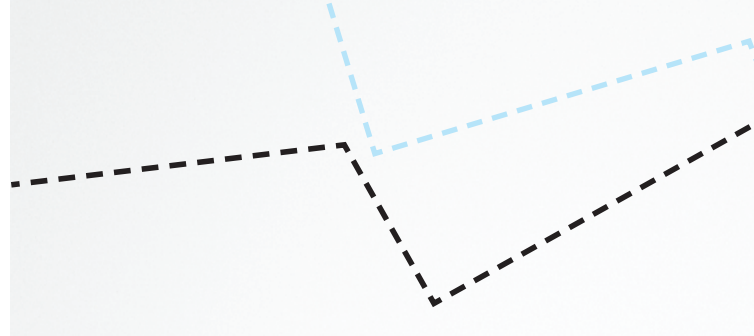
Elsewhere in the country, a number of respondents blamed economic woes on their pricing decisions, but several predicted recent volatility could precipitate a bigger change in the legal profession as some longer-term pricing habits finally come home to roost. "The profession is going to meet firm resistance 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



***“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.”*** Bay Street lawyer

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. **CL**



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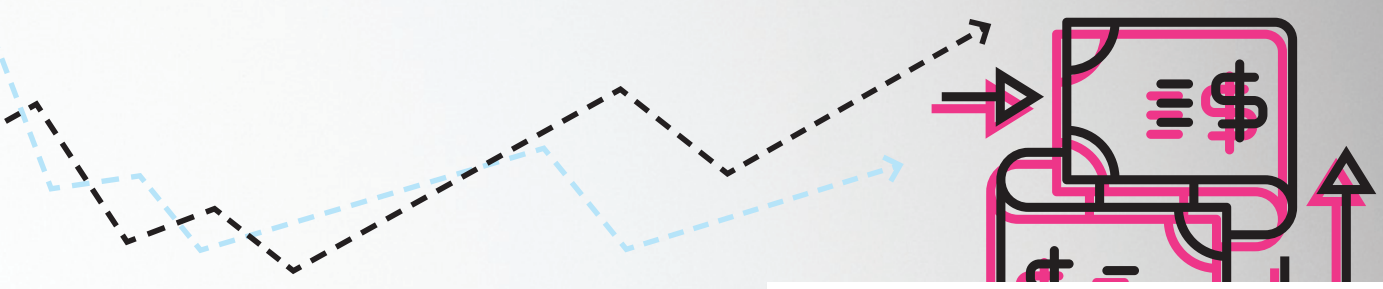
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## National Fee Ranges

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	4,156	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

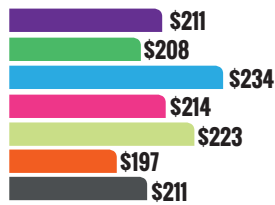
### WILLS AND ESTATES

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

## 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 (up to 25 Lawyers) Fee Ranges

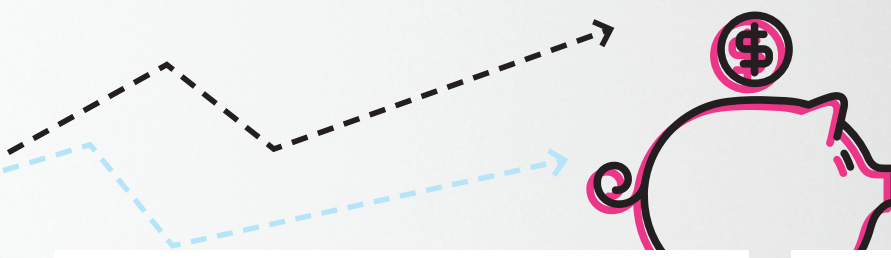
SAMPLE SIZE 253

	AVERAGE	MINIMUM	MAXIMUM
<b>CIVIL LITIGATION</b>			
Civil action up to trial (2 days)	22,295	15,238	42,095
Civil action up to trial (5 days)	53,724	34,478	96,236
Civil action up to trial (7 days)	72,688	53,660	120,720
Civil action appeal only	21,358	13,054	41,229
ADR, including mediation (up to 3 days)	12,142	6,777	23,553
<b>CORPORATE</b>			
Secured financing agreement	2,543	1,777	10,124
Simple, small business incorporation	957	757	1,545
Simple prospectus	15,130	8,200	24,550
<b>CRIMINAL</b>			
Summary criminal offence (1 day trial)	4,177	2,799	7,310
Bail hearing	1,549	956	2,996
Criminal offence (1 day trial)	4,831	3,161	10,118
<b>FAMILY</b>			
Uncontested divorce	1,782	1,255	2,660
Contested divorce	15,245	8,038	47,389
Separation agreement	2,524	1,508	5,598
Child custody and support agreement	2,527	1,511	5,943
Trial up to 2 days	18,698	11,957	28,973
Trial up to 5 days	33,352	22,631	60,632
Marriage/co-habitation agreement	1,888	1,454	3,726
Spousal support agreement	2,515	1,532	6,271
Division of property/assets agreement	3,152	1,812	8,981
<b>IMMIGRATION</b>			
Work permit	2,578	1,463	4,215
Family class sponsorship	4,255	3,463	5,975
Skilled worker application	5,367	4,094	7,500
Refugee protection claim	4,156	3,167	5,889
<b>INTELLECTUAL PROPERTY</b>			
Simple patent application	3,813	2,600	5,950
Simple trademark registration	1,600	1,381	2,613
Patent audit	1,317	883	4,400
<b>LABOUR AND EMPLOYMENT</b>			
Basic employment contract	1,123	765	2,299
Severance package review	1,062	824	2,799
Litigation - claim or defence up to mediation/trial	15,155	7,941	31,457
Standard workplace policies	3,218	2,078	7,050
Collective bargaining - renewal	N/A	N/A	N/A
Labour arbitration (up to 3 days)	15,625	9,786	24,429
<b>REAL ESTATE</b>			
Residential real estate purchase	978	768	1,646
Residential real estate sale	789	619	1,282
Residential real estate sale and purchase	1,617	1,335	2,644
Commercial property purchase	2,820	1,733	12,017
Commercial property sale	2,239	1,466	8,066
Commercial lease agreement	1,636	1,072	3,689
<b>WILLS AND ESTATES</b>			
Simple will	458	360	719
Complex will (individual)	1,003	767	2,498
Complex will (couple)	1,339	1,090	2,981
Power of attorney (individual)	194	149	276
Power of attorney (couple)	294	237	390
Handling estate file (including probate)	3,887	2,580	14,520

## Population up to 500,000 Fee Ranges

SAMPLE SIZE 128

	AVERAGE	MINIMUM	MAXIMUM
<b>CIVIL LITIGATION</b>			
Civil action up to trial (2 days)	18,792	12,342	31,381
Civil action up to trial (5 days)	42,644	26,313	77,174
Civil action up to trial (7 days)	53,810	34,324	74,529
Civil action appeal only	21,039	12,647	39,671
ADR, including mediation (up to 3 days)	9,719	6,056	19,456
<b>CORPORATE</b>			
Secured financing agreement	2,010	1,019	11,998
Simple, small business incorporation	986	766	1,790
Simple prospectus	8,600	4,850	18,244
<b>CRIMINAL</b>			
Summary criminal offence (1 day trial)	3,665	2,312	6,390
Bail hearing	1,311	796	2,255
Criminal offence (1 day trial)	4,010	2,441	6,918
<b>FAMILY</b>			
Uncontested divorce	1,529	1,151	2,124
Contested divorce	13,879	7,450	35,460
Separation agreement	2,359	1,351	5,079
Child custody and support agreement	2,234	1,341	5,581
Trial up to 2 days	14,540	10,808	25,194
Trial up to 5 days	27,460	20,058	51,694
Marriage/co-habitation agreement	1,693	1,194	3,276
Spousal support agreement	2,185	1,419	5,695
Division of property/assets agreement	2,845	1,712	7,279
<b>IMMIGRATION</b>			
Work permit	2,728	1,713	2,967
Family class sponsorship	3,840	3,256	5,050
Skilled worker application	4,175	3,286	5,438
Refugee protection claim	3,967	3,333	4,333
<b>INTELLECTUAL PROPERTY</b>			
Simple patent application	1,750	1,200	2,800
Simple trademark registration	500	500	833
Patent audit	1,950	1,750	2,200
<b>LABOUR AND EMPLOYMENT</b>			
Basic employment contract	1,089	730	2,095
Severance package review	904	527	2,483
Litigation - claim or defence up to mediation/trial	10,639	4,892	14,417
Standard workplace policies	2,450	1,600	4,250
Collective bargaining - renewal	N/A	N/A	N/A
Labour arbitration (up to 3 days)	15,000	10,100	21,400
<b>REAL ESTATE</b>			
Residential real estate purchase	964	745	1,638
Residential real estate sale	764	588	1,199
Residential real estate sale and purchase	1,558	1,248	2,575
Commercial property purchase	2,236	1,494	8,871
Commercial property sale	1,767	1,168	7,594
Commercial lease agreement	1,349	862	3,048
<b>WILLS AND ESTATES</b>			
Simple will	382	296	564
Complex will (individual)	899	643	2,469
Complex will (couple)	1,187	891	2,814
Power of attorney (individual)	178	138	260
Power of attorney (couple)	265	216	363
Handling estate file (including probate)	3,371	2,286	17,282



## Ontario Fee Ranges

SAMPLE SIZE 160

	AVERAGE	MINIMUM	MAXIMUM
<b>CIVIL LITIGATION</b>			
Civil action up to trial (2 days)	27,754	17,189	59,064
Civil action up to trial (5 days)	66,728	41,885	114,975
Civil action up to trial (7 days)	102,853	70,219	166,219
Civil action appeal only	22,417	12,438	41,275
ADR, including mediation (up to 3 days)	14,437	8,097	27,512
<b>CORPORATE</b>			
Secured financing agreement	3,642	1,769	12,532
Simple, small business incorporation	1,056	791	1,923
Simple prospectus	59,300	33,883	126,408
<b>CRIMINAL</b>			
Summary criminal offence (1 day trial)	4,248	2,895	8,040
Bail hearing	1,437	889	3,010
Criminal offence (1 day trial)	4,837	3,295	11,758
<b>FAMILY</b>			
Uncontested divorce	1,302	1,125	1,966
Contested divorce	15,118	10,150	34,367
Separation agreement	2,965	1,875	7,420
Child custody and support agreement	2,689	1,997	7,333
Trial up to 2 days	19,833	10,525	25,036
Trial up to 5 days	30,971	18,650	45,750
Marriage/co-habitation agreement	2,147	1,528	4,864
Spousal support agreement	2,879	2,000	7,838
Division of property/assets agreement	3,224	2,245	10,418
<b>IMMIGRATION</b>			
Work permit	2,581	1,396	3,375
Family class sponsorship	4,727	3,400	6,400
Skilled worker application	5,063	3,482	7,227
Refugee protection claim	4,583	3,667	6,833
<b>INTELLECTUAL PROPERTY</b>			
Simple patent application	4,406	2,269	9,288
Simple trademark registration	1,633	1,439	2,520
Patent audit	1,317	883	4,400
<b>LABOUR AND EMPLOYMENT</b>			
Basic employment contract	1,193	864	2,914
Severance package review	1,123	698	2,994
Litigation - claim or defence up to mediation/trial	19,667	11,950	44,773
Standard workplace policies	2,944	1,893	6,094
Labour arbitration (up to 3 days)	20,000	9,000	32,000
<b>REAL ESTATE</b>			
Residential real estate purchase	1,071	835	1,922
Residential real estate sale	877	692	1,489
Residential real estate sale and purchase	1,867	1,552	3,223
Commercial property purchase	3,941	2,034	20,436
Commercial property sale	2,961	1,750	11,962
Commercial lease agreement	2,017	1,201	5,746
<b>WILLS AND ESTATES</b>			
Simple will	521	403	860
Complex will (individual)	1,205	935	2,984
Complex will (couple)	1,722	1,336	3,831
Power of attorney (individual)	177	131	261
Power of attorney (couple)	290	236	423
Handling estate file (including probate)	3,960	2,819	15,791

## Western Fee Ranges

SAMPLE SIZE 136

	AVERAGE	MINIMUM	MAXIMUM
<b>CIVIL LITIGATION</b>			
Civil action up to trial (2 days)	21,894	16,605	39,158
Civil action up to trial (5 days)	53,347	38,231	103,077
Civil action up to trial (7 days)	52,500	42,143	88,571
Civil action appeal only	26,469	17,577	56,462
ADR, including mediation (up to 3 days)	10,463	5,919	21,781
<b>CORPORATE</b>			
Secured financing agreement	2,779	2,277	7,519
Simple, small business incorporation	949	759	1,468
Simple prospectus	48,115	30,500	107,500
<b>CRIMINAL</b>			
Summary criminal offence (1 day trial)	4,794	3,121	8,179
Bail hearing	1,929	1,206	3,682
Criminal offence (1 day trial)	5,656	3,288	9,308
<b>FAMILY</b>			
Uncontested divorce	2,085	1,382	3,085
Contested divorce	16,507	7,285	57,484
Separation agreement	2,390	1,404	4,746
Child custody and support agreement	2,795	1,502	6,527
Trial up to 2 days	18,845	13,630	32,795
Trial up to 5 days	36,577	27,050	73,737
Marriage/co-habitation agreement	2,094	1,579	4,126
Spousal support agreement	2,745	1,567	6,968
Division of property/assets agreement	3,481	1,688	10,993
<b>IMMIGRATION</b>			
Work permit	1,705	1,111	3,911
Family class sponsorship	3,870	3,422	5,722
Skilled worker application	4,150	3,225	6,813
Refugee protection claim	2,500	1,250	3,500
<b>INTELLECTUAL PROPERTY</b>			
Simple patent application	9,000	5,000	19,000
Simple trademark registration	1,500	1,333	2,800
Patent audit	N/A	N/A	N/A
<b>LABOUR AND EMPLOYMENT</b>			
Basic employment contract	1,191	685	2,002
Severance package review	954	469	2,406
Litigation - claim or defence up to mediation/trial	9,875	3,920	19,100
Standard workplace policies	2,275	1,300	5,375
Labour arbitration (up to 3 days)	11,667	11,500	22,333
<b>REAL ESTATE</b>			
Residential real estate purchase	975	746	1,591
Residential real estate sale	767	582	1,165
Residential real estate sale and purchase	1,564	1,207	2,369
Commercial property purchase	3,967	2,023	10,729
Commercial property sale	3,326	1,813	9,415
Commercial lease agreement	2,056	1,367	4,400
<b>WILLS AND ESTATES</b>			
Simple will	512	399	700
Complex will (individual)	1,018	714	2,465
Complex will (couple)	1,210	925	2,548
Power of attorney (individual)	228	177	301
Power of attorney (couple)	330	259	389
Handling estate file (including probate)	3,882	2,078	23,364