

# The Going Rate

**The 2015 Canadian Lawyer Legal Fees survey shows litigation fees have returned to pre-recession rates.**

By Michael McKieman

**A**fter years of steady decline, Canadian litigation fees have finally returned to the heights of the pre-global-recession era, but Canadian lawyers aren't happy about it.

According to the results of *Canadian Lawyer's* 2015 Legal Fees Survey, the national average estimated cost of a two-day trial crossed the \$30,000 threshold for the first time, leaping 43 per cent to \$31,330 this year from \$21,953 in 2014.

The previous peak for a two-day trial came in 2009, when responses averaged around \$29,000, but then dropped every year until 2013, when the average fee hit \$18,000. The fall was arrested in 2014 with a 19-per-cent jump, but that was dwarfed by the 2015 hike. At \$56,439, the national average cost of a five-day trial was up 30 per cent over 2014, while the cost of a seven-day trial was also up around 40 per cent at \$81,958.

But that doesn't mean the boom times are back, according to some of our respondents. One Ontario sole practitioner lamented the level of litigation fees, calling them "a shame. . . . I think they are high enough to keep many issues away from resolution and legal advice." In Vancouver, another smaller firm lawyer claimed the price of litigation is costing them business: "It prevents most of my clients from enforcing commercial agreements," they wrote.

However, in Alberta, a lawyer in a mid-size firm said the profession gets a rough deal from the public when it comes to fees: "It's very fashionable these days for people to talk about

them being too high, especially judges who make north of \$300,000. . . . I wish people knew what they actually paid their doctor or banker."

Hourly rates have also clawed their way back to pre-recession levels, with 10-year calls commanding an average rate of \$360 per hour, up 12 per cent over 2014, and just short of the 2009 peak, when they billed an average of \$365 per hour across the nation. First-year calls are charged at an average rate of \$230, a six-per-cent rise over last year, while at the other end of the experience scale, 20-year calls bring in \$411, five per cent more than 2014.

Based on feedback, we've once again expanded the survey, to assess 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 new for this year, labour and employment.

Results are again divided by region, with 50 per cent of our 277 respondents reporting an office in Ontario, 47 per cent with an office in Western Canada (British Columbia, Alberta, Saskatchewan, Manitoba, and the North), and 10 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 65 per cent, in firms of 1 to 4 lawyers. A further 22 per cent came from law firms with between 5 and 25 lawyers, and another 13 per cent from firms with more than 25 lawyers.

Fee estimates for individual matters increased in most categories for 2015 over the 2014 responses, with immigration law another area seeing notable rises. Practitioners across

the country cited new rules and increased complexity as the reason for fee hikes in a year that saw the arrival of the revolutionary new Express Entry system for permanent residence. Average fees for all four immigration matters surveyed rose, by between seven and 31 per cent compared with 2014 levels.

Respondents were once again split down the middle on the issue of further price rises, with just under 50 per cent opting for a freeze in the next year, and 48 per cent planning to increase fees. Just two per cent are aiming for a fee decrease. Things were different in Alberta, where the plunging price of oil has hit the economy, and respondents said lawyers are feeling the knock-on effects. In that province, about six in every 10 respondents opted for a no-change approach to what they're charging clients.

The most commonly cited reasons for price rises included inflation and surging overhead costs, as well as the increasing complexity of the legal work lawyers are taking on. In Ontario, one sole practitioner said their price rise was a tactic to

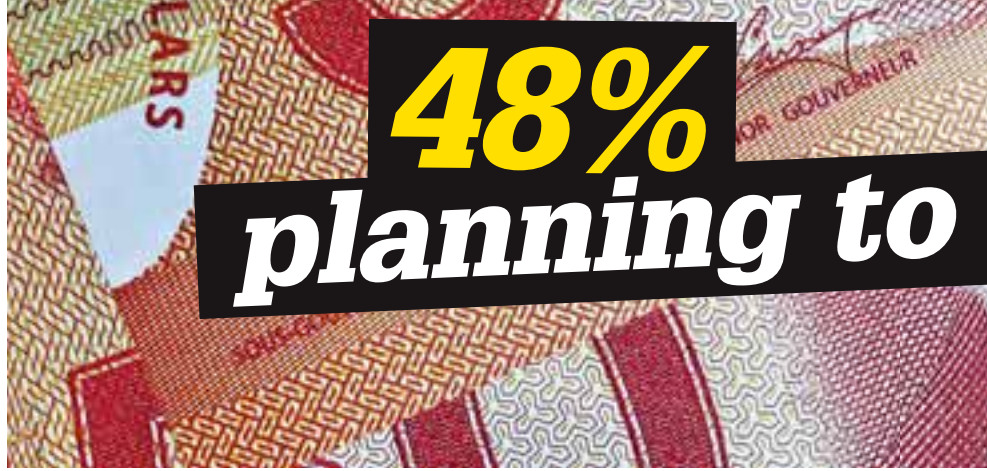
“weed out the chaff” from a busy practice, while an honest Alberta lawyer from a mid-sized firm said they simply “want to make more money.”

For those cutting and freezing rates, competition and client demands were the driving factors: “Economic conditions are so tight that people generally aren't willing to pay more,” wrote one small-firm lawyer from Ontario.

For lawyers with practices rooted in real estate or wills and estates, market forces were particularly influential. A lawyer with a small Alberta firm summed up the dilemma: “I need to do wills as a service, but I wish I could charge more,”

they wrote. “Real estate purchase files have razor-thin margins. Lawyers need to stop the drive to the bottom in an attempt to gain market share; it is hurting the entire industry,” wrote another from a small Ontario city. Others are cutting their losses: “Although much of the work that we do is in the area of real estate, that work is labour intensive and requires well trained and highly paid staff. We are having to consider phasing out that work completely, over time,” wrote one Ontario respondent.

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



# 48% planning to

## Looking for legal expertise?

Find exactly what you need at [www.CanadianLawList.com](http://www.CanadianLawList.com)

**Starting a business, making a will or buying a house?  
Declaring bankruptcy, dealing with a personal injury,  
insurance claim or job loss?**

If you're in the midst of one of life's big events, help is as close as your smartphone, tablet or computer. Simply go to [www.CanadianLawList.com](http://www.CanadianLawList.com) to find the right lawyer for your particular legal need.

[www.CanadianLawList.com](http://www.CanadianLawList.com) is Canada's most comprehensive online directory of lawyers and law firms. And it's easy to use! You can search by city, legal specialty, or name for listings and contact information.

Find the legal expertise you need at [www.CanadianLawList.com](http://www.CanadianLawList.com).

It's fast,  
It's free,  
and it's available to you  
24 hours a day.



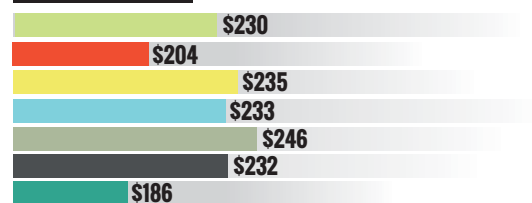
CANADIAN**LawList**

# increase fees.

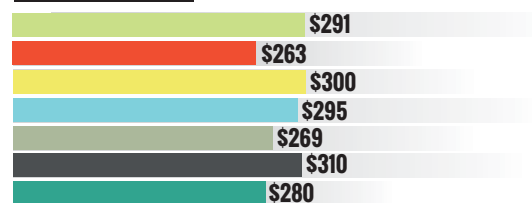
## Hourly Rates (average)

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

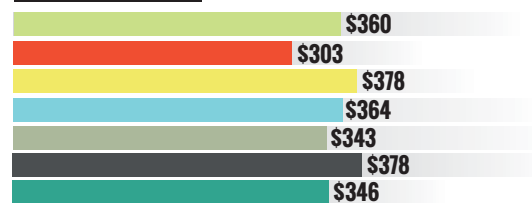
### YEAR OF CALL 2014



### YEAR OF CALL 2010



### YEAR OF CALL 2005



### YEAR OF CALL 1995



### BEFORE 1995



## National Fee Ranges

SAMPLE SIZE 277

	AVERAGE	MINIMUM	MAXIMUM
<b>CIVIL LITIGATION</b>			
Civil action up to trial (2 days)	31,330	13,299	58,222
Civil action up to trial (5 days)	56,439	29,500	112,933
Civil action up to trial (7 days)	81,958	45,019	231,685
Civil action appeal only	21,347	13,119	31,921
ADR, including mediation (up to 3 days)	23,462	9,304	29,220
<b>CORPORATE</b>			
Secured financing agreement	2,749	1,460	15,640
Simple, small business incorporation	1,070	890	1,841
Simple prospectus	30,761	17,667	92,958
<b>CRIMINAL</b>			
Summary criminal offence (one day trial)	5,334	3,256	14,792
Bail hearing	1,750	1,181	4,772
Criminal offence (one day trial)	6,992	4,820	30,957
<b>FAMILY</b>			
Uncontested divorce	1,845	1,239	2,846
Contested divorce	13,638	6,145	87,974
Separation agreement	2,130	1,417	7,234
Child custody and support agreement	2,033	1,295	7,788
Trial up to 2 days	18,706	11,883	36,367
Trial up to 5 days	35,950	23,788	79,808
Marriage/co-habitation agreement	1,727	1,239	4,696
Spousal support agreement	2,208	1,376	12,959
Division of property/assets agreement	2,436	1,720	14,781
<b>IMMIGRATION</b>			
Work permit	2,324	1,485	3,958
Family class sponsorship	4,126	3,328	6,506
Skilled worker application	4,806	3,700	6,400
Refugee protection claim	4,262	3,468	6,474
<b>INTELLECTUAL PROPERTY</b>			
Simple patent application	7,100	4,886	10,671
Simple trademark registration	1,355	1,139	3,459
Patent audit	8,500	5,250	14,000
<b>LABOUR AND EMPLOYMENT</b>			
Basic employment contract	1,090	703	2,416
Severance package review	905	559	1,723
Litigation - claim or defence up to mediation/trial	11,735	6,256	17,758
Standard workplace policies	2,050	1,210	3,000
Collective bargaining - renewal	15,000	6,875	36,250
Labour arbitration (up to 3 days)	13,000	7,400	18,000
<b>REAL ESTATE</b>			
Residential real estate purchase	962	767	1,648
Residential real estate sale	774	629	1,283
Residential real estate sale and purchase	1,659	1,333	2,352
Commercial property purchase	3,714	2,519	10,676
Commercial property sale	2,765	1,766	10,484
Commercial lease agreement	1,747	1,078	4,315
<b>WILLS AND ESTATES</b>			
Simple will	441	354	689
Complex will (individual)	1,036	757	1,859
Complex will (couple)	1,357	1,003	2,212
Power of attorney (individual)	183	154	265
Power of attorney (couple)	274	226	376
Handling estate file (including probate)	3,891	2,019	15,235

# Hourly rates have also clawed their way back to pre-recession levels, with 10-year calls commanding an average rate of \$360 per hour, **up 12% over 2014.**

## National (up to 25 Lawyers) Fee Ranges

SAMPLE SIZE 210

	AVERAGE	MINIMUM	MAXIMUM
<b>CIVIL LITIGATION</b>			
Civil action up to trial (2 days)	29,667	12,759	57,741
Civil action up to trial (5 days)	51,829	28,300	119,120
Civil action up to trial (7 days)	76,933	46,682	261,273
Civil action appeal only	19,369	13,941	37,294
ADR, including mediation (up to 3 days)	23,763	10,200	33,425
<b>CORPORATE</b>			
Secured financing agreement	1,725	919	10,484
Simple, small business incorporation	951	777	1,480
Simple prospectus	27,683	10,167	119,000
<b>CRIMINAL</b>			
Summary criminal offence (one day trial)	5,394	3,241	15,368
Bail hearing	1,652	1,087	4,765
Criminal offence (one day trial)	7,075	4,870	32,424
<b>FAMILY</b>			
Uncontested divorce	1,754	1,276	2,685
Contested divorce	13,405	6,014	89,081
Separation agreement	2,033	1,411	6,746
Child custody and support agreement	1,786	1,224	6,698
Trial up to 2 days	18,811	12,224	37,414
Trial up to 5 days	35,810	24,660	82,400
Marriage/co-habitation agreement	1,728	1,227	4,743
Spousal support agreement	1,961	1,311	12,225
Division of property/assets agreement	2,244	1,682	14,248
<b>IMMIGRATION</b>			
Work permit	2,275	1,483	3,759
Family class sponsorship	3,870	3,179	6,300
Skilled worker application	4,557	3,615	6,115
Refugee protection claim	4,225	3,439	6,278
<b>INTELLECTUAL PROPERTY</b>			
Simple patent application	6,740	4,840	9,740
Simple trademark registration	1,214	1,000	2,029
Patent audit	12,000	7,500	20,000
<b>LABOUR AND EMPLOYMENT</b>			
Basic employment contract	1,055	722	1,979
Severance package review	893	550	1,705
Litigation - claim or defence up to mediation/trial	11,900	6,388	17,911
Standard workplace policies	1,778	1,088	2,500
Collective bargaining - renewal	11,667	4,167	23,333
Labour arbitration (up to 3 days)	12,667	6,880	17,200
<b>REAL ESTATE</b>			
Residential real estate purchase	968	784	1,668
Residential real estate sale	788	642	1,305
Residential real estate sale and purchase	1,688	1,362	2,376
Commercial property purchase	3,474	2,432	9,550
Commercial property sale	2,530	1,663	9,614
Commercial lease agreement	1,609	1,024	3,256
<b>WILLS AND ESTATES</b>			
Simple will	446	347	694
Complex will (individual)	1,010	745	1,864
Complex will (couple)	1,348	1,018	2,228
Power of attorney (individual)	187	156	264
Power of attorney (couple)	277	223	366
Handling estate file (including probate)	3,867	1,990	14,352

N/A = not sufficient data to provide figures

## Population up to 500,000 Fee Ranges

SAMPLE SIZE 99

	AVERAGE	MINIMUM	MAXIMUM
<b>CIVIL LITIGATION</b>			
Civil action up to trial (2 days)	20,500	11,861	38,278
Civil action up to trial (5 days)	38,364	27,813	95,500
Civil action up to trial (7 days)	54,368	38,357	238,533
Civil action appeal only	15,069	9,045	28,778
ADR, including mediation (up to 3 days)	18,667	8,018	26,900
<b>CORPORATE</b>			
Secured financing agreement	1,853	996	1,5185
Simple, small business incorporation	940	796	1,477
Simple prospectus	N/A	N/A	N/A
<b>CRIMINAL</b>			
Summary criminal offence (one day trial)	5,188	3,013	8,767
Bail hearing	1,286	667	2,900
Criminal offence (one day trial)	5,625	3,479	9,536
<b>FAMILY</b>			
Uncontested divorce	1,777	1,230	2,639
Contested divorce	11,633	6,117	80,604
Separation agreement	2,013	1,400	6,150
Child custody and support agreement	1,724	1,183	7,353
Trial up to 2 days	17,975	11,324	30,353
Trial up to 5 days	36,667	27,923	69,615
Marriage/co-habitation agreement	1,721	1,146	5,007
Spousal support agreement	1,827	1,253	7,519
Division of property/assets agreement	2,042	1,430	9,950
<b>IMMIGRATION</b>			
Work permit	2,391	1,545	3,570
Family class sponsorship	4,036	3,245	5,336
Skilled worker application	4,218	3,282	5,409
Refugee protection claim	3,917	3,150	5,000
<b>INTELLECTUAL PROPERTY</b>			
Simple patent application	N/A	N/A	N/A
Simple trademark registration	1,264	1,338	1,983
Patent audit	N/A	N/A	N/A
<b>LABOUR AND EMPLOYMENT</b>			
Basic employment contract	1,062	779	2,238
Severance package review	833	598	1,660
Litigation - claim or defence up to mediation/trial	9,467	8,871	15,025
Standard workplace policies	1,325	975	1,875
Collective bargaining - renewal	13,000	4,250	27,500
Labour arbitration (up to 3 days)	11,000	8,133	18,667
<b>REAL ESTATE</b>			
Residential real estate purchase	967	750	1,596
Residential real estate sale	763	618	1,293
Residential real estate sale and purchase	1,612	1,261	2,344
Commercial property purchase	2,104	1,540	6,764
Commercial property sale	1,809	1,376	5,991
Commercial lease agreement	1,306	996	3,071
<b>WILLS AND ESTATES</b>			
Simple will	349	286	530
Complex will (individual)	861	607	1,753
Complex will (couple)	1,097	800	2,008
Power of attorney (individual)	155	140	245
Power of attorney (couple)	237	209	338
Handling estate file (including probate)	3,486	1,922	15,476

## Ontario Fee Ranges

SAMPLE SIZE 120

	AVERAGE	MINIMUM	MAXIMUM
<b>CIVIL LITIGATION</b>			
Civil action up to trial (2 days)	47,605	16,033	88,600
Civil action up to trial (5 days)	78,235	32,462	136,769
Civil action up to trial (7 days)	118,333	51,833	277,923
Civil action appeal only	31,115	18,500	39,000
ADR, including mediation (up to 3 days)	30,711	10,309	40,679
<b>CORPORATE</b>			
Secured financing agreement	2,272	1,382	9,666
Simple, small business incorporation	1,052	799	1,563
Simple prospectus	50,400	25,250	76,000
<b>CRIMINAL</b>			
Summary criminal offence (one day trial)	5,765	3,206	21,882
Bail hearing	1,622	1,169	5,559
Criminal offence (one day trial)	8,333	5,667	50,750
<b>FAMILY</b>			
Uncontested divorce	1,217	974	1,588
Contested divorce	8,747	4,336	25,417
Separation agreement	1,879	1,185	4,088
Child custody and support agreement	1,834	1,218	4,123
Trial up to 2 days	19,625	12,556	50,389
Trial up to 5 days	44,000	30,625	100,375
Marriage/co-habitation agreement	1,714	1,146	3,594
Spousal support agreement	1,988	1,386	4,685
Division of property/assets agreement	2,294	1,586	5,433
<b>IMMIGRATION</b>			
Work permit	2,141	1,376	3,500
Family class sponsorship	3,717	2,953	5,229
Skilled worker application	4,406	3,350	6,219
Refugee protection claim	3,967	3,207	6,214
<b>INTELLECTUAL PROPERTY</b>			
Simple patent application	5,233	3,733	7,233
Simple trademark registration	1,131	843	1,707
Patent audit	5,000	3,000	8,000
<b>LABOUR AND EMPLOYMENT</b>			
Basic employment contract	1,060	690	2,214
Severance package review	832	562	1,753
Litigation - claim or defence up to mediation/trial	12,353	6,542	17,262
Standard workplace policies	2,068	1,339	3,678
Collective bargaining - renewal	14,667	8,833	38,333
Labour arbitration (up to 3 days)	13,333	9,333	22,667
<b>REAL ESTATE</b>			
Residential real estate purchase	1,007	815	1,781
Residential real estate sale	844	678	1,386
Residential real estate sale and purchase	1,757	1,398	2,492
Commercial property purchase	3,460	2,410	11,067
Commercial property sale	2,740	1,837	9,116
Commercial lease agreement	1,529	951	4,522
<b>WILLS AND ESTATES</b>			
Simple will	438	364	690
Complex will (individual)	960	747	1,806
Complex will (couple)	1,265	988	2,107
Power of attorney (individual)	169	137	275
Power of attorney (couple)	256	199	374
Handling estate file (including probate)	3,073	1,892	11,000

## Western Fee Ranges

SAMPLE SIZE 106

	AVERAGE	MINIMUM	MAXIMUM
<b>CIVIL LITIGATION</b>			
Civil action up to trial (2 days)	24,944	13,250	4,4179
Civil action up to trial (5 days)	49,706	32,958	104,583
Civil action up to trial (7 days)	67,533	46,111	158,000
Civil action appeal only	15,458	9,111	32,714
ADR, including mediation (up to 3 days)	17,769	9,500	26,000
<b>CORPORATE</b>			
Secured financing agreement	2,497	1,158	27,050
Simple, small business incorporation	944	772	1,659
Simple prospectus	40,075	15,000	177,500
<b>CRIMINAL</b>			
Summary criminal offence (one day trial)	5,247	3,400	9,385
Bail hearing	1,692	945	3,836
Criminal offence (one day trial)	5,813	4,100	10,708
<b>FAMILY</b>			
Uncontested divorce	2,164	1,519	3,669
Contested divorce	18,777	7,633	139,690
Separation agreement	2,657	1,831	12,229
Child custody and support agreement	2,317	1,525	12,357
Trial up to 2 days	19,995	13,594	35,844
Trial up to 5 days	33,425	22,594	76,688
Marriage/co-habitation agreement	1,945	1,495	6,690
Spousal support agreement	2,533	1,561	22,000
Division of property/assets agreement	2,802	2,161	27,231
<b>IMMIGRATION</b>			
Work permit	2,397	1,480	4,285
Family class sponsorship	4,613	3,750	8,200
Skilled worker application	5,314	4,108	6,731
Refugee protection claim	5,500	4,200	7,200
<b>INTELLECTUAL PROPERTY</b>			
Simple patent application	8,500	5,750	12,750
Simple trademark registration	1,435	1,286	2,379
Patent audit	8,500	5,250	14,000
<b>LABOUR AND EMPLOYMENT</b>			
Basic employment contract	1113	708	2,774
Severance package review	742	381	1,377
Litigation - claim or defence up to mediation/trial	10,688	4,625	20,000
Standard workplace policies	2,313	1,333	2,750
Collective bargaining - renewal	N/A	N/A	N/A
Labour arbitration (up to 3 days)	10,000	5,000	15,000
<b>REAL ESTATE</b>			
Residential real estate purchase	935	738	1,489
Residential real estate sale	708	576	1,149
Residential real estate sale and purchase	1,570	1,254	2,187
Commercial property purchase	4,573	3,091	9,969
Commercial property sale	2,979	1,797	12,156
Commercial lease agreement	1,970	1,228	4,111
<b>WILLS AND ESTATES</b>			
Simple will	457	365	757
Complex will (individual)	1,203	826	2,094
Complex will (couple)	1,536	1,094	2,528
Power of attorney (individual)	196	173	244
Power of attorney (couple)	298	261	382
Handling estate file (including probate)	5,383	2,406	24,250