

**CANADIAN LEGAL MARKET IN THE AFTERMATH  
OF THE FINANCIAL CRISIS**  
**Chris Matthews, Past President, Toronto Lawyers Association**

WORLD CITY BAR LEADERS CONFERENCE  
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***Structure of legal profession***

The legal profession in Canada is self-regulating. Each of the ten provinces and three territories have their own legal governing bodies. No government officials can interfere, unless the federal Parliament or the provincial Legislatures change the law.

In Ontario (the province in which Toronto is located), there are approximately 44,000 lawyers. The profession is governed by the Law Society, which consists of 40 benchers elected by the profession, plus extensive administrative staff. The provincial Law Society collects the fees, provides insurance, and sets and enforces the rules of the profession.

There is no limit on the number of people who can become members of the bar.

***Effects of the 2008 financial crisis***

Canadian law firms did not experience the large number of lay-offs and downsizing that occurred in certain parts of the United States and Britain. Firms have not, however, grown at the same rate (or, in some cases, grown at all), since 2008.

To put it simply, prior to 2008, law firms focused on growth. They were not as concerned about expenses. As the recession hit, law firms in Canada generally took a much closer look at expenses as revenues declined. They froze salaries of employees, hired fewer new lawyers, encouraged early retirements and scaled back on marketing, conferences and social occasions.

At the same time, clients asked that fee structures be changed. This was something they had been wanting to do for many years but now had the opportunity. Hourly rates fell, particularly for younger lawyers.

**Hourly Rates: First Year Associates\***

	2008	2010	2011	2012
<b>National</b>	<b>\$220</b>	<b>\$185</b>	<b>\$196</b>	<b>\$229</b>
Quebec	N/A	\$170	\$167	\$239
Ontario	\$220	\$203	\$224	\$243
Western Canada	\$200	\$178	\$184	\$208

**Hourly Rates: Fifth Year Associates\***

	2009	2010	2011	2012
<b>National</b>	<b>\$278</b>	<b>\$250</b>	<b>\$260</b>	<b>\$283</b>
Quebec	N/A	\$224	\$222	\$310
Ontario	\$324	\$258	\$290	\$298
Western Canada	\$368	\$263	\$250	\$254

One can see that it is not until 2012 that hourly rates for junior lawyers approached the same level as they were in 2008. At the senior levels, hourly rates did not so much fall as become more flexible (meaning lower), depending on the client and type of work. Further, clients have become less willing to have files staffed with a large number of lawyers, unless it is absolutely necessary. One must justify more than one lawyer on a file. More clients are reluctant to pay for time spent by articling students or first year lawyers. In essence, they do not want to pay the law firms to train their lawyers.

Larger law firms have made efforts to become a more diverse and balanced in their practices. Firms that had a heavy emphasis on mergers and acquisitions work found their lawyers underutilized when the flow of deals dropped off significantly.<sup>†</sup>

\* Source: *Canadian Lawyer* "The Going Rate" survey 2008-2012

† Source: *The Lawyers Weekly*, "After the Downturn", April 8, 2011

Recruiting by law firms has always focused more on the business that a client can bring in, rather than simply the lawyer's legal expertise or specialization. After 2008, however, the importance of the lawyer's ability to bring clients to the new firm became the primary concern.

Senior associates with excellent skills and high pay, but little in the way of portable business, are not in high demand.

Lawyers have learned to become closer to their clients and to listen to their concerns about billing. In-house counsel have leaner legal budgets and will not stay with lawyers who do not understand the importance of meeting those targets.

Some law firms have looked to international mergers to enhance their position as competition heightens. In June 2011, Oglivy Renault LLP, a Canadian firm with offices in Quebec, Ontario and Alberta, merged with Norton Rose LLP. Effective April 1, 2013, Fraser Milner Casgrain LLP, with offices in British Columbia, Alberta, Ontario and Quebec, merged with SNR Denton and Salans to form Dentons. These were the first two major Canadian firms to join international law firms. It is too early to tell whether the expected referrals from far-flung offices will replace the referrals that large Canadian firms traditionally sought from large American and British firms.

### ***Legal Education***

Although there are now generally fewer entry-level legal positions with Canadian law firms, the number of places offered by university law schools continues to grow. The legal profession is generally seen as a stable career path and, in times of financial uncertainty, becomes more attractive to students. Several of Ontario's law schools have increased the size of their student body. A new law school opens its doors in September 2013 at Lakefield University. In addition, some offshore law schools, such as at Bond University in Australia, cater to students who will return to Canada upon completing law degrees.

In most Canadian provinces, a law student must 'article' with a law firm for approximately one year before he or she can be a practicing member of the bar. An articling student must work under the supervision of a licensed lawyer, as well as complete certain educational components. Upon completion of the year, the articling student is admitted to the bar and either kept on as an associate lawyer at the same firm, or finds a position with another firm.

The increase in the number of law school graduates, along with a slower rate of growth in the number of jobs, has left an increasing number of these graduates without a means of entering

the profession. As a result, some legal regulators, particularly in Ontario, have offered alternative pathways to becoming a licensed practitioner.

There are currently not enough articling positions offered by law firms for the number of law school graduates seeking them. In order to address this issue, Ontario's regulators will, in 2014, begin offering an alternative program whereby students who cannot find an articling position (or who do not wish to article) may complete a seventeen week training program. Most people do not expect that the two alternative paths to licensing will co-exist in the long term.

The chart below shows the decrease in the number of articling positions offered by 17 of Toronto's larger firms.\* There were 47 (or 15%) fewer positions in 2012 than there were in 2009. The number of students hired back as associates actually increased, but many of these lawyers may remain with the firms only one or two years.

Firm	Total number of articling students		Number of students hired as associates	
	2009	2012	2009	2012
A	33	18	33	22
B	29	26	22	19
C	19	19	11	16
D	19	15	13	9
E	14	15	10	12
F	23	19	14	9
G	33	24	21	17
H	22	16	11	12
I	28	26	18	18
J	16	16	9	13
K	12	19	7	13
L	16	17	7	12
M	21	21	10	10
N	15	12	7	10
O	12	11	4	5
P	19	16	5	11
Q	22	16	11	12
<b>TOTAL</b>	<b>353</b>	<b>306</b>	<b>213</b>	<b>220</b>

\* Source: *Precedent* "Hireback Watch", 2009, 2012

***Increased mobility***

We heard earlier in our conference of the increased mobility rights for lawyers in Canada. Not many years ago, it was difficult for a lawyer from one province to even appear in the courts of another province, and virtually impossible for the lawyer to do much more than that. One simply had to become a member of the other provincial bar, which involved taking the bar exams, if not articling again. Now with mobility rights established across the country, there is nothing to prevent a lawyer in Toronto conducting a case in Vancouver, Montreal or Halifax, provided the lawyer is competent to do so.

***Self-regulation***

In order to address public concerns as to the competence and, in some cases, honesty of lawyers, the provincial law societies have taken steps recently to strengthen on-going professional development and educational programs. All lawyers must attend and report on substantive legal programs geared to professionalism and ethics. In addition, the Law Society in Ontario is taking steps to restructure and make more transparent its disciplinary procedures. Although there is, as yet, no serious demand either from the public or the government to change the self-governance regime, the regulators want to ensure that they are seen to be addressing any issues.

## Hourly Rates in Canada

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# Articling Student Hireback

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A	33	18	33	22
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