
**UNITED STATES CONSUMER LAW
ATTORNEY FEE SURVEY REPORT**

2010-2011

Top 10 Cities, 2nd Edition



Ronald L. Burdge

**United States Consumer Law
Attorney Fee Survey Report 2010-2011,
Top 10 Cities, 2nd Edition**

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This work is dedicated to the private and public practice members of the Consumer Law bar across the United States and its territories who tirelessly dedicate their careers to helping consumers and businesses find justice every day in our legal system. Without their participation this publication would not have been possible.

And a special thanks is extended to Ira Rheingold, Executive Director of the National Association of Consumer Advocates, and Jon Sheldon, with the National Consumer Law Center, for their leadership, friendship, advice and tireless support of this project over the years.

Editor's Note:

As in all categories of law, there are niches in Consumer Law that can command hourly rates that may differ from the average and mean results of a general survey such as this. As but one example, Consumer Class Action work typically results in higher-than-normal hourly rates. The same is commonly true of Consumer Law cases litigated in federal Courts. The results of this survey should be considered as a general guideline for the entire field of Consumer Law and the results of this survey should be considered in light of all applicable factors that may impact the reasonable hourly rate in any particular case, situation, Court or field of law.

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Top 10 Cities Edition

Table of Contents

1. Introduction.	<u>1</u>
Error Rate.	<u>4</u>
Methodology.	<u>4</u>
Section 508 Compliance.	<u>5</u>
The Average and the Median: What it Means to You.	<u>6</u>
Top 10 Cities Survey Geographic Areas Defined.	<u>7</u>
Interpreting the Findings.	<u>8</u>
2. Summary Profile of the Typical US Consumer Law Attorney.	<u>10</u>
3. Top 10 Cities Average Rates Table for All Firms by City.	<u>12</u>
4. Top 10 Cities Median & Average Summaries Tables.	<u>13</u>
Explanation of Cities Table.	<u>13</u>
New York, NY.	<u>14</u>
Los Angeles, CA.	<u>15</u>
Chicago, IL.	<u>16</u>
Houston, TX.	<u>17</u>
Philadelphia, PA.	<u>18</u>
Phoenix, AZ.	<u>19</u>
San Antonio, TX.	<u>20</u>
San Diego, CA.	<u>21</u>
Dallas, TX.	<u>22</u>
San Jose, CA.	<u>23</u>
5. Survey Techniques.	<u>24</u>
6. Cases Employing Use of Survey Data.	<u>25</u>
7. Additional Cases on Use of Survey Data.	<u>27</u>

8. Recommendations for Future Survey Data..... [29](#)
About the Editor..... [29](#)

1. Introduction

This report publishes the survey results of the United States Consumer Law Attorney Fee Survey Report 2010-2011 for the ten largest U.S. cities as of the 2010 census, which are (in order): New York, NY, Los Angeles, CA , Chicago, IL, Houston, TX, Philadelphia, PA, Phoenix, AZ , San Antonio, TX, San Diego, CA, Dallas, TX, and San Jose, CA.

The total population of these ten cities is 7.9% of the total US population according to the 2010 census. The central location of this significant portion of the US population makes an analysis of fee rates in these large city areas worthwhile since there are also significant numbers of consumers, consumer transactions, and Consumer Law attorneys in these central areas.

It seems logical that urban attorney fee hourly rates would be higher than rural rates and a review of our national and local data supports the conclusion. For that reason, in the most recent survey, a new question was added so that survey data could be analyzed on a “city area” basis, a far more local basis than the regional reports produce in the National Survey Report. Thus, while regional reports will continue to have their place and provide valuable data for survey participants, this is the first survey report to provide city data.

Attorneys in all “Top 10” cities and every state and the US Territories took part in the national survey and the results are the most comprehensive since our research work began on the subject in 1999. The data from each of the Top 10 city areas was then culled for presentation in this Top 10 Cities Edition of the Report.

“Consumer Law” is recognized as a specialty area of law¹ dealing with issues arising from transactions involving one or more persons acting as individuals or as a family. It typically includes the legal fields of

¹ As said by the Ohio 9th District Court of Appeals, “[c]onsumer law is a specialty area that is not common among many legal practitioners.” *Crow v. Fred Martin Motor Co.*, 2003-Ohio-1293 (Summit App. No. 21128).

bankruptcy, credit discrimination, consumer banking, warranty law, unfair and deceptive acts and practices, and more narrow topics of consumer law such as consumer protection rights enabled by specific statutes such as the Fair Credit Reporting Act, the Uniform Consumer Sales Practices Act, state and federal “lemon” laws, and many others.

This Top 10 Cities Edition of the United States Consumer Law Attorney Fee Survey Report for 2010-2011 is reported in eight sections and compiles the data for the ten largest US cities by population size.

Section 2 of this Top 10 Cities Edition of the National Survey Report is the “Summary Profile of the Typical US Consumer Law Attorney,” a collective approach to the entire national survey results which yields a detailed picture of key aspects of the typical US Consumer Law practitioner in the United States and its territories. It is based on the survey results as a whole.

Section 3, the “Top 10 Cities Average Rates Table for All Firms by City” reports the average hourly rates and includes both attorney rates and paralegal rates. Also included in this section is the percentage of small firms versus large firms within each city area.

Section 4 is the “Top 10 Cities Median & Average Summaries Table” which reports not just a median analysis but also the results of all of the survey questions on a City area approach. The average for the City area is included, of course, along with the 25%, 75% and 95% median rate results. The added scaling gives greater analysis opportunities for the reader’s consideration.

To gain a broader understanding of the City area data in this report, the reader may wish to refer to the National Survey Report for the state or region in which the City or its area is located.

In compiling this report, an important contribution was made by members of the National Association of Consumer Advocates and Consumer Law attorneys across the United States and its territories who were invited to participate during 2010.

Information was collected for individual data as of end of year 2010. As previously, an on-line survey service was utilized to gather and tabulate the results with safeguards in place to limit data input per survey participant to one set of data.

Similar studies were undertaken annually since 2000. The objective of these studies was to determine the demographics of Consumer Law practitioners, including attorney hourly billing rate, firm size, years in practice, concentration of practice, primary and secondary practice area prevalence, paralegal billing rates and other data.

The collected information has been condensed into a national reference to provide benchmarks to assist Consumer Law attorneys as they manage their practice. While this report includes selected results from that national reference publication, its focus is on the culling out of selected specific city area data for only the ten city areas in the United States which have the largest populations.

It should be noted that this report is city-focused. A metropolitan area definition would, in many instances, cover more than one state and doing so could also include more than one region of data from the National Report. For instance, while the largest single city area is New York, the largest single metropolitan area is the New York-Newark-Bridgeport area which includes portions of New York and New Jersey and Connecticut and Pennsylvania. While it may well be that attorney fee rates in the larger metropolitan area of New York may be substantially similar to those of the New York City area, this City Area Report does not test that conclusion. More detailed metropolitan area data with explanatory charts is available on request.

Because of the still-increasing involvement of paralegals and law clerks in non-administrative day to day aspects of legal practice, data is also compiled on city area paralegal hourly rates.

The data is reported in several tables below, allowing the reader to consider the data from several viewpoints of selected factors or criteria. In addition, more detailed regional data with explanatory charts may be available in the twelve separately published Regional Survey Reports,

available on request.

Error Rate

A hand review was conducted of all data received during the national survey. The data was then compared with the data reported throughout the survey and also from the previous survey. The result indicated an error rate of less than one percent in this survey, a number substantially lower than the error rate of all known similar surveys.

Methodology

Survey results are based on the results of an on-line survey fielded during 2010 and consisting of 9 key data questions. The survey was administered via email, ordinary mail, facsimile and telephonic invitations to a confidential, web-based questionnaire.

The entire active membership of the National Association of Consumer Advocates (except for persons employed in public employment or education) along with other known Consumer Law practitioners from around the United States and its territories was surveyed.

Invitations to participate were also randomly sent to attorneys identified through city and area local telephone book listings, review of cases involving the various state adaptations of the Uniform Consumer Sales Practices Act and other consumer law areas which disclosed Consumer Law practitioners, as well as Internet searches conducted on a national level as well as randomly selected physical telephone book specialty listings where available, and attorney directories listing Consumer Law practitioners throughout the United States and its territories.

Invitations to participate were also randomly sent to attorneys identified through court filings in various jurisdictions and bar association directories where available.

The questionnaire for the United States Consumer Law Attorney Fee

Survey was designed using generally accepted standard methodology, including short and precise questions that were simply worded with multiple-choice answers, in order to assure the accuracy of the responses and the ease with which compilation and analysis of the responses could be done.

When the Attorney Fee Survey is “closed” the results are independently tabulated by an independent survey company and raw results reported to the author of this Report. Those results are then individually spot checked by both telephone and email in order to assure a high rate of accuracy in the survey data. For this Top 10 Cities Edition, the US Census was then examined to reveal the ten most populated city areas. The survey data for those areas was then drawn out of the national survey for independent analysis. Averages and means calculations were made for each of the city areas, among other analyses that was done for each city area. This analyses was done apart and separate from the regional and national analysis reported in the National Survey Report.

The data was analyzed correctly by simple mathematical processes such as addition, multiplication and division to arrive at an arithmetical average and means analysis.

Section 508 Compliance

The United States Consumer Law Attorney Fee Survey is the only online survey program that is Section 508 Certified. This means that the survey program on which this survey runs meets all current US Federal Section 508 certification guidelines.

Section 508 is a Federal law that outlines the requirements to make online information and services accessible to users with disabilities. The government web site that outlines the requirements and helpful links regarding section 508 is located on the internet at this page: <http://www.section508.gov/>. All Federal agencies are required to use 508 certified software and technologies when available.

The Voluntary Product Accessibility Template, or VPAT"s purpose, is

to assist Federal contracting officials and other buyers in making preliminary assessments regarding the availability of commercial "Electronic and Information Technology" products and services with features that support accessibility. The VPAT was developed by the Information Technology Industry Council (ITI) in partnership with the U.S. General Services Administration (GSA).

Use of the VPAT means that this survey is built on programming that includes a text element for every non-text element of the survey web page, web pages are designed so that all information displayed with color is also available without color, all parts of the survey are readable without having to open another window, and other techniques to enable disabled persons to fully participate in every aspect of the Fee Survey.

It is important for the Fee Survey to be able to reach the broadest range of potential respondents possible to provide the reader with the most accurate results. By including survey feedback from the disabled demographic, the Fee Survey ensures a more representative population is able to participate so their economic demographics may be included in the Fee Survey results.

The Average and the Median: What it Means to You

To help practitioners understand and interpret the data below, a brief explanation of the data may help. The tables below use some terms whose meaning may not be clear to many Consumer Law practitioners.

The "average" (sometimes called the arithmetic average) is calculated by adding the values of all responses, then dividing by the number of responses.

Example: Five responses are reported, 3, 4, 6, 8 and 12. The average is calculated by adding their values ($3 + 4 + 6 + 8 + 12 = 33$), then dividing by the number of responses (5). Thus, the average is $33 / 5 = 6.6$.

The median has a different meaning. It is the middle value of a series of values, which is initially rank-ordered from low to high. By definition,

half the numbers are greater and half are less than the median number. Both mean and median values are used in this survey report as a pointer for the “central area” of survey results without regard to the average. Statisticians variously agree that using the median as a statistic reduces the effect of extreme outer numbers (extremely high or low values, such as 12 in the above example). Using an average takes all numbers into accounting.

Example: Five responses are reported, 3, 4, 6, 8 and 12. The median is the middle number of the order of distribution, 6. Note, however, that the average of this same distribution of numbers is 6.6.

The median literally is the value in the middle. It represents the mid way point in a sequence of numbers. It is determined by lining up the values in the set of data (in this fee survey that would be all of the individual fee rate responses logged in the survey) from the smallest on up to the largest. The one in the dead-center is the median number.

The median is not the average of the numbers (you don’t add anything) in the list, but merely the center of the list. Some statisticians say that using the mean (instead of the average) gives less weight to the individual fee rates that are on the outer limits of the survey responses and is more likely to direct the survey to the “real” center of the responses.

Because the median number is commonly not the same as the average number, being either slightly above or below it, we are including both results in this year’s survey results.

Top 10 Cities Survey Geographic Areas Defined

This survey Report takes a “Top 10” city view of the survey data collected by the United States Consumer Law Attorney Fee Survey as reported in the 2010-2011 national Report. Together, these ten cities make up 7.9% of the total US population.

In response to requests for even more detailed data than provided by the national Report, a new survey question was added in the last survey which obtains from each survey participant the specific area of their region

where each participant maintains their firm office. The responsive data enables an even more localized set of data to be generated for geographic areas within each of the 12 regions in the national Report. This “Top 10 Cities” report is an example of one of those.

The 2010 U.S. census reports the following cities to rank as the Top 10 largest cities.

1. New York, NY, population 8,175,133
2. Los Angeles, CA, population 3,792,621
3. Chicago, IL, population 2,695,598
4. Houston, TX, population 2,099,451
5. Philadelphia, PA, population 1,526,006
6. Phoenix, AZ, population 1,455,632
7. San Antonio, TX, population 1,327,407
8. San Diego, CA, population 1,307,402
9. Dallas, TX, population 1,197,816
10. San Jose, CA, population 945,942

In this Top 10 Cities Report, the city analysis is enabled by data breakdown into the following geographical areas from their respective Regions, in order to obtain viable survey data that is localized to each of the ten largest U.S. cities:

- New York, Southern Federal District (New York, NY)
- California, 2nd Dist. C.A. (Los Angeles, CA)
- Illinois, Northern Federal District (Chicago, IL)
- Texas, 1st and 14th Dist.s C.A. (Houston, TX)
- Arizona (Phoenix, AZ)
- Pennsylvania, Eastern Federal District (Philadelphia, PA)
- Texas, 4th Dist. C.A. (San Antonio, TX)
- California, 4th Dist. C.A. (San Diego, CA)
- Texas, 5th Dist. C.A. (Dallas, TX)
- California, 6th Dist. C.A. (San Jose, CA)

Interpreting the Findings

An hourly rate is commonly impacted by several factors, including practice location, degree of practice concentration, years of practice, firm size, reputation, advertising, personal client relationships, and other factors. As a result, the information presented here is for informational purposes only and may or may not be indicative of a particular attorney's reasonable hourly rate without further, more detailed analysis of the available and other data.

The summary profile presents an overview of the “average” US Consumer Law attorney and their practice in each of the ten largest US cities by population. It may be viewed as the average of all responses in each surveyed city area.

The Top 10 Cities Average Rates Table for All Firms by City provides an overview of the averages for respondents in each city. Presented in table format, it allows for easy comparison of averages of key data across several city areas.

The Top 10 Cities Median and Average Summaries Tables in the national report are presented to give an overview of the practice on Consumer Law lawyers in each city area. Note the use of both average and median results in this section, with the median used to reduce the effect of extremely high or low values in some data. This table also shows the difference in survey results when comparing the average hourly rates and the median hourly rates.

To gain a broader understanding of the City area data in this report, the reader may wish to refer to the National Survey Report for the state or region in which the City or its area is located.

2. Summary Profile of the Typical US Consumer Law Attorney

This section summarizes key statistics derived from the survey when viewed from a national approach. Emphasis here is on the average Consumer Law attorney in the United States without regard for any specific survey factor or locality.

The typical Consumer Law attorney is in a small office of 4 or fewer practitioners. Not a single region was dominated by larger firms. The US Territories region was the only region that reported 100% employed 4 or fewer attorneys. At the other end of the spectrum is New York which reported that 59.4% were firms employing 4 or fewer attorneys.

The typical Consumer Law attorney has been practicing law for 17.3 years. All regions reported in the range from 14 years to 20.9 years in practice.

15.4% of all Consumer Law attorneys have been in practice less than 5 years, a decrease from the last survey report's 19% but still slightly below the previous survey report's 16%.

The average percentage of more-experienced attorneys (those with 31 or more years of practice) is 17.25%. However, the region with the largest percentage of more-experienced attorneys is the Pacific with 39.5%.

The average of less-experienced attorneys (those with less than 5 years of practice) is 15.4%. However, the region with the largest percentage of less experienced attorneys is also the Pacific with 5.2%.

49.2% of all firms reported that their practice consists of 90-100% Consumer Law issues. This figure is a dramatic drop from the last survey when 82.7% was the level reporting their practice to fall in the 90-100% range of Consumer Law.

The average Consumer Law practice is still supplemented in largest part by Bankruptcy work (10 of the 12 regions in the survey), as it has been

for several years. In the US Territories Region, however, Bankruptcy work is reported as the largest area of the practice with other general Consumer Law work ranking in second place.

The typical Consumer Law firm employs 1 paralegal (1.7 to be precise) whose hourly billable rate averages \$95.8. In the last survey report, the typical Consumer Law firm employed 1 paralegal but the hourly billable rate was \$96, which was itself a slight increase from the previous survey's \$93.25.

The average hourly rate for the typical Consumer Law attorney (regardless of all other factors) is \$304, down very slightly from the last survey report's of \$305, which was itself a drop of the prior report of \$307.

The median Attorney hourly rate is \$300, up from last year's \$293 and still below the preceding survey's report of \$308.

The median 25% Attorney hourly rate (the point at which 25% of all survey participants reported an hourly rate lower than this number) is \$241, compared to \$240 in the last survey. The median 75% Attorney hourly rate is \$355, compared to \$365 in the last survey.

The median 95% Attorney hourly rate is \$480, compared to \$443 in the last survey.

The typical Consumer Law firm lawyer has not changed their hourly rate in the last 15.6 months. In the last survey it was an average of 17 months since the hourly rate had been changed in the average firm.

3. Top 10 Cities Average Rates Table for All Firms by City

This Table does not take into consideration the factors of the degree of concentration or years of practice, among other things, all of which will have a large impact on any particular person's hourly rate. All calculations in this table have been rounded to the nearest whole number.

City	Small Firm % of City (<5)	Large Firm % of City (>5)	Average Attorney Hourly Rate	Average Paralegal Hourly Rate
1. New York, NY	50	50	320	112
2. Los Angeles, CA	82	18	382	139
3. Chicago, IL	53	47	430	123
4. Houston, TX	88	12	353	83
5. Philadelphia, PA	46	54	372	132
6. Phoenix, AZ	85	15	325	106
7. San Antonio, TX	67	33	308	87
8. San Diego, CA	76	24	398	123
9. Dallas, TX	86	14	398	144
10. San Jose, CA	100	0	387	125

4. Top 10 Cities Median & Average Summaries Tables

Explanation of Cities Table

Firm Size	The typical firm size in this city area. <5 means fewer than 5 and >5 means 5 or more
Median Years in Practice	The median number of years that all attorneys in this city area have been in practice.
Concentration of Practice in Consumer Law	The largest percentage group, expressed as a percentage in the midpoint of all percentile ranges (90-100% is represented as 95% in the table).
Primary Practice Area	The area of law comprising the largest percentage of the practice work.
Secondary Practice Area	The largest practice area outside of the primary practice area; more than one may be listed.
Median Number of Paralegals in Firm	The median number resulting from all survey responses.
Last Time Rate Change Occurred (months)	The median number, expressed in months.
Median Paralegal Rate for All Paralegals	Expressed in dollars.
Average Attorney Rate for All Attorneys	Expressed in dollars. Note that this is not the "median."
25% Median Attorney Rate for All Attorneys	25% of all survey responses are below this number, expressed in dollars.
Median Attorney Rate for All Attorneys	Half of all survey responses are above this number and half below, expressed in dollars.
75% Median Attorney Rate for All Attorneys	75% of all survey responses are below this number, expressed in dollars.
95% Median Attorney Rate for All Attorneys	5% of all survey responses are above this number, expressed in dollars.

New York, NY

Firm Size	survey results were evenly split between small and large firms
Median Years in Practice	18
Concentration of Practice in Consumer Law	50
Primary Practice Area	Consumer Law
Secondary Practice Area	Bankruptcy
Last Time Rate Change Occurred (months)	18
Median Number of Paralegals in Firm	1
Average Paralegal Rate for All Paralegals	112
Median Paralegal Rate for All Paralegals	112
Average Attorney Rate for All Attorneys	320
25% Median Attorney Rate for All Attorneys	262
Median Attorney Rate for All Attorneys	337
75% Median Attorney Rate for All Attorneys	362
95% Median Attorney Rate for All Attorneys	387

Los Angeles, CA

Firm Size	<5
Median Years in Practice	8
Concentration of Practice in Consumer Law	95
Primary Practice Area	Consumer Law
Secondary Practice Area	Real Estate
Last Time Rate Change Occurred (months)	16
Median Number of Paralegals in Firm	1
Average Paralegal Rate for All Paralegals	139
Median Paralegal Rate for All Paralegals	175
Average Attorney Rate for All Attorneys	382
25% Median Attorney Rate for All Attorneys	312
Median Attorney Rate for All Attorneys	362
75% Median Attorney Rate for All Attorneys	412
95% Median Attorney Rate for All Attorneys	587

Chicago, IL

Firm Size	<5
Median Years in Practice	15
Concentration of Practice in Consumer Law	95
Primary Practice Area	Consumer Law
Secondary Practice Area	Other
Last Time Rate Change Occurred (months)	9
Median Number of Paralegals in Firm	2
Average Paralegal Rate for All Paralegals	123
Median Paralegal Rate for All Paralegals	112
Average Attorney Rate for All Attorneys	430
25% Median Attorney Rate for All Attorneys	362
Median Attorney Rate for All Attorneys	437
75% Median Attorney Rate for All Attorneys	562
95% Median Attorney Rate for All Attorneys	587

Houston, TX

Firm Size	<5
Median Years in Practice	23
Concentration of Practice in Consumer Law	95
Primary Practice Area	Consumer Law
Secondary Practice Area	Domestic Relations & Medical Malpractice
Last Time Rate Change Occurred (months)	13
Median Number of Paralegals in Firm	1
Average Paralegal Rate for All Paralegals	83
Median Paralegal Rate for All Paralegals	87
Average Attorney Rate for All Attorneys	353
25% Median Attorney Rate for All Attorneys	300
Median Attorney Rate for All Attorneys	312
75% Median Attorney Rate for All Attorneys	337
95% Median Attorney Rate for All Attorneys	587

Philadelphia, PA

Firm Size	>5
Median Years in Practice	8
Concentration of Practice in Consumer Law	95
Primary Practice Area	Consumer Law
Secondary Practice Area	Bankruptcy
Last Time Rate Change Occurred (months)	14
Median Number of Paralegals in Firm	3
Average Paralegal Rate for All Paralegals	132
Median Paralegal Rate for All Paralegals	137
Average Attorney Rate for All Attorneys	372
25% Median Attorney Rate for All Attorneys	287
Median Attorney Rate for All Attorneys	362
75% Median Attorney Rate for All Attorneys	437
95% Median Attorney Rate for All Attorneys	587

Phoenix, AZ

Firm Size	<5
Median Years in Practice	18
Concentration of Practice in Consumer Law	95
Primary Practice Area	Consumer Law
Secondary Practice Area	Bankruptcy
Last Time Rate Change Occurred (months)	14
Median Number of Paralegals in Firm	1
Average Paralegal Rate for All Paralegals	106
Median Paralegal Rate for All Paralegals	112
Average Attorney Rate for All Attorneys	325
25% Median Attorney Rate for All Attorneys	287
Median Attorney Rate for All Attorneys	312
75% Median Attorney Rate for All Attorneys	337
95% Median Attorney Rate for All Attorneys	412

San Antonio, TX

Firm Size	<5
Median Years in Practice	18
Concentration of Practice in Consumer Law	95
Primary Practice Area	Bankruptcy
Secondary Practice Area	Consumer Law
Last Time Rate Change Occurred (months)	16
Median Number of Paralegals in Firm	1
Average Paralegal Rate for All Paralegals	87
Median Paralegal Rate for All Paralegals	87
Average Attorney Rate for All Attorneys	308
25% Median Attorney Rate for All Attorneys	287
Median Attorney Rate for All Attorneys	300
75% Median Attorney Rate for All Attorneys	364
95% Median Attorney Rate for All Attorneys	375

San Diego, CA

Firm Size	<5
Median Years in Practice	13
Concentration of Practice in Consumer Law	95
Primary Practice Area	Consumer Law
Secondary Practice Area	Bankruptcy
Last Time Rate Change Occurred (months)	14
Median Number of Paralegals in Firm	1
Average Paralegal Rate for All Paralegals	123
Median Paralegal Rate for All Paralegals	137
Average Attorney Rate for All Attorneys	398
25% Median Attorney Rate for All Attorneys	362
Median Attorney Rate for All Attorneys	412
75% Median Attorney Rate for All Attorneys	437
95% Median Attorney Rate for All Attorneys	587

Dallas, TX

Firm Size	<5
Median Years in Practice	23
Concentration of Practice in Consumer Law	95
Primary Practice Area	Consumer Law
Secondary Practice Area	Personal Injury
Last Time Rate Change Occurred (months)	17
Median Number of Paralegals in Firm	1
Average Paralegal Rate for All Paralegals	144
Median Paralegal Rate for All Paralegals	150
Average Attorney Rate for All Attorneys	398
25% Median Attorney Rate for All Attorneys	287
Median Attorney Rate for All Attorneys	362
75% Median Attorney Rate for All Attorneys	550
95% Median Attorney Rate for All Attorneys	587

San Jose, CA

Firm Size	<5
Median Years in Practice	13
Concentration of Practice in Consumer Law	95
Primary Practice Area	Consumer Law
Secondary Practice Area	Bankruptcy
Last Time Rate Change Occurred (months)	15
Median Number of Paralegals in Firm	1
Average Paralegal Rate for All Paralegals	125
Median Paralegal Rate for All Paralegals	125
Average Attorney Rate for All Attorneys	387
25% Median Attorney Rate for All Attorneys	350
Median Attorney Rate for All Attorneys	375
75% Median Attorney Rate for All Attorneys	462
95% Median Attorney Rate for All Attorneys	487

5. Survey Techniques

Surveys are important tools in any evaluation process. There are fundamentally two types of surveys: open ended questioning and closed ended questioning.

Open ended questions allow the responder to respond in any manner at all with no definite answer. Close ended questions provide a limited number of possible answers from which a response can be chosen by the responder. Because open ended questions allow for an unlimited response, they can lead to a subjective analysis and the results are almost always more difficult to interpret and quantify for analysis.

Close ended questions, however, lend their responses to easy statistical analysis.

There are five types of close ended questions.

A Likert-scale question allows for responses on a scale and allows a responder to state their feelings about an issue, such as strongly agree to strongly disagree. Multiple choice questions allow the responder to select from a finite number of responses. Ordinal questions ask the responder to rate things in relation to each other, such as selecting the most important to the least important responses about an issue. Categorical questions first place the responder in a category and then poses questions based on those categories, such as preceding questions with the initial inquiry of whether the responder is male or female. Numerical questions are used when the answer must be a real number.

This survey used numerical questions and one multiple choice question. This allowed for precise responses that could readily be cataloged and statistically interpreted.

The methodology used in conducting United States Consumer Law Attorney Fee Survey 2010-2011 is explained in the “Methodology” section of the Introduction to this work.

6. Cases Employing Use of Survey Data

Courts frequently consider and use survey data in decision making involving fee disputes, finding it an economical and impartial means of determining .

Cases using the *US Consumer Law Attorney Fee Survey* deciding attorney fee disputes in Consumer Law cases include the following.

Decker v. Transworld Systems, Inc., 2009 WL 2916819, N.D.Ill.,2009., September 01, 2009 (finding results in the 2007 United States Consumer Law Attorney Fee Survey to be “supported by the Laffey Matrix”).

Krapf v Nationwide Credit, Inc., 2010 WL 4261444, C.D. Cal., October 21, 2010.

LaFountain, Jr v. Paul Benton Motors of North Carolina, LLC, 2010 WL 4457057, ED NC, November 5, 2010 (Senior US District Judge James C. Fox specifically finds the *US Consumer Law Attorney Fee Survey* to be persuasive, after rejecting the National Law Journal’s fee survey and the US Attorney’s Laffey Matrix as **un**persuasive in consumer law cases: “The court does, however, find the evidence in the *United States Consumer Law Attorney Fee Survey* to be persuasive”).

Livingston v. Cavalry Portfolio Services, LLC, 2009 WL 4724268, N.D.Ohio,2009., December 02, 2009.

Paris v Regent Asset Management Solutions, Inc., 2010 WL 3910212, S.D. Ohio, October 5, 2010.

Renninger v Phillips & Cohen Associates, Ltd, 2010 WL 3259417, M.D. Fla., August 18, 2010.

Sandin v. United Collection Bureau, Inc., 2009 WL 2500408, S.D.Fla.,2009., August 14, 2009.

Savage v NIC, Inc., 2010 WL 2347028, D. Ariz., June 9, 2010.

Shelago v. Marshall & Ziolkowski Enterprise, LLC, 2009 WL 1097534, D.Ariz.,2009., April 22, 2009.

Suleski v. Bryant Lafayette & Associates, 2010 WL 1904968, E.D.Wis.,2010., May 10, 2010 (“However, the United States Consumer Law Attorney Fee Survey for 2008-09 for the Midwest and California, see www.consumerlaw.org/feesurvey (last visited May 7, 2010), supports the reasonableness of the hourly rates sought by counsel in light of their experience”).

Vahidy v. Transworld Systems, Inc., 2009 WL 2916825, N.D.Ill.,2009., September 01, 2009 (finding results in the 2007 United States Consumer Law Attorney Fee Survey to be “supported by the Laffey Matrix”).

Wamsley v. Kemp, 2010 WL 1610734, S.D.Ohio,2010., April 20, 2010 (using both the national survey and the regional survey reports).

7. Additional Cases on Use of Survey Data

Additional considerations in using fee surveys may be relevant to a court's consideration in a particular case, including the following concepts drawn from the illustrative cases below.

The cost of performing a fee survey may be recoverable in some instances.

It is a matter of first impression that a fee applicant would hire another attorney to conduct a survey on her behalf. We cannot forget that Luessenhop has the burden of proving that her Fee Application is based upon prevailing market rates and that she has the right to present evidence to support the rate she believes to be prevailing. Here, where we are required to weigh the presumptive prevailing market rate district wide, further pondering the geographical distance and economic disparities between the Plattsburgh and Albany communities and Schneider's relatively limited access to those attorneys who practice civil rights litigation in Albany, we acknowledge that Luessenhop was left with little option but to hire Mishler, an Albany attorney, to conduct a more comprehensive survey on her behalf. Luessenhop seeks \$787.50 for Mishler's endeavors, which appears to be modest. Considering the amount of time this Court spent to conduct a similar survey, we do not find this amount to be unreasonable and will award it.

Luessenhop v. Clinton County, N.Y. 558 F.Supp.2d 247, 272 (N.D.N.Y.,2008).

While different attorney fee surveys may exist for the Court's consideration, the question may be which "fee survey better served the purpose of assessing the skills, experience and reputation of counsel" in a particular case. *Strohl Systems Group, Inc. v. Fallon*, E.D.Pa., 2007, 2007 WL 4323008.

Moreover, a fee survey may be approved as probative evidence of the

reasonableness of an hourly rate. *Taylor v. USF-Red Star Express, Inc.*, 2005 WL 555371, E.D.Pa., 2005, March 8, 2005.

However, the results of an attorney fee survey may be merely a starting point, a piece of evidence that still should be shown to apply in a particular case. See, *Ray v. Secretary of Dept. Of Health and Human Services*, 2006 WL 1006587, Fed.Cl., 2006, March 30, 2006.

8. Recommendations for Future Survey Data

As always, we welcome your suggestions for improvements to the survey as we continue to gather useful information for Consumer Law practitioners in the future. Please email your suggestions to Ron@TheLawCoach.com or you may mail them to Ronald L. Burdge, 2299 Miamisburg Centerville Road, Dayton, Ohio 45459-3817.

Ronald L. Burdge, Editor

About the Editor

Ronald L. Burdge is the founder of Burdge Law Office Co LPA in Dayton, Ohio. Mr. Burdge is in private practice in Ohio, Kentucky and Indiana and elsewhere by *pro hac* admission, and is nationally known as a leading Consumer Law attorney. For over a decade, Mr. Burdge has testified as an expert witness on Consumer Law and Attorney Fee issues in numerous state and federal courts. He is a member of the Total Practice Management Association and other practice management organizations. His work in the field of surveys began with college undergraduate course work including marketing survey work while pursuing a bachelor of arts degree at San Diego State University in California prior to 1975.

He has authored numerous articles in national, state, and local publications, and lectured widely on Auto Sales Fraud, Attorney Fee issues, Lemon Laws, Udap Laws, Rv Lemon Laws, Assistive Device Lemon Laws, Odometer Laws, other Consumer Law topics, and Consumer Trial Practice and Strategy, and is a member of the American Society of Legal Writers and the Legal Writing Institute. Mr. Burdge has also lectured widely at national and state Consumer Protection Law seminars before attorneys, judges, and both public and business groups, and has testified before the Ohio Legislature and its committees on Consumer Law issues.

He has extensive trial and appellate experience in individual and class action cases. Since 2004, he remains the only Consumer Law attorney in Ohio who has been annually named to Ohio Super Lawyer status by *Law & Politics* Magazine and whose practice is entirely devoted to Consumer Law work. In 2004, he was named Trial Lawyer of the Year by the National Association of Consumer Advocates and in 2010 he was elected to the Board of the National Association of Consumer Advocates.

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