

UNITED STATES CONSUMER LAW

ATTORNEY FEE SURVEY

2008-2009

2nd Edition

CALIFORNIA REGION



Ronald L. Burdge

**United States Consumer Law
Attorney Fee Survey 2008-2009,
2nd Edition**

Conducted By

Ronald L. Burdge
Burdge Law Office Co. LPA
2299 Miamisburg Centerville Road
Dayton, OH 45459-3817
Voice: 937.432.9500
Fax: 937.432.9503

Email: Ron@TheLawCoach.com

Copyright 2010 by R.L.Burdge

**UNITED STATES CONSUMER LAW
ATTORNEY FEE SURVEY, 2008 - 2009, 2nd Ed.**

CALIFORNIA REGION

Table of Contents

| | |
|---------------------------------------------------------------------------------|----|
| Introduction | 1 |
| Methodology | 3 |
| The Average and the Median: What it Means to You | 3 |
| Geographic Areas Defined | 5 |
| Interpreting the Findings..... | 5 |
| 1. Summary Profile of the Typical US Consumer Law Attorney..... | 8 |
| 2. Summary Profile of the Typical California Region Consumer Law Attorney | 10 |
| 3. California Regional Average Table for All Firms..... | 11 |
| 4. Average Hourly Rates by Years in Practice, Regional Table..... | 13 |
| California Region Firms | 13 |
| 5. Regional Median & Average Summaries Table | 14 |
| Explanation of Table..... | 14 |
| Survey Techniques | 17 |
| Recommendations for Future Survey Data | 18 |
| About the Editor | 18 |

Introduction

This report publishes the California Region results of the United States Consumer Law Attorney Fee Survey 2008 - 2009. Attorneys in every state and Puerto Rico took part in the national survey and the results are the most comprehensive in our decade of research work on the subject.

“Consumer Law” is broadly defined as that body of law 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 bankruptcy, criminal defense, domestic relations, employment, estate planning-probate-wills, general practice, medical malpractice, personal injury, real estate, securities, workers compensation, and other more narrow topics of consumer law such as consumer protection rights enabled by specific statutes such as the Fair Credit Reporting Act and many others.

This second edition of the Survey report adds relevant comparisons with limited data from the Incisive Media *2009 Survey of Law Firm Economics* recently released and which surveyed 190 firms and their 12,000 attorneys nationally, including all firm sizes and all practice areas of law.¹ Summaries of the Incisive Media *2009 Survey* have been reviewed by the editor and found to general corroborate the results in this US Consumer Law Attorney Fee Survey. The methodology utilized by this survey is discussed in depth in a separate chapter.

This regional study is reported in five sections.

First, a “Summary Profile of the Typical US Consumer Law Attorney” has been added. It is a collective approach to the entire survey results, yielding a picture of the typical US Consumer Law practitioner scenario.

¹The Incisive Media survey compiles economic statistics and financial data about the legal profession, including firm financials, billing rates, billable hours, compensation, and staffing ratios, primarily for firm managers. The 2009 Survey is available at a cost of \$925 to \$1025. Their web site, where publications can be ordered, is www.incisivesurveys.com.

Second, a “Summary Profile of the Typical California Consumer Law Attorney.” This is a collective approach to the entire California Region survey results, yielding a picture of the typical California Consumer Law practitioner scenario.

Third, the “California Regional Table for All Firms” has been included, reporting the California Region average hourly rates according to small and large firm classes and including both attorney rates and paralegal rates.

Fourth, because years in practice is a primary factor in determining hourly rates, the “Average Hourly Rates by Years in Practice, California Region” regional table is included.

Fifth, a “California Regional Median & Average Summaries Table” has been incorporated in the survey results, reporting not just a median analysis but also the results of all of the survey questions on a localized, California Region approach. The average for the California region 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.

Prior studies have shown that the factors most influencing an hourly rate are an attorney’s years in practice, location of practice, and size of firm.

In compiling this report, an important contribution was made by members of the National Association of Consumer Advocates and supporters of the National Consumer Law Center and Consumer Law attorneys across the United States and its territories who were invited to participate during 2008 - 2009.

Information was collected for individual data as of end of the last year. As previously, an on-line survey service was utilized to gather and tabulate the results.

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. This is the California Region portion of that national reference publication. Because of the continuing and increasing involvement of paralegals and law clerks in non-administrative day to day aspects of legal practice, data is also compiled on paralegal hourly rates.

The data is reported in several tables below, allowing the reader to consider the data from the viewpoint of a selected factor or criteria, such as the number of years practicing Consumer Law.

Methodology

Survey results are based on the results of an on-line survey fielded during the last two months and the first two months of each year and consisting of 9 key data questions. 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 solicited. Other sources of participation include solicitations sent to attorneys identified through court filings in various jurisdictions, bar association directories, internet search engine results, and randomly selected physical telephone book specialty listings where available.

To help practitioners understand and interpret the data below, a brief explanation of the data may help.

The Average and the Median: What it Means to You

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. 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.

Geographic Areas Defined

The national survey data has been compiled in twelve geographic regions, including several states identified as their own "region." This is loosely based on a combination of three factors: the long-established Altman-Weil² regional tables, the quantity of Consumer Law attorneys that were readily identified as practicing in each state, and the geographic proximity of any one state to a nearby overall region.

| | |
|-----------------|------------------------------------------------------|
| Atlantic: | DC, DE, NC, NJ, PA, VA, WV |
| California | State of California only |
| Florida | State of Florida only |
| Mid West: | IA, IL, IN, KS, MI, MN, MO, ND, NE, SD, WI |
| New York | State of New York only |
| North East: | CT, MA, MD, ME, NH, RI, VT |
| Ohio | State of Ohio only |
| Pacific: | AK, HI, OR, WA |
| South: | AL, AR, GA, KY, LA, MS, OK, SC, TN |
| Texas | State of Texas only |
| US Territories: | Puerto Rico, Guam, American Samoa, US Virgin Islands |
| West: | AZ, CO, ID, MT, NM, NV, UT, WY |

Since this survey began ten years ago, the states of California, Florida, New York, and Ohio have consistently had a larger overall quantity of Consumer Law practitioners than other states. For that reason, these four states are treated in the national survey report as being their own region.

Interpreting the Findings

²Altman Weil, Inc. provides management consulting services exclusively to legal organizations. Its clients include law firms, law departments, governmental legal offices and legal vendors of all sizes and types throughout North America, the U.K. and abroad. The Altman Weil website address is <http://www.altmanweil.com/>.

An hourly rate is commonly impacted by several factors, including years of practice, firm size, practice location, degree of practice concentration, 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.

A Summary Profile of the Typical US Consumer Law Attorney is presented at the outset of this survey report. This summary profile presents an overview of the "average" US Consumer Law attorney and their practice. It may be viewed as the average of all responses nationwide. It is followed by the Summary Profile of the Typical California Consumer Law Attorney.

The California Regional Average Table for All Firms provides an overview of the averages for respondents in the California region, broken down by large firm and small firm categories. This table provides the average attorney hourly rate survey results, grouped in large and small firm responses, and also includes paralegal survey results. Presented in table format, it allows for easy comparison of averages of key data across several regions when viewed in the national report.

The Average Hourly Rates by Years in Practice Regional Table, California Region, presents an analysis of the impact that years in practice in Consumer Law has on the average California Region attorney's hourly rate. As in the national report, this table of years in practice is divided into 9 time frames, with less than one year and more than 31 years bracketing the outer limits at each end. One might think that longevity of practice would dictate an increasingly higher hourly rate and these tables report survey results that tests that assumption. Current temporal economic trends outside of this survey test that assumption further but are not considered in this average.

The Regional Median and Average Summaries Tables are presented to give an overview of the practice on Consumer Law lawyers in each region. 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. These tables also show the difference in survey results when comparing the average hourly rates and the median hourly rates.

Where necessary, insufficient data is represented by a dash mark instead of a numerical entry in the column.

1. 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.

The typical Consumer Law attorney is in a small office of 4 or fewer practitioners and has been practicing law for 17.8 years. 82.7% of their practice consists of Consumer Law issues with the practice supplemented in largest part by Bankruptcy cases.

The typical Consumer Law firm employs 1 paralegal whose hourly billable rate is \$96, a slight increase from last year’s \$93.25.

The average hourly rate for the typical Consumer Law attorney (regardless of all other factors) is \$305, down slightly from last year’s \$307. Incisive Media reports the national average billing rate for all attorneys in all fields of law to be \$332.

The median Attorney hourly rate is \$293, down from last year’s \$308. By comparison, Incisive Media reports the median billing rate for all attorneys in all fields of law to be \$325.

The median 25% Attorney hourly rate (the point at which 25% of all survey participants reported an hourly rate lower than this number) is \$240, compared to \$244 last year. The median 75% Attorney hourly rate is \$365, the same as last year. By comparison, Incisive Media reports the 75% median billing rate for all attorneys in all fields of law to be \$390.

Only 5% of survey participants reported an hourly rate higher than \$443, down from last year’s \$465. By comparison, Incisive Media reports the top 10% of its survey participants billing rate for all attorneys in all fields of law to be \$450 or higher.

The typical Consumer Law firm lawyer has not changed their hourly rate in the last 17 months.

From a national view, 79% of all U.S. Consumer Law firms employ 4 or fewer attorneys, 19% of all Consumer Law attorneys have been in practice less than 5 years, an increase from last year's 16%; 45% of Consumer Law attorneys report Bankruptcy Law as the largest area of law in their practice outside of Consumer Law matters and another 36% report General Practice work to be the largest area of law. The region with the largest percentage of small firms is Texas at nearly 100% and the region with the largest percentage of more-experienced attorneys is the North East with 28%.

What comparisons between this Consumer Law survey and the Incisive Media more general practice survey indicate is that Consumer Law attorneys average a lower hourly rate than the average of all other areas of law taken together.

2. Summary Profile of the Typical California Region Consumer Law Attorney

This section summarizes key statistics derived from the survey when viewed from the California regional approach. Emphasis here is on the “average” Consumer Law attorney in the California without regard for any specific survey factor.

The typical California Consumer Law attorney is in a small office of 4 or fewer practitioners (63.9%, down from last year’s 75%) and has been practicing law for 13 years (same result as last year). Although 69.4% of survey participants reported that 90% or more of their practice was devoted to Consumer Law, 77.8% reported that Consumer Law represented the largest area of their practice time with the practice supplemented in largest part by General Practice work.

The average California Consumer Law firm employs 1 paralegal whose billable hourly rate is \$137 (same as last year) and 70% of all California paralegals have a billable hourly rate between \$75 and 149.

65.7% of all California Consumer Law attorneys (regardless of all other factors) have a billable hourly rate above \$325 and the average rate was \$396, slightly up from last year’s average rate of \$394 but not significantly contrary to the national trend of reductions in the hourly rate observed in other regional results this year.

The median California Attorney hourly rate is \$362, same as last year. The median 25% California Attorney hourly rate (the point at which 25% of all California survey participants reported an hourly rate lower than this number) is \$312. The median 75% California Attorney hourly rate is \$487. Only 37.1% of California survey participants reported an hourly rate higher than \$425 and 11.4% reported an hourly rate higher than \$550.

The typical California Consumer Law firm lawyer changed their hourly rate in the last 9 months.

3. California Regional Average Table for All Firms

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.

| Region: | % of Total Survey Responses From This Region: | Small Firm % of Region (<5) | Large Firm % of Region (>5) | Small Firm Average Attorney Rate In this Region | Large Firm Average Attorney Rate In this Region | Small Firm Average Paralegal Rate In this Region | Large Firm Average Paralegal Rate In this Region |
|-------------------------|-----------------------------------------------|-----------------------------|-----------------------------|-------------------------------------------------|-------------------------------------------------|--------------------------------------------------|--------------------------------------------------|
| California ³ | 14.7 ⁴ | 63.9 | 36.1 | 395 | 398 | 129 | 132 |

³ California is one of 12 regions in the national survey.

⁴ Of all responses in the national survey, this percent of the total came from California. Since this survey began ten

years ago, the states of California, Florida, New York, and Ohio have consistently had a larger overall number of Law practitioners than other states. For that reason, those four states are treated in the national survey as their own region.

4. Average Hourly Rates by Years in Practice, Regional Table

California Region Firms

| Years Practicing Consumer Law | Average Attorney Hourly Rate | Last Year's Survey Result⁵ |
|--------------------------------------|-------------------------------------|----------------------------------------------|
| <1 | - | 175 |
| 1-3 | 279 | 290 |
| 3-5 | 320 | 333 |
| 6-10 | 316 | 367 |
| 11-15 | 412 | 383 |
| 16-20 | 415 | 450 |
| 21-25 | 460 | 297 |
| 26-30 | 475 | 450 |
| >31 | 428 | 471 |

⁵ This column enables the reader to contrast the data with the last survey conducted.

5. Regional Median & Average Summaries Table

Explanation of Table

| | |
|---------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------|
| Firm Size | <5 means fewer than 5 attorneys in the law firm. >5 means 5 or more attorneys in the law firm. |
| Median Years in Practice | The median number of years that all attorneys in this region have been in practice. |
| Concentration of Practice in Consumer Law | The largest percentage group, expressed as a percentage, ranges are avoided where possible in preference to a specific result. |
| Primary Practice Area | The area comprising the largest percentage of the practice work. |
| Secondary Practice Area | The largest practice area outside of Consumer Law. Where no one area dominates a dash is entered in the table. |
| 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, ranges are avoided where possible in preference to a specific result. |
| Average Attorney Rate for All Attorneys | Expressed in dollars, ranges are avoided where possible in preference to a specific result. 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. |

California

**This Year's
Survey Result:**

**Last Year's
Survey Result⁶:**

| | | |
|---------------------------------------------------|-------------------------|---------------------|
| Firm Size | <5 | <5 |
| Median Years in Practice | 11-15 | 11-15 |
| Concentration of Practice in Consumer Law | 90-100 | 90-100 |
| Primary Practice Area | Consumer Law | Consumer Law |
| Secondary Practice Area | General Practice | Other |
| Median Number of Paralegals in Firm | 1 | 1 |
| Last Time Rate Change Occurred (months) | 7-11 | 12 |
| Median Paralegal Rate for All Paralegals | 137 | 137 |
| Average Attorney Rate for All Attorneys | 396 | 394 |
| 25% Median Attorney Rate for All Attorneys | 312 | 312 |
| Median Attorney Rate for All Attorneys | 362 | 362 |

⁶ This column enables the reader to contrast the data with the last survey conducted.

| | | |
|---------------------------------------------------|------------|------------|
| 75% Median Attorney Rate for All Attorneys | 487 | 450 |
| 95% Median Attorney Rate for All Attorneys | 575 | 575 |

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.

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 is nationally known as a leading Consumer Law attorney. In the last 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.

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. 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 is Board Certified in Civil Trial Law and has also served as Board Examiner for the National Board of Trial Advocacy. He has extensive trial and appellate experience in individual and class action cases involving lenders, car dealers and manufacturers, and their business practices. Since 2004, he remains the only Consumer Law attorney in Ohio who has been named to Ohio Super Lawyer status by *Law & Politics* Magazine and whose practice is entirely devoted to Consumer Law work for consumers only. In 2004, he was named Trial Lawyer of the Year by the National Association of Consumer Advocates.

Copyright 2010

by R.L.Burdge, Burdge Law Office, Dayton, Ohio