

**LEGAL SPECIALTY****MUCH MORE THAN  
A RUBBER STAMP****NEW TYPE OF LAWYER MAKES  
INTERNATIONAL DEALS GO DOWN EASY**by **David Corder**

**N**ever confuse David S. Willig with a mere notary public.

While the latter can certify your signature on an affidavit, Willig, with his new certification as a civil law notary, can expedite multimillion-dollar international deals. Last year, Willig and 62 other Florida attorneys became the first lawyers in the U.S. to earn a state certification, or commission, under a law passed by the Florida Legislature three years ago.

Throughout much of the world, civil law notaries play a key role in many kinds of business transactions. They authenticate the accuracy and legal sufficiency of documents, particularly in transactions between people in different countries. They also verify the authority of individuals to approve contracts on behalf of companies.

Fans of the civil law notary concept say that attorneys with this certification can smooth the way for deals between Florida businesses and their counterparts in Asia, Europe and Latin America. Besides facilitating deals, they say, notaries reduce the potential for misinterpretation of law, misrepresentation and fraud. In some countries, this authentication role is particularly important because of a lack of confidence in the country's legal and government systems and a climate of mistrust surrounding business dealings, says David Ron Surbey, a Buenos Aires partner with Holland & Knight.

Willig says that his role as a civil law notary helped two clients settle difficult estate matters last year in France, where their relatives died without wills. Those clients could not afford to travel to France to hire a French notary.

"For two and half years we were searching for a solution to their problems," says Willig, a solo practitioner in Miami whose focus is international legal matters, especially those involving France.

"The clients did not have access to any other source [in the U.S.] to prepare their documents.



**David Willig:** Says he now can solve international problems he couldn't before.

With the advent of this statute we found a solution."

### **From Caesar to Henry VIII**

Until Florida enacted the notary law, U.S. common law did not recognize the role of civil law notaries or the associated body of civil notarial law. The use of civil law notaries goes back at least to the Roman Empire, says Todd G. Kocourek, a civil law notary and attorney with Sandler Travis & Rosenberg in Tallahassee. They were used in England until Henry VIII of England divorced Catherine of Aragon in the early 1500s, which resulted in big changes in English civil law, the

foundation for U.S. common law. One of those changes was the shelving of notarial law.

Kocourek thinks that the concept of the civil law notary has re-emerged in Florida because of the state's large population of foreign citizens and the rapid growth of its trade links with Latin America and other regions.

By earning the state commission as a civil law notary, attorneys like Kocourek and Willig believe they can reduce the time it takes to authenticate documents in client dealings that cross borders. "It's certainly a tool that enhances what I can do for my existing clients," Willig says. "I wouldn't say I'm charging higher fees [because of it]. It's just a different service that I couldn't provide before."

While civil law notaries are virtually unknown in the United States, Kocourek says they are central to transactions elsewhere. In a typical international land deal, a notary must authenticate the buyer's and seller's identities by examining their passports or driver licenses. That ensures that the seller has the legal right to dispose of the property and the buyer has the power of attorney to bind his company. The notary also reviews the sales contract to see that it is legally sufficient under the laws in all relevant jurisdictions. Often, the parties in each country will hire their own civil law notaries.

"It benefits investment transactions in both directions, where an entity or person outside the United States invests in Florida, or where a Florida resident invests overseas," Kocourek says. "A civil law notary in Mexico City doing a real estate closing on a \$100 million skyscraper is much more likely to accept protocol documents from a U.S. civil law notary than those that come just under seal from a notary public."

## Growing role for notaries

Florida's new program gives attorneys like Willig and Kocourek greater credibility in international transactions, which makes them more valuable to

U.S. and foreign clients. What they tout to their clients is speed and efficiency in completing such deals.

Civil law notaries will become increasingly important to international commerce as trade treaties reduce import-export barriers, says Florida Secretary of State Katherine Harris, whose office grants the civil law notary commission. Before her election to statewide office in 1998, Harris, as chair of the Senate Commerce Committee, took a lead role in pushing through the bill establishing civil law notaries. "This program will result in Florida being a leader among states in international trade," she says.

To become certified, an applicant must be licensed as an attorney in Florida for at least five years, be a member in good standing of the Bar, pay a \$50 application fee, complete a three-day study program and pass a three-hour exam. The course covers historical, theoretical and practical applications of notarial law, providing an understanding of what notaries do overseas and what they can do in the U.S.

But many believe tougher standards are needed to win broader acceptance for Florida civil law notaries abroad. State officials are working with the Florida Bar and the International Union of Latin Notaries, the global bar association representing civil law notaries in 68 countries, to stiffen education and testing requirements.

Each day, other countries use Florida-based architects and engineers to build high-rises, and intellectual property products developed in Florida to build computer networking and telecommunications systems, Kocourek points out. Each of these deals requires legally sound documents to protect all parties. As a result, he foresees a big increase in the need for civil law notaries.

"This knowledge is very portable and very value-added," Kocourek says. "It's the transfer of genius. And we're talking about huge dollars." ♦