

Civil Law Notaries: Using Notarial Records to Build a Family History

Board for Certification of Genealogists Webinar

Melanie D. Holtz, CGSM

Melanie@holtzresearch.com

www.italyancestry.com

Civil Law Notary vs. Notary Public

A civil law notary (also known as a Latin notary) is an attorney who prepares, records, and certifies legal documents that are requested by private parties. They are allowed to prepare non-contentious legal documents only and therefore practice family and civil law. They give legal advice and hold a law degree. Depending on the country, civil notaries may be appointed officials and government regulated.

Most civil law notaries practice outside of the U.S. However, some states, like Louisiana, allow civil law notaries to practice under slightly different state laws than is seen in most U.S. states.

In the U.S., some notarial laws are based on English common law, due to the fact that we were once a British colony. However, Louisiana's notarial law uses French law as its base, while Puerto Rico's notarial law is based in Spanish law. Alabama and Florida allow both civil law notaries and notary publics.

A civil law notary can prepare any form of legal document in which the nation state has no legal stake. This can include, but is not limited to: wills, dowries, marital contracts, marital permissions, legitimizations, adoptions, indentures, property deeds [real property and other], inventories, mortgages, loans, building contracts, personal declarations [includes documents certifying birth when no birth record recorded, declarations of death], partnership papers, acknowledgements of receipt, and power of attorney documents.

Civil law notaries must keep at least one original copy of each document in his/her possession, as well as the documents of past notaries who held that office, until such time as the law requires the documents be sent for conservation.

A notary public (also called a common law notary) can witness and authenticate certain legal documents, administer oaths and affirmations, take affidavits and statutory declarations, receive acknowledgements of deeds and other transfers, provide exemplifications amongst other items. A U.S. notary public can only practice in common-law states, is not highly trained, and does not need a law degree.

A notary public cannot draft legal documents, give legal advice, or assist in immigration matters except to authenticate some legal documents.

While there's no way I can fully cover the formats of civil law notarial records in all countries, I wanted to give a few details on notarial records in Italy and France, as the examples in this webinar come from these two countries.

Notarial Records in Italy

"There was no established format for these [notary] records; each notary created the record according to his style and the desire of the parties involved...Until about 1865, the official language used by notaries was Latin; and they used abbreviations and codes to make documents as obscure as possible so that only notaries could read them."¹

"Notaries recorded all legal transactions, from mortgages, property sales/transfers, wills, dowries/marital contracts, and many other types of documents. Therefore, notarial records can be an invaluable source of evidence. I once found an amazingly helpful property transfer that detailed three generations of a family and provided death dates and places for the initial couple on the deed, the client's second great-grandparents. As access to parish records was not permitted in this area of Italy, this pre-civil registration information was especially valuable.

The Family History Library has a limited amount of these records on microfilm or digitized and their collection is increasing. The majority of these records need to be researched onsite in Italy's provincial/state archives or notarial archives, depending on the province."²

Prior to Italian Unification about 1865, what we now know as modern-day Italy was ruled by multiple city-states, each of which had different laws, which influenced the procedure of the civil law notaries working within their jurisdictions.

Notarial Records in France

"Notarial records were made in all areas of France and its colonies. Researchers sometimes use notarial records from as early as the 1300s. Notaries are required to deposit records more than 125 years old in the departmental archives, but compliance with this rule is not complete. Most French notarial records are not indexed...In France

¹ Trafford R. Cole, Pys.D., *Italian Genealogical Records: How to Use Civil, Ecclesiastical, & Other Records in Family History Research*, (Salt Lake City, Utah, Ancestry Incorporated, 1995), p. 153.

² Melanie D. Holtz, CGsm, "Diverse Communities: Researching Your Italian Ancestors (Part 2)," *Board for Certification of Genealogists* (<http://bcgcertification.org/blog/2016/07/diverse-communities-researching-italian-ancestors-part-2/> : accessed 30 October 2016).

the legal profession is divided into notaries [notaires] and lawyers [avocats]. Lawyers handle legal disputes, but notaries prepare acts and contracts and certify authentic copies of them.”³

“The array of notarial records is wide and really could be endless. People not only asked the notaire [notary] to make such documents as contracts, but to witness all sort of ordinary or peculiar events. Working on a recent project, we have found much more via notarial records in relation to a family and all of its members than ever could be possible with civil and parish registers.”⁴

Differences Between Corsican/French and French Notarial Records

It’s important to note that many Corsican notarial records were still being written in the Genoese dialect (or one of the Corsican dialects) as late as the 1830s-1840s, even though they had been under French rule since the 1760s. Corsica was ruled by the Genoese (off and on by the Pisans) for several hundred years before being ceded to France during the Treaty of Versailles. Therefore, all Corsican dialects derive from the Genoese dialect, the foundation of modern day Italian.

Understanding the history of Corsica, as well as the differences between Corsican/French and French notarial records of certain time periods, is important when evaluating the Corsican/French notarial records we’ll discuss during the webinar. Corsican notaries in the interior of the island continued to follow Genoese notarial law long after becoming a part of France.

Reference List

There are many references, especially journal articles, which discuss and display the use of notarial records in scholarly, historical, and social research. However, the second reference below by Daniel Wallace Maze is a particularly good example of how much information useful to family history research can be found within notarial records.

Berhard Bischoff, *Paleografia Latina Antichita e Mediovo*, (Padova, Italy: Editrice Antenore, Italian edition, 1986). Originally printed in German, Italian translation of second edition. Helpful for deciphering Latin in notarial documents.

Daniel Wallace Maze, “Giovanni Bellini: Birth, Parentage, and Independence,” *Renaissance Quarterly*, Vol. 66, No. 3 (The University of Chicago Press on Behalf of the Renaissance Society of America, Fall 2013), pp. 783-823.

³ “France Notarial Records,” FamilySearch Wiki

(https://familysearch.org/wiki/en/France_Notarial_Records: accessed 30 October 2016).

⁴ Anne Morddel, CGSM “Array of Notarial Records,” *French Genealogy Blog* (<http://french-genealogy.typepad.com/genealogie/2011/04/array-of-notarial-records.html/> : accessed 30 October 2016).

“Finding Your Family in Notarial Records,” digitized article, *Ancestry.com* (<http://c.mfcreative.com/media/dam/acom/PDF/Content/quebec-notarial-us.pdf> : accessed 30 October 2016).

John Philip Colletta, PhD, *Finding Italian Roots The Complete Guide for Americans*, Second Edition (Baltimore, Maryland: Genealogical Publishing Company, reprinted 2008), pp. 125-130.

Giulio Battelli, *Lezioni di Paleografia*, (Città del Vaticano: Libreria Editrice Vaticana, 2007, seconda ristampa della quarta edizione). Helpful for deciphering Latin in notarial documents.

L. Neville Brown, “The Office of the Notary in France,” *The International and Comparative Law Quarterly*, Vol. 2, No. 1 (Cambridge University Press, January 1953), pp. 60-71

Louis Mendola, *Sicilian Genealogy and Heraldry*, (New York: Trinacria Editions, 2013), pp. 167, 194, 207.

Luca Sarzi Amadè, *L'Antenato Nel Cassetto: Manuale di Scienza Genealogica*, (Sesto San Giovanni, Milano, Italy: Mimesis Edizioni, 2015). This resource is in Italian and contains handwriting samples of abbreviations seen within documents written in Latin.

Melanie D. Holtz, CGsm, “Diverse Communities: Researching Your Italian Ancestors (Part 2),” *Board for Certification of Genealogists* (<http://bcgcertification.org/blog/2016/07/diverse-communities-researching-italian-ancestors-part-2/> : accessed 30 October 2016).

New Orleans Notarial Archives, “Guide to the French Colonial Records (1737-1767),” digitized article, Clerk of Civil District Court for the Parish of New Orleans (<http://www.orleanscivilclerk.com/FrenchColonialGuide.pdf> : accessed 30 October 2016).

Peter J. Hamilton, “The Civil Law and the Common Law,” *Harvard Law Review*, Vol. 36, No. 2 (The Harvard Law Review Association, December 1922), pp. 190-192.

Suzanne Russo Adams, MA, AG, *Finding Your Italian Ancestors A Beginner's Guide*, (Provo, Utah: Ancestry Publishing, 2008), pp. 110-111.

“The Significance of the Notary and His Office in the Countries Associated in the Union Internationale du Notariat Latin,” *The International Lawyer*, Vol. 5, No. 4 (The American Bar Association, October 1971), pp. 750-754.

Trafford R. Cole, Psy.D., *Italian Genealogical Records How to Use Italian Civil, Ecclesiastical, & Other Records in Family History Research*, (Salt Lake City, Utah: Ancestry Incorporated, 1995).

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