

THE NEW NEW YORK?

Miami is getting an ever-bigger slice of Latin America's legal work, agree the senior partners of the Florida-based international law firms during a roundtable meeting

LL: What are the biggest trends in your practices in the region?

ALONSO: I think that perhaps what's most interesting is that Latin America shouldn't really be seen as a region as such, but more as a collection of countries going through different experiences. So what I find is that whereas in previous times a crisis in one country would have spelled doom for the entire region, nowadays we have very different kinds of work for different countries. Latin America today is more about the parts than about the whole, and so there are parts of the region today that are indeed very busy and bringing considerable opportunities for investors.

ZALDIVAR: We take a slightly different view, because we do still see Latin America as a region, despite the differences between the countries. There is still a shared civil law system and a very similar culture, and we have built our practice in the region on our familiarity with that culture. But I do agree with Fernando that in different countries we have very different types of work. In some countries we have a very strong energy and project finance practice, in others we have more of an M&A/financing practice, working closely with our New York and DC offices, in others still the focus is on trade and finally, in those countries where there is a lot of project finance work, we see increasing volumes of arbitration and international litigation. So we do see very different products in different countries, and we see very little overlap.

LL: And in your firm's case, the fact that a country is going through political and economic upheaval is no barrier to having a strong practice there?

ZALDIVAR: We don't see the fact that a country is going through political and economic upheaval as an impediment to growth by any means – in fact we see it as a tremendous opportunity. In some countries going through such issues the situation has created work opportunities for certain practice groups, such as international arbitration, project development and government relations.

MCCARTHY: I guess I kind of come out in between – in our experience we work very much with individual companies, and it's often not so important where those companies come from. You find a lot of very good companies in small Central American countries and obviously huge companies in countries like Brazil that are now essentially multinationals. The big companies in particular are trying to get away from Latin American country risk, and I think they're being successful in that, in their vision that they have to diversify to reduce the impact of local threats. Obviously local law considerations remain critical, but you find that the people you deal with have often studied abroad, and their approach is very American or European.

HANSEN: I totally agree with that – I'd like to say it was by grand design but more likely we've been reacting to what's going on in the region and I think that in Latin America we have become much more client based. Our initiatives are led very much more by what the client needs than by trying to figure out what's going on in any individual country. Interestingly that has led to a lot of opportunities for us as an international firm with offices around the world for the reasons that Tim mentioned – a lot of Latin American companies have realised that they

PARTICIPANTS

FERNANDO C ALONSO
Hunton & Williams LLP

CHRISTIAN HANSEN
White & Case LLP

TIM MCCARTHY
Hughes Hubbard Reed LLP

PATRICIA MENEDEZ-CAMBO
Greenberg Traurig LLP


JOSÉ SIRVEN
Holland & Knight LLP

MIGUEL ZALDIVAR
Hogan & Hartson LLP

SEBASTIAN O'MEARA
LATINLAWYER

can broaden their focus globally. I agree also that different countries are at different stages of development – we mentioned Venezuela, and for us the growth sector there is arbitration. It's very politically sensitive to try to decide how to approach that market, but I think that overall if you can focus on what your clients' needs are in the region and you have the infrastructure to help them elsewhere that can work very well. So we're getting a lot of attention from London, New York and Asia, which wasn't true in the past.

MENEDEZ-CAMBO: The direction of our practice is also essentially client based, but we still view Latin America as a region. What typically happens is that we get mandated on a project in one country and then continue working with the same client in other countries. In some countries the changing political situation has made structuring M&A deals in those jurisdictions a little more challenging than it used to be. We've found that the clients that are dealing with those challenges tend to look at Latin America as a region, not as a one-country investment. At the same time, with our clients in Latin America we've seen a lot of interesting opportunities. These clients are now more frequently doing business outside their home



country and the region, and we've followed their growth to Asia and Europe – which is something we really didn't see before.

SIRVEN: I think we still see Latin America as a region, and in our case we see it as a practice with extremely strong ties with our Spanish practice, because a lot of our Spanish clients are so active in Latin America and they're using Miami law firms as a resource in their investments in the region, which is a great opportunity for us. As I see it, the economies in the region are strong; in Colombia in particular we've seen several interesting M&A deals, and I'd say that's been something of a beacon of hope. Interestingly Venezuela was a very active market for us last year, but not so much this year. And we're very optimistic about the future and continue to invest in our Latin American practice. One of the interesting things that we see is a lot of activity between the individual countries in the region; this is particularly true in Central America, where we're doing regional deals with no real nexus to the United States. So we definitely see it as an area where we expect continued growth.

MENENDEZ-CAMBO: I think it's going to stay busy for the rest of 2008–2009. There is a lot of activity in the region. In our case, 80 per cent of the transactions we are involved in have no US nexus whatsoever. There is still so much work to do in the region and so much potential for growth; the only thing that would spoil that scenario is if there is an issue in Brazil or in Mexico. Other than that, I think other problems can be compensated for.

ALONSO: One thing to bear in mind is that Miami has become very much a service centre for the region. That doesn't mean that Florida law applies in these transactions

– in fact in most cases it doesn't – but we are being hired because there is a good collection of practitioners who know the region well based here in Miami. You often hear of Miami being described as “the capital of Latin America”, and there's no question that people look to us in Miami for transactions throughout the region.

“Brazil is following firmly in the footsteps of India and China and is finally becoming a true global player”

Miguel Zaldivar

ZALDIVAR: Miami is without question a recognised first-tier service centre for Latin America. I moved here 15 years ago, and at that time all the high-end sophisticated transactions were done out of New York. Now that's no longer the case and Miami is very much seen as a gateway into Latin America. Just in the last few days, I've been in meetings with our DC-based Latin American team planning the future of our practice, with the managing partner of our London office, meeting about our energy practice because of all the potential work for our offices in Europe, and with the

managing partner of our Berlin office who is also very excited about the opportunities in this region. I agree with Patricia that an issue in Brazil or Mexico could hurt the region's prospects, but our internal view is that Brazil is following firmly in the footsteps of India and China and is finally becoming a true global player, while Mexico too has done many things right in the last 15 years, so we're also optimistic there.

LL: Just to pick up this point of Miami as a service centre for the region – this is certainly true in many different sectors, but at the same time in financial terms there's clearly much more going on in New York than here. But is your sense that this is starting to change?

MCCARTHY: If you look at the evolution of this, the firms in New York that are doing Latin American work, with one or two exceptions, are the same firms that were doing Latin American work in the 1960s and 1970s. But here, in the 1960s and 1970s, all you might have seen was some incoming Latin American real estate transactions. Most of our firms didn't have Latin American practices in Miami then, so there's been some quite substantial growth. I was involved in the effort to make Miami the headquarters city for the FTAA, and it was very interesting to see what a positive image Miami has in Latin America. So I think the trend is very strong, but nobody should kid themselves that we're anything like as important as New York.

ZALDIVAR: If you look at our firm, the co-head of our global arbitration practice is based here. I am the co-head of our project finance group globally. And in terms of our focus on Latin America, what we bring to the table here in Miami is that we are user



friendly to Latin American clients – that’s our market and our core business. We either die or succeed in Latin America. We are true specialists in this geographic region, but we’re also members of integrated global firms, which allows us to service clients at exactly the same level as anyone in New York – in a much more cost-effective way. Our rates tend to be lower and our staffing practices are also leaner, which is something that Latin American clients appreciate. In addition to that, we have very easy access to and from the region – for instance, we have Latin American clients who regularly come up here just for a day trip.

ALONSO: I would add one additional point in relation to user friendliness – one thing that many firms represented here focus on is the hiring of Spanish- and Portuguese-speaking attorneys who are culturally tied to the region through their heritage, which I think is different to what has historically happened in New York. We’ve always approached Latin America from the perspective of being part of the region, not as an outsider providing services, so the focus of our hiring is to build teams with a Latin American background or other affinities that can interact effectively with people in the region.

SIRVEN: This may be anecdotal, but if I think about the deals of the last five years, at the beginning of that period the law firm on the other side of the table was always from New York, but nowadays more and more we’re seeing deals where there are Miami lawyers on both sides of the table. I think that’s a testament to the fact that clients increasingly see the legal talent in Miami as equal to what’s available in New York, with a lot of depth, competitive prices and

better communications with the region. Of course you need good lawyers, but above and beyond that, I think clients in the region feel comfortable with teams of lawyers who are happy negotiating complex deals in Spanish.

“There’s no question that the Wall Street firms continue to have a bias for New York lawyers”

Jose Sirven

MENENDEZ-CAMBO: I agree with Miguel – I think that maybe 15 years ago the legal community here perhaps didn’t have the same level of expertise as you could find in New York. However, I think that today, in relation to Latin America, in some cases we have more expertise. The values of the deals in Latin America tend to be lower than they are in the US and in Europe, and that also brings the cost factor into play. Looking at our practice, this has increased the volume of transactions that we work on, which in turn broadens our expertise and allows us to bring real added value to the table. And talking of recruitment, it’s not just that we hire bicultural lawyers – most of the lawyers

that we hire come from the top schools, and 15 years ago it would have been hard to have attracted them to this market. Now we have the sophisticated practice that allows us to attract top talent.

HANSEN: I think that’s exactly right – maybe I have a unique perspective on this, because I started my career in our New York office, went to our Mexico City office and have now been here in Miami for about 10 years. I think there’s still a bias towards New York for the huge deals – if Cemex is going out and doing a ten-billion dollar acquisition in Asia, frankly they’re not going to be looking to a Miami firm. I don’t know if middle-market is the right term, but there’s a level of deals where the Miami firms have made very significant inroads for the reasons we’ve discussed.

LL: And in the case of a firm like yours that splits its practice between New York and Miami, how do you divide the work?

HANSEN: We have a full-fledged Latin American practice out of New York, and I would say that we in Miami get involved in certain transactions that frankly aren’t interesting to New York, they help us very often to get involved in deals with clients that we couldn’t otherwise get in front of and vice versa, and I think it works very well. The big issue is communication, and I think we’re much more integrated in that regard than we used to be.

ZALDIVAR: Well, in our case, those big companies doing the huge deals feel very comfortable with the Hogan name, and because of the personal relationships many times we get the phone call for the multi-billion project finance transaction here in



Miami. At that point we set up a team that involves our offices in DC, New York and London, but often the lead partners on the deal are based here.

HANSEN: Absolutely, and don't get me wrong – I would never suggest that the big deals don't come to the Miami firms, but I do believe that there is still a bias among high-end clients that for the truly big deals they're looking for New York lawyers. Maybe that's because I spend more time in Mexico and maybe it's more of a Mexican thing, but I do find that I often have some explaining to do as to why I'm in Miami. Things are changing, and you can convince people – but in some cases you have to convince them.

SIRVEN: Surely one of the reasons why that continues to exist is that in most of these deals, one way or another, there are financial advisers involved, and there's no question that the Wall Street firms continue to have a bias for New York lawyers. What happens more often than I'd like is that the investment banks continue to aggressively push the work to New York-based law firms, and many times we've found ourselves battling that. Until that changes, there will continue to be a bias for New York law firms to be involved in the mega-deals. But frankly, we don't need to do the five-billion dollar deals – we're quite happy doing the billion-dollar deals.

McCARTHY: There's no question that this bias exists, and the way that we take it on is that we are a New York firm, so clients see us as New York lawyers who just happen to be based down here. And to keep the New York connection fresh, we've expanded our Latin American practice in New York.

ALONSO: I would say that with the exception of Mexico, where a number of the more established large companies still look very much towards New York, I would say that the bias is more something that comes from New York. I think it's New York itself, with the bankers and the lawyers from there, that drives this sense that the biggest deals should be done in New York. But as Miguel pointed out, we're seeing a growing trend of large deals coming through here. And we're also seeing transactions here that we would never have seen in Miami before – for instance, financings in the region by New York-based institutions.

McCARTHY: I think another thing that's changing is that in the old days the Latin American clients were often on the defensive themselves, and they needed to do everything they could to enhance their image and show up with the top names;. Today they really don't need that, and the banks are just falling over themselves trying to make loans to big Latin American companies. So now the clients are much more confident, with good reason, and choose the lawyers they feel most comfortable with.

LL: You all seem agreed that what bias there was is eroding, and you're all making a very good argument for Miami as a centre for Latin American work – do you think more and more New York firms are going to realise that and set up shop down here?

ZALDIVAR: Fortunately for the people sitting around this table, this is a very tough market and it's going to be tough for anyone else to break in.

SIRVEN: I have to believe that in the offices of many law firms in New York that have a sizeable Latin American practice there are discussions going on about opening in Miami and how to do it, whether by sending people down from New York or by hiring people here. And if those discussions aren't going on, they should be.

MENENDEZ-CAMBO: I agree – this is certainly a very tough market, but I think that you'll probably see three or four more firms set up shop here in the next couple of years.

LL: And is it sustainable to do that purely focused on Latin America, or do you need a strong Florida practice as well?

MENENDEZ-CAMBO: I think that's what makes it more difficult – you need to have both, and that's what all our firms have. But with pressure on price, pressure to distinguish yourself from other firms and pressure to be closer to your clients, I really wouldn't be surprised to see a few more firms opening here.

LL: Talking of opening offices, you all have different models in your firms and some of you already have offices in the region, but do you think we'll be seeing more of those?

SIRVEN: Our Mexico office is doing extremely well, and there are a lot of good reasons for that, but I don't anticipate that we will be opening any other offices in the region any time soon. We're happy working with local firms and we don't see a need right now to have our own people on the ground.

McCARTHY: I worked in Brazil in the 1970s and 1980s, and I think it's very hard to run a



Fernando Alonso and Miguel Zaldivar

successful US law practice in the region. In those days there was more of an argument in favour of opening an office because you didn't have all the communications you have today. In the meantime, the Latin American firms have become very advanced and sophisticated, so times really have changed. That's not to say that the firms that have opened up in Brazil won't be successful, but it's difficult – unless you have it set up as more of a rep office. The really hard part is staffing – it's easy to send the first lawyer, because he or she is often behind the initiative in the first place. But for the next generation, it gets more difficult to continue staffing.

ZALDIVAR: We have no plans to open offices in Latin America other than the one we have in Caracas, which we are using for deals elsewhere in the region. Having said that, Hogan has been opening offices very successfully in different markets, and I hope that before I retire we are able to persuade our management to have an energy/finance boutique in Brazil, and I wish we could have a similar presence in Mexico. But at this time we have zero plans in that direction.

MENENDEZ-CAMBO: We also have no plans to open offices in the region. Local firms are very sophisticated and we like the flexibility of being able to work with different specialists on the ground, so why mess with a system that works?

ALONSO: We have no plans to open an office in the region and haven't so far felt the need, but we certainly do think about it and regularly evaluate opportunities to maximise what we already have. Up to now, we have always cut back to the fact that it is a very competitive environment for local law work,

and we wouldn't enter a market unless we had a very strong push from a client.

LL: We were talking earlier about the "sweet spot" for Miami firms, and with New York firms more focused on Brazil and Mexico, Central America seems to be a natural focus for people here.

"I envision a time when firms from the larger Latin American countries follow their multinational clients out of the region, leading transactions and hiring counsel in"

Fernando Alonso

ZALDIVAR: Central America certainly is our sweet spot. When you go with a Miami address to Central America, you don't have to explain anything. People there don't expect to talk to New York lawyers but recognise the sophistication of the talent that is based here – and the deals are by no means insignificant.

ALONSO: I would extend that to Colombia, Venezuela and Ecuador as well – people in those countries have strong ties to Miami and don't generally look to New York as an alternative.

LL: We've discussed competition from New York, but looking forward, do you think that your competition will come more from firms in the region itself, especially with Latin American companies becoming more active?

MENENDEZ-CAMBO: That's true, but as long as there's a civil code there's always going to be a role for US lawyers.

ZALDIVAR: I think that is an issue more for the New York firms than for the Miami firms. What I have seen as a growing trend is that we're being hired more and more as a subcontractor of the Latin American firms. In that sense, I see the sophistication of the Latin American bar as a positive sign for us.

MCCARTHY: There's no doubt that firms in the region are becoming much more sophisticated, and more and more often you'll find a US company dealing directly with a Brazilian firm on an acquisition there. I think there's no question that firms in the region will increasingly be doing some of the work that used to be done by US firms.

ALONSO: I do envision a time when firms from the larger Latin American countries – and firms in Brazil are already doing this – follow their multinational clients out of the region, leading transactions and hiring counsel in the US as and when necessary. It used to be much more of a one-way street where we were referring work to the region, but now we see it coming back in many ways.

MENENDEZ-CAMBO: I think what's happening is that the role of the US law firm is becoming more specialised. In the old days, the US law firm would duplicate much of the work done in the region – due diligence would be done locally and then would be done again by the US law firm. Because the transactions are increasingly in-country there's a greater role for the local firm, and it could certainly be that the role of the US firm becomes smaller from a time perspective, although not from a value-added perspective.

Thank you.



Tim McCarthy and Patricia Menendez-Cambo