

LATIN LAWYER REFERENCE LITIGATION 2020

Brazil

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1 Outline the court system in your jurisdiction.

In Brazil, disputes regarding civil law are decided by the State Justice and Federal Justice, depending on the matter discussed and the parties involved in the litigation. Cases in which the federal government or other federal public entities are a party, or the Federal Constitution so determines shall be judged by the Federal Justice. In other cases, except for matters concerning special justice (labour, military and electoral justice), the competence to settle ordinary disputes shall be attributed to the State Justice. The judges of lower courts, as well as those of the Federal and State Court of Appeals, are hierarchically subject to the Superior Court of Justice and the Supreme Court, which is the highest body of the Brazilian court system.

2 What remedies are available to a local entity or resident that is in a dispute with a foreign entity? Do the laws provide foreign entities the same rights afforded to local entities? Are there laws requiring foreign entities to post a bond or other security before they can defend a suit?

Generally, according to Brazilian Code of Civil Procedure the defendant shall be demanded in its residence. However, there are cases in which a foreign entity or a foreign person may be sued in Brazil regardless of its residence, such as when:

- the foreign entity has a branch or subsidiary office in Brazil;
- the obligation has to be fulfilled in Brazil;
- underlying facts that are the basis of the lawsuit occurred in Brazil;
- creditor of child, family or spousal support lives in Brazil or the support debtor has assets in Brazil;
- consumer has residence in Brazil;
- litigation involves real estate properties located in Brazil; and
- there are assets in Brazil to be distributed in family and probate matters.

Brazilian laws provide foreign entities the same rights afforded to local ones. Brazilian or foreign plaintiffs who do not reside in Brazil or leave the country during the lawsuit shall post a bond to cover the costs of loss of suit payment, if the plaintiff has no real estate in Brazil. No bond or security shall be required if (i) an international treaty signed by Brazil determines so; and (ii) the foreign party is demanding the execution of an obligation stipulated in an instrument enforceable out of court or in a counterclaim.

3 What is the process by which a foreign entity may challenge the jurisdiction or venue of the; court where litigation is filed? What factors are considered when a court evaluates whether; to exercise jurisdiction over a foreign entity?

To challenge the jurisdiction or venue of the court where a litigation is filed, a foreign or a Brazilian entity should bring this allegation as a preliminary objection in its statement of defence. Once the other party is heard, the judge shall immediately decide the preliminary objection. Among other requirements, the court shall evaluate whether the foreign entity may be sued in Brazil (for example, if the foreign entity has any subsidiary or branch in Brazil or if Brazil is the jurisdiction chosen by the contracting parties).

4 What is the most common type of litigation encountered in your jurisdiction by foreign entities?

Based on our experience and practice, most of the litigation involving foreign entities relates to

- claims for compensation for breach of contracts (default or non-performance) entered into by a variety of industries, including technology, automotive and trademark infringement;
- collection proceedings aimed at obtaining unpaid amounts; and
- provisional procedures related to local arbitration proceedings.

5 How frequently do parties pursue criminal actions in the context of commercial disputes? May criminal trial evidence be adduced in follow-on civil litigation? May civil cases be brought concurrently or after criminal litigation?

According to our practice, criminal actions are not usually pursued in the context of commercial disputes. When it occurs, criminal actions are frequently filed simultaneously with lawsuits involving bankruptcy frauds, forgery in the context of trademark violations or unfair competition. Brazilian law states that a criminal trial can be conducted together with a commercial dispute,

but this is not mandatory and evidence collected in a criminal trial may be used in a civil litigation. However, the decision reached by a criminal court concerning liability is a binding verdict for the civil court that will rule on the commercial dispute. In such case, the civil court will be responsible for deciding if compensation is due (and its amount), but it may not analyse the liability itself.

6 Is there a right to a trial by jury in a commercial dispute?

No. In Brazil only crimes against life (such as homicide and abortion) are subject to a trial by jury.

7 Do courts require or strongly encourage mediation or other alternative dispute resolution methods before or during a litigation proceeding?

Brazilian civil procedure rules have recently gone through a major reform that resulted in a new Code of Civil Procedure in 2015 that strongly encourages the adoption of alternative dispute resolution, such as mediation and conciliation; and the enactment of the Mediation Act aimed at encouraging this alternative method by stating rules governing mediation. As for the Brazilian Code of Civil Procedure, the law sets forth that in any civil dispute the judge must schedule a preliminary hearing after the lawsuit is filed and before the defendant presents its statement of defence, to induce a settlement of the case.

8 Will choice of law and choice of forum provisions in a contract be recognised?

Brazilian courts respect and recognise choice of law and choice of forum provided in contracts, except for some areas of law that shall be governed by local law and procedure rules, such as law of succession, real estate law, criminal law, tax law; and bankruptcy.

9 Does your jurisdiction have a specific arbitration law? Are arbitration awards enforced by the courts? May courts enjoin/prohibit arbitration proceedings in matters that are also pending in a court proceeding?

Yes, there is the Arbitration Act (Law No. 9.307/1996), which was amended by Law No. 13.129/2015. Brazilian Arbitration Act is inspired in the UNCITRAL Model Law among other modern legislations. Arbitral awards are enforced by the Brazilian courts as any other judicial award. According to article 31 of the Brazilian Arbitration Act, the arbitral award shall have the same effects on the parties and their successors as a judgment rendered by a state court and, if it includes an obligation for payment, it shall constitute an enforceable instrument thereof.

Moreover, Brazil ratified in 2002 the 1958 New York Convention (Decree No. 4.311/2002).

Finally, if a party tries to go to the judicial courts in a case in which there is an arbitration clause, a judge shall dismiss the case and remit the parties to arbitration when defendant alleges the existence of the arbitration clause, according to article 485, VII of the Brazilian Code of Civil Procedure (Law No. 13.105/2015).

10 Do the courts recognise attorney-client privilege? If so, is the privilege applicable to in-house lawyers?

Attorney-client privilege is ensured by the Brazilian Constitution (article 5º, items XIII and XIV) and disciplined by ethical rules applicable to lawyers practising in Brazil (including both in-house lawyers or in private practice/sole practitioners), protecting privileged information and communication exchanged by attorney and client.

11 Are legal proceedings public? In other words, can the general public observe hearings and review the filings of the parties?

In general, lawsuits and proceedings, including judgments, hearings and filings, are public, so that third parties not directly involved with the dispute may access case records (that are mostly available via internet). However, cases regarding family law (such as divorces and custody disputes), right of privacy and disputes that are subject to arbitration, if a non-disclosure or confidentiality agreement exists (in the underlying commercial contract or arbitration rules of the arbitration chamber) are not open to the general public. In addition, the judge may restrict case records secrecy if the public interest so requires.

12 May a defendant join other potentially liable parties to the existing lawsuit?

Third parties may intervene in a claim, either to assist one of the parties (*amicus curiae*) or because such third party is directly involved or is potentially liable for the facts and obligations reported in the statement of claim.

13 How may a party enforce a foreign judgment?

Unless otherwise specified by a law or international treaty, a foreign judgment is effective in Brazil only after being ratified by the Superior Court of Justice. An important exception is a consensual divorce judgment that is effective regardless of ratification by the Superior Court of Justice. During the ratification judgment, the Superior Court of Justice shall analyse whether:

- the decision has been rendered by competent authority;
- the decision is final and unappealable;
- the defendant has been duly summoned (or if default judgment has been certified); and
- the decision is not against Brazilian public policy.

Once a foreign judgment is ratified, party shall enforce the decision according to the Brazilian Code of Civil Procedure, including levy of execution of real or personal property of the debtor's possession.

14 How is service of process effected? How long does it typically take?

Service of process is exclusively conducted by state authorities (throughout marshals of the Judicial Branch or Official Post Office, as a rule) and it is fully detailed in Brazilian Code of Civil Procedure, which states that the defendant must be personally served. Expect for urgent matters, defendants cannot be served with process (i) if they are taking part in a religious event; (ii) within seven days of the death of their parents or relatives; (iii) for the next three days after the marriage; and (iv) if a defendant is severely ill.

It is expected that the defendant is properly served within two or three months from the date that the lawsuit is filed, depending on the court in which it is pending.

15 How much time does a party have to answer a complaint? Can a party extend this time?

In general, defendant has 15 business days to answer a complaint, a period that starts from the attachment of the confirmation of service to the case records. According to the Brazilian Code of Civil Procedure, as long as the dispute includes waivable rights, parties may establish in advance the terms, periods and other rulings that shall govern the proceedings. However, once the time has expired, it is not possible for a party or judge to extend it without the counter party's approval.

16 What types of pretrial proceedings are available in court? What kinds of dispositive motions can be filed before trial? Under what circumstances may a lawsuit be dismissed prior to trial?

Any provisional measure aiming at preserving the fulfilment of a right (that shall be fully discussed and analysed in principal lawsuit) may be pursued as a pretrial proceeding, since the plaintiff proves why such provisional measure is relevant and urgent (including the following measures: search and seizure, deposition, provisional remedy of early production of evidence etc). A lawsuit may be dismissed prior to trial in the following cases: (i) the plaintiff has no standing to sue or interest in the result of judgment; (ii) the underlying fact was not properly exposed in statement on claim; and (iii) claims are incompatible with each other. Also, in lawsuits challenging amounts provided in loan agreements, the plaintiff must indicate the undisputed amount, under the penalty of the lawsuit being dismissed prior to trial.

17 How long does it take to obtain a first-instance judgment in a typical commercial litigation case?

Usually it takes at least three years for the parties to obtain a first-instance judgment in a typical commercial litigation, depending on the court in which lawsuit is pending and the complexity of the case. If the result of the dispute involves expert examination (forensic accounting evidence, for instance), a first-instance judgment should take at least five years, which varies according to the complexity of the case.

18 Is a party required to submit all facts, arguments and supporting evidence with its initial pleading?

Yes. Both plaintiff and defendant must submit to the judge and adverse party all the facts, arguments and supporting evidence with its claim and counterclaim. Other facts, arguments and additional documents shall only be submitted after the filing if such motions consist of new events that occurred afterwards.

19 Does litigation provide a process for investigating claims or right to discovery of evidence prior to trial?

In Brazil, there is no process for investigating claims or right to discovery of evidence and therefore all documents may be submitted to the adverse party within the initial pleading, when litigation has been filed. However, there is a remedy called the Provisional Remedy of Early Production of Evidence that is filed with the solemn purpose of producing evidence before the filing of the claim, as a way of avoiding future lawsuits by gathering more information regarding the matter. This remedy may also be used with a different purpose as a way of getting better and stronger evidence to support a future claim, if the right is about to perish.

20 Does litigation provide a process to subpoena or obtain documents or testimony from third parties?

Prior to a lawsuit or during the proceedings, the judge (“sua sponte” or at the party’s request) may subpoena adverse or a third party to obtain documents or testimony that may contribute to the judgment.

21 Does the judge or opposing counsel examine witnesses?

The judge may hear witnesses or testimony of the parties to obtain information and clarify any relevant issue. Also, a party counsel is allowed to ask questions to an adverse party.

Questions shall be addressed directly to the party or its witnesses. Irrelevant or impertinent question may be objected by the adverse party or by the judge.

22 How may evidence be challenged? Are there specific rules of evidence?

Any evidence may be challenged at the party’s request, after the judge gives the adverse party the opportunity to make a statement on the evidence, pursuant to due process of law. As for rules of evidence, the plaintiff and defendant shall indicate in their initial motions (statement of claim and statement of defence) the means whereby they intend to show facts alleged by each one. Once the defendant submits its statement, the judge will summon the parties to indicate and detail the evidence they intend to produce, justifying its pertinence. Considering that the purpose of evidence is to help the judge to have a full understating of the facts, a court may deny the production of certain evidence it considers irrelevant.

23 Do courts typically allow hearings at or before a trial? At what stage may parties present expert witness testimony?

There are two hearings set by the Brazilian Civil Procedural Code. At the beginning of the court proceeding, the judge allows a preliminary hearing, in which the parties have the opportunity and are encouraged to settle an agreement. After parties have filed their motions and presented written arguments, the court shall enquire the litigants what evidence they intend to produce, such as testimony, expert witness testimony “etc”, which will be held on the second hearing. If the judge concludes that an expert witness testimony is relevant to the case, such evidence shall be produced after the parties have presented their written questions to the expert to answer in a written report. The expert may be called upon to appear in a trial to clarify the report presented.

24 What must be demonstrated to collect a debt based on a written instrument?

A written instrument attested by two witnesses (together with other specific documents referred to by the law as títulos executivos) authorises a collection procedure to be filed against the debtor, which is an expedite procedure when compared to an ordinary procedure in which the court will decide whether the amount indicated in the document is due.

25 What remedies are available in your jurisdiction to a minority shareholder of a corporation in a dispute with the corporation or the majority shareholders?

A minority shareholder of a corporation has all legal lawsuits at his or her disposal (including provisional measure seeking the suspension of a shareholders' meeting) available to prevent or seek compensation for damages related to deliberations reached in shareholders' meetings or any violation of their rights, according to Brazilian law and company's articles of association. However, usually courts tend to understand that, if applicable law and articles of association provisions have been observed, the judge shall not interfere with a company's deliberation.

26 What rights are available in the courts for someone holding a maritime lien interest in a vessel?

Commercial disputes involving vessels in Brazil is mainly governed by Decree No. 351/1935 and the Brazilian Civil Code. Defined by Brazilian law as a chattel, a vessel is giving such status of asset. Therefore, a creditor holding a maritime lien, which qualifies as a debt instrument, may collect the asset by filing a collection claim to conduct a judicial sale.

27 What rights are available for a party holding a security interest in real property and personal property? Are there expedited proceedings to allow the recovery of property serving as security for debt obligations?

A creditor holding a security in real estate property and personal property has preference to collect such asset when compared to creditor who do not hold such security, who will only receive their credit after the privileged creditor obtains its overdue amount. Nevertheless, there are others who also qualify, by law, as privileged creditor, such as Federal Tax Authority and labour claims. Brazilian law also provides a method called secured fiduciary sale, which is the secured transaction where the ownership of the asset sold is transferred to the creditor, and the debtor keeps the possession of the thing or asset established by the contract. On default of the debtor, the creditor shall enable the contract extrajudicially and immediately keep the property. For this reason this is an expedite measure compared to a lawsuit.

28 Describe the types of employment disputes that frequently result in litigation.

For having a broad set of rules and considered to be quite protective to employees, labor disputes are very common in Brazil. The most frequent disputes that result in litigation before labour courts relate to non-payment or incorrect payment of overtime, rest days and holidays, as well as incorrect payment or non-payment of severance upon termination. Claims for additional amounts due to workplace safety and work conditions are also frequent, as is compensation for work accidents, and even sexual or moral harassment. Disputes related to unlawful or null and void termination, as well as claims for recognition of an employment relationship, complete the list of more recurrent matters.

29 Does your jurisdiction allow class actions or some form of collective litigation proceeding?

Yes, Brazilian jurisdiction sets forth actions aiming at defending collective interests: public civil action, class action and collective writ of mandamus. Public civil action is the remedy for any disputes involving liabilities and compensation claims for pain and suffering and pecuniary damages to the social environment, to consumers rights, to economic and urban order, to public and social property, to assets and rights with an artistic, historical or tourist worth or relevance, to honour and dignity of racial, ethnic or religious groups, as well as any other diffuse or collective interest, provided for in article 5, LXXIII, of the Federal Constitution. A collective action may be filed by any Brazilian citizen and aims at annulling a harmful act for the public property or by any entity in which the state participates, to the administrative morality, to the environment and to the historical and cultural wealth. The collective writ of mandamus, on the other hand, may be filed by a political party with representation at the National Congress or by a union and aims at protecting collective rights.

30 Do government-owned or controlled entities enjoy any privilege when they are engaged in commercial activity and involved in a commercial or administrative litigation?

Any claim against a federal government-owned or controlled entity must be addressed to the Federal Justice. If the claim involves a state or a municipal government body, the claim must be judged by the State Justice and its specialised chambers in public disputes, in the cities where they are available. Government bodies enjoy the privilege of having a double term to

file any motion. In most cases, government entities are waived to pay court fees and are subject to a special rule and minor amounts of contingency fees. Moreover, as a general provision, any first instance ruling against a governmental body are subject to a necessary review by the state court. Finally, Brazilian law prescribes a specific proceeding to collect any amount granted by a private entity or person against government-owned entities. These privileges, however, are not extended to the private companies in which the government is a partner or a shareholder, even if the government has equity control.

31 Do foreign states or entities controlled or owned by foreign states enjoy any privilege when they are engaged in commercial activity and involved in a commercial or administrative litigation in your jurisdiction (state immunity)?

As a general provision, international entities, foreign states with representation in Brazil and their representatives have immunity before the Brazilian jurisdiction, except for judicial actions arising from labour claims. On the other hand, if foreign states or their entities are claimants in a lawsuit in Brazil, they will be subject to the same rules followed by a private party in a commercial dispute and they will not enjoy the same privileges granted to the Brazilian government bodies in an administrative litigation.

32 Is injunctive or other relief available on an emergency basis?

Yes, the Brazilian Code of Civil Procedure establishes an injunction for any case when plaintiff can collect strong evidence regarding the probability of its right and the risk of an irreparable harm. The injunction is also granted when necessary to protect and guarantee the outcome of a proceeding to be initiated or still in progress.

33 Is injunctive relief available as part of a final award? If so, in what types of cases do courts usually provide injunctive relief?

Yes, the injunctive reliefs may be part of a final award. The judge is entitled to confirm or revoke any preliminary injunction granted at the beginning or during the proceeding, as well as to grant an injunction in the final ruling, after reviewed all evidences, if the order is necessary to protect the right in dispute. Some common examples are judicial orders to avoid unfair competition in black market or related to non-compete agreements.

34 What are the typical court fees and costs required to file a civil lawsuit?

In Brazil, states are free to legislate about their own court fees and costs, so the amount is different in each of the 27 state courts. However, there are typical court fees for filing any civil lawsuit. Firstly, the claimant must pay the initial fees to start a dispute, in a percentage on the total amount of the claims (“case value”), which ranges from 1 per cent to 2 per cent of the case value, respecting the minimum and the cap amount established by each state. Defendant is also required to pay initial fees to file a counterclaim. Moreover, parties are normally charged an extra fee to appeal to the State Court of Appeals. Parties must pay any costs related to the execution of the acts they request. These same general provisions are valid for civil lawsuits before a federal court.

35 Is a bond required for a non-resident? What is the amount of the bond?

Yes, for a non-resident to bring a lawsuit in Brazil, Brazilian law requires a sufficient bond to cover the payment of the court fees and contingency fees of the opposing party attorney. The law does not state a fixed amount and delegates to the judge to fix the bond amount needed, considering the nature and particularities of any dispute. On average, precedents related to this matter determines an amount that varies from 5 per cent to 10 per cent of the total amount of the claims in dispute. However, no bond, security or deposit shall be required if (i) the claimant has real properties in Brazil; (ii) an international treaty signed between Brazil and the state where the claimant is a resident determines so; and (iii) if the claimant is demanding the execution of an obligation stipulated in an instrument enforceable out of court (execution) or in a counterclaim.

36 What types of damages are available? How are damages quantified? Are punitive damages available?

Brazilian Civil Code has general provisions on pecuniary loss and personal injury (pain and suffering) (articles 186 and 927). According to these statements, anyone who violates rights and causes harm or suffering to someone else by a voluntary act or omission is obliged to compensate the corresponding damages, including damages for pain and suffering. Moreover, Brazilian courts recognise “aesthetic damages” as an additional damage to be compensated (ie, when claimant has a scar or other

aesthetic harm as a result from defendant's conduct). Damages are quantified considering, among other things, the economic situation of the offender and the repercussion of the harmful event on the injured life. The compensation aims at restoring things in the state prior to the practice of harm. Brazilian law does not prescribe punitive damages, but Brazilian courts usually refer to this common law institute, especially for increasing the amount of a compensation award.

37 Is the losing party liable for the prevailing party?

Yes, the losing party is responsible for reimbursing all court costs and fees paid by the prevailing party during the lawsuit, as well as contingency fees to the prevailing party's counsils. Brazilian Code of Civil Procedure states as a general provision for private claims that the contingency fees will be fixed at the amount corresponding from 10 per cent up to 20 per cent of (i) condemnation; (ii) economic benefit; or (iii) the case value. However, this liability does not include the attorney fees agreed by the prevailing party with his or her attorneys to their work on the dispute ("pro labore"), and the additional costs incurred by the prevailing party apart from those strictly related to the lawsuit.

38 Will courts enforce a liquidated damages provision in a contract?

Yes, if an agreement has a liquidated damages clause, the non-breaching party is entitled to claim for the corresponding amount in a lawsuit. The defendant will be notified to comply with the obligation and, if they refuse to do so, the court is authorised to start the expropriation proceedings to force the payment of the debt.

39 What is the appeal process against trial court decisions?

As a general provision, all the first instance rulings are subject to be reviewed by the State Court of Appeals. The evidence is collected at the first level, so the Appeal Court is entitled to check if the trial court decision is in accordance with the evidence and the law applicable to the dispute. The Appeal Court can only review the specific matters attacked by the losing party in the appeal – potential other matters sentenced by the first instance judge not included in the appeal will become final. The parties are entitled to present their written or oral closing arguments before the Appeal Court's deliberation, which is open to the public.

40 How frequently do appellate courts reverse trial court decisions?

There is no official information concerning this matter. Based on our experience, it is reasonable to state that less than 50 per cent of the appeals analysed by São Paulo's State Court of Appeals reverse the first-instance judgment.

41 May the courts entertain challenges to administrative decisions made by federal or local governments? If so, how frequently do courts reverse administrative decisions in favour of a private party?

Commonly a private party submits adverse administrative decisions to the court system, which has the legal authority to overrule or annul such decisions. However, except for tax matters, courts do not frequently modify administrative decisions, since the administrative process has followed due process of law and constitutional provisions.

42 How are trade secrets protected in judicial proceedings?

As previously mentioned, as a general provision lawsuits and proceedings, including judgments, hearings and fillings, are public. However, parties may request that the judge close judicial proceedings to public, arguing that the documents and information are sensitive and consist of trade secrets and therefore should be treated as confidential.

43 Are settlement agreements confidential? Must the parties' settlement agreement be certified by the court?

As a rule, procedural acts are public. However, certain proceedings may be closed to the public, such as disputes regarding (i) family and succession law, ie, marriage, separation or divorce, alimony, custody of children; (ii) containing data protected by the right to privacy; (iii) arbitration matters, since that the confidentiality has been declared by the Arbitral Tribunal; and (iv) where confidentiality serves a public or social interest. In cases with the aforementioned characteristics, settlement agreements may also be confidential. A settlement agreement does not have to be certified by the court, although such certification is recommended when a lawsuit is pending.

44 Who has the burden of proof at trial? What is the burden?

As a rule, claimant must prove its allegations, while the defendant needs to prove the existence of a limiting, modifying or extinguishing fact of the claimant's allegations. However, whether by law or by the peculiarity of the case, a judge can reverse the "onus probandi" – as occurs quite frequently in cases involving product liability and labour disputes – as long as this does not create a situation where such reversal makes it impossible or excessively difficult for a party to produce a certain proof. It is worth mentioning that the Brazilian Code of Civil Procedure also allows the parties themselves to agree on the evidence that each party must produce, although the typical dispute scenario tends to be an obstacle to such alternative.

45 What are the most significant recent developments regarding judicial reform? Is any proposed legislation likely to affect the civil litigation market?

In 2015, a new Brazilian Code of Civil Procedure was enacted and became effective in March 2016. Due to the large number of pending lawsuits in Brazil, the new legislation intends to encourage the use of alternative dispute resolution methods, such as mediation, conciliation and arbitration. Therefore, unless the parties state there is no need to try and settle the case, the judge must schedule a preliminary hearing. Also, the new legislation introduced the repetitive cases institution, by which courts in different states of Brazil must decide similar cases accordingly to the outcome reached in precedents ruled by superior courts to promote legal certainty and reduce the number of pending lawsuits.

46 Describe any recent noteworthy litigation and arbitral cases.

With regard to the litigation area, recently the authors' firm has represented the interests of (i) one of the world leading manufactures of pipes in disputes in the total amount of 50 million reais; (ii) a commercial cleaning franchise in a lawsuit involving breach of non-competition clause in contract and implications of unfair competition; (iii) a global provider of consumer, business and industrial digital products in class action and corporate disputes; (iv) one of the largest sugar and ethanol groups in Brazil in strategic matters such as class actions, enforcement suits and discussion on the legal reserve of vegetation areas held by sugar cane and ethanol producers; and (v) Sugar Cane Plants Cooperative (Cooperativa) rendering legal advice on strategic matters in order to mitigate any risk to Cooperativa involving the transference of the indemnification amount (16 billion reais) owed by the federal government to its members and former members, mainly in connection with sugar cane plants facing financial problems (court-supervised reorganisation, for example).

Regarding our arbitration practice, some of the recent work highlights are:

- an arbitration proceeding related to duties and obligations under a construction agreement of a hydroelectric power plant, with an amount in dispute of 511 million reais;
- an arbitration between companies from the energy production and commercialisation industry, regarding the interpretation of an electricity purchase agreement, for 500 million reais;
- an arbitration concerning a dispute between major players in the field of software licences for the administration of credit cards;
- an ongoing arbitration between a Brazilian group of companies and major financial institutions regarding the liabilities arising out of a share purchase agreement, in an estimated amount of 800 million reais;
- an arbitration concerning a dispute on contractual liabilities arising out of agreements for the supply, construction, installation, commissioning, operation and maintenance of an industrial thermoelectric power generation plant;
- an arbitration regarding contractual obligations deriving from an agreement for the construction and instalment of an oil refinery, with an amount in dispute of approximately 1.5 billion reais; and
- an ICC arbitration involving a take or pay agreement and a share purchase agreement related to the construction of a port terminal, with an amount in dispute of around 200 million reais. The firm's current portfolio of ongoing cases is approximately US\$3 billion.



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André has broad experience in litigation and is the head of this area in the firm. Sound performance in corporate and commercial disputes before the main courts of the country, as well as in Arbitration. Conducted the process in which the constitutionality of the Brazilian arbitration law was defended and declared by the Supreme Court. Represents domestic and international companies in a variety of sectors. Postgraduate degree from Centro de Extensão Universitária and bachelor of laws degree from Universidade de São Paulo. Attended the Alternative Dispute Resolution, Negotiation and Discovery Phase course at the University of California and studied the American Legal System at the University of Pittsburgh, Pennsylvania, USA. Languages: Portuguese and English.



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He is a partner of the civil and business litigation area with broad experience with national and international companies in industries such as fashion, technology, automotive and retail. He has extensive experience in highly complex litigation cases in all courts and judicial spheres. He represents national and international companies in negotiations and risk mitigation. He holds a master's degree (LLM from Faculdade de Direito da Pontifícia Universidade Católica de São Paulo (PUC), where he also graduated. Languages: Portuguese and English.



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