

LEGAL MANAGEMENT

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Brazil: The Country of 100 Million Lawsuits

By Lara Selem & Roberto Rossi Steffens



As international members of ALA, we were presented with so many important learning opportunities at the 2015 ALA Annual Conference & Expo in Nashville — new techniques, best practices and future trends about legal management. Above all, it was a great chance to network, make new friends and have some fun.

We also had the opportunity to share experiences with attendees from the United States and other countries around the globe. Several people began to discuss their own challenging realities to demonstrate how the local culture affects the legal system of each country.

The Brazilian issue we presented that received the most interest — and surprise — from our international colleagues was teased with one question: **How can a law firm be efficient in a country with 100 million lawsuits?**

There were 70.8 million pending lawsuits in Brazil in early 2014. By September, the total reached 100 million.

STATISTICAL SNAPSHOT

This astronomical figure is unique in the world. So we thought we'd share some insights into this Brazilian legal challenge, as well as what's been done to combat it. First, some statistics to show the scale of the problem:

- The population of Brazil is 205,089,549.
- There are 911,485 attorneys of law registered in the Brazilian bar.
- Of these, 14,518 (85.8 percent) serve in the first instance, which comprises the first degree of jurisdiction and the small claims courts; 2,332 of them are appellate judges. In addition to these judges, there are 77 ministers serving in the four superior courts.

- There were 70.8 million pending lawsuits in early 2014. By September, the total reached 100 million cases pending review by the judicial branch.
- Since 2009, more than 158 million cases were closed. Still, another 161 million cases were opened (an average of 26.83 million new cases per year).
- The total expenditures of the judicial branch grew 33.5 percent in the last five years and totaled approximately US\$25.7 billion (or US\$126.80 per inhabitant) in 2014.

On average, it means one suit for every two Brazilians. As in every case, there are at least two parts. Statistically, it's as if the entire Brazilian population participates in the legal system — even children and newborns.

The largest litigant is Brazil's own government: 15 percent of the suits are related to taxation, social security or public law, all areas involving public administration at different levels — federal, state and municipal.

In contrast to the United States and other countries, our culture is connected to the litigation, not the mediation. Brazilians tend to start a suit before trying to solve the problems through mediation. It's very easy and cheap for the litigator to start a suit in Brazil and, in some cases, there's no private costs or even need for an attorney. That also may explain a big part of these large figures.

WHAT'S BEING DONE

One major side effect of so many cases is justice congestion — slowness, lack of confidence in the system, excess appeals and judges who fail to give solutions to procedures under their responsibility.

Over the past decade, the National Council of Justice (NCJ) has undertaken action to reduce these problems by creating the virtual Judicial Electronic Suit. (Last year, 44.7 percent of new lawsuits were created electronically. In the Superior Courts, this rate is 98 percent.) This has encouraged alternative methods of dispute resolution, while also standardizing procedures and providing better lawsuit management. It's also created specialized chambers and binding precedents that provide the same solution to the same case without the need for suit.

The technological revolution in the Brazilian legal system gave us the data and the jurimetrics to understand this huge universe of suits, legal facts and specific characteristics of the country's court cases.

From the other side, the law firms face the huge challenge of managing all the cases under their responsibilities. The largest firms deal with more than 1,000 lawyers and 100,000 to 500,000 lawsuits. Controllershship is mandatory to manage deadlines, legal quality and reports to clients. Technology is essential to the staff, and a lot of money is invested every year in software, hardware and every tool that can improve the management of lawsuits.

As you can see, dealing with 100 million lawsuits is a legal management issue both for the government and for law firms. Technology, best practices, organization, standards, qualified people and many other tools are needed to fulfill the mission of justice for Brazilian population in the right time, in the right way.

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