

Litigating on the Free Flow of Information in Latin America
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It is important for you to know that the most notorious and emblematic case of Judicial censorship (still active!) in Brazil involves the newspaper I am proud to manage, “O Estado de S.Paulo”, a 139-years-old company as you are probably familiar. The case is described as the number 1 on the list below. But it is really worth, for those familiar with Portuguese, to have a look at www.estadao.com.br/censura, this page keeps updated the complete case.

Going first to the questions:

1. What do you think are the most important 5 case law in your country (or region) over the last few years and why do you think they are important?

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1) July 31, 2009 - The judge Dácio Vieira, from the Court of Justice of the Federal District and the Territories (TJDFT), banned the newspaper and site of “O Estado de S. Paulo” from publishing reports containing information of Operation Faktor, better known as “Boi Smee”. The judicial appeal, that put the newspaper under censure, was presented by businessman Fernando Sarney, son of Senate President José Sarney (PMDB-AP) - at the center of a political crisis in Congress.

If there is noncompliance with the decision , the judge ruled Dácio Vieira a fine of 150 000 Brazilian Reais for each act of violation of this judicial control, ie , for each published report . The initial request was 300 000 Brazilian Reais in the event of noncompliance with the court order .

Lawyers who subscribed to action argue that a flood of intimate dialogues , caught between family members , came to light. Also maintain that , thereafter , the newspaper gave special attention to the subject , auctioning off the honor , intimacy , privacy , ultimately debasing the right of all Sarneys personality.

But the recordings revealed connections of Senate President with the hiring of relatives and political proteges. The decision of the judge Dácio Vieira makes “Estado” website to suspend the broadcasting of audio files related to the investigation.

2) August 31, 2013 - The on-duty judge Court of Recife , Sebastião de Souza Siqueira , from the Court of Pernambuco (TJPE) , granted an injunction prohibiting the Jornal do Comercio (Jornal do Comercio Communication System) , the Diario de Pernambuco Club and TV , these belonging to Associated Newspapers , quoting the name of the state Deputy William Uchôa (PDT) , chairman of the Legislative Assembly of Pernambuco , in reports on influence peddling in the case of adoption of a child , which his daughter, Giovana Goes Uchôa lawyer , would have participated . According to the prosecutor , the judge's ruling relates to a case of temporary custody in favor of a Brazilian and an American pilot, for adoption . The couple was not registered in the National Register of Adoption. With echoes of the case in the local press , the child was returned after 85 days under the tutelage of the guardian . The judge ruled that the media " to refrain from linking the name and picture of the applicant to the alleged influence peddling possibly occurred in a lawsuit guardian of a minor, which is being processed in the Childhood Youth of the District of Olinda " . In case of noncompliance , was set a daily fine of \$ 50,000 . Companies will appeal the decision.

3) August 26, 2013 - The newspaper Gazeta do Povo , Curitiba (PR) , was banned from publishing information about investigations against Clayton Campbell , president of the Court of Paraná . According to the report , in April 2013 the National Council of Justice (CNJ) opened the investigation about

possible “sale of sentences” by Clayton Campbell . The complaint came from the lawyer of one of the parties to an action that he deemed , when acting as a magistrate. The complainant accused him of taking money to decide in favor of the other party in an action involving child custody dispute in 2011 . In July 2013 , the internal affairs of CNJ opened another procedure , this time to investigate suspected that Clayton Campbell would have used his influence to promote the candidacy of his son, Fabio Camargo (PTB) , the job counselor of the Court of Auditors Paraná State .

4) May 15, 2013 - Former President of the Senate, José Sarney , won by decision of the Special Court and the 10th Electoral Area of Macapa State , blocking the bank accounts of retired teacher Alcinéa Cavalcante, who maintains the blog " Alcinéa Cavalcante , Freedom of Expression " . Alcinéa was sued after posting a suggestion that readers do a sticker with the phrase " The car that follows me is a police paddy wagon " and then put the sticker on some politician car . The idea was not aimed at any particular parliamentary , but it was said that this would be the " perfect adhesive" for Sarney ." He then filed suit against the blogger , demanding compensation and removal of the pages . As Judge José Luciano Assis was aimed at obtaining funds corresponding to R \$ 2 million , with interest and penalties for alleged moral damages caused to Sarney . In response , Alcinéa published a photo of a wall of a city with the phrase " Shoo , Sarney " . How Alcinéa has no assets in his name to be attached , the court ordered the blocking of your checking account . The blogger had to join their paychecks to prove that survives only on his retirement as professor of just over R\$ 5000.

5) April 11, 2013 - The TV Anhanguera , affiliated with Globo in Gurupi (TO) , was forbidden to disseminate images of the audience of investigating a crime committed by police officers in that county , in September 2012 . The network received notification of Judge Joan Augusta Elias da Silva, subject to crime of disobedience .

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The cases above were appointed as the most important ones by Brazilian Association of Newspapers (ANJ).

2. What will you say are the Trends in terms of courts (judicial) issues and decisions?

The cases above, especially the one involving “O Estado de S.Paulo”, have been important because they raised the discussion about the Judicial censorship in the country. But unfortunately I would not say that this mentality was banned from the courts. We are prepared to continue to facing those kind of actions, especially this year, with the General Elections (October).

3. Are court deliberations taking account of international or regional norms? Other jurisdiction?

No, they have been “roofed” by Brazilian Supreme Court. Some local analysts say that is adequate for the current cases.

4. How do court decisions influence information flows, expression, media, and journalism?

It would be a mistake to affirm that Brazil does not have a ambient of freedom of information. It does have, despite some regional differences within the country states. But all the media thinks the it is necessary a permanent vigilance.