

Relevant Brazilian Legal Texts

WORKSHOP

“Yes, we have unbundled services!” - Tropicalizing the Collaborative Practice

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20th IACP Forum – Chicago - 2019

SYSTEM OF DISPUTE RESOLUTION METHODS IN BRAZIL

National Council of Justice (CNJ) - 2010



“MEDIATION ACT” – n°13.140/2015



NEW CODE OF CIVIL PROCEDURE - 2015



NATIONAL POLICY ON PROPER HANDLING
OF CONFLICTS OF INTEREST



ATTACHMENT TO HUMAN DIGNITY AND
HUMAN RIGHTS

BRAZILIAN BAR ASSOCIATION (OAB) CODE OF ETHICS

- Article 2nd, Paragraph: *It's the lawyer's duties: (...) VI - to encourage, at any time, conciliation and mediation between litigants, preventing, whenever possible, the opening of disputes; (...) IX - to fight for the solution of citizenship problems and for the enforcement of their individual, collective and diffuse rights, within the community.*
- Article 3rd. *The lawyer should be aware that the law is a means of mitigating inequalities in order to find fair solutions and that the law is an instrument to ensure the equality of all.*

CODE OF CIVIL PROCEDURE (2015)

- Article 3rd. *It shall not be excluded from judicial review threatening or harming the right. § 1 - Arbitration is permitted under the law. § 2 - The State shall promote, whenever possible, the consensual resolution of conflicts. § Conciliation, mediation and other methods of consensual resolution of conflicts shall be encouraged by judges, lawyers, public defenders and members of the Public Prosecutor's Office, including in the course of the judicial process.*
- Article 190. *When reviewing the process on rights that admit self-composition, it is licit for the parties to stipulate changes in the procedure to adjust it to the specifics of the case and to agree on their burdens, powers, faculties and procedural duties, before or during the process.*
- Article 168: *The parties may choose, by mutual agreement, the conciliator, the mediator or the private chamber for conciliation and mediation.*
- Article 313. *The process is suspended: (...) II - by the agreement of the parties (...).*
- Article 694. *In family actions, all efforts shall be made to reach a consensual resolution of the dispute, and the judge shall have the assistance of professionals from other areas of knowledge for mediation and conciliation. Paragraph. At the request of the parties, the judge may order the suspension of the process while the litigants submit to extrajudicial mediation or multidisciplinary services.*

NATIONAL COUNCIL OF JUSTICE (CNJ)

August, 2016

Precedent nº 31:

The existence of a collaborative public advocacy between the entities of the federation and their respective public bodies is recommended, in cases where there are conflicting/divergent public interests. In these cases, the Union, States, Federal District and Municipalities may come to an agreement not to go to court and to request the suspension of those actions in which they're defendants, so that they may be submitted to the opportunity of productive dialogue and consensus without the court interference.

Letícia Botelho

NATIONAL COUNCIL OF JUSTICE (CNJ)

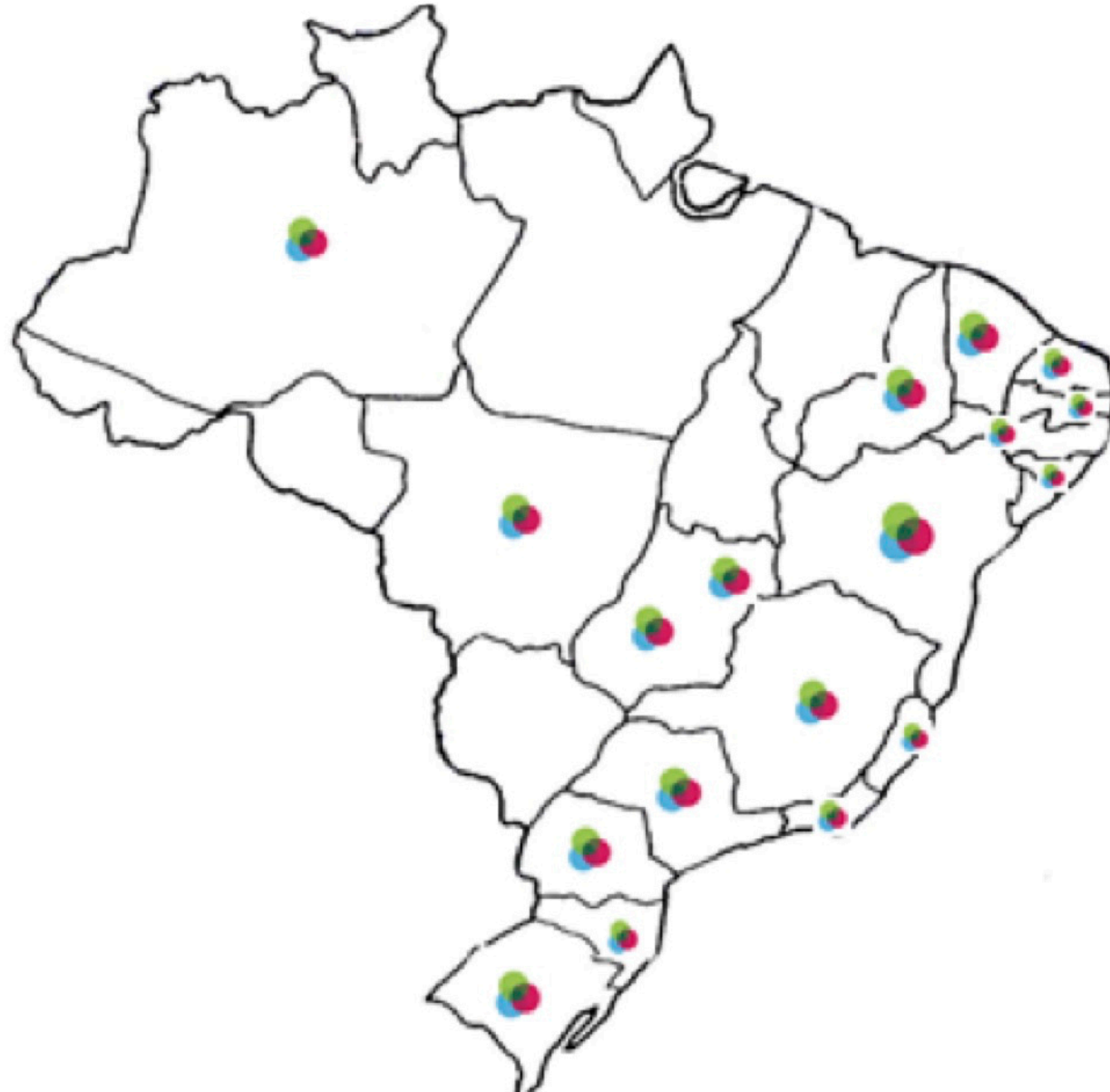
August, 2016

Precedent nº 55:

The court and civil society should promote the adoption of collaborative advocacy as a public practice of conflict resolution in the area of family law, so that the lawyers of the parties always seek joint effort aiming to find a viable, creative and mutually beneficial agreement.

Flavia Oberg

COLLABORATIVE PROFESSIONALS IN BRAZIL – 2014 TO 2018



**Since 2014 we
have trained a
total of 584
professionals in
17 states of Brazil**