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Restructuring and Insolvency

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This is an informative newsletter produced by the **Restructuring and Insolvency** practice of TozziniFreire Advogados.

CINTHIA DE LAMARE

Welcome to the New Partner of the Restructuring and Insolvency Practice

We are pleased to announce the arrival of Cinthia de Lamare as a new partner in TozziniFreire's Restructuring and Insolvency and Dispute Resolution practices. With nationwide practice and based in Rio de Janeiro, Cinthia brings extensive experience in debt restructurings, credit recovery, and complex transactions, including cross-border deals.

Her arrival reinforces our growth strategy and further expands the firm's capacity to advise companies, financial institutions, investors, funds, and creditors in highly complex scenarios.

Working in an integrated manner with our transactional and dispute resolution teams, we remain committed to offering comprehensive, innovative legal solutions aligned with our clients' needs.

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Raízen Obtains Approval of the Largest Out-of-Court Reorganization Plan in Brazil's History

The Raízen Group, which comprises integrated energy companies within the Shell and Cosan partnership, confirmed in June 2026 the conclusion of an agreement with its principal creditors through the approval of an out-of-court reorganization plan involving debts of BRL 64.7 billion. This is the largest out-of-court reorganization ever recorded in the country.

The petition was filed on March 11, 2026, at which time Raízen had already obtained the adhesion of more than 47% of its unsecured financial creditors to a preliminary plan, which substantially provided for a standstill on the enforcement of subject claims and broader guidelines on the reorganization measures to be adopted.

In June, within the 90-day period for evidencing the minimum quorum of more than 50% of the covered creditors, Raízen submitted its updated plan and demonstrated the adhesion of 75.45% of creditors, a percentage that subsequently increased to 80.15% with additional adhesions to the plan.

The out-of-court reorganization plan involves various restructuring measures: creditors will have 45% of their debts converted into equity, at a fixed price of BRL 0.25 per share. The remaining 55% — corresponding to approximately BRL 35.5 billion — will be settled through the delivery of new debt instruments to be issued by segregated entities, with the purpose of ring-fencing financial risk profiles. The plan also includes a BRL 3.5 billion capital increase through a contribution to be made by Shell and a potential contribution of BRL 500 million by Rubens Ometto (Cosan).

Negotiations lasted approximately two years and involved financial institutions, bondholders, and other significant creditors, with repercussions for more than 100,000 individuals holding Raízen securities. The plan will proceed to judicial ratification, following the expiration of the 30-day period for creditors to file objections.

Proceeds obtained from the sale of the Argentine operations for USD 1.4 billion will be allocated to working capital. Raízen's indebtedness results, among other factors, from heavy investments in second-generation ethanol (E2G) and distributed generation, which did not yield the expected financial returns, combined with the increase in the Selic rate.

According to data from the Brazilian Observatory of Out-of-Court Reorganizations (OBRE), the amount involved in Raízen's out-of-court reorganization far surpasses the previous record held by the Mover Group (Intercement), which subsequently had to convert its proceedings into a judicial reorganization.

Gabriela Martines, partner in TozziniFreire's Restructuring practice, stated to Valor Econômico that reorganization filings are expected to remain at elevated levels throughout the year, as the mechanism has become increasingly popular.

The reflection brought by Cinthia, partner in TozziniFreire's Restructuring practice, to Pipeline Valor — "Is the future of restructurings in out-of-court reorganization?" — helps to contextualize the Raízen case within a broader market trend: the pursuit of less disruptive, more expeditious reorganization instruments capable of preserving value before the crisis converts into a traditional judicial reorganization.

In this scenario, out-of-court reorganization emerges as a relevant alternative for companies with complex liabilities but that still retain the capacity to coordinate with creditors and maintain operations, enabling a negotiated solution with lower reputational exposure and greater flexibility in structuring the agreement.

STJ Establishes Binding Precedent on Real Property Transfers During the Suspect Period (AREsp 2.185.324-GO)

In a recent judgment, the Superior Court of Justice (STJ) established a binding precedent in AREsp 2.185.324-GO regarding the transfer of real property made prior to the declaration of bankruptcy but within the so-called "suspect period" provided for in Law No. 11,101/2005.

The legal term of the bankruptcy, fixed by the declaratory judgment pursuant to Article 99, II, of said Law, may be retroactive for up to 90 days from the date of the bankruptcy petition, the judicial reorganization petition, or the first protest for non-payment.

The case addressed the validity of a real property transfer carried out by the debtor during the period preceding the declaration of bankruptcy, in light of Articles 129 and 130 of the Bankruptcy Law. Article 129 addresses the hypotheses of objective ineffectiveness vis-à-vis the bankruptcy estate — which operate regardless of whether the contracting party had knowledge of the debtor's economic-financial distress or whether there was intent to defraud creditors. Article 130 governs the avoidance action (ação revocatória), which requires proof of fraudulent collusion between the debtor and the third-party contractor, with actual harm to creditors.

Among the hypotheses set forth in Article 129, the following are noteworthy: the ineffectiveness of payments of unmatured debts within the legal term, the establishment of security interests (direito real de garantia) for previously incurred debts, the performance of gratuitous acts within the two years preceding the bankruptcy, and the transfer of the business establishment without the creditors' consent.

The precedent established by the STJ in AREsp 2.185.324-GO sets clearer parameters regarding the limits of ineffectiveness of real property transfers made within the legal term, and was published in the STJ's Jurisprudence Newsletter.

The matter has significant practical impact, as it affects the legal certainty of good-faith acquirers, the effectiveness of protection of the bankruptcy estate's assets against acts of asset dissipation, and the predictability of real estate transactions involving companies in economic-financial distress.

Braskem Files Preparatory Injunctive Relief Ahead of Reorganization Petition

Braskem S.A., one of the largest petrochemical companies in Latin America, filed a preliminary injunctive relief petition (tutela cautelar antecedente) on June 27, 2025, amid negotiations with creditors for the restructuring of its debts. The measure was filed in the context of a controversy involving the company's obligations and its market disclosure duties.

The company has accumulated significant financial liabilities, aggravated by remediation obligations arising from the collapse of salt-mining (sal-gema) operations in Maceió (State of Alagoas), which caused the subsidence of entire neighborhoods in the state capital. The environmental crisis, combined with a high interest rate environment and a complex corporate structure, compelled the company to seek judicial protection of its assets during negotiations with creditors.

The injunctive relief aims to protect the company during negotiations, seeking the temporary suspension of enforcement actions and acceleration clauses while the terms of an eventual reorganization plan are being negotiated.

St Marche Files for Judicial Reorganization Following Controversy in Out-of-Court Reorganization

The St Marche supermarket chain, known for its premium stores in the city of São Paulo, filed a judicial reorganization petition after facing significant controversies during its out-of-court reorganization proceedings.

The company had initially opted for out--of-court reorganization to renegotiate its debts with financial creditors. However, the process generated intense controversy, with appeals and challenges by creditors regarding the approval quorum, certain terms proposed in the plan, as well as allegations of lack of transparency in financial disclosures and disagreements as to the payment conditions offered. A portion of the creditors formally opposed the out-of-court reorganization plan and filed appeals against the lower court decision that had ratified the plan, which was ultimately stayed.

Faced with the uncertainties regarding the conclusion of the out-of-court reorganization, St Marche opted to convert the proceedings into a judicial reorganization, seeking the more structured environment and the protection of the stay period to reorganize its liabilities.

Controversy Over the Disposal of V.tal in Oi's Judicial Reorganization

The disposal of Oi's equity interest in V.tal has been the subject of intense controversy and extensive coverage in the specialized press.

V.tal, a fiber optic infrastructure company, had its control transferred during Oi's judicial reorganization proceedings, as part of the divestiture plan approved by the Court of the 7th Business Court of Rio de Janeiro.

The most recent transaction involved the transfer of the equity interest that remained under Oi's ownership to a consortium formed by investment funds. Creditors and minority shareholders of Oi have challenged various aspects of the transaction, including the sale price — which they consider below the actual value of the assets and the minimum price set forth in Oi's Judicial Reorganization Plan — the commercial terms, and potential conflicts of interest involving related parties.

There are allegations that the sale disproportionately benefited the acquirers to the detriment of the bankruptcy estate's creditors.

The case highlights the challenges inherent in the disposal of strategic assets in large-scale judicial reorganization proceedings and raises important reflections on the mechanisms for value control and transparency in such transactions.

STF, STJ, and TST Establish Precedents on Piercing the Corporate Veil and Insolvency

Brazil's three superior courts — the STF, the STJ, and the TST — established, in 2026, relevant precedents that converge toward restricting the automatic piercing of the corporate veil in insolvency contexts. The judgments in Tema 1.232/STF, Tema 1.210/STJ, and IRR 26/TST represent a landmark in national case law, reaffirming the need for strict observance of the legal requirements for piercing and delimiting jurisdictional competencies.

Tema 1.210/STJ — Automatic Piercing Based on Insufficient Assets

In a judgment concluded in June 2026, the STJ's Second Section, under the binding precedent procedure (recursos repetitivos) (Tema 1.210), established the holding that the mere absence or insufficiency of the legal entity's assets does not, in and of itself, authorize the piercing of the corporate veil.

The Court reaffirmed that this extraordinary measure requires a showing of the requirements set forth in Article 50 of the Civil Code, namely, the abuse of corporate form, characterized by deviation of purpose or commingling of assets (confusão patrimonial).

The decision has a direct impact on judicial reorganization and bankruptcy proceedings, in which it was a recurrent practice of creditors to seek the piercing of the corporate veil based solely on the frustration of enforcement, without demonstrating any abusive conduct by partners or officers. The precedent reinforces the patrimonial autonomy of the legal entity as the rule and the piercing as an exception conditioned upon effective proof of abuse.

Tema 1.232/STF — General Repercussion on Piercing the Corporate Veil

The Federal Supreme Court (STF) recognized general repercussion in Tema 1.232, which addresses the constitutional limits of piercing the corporate veil. The controversy involves defining the minimum constitutional requirements for application of the doctrine, particularly in light of the principles of free enterprise, legal certainty, and patrimonial separation between the legal entity and its partners.

The matter is of utmost relevance for insolvency law, as any holding by the STF will have binding effect across all court instances, potentially settling definitively the issue of piercing in contexts of corporate distress and imposing constitutional parameters on the actions of judicial reorganization and bankruptcy judges.

IRR 26/TST — Competence of the Labor Courts for Piercing in Judicial Reorganization

The Superior Labor Court (TST), in the judgment of Incident for Resolution of Repetitive Claims No. 26 (IRR 26), established the holding that Labor Courts are competent to process and decide corporate veil piercing incidents, including when the company under execution is in judicial reorganization.

The decision distinguishes between enforcement against the debtor company itself — which is subject to the universal jurisdiction of the reorganization court — and the redirection of enforcement against partners through piercing, which remains within the competence of the labor court. The TST held that piercing reaches the assets of third parties (partners and officers), and does not overlap with the assets of the company in reorganization.

However, the TST noted that, even in the labor sphere, piercing may not be decreed automatically and must observe the legal requirements and ensure the adversarial process and full defense rights of the affected partners and officers, in accordance with the STJ's precedents (Tema 1.210) and the procedural framework set forth in Articles 133 to 137 of the Code of Civil Procedure.

Convergence of the Precedents

The convergence of the three superior courts signals a paradigm shift: the piercing of the corporate veil definitively ceases to be a procedural shortcut for satisfaction of creditors in insolvency scenarios and is now treated as an extraordinary measure, subordinate to effective proof of abuse. For companies in distress, the precedents reinforce the protection of patrimonial autonomy and offer greater predictability to the corporate restructuring environment in Brazil.

STJ Rules That Condominium Fees Constitute Non-Bankruptcy Estate Claims (Tema 1391)

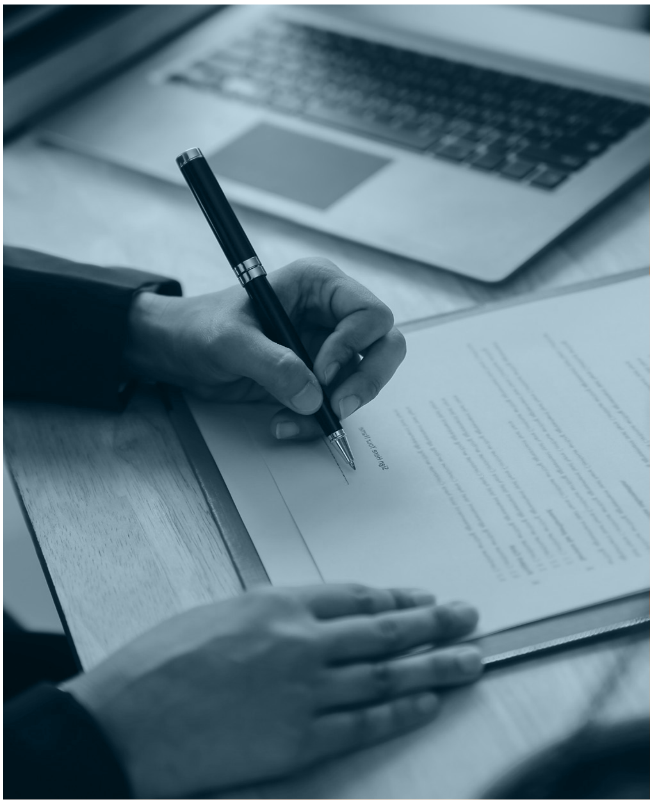
In a judgment concluded on May 13, 2026, the STJ's Second Section decided, by a majority of 5 votes to 3, that condominium fee debts, even those accrued prior to the judicial reorganization petition, are of a non-bankruptcy estate nature (extraconcursal) and may be directly enforced before the competent civil court, without submission to the reorganization proceedings.

The panel established the following binding precedent under Tema 1391: "Condominium fee debts, even those accrued prior to the judicial reorganization petition, are non-bankruptcy estate claims, not subject to the jurisdiction of the reorganization court, and may be enforced before the competent civil court."

The prevailing dissent was opened by Justice Raul Araújo, who argued for the non-bankruptcy estate nature of condominium debts regardless of the date of accrual, based on the propter rem nature of such obligations and Article 84, III, of Law No. 11,101/2005. The Reporting Justice, Ricardo Villas Bôas Cueva, had voted in the sense that the submission of condominium debts to the judicial reorganization should observe the temporal threshold of Article 49, caput, of the Bankruptcy and Reorganization Law — i.e., debts accrued prior to the petition would be bankruptcy estate claims (concursais).

This understanding was followed by Justices Daniela Teixeira and Humberto Martins, forming the minority.

The decision has a direct impact on residential, commercial, and corporate condominiums throughout the country, especially given the record number of companies in judicial reorganization. In practice, condominiums will be able to collect condominium fees from companies in judicial reorganization without the need to file a proof of claim in the reorganization proceedings.



GPA (Grupo Pão de Açúcar) Concludes Agreement with Creditors in Out-of-Court Reorganization

Grupo Pão de Açúcar (GPA), the parent company of the Pão de Açúcar, Extra, and Mini Extra chains, concluded on May 6, 2026, the renegotiation with creditors through an out-of-court reorganization plan involving debts of BRL 4.57 billion.

The out-of-court reorganization petition was filed in March 2026, when GPA obtained the support of creditors representing 46% of unsecured debt for the formalization of a reorganization plan that provided for a 90-day payment standstill, while seeking the adhesion of remaining creditors to an updated and more comprehensive version of the plan.

With the judicial ratification of the out-of-court reorganization plan, GPA expects: (i) an extension of the average maturity of obligations to 6.4 years; (ii) a reduction in the average cost of interest to CDI + 0.5% per annum; and (iii) a reduction of the total debt amount by more than 50% over time. The plan also provides for new financing of up to BRL 200 million from creditors willing to extend new funds.

On June 10, 2026, the Notice of the Out-of-Court Reorganization Plan was published, opening a 30-day period for objections to the Plan and voting on payment options (which expired on July 10, 2026).

GPA has faced financial distress since 2022, with recurring losses caused by declining consumption, food inflation, and high interest rates. In 2025, it reported a net loss of BRL 651 million and gross debt of BRL 4 billion. The group operates 728 stores in Brazil.

CVLB Group (Casa & Vídeo and Le Biscuit) Files for Judicial Reorganization

On April 29, 2026, the CVLB Group, parent company of the retail chains Casa & Vídeo and Le Biscuit, filed a judicial reorganization petition before the 1st Business Court of the Judicial District of the Capital of Rio de Janeiro. The group has accumulated liabilities of approximately BRL 1.71 billion, concentrated primarily in financial debts owed to banks, debenture holders, and suppliers.

According to the company, the petition aims to "reorganize its liabilities, provide greater predictability to cash flow, and conduct negotiations with creditors in a more structured environment." The company also intends to obtain debtor-in-possession (DIP) financing of up to BRL 75 million to strengthen liquidity.

The CVLB Group has approximately 307 stores across 15 states, two distribution centers, serves more than 35 million customers per year, and reported positive EBITDA in the first half of 2025. The judicial reorganization replaces the preliminary injunctive relief obtained in January 2026, which had protected the company from creditor actions for a period of 60 days.

This is not Casa & Vídeo's first judicial reorganization filing. The chain previously underwent the process in 2009, after facing a crisis arising from tax evasion allegations. The new petition reflects macroeconomic pressures, including a high Selic rate and significant financing costs, as well as impacts on popular retail resulting from online betting.

OAB Challenges Before the STF the Prohibition of Judicial Reorganization for Habitual Tax Debtors (ADI 7943)

The Federal Council of the Brazilian Bar Association (OAB) filed, on March 13, 2026, Direct Action of Unconstitutionality (ADI) No. 7,943 before the Federal Supreme Court, challenging Article 13, item I, subparagraph "d", of Complementary Law No. 225/2026 (Taxpayer Defense Code), which prohibits taxpayers classified as habitual debtors (devedores contumazes) from filing or pursuing judicial reorganization petitions, allowing the conversion of the reorganization into bankruptcy at the request of the Tax Authority.

The ADI was assigned to Justice Flávio Dino.

The OAB argues that the provision is disproportionate and punitive in nature, with severe effects on: (i) access to justice; (ii) free enterprise; (iii) the exercise of property rights with a social function; and (iv) the preservation of the enterprise.

The entity also requested an injunction to suspend the provision, arguing that a subsequent declaration of unconstitutionality would be incapable of restoring companies already dissolved or recomposing the economic value dissipated.

The urgency of the measure was reinforced by the publication of Joint Ordinance RFB/PGFN/MF No. 6, dated March 26, 2026, which allows the tax administration to immediately commence the classification of taxpayers as habitual debtors. It is estimated that approximately 3,600 taxpayers will be reached by the first notifications, which began to be issued in April 2026.

In May 2026, the OAB filed a supplement to the initial petition reiterating the request for injunctive relief.

The ADI remains pending judgment.

The matter is relevant because Complementary Law No. 225/2026 was enacted in January of the same year, as reported in the 5th edition of this bulletin. The constitutionality of the statute is now being formally challenged before the STF.

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