



**Presumed Moral Damages for Improper Debit in Bank Account: an Analysis of IRDR n.º 0005053-71.2023.8.04.0000**

*Dano Moral Presumido por Desconto Indevido em Conta Bancária: análise do IRDR n.º 0005053-71.2023.8.04.0000*

*Daño Moral Presunto por Descuento Indevido en Cuenta Bancaria: análisis del IRDR n.º 0005053-71.2023.8.04.0000*

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**Abstract:**

This article examines the judgment of IRDR No. 0005053-71.2023.8.04.0000, rendered by the Court of Justice of Amazonas (TJAM), which recognized the in re ipsa nature of moral damages in cases of unauthorized bank fee deductions from account holders. The study is justified by the need to understand how binding precedents influence the enforcement of substantive rights. The research employs the deductive method and bibliographic and documentary techniques to address whether the thesis established in this IRDR protects consumers or encourages predatory litigation. The findings indicate that the decision primarily safeguards consumer rights, although it may risk fostering mass litigation. It is further concluded that the IRDR serves not only as a tool for jurisprudential uniformity but also as an instrument for the realization of legally protected rights.

**Keywords:**

IRDR; undue discount; presumed moral damage; consumer law; mass litigation.

**Resumo:**

O presente artigo tem como objeto o julgamento do IRDR n.º 0005053-71.2023.8.04.0000 (TJAM), no qual se decidiu dano moral in re ipsa, na hipótese de desconto indevido nas contas correntes dos tomadores de serviço bancário. Esse estudo se justifica pela necessidade de compreensão da forma como os precedentes vinculantes impactam a efetivação de direitos materiais. Para tanto, foi utilizado o método dedutivo e as técnicas de pesquisa bibliográfica e documental de modo a responder se a tese firmada nesse IRDR protege o consumidor ou fomenta a litigância predatória. Como resultado, tem-se que a decisão proferida no IRDR em questão aponta no sentido da proteção ao direito do consumidor, em que pese haver o risco de se fomentar a litigância de massa. Concluiu-se ainda que o IRDR não é somente um instrumento de uniformização da jurisprudência, já que também serve para efetivar direitos previstos na legislação.

**Palavras-chave:**

IRDR; desconto indevido; dano moral presumido; direito do consumidor; litigância de massa.

**Resumen:**

Este artículo tiene como objeto el análisis del juicio del IRDR n.º 0005053-71.2023.8.04.0000 (TJAM), en el cual se reconoció el daño moral in re ipsa en casos de descuentos indevidos en

cuentas corrientes de consumidores de servicios bancarios. El estudio se justifica por la necesidad de comprender cómo los precedentes vinculantes impactan la efectividad de los derechos materiales. Para ello, se utilizó el método deductivo y las técnicas de investigación bibliográfica y documental con el fin de responder si la tesis establecida en este IRDR protege al consumidor o fomenta el litigio predatorio. Como resultado, se constató que la decisión adoptada apunta a la protección de los derechos del consumidor, aunque exista el riesgo de incentivar la litigiosidad masiva. Asimismo, se concluyó que el IRDR no es solamente un instrumento de uniformización de la jurisprudencia, sino también un mecanismo para hacer efectivos los derechos previstos en la legislación.

**Palabras clave:**

IRDR; descuento indebido; daño moral presunto; derecho del consumidor; litigación masiva.

## INTRODUCTION

This study addresses the incident of resolution of repetitive demands (IRDR), a procedural institute introduced into Brazilian law by the 2015 Code of Civil Procedure which, in addition to its function of standardizing jurisprudence, projects relevant effects in the field of substantive law.

In this context, the judgment of IRDR No. 0005053- stands out. 71.2023.8.04.0000, by which the Court of Justice of Amazonas established the thesis according to which moral damages are presumed in the event of undue deductions from consumers' bank accounts.

A critical analysis of this decision allows us to understand not only the technical aspects of the IRDR institute, but, above all, its impact on consumer relations, since it affirms the normative force of fundamental rights and guarantees.

Therefore, the central problem of this research is to investigate whether the thesis established in the aforementioned IRDR (Incident of Resolution of Repetitive Demands) represents effective protection of fundamental consumer rights or may generate negative externalities for the justice system, such as fostering predatory litigation and the "moral damages industry".

To answer this question, this article will specifically seek to: (a) analyze the nature and effects of the IRDR as a vector of influence on substantive law; (b) contextualize the jurisprudential controversy that justified its establishment; and (c) conduct a critical evaluation of the legal and practical consequences of the established thesis, weighing its benefits and risks.

In this sense, it is necessary to carry out qualitative research, based on bibliographic and documentary research techniques, using the deductive method. The theoretical foundation will



be built from the relevant doctrine, focusing on the case study of IRDR No. 0005053-71.2023.8.04.0000.

The aim is to offer a critical contribution to the understanding of the material effects of one of the most relevant institutions of modern civil procedure, based on a study of the judgment and the opinions expressed in the incident in question.

### **The Incident of Resolution of Repetitive Demands and its Influence on Substantive Law**

The enactment of the 2015 Code of Civil Procedure represented a milestone in the Brazilian legal system, notably for the consolidation of a system of binding precedents guided by the uniformity and coherence of jurisprudence, as advocated by its article 926: "The courts must standardize their jurisprudence and maintain it stable, integral and coherent." From this perspective, the Incident for Resolution of Repetitive Demands (IRDR) emerges as a procedural tool of great relevance. However, its importance is not limited to managing mass litigation; the institute projects its effects beyond the boundaries of the process, directly influencing substantive law.

### **CONCEPT, LEGAL NATURE AND LEGAL PROVISION OF THE IRDR**

Expressly provided for in articles 976 to 987 of the Code of Civil Procedure, the IRDR (Incident of Resolution of Repetitive Demands) can be defined as a procedural mechanism whose purpose is to establish a legal thesis applicable to all proceedings that deal with the same legal issue and that are processed within the jurisdiction of the respective court.

Its legal nature is that of an incident of jurisprudential uniformity, specifically instituted to deal with the phenomenon of mass litigation and guarantee the equal application of the law, preserving legal certainty, as provided for in the Code of Civil Procedure. (THEODORO JÚNIOR, 2020)

Regarding the definition of a procedural incident, Cândido Dinamarco writes:



A procedural incident is not an action in itself, and should be understood as "a set of formally coordinated acts to be carried out during the course of the proceedings," presenting itself as **"a small procedure inserted within the context of the larger procedure . "**

(DINAMARCO apud THEODORO JÚNIOR, 2020, emphasis added)

In this sense, Luiz Guilherme Marinoni, Sérgio Cruz Arenhart, and Daniel Mitidiero define the IRDR institute as:

(...) a technique made available for the standardization of the application of law. The measure is intended, as stated in article 976, to prevent the same legal issue, present in lawsuits involving different parties, from receiving different answers from the various bodies of the Judiciary that may eventually come into contact with these cases.

(MARINONI; ARENHART; MITIDIERO, 2015, p. 577)

This doctrinal view reinforces the main objective of the IRDR: the harmonization of judicial decisions as a vehicle for achieving legal certainty and equality, settling the controversy broadly with mandatory observance.

## **ADMISSIBILITY REQUIREMENTS AND PURPOSE OF THE INSTITUTE**

The establishment of an IRDR (Incident Resolution Demand) is not applicable in every situation involving multiple proceedings, since the legislator established, in article 976 of the Code of Civil Procedure, cumulative requirements that act as a filter, so that the institute is used only in cases where uniformity is necessary.

The first requirement, of an objective nature, is the effective repetition of processes that contain controversy over the same legal issue alone. This demonstrates that there must be a real plurality of ongoing lawsuits, and the doubt to be resolved cannot involve the assessment of specific facts or evidence in each case (factual matter), but rather the interpretation of a legal thesis.

The second requirement, of a subjective nature, is the risk of offense to equality and legal certainty. For its characterization, mere procedural repetition is not enough; it is necessary to show that the multiplicity of actions entails a concrete danger of conflicting decisions for identical situations, thus violating the principle of uniform application of the law.

Both assumptions must be present simultaneously, as stated in Article 976:

Article 976. The procedure for resolving repetitive claims may be initiated when there is, simultaneously:

- I - Effective repetition of processes that contain controversy over the same legal issue only;
- II - risk of violating equality and legal certainty.

In short, the purpose of the institution is clear: to guarantee the predictability and stability of legal relations, realizing the ideals of a coherent justice system.

### **The legal thesis, its binding force, and its effects on the legal system.**

It is fundamental to understand the dual nature of the IRDR (Incident of Resolution of Repetitive Demands). Although formally an institute of procedural law, its main purpose is to unify the solution of a controversy of substantive law. Based on this premise, the interpretation that sees it merely as a tool to resolve repetitive demands is, therefore, restrictive. When instituted to define, for example, the contours of moral damages in a given legal relationship, the court is not only establishing a guideline for future judgments, but also defining the very content and scope of a subjective right, directly interfering in the legal relations of citizens.

The binding force is what causes this material influence, attributed to the legal thesis established in the IRDR (Incident of Resolution of Repetitive Demands), as expressly provided for in article 985 of the Code of Civil Procedure:

Article 985. Once the incident has been judged, the legal thesis will be applied:  
I - to all individual or collective proceedings that deal with the same legal issue and that are being processed within the jurisdiction of the respective court, including those being processed in the special courts of the respective State or region;  
II - to future cases dealing with the same legal issue and that are processed within the jurisdiction of the court, unless reviewed in accordance with article 986.

Furthermore, the binding effect also transforms a judicial decision, issued in a specific case, into a legal norm of general and mandatory application. Therefore, the established legal principle ceases to be merely a solution for a group of cases and begins to function as a precedent for resolving all future cases dealing with the same issue. In this sense, the IRDR (Incident of Resolution of Repetitive Demands) acts as a channel, using the structure of the process to create a norm that integrates into the legal system and begins to regulate social relations in a manner analogous to law.

In accordance with the aforementioned, the position of Humberto Theodoro Junior stands out, summarizing the dual purpose of the institute:



This mechanism aims to implement uniformity of judicial treatment for all potential litigants placed in a situation identical to that disputed in the standard case. It fulfills a dual objective: in addition to rationalizing the judicial treatment of repetitive cases ( articles 976; 980 to 984), the incident aims to establish a precedent of mandatory observance (article 985) (THEODORO JÚNIOR, 2020).

This doctrinal perspective corroborates the conclusion that the IRDR (Incident of Resolution of Repetitive Demands), although originating in the procedural field, ultimately results in the creation of a substantive law norm that settles the controversy and guarantees the stability of legal relations.

### **The Jurisprudential Controversy Regarding Presumed Moral Damages: The Scenario That Led to the Establishment of the IRDR (Incident Resolution Demand).**

The establishment of an IRDR (Incident of Resolution of Repetitive Demands) presupposes, in light of the foregoing, the existence of an effective legal controversy that jeopardizes equality and legal certainty. Before the matter was settled by IRDR No. 0005053-71.2023.8.04.0000, the scenario within the Court of Justice of Amazonas regarding the characterization of moral damages arising from undue deductions from bank accounts was manifestly unstable. This is demonstrated by the divergence regarding the admissibility of compensation for moral damages in analogous lawsuits:

#### **Case No. 0729919-70.2021.8.04.0001**

In light of the foregoing, I RULE IN FAVOR of the plaintiff's claims, ordering the defendant to refrain from charging the "Cesta Fácil Econômica" fee, offering only the essential free services stipulated in BACEN Resolution 3.919/10, with the option – if the plaintiff agrees through a duly signed contract – of using standardized service packages. I further order the defendant to pay compensation for material damages, with the return, in double, of the amounts debited from the plaintiff's current account related to the "Cesta Fácil" fee. "Economical ." I further condemn the defendant bank to **pay compensation for the damages, morals**

#### **Case No. 0642293-76.2022.8.04.0001**

In light of the foregoing, pursuant to Article 487, I, of the CPC, I rule... The requests made are PARTIALLY GRANTED. initially, to declare the amounts unenforceable. deductions made from the applicant's current account under the heading "Bradesco Vida e Previdência" , instruct to the consequent cancellation of the aforementioned was requested. discounts, under penalty of a fine of R\$ 100.00 (one hundred reais) for each discount, limited to 30 (thirty) instances, without prejudice to other measures that may be taken necessary; as well as condemning him to restitution, in in simple terms, of the discounts actually applied. in the period from April 2021 to March 2022, in addition to those that were discounted in the course of the proceedings under the same nomenclature, plus monetary correction to starting from each disbursement and legal interest

calculated from citation, the amount of which will be determined in the settlement of **The claim for compensation for moral damages is dismissed, pursuant to the ruling. rationale.**

**Case No. 0723727-87.2022.8.04.0001**

Therefore, for all the reasons stated above, I GRANT THE REQUEST and consequently:

a) I hereby order the cancellation of the deductions from the Applicant's current account, under the heading "CREDIT LIFE INSURANCE".

b) I hereby order the Defendant to reimburse the Plaintiff for the total amount deducted from her current account as "CREDIT LIFE INSURANCE," doubled, duly adjusted from the date of disbursement and increased by legal interest of 1% per month, from the date of service of process, pursuant to Article 42, sole paragraph of the Consumer Protection Code.

**c) I order the Defendant to pay the Plaintiff the amount of R\$ 4,000.00 (four thousand reais) as compensation for moral damages,** plus monetary correction and legal interest from the date of the judgment.

d) I order the Defendant to pay the court costs and attorney's fees, which I set at 20% of the amount of the judgment.

The juxtaposition of the judgments above unequivocally demonstrates the scenario then prevailing within the Court of Justice of Amazonas. This jurisprudential divergence not only violated the principle of equality, treating litigants differently in identical situations, but also legal certainty, making the decision unpredictable. Therefore, the conditions justifying the establishment of the IRDR (Incident of Resolution of Repetitive Demands) were met.

The central issue dividing the jurisdiction of Amazonas was whether the charging of uncontracted bank fees would, in itself, constitute presumed moral damages (*in re ipsa*) or whether it would be classified as a mere annoyance, requiring the consumer to prove concrete damage in order to be entitled to compensation.

This lack of a cohesive understanding results in the phenomenon that Eduardo Cambi calls "lottery jurisprudence" (CAMBI, 2001): identical cases, involving the same abusive practice by financial institutions, received opposite solutions depending on the court to which the case was assigned. On the one hand, decisions recognized the offense against the consumer's dignity, automatically setting compensation. On the other hand, judgments held that, without proof of a more serious consequence (such as registration in defaulter databases or the impediment to carrying out other transactions), the fact was nothing more than a mere everyday annoyance.

### **Analysis of IRDR No. 0005053-71.2023.8.04.0000**

Having addressed the admissibility requirements that justified the initiation of the incident, we now proceed to the merits of IRDR No. 0005053-71.2023.8.04.0000, judged by the Court of Justice of the State of Amazonas. This section addresses the structure of

the judgment and the reasoning that led to the establishment of the binding precedent, seeking to demonstrate how the court, through a procedural instrument, settled the application of substantive consumer law in the state.

## FROM THE JUDGMENT

The analysis of the merits of the incident, conducted by the vote of the Reporting Judge João de Jesus Abdala Simões, starts from a premise already consolidated in the Court: that "the deduction of bank fees not foreseen in regulations issued by the Central Bank of Brazil and/or not authorized in a contractual agreement constitutes an unlawful act". In settling this point, the vote isolates the controversy and establishes the following question: whether such unlawfulness necessarily results in presumed moral damages (*in re ipsa*). *In light of this question, the ratio was formed. descidendi of the vote supported by a series of interconnected arguments*

Initially, the rapporteur dismisses the argument of mere annoyance, framing the financial institution's conduct as a direct violation of the consumer's personality rights. The central argument is that the unilateral and undue appropriation of funds, even modest ones, "offends the consumer's dignity and their legitimate expectations" of security and trust, pillars of the banking contractual relationship.

For the purposes of defining the concept of moral damages, we refer to the definition of Eduardo Zannoni: (...) harm or injury to non-patrimonial interests, caused by the harmful event, that is, by an unlawful act or fact. (ZANONNI apud MIRAGEM, 2015)

In a complementary way, legal scholars Pablo Stolze Gagliano and Rodolfo Pamplona Filho consider:

(...) we can affirm that moral damage is that which harms the most personal sphere of the person (their personality rights), violating, for example, their intimacy, private life, honor and image, that is, legally protected constitutional rights." (GAGLIANO; FILHO, 2017, p. 891)

On that occasion, according to the understanding established in the opinion of the Reporting Judge, and notwithstanding the recognition of the traditional conception of the institute, it was emphasized that moral damages must be analyzed taking into account the

inherent imbalance of the legal relationship between the consumer and financial institutions, so that the vulnerability of the consumer in the aforementioned relationship is evident. Furthermore, this logical conclusion is expressly provided for in the Consumer Protection Code:

Article 4. The National Consumer Relations Policy aims to meet the needs of consumers, respect their dignity, health and safety, protect their economic interests, improve their quality of life, as well as ensure transparency and harmony in consumer relations, in accordance with the following principles:

I - recognition of consumer vulnerability in the consumer market;

In short, it is based on this asymmetry that the rapporteur's vote builds its conclusion. The reasoning of the judgment establishes that the banking practice of making unauthorized unilateral deductions, taking advantage of this condition of vulnerability, transcends the sphere of mere contractual wrongdoing to constitute an effective violation of the consumer's dignity. Based on these assumptions, the conclusion reached in the judgment is that the nature of the conduct perpetrated by the banks gives rise to the duty to compensate for moral damages *in re ipsa*, insofar as it violates the dignity of the consumer.

### **The legal and practical consequences of the IRDR (Incident Resolution Demand).**

The establishment of the legal precedent in IRDR No. 0005053-71.2023.8.04.0000 represents the effort of the Judiciary of Amazonas to guarantee equality and legal certainty. However, the exploration of this precedent is not limited to understanding its reasoning, but requires an evaluation of its practical effects and consequences for those subject to the law and for the justice system itself. This topic is dedicated to this critical analysis, seeking to answer the following question: does the precedent that consolidated presumed moral damages effectively protect the fundamental rights of consumers or, on the other hand, could it generate negative externalities, such as fostering predatory litigation and discouraging extrajudicial solutions?

### **Strengthening the consumer's position**

The main consequence of the thesis established in the IRDR is the strengthening of the consumer's legal position vis-à-vis financial institutions. By consolidating the understanding that the undue deduction of fees constitutes presumed moral damages (*in re*

*ipsa* ), the Court of Justice of Amazonas removed one of the biggest obstacles that the jurisdiction encountered in obtaining full redress for their rights: the complex and, at times, unfeasible proof of non-pecuniary damage.

With the establishment of the legal precedent, the dynamic is reversed, making access to justice effective and materializing the protective function of the Consumer Protection Code. This approach highlights the preventive nature of civil liability, which aims to discourage the recurrence of harmful conduct. In this context, compensation transcends mere restitution, as it acts to discourage illicit practices. Given these characteristics, the article by Judge André Gustavo Corrêa de Andrade emphasizes the importance of this function:

The preventive (or deterrent) function is perhaps the main and most important purpose of punitive damages. This type of damages plays an important role in exceptional situations where compensatory damages would not constitute a socially effective legal response. ( ANDRADE, 2006, p. 155).

In light of the foregoing, the practical effects of the IRDR (Incident Resolution Demand) are evident, both as a vector for transforming individual relationships between consumers and banks, and as a deterrent to abusive practices by these institutions .

### **The Risk of the "Moral Damages Industry" and Predatory Litigation**

Despite the benefits for consumer protection, the consolidation of a legal precedent that presumes moral damages has sparked debate about the risk of fostering a so-called "moral damages industry" and predatory litigation. This concern, raised in dissenting opinions delivered during the trial itself, argues that the automation of compensation could encourage the mass filing of lawsuits, often devoid of actual moral harm, with the primary objective of obtaining a series of economic gains.

In contrast, this perspective is challenged by the very reasoning of the judgment. Contrary to the fears expressed in the dissenting opinions regarding the fostering of a "moral damages industry," the majority opinion decided from the perspective that the legal argument is a response to illicit and repeated banking practices. The focus, therefore, shifts: the "industry" to be combated is not that of lawsuits, but rather that of undue deductions which, although of small individual value, generate profits for banks at the expense of the systematic violation of fundamental rights.

In this sense, Professor Anderson Schreiber corroborates:



More than concern with the exponential growth of the number of compensation claims for moral damages, the that use of The term ' industry ' announces It is a frontal rejection of its mechanical, artificial production aimed at profit, in a kind of capitalized approach to an ontologically existential institution. **Although the concern is valid, under the point from a point of view scientific, the It is true that, at least in Brazil , its importance cannot be overstated, since, in most cases, the outcome of moral damages lawsuits is more frustrating than truly enriching .** (SCHREIBER apud FRANK; OLIVEIRA; CORRÊA, 2013, p. 10, emphasis added).

Furthermore, it is worth highlighting the constitutional protection of consumer rights:

Article 5. All are equal before the law, without distinction of any kind, guaranteeing to Brazilians and foreigners residing in the country the inviolability of the right to life, liberty, equality, security and property, under the following terms:  
XXXII - The State shall promote, in accordance with the law, the protection of the consumer;

Following this line of reasoning , the opinion of the Reporting Judge argues that reversing the logic (that is, punishing the consumer with a heavy burden of proof as a way to discourage lawsuits) would be the same as rewarding the supplier's illicit conduct. The decision, therefore, starts from the premise that the primary cause of mass litigation is the market's failure to respect consumer rights, and not predatory litigation.

Furthermore, it is important to emphasize that the legal system has its own mechanisms to curb bad-faith litigation, such as sanctions for predatory litigation and the possibility for the judge, in a specific case, to identify and repress abuses.

As an example of such mechanisms, the Code of Civil Procedure provides:

Article 81. Ex officio or upon request, the judge shall order the litigant acting in bad faith to pay a fine, which shall be greater than one percent and less than ten percent of the adjusted value of the case, to indemnify the opposing party for the losses suffered, and to bear the attorney's fees and all expenses incurred.  
§ 1. When there are two or more litigants acting in bad faith, the judge shall condemn each one in proportion to their respective interest in the case, or jointly and severally those who colluded to harm the opposing party. § 2. When the value of the case is negligible or inestimable, the fine may be set at up to ten times the value of the minimum wage.  
§ 3 The amount of compensation shall be determined by the judge or, if it is not possible to measure it, liquidated by arbitration or by ordinary procedure, within the same proceedings .

In short, the decision resulted from weighing the potential risk of procedural abuses (which can be prevented) against the certainty of continued harm to consumers from illicit banking practices; the protection of the vulnerable party in the legal relationship was chosen.

## The impact on out-of-court settlements

One of the most relevant effects of the thesis established by the IRDR (Incident Resolution Demand) manifests itself in the pre-trial sphere, altering the dynamics of self-composition. During the process, one of the central arguments raised by financial institutions was that the fixing of moral damages *in re This* would discourage the signing of agreements, worsening the situation for companies and increasing litigation.

Primarily, the logic behind this claim is that the predictability of a court ruling creates a "floor" for negotiation. Therefore, the consumer, aware of their likely success in a lawsuit, would have less incentive to accept settlement offers with amounts arbitrarily set by the financial institution, preferring to seek full and guaranteed redress through the courts.

However, this perspective can be challenged by an assessment from the standpoint of economic rationality. This is because, according to the Economic Analysis of Law, the decision to litigate depends on the balance of the overall costs of the process and not only on the intended benefit. From this perspective, reaching an agreement is more advantageous for the consumer whenever its cost is lower than the probable cost of a court judgment against the institution. As Cooter and Ulen explain :

To file a petition, the plaintiff typically hires a lawyer. **If the expected value of the judgment is greater than or equal to the cost of the lawsuit, they will decide to file the lawsuit. However, if the expected value is less than the cost of the lawsuit, they will decide not to file the lawsuit .**  
(COOTER; ULEN apud RODRIGUES NETO, 2016, p. 197, emphasis added).

Applying this logic to the IRDR (Incident Resolution Demand) thesis, and by making the conviction practically certain, the financial institution is incentivized to resolve the conflict quickly for a fair amount and discontinue the improper practices.

Therefore, what the thesis aims to discourage is not agreements per se, but agreements for negligible amounts, since the real effect of the IRDR (Incident Resolution Demand), in this context, is to rebalance the legal relationship, naturally unbalanced by the economic disparity between the parties, forcing a paradigm shift where, through cost management and damage prevention, the agreement becomes the smartest alternative for the litigants.

## ANALYSIS OF THE PRACTICAL EFFECTS OF THE DECISION

An analysis of the practical effects of the IRDR (Incident Resolution Demand) reveals an inherent tension in the effort to standardize the law, which, in this case, involved consumer protection and concern about the potential effects of the decision. Therefore, the legal precedent that established presumed moral damages for improper deductions from bank account packages in the State of Amazonas is a paradigmatic example of this tension, requiring a consideration of the material effects of this judgment.

At first glance, the decision represents an undeniable advance in the realization of consumer rights, since, by removing the burden of proof of non-pecuniary damages and reinforcing its preventive character, the court mitigated the imbalance in the relationship between consumers and banks. However, this same argument raises concerns that cannot be summarily dismissed, such as the possible encouragement of predatory litigation and the risk of trivializing the concept of moral damages. The fact is, as demonstrated, the aforementioned doctrine, jurisprudence, and legislation corroborate the idea that this concern, while pertinent, is not an inevitable consequence.

protected right adds to the strengthening of the position of the vulnerable party. Prior to the establishment of this legal precedent, the uncertainty of the judicial outcome, coupled with the recognized vulnerability of the consumer, frequently resulted in settlements that did not reflect the true extent of the damage, often being accepted for negligible amounts. Therefore, by establishing a predictable judicial outcome, this precedent mitigates this imbalance, providing greater legal certainty to the relationship between consumers and banking institutions.

Thus, the assessment carried out by the court, through the procedural institute of IRDR (Incident of Resolution of Repetitive Demands), generated relevant material effects, forcing a more balanced negotiation standard for consumer disputes of this nature in the state of Amazonas.

## **FINAL CONSIDERATIONS**

At the end of this study, we return to the central question that motivated this work: what are the legal and practical consequences of the thesis established in IRDR No. 000505371.2.23.8.04.0000? The answer, after the research, is that the effects of the procedural institute significantly transcend the mere standardization of jurisprudence, projecting themselves decisively onto substantive law.

Thus, the investigation demonstrated that the establishment of the IRDR (Incident Resolution Demand) was an appropriate response to the scenario of legal uncertainty affecting the jurisdiction of the State of Amazonas, in which the controversy over presumed moral damages resulted in a clear violation of equality.

Based on the legal precedent established in the aforementioned IRDR (Incident Resolution Demand), the Court of Justice of Amazonas has, in practice, redefined the scope of the right to compensation for moral damages for thousands of citizens.

The critical assessment of the consequences of this decision was predominantly positive. This affirmed consumer rights and the preventive nature of *in restitution . ipsa* in the event of a violation of that right; whereas the fear of strengthening the so-called "moral damages industry" was considered a risk to be managed by the system, without paralyzing effectiveness in relation to the protection of the vulnerable party.

Furthermore, with the predictability of the judicial outcome, a change in the dynamics of out-of-court negotiations was observed, resulting in agreements that were more advantageous for the consumer.

Indeed, the Incident for Resolution of Repetitive Demands, investigated in this research, has proven to be a procedural tool with a notable material impact.

This is because the decision under study has effects that extend beyond procedural law and establishes a new paradigm for banking consumer relations in Amazonas, demonstrating that the IRDR (Incident Resolution Demand) serves as an instrument for the enforcement of rights.

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