

Judiciary

Of the State of Sergipe

COURTROOM OF JUDGE IOLANDA SANTOS GUIMARÃES OF THE JUDICIAL DISTRICT OF ARACAJU

Fausto Cardoso Square, Centro Neighborhood, Aracaju/SE, ZIP 49010080

Operating Hours: 07:00 to 13:00

CASE:

202100733547

DATE:

03/28/2022

MOVEMENT:

Filing

DESCRIPTION:

Filing of Extraordinary Appeal performed on this date. {Movement generated by the Attorney: WANDERSON DOS SANTOS NASCIMENTO - 4793}

LOCATION:

Clerk's Office of the 1st Civil Chamber

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No

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(e-STJ Fl.1706)

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HONORABLE PRESIDENT OF THE COURT OF JUSTICE OF THE STATE OF

SERGIPE.

Case No. 202100733547.

INSTITUTE OF HEMATOLOGY AND HEMOTHERAPY OF SERGIPE

LTD, through its attorney, in the above-mentioned process,

comes before Your Excellency to file an EXTRAORDINARY APPEAL, the reasons for which are attached.

Requesting approval.

Aracaju/SE, March 28, 2022.

WANDERSON DOS SANTOS NASCIMENTO.

OAB/SE 4.793.

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REASONS FOR THE EXTRAORDINARY APPEAL

HONORABLE SUPREME FEDERAL COURT,
DISTINGUISHED CHAMBER,
ILLUSTROUS RAPPORTEUR.

I. ADMISSIBILITY OF THE RARE APPEAL.

This case meets the requirements for filing this appeal. It is an appropriate and timely appeal because the appealed decision was made available in the Official Gazette on 03/03/2022, considering that 03/17/2022 was a local holiday, as attested by the documentation attached to this appeal.

Legitimacy to appeal based on the adverse ruling suffered by the appellant since the lower court denied its appeal.

Attached to this appeal is proof of payment of the appeal fee.

The issue has been duly pre-questioned, including filing Clarification Petitions against the challenged decision.

The appealed judgment violates Article 107 of the Civil Code, which governs the validity of verbal contracts and infringes the constitutional principles of due process of law, adversarial procedure, and full defense, enshrined in Article 5, LIV and LV of the Federal Constitution.

Therefore, all necessary requirements for the admissibility of this Extraordinary Appeal are met.

II. GENERAL REPERCUSSION. COMPLIANCE WITH THE REQUIREMENTS OF ARTICLE 102 § 3 OF THE FEDERAL CONSTITUTION.

Article 102 §3 of the Federal Constitution imposes, as a requirement for the admissibility of the Extraordinary Appeal, the demonstration of the general repercussion of the matter addressed in the Rare Appeal.

Therefore, it is not enough to demonstrate only that the decision rendered by the lower court violated the Federal Constitution. It is necessary to demonstrate the general repercussion of the decision, that is: the transcendence of the decision, making it relevant to the community.

In the case under scrutiny, the general repercussion required by Article 102 § 3 of the Federal Constitution is present, which warrants the consideration of this Noble Appeal.

This case is of great importance, given the legal focus on the following debate:

If the lack of publication in the Official Gazette of the decision that includes the appeal on the agenda of the trial session, and the lack of notification of the parties regarding the mentioned trial session, constitutes a restriction of the right of defense, especially when the lack of notification prevented the attorney of any of the parties from attending the mentioned session to submit memoranda and make oral arguments.

As can be seen, the issues addressed in this appellate appeal are not limited only to the appellant, but rather, in an abstract manner, to all individuals involved in a judicial process, where the above-mentioned issues are discussed, which leaves no doubt about the presence of the general repercussion examined here.

Therefore, the appellant requests the consideration of this Extraordinary Appeal, given the fulfillment of its admissibility requirements.

III. FACTUAL SYNTHESIS.

This is a monitorial action filed by the respondent against the appellant, arguing that the appellant owes the respondent a debt in the amount of R\$ 178,265.86 (one hundred and seventy-eight thousand, two hundred and sixty-five reais and eighty-six centavos).

The respondent alleges that in December 2013, January, and February 2014, it provided services to the appellant for the supply of blood and/or components and/or derivatives, related to the recruitment of unpaid volunteer donors, blood collection, laboratory analysis, serological tests, blood classification and processing, storage of clinical and laboratory data of donors, as well as immunohematological tests.

The respondent further alleges that, although the appellant was duly notified of the amounts due, it failed to make the payments, even after receiving the corresponding invoices.

The appellant, on the other hand, argues that it has never contracted the services provided by the respondent, let alone authorized their performance or issued purchase orders.

Thus, the appellant contends that it is not liable for the alleged debts.

IV. RELEVANCE OF THE DEBATE.

The debate to be resolved in this case transcends the individual interests of the parties involved, as it involves the limits and boundaries of the legal validity of contracts in general and verbal contracts in particular.

This Honorable Court's elucidation of this question is of utmost importance, as it will serve as a guideline for resolving similar cases that occur daily in the judicial sphere.

V. REQUEST FOR CONCLUSION.

Given the foregoing, the appellant respectfully requests that this Honorable Supreme Federal Court, after receiving and processing this appeal, grant it the necessary follow-up, recognizing its admissibility and, ultimately, granting the appeal to reform the appealed decision, thus rendering justice.

Aracaju/SE, March 28, 2022.

WANDERSON DOS SANTOS NASCIMENTO.

OAB/SE 4.793.

ATTACHMENTS: Proof of payment of the appeal fee, and the judgment of inadmissibility of the appeal.

INDICATION OF VALUE: Not applicable.

FILING OF THE APPEAL: Aracaju/SE.

CLERK'S OFFICE OF THE 1ST CIVIL CHAMBER OF THE COURT OF JUSTICE OF THE
STATE OF SERGIPE.

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