

João Rodolpho de Araújo Mattos

OAB/MG No. 138.673

**TO THE MOST EXCELLENT PRESIDENT OF THE FEDERAL COURT OF
JUSTICE OF THE 1ST REGION**

NUMBER: 1011155-68.2017.4.01.3800

APPELLANT(S): WILLY FONSECA TEMPEL

APPELLEE(S): NATIONAL INSTITUTE OF SOCIAL SECURITY - INSS

WILLY FONSECA TEMPEL, Brazilian, married, retired, enrolled in the CPF under No. 012,754,026-15, RG No. MG 559,999, resident and domiciled at Rua Bauru, No. 181-Bairro da Graça, Belo Horizonte/MG, CEP 31140-180 without email, represented by his undersigned attorney, respectfully comes to the presence of Your Excellency to file an

EXTRAORDINARY APPEAL

based on Article 102, III, paragraph a of the Federal Constitution of 1988, against the Judgment and Judgment on Statement of Clarification for the factual and legal reasons that it will now present, so that, after the determination of the appellee's summons for the purpose of counter-argumentation, these autos be admitted by this body and, in the sequence, determine to the C. Chamber the judgment of retraction, in the terms of art. 1,030, II, for diverging from the guidance established in Theme 76 and Theme 930, both of the STF and/or, if not the case, the referral of the same to the Supreme Federal Court, in the terms of art. 1,030, V of the CPC/15, so that the regular processing and judgment of the appeal.

Timely, as it was filed within the period of 15 (fifteen) business days (art. 1,003, §5º c/c art. 219, CPC), counting from the summons of the decision.

The autos show that the parties are legitimate and duly represented, fulfilling, therefore, the extrinsic premises.

II. OF THE INTRINSIC PREMISES

Present the recusal interest, as well as the usefulness and necessity of this Extraordinary Appeal. In relation to the admissibility of the appeal, the Appellant understands that the previous decisions to the appealed judgment and the judgment itself fall within the provisions of Article 102, III, paragraph "a" of the Federal Constitution, since they directly violate art. 14 of EC 20/98, art. 5 of EC 41/03, as well as a final decision of merit handed down by the Plenary of the Supreme Federal Court in RE 564.354/SE.

III. EXHAUSTION OF INSTANCES

In the present case, the appealed decision of the C. Chamber of the Federal Regional Court is of last instance, in obedience to the principle of unappealable. There was a question of the matter regarding the incidence of the limitation of the social security benefit on the grant.

IV. GENERAL REPERCUSSION AND RELEVANCE - General Repercussion (art. 1,035 of the CF/88 c/c art. 1,036 of the CPC).

It is worth mentioning that this Extraordinary Appeal meets the requirements provided for in articles 1,035 and 1,036 of the Code of Civil Procedure.

It is also worth noting that there has already been recognition of the General Repercussion of the matter by this Egregious Court in RE 564.354/SE - Theme 76, having been pacified the matter in the sense that social security benefits of the National Institute of Social Security (INSS) granted in the period called "black hole", are not, in thesis, excluded from the possibility of readjustment according to the ceilings instituted by the Constitutional Amendments (ECs) 20/1998 and 41/2003, judgment, also, in a general repercussion rite - Theme 930 (RE 937.595/SP).

Thus, the relevance of the matter and the general repercussion are present, even from the political, social and legal point of view, in view of the imminent attempt to deconstruct the understanding given by the Lower Court to RE 564.354-RG, with unjustified discrimination that frontally contradicts this E. STF.

It is verified that the matter bears thematic identity with the one decided in RE 564