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**Feb 02 2023**

**SC Court of Appeals**

THE STATE of SOUTH CAROLINA  
In the Court of Appeals

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APPEAL FROM CHAPTER COUNTY  
Court of Common Pleas

John C. Hayes, III, Circuit Court Judge  
Brian M. Gibbons, Circuit Court Judge  
J. Mark Hayes, II, Circuit Court Judge

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Case No. 2018—CP—12---00117  
2018---AP—12—00074

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Appellate Case Nos. 2022-001312 and 2022-001390

Heidi Gersten, Ivanka Ayoub, Daniel Hubbard, Plaintiffs,

Of whom Heidi Gersten is Appellant,

v.

Kevin Carter, Richard Davis, Joseph Tirbovich, Nationwide Insurance  
Company, Interinsurance Exchange of the Automobile Club, John  
Ammendola, Trustgard Insurance Company, Blackwell, SC Department of  
Public Safety, Chevrolet, GMC, Unknown John Does,

Respondents.

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MOTION FOR EXTENSION OF TIME TO FILE RETURN TO  
FILE RULE 221 SCACR AND RULE 260 SCACR PETITION FOR  
REHEARING AND REINSTATEMENT  
AND TITLE II OF THE AMERICANS WITH DISABILITIES ACT  
REASONABLE ACCOMMODATIONS REQUEST

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Heidi Gersten, All Rights Reserved  
1438 W. Lantana Rd. #330  
Lantana, FL 33462  
323-245-6142  
hanginhangout@gmail.com  
Appellant

The Appellant Heidi Gersten in the above-captioned case, hereby moves this Court for a 15-day extension of time within which to file a petition for rehearing and/or reinstatement in this case, pursuant of/ to Rule 240 and Title II of the Americans with Disabilities Act Reasonable Accommodations Request; for an order granting the appellant's motion for an extension of time of fifteen (15) days, until and including February 17, 2023, to file her Rule 221 SCACR and Rule 260 SCACR Petition for Rehearing and Reinstatement of Appeal dismissed by this Court on January 18, 2023, along with an order granting her previously filed and served on December 1, 2022, Title II of the Americans with Disabilities Act (ADA) Reasonable Accommodations Request to permit her to serve any and all Respondents in this case by email.

The basis or grounds for this motion is that the Appellant is paralyzed disabled as a result of the collision in controversy in this matter. She suffers from numerous secondary complications from being disabled that include, but are not limited to, a pressure wound located on her left buttocks that prevents her from sitting down for very long without further injury to it. In addition, she has no control over her bowel movements and frequently experiences diarrhea "attacks" or "explosions". She has no caregiver or aid or assistant. She lives under extreme hardship. Her health is rapidly deteriorating.

For the previous reasons, she's a qualified individual of and protected under the Americans with Disabilities Act (ADA). A "qualified individual with a disability" is defined as "an individual with a disability who, with or without reasonable modifications to rules, policies, or practices, the removal of architectural, communication, or transportation barriers, or the provision of auxiliary aids and services, meets the essential eligibility requirements for the receipt of services or the participation in programs or activities provided by a public entity." *United States v. Georgia*, 546 U.S. at 153-54, 126 S.Ct. 877 (quoting 42 U.S.C. § 12131(2)).

The Appellant simply is unable to perform at the level of able bodies. It takes her approximately fifty-two (52) times longer to complete basic daily functions or tasks

than an able body.

This is a complex matter and there are numerous respondents.

This request is made before the expiration of the time due.

THEREFORE, having shown good cause, the Appellant respectfully moves the Court for an extension of time to and including February 17, 2023, to file and serve her Rule 221 SCACR and Rule 260 SCACR Petition for Rehearing and Reinstatement and a grant of her Title II of the Americans with Disabilities Act Reasonable Accommodations Request filed and served on December 1, 2022, without any objection from any of the Respondents to serve any and all Respondents by email.

This does not prejudice any of the Respondents.

This is not made to cause delay, rather, in the furtherance of justice and to avoid its miscarriage.

Respectfully submitted this 2<sup>nd</sup> day of February 2023,



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(Attorney for Respondent Nationwide Mutual Insurance Company and Joseph  
Tirbovich)

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PROOF OR CERTIFICATE OF SERVICE

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I hereby certify that service of the Appellant's MOTION FOR EXTENSION OF TIME TO FILE RETURN TO FILE RULE 221 SCACR AND RULE 260 SCACR PETITION FOR REHEARING AND REINSTATEMENT AND TITLE II OF THE AMERICANS WITH DISABILITIES ACT REASONABLE ACCOMMODATIONS REQUEST in the above-captioned cases was made upon all parties and counsel of record by depositing a copy of it in the United States Mail, postage prepaid, and return address clearly marked on February 2, 2023, to:

Wesley Brian Sawyer, Esquire  
Murphy & Grantland, P.A.  
P.O. Box 6648  
Columbia, SC 29260  
(Attorney for Respondents Kevin Carter and Richard Davis)

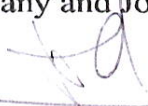
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The Honorable Jenny Abbott Kitchings  
Clerk of Court  
SC Court of Appeals  
1220 Senate St.  
Columbia, SC 29201  
[ctappfilings@sccourts.org](mailto:ctappfilings@sccourts.org)

Re: MOTION FOR EXTENSION OF TIME TO FILE RULE 221 SCACR AND RULE 260 SCACR PETITION FOR REHEARING AND REINSTATEMENT AND TITLE II OF THE AMERICANS WITH DISABILITIES ACT (ADA) REASONABLE ACCOMMODATIONS REQUEST

Dear Ms. Kitchings and to ALL CONCERNED:

Good day to you!

Enclosed for filing, please find a copy of the above stated motion and ADA request, along with proof or certificate of service and a cover letter sent by email. The \$50.00, which is questionable to pay, as this is primarily a Title II ADA Reasonable Accommodation Request, will be sent via US mail and a tracking # will be provided once obtained and another email will be sent to follow up shortly.

Please call the above number or email me if you have any questions.

Thank you for your time and assistance regarding this matter.

Respectfully submitted,



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Heidi Gersten

Appellant/Petitioner

HG/Enclosures/ Motion for Extension of Time and ADA Request / Proof or Certificate of Service

Total pages: 6 including this cover sheet.