

THE STATE OF SOUTH CAROLINA  
In the Supreme Court

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APPEAL FROM CHARLESTON COUNTY  
Court of Common Pleas

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Hon. Alex Kinlaw, Jr., Circuit Court Judge

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Case No. 2015-CP-10-02191  
Appellate Case No. 2023-000606 / 2019-001403

**RECEIVED**

**Jul 10 2023**

**S.C. SUPREME COURT**

Karrie Gurwood & Howard Gurwood .....Appellants

v.

GCA Services Group, Inc. & GCA Services Group of North Carolina, Inc. ...Respondents

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**APPELLANTS' RETURN TO THE PETITION FOR A WRIT OF CERTIORARI**

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## NOTES TO SC SUPREME COURT

To clarify, we (the Appellants) are not attorneys; nor do we have other expertise in SC Judicial Law. Therefore, in the extension period your high Court has kindly allowed us, for filing this *Return*, we have tried our hardest to secure legal counsel. That is, to write this document on our behalf. Unfortunately, we were unable to find an attorney agreeable to withstand this quite complex task. Our inability to legally prepare this *Return* document (as an attorney or paralegal would do) is further exemplified in the 2 documents: *Respondents' Petition For A Writ of Certiorari* (of April 17, 2023) and the SC Court of Appeals' Dec. 21, 2022 *Reversed and Remanded* correspondence. Both are extremely heavy in legalities (i.e., rules and case law), which is like a foreign language to us.

Since the above two documents, plus the Appellants' *Record On Appeal* (of Aug. 3, 2020) overlap with many topics, especially "directed verdict" and "punitive damages," we have deferred to all three. That is, to respond to the five questions posed in the above *Petition*. If you would like us to forward any of these documents to your Court, for the convenience of the reviewers, we would be glad to do so. Note that our considerable concern is that the Honorable Judge Kinlaw, Jr. wouldn't allow punitive damages to be awarded in the 1<sup>st</sup> trial. We believe he should have, and the SC Appellate Court has agreed with us.

Being that we were present during the entire 1<sup>st</sup> jury trial and have integrally lived the case details for almost a decade, we decided it's better we submit this *Return* as best we can (now that we don't have an attorney to do so for us). As opposed to our not submitting a *Return* at all. Despite any errors we make, in preparing and submitting this *Return*, we hope you will kindly still consider our feedback as beneficial. Especially since we desperately need a 2<sup>nd</sup> trial, including the punitive damages a second judge should allow. Because, for example, with all Karrie's costly medical expenses, and without her work income for life, we often have to choose whether to buy food or her 10+ critical medicines per day.

The following shows just how astronomical Karrie's medical expenses are. In our 1<sup>st</sup> trial, the Respondents (on page 2 of their *Petition*), stated, "After further deliberations, the jury returned a verdict and found GCA negligent and awarded Karrie Gurwood total damages of \$170,629.10, *which represented her past medical bills.*" There was no jury award for future medicals, being that the judge didn't allow Karrie punitive damages. But our point is that in the 7 years, between the 2012 fall and the 2019 trial, Karrie's medicals cost a whopping \$24,375.59/year (170,629.10 divided by 7/yrs.). Therefore, in the next approx: 30 more yrs. of Karrie's life, her future medicals will cost at least a whopping \$731,267.70 (24,375.59/yr. x 30 future yrs.).

## STATEMENT OF THE CASE

**Karrie Gurwood (Appellant)**, with a Master's Degree in Social Work, was employed by CYDC (Carolina Youth Development Center, a non-profit organization). She had an office in Liberty Hill Academy, in N. Charleston, SC, which is a special needs school (for children with significant behavioral and emotional disorders). Karrie worked at that CCSD (Charleston County School District) facility, as the Director of a counseling program called Horizon House. When Karrie entered Liberty Hill, on August 5, 2012, she fell on a very slippery waxed tile floor and was significantly hurt. Her injuries sustained in the fall led to a crippling diagnosis of Complex Regional Pain Syndrome (CRPS), also referred to as Reflex Sympathetic Dystrophy (RSD). This debilitating, rare and incurable condition has left Karrie suffering in horrendous pain 24/7, homebound, unable to work, and round-the-clock taking morphine/other sedating meds. (And the prescription medicines Karrie takes all have a host of terrible side effects.) According to the website rds.org, "What is always at the forefront of any discussion of CRPS/RSD is that it is a condition characterized by one of the most severe levels of pain – 42 out of a possible 50 on the McGill University Pain Scale." Karrie's husband, **Howard Gurwood (Appellant)**, as her primary caregiver, has helped her attend hundreds of dr. appts. and PT sessions. As well, he assists when she has painful medical procedures, all in an effort to help Karrie see improvement in this illness. Even though Karrie is still regularly seeing specialists, 11 yrs. later, her CRPS has sadly spread to other body parts. Her falling in 2012 is a direct result of negligence by the floor waxer (Bonnie Every) /floor waxing company (**GCA Services, the Respondent**). That is because Ms. Every didn't warn of Liberty Hill's slippery-as-ice floor condition. In fact, in the 2019

jury trial, Ms. Every admitted to disregarding several of GCA's methods of warning. Here are some important legal dates/events (including and following Karrie's fall):

|                    |   |
|--------------------|---|
| August 5, 2012:    | Appellant Karrie fell at Liberty Hill Academy (see above for details)   |
| April 15, 2015     | Appellant's lawsuit ( <i>Complaint, Jury Trial Demanded</i> ) was filed with the Court of Common Pleas in Charleston, SC (Case #: 2015-CP-10-2191)                                      |
| April 22-26, 2019: | 1 <sup>st</sup> jury trial (Presiding Judge Alex Kinlaw, Jr.) & many legal concerns occurred.   |
| July 31, 2019      | <i>Order Denying Plaintiff's Motion for A New Trial</i> was filed (Honorable Judge Alex Kinlaw, Jr. denied the new trial and signed the order)  |
| August 3, 2020     | Appellant's filed <i>Record On Appeal</i> , requesting a new trial (App. Case #: 2019-001403)   |
| December 21, 2022  | SC Court of Appeals approved a 2nd trial ( <i>Reversed &amp; Remanded</i> decision)   |
| January 17, 2023   | Respondents filed a <i>Petition for Rehearing</i> (trying to stop a new trial)  |
| March 17, 2023     | SC Court of Appeals adhered to their decision, to allow a new trial (Respondent's <i>Petition for Rehearing</i> was denied)   |
| April 17, 2023     | Robert T. Lyles, Jr. (attorney for Respondents) filed a <i>Petition For A Writ of Certiorari</i> , with the SC Supreme Court (to attempt to overturn the SC Appellate Court's decision) |
| July 7, 2023       | Appellant is filing this <i>Return To the Petition for a Writ of Certiorari</i>   |

### QUESTIONS PRESENTED FOR REVIEW

#### (PAGE 1 OF RESPONDENTS' 4/17/23 PETITION FOR A WRIT OF CERTIORARI)

**I. Respondents' Question:** Did the Court of Appeals err in holding that the facts at trial supported a submission of gross neglect on the part of GCA to the jury? [*See Respondent's Legal Argument on pages 4-6 of their Petition.*]

**\*\*Appellants' 7/7/23 Response:** defer to The SC Appellate Court's Dec. 21, 2022 *Reversed and Remanded* document or Appellant's Aug. 3, 2020 filing of *Record On Appeal*, requesting a new trial (App. Case #: 2019-001403)

**II. Respondents' Question:** Did the Court of Appeals err in misapplying the directed verdict standard in its review of the trial court decision not to submit punitive damages to the jury? [*See Respondent's Legal Argument on pages 6-9 of their Petition.*]

**\*\*Appellants' 7/7/23 Response:** defer to The SC Appellate Court's Dec. 21, 2022 *Reversed and Remanded* document or Appellant's Aug. 3, 2020 filing of *Record On Appeal*, requesting a new trial (App. Case #: 2019-001403)

**III. Respondents' Question:** Did the Court of Appeals err by failing to consider the Trial Court's statutory gate-keeping role, and then applying an abuse of discretion standard The Court of Appeals, reducing the analysis for punitive damages to that of simple negligence? *[See Respondent's Legal Argument on pages 9-12 of their Petition.]*

**\*\*Appellants' 7/7/23 Response:** defer to The SC Appellate Court's Dec. 21, 2022 *Reversed and Remanded* document or Appellant's Aug. 3, 2020 filing of *Record On Appeal*, requesting a new trial (App. Case #: 2019-001403)

**IV. Respondents' Question:** Did the Court of Appeals err in not recognizing that the jury's verdict did not support punitive damages? *[See Respondent's Legal Argument on pages 12-13 of their Petition.]*

**\*\*Appellants' 7/7/23 Response:** defer to The SC Appellate Court's Dec. 21, 2022 *Reversed and Remanded* document or Appellant's Aug. 3, 2020 filing of *Record On Appeal*, requesting a new trial (App. Case #: 2019-001403)

**V. Respondents' Question:** Did the Court of Appeals err in not considering judicial economy when remanding for a new trial on all the issues? *[See Respondent's Legal Argument on pages 13-14 of their Petition.]*

**\*\*Appellants' 7/7/23 Response:** defer to The SC Appellate Court's Dec. 21, 2022 *Reversed and Remanded* document or Appellant's Aug. 3, 2020 filing of *Record On Appeal*, requesting a new trial (App. Case #: 2019-001403)

### CONCLUSION

Based on the reasons set forth above, and via the attached documents, we (Karrie and Howard Gurwood) hope and pray that the SC Supreme Court agrees with the Dec. 21, 2022 decision (of the SC Court of Appeals). In section I of that Dec. 2022 document, it states, "Accordingly, we reverse the trial court's grant of GCA's motion for a directed verdict as to punitive damages and remand for a new trial." The following was added to their REVERSED AND REMANDED language: "We decide this case without oral argument pursuant to Rule 215, SCACR."

Relating back to the April 17, 2023 RESPONDENTS' PETITION FOR A WRIT OF CERTIORARI (see page 14, CONCLUSION), our position is opposite the Respondents' language. Therefore, we hope and pray this highest court in SC not reverse the Court of Appeals 2<sup>nd</sup> trial decision. And that this Supreme Court of SC confirm that the Trial Court was in error, minimally on the issue of not allowing us punitive damages (in the first jury trial).

We're wholeheartedly appreciative, for your time, in reviewing this case and considering our position. In the near future, we look forward to receiving your SC Supreme Courts' decision (as related to this *Return*). Being that Karrie fell 11 yrs. ago and our lawsuit is 8 years old, and there have been many delays with COVID closing courts, we so wish for the day when we can hopefully get your Court's stamp of approval on our 2<sup>nd</sup> jury trial. Then we can look forward to a successful jury verdict. Once we have that award in hand, and we pay off hundreds of thousands in legal fees and worker's comp. repayments, Karrie can finally have the latest neurostimulator implanted by Dr. Lubenow in Chicago, who is one of the world's top ten CRPS/RSD specialists. (He was an expert witness in the first trial and recommends Karrie has that surgery done.) As well as the successful jury award paying for that monumentally-expensive operation, the

money will also be utilized (in Karrie's lifetime), for other expensive procedures, to return to necessary PT, for co-pays/deductibles, quite costly medicine every month, treatments insurance doesn't cover (like ketamine infusions), etc.

Until then, Karrie will so awfully continue to suffer from negligence by GCA Services, all those years ago. And it's such a travesty that GCA's two insurance providers (worth billions of dollars) have continued (for almost a decade) to cover the costs to defend GCA (another national company with mega wealth). And those insurance providers have fought this case all the way to your SC Supreme Court. Karrie was further devastated to read (in the REVERSED AND REMANDED Appellate Courts' document) that "the trial court erred in allowing GCA to introduce collateral source evidence to impeach Karrie." We have surely paid the price, in such extreme pain and stress, to Karrie and our household. Despite her pain meds., Karrie often cries because her CRPS/RSD pain is so severe, which has led to her deep depression. Pre-Liberty-Hill-Academy fall, Karrie was a very vibrant and active young lady, only 47 years old, on the way up (in her career aspirations in mental health leadership). And she always made time to help others, as such a caring soul. Now she feels so badly, depending on others to care for her. Karrie sadly spends much of her days consumed with CRPS/RSD pain mgmt. And Howard, suffering himself from diabetes and other serious conditions, has to be Karrie's primary caregiver, has to do all chores Karrie can no longer assist in, and has to work fulltime outside the home (as the only salary our household has had, since the fall).

We hope providing this personal case background will give your Court's judges a greater sense of how this slip-and-fall negligence case has so tragically affected our lives. Thank you again, honorable judges, for your time and efforts on our behalf. You are truly a blessing.

Sincerely,



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**Appellants**

Charleston, South Carolina  
July 7, 2023