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Oct 23 2023

SC Court of Appeals

THE STATE of SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM CHESTER 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

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 Co, John Ammendola, Trustgard Insurance Company, Blackwell, SC Department of Public Safety, Chevrolet, GMC, Unknown John Does, Respondents.

Of whom Kevin Carter is the Respondent.

TITLE II OF THE AMERICANS WITH DISABILITIES ACT
REASONABLE ACCOMMODATION REQUEST to GRANT APPELLANT'S
MOTION for LEAVE of COURT to FILE and ACCEPT as TIMELY FILED
APPELLANT'S INITIAL REPLY BRIEF
PERTAINING to RESPONDENT KEVIN CARTER
And ITS AMENDED VERSION(S), PAST, PRESENT, and FUTURE

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MEMORANDUM OF POINTS And AUTHORITIES in SUPPORT of “GERSTEN’S” TITLE II of the AMERICANS WITH DISABILITIES ACT (“ADA”) REASONABLE ACCOMMODATION REQUEST to GRANT APPELLANT’S MOTION for LEAVE of COURT to FILE and ACCEPT as TIMELY FILED APPELLANT’S INITIAL REPLY BRIEF PERTAINING to RESPONDENT KEVIN CARTER And ITS AMENDED VERSION(S), PAST, PRESENT, and FUTURE

1. On September 8, 2023, “GERSTEN” timely filed and served her Title II OF THE AMERICANS WITH DISABILITIES ACT (“ADA”) REASONABLE ACCOMMODATION REQUEST to GRANT APPELLANT’S MOTION FOR EXTENSION OF TIME TO SERVE AND FILE THE APPELLANT’S REPLY BRIEF PERTAINING TO RESPONDENT KEVIN CARTER requesting an extension until and including November 9, 2023. (Exhibit A)

2. On September 21, 2023, this “Court” issued an order granting “GERSTEN’S” said motion until October 9, 2023. (Exhibit B)

3. “GERSTEN” is paralyzed disabled, which causes her to be substantially limited on one or more of her major life activities; she is a qualified individual of and protected under the “ADA”, as a result of the collision in controversy with the Respondent Kevin Carter (“CARTER”).

4. “GERSTEN” suffers from multiple secondary complications stemmed from being paralyzed that include, but are not limited to, total loss of control of bowel movements and frequently experiences diarrhea accidents, attacks and explosions, in addition to daily boats of urine maintenance and clean-up.

5. “GERSTEN” has no caregiver, aid, or assistance, as she lives alone. She lives under extreme hardship and extraordinary circumstances. 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)).

6. Under South Carolina law, “GERSTEN” is a ‘vulnerable adult’, defined as, “...a person eighteen years of age or older who has a physical or mental condition which substantially impairs the person from adequately providing for his or her own care or protection.”

7. “GERSTEN” does the best that she can to comply with orders of this “Court” in addition to following the law; however, her disability of being paralyzed renders her incapable of timely asserting or defending her claims in a timely manner.

8. One of GERSTEN’s major challenges as paralyzed disabled is managing her bowels. A good day is waking up without being soaked in urine and feces, which doesn’t happen often enough. It takes her between two (2) to four (4) hours to complete one single bowel movement.

9. On October 9, 2023, GERSTEN was faced with an extraordinary circumstance of massive diarrhea that she could barely contain. In a good faith effort to comply with the said order of September 21, 2023, she attempted to finish her initial reply brief, serve, and file it with this Court; however, was physically not able to do it before midnight.

10. On October 10, 2023, GERSTEN served and filed her initial reply brief. (Exhibit C)

11. On October 12, 2023, this Court issued a letter stating two (2) deficiencies that were to be corrected withing ten (10) days of the date of the letter, which included correcting the caption/title and noting that the said initial reply was not timely filed and a motion to allow the late filing was to be made. (Exhibit D)

12. Ten (10) days fell on a Sunday, making this filing timely.

13. Note that most of South Carolina laws mirror federal laws. October 9, 2023, was Columbus Day, which is a federal holiday, and the United States Postal Service was closed that

day, as well as federal courthouses and at least twenty-two (22) state courthouses were also closed.

14. One day is a nominal and shortest amount of time for GERSTEN's said initial reply to be deemed "late".

15. "Carter" is not prejudiced.

16. This request and motion are made in good faith, and not merely for purposes of delay, rather, they're made in the interest of justice and to prevent its miscarriage.

LAW AND ARGUMENT

"The ADA was passed by large majorities in both Houses of Congress [in 1990] after decades of deliberation and investigation into the need for comprehensive legislation to address discrimination against persons with disabilities." *Lane*, 541 U.S. at 516, 124 S.Ct. 1978.

"Congress found that 'individuals with disabilities continually encounter various forms of discrimination, including outright intentional exclusion, the discriminatory effects of architectural, transportation, and communication barriers, overprotective rules and policies, [and] failure to make modifications to existing facilities and practices....'" *Crowder v. Kitagawa*, 81 F.3d 1480, 1483 (9th Cir.1996) (alteration in original) (quoting 42 U.S.C. § 12101(a)(5)). The ADA aims "to provide a clear and comprehensive national mandate for the elimination of discrimination against individuals with disabilities." 42 U.S.C. § 12101(b)(1). "It forbids discrimination against persons with disabilities in three major areas of public life: employment, which is covered by Title I of the statute; public services, programs, and activities, which are the subject of Title II; and public accommodations, which are covered by Title III." *Lane*, 541 U.S. at 516-17, 124 S.Ct. 1978

The purpose of 42 U.S.C. § 12101 is:

(1) to provide a clear and comprehensive national mandate for the elimination of

discrimination against individuals with disabilities;

(2) to provide clear, strong, consistent, enforceable standards addressing discrimination against individuals with disabilities;

(3) to ensure that the Federal Government plays a central role in enforcing the standards established in this chapter on behalf of individuals with disabilities; and

(4) to invoke the sweep of congressional authority, including the power to enforce the fourteenth amendment and to regulate commerce, in order to address the major areas of discrimination faced day-to-day by people with disabilities.

“Title II of the ADA [, ‘Public Services,'] provides that ‘no qualified individual with a disability shall, by reason of such disability, be excluded from participation in or be denied the benefits of the services, programs, or activities of a public entity, or be subjected to discrimination by any such entity.’ ” *United States v. Georgia*, 546 U.S. at 153, 126 S.Ct. 877 (quoting 42 U.S.C. § 12132). The statute “require[s] that covered entities make reasonable accommodations in order to provide qualified individuals with an equal opportunity to receive benefits from or to participate in programs run by such entities.” *Tsombanidis v. West Haven Fire Dep't*, 352 F.3d 565, 573 (2d Cir.2003) (internal quotation marks omitted).

The ADA “defines ‘public entity’ to include ‘any State or local government’ and ‘any department, agency, ... or other instrumentality of a State.’ ” *United States v. Georgia*, 546 U.S. at 54, 126 S.Ct. 877 (quoting 42 U.S.C. § 12131(1)) (some internal quotation marks omitted) *United States v. Georgia*, 546 U.S. at 153–54, 126 S.Ct. 877 (quoting 42 U.S.C. § 12131(2)). “A public entity shall make reasonable modifications in policies, practices, or procedures when the modifications are necessary to avoid discrimination on the basis of disability, unless the public entity can demonstrate that making the modifications would fundamentally alter the nature of the service, program, or activity.” 28 C.F.R. § 35.130(b)(7).

“In the ADA, Congress provided [a] broad mandate” to “effectuate its sweeping purpose[to] ... forbid[] discrimination against disabled individuals in major areas of public life, [including] ... public services....” *Id.* at 675, 121 S.Ct. 1879. “As a remedial statute, the ADA must be broadly construed to effectuate its purpose of providing a clear and comprehensive national mandate for the elimination of discrimination against individuals with disabilities.” *Noel v. New York City Taxi and Limousine Comm'n*, 687 F.3d 63, 68 (2d Cir.2012) (internal quotation marks omitted).

As noted above, “[i]n the ADA, Congress provided [a] broad mandate” to “effectuate its sweeping purpose [to] ... forbid[] discrimination against disabled individuals in major areas of public life, [including] ... public services....” *Martin*, 532 U.S. at 675, 121 S.Ct. 1879. “Congress found that ‘individuals with disabilities continually encounter various forms of discrimination, including outright intentional exclusion, the discriminatory effects of architectural, transportation, and communication barriers, facilities and practices....’” *Crowder*, 81 F.3d at 1483 (alteration in original) (quoting 42 U.S.C. § 12101(a)(5)). The ADA aims “to provide a clear and comprehensive national mandate for the elimination of discrimination against individuals with disabilities.” 42 U.S.C. § 12101(b)(1). Title II of the ADA represents Congress's attempt to apply this “clear and comprehensive national mandate” to the “services, programs, or activities,” 42 U.S.C. § 12132, of “ ‘any State or local government’ and ‘any department, agency, ... or other instrumentality of a State,’ ” *United States v. Georgia*, 546 U.S. at 154, 126 S.Ct. 877 (omission in original) (quoting 42 U.S.C. § 12131(1)).

Congress clearly meant Title II to sweep broadly. If all state laws were insulated from Title II's reasonable modification requirement solely because they were state laws, “state law [would serve as] an obstacle to the accomplishment and execution of the full purposes and objectives of

Congress” in enacting Title II. *Marsh*, 499 F.3d at 177. Far from “provid[ing] a clear and comprehensive national mandate for the elimination of discrimination against individuals with disabilities,” 42 U.S.C. § 12101(b)(1), the ADA would be powerless to work any reasonable modification in any requirement imposed by state law, no matter how trivial the requirement and no matter how minimal the costs of doing so. We conclude that the ADA's reasonable modification requirement contemplates modification to state laws, thereby permitting preemption of inconsistent state laws, when necessary to effectuate Title II's reasonable modification provision. And this statement must be considered in context. Title II provides that “no qualified individual with a disability shall, by reason of such disability, be excluded from participation in or be denied the benefits of the services, programs, or activities of a public entity, or be subjected to discrimination by any such entity.” 42 U.S.C. § 12132

The Americans with Disabilities Act of 1990 (ADA) requires that reasonable accommodations be provided on request to qualified persons with disabilities in order that they might fully participate in court programs, services, activities, and benefits: and it is presumed that the intent of the judiciary, is to comply fully with the ADA, to assure equity, fairness, and full participation in the judicial system for persons with disabilities, and to facilitate when requested by qualified persons with disabilities.

A reasonable accommodation is a change in the way things are typically done that the person needs because of a disability.

“GERSTEN’s” disability of being paralyzed renders her incapable of asserting her claims or defenses in a timely manner.

Honoring “GERSTEN’s” request with a grant of extension of time to file her said petition(s) and appendix(es) does not fundamentally alter the nature of the service, program, or activity.

Public policy favors deciding controversies on their merits, even when a brief is untimely filed.

Generally, the harsh sanction of dismissing an appeal is imposed when there is extreme, willful misconduct, or an intentional disregard of court orders or the appellate rules, which rises to the level of inexcusable neglect.

CONCLUSION

For the foregoing reasons, good cause shown, and extraordinary circumstances, the Petitioner/Appellant GERSTEN is worthy of a grant of this Court to accept as timely filed her initial reply brief with its amendments.

Respectfully submitted this 23rd day of October 2023

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PROOF OR CERTIFICATE OF SERVICE

I hereby certify that service of a true and accurate copy of the Appellant’s TITLE II OF THE AMERICANS WITH DISABILITIES ACT REASONABLE ACCOMMODATION REQUEST to GRANT APPELLANT’S MOTION for LEAVE of COURT to FILE and ACCEPT as TIMELY FILED APPELLANT’S INITIAL REPLY BRIEF PERTAINING to RESPONDENT KEVIN CARTER And ITS AMENDED VERSION(S), PAST, PRESENT, and FUTURE in the above-captioned cases was made upon all parties and counsel of record by email on October 23, 2023:

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Respectfully submitted this 23rd day of October 2023

October 23, 2023

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Exhibit A

September 8, 2023, APPELLANT'S Title II OF THE AMERICANS WITH DISABILITIES ACT ("ADA") REASONABLE ACCOMMODATION REQUEST to GRANT APPELLANT'S MOTION FOR EXTENSION OF TIME TO SERVE AND FILE THE APPELLANT'S REPLY BRIEF PERTAINING TO RESPONDENT KEVIN CARTER

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Sep 08 2023

SC Court of Appeals

THE STATE of SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM CHESTER COUNTY
Court of Common Pleas

John C. Hayes, III, Circuit Court Judge
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Of whom Heidi Gersten is Appellant,

v.

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

TITLE II OF THE AMERICANS WITH DISABILITIES ACT (“ADA”)
REASONABLE ACCOMMODATION REQUEST to GRANT APPELLANT’S MOTION FOR
EXTENSION OF TIME TO SERVE AND FILE THE APPELLANT’S REPLY BRIEF
PERTAINING TO RESPONDENT KEVIN CARTER

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The Appellant Heidi Gersten (“GERSTEN”) in the above-captioned case, hereby requests this South Carolina Court of Appeals (“Court”), pursuant of/to Title II of the Americans with Disabilities Act Reasonable Accommodation Request, and Rules 240 and 263, SCACR, seeking a grant of her motion for extension of time to serve and file her reply brief pertaining to the Respondent Kevin Carter (“CARTER”) before or on November 7, 2023.

The reasons for this motion are set forth in the attached memorandum in support.

Respectfully submitted this 8th of September 2023,

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MEMORANDUM OF POINTS And AUTHORITIES in SUPPORT of “GERSTEN’S” TITLE II of the AMERICANS WITH DISABILITIES ACT (“ADA”) REASONABLE ACCOMMODATION REQUEST to ACCEPT APPELLANT’S MOTION for EXTENSION of TIME to SERVE And FILE the APPELLANT’S REPLY BRIEF PERTAINING to RESPONDENT KEVIN CARTER “CARTER” before or on November 7, 2023

1. On August 29, 2023, “CARTER” served his response to “GERSTEN’s” initial brief via email.
2. Rule 208 (a)(3), SCACR states:
 - **“Reply Brief.** An appellant may file and serve a brief in reply to the brief of respondent. If a reply brief is prepared, appellant shall, within ten (10) days after service of respondent's brief, serve one copy of the reply brief on all parties to the appeal and file with the clerk of the appellate court one copy of the reply brief with proof of service.”
3. This request and motion are made before the expiration of time permitted under Rule 208 (a)(3), SCACR.
4. “GERSTEN” is paralyzed disabled as a result of the collision in controversy in this matter which causes her to be substantially limited on one or more of her major life activities and is now a qualified individual of and protected under the Americans with Disabilities Act (“ADA”). She has no caregiver, personal aid, or assistance to help her with daily functions. She lives under extreme hardship and extraordinary circumstances.
5. 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)).
6. Despite the previous and managing secondary complications of paralysis, such as, an

illness of multiple pressure wounds; (one of which is located on her left buttocks that prevents her from sitting down for extended periods of time without further injury), in addition to her latest one located on her right foot's big toe, and bowels she has no control over, in which she experiences frequent diarrhea attacks, explosions, and accidents, as it takes "GERSTEN" between two to five hours to perform the task of extracting at least one bowel movement daily, using the digital stimulation technique, which often leaves her fingers pruned and numb; she has been diligently working on perfecting her appeal. "CARTER'S" response is massive in information that will take "GERSTEN" extra time to process. It takes her approximately 52 times longer to perform functions an abled body can do. For these reasons and more, additional time is required for her to file her reply brief.

7. "GERSTEN's" disability of being paralyzed renders her incapable of asserting her claims or defenses in a timely manner. Under South Carolina law, "GERSTEN" is a "vulnerable adult"; defined, in part, as a person eighteen years of age or older who has a physical or mental condition which substantially impairs the person from adequately providing for his or her own care or protection.

8. "GERSTEN" has spent the majority of her devoted time to this instant appeal producing documents for her recently filed motion for leave to file Rule 60(b), SCRCR, motion and petition for lift of automatic stay, remand, and stay of appeal pending trial court ruling on 60(b), SCRCR, and its amendments, which were voluminous and required her to scan thousands of documents, research, and type information into comprehensible and acceptable formats, which is challenging between lacking technological resources and a proper wheelchair to sit in and use, in addition to the litany of other previously stated misfortunes "GERSTEN" lives with, as she navigates through on her journey towards a single step; vindicating her rights in response to her

victimization of paralysis and its secondary complications, including, but not limited to, her claims against “CARTER”.

9. In addition to “GERSTEN’s” health crisis, she has other court matters in other states with deadlines within proximity of this case here; one of which is due on September 11, 2023. It took her months to finish and more days to recover, as sitting for extended periods of time in the borrowed wheelchair she’s currently using, as her wheelchair is in need of repair, aggravates her wounds more so than her own wheelchair did because it’s designed for a quadriplegic and she’s a paraplegic. “GERSTEN’s” current secondary complication revolves around the newest wound on her right foot’s big toe. (Pictures available upon request as an offer of proof.)

10. “GERSTEN’s” hopeful that her reply brief will be finished on or before November 7, 2023.

11. The Respondent Kevin Carter and other Respondents are not prejudiced.

THEREFORE, having shown more than good cause; extraordinary circumstances, and for the previous reasons, the Appellant Heidi Gersten (“GERSTEN”) respectfully requests this “Court” to grant her Title II of the Americans with Disabilities Reasonable Accommodation Request to grant her motion for extension of time to serve and file her reply brief pertaining to the Respondent Kevin Carter (“Carter”) before or on November 7, 2023.

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

Respectfully submitted this 8th. day of September 2023,

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Respectfully submitted this 8TH day of September 2023

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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

Re: 2022-001312; 2022-001390

TITLE II OF THE AMERICANS WITH DISABILITIES ACT (“ADA”) REASONABLE ACCOMMODATION REQUEST to GRANT APPELLANT’S MOTION FOR EXTENSION OF TIME TO SERVE AND FILE THE APPELLANT’S REPLY BRIEF PERTAINING TO RESPONDENT KEVIN CARTER

Dear Ms. Kitchings and to ALL CONCERNED:

Good day to you!

Enclosed for filing, please find a copy of the above stated Title II of the “ADA” Reasonable Accommodation Request to grant the said motion of extension of time to serve and file the Appellant’s reply brief.

Pursuant to Rule 240(d), which states in part, “...In extraordinary cases, the appellate court may relieve a party from paying the filing fee.” Please waive any filing fee, as a Title II of the “ADA’s” Reasonable Accommodation Request.

Please file stamp the documents with today’s date of September 8, 2023, place in the court file, and email me a copy. 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,

_____/S/Heidi Gersten_____
Heidi Gersten, Appellant/Petitioner All Rights Reserved

HG/Enclosures/Title II “ADA” Request/Motion for Extension of Time
Total pages: Nine (9) including this cover sheet

Exhibit B

September 21, 2023, Order

The South Carolina Court of Appeals

Heidi Gersten, Ivanka Ayoub, Daniel Hubbard, Plaintiffs,

Of whom Heidi Gersten is the Appellant,

v.

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Appellate Case No. 2022-001312

The Honorable Brian M. Gibbons,
The Honorable John C. Hayes, III,
The Honorable J. Mark Hayes, II,
Chester County

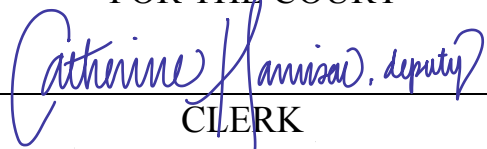
Trial Court Case No. 2018CP1200117, 2018CP1200074

ORDER

The time for serving and filing the appellant's initial reply brief is hereby extended until October 9, 2023. No further extensions will be granted absent extraordinary circumstances.

FOR THE COURT

BY


CLERK

Columbia, South Carolina

cc:
Heidi Gersten
Wesley Brian Sawyer, Esquire

FILED
Sep 21 2023

Exhibit C

October 10, 2023, APPELLANT'S INITIAL REPLY BRIEF PERTAINING TO
RESPONDENT KEVIN CARTER

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Respondent presents two statements of issues on appeal.	
1. Whether the Circuit Court acted within its discretion by dismissing Appellant’s claims under Rule 41 for failure to prosecute in this five-and-a-half-year-old case where she had failed to provide initial discovery responses.	
2. Whether the Circuit Court acted within its discretion by dismissing Appellant’s claims under Rule 37 as a discovery sanction where she had failed to respond to initial discovery requests for multiple years.	
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REPLY

The Respondent attempts to describe the Appellant as an uncooperative litigant, complaining of multiple extensions requested by her and alleged disregard for this Court’s orders, claiming, “...utter disregard for her responsibilities as a Plaintiff in this lawsuit...” The Respondent is responsible for the paralysis suffered by the Appellant and all of the secondary complications that come from being paralyzed, like total loss of bowel control and deadly noncontagious pressure wounds, as an example. The Appellant lives alone and has no caregiver, aid, or assistance with her daily life of extreme hardship. The Appellant is now a qualified individual of and protected under the Americans with Disabilities Act. The Respondent plead guilty to reckless driving in a plea deal for his DUI charge, that the Appellant objected to, filed a writ of mandamus, yet to be determined, and witnessed his sentencing. The evidence is overwhelming and the process to present this evidence is challenging for the Appellant, to say the least.

The decision to dismiss the Appellant’s claim against the Respondent is in error for a variety of reasons. The Appellant did not receive the discovery requests. She learned of them shortly prior to the hearing. The Appellant may be slow to act, not in an effort to cause delay, slow due to her disability of being paralyzed. There may have been years of time from the initial court filing to this moment; however much of the time between hearings was made by the lower court and not in the control of the Appellant. When she first filed, she was told that it could be up to a

year before a hearing could be scheduled. Chester County Courthouse is located in a town of population of approximately 5000 people. Cases move very slow there. Explaining all of the nuances in this complex matter requires time and patience. The Appellant provided the court with most of her evidence upon initial filing. For some unknown reason, it does not show up on the trial court's website, only the listing entry does. The Appellant filed her discovery requests with her summons and complaint. The pages are voluminous, and the Appellant is still making copies. The time to reply to each of the Respondent's statements is time consuming. Most of this can be remedied with her 60 (b), SCRCP, motion.

CONCLUSION

For these reasons and more, the Appellant should be permitted to file her Rule 60 (b), SCRCP, motion, remand back to the lower court and its rulings should be reversed, discovery requests accepted, and the matter should move towards trial by jury.

Respectfully submitted this 10th day of October 2023

/S/Heidi Gersten

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RECEIVED

Oct 10 2023

SC Court of Appeals

PROOF OR CERTIFICATE OF SERVICE

I hereby certify that service of a true and accurate copy of the Appellant's Initial Reply Brief PERTAINING TO RESPONDENT KEVIN CARTER in the above-captioned cases was made upon all parties and counsel of record by email on October 10, 2023:

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Respectfully submitted this 10TH day of October 2023

October 10, 2023

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Oct 10 2023

SC Court of Appeals

October 10, 2023
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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

Re: 2022-001312; 2022-001390

APPELLANT'S INITIAL REPLY BRIEF PERTAINING TO RESPONDENT KEVIN CARTER

Dear Ms. Kitchings and to ALL CONCERNED:

Good day to you!

Enclosed for filing, please find a copy of the above stated Appellant's initial reply brief.

Please file stamp the documents with today's date of October 10, 2023, place in the court file, and email me a copy. 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,

_____/S/Heidi Gersten_____
Heidi Gersten, Appellant/Petitioner All Rights Reserved

HG/Enclosures/Appellant's Initial Reply Brief
Total pages: Seven (7) including this cover sheet

Exhibit D

October 12, 2023, Deficiency Letter from this Court



The South Carolina Court of Appeals

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October 12, 2023

Heidi Gersten
1438 W. Lantana Rd., #330
Lantana FL 33462

Re: Heidi Gersten v. Kevin Carter (2)
Appellate Case No. 2022-001312

Dear Ms. Gersten:

Upon reviewing your appellant's initial reply brief, the following deficiencies have been noted under the South Carolina Appellate Court Rules (SCACR), and any deficiency must be corrected within ten (10) days of the date of this letter or this matter will be dismissed:

- The document has not been timely filed. A motion to allow the late filing will have to be made.
- The caption/title does not comply with Rule 267(a), SCACR. Specifically, the title should read as follows:

Heidi Gersten, Ivanka Ayoub, Daniel Hubbard, Plaintiffs,

Of whom Heidi Gersten is the Appellant,

v.

Kevin Carter, Richard Davis, Joseph Tirbovich, Nationwide Insurance Company, Interinsurance Exchange of the Automobile Club, John

**Ammendola, Trustguard Insurance Company, SC Department of
Public Safety, Chevrolet, GMC, Unknown John Does, Defendants,**

Of whom Kevin Carter is the Respondent.

Very truly yours,

A handwritten signature in blue ink that reads "Catherine Hamison, deputy". The signature is written in a cursive style.

CLERK

cc: Wesley Brian Sawyer, Esquire