

COMPLETE RECORD ON APPEAL, PART 4 of 4

(Pursuant to/of Order (b)(2) of the Supreme Court of South Carolina **2021-08-25-02**

RE: Methods of Electronic Filing and Service Under Rule 262 of the South Carolina Appellate
Court Rules Appellate Case No. 2020-000447)

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Aug 12 2024

SC Court of Appeals

March 12, 2019

Gersten's Motion for Extension of Time filed March 12, 2019, in Appellate Case No. 2018-002115

89263

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM CHESTER COUNTY
Court of Common Pleas

Honorable John C. Hayes III, Circuit Court Judge
Honorable Brian M. Gibbons, Circuit Court Judge

Appellate Case No. 2018-002115

Heidi Gersten, Ivanka Ayoub.....Appellants,

v.

Kevin Carter, Richard Davis,
Joseph Tirbovich, Nationwide
Mutual Insurance Co.,
Interinsurance Exchange of
the Automobile Club, John
Ammendola, Trustgard
Insurance Co., SC Dept. of
Public Safety, Blackwell,
Unknown John
Does.....

Respondents.

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MAR 12 2019
SC Court of Appeals

APPELLANTS' NOTICE OF MOTION AND MOTION FOR EXTENSION OF
TIME TO FILE APPELLANTS' AMENDED RETURN OF RESPONDENT
CARTER AND DAVIS' MOTION TO DISMISS ALONG WITH A MORE
DETAILED RESPONSE TO THIS COURT'S LETTER DATED FEBRUARY
2019

TO THE HONORABLE SOUTH CAROLINA COURT OF APPEALS:

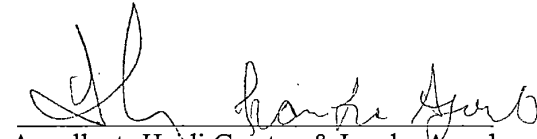
NOW COMES, Heidi Gersten, Ivanka Ayoub, ('Appellants') and respectfully move this
Court, pursuant to **Rules 240 and 263, SCACR**, and **TITLE II OF THE AMERICAN DISABILITIES
ACT** for an extension of time to file their amended return of Respondent Carter and Davis'

motion to dismiss, along with a more detailed response to this court's letter dated February¹⁵ 2019.

The reasons for this motion are set forth in the attached Memorandum in Support.

Respectfully submitted,

DATED: March 7, 2019

Handwritten signatures of Heidi Gersten and Ivanka Ayoub in cursive script.

Appellants Heidi Gersten & Ivanka Ayoub
1438 W. Lantana Rd. #330
Lantana, FL 33462
(323) 245-6142/ Fax (561) 756-9820
hanginhangout@gmail.com

MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT MOTION FOR
EXTENSION OF TIME TO FILE APPELLANTS' AMENDED RETURN OF RESPONDENT
CARTER AND DAVIS' MOTION TO DISMISS ALONG WITH A MORE DETAILED
RESPONSE TO THIS COURT'S LETTER DATED FEBRUARY 2019

As grounds therefore, the Appellants show the following good cause:

1. The Appellants received a letter from the Court dated February 15, on February 21, 2019 instructing a mandatory list of answers and a return to be made.
2. In immediate response, the Appellants noted that a motion for an extension of time was made and paid for in the amount of \$50.00.
3. This said letter from the Court did not specify which motion to dismiss it was referring to, as there are two (2) pending in this Court, that the Appellants are aware of.
4. This said letter from the Court may be deemed satisfied in part, as a day before its inception, Appellants served and filed a return to the Respondent Interinsurance Exchange of the Automobile Club.
5. The appellate case number that Respondents Carter and Davis listed in their Motion to Dismiss is incorrect however the Appellants are unaware of a similar notice to cure served on them by the Court as sent to the Appellants for this same reason.
6. The Appellant Gersten was paralyzed as a result of the collision in controversy in this matter. She has no caregiver or physical help with daily functions like bowel movements, bathing, eating and other regular activities able-bodied people perform. She lives under extraordinary circumstances.
7. The Appellant Ayoub is also disabled and unable to give proper care for her daughter, the Appellant Gersten.
8. Despite the extraordinary circumstances the Appellant Gersten lives with, she has been

diligently working on this appeal with Appellant Ayoub. Given that the Respondents Carter and Davis' return is 64 unpaginated pages and there are numerous inaccuracies, the Appellants request an additional ten (10) days to comply, which would be March 17, 2019.

9. The Appellant Gersten also has a pressure wound on her left buttocks the size of a quarter which prevents her from sitting up for more than a few hours at a time.
10. The Appellants are not South Carolina residents.
11. This may be considered excusable neglect.
12. The Doctrine of Equitable Tolling as well as Title II of the American Disabilities Act permit this Court to grant an extension of time for such axiomatic situations.
13. This request is not unheard of.
14. This request is made before the expiration of the time due.
15. The Appellants prefer not to file a Motion for Reinstatement, which would more than likely be granted given the extraordinary circumstances and good cause shown.
16. **RULE 263, SCACR, TIME(b) Extending and Diminishing Time Prescribed by These Rules.** The time prescribed by these Rules for performing any act except the time for serving the notice of appeal under Rules 203 and 243 may be extended or shortened by the appellate court, or by any judge or justice thereof. The time prescribed by these Rules for performing any act or taking any action may not be extended by agreement of the parties.
17. Unlike the case of **WADE V. GORE, 151 S.E. 470 (S.C. 1930)**, the Appellants are requesting this extension before the expiration of the date due.
18. The South Carolina Supreme Court recently adopted this doctrine. **HOOPER V.**

EBENEZER SR. SERVS. & REHAB. CTR., 386 S.C. 108, 687 S.E.2D 29 (2009). The court explained the doctrine of equitable tolling may be applied to toll the running of the statute of limitations “to serve the ends of justice where technical forfeitures would unjustifiably prevent a trial on the merits.” Id. at 115, 687 S.E.2D AT 32. The court explained:

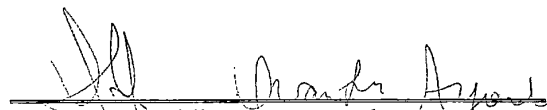
THE EQUITABLE POWER OF A COURT IS NOT BOUND BY CAST-IRON RULES BUT EXISTS TO DO FAIRNESS AND IS FLEXIBLE AND ADAPTABLE TO PARTICULAR EXIGENCIES SO THAT RELIEF WILL BE GRANTED WHEN, IN VIEW OF ALL THE CIRCUMSTANCES, TO DENY IT WOULD PERMIT ONE PARTY TO SUFFER A GROSS WRONG AT THE HANDS OF THE OTHER. EQUITABLE TOLLING MAY BE APPLIED WHERE IT IS JUSTIFIED UNDER ALL THE CIRCUMSTANCES.

If the Doctrine of Equitable Tolling may be applied to the Statute of Limitations, surely it can be applied to an extension of time to file corections to deficiencies, such as in this matter.

THEREFORE, having shown good cause, the Appellants respectfully request and move the Court for an extension of time to, and including, MARCH 7, 2019; an extension of ten (10) days from the date of MARCH 7, 2019, to allow enough time to correctly and competently complete the Court’s instructions.

This motion is not made to cause undue delay. It is made in the furtherance of justice and to prevent its miscarriage.

Respectfully submitted this 7th day of MARCH, 2019.


Appellants Heidi Gersten, Ivanka Ayoub,
1438 W. Lantana Rd., #330
Lantana, FL 33462
(323) 245-6142

Other Counsel of Record:

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(803) 782-4100

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Myrtle Beach, SC 29578
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(Attorney for Defendant Interinsurance Exchange
of the Automobile Club)
(843) 662-3258

Alexander S. Gogsette
P.O. Box 5478
Florence, SC 29502
(Attorney for Joseph Tirbovich)
(843) 656-4454

RECEIVED

MAR 12 2019

SC Court of Appeals

CERTIFICATE OF SERVICE
(Appellate Case No: 2019-002115)

The undersigned, over 18 years of age and not a party to the said action, hereby certifies that (s)he has served the following named individuals with a copy of the foregoing: Appellate Case No: 2019-002115 APPELLANTS' NOTICE OF MOTION AND MOTION FOR EXTENSION OF TIME TO FILE APPELLANTS' AMENDED RETURN OF RESPONDENT CARTER AND DAVIS' MOTION TO DISMISS ALONG WITH A MORE DETAILED RESPONSE TO THIS COURT'S LETTER DATED FEBRUARY 2019 along with letter to the Court dated March 7, 2019, and Exhibits A, B, AFFIDAVIT OF APPELLANT HEIDI GERSTEN and Exhibit 1, APPELLANTS' RETURN TO RESPONDENTS CARTER AND DAVIS' MOTION TO DISMISS APPEAL AND MOTION FOR THE COURT TO ACCEPT THIS DOCUMENT AS TIMELY WITH OR WITHOUT LEAVE OF COURT, MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF APPELLANTS' RETURN TO RESPONDENTS CARTER AND DAVIS' MOTION TO DISMISS APPEAL AND MOTION FOR THE COURT TO ACCEPT THIS DOCUMENT AS TIMELY WITH OR WITHOUT LEAVE OF COURT, by mailing a copy of same to them in the U. S. Post Office mail, with sufficient postage affixed thereto and return address clearly marked on the date indicated below:

Wesley Brian Sawyer, Esquire
Murpy & Grantland, P.A.
4406 Forest Drive #B
Columbia, SC 29206
(Attorney for Kevin Carter and Richard Davis)

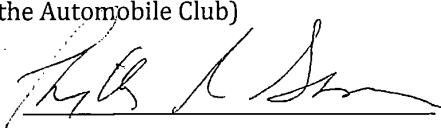
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Florence, SC 29502
(Attorney for Joseph Tirbovich)

By: 

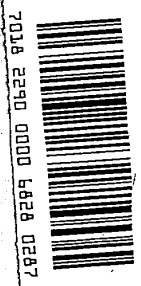
Boca Raton, Florida
March 7, 2019

✓

Heidi Gersten, Ivanka Ayoub
1433 W. Lantana Rd #330
Lantana, FL 33462

PRIORITY MAIL
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7018 2290 0000 6628 0267

RETURN RECEIPT
REQUESTED

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MAR 12 2019
SC Court of Appeals

Honorable Jenny Abbott Kitchings
Clerk of Court
SC Court of Appeals
P.O. Box 11629
Columbia SC 29211

U.S. POSTAGE PAID
PERMIT NO. 1004
BOCA RATON, FL
MAR 07, 19
AMOUNT
\$15.75
R2305K1-1003B-07

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM CHESTER COUNTY
Court of Common Pleas

Honorable John C. Hayes III, Circuit Court Judge
Honorable Brian Gibbons, Circuit Court Judge

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SC Court of Appeals

Heidi Gersten, Ivanka Ayoub, Daniel Hubbard, ...Plaintiffs,

Heidi Gersten, Ivanka Ayoub.....Appellants.

v.

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

AFFIDAVIT OF APPELLANT HEIDI GERSTEN

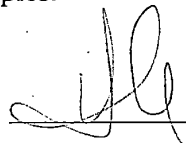
Heidi Gersten, Ivanka Ayoub
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hanginhangout@gmail.com
Appellants

STATE OF FLORIDA,
SS:
COUNTY OF PALM BEACH,

**HEIDI GERSTEN, BEING FIRST DULY CAUTIONED AND SWORN
DEPOSES AND STATES AS FOLLOWS:**

1. I am the Appellant herein, and have read the foregoing Return to the Respondents Kevin Carter and Richard Davis' Motion to Dismiss Appeal, which includes all pages attached, including, but not limited to, the letter to the Court dated March 7, 2019 and know the contents thereof, that the same is true of my own knowledge, except as matters therein stated to be alleged on information and belief; and to those matters, I believe them to be true.
2. The facts stated herein are personally known to me and I have first-hand knowledge thereof and to those facts that are in addition stated are based on information and belief.
3. If called upon to do so, I would and could competently testify to hereto under oath in a court of law operating under the laws of the State of South Carolina and the United States Constitution.
4. The date the Notice of Appeal was timely served and filed on Respondents Kevin Carter and Richard Davis was November 15, 2018.
5. The proposed orders were allegedly signed before the Appellants had an opportunity to review them for accuracy.
6. The allegedly signed orders contain numerous errors that will be discussed in the Brief of the Appellants.
7. The Appellates' Motion to Alter or Amend a Judgment or Relief from Judgment or Order filed May 8, 2018 may have been ruled on October 16, 2018 by Honorable Judge Hayes III.
8. I was paralyzed as a result of the collision in controversy with the Respondent Kevin Carter and the Respondent Richard Davis co-owned the vehicle involved.
9. It is unfair to hold me to the same standards as able-bodied people.
10. The American Disabilities Act applies to and protects me.
11. The Doctrine of Equitable Tolling may also be applied to my circumstances.

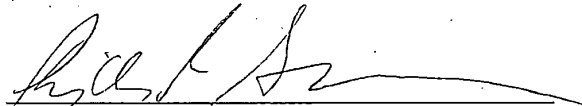
12. A Motion to Amend the Complaint With Leave was filed before the alleged orders in controversy were allegedly signed by the presiding judge and were on the calendar for a ruling until this Appeal stayed the trial court.
13. I received the only signed order made by Honorable Judge Gibbons on January 2019. (Exhibit 1)
14. I am without a caregiver.
15. I urge the Court to deny this Motion to Dismiss Appeal made by the Respondents Kevin Carter and Richard Davis. Let the merits of the upcoming brief shine a light on the facts of this matter.
16. I authenticate the documents submitted in this Return to the said Motion to Dismiss Appeal as true and accurate copies.



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

Subscribed and sworn to before me, this ^{7th March} 14th day of February 2019.

[Notary Seal:]



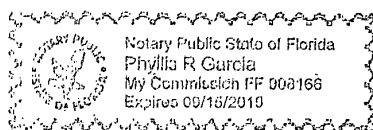
[signature of Notary]

Phyllis R Garcia

[typed name of Notary]

NOTARY PUBLIC

My commission expires: September 15th 2019



FORM 4

STATE OF SOUTH CAROLINA
COUNTY OF CHESTER
IN THE COURT OF COMMON PLEAS

JUDGMENT IN A CIVIL CASE

CASE NO. 2018 CP-12-00117
2018-AP-12-00074
CP

Heidi Gersten et al

Kevin Carter et al.

PLAINTIFF(S)

DEFENDANT(S)

Submitted by:

Attorney for : ☐ Plaintiff ☐ Defendant
or
☐ Self-Represented Litigant

DISPOSITION TYPE (CHECK ONE)

- ☐ **JURY VERDICT.** This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- ☒ **DECISION BY THE COURT.** This action came to trial or hearing before the court. *(Administrative Matter)*
~~The issues have been tried or heard and a decision rendered.~~ ☐ See Page 2 for additional information.
- ☐ **ACTION DISMISSED (CHECK REASON):** ☐ Rule 12(b), SCRCP; ☐ Rule 41(a), SCRCP (Vol. Nonsuit); ☐ Rule 43(k), SCRCP (Settled); ☐ Other
- ☐ **ACTION STRICKEN (CHECK REASON):** ☐ Rule 40(j), SCRCP; ☐ Bankruptcy; ☐ Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award; ☐ Other
- ☐ **STAYED DUE TO BANKRUPTCY**
- ☐ **DISPOSITION OF APPEAL TO THE CIRCUIT COURT (CHECK APPLICABLE BOX):**
☐ Affirmed; ☐ Reversed; ☐ Remanded; ☐ Other

NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIBUNAL, OR ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL.

IT IS ORDERED AND ADJUDGED: ☐ See attached order (formal order to follow) ☒ Statement of Judgment by the Court: This matter is currently scheduled for numerous motion hearings on January 30, 2019. On November 29, 2018, the Plaintiffs filed a Notice of Appeal with the S.C. Court of Appeals. As such, this matter is stayed pursuant to Rules 205 and 241 of the SCACR. The hearings scheduled for January 30, 2019 are therefore continued until such time as this Court has jurisdiction again.

ORDER INFORMATION

This order ☐ ends ☒ does not end the case.

Additional Information for the Clerk : _____

INFORMATION FOR THE JUDGMENT INDEX

Complete this section below when the judgment affects title to real or personal property or if any amount should be enrolled. If there is no judgment information, indicate "N/A" in one of the boxes below.

Judgment in Favor of (List name(s) below)	Judgment Against (List name(s) below)	Judgment Amount To be Enrolled (List amount(s) below)
		\$
		\$
		\$

If applicable, describe the property, including tax map information and address, referenced in the order:

EXHIBIT 1

4

E-Filing Note: In E-Filing counties, the Court will electronically sign this form using a separate electronic signature page.

Date _____

This judgment was entered on the _____ day of _____, 20____ and a copy mailed first class or placed in the appropriate attorney's box on this _____ day of _____, 20____ to attorneys of record or to parties (when appearing pro se) as follows:

CLERK OF COURT

E-Filing Note: In E-Filing counties, the date of Entry of Judgment is the same date as reflected on the Electronic File Stamp and the clerk's entering of the date of judgment above is not required in those counties. The clerk will mail a copy of the judgement to parties who are not E-Fileers or who are appearing pro se. See Rule 77(d), SCRPC.

This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM CHESTER COUNTY
Court of Common Pleas

Honorable John C. Hayes III, Circuit Court Judge
Honorable Brian Gibbons, Circuit Court Judge

Appellate Case No: 2019-002115

Heidi Gersten, Ivanka Ayoub, Daniel Hubbard.....Plaintiffs,

Heidi Gersten, Ivanka Ayoub.....Appellants.

v.

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GMC, Unknown John Does, ...Respondents

APPELLANTS' RETURN TO RESPONDENTS CARTER AND
DAVIS' MOTION TO DISMISS APPEAL AND MOTION FOR THE
COURT TO ACCEPT THIS DOCUMENT AS TIMELY WITH OR
WITHOUT LEAVE OF COURT

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(323) 245-6142
(561) 756-9820 FAX
hanginhangout@gmail.com
Appellants

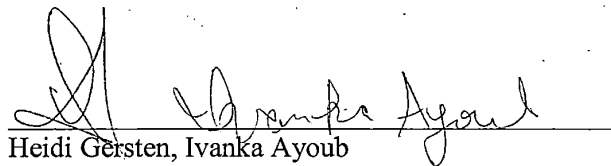
The Appellants, Heidi Gersten, Ivanka Ayoub ('Appellants') move this Court for an acceptance of this document as timely and for a denial of the Motion to Dismiss served and filed by the Respondents Kevin Carter and Richard Davis ('Respondents Carter and Davis') on January 31, 2019 and received on February 13, 2019. A Motion for an extension to serve and file the Appellants return was made on February 14, 2019. Due to insufficient amount of time to accurately perfect the return to the Respondents Carter and Davis' 64 unpaginated pages of their motion to dismiss, coupled with their disabilities, the Appellants require more time to amend this return.

This Return had no chance to comply with rules regarding its timeliness since it was received 13 days after the date of the motion.

The Appellants hereby move this Court to accept this document as timely. The Respondents Carter and Davis' sole argument is based on the allegation that the Appellants' Notice of Appeal is untimely. The letter to the Court dated March 7, 2019, included, should shed some light.

The Appellants' argument will be more fully addressed in the attached Memorandum of Points and Authorities in Support..

Respectfully submitted this 7th day of March 2019,



Heidi Gersten, Ivanka Ayoub
Appellants
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Boca Raton, Florida
March 7, 2019

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM CHESTER COUNTY
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MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF
APPELLANTS' RETURN TO RESPONDENTS CARTER AND
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Plaintiffs/Appellants

STATEMENT OF FACTS

On February 14, 2018, the Appellant Gersten overnighed a timely filing for a state legislated arbitration hearing regarding property damage due to a vehicle collision occurring in Chester County on March 19, 2015. She was told months prior that the Court was unfamiliar with this law and she subsequently provided the Court with a copy of the law. This will be more fully explained in the forthcoming Appellants' Brief, as well as the relevance of the March 16, 2018 Civil Court action filed that included different Plaintiffs and Defendants. All defendants have been properly served according to law. Proof is available upon request and will be included in the said Appellants' Brief.

A consolidation ruling was obtained by the Appellants on-line through the Court's website as well as a note from the judge to Appellate Gersten instructing her that she "needs an attorney". The Appellants are unaware of any law that requires a litigant to hire an attorney. For this reason which will also be fully explained in the Appellants' Brief, the Appellants have been prejudiced. A timely Notice of Motion and Plaintiffs' Motion to Alter or Amend a Judgment or Relief from Judgment or Order the alleged consolidation ruling was timely filed and served and to this date has not been ruled on, as also evidenced by the transcript that the Appellants ordered, paid for and received from the court reporter prior to filing the Notice of Appeal. The Respondents Carter and Davis have not offered proof of any ruling made as to the Appellants' motion regarding the April 2018 consolidation ruling which was made without notice to either party to allow an opportunity for objections.

The November 15, 2018 Notice of Appeal permits the Court jurisdiction to examine this controversy.

The Appellants' ought not be subjected to serving or filing a return to the Respondents Carter

and Davis' Motion to Dismiss Appeal on the grounds that it did not follow SCACR, which includes, but is not limited to, not having the correct case number listed in the caption on its motion document.

The Respondents Carter and Davis' sole argument revolves around their accusation that the Appellants Notice of Appeal was untimely, when in truth and fact it is timely. The Appellants deny the allegation that Respondents Carter and Davis' AAA make in stating that the Appellants did not timely serve and file a Notice of Appeal.

The Appellants object to the inclusion of the Affidavit of Wesley Sawyer as evidence on the grounds that it is hearsay and not authenticated. This said Affidavit of Wesley Sawyer contains no official state stamp or embossing to validate that it is genuine or a true certified document, it simply isn't properly notarized. The Affidavit of Wesley Sawyer is not based on first-hand personal knowledge nor does it claim to be.

The Appellants request more time to Amend this motion. Ten (10) days from March 7, 2019 would be March 17, 2019, to sufficiently and adequately address the multiple errors made by the Respondents Carter and Davis. This return is made in a good faith effort to comply with the previously underestimated motion for extension of time.

NOTE: This was arbitrarily ruled on and denied without oral hearing or legal determination as to where the Court based its decision from. The filing of this motion tolled the time to file a Notice of Appeal according to SCACR rules. Another Motion to Alter or Amend A Judgment or Relief from Judgment or Order was timely served and filed and a ruling has not been made on it.

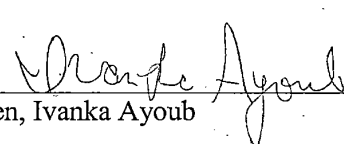
Included with these documents is the only signed order the Appellants have received. Please refer to the letter to the Court dated March 7, 2019.

Also the clock for serving a timely motion for appeal is uncertain as there are rulings that have not been made at the lower court. If anything, this appeal may be premature.

NOTE: An amended complaint was served before the Honorable Judge Hayes allegedly signed any orders.

For these reasons, and the reasons to be submitted in the forthcoming Appellants' Brief, the Court has jurisdiction as the Notice of Appeal was timely served and filed per SCACR rules.

Respectfully submitted this 7th day of March 2019,



Heidi Gersten, Ivanka Ayoub
Appellants
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Boca Raton, Florida
MARCH 7, 2019

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MAR 12 2019

SC Court of Appeals

CERTIFICATE OF SERVICE
(Appellate Case No: 2019-002115)

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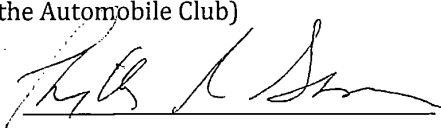
David R. Sligh
P.O. Box 2116
Myrtle Beach, SC 29578
(Attorney for Nationwide Mutual Ins. Co)

Peter H. Dworjany, Esquire and
Michael R. Burchstead, Esquire
Collins & Lacy, PC
1330 Lady Street, 6th Floor (29201)
Post Office Box 12487
Columbia, SC 29211
(Attorneys for Trustguard Insurance Company)

William H. Davidson II, Esquire
Davidson & Lindemann, PA
P.O. Box 8568
Columbia, SC 29202
(Attorney for SC Dept. of Public Safety
and Trooper Herbert Blackwell)

Reynolds Williams
P.O. Box 1909
Florence, SC 29503-1909
(Attorney for Defendant Interinsurance Exchange of the Automobile Club)

Alexander S. Gogsette
P.O. Box 5478
Florence, SC 29502
(Attorney for Joseph Tirbovich)

By: 

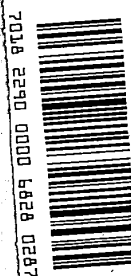
Boca Raton, Florida
March 7, 2019

✓

Heidi Gersten, Ivanka Ayoub
1433 W. Lantana Rd #330
Lantana, FL 33462

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MAR 12 2019
SC Court of Appeals

Honorable Jenny Abbott Kitchings
Clerk of Court
SC Court of Appeals
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Columbia SC 29211

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March 21, 2019

Gersten's Motion for Extension of Time filed March 21, 2019, in Appellate Case No. 2018-002115

89343

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM CHESTER COUNTY
Court of Common Pleas

Honorable John C. Hayes III, Circuit Court Judge
Honorable Brian Gibbons, Circuit Court Judge

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MAR 21 2019

SC Court of Appeals

Appellate Case No: 2019-002115

Heidi Gersten, Ivanka Ayoub, Daniel Hubbard.....Plaintiffs,

Heidi Gersten, Ivanka Ayoub.....Appellants.

v.

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

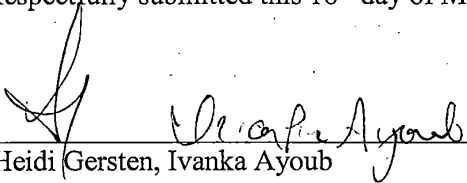
APPELLANTS' NOTICE OF MOTION AND MOTION FOR
EXTENSION OF TIME TO SERVE AND FILE AMENDED RETURN
TO RESPONDENTS CARTER AND DAVIS' MOTION TO DISMISS
APPEAL AND AFFIDAVIT OF HEIDI GERSTEN

Heidi Gersten, Ivanka Ayoub
1438 W. Lantana Rd., #330
Lantana, FL 33462
(323) 245-6142
(561) 756-9820 FAX
hanginhangout@gmail.com
Appellants

The Appellants, Heidi Gersten, Ivanka Ayoub ('Appellants') move this Court for an extension of time to serve and file an amended return of the Respondents Carter and Davis' motion to dismiss appeal pursuant to SCACR 263(b) on the grounds of good cause shown as evidenced by the attached Affidavit of Heidi Gersten. A previous extension was requested on March 7, 2019 and in light of the circumstances an additional 5 days is required to accurately and sufficiently submit an amended return.

The Appellants' argument will be more fully addressed in the attached Memorandum of Points and Authorities in Support.

Respectfully submitted this 18th day of March 2019,



Heidi Gersten, Ivanka Ayoub
Appellants
1438 W. Lantana Rd., #330
Lantana, FL 33462
(323) 245-6142
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Boca Raton, Florida
March 18, 2019

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM CHESTER COUNTY
Court of Common Pleas

Honorable John C. Hayes III, Circuit Court Judge
Honorable Brian Gibbons, Circuit Court Judge

RECEIVED

MAR 21 2019

SC Court of Appeals

Appellate Case No: 2019-002115

Heidi Gersten, Ivanka Ayoub, Daniel Hubbard, ...Plaintiffs,

Heidi Gersten, Ivanka Ayoub.....Appellants.

v.

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

AFFIDAVIT OF APPELLANT HEIDI GERSTEN

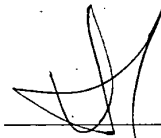
Heidi Gersten, Ivanka Ayoub
1438 W. Lantana Rd., #330
Lantana, FL 33462
(323) 245-6142
(561) 756-9820 FAX
hanginhangout@gmail.com
Appellants

STATE OF FLORIDA,
SS:
COUNTY OF PALM BEACH,

**HEIDI GERSTEN, BEING FIRST DULY CAUTIONED AND SWORN
DEPOSES AND STATES AS FOLLOWS:**

1. I am the Appellant herein, and have read the foregoing Motion for Extension of Time to Amend Appellants' Return to the Respondents Kevin Carter and Richard Davis' Motion to Dismiss Appeal, which includes all pages attached, and know the contents thereof, that the same is true of my own knowledge, except as matters therein stated to be alleged on information and belief; and to those matters, I believe them to be true.
2. The facts stated herein are personally known to me and I have first-hand knowledge thereof and to those facts that are in addition stated are based on information and belief.
3. If called upon to do so, I would and could competently testify to hereto under oath in a court of law operating under the laws of the State of South Carolina and the United States Constitution.
4. The Appellants served and filed on March 7, 2019, a Return to Respondents Carter and Davis' Motion to Dismiss Appeal and Motion for the Court to Dismiss Appeal and Motion for the Court to Accept This Document as Timely With or Without Leave of Court in anticipation that the requested extension of time to amend it would be on March 27, 2019.
5. Unfortunately during these 10 days I was extremely ill and had an unusually painful menstrual cycle followed by the learning of the passing of my father, which created an additional hardship to my already overwhelming daily life, due to being paralyzed.
6. It may be hard to imagine for some, the enormous amount of effort it takes to do simple things that able-bodied people can do, such as use a toilet.
7. I live under extraordinary circumstances.
8. According to the **SCACR**, the Appellants should not be subjected to serving and filing a return when the Respondents Carter and Davis' Motion to Dismiss does not have the correct case number, along with the burden of sorting through 64 unpaginated pages.
9. The date the Notice of Appeal was timely served and filed on Respondents Kevin Carter and Richard Davis was November 15, 2018.

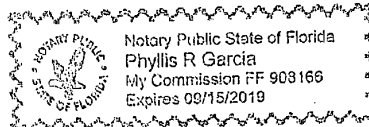
10. I was paralyzed as a result of the collision in controversy with the Respondent Kevin Carter and the Respondent Richard Davis co-owned the vehicle involved.
11. It is unfair to hold me to the same standards as able-bodied people.
12. The American Disabilities Act applies to and protects me.
13. **Title II** of the **American Disabilities Act** permits modifications to court rules to accommodate my situation due to my disability.
14. The **Doctrine of Equitable Tolling** may also be applied to my circumstances.
15. I am without a caregiver.
16. I urge the Court to allow an additional 5 days, which would be March 23, 2019, to complete an accurate amended Return of the Appellants to the Motion to Dismiss Appeal made by the Respondents Kevin Carter and Richard Davis. Let the merits of the upcoming brief shine a light on the facts of this matter.



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

Subscribed and sworn to before me, this 18th day of March 2019.

[Notary Seal:]



[signature of Notary]



[typed name of Notary]

NOTARY PUBLIC

My commission expires: 09/15, 2019.

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM CHESTER COUNTY
Court of Common Pleas

Honorable John C. Hayes III, Circuit Court Judge
Honorable Brian Gibbons, Circuit Court Judge

RECEIVED

MAR 21 2019

SC Court of Appeals

Appellate Case No: 2019-002115

Heidi Gersten, Ivanka Ayoub, Daniel Hubbard, ...Plaintiffs,

Heidi Gersten, Ivanka Ayoub, ...Appellants.

v.

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

MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF
APPELLANTS' MOTION FOR EXTENSION OF TIME TO SERVE
AND FILE RETURN TO RESPONDENTS CARTER AND DAVIS'
MOTION TO DISMISS APPEAL

Heidi Gersten, Ivanka Ayoub
1438 W. Lantana Rd., #330
Lantana, FL 33462
(323) 245-6142
(561) 756-9820 FAX
hanginhangout@gmail.com
Plaintiffs/Appellants

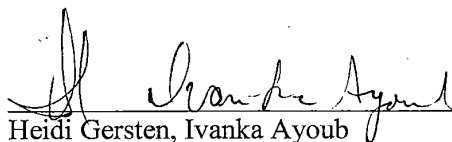
STATEMENT OF FACTS

On March 7, 2019, the Appellants requested an additional 10 days to serve and file an amended return to the Respondents Carter and Davis' Motion to Dismiss Appeal. March 18, 2019 would be the due date on this request however for the reasons fully explained in the Appellant Heidi Gersten's Affidavit, good cause is shown for an additional 5 days to complete the Appellants' Return.

Ten (10) days from March 18, 2019 would be March 23, 2019, to sufficiently and adequately address the multiple errors made by the Respondents Carter and Davis. This return is made in a good faith effort to comply with the previously underestimated motion for extension of time and is permitted by Rule 263(b), SCACR.

For these reasons, the reasons in the attached Affidavit of Heidi Gersten and the reasons to be submitted in the forthcoming Appellants' Amended Return and the Appellants' Brief, the Court has jurisdiction as the Notice of Appeal was timely served and filed per SCACR rules.

Respectfully submitted this 18th day of March 2019,



Heidi Gersten, Ivanka Ayoub
Appellants
1438 W. Lantana Rd., #330
Lantana, FL 33462
(323) 245-6142
(561) 756-9820 FAX
hanginhangout@gmail.com

Boca Raton, Florida
March 18, 2019

CERTIFICATE OF SERVICE
(Appellate Case No: 2019-002115)

The undersigned, over 18 years of age and not a party to the said action, hereby certifies that (s)he has served the following named individuals with a copy of the foregoing: Appellate Case No: 2019-002115 APPELLANTS' NOTICE OF MOTION AND MOTION FOR EXTENSION OF TIME TO FILE APPELLANTS' AMENDED RETURN OF RESPONDENT CARTER AND DAVIS' MOTION TO DISMISS ALONG WITH A MORE DETAILED RESPONSE TO THIS COURT'S LETTER DATED FEBRUARY 2019 along with letter to the Court dated March 18, 2019, and AFFIDAVIT OF APPELLANT HEIDI GERSTEN and, MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF APPELLANTS' MOTION FOR EXTENSION OF TIME, by mailing a copy of same to them in the U. S. Post Office mail, with sufficient postage affixed thereto and return address clearly marked on the date indicated below:

Wesley Brian Sawyer, Esquire
Murphy & Grantland, P.A.
4406 Forest Drive #B
Columbia, SC 29206
(Attorney for Kevin Carter and Richard Davis)

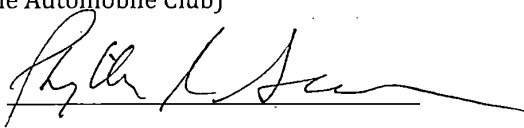
David R. Sligh
P.O. Box 2116
Myrtle Beach, SC 29578
(Attorney for Nationwide Mutual Ins. Co)

Peter H. Dworjanyn, Esquire and
Michael R. Burchstead, Esquire
Collins & Lacy, PC
1330 Lady Street, 6th Floor (29201)
Post Office Box 12487
Columbia, SC 29211
(Attorneys for Trustguard Insurance Company)

William H. Davidson II, Esquire
Davidson & Lindemann, PA
P.O. Box 8568
Columbia, SC 29202
(Attorney for SC Dept. of Public Safety
and Trooper Herbert Blackwell)

Reynolds Williams
P.O. Box 1909
Florence, SC 29503-1909
(Attorney for Defendant Interinsurance Exchange of the Automobile Club)

Alexander S. Gogsette
P.O. Box 5478
Florence, SC 29502
(Attorney for Joseph Tirbovich)

By: 

Boca Raton, Florida
March 18, 2019

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MAR 21 2019

SC Court of Appeals

March 18, 2019
1438 W. Lantana Rd., #330
Lantana, FL 33462

Honorable Jenny Abbott Kitchings
Clerk of Court
SC Court of Appeals
P.O. Box 11629
Columbia, SC 29211
(843)662-3258 Fax (843)662-1342

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MAR 21 2019
SC Court of Appeals

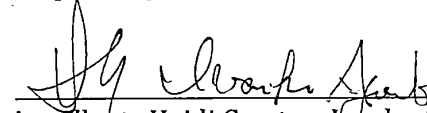
RE: Appellate Case No.: 2018-002115

Dear Ms. Kitchings:

Good day to you.

Please find an enclosed U.S. postal money order in the amount of \$50.00 for the enclosed original NOTICE OF MOTION AND MOTION FOR EXTENSION OF TIME TO FILE APPELLANTS' AMENDED RETURN OF RESPONDENT CARTER AND DAVIS' MOTION TO DISMISS along with a more detailed response to this Court's letter dated February 15, along with 7 copies. Please file the original and return a file-stamped copy in the pre-paid postage envelope provided. Thank you for your time regarding this matter.

Respectfully submitted,



Appellants Heidi Gersten, Ivanka Ayoub
hanginhangout@gmail.com
(323)245-6142 Fax (561) 756-9820

HG/Enclosures

✓

Heidi Geesten, Iunika Ayoub
1438 W LANTANA RD. #330
LANTANA, FL 33462

CERTIFIED MAIL



7018 2290 0000 6828 0317

RETURN RECEIPT
REQUESTED

Honorable Jenny Abbott Kittings
Clerk of Court

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MAR 21 2019

SC Court of Appeals

SC Court of Appeals
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March 28, 2019

Gersten's Motion for Extension of Time filed March 28, 2019, in Appellate Case No. 2018-002115

89398

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM CHESTER COUNTY
Court of Common Pleas

Honorable John C. Hayes III, Circuit Court Judge
Honorable Brian Gibbons, Circuit Court Judge

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MAR 28 2019

SC Court of Appeals

Appellate Case No: 2019-002115

Heidi Gersten, Ivanka Ayoub, Daniel Hubbard.....Plaintiffs,

Heidi Gersten, Ivanka Ayoub.....Appellants.

v.

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

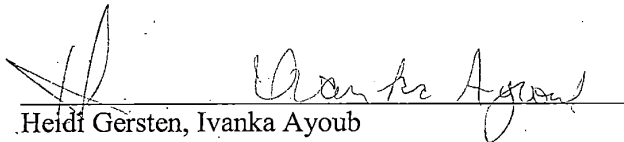
APPELLANTS' NOTICE OF MOTION AND MOTION FOR
EXTENSION OF TIME TO SERVE AND FILE AMENDED RETURN
TO RESPONDENTS CARTER AND DAVIS' MOTION TO DISMISS
APPEAL AND AFFIDAVIT OF HEIDI GERSTEN

Heidi Gersten, Ivanka Ayoub
1438 W. Lantana Rd., #330
Lantana, FL 33462
(323) 245-6142
(561) 756-9820 FAX
hanginhangout@gmail.com
Appellants

The Appellants, Heidi Gersten, Ivanka Ayoub ('Appellants') move this Court for an extension of time to serve and file an amended return of the Respondents Carter and Davis' motion to dismiss appeal pursuant to SCACR 263(b) on the grounds of good cause shown as evidenced by the attached Affidavit of Heidi Gersten. Previous extensions were requested on March 7, 2019 and March 18, 2019. In light of the good cause shown, an additional ten (10) days is required to accurately and sufficiently submit an amended return.

The Appellants' argument will be more fully addressed in the attached Memorandum of Points and Authorities in Support.

Respectfully submitted this 25th day of March 2019,



Heidi Gersten, Ivanka Ayoub
Appellants
1438 W. Lantana Rd., #330
Lantana, FL 33462
(323) 245-6142
(561) 756-9820 FAX
hanginhangout@gmail.com

Boca Raton, Florida
March 25, 2019

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM CHESTER COUNTY
Court of Common Pleas

Honorable John C. Hayes III, Circuit Court Judge
Honorable Brian Gibbons, Circuit Court Judge

Appellate Case No: 2019-002115

RECEIVED
MAR 28 2019
SC Court of Appeals

Heidi Gersten, Ivanka Ayoub, Daniel Hubbard, ...Plaintiffs,

Heidi Gersten, Ivanka Ayoub.....Appellants.

v.

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

AFFIDAVIT OF APPELLANT HEIDI GERSTEN

Heidi Gersten, Ivanka Ayoub
1438 W. Lantana Rd., #330
Lantana, FL 33462
(323) 245-6142
(561) 756-9820 FAX
hanginhangout@gmail.com
Appellants

STATE OF FLORIDA,

SS:

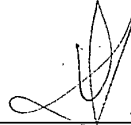
COUNTY OF PALM BEACH,

**HEIDI GERSTEN, BEING FIRST DULY CAUTIONED AND SWORN
DEPOSES AND STATES AS FOLLOWS:**

1. I am the Appellant herein, and have read the foregoing Motion for Extension of Time to Amend Appellants' Return to the Respondents Kevin Carter and Richard Davis' Motion to Dismiss Appeal, which includes all pages attached, and know the contents thereof, that the same is true of my own knowledge, except as matters therein stated to be alleged on information and belief; and to those matters, I believe them to be true.
2. The facts stated herein are personally known to me and I have first-hand knowledge thereof and to those facts that are in addition stated are based on information and belief.
3. If called upon to do so, I would and could competently testify to hereto under oath in a court of law operating under the laws of the State of South Carolina and the United States Constitution.
4. The Appellants served and filed on March 7, 2019 and attached a U.S.P.S. money order in the amount of \$50.00 payable to the SC Clerk of Court of Appeals, a Return to Respondents Carter and Davis' Motion to Dismiss Appeal and Motion for the Court to Dismiss Appeal and Motion for the Court to Accept This Document as Timely With or Without Leave of Court in anticipation that the requested extension of time to amend it would be on March 17, 2019.
5. Unfortunately during those ten (10) days I was extremely ill and had an unusually painful menstrual cycle followed by the learning of the passing of my father, which created an additional hardship to my already overwhelming daily life, due to being paralyzed.
6. The Appellants served and filed another extension on March 18, 2019 requesting five (5) additional days, as the tenth day was Sunday, March 17, 2019 from the previous request and attached a U.S.P.S. money order in the amount of \$50.00 payable to the SC Clerk of Court of Appeals.
7. The Appellants are now requesting an additional ten (10) days from March 25, 2019, as five (5) days from March 18, 2019 is March 23, 2019, which was a Saturday, bringing us to today, March 25, 2019 and ten (10) days from today is April 4, 2019.

8. During this last five (5) days, my computer crashed, causing me to be unable to obtain stored information and print documents.
9. I will have a computer expert here this week to fix the problem.
10. It may be hard to imagine for some, the enormous amount of effort it takes to do simple things that able-bodied people can do, such as use a toilet.
11. I live under extraordinary circumstances.
12. After 7 months or more of living without a caregiver, I interviewed several caregivers this weekend and I will have some help this week.
13. I have been waking up to a head saturated in urine, as I have not been able to control my bladder.
14. I anticipate to get cleaned up with the help of my new caregiver.
15. According to the **SCACR**, the Appellants should not be subjected to serving and filing a return when the Respondents Carter and Davis' Motion to Dismiss does not have the correct case number, along with the burden of sorting through 64 un-paginated pages.
16. The date the Notice of Appeal was timely served and filed on Respondents Kevin Carter and Richard Davis was November 15, 2018.
17. The motions for reconsideration were timely filed according to court rules.
18. Without the use of my computer, I'm unable to provide accurate information.
19. I was paralyzed as a result of the collision in controversy with the Respondent Kevin Carter and the Respondent Richard Davis co-owned the vehicle involved.
20. It is unfair to hold me to the same standards as able-bodied people.
21. The **American Disabilities Act** applies to and protects me.
22. **Title II** of the **American Disabilities Act** permits modifications to court rules to accommodate my situation due to my disability.
23. The **Doctrine of Equitable Tolling** may also be applied to my circumstances.
24. I urge the Court to allow an additional ten (10) days, which would be April 4, 2019, to complete an accurate amended Return of the Appellants to the Motion to Dismiss Appeal made by the Respondents Kevin Carter and Richard Davis in light of the good cause shown.

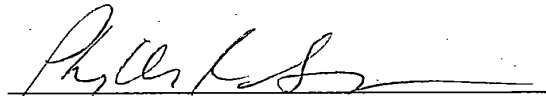
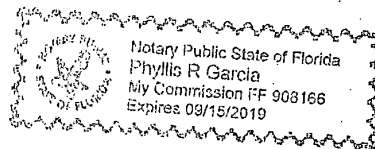
25. This extension is not for the purpose of delaying. It is for the furtherance of justice and to prevent its miscarriage.



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

Subscribed and sworn to before me, this 25th day of March 2019.

[Notary Seal:]


[signature of Notary]

Phyllis R Garcia
[typed name of Notary]

NOTARY PUBLIC

My commission expires: September 15th, 2019

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM CHESTER COUNTY
Court of Common Pleas

Honorable John C. Hayes III, Circuit Court Judge
Honorable Brian Gibbons, Circuit Court Judge

RECEIVED
MAR 28 2019
SC Court of Appeals

Appellate Case No: 2019-002115

Heidi Gersten, Ivanka Ayoub, Daniel Hubbard, ...Plaintiffs,

Heidi Gersten, Ivanka Ayoub, ...Appellants.

v.

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

MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF
APPELLANTS' MOTION FOR EXTENSION OF TIME TO SERVE
AND FILE RETURN TO RESPONDENTS CARTER AND DAVIS'
MOTION TO DISMISS APPEAL

Heidi Gersten, Ivanka Ayoub
1438 W. Lantana Rd., #330
Lantana, FL 33462
(323) 245-6142
(561) 756-9820 FAX
hanginhangout@gmail.com
Plaintiffs/Appellants

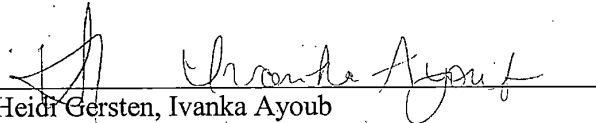
STATEMENT OF FACTS

On March 7, 2019, the Appellants requested an additional 10 days to serve and file an amended return to the Respondents Carter and Davis' Motion to Dismiss Appeal. On March 18, 2019 the Appellants, requested an additional 5 days. Now for good cause shown, an additional ten (10) days is required to complete the Appellants' Return.

Ten (10) days from March 25, 2019 would be April 4, 2019, to sufficiently and adequately address the multiple errors made by the Respondents Carter and Davis. This return is made in a good faith effort to comply with the previously underestimated motion for extension of time and is permitted by Rule 263(b), SCACR.

For these reasons, the reasons in the attached Affidavit of Heidi Gersten and the reasons to be submitted in the forthcoming Appellants' Amended Return and the Appellants' Brief, the Court has jurisdiction as the Notice of Appeal was timely served and filed per SCACR rules.

Respectfully submitted this 25th day of March 2019,



Heidi Gersten, Ivanka Ayoub
Appellants
1438 W. Lantana Rd., #330
Lantana, FL 33462
(323) 245-6142
(561) 756-9820 FAX
hanginhangout@gmail.com

Boca Raton, Florida
March 25, 2019

CERTIFICATE OF SERVICE
(Appellate Case No: 2019-002115)

The undersigned, over 18 years of age and not a party to the said action, hereby certifies that (s)he has served the following named individuals with a copy of the foregoing: Appellate Case No: 2019-002115 APPELLANTS' NOTICE OF MOTION AND MOTION FOR EXTENSION OF TIME TO FILE APPELLANTS' AMENDED RETURN OF RESPONDENT CARTER AND DAVIS' MOTION TO DISMISS ALONG WITH A MORE DETAILED RESPONSE TO THIS COURT'S LETTER DATED FEBRUARY 15, 2019 along with letter to the Court dated March 25, 2019, and AFFIDAVIT OF APPELLANT HEIDI GERSTEN and, MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF APPELLANTS' MOTION FOR EXTENSION OF TIME, by mailing a copy of same to them in the U. S. Post Office mail, with sufficient postage affixed thereto and return address clearly marked on the date indicated below:

Wesley Brian Sawyer, Esquire
Murphy & Grantland, P.A.
4406 Forest Drive #B
Columbia, SC 29206
(Attorney for Kevin Carter and Richard Davis)

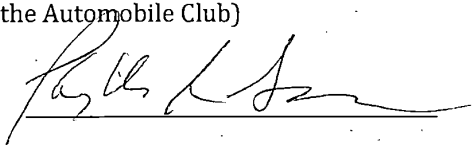
David R. Sligh
P.O. Box 2116
Myrtle Beach, SC 29578
(Attorney for Nationwide Mutual Ins. Co)

Peter H. Dworjany, Esquire and
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(Attorneys for Trustguard Insurance Company)

William H. Davidson II, Esquire
Davidson & Lindemann, PA
P.O. Box 8568
Columbia, SC 29202
(Attorney for SC Dept. of Public Safety
and Trooper Herbert Blackwell)

Reynolds Williams
P.O. Box 1909
Florence, SC 29503-1909
(Attorney for Defendant Interinsurance Exchange of the Automobile Club)

Alexander S. Gogsette
P.O. Box 5478
Florence, SC 29502
(Attorney for Joseph Tirbovich)

By: 

Boca Raton, Florida
March 25, 2019

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MAR 28 2019

SC Court of Appeals

March 25, 2019
1438 W. Lantana Rd., #330
Lantana, FL 33462

Honorable Jenny Abbott Kitchings
Clerk of Court
SC Court of Appeals
P.O. Box 11629
Columbia, SC 29211
(843)662-3258 Fax (843)662-1342

RE: Appellate Case No.: 2018-002115

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MAR 28 2019

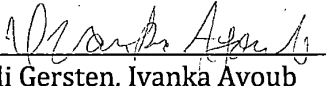
SC Court of Appeals

Dear Ms. Kitchings:

Good day to you.

Please find an enclosed U.S. postal money order in the amount of \$50.00 for the enclosed original NOTICE OF MOTION AND MOTION FOR EXTENSION OF TIME TO FILE APPELLANTS' AMENDED RETURN OF RESPONDENT CARTER AND DAVIS' MOTION TO DISMISS along with a more detailed response to this Court's letter dated February 14, along with 7 copies. Please file the original and return a file-stamped copy in the pre-paid postage envelope provided. Thank you for your time regarding this matter.

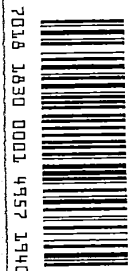
Respectfully submitted,



Appellants Heidi Gersten, Ivanka Ayoub
hanginhangout@gmail.com
(323)245-6142 Fax (561) 756-9820

HG/Enclosures

✓

Heidi Gersten, Ivanka Hyous
1438 W. LANTANA RD. #330
LANTANA, FL 33462



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SC Court of Appeals

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Postal Service

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Honorable Jenny Abbott King
Clerk of Court
SC Court of Appeals
PO Box 11629
Columbia, SC 29211

3/27

April 8, 2019

Gersten's Motion for Extension of Time filed April 8, 2019, in Appellate Case No. 2018- 002115

89479

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM CHESTER COUNTY
Court of Common Pleas

Honorable John C. Hayes III, Circuit Court Judge
Honorable Brian Gibbons, Circuit Court Judge

RECEIVED
APR 08 2019
SC Court of Appeals

Appellate Case No: 2019-002115

Heidi Gersten, Ivanka Ayoub, Daniel Hubbard.....Plaintiffs,

Heidi Gersten, Ivanka Ayoub.....Appellants.

v.

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

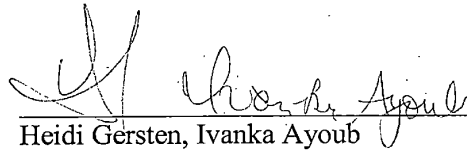
APPELLANTS' NOTICE OF MOTION AND MOTION FOR
EXTENSION OF TIME TO SERVE AND FILE AMENDED RETURN
TO RESPONDENTS CARTER AND DAVIS' MOTION TO DISMISS
APPEAL AND AFFIDAVIT OF HEIDI GERSTEN

Heidi Gersten, Ivanka Ayoub
1438 W. Lantana Rd., #330
Lantana, FL 33462
(323) 245-6142
(561) 756-9820 FAX
hanginhangout@gmail.com
Appellants

The Appellants, Heidi Gersten, Ivanka Ayoub ('Appellants') move this Court for an extension of time to serve and file an amended return of the Respondents Carter and Davis' motion to dismiss appeal pursuant to SCACR 263(b) on the grounds of good cause shown as evidenced by the attached Affidavit of Heidi Gersten. Previous extensions were requested on March 7, 2019 March 18, 2019 and March 25, 2019. In light of the good cause shown, an additional ten (10) days is required to accurately and sufficiently submit an amended return.

The Appellants' argument will be more fully addressed in the attached Memorandum of Points and Authorities in Support.

Respectfully submitted this 4th day of April 2019,



Heidi Gersten, Ivanka Ayoub
Appellants
1438 W. Lantana Rd., #330
Lantana, FL 33462
(323) 245-6142
(561) 756-9820 FAX
hanginhangout@gmail.com

Boca Raton, Florida
April 4, 2019

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM CHESTER COUNTY
Court of Common Pleas

Honorable John C. Hayes III, Circuit Court Judge
Honorable Brian Gibbons, Circuit Court Judge

Appellate Case No: 2019-002115

Heidi Gersten, Ivanka Ayoub, Daniel Hubbard, ...Plaintiffs,

Heidi Gersten, Ivanka Ayoub.....Appellants.

v.

Kevin Carter, Richard Davis, Joseph Tirbovich, Nationwide Mutual Insurance
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Trustgard Insurance Co., Blackwell, SC Department of Public Safety, Chevrolet,
GMC, Unknown John Does, ...Respondents

AFFIDAVIT OF APPELLANT HEIDI GERSTEN

Heidi Gersten, Ivanka Ayoub
1438 W. Lantana Rd., #330
Lantana, FL 33462
(323) 245-6142
(561) 756-9820 FAX
hanginhangout@gmail.com
Appellants

STATE OF FLORIDA,
SS:
COUNTY OF PALM BEACH,

**HEIDI GERSTEN, BEING FIRST DULY CAUTIONED AND SWORN
DEPOSES AND STATES AS FOLLOWS:**

1. I am the Appellant herein, and have read the foregoing Motion for Extension of Time to Amend Appellants' Return to the Respondents Kevin Carter and Richard Davis' Motion to Dismiss Appeal, which includes all pages attached, and know the contents thereof, that the same is true of my own knowledge, except as matters therein stated to be alleged on information and belief; and to those matters, I believe them to be true.
2. The facts stated herein are personally known to me and I have first-hand knowledge thereof and to those facts that are in addition stated are based on information and belief.
3. If called upon to do so, I would and could competently testify to hereto under oath in a court of law operating under the laws of the State of South Carolina and the United States Constitution.
4. The Appellants served and filed on March 7, 2019 and attached a U.S.P.S. money order in the amount of \$50.00 payable to the SC Clerk of Court of Appeals, a Return to Respondents Carter and Davis' Motion to Dismiss Appeal and Motion for the Court to Dismiss Appeal and Motion for the Court to Accept This Document as Timely With or Without Leave of Court in anticipation that the requested extension of time to amend it would be on March 17, 2019.
5. Unfortunately during those ten (10) days I was extremely ill and had an unusually painful menstrual cycle followed by the learning of the passing of my father, which created an additional hardship to my already overwhelming daily life, due to being paralyzed.
6. The Appellants served and filed another extension on March 18, 2019 requesting five (5) additional days, as the tenth day was Sunday, March 17, 2019 from the previous request and attached a U.S.P.S. money order in the amount of \$50.00 payable to the SC Clerk of Court of Appeals.
7. The Appellants are now requesting an additional ten (10) days from March 25, 2019, as five (5) days from March 18, 2019 is March 23, 2019, which was a Saturday, bringing us to today, March 25, 2019 and ten (10) days from today is April 4, 2019.

8. During this last five (5) days, my computer crashed, causing me to be unable to obtain stored information and print documents.
9. The Appellants are now requesting an additional ten (10) days from April 4, 2019, which is April 14, 2019.
10. During these last ten (10) days, my computer was fixed, permitting me to obtain stored information and print documents however other unexpected events occurred that prevented the anticipated return of the Defendants Kevin Carter and Richard Davis' Motion to Dismiss Appeal.
11. I had an unexpected visit from a good friend, who once was a marine, and when he learned I hadn't had a bath or a shower for 7 months, proceeded to place me into the tub, which I was in for nearly 3 hours, experiencing horrors and joys simultaneously as I was excited to wash myself clean however frightened by how crooked my body had become due to the lack of affordable care required for me to have the fundamental basics of living, such as eating and other things taken for granted as able-bodied beings.
12. My friend also observed the reasons why I could not get into the tub or even use a shower chair and transfer in on my own like I had in other situations.
13. I gave permission to my friend to remove the toilet so I may have room to wheel myself next to the tub, which took several days.
14. My manual wheelchair has been fixed from when the wheel fell off while I was sitting in it on Thanksgiving and I'm using it inside now after being without it for over 3 months.
15. I had food poisoning, which resulted in diarrhea explosions that took me days to clean up, coupled with a migraine from hell.
16. It may be hard to imagine for some, the enormous amount of effort it takes to do simple things that able-bodied people can do, such as use a toilet.
17. I live under extraordinary circumstances.
18. After 7 months or more of living without a caregiver, I interviewed several caregivers recently however the best qualified happened to be a convicted child molester.
19. I'm currently still without a caregiver.
20. A good day starts when I haven't urinated on myself and surprisingly those popular "Depends" don't always work as well as advertised, it all depends on the flow of the urine.

21. According to the **SCACR**, the Appellants should not be subjected to serving and filing a return when the Respondents Carter and Davis' Motion to Dismiss does not have the correct case number, along with the burden of sorting through 64 un-paginated pages.
22. The date the Notice of Appeal was timely served and filed on Respondents Kevin Carter and Richard Davis was November 15, 2018.
23. The motions for reconsideration were timely filed according to court rules.
24. Now that I have use of my computer, I'm unable to provide accurate information.
25. I was paralyzed as a result of the collision in controversy with the Respondent Kevin Carter and the Respondent Richard Davis co-owned the vehicle involved.
26. It is unfair to hold me to the same standards as able-bodied people.
27. The **American Disabilities Act**, An agency of the US Department of Justice Civil Rights Division, applies to and protects me.
28. **Title II** of the **American Disabilities Act** permits modifications to court rules to accommodate my situation due to my disability.
29. The **Doctrine of Equitable Tolling** may also be applied to my circumstances.
30. I urge the Court to allow an additional ten (10) days, which would be April 14, 2019, to complete an accurate amended Return of the Appellants to the Motion to Dismiss Appeal made by the Respondents Kevin Carter and Richard Davis in light of the good cause shown.
31. This extension is not for the purpose of delaying. It is for the furtherance of justice and to prevent its miscarriage.



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

Subscribed and sworn to before me, this 4th day of April 2019.

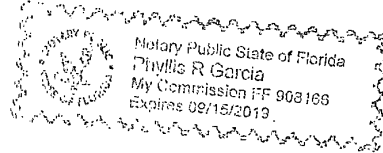
[Notary Seal:]

Phyllis R Garcia

[signature of Notary]

Phyllis R Garcia

[typed name of Notary]



NOTARY PUBLIC

My commission expires: 09/15/2019

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM CHESTER COUNTY
Court of Common Pleas

Honorable John C. Hayes III, Circuit Court Judge
Honorable Brian Gibbons, Circuit Court Judge

RECEIVED
APR 08 2019
SC Court of Appeals

Appellate Case No: 2019-002115

Heidi Gersten, Ivanka Ayoub, Daniel Hubbard, ...Plaintiffs,

Heidi Gersten, Ivanka Ayoub, ...Appellants.

v.

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

MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF
APPELLANTS' MOTION FOR EXTENSION OF TIME TO SERVE
AND FILE RETURN TO RESPONDENTS CARTER AND DAVIS'
MOTION TO DISMISS APPEAL

Heidi Gersten, Ivanka Ayoub
1438 W. Lantana Rd., #330
Lantana, FL 33462
(323) 245-6142
(561) 756-9820 FAX
hanginhangout@gmail.com
Plaintiffs/Appellants

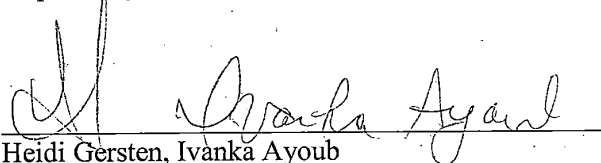
STATEMENT OF FACTS

On March 7, 2019, the Appellants requested an additional ten (10) days to serve and file an amended return to the Respondents Carter and Davis' Motion to Dismiss Appeal. On March 18, 2019 the Appellants, requested an additional 5 days. On March 25, 2019, the Appellants requested an additional ten (10) days. Now for good cause shown, an additional ten (10) days is required to complete the Appellants' Return.

Ten (10) days from April 4, 2019 would be April 14, 2019, to sufficiently and adequately address the multiple errors made by the Respondents Carter and Davis. This return is made in a good faith effort to comply with the previously underestimated motion for extension of time and is permitted by Rule 263(b), SCACR.

For these reasons, the reasons in the attached Affidavit of Heidi Gersten and the reasons to be submitted in the forthcoming Appellants' Amended Return and the Appellants' Brief, the Court has jurisdiction as the Notice of Appeal was timely served and filed per SCACR rules.

Respectfully submitted this 4th day of April 2019,



Heidi Gersten, Ivanka Ayoub
Appellants
1438 W. Lantana Rd., #330
Lantana, FL 33462
(323) 245-6142
(561) 756-9820 FAX
hanginhangout@gmail.com

Boca Raton, Florida
April 4, 2019

CERTIFICATE OF SERVICE
(Appellate Case No: 2019-002115)

The undersigned, over 18 years of age and not a party to the said action, hereby certifies that (s)he has served the following named individuals with a copy of the foregoing: Appellate Case No: 2019-002115 APPELLANTS' NOTICE OF MOTION AND MOTION FOR EXTENSION OF TIME TO FILE APPELLANTS' AMENDED RETURN OF RESPONDENT CARTER AND DAVIS' MOTION TO DISMISS ALONG WITH A MORE DETAILED RESPONSE TO THIS COURT'S LETTER DATED FEBRUARY 15, 2019 along with letter to the Court dated April 4, 2019, and AFFIDAVIT OF APPELLANT HEIDI GERSTEN and, MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF APPELLANTS' MOTION FOR EXTENSION OF TIME, by mailing a copy of same to them in the U. S. Post Office mail, with sufficient postage affixed thereto and return address clearly marked on the date indicated below:

Wesley Brian Sawyer, Esquire
Murphy & Grantland, P.A.
4406 Forest Drive #B
Columbia, SC 29206
(Attorney for Kevin Carter and Richard Davis)

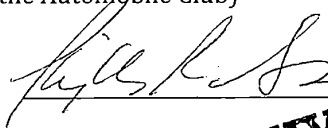
David R. Sligh
P.O. Box 2116
Myrtle Beach, SC 29578
(Attorney for Nationwide Mutual Ins. Co)

Peter H. Dworjanyn, Esquire and
Michael R. Burchstead, Esquire
Collins & Lacy, PC
1330 Lady Street, 6th Floor (29201)
Post Office Box 12487
Columbia, SC 29211
(Attorneys for Trustguard Insurance Company)

William H. Davidson II, Esquire
Davidson & Lindemann, PA
P.O. Box 8568
Columbia, SC 29202
(Attorney for SC Dept. of Public Safety
and Trooper Herbert Blackwell)

Reynolds Williams
P.O. Box 1909
Florence, SC 29503-1909
(Attorney for Defendant Interinsurance Exchange of the Automobile Club)

Alexander S. Gogsette
P.O. Box 5478
Florence, SC 29502
(Attorney for Joseph Tirbovich)

By: 

Boca Raton, Florida
April 4, 2019

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APR 08 2019
SC Court of Appeals

April 4, 2019
1438 W. Lantana Rd., #330
Lantana, FL 33462

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Honorable Jenny Abbott Kitchings
Clerk of Court
SC Court of Appeals
P.O. Box 11629
Columbia, SC 29211
(843)662-3258 Fax (843)662-1342

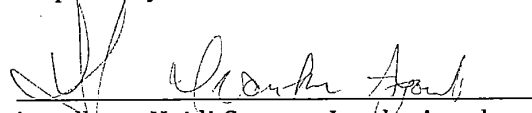
RE: Appellate Case No.: 2018-002115

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Respectfully submitted,



Appellants Heidi Gersten, Ivanka Ayoub
hanginhangout@gmail.com
(323)245-6142 Fax (561) 756-9820

HG/Enclosures



Heidi Gersten, Lynne Ayoub
1438 W. LANTANA RD. # 330
LANTANA FL 33462



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APR 08 2019

SC Court of Appeals

Honorable Jerry Abbott
Clerk of Court

SC Court of Appeals

PO Box 11629

Columbus, SC 29211



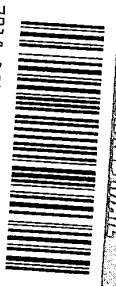
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April 18, 2019

Gersten's Motion for Extension of Time filed April 18, 2019, in Appellate Case No. 2018-002115

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THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM CHESTER COUNTY
Court of Common Pleas

Honorable John C. Hayes III, Circuit Court Judge
Honorable Brian Gibbons, Circuit Court Judge

RECEIVED
APR 18 2019
SC Court of Appeals

Appellate Case No: 2019-002115

Heidi Gersten, Ivanka Ayoub, Daniel Hubbard.....Plaintiffs,

Heidi Gersten, Ivanka Ayoub.....Appellants.

v.

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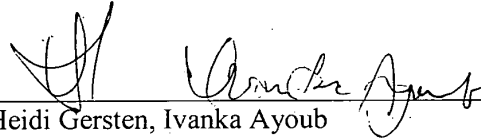
APPELLANTS' NOTICE OF MOTION AND MOTION FOR
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TO RESPONDENTS CARTER AND DAVIS' MOTION TO DISMISS
APPEAL AND AFFIDAVIT OF HEIDI GERSTEN

Heidi Gersten, Ivanka Ayoub
1438 W. Lantana Rd., #330
Lantana, FL 33462
(323) 245-6142
(561) 756-9820 FAX
hanginhangout@gmail.com
Appellants

The Appellants, Heidi Gersten, Ivanka Ayoub ('Appellants') move this Court for an extension of time to serve and file an amended return of the Respondents Carter and Davis' motion to dismiss appeal pursuant to SCACR 263(b) on the grounds of good cause shown as evidenced by the attached Affidavit of Heidi Gersten. Previous extensions were requested on March 7, 2019 March 18, 2019, March 25, 2019, and April 4, 2019. In light of the good cause shown, an additional ten (10) days is required to accurately and sufficiently submit an amended return.

The Appellants' argument will be more fully addressed in the attached Memorandum of Points and Authorities in Support.

Respectfully submitted this 15th day of April 2019,



Heidi Gersten, Ivanka Ayoub
Appellants
1438 W. Lantana Rd., #330
Lantana, FL 33462
(323) 245-6142
(561) 756-9820 FAX
hanginhangout@gmail.com

Boca Raton, Florida
April 15, 2019

CERTIFICATE OF SERVICE
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Murphy & Grantland, P.A.
4406 Forest Drive #B
Columbia, SC 29206
(Attorney for Kevin Carter and Richard Davis)

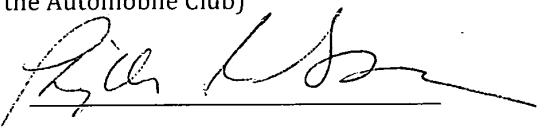
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By: 

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SC Court of Appeals

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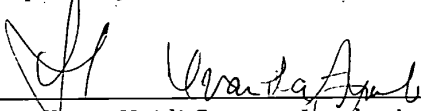
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Respectfully submitted,


Appellants Heidi Gersten, Ivanka Ayoub
hanginhangout@gmail.com
(323)245-6142 Fax (561) 756-9820

HG/Enclosures

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LANTANA, FL 33462

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OF THE RETURN ADDRESS. FOLD ON DOTTED LINE.
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SC Court of Appeals

Honorable Jenny Abbott Kitchens

Clerk of Court

SC Court of Appeals

P O Box 11629

Columbia, SC 29211

THE STATE OF SOUTH CAROLINA
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Appellate Case No: 2019-002115

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Heidi Gersten, Ivanka Ayoub, Daniel Hubbard, ...Plaintiffs,

Heidi Gersten, Ivanka Ayoub, ...Appellants.

v.

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MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF
APPELLANTS' AMEMDED RETURN TO RESPONDENTS CARTER
AND DAVIS' MOTION TO DISMISS APPEAL

Heidi Gersten, Ivanka Ayoub
1438 W. Lantana Rd., #330
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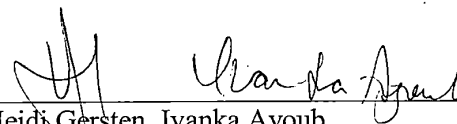
STATEMENT OF FACTS

On March 7, 2019, the Appellants requested an additional ten (10) days to serve and file an amended return to the Respondents Carter and Davis' Motion to Dismiss Appeal. On March 18, 2019 the Appellants, requested an additional 5 days. On March 25, 2019, the Appellants requested an additional ten (10) days. On April 4, 2019, the Appellants requested an additional ten (10) days. Now for good cause shown, an additional ten (10) days is required to complete the Appellants' Return.

Ten (10) days from April 15, 2019 would be April 25, 2019, to sufficiently and adequately address the multiple errors made by the Respondents Carter and Davis. This return is made in a good faith effort to comply with the previously underestimated motion for extension of time and is permitted by Rule 263(b), SCACR.

For these reasons, the reasons in the attached Affidavit of Heidi Gersten and the reasons to be submitted in the forthcoming Appellants' Amended Return and the Appellants' Brief, the Court has jurisdiction as the Notice of Appeal was timely served and filed per SCACR rules.

Respectfully submitted this 15th day of April 2019,



Heidi Gersten, Ivanka Ayoub
Appellants
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Lantana, FL 33462
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Boca Raton, Florida
April 15, 2019

THE STATE OF SOUTH CAROLINA
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AFFIDAVIT OF APPELLANT HEIDI GERSTEN

Heidi Gersten, Ivanka Ayoub
1438 W. Lantana Rd., #330
Lantana, FL 33462
(323) 245-6142
(561) 756-9820 FAX
hanginhangout@gmail.com
Appellants

STATE OF FLORIDA,
SS:
COUNTY OF PALM BEACH,

**HEIDI GERSTEN, BEING FIRST DULY CAUTIONED AND SWORN
DEPOSES AND STATES AS FOLLOWS:**

1. I am the Appellant herein, and have read the foregoing Motion for Extension of Time to Amend Appellants' Return to the Respondents Kevin Carter and Richard Davis' Motion to Dismiss Appeal, which includes all pages attached, and know the contents thereof, that the same is true of my own knowledge, except as matters therein stated to be alleged on information and belief; and to those matters, I believe them to be true.
2. The facts stated herein are personally known to me and I have first-hand direct knowledge thereof and to those facts that are in addition stated are based on information and belief.
3. If called upon to do so, I would and could competently testify to hereto under oath in a court of law operating under the laws of the State of South Carolina and the United States Constitution.
4. The Appellants served and filed on March 7, 2019 and attached a U.S.P.S. money order in the amount of \$50.00 payable to the SC Clerk of Court of Appeals, a Return to Respondents Carter and Davis' Motion to Dismiss Appeal and Motion for the Court to Dismiss Appeal and Motion for the Court to Accept This Document as Timely With or Without Leave of Court in anticipation that the requested extension of time to amend it would be on March 17, 2019.
5. Unfortunately during those ten (10) days I was extremely ill and had an unusually painful menstrual cycle followed by the learning of the passing of my father, which created an additional hardship to my already overwhelming daily life, due to being paralyzed.
6. The Appellants served and filed another extension on March 18, 2019 requesting five (5) additional days, as the tenth day was Sunday, March 17, 2019 from the previous request and attached a U.S.P.S. money order in the amount of \$50.00 payable to the SC Clerk of Court of Appeals.
7. The Appellants requested an additional ten (10) days from March 25, 2019, as five (5) days from March 18, 2019 is March 23, 2019, which was a Saturday, bringing it to, March 25, 2019 and ten (10) days from then is April 4, 2019.

8. During those last five (5) days, my computer crashed, causing me to be unable to obtain stored information and print documents.
9. The Appellants requested an additional ten (10) days from April 4, 2019, which is April 14, 2019, which is a Sunday, permitting Monday, April 15, 2019 to be the service and filing deadline of the request.
10. During these last ten (10) days, my computer was fixed, permitting me to obtain stored information and print documents however other unexpected events occurred that prevented the anticipated return of the Defendants Kevin Carter and Richard Davis' Motion to Dismiss Appeal.
11. I had an unexpected visit from a good friend, who once was a Marine, and when he learned I hadn't had a bath or a shower for 7 months, proceeded to place me into the tub, which I was in for nearly 3 hours, experiencing horrors and joys simultaneously as I was excited to wash myself clean however frightened by how crooked my body had become due to the lack of affordable care required for me to have the fundamental basics of living, such as eating and other things taken for granted as able-bodied beings.
12. My friend also observed the reasons why I could not get into the tub or even use a shower chair and transfer in on my own like I had in other situations.
13. I gave permission to my friend to remove the toilet so I may have room to wheel myself next to the tub, which took several days.
14. My manual wheelchair has been fixed from when the wheel fell off while I was sitting in it on Thanksgiving and I'm using it inside now after being without it for over 3 months.
15. I had food poisoning, which resulted in diarrhea explosions that took me days to clean up, coupled with a migraine from hell.
16. It may be hard to imagine for some, the enormous amount of effort it takes to do simple things that able-bodied people can do, such as use a toilet.
17. I live under extraordinary circumstances.
18. After 7 months or more of living without a caregiver, I interviewed several caregivers recently however the best qualified happened to be a convicted child molester.
19. I'm currently still without a caregiver.
20. A good day starts when I haven't urinated on myself and surprisingly those popular "Depends" don't always work as well as advertised, it all depends on the flow of the urine.

21. Another 10 days is required to finish the hundreds of copies of documents and information required to prove that this appeal indeed is timely.
22. Included in these documents will be proof that:
- A. April 26, 2018 - Unsigned order(s), Judge Gibbons
 - B. May 8, 2018 - Claimants' served and filed notice of motion and motion to alter or amend a judgment or relief from judgment of order pursuant to Rules 59(e), 60(4), SCRCP, and request for oral hearing.
 - C. August 25, 2018 - Claimants served and filed an amended with or without leave motion to alter or amend a judgment or relief from judgment or order pursuant to Rules 59(e), 60(4), SCRCP, and request for oral hearing.
 - D. September 5, 2018 - Oral hearing with Judge Hayes.
 - E. September 17, 2018 - Claimants/Plaintiffs served and filed second amended complaint and demand for jury trial with leave.
 - F. September 18, 2018 - Unsigned order(s), Judge Hayes
 - G. October 1, 2018 - Plaintiffs served and filed notice of motion and motion to alter or amend a judgment or relief from judgment or order pursuant to Rules 52, 59(e), 60(4), SCRCP, and request for oral hearing plus exhibits 1-9.
 - H. October 16, 2018 - Unsigned order(s), Judge Gibbons
 - I. November 15, 2018 - Appellants notice of appeal
23. Appellants' motions were not ruled on and orders were not made.
24. Given the complexity of this matter, with numerous respondents and excessive documents to deal with, there is good cause shown for additional time to provide the information that will prove the Appellants' timeliness in serving and filing the notice of appeal.
25. According to the **SCACR**, the Appellants should not be subjected to serving and filing a return when the Respondents Carter and Davis' Motion to Dismiss does not have the correct case number, along with the burden of sorting through 64 un-paginated pages.
26. The date the Notice of Appeal was timely served and filed on Respondents Kevin Carter and Richard Davis was November 15, 2018.
27. The motions for reconsideration were timely filed according to court rules.
28. The Appellants are hereby requesting an additional ten (10) days to accurately and understandably present proof to the timeliness of this appeal, which is now April 25, 2019.

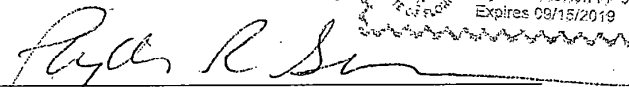
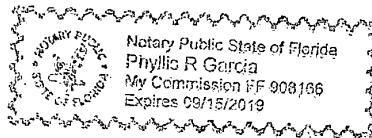
29. I was paralyzed as a result of the collision in controversy with the Respondent Kevin Carter and the Respondent Richard Davis co-owned the vehicle involved.
30. It is unfair to hold me to the same standards as able-bodied people.
31. The **American Disabilities Act**, An agency of the US Department of Justice Civil Rights Division, applies to and protects me.
32. **Title II of the American Disabilities Act** permits modifications to court rules to accommodate my situation due to my disability.
33. The **Doctrine of Equitable Tolling** may also be applied to my circumstances.
34. I urge the Court to allow an additional ten (10) days, which would be April 25, 2019, to complete an accurate amended Return of the Appellants to the Motion to Dismiss Appeal made by the Respondents Kevin Carter and Richard Davis in light of the good cause shown.
35. This extension is not for the purpose of delaying. It is for the furtherance of justice and to prevent its miscarriage.



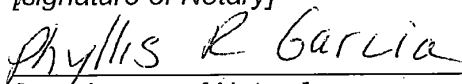
Heidi Gersten
1438 W. Lantana Rd. #330,
Lantana, FL 33462

Subscribed and sworn to before me, this 15th day of April 2019.

[Notary Seal:]



[signature of Notary]



[typed name of Notary]

NOTARY PUBLIC

My commission expires: 09/15/2019

89582

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM CHESTER COUNTY
Court of Common Pleas

Honorable John C. Hayes III, Circuit Court Judge
Honorable Brian Gibbons, Circuit Court Judge

RECEIVED
APR 18 2019
SC Court of Appeals

Appellate Case No: 2019-002115

Heidi Gersten, Ivanka Ayoub, Daniel Hubbard.....Plaintiffs,

Heidi Gersten, Ivanka Ayoub.....Appellants.

v.

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

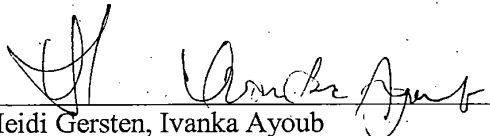
APPELLANTS' NOTICE OF MOTION AND MOTION FOR
EXTENSION OF TIME TO SERVE AND FILE AMENDED RETURN
TO RESPONDENTS CARTER AND DAVIS' MOTION TO DISMISS
APPEAL AND AFFIDAVIT OF HEIDI GERSTEN

Heidi Gersten, Ivanka Ayoub
1438 W. Lantana Rd., #330
Lantana, FL 33462
(323) 245-6142
(561) 756-9820 FAX
hanginhangout@gmail.com
Appellants

The Appellants, Heidi Gersten, Ivanka Ayoub ('Appellants') move this Court for an extension of time to serve and file an amended return of the Respondents Carter and Davis' motion to dismiss appeal pursuant to SCACR 263(b) on the grounds of good cause shown as evidenced by the attached Affidavit of Heidi Gersten. Previous extensions were requested on March 7, 2019 March 18, 2019, March 25, 2019, and April 4, 2019. In light of the good cause shown, an additional ten (10) days is required to accurately and sufficiently submit an amended return.

The Appellants' argument will be more fully addressed in the attached Memorandum of Points and Authorities in Support.

Respectfully submitted this 15th day of April 2019,



Heidi Gersten, Ivanka Ayoub
Appellants
1438 W. Lantana Rd., #330
Lantana, FL 33462
(323) 245-6142
(561) 756-9820 FAX
hanginhangout@gmail.com

Boca Raton, Florida
April 15, 2019

CERTIFICATE OF SERVICE
(Appellate Case No: 2019-002115)

The undersigned, over 18 years of age and not a party to the said action, hereby certifies that (s)he has served the following named individuals with a copy of the foregoing: : Appellate Case No: 2019-002115 APPELLANTS' NOTICE OF MOTION AND MOTION FOR EXTENSION OF TIME TO FILE APPELLANTS' AMENDED RETURN OF RESPONDENT CARTER AND DAVIS' MOTION TO DISMISS ALONG WITH A MORE DETAILED RESPONSE TO THIS COURT'S LETTER DATED FEBRUARY 15, 2019 along with letter to the Court dated April 15, 2019, and AFFIDAVIT OF APPELLANT HEIDI GERSTEN and, MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF APPELLANTS' MOTION FOR EXTENSION OF TIME, by mailing a copy of same to them in the U. S. Post Office mail, with sufficient postage affixed thereto and return address clearly marked on the date indicated below:

Wesley Brian Sawyer, Esquire
Murphy & Grantland, P.A.
4406 Forest Drive #B
Columbia, SC 29206
(Attorney for Kevin Carter and Richard Davis)

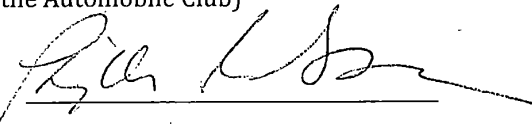
David R. Sligh
P.O. Box 2116
Myrtle Beach, SC 29578
(Attorney for Nationwide Mutual Ins. Co)

Peter H. Dworjanyn, Esquire and
Michael R. Burchstead, Esquire
Collins & Lacy, PC
1330 Lady Street, 6th Floor (29201)
Post Office Box 12487
Columbia, SC 29211
(Attorneys for Trustguard Insurance Company)

William H. Davidson II, Esquire
Davidson & Lindemann, PA
P.O. Box 8568
Columbia, SC 29202
(Attorney for SC Dept. of Public Safety
and Trooper Herbert Blackwell)

Reynolds Williams
P.O. Box 1909
Florence, SC 29503-1909
(Attorney for Defendant Interinsurance Exchange of the Automobile Club)

Alexander S. Gogsette
P.O. Box 5478
Florence, SC 29502
(Attorney for Joseph Tirbovich)

By: 

Boca Raton, Florida
April 15, 2019

RECEIVED

APR 18 2019
SC Court of Appeals

April 15, 2019
1438 W. Lantana Rd., #330
Lantana, FL 33462

Honorable Jenny Abbott Kitchings
Clerk of Court
SC Court of Appeals
P.O. Box 11629
Columbia, SC 29211
(843)662-3258 Fax (843)662-1342

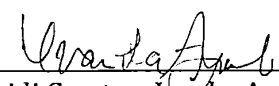
RE: Appellate Case No.: 2018-002115

Dear Ms. Kitchings:

Good day to you.

Please find an enclosed U.S. postal money order in the amount of \$50.00 for the enclosed original NOTICE OF MOTION AND MOTION FOR EXTENSION OF TIME TO FILE APPELLANTS' AMENDED RETURN OF RESPONDENT CARTER AND DAVIS' MOTION TO DISMISS along with a more detailed response to this Court's letter dated February 14, along with 7 copies. Please file the original and return a file-stamped copy in the pre-paid postage envelope provided. Thank you for your time regarding this matter.

Respectfully submitted,



Appellants Heidi Gersten, Ivanka Ayoub
hanginhangout@gmail.com
(323)245-6142 Fax (561) 756-9820

HG/Enclosures

RECEIVED
APR 18 2019
SC Court of Appeals

TEW, IANUKA Ayoub
1438 W. LANTANA RD. #330
LANTANA, FL 33462

7018 1830 0001 4957 1872

CERTIFIED MAIL



1006 29211

U.S. POSTAGE PAID
PM 2-Day
BOCA RATON, FL
33432
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AMOUNT
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RECEIVED

APR 18 2019

SC Court of Appeals

Honorable Jenny Abbott Kitchens
Clerk of Court
SC COURT OF APPEALS
P.O. Box 11629
Columbia, SC 29211

April 29, 2019

Gersten's Motion for Extension of Time filed April 29, 2019, in Appellate Case No. 2018-002115

89674

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM CHESTER COUNTY
Court of Common Pleas

Honorable John C. Hayes III, Circuit Court Judge
Honorable Brian Gibbons, Circuit Court Judge

RECEIVED
APR 29 2019
SC Court of Appeals

Appellate Case No: 2019-002115

Heidi Gersten, Ivanka Ayoub, Daniel Hubbard.....Plaintiffs,

Heidi Gersten, Ivanka Ayoub.....Appellants.

v.

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

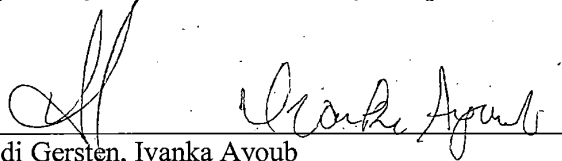
APPELLANTS' NOTICE OF MOTION AND MOTION FOR
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APPEAL AND AFFIDAVIT OF HEIDI GERSTEN

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Lantana, FL 33462
(323) 245-6142
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Appellants

The Appellants, Heidi Gersten, Ivanka Ayoub ('Appellants') move this Court for an extension of time to serve and file an amended return of the Respondents Carter and Davis' motion to dismiss appeal pursuant to SCACR 263(b) on the grounds of good cause shown as evidenced by the attached Affidavit of Heidi Gersten. Previous extensions were requested on March 7, 2019 March 18, 2019, March 25, 2019, April 4, 2019 and April 25, 2019. In light of the good cause shown, an additional ten (10) days is required to accurately and sufficiently submit an amended return.

The Appellants' argument will be more fully addressed in the attached Memorandum of Points and Authorities in Support.

Respectfully submitted this 25th day of April 2019,



Heidi Gersten, Ivanka Ayoub
Appellants
1438 W. Lantana Rd., #330
Lantana, FL 33462
(323) 245-6142
(561) 756-9820 FAX
hanginhangout@gmail.com

Boca Raton, Florida
April 25, 2019

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM CHESTER COUNTY
Court of Common Pleas

Honorable John C. Hayes III, Circuit Court Judge
Honorable Brian Gibbons, Circuit Court Judge

Appellate Case No: 2019-002115

Heidi Gersten, Ivanka Ayoub, Daniel Hubbard, ...Plaintiffs,

Heidi Gersten, Ivanka Ayoub.....Appellants.

v.

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

AFFIDAVIT OF APPELLANT HEIDI GERSTEN

Heidi Gersten, Ivanka Ayoub
1438 W. Lantana Rd., #330
Lantana, FL 33462
(323) 245-6142
(561) 756-9820 FAX
hanginhangout@gmail.com
Appellants

STATE OF FLORIDA,
SS:
COUNTY OF PALM BEACH,

**HEIDI GERSTEN, BEING FIRST DULY CAUTIONED AND SWORN
DEPOSES AND STATES AS FOLLOWS:**

1. I am the Appellant herein, and have read the foregoing Motion for Extension of Time to Amend Appellants' Return to the Respondents Kevin Carter and Richard Davis' Motion to Dismiss Appeal, which includes all pages attached, and know the contents thereof, that the same is true of my own knowledge, except as matters therein stated to be alleged on information and belief; and to those matters, I believe them to be true.
2. The facts stated herein are personally known to me and I have first-hand direct knowledge thereof and to those facts that are in addition stated are based on information and belief.
3. If called upon to do so, I would and could competently testify to hereto under oath in a court of law operating under the laws of the State of South Carolina and the United States Constitution.
4. The Appellants served and filed on March 7, 2019 and attached a U.S.P.S. money order in the amount of \$50.00 payable to the SC Clerk of Court of Appeals, a Return to Respondents Carter and Davis' Motion to Dismiss Appeal and Motion for the Court to Dismiss Appeal and Motion for the Court to Accept This Document as Timely With or Without Leave of Court in anticipation that the requested extension of time to amend it would be on March 17, 2019.
5. Unfortunately during those ten (10) days I was extremely ill and had an unusually painful menstrual cycle followed by the learning of the passing of my father, which created an additional hardship to my already overwhelming daily life, due to being paralyzed.
6. The Appellants served and filed another extension on March 18, 2019 requesting five (5) additional days, as the tenth day was Sunday, March 17, 2019 from the previous request and attached a U.S.P.S. money order in the amount of \$50.00 payable to the SC Clerk of Court of Appeals.
7. The Appellants requested an additional ten (10) days from March 25, 2019, as five (5) days from March 18, 2019 is March 23, 2019, which was a Saturday, bringing it to, March 25, 2019 and ten (10) days from then is April 4, 2019.

8. During those last five (5) days, my computer crashed, causing me to be unable to obtain stored information and print documents.
9. The Appellants requested an additional ten (10) days from April 4, 2019, which is April 14, 2019, which is a Sunday, permitting Monday, April 15, 2019 to be the service and filing deadline of the request.
10. During these last ten (10) days, my computer was fixed, permitting me to obtain stored information and print documents however other unexpected events occurred that prevented the anticipated return of the Defendants Kevin Carter and Richard Davis' Motion to Dismiss Appeal.
11. I had an unexpected visit from a good friend, who once was a Marine, and when he learned I hadn't had a bath or a shower for 7 months, proceeded to place me into the tub, which I was in for nearly 3 hours, experiencing horrors and joys simultaneously as I was excited to wash myself clean however frightened by how crooked my body had become due to the lack of affordable care required for me to have the fundamental basics of living, such as eating and other things taken for granted as able-bodied beings.
12. My friend also observed the reasons why I could not get into the tub or even use a shower chair and transfer in on my own like I had in other situations.
13. I gave permission to my friend to remove the toilet so I may have room to wheel myself next to the tub, which took several days.
14. My manual wheelchair has been fixed from when the wheel fell off while I was sitting in it on Thanksgiving and I'm using it inside now after being without it for over 3 months.
15. I had food poisoning, which resulted in diarrhea explosions that took me days to clean up, coupled with a migraine from hell.
16. The Appellants requested an additional ten (10) days from April 15, 2019, which is April 25, 2019,
17. During these last ten (10) days it has been determined an additional ten (10) days is required to produce additional documents to prove timeliness.
18. It may be hard to imagine for some, the enormous amount of effort it takes to do simple things that able-bodied people can do, such as use a toilet.
19. I live under extraordinary circumstances.
20. After 7 months or more of living without a caregiver, I interviewed several caregivers recently however the best qualified happened to be a convicted child molester.

21. I'm currently still without a caregiver.
22. A good day starts when I haven't urinated on myself and surprisingly those popular "Depends" don't always work as well as advertised, it all depends on the flow of the urine.
23. Another 10 days is required to finish the hundreds of copies of documents and information required to prove that this appeal indeed is timely.
24. Attached to this affidavit are some of these documents that will be prove:
- A. April 26, 2018 – Alleged Order - Judge Gibbons (pg. 9)
 - B. May 6, 2018 – Served - Claimants' Motion To Alter Or Amend A Judgment Or Order Pursuant To Rules 59(e), 60(4) SCRCP, and Request For Oral Hearing (pg.)
 - C. May 8, 2018 – Filed - Claimants' Motion To Alter Or Amend A Judgment Or Order Pursuant To Rules 59(e), 60(4) SCRCP, and Request For Oral Hearing (pg. 10)
 - D. May 8, 2018 – Served – Judge Gibbons (pg.)
 - E. August 7, 2018 – Notice of Case Scheduling - Claimants' Motion To Alter Or Amend A Judgment Or Order Pursuant To Rules 59(e), 60(4) SCRCP, and Request For Oral Hearing (pg. 12)
 - F. August 25, 2018 – Served - Amended With Or Without Leave Claimants' Motion To Alter Or Amend A Judgment Or Order Pursuant To Rules 59(e), 60(4) SCRCP, and Request For Oral Hearing (pgs 13) & 14
 - G. August 29, 2018 – Filed - Amended With Or Without Leave Claimants' Motion To Alter Or Amend A Judgment Or Order Pursuant To Rules 59(e), 60(4) SCRCP, and Request For Oral Hearing (pg. 15)
 - H. September 5, 2018 - Hearing Judge Hayes (pg.)
 - I. September 18, 2018 - Alleged Orders - Judge Hayes (pgs. 16) & 17
 - J. September 21, 2018 - Alleged Orders - Judge Hayes (pg.)
 - K. October 1, 2018 – Served – 2018-CP-12-00117 Notice of Motion/ Plaintiffs' Motion to Alter or Amend a judgment or Relief From Judgment or Order Pursuant to Rules 52, 59 (e), 60 (4), SCRCP, and Request For Oral Hearing along with Exhibits 1, 2, 3, 4, 5, 6, 7, 8, 9 (pgs 18) & 19 & 20

- L. October 8, 2018 – Filed - 2018-CP-12-00117 Notice of Motion/ Plaintiffs' Motion to Alter or Amend a judgment or Relief From Judgment or Order Pursuant to Rules 52, 59 (e), 60 (4), SCRCP, and Request For Oral Hearing along with Exhibits 1, 2, 3, 4, 5, 6, 7, 8, 9 (pgs. 21) + 22
- M. October 16, 2018 - Alleged Order - Judge Hayes (pg. 23)
- N. November 15, 2018 – Served - Notice of Appeal (pg. 24)
- O. November 27, 2018 – Filed - Notice of Appeal (pgs. 25) + 26 + 27
- P. January 15, 2019 – Order - Judge Gibbons (pgs. 28) + 29
(Note: Only order signed in ink in this matter.)

- 25. Appellants' motions were not ruled on and orders were not made.
- 26. Given the complexity of this matter, with numerous respondents and excessive documents to deal with, there is good cause shown for additional time to provide the information that will prove the Appellants' timeliness in serving and filing the notice of appeal.
- 27. According to the **SCACR**, the Appellants should not be subjected to serving and filing a return when the Respondents Carter and Davis' Motion to Dismiss does not have the correct case number, along with the burden of sorting through 64 un-paginated pages.
- 28. The date the Notice of Appeal was timely served and filed on Respondents Kevin Carter and Richard Davis was November 15, 2018.
- 29. The motions for reconsideration were timely filed according to court rules.
- 30. The Appellants are hereby requesting an additional ten (10) days to accurately and understandably present proof to the timeliness of this appeal, which is now May 5, 2019.
- 31. I was paralyzed as a result of the collision in controversy with the Respondent Kevin Carter and the Respondent Richard Davis co-owned the vehicle involved.
- 32. It is unfair to hold me to the same standards as able-bodied people.
- 33. The **American Disabilities Act**, An agency of the US Department of Justice Civil Rights Division, applies to and protects me.
- 34. **Title II** of the **American Disabilities Act** permits modifications to court rules to accommodate my situation due to my disability.

35. The **Doctrine of Equitable Tolling** may also be applied to my circumstances.

36. I urge the Court to allow an additional ten (10) days, which would be April May 5, 2019, to complete an accurate amended Return of the Appellants to the Motion to Dismiss Appeal made by the Respondents Kevin Carter and Richard Davis in light of the good cause shown.

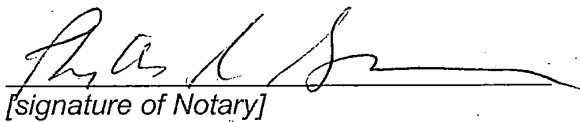
37. This extension is not for the purpose of delaying. It is for the furtherance of justice and to prevent its miscarriage.



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

Subscribed and sworn to before me, this 25th day of April 2019.

[Notary Seal:]



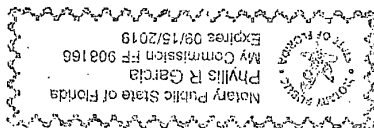
[signature of Notary]



[typed name of Notary]

NOTARY PUBLIC

My commission expires: 09/15/2019



FORM 4

STATE OF SOUTH CAROLINA
COUNTY OF Chester
IN THE COURT OF COMMON PLEAS

JUDGMENT IN A CIVIL CASE

CASE NO. 2018CP1200074

Heidi Gersten et al
PLAINTIFF(S)

Kevin Carter et al
DEFENDANT(S)

DISPOSITION TYPE (CHECK ONE)

- ☐ **JURY VERDICT.** This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- ☒ **DECISION BY THE COURT.** This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.
- ☐ **ACTION DISMISSED** (CHECK REASON): ☐ Rule 12(b), SCRPC; ☐ Rule 41(a), SCRPC (Vol. Nonsuit); ☐ Rule 43(k), SCRPC (Settled);
☐ Other
- ☐ **ACTION STRICKEN** (CHECK REASON): ☐ Rule 40(j), SCRPC; ☐ Bankruptcy;
☐ Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award;
☐ Other
- ☐ **STAYED DUE TO BANKRUPTCY**
- ☐ **DISPOSITION OF APPEAL TO THE CIRCUIT COURT** (CHECK APPLICABLE BOX):
☐ Affirmed; ☐ Reversed; ☐ Remanded;
☐ Other

NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIBUNAL, OR ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL.

IT IS ORDERED AND ADJUDGED: ☐ See attached order (formal order to follow) ☒ Statement of Judgment by the Court:

This matter is outside the scope of an arbitration. This matter shall be placed on the regular Common Pleas docket for process. This case shall be consolidated with case number 2018-CP-12-00117.

ORDER INFORMATION

This order ☐ ends ☒ does not end the case.

☐ See Page 2 for additional information.

For Clerk of Court Office Use Only

This judgment was electronically entered by the Clerk of Court as reflected on the Electronic Time Stamp, and a copy mailed first class to any party not proceeding in the Electronic Filing System on 04/26/2018.

Heidi Gersten for Heidi Gersten
Ivanka Ayoub
Heidi Gersten for Heidi Gersten

NAMES OF TRADITIONAL FILERS SERVED BY MAIL

STATE OF SOUTH CAROLINA

BEFORE THE ARBITRATION PANEL OF
CHESTER COUNTY

In the matter of Arbitration between

Case number 2018-~~AP~~-12-00074

HEIDI GERSTEN, IVANKA AYOUB)

Claimants)

vs.)

KEVIN CARTER, RICHARD DAVIS,)
JOSEPH TIRBOVICH, NATIONWIDE)
MUTUAL INSURANCE COMPANY,)
INTERINSURANCE EXCHANGE OF)
THE AUTOMOBILE CLUB, JOHN)
AMMENDOLA, TRUSTGUARD)
INSURANCE COMPANY)

Defendants)

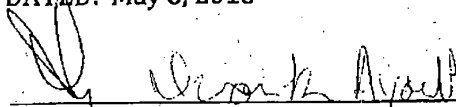
CLAIMANTS' MOTION TO ALTER OR
AMEND A JUDGMENT OR RELIEF FROM
JUDGMENT OR ORDER
Pursuant to Rules 59(e), 60(4), SCRPC
AND
REQUEST FOR ORAL HEARING

FILED
MAY - 8 P 2 52
CLERK OF COURT
CHESTER CO S.C.

Now come the Claimants Heidi Gersten and Ivanka Ayoub and move this court for an order to alter or amend a judgment or relief from judgment or order made by Honorable Circuit Judge Brian M. Gibbons on April 26, 2018 pursuant to Rules 59(e) and 60(4), SCRPC, on the grounds that the order is void and violates the Claimants' U.S. Constitutional rights to fair due process of law and request an oral hearing on said motion. The reasons for this motion are set forth in the attached Memorandum in Support.

Respectfully submitted,

DATED: May 8, 2018



Claimants Heidi Gersten & Ivanka Ayoub
1438 W. Lantana Rd. #330
Lantana, FL 33462
(323) 245-6142/ Fax (561) 756-9820
hanginhangout@gmail.com

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ON
PURPOSE

STATE OF
SOUTH CAROLINA

NOTICE OF MOTION SCHEDULING

August 07, 2018



Motion "MAPP CN - Motion/Claimants' Motion to Alter or Amend a Judgment or Rel" for Case: 2018CP1200074 - Heidi Gersten , plaintiff, et al VS Kevin Carter , defendant, et al has been added to the following Motions Roster:

25 - Common Pleas Motions 9:30 AM 140 Main Street Chester SC 29706

This hearing of this motion has been scheduled for 9/5/2018 at 9:30 AM.

IMPORTANT: Please see roster news for changes
Motions- Chester County Courthouse 140 Main Street Chester SC 29706

Mail Notice To:

Heidi Gersten

Court Info:

Common Pleas
PO Drawer 580
140 Main Street
Chester, SC 29706-9706

If you have any questions regarding the scheduling of this motion, please contact the courts at:

(803)385-2605

Respectfully,

Sue K. Carpenter
Clerk of Court

The UPS Store - #2137
102 NE 2nd Street
Boca Raton, FL 33432
(561) 393-3231

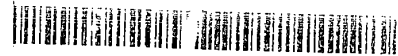
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(022)	T0 \$	1.36
Class Package		
ng# MMJ5AGWEMSG8F		
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Class Package		
ng# J5AGW88PB9R		
(022)	T0 \$	1.36
Class Package		
ng# MMJ5AGWZPOCY8		
(022)	T0 \$	1.36
Class Package		
ng# MMJ5A6WYG41M8		

Subtotal \$ 10.47

TAX (T1) \$ 0.31

Total \$ 10.78

MASTERCARD \$ 10.78

08/25/18

CERTIFICATE OF SERVICE
(2018-AP-12-00074)

The undersigned, over 18 years of age and not a party to the said action, hereby certifies that (s)he has served the following named individuals with a copy of the foregoing: AMENDED WITH OR WITHOUT LEAVE CLAIMANTS' MOTION TO ALTER OR AMEND A JUDGMENT OR RELIEF FROM JUDGMENT OR ORDER PURSUANT TO RULES 59(e), 60(4), SCRCP, AND REQUEST FOR ORAL HEARING by mailing a copy of same to them in the U. S. Post Office mail, with sufficient postage affixed thereto and return address clearly marked on the date indicated below:

Wesley Brian Sawyer, Esquire
Murpy & Grantland, P.A.
4406 Forest Drive #B
Columbia, SC 29206
(Attorney for Kevin Carter and Richard Davis)

David R. Sligh
P.O. Box 2116
Myrtle Beach, SC 29578
(Attorney for Nationwide Mutual Ins. Co)

Peter H. Dworjanyn, Esquire and
Michael R. Burchstead, Esquire
Collins & Lacy, PC
1330 Lady Street, 6th Floor (29201)
Post Office Box 12487
Columbia, SC 29211
(Attorneys for Trustguard Insurance Company)

John Ammendola
671 S. High St.
Columbus, Ohio 43206

Alexander S. Gogsette
P.O. Box 5478
Florence, SC 29502
(Attorney for Joseph Tirbovich)

Reynolds Williams
P.O. Box 1909
Florence, SC 29503-1909
(Attorney for Defendant Interinsurance Exchange of the Automobile Club)

By: _____

DAVID TEDESCHI

Boca Raton, Florida
August 25, 2018

STATE OF SOUTH CAROLINA

BEFORE THE ARBITRATION PANEL OF
CHESTER COUNTY

In the matter of Arbitration between

Case number 2018-AP-12-00074

HEIDI GERSTEN, IVANKA AYOUB)

Claimants)

vs.)

KEVIN CARTER, RICHARD DAVIS,)
JOSEPH TIRBOVICH, NATIONWIDE)
MUTUAL INSURANCE COMPANY,)
INTERINSURANCE EXCHANGE OF)
THE AUTOMOBILE CLUB, JOHN)
AMMENDOLA, TRUSTGUARD)
INSURANCE COMPANY)

Defendants)

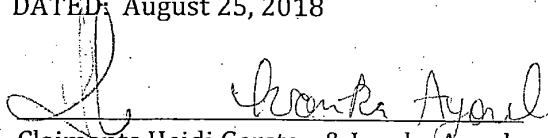
AMENDED WITH OR WITHOUT LEAVE
CLAIMANTS' MOTION TO ALTER OR
AMEND A JUDGMENT OR RELIEF FROM
JUDGMENT OR ORDER
Pursuant to Rules 59(e), 60(4), SCRPC,
AND
REQUEST FOR ORAL HEARING

FILED
2018 AUG 29 3:01
CLERK OF COURT
CHESTER CO S.C.

Now come the Claimants Heidi Gersten and Ivanka Ayoub and move this court for an order to alter or amend a judgment or relief from judgment or order made by Honorable Circuit Judge Brian M. Gibbons on April 26, 2018 pursuant to **Rules 59(e) and 60(4), SCRPC**, on the grounds that the order is void and violates the Claimants' U.S. Constitutional rights to fair due process of law and request an oral hearing on said motion. The reasons for this motion are set forth in the attached Memorandum in Support.

Respectfully submitted,

DATED: August 25, 2018


Claimants Heidi Gersten & Ivanka Ayoub
1438 W. Lantana Rd. #330
Lantana, FL 33462
(323) 245-6142/ Fax (561) 756-9820
hanginhangout@gmail.com

STATE OF SOUTH CAROLINA

IN THE COURT OF COMMON PLEAS

COUNTY OF CHESTER

CIVIL ACTION NO: 2018-CP-12-00117

Heidi Gersten, Ivanka Ayoub, Daniel
Hubbard,

CIVIL ACTION NO: 2018-CP-12-00074

Plaintiffs,

**ORDER GRANTING DEFENDANT
INTERINSURANCE EXCHANGE OF
THE AUTOMOBILE CLUB'S
MOTION TO DISMISS**

vs.

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

Defendants.

This matter comes before the Court upon Defendant Interinsurance Exchange of the Automobile Club's ("AAA") Motions to Dismiss, to Strike, and to change venue. The Court held a hearing on its and the other Defendants' motions on September 5, 2018. All served Defendant's appeared by and through their attorneys and Plaintiffs Gersten and Ayoub appeared *pro se*; Plaintiff Hubbard did not appear. For the reasons set forth below, Defendant AAA's principal motions are granted.

PROCEDURAL BACKGROUND

This action arises out of an automobile collision that took place on March 19, 2015 between Ivanka Ayoub's vehicle operated by Heidi Gersten, and a vehicle both operated and owned by Kevin Carter. Plaintiff Gersten originally filed a property damage arbitration claim on February 21, 2018 (hereinafter "Arbitration Action"). The claim named Kevin Carter, Richard

STATE OF SOUTH CAROLINA

IN THE COURT OF COMMON PLEAS

COUNTY OF CHESTER

CIVIL ACTION NO: 2018-CP-12-00117

Heidi Gersten, Ivanka Ayoub, Daniel
Hubbard,

Plaintiff,

**ORDER GRANTING DEFENDANTS KEVIN
CARTER'S AND RICHARD DAVIS'
MOTION TO DISMISS**

vs.

Kevin Carter, Richard Davis, Joseph
Tribovich, 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.

This matter comes before the Court upon Defendants Kevin Carter's and Richard Davis' Motion to Dismiss and Motion to Strike or, in the Alternative, Motion to Sever. The Court held a hearing on this Motion and a number of other motions on September 5, 2018. For the reasons set forth below, Defendants Carter's and Davis' Motion is granted in part and denied in part.

PROCEDURAL BACKGROUND

This action arises out of an automobile collision that took place on March 19, 2015 between a vehicle operated by Heidi Gersten and allegedly owned by Ivanka Ayoub and a vehicle operated and owned by Kevin Carter. Plaintiff Gersten originally filed a property damage arbitration claim on February 21, 2018 (hereinafter "Arbitration Action"). The claim named Kevin Carter, Richard Davis, Nationwide Mutual Insurance Company, Interinsurance of the Automobile Club, and Trustguard Insurance as defendants.

CERTIFICATE OF SERVICE
(2018-AP-12-00074)
(2018-CP-12-00117)

The undersigned, over 18 years of age and not a party to the said action, hereby certifies that (s)he has served the following named individuals with a copy of the foregoing: FILE NO: 2018-CP-12-00117 NOTICE OF MOTION AND PLAINTIFFS' MOTION TO ALTER OR AMEND A JUDGMENT OR RELIEF FROM JUDGMENT OR ORDER Pursuant to Rules 52, 59(e), 60(4), SCRCP, AND REQUEST FOR ORAL HEARING along with Exhibits 1, 2, 3, 4, 5, 6, 7, 8, 9 by mailing a copy of same to them in the U. S. Post Office mail, with sufficient postage affixed thereto and return address clearly marked on the date indicated below:

Wesley Brian Sawyer, Esquire
Murphy & Grantland, P.A.
4406 Forest Drive #B
Columbia, SC 29206
(Attorney for Kevin Carter and Richard Davis)

David R. Sligh
P.O. Box 2116
Myrtle Beach, SC 29578
(Attorney for Nationwide Mutual Ins. Co.)

Peter H. Dworjany, Esquire and
Michael R. Burchstead, Esquire
Collins & Lacy, PC
1330 Lady Street, 6th Floor (29201)
Post Office Box 12487
Columbia, SC 29211
(Attorneys for Trustguard Insurance Company)

William H. Davidson II, Esquire
Davidson & Lindemann, PA
P.O. Box 8568
Columbia, SC 29202
(Attorney for SC Dept. of Public Safety
and Trooper Herbert Blackwell)

Reynolds Williams
P.O. Box 1909
Florence, SC 29503-1909
(Attorney for Defendant Interinsurance Exchange of the Automobile Club)

Alexander S. Gogsette
P.O. Box 5478
Florence, SC 29502
(Attorney for Joseph Tirbovich)

By:


DAVID TEODESCHI

Boca Raton, Florida
October 1, 2018

CLERK OF COURT
CHESTER CO. S.C.

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☒ Complete items 1, 2, and 3. ☒ Print your name and address on the reverse so that we can return the card to you. ☒ Attach this card to the back of the mailpiece, or on the front if space permits.		A. Signature X ☐ Agent ☐ Addressee	
1. Article Addressed to: William H. Davidson, II 1611 Devonshire Dr. 2nd Floor P.O. Box 8568 Columbia, SC 29202		B. Received by (Printed Name) C. Date of Delivery GARY T. ... 10-4-18	
2. Article Number (Transfer from service label) 7018 0360 0002 2449 6419		D. Is delivery address different from item 1? ☐ Yes If YES, enter delivery address below: ☐ No	
3. Service Type ☐ Adult Signature ☐ Adult Signature Restricted Delivery ☐ Certified Mail® ☐ Certified Mail Restricted Delivery ☐ Collect on Delivery ☐ Collect on Delivery Restricted Delivery ☐ Insured Mail		☐ Priority Mail Express® ☐ Registered Mail™ ☐ Registered Mail Restricted Delivery ☐ Return Receipt for Merchandise ☐ Signature Confirmation† ☐ Signature Confirmation Restricted Delivery	

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1. Article Addressed to: Reynolds Williams P.O. Box 1909 Florence, SC 29503-1909		B. Received by (Printed Name) C. Date of Delivery VICTORIA METZ OCT 05 2018	
2. Article Number (Transfer from service label) 7018 0360 0002 2449 6402		D. Is delivery address different from item 1? ☐ Yes If YES, enter delivery address below: ☐ No	
3. Service Type ☐ Adult Signature ☐ Adult Signature Restricted Delivery ☐ Certified Mail® ☐ Certified Mail Restricted Delivery ☐ Collect on Delivery ☐ Collect on Delivery Restricted Delivery ☐ Insured Mail		☐ Priority Mail Express® ☐ Registered Mail™ ☐ Registered Mail Restricted Delivery ☐ Return Receipt for Merchandise ☐ Signature Confirmation† ☐ Signature Confirmation Restricted Delivery	

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1. Article Addressed to: Alexander S. Gogsett P.O. Box 5478 Florence, SC 29502		B. Received by (Printed Name) C. Date of Delivery Ken Sturgeon 10-4-18	
2. Article Number (Transfer from service label) 7018 0360 0002 2449 6396		D. Is delivery address different from item 1? ☐ Yes If YES, enter delivery address below: ☐ No	
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☒ Complete items 1, 2, and 3. ☒ Print your name and address on the reverse so that we can return the card to you. ☒ Attach this card to the back of the mailpiece, or on the front if space permits. 1. Article Addressed to: David R. Sligh P.O. Box 2116 Myrtle Beach, SC 29578  9590 9402 2856 7069 5487 50 2. Article Number (Transfer from service label) 7015 0640 0003 1449 5526	A. Signature ☒ Agent ☒ Addressee X Donna Brady B. Received by (Printed Name) Donna Brady C. Date of Delivery 10/4/18 D. Is delivery address different from item 1? ☐ Yes If YES, enter delivery address below: ☐ No 3. Service Type <table border="0"> <tr> <td>☐ Adult Signature</td> <td>☐ Priority Mail Express®</td> </tr> <tr> <td>☐ Adult Signature Restricted Delivery</td> <td>☐ Registered Mail™</td> </tr> <tr> <td>☐ Certified Mail®</td> <td>☐ Registered Mail Restricted Delivery</td> </tr> <tr> <td>☐ Certified Mail Restricted Delivery</td> <td>☐ Return Receipt for Merchandise</td> </tr> <tr> <td>☐ Collect on Delivery</td> <td>☐ Signature Confirmation™</td> </tr> <tr> <td>☐ Collect on Delivery Restricted Delivery</td> <td>☐ Signature Confirmation Restricted Delivery</td> </tr> <tr> <td>☐ Insured Mail</td> <td></td> </tr> <tr> <td>☐ Insured Mail Restricted Delivery</td> <td></td> </tr> </table>	☐ Adult Signature	☐ Priority Mail Express®	☐ Adult Signature Restricted Delivery	☐ Registered Mail™	☐ Certified Mail®	☐ Registered Mail Restricted Delivery	☐ Certified Mail Restricted Delivery	☐ Return Receipt for Merchandise	☐ Collect on Delivery	☐ Signature Confirmation™	☐ Collect on Delivery Restricted Delivery	☐ Signature Confirmation Restricted Delivery	☐ Insured Mail		☐ Insured Mail Restricted Delivery	
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PS Form 3811, July 2015 PSN 7530-02-000-9053

Domestic Return Receipt

20

STATE OF SOUTH CAROLINA

COUNTY OF CHESTER

IN THE COURT OF COMMON PLEAS

FILE NO: 2018-CP-12-00117

HEIDI GERSTEN, IVANKA AYOUB)

DANIEL HUBBARD)

PLAINTIFFS)

vs.)

KEVIN CARTER, RICHARD DAVIS,)

JOSEPH TIRBOVICH, NATIONWIDE)

MUTUAL INSURANCE COMPANY,)

INTERINSURANCE EXCHANGE OF)

THE AUTOMOBILE CLUB, JOHN)

AMMENDOLA, TRUSTGUARD)

INSURANCE COMPANY, SC DEPT. OF)

PUBLIC SAFETY, BLACKWELL,)

UNKNOWN JOHN DOES)

Defendants)

NOTICE OF MOTION AND

PLAINTIFFS' MOTION TO ALTER OR

AMEND A JUDGMENT OR RELIEF FROM

JUDGMENT OR ORDER

Pursuant to Rules 52, 59(e), 60(4), SCRCP,

AND

REQUEST FOR ORAL HEARING

Exhibits 1, 2, 3, 4, 5, 6, 7, 8, 9

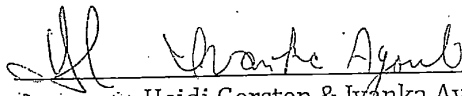
FILED
2018 OCT - 8 A 9:32
CLERK OF COURT
CHESTER CO S.C.

PLEASE TAKE NOTICE, now come the Plaintiffs Heidi Gersten, Ivanka Ayoub, Daniel Hubbard and move this court of the Sixth Judicial Circuit before the Presiding Judge, preferably 7 months from now after service hereof on said defendants, or as soon thereafter as may be heard, to allow the Plaintiff Gersten ample time to heal her pressure wound that was worsened by enduring the premature motion hearing on September 5, 2018, for an order to alter or amend a judgment or relief from judgment or order made by Honorable Circuit Judge Brian M. Gibbons on April 26, 2018 pursuant to Rules 52, 59(e) and 60(4), SCRCP, on the grounds that the order is void and violates the Claimants' U.S. Constitutional rights to fair due process of law, and the First Amendment right of free speech and the right to redress grievances unabridged by Congress and request an oral hearing on said motion and the Plaintiffs Heidi Gersten, Ivanka Ayoub, and Daniel Hubbard move this court for an

order to alter or amend judgments or relief from judgments or orders made by Honorable Judge John Hayes on September 5, 2018 pursuant to Rules 52, 59 (e) and/or 60(4), SCRCP, on the grounds that the order is void and violates the Plaintiffs' U.S. Constitutional rights to fair due process of law and request an oral hearing on said motion. The reasons for this motion are set forth in the attached Memorandum in Support.

Respectfully submitted,

DATED: September 28, 2018



PLAINTIFFS Heidi Gersten & Ivanka Ayoub, DANIEL HUBBARD
1438 W. Lantana Rd. #330
Lantana, FL 33462
(323) 245-6142/ Fax (561) 756-9820
hanginhangout@gmail.com

2018 OCT - 8 A 9 32

CLERK OF COURT
CHESTER CO S.C.

FORM 4

STATE OF SOUTH CAROLINA
COUNTY OF Chester
IN THE COURT OF COMMON PLEAS

JUDGMENT IN A CIVIL CASE

CASE NO. 2018CP1200117

Heidi Gersten et al
PLAINTIFF(S)

Kevin Carter et al
DEFENDANT(S)

DISPOSITION TYPE (CHECK ONE)

- ☐ **JURY VERDICT.** This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- ☒ **DECISION BY THE COURT.** This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.
- ☐ **ACTION DISMISSED (CHECK REASON):** ☐ Rule 12(b), SCRCP; ☐ Rule 41(a), SCRCP (Vol. Nonsuit); ☐ Rule 43(k), SCRCP (Settled);
☐ Other
- ☐ **ACTION STRICKEN (CHECK REASON):** ☐ Rule 40(j), SCRCP; ☐ Bankruptcy;
☐ Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award;
☐ Other
- ☐ **STAYED DUE TO BANKRUPTCY**
- ☐ **DISPOSITION OF APPEAL TO THE CIRCUIT COURT (CHECK APPLICABLE BOX):**
☐ Affirmed; ☐ Reversed; ☐ Remanded;
☐ Other

NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIBUNAL, OR ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL.

IT IS ORDERED AND ADJUDGED: ☐ See attached order (formal order to follow) ☒ Statement of Judgment by the Court:

As to the order of September 5, 2018, Plaintiff's motion of October 8, 2018 is denied without a hearing. Said order does not violate plaintiffs' due process rights under the Constitution of the United States or South Carolina.

ORDER INFORMATION

This order ☐ ends ☒ does not end the case.

☐ See Page 2 for additional information.

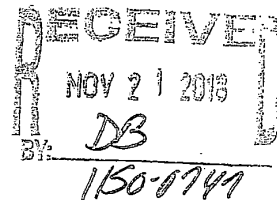
For Clerk of Court Office Use Only

This judgment was electronically entered by the Clerk of Court as reflected on the Electronic Time Stamp, and a copy mailed first class to any party not proceeding in the Electronic Filing System on 10/16/2018.

Unknown John Does
GMC
Chevrolet
Ivanka Ayoub
Heidi Gersten for Heidi Gersten
Heidi Gersten for Heidi Gersten

NAMES OF TRADITIONAL FILERS SERVED BY MAIL

CERTIFICATE OF SERVICE
(2018-AP-12-00074)
(2018-CP-12-00117)



The undersigned, over 18 years of age and not a party to the said action, hereby certifies that (s)he has served the following named individuals with a copy of the foregoing: FILE NO: 2018-CP-12-00117/2018-AP-12-00074 NOTICE OF APPEAL IN A CIVIL CASE by mailing a copy of same to them in the U. S. Post Office mail, with sufficient postage affixed thereto and return address clearly marked on the date indicated below:

Wesley Brian Sawyer, Esquire
Murpy & Grantland, P.A.
4406 Forest Drive #B
Columbia, SC 29206
(Attorney for Kevin Carter and Richard Davis)

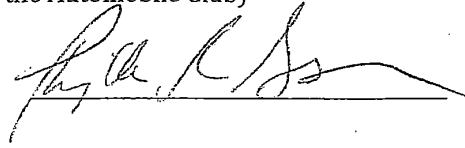
David R. Sligh
P.O. Box 2116
Myrtle Beach, SC 29578
(Attorney for Nationwide Mutual Ins. Co)

Peter H. Dworjanyn, Esquire and
Michael R. Burchstead, Esquire
Collins & Lacy, PC
1330 Lady Street, 6th Floor (29201)
Post Office Box 12487
Columbia, SC 29211
(Attorneys for Trustguard Insurance Company)

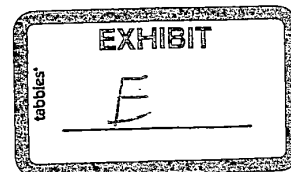
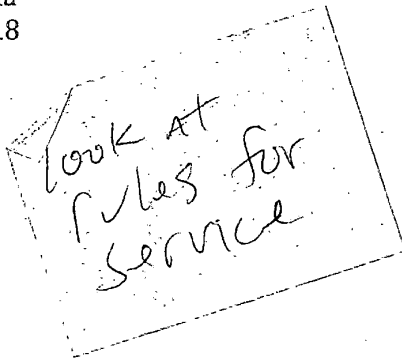
William H. Davidson II, Esquire
Davidson & Lindemann, PA
P.O. Box 8568
Columbia, SC 29202
(Attorney for SC Dept. of Public Safety
and Trooper Herbert Blackwell)

Reynolds Williams
P.O. Box 1909
Florence, SC 29503-1909
(Attorney for Defendant Interinsurance Exchange of the Automobile Club)

Alexander S. Gogsette
P.O. Box 5478
Florence, SC 29502
(Attorney for Joseph Tirbovich)

By: 

Boca Raton, Florida
November 15, 2018



NOTICE OF APPEAL IN A CIVIL CASE

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM CHESTER COUNTY
Court of Common Pleas

Honorable John C. Hayes III, Circuit Court Judge
Honorable Brian M. Gibbons, Circuit Court Judge

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

RECEIVED

NOV 27 2018

SC Court of Appeals

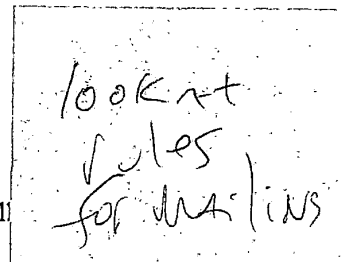
Kevin Carter, Richard Davis,
Joseph Tirbovich, Nationwide
Mutual Insurance Co.,
Interinsurance Exchange of
the Automobile Club, John
Ammendola, Trustgard
Insurance Co., SC Dept. of
Public Safety, Blackwell,
Unknown John Does

Respondents,

v.

Heid Gersten, Ivanka Ayoub,
Daniel Hubbard

Appellants



NOTICE OF APPEAL

Heidi Gersten, Ivanka Ayoub, Daniel Hubbard ('Appellants') appeal the orders [judgments] of the Honorable Judges Brian M. Gibbons and John C. Hayes III dated April 26, 2018, September 5, 2018 and October 16, 2018. Appellants received written notice of entry of some of these orders [judgments] on September 18-October 21, 2018.

This appeal is subject to being premature and a stay may be in order as there are orders left to be reconsidered and/or determined by the lower (circuit) court. The Appellants retain their filing as paid in full at the time of filing for all purposes of the orders made and/or pertaining to



NOTICE OF APPEAL IN A CIVIL CASE

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM CHESTER COUNTY
Court of Common Pleas

Honorable John C. Hayes III, Circuit Court Judge
Honorable Brian M. Gibbons, Circuit Court Judge

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

FILED

2018 NOV 29 P 12:22

CLERK OF COURT
JAMES CO S.C.

Kevin Carter, Richard Davis,
Joseph Tirbovich, Nationwide
Mutual Insurance Co.,
Interinsurance Exchange of
the Automobile Club, John
Ammendola, Trustgard
Insurance Co., SC Dept. of
Public Safety, Blackwell,
Unknown John Does

Respondents,

v.

Heidi Gersten, Ivanka Ayoub,
Daniel Hubbard

Appellants.

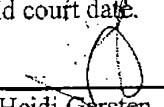
NOTICE OF APPEAL

Heidi Gersten, Ivanka Ayoub, Daniel Hubbard ('Appellants') appeal the orders [judgments] of the Honorable Judges Brian M. Gibbons and John C. Hayes III dated April 26, 2018, September 5, 2018 and October 16, 2018. Appellants received written notice of entry of some of these orders [judgments] on September 18-October 21, 2018.

This appeal is subject to being premature and a stay may be in order as there are orders left to be reconsidered and/or determined by the lower (circuit) court. The Appellants retain their filing as paid in full at the time of filing for all purposes of the orders made and/or pertaining to

and/or regarding, whether ruled on or not, said court date.

November 15, 2018


Heidi Gersten, Ivanka Ayoub, Daniel Hubbard
1438 W. Lantana Rd., #330
Lantana, FL 33462
(323) 245-6142
Appellants

Other Counsel of Record:
Wesley Brian Sawyer, Esquire
Murphy & Grantland, P.A.
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Columbia, SC 29206
(Attorney for Kevin Carter and Richard Davis)
(803) 782-4100

David R. Sligh
P.O. Box 2116
Myrtle Beach, SC 29578
(Attorney for Nationwide Mutual Ins. Co.)
(843) 213-5519

CLERK OF COURT
OFFICE
2018 NOV 29 12:22
FILED

Peter H. Dworjanyn, Esquire and
Michael R. Burchstead, Esquire
Collins & Lacy, PC
1330 Lady Street, 6th Floor (29201)
Post Office Box 12487
Columbia, SC 29211
(Attorneys for Trustguard Insurance Company and
John Ammendola)
(803) 255-0404

William H. Davidson II, Esquire
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(Attorney for Defendant Interinsurance Exchange
of the Automobile Club)
(843) 662-3258

Alexander S. Gogsette
P.O. Box 5478
Florence, SC 29502
(Attorney for Joseph Tirbovich)
(843) 656-4454

FORM 4

STATE OF SOUTH CAROLINA
COUNTY OF CHESTER
IN THE COURT OF COMMON PLEAS

JUDGMENT IN A CIVIL CASE

CASE NO. 2018 CP-12-00117
2018-AP-12-00074
CP

Heidi Gersten et al.

Kevin Carter et al.

PLAINTIFF(S)

DEFENDANT(S)

Submitted by:

Attorney for : ☐ Plaintiff ☐ Defendant
or
☐ Self-Represented Litigant

DISPOSITION TYPE (CHECK ONE)

- ☐ **JURY VERDICT.** This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- ☒ **DECISION BY THE COURT.** This action came to trial or hearing before the court. *(Administrative Matter)*
~~The issues have been tried or heard and a decision rendered.~~ ☐ See Page 2 for additional information.
- ☐ **ACTION DISMISSED (CHECK REASON):** ☐ Rule 12(b), SCRCP; ☐ Rule 41(a), SCRCP (Vol. Nonsuit); ☐ Rule 43(k), SCRCP (Settled); ☐ Other
- ☐ **ACTION STRICKEN (CHECK REASON):** ☐ Rule 40(j), SCRCP; ☐ Bankruptcy; ☐ Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award; ☐ Other
- ☐ **STAYED DUE TO BANKRUPTCY**
- ☐ **DISPOSITION OF APPEAL TO THE CIRCUIT COURT (CHECK APPLICABLE BOX):**
☐ Affirmed; ☐ Reversed; ☐ Remanded; ☐ Other

NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIBUNAL, OR ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL.

IT IS ORDERED AND ADJUDGED: ☐ See attached order (formal order to follow) ☒ Statement of Judgment by the Court: This matter is currently scheduled for numerous motion hearings on January 30, 2019. On November 29, 2018, the Plaintiffs filed a Notice of Appeal with the S.C. Court of Appeals. As such, this matter is stayed pursuant to Rules 205 and 241 of the SCACR. The hearings scheduled for January 30, 2019 are therefore continued until such time as this Court has jurisdiction again.

ORDER INFORMATION

This order ☐ ends ☒ does not end the case.

Additional Information for the Clerk : _____

INFORMATION FOR THE JUDGMENT INDEX

Complete this section below when the judgment affects title to real or personal property or if any amount should be enrolled. If there is no judgment information, indicate "N/A" in one of the boxes below.

Judgment in Favor of (List name(s) below)	Judgment Against (List name(s) below)	Judgment Amount To be Enrolled (List amount(s) below)
		\$
		\$
		\$

If applicable, describe the property, including tax map information and address, referenced in the order:

The judgment information above has been provided by the submitting party. Disputes concerning the amounts contained in this form may be addressed by way of motion pursuant to the SC Rules of Civil Procedure. Amounts to be computed such as interest or additional taxable costs not available at the time the form and final order are submitted to the judge may be provided to the clerk.
Note: Title abstractors and researchers should refer to the official court order for judgment details.
E-Filing Note: In E-Filing counties, the Court will electronically sign this form using a separate electronic signature page.

Circuit Court Judge

Judge Code

Date

For Clerk of Court Office Use Only

This judgment was entered on the _____ day of _____, 20____ and a copy mailed first class or placed in the appropriate attorney's box on this _____ day of _____, 20____ to attorneys of record or to parties (when appearing pro se) as follows:

ATTORNEY(S) FOR THE PLAINTIFF(S)

ATTORNEY(S) FOR THE DEFENDANT(S)

CLERK OF COURT

Court Reporter:

E-Filing Note: In E-Filing counties, the date of Entry of Judgment is the same date as reflected on the Electronic File Stamp and the clerk's entering of the date of judgment above is not required in those counties. The clerk will mail a copy of the judgement to parties who are not E-Filers or who are appearing pro se. See Rule 77(d), SCRCP.

ADDITIONAL INFORMATION REGARDING DECISION BY THE COURT AS REFERENCED ON PAGE 1.

This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM CHESTER COUNTY
Court of Common Pleas

Honorable John C. Hayes III, Circuit Court Judge
Honorable Brian Gibbons, Circuit Court Judge

Appellate Case No: 2019-002115

Heidi Gersten, Ivanka Ayoub, Daniel Hubbard, ...Plaintiffs,

Heidi Gersten, Ivanka Ayoub, ...Appellants.

v.

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

(wrong version)
MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF
APPELLANTS' AMEMDED RETURN TO RESPONDENTS CARTER
AND DAVIS' MOTION TO DISMISS APPEAL

Heidi Gersten, Ivanka Ayoub
1438 W. Lantana Rd., #330
Lantana, FL 33462
(323) 245-6142
(561) 756-9820 FAX
hanginhangout@gmail.com
Plaintiffs/Appellants

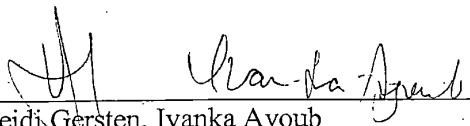
STATEMENT OF FACTS

On March 7, 2019, the Appellants requested an additional ten (10) days to serve and file an amended return to the Respondents Carter and Davis' Motion to Dismiss Appeal. On March 18, 2019 the Appellants, requested an additional 5 days. On March 25, 2019, the Appellants requested an additional ten (10) days. On April 4, 2019, the Appellants requested an additional ten (10) days. Now for good cause shown, an additional ten (10) days is required to complete the Appellants' Return.

Ten (10) days from April 15, 2019 would be April 25, 2019, to sufficiently and adequately address the multiple errors made by the Respondents Carter and Davis. This return is made in a good faith effort to comply with the previously underestimated motion for extension of time and is permitted by Rule 263(b), SCACR.

For these reasons, the reasons in the attached Affidavit of Heidi Gersten and the reasons to be submitted in the forthcoming Appellants' Amended Return and the Appellants' Brief, the Court has jurisdiction as the Notice of Appeal was timely served and filed per SCACR rules.

Respectfully submitted this 15th day of April 2019,



Heidi Gersten, Ivanka Ayoub
Appellants
1438 W. Lantana Rd., #330
Lantana, FL 33462
(323) 245-6142
(561) 756-9820 FAX
hanginhangout@gmail.com

Boca Raton, Florida
April 15, 2019

TO WHOM IT MAY CONCERN:

I'm At The UPS Store AND AND
Mistakenly placed The wrong File to Be
Copied on The FLASH Drive I Brought
CAUSING The Memorandum in Support to
Be excluded From these documents. There!
No time to remedy this today. Instead
I will include A previous Memorandum
That will be handAmended for now AS
Accurately AS possible From Memory.
This is yet another reason THAT AN
extension OF time is Necessary
Respectfully Submitted.

Jli

CERTIFICATE OF SERVICE
(Appellate Case No: 2019-002115)

The undersigned, over 18 years of age and not a party to the said action, hereby certifies that (s)he has served the following named individuals with a copy of the foregoing: : Appellate Case No: 2019-002115 APPELLANTS' NOTICE OF MOTION AND MOTION FOR EXTENSION OF TIME TO FILE APPELLANTS' AMENDED RETURN OF RESPONDENT CARTER AND DAVIS' MOTION TO DISMISS ALONG WITH A MORE DETAILED RESPONSE TO THIS COURT'S LETTER DATED FEBRUARY 15, 2019 along with letter to the Court dated April 25, 2019, and AFFIDAVIT OF APPELLANT HEIDI GERSTEN and, MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF APPELLANTS' MOTION FOR EXTENSION OF TIME, by mailing a copy of same to them in the U. S. Post Office mail, with sufficient postage affixed thereto and return address clearly marked on the date indicated below:

Wesley Brian Sawyer, Esquire
Murphy & Grantland, P.A.
4406 Forest Drive #B
Columbia, SC 29206
(Attorney for Kevin Carter and Richard Davis)

David R. Sligh
P.O. Box 2116
Myrtle Beach, SC 29578
(Attorney for Nationwide Mutual Ins. Co)

Peter H. Dworjanyn, Esquire and
Michael R. Burchstead, Esquire
Collins & Lacy, PC
1330 Lady Street, 6th Floor (29201)
Post Office Box 12487
Columbia, SC 29211
(Attorneys for Trustguard Insurance Company)

William H. Davidson II, Esquire
Davidson & Lindemann, PA
P.O. Box 8568
Columbia, SC 29202
(Attorney for SC Dept. of Public Safety
and Trooper Herbert Blackwell)

Reynolds Williams
P.O. Box 1909
Florence, SC 29503-1909
(Attorney for Defendant Interinsurance Exchange of the Automobile Club)

Alexander S. Gogsette
P.O. Box 5478
Florence, SC 29502
(Attorney for Joseph Tirbovich)

By:


Phyllis R. Garcia

Boca Raton, Florida
April 25, 2019

RECEIVED
APR 29 2019
SC Court of Appeals

April 25, 2019
1438 W. Lantana Rd., #330
Lantana, FL 33462

Honorable Jenny Abbott Kitchings
Clerk of Court
SC Court of Appeals
P.O. Box 11629
Columbia, SC 29211
(843)662-3258 Fax (843)662-1342

RE: Appellate Case No.: 2018-002115

RECEIVED

APR 29 2019

SC Court of Appeals

Dear Ms. Kitchings:

Good day to you.

Please find an enclosed U.S. postal money order in the amount of \$50.00 for the enclosed original NOTICE OF MOTION AND MOTION FOR EXTENSION OF TIME TO FILE APPELLANTS' AMENDED RETURN OF RESPONDENT CARTER AND DAVIS' MOTION TO DISMISS along with a more detailed response to this Court's letter dated February 14, along with 7 copies. Please file the original and return a file-stamped copy in the pre-paid postage envelope provided. Thank you for your time regarding this matter.

Respectfully submitted,

 Heidi Gersten
Appellants Heidi Gersten, Ivanka Ayoub
hanginhangout@gmail.com
(323)245-6142 Fax (561) 756-9820

HG/Enclosures

Heidi Gersten Lunka Ayous
1438 W. LANTANA RD. # 30
LANTANA, FL 33462



PRI
M

RECEIVED
APR 29 2019
SC Court of Appeals

RETURN RECEIPT
REQUESTED

U.S. POSTAGE PAID
EAGLE
1004
23211
R2030SK4303B-07
\$16.80
U.S. POSTAGE PAID
EAGLE
1004
23211
R2030SK4303B-07
\$16.80

PRIORITY MAIL
United States
Postal Service

PRIORITY MAIL
Visit us at USPS.COM
First class, first class

Flammable Jerry Abbott Kitchens
Clock of Court
SC Court of Appeals
P.O. Box 11629
Columbia, SC 29211

May 31, 2019

Gersten's Motion to Reinstate Appeal or Motion for Extension of Time filed May 31, 2019, in
Appellate Case No. 2018-002115

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM CHESTER COUNTY
Court of Common Pleas

Honorable John C. Hayes III, Circuit Court Judge
Honorable Brian Gibbons, Circuit Court Judge

Appellate Case No: 2018-002115

RECEIVED
MAY 31 2019
SC Court of Appeals

Heidi Gersten, Ivanka Ayoub, Daniel Hubbard.....Plaintiffs,

Heidi Gersten, Ivanka Ayoub.....Appellants.

v.

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

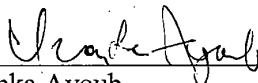
APPELLANTS' AMENDED RETURN TO RESPONDENTS
CARTER AND DAVIS' MOTION TO DISMISS APPEAL AND
AFFIDAVIT OF HEIDI GERSTEN TO BE COMBINED WITH
MOTIONS TO REINSTATE APPEAL AND/OR PETITION FOR
REHEARING OF MOTION TO DISMISS MADE BY RESPONDENTS
INTERINSURANCE EXCHANGE OF THE AUTOMOBILE CLUB,
KEVIN CARTER AND RICHARD DAVIS WITH LEAVE TO AMEND
OR MOTION FOR EXTENSION OF TIME TO SERVE AND FILE
MOTION TO REINSTATE APPEAL AND/OR PETITION FOR
REHEARING

Heidi Gersten, Ivanka Ayoub
1438 W. Lantana Rd., #330
Lantana, FL 33462
(323) 245-6142
(561) 756-9820 FAX
hanginhangout@gmail.com
Appellants

The Appellants, Heidi Gersten, Ivanka Ayoub ('Appellants') move this Court for an order to accept this amended return of the Respondents Kevin Carter and Richard Davis' (Respondents') motion to dismiss appeal as timely and combine it with a motion for reinstatement and/or a petition for rehearing of the motions to dismiss, along with leave of court, if necessary, as the crux of the matter is about proving timeliness in regards to the Notice of Appeal and the Court's jurisdiction, taking into strong consideration Appellant Gersten's extraordinary circumstances and extreme hardships suffered as a result of the Respondents' gross negligence, pursuant to Rules 263(b), 260(a) and 221, SCACR, Equitable Tolling and Title II of the American Disabilities Act on the grounds of good cause shown as evidenced by the attached Affidavit of Heidi Gersten and Timeline of Events with Law and Arguments That Include a Memorandum of Points and Authorities That Prove Timeliness of Appellants' Notice of Appeal.

The Appellants' argument will be more fully addressed in the attached Memorandum of Points and Authorities in Support and Timeline.

Respectfully submitted this 29th day of May 2019,



Heidi Gersten, Ivanka Ayoub
Appellants
1438 W. Lantana Rd., #330
Lantana, FL 33462
(323) 245-6142
(561) 756-9820 FAX
hanginhangout@gmail.com

Boca Raton, Florida
May 29, 2019

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM CHESTER COUNTY
Court of Common Pleas

Honorable John C. Hayes III, Circuit Court Judge
Honorable Brian Gibbons, Circuit Court Judge

Appellate Case No: 2018-002115

RECEIVED

MAY 31 2019

SC Court of Appeals

Heidi Gersten, Ivanka Ayoub, Daniel Hubbard, ...Plaintiffs,

Heidi Gersten, Ivanka Ayoub.....Appellants.

v.

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

AFFIDAVIT OF APPELLANT HEIDI GERSTEN

Heidi Gersten, Ivanka Ayoub
1438 W. Lantana Rd., #330
Lantana, FL 33462
(323) 245-6142
(561) 756-9820 FAX
hanginhangout@gmail.com
Appellants

STATE OF FLORIDA,
SS:
COUNTY OF PALM BEACH,

**HEIDI GERSTEN, BEING FIRST DULY CAUTIONED AND SWORN
DEPOSES AND STATES AS FOLLOWS:**

1. I am the Appellant herein, and have read the foregoing APPELLANTS' AMENDED RETURN TO RESPONDENTS CARTER AND DAVIS' MOTION TO DISMISS APPEAL AND AFFIDAVIT OF HEIDI GERSTEN TO BE COMBINED WITH MOTIONS TO REINSTATE APPEAL AND/OR PETITION FOR REHEARING OF MOTION TO DISMISS MADE BY RESPONDENTS INTERINSURANCE EXCHANGE OF THE AUTOMOBILE CLUB, KEVIN CARTER AND RICHARD DAVIS WITH LEAVE TO AMEND OR MOTION FOR EXTENSION OF TIME TO SERVE AND FILE MOTION TO REINSTATE APPEAL AND/OR PETITION FOR REHEARING, which includes all pages attached, and know the contents thereof, that the same is true of my own knowledge, except as matters therein stated to be alleged on information and belief; and to those matters, I believe them to be true.
2. The facts stated herein are personally known to me and I have first-hand direct knowledge thereof and to those facts that are in addition stated are based on information and belief.
3. If called upon to do so, I would and could competently testify to hereto under oath in a court of law operating under the laws of the State of South Carolina and the United States Constitution.
4. The Appellants served and filed motions to extend time to amend their return to Kevin Carter and Richard Davis' motion to dismiss appeal on March 7, 18, 25, and April 5, 15, 25, 2019 and would have requested an additional extension on May 6, 2019, except due to mitigating circumstances, there were heavy thunderstorms that day that prevented the deadline from being met. (Exhibit 1)
5. I sat in my wheelchair with the paperwork that I was ready to turn in to comply with the 'motion for extension to file' rules when I heard the strike of thunder and looked outside and saw that it was raining heavily, with the sky very dark. With a heavy heart, I knew I would not be able to wheel to the post office and UPS store that day. I took a screenshot of the weather report that day at the time I was leaving. (Exhibit 1)
6. I became aware of the order dated May 2, 2019 on May 16, 2019, after I learned that the iPad I recently got was able to access the Court's website. I

read said order online and in a good faith effort to comply under the South Carolina Appellate Court Rules, **SCACR**, these motions and documents are being submitted. Prior to getting the iPad, I was unable to access the Court's website from my over 10 year old incompatible computer.

7. Had there not been thunderstorms on May 6, 2019, I would have been able to ride in my wheelchair to the post office and UPS store and the May 2, 2019 order would have been partially complied with as some of the information requested was in the documents that were anticipated to be served and filed that day. A new motion was being composed when the May 2nd and 14th 2019 orders were learned of.
8. In a frenzy to comply with the rules, a draft was written for a petition for rehearing and Henrietta from You've Been Served, LLC, processing service was contacted. I explained to her that the only way to have the documents received by May 17th, less than 24hrs of learning of the order, was to get the documents to her via computer and have her go in person to file them. I would not have been able to sign them since I don't have the technology to sign and then scan into my computer and office stores were closed at that hour. She brought up the fact that even if I could, she would only be bringing in a copy and not an original. Therefore, there was no real chance to comply with the order in such a short amount of time learning of it a day before its deadline nor correct the numerous errors that may be contained in it due to the very limited time to complete what is necessary to have it received by the Court within fifteen (15) days from the date of the order to prevent a remittitur being sent to the lower court or administrative tribunal in accordance with **Rule 221, SCACR**. Hiring a process server to file in person appeared to be the only option at that point.
9. The petition for rehearing of the motion may be combined with the motion for reinstatement as they stem from the same issues.
10. I would also suggest that the Appellants' Return for the Respondents Kevin Carter and Richard Davis' motion to dismiss be combined when taking things under consideration since its' sole argument within the numerous unpaginated pages (against court rules) that are well over sixty (60) in count revolves around the sole issue of timeliness, as well as listing an incorrect case number. Without page numbers, it has been challenging to say the least to address the issues at hand by referencing the documents.
11. The Affidavit of Wesley B. Sawyer is hearsay and he does not state nor allege to have first-hand personal knowledge of the facts or events in controversy. The said affidavit has no stamp or embossment from a notary therefore is not an official document. It's not certified.
12. The Respondents Carter and Davis' Motion to Dismiss fails to list orders.

13. I called the Appellate Court on May 17, 2019 and spoke to Shelby who informed me that it wasn't necessary to do a petition for rehearing on the May 2, 2019 order however the May 14, 2019 triggered the time to do a motion to reinstate within 15 days being Wednesday, May 29, 2019.
14. In addition to being paralyzed, having an open phase 4 pressure wound on my left buttocks, phase 1 pressure wound on my right buttocks, living without a caregiver, litigating multiple lawsuits in multiple states without an attorney, having been the victim of numerous crimes, participating in a criminal pretrial conference as a subpoenaed victim, and the learning of the passing of my father under the cause of action of tortious interference with a dead body, I was summoned as a juror for May 13, 2019, all this year. (Exhibit 2) (Proof of any this is available upon request.) (The wound picture is in the Appellants' Objection and/or Opposition and Response to Respondent Interinsurance Exchange of the Automobile Club's Motion to Dismiss Appeal as Exhibit 3, page 31 and received by the Court on January 23, 2019)
15. Leave of court should be administered in favor of justice. There is plenty of good cause shown.
16. Patience is a judicial canon. I require much patience. What seems like plenty of time to an able body is a fraction of the time it takes me to do simple things. It took 7 months before I was finally able to get my bathroom accommodated to where I am now able to shower independently, to give an example of the amount of time it took to be at a standard of living that most people take for granted.
17. This is an effort to show the Court that the Appellants take this matter seriously and are diligently attempting to comply with the rules. The American Disabilities Act permit modifying court rules to accommodate me due to my disabilities and remains undefeated when an action has been brought forward under Title II. Appellants prefer not to file a federal complaint. Time is of the essence however health is an issue to take into consideration.
18. Words do not describe the horror of being unable to care for myself at my standards since this collision. I was the one who took care of others and demonstrated an unprecedented amount of courage, strength, wisdom, knowledge, compassion, forth righteousness, tenacity, candor, intuition, empathy, endurance and love in my family however perhaps I lacked gratitude for myself. I took for granted the amazing person that I am.
19. Judge Zamore was the first public authority I faced through this process who infused me with inner solidity, repeating to me as I looked into his eyes, "You are worthy!" My whole life, no one has ever said those words to me. I'm happy that he stood behind a red, white and blue flag. He understood my

pain. Yet he is bound by these words on paper, called law. I will find the right combination and when I do, I will unlock the key to my therapy and simple pleasure of pursuing every remedy available to me in order to obtain control of my body. I will walk again!

20. Judge Underwood was the first judge to issue an order in favor of granting me a continuance to a court date I received notice of a day before a holiday weekend last year, giving me three days to find a ride as a paralyzed person who hadn't left her bed in months and travel over 800 miles in one direction to attend. She declared me a victim and so did Judge Zamore. I called the clerk and wrote an objection to Respondent/Defendant Kevin Carter's acceptance of a plea offer to reduce his DUI charge, which in truth and fact, qualifies to be a felony charge as a DUI with great bodily injury. It's no surprise he took the offer of a \$440 fine and reckless driving in front of my eyes. This game of lucky breaks because someone knows how to manipulate the law better is unbelievable. My entire experience of how challenging it is to get help to be made whole again is history in the making.
21. This process has taught me to be indifferent.
22. It may be hard to imagine for some, the enormous amount of effort it takes to do simple things that able-bodied people can do, such as use a toilet.
23. I live under extraordinary circumstances and with extreme hardships.
24. Attached to this affidavit is a 5 page document labeled **TIMELINE OF EVENTS WITH LAW AND ARGUMENTS THAT INCLUDE A MEMORANDUM OF POINTS AND AUTHORITIES THAT PROVE TIMELINESS OF APPELLANTS' NOTICE OF APPEAL** that prove: (EXHIBIT 3)
 - A. April 26, 2018 – Alleged Unsigned Order -Judge Gibbons (Received by Court on November 29). (Note: On its face it says 1 and 2 of 2 pages and page 3 says 3 of 3.)
 - B. May 6, 2018 – Served and May 8, 2018 – Filed - Claimants' Motion To Alter Or Amend A Judgment Or Order Pursuant To Rules 59(e), 60(4) SCRCp, and Request For Oral Hearing (This is in the Appellants' Objection and/or Opposition and Response to Respondent Interinsurance Exchange of the Automobile Club's Motion to Dismiss Appeal page 8 and received by the Court on January 23, 2019.)

(Note: Only the top page is included as the proof of its timely filing is in question only at this stage and its contents will be discussed in the Appellants' upcoming brief. This motion was not ruled on nor was an order issued in response to it and will be further discussed in the Appellants' upcoming brief.) (Exhibit 4)

C. May 8, 2018 – Served – Honorable Judge Gibbons

(Note: Appellant Gersten gave the document to Ruben Kirnos who gave the document to Mr. Atkinson, Chester County Clerk, who was instructed by Appellant Gersten to personally serve Judge Gibbons, from a rental car she was in, in front of the Chester County Courthouse, minutes prior to attending the sentencing of Respondent Carter at the Chester County Magistrate Court, after he was charged with DUI and she witnessed him plead guilty to reckless driving in front of Honorable Judge Yale Zamore.)

D. August 7, 2018 – Notice of Case Scheduling - Claimants' Motion To Alter Or Amend A Judgment Or Order Pursuant To Rules 59(e), 60(4) SCRCP, and Request For Oral Hearing (pg.)

(Note: This motion was not ruled on nor was an order issued in response to it and will be further discussed in the Appellants' upcoming brief.)

E. August 25, 2018 – Served - Amended With Or Without Leave Claimants' Motion To Alter Or Amend A Judgment Or Order Pursuant To Rules 59(e), 60(4) SCRCP, and Request For Oral Hearing (pgs. -)

F. August 29, 2018 – Filed - Amended With Or Without Leave Claimants' Motion To Alter Or Amend A Judgment Or Order Pursuant To Rules 59(e), 60(4) SCRCP, and Request For Oral Hearing (pg.)

(Note: Only the top page is included as the proof of its timely filing is in question only at this stage and its contents will be discussed in the Appellants' upcoming brief. This motion was not ruled on nor was an order issued in response to it and will be further discussed in the Appellants' upcoming brief.)

G. September 5, 2018 - Hearing Judge Hayes (pg.)

H. September 17, 2018 – Served and September 25, 2018 – Filed - Second Amended Complaint and Demand For Jury Trial With Leave (pg.)

(Note: This was scheduled on the roster for hearing on January 31, 2019 prior to the stay order issued by Honorable Judge Gibbons on January 15, 2019)

I. September 18, 2018 - Alleged Orders - Judge Hayes (pg.)

(Note: Only the top page is included as the proof of its filing and its contents will be discussed in the Appellants' upcoming brief. This order was not signed and will be further discussed in the Appellants' upcoming brief.)

- J. September 21, 2018 - Alleged Orders - Judge Hayes (pg.)

(Note: Only the top page is included as the proof of its filing and its contents will be discussed in the Appellants' upcoming brief. This order was not signed and will be further discussed in the Appellants' upcoming brief.)

- K. October 1, 2018 - Served - 2018-CP-12-00117 Notice of Motion/ Plaintiffs' Motion to Alter or Amend a Judgment or Relief From Judgment or Order Pursuant to Rules 52, 59 (e), 60 (4), SCRCP, and Request For Oral Hearing along with Exhibits 1, 2, 3, 4, 5, 6, 7, 8, 9 (pg.)

- L. October 8, 2018 - Filed - 2018-CP-12-00117 Notice of Motion/ Plaintiffs' Motion to Alter or Amend a judgment or Relief From Judgment or Order Pursuant to Rules 52, 59 (e), 60 (4), SCRCP, and Request For Oral Hearing along with Exhibits 1, 2, 3, 4, 5, 6, 7, 8, 9 (pg.)

- M. October 16, 2018 - Alleged Unsigned Order - Honorable Judge Hayes (pg.)

- N. November 15, 2018 - Served - Notice of Appeal (pg.)

- O. November 19, 2018 - Received - Respondent Interinsurance Exchange of the Automobile Club Return Receipt, Green Card (pg.)

(Note: Respondents Interinsurance Exchange of the Automobile Club and Carter and Davis are the only ones out of all of the Respondents that motioned for orders to dismiss the appeal and therefore the Appellants are responding with returns to these separate motions and not fully addressing the remaining respondents.)

- P. November 21, 2018 - Court Received By Fax- Notice of Appeal (pg.)

- Q. November 21, 2018 - Received - Respondents Carter and Davis Return Receipt, Green Card (pg.)

- R. November 27, 2018 - Filed - Notice of Appeal (pg.)

- S. January 15, 2019 - Order - Honorable Judge Gibbons (pg.)
(Note: Only order signed in ink in this matter.)

(Note: Due to time restraints and the enormous amount of effort to produce and attach the previously listed documents, an amended version with leave of court will be provided in the future. This is an attempt to provide as much of the information as can be done given the circumstances.)

25. Appellants' motions were not ruled on and orders were not made. This will be fully explained in the Appellants' upcoming brief.

26. The Appellants and Respondents are required to comply with the rules of **SCRCP**.

27. Note that under South Carolina's rules (**SCRCP**), service of motions is required on defendants however certified mail return with return receipt is not.

SCRCP 5 (1) Same: How Made.... *Service by mail is complete upon mailing of all pleadings and papers subsequent to service of the original summons and complaint.*

28. Note that under South Carolina's rules (**SCRCP**), proof of service, for the summons and complaint, is required to be filed and it further indicates that other paperwork that must be served, must also be filed with the court however there is no requirement of a certificate of service for such subsequent paperwork. Service by mail is complete upon mailing of all pleadings and papers subsequent to service of the original summons and complaint.

SCRCP 5(d) Filing. *All papers required to be served upon a party except as provided in Rule 26(g)(1), shall be filed with the court within five (5) days after service thereof. The summons and complaint shall be filed before service. Proof of service shall be filed within ten (10) days after service of the summons and complaint. Upon failure to serve the summons and complaint, the action may be dismissed by the court on the court's own initiative or upon application of any party. Upon failure of a party to file other pleadings, motions, or papers, the court may permit filing or proceed as though the same had not been served.*

29. Given the complexity of this matter, with numerous respondents and excessive documents to deal with, in addition to the extreme hardship and extraordinary circumstances Appellant Gersten lives with, there is good cause shown for additional time to provide the information that will prove the Appellants' timeliness in serving and filing the notice of appeal.

30. According to the **SCACR**, the Appellants should not be subjected to serving and filing a return when the Respondents Carter and Davis' Motion to Dismiss does not have the correct case number, along with the burden of sorting through 64 un-paginated pages. In addition, there is a litany of information nonrelated to the issue at hand therefore will be saved for the Appellants' brief. The only pertinent issue currently is proving timeliness of the Appellants' Notice of Appeal.

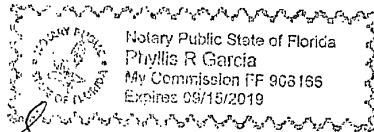
31. The date the Notice of Appeal was timely served and filed on Respondents Kevin Carter and Richard Davis was November 15, 2018. Proof of service was attached to said Notice of Appeal for the court's filing.
32. The motions for reconsideration were timely filed according to court rules.
33. The Appellants are hereby reserving the right to amend this return should additional information be necessary.
34. I was paralyzed as a result of the collision in controversy with the Respondent Kevin Carter and the Respondent Richard Davis co-owned the vehicle involved.
35. It is unfair to hold me to the same standards as able-bodied people.
36. The **American Disabilities Act**, An agency of the US Department of Justice Civil Rights Division, applies to and protects me.
37. **Title II of the American Disabilities Act** permits modifications to court rules to accommodate my situation due to my disability.
38. The **Doctrine of Equitable Tolling** may also be applied to my circumstances.
39. I urge the Court to permit this APPELLANTS' AMENDED RETURN TO RESPONDENTS CARTER AND DAVIS' MOTION TO DISMISS APPEAL AND AFFIDAVIT OF HEIDI GERSTEN TO BE COMBINED WITH MOTIONS TO REINSTATE APPEAL AND/OR PETITION FOR REHEARING OF MOTION TO DISMISS MADE BY RESPONDENTS INTERINSURANCE EXCHANGE OF THE AUTOMOBILE CLUB, KEVIN CARTER AND RICHARD DAVIS WITH LEAVE TO AMEND OR MOTION FOR EXTENSION OF TIME TO SERVE AND FILE MOTION TO REINSTATE APPEAL AND/OR PETITION FOR REHEARING to be considered in light of the good cause shown.
40. **Rule 263(b), SCACR**, permits extensions of time in this type of situation. It states in part, "**Extending and Diminishing Time Prescribed by These rules.** *THE TIME PRESCRIBED BY THESE RULES FOR PERFORMING ANY ACT EXCEPT THE TIME FOR SERVING THE NOTICE OF APPEAL UNDER RULES 203 AND 243 MAY BE EXTENDED OR SHORTENED BY THE APPELLATE COURT, OR BY ANY JUDGE OR JUSTICE THEREOF.*"
41. These extensions were not for the purpose of delaying. For the furtherance of justice and to prevent its miscarriage, this appeal must be reinstated and the Appellants be permitted to move forward on its merits.
42. To be so strict on a date on the calendar causes the merits of the actions to be replaced as the primary purpose of litigation. The brief cover must be "red or read?"

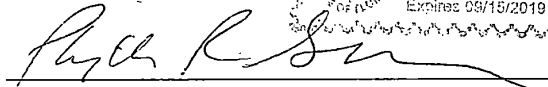
43. I can only do so much in a given day. I'm paralyzed without a caregiver.
44. I authenticate the documents submitted in this paperwork as true and accurate copies.
45. The Return to the Respondent Interinsurance Exchange of the Automobile Club was served and filed on January 17, 2019 and file stamped January 23, 2019.


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

Subscribed and sworn to before me, this 29th day of May 2019.

[Notary Seal:]




[signature of Notary]

Phyllis R Garcia
[typed name of Notary]

NOTARY PUBLIC

My commission expires: 08/15/2019



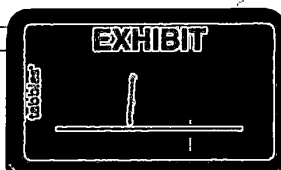
Scan for updated forecast

Boca Raton, FL 10 Day Weather

3:24 pm EDT

DAY		DESCRIPTION	HIGH / LOW	PRECIP	WIND	HUMIDITY
TODAY MAY 5		Heavy Thunderstorms/Wind	77°/73°	100%	SSW 23 mph	80%
TUE MAY 7		PM Thunderstorms	87°/75°	80%	NE 11 mph	76%
WED MAY 8		Mostly Sunny	85°/74°	20%	E 13 mph	70%
THU MAY 9		Mostly Sunny	85°/74°	20%	ESE 13 mph	70%
FRI MAY 10		Mostly Sunny	86°/75°	20%	ESE 12 mph	68%
SAT MAY 11		Partly Cloudy	87°/75°	20%	SSE 12 mph	65%
SUN MAY 12		PM Thunderstorms	89°/75°	40%	S 14 mph	66%
MON MAY 13		PM Thunderstorms	90°/75°	40%	SSW 12 mph	68%
TUE MAY 14		Scattered Thunderstorms	89°/76°	50%	SSW 10 mph	70%
WED MAY 15		Scattered Thunderstorms	88°/75°	50%	S 12 mph	71%
THU MAY 16		Scattered Thunderstorms	88°/75°	50%	S 11 mph	68%
FRI MAY 17		Scattered Thunderstorms	87°/75°	60%	S 11 mph	68%
SAT MAY 18		Scattered Thunderstorms	87°/75°	50%	SSE 12 mph	67%
SUN MAY 19		Scattered Thunderstorms	87°/75°	50%	SE 12 mph	67%
MON MAY 20		Scattered Thunderstorms	87°/75°	40%	SE 10 mph	66%

ARMANAC



13



SHARON R. BOCK
CLERK & COMPTROLLER
PALM BEACH COUNTY

JUROR SUMMONS

15th Judicial Circuit

You are summoned for jury duty at the
Palm Beach County Courthouse, 205 N. Dixie Highway, West Palm Beach, FL 33401

NAME HEIDI VERONIKA GERSTEN

JUROR ID

JUROR NUMBER

Your name was selected at random from the list of people qualified to serve.

Your jury duty will begin **May 13, 2019** at 8:00 AM and continue until you are released from service.

You will not be released from jury duty until (1) you have served as a juror on a trial; (2) you have appeared for service and were not selected as a juror; or (3) you have been notified by the automated phone system that your service is not needed. You may be on telephone standby for up to one week from your original summons date.

Please visit www.mypalmbeachclerk.com/jury or call (561) 355-2930 or (888) 780-5032 after 5:00 p.m. the day before your summoned date. A recorded message will tell you whether to report. If there is no message or the telephone line is not in operation, and you have confirmed that the courthouse is open, please report as directed on this summons.

If selected to serve on a jury, electronic devices such as cell phones, cameras, laptop computers or any other similar technological device capable of making or transmitting images, text or data as well as audio and video recordings must, prior to the start of jury deliberations, be turned over to the courtroom deputy who will keep them while you deliberate.

Free parking is located at 505 Banyan Blvd. Bring parking ticket to the jury office to be validated. For directions and other helpful information about jury duty, visit www.mypalmbeachclerk.com/jury.



REQUEST FOR POSTPONEMENT OR EXCUSAL FROM JURY SERVICE

NAME HEIDI VERONIKA GERSTEN JUROR ID JUROR NUMBER
You may not serve if (please check and submit required documentation by mailing www.mypalmbeachclerk.com/jury or by mail):

- ☐ Not a legal resident of Palm Beach County
- ☐ Not a citizen of the United States
- ☐ Convicted of a felony and civil rights have not been restored
- ☐ Currently under criminal prosecution

Jurors are entitled to two postponements that together do not exceed six months from the original summons date. If you want to postpone your service please visit www.mypalmbeachclerk.com/jury or call (561) 355-2930 or (888) 780-5032 on the day and week before and before the summons. When seeking a postponement, you must choose a reason that falls on a randomly chosen day preceding your postponed date.

New date chosen

You may choose not to serve if (please check):

- ☐ 70 or older -- Do you want to be permanently excused?
- ☐ Responsible for care of medically/mentally incapacitated person unable to care for self
- ☐ Expectant Mother
- ☐ Parent not working full time with custody of a child under 18
- ☐ Full time law enforcement officer or law enforcement investigator personnel
- ☐ Summoned and reported for jury service in Palm Beach County within 11 weeks from the date for which summoned

Under penalties of perjury, I declare that I have read the foregoing document and that the facts stated in it are true.

Signature

Printed Name

TIMELINE OF EVENTS WITH LAW AND ARGUMENTS THAT INCLUDE A
MEMORANDUM OF POINTS AND AUTHORITIES THAT PROVE TIMELINESS OF
APPELLANTS' NOTICE OF APPEAL

Appellants received and/or obtained written notice of entry of each of the following
separate orders on appeal.

ORDER DATE	FILE DATE	JUDGE	DATE OBTAINED	DATE RECEIVED
04/26/18	04/26/18	Judge Gibbons (Consolidation Order)(Subject of this Appeal)	05/05/18 - On-line Court Website	N/A

(NOTE: Pursuant to **SCRCP**, a timely Motion to Alter or Amend a Judgment or Order
was served on the Respondents (Defendants) on May 6, 2018 and filed on May 8,
2018, pursuant to **Rule 59(e), SCRCP**, which requires that a motion to alter or
amend be "*served not later than 10 days after receipt of written notice of the entry of
the order.*"

This rule does not preclude the motion from being served prior to or earlier than
'receipt'.

According to the interpretation of these rules, the said May 8th motion is timely as it
has been served prior to 'receipt', and would apply if the Appellants were to serve
and file it as of today's date since they have not 'received' a written notice of the
entry of the order being challenged. It was 'obtained' online via the Court's Website.

(Perhaps the time may be ripe in presenting the Highest Court with a certified
question in regards to whether or not initiating a case search on the Court's website
and reading pleadings, orders, judgments or other documents constitutes
"receiving" written notice or written notice of entry of judgments or orders or any
other service of process. Does 'obtaining' documents online complete service in the
process of active or inactive litigation? Is an uncertified or certified document
online form found online create service on the litigant seeking the information?)

Similar to defendant litigants learning of an action being filed in the courthouse and
within hours of the filing by plaintiff litigants, the defendant litigants obtain copies
of the documents either from making copies that are online or going to the
courthouse and requesting them in person. Does either of those two scenarios
constitute service according to **SCRCP** rules?

(Perhaps, when these laws were written, modern technology wasn't in mind and
with the advent of the computer, times have changed and this is something that
ought to be addressed. Otherwise you end up with laws, like in Ohio, where the



Supreme Court has ruled that both parties may actively participate in litigation, have a trial, and then one party proves that according to the rules, service was not perfected and everything is void. This logic defies common sense. There comes a point where the rules cannot dictate logic. In order to comply with rules, they must be self-evident and in plain English and not ambiguous. The Appellants did follow the letter of the law as well as the spirit.)

The filing was made in person on May 8, 2018 by the Appellant/Claimant/Plaintiff Gersten, at the Chester Courthouse, minutes prior to the Respondent/Defendant Carter's sentencing in front of Judge Zamore, in Magistrate's Court. Deputy Clerk Atkinson was instructed and agreed to provide a copy to Judge Gibbons, pursuant to **Rule 59(g), SCRPC**, which requires that a party filing a **Rule 59** motion "*shall provide*" a copy of the motion to the judge within 10 days of filing. The Appellant Gersten traveled from Florida with her pressure wound, by vehicle with friends to attend the hearing she was subpoenaed to by Judge Underwood, invoking her Victim's rights under the **SC Victim's Constitution** as a witness.)

(ALSO, NOTE: There is no requirement of a certificate of service or proof of service to be filed with the court under **SCRCP** for anything other than the summons and complaint. Service is complete upon mailing, as in "regular mail". There is no requirement to certify or do registered mail in **SCRCP**.) (Perhaps this is ripe for a certified question as to whether or not certificates of service are required.)

05/21/18	05/22/18	Judge Gibbons	05/16/18 – On-line Court Website	N/A
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(NOTE: Appellants have not received this order in the mail nor email nor any other method of service as provided by **SCRC** nor was permitted to review it in the proposed form for accuracy or objections. The issue at hand is moot since it did not affect any part of this matter, so no need to address it in depth other than to make note that it was not served on Appellants/Plaintiffs and used as an example of the course of conduct.)

([ALSO, NOTE: Appellants served “Second Amended Complaint and Demand For Jury Trial With Leave on Respondent/Defendants on September 17, 2018 and overnighted for filing on and received on September 24, 2018, under the mailbox rule, and file stamped on September 25, 2018.) (The pleadings were not closed on the premature hearing of September 5, 2018 in front of Judge Hayes for a variety of reasons including, but not limited to, a timely amended complaint that was served on the Respondent/Defendants and not answered at the time of the said hearing. All of this will be further explained in the forthcoming brief, which will focus on the merits and not timeliness. This is an attempt to satisfy the timeliness requirements although the American Disabilities Act Title II and Equitable Tolling excuse these restrictions and permit law to accommodate the Appellants and modify rules due to their disabilities.)

09/18/18	09/19/18	Judge Hayes III ("AAA" Order) (Subject of this Appeal)	09/19/18 - E-mail From	N/A
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(NOTE: Appellants' Notice of Appeal has a typo error and should reflect the correct receipt of this order as September 19, 2018 if e-mails apply to non-attorneys as valid service, possibly another certified question to conclude, either way, the Notice of Motion and Plaintiffs' Motion to Alter or Amend a judgment or Relief from Judgment or Order was timely served on October 1, 2018 and filed on October 8, 2018 according to **SCACR**, thus, tolling the time to serve and file the Notice of Appeal.)

09/18/18	09/19/18	Judge Hayes III ("Carter & Davis' Order) (Subject of this Appeal)	09/19/18 – On-line Court Website	N/A
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09/21/18	09/21/18	Judge Hayes III ("Nationwide & Tirbovich" Order) (Subject of this Appeal)	09/23/18 – On-line Court Website	N/A
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09/21/18	09/24/18	Judge Hayes III ("Trustgard & Ammendola" Order) (Subject of this Appeal)		N/A
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09/21/18	09/21/18	Judge Hayes III ("SC Dept. of Public Safety & Blackwell" Order) (Subject of this Appeal)	09/23/18 – On-line Court Website	N/A
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10/16/19	10/16/18	Judge Hayes III (Order) (Subject of this Appeal)(Order from Appellants' Motion for Reconsideration) (Tolled the time to serve Notice of Appeal)	10/21/18 – On-line Court Website	10/21/18 - USPS Regular Mail
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01/15/19	01/15/19	Judge Gibbons (Stay Order) (Pending Outcome of Appeal)	01/15/19 - Received Phone Call From The Chester County Clerk	01/25/19 - USPS Regular Mail
02/15/19	02/15/19	Clerk (Letter) (Included As It Pertains to The Matter at Hand)		02/27/19 - USPS Regular Mail

NOTE that the Appellants did not actually receive the letter until two (2) days after its instructions to comply with its requests, causing it to be impossible, save for a nunc-pro-tunc, to follow with respect.

04/09/19	04/09/19	Clerk (Order) (Extension Granted)	04/17/19 - USPS Regular Mail
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(NOTE that the Appellants did not actually receive the clerk's order until 2 (two) days after its instructions to comply with its requests, causing it to be impossible, save for a nunc-pro-tunc, to follow with respect. Regardless, it says "...absent extraordinary circumstances." There are plenty of extraordinary, mitigating and extenuating circumstances. The Appellants are unaware of the authority of clerks of court to issue orders. Is this their duty?. It appears to be void on its face. Judges issue orders. With all due respect, this will be addressed in the future.)

05/02/19	05/02/19	Judge Lockmy (Order) (Subject Matter For This Motion To Reinstate)	05/16/19 On-line	05/17/19 - USPS Regular Mail
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(NOTE that the Appellants did not actually receive the judge's order, presuming that it was indeed a judge who signed this order as the last name is not legible and there is no printed legible version for the Appellants to ascertain its signor, until the day its instructions to comply were given, which was the same day. The first name "James" is legible and when the Court's website is accessed, one can see that there is a judge James Lockemy however is uncertain if this is who signed this order or someone else. Again, with all due respect, the Appellants are doing what they can to follow orders and obey the law.)

Note that the Appellant Gersten called the Court and spoke with Shelby who informed her that this order did not trigger a motion to reinstate or petition for rehearing, which subsequently caused an order filed on May 14, 2019 issued by a

clerk with illegible handwriting and no printed name. As said before, the Appellants question or challenge the authority for clerks to issue orders. One of a judge's duty is to issue orders. The Appellants are unaware of an any rule except for **Rule 260 (a) Involuntary Dismissal and Reinstatement, SCACR**, which states, " Whenever it appears that an appellant or a petitioner has failed to comply with the requirements of these Rules, the clerk shall issue an order of dismissal, which shall have the same force and effect as an order of the appellate court. A case shall not be reinstated except by leave of the court, upon good cause shown, after notice to all parties. The clerk shall remit the case to the lower court or administrative tribunal in accordance with Rule 221 unless a motion to reinstate the appeal has been actually received by the court within fifteen (15) days of filing of the order of dismissal (the day of filing excluded). The Appellant Gersten spoke with case manager Elizabeth about a fax being permitted as being "received" by the court. The Appellants will also overnight this for an expected delivery date of May 29, 2019, which would be timely. Becky also affirmed that faxes and overnight deliveries are file-stamped the same day received.

05/14/19	05/14/19	Clerk	05/16/19	On-line	N/A
		(Dismissal Order)			
		(Note: Stay of			
		Remittitur is in Order			
		Pending Motion for			
		Reinstatement)			

(NOTE: The Appellants have not received written notice of entry of this order and learned about it on 05/16/19 after searching case records and in a good faith effort are attempting to comply.)

Given the extraordinary, mitigating and extenuating circumstances, the Appellants move this Court for an Order granting their motion for reinstatement and/or petition for rehearing of motion to dismiss and acceptance of their Return of Respondent Kevin Carter and Richard Davis' Motion to Dismiss as timely.

(Note that now that the Appellant Gersten is finally able to shower independently and has an iPad that is capable of accessing the Court website, it will be easier for the Appellants to stay more up-to-date with court matters.)

STATE OF SOUTH CAROLINA

COUNTY OF CHESTER

Heidi Gersten, Ivanka Ayoub

Plaintiff,

vs.

Kevin Carter, Richard Davis, Joseph Tirbovich,
Nationwide Mutual Ins. Co., Interinsurance
Exchange of the Automobile Club, John
Ammendola, Trustgard Ins. Co.,

Defendant.

IN THE COURT OF COMMON PLEAS
BEFORE THE ARBITRATION PANEL
JUDICIAL CIRCUIT

CASE NO.: 2018-CP-12-00074

**MOTION AND ORDER INFORMATION
FORM AND COVERSHEET**

FILED

MAY - 8 P 2:52

CLERK OF COURT
CHESTER CO S.C.

Plaintiff's Attorney:

_____, Bar No. _____

Address: _____

Phone: _____ Fax _____

E-mail: _____ Other: _____

Defendant's Attorney:

Wesley Brian Sawyer, Esquire, Bar No. 100229

Address: _____

4406 Forest Drive #B

Columbia, SC 29206

Phone: (803) 782-4100 Fax _____

E-mail: _____ Other: _____

(Attorney for Defendants Carter and Davis)

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Michael R. Burchstead, Esquire, Bar No. 73770

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Columbia, SC 29201

Phone: _____

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Alexander S. Gogsette, SC Bar No. 101244

P.O. Box 5478

Florence, South Carolina 29502

Phone: (843) 656-4454 Fax: (843) 413-5852

EXHIBIT

4

	E-mail: AHogsette@turnerpadget.com (Attorneys for Defendants Nationwide Mutual Insurance Company and Joseph Tirbovich)																
☒ MOTION HEARING REQUESTED (attach written motion and complete SECTIONS I and III) ☐ FORM MOTION, NO HEARING REQUESTED (complete SECTIONS II and III) ☐ PROPOSED ORDER/CONSENT ORDER (complete SECTIONS II and III)																	
SECTION I: Hearing Information																	
Nature of Motion: <u>Motion to Alter or Amend a Judgment or Relief from Judgment or Order</u> Estimated Time Needed: <u>1/2 hour</u> Court Reporter Needed: ☒ YES / ☐ NO																	
SECTION II: Motion/Order Type																	
☒ Written motion attached ☐ Form Motion/Order I hereby move for relief or action by the court as set forth in the attached proposed order.																	
Signature of Attorney for ☐ Plaintiff / ☐ Defendant	May 8, 2018 Date submitted																
SECTION III: Motion Fee																	
☒ PAID – AMOUNT: \$ _____ ☐ EXEMPT: (check reason) <table style="width: 100%; border: none;"> <tr> <td>☐ Rule to Show Cause in Child or Spousal Support</td> <td>☐ State Agency v. Indigent Party</td> </tr> <tr> <td>☐ Domestic Abuse or Abuse and Neglect</td> <td>☐ Post-Conviction Relief</td> </tr> <tr> <td>☐ Indigent Status</td> <td>☐ Motion for Stay in Bankruptcy</td> </tr> <tr> <td>☐ Sexually Violent Predator Act</td> <td>☐ Motion for Execution (Rule 69, SCRCP)</td> </tr> <tr> <td>☐ Motion for Publication</td> <td>☐ Proposed order submitted at request of the court; or,</td> </tr> <tr> <td colspan="2">reduced to writing from motion made in open court per judge's instructions</td> </tr> <tr> <td colspan="2">Name of Court Reporter: _____</td> </tr> <tr> <td colspan="2">☐ Other: _____</td> </tr> </table>		☐ Rule to Show Cause in Child or Spousal Support	☐ State Agency v. Indigent Party	☐ Domestic Abuse or Abuse and Neglect	☐ Post-Conviction Relief	☐ Indigent Status	☐ Motion for Stay in Bankruptcy	☐ Sexually Violent Predator Act	☐ Motion for Execution (Rule 69, SCRCP)	☐ Motion for Publication	☐ Proposed order submitted at request of the court; or,	reduced to writing from motion made in open court per judge's instructions		Name of Court Reporter: _____		☐ Other: _____	
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reduced to writing from motion made in open court per judge's instructions																	
Name of Court Reporter: _____																	
☐ Other: _____																	
JUDGE'S SECTION	CLERK'S VERIFICATION																
☐ Motion Fee to be paid upon filing of the attached order. ☐ Other: _____	JUDGE CODE _____ Date: _____																
Collected by: _____ Date Filed: _____ ☐ MOTION FEE COLLECTED: \$ _____ ☐ CONTESTED – AMOUNT DUE: \$ _____																	

SCCA 233 (11/2003)

STATE OF SOUTH CAROLINA

BEFORE THE ARBITRATION PANEL OF
CHESTER COUNTY

In the matter of Arbitration between

Case number 2018-~~AP~~-12-00074

HEIDI GERSTEN, IVANKA AYOUB)

Claimants)

vs.)

KEVIN CARTER, RICHARD DAVIS,)
JOSEPH TIRBOVICH, NATIONWIDE)
MUTUAL INSURANCE COMPANY,)
INTERINSURANCE EXCHANGE OF)
THE AUTOMOBILE CLUB, JOHN)
AMMENDOLA, TRUSTGUARD)
INSURANCE COMPANY)

Defendants)

CLAIMANTS' MOTION TO ALTER OR
AMEND A JUDGMENT OR RELIEF FROM
JUDGMENT OR ORDER

Pursuant to Rules 59(e), 60(4), SCRPC

AND

REQUEST FOR ORAL HEARING.

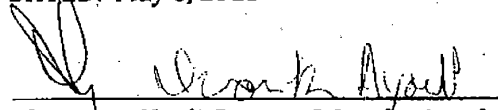
CLERK OF COURT
CHESTER CO. S.C.
MAY - 8 P 2:52

FILED

Now come the Claimants Heidi Gersten and Ivanka Ayoub and move this court for an order to alter or amend a judgment or relief from judgment or order made by Honorable Circuit Judge Brian M. Gibbons on April 26, 2018 pursuant to Rules 59(e) and 60(4), SCRPC, on the grounds that the order is void and violates the Claimants' U.S. Constitutional rights to fair due process of law and request an oral hearing on said motion. The reasons for this motion are set forth in the attached Memorandum in Support.

Respectfully submitted,

DATED: May 8, 2018


Claimants Heidi Gersten & Ivanka Ayoub
1438 W. Lantana Rd. #330
Lantana, FL 33462
(323) 245-6142/ Fax (561) 756-9820
hanginhangout@gmail.com

**MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF
CLAIMANT'S MOTION TO ALTER OR AMEND A JUDGMENT OR RELIEF
FROM JUDGMENT OR ORDER**

I. INTRODUCTION

The Claimant Heidi Gersten filed a claim for Arbitration # 2018-AP-12-00074 with this Court on February 21, 2018 pursuant to **Title 38, Chapter 77, Article 7 of the South Carolina Code of Laws**. This is a cause of action to resolve property damages arising out of a motor vehicle collision that occurred in Chester County, South Carolina on March 19, 2015 between the Claimant Heidi Gersten and the Defendant Kevin Carter. The Claimant Ivanka Ayoub is the owner of the Chevrolet Mark III 1500 LX Conversion Van totaled in said collision.

Between March 17, 2018 and March 26, 2018, the Defendants were served the Summons and Claim for Property Damage, the First Amended Claim for Property Damage Verified along with Verification of Heidi Gersten attached with Exhibits A-L and Claimants First Set of Admissions, Interrogatories and Request for Production with attached Exhibits A-G via certified mail pursuant to **Rule 4(d)(8), SCRCF**.

On March 16, 2018, the Plaintiffs Heidi Gersten, Ivanka Ayoub, Daniel Hubbard filed a civil action # 2018-CP-12-00117 for bodily injury and personal injury arising out of the same incident. Process of service has not been perfected on the defendants in this said case as it has been in the arbitration matter. The Plaintiffs have until July 13, 2018 to perfect timely service of the Summons and Complaint.

On April 26, 2018, Honorable Circuit Judge Gibbons made an order that, "This matter is outside the scope of an arbitration. This matter shall be placed on the regular Common Pleas docket for process. This case shall be consolidated with case

number 2018-CP-12-00117." And vice versa.

The Order and Judgment is void for the following reasons:

II. LAW AND ARGUMENT

This is an Alternative Dispute Resolution matter.

Title 38, Chapter 77, Article 7 of the South Carolina Code of Laws SECTION 38-77-730. Request for arbitration; no formal pleading and process; arbitration docket; filing of claim; service of summons to defendant.

(a) Any person who is a party to the disputed property damage liability claim may submit his claim for determination through arbitration. No formal pleading or process is required. The clerk of court of each county shall prepare and keep an arbitration docket and set the cases thereon for arbitration as provided by law for the settling of cases in the court of common pleas.

The above stated law permits the Claimants to redress their grievances in this manner. Arbitration is available without either party waiving their right to a jury trial under standard civil procedure. This arbitration setting is geared for non-attorneys and numerous attorneys place advocacy on their websites for the fairness and understanding of individuals presenting their own matters directly to the arbitrators in this setting.

This procedure is inviolate in bridging the gap between the public and governmental entities. Since it is illegal for attorneys to take property damage claims on contingency under South Carolina law, the five-dollar fee affords the ability to redress grievances and be heard in a court of law and record for this type of subject matter.

It states in Title 38, Chapter 77, Article 7 of the South Carolina Code of Laws SECTION 38-77-710 ...*Process and procedure must be as summary and simple as may be reasonable and may provide for the taking of evidence in the form of reports, statements, or itemized bills or in any other manner without*

the procedural and evidentiary limitations which pertain in jury trials. The court may provide for the taking of depositions of a witness within or without the State.

Rule 60(b)(4), SCRCF, allows relief from an order to be granted on the grounds that the order is void. A void order is one rendered in the absence of proper due process or jurisdiction. *Universal Benefits, Inc. v. McKinney*, 349 S.C. 179, 561 S.E.2d 659 (Ct. App. 2002). *"An elementary and fundamental requirement of due process in any proceeding which is to be accorded finality is notice reasonably calculated, under all the circumstances, to apprise interested parties of the pendency of the action and afford them an opportunity to present their objections."* *Mullane v. Central Hanover Bank & Trust Co.*, 339 U.S. 306, 70 S. Ct. 652 (1950). Such notice must give the parties a reasonable time to make their appearance and "[t]he means employed must be such as one desirous of actually informing the absentee might reasonably adopt to accomplish it." *Id.*

The Claimants were not given an opportunity to present their objections nor were they notified of a hearing regarding the Court's decision therefore violating their due process of law rights under the U.S. Constitution. In essence, the arbitration was dismissed. The Claimants object. *The phrase due process embodies society's basic notions of legal fairness. The Fourteenth Amendment limits the power of state (and local) governments. Fair procedures do help prevent arbitrary, unreasonable decisions. At a minimum, due process means that a person who will be affected by a government decision must be given notice of what government plans to do and have a chance to comment on the action.* (quoted from lincoln.edu)

Perhaps there was confusion as to the Claimants' intention. It would prejudice the Claimants and give them an unfair advantage if these two court filings were merged. The two court filings are distinct and separate. One pertains to property damages and liability only. There are different parties, although some are the same. The Claimants have perfected Process of Service in the arbitration matter and have

not perfected it in the civil matter. To combine the two would cause an unusual circumstance of uncertainty and chaos to all parties involved for a variety of reasons. The Claimants have followed the rules laid out in South Carolina laws for this process and their filings and service are timely. They were not expected to have procedural and evidentiary limitations. The Claimants urge this Court to reconsider its order and grant this motion to alter or amend this judgment or relief from the judgment or order. If it pleases this Court, the Claimants suggest placing the defendants in the arbitration action into a civil action separate from the existing one and give it a new case file number. This would eliminate any due process violations and allow the Claimants in the arbitration to retain their process of service efforts in tact while proceeding in a regular Common Pleas process as the Plaintiffs and avoiding unnecessary confusion for all litigants involved.

III. CONCLUSION

The Arbitration for Property Damages Case No. 2018-AP-12-00074 is a separate claim from the Bodily Injury and Personal Injuries Case No. 2018-CP-12-00117 and must remain as filed or at least remain separated or severed.

There are due process of law rights violations of the Fourteenth Amendment of the U.S. Constitution in ending the arbitration without fair notice to the Claimants and without allowing them an opportunity to be heard with their objections. **Rule 3(a)(2), SCRCP, and S.C. Code § 15-3-20(B)** permit 120 days from the date of filing for the service of process to be perfected and combining the two would upset the balance since the arbitration matter has perfected service and the civil action has not. Should the Court be firm with its decision, then the two matters must remain

separate or severed and proceed as two different filings bifurcated.

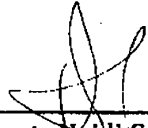
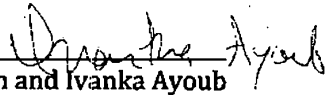
This request by no means prejudices the Defendants. It is made in the interest of justice and to prevent its miscarriage. For the ease of everyone involved in this matter, the Claimants request the Court to set the oral hearing on this motion to be set at least 30 days in advance and suggest scheduling the defendant's motions together and arbitration thereafter on the same day assigned should it be determined proper. The Claimants live in Florida and are disabled. The Claimant Gersten is paralyzed.

For the fore-mentioned reasons, the Claimants move this Court for an order to alter or amend a judgment or relief from judgment or order made by Honorable Circuit Judge Brian M. Gibbons on April 26, 2018 to resume arbitration or transfer the file to a new case file separate from civil action # 2018-CP-12-00117.

The Claimants' Motion is supported by this Memorandum, everything in the case file in this matter, minutes of the court, applicable laws and other evidence that may be submitted prior to or at the oral hearing on said motion, including but not limited to oral argument.

Respectfully submitted,

Dated this 8th day of May, 2018

 
Claimants Heidi Gersten and Ivanka Ayoub
1438 West Lantana Rd. #330
Lantana, FL 33462
(323) 245-6142
hanginhangout@gmail.com

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM CHESTER COUNTY
Court of Common Pleas

Honorable John C. Hayes III, Circuit Court Judge
Honorable Brian Gibbons, Circuit Court Judge

Appellate Case No: 2018-002115

RECEIVED

MAY 31 2019

SC Court of Appeals

Heidi Gersten, Ivanka Ayoub, Daniel Hubbard, ...Plaintiffs,

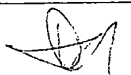
Heidi Gersten, Ivanka Ayoub, ...Appellants.

v.

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

MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF
APPELLANTS' AMENDED RETURN TO RESPONDENTS CARTER
AND DAVIS' MOTION TO DISMISS APPEAL AND AFFIDAVIT OF
HEIDI GERSTEN TO BE COMBINED WITH MOTIONS TO
REINSTATE APPEAL AND/OR PETITION FOR REHEARING OF
MOTION TO DISMISS MADE BY RESPONDENTS
INTERINSURANCE EXCHANGE OF THE AUTOMOBILE CLUB,
KEVIN CARTER AND RICHARD DAVIS

WITH LEAVE TO AMEND OR MOTION FOR EXTENSION OF TIME
TO SERVE AND FILE MOTION TO REINSTATE APPEAL


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

3 28

(323) 245-6142 (561) 756-9820 FAX
hanginhangout@gmail.com
Appellants

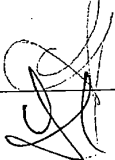
STATEMENT OF FACTS

The Appellants requested additional time to serve and file an amended return to the Respondents Carter and Davis' motion to dismiss appeal numerous times for good cause shown to sufficiently and adequately address the multiple errors made by the Respondents Carter and Davis. The return made in a good faith effort to comply with the previously underestimated calculations for extensions of time due to the Appellants, especially Appellant Gersten's, extraordinary circumstances and is permitted by **RULE 263(B), SCACR, EQUITABLE TOLLING** and **TITLE II OF THE AMERICAN DISABILITIES ACT**.

On May 16, 2019, the Appellants learned of the orders dated May 2, 2019 and May 14, 2019 on-line on the Court's Website. They did not 'receive' them from the mail or from an email or from personal service. In a good faith effort to comply, this motion is being made which is combined as a Return and/or Motion for Reinstatement and/or Petition for Rehearing. It is being made under duress in an attempt to follow the rules laid out in SCACR. To prevent the miscarriage of justice, these documents are being overnighted as well as faxed to the Court, as they are to be received by the Court within fifteen (15) days of the date of the filing of the orders. The May 14, 2019 order stems from the alleged non-compliance of the order of May 2, 2019 which is the subject of this motion(s). It is suggested to permit the Appellants to amend this motion in light of the good cause shown for not receiving the order in time to fully comply.

For these reasons, the reasons in the attached Affidavit of Heidi Gersten and all documents in the Court file and the Appellants' forthcoming Brief, the Court has jurisdiction as the Notice of Appeal was timely served and filed per SCACR rules.

Respectfully submitted this 29th day of May 2019,


Heidi Gersten
Mark Ayala

Heidi Gersten, Ivanka Ayoub
Appellants
1438 W. Lantana Rd., #330
Lantana, FL 33462
(323) 245-6142
(561) 756-9820 FAX
hanginhangout@gmail.com

Boca Raton, Florida
May 19, 2019

CERTIFICATE OF SERVICE
(Appellate Case No: 2018-002115)

RECEIVED

MAY 31 2019

SC Court of Appeals

The undersigned, over 18 years of age and not a party to the said action, hereby certifies that (s)he has served the following named individuals with a copy of the foregoing: Appellate Case No: 2018-002115 APPELLANTS' AMENDED RETURN TO RESPONDENTS CARTER AND DAVIS' MOTION TO DISMISS APPEAL AND AFFIDAVIT OF HEIDI GERSTEN TO BE COMBINED WITH MOTIONS TO REINSTATE APPEAL AND/OR PETITION FOR REHEARING OF MOTION TO DISMISS MADE BY RESPONDENTS INTERINSURANCE EXCHANGE OF THE AUTOMOBILE CLUB, KEVIN CARTER AND RICHARD DAVIS WITH LEAVE TO AMEND OR MOTION FOR EXTENSION OF TIME TO SERVE AND FILE MOTION TO REINSTATE APPEAL AND/OR PETITION FOR REHEARING, ALONG WITH EXHIBITS AND A MORE DETAILED RESPONSE TO THIS COURT'S LETTER DATED FEBRUARY 15, 2019, ORDERS OF APRIL 9, 2019 MAY 2, 14, 2019 along with letter to the Court dated May 29, 2019, and AFFIDAVIT OF APPELLANT HEIDI GERSTEN and, MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT, by mailing a copy of same to them in the U. S. Post Office mail, with sufficient postage affixed thereto and return address clearly marked on the date indicated below:

Wesley Brian Sawyer, Esquire
Murphy & Grantland, P.A.
4406 Forest Drive #B
Columbia, SC 29206
(Attorney for Kevin Carter and Richard Davis)

David R. Sligh
P.O. Box 2116
Myrtle Beach, SC 29578
(Attorney for Nationwide Mutual Ins. Co)

Peter H. Dworjany, Esquire and
Michael R. Burchstead, Esquire
Collins & Lacy, PC
1330 Lady Street, 6th Floor (29201)
Post Office Box 12487
Columbia, SC 29211
(Attorneys for Trustguard Insurance Company)

William H. Davidson II, Esquire
Davidson & Lindemann, PA
P.O. Box 8568
Columbia, SC 29202
(Attorney for SC Dept. of Public Safety
and Trooper Herbert Blackwell)

Reynolds Williams
P.O. Box 1909
Florence, SC 29503-1909
(Attorney for Defendant Interinsurance Exchange of the Automobile Club)

Alexander S. Gogsette
P.O. Box 5478
Florence, SC 29502
(Attorney for Joseph Tirbovich)

By:


Phyllis R. Garcia

Boca Raton, Florida
May 29, 2019

May 29, 2019
1438 W. Lantana Rd., #330
Lantana, FL 33462
(323) 245-6142 Fax (561) 756-9820
hanginhangout@gmail.com

Honorable Jenny Abbott Kitchings
Clerk of Court
SC Court of Appeals
1220 Senate St.
Columbia, SC 29201
(803)734- 1890 Fax (803)734-1839

RE: Appellate Case No.: 2018-002115

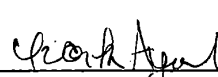
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MAY 31 2019
SC Court of Appeals

Dear Ms. Kitchings or To Whom It May Concern:

Good day to you.

After reviewing the earlier submission, this amended APPELLANTS' AMENDED RETURN TO RESPONDENTS CARTER AND DAVIS' MOTION TO DISMISS APPEAL AND AFFIDAVIT OF HEIDI GERSTEN TO BE COMBINED WITH MOTIONS TO REINSTATE APPEAL AND/OR PETITION FOR REHEARING OF MOTION TO DISMISS MADE BY RESPONDENTS INTERINSURANCE EXCHANGE OF THE AUTOMOBILE CLUB, KEVIN CARTER AND RICHARD DAVIS WITH LEAVE TO AMEND OR MOTION FOR EXTENSION OF TIME TO SERVE AND FILE MOTION TO REINSTATE APPEAL AND/OR PETITION FOR REHEARING along with a more detailed response to this Court's letter dated February 15, April 9, May 2, and 14 all in the year of 2019, is being submitted, first as a fax to you and then by mail, along with 7 copies. Please file the original and return a file-stamped copy in the pre-paid postage envelope provided. Thank you for your time regarding this matter.

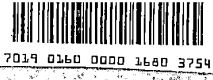
Respectfully submitted,



Heidi Gersten, Ivanka Ayoub
Appellants

HG/Enclosures

1435 W. LANTANA RD. #330
LANTANA, FL 33462



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MAY 8 2019
SC Court of Appeals

RETURN RECEIPT
REQUESTED

SOUTH CAROLINA COURT OF APPEALS
CLERK OF COURT ATTN: HONORABLE JERRY ABBOTT KIRKINGS
1020 Senate St.
Columbia, SC 29201

PRIORITY MAIL
UNITED STATES POSTAL SERVICE

PRIORITY MAIL
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September 4, 2019

Gersten's Motion for Extension of Time filed September 4, 2019, in Appellate Case No. 2019-001484

THE STATE OF SOUTH CAROLINA
In the Supreme Court

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SEP 04 2019

S.C. SUPREME COURT

APPEAL FROM CHESTER COUNTY
Court of Common Pleas

Honorable Brian Gibbons, Circuit Court Judge
Honorable John C. Hayes, Circuit Court Judge

C.A. No: 2018-002115

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

v.

Heidi Gersten, Ivanka Ayoub,.....Petitioners.

MOTION FOR EXTENSION OF TIME TO FILE AND SERVE
PETITIONERS' PETITION FOR A WRIT OF CERTIORARI
AND APPENDIX

Heidi Gersten, Ivanka Ayoub
1438 W. Lantana Rd., #330
Lantana, FL 33462
(323) 245-6142
(561) 756-9820 FAX
hanginhangout@gmail.com

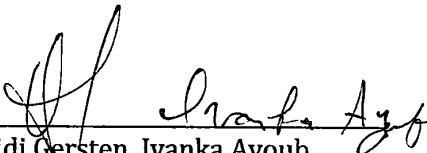
August 29, 2019

The Petitioners, Heidi Gersten, Ivanka Ayoub move this court for an extension of time to serve and file a Petition for Writ of Certiorari and accompanying Appendix.

The Petition for Writ of Certiorari and Appendix is due on August 29, 2019 in said case number to be served and filed however due to Petitioner Gersten's extreme hardships suffered from being paralyzed as a result of the controversy in action, an extension of no more than twenty (20) days is requested and is necessary to file and serve the petition and appendix. By the undersigned's calculations, this would extend the deadline for filing and serving the petition and accompanying appendix to September 18, 2019, with a grant.

This is not made to cause unnecessary delay. This is made in an attempt to follow the rules. This Court's Order No: 2014-07-16-01 permits this extension, as well as SCACR 263(b), Title II of the American Disabilities Act and Equitable Tolling.

Respectfully submitted,


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SEP 04 2019

S.C. SUPREME COURT

THE STATE OF SOUTH CAROLINA
In the Supreme Court

RECEIVED

SEP 04 2019

APPEAL FROM CHESTER COUNTY
Court of Common Pleas

S.C. SUPREME COURT

Honorable Brian Gibbons, Circuit Court Judge
Honorable John C. Hayes, Circuit Court Judge

C.A. No: 2018-002115

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

v.

Heidi Gersten, Ivanka Ayoub,.....Petitioners.

PROOF OF SERVICE

This is to certify that this day, the undersigned, over 18 years of age and not a party to the said action has served the following named individuals, counsel for the Respondents, in the foregoing matter, the foregoing Petitioner's Motion for Extension of Time to File and Serve the Petitioner's Petition for Writ of Certiorari and accompanying Appendix by depositing (mailing) a copy of same to them in the United States Post Office mail, with sufficient postage affixed thereto (thereon) to ensure delivery and return address clearly marked on the date indicated below, addressed as follows:

Wesley Brian Sawyer, Esquire
Murphy & Grantland, P.A.
4406-B Forest Drive
Columbia SC 29206
Attorney for Respondents Kevin Carter & Richard Davis

David R. Sligh
P.O. Box 2116

Myrtle Beach, SC 29578
Attorney for Respondent Nationwide Mutual Insurance Company

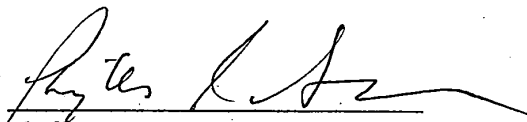
Reynolds Williams
P.O. Box 1909
Florence, SC 29503-1909
Attorney for Respondent Interinsurance Exchange of the Automobile Club

Alexander S. Gogsette
P.O. Box 5478
Florence, SC 29502
Attorney for Respondent Joseph Tirbovich

Peter H. Dworjany, Esquire and
Michael R. Burchstead, Esquire
Collins & Lacy, PC
P.O. Box 12487
Columbia, SC 29211
Attorney for Respondents Trustgard & Ammendola

William H. Davidson II, Esquire
Davidson & Lindemann, PA
P.O. Box 8568
Columbia, SC 29202
Attorneys for Respondents Department of Public Safety & Trooper Herbert
Blackwell

The Honorable Jenny Abbott Kitchings
Clerk of Court
SC Court of Appeals
1220 Senate St.
Columbia, SC 29201


Phyllis Garcia
102 N.E. 2nd Ave.
Boca Raton, FL 33432
(561) 393-3231

August 29, 2019

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SEP 04 2019
S.C. SUPREME COURT

November 7, 2019

Gersten's Motion for Extension of Time filed November 7, 2019, in Appellate Case No. 2019-001484

THE STATE OF SOUTH CAROLINA
In the Supreme Court

APPEAL FROM CHESTER COUNTY
Court of Common Pleas

Honorable Brian Gibbons, Circuit Court Judge
Honorable John C. Hayes, Circuit Court Judge

C.A. No: 2018-002115 (Appellate Court of Appeals)
2019-001484 (Supreme Court)

Heidi Gersten, Ivanka Ayoub, Daniel Hubbard, Plaintiffs,

Of whom Heid Gersten and Ivanka Ayoub are Petitioners,

v.

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

**MOTION FOR EXTENSION OF TIME TO FILE AND SERVE
PETITIONERS' REPLY**

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November 4, 2019

RECEIVED
NOV 07 2019
S.C. SUPREME COURT

The Petitioners, Heidi Gersten, Ivanka Ayoub move this court for an extension of time to serve and file a Reply.

The Reply is due on November 4, 2019 (10 days from the Defendants' joined return claimed to have been served on October 23, 2019, making November 2, 2019 the actual due date however that was a Saturday which carries over to the next business day of Monday, November 4, 2019) in said case, to be served and filed however due to Petitioner Gersten's illness of her left buttock's wound reopening due to extensive aggravated sitting in pursuit of complying with the law and other pending litigation case loads outside of this suit before you, in addition to her already extreme hardships suffered from being paralyzed as a result of the controversy in action, an extension of no more than seven (7) days is requested and is necessary to file and serve the reply. By the undersigned's calculations, this would extend the deadline for filing and serving the reply to November 11, 2019, with a grant.

This is not made to cause unnecessary delay. This is made in an attempt to follow the rules. This Court's Order No: 2014-07-16-01 permits this extension, as well as SCACR 263(b), Title II of the American Disabilities Act and Equitable Tolling.

This Court permitted an amended petition for writ of certiorari to be served and filed in Case No: 2017-002402, *The State v. Damyon Cotton* and no one who participated was paralyzed with the appearance of insurmountable handicaps as in this case. On behalf of Honorable Chief Justice Donald W. Beatty, Honorable Associate Justice Kaye Gorenflo Hearn, Honorable Associate Justice John Cannon

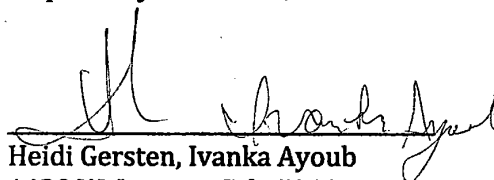
Few and Honorable Associate Justice George C. James, Honorable Associate Justice John W. Kittredge stated that, "...We always enjoy someone coming for the first time." He commended the attorneys for their preparation and presentations. This is the Petitioners first time before this Court.

This Court graciously granted an extension of time to serve and file the petition for writ of certiorari in this case with an additional six (6) days above the requested twenty (20) days.

The extra days are to submit a prepared and well thought-out reply to the overwhelming number of misrepresented facts and allegations that primarily revolve around timeliness and first-impression public policy issues that will be addressed with precision and clarity in the forthcoming reply with a grant.

In the spirit of fairness and positive public perception of this Court's authority to make independent decisions, a grant of the seven (7) days is reasonable under the circumstances presented.

Respectfully submitted,



Heidi Gersten, Ivanka Ayoub
1438 W. Lantana Rd., #330
Lantana, FL 33462
(323) 245-6142
FAX (561) 756-9820
hanginhangout@gmail.com

RECEIVED

NOV 07 2019

S.C. SUPREME COURT

THE STATE OF SOUTH CAROLINA
In the Supreme Court

APPEAL FROM CHESTER COUNTY
Court of Common Pleas

Honorable Brian Gibbons, Circuit Court Judge
Honorable John C. Hayes, Circuit Court Judge

C.A. No: 2018-002115

Heidi Gersten, Ivanka Ayoub, Daniel Hubbard, Plaintiffs,

Of whom Heidi Gersten and Ivanka Ayoub are Petitioners

v.

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

PROOF OF SERVICE

This is to certify that this day, the undersigned, over 18 years of age and not a party to the said action has served the following named individuals, counsel for the Respondents, in the foregoing matter, the foregoing Petitioner's Motion for Extension of Time to File and Serve the Petitioner's Reply by depositing (mailing) a copy of same to them in the United States Post Office mail, with sufficient postage affixed thereto(thereon) to ensure delivery and return address clearly marked on the date indicated below, addressed as follows:

Wesley Brian Sawyer, Esquire

Murphy & Grantland, P.A.
4406-B Forest Drive
Columbia SC 29206
Attorney for Respondents Kevin Carter & Richard Davis

David R. Sligh
P.O. Box 2116
Myrtle Beach, SC 29578
Attorney for Respondent Nationwide Mutual Insurance Company

Reynolds Williams
P.O. Box 1909
Florence, SC 29503-1909
Attorney for Respondent Interinsurance Exchange of the Automobile Club

Alexander S. Gogsette
P.O. Box 5478
Florence, SC 29502
Attorney for Respondent Joseph Tirbovich

Peter H. Dworjanyn, Esquire and
Michael R. Burchstead, Esquire
Collins & Lacy, PC
P.O. Box 12487
Columbia, SC 29211
Attorney for Respondents Trustgard & Ammendola

William H. Davidson II, Esquire
Davidson & Lindemann, PA
P.O. Box 8568
Columbia, SC 29202
Attorneys for Respondents Department of Public Safety & Trooper Herbert
Blackwell


Phyllis Garcia
102 N.E. 2nd Ave.
Boca Raton, FL 33432
(561) 393-3231

November 4, 2019

RECEIVED
NOV 07 2019
S.C. SUPREME COURT

November 4, 2019
1438 W. Lantana Rd. #330
Lantana, FL 33462
(323) 245-6142
hanginhangout@gmail.com

RECEIVED
NOV 07 2019
S.C. SUPREME COURT

The Honorable Daniel Shearouse
Clerk of Court, South Carolina Supreme Court
Supreme Court Building
1231 Gervais Street
Columbia, SC 29201

Re: Heidi Gersten, Ivanka Ayoub, Daniel Hubbard, Plaintiffs,

Of whom Heidi Gersten and Ivanka Ayoub are Petitioners,

v.

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

Supreme Court Case No: 2019-001484 / Court of Appeals Case No: 2018-002115

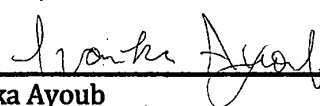
Dear Mr. Shearouse or To Whom It May Concern:

Good day to you!

Enclosed for filing, please find an original and seven (7) copies of Petitioners' Motion to Extend time to file and serve Reply, together with Proof of Service of same and United States Postal Service money order in the amount of \$50.00 made payable to the SC Supreme Court for said motion. Please return clocked or file-stamped copies in the enclosed self-addressed prepaid stamped envelope.

By copy of this letter, a copy of the fore-mentioned is served on all counsel of record. Please call the above number if you have any questions. Thank you for your time and assistance regarding this matter.

Respectfully submitted,



Heidi Gersten, Ivanka Ayoub
Appellants/Petitioners

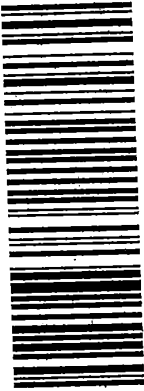
Enclosures

RECEIVED
NOV 07 2019
S.C. SUPREME COURT

RETURN RECEIPT
REQUESTED

CERTIFIED MAIL®

PLACE STICKER AT TOP OF ENVELOPE TO THE RIGHT
OF THE RETURN ADDRESS, FOLD AT DOTTED LINE



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1000



29201

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AMOUNT
\$8.65
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ME Houseable Dinner Shearouse
Clerk of Court, South Carolina Supreme Court
Supreme Court Building

1231 Genais St.

Columbia, SC 29201

January 4, 2021

Gersten's Motion for a Continuance filed January 4, 2021, in Case No. 2018-CP-12- 00117..

December 31, 2020

February 7, 2018 →

1438 West Lantana Rd. #330

Lantana, FL 33462

(323) 245-6142

Urid: ② 2020 Vision Presidential Campaign.com

Chester County Court of Common Pleas

Clerk of Court

Attn: Douglas Atkinson and/or Rachel Johnson

Civil Clerk

P.O. Drawer 580

Chester, SC 29706

Phone: (803) 385-2605

Fax - Civil: (855) 946-0423

Re: 2018-AP-12-00074/ 2018-CP-12-00017

Notice of/Motion for Continuance

FILED

2021 JAN -4 3:33

CLERK OF COURT
CHESTER CO S.C.

To All Concerned:

Good day to you!

This is a cover sheet to give instructions on the filing of my motion. I learned of a court hearing scheduled on January 13, 2013, at 9:30 a.m. on December 28, 2020. (Exhibit A)

Unfortunately, I became a victim of numerous crimes, including assault, abuse and exploitation of a disabled person, that began sometime during the summer of 2020.

After being assaulted on December 3, 2020, I found myself in the Palm Beach County, Florida courthouse and in the middle of an investigation.

I am writing this brief letter to inform you of this and to let you know that I intend on picking up where we left off, as soon as this issue is resolved. I anticipate a trial by jury to be had before springtime, as courts here move much faster. The next Florida scheduled hearing is January 5, 2021. (Exhibit B)

This is not an attempt to delay unnecessarily. History has shown that due diligence has been applied all of these years. I'm in a time restraint to get this out to the Court timely, as I comprehend that motions are timely at least 10 days prior to hearing, which lands on Sunday, January 3, 2020 and counting backwards, the next non holiday, nonweekend day is today. This is an effort to follow the rules and there is good cause for this continuance.

In an effort to prevent a miscarriage of justice, especially to preserve the public's view of the integrity of the judiciary, a continuance until the legal issues in Florida are resolved is worthy of a grant. The video of the assault is available upon request as it was captured in its entirety.

Please file stamp my copies of this motion and return them in the enclosed postage paid envelope provided. Thank you. Let 2021 be a much better year for all of us.

Thank you so much for your help. I am available if my understanding of any of this is incorrect or if you have any questions.

Respectfully submitted,



Heidi Gersten

HG/ Enclosures: 1 Copy and 1 Original of cover letter, motion cover sheet, notice of motion and motion, exhibits A and B, certificate of service, \$25.00 check for motion.

FILED
2021 JAN -4 3:33
CLERK OF COURT
CHESTER CO S.C.

STATE OF SOUTH CAROLINA)

COUNTY OF CHESTER)

HEIDI GERSTEN, IVANKA AYOUB)

Plaintiff,)

vs.)

KEVIN CARTER, RICHARD DAVIS,
NATIONWIDE MUTUAL INS. CO,
TRUSTGUARD INSURANCE COMPANY,
SC DEPT. OF PUBLIC SAFETY, TROOPER
BLACKWELL, INTERINSURANCE
EXCHANGE OF THE AUTOMOBILE
CLUB

Defendant.)

IN THE COURT OF COMMON PLEAS

____ JUDICIAL CIRCUIT

CASE NO.: 2018-CP-12-00117

**MOTION AND ORDER INFORMATION
FORM AND COVERSHEET**

FILED
2021 JAN -4 P 3:33
CLERK OF COURT
CHESTER CO S.C.

Plaintiff's Attorney: _____, Bar No. ____ Address: _____ Phone: _____ Fax _____ E-mail: _____ Other: _____	Defendant's Attorney: _____, Bar No. ____ Address: _____ Phone: _____ Fax _____ E-mail: _____ Other: _____
☐ MOTION HEARING REQUESTED (attach written motion and complete SECTIONS I and III) ☒ FORM MOTION, NO HEARING REQUESTED (complete SECTIONS II and III) ☐ PROPOSED ORDER/CONSENT ORDER (complete SECTIONS II and III)	
SECTION I: Hearing Information Nature of Motion: CONTINUANCE Estimated Time Needed: 6 MONTHS Court Reporter Needed: ☐ YES / ☐ NO	
SECTION II: Motion/Order Type ☒ Written motion attached ☐ Form Motion/Order I hereby move for relief or action by the court as set forth in the attached proposed order. DECEMBER 31 2020 Signature of Attorney for ☐ Plaintiff / ☐ Defendant Date submitted	
SECTION III: Motion Fee ☒ PAID -- AMOUNT: \$ _____ ☐ EXEMPT: (check reason) ☐ Rule to Show Cause in Child or Spousal Support ☐ Domestic Abuse or Abuse and Neglect ☐ Indigent Status ☐ State Agency v. Indigent Party ☐ Sexually Violent Predator Act ☐ Post-Conviction Relief ☐ Motion for Stay in Bankruptcy ☐ Motion for Publication ☐ Motion for Execution (Rule 69, SCRCP) ☐ Proposed order submitted at request of the court; or, reduced to writing from motion made in open court per judge's instructions Name of Court Reporter: _____ ☐ Other: _____	
JUDGE'S SECTION ☐ Motion Fee to be paid upon filing of the attached order. ☐ Other: _____	JUDGE CODE _____ Date: _____

CLERK'S VERIFICATION

Collected by: _____ Date Filed: _____

☐ MOTION FEE COLLECTED: \$ _____

☐ CONTESTED - AMOUNT DUE: \$ _____

SCCA 233 (11/2003)

STATE OF SOUTH CAROLINA

BEFORE THE ARBITRATION PANEL OF
CHESTER COUNTY

In the matter of Arbitration between

HEIDI GERSTEN, IVANKA AYOUB)

Claimants)

vs.)

KEVIN CARTER, RICHARD DAVIS,)
JOSEPH TIRBOVICH, NATIONWIDE)
MUTUAL INSURANCE COMPANY,)
INTERINSURANCE EXCHANGE OF)
THE AUTOMOBILE CLUB, JOHN)
AMMENDOLA, TRUSTGUARD)
INSURANCE COMPANY)

Defendants)

Case number 2018-AP-12-00074

2018-CP-12-00117

CLAIMANTS'/PLAINTIFFS' MOTION
FOR CONTINUANCE

Pursuant to Rule 40(i)1, SCRCP,

FILED

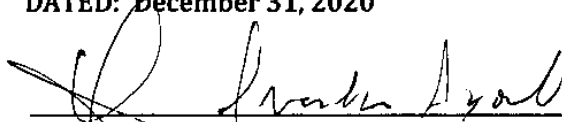
2021 JAN - 4 3:34

CLERK OF COURT
CHESTER CO S.C.

Now come the Claimants Heidi Gersten and Ivanka Ayoub and move this court for a continuance of the scheduled hearing on January 13, 2020 pursuant to Rule 40)1)1, SCRCP for at least 6 months until the matters in Palm Beach County, Florida are resolved. The reasons for this motion are set forth in the attached letter to the Clerk and without a Memorandum in Support, at this time. An amendment to this motion will be made as soon as possible.

Respectfully submitted,

DATED: December 31, 2020



Claimants Heidi Gersten & Ivanka Ayoub
1438 W. Lantana Rd. #330
Lantana, FL 33462
(323) 245-6142/ Fax (561) 756-9820
Heidi@2020VisionPresidential Campaign.com



Chester County, South Carolina
Office of the Clerk of Court
Post Office Drawer 580
Chester, SC 29706

December 18, 2020

FILED
2021 JAN -4 3:34
CLERK OF COURT
CHESTER CO S.C.

Dear Ms. Heidi Gersten:

You have several motions scheduled in the Court of Common Pleas of Chester County. The following motions are set for January 13, 2021 @ 9:30AM before Judge Brian M. Gibbons:

2018-CP-12-00074 Heidi Gersten, et.al v Kevin Carter

Motion/ Claimants' Motion to Alter or Amend a Judgment
Motion/Dismiss on Behalf of Nationwide Mutual Insurance Company
Motion/Dismiss or in the Alternative Motions to Strike

2018-CP-12-00117 Heidi Gersten, et.al v Kevin Carter

Motion/Amend Complaint With Leave
Motion/Recuse and Disqualify Judges Gibbons and Hayes
Motion/Alter and/or Amend a Judgment or Relief from Judgment
Motion/Strike Amended Complaint
Motion/Compel
Motion/Dismiss and Motion to Strike

FILED
2020 DEC 18 4:11:46
CLERK OF COURT
CHESTER CO S.C.

The hearing of these motions is set for 1/13/2021 at 9:30 AM.

If a motion needs to be removed, please email Rachel Johnson at rjohnson@chestercounty.org OR Betty Jo Lawson at blawson@chestercounty.org . If you have any questions regarding the scheduling of this motion, please contact the courts at: (803) 385-2605.

Court Info:

Court of Common Pleas
PO Drawer 580
140 Main St.
Chester, SC 29706-9706

Respectfully,

Sue K. Carpenter
Clerk of Court

Sent via USPS
12/18/20

Exhibit A

Chester County, South Carolina

OFFICE OF CLERK OF COURT
POST OFFICE DRAWER 580
CHESTER, SOUTH CAROLINA 29706

Ms. Heidi Gersten
1438 West Lantana Rd. # 330
Lantana, FL 33462

2020 DEC 18 A 11:46
FILED

CLERK OF COURT
CHESTER CO. S.C.

2021 JAN -4 P 3:34

CLERK OF COURT
CHESTER CO. S.C.

FILED

IN THE CIRCUIT COURT OF THE FIFTEENTH JUDICIAL CIRCUIT,
IN AND FOR PALM BEACH COUNTY, FLORIDA

HEIDI GERSTEN,
Petitioner,

and

JAMES WEAVER,
Respondent.

Case No.: 50-2020-DR-009808-XXXX-MB
Division: FC

FILED

2021 JAN 4 P 3:34

CLERK OF COURT
CHESTER CO. S.C.

ORDER RESETTING HEARING ON PETITION FOR INJUNCTION
FOR PROTECTION AGAINST
REPEAT VIOLENCE

FINDINGS

EXHIBIT B

NOTICE OF HEARING

Petitioner and Respondent are ordered to appear and testify at a hearing on the Petition for Injunction for Protection Against Domestic Violence on: Mon. 5/30/24 at 10:00 AM, at room 6B (Main Branch) MB, 205 N. Dixie Highway West Palm Beach FL 33401, at which time the Court will consider whether a Final Judgment of Injunction for Protection Against Domestic Violence, Repeat, Dating, or Sexual Violence, or Stalking should be entered. If entered, the injunction will remain in effect until a fixed date set by the Court or until modified or dissolved by the Court. At the hearing, the Court will determine whether other things should be ordered, including, for example, such matters as time-sharing and support.

If Petitioner and/or Respondent do not appear, orders may be entered, including the entry of a permanent injunction and the imposition of court costs. Petitioner and Respondent will be bound by the terms of any injunction or order issued at the final hearing.

IF EITHER PETITIONER OR RESPONDENT DOES NOT APPEAR AT THE FINAL HEARING, HE OR SHE WILL BE BOUND BY THE TERMS OF ANY INJUNCTION OR ORDER ISSUED IN THIS MATTER.

All witnesses and evidence, if any, must be presented at this time. In cases where temporary support issues have been alleged in the pleadings, each party is ordered to bring his or her financial affidavit (Florida Family Law Rules of Procedure Form 12.902(b) or (c)), tax return, pay stubs, and other evidence of financial income to the hearing.

NOTICE: Because this is a civil case, there is no requirement that these proceedings be transcribed at public expense.

YOU ARE ADVISED THAT IN THIS COURT:

- ☐ a. a court reporter is provided by the court.
- ☒ b. electronic recording only is provided by the court. A party may arrange in advance for the services of and provide for a court reporter to prepare a written transcript of the proceedings at that party's expense.
- ☐ c. in repeat, dating, and sexual violence cases, no electronic recording or court reporting services are provided by the court. A party may arrange in advance for the services of and provide for a court reporter to prepare a written transcript of the proceedings at that party's expense.

A RECORD, WHICH INCLUDES A TRANSCRIPT, MAY BE REQUIRED TO SUPPORT AN APPEAL. THE PARTY SEEKING THE APPEAL IS RESPONSIBLE FOR HAVING THE TRANSCRIPT PREPARED BY A COURT REPORTER. THE TRANSCRIPT MUST BE FILED WITH THE REVIEWING COURT OR THE APPEAL MAY BE DENIED.

If you are a person with a disability who needs any accommodation in order to participate in this proceeding, you are entitled, at no cost to you, to the provision of certain assistance. Please contact Tammy Anton, Americans with Disabilities Act Coordinator, Palm Beach County Courthouse, 205 North Dixie Highway, West Palm Beach, Florida 33401; telephone number (561) 355-4380 at least 7 days before your scheduled court appearance, or immediately upon receiving this notification if the time before the scheduled appearance is less than 7 days; if you are hearing or voice impaired, call 711.

Nothing in this order limits Petitioner's rights to dismiss the petition.

DONE AND ORDERED in PALM BEACH COUNTY, Florida on this: 12/22/2020


CIRCUIT JUDGE

COPIES TO:

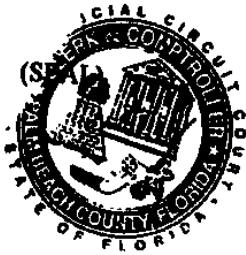
Petitioner:

- ☒ by hand delivery in open Court
☐ by U.S. mail
☐ by e-mail to designated e-mail address(es)

Respondent:

- ☐ forwarded to sheriff for service
☐ State Attorney's Office
☐ Other: PBSO

I CERTIFY the foregoing is a true copy of the original Order Setting Hearing on Petition for Injunction as it appears on file in the office of Sharon R. Bock, Clerk & Comptroller, Palm Beach County, and that I have furnished copies of this order as indicated above.



Sharon R. Bock
Clerk & Comptroller

By: 
Deputy Clerk

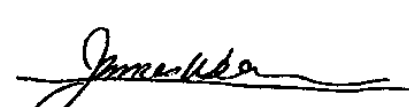


STATE OF FLORIDA - PALM BEACH COUNTY

I hereby certify that the foregoing is a true copy of the record in my office.

THIS 22 DAY OF December 2020
SHARON R. BOCK
CLERK & COMPTROLLER

By: 
DEPUTY CLERK

X 

**CERTIFICATE OF SERVICE
(2018-AP-12-00074)
(2018-CP-12-00117)**

The undersigned, over 18 years of age and not a party to the said action, hereby certifies that (s)he has served the following named individuals with a copy of the foregoing: CLAIMANTS' / PETITIONERS' NOTICE OF MOTION/MOTION FOR CONTINUANCE OF JANUARY 13, 2021 HEARING IN CHESTER COUNTY, SC by mailing a copy of same to them in the U. S. Post Office mail, with sufficient postage affixed thereto and return address clearly marked on the date indicated below:

Wesley Brian Sawyer, Esquire
Murphy & Grantland, P.A.
4406 Forest Drive #B
Columbia, SC 29206
(Attorney for Kevin Carter and Richard Davis)

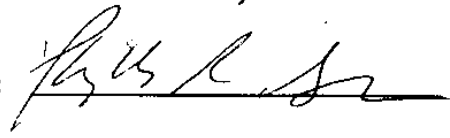
David R. Sligh
P.O. Box 2116
Myrtle Beach, SC 29578
(Attorney for Nationwide Mutual Ins. Co)

Peter H. Dworjanyn, Esquire and
Michael R. Burchstead, Esquire
Collins & Lacy, PC
1330 Lady Street, 6th Floor (29201)
Post Office Box 12487
Columbia, SC 29211
(Attorneys for Trustguard Insurance Company)

John Ammendola
671 S. High St.
Columbus, Ohio 43206

Alexander S. Gogsette
P.O. Box 5478
Florence, SC 29502
(Attorney for Joseph Tirbovich)

Reynolds Williams
P.O. Box 1909
Florence, SC 29503-1909
(Attorney for Defendant Interinsurance Exchange of the Automobile Club)

By: 

Boca Raton, Florida
December 31, 2020

CLERK OF COURT
CHESTER CO S.C.
2021 JAN -4 3:34 PM

Designation of Matter GERSTEN

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

Case No. 2018-CP-12-00117
2028-AP-12-00074

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.

DESIGNATION OF MATTER TO BE
INCLUDED IN THE RECORD ON APPEAL
PERTAINING TO RESPONDENT KEVIN CARTER

The Appellant Heidi Gersten proposes the following be included in the
Record on Appeal:

1. Order of August 22, 2022
2. Arbitration Claim for Property Damage Filed February 21, 2018
3. Complaint Filed March 17, 2018
4. First Amended Claim for Property Damage Filed March 27, 2018
5. Appellant Gersten's Exhibit List A-L Filed March 27, 2018
6. Appellant Gersten's Exhibit List A-G Filed March 27, 2018

7. First Set of Admissions, Interrogatories, and Admissions Filed March 27, 2018
8. Affidavit of Service March 27, 2018
9. Affidavit of Heidi Gersten in Support of Property Damage Claim
10. Answer of Kevin Carter Filed April 16, 2018
11. Motion to Dismiss or Motion to Strike of Kevin Carter Filed April 16, 2018
12. Transcript of Proceedings
13. Appellant Gersten's Exhibits

I certify that this designation contains no matter which is irrelevant to this appeal.

July 31, 2023

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

Designation of Matter CARTER

RECEIVED
Aug 29 2023
SC Court of Appeals

IN THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM CHESTER COUNTY
Court of Common Pleas

The Honorable J. Mark Hayes, II, Circuit Court Judge

Appellate Case No. 2022-001312

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, Trustgard
Insurance Company, SC Department of Public Safety, Chevrolet, GMC, Unknown
John Does, Defendants,

Of whom Kevin Carter is the Respondent.

**RESPONDENT'S DESIGNATION OF MATTER TO BE INCLUDED IN THE RECORD
ON APPEAL**

Respondent Kevin Carter proposes the following documents to be included in the Record
on Appeal:

1. Summons and Claim for Property Damage filed February 21, 2018 in Case No. 2018-CP-12-00074;
2. Summons and Complaint filed March 16, 2018 in Case No. 2018-CP-12-00117;
3. Kevin Carter's and Richard Davis' Motion to Dismiss or, in the alternative, Motion to Strike and Sever filed April 16, 2018 in Case No. 2018-CP-12-00074;
4. Kevin Carter's and Richard Davis' Motion to Dismiss and Motion to Strike or, in the alternative, Sever filed April 16, 2018 in Case No. 2018-CP-12-00117;

5. Order consolidating cases filed April 26, 2018;
6. Order granting Defendants Kevin Carter's and Richard Davis' Motion to Dismiss filed September 19, 2018;
7. Order granting Defendant Interinsurance Exchange of the Automobile Club's Motion to Dismiss filed September 19, 2018;
8. Order granting Defendants South Carolina Department of Public Safety's and Trooper Herbert Blackwell's Motion to Dismiss filed September 21, 2018;
9. Order granting Defendants Nationwide Insurance Company's and Joseph Turbovich's Motion to Dismiss filed September 21, 2018;
10. Order granting Defendants Trustgard Insurance Company's and John Ammendola's Motion to Dismiss filed September 24, 2018;
11. Affidavit of Facts filed January 31, 2019 in Appellate Case No. 2018-002115;
12. Notice of Appeal filed November 27, 2018 in Appellate Case No. 2018-002115;
13. Kevin Carter's and Richard Davis' Motion to Dismiss Appeal and Memorandum in Support filed January 31, 2019 in Appellate Case No. 2018-002115;
14. Letter from the Court of Appeals to Gersten and Ayoub dated February 15, 2019 in Appellate Case No. 2018-002115;
15. Court of Appeals Order filed April 9, 2019 in Appellate Case No. 2018-002115;
16. Court of Appeals Order filed May 14, 2019 in Appellate Case No. 2018-002115;
17. Court of Appeals Order dismissing appeal filed May 14, 2019 in Appellate Case No. 2018-002115;
18. Petition for Rehearing filed May 29, 2019 in Appellate Case No. 2018-002115;
19. Court of Appeals Order denying petition for rehearing filed July 30, 2019 in Appellate Case No. 2018-002115;
20. Petition for Writ of Certiorari filed September 26, 2019 in Appellate Case No. 2019-001484;
21. Supreme Court Order denying petition for writ of certiorari filed April 24, 2020 in Appellate Case No. 2019-001484;
22. June 23, 2020 Remittitur from the Court of Appeals filed June 26, 2020 in Case No. 2018-CP-12-00117;

23. Carter's First Set of Interrogatories and Requests for Production with certificate of service filed August 26, 2020 in Case No. 2018-CP-12-00117;
24. August 13, 2020 Letter to Gersten filed August 26, 2020 in Case No. 2018-CP-12-00117;
25. Carter's Motion to Compel or, in the alternative, Motion to Dismiss for Failure to Prosecute filed August 26, 2020 in Case No. 2018-CP-12-00117;
26. December 18, 2020 Motions Roster Letter to Gersten filed on December 18, 2020 in Case No. 2018-CP-12-00117;
27. Gersten's "Emergency Notice of Objection to and Request/or Motion for Order and Objection to and Request/or Motion for Order for Continuance of Scheduled Telephonic Hearing Thursday July 28, 2022, at 10:00 AM Due to Illness Pursuant to Rule SCRPC and Exhibits and Americans With Disabilities Reasonable Accommodation Request (Title II) and Request for Clarification" emailed to the Court on July 28, 2022;
28. July 28, 2022 Hearing Transcript in Case No. 2018-CP-12-00117;
29. Carter's Motion to Dismiss Claims of Ivanka Ayoub filed July 28, 2022 in Case No. 2018-CP-12-00117;
30. August 18, 2022 Hearing Transcript in Case No. 2018-CP-12-00117;
31. Order dismissing case filed August 22, 2022 in Case No. 2018-CP-12-00117;
32. Gersten's Motion for Continuance filed August 22, 2018 in Case No. 2018-CP-12-00117;
33. Gersten's Motion for Extension of Time to File Initial Brief filed December 27, 2018 in Appellate Case No. 2018-002115;
34. Gersten's Motion for Extension of Time filed February 8, 2019 in Appellate Case No. 2018-002115;
35. Gersten's Motion to Allow Late Filing filed February 19, 2019 in Appellate Case No. 2018-002115;
36. Gersten's Motion for Extension of Time filed March 1, 2019 in Appellate Case No. 2018-002115;
37. Gersten's Motion for Extension of Time filed March 12, 2019 in Appellate Case No. 2018-002115;
38. Gersten's Motion for Extension of Time filed March 21, 2019 in Appellate Case No. 2018-002115;

39. Gersten's Motion for Extension of Time filed March 28, 2019 in Appellate Case No. 2018-002115;
40. Gersten's Motion for Extension of Time filed April 8, 2019 in Appellate Case No. 2018-002115;
41. Gersten's Motion for Extension of Time filed April 18, 2019 in Appellate Case No. 2018-002115;
42. Gersten's Motion for Extension of Time filed April 29, 2019 in Appellate Case No. 2018-002115;
43. Gersten's Motion to Reinstate Appeal or Motion for Extension of Time filed May 31, 2019 in Appellate Case No. 2018-002115;
44. Gersten's Motion for Extension of Time filed September 4, 2019 in Appellate Case No. 2019-001484;
45. Gersten's Motion for Extension of Time filed November 7, 2019 in Appellate Case No. 2019-001484; and
46. Gersten's Motion for a Continuance filed January 4, 2021 in Case No. 2018-CP-12-00117.

I certify that this designation contains no matter which is irrelevant to this appeal.

Respectfully submitted,

s/Wesley B. Sawyer
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