

RECEIVED

Dec 10 2024

SC Court of Appeals

THE STATE of SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM CHESTER COUNTY
Court of Common Pleas

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

Appellate Case Nos. 2022-001312 and 2022-001390

Trial Court Case Nos. 2018CP1200117 and 2018CP1200074

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

Of whom Kevin Carter is the Respondent.

APPELLANT's TITLE II/III of the AMERICANS with DISABILITIES ACT ("ADA")
REASONABLE ACCOMMODATION REQUEST to ACCEPT And GRANT
APPELLANT's DECEMBER 6, 2024, REQUEST and MOTION for an EXTENSION of TIME
to FILE REPLY to RESPONDENT'S RETURN TO APPELLANT'S MOTION FOR
REINSTATEMENT And REPLY TO PETITION FOR REHEARING
UNTIL and INCLUDING DECEMBER 18, 2024

Heidi Gersten, Appellant
All Rights Reserved, Without Prejudice
1438 W. Lantana Rd. #330
Lantana, FL 33462
323-245-6142
hanginhangout@gmail.com

The Appellant Heidi Gersten (“GERSTEN”) in the above-captioned case, hereby requests and kindly moves this South Carolina Court of Appeals (“COURT”), pursuant of/to The Golden Rule, Title II and Title III of the ADA Reasonable Accommodation Request, S.C. App. Ct. R. 240, and S.C. App. Ct. R. 263(a), as well as any and all applicable law, seeking a grant of her December 6, 2024, request and motion to accept as timely filed and grant the request and motion for an extension of time, until and including December 18, 2024, to file her reply to the Respondent Kevin Carter’s (“CARTER”) return to GERSTEN’s motion for reinstatement filed on November 15, 2024, and reply to petition for rehearing.

The grounds, reasons, and basis for this request and motion are set forth in the attached memorandum in support.

Respectfully submitted this 10th of December 2024,

_____/S/Heidi Gersten
Heidi Gersten, Appellant
All Rights Reserved, Without Prejudice
1438 W. Lantana Rd. #330
Lantana, FL 33462
323-245-6142
hanginhangout@gmail.com

MEMORANDUM in SUPPORT of
APPELLANT's TITLE II/III of the AMERICANS with DISABILITIES ACT ("ADA")
REASONABLE ACCOMMODATION REQUEST to ACCEPT And GRANT
APPELLANT's DECEMBER 6, 2024, REQUEST and MOTION for an EXTENSION of TIME
to FILE REPLY to RESPONDENT'S RETURN TO APPELLANT'S MOTION FOR
REINSTATEMENT And REPLY TO PETITION FOR REHEARING
UNTIL and INCLUDING DECEMBER 18, 2024

1. On November 22, 2024, GERSTEN served and filed APPELLANT'S TITLE II of the AMERICANS with DISABILITIES ACT ("ADA") REASONABLE ACCOMMODATION REQUEST to ACCEPT And GRANT APPELLANT'S REQUEST and MOTION for an EXTENSION OF TIME to FILE REPLY to RESPONDENT'S RETURN TO APPELLANT'S MOTION FOR REINSTATEMENT (Exhibit A)

2. On November 25, 2024, GERSTEN, served and filed MOTION for LEAVE to AMEND And to ACCEPT AMENDED APPELLANT'S TITLE II of the AMERICANS with DISABILITIES ACT ("ADA") REASONABLE ACCOMMODATION REQUEST to ACCEPT And GRANT APPELLANT'S REQUEST and MOTION for an EXTENSION OF TIME to FILE REPLY to RESPONDENT'S RETURN TO APPELLANT'S MOTION FOR REINSTATEMENT (Exhibit B) and AMENDED APPELLANT'S TITLE II of the AMERICANS with DISABILITIES ACT ("ADA") REASONABLE ACCOMMODATION REQUEST to ACCEPT And GRANT APPELLANT'S REQUEST and MOTION for an EXTENSION OF TIME to FILE REPLY to RESPONDENT'S RETURN TO APPELLANT'S MOTION FOR REINSTATEMENT (Exhibit C) after she miscalculated her initial request and motion for extension of time and amended them factoring in Thanksgiving holiday dates until and including December 3, 3024.

3. On December 3, 2024, before a ruling was made regarding the said previous requests and motions, GERSTEN realized more time was required and filed APPELLANT's TITLE II of the

AMERICANS with DISABILITIES ACT (“ADA”) REASONABLE ACCOMMODATION REQUEST to ACCEPT And GRANT APPELLANT’S REQUEST and MOTION for an EXTENSION of TIME to FILE REPLY to RESPONDENT’S RETURN TO APPELLANT’S MOTION FOR REINSTATEMENT until and including December 10, 2024. (Exhibit D)

4. On December 4, 2024, this COURT issued an order stating, “The time for serving and filing the reply to the return to the petition for rehearing is hereby extended until December 6, 2024.” (Exhibit E)

7. Since GERSTEN’S December 3, 2024, filing that requested an extension until and including December 10, 2024, to file her said reply to petition for rehearing and petition for reinstatement, she experienced high fever-like temperatures in addition to her daily struggles of being paralyzed disabled and was unable to function well-enough to complete her said filing of reply to petitions for rehearing and reinstatement.

5. The said filing of December 3, 2024, was made before the expiration of this COURT’S order of December 4, 2024, granting said extension until December 6, 2024.

6. On December 6, 2024, GERSTEN filed and served APPELLANT’S TITLE II of the AMERICANS with DISABILITIES ACT (“ADA”) REASONABLE ACCOMMODATION REQUEST to ACCEPT And GRANT APPELLANT’S REQUEST and MOTION for an EXTENSION of TIME to FILE REPLY to RESPONDENT’S RETURN TO APPELLANT’S MOTION FOR REINSTATEMENT And REPLY TO PETITION FOR REHEARING for the reasons contained in it until and including December `8, 2024. (Exhibit F)

7. On December 9, 2024, this COURT issued an order stating, “The time for serving and filing the reply to the return to the petition for rehearing is hereby extended until December 10, 2024. No further extensions will be granted absent extraordinary circumstances.” (Exhibit G)

8. Additional time is required to complete the reply to petition for rehearing and reinstatement until and including December 18, 2024, and was stated in GERSTEN’s December 6, 2024, filing before the December 9, 2024, order of this COURT.

9. GERSTEN is paralyzed disabled as a result of the collision in controversy in this matter which causes her to be substantially limited on one or more of her major life activities and she is now a qualified individual of and protected under the ADA. She has no caregiver, personal aid, or assistance to help her with daily functions. She lives under extreme hardship and extraordinary circumstances.

10. A “qualified individual with a disability” is defined as “an individual with a disability who, with or without reasonable modifications to rules, policies, or practices, the removal of architectural, communication, or transportation barriers, or the provision of auxiliary aids and services, meets the essential eligibility requirements for the receipt of services or the participation in programs or activities provided by a public entity.” *United States v. Georgia*, 546 U.S. at 153– 54, 126 S.Ct. 877 (quoting 42 U.S.C. § 12131(2)).

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

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

care or protection.

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

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

15. “A public entity shall make reasonable modifications in policies, practices, or procedures when the modifications are necessary to avoid discrimination on the basis of disability, unless the public entity can demonstrate that making the modifications would fundamentally alter the nature of the service, program, or activity.” 28 C.F.R. § 35.130(b)

16. GERSTEN has been diligently working on all aspects of perfecting this instant appeal and doing her best to comply with all due dates in spite of coping with and managing secondary complications of paralysis that include, but are not limited to, an illness of multiple pressure wounds. One is located on her left buttocks that prevents her from sitting down for extended periods of time without further injury. There are other wounds that develop and heal, as she is prone to them. Managing bowels and incontinence issues that she has no control over is unimaginable to an abled body. GERSTEN suffers with this daily. She experiences frequent diarrhea attacks, explosions, and accidents that include unexpected bouts of urination throughout the day. It takes her between two to five hours to perform the task of extracting at least one bowel movement daily. Using the digital stimulation technique often leaves her fingers prunin

and numb and causes her to feel exhausted afterwards. She changes her diaper frequently and changes clothes and linens multiple times a day because of the excreta leakage out of the diaper. The time spent dealing with the nuances of being paralyzed negatively affects GERSTEN's quality of life and causes increased emotional, psychological, and social distress, in addition to the maddening physical pain she feels caused by paralysis and its secondary complications, among other things. It takes her approximately fifty-two (52) times longer to perform basic daily functions an abled body can do. Due to the years of paralysis, the weight of her upper body crushing down on her lower half, especially while sitting, prolapse has occurred. GERSTEN must periodically push organs that protrude from her vagina and anus back into place. For these reasons and more, additional time is required for her to file her reply. (Pictures and video available upon request; this is an offer of proof of evidence.)

17. GERSTEN has spent much time on this instant appeal producing information which was voluminous and required her to scan thousands of documents, research, and type information into comprehensible and acceptable formats, and redact personal information required to do so under privacy law, which is challenging, to state the least. GERSTEN lacks technological resources and a proper wheelchair to sit in and use, in addition to the litany of other previously stated misfortunes she lives with, as she navigates through on her journey towards a single step, vindicating her rights in response to her victimization of paralysis and its secondary complications, including, but not limited to, her claims against CARTER.

18. In addition to GERSTEN's health crisis, she has other court matters in other states with deadlines within proximity of this case here.

19. Public policy advocates for appeals to be tried on their merits and the appellate courts often grant extensions of time at various stages.

20. A grant of this Title II of the ADA request and motion does not fundamentally alter this COURT's policies, practices, or procedures, nor does it create any undue burden or financial or otherwise hardship on this COURT.

21. Please note that when responding to a Title II or Title III ADA REQUEST, which this COURT is subject to, as a government agency, and a place of public accommodations, and in commercial facilities, which this COURT is, should acknowledge receipt of the request, engage in an interactive process to understand the individual's needs, discuss potential accommodations, and provide a timely, detailed response outlining the approved accommodation (if applicable) or explaining why the requested accommodation cannot be provided, citing specific reasons related to undue burden or fundamental alteration of the program or service; always ensuring clear communication and respectful consideration of the individual's disability-related needs.

22. A disability is considered an "extraordinary circumstance," meaning it is a situation that is unusual, unexpected, and beyond a person's typical control, often warranting special consideration or flexibility in rules or procedures, especially for paralyzed disabled who has no help from a caregiver, aid, or any assistance in daily life as GERSTEN is going through.

23. The term "extraordinary circumstances" includes disability, as well as ongoing or sudden illness including health related issues, such as the secondary complications of paralysis, like noncontagious pressure wounds and total loss of control over bowel movements and other incontinence issues GERSTEN suffers from daily since the collision in controversy.

24. This COURT has previously granted more than two extensions for one specific part of movement of the issues stemmed from the controversy of March 19, 2016.

25. This COURT has previously granted GERSTEN rehearing and reinstatement in this matter.

26. CARTER and other Respondents are not prejudiced; a remittitur should not be issued at this time.

This reasonable request and motion are not made for the purposes of delay, rather in the interest and furtherance of justice, its equal protection, and to prevent and avoid its miscarriage.

THEREFORE, having shown more than good cause; extraordinary circumstances, and for the previous reasons, GERSTEN respectfully requests this COURT to grant her Title II and Title II of the Americans with Disabilities Act Reasonable Accommodation Request to accept this filing as timely and grant her request and motion for extension of time to file her reply to CARTER's return to GERSTEN's motion for reinstatement and reply to petition for rehearing up until and including December 18, 2024, applying The Golden Rule.

Respectfully submitted this 10th day of December 2024,

_____/S/Heidi Gersten
Heidi Gersten, Appellant
All Rights Reserved, Without Prejudice
1438 W. Lantana Rd. #330
Lantana, FL 33462
(323) 245-6142
hanginhangout@mail.com

Other Counsel of Record

Wesley Brian Sawyer, Esquire (SC Bar # 100229)
Murphy & Grantland, P.A.
4406-B Forest Drive
Columbia, SC 29206
P.O. Box 6648
Columbia, SC 29260
(803) 782-4100
wsawyer@murphygrantland.com
(Attorney for Respondents Kevin Carter and Richard Davis)

Pamela J. Larson, Esquire
WOMBLE BOND DICKINSON (US) LLP
5 Exchange St.
Charleston, SC 29401-2948
PO Box 999
Charleston, SC 29402
(843) 213-5519
(843) 720-4630
pamela.larson@wbd-us.com
(Attorney for Respondents Nationwide Mutual Insurance Company and Joseph Tirbovich)

Shelley S. Montague, Esquire
Jessica W. Laffitte, Esquire
Gallivan, White & Boyd, P.A.
P.O. Box 7368
Columbia, SC 29202
smontague@gwblawfirm.com
jlaffitte@gwblawfirm.com
(Attorneys for Respondents Trustgard Insurance Company and John Ammendola)

William H. Davidson, II, Esquire
Davidson, Wren & Plyler, P.A. & DeMasters
P.O. Box 8568
Columbia, SC 29202
wdavidson@dml-law.com
(803)806-8222
(Attorney for Respondents SC Dept. of Public Safety and Herbert Blackwell)

Reynolds Williams
P.O. Box 1909
Florence, SC 29503-1909
(843) 662-3258
reynolds@willcoxlaw.com
(Attorney for Respondent Interinsurance Exchange of the Automobile Club)

RECEIVED

Dec 10 2024

SC Court of Appeals

PROOF or CERTIFICATE of SERVICE

I hereby certify that service of a true and accurate copy of the APPELLANT's TITLE II/III of the AMERICANS with DISABILITIES ACT ("ADA") REASONABLE ACCOMMODATION REQUEST to ACCEPT And GRANT APPELLANT's DECEMBER 6, 2024, REQUEST and MOTION for an EXTENSION of TIME to FILE REPLY to RESPONDENT'S RETURN TO APPELLANT'S MOTION FOR REINSTATEMENT And REPLY TO PETITION FOR REHEARING UNTIL and INCLUDING DECEMBER 18, 2024, and Cover Sheet [Total of 11 Pages including Cover Sheet and this PROOF or CERTIFICATE of SERVICE] in the above-captioned cases was made upon all parties and counsel of record by email, per Court order, on December 10, 2024:

Wesley Brian Sawyer, Esquire
wsawyer@murphygrantland.com
(Attorney for Respondents Kevin Carter and Richard Davis)

Pamela J. Larson, Esquire
Pamela.larson@wbd-us.com
(Attorney for Respondent Nationwide Mutual Insurance Company and Joseph Tirbovich)

Shelley S. Montague, Esquire
Jessica W. Laffitte, Esquire
smontague@gwblawfirm.com
jlaffitte@gwblawfirm.com
(Attorneys for Trustgard Insurance Company and John Ammendola)

William H. Davidson, II, Esquire
wdavidson@dml-law
(Attorney for Respondents SC Dept. of Public Safety and Herbert Blackwell)

Reynolds Williams
reynolds@willcoxlaw.com
(Attorney for Respondent Interinsurance Exchange of the Automobile Club)

Email addresses listed sent by ctappfilings@sccourts.org

jcobb@gwblawfirm.com
pholland@gwblawfirm.com
dblack@murphygrantland.com
thumphries@willcoxlaw.com
carla.cerchione@wbe-us.com
nbouknight@dml-law.com

Respectfully submitted this 10th day of December 2024

 /S/Heidi Gersten

Heidi Gersten, Appellant

All Rights Reserved Without Prejudice

1438 W. Lantana Rd. #330

Lantana, FL 33462

(323) 245-6142

hanginhangout@gmail.com

Exhibit A

Filed November 22, 2024

APPELLANT’S TITLE II of the AMERICANS with
DISABILITIES ACT (“ADA”) REASONABLE
ACCOMMODATION REQUEST to ACCEPT And
GRANT APPELLANT’S REQUEST and MOTION for
an EXTENSION OF TIME to FILE REPLY to
RESPONDENT’S RETURN TO APPELLANT’S
MOTION FOR REINSTATEMENT

RECEIVED

Nov 22 2024

SC Court of Appeals

THE STATE of SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM CHESTER COUNTY
Court of Common Pleas

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

Appellate Case Nos. 2022-001312 and 2022-001390

Trial Court Case Nos. 2018CP1200117 and 2018CP1200074

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

Of whom Kevin Carter is the Respondent.

APPELLANT'S TITLE II of the AMERICANS with DISABILITIES ACT ("ADA")
REASONABLE ACCOMMODATION REQUEST to ACCEPT And GRANT
APPELLANT'S REQUEST and MOTION for an EXTENSION OF TIME to FILE REPLY to
RESPONDENT'S RETURN TO APPELLANT'S MOTION FOR REINSTATEMENT

Heidi Gersten, Appellant
All Rights Reserved without Prejudice
1438 W. Lantana Rd. #330
Lantana, FL 33462
323-245-6142
hanginhangout@gmail.com

The Appellant Heidi Gersten (“GERSTEN”) in the above-captioned case, hereby requests and moves this South Carolina Court of Appeals (“Court”), pursuant of/to The Golden Rule, Title II of the ADA Reasonable Accommodation Request, S.C. App. Ct. R. 240, and S.C. App. Ct. R. 263(a), as well as any and all applicable law, seeking a grant of her request and motion to accept this instant document as timely filed and grant the request and motion for an extension of time of an additional five (5) business days, excluding weekend days of Saturday and Sunday and holidays, up until and including November 29, 2024, to file her reply to the Respondent Kevin Carter’s (“CARTER”) return to GERSTEN’s motion for reinstatement filed on November 15, 2024.

The grounds, reasons, and basis for this request and motion are set forth in the attached memorandum in support.

Respectfully submitted this 22nd of November 2024,

_____/S/Heidi Gersten_____
Heidi Gersten, Appellant
All Rights Reserved Without Prejudice
1438 W. Lantana Rd. #330
Lantana, FL 33462
323-245-6142
hanginhangout@gmail.com

APPELLANT’S TITLE II of the AMERICANS with DISABILITIES ACT (“ADA”) REASONABLE ACCOMMODATION REQUEST to ACCEPT And GRANT APPELLANT’S REQUEST and MOTION for an EXTENSION OF TIME to FILE REPLY to RESPONDENT’S RETURN TO APPELLANT’S MOTION FOR REINSTATEMENT

1. On November 15, 2024, CARTER filed his return to GERSTEN’s motion for reinstatement.
2. This request and motion are made before the expiration of time permitted under The Golden Rule, Title II of the ADA Reasonable Accommodation Request, and Rules 240 and 263(a), SCACR, as well as any and all applicable law.
3. GERSTEN is paralyzed disabled as a result of the collision in controversy in this matter which causes her to be substantially limited on one or more of her major life activities and she is now a qualified individual of and protected under the ADA. She has no caregiver, personal aid, or assistance to help her with daily functions. She lives under extreme hardship and extraordinary circumstances.
4. A “qualified individual with a disability” is defined as “an individual with a disability who, with or without reasonable modifications to rules, policies, or practices, the removal of architectural, communication, or transportation barriers, or the provision of auxiliary aids and services, meets the essential eligibility requirements for the receipt of services or the participation in programs or activities provided by a public entity.” *United States v. Georgia*, 546 U.S. at 153– 54, 126 S.Ct. 877 (quoting 42 U.S.C. § 12131(2)).
5. GERSTEN’s disability of being paralyzed renders her incapable of asserting her claims or defenses in a timely manner. Under South Carolina law, GERSTEN is a “vulnerable adult” defined, in part, as a person eighteen years of age or older who has a physical or mental condition which substantially impairs the person from adequately providing for his or her own

care or protection.

6. GERSTEN has been diligently working on all aspects of perfecting this instant appeal and doing her best to comply with all due dates in spite of coping with and managing secondary complications of paralysis that include, but are not limited to, an illness of multiple pressure wounds. One is located on her left buttocks that prevents her from sitting down for extended periods of time without further injury. There are other wounds that develop and heal, as she is prone to them. Managing bowels and incontinence issues that she has no control over is unimaginable to an abled body. GERSTEN suffers with this daily. She experiences frequent diarrhea attacks, explosions, and accidents that include unexpected bouts of urination throughout the day. It takes her between two to five hours to perform the task of extracting at least one bowel movement daily. Using the digital stimulation technique often leaves her fingers pruned and numb and causes her to feel exhausted afterwards. She changes her diaper frequently and changes clothes and linens multiple times a day because of the excreta leakage out of the diaper. The time spent dealing with the nuances of being paralyzed negatively affects GERSTEN's quality of life and causes increased emotional, psychological, and social distress, in addition to the maddening physical pain she feels caused by paralysis and its secondary complications, among other things. It takes her approximately fifty-two (52) times longer to perform basic daily functions an abled body can do. Due to the years of paralysis, the weight of her upper body crushing down on her lower half, especially while sitting, prolapse has occurred. GERSTEN must periodically push organs that protrude from her vagina and anus back into place. For these reasons and more, additional time is required for her to file her reply. (Pictures and video available upon request; this is an offer of proof of evidence.)

7. GERSTEN has spent much time on this instant appeal producing information which was

voluminous and required her to scan thousands of documents, research, and type information into comprehensible and acceptable formats, and redact personal information required to do so under privacy law, which is challenging, to state the least. GERSTEN lacks technological resources and a proper wheelchair to sit in and use, in addition to the litany of other previously stated misfortunes she lives with, as she navigates through on her journey towards a single step, vindicating her rights in response to her victimization of paralysis and its secondary complications, including, but not limited to, her claims against CARTER.

8. In addition to GERSTEN's health crisis, she has other court matters in other states with deadlines within proximity of this case here.

9. Public policy advocates for appeals to be tried on their merits and the appellate courts often grant extensions of time at various stages.

10. A grant of this ADA request and motion does not fundamentally alter this COURT's policies, practices, or procedures, nor does it create any undue burden or financial or otherwise hardship on this COURT.

11. This COURT has previously granted GERSTEN rehearing and reinstatement in this matter.

12. CARTER and other Respondents are not prejudiced; a remittitur should not be issued at this time.

This reasonable request and motion are not made for the purposes of delay; rather in the interest and furtherance of justice and to prevent and avoid its miscarriage.

THEREFORE, having shown more than good cause; extraordinary circumstances, and for the previous reasons, GERSTEN respectfully requests this COURT to grant her Title II of the Americans with Disabilities Act Reasonable Accommodation Request to accept this filing as timely and grant her request and motion for extension of time to file her reply to CARTER's return to GERSTEN's motion for reinstatement up until and including November 29, 2024, applying The Golden Rule.

Respectfully submitted this 22nd day of November 2024,

_____/S/Heidi Gersten_____
Heidi Gersten, Appellant
All Rights Reserved Without Prejudice
1438 W. Lantana Rd. #330
Lantana, FL 33462
(323) 245-6142
hanginhangout@mail.com

Other Counsel of Record
Wesley Brian Sawyer, Esquire (SC Bar # 100229)
Murphy & Grantland, P.A.
4406-B Forest Drive
Columbia, SC 29206
P.O. Box 6648
Columbia, SC 29260
(803) 782-4100
wsawyer@murphygrantland.com
(Attorney for Respondents Kevin Carter and Richard Davis)

Pamela J. Larson, Esquire
WOMBLE BOND DICKINSON (US) LLP
5 Exchange St.
Charleston, SC 29401-2948
PO Box 999
Charleston, SC 29402
(843) 213-5519
(843) 720-4630
pamela.larson@wbd-us.com
(Attorney for Respondents Nationwide Mutual Insurance Company and Joseph Tirbovich)

Shelley S. Montague, Esquire
Jessica W. Laffitte, Esquire
Gallivan, White & Boyd, P.A.
P.O. Box 7368
Columbia, SC 29202
smontague@gwblawfirm.com
jlaffitte@gwblawfirm.com
(Attorneys for Respondents Trustgard Insurance Company and John Ammendola)

William H. Davidson, II, Esquire
Davidson, Wren & Plyler, P.A. & DeMasters
P.O. Box 8568
Columbia, SC 29202
wdavidson@dml-law.com
(803)806-8222
(Attorney for Respondents SC Dept. of Public Safety and Herbert Blackwell)

Reynolds Williams
P.O. Box 1909
Florence, SC 29503-1909
(843) 662-3258
reynolds@willcoxlaw.com
(Attorney for Respondent Interinsurance Exchange of the Automobile Club)

RECEIVED

Nov 22 2024

SC Court of Appeals

PROOF OR CERTIFICATE OF SERVICE

I hereby certify that service of a true and accurate copy of the APPELLANT'S TITLE II of the AMERICANS with DISABILITIES ACT ("ADA") REASONABLE ACCOMMODATION REQUEST to ACCEPT And GRANT APPELLANT'S REQUEST and MOTION for an EXTENSION OF TIME to FILE REPLY to RESPONDENT'S RETURN TO APPELLANT'S MOTION FOR REINSTATEMENT, and Cover Sheet [Total of 11 Pages including Cover Sheet and this PROOF OR CERTIFICATE OF SERVICE] in the above-captioned cases was made upon all parties and counsel of record by email, per Court order, on November 22, 2024:

Wesley Brian Sawyer, Esquire
wsawyer@murphygrantland.com
(Attorney for Respondents Kevin Carter and Richard Davis)

Pamela J. Larson, Esquire
Pamela.larson@wbd-us.com
(Attorney for Respondent Nationwide Mutual Insurance Company and Joseph Tirbovich)

Shelley S. Montague, Esquire
Jessica W. Laffitte, Esquire
smontague@gwblawfirm.com
jlaffitte@gwblawfirm.com
(Attorneys for Trustgard Insurance Company and John Ammendola)

William H. Davidson, II, Esquire
wdavidson@dml-law
(Attorney for Respondents SC Dept. of Public Safety and Herbert Blackwell)

Reynolds Williams
reynolds@willcoxlaw.com
(Attorney for Respondent Interinsurance Exchange of the Automobile Club)

Email addresses listed sent by ctappfilings@sccourts.org

jcobb@gwblawfirm.com
pholland@gwblawfirm.com
dblack@murphygrantland.com
thumphries@willcoxlaw.com
carla.cerchione@wbe-us.com
nbouknight@dml-law.com

Respectfully submitted this 22nd day of November 2024

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

November 22, 2024
1438 W. Lantana Rd. #330
Lantana, FL 33462
(323) 245-6142
hanginhangout@gmail.com

The Honorable Jenny Abbott Kitchings
Clerk of Court
SC Court of Appeals
1220 Senate St.
Columbia, SC 29301
ctappfilings@sccourts.org

Re: 2022-001312; 2022-001390

APPELLANT’S TITLE II of the AMERICANS with DISABILITIES ACT (“ADA”) REASONABLE ACCOMMODATION REQUEST to ACCEPT And GRANT APPELLANT’S REQUEST and MOTION for an EXTENSION OF TIME to FILE REPLY to RESPONDENT’S RETURN TO APPELLANT’S MOTION FOR REINSTATEMENT, and PROOF OR CERTIFICATE OF SERVICE, and Cover Letter

Dear Ms. Kitchings and/or to ALL CONCERNED:

Good day to you!

Enclosed for filing, please find a copy of the above stated APPELLANT’S TITLE II of the AMERICANS with DISABILITIES ACT (“ADA”) REASONABLE ACCOMMODATION REQUEST to ACCEPT And GRANT APPELLANT’S REQUEST and MOTION for an EXTENSION OF TIME to FILE REPLY to RESPONDENT’S RETURN TO APPELLANT’S MOTION FOR REINSTATEMENT, and PROOF OR CERTIFICATE OF SERVICE, and Cover Letter. Pursuant to Rule 240(d), which states in part, “...In extraordinary cases, the appellate court may relieve a party from paying the filing fee.” Please waive any filing fee, as a Title II of the “ADA’s” Reasonable Accommodation Request.

Please file stamp the documents with today’s date of November 22, 2024, place in the court file, and email me a time-stamped copy.

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

Thank you for your time and assistance regarding this matter.

Kind regards,

___/S/Heidi Gersten _____
Heidi Gersten, Appellant

HG/Enclosures/APPELLANT’S TITLE II of the AMERICANS with DISABILITIES ACT (“ADA”) REASONABLE ACCOMMODATION REQUEST to ACCEPT And GRANT APPELLANT’S REQUEST and MOTION for an EXTENSION OF TIME to FILE REPLY to RESPONDENT’S RETURN TO APPELLANT’S MOTION FOR REINSTATEMENT, and PROOF OR CERTIFICATE OF SERVICE, and Cover Letter

Total Pages: Eleven (11) including this cover letter

Exhibit B

Filed November 25, 2024

MOTION for LEAVE to AMEND And to ACCEPT AMENDED APPELLANT’S TITLE II of the AMERICANS with DISABILITIES ACT (“ADA”) REASONABLE ACCOMMODATION REQUEST to ACCEPT And GRANT APPELLANT’S REQUEST and MOTION for an EXTENSION OF TIME to FILE REPLY to RESPONDENT’S RETURN TO APPELLANT’S MOTION FOR REINSTATEMENT

THE STATE of SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM CHESTER COUNTY
Court of Common Pleas

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

Appellate Case Nos. 2022-001312 and 2022-001390

Trial Court Case Nos. 2018CP1200117 and 2018CP1200074

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

Of whom Kevin Carter is the Respondent.

MOTION for LEAVE to AMEND And to ACCEPT AMENDED
APPELLANT’S TITLE II of the AMERICANS with DISABILITIES ACT (“ADA”) REASONABLE ACCOMMODATION REQUEST to ACCEPT And GRANT
APPELLANT’S REQUEST and MOTION for an EXTENSION OF TIME to FILE REPLY to
RESPONDENT’S RETURN TO APPELLANT’S MOTION FOR REINSTATEMENT

Heidi Gersten, Appellant
All Rights Reserved without Prejudice
1438 W. Lantana Rd. #330
Lantana, FL 33462
323-245-6142
hanginhangout@gmail.com

The Appellant Heidi Gersten (“GERSTEN”) in the above-captioned case, hereby requests and moves this South Carolina Court of Appeals (“COURT”), to accept and grant this motion for leave to amend and to accept as timely filed her amended Title II of the ADA Reasonable Accommodation Request to accept and grant her request and motion for extension of time to file reply to the Respondent Kevin Carter’s (“CARTER”) return to her motion for reinstatement pursuant of/to The Golden Rule, Title II of the ADA Reasonable Accommodation Request, S.C. App. Ct. R. 240, and S.C. App. Ct. R. 263(a), as well as any and all applicable law, seeking a grant of her request and motion to accept as timely filed and grant the request and motion for an extension of time of an additional five (5) business days, excluding weekend days of Saturday and Sunday and holidays, up until and including December 3, 2024, to file her reply to the Respondent Kevin Carter’s (“CARTER”) return to GERSTEN’s motion for reinstatement filed on November 15, 2024.

The grounds, reasons, and basis for this request and motion are set forth in the attached memorandum in support.

Respectfully submitted this 25th of November 2024,

_____/S/Heidi Gersten_____
Heidi Gersten, Appellant
All Rights Reserved Without Prejudice
1438 W. Lantana Rd. #330
Lantana, FL 33462
323-245-6142
hanginhangout@gmail.com

MEMORANDUM IN SUPPORT OF
MOTION for LEAVE to AMEND And to ACCEPT AMENDED
APPELLANT’S TITLE II of the AMERICANS with DISABILITIES ACT (“ADA”) REASONABLE ACCOMMODATION REQUEST to ACCEPT And GRANT
APPELLANT’S REQUEST and MOTION for an EXTENSION OF TIME to FILE REPLY to
RESPONDENT’S RETURN TO APPELLANT’S MOTION FOR REINSTATEMENT

1. On November 22, 2024, GERSTEN filed a TITLE II of the AMERICANS with DISABILITIES ACT (“ADA”) REASONABLE ACCOMMODATION REQUEST to accept and grant Appellant’s request and motion for an extension of time to file reply to Respondent’s return to Appellant’s motion for reinstatement.

2. The original request and motion were made on November 22, 2024, before the expiration of time permitted under The Golden Rule, Title II of the ADA Reasonable Accommodation Request, and Rules 240 and 263(a), SCACR, as well as any and all applicable law, and now amended to correct the date of filing to December 3, 2024, in accordance with state holidays.

3. CARTER and other Respondents are not prejudiced; a remittitur should not be issued at this time.

4. This reasonable request and motion are not made for the purposes of delay, rather in the interest and furtherance of justice and to prevent and avoid its miscarriage.

THEREFORE, having shown good cause for the previous reasons, GERSTEN respectfully requests and moves this COURT to accept as timely filed her Amended TITLE II of the AMERICANS with DISABILITIES ACT (“ADA”) REASONABLE ACCOMMODATION REQUEST to ACCEPT And GRANT APPELLANT’S REQUEST and MOTION for an EXTENSION OF TIME to FILE REPLY to RESPONDENT’S RETURN TO APPELLANT’S MOTION FOR REINSTATEMENT.

Respectfully submitted this 25th day of November 2024,

/S/Heidi Gersten

Heidi Gersten, Appellant
All Rights Reserved Without Prejudice
1438 W. Lantana Rd. #330
Lantana, FL 33462
(323) 245-6142
hanginhangout@mail.com

Other Counsel of Record
Wesley Brian Sawyer, Esquire (SC Bar # 100229)
Murphy & Grantland, P.A.
4406-B Forest Drive
Columbia, SC 29206
P.O. Box 6648
Columbia, SC 29260
(803) 782-4100
wsawyer@murphygrantland.com
(Attorney for Respondents Kevin Carter and Richard Davis)

Pamela J. Larson, Esquire
WOMBLE BOND DICKINSON (US) LLP
5 Exchange St.
Charleston, SC 29401-2948
PO Box 999
Charleston, SC 29402
(843) 213-5519
(843) 720-4630
pamela.larson@wbd-us.com
(Attorney for Respondents Nationwide Mutual Insurance Company and Joseph Tirbovich)

Shelley S. Montague, Esquire
Jessica W. Laffitte, Esquire
Gallivan, White & Boyd, P.A.
P.O. Box 7368
Columbia, SC 29202
smontague@gwblawfirm.com
jlaffitte@gwblawfirm.com
(Attorneys for Respondents Trustgard Insurance Company and John Ammendola)

William H. Davidson, II, Esquire
Davidson, Wren & Plyler, P.A. & DeMasters
P.O. Box 8568
Columbia, SC 29202
wdavidson@dml-law.com
(803)806-8222
(Attorney for Respondents SC Dept. of Public Safety and Herbert Blackwell)

Reynolds Williams
P.O. Box 1909
Florence, SC 29503-1909
(843) 662-3258
reynolds@willcoxlaw.com
(Attorney for Respondent Interinsurance Exchange of the Automobile Club)

PROOF OR CERTIFICATE OF SERVICE

I hereby certify that service of a true and accurate copy of the MOTION for LEAVE to AMEND And to ACCEPT AMENDED APPELLANT'S TITLE II of the AMERICANS with DISABILITIES ACT ("ADA") REASONABLE ACCOMMODATION REQUEST to ACCEPT And GRANT APPELLANT'S REQUEST and MOTION for an EXTENSION OF TIME to FILE REPLY to RESPONDENT'S RETURN TO APPELLANT'S MOTION FOR REINSTATEMENT, [Total of Seven (7) Pages including this PROOF OR CERTIFICATE OF SERVICE] in the above-captioned cases was made upon all parties and counsel of record by email, per Court order, on November 25, 2024:

Wesley Brian Sawyer, Esquire
wsawyer@murphygrantland.com
(Attorney for Respondents Kevin Carter and Richard Davis)

Pamela J. Larson, Esquire
Pamela.larson@wbd-us.com
(Attorney for Respondent Nationwide Mutual Insurance Company and Joseph Tirbovich)

Shelley S. Montague, Esquire
Jessica W. Laffitte, Esquire
smontague@gwblawfirm.com
jlaffitte@gwblawfirm.com
(Attorneys for Trustgard Insurance Company and John Ammendola)

William H. Davidson, II, Esquire
wdavidson@dml-law
(Attorney for Respondents SC Dept. of Public Safety and Herbert Blackwell)

Reynolds Williams
reynolds@willcoxlaw.com
(Attorney for Respondent Interinsurance Exchange of the Automobile Club)

Email addresses listed sent by ctappfilings@sccourts.org

jcobb@gwblawfirm.com
pholland@gwblawfirm.com
dblack@murphygrantland.com
thumphries@willcoxlaw.com
carla.cerchione@wbe-us.com
nbouknight@dml-law.com

Respectfully submitted this 25th day of November 2024

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

Exhibit C

Filed November 25, 2024

AMENDED

APPELLANT'S TITLE II of the AMERICANS with
DISABILITIES ACT ("ADA") REASONABLE
ACCOMMODATION REQUEST to ACCEPT And
GRANT APPELLANT'S REQUEST and MOTION for
an EXTENSION OF TIME to FILE REPLY to
RESPONDENT'S RETURN TO APPELLANT'S
MOTION FOR REINSTATEMENT

RECEIVED

Nov 25 2024

SC Court of Appeals

THE STATE of SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM CHESTER COUNTY
Court of Common Pleas

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

Appellate Case Nos. 2022-001312 and 2022-001390

Trial Court Case Nos. 2018CP1200117 and 2018CP1200074

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

Of whom Kevin Carter is the Respondent.

AMENDED

**APPELLANT’S TITLE II of the AMERICANS with DISABILITIES ACT (“ADA”)
REASONABLE ACCOMMODATION REQUEST to ACCEPT And GRANT
APPELLANT’S REQUEST and MOTION for an EXTENSION OF TIME to FILE REPLY to
RESPONDENT’S RETURN TO APPELLANT’S MOTION FOR REINSTATEMENT**

Heidi Gersten, Appellant
All Rights Reserved without Prejudice
1438 W. Lantana Rd. #330
Lantana, FL 33462
323-245-6142
hanginhangout@gmail.com

The Appellant Heidi Gersten (“GERSTEN”) in the above-captioned case, hereby requests and moves this South Carolina Court of Appeals (“COURT”), pursuant of/to The Golden Rule, Title II of the ADA Reasonable Accommodation Request, S.C. App. Ct. R. 240, and S.C. App. Ct. R. 263(a), as well as any and all applicable law, seeking a grant of her request and motion to accept this instant document as timely filed and grant the request and motion for an extension of time of an additional five (5) business days, excluding weekend days of Saturday and Sunday and holidays, up until and including December 3, 2024, to file her reply to the Respondent Kevin Carter’s (“CARTER”) return to GERSTEN’s motion for reinstatement filed on November 15, 2024.

The grounds, reasons, and basis for this request and motion are set forth in the attached memorandum in support.

Respectfully submitted this 25th of November 2024,

_____/S/Heidi Gersten_____
Heidi Gersten, Appellant
All Rights Reserved Without Prejudice
1438 W. Lantana Rd. #330
Lantana, FL 33462
323-245-6142
hanginhangout@gmail.com

MEMORANDUM IN SUPPORT OF AMENDED
APPELLANT’S TITLE II of the AMERICANS with DISABILITIES ACT (“ADA”)
REASONABLE ACCOMMODATION REQUEST to ACCEPT And GRANT
APPELLANT’S REQUEST and MOTION for an EXTENSION OF TIME to FILE REPLY to
RESPONDENT’S RETURN TO APPELLANT’S MOTION FOR REINSTATEMENT

1. On November 15, 2024, CARTER filed his return to GERSTEN’s motion for reinstatement.
2. The original request and motion were made on November 22, 2024, before the expiration of time permitted under The Golden Rule, Title II of the ADA Reasonable Accommodation Request, and Rules 240 and 263(a), SCACR, as well as any and all applicable law, and now amended to correct the date of filing to December 3, 2024, in accordance with state holidays.
3. GERSTEN is paralyzed disabled as a result of the collision in controversy in this matter which causes her to be substantially limited on one or more of her major life activities and she is now a qualified individual of and protected under the ADA. She has no caregiver, personal aid, or assistance to help her with daily functions. She lives under extreme hardship and extraordinary circumstances.
4. A “qualified individual with a disability” is defined as “an individual with a disability who, with or without reasonable modifications to rules, policies, or practices, the removal of architectural, communication, or transportation barriers, or the provision of auxiliary aids and services, meets the essential eligibility requirements for the receipt of services or the participation in programs or activities provided by a public entity.” *United States v. Georgia*, 546 U.S. at 153– 54, 126 S.Ct. 877 (quoting 42 U.S.C. § 12131(2)).
5. GERSTEN’s disability of being paralyzed renders her incapable of asserting her claims or defenses in a timely manner. Under South Carolina law, GERSTEN is a “vulnerable adult” defined, in part, as a person eighteen years of age or older who has a physical or mental

condition which substantially impairs the person from adequately providing for his or her own care or protection.

6. GERSTEN has been diligently working on all aspects of perfecting this instant appeal and doing her best to comply with all due dates in spite of coping with and managing secondary complications of paralysis that include, but are not limited to, an illness of multiple pressure wounds. One is located on her left buttocks that prevents her from sitting down for extended periods of time without further injury. There are other wounds that develop and heal, as she is prone to them. Managing bowels and incontinence issues that she has no control over is unimaginable to an abled body. GERSTEN suffers with this daily. She experiences frequent diarrhea attacks, explosions, and accidents that include unexpected bouts of urination throughout the day. It takes her between two to five hours to perform the task of extracting at least one bowel movement daily. Using the digital stimulation technique often leaves her fingers pruned and numb and causes her to feel exhausted afterwards. She changes her diaper frequently and changes clothes and linens multiple times a day because of the excreta leakage out of the diaper. The time spent dealing with the nuances of being paralyzed negatively affects GERSTEN's quality of life and causes increased emotional, psychological, and social distress, in addition to the maddening physical pain she feels caused by paralysis and its secondary complications, among other things. It takes her approximately fifty-two (52) times longer to perform basic daily functions an abled body can do. Due to the years of paralysis, the weight of her upper body crushing down on her lower half, especially while sitting, prolapse has occurred. GERSTEN must periodically push organs that protrude from her vagina and anus back into place. For these reasons and more, additional time is required for her to file her reply. (Pictures and video available upon request; this is an offer of proof of evidence.)

7. GERSTEN has spent much time on this instant appeal producing information which was voluminous and required her to scan thousands of documents, research, and type information into comprehensible and acceptable formats, and redact personal information required to do so under privacy law, which is challenging, to state the least. GERSTEN lacks technological resources and a proper wheelchair to sit in and use, in addition to the litany of other previously stated misfortunes she lives with, as she navigates through on her journey towards a single step, vindicating her rights in response to her victimization of paralysis and its secondary complications, including, but not limited to, her claims against CARTER.

8. In addition to GERSTEN's health crisis, she has other court matters in other states with deadlines within proximity of this case here.

9. Public policy advocates for appeals to be tried on their merits and the appellate courts often grant extensions of time at various stages.

10. A grant of this ADA request and motion does not fundamentally alter this COURT's policies, practices, or procedures, nor does it create any undue burden or financial or otherwise hardship on this COURT.

11. This COURT has previously granted GERSTEN rehearing and reinstatement in this matter.

12. CARTER and other Respondents are not prejudiced; a remittitur should not be issued at this time.

This reasonable request and motion are not made for the purposes of delay, rather in the interest and furtherance of justice and to prevent and avoid its miscarriage.

THEREFORE, having shown more than good cause; extraordinary circumstances, and for the previous reasons, GERSTEN respectfully requests this COURT to grant her Title II of the Americans with Disabilities Act Reasonable Accommodation Request to accept this filing as timely and grant her request and motion for extension of time to file her reply to CARTER's return to GERSTEN's motion for reinstatement up until and including December 3, 2024, applying The Golden Rule.

Respectfully submitted this 25th day of November 2024,

_____/S/Heidi Gersten_____
Heidi Gersten, Appellant
All Rights Reserved Without Prejudice
1438 W. Lantana Rd. #330
Lantana, FL 33462
(323) 245-6142
hanginhangout@mail.com

Other Counsel of Record
Wesley Brian Sawyer, Esquire (SC Bar # 100229)
Murphy & Grantland, P.A.
4406-B Forest Drive
Columbia, SC 29206
P.O. Box 6648
Columbia, SC 29260
(803) 782-4100
wsawyer@murphygrantland.com
(Attorney for Respondents Kevin Carter and Richard Davis)

Pamela J. Larson, Esquire
WOMBLE BOND DICKINSON (US) LLP
5 Exchange St.
Charleston, SC 29401-2948
PO Box 999
Charleston, SC 29402
(843) 213-5519
(843) 720-4630
pamela.larson@wbd-us.com
(Attorney for Respondents Nationwide Mutual Insurance Company and Joseph Tirbovich)

Shelley S. Montague, Esquire
Jessica W. Laffitte, Esquire
Gallivan, White & Boyd, P.A.
P.O. Box 7368
Columbia, SC 29202
smontague@gwblawfirm.com
jlaffitte@gwblawfirm.com
(Attorneys for Respondents Trustgard Insurance Company and John Ammendola)

William H. Davidson, II, Esquire
Davidson, Wren & Plyler, P.A. & DeMasters
P.O. Box 8568
Columbia, SC 29202
wdavidson@dml-law.com
(803)806-8222
(Attorney for Respondents SC Dept. of Public Safety and Herbert Blackwell)

Reynolds Williams
P.O. Box 1909
Florence, SC 29503-1909
(843) 662-3258
reynolds@willcoxlaw.com
(Attorney for Respondent Interinsurance Exchange of the Automobile Club)

PROOF OR CERTIFICATE OF SERVICE

I hereby certify that service of a true and accurate copy of the AMENDED APPELLANT’S TITLE II of the AMERICANS with DISABILITIES ACT (“ADA”) REASONABLE ACCOMMODATION REQUEST to ACCEPT And GRANT APPELLANT’S REQUEST and MOTION for an EXTENSION OF TIME to FILE REPLY to RESPONDENT’S RETURN TO APPELLANT’S MOTION FOR REINSTATEMENT, and Cover Sheet [Total of 11 Pages including Cover Sheet and this PROOF OR CERTIFICATE OF SERVICE] in the above-captioned cases was made upon all parties and counsel of record by email, per Court order, on November 25, 2024:

Wesley Brian Sawyer, Esquire
wsawyer@murphygrantland.com
(Attorney for Respondents Kevin Carter and Richard Davis)

Pamela J. Larson, Esquire
Pamela.larson@wbd-us.com
(Attorney for Respondent Nationwide Mutual Insurance Company and Joseph Tirbovich)

Shelley S. Montague, Esquire
Jessica W. Laffitte, Esquire
smontague@gwblawfirm.com
jlaffitte@gwblawfirm.com
(Attorneys for Trustgard Insurance Company and John Ammendola)

William H. Davidson, II, Esquire
wdavidson@dml-law
(Attorney for Respondents SC Dept. of Public Safety and Herbert Blackwell)

Reynolds Williams
reynolds@willcoxlaw.com
(Attorney for Respondent Interinsurance Exchange of the Automobile Club)

Email addresses listed sent by ctappfilings@sccourts.org

jcobb@gwblawfirm.com
pholland@gwblawfirm.com
dblack@murphygrantland.com
thumphries@willcoxlaw.com
carla.cerchione@wbe-us.com
nbouknight@dml-law.com

Respectfully submitted this 25th day of November 2024

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

Exhibit D

Filed December 3, 2024

APPELLANT’S TITLE II of the AMERICANS with
DISABILITIES ACT (“ADA”) REASONABLE
ACCOMMODATION REQUEST to ACCEPT And
GRANT APPELLANT’S REQUEST and MOTION for
an EXTENSION of TIME to FILE REPLY to
RESPONDENT’S RETURN TO APPELLANT’S
MOTION FOR REINSTATEMENT

THE STATE of SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM CHESTER COUNTY
Court of Common Pleas

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

Appellate Case Nos. 2022-001312 and 2022-001390

Trial Court Case Nos. 2018CP1200117 and 2018CP1200074

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

Of whom Kevin Carter is the Respondent.

APPELLANT’S TITLE II of the AMERICANS with DISABILITIES ACT (“ADA”) REASONABLE ACCOMMODATION REQUEST to ACCEPT And GRANT APPELLANT’S REQUEST and MOTION for an EXTENSION of TIME to FILE REPLY to RESPONDENT’S RETURN TO APPELLANT’S MOTION FOR REINSTATEMENT

Heidi Gersten, Appellant
All Rights Reserved without Prejudice
1438 W. Lantana Rd. #330
Lantana, FL 33462
323-245-6142
hanginhangout@gmail.com

The Appellant Heidi Gersten (“GERSTEN”) in the above-captioned case, hereby requests and moves this South Carolina Court of Appeals (“COURT”), pursuant of/to The Golden Rule, Title II of the ADA Reasonable Accommodation Request, S.C. App. Ct. R. 240, and S.C. App. Ct. R. 263(a), as well as any and all applicable law, seeking a grant of her request and motion to accept this instant document as timely filed and grant the request and motion for an extension of time of an additional five (5) business days, excluding weekend days of Saturday and Sunday and holidays, up until and including December 10, 2024, to file her reply to the Respondent Kevin Carter’s (“CARTER”) return to GERSTEN’s motion for reinstatement filed on November 15, 2024.

The grounds, reasons, and basis for this request and motion are set forth in the attached memorandum in support.

Respectfully submitted this 3rd of December 2024,

_____/S/Heidi Gersten_____
Heidi Gersten, Appellant
All Rights Reserved Without Prejudice
1438 W. Lantana Rd. #330
Lantana, FL 33462
323-245-6142
hanginhangout@gmail.com

MEMORANDUM in SUPPORT of
APPELLANT's TITLE II of the AMERICANS with DISABILITIES ACT ("ADA")
REASONABLE ACCOMMODATION REQUEST to ACCEPT And GRANT
APPELLANT's REQUEST and MOTION for an EXTENSION of TIME to FILE REPLY to
RESPONDENT'S RETURN TO APPELLANT'S MOTION FOR REINSTATEMENT

1. On November 15, 2024, CARTER filed his return to GERSTEN's motion for reinstatement.
2. On November 22, 2024, GERSTEN filed a Title II of the ADA Reasonable Accommodation Request to accept and grant her request and motion for an extension of time to file her reply to CARTER's return to her motion for reinstatement.
3. On November 25, 2024, GERSTEN filed an amended Title II of the ADA Reasonable Accommodation Request to accept and grant her request and motion for an extension of time to file her reply to CARTER's return to her motion for reinstatement in accordance with state holidays to a due date of December 3, 2024.
4. Shortly after GERSTEN's filings, the temperature decreased dramatically to around 19 degrees and her heating unit failed to provide heat. Due to the federal and state holiday of Thanksgiving, she was unable to get her heater to function and spent many days isolated under a pile of blankets, which included one electric blanket that was not working properly and only heated in a single square patch approximately two (2) feet in length and two (2) feet in width. It wasn't until regular business hours resumed that she was able to communicate with someone and was able to have her heater restored. During this time, due to her disability of being paralyzed, she was unable to move much and began to experience signs of fever, cough, and hunger. Now that GERSTEN has heat she has been able to slowly function better.
5. GERSTEN is paralyzed disabled as a result of the collision in controversy in this matter which causes her to be substantially limited on one or more of her major life activities and she is

now a qualified individual of and protected under the ADA. She has no caregiver, personal aid, or assistance to help her with daily functions. She lives under extreme hardship and extraordinary circumstances.

6. A “qualified individual with a disability” is defined as “an individual with a disability who, with or without reasonable modifications to rules, policies, or practices, the removal of architectural, communication, or transportation barriers, or the provision of auxiliary aids and services, meets the essential eligibility requirements for the receipt of services or the participation in programs or activities provided by a public entity.” *United States v. Georgia*, 546 U.S. at 153– 54, 126 S.Ct. 877 (quoting 42 U.S.C. § 12131(2)).

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

8. GERSTEN has been diligently working on all aspects of perfecting this instant appeal and doing her best to comply with all due dates in spite of coping with and managing secondary complications of paralysis that include, but are not limited to, an illness of multiple pressure wounds. One is located on her left buttocks that prevents her from sitting down for extended periods of time without further injury. There are other wounds that develop and heal, as she is prone to them. Managing bowels and incontinence issues that she has no control over is unimaginable to an abled body. GERSTEN suffers with this daily. She experiences frequent diarrhea attacks, explosions, and accidents that include unexpected bouts of urination throughout the day. It takes her between two to five hours to perform the task of extracting at least one

bowel movement daily. Using the digital stimulation technique often leaves her fingers pruned and numb and causes her to feel exhausted afterwards. She changes her diaper frequently and changes clothes and linens multiple times a day because of the excreta leakage out of the diaper. The time spent dealing with the nuances of being paralyzed negatively affects GERSTEN's quality of life and causes increased emotional, psychological, and social distress, in addition to the maddening physical pain she feels caused by paralysis and its secondary complications, among other things. It takes her approximately fifty-two (52) times longer to perform basic daily functions an abled body can do. Due to the years of paralysis, the weight of her upper body crushing down on her lower half, especially while sitting, prolapse has occurred. GERSTEN must periodically push organs that protrude from her vagina and anus back into place. For these reasons and more, additional time is required for her to file her reply. (Pictures and video available upon request; this is an offer of proof of evidence.)

9. GERSTEN has spent much time on this instant appeal producing information which was voluminous and required her to scan thousands of documents, research, and type information into comprehensible and acceptable formats, and redact personal information required to do so under privacy law, which is challenging, to state the least. GERSTEN lacks technological resources and a proper wheelchair to sit in and use, in addition to the litany of other previously stated misfortunes she lives with, as she navigates through on her journey towards a single step, vindicating her rights in response to her victimization of paralysis and its secondary complications, including, but not limited to, her claims against CARTER.

10. In addition to GERSTEN's health crisis, she has other court matters in other states with deadlines within proximity of this case here.

11. Public policy advocates for appeals to be tried on their merits and the appellate courts

often grant extensions of time at various stages.

12. A grant of this ADA request and motion does not fundamentally alter this COURT's policies, practices, or procedures, nor does it create any undue burden or financial or otherwise hardship on this COURT.

13. This COURT has previously granted GERSTEN rehearing and reinstatement in this matter.

14. CARTER and other Respondents are not prejudiced; a remittitur should not be issued at this time.

This reasonable request and motion are not made for the purposes of delay, rather in the interest and furtherance of justice and to prevent and avoid its miscarriage.

THEREFORE, having shown more than good cause; extraordinary circumstances, and for the previous reasons, GERSTEN respectfully requests this COURT to grant her Title II of the Americans with Disabilities Act Reasonable Accommodation Request to accept this filing as timely and grant her request and motion for extension of time to file her reply to CARTER's return to GERSTEN's motion for reinstatement up until and including December 10, 2024, applying The Golden Rule.

Respectfully submitted this 3rd day of December 2024,

_____/S/Heidi Gersten_____
Heidi Gersten, Appellant
All Rights Reserved Without Prejudice
1438 W. Lantana Rd. #330
Lantana, FL 33462
(323) 245-6142
hanginhangout@mail.com

Other Counsel of Record

Wesley Brian Sawyer, Esquire (SC Bar # 100229)
Murphy & Grantland, P.A.
4406-B Forest Drive
Columbia, SC 29206
P.O. Box 6648
Columbia, SC 29260
(803) 782-4100
wsawyer@murphygrantland.com
(Attorney for Respondents Kevin Carter and Richard Davis)

Pamela J. Larson, Esquire
WOMBLE BOND DICKINSON (US) LLP
5 Exchange St.
Charleston, SC 29401-2948
PO Box 999
Charleston, SC 29402
(843) 213-5519
(843) 720-4630
pamela.larson@wbd-us.com
(Attorney for Respondents Nationwide Mutual Insurance Company and Joseph Tirbovich)

Shelley S. Montague, Esquire
Jessica W. Laffitte, Esquire
Gallivan, White & Boyd, P.A.
P.O. Box 7368
Columbia, SC 29202
smontague@gwblawfirm.com
jlaffitte@gwblawfirm.com
(Attorneys for Respondents Trustgard Insurance Company and John Ammendola)

William H. Davidson, II, Esquire
Davidson, Wren & Plyler, P.A. & DeMasters
P.O. Box 8568
Columbia, SC 29202
wdavidson@dml-law.com
(803)806-8222
(Attorney for Respondents SC Dept. of Public Safety and Herbert Blackwell)

Reynolds Williams
P.O. Box 1909
Florence, SC 29503-1909
(843) 662-3258
reynolds@willcoxlaw.com
(Attorney for Respondent Interinsurance Exchange of the Automobile Club)

Dec 03 2024

SC Court of Appeals

PROOF or CERTIFICATE of SERVICE

I hereby certify that service of a true and accurate copy of the APPELLANT's TITLE II of the AMERICANS with DISABILITIES ACT ("ADA") REASONABLE ACCOMMODATION REQUEST to ACCEPT And GRANT APPELLANT's REQUEST and MOTION for an EXTENSION of TIME to FILE REPLY to RESPONDENT'S RETURN TO APPELLANT'S MOTION FOR REINSTATEMENT, and Cover Sheet [Total of 11 Pages including Cover Sheet and this PROOF or CERTIFICATE of SERVICE] in the above-captioned cases was made upon all parties and counsel of record by email, per Court order, on December 3, 2024:

Wesley Brian Sawyer, Esquire
wsawyer@murphygrantland.com
(Attorney for Respondents Kevin Carter and Richard Davis)

Pamela J. Larson, Esquire
Pamela.larson@wbd-us.com
(Attorney for Respondent Nationwide Mutual Insurance Company and Joseph Tirbovich)

Shelley S. Montague, Esquire
Jessica W. Laffitte, Esquire
smontague@gwblawfirm.com
jlaffitte@gwblawfirm.com
(Attorneys for Trustgard Insurance Company and John Ammendola)

William H. Davidson, II, Esquire
wdavidson@dml-law
(Attorney for Respondents SC Dept. of Public Safety and Herbert Blackwell)

Reynolds Williams
reynolds@willcoxlaw.com
(Attorney for Respondent Interinsurance Exchange of the Automobile Club)

Email addresses listed sent by ctappfilings@sccourts.org

jcobb@gwblawfirm.com
pholland@gwblawfirm.com
dblack@murphygrantland.com
thumphries@willcoxlaw.com
carla.cerchione@wbe-us.com
nbouknight@dml-law.com

Respectfully submitted this 3rd day of December 2024

/S/Heidi Gersten

Heidi Gersten, Appellant
All Rights Reserved Without Prejudice
1438 W. Lantana Rd. #330
Lantana, FL 33462
(323) 245-6142
hanginhangout@gmail.com

Dec 03 2024

SC Court of Appeals

December 3, 2024
1438 W. Lantana Rd. #330
Lantana, FL 33462
(323) 245-6142
hanginhangout@gmail.com

The Honorable Jenny Abbott Kitchings
Clerk of Court
SC Court of Appeals
1220 Senate St.
Columbia, SC 29301
ctappfilings@sccourts.org

Re: 2022-001312; 2022-001390

APPELLANT's TITLE II of the AMERICANS with DISABILITIES ACT ("ADA")
REASONABLE ACCOMMODATION REQUEST to ACCEPT And GRANT
APPELLANT's REQUEST and MOTION for an EXTENSION of TIME to FILE REPLY to
RESPONDENT'S RETURN TO APPELLANT'S MOTION FOR REINSTATEMENT
and PROOF or CERTIFICATE of SERVICE

Dear Ms. Kitchings and/or to ALL CONCERNED:

Good day to you!

Enclosed for filing, please find a copy of the above stated Appellant's Title II of the Americans with Disabilities Act ("ADA") reasonable accommodation request to accept and grant the Appellant's request and motion for an extension of time to file reply to Respondent's return to Appellant's motion for reinstatement and proof or certificate of service, along with this cover letter.

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

Please file stamp the documents with today's date of December 3, 2024, place in the court file, and email me a time-stamped copy.

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

Thank you for your time and assistance regarding this matter.

Kind regards,

____/S/Heidi Gersten _____
Heidi Gersten, Appellant

HG/Enclosures/APPELLANT's TITLE II of the AMERICANS with DISABILITIES ACT ("ADA") REASONABLE ACCOMMODATION REQUEST to ACCEPT And GRANT APPELLANT's REQUEST and MOTION for an EXTENSION of TIME to FILE REPLY to RESPONDENT'S RETURN TO APPELLANT'S MOTION FOR REINSTATEMENT, and PROOF or CERTIFICATE of SERVICE, and Cover Letter

Total Pages: Eleven (11) including this cover letter

Exhibit E

ORDER

Filed December 4, 2024

“The time for serving and filing the reply to the return to the petition for rehearing is hereby extended until December 6, 2024.”

The South Carolina Court of Appeals

Heidi Gersten, Ivanka Ayoub, Daniel Hubbard, Plaintiffs,

Of whom Heidi Gersten is the Appellant,

v.

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

Of whom Kevin Carter is the Respondent.

Appellate Case No. 2022-001312

The Honorable Brian M. Gibbons, The Honorable John
C. Hayes, III
Chester County
Trial Court Case No. 2018CP1200117, 2018CP1200074

ORDER

The time for serving and filing the reply to the return to the petition for rehearing is hereby extended until December 6, 2024.

FOR THE COURT
BY Catherine Hannibal, deputy
CLERK

Columbia, South Carolina

FILED
Dec 04 2024

cc:
Heidi Gersten
Wesley Brian Sawyer, Esquire

Exhibit F

Filed December 6, 2024

APPELLANT’S TITLE II of the AMERICANS with
DISABILITIES ACT (“ADA”) REASONABLE
ACCOMMODATION REQUEST to ACCEPT And
GRANT APPELLANT’S REQUEST and MOTION for
an EXTENSION of TIME to FILE REPLY to
RESPONDENT’S RETURN TO APPELLANT’S
MOTION FOR REINSTATEMENT And REPLY TO
PETITION FOR REHEARING

THE STATE of SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM CHESTER COUNTY
Court of Common Pleas

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

Appellate Case Nos. 2022-001312 and 2022-001390

Trial Court Case Nos. 2018CP1200117 and 2018CP1200074

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

Of whom Kevin Carter is the Respondent.

APPELLANT's TITLE II of the AMERICANS with DISABILITIES ACT ("ADA")
REASONABLE ACCOMMODATION REQUEST to ACCEPT And GRANT
APPELLANT's REQUEST and MOTION for an EXTENSION of TIME to FILE REPLY to
RESPONDENT'S RETURN TO APPELLANT'S MOTION FOR REINSTATEMENT And
REPLY TO PETITION FOR REHEARING

Heidi Gersten, Appellant
All Rights Reserved without Prejudice
1438 W. Lantana Rd. #330
Lantana, FL 33462
323-245-6142
hanginhangout@gmail.com

The Appellant Heidi Gersten (“GERSTEN”) in the above-captioned case, hereby requests and moves this South Carolina Court of Appeals (“COURT”), pursuant of/to The Golden Rule, Title II of the ADA Reasonable Accommodation Request, S.C. App. Ct. R. 240, and S.C. App. Ct. R. 263(a), as well as any and all applicable law, seeking a grant of her request and motion to accept this instant document as timely filed and grant the request and motion for an extension of time of an additional eight (8) business days, excluding weekend days of Saturday and Sunday and holidays, up until and including December 18, 2024, to file her reply to the Respondent Kevin Carter’s (“CARTER”) return to GERSTEN’s motion for reinstatement filed on November 15, 2024, and reply to petition for rehearing.

The grounds, reasons, and basis for this request and motion are set forth in the attached memorandum in support.

Respectfully submitted this 6th of December 2024,

/S/Heidi Gersten
Heidi Gersten, Appellant
All Rights Reserved Without Prejudice
1438 W. Lantana Rd. #330
Lantana, FL 33462
323-245-6142
hanginhangout@gmail.com

MEMORANDUM in SUPPORT of
APPELLANT's TITLE II of the AMERICANS with DISABILITIES ACT ("ADA")
REASONABLE ACCOMMODATION REQUEST to ACCEPT And GRANT
APPELLANT's REQUEST and MOTION for an EXTENSION of TIME to FILE REPLY to
RESPONDENT'S RETURN TO APPELLANT'S MOTION FOR REINSTATEMENT And
REPLY TO PETITION FOR REHEARING

1. On December 6, 2024, this COURT issued an order stating, "The time for serving and filing the reply to the return to the petition for rehearing is hereby extended until December 6, 2024."
2. Since GERSTEN's December 3, 2024, filing that requested an extension until and including December 10, 2024, to file her said reply to petition for rehearing and petition for reinstatement, she has experienced high fever-like temperatures in addition to her daily struggles of being paralyzed disabled and has been unable to function well-enough to complete her said filing of reply to petitions for rehearing and reinstatement.
3. This filing is made before the expiration of this COURT's order of December 3, 2024.
4. Additional time is required to complete the reply to petition for rehearing until and including December 18, 2024.
5. GERSTEN is paralyzed disabled as a result of the collision in controversy in this matter which causes her to be substantially limited on one or more of her major life activities and she is now a qualified individual of and protected under the ADA. She has no caregiver, personal aid, or assistance to help her with daily functions. She lives under extreme hardship and extraordinary circumstances.
6. A "qualified individual with a disability" is defined as "an individual with a disability who, with or without reasonable modifications to rules, policies, or practices, the removal of architectural, communication, or transportation barriers, or the provision of auxiliary aids and

services, meets the essential eligibility requirements for the receipt of services or the participation in programs or activities provided by a public entity.” *United States v. Georgia*, 546 U.S. at 153– 54, 126 S.Ct. 877 (quoting 42 U.S.C. § 12131(2)).

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

8. “A public entity shall make reasonable modifications in policies, practices, or procedures when the modifications are necessary to avoid discrimination on the basis of disability, unless the public entity can demonstrate that making the modifications would fundamentally alter the nature of the service, program, or activity.” 28 C.F.R. § 35.130(b)

9. GERSTEN has been diligently working on all aspects of perfecting this instant appeal and doing her best to comply with all due dates in spite of coping with and managing secondary complications of paralysis that include, but are not limited to, an illness of multiple pressure wounds. One is located on her left buttocks that prevents her from sitting down for extended periods of time without further injury. There are other wounds that develop and heal, as she is prone to them. Managing bowels and incontinence issues that she has no control over is unimaginable to an abled body. GERSTEN suffers with this daily. She experiences frequent diarrhea attacks, explosions, and accidents that include unexpected bouts of urination throughout the day. It takes her between two to five hours to perform the task of extracting at least one bowel movement daily. Using the digital stimulation technique often leaves her fingers pruned and numb and causes her to feel exhausted afterwards. She changes her diaper frequently and

changes clothes and linens multiple times a day because of the excreta leakage out of the diaper. The time spent dealing with the nuances of being paralyzed negatively affects GERSTEN's quality of life and causes increased emotional, psychological, and social distress, in addition to the maddening physical pain she feels caused by paralysis and its secondary complications, among other things. It takes her approximately fifty-two (52) times longer to perform basic daily functions an abled body can do. Due to the years of paralysis, the weight of her upper body crushing down on her lower half, especially while sitting, prolapse has occurred. GERSTEN must periodically push organs that protrude from her vagina and anus back into place. For these reasons and more, additional time is required for her to file her reply. (Pictures and video available upon request; this is an offer of proof of evidence.)

10. GERSTEN has spent much time on this instant appeal producing information which was voluminous and required her to scan thousands of documents, research, and type information into comprehensible and acceptable formats, and redact personal information required to do so under privacy law, which is challenging, to state the least. GERSTEN lacks technological resources and a proper wheelchair to sit in and use, in addition to the litany of other previously stated misfortunes she lives with, as she navigates through on her journey towards a single step, vindicating her rights in response to her victimization of paralysis and its secondary complications, including, but not limited to, her claims against CARTER.

11. In addition to GERSTEN's health crisis, she has other court matters in other states with deadlines within proximity of this case here.

12. Public policy advocates for appeals to be tried on their merits and the appellate courts often grant extensions of time at various stages.

13. A grant of this Title II of the ADA request and motion does not fundamentally alter this

Other Counsel of Record

Wesley Brian Sawyer, Esquire (SC Bar # 100229)
Murphy & Grantland, P.A.
4406-B Forest Drive
Columbia, SC 29206
P.O. Box 6648
Columbia, SC 29260
(803) 782-4100
wsawyer@murphygrantland.com
(Attorney for Respondents Kevin Carter and Richard Davis)

Pamela J. Larson, Esquire
WOMBLE BOND DICKINSON (US) LLP
5 Exchange St.
Charleston, SC 29401-2948
PO Box 999
Charleston, SC 29402
(843) 213-5519
(843) 720-4630
pamela.larson@wbd-us.com
(Attorney for Respondents Nationwide Mutual Insurance Company and Joseph Tirbovich)

Shelley S. Montague, Esquire
Jessica W. Laffitte, Esquire
Gallivan, White & Boyd, P.A.
P.O. Box 7368
Columbia, SC 29202
smontague@gwblawfirm.com
jlaffitte@gwblawfirm.com
(Attorneys for Respondents Trustgard Insurance Company and John Ammendola)

William H. Davidson, II, Esquire
Davidson, Wren & Plyler, P.A. & DeMasters
P.O. Box 8568
Columbia, SC 29202
wdavidson@dml-law.com
(803)806-8222
(Attorney for Respondents SC Dept. of Public Safety and Herbert Blackwell)

Reynolds Williams
P.O. Box 1909
Florence, SC 29503-1909
(843) 662-3258
reynolds@willcoxlaw.com
(Attorney for Respondent Interinsurance Exchange of the Automobile Club)

Dec 06 2024

SC Court of Appeals

PROOF or CERTIFICATE of SERVICE

I hereby certify that service of a true and accurate copy of the APPELLANT's TITLE II of the AMERICANS with DISABILITIES ACT ("ADA") REASONABLE ACCOMMODATION REQUEST to ACCEPT And GRANT APPELLANT's REQUEST and MOTION for an EXTENSION of TIME to FILE REPLY to RESPONDENT'S RETURN TO APPELLANT'S MOTION FOR REINSTATEMENT, And REPLY TO PETITION FOR REHEARING, and Cover Sheet [Total of 11 Pages including Cover Sheet and this PROOF or CERTIFICATE of SERVICE] in the above-captioned cases was made upon all parties and counsel of record by email, per Court order, on December 6, 2024:

Wesley Brian Sawyer, Esquire
wsawyer@murphygrantland.com
(Attorney for Respondents Kevin Carter and Richard Davis)

Pamela J. Larson, Esquire
Pamela.larson@wbd-us.com
(Attorney for Respondent Nationwide Mutual Insurance Company and Joseph Tirbovich)

Shelley S. Montague, Esquire
Jessica W. Laffitte, Esquire
smontague@gwblawfirm.com
jlaffitte@gwblawfirm.com
(Attorneys for Trustgard Insurance Company and John Ammendola)

William H. Davidson, II, Esquire
wdavidson@dml-law
(Attorney for Respondents SC Dept. of Public Safety and Herbert Blackwell)

Reynolds Williams
reynolds@willcoxlaw.com
(Attorney for Respondent Interinsurance Exchange of the Automobile Club)

Email addresses listed sent by ctappfilings@sccourts.org

jcobb@gwblawfirm.com
pholland@gwblawfirm.com
dblack@murphygrantland.com
thumphries@willcoxlaw.com
carla.cerchione@wbe-us.com
nbouknight@dml-law.com

Respectfully submitted this 6th day of December 2024

/S/Heidi Gersten

Heidi Gersten, Appellant

All Rights Reserved Without Prejudice

1438 W. Lantana Rd. #330

Lantana, FL 33462

(323) 245-6142

hanginhangout@gmail.com

December 6, 2024
1438 W. Lantana Rd. #330
Lantana, FL 33462
(323) 245-6142
hanginhangout@gmail.com

The Honorable Jenny Abbott Kitchings
Clerk of Court
SC Court of Appeals
1220 Senate St.
Columbia, SC 29301
ctappfilings@sccourts.org

Re: 2022-001312; 2022-001390

APPELLANT's TITLE II of the AMERICANS with DISABILITIES ACT ("ADA")
REASONABLE ACCOMMODATION REQUEST to ACCEPT And GRANT
APPELLANT's REQUEST and MOTION for an EXTENSION of TIME to FILE REPLY to
RESPONDENT'S RETURN TO APPELLANT'S MOTION FOR REINSTATEMENT And
REPLY TO PETITION FOR REHEARING and PROOF or CERTIFICATE of SERVICE

Dear Ms. Kitchings and/or to ALL CONCERNED:

Good day to you!

Enclosed for filing, please find a copy of the above stated Appellant's Title II of the Americans with Disabilities Act ("ADA") reasonable accommodation request to accept and grant the Appellant's request and motion for an extension of time to file reply to Respondent's return to Appellant's motion for reinstatement and reply to petition for rehearing and proof or certificate of service, along with this cover letter.

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

Please file stamp the documents with today's date of December 3, 2024, place in the court file, and email me a time-stamped copy.

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

Thank you for your time and assistance regarding this matter.

Kind regards,

___/S/Heidi Gersten _____
Heidi Gersten, Appellant

HG/Enclosures/APPELLANT's TITLE II of the AMERICANS with DISABILITIES ACT ("ADA") REASONABLE ACCOMMODATION REQUEST to ACCEPT And GRANT APPELLANT's REQUEST and MOTION for an EXTENSION of TIME to FILE REPLY to RESPONDENT'S RETURN TO APPELLANT'S MOTION FOR REINSTATEMENT, And REPLY TO PETITION FOR REHEARING and PROOF or CERTIFICATE of SERVICE, and Cover Letter

Total Pages: Eleven (11) including this cover letter

Exhibit G

ORDER

Filed December 9, 2024

“The time for serving and filing the reply to the return to the petition for rehearing is hereby extended until December 10, 2024. No further extensions will be granted absent extraordinary circumstances.”

The South Carolina Court of Appeals

Heidi Gersten, Ivanka Ayoub, Daniel Hubbard, Plaintiffs,

Of whom Heidi Gersten is the Appellant,

v.

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


Of whom Kevin Carter is the Respondent.

Appellate Case No. 2022-001312

The Honorable Brian M. Gibbons, The Honorable John
C. Hayes, III
Chester County
Trial Court Case No. 2018CP1200117, 2018CP1200074

ORDER

The time for serving and filing the reply to the return to the petition for rehearing is hereby extended until December 10, 2024. No further extensions will be granted absent extraordinary circumstances.

FOR THE COURT
BY  deputy
CLERK

FILED
Dec 09 2024

Columbia, South Carolina

cc:

Heidi Gersten

Wesley Brian Sawyer, Esquire

RECEIVED

Dec 10 2024

SC Court of Appeals

December 10, 2024
1438 W. Lantana Rd. #330
Lantana, FL 33462
(323) 245-6142
hanginhangout@gmail.com

The Honorable Jenny Abbott Kitchings
Clerk of Court
SC Court of Appeals
1220 Senate St.
Columbia, SC 29301
ctappfilings@sccourts.org

Re: 2022-001312; 2022-001390

APPELLANT's TITLE II/III of the AMERICANS with DISABILITIES ACT ("ADA") REASONABLE ACCOMMODATION REQUEST to ACCEPT And GRANT APPELLANT's DECEMBER 6, 2024, REQUEST and MOTION for an EXTENSION of TIME to FILE REPLY to RESPONDENT'S RETURN TO APPELLANT'S MOTION FOR REINSTATEMENT And REPLY TO PETITION FOR REHEARING UNTIL and INCLUDING DECEMBER 18, 2024 and PROOF or CERTIFICATE of SERVICE

Dear Ms. Kitchings and/or to ALL CONCERNED:

Good day to you!

Enclosed for filing, please find a copy of the above stated Appellant's Title II and Title III of the Americans with Disabilities Act ("ADA") reasonable accommodation request to accept and grant the Appellant's December 6, 2024, request, and motion for an extension of time to file reply to Respondent's return to Appellant's motion for reinstatement and reply to petition for rehearing until and including December 18, 2024, and proof or certificate of service, along with this cover letter.

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

Please file stamp the documents with today's date of December 10, 2024, place in the court file, and email me a time-stamped copy.

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

Thank you for your time and assistance regarding this matter.

Kind regards,

/S/Heidi Gersten
Heidi Gersten, Appellant
All Rights Reserved, Without Prejudice

HG/Enclosures/ APPELLANT’S TITLE II/III of the AMERICANS with DISABILITIES ACT (“ADA”) REASONABLE ACCOMMODATION REQUEST to ACCEPT And GRANT APPELLANT’S DECEMBER 6, 2024, REQUEST and MOTION for an EXTENSION of TIME to FILE REPLY to RESPONDENT’S RETURN TO APPELLANT’S MOTION FOR REINSTATEMENT And REPLY TO PETITION FOR REHEARING UNTIL and INCLUDING DECEMBER 18, 2024, and PROOF or CERTIFICATE of SERVICE, and Cover Letter

Total Pages: Seventy-four (74) including this cover letter