

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, Defendants,

Of whom Kevin Carter is the Respondent.

APPELLANT’S TITLE II/III of the AMERICANS with DISABILITIES ACT
 (“ADA”) REASONABLE ACCOMMODATION REQUEST to ACCEPT as
TIMELY FILED APPELLANT’S REPLY to RESPONDENT’S RETURN TO
APPELLANT’S MOTION FOR REINSTATEMENT
And REPLY TO PETITION FOR REHEARING

Heidi Gersten
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1438 W. Lantana Rd. #330
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(323) 245-6142
Appellant

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Attorney for the Respondent
Kevin Carter

TO ALL CONCERNED:

PLEASE TAKE NOTICE that the Appellant, Heidi Gersten (“GERSTEN”), pursuant of/to The Golden Rule, Title II and Title III of the Americans with Disabilities Act (“ADA”) Reasonable Accommodation Request, Rules 221(a) and 260, SCACR, and any and all applicable law, now comes with her reply to the Respondent Kevin Carter’s (“CARTER”) Return to Appellant’s Motion for Reinstatement and THE STATE of South Carolina Court of Appeals’ (“COURT”) order of reply to petition for rehearing and kindly moves this COURT for (an) order(s) to grant GERSTEN’s request(s) and motion(s) to accept as timely filed this instant filing and any amendments to it, including her RECORD ON APPEAL, (2) grant of her petition for rehearing, and (3) grant reinstatement of her appeal, and (4) grant vacating the dismissal issued by this COURT on September 24, 2024 and motion for leave to accept future amendments to her RECORD ON APPEAL, for the following grounds, reasons, and basis in her attached memorandum in support.

Respectfully submitted this 18th of December 2024,

_____/S/Heidi Gersten
Heidi Gersten, Appellant
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MEMORANDUM IN SUPPORT OF APPELLANT'S TITLE II/III of the
AMERICANS with DISABILITIES ACT ("ADA") REASONABLE
ACCOMMODATION REQUEST to ACCEPT as TIMELY FILED
APPELLANT'S REPLY to RESPONDENT'S RETURN TO APPELLANT'S
MOTION FOR REINSTATEMENT
And REPLY TO PETITION FOR REHEARING

The crux of this current situation rests on GERSTEN's ability to compose a Record on Appeal that complies with this COURT's rules; however, GERSTEN is paralyzed disabled which makes her a qualified individual of and protected under the Americans with Disabilities Act ("ADA").

GERSTEN's disability of being paralyzed with illness of multiple secondary complications that include, but are not limited to, multiple noncontagious pressure wounds, along with incontinent issues due to her total loss of bladder control and bowel movements, coupled with no caregiver, aid, or assistance in her daily life, renders her incapable of asserting or defending her claims or defenses in a timely manner, along with years of active litigation in multiple states against numerous parties stemmed from the collision in controversy in this instant action.

To put this in context, GERSTEN has not had a bath or shower in over three (3) years.

CARTER and other Respondents are not prejudiced.

GERSTEN has always made good faith efforts to comply with the general policies, practices, and procedures of this Court. At times, because of her disability and its secondary complications, she was unable to. Just as an order of court to stand and walk are simply not

possible at this point, though she is hopeful that one day she will at least have a bath or shower.

Rule 15 of the Federal Rules of Civil Procedure states in part, "...The court should freely give leave when justice so requires."

Therefore, for the previous reasons and more, after showing good cause and extraordinary circumstances, GERSTEN is worthy of a grant(s) of her Title II and Title III of the ADA Reasonable Accommodation Request to accept as timely filed, and grant her request under Titles II/III of the ADA to grant her petitions for rehearing and reinstatement and accept her RECORD on APPEAL and vacate this COURT's order of dismissal on September 24, 2024.

This is not made to cause unnecessary delay. This is in furtherance of justice, equal protection of it, and to prevent a grave miscarriage.

Respectfully submitted this 18th day of December 2024

— _____/S/Heidi Gersten_____
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PROOF OR CERTIFICATE OF SERVICE

I hereby certify that service of a true and accurate copy of the APPELLANT'S TITLE II/III of the AMERICANS with DISABILITIES ACT ("ADA") REASONABLE ACCOMMODATION REQUEST to ACCEPT as TIMELY FILED APPELLANT'S REPLY to RESPONDENT'S RETURN TO APPELLANT'S MOTION FOR REINSTATEMENT And REPLY TO PETITION FOR REHEARING, PROOF or CERTIFICATE of SERVICE, and Cover Letter in the above-captioned Appellate Case Nos. 2022-001312 and 2022-001390 was made upon all parties and counsel of record by email per court order on December 18, 2024:

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Respectfully submitted this 18th day of December 2024

_____/S/Heidi Gersten_____

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RECEIVED

Dec 18 2024

SC Court of Appeals

December 18, 2024
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The Honorable Jenny Abbott Kitchings
Clerk of Court^[SEP] SC Court of Appeals^[SEP]
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Re: 2022-001312; 2022-001390

APPELLANT'S TITLE II/III of the AMERICANS with DISABILITIES ACT ("ADA")
REASONABLE ACCOMMODATION REQUEST to ACCEPT as TIMELY FILED
APPELLANT'S 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 to ALL CONCERNED:

Good day to you!

Enclosed for filing, please find a copy of the above stated Appellant's Title II/III of the Americans with Disabilities Act ("ADA") Reasonable Accommodation Request to accept as timely filed Appellant's reply to Respondent's return to Appellant's motion for reinstatement and reply to petition for rehearing and proof or certificate of service.

Please file stamp the documents with today's date of December 18, 2024, place in the court file, and email me a copy.

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

Thank you for your time and assistance regarding this matter.
Respectfully submitted,

_____/S/_____
Heidi Gersten, Appellant/Petitioner^[SEP]
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HG/Enclosures/ Title II ADA Request and Motion for Extension of Time
Total pages: Eight (8) including this cover sheet