

THE STATE of SOUTH CAROLINA  
In the Supreme Court

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**May 01 2025**

S.C. SUPREME COURT

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

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Appellate Case Nos. 2022-001312 and 2022-001390

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Kevin Carter,

Respondent,

v.

Heidi Gersten,

Petitioner.

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PETITION FOR A WRIT OF CERTIORARI

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Heidi Gersten  
All Rights Reserved without Prejudice  
1438 W. Lantana Rd. #330  
Lantana, FL 33462  
(323) 245-6142  
Petitioner

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 Respondent Kevin Carter)

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)

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**CERTIFICATE of PETITIONER  
(AS PRESENTED WITHOUT AN ATTORNEY)**

The Petitioner, Heidi Gersten, (“GERSTEN”) certifies that on February 17, 2023, she served and filed petitions for rehearing and reinstatement, to which rehearing was granted as to the Respondent Kevin Carter by the South Carolina Court of Appeals; however, no grant or denial was issued as to the remaining respondents, and no grant or denial was made by the South Carolina Court of Appeals as to the petition for reinstatement.

In addition, GERSTEN certifies that on November 8, 2024, she served and filed petitions for rehearing and reinstatement, which, once again, only the petition for rehearing was ruled on, with a denial, in an order dated February 10, 2025, leaving the petition for reinstatement pending.

## **QUESTIONS PRESENTED**

1. Is the South Carolina Court of Appeals (“COURT”) required by Title II of the Americans with Disabilities Act (“ADA”) to designate an ADA Coordinator and make their contact information available?
2. Can a remittitur be issued before the COURT rules on both a petition for rehearing and reinstatement, and not just one of them when both are served and filed by litigant?
3. If both a petition for rehearing and a petition for reinstatement are filed, is the COURT required to act on both?
4. Can a Title II or Title III of the ADA Reasonable Accommodation Request be used to reinstate an appeal?

## **STATEMENT OF THE CASE**

This is an action that stemmed from a collision in Chester County, in 2015, that resulted in paralyzing GERSTEN. The matter has not ever been decided on the merits. There are a variety of causes of action grouped into one main filing against multiple defendants.

## **ARGUMENTS**

1. Public entities with fifty (50) or more employees (Like the South Carolina Court of Appeals) are required to designate an ADA Coordinator who is responsible for coordinating compliance with the ADA, and make their contact information easily available to disabled litigants, like GERSTEN, as well as other disabled participants. Title

II of the ADA prohibits discrimination based on disability by state and local governments. Had GERSTEN been made aware of an ADA coordinator, options could have been explored to remedy her challenges in producing a compliant Record on Appeal in a timely fashion as best as possible, mindful of her disability of being paralyzed.

2. Petitions are served and filed for decisions of grant or deny by the COURT, and they are not to be left undecided.
3. The COURT has no discretion to rule on petitions for rehearing or reinstatement, nor can the COURT choose only one of the said petitions, if both are served and filed.
4. Titles II and III of the ADA mandates that state and local governments provide reasonable accommodations to individuals with disabilities to ensure equal access to their programs, activities, and services. This includes accommodations related to accessing the appeal process. Rules can be barriers to the disabled, as GERSTEN has experienced. All policies, practices, and procedures can be modified to accommodate a qualified individual of the ADA through its protections. State laws are not insulated against the ADA. When state laws conflict with the ADA, as they often do, The ADA is controlling.

## **CONCLUSION**

For the reasons stated, petitioner requests this COURT to grant this petition for a writ of certiorari.

Respectfully submitted this 1<sup>st</sup> of May 2025,

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