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THE STATE OF SOUTH CAROLINA  
In The Court of Appeals

APPEAL FROM CHESTER COUNTY  
Court of Common Pleas

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

**RECEIVED**  
APR 08 2019  
SC Court of Appeals

Appellate Case No: 2019-002115

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

v.

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

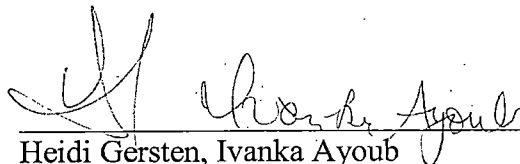
APPELLANTS' NOTICE OF MOTION AND MOTION FOR  
EXTENSION OF TIME TO SERVE AND FILE AMENDED RETURN  
TO RESPONDENTS CARTER AND DAVIS' MOTION TO DISMISS  
APPEAL AND AFFIDAVIT OF HEIDI GERSTEN

Heidi Gersten, Ivanka Ayoub  
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Appellants

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

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

Respectfully submitted this 4<sup>th</sup> day of April 2019,



Heidi Gersten, Ivanka Ayoub  
Appellants  
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Boca Raton, Florida  
April 4, 2019

THE STATE OF SOUTH CAROLINA  
In The Court of Appeals

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APPEAL FROM CHESTER COUNTY  
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AFFIDAVIT OF APPELLANT HEIDI GERSTEN

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Appellants

**STATE OF FLORIDA,**  
**SS:**  
**COUNTY OF PALM BEACH,**

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

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

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

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

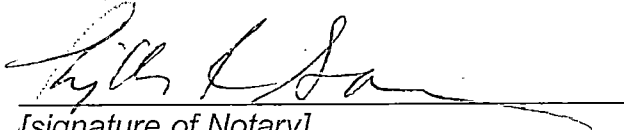


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Heidi Gersten  
1438 W. Lantana Rd. #330,  
Lantana, FL 33462

Subscribed and sworn to before me, this 4<sup>th</sup> day of April 2019.

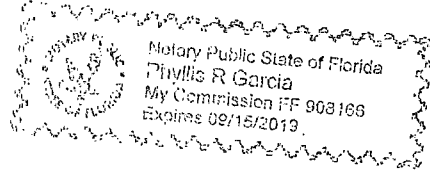
[Notary Seal:]



[signature of Notary]

Phyllis R Garcia

[typed name of Notary]



NOTARY PUBLIC

My commission expires: 09/15/2019

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In The Court of Appeals

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

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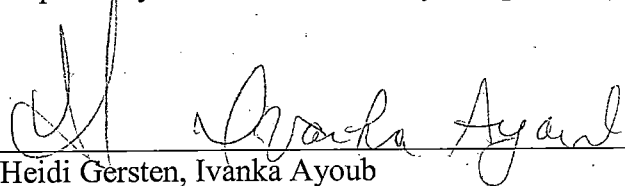
## STATEMENT OF FACTS

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

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

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

Respectfully submitted this 4<sup>th</sup> day of April 2019,



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Appellants  
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Boca Raton, Florida  
April 4, 2019

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

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

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

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

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

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

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

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

By: 

Boca Raton, Florida  
April 4, 2019

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April 4, 2019  
1438 W. Lantana Rd., #330  
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APR 08 2019  
SC Court of Appeals

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

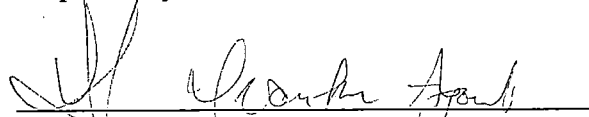
RE: Appellate Case No.: 2018-002115

Dear Ms. Kitchings:

Good day to you.

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

Respectfully submitted,

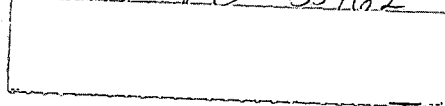


Appellants Heidi Gersten, Ivanka Ayoub  
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(323)245-6142 Fax (561) 756-9820

HG/Enclosures



Heidi GERSTEN, IVANKA Ayoub  
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LANTANA FL 33462



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SC Court of Appeals

Honorable Jonny Abbott Kitchens  
Clerk of Court  
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Columbia, SC 29211