



1 the record on appeal as also noted in the accompanying Emergency Motion for Extension of Time to  
2 serve the record on appeal. The request counsel would be of assistance to both Appellant and Court  
3 for collecting, organizing, and presenting the Record on Appeal and all other matters pending before  
4 the Court. The Appellant having substantially replied to all requests by the Court, and this request is  
5 made as the documents previously provided to the Court show “good cause” and are evidence of  
6 my actual disabilities that greatly impact, among other things, my ability to participate in the judicial  
7 system. I understand that the Court may appoint counsel in some cases, but in general there is no  
8 constitutional right to appointment of counsel in a civil case (Sandle v. Principi, 201 F. App’x 579,  
9 582.(10<sup>th</sup> Cir. 2006) (“There is no constitutional right to counsel in either a Title VII case or other  
10 civil case.”).  
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## 13 14 **II. MOTION FOR APPOINTMENT OF COUNSEL**

### 15 16 **A. FINANCIAL ABILITY TO SECURE COUNSEL**

17 The ADA affords a broader remedy because its provisions are not “needs based”; that is, ADA  
18 accommodations are available to rich and poor alike, and not restricted by a litigants ability to pay for  
19 an attorney accommodations (28 C.F.R. § 3.130(f) (2003). This regulation forbids a public entity  
20 from charging disabled persons “to cover the cost of measures...required to provide...the  
21 nondiscriminatory treatment required by the ...[ADA or implementing regulations]”. No financial  
22 application is required to receive an ADA accommodation.  
23

24  
25 Plaintiff asserts the it has been an financial unable to meet his daily, non-discretionary expenses  
26 where he to hire an attorney  
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1 **B. CAPACITY TO PRESENT CASE WITHOUT COUNSEL**

2 As “an aid in exercising discretion” in close cases, the Court should also consider whether the  
3 plaintiff has the “capacity to present case without counsel” (*Id.* recognizing *Poindexter v. FBI*, 737  
4 F,2d 1173 (D.C. Cir. 1984) as one of several cases that identified the fourth factor).  
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7 **C. OTHER CONSIDERATIONS**

8 Denying appointment of counsel to certain disabled litigants violated Title II, the Public Service  
9 Sections of the ADA, *See* (42 U.S.C. § 12132 (2000)).  
10

11 For actions under Title VII, the statute 42 U.S.C §§ 2000e-5 (f)(1) provides discretionary for  
12 appointing counsel “in such circumstances as the court may deem just”( *See*, *Castner*, 979 F.2d at  
13 1420-21). The Court has “extremely broad” discretion to appoint counsel under 2000e-5 (f)(1)  
14 ( *See*, *Castner*, 979 F.2d at 1420).  
15  
16

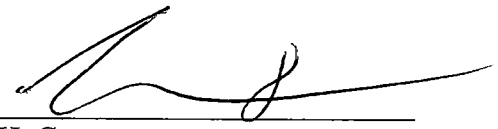
17 **III. CONCLUSION**

18 Wherefore, Appellant prays that the Court grant Appellants request to Appoint Counsel /Assistance  
19 of Counsel to Assist with serving the record on appeal and other matters pending before the Court. I  
20 understand that making this application does not excuse me from litigating my case, and that it is  
21 still my responsibility to move forward in this proceeding and in alternative will need an extension of  
22 time.  
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26 I declare under penalty of perjury under the laws of the State of South Carolina and United States of  
27 America that my answers to the forgoing is true and correct

28 Respectfully Submitted,

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By:   
Mr. Terry H. Capone  
Fire Battalion Chief-Retired  
130 Summerlea Drive  
Columbia, South Carolina 29203  
Email: [tcapone@liberty.edu](mailto:tcapone@liberty.edu)  
(803) 622- 6578

Richland, South Carolina  
April 20, 2020

Eosure(s) as stated

1. Title VII of the Civil Rights Act of 1964 ("Title VII"), 42 U.S.C §§ 2000e- 5 (f)(1)
2. Americans with Disabilities Act of 1990, Pub, L No. 101-136 (codified as amended at 42 U.S.C.§§ 12101-12213 (2000)).

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APR 23 2020

SC Court of Appeals

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that he served the forgoing court copy referenced "Terry Capone v. City of Columbia SC Court of Appeals Appellant Case. No. 2019-000369

April 20, 2020 Appellant

- Please see attached Emergency Motion for Extension of time to service record and \$50.00 filing fee enclose
- Please see attached Emergency Motion requested appointment/assistance of Counsel by Court to serve record on appeal and other matters pending before the court and \$50.00 filing fee enclosed

by depositing a copy of the same in the United States Mail Certified delivery, postage prepaid or better or personal delivery on April 20, 2020 to the following addressed to the Defendant Legal Representative known to be:

Cythia C Dooley

P.O.Box 1473

Columbia, SC 29202

This 20<sup>th</sup> day of April 2020.



---

Mr. Terry H Capone  
Fire Battalion Chief-Retired  
130 Summerlea Drive  
Columbia, SC 29203  
803.622.6578  
Email: tcapone@liberty.edu

Columbia, South Carolina



RETIRED

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APR 23 2020

SC Court of Appeals

April 20, 2020

VIA US MAIL DELIVERY

The Honorable Jenny Abbott Kitchings, Clerk  
South Carolina Court of Appeals  
1220 Senate Street  
Columbia, SC 29201

Re: Terry Capone, Appellant, v. City of Columbia, Employer, and Companion Third Party Administrator, LLC,  
Carrier, Respondent Case No.2019-000369

The Honorable Jenny Abbott Kitching, Clerk and SC Court of Appeals:

- Please see attached Emergency Motion for Extension of time to service record and \$50.00 filing fee  
enclose
- Please see attached Emergency Motion requested appointment/assistance of Counsel by Court to serve  
record on appeal and other matters pending before the court and \$50.00 filing fee enclosed

I am not a lawyer. Thank you for any consideration you may give my request

With Regards,

Mr. Terry H. Capone  
Fire Battalion Chief-Retired  
130 Summerlea Drive  
Columbia, SC 29203  
(803) 622-6578  
Email: [tcapone@liberty.edu](mailto:tcapone@liberty.edu)

M  
Terry # Cyrene  
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SC Court of Appeals

SC Court of Appeals  
Jenny A Kitchins Clerk  
P.O. Box 11629  
Columbia SC 29211

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