

21-6577
No. _____

IN THE
SUPREME COURT OF THE UNITED STATES

Supreme Court, U.S.
FILED
NOV 27 2021
OFFICE OF THE CLERK

Christine Ostopowicz
— PETITIONER
(Your Name)

vs.

United Healthcare
— RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

Court of Appeals Seventh Circuit

(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

Christine Ostopowicz

(Your Name)

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(Address)

COOCHIEMUDLO ISLAND QLD 4184

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(Phone Number)

QUESTION(S) PRESENTED

Why was my case previously denied by other courts without medical expertise, medical records or reports being taken into consideration even when supplied and without my mental health being considered in my ability to act for myself in a timely manner.

Why have postal delays, timeframes and Covid caused stoppages not been taken into consideration when I live remotely in Australia which have severely impacted my ability to meet any deadlines on time.

I have been discriminated against by my former employer United Healthcare due to my disability after working for them for 5 years and I would like this case to be reinvestigated to change the system so it protects and works for the greater good of the disabled communities across the United States of America and in my particular case, why was my employer allowed to discriminate against me.

LIST OF PARTIES

All parties appear in the caption of the case on the cover page.

All parties **do not** appear in the caption of the case on the cover page. A list of all parties to the proceeding in the court whose judgment is the subject of this petition is as follows:

RELATED CASES

Ostopowicz v. United HealthCare, Charge No: 443-2016-01392C. Equal Employment Opportunities Commission. Judgement entered May 20, 2017

Ostopowicz v. United HealthCare, No CR20160263 1. Equal Rights Division, Ongoing

Ostopowicz v. United HealthCare, No.CR201901287 Equal Rights Division. Judgement entered Oct.10, 2019.

Ostopowicz v. United HealthCare, No. 26G-2019-00792C, Equal Employment Opportunities Commission. Judgement entered Oct. 10, 2020

Ostopowicz v. United HealthCare, Labour and Industry Commission. Judgement entered Mar. 30, 2020.

Ostopowicz v. United HealthCare, No. 20-cv-1879, United States District Court Eastern District of Wisconsin. Judgement entered May. 19, 2021.

Ostopowicz v. United HealthCare, No. 2:20-cv-01879-SCD, U.S. United States Court Of Appeals for the Seventh Circuit. Judgement entered Sep. 20, 2021.

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TABLE OF AUTHORITIES CITED

CASES

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Board of County Commissioners of Weld County, Colorado v. Exby-Stolley

Blunt v. Aetna/U.S. Healthcare (2005), Civ. No. 3:04CV483 (CFD), United States District Court, D. Connecticut.

STATUTES AND RULES

Guide to Wisconsin Appellate Procedures for the self represented litigant. -
<https://www.wicourts.gov/publications/guides/docs/proseappealsguide.pdf> page10

The Americans Disabilities Act, - <https://adata.org/learn-about-ada>

OTHER

Cole and Cecka, "Traumatic Brain Injury and the Americans with Disabilities Act: Implications for the Social Work Profession -https://www.researchgate.net/publication/264433737_Traumatic_Brain_Injury_and_the_Americans_with_Disabilities_Act_Implications_for_the_Social_Work_Profession

Brain Injury Association of America - <https://www.biausa.org/>

United Nations - <https://www.un.org/development/desa/disabilities/>

IN THE
SUPREME COURT OF THE UNITED STATES
PETITION FOR WRIT OF CERTIORARI

Petitioner respectfully prays that a writ of certiorari issue to review the judgment below.

OPINIONS BELOW

[] For cases from **federal courts**:

The opinion of the United States court of appeals appears at Appendix A to the petition and is

[] reported at _____; or,
[] has been designated for publication but is not yet reported; or,
[x] is unpublished.

The opinion of the United States district court appears at Appendix B to the petition and is

[] reported at _____; or,
[] has been designated for publication but is not yet reported; or,
[x] is unpublished.

[] For cases from **state courts**:

The opinion of the highest state court to review the merits appears at Appendix _____ to the petition and is

[] reported at _____; or,
[] has been designated for publication but is not yet reported; or,
[] is unpublished.

The opinion of the _____ court appears at Appendix _____ to the petition and is

[] reported at _____; or,
[] has been designated for publication but is not yet reported; or,
[] is unpublished.

JURISDICTION

For cases from **federal courts**:

The date on which the United States Court of Appeals decided my case was September 20, 2021.

No petition for rehearing was timely filed in my case.

A timely petition for rehearing was denied by the United States Court of Appeals on the following date: _____, and a copy of the order denying rehearing appears at Appendix _____.

An extension of time to file the petition for a writ of certiorari was granted to and including _____ (date) on _____ (date) in Application No. __A_____.

The jurisdiction of this Court is invoked under 28 U. S. C. § 1254(1).

For cases from **state courts**:

The date on which the highest state court decided my case was _____. A copy of that decision appears at Appendix _____.

A timely petition for rehearing was thereafter denied on the following date: _____, and a copy of the order denying rehearing appears at Appendix _____.

An extension of time to file the petition for a writ of certiorari was granted to and including _____ (date) on _____ (date) in Application No. __A_____.

The jurisdiction of this Court is invoked under 28 U. S. C. § 1257(a).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

Title VII of The civil Rights Act of 1964 / US Equal Employment Opportunity.

Volume 42 , section 2000e-employment discrimination. The Civil Rights Act of 1991 amended several sections adding Section 1977 (42 U.S.C. 1981) to provide for the recovery of compensatory and punitive damages in cases of intention violations of Title VII, The Americans with Disabilities Act of 1990 and section 501 of the Rehabilitation Act of 1973

US CONSTITUTION
5th Amendment-
14th Amendments

Code of Conduct for United States Judges- Published by The United States Courts.- Canon 3

STATEMENT OF THE CASE

I began working for United Healthcare (UHC) in June 2011 as a Complex Case Manager and had a meticulous record, receiving multiple awards for my dedication to my work throughout my career. On January 2, 2014, I suffered a serious car accident resulting in multiple injuries including a Traumatic Brain injury and various other medical problems including mental health PTSD, resulting in the diagnosis of a permanent lifelong disability. After I sustained the injuries, I required multiple months of rehabilitation and recovery, some of which I undertook in my homeland of Australia as I was unable to care for myself. The Standard Insurance assisted my return to work as they were engaged due to my inability to work after the accident.

I returned to work on a slow trial basis in August 2014 working from home, progressing to full time work in January 2015, where I continued to work from home. Multiple reports and medical advice were submitted to UHC, outlining the accommodations that needed to be put in place with the assistance of the Department of Vocational Rehabilitation, Total Absence Management - a department within UHC and Sacred Heart and the TBI Rehabilitation Team, upon my return to work (see attachments 1 /9). Sedgwick assisted me with a short-term disability pension during this time while I was recovering. UHC began to discriminate and harass me, not long after I returned to work. The first occurrence was when I donated an item for charity which was utilised in January 2015. Channel 4 interviewed me on TV about the donation and disclosed personal information about my accident. UHC had shared details of my accident without my consent. I voiced my displeasure to UHC about the violation of my disability being disclosed without consent. (see attachment 2). I was then asked after this event, to sign a document to give permission for the video story to be shown (see attachment 3). I noted around this time, accommodation requests that were recommended for my successful return to work, were not all implemented.

A new telephone system was introduced in March 2015, and I was unable to hear correctly with my equipment. After repeated calls and emails to management, my accommodation requests for assistance with the new system so I could complete my job, were not met. I began alerting management to the problems I experienced upon my return to work, in 2014 and ongoing into 2015 (see attachment 4 & 5). Throughout 2015 and into 2016, I continued to receive positive feedback on my performance, despite the ongoing struggles I faced due to my disability. Attachment 6, demonstrates the continued problems I was having, even during my employment evaluations where I raised these problems.

A new software program was introduced to manage workflow in April 2016 and the training was inadequate for myself due to my brain injury and hearing impediment. Upon the software rollout, all staff faced problems with the software. It was riddled with errors and constant changes continued to be made that weren't communicated to staff. I continued to ask questions and ask for assistance due to my perceptual vision and rising levels of anxiety as I struggled to comprehend the program. My learning capacity to absorb new information was limited due to the brain injury as outlined by medical reports provided to UHC upon my return to work. Monica Murphy from the Equal Rights Division (ERD) would later verify, that I had reiterated that I did advise UHC I would have trouble learning in this manner and the response provided to me was, I am doing a very good job (see attachment 7). As the weeks passed, it became apparent that all staff were interpreting and using the system differently to one another.

In June 2016 all staff in the department, attended weekly telephonic case management meetings. My manager continued to try to address and manage the shortfalls of the new software program. Staff were confused and unclear on how to best use the software in line with compliance requirements.

I continued to raise problems with the phone system where I still, could not hear clearly and, with the new software system where I was not adequately catered and accommodated for in the training program. My neurologist Dr Mitchell had provided written accommodation recommendations to UHC stating that I would be prone to making mistakes due to the brain injury that was still healing.

On July 13 of 2016, I was engaged for verbal counselling with management due to my performance and comprehension. I was advised in writing I would be placed on a corrective action plan (CAP), if issues continued around my performance. This was the first I was aware there were any problems from management regarding my work professionalism. I engaged with HR to assist me and was directed to Total Absence Management (see attachment 8). On July 14, I again emailed management asking for assistance with accommodations and to further discuss the problems that I was facing, to try to be proactive in addressing UHCs concerns (see attachment 10).

On July 27, 2016, I was placed on a CAP due to my performance (see attachment 11). The next day I met with Department of Vocational Rehabilitation and the following day, Total Absence Management who advised, I should take medical leave. On this same day, a Case Management meeting was conducted at UHC, where Management admitted there were ongoing problems with the computer program that had been rolled out in April (see attachment 12/13).

I filed a complaint against UHC for discrimination in the workplace on July 29, 2016, charge Number 443-2016-01392C, due to my disability with the Equal Employment Opportunities Commission (EEOC), where the investigation began in September 2016. During this time, Sedgwick was again engaged to assist financially with my disability as I had taken medical leave. I remained on leave for the duration of the year and in December 2016, I received a breast cancer diagnosis.

In January 2017, I undertook treatment for cancer, including multiple surgeries and ongoing care from the automobile accident I sustained in 2014 as well as for the trauma at UHC I had suffered, resulting in the decline of my mental health. In May 2017, the EEOC dismissed my complaint I had raised in 2016 about the discrimination charge. My case was cross filed with ERD and given the reference CR20160263 1. This case is still active, the discovery questions have been completed and the discovery answers I provided, appears to show probable cause. The status of the case is pending due to ongoing Covid restrictions as I have been advised by Judge Wasserman, I will be required to attend hearings and cannot do so at this time.

I received a termination notice of employment by UHC in July 2017 if I did not seek a new role in the next 30days, as my role had been filled by another employee (See attachment 14). I was terminated in October 2017 but only received notification by mail on November 2nd, 2017 (see attachment 15).

I continued treatment into 2018, including further cancer surgeries and cataract surgeries. I was diagnosed with PTSD once the swelling in my brain had completely reduced. My family made the decision to relocate me back to Australia in December 2018 and my belongings, took many months to arrive by sea back to Australia, including all the necessary documents I would need, to further compose my legal stance all of which was reiterated to the judges and legal parties across my cases.

I filed a case with ERD on May 10, 2019, case number ERD CR201901287, for termination of my employment against UHC whereby the court dismissed my case as being untimely on October 10, 2019, by Judge Selsor. My case was cross-filed with EEOC, due to a work sharing agreement given ERD and EEOC have jurisdiction over the allegations. EEOC case number assigned was 26G-2019-00792C. I then appealed my case to the Labour and Industry Review Commission (LIRC), and it was dismissed on March 30, 2020.

I filed a pro se action against UHC with the Eastern District Court on December 21, 2020, Case Number 20CV1879. I filed a request for an extension of time until February 15, 2021, which was granted due to the mailing time frames required so I could submit my documents on time. I provided my documents, and my case was dismissed by Judge Dries on the May 19, 2021, as untimely.

I then submitted my appeal by following the guidelines on the document called Guide to appellate procedures for the self-represented found on the court's website. Link - <https://www.wicourts.gov/publications/guides/docs/proseappealsguide.pdf>. Page 10 of the document states that self-represented litigants can file the documents electronically. I uploaded my files to Pacer electronically within the timeframe and my documents were rejected. The rejection stated, I was not allowed to file in Pacer and that I should file my case via postal service. The advice I received from the court, was to mail my court papers to the Clerk's Office PO Box 1688 Madison WI 53701 (see attachment 17). Judge Dries had granted me permission to file electronically in February 2021 however the courts reneged on this agreement (see attachment 16).

As I live in Australia on a remote island, it took a long time to reach the Eastern District Court. I then received a response by mail to advise I was to send my documents instead to the Court of Appeals in Chicago – United States Court of Appeals for the Seventh Circuit on July 15, 2021. I received this in early August by mail, due to the Covid19 pandemic causing serious delays with mail deliveries to Australia (see attachment 18).

I immediately sent my court papers to the US Court of Appeals, Seventh Circuit in Chicago on August 6, 2021, to appeal the case and ask for the relevant documents and to raise a motion of extension of appeal. My Notice of Appeal to the US Court of Appeals was filed on August 25, 2021. My case was dismissed for lack of jurisdiction on September 20, 2021 and due to timeliness. I am now seeking the Supreme Court to review the evidence and reopen the case.

When I appealed my case at the Appellant Court, I was denied the right to wait for submission of further medical evidence to be obtained, that would increase the facts and evidence in my case. It had been entered into the system and then the case was dismissed at the same time in pacer. This shows impartial and bias in the case which is against the rules of the code of conduct for United States judges.

INACCURACIES OF THE CASES PRESENTED IN THE DISMISSELS

When considering Judicial Scrutiny and Disability within the court system of America, the 14th amendments equal protection clause has been an invaluable tool for courts to strike down discriminatory laws affecting protected classes. However, constitutional protections for the disabled related discrimination, remains the weakest of all protected classes determined by the courts. Traditional legal options for pursuing discrimination cases have largely been limited to strategies that rely on legislation like the ADA, IDEA, The Fair Housing Act, etc. However, in accordance with those statutes, there remain many state laws that continue to facially discriminate against people with disabilities.

Throughout my determination to seek justice for discrimination, harassment and bullying towards my disability in the workplace, which led to my disability being used against me to ultimately terminate my employment with UHC, I question the decision of the lower courts in the handling of my case. A number of assumptions and inaccuracies have been made by lawyers in support of UHC throughout the course of my legal journey and I have never been provided the opportunity to defend my case of termination of employment due to discrimination against my disability. Under

the 14th Amendment, the equal protection clause requires states to practice equal protection. This has not occurred at all levels of court my case has passed through, due to inaccuracies and wrong information, presented by the defendant.

It has been stated numerous times I had legal counsel. I have never had legal counsel; I was referred to Disability Rights Wisconsin (DRW) by Nicole Guardiola at ERD to write a letter back to herself at one point when it was required (see attachment 19). Upon Nicole's recommendation, Monica Murphy at DRW assisted me once, to write a letter back to ERD as I was unable to do this due to my disability and mental capacity (see attachment 7). Littler Lawyers representing UHC, stated in a letter dated June 12, 2019, I was represented by counsel who submitted a lengthy rebuttal for myself on February 26, 2018. Littler Lawyers state that because I was represented by legal counsel, I was fully capable of filing an amended complaint (see attachment 20). I merely went to DRW as referred by Nicole Guardiola who wrote one letter on my behalf. This assumption has been used multiple times in all levels of courts by the defendant. I have always been a pro se litigant.

As a result of the accident, my brain was unable to easily store thoughts and information, or be able to recall current memories well, due to the damage to my brain. This impact on my brain resulted in me not being able to respond effectively to anything. I had to be constantly prompted with questions due to memory loss and limited capacity to process thoughts. My mental health deteriorated dramatically in 2017 and 2018, as can be testified by medical records attached (see attachment 25). I continually communicated this with the courts, judges and opposing attorneys. I was accused by the Labour and Industry Review Commission (LIRC) by not filing on time to meet the 300 days to file the termination discrimination when my case was presented to them. A brain injury survivor struggles with making both major and minor decisions and mixed with PTSD, I was unable to act within my best interests to represent myself due to the ongoing medical conditions I was suffering as documented on the Brain Injury Association of America (See attachment <https://www.biausa.org/>).

The United Nations (UN) states that individuals who present with a disability are legally and fairly allowed to exercise their rights. The UN recognise when an "individual lacks the legal capacity to act, they are not only robbed of their right to equal recognition before the law, but they are also robbed of their ability to defend and enjoy other human rights." Article 12 of the Convention recognizes that persons with disabilities should have legal capacity on an equal basis with others. The Convention recognizes that some persons with disabilities, require assistance to exercise this capacity, so States must do what they can to support those individuals (See attachment - <https://www.un.org/development/desa/disabilities/>). During the course of my legal matter, the courts and legal bodies have been well aware of my limitations, medical treatments and have been provided with evidence justifying and proving my disability. Judge Wasserman in the case she presides over, noted and recognised that I was seeking ongoing medical treatment in October 2018. Litter Lawyers representing UHC, also noted I was unable to respond due to health problems, and medical treatments and noted I was in contact with them throughout 2018 (see attachment 21).

Further inaccuracies were made by the legal parties around the discoveries that were conducted in the ERS Appellants court in 2019. I worked through the discoveries as I began to heal in one of the cases. The LIRC stated in their court documents when dismissing my file, the discoveries were completed in 2017. Further to this, the LIRC suggest I wrote an email stating I did not remember a conversation about having to file within 300 days in 2017 to start a new case on discrimination of my termination of employment. This conversation took place in 2019 with Judge Wasserman who assisted me in understanding my legal rights in how to file for discrimination and harassment in line with my termination of Employment (see attachment 22).

Another inconsistency in the case are the legal parties, across my cases have stated I was actively litigating on my case during the 300-day period. Records of events show that I was not actively participating due to my physical health and mental health issues, over the course of August 2016 until July 2018. The majority of the correspondence was between the legal parties interested in the case. I contacted the ERD only 6 times during this time period (see attachment 23). This hardly shows I was actively litigating, 6 times in a 23-month period.

It has been noted on file that I requested assistance to review what I had written and to assist me to write the rebuttal by Nicole Guardiola at ERD. Due to the ongoing effects of my PTSD and brain injury, this recorded recital of events show that I was not capable of pursuing legal documentation without assistance. Littler Lawyers continually state I was capable of prosecuting my case because I made contact with EEOC during the timeframe. My comments to Nicole Guardiola asking for assistance demonstrate I was not capable of doing anything on the case without assistance (see attachment 23).

On May 15, 2019, I had a conversation with Judge Wasserman about my case via email and you can see that I was not medically capable of comprehending things that were told to me. In the email correspondence, I state to Judge Wasserman, that while I was doing the discoveries with the other case she was handling, I thought that the disability discrimination termination, was all part of the discoveries (See attachment 24). I again reiterate that during 2017 and 2018, I was unable to function and comprehend things, so I was unable to recall or remember that I only had 300 days to file a charge for my wrongful termination of employment. I filed the charge for disability discrimination termination on that day Jude Wasserman had put this in writing to me. This was the first time I had been provided with written information on what I was supposed to do, rather than verbal instruction as stated by Nicole Guardiola. I was living with my family in Australia who were able to interpret the written communication from Judge Wasserman so I could follow through and complete the filing of the charge for discrimination disability termination that day with family assistance. This demonstrates that when I receive written communication as opposed to verbal communication of which I had no recollection of ever being made to myself by Nicole Guardiola, and with assistance from others, I could complete the task minimally. A further disturbing fact to my case is I repeatedly asked for assistance from legal bodies as I was unable to comprehend and act on my own behalf and I was ignored. On the email dated May 15, 2019, I asked Judge Wasserman what allowances were in place for people with disabilities who were too ill to fit in with the legal timeframes (see attachment 22). This was ignored.

Under the code of conduct for United States judges, Canon 3 states that judges should perform their duties fairly, impartially and diligently. In the multiple dismissals of my cases at various levels of court, the judge's decision has been influenced by the defence because the wording has come from their defence memorandum which has been mostly inaccurate. This violates the bipartisan standard and shows to be unfair in making a determination.

SUPPORTING INFORMATION FOR MY CASE

In 2017 I was sent by the Standard Insurance to Social Security to participate in a series of medical examinations to obtain medical evidence to show I qualified for a disability pension. The standard insurance advised I should apply for the pension. These reports will testify that my medical condition had increasingly declined. These records have been requested and I am currently awaiting them to support my case, that I was not capable of investigating my legal case without assistance (see attachment 26). I am still on a disability pension today as a result of my disabilities.

The Americans Disabilities Act (ADA) was passed in 1990 providing civil rights protection to people like myself, who present with a disability to prevent discrimination in employment and to ensure equal access to services and government programs. Under this Act, where the workplace is considered, all employers with 15 or more employees are required to abide by this act and cannot discriminate against qualified individuals with disabilities in the workforce. A research article completed by Cole and Cecka, "Traumatic Brain Injury and the Americans with Disabilities Act: Implications for the Social Work Profession," discovered, through workplace specific evidence through analysis of the EEOC, found that people who present with a Traumatic Brain Injury, are more prone to discrimination in the workplace, particularly when they are younger or white or employed in the Midwest or the Western United States. They noted that this applies to employed people, and the type of discrimination includes tormenting or ridiculing a person's disability. Harassment was noted as being particularly insidious form of discrimination. My employer discriminated against me by repeatedly referring to my disability as a learning disorder and as a processing problem rather than a brain injury (see attachment 27). The treatment I suffered at the hands of management at UHC caused further psychological harm as they would not recognise my disability or properly accommodate me.

When my medical reports were submitted for evidence across my cases, the legal bodies continually made medical determinations on my abilities on what I was capable of doing by using their powers, rather than looking at the medical evidence presented. They would make assumptions without referring to medical advice to back up their statements (see appendix B which highlights this through the dismissal of the Eastern district court as to why my case was dismissed. This bias should not be allowed in the court system and employers need to be held accountable.

The Standard Insurance in 2014, had a conference call with my manager and advised it was not an option for me to travel by public transportation to get to work. When I was placed on a CAP, UHC expected me to relocate back to the office to work and bring all of my heavy equipment whilst under the CAP assessment period. Under the ADA, the act states that employers can't discriminate against people with disabilities in the form of transportation. I was not permitted to drive far during this period, and I was unable to navigate public transportation. I was incapable of lifting the equipment due to my spinal injury. UHC discriminated and harassed me to return to the office knowing I was incapable of doing so.

The LIRC in their dismissal of my case, stated I spoke with Nicole Guardiola on November 29, 2017. It was stated I had disclosed I had been terminated and that if I believed I had been discriminated against, I needed to file a new charge regarding the termination. It was further noted that I had said I was unsure if I wanted to file a charge as I was unaware if I could prove it (See appendix C). They then state, I sent an email to ERD, and within that email, I acknowledged the call, but I did not recall this conversation until it was mentioned. I never sent an email to ERD about this conversation.

Cases that have been successfully heard in the Supreme Court for victims of disability workplace incidents include the case *Board of County Commissioners of Weld County, Colorado v. Exby-Stolley*. Because an on-the-job arm injury made it harder for Exby-Stolley to conduct health inspections for Weld County, Colorado, Laurie Exby-Stolley requested an accommodation in the form of a new position with tasks she could perform. After the county told Exby-Stolley that her proposed arrangement would be unfair to other employees, she resigned. Exby-Stolley then sued the county under the Americans with Disabilities Act of 1990 for failing to accommodate her injury. Her claim faltered in the district court because the jury determined that the county had not terminated her or subjected her to an adverse employment action. The en banc U.S. Court of Appeals for the 10th Circuit reversed on the ground, that Exby-Stolley did not need to prove that the county took an

adverse action, only that the county failed to accommodate her. In my case, UHC did not accommodate my disability with the introduction of new telephone systems, computer systems and training requirements to ensure I could perform my role. I repeatedly asked for assistance and accommodations, and it was denied.

It has been noted that filing deadlines may be waived and have been waived under special circumstances due to a plaintiff's medical condition. In cases under special circumstances, the filing deadlines may be waived due to incapacity. For instance, in *Blunt v. Aetna/U.S. Healthcare* (2005), the plaintiff suffered a TBI in an automobile accident and began receiving long-term disability payments. She filed a charge with the EEOC alleging that her employer discriminated against her by refusing to consider her for employment until she stopped receiving long term disability payments. The employer asked the court to dismiss the case because the plaintiff failed to file her lawsuit within 90 days of receiving her right-to-sue letter from the EEOC. The court permitted the plaintiff to present evidence that the deadline should be waived because she was representing herself and had a mental disability. (2005), the plaintiff suffered a TBI in an automobile accident and began receiving long-term disability payments. She filed a charge with the EEOC alleging that her employer discriminated against her by refusing to consider her for employment until she stopped receiving long term disability payments. The employer asked the court to dismiss the case because the plaintiff failed to file her lawsuit within 90 days of receiving her right-to-sue letter from the EEOC. The court permitted the plaintiff to present evidence that the deadline should be waived because she was representing herself and had a mental disability.

My case against UHC resembles this case closely. I suffered a car accident resulting in a TBI. My case has been denied so many times due to me not filing my case within the deadlines. I have and always will be, representing myself. My case was denied at the Court of Appeals and the Eastern District court due to timeliness. Since March 2020, due to Covid restrictions here in Australia and due to my remote location, I would never be able to make the deadlines by the postal service, as so few planes fly in and out of Australia at present. In the previous cases I have lodged, all were dismissed by the courts due to timeliness. I have repeatedly asked for extensions, and it is always denied by the courts. In the case of *Blunt v. Aetna/U.S. Healthcare*, the deadline was waived due to the plaintiff's mental disability, and she was representing herself.

The legal system appears at all levels within the courts, to suppress the truth and prevent people like myself who suffer from mental health, from being fairly represented and have their cases heard fairly, due to limitations beyond their control. The global pandemic Covid19, which is causing problems around the world with postal services has not been considered, when plaintiffs like myself, who live remotely and are forced to post documents instead of being allowed to file electronically even when permission has been granted to do so.

My case was dismissed in the Eastern Districts Court of Wisconsin for disability discrimination in violation of the Americans with Disabilities Act (ADA), see 42 U.-S.C. § 12112 as being untimely, and that I had not demonstrated that equitable tolling saved my complaint. The dismissal proceeded to then elaborate and show that I did not produce sufficient evidence in my case and that it must contain factual matter, accepted as true. Was my case really dismissed for which reason? The discussion focused more on the lack of evidence rather than the timeliness, and that I had failed to provide sufficient medical evidence to demonstrate I was unfit to file a new charge within 300 days. As a pro se litigant, suffering from a permanent and lifelong disability including a brain injury, it should be taken into consideration that I may not have at the time, been able to submit all the evidence required to support my statements. The 14th Amendment was not abided by. The preceding judge over the case made assumptions to state that a plaintiff should provide sufficient

details to present a story that holds together. I was never given the opportunity to move to the next stage to present more evidence and my case was not a story as inaccurately stated. It is a clear case of termination of employment due to my disability that I would like the opportunity to be able to present in a court of law.

My medical team, in particular Dr Drapes who was my psychologist, is willing to testify on my behalf (See attachment 28). He specialises in brain injuries. He has assisted me through the ongoing treatment for my injuries and through the injustice I suffered at the hands of UHC. As stated already, I have never had the chance to allow my medical team to provide medical evidence about how my medical conditions, interrupt my thoughts, memory and ability to function. I have recently engaged with him in the hope that he could provide further medical evidence. He will respond upon his return from vacation (see attachment 29).

Under the US constitution, the 5th amendment due process clause, requires the United States government to practice equal protection. The statement of this case should now highlight that to date, my case has not been heard fairly, due to timeliness and jurisdiction in the lower courts and without my medical conditions being considered. I have been discriminated against then terminated from my employment due to my disability. Under the 14th amendment, the laws have been applied incorrectly to my case. Under equal protection analysis, my belief is that my individual equal rights have been violated in the assessment of the case to date and under constitutional law, I hope that the Supreme courts, will exercise its judicial power over my case and grant it submission in the Supreme court.

I ask the Supreme Court to review all the facts I have raised in my previous cases as to why it has continually been dismissed and I hope that you will see this case is for the greater good of all disabled persons who are treated unequally in the workplace. The laws have not been applied correctly in my case throughout the legal journey. Constitutional protections are necessary to ensure equality, so all citizens disabled or not, can benefit from freedom and equal opportunities.

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## **REASONS FOR GRANTING THE PETITION**

The Supreme Court should grant certiorari. This case is of national interest as discrimination against disabled persons in the workplace needs to be eradicated. Systems need to change and laws need to be amended and invoked to accommodate serious disabilities. Discrimination needs to be removed and cases like mine, prove that even the courts and lawyers are unwilling to accommodate a disabled person. In my case, no medical evidence was reviewed, no medical witnesses were subpoenaed, rather opinions were made by legal entities who are not medically qualified, to manipulate the outcomes of my case rather than utilize medical experts who could testify and were willing to testify on the accommodations I had asked for and to support my disabilities.

The Court of Appeals Seventh Circuit dismissed my case for untimeliness. I was advised in early 2021 I could upload my court documents to the Pacer system by Judge Dries. I uploaded them in time in case No. 2:20-cv-01879-SCD and was then told I had to post them. Due to Covid19 restrictions in Australia with the postal service and the fact I live on a remote island, my documents were never able to meet the deadline obligations. The courts did not accept them by post which meant my case was dismissed due to timeliness. The real reason why I appealed to the Court of Appeals due to discrimination by UHC, was overlooked.

The Eastern Districts court of Wisconsin, dismissed my case due to timeliness. They did not accommodate my disabilities which include mental health and refused to acknowledge the submitted evidence. I did not have council or representations.

It has been proven before through other cases that the courts will waive time limits for disabled persons who present with a mental disorder. I would like to see my case be granted certiorari so it can be heard at the Supreme Court, so other disabled persons are never discriminated again in the workplace.

## **CONCLUSION**

The petition for a writ of certiorari should be granted.

Respectfully submitted,

Christine Ostropowicz

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Date: November 29, 2021