

STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM YORK COUNTY
Court of Common Pleas

S. Jackson Kimball, Master in Equity

Case No. 2010-CP-46-04278

RECEIVED

AUG 02 2013

SC Court of Appeals

69315

Lejla Tihic, Respondent,

v.

Yani Arnautovic, Appellant.

MOTION TO RECALL REMITTITUR
AND TO FILE OUTSIDE TIME

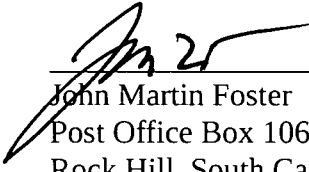
Pursuant to Rules 240 and 263(b), S.C.A.C.R., the Appellant, by his counsel herein, moves this Court for an order recalling the Remittitur entered herein and to be allowed to file his final Brief and Record on Appeal outside the allowed time, on the grounds stated below:

1. The Respondent has filed no Brief or appearance herein. The Record on Appeal was due after a letter from this Court dated April 24, 2013. Counsel for Appellant failed to timely file the Record and Brief, and failed to respond earlier to the Court's later notice.
2. Counsel can only plead that he is unable to find the communication of April 24, 2013. The later notice of this Court on July 10th, 2013 should have been responded to by an earlier Motion. He is only able to plead oversight and inadvertence. He does not believe the Respondent has suffered any prejudice by reason of this delay.
3. Counsel for Appellant has completed the Appellant's Final Brief and Record on Appeal. He transmits the same with this Motion.
4. By this request, counsel for Appellant prays that the Remittitur be recalled and that the Appellant's Brief and Record on Appeal be accepted and filed.

The basis of this Motion is the within-cited Rules, the records of this appeal, and any attached affidavit or stipulation of the undersigned, which items are hereby incorporated in this Motion.

WHEREFORE, the Appellant herein moves this Court for an Order recalling the Remittitur and allowing filing and service of the enclosed final Brief of Appellant, and the pending filing and service of the Record on Appeal, pursuant to Rule 240 and 263(b), S.C.A.C.R.

August 1, 2013



John Martin Foster
Post Office Box 106
Rock Hill, South Carolina 29731
803 324-8100
Attorney for Appellant

Other Party of Record:

Ms. Lejla Tihic, *Pro se*
Respondent
13312 Lampmeade Lane
Charlotte, NC 28273

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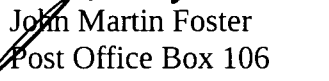
PROOF OF SERVICE

I certify that I have served the Motion to Recall Remittitur and to File Outside Outside Time dated August 1, 2013, on the following counsel or persons of record:

Ms. Lejla Tihic, *Pro se*
Respondent
13312 Lampmeade Lane
Charlotte, NC 28273

by depositing the same with the United States mail, with sufficient first class postage attached, properly addressed to the clerk of the Court, and with a copy also directed to the respective last known address(es) of those attorney(s) and/or persons set out above, pursuant to Rule 262, S.C.A.C.R.

August 1, 2013



John Martin Foster
Post Office Box 106
Rock Hill, S. C. 29731-6106
803 324-8100
Attorney for Appellant

JOHN MARTIN FOSTER

Attorney at law

The Guardian Building	PO Box 106	803 324 8100
223 East Main Street Suite 520	Rock Hill SC	803 324 8109 Fax
Rock Hill South Carolina 29730	29731-6106	jmfoster@comporium.net

August 1, 2013

The Honorable Jenny Abbott Kitchings
Clerk of the South Carolina Court of Appeals
Post Office Box 11629
Columbia, SC 29211

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SC Court of Appeals

Re: Lejla Tihic, Respondent,
v. Yani Arnautovic, Appellant.

Case No. 2010-CP-46-04278

Dear Ms. Kitchings:

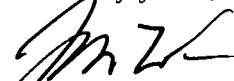
In accordance with Rules 240(a) and 263(b), S.C.A.C.R., enclosed herewith please find the original and seven (7) copies of the Appellant's Motion to Recall Remittitur and to File Outside Time, together with Certificate of Service for the same in the above referenced case. I also enclose our check for the Motion fee of \$25.00.

Also, in accordance with Rules 211 and 210, S.C.A.C.R., enclosed herewith please find the original and fifteen (15) copies of the Appellants' final Brief and the Record on Appeal, together with Certificate of Service for the same in the above referenced case.

By copy of this letter, I am serving the *pro se* Respondent with copies of the said Motion, final Brief and Record on Appeal, as evidenced by the Certificates of Service.

Please return the extra conformed copies of these documents to my office in the enclosed self-addressed, stamped envelope. As always, thank you, and your staff, for your assistance in these matters.

Sincerely yours,



John Martin Foster

jmf/
enclosures

cc: Ms. Lejla Tihic, *Pro se*
Respondent
13312 Lampmeade Lane
Charlotte, NC 28273