

MOTION TO AUGMENT RECORD ON APPEAL (DOCUMENTS REQUESTED) - INSTRUCTIONS

After the record on appeal is filed, you might discover there is something missing from the record that you think the court should consider when deciding your case. If you do not have copies of the documents you want to include, you may make a Motion to Augment Record on Appeal (Documents Requested). (CRC Rule 8.155(a)) (See sample below.)

If the court grants your motion, the Superior Court clerk will give you an estimate of how much it will cost to copy the documents you list to be included in the record. If you do not pay it, you will be placed in default.

File:

Original plus 1 copy (provide an extra copy to be file-stamped for your file) OR e-file an electronic copy with the Court of Appeal.

The motion should include everything listed below, stapled together in one document:

Motion to Augment (see below)
Memorandum of Points and Authorities (see below)
Declaration (see below)
[Proposed Order](#)
[Proof of Service](#)

Serve:

All parties

(Your name)
(Your mailing address)
(City, State and Zip code)
(Your telephone number)

Self-represented

COURT OF APPEAL, SECOND APPELLATE DISTRICT
DIVISION _____
STATE OF CALIFORNIA

(Plaintiff's name from lower court caption),

Plaintiff and (appellant or respondent),

v.

(Defendant's name from lower court caption),

Defendant and (appellant or respondent).

(Court of Appeal case number)

(Superior Court No. _____)

**MOTION TO AUGMENT
RECORD ON APPEAL
(DOCUMENTS REQUESTED)**

Pursuant to Rule 8.155(a) of the California Rules of Court, I, (your name), request augmentation of the record on appeal to include documents in this case that were not included in the Clerk's Transcript. Those documents are:

(List the documents you are requesting)

1. Order dated August 20, 2013.
2. Declaration of John Doe dated August 30, 2013.

The reason I am requesting the item(s) is:

(State why you are requesting the document(s) be added)

I declare under penalty of perjury that the foregoing is true and correct.

Executed at (city, state) this (date) day of (month), 2014.

Signature

Type or Print Name

MEMORANDUM OF POINTS AND AUTHORITIES

AUGMENTATION SHOULD BE ORDERED
TO ALLOW APPELLANT TO RECEIVE
FULL AND FAIR APPELLATE REVIEW

Rule 8.155(a) of California Rules of Court permits the augmentation of the appellate record and specifically under Rule 8.155(a)(1) allows a certified transcript or document not designated under Rule 8.130 to be augmented and permitted. It is well established that this rule is to be construed liberally. (*People v. Brooks* (1980) 26 Cal.3d 471, 484.)

The need for augmentation here is compelling. Appellant believes the trial court erred in granting summary judgment based on its own determination of the credibility of conflicting declarations. The issue can only be reviewed on appeal if the reporter's transcript of the court's comments before ruling is part of the appellate record.

Not only is augmentation necessary, it will not prejudice any party. The augmentation request concerns documents which were all part of the record. Additionally, the augmentation will not cause a substantial delay in this appeal.

CONCLUSION

For the above reasons, this Court should order the record to be augmented on appeal by including the reporter's transcript or document(s) requested in this motion.

Dated: (date)

Respectfully Submitted,

Signature

Type or Print Name

DECLARATION IN SUPPORT OF MOTION TO AUGMENT

I, (your name), declare and state as follows:

1. I am a self-represented litigant.
2. On (date), I argued the matter before the Honorable (Superior Court judge's name). The court reporter reported the matter.
3. I did not order the reporter's transcript of (date(s) of hearing), thinking it was unnecessary.
4. I believe the court used the incorrect standard of review. The court's comments before announcing its ruling are material to this issue. The transcript of that hearing is therefore a necessary element of the record on appeal.
5. I know of no prejudice to any party as a result of the granting of this motion.
6. This motion is made in good faith for the reasons set forth above and not for the purposes of delay.

I declare under penalty of perjury that the foregoing is true and correct.

Executed this (date) day of (month), at (city), California.

Signature

Type or Print Name