

[Attorney's name, bar number,
address and telephone number]

Attorney for Appellant

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA,
FIRST APPELLATE DISTRICT

DIVISION _____

PEOPLE OF THE STATE OF CALIFORNIA, Plaintiff and Respondent, v. _____, Defendant and Appellant.
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A _____
(_____ County Superior Court
No. _____)

**APPELLANT'S MOTION TO AUGMENT THE RECORD
ON APPEAL AND FOR EXTENSION OF TIME WITHIN
WHICH TO FILE APPELLANT'S OPENING BRIEF;
POINTS AND AUTHORITIES AND DECLARATION IN SUPPORT**

TO THE PRESIDING JUSTICE OF DIVISION _____ OF THE FIRST DISTRICT
COURT OF APPEAL:

Appellant hereby moves, through counsel, pursuant to rules 8.155 and 8.340(c) of the
California Rules of Court and local rule 7 for an order augmenting the record on appeal with the
following:

1. . . . ([cite to record indicating existence of item, if possible]);
2. . . .

Necessity of Augmentation

[Set forth procedural and/or substantive facts supporting need for item to perfect record

on appeal.]

Request for an Extension of Time to File Appellant’s Opening Brief

Since the current appellate record is incomplete and requires augmentation, counsel respectfully requests that the time for filing the opening brief be extended to 30 days after the filing of the augmentation in this Court.

This motion is based on this notice, the attached declaration and points and authorities and this court’s records and files in this matter

DATED: _____

Respectfully submitted,

By: _____
[Attorney’s signature]
Attorneys for Appellant

DECLARATION IN SUPPORT

I, _____, declare the following:

1. I am an attorney licensed to practice before the courts of this state, and I have been appointed by this court to represent appellant in this appeal;
2. The record in this case, filed on _____ does not include _____;
3. The missing material is not a part of the normal record on appeal as defined in rule 8.320 of the California Rules of Court or local rule 7 [because _____];
4. The report is relevant and material, because _____.

I declare under penalty of perjury that the foregoing is true and correct based upon my review of the record filed in this matter. Executed this _____ day of _____ at _____, California.

[declarant's signature]

POINTS AND AUTHORITIES IN SUPPORT

I. THE RECORD SHOULD BE AUGMENTED AS REQUESTED.

On its own motion, or upon the motion of any party, this court may augment the record on appeal when it appears the record on appeal is insufficient to dispose of the issues. (Cal. Rules of Ct., rule 8.155.) It is not necessary that the material sought be determinative on any specific issue. (*People v. Silva* (1978) 20 Cal.3d 489.) Where it appears with “some certainty how [the] materials not included in the normal transcript may be useful to him on appeal”, the request for augmentation ought to be granted. (*People v. Gaston* (1978) 20 Cal.3d 476, 480.)

[Discuss why the requested item is necessary to prepare adequately represent appellant.]

II. TIME SHOULD BE EXTENDED AS REQUESTED.

This court may extend the time for filing a brief for good cause shown. (Cal. Rules of Ct., rule 8.60(b).) “It is the duty of a party to support the arguments in its briefs by appropriate reference to the record, which includes providing exact page citations. [Citation.] Because ‘there is no duty on this court to search the record for evidence’ [citation], an appellate court may disregard any factual contention not supported by a proper citation to the record [citations].” (*Grant-Burton v. Covenant Care, Inc.* (2002) 99 Cal.App.4th 1361, 1379, italics omitted.) Therefore, in order for counsel to file a properly supported argument, an extension of time is warranted for the purpose of completing the record.

CONCLUSION

Accordingly, appellant respectfully requests an order augmenting the record with the requested reporter’s transcript.

DATED: _____

Respectfully submitted,

By: _____

[Attorney’s signature]

Attorney for Appellant