# B

IN THE COURT OF APPEAL OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION \_p\_\_\_

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

[Your name]

Petitioner and Appellant,

vs.

[Opposing party]

Respondent and Respondent

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

#### MOTION TO AMEND RECORD DESIGNATION

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Your name

Address

Phone Number

### & Appellant

### Self Represented

**COURT OF APPEAL OF THE STATE OF CALIFORNIA,**

**SECOND APPELLATE DISTRICT**

**DIVISION \_\_p\_\_**

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

[YOUR NAME,

Plaintiff and Appellant

vs.

[RESPONDENT’S NAME],

Defendant and Respondent.

#### MOTION FOR LEAVE TO FILE AMENDED DESIGNATION OF RECORD

#### 

Appellant \_\_\_\_\_\_\_\_\_ moves for leave to file an amended designation of record in the within action. On [DATE], Appellant filed HIS/HER original Notice Designating Record on Appeal. In that Notice, (S)HE:

(a) HERE STATE WHAT YOU ORIGINALLY DID THAT YOU WANT TO CHANGE, e.g., “Designated a Clerk’s Transcript that would not have included numerous filed documents that will be necessary for a fair determination of the appeal”;

(b) HERE STATE ANYTHING ELSE YOU ORIGINALLY DID THAT YOU WANT CHANGED, e.g. “Requested a record of the oral proceedings consisting of a transcript of an electronic recording of the proceedings” AND ADD AS MANY ITEMS AS THERE ARE THINGS YOU WANT TO CHANGE.]

After designating the record, Appellant [HERE STATE WHAT MADE YOU REALIZE YOU NEED TO AMEND THE DESIGNATION, e.g. “learned there was no electronic recording of the oral proceedings,”]

Appellant now seeks to file an amended Notice Designating Record on Appeal, in which Appellant HERE STATE WHAT AMENDMENTS YOU NEED TO MAKE TO THE DESIGNATION, e.g. “(a) designates all of the filed documents that are necessary for a fair determination of her appeal, and (b) designates a record of the oral proceedings consisting of a settled statement.”

Appellant’s proposed Amended Designation of Record is attached to this Motion as Exhibit 1.

This motion is based on the Memorandum of Points & Authorities, Declaration of \_\_\_\_\_\_\_\_ and Exhibit 1 attached hereto.

Dated: Respectfully submitted,

YOUR NAME

Appellant, Self Represented

**MEMORANDUM OF POINTS & AUTHORITIES**

**LEAVE TO FILE AN AMENDED RECORD DESIGNATION IS NECESSARY AND PROPER AS, WITHOUT IT, APPELLANT CANNOT FURNISH AN ADEQUATE RECORD FOR REVIEW.**

On appeal the appellant has the burden of furnishing a record that is adequate to assess error. (*Ketchum v. Moses* (2001) 24 Cal.4th 1122, 1140-1141; *Rhule v. WaveFront Technology, Inc*. (2017) 8 Cal.App 5th 1223, 1228-1229.)

If a party designates a transcript of a verbatim recording of essential oral proceedings, and later learns that no such recording exists, the party may redesignate the record to include, upon the filing and granting of a proper motion, a settled statement of the proceedings. (Cal. Rules of Court, Rule 8.130(h)(1).) While any such redesignation should occur within 10 days of notice to the appellant that no verbatim recording exists, the Court of Appeal has the discretion to relieve a party of any default in tardily seeking to redesignate the record (Cal. Rules of Court, Rule 8.60(d).)

Here, on \_\_\_\_\_[DATE]\_\_\_\_\_\_\_\_\_ Appellant filed Appellant’s original Notice Designating Record on Appeal. In that Notice, she [STATE WHAT YOUR ORIGINAL RECORD DESIGNATION DID THAT NEEDS TO BE CORRECTED] Appellant subsequently learned [STATE HERE WHAT HAPPENED TO MAKE YOU REALIZE YOU NEEDED TO AMEND THE RECORD DESIGNATION].

Appellant now seeks to file an amended Notice Designating Record on Appeal, in which Appellant designates [GIVE A GENERAL DESCRIPTION OF THE NEW MATERIAL YOU WANT TO ADD TO YOUR RECORD DESIGNATION, E.G., “all of the filed documents that are necessary for a fair determination of the appeal,” and/or “a record of the oral proceedings.”

Dated: Respectfully submitted,

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Appellant, Self Represented

**DECLARATION OF** \_\_\_[YOUR NAME]\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

\_\_\_\_[YOUR NAME]\_\_\_\_\_\_\_\_\_\_\_\_\_\_ declares:

1. I am the appellant in this appeal. I am representing myself and I have a fee waiver. I have personal knowledge of the following facts and, if called as a witness, I could and would competently testify thereto.

2. On [DATE], I filed my original Notice Designating Record on Appeal. In that Notice, I [AGAIN STATE WHAT YOU ORIGINALLY DID THAT YOU WANT TO CHANGE].

3. I also [AGAIN STATE ANYTHING ELSE YOU ORIGINALLY DID THAT YOU WANT TO CHANGE].

4. After I filed my Notice Designating Record on Appeal, [AGAIN STATE WHAT MADE YOU REALIZE THE DESIGNATION NEEDED TO BE AMENDED].

5. I now seek to file an amended Notice Designating Record on Appeal, in which [AGAIN STATE WHAT YOU WANT TO DO IN THE AMENDED DESIGNATION]

5. A copy of my proposed amended designation of record is attached to this motion.

6. This motion is made in good faith for the reasons set forth above and not for the purpose of delay.

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

Executed on \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

[TYPE YOUR NAME

**EXHIBIT 1**

PLACEHOLDER SHEET—BEFORE SUBMITTING YOUR MOTION, DELETE THIS SHEET AND INSERT IN ITS PLACE THE COMPLETE AMENDED RECORD DESIGNATION THAT YOU WANT TO FILE

Case Number B??????

**COURT OF APPEAL OF THE STATE OF CALIFORNIA,**

**SECOND APPELLATE DISTRICT**

**DIVISION \_\_p\_\_**

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

[YOUR NAME],

Plaintiff and Appellant

vs.

[RESPONDENT’S NAME],

Defendant and Respondent.

**[PROPOSED] ORDER**

The motion of Appellant [YOUR NAME, IN CAPITAL LETTERS] for leave to file an Amended Appellant’s Notice Designating Record on appeal is GRANTED.

IT IS HEREBY ORDERED THAT Appellant may file an amended Notice Designating Record On Appeal in the within action. The Amended Designation shall be filed on or before \_\_\_\_[DATE]\_\_\_.

Dated: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Presiding Justice

BE SURE TO SERVE THE MOTION ON THE OTHER PARTY/IES OR THEIR ATTORNEY(S) AND ATTACH A *PROOF* OF SERVICE AFTER THE PROPOSED ORDER, I.E., AS THE LAST PAGE(S) OF THE DOCUMENT BEING SUBMITTED FOR FILING.

SEE THE SERVICE AND *PROOF* OF SERVICE INSTRUCTIONS THAT ACCOMPANY THIS TEMPLATE.