

S224472

IN THE
SUPREME COURT OF CALIFORNIA

JATINDER DHILLON,
Plaintiff and Respondent,

v.

JOHN MUIR HEALTH et al.,
Defendants and Appellants.

SUPREME COURT
FILED

SEP 01 2015

Frank A. McGuire Clerk
Deputy

AFTER A DECISION BY THE COURT OF APPEAL, FIRST APPELLATE DISTRICT, DIVISION THREE
CASE NO. A143195

MOTION TO AUGMENT RECORD ON APPEAL

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JOHN MUIR HEALTH, BOARD OF DIRECTORS OF JOHN MUIR HEALTH

**IN THE
SUPREME COURT OF CALIFORNIA**

JATINDER DHILLON,
Plaintiff and Respondent,

v.

JOHN MUIR HEALTH et al.,
Defendants and Appellants.

**MOTION TO AUGMENT RECORD
ON APPEAL**

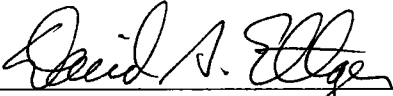
Under rule 8.155(a)(1)(A) of the California Rules of Court, defendants and appellants John Muir Health and Board of Directors of John Muir Health move the court for an order augmenting the record on appeal to include the following document, which was lodged in this case in superior court: the August 14, 2014, letter to the superior court from counsel for plaintiff and respondent Dr. Jatinder Dhillon, including the attachment to the letter — a proposed judgment. The letter and proposed judgment are discussed in defendants' Reply Brief on the Merits, which is being filed with this motion.

A copy of the document, consecutively numbered, is attached to this motion as required by rule 8.155(a)(2) of the California Rules of Court.

This motion is based upon the attached memorandum of points and authorities, the accompanying declaration of Carlo Coppo, the concurrently filed Reply Brief on the Merits, and the record on appeal in this case.

August 31, 2015

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MEMORANDUM OF POINTS AND AUTHORITIES

Rule 8.155(a)(1)(A) of the California Rules of Court provides that “[a]t any time, on motion of a party . . . , the reviewing court may order the record augmented to include: [¶] . . . [a]ny document filed or lodged in the case in superior court.”

The purpose of the augmentation rule is “to supplement an incomplete but existing record [citation], and the rule is to be construed liberally [citation].” (*People v. Brooks* (1980) 26 Cal.3d 471, 484; see *People v. Gaston* (1978) 20 Cal.3d 476, 482-483.)

This motion seeks to augment the record with a letter to the superior court from counsel for plaintiff and respondent Dr. Jatinder Dhillon, a letter that transmitted a proposed judgment for this case. The letter and the proposed judgment are discussed in the Reply Brief on the Merits of defendants and appellants John Muir Health and Board of Directors of John Muir Health. That brief is being filed with this motion. The reply brief explains the letter and proposed judgment drafted by Dr. Dhillon’s counsel contradict Dr. Dhillon’s arguments in his answer brief in this court that the superior court’s judgment does not comply with Code of Civil Procedure section 1094.5, subdivision (f), and is not appealable.

CONCLUSION

For the reasons stated, this court should augment the record to include the August 14, 2014, letter to the superior court from Dr. Dhillon's counsel, including the attachment to the letter — a proposed judgment.

August 31, 2015

HORVITZ & LEVY LLP
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David S. Ettinger

Attorneys for Defendants and Appellants
**JOHN MUIR HEALTH,
BOARD OF DIRECTORS OF
JOHN MUIR HEALTH**

DECLARATION OF CARLO COPPO

I, Carlo Coppo, declare:

1. I am an attorney admitted to practice law in California and a partner in the firm of DiCaro, Coppo & Popcke. My firm is co-counsel for defendants and appellants John Muir Health and the Board of Directors of John Muir Health in *Dhillon v. John Muir Health et al.*, California Supreme Court case no. S224472. I was one of the attorneys primarily responsible for representing appellants in the superior court in this matter.

2. On August 14, 2014, I received by email from Carla Minnard, counsel for plaintiff and respondent Dr. Jatinder Dhillon, a copy of a letter dated August 14, 2014, and addressed to Judge Laurel Brady. Accompanying the letter was a one-page proposed judgment for this case. A true and correct copy of that letter with the accompanying proposed judgment is attached to this declaration.

3. It is my belief that Ms. Minnard lodged with the superior court the letter and accompanying proposed judgment. My belief is based in part on Ms. Minnard's custom and practice of copying me on documents she filed with the court. Also, when Ms. Minnard — along with my office — several days later submitted what would become the judgment in this case (see 4 AA 797-798), the cover letter to Judge Brady stated that “[t]he proposed Judgment submitted by [Dr. Dhillon’s] Counsel on August 14, 2014 is hereby withdrawn.”

I declare under penalty of perjury under California law that the foregoing is true and correct and that this declaration was executed on August 21, 2015, at Carlsbad, California.



Carlo Coppo

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August 14th, 2014

The Honorable Laurel Brady
Department 31
Contra Costa Superior Court
725 Court Street
Martinez, CA 94553

VIA FACSIMILE AND U.S. MAIL TO: (925) 957-5911

Re: **Jatinder Dhillon v. John Muir Health et al**
Case N13-1353

Dear Judge Brady:

On July 28, 2014, your Honor signed an Order granting in part and denying in part Petitioner's writ in the above-referenced matter. It appears that the law is not entirely clear on whether a signed Order is sufficient to trigger the time for filing any appeal. Accordingly, in an abundance of caution we request that the Court sign the attached Judgment on Writ.

Thank you very much.

Very truly yours,

THE MINNARD LAW FIRM



CARLA V. MINNARD

cc: Carlo Coppo, Esq.

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8 Attorneys for Petitioner
9 JATINDER DHILLON

10 **SUPERIOR COURT OF CALIFORNIA – COUNTY OF CONTRA COSTA**
11 **UNLIMITED JURISDICTION**

12 JATINDER DHILLON, M.D.,

13 Petitioner,

14 v.

15 JOHN MUIR HEALTH, BOARD OF
16 DIRECTORS OF JOHN MUIR HEALTH

17 Respondents.

18 **Case No. N13-1353**

19 **JUDGMENT ON WRIT OF MANDATE**
20 **[CCP 1094.5(f)]**

21 Pursuant to California Code of Civil Procedure 1094.5(f) the Court hereby Orders
22 respondent to provide Petitioner a hearing before the Judicial Review Committee or other
23 appropriate body on both the initial and underlying complaint as well as the subsequent
24 suspension. Judgment is hereby entered in this matter for Petitioner, Dr. Jatinder Dhillon.

25 July 28th, 2014

26 _____
27 JUDGE LAUREL BRADY

28 **JUDGMENT ON WRIT OF MANDATE**

PROOF OF SERVICE

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

At the time of service, I was over 18 years of age and not a party to this action. I am employed in the County of Los Angeles, State of California. My business address is 15760 Ventura Boulevard, 18th Floor, Encino, California 91436-3000.

On August 31, 2015, I served true copies of the following document(s) described as **MOTION TO AUGMENT RECORD ON APPEAL** on the interested parties in this action as follows:

SEE ATTACHED SERVICE LIST

BY MAIL: I enclosed the document(s) in a sealed envelope or package addressed to the persons at the addresses listed in the Service List and placed the envelope for collection and mailing, following our ordinary business practices. I am readily familiar with Horvitz & Levy LLP's practice for collecting and processing correspondence for mailing. On the same day that the correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service, in a sealed envelope with postage fully prepaid.

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

Executed on August 31, 2015, at Encino, California.



Victoria Beebe

SERVICE LIST

Dhillon v. John Muir Health et al.
Court of Appeal Case No. A143195
Supreme Court Case No. S224472

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