

SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	<i>FOR COURT USE ONLY</i>
PEOPLE OF THE STATE OF CALIFORNIA v. DEFENDANT:	
CAPITAL CASE ATTORNEY TRIAL CHECKLIST	CASE NUMBER:
<p>Note: Under Penal Code section 1240.1(e)(1), in capital cases, the obligations of defendant's trial counsel, whether retained by the defendant or court-appointed, and the prosecutor include taking all steps necessary to facilitate the preparation and timely certification of the record of all trial court proceedings.</p> <p>Instructions: This checklist is designed to be a tool for counsel to use throughout the trial in death penalty cases to ensure timely compliance with record preparation requirements and to make the certification of the record of the trial in these cases easier and more efficient for both counsel and the court. To acknowledge that counsel has reviewed this checklist as early as possible in the trial proceedings in a case in which the death penalty may be imposed, within 10 days of their first appearance, primary counsel for each defendant and the prosecution must sign and submit this checklist. Counsel may, but is not required to, use the right-hand column on the checklist to monitor their compliance with record preparation requirements.</p>	

ATTORNEY TASK	FOR OPTIONAL USE BY ATTORNEY
DURING TRIAL	
1. Review, sign, and submit checklist. Within 10 days of your first appearance in court, review, sign, and submit this checklist. (Cal. Rules of Court, rule 4.230(b).)	
2. Review daily transcripts and identify errors or omissions. During trial, you are required to call the court's attention to any errors or omissions you find in the daily reporter's transcripts. Immaterial typographical errors that cannot conceivably cause confusion are not required to be brought to the court's attention. (Cal. Rules of Court, rule 4.230(c).)	
3. Ensure all exhibits are marked. Make sure that all exhibits that you offer during the trial are properly marked for identification.	
4. Comply with rule 2.1040. If you present or offer into evidence an electronic sound or sound-and-video recording, including a recording of a deposition or other prior testimony or a video that is made part of a digital or electronic presentation, you must comply with Cal. Rules of Court, rule 2.1040. Among other things, this rule requires that you provide a transcript of the electronic recording, which, under rule 8.610, must be included in the record on appeal.	
5. Provide copies of audio or visual aids to the court. If you use any audio or visual aids in presentations to the jury that are not subject to rule 2.1040, including digital or electronic presentations, provide a copy of the audio or visual aid to the court. If a visual aid is oversized, provide a photograph of that visual aid in place of the original. For digital or electronic presentations, provide the presentation in its native electronic format and a printout showing the full text of all slides or images. Photographs and printouts must be on 8 1/2 x 11 inch paper. (Cal. Rules of Court, rule 4.230(f).)	

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6. Prepare lists of appearances, exhibits, motions, and jury instructions. Prepare the lists specified in a, b, c, and d below.	
a. A list of all appearances by the party you represent during the trial, including ex parte appearances <ul style="list-style-type: none"> <i>Capital Case Attorney List of Appearances</i> (form CR-601) must be used for this purpose. The list must include the date of each appearance, the department in which it was made, the name of the attorney making the appearance, and a brief description of the nature of the appearance. A separate list of Penal Code section 987.9 appearances must be maintained under seal for each defendant. 	
b. A list of all exhibits offered by the party you represent during the trial <ul style="list-style-type: none"> <i>Capital Case Attorney List of Exhibits</i> (form CR-602) must be used for this purpose. The list must include all exhibits offered during the trial and must indicate whether the exhibit was admitted in evidence, refused, lodged, or withdrawn. (Cal. Rules of Court, rule 4.230(d)(1)(B).) Make sure that all exhibits that you offer during the trial are properly marked for identification. 	
c. A list of all motions made by the party you represent during the trial, including ex parte motions. <i>Capital Case Attorney List of Motions</i> (form CR-603) must be used for this purpose. (Cal. Rules of Court, rule 4.230(d)(1)(C).)	
d. A list of all jury instructions submitted in writing by the party you represent during the trial. <i>Capital Case Attorney List of Jury Instructions</i> (form CR-604) must be used for this purpose. The list must indicate whether the instruction was given, given as modified, refused, or withdrawn. (Cal. Rules of Court, rule 4.230(d)(1)(D).)	
e. Providing lists to substituting counsel. In the event of any substitution of attorney during the trial, the relieved attorney must provide the lists of all appearances, exhibits, motions, and jury instructions to substituting counsel within five days of being relieved. (Cal. Rules of Court, rule 4.230(d)(1)(A).)	
AFTER COMPLETION OF TRIAL IF DEATH PENALTY IS IMPOSED	
Note that under Penal Code section 1240.1(e)(1), to expedite certification of the entire record on appeal in all capital cases, the defendant's trial counsel, whether retained by the defendant or court-appointed, and the prosecutor must continue to represent the respective parties until the record is certified.	
7. Submit and serve completed lists of appearances, exhibits, and motions. <ul style="list-style-type: none"> No later than 21 days after the imposition of a sentence of death, you must submit the lists to the court and serve a copy of all the lists, except the list of Penal Code section 987.9 appearances, on all parties. If the clerk's and reporter's transcripts, combined, exceed 10,000 pages, this time limit is extended by 3 days for each 1,000 pages of combined transcripts over 10,000 pages. Unless otherwise provided by local rule, submit the lists to the court in electronic form. (Cal. Rules of Court, rule 4.230(d)(2)) 	
a. The completed list of all appearances by the party you represent during the trial	
b. The completed list of all exhibits offered by the party you represent during the trial	
c. The completed list of all motions made by the party you represent during the trial	
d. The completed list of all jury instructions submitted in writing by the party you represent during the trial	

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<p>ATTORNEY TASK</p>	<p>FOR OPTIONAL USE BY ATTORNEY</p>
<p>8. Review reporter's transcript, clerk's transcript, and lists. When the clerk delivers the clerk's and reporter's transcript and the lists to you, you must:</p> <ul style="list-style-type: none"> ▫ Review the docket sheets, minute orders, and lists of appearances, exhibits, motions, and jury instructions to determine whether the reporter's transcript is complete; and ▫ Review the court file to determine whether the clerk's transcript is complete. (Cal. Rules of Court, rule 8.619(a)(1).) 	
<p>9. Confer. Within 21 days after the clerk delivers the transcripts and lists, you must confer with opposing counsel to discuss any errors or omissions in the reporter's or clerk's transcript identified during your review. If the clerk's and reporter's transcripts, combined, exceed 10,000 pages, this time limit is extended by 3 days for each 1,000 pages of combined transcript over 10,000 pages. (Cal. Rules of Court, rule 8.619(a)(2).)</p>	
<p>10. Serve and file declaration and request for corrections or additions/statement. Within 30 days after the clerk delivers the transcripts and lists to you, each trial counsel must serve and file both of the following (if the clerk's and reporter's transcripts, combined, exceed 10,000 pages, this time limit is extended by 3 days for each 1,000 pages of combined transcript over 10,000 pages):</p>	
<p>a. A declaration stating that counsel or another person under counsel's supervision has performed the tasks required by 8.613(f), including meeting and conferring with opposing counsel. (Cal. Rules of Court, rule 8.619(b)(1)(A).)</p>	
<p>b. ONE of the following:</p> <ul style="list-style-type: none"> ▫ A request to include additional materials in the record or to correct errors that have come to counsel's attention. A request for additions to the reporter's transcript must state the nature and date of the proceedings and, if known, the identity of the reporter who reported them; OR ▫ A statement that counsel does not request any corrections or additions. <p>Counsel may file a joint statement or request. (Cal. Rules of Court, rule 8.619(b)(1).)</p>	
<p>11. Participate in hearing to certify the record for completeness. If any party files a request for corrections or additions to the record, the trial court will set a hearing to consider the request. (Cal. Rules of Court, rule 8.619(c).)</p>	
<p>12. Participate, as necessary, in certification of the record for accuracy.</p> <ul style="list-style-type: none"> ▫ When appellate counsel for the defendant is retained or appointed, the trial court will send that counsel a copy of the record that has been certified for completeness. Within 90 days after that, appellate counsel or any other party may serve and file a request for corrections or additions to the record. If the clerk's and reporter's transcripts, combined, exceed 10,000 pages, this time limit is extended by 15 days for each 1,000 pages of combined transcripts over 10,000 pages. ▫ If a request for corrections or additions to the record is filed, unless otherwise ordered by the trial court, within 10 days after that request is filed, defendant's appellate counsel and the trial counsel from the prosecutor's office must meet and confer, in person or by telephone, to discuss the request and any application to unseal records served on the prosecutor's office. 	

I acknowledge that I have reviewed this checklist.

Date:

_____, attorney for _____
(TYPE OR PRINT NAME) (PARTY)



(SIGNATURE OF ATTORNEY)