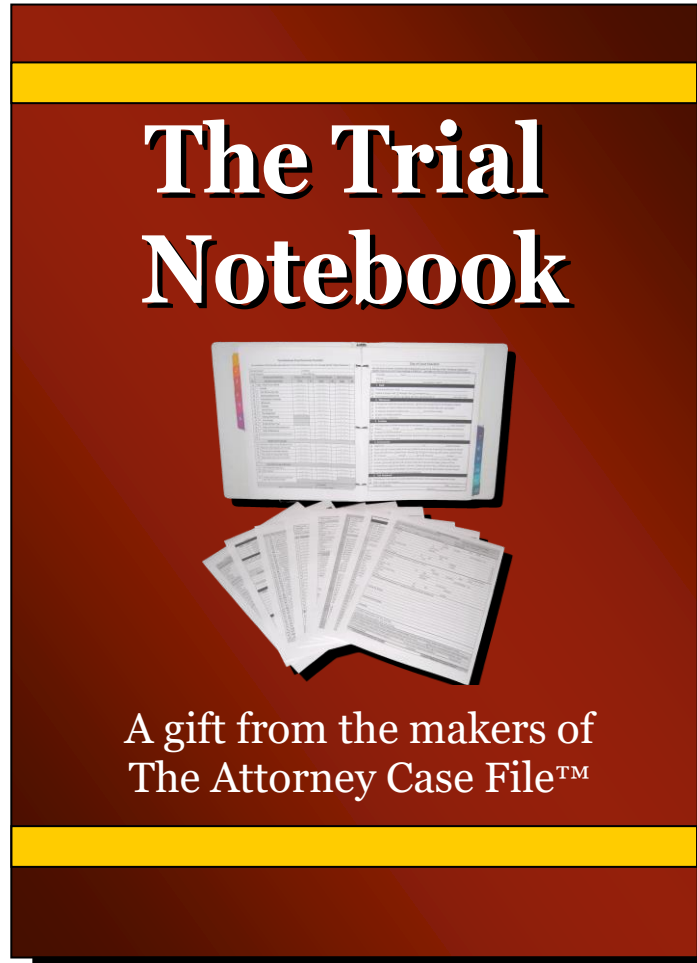


The Trial Notebook



A little something we put together to help our friends in the legal profession.

Thank you for downloading your copy of our **Trial Notebook** ebook.

As you would expect with a document produced for practitioners of law, we'll start with the legal notices. We have four for you.

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Now that all of that's out of the way, let's get to the good stuff!

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A short discussion of what a good Trial Notebook should be, why you should always use one, and a litmus test of qualities to help make yours the best.

II. Basic Structure

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Though there are many different areas of law, several types of court, and two sides to every argument, there are quite a number of features common to all trials. In this section we cover basic trial notebook structure as well as a list of some of the forms and checklists you'll find in the sections that follow.

III. Useful Content

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Where would our manners be if we didn't provide some of the detailed forms, checklists, and additional tips on assembling a trial notebook that not only works well in hardcopy format but also in softcopy? In this portion you'll find cover sheets for your notebook sections as well as a few of our forms from The Attorney Case File to help you in organizing material for your trial.

IV. Putting it All Together

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We started with an overview of good Trial Notebook qualities, gave examples of the contents a thorough one should have and then gave you forms to get you started. However, the difference is in the detail and we want to give you the detail that will make all the difference. Here we'll cover additional tips on how to make your Trial Notebook all it can be and to make your day in court a success.

V. About the Source

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This ebook is only a small portion of what's available. There is more to show you so we added this small section to tell you about the much bigger picture.

I. Introduction

Welcome to the Trial Notebook ebook; a small excerpt from "[The Attorney Case File](#)".

Based on the stats from our website, most visitors arrive after having searched for information on how to construct a Trial Notebook, so here we are, with a little more to help you with your law office, case management, and trial preparation needs.

Though just the tip of the iceberg, we've packed a lot into this short work. We're going to cover some of the basics of a Trial Notebook; we'll throw in a few useful forms from our system, provide some rather useful tips, and then finish up with helpful insight into the final construction and "polish" for making yours the best Trial Notebook it can be.

If you are fairly new to the profession, let's settle this question: "What exactly is a Trial Notebook?" A Trial Notebook is the "brain" of your court appearance. It's not the folder that holds your evidence, it's not a collection of court rules or procedures, and it's not your day planner housing your law office to-do lists. It's your own focused, dedicated organizer for the in-court presentation of the witnesses, exhibits, and other information related to one trial and one trial only and if you do it right, it will be pretty much worth its weight in gold.

If you're a seasoned pro but say "I can't see using a Trial Notebook for every case. We've done well in a lot of our smaller trials without going to all that trouble ..." then let's look at:

"Top Ten Reasons to Create a Trial Notebook"

10. *The process itself is educational since you review your case while putting it together.*
9. *It helps you notice billable hours you might have misplaced had you not reviewed.*
8. *Nothing will sway a jury against you as quickly as looking disorganized and inept.*
7. *If you add attorneys for any reason, a good Trial Notebook brings them up to speed.*
6. *A good Trial Notebook can streamline your time in court which may win good will.*
5. *If you're support staff and create great Trial Notebooks, you might rule the firm one day!*

4. *It shows the Judge, Jury, and Opposition that you're ready and you mean business!*
3. *Organization and readiness instill confidence in the presenting attorney(s).*
2. *It also instills confidence in the client (you know... the one writing the checks).*
1. *You want to WIN!!*

We all want to win.

It has long been said that good attorneys will not ask a question in court to which they do not already know the answer.

The answers to these potential questions should have been provided as you worked your case; in the investigation, legal research, the preliminary proceedings, discovery, and every second leading up to an appearance in court. The most important question of all, though, is “***In court, can you find the answers you gathered so you know you're asking the right questions?***” Just as important, are seemingly minor details also organized to the point you don't miss a single step?

Presenting your case in court is the culmination of all the hard work put forth in its preparation. You've worked hard for your client, investigating the details of the case, performing statutory and case law research, creating piles of briefs and memos, lining up expert witnesses, communicating with the clerk of the court, scheduling and calendaring all related activities, accounting for all billable hours, securing your evidence, creating exhibits, pouring over discovery items, and making sure every I was dotted, every T was crossed. In all, you want your case presentation to be a work of art, and that's why we're here. We want to give you the framework to help you shine once you get to court.

In just a bit we'll go through the actual steps you should take in setting up your notebook, but for this short intro, we'll discuss the “Litmus Test” or rather the qualities your notebook should have that will help set you up for success when your case goes to **T.R.I.A.L.:**

Thoroughness – *Have you included everything you'll need and double-checked it?*

Reliability – *Does your hardcopy or softcopy notebook format work?*

Inquisitiveness – *Do your sections and forms prompt you to provide the right info?*

Appearance – *Does your Trial Notebook command respect or is it a mess?*

Logic – *Is there good, intuitive, material organization? Can you navigate it easily?*

Thoroughness

There is nothing so fatal to a court case as a missed detail. While you don't want to be repetitive, the more important an event is the more a little redundancy is your friend. You want to include everything you need, repeat a couple of things here and there, and have some good cross-reference so you don't overlook anything. Some thoughts to keep in mind:

- Work from forms, templates, and checklists. Don't leave anything to chance or memory. You'll find a few of our forms and checklists in the "Useful Content" section.
- Review everything with your client and your presenting attorney(s) as you go along. Waiting until the last minute ensures missed detail and a nervous client.
- If you had an investigator working with you, have them review with you the material they provided so you know all the ins and outs of the information gathered.
- Create an "Index and Reference" section where you make an index like you would find in a text book. For example, have one list showing your Document Control numbers in numerical order along with the items they represent, list your witnesses in alphabetical order, your e-discovery files by name, and list all other electronic file names in alpha-numeric order with a description of their contents. In court, you never know what you'll have to look up.

Reliability

Just how can a notebook be "reliable?" Simple. It's usable and does everything you would expect. In this case, the goals are to both house and safeguard all of your pertinent organizational data and intel, and to be ready to provide that information to

you exactly when you need it each and every time. We'll cover this in more detail later, but for now, let's look at some general points:

- The heart of your system should be a hardcopy three-ring binder. Though most offices and courts are trying to "go green" and conserve paper, there is a time and a place for a paper-based organizer. Trial is that time and place. Binders don't crash like computers can.
- Though we're heading in to an all-electronic-file age, the vast majority of us were raised on paper-based books and handwritten notes in school and we're still faster at navigating a tabbed notebook than a computer file.
- A hardcopy Trial Notebook is also good in case the computer crashes, or your firm's computer operating system is changed during the course of a lengthy trial. The more important the case, the more redundancy is your friend.
- The binder you choose should be durable and hold papers well. It'll be tossed around on desks and tables, scooped up with folios and boxes, and take countless trips in vehicles. You don't want it to show wear or spill its contents in the middle of court.
- Similarly, any computer you bring into court should use a reliable operating system and you should have a power cable, a charged battery, and all pertinent accessories.
- Your soft-copy media should also come in a couple of formats just to make sure you can reliably access each. Have one copy of the file loaded on your computer and have a CD or DVD copy in addition to the files on a "thumb drive" or "flash drive." We'll have some related tips for computer use under "Putting it All Together."

Inquisitiveness

You get to ask questions in court. That's how you get some of your information. A trial would be useless if you didn't question anyone or anything. Why? So you don't miss a single detail. Your Trial Notebook should do the same for you... provided you set it up right.

- Always work from templates, forms, and checklists. You'll find examples under "Useful Content." Checklists will remind you of the information your notebook should house.
- As the saying goes "*The dullest pencil has a better memory than the sharpest mind.*" – (Author Unknown). Your forms will help you remember what to do with final notebook content review, on the day of court, and for making sure you have all the main items and support items you'll need to ensure your presentation in court is complete,

thorough, organized, and successful. The better you are at customizing these checklists, the better off you'll be. Remember, "When in doubt, write it out!" Don't leave important things to memory. Set your Trial Notebook up so that it asks you the right questions before you ask questions in court.

Appearance

People shouldn't judge a book by its cover, but they do. It's just a fact of life. For example, your personal appearance should be as professional as possible, especially when you're in front of the client, court, or opposition. Your Trial Notebook should



You wouldn't take this into court would you?

maintain a professional appearance as well in order to command respect from the jury, confidence from your client, and to intimidate the opposition.

Imagine a disheveled, slovenly looking attorney flipping frantically through a stack of legal pads and loose papers while the clock ticks and the confused expression on his or her face deepens. Now imagine a well-dressed, calm, confident, attorney casually referring to a new laptop and doing a quick cross-check with a tabbed three-ring binder housed in a nice leather cover. Which of these images conveys a winner?

Think about a few appearance pointers:

- You don't want to spend too much money on notebooks, but make sure the ones you get look good and match the folios and binders you bring with you to trial.
- Never use stacks of pads, papers, or "unbound" anything. All paperwork should be in some sort of binder, folio, or labeled box, and they should look like they came as a set.
- For externally visible labels, use something that looks professional, and make sure they all match (though you might use different colors for different sections).
- Rubber bands have a minimal place in court. Don't use them if you don't have to.
- Neatness counts, even when it's only your people seeing the contents. This is especially true if you're a paralegal preparing this for a partner of a firm. Your work product affects your career. Make it good and make it count. Make sure all spelling is correct, typestyle (font) is uniform, grammar is good, the layout follows office protocol (which you should help set), and that all copy is legible.

Logic

The most thorough and detailed Trial Notebook in the world is going to be useless unless the presenting attorney can understand the layout and logic of how everything in the notebook is organized. Consider the following:

- The first consideration is, “*Who is the lead or presenting attorney for the trial?*” Though your firm’s notebooks should be pretty much standardized you still have to consider the nature of the type of case being tried followed immediately by the idiosyncrasies of your presenting attorney. Do they prefer hardcopy, or do they work best from computer? Do they like large print or small print? Do they respond well to color-coded / highlighted text or certain symbols like different types of bullet points? Has the court issued any edicts concerning trial materials?
- Though one attorney might prefer one certain format over another, you need to keep two things in mind. One, there should be some uniformity, and two; your redundant backups should mirror each other as much as possible. For example, if the attorney prefers working from an electronic copy of the Trial Notebook and the laptop crashes, the hardcopy binder should be laid out in the same fashion as the softcopy version.
- We can’t stress this enough: work from forms, checklists, and templates.
- This also bears repeating: Create an Index & Reference section to give you a secondary way of looking up information that you need to locate quickly.
- Though you have a lot of data you gathered for your case, keep in mind that the Trial Notebook is not meant to house everything, but rather, it is to be the main organizer or index of your materials and an outline of your case. Use other folios, folders, binders, and boxes for the “guts” and documents. Keeping the Trial Notebook’s contents concise and to the point makes for easier navigation which is much more logical.



Could you navigate your way through a ton of important documents without a good, logically organized Trial Notebook?

Sadly, in such a short ebook we can only speak in generalities with your Trial Notebook. There are so many types of cases. You might be working either side of civil or criminal, tax or tort, paternity or product liability, contract or malpractice, family or corporate. However, trials do have some foundational elements to them, so we'll give you the framework you'll need that will help you prepare the best Trial Notebook you possibly can. Let's look next at "**Basic Structure.**"

II. Basic Structure

Some offices organize their notebooks by form, others by function, and we've even seen some who choose to do everything in alphabetical order. What we recommend is to organize your sections in pretty much the same order as they'll be accessed or used in presenting your case. The following are offered as suggested tab sections for a hardcopy notebook, but as we've said before, your electronic files should be stored using an identical folder or document table of contents layout. Here are our suggested sections:

Title Sheet: Trial Information

Tabbed Sections:

1. Pre-Trial
 2. Voir Dire & Jury Info
 3. Opening Statements
 4. Presentation Schedule
 5. Witnesses
 6. Exhibits
 7. Law & Court
 8. The Opposition
 9. Closing Statements
 10. Jury Charge
 11. Verdict and Post-Trial
 12. Daily Journal & Miscellaneous
- ** Index & Reference



A little organization can sometimes help tame bigger problems!

Keep in mind that even though we're listing sections in this order and about to provide you with some forms to put in those sections, that this is more an offer of constructive suggestions than any sort of insistence that you do things our way. This is all here as a place to start for the new folks and a fresh perspective for those of you who've done this for a while.

Trial Notebook Structure in a Little Greater Detail

Here we'll expand each of the suggested notebook sections and list some of the contents (including some forms – **shown in red text** - which you'll find in this ebook).

Title Sheet: **Trial Information**

Just inside the cover, place an identifier to inconspicuously label your notebook and provide case/court info. We've provided an example for you called the "Trial Information" sheet.

Tabbed Sections: (Listed with suggested forms or subsections.)

1. **Pre-Trial** (Included is a generic **Section Cover Sheet** to use with tabbed sections.)

Since much of what happens in pre-trial will dictate the rest of your work to follow, keep copies of all pertinent documents in with the rest of your trial work product. Maintain copies of all motions, orders, pleadings, and the like.

- | | | |
|--|--------------------------------------|---|
| <input type="checkbox"/> Charges / Summons | <input type="checkbox"/> Pleadings | <input type="checkbox"/> Pre Trial Orders |
| <input type="checkbox"/> Motions in Limine | <input type="checkbox"/> Trial Brief | <input type="checkbox"/> Bench Questions |

2. **Voir Dire & Jury Info**

It would stand to reason that the next section should concern itself with the selection of and pertinent information related to the jury. This area should include not only voir dire questions, but any other piece of data related to the jury while the trial is active.

- | | | |
|---|---|---|
| <input type="checkbox"/> Voir Dire Questions | <input type="checkbox"/> Juror Data Sheet | <input type="checkbox"/> Jury Consultant Report |
| <input type="checkbox"/> Juror Questionnaire | <input type="checkbox"/> Juror Seating Chart | <input type="checkbox"/> Juror Notebooks |

3. **Opening Statements**

Though initially this section will only house an outline of the presenting attorney's "statement to be," use it to house the final transcript of your opening remarks along with the opposition's.

- | | |
|---|--|
| <input type="checkbox"/> Opening Statements Outline | <input type="checkbox"/> Final Transcript of Opening |
| <input type="checkbox"/> Transcript of Opposition's Opening | |

4. **Presentation Schedule**

The "meat and potatoes" portion of your Trial Notebook. Here is where you'll place your main presentation schedule outlining the issues related to your case and associated witness testimony and evidentiary exhibits. This section is supported by the next two sections. Your copy of your "Bench List," or the abbreviated version of your presentation list that goes to the judge, should be placed here as well. Also, since this section is the overview of your witnesses and exhibits, it should also contain

the executive summary provided by your investigator since that work-product is from where some of your presentations have come.

- Presentation Schedule
- Copy of Bench Copy
- Client Data Sheet
- Executive Summary of Investigator's Report

5. Witnesses

This section is about the people who will be called to support your side of the issues. Here, you'll place your witness list and the background material on each witness. Please note that our Witness List and Exhibits List cross-reference each other.

- Client's Testimony
- Witness List
- Witness Information

6. Exhibits

Here is where you'll list the various pieces of evidence or other informational exhibits and presentations you'll be making in court. You'll note that our enclosed Exhibits List cross-references with the Witness List. Also please note that you won't necessarily place your exhibits in this notebook, you'll simply list their descriptive information and record where the item is located in the folios, binders, or boxes you brought into court.

- Exhibits List
- Exhibit Info Worksheet
- Exhibit Support Notes

7. Law & Court

Helping to bridge the gap between what you want to present and what the opposition will present we place the information on how the trial will be governed and how exhibits and witnesses will be handled. This section should house your Table of Points and Authorities along with other supporting case and statutory law research results. It should also contain a copy of the Bench Book or copy of any written rules for this particular court. And, if you should choose to research any background information on prior cases this particular judge has tried and how that judge tends to rule, place that here as well (at your own discretion of course).

- Table of Authorities
- Judge Background
- Copy of Court Rules
- Case Law Research
- Statutory Law Research
- Clerk Communication

8. Opposition's Case

Just as you want to be able to find the background info on your case rather quickly, you'll want to do the same with the intel you've gathered on what the opposition is up to. Keep all of that here. Note: If you absolutely have to make your notebook physically smaller, this is a good section to put in a separate book.

- Opposition's Witnesses
- Witness Information
- Impeachment Briefs
- Opposition's Exhibits
- Opposing Client Data
- Discovery Index

9. Closing Statements

Though initially this section will only house an outline of the presenting attorney's closing argument, use it to house the final transcript of the remarks made along with those made by the opposition. You always want to keep a copy of the opposition's

statements to make it easier to review for improprieties and a copy of your own for reference or education.

- Closing Statements Outline
- Transcript of Closing Statements
- Transcript of Opposition's Closing

10. Jury Charge

Many a case has been won or lost on appeal because of the information that a jury was or was not given, or how their instructions from the court were worded or delivered. Make sure your Jury Charge and Instruction copies are kept close at hand.

- Jury Charge
- Opposition Jury Charge
- Final Jury Charge
- Copy of Juror Instructions

11. Verdict and Post-Trial

Sadly, there is never a guarantee that any verdict is going to go your way. Verdicts are a part of every trial so your Trial Notebook should contain a section to hold verdict-related information to give you a starting point for post-trial work.

- Verdict Forms
- Post-Trial "To-Do" List
- Post-Trial Filings
- Post-Trial Juror Interview**

12. Daily Journal & Miscellaneous

There is no such thing as a trial without notes. Having a Daily Journal section gives you a concise location to keep notes you've made, a list of motions or other issues to respond to or follow up on, and to keep either the final transcript received from the court reporter or an executive summary thereof.

- Daily Court Journal**
- Final Reporter Transcript

**** Index & Reference (** A section, but not a numbered section.)**

You should have a hardcopy Index & Reference for all the reasons previously mentioned, but this is a document (or documents) that is easier to create electronically and then print to store here. You want to have this section so you can find witnesses, exhibits, or electronic files that may have somehow been misplaced or improperly categorized in other sections.

- Documents Listed by Control Number
- Alphabetical Witness List
- Annotated List of Alphabetically or Numerically Organized Electronic Files
- Exhibits listed by internal Control Number and cross-referenced to court's exhibit number.

Note: The forms listed above in red text are included in this ebook.

In the next section, “Useful Content,” we’ve provided copies of the forms listed in **red text** above. Though this is a PDF format ebook, you can still print the forms to fill in by hand, scan them and read them with OCR (Optical Character Recognition) software, or use them as a model to create your own. They’re just a very few of the forms and sections from [The Attorney Case File](#) (where our pages are fully customizable by the user), but we’re here to help you make better Trial Notebooks so we thought we’d give you some good templates to help get you started.

But that’s not all! There are still so many tips to give you that the next section following “Useful Content” is called “Putting it All Together” where we’ve provided even more points on assembling both your physical and electronic Trial Notebooks and for getting ready to present your case in court.



Structure is good! It's hard to be happy unless all the parts are together.

III. Useful Content

Here's where you'll find copies of the forms listed in **red text** under "Basic Structure." These are just some of the many pages from [The Attorney Case File](#) provided here to help make your office life easier.

In this section you'll find copies of:

	Pg.
Trial Information: <i>This is the cover sheet to go just inside your Trial Notebook. It will help you ID the notebook without having to put too much information on the outside.</i>	15
Section Cover Sheet (Generic). <i>Use this template as a basic fill-in-the-blank cover sheet to use with each section. Start your notebook's assembly by putting these pages in place and let them be your section "to do" lists for this particular trial.</i>	16
Juror Data Sheet: <i>Depending on your area, area of law, and type of case, you may be allowed a certain latitude in the amount of background information you collect on jurors. Whatever you're allowed to collect, this form has a place to record the information.</i>	17
Juror Questionnaire: <i>A general questionnaire, this template offers a framework for constructing your own more in-depth survey tool for voir dire. You'll note that several of the blanks prompt you to add your own questions or details.</i>	18
Juror List / Seating Chart: <i>Whether you use a jury consultant or just want to know who's who in the jury box, this worksheet will let you record names, notes, and seating position.</i>	19
Presentation Schedule: <i>This page will let you outline your case in a chronological order showing which witnesses you want to call, the exhibit with which they're associated, projected date of appearance, anticipated time length, media needs, and even the issue of the case to which it's all related.</i>	20
Bench Copy of Presentation Schedule: <i>A "lite" version of your Presentation Schedule, this is the copy you'd hand off to the bench to let the judge know more about your witnesses and exhibits and some of the related information.</i>	21
Client Data Sheet: <i>In this case the sample we've provided is the "Civil Case" information sheet. This will help you gather some of the early data from your client to start the case.</i>	22
Witness List: <i>A quick organizer to show the names of your witnesses along with pertinent presentation information.</i>	23
Witness Information: <i>One of the things we'd like to point out about this form is</i>	24

that it prompts you to gather additional contact and tracking information about your witness. As cases drag on in court witnesses sometimes move or do other things that make it difficult to locate them when the next round of trials start. With this form you'll have all the data you need in order to contact them again and again in the future.

Exhibits List: *A quick organizer to show the exhibits you'll present along with pertinent information.* **25**

Clerk Communication: *Much of your communication with the court will be through the Clerk. Having a separate tracking sheet of these communication pieces will offer some redundancy so you'll be sure nothing was missed.* **26**

Opposition's Witness Information: *Just as you want to know everything you can about your own witnesses, this is doubly important for witnesses the opposition will call. This template prompts you for extended contact information as well as background information, impeachment notes, etc., that your investigation will uncover.* **27**

Opposing Client Data: *One of the most important people involved in the trial, you'll want to know as much about the opposing client(s) as you possibly can. This page acts as the background investigation cover sheet for the data you'll uncover.* **28**

Post-Trial Juror Interview: *There's a reason they call it "practicing law." You always learn something new every day. Interviewing the jury – whether you won or lost the case – provides good insight on what went right and wrong for both you and the opposition so you have something to build on next time.* **29**

Daily Court Journal (and page 2): *This one is a two-pager. Page one is the beginning of your in-court journal; the page where you keep notes regarding what went on in court on that day of trial. The second page is the basic copy for all following pages. These are included as a tool to help you take better-organized notes.* **30**

We've also provided a couple of checklists not listed in the tabbed sections discussed above:

Trial Notebook Final Assembly Checklist: *Always work from templates, forms, and checklists. Trial is not a place you want to realize you forgot something. Having a final assembly checklist helps you remember to include important details.* **32**

Day of Court Checklist: *Since redundancy is your friend in important events, this checklist is provided to make sure you have everything you need for court above and beyond your Trial Notebook.* **33**

So, enough discussion already, let's show you the forms and templates! Remember, in a PDF ebook, there's only so much you can do with a sample form. With these you can

Thank You for previewing this eBook

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