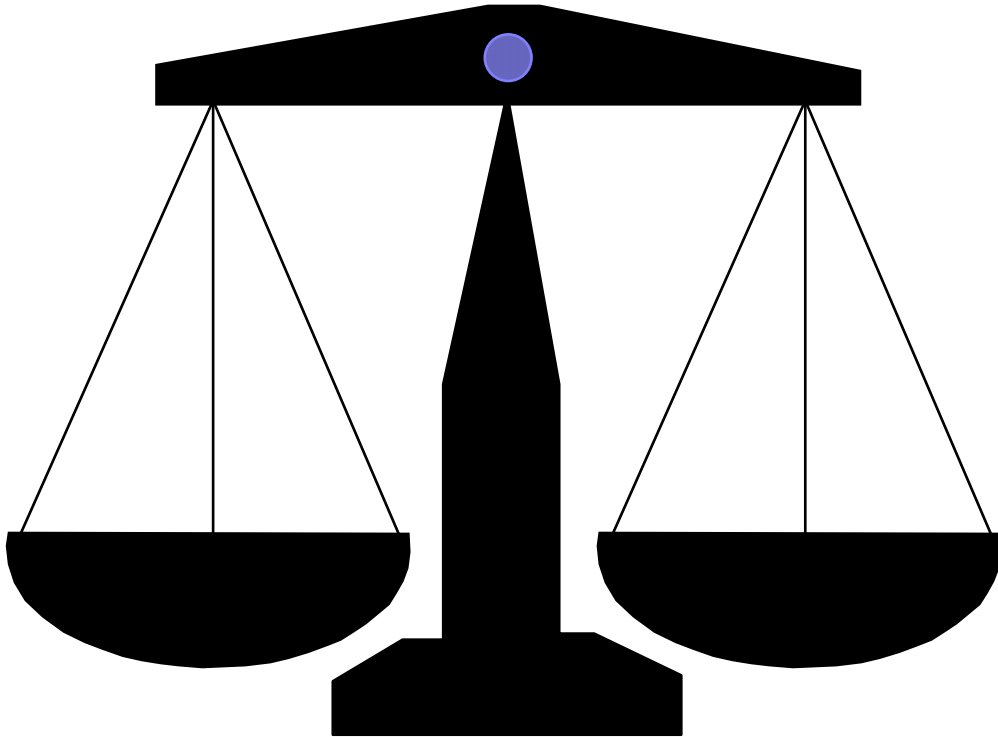


RULES OF COURT
CENTRAL JUDICIAL CIRCUIT
NORFOLK, VIRGINIA



01 October 2009

RULES OF COURT
CENTRAL JUDICIAL CIRCUIT

The following rules are effective 1 October 2009. All previously published rules are canceled.

RULE 1
UNIFORM RULES OF PRACTICE

All military and civilian counsel practicing in the Central Judicial Circuit shall adhere to the requirements of the Uniform Rules of Practice Before Navy and Marine Corps Courts-Martial, Appendix B of Navy-Marine Corps Trial Judiciary Instruction (NMCTJINST) 5813.4A, dated 26 January 2009, and the rules contained herein. In each case in which military defense counsel from another circuit appears, or a civilian counsel is retained, the detailed defense counsel shall furnish a copy of both sets of rules to such counsel. Immediately upon being retained, civilian counsel shall file formal, written notice of appearance with the Clerk of Court, who will provide a copy to the trial judge and submit the original to the court reporter for insertion into the record of trial. A copy of such notice should also be sent to the convening authority by trial counsel.

RULE 2
COURTROOM SECURITY

Courtroom security is a matter of the highest priority. Potential concerns include spectators, witnesses, and the accused. Potential risks include disorderly conduct, threats, assaults with or without weapons, suicide attempts, and explosive devices. Courtroom security is the responsibility of all court personnel as directed by Commander, Naval Legal Service Command Instruction (COMNAVLEGSVCCOMINST) 5530.2B, dated 19 August 2009, and as implemented by local installation instructions. In addition to the requirements of governing instructions, any matter that might affect courtroom security will be reported immediately to the trial military judge who will review the matter with counsel and, pursuant to Rule 13, Uniform Rules of Practice Before Navy-Marine Corps Courts-Martial (Appendix B, Navy-Marine Corps Trial Judiciary Activity Instruction (NAVMARTRIJUDACT) 5813.4A, dated 26 January 2009), the trial judge will direct such additional protective actions as are required. The obligation to maintain security and safety of all participants or attendees of a court-martial is of the highest priority. If trial is in progress when information regarding a potential security threat is

discovered, counsel will immediately request a recess and advise the trial judge. In any case involving a potential security problem, the trial judge will notify the Circuit Military Judge of the nature of the threat and of the protective measures in place to address such a threat.

RULE 3 TIME OF CONVENING

Normally, all courts-martial convene promptly at 0900. However, the trial military judge may direct otherwise. All parties to the trial shall be in the courtroom and ready to proceed at the scheduled convening time. Requests for exceptions must be submitted orally or in writing to the trial military judge prior to the scheduled convening time. Justification is required for any modification. The trial counsel is responsible for keeping the court reporter advised of all changes in starting times and should inform the military judge when all parties are present.

RULE 4 UNIFORM

a. The prescribed uniform for **all personnel**, except bailiffs, appearing before, or participating in, courts-martial within this circuit shall be the seasonal dress uniform for that individual's service (e.g., for naval personnel, service dress blues or summer whites as appropriate). For security reasons, bailiffs will not wear any uniform that requires a neckerchief, nor will bailiffs wear a four-in-hand tie ("clip-on" ties are permitted). Seasonal uniform shifts will be conducted in accordance with guidance established by Commander, Navy Region, Mid-Atlantic and Commander, Navy Region, Mid-West for their respective areas of responsibility.

b. Where the purpose of the court-martial session is to arraign the accused or to litigate motions (i.e., an Article 39(a), UCMJ, session), the trial military judge may, at his or her discretion, allow that particular session of court to be conducted in an appropriate alternate working uniform (e.g., khaki uniform for naval counsel). When special or unforeseen circumstances warrant, the military judge may permit the accused or witnesses to appear before the court-martial in a clean, neat working uniform (e.g., NWU or fatigues).

RULE 5
DOCKET PROCEDURES

a. The circuit docket is a master calendar that reflects trial dates for referred courts-martial cases, as well as Article 32 investigations, training, and other events that may be scheduled for one of the circuit courtrooms. The docket is maintained by the Clerk of Court, under the overall control of the Circuit Military Judge. These procedures are designed to ensure the fair, orderly, efficient and expeditious docketing of all referred courts-martial. All communications that affect the docket or a particular case's schedule will be provided to the Clerk of Court, either electronically or physically, to ensure an accurate, reliable, and up-to-date docket.

b. Upon receipt of a newly referred case, the cognizant RLSO shall immediately deliver a copy of the charge sheet and convening order to the Clerk of Court and a copy to the Senior Defense Counsel. Forwarding of copies of charge sheets may be done physically, or electronically by scanning or facsimile transmission.

c. All courts-martial will be placed on the docket by order of the Circuit Military Judge, using the procedures set forth below. If the following procedures are not observed, then the Circuit Military Judge will assign the case to a trial judge who will set the case for hearing on the docket on the first available trial date.

(1) General Courts-Martial. **Not later than five working days** after delivery of the charge sheet and convening order to the Clerk of Court, a Request for Docketing (Appendix I) shall be forwarded by trial counsel to the Circuit Judge via the defense counsel and the Clerk of Court. Defense counsel will complete the docket request and forward the original to the Clerk of Court **within two working days** of receipt. The Circuit Military Judge will then assign the trial military judge, and docket the case. The Clerk of Court shall then inform counsel of the dates of trial and the name of the trial judge.

(2) Special Courts-Martial. **Not later than 10 working days** after delivery of the charge sheet and convening order to the Clerk of Court, a Request for Docketing shall be forwarded by trial counsel to the Circuit Military Judge via the defense counsel and Clerk of Court. Defense counsel will complete the docket request and forward the original to the Clerk of Court **within three working days** of receipt. The Circuit Military Judge will then assign the trial military judge, who will docket the case. The Clerk of Court shall then inform counsel.

(3) Case Management Orders. After the case is docketed for trial, a proposed CMO shall be drafted by trial counsel, coordinated with defense trial, and submitted to the trial judge. Any actions and dates upon which the parties do not agree shall be annotated with the respective dates proposed by the parties. This requirement does not substitute for the Pretrial Information Report (PTIR) described in Rule 7, which is required three days before the first scheduled session of trial.

(4) Selecting Dates. Before requesting a docket date, counsel are encouraged to ascertain all parties' and witnesses' availability on the particular date requested. Counsel are also encouraged to evaluate their cases and to request realistic docket dates on which the parties will be prepared to present the matter being docketed, whether an arraignment, motion hearing, disposition of a guilty plea, a contested trial, or any other matter. Counsel should request the preparation time and hearing date that they need, based on their evaluation of their respective cases, and if opposed, counsel should be prepared to justify the date requested, and then be ready to proceed on the docketed date. Finally, when requesting a date or dates on the docket, counsel are reminded that they should verify whether a trial judge is, in fact, available on the requested date. If no judge is available, counsel should be prepared to justify their need to docket the case on those particular dates, understanding that the trial judiciary will provide a judge from other resources, whether another circuit or the reserve judiciary.

d. Docket Call is held in Norfolk in Courtroom "1" on the 2nd and 4th Monday of each month at 0815. Docket Call for Great Lakes cases is held telephonically on the 2nd and 4th Tuesday of each month at 0845 Eastern Time (unless those days are holidays, in which case it will be the Tuesday immediately following the holiday). Attendance by military counsel is **mandatory**. Attendance by civilian counsel is encouraged. If a counsel with pending cases is unable to participate, then a supervisory or other counsel shall be present to address any docket questions regarding the absent counsel's cases. It is an informal session designed to verify the current status of previously docketed cases. It is not a session conducted under R.C.M. 802. The last working day before Docket Call, the Clerk of Court will send a reminder to all counsel asking that they review the docket prior to docket call and notify the Clerk of Court of any known or requested changes.

e. If at any time before a scheduled trial date, counsel become aware of matters that might delay the trial or alter the trial date (e.g., change in forum or pleas, pretrial agreement obtained, witness

ill or on emergency leave or deployed, accused unavailable, charge(s) withdrawn, etc.), they shall **immediately** inform the trial judge and the Clerk of Court.

f. In the event charges are withdrawn, or are withdrawn and dismissed (for example, as the result of an alternate administrative disposition), the trial counsel shall so annotate the original charge sheet and shall file a copy with the Clerk of Court within 48 hours of the convening authority's withdrawal action. In the event the convening authority has not delegated to trial counsel the authority to comply with this requirement, trial counsel shall, within 7 days, file a letter from the convening authority indicating which referred charges are no longer pending before the court. Cases will not be removed from the docket, and counsel will be expected to appear as scheduled, until such written documentation is received by the court.

RULE 6

PRELIMINARY MATTERS/802 CONFERENCES

a. Counsel should request an R.C.M. 802 conference with the trial military judge as soon as practicable after a case is docketed to discuss administrative matters that might affect the scheduling and timely completion of the trial, including, but not limited to: unit operating schedules and potential trial scheduling conflicts, a list of witnesses and any problems in obtaining their presence, any pretrial motions, any stipulations of fact or testimony, anticipated pleas and the existence of a pretrial agreement, anticipated forum selection, and discovery.

b. Under circumstances in which counsel and the military judge are not located in the same geographic area, or under other circumstances as determined by the military judge as sufficient cause, R.C.M. 802 conferences may be conducted electronically and summarized for the record at the next session of court.

RULE 7

PRETRIAL INFORMATION REPORT (PTIR)

a. Detailed trial counsel shall submit a pretrial information report (Appendix II) to defense counsel after a case is docketed and not later than six working days prior to the initial session of trial. Upon receipt, defense counsel will complete and ensure delivery of the report to the Clerk of Court **at least three (3) working days** before the first scheduled session of trial (unless otherwise ordered by the trial judge, including an earlier date). When applicable, trial counsel

will include a statement of whether the prosecution will present evidence on any specification to which the accused intends to plead not guilty.

b. If, after submission of the pretrial information report, alterations occur in the anticipated pleas, forum choice, motions, or any matter that could impact on the trial length, the defense counsel will immediately submit an amended report.

RULE 8

PRETRIAL MOTIONS AND OTHER FILINGS

a. All matters to be filed in a case shall be submitted to opposing counsel, the Clerk of Court, and to the trial military judge electronically, using Microsoft WORD format for motions and all other pleadings. Attachments to pleadings may be in WORD format or, for matter not originated by counsel, in a “pdf” file. The date and time of filing shall be the date and time of the electronic transmission. The original of all filed documents will be provided to the Clerk of Court during routine business hours or by mail. After hours, original documents may be placed in the box provided on the Clerk of Court’s door for local counsel. Upon receipt, the Clerk will annotate the original with the date and time of electronic filing and place the original in the pertinent court case file.

b. All pretrial motions shall be submitted in writing. This applies equally to both the proponent's submission and the opponent's response. Unless otherwise directed by a CMO or other order of the trial judge, the proponent shall file pretrial motions **not less than ten (10) working days before the earliest of either a scheduled motions hearing or the initial date of trial**, using Appendix III as the format. The motion shall state, at a minimum, the basis of the motion, facts and circumstances relevant to the particular motion, legal authority, and the nature of the relief requested. The opponent's reply shall be submitted to the Clerk of Court with proof of service on opposing counsel **not later than five (5) working days after receipt of the motion**, utilizing Appendix IV as the format, unless otherwise directed by a CMO or other order of the court.

c. Motions should not include attachments that are otherwise already a matter of record, such as charge sheets, documents that have already been admitted into evidence, other previously filed pleadings, and the like. Such items should be incorporated by reference to the record document.

RULE 9
REQUEST FOR WITNESSES

Unless otherwise directed by a CMO or other order of the trial judge, defense requests for the production of witnesses shall be submitted in writing and served on the trial counsel not later than 10 working days prior to trial. The required contents of the request and the trial counsel's responsibilities are set forth in R.C.M. 703.

RULE 10
ESSENTIAL FINDINGS

Many litigated pretrial motions require the trial judge to make essential findings of fact. Unless the trial military judge indicates otherwise, both the trial and defense counsel shall file proposed essential findings of fact as set forth above for other filings.

RULE 11
TRIALS WITH MEMBERS

- a. When informed that an accused will elect trial before members, the trial counsel shall immediately inform the convening authority, obtain any required modifications to the convening order, and make arrangements to notify each member of the date, time, and place of trial. The trial counsel shall place the members on telephone standby on the date of trial. **Members are not to be instructed to report to the Courtroom without the permission of the military judge.** Court Reporting will need an advance copy of any modifications to the convening order prior to trial in order to afford the assigned court reporter adequate time to make changes to related administrative matters.

- b. Trial counsel should obtain court member questionnaires as far in advance of trial as possible and furnish copies to opposing counsel, the military judge via the Clerk, and to Court Reporting. At a minimum, court member questionnaires must elicit the personal information listed in R.C.M 912(a)(1). Trial counsel will ensure that the questionnaires are current prior to forwarding them.

- c. In all members trials, unless otherwise scheduled by the trial judge, an Article 39(a) session will be held the working day before the trial date. All remaining pretrial motions will be litigated at this session and all matters preliminary to the assembly of the members will be

addressed.

d. When the members initially arrive, trial counsel will ensure they are escorted as a group to the members' waiting room. The escort should be a qualified bailiff or Legalman.

e. Counsel must file proposed voir dire questions for the panel in accordance with the governing CMO. Counsel may voir dire the panel only as approved by the military judge. Individual voir dire of each member may be conducted based on questionnaire information and responses to panel voir dire questions. Voir dire questions proposed by either counsel shall be filed prior to submission of the pretrial information report.

RULE 12 MEDIA RELATONS

Counsel who become aware of possible media presence at trial shall inform the trial military judge as soon as possible. Trial counsel will coordinate with the bailiff to ensure that no video or audio recording devices are permitted in the courtroom. Trial counsel shall coordinate with the cognizant Public Affairs Officer regarding any media presence or interest.

RULE 13 COURTROOM DECORUM

a. Counsel are officers of the court and shall conduct themselves as such during trial.

b. Counsel shall adhere to the following protocol during courtroom proceedings:

(1) Trial and defense counsel in each case shall be prepared to respond in accordance with the latest edition of the Navy-Marine Corps Trial Judiciary Trial Guide.

(2) Both the accused and defense counsel shall stand any time the judge is addressing the accused. Counsel shall stand when addressing the court and remain standing until told to be seated by the military judge.

(3) Counsel shall request permission of the judge to approach the bench or a witness. However, frequent requests to approach a witness are normally unnecessary and are discouraged as they needlessly extend the record. If a witness will be questioned about several different

documents, counsel should place them before the witness before the examination begins, or inform the court that counsel intends to examine the witness about a series of documents and ask permission to approach for this continuing purpose.

(4) Unless other arrangements are made with the trial military judge and the court reporter, members' voir dire, opening statements, and oral argument shall be made from the courtroom podium. The court reporter shall maintain vigilance to ensure counsel do not stray so far from a microphone that they degrade the courtroom recording capability. In the event counsel's position impairs verbatim recording of counsel's questions or comments, the court reporter shall immediately notify the trial judge, who will interrupt counsel and direct their repositioning in proper proximity to a microphone.

(5) Weapons of any type are strictly prohibited in the courtroom without the permission of the military judge. This rule applies to law enforcement personnel, whether appearing as a witness or when serving in a court house security role. Trial counsel is responsible for ensuring all witnesses and supporting security personnel are informed of this requirement so that arrangements can be made in advance to secure weapons outside the courtroom.

(6) During a trial recess, the accused may not remain in the courtroom unless his counsel is present. If the accused is in pretrial confinement, the trial counsel is responsible to ensure that command escorts remain with the accused at all times.

RULE 14

COURT-MARTIAL WITNESSES

a. Counsel will ensure that their respective witnesses will be immediately available when called to testify. This includes informing the witness of the time, location, and uniform for court, as well as making any arrangements necessary to allow a civilian witness to come aboard the base. The fact that the government has agreed to, or has been ordered to, produce a witness on behalf of the defense, does not relieve the defense counsel of these requirements for defense witnesses. Counsel will coordinate with each other and the military judge to reduce, whenever practicable, the amount of time a witness is required to wait prior to testifying.

b. Witnesses ordinarily will not be present in court during trial. Counsel are responsible for ensuring their witnesses are aware of and comply with this rule. The military judge may permit

a

witness to remain in the courtroom after the witness has testified, or otherwise, upon a showing of good cause.

RULE 15
COURT-MARTIAL BAILIFF

- a. The trial counsel will arrange for the assignment of a court-martial bailiff for each trial and will ensure the bailiff is fully advised of the duties and responsibilities of that office by providing a copy of the Bailiff's Handbook (Attachment (1), Appendix B of NMCTJINST 5813.4A).
- b. The trial of an accused in the pay grade E-1 to E-7 requires a bailiff of equal or higher pay grade. The trial of an accused in pay grade E-8 or E-9, requires the assignment of a bailiff in the pay grade of E-8 or higher. Officer bailiffs are required for courts-martial of officers and warrant officers. An officer bailiff need not be of higher pay grade than an accused officer.

RULE 16
JUDICIARY SPACES

The third deck of Building A-50, Naval Base, Norfolk, Virginia, and the second deck of Building 1, Naval Station, Great Lakes, contain the assigned spaces of the Central Judicial Circuit, Navy-Marine Corps Trial Judiciary. These spaces are adjacent to the courtrooms. All persons having business in Judiciary spaces shall, at all times, conduct themselves in accordance with acceptable rules of behavior. Loud or disruptive behavior will not be permitted at any time. All trial and defense counsel, as officers of the court, assume an affirmative responsibility to assist the military judge in maintaining courtroom decorum and ensuring the integrity of the judicial process. This responsibility includes identifying separate witness waiting rooms for each respective side, advising witnesses and anticipated spectators of expected courtroom behavior, the location of authorized comfort and meeting spaces, and the need for all to avoid contact between them and court-martial members or the military judge outside the courtroom.

RULE 17
CLERK OF COURT

a. The Clerk of Court is the administrative assistant to the Circuit Military Judge, Central

Judicial Circuit. The Clerk of Court is responsible for all administrative functions associated with the circuit.

b. The Clerk of Court will time-stamp, route, and log all legal documents delivered to the court.

c. The Clerk of Court will maintain a written docket of pending courts-martial with assigned trial dates. Alterations to the docket will be made only by the Circuit Judge, the Clerk of Court, or an individual specifically designated by the Circuit Judge. The Clerk will also maintain an electronic docket available for viewing in a public folder on a “share drive” within the Navy-Marine Corps Intranet (NMCI). The file is “read only” and changes to the docket can only be made by the Clerk of Court or a designated military judge. Counsel are also permitted to review the hard copy master docket maintained in the Clerk’s office at any time; however, no changes may be made without the permission of the Clerk of Court or the trial military judge.

d. Records of trial are routinely received for submission to the military judge for authentication. The Clerk of Court will monitor and record receipt of all records of trial. Records of trial delivered to the Clerk of Court after 1500 Monday through Friday will be recorded as having been received by the Clerk of Court on the next regularly scheduled workday. Records may be submitted in one of two media: electronic or print, as follows:

(1) Electronic Records of Trial. The preferred method of submitting a record of trial to a military judge for authentication is to do so electronically in Microsoft WORD format, with exhibits submitted in WORD or in “pdf” format. Prior to submitting an electronic record to the military judge, the trial and defense counsel shall first insert recommended changes using the “track change” tool. The court reporter will ensure that the original transcript, the suggested changes, and the final transcript are preserved in the event a transcription error issue arises during appellate review. The military judge will “accept” or “reject” proposed changes with the “track change” tool and will make other required corrections, including the insertion of “comments” as needed to task follow-up clarification. The reviewing military judge may initially authenticate an electronic record via email to the court reporter, who will then provide the original authentication page for signature. In the event the court reporter and reviewing military judge are located remotely from each other, the judge may sign, scan, and e-mail the

authentication page to the court reporter. In that event, the reviewing judge shall mail the original authentication page to the court reporter via first class mail for insertion into the record.

(2) Printed records of trial submitted at the request of the reviewing military judge must be complete. These records shall include transcription of all court proceedings and all exhibits. Corrections by trial counsel should be neatly made in ink and identified by "TC" in the margin next to the change. Proposed changes by defense counsel should be also neatly made in ink and identified with a "DC" in the margin next to the change. All pages containing changes shall be tabbed. The military judge will approve trial counsel's proposed corrections, or modify them if necessary; make the corrections proposed by defense counsel, or modify them if necessary; and make other needed corrections, and initial all final corrections before authenticating the record of trial. The Clerk of Court is authorized by the Circuit Judge to refuse receipt of records of trial not in compliance with these requirements.

RULE 18
COUNSEL ORIENTATION

All military counsel newly assigned to practice within the Central Judicial Circuit will obtain and study copies of these rules and NMCTJINST 5813.4A. Counsel will then make an appointment with the Clerk of Court for an orientation with the Circuit Judge or a designated military judge within the circuit. This orientation is a prerequisite to practice in this circuit.

RULE 19
COMPLIANCE WITH THE RULES OF COURT

Compliance with these rules of court by all counsel, military or civilian, is required and necessary to ensure the orderly administration of courts-martial within this circuit. Requests for exceptions or changes to these rules should be made to the Circuit Judge via the senior trial or defense counsel, or, if the matter involves a specific case, to the detailed military judge.

/s/
MOIRA MODZELEWSKI
Captain, JAG Corps, U.S. Navy
Circuit Military Judge

Central Judicial Circuit

NAVY-MARINE CORPS TRIAL JUDICIARY
CENTRAL JUDICIAL CIRCUIT
DOCKET REQUEST

Rev 10/09

U.S. v. _____

GCM SPCM

Trial counsel: _____ Phone & Extension: _____

Defense counsel: _____ Phone & Extension: _____

Civilian counsel: _____ Phone & Extension: _____

Trial date(s) requested: _____

Article 39(a) date(s) requested: _____

Issues: _____

Arraignment date requested: _____

Trial counsel signature: _____ Date: _____

Trial counsel certifies that this request was delivered to defense counsel on this date. Local Rules of Court require the defense counsel to respond and forward to the Clerk of Court within **two** working days of receipt of this request.

Defense agrees to the requested date(s): _____

Defense objects to the requested date(s).

Dates objected to and proposed alternative dates: _____

Defense counsel signature: _____ Date: _____

Civilian counsel signature: _____ Date: _____

Delay from the date(s) requested by the Government and the alternative date(s) requested by the Defense is excludable by the military judge in accordance with R.C.M. 707(c) and, for purposes of Article 10, UCMJ, this defense request for delay will be considered as evidence that the accused suffers no prejudice as a result of this delay. **DC is responsible for getting TC's signature below if proposing alternative date(s). TC does /does not object to proposed alternative dates.**

TC signature: _____ **Date:** _____

Date(s) of trial set for: _____

Date(s) of 39(a) set for: _____

Date of arraignment for: _____

For the Court: _____ Date: _____

Clerk of Court/Military Judge

Delay from _____ until _____ is excluded as Defense delay in accordance with R.C.M. 707(c) for purposes of Speedy Trial.

Appendix I

PRETRIAL INFORMATION REPORT

From: _____, **Trial Counsel**
Via: _____, **Defense Counsel**
To: _____, **Military Judge**

Subj: GCM / SPCM ICO U.S. v. _____

Ref: (a) Uniform Rules of Practice Before Navy-Marine Corps Courts-Martial
(b) Rules of Court, Central Judicial Circuit

1. In accordance with references (a) and (b), the following attachments and information are provided:

- | | | |
|----------------------------------|---|--|
| Copy of (Latest) Charge Sheet | <input type="checkbox"/> attached <input type="checkbox"/> already provided | <input type="checkbox"/> not available |
| Copy of (All) Convening Order(s) | <input type="checkbox"/> attached <input type="checkbox"/> already provided | <input type="checkbox"/> not available |
| List of Government Witnesses | <input type="checkbox"/> attached <input type="checkbox"/> no witnesses | <input type="checkbox"/> not available |
| List of Defense Witnesses | <input type="checkbox"/> attached <input type="checkbox"/> no witnesses | <input type="checkbox"/> not available |
| Part I of Pretrial Agreement | <input type="checkbox"/> attached <input type="checkbox"/> no PTA | <input type="checkbox"/> not available |
| Stipulation of Fact | <input type="checkbox"/> attached <input type="checkbox"/> no stipulation | <input type="checkbox"/> not available |

Day 120: _____ calculated from:

- _____ date of preferral pretrial confinement
- _____ date of pretrial confinement
- _____ excluded time: _____

Expected duration of trial: _____ days.

Related/companion case(s): _____

Civilian counsel: _____

Anticipated forum: Military Judge Members Enlisted Members

Anticipated pleas: Not Guilty (all) Guilty (all)
 Mixed pleas (list by spec&charge: _____)

Article 39(a) session requested by TC DC to resolve:

Is accused in first enlistment? Yes No
If yes, does accused have: Diploma GED Category IV Enlistment

Trial Counsel / date

Defense Counsel / date

(GENERAL COURT-MARTIAL)
(SPECIAL COURT-MARTIAL)
UNITED STATES NAVY
CENTRAL JUDICIAL CIRCUIT

UNITED STATES) (DATE)
)
 V.)
) (MOTION FOR APPROPRIATE RELIEF)
(NAME OF ACCUSED)) (MOTION TO DISMISS)
(RANK/RATE AND PAY GRADE))
U.S. (NAVY) (NAVAL RESERVE)
(MARINE CORPS) (MARINE CORPS
RESERVE)

1. **Nature of Motion.** For instance - "This is a motion to dismiss Specification 3 of Charge II on the grounds that the specification fails to state an offense in that". State the burden of proof and who has it.
2. **Summary of Facts.** (Briefly indicate the facts giving rise to, or supporting, the motion).
3. **List of Authority.** (Cases, statutes, and regulations relied upon should be concisely set forth, *i.e.*, U.S. v. Jones, 1 MJ 645 (1975); RCM 707(d); include a one-line statement as to what cited authority stands for).
4. **Written Argument.** (Discuss and analyze the law in view of facts; succinct and to the point).
5. **Evidence.** (Given the nature of the motion, no evidence will be presented.)(The accused)(The government) offers the following (witnesses)(documents) in support of this motion).
6. **Relief Requested.** (The accused requests that the court)(The government requests that the court)
7. **Oral Argument.** The (government) (defense) (does) (does not) desire to make oral argument on this motion.

(Signature of counsel or party)

(The motion must show service on opposing counsel).

(This example is to show format only. All motions must be double-spaced).

(GENERAL COURT-MARTIAL)
(SPECIAL COURT-MARTIAL)
UNITED STATES NAVY
CENTRAL JUDICIAL CIRCUIT

UNITED STATES) (DATE)
)
 V.) ANSWER TO
) (MOTION FOR APPROPRIATE RELIEF)
(NAME OF ACCUSED)) (MOTION TO DISMISS)
(RANK/RATE AND PAY GRADE))
U.S. (NAVY) (NAVAL RESERVE)
(MARINE CORPS) (MARINE CORPS
RESERVE)

- 1. **Nature of Answer.** This answer is in opposition to a motion (to dismiss Specification 3 of Charge II on the grounds that the specification fails to state an offense) (to ...). State the burden of proof and who has it.
- 2. **Summary of Facts.** (The answer may concur with the facts set out in the motion or may set forth the (defense) (government's) view of the facts).
- 3. **Authorities.** In addition to those authorities cited in the (defense) (government) motion, the court should also consider (one-line statement as to what cited case stands for).
- 4. **Written Argument.** (Succinct and to the point).
- 5. **Oral Argument.** The (defense) (government) (does) (does not) desire to make oral argument in opposition to the (defense) (government) motion.

(Signature of Counsel)

(The answer must show service on opposing counsel).

(This example is to show format only. All answers must be doubled-spaces).

