



DEPARTMENT OF THE NAVY  
EASTERN JUDICIAL CIRCUIT  
NAVY-MARINE CORPS TRIAL JUDICIARY  
67 VIRGINIA DARE DRIVE, SUITE 145  
CAMP LEJEUNE, NORTH CAROLINA 28547

5810  
JUDACT  
24 May 06

**EASTERN RULES OF PRACTICE**

From: Circuit Military Judge

Subj: EASTERN RULES OF PRACTICE

- Ref: (a) Manual for Courts-Martial, United States, R.C.M. 108, (2005 Edition)  
(b) Manual for Courts-Martial, United States, R.C.M. 801(b), (2005 Edition)  
(c) NMCTJINST 5810.5B, dtd 29 Sep 94 (Navy-Marine Corps Trial Judiciary, Uniform Rules of Practice)  
(d) JAGINST 5813.4G, dtd 10 Feb 06 (Navy-Marine Corps Trial Judiciary)  
(e) JAGINST 5803.1C, dtd 9 Nov 04 (Professional Conduct of Attorneys Practicing Under the Cognizance and Supervision of the Judge Advocate General)

Encl: (1) Eastern Judicial Circuit Rules of Practice dtd 9 May 06

1. **Purpose:** To prescribe circuit rules of practice consistent with the references.
2. **Cancellation:** Piedmont Rules of Practice 5810 JUDACT dtd 15 Feb 05.
3. **Background:** The references authorize, and the sound administration of justice requires, circuit rules of practice to further implement the Uniform Rules of Practice, reference (c). The enclosed rules are intended to emphasize or amplify the Uniform Rules of Practice and to facilitate the smooth and orderly trial of cases within the Eastern Judicial Circuit. To the extent that inconsistencies are perceived, the rules contained within the references shall control.
4. **Action:**
  - a. Military judges within the circuit shall ensure enforcement of the rules contained in the enclosure.
  - b. All counsel practicing before courts-martial in this circuit shall become familiar with the references and these rules, and shall comply with them.

(1) Staff Judge Advocates, Officers in Charge, and Military Justice Officers shall ensure compliance by trial counsel and bailiffs.

(2) Regional and Senior Defense Counsel shall ensure compliance by defense counsel and shall provide copies of the enclosure to civilian defense counsel.

d. Judge advocates within the Eastern Judicial Circuit are encouraged to recommend improvements to these rules of practice. Written recommendations may be delivered or mailed to the Clerk of Courts at the Judiciary Activity, 67 Virginia Dare Drive, Suite 145, Camp Lejeune, North Carolina, 28547.

5. **Effective Date**: These rules shall become effective immediately and shall remain effective until cancelled or otherwise modified by this or higher authority.

A handwritten signature in black ink, appearing to read 'R.H. KOHLMANN', written over a horizontal line.

RALPH H. KOHLMANN  
Colonel, U.S. Marine Corps

**EASTERN JUDICIAL CIRCUIT  
NAVY–MARINE CORPS TRIAL JUDICIARY**

**RULES OF PRACTICE**

**Revised: 24 May 2006**

# Table of Contents

<i>Preamble</i> .....	1
<i>Rule 1: Applicability</i> .....	1
<i>Rule 2: Purpose</i> .....	1
<i>Rule 3: Construction</i> .....	2
<i>Rule 4: Information Regarding Languishing Cases</i> .....	2
<i>Rule 5: Referred Charges</i> .....	2
<i>Rule 6: Civilian Counsel</i> .....	3
<i>Rule 7: Pretrial Information Report (PTIR) and Docketing Procedures</i> .....	3
<i>Rule 8: Ex Parte Communications with the Military Judge</i> .....	6
<i>Rule 9: Conferences</i> .....	6
<i>Rule 10: Discovery</i> .....	7
<i>Rule 11: Motions</i> .....	7
<i>Rule 12: Continuances</i> .....	8
<i>Rule 13: Situs</i> .....	8
<i>Rule 14: Courtroom Security / Uniform / Physical Restraint / Civilian Attire</i> .....	8
<i>Rule 15: Spectators</i> .....	9
<i>Rule 16: Punctuality</i> .....	9
<i>Rule 17: Bailiff</i> .....	10
<i>Rule 18: Guards</i> .....	10
<i>Rule 19: Court Reporters</i> .....	10
<i>Rule 20: Entry and Departure of Military Judge</i> .....	10
<i>Rule 21: Consideration for Members' Time</i> .....	10
<i>Rule 22: Entry and Departure of Members</i> .....	10
<i>Rule 23: Voir Dire</i> .....	11
<i>Rule 24: Opening Statements</i> .....	11
<i>Rule 25: Prohibited Items in Courtroom</i> .....	12
<i>Rule 26: Counsel Decorum</i> .....	12
<i>Rule 27: Counsel Conduct</i> .....	13
<i>Rule 28: Witnesses</i> .....	13
<i>Rule 29: Objections</i> .....	15
<i>Rule 30: Stipulations</i> .....	15
<i>Rule 31: Offers of Proof</i> .....	15

## Table of Contents

<i>Rule 32: Judicial Notice</i> .....	15
<i>Rule 33: Trial Exhibits</i> .....	16
<i>Rule 34: Appellate Exhibits</i> .....	17
<i>Rule 35: Instructions</i> .....	17
<i>Rule 36: Closing Arguments</i> .....	17
<i>Rule 37: Accused’s Unsworn Statement</i> .....	17
<i>Rule 38: Record of Trial</i> .....	17
<i>Rule 39: Court Filings / Document Size / Type Font</i> .....	18
<i>Rule 40: Pretrial Agreements</i> .....	18
<i>Attachments:</i> .....	19

## **Preamble**

These rules are to promote a common understanding of the procedure of practice of military criminal law in courts-martial within the Eastern Judicial Circuit.

### **Rule 1: Applicability**

**Rule 1.1:** These rules apply to the trial of general and special courts-martial within the Eastern Judicial Circuit in which the accused is a member of the Naval service. *See* JAGINST 5813.4G dtd 10 February 2006 for the geographical boundaries of the Eastern Judicial Circuit. Counsel, as officers of the court, shall follow these rules, unless doing so would deprive the client of effective representation or would interfere with the exercise of an accused's right to due process. Reporters, clerks of court, bailiffs, chasers, and all others involved with courtroom procedure will follow these rules where they apply. These rules are subject to waiver by the military judge upon a showing of good cause.

**Rule 1.2:** Any counsel, military or civilian, who fails to comply with these rules, or orders of the court may be required to explain his or her reasons for noncompliance on the record, or in writing for inclusion in the record of trial as an appellate exhibit.

**Rule 1.3:** With regard to noncompliance with these rules, or orders of the court, the military judge may, as appropriate: issue an admonishment on the record; remedy the effect of noncompliance through a court order or continuance; forward information about the matter to a military counsel's commanding officer, officer-in-charge, or state bar; forward information about the matter to a civilian counsel's state bar; forward a complaint for processing in accordance with R.C.M. 109; proceed with action for "contempt" under R.C.M. 809 and Article 48 of the Uniform Code of Military Justice; or fashion any other appropriate remedy.

**Rule 1.4:** All military counsel newly assigned to commands within this circuit shall report to the Circuit Military Judge or his designee for a briefing on these rules prior to trying their first case within the circuit. Military counsel serving at installations other than the Eastern North Carolina vicinity may satisfy this requirement by means of a telephonic briefing. Further, it is the responsibility of all counsel to familiarize themselves with these rules prior to their first appearance in a circuit court.

### **Rule 2: Purpose**

**Rule 2.1:** These rules are intended to facilitate a just determination of military justice issues and to enhance the orderly administration of military justice.

**Rule 2.2:** Operating within our adversarial system, the goal of a trial is the fair and impartial administration of justice. To provide the best opportunity for justice to be done, a trial should have an efficient presentation of evidence and arguments to the trier of fact in an appropriate setting.

Counsel for both sides are expected to strive to conduct an exemplary trial. In an exemplary trial, trial time is regarded as precious. The members are rarely sent out for extensive arguments of counsel on points of law, as these are thought out, presented to the court, and

decided upon **well ahead** of the arrival of the members. Counsel are able to frame their opening statements by properly balancing fact and emotion. Direct examination educates the members step-by-step about the essential facts and circumstances of the case. Exhibits are handled expeditiously, and demonstrative evidence is planned and prepared well in advance. Objections are ruled upon promptly without excessive argument and are limited in numbers. Succeeding witnesses are presented without the need for recesses. Cross examination by counsel is focused and succinct and reflects that the counsel questioning the witness has fully investigated the issues. Everyone has the sense that counsel know exactly where they are going. Closing arguments stick to the evidence and do not invite objection. Counsel are well prepared with requests for rulings or members' instructions far in advance of closing arguments. Counsel do not vie to have the last word.

### **Rule 3: Construction**

**Rule 3.1:** These rules shall be constructed to ensure simplicity in procedure, fairness in administration, and efficiency of operation, and the timely disposition of courts-martial. They shall be interpreted so as to provide the maximum adaptability to the conditions under which the Marine Corps and the Navy must provide their operational missions. Noncompliance with these rules will not create a right in, or remedy for, either party to a court-martial, but adherence to these rules will relate to the professionalism of the individuals involved. The arbiters of these rules will be the military judges of the Eastern Judicial Circuit; where conflict exists, the Circuit Military Judge will be the final arbiter.

**Rule 3.2:** If any rule herein conflicts with case law, statute, the Manual for Courts-Martial, any constitutional provision, or any service regulation, then that rule shall have no effect.

### **Rule 4: Referred Charges**

**Rule 4.1:** Trial counsel shall provide the Circuit Clerk of Court with a copy of referred charges and corresponding convening orders as soon after receipt as possible.

**Rule 4.2:** Defense counsel will examine the personal data on the charge sheet, determine its accuracy, and notify the trial counsel and the military judge of any necessary corrections, additions or deletions as soon after service of the charges as possible.

**Rule 4.3:** All changes to the charge sheet shall be initialed and dated by the trial counsel or other representative of the convening authority.

### **Rule 5: Information Regarding Languishing Cases**

**Rule 5:** Upon request, Military Justice Officer shall provide to the detailed military judge or, if no military judge has been detailed, to the Circuit Docketing Judge all information regarding any referred court-martial which is not moving to trial with all deliberate speed.

### **Rule 6: Civilian Counsel**

**Rule 6.1:** If an accused retains civilian counsel, detailed defense counsel shall furnish civilian counsel with a copy of these rules and request he or she submit written notice of representation as counsel of record for the accused, addressed to the military judge or in the event a military judge has not been detailed, to the Circuit Docketing Judge. Civilian counsel shall use Attachment (1) to provide such notice of representation. The notice must contain the following: Name of the accused; counsel's name, office address, telephone/fax numbers, and e-mail address; and jurisdiction(s) where the counsel is presently admitted to practice and in good standing. Additionally, the notice shall include whether the civilian attorney is, or has ever been, decertified from practice in Navy-Marine Corps courts-martial by the Judge Advocate General of the Navy, and acknowledgement of familiarity with the Uniform rules (reference (c)) and these Circuit rules.

**Rule 6.2:** Detailed defense counsel shall also inform the civilian counsel of the rules in JAGINST 5803.1C dtd 9 Nov 04 (Professional Conduct of Attorneys Practicing Under the Cognizance and Supervision of the Judge Advocate General).

**Rule 6.3:** Once civilian counsel notifies the military judge of representation, he or she may not withdraw from such representation, after referral of charges, without the permission of the military judge, whether or not the accused wishes to release the counsel.

### **Rule 7: Pretrial Information Report (PTIR) and Docketing Requests**

**Rule 7.1:** Trial counsel or defense counsel may initiate a Pretrial Information Report (PTIR), Attachment (2), for any referred case. The PTIR will include a copy of the referred charge sheet as enclosure (1) and a copy of the convening order for the court-martial as enclosure (2), unless previously provided. The first PTIR submitted on a referred case shall also include proposed trial dates and filing deadlines. Proposed trial dates and filing deadlines shall establish a motions filing deadline that is no less than 10 calendar days in advance of the date requested as an Article 39a session to litigate motions. The deadline for filing responses to any motions in a case shall be no less than 5 calendar days in advance of the Article 39a session. Exceptions to this rule require military judge approval.

**7.1(a):** Accompanying the PTIR, trial counsel will include copies of the relevant portions of any written military orders or directives and any state or federal statutes alleged to have been violated, attached as enclosure (3).

**7.1(b):** The trial counsel will also prepare and submit proposed elements of state or federal statutes that are alleged to have been violated, attached as enclosure (4). The defense counsel may, but is not required to, submit such proposed elements. Trial counsel will also submit the memorandum portion of any approved pretrial agreement and copies of any stipulations of facts.

**7.1(c):** Written motions are also required to be submitted with the PTIR, as appropriate. *See* Rule 11.



**7.1(d):** After completing all applicable portions of the PTIR, trial counsel shall forward it to defense counsel, who shall complete the applicable portions of the report and forward it to the court, with a copy to trial counsel.

**7.1(e):** If unusual or compelling circumstances render it impracticable to use the PTIR, defense counsel should advise trial counsel and the military judge-as soon as possible, but at least 24 hours before trial-of pleas and whether the accused intends to request trial by military judge alone or by members.

**Rule 7.2:** When a docketing request is submitted, a completed PTIR must be submitted for each case to be docketed. This requirement applies equally to cases being brought before the court for the first time; cases that have been judicially docketed by a military judge at prior court-martial sessions; cases scheduled through the use of a motion for docketing; and cases rescheduled through approved continuance requests. Both counsel will sign the PTIR. However, if for any reason, the defense counsel or trial counsel is not available when the PTIR is due, the senior defense counsel (SDC) or chief trial counsel (CTC) shall complete the PTIR, explain the absence of counsel, attach the required documents, and submit the report with the docketing request. The trial counsel should ordinarily prepare and submit the report to the defense counsel prior to any expected absence, even if the case is not to be docketed the next week. All anticipated motions, including multiplicity and illegal restraint, must be listed on the PTIR. If the pleas are mixed, or by exception and substitution, a detailed list of pleas shall be included in Part 3 of the PTIR. This block shall also state if the Government will or will not contest the offenses or the excepted language to which the accused pled not guilty. Counsel (or SDC/CTC) signatures certify the accuracy of the information contained in the PTIR.

**Rule 7.3:** In cases in which there is no genuine need to conduct an immediate arraignment of the accused, or a case in which counsel knows that there will be a guilty plea with no need for a separate Article 39a session, counsel may use a Motion for Docketing (MFD), attachment (3). The use of a MFD does not eliminate the need to submit a PTIR as outlined above, or eliminate the need to follow the docketing procedures established below.

**Rule 7.4:** Either party may request an Article 39a hearing of a referred special or general court-martial for any reason, using the docketing procedures listed below. Defense counsel or trial counsel may also request R.C.M. 802 conferences at any time and for any reason, see rules 9.1 and 9.2.

### **Docketing Procedures**

**Rule 7.6:** The Circuit Military Judge will appoint a docketing judge within the circuit who will serve in that capacity for a designated duration. The Clerk of Court and the docketing judge shall be the circuit's points of contact for all docketing issues.

**Rule 7.7:** Every week, all Military Justice Officers (or other designated persons) practicing in the Eastern Judicial Circuit are required to submit a proposed docket to the Clerk of Court in writing not later than **1000** on Wednesday. In the event that the submission week or the following week contains a holiday routine, the docketing judge may designate an alternate time and date for submissions of proposed dockets. Proposed dockets shall be submitted in the format contained in Attachment (4) and shall list all cases counsel wish to schedule for the next week.

**7.7(a):** If a military justice section does not desire to schedule cases for the following week, a negative proposed docket must be submitted to the Clerk of Court.

**7.7(b):** Proposed dockets shall be transmitted to the Clerk of Court by facsimile with a confirmation copy sent as an electronic mail attachment. The required accompanying paperwork includes a PTIR with all appropriate enclosures for EACH case. *See* Rules 7.1 and 7.2.

**7.7(c):** The PTIRs for each case shall note the date of any previous trial sessions conducted and indicate the presiding military judge.

**7.7(d):** A PTIR must be submitted for each case scheduled by previous court sessions, as listed on the Long Range Calendar for the pertinent week, as well as for any requests for cases being first brought before the circuit. If counsel mutually agree there is no need for a session already judicially docketed on the Long Range Calendar for the upcoming week, a continuance request must be submitted in advance of the docketing deadline, or a NEGATIVE PTIR must be submitted with a reason for canceling the session (*e.g.* “A PTA has been signed in this case and we no longer need the pretrial article 39a session.”). In such an event, counsel shall request an 802 conference with a military judge to ensure all matters that might have been addressed at the session are covered in full and that the case is properly proceeding toward trial.

**Rule 7.8:** Counsel can best estimate the length of proposed Article 39a sessions or trial. Ordinarily, contested members cases should be docketed for at least three days. Those estimates include one-half day for sentencing, should it become necessary.

**Rule 7.9:** If at the time the docketing request is submitted counsel are negotiating but have not yet concluded a pretrial agreement, then an Article 39a session should be requested with a notation on the PTIR that a pretrial agreement is anticipated. The case should not be docketed as a contested members case. Proposed pleas will be detailed on the PTIR. Pretrial consultation with the military judge at an R.C.M. 802 conference is encouraged. If pleas will be by exceptions and substitutions, the exact language of such pleas shall be included in block 3 of the PTIR.

**Rule 7.10:** Charges not properly referred to courts-martial and cases without PTIRs with all of the required enclosures will not be docketed without good cause and approval by the Circuit Judge.

**Rule 7.11:** The Circuit Judge will review the docketing requests and create and distribute the court docket for the next week by the close of business on the day after the docketing requests are due. The docket is normally distributed on the Thursday preceding the week of the docket. Military Justice Officers or those who receive the court’s weekly dockets are required to ensure they are disseminated to all parties concerned with the scheduling of a particular case. A copy of each week’s established docket can be accessed through the Eastern Judicial Circuit’s website: <http://www.lejeune.usmc.mil/easterncircuit>

**Rule 7.12:** (At the earliest opportunity), trial or defense counsel must notify the military judge of any changes to the PTIR (including withdrawal of, or amendments to charges, new motions, forum change, change in pleas, etc.) and requests to change the time, date, or location of the trial.

**Rule 7.13:** The trial deadlines established at an Article 39(a) arraignment are not optional. Counsel will adhere to the deadlines and may be called upon to address, on the record, any failure to abide by them. A counsel who fails to meet deadlines not only tarnishes his or her own reputation with the court, but also unfairly impacts opposing counsel's ability to properly prepare for a case, which in turn can lead to unnecessary delays in a case.

**Rule 7.14:** Counsel shall submit pretrial documentation addressing preliminary matters (found on page 47 of the Navy-Marine Corps Trial Judiciary Trial Guide 2005 dated 08 Sep 05) in accordance with the court-established deadlines. Notice of pleas and forum shall be submitted in accordance with Attachment (5). Counsel who fail to submit such documents in a timely manner may, in the discretion of the military judge, forfeit the opportunity to conduct general voir dire of the members.

**Rule 7.15:** If a case is withdrawn, a certification of withdrawal (*see* Attachment (7)), or a copy of a withdrawal letter signed by the convening authority will be filed with the Clerk of Court immediately.

### **Rule 8: Ex Parte Communications with the Military Judge**

**Rule 8.1:** Ex parte communications with a military judge concerning a case that is pending before that military judge is prohibited, except for routine administrative matters and as otherwise provided by law.

**Rule 8.2:** "Routine administrative matters" include docketing and logistical matters, that affect the time, location, and length of court sessions (including but not limited to pleas, forum, and number of, or difficulty with, witnesses).

**Rule 8.3:** The prohibition against ex parte communications extends to electronic mail. Counsel shall include opposing counsel as a "copy" addressee on all electronic mail sent to a military judge about case related matters, regardless of whether it is merely administrative in nature.

**Rule 8.4:** When appropriate, military judges will conduct critiques or offer suggestions regarding counsel performance in courts-martial to improve the administration of justice. These sessions shall be conducted with both the trial and defense counsel present, or in group sessions.

### **Rule 9: Conferences**

**Rule 9.1:** Conferences between the military judge and trial and defense counsel are authorized by R.C.M. 802. The presence of the accused is neither required nor prohibited. Conferences may be held before or during trial, either in person, telephonically or by e-mail. They are used to inform the military judge of unusual issues that are likely to affect the duration, progress, or disposition of a case, and to expeditiously resolve matters on which the parties can agree. Such conferences shall not be used to litigate or decide contested issues.

**Rule 9.2:** In contested members cases, counsel may seek, and the military judge will normally schedule, a (trial management R.C.M. 802 conference) approximately one week prior to trial on the merits. At this trial management conference, the military judge may require the trial counsel to offer either orally or in writing a brief summation of the government's theory of the case, how

the various witnesses and exhibits tie into said theory, and any foreseeable evidentiary issues in order to streamline the proceedings and ensure the military judge is fully prepared for trial.

### **Rule 10: Discovery**

**Rule 10.1:** Counsel shall promptly comply with military law regarding discovery. Counsel shall not make a frivolous discovery request or fail to make a diligent effort to comply with a legal and proper discovery request by an opposing party. Gamesmanship in the discovery process will not be tolerated.

**Rule 10.2:** Notwithstanding "open discovery" in the military, discovery requests should be as specific as possible to avoid misunderstandings and to assist in obtaining the desired information in a timely fashion to avoid delaying trial.

**Rule 10.3:** Discovery issues must be resolved expeditiously, as they have a tremendous impact on the ability of counsel to prepare for trial. To prevent discovery issues from unnecessarily delaying trials, both counsel are **required** to file a **Certificate of Discovery Compliance** by the date ordered by the court at the arraignment or via Motion For Docketing. *See* attachment 13.

**Rule 10.4:** At arraignment, trial counsel will certify on the record that the government has complied with M.R.E. 304(d)(1)(disclosure of known, relevant statements of the accused within the control of the armed forces).

### **Rule 11: Motions**

**Rule 11.1:** As early as possible, counsel will advise the military judge and opposing counsel of the general nature of any motions, along with applicable citations. This can be accomplished using the PTIR with motions attached as enclosures. When use of a PTIR is not practicable, an R.C.M. 802 conference may also be used for this purpose, *See* Rule 9.1.

**Rule 11.2:** Motions shall be submitted in accordance with the trial deadlines established by the military judge at the arraignment or as set out in an approved motion for docketing. *See* Rule 7.5. If no such deadlines have been previously established in a case, counsel shall submit motions sufficiently in advance of trial to permit the opposing side to answer. Unless waived by the military judge, all motions and responses must be filed in the format of Attachment (6).

**Rule 11.3:** Motions and other documents will be filed with the court and served on opposing counsel by facsimile (fax) or in person. Transmitting counsel will ensure that such documents are actually received. Moreover, whenever a facsimile transmission is used to communicate with the court or with opposing counsel, the original document or copy, as appropriate, shall be maintained by the originator and made available to the court upon request. All motions must certify service on opposing counsel. Counsel may send courtesy copies of submissions electronically; however, such transmissions are not an acceptable substitute for the service requirements mandated above nor do they satisfy the trial deadlines established by the court.

**Rule 11.4:** It is the responsibility of counsel to ensure prompt delivery of all motions and/or responses as well as all supporting documents by the appropriate filing date and to confirm receipt by the judiciary.

**Rule 11.5:** Litigation of motions will involve presentation of legal and competent evidence; i.e., testimony, documentary evidence, stipulations, etc. Facts must be established upon which the military judge may make essential findings. Ordinarily, mere averments of counsel or statements of fact contained in motions are NOT sufficient to establish facts.

### **Rule 12: Continuances**

**Rule 12:** Continuance requests shall normally be made by written motion outside of court. If presented during an Article 39(a) session, they may be done orally. The motion shall state the specific reason(s) for the request and the earliest possible trial date. Counsel must be prepared to fully justify each request for continuance. Written motions for continuance shall be in the format of Attachment (8).

### **Rule 13: Situs**

**Rule 13:** Subject to R.C.M. 504(d)(1), the military judge shall designate the situs of the trial.

### **Rule 14: Courtroom Security / Uniform / Physical Restraint / Civilian Attire**

**Rule 14.1:** The presiding military judge may prescribe rules to establish courtroom security as deemed necessary.

**Rule 14.2:** The wearing or carrying of weapons in the courtroom is prohibited, except when specifically authorized by the military judge.

**Rule 14.3:** The military judge shall designate the proper uniform and civilian attire to be worn by all persons required to be present at trial. Unless the military judge directs otherwise, the uniform for all military participants in special and general courts-martial is as follows:

U.S. Marine Corps service "C" uniform or equivalent uniform for the other services (no khaki uniform). The accused, but no one else, may wear the U.S. Marine Corps service "A" uniform or equivalent uniform for other services.

The military judge may prescribe alternative uniforms if conditions warrant. Trial counsel may request an alternative uniform in the Pretrial Information Report with an explanation/justification. Upon approval of the request by the military judge, trial counsel must then notify all trial participants prior to trial of the change as soon as possible. Except as otherwise provided by the military judge, all military personnel required to be present at trial shall appear in the designated service uniform.

**Rule 14.4:** The accused shall wear the appropriate insignia of grade and may wear any decorations, emblems, or ribbons to which entitled. The accused and defense counsel are responsible for ensuring that the accused is properly attired; however, upon request, the accused's commander shall render such assistance as may be necessary to ensure that this task is accomplished.

**Rule 14.5:** Physical restraint shall not be imposed on the accused or any witness during open sessions of the court-martial unless prescribed by the military judge. No accused or witness in

open court shall wear any tag or symbol which identifies him as being in custody. Neither the accused nor any other participant shall appear at any session of a special or general court-martial in a confinement uniform.

**Rule 14.6:** Brig chasers shall not sit in the gallery unless they have removed their covers and duty belts.

### **Rule 15: Spectators**

**Rule 15.1:** The military judge is responsible for the control of court-martial spectators.

**Rule 15.2:** Spectators are encouraged to attend any sessions of the court-martial, unless otherwise determined by the military judge.

**Rule 15.3:** The trial counsel should encourage the attendance of the public, including personnel from the unit. *See R.C.M. 806.*

**Rule 15.4:** Counsel shall ensure that the military judge is advised if there is a likelihood that any spectator is to be called as a witness.

**Rule 15.5:** Spectators may enter or leave the courtroom while the court-martial is in session, so long as their activity is not disruptive to the proceedings.

**Rule 15.6:** It is improper for a spectator to verbally, by facial expression, by shaking or nodding of the head, or by other conduct, demonstrate agreement or disagreement with testimony or other procedures at a trial. Spectators appearance and attire must not distract from the dignity of the proceedings or create a disruption. Spectators who violate this rule may be excluded from the courtroom or, in aggravated cases, held in contempt. Counsel are responsible for advising their clients, their witnesses, and friends of the accused and counsel, of the demeanor expected of them.

**Rule 15.7:** Counsel shall refrain from conferring with spectators or other non-participants across the bar while the court is in session.

### **Rule 16: Punctuality**

**Rule 16.1:** The military judge shall be notified promptly of any delays and the reasons therefore. All parties are expected to be punctual for all matters involved in the trial of a case.

**Rule 16.2:** Trial counsel shall notify the accused's command of the place, date, and time of trial, that the presence of the accused is required, and that appropriate transportation to the situs of the trial should be arranged. Generally, trial counsel is responsible for ensuring the timely presence of an accused who is in pretrial confinement or other restraint. However, after the accused arrives at the place of trial, defense counsel is responsible for the timely presence of an accused at all required court sessions. Defense counsel is also responsible for the timely presence of an accused that is not in pretrial restraint.

### **Rule 17: Bailiff**

**Rule 17.1:** A bailiff shall be present at every trial with members, or as directed by the military judge. Trial counsel shall ensure the bailiff is provided a copy of Attachment (9) and is thoroughly briefed as to the bailiff's responsibilities.

### **Rule 18: Guards**

**Rule 18:** When appropriate, a guard (or guards) shall be detailed by the convening authority to ensure proper custody of the accused and to assist the court in preserving order and decorum.

### **Rule 19: Court Reporters**

**Rule 19.1:** Trial counsel shall verify that the court reporter has been previously sworn. Reporters who have not been previously sworn shall notify trial counsel.

**Rule 19.2:** Each time the court convenes or reconvenes, the reporter shall note in the record the presence or absence of the parties and the time at which the court convenes or reconvenes. The court reporter shall also note the time at which recesses are taken and the time of adjournment.

**Rule 19.3:** Court reporters shall ensure that the name and rank of all military parties to the trial and the name and address of civilian counsel are properly noted in the record of trial.

**Rule 19.4:** The trial counsel is responsible for keeping the court reporter section apprised of the status of all docketed cases, to include, but not limited to: all anticipated delays; continuances; withdrawal of charges; changes of courtrooms and/or location; changes in the anticipated pleas and forum; and the need for court reporter support in unscheduled hearings.

### **Rule 20: Entry and Departure of Military Judge**

**Rule 20:** All persons in the courtroom, except the court reporter, without regard to rank or grade, shall rise when the military judge enters or leaves the courtroom.

### **Rule 21: Consideration for Members' Time**

**Rule 21.1:** Counsel should coordinate with all parties and the military judge to avoid unnecessary "down time" for the members.

**Rule 21.2:** In all cases involving court members, the trial counsel shall obtain direction from the military judge as to when the members should arrive at the courthouse. With advance permission of the military judge, some or all of the members may be on a standby call status.

### **Rule 22: Entry and Departure of Members**

**Rule 22:** All persons, other than the military judge and court reporter, shall rise when the members enter and leave the courtroom.

### **Rule 23: Voir Dire**

**Rule 23.1:** The military judge determines the procedure for conducting voir dire. *See* R.C.M. 912(d).

**Rule 23.2:** Prior to voir dire, both counsel will provide the military judge with a written list of the full name and unit or city and state of residence of all witnesses. The list shall also include witnesses anticipated for rebuttal, pre-sentencing, and witnesses whose testimony will be presented by stipulation.

**Rule 23.3:** Unless directed otherwise by the military judge, all proposed voir dire questions, either to be asked en banc or individually, will be submitted in writing on the date designated by the military judge, or in the absence of such date, by assembly. Copies of proposed voir dire questions shall be served on opposing counsel. Upon specific request, the military judge may permit counsel to ask additional questions.

**Rule 23.4:** During voir dire, counsel shall not: (1) argue the case; (2) engage in efforts to indoctrinate, visit with, or establish "rapport" with members; (3) question members concerning anticipated instructions or theories of law, or members' "understanding" of various legal principles yet to be explained to them; (4) ask members what kind of findings or sentence they might return under a hypothetical set of facts; or (5) seek a pre-commitment from a member to a factual or legal proposition that is in issue.

**Rule 23.5:** The military judge will conduct the initial voir dire of the members. Counsel may then be permitted to ask previously approved questions that have not been asked during the initial voir dire by the military judge. All questions must be relevant to determining the qualifications of the members to sit on the court-martial. Where necessary, and in the discretion of the military judge, counsel may be permitted to question the members individually. However, *see* Rule 7.15 for possible sanctions for not submitting proposed voir dire questions to the court in accordance with trial deadlines.

**Rule 23.6:** The trial counsel is responsible for ensuring that all court members complete the Eastern Judicial Circuit Court-Martial Members Questionnaire, attachment (10), on the date designated by the military judge, or in the absence of such date, by assembly. A member may desire to retain the original and provide a copy for court use, and then update the copy as necessary for subsequent trials.

**Rule 23.7:** All challenges, whether peremptory or for cause, shall be addressed to the military judge at an Article 39(a) session.

### **Rule 24: Opening Statements**

**Rule 24.1:** Counsel shall confine their opening statements to what they expect the issues in the case will be and what the evidence will show. Counsel will not use the opening statement to argue the case or to instruct as to the law.



**Rule 24.2:** Unless specifically authorized in advance by the military judge, counsel are limited to one hour each for opening statements. Only one counsel per side may make opening statements.

**Rule 24.3:** Counsel may use visual aids such as charts, graphs, maps, photographs, models, or other graphic devices, but permission from the military judge for such use is necessary unless the visual aid has, outside the presence of the members, already been admitted into evidence. Counsel must allow opposing counsel to view any such materials for possible objection prior to the delivery of the statement.

### **Rule 25: Prohibited Items in Courtroom**

**Rule 25.1:** Smoking, eating, and drinking, except water for trial participants, will not be permitted in the courtroom during open sessions. The military judge, may, in his or her discretion, relax these rules. Trial participants will not chew gum or tobacco or use snuff. Weapons and objects that may be used as weapons will not be permitted in the courtroom without specific authorization of the military judge.

**Rule 25.2:** Unless specifically authorized by the military judge, and except for the equipment required by the court reporter, no video, photographic, or audio recording devices are permitted in the courtroom. Additionally, unless specifically authorized by the military judge, video and audio recording and the taking of photographs of the court proceedings, and radio or television broadcasting of proceedings from the courtroom, shall not be permitted.

### **Rule 26: Counsel Decorum**

**Rule 26.1:** The decorum of counsel in the courtroom shall be such as to provide a judicial atmosphere within a military setting.

**Rule 26.2:** Counsel shall refrain from undue familiarity between themselves or in relationship to the members, military judge, or witnesses while court is in session and when otherwise in the presence of the accused.

**Rule 26.3:** Counsel should direct all argument and responsive statements to the military judge or members, as applicable, while the court is in session and shall avoid colloquy or argument towards the other party, except for perfunctory matters of courtesy.

**Rule 26.4:** Counsel shall stand when addressing the military judge or members and when examining a witness, unless otherwise authorized by the military judge.

**Rule 26.5:** During sessions of the court, no counsel will leave the courtroom without permission of the military judge.

**Rule 26.6:** When one counsel is addressing the court or examining a witness, the opposing counsel shall remain seated at the counsel table, unless standing to make an objection.

**Rule 26.7:** Unless specifically authorized by the military judge, only one counsel per side may question a witness, address the court on a motion or issue, or make opening statement or closing argument.

### **Rule 27: Counsel Conduct**

**Rule 27.1:** Counsel shall not, during trial, state or allude to any matter that counsel has no reasonable basis to believe is relevant to the case or that will not be supported by admissible evidence.

**Rule 27.2:** Counsel shall not, during trial, assert any personal knowledge of the facts in issue, except when testifying as a witness.

**Rule 27.3:** Counsel shall not, during trial, assert any personal opinion as to the justness of a cause, the credibility of a witness, or the guilt or innocence of an accused; but counsel may argue, based on analysis of the evidence, for any position or conclusion supported by the evidence and any allowable inferences.

**Rule 27.4:** Counsel shall not intentionally or habitually violate any established rule of military procedure, military evidence, or these rules.

**Rule 27.5:** Counsel, in presenting a matter to the court-martial, shall disclose legal authority in the controlling jurisdiction known to counsel to be directly contrary to his or her position and which is not disclosed by opposing counsel.

**Rule 27.6:** Counsel shall not knowingly disobey a standing order or the ruling of a court-martial, but may take appropriate good faith action to test the validity of such rule or ruling.

**Rule 27.7:** Each time the court convenes or reconvenes, the trial counsel shall ensure that the military judge has announced on the record the presence or absence of the parties (e.g., "All parties to the trial who were present when the court closed/recessed are again present (except the members)"). If any party is absent, the military judge shall be advised.

**Rule 27.8:** Counsel shall follow along in the trial guide to ensure that the military judge makes no unintentional omissions. Should counsel believe that a military judge has made such an omission, he or she shall bring it to the judge's attention immediately upon its discovery.

### **Rule 28: Witnesses**

**Rule 28.1:** Trial counsel shall swear each witness called to testify and shall ensure that the military witness' name, grade, and military organization, or civilian witness' name and city and state of residence are announced in court and made part of the record of trial.

**Rule 28.2:** Live, in-person testimony from witnesses is the expected norm (in the absence of a stipulation of expected testimony) during trial on the merits. The court will cooperate with witnesses whose absence from duty or job is especially disruptive to mission accomplishment or essential services, so long as a fair, expeditious trial is not sacrificed. Absent objection, telephonic testimony may be allowed in the discretion of the military judge upon a showing of necessity. Failure to timely litigate denials of witness requests are not considered proper cause

for requesting telephonic testimony. Nothing in this rule shall be construed to limit or alter the military judge's discretion or responsibilities under M.R.E. 611. Counsel shall notify the military judge when such witnesses are expected to be telephonically presented by the motions filing deadline so that appropriate rulings and coordination may be accomplished.

**Rule 28.3:** Witnesses shall be instructed by counsel that, when testifying, they must not chew gum or tobacco, wear dark glasses, or use slang expressions or profanity, except as may be required in the presentation of the case. Witnesses shall be told not to engage court members or the military judge in casual conversation.

**Rule 28.4:** Counsel shall ensure that their witnesses understand the physical arrangements of the courtroom, where they should go, and how they should conduct themselves.

**Rule 28.5:** Witnesses shall be treated with respect by counsel. They must not be crowded, shouted at, ridiculed, humiliated, or otherwise abused.

**Rule 28.6:** Counsel shall 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 shall 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.

**Rule 28.7:** Military witnesses do not salute the military judge, president of the court, or the members.

**Rule 28.8:** Counsel shall question witnesses from a reasonable distance. Before approaching the witness, counsel shall obtain the permission of the military judge. Counsel should not position themselves so as to block the view of the military judge, members, or the accused. Counsel, upon completing examination of the witness, whether on direct or cross, should so state to the military judge, and the military judge will then direct such further examination of the witness as may be appropriate.

**Rule 28.9:** Requests for rereading of questions or answers shall be addressed to the military judge.

**Rule 28.10:** Separate waiting areas for government and defense witnesses are required. To the greatest extent possible, a waiting area that is removed from and out of the sight and hearing for the accused and defense witnesses will be made available to government witnesses.

**Rule 28.11:** Counsel shall provide witnesses with information and, to the extent practicable, assistance concerning the availability of services such as transportation, parking, childcare, lodging, and courtroom translators or interpreters.

**Rule 28.12:** When necessary or requested, counsel shall take reasonable steps to inform the employer of a witness of the reasons for his or her absence from work due to the court-martial proceedings.

### **Rule 29: Objections**

**Rule 29.1:** Counsel initially shall state only the nature and basis of an objection, without further elaboration.

**Rule 29.2:** Counsel shall not present argument on an objection without the permission of the military judge.

**Rule 29.3:** Argument on objections shall be direct and succinct. Citation of specific authority is desired.

**Rule 29.4:** An objection or argument for the purpose of making a speech, recapitulating testimony, or attempting to guide a witness, is prohibited.

**Rule 29.5:** After the military judge rules on an objection, counsel may only make comment or further argument with the express permission of the military judge.

### **Rule 30: Stipulations**

**Rule 30.1:** If a motion, or any other issue, involves only a dispute between the parties as to the law or any ultimate question of fact, and does not involve the underlying facts, counsel should endeavor to enter into, and prepare, prior to trial, stipulations of fact or of testimony covering those matters.

**Rule 30.2:** Stipulations should be in writing.

**Rule 30.3:** Stipulations may be made for the limited purpose of obtaining a ruling on a motion or other pleading.

**Rule 30.4:** Written stipulations of fact shall be marked as a trial exhibit and, in a members trial, read to the members, and taken into the deliberation room by the members. Written stipulations of expected testimony shall be marked as an appellate exhibit and, in a members trial, read to the members; they may not be taken into the deliberation room.

### **Rule 31: Offers of Proof**

**Rule 31:** When offers of proof are expected to be presented on motions or objections, counsel shall inform opposing counsel and endeavor to reach agreement on the content of the offer of proof before presentation.

### **Rule 32: Judicial Notice**

**Rule 32.1:** Counsel will advise the military judge and opposing counsel as soon as possible, preferably before trial, of any intended requests for judicial notice.

**Rule 32.2:** Prior to trial, the trial counsel shall have marked as appellate exhibits readable copies of all state or federal statutes alleged to have been violated. Trial counsel will also provide advance copies to the defense counsel and to the military judge. *See* Rule 7.1.

### **Rule 33: Trial Exhibits**

**Rule 33.1:** Prosecution exhibits will be numbered consecutively with Arabic numerals, and defense exhibits will be identified by capital letters.

**Rule 33.2:** Prosecution exhibits intended to be introduced at trial should be marked consecutively: "Prosecution Exhibit 1 for identification," etc., or with a suitable abbreviation.

**Rule 33.3:** Defense exhibits intended to be introduced at trial should be marked consecutively: "Defense Exhibit A for identification," etc., or with a suitable abbreviation.

**Rule 33.4:** In formulating questions to witnesses concerning an exhibit, counsel will refer to the exhibit by its exhibit number or letter.

**Rule 33.5:** If an exhibit is not compatible for inclusion in the record of trial, proffering counsel should prepare a substitution before trial and shall ask the court's permission to make the substitution at the first point the exhibit for identification is brought to the court's attention. Such substitution for an item of real evidence shall include an accurate and detailed description, either pictorially or in writing, stating the exhibit's size, shape, weight, substance, color, serial number, model, brand name, and any other physical or identifying characteristic.

**Rule 33.6:** All audio recordings and those video recordings that contain audio portions shall be transcribed by the party offering such a recording prior to trial, unless otherwise permitted by the military judge. If a portion is inaudible, the transcript shall so state. A copy of the transcript shall be served on opposing counsel prior to trial in sufficient time to allow for ascertaining the accuracy of the transcript. The recording or a copy thereof shall be made available to opposing counsel upon request. The transcript and recording shall be marked as exhibits and offered to the court at the same time. However, depositions conducted in accordance with R.C.M. 702, and which are easily transcribable, may be transcribed contemporaneously while played in court.

**Rule 33.7:** Exhibits shall be marked by the court reporter, not the counsel, in the anticipated order of presentation before the time trial is scheduled to commence or during recesses.

**Rule 33.8:** The proponent of documentary or photographic evidence shall arrange to have a copy of the original exhibit on the date of trial for each member of the court as well as a copy for the military judge.

**Rule 33.9:** Any exhibits (including computer generated exhibits or any other exhibits or demonstrative aids prepared prior to trial) or evidence intended for use during argument or opening statement, must first be shown to opposing counsel and then be approved for use by the military judge. Counsel are strongly advised to diligently practice the use of such exhibits, particularly computer generated exhibits, prior to any session of court, as they are frequently rife with problems at trial. Further, counsel must ensure the exhibits are properly represented by hard-copy print-outs where appropriate in the record of trial.

### **Rule 34: Appellate Exhibits**

**Rule 34:** Appellate exhibits will be numbered consecutively with Roman numerals at the direction of the military judge.

### **Rule 35: Instructions**

**Rule 35.1:** Trial counsel shall make appropriate recommendations as to specific routine instructions that the military judge will provide to the members in order to ensure that no required instructions are inadvertently omitted.

**Rule 35.2:** If counsel desire that the members be given special instructions, modifications of standard instructions, or a summarization of the evidence, such proposals shall be submitted in writing to the military judge and opposing counsel in a timely manner. *See* Rule 7.15.

### **Rule 36: Closing Arguments**

**Rule 36.1:** Arguments shall be limited to matters in evidence and all inferences fairly and reasonably to be drawn from the evidence, together with reference to matters of common and everyday knowledge. Counsel shall not assert a personal belief in the justice of his or her cause or in the guilt or innocence of the accused, nor may counsel personally vouch for the credibility or lack of credibility of witnesses.

**Rule 36.2:** Unless specifically authorized in advance by the military judge, each counsel is limited to one hour of closing argument and one hour on sentencing. If the trial counsel chooses to make both an opening and a rebuttal argument on the merits, the counsel is limited to one hour total for both arguments. Only one counsel may argue for each side. The military judge may limit the trial counsel to one argument on the merits in judge alone cases. If so, the trial counsel may elect whether to argue first or last.

### **Rule 37: Accused's Unsworn Statement**

**Rule 37:** Unsworn statements will not be made from the witness stand. They will be made from the counsel table.

### **Rule 38: Record of Trial**

**Rule 38.1:** A complete and accurate record of the proceedings is needed to protect the rights of all parties. During the course of the trial, counsel shall ensure that uncommon names, places, and things are spelled out on the record, that witnesses respond verbally and not nod or shake their heads, and that descriptions of size, distance, and location are clear and unambiguous.

**Rule 38.2:** At the conclusion of the trial, defense counsel will indicate whether civilian counsel or military counsel will examine the record, who will respond to the staff judge advocate's recommendations, and who will represent the accused in post-trial matters. The accused may include such decisions in the written acknowledgement of appellate rights.

**Rule 38.3:** Trial counsel shall read the record of trial before it is submitted to the military judge for authentication and ensure that the court reporter makes any necessary corrections.

**Rule 38.4:** The defense counsel shall be permitted to review the record of trial prior to it being submitted to the military judge for authentication. The review by defense counsel, or lack thereof, must be documented in the record before the military judge will authenticate the record. Attachment (11) shall be used to document this pre-authentication review, and be included in the record of trial.

**Rule 38.5:** All corrections to the record will be neatly made in black ink and initialed by the trial counsel or military judge. Defense counsel shall not mark the record of trial, but suggest to the trial counsel appropriate changes. *See* R.C.M. 1103 (i)(1)(b).

**Rule 38.6:** In the non-temporary absence of the military judge, the trial counsel, if present throughout trial, may authenticate the record. In such cases, the Circuit Judge will, upon request, prepare and sign a statement regarding the absence of the military judge. Temporary absences which do not justify authentication by the trial counsel include expected absences of 30 days or less.

### **Rule 39: Court Filings / Document Size / Type Font**

**Rule 39.1:** All filings with the court, not specifically provided for in these rules, shall be in conformance with Attachment (12).

**Rule 39.2:** All documents filed with the court shall be on 8.5 inch by 11 inch paper, double spaced, and shall be in a 12-point Times New Roman font.

### **Rule 40: Pretrial Agreements**

**Rule 40:** Pretrial agreements may be used in myriad ways to accomplish a variety of ends, and are encouraged by the court. *See* R.C.M. 705. However, as problems may arise with many of the issues potentially negotiated, the use of a standardized pretrial agreement format whenever possible assists the court in assuring all required issues are fully covered and explained in an efficient manner. Counsel are reminded that it is incumbent on them to ensure the provisions of any pretrial agreement meet the requirements of the law and the needs of those involved.

**Attachments:**

- (1) Civilian Counsel Notice of Appearance [open attachment](#)
- (2) PTIR [open attachment](#)
- (3) Motion for Docketing [open attachment](#)
- (4) Docketing Request [open attachment](#)
- (5) Notice of Pleas and Forum [open attachment](#)
- (6) Motion Format [open attachment](#)
- (7) Certification of Withdrawal Filing [open attachment](#)
- (8) Motion for Continuance [open attachment](#)
- (9) Bailiff's Handbook [open attachment](#)
- (10) Member's Questionnaire [open attachment](#)
- (11) Authentication of Record of Trial [open attachment](#)
- (12) Sample filing format [open attachment](#)
- (13) Discovery Certification [open attachment](#)



**GENERAL/SPECIAL COURT-MARTIAL  
 UNITED STATES MARINE CORPS  
 EASTERN JUDICIAL CIRCUIT**

UNITED STATES  v.  NAME SSN RANK U.S. Marine Corps/Navy	GENERAL/SPECIAL COURT- MARTIAL  CIVILIAN DEFENSE COUNSEL NOTICE OF APPEARANCE   Date:
--	--

1. Pursuant to Rule 6.1 of the Uniform Rules of Practice Before Navy-Marine Corps Courts-Martial (Uniform Rules) and the Eastern Judicial Circuit Rules of Practice (Circuit Rules), I, ATTORNEY’S FULL NAME, hereby provide notice to the Circuit Military Judge of my appearance on behalf of CLIENT’S RANK, FULL NAME. My office address, phone numbers, and e-mail address are: ADDRESS, PHONE NUMBER (office and fax) & E-MAIL ADDRESS. I am an active member in good standing licensed to practice in the following jurisdictions: LIST BAR ADMISSIONS.

2. I understand that practice in the Eastern Judicial Circuit requires me to be familiar with the Uniform and Circuit rules. Additionally, I am aware of the standards of professional conduct required of counsel practicing in Navy-Marine Corps courts-martial as contained in JAG Instruction 5803.1B with Change 1. I certify that I am not now, nor have I ever been, de-certified or suspended from practice in Navy-Marine Corps courts-martial by the Judge Advocate General of the Navy.

\_\_\_\_\_  
 COUNSEL NAME  
 Attorney At Law

\*\*\*\*\*

**Certificate of Service**

I hereby attest that a copy of the foregoing notice of appearance was served on the court and opposing counsel personally and/or by facsimile on \_\_\_\_\_, 20xx.

\_\_\_\_\_  
Counsel Name

EASTERN JUDICIAL CIRCUIT

PRETRIAL INFORMATION REPORT (PTIR)

Date Submitted: \_\_\_\_\_

Subj: U.S. v. \_\_\_\_\_ GCM\_\_\_\_ SPCM\_\_\_\_ ART 32 \_\_\_\_

Ref: (a) Uniform Rules of Practice Before Navy-Marine Corps Courts-Martial

- Encl: (1) Copy of Referred Charge Sheet ... (4) Proposed Elements for State/Fed Offenses

1. Pursuant to Rule 7.1 of reference (a), the marked enclosures and the following information are provided:

- a. Requested Court Date: ... Type of Session: (circle one) TRIAL / ARTICLE 39(a).
b. Previous court session? (circle one) YES / NO.
c. Proposed court site: ... Expected duration: ...
d. Related case(s): ...
e. Civilian counsel: ...
f. Anticipated forum: ...
g. Anticipated pleas: ...
h. Pretrial agreement? (circle one) ATTACHED / NO / ANTICIPATED BY ...
i. Article 39(a) session requested by ...

2. Trial Schedule (circle one) Proposed / Previously Established:

- a. Government discovery due & certification filed: ...
b. Defense witness requests / Reciprocal discovery due & certification filed: ...
c. Government response to witness requests due: ...
d. Motions by either side due: (NLT 10 days prior to 39a motion date) ...
e. Responses to motions due: (NLT 5 days prior to 39a motion date) ...
f. ARTICLE 39(a) MOTIONS DATE: ...
g. Written notice of pleas and forum due: ...
h. Required notice of certain defenses (alibi, etc...) due: ...
i. Page 43 matters (voir dire, witness lists, instructions, etc... ) due: ...
j. TRIAL DATES: ...

3. Additional comments / Explanation for missing counsel signature: \_\_\_\_\_

Trial Counsel or Senior TC Signature

Defense Counsel Signature

Printed Name of TC & Phone Number

Printed Name of DC & Phone Number

**GENERAL/SPECIAL COURT-MARTIAL  
UNITED STATES MARINE CORPS  
EASTERN JUDICIAL CIRCUIT**

UNITED STATES  v.  NAME SSN RANK U.S. Marine Corps/Navy	GENERAL/SPECIAL COURT- MARTIAL  DEFENSE/GOVERNMENT MOTION FOR APPROPRIATE RELIEF (Docketing Request)  Date:
--	---

1. **Nature of Motion.** The defense / government moves the court to docket trial dates and set judicial deadlines in the above-captioned case.

2. **Trial Dates and Deadlines.** The defense / government respectfully requests that the Court order the following dates and deadlines in this case:

<b>Event</b>	<b>Date</b>
a. Government discovery due & certification to defense:	, 20xx
b. Defense witness requests / Reciprocal discovery due and certification filed with court:	, 20xx
c. Government response to witness requests due:	, 20xx
d. Motions by either side due:	, 20xx
e. Responses to motions due:	, 20xx
f. <b>Article 39(a) motions date</b>	, 20xx
g. Written notice of pleas and forum due:	, 20xx
h. Required notice of certain defenses due:	, 20xx
i. Page 43 matters due:	, 20xx
j. <b>TRIAL DATES:</b>	, 20xx

[If applicable:] 3. **Excludable Delay.** The defense specifically agrees that all delay from the date of this request until the date of trial is attributable to the Defense and excludable under Rule For Courts-Martial 707, Article 10, UCMJ and any other applicable speedy trial authorities.]

\_\_\_\_\_  
 COUNSEL NAME  
 RANK, U. S. Marine Corps  
 Defense / Trial Counsel

\*\*\*\*\*

**Motion Response**

1. Trial / Defense Counsel, in response to the above motion:

\_\_\_\_\_ Does not oppose it and agrees to the trial and pretrial dates proposed.

\_\_\_\_\_ Opposes the dates proposed and requests a 39(a) session on \_\_\_\_\_.

\_\_\_\_\_, 20xx

Date

\_\_\_\_\_  
NAME

RANK, U. S. Marine Corps

Defense / Trial Counsel

\*\*\*\*\*

**Court Ruling**

It is hereby ordered, all parties shall comply with the trial deadlines set forth above and shall appear before the Court at on:

\_\_\_\_\_, 20xx for an Article 39(a) session; and

\_\_\_\_\_, 20xx for commencement of trial.

\_\_\_\_\_, 20xx

Date

\_\_\_\_\_  
Military Judge

UNIT LETTERHEAD

5800  
[Office Code]  
[DATE]

From: Military Justice Officer / Senior Trial Counsel, [UNIT & BASE]  
To: Docketing Judge, Eastern Judicial Circuit, MCB, Camp Lejeune, NC

Subj: PROPOSED DOCKET / DOCKETING REQUESTS FOR WEEK OF [DATES]

Encl: (1) [List the number of ] PTIRS dated [list dates signed]

1. [This office has no requests for military judges to preside over courts-martial for the subject week.] or [This office respectfully requests a military judge be assigned to preside over courts-martial or Article 39(a) sessions on the following dates and times:

NAME                      TIME                      TC / DC                      UNIT                      SESSION      CTRM      DUR

**MONDAY, (DAY, MONTH) 2001**

**LAST, INITIALS	XX	First 3 of last name	ABBREVIATION	NG/EM	Site	Length
------------------	----	----------------------	--------------	-------	------	--------

**TUESDAY, (DAY, MONTH) 2001**

LAST, INITIALS	XX	First 3 of last name	ABBREVIATION	NG/OM	Site	Length
----------------	----	----------------------	--------------	-------	------	--------

**WEDNESDAY, (DAY, MONTH) 2001**

LAST, INITIALS	XX	First 3 of last name	ABBREVIATION	MX/JA	Site	Length
----------------	----	----------------------	--------------	-------	------	--------

**THURSDAY, (DAY, MONTH) 2001**

LAST, INITIALS	XX	First 3 of last name	ABBREVIATION	G/JA	Site	Length
LAST, INITIALS	XX	First 3 of last name	ABBREVIATION	39a (Arg)*	Site	Length

**FRIDAY, (DAY, MONTH) 2001**

LAST, INITIALS	XX	First 3 of last name	ABBREVIATION	39a (Mot)*	Site	Length
LAST, INITIALS	XX	First 3 of last name	ABBREVIATION	39a*	Site	Length

\*\*Indicates a GCM]

[\* 39a (Arg) indicates an arraignment; 39a (Mot) indicates a session to address motions; 39a indicates a session previously set by the court as a trial schedule deadline.]

2. Questions about this request can be directed to me at [PHONE NUMBER] or the military justice chief / clerk at [PHONE NUMBER].

Signature Block

Attachment (4)

**GENERAL/SPECIAL COURT-MARTIAL  
UNITED STATES MARINE CORPS  
EASTERN JUDICIAL CIRCUIT**

UNITED STATES  v.  NAME SSN RANK U.S. Marine Corps/Navy	GENERAL/SPECIAL COURT-MARTIAL  ACCUSED'S NOTICE OF PLEAS AND FORUM ELECTION   Date:
--	---

1. **Forum Election.** Pursuant to Rule for Courts-Martial 903(b), I, ACCUSED NAME, elect to be tried by a court-martial composed of members / members with enlisted representation / military judge alone.

2. **Entry of Pleas.** Pursuant to Rule for Courts-Martial 910, I, ACCUSED NAME, enter the following pleas:

<b>Charge</b>	<b>Plea</b>
Charge (I) Specification:	

\_\_\_\_\_  
 ACCUSED NAME  
 RANK, U.S. Marine Corps / Navy

\_\_\_\_\_  
 COUNSEL NAME  
 RANK, U.S. Marine Corps  
 Defense Counsel

\*\*\*\*\*

**Certificate of Service**

I hereby attest that a copy of the foregoing was served on the court and opposing counsel personally / by facsimile on (DATE).

\_\_\_\_\_  
 COUNSEL NAME

**GENERAL COURT-MARTIAL  
UNITED STATES MARINE CORPS  
EASTERN JUDICIAL CIRCUIT**

<p style="text-align:center">UNITED STATES</p> <p style="text-align:center">v.</p> <p>NAME SSN RANK U. S. Marine Corps / Navy</p>	<p style="text-align:center">DEFENSE MOTION TO [FILL IN BASIS OF MOTION]</p> <p style="text-align:center">(Specify Nature of Motion)</p> <p style="text-align:right">Date:</p>
---	--

1. **Nature of Motion.** Pursuant to (cite applicable RCM and/or MRE), the defense / government moves the court to (describe nature of motion) based upon (cite primary legal basis for motion).

2. **Summary of Facts.**

a. Set forth the pertinent facts for the motion. If you attach documents to the motion, label them as “Attachment” with a number and specifically reference them at the appropriate spot in your factual summary.

b. The required Eastern Judicial Circuit format for all motions is double spaced lines and 12 point font. There is no required font style – although Times Roman is most common.

3. **Discussion.**

a. Number or letter all subparagraphs in a particular section.

b. Identify the applicable law; then apply the facts to the law in support of the motion.

4. **Evidence and Burden of Proof.** List or describe the testimony and evidence that will be presented in support of the facts alleged in the motion. Also indicate the standard for the burden of proof and assignment of the burden of persuasion applicable to the motion. For motions with dual or shifting burdens, set out what they are and how they should apply. Additionally, if you are requesting production of a witness for an Article 39(a) motion session, include that here along with the supporting authority.



- 5. **Relief Requested.** List the specific relief sought.
- 6. **Argument.** Indicate whether or not you desire oral argument.

\_\_\_\_\_  
Counsel Name  
Rank, U.S. Marine Corps  
Trial / Defense Counsel

\*\*\*\*\*

**Certificate of Service**

I hereby attest that a copy of the foregoing motion was served on the court and opposing counsel personally / by facsimile on (DATE).

\_\_\_\_\_  
COUNSEL NAME  
Counsel Rank, U.S. Marine Corps  
Detailed Defense Counsel  
[Individual Military Counsel]  
[Civilian Defense Counsel]

**GENERAL/SPECIAL COURT-MARTIAL  
 UNITED STATES MARINE CORPS  
 EASTERN JUDICIAL CIRCUIT**

UNITED STATES  v.  NAME SSN RANK U.S. Marine Corps/Navy	GENERAL/SPECIAL COURT- MARTIAL  CERTIFICATE OF WITHDRAWAL FILING  Date:
--	---

Notice of withdrawal of the above-captioned court-martial is hereby filed with the court pursuant Eastern Judicial Circuit Rule 11.6. The case was withdrawn/dismissed for disposition by (summary court-martial) (non-judicial punishment) (other).

\_\_\_\_\_  
 Signature of Trial Counsel

\*\*\*\*\*

Filed with the court this \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_.

\_\_\_\_\_  
 Signature of Clerk of Court

**GENERAL/SPECIAL COURT-MARTIAL  
UNITED STATES MARINE CORPS  
EASTERN JUDICIAL CIRCUIT**

<p>UNITED STATES</p> <p>v.</p> <p>NAME SSN RANK U.S. Marine Corps/Navy</p>	<p>GENERAL/SPECIAL COURT- MARTIAL</p> <p>DEFENSE/GOVERNMENT MOTION FOR APPROPRIATE RELIEF (Continuance Request)</p> <p>Date:</p>
--	--

1. **Nature of Motion.** Pursuant to Rule For Courts-Martial 906(b)(1), the defense / government moves the court for a continuance of the subject case.

2. **Summary of Facts and Discussion.**

a. The case is scheduled for an Article 39(a), UCMJ, session on MOTION DAY, 2002 (if applicable) and trial to commence on TRIAL DATE. The defense / government respectfully requests that the case be continued until NEW MOTION DAY for an Article 39(a) session and NEW TRIAL DATE for trial. [ If applicable include:] Additionally, the following modifications to the trial deadlines in this case are requested: (set out new dates for discovery, motion deadlines pleas and forum notice that are desired).

b. The requested continuance is necessary because [set forth reasons]. [If applicable include:] The defense also agrees the period of the requested continuance is excludable under R.C.M. 707, Article 10, UCMJ and any other applicable speedy trial authorities.

---

COUNSEL NAME  
RANK, U.S. Marine Corps  
Trial / Defense Counsel

\*\*\*\*\*

**Motion Response**

1. Trial / Defense Counsel does / does not oppose this continuance request.

\_\_\_\_\_, 20\_\_  
Date

\_\_\_\_\_  
COUNSEL NAME  
RANK, U.S. Marine Corps  
Trial / Defense Counsel

\*\*\*\*\*

**Court Ruling**

1. The above request is approved / disapproved. The court-martial shall convene for an Article 39(a) session on \_\_\_\_\_, 20\_\_; Trial will commence on \_\_\_\_\_, 20\_\_. The requested modifications to the pretrial dates are also ordered.

\_\_\_\_\_, 20\_\_  
Date

\_\_\_\_\_  
Military Judge

## **THE BAILIFF'S HANDBOOK**

This trial is a visible procedure dedicated to the propositions of equal justice under law and protection of the community. A trial should be conducted so as to command the respect of the community it serves and to assure all that the law is functioning and will preserve order. Anything that detracts from respect for the law and the authority of the court is to be avoided.

The trial of a case should not be disturbed by small administrative matters. Every party to the trial should know what is expected of them. The military judge and trial counsel receive the assistance of a bailiff who has been instructed as to his or her responsibilities. The bailiff should be senior to the accused. A bailiff is disqualified if he or she is, or has been, in the same case, the accuser, a witness, an investigating officer, counsel, or has previously served as a member of the accused's court-martial. Trial counsel normally provides a briefing as to the bailiff's responsibilities.

The bailiff should receive specific instructions as to duties from trial counsel before and after each session of court. While the court is in session, the bailiff is under the supervision of the military judge and will assist the military judge and counsel in the conduct of an orderly trial. The bailiff should be familiar with the location of the principal offices and facilities, such as the library, within the law complex.

### **DUTIES OF THE BAILIFF PRIOR TO TRIAL**

1. The bailiff will report in the uniform designated by the military judge to trial counsel at least 30 minutes before the beginning of each day's proceedings. Thereafter, the bailiff will report to the military judge 15 minutes before the reconvening of each of the day's proceedings.
2. The bailiff ensures that the courtroom, spectator area and deliberation room for court members are neat and orderly. He or she will place the furniture in the proper arrangement as directed by trial counsel or the court reporter.
3. The bailiff, with assistance of trial counsel/court reporter, will ensure that the military judge has the desired desk supplies and that the court members have pencils and pads of paper in their deliberation room.

### **ENTRY AND DEPARTURE OF MILITARY JUDGE**

4. When counsel for both sides, the accused, the reporter, and, if applicable, court members, are present in the courtroom, the bailiff will notify the military judge and escort the judge to the courtroom. When the bailiff enters the courtroom with the military judge, he or she will announce: "All rise." When the military judge announces a recess or adjournment, the bailiff will announce: "All rise." If need be, the bailiff will instruct the spectators to stand fast until the military judge has departed the courtroom. The military judge will advise the bailiff of any departure from this procedure.

## **ENTRY OF COURT MEMBERS**

5. When the court members enter the courtroom, and when the court members stand to be sworn, the bailiff will announce: "All rise," in a voice that can be heard by all, unless advised of a different procedure by the military judge.

## **SPECTATORS AND MEMBERS OF THE NEWS MEDIA**

6. Military trials are usually open to the public. Spectators and members of the news media are welcome in the courtroom to observe the trial proceedings, unless otherwise instructed by the military judge. The bailiff should see that they enter the courtroom, be seated, and leave quietly while the court is in session.

7. As the law does not permit picture taking or any type of broadcasting in or from the courtroom, the bailiff will not permit broadcasting-capable equipment to be taken into the courtroom. Any problems concerning this matter should be brought to the attention of trial counsel without delay.

8. Courtroom rules do not permit spectators to eat, sleep, smoke, or engage in conversation while the court is in session. The bailiff should quietly and diplomatically inform offenders of these rules.

9. Anyone talking or making distracting noises in the areas outside of or adjacent to the courtroom while court is in session will be informed by the bailiff that a court is in session and they can be heard in the courtroom.

10. Rowdiness and violence are not unknown in the courtroom. The bailiff must be alert and prepared to take immediate steps to suppress unruly behavior.

## **COURT MEMBERS - IN CLOSED SESSION**

11. When the court members are in closed session, they are the only ones permitted in the deliberation room. Therefore, the bailiff will not enter that room or permit anyone else to enter during the closed session.

12. The bailiff is the only contact between the court members and the parties to the trial during the periods the court members are deliberating. The bailiff will be available to the court members outside their deliberation room and immediately notify counsel and the military judge when the court members are ready for the court to be reopened.

13. If the bailiff is instructed to deliver any item or message to the court members in closed session, he must first inform the military judge and obtain his or her approval.

## **MISCELLANEOUS DUTIES DURING THE TRIAL**

14. The bailiff will be prepared to furnish the following services:

a. Summon the court members to the courtroom at the beginning of each session of court when directed to do so by the military judge or trial counsel.

b. While the court is in session, collect written questions from the court members upon the military judge's request and hand them to the court reporter, the military judge, and counsel as instructed.

c. Summon witnesses to the courtroom when requested by counsel.

d. While the court is in session, deliver findings and sentence worksheets to the president of the court when instructed to do so.

e. Deliver items of evidence to the deliberation room, if instructed to do so by the military judge, when the court members retire to the deliberation room.

f. Perform administrative errands during the trial as requested by the military judge or counsel.

#### **THE BAILIFF'S RELATION TO THE ISSUES AND PARTIES OF THE TRIAL**

15. The bailiff must remain neutral during the trial of a case. In other words, the bailiff should not take the side of prosecution or the defense. The bailiff must never participate in any discussion of the merits of the case and should never attempt to predict the outcome of the trial. The bailiff must not make any comments on the performance of counsel or on the testimony of a witness until after the trial. The bailiff shall not reveal to members the matters discussed during sessions of the trial held outside the presence of the members.

**EASTERN JUDICIAL CIRCUIT  
COURT-MARTIAL MEMBER QUESTIONNAIRE**

Please complete the following questionnaire and provide to the appropriate authority. Because of the sensitive personal information requested, no copy will be retained on file outside of the Battalion Legal Office. However, counsel and the military judge will use the questionnaire to prepare for trial and a copy will be attached to the record of trial.

1. Name \_\_\_\_\_ Grade \_\_\_\_\_ Date of Rank \_\_\_\_\_ Service \_\_\_\_\_

2. Active Duty Base Date \_\_\_\_\_ Date Current Tour Began \_\_\_\_\_ Years of Service \_\_\_\_\_

3. Military Awards / Decorations: \_\_\_\_\_  
\_\_\_\_\_

4. Current Duty Position: \_\_\_\_\_ Work Phone: \_\_\_\_\_

5. Unit (down to Company Level): \_\_\_\_\_

6. Date of Birth \_\_\_\_\_ Gender \_\_\_\_\_ Race or Ethnic Origin \_\_\_\_\_ Marital Status \_\_\_\_\_

7. Age and gender of any children \_\_\_\_\_

8. Age, race, and occupation of spouse if married \_\_\_\_\_

9. Civilian Education: College / Vocational / Civilian Professional School / Civilian Post-Graduate:  
Date graduated or dates attended (and number of years), school, location, degree/major: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

10. Military Education. Dates attended, school/course title. \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

11. Duty Assignments. Last four assignments, units, and dates of assignments. \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

12. Have you ever sat as a court-martial member or juror in any other case? \_\_\_\_\_ If so, how many special courts-martial \_\_\_\_\_; general courts-martial \_\_\_\_\_. How many of these cases resulted in an acquittal? \_\_\_\_\_ What were the general nature of the charges for these cases (rape, murder, theft . . . )  
\_\_\_\_\_  
\_\_\_\_\_

13. Have you ever conducted an Article 15 or Summary Court-Martial? \_\_\_\_\_ If so, how many times? \_\_\_\_\_ For what type of offenses? \_\_\_\_\_ How many of these cases resulted in a finding of Not Guilty? \_\_\_\_\_



**EASTERN JUDICIAL CIRCUIT  
COURT-MARTIAL MEMBER QUESTIONNAIRE**

14. Have you or any close relative or friend ever had any legal or law enforcement training or experience (including Legal Officer School)? Explain. \_\_\_\_\_

15. Have you or a close relative or friend ever been the victim of any crime? Explain. \_\_\_\_\_

16. Have you or a close relative or friend ever been the witness to any crime? Explain \_\_\_\_\_

17. Have you or a close relative or friend ever testified in any legal proceeding? Explain \_\_\_\_\_

18. Have you or a close relative or friend ever been arrested for, accused of, or investigated for committing any crime? Explain \_\_\_\_\_

19. Have you ever dealt with any military or civilian law enforcement agency (CID, NCIS, local police, etc...)? \_\_\_\_\_ If so, was/were your experience(s) positive or negative? Explain \_\_\_\_\_

20. What is your opinion of the military's criminal justice system? \_\_\_\_\_

21. Do you believe that anything about your religious beliefs would make it difficult for you to sit in judgment of another person? Explain. \_\_\_\_\_

22. After you leave the Service, what profession or job do you plan to pursue and why? \_\_\_\_\_

23. Have you ever visited a military brig? \_\_\_\_\_ For what reason? \_\_\_\_\_

24. Do you have any specialized training in medicine, science, psychology, or biology? If yes, explain. \_\_\_\_\_

25. Do you believe you may be disqualified to sit as a court member for any reason? Explain. \_\_\_\_\_

26. If you were the accused at a court-martial, would you be willing to be judged, and if found guilty, sentenced by a person who has provided information similar to your responses and who has your personal temperament, views and morals? \_\_\_\_\_

Signature of Member: \_\_\_\_\_ Date: \_\_\_\_\_

Reviewed and made any necessary changes: Initials/Date \_\_\_\_\_

**AUTHENTICATION OF RECORD OF TRIAL  
IN THE CASE OF**

Private Joseph A. Sample, U.S. Marine Corps, Headquarters and Service Battalion,  
Marine Corps Recruit Depot, Parris Island South Carolina

**Part 1: Trial Counsel Certification**

- a. In accordance with RCM 1103(i)(1)(A), I have examined the record of trial in these proceedings and caused those changes to be made which are necessary to report the proceedings accurately; and
- b. In accordance with RCM 1103(i)(1)(B), on \_\_\_\_\_, I made the record of trial in these proceedings available to \_\_\_\_\_, defense counsel, for examination.

\_\_\_\_\_  
Name  
Trial Counsel  
Date

**Part 2: Defense Counsel Certification**

In accordance with RCM 1103(i)(1)(B), I have examined the record of trial in these proceedings.

\_\_\_\_\_  
Name  
Detailed/Individual Military/Civilian Defense Counsel  
Date

**OR**

**Part 2: Explanation Concerning Absence of Defense Counsel Review Certification**

Examination of the record of trial by defense counsel prior to authentication would result in unreasonable delay in these proceedings because: *(see RCM 1103(i)(1)(B))*\_\_\_\_\_

---

---

\_\_\_\_\_  
Name  
Trial Counsel  
Date

**Part 3. Military Judge Authentication**

\_\_\_\_\_  
Name  
Military Judge  
Date

**GENERAL/SPECIAL COURT-MARTIAL  
 UNITED STATES MARINE CORPS  
 EASTERN JUDICIAL CIRCUIT**

UNITED STATES  v.  NAME SSN RANK U.S. Marine Corps/Navy	GENERAL/SPECIAL COURT- MARTIAL  DEFENSE/GOVERNMENT   Date:
--	--

\_\_\_\_\_  
 Counsel Name  
 (if applicable) Rank, U.S. Marine Corps  
 Trial / (Civilian) Defense Counsel

\*\*\*\*\*

**Certificate of Service**

I hereby attest that a copy of the foregoing motion / notice/ filing was served on the court and opposing counsel personally / by facsimile on \_\_\_\_\_, 20xx.

\_\_\_\_\_  
 Counsel Name

**GENERAL COURT-MARTIAL  
UNITED STATES MARINE CORPS  
EASTERN JUDICIAL CIRCUIT**

UNITED STATES  v.  NAME SSN RANK U.S. Marine Corps/Navy	CERTIFICATE OF COMPLIANCE WITH DISCOVERY DEADLINES  Date:
--	--

Pursuant to the court-ordered trial milestones in the above-captioned court-martial, notice of completion of all required government discovery is hereby filed with the court pursuant to Eastern Judicial Circuit Rules 10.3 and 10.4.

*(if applicable – where Motion for Docketing was done instead of arraignment)* The government also certifies that it has complied with the disclosure requirements of M.R.E. 304(d)(1) and Eastern Judicial Circuit Rule 10.3.

*(if applicable)* The following discovery issues remain, with accompanying explanations on actions being taken to complete said discovery:

- a. (BRIEF description of outstanding items and cause for the delay)

\_\_\_\_\_  
Signature of Trial Counsel  
*(to be delivered to Defense Counsel on or before  
milestone ordered by court)*

\*\*\*\*\*

Pursuant to the court-ordered trial milestones in the above-captioned court-martial, notice of completion of all required defense reciprocal discovery is hereby filed with the court pursuant to Eastern Judicial Circuit Rule 10.4.

*(if applicable)* The following discovery issues remain, with accompanying explanations on actions being taken to complete said discovery:

- a. (BRIEF description of outstanding items and cause for the delay)

\_\_\_\_\_  
 Signature of Defense Counsel  
*(to be filed with Clerk of Court on or before  
 milestone ordered by court)*

Filed with the court this \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_.

\_\_\_\_\_  
 Signature of Clerk of Court