



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
18 July 11

EASTERN RULES OF PRACTICE

From: Circuit Military Judge

Subj: EASTERN RULES OF PRACTICE

Ref: (a) R.C.M. 108, Manual for Courts-Martial, (2008 Edition)
(b) R.C.M. 801(b), Manual for Courts-Martial, (2008 Edition)
(c) NMCTJINST 5813.4A, dtd 26 Jan 09 (Navy-Marine Corps Trial Judiciary Standard Operating Procedures Manual)
(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 15 July 11

1. **Purpose:** To prescribe Circuit rules of practice consistent with the references.
2. **Cancellation:** Eastern Rules of Practice 5810 JUDACT dtd 1 May 10.
3. **Background:** The references authorize, and the sound administration of justice requires, circuit rules of practice to further implement the Navy-Marine Corps Trial Judiciary (NMCTJ) Uniform Rules of Practice, Appendix B to reference (c). The enclosed rules are intended to amplify the NMCTJ Uniform Rules of Practice and to facilitate the smooth and orderly trial of courts-martial 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 this Circuit shall ensure enforcement of the rules contained in the enclosure.
 - b. Counsel practicing before this Circuit shall become familiar with and comply with the references and these rules.
 - (1) Staff Judge Advocates, Officers in Charge, and Military Justice Officers shall ensure compliance by trial counsel and bailiffs.

Subj: EASTERN RULES OF PRACTICE

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

c. Trial practitioners 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 Court at the Eastern Judicial Circuit, 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 'G. W. Riggs', with a stylized flourish extending to the right.

G. W. RIGGS
Lieutenant Colonel
U.S. Marine Corps

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

RULES OF PRACTICE

Revised: 15 July 2011

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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 all general and special courts-martial within the Eastern Judicial Circuit (EJC) in which the accused is a member of the Naval service. Per reference (d), the EJC comprises all Navy-Marine Corps installations in North Carolina.

Rule 1.2: Counsel, as officers of the Court, shall follow these rules, unless doing so would deprive their respective client of effective representation or would interfere with the exercise of an accused's right to due process. All trial practitioners and participants will follow these rules as applicable. These rules are subject to waiver by the military judge upon a showing of good cause.

Rule 1.3: Counsel who fail 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. In addition, the military judge may, as appropriate: admonish counsel on the record; issue a court order or grant a 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: Counsel appearing within the EJC shall familiarize themselves with these rules prior to their first appearance in a circuit court. All military counsel newly assigned to commands within the EJC shall report to the Circuit Military Judge or his designee for a briefing on these rules prior to their first appearance in a circuit court. At the Circuit Military Judge's discretion, this requirement may be satisfied by means of a telephonic briefing.

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. A trial should have an efficient presentation of evidence and arguments to the trier of fact in an appropriate setting.

Counsel shall 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 frame their opening statements by properly balancing fact

and emotion. Direct examination educates the members 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. 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, efficiency of operation, and the timely disposition of courts-martial. Noncompliance shall neither create a right in, nor remedy for, either party to a court-martial. Adherence to these rules directly reflects on the professionalism of those individuals involved. The arbiters of these rules will be the military judges of the EJC and where any conflict arises, the Circuit Military Judge.

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 forward to the Clerk of Court a copy of all referred charges and corresponding convening orders as soon after receipt as possible.

Rule 4.2: Trial counsel will examine the personal data on the charge sheet and make 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. Trial counsel shall forward a copy of the modified charge sheet to the Clerk of Court and defense counsel as soon as possible.

Rule 5: Information Regarding Languishing Cases

Rule 5.1: 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 5.2: As appropriate, the Circuit Docketing Judge may direct an Article 39a session for arraignment whenever it appears that a referred court-martial is languishing.

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. Civilian counsel shall submit written notice of representation, using Attachment (1), 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. 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 NMCTJ Uniform Rules, Appendix B to reference (c), and these Rules.

Rule 6.2: Detailed defense counsel shall also inform civilian counsel of reference (e), JAGINST 5803.1C (*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.

Rule 6.4: Once civilian counsel notifies the Court of representation, he or she must be present at all scheduled Article 39(a) sessions. If civilian counsel will be absent from a scheduled Article 39(a) session, civilian counsel shall notify the Court in writing per Rule 26.8.

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

Rule 7.1: Trial counsel or defense counsel may request a court session by submitting 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 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 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 shall be submitted with a PTIR, unless previously submitted to the Clerk of Court. *See* Rule 11.

Rule 7.2: All requested court sessions must be accompanied by a PTIR. This requirement applies equally to arraignments; cases that have been docketed by the military judge at prior court-martial sessions; cases scheduled through a Motion for Docketing; and cases rescheduled through approved continuance requests. Both counsel shall sign the PTIR. 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 PTIR. Trial counsel should ordinarily prepare and submit the PTIR to the defense counsel prior to any expected absence, even if the case is not to be docketed the following week. All anticipated motions 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 intends to plead not guilty. Counsel (or SDC/CTC) signatures certify the accuracy of the information contained in the PTIR.

Rule 7.3: In lieu of arraignment, counsel may use a Motion for Docketing (MFD), Attachment (3) to schedule trial dates and filing deadlines. 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 session following referral of charges 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 7.5: 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 7.6: Every week, all Military Justice Officers (or other designated persons) practicing in the Eastern Judicial Circuit shall submit a proposed docket to the Clerk of Court in writing not later than **1000** on Wednesday. In the event of a holiday routine, the docketing judge may designate an alternate time and date for submission of proposed dockets. Proposed dockets shall be submitted in the format contained in Attachment (4) and shall list all cases to be scheduled for the following week.

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

7.6(b): Proposed dockets may be submitted to the Clerk of Court electronically by either facsimile or electronic mail attachment. Each PTIR will be accompanied by all appropriate enclosures. Proposed dockets with missing PTIRs and/or enclosures may be returned to the responsible Military Justice Office. *See* Rules 7.1 and 7.2.

7.6(c): PTIRs for each case shall note the date of any previous trial session(s) conducted and indicate the presiding military judge(s).

7.6(d): A PTIR must be submitted for each case whether for arraignment or for a case previously scheduled and listed on the Long Range Calendar. The Long Range Calendar is a shared Outlook calendar maintained by the EJC Clerk of Court and accessible, upon request, by trial practitioners in the circuit. Request for access to the Long Range Calendar should be forwarded to the Clerk of Court.

7.6(e): If counsel agree that a session previously docketed on the Long Range Calendar for the upcoming week is no longer needed, a negative PTIR shall be submitted with an appropriate explanation. In that event, the PTIR should be marked "Negative" written prominently across the top and any other appropriate information listed in the PTIR. Counsel may still request an 802 conference with a military judge to ensure that the case is properly proceeding toward trial. *See* Rule 9.

Rule 7.7: Counsel should estimate the length of each Article 39a session or trial. Ordinarily, contested members cases should be docketed for at least three full days. Those estimates include one-half day for sentencing, should it become necessary.

Rule 7.8: If at the time the PTIR is submitted, counsel are negotiating but have not yet concluded a pretrial agreement, then the PTIR should annotate that a pretrial agreement is anticipated. Proposed pleas will be detailed on the PTIR. If pleas will be by exceptions and substitutions, the exact language of such pleas shall be included in Part 3 of the PTIR. In addition, the PTIR shall state if the Government intends to contest the offenses or the excepted language to which the accused will plead not guilty. *See* Rule 7.2. Once a pretrial agreement has been reached, counsel will forward a copy of Part I of the pretrial agreement to the detailed military judge, or the docketing judge. At a minimum, defense counsel will notify the detailed military judge of the anticipated pleas not less than 24 hours prior to the requested court session.

Rule 7.9: Docketing submissions with incomplete PTIRs or lacking required enclosures will not be docketed without good cause and approval by the Circuit Docketing Judge.

Rule 7.10: The Circuit Docketing Judge will review the docketing requests and create and distribute the EJC court docket for the following week. The docket is normally distributed electronically by the Clerk of Court each Thursday. Military Justice Officers shall ensure that the weekly docket is disseminated to all parties concerned with the scheduling of a particular

case. Trial practitioners can be added to the distribution list by contacting the Clerk of Court or the Docketing Judge. 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 7.11: Counsel shall promptly review the docket and immediately notify the Docketing Judge of any conflicts or discrepancies.

Rule 7.12: At the earliest opportunity, trial or defense counsel will notify the military judge of any subsequent changes to a previously submitted 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. See Rule 12 regarding continuances.

Rule 7.13: Trial deadlines established at an Article 39(a) arraignment or through an approved Motion for Docketing are not optional. Counsel will adhere to trial deadlines and may be called upon to address, on the record, any noncompliance. See Rule 1.3.

Rule 7.14: Proposed trial dates for special courts-martial should be within 30 - 45 days of the date of the docketing request or arraignment, and within 60 - 75 days of the date of the docketing request or arraignment for general courts-martial. Exceptions to this Rule require the prior approval of the Docketing Judge.

Rule 7.15: Notice of anticipated pleas and forum shall be submitted through the use of Attachment (5) in accordance with the deadline ordered by the Court at arraignment or through an approved Motion for Docketing.

Rule 7.16: Counsel shall submit pretrial documentation addressing preliminary matters (found on page 56 of the 2009 Navy-Marine Corps Trial Judiciary Trial Guide) in accordance with the court-ordered deadlines. Failure 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 7.17: If a case is withdrawn, trial counsel shall submit a certification of withdrawal, Attachment (6), or a copy of a withdrawal letter signed by the convening authority to the Clerk of Court immediately.

Rule 7.18: Any filing addressed in this section may be accomplished via electronic means, provided the following requirements are met: (1) the document is signed and dated by counsel; (2) the filing is served on the Clerk of Court (with copy to the Docketing Judge); and (3) the filing is served on opposing counsel. Accordingly, unsigned filings will NOT be accepted by the Court. It is the responsibility of the counsel making the filing to ensure the foregoing requirements for electronic filing are met.

Rule 8: Ex Parte Communications with the Military Judge

Rule 8.1: Ex parte communications with a military judge are prohibited, except for routine administrative matters and as otherwise provided by law.

Rule 8.2: “Routine administrative matters” include docketing and logistical matters pertaining to 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. It is inappropriate and unacceptable for counsel to argue facts and/or law in an electronic mail to the military judge.

Rule 8.4: When appropriate, following trial 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 may schedule, a 39a session for a pretrial conference (or R.C.M. 802 conference) approximately one week prior to trial. At this pretrial conference, the military judge may require counsel to address any foreseeable 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 lawful and proper discovery request by opposing counsel. Gamesmanship in the discovery process is strictly prohibited.

Rule 10.2: Notwithstanding the policy of "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. *See* Attachment (7).

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.

Rule 11.2: Motions shall be submitted in accordance with the trial deadlines established by the military judge at arraignment or as ordered in an approved Motion for Docketing. If no such filing deadlines have been established, 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 (8). Either side may file motions in advance of the filing deadline. In addition, either side may request an Article 39(a) session for the purpose of litigating any motion prior to the motions session date ordered by the Court. *See* Rule 7.4.

Rule 11.3: Motions and any attachments will be filed with the Court and served on opposing counsel. Service may be accomplished by electronic means. *See* Rule 11.8 below. Transmitting counsel will ensure that such documents are actually received by the Court and opposing counsel. Whenever motions are filed electronically with the Court, the original document shall be maintained by the originator and made available to the court upon request. Unless otherwise authorized by the military judge, the original filing will be presented at the next session of court and attached to the record of trial. All motions must certify service on opposing counsel.

Rule 11.4: Documentary evidence submitted with motions shall be marked numerically as Attachments and paginated.

Rule 11.5: When essential findings are required on a motion, the military judge, whenever possible, shall enter those findings on the record contemporaneously with the ruling. Unless otherwise directed by the presiding military judge, when motions are filed which will require essential findings by the military judge, each side shall attach proposed findings of fact and conclusions of law to their respective brief.

Rule 11.6: 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 Clerk of Court.

Rule 11.7: 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 11.8: Any filing addressed in this section may be accomplished via electronic means provided the following requirements are met: (1) the Motion is signed and dated by the appropriate counsel; (2) the Motion is served on the Clerk of Court (copy to the Docketing Judge); and (3) the Motion is served on opposing counsel. Accordingly, unsigned Motions will NOT be accepted by the Court. It is the responsibility of the counsel making the filing to ensure the foregoing requirements for electronic filing are met.

Rule 11.9: If the military judge rules adversely to the government on a significant matter and the government is contemplating an appeal, the military judge shall state on the record the time of the ruling, the time the 72-hour period will run, and how and where the government may provide the Court with written notice of appeal.

Rule 12: Continuances

Rule 12: Continuance requests shall be made by written motion to the 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 (9). Requests to amend trial deadlines, such as motions filing date or motions session date, should likewise be in the format of Attachment (9).

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: Ordinarily, the government is responsible for ensuring that the courtroom facility is in compliance with all applicable orders and directives governing courtroom security and safety requirements. The presiding military judge may prescribe rules to establish courtroom security as deemed necessary. Counsel must immediately notify the military judge or the docketing judge if no military judge has been detailed, of any unusual circumstances or potential threat to the accused, a party, or a trial participant.

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 PTIR 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. Exceptions require the prior approval of the military judge. 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. When the accused is in pretrial confinement, the government is responsible for ensuring that the accused is in the appropriate uniform and properly attired.

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 appropriate courtroom demeanor.

Rule 15.7: Counsel shall refrain from conferring with spectators or other non-participants across the bar while the court is in session. Counsel shall not pass notes across the bar.

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 (10) 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. The military judge may also order that a guard or guards be detailed in order to preserve courtroom decorum or ensure courtroom security during the proceedings. *See* Rule 14.

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 the courtroom, and when the military judge calls the court into recess, closes the court for deliberation, or adjourns the court. When a bailiff is assigned, the bailiff is responsible for calling "all rise" and in the absence of a bailiff the Trial Counsel shall call "all rise".

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 placed 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. When a bailiff is assigned, the bailiff is responsible for calling "all rise" and in the absence of a bailiff the Trial Counsel shall call "all rise".

Rule 23: Voir Dire

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

Rule 23.2: Prior to voir dire, counsel will provide the military judge with a written list of the full name and unit of all military witnesses and name, city and state of residence of all civilian witnesses. The list shall also include witnesses anticipated for rebuttal, pre-sentencing, and

witnesses whose testimony will be presented by stipulation. Ordinarily, witness lists shall be included in counsel's p. 56 matters. *See* Rule 7.16.

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, prior to assembly. *See* Rule 7.16. 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 en banc voir dire of the members. Counsel may then be permitted to ask previously approved questions that have not been asked during en banc 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 7.16 for possible sanctions for failure to submit 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 Member Questionnaire, Attachment (11), on the date designated by the military judge, or in the absence of such date, prior to assembly. A member may desire to retain the original and provide a copy for the Court's use, and then update the copy as necessary for subsequent trials. In addition, the trial counsel shall ensure that detailed court members are provided a copy of Attachment (12), "*Serving as a Court Member*", prior to assembly.

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 opening 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, is prohibited.

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 26.8: All defense counsel of record, military or civilian shall be present at every scheduled Article 39(a) session. If any defense counsel of record will not be present at a scheduled session, that counsel will file in advance a written and signed notice with the detailed judge (or docketing judge if no judge is detailed) and the Clerk of Court. Such notice shall explain in detail the reason for counsel's absence, and the accused shall sign the notice, indicating that he or she was advised of counsel's absence, the reasons therefore, and that the accused affirmatively waives counsel's presence. The notice shall be attached to the record of trial as an appellate exhibit. Trial Counsel will explain on the record the addition, deletion, or substitution of any Trial Counsel of record when so directed by the Military Judge.

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, remote or 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 remotely or telephonically presented by the motions filing deadline so that appropriate rulings and coordination may be accomplished. *See* Rule 28.13 below for further guidance on remote testimony.

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 their respective 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 their respective witness(es) of the reasons for his or her absence from work due to the court-martial proceedings.

WITNESS TESTIFYING REMOTELY VIA VIDEO TELECONFERENCING OR
TELEPHONICALLY

Rule 28.13: Witnesses may testify via video conferencing (VTC) or telephone when both parties agree to such alternative means of testimony. The specific logistics of taking such testimony remotely will be coordinated with the military judge.

Rule 28.13A: Requests for remote testimony over the objection from the opposing party will be made as soon as the perceived need for remote testimony is discovered.

Rule 28.13B: When a military judge has authorized VTC testimony over the objection of one of the parties, the below safeguards will be employed. The detailed military judge may deviate from these procedures based upon the exigencies of the situation.

Rule 28.13C: Two-way audio and visual transmissions shall be provided and color transmissions should be used. The two VTC locations must have telephonic connectivity and access to a fax machine or other means of receiving documents/written material. A VTC technician or knowledgeable support personnel will be available at both locations. The court reporter will transcribe the VTC witness' testimony in the same manner as a normal witness.

Rule 28.13D: A bailiff, preferably a judge advocate, will be detailed at the witness's remote location. The remote bailiff will identify, on the record, those present at the remote location and will ensure that the VTC witness is seated far enough away from any authorized spectators so that the spectators cannot communicate with the VTC witness. During the VTC witness's testimony, the remote bailiff will ensure that there is no non-verbal communication between the

VTC witness and authorized spectators. The remote bailiff will also ensure that the VTC witness has no access to papers, exhibits, or the like while testifying unless authorized by the military judge. All spectators at the remote VTC location must be identified on the record and authorized by the military judge.

Rule 28.13E: The VTC witness will be seated, except when sworn, and the image projected to the trial location will be a full torso frontal image. A monitor will be placed so the VTC witness will see the court proceedings as if he were sitting in the witness stand. Like all witnesses, the VTC witness will hear all objections and Article 39a sessions unless otherwise directed by the military judge. During any breaks in testimony, the remote bailiff will ensure that the VTC witness does not communicate with authorized spectators except as allowed by the military judge.

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 normally be in writing and agreed to by counsel and the accused. Oral stipulations should be read into the record.

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. Absent a stipulation, an offer of proof is not evidence upon which a finding of fact may be based.

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. Ordinarily, requests for judicial notice, along with supporting information, will be included in each party's p. 56 matters. *See* Rule 7.16.

Rule 32.2: Prior to trial, the trial counsel shall have marked as appellate exhibits readable copies of all directives, regulations and 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(a).

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 as "Prosecution Exhibit ___ for identification" or with a suitable abbreviation, and each exhibit should be paginated.

Rule 33.3: Defense exhibits intended to be introduced at trial should be marked consecutively as "Defense Exhibit ___ for identification" or with a suitable abbreviation, and each exhibit should be paginated.

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 prior to trial or during recesses.

Rule 33.8: The proponent of documentary or photographic evidence should 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 33.10: For those courtrooms in which electronic media, or “smart courtroom” technology has been installed, additional rules and protocols may be necessary for the handling and presentation of exhibits. Attachment (13) contains a proposed set of rules that may be used in their entirety or modified to accomplish the Court’s needs.

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. Defense counsel may, but are not required to, make appropriate recommendations as to specific routine instructions that the military judge will provide to the members. Ordinarily, proposed instructions should be included in each party’s p. 56 matters. *See* Rule 7.16.

Rule 35.2: If either counsel desires any 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 7.16.

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 on the merits and one hour of closing argument on sentencing. If trial counsel chooses to make both an opening and a rebuttal argument on the merits, trial 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, detailed defense counsel will indicate who (e.g. detailed defense counsel, civilian defense counsel or accused) will accept service of the accused's copy of the authenticated record of trial and staff judge advocate's recommendation (if applicable). In addition, detailed defense counsel will indicate who will represent the accused in post-trial matters. This acknowledgement shall be reflected in writing through an appellate rights advisement, signed by the accused, and attached to the record of trial.

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: Defense counsel shall be given an opportunity to review the record of trial prior to authentication unless unreasonable delay will result. The review by defense counsel, or lack thereof, must be documented in the record before the military judge will authenticate the record. Attachment (14) shall be used to document this pre-authentication review, and be included in the record of trial. *See* R.C.M. 1103(i)(1)(B).

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

Rule 38.6: Records of trial from all general courts-martial and special courts-martial in which a bad conduct discharge, confinement for more than six months, or forfeiture of pay for more than six months has been adjudged shall be forwarded to the military judge for authentication. 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 for inclusion in the record of trial. Temporary absences which do not justify authentication by the trial counsel include expected absences of 30 days or less. For special courts-martial in which a bad conduct discharge, confinement for more than six months, or forfeiture of pay for more than six months was not adjudged (“summarized records of trial”), the record of trial shall be authenticated by the trial counsel in accordance with JAGMAN sec. 0150a. For summarized records of trial authenticated by the Trial Counsel, Attachment (16) will be completed and returned to the EJC Clerk of Court.

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 (15).

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) Certification of Withdrawal Filing [open attachment](#)
- (7) Discovery Certification [open attachment](#)
- (8) Motion Format [open attachment](#)
- (9) Motion for Continuance [open attachment](#)
- (10) Bailiff's Handbook [open attachment](#)
- (11) Member's Questionnaire [open attachment](#)
- (12) "*Serving as a Court Member*" [open attachment](#)
- (13) Proposed Additional Rules and Protocol for use of courtroom technology [open attachment](#)
- (14) Authentication of Record of Trial [open attachment](#)
- (15) Sample filing format [open attachment](#)
- (16) Sample notification of TC record authentication [open attachment](#)