



UNITED STATES MARINE CORPS

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

IN REPLY REFER TO:
5810
EJC
26 JUN 14

EASTERN JUDICIAL CIRCUIT RULES OF PRACTICE

From: Circuit Military Judge

Subj: ADDITION OF INTERIM RULE 8.9 TO EASTERN JUDICIAL CIRCUIT
RULES OF PRACTICE

Ref: (a) Eastern Judicial Circuit Rules of Practice dated
31 Mar 2013
(b) R.C.M. 108, Manual for Courts-Martial (2012 Edition)
(c) R.C.M. 801(b), Manual for Courts-Martial (2012
Edition)
(d) NMCTJINST 5813.4A, dtd 26 JAN 09 (Navy-Marine Corps
Trial Judiciary Standard Operating Procedures
Manual)
(e) JAGINST 5813.4G, dtd 10 Feb 06 (Navy-Marine Corps
Trial Judiciary)
(f) JAGINST 5803.1C, dtd 9 Nov 04 (Professional Conduct
of Attorneys Practicing Under the Cognizance and
Supervision of the Judge Advocate General)
(g) 10 U.S.C. 806b(b)

Encl: (1) Interim Rule 8.9, APPOINTMENT OF A GUARDIAN BY THE
MILITARY JUDGE FOR CERTAIN VICTIMS OF CRIMES
ADJUDICATED UNDER THE UCMJ

1. **Purpose:** To publish Interim Rule 8.9, APPOINTMENT OF A
GUARDIAN BY THE MILITARY JUDGE FOR CERTAIN VICTIMS OF CRIMES
ADJUDICATED UNDER THE UCMJ, as an addendum to Rule 8 of the
current Eastern Judicial Circuit Rules of Practice, reference
(a).

2. **Cancellation:** None.

3. **Background:** Recent changes in the legal rights and benefits
afforded to victims have necessitated the implementation of
additional rules governing the appointment of a guardian for
minor or deceased victims of crimes being adjudicated under the
UCMJ.

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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 the enclosure.

c. Commanding Officers, Officers-in-Charge, and Supervisory Attorneys of cognizant legal providers shall ensure distribution to, and compliance by, all affected counsel.

5. **Effective Date:** Interim Rule 8.9 is effective immediately and shall remain effective until cancelled or otherwise modified by higher authority.



D. M. McCONNELL

**Interim Rule 8.9: Appointment of a Guardian by the Military Judge for Certain Victims of Crimes
Adjudicated under the UCMJ.**

Interim Rule 8.9: In the case of a victim of an offense under the UCMJ, as defined by 10 U.S.C. 806b(b), who is under 18 years of age, incompetent, incapacitated, or deceased, the military judge shall designate a legal guardian from among the representatives of the estate of the victim, a family member, or other suitable person to assume the victim's rights under 10 U.S.C. §806b(a). However, in no event may the person so designated be the accused.

In cases where an alleged victim qualifies for a legal guardian as defined in 10 U.S.C. 806b(c), the initial PTIR shall include a recommendation from the parties (to include VLC if applicable) regarding this appointment and an order appointing the recommended legal guardian to be signed by the military judge. The order shall be prepared by the trial counsel and specifically identify the recommended guardian, the relationship of the guardian to the alleged victim and recite the duties of the guardian. (See Attachment 19.) The appointment of the guardian shall be accomplished at arraignment, however, either party may request, or the military judge shall order, a hearing under this rule in cases where a guardian cannot be identified or agreed upon by the parties.