**COAST GUARD TRIAL JUDICIARY**

**SPECIAL/GENERAL COURT-MARTIAL**

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| **UNITED STATES****v.****ACCUSED, USCG** |  | **TRIAL MANAGEMENT ORDER****DD MM YY** |

1. **Trial Dates and Milestones**. The following are due on or before on the ordered date[[1]](#endnote-2), unless otherwise specified:

 **a. Arraignment[[2]](#endnote-3) (and appointment of victim’s designee if applicable)[[3]](#endnote-4)** DD MMM YY

 b. Defense request for discovery DD MMM YY

c. Government disclosure obligations / Govt expected witness list[[4]](#endnote-5)/ DD MMM YY

 written response to the Defense request for discovery [[5]](#endnote-6)

d. Government initial notice of expected use of expert testimony DD MMM YY

e. Defense reciprocal disclosure obligations[[6]](#endnote-7) DD MMM YY

f. Government written notice of discovery delivery to Defense[[7]](#endnote-8)\* DD MMM YY

g. **RCM 802 Pretrial Conference – Discovery Status** DD MMM YY

 h. Defense expert consultant request to convening authority DD MMM YY

 i. Government response to Defense expert consultant request DD MMM YY

 j. Defense expert consultant request – *ex parte[[8]](#endnote-9)* DD MMM YY

 k. Government notices pursuant to M.R.E. 404(b), 413(b), 414(b) DD MMM YY

 l. Defense witness request[[9]](#endnote-10) DD MMM YY

 m. Government response to Defense witness request DD MMM YY

 n. Motions filed and notice pursuant to M.R.E. 412/513[[10]](#endnote-11)**\*** DD MMM YY

 o. Responses to motions**\***  DD MMM YY

 p. **Article 39(a)** DD MMM YY

 q. Written notice of certain defenses[[11]](#endnote-12) DD MMM YY

 r. Government and Defense proffer of expert testimony[[12]](#endnote-13) DD MMM YY

 s. Notice of intent to request *Daubert* or similar hearing\* DD MMM YY

 t. Motions filed (second session with good cause shown)\* DD MMM YY

 u. Responses to motions (second session)\* DD MMM YY

 v. **Article 39(a) (second session with good cause granted) DD MMM YY**

 w. Written notice of pleas and forum[[13]](#endnote-14)\* DD MMM YY

 x. Convening Order Amendments and Member questionnaires\* DD MMM YY

 y. Final pretrial matters[[14]](#endnote-15)**\*** DD MMM YY

 z. Pretrial Conference & **Article 39a (R.C.M. randomization of panel)**[[15]](#endnote-16) DD MMM YY

 aa. Voir Dire and Member Selection DD MMM YY

 bb. **Trial Dates at Norfolk, VA** DD MMM YY

**2. Timeliness.** A request for relief from an ordered date or milestone must be made via written pleading with a statement of good cause. If a continuance is necessary, counsel will seek relief as soon as possible.

**3. Expert Witnesses & Consultants**.  Once the Convening Authority approves a defense request for an expert witness or expert consultant pursuant to paragraph 1.h or the Court orders an expert witness/consultant produced, the Government shall effectuate the employment of the expert witness/consultant so that Defense has access to the expert witness/consultant within 30 calendar days of the approval. If additional time is necessary to effectuate employment of or access to an expert witness or consultant, the Government is ORDERED to file a Motion for Appropriate Relief (Extension of TMO Deadline) regarding the cause of the delay and delineating the amount of additional time needed to provide Defense access to the expert witness/consultant.

4. **Trial Briefs.** Unless otherwise ordered by the Court, counsel for the government and for each accused may file a trial brief prior to commencement of trial. Copies must be provided for the military judge and opposing counsel. The brief should set forth any reasonably foreseeable point of law bearing on the issues upon which either party relies that is unusual or which would otherwise benefit from support, with citation to relevant statutes, rules, cases and other authorities.

So **ORDERED** this\_\_\_\_ day of\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, 20\_\_.

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Captain Stephen J. Adler, USCG

Military Judge

\*Filed with the court reporter, military judge and served on counsel consistent with the CG CTJ Rules of Practice. Additionally, shall also be filed in NCORS (<https://ncors.navy.mil/>). Trial counsel is responsible for service upon named victims in the absence of a victims’ legal counsel where such service is necessary.

1. All court filings shall be submitted to the Court no later than 1600 Eastern Standard Time. [↑](#endnote-ref-2)
2. The accused was arraigned under Rules for Courts-Martial from the Manual for Courts-Martial (2024 edition) [↑](#endnote-ref-3)
3. Prior to the scheduled trial date, and each earlier Article 39(a) session, the trial counsel, in consultation with appropriate local security officials, shall: (1) complete a risk assessment, (2) consult with the appropriate local security officials, and (3) advise the Military Judge and counsel of the results and local courtroom security measures in place for this trial. [↑](#endnote-ref-4)
4. Names and addresses/contact information of witnesses the trial counsel intends to call in the prosecution’s case-in-chief and to rebut certain defenses when notified. If the Government later decides to add an expert witness to its expected Government witness list, trial counsel must immediately notify the Defense to allow the Defense to consider its own expert consultant/witness needs, and to enable potential Defense production requests and litigation [↑](#endnote-ref-5)
5. Discovery obligations are continuous. R.C.M. 701 & 703 disclosures: papers accompanying the referred charges; convening and amending orders; statements in the possession of the trial counsel; names and addresses/contact information of witnesses the trial counsel intends to call in the prosecution’s case-in-chief and to rebut certain defenses when notified; notice of records of prior convictions of the accused to be offered on the merits; sentencing information when required; and evidence that is favorable to the defense; notice of any immunity or leniency to prosecution witnesses (M.R.E. 301(c)(2)). Disclosure of evidence seized from or the property of the accused, if any (M.R.E. 311(d)(1)). Disclosure of evidence of prior identification of the accused, if any (M.R.E. 321(c)(1)). Disclosure of relevant statements made by the accused, if any, is required prior to arraignment (M.R.E. 304(d)(1)). [↑](#endnote-ref-6)
6. Discovery obligations are continuous. Upon request of trial counsel, the defense shall permit the trial counsel to inspect the documents, tangible objects and relevant reports prepared by expert witnesses that it intends to introduce as evidence in its case in chief or of relevant reports prepared by expert witnesses the defense intends to call at trial upon Government compliance with such requests made by the defense. (R.C.M. 701 (b)(3)&(4)). [↑](#endnote-ref-7)
7. The Government shall provide the Court notice that it has delivered Defense all obligated discovery under subsection (c), and if unable to meet the deadline, the Government shall provide an anticipated timeline for production of obligated discovery and reason(s) for delay. [↑](#endnote-ref-8)
8. Counsel must seek leave of the court to file an *ex parte* pleading. The leave may be requested within the pleading itself. The judge, in their sole discretion, may grant leave to file an *ex parte* pleading for good cause shown. If the judge does not find good cause for the *ex parte* filing, the filing party may, consistent with the Trial Management Order and the Coast Guard Rules of Practice before Courts-Martial (USCG Rules), file the pleading per USCG Rule 7.2. The judge shall seal any *ex parte* pleading and enclosures. [↑](#endnote-ref-9)
9. A proper witness request includes a synopsis of expected testimony sufficient to show its relevance and necessity on the merits or that a witness’ personal appearance is necessary on sentencing. (R.C.M. 703(c)(2)(B)). [↑](#endnote-ref-10)
10. Counsel shall litigate all ripe motions at the first motions date, including those required for M.R.E. 412, M.R.E. 513 (including Mellette material), allegations of errors in the Article 32, preferral and referral process, appointment of expert consultants, intent to request a *Daubert* or similar hearing, witness production, and discovery. [↑](#endnote-ref-11)
11. Particulars of defenses of alibi, innocent ingestion, lack of mental responsibility, or the defense’s intent to introduce expert testimony as to the accused’s mental condition. (R.C.M. 701(b)(2)). [↑](#endnote-ref-12)
12. Any party calling an expert witness (for merits or sentencing) shall provide to the court and opposing counsel a detailed proffer that includes:

1) The name, address, and qualifications of each expert (may be in the form of an attached CV);

2) The exact area of qualification to be sought for each expert by the offering party;

3) A brief summary of each expert’s expected testimony, including any data relied upon; and

4) Copies of any exhibits connected to the expert testimony. [↑](#endnote-ref-13)
13. Note that forum selections of judge alone or members with enlisted representation must be personally signed by the accused or declared on the record. [↑](#endnote-ref-14)
14. Final Pre-Trial Matters include cleansed charge sheet, requests for judicial notice, voir dire, combined witness list with units, Government and Defense Expert Witness Proffers of Expected Testimony, proposed instructions, findings and sentencing worksheets. Notice will be provided to the Court and opposing counsel when a party intends the use of electronic media or to take testimony by telephone or video-conferencing. [↑](#endnote-ref-15)
15. The pretrial conference between the parties and military judge should be conducted *in-person* one to two days before the beginning of trial. The purposes of this pretrial conference is (a) to ensure that this trial is conducted a fair, impartial, and timely manner according to the rules applicable to trials by court-martial and (b) to avoid needless litigation and delay. [↑](#endnote-ref-16)