



**DEPARTMENT OF THE NAVY
NAVY-MARINE CORPS TRIAL JUDICIARY
NORTHERN JUDICIAL CIRCUIT
WASHINGTON NAVY YARD, DC 20374**

15 Jul 16

PROMULGATING ORDER: NORTHERN JUDICIAL CIRCUIT RULES OF PRACTICE

Subj: NORTHERN JUDICIAL CIRCUIT RULES OF PRACTICE

Encl: (1) Northern Judicial Circuit Rules of Practice, dated 15
July 2016

1. Purpose. To facilitate the orderly administration of justice within the Northern Judicial Circuit.
2. Applicability. The Northern Judicial Circuit Rules of Practice set forth in enclosure (1) shall apply to all Navy-Marine Corps general and special courts-martial tried under the cognizance of the Circuit Military Judge of the Northern Judicial Circuit.
3. Cancellation. These Circuit Rules are effective as of 15 July 2016. The 31 August 2012 edition of the Northern Judicial Circuit Rules of Practice is canceled effective this date.
4. Significant Changes:
 - a. These rules streamline the docketing process by rescinding the requirement for the submission of a motion for docketing in every case and requiring the submission of a Pretrial Information Report (PTIR) for only the initial session of a court-martial.
 - b. NJCR 16.2 now requires, among other things, the trial counsel shall ensure that not less than five days prior to the assembly of members in a particular case a copy of the letter "Expectations for Court-Martial Panel Service," attached as enclosure (2) to these rules, is provided to each member.
 - c. A new, Northern Judicial Circuit standard member's questionnaire is provided in enclosure (3) to these rules. NJCR 22.1 requires that the Trial Counsel shall ensure that the Court and the Defense is provided a copy of the current version of the questionnaire completed by each member, in accordance with the deadline for final pretrial matters set forth in the Trial Management Order.

Subj: NORTHERN JUDICIAL CIRCUIT RULES OF PRACTICE

d. The Northern Judicial Circuit Standards for Civility in Professional Conduct is provided in enclosure (4) to these rules. NJCR 24.1 articulates that these are aspirational standards and best practices for the demonstration of civility and professionalism among all participants in the trial process.

5. Action. The Northern Judicial Circuit Rules of Practice are a guide to participants practicing in this circuit of the Navy-Marine Corps Trial Judiciary.

a. All rules set forth in enclosure (1) shall be followed by judges and participants, whether military or civilian, practicing or otherwise participating or viewing general or special courts-martial tried under the cognizance of the Circuit Military Judge of the Northern Judicial Circuit.

b. These rules shall be provided to the Commanding Officers of Region Legal Service Offices, Defense Service Offices, Officers in Charge of Marine Legal Service Support Sections, Marine Regional Defense Counsel, and Regional Victims' Legal Counsel within the Northern Judicial Circuit for further distribution to all military counsel within their command. Military defense counsel will furnish civilian defense counsel with copies of these rules. Trial counsel will furnish civilian victim's legal counsel with copies of these rules upon notice of appearance.



R. P. MONAHAN JR.
CDR, JAGC, USN
Circuit Military Judge

Distribution:
CO, Navy Reserve Trial Judiciary
Senior Marine, USMCR Trial Judiciary
CO, RLSO NDW
CO, RLSO MIDLANT
CO, RLSO MW
CO, DSO North
OIC, LSSS-NCR
RDC, USMC DSO-NCR
Regional VLC

Copy to:
File

15 July 2016



**NORTHERN JUDICIAL CIRCUIT
RULES OF PRACTICE****

(**INTEGRATED INTO THE UNIFORM RULES OF PRACTICE, U.S. NAVY-
MARINE CORPS TRIAL JUDICIARY, DATED 30 JULY 2015)

Northern Judicial Circuit Rules of Practice
15 July 2016

TABLE OF CONTENTS

PREAMBLE	1
Rule 1: APPLICABILITY	1
Rule 2: PURPOSE	2
Rule 3: CONSTRUCTION	2
Rule 4: REFERRED CHARGES	3
Rule 5: CIVILIAN DEFENSE COUNSEL	4
Rule 6: DOCKETING/TRIAL MANAGEMENT ORDERS	5
Rule 7: PERSONALLY IDENTIFIABLE INFORMATION (PII)	7
Rule 8: CONFERENCES & COMMUNICATIONS WITH THE MILITARY JUDGE ..	8
Rule 9: DISCOVERY	9
Rule 10: MOTIONS	9
Rule 11: CONTINUANCES	11
Rule 12: SITUS	12
Rule 13: COURTROOM SECURITY	12
Rule 14: UNIFORMS	13
Rule 15: SPECTATORS	14
Rule 16: PUNCTUALITY	15
Rule 17: BAILIFF	16
Rule 18: GUARDS	16
Rule 19: COURT REPORTERS	16
Rule 20: ENTRY AND DEPARTURE OF MILITARY JUDGE	16
Rule 21: ENTRY AND DEPARTURE OF MEMBERS	17
Rule 22: VOIR DIRE	17
Rule 23: PROHIBITED ITEMS IN THE COURTROOM	18
Rule 24: COUNSEL DECORUM	18
Rule 26: WITNESSES	20
Rule 27: OBJECTIONS	21
Rule 28: STIPULATIONS	21
Rule 29: OFFERS OF PROOF	22
Rule 30: JUDICIAL NOTICE	22
Rule 31: EXHIBITS	22

Northern Judicial Circuit Rules of Practice
15 July 2016

Rule 32: VIDEO TELECONFERENCE REQUIREMENTS 23
Rule 33: FINDINGS & SENTENCING INSTRUCTIONS 24
Rule 34: RECORD OF TRIAL/APPELLATE RIGHTS 24
Rule 35: DOCUMENTS AND PLEADINGS 25
Rule 36: VICTIMS' LEGAL COUNSEL AND OTHER NON-PARTY COUNSEL .. 25
Rule 37: VICTIM'S RIGHT TO BE HEARD 28
Rule 38: APPOINTMENT OF A DESIGNEE FOR CERTAIN VICTIMS 28
Rule 39: CONTEMPT PROCEEDINGS 29
Rule 40: MODEL PRETRIAL AGREEMENT 29

PREAMBLE

These Uniform Rules govern courts-martial presided over by a military judge and supersede all rules previously published as the Uniform Rules of Practice before Navy-Marine Corps Courts-Martial.

There may be local rules in each judicial circuit that further implement these Uniform Rules. Local rules must be consistent with these Uniform Rules.

NJCR Preamble: The Northern Judicial Circuit Rules of Practice (at times referred to as the NJCRs) supplement the Uniform Rules of Practice for the U.S. Navy-Marine Corps Trial Judiciary and govern all Navy-Marine Corps general and special courts-martial which are tried under the cognizance of the Circuit Military Judge for the Northern Judicial Circuit. These NJCRs are promulgated by the Circuit Military Judge for the Northern Judicial Circuit under R.C.M. 108 and R.C.M. 801(b) and pursuant to the authority delegated in the Uniform Rules. They are designed to promote a common understanding of the procedure for the litigation of general and special courts-martial under the cognizance of the Northern Judicial Circuit. These rules are effective 15 July 2016. All previously published rules are hereby cancelled.

Rule 1: APPLICABILITY

Rule 1.1: These Uniform Rules apply to the trial of all general and special courts-martial in which the accused is a member of the naval service. Counsel, as officers of the court, court reporters, clerks of court, and bailiffs are required to follow these and local rules.

NJCR 1.1: These NJCRs apply to all Navy-Marine Corps general and special courts-martial tried under the cognizance of the Circuit Military Judge for the Northern Judicial Circuit.

Rule 1.2: All participants to the court-martial must comply with these Uniform Rules. In the case of noncompliance with these rules or local rules, or orders of the court, the military judge may, as appropriate, issue an admonishment on the record, issue appropriate court orders, issue a report to a military counsel's commanding officer or officer-in-charge, or forward information about the matter to a civilian or military counsel's bar. In addition, the court may 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.

NJCR 1.2: Prior to their first appearance on the record, all counsel practicing before a court in this circuit will familiarize themselves with both the Uniform Rules of Practice for the U.S. Navy-Marine Corps Trial Judiciary and these NJCRs.

Rule 2: PURPOSE

Rule 2: These Uniform Rules are intended to facilitate the orderly administration of military justice.

NJCR 2: These NJCRs are intended to facilitate the orderly administration of military justice within the circuit.

Rule 3: CONSTRUCTION

Rule 3.1: These Uniform Rules will be construed to ensure simplicity, fairness, and efficiency in the timely disposition of courts-martial.

NJCR 3.1: a. Throughout these NJCRs the following definitions will apply:

(1) "Filing" of a pleading, notice, or document with the Court means that a true and complete copy of the pleading, notice, or document in question is delivered to the detailed military judge and the Clerk of Court. Counsel are cautioned that a detailed military judge in any given court-martial case may not be stationed where the court-martial was convened or the *situs* of trial. Counsel should plan accordingly. Counsel are responsible for ensuring the detailed military judge and the clerk of court receive filings in a timely manner via an approved means as described within these NJCRs.

(2) "Service" upon opposing counsel means that a true and complete copy of a filed pleading or document is delivered to opposing counsel.

(3) If transmitted electronically, "notice" shall be presumed upon transmission that the receiving attorney has, in fact, received the pleading, document or information transmitted. For the purpose of this definition, "receiving attorney" means the lead counsel of a party, whether military or civilian. If the lead counsel is unavailable, notice is deemed to have been provided by electronically transmitting or physically providing the pleading, document or information to any counsel of a party who has been detailed to the case or assigned as individual military counsel.

(4) "Timeliness" of filing, service and notice vis-à-vis time zones shall be determined by the detailed military judge as required and when appropriate in

any particular case. Unless otherwise specified or agreed to by the detailed military judge, filings shall be due at 2359 Eastern Time on the date ordered by the Court.

b. Original documents. All original documents should be retained and physically entered into the record of trial at the next session of the court-martial in question. Counsel are solely responsible for ensuring that the cognizant court reporter is provided with all original documents.

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 must be read in accordance with the law.

NJCR 3.2: Failure to comply with these NJCRs does not provide any rights or remedies to the accused, the Government, an alleged victim or other third parties.

NJCR 3.3: Consistent with the law and the Uniform Rules of Practice for the U.S. Navy-Marine Corps Trial Judiciary, the detailed military judge may modify or suspend any of these NJCRs when required by the interests of justice in a particular case. When time and circumstances permit, the detailed military judge shall confer with the Circuit Military Judge prior to modifying or suspending a NJCR.

Rule 4: REFERRED CHARGES

Rule 4.1: After the referral of charges, the trial counsel must provide the responsible judicial circuit with a copy of those charges, along with the appropriate convening order, as soon as possible. (See JAGINST 5813.4I CH-2 establishing Judicial Circuits and Areas of Responsibilities.)

NJCR 4.1.a: After referral of charges, trial counsel will provide the Clerk of Court a copy of those charges, along with the applicable convening order, as soon as possible, but not later than seven calendar days after referral.

NJCR 4.1.b: All authorized changes to the charge sheet must be initialed and dated by the trial counsel or other representative of the convening authority.

Rule 4.2: Trial counsel must immediately notify defense counsel, the Clerk of Court, and the military judge if referred charges have been withdrawn.

NJCR 4.2: If a case is withdrawn, documentation of such withdrawal must be submitted to the Court. Proper documentation consists of a certificate of withdrawal signed by the trial counsel, a withdrawal letter signed by the convening authority or a copy of the charge sheet that reflects the

withdrawal action. Cases will not be removed from the docket, and counsel will be expected to appear as scheduled, until such written notification of withdrawal is received by the Court.

NJCR 4.3: Trial counsel and defense counsel shall make every effort to provide the detailed military judge and clerk of court Part I of any pretrial agreement and stipulation of fact at the earliest time practical upon the acceptance of the pretrial agreement by the accused, counsel and the convening authority. Likewise, trial counsel and defense counsel shall make every effort to provide the detailed military judge and clerk of court any corresponding stipulation of fact at the earliest time practical upon the acceptance by the accused and counsel.

NJCR 4.4.a: The Circuit Military Judge for the Northern Judicial Circuit is responsible for detailing all military judges assigned to his or her circuit to all Navy-Marine Corps general and special courts-martial that are under his or her cognizance.

NJCR 4.4.b: The Chief Judge, Navy-Marine Corps Trial Judiciary will detail the military judge when:

- (1) The Chief Judge or Deputy Chief Judge of the Navy-Marine Corps Trial Judiciary is to be detailed to a Northern Judicial Circuit case.
- (2) A military judge who is assigned to a different judicial circuit is to be detailed to a Northern Judicial Circuit case.
- (3) A reserve military judge is to be detailed to a Northern Judicial Circuit Case.

NJCR 4.4.c: The Chief Judge, Navy-Marine Corps Trial Judiciary will also detail the military judge for national security cases as defined in the Manual of the Judge Advocate General, JAGINST 5800.7(series) in accordance with NAVMARTIJUDICINST 5500.2(series).

NJCR 4.4.d: For the Circuit Military Judge's awareness and because of potential additional logistical and/or security concerns, trial counsel will inform the Circuit Military Judge as early as practicable of the existence of any national security case, as well as any case likely to generate press interest or any case that is otherwise potentially high visibility. Notice shall include the name of the accused, the convening authority, and the allegations.

Rule 5: CIVILIAN DEFENSE COUNSEL

Rule 5.1: If an accused retains civilian counsel, detailed defense counsel shall furnish civilian counsel with a copy of all pertinent rules of court. Prior to appearing in court, civilian counsel must file with the Clerk of Court a written notice of appearance. This notice will be in the form of a pleading and must contain the following: name of the accused, counsel's name, office address, telephone number(s),

e-mail address and jurisdiction(s) where the counsel is presently admitted to practice.

NJCR 5.1: If an accused retains civilian counsel, detailed defense counsel shall furnish civilian counsel with a copy of these NJCRs as well as the Uniform Rules. The civilian counsel's notice of appearance must acknowledge familiarity with these rules.

Rule 5.2: Detailed defense counsel must inform the civilian counsel of the rules of Professional Conduct of Attorneys Practicing Under The Cognizance and Supervision of the Judge Advocate General (JAGINST 5803.3 series).

Rule 5.3: Once civilian counsel notifies the clerk of court or the military judge of representation concerning the referred charges, civilian counsel may not withdraw from such representation without permission of the military judge.

Rule 6: DOCKETING/TRIAL MANAGEMENT ORDERS

Rule 6.1: The circuit judge of each judicial circuit will establish and promulgate docketing procedures for cases within their circuit. These procedures must contain features that ensure positive control over the docketing and processing of courts-martial. Circuit rules shall operate to facilitate access to the court upon timely request by any party.

NJCR 6.1.a: Every week, each Military Justice Officer, Senior Trial Counsel, or other designated person is required to submit a Docketing Memorandum to the clerk of court not later than 1200 Eastern time on Wednesday. If the Docketing Memorandum is not received by 1200 Eastern time on Wednesday, the case(s) at issue may, in the discretion of the Circuit Judge, be left off that week's revised docket. The Docketing Memorandum shall be submitted to the Clerk of Court via email. The Circuit Military Judge may designate an alternate date and time for submission to accommodate weeks during which holidays are observed. The Docketing Memorandum will include all cases which are to be included on the published docket. If no cases are to be docketed, a negative submission is required.

NJCR 6.1.b: The Docketing Memorandum consists of four parts. Part One addresses cases to be docketed for the coming week. Part Two addresses cases to be docketed on the long-range docket. Part Three addresses any requested additions to the docket. Part Four addresses any requested deletions and any logistical concerns (for example, if counsel are requesting a specific time of day for a session of court due to witness availability.)

NJCR 6.1.c: Part One of the Docketing Memorandum must include all cases that are to have any sessions during the upcoming week. This includes cases which are being brought before the Court for the first time, cases in which either party is requesting a session, and cases in which a session has been ordered by the military judge.

NJCR 6.1.d: Part Two of the Docketing Memorandum must include all cases that should be included on the long-range docket. Normally, Part Two reflects cases that have been previously docketed.

NJCR 6.1.e: Part Three of the Docketing Memorandum must include any requested additions to the docket. All requested additions to the docket must be justified with supporting documentation (e.g., a copy of Part I of a PTA.)

NJCR 6.1.f: Part Four of the Docketing Memorandum must include any requested deletions to the docket. All requested deletions must be justified with supporting documentation (e.g., a certificate of withdrawal).

NJCR 6.1.g: Only cases with referred charges will be reflected on the docket. In order to have a case reflected on the docket for its initial session, trial counsel will submit a Pretrial Information Report (PTIR). A blank copy of this document is attached as enclosure (1) to these rules.

NJCR 6.1.h: The PTIR serves to prepare the military judge for the initial session of a case. In the PTIR, trial counsel must include copies of any military orders or directives alleged to have been violated, copies of any (civilian) federal or state statutes alleged to have been violated and applicable sections of such statutes pertaining to the maximum punishment for the offense. Prior to trial on the merits or a guilty plea, trial counsel and defense counsel must each provide the Court proposed elements for any (civilian) federal or state statute alleged to have been violated, along with all applicable definitions.

NJCR 6.1.i: Counsel shall include in the PTIR an explanation for any special circumstance regarding the case, including start time, witness availability, significant logistical issue, and a justification for any requested trial date which exceeds 120 days from the arraignment date.

NJCR 6.1.j: Trial counsel and defense counsel shall both sign the PTIR. However, the document's submission should not be delayed for the lack of a signature. Provided that counsel for both parties have communicated with one another regarding the PTIR, one counsel may sign for the other with an explanation in the comments section. This will inform the Court that the non-signing counsel is aware of its contents and has authorized the other counsel to sign on his or her behalf.

NJCR 6.1.k: A proposed Trial Management Order (TMO) in the format approved for use as set forth in the Uniform Rules of Practice for the Navy-Marine Corps Trial Judiciary.

NJCR 6.1.l: The accused, via defense counsel, must provide the Court written notice of intended forum and pleas in accordance with the deadline set by the Court in a particular case. The

accused's election of forum and entry of pleas will be made orally on the record at the time requested by the presiding military judge.

NJCR 6.1.m: Counsel shall submit pretrial documentation addressing preliminary matters (commonly referred to by the applicable page number of the Navy-Marine Corps Trial Judiciary Trial Guide) in accordance with the deadline established by the Court.

Rule 6.2: The circuit military judge will publish the circuit docket on a weekly basis in an online format available to the public and in accordance with OJAG standard operating procedures.

NJCR 6.2.a: Normally, the Northern Judicial Circuit publishes a long-range and short-range docket every week. The long-range docket reflects all cases which are scheduled for the following week and beyond. The short-range docket ordinarily reflects the upcoming week's cases and include the case name, the starting time, the initials of the detailed military judge and all counsel for the parties, the unit of the accused, the UCMJ articles charged, the purpose of the court session, the forum (GCM or SPCM), the location (WNY, QUAN, GLAKES, GROT, NOLA), and the anticipated duration of that session of court.

NJCR 6.2.b: The clerk of court is the Circuit Military Judge's primary point of contact for all docketing issues. The Clerk of Court is responsible for all administrative functions associated with the circuit and will be treated with respect by all persons who have business to conduct with the Court.

NJCR 6.2.c: The Circuit Military Judge, with the assistance of the Clerk of Court, will normally publish the docket by the close of business on the day following the due date of the Docketing Memorandum, which will normally be on Thursday of each week. In addition to posting the docket online in accordance with OJAG standard operating procedures, the Clerk of Court will distribute the docket to the field via email. Each Military Justice Officer, Senior Trial Counsel, and Senior Defense Counsel, or other officer receiving the docket is responsible to ensure that the docket is distributed to all parties concerned with the scheduling of cases, including the court reporters. It is the responsibility of each counsel to be aware of each week's published docket.

Rule 6.3: Docketing judges and military judges presiding over arraignments shall use the standard trial management order located at:
http://www.jag.navy.mil/trial_judiciary.htm.

Rule 7: PERSONALLY IDENTIFIABLE INFORMATION (PII)

Rule 7.1: Use of Personally Identifiable Information (PII) must be eliminated or minimized to the maximum extent possible in all pleadings and documents.

Rule 7.2: Unnecessary PII must be redacted in all documents

(e.g., pleadings, discovery material) that are electronically transmitted. At a minimum, social security numbers, home addresses, telephone numbers, e-mail addresses, dates of birth, financial account numbers, and names of minors shall be redacted. Medical/psychiatric records must be sent by encrypted e-mail or through a secured access file exchange.

Rule 7.3: While names of minors will be used during the course of the trial, all named minor victims will be identified by their initials on the charge sheet and in pleadings.

Rule 7.4: All Navy personnel shall comply with JAG/CNLSC Instruction 5211.11 of 14 Jun 13. All Marine personnel shall comply with MARADMIN Active Number: 181/10 R291951Z MAR 10. All active duty counsel will comply with SECNAVINST 5211.5E dtd 28 Dec 2005 (5211.5E series).

Rule 8: CONFERENCES & COMMUNICATIONS WITH THE MILITARY JUDGE

Rule 8.1: 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. The purpose of such conferences is to inform the military judge of anticipated issues and to expeditiously resolve matters on which the parties can agree, but not to litigate or decide contested issues. The military judge must summarize all R.C.M. 802 conferences for the record at the next Article 39(a) session of the court, including the presence or absence of the victims' legal counsel. Whenever practicable, the military judge shall include the victims' legal counsel in R.C.M. 802 conferences in which the alleged victim has an identifiable interest. See Rule 36.4 below.

Rule 8.2: *Ex parte* communications with a military judge concerning a case that is pending before that military judge are prohibited, except for routine administrative matters or as provided by law.

Rule 8.3: Routine administrative matters include, but are not

limited to, docketing and logistic matters (e.g. uniform and facility issues and matters that may affect time and duration of court sessions).

Rule 8.4: After adjournment of a case, military judges may, at their discretion, conduct critiques or offer suggestions regarding counsels' performance in courts-martial to improve the administration of justice. At the discretion of the military judge, these sessions may be conducted *ex parte* or jointly.

Rule 9: DISCOVERY

Rule 9.1: Counsel will promptly comply with military law and service regulations concerning discovery.

NJCR 9.1: Discovery issues must be resolved expeditiously and in accordance with the deadlines set forth in the Trial Management Order. In those cases in which there is not a governing TMO or the deadline for discovery has passed, the counsel receiving the discovery request should promptly comply with discovery obligations, normally within five working days.

Rule 9.2: Discovery requests should be as specific as possible to avoid misunderstanding and to assist in quickly obtaining requested information.

Rule 10: MOTIONS

Rule 10.1: Counsel are encouraged to discuss motions or potential motions with opposing counsel prior to any Article 39(a) session to determine whether an issue is in fact controverted and to narrow the issues in contention to the maximum extent possible. Counsel should advise the military judge in a R.C.M. 802 conference as early as possible of motions that are likely to arise at trial, including any unusual motions or objections, and of any relevant authority then known to counsel.

Rule 10.2: When not prohibited by the military judge, motions and other documents may be filed with the court, opposing counsel, and if applicable, victims' legal counsel, by electronic transmission. It is the responsibility of the filing party to ensure that the filing is received by the intended court, opposing party, victims' legal counsel, or non-party legal counsel. In cases where a named victim is not

Northern Judicial Circuit Rules of Practice
15 July 2016

represented by victims' legal counsel, any notice or motion which implicates an alleged victim's rights shall be provided to the alleged victim via the trial counsel. As appropriate, electronic mail transmissions used to communicate with the court or with opposing counsel should be maintained by the originator and provided to the court reporter for inclusion in the record of trial.

Rule 10.3: Each motion must include or be accompanied by a statement of the specific points of law and authority that support the motion, including, where appropriate, a concise statement of facts, which party bears the burden of production and persuasion and whether oral argument is requested. Counsel should submit motions in the format found at http://www.jag.navy.mil/trial_judiciary.htm.

NJCR 10.3: In addition to the requirements for motions contained in Uniform Rule 10.3., motions filed in Northern Judicial Circuit cases shall include a statement of evidence to be offered in support of the motion (e.g., a description or copy of real evidence, witness statements, names of witnesses who the party intends to call to testify on the motion, etc.), and a request, if any, for the Government to produce a witness to testify on the motion at the Article 39(a) session during which the motion is to be litigated.

Rule 10.4: Each motion that requires an order must be accompanied by a proposed order by the moving party. The moving party and any responding counsel shall include proposed Findings of Fact and Conclusions of Law.

Rule 10.5: Military judges will rule on motions in a timely fashion so as not to create unnecessary delay in court proceedings. In those instances when a ruling must be reserved, the military judge shall revisit the issue and rule when the reason for the reserved ruling has been resolved.

Rule 10.6: If the military judge rules adversely to the government and the government contemplates an appeal pursuant to Article 62 of the Uniform Code of Military Justice and R.C.M. 908, the military judge must 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 military judge with written notice of appeal.

Rule 10.7: Unless good cause is shown, motions must be filed in accordance with the Trial Management Order. Good cause is determined by the military judge. As supervisory counsel are not party to the trial, they shall not make, or be required to make, statements or certifications as to the timeliness of motions or whether good cause has been shown.

NJCR 10.7: If no deadlines for the filing of motions have been established in the Trial Management Order, or if the presiding military judge permits motions to be litigated on a different or additional date than the date specified in the Trial Management Order, counsel will submit a motion 14 days prior to the Article 39(a) session when the motion is to be litigated and responses 7 days prior to the Article 39(a) session when the motion is to be litigated.

Rule 10.8: In cases wherein a named victim is represented by victim's legal counsel, all notices and motions in which an alleged victim's rights are implicated under the Uniform Code of Military Justice, Rules for Courts-Martial or the Military Rules of Evidence shall be served upon victims' legal counsel. In cases where a named victim is not represented by victims' legal counsel, any notice or motion which implicates an alleged victim's rights shall be provided to the alleged victim via the trial counsel.

Rule 11: CONTINUANCES

Rule 11.1: Continuance requests should ordinarily be made by written motion. The motion must state the specific reason for the request. Counsel must be prepared to fully justify each continuance request. At the discretion of the military judge and as circumstances require, a request for continuance may be made orally at an Article 39(a) session. Where counsel and the military judge are not co-located, and as exigent or emergent circumstances require, scheduling issues and continuance requests may be discussed in R.C.M. 802 sessions, but the matter shall be summarized and placed on the record at the next session of court.

NJCR 11.1: In cases where a reserve military judge has been detailed, all continuance requests will be submitted to both the Circuit Military Judge and the detailed reserve military judge.

The detailed reserve military judge shall consult with the Circuit Military Judge prior to ruling on the continuance request.

Rule 11.2: All motions to continue must include the number of previous continuances and who sought the continuances, whether opposing counsel consents, the trial date, and dates counsel and witnesses are available for trial. In cases involving victims' legal counsel, the moving party must certify that the motion was served on the victims' legal counsel. In cases involving a named victim not represented by victims' legal counsel, the trial counsel must certify that the motion was served on the named victim. The proposed order must contain language for both granting and denying the motion, a place to indicate whether the motion is granted or denied, and a place for indicating the new trial date. A model motion for a continuance and a proposed order can be found at:
http://www.jag.navy.mil/trial_judiciary.htm.

Rule 11.3: If the accused is in pretrial confinement, defense motions for continuances and concurrences in government motions for continuances must be in writing and include a certification by defense counsel that the accused consents to the continuance request.

Rule 12: SITUS

Rule 12: Unless otherwise directed by the Convening Authority pursuant to R.C.M. 504(d)(1), the military judge will designate the situs of trial.

Rule 13: COURTROOM SECURITY

Rule 13.1: The presiding military judge may prescribe rules in any case to establish courtroom security as necessary.

NJCR 13.1: Courtroom security in the Northern Judicial Circuit is governed by JAG/COMNAVLEGVCCOMINST 5530.2 (series) for Navy cases and by applicable service and/or local instructions for Marine cases.

Rule 13.2: The government is responsible for ensuring the

courtroom facility is in compliance with all applicable orders and directives governing courtroom safety requirements. Notwithstanding such orders and directives, counsel must inform the military judge whenever they believe extra precautions and/or security measures should be implemented.

Rule 13.3: The circuit judge will review annually the security plan for the courtroom facilities within the circuit with the government representative responsible for courtroom security at each installation.

Rule 13.4: The wearing or carrying of weapons in the courtroom is prohibited except when authorized by the detailed military judge.

NJCR 13.4: If firearms are to be marked as exhibits, trial counsel will personally ensure that the firearms have been cleared before they are brought into the courtroom and that mechanical measures have been taken so that they cannot be fired.

Rule 14: UNIFORMS

Rule 14.1: The Circuit Judge will designate the proper uniform and civilian attire to be worn by all persons required to be present in court. Utility uniforms will not be designated as the uniform unless the court is convened at sea or in an operational setting.

NJCR 14.1a: During winter months, the prescribed uniform for military personnel is Service "B" for Marine personnel and Service Dress Blue for Navy personnel. During summer months, the prescribed uniform is Service "C" for Marine personnel and Summer White (E-7 and above)/ Service Dress White (E-6 and below) for Navy personnel. The date for the shift of seasonal uniforms shall be set by service guidelines or at the direction of the area uniform coordinator, as applicable. The presiding military judge retains the authority to modify the proper uniform to be worn by military personnel in a particular case. When considering what uniform will be worn by military personnel, the presiding military judge will give careful consideration to the seriousness with which the proceedings are viewed, customs and traditions of the naval service, as well as the potential for publicity. This rule applies equally to military personnel who are counsel, accused, and witnesses. It does not apply to spectators. However, spectators will appear in the gallery in appropriate uniform of the day or appropriate civilian attire.

NJCR 14.1b: Male civilian counsel will wear a conservative coat and tie, shirt and slacks. Female civilian counsel will wear appropriate conservative business attire.

Northern Judicial Circuit Rules of Practice
15 July 2016

Rule 14.2: The accused must wear the 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 the proper uniform. When the accused is in pretrial confinement, the government is responsible for ensuring the accused is in the appropriate uniform. Confinement uniforms are not appropriate courtroom attire.

Rule 14.3: Physical restraints will not be imposed on the accused or any witness during sessions of the court-martial unless prescribed by the military judge. No accused or witness will wear any tag or symbol that identifies that person as being in custody while in open court.

Rule 15: SPECTATORS

Rule 15.1: The military judge is responsible for maintaining the dignity and decorum of the proceedings, for courtroom security generally and for controlling spectators and ensuring their conduct is appropriate. The military judge may issue such orders as are deemed just to ensure a fair trial.

Rule 15.2: Spectators may attend any sessions of the court-martial unless otherwise determined by the military judge. See R.C.M. 806.

NJCR 15.2: Spectators may enter or leave the courtroom while the court-martial is in open session, provided that their activity is not disruptive to the proceedings.

Rule 15.3: Counsel must ensure that the military judge is advised if there is a likelihood that any spectator is to be called as a witness. Except for alleged victims recognized by the court, spectators who may be called as witnesses should be excluded upon motion by the trial counsel or defense counsel. Alleged victims may only be excluded if the military judge determines by clear and convincing evidence that their testimony will be materially altered if the alleged victim heard the testimony at that hearing or proceeding.

Rule 15.4: Spectators are forbidden from disturbing the proceedings of the court-martial, using any menacing word, sign or gesture in the presence of the military judge, or demonstrating agreement or disagreement, either verbally or by non-verbal conduct (e.g. shaking or nodding of head), with testimony or other trial procedures. 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 alleged victim, accused and counsel of the decorum required in the courtroom.

NJCR 15.4: Counsel may confer with supervisory counsel, expert witnesses, or support personnel across the bar while the court is in session only with the permission of the presiding military judge.

Rule 15.5: In accordance with R.C.M. 806, courts-martial are public and shall be open subject only to those limited exceptions provided for in law and statute. The military judge shall make case-specific findings on the record justifying any court room closure regardless of whether there is an objection by a party. Supervisory counsel and support personnel may attend closed hearings to supervise and assist their counsel at the discretion of the military judge.

Rule 16: PUNCTUALITY

Rule 16: Punctuality in all court matters is required of all parties and reflects preparation and professionalism. When a party is unavoidably late, or proceedings will be delayed, the military judge shall be notified immediately and provided an explanation.

NJCR 16.1: Trial counsel will notify the accused's command of the place, date and time of each session of court and that the presence of the accused is required. Generally, the trial counsel is responsible for ensuring the timely presence of an accused who is in pretrial confinement or other pretrial restraint. However, after the accused arrives at the courthouse, defense counsel is responsible for the timely presence of the accused at all sessions of court.

NJCR 16.2: When a case is to be tried before a court with members, trial counsel must ensure that the members are notified of the time, place and uniform for the trial. Reporting times for members will be scheduled to minimize their waiting time. The trial counsel shall also ensure that not less than five days prior to the assembly of members in a particular case a copy of the

letter "Expectations for Court-Martial Panel Service," attached as enclosure (2) to these rules, is provided to each member detailed to a special court-martial or general-court martial which is tried under the cognizance of the Circuit Military Judge for the Northern Judicial Circuit.

Rule 17: BAILIFF

Rule 17: Trial counsel shall ensure bailiffs are thoroughly briefed on their duties and that they are provided a copy of the Bailiff Handbook, found at:
http://www.jag.navy.mil/trial_judiciary.htm.

Rule 18: GUARDS

Rule 18: When appropriate, a guard or guards will be detailed to ensure proper custody of the accused and to assist the court in preserving order and decorum. However, see Rule 13.4 regarding weapons in the courtroom and Rule 14.3 regarding physical restraints.

Rule 19: COURT REPORTERS

Rule 19.1: Trial counsel shall ensure that the court reporter has been sworn.

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

Rule 19.3: Court reporters must 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: Court reporters will maintain a complete list of all exhibits marked, those offered, and those admitted.

NJCR 19: The trial counsel is responsible for keeping the court reporter apprised of the status of all docketed cases, to include, but not limited to: all anticipated delays, continuances, withdrawal of charges, changes of courtrooms or location, changes in anticipated pleas and forum, and the need for court reporter support in unscheduled hearings.

Rule 20: ENTRY AND DEPARTURE OF MILITARY JUDGE

Rule 20: Without regard to rank or grade, all persons in the courtroom except the court reporter must rise when the military judge enters or leaves the courtroom.

Rule 21: ENTRY AND DEPARTURE OF MEMBERS

Rule 21: Without regard to rank or grade, all persons, other than the military judge and court reporter must rise when the members, as a panel, enter or leave the courtroom.

Rule 22: VOIR DIRE

Rule 22.1: In accordance with R.C.M. 912(d), the military judge determines the procedure for conducting voir dire. Voir dire examination shall be limited to matters relevant to determining whether to remove a member for cause and to determine the member's fairness and impartiality. The military judge shall ensure that the privacy of the prospective members is reasonably protected. All group voir dire questions must be submitted in writing to the military judge prior to trial.

NJCR 22.1a: All questions to be asked during *en banc* voir dire will be submitted for approval in writing on the date designated by the presiding military judge, or in the absence of such date, at least 5 days prior to the assembly of the members. Copies of proposed voir dire questions must be served upon opposing counsel.

NJCR 22.1b: The presiding military judge will ordinarily 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 presiding military judge. When necessary, and in the discretion of the presiding military judge, counsel may be permitted to question the members individually.

NJCR 22.1c: During voir dire, counsel will not: (1) argue the case; (2) question members concerning anticipated instructions or theories of law, or members' understanding of various legal principles yet to be explained to them; (3) ask members what kind of findings or sentence they might return under a hypothetical set of facts; or (4) seek a pre-commitment from a member to a factual or legal proposition that is in issue.

Rule 22.2: The member's questionnaire shall be phrased and organized so as to facilitate an accurate screening and shall request that information essential for:

Northern Judicial Circuit Rules of Practice
15 July 2016

(1) determining whether a person meets the Article 25 criteria for eligibility; and (2) determining the existence or nonexistence of facts which may disclose a proper ground of challenge for cause. A copy of a model questionnaire can be found at:
http://www.jag.navy.mil/trial_judiciary.htm.

NJCR 22.1: The Trial Counsel shall ensure that the Court and the Defense is provided a copy of the Northern Judicial Circuit standard member's questionnaire completed by each member is filed with the Court, and a copy provided to the Defense in accordance with the deadline for final pretrial matters set forth in the Trial Management Order. A blank copy of this document is attached as enclosure (3) to these rules.

Rule 22.3: Before voir dire, trial counsel will provide the military judge with a combined list of the full name and unit or city and state of residence of all witnesses. The list must include witnesses whose testimony will be presented by stipulation of expected testimony.

Rule 23: PROHIBITED ITEMS IN THE COURTROOM

Rule 23.1: Eating, chewing gum, or using tobacco products is not permitted in the courtroom. Weapons and objects that may be used as weapons, including potential exhibits, are not permitted in the courtroom without specific authorization of the military judge.

Rule 23.2: With the exception of the court reporter, no person shall use electronic devices (e.g. laptops or tablets) to audio record or video record any courtroom session. No person in the courtroom may use any such electronic devices to transmit email, text messages, or social media messages.

Rule 23.3: Cellular or mobile telephones are only permitted for detailed counsel or supervisory counsel in the courtroom unless otherwise permitted or restricted by the military judge. When cellular telephones are in the courtroom, they must be silenced and used only during recesses of court.

Rule 24: COUNSEL DECORUM

Rule 24.1: Counsel's decorum in the courtroom shall be conducive to a dignified judicial atmosphere.

NJCR 24.1: The Northern Judicial Circuit Standards for Civility in Professional Conduct, attached as enclosure (4) to these rules, provides aspirational standards and best practices for the demonstration of civility and professionalism among all participants in the trial process.

Rule 24.2: Counsel shall stand when addressing the bench or members and when examining a witness, unless otherwise authorized by the military judge.

NJCR 24.2: Counsel will direct all argument and responsive statements to the military judge or members (as applicable) and will refrain engaging in an argument or other colloquy with opposing counsel while the court is in session. The presiding military judge may permit opposing counsel to confer with each other while the court is in session.

Rule 24.3: 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 statements or closing arguments.

NJCR Rule 24.3: During sessions of the Court, no counsel will leave the courtroom without permission of the presiding military judge.

Rule 25: COUNSEL CONDUCT

Rule 25.1: During trial, counsel must not state or allude to any matter that counsel has no reasonable basis to believe is relevant to the case or that is not supported by admissible evidence.

Rule 25.2: During trial, counsel must not assert any personal knowledge of the facts in issue, except if testifying as a witness.

Rule 25.3: In presenting a matter to the court-martial, counsel must disclose legal authority in the controlling jurisdiction known to counsel to be directly contrary to their position and which is not disclosed by opposing counsel.

NJCR 25.3a: When one counsel is addressing the Court or examining a witness, the opposing counsel shall remain seated at counsel table, unless standing to make an objection or otherwise requesting permission of the Court to be heard.

NJCR 25.3b: Each time the Court convenes or reconvenes, the trial counsel will ensure that the military judge is advised of all changes to, or absence of, any party.

NJCR 25.3c: Counsel will follow along in the trial guide to ensure that the presiding military judge makes no unintentional omissions. Should counsel believe the military judge has made such an omission, he or she shall bring it to the Court's attention immediately upon its discovery.

Rule 26: WITNESSES

Rule 26.1: Trial counsel shall swear each witness called to testify and must ensure that the military witness's name, grade, and military organization, or civilian witness's name and city and state of residence are announced in court.

NJCR 26.1: Live, in-person testimony is expected (in the absence of a stipulation of expected testimony) during all phases of the trial. In the event either counsel desires to use an alternative to live, in-person testimony (e.g., testimony via telephone or video teleconferencing), that counsel must request permission of the Court in advance of the session. This rule applies equally to testimony on the merits and on sentencing. Nothing in this NJCR will be construed to limit or alter the presiding military judge's discretion or responsibility under M.R.E. 611.

Rule 26.2: Counsel must ensure their witnesses understand the physical arrangements of the courtroom, where they should go, and how they must conduct themselves.

NJCR 26.2a: Witnesses will be instructed by counsel that they must not engage in the following activities in the courtroom: chew gum, use tobacco or use slang expressions or profanity (except as may be required in the presentation of the facts).

NJCR 26.2b: Unsworn statements from an accused or from a victim to the Court will not be made from the witness stand. They will be made from another location in the courtroom authorized by the presiding military judge.

Rule 26.3: Counsel must ensure that their witnesses will be immediately available when called to testify.

NJCR 26.3: Counsel will ensure that their respective witnesses will be immediately available when called to testify. This includes informing the witness of the time, location, and uniform (if applicable) for court, as well as making any arrangements necessary to allow civilian witnesses to come aboard the base. The fact that the government has agreed to, or has been ordered to, produce a witness on behalf of the defense, does not relieve the defense counsel of these requirements for defense witnesses. Counsel will coordinate with each other and the presiding military judge to reduce, whenever practicable, the amount of time a witness is required to wait prior to testifying.

Rule 26.4: Counsel will question witnesses from a reasonable

distance. Before approaching the witness, counsel must obtain permission of the military judge. Counsel and, likewise, witnesses, should not position themselves so as to block the view of the military judge, members, the accused, or counsel.

NJCR 26.4a: Counsel will refrain from entering a witness's personal space, or otherwise shouting at, ridiculing, or humiliating a witness. *See also* M.R.E. 303.

NJCR 26.4b: To the greatest extent practicable, trial counsel will ensure that separate waiting areas for government and defense witnesses are provided.

NJCR 26.4c: Not later than five business days prior to trial, counsel who intend on using an interpreter during the trial will notify the detailed military judge and opposing counsel of the interpreter's identity and a brief summary of his/her qualifications. Any anticipated objection to the interpreter will be provided to the detailed military judge as soon as possible, but not later than two business days prior to the date of the trial.

Rule 27: OBJECTIONS

Rule 27.1: Counsel must succinctly state the nature and basis of an objection. After the military judge rules on an objection, counsel may only make comment or further argument with permission from the military judge.

Rule 27.2: Should a non-party legal counsel, such as a victims' legal counsel, deem it necessary to object or otherwise be heard at trial, that counsel shall stand until recognized by the military judge. The counsel shall not speak until recognized by the military judge.

Rule 28: STIPULATIONS

Rule 28.1: 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 will consider entering into stipulations of fact or of testimony covering those matters.

Rule 28.2: Stipulations must be in writing, and will be prepared prior to trial.

Northern Judicial Circuit Rules of Practice
15 July 2016

Rule 28.3: Stipulations may be made for the limited purpose of obtaining a ruling on a motion or other pleading.

Rule 28.4: Written stipulations of fact must be marked as a "Prosecution Exhibit" or "Defense Exhibit" and, in a members' trial, read to the members. Stipulations of fact may be taken into the deliberation room by the members like all other admitted evidence. Written stipulations of expected testimony will be marked as an "Appellate Exhibit" and, in a members' trial, read to the members. Stipulations of testimony may not be taken into the deliberation room.

Rule 29: OFFERS OF PROOF

Rule 29.1: When offers of proof are expected to be presented on motions or objections, counsel should inform opposing counsel and attempt to reach agreement on the content of the offer of proof before presentation.

Rule 29.2: Absent a stipulation, an offer of proof is not evidence upon which a finding of fact may be based.

Rule 30: JUDICIAL NOTICE

Rule 30: Counsel will advise the military judge and opposing counsel of any intended requests for judicial notice in their written pretrial matters in accordance with the Trial Management Order.

Rule 31: EXHIBITS

Rule 31.1: Prosecution exhibits will be identified by Arabic numerals. Defense exhibits will be identified by capital letters. Appellate exhibits will be identified by Roman numerals.

NJCR 31.1a: In formulating questions to witnesses concerning an exhibit, counsel will refer to the exhibit by its number or letter. If referring to a specific section or passage in an exhibit, counsel shall refer to the specific page as marked by the Court Reporter. Photographs shall also be referred to by page number, as applicable.

NJCR 31.1b: If a counsel intends to refresh a witness's recollection or impeach a witness using a transcript or another document, that document shall be marked as an appellate exhibit and appended to the record of trial.

NJCR 31.1c: The proponent of documentary or photographic evidence will provide a copy of the original exhibit for the military judge. Additionally, any party who wishes to use an appellate exhibit while conducting an examination of a witness shall also provide a copy of the original appellate exhibit for military judge on the date of trial.

Rule 31.2: If an exhibit is not compatible for inclusion in the record of trial, counsel who offered the exhibit must prepare an appropriate substitute for inclusion in the record, such as a photograph or reduced-size copy of the exhibit.

Rule 31.3: All audio recordings and video recordings that contain audio portions must be transcribed before trial by the party offering such a recording, unless the military judge has ordered otherwise. If a portion is inaudible, the transcript must so state. A copy of the transcript will be served on opposing counsel before trial in sufficient time to allow for ascertaining the accuracy of the transcript. The recording or a copy thereof will be made available to opposing counsel upon request. The transcript shall be marked as an appellate exhibit.

NJCR 31.3a: The use of electronic media to present evidence during trial is encouraged. However, counsel must obtain the express prior approval of the presiding military judge before using any form of electronic media in any session of court.

NJCR 31.3b: The proponent of any audio or video recording which is played during opening statements, closing arguments or during the presentation of evidence shall articulate for the record the start and end time of the segment of the recording being played, using the recording's internal time markings.

NJCR 31.3c: Any exhibits (including computer generated exhibits or any other exhibits or demonstrative aids prepared prior to trial) or evidence intended to be used during opening statement or argument must first be shown to the opposing counsel and then be approved for use by the presiding military judge. Counsel must ensure that computer-generated exhibits are properly duplicated by hard copy printouts for inclusion in the record of trial.

NJCR 31.3d: Counsel intending on using demonstrative aids, such as charts, diagrams, videotapes, audio tapes, or any other technological presentations during their opening statement, closing arguments or during the presentation of the evidence must provide notice to the detailed military judge and opposing counsel not less than two days prior to trial.

Rule 32: VIDEO TELECONFERENCE REQUIREMENTS

Northern Judicial Circuit Rules of Practice
15 July 2016

Rule 32.1: Consistent with the Rules for Courts-Martial and applicable DoN instructions, Video Teleconferencing (VTC) may be used to conduct Article 39(a) sessions for arraignments, motions practice and any other sessions permitted by the military judge.

NJCR 32.1a: Requests for remote testimony over the objection of the opposing party will be made as soon as the potential need for remote testimony is discovered.

Rule 32.2: The government will ensure that all sites meet the necessary technology and security requirements.

NJCR 32.2: During the use of VTC to conduct sessions of the Court, two-way audio and visual transmissions (in color) shall be utilized. The remote VTC location must have telephonic connectivity and a means of receiving documents and other written material. Knowledgeable support personnel shall be available at both locations to troubleshoot technical issues that may arise. The court reporter will transcribe the VTC witness's testimony in the same manner as a normal witness.

Rule 32.3: VTC sessions are open to the public at the site designated by the presiding military judge consistent with the 6th Amendment, R.C.M. 504(d)(1) and R.C.M. 804.

Rule 33: FINDINGS & SENTENCING INSTRUCTIONS

Rule 33: Trial and defense counsel will make appropriate recommendations as to specific instructions for the military judge to provide to the members. Requests for special instructions, modifications to standard instructions, or a summarization of the evidence, must be submitted in writing and in accordance with the Trial Management Order to the military judge and opposing counsel.

Rule 34: RECORD OF TRIAL/APPELLATE RIGHTS

Rule 34.1: A complete and accurate record of the proceedings is required to protect the rights of all parties. During the course of the trial, counsel must ensure that uncommon names, places, and words are spelled out on the record, that witnesses respond verbally, and that descriptions of size, distance, and location are clear.

Rule 34.2: 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 must include such decisions in the written acknowledgement of appellate rights. In memorializing the accused's understanding of appellate rights, counsel shall use the standard Appellate Rights Statement found at:
http://www.jag.navy.mil/trial_judiciary.htm

Rule 34.3: Whenever practicable, trial counsel must read and make corrections to the record of trial. Corrections by trial counsel must be initialed and dated before submission to the military judge for authentication.

Rule 34.4: The trial counsel must ensure that the record of trial is prepared in a timely and accurate manner. Pursuant to R.C.M. 1103(i)(1)(B), the trial counsel must permit the defense to review the record except when unreasonable delay will result before it is submitted to the military judge for authentication.

Rule 35: DOCUMENTS AND PLEADINGS

Rule 35.1: All electronic filings must be signed and filed in MS Word or PDF format. All documents and pleadings filed with the court will be on white 8.5 inch by 11 inch white paper.

Rule 35.2: All motions will be filed in the standard form found at: http://www.jag.navy.mil/trial_judiciary.htm.

Rule 35.3: All pleadings filed must have one inch margins and use Courier New or Times New Roman 10-12 point font.

Rule 36: VICTIMS' LEGAL COUNSEL AND OTHER NON-PARTY COUNSEL

Rule 36.1: Victims' legal counsel, or other nonparty legal counsel, may be heard before the court to the extent authorized by applicable law, subject to the rulings and direction of the military judge. Victims' legal counsel shall file a Notice of Appearance with the court, stating the judicial circuit, applicable case caption, name of the respective client (using initials only if the client is a minor), and name,

Northern Judicial Circuit Rules of Practice
15 July 2016

rank, address, phone number and email address of the victims' legal counsel. The notice shall also contain a brief statement as to the qualifications to practice and status as to oath of the victims' legal counsel. The notice must be served on all parties in the case. A victims' legal counsel who fails to file a Notice of Appearance shall not be recognized by the court.

NJCR 36.1: If an alleged victim retains civilian counsel, trial counsel shall furnish the civilian victim's legal counsel with a copy of these NJCRs as well as the Uniform Rules. The civilian victim's legal counsel's notice of appearance must acknowledge familiarity with these rules.

Rule 36.2: All victims' legal counsel are subject to these Uniform Rules, the Rules of Professional Conduct, and the applicable Circuit Rules. Military victims' legal counsel will be attired in the proper uniform required of trial and defense counsel by local Circuit Rules.

Rule 36.3: If victims' legal counsel has filed a Notice of Appearance, trial counsel shall consult with the victims' legal counsel regarding availability before agreeing to any session of court in a TMO or PTIR, or requesting a continuance. Trial counsel shall provide the victims' legal counsel notice of all ordered or scheduled sessions of court within twenty-four hours (24) of the order, unless the military judge permits a different time for such notice upon a showing of good cause. Additionally, trial counsel shall immediately provide victims' legal counsel with a copy of any TMO ordered by the court, any pending PTIR, and any rulings on motions involving the victims' legal counsel's client. Any required notices or motions may be filed electronically upon the victims' legal counsel in accordance with Rule 10.3.

Rule 36.4: Victims' legal counsel may have an interest in hearings for rights afforded alleged victims by law. As such, the trial counsel and defense counsel shall provide copies of the relevant Prosecution and Defense filings to the victims' legal counsel within twenty-four (24) hours after filing. Whenever practicable, victims' legal counsel should be included in R.C.M. 802 conferences regarding the filing of such motions as discussed in Rule 8.1.

Northern Judicial Circuit Rules of Practice
15 July 2016

Rule 36.5: Victims' legal counsel may file such motions and other pleadings with the court as they deem proper to represent their client's interests. Victims' legal counsel shall articulate a basis for standing in their written pleadings if the pleading concerns issues outside those identified in Rule 36.4 above. Copies of all filings by victims' legal counsel must be served on all counsel participating in the case. Victims' legal counsel filings should comply with motion filing dates set in the TMO; however, the military judge may set separate deadlines for the filing of any motions by a victims' legal counsel.

Rule 36.6: The military judge has discretion to allow victims' legal counsel to be heard in court via telephone or Video Teleconference (VTC). When in the courtroom, the victims' legal counsel shall remain seated behind the bar in proximity to trial counsel, except when invited inside the bar by the presiding military judge to address the court. When addressing the court, the victims' legal counsel shall do so from behind the podium. Victims' legal counsel may be heard in an Article 39(a) outside the hearing of the members. It is within the military judge's discretion to hear from the victims' legal counsel on each distinct issue separately, to have counsel address all issues at one time, or to require counsel to submit written matters to the court. Whenever practicable, victims' legal counsel may be seated at counsel table inside the bar during lengthy or complex motions hearings in which they will be heard. The manner in which the victims' legal counsel presents evidence is within the discretion of the military judge (e.g., when the victims' legal counsel is the moving or responding party, the military judge may allow victims' legal counsel to conduct examination of witnesses).

Rule 36.7: The victims' legal counsel may move to close the court proceedings during any Article 39(a) motion session in order to protect the privacy and dignity of their client. A court session may be closed over the objection of the accused or the public upon meeting the constitutional standard set forth in R.C.M. 806(b)(2) and related case law. For hearings under

M.R.E. 412, the military judge must conduct a closed hearing. For hearings under M.R.E. 513(e)(2) and M.R.E. 514(e)(2), the military judge may order the hearing closed.

Rule 37: VICTIM'S RIGHT TO BE HEARD

Rule 37: In any motion or hearing where an alleged victim has a right to be heard, the military judge shall verify on the record that the victim was notified of the right to be heard. When a victim elects not to testify or otherwise be heard, the military judge may require the trial counsel and/or victims' legal counsel to certify in writing that the victim was made aware of the right and affirmatively declined to do so.

Rule 38: APPOINTMENT OF A DESIGNEE FOR CERTAIN VICTIMS

Rule 38.1: In cases involving a victim who qualifies for a designee under R.C.M. 801(a)(6), the initial PTIR or request for docketing shall include a recommendation from both parties and, if appropriate, the victim's legal counsel, regarding this appointment. Trial counsel shall also include a draft proposed appointing order, using the standard appointment form found at:
http://www.jag.navy.mil/trial_judiciary.htm.

The draft shall include the name of the proposed designee, the proposed designee's relationship to the named victim, and the rights of the designee. The appointment of the designee shall be accomplished at arraignment when practicable. Either party may request, or the military judge shall order, an Article 39 (a) session under this rule in cases where a designee cannot be identified or agreed upon by the parties.

Rule 38.2: At any time after appointment, an individual shall be excused as the designee upon request by the designee or a finding of good cause by the military judge. If the designee is excused, the military judge shall appoint a successor using the procedures established in R.C.M. 801(a)(6).

Rule 38.3: Nothing in this rule conveys any additional rights to a named victim, victims' legal counsel, or designee.

Rule 39: CONTEMPT PROCEEDINGS

Rule 39.1: Military judges are empowered to punish persons in accordance with Article 48 and R.C.M.s 801(b) and 809 for direct or indirect contemptuous behavior. Such contempt power is to be exercised with restraint and in strict compliance with the statute and the implementing Rules for Courts-Martial.

Rule 39.2: If a military judge intends to hold a contempt proceeding under R.C.M. 809(b)(2), the military judge shall notify the subject of the proceeding in writing, notwithstanding the provision in the rule allowing for oral notification.

Rule 40: MODEL PRETRIAL AGREEMENT

Rule 40.1: Counsel are strongly encouraged to use the model PTA found at:
http://www.jag.navy.mil/trial_judiciary.htm.

Enclosures:

- (1) Pretrial Information Report
- (2) "Expectations for Court-Martial Panel Service"
- (3) Northern Judicial Circuit Standard Member's Questionnaire
- (4) Northern Judicial Circuit Standards for Civility in Professional Conduct

PRETRIAL INFORMATION REPORT (PTIR)

Date Submitted:

Subj: U.S. v.

GCM SPCM ART 32

Ref: (a) Uniform Rules of Practice for U.S. Navy-Marine Corps Trial Judiciary

- Encl: (1) Trial Management Order Attached Previously Submitted
- (2) Copy of Referred Charge Sheet Attached Previously Submitted
- (3) Copy of Convening Order Attached Previously Submitted
- (4) Copies of Relevant Portions of Written Orders/State or Fed Statutes Attached Not Applicable
- (5) Proposed Elements for State/Fed Offenses Attached Not Applicable

1. Pursuant to Rule 6.1 of reference (a), the marked enclosures and the following information are provided:

- a. Requested Court Date: Type of Session:
- b. Previous court session? Yes No If yes, MJ and date:
- c. Proposed court site: Expected duration: Hours
- d. Related case(s):
- e. Civilian counsel:
- f. Anticipated forum: MJ Alone Officer Members Enlisted & Officer Members
- g. Anticipated pleas: NG (to all) G (to all) Mixed Pleas or Exceptions (Specify in Part 3).
- h. Pretrial agreement? ATTACHED NO ANTICIPATED BY
- i. (Negative) PTIR submitted by TC DC for the purpose of:

2. Trial Schedule:

- a. Government discovery due:
- b. Defense expert witness requests due:
- c. Out-of-area witness requests / Notice of certain defenses / M.R.E. 412 notice due:
- d. Written motions by all parties due:
- e. **ARTICLE 39(a) MOTIONS DATE:**
- f. Written notice of forum and pleas / Defense witness list due:
- g. Page 58 matters (voir dire, witness lists, instructions, etc...) due:
- h. **TRIAL DATE:**

Government Proposed Dates	Defense Proposed Dates
<input type="text"/>	<input type="text"/>

3. Additional comments / Explanation for missing counsel signature:

Trial Counsel or Senior TC Signature

 Printed Name of TC & Phone Number

Defense Counsel Signature

 Printed Name of DC & Phone Number



DEPARTMENT OF THE NAVY
NAVY-MARINE CORPS TRIAL JUDICIARY
NORTHERN JUDICIAL CIRCUIT
WASHINGTON NAVY YARD, DC 20374

15 Jul 16

From: Circuit Military Judge, Northern Judicial Circuit, Navy-
Marine Corps Trial Judiciary
To: Prospective Panel Member
Subj: EXPECTATIONS FOR COURT-MARTIAL PANEL SERVICE

1. You have been selected by the Convening Authority to serve as a panel member on an upcoming court-martial in the Northern Judicial Circuit of the Navy-Marine Corps Trial Judiciary. During winter months, the prescribed uniform is Service "B" for Marine personnel and Service Dress Blue for Navy personnel. During summer months, the prescribed uniform is Service "C" for Marine personnel and Summer White (E-7 and above)/Service Dress White (E-6 and below) for Navy personnel. The date for the shift of seasonal uniforms shall be set by service guidelines or at the direction of the area uniform coordinator, as applicable. The morning you report for duty, please arrive at least fifteen minutes in advance so that you may go through any applicable security screening and/or receive any administrative briefings.

2. When you are assigned as a member of a court-martial, that assignment becomes your primary duty and takes precedence over all other duties you may have. This letter is provided to let you know what to expect and to ensure you have time to make other arrangements for work or personal obligations during your service.

3. Military courts-martial typically last one full week, but may go longer or shorter. While we attempt to conduct sessions of court during normal business hours, evening or weekend sessions are sometimes required. The Military Judge will let you know on the first day how long your service is expected to last for a given trial so that you can plan accordingly, but trials are inherently unpredictable. Court is frequently in session at various times from 0800 until 1700 or even 1800, but may go longer or shorter as well.

4. Because days may be long and breaks are varied, you are encouraged to bring snacks and can bring work or leisure reading material to occupy you during court recesses. The lunch break is typically one hour. You are encouraged to bring a beverage with you into the courtroom, but all beverages must have a

Enclosure (2)

Subj: EXPECTATIONS FOR COURT-MARTIAL PANEL SERVICE

secure, spill-proof lid. You may not use any electronic device or media to post, communicate, or research anything about the court-martial on which you are serving. You must not discuss the case even with other panel members until instructed to do so by the military judge.

5. Thank you for your time and attention.



R. P. MONAHAN JR.
CDR, JAGC, USN

**NORTHERN JUDICIAL CIRCUIT
MEMBERS COURT-MARTIAL QUESTIONNAIRE**

I. BIOGRAPHICAL INFORMATION

1. Full Name: _____
2. Rank/Rate/Service: _____
3. Date of Rank/Rate: _____
4. Designator (number & Description)/MOS: _____
 - a. Warfare qualification(s): _____
5. Age: _____
6. Gender: Female Male
7. Do you consider yourself [mark all that apply]:
 Caucasian African-American Asian-American
 Native American Hispanic Other: _____
8. Officers only:
 - a. Source of Commission: _____
 - b. Any prior enlisted service? Yes No
 - i. If Yes, number of years: _____
 - ii. Rate and/or highest grade attained: _____
9. Years of Active Duty: _____
10. Served in any other military branch of service? Yes No
 - a. Branch of service: _____
 - b. Rank: _____
 - c. Dates of prior service: _____
11. Current duty station, billet/assignment, and duties (be specific): _____

12. Anticipated PCS/PRD date: _____

13. Summary military career (Last 10 years, plus any significant or unusual billets)

From/To	Command	Specific Assignment

14. Have you been employed outside the military within the past 10 years? Yes No

a. If yes,

i. Employer(s): _____

ii. Position(s): _____

iii. Description of duties: _____

iv. Management or supervisory responsibilities? Yes No

15. Are you currently seeking any employment outside the military? Yes No

a. If yes, which employment field(s): _____

II. ORIGIN/LANGUAGE INFORMATION

16. Where were you born? _____

17. Where were you raised? _____

18. Is English your first language? Yes No

a. If not, what is your first language? _____

19. Do you speak any language other than English? Yes No

a. If yes, what other language(s)? _____

20. Do you have any difficulty:

a. Reading English Yes No Sometimes

b. Understanding spoken English Yes No Sometimes

III. Medical/Scheduling

21. Do you have any specific medical/physical condition that might make it difficult for you to serve as a member? Yes No

a. Please describe generally (e.g. medication; chronic back pain; need regular breaks): _____

b. Are you presently taking any form of medication that could affect your ability to concentrate or focus on a task at hand? Yes No

22. Do you have any immediate personal commitments that cannot be covered or rescheduled which may interfere with your duties as a member during trial? Yes No

a. If yes, please explain: _____

23. Have you, or anyone close to you, ever been treated by a social worker, psychologist, psychiatrist, counselor or therapist? Yes No

a. Do you believe such treatment would affect your ability to sit as a court-martial member, if there was evidence about a psychological/mental issue? Yes No

b. If "no," please explain briefly: _____

IV. EDUCATION/LAW ENFORCEMENT/LEGAL EXPERIENCE

24. Highest level of education you completed?

- High School (Indicate grade) 10 11 12 GED
- Technical, Vocational or Business school
- College
- Post Graduate

25. Post-high school education only:

School/City, State	Dates Attended	Course of Study	Degree

26. Are you currently enrolled in any education courses? Yes No

a. If yes, please explain: _____

27. Have you had any specialized law enforcement training, civilian or military (either before or after entering the military service)? Yes No

28. Have you worked in any capacity as law enforcement? Yes No

a. If "yes," please explain: _____

b. Do you have any legal training or have you taken any law related courses? Yes No

c. If yes, please explain: _____

d. Have you ever served as a legal officer? Yes No

i. Command(s): _____

ii. Period(s): _____

29. Attended training at or offered by Naval Justice School, including the Legal Officer Course and Senior Officer Course? Yes No

i. Date _____ Course _____

ii. Date _____ Course _____

iii. Date _____ Course _____

30. Have you ever served as (mark all that apply):

	Number of times	Approx. Date(s)
<input type="checkbox"/> Court-Martial Member	_____	_____
<input type="checkbox"/> Special or General Court-Martial Convening Authority	_____	_____
<input type="checkbox"/> Summary Court-Martial Officer	_____	_____
<input type="checkbox"/> Officer imposing NJP	_____	_____
<input type="checkbox"/> Board of Inquiry Officer	_____	_____
<input type="checkbox"/> Administrative Board Member	_____	_____
<input type="checkbox"/> Command Investigation Officer	_____	_____
<input type="checkbox"/> Jury or Grand jury member (civilian)	_____	_____

31. Have you ever personally been a witness at a (mark all that apply):

	Number of times	Approx. Date
<input type="checkbox"/> Court-martial	_____	_____
<input type="checkbox"/> NJP/Captain's Mast	_____	_____
<input type="checkbox"/> Administrative board	_____	_____
<input type="checkbox"/> Civilian trial	_____	_____

a. If yes, please explain: _____

32. Are you or did you serve as Victim Advocate, SAVI, SARC or other sexual assault advocate position/duty? Yes No

- a. Position _____ Date _____ Command _____
b. Position _____ Date _____ Command _____
c. Position _____ Date _____ Command _____

33. Have you ever served as a member of a Family Advocacy Program (FAP) board or committee? Yes No

- a. If "yes," please explain: _____

34. Other than General Military Training (e.g. NKO GMT), have you ever served or received any training, in the field of alcohol and substance abuse? Yes No

- a. If "yes," please explain: _____

35. Have you ever served in an official capacity in a command or service sponsored urinalysis program (i.e. Coordinator, Observer)? Yes No

- a. If "yes," please explain when and your role: _____

V. FAMILY INFORMATION

36. Marital Status (check all that apply):

- Single
 Currently married, for _____ (years/months)
 Divorced:
Year of divorce(s): _____
Length of prior marriage(s): _____
 Widowed

37. For members with spouses/significant others only:

- a. Has your spouse/significant other ever served in the military? Yes No N/A
- i. If "Yes," branch of service: _____
ii. Rate/Rank: _____
iii. Dates of service: _____
- b. Is your spouse/significant other employed? Yes No
- i. Their occupation: _____
ii. Employer: _____
iii. Job description: _____
iv. Years at current employer: _____

38. Please list your children (regardless of where they now reside), as well as any other children residing with you: N/A

Gender	Age	Lives with you (Y/N)?	Education Level	Occupation

VI. OTHER INFORMATION

39. Do you, an immediate family member, or close friend have specialized training or is in one of the following fields?

Field	Relationship to You	Position/Description
Law enforcement (local, state or federal)		
Attorney (prosecutor, defense attorney, civil attorney); judge ; paralegal		
Medical (doctor/nurse)		
Psychiatry/mental health		
Computer programming		
Social work		
Sciences (i.e. biology)		

40. Do you regularly interact with, or know very well, any of the following personnel:

- NCIS agent
- Military Trial Counsel (prosecutor)/paralegal
- Military Defense Counsel/paralegal
- Staff Judge Advocate
- Military Judge

a. If yes, please explain (do not explain here any specific interaction related to you seeking legal representation for a criminal matter, if applicable): _____

41. Have you, an immediate family member, or close friend ever been a victim, accused, investigated, arrested, witnessed, charged or convicted of a crime?

Crime	Relationship to You	Approx. Year	Brief Description
Domestic Violence			
Sexual Assault			
Armed Robbery			
Burglary			
Child Abuse			
Assault			

Theft			
Other (beyond minor traffic violations)			

42. Have you ever had to call the police or have the police ever been called on you or anyone close to you? Yes No

a. If "yes," please explain: _____

43. Have you or anyone close to you ever been through a traumatic event (e.g. being the victim of a crime; car accident) Yes No

a. If "yes," please explain: _____

44. Based on your answers above, is there a trial that you believe you would not be able to sit due to the nature of the crime(s) alleged? Yes No

a. If "yes," please explain: _____

45. Have you or someone you know ever been wrongfully accused of a crime? Yes No

a. If "yes," please explain: _____

46. Do you, an immediate family member, or close friend have any affiliation with any of the types of non-profit organizations in the area of law enforcement, crime prevention, domestic violence, sexual assault or assistance to victims of crime (or have volunteered with such an organization within the past 10 years)? If so, please describe.

47. Do you "blog?" Yes No

a. If "yes," what topics do you blog about? _____

48. Do you use "social media" (i.e. Facebook, Twitter, LinkedIn)? Yes No
a. If "yes," describe the social media and how often used: _____

49. Do you regularly attend church, synagogue or any other place of worship?
Yes No
a. Is there anything concerning your religious preference, affiliation, or belief that makes it difficult for you to sit in judgment of another person?
Yes No Possibly

50. Please consider the following and provide a brief explanation if you answer "yes" or "possibly":
a. Do you think you might have difficulty judging someone who is charged with a crime?
Yes No Possibly
b. If you are selected to serve as a juror on this case would you be concerned about reactions to your verdict by your friends, your command members, your commanding officer, or the convening authority?
Yes No Possibly

Explanation to any of the above: _____

51. Is there anything in your background or experience that might affect your ability to be a fair and impartial decision-maker for either party? Yes No

52. Is there any matter not covered by this questionnaire that you think the attorneys or military judge might want to know about you when considering you as a member in this case? Yes No

Signature Date

PLEASE ATTACH EXTRA PAGES FOR ADDITIONAL EXPLANATION IF NEEDED AND NOTE CLEARLY THE QUESTION TO WHICH THE ADDITIONAL OR SUPPLEMENTAL MATERIAL APPLIES.

“FOR OFFICIAL USE ONLY – PRIVACY ACT SENSITIVE: Any misuse or unauthorized disclosure of this information may result in both criminal and civil penalties.”

**NORTHERN JUDICIAL CIRCUIT STANDARDS FOR
CIVILITY IN PROFESSIONAL CONDUCT¹**

**PRINCIPLES OF GENERAL APPLICABILITY:
LAWYERS' DUTIES TO OTHER COUNSEL, PARTIES, AND THE JUDICIARY**

General Principles:

1. In carrying out our professional responsibilities, we will treat all participants in the legal process, including counsel and their staffs, parties, witnesses, judges, court personal, and other staff, in a civil, professional, and courteous manner at all times and in all communications, whether oral or written. We will refrain from acting upon or manifesting racial, gender, or other bias or prejudice toward any participant in the legal process. We will treat all participants in the legal process with respect.

2. Except within the bounds of fair argument in pleadings or in formal proceedings, we will not reflect in our conduct, attitude, or demeanor, our clients' ill feelings, if any, towards other participants in the legal process.

3. We will not, even if called upon by a client to do so, engage in offensive conduct directed toward other participants in the legal process; nor will we abuse other such participants in the legal process. Except within the bounds of fair argument in pleadings or in formal proceedings, we will abstain from directing disparaging personal remarks or acrimony toward such participants and treat adverse witnesses and parties with fair consideration. We will encourage our clients to act civilly and respectfully to all participants in the legal process.

4. We will not encourage or authorize any person under our control to engage in conduct that would be inappropriate under these standards if we were to engage in such conduct.

5. We will not bring the profession into disrepute by making unfounded accusations of impropriety or making ad hominem attacks on counsel, and, absent good cause, we will not attribute bad motives or improper conduct to other counsel.

6. While we owe our highest loyalty to our clients, we will discharge that obligation in the framework of the judicial system in which we apply our learning, skill, and industry, in accordance with professional norms. In this context, we will strive for orderly, efficient, ethical, fair and just disposition of litigation, as well as disputed matters that are not, or are not yet, the subject of litigation, and for the efficient, ethical, and fair negotiation and consummation of all transactions.

7. The foregoing General Principles apply to all aspects of legal proceedings, both in the presence and outside the presence of a court or tribunal.

¹ Adapted from the Air Force Standards for Civility in Professional Conduct (Attachment 3 to AFI51-110 dated 5 Aug 14)

Scheduling Matters:

8. We will endeavor to schedule dates for trials, hearings, depositions, meetings, negotiations, conferences, vacations, seminars, and other functions to avoid creating calendar conflicts for other participants in the legal process, provided our clients' interests will not be adversely affected.

9. We will notify other counsel, and if appropriate, the court or other persons, at the earliest possible time when hearings, depositions, meetings, or conferences need to be canceled or postponed. Early notice avoids unnecessary travel and expense and may enable the court and other participants in the legal process to use the previously reserved time for other matters.

10. We will agree to reasonable requests for extensions of time and for waiver of procedural formalities, provided that our clients' interests will not be adversely affected.

11. We will not request an extension of time for the purpose of unjustified delay.

PRINCIPLES PARTICULARLY APPLICABLE TO LITIGATION

Procedural Agreements:

12. We will confer with opposing counsel about procedural issues that arise during the course of litigation, such as requests for extensions of time, discovery matters, pre-trial matters, and the scheduling of meetings, depositions, hearings, and trial. We will seek to resolve by agreement such procedural issues that do not require court order. For those that do, we will seek to reach agreement with opposing counsel before presenting the matter to the court.

13. We accept primary responsibility, after consultation with the client, for making decisions about procedural agreements. We will explain to our clients that cooperation between counsel in such matters is the professional norm and may be in the client's interest. We will explain the nature of the matter at issue in any such proposed agreements and explain how such agreements do not compromise the client's interests.

Discovery:

14. We will not use any form of discovery or discovery scheduling to harass, create unjustified delay, increase litigation expenses, or for any other improper purpose.

15. We will make good faith efforts to resolve by agreement any disputes with respect to matters contained in pleadings, discovery requests, and objections.

16. We will not engage in any conduct during a deposition that would not be appropriate if a judge was present. Accordingly, we will not obstruct questioning during a deposition or object to deposition questions, unless permitted by the applicable rules to preserve an objection or privilege, and we will ask only those questions we reasonably believe are appropriate in discovery under the applicable rules.

17. We will carefully craft document production requests so they are limited to those documents we reasonably believe are appropriate under the applicable rules. We will not design production requests for the purpose of placing an undue burden or expense on a party.

18. We will respond to document requests reasonably and in accordance with what the applicable rules require. We will not interpret a request in an artificially restrictive manner to avoid disclosure of relevant and non-privileged documents. We will not produce documents in a manner designed to hide or obscure the existence of particular documents.

19. We will carefully craft interrogatories so they are limited to those matters we reasonably believe are appropriate under the applicable rules, and we will not design them for the purpose of placing an undue burden or expense on a party.

20. We will respond to interrogatories reasonably and in accordance with what the applicable rules require. We will not interpret interrogatories in an artificially restrictive manner to avoid disclosure of relevant and non-privileged information.

21. We will base our discovery objections on a good faith belief in their merit. We will not object solely for the purpose of withholding or delaying the disclosure of properly discoverable information.

22. During discovery, we will not engage in acrimonious conversations or exchanges with opposing counsel, parties, or witnesses. We will advise our clients to conduct themselves in accordance with these provisions. We will not engage in undignified or discourteous conduct that degrades the legal profession.

Sanctions:

23. We will not seek sanctions or disqualification of counsel unless reasonably justified by the circumstances determined after conducting a reasonable investigation, which includes attempting to confer with opposing counsel.

Lawyers' Duties to the Court:

24. We recognize that the public's perception of our system of justice is influenced by the relationship between lawyers and judges, and that judges perform a symbolic role. At the same time, lawyers have a right and, at times, the duty to be critical of judges and their rulings. Thus, in all communications with the court, we will speak and write civilly. In expressing criticism of the court to any tribunal, we shall use language that is respectful of courts or tribunals, the system of justice, and the symbolism that these represent.

25. We will not engage in conduct that offends the dignity or decorum of judicial or administrative proceedings, brings disorder or disruption to the courtroom or tribunal, or undermines the image of the legal profession.

26. We will advise clients and witnesses to act civilly and respectfully toward the court, educate them about proper courtroom decorum, and, to the best of our ability, prevent them from creating disorder or disruption in the courtroom.

27. We will not knowingly misrepresent, mischaracterize, misquote, or miscite facts or authorities and will immediately make any clarifications and corrections as these become known to us.

28. We will not degrade the intelligence, ethics, morals, integrity, or personal behavior of others, unless such matters are legitimately at issue in the proceeding.

29. We will act and speak civilly and respectfully to the judge's staff, the courtroom and tribunal staff, and other court or tribunal personnel, with an awareness that they, too, are an integral part of the judicial system. We will also advise clients and witnesses to act civilly and respectfully toward these participants in the legal process.

30. We recognize that judicial resources are scarce, that court dockets are crowded, and that justice is undermined when cases are delayed and/or disputes remain unsolved. Therefore, we will be considerate of time constraints and pressures on the court and court staff inherent in their efforts to administer justice.

31. We recognize that tardiness and neglect show disrespect to the court and the judicial system. Therefore, we will be punctual and prepared for all court appearances so that all hearings, conferences, and trials may commence on time and proceed efficiently. We will also educate clients and witnesses concerning the need to be punctual and prepared. If delayed, we will promptly notify the court and counsel, if possible.

32. Before dates for hearings or trials are set, or, if that is not feasible, immediately after such a date has been set, we will attempt to verify the availability of necessary participants and witnesses so we can promptly notify the court of any likely problems.

33. We will avoid ex parte communications with the court or tribunal, including judge's staff, on pending matters, in person (whether in social, professional, or other contexts), by telephone, in email, letters, or other forms of written communication, unless such communications relate solely to scheduling or other non-substantive administrative matters, or are made with the consent of all parties, or are otherwise authorized by law or court rule.

Judge's Duties to Lawyers and Others:

34. We will be courteous, respectful, and civil to lawyers, parties, agency personnel, and witnesses. We will maintain control of the proceedings, recognizing that we have both the obligation and authority to ensure that judicial proceedings are conducted with dignity, decorum, and courtesy.

35. We will not employ hostile, demeaning, or humiliating words in opinions or written or oral communications with lawyers, parties or witnesses.

36. We will be punctual in convening hearings, meetings and conferences; if delayed, we will notify counsel as promptly as possible.

37. In scheduling hearings, meetings, and conferences, we will be considerate of time schedules of lawyers, parties, witnesses, and of other courts. We will inform counsel promptly of any rescheduling, postponement, or cancellation of hearings, meetings, or conferences.

38. While endeavoring to resolve disputes efficiently, we will be considerate of the time constraints and pressures imposed on lawyers by the exigencies of litigation practice. We will make all reasonable efforts to decide promptly any matters presented to us for decision.

39. We recognize that a lawyer has a right and a duty to present a cause fully and properly, and that a litigant has a right to a fair and impartial hearing. Within the practical limits of time, we will allow lawyers to present proper arguments, to make a complete and accurate record, and to present a case free from unreasonable or unnecessary judicial interruption.

40. We will not impugn the integrity or professionalism of any lawyer on the basis of the clients whom, or the causes which, a lawyer represents.

41. We will do our best to ensure that court personnel act civilly towards lawyers, parties, and witnesses.

42. At an appropriate time and in an appropriate manner, we will bring to a lawyer's attention conduct which we observe that is inconsistent with these standards.

Judge's Duties to Each Other:

43. We will treat other judges with courtesy and respect.

44. In written opinions and oral remarks, we will refrain from personally attacking, disparaging, or demeaning other judges.

45. We will endeavor to work cooperatively with other judges with respect to the availability of lawyers, witnesses, parties, and court resources.

OTHER GENERAL PRINCIPLES

46. We will not knowingly misrepresent or mischaracterize facts or authorities or affirmatively mislead another party or its counsel in negotiations, and will immediately make any clarifications and corrections as these become known to us.

47. We will not engage in personal vilification or other abusive or discourteous conduct in negotiations. We will not engage in acrimonious exchanges with opposing counsel or parties at the negotiating table. We will encourage our clients to conduct themselves in accordance with these principles.

48. We will honor all understandings with, and commitments we have made to, other lawyers. We will stand by proposals we have made in negotiations, unless newly received information or unforeseen circumstances provide a good faith basis for rescinding them, and we will encourage our clients to conduct themselves in accordance with this principle.

49. We will not make changes to written documents under negotiation in a manner calculated to cause the opposing party or counsel to overlook or fail to appreciate the changes. We will clearly and accurately identify for other counsel and parties all changes that we have made in documents submitted to us for review.

50. In memorializing oral agreements the parties have reached, we will do so without making changes in substance and will strive in good faith to state the oral understandings accurately and completely. In drafting proposed agreements based on letters of intent, we will strive to draft documents that fairly reflect the agreements of the parties.