

UNITED STATES NAVY-MARINE CORPS TRIAL JUDICIARY  
NORTHERN JUDICIAL CIRCUIT  
SPECIAL COURT-MARTIAL

UNITED STATES

V.

**PRETRIAL ORDER**

Marina D. LOPEZ  
Staff Sergeant  
U. S. Marine Corps

1. This Pretrial Order is issued pursuant to RCM 701(g)(1). This order is intended to complement and ensure the smooth and orderly progression of this case. Nothing within this order shall be construed to supercede any rule found within the Manual for Courts-Martial or other regulatory, statutory or constitutional obligation or right of either party.

Unless otherwise specifically noted, all documents or motions ordered or filed with the court shall be filed with the court and opposing counsel **no later than 1200** on the day ordered.

2. Trial is set to begin in the above styled case at **0800, 3-17 Aug 2011** at Marine Corps Base Quantico, Virginia. Counsel shall comply with this order or seek relief from the undersigned judge or the Circuit Military Judge as soon as possible. **Items preceded by an asterisk shall also be provided to the military judge.**

3. Not later than **16 Mar 2011**, trial counsel shall provide the following items to the defense:

- a. Papers accompanying the charges, convening orders, and statements. (RCM 701(a)(1)).
- b. Names, phone numbers, addresses, and for military witnesses, unit of assignment of witnesses in the government's case in chief. (RCM 701(a)(3)).
- c. Notice of records of prior convictions of the accused to be offered on the merits, if any. (RCM 701(a)(4)).
- d. Notice of immunity or leniency to prosecution witnesses, if any. (MRE 301(c)(2)).
- e. Disclosure of known evidence that is favorable to the defense, if any. (RCM 701(a)(6)).
- f. Disclosure of relevant statements made by the accused, if any. (MRE 304(d)(1)).
- g. Disclosure of evidence seized from or the property of the accused, if any. (MRE 311(d)(1)).
- h. Disclosure of evidence of prior identification of the accused, if any. (MRE 321(c)(1)).
- i. Disclosure as required by MRE 413(b), and 414(b) if applicable.

4. Not later than 5 calendar days after receipt by the trial counsel of a request from the defense counsel under RCM 701(a)(2) or (5), or MRE 404(b), trial counsel will provide the notice or make the disclosures required by the applicable rule.

5. Defense counsel will provide notice and disclosure to the trial counsel in accordance with the following schedule:

\*a. Not later than **23 Mar 2011**, submit any request for the employment of a defense expert [consultant and/or witness]. (RCM 703(d)).

b. Not later than **23 Mar 2011**:

(1) Request production of out-of-area witnesses (RCM 703)(c)(2)(A)). An out-of-area witness is defined as one requiring funded travel and/or per diem. In this regard, the parties are reminded that a "synopsis" as this term is used in the RCM, is not a generalized statement of the subject matter of the witness' testimony. A "synopsis" is a summary, in narrative form, of the requested witness' actual testimony. Response to Defense requests for witness production are due no later than **30 Mar 2011**.

\* (2) If applicable, provide written notice of intent to offer evidence of the defense of alibi, innocent ingestion, lack of mental responsibility, or the defense's intent to introduce expert testimony as to the accused's mental condition fully complying with RCM 701 (b)(2) in the particulars contained in the notice.

\* (3) If applicable, file a written motion and provide notice of intent to offer relevant evidence of specific instances of the purported victim's past sexual behavior as required by MRE 412(c)(1)(A) and (B).

c. Not later than **7 Apr 2011**:

(1) Provide names, addresses, unit of assignment if applicable, and telephone numbers of witnesses for the defense case-in-chief and provide copies of their statements. (RCM 701(b)(1)(A)).

\* (2) Provide notice of forum and pleas. This shall be accomplished, at a minimum with a Pretrial Information Report initiated by trial counsel and endorsed by defense counsel.

d. Not later than 5 calendar days after receipt by the defense counsel from the trial counsel under RCM 701(b)(1)(B) or RCM 701 (b)(3) or (4), the defense will make the disclosure required by the applicable Rule.

\* 6. Not later than **21 Apr 2011**, both the trial and defense counsel will provide briefs on any motion. The responding party shall reply not later than 7 calendar days after receipt of the motion. All motions (except for docketing motions and continuance motions or those specifically delineated on a case-by-case basis by the undersigned military judge) shall include respective counsel's proposed findings of fact and findings of law. A pretrial 39a session will be held on **5 May 2011** to argue motions and resolve any outstanding issues.

7. The trial counsel shall notify the defense counsel of its intent to deny the defense any witness or expert consultant requested by the defense not later than 3 calendar days after receipt of a request for that witness. If a motion to compel production is deemed appropriate by the defense, counsel shall endeavor to make timely requests as well as timely motions to compel production so as to meet all milestone dates within this order or seek the Court's leave for alterations or deviations from this order. Deviations may be granted for good cause shown.

8. If during or before the court-martial, a party discovers additional evidence or material previously requested or required to be produced which is subject to discovery or inspection under RCM 701, or any other matter with regard to which notice or disclosure was required to be given under RCM 701 or this order, that party shall immediately notify the other party.

\* 9. Not later than **11 May 2011**, if the forum selected will be with members (either on merits or sentencing only) both Trial and Defense Counsel shall provide to the court with appropriate service between themselves, as appropriate, a cleansed charge sheet, witnesses lists, proposed voir dire, proposed findings instructions and findings worksheet. Should the member's trial be for sentencing only, counsel may substitute proposed sentencing instructions and a sentencing worksheet for proposed findings instructions and worksheet.

10. During the pendency of this action, R.C.M. 802 sessions and or Article 39a sessions may be requested or directed as deemed necessary by the Court or parties.

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

\_\_\_\_\_  
Date

## TRIAL MILESTONE WORKSHEET

<u>16 Mar 2011</u>	Government discovery/witness lists
<u>23 Mar 2011</u>	Defense requests for expert witnesses/consultants
<u>23 Mar 2011</u>	Defense: <ul style="list-style-type: none"><li>• Requests for out of area witnesses</li><li>• Intent to offer certain alibis</li><li>• Intent to offer 412 evidence</li></ul>
<u>30 Mar 2011</u>	Government response to defense witness requests
<u>7 Apr 2011</u>	Defense: <ul style="list-style-type: none"><li>• Names of witnesses for case-in-chief</li><li>• Notice of forum and pleas</li></ul>
<u>21 Apr 2011</u>	Government & Defense Motions (replies due 7 days after)
<u>5 May 2011</u>	<b>ARTICLE 39(a) MOTIONS DATE: (4 weeks prior to trial if possible)</b>
<u>11 May 2011</u>	Page 56 matters (voir dire, witness lists, instructions, etc...)
<u>3-17 Aug 2011</u>	<b>TRIAL DATES</b>