

PRETRIAL ORDER
SPC SALEH, Gary W.

requests submitted to, and denied by, the convening authority are ripe for consideration by the military judge.

- (5) Any motions for severance of charge or accused (R.C.M. 905(b)(5); R.C.M. 906((b)(9)-(10)).
- (6) Any objections based on denial of individual counsel (R.C.M. 903(b)(2)).
- (7) Any request for continuance (R.C.M. 906(b)(1)).
- (8) Objections based on corrections or defects in the Article 32 Investigation or pretrial advice (R.C.M. 906(b)(3)).
- (9) A request for relief from pretrial confinement (R.C.M. 906(b)(8)).
- (10) A request for a bill of particulars (R.C.M. 906(b)(6)).
- (11) Any request for change of venue (R.C.M. 906(b)(11)).
- (12) Any motions on multiplicity (R.C.M. 906(b)(12)).
- (13) Any evidentiary issues capable of resolution before trial by motion *in limine* (for example, hearsay issues under Mil. R. Evid. 801, 802, 803, 804 and 807; R.C.M. 906 (b)(13)).
- (14) Any request for a sanity board, or whether there is any good faith basis to question the mental capacity or responsibility of the accused (R.C.M. 906(b)(14)).
- (15) Any motion to dismiss:
 - a. On speedy trial grounds (R.C.M. 907(b)(2)(A)).
 - b. On statute of limitations grounds (R.C.M. 907(b)(2)(B)).
 - c. On the grounds of double jeopardy or that the prosecution is otherwise barred (R.C.M. 907(b)(2)(C)-(D)).

b. The Government must strictly comply with the Section III disclosure provisions of MRE 304(d), 311(d) and 321(c). Notice of intent to admit Section III evidence (statements of the accused, evidence seized from the person or property of the

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accused, or prior identification of the accused) shall be provided to counsel for the accused at the earliest possible time.

c. Trial Counsel will provide the Defense Counsel and the Court with any motions no later than 1700 hours on **13 June 11**. Such motions will be in writing and comply with the requirements of the Uniform Rules of Court. The original of all motions will be filed with the court reporter.

d. Both counsel will file responses to any motions no later 1700 hours on **17 June 11**.

e. Trial Counsel and Defense Counsel will submit to each other, to the Court and to the Court Reporter, a complete list of witnesses IAW R.C.M. 701 (full names with correct spelling) each party intends on calling in all phases of the trial by 1700 hours on **21 June 11**.

f. Trial Counsel will provide to the Court, not later than 1700 hours on **21 June 11**, all Court-Martial Convening Orders and (in cases tried to members) a seating chart, the flyer, electronic copies of the Findings and Sentence Worksheets, and copies of completed panel member questionnaires.

g. In cases tried before members, both counsel will provide to the Court and to each other, no later than 1700 hours on **21 June 11**, a list of proposed voir dire questions and any proposed nonstandard instructions. Neither counsel may ask voir dire questions unless previously approved by the Court. A list of authority and an explanation as to why the standard instructions do not address the issue must accompany any requested nonstandard instructions. See *United States v. Damatta-Olivera*, 37 M.J. 474 at 478 (CMA 1993).

h. Defense Counsel will notify the Trial Counsel of any local military witnesses (including experts) whose production by the Government the Defense requests, no later than 1700 hours on **13 June 11**. The Defense Counsel will notify the Trial Counsel of any other witnesses (including experts) whose production by the Government the Defense requests, no later than 1700 hours on **13 June 11**. This notification will comply with RCM 703(c)(2). Counsel are reminded of R.C.M. 703(b) and (c) concerning what must be contained in the request (*United States v. Rockwood*, 52 M.J. 98 at 105 (1999)) and potential penalties for failure to submit the name of a witness in a timely manner. If any witnesses requested by counsel are represented by their own Defense Counsel, counsel shall contact their counsel and determine (1) is the witness a suspect or accused, and (2) will the witness invoke his or her Article 31, UCMJ rights.


i. Trial Counsel will notify the Defense Counsel of any witnesses it does not intend to produce in compliance with the above-mentioned requests no later than 1700 hours

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on **14 June 11**. The Defense Counsel will file any motions to compel production of those denied witnesses no later than 1700 hours on **15 June 11**. The Trial Counsel will file any responses to these motions to compel no later than 1700 hours on **16 June 11**.

j. Defense Counsel will provide notice of any defenses described in R.C.M. 701(b)(2), in writing, to the Trial Counsel no later than 1700 hours on **13 June 11**.

2. Questions regarding this order should be directed to the undersigned at (915) 568-7225 or david.robertson@us.army.mil.


DAVID H. ROBERTSON
COL, JA
Military Judge