

Scheduling Worksheet – U.S. v. Bergdahl

| <u>Event</u> | <u>Proposed Date</u> |
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| <p>Trial Dates (List voir dire/empanelment dates separate from trial date if believed necessary)</p> | <p>G: 5-18 December 2016 D: 5-18 December 2016</p> <p>This trial schedule is doable if we receive: (1) expedited processing of TS clearances for MAJs Thomas, Gleich, and CPT Banks. We just learned that the case involves 20,000 TS documents so we must seek TS clearance for all defense counsel on the case; (2) access to CI in the case without extensive delay. Based on the volume of CI documents expected (a number still uncertain but by all accounts hundreds of thousands and growing) we will request CA funding for travel costs of reservist augmentation so that we can process the case materials expeditiously. The trial schedule may be jeopardized if we do not receive such assistance.</p> <p>The defense requests that court be in session only during normal duty hours and not during weekends. Nights and weekends will be needed for trial preparation. Our client suffers back pain when he sits for prolonged periods and we will seek breaks and reasonable accommodations as appropriate.</p> |
| <p>Motions Hearing Dates – MRE 505(j). (Use CI in Trial/Pretrial Proceedings)</p> | <p>G: The Government requests motions due by 3 November 2016 with responses due 10 November 2016. (Note: MRE 505(j) also applies to pretrial proceedings, therefore additional hearings and motions may be required depending on the subject matter of the Article 39(a) sessions.)</p> <p>D: concur</p> |
| <p>Trial and Defense Notice of Expert Testimony</p> | <p>G: Notice by 30 September 2016. The Government requests Defense submit all requests for expert assistance by 1 August 2016 to ensure contracting actions can be completed.</p> <p>D: Defense notice of expert testimony by 28 October 2016 (or a month after the date set for government notice).</p> |
| <p>Notice of Request for Daubert Hearing – Both sides.</p> | <p>G: N/A D: N/A</p> |
| <p>Defense Notice of defenses required by RCM 701(b)(2) (MR/PLMR)</p> | <p>G: The Government requests notice by 30 September 2016 to ensure any expert witness requests can be completed by contracting.</p> <p>D: 28 October 2016 (the same deadline as notice of expert testimony)</p> |

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| Defense Forum Election | <p>G: The Government requests forum selection by 4 November 2016.</p> <p>D: The Defense requests 10 November 2016.</p> |
| Defense Discovery Requests | <p>G: The Defense has already provided an initial discovery request.</p> <p>D: 08 June 2016.</p> <p>Defense submitted its first discovery request on 20 January 2016 IAW the previous PTO. Trial counsel submitted their response on 29 April 2016. The Defense has additional classified and unclassified discovery requests, based in part on the government's 29 April response.</p> <p>We reserve our right to submit additional discovery requests after the deadline. This is based primarily on the volume of evidence in the case and the fact that the majority of that evidence has not yet been viewed by the Defense.</p> |
| Defense Notice requirement under MRE 505 (e) & (h) (i) | <p>G: 30 September 2016 (for use of classified information) (Note: Defense may have need for several additional notice dates based on subsequent discovery requests.)</p> <p>D: concur</p> |
| Government Motion Under 505(h) (h) | <p>G: 1 August 2016 (Note: The Government may file additional motions under MRE 505(h) depending on the extent of the discovery and assertions of privilege and potential requirements to provide adequate substitutes).</p> <p>D: concur</p> |
| Defense Motion to Compel Discovery and Government Response | <p>G: The Government requests any Motions to Compel on 1 June 2016, and for submission of supplemental requests corresponding with CI views.</p> <p>D: 01 July 2016, with the same understanding that additional access to CI and new materials may require supplemental requests</p> |
| Defense Request Expert Assistance (if any) to TC | <p>G: Government requests Defense provide all requests for expert assistance by 1 Aug 2016.</p> <p>D: concur</p> |
| Defense Motion to Compel Expert Assistant (Gov. Response within 3 duty days) | <p>G: <u> 3 </u> days after receipt of CA action on requests.</p> <p>D: <u> 5 </u> days after receipt of CA action on requests.</p> |

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| Motions for Appropriate Relief under RCM 903, 905, 906, 907 and Article 10. | G: 1 August 2016 (all parties) D: 16 September 2016 (all parties) |
| Government 404(b) notice to defense. | G: 1 August D: concur |
| MRE 404(b) MIL by Defense (if any) and any other Evidentiary Motions. | G: 14 days after the Government provides notice pursuant to MRE 404(b) D: 30 days after Gov submission of their witness list and 404(b) notice |
| Defense request for production of Afghan witnesses, if any. | G: Government requests notice by 1 August 2016 D: concur |
| Defense Request for Production of Other Witnesses. | G: Government requests notice by 15 August 2016 D: 01 September 2016 |
| Gov. Response to Defense Afghan Witness Production Request | G: 8 August 2016 D: 22 Aug 2016 |
| Gov. Response to Defense Other Witness Production Request | G: 22 August 2016 D: 16 Sept 2016 |
| Defense Motion to Compel Production Afghan Witnesses | G: 15 August 2016 D: 09 Sept 2016 |
| Defense Motion to Compel Production Other Witnesses | G: 3 October 2016 D: 14 Oct 2016 |

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| Motions Hearing on Witness Production | G: 12 October 2016 D: 26 Oct 2016 |
| Final Witness Lists IAW RCM 701 (Both Parties) | G: 17 October 2016 D: 01 Nov 2016 |
| Government Provide Proposed Security Plan, PA Plan and Logistics Plan | G: 15 July 2016, with Defense response, if any, due 20 July 2016 D: concur |
| Motions Hearing to Address Proposed Security, PA and Log Plan (if any) | G: 22 July 2016 D: Unnecessary, but we recommend preserving this date for a 39(a). We recommend reserving several days of the docket around this time for evidentiary hearings on the defense's expected motions for unlawful command influence and lack of personal jurisdiction. |
| Additional Member Questionnaire Proposal | G: 1 November 2016 D: 01 September 2016. Members completed questionnaires due back to trial counsel NLT 28 September 2016. |
| General Voir Dire Question proposals | G: 1 December 2016 D: concur |
| TC provide seating chart, flyer and F&S Worksheets | G: 30 November 2016 D: concur |