IN THE UNITED STATES ARMY
FIRST JUDICIAL CIRCUIT

UNITED STATES	)	
	)	**SCHEDULING ORDER:**
v.	)	**39A SESSION ON CLOSURE**
	)	
MANNING, Bradley E., PFC	)	
U.S. Army, xxx-xx(b)(6)	)	
Headquarters and Headquarters Company,	)	
U.S. Army Garrison, Joint Base Myer-	)	DATED: 11 December 2012
Henderson Hall, Fort Myer, VA 22211	)	

1. The current Court Calendar dated 2 December 2012 has alternate dates for two Article 39(a) session to determine whether and to what extent the accused's trial should be closed to the public for the protection of classified information. The actual dates for the hearing will be determined based upon whether the Defense files a Motion to Compel witnesses for the Motion to Dismiss for violation of Speedy Trial and if the Court grants such a motion in whole or in part. The alternate dates are:

Government Classified Information:

5-8 February 2013; or
19-22 February 2013

Defense Classified Information:

27 February – 1 March 2013; or
13-15 March 2013

The 39(a) session for Government Classified Information will also determine:

a. Procedures for transition from open to closed sessions;
b. Who will be present for closed sessions;
c. Procedures for handling military judge or member questions that call for classified responses; and
d. Procedures for handling military judge or member notes regarding classified information.

2. By **10 January 2012** the Government shall submit to the Court:

a. a list of all classified information for which the Government intends to request closed session. For each item of information submitted, the Government will indicate whether declassification, redaction, substitutions, or other alternatives to closure will allow for the presentation of that information in open court. If declassification, redaction, substitution, or other alternatives are not possible, the Government shall indicate why the declassification, substitution, or other alternative is not possible. For all classified information where the

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Government seeks to close the Court, in addition to declassification, redaction, and substitution, the following alternatives to closure at a minimum will be addressed: stipulations, use of Code words or special names, use of screens, disguises, and code names for classified witnesses, electronic imagery visible only to cleared trial participants and not the public, and the "silent witness" rule.

b. a proposed procedure for transitioning from open sessions to closed session. At a minimum, the plan should address:

(1) The means of securing the entrances/exits to the courtroom;
(2) The signage that will be posted indicating that the court-martial is in closed session;
(3) The procedures for ensuring that electronic recording and broadcasting equipment that is present during open sessions is disabled during closed sessions of the court-martial; and
(4) The procedures for ensuring that classified portions of trial are captured on separate court-reporting equipment from non-classified portions of trial.
(5) Proposed procedures for handling military judge and/or member questions that call for classified responses and for military judge or member notes.

c. notice of whether the Government objects to the Defense's proposed use of classified information as detailed in its filing dated 26 October 2012. If the Government does not object to the relevance or necessity of the information, the Government shall indicate whether declassification, substitutions, or other alternatives to closure will allow for the presentation of that information in open court.

d. notice of whether the Government will request that this Article 39(a) session be an *in camera* proceeding in whole or in part pursuant to MRE 505(i).

3. By **24 January 2012** the Defense shall notify the Court:

a. whether the Defense objects to any of the proposed closures in paragraph 2(a) of this order and the grounds for any such objections.

b. whether the Defense objects to the procedures proposed by the Government in response to paragraph 2(b) of this order and any declassification, substitution, or other alternative to closure proposed by the Government in paragraph 2(c) of this order.

So **ORDERED**: this 11th day of December 2012.

DENISE R. LIND
COL, JA
Chief Judge, 1st Judicial Circuit