**Section 400.860 Depositions**

a) Trial and defense counsel should be mindful of the accused's constitutional rights and shall not seek deposition except as a last resort when other methods to secure attendance of the witness has failed.

b) *At any time after charges have been signed as provided in Code Section 30, any party may take oral or written depositions unless the military judge hearing the case or, if the case is not being heard, an authority competent to convene a court-martial for the trial of those charges forbids it for good cause*.

c) *The party at whose instance a deposition is to be taken shall give to every other party reasonable written notice of the time and place for taking the deposition*.

d) *Depositions may be taken before and authenticated by any military or civil officer authorized by the laws of* *the* *State or by the laws of the place where the deposition is taken to administer oaths*.

e) *A duly authenticated deposition taken upon reasonable notice to the other parties, so far as otherwise admissible under the rules of evidence, may be read in evidence or, in the case of audiotape, videotape, digital image or file, or similar material, may be* admitted *in evidence before any military court if it appears that*:

1) *the witness resides or is beyond the state in which the court is ordered to sit, or beyond 100 miles from the place of trial or hearing;*

2) *the witness, by reason of death, age, sickness, bodily infirmity, imprisonment, military necessity, nonamenability to process, or other reasonable cause, is unable or refuses to appear and testify in person at the place of the trial or hearing; or*

3) *the present whereabouts of the witness is unknown*. (Code Section 49)