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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

BRUCE E. LISKER,)	CASE NO. CV 04-02687 VAP (RZ)
)	
Petitioner,)	PROTECTIVE ORDER
)	
vs.)	
)	
MICHAEL KNOWLES, WARDEN,)	
)	
Respondent.)	

This Court has granted Respondent’s motion for an evidentiary hearing. The purpose of the hearing is to determine the scope of trial counsel’s actions, and reasons therefor, with respect to investigating and presenting a third-party culpability defense. By pursuing a claim that counsel performed deficiently in investigating and presenting this defense, Petitioner has implicitly waived his attorney-client privilege, but only to the limited extent that it is necessary to litigate this claim fairly. *See Bittaker v. Woodford*, 331 F.3d 715 (9th Cir. 2003).

In order to effectuate the limited nature of this waiver, the Court hereby **ORDERS** as follows:

1. Any document and/or testimony (any evidence) subject to the attorney-client privilege or work product privilege disclosed or given in

1 anticipation of or during the evidentiary hearing in this Court shall be
2 considered confidential.

3 2. The Attorney General shall not disclose the contents of any such
4 confidential evidence to anyone outside the Office of the State
5 Attorney General, and shall use such evidence only when necessary for
6 purposes of litigating the present habeas action. Disclosure of any
7 evidence shall not be made to any other persons or agencies, including
8 any other law enforcement or prosecutorial personnel or agencies,
9 without an order from this Court.

10 3. Confidential information disclosed by Plaintiff's former counsel shall
11 be used only in connection with these habeas proceedings in federal
12 court (including any appeal from a judgment by this court). The
13 information shall not be used otherwise. The Attorney General has
14 confirmed in open court that he appears here not only as counsel for
15 Respondent, but also as representative of the State of California. The
16 State of California is restrained and enjoined from using any material
17 disclosed in the evidentiary hearing by Plaintiff's former counsel in the
18 following proceedings: any subsequent court proceeding in state court,
19 including any retrial of Petitioner; any parole proceeding; and any
20 proceeding other than these federal habeas court proceedings.

21 4. The Court may adopt additional measures if necessary to protect
22 Petitioner's right to confidentiality.

23 5. This Order shall continue in effect after the conclusion of these habeas
24 proceedings.

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