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**UNITED STATES DISTRICT COURT**  
**EASTERN DISTRICT OF CALIFORNIA**

JOHN MICHAEL BEAMES,  
  
                    Petitioner,  
  
          v.  
  
KEVIN CHAPPELL, Warden of San Quentin  
State Prison,  
  
                    Respondent.

Case No. 1:10-cv-01429-AWI-SAB  
DEATH PENALTY CASE  
ORDER FOLLOWING INTERIM CASE  
MANAGEMENT CONFERENCE

A telephonic case management conference was held on May 14, 2015 to further discuss scheduling for claim 11 and the record claims. Counsel Harry Simon, Matthew Scoble and Timothy Brosnan appeared for Petitioner and counsel Robert Gezi appeared for Respondent.

Petitioner’s federal petition was filed on July 27, 2011. On August 2, 2011, the Court found that claim 11 (ineffective assistance regarding forensic evidence of cause of death) stated a colorable claim. On April 9, 2015, the Court (i) set a February 1, 2016 evidentiary hearing on claim 11, (ii) determined that the parties should brief the remaining record claims 3, 4, 5, 7, 19, 20, 21, 22, 28, 29, 30, 31, 32, 33, 34, 35A-C, 36, 37, 38, 39, 40, 41, 43A-N, 44, 45, 46, 47 and 48 for consideration at the close of the evidentiary hearing, and (iii) directed the parties to file a

1 joint statement setting out detailed scheduling for, and any objections to, the foregoing.

2 On May 4, 2015, the parties filed their joint statement. Petitioner also filed related  
3 documents under seal. The parties' joint statement proposes a schedule for briefing the record  
4 claims. However, they object to briefing record claims while they are preparing for the claim 11  
5 evidentiary hearing. Petitioner argues the currently set evidentiary hearing should take priority.  
6 Respondent disagrees, arguing that the claim 11 evidentiary hearing should be postponed until all  
7 the record claims have been briefed.

8 The Court has reviewed the record including the parties' above filings and considered  
9 their arguments at the May 14, 2015 hearing. For reasons stated on the record at the May 14  
10 hearing, the Court finds good cause to go forward with claim 11 as currently scheduled and to  
11 defer any necessary proceedings on the record claims until the Court issues its decision on claim  
12 11. Additionally, after the district judge issues an order following the evidentiary hearing of  
13 Claim 11 and if this case is still proceeding in this court, the Court expects to set further briefing.  
14 The parties are advised of the anticipated briefing schedule to ensure timely resolution of any  
15 remaining claims (allowing counsel a month or two to adjust to then present commitments prior  
16 to issuing the briefing schedule):

- 17 a. Respondent's answer (without points and authorities) or responsive motion due  
18 sixty (60) days following the filed date of the Court's claim 11 dispositive order;
- 19 b. Petitioner's traverse due thirty (30) days following the filed date of the answer or  
20 responsive motion;
- 21 c. Petitioner's merits brief addressing 28 U.S.C. § 2254(d) in support of each claim  
22 due six (6) months following the filed date of the traverse;
- 23 d. Respondent's merits brief addressing 28 U.S.C. § 2254(d) in opposition to each  
24 claim due six (6) months following the filed date of Petitioner's merits brief; and
- 25 e. Petitioner's reply brief on the merits due ninety (90) days following the filed date  
26 of Respondent's merits brief.

27 Any issues associated with the withdrawal of any counsel in this case shall be brought to  
28 the immediate attention of the Court as the Court will not be adjusting its proposed schedule if

1 counsel leaves the case. Any counsel who is withdrawn from the case shall be replaced by  
2 counsel who shall be prepared to meet these schedules.

3 Accordingly, it is HEREBY ORDERED that:

- 4 1. The current scheduling for the claim 11 evidentiary hearing and pre-hearing  
5 events (see ECF No. 116) shall continue in full force and effect, and
- 6 2. If this action case is still proceeding once the district judge issues an order  
7 addressing claim 11, the parties shall be prepared to address the briefing schedule  
8 for the remaining claims as set forth herein.

9  
10 IT IS SO ORDERED.

11 Dated: May 14, 2015

  
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12 UNITED STATES MAGISTRATE JUDGE

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