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19 UNITED STATES DISTRICT COURT
 20 NORTHERN DISTRICT OF CALIFORNIA
 21

22 FREDDIE LEE TAYLOR,

23 Petitioner,

24 vs.

25 RON DAVIS, Acting Warden of California
 State Prison at San Quentin,

26 Respondent.
 27
 28

Case No. C-92-1627 EMC

**JOINT CASE MANAGEMENT
 CONFERENCE STATEMENT**

ORDER RESETTING CMC TO 3/26/15

Date: March 10, 2015

Time: 10:30 a.m.

Court: The Honorable Edward M. Chen

1 Pursuant to Habeas Corpus Local Rule 2254-29(f), Petitioner Freddie Lee Taylor
2 (“Taylor”) and Respondent Ron Davis (“Respondent”), acting through their counsel, have met
3 and conferred and hereby submit this Joint Case Management Conference Statement.

4 **I. STATUS OF CLAIMS RESPONDENT IDENTIFIES AS PROCEDURALLY DEFAULTED.**

5 The Court has ruled that Taylor’s motion regarding cause and prejudice and/or
6 miscarriage of justice with respect to Claim 6 may be renewed at the time that the Court
7 resolves Claims 19 and 20, as the issues relevant to the merits of Claims 19 and 20 are
8 inextricably intertwined with Taylor’s cause and prejudice/miscarriage of justice motion
9 regarding Claim 6 (Dkt. No. 252). Otherwise, all procedural default issues in this case have
10 been resolved.

11 **II. SCHEDULING OF OTHER PLEADINGS, MOTIONS, AND PROCEEDINGS.**

12 On June 10, 2014, the Court issued an order denying the parties’ joint request to defer
13 setting a schedule and ordered the parties to “submit a joint statement addressing ripeness and a
14 proposed plan for addressing record-based claims,” including proposed groupings of record-
15 based claims (Dkt. No. 245). Accordingly, on June 24, 2014, the parties submitted a joint filing
16 presenting their respective proposals for resolution of the claims in this case (Dkt. No. 247).
17 The Court, however, did not rule on the parties’ proposals.

18 In advance of the case management conference scheduled for February 26, 2015, the
19 parties met and conferred and submitted a joint case management conference statement that
20 included the parties’ respective scheduling proposals (Dkt. No. 251). On February 25, 2015, the
21 case management conference was continued to March 10, 2015. Accordingly, the parties again
22 met and conferred and now jointly propose the following schedule:¹

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26 _____
27 ¹ The parties will be prepared to address at the CMC the impact *Jones v. Chappell*, Case No. 14-5673 (9th Cir.
28 2014) has on Taylor’s Second Amended Petition. Taylor reserves the right to file a motion to stay the instant
proceedings pending the resolution of *Jones v. Chappell*. Respondent would oppose any such motion for stay.

1 **A. Merits Briefing of Group 1 Record-Based² Claims**

2 The parties propose Taylor’s motion for summary judgment, motion for judgment on the
3 pleadings, brief on the merits, or other appropriate brief presenting Claims 12.C, 12.D, 16, and 18
4 for resolution by the Court be due on June 17, 2015. The parties propose the opposition brief by
5 Respondent be due on August 17, 2015 and any reply by Taylor be due on September 16, 2015.

6 **B. Merits Briefing of Group 2 Record-Based Claims**

7 The parties propose Taylor’s motion for summary judgment, motion for judgment on the
8 pleadings, brief on the merits, or other appropriate brief presenting Claims 3.A, 10-11, 15, and 17
9 for resolution by the Court be due on March 14, 2016. The parties propose the opposition brief
10 by Respondent be due on May 13, 2016 and any reply by Taylor be due on June 13, 2016.

11 **C. Merits Briefing on Extra-Record Based Claims**

12 Taylor contends that Claims 1-2, 3.B, 3.C, 4-5, 6-9, 12.A, 12.B, 12.E, 13-14, 19-20 are
13 extra-record based.³ If Taylor prevails on any of his record-based claims, no briefing on these
14 extra-record based claims will be necessary. Accordingly, to preserve judicial, state, and CJA
15 resources, the parties respectfully propose that the Court set a further case management
16 conference after resolution of the record-based claims to set a litigation schedule for the extra-
17 record based claims, including any motion by Taylor for discovery and an evidentiary hearing.

18 **III. REQUEST TO CHANGE HEARING DATE.**

19 Counsel for Respondent are unavailable on March 10, 2015, and respectfully request that
20 the hearing be reset to the first available hearing date thereafter. Taylor’s counsel has no
21 objection.

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24 _____
25 ² Taylor contends that the claims in this case can be divided into record-based claims and extra-record based
26 claims. Respondent contends that all claims in this case are record-based claims. However, in the interest of
compromise, Respondent stipulates to the briefing schedule proposed herein. Respondent intends to oppose any
motion for evidentiary hearing or any other effort to expand the record.

27 ³ Taylor previously identified Claim 6 as a “record-based” claim. However, since the Court has now specified that
28 Taylor may renew his cause and prejudice motion with respect to Claim 6 when Claims 19 and 20 are considered,
Taylor now classifies Claim 6 as “extra-record” based since the procedural default issues relating to that claim cannot
be resolved until Claims 19 and 20, which are extra-record based, are resolved.

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Respectfully Submitted,
CLARENCE DYER & COHEN LLP

DATED: March 2, 2015.

By: /s/ Gina Moon
Nanci L. Clarence
Gina Moon
Attorneys for Petitioner

DATED: March 2, 2015.

FARELLA BRAUN + MARTEL LLP

By: /s/ Kelly A. Woodruff
Douglas R. Young
Kelly A. Woodruff
Kelly Matayoshi
Attorneys for Petitioner

DATED: March 2, 2015.

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RONALD D. MATTHIAS
Senior Assistant Attorney General

By: /s/ Sharon Wooden
SHARON WOODEN
ALICE B. LUSTRE
Deputy Attorney Generals
Attorneys for Respondent

ATTORNEY ATTESTATION

Pursuant to General Order No. 45, I hereby attest that concurrence in the filing of this document has been obtained from the signatories indicated by a "conformed" signature (/s/) within this e-filed document.

IT IS SO ORDERED that the CMC is reset from 3/10/15 to 3/26/15 at 10:30 a.m. An updated joint CMC statement shall be filed by 3/19/15.

By: /s/ Gina Moon
Gina Moon

Attorneys for Petitioner
FREDDIE LEE TAYLOR

Edward M. Chen
U.S. District Judge

