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18 Attorneys for Respondent

19 UNITED STATES DISTRICT COURT FOR THE
 20 FOR THE NORTHERN DISTRICT OF CALIFORNIA, SAN FRANCISCO

| | | |
|----------------------------------|---|--------------------------------------|
| 22 DAVID J. CARPENTER, |) | No. C 98-2444 MMC |
| |) | and No. C 00-3706 MMC |
| 23 Petitioner, |) | |
| |) | DEATH PENALTY CASES |
| 24 vs. |) | |
| |) | |
| 25 VINCENT CULLEN, Acting Warden |) | PROPOSED LITIGATION SCHEDULE |
| of San Quentin State Prison, |) | and PROPOSED ORDER |
| |) | |
| 26 Respondent. |) | |
| |) | |
| 27 _____ |) | |

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1 Pursuant to the order of November 24, 2009 (98-2444 Doc. 210; 00-3706 Doc. 141),
2 counsel for petitioner and respondent conferred by telephone on December 11, 2009, and have agreed
3 upon the following:

4 1. For purposes of litigation, the claims in No. 98-2444 will be divided into nine groups
5 as set forth in Appendix A and the claims in No.00-3706 will be divided into nine groups as set forth
6 in Appendix B. The groups of claims will be briefed and presented to the Court for decision in the
7 order indicated, beginning with group 1. Claims in the same numbered group in No. 98-2444 and No.
8 00-3706 will be presented to the Court for decision at approximately the same time, so the Court can
9 consider them together.

10 2. With respect to claims in group 1 in No. 98-2444, petitioner will file a motion for
11 summary judgment, motion for judgment on the pleadings, brief on the merits, or other appropriate
12 document within 180 days after issuance of the Court's forthcoming scheduling order. With respect
13 to the claims in group 1 in No. 00-3706, petitioner will file a similar document within 14 days after
14 filing the motion or brief in No. 98-2444.

15 3. Respondent's responsive brief on group 1 in each case will be due 60 days after peti-
16 tioner's motion or brief is filed. Petitioner's reply on group 1 in each case will be due within 30 days
17 after respondent's responsive brief is filed. The claims in group 1 will then be ripe for decision by the
18 Court, with or without oral argument as the Court prefers.

19 4. The same schedule will then be followed for the claims in group 2, with petitioner's
20 motion or opening brief in No. 98-2444 due 180 days after the later of his two replies on group 1 claims
21 is filed. Petitioner's motion or opening brief on group 2 claims in No. 00-3706 will be due 14 days
22 later, and so forth.

23 5. The same schedule will then be followed for the claims in group 3.

24 6. Following the Court's decision on the claims in group 3 in both cases, counsel will
25 meet and confer and present to the Court a proposed schedule for litigation of the remaining groups of
26 claims. This will include a schedule for filing motions for evidentiary hearing and responses thereto,
27 and a schedule for litigating questions of cause and prejudice with respect to claims the Court has
28 previously found to be procedurally defaulted.

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Dated: December 26, 2009

/s/ Michael M. Crain
MICHAEL M. CRAIN, Counsel for Petitioner

Dated: January 19, 2010

/s/ Robert D. Bacon
ROBERT D. BACON, Counsel for Petitioner

Dated: January 6, 2010

/s/ James William Bilderback II
JAMES WILLIAM BILDERBACK II, Counsel for Respondent
in No. 98-2444

Dated: January 6, 2010

/s/ Stephanie C. Brenan
STEPHANIE C. BRENAN, Counsel for Respondent
in No. 98-2444

Dated: January 15, 2010

/s/ Steven T. Oetting
STEVEN T. OETTING, Counsel for Respondent
in No. 00-3706

PURSUANT TO STIPULATION, IT IS SO ORDERED.

Signed January 27, 2010



MAXINE M. CHESNEY
UNITED STATES DISTRICT JUDGE

Pursuant to section X.B. of General Order No. 45, Robert D. Bacon, counsel for the petitioner, certifies that concurrence in the filing of this document has been obtained from each of the other signatories.

/s/ Robert D. Bacon