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24 UNITED STATES DISTRICT COURT  
 25 NORTHERN DISTRICT OF CALIFORNIA  
 26 OAKLAND DIVISION

27 MARVIN PETE WALKER,  
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 29 Petitioner,  
 30  
 31 vs.  
 32 ROBERT L. AYERS, Acting Warden,  
 33 California State Prison at San Quentin,  
 34  
 35 Respondent.

**CAPITAL CASE**

Case No. C 94-1997-SBA

**STIPULATION AND ORDER  
 REGARDING AMENDED JOINT  
 LITIGATION SCHEDULE FOR PHASE III**

1 This Court's May 8, 2008 Order approved a joint litigation schedule for the remainder of  
2 Phase III of this matter. Dkt. No. 166. This Court's September 30, 2008 Order granted Petitioner  
3 leave to conduct discovery. Dkt. No. 176. Petitioner has been diligent in seeking to conduct that  
4 discovery, but because of the unavailability of a key witness for deposition – Dennis Kollenborn,  
5 who the court has already given leave to depose, but who is unavailable for deposition for six  
6 weeks due to his own trial schedule – needs an additional two (2) months to complete discovery.  
7 Respondent has agreed that extending the deadlines in this case by two (2) months is acceptable.

8 The parties have met and conferred and stipulate to the following amended joint litigation  
9 schedule, which extends the previously approved Phase III schedule dates as follows:

10 (1) Discovery deadlines:

11 (a) Fact discovery cut-off (last day to complete): **July 1, 2009.**

12 (b) Expert discovery cut-off (last day to complete): **August 12, 2009.**

13 (2) Briefing schedule for Petitioner's motion for evidentiary hearing:

14 (a) Motion filed by Petitioner on or before **October 14, 2009.**

15 (b) Opposition filed by Respondent on or before **November 11, 2009.**

16 (c) Reply filed by Petitioner on or before **December 14, 2009.**

17 (d) Hearing on motion for evidentiary hearing on **January 12, 2010 at 1:00 p.m.**

18 (3) The parties propose to have a status conference scheduled for **February 24, 2010**  
19 **at 2:30 p.m. via telephone** to discuss scheduling of an evidentiary hearing, in the event this  
20 Court grants Petitioner's motion for evidentiary hearing. Plaintiffs shall be responsible for  
21 arranging the conference call. All parties shall be on the line and shall call (510) 637-3559 at the  
22 above indicated date and time.

23 (4) The parties agree that the page limitations specified in the Local Rules will not  
24 apply to the foregoing pleadings.

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Dated: March 17, 2009

Respectfully submitted,

FARELLA BRAUN + MARTEL LLP  
CLARENCE & DYER

Respectfully submitted,

EDMUND G. BROWN, JR.  
Attorney General of California

By: /s/ Racheal Turner  
Racheal Turner

By: /s/ Bruce Ortega  
Bruce Ortega  
Deputy Attorney General

Attorneys for Petitioner  
MARVIN PETE WALKER

Attorneys for Respondent  
ROBERT L. AYERS

I attest that concurrence in the filing of the above stipulation has been obtained from  
counsel for Respondent Robert L. Ayers.

DATED: March 17, 2008

FARELLA BRAUN + MARTEL LLP

By: /s/ Racheal Turner  
Racheal Turner

IT IS SO ORDERED.

  
SAUNDRA BROWN ARMSTRONG  
United States District Judge