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 8 RICHARD DEAN CLARK



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 10
 11 UNITED STATES DISTRICT COURT
 12 NORTHERN DISTRICT OF CALIFORNIA
 13 SAN JOSE DIVISION

14 RICHARD DEAN CLARK,)	No. C-97-20618-JW
)	
15 Petitioner,)	
)	
16 vs.)	STIPULATION AND REQUEST FOR
)	ORDER RE DISCOVERY AND
)	EVIDENTIARY SUBMISSION
)	
18 MICHAEL MARTEL, Acting Warden of)	
19 California State Prison at San Quentin,)	
20 California,)	<u>DEATH PENALTY CASE</u>
)	
21 _____ Respondent)	

22 Pursuant to the party's previous submission, discovery was to be completed and an evidentiary
 23 hearing motion filed by July 22, 2012.

24 However, it was not possible to submit the materials by that date. Petitioner's counsel has been
 25 involved in lethal injection litigation in three courts. This litigation was precipitated by a private party
 26 and the Los Angeles District Attorney who has sought execution dates despite a state court injunction
 27 preventing executions at present. The briefing in those matters was not completed until the hearing on
 28 July 13, 2012. At that hearing, the superior court continued matters to September 10, 2012.

Several of the deposition transcripts had not been provided to counsel. The last deposition

1 transcript did not arrive in counsel's office until July 20, 2012.

2 Petitioner's counsel incurred some unforeseen health difficulties that required a reduced work
3 schedule, and diagnostic procedures. Counsel was able to file the briefing on August 1, 2012 and the
4 exhibits, previously filed in hard copy, were filed electronically shortly thereafter. Some exhibits
5 remain extant because the scanning that was done did not reduce the size of the file sufficiently to
6 permit PACER filing, and will have to be re-scanned. Petitioner requests the brief be deemed timely
7 filed. Respondent has no objection.

8 Respondent's counsel has reviewed the briefing and requests additional time in which to
9 complete the responsive briefing, given the length of the Motion and the difficulties in filing the
10 exhibits. Respondent's counsel requests until October 1, 2012. Petitioner's counsel agrees to this
11 request.

12 Dated: August 14, 2012

Respectfully submitted,

13 JOHN R GRELE
14 LYNNE S. COFFIN
15 Attorneys for Petitioner
16 RICHARD DEAN CLARK

17 By: _____/s/_____
John R Grele

18 Dated: August 14, 2012

19 ALICE LUSTRE
Attorney for Respondent

20 By: _____/s/_____
21 Alice Lustre

22 Pursuant to stipulation, IT IS SO ORDERED.

23 Dated: August 22, 2012

24 
25 JAMES WARE
26 United States Chief District Judge