

UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA  
SOUTHERN DIVISION

	)	CV 91-____ AHS
	)	
Petitioner,	)	<b><u>DEATH PENALTY CASE</u></b>
	)	
v.	)	SCHEDULING ORDER
	)	FOR EVIDENTIARY HEARING
	)	
Respondent.	)	
	)	

In order to facilitate the efficient presentation of evidence at the evidentiary hearing, the Court orders as follows:

1. As recommended in the parties' Joint Status Report, all discovery, except as to experts, shall be concluded no later than \_\_\_\_ [date] \_\_\_\_\_. Expert discovery shall be concluded no later than \_\_\_\_ [date] \_\_\_\_\_. Fed. R. Civ. P. 26 shall apply, and Local Rule 9.4.6 applies in relation to the \_\_\_\_ [date] \_\_\_\_\_ deadline.

2. On or before \_\_\_\_ [date] \_\_\_\_\_, each party shall file a list of the witnesses (including expert witnesses) to be called at the evidentiary hearing other than those contemplated to be used for impeachment or rebuttal. The obligation of listing such witnesses is a continuing one and, except for good cause shown, the testimony of any witness proffered at the evidentiary hearing who is not listed upon a party's witness list shall be precluded.

3. Each party intending to call an expert witness at the evidentiary hearing shall provide opposing counsel with a brief narrative statement of the qualifications of each such expert and a brief summary of the testimony to be elicited at the evidentiary hearing. The expert reports shall not substitute for the narrative statement required.

4. On or before \_\_\_\_ [date] \_\_\_\_\_, the parties shall jointly file a single document under separate cover setting forth a list of exhibits the parties expect to offer at the evidentiary hearing, other than those to be used for impeachment or rebuttal, with a description of each exhibit sufficient for identification. The exhibits shall be listed in numerical order. Exhibits shall be marked in accordance with the requirements of Local Rule 8.5.

5. If not previously exchanged, on or before \_\_\_\_ [date] \_\_\_\_\_, the parties shall exchange all exhibits, graphics and illustrative material to be displayed to the Court as illustrating the testimony of an expert or other witness, other than those contemplated to be used for impeachment or rebuttal. Items not so exchanged may not be used at the evidentiary hearing except on order of the Court on a finding of good cause for the failure to exchange.

6. Not later than \_\_\_\_ [date] \_\_\_\_\_, each party shall serve and file a Memorandum of Contentions of Fact and Law containing a summary of the party's basic factual contentions supported by legal authority in the form of a Legal Brief. The Memorandum shall include a brief but full exposition of the party's factual contentions, a brief discussion of how those facts are relevant to the issues to be tried, and a statement of issues of law necessary to resolution of

the issues. To the extent applicable, the Memorandum should also address the issues listed in Local Rule 9.5.

7. On or before \_\_\_\_\_ [date] \_\_\_\_\_, each side shall identify, in writing, any objections to exhibits or graphic material identified pursuant to Paragraph 4, above. On or before \_\_\_\_\_ [date] \_\_\_\_\_, each side shall identify in writing any objections which, if sustained, would preclude a designated witness from providing any relevant testimony.

8. Motions in limine, if any, shall be filed no later than \_\_\_\_\_ [date] \_\_\_\_\_. Opposing counsel shall file an opposition or a statement of non-opposition to each such motion no later than \_\_\_\_\_ [date] \_\_\_\_\_. Replies, if any, shall be filed not later than \_\_\_\_\_ [date] \_\_\_\_\_.

9. Each counsel may file and serve a trial brief on or before \_\_\_\_\_ [date] \_\_\_\_\_. The trial brief, if one is filed, should be limited to the matters listed in Local Rule 10.

10. The direct testimony of each witness to be called by either party, other than those called only for impeachment or rebuttal, shall be presented to the Court by way of written declaration filed on or before 12 p.m. on \_\_\_\_\_ [date] \_\_\_\_\_. These declarations should not be conclusory, but should set forth the witness's testimony in a manner that comports with the Federal Rules of Evidence. In other words, the declarations must contain the evidentiary foundation for the testimony as would be required if the witness were testifying in person.

11. Notwithstanding Local Rule 3.5.1, the parties shall provide the Court with an original and two copies of all exhibits to be used at the evidentiary hearing. One of the copies will be returned to counsel at the conclusion of the hearing.

12. The failure of either counsel to cooperate or to comply with the orders herein shall subject counsel to the sanctions provided by Local Rule 27 and 28 U.S.C. § 1927.

IT IS SO ORDERED

DATED: \_\_\_\_\_

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UNITED STATES DISTRICT JUDGE