

**OVERVIEW OF CASE MANAGEMENT AND BUDGETING FOR CAPITAL HABEAS CASES  
IN THE NORTHERN DISTRICT OF CALIFORNIA**

<b>CASE MANAGEMENT AND BUDGET PROCESS</b>	<b>NEW HABEAS CORPUS LOCAL RULES</b>
<p><i><b>PHASE I: APPOINTMENT, RECORD REVIEW AND PRELIMINARY INVESTIGATION</b></i></p> <ul style="list-style-type: none"> <li>• Court assesses whether one or two counsel are necessary and issues model case management order setting date for CMC #1</li> <li>• After appointment, counsel prepares and submits Case Evaluation Form</li> <li>• CMC #1: held with both counsel: to evaluate case complexity, address appointment issues, statute of limitations issues, deadlines, budgeting, date for submission of Phase I budget</li> <li>• Counsel submits expenditures to date, updated Case Evaluation Form and proposed budget one week before CMC#2</li> <li>• CMC#2 (Optional), approximately two months after CMC #1 with petitioner’s counsel only to approve budget, review case and set date for CMC #3</li> <li>• Court approves Phase I budget and sets date for CMC#3</li> </ul>	<ul style="list-style-type: none"> <li>• 2254-24(a) - after proceedings commence, judge orders a stay of execution until disposition in this court</li> <li>• 2254-25(b) - judge has discretion to determine whether more than one attorney is necessary</li> <li>• 2254-26 - initial case management conference held to discuss anticipated proceedings, budgeting               <ul style="list-style-type: none"> <li>• corresponds to budgeting CMC #1</li> </ul> </li> <li>• 2254-27 - respondent lodges record within 20 days of initial case management conference</li> </ul>

***PHASE II: PREPARATION AND FILING OF PETITION FOR WRIT OF HABEAS CORPUS, EXHAUSTION & ANSWER***

- **Counsel submits budget for Phase II one week prior to CMC #3 together with updated Case Evaluation Form**
- **CMC#3 (bifurcated; second portion with petitioner's counsel only). Initial portion to set deadlines for filing petition and to resolve any other issues; second portion to review petitioner's budget for Phase II.**

- **2254-28(b) - finalized petition must identify where in the record each claim was exhausted and must include:**
  - **a table of contents**
  - **citations to the record**
  - **separately numbered paragraphs**
- **2254-29(b) - parties required to meet and confer before filing exhaustion motion**
- **2254-29(c) - exhaustion motion due 45 days from service of petition**
  - **procedure for mixed petitions not specified**
- **2254-29(d) - answer and request for case management conference due 45 days from service of petition or within time court orders if exhaustion motion filed**
  - **points and authorities permitted but not required**

<p><b><i>PHASE III: BRIEFING OF PROCEDURAL DEFENSES, MOTION FOR EVIDENTIARY HEARING, BRIEFING OF ALL CLAIMS NOT SUBJECT TO EVIDENTIARY HEARING MOTION</i></b></p> <ul style="list-style-type: none"> <li>• CMC#4 with both parties</li> <li>• Counsel submits Phase III budget after CMC#4</li> <li>• Issues</li> <li>• Extent of pre-evidentiary hearing discovery</li> </ul>	<ul style="list-style-type: none"> <li>• 2254-29(e),(f) - parties required to meet and confer to prepare a joint case management conference statement proposing a schedule for resolving: <ul style="list-style-type: none"> <li>• procedural issues</li> <li>• motion for evidentiary hearing</li> <li>• any other necessary pleadings, proceedings</li> </ul> </li> <li>• 2254-29(g) - case management conference to set schedule <ul style="list-style-type: none"> <li>• corresponds to budgeting CMC #4</li> </ul> </li> <li>• 2254-29(h) - discovery must comply with applicable FRCP and local rules</li> <li>• 2254-29(i) - motion for evidentiary hearing must include a discussion of the legal basis for holding a hearing</li> </ul>
<p><b><i>PHASE IV: EVIDENTIARY HEARING, FINAL BRIEFING AND DECISION</i></b></p> <ul style="list-style-type: none"> <li>• CMC #5 held with both parties to address discovery, conduct of evidentiary hearing and final briefing</li> <li>• Counsel submits Phase IV budget</li> </ul>	