

Overview of Case Management and Budgeting for Capital Habeas Cases
in the Northern District of California

Case Management and Budget Process	New Habeas Corpus Local Rules
<p>Phase I: Appointment</p> <p>Court assesses whether one or two counsel are necessary and issues model case management order setting date for CMC #1</p> <p>After appointment, counsel prepares and submits Case Evaluation Form</p> <p>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 & II budget</p>	<p>2254-24(a) - after proceedings commence, judge orders a stay of execution until disposition in this court</p> <p>2254-25(b) - judge has discretion to determine whether more than one attorney is necessary</p> <p>2254-26 - initial case management conference held to discuss anticipated proceedings, budgeting · corresponds to budgeting CMC #1</p> <p>2254-27 - respondent lodges record within 20 days of initial case management conference</p>
<p>Phase II: Record Review and Preliminary Investigation</p> <p>Counsel submits expenditures to date, updated Case Evaluation Form and proposed budget one week before CMC #2</p> <p>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</p> <p>Court approves Phase I & II budget and sets date for CMC #3</p>	

<p>Phase III: Preparation and Filing of Petition for Writ of Habeas Corpus, Exhaustion & Answer</p> <p>Counsel submits budget for Phase III one week prior to CMC #3 together with updated Case Evaluation Form</p> <p>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 III.</p>	<p>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</p> <p>2254-29(b) - parties required to meet and confer before filing exhaustion motion</p> <p>2254-29(c) - exhaustion motion due 45 days from service of petition procedure for mixed petitions not specified</p> <p>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>
<p>Phase IV: Briefing of Procedural Defenses, Motion for Evidentiary Hearing, Briefing of All Claims not Subject to Evidentiary Hearing Motion</p> <p>CMC #4 with both parties</p> <p>Counsel submits Phase IV budget after CMC#4</p> <p>Issues · Extent of pre-evidentiary hearing discovery</p>	<p>2254-29(e), (f) - parties required to meet and confer to prepare a joint case management conference statement proposing a schedule for resolving: procedural issues motion for evidentiary hearing any other necessary pleadings, proceedings</p> <p>2254-29(g) - case management conference to set schedule corresponds to budgeting CMC #4</p> <p>2254-29(h) - discovery must comply with applicable FRCP and local rules</p> <p>2254-29(i) - motion for evidentiary hearing must include a discussion of the legal basis for holding a hearing</p>
<p>Phase V: Evidentiary Hearing, Final Briefing and Decision</p> <p>CMC #5 held with both parties to address discovery, conduct of evidentiary hearing and final briefing</p> <p>Counsel submits Phase V budget</p>	