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**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA**

CLEMENTE VILLEGAS BARRERA,)	Case No.: 1:08-cv-00062-LJO-JLT
Petitioner,)	
v.)	ORDER VACATING JUNE 6, 2012 ORDER TO
)	FILE AMENDED PETITION
DEBRA DEXTER,)	(Doc. 37)
Respondent.)	
)	
)	
)	

The original petition in this case was filed on January 2, 2008. (Doc. 1). On February 11, 2009, the Court issued Findings and Recommendations to dismiss the petition because it contained unexhausted claims. (Doc. 17). Those Findings and Recommendations were adopted by the District Judge, and judgment was entered on March 13, 2009. (Doc. 18). Petitioner subsequently appealed the dismissal to the United States Court of Appeals, Ninth Circuit, which, on May 29, 2012, issued an order remanding the case to this Court to evaluate the petition in light of the Ninth Circuit's conclusion that one of the claims was in fact exhausted. (Doc. 35).

In an effort to move expeditiously, the Court, on June 6, 2012, issued an order requiring Petitioner to file an amended petition within thirty days that contained only the exhausted claims. (Doc. 37). Respondent, however, has directed the Court's attention to the fact that Petitioner has filed a motion for reconsideration in the Ninth Circuit, and, thus, remittitur has not issued and this Court does not yet have jurisdiction to renew proceedings. (Doc. 39). Therefore, the appropriate course of

1 action at this juncture is to vacate the June 6, 2012 order to file an amended petition and await further
2 action from the Ninth Circuit.

3 ORDER

4 Accordingly, the Court HEREBY ORDERS as follows:

- 5 1. The June 6, 2012 order to file an amended petition (Doc. 37), is VACATED and no
6 amended petition shall be filed at this time.

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10 IT IS SO ORDERED.

11 Dated: June 20, 2012

/s/ Jennifer L. Thurston
12 UNITED STATES MAGISTRATE JUDGE