

1 (Doc. 52)

2 In light of the District Judge's referral order, which expressly declined to decide the issue of
3 whether the conduct of Petitioner's counsel entitled Petitioner to equitable tolling for the period
4 preceding the filing of the instant petition, it would appear that this issue is now central to the
5 proceedings and must be decided in order for the case to proceed. Accordingly, within 45 days,
6 counsel *may* file briefs addressing whether the conduct of attorney Mitts' entitles the petition to the
7 equitable tolling, for the purpose of determining timeliness.

8 The parties have already submitted arguments relating to this issue. Therefore, any party who
9 wishes to rely upon the legal arguments and evidence presently in the record on the issue, may forego
10 filing an additional brief and instead file a notice to this effect.

11 **ORDER**

12 Accordingly, the Court **ORDERS**:

- 13 1. Within 45 days, the parties SHALL file a brief addressing whether Petitioner is entitled to
14 equitable tolling based upon attorney misconduct or a notice that the party is submitting the
15 issue based upon the state of the current record.

16
17 IT IS SO ORDERED.

18 Dated: August 11, 2016

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