

1 ordered the People of the State of California to file an informal response to the petition. The Warden's
2 lodgment notice did not include the state court's directive for the People to file an informal response.
3 To avoid unnecessary duplication of effort, the Court does not wish to receive state court pleadings
4 and documents in a piecemeal fashion every time a new document is filed in the state proceedings,
5 especially since the matter is being held in abeyance.

6 Local Rule 191(h)(1) provides that the Respondent (that is, the Warden) shall file a notice of
7 lodgment documents that are part of the state court record. The Warden has complied with this rule,
8 both during the early months of the case and recently with the lodgment of documents from the new
9 state case. The rule was written with the intent of requiring the lodgment of the extant state record
10 when a federal capital habeas case is commenced, not in a situation, as is presented here, where
11 abeyance of federal proceedings has been ordered so state remedies can be exhausted.

12 The Court hereby suspends the application of Rule 191(h)(1) during abeyance of this action.
13 Once the case returns to federal court (if the case returns to federal court), the Warden shall comply
14 with the rule by filing an amended lodgment notice and providing the Court with relevant state
15 records. Until that time, the Court is directing the Clerk to strike the Warden's lodgment notice (doc.
16 65) and return all paper documents to the parties.

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18 IT IS SO ORDERED.

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20 Dated: November 19 2013

21 /s/ Anthony W. Ishii
22 Anthony W. Ishii
23 United States District Judge
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