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UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

BENJAMIN T. CARIDAD,  
Petitioner,  
v.  
HARRY OREOL,  
Respondent.

No. 2:14-cv-1847 KJM AC P

ORDER

Petitioner, through appointed counsel, has filed a Second Amended Petition, pursuant to order of this court. See ECF No. 56. The Clerk of Court will be directed to separately file and docket petitioner’s initially proposed<sup>1</sup> Second Amended Petition and exhibits filed June 20, 2017. See ECF Nos. 65-1 and 65-2.

Petitioner’s counsel states that she has concurrently filed a near-identical petition for writ of habeas corpus in the California Supreme Court for the purpose of exhausting petitioner’s federal claims. See ECF No. 65-1 at 22. A schedule will therefore be set for the filing and briefing of petitioner’s anticipated motion to stay and abey this action pending the state court’s determination.

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<sup>1</sup> Subsequently, in response to docketing errors, petitioner filed a proposed superseding Second Amended Petition (see ECF No. 69), which the court will disregard.

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Accordingly, IT IS HEREBY ORDERED that:

- 1. Petitioner’s motion to proceed on his proposed amended petition, ECF No. 65, is GRANTED.
- 2. Petitioner’s amended motion to amend, ECF No. 69, is DENIED AS MOOT.
- 3. The following briefing schedule shall govern petitioner’s anticipated motion to stay the present action pending exhaustion of his claims in the state courts:

- A. Petitioner shall, within 30 days after the filing date of this order, file and serve a motion to stay the instant action pending exhaustion of his claims in the state courts;

- B. Respondent shall file and serve a response within 28 days after service of petitioner’s motion.

- C. Petitioner may file and serve a reply within 14 days after service of respondent’s reply.


4. The Clerk of Court is directed to:

- A. Separately file and docket petitioner’s proposed Second Amended Petition and exhibits (currently docketed at ECF Nos. 65-1 and 65-2); and

- B. Indicate on the docket that petitioner’s initial motion to amend (ECF No. 65) is GRANTED, and petitioner’s subsequent motion (ECF No. 69) is DENIED as moot.

IT IS SO ORDERED.

DATED: June 27, 2017

  
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ALLISON CLAIRE  
UNITED STATES MAGISTRATE JUDGE