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                               UNITED STATES DISTRICT COURT
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                             NORTHERN DISTRICT OF CALIFORNIA
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                                   SAN FRANCISCO DIVISION
11
    AMALIA HERNANDEZ PERALES,
                                                     No. C 09-6028 SI
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                        Petitioner,
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                                                     STIPULATION TO HOLD CASE IN
                 v.
                                                     ABEYANCE; AND [PROPOSED] ORDER
14 JANET NAPOLITANO, Secretary,
    Department of Homeland Security;
    TIMOTHY AIKEN, Field Office Director,
    Immigration and Customs Enforcement;
    and ERIC HOLDER, JR., Attorney General
    of the United States,
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                        Respondents.
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       Petitioner, by and through her attorney of record, and Respondents, by and through their
    attorneys of record, hereby stipulate, subject to approval of the Court, to hold this case in abeyance
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    for six months in light of the following:
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       (1) The petitioner filed a habeas petition on December 24, 2009, alleging that she received
    ineffective assistance of counsel from two of her former attorneys following the issuance of two
    orders of the Board of Immigration Appeals (BIA).
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       (2) A primary issue in this case is whether this Court should require the petitioner to exhaust
    her administrative remedies by presenting her ineffective assistance of counsel claims to the BIA
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    via the filing a motion to reopen.
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       (3) In Rajinder Singh v. Napolitano, Appeal No. 07-16988, the parties expect the United
    STIPULATION TO HOLD CASE IN ABEYANCE
    C09-6028 SI
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1	States Court of Appeals for the Ninth Circuit to resolve the issue of whether a district court may
2	properly require exhaustion of administrative remedies in cases where, as here, the alleged
3	ineffective assistance of counsel occurred after the entry of the alien's final removal order and
4	where, as here, the petitioner seeks only re-issuance of the BIA's order or orders.
5	(4) The Ninth Circuit held oral argument in Rajinder Singh on January 13, 2009, but has not
6	yet issued an opinion. On August 11, 2009, the Ninth Circuit issued the following order on
7	August 11, 2009:
8 9 10	The case is remanded to the Board of Immigration Appeals for the limited purpose of ruling upon whether the Board had jurisdiction to hear Singh's ineffective assistance of counsel claims and what effect, if any, the Attorney General's recent opinion in <i>In re Compean</i> , 25 I & N Dec. 1, 3 (A.G. 2009), has on this case. The Board shall advise the court of any action or decision.
11	Singh v. Napolitano, 577 F.3d 988 (9th Cir. 2009) (Order).
12	(5) The BIA has asked the parties in the Rajinder Singh case to file briefs on the issue that has
13	been remanded to it by the Ninth Circuit and those briefs are due on January 27, 2010.
14	(6) The parties believe it would be prudent to await the BIA's response to the Ninth Circuit's
15	Order and the Ninth Circuit's decision in Rajinder Singh before filing any further briefing in the
16	above-entitled matter and, accordingly, ask this Court to hold this case in abeyance for a period of
17	six months.
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19	Date: January 19, 2010 Respectfully submitted,
20	JOSEPH P. RUSSONIELLO United States Attorney
21	Office States Attorney
22	/s/ EDWARD A. OLSEN
23 24	Assistant United States Attorney Attorneys for Respondents
25	Date: January 19, 2010 /s/
26	JAMES TODD BENNETT Attorney for Petitioner
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STIPULATION TO HOLD CASE IN ABEYANCE C09-6028 SI 2

1	[PROPOSED] ORDER
2	Pursuant to stipulation, IT IS SO ORDERED that:
3	(1) This case will be held in abeyance of period of six months.
4 5	(2) If and when the United States Court of Appeals for the Ninth Circuit issues a decision in <i>Rajinder Singh v. Napolitano</i> , Appeal No. 07-16988, the parties shall promptly notify the Court;
6	(3) The parties shall submit a status report on June 18, 2010.
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8	Dated:, 2010 SUSAN ILLSTON
	United States District Judge
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	STIPULATION TO HOLD CASE IN ABEYANCE C09-6028 SI 3