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**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA**

NGHIEM D. DANG,

Petitioner,

v.

L.S. MCEWAN, Warden,

Respondent.

Civil No. 11-1955-BTM(WVG)

**ORDER SETTING BRIEFING
SCHEDULE ON MOTION FOR
STAY AND ABEYANCE**

On July 28, 2011, Petitioner, proceeding *pro se*, submitted a Petition for Writ of *Habeas Corpus* pursuant to 28 U.S.C. § 2254 along with a Motion to Stay the proceedings. In accordance with Rule 4 of the rules governing petitions for a writ of *habeas corpus* pursuant to 28 U.S.C. § 2254, and upon a preliminary review of the Petition and Petitioner's Motion for Stay, **IT IS ORDERED** that:

1. The Clerk of this Court shall promptly (a) serve a copy of the Petition, the Motion for Stay, and a copy of this Order on the Attorney General for the State of California, or his authorized agent; and (b) serve a copy of this Order on Petitioner.

2. Petitioner shall file, **no later than December 2, 2011**, a document entitled "Supplemental Motion for Stay and Abeyance." In this document, Petitioner shall address how he has satisfied the requirements for granting a stay and abeyance set forth by the United States Supreme Court in Rhines v. Weber, 544 U.S. 269 (2005). In Rhines, the Court stated that a

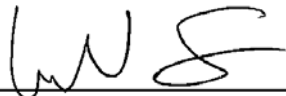
1 petitioner must show he “had good cause for his failure to exhaust, his unexhausted claims are
2 potentially meritorious, and there is no indication that the petitioner engaged in intentionally
3 dilatory litigation tactics.” Id. at 278;

4 3. Respondent may file, **no later than December 23, 2011**, an Opposition to
5 Petitioner’s Motion for Stay and Abeyance addressing whether Petitioner meets the standard set
6 forth in Rhines; and

7 4. Petitioner may file, **no later than January 13, 2012**, a Reply to Respondent’s
8 Opposition.

9 **IT IS SO ORDERED.**

10 DATED: October 31, 2011

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13 Hon. William V. Gallo
14 U.S. Magistrate Judge

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