

1 accordance with Rules 7-2 and 7-3 of the Local Rules of
2 Practice.

3 5. Any procedural defenses Respondents raise to the second
4 amended petition must be raised together in a single
5 consolidated motion to dismiss. Procedural defenses
6 omitted from such motion to dismiss will be subject to
7 potential waiver. Respondents will not file a response in
8 this case that consolidates their procedural defenses, if
9 any, with their response on the merits, except pursuant to
10 28 U.S.C. § 2254(b)(2) as to any unexhausted claims clearly
11 lacking merit. If Respondents do seek dismissal of
12 unexhausted claims under § 2254(b)(2), they must do so
13 within the single motion to dismiss, not in the answer,
14 and specifically direct their argument to the standard for
15 dismissal under § 2254(b)(2) set forth in *Cassett v.*
16 *Stewart*, 406 F.3d 614, 623-24 (9th Cir. 2005). In short,
17 no procedural defenses, including exhaustion, will be
18 included with the merits in an answer. All procedural
19 defenses, including exhaustion, instead must be raised by
20 motion to dismiss.

21 6. In any answer filed on the merits, Respondents must
22 specifically cite to and address the applicable state court
23 written decision and state court record materials, if any,
24 regarding each claim within the response as to that claim.

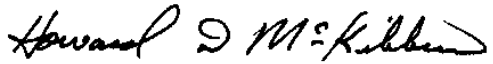
25 7. Any additional state court record and related exhibits must
26 be filed in accordance with LR IA 10-3, LR IC 2-2, and
27 LR 3-3 and include a separate index identifying each
28 additional exhibit by number or letter. The index must be

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filed in CM/ECF's document upload screen as the base document to receive the base docket number (e.g., ECF No. 10). Each exhibit will then be filed as "attachments" to the base document—the index—to receive a sequenced sub-docket number (e.g., Exhibit A (ECF No. 10-1), Exhibit B (ECF No. 10-2), Exhibit C (ECF No. 10-3), and so forth). If the exhibits will span more than one filing, the base document in each successive filing must be either a copy of the index or volume cover page. See LR IC 2-2(a)(3)(A).
8. Notwithstanding LR IC 2-2(g), paper copies of any electronically filed exhibits—for this case—need not be provided to chambers or to the staff attorney, unless later directed by the court.

IT IS SO ORDERED.

DATED: this 10th day of February, 2022.



HOWARD D. MCKIBBEN
UNITED STATES DISTRICT JUDGE