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6 Attorneys for Plaintiffs:
 7 LUCIO CORRAL RODRIGUEZ, individually,
 and as Successor in Interest to the decedents,
 8 MARICRUZ CORRAL, IVAN ALEXANDER CORRAL,
 and LUCIO ANTHONY CORRAL

9 UNITED STATES DISTRICT COURT
 10 EASTERN DISTRICT OF CALIFORNIA
 11 FRESNO DIVISION

12 LUCIO CORRAL RODRIGUEZ,
 13 individually, and as Successor in Interest to
 the decedents, MARICRUZ CORRAL,
 14 IVAN ALEXANDER CORRAL, and
 LUCIO ANTHONY CORRAL,

Case No.: 1:08-CV-00856-OWW-GSA
 STIPULATION AND ORDER RE
 DEFENDANT STATE OF CALIFORNIA'S
 MOTION FOR PARTIAL SUMMARY
 JUDGMENT

15 Plaintiff,

16 vs.

17 COUNTY OF STANISLAUS, CITY OF
 18 MODESTO, CITY OF RIVERBANK,
 STATE OF CALIFORNIA, AMTRAK
 19 CALIFORNIA, BURLINGTON
 NORTHERN SANTA FE RAILWAY; and
 20 DOES 1 to 200,

Courtroom:3
 Judge: Hon. Oliver W. Wanger

21 _____ /
 22
 23 WHEREAS Plaintiff LUCIO CORRAL RODRIGUEZ, MARICRUZ CORRAL, IVAN
 24 ALEXANDER CORRAL, and LUCIO ANTHONY CORRAL (hereinafter "Plaintiffs") filed a
 25 Complaint in the instant action arising out of a railway grade crossing train-vehicle collision on
 26 May 8, 2007, near the intersection of Claribel Road and Terminal Avenue in the County of
 27 Stanislaus, naming all defendants as to all causes of action.

28 WHEREAS, Plaintiffs' claim fall into two district categories. There are those claims

1.

1 based on the ownership, maintenance, condition, and operation of the train, on the one hand,
2 and those claims based on the condition of the grade crossing and the surrounding area on the
3 other. (See Scheduling Conference Order, p. 3, para. 5.)

4 WHEREAS Defendant STATE OF CALIFORNIA has filed a Motion for Partial
5 Summary Judgment as to Plaintiffs' claims based on the condition of the grade crossing and
6 surrounding area where the subject accident of the action occurred.

7 WHEREAS Defendant STATE OF CALIFORNIA has produced a declaration, which
8 avers under penalty of perjury that the State of California does not maintain or perform any
9 maintenance of the realty at the subject crossing or intersection, which declaration is attached
10 hereto as **Exhibit A**.

11 Plaintiffs and Defendant STATE OF CALIFORNIA stipulate and agree as follows:

12 1. Any reference to the STATE OF CALIFORNIA is stricken from the First Cause
13 of Action, for Premises Liability

14 2. To the extent that the Second Cause of Action alleges any claims against the
15 STATE OF CALIFORNIA based on the condition of the grade crossing and the surrounding
16 real property, those claims are stricken.

17 3. This case continues on against the State of California on other grounds, as this
18 Stipulation and Order will have no impact on Plaintiffs' claims that arise or relate to the
19 operation, ownership, inspection and/or maintenance of the subject train. It should be noted
20 that plaintiffs contend that included in the remaining claims against State are those that arise or
21 relate to the hiring, retention, and/or employment of those persons who did operate, inspect,
22 and/or maintain the subject train. It is State's position to the contrary that the Compliant does
23 not encompass these claims against State which arise or relate to the hiring, retention, and/or
24 employment o those persons who did operate, inspect, and/or maintain the subject train. These
25 parties hereby stipulate that this Stipulation will have no effect or prejudice on Plaintiffs'
26 assertions that these claims are encompassed in Plaintiffs' Complaint, nor upon State's
27 assertion to the contrary that the Complaint does not encompass such claims."

28 4. This stipulation is not intended to have any impact on Plaintiffs' claims against

1 any of the other defendants to this action, other than the STATE OF CALIFORNIA.

2 5. Defendant STATE OF CALIFORNIA's Motion for Partial Summary Judgment
3 is moot.

4 SO STIPULATED AND AGREED.

5 CARCIONE, CATTERMOLE, DOLINSKI,
6 OKIMOTO, STUCKY, UKSHINI,
MARKOWITZ & CARCIONE, LLP

7 Dated: April 27, 2010

8 By: /s/ Aaron B. Markowitz, Esq.
Attorney for Plaintiffs

9
10 Dated: April 27, 2010

11 By: /s/ Douglas L. Johnson, Esq.
12 Attorney for Defendant
13 State of California - Dept. of Transportation

14 IT IS SO ORDERED.

15 Dated: April 27, 2010

16 /s/ Oliver W. Wanger
UNITED STATES DISTRICT JUDGE