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8 Attorneys for Defendants
9 NATIONAL RAILROAD PASSENGER
CORPORATION (erroneously sued herein as
10 AMTRAK CALIFORNIA), BNSF RAILWAY
COMPANY (erroneously sued herein as
11 BURLINGTON NORTHERN SANTA FE
RAILWAY), and STATE OF CALIFORNIA,
DEPARTMENT OF TRANSPORTATION

12 UNITED STATES DISTRICT COURT
13 EASTERN DISTRICT OF CALIFORNIA – FRESNO DIVISION
14

15 LUCIO CORRAL RODRIGUEZ,
individually and as Successor in Interest to
16 the decedents, MARICRUZ CORRAL,
IVAN ALEXANDER CORRAL, and
17 LUCIO ANTHONY CORRAL,

18 Plaintiffs,

19 v.

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

23 Defendants.
24

25 AND ALL RELATED ACTIONS.
26

Case No. 1:08-cv-00856 OWW GSA

**ORDER GRANTING DEFENDANTS
NATIONAL RAILROAD PASSENGER
CORPORATION’S, BNSF RAILWAY
COMPANY’S, AND STATE OF
CALIFORNIA, DEPARTMENT OF
TRANSPORTATION’S MOTION *IN
LIMINE* NO. 3 TO LIMIT THE
TESTIMONY OF CHARLES CULVER**

27 The Motion *In Limine* of Defendants National Railroad Passenger Corporation, BNSF
28 Railway Company, and State of California, (hereinafter “NRPC, BNSF and California”) to Limit

1 the Testimony of Charles Culver came on regularly for hearing on December 1, 2010, in
2 Department 3 of the above-captioned Court. Plaintiff Lucio Corral Rodriguez was represented by
3 Aaron Markowitz, Esq. Defendants NRPC, BNSF and California were represented by Clyde
4 Hutchinson and Vincent Castillo. The County of Stanislaus was represented by Dan Farrar.
5 Having considered the moving papers, any opposition filed, and following oral argument, IT IS
6 SO ORDERED:

7 Defendants' Motion is granted as follows:

8 1. Mr. Culver shall not offer any opinions, testify, or present evidence regarding the
9 Amtrak engineer's state of mind, including what the engineer knew or did not know.

10 2. Mr. Culver shall not offer any opinions or testify regarding whether the accident
11 was preventable or avoidable.

12 3. Mr. Culver may not offer opinions, testify, or present evidence that the Amtrak
13 engineer showed a "disregard" for the general public on the date of the accident.

14 4. Mr. Culver shall not offer any opinions, testify, or present evidence as to what
15 decedent Maricruz Corral "would have done" had she had additional time. In addition, Mr.
16 Culver is barred from opining, testifying, or presenting evidence of decedent Maricruz Corral's
17 state of mind.

18 5. Plaintiff is barred from making reference in the selection of a jury, presentation of
19 evidence, reference to evidence, testimony, or closing argument of the matters precluded above.

20 This does not bar Mr. Culver from evaluating physical or other admissible evidence as
21 Long as he does not opine based on speculation.

22 IT IS SO ORDERED.

23 Dated: December 9, 2010

/s/ Oliver W. Wanger
UNITED STATES DISTRICT JUDGE