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7 **UNITED STATES DISTRICT COURT**
8 **EASTERN DISTRICT OF CALIFORNIA-FRESNO DIVISION**

9 * * * * *

10 NATIONAL RAILROAD PASSENGER)
CORPORATION and BNSF RAILWAY)
11 COMPANY,)
12 Plaintiffs,)
13 vs.)
14 BURTON OLSON TRUCKING COMPANY;)
JOSE MARTINEZ; E.M. THARP, INC.,)
15 individually and dba GOLDEN STATE)
PETERBILT,)
16 Defendants.)
17)
18)

CASE NO. 1:09-CV-01190-OWW-SKO
ORDER ON MOTIONS IN LIMINE
OF DEFENDANTS BURTON OLSON
TRUCKING COMPANY AND JOSE
MARTINEZ

TRIAL DATE: March 29, 2011

19 All parties having come before the Court for hearing on March 22, 2011 and the Court having
20 considered the papers and arguments submitted in support of and opposition to the motion, and
21 good cause appearing, IT IS ORDERED:

- 22 1. That Motion in Limine #1 of BURTON OLSON TRUCKING COMPANY and JOSE
23 MARTINEZ is granted;
24 2. That Motion in Limine #2 of BURTON OLSON TRUCKING COMPANY and JOSE
25 MARTINEZ is granted;
26 3. That Motion in Limine #3 of BURTON OLSON TRUCKING COMPANY and JOSE
27 MARTINEZ is denied without prejudice; That the Final Pre-Trial Order will govern the
28 presentation of documents and identification of exhibits, including the "Forty-eight Hour Rule"

1 promulgated therein whereby counsel are obligated to provide opposing counsel certain specified
2 information regarding the witness and exhibits not less than forty-eight hours before the witness
3 is called to the witness stand;

4 4. [Motion in Limine #4 was withdrawn in open court];

5 5. That Motion in Limine #5 of BURTON OLSON TRUCKING COMPANY and JOSE
6 MARTINEZ is granted;

7 6. That Motion in Limine #6 of BURTON OLSON TRUCKING COMPANY and JOSE
8 MARTINEZ is granted;

9 7. That Motion in Limine #7 of BURTON OLSON TRUCKING COMPANY and JOSE
10 MARTINEZ is granted under Federal Rules of Evidence, rule 615; That all parties are permitted
11 to have an investigator or trial assistant; That it is counsels' responsibility to ensure that witnesses
12 do not speak with other witnesses regarding testimony until the trial is concluded;

13 8. That Motion in Limine #8 of BURTON OLSON TRUCKING COMPANY and JOSE
14 MARTINEZ is granted, though nothing in this Order precludes any party from offering lay
15 opinions in accordance with Federal Rules of Evidence, rule 701;

16 9. That Motion in Limine #9 of BURTON OLSON TRUCKING COMPANY and JOSE
17 MARTINEZ is granted, subject to the Final Pre-Trial Order issued in this case.

18 10. That Motion in Limine #10 of BURTON OLSON TRUCKING COMPANY and JOSE
19 MARTINEZ is granted.

20 11. That Motion in Limine #11 of BURTON OLSON TRUCKING COMPANY and JOSE
21 MARTINEZ is granted; That no tests or experiments are allowed at trial unless they are
22 substantially similar or identical to actual events, have proper foundation and are not misleading.

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26 IT IS SO ORDERED.

27 **Dated: March 28, 2011**

/s/ Oliver W. Wanger
UNITED STATES DISTRICT JUDGE

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