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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

NATIONAL RAILROAD PASSENGER
CORPORATION,

Plaintiff,

v.

YOUNG'S COMMERCIAL TRANSFER,
INC., et al.,

Defendants.

No. 1:13-cv-01506-DAD-EPG

AMENDED FINAL PRETRIAL ORDER

On March 7, 2017, this court issued a final pretrial order in this action. (Doc. No. 185.) National Railroad Passenger Corporation and Barbara Neu filed their filed objections on March 20, 2017. (Doc. No. 186.) Rigoberto Jimenez, Jimenez Trucking, and Young's Commercial Transfer, Inc. filed their objections on March 21, 2017. (Doc. No. 187.) Celia Ramirez filed a response to defendants' objections on March 28, 2017. (Doc. No. 188.) Having considered the parties' submissions, the court now issues this amended final pretrial order.

The original complaint in this action was filed September 10, 2013, by National Railroad Passenger Corporation ("Amtrak") against Young's Commercial Transfer, Inc. ("Young's") and Rigoberto Fernandez Jimenez, individually and d/b/a Jimenez Trucking. (Doc. No. 1.) On September 5, 2014, that action was consolidated with *Ramirez v. Jimenez, et al.*, Case No. 1:13-cv-02085. (Doc. No. 27.) On January 25, 2016, this court dismissed the parties in the lead case

1 of the consolidated action, leaving claims brought by Celia Ramirez against Rigoberto Jimenez,
2 Jimenez Trucking, Amtrak, Amtrak engineer Barbara Neu, BNSF Railway Company (“BNSF”),
3 and Young’s, and claims brought in a cross-complaint by Rigoberto Jimenez, Jimenez Trucking,
4 and Young’s against Amtrak and Barbara Neu. (Doc. No. 52.) On April 18, 2016, the parties
5 stipulated to dismissal of BNSF as a party to the action. (Doc. No. 83.) On June 28, 2016, this
6 court issued an order granting in part defendants’ motion for summary judgment, leaving only
7 Celia Ramirez’s claims against Amtrak, Barbara Neu, Rigoberto Jimenez, Jimenez Trucking, and
8 Young’s, as well as the cross-complaint by Rigoberto Jimenez, Jimenez Trucking, and Young’s
9 against Amtrak and Barbara Neu.¹ (Doc. No. 94.)

10 On December 5, 2016, following the issuance of the court’s amended final pretrial order
11 (Doc. No. 111), defendants collectively filed a stipulation wherein they agreed to: (i) admit joint
12 and several liability to plaintiff Celia Ramirez for the injuries and damages, if any, arising out of
13 the subject collision on September 19, 2011; and (ii) dismiss all cross-complaints against each
14 other. (Doc. No. 151.)

15 On December 6, 2016, the jury trial in this action commenced. The jury, however, was
16 unable to reach a verdict. (Doc. No. 172.) The court held a status conference on February 14,
17 2017, and agreed to issue a new pretrial order in preparation for retrial of the action, taking into
18 account the defendants’ stipulation of December 5, 2016 in which they admitted liability. (Doc.
19 No. 183.) As noted above, the court issued its final pretrial order on March 7, 2017. (Doc. No.
20 185.)

21 In light of defendants’ admission of liability, plaintiff Celia Ramirez now proceeds only
22 on her negligence claims against defendants Amtrak, Barbara Neu, Rigoberto Jimenez, Jimenez
23 Trucking, and Young’s with respect to causation and damages.

24 I. JURISDICTION/VENUE

25 Jurisdiction is predicated on 28 U.S.C. § 1331. This court exercises jurisdiction of
26

27 ¹ For ease of reference and in light of the parties remaining in this action, this pretrial order will
28 refer to Celia Ramirez as the plaintiff in this action, and to Amtrak, Barbara Neu, Rigoberto
Jimenez, Jimenez Trucking, and Young’s as the defendants.

1 plaintiff's state law claims pursuant to 28 U.S.C. § 1367(a). Jurisdiction is not contested.

2 Venue is proper pursuant to 28 U.S.C. § 1391 and is not contested.

3 II. JURY

4 Both parties have demanded a jury trial.

5 III. UNDISPUTED FACTS

6 1. Geer Road is a two-lane, asphalt-paved road located in Modesto, California, that
7 runs north and south, with one lane for travel in each direction.

8 2. The lanes of travel on Geer Road were separated by solid double yellow lines.

9 3. Northbound traffic on Geer Road travels over a railway grade crossing before
10 reaching an intersection with Santa Fe Avenue, a street parallel to the rail tracks, which has a stop
11 sign thirty three feet south of its southern edge.

12 4. The rail crossing and the grade crossing warning system are on property owned
13 and maintained by BNSF Railway.

14 5. On September 19, 2011, traffic control for northbound motorists on Geer road
15 included the following:

16 i. highway-rail grade crossing pavement markings approximately 680 feet
17 south of the crossing;

18 ii. an advance highway-rail grade crossing warning sign, located
19 approximately 308 feet south of the crossing;

20 iii. a stop line on the pavement located approximately thirty five feet south of
21 the crossing;

22 iv. a mast mounted reflectorized crossbuck warning sign that was also
23 equipped with red flashing warning lights;

24 v. a warning bell; and

25 vi. a crossing gate approximately twenty seven feet south of the crossing that
26 are automatically activated by approaching trains.

27 6. A similar array of active warning devices was also in place on the northwest side
28 of the crossing for southbound motorists.

1 7. The presence of the crossing was visible to a northbound driver.

2 8. On September 19, 2011, at approximately 1:30 p.m., defendant Rigoberto Jimenez
3 drove a 1991 Freightliner tractor truck, owned by him, in a northbound direction on Geer Road.

4 9. Defendant Jimenez's truck pulled two trailers containing tomatoes, a semi and a
5 pull trailer, both owned by Young's Commercial Transfer.

6 10. The tractor passed the tracks at the Geer Road crossing and came to a stop before
7 reaching the intersection, such that the rear trailer remained across the tracks.

8 11. Defendant Jimenez was familiar with the crossing, and by his own estimation has
9 driven through the crossing more than one hundred times.

10 12. At the same time the train approached the Geer Road rail crossing, an Amtrak
11 train, No. 713, was traveling northbound from Bakersfield to Oakland.

12 13. The train consisted of lead locomotive No. AM 77, with four coaches, and was
13 approximately 399 feet long.

14 14. The train was operated by Amtrak engineer Barbara Ann Neu, who was acting in
15 the course and scope of her employment.

16 15. Plaintiff Celia Ramirez was a passenger on the train.

17 16. The train collided with the Jimenez trailer.

18 17. Portions of the subject accident were captured by the front end camera on the
19 locomotive, and by a camera on neighboring property.

20 18. The warning devices were working prior to, and at the time of the accident, and
21 they were activated twenty eight seconds prior to the train's arrival.

22 19. Before the collision, defendant Neu sounded the horn, and continued to sound it
23 and bell warnings for eight seconds, from 13:37:52–13:38:00 event recorder time.

24 20. After sounding the horn and bell, defendant Neu applied the emergency brakes

25 IV. DISPUTED FACTUAL ISSUES

26 1. The various speeds of the train as it approached the crossing.

27 2. Whether plaintiff Celia Ramirez was injured by the collision.

28 3. Whether plaintiff Celia Ramirez's medical or other expenses are attributable to the

1 subject incident.

2 4. Whether plaintiff Celia Ramirez's claimed expenses are reasonable and
3 compensable.

4 5. Whether plaintiff Celia Ramirez suffered wage loss and loss of earning capacity as
5 a result of the accident, and if so, what the reasonable amount of damages are for any losses.

6 V. DISPUTED EVIDENTIARY ISSUES/MOTIONS IN LIMINE

7 The court does not encourage the filing of motions in limine unless they are addressed to
8 issues that can realistically be resolved by the court prior to trial and without reference to the
9 other evidence which will be introduced by the parties at trial.

10 Any motions in limine are due no later than **twenty one (21) days before trial**.
11 Opposition to defendant's motions shall be filed no later than **fourteen (14) days before trial** and
12 any replies shall be filed no later than **ten (10) days before trial**. Upon receipt of any opposition
13 briefs, the court will notify the parties if it will hear argument on any motions in limine prior to
14 the first day of trial.

15 VI. SPECIAL FACTUAL INFORMATION: TORT ACTION FOR PERSONAL INJURY

16 Pursuant to Local Rule 281(b)(6)(iv), the following special factual information pertains to
17 this action:

18 Factual Information

19 1. This action concerns the collision of an Amtrak train with the rear trailer of a
20 tractor trailer combination that occurred on September 19, 2011, at a railroad crossing located
21 near the intersection of Geer Road and Santa Fe Street in an unincorporated area of Modesto,
22 California.

23 Basis for Liability

24 1. Plaintiff Ramirez contends that defendants are liable because they collectively
25 caused the Amtrak train collision. The parties have stipulated to negligence. (Doc. No. 151.)

26 Basis for Defenses

27 1. Defendants contend that plaintiff's injuries were not caused by the collision, and
28 that plaintiff failed to mitigate her damages.

1 Statutes, Ordinances, or Regulations Violated

2 No statutes, ordinances, or regulations are relevant to this case.

3 Applicability of Strict Liability or Res Ipsa Loquitur

4 Neither strict liability nor *res ipsa loquitur* are applicable in this case.

5 Factual Information as to Plaintiff

6 1. Plaintiff was thirty three years old at the time of the incident. She is currently
7 thirty eight years old.

8 2. Plaintiff contends that she suffered injury to her back, shoulders, neck, hips, knee
9 and legs and feet as a result of the collision. A decompression and fusion at L5-S1 was
10 performed that did not solve the problem. Defendants contend that the decompression and fusion
11 surgery was not necessary and both Dr. Harvey Edmonds (plaintiff's retained neurologist) and
12 Dr. Kurt Miller (defendants' retained neurologist) agree that the procedure was unnecessary.
13 Plaintiff maintains that, in addition to the above, she suffers generalized anxiety disorder with
14 panic attacks, depressive disorder, post-traumatic stress disorder, restless leg syndrome, weight
15 gain due to restricted physical activity due to the effects of the collision, chronic low back pain,
16 right gluteal muscle tear, leg weakness secondary to disuse atrophy, kinesophobia, carpal tunnel
17 syndrome, migraine, and axonal sensory neuropathy.

18 3. Defendants assert that plaintiff suffered chronic lumbar back pain prior to the
19 accident, dating back to 2005. Plaintiff acknowledges that she had back pain from time to time in
20 the past, but disputes that she suffered from "chronic lumbar back pain."

21 4. Plaintiff was taken to the Memorial Medical Center in Modesto via ambulance
22 after the incident and released that day. She was treated at several hospitals later.

23 5. Plaintiff asserts medical specials as of May 16, 2016 amounting to approximately
24 \$344,212.49. Defendants' expert asserts the figure should be below \$100,000. Plaintiff's
25 retained medical expert, Dr. Harvey Edmunds, has opined that plaintiff will need comprehensive
26 multispecialty rehabilitation, at an estimated cost of \$50,000.00. Plaintiff maintains that future
27 medical expenses will exceed \$326,848.

28 /////

1 6. Plaintiff was not employed at the time of the incident, and claims continued
2 disability.

3 7. Plaintiff had not been employed for several years prior to the accident, and has not
4 sought employment since the accident.

5 8. Plaintiff contends that had the accident not occurred, she would have attended
6 college at UC Berkeley and obtained a bachelor's degree. Her expert estimates past and future
7 loss of salary and benefits at \$1,163,676, unless she is able to resume her education and
8 accomplish her employment objectives. Plaintiff maintains that loss of earnings/earning capacity
9 claims range from \$238,881 to \$1,163,676 depending upon the period of disability

10 9. Plaintiff is claiming damages for pain and suffering in the amount of
11 \$1,000,000.00 to \$3,000,000.00 or more.

12 10. Plaintiff does not claim property damage.

13 **VII. RELIEF SOUGHT**

14 1. Plaintiff seeks damages for wage loss.

15 2. Plaintiff seeks damages for past and future hospital and medical expenses.

16 3. Plaintiff seeks damages for severe and pain and suffering.

17 4. Plaintiff seeks damages for loss of earning capacity and emotional distress.

18 **VIII. POINTS OF LAW**

19 The court summarizes the parties' positions on several points of law below.² Trial briefs
20 addressing these points more completely shall be filed with this court no later than **seven (7) days**
21 **before trial** in accordance with Local Rule 285.

22 /////
23

24 ² In addition, the court notes that at the first trial of this action, plaintiff requested that the jury be
25 instructed with CACI 3929 regarding a defendant who is found liable being also responsible for
26 additional harm resulting from the acts of others in providing reasonable required medical
27 treatment, even if that treatment was negligently performed. Defendants objected to the
28 instruction. The court declined to give it, determining that it did not apply in light of the evidence
introduced at trial. If plaintiff intends once again to request that this instruction be given, the
parties are directed to address in their trial briefs the issue of whether the instruction applies under
the facts of this case.

1 California Negligence Law: General Duty of Reasonable Care

2 “Everyone is responsible...for an injury occasioned to another by his or her want of
3 ordinary care or skill in the management of his or her property or person, except so far as the
4 latter has, willfully or by want of ordinary care, brought the injury upon himself or herself.” (Cal.
5 Civ. Code § 1714.) The elements of a negligence cause of action are: “(a) a *legal duty* to use due
6 care; (b) a *breach* of such legal duty; [and] (c) the breach as the *proximate or legal cause* of the
7 resulting injury.” *Ladd v. County of San Mateo*, 12 Cal. 4th 913, 917 (1996).

8 “In most cases, courts have fixed no standard of care for tort liability more precise than
9 that of a reasonably prudent person under like circumstances.” *Ramirez v. Plough, Inc.*, 6 Cal.
10 4th 539, 546 (1993). “But the proper conduct of a reasonable person under particular situations
11 may become settled by judicial decision or be prescribed by statute or ordinance.” *Id.* at 547.
12 CACI 401 instructs the jury as to the general standard of care.

13 California Negligence Law: Operation of Motor Vehicles

14 The basic standard of care for the operator of a motor vehicle is summarized by CACI
15 700:

16 A person must use reasonable care in driving a vehicle. Drivers
17 must keep a lookout for pedestrians, obstacles, and other vehicles.
18 They must also control the speed and movement of their vehicles.
19 The failure to use reasonable care in driving a vehicle is negligence.

20 ““The degree of care required in watching the movements of a particular machine depends
21 upon the facts and circumstances existing at the time and place of the accident’ and a driver is
22 required to use that degree of care, only, which would be required of a reasonably prudent driver
23 under similar circumstances.” *Whitford v. Pacific Gas & Elec. Co.*, 136 Cal. App. 2d 697, 702
24 (1955). “The operator of a vehicle must keep a proper lookout for other vehicles or persons on
25 the highway and must keep his car under such control as will enable him to avoid a collision;
26 failure to keep such a lookout constitutes negligence.” *Downing v. Barrett Mobile Home*
27 *Transport, Inc.*, 38 Cal. App. 3d 519, 524 (1974).

28 California Negligence Law: Operation of Railroads

 “Generally speaking the duty to exercise reasonable or ordinary care is imposed upon the
operator of a railroad at public highway crossings with respect to persons traveling upon the

1 highway and over the crossing, both as to the manner of operating the train and the maintenance
2 of the crossing. The standard of care is that of the man of ordinary prudence under the
3 circumstances.” *Peri v. Los Angeles Junction Ry.*, 22 Cal. 2d 111, 120 (1943). “Ordinarily the
4 issue of the negligence in crossing cases, whether the railroad was negligent . . . in the operation
5 of the train, is one of fact as in other negligence cases.” *Romo v. Southern Pac. Transportation*
6 *Co.*, 71 Cal. App. 3d 909, 916 (1977). CACI 800 states the basic standard of care, as may
7 applicable in accordance with federal law.

8 California Negligence Law: Common Carriers

9 “A carrier of persons for reward must use the utmost care and diligence for their safe
10 carriage, must provide everything necessary for that purpose, and must exercise to that end a
11 reasonable degree of skill.” Cal. Civ. Code § 2100. “The elevated standard of care for common
12 carriers is ‘based on a recognition that the privilege of serving the public as a common carrier
13 necessarily entails great responsibility, requiring common carriers to exercise a high duty of care
14 towards their customers.’” *Squaw Valley Ski Corporation v. Superior Court*, 2 Cal. App. 4th
15 1499, 1507 (1992), internal citations omitted. *See also* CACI 902.

16 Causation

17 Under California law, “A defendant’s negligent conduct may combine with another factor
18 to cause harm; if a defendant’s negligence was a substantial factor in causing the plaintiff’s harm,
19 then the defendant is responsible for the harm; a defendant cannot avoid responsibility just
20 because some other person, condition, or event was also a substantial factor in causing the
21 plaintiff’s harm; but conduct is not a substantial factor in causing harm if the same harm would
22 have occurred without that conduct.” *Yanez v. Plummer*, 221 Cal. App. 4th 180, 187 (2013); *see*
23 *also* CACI 431.

24 IX. ABANDONED ISSUES

- 25 1. All claims against defendant BNSF were dismissed by stipulation. (Doc. No. 83.)
- 26 2. Plaintiff’s negligence claim against defendant Amtrak based on failure to train
27 employees was dismissed by this court’s order partially granting defendants’ motion for summary
28 judgment. (Doc. No. 94.)

1 3. Plaintiff’s negligence claim against defendant Amtrak based on failure to warn
2 passengers in emergency situations was dismissed by this court’s order partially granting
3 defendants’ motion for summary judgment. (Doc. No. 94.)

4 4. All claims by defendants Rigoberto Jimenez, Jimenez Trucking, and Young’s
5 against defendants Amtrak and Barbara Neu were dismissed by stipulation. (Doc. No. 151.)

6 5. All defendants have stipulated to negligence, and contest only the issues of
7 causation and damages. (Doc. No. 151.)

8 X. WITNESSES

9 Witnesses shall be those listed in **Attachment A**. Each party may call any witnesses
10 designated by the other.

11 The parties dispute whether certain witnesses listed in the pre-trial order were timely
12 disclosed and are appropriately designated as trial witnesses. (Doc. Nos. 186 at 3–9; 188 at 3–4.)
13 Prior to the initial trial in this action, the court made note in its final pretrial order of the large
14 number of witnesses listed by the parties in their joint pretrial statement, and admonished the
15 parties that time limits on their presentations might be imposed to ensure compliance with the ten
16 day trial length estimate. The parties ultimately called nine witnesses to testify during the initial
17 trial. Based on this experience, the court anticipates that no witnesses beyond those who testified
18 during the first trial will testify at the second trial. If the parties intend to call any additional
19 witnesses, they shall notify the other parties and the court before the commencement of trial, and
20 should be prepared to make a showing of good cause as to why the testimony of these witnesses
21 is necessary. Plaintiff will be required to file and serve a list of any such additional witnesses no
22 later than **fourteen (14) days** before trial, and defendants will be required to file and serve a list
23 of those additional witnesses who will be called to testify in defendant’s case no later than **seven**
24 **(7) days** before trial.

25 A. The court will not permit any other witness to testify unless:

- 26 (1) The party offering the witness demonstrates that the witness is for the
27 purpose of rebutting evidence that could not be reasonably anticipated at
28 the pretrial conference, or

1 (2) The witness was discovered after the pretrial conference and the proffering
2 party makes the showing required in paragraph B, below.

3 B. Upon the post pretrial discovery of any witness a party wishes to present at trial,
4 the party shall promptly inform the court and opposing parties of the existence of
5 the unlisted witnesses so the court may consider whether the witnesses shall be
6 permitted to testify at trial. The witnesses will not be permitted unless:

7 (1) The witness could not reasonably have been discovered prior to the
8 discovery cutoff;

9 (2) The court and opposing parties were promptly notified upon discovery of
10 the witness;

11 (3) If time permitted, the party proffered the witness for deposition; and

12 (4) If time did not permit, a reasonable summary of the witness's testimony
13 was provided to opposing parties.

14 XI. EXHIBITS, SCHEDULES, AND SUMMARIES

15 Plaintiff's exhibits are listed in **Attachment B**. At trial, plaintiff's exhibits shall be listed
16 alphabetically. Defendant Amtrak's exhibits are listed in **Attachment C**, and defendants Jimenez
17 and Young's exhibits are listed in **Attachment D**. At trial, defendants' exhibits shall be listed
18 numerically. Defendants Jimenez, Jimenez Trucking, and Young's shall list exhibits using the
19 numbers 100–299, and defendant Amtrak shall use the numbers 300 and on. All exhibits must be
20 pre-marked.

21 The parties must prepare exhibit binders for use by the court at trial, with a side tab
22 identifying each exhibit in accordance with the specifications above, and with numbered pages
23 for all exhibits. Each binder shall have an identification label on the front and spine.

24 The parties are to exchange exhibits no later than **twenty eight (28) days before trial**.
25 Any objections to exhibits are due no later than **fourteen (14) days before trial**. The final
26 exhibits are to be delivered to the court by **June 8, 2017**. In making any objection, the party is to
27 set forth the grounds for the objection. As to each exhibit which is not objected to, it shall be
28 marked and received into evidence and will require no further foundation.

1 A. The court will not admit exhibits other than those identified on the exhibit lists
2 referenced above unless:

3 (1) The party proffering the exhibit demonstrates that the exhibit is for the
4 purpose of rebutting evidence that could not have been reasonably
5 anticipated, or

6 (2) The exhibit was discovered after the issuance of this order and the
7 proffering party makes the showing required in paragraph B, below.

8 B. Upon the discovery of exhibits after the discovery cutoff, a party shall promptly
9 inform the court and opposing parties of the existence of such exhibits so that the
10 court may consider their admissibility at trial. The exhibits will not be received
11 unless the proffering party demonstrates:

12 (1) The exhibits could not reasonably have been discovered earlier;

13 (2) The court and the opposing parties were promptly informed of their
14 existence;

15 (3) The proffering party forwarded a copy of the exhibits (if physically
16 possible) to the opposing party. If the exhibits may not be copied the
17 proffering party must show that it has made the exhibits reasonably
18 available for inspection by the opposing parties

19 XII. DISCOVERY DOCUMENTS

20 Counsel must lodge the sealed original copy of any deposition transcript to be used at trial
21 with the Clerk of the Court no later than **fourteen (14) days before trial.**

22 The parties may use the following discovery documents at trial.

23 Reporter's Transcripts and exhibits of depositions of:

24 1. Scott Berner

25 2. Cheryl Chandler

26 3. Marcus Chavez

27 4. Michael Crabtree

28 5. Charles Culver

- 1 6. Harvey Edmonds, M.D.
- 2 7. Maria Madalena Enes
- 3 8. James Flynn
- 4 9. John Heberger
- 5 10. Brian Heikkila
- 6 11. Rigoberto Jimenez
- 7 12. Dan Layton
- 8 13. Kurt Miller, M.D.
- 9 14. Barbara Neu
- 10 15. Officer Mathew McCain
- 11 16. Celia Ramirez
- 12 17. George Warren

13 Discovery responses by:

- 14 18. Plaintiff, Celia Ramirez.
- 15 19. Rigoberto Fernandez Jimenez/Jimenez Trucking
- 16 20. Young's Commercial Transfer, Inc.
- 17 21. National Railroad Passenger Corporation
- 18 22. BNSF
- 19 23. Barbara Neu

20 The parties may also use portions of depositions for impeachment purposes, as permitted by the
21 Federal Rules of Evidence. In addition, the parties may use responses to interrogatories, request
22 for admissions, and requests for production of documents in this case for impeachment purposes.

23 XIII. FURTHER DISCOVERY OR MOTIONS

24 None. However, plaintiff anticipates producing additional medical records that will also
25 be the subject of testimony, since plaintiff has continued to receive medical treatment.

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1 XIV. STIPULATIONS

2 None.

3 XV. AMENDMENTS/DISMISSALS

4 Former defendant BNSF Railway Company has been dismissed pursuant to a stipulation
5 between plaintiff Ramirez and BNSF Railway Company

6 All claims by defendants Rigoberto Jimenez, Jimenez Trucking, and Young's against
7 defendants Amtrak and Barbara Neu were dismissed by stipulation.

8 All defendants have stipulated to negligence, and contest only the issues of causation and
9 damages.

10 XVI. SETTLEMENT

11 The parties have taken part in private mediation which did not produce a settlement. In
12 addition, settlement conferences before Magistrate Judge Grosjean took place on November 28,
13 2016, and on April 11, 2017, but did not result in a settlement of this action. No further
14 settlement conferences will be scheduled.

15 XVII. JOINT STATEMENT OF THE CASE

16 This lawsuit arises out of a collision involving a tractor-trailer combination rig and an
17 Amtrak passenger train, which occurred at the rail crossing of Geer Road near Santa Fe Avenue
18 in Denair, California on September 19, 2011. Plaintiff, Celia Ramirez, was a passenger on the
19 Amtrak train.

20 Defendant, Rigoberto Jimenez was the owner and operator of the tractor, and Young's
21 Commercial Transfer was the owner of the attached trailers involved in the accident. Barbara
22 Neu was the engineer of the Amtrak train involved in the accident.

23 Plaintiff Ramirez, alleges she was injured in the collision and seeks monetary damages for
24 past and future medical expenses, past wage loss and loss of earning capacity, and for pain,
25 suffering, and emotional distress.

26 Defendants admit legal responsibility for this accident. However, defendants dispute the
27 nature and extent of plaintiff Ramirez's claimed medical injuries, and dispute the necessity and
28 reasonableness of her medical treatment. Defendants also deny that plaintiff Ramirez is entitled

1 to recover for wage loss and loss of future earnings.

2 **XVIII. SEPARATE TRIAL OF ISSUES**

3 None requested.

4 **XIX. IMPARTIAL EXPERTS/LIMITATION OF EXPERTS**

5 None.

6 **XX. ATTORNEYS' FEES**

7 Neither party seeks attorneys' fees.

8 **XXI. TRIAL PROTECTIVE ORDER AND REDACTION OF TRIAL EXHIBITS**

9 None.

10 **XXII. ESTIMATED TIME OF TRIAL/TRIAL DATE**

11 Jury trial is set for **June 13, 2017**, at 8:30 a.m. in Courtroom 5 before the Honorable Dale
12 A. Drozd. Trial is anticipated to last no more than ten days. The parties are directed to Judge
13 Drozd's standard procedures available on his webpage on the court's website.

14 Counsel are to call Renee Gaumnitz, courtroom deputy, at (559) 499-5652, one week prior
15 to trial to ascertain the status of the trial date.

16 **XXIII. PROPOSED JURY VOIR DIRE AND PROPOSED JURY INSTRUCTIONS**

17 The parties shall file any proposed jury *voir dire* **seven (7) days before trial**. Each party
18 will be limited to fifteen minutes of jury *voir dire*.

19 The court directs counsel to meet and confer in an attempt to generate a joint set of jury
20 instructions and verdicts. The parties shall file any such joint set of instructions **fourteen (14)**
21 **days before trial**, identified as "Joint Jury Instructions and Verdicts." To the extent the parties
22 are unable to agree on all or some instructions and verdicts, their respective proposed instructions
23 are due **fourteen (14) days before trial**.

24 Counsel shall e-mail a copy of all proposed jury instructions and verdicts, whether agreed
25 or disputed, as a Word document to dadorders@caed.uscourts.gov no later than **fourteen (14)**
26 **days before trial**; all blanks in form instructions should be completed and all brackets removed.

27 Objections to proposed jury instructions must be filed **seven (7) days before trial**; each
28 objection shall identify the challenged instruction and shall provide a concise explanation of the

1 basis for the objection along with citation of authority. When applicable, the objecting party shall
2 submit an alternative proposed instruction on the issue or identify which of his or her own
3 proposed instructions covers the subject.

4 **XXIV. TRIAL BRIEFS**

5 As noted above, trial briefs are due **seven (7) days before trial.**

6 **XXV. CONCLUSION**

7 Pursuant to Rule 16(e) of the Federal Rules of Civil Procedure and Local Rule 283 of this
8 court, this order shall control the subsequent course of this action and shall be modified only to
9 prevent manifest injustice.

10 **IT IS SO ORDERED.**

11 Dated: **April 25, 2017**

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14 UNITED STATES DISTRICT JUDGE

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1 ATTACHMENT A: Witnesses

- 2 1. Michael Aldaco, Director, Admissions and Records, Contra Costa College
- 3 2. Ramon Barrios, Amtrak
- 4 3. Chief Scott Berner, Hughson Fire Protection District, 2316 3rd Street, Hughson,
5 CA (209) 883-2863
- 6 4. Manuel Bravo, Young's Commercial Transport, 2075 W. Scranton, Porterville,
7 CA 93257 (559) 310-0968
- 8 5. Leo Calieco, Amtrak
- 9 6. Zack Carlson, Amtrak
- 10 7. Marcus Chavez
- 11 8. Captain Michael Crabtree, Hughson Fire Protection District, 2316 3rd Street,
12 Hughson, CA (209) 883-2863.
- 13 9. Matt Dorland, BNSF employee
- 14 10. Joe Duncan, Young's Commercial Transport, 2075 W. Scranton, Porterville, CA
15 93257 (559) 310-0968
- 16 11. Maria Madelena Enes, 8656 Peacock Way, Hilmar, CA 95324 (209) 669-1024
- 17 12. Matt Fowles, California Highway Patrol, 601 N. 7th, Sacramento, CA 95831 (800)
18 835-5247
- 19 13. Elijah Garza, 381 Danielle Way, #C, Woodlake, CA 93286, plaintiff's son
- 20 14. Jose Gonzalez, 27817 Avenue 146, Porterville, CA 93257 (559) 719-0812
- 21 15. Jonathan Hines, Amtrak employee
- 22 16. Trinity Hernandez, 381 Danielle Way, #C, Woodlake, CA 93286, plaintiff's
23 daughter
- 24 17. Julia Hernandez, 381 Danielle Way, #C, Woodlake, CA 93286, plaintiff's
25 daughter
- 26 18. Rigoberto Fernandez Jimenez
- 27 19. Andrea John, 917 Zina Lane, Turlock, CA 95380 (209) 535-6295
- 28 20. Jon Lindskoog, 5213 W. Main Street, Turlock, CA 95381 (209) 664-3346

- 1 21. Julia Martinez, 451 E. Lakeview, Woodlake, CA 93286, plaintiff's mother
- 2 22. Officer Matthew McCain, Badge Number 018216, California Highway Patrol,
- 3 4030 Kiernan Avenue, Modesto, CA 95356. (209) 545-7440
- 4 23. Kyle Michaels, Amtrak
- 5 24. Barbara Ann Neu, 16073 Gramercy Drive, San Leandro, California 94579 (510)
- 6 278-6679
- 7 25. Lizette Ponthier, Contra Costa College
- 8 26. Celia Ramirez
- 9 27. Zack Rey
- 10 28. Greg Santos, Amtrak employee
- 11 29. Ronny Schaefer, Amtrak employee
- 12 30. Keith Schoon, Director, Community College Transfer Center, Transfer Alliance
- 13 Project, University of California, Berkeley, 2150 Kittredge Street, Suite 3A,
- 14 Berkeley, CA 94720 (510) 643-7159
- 15 31. Marty Severance, Amtrak
- 16 32. Theodore Sierra, plaintiff's nephew
- 17 33. Dennis Skeels, BNSF employee
- 18 34. Dennis Stonecypher, BNSF employee
- 19 35. Patrick Sullivan, Amtrak employee
- 20 36. Anthony Tanachion, 1985 San Luis Street, Los Banos, CA 93635 (209) 704-2873
- 21 37. George Warren, Amtrak employee
- 22 38. Larry Young, Young's Commercial Transfer, 2075 W. Scranton, Porterville, CA
- 23 93257 (559) 784-6651

24 Passengers

- 25 39. Dominic Arnold, 535 Park Avenue, Apt. 6, Rodeo, CA 94572
- 26 40. Kevin Arnold, 535 Park Avenue, Apt. 6, Rodeo, CA 94572
- 27 41. Elizabeth Al-Iman, PO Box 11, Hayward, CA 94543 (510) 305-7833
- 28 42. Rasun Allah, 1865 Tioga Pass Way, Antioch, CA 94531 (818) 297-0927

- 1 43. Sharon Andres, 1271 Washington Ave., No. 726, San Leandro, CA 94577
- 2 44. Monique Ballin, 1900 E. Street, Fresno, CA 93703 (559) 417-4793
- 3 45. Desiree Carey, 8022 Tamoshanter Street, #296, Stockton, CA 95210 (805) 734-
- 4 7291
- 5 46. Lynn Chase, 615 Chestnut, Corning, CA 96021
- 6 47. Moises Chavez, 1912 35th Street, Oakland, CA 94601
- 7 48. Reginald Durell Colbert, 333 Lester, Apt. 3A, Oakland, CA 94601
- 8 49. Samyka Crane, 713 Putnam Way, Antioch, CA 94509
- 9 50. Mageela Dixon, 1647 W. Kearney Blvd., Fresno, CA 93706 (415) 871-6834.
- 10 51. Marissa Elder
- 11 52. Paul Farve, 3900 3rd Street, San Francisco, CA 94124 (415) 678-6580
- 12 53. Santos Matilde Flores, 2752 58th Street, Apt. B, Huntington Park, CA 90255
- 13 54. Jonathan Mark Freemantle, 515 Van Buren, Apt. D, Oakland, CA 94610 (510)
- 14 585-1424
- 15 55. Aerisina Keyona George, 1027 Loughborough Drive, Apt. A, Merced, CA 95346
- 16 (510) 830-8471
- 17 56. Sandra Hardaway, 2553 Manchester Ave., #1, San Pablo, CA 94806 (510) 230-
- 18 1601
- 19 57. Omar Jovel
- 20 58. Mary Lou Lemas, 545 Road 29, grand Junction, CO 81504
- 21 59. Alisha Little, 2107 White Forge Ct., Stockton, CA 95212 (209) 373-0061
- 22 60. David J. Lobay, 42490 Road 415, Coarsegold, CA 93614
- 23 61. Sheila Lockhart, 1900 E. Street, Fresno, CA 93703 (510) 921-1721
- 24 62. Gwendolyn McClure, 2370 Lancaster Drive, San Pablo, CA 94806 (510) 222-2806
- 25 63. Santos Naevae, 1604 Avenue 33, Oakland, CA 94601 (510) 575-4907
- 26 64. Shikibullah Noori
- 27 65. Jakhare Rankins, 3393 N. Millbrook, #44, Fresno, CA 93726 (559) 367-7615
- 28 66. Christina Rivera, 15980 Drake Road, Guerneville, CA 95446 (707) 293-7283

1 67. Charles Irvine Williams, 2410 Aberdeen, Apt. 15, San Pablo, CA 94806.

2 Non-Retained Treating Physicians:

3 68. Arash Afari, M.D., TEMPLE COMMUNITY HOSPITAL, 235 North Hoover
4 Street, Los Angeles, CA 90026

5 69. Patrick Alore, M.D., FRESNO IMAGING CENTER, 6191 N. Thesta, Fresno, CA
6 93710 (559) 447-2600

7 70. Richard Anderson, M.D., KAWEAH DELTA DISTRICT HOSPITAL, 520 West
8 Mineral King, Visalia, CA 93191 and 400 West Mineral King, Visalia, CA and
9 Urgent Care Center, 1633 S. Court Street, Visalia, CA 93277 (559) 624-6090

10 71. Randall Aybar, M.D., TEMPLE COMMUNITY HOSPITAL, 235 North Hoover
11 Street, Los Angeles, CA 90026

12 72. Edward Barton, M.D., INTRANERVE, 13 S. Tejon, Suite 501, Colorado Springs,
13 CO 80903

14 73. Jared Boothe, AMERICAN MEDICAL RESPONSE, 4701 Stoddard Road,
15 Modesto, CA 95354

16 74. Daniel D. Brown, D.O., KAWEAH DELTA DISTRICT HOSPITAL, 520 West
17 Mineral King, Visalia, CA 93191 and 400 West Mineral King, Visalia, CA and
18 Urgent Care Center, 1633 S. Court Street, Visalia, CA 93277 (559) 624-6090

19 75. Jose Campos, M.D., KAWEAH DELTA EXETER HEALTH CLINIC, 1014 San
20 Juan Avenue, Exeter, CA 93221

21 76. Kenneth Chong, M.D., FRESNO IMAGING CENTER, 6191 N. Thesta, Fresno,
22 CA 93710 (559) 447-2600

23 77. Mariella Corchado, M.D., FRESNO IMAGING CENTER, 6191 N. Thesta,
24 Fresno, CA 93710 (559) 447-2600

25 78. Alma Corvera, P.A., KAWEAH DELTA DISTRICT HOSPITAL, 520 West
26 Mineral King, Visalia, CA 93191 and 400 West Mineral King, Visalia, CA and
27 Urgent Care Center, 1633 S. Court Street, Visalia, CA 93277 (559) 624-6090

28 79. Stephanie Davis, PT, DASH THERAPY, 1827 S. Court Street, Visalia, CA 93277

- 1 80. Kevin Do, M.D., PROSPICE MEDICAL GROUP, 4770 N. Cedar, Suite 103,
2 Fresno, CA 93726 (559) 226-6824
- 3 81. Ruqayya Gill, M.D., KAWEAH DELTA DISTRICT HOSPITAL, 520 West
4 Mineral King, Visalia, CA 93191 and 400 West Mineral King, Visalia, CA and
5 Urgent Care Center, 1633 S. Court Street, Visalia, CA 93277 (559) 624-6090
- 6 82. Ron Goldstein, M.D., THE INSTITUTE FOR HAND AND MICROSURGERY,
7 3000 W. MacArthur Blvd., Suite 600, Santa Ana, CA 92704
- 8 83. Matthew Graber, M.D., KAWEAH DELTA DISTRICT HOSPITAL, 520 West
9 Mineral King, Visalia, CA 93191 and 400 West Mineral King, Visalia, CA and
10 Urgent Care Center, 1633 S. Court Street, Visalia, CA 93277 (559) 624-6090.
- 11 84. David Hang, M.D., FRESNO IMAGING CENTER, 6191 N. Thesta, Fresno, CA
12 93710 (559) 447-2600
- 13 85. R. Marvin Jabola, M.D., MEMORIAL MEDICAL CENTER, 1700 Coffee Road,
14 Modesto, CA 95355
- 15 86. Cory Jacques, M.D., KAWEAH DELTA EXETER HEALTH CLINIC, 1014 San
16 Juan Avenue, Exeter, CA 93221
- 17 87. Malcolm C. Johnson, M.D., DOCTORS MEDICAL CENTER, 2000 Vale Road,
18 San Pablo, CA 94806
- 19 88. Sean Johnston, M.D., CALIFORNIA IMAGING NETWORK, INC., 6641
20 Wilshire Blvd., Suite 105, Beverly Hills, CA 90211 (310) 289-8678
- 21 89. Chadi Kahwaji, M.D., KAWEAH DELTA DISTRICT HOSPITAL, 520 West
22 Mineral King, Visalia, CA 93191 and 400 West Mineral King, Visalia, CA and
23 Urgent Care Center, 1633 S. Court Street, Visalia, CA 93277 (559) 624-6090
- 24 90. Douglas Kerr, M.D., KAWEAH DELTA DISTRICT HOSPITAL, 520 West
25 Mineral King, Visalia, CA 93191 and 400 West Mineral King, Visalia, CA and
26 Urgent Care Center, 1633 S. Court Street, Visalia, CA 93277 (559) 624-6090
- 27 91. Christine T. Ko, M.D., DOCTORS MEDICAL CENTER, 2000 Vale Road, San
28 Pablo, CA 94806

- 1 92. Christopher Lee, M.D., DOCTORS MEDICAL CENTER, 2000 Vale Road, San
2 Pablo, CA 94806
- 3 93. Dae Lee, M.D., BRENTWOOD ORTHOPEDIC AND SPINE SURGERY, 11980
4 San Vicente Blvd., Suite 114, Los Angeles, CA 90049
- 5 94. Tom Leskovar, M.D., PHYSICIAN'S IMAGING, 137 S. Aspen Court, Suite A,
6 Visalia, CA 93291 (559) 624-0160
- 7 95. Sean Mangskau, ET, AMERICAN MEDICAL RESPONSE, 4846 Stratos Way,
8 Modesto, CA 95356 (800) 913-9142
- 9 96. Alexis Manneh, P.A., KAWEAH DELTA DISTRICT HOSPITAL, 520 West
10 Mineral King, Visalia, CA 93191 and 400 West Mineral King, Visalia, CA and
11 Urgent Care Center, 1633 S. Court Street, Visalia, CA 93277 (559) 624-6090
- 12 97. Nick Mashour, M.D., PO Box 1867, Huntington Beach, CA 92647 (714) 540-5900
- 13 98. Shirley McWilliams, LAC, SHIRLEY McWILLIAMS ACUPUNCTURE, INC.,
14 4770 N. Cedar, Suite 103, Fresno, CA 93726 (559) 226-6824
- 15 99. Kristen Myles, CNIM, INTRANERVE, 13 S. Tejon, Suite 501, Colorado Springs,
16 CO 80903
- 17 100. Kenneth C. Nieberg, M.D., BRENTWOOD ORTHOPEDIC AND SPINE
18 SURGERY, 11980 San Vicente Blvd., Suite 114, Los Angeles, CA 90049
- 19 101. Shun Pa, M.D., MEMORIAL MEDICAL CENTER, 1700 Coffee Road, Modesto,
20 CA 95355
- 21 102. Miguel Palos, M.D., TEMPLE COMMUNITY HOSPITAL, 235 North Hoover
22 Street, Los Angeles, CA 90026
- 23 103. Michael Rappaport, M.D., FRESNO IMAGING CENTER, 6191 N. Thesta,
24 Fresno, CA 93710 (559) 447-2600
- 25 104. Jerome Robson, M.D., PROSPICE MEDICAL GROUP, 4770 N. Cedar, Suite
26 103, Fresno, CA 93726 (559) 226-6824
- 27 105. Glade Roper, M.D., KAWEAH DELTA DISTRICT HOSPITAL, 520 West
28 Mineral King, Visalia, CA 93191 and 400 West Mineral King, Visalia, CA and

- 1 Urgent Care Center, 1633 S. Court Street, Visalia, CA 93277 (559) 624-6090.
- 2 106. Amjad Safvi, M.D., MID VALLEY IMAGING, 9500 Artesia Blvd., Bellflower,
3 CA 90706
- 4 107. Michael Shin, M.D., KAWEAH DELTA DISTRICT HOSPITAL, 520 West
5 Mineral King, Visalia, CA 93191 and 400 West Mineral King, Visalia, CA and
6 Urgent Care Center, 1633 S. Court Street, Visalia, CA 93277 (559) 624-6090.
- 7 108. Roger Shortz, M.D., PROSPICE MEDICAL GROUP, 4770 N. Cedar, Suite 103,
8 Fresno, CA 93726 (559) 226-6824
- 9 109. Gregg Shubert, M.D., KAWEAH DELTA DISTRICT HOSPITAL, 520 West
10 Mineral King, Visalia, CA 93191 and 400 West Mineral King, Visalia, CA and
11 Urgent Care Center, 1633 S. Court Street, Visalia, CA 93277 (559) 624-6090
- 12 110. Mohinder Sohal, M.D., TEMPLE COMMUNITY HOSPITAL, 235 North Hoover
13 Street, Los Angeles, CA 90026
- 14 111. Brian M. Swan, M.D., PROSPICE MEDICAL GROUP, 4770 N. Cedar, Suite 103,
15 Fresno, CA 93726 (559) 226-6824
- 16 112. Jeffrey Swensen, M.D., KAWEAH DELTA DISTRICT HOSPITAL, 520 West
17 Mineral King, Visalia, CA 93191 and 400 West Mineral King, Visalia, CA and
18 Urgent Care Center, 1633 S. Court Street, Visalia, CA 93277 (559) 624-6090
- 19 113. Steven Torres, M.D., FRESNO IMAGING CENTER, 6191 N. Thesta, Fresno, CA
20 93710 (559) 447-2600
- 21 114. Thomas B. Traut, M.Ed., FUNCTIONAL ERGONOMICS, 4200 Truxton Avenue,
22 Suite 106, Bakersfield, CA 93309 (661) 328-0692
- 23 115. Elizabeth Tully, M.D., 1014 San Juan Avenue, Exeter, CA 93221
- 24 116. Jeffrey Wang, M.D., MEMORIAL MEDICAL CENTER, 1700 Coffee Road,
25 Modesto, CA 95355
- 26 117. Angela Fisher Weaver, PA., KAWEAH DELTA DISTRICT HOSPITAL, 520
27 West Mineral King, Visalia, CA 93191 and 400 West Mineral King, Visalia, CA
28 and Urgent Care Center, 1633 S. Court Street, Visalia, CA 93277 (559) 624-6090

- 1 118. Stephen E. Williams, P.A.-C, PROSPICE MEDICAL GROUP, 4770 N. Cedar,
2 Suite 103, Fresno, CA 93726 (559) 226-6824
- 3 119. Moshe H. Wilker, M.D., BRENTWOOD ORTHOPEDIC AND SPINE
4 SURGERY, 11980 San Vicente Blvd., Suite 114, Los Angeles, CA 90049
- 5 120. Darrell Wilson, AMERICAN MEDICAL RESPONSE, 4701 Stoddard Road,
6 Modesto, CA 95354
- 7 121. Ronald P. Ybarra, D.C., IBARRA CHIROPRACTIC, INC., 1524 South Mooney
8 Boulevard, Visalia, CA 93277 (559) 525-2225
- 9 122. Elizabeth Yoo, M.D., TEMPLE COMMUNITY HOSPITAL, 235 North Hoover
10 Street, Los Angeles, CA 90026
- 11 123. Charles F. Xeller, M.D., PROSPICE MEDICAL GROUP, 4770 N. Cedar, Suite
12 103, Fresno, CA 93726 (559) 226-6824

13 Retained Experts:

- 14 124. Joahna D. Evans Budge, RN, 1581 W. Iron Horse Blvd., Bluffdale, UT 84065
15 (559) 741-3054, plaintiff's expert
- 16 125. Cheryl R. Chandler, M.A., 8469 N. Millbrook, Suite 102, Fresno, CA 93720 (559)
17 248-8200, plaintiff's expert
- 18 126. Charles L. Culver, 2951 Marina Bay Drive, Suite 130-474, League City, TX 77573
19 (281) 486-1859, plaintiff's expert
- 20 127. Harvey L. Edmonds, M.D., 728 E. Bullard, Suite 104, Fresno, CA 93710 (885)
21 267-2767), plaintiff's expert
- 22 128. James E. Flynn, P.D., J2 ENGINEERING, INC., 5234 E. Pine, Fresno, CA 93727
23 (559) 251-5600, Amtrak's expert
- 24 129. Agnes M. Grogan, R.N., B.S., GROGAN & ASSOCIATES, 4186 Racquet Club
25 Drive, Huntington Beach, CA 92649 (714) 840-1777, defendants' expert
- 26 130. John W. Heberger, CPA, 5900 North Fruit, Suite 102, Fresno, CA 93711 (559)
27 227-9772, plaintiff's expert
- 28 131. Brian Heikkila, DENNIN, HEIKKILA & ASSOCIATES, 312 Crosstown Drive,

1 ATTACHMENT B: Plaintiff's Exhibit List

2 Medical Bills and Records

- 3 1. AIM Radiology
- 4 2. American Medical Response
- 5 3. California Imaging Network
- 6 4. Jose Campos, M.D.
- 7 5. Dash Physical Therapy
- 8 6. Doctor's Medical Center
- 9 7. Fresno Imaging
- 10 8. Ron Y. Goldstein, M.D./The Institute for Hand and Microsurgery
- 11 9. Ronald Ibarra, DC
- 12 10. Intranerve LLC
- 13 11. Corey Jacques, M.D.
- 14 12. Kaweah Delta District Hospital
- 15 13. Kaweah Delta Health Care Clinics
- 16 14. Nick Mashour, M.D.
- 17 15. Memorial Medical Center
- 18 16. Mid Valley Imaging
- 19 17. Physician's Imaging
- 20 18. Prospice Medical Group
- 21 19. Temple Community Hospital
- 22 20. Elizabeth Tully, M.D.
- 23 21. Moshe Wilker, M.D.
- 24 22. Ronald Ybarra, DC

25 Reports

- 26 23. Hughson Fire Department Reports
- 27 24. Traffic Collision Report by CHP Officer McCain and supplements
- 28 25. Reports and deposition exhibits of Harvey Edmonds, M.D.

- 1 26. Reports and deposition exhibits of Kurt Miller, M.D.
- 2 27. Reports and deposition exhibits of Dan Layton
- 3 28. Reports of Agnes Grogan
- 4 29. Reports of Steven Koobatian, Ph.D.
- 5 30. Reports and deposition exhibits of Brian Heikkila
- 6 31. Reports and depositions exhibits of James Flynn
- 7 32. Reports and deposition exhibits of Charles Culver.

8 Other Exhibits

- 9 33. Bates Nos. P 2.1-2.5, Ramirez Transcript, Scholarship and Transfer Documents
- 10 34. Bates Nos. P1-P193 and P2.1-2.30, Ramirez Production

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1 ATTACHMENT C: Defendant Amtrak's Exhibit List

- 2 1. Bates Nos. NRPC 00001-2, NRPC Locomotive Event Recorder/Camera Download
3 Custody Logs for locomotive unit 77 and cab car 8314; CD containing data from
4 locomotive event recorder
- 5 2. Bates Nos. NRPC 00003-9, Tabular and graph data tables from locomotive event
6 recorder
- 7 3. Bates Nos. NRPC 00010-00011, Unusual Occurrence Report dated 9/20/2011
8 completed by Greg Santos
- 9 4. Bates Nos. NRPC 00012, Pacific Division Delay Report
- 10 5. Bates Nos. NRPC 00013-14, Maintenance Analysis Program (MAP),
11 locomotive/cab car inspection reports for locomotive unit 77 and cab car 8314
- 12 6. Bates Nos. NRPC 00015-71, Maintenance Analysis Program (MAP), locomotive
13 cab/car inspection and repair records
- 14 7. Bates Nos. NRPC 00072-73, Recorded information, locomotive event recorder
15 (unit 77)
- 16 8. Bates Nos. NRPC 00074, Train 713 consist
- 17 9. Bates Nos. NRPC 00075, Centralized National Operations Center (CNOC) Report
18 from 9/20/2011
- 19 10. Bates Nos. NRPC 00076-91, California Highway Patrol Police Report
- 20 11. Bates Nos. NRPC 00092-93, Statements from Amtrak conductor Ronny Schaefer
21 and Assistant conductor Zack Carlson; Video from locomotive camera; Video
22 from security camera on premises of Associated Feed near the involved crossing
- 23 12. Bates Nos. NRPC 00094, Work Order
- 24 13. Bates Nos. NRPC 00095-258, Amtrak Air Brake and Train Handling Rules and
25 Instructions (AMT-3) effective January 10, 2011
- 26 14. Bates Nos. NRPC 00259-274, Amtrak Safety Instructions for Transportation
27 employees on or about locomotives, cars or equipment (AMT-5) effective January
28 5, 2009

- 1 15. Bates Nos. NRPC 00275-426, General Code of Operating Rules, 6th Edition,
- 2 Effective April 7, 2010
- 3 16. Bates Nos. NRPC 00427-428, Amtrak Documents
- 4 17. Bates Nos. NRPC 00429-572, Operating Manual, Genesis Series 1 – Diesel
- 5 Electric Locomotives
- 6 18. Bates Nos. NRPC 00573, Weight Report
- 7 19. Bates Nos. NRPC 00574-598, Alstom Documents
- 8 20. Bates Nos. NRPC 00599-602, Amtrak Equipment Director
- 9 21. Bates Nos. NRPC 00603-629, Miscellaneous Amtrak documents
- 10 22. Bates Nos. NRPC 00630-640, U.S. Department of Transportation Crossing
- 11 Inventory, photos and diagram
- 12 23. Bates Nos. NRPC 00641, Barbara Neu Efficiency Test
- 13 24. Bates Nos. NRPC 00642, Work Order History, locomotive 77
- 14 25. Bates Nos. NRPC 00643-796, 2011 System General Road Foreman Notices
- 15 26. Bates Nos. NRPC 00797-821, Amtrak Equipment Work Orders
- 16 27. Bates Nos. BNSF 00001-20, BNSF Inspection Report – highway grade crossing
- 17 tests and inspections
- 18 28. Bates Nos. BNSF 00021-25, BNSF highway grade crossing signal post-incident
- 19 test: instructions and checklist
- 20 29. Bates Nos. BNSF 00026-29, BNSF signal ticket report
- 21 30. Bates Nos. BNSF 00030-55, General Track Bulletin No. 31571
- 22 31. Bates Nos. BNSF 00056, Diagram of crossing on google maps satellite image
- 23 32. Bates Nos. BNSF 00057-82, U.S. Department of Transportation – Crossing
- 24 Inventory information as of 9/20/2011
- 25 33. Bates Nos. BNSF 00083-84, U.S. Department of Transportation-Federal Railroad
- 26 Administration Accident/Incident Reports for Crossing ID No. 028732U
- 27 34. Bates Nos. BNSF 00085-110, Photographs from incident scene and photo log
- 28 35. Bates Nos. BNSF 00111-121, Photographs of crossing showing train approach

1 ATTACHMENT D: Defendant Jimenez and Young's Exhibit List

- 2 1. Bates Nos. DFJ001-DFJ024, Photographs of train
- 3 2. Bates Nos. DFJ025-DFJ035, 09/28/11 SCA Appraisal Company Estimate re 2009
- 4 Utility Pull Trailer #2041
- 5 3. Bates No. DFJ036, 09/29/11 Accord Automobile Loss Notice
- 6 4. Bates Nos. DFJ037-DFJ040, Coastal Brokers Insurance Services First Notice of
- 7 Loss
- 8 5. Bates Nos. DFJ041-DFJ076, Photographs of train and scene
- 9 6. Bates Nos. DFJ077-DFJ083, Data Table from Amtrak re train speed and braking
- 10 7. Bates No. DFJ084. California DMV Registration for 1991 Freightliner
- 11 8. Bates Nos. DFJ085-DFJ106, 09/28/11 SCA Appraisal estimate with On Road
- 12 Tractor-Trailer Caption Report of Initial Inspection
- 13 9. Bates Nos. DFJ107-DFJ108, Copy of Jimenez California driver's license
- 14 10. Bates Nos. DFJ109-DFJ185, Scottsdale Insurance Policy
- 15 11. Bates Nos. DFJ185-DFJ188, Certificates of Title for Young's Commercial
- 16 Transfer – Utility Trailer 4JZ1426 and 4JZ1427
- 17 12. Bates Nos. DFJ189-DFJ196, 09/30/11 Crawford & Company Photo Sheets (scene)
- 18 13. Bates Nos. DFJ197, Google maps of 4380 Geer Road
- 19 14. Bates Nos. DFJ198, Modesto News photo
- 20 15. Bates Nos. DFJ199, Google maps of 4380 Geer Road
- 21 16. Bates Nos. DFJ200-DFJ201, Certificates of Title for Young's for trailers
- 22 17. Bates Nos. DFJ202, Salvage value re utility trailer
- 23 18. Bates Nos. DFJ203, News 10 article on tomato hauler, Amtrak crash
- 24 19. Bates Nos. DFJ204-DFJ209, SCA Appraisal Company Photos of truck and trailers
- 25 20. Bates Nos. DFJ210, Modesto News photo
- 26 21. Bates Nos. DFJ211-DFJ214, SCA Appraisal Company Photos of truck and trailer
- 27 debris
- 28 22. Bates Nos. DFJ215, Google Maps Street photo 4380 Geer Road – view of rail

- 1 crossing
- 2 23. Bates Nos. DFJ251-DFJ255, 09/19/11 Accident Report with diagram, handwritten
- 3 report by Jose Gonzalez and statement by Jimenez
- 4 24. Bates Nos. DJF256-DFJ268, 09/19/11 Traffic Collision Report by CHP McCain
- 5 25. Bates Nos. DFJ269-DFJ270, 10/13/11 Santos Matilde Flores letter to CHP
- 6 26. Bates Nos. D DFJ271-DFJ273, 11/14/11 Narrative/Supplemental Traffic Collision
- 7 Report by CHP McCain
- 8 27. Bates Nos. DFJ274-DFJ275, 11/28/11 David Lobay letter to CHP
- 9 28. Bates No. DFJ276, 11/14/11 Narrative/Supplemental Traffic Collision Report by
- 10 CHP McCain
- 11 29. Bates No. DFJ277, 12/26/11 Lynn Chase statement
- 12 30. Bates No. DFJ278, 10/03/11 Narrative/Supplemental Traffic Collision Report by
- 13 CHP Balos
- 14 31. Bates No. DFJ279, Truck/Bus Collision Supplemental Report by CHP McCain
- 15 32. Letter to Celia Ramirez from Keith Schoon, TAP, University of California,
- 16 Berkeley

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