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10 Attorneys for Plaintiffs  
11 MEDICAL BENEFITS ADMINISTRATORS OF MD,  
12 INC., and CUSTOM RAIL EMPLOYER WELFARE  
13 TRUST FUND

13 UNITED STATES DISTRICT COURT

14 EASTERN DISTRICT OF CALIFORNIA

15 MEDICAL BENEFITS ADMINISTRATORS OF  
16 MD, INC., a Maryland Corporation, and CUSTOM  
17 RAIL EMPLOYER WELFARE TRUST FUND,  
18 Plaintiffs,

18 vs.

19 SIERRA RAILROAD COMPANY, n/k/a SIERRA  
20 NORTHERN RAILWAY, VANNA M. WALKER,  
21 AMBER A. GILLES and DAVID N. MAGAW,  
22 Defendants.

No.: 2:06-cv-02408-FCD-DAD

**HIPAA QUALIFIED  
PROTECTIVE ORDER**

Doc. 113

23 **HIPAA QUALIFIED PROTECTIVE ORDER**

24 NOW COME the Plaintiffs, MEDICAL BENEFITS ADMINISTRATORS OF MD, INC.  
25 and CUSTOM RAIL EMPLOYER WELFARE TRUST FUND, by and through their attorneys,  
26 ROSS E. LAMPE, MARK A. MURO and DAVID J. GARCIA of MURO & LAMPE, INC. and  
27 DANIEL J. ZOLLNER of DYKEMA GOSSETT PLLC, and, for its Motion for the entry of a  
28

1 HIPAA Qualified Protective Order, due notice having been given to all parties and the Court  
2 being fully advised in the premises:

3 IT IS HEREBY ORDERED:

4 1. The current parties (and their attorneys) and any future parties (and their  
5 attorneys) to the above captioned matter are hereby authorized to receive, subpoena, and transmit  
6 "protected health information" (also referred to herein as "PHI") pertaining to individual health  
7 benefit claims for any employees of Sierra Railroad Company and participants listed on the  
8 attached Group Benefit Plan Questionnaire and Employee Census (Exhibits A and B), to the  
9 extent and subject to the conditions outlined herein;  
10

11 2. For the purposes of this Qualified Protective Order, "PHI" or "protected health  
12 information" shall have the same scope and definition as set forth in 45 CFR 160.103 and  
13 160.501.

14 3. All "covered entities" (as defined by 45 CFR 160.103) are hereby authorized to  
15 disclose PHI, as specified in Exhibit C, pertaining to individual health benefit claims for any  
16 employees of Sierra Railroad Company and participants listed on the attached Group Benefit  
17 Plan Questionnaire and Employee Census to all attorneys now of record in this matter or who  
18 may become of record in the future of this litigation.  
19

20 4. Prior to disclosure, any covered entity shall redact the participants' name,  
21 birthday, and social security number from the PHI of individual health benefit claims for any  
22 employees of Sierra Railroad Company and participants listed on the attached Group Benefit  
23 Plan Questionnaire and Employee Census.  
24

25 5. Prior to disclosure, and in lieu of providing the name, birthday or social security  
26 numbers, the covered entity shall assign a number to identify each employee of Sierra Railroad  
27 Company and participants listed on the attached Group Benefit Plan Questionnaire and  
28

1 Employee Census. The covered entity shall provide the indentifying number with the PHI for  
2 employees of Sierra Railroad Company and participants listed on the attached Group Benefit  
3 Plan Questionnaire and Employee Census. The covered entity shall maintain a list of the  
4 numbers assigned to each employee of Sierra Railroad Company and participants listed on the  
5 attached Group Benefit Plan Questionnaire and Employee Census.

6 6. Prior to disclosure, any covered entity shall affix bates stamp numbers to the PHI  
7 pertaining to individual health benefit claims for any employees of Sierra Railroad Company and  
8 participants listed on the attached Group Benefit Plan Questionnaire and Employee Census.  
9

10 7. The parties and their attorneys shall be permitted to use the PHI of individual  
11 health benefit claims for any employees of Sierra Railroad Company and participants listed on  
12 the attached Group Benefit Plan Questionnaire and Employee Census, in any manner that is  
13 reasonably connected with the above-captioned litigation. This includes, but is not limited to,  
14 disclosure to the parties, their attorneys of record, the attorney's firm (i.e., attorneys, support  
15 staff, agents and consultants), the parties' insurers, experts, consultants, court personnel, court  
16 reporters, copy services, trial consultants, jurors, venire members and other entitles involved in  
17 the litigation process.  
18

19 8. At the conclusion of the litigation as to any defendant (which shall be defined as  
20 the point at which final orders disposing of the entire case as to any defendant have been entered,  
21 or the time at which all trial and appellate proceedings have been exhausted as to any defendant),  
22 that defendant and any person or entity in possession of PHI received pursuant to this Order shall  
23 destroy any and all copies of PHI pertaining to individual health benefit claims for any  
24 employees of Sierra Railroad Company and participants listed on the attached Group Benefit  
25 Plan Questionnaire and Employee Census except: (1) the defendant that is no longer in the  
26 litigation may retain PHI generated by him/her/it; and (2) the remaining defendants in the  
27  
28

1 litigation, and persons or entities receiving PHI pursuant to Paragraph 7 of this order, may retain  
2 PHI in their possession.

3 9. This order shall not control or limit the use of protected health information  
4 pertaining to individual health benefit claims for any employees of Sierra Railroad Company and  
5 participants listed on the attached Group Benefit Plan Questionnaire and Employee Census that  
6 comes into the possession of any party or any party's attorney from a source other than a  
7 "covered entity" (as that term is defined in 45 CFR 160.103).

8  
9 10. Nothing in this order authorized defense counsel to obtain medical records or  
10 information through means other than formal discovery requests, subpoena, depositions,  
11 pursuant to a patient authorization or through attorney-client communications.

12 11. Medical Benefits Administrators of Md., Inc. and Custom Rail Employer Welfare  
13 Trust Fund reserve their right, for good cause shown, to petition the Court for additional  
14 information regarding the employees of Sierra Railroad Company and participants listed on the  
15 attached Group Benefit Plan Questionnaire and Employee Census.

16  
17 DATED: January 21 2009.

  
\_\_\_\_\_  
18 Hon. Dale A. Drozd  
19 UNITED STATES MAGISTRATE JUDGE

20  
21 Ddad1/orders.civil/medicalbenefits2408.protectiveord  
22  
23  
24  
25  
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28

**Exhibit A**

PHOTO BETH

315-768-8403

FROM  
TICKET

CREW

CUSTOM RAIL EMPLOYER WELFARE TRUST FUND

RETURN ALL INVOICEMENTS TO:  
CREW  
1103 Government Road Annapolis, MD 21080  
Attn: Bob Langlois  
Fax: 410.313.0119

800-591-9119

GROUP BENEFIT PLAN QUESTIONNAIRE

I. Tell Us About Your Organization:

Group Name: Sierra Railroad Co  
 Street Address: 341 Industrial Way  
 City/ State/ Zip: Woodland, CA 95776  
 Contact Person: DAVID MAGAN  
 Phone Number: 530-666-9644 Fax Number: 530-666-2919  
 Federal ID#: \_\_\_\_\_ Email: dmagan@sierrarailroad.com  
 Type of Business: Railroad / Dinner - Excursion Trains  
 Total Number of Employees: 50 Union: \_\_\_\_\_ Non Union: X  
 Total Number of Participating Employees: 35  
 Total Number with Dependents: 18  
 Number of COBRA Participants: 0 Please indicate start date and termination date for each on the census.  
 Employer Contribution: Employee: \_\_\_\_\_ % Dependent: \_\_\_\_\_ %  
 Waiting Period: Employee: 90 days Dependent: 90 days  
 Is it necessary for your benefits to comply with national union contracts? Yes \_\_\_\_\_ No \_\_\_\_\_

II. Tell Us About Your Current Coverage:

Proposed Effective Date: \_\_\_\_\_ Current Renewal Date: \_\_\_\_\_  
 Current Health Insurer: Kaiser, Blue Shield  
 Current Ancillary Coverage Carrier(s) (i.e. life, dental, disability): Delta Dental,  
Acc / death coverage,  
 Has the current coverage been non-renewed or is it in the process of being non-renewed by your insurer? Yes \_\_\_\_\_ No X  
 Is your current plan fully insured? Yes X No \_\_\_\_\_

Varies Current Single Deductible  
11 Current Family Deductible  
11 Current Co-Insurance Limit  
11 Current Family Co-Insurance Limit  
11 Are you currently enrolled in a PPO Program?

RATE HISTORY					
YEAR	2000	2001	2002		RENEWAL
CARRIER:	<u>Information not available</u>				
Employee					
Parent / Child					
Husband / Wife					
Family					

III. Tell Us About Your Group's Medical History:

Please answer to the best of your knowledge. The term participant means all eligible employees and dependents. Please do not disclose the name of the participant. This information is for group pricing purposes only. For each question answered yes, please provide specific details including participant's age and gender, whether employee or dependent, total amount paid, diagnosis and current status.

Are any participants pregnant? Yes \_\_\_\_\_ No X

Are you aware of any participants who are disabled? Yes \_\_\_\_\_ No X

Are you aware of any participants who have been hospitalized within the last 12 months or expect to be hospitalized in the next 12 months? Yes \_\_\_\_\_ No X

Are you aware of any participants who have incurred medical claims in excess of \$5,000 over the last 12 months or have any major ongoing conditions? (i.e. cancer, kidney / liver, stroke, diabetes, heart, alcohol / drug, or immune system disorders, etc.) Yes \_\_\_\_\_ No X

IV. Tell Us Coverage Options You Would Like Information On:

Group Health Insurance:

INDIVIDUAL	FAMILY
<u>  X  </u> \$200 deductible	_____ \$400 deductible
_____ other	

Group Life Insurance and Accidental Death & Dismemberment (AD&D) Insurance:

\_\_\_\_\_ Plan I: All Employees @ 1 x Annual Salary to \$50,000 Maximum

\_\_\_\_\_ Plan II: All Employees @ 2 x Annual Salary to \$100,000 Maximum

\_\_\_\_\_ Plan III: All Employees @ \$15,000 Life Insurance, \$15,000 AD&D

Weekly Indemnity / Supplemental Income (Short Term Disability):

\_\_\_\_\_ # of Full Time Employees Eligible for Railroad Retirement Benefits

\_\_\_\_\_ # of Employees not Eligible for Railroad Retirement Benefits

\_\_\_\_\_ Percentage of Salary

\_\_\_\_\_ Maximum Weekly Benefit

Dental Insurance:

  X   Plan I: \$50 Deductible (no orthodontia)

\_\_\_\_\_ Plan II: \$50 Deductible (w/orthodontia)

  X   Plan III: \$100 Deductible (no orthodontia)

\_\_\_\_\_ Plan IV: \$100 Deductible (w/orthodontia)

> quote both

V. Some Additional Information:

Please also attach the following information so that we may provide you with a proposal:

1. Complete Employee Census Attached
2. Copy of Your Most Recent Bill *NOT available*
3. Copy of Your Benefit Book or Summary Plan Description *NOT available*

I understand and certify to the best of my knowledge and belief, that all of the above information is complete and accurate.

Signature: David Mason

Date: 7-17-03



SENT BY: INSURANCE OFFICES

07/17/2003 14:26 5306662919

410 515 0154;

VOLO SHORT LINE RAIL

07/18/03 2:59PM; JAE: #514; Page 4/5

PAGE 04

Employee Name	Sex	DOB	Emp Only	mp&Spouse	mp& Childr	Family	Home Zip	FT/PT	Worker Comp or FELA
✓ 1 Acosta, Leonardo	M	01/17/1970				X	95776	FT	FELA
✓ 2 Briley, Lea D.	F	1/21/1968			X		95821	FT	FELA
✓ 3 Bumpus, James J.	M	12/13/1960			X		95993	FT	FELA
✓ 4 Camarano, Anthony C.	M	7/22/1968	X				95691	PT	FELA
5 Caperton, Franklin R.	M	8/8/1963	X				95379	PT	FELA
✓ 6 Casey, Lewis M.	M	8/30/1950	X				95327	FT	FELA
✓ 7 Cassner, Gene D.	M	12/8/1969	X				95370	FT	FELA
✓ 8 Chalender, Brian F.	M	2/22/1955	X				95810	FT	FELA
9 Chalender, Robert F.	M	8/29/1944					95662	PT	FELA
10 Chalender, Joshua J.	M	3/28/1978					95610	PT	FELA
✓ 11 Coyle, Russel D.	M	1/8/1958					95327	FT	FELA
12 Danmann, Judith V.	F	8/12/1945					95842	PT	FELA
✓ 13 DeHoogh, Michael	M	8/22/1967	X				95864	FT	FELA
✓ 14 Edwards, Mike K.	M	7/17/1974	X				95816	FT	FELA
✓ 15 Egbert, Kenneth R.	M	4/28/1949		X			95901	FT	FELA
16 Garcia, Rosario	M	12/18/1958					95870	PT	FELA
✓ 17 Giles, Amber A.	F	9/8/1974		X			95833	FT	FELA
18 Giles, Thomas D.	M	9/14/1950					95833	PT	FELA
✓ 19 Gilman, Mike	M	12/18/1952		X			95878	FT	FELA
✓ 20 Heimbald, Stuart J.	M	5/30/1989				X	95327	FT	FELA
21 Hendling, Kenneth E.	M	7/5					95306	FT	FELA
22 Hunley, Joshua S.	M	2/12/1984					95616	PT	FELA
✓ 23 Ingold, Larry	M	12/28/1948	X				95391	FT	FELA
✓ 24 Juhola, Robert A.	M	5/31/1951	X				95391	FT	FELA
✓ 25 Kirby, Tracy	M	2/4/1969				X	95776	FT	FELA
✓ 26 Lachner, Steven D.	M	4/18/1952			X		95885	FT	FELA
✓ 27 Leon, Brigada Y.	M	10/22/1944					95668	FT	FELA
✓ 28 Leon, Luis	M	12/20/1948					95865	FT	FELA
✓ 29 Magas, Matthew	M	8/17/1976	X				96158	FT	FELA
✓ 30 Magaw, David N.	M	9/18/1952				X	95921	FT	FELA
31 Magaw, Matthew P.	M	8/9/1983					95821	PT	FELA
32 Morales, Yzeria R.	F	9/20/1972					95916	PT	FELA
✓ 33 Muller, James E.	M	3/10/1947		X			95627	FT	FELA
✓ 34 Odum, Modoc C.	M	7/15/1976	X				95895	FT	FELA
✓ 35 Pantoja, Oscar	M	11/15/1968				X	95776	FT	FELA
36 Peck, Eugene	M	9/22/1948					95824	PT	FELA
✓ 37 Skofeld, Richard	M	5/8/1948		X			95361	FT	FELA
✓ 38 Smith, David G.	M	5/12/1962			X		95895	FT	FELA
✓ 39 Spelght, John J.	M	5/28/1943		X			95878	FT	FELA

Office person

Office person

Office person

Office person

Office person

Office person

Mc Taggart, Randy  
Guzman, Juan

- 40 Stabler, Robert D. M
- 41 Wimmer, Leslie H. M
- 42 Woods, Robert S. M
- 43 York, Tony J. M
- 44 Caldwell, Wehman M
- 45 Hart, Christopher M
- 46 Honor, Cynthia F
- 47 Husky, Denise O. F
- 48 Pined, Robert M
- 49 Reese, Kyle F
- 50 Nilson, Torgny M

10/5/1983					
12/13/1959					
5/10/1950				X	
2/22/1982					
60			X		
10/18/1989	X				
9/6/1969	X				
4/30/1955	X				
8/18/1977	X				
3/21/1979	X				
3/22/1985					X

- 95778 PT FELA
- 95681 PT FELA
- 95864 PT FELA
- 95867 FT FELA
- 95361 FT WC
- 95361 FT WC
- 95361 FT WC
- 95616 FT WC
- 95361 FT WC
- 95361 FT WC
- 95818 FT WC

1. FT personnel are not entitled to benefits, but in certain circumstances have arranged coverage through the company, with payroll deduction for costs.
2. Company covers the employee and a portion of other family coverage for FT personnel.
3. There are other PT personnel that work for the Dinner Train operation that are not listed above, and are not entitled to benefits.

**Exhibit B**

10/29/03

Employee	Coverage	Kaiser \$15 co-pay (existing plan)	Kaiser \$20 co-pay (new plan)	Crew - full medical	Crew - Occupational Only
<b>Sr. Mgr</b>					
Chris Hart	Emp	\$135.00	\$129.60	\$247.94	
Ingold, Larry	Emp	\$348.00	\$332.16	\$247.94	
Lackner, Steven D.	P&C	\$467.00	\$448.32	\$443.01	
Magaw, David N.	Fam	\$744.00	\$714.24	\$740.00	
Robert Pinole	Emp	\$123.00	\$118.08	\$247.94	
Speight, John J.	H&W	\$811.00	\$778.56	\$544.92	
Torgny Nilsson	Fam	\$634.00	\$608.64	\$740.00	
<b>Line Mgr</b>					
Challender, Brian F.	H&W	\$473.00	\$454.08	\$544.92	
Carey, Lewis M.	H&W	\$570.00	\$547.20	\$544.92	
Edwards, Mike K.	Emp	\$164.00	\$157.44	\$247.94	
Gilles, Amber A.	H&W	\$412.00	\$395.52	\$544.92	
Helmbold, Stuart J.	Fam	\$634.00	\$608.64	\$740.00	
Muller, James E.	H&W	\$727.00	\$697.92	\$544.92	
Randy McTaggart	Emp	\$164.00	\$157.44	\$247.94	
Smith, David G.	P&C	\$401.00	\$384.96	\$443.01	
<b>Full Time</b>					
Acosta, Leonardo	Fam	\$634.00	\$608.64	\$740.00	
Briley, Lisa D.	P&C	\$427.00	\$409.92	\$443.01	
Bumpus, James J.	P&C	\$410.00	\$393.60	\$443.01	
Camarena, Anthony C.	Emp	\$181.00	\$173.76	\$247.94	
Carsner, Gene D.	Fam	\$634.00	\$608.64	\$740.00	
Coyle, Russel D.	Emp	\$211.00	\$202.56	\$247.94	
DeHoogh, Michael	Emp	\$181.00	\$173.76	\$247.94	
Egbert, Kenneth R	Emp	\$274.00	\$263.04	\$247.94	
Gillman, Mike	Emp	\$274.00	\$263.04	\$247.94	
Guzman, Juan Jose Acosta	Fam	\$634.00	\$608.64	\$740.00	
Honor, Cynthia	Fam	\$634.00	\$608.64	\$740.00	
Juhola, Robert A.	Emp	\$274.00	\$263.04	\$247.94	
Kirby, Tracy	Fam	\$634.00	\$608.64	\$247.94	
Leon, Brigado Y.	Emp	\$346.00	\$332.16	\$247.94	
Leon, Luis	Emp	\$346.00	\$332.16	\$247.94	
Magas, Matthew	Emp	\$181.00	\$173.76	\$247.94	
Marketing person 1	Fam	\$574.00	\$551.04	\$740.00	
Marketing person 2	Emp	\$181.00	\$173.76	\$247.94	
Odom, Modoc C.	Emp	\$164.00	\$157.44	\$247.94	
Pantoja, Oscar	Fam	\$634.00	\$608.64	\$740.00	
Reece, Kylie	Emp	\$123.00	\$118.08	\$247.94	
York, Tony J.	P&C	\$634.00	\$608.64	\$740.00	
Monthly cost		\$15,390.00	\$14,774.40	\$16,359.56	
Annual cost		\$184,680.00	\$177,292.80	\$196,314.72	
Additional cost of CREW		\$11,634.72	\$19,021.92	---	

**Part Time or employees  
opting out of your medical  
coverage w/ FELA exp.**

Caperton, Franklin	\$	80.00
Challender, Robert	\$	80.00
Challender, Joshua	\$	80.00
Dammann, Judith	\$	80.00
Garcia, Rosario	\$	80.00
Gilles, Thomas	\$	80.00
Henling, Kenneth	\$	80.00
Hunley, Joshua	\$	80.00
Magaw, Matthew	\$	80.00
Moreales, Yesenia	\$	80.00
Peck, Eugene	\$	80.00
Skofield, Richard	\$	80.00
Slabler, Robert	\$	80.00
Wilmunder, Leslie	\$	80.00
Woods, Robert	\$	80.00
	\$	1,200.00

- Notes:**
- 1. If eligible employees are allowed to opt out of the coverage, they must sign a Declination Form**
  - 2. A minimum of 70% of eligible employees must participate in the full coverage program**
  - 3. Occupational Only coverage is available to those employees who choose not to participate in the program, part time employees who are subject to FELA but not eligible to participate in your employee benefits program or any probationary periods for new hires. The premium for this coverage is \$85.00 per employee per month**

Exhibit C

Documents relating to Yolo Shortline Railroad Company or Sierra Railroad Company's Account No. BU 000070042-0000 with Kaiser Permanente and Account No. 605849 with Blue Shield of California (Collectively referred to as the "Plans") for (a) pregnancies by employees or dependents of Yolo Shortline Railroad Company or Sierra Railroad Company who participated in the Plans within the twelve months prior to July 17, 2003 and 12 months after July 17, 2003, (b) hospitalizations by employees or dependents of Yolo Shortline Railroad Company or Sierra Railroad Company who participated in the Plans within the twelve months prior to July 17, 2003 and 12 months after July 17, 2003, (c) medical claims in excess of \$5,000.00 by employees or dependents of Yolo Shortline Railroad Company or Sierra Railroad Company who participated in the Plans within the 12 months prior to July 17, 2003 and 12 months after July 17, 2003, (d) claims involving major ongoing conditions such as cancer, kidney/liver, stroke, diabetes, heart, alcohol/drug or immune system disorders by employees or dependents of Yolo Shortline Railroad Company or Sierra Railroad Company who participated in the Plans within the 12 months prior to July 17, 2003 and 12 months after July 17, 2003, and (e) claims involving disability by employees or dependents of Yolo Shortline Railroad Company or Sierra Railroad Company who participated in the Plans within the 12 months prior to July 17, 2003 and 12 months after July 17, 2003.