

1 John S. Gilmore, Esq. (SBN: 32491)  
[gilmore@randolphlaw.net](mailto:gilmore@randolphlaw.net)  
 2 Thomas a. Cregger, Esq. (SBN: 124402)  
[tac@randolphlaw.net](mailto:tac@randolphlaw.net)  
 3 Stephanie L. Quinn, Esq. (SBN: 216655)  
[slq@randolphlaw.net](mailto:slq@randolphlaw.net)  
 4 RANDOLPH CREGGER & CHALFANT LLP  
 1030 G Street  
 5 Sacramento, CA 95814  
 Telephone: (916) 443-4443  
 6 Facsimile: (916) 443-2124

7 Attorneys for Defendant  
 UNION PACIFIC RAILROAD COMPANY

8  
 9

10 UNITED STATES DISTRICT COURT  
 11 FOR THE EASTERN DISTRICT OF CALIFORNIA

12

13 JOHN F. REDOS, JR.,	No. 2:08-CV-01036-MCE-KJM
14 Plaintiff,	<b>DEFENDANT’S REQUEST FOR PAGE LIMITATION EXTENSION FOR MOTION FOR SUMMARY JUDGMENT; ORDER THEREON</b>
15 vs.	
16 UNION PACIFIC RAILROAD COMPANY,	
17 Defendant.	

18

19 Defendant UNION PACIFIC RAILROAD COMPANY (“Union Pacific”) hereby requests  
 20 that the Court allow Defendant to file a motion for summary judgment in this matter that exceeds  
 21 the page limitation of twenty (20) pages, which is set forth in the Court’s Amended Pretrial  
 22 Scheduling Order, dated July 6, 2009. There is good cause to allow Defendant to file a supporting  
 23 memorandum in excess of the page limitation, for the following reasons:

24 This case arises out of the derailment of a rail grinding consist (called the “RMS-4”) owned  
 25 and operated by Harsco Track Technologies (“Harsco”) on November 9, 2006. Harsco performed  
 26 rail grinding services pursuant to a contract with Defendant Union Pacific. The RMS-4 was

Randolph  
 Cregger &  
 Chalfant

1 traveling from Sparks, Nevada to Bakersfield, California, when it derailed in the Sierra Nevada  
2 Mountains, near Alta, California. Two Harsco employees were killed.

3 Plaintiff JOHN REDOS, a Harsco employee, was the supervisor of the RMS-4 and was  
4 operating the equipment at the time it derailed. He has brought this lawsuit against Union Pacific  
5 alleging that he suffered post traumatic stress disorder as a result of the incident. He has asserted  
6 the following claims in his Second Amended Complaint: (1) Negligence/Gross Negligence; (2)  
7 Negligence Per Se; (3) Violation of the Locomotive Inspection Act, 49 U.S.C. §20701 et seq.  
8 (“LIA”); (4) Federal Employers’ Liability Act, 45 U.S.C. §51 et seq. (“FELA”); and (5) Violation  
9 of the Federal Safety Appliance Act, 49 U.S.C. §20301 et seq. (“FSAA”).

10 This case involves complicated legal and factual issues that Defendant intends to present  
11 to the Court by way of a summary judgment/adjudication motion. Those issues include, whether  
12 Defendant can be liable under the FELA, LIA and FSAA. More specifically, whether Plaintiff  
13 qualifies as a “borrowed servant” under the FELA to bring him within the protection of the federal  
14 statutes, whether Defendant can be directly liable to a non-employee under the LIA and FSAA, and  
15 whether those statutes apply to the rail grinding equipment at issue here. Other important legal  
16 issues need to be resolved by the Court on a dispositive motion, including Defendant’s duties and  
17 liability to Plaintiff for alleged negligence, gross negligence and negligence per se. This case  
18 involves detailed evidence regarding brake systems, equipment maintenance and inspections, train  
19 handling, and the contractual relationship between Union Pacific and Plaintiff’s employer, Harsco,  
20 among other things. Substantial legal and factual analysis is needed in order to adequately address  
21 these issues.

22 Given the numerous issues presented by Plaintiff’s complaint and the legal and factual  
23 matters at issue in this case, Defendant cannot adequately address the issues to be presented to the  
24 Court by way of a summary judgment motion in a memorandum which is limited to twenty (20)  
25 pages. Defendant believes that it can adequately address the issues in a memorandum not  
26 exceeding forty (40) pages and hereby requests that the Court grant a page limitation increase,

Randolph  
Cregger &  
Chalfant

1 given the circumstances of this case.

2

3 Dated: July 28, 2010

RANDOLPH CREGGER & CHALFANT LLP

4

5

/s/ John S. Gilmore  
JOHN S. GILMORE  
Attorneys for Defendant UNION PACIFIC RAILROAD  
COMPANY

6

7

8

9

**ORDER**

10

11

IT IS SO ORDERED. Given the excess page limit requested by Defendant, however,  
12 Plaintiff's Opposition, if any, shall also be subject to the same 40 page limitation. Should  
13 Defendant elect to file a reply, it may be no more than 20 pages in length.

14

Dated: July 29, 2010

15

  
MORRISON C. ENGLAND, JR.  
UNITED STATES DISTRICT JUDGE

16

17

18

19

20

21

22

23

24

Randolph  
Cregger &  
Chalfant

25

26