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IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

JEREMY GILMORE, et al.,

Plaintiffs,

No. CIV S-09-02180 KJM DAD

v.

UNION PACIFIC RAILROAD
COMPANY, et al.,

Defendants.

ORDER

_____ /
This case came before the court on February 25, 2011, for hearing on defendant Union Pacific Railroad Company’s motion to compel deposition of third party Joe Shelby and for sanctions (Doc. No. 161) and on plaintiffs’ motion to compel deposition of defendant’s custodian of records for its locomotive facility (Doc. No. 162). Jennifer Marsh, Esq. appeared for plaintiffs. Naisha Covarrubias, Esq. appeared for defendant Union Pacific Railroad Company.

The case subsequently came before the court on April 8, 2011, for hearing on plaintiffs’ motion to compel inspection of Locomotive Engine 9643 and for sanctions (Doc. No. 190). At that time Larry Lockshin, Esq. appeared for plaintiffs. Stephanie L. Quinn, Esq. appeared for defendant Union Pacific Railroad Company.

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1 At each hearing, the parties' Joint Discovery Stipulation was considered, along
2 with the parties' arguments at the hearing. For the reasons set forth in detail on the record of
3 each hearing, IT IS ORDERED that:

4 1. Defendant's motion to compel deposition of third party Joe Shelby and for
5 sanctions (Doc. No. 161) is granted in part and denied in part. Defendant's deposition of Mr.
6 Shelby shall take place on February 28, 2011, at 1:30 p.m. at the place designated. If Mr. Shelby
7 is unable to appear on that date, plaintiffs' counsel shall work with defendant's counsel to re-set
8 the date within the discovery deadline. Plaintiffs' counsel shall pay the court reporter costs with
9 respect to the aborted deposition.

10 2. Plaintiffs' motion to compel deposition of custodian of records (Doc. No. 162)
11 is denied without prejudice.

12 3. Plaintiffs' motion to compel inspection of Locomotive Engine 9643 and for
13 sanctions (Doc. No. 190) is granted in part and denied in part. Defendants shall make
14 Locomotive Engine 9643 available for inspection by plaintiff and his expert in either Shreveport,
15 LA or Little Rock, AR on April 14, 2011, with plaintiff's decision as to which of those locations
16 to be made by the end of the day on April 8, 2011, in order to facilitate the parties' travel
17 arrangements. The inspection shall last for a duration not to exceed two hours. Plaintiffs'
18 motion for sanctions is denied, and each side shall bear its own costs.

19 DATED: April 9, 2011.

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23 DALE A. DROZD
24 UNITED STATES MAGISTRATE JUDGE

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