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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

JESS ANZO, JR.,

Plaintiff,

v.

UNION PACIFIC RAILROAD
COMPANY, and DOES 1 through 10,
inclusive,

Defendants.

Civ. No. 2:13-cv-00355-KJM-CMK

ORDER

On October 30, 2014, the court conducted a final pretrial conference. Larry Lockshin appeared for plaintiff Jess Anzo, Jr.; Kristoffer Mayfield and Jacob Flesher appeared for defendant Union Pacific Railroad Company.

After hearing, and good cause appearing, the court makes the following findings and orders:

I. JURISDICTION/VENUE

Jurisdiction and venue are not contested.

II. JURY/NON-JURY

Both parties have requested a trial by jury.

1 III. CLARIFICATION OF CLAIMS TO BE TRIED

2 A revised Joint Pretrial Statement was filed by the parties on October 31, 2014.
3 ECF No. 58. Union Pacific has withdrawn its defense of contributory negligence, as asserted in
4 its answer to plaintiff's complaint, and does not anticipate offering evidence that Mr. Anzo's
5 conduct on June 14, 2011 fell below the applicable standard of care.

6 IV. UNDISPUTED FACTS

7 This is a Federal Employers' Liability Act ("FELA"), 45 U.S.C. §51 et seq.,
8 lawsuit where Anzo alleges one cause of action against Union Pacific seeking compensatory
9 damages for personal injuries arising out of a rear-end collision between a stopped self-propelled
10 ballast regulator machine, operated by Anzo, and another machine, a tamper, operated by a
11 different Union Pacific employee. The collision occurred at approximately 10 miles per hour on
12 June 14, 2011. At the time of the collision, Anzo was seated in his stopped machine performing
13 paperwork while awaiting a passing train. Union Pacific does not dispute it owed Plaintiff a duty
14 of care on June 14, 2011 and that said duty of care was breached by its employee's conduct.

15 V. DISPUTED FACTUAL ISSUES

16 Anzo has alleged that the collision caused him injury to the tissues and structures
17 of his cervical spine, lumbar spine, left hip, left shoulder, left wrist, right knee and head, resulting
18 in a concussion and post-concussion syndrome. Union Pacific disputes Anzo's alleged
19 conditions, and the significant resulting treatment, including several surgeries, were caused or
20 contributed to by the incident. Union Pacific also contends Anzo had significant pre-existing
21 medical issues which contributed to his symptoms, both directly after the incident and continuing
22 through the present.

23 VI. SPECIAL FACTUAL INFORMATION

24 (A) This is a Federal Employers' Liability Act ("FELA"), 45 U.S.C. §51 et seq.,
25 lawsuit where Anzo alleges one cause of action against Union Pacific seeking compensatory
26 damages for personal injuries arising out of a rear-end collision between a stopped self-propelled
27 ballast regulator machine, operated by Mr. Anzo, and another machine, a tamper, operated by a
28 different Union Pacific employee. The collision occurred at approximately 10 miles per hour on

1 June 14, 2011. At the time of the collision, Anzo was seated in his stopped machine performing
2 paperwork while awaiting a passing train. On these grounds, Anzo alleges that Union Pacific
3 failed to provide him with a reasonably safe place to work in violation of the FELA.

4 (B) Anzo was born on February 15, 1955. He was 56 years old at the time of the
5 collision. He had worked for Union Pacific as a maintenance of way track laborer, machine
6 operator, and track foreman since 1973, immediately following graduation from high school.
7 Prior to the collision, Anzo had planned to work until at least age 60. Prior to the collision, Anzo
8 had never suffered any injuries or treatment for his cervical spine, lumbar spine, left hip, left
9 shoulder, right knee and head. He had some prior treatment for carpal tunnel in his right and left
10 wrist, including a prior right wrist surgery.

11 As a result of the collision and alleged resulting concussion, Anzo allegedly has no
12 memory of the impact itself, nor any events occurring later that day and the following early
13 morning. Anzo's last recollection prior to the collision is that he was seated in the ballast
14 regulator completing paperwork. An ambulance was called and Anzo was transported to the
15 emergency room at Mt. Shasta Mercy Medical Center. At the hospital, Mr. Anzo complained of
16 headaches, neck pain, low back pain, left hip pain, and right knee pain. Anzo was examined and
17 various diagnostic tests were performed and he was released to return home. His first recollection
18 subsequent to the collision is of a Union Pacific claims agent coming to his house the morning
19 after the collision.

20 Since the date of the collision and up to the present date, Anzo has been under
21 constant and regular medical care for his injuries. In addition to carpal tunnel surgery to the left
22 wrist, he has undergone a total left hip replacement procedure and arthroscopic surgery to his left
23 shoulder and right knee. From the time of the collision to the present, Anzo has also undergone
24 intermittent but frequent injection therapy to the cervical spine and right knee. Anzo's treating
25 physicians have opined that he will also require a two level lumbar fusion procedure, surgery to
26 his cervical spine, and surgery to replace his right knee. The future medical expenses including
27 the surgeries and ongoing need for medical treatment are anticipated to be in excess of \$250,000.
28 There will also be evidence of past medical expenses offered at the time of trial. Union Pacific

1 disputes that Anzo's alleged conditions, and the significant resulting treatment, including several
2 surgeries, were caused or contributed to by the incident. Union Pacific also contends that Anzo
3 had significant pre-existing medical issues which contributed to his symptoms, both directly after
4 the incident and continuing through the present.

5 Further, as a result of these injuries and Anzo's continuing need for significant
6 medical treatment, Anzo contends that he has been totally disabled and cannot return to gainful
7 employment. Anzo's forensic economist will testify that the present value of Anzo's past loss of
8 earnings and loss of future earning capacity is approximately \$400,000. Additionally, his
9 economist will testify that Anzo has suffered a past and future loss of the value of home services
10 in excess of \$360,000. Union Pacific contends Anzo's claims for damages are overstated. Anzo
11 also alleges he has suffered significant past and future general damages to be determined by the
12 jury at the time of trial.

13 VII. STIPULATIONS/AGREED STATEMENTS

14 The parties stipulate to the following: 1) this action is governed by the Federal
15 Employers Liability Act; 2) Union Pacific is a common carrier by railroad engaged in interstate
16 commerce; and 3) Anzo was in the course and scope of his duties on behalf of Union Pacific in
17 furtherance of interstate commerce at the time of the collision.

18 VIII. RELIEF SOUGHT

19 Anzo seeks compensation for his past and future economic and general damages as
20 described herein, for his costs of suit, for post-judgment interest, and for attorneys' fees and costs
21 resulting from Union Pacific's failure to admit multiple requests for admissions regarding facts
22 related to liability and damages.

23 Union Pacific seeks to have Anzo take nothing from this action, or that Anzo's
24 damages be appropriately apportioned based on both Anzo's alleged pre-existing medical
25 conditions.

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1 IX. POINTS OF LAW

2 The parties shall alert the court to disputes about the applicable law and legal
3 standards. Trial briefs addressing these points more completely shall be filed with this court no
4 later than seven days prior to the date of trial in accordance with Local Rule 285.

5 X. WITNESSES

6 (A) Plaintiff's witnesses are identified in Attachment 1 to this statement.

7 (B) Defendant's witnesses are identified in Attachment 2 to this statement.

8 Each party may call any witnesses designated by the other.

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

10 (1) The party offering the witness demonstrates that the witness is for the purpose
11 of rebutting evidence that could not be reasonably anticipated at the pretrial
12 conference, or

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

15 B. Upon the post pretrial discovery of any witness a party wishes to present at trial,
16 the party shall promptly inform the court and opposing parties of the existence of the unlisted
17 witnesses so the court may consider whether the witnesses shall be permitted to testify at trial.

18 The witnesses will not be permitted unless:

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

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

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

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

26 XI. EXHIBITS, SCHEDULES AND SUMMARIES

27 Plaintiff's exhibits are identified on attachment 3. At trial, plaintiff's exhibits shall
28 be listed numerically.

1 Defendant's exhibits are identified on attachment 4. At trial, defendant's exhibits
2 shall be listed alphabetically.

3 The court encourages the parties to generate a joint exhibit list to the extent
4 possible. Joint Exhibits shall be identified as JX and listed numerically, e.g., JX-1, JX-2.

5 All exhibits must be premarked.

6 The parties must prepare exhibit binders for use by the court at trial, with a side tab
7 identifying each exhibit in accordance with the specifications above. Each binder shall have an
8 identification label on the front and spine.

9 The parties must exchange exhibits no later than twenty-eight days before trial.
10 Any objections to exhibits are due no later than fourteen days before trial.

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

- 13 1. The party proffering the exhibit demonstrates that the exhibit is for the purpose
14 of rebutting evidence that could not have been reasonably anticipated, or
- 15 2. The exhibit was discovered after the issuance of this order and the proffering
16 party makes the showing required in Paragraph "B," below.

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

- 21 1. The exhibits could not reasonably have been discovered earlier;
- 22 2. The court and the opposing parties were promptly informed of their existence;
- 23 3. The proffering party forwarded a copy of the exhibits (if physically possible) to
24 the opposing party. If the exhibits may not be copied the proffering party must
25 show that it has made the exhibits reasonably available for inspection by the
26 opposing parties.

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1 XII. DEPOSITION TRANSCRIPTS

2 Counsel must lodge the sealed original copy of any deposition transcript to be used
3 at trial with the Clerk of the Court no later than fourteen days before trial.

4 XIII. FURTHER DISCOVERY OR MOTIONS

5 The parties have exchanged their respective depositions and discovery
6 designations subject to the stipulation reached prior to the October 30, 2014 pretrial conference.
7 The parties anticipate filing motions in limine as described in their revised joint pretrial statement,
8 filed on October 31, 2014. ECF No. 58.

9 XIV. AMENDMENTS/DISMISSALS

10 None anticipated.

11 XV. SETTLEMENT

12 The parties have expressed interest in appearing for a second settlement
13 conference before Magistrate Judge Kendall J. Newman. A settlement conference is scheduled
14 before Judge Newman for **December 17, 2014** at 10:00 a.m. in Courtroom No. 25, 8th Floor.
15 The parties are directed to exchange non-confidential settlement conference statements seven (7)
16 days prior to this settlement conference. These statements shall simultaneously be delivered to
17 the court using the following email address: kjnorders@caed.uscourts.gov. If a party desires to
18 share additional confidential information with the court, they may do so pursuant to the
19 provisions of Local Rule 270(d) and (e). Each party is reminded of the requirement that it be
20 represented in person at the settlement conference by a person able to dispose of the case or fully
21 authorized to settle the matter at the settlement conference on any terms. *See* Local Rule 270.

22 XVI. MOTIONS IN LIMINE

23 Motions in limine will be decided on the first day of trial. As discussed at the
24 pretrial conference, parties are required to meet and confer prior to filing any motions in limine.
25 Each ruling is made without prejudice and is subject to proper renewal, in whole or in part, during
26 trial. If a party wishes to contest a pretrial ruling, it must do so through a proper motion or
27 objection, or otherwise forfeit appeal on such grounds. *See* FED. R. EVID. 103(a); *Tennison v.*
28 *Circus Circus Enters., Inc.*, 244 F.3d 684, 689 (9th Cir. 2001) (“Where a district court makes a

1 tentative in limine ruling excluding evidence, the exclusion of that evidence may only be
2 challenged on appeal if the aggrieved party attempts to offer such evidence at trial.”) (alteration,
3 citation and quotation omitted). In addition, challenges to expert testimony under *Daubert v.*
4 *Merrell Dow Pharmaceuticals, Inc.*, 509 U.S. 579 (1993) are denied without prejudice. Should a
5 party wish to renew a *Daubert* challenge at trial, it should alert the court, at which point the court
6 may grant limited voir dire before such expert may be called to testify.

7 **XVII. JOINT STATEMENT OF THE CASE**

8 The parties must provide a joint statement of the case for use during voir dire and
9 preliminary jury instructions by the first day of trial.

10 **XVIII. SEPARATE TRIAL OF ISSUES**

11 There will be no separate trial of issues.

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

13 Not applicable. There are no court appointed experts.

14 **XX. ATTORNEYS' FEES**

15 Anzo anticipates that he will file a post-trial motion for attorneys’ fees and costs as
16 a result of Union Pacific’s failure to admit requests for admissions regarding liability and
17 damages issues that Anzo was consequently forced to prove at trial. Union Pacific anticipates
18 similar post-trial filings.

19 **XXI. ESTIMATED TIME OF TRIAL/TRIAL DATE**

20 Jury trial is set for **January 5, 2015** at 9:00 a.m. in Courtroom Three before the
21 Honorable Kimberly J. Mueller. Trial is anticipated to last 6-9 days. The parties are directed to
22 Judge Mueller’s trial schedule outlined at the “important information” link located on her web
23 page on the court’s website.

24 **XXII. PROPOSED JURY VOIR DIRE AND PROPOSED JURY INSTRUCTIONS**

25 The parties shall file any proposed jury voir dire seven days before trial. Each
26 party will be limited to ten minutes of jury voir dire.

27 The court directs counsel to meet and confer in an attempt to generate a joint set of
28 jury instructions and verdicts. The parties shall file any such joint set of instructions fourteen

1 days before trial, identified as “Jury Instructions and Verdicts Without Objection.” To the extent
2 the parties are unable to agree on all or some instructions and verdicts, their respective proposed
3 instructions are due fourteen days before trial.

4 Counsel shall e-mail a copy of all proposed jury instructions and verdicts, whether
5 agreed or disputed, as a word document to kjmorders@caed.uscourts.gov no later than fourteen
6 days before trial; all blanks in form instructions should be completed and all brackets removed.

7 Objections to proposed jury instructions must be filed seven days before trial; each
8 objection shall identify the challenged instruction and shall provide a concise explanation of the
9 basis for the objection along with citation of authority. When applicable, the objecting party
10 shall submit an alternative proposed instruction on the issue or identify which of his or her own
11 proposed instructions covers the subject.

12 **XXIII. OBJECTIONS TO PRETRIAL ORDER**

13 Each party is granted fourteen days from the date of this order to file objections to
14 the same. If no objections are filed, the order will become final without further order of this
15 court.

16 DATED: November 18, 2014

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UNITED STATES DISTRICT JUDGE

1 **ATTACHMENT 1 – PLAINTIFF’S WITNESS LIST**

2 1. Jess Anzo: Mr. Anzo is the plaintiff in this case. He is anticipated to testify regarding issues of
3 liability and damages.

4 2. Anne Anzo: Mrs. Anzo is Mr. Anzo’s wife. She is anticipated to testify regarding issues of
5 damages and her observations of Mr. Anzo both before and after the collision.

6 3. Tom Hastings: Mr. Hastings was a first responder at the scene of the collision. He is expected
7 to testify to his observations at the scene and interactions with Mr. Anzo and others. Mr. Hastings
8 may also testify to his observations of Mr. Anzo before and after the collision.

9 4. Rick Berger: Mr. Berger was one of Mr. Anzo’s coworkers prior to and on the day of the
10 collision. Mr. Berger is anticipated to testify regarding issues of liability, the events on the date of
11 the collision, his observations of Mr. Anzo’s ability to work and activity level before the date of
12 the collision, and Mr. Anzo subsequent to the collision.

13 5. Ranie Gunther: Mr. Gunther was the operator of the tamper which collided with Mr. Anzo’s
14 ballast regulator. Mr. Gunther is anticipated to testify regarding issues of liability, the events on
15 the date of the collision, his observations of Mr. Anzo’s ability to work and activity level before
16 the date of the collision, and Mr. Anzo subsequent to the collision.

17 6. Emmett Womack: Mr. Womack was Mr. Anzo’s supervisor prior to the collision and on the
18 day of the collision. Mr. Womack is anticipated to testify regarding issues of liability, the events
19 on the date of the collision, his observations of Mr. Anzo’s ability to work and activity level
20 before the date of the collision, and Mr. Anzo subsequent to the collision.

21 7. Glen Lackemeyer: Mr. Lackemeyer is a friend of Mr. Anzo and is anticipated to testify
22 damages issues based on his observations of Mr. Anzo’s ability to engage in physical activities
23 both before and after the collision and the impact of the collision on Mr. Anzo as evidenced by
24 his pre and post collision demeanor and affect.

25 8. Terry Bertolucci: Mr. Bertolucci is a friend of Mr. Anzo and is anticipated to testify damages
26 issues based on his observations of Mr. Anzo’s ability to engage in physical activities both before
27 and after the collision and the impact of the collision on Mr. Anzo as evidenced by his pre and
28 post collision demeanor and affect.

1 9. Gil Casey: Mr. Casey is a friend of Mr. Anzo and is anticipated to testify damages issues based
2 on his observations of Mr. Anzo's ability to engage in physical activities both before and after the
3 collision and the impact of the collision on Mr. Anzo as evidenced by his pre and post collision
4 demeanor and affect.

5 10. Kevin Hughes: Mr. Hughes is a friend of Mr. Anzo and is anticipated to testify damages
6 issues based on his observations of Mr. Anzo's ability to engage in physical activities both before
7 and after the collision and the impact of the collision on Mr. Anzo as evidenced by his pre and
8 post collision demeanor and affect.

9 11. Dusty Bullen: Mr. Bullen is a friend of Mr. Anzo and is anticipated to testify damages issues
10 based on his observations of Mr. Anzo's ability to engage in physical activities both before and
11 after the collision and the impact of the collision on Mr. Anzo as evidenced by his pre and post
12 collision demeanor and affect.

13 12. Bert Doney: Mr. Doney is a friend of Mr. Anzo and is anticipated to testify damages issues
14 based on his observations of Mr. Anzo's ability to engage in physical activities both before and
15 after the collision and the impact of the collision on Mr. Anzo as evidenced by his pre and post
16 collision demeanor and affect.

17 13. Ross Bullen: Mr. Bullen is a friend of Mr. Anzo and is anticipated to testify damages issues
18 based on his observations of Mr. Anzo's ability to engage in physical activities both before and
19 after the collision and the impact of the collision on Mr. Anzo as evidenced by his pre and post
20 collision demeanor and affect.

21 14. Gayle Jackson: Ms. Jackson is a claims agent for Union Pacific. She is anticipated to testify to
22 interactions with Mr. Anzo after the collision and her observations and investigation of the
23 collision.

24 15. Dr. Sam Williams: Dr. Williams provided medical treatment to Mr. Anzo before and after the
25 collision. Dr. Williams is anticipated to testify to issues regarding Mr. Anzo's past, present, and
26 future medical conditions, his treatment, diagnosis and prognosis of the injuries that are the
27 subject matter of this case, the impact of these injuries on Anzo's ability to work and engage in
28 other activities, the nature and extent of Mr. Anzo's injuries, medical causation, and Mr. Anzo's

1 past and future medical bills and expenses.

2 16. Dr. Glen O'Sullivan: Dr. O'Sullivan is Anzo's treating orthopedic surgeon. Dr. O'Sullivan is
3 anticipated to testify to issues regarding Mr. Anzo's past, present, and future medical conditions,
4 his treatment, diagnosis and prognosis of the injuries that are the subject matter of this case, the
5 impact of these injuries on Anzo's ability to work and engage in other activities, the nature and
6 extent of Mr. Anzo's injuries, medical causation, and Mr. Anzo's past and future medical bills
7 and expenses.

8 17. Dr. Guenther Knoblich: Dr. Knoblich provided medical treatment to Mr. Anzo before and
9 after the collision. Dr. Knoblich is anticipated to testify to issues regarding Mr. Anzo's past,
10 present, and future medical conditions, his treatment, diagnosis and prognosis of the injuries that
11 are the subject matter of this case, the impact of these injuries on Anzo's ability to work and
12 engage in other activities, the nature and extent of Mr. Anzo's injuries, medical causation, and
13 Mr. Anzo's past and future medical bills and expenses.

14 18. Dr. Shishir Dhruva: Dr. Dhruva provided medical treatment to Mr. Anzo subsequent to the
15 collision. Dr. Dhruva is anticipated to testify to issues regarding Mr. Anzo's past, present, and
16 future medical conditions, his treatment, diagnosis and prognosis of the injuries that are the
17 subject matter of this case, the impact of these injuries on Anzo's ability to work and engage in
18 other activities, the nature and extent of Mr. Anzo's injuries, medical causation, and Mr. Anzo's
19 past and future medical bills and expenses.

20 19. Dr. Mark Greenberg: Dr. Greenberg provided medical treatment to Mr. Anzo subsequent to
21 the collision. Dr. Greenberg is anticipated to testify to issues regarding Mr. Anzo's past, present,
22 and future medical conditions, his treatment, diagnosis and prognosis of the injuries that are the
23 subject matter of this case, the impact of these injuries on Anzo's ability to work and engage in
24 other activities, the nature and extent of Mr. Anzo's injuries, medical causation, and Mr. Anzo's
25 past and future medical bills and expenses.

26 20. Dr. Zakir Ali: Dr. Ali provided medical treatment to Mr. Anzo before and after the collision.
27 Dr. Ali is anticipated to testify to issues regarding Mr. Anzo's past, present, and future medical
28 conditions, his treatment, diagnosis and prognosis of the injuries that are the subject matter of this

1 case, the impact of these injuries on Anzo's ability to work and engage in other activities, the
2 nature and extent of Mr. Anzo's injuries, medical causation, and Mr. Anzo's past and future
3 medical bills and expenses.

4 21. Barry Ben Zion Ph.D.: Dr. Ben Zion is forensic economist and is anticipated to testify to
5 issues of economic damages and lost earning capacity.

6 22. Wilson Hayes Ph.D.: Dr. Hayes is an expert in biomechanics and accident reconstruction. Dr.
7 Hayes is anticipated to testify to liability issues, damages, biomechanics, injury causation, and
8 accident reconstruction.

9 23. Dr. Brad S. Kauder: Dr. Kauder is a licensed psychologist and neuropsychologist. Dr. Kauder
10 is expected to testify to damages issues regarding the neuropsychological injuries suffered by Mr.
11 Anzo as a result of his concussion, including Mr. Anzo's loss of memory and post-concussion
12 syndrome.

13 24. Dr. Michael Moskowitz: Dr. Moskowitz is a pain management physician. Dr. Moskowitz is
14 anticipated to testify to issues regarding Mr. Anzo's past, present, and future medical conditions,
15 the physiological and psychological impact of Anzo's chronic pain condition, his treatment,
16 diagnosis and prognosis of the injuries that are the subject matter of this case, the impact of these
17 injuries on Anzo's ability to work and engage in other activities, the nature and extent of Mr.
18 Anzo's injuries, medical causation, and Mr. Anzo's past and future medical bills and expenses.

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1 **ATTACHMENT 2 – DEFENDANT’S WITNESS LIST**

- 2 1. JESS ANZO, Plaintiff;
- 3 2. Anne Anzo, 404 Anzo Park Drive, Mt. Shasta, California;
- 4 3. Emmett Womack, Union Pacific employee available through defense counsel;
- 5 4. Gordon Thompson, Union Pacific employee available through defense counsel;
- 6 5. Rick Berger, Union Pacific employee available through defense counsel;
- 7 6. George Grochol, Union Pacific employee available through defense counsel;
- 8 7. Ranie Guenther, last known address 19866 Little Acres Lane, Redding, California;
- 9 8. Ruth Arnush, Union Pacific employee available through defense counsel;
- 10 9. Gayle Jackson, Union Pacific employee available through defense counsel;
- 11 10. Dr. Thomas E. Morris, M.D., Mercy Medical Center, Mt. Shasta California;
- 12 11. Dr. Peter Halt, M.D., Mercy Medical Center, Mt. Shasta, California;
- 13 12. Dr. Shishir Dhruva, M.D., 1335 Buenaventura Blvd., Suite 100, Redding, California;
- 14 13. Dr. Zakir Ali, M.D., 1801 Highway 99 N, Suite B, Ashland, Oregon;
- 15 14. Mark Greenberg, M.D., 638 N. Main Street, Ste. #A, Ashland, OR 97520;
- 16 15. Terry Rush, M.D., Location unknown. Last known address: 351 Hartnell Avenue, Redding,
- 17 CA 96002
- 18 16. Sam Williams, M.D. , 1831 College Ave, Weed, CA 96094;
- 19 17. Glen O’Sullivan, M.D., 269 Maple St., Ashland, OR 97520;
- 20 18. Guenther Knoblich, M.D., 269 Maple St., Ashland, OR 97520;
- 21 19. Scott Young, M.D., Location unknown. Last known address: 521 N Main St, Ashland, OR
- 22 97520;
- 23 20. Steven Feinberg, M.D., Feinberg Medical Group, 825 El Camino Real, Palo Alto, California
- 24 94301, (650) 223-6408, Retained Expert; □
- 25 21. Kirsten White M.S., P.E., Talas Engineering, 20902 Cabot Boulevard, Hayward, CA 94545,
- 26 (510) 723-1130, Retained Expert;
- 27 22. Jennie McNulty, Vavoulis & Weiner, 445 S. Figueroa Street, Suite 3700, Los Angeles, CA
- 28 90071, (213) 817-6600, Retained Expert.

1 23. Dr. Dean C. Delis, Ph.D., A.B.P.P., 1016 Second Street, Encinitas, CA 92024, (619) 921-
2 1900, Retained Expert

3 DATED: November 18, 2014.

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1 **ATTACHMENT 3 – PLAINTIFF’S EXHIBIT LIST**

- 2 1. Anzo’s 52032 Injury Report dated July 12, 2011
- 3 2. Anzo’s 52032 Injury Report dated September 30, 2011
- 4 3. Ranie Gunther’s 52032 Injury Report
- 5 4. Rick Berger’s 52032 Injury Report
- 6 5. Ranie Gunther’s Written Statement to Union Pacific
- 7 6. Ranie Gunther’s Taped Statement to Union Pacific
- 8 7. Union Pacific RMCC Incident Management Report
- 9 8. Union Pacific report “Tamper and Regulator Collision at CPCP334”
- 10 9. Union Pacific Track and Time Report for June 14, 2011
- 11 10. Union Pacific Track and Time Permit (Exhibit 3 to Emmett Womack Deposition)
- 12 11. Applicable Union Pacific Safety Rules
- 13 12. Photographs by Gayle Jackson of the scene of the collision
- 14 13. Photographs by George Grochol of the scene of the collision
- 15 14. Photographs by Gordon Thompson of the scene of the collision
- 16 15. Photographs by Rick Berger of the scene of the collision
- 17 16. Aerial photographs of the scene of the collision
- 18 17. Photographs attached to Rick Berger’s Deposition
- 19 18. Photographs attached to Emmett Womack Deposition
- 20 19. Photographs of Anzo being treated for his injuries and taken to hospital on June 14, 2011
- 21 20. Photographs of Anzo after left hip surgery
- 22 21. Photographs of Anzo’s swollen right knee on October 19, 2013
- 23 22. Photographs of Anzo’s knee aspiration April 2014
- 24 23. Photographs of Anzo’s neck injection procedure on April 2014
- 25 24. Photographs of Anzo’s injuries as attached to Anzo’s deposition
- 26 25. Union Pacific’s Job Safety Analysis Regarding Operating On-Track Equipment
- 27 26. Emmett Womack’s Notes of June 14, 2011 (Exhibit 23 to Emmett Womack
- 28 Deposition)

- 1 27. Emmett Womack's Notes of June 14, 2011 (Exhibit 24 to Emmett Womack
- 2 Deposition)
- 3 28. Emmett Womack's Notes of June 14, 2011 (Exhibit 25 to Emmett Womack
- 4 Deposition)
- 5 29. Union Pacific PowerPoint regarding the collision (Exhibit 3 to Gordon Thompson
- 6 Deposition)
- 7 30. Photographs attached to Gordon Thompson Deposition
- 8 31. Union Pacific Track Profiles and Maps (Exhibit 20 to Gordon Thompson
- 9 Deposition)
- 10 32. Thompson/Perry Email of June 14, 2011 (Exhibit 21 to Gordon Thompson
- 11 Deposition)
- 12 33. Wilson Hayes Rule 26 Report of August 24, 2014
- 13 34. Wilson Hayes Rule 26 Report of September 8, 2014
- 14 35. Wilson Hayes Site Inspection Photographs
- 15 36. Wilson Hayes Site Inspection Notes
- 16 37. Wilson Hayes PowerPoint Presentation
- 17 38. Wilson Hayes Ph.D Animation
- 18 39. Wilson Hayes Ph.D Literature File
- 19 40. Wilson Hayes Ph.D CV
- 20 41. Medical records and binders of post-collision medical treatment
- 21 a. Mount Shasta Ambulance
- 22 b. Mercy Hospital Mount Shasta
- 23 c. Sam Williams, M.D.
- 24 d. Mercy Hospital Redding
- 25 e. Shishir Dhruva, M.D.
- 26 f. Zakir Ali, M.D.
- 27 g. Guenther Knoblich, M.D.
- 28 h. Scott Young, M.D.

- 1 i. Mount Shasta Physical Therapy
- 2 j. Mark Greenberg, M.D.
- 3 k. Glen O’Sullivan, M.D.
- 4 l. Siskiyou Home Health Services
- 5 m. Ashland Community Hospital
- 6 42. Medical records and binders for pre-collision medical treatment
- 7 a. Sam Williams, M.D.
- 8 b. Guenther Knoblich, M.D.
- 9 c. Mount Shasta Physical Therapy
- 10 43. Mr. Anzo’s Medical Chronology
- 11 44. Diagnostic Films performed on Mr. Anzo (MRI’s, x-rays, etc.)
- 12 45. Medical exemplars, medical illustrations, demonstrative medical exhibits,
- 13 anatomical drawings, and anatomical models regarding Mr. Anzo’s injuries
- 14 46. Prescription medication records post-collision
- 15 47. Medical bills and receipts post-collision
- 16 48. Dr. Michael Moskowitz’s Rule 26 Report
- 17 49. Dr. Michael Moskowitz’s Medical Illustrations regarding Mr. Anzo’s injuries
- 18 50. Dr. Michael Moskowitz’s excerpts from his publication “Your Brain on Pain”
- 19 51. Dr. Michael Moskowitz’s Literature File
- 20 52. Dr. Michael Moskowitz’s CV
- 21 53. Dr. Brad S. Kauder’s Rule 26 Report
- 22 54. Dr. Brad S. Kauder’s Literature File
- 23 55. Dr. Brad S. Kauder’s File regarding Mr. Anzo
- 24 56. Dr. Glen O’Sullivan’s Medical Report of July 22, 2014
- 25 57. Dr. Sam Williams’ Medical Report of August 31, 2014
- 26 58. Dr. Guenther Knoblich’s Medical Report of April 17, 2014
- 27 59. Medical Report of Dr. Mark Greenberg of April 7, 2014
- 28 60. Mr. Anzo’s Wage Records

- 1 61. Above and Below Wage Records (Mr. Anzo's cohort group)
- 2 62. Barry Ben Zion Rule 26 Report
- 3 63. Barry Ben Zion Chart of Past Lost Wages
- 4 64. Barry Ben Zion Chart of Loss of Future Earning Capacity Damages
- 5 65. Barry Ben Zion Pedagogical Charts re Economics
- 6 66. Barry Ben Zion Chart of Future Medical Expense Damages
- 7 67. Barry Ben Zion Chart of Past and Future Loss of Household Services Damages

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1 **ATTACHMENT 4 – DEFENDANT’S EXHIBIT LIST**

- 2 1. Union Pacific wage history of Plaintiff Jess Anzo;
- 3 2. Plaintiff’s employee records;
- 4 3. Plaintiff’s medical department file;
- 5 4. Photographs produced by Jess Anzo, taken by Rick Berger;
- 6 5. Photographs taken by George Grochel;
- 7 6. Photographs taken by Gordon Thompson;
- 8 7. Photographs taken by Gail Jackson;
- 9 8. Plaintiff’s work history records;
- 10 9. Form 52032 report dated 9-30-11;
- 11 10. Form 52032 report dated 7-12-11;
- 12 11. JSA On-Track Equipment, Revised 12-19-2011;
- 13 12. Applicable Union Pacific Safety Rules and General Code of Operating Rules;
- 14 13. Power Point Presentation slide dated June 14, 2011;
- 15 14. Track Profile;
- 16 15. Statements of Plaintiff Jess Anzo;
- 17 16. Statements of Rick Berger;
- 18 17. June 14, 2011 CT scan of the cervical spine;
- 19 18. June 14, 2011 X-ray of the left hip;
- 20 19. June 14, 2011 X-ray of the cervical spine;
- 21 20. June 14, 2011 X-ray of the chest;
- 22 21. June 14, 2011 X-ray of the right knee;
- 23 22. June 14, 2011 X-ray of the left shoulder;
- 24 23. June 20, 2011 CT scan of head;
- 25 24. June 24, 2011, MRI of brain;
- 26 25. September 30, 1985 X-Ray of the left shoulder;
- 27 26. Mount Shasta Community Hospital September 30, 1985 X-Ray report.
- 28 27. Mercy Medical Center Emergency Department Record dated June 16, 1983.

- 1 28. December 31, 2002 Record from Siskiyou Medical Group, Weed, California.
- 2 29. Medical Records of Siskiyou Medical Group, Weed, California, from 2010 through the
3 present.
- 4 30. Medical Records of Sam Williams, M.D., Siskiyou Medical Group, regarding Plaintiff Jess
5 Anzo.
- 6 31. Medical Records of Sam Williams, M.D., Exhibit 4 and 5, to Dr. Williams' August 21, 2014
7 deposition transcript.
- 8 32. Medical Records of Dr. Knoblich, Ashland Orthopedic Associates, Ashland Oregon,
9 regarding Plaintiff Jess Anzo, including Exhibits 5, 6, 9 and 10, to Dr. Knoblich's August 15,
10 2014 deposition transcript.
- 11 33. Medical Records of Dr. O'Sullivan, Ashland Orthopedic Associates, Ashland Oregon,
12 regarding Plaintiff Jess Anzo, including Exhibits 5, 6, 9 and 10, to Dr. Knoblich's August 15,
13 2014 deposition transcript incorporated by reference in Dr. O'Sullivan's August 15, 2014
14 deposition transcript.
- 15 34. Medical Records of Dr. Shishir Dhruva, M.D., regarding Plaintiff Jess Anzo, including
16 exhibits 2, 3, 4, and 5 to the August 12, 2014 deposition transcript of Dr. Dhruva.
- 17 35. Medical Records of Dr. Mark Greenberg regarding Plaintiff Jess Anzo.
- 18 36. Medical Records and diagnostic test results of Jefferson Neurology, Dr. Zakir Ali, M.D.,
19 regarding Plaintiff Jess Anzo, including Exhibits 3, 4, and 5, to Dr. Ali's August 21, 2014
20 deposition transcript.
- 21 37. Medical Records of Dr. Terri Rush, regarding Plaintiff Jess Anzo.
- 22 38. Rule 26 Report and supplemental report of Dr. Steven Feinberg, M.D., authored in this
23 matter.
- 24 39. File Documents of retained expert Dr. Steven Feinberg, including but not limited to, any and
25 all literature files, CV, demonstratives, and other records.
- 26 40. Medical Chronology of Plaintiff's conditions, and pre-existing conditions.
- 27 41. Medical exemplars, medical illustrations, demonstrative medical exhibits, anatomical
28 drawings, and anatomical models regarding the condition of Mr. Anzo's medical conditions.

1 42. Rule 26 Report authored by Kirsten White in this matter.

2 43. File Documents of retained expert Kirsten White, including but not limited to, site inspection
3 photographs, measurements, and literature file, CV, demonstratives, animations, and other
4 records.

5 44. Rule 26 Report authored by Jennie McNulty in this matter.

6 45. File Documents of retained expert Jennie McNulty including but not limited to any and all
7 literature files, calculations, CV, demonstratives, and other records.

8 46. Union Pacific reserves the right to add additional exhibits should the Court permit Dr. Dean
9 Delis to conduct a second IME of Plaintiff. That issue is still pending.

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