

15-3775

UNITED STATES COURT OF APPEALS

for the

SECOND CIRCUIT

Melissa Zarda, co-independent executors of the estate of Donald Zarda, William Allen Moore, Jr, co-independent executor of the estate of Donald Zarda,

Plaintiffs - Appellants,

v.

Altitude Express, Inc, doing business as Skydive Long Island, Ray Maynard,

Defendants - Appellees.

ON APPEAL FROM THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NEW YORK

APPELLEES' SUPPLEMENTAL APPENDIX

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June 15, 2016

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U.S. Equal Employment Opportunity Commission

Director of Human Resources
ALTITUDE EXPRESS INC. D/B/A SKYDIVE LONG ISLAND
525 Jan Way
Calverton, NY 11933

PERSON FILING CHARGE

Donald Zarda

THIS PERSON (check one or both)

Claims To Be Aggrieved

Is Filing on Behalf of Other(s)

EEOC CHARGE NO.

520-2010-02921

NOTICE OF CHARGE OF DISCRIMINATION

(See the enclosed for additional information)

This is notice that a charge of employment discrimination has been filed against your organization under:

- Title VII of the Civil Rights Act (Title VII)
- The Equal Pay Act (EPA)
- The Americans with Disabilities Act (ADA)
- The Age Discrimination in Employment Act (ADEA)
- The Genetic Information Nondiscrimination Act (GINA)

The boxes checked below apply to our handling of this charge:

1. No action is required by you at this time.
2. Please call the EEOC Representative listed below concerning the further handling of this charge.
3. Please provide by **08-SEP-10** a statement of your position on the issues covered by this charge, with copies of any supporting documentation to the EEOC Representative listed below. Your response will be placed in the file and considered as we investigate the charge. A prompt response to this request will make it easier to conclude our investigation.
4. Please respond fully by _____ to the enclosed request for information and send your response to the EEOC Representative listed below. Your response will be placed in the file and considered as we investigate the charge. A prompt response to this request will make it easier to conclude our investigation.
5. EEOC has a Mediation program that gives parties an opportunity to resolve the issues of a charge without extensive investigation or expenditure of resources. If you would like to participate, please say so on the enclosed form and respond by **23-AUG-10** to **Elizabeth Cadle, ADR Coordinator, at (212) 336-3646**. If you **DO NOT** wish to try Mediation, you must respond to any request(s) made above by the date(s) specified there.

For further inquiry on this matter, please use the charge number shown above. Your position statement, your response to our request for information, or any inquiry you may have should be directed to:

Elizabeth Cadle,
Enforcement Manager

EEOC Representative

Telephone **(212) 336-3646**

New York District Office
33 Whitehall Street
5th Floor
New York, NY 10004

Enclosure(s): Copy of Charge

CIRCUMSTANCES OF ALLEGED DISCRIMINATION

- Race
- Color
- Sex
- Religion
- National Origin
- Age
- Disability
- Retaliation
- Genetic Information
- Other

See enclosed copy of charge of discrimination. Please provide two (2) copies of your response to the investigator mentioned above. Thank you.

Date August 6, 2010	Name / Title of Authorized Official Spencer H. Lewis, Jr., Director	Signature  Def. Exh.
------------------------	---	---

JUL 14 2010

EEOC-NYDO-CRTH

CHARGE OF DISCRIMINATION

CHARGE NUMBER

This form is intended by the Federal Act of 1974, see Privacy Act Statement on reverse before completing this form.

FEPA
 EEOC

5-20-2010-029 21

NY SDHR

and EEOC

(State or Local Agency, if Any)

NAME (Include Mr., Mrs., or Miss)

Donald J. Zarda

HOME TELEPHONE NUMBER (Include Area Code)

901-569-5867

STREET ADDRESS

PO Box 312

CITY, STATE AND ZIP CODE

Richmond, MD 64085-0312

DATE OF BIRTH

05-27-1970

NAMED IS THE EMPLOYER, LABOR ORGANIZATION, EMPLOYMENT AGENCY, APPRENTICESHIP COMMITTEE, STATE OR LOCAL GOVERNMENT AGENCY WHO DISCRIMINATED AGAINST ME (if more than one list below).

NAME

Attitude Express, Inc. dba Skyline Logistics

NO. OF EMPLOYEES/MEMBERS

154

TELEPHONE NUMBER (Include Area Code)

631-208-3900

STREET ADDRESS

525 Jan Way

CITY, STATE AND ZIP CODE

Calverton, NY 11933

COUNTY

Suffolk

NAME

NO. OF EMPLOYEES/MEMBERS

TELEPHONE NUMBER (Include Area Code)

STREET ADDRESS

CITY, STATE AND ZIP CODE

CAUSE OF DISCRIMINATION BASED ON (Check appropriate box(es))

RACE COLOR SEX RELIGION NATIONAL ORIGIN
 RETALIATION AGE DISABILITY OTHER (Specify)

DATE DISCRIMINATION TOOK PLACE

EARLIEST LATEST
6/28/10

CONTINUING ACTION

THE PARTICULARS ARE (If additional space is required, attach and indicate where)

See attached

GREGORY S. ANTOLLINO
Notary Public, State of New York
No. 02AN5084788
Qualified in New York County
Commission Expires 8/28/11

GREGORY S. ANTOLLINO
Notary Public, State of New York
No. 02AN5084788
Qualified in New York County
Commission Expires 8/28/11

I want this charge filed with the EEOC and the State FEPA. I will advise the agencies if I change my address or telephone number and I will cooperate fully with them in the processing of my charge in accordance with their procedures.

NOTARY (When necessary to meet State and Local Requirements)

I swear or affirm that I have read the above charge and that it is true to the best of my knowledge, information and belief.

I declare under penalty of perjury that the foregoing is true and correct.

SIGNATURE OF COMPLAINANT

X *Donald J. Zarda*

X *Donald J. Zarda*

Date 07-12-2010 Charging Party (Signature)

SUBSCRIBED AND SWORN TO BEFORE ME THIS DATE:
(Month, day and year) 07-12-2010

THIS FORM PROVIDED FREE OF CHARGE BY WWW.EEOCOFFICE.COM

Def. Exh. I

SA002

STATE OF NEW YORK)
)
COUNTY OF NEW YORK) SS:

DONALD J. ZARDA, being duly sworn, does hereby depose and say as follows in support of my charge of gender discrimination:

1. I was employed at Altitude Express, Inc., dba Skydive Long Island (hereinafter "Altitude") as a Tandem & Accelerated Freefall Instructor in the summers of 2001, 2009 and 2010. Altitude Express has approximately 20-30 employees. I've been a licensed instructor in this field since 1995.

2. I am a male and also a gay man. I am not making this charge on the grounds that I was discriminated on the grounds of my sexual orientation. Rather, I am making this charge because, in addition to being discriminated against because of my sexual orientation, I was also discriminated against because of my gender. My claim is because I did not conform my appearance and behavior to sex stereotypes, I suffered adverse employment action, and was discriminated against, at least in part because of my sex.

3. Specifically, it was known at work that I am gay and I was open about it. My boss, however, the owner of Altitude, Ray Maynard, was hostile to any expression of my sexual orientation that did not conform to sex stereotypes, to wit: First, he criticized my wearing of the color pink at work. Women at the workplace were allowed to wear pink, and did without criticism. However, I was not given the same right.

4. On one occasion, I broke my ankle and had to wear a cast. It so happened that the color of the cast I chose was pink. When Ray saw the pink cast for

the first time he scoffed at it and said, "That looks gay." Later, at a staff meeting he said, "If you're going to remain here for the day, you're going to have to paint that black," pointing to my cast

5. I left for the day then came back on another occasion. I had not painted the cast black as requested, however, because my foot was exposed, he was able to see my toenails were as well, which were painted pink. At the time, that was my preference. Women often wore open toe sandals at work, and I am certain I saw women wearing pink toenail polish. Additionally, many other instructors were barefoot at the drop zone. When Ray saw my pink toenail polish, however, he insisted that I wear a sock and cover up my foot.

6. Ray openly tolerated men discussing women and their physical attributes. Specifically, Ray and the men at the office would ogle at women's breasts, including on videos that the company had procured for passengers who had hired the company for a joy ride skydive with an accompanying video.¹ Men often talked of their sexual exploits, and Ray openly discussed his marriage. My mentioning the fact that I was gay to a passenger, however, got me fired, as I will explain.

7. A skydive is an intimate experience. The instructor must strap himself hip to hip and shoulder to shoulder with the client. Before the client and the instructor jump out of the plane, the client is often sitting on the instructor's lap. The experience is tense for a novice, who is about to jump out of the plane with a stranger strapped to him or her. In order to break the ice, instructors often make light of the intimate situation by making a joke about it.

¹ Customers who hired Altitude were referred to as "passengers."

8. For example, when a man is strapped to another man, an instructor might say something like, "I bet you didn't know you were going to be strapped so close to a man." "This is awkward for me, too." "That's the straps you're feeling" (referring to a bulge).

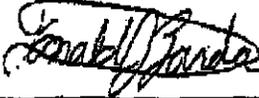
9. On more than one occasion, I heard a straight man even say, jokingly, "Don't worry, I'm a lesbian," when strapped with men; or, when a straight man was strapped to a straight man (especially when his girlfriend was present), "Does your girlfriend know that you're gay?"

10. My way of breaking the ice, on occasion over the years, when I was strapped with a woman was to say, "Don't worry, I'm gay." On June 18, 2010, I was suspended for making this remark to a woman (I believe her name was Rosanna). Ray intimated that either she or her boyfriend (or both of them) were offended because of it.

11. In my termination interview, Ray said that I was fired because I had discussed my "personal escapades" outside of the office with a passenger (Rosanna). This was completely untrue. All of the men at Altitude made light of the intimate nature of being strapped to a member of the opposite sex. I was fired, however, because the levity I used honestly referred to my sexual orientation and did not conform to the straight male macho stereotype.

12. Ray also made other statements in defense of his termination of me, including, most incredibly, that I had touched Rosanna inappropriately. These reasons, however, were a false pretext for my termination which happened because of my failure to conform to stereotypical gender roles for men.

Dated: New York, New York
July 12, 2010



DONALD ZARDA

SWORN TO BEFORE ME ON July 12, 2010



NOTARY PUBLIC

GREGORY S. ANTOLLINO
Notary Public, State of New York
No. 02AN5064758
Qualified in New York County
Commission Expires 8/26/ 10

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

-----X

DONALD ZARDA,

Plaintiff,

ALTITUDE EXPRESS, INC.,
dba Skydive Long Island, and RAY MAYNARD,

Defendants.

-----X

AMENDED
RESPONSE TO
DEMAND FOR
INTERROGATORIES

10 Civ4334 OFB)(ARL)

GENERAL OBJECTIONS

- A. Plaintiff objects to Defendants' First Set of Interrogatories to the extent that they seek to impose upon him obligations or burdens, which are greater than, or inconsistent with, the Federal Rules of Civil Procedure Rule 33.
- B. Plaintiff objects generally to the First Set of Interrogatories on the grounds that they are overly broad and burdensome. Plaintiff has made a good faith effort to respond to the Interrogatories, but reserves the right to object to, and to move to have vacated, all of defendant's Interrogatories.
- C. The following responses and objections are based upon information now known. Plaintiff has not yet completed discovery or preparation for trial in this action and therefore will supplement these responses and objections to the extent permitted.
- D. The interrogatories exceed the 2S (including discreet subparts) allowed by Federal Rule of Civil Procedure 33.
- E. Without waiving these objections and by way of response, Plaintiff provides the following responses.

INTERROGATORY #1: Set forth with particularity and detail any and all efforts on the part of Plaintiff to lodge complaints of alleged gender and/or sexual orientation discrimination with any managerial, supervisory or Human Resources employees of Defendant, from 2001 through the present

Plaintiff objects on the grounds that the demand is overly broad, unduly burdensome, not calculated to lead to admissible evidence and calls for a narrative covering a period of nearly ten years.

INTERROGATORY #2: Identify all individuals employed by Defendant who partook in purported banter or conversation with Defendant's customers and/or clients as described in ¶ 18 of Plaintiff's Complaint

Ray Maynard
Carmen M. Villamil Burgos
Duncan Shaw
Edward Reiter
Joe Fortune
Jordan Miles
Marko Markovich
Lauren Callanan
Meghan Ayers
Curt Kellinger
Jerry Hannon
John Sherman
Rich Winstock .
Ben Lowe
Brett Nock
Michael Gocke Sr.
Pat Newman
Shaun Tierney
Wayne Burell
Alley Rogers
Brian Petretti
Janeen Tierney
Kevin Gilbert
Jason Lucas
Pilot Jim.
John Ciatti? (Campbell)
Telly Dorizas
"Willie"
"Alex"
Others whose names are not known

INTERROGATORY #3: Set forth with particularity and detail the basis of Plaintiffs belief that "[i]t was known at work that [P]laintiff is gay and he was open about it," as alleged in , 21 of Plaintiffs Complaint

Plaintiff objects on the grounds that the demand is overly broad, unduly burdensome, not calculated to lead to admissible evidence and calls for a narrative covering a period of nearly ten years. Without waiving the objection, plaintiff states as follows:

Because frequent comments, jokes, and at some times discussion regarding my sexuality by not only employees, but also patron jumpers, non-jumpers, friends of jumpers, and around customers without any denial by me about my sexual orientation. The discussion about plaintiffs sexuality was constant and too numerous to recount in an interrogatory.

See, however, for example, the constant reference to plaintiffs sexual orientation in the emails from Marko Markovich, in plaintiffs document production Bates Stamped 100-174 and in other interrogatories herein.

INTERROGATORY #4: Set forth with particularity and detail any and all instances that Ray Maynard demonstrated hostility to expression of "sexual orientation that did not conform to sex stereotypes," as alleged in , 22 of Plaintiffs Complaint, from 2001 through the present

Plaintiff objects on the grounds that the demand is overly broad, unduly burdensome, not calculated to lead to admissible evidence and calls for a narrative covering a period of nearly ten years. Without waiving the objection, plaintiff states as follows:

Ray Maynard was hostile to the fact that I chose to wear a pink cast on my foot and that I also had pink colored toenails that were visible outside of the cast He also openly tolerated banter of a sexual nature on behalf of all male students, who

commonly objectified women and made fun of homosexuals and made constant reference to my homosexuality. Yet when he learned that I as much as mentioned my being gay to an employee who objected to that knowledge, I was fired.

Additionally, he did not so much as ask me to respond to allegations of an alleged inappropriate touching a female passenger, notwithstanding a complete lack of objective evidence of such touching on the tape of her dive, and notwithstanding the fact that I am homosexual and would have no motive to touch a female passenger in any manner other than to protect her safety in accordance with proper procedures and the release signed by the passenger wherein she knew she would be touched. It is my position in this lawsuit that MaYnard's reaction to a baseless complaint of touching by a woman is an instance of sex stereotyping, insofar as it validates a woman's complaint against a man whereas a man's complaint against a woman - gay or straight - would never have been accorded any credence in similar circumstances.

Additionally, upon information and belief, Maynard acted upon the complaint not so much of Rosanna but her boyfriend, who apparently lamented that Rosanna's birthday was "taken from her" because plaintiff told Rosanna that he was gay. Maynard, in terminating plaintiff, made the statement that the boyfriend "could never give his fiance back her birthday," a maudlin, bigoted sentiment that conveys an attitude that Rosanna, a woman, was helpless and needed to be "protected against" a gay person and that her birthday was ruined because she was exposed to a homosexual who publicly identified as such.

Additionally, Maynard's belief that my identification as a gay person was an offense justifying termination is an instance of his hostility toward a gender stereotype and a hostility toward plaintiff as a gay man.

Additionally, on or about July 2, 2009, when I broke my ankle coming down from a jump, Ray asked me, "are you going to be a wussie or what?" The word "wussie" I understand to mean a male person who is less than "manly." The comment in the context of breaking my ankle I understood to mean, as it only could have, that I should "man up," and endure the pain. I believe he did not want me to cause his business any expense, and he intended to guilt me into ignoring the pain by suggesting that to attend to it would be less than manly.

INTERROGATORY #5: Set forth with particularity and detail each and every act of alleged gender discrimination against Plaintiff in connection with Plaintiff's employment with Defendant from 2001 through the present, including but not limited to:

- a) the date and time any alleged instance of discrimination occurred;
- b) the type of discrimination experienced by Plaintiff;
- c) the manner in which Plaintiff was discriminated against;
- d) the individual(s) that discriminated against Plaintiff;
- e) any action taken in response thereto by Plaintiff; and
- f) any action taken in response thereto by Defendant's employees.

Plaintiff objects on the grounds that the demand is overly broad, unduly burdensome, not calculated to lead to admissible evidence and calls for a narrative covering a period of nearly ten years. Plaintiff further objects on the grounds that "discrimination" is a term of art in this lawsuit that may have a legal connotation and cannot be answered by a lay witness. Without waiving the objection, plaintiff states as follows:

See response to #4. A) The events involving the cast and toenails took place at various times in July and August 2009 at SDLI. The events concerning plaintiffs termination took place in June 2010. B) The type of discrimination is outlined in the interrogatory - gender discrimination, therefore this subpart has already been limited by the question. C) This request is vague and impossible to answer. It is impossible to determine what is meant by "manner." Without waiving the objection, these statements reflect animosity toward any expression of behavior that did not conform to Maynard's belief as to stereotypical gender roles. The suspension, termination was the outward manifestations of discrimination, as well as Maynard's hostile manner and his withholding (conversion), for a period of a week, of plaintiffs pay because of the complaint. D) Maynard and Altitude Express. E) Filing this suit F) Unknown at this time.

INTERROGATORY #6: Set forth with particularity and detail each and every act of alleged sexual orientation discrimination against Plaintiff in connection with Plaintiffs employment with Defendant from 2001 through the present, including but not limited to:

- a) the date and time any alleged instance of discrimination occurred;
- b) the type of discrimination experienced by Plaintiff;
- c) the manner in which Plaintiff was discriminated against;
- d) the individual(s) that discriminated against Plaintiff;
- e) any action taken in response thereto by Plaintiff; and
- f) any action taken in response thereto by Defendant's employees.

Plaintiff objects on the grounds that the demand is overly broad, unduly burdensome, not calculated to lead to admissible evidence and calls for a narrative covering a period of nearly ten yeats. Plaintiff further objects on the grounds that "discrimination" is a term of art in this lawsuit that may have a legal connotation

and cannot be answered by a lay witness. Without waiving the objection, plaintiff

states as follows:

1. Ray Maynard specifically and very clearly stated during my initial suspension from work meeting with him that I was being suspended because I am gay and the two customers that complained were offended by my stating as much.
 - a. On or about June 21, 2010 immediately following sunset which was at 8:30 PM
 - b. sexual orientation
 - c. verbal scolding and suspension, failure to pay for dive (conversion of funds due to plaintiff)
 - d. Ray Maynard
 - e. inquiry into the adverse action. Immediately consulted the chief instructor and safety and training advisor (Rich Winstock) following the adverse action as I was leaving the premise. Privately discussed the matter that just took place minutes ago in detail and specificity with Rich Winstock in the drop zone classroom.
 - f. Discussed situation with Rich Winstock Ray barged in opening door and yelled, "ugh, you're in here talking about this" and slammed door as he went away.
2. Ray Maynard terminated plaintiff.
 - a. On or about June 28, 2010
 - b. sexual orientation and gender discrimination
 - c. termination
 - d. Ray Maynard
 - e. EEOC charge and complaint
 - f. unknown
3. Ray Maynard acted on the complaint of a person intolerant of homosexuality.

a-f: as set forth above in " 1, 2
4. References to plaintiffs sexual orientation in a derogatory manner by various staff and Ray Maynard.
 - a. Continuously as described above: Too numerous to remember in particular. Constantly. For example, without limiting my response in any manner: the word "gay" was used often, usually as a pejorative often, in my presence. I was often the butt of jokes when men were talking about their girlfriends or other women. My sexual orientation was constantly referred to. I was constantly told that I would be interested in certain straight men, when I had no interest in them because they were straight. I was also stereotypically grouped together with all LGBT people insofar as, if a person were gay, it was pointed out to me, and it was assumed that I would be romantically interested in that person. On one occasion, at Neptune's, a bar on Long

Island where the staff had an after hours party, a transvestite was there and I was goaded into approaching him and asked to take pictures with her. The staff who suggested it thought it was comedic. I thought it was insulting.

- b. sexual orientation
- c. hostile work environment
- d. Ray Maynard and other employees, and at least one customer
- e. Asking employees to stop on occasion; on others, ignoring the comments
- f. None that plaintiff is aware of

INTERROGATORY #7: Set forth with particularity and detail any and all days Plaintiff worked and did not receive minimum Wage as an employee of Defendant, from 2004 through the present.

Plaintiff did not earn minimum wage during any hour in which he was at the drop zone and not participating in a dive. Plaintiff is not in possession of defendant's records, notwithstanding a release for same and thus cannot answer this question at this juncture, but will do so when records are provided by the employer and he has an opportunity to review them.

INTERROGATORY #8: Set forth with particularity and detail any and all days Plaintiff worked and did not receive overtime compensations as an employee of Defendant, from 2004 through the present.

Plaintiff is not in possession of defendant's records, notwithstanding a release for same and thus cannot answer this question at this juncture, but will do so when records are provided by the employer and he has an opportunity to review them.

INTERROGATORY #9: Set forth with particularity and detail any and all weeks Plaintiff worked and did not receive overtime compensations as an employee of Defendant

See response to , 7, 8.

INTERROGATORY #10: Identify with particularity and detail any and all of Plaintiffs accounts, profiles, memberships or postings on all social networking websites or internet communities and forums, from 2004 through the present.

Plaintiff objects on the grounds that the demand is overly broad, unduly burdensome, not calculated to lead to admissible evidence and calls for an unwarranted invasion into his privacy. Without waiving the objection, plaintiff has an account on Facebook and on dropzone.com.

INTERROGATORY #11: Identify with particularity and detail any and all email addresses and/or instant message screen names utilized by Plaintiff from 2004 through the present

Plaintiff objects on the grounds that the demand is overly broad, unduly burdensome, not calculated to lead to admissible evidence and calls for an unwarranted invasion into his privacy. Without waiving the objection, don@donzarda.com and dgzarda@gmail.com. Plaintiff does not use 1M's.

INTERROGATORY #12: Identify all of Plaintiffs employers, including contact information, from 2004 through the present, including but not limited to all sky diving employers.

Plaintiff objects on the grounds that the demand is overly broad, unduly burdensome, not calculated to lead to admissible evidence and calls for an unwarranted invasion into his privacy. Without waiving the objection, Defendant has resumes on file for both professional skydiving and non-skydiving containing such information that was emailed to defendant over the winters of 2008 and 2009. Said resumes will be re-produced in this litigation and incorporated herein.

INTERROGATORY #13: Identify with particularity and detail Plaintiffs claims for damages for lost wages, failure to pay overtime compensation, failure to pay minimum wage, lost benefits, or other economic damages, specifically:

- a) the total amount claimed for each claim;
- b) information used to calculate the amount of each claim; and
- c) the method of calculation for those damages.

Plaintiff is not in possession of defendant's records, notwithstanding a release for same and thus cannot answer this question at this juncture, but will do so when records are provided by the employer and he has an opportunity to review them.

INTERROGATORY #14: Identify with particularity and detail any other damages that Plaintiff claims were caused by Defendant and have not already been described in response to these interrogatories, specifically:

- a) the type of damage;
- b) the total amount claimed, and;
- c) the method of calculation of these damages.

Plaintiff objects on the grounds that this interrogatory brings the defendant into a number (including subparts) exceeding the allowable maximum under Rule 33 of the Federal Rules of Civil Procedure. If the defendant obtains permission to seek interrogatories in excess of the amount permissible by the rule, plaintiff reserves the right to assert additional objections, including but not limited to the fact that the demand is overly broad, unduly burdensome, not calculated to lead to admissible evidence.

Without waiving the objection: See initial disclosures.

INTERROGATORY #15: Identify any and all individual(s) with knowledge and/or information concerning the allegations in Plaintiffs Complaint For each individual identified, provide:

- a) contact information for the individual(s);
- b) the knowledge and/or information possessed by each individual(s).

Plaintiff objects on the grounds that this interrogatory brings the defendant into a number (including subparts) exceeding the allowable maximum under Rule 33 of the Federal Rules of Civil Procedure. If the defendant obtains permission to seek interrogatories in excess of the amount permissible by the rule, plaintiff reserves the right to assert additional objections, including but not limited to the

fact that the demand is overly broad, unduly burdensome, not calculated to lead to admissible evidence. Without waiving the objection: See initial disclosures, and response to interrogatory # 2, both of which plaintiff will amend if required.

INTERROGATORY #16: Identify any employment positions that Plaintiff has held since 2004, including (a) the identity of each such employer; (b) the length of time Plaintiff has been employed at each such place of employment; (c) the date the employment commenced; (d) the dates of and reasons for any period of separation from that employment; (e) Plaintiff's job title, duties and responsibilities, and immediate supervisor at each place of employment; (f) Plaintiff's rate of pay at the time each employment commenced and the date and amount of all increases in that rate of pay; and (g) a detailed description of, and the monetary value of, all other forms of compensation and fringe benefits received by Plaintiff from each employer including, but not limited to, bonuses, commissions, expense reimbursements, and medical and pension benefits

Plaintiff objects on the grounds that this interrogatory brings the defendant into a number (including subparts) exceeding the allowable maximum under Rule 33 of the Federal Rules of Civil Procedure. If the defendant obtains permission to seek interrogatories in excess of the amount permissible by the rule, plaintiff reserves the right to assert additional objections, including but not limited to the fact that the demand is overly broad, unduly burdensome, not calculated to lead to admissible evidence.

INTERROGATORY #17: Identify any of Plaintiff's additional sources of income (Whether or not reported as taxable income and including, but not limited to, income earned while performing services as an independent contractor, selfemployed or as a sole proprietor of a business or as a partner in a partnership, unemployment compensation, workers' compensation, severance pay, deferred wages, medical payments or benefits, vacation pay, pension benefits, social security benefits, and disability benefits) which Plaintiff has received from 2004 to the present, including, for each source of income: (a) the nature, source and amount of the income (including the initial rate of payment and the amount of all subsequent increases); (b) the dates of commencement and termination of each source of income; and (c) the reason, if any, for termination of the income.

Plaintiff objects on the grounds that this interrogatory brings the defendant into a number (including subparts) exceeding the allowable maximum under Rule 33 of the Federal Rules of Civil Procedure. If the defendant obtains permission to seek interrogatories in excess of the amount permissible by the rule, plaintiff reserves the right to assert additional objections, including but not limited to the fact that the demand is overly broad, unduly burdensome, not calculated to lead to admissible evidence.

Dated: New York, New York
April 7, 2011



.. GREGORY ANTOLLINO

Attorney for Plaintiff
18-20 West 21st Street Suite 802
New York, NY 10010
(212) 334-7397

DONALD ZARDA. does hereby declare under penalty of perjury that I have reviewed the answers to interrogatories attached hereto and state that they are true to the best of my knowledge.

Dated: April 7, 2011
Richmond, Missouri



DONALD ZARDA

Friday, May 27, 2011 4:05 PM

Subject: Interrogatories
Date: Friday, April 8, 2011 5:07 PM
From: Gregory Antollino <gregory10010@verizon.net> To:
"Saul D. Zabel" <szabell@laborlawsny.com>

I deem my supplementary disclosures complete.

Gregory Antollino, Esq.
18-20 West 21st Street, Suite 802
New York, NY 10010
(212) 334-7397
www.antollino.com

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

.....X

DONALD ZARDA,

Plaintiff,

ALTITUDE EXPRESS, Inc.
d/b/a Skydih Leic IslaDd. and RAY MAYNARD,

Defendants.

.....X

GE
NE
RA
L
OB
IE
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NS

AMENDED
RESPONSE TO
DEMAND FOR
INTERROGATORIES

10 Cv 4334
(IFB)(ARL)

- A. Plaintiff objects to Defendants' First Set of Interrogatories to the extent that they seek to impose upon him obligations or burdens, which are greater than, or inconsistent with, the Federal Rules of Civil Procedure Rule 33.
- B. Plaintiff objects generally to the First set of Interrogatories on the grounds that they are overly broad and burdensome. Plaintiff has made a good faith effort to respond to the Interrogatories, but reserves the right to object to, and to move to have vacated, all of defendant's Interrogatories.
- C. The following responses and objections are based upon information now known. Plaintiff has not yet completed discovery or preparation for trial in this action and therefore will supplement these responses and objections to the extent permitted.
- D. The Interrogatories exceed the 25 (including discreet subparts) allowed by Federal Rule of Civil Procedure 33.
- E. Without waiving these objections and by way of response, Plaintiff provides the following responses.

Doni Zarda

From: Skydive Long Island [mailto:funjumps@skydivelongisland.com]
Sent: Tuesday, June 22, 2010 4:20 PM
To: Doni Zarda; John MonkeyLip Campbell; Bobby Swaine; Don Zarda; Jason Lucas; Pat Newman; Telly Cortez; John Sherman; Rich Winstock; Jordan Miles; Brett Nock; Joseph Fortune; Joe Fortune
Subject: STONYBROOK FILMING SCHEDULE THIS WEEK

Hi Guys!
So Stonybrook has confirmed for this week. The schedule is as follows:

Dunk- 8:30am Thurs
Pat- 8am Weds
Jason- 9am Thurs
Monkey- 8:30am Weds
Don- 7pm Weds
Winstock- 9:30am Fri
Jordan- 4:30pm Fri
Telly- 11am Weds
Fresh- 7pm Fri
Swoop- On Call
Bobby??
Brett??

Here are the directions to Stonybrook University:

The address of the university is 100 Nicolls Road, Stony Brook, NY 11790. From the LIE going west (I-495 W), take exit 62 toward County 97/Nicolls Rd/Stony Brook/Bluff Point. Merge onto Expressway Drive N. Take the ramp onto County Rd 97/Nicolls Rd. Make a slight left to stay on County Rd 97 N/Nicolls Rd. Follow Nicolls Road and turn left to go into the main entrance. The visitor parking garage should be in front of you as you approach the campus.

The laboratory is located in the Bioengineering building, room 120. It is next to the Life Sciences Library, and behind the Ward Melville Social and Behavioral Science building, which you'll reach walking south from the parking garage.

If you guys have any questions please do not hesitate to ask, or call Dan from Stonybrook at 516-566-1085.

FYI: You guys can park in the parking garage and the lab has parking stickers for you. Please make sure you are on time ;-) Compensation for your time is \$150.

Peace Out;-)

-L

2/1/2011

ZARDA000074

SA021

Don Zarda

From: Facebook [notification+yyremwyn@facebookmail.com]
Sent: Thursday, October 28, 2010 4:50 PM
To: Donald Zarda
Subject: Curt Kellinger commented on your photo.

Curt Kellinger commented on your photo.

Curt wrote:
"sounds like fun . where to now Don"

Reply to this email to comment on this photo.

To see the comment thread, follow the link below:
http://www.facebook.com/n/?photo.php&fbid=1561950220955&set=a.1245614472759.35810.1601316078&mid=333fb29G5f7224eeG1c4ca19G9&n_m=facebook%40donzarda.com

Thanks,
The Facebook Team

This message was intended for facebook@donzarda.com. If you do not wish to receive this type of email from Facebook in the future, please follow the link below to unsubscribe.
<http://www.facebook.com/o.php?k=ab4be5&u=1601316078&mid=333fb29G5f7224eeG1c4ca19G9>
Facebook, Inc. P.O. Box 10005, Palo Alto, CA 94303

Finishing nice day at Elsinore. One jump on a prototype Vampire V4, (V3.5) I guess. Bitch is wicked fast and smooth and some PF track'n pants. Now I know how those are supposed to feel for next BASE trip. The end of the trip, boooo.
Added October 27, 2010 · Like ·

* * * <<http://www.facebook.com/markovwgti>>
<<http://www.facebook.com/photo.php?fbid=1561950220955&set=a.1245614472759.35810.1601316078#>> Marko Markovich
<<http://www.facebook.com/markovwgti>> gay
October 27, 2010 at 7:39pm · Like
* <<http://www.facebook.com/wingsuit.pilot>>
Donald Zarda <<http://www.facebook.com/wingsuit.pilot>> (!-) Yup!
October 27, 2010 at 9:15pm · Like
* <<http://www.facebook.com/profile.php?id=1553634434>>
<<http://www.facebook.com/photo.php?fbid=1561950220955&set=a.1245614472759.35810.1601316078#>> Curt Kellinger
<<http://www.facebook.com/profile.php?id=1553634434>> you must be tired after a week like that
October 27, 2010 at 9:23pm · Like

* <<http://www.facebook.com/wingsuit.pilot>>
Donald Zarda <<http://www.facebook.com/wingsuit.pilot>> Oh, you mean on my "personal escaped" as I heard that term to mean my sexuality as a "personal escapade" from some person who shall remain nameless?

October 28, 2010 at 4:09am · Like

* <<http://www.facebook.com/profile.php?id=1553634434>>
<<http://www.facebook.com/photo.php?fbid=1561950220955>
&set=a.1245614472759.35810.1601316078#> Curt Kellinger
<<http://www.facebook.com/profile.php?id=1553634434>> oh will you lighten up. im glad you had a good time. how many tandems did you take .

October 28, 2010 at 7:24am · Like

* <<http://www.facebook.com/wingsuit.pilot>>
Donald Zarda <<http://www.facebook.com/wingsuit.pilot>> We had high wind so four and a ridiculous twilight, above the clouds, over the ship, night beach landing wingsuit flight! Was sooo sick!

October 28, 2010 at 4:35pm · Like

* <<http://www.facebook.com/profile.php?id=1553634434>>
<<http://www.facebook.com/photo.php?fbid=1561950220955>
&set=a.1245614472759.35810.1601316078#> Curt Kellinger
<<http://www.facebook.com/profile.php?id=1553634434>> sounds like fun . where to now Don

October 28, 2010 at 5:49pm · Like

* <<http://www.facebook.com/profile.php?id=1191934109>>
<<http://www.facebook.com/photo.php?fbid=1561950220955>
&set=a.1245614472759.35810.1601316078#> Tim Heaton
<<http://www.facebook.com/profile.php?id=1191934109>> Hey bro, sorry to hear about little cat

October 28, 2010 at 5:49pm · Like

* <http://profile.ak.fbcdn.net/hprofile-ak-snc4/hs355.snc4/41717_1601316078_2674962_q.jpg>

	<i>Terminated:</i> 04/02/2015	
	<i>Filed & Entered:</i> 04/02/2015	Order on Motion to Adjourn Conference
195	<i>Filed & Entered:</i> 04/15/2015	Letter
196	<i>Filed & Entered:</i> 04/15/2015	Letter
197	<i>Filed & Entered:</i> 04/15/2015	Letter
199	<i>Filed & Entered:</i> 04/21/2015	Letter
200	<i>Filed & Entered:</i> 04/24/2015 <i>Terminated:</i> 10/28/2015	Motion in Limine
	<i>Filed & Entered:</i> 04/27/2015	Scheduling Order
201	<i>Filed & Entered:</i> 04/30/2015	Telephone Conference
202	<i>Filed & Entered:</i> 06/02/2015	Letter
	<i>Filed & Entered:</i> 06/08/2015	Scheduling Order
203	<i>Filed:</i> 06/12/2015 <i>Entered:</i> 06/15/2015	Telephone Conference
206	<i>Filed & Entered:</i> 07/21/2015 <i>Terminated:</i> 07/27/2015	Motion for Pre Motion Conference
207	<i>Filed & Entered:</i> 07/24/2015	Response in Opposition to Motion
208	<i>Filed & Entered:</i> 07/24/2015	Reply in Support
	<i>Filed & Entered:</i> 07/27/2015	Order on Motion for Pre Motion Conference
209	<i>Filed & Entered:</i> 08/06/2015	Telephone Conference
210	<i>Filed & Entered:</i> 08/07/2015 <i>Terminated:</i> 10/28/2015	Motion for Reconsideration
211	<i>Filed & Entered:</i> 08/07/2015	Memorandum in Support
212	<i>Filed & Entered:</i> 08/21/2015	Response in Opposition to Motion
213	<i>Filed & Entered:</i> 08/24/2015	Reply to Response to Motion
214	<i>Filed & Entered:</i> 09/22/2015	Letter
215	<i>Filed & Entered:</i> 09/23/2015 <i>Terminated:</i> 09/24/2015	Motion to Appear by Telephone
	<i>Filed & Entered:</i> 09/24/2015	Order on Motion to Appear by Telephone
	<i>Filed & Entered:</i> 09/25/2015	Scheduling Order
216	<i>Filed & Entered:</i> 09/25/2015	Letter
217	<i>Filed & Entered:</i> 09/25/2015	Letter
218	<i>Filed & Entered:</i> 09/29/2015	Proposed Voir Dire
219	<i>Filed & Entered:</i> 10/01/2015	Proposed Jury Instructions
220	<i>Filed & Entered:</i> 10/02/2015	Letter
222	<i>Filed:</i> 10/02/2015 <i>Entered:</i> 10/06/2015	Order
221	<i>Filed & Entered:</i> 10/05/2015 <i>Terminated:</i> 10/06/2015	Motion for Extension of Time to File Document
	<i>Filed & Entered:</i> 10/06/2015	Order on Motion for Extension of Time to File
	<i>Filed & Entered:</i> 10/06/2015	Scheduling Order
223	<i>Filed & Entered:</i> 10/06/2015	Trial Brief

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