

UNITED STATES COURT OF APPEALS FOR THE SECOND CIRCUIT

Thurgood Marshall U.S. Courthouse 40 Foley Square, New York, NY 10007 Telephone: 212-857-8500

MOTION INFORMATION STATEMENT

Docket Number(s): 15-3775

Caption [use short title]

Motion for: Extension of Time to File a Brief

Zarda v. Altitude Express, Inc.

Set forth below precise, complete statement of relief sought:

An extension of 45 days to file a brief.

MOVING PARTY: Altitude Express, Inc.

OPPOSING PARTY: Zarda

- Plaintiff
- Defendant
- Appellant/Petitioner
- Appellee/Respondent

MOVING ATTORNEY: Saul D. Zabell

OPPOSING ATTORNEY: Gregory Antollino

[name of attorney, with firm, address, phone number and e-mail]

1 Corporate Drive, Suite 103

275 7th Avenue, Suite 705

Bohemia, NY 11716

New York, NY 10001

Court-Judge/Agency appealed from: Joseph F. Bianco

Please check appropriate boxes:

FOR EMERGENCY MOTIONS, MOTIONS FOR STAYS AND INJUNCTIONS PENDING APPEAL:

Has movant notified opposing counsel (required by Local Rule 27.1):

Has request for relief been made below? Yes No

Yes No (explain):

Has this relief been previously sought in this Court? Yes No

Requested return date and explanation of emergency:

Opposing counsel's position on motion:

Unopposed Opposed Don't Know

Does opposing counsel intend to file a response:

Yes No Don't Know

Is oral argument on motion requested?

Yes No (requests for oral argument will not necessarily be granted)

Has argument date of appeal been set?

Yes No If yes, enter date:

Signature of Moving Attorney:

Date: 6/3/16

Service by: CM/ECF

Other [Attach proof of service]

**UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT**

ESTATE OF DONALD ZARDA,

Plaintiff-Appellant,

– against –

**ALTITUDE EXPRESS, INC. d/b/a SKYDIVE LONG ISLAND
and RAYMOND MAYNARD,**

Defendants-Appellees.

Docket No.: 15-3775

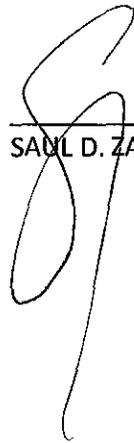
**DECLARATION OF SAUL D. ZABELL
IN SUPPORT OF MOTION TO EXTEND TIME**

SAUL D. ZABELL, ESQ., attorney duly admitted to practice before this Court, declares as follows:

1. I am the Managing Principal of Zabell & Associates, P.C., counsel for Defendants-Appellees in the above-captioned action.
2. I respectfully submit this Declaration in support of the pending application seeking permission to extend the time in which to file Appellee's brief by forty-five (45) days, from June 10, 2016 to July 20, 2016, or in the alternative, any length of time this court would deem appropriate.
3. There has been a confluence of events which necessitate this request.
4. Principally, Laura Johnson, the associate with whom I worked on the case has since left my firm. Ms. Johnson's last date of employment was April 21, 2016.
5. Ms. Johnson worked on all phases of the underlying trial and was second seat during the proceeding.
6. Further, since her fall 2014 hire, Ms. Johnson and I were the only attorneys in my office who worked on the file.
7. Had she remained employed, she would have worked directly with me on the brief.
8. At present, I have one associate in my office. The associate is a winter 2014 graduate, is not admitted in federal court, and is in no way acclimated with the case file.
9. I have a second associate joining my firm on June 20, 2016.
10. I have (and have had) a series of court and/or administrative engagements during the past several months, the existence of which necessitate my pending request.
11. Specifically, and by way of example, during the month of May, there were only a handful of days where I was not engaged in court conferences, depositions, and/or administrative hearings before the Department of Labor.
12. In addition, I was scheduled to be on trial the week on June 1, 2016 in the matter of *Rodriguez v. The Pie of Port Jefferson, et al.*, Case No.: CV-14-0519 (LDW) (GRB) and again on June 6, 2016 in the matter of *Chandler v. Northshore Sports Medicine, et al.*, Case No: 14-cv-04719 (LDW) (SIL).

13. While upon submission, the parties have reached agreements in principle with respect to settlement on each matter, I spent significant time in the past three (3) weeks in preparation thereof.
14. Presently, in addition to my existing caseload and ongoing work, I have an opposition to a motion to dismiss on an ERISA matter due on June 10, 2016.
15. I also have an appellate brief due in the matter of *Tod A. Wender v. GA Global Markets, LLC.*, Supreme Court New York County, Index Number 157024/2012 on June 22, 2016.
16. In light of the foregoing, should the Court be inclined to grant my application, I will be able to complete the brief within the extended time frame.
17. I conferred with Gregory Antollino, counsel for Appellant in advance of this application. Mr. Antollino's consent is limited to an extension of "a week or so."
18. Despite filing the pending application, I am aware of and am guided by all rules of the Second Circuit governing this request, regardless of the outcome.

Dated: June 3, 2016
Bohemia, New York



SAUL D. ZABELL, ESQ.