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February 7, 2011

VIA ELECTRONIC CASE FILING

The Honorable Joseph F. Bianco
United States District Court Judge
United States District Court
Eastern District of New York
100 Federal Plaza
Central Islip, New York 11722

**Re: Zarda v. Altitude Express, Inc., et al.
Case No.: CV-10-4334 (JFB)(ARL)**

Your Honor:

This firm is counsel to Altitude Express, Inc., *et al.*, Defendants in the above-referenced action. We write in opposition to Plaintiff's February 4, 2011 letter application to Your Honor requesting either an in-person or telephone conference to discuss Plaintiff's unfounded belief that witnesses are being intimidated in this matter.¹ Inasmuch as Plaintiff has failed to meet and confer with the undersigned prior to making the instant application, has failed to produce any objective thread of evidence that witnesses are being harassed, and there is no legal or factual basis for the relief requested, Plaintiff's application should be denied with prejudice.

In his latest request, Plaintiff argues, on the strength of mere suspicion, that "someone" is contacting potential witnesses and intimidating them. Counsel for Plaintiff makes numerous representations to discussions he has had with Ms. Maynard, yet produces no objective evidence concerning the content of said conversations.

Plaintiff, by use of conclusory allegations and mere suspicions, argues witnesses are being "intimidated" and possibly "retaliated against" without having any substantial proof to support such accusations. To the extent Plaintiff believes witnesses are being intimidated in this matter, the proper vehicle to explore this issue is through discovery, and not by burdening the Court with conjecture.

¹ While Plaintiff routinely submits a full recitation of the facts he deems relevant to this matter when making a judicial application in an apparent attempt to sway Your Honor, a detailed list of the facts of this case is not warranted in connection with Plaintiff's instant application.



Counsel remains available should Your Honor require additional information regarding this submission.

Respectfully submitted,

ZABELL & ASSOCIATES, P.C.

Saul Zabell

cc: Gregory Antollino, Esq. (*via* electronic case filing)