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February 11, 2011

U.S. District Judge Joseph F. Bianco
Long Island Federal Courthouse
814 Federal Plaza
Central Islip, New York 11722

RE: Zarda v. Altitude Express, Inc. & Ray Maynard, 10 Civ 4334 (JFB)(ARL)

Dear Judge Bianco:

I represent plaintiff in this action and respond to his purported motion to compel.

I receive something new in the mail from Mr. Zabell almost daily. After responding to some ten requests to admit, eighty-eight demands for documents, and some thirty-five interrogatories (including sub parts), I began to receive daily "deficiency" letters from Mr. Zabell, duly cc'd to his client, quibbling with each of my responses. The letters in all, comprise about ten single spaced pages. Yesterday, I received a letter demanding written responses to these communications. I don't plan to give one, and the rules do not require me to do so. The rules do require Mr. Zabell to meet and confer with me, however - nothing more, nothing less.

A "meet and confer" can be done on the phone. Today I received a call from Mr. Zabell demanding a written response to his bilious "deficiency letters." He did not want even attempt to confer. I told him I was ready, willing and able to discuss his concerns later that day, but that I did not intend to provide a written response. He then said "Good day," and hung up. I followed up with an email, repeating that I was ready, willing and able to meet and confer, but that the rules did not require me to write responses to his letters. This motion followed.

Clearly Mr. Zabell, who is being paid by the hour and in advance by his client, would like to out-paper me and waste my time, bill his client and multiply the hours that I must spend prosecuting this case. As a sole practitioner who is a plaintiff's lawyer, however, I must use my time more efficiently, and don't intend to respond to his excessive complaints about my responses; they not only can, but *must* be discussed verbally. Therefore, you should deny Mr. Zabell's motion and direct him to pick up the phone and call me to discuss his allegations of deficient discovery responses. I remain ready, willing and able to confer by telephone. I am aware of Mr. Zabell's complaints about by discovery responses and we can discuss them in

the attempt to reach a compromise. If we do not, he has his remedies. The rules, however, don't require me to provide a written response. They require Mr. Zabell to discuss the matter verbally. He does not have the right to demand a written response.

Sincerely,

/s/ 

Gregory Antollino

Cc: Saul Zabell by ecf