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April 14, 2011

VIA ELECTRONIC CASE FILING

The Honorable Joseph F. Bianco
United States District 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., d/b/a Skydive Long Island, and Ray Maynard, Defendants in the above-referenced action. We write in opposition to Plaintiff's April 13, 2011 "Letter Motion to Strike." As an initial matter, in violation of both the Local Rules and Your Honor's Individual Rules of Practice, Plaintiff again failed to meet and confer with the undersigned prior to making his application. Additionally, rather than seeking a pre-motion conference, Plaintiff affirmatively asks Your Honor to Strike Defendants' motion. As such, his application is procedurally defective.

While Mr. Antollino is quick to complain that Defendants' motion to compel is lengthy, he fails to realize the sheer size of Defendants' submission was necessitated by his own deficient discovery responses. During the conference before Your Honor wherein we discussed Plaintiff's discovery deficiencies, Your Honor instructed the parties to meet and confer, and then, should a judicial intervention become necessary, engage in formal motion practice. During the ensuing telephone conferences with Mr. Antollino, he either: (1) refused to compromise on many of the discovery issues; (2) supplemented with minimal document production; or (3) promised to initially supplement his responses and then failed to do so. It is because of such dilatory actions by Plaintiff that a lengthy submission is required.



Notwithstanding that Mr. Antollino feels this is a “relatively simple case,” Defendants have the right to defend themselves. While Mr. Antollino provides Your Honor with what he thinks the “main question” of the case is,¹ and despite the fact Plaintiff was merely a seasonal worker, many legal issues exist in this matter. Accordingly, the parties should engage in the discovery process to fully address all issues.

The instant application is the latest in a series of attempts by Mr. Antollino to avoid his obligations in the discovery process. Mr. Antollino has routinely stated he refuses to engage in the interactive letter writing process often required when litigating an employment discrimination case. Rather, Mr. Antollino would prefer to unilaterally dictate how Defendants and the undersigned defend Plaintiff’s specious claims, and how the parties should practice before Your Honor.

Based upon the foregoing, Defendants respectfully request Your Honor deny Plaintiff’s application. In the alternative, we respectfully request an in-person conference before Your Honor to address these issues.

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

Respectfully submitted,

ZABELL & ASSOCIATES, PC



Saul D. Zabell

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

¹ If it is as he says, then he admits there is no actionable claim under Title VII.