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May 5, 2011

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

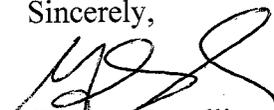
RE: Zarda v. Altitude Express, Inc. & Ray Maynard, 10 Civ 4334 (JFB)

Dear Judge Bianco:

I represent plaintiff in this action and write in response to Mr. Zabell's letter of May 5, 2011. Mr. Zabell notes that I have not responded to his 176-page discovery motion: this is precisely because my motion to strike the papers is pending. Furthermore, your individual rules do not provide for a motion to be returnable on a certain date, as Mr. Zabell has sought to require, but that a motion request will be responded to by the Court either with a scheduling order or a pre-motion conference. In this case, while I am mindful of the May 11 return date, the Court has not ruled on my motion to strike the excessive motion papers, nor issued a scheduling order, nor scheduled a conference. I will respond to the motion if the Court denies my motion to strike, or enters a briefing schedule. However, if the Court will allow the 176-page filing, then I must ask for leave to dispense with the local rules and your individual rules as well and exceed the page limit as I see fit. I write in advance of May 11 precisely to clarify how to proceed.

As for the other items in my letter, I have discussed those with Mr. Zabell on numerous occasions, both verbally and in writing. Notably, Mr. Zabell does not deny that he is representing the non-party witnesses; he merely states that he did not solicit them as clients. But whether or not he solicited under the circumstances is a question of law. Clearly he contacted them and now refuses to allow me to do so, something that was completely improper and, at a minimum, a violation of his obligation in discovery. These are all questions of law and judicial economy that are not only ripe for judicial review, but that must be determined by the Court before this case can proceed. I ask for your guidance and appreciate your attention.

Sincerely,



Gregory Antollino

Cc: Saul Zabell by ecf