

# GREGORY ANTOLLINO

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May 12, 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 defendant's letter of May 12, 2011. As to defendant's request for a stay of the June 15 deposition: the Court has not indicated whether it would prefer to have a pre-motion conference on the motion to quash the subpoena. It may be that you would recommend an alternative to the motion to quash, as suggested in my letter in opposition to the request for a pre-motion conference.

Additionally, while defendant's extensive 176-page motion for discovery from plaintiff has a briefing schedule that goes into June, plaintiff's three-page motion for discovery has been fully submitted. While it is fully within your discretion to resolve both motions at once, if plaintiff's motion is decided before the defendants', it might result in getting through much of discovery in advance of the summer.<sup>1</sup> One portion of plaintiff's motion seeks for defendant's priority in deposition of the plaintiff to be deemed waived. I am ready, willing and able to depose Raymond Maynard as soon as possible. The only thing holding that up is the defendant's refusal (a) to depose my client because of their pending motion; and (b) its insistence on priority, i.e., to depose my client first. In my view, priority is a meaningless advantage in any case, for any party. However, where one party simultaneously insists on it, yet refuses to take a crack at the other party, it can unduly delay discovery, as it has here. The case was filed in October and not a deposition has taken place into May.

Therefore, I ask that the Court consider resolving three-page plaintiff's motion before plaintiff's response to defendant's 176 page motion is due.

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<sup>1</sup> I will be out of the country for most of July, and my experience is, no matter my schedule, it is often difficult to schedule depositions in the summer. My client is an out of state resident, but will be in New York at the end of May. He will not be able to come back until August or September.

Furthermore, I ask that the Court schedule a pre-motion conference to explore alternatives to the motion to quash, as I outlined in a letter dated on or about April 18, 2011.

Sincerely,

A handwritten signature in black ink, appearing to read 'GA', with a long, sweeping horizontal line extending to the right.

Gregory Antollino

Cc: Saul Zabell by ecf