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July 16, 2014

**VIA ECF**

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 represents Defendants in the above-captioned matter. We write in response to Plaintiff's motion *in limine* filed July 15, 2014. [ECF Doc. 170] Pursuant to Your Honor's June 10, 2014 Order [ECF Doc. 164], counsel for Defendants sent Mr. Antollino a letter on July 7, 2014 designating our objections to the deposition testimony Plaintiff intends to present in his case-in-chief. [ECF Doc. 170, Ex. 1]

Pursuant to Your Honor's Order, Mr. Antollino was to submit a letter to the Court by August 5, 2014 in response to Defendants' objections. Instead, Mr. Antollino has taken the liberty of re-interpreting Your Honor's Order and filing, what he considers, a "fully briefed" motion *in limine* regarding Defendants' objections.

In his letter, Mr. Antollino avers that the purpose of this "exercise was to hash out the differences in advance of trial so that [he] could prepare a comprehensive videotape" and further argues that Defendants waived objections to any portions to which they did not specifically object. However, Defendants did not interpret Your Honor's Order to be intended for that purpose. Defendants respectfully submit that in our letter to Mr. Antollino, it was made clear that our intention was to highlight our general objections and, in addition, provide a sample of our specific objections to the first dozen portions of the more than 125 portions of Mr. Maynard's deposition transcript Plaintiff seeks to introduce in his case-in-chief. Due to the volume of the portions Plaintiff delineated, Defendants did not use this letter to Plaintiff as an opportunity to list each and every objection, but instead to initiate discussions about the use of the testimony in general.



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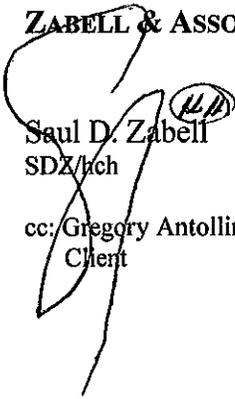
In response, Plaintiff submitted Defendants letter as part of a motion *in limine*, without first conferring with Defendants or giving Defendants the opportunity to formally brief the issue. Further, Plaintiff, though his letter motion to the Court, withdrew several portions of the deposition transcript he intended to use in response to Defendants specific objections.

As such, Defendants respectfully request that a briefing schedule be established in order for both parties to have the fair opportunity to fully brief the issues before Mr. Antollino's "motion" is considered by the Court.

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

Respectfully submitted,

ZABELL & ASSOCIATES, P.C.



Saul D. Zabell  
SDZ/hch

cc: Gregory Antollino, Esq. (via ECF)  
Client