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July 16, 14

Judge Joseph Bianco
U.S. District Court
Central Islip, New York

RE: Zarda v. Altitude Express

Dear Judge Bianco:

I write in brief response to Mr. Zabell's letter demanding a briefing scheduled for the designations of Mr. Maynard's deposition. It was fully clear what the purpose of the schedule wherein the parties were to "hash out" those portions of Maynard's videotaped deposition that would be admissible or not. Defendants chose to argue, from cases pre-dating the allowance of videotaped depositions, that I should put Mr. Maynard on the stand, and offered 12 or 13 objections. Do we need to get the transcript - because I'm fully willing to order it. Now Mr. Zabell contends that his objections were mere "examples." Is he suggesting that he believed that you should go through my designations, one by one, and sua sponte rule on your own?

Mr. Zabell has had his bite at the apple. He filed a four page single spaced letter in opposition to the motion to preclude the videotaped deposition, in whole or in part. "In limine motion" was the only ecf event that I could have chosen - and what did Mr. Zabell think this exercise was? "In limine" means, "at the start." At the start of trial we want to know what will be admissible and what will not. That was clearly stated on the record on the teleconference in June so that we could know "at the start" which portions of the deposition to give the videographer for the jury.

The exercise is completed and Mr. Zabell had a month to make his case. He chose to spend the bulk of it arguing that I should examine Maynard on the stand. He made a few objections to specific questions and answers, but rather than ask for additional time, has waived his objections to the remaining questions, unless you follow the ancient caselaw that pre-dates the advent of videotaped depositions. His request for another in limine motion should be summarily denied. He had his chance. Where does he get his sense of entitlement to a second bite at the apple?

/s/

Gregory Antollino, Esq.
Cc: Saul Zabell (by ecf)