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December 2, 2014

Judge John F. Bianco
US District Court, EDNY
814 Federal Plaza
Central Islip, NY 11722

RE: Zarda v. Altitude Express et ano, 10-cv-4334-J-RML

Dear Judge Levy:

I'm pleased that Mr. Zabell has not opposed the pending motion for any reason. For good measure, I've also been retained by Melissa Zarda, the estate's other executor.

What I'm not pleased about is Mr. Zabell's tone in assuming the position of Judge to admonish you as to what evidence does and does not come into trial. He suggests we have a big in-person meeting to address this issue - in person, not over the phone. Perhaps he needs his voice to try to have its way with you - as if you had not tried more cases than both of us. Mr. Zabell has not set forth a specific *agenda* for this in-person powwow. Therefore I oppose it at this time. I imagine there should one day be an in-person conference, but at present the motion should be granted, and the order is not conditioned on Mr. Zabell's worries being assuaged about evidence. Let him say precisely what he is worried about and let's address it by the law and not some undefined in-person conference.

Don Zarda is dead, and I have the right to paint a reasonable portrait of him when he was alive, especially concerning the events of this lawsuit. I no longer have a living body, so I have to use other pieces of evidence. Because I believe in Don's case, and because there is sufficient evidence from many forms - including deposition transcript, pictures, videos, tapes, documents, exceptions to the hearsay rule, and evidence that is not hearsay - I'm taking on this challenge. But each of Mr. Zabell's evidentiary objections must stand on their own. I must also ask to add at least one witness - one of the executors, whom Mr. Zabell is free to request to depose - to the pre-trial order as well as some documents. Death of the plaintiff is good cause, and this issue may be discussed quickly on the phone. (Basically, Bill Moore will testify to what he saw of Don, as a damages witness. Melissa Zarda from Kansas, if she comes, may read the deposition. If I put her on the stand, I would of course want to ask her a few background questions and questions about Don - very little.)

We've gotten this far after Don's death. Let's take things step by step from here and I personally - though the decision is yours - do not see a need for an in person

conference at this time, especially when Mr. Zabell does not share the issues he would like to discuss at said conference in detail.

I strenuously oppose any reargument as to summary judgment, although I am all but sure that I will drop the minimum wage claim. I might be able to construct admissible evidence to prove that claim, but I believe it would not be worth the effort.

Sincerely,

/s/

Gregory Antollino

Cc: Saul Zabell