

**UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT**

VERIFIED ITEMIZED BILL OF COSTS

| | | |
|--|---|---|
| THIS SECTION MUST BE COMPLETED BY COUNSEL | | |
| CASE TITLE: Zarda, v. Altitude Express, et ano. | USCA DOCKET NUMBER: 15-3775 | COUNSEL'S NAME: Gregory Antollino |
| | DISTRICT/AGENCY: EDNY | COUNSEL'S ADDRESS: 275 Seventh Avenue, Ste 705 New York, NY 10001 |
| | DISTRICT/AGENCY NUMBER: 10-4334 (JFB) | DATE: March 8, 2018 |

Counsel for
Plaintiff-Appellant

respectfully submits, pursuant to FRAP 39 (c) the within bill of costs and requests the Clerk to prepare an itemized statement of costs taxed against the

Defendants-Appellees

and in favor of

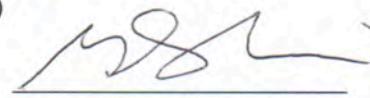
Plaintiff-Appellant

for insertion in the mandate.

| | |
|--|--------|
| Docketing Fee | 505 |
| Costs of printing appendix (necessary copies <u>15</u>) | 2402 |
| Costs of printing brief (necessary copies <u>15</u>) | 494 |
| Costs of printing reply brief (necessary copies <u>2</u>) | 199.80 |

(The total is 3,600.80, but we ask for an additional amount of 501.80 for color copies that were part of the District Court record and the joint appendix.)

(VERIFICATION HERE)


Gregory Antollino
Signature

Sworn to before me on 8 March 2018

Sworn and subscribed to the within bill of costs on 8 day of March, 2018.

S

Yokasta Yvelisse Suriel

YOKASTA YVELISSE SURIEL
Notary Public - State of New York
NO. 01SU6270740
Qualified in Kings County
My Commission Expires Oct 22, 2020

UNITED STATES COURT OF APPEALS
SECOND CIRCUIT

-----)(
ESTATE OF ZARDA,

Plaintiff-Appellant,

-against-

ALTITUDE EXPRESS, et ano.

Defendants-Appellees

-----)(

GREGORY ANTOLLINO, an attorney admitted to this court who represents,

with Steven Bergstein, on appeal and en banc review, does hereby declare under penalty of perjury of the United States as follows:

**DECLARATION IN
SUPPORT OF
BILL OF COSTS**

15-3775

1. This was an appeal of a federal summary judgment motion under Title VII (and, at the panel stage, a trial under the New York State Human Rights Law). Insofar as the plaintiff estate obtained no relief under its state claim from the panel appeal, it will not seek any costs for the panel appeal. We ask that costs for plaintiff-appellant be included in the Mandate in the amount of \$3600.80 as described below, merely for the en banc portion, and ask for a small additional amount for color copies.

2. Federal Rule of Appellate Procedure 39(a)(4) allows the Court to decide whether costs are taxable if there is an affirmance in part and reversal in part. We believe it would be fair to tax defendants the Executor’s costs for the en banc portion of this appeal. This would be reasonable because costs for the en banc review were not insubstantial, and appellants prevailed on a question of law allowing us a new trial under Title VII, with substantially more relief available to plaintiff (and to other similarly situated plaintiffs). We expended the following in order to reach the result in Zarda v.

Altitude Express, 15-3775 (en banc, February 26, 2018): 15 copies of the brief; 15 copies of three volumes of the Appendix; and 2 copies of the reply brief; plus the filing fee.

3. Plaintiff used Fedex/Kinko's for 13 of the reply briefs, whose cost was nominal, and we will waive it. We ask only for the 2 reply briefs that were printed by Cockle Briefs, whose statement is attached as an Exhibit.¹ Cockle is the most cost-effective appellate printer in the country, I have found. We could not have used Fedex/Kinko's to complete the initial round of briefing.

4. The Exhibit includes a compendium of each document that Cockle charged, and we paid for this printing. We have calculated the rate under the Court's Fee Schedule, but we ask for the actual amount expended because color copies increased the cost by about \$500.

5. For clarification purposes, the reason Cockle, in the first bill, bills only 6 copies, then 6 more, then 2 more is that, first, someone unnamed from the Clerk's office originally said we needed only 6 briefs. This seemed too good to be true, and it was; the case manager was on vacation, the information incorrect, and we were told to file an additional 7 of everything to make 13. We did that. Then, again, the clerk requested an additional two copies of everything in or about the end of June/early July 2017. Additionally, although the Cockle bill says "Brief (Corrected)" only the corrected Opening Brief was published since the case manager bounced the original electronic brief for incorrect pagination printing. Cockle did not bill us for nor do we ask costs of the uncorrected brief.

¹ At the conclusion of briefing, the Clerk requested two extra copies of every document, which explains why only two of fifteen reply briefs were done by Cockle.

6. I used my own FedEx shipping number for shipping, thus the entry on the exhibit for “proofs and postage” charges are only for proofs.

7. Because these documents came in three waves, and were billed by date, it is difficult to extricate how much the Opening Brief and special appendix cost specifically, and the appendices, and the reply, but they are supported by receipts and calculated using the Court’s Fee Schedule.

8. The filing fee of \$505 is set by statute, and we could not have obtained the result we did without paying it. There were no other charges from the Court.

9. For these reasons, plaintiff-appellant asks for costs solely for en banc rehearing and not the panel appeal insofar as we did not seek en banc review of the trial determination, which obviated the need for all but a few pages of the trial transcript on the en banc.

10. We think this is fair and reasonable and hope the Court will enter costs in the amount of at least \$3,600.80, which includes (1) the filing fee; (2) the 15 copies of the Opening brief (with Special Appendix); (3) the Joint Appendices from Cockle Briefs; and (4) 2 copies of the reply brief from Cockle. The divisions on the verified bill, plus the known filing fee, add up to this amount, although we spent more as indicated by the receipt attached.

11. I separated on the verified bill of costs as follows:

- Brief and special appendix, 15 copies of a 97-page document, 1 binding and one cover;
- The Joint Appendix Volumes I and II: 15 of these volumes of 300 pages each (plus 5 pages table of contents), 1 binding each and one cover each. Two hundred

eighty-eight of these pages of one of these volumes were printed in color, at a total cost of \$720. We believed it important if not essential to include color copies of the specific events that led to plaintiff's termination, and spent this money wisely, whether or not there is an objection. We ask for this additional expense if the Court allows it.

- Joint Appendix Volume III: 15 copies of 15 of these volumes of 119 pages each (plus 5 pages table of contents), 1 binding each and two covers each.
- Reply brief: Only two of the fifteen volumes filed are billed: 27 pages, 1 covers; 2 bindings.

12. Plaintiff-Appellant asks for the entire amount expended at Cackle but waives the 13 printed by Kinko's. However, if the Fee Schedule is used, it should come to \$494 for the Brief and Special Appendix; \$2402 for the Joint Appendices (not including color); and \$199.80 for the reply brief. With the filing fee of \$505, plaintiff-appellant would be entitled to \$3,600.80, which is somewhat less than what was actually billed. We ask for the total amount of \$4,102.60, however, which is more than the fee schedule because of the color copies in the record.

13. For these reasons, plaintiff asks that the Court tax costs that the Court finds reasonable under the circumstances.

Dated: New York, New York
March 8, 2018

Greg S. Antollino

GREGORY ANTOLLINO, ESQ.

11:54 am

Cockle Legal Briefs

Order Entry Invoice Detail Report

Customers ANTOLL to ANTOLL

(Report period: June 26, 2017 to August 23, 2017)

| Inv. # | Customer ID | Name/Invoice Description | Invoice Information | | | |
|--------|-------------|---|---------------------|----------|------------------|---------|
| 43897 | ANTOLL | GREGORY ANTOLLINO GREGORY ANTOLLINO | Inv date: | 06/26/17 | Rep: | |
| | | | Ord Date: | 06/26/17 | Order #: | 43930 |
| | Item | Description | SA | Qty | Price | Amount |
| | LAW BRIEFS | #15-3775; ZARDA, ET AL. v. ALTITUDE EXPRESS, ET AL. | 9 | 1 | 1067.00 | 1067.00 |
| | Comment(V) | JOINT APPENDIX VOLS I-III | | | | |
| | | | | | Invoice subtotal | 1067.00 |
| | | | | | Proofs & Postage | 10.00 |
| | | | | | Invoice Total | 1077.00 |
| 43911 | ANTOLL | GREGORY ANTOLLINO GREGORY ANTOLLINO | Inv date: | 06/28/17 | Rep: | |
| | | | Ord Date: | 06/28/17 | Order #: | 43943 |
| | Item | Description | SA | Qty | Price | Amount |
| | LAW BRIEFS | 9 COPIES; #15-3775; ZARDA, ET AL. v. ALTITUDE EXPRESS, ET AL. | 9 | 1 | 297.20 | 297.20 |
| | Comment(V) | PLAINTIFF-APPELLANT'S BRIEF AND SPECIAL APPENDIX (CORRECTED) | | | | |
| | | | | | Invoice subtotal | 297.20 |
| | | | | | Invoice Total | 297.20 |
| 43918 | ANTOLL | GREGORY ANTOLLINO GREGORY ANTOLLINO | Inv date: | 06/28/17 | Rep: | |
| | | | Ord Date: | 06/28/17 | Order #: | 43950 |
| | Item | Description | SA | Qty | Price | Amount |
| | LAW BRIEFS | #15-3775; ZARDA v. ALTITUDE EXPRESS, ET AL. | 9 | 1 | 1677.80 | 1677.80 |
| | Comment(V) | 6 COPIES OF PLAINTIFF- APPELLANT'S BRIEF AND SPECIAL APPENDIX | | | | |
| | Comment(V) | 9 COPIES OF THE JOINT APPENDIX VOLS I-III | | | | |
| | | | | | Invoice subtotal | 1677.80 |
| | | | | | Invoice Total | 1677.80 |

11:54 am

Cockle Legal Briefs

Order Entry Invoice Detail Report

Customers ANTOLL to ANTOLL

(Report period: June 26, 2017 to August 23, 2017)

| Inv. # | Customer ID | Name/Invoice Description | Invoice Information | | | |
|------------|--|--|---------------------|------------------|----------|-------|
| 44151 | ANTOLL | GREGORY ANTOLLINO GREGORY ANTOLLINO | Inv date: | 08/23/17 | Rep: | |
| | | | Ord Date: | 08/23/17 | Order #: | 44183 |
| Item | Description | SA | Qty | Price | Amount | |
| LAW BRIEFS | #15-3775; ZARDA, ET AL. v. ALTITUDE EXPRESS, ET AL. | 9 | 1 | 545.60 | 545.60 | |
| Comment(V) | 2 COPIES OF REPLY BRIEF | | | | | |
| Comment(V) | 2 COPIES OF BRIEF WITH SPECIAL APPENDIX | | | | | |
| Comment(V) | 2 COPIES OF JOINT APPENDIX VOLS I-III | | | | | |
| | | | | Invoice subtotal | 545.60 | |
| | | | | Invoice Total | 545.60 | |
| | | | | Report Total | 3597.60 | |

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 E-Mail: contact@cocklelegalbriefs.com

Invoice

Customer No.: ANTOLL
 Invoice No.: 43897

Bill To: **GREGORY ANTOLLINO**
 275 7TH AVE
 STE 705
 NEW YORK, NY 10001

Ship To: **GREGORY ANTOLLINO**
 212.334.7397
 TG

| Date | Ship Via | F.O.B. | Terms | | |
|-----------------------|------------|--------------|------------------|------------|--------|
| 06/26/17 | | Origin | Net 30 | | |
| Purchase Order Number | Order Date | Sales Person | Our Order Number | | |
| 34767 | 06/26/17 | | 43930 | | |
| Quantity | | Item Number | Description | Unit Price | Amount |
| Required | Shipped | | | | |

| | | | | | | |
|---|---|--|------------|---|---------|---------|
| 1 | 1 | | LAW BRIEFS | #15-3775; ZARDA, ET AL. v. ALTITUDE EXPRESS, ET AL. JOINT APPENDIX VOLS I-III | 1067.00 | 1067.00 |
|---|---|--|------------|---|---------|---------|

| | |
|------------------------|---------|
| Invoice subtotal | 1067.00 |
| Proofs & Postage | 10.00 |
| Invoice total | 1077.00 |
| Less payments received | 890.00 |
| Net balance due | 187.00 |

Following are the additional charges for items requiring extra services or quantities other than the standard or minimum order.

Overtime charges will be made when, in our estimation, we are not allowed sufficient time to complete your brief during our regular working hours. The charge for overtime is \$50 per hour per person, in addition to the regular brief charge. Sundays and holidays - \$75 per hour.

A charge of \$50 per hour will be made for any alterations, repaging or extra work required by the customer.

An extra charge per page will be made for such things as difficult-to-read copy, copy in longhand, etc.

Pages "killed" (set up but discarded) by attorneys will be charged at \$13 per page.

Footnotes are charged at 90¢ per line (extra). Tabular matter, or copy that might require greater time, effort or skill than needed for the average law brief, will be charged at \$50 per hour (extra).

Reproduced exhibits are \$31.90 per page. Larger exhibits that must be reproduced and folded in are \$34.90 per page.

For a brief of over 70 pages, perfect binding (hot glue) will be required at an additional cost.

When an extra set of proofs is required, there will be an additional charge, depending on brief length.

Extra copies of the printed brief are charged at 10¢ per page, per copy up to 150 extra copies and 7¢ thereafter.

Normally, if needed, we can send proofs (up to 35 pages) the same day, when your copy arrives in our office by 10:00 a.m. Central Time, with no overtime. Advance scheduling will save on *possible* additional costs.

We require a down payment of the estimated cost. Pro se cases require full payment in advance of printing.

**We print law briefs for you, the attorney.
Therefore, you are responsible for payment. We do not extend terms of credit to your client.**

The attorney has the responsibility for determining and meeting their brief's filing deadline.

*United States Supreme Court Briefs - \$21.90 per page - 50 copies. Cover and index pages are charged as two pages each.

Reproduced briefs or appendices are done at \$9.50 per page for 50 copies.

* \$2.00 savings per page (excluding cover and index which are charged as 2 pages each) when copy is sent in Word or WordPerfect format.

| Qty | Item | Amt. | Charge |
|--------------------------------|-------------------|--------|-----------------|
| ITEMIZED CHARGES | | | |
| Qty | Item | Amt. | Charge |
| 1 | Additional Proofs | | 5.00 |
| 1.5 | Alterations | 50.00 | 75.00 |
| 3 | PDF File | 25.00 | 75.00 |
| 1 | Base Cost | 200.00 | 200.00 |
| 6 | Printing Vol I | 30.70 | 184.20 |
| 6 | Printing Vol II | 30.70 | 184.20 |
| 6 | Printing Vol III | 12.60 | 75.60 |
| 18 | Binding | 1.00 | 18.00 |
| 5 | Typeset TOC | 50.00 | 250.00 |
| Total ITEMIZED CHARGES: | | | 1,067.00 |

MAILING

| Qty | Who | How Sent | Charge |
|------------------------|----------|-----------------------|-----------------|
| 18 | Clerk | FedEx Priority | |
| 0 | Service | | |
| 0 | Attorney | | |
| 0 | Courtesy | | |
| 0 | Return | 1st Class | |
| | | Proofs Shipping Cost: | 10.00 |
| Total Postage: | | | 10.00 |
| Total: | | | 1,077.00 |
| Less Downpayment: | | | -890.00 |
| Invoice Amount: | | | 187.00 |

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Invoice

Customer No.: ANTOLL
 Invoice No.: 43911

Bill To: **GREGORY ANTOLLINO**
 275 7TH AVE
 STE 705
 NEW YORK, NY 10001

Ship To: **GREGORY ANTOLLINO**
 212.334.7397
 TG

| Date | Ship Via | F.O.B. | Terms | | |
|-----------------------|----------------|--------------|------------------|------------|--------|
| 06/28/17 | Fed Ex Economy | Origin | Net 30 | | |
| Purchase Order Number | Order Date | Sales Person | Our Order Number | | |
| 34810 | 06/28/17 | | 43943 | | |
| Quantity | | Item Number | Description | Unit Price | Amount |
| Required | Shipped | | | | |

| | | | | | | |
|---|---|--|------------|---|--------|--------|
| 1 | 1 | | LAW BRIEFS | 9 COPIES; #15-3775; ZARDA, ET AL. v. ALTITUDE EXPRESS, ET AL. PLAINTIFF-APPELLANT'S BRIEF AND SPECIAL APPENDIX (CORRECTED) | 297.20 | 297.20 |
|---|---|--|------------|---|--------|--------|

| | |
|------------------------|--------|
| Invoice subtotal | 297.20 |
| Invoice total | 297.20 |
| Less payments received | 297.20 |
| Net balance due | 0.00 |

Following are the additional charges for items requiring extra services or quantities other than the standard or minimum order.

Overtime charges will be made when, in our estimation, we are not allowed sufficient time to complete your brief during our regular working hours. The charge for overtime is \$50 per hour per person, in addition to the regular brief charge. Sundays and holidays - \$75 per hour.

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| Qty | Item | Amt. | Charge |
|--------------------------------|-----------|----------------|----------------|
| ITEMIZED CHARGES | | | |
| Qty | Item | Amt. | Charge |
| 1 | Base Cost | 200.00 | 200.00 |
| 9 | Printing | 9.80 | 88.20 |
| 9 | Binding | 1.00 | 9.00 |
| Total ITEMIZED CHARGES: | | | 297.20 |
| MAILING | | | |
| Qty | Who | How Sent | Charge |
| 6 | Clerk | FedEx Standard | |
| 0 | Service | | |
| 3 | Attorney | FedEx Standard | |
| 0 | Courtesy | | |
| 0 | Return | 1st Class | |
| Total: | | | 297.20 |
| Less Downpayment: | | | -297.20 |
| Invoice Amount: | | | 0.00 |

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Invoice

Customer No.: ANTOLL
 Invoice No.: 43918

Bill To: **GREGORY ANTOLLINO**
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 NEW YORK, NY 10001

Ship To: **GREGORY ANTOLLINO**
 212.334.7397
 TG

| Date | | Ship Via | | F.O.B. | | Terms | |
|-----------------------|---------|----------------|-------------|-------------|--------------|------------|------------------|
| 06/28/17 | | Fed Ex Economy | | Origin | | Net 30 | |
| Purchase Order Number | | | Order Date | | Sales Person | | Our Order Number |
| 34815 | | | 06/28/17 | | | | 43950 |
| Quantity | | | Item Number | Description | | Unit Price | Amount |
| Required | Shipped | B.O. | | | | | |

| | | | | | | | |
|---|---|--|------------|---|--|---------|---------|
| 1 | 1 | | LAW BRIEFS | #15-3775; ZARDA v. ALTITUDE EXPRESS, ET AL. 6 COPIES OF PLAINTIFF- APPELLANT'S BRIEF AND SPECIAL APPENDIX 9 COPIES OF THE JOINT APPENDIX VOLS I-III | | 1677.80 | 1677.80 |
|---|---|--|------------|---|--|---------|---------|

| | |
|------------------------|---------|
| Invoice subtotal | 1677.80 |
| Invoice total | 1677.80 |
| Less payments received | 1677.80 |
| Net balance due | 0.00 |

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| Qty | Item | Amt. | Charge |
|--------------------------------|------------------|----------------|------------------|
| ITEMIZED CHARGES | | | |
| Qty | Item | Amt. | Charge |
| 1 | Base Cost | 200.00 | 200.00 |
| 6 | Printing Brief | 9.80 | 58.80 |
| 9 | Printing Vol I | 30.70 | 276.30 |
| 9 | Printing Vol II | 30.70 | 276.30 |
| 9 | Printing Vol III | 12.60 | 113.40 |
| 288 | Color Pages | 2.50 | 720.00 |
| 33 | Binding | 1.00 | 33.00 |
| Total ITEMIZED CHARGES: | | | 1,677.80 |
| MAILING | | | |
| Qty | Who | How Sent | Charge |
| 0 | Clerk | FedEx Priority | |
| 0 | Service | | |
| 6 | Attorney | FedEx Standard | |
| 0 | Courtesy | | 0.00 |
| 0 | Return | 1st Class | |
| Total: | | | 1,677.80 |
| Less Downpayment: | | | -1,677.80 |
| Invoice Amount: | | | 0.00 |

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 Invoice No.: 44151

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 NEW YORK, NY 10001

Ship To: **GREGORY ANTOLLINO**
 212.334.7397
 TG

| Date | | Ship Via | | F.O.B. | | Terms | |
|-----------------------|---------|----------------|------------|-------------|--------------|------------|------------------|
| 08/23/17 | | Fed Ex Economy | | Origin | | Net 30 | |
| Purchase Order Number | | | Order Date | | Sales Person | | Our Order Number |
| 35089 | | | 08/23/17 | | | | 44183 |
| Quantity | | Item Number | | Description | | Unit Price | Amount |
| Required | Shipped | B.O. | | | | | |

| | | | | | | |
|---|---|--|------------|--|--------|--------|
| 1 | 1 | | LAW BRIEFS | #15-3775; ZARDA, ET AL. v. ALTITUDE EXPRESS, ET AL. 2 COPIES OF REPLY BRIEF 2 COPIES OF BRIEF WITH SPECIAL APPENDIX 2 COPIES OF JOINT APPENDIX VOLS I-III | 545.60 | 545.60 |
|---|---|--|------------|--|--------|--------|

| | |
|------------------------|--------|
| Invoice subtotal | 545.60 |
| Invoice total | 545.60 |
| Less payments received | 275.00 |
| Net balance due | 270.60 |

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Overtime charges will be made when, in our estimation, we are not allowed sufficient time to complete your brief during our regular working hours. The charge for overtime is \$50 per hour per person, in addition to the regular brief charge. Sundays and holidays - \$75 per hour.

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| Qty | Item | Amt. | Charge |
|--------------------------------|----------------------|----------------|---------------|
| ITEMIZED CHARGES | | | |
| Qty | Item | Amt. | Charge |
| 1 | Base Cost | 200.00 | 200.00 |
| 2 | Printing Brief/Add | 9.80 | 19.60 |
| 2 | Printing Reply Brief | 4.00 | 8.00 |
| 2 | Printing Vol I | 30.70 | 61.40 |
| 2 | Printing Vol II | 30.70 | 61.40 |
| 2 | Printing Vol III | 12.60 | 25.20 |
| 64 | Color Pages | 2.50 | 160.00 |
| 10 | Binding | 1.00 | 10.00 |
| Total ITEMIZED CHARGES: | | | 545.60 |
| MAILING | | | |
| Qty | Who | How Sent | Charge |
| 6 | Clerk | FedEx Standard | |
| 0 | Service | | |
| 0 | Attorney | | |
| 0 | Courtesy | | |
| 0 | Return | 1st Class | |
| Total: | | | 545.60 |
| Less Downpayment: | | | -275.00 |
| Invoice Amount: | | | 270.60 |