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June 26, 2012

VIA ELECTRONIC CASE FILING

The Honorable Joseph F. Bianco
United States District Court 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 is counsel to Defendants in the above-referenced action. We respectfully submit the following in response to our adversary's June 22, 2012 submission wherein it is alleged that I somehow "poisoned" a potential witness "against" Mr. Antollino. [ECF Document No.: 73]. While ordinarily, I would be willing to disregard such stream of consciousness ramblings as the familiar byproduct of Mr. Antollino's mounting frustration with his fast-fading case, the inflammatory nature of its content requires a response.

Needless to say, Mr. Antollino's submission, not unlike his client's case, is devoid of objective, factual evidence. In the absence of which, counsel weaves a fantastical tale of purported witness tampering or coercion in an effort to support a construct of his own design. While if true, the allegations contained within his letter would be noteworthy, the fact remains the submission is based upon rank supposition designed to create the inference I engaged in some act of impropriety. Nothing could be further from the truth. Importantly, even if Mr. Antollino's fable was in fact true, it is beyond contestation that any testimony elicited from Ms. Megneco regarding the attitudes or mores of Mr. Maynard would be inadmissible at trial. Any attempt by Mr. Antollino to prove his client's ever-mounting burden of proof with the use of propensity-based evidence is a wasteful pursuit that will invariably result in the unnecessary expenditure of judicial resources.

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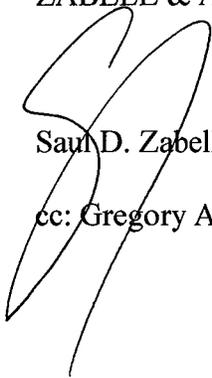
Of equal implausibility are counsel's arguments regarding hours which Plaintiff was allegedly "on call". The deposition pages conclusively demonstrate Plaintiff was free to come and go while he was not jumping. In fact, Plaintiff testified that geographical limitations and the relative absence of activity in the immediate vicinity of Defendants' business resulted in his remaining on site in between jumps. Consequently, records evidencing days in which Plaintiff did not perform any jumps would not lead to the discovery of admissible evidence.

Lastly, despite the fact the parties largely remain at impasse with respect to these open issues, I am encouraged by the fact for the first time in recent memory, Mr. Antollino's submission does not call for the imposition of judicial sanctions or call for my referral to the office of the U.S. Attorney in the Eastern District. Clearly, our relationship is on the upswing.

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

Respectfully submitted,

ZABELL & ASSOCIATES, P.C.



Sam D. Zabell

cc: Gregory Antollino, Esq. (via electronic case filing)