

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

-----X

DONALD ZARDA,

DECLARATION

Plaintiff,

-against-

10-cv-04334-JFB

**ALTITUDE EXPRESS, INC.,
dba Skydive Long Island, and RAY MAYNARD,**

Defendants.

-----X

GREGORY ANTOLLINO, an attorney admitted to this state and district does hereby declare under penalty of perjury as follows:

1. I represent plaintiff herein and make the declaration in further support of his motion to deem the testimony and report of Kenji Yoshino admissible and the attached documents concern only the payment of fees to Professor Yoshino.
2. Attached as Exhibit 1 is the subpoena I received from Saul Zabell to be served on Mr. Yoshino.
3. Attached as Exhibit 2 is my request to Mr. Zabell to push the deposition forward on day.
4. Attached as Exhibit 3 is Zabell's declination of that proposal.
5. Attached as Exhibit 4 is Mr. Zabell's indication a few days from the deposition, that he no longer wanted to go forward with the deposition.

Dated: New York, New York
July 19, 2012

/s/
GREGORY ANTOLLINO

Counseling and Advising Clients Exclusively on Laws of the Workplace

Z **Zabell & Associates, P.C.**
EMPLOYMENT COUNSELING, LITIGATION, LABOR & BENEFITS LAW

ZABELL & ASSOCIATES, P.C.
1 CORPORATE DRIVE
SUITE 103
BOHEMIA, NEW YORK 11716
TEL. 631-589-7242
FAX. 631-563-7475
www.Laborlawsny.com

Saul D. Zabell
SZabell@laborlawsny.com

May 18, 2012

VIA ELECTRONIC MAIL

Gregory Antollino, Esq.
18-20 West 21st Street, Suite 802
New York, NY 10010

Re: Zarda v. Altitude Express, Inc., et al.
Case No.: CV-10-4334 (JFB)(ARL)

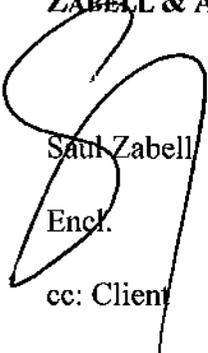
Dear Mr. Antollino:

Pursuant to Fed. R. Civ. P. 45 enclosed please find a subpoena *ad testificandum* which we intend to serve upon Kenji Yoshino on Wednesday May 23, 2012.

Kindly contact me should you have further questions regarding the enclosed.

Very truly yours,

ZABELL & ASSOCIATES, P.C.



Saul Zabell

Encl.

cc: Client

AO 88A (Rev. 06/09) Subpoena to Testify at a Deposition in a Civil Action

UNITED STATES DISTRICT COURT

for the

Eastern District of New York

DONALD ZARDA

Plaintiff

v.

ALTITUDE EXPRESS, INC., d/b/a SKYDIVE LONG ISLAND, and RAY MAYNARD

Defendant

Civil Action No. CV 10-4334 (JFB)(ARL)

(If the action is pending in another district, state where:)

SUBPOENA TO TESTIFY AT A DEPOSITION IN A CIVIL ACTION

To: Kenji Yoshino
New York University School of Law, 40 Washington Square South, New York, NY 10012

Testimony: YOU ARE COMMANDED to appear at the time, date, and place set forth below to testify at a deposition to be taken in this civil action. If you are an organization that is not a party in this case, you must designate one or more officers, directors, or managing agents, or designate other persons who consent to testify on your behalf about the following matters, or those set forth in an attachment:

Place: Zabell & Associates P.C.
1 Corporate Drive, Suite 103
Bohemia, New York 11716

Date and Time:
06/11/2012 10:00 am

The deposition will be recorded by this method: Stenographer

Production: You, or your representatives, must also bring with you to the deposition the following documents, electronically stored information, or objects, and permit their inspection, copying, testing, or sampling of the material:

Any and all documents used and/or referred to in production of the Expert Report of Kenji Yoshino (including fees for services rendered and invoices) generated in connection with the above-referenced matter.

The provisions of Fed. R. Civ. P. 45(c), relating to your protection as a person subject to a subpoena, and Rule 45 (d) and (e), relating to your duty to respond to this subpoena and the potential consequences of not doing so, are attached.

Date: 05/18/2012

CLERK OF COURT

OR

Signature of Clerk or Deputy Clerk

Attorney's signature

The name, address, e-mail, and telephone number of the attorney representing (name of party) Defendants

ALTITUDE EXPRESS, INC., d/b/a SKYDIVE LONG ISLAND, et al., who issues or requests this subpoena, are:
Saul D. Zabell, Zabell & Associates P.C., 1 Corporate Drive, Suite 103, Bohemia, New York 11716
SZabell@Nylaborlaws.com
(631)-589-7242

Wednesday, July 18, 2012 5:52 PM

Subject: Re: Zarda v. Altitude Express, Inc., et al.
Date: Monday, June 4, 2012 7:06 PM
From: Gregory Antollino <gregory10010@verizon.net>
To: "SZabell@laborlawsny.com" <SZabell@laborlawsny.com>

Mr. Zabell, the date of the deposition is fine, though I chose the 11th because I have a small conference during that day before Magistrate Pitman at 2. M. Pitman's initial conferences are informal, speedy affairs, and I wonder whether I can obtain your consent to conduct the conference during the deposition. I will represent your position to the court, making sure that you limit your consent to twenty minutes (and, in this standard case, it won't take that long). Please let me know right away so that I might make other proposals in case you are unwilling to consent. Do not feel the need to scan a letter in response, as it will delay my knowledge of your response.

Thanks,

Greg Antollino

On 5/24/12 10:30 AM, "mwalsh@laborlawsny.net" <mwalsh@laborlawsny.net> wrote:

Please see attached from Saul Zabell.

Mark Walsh, Paralegal Please direct questions regarding this Email to Saul D.

Zabell Zabell & Associates, PC

1 Corporate Drive

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f=q&hl=en&geocode=&q=945+E+Jericho+Turnpike,+Huntington,+New+York
+11746&sll=37.0625,-95.677068&sspn=42.310334,82.265625&ie=UTF8&z=16&iwloc=addr&om=1>

Bohemia, NY 11716 **Office: 631-589-7242**

E-mail: SZabell@laborlawsny.com <mailto:SZabell@laborlawsny.com>

Fax: 631-563-7475 Please direct all questions regarding this

Email to Saul D. Zabell Website: LaborLawsNY.com

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Saul D. Zabell
SZabell@laborlawsny.com

May 24, 2012

VIA ELECTRONIC MAIL

Gregory Antollino, Esq.
18-20 West 21st Street, Suite 802
New York, NY 10010

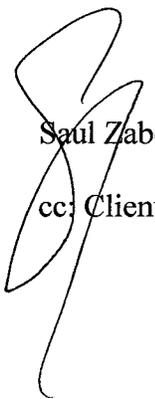
Re: Zarda v. Altitude Express, Inc., et al.
Case No.: CV-10-4334 (JFB)(ARL)

Dear Mr. Antollino:

We are in receipt of your response to our letter of March 18, 2012. We are not available for the date you proposed and request you provide alternate dates on which your expert is available. Furthermore, we do not consent to conducting the deposition in any location other than our office. We await your response.

Very truly yours,

ZABELL & ASSOCIATES, P.C.


Saul Zabell

cc: Client

Wednesday, July 18, 2012 5:55 PM

Subject: Re: Zarda v. Altitude Express, Inc., et al.

Date: Tuesday, June 5, 2012 8:29 AM

From: SZabell@laborlawsny.com <SZabell@laborlawsny.com>

To: Gregory Antollino <gregory10010@verizon.net>

I've decided to hold off on the deposition until we get some clarification from the court. I am considering a motion on the issue. Will you consent to striking your "experts" report?

Sent from a remote location.

Please Note Our New Address

Saul D. Zabell

Zabell & Associates, P.C.

1 Corporate Drive, Suite 103

Bohemia, New York 11716

On Jun 4, 2012, at 7:06 PM, "Gregory Antollino" <gregory10010@verizon.net> wrote:

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Saul D. Zabell **Zabell & Associates, PC**

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E-mail: SZabell@laborlawsny.com

<<mailto:SZabell@laborlawsny.com>>

Fax: 631-563-7475 Please direct all questions

regarding this Email to Saul D. Zabell **Website:**

LaborLawsNY.com <<http://LaborLawsNY.com>>

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