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September 10, 2012

U.S. District Judge Joseph F. Bianco
Long Island Federal Courthouse
814 Federal Plaza
Central Islip, New York 11722

RE: Zarda v. Altitude Express, Inc. & Ray Maynard, 10 Civ 4334 (JFB)

Dear Judge Bianco:

I represent plaintiff in this case and ask that Mr. Zabell's request for a surreply be denied. Mr. Zabell has made numerous ad hominem attacks against me, including insulting my attire, accusing my associate of being unprepared, calling my client a musclehead on the record, referring to my arguments as "streams of consciousness," and much much more. His sur-reply will not help the issues before the Court, and I am not asking for sanctions. I mentioned Mr. Zabell's other case – which I only learned about in August – in which he cancelled a doctor's deposition at the last minute, to point out a pattern – that in addition to Professor Yoshino's deposition being cancelled at the last minute, and his multiply changing dates for depositions in this case, he has caused my client additional expense, as well as been discourteous to his adversary's schedules. The weight of such argument will not decide the motion, and you are free to ignore it. A sur-reply, on the other hand, will just make tensions increase, and make things worse.

For my part, I promise will not in the future mention any other cases in which Mr. Zabell has been accused of misconduct. As an explanation, however, early on in this litigation, you did ask the question as to why Mr. Zabell and I couldn't get along. Perhaps in my zeal to protect my client (and myself) I've tried to hard to show that the breakdown has not been my fault.

Sincerely,

/s/

Gregory Antollino

Cc: Saul Zabell by ecf