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September 10, 2012

VIA ELECTRONIC CASE FILING

The Honorable Joseph F. Bianco
United States District 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 opposition to plaintiff's letter to the court of September 7, 2012 [ECF Document No.: 89].

Preliminarily, we note Mr. Antollino failed to meet and confer with our office prior to filing his application in contravention of Local Rule of Practice 37.1 rendering his submission defective. Counsel's inflammatory rhetoric aside, the parties are at odds over the terms and conditions of a proposed Stipulation of Confidentiality governing the production of certain material in discovery, nothing more. While it is true the parties are at impasse, we will not abandon legitimate arguments, all of which adopted to protect our clients' interests, just to satiate Mr. Antollino's ever-expanding appetite for confrontation.

We can confirm we are in possession of two videos the content of which is responsive to counsel's request (jump safety / legal release and summer 2010 jumps). However, we maintain an interest in protecting the confidential nature of the discs as their content is not part of the public domain. Upon submission, the parties have thus far been unable to resolve issues surrounding the burden challenging and/or defending a confidentiality designation and the timing associated with such challenges.



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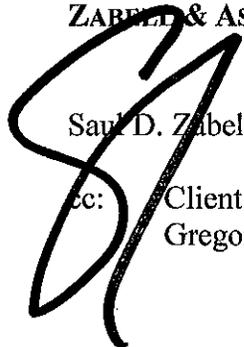
Additionally, we can confirm our client is not in possession of any complaint other than that filed by plaintiff in this action. Similarly, our client does not maintain "sign in sheets" or any schedules or records of days in which Tandem Masters, like plaintiff herein, did not jump. We are in the process of obtaining an Affidavit to this effect from defendant's principal and expect to file same with the court within the next seven (7) business days.

Notwithstanding the foregoing, a copy of defendants' employee handbook will be forwarded to Mr. Antollino's office under separate cover. Consequently, the lone open issue remains the terms and conditions of the proposed Stipulation of Confidentiality, an issue which we are confident can be resolved with the court's assistance.

We remain available should you have any further questions regarding this submission.

Respectfully submitted,

ZABELL & ASSOCIATES, PC



Saul D. Zabell

cc: Client
Gregory Antollino, Esq. (via ECF)