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December 7, 2020

Judge Sandra J. Feuerstein
United States District Court
100 Federal Plaza
Central Islip, NY 11722

Re: Estate of Zarda v. Altitude Express, 10-4334 (SJF)

Dear Judge Feuerstein:

I write only on a procedural matter for clarification. In our last conference, we discussed a motion to amend the complaint. You did say that assuming the motion was granted, I would have to serve Mr. Maynard with the new complaint. I have no problem with that, but we did not address where to serve the motion to amend. (I accept that the issue of Altitude Express as a party is now a null issue, except for the successor-in-interest.)

There was no motion nor order to relieve Mr. Zabell from representing Mr. Maynard, and Mr. Zabell's name is still on the docket as the attorney to be noticed. Of course, there are rules governing withdrawals and ethical considerations for me in serving a party that is officially represented by counsel. I addressed this with Mr. Zabell and his associate Mr. Riesenbach. Mr. Zabell considers himself relieved. I take no position on whether he should be relieved and won't oppose an application to that end, but if Mr. Zabell is not terminated as counsel on the record, it would not be proper for me to serve Mr. Maynard with the motion. I had always accepted that if you granted the motion to amend the complaint with Mr. Maynard as the successor in interest to Altitude Express, I would serve Mr. Maynard with the new complaint. But for Mr. Zabell to disclaim representation of Mr. Maynard without following a semblance of the procedure governing departing counsel (or an order), it puts me in a situation that sidles against ethical responsibilities.

I am happy to address the costs issue – which Mr. Maynard is personally liable for as one of the parties on appeal – in the final incarnation of the lawsuit. I won't oppose a motion that Mr. Zabell be relieved. But in my belief, he must be formally relieved before I contact Mr. Maynard, including serving papers on him. I would ask you to correct me, clarify, or entertain Mr. Zabell's implicit desire to be relieved before I file the motion to amend. I'm just trying to do this properly. Thank you for your consideration.

Sincerely,

Greg S. Antollino

Gregory Antollino

CC: Saul Zabell by ECF