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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:

In response to Mr. Zabell's letter: We know Mr. Maynard won the state law cause of action, which has a different standard of proof than under Title VII. However, Maynard was a party at the Supreme Court level, which makes him part of the instant litigation on costs, personally. Were it not for that, and we proceeded simply with the amendment, I might agree with Mr. Zabell. Mr. Maynard still has residual liability on the earlier judgment because he decided to appeal to the U.S. Supreme Court, which awarded plaintiffs costs. That is Mr. Maynard's liability in the Title VII case without reference to the successor-in-interest issue. Of course, if Mr. Maynard were simply to pay Stanford Law School the costs awarded by the Supreme Court, it would be different. But despite requests that Mr. Maynard pays those costs, he has refused. I made several requests through Mr. Zabell, who fought the imposition of costs with the Clerk of the Supreme Court, to pay them. Mr. Maynard still has liability on the existing complaint (which he might not have had to incur if he had elected not to be a party on appeal.)

If Maynard still has that residual liability, and if Mr. Zabell has not been relieved, Maynard should pay the costs, and the issue will be moot. But I have failed in achieving the minor concession that Stanford be reimbursed its costs. Now, Mr. Zabell states he would probably represent Mr. Maynard were the matter to move forward with him as successor in interest. Therefore, in addition to injecting another level of procedural layer, my ethical obligation, without Mr. Zabell relieved, is to serve the amendment papers on Mr. Zabell. It is appropriate, most expeditious, and under the realm of the standard rules of procedure – and attorney ethics.

If there is an intermediate solution, please let me know. I don't see how I can serve motion papers on Mr. Maynard if he has a lawyer representing him in court now, where Maynard is liable at least for the costs. I only want to follow proper procedures when an attorney has not been relieved. I understand that if Mr. Maynard were to be substituted for Altitude Express, that would make him a different party (in-kind), and I would serve him with that amendment. But there is still a live controversy on the current complaint that doesn't go away because Maynard won the jury verdict under the state law – he was a party at the Supreme Court and Circuit levels. This issue would go away if Maynard just paid the costs. He won't do that – as communicated by Mr. Zabell; the ethical rules prescribe that I serve Mr. Zabell with the amendment motion. That's how I see it, and I don't want to do something ethically questionable – for me or Mr. Zabell. Again, if I am missing something, please clarify. I would rather have the costs paid, which would moot the whole issue I present. However, the expenses on the current complaint are unpaid, and I want to proceed

appropriately.

Thank you for your consideration.

Sincerely,

Greg S. Antollino

Gregory Antollino

CC: Saul Zabell by ECF