

Gregory Antollino, Esq.
275 Seventh Avenue Suite 705
New York, NY 10001
(212) 334-7397

October 7, 2015

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 don't know why Mr. Zabell thinks it necessary to file trial subpoenas with the Court. When he proposed to call Ms. Orellana and Mr. Kengle before jury selection, I noted to him that not only was the Courtroom wrong, but that plaintiff goes first. I have arranged my witnesses – three of whom are coming from out of state – to come in early in the trial. Plaintiff goes first, and Mr. Zabell cannot call a witness out of turn simply because he decided to serve a trial subpoena for the first day of trial. I have also subpoenaed Ms. Orellana and I intend to call her as a witness. Mr. Zabell is, once again, trying to gum up the works. Plaintiff goes first, and I told Mr. Zabell before he served the subpoena that do not intend to call her until the second or third day of trial, and certainly not during jury selection. Our first witness is Ira Helfand, who is coming in and staying over Monday night, his hotel room already booked. He will be ready to testify after opening statements, which won't be started while Ms. Orellana is waiting outside the courtroom. I fully object to defendant's attempt to hijack the trial with his witnesses, which he knows will not be called until plaintiff is ready.

I would ask that you remind Mr. Zabell that absent extraordinary circumstances – especially when I told him - the plaintiff gets to go first and call witnesses in the order in which he chooses. Additionally, a couple of evidentiary rulings may need to be made in advance of trial, including the issue of Don Zarda's termination in 1990. At the time, it was legal to discriminate against gay people. If the jury is instructed as much and you want to get into that, I'm ready to embrace it. If not, it should not be mentioned at all. I look forward to our tele-conference tomorrow to sort out these and other issues.

Sincerely,

/s/

Gregory Antollino

Cc: Saul Zabell