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Judge Joseph F. Bianco
U.S. District Judge
100 Federal Plaza
Central Islip, NY 11722

Dear Judge Bianco,

Hello again. I write with great humility. Winning the en banc is probably the greatest gift ever conferred on me in my career.

The week after I filed a request for a bill of reproduction costs with the Circuit, it was met with strong opposition from the defense in which Mr. Zabell also noted an intention to file a petition for certiorari.

Mr. Zabell and Skydive Long Island, Inc.¹ have both publicly supported the legal conclusion of the en banc court – SDLI has on its website and Mr. Zabell has said to the press. We know, however, that in the practice of Supreme Court litigation, there are lawyers who are dying to appear before the high court who are willing to take a case up for a losing party at no cost. I am speculating, but my suspicion is that where we are now.

The day after the costs petition (opposition and reply) was fully submitted, Mr. Zabell solicited from me a demand, suggesting there was little money to go around. I asked what SDLI's liability for this debt could be – and have asked repeatedly – but Mr. Zabell has remained mum. I nevertheless made the demand and was told that (after 7+ years of litigation) it was out of range. I don't know if the defense was willing to pay anything, but plaintiff deserves to know who is paying the bill. Is it just Ray Maynard or – as I suspect – did SDLI assume liability for Altitude Express' liabilities. We deserve to know this information just as much as we deserve to know if there is were an insurance policy.

¹ SDLI, Inc. is the successor in interest to Altitude Express, which changed its location to Shirley New York before this case went to trial, then after the appeal was filed. SDLI distanced itself from Altitude Express on its website after the ruling (took the pages down), but some screenshots I took are attached. Altitude Express moved to Shirley, NY before trial – 2014 or 2015. Altitude Express dis-incorporated, and Skydive Long Island registered as a corporation in 2016.

The mandate has issued and there is no stay. We are not asking for a trial date. What we ask for is simply the unredacted sales document that either disavows or assumes liability on Altitude Express. We will keep it confidential. You might also want to refer this to Magistrate Shields.

If our demand was too big, then perhaps we were wrongly assuming successor liability. This is an important question; I have taken cases to trial where there is no money to be taken and don't intend to do so here. The most important question in discussing settlement – and this would be a question that we should explore before certiorari is granted or denied – is the question of successor liability. There is certainly a document that addresses this question in the sale of Altitude Express, Inc. to Skydive Long Island, Inc. This document is not publicly available. If Mr. Zabell believes we are asking for too much, we need the sales document to know in what area settlement should be explored. Mr. Zabell is trying to hide behind Mr. Maynard as the sole defendant, but he refuses to tender the sales document.

I ask that it be tendered now. I need to advise my clients what money might be obtained at a new trial if cert is denied (or we win on the merits). At a new trial, compensation would include seven years of attorney's fees, punitive damages, a lower standard of proof (a single motivating factor under Title VII) plus the new rule of law announced in *Vasquez v. Empress Ambulance Serv.*, 835 F.3d 267 (2d Cir. 2016).

The defense has announced an intention to petition for certiorari, but it also solicited a demand. We will not be pushing this case to trial until the certiorari petition is filed, but there is no reason there cannot be limited discovery on this minor issue. You don't want to have this case on your docket for another seven years, and there is no reason not to use the time as we wait to explore this discrete issue.

Maybe a phone conference should be scheduled, and I am free until Friday except for Friday morning. Monday I must report for jury duty, but can confer during the lunch hour, 1-2:15.

Thank you for your consideration.

Sincerely,

Greg S. Antollino

Gregory Antollino

Cc: Saul Zabell, Stephen Bergstein



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BOOK NOW

to convince your mom that skydiving is safe, what the skydiving age limit is, and how to find a safe dropzone.



SKYDIVE LONG ISLAND SUPPORTS GAY RIGHTS AND THE LGBTQ COMMUNITY

"We hire our staff based on qualifications related to skydiving and hospitality. We do not discriminate based on sexual orientation, race, gender or religious affiliation. Personally, I have family members who are gay and it has always been my position to be supportive of gay rights and the LGBTQ community. We are all the same and we do not tolerate discrimination."

-Owner, Brian Erler



Long Island, NY - On February 26th, 2018, a federal appeals court in New York has ruled that employers cannot discriminate against workers based on their sexual orientation. **We fully support this ruling.**

This ruling stems from the alleged 2010 dismissal of Donald Zarda from Altitude Express dba Skydive Long Island. The case of Mr. Zarda has been cited following the Department of Justice's filing of court papers stating that a major federal civil rights law does not protect employees from discrimination based on sexual orientation.

Help

As a result of this report, our business has received several messages and phone calls expressing anger over the dismissal of Mr. Zarda. We feel it's important to add clarity to this story. ***We have no affiliation to this case or the dismissal of Mr. Zarda.***

In 2016, the naming rights of Skydive Long Island was purchased from Altitude Express and has been under new ownership at an entirely different location (Altitude Express was located in Calverton, NY). We are located in Shirley, NY.

Skydive Long Island and it's ownership wish to be clear in our expression of support for gay rights and the LGBTQ community.

Skydive Long Island's owner, Brian Erler states, "We hire our staff based on qualifications related to aviation, skydiving, and hospitality. We do not discriminate based on sexual orientation, race, gender or religious affiliation. Personally, I