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

Dear Judge Bianco,

In response to Mr. Zabell's tepid "him too" response to the evidence of his lack of professionalism, I must object. He plays games in court and then when I complaint you blame both of us because you don't want to call him out for his gross incivility and sharp practice. He is in the hornbook on sanctions and lawyer misconduct, and an how one NLRB judge characterized his conduct is emblematic of his manner practice. He plays dirty – I won't minc e words. He nodded to jurors in the hallway in the first trial and sandbagged me with 50 new witnesses after discovery was well over. I had not been sanctioned in my entire career before last year when a certain judge – let's call him "Judge X", one known for handing out sanctions like candy – a sanctioned me under Rule 16, which is not an ethics rule. I had to pay \$200 because I being late in turning over a a name by a single day, even though I didn't have the name. I don't believe you should be so tyrannical, but having to pay that fine made me change my strategy and the jury ultimately found for my client. Because I played by the rules.

While I do not suggest that you throw out sanctions like "Judge X," a failure to sanction and even control in Mr. Zabell's overzealous advocacy prejudices plaintiff. You don't want to blame him because you are a temperate man, so the default position is to blame both of us; in fact, that's a very common judicial tactic. But think of it this way: were it not for Mr. Zabell's tactics in the earlier litigation, I would not have gotten to the en banc and won. Thus, in some way I should thank him. But now you have to retry the case. I appealed both on the Title VII and the Human Rights issue. I suspect that, while we did not get a reversal of the human rights verdict, his conduct during the trial, which I outlined point by point, influenced the vehicle in which this case was selected as the standard bearer for this momentous change in the law. I am only speculating, but I appealed in large part because I believed that his conduct in the courtroom was so outrageous as to merit his exposure to the Second Circuit. While again this is speculation, the way he was pilloried by the en banc panel – which is on C-Span and I suspect you listened to it last year – perhaps, again I say this with speculation, to what they observed in

the record of the first trial. What is certain is that because of his conduct, including delaying the trial, I was able to make a record, preserve the issue, and here we are again.

Sincerely,

Greg S. Antollino

Gregory Antollino

Cc: Saul Zabell