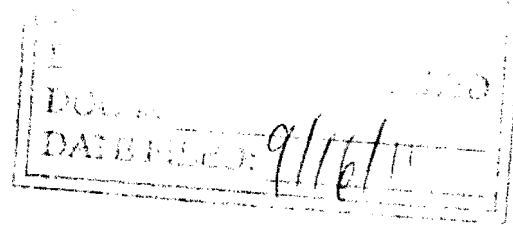


UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

----- X
 BRIAN JOHNSTON and NILE CHARLES, :
 :
 Plaintiffs, :
 :
 -v- :
 :
 APPLE INC. and OMNISCIENT :
 INVESTIGATION CORPORATION, :
 :
 Defendants. :
 ----- X



11 Civ. 3321(JSR)

ORDER

JED S. RAKOFF, U.S.D.J.

Pending before the Court is the motion of defendants Apple Inc. and Omniscent Investigation Corporation to dismiss plaintiffs' Second Amended Complaint. After full consideration of the parties' briefs and oral argument and for reasons that will be explained in a forthcoming written opinion, the Court hereby dismisses with prejudice claims one and two of the Complaint, brought under 42 U.S.C. § 1982 and New York State Executive Law § 296. With respect to plaintiffs' third claim, brought under the Administrative Code of the City Of New York § 8-107, the Court has neither diversity jurisdiction under 28 U.S.C. § 1332 nor federal question jurisdiction under 28 U.S.C. § 1331. The Court declines to exercise supplemental jurisdiction under 28 U.S.C. § 1367, and plaintiffs' third claim will therefore be dismissed without prejudice once final judgment issues. Final judgment, however, will not issue until the Court issues its written opinion referenced above. Meanwhile, all further discovery and proceedings in this case are stayed.

SO ORDERED.



JED S. RAKOFF, U.S.D.J.

Dated: New York, New York
September 5, 2011