

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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J.T. COLBY & COMPANY, INC. d/b/a/ )  
 BRICKTOWER PRESS, J. BOYLSTON & )  
 COMPANY, PUBLISHERS LLC and )  
 IPICTUREBOOKS LLC, )  
 )  
 )  
 Plaintiffs, )  
 )  
 -against- )  
 )  
 APPLE INC., )  
 )  
 Defendant. )

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Case No. 11 Civ. 4060 (DLC)

**NOTICE OF MOTION TO EXCLUDE THE TESTIMONY  
OF DEFENDANT’S EXPERT WITNESS E. DEBORAH JAY**

PLEASE TAKE NOTICE that, upon the accompanying (1) Memorandum of Law in Support of Plaintiffs J.T. Colby & Company, Inc. d/b/a Bricktower Press, J. Boylston & Company, Publishers LLC and iPicturebooks, LLC’s (“Plaintiffs”) Motion to Exclude the Testimony of Defendant Apple Inc.’s Expert Witness E. Deborah Jay and Defendant’s Rebuttal Expert Witness Stephen M Nowlis; (2) the Declaration of Claudia T. Bogdanos; and (3) the exhibits thereto; and pursuant to pursuant to Fed. R. Evid. 401, 402, 403 and 702 and *Daubert v. Merrell Dow Pharmaceuticals, Inc.*, 509 U.S. 579 (1993) and its progeny, the undersigned will move before the Honorable Denise L. Cote, United States District Judge, at the United States Courthouse, 500 Pearl Street, New York, New York 10007, at a date and time to be determined by the Court, for an Order granting Colby’s motion to exclude the testimony of E. Deborah Jay, and for such other and further relief as the Court may deem just and proper.

PLEASE TAKE FURTHER NOTICE that, pursuant to the Court's Scheduling Order dated May 2, 2012, opposition memoranda and affidavits shall be served on January 25, 2013, and reply memoranda and affidavits shall be served on February 5, 2013.

Dated: New York, New York  
December 21, 2012

Respectfully submitted,

ALLEGAERT BERGER & VOGEL LLP

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