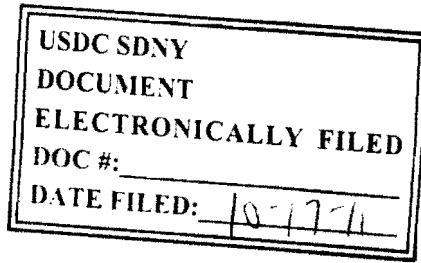


UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK



-----X
LOUIS A. CINTRON and WILLY CANCEL,
Plaintiffs,

v.

ORANGE COUNTY COMMUNITY COLLEGE,
Defendant.
-----X

MEMORANDUM DECISION

11 CV 1238 (VB)

Briccetti, J.:

Plaintiffs Louis A. Cintron and Willy Cancel bring this action alleging defendant violated their civil rights by discriminating against them on the basis of race and national origin.

Plaintiffs' complaint states that this action is brought pursuant to 42 U.S.C. § 1981a.

Now pending is defendant's motion to dismiss the complaint (Doc. #9), on the ground that plaintiffs fail to state a legally cognizable claim. Section 1981a is not an independent cause of action, but rather a remedy provision for violations of Title VII of the Civil Rights Act of 1964, 42 U.S.C. §§ 2000e et seq. See Graham v. Watertown City School Dist., 2011 WL 1344149, at *4 (N.D.N.Y. Apr. 8, 2011). Because plaintiffs never filed a charge with the Equal Employment Opportunity Commission, they are barred from bringing a Title VII claim. Therefore, defendant argues that plaintiffs' claim under Section 1981a must be dismissed.

Plaintiffs explain in their opposition papers that they cited the wrong statute in their complaint. Plaintiffs intended to bring suit under 42 U.S.C. § 1981, which states an independent cause of action and does not require a Title VII claim to survive.

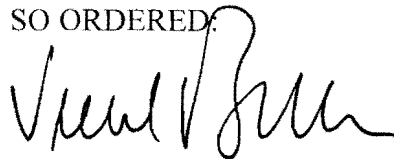
Defendants do not dispute plaintiffs' explanation. Because the deficiencies in plaintiffs' complaint are due to a typographical error, plaintiffs will be given leave to amend their complaint under the proper statute.

For the foregoing reasons, the Court GRANTS defendant's motion to dismiss the complaint (Doc. #9). Plaintiffs are granted to leave to file an amended complaint by October 21, 2011.

The Clerk is instructed to terminate this motion.

Dated: October 14, 2011
White Plains, NY

SO ORDERED:



Vincent L. Briccetti
United States District Judge