

**IN THE UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF GEORGIA  
ATLANTA DIVISION**

MUKTA PATEL, et al.,	)	
	)	
Plaintiffs,	)	
	)	
v.	)	<b>CASE NO: 1:09-CV-3684CAP</b>
	)	
	)	
MUKESH C. PATEL, et al.,	)	
	)	
Defendants.	)	

**DEFENDANTS’ MOTION TO DISMISS  
PLAINTIFFS’ AMENDED COMPLAINT**

Defendants Mukesh C. Patel, R.C. Patel, Edward L. Briscoe, Scott Dix, Brij M. Kapoor, Mukund R. Patel, Narendra D. Patel, Dhiru G. Patel, and Balvant Patel (collectively “Defendants”) move to dismiss in its entirety Plaintiffs’ Amended Complaint for Violation of the Federal Securities Laws (“Amended Complaint”) pursuant to Fed. R. Civ. P. 12(b)(6) for failure to state a claim upon which relief can be granted for the reasons set forth with more particularity in the accompanying Memorandum of Law.

In the alternative, and in the event the Court dismisses only the federal claims in the Amended Complaint pursuant to Fed. R. Civ. P. 12(b)(6), Defendants respectfully move the Court to dismiss the remaining state law claims pursuant to

Fed. R. Civ. P. 12(b)(1) for lack of subject matter jurisdiction on the grounds that 28 U.S.C. § 1332(d)(2) is inapplicable, and there is not otherwise a basis for diversity jurisdiction, as set forth with more particularity in the accompanying Memorandum of Law.

WHEREFORE, Defendants respectfully request that their Motion to Dismiss be granted and that the claims in the Amended Complaint be dismissed with prejudice. Defendants further respectfully pray for such other and further relief as the Court deems just and proper, including but not limited to sanctions for abusive litigation, per the provisions of Fed. R. Civ. P. 11 and 15 U.S.C. § 78u-4(c). *See also Ledford v. Peebles*, 605 F.3d 871 (11th Cir. 2010).

Dated: July 16, 2010

Respectfully submitted,

ALSTON & BIRD LLP

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*Counsel for Defendants*

**CERTIFICATION OF TYPEFACE COMPLIANCE**

Pursuant to LR 7.1(D), NDGa., counsel for Defendants hereby certifies that this brief has been prepared with one of the font and point selections approved by the Court in LR 5.1, NDGa.

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**CERTIFICATE OF SERVICE**

I hereby certify that on this date, I electronically filed the foregoing with the Clerk of Court using the CM/ECF system, which will automatically send email notification of such filing upon Counsel of Record.

Dated: July 16, 2010.

/s/ Kerry K. Vatzakas  
Kerry K. Vatzakas  
Georgia Bar No. 141347