

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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MICHELLE LUGONES, TRICIA RIZZI,  
MARCUS SIEZING and CLAUDIA VASALLO,  
individually and on behalf of a proposed class,

Case No 19-cv-02097 (KPF)

Plaintiffs,

**NOTICE OF MOTION**

- against -

PETE AND GERRY'S ORGANICS, LLC and  
NELLIE'S FREE RANGE EGGS,

Defendants.  
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**PLEASE TAKE NOTICE** that, upon the Second Amended Complaint and the accompanying Memorandum of Law, the undersigned will move this Court, at the United States Courthouse, 40 Foley Square, New York, New York 10007, Room 618, before the Honorable Katherine Polk Failla, on a date to be determined by the Court, for an Order: (a) pursuant to Rule 12(b)(6) and 12(b)(2), F. R. Civ. P., dismissing the Second Amended Complaint and each count thereof for failure to state a claim upon which relief can be granted; (b) alternatively, pursuant to 28 U.S.C. § 1404(a), transferring this action to the District of New Hampshire; (c) pursuant to Rule 26(c), F. R. Civ. P., staying discovery pending the adjudication of this motion; and (d) granting movants their costs, fees and such other and further relief as is just and proper.

Dated: New York, New York  
September 16, 2019

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**CERTIFICATE OF SERVICE**

Peter T. Shapiro, an attorney duly admitted to practice before this Court, certifies that on September 16, 2019, he caused the Notice of Motion to be filed and served by ECF.

/s/ Peter T. Shapiro

Peter T. Shapiro