

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

ELADIA DUCHIMAZA, on behalf of herself
and all others similarly situated,

Plaintiff,

vs.

NIAGARA BOTTLING, LLC,

Defendant.

Case No. 21-cv-06434-PAE

**DEFENDANT NIAGARA BOTTLING, LLC'S
NOTICE OF MOTION AND MOTION TO DISMISS**

DORSEY & WHITNEY LLP

51 W. 52nd Street
New York, New York 10019
(212) 415-9200

PLEASE TAKE NOTICE that, upon the accompanying Memorandum of Law, dated October 1, 2021, and all prior pleadings had herein and the exhibits thereto, Defendant Niagara Bottling, LLC (“Niagara”) moves under Fed. R. Civ. P. 12(b)(1) and 12(b)(6) to dismiss Plaintiff’s complaint in its entirety. Pursuant to Local Rule 6.1(b), Plaintiff’s opposition papers are due on October 15, 2021, and Niagara’s reply papers are due on October 22, 2021. Pursuant to Judge Engelmayer’s Individual Rules and Practices in Civil Cases, Niagara has separately requested oral argument by letter.

Dated: October 1, 2021

DORSEY & WHITNEY LLP

By s/ Elizabeth Rozon Baksh

Elizabeth Rozon Baksh (#4686556)

baksh.elizabeth@dorsey.com

Creighton R. Magid (pro hac vice)

magid.chip@dorsey.com

Kent J. Schmidt (pro hac vice
forthcoming)

schmidt.kent@dorsey.com

600 Anton Boulevard, Suite 2000

Costa Mesa, CA 92626

Telephone: (714) 800-1400

Facsimile: (714) 800-1499

Attorneys for Defendant NIAGARA
BOTTLING, LLC