

STIPULATION OF SETTLEMENT

This Stipulation of Settlement (“Settlement Agreement”) is reached by and between Plaintiff Mario Alvarado (“Plaintiff” or “Class Representative”), individually and on behalf of all members of the Settlement Class (defined below), and Defendant Red Pointe Roofing, L.P. (“Defendant”). Plaintiff and Defendant are referred to herein collectively as the “Parties.” Plaintiff and the Settlement Class are represented by Paul K. Haines, Fletcher W. Schmidt, and Andrew J. Rowbotham of Haines Law Group, APC (collectively, “Class Counsel”). Defendant is represented by Stacie L. Turner and Suhail Rajakumar of Cruser, Mitchell, Novitz, Sanchez, Gaston, & Zimet, LLP.

On October 12, 2022, Plaintiff filed a class action complaint against Defendant in Orange County Superior Court titled *Mario Alvarado v. Red Pointe Roofing, L.P.*, Case No. 30-2022-01286100-CU-OE-CXC (the “Action”). The Action alleges that Defendant: (1) failed to pay all minimum wages (Labor Code §§ 1182.12, 1194, 1194.2, 1197); (2) failed to pay all overtime wages (Labor Code §§ 204, 510, 558, 1194, 1198); (3) failed to provide all meal periods (Labor Code §§ 226.7, 512, 558); (4) failed to authorize and permit all rest periods (Labor Code §§ 226.7, 516, 558); (5) failed to reimburse necessary business expenses (Labor Code § 2802, 2804); (6) failed to issue accurate, itemized wage statements (Labor Code § 226 *et seq.*); (7) failed to timely pay all final wages due upon separation of employment (Labor Code §§ 201-203); and (8) engaged in unfair competition (Business and Professions Code § 17200). The following day, on October 13, 2022, Plaintiff notified Defendant and the California Labor & Workforce Development Agency (“LWDA”) of his intent to seek civil penalties under the Private Attorneys General Act (Labor Code § 2698 *et seq.*) (“PAGA”) based on the above alleged Labor Code violations. On December 19, 2022, after Plaintiff exhausted his administrative remedies with the LWDA, Plaintiff amended the complaint to add a cause of action for civil penalties under the PAGA.

Given the uncertainty of litigation, and without Defendant making any admission as to the merits of any of the claims asserted, Plaintiff and Defendant wish to settle both individually and on behalf of the Settlement Class. Accordingly, Plaintiff and Defendant agree as follows:

1. **Settlement Class.** For the purposes of this Settlement Agreement only, Plaintiff and Defendant stipulate to the certification of the following Settlement Class:

All current and former non-exempt employees of Defendant in California who worked at any time between October 12, 2018, and the date of preliminary approval (the “Class Period”).

The Parties agree that certification for purposes of settlement is not an admission that class certification is proper under Code of Civil Procedure § 382. If for any reason this Settlement Agreement is not approved or is terminated, in whole or in part, this conditional agreement to class certification will be inadmissible and will have no effect in this matter or in any claims brought on the same or similar allegations, and the Parties shall revert to the respective positions they held prior to entering into the Settlement Agreement.

2. **PAGA Members.** For the purposes of this Settlement Agreement only, Plaintiff and Defendant stipulate that the PAGA Members shall be defined as:

All current and former non-exempt employees of Defendant in California who worked at any time between October 12, 2021, and the date of preliminary approval (the “PAGA Period”).

3. **Release by Settlement Class Members, PAGA Members, and Plaintiff.** Plaintiff and every member of the Settlement Class (except those who opt out of the Settlement) will release and discharge Defendant, its past and present officers, directors, shareholders, managers, employees, agents, principals, heirs, representatives, accountants, auditors, consultants, and its respective successors and predecessors in interest, subsidiaries, affiliates, parents and attorneys (collectively “Defendant’s Releasees”) as follows:

- A. All members of the Settlement Class who do not opt-out will release and discharge Defendant and Defendant’s Releasees from all claims, demands, rights, liabilities and causes of action that were pled in the operative complaint in the Action, or which could have been alleged based on the factual allegations therein, that arose during the Class Period (collectively the “Released Claims”). The time period covered by this release will mirror the Class Period and will become effective upon the Effective Date.
- B. PAGA Members, regardless of whether they opt-out of the Settlement, will release and discharge Defendant and Defendant’s Releasees from all civil penalties owed under the PAGA, premised on the facts, claims, causes of action or legal theories pled in the operative complaint in the Action (or Plaintiff’s letter to the LWDA dated October 13, 2022) that arose during the PAGA Period (collectively the “PAGA Released Claims”). The time period covered by this release will mirror the PAGA Period and will become effective upon the Effective Date.
- C. Plaintiff agrees to release, as an individual and in addition to the Released Claims described above, all claims, whether known or unknown, under federal law or state law against Defendant. Plaintiff understands that this release includes unknown claims and that Plaintiff is, as a result, waiving all rights and benefits afforded by Section 1542 of the California Civil Code, which provides:

A general release does not extend to claims that the creditor or releasing party does not know or suspect to exist in his or her favor at the time of executing the release and that, if known by him or her, would have materially affected his or her settlement with the debtor or released party.

Nothing contained herein shall constitute a release of any rights or claims that cannot be waived as a matter of law (including but not limited to claims arising under workers’ compensation laws). Nor shall anything contained herein be construed to exclude the filing of an administrative charge or complaint with the Equal Employment Opportunity Commission or National Labor Relations Board,

or participation in an administrative investigation or proceeding. The waiver and release in this Settlement Agreement does not apply to rights or claims arising out of this Settlement Agreement after this Settlement Agreement is executed by Plaintiff and rights or claims arising of this Settlement Agreement.

- D. The “Effective Date” of this Settlement is the later of: (a) the Court's final approval of the settlement if no objections by or on behalf of Class Members have been filed; (b) the time for appeal has expired if an objection has been filed and no appeal has been filed or withdrawn; (c) the final resolution of any appeal that has been filed; and (d) Defendant’s deposit of the entire Maximum Settlement Amount to the mutually selected third party administrator.

4. **Maximum Settlement Amount.** As consideration, Defendant agrees to pay a “Maximum Settlement Amount” of \$650,000.00 in full and complete settlement of the Action, as follows:

- A. The Parties have agreed to engage CPT Group, Inc. as the “Settlement Administrator to administer this Settlement.
- B. The Maximum Settlement Amount and the employer’s side of payroll taxes on the portion allocated as wages shall be paid by Defendant within 30 days after the Court grants final approval of the settlement, assuming no objections or appeals, or by September 5, 2024, whichever is later.
- C. This is a non-reversionary settlement. The Maximum Settlement Amount includes:
- (1) All payments (including interest) to the Settlement Class;
 - (2) All costs of the Settlement Administrator associated with the administration of the Settlement, which are anticipated to be no greater than \$10,000.00;
 - (3) Up to \$7,500.00 for Plaintiff’s Class Representative Enhancement Payment in recognition for Plaintiff’s contributions to the Action and Plaintiff’s service to the Settlement Class;
 - (4) Up to one-third (33.33%) of the Maximum Settlement Amount in Class Counsel’s attorneys’ fees (currently estimated at \$216,666.67), plus actual costs and expenses incurred by Class Counsel related to the Action as supported by declaration, which are currently estimated to be no greater than \$20,000.00; and
 - (5) \$50,000.00 of the Maximum Settlement Amount has been set aside by the Parties as PAGA civil penalties. Per Labor Code § 2699(i), 75% of such penalties (\$37,500.00), will be payable to the LWDA and the remaining 25% (\$12,500.00), will be payable to the PAGA Members as described below.

- D. Defendant will not oppose the reasonableness of these requests. Any reduction by the Court of these requests will revert to the Settlement Class members who do not opt-out.
 - E. **Escalator Clause.** Defendant represents that there are an estimated 23,000 workweeks worked by the Settlement Class members during the Class Period. If the number of workweeks worked during the Class Period is more than 10% greater than this figure (i.e., if there are 25,300 or more workweeks worked during the Class Period), Defendant agrees to increase the Maximum Settlement Amount on a proportional basis above 10% (i.e., if there was 11% increase in the number workweeks worked, Defendant would increase the Maximum Settlement Amount by 1%).
 - F. **Employer Payroll Taxes.** The Maximum Settlement Amount does not include the employer's share of payroll taxes on any amounts designated as wages, which shall be paid by Defendant separate and apart from, and in addition to, the Maximum Settlement Amount.
5. **Payments to the Settlement Class.** Settlement Class members are not required to submit a claim form to receive a payment ("Individual Settlement Payment") from the Settlement. Individual Settlement Payments will be determined and paid as follows:
- A. The Settlement Administrator shall first deduct from the Maximum Settlement Amount the amounts approved by the Court for Class Counsel's attorneys' fees, Class Counsel's costs and expenses, the Class Representative Enhancement Payment, the Settlement Administrator's fees and expenses for administration, and the amount of PAGA civil penalties designated as payable to the LWDA. The remaining amount shall be known as the "Net Settlement Amount."
 - B. From the Net Settlement Amount, the Settlement Administrator will calculate each Settlement Class member's Individual Settlement Payment based on the following formula:
 - i. PAGA Amount: The \$12,500.00 payable to PAGA Members as PAGA civil penalties shall be designated as the "PAGA Amount." Each individual who was employed by Defendant at any time between October 12, 2021 and the date of preliminary approval, shall receive a portion of the PAGA Amount based on the number of pay periods that he or she worked during the aforementioned time period compared to the total number of pay periods worked by all PAGA Members during the aforementioned time period.
 - ii. Wage Statement Amount: Ten percent (10%) of the Net Settlement Amount shall be designated as the "Wage Statement Amount." Each participating Settlement Class member who was employed by Defendant at any time between October 12, 2021 and the date of preliminary approval, shall receive a portion of the Wage Statement Amount based on the number of workweeks that he or she worked during the aforementioned time period

compared to the total number of workweeks worked by all participating Settlement Class members during the aforementioned time period.

- iii. Waiting Time Amount: Ten percent (10%) of the Net Settlement Amount shall be designated as the “Waiting Time Amount.” The Waiting Time Amount shall be distributed in equal shares to all participating Settlement Class members who separated their employment with Defendant on or after October 12, 2019.
 - iv. The remainder of the Net Settlement Amount will be distributed to each participating Settlement Class member based on the number of workweeks that he or she worked during the aforementioned time period compared to the total number of workweeks worked by all participating Settlement Class members during the aforementioned time period.
- C. Within 10 business days following the funding of the Maximum Settlement Amount with the Settlement Administrator, the Settlement Administrator will calculate each Settlement Class member’s Individual Settlement Payment, and will prepare and mail Individual Settlement Payments to Settlement Class Members. The Settlement Administrator will also mail any amounts awarded to Plaintiff for the Class Representative Enhancement Payment as well as the amounts awarded to Class Counsel for attorneys’ fees and costs by the same deadline.
- D. Each Individual Settlement Payment shall be allocated as 1/3 wages and 2/3 penalties and interest. The Settlement Administrator will be responsible for issuing to participating Settlement Class members an IRS Form W-2 (for amounts paid as wages) and an IRS Form 1099 (for amounts paid as penalties and interest). Payments made to PAGA Members will be attributed 100% to penalties and paid via an IRS Form 1099. Settlement Class Members will be responsible for all employee-side taxes due on Individual Settlement Payments.
- E. Defendant shall fully discharge its obligations to those Settlement Class members to whom an Individual Settlement Payment is made, regardless of whether such checks are actually received and/or negotiated by Settlement Class members. Any check that is not negotiated within 180 days of mailing to a Settlement Class member shall be distributed by the Settlement Administrator to the *cy pres*, Community Legal Aid SoCal, a 501(c)(3) organization dedicated to providing legal services to the indigent population of Orange County.
- F. Neither Plaintiff nor Defendant shall bear any liability for lost, stolen, undelivered or misdelivered checks, forged signatures on checks, or unauthorized negotiation of checks. Unless responsible by its own acts of omission or commission, the same is true for the Settlement Administrator.
5. **Attorneys’ Fees and Costs.** Defendant will not object to Class Counsel’s request for a total award of attorneys’ fees of up to one-third of the Maximum Settlement Amount, which is currently estimated to be \$216,666.67. Additionally, Class Counsel will request an award of actual

costs and expenses as supported by declaration, in an amount not to exceed \$20,000.00 from the Maximum Settlement Amount. These amounts will cover any and all work performed and any and all costs incurred in connection with this litigation, including without limitation: all work performed, and all costs incurred to date; and all work to be performed and costs to be incurred in connection with obtaining the Court's approval of this Settlement Agreement, including any objections raised and any appeals necessitated by those objections. Class Counsel will be issued an IRS Form 1099 by the Settlement Administrator when the Settlement Administrator pays the fee award approved by the Court.

6. **Class Representative Enhancement Payment.** Defendant will not object to a request for Class Representative Enhancement Payment of \$7,500.00 for Plaintiff's time and risk in prosecuting this case and Plaintiff's service to the Settlement Class. This award will be in addition to Plaintiff's Individual Settlement Payment as a Settlement Class Member, and shall be reported on an IRS Form 1099 issued by the Settlement Administrator.

7. **Settlement Administrator.** Defendant will not object to the appointment of CPT Group, Inc. as Settlement Administrator. Defendant will not object to Plaintiff seeking approval to pay up to \$10,000.00 for the administration services from the Maximum Settlement Amount. The Settlement Administrator shall be responsible for sending notices to the Settlement Class members, for calculating Individual Settlement Payments, and for preparing all checks and mailings. The Settlement Administrator shall be authorized to pay itself from the Maximum Settlement Amount only after Individual Settlement Payments have been mailed to all Settlement Class members.

8. **Preliminary Approval.** Within a reasonable time after execution of this Settlement Agreement by the Parties, Plaintiff shall apply to the Court for the entry of an Order:

- A. Conditionally certifying the Settlement Class for settlement purposes only;
- B. Appointing Paul K. Haines, Fletcher W. Schmidt, and Andrew J. Rowbotham of Haines Law Group, APC as Class Counsel;
- C. Appointing Plaintiff Mario Alvarado as Class Representative for the Settlement Class;
- D. Approving CPT Group, Inc. as Settlement Administrator;
- E. Preliminarily approving this Settlement Agreement and its terms as fair, reasonable, and adequate;
- F. Approving the form and content of the Notice Packet (which is comprised of the Class Notice and Notice of Settlement Payment), and which counsel for all Parties shall mutually agree upon before submitting to the Court, and directing the mailing of same; and
- G. Scheduling a Final Approval hearing.

9. **Notice to Settlement Class.** Following preliminary approval, the Settlement Class shall be notified as follows:

- A. Within 10 business days of the Court signing an order preliminarily approving this Settlement, Defendant will provide the Settlement Administrator with the names, addresses, phone numbers, social security numbers, positions held, dates of employment, and relevant workweek information for each Settlement Class member during the Class Period and each PAGA Member during the PAGA Period.
- B. Within 10 business days from receipt of this information, the Settlement Administrator shall (i) run the names of all Settlement Class members through the National Change of Address ("NCOA") database to determine any updated addresses for Settlement Class Members; (ii) update the address of any Settlement Class member for whom an updated address was found through the NCOA search; (iii) calculate the estimated Individual Settlement Payment for each Settlement Class member; and (iv) mail a Notice Packet to each Settlement Class member at his or her last known address or at the updated address found through the NCOA search, and retain proof of mailing.
- C. Any Notice Packets returned to the Settlement Administrator as non-delivered on or before the Response Deadline shall be re-mailed to the forwarding address affixed thereto. If no forwarding address is provided, the Settlement Administrator shall make reasonable efforts, including utilizing a "skip trace," to obtain an updated mailing address within 5 business days of receiving the returned Notice Packet. If an updated mailing address is identified, the Settlement Administrator shall resend the Notice Packet to the Settlement Class member immediately, and in any event within 5 business days of obtaining the updated address. The address identified by the Settlement Administrator as the current mailing address shall be presumed to be the best mailing address for each Settlement Class member. Settlement Class members to whom Notice Packets are re-mailed after having been returned as undeliverable to the Settlement Administrator shall have an additional 14 calendar days after the Response Deadline to opt-out, object, or dispute their Settlement Payment. Notice Packets that are re-mailed shall inform the recipient of this adjusted deadline.
- D. Requests for Exclusion. Any Settlement Class member who wishes to opt-out of the Settlement must complete and mail a Request for Exclusion (defined below) to the Settlement Administrator within 60 calendar days of the date of the initial mailing of the Notice Packets (the "Response Deadline").
 - i. The Notice Packet shall state that Settlement Class members who wish to exclude themselves from the Settlement must submit a Request for Exclusion by the Response Deadline. The Request for Exclusion must: (1) contain the name, address, telephone number and the last four digits of the Social Security number of the Settlement Class member; (2) contain a statement that the Settlement Class member wishes to be excluded from the Settlement; (3) be signed by the Settlement Class member; and (4) be postmarked by the Response Deadline and mailed to the Settlement Administrator at the address specified in the Class Notice. If the Request for Exclusion does not contain the information listed in (1)-(3), it will not be deemed valid for exclusion from the Settlement,

except a Request for Exclusion not containing a Settlement Class member's telephone number and/or last four digits of the Social Security number will be deemed valid. The date of the postmark on the Request for Exclusion shall be the exclusive means used to determine whether a Request for Exclusion has been timely submitted. Any Settlement Class member who requests to be excluded from the Settlement Class will not be entitled to any recovery under this Settlement Agreement and will not be bound by the terms of the Settlement or have any right to object, appeal or comment thereon.

- ii. PAGA Members may not opt-out of the release of PAGA claims (as described in Paragraph 3.B.) and will thus receive payment for their share of the PAGA Amount even if they request exclusion from the Settlement and do not receive a class portion of their Individual Settlement Payment.
 - iii. At no time will the Parties or their counsel seek to solicit or otherwise encourage any Settlement Class member to object to the Settlement or opt-out of the Settlement Class or encourage any Settlement Class member to appeal from the final judgment.
 - iv. All Request for Exclusions shall be submitted to the Court at the time Plaintiff submits the Motion for Final Approval.
- E. Objections. Members of the Settlement Class who do not opt-out may object to this Settlement Agreement as explained in the Class Notice by filing a written objection with the Settlement Administrator (who shall serve all objections as received on Class Counsel and Defendant's counsel, as well as file all such objections with the Court) within the Response Deadline. Any such written objections must contain the Settlement Class Member's name, address, and last four digits of his or her social security number. The objection must also be signed by the Settlement Class member. Defendant's counsel and Class Counsel shall file any responses to objections no later than the deadline to file the Motion for Final Approval. To be valid, any objection must be postmarked no later than the Response Deadline. Any Settlement Class member who wishes to may appear in person or through their own counsel and raise an objection at the Final Approval Hearing. Settlement Class Members need not submit written objections to be heard by the Court at the Final Approval Hearing.
- F. Notice of Individual Settlement Payment / Disputes. Each Notice Packet mailed to a Settlement Class member shall disclose the amount of the Settlement Class member's estimated Individual Settlement Payment as well as all of the information that was used to calculate the Individual Settlement Payment. Settlement Class Members will have the opportunity, should they disagree with Defendant's records regarding the information stated in the Notice of Settlement Payment, to provide documentation and/or an explanation to show contrary information. Any such dispute, including any supporting documentation, must be mailed to the Settlement Administrator and postmarked by the Response Deadline. If there is a dispute, the Settlement Administrator will consult with the Parties to determine whether an

adjustment is warranted. The Settlement Administrator shall make an initial determination regarding the eligibility for, and the amounts of, any Individual Settlement Payment under the terms of this Settlement Agreement. However, if the Settlement Administrator and the Parties cannot agree on a resolution, the Parties will request the Court make a final determination regarding the dispute. Additionally, the Parties will file with the Court all disputes submitted by Settlement Class Members, the evidence submitted, and the resolution of the disputes, and although the Settlement Administrator may make the initial decision regarding claim disputes, the Court may review any decision made by the Settlement Administrator regarding a claim dispute.

- G. Defendant understands its legal obligation not to retaliate against the Settlement Class members for their participation and/or election to participate in the benefits to be afforded any of them by the Settlement and/or the Action.

10. **Final Approval.** Following preliminary approval and the close of the period for filing requests for exclusion, objections, or disputes under this Settlement Agreement, Plaintiff shall apply to the Court for entry of an Order:

- A. Granting final approval to the Settlement Agreement and adjudging its terms to be fair, reasonable, and adequate;
- B. Approving Plaintiff's and Class Counsel's application for attorneys' fees and costs, Class Representative Enhancement Payment, settlement administration costs, and payment to the LWDA for its share of civil penalties under PAGA; and
- C. Entering judgment pursuant to California Rule of Court 3.769.

11. **Non-Admission of Liability.** Nothing in this Settlement Agreement shall operate or be construed as an admission of any liability or that class certification is appropriate in any context other than this Settlement. Each of the Parties has entered into this Settlement Agreement to avoid the burden and expense of further litigation. Pursuant to California Evidence Code § 1152, this Settlement Agreement is inadmissible in any proceeding, except a proceeding to approve, interpret, or enforce this Settlement Agreement. If the Effective Date does not occur or Defendant fails to fully fund the Settlement pursuant to Paragraph 4.B. above, the Parties agree that this Settlement Agreement is void, but remains protected by California Evidence Code § 1152.

12. **Waiver and Amendment.** The Parties may not waive, amend, or modify any provision of this Settlement Agreement except by a written agreement signed by all of the Parties, and subject to any necessary Court approval. A waiver or amendment of any provision of this Settlement Agreement will not constitute a waiver of any other provision.

13. **Confidentiality.** The Parties and their counsel will keep the Settlement, the Settlement-related documents, and their Settlement negotiations confidential, and will not disclose that information to any third party through the date of preliminary approval. Thereafter, the Parties agree to make no comments to the media or otherwise publicize the terms of the Settlement.

14. **Notices.** All notices, demands, and other communications to be provided concerning this Settlement Agreement shall be in writing and delivered by receipted delivery and by e-mail at the addresses set forth below, or such other addresses as either Party may designate in writing from time to time:

if to Plaintiff:	Fletcher W. Schmidt of Haines Law Group, APC 2155 Campus Drive, Suite 180, El Segundo, CA 90265 fschmidt@haineslawgroup.com
if to Defendant:	Stacie Turner of Cruiser, Mitchell, Novitz, Sanchez, Gaston, & Zimet, LLP 800 Wilshire Boulevard, 15th Floor, Los Angeles, California 90017 sturner@cmlawfirm.com

15. **Entire Agreement.** This Settlement Agreement contains the entire agreement between the Parties with respect to the transactions contemplated hereby, and supersedes all negotiations, presentations, warranties, commitments, offers, contracts, and writings prior to the date hereof relating to the subject matters hereof.

16. **Counterparts.** This Settlement Agreement may be executed by one or more of the Parties on any number of separate counterparts and delivered electronically, and all of said counterparts taken together shall be deemed to constitute one and the same instrument.

17. **Enforcement Action.** In the event that one more of the Parties institutes any legal action or other proceeding against any other Party or Parties to enforce the provisions of this Settlement Agreement or to declare rights and/or obligations under this Settlement Agreement, the successful Party or Parties will be entitled to recover from the unsuccessful Party or Parties reasonable attorneys' fees and costs, including expert witness fees incurred in connection with any enforcement actions.

18. **Continuing Jurisdiction.** The Parties stipulate that, pursuant to California Code of Civil Procedure § 664.6, the Orange County Superior Court will retain jurisdiction over the Parties to enforce this Settlement Agreement until full performance of the terms of the settlement has been completed.

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DATED: Oct 10, 2024

RED POINTE ROOFING, L.P.

By: 
Name: Aaron Martin
Title: President

DATED:

PLAINTIFF MARIO ALVARADO

By: _____
Plaintiff and Settlement Class Representative

APPROVED AS TO FORM:

DATED: October 10, 2024

CRUSER, MITCHELL, NOVITZ, SANCHEZ,
GASTON, & ZIMET, LLP

By: 
Stacie Turner
Attorneys for Defendant

DATED:

HAINES LAW GROUP, APC

By: _____
Fletcher W. Schmidt
Attorneys for Plaintiff

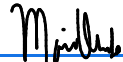
DATED:

RED POINTE ROOFING, L.P.

By: _____
Name: _____
Title: _____

DATED: 10/10/24

PLAINTIFF MARIO ALVARADO

By:  _____
Mario Alvarado (Oct 10, 2024 13:11 CDT)
Plaintiff and Settlement Class Representative

APPROVED AS TO FORM:

DATED:

CRUSER, MITCHELL, NOVITZ, SANCHEZ,
GASTON, & ZIMET, LLP

By: _____
Stacie Turner
Attorneys for Defendant

DATED: 10/10/24

HAINES LAW GROUP, APC

By:  _____
Fletcher W. Schmidt
Attorneys for Plaintiff