

**UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NEW YORK**

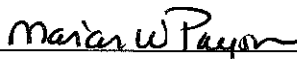
<p>SCOTT KIMBLE, et al.,</p> <p style="padding-left: 150px;">Plaintiffs,</p> <p style="padding-left: 100px;">v.</p> <p>SOLIDIFI U.S. INC. and KIRCHMEYER & ASSOCIATES, INC.,</p> <p style="padding-left: 150px;">Defendants.</p>	<p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p>	<p>Case No. 16-cv-6614 (EAW) (MWP)</p>
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**~~Proposed~~ ORDER GRANTING THE PARTIES' STIPULATION TO PROVIDE
NOTICE TO PUTATIVE COLLECTIVE ACTION MEMBERS**

Plaintiff Scott Kimble (“Plaintiff”), and Defendant Solidifi U.S. Inc. (“Defendant”) have stipulated and agreed to the issuance of notice to putative collective action members to inform them regarding their rights under the Fair Labor Standards Act, 29 U.S.C. § 201 *et seq.* Pursuant to the Parties’ “Joint Stipulation to Provide Notice to Putative Collective Action Members,” it is

SO ORDERED. *The Court hereby approves the proposed “Notice of Collective Action” and “Consent to Sue Form” submitted as Exhibit A to the Stipulation and approve the conditional certification of the action.*

DONE AND ORDERED this 9 day of February, 2017.



 HON. MARIAN W. PAYSON
 UNITED STATES DISTRICT COURT

1 UNITED STATES DISTRICT COURT
2 FOR THE WESTERN DISTRICT OF NEW YORK

3
4 SCOTT KIMBLE, individually, on
5 behalf of all others similarly situated,

16-CV-6614W (EAW)(MWP)

6 Plaintiffs,

7 v.

8 SOLIDIFI U.S. INC. AND
9 KIRCHMEYER & ASSOCIATES,
10 INC.,

**NOTICE OF COLLECTIVE
ACTION**

11 Defendants.

12 _____ /
13 Please read this Notice if you are or were employed as a Staff Appraiser by Solidifi
14 U.S. Inc. in the last three years.

15 **I. Introduction**

16
17 The purpose of this Notice is to inform you of a pending collective action
18 lawsuit brought against Solidifi U.S. Inc. (“Solidifi”) pursuant to the Fair Labor
19 Standards Act (“FLSA”) alleging that Solidifi improperly classified staff appraisers
20 as exempt employees, and therefore, improperly deemed staff appraisers ineligible
for overtime pay.

21 Solidifi denies the claims asserted in the lawsuit. Solidifi believes that staff
22 appraisers were properly classified as exempt employees, that all staff appraisers
23 have been appropriately compensated for all time worked, and that Plaintiff’s
claims are without merit. Solidifi intends to vigorously defend the lawsuit.

24 The United States District Court for the Western District of New York, the
25 Honorable Marian W. Payson, United States Magistrate Judge, has authorized the
26 parties to send out this Notice. The Court has taken no position in this case
27 regarding the merits of Plaintiff’s claims or Defendants’ defenses and the Court has
28 not decided who is right and who is wrong. The sole purpose of this Notice is to
locate persons who are eligible to and who wish to join this case and has no other

1 purpose. Your right to participate in this lawsuit may depend upon a later decision
2 by the Court.

3 **II. Persons Eligible to Receive this Notice**

4 To be eligible to receive this Notice, you are either currently employed by
5 Solidifi as a Staff Appraiser, or have been employed as a Staff Appraiser any time
6 in the last three years.

7 **III. Your Legal Rights**

8 It is your right to join or not to join this lawsuit. To join this lawsuit, you
9 must sign a "Consent to Sue Form," which is enclosed with this Notice, and send it
10 to the following address on or before [60 days from the date the notice is sent out]
11 by email, fax, or U.S. mail:

12 Bruce Menken
13 Beranbaum Menken LLP
14 80 Pine Street, 33rd Fl.
15 New York, NY 10005
16 Telephone: (212) 509-1616
17 Facsimile: (212) 509-8088
18 Email: bmenken@nyemployeeelaw.com

19 If you participate in this lawsuit, you will be bound by any ruling, settlement,
20 or judgment, whether favorable or unfavorable. If you participate in this lawsuit,
21 you may also be required to provide information, answer questions, testify at a
22 deposition, testify in a court for purposes of trial, and search for and produce
23 documents.

24 By completing the enclosed "Consent to Sue Form," you will be designating
25 Plaintiff and his attorneys to act on your behalf and to represent you in this action
26 with respect to the FLSA claim. You are not required to have Plaintiff's attorneys
27 represent you. If you want your own attorney to represent you in this lawsuit, you
28 can do so at your own expense.

If you do not join this lawsuit, you can pursue any rights you may have
against Solidifi separately. However, you should be aware that the lawsuit must be
brought within a specific period of time. Generally, the statute of limitations under
the FLSA is two or three years from the date of the violation.

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IV. Changes of Address

If this Notice was sent to a wrong address, or if your address changes in the future, please send prompt written notification of your correct address to Attorneys for Plaintiffs whose contact information is located in Section V below.

V. Getting More Information

The pleadings and other papers filed in this action are public record and available by going online to <http://www.pacer.gov/> and setting up an account.

You can obtain more information about this lawsuit by contacting one or both of the following attorneys for Plaintiffs:

Bruce Menken or Jason Rozger
Beranbaum Menken LLP
80 Pine Street, 33rd Fl.
New York, NY 10005
Telephone: (212) 509-1616
Facsimile: (212) 509-8088
Email: bmenken@nyemployeeelaw.com
jrozger@nyemployeeelaw.com

or

Bryan Schwartz or Eduard Meleshinsky
Bryan Schwartz Law
1330 Broadway, Suite 1630
Oakland, CA 94612
Telephone: (510) 444-9300
Facsimile: (510) 444-9301
Email: eduard@bryanschwartzlaw.com

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VI. Defendants' Attorneys in this Case

The attorneys for the Defendants are:

Kevin M. Cloutier
Shawn D. Fabian
Sheppard Mullin Richter & Hampton LLP
70 West Madison Street, 48th Floor
Chicago, IL 60602
Telephone: (312) 499-6304
Facsimile: (312) 499-6301
Email: kcloutier@sheppardmullin.com
sfabian@sheppardmullin.com

If you choose to join the lawsuit, you should not contact Defendants' attorneys directly.

DO NOT CALL OR WRITE THE COURT OR THE CLERK'S OFFICE WITH QUESTIONS.

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UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NEW YORK

SCOTT KIMBLE, individually, on behalf of all
others similarly situated,

16-CV-6614W (EAW) (MWP)

Plaintiff,

v.

SOLIDIFI U.S. INC. AND
KIRCHMEYER & ASSOCIATES, INC.,

CONSENT TO SUE FORM

Defendants.

1. I hereby consent to be a plaintiff in the lawsuit *Kimble v. Solidifi U.S. Inc., et al.*, U.S. District Court, Western District of New York, Civil Action No. 16-CV-6614W with respect to the Fair Labor Standards Act ("FLSA") claims. I agree to be bound by any adjudication of this action by a court, whether it is favorable or unfavorable, and any settlement of this matter, whether it is favorable or unfavorable.

2. I understand that by filing this Consent form, I may be required to provide information, answer questions, testify at a deposition, testify in a court for purposes of trial, and search for and produce documents.

3. By signing and returning this Consent form, I hereby designate Beranbaum Menken LLP and Bryan Schwartz Law to represent me and make decisions on my behalf concerning the litigation and any settlement.

Full Name

City/State/Zip

Address (will be redacted)

Approx. Dates of Employment

Telephone Number (will be redacted)

Signature / Date

Email Address (will be redacted)