

11/23/2016

FILED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF KERN

DEC - 5 2016

TERRY M. MALLY, CLERK
BY *[Signature]*, DEPUTY

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8 SUPERIOR COURT OF THE STATE OF CALIFORNIA
9 FOR THE COUNTY OF KERN

10 LUIS CALZADILLAS, individually, and on
11 behalf of all other similarly situated current
12 and former employees of Defendant; and
13 TREVIN RENFRO, individually, and on
14 behalf of all other similarly situated current
and former employees of Defendant,

15 Plaintiffs,

16 vs.

17 INNOVATIVE COATINGS TECHNOLOGY
18 CORPORATION, a California corporation;
19 and DOES 1 through 50, inclusive,

20 Defendant..

Case No. S-1500-cv-283563

[Assigned for all Purposes to the
Hon. Sidney P. Chapin - Dept. 4]

CLASS ACTION

[Signature]
[PROPOSED] ORDER GRANTING
PRELIMINARY APPROVAL OF
SETTLEMENT

1 The Motion for Preliminary Approval of a Settlement came before this Court, on
2 November 21, 2016. The Court, having considered the proposed Settlement Agreement and
3 the exhibits attached thereto (hereafter collectively "Settlement Agreement"); having
4 considered the Motion for Preliminary Approval of Class Action Settlement filed by Plaintiffs;
5 having considered the respective points and authorities and declarations submitted by the
6 parties in support thereof and good cause appearing, HEREBY ORDERS THE FOLLOWING:

7 1. The Court grants preliminary approval of the settlement as set forth in the
8 Settlement Agreement and finds the terms to be within the range of reasonableness of a
9 settlement that ultimately could be granted approval by the Court at the final fairness hearing.

10 2. For purposes of the settlement, the Court further designates Plaintiffs Luis
11 Calzadillas and Trevin Renfro as Class Representatives, and the law firm of Rastegar Law
12 Group, APC as Class Counsel.

13 3. For settlement purposes only, the Court certifies the class as "any and all persons
14 currently or formerly employed by Defendant in California on an hourly basis during the Class
15 Period." The Class period runs from December 3, 2010 to September 21, 2016.

16 4. The Court confirms Phoenix Settlement Administrators ("Phoenix") as the
17 Settlement Administrator.

18 5. A final fairness hearing on the question of whether the proposed settlement
19 should be finally approved as fair, reasonable and adequate as to the members of the
20 Settlement Class is scheduled in Department 4 of this Court, located at 1415 Truxtun Avenue,
21 Bakersfield, California 93301, on 4/4/17 [date], at 9:30am [time] (the
22 "Final Fairness Hearing").

23 6. At the Final Fairness Hearing, the Court will consider: (a) whether the settlement
24 should be approved as fair, reasonable, and adequate for the class; (b) whether a judgment
25 granting approval of the settlement should be entered; and (c) whether Plaintiffs' application
26 for an award of attorneys' fees, reimbursement of litigation expenses, and class representative
27 enhancement should be granted.

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1 7. Counsel for the parties shall file memoranda, declarations, or other statements
2 and materials in support of their request for final approval by no later than _____
3 [14 days prior to Final Fairness Hearing].

4 8. Class Counsel shall file a motion for an award of attorneys' fees, reimbursement
5 of litigation expenses and class representative enhancement by no later than
6 3/9/17, 25 days before the Final Fairness Hearing.

7 9. The Court approves, as to form and content, the Notice of Class Action
8 Settlement, Claim Form and Exclusion Form proposed by the parties.

9 10. The Court directs that no later than 20 Business Days after the entry of the
10 Preliminary Approval Order, Defendant shall provide the Claims Administrator with the
11 Database. No later than 10 Business Days after receipt of the Database, the Claims
12 Administrator will print and mail to each Class Member the Notice Packet approved by the
13 Court by first-class mail, postage prepaid.

14 11. The Court orders that Notice Packages and related forms returned to the Claims
15 Administrator as non-delivered during the sixty (60) Calendar Day period for the filing of
16 claims shall be re-sent within three (3) Business Days to the forwarding address, if any, on the
17 returned envelope. If no forwarding address appears on the returned envelope, then the Claims
18 Administrator shall perform a skip trace using information provided by Defendant and, also
19 within three (3) Business Days after receiving the returned Notice Packages, shall re-mail the
20 Notice Packages to the addresses, if any, discovered through the skip trace. A returned Notice
21 Package and related forms will be forwarded or re-mailed one time per Class Member by the
22 Claims Administrator. Upon completion of these steps by the Claims Administrator, the
23 Claims Administrator shall be deemed to have satisfied its obligation to provide the Class
24 Notice to the affected Class Member. The Class Member shall be bound by all the terms of
25 the Stipulation and the Court's Order and Final Judgment, if he or she does not timely request
26 exclusion from the settlement pursuant to the terms of this Stipulation.

27 12. The Court finds that the forms of notice to the Settlement Class regarding the
28 pendency of the action and of this settlement and the methods of giving notice to members of

1 the Settlement Class constitute the best notice practicable under the circumstances and
2 constitute valid, due, and sufficient notice to all members of the Settlement Class. They
3 comply fully with the requirements of California Code of Civil Procedure section 382,
4 California Civil Code section 1781, California Rules of Court 3.766 and 3.769, the California
5 and United States Constitutions, and other applicable law.

6 13. The Court further approves the procedures for Settlement Class Members to opt-
7 out of or object to the Settlement, as set forth in the Settlement Agreement and the Class
8 Notice.

9 14. To validly object to the Settlement Agreement, an objecting Settlement Class
10 Member must provide the following information in the written objection: (i) the objecting
11 Settlement Class Member's full name, current address, telephone number, and signature; (ii)
12 the Settlement Class Member's objections to the Settlement Agreement; (iii) the reasons for
13 the Settlement Class Member's objections; (iv) whether the Settlement Class Member intends
14 to appear at the Final Fairness Hearing with or without separate counsel; and (v) if the
15 Settlement Class Member intends to appear at the Final Fairness Hearing with separate
16 counsel, the identities of all attorneys who will separately represent the Settlement Class
17 Member. In addition, any Settlement Class Member objecting to the Settlement Agreement
18 shall provide a list of any other objections submitted by the objector, or the objector's separate
19 counsel, to any class action settlements submitted in any court in the United States, whether
20 state, federal or otherwise, in the previous five years. If the Settlement Class Member or the
21 Settlement Class Member's separate counsel has not objected to any other class action
22 settlement in any court in the United States in the previous five years, the Settlement Class
23 Member shall affirmatively so state in the written objection. The procedures and requirements
24 for filing objections in connection with the Final Fairness Hearing are intended to ensure the
25 efficient administration of justice and the orderly presentation of any Settlement Class
26 Member's objection to the Settlement Agreement, in accordance with the due process rights of
27 all Settlement Class Members.

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1 15. Pending the Final Fairness Hearing, all proceedings in this action, other than
2 proceedings necessary to carry out or enforce the terms and conditions of the Settlement
3 Agreement and this Order, are stayed.

4 16. Counsel for the parties are hereby authorized to utilize all reasonable procedures
5 in connection with the administration of the settlement which are not materially inconsistent
6 with either this Order or the terms of the Settlement Agreement.

7 17. To facilitate administration of the settlement pending final approval, the Court
8 hereby enjoins all Settlement Class Members from filing or prosecuting any claims, suits or
9 administrative proceedings regarding claims released by the settlement unless and until such
10 Settlement Class Members have filed valid requests for exclusion with the Settlement
11 Administrator and the time to opt-out of the settlement or object to the settlement has elapsed.

12 18. The Court orders the following Implementation Schedule for further
13 proceedings:

Event	Timing
Last day for Defendant to provide class member data for preparation of the Class Notice.	20 business days after Order Granting Preliminary Approval of Settlement
Last day for Settlement Administrator to mail Class Notice to Settlement Class Members.	10 business days after receipt of the class member data base
Last day for Class Counsel to file motion for award of attorneys' fees, reimbursement of litigation expenses and class representative enhancement.	25 calendar days before the Final Fairness Hearing
Last day for Settlement Class Members to submit Opt-Out Requests; and last day for Settlement Class Members to submit objections.	60 calendar days after Notice Date
Last day for Plaintiffs and Defendant to respond to objections (if any).	15 calendar days after last day for submission of objections

Event	Timing
Last day for Settlement Administrator to provide declaration of mailing of Class Notice and data regarding Opt-Out Requests.	15 Business Days after the Claim Deadline
Last day for parties to file motion and supporting documents for final approval of class action settlement.	14 calendar days before Final Fairness Hearing
Final Fairness Hearing.	Approximately 120 calendar days after Preliminary Approval

IT IS SO ORDERED.

Dated: 12/5 2016


 SIDNEY P. CHAPIN
 Superior Court Judge

1 **PROOF OF SERVICE**

2 I am employed in the County of Los Angeles, State of California. I am over the age of 18
3 years, and not a party to this action. My business address is 22760 Hawthorne Boulevard, Suite 200,
4 Torrance, California 90505.

5 On November 22, 2016, I served the following document or documents:

6 **[PROPOSED] ORDER GRANTING PRELIMINARY APPROVAL OF
7 SETTLEMENT**

8 **By fax transmission.** Based on an agreement of the parties to accept service by
9 fax transmission, I faxed the documents to the persons at the fax numbers listed below. No error
10 was reported by the fax machine that I used. A copy of the record of the fax transmission, which
11 is printed out, is attached.

12 **By United States mail.** I enclosed the documents in a sealed envelope or package
13 addressed to the persons at the address listed below (specify one):

14 Deposited the sealed envelope with the United States Postal Service, with the
15 postage fully prepaid.

16 Placed the envelope for collection and mailing, following our ordinary business
17 practices. I am readily familiar with the business's practices for collecting and
18 processing correspondence for mailing. On the same day that correspondence is
19 placed for collection and mailing, it is deposited in the ordinary course of business
20 with the United States Postal Service, in a sealed envelope with postage fully
21 prepaid.

22 I am a resident or employed in the county where mailing occurred. The envelope or
23 package was placed in the mail at Torrance, California.

24 **By personal service.** I personally delivered the documents to the persons at the addresses
25 listed below. (1) For a party represented by an attorney, the delivery was made to the attorney or
26 at the attorney's office by leaving all the documents in an envelope or package that was clearly
27 labeled to identify the attorney being served with a receptionist or an individual in charge of the
28 office. (2) For a party, delivery was made to the party or by leaving the documents at the party's
residence with some person not less than 18 years of age between the hours of eight in the
morning and six in the evening.

By messenger service. I served the documents by placing them in an envelope or
package addressed to the persons at the addresses listed below and providing them to a
professional messenger service for service. A Declaration of Messenger is attached.

By overnight delivery. I enclosed the documents in an envelope or package provided by
an overnight delivery carrier and addressed to the persons at the addresses listed below. I placed
the envelope or package for collection and overnight delivery at an office or a regularly utilized
drop box of the overnight delivery carrier.

By e-mail or electronic transmission. Based on a court order or an agreement of the
parties to accept service by e-mail or electronic transmission, I caused the documents to be sent to

PROOF OF SERVICE

1 the person at the e-mail addresses listed below. I did not receive, within a reasonable time after
2 the transmission, any electronic message or other indication that the transmission was
3 unsuccessful.

4 *Service List*

5 Randall S. Leff, Esq.
6 Pantea Yashar, Esq.
7 **ERVIN COHEN & JESSUP LLP**
8 9401 Wilshire Blvd., 9th Floor
9 Beverly Hills, CA 90212
10 Telephone: 310.273.6333
11 Facsimile: 310.859.2325

12 Attorney for Defendant,
13 **INNOVATIVE COATINGS TECHNOLOGY**
14 **CORPORATION**

15 (State) I declare under the penalty of perjury under the laws of the State of
16 California that the foregoing is true and correct.

17 (Federal) I declare under penalty of perjury that I am employed in the office of a
18 member of the bar of this court at whose direction the service was made, and that the foregoing is
19 true and correct.

20 Executed on November 22, 2016, at Torrance, California.

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Vicky Hernandez

PROOF OF SERVICE