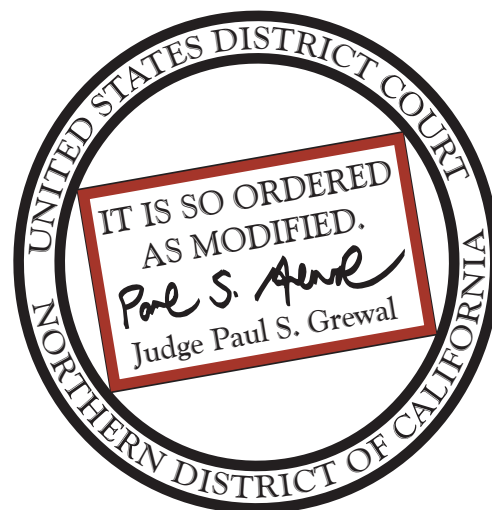


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12 UNITED STATES DISTRICT COURT  
 13 FOR THE NORTHERN DISTRICT OF CALIFORNIA

14 RAYMOND VACA, individually, and on  
 15 behalf of All Others Similarly Situated for  
 the Benefit of All with Common or General  
 16 Interest,

Case No. 5:12-cv-01425-PSG

CLASS ACTION

17 Plaintiff,

**~~[PROPOSED]~~ ORDER GRANTING  
 PRELIMINARY APPROVAL OF CLASS  
 ACTION SETTLEMENT**

18 vs.

19  
 20 TIN, INC., dba TEMPLE-INLAND, INC.,  
 and DOES 1-10, inclusive

Date: June 18, 2013  
 Time: 10:00 a.m.  
 Before: Magistrate Judge Paul Singh Grewal  
 Courtroom 5 - 4th Floor

21 Defendants.  
 22  
 23 \_\_\_\_\_ /

1 Plaintiff's Unopposed Motion for Order Granting Preliminary Approval of Class Action  
2 Settlement came on for regularly scheduled hearing in this Court on June 18, 2013 at 10:00 a.m.,  
3 before the Honorable Paul Singh Grewal in Courtroom 5 of this Court.

4 After consideration of this Motion, the pleadings and argument of counsel, supporting  
5 declarations and documents, the Stipulation and Settlement Agreement of Class Action and  
6 Individual Claims, and other papers and pleadings on file, the Court finds and determines  
7 pursuant to Federal Rule of Civil Procedure 23 that Plaintiff's Motion for Preliminary Approval  
8 should be **GRANTED**.

9 **THE COURT FINDS:**

10 1. To the extent defined in the Stipulation and Settlement Agreement of Class Action  
11 and Individual Claims (the "Agreement"), attached as Exhibit A herewith and incorporated by  
12 reference herein, the terms in this Order shall have the meanings set forth therein.

13 2. The Court has jurisdiction over the subject matter of this action, the Defendants and  
14 the Class.

15 3. The Court has determined that the Class Notice accurately informs all persons in the  
16 Class of all material elements of the proposed Settlement --- including the plan of distribution of  
17 the Settlement Payment, the application for an incentive award to the Named Plaintiff and the  
18 application for a fee and expense award to Class Counsel, --- constitutes the best notice  
19 practicable under the circumstances, constitutes valid, due and sufficient notice to all Class  
20 Members, and complies fully with Rule 23 of the Federal Rules of Civil Procedure, the United  
21 States Constitution, and any other applicable laws. The Court hereby approves the form and  
22 content of the Class Notice, which is attached to the Agreement as Exhibit 1.

23 4. The Court hereby preliminarily approves the Settlement as fair, reasonable and  
24 adequate in all respects to the Class Members pursuant to Rule 23 of the Federal Rules of Civil  
25 Procedure.

26 5. The Settlement Class, for purposes of the proposed settlement only and with no other  
27 effect on this litigation or any other proceeding, including if the Agreement ultimately is not  
28

1 approved or final judgment is not entered, is appropriate under Fed. R. Civ. P. 23 and related case  
2 law and is defined as follows:

3 All persons who, according to IP's payroll records, worked as  
4 Corrugator or Converter Facilitators, Supervisors, Lead Men, or  
5 Working Foremen in a plant operated by TIN, Inc. dba Temple-  
6 Inland, Inc. in the state of California at any time between January  
7 26, 2008 and the date of Preliminary Approval.

6 6. For purposes of the proposed settlement only, the Settlement Class, consisting of  
7 approximately 110 Class Members, is sufficiently numerous that joinder is not practicable.

8 7. For purposes of the proposed settlement only, the Class Members' claims all stem  
9 from the same source – their employment by Defendants as Corrugator or Converter Facilitators,  
10 Supervisors, Lead Men, or Working Foremen (collectively "Class Positions"), their classification  
11 as exempt employees, and their non-receipt of overtime wages for their overtime hours worked –  
12 and there are questions of law and fact common to the members of the Settlement Class. The  
13 questions of law and fact common to the members of the Settlement Class include:

- 14 • Whether Defendants' policy and practice of classifying the Settlement Class Members  
15 as exempt from overtime entitlement and failing to pay overtime to the Settlement  
16 Class members violates applicable law, including applicable statutory and regulatory  
17 authority; and
- 18 • Whether Defendants unlawfully failed to pay compensation to Settlement Class  
19 Members for missed meal and rest periods in violation of the UCL and applicable  
20 California wage and hour laws; and
- 21 • Whether Defendants unlawfully failed to keep and furnish Settlement Class Members  
22 with records of hours worked, in violation of applicable law.

20 As Plaintiff need only establish one common question of law or fact in order to meet the  
21 low threshold set by Rule 23(a)(2), Plaintiff's above showing of common issues satisfies what is  
22 required for settlement purposes.

23 8. For purposes of the proposed settlement only, the proposed Class Representative's  
24 claims are typical of those of the Class that he seeks to represent because the Class Members'  
25 claims all arise out of Defendants' uniform policy of classifying Class Positions as exempt, and  
26 of refusing to pay them overtime compensation for overtime hours worked.

27 9. For purposes of the proposed settlement only, the proposed Class Representative has  
28 fairly and adequately protected the interests of the Settlement Class. He has retained counsel

1 who have the experience and resources necessary to provide adequate representation of the  
2 Classes and meet the requirements of Rule 23(g)(1) for settlement purposes.

3 10. For purposes of the proposed settlement only, the Class Action Settlement and Plan of  
4 Distribution (“Proposed Settlement”) is preliminarily approved as follows:

- 5 • “Authorized Claimants” shares of the Net Settlement Fund, shall be calculated  
6 *pro rata* based on their weeks worked during the class period.
- 7 • Authorized Claimants who worked in a Class Position during the PAGA Period  
8 will each receive an additional lump sum payment as their share of the \$2,500 of  
9 the Net Settlement Fund which is attributable to PAGA claims. The individual  
10 lump sum payments will be determined by dividing the \$2,500 by the total number  
11 of Authorized Claimants who worked in a Class Position during the PAGA  
12 Period.
- 13 • Any amount remaining in the Settlement Fund after distribution to the members of  
14 the Settlement Class as set forth above based upon the agreed upon formula (for  
15 example due to settlement checks returned undeliverable or the failure of  
16 Settlement Class Members to negotiate settlement checks), if less than 25% of the  
17 Net Settlement Fund, will be divided equally and paid as a *cy pres* charitable  
18 contribution to the International Paper Employee Relief Fund and the Legal Aid  
19 Society of Santa Clara County. If the residual amount exceeds 25% of the Net  
20 Settlement Fund, the Settlement Administrator shall proceed with a second  
21 distribution to the Settlement Class.

22 11. For purposes of the proposed settlement only, the proposed incentive award of \$5,000  
23 to the Named Plaintiff is fair and reasonable in recognition of his time and effort expended on  
24 behalf of the Settlement Class.

25 12. Plaintiff Counsel’s (Class Counsel’s) claims for the reasonable fee and expense award  
26 will be resolved at the time of the Final Approval hearing.

27 13. For purposes of the proposed settlement only, the proposed settlement administrators  
28 are experienced and the proposed limit of \$30,000 for settlement administration services is  
reasonable in light of the administration of the Proposed Class Settlement.

In light of the foregoing and good cause appearing, the Court **GRANTS**:

- (1) Provisional Certification of the Proposed Settlement Class described as: “all persons  
who, according to IP’s payroll records, worked as Corrugator or Converter  
Facilitators, Supervisors, Lead Men, or Working Foremen in a plant operated by

TIN, Inc. dba Temple-Inland, Inc. in the state of California at any time between January 26, 2008 and the date of Preliminary Approval.”

(2) Preliminary Approval of the Settlement and plan of distribution.

(3) Preliminary Approval of the proposed incentive award of \$5,000 to the Named Plaintiff in recognition of his time and effort expended on behalf of the Settlement Class.

(4) Preliminary Approval of the proposed settlement administrator.

(5) Preliminary Approval of an amount not to exceed \$30,000 for settlement administration services.

(6) Preliminary Approval of distribution of the Settlement Notice pursuant to the terms set forth in the Agreement.

(7) Preliminary approval of the following Schedule for Final Approval of the Settlement:

<b>Date</b>	<b>Action</b>
<del>June 18, 2013</del> July 2, 2013	Preliminary Approval Hearing
Within 30 days after preliminary approval is granted	Defendants will provide information to Class Counsel and the Settlement Administrator
Within 45 days after preliminary approval is granted	Settlement Administrator will mail Class Notice and Claim Form to the Class Members
Within 95 days after preliminary approval is granted	Class Counsel will move for award of reasonable attorneys' fees and costs and class representative service payment
Within 105 days after preliminary approval is granted	Deadline to return Claim Forms, opt-out, comment on or object to Settlement
Within 115 days after preliminary approval is granted	Class Counsel will move for final approval of Settlement

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<del>DATE</del> December 10, 2013 at 10:00 a.m.	Final Settlement Approval Hearing/Fairness Hearing
Within 65 days after (a) service of notice of entry of the Final Approval Order, without any appeals or requests for review, or (b) orders affirming Final Approval Order or denying review	“Payment Obligation and Class Release Date:” Defendant to transfer settlement funds to Settlement Administrator
Within 15 days after Payment Obligation and Class Release Date	Settlement Administrator to mail Class Member settlement awards and to pay out fee and expense award, class representative service payment and PAGA Payment

(9) Should the Settlement Agreement not be finally approved, or should the Effective Date, as the term is defined in the Agreement, not occur, this Order shall be null and void and of no further force and effect, and the parties shall be restored to their respective positions prior to the execution of the Agreement. Upon such nullification, neither this Order nor the Agreement shall be used or referred to for any purpose in this action or in any other proceeding, and the Agreement and all negotiations thereto shall be inadmissible.

**IT IS SO ORDERED.**

DATED: July 3, 2013

  
THE HONORABLE PAUL S. GREWAL  
United States Magistrate Judge