

FILED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF ORANGE
CIVIL COMPLEX LITIGATION CENTER

DEC 09 2016

DAVID H. YAMASAKI, Clerk of the Court

BY: _____ DEPUTY

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13 MANNY PONCE

9 SUPERIOR COURT OF THE STATE OF CALIFORNIA
10 FOR THE COUNTY OF ORANGE

11 MANNY PONCE, an individual,

12 Plaintiff,

13 vs.

14 PENTAIR WATER POOL AND SPA, INC., a
15 Delaware corporation; ROTH STAFFING
16 COMPANIES L.P., a California limited
17 partnership; and DOES 1 through 50, inclusive,

18 Defendants.

Case No. 30-2013-00647036-CU-OE-CXC

[Assigned to the Honorable Thierry P. Colaw –
Dept. CX-105]

^{TIC}
[PROPOSED] ORDER GRANTING PLAINTIFF'S
MOTION FOR FINAL APPROVAL OF CLASS
ACTION SETTLEMENT, AND FINAL JUDGMENT
THEREON

[Notice of Motion and Motion for Final Approval
of Class Action Settlement; Memorandum of
Points and Authorities; Declaration of Aanand
Mehtani, Declaration of Manny Ponce; and
Declaration of Nicole Bench submitted
concurrently herewith]

Hearing Date: December 2, 2016

Time: 10:30 a.m.

Dept.: CX-105

Complaint Filed: April 29, 2013

Trial Date: None Set

28 [PROPOSED] ORDER GRANTING PLAINTIFF'S MOTION FOR FINAL APPROVAL OF CLASS ACTION
SETTLEMENT, AND FINAL JUDGMENT THEREON

1 On December 2, 2016 at 10:30 a.m., this Court heard Plaintiff Manny Ponce's ("Ponce" or
2 "Plaintiff") Motion for Final Approval of Class Action Settlement. Due and adequate notice having been
3 given to the Settlement Class, and the Court having considered the Settlement Agreement, all papers filed and
4 proceedings had herein, all Requests for Exclusion, and having reviewed the record in this Action, and good
5 cause appearing,

6 **IT IS HEREBY ORDERED, ADJUDGED AND DECREED AS FOLLOWS:**

- 7 1. The Court, for purposes of this Order, adopts all defined terms as set forth in the Settlement
8 Agreement filed in this Action.
- 9 2. The Court has jurisdiction over the subject matter of the Action, Plaintiff, the Class Members,
10 and Defendants Pentair Water Pool and Spa, Inc. and Roth Staffing Companies L.P.
11 (collectively, "Defendants").
- 12 3. The Court finds that the dissemination of the Class Notice with respect to the Settlement, as
13 provided for in the Court's May 27, 2016 Amended Preliminary Approval Order and September
14 7, 2016 Order Granting Joint *Ex Parte* Application for Approval Of Modification of Amended
15 Preliminary Approval Order, constituted the best notice practicable under the circumstances to all
16 Class Members, and fully met the requirements of California law and due process under the
17 United States Constitution. Based on evidence and other material submitted in conjunction with
18 the Final Approval Hearing, notice to the Settlement Class was adequate.
- 19 4. The Court finds in favor of settlement approval and hereby enters final Judgment in this case in
20 accordance with the terms of the Settlement Agreement, the Court's May 27, 2016 Amended
21 Preliminary Approval Order and September 7, 2016 Order Granting Joint Ex Parte Application
22 for Approval Of Modification of Amended Preliminary Approval Order Motion and this Final
23 Approval Order and Judgment. The Parties are hereby ordered to comply with the terms of the
24 Settlement Agreement and this Final Approval Order and Judgment and distribute the benefits to
25 the Settlement Class as set forth in the Settlement Agreement.
- 26 5. The Court approves the settlement of the above-captioned Action, as set forth in the Settlement
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1 Agreement, including the releases therein, as fair, just, reasonable and adequate as to the Parties
2 and the Settlement Class. The Parties are directed to perform in accordance with the terms set
3 forth in the Settlement Agreement.

4 6. All of the Released Claims are hereby released upon the Effective Date as defined in the
5 Settlement Agreement.

6 7. Solely for purposes of effectuating this settlement, this Court has certified a Settlement Class of
7 all Class Members, as defined in and by the terms of the Settlement, and the Court deems this
8 definition sufficient for purposes of California Rules of Court 3.765(a) and 3.771. Specifically,
9 the Court hereby certifies the following Settlement Class for settlement purposes only:

10 All individuals who performed work in any non-exempt position at Pentair's
11 facility in Chino, California and/or Pentair's facility in Moorpark, California
12 at any time during the Settlement Class Period, which is from April 29, 2009
13 to the date on which the Court grants preliminary approval the Settlement
14 Agreement. (Settlement Agreement ¶¶ 5, 20.)

15 8. With respect to the Settlement Class and for purposes of approving the Settlement only and for
16 no other purpose, this Court finds and concludes that: (a) the Class Members are ascertainable
17 and so numerous that joinder of all members is impracticable; (b) there are questions of law or
18 fact common to the Settlement Class, and there is a well-defined community of interest among
19 Class Members with respect to the subject matter of the claims in the Action; (c) the claims of
20 Plaintiff are typical of the claims of the Class Members; (d) Plaintiff has fairly and adequately
21 protected the interests of the Class Members; (e) a class action is superior to other available
22 methods for an efficient adjudication of this controversy; and (f) Plaintiff's Counsel are qualified
23 to serve as counsel for the Plaintiff in his individual and representative capacity and for the
24 Settlement Class.

25 9. The Court hereby confirms as final its appointment of Manny Ponce as the representative for the
26 Settlement Class.

- 1 10. The Court hereby confirms as final its appointment of Rushovich Mehtani LLP as Class Counsel.
- 2 11. Pursuant to the terms of the Settlement Agreement, he Court also approves the payment of
- 3 \$23,000 to the Claims Administrator, ILYM Group, Inc. for its fees and costs in this Action. The
- 4 Court finds this payment is fair and reasonable.
- 5 12. Pursuant to the terms of the Settlement Agreement, the Court also approves the payment of
- 6 \$7,500 to the California Labor and Workforce Development Agency ("LWDA") for its seventy-
- 7 five percent (75%) share of the \$10,000 allocated to the settlement of civil penalties under the
- 8 Private Attorneys General Act, Labor Code Section 2698 et seq. The Court finds this payment is
- 9 fair and reasonable.
- 10 13. No Class Members objected to the Settlement Agreement.
- 11 14. Three (3) Class Members timely filed Requests for Exclusion from the Settlement Class and are
- 12 so excluded.
- 13 15. Without affecting the finality of this Order and Judgment in any way, the Court hereby retains
- 14 exclusive and conclusive jurisdiction over the Action, Plaintiff, the Settlement Class, and
- 15 Defendants for purposes of supervising the implementation, enforcement, construction,
- 16 administration and interpretation of the Settlement Agreement and this Judgment.
- 17 16. The Parties are ordered to cause a copy of this Order and Judgment to be posted by the Claims
- 18 Administration, ILYM Group, Inc. on their website, www.ilymgroupclassaction.com, in order to
- 19 provide notice to the Settlement Class as required by California Rule of Court, Rule 3.771(b).
- 20 17. This document shall constitute a Judgment for purposes of California Rule of Court, Rule
- 21 3.769(h).
- 22 18. The final report hearing date is scheduled for July 14, 2017 at 10:30 AM in CX105 to confirm
- 23 that all distributions have been made, as ordered (so that the court file may then be closed),
- 24 including surrender of unclaimed checks to the State Controller's Office (for Class Members with
- 25 no address ever developed), and payment of uncashed checks (after 120 days) to the named *cy*
- 26 *pres* beneficiary Alliance for Children's Rights, pursuant to Code of Civil Procedure § 384(b) (for
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Class Members that could be located, but who do not cash their checks), and \$7,500.00 to the LWDA.

IT IS SO ORDERED.

DATED: December 9th, 2016



The Honorable Thierry P. Colaw

Judge of the Superior Court of Orange Count