

1 **THE LAW OFFICE OF MATT BLUM**

2 Matt Blum (SBN 285944)
3 mblumlaw@gmail.com
4 550 W. C Street, Suite 960
5 San Diego, CA 92101
6 Telephone: (860) 271-6273 / Facsimile: (619) 238-1351

5 **COHELAN KHOURY & SINGER**

6 Michael D. Singer (SBN 115301)
7 msinger@ckslaw.com
8 Diana M. Khoury (SBN 128643)
9 dkhoury@ckslaw.com
10 J. Jason Hill (SBN 179630)
11 jhill@ckslaw.com
12 605 C Street, Suite 200
13 San Diego, CA 92101
14 Telephone: (619) 595-3001 / Facsimile: (619) 595-3000

11 **LAW OFFICES OF SAHAG MAJARIAN II**

12 Sahag Majarian, II (SBN 146621)
13 sahagii@aol.com
14 18250 Ventura Blvd.
15 Tarzana, CA 91356
16 Telephone: (818) 609-0807 / Facsimile: (818) 609-0892

15 Attorneys for Plaintiffs Antony M. Smith and Omar Ayala

16 **SUPERIOR COURT OF CALIFORNIA**

17 **COUNTY OF SAN DIEGO – NORTH COUNTY**

18 ANTONY M. SMITH and OMAR AYALA,
19 individuals, on behalf of themselves, and on
20 behalf of all persons similarly situated and
21 aggrieved

21 Plaintiffs,

22 v.

23 ZODIAC POOL SYSTEMS, LLC, a
24 Delaware limited liability company doing
25 business in California; and Does 1 through
26 50, Inclusive

26 Defendants.

Case No. 37-2020-00036431-CU-OE-NC
ASSIGNED FOR ALL PURPOSES TO:
The Honorable Earl H. Maas, III
Department N-28

CLASS AND REPRESENTATIVE ACTION

**DECLARATION OF ANTONY M.
SMITH IN SUPPORT OF MOTION FOR
PRELIMINARY APPROVAL OF CLASS
ACTION SETTLEMENT**

Date: June 10, 2022
Time: 1:30 p.m.
Dept: N-28
Judge: Hon. Earl H. Maas, III
Reservation: 2488941

Filed: October 7, 2020
Trial date: Not set

1 I, Antony M. Smith, declare as follows:

2 1. I am a Named Plaintiff / Class and Private Attorney General Action (PAGA)
3 Representative in the above-captioned lawsuit. I have personal knowledge of all matters stated
4 in this declaration, and could competently testify if called as a witness, except as to the matters
5 stated upon information and belief, and as to those matters, I believe them to be true.

6 2. I have and will continue to adequately represent the interest of all Class and
7 PAGA Members. I am informed the proposed members of the Class are non-exempt
8 employees of Zodiac Pool Systems ("Zodiac") employed at any time from May 27, 2016
9 through August 2, 2021, and PAGA Members, those who were employed by Zodiac at any time
10 from March 20, 2019 through August 2, 2021.

11 3. I am not related to any attorney working on the case. I am not aware of any
12 interests I have that are adverse to the interests of the Class, and I do not have any conflicts that
13 would keep me from acting on behalf of the Class as a named Plaintiff in this case. I have been
14 and remain committed to vigorously prosecuting this case as the Plaintiff, on behalf of all other
15 similarly employed Class Members. I agreed to act as a Plaintiff, not only on behalf of myself,
16 but also on behalf of the Class, who were similarly affected by Zodiac's unlawful practices and
17 experienced similar violations.

18 4. I was employed by Zodiac as a "Technical Support Level One Advisor" from
19 approximately August of 2018 through August of 2020. My job duties included taking phone
20 calls regarding technical issues experienced in the field, as well as calls from customers and
21 home owners who were using the company's products. I was also responsible for developing
22 training curriculum and implementing the training with field based technical support personnel.

23 5. During my employment, a time clock was used to track time worked by myself
24 and Class Members. Precise time clock entries were available for calculation of hours worked,
25 including overtime worked. Zodiac had a policy of rounding time card entries to the nearest
26 quarter hour, which resulted in an underpayment of my regular wages, and at times, overtime
27 wages. I was also not provided with duty-free rest and meal breaks, or paid an hour's pay for a
28 non-compliant rest or meal break. I was also not reimbursed for the use of my personal cell

1 phone for work-related purposes during my shifts.

2 6. I searched for, and located attorneys specializing in employment matters to talk
3 to about my potential claims for unpaid wages, and later retained the Law Office of Matt Blum.

4 7. As a Plaintiff and representative of the Class, I understood I was not only
5 seeking compensation for myself, but also for others who worked for Zodiac, and that by doing
6 so, I would be delaying immediate redress available on an individual basis, through the Labor
7 Commissioner's office. I was aware this lawsuit is a matter of public record and may appear on
8 a background check, which could affect future employment opportunities. I also understood the
9 case could continue for years and would require my attention and participation throughout. I
10 also understood, that if the case were filed, and were lost, that I could have a judgment entered
11 against me for Zodiac's litigation costs. Despite these burdens and the risks, I decided to serve
12 as a Class and PAGA Representative because it was the right thing to do, and I wanted to be
13 part of the solution.

14 8. I understood a lot of work would be required of me and I was willing to, and
15 did, do the work to keep the case moving forward. I was told my deposition may likely be
16 taken, and that the preparation and the deposition itself could take multiple days. To familiarize
17 me with the process, my attorneys started my preparation early so I would be prepared and
18 comfortable when the date and time were set. My deposition was not taken, but I feel I would
19 have been adequately prepared.

20 9. On behalf of myself and all other employees such as myself, my attorneys filed
21 the lawsuit on October 7, 2020, in the San Diego County Superior Court North County
22 Division.

23 10. Sometime after my lawsuit was filed, I was informed a similar lawsuit had been
24 filed by Omar Ayala against Zodiac on behalf the same group of employees in the San Diego
25 County Superior Court. I then learned that this case had been removed to federal court by
26 Zodiac. It was explained to me that the best option for potential resolution was for us to
27 collectively mediate the cases. I worked with my attorneys to deliver corroborating evidence to
28 Ayala's counsel, and shortly thereafter we all decided to work together towards resolution.

1 11. To help prepare for mediation, I met with my attorneys beforehand to discuss
2 the strength of my claims. I believe my thorough knowledge of Zodiac's practices assisted
3 them in evaluating the claims and assessing the potential damages for use at mediation. I think
4 my efforts helped obtain the results in this case.

5 12. Ultimately, after a settlement was reached, a Memorandum of Understanding
6 was sent to me to review and sign, which I did. I later reviewed and signed the long-form
7 Settlement Agreement.

8 13. I understand that I may be entitled to an additional payment for acting as a
9 named Plaintiff, and that this payment is subject to Court approval. Considering the time I
10 devoted to this case, the burdens, and risks undertaken addressed above, and the results
11 achieved through the proposed Settlement, I believe that the requested award of \$10,000 is
12 reasonable.

13 14. It is hard to determine for sure exactly how much time I spent on this case in the
14 past 13 months, as some months required much more time than others, but I know I spent a lot
15 of time thinking about this case and worrying about it in addition to the work described above.

16 15. My involvement in this case includes: (1) searching for and finding an attorney
17 to handle my case; (2) initiating my case and being an active participant throughout; (3)
18 numerous conferences with my attorneys; (4) searching for and providing information and
19 documents to my attorneys; (5) beginning to prepare for my deposition, although not taken; (6)
20 preparing for, and making myself available by phone at mediation; (7) consenting to the
21 Settlement, and then reviewing and signing the Memorandum of Understand and the Settlement
22 Agreement; (8) facing the potential loss of job opportunities for having filed a lawsuit against a
23 former employer; and (9) the substantial time I spent on this case, both before and after it was
24 filed is time lost from pursuing other interests, and being with friends and family.

25 ///

26 ///

27 ///

1 I declare under penalty of perjury under the laws of the State of California the foregoing
2 is true and correct. Executed 11-19-20 at San Diego, California.

3
4 
5 Antony M. Smith
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28