

1 **SETTLEMENT AND RELEASE AGREEMENT**

2 **RECITALS**

3 1. This Joint Stipulation of Settlement and Release ("Settlement Agreement") is
4 made and entered into by and between plaintiffs Efrain Sanchez, Alejandro Ruiz and
5 Luis Franco (collectively "Sanchez") on behalf of themselves and all others similarly
6 situated individuals ("Plaintiffs"), and defendants Grupo Deco California
7 Corporation, a California Corporation, Grupo Deco America Corporation, a
8 Delaware Corporation and Deco California Insurance Agency, a California
9 Corporation (hereafter collectively "Defendants" or "Grupo Deco") and their
10 respective counsel of record. Pursuant to this Settlement Agreement, Deco
11 California Insurance Agency, a California Corporation, will be added as a Defendant
12 in this action. This Settlement Agreement is subject to court approval.

13 2. The Plaintiffs and Defendants are collectively referred to as "the Parties."

14 3. As used hereafter, "Settlement Class Counsel" refers to James Hawkins APLC
15 (by James Hawkins and Christina Lucio).

16 4. "Defendants' Counsel" refers collectively to The Law Office of David J.
17 Hamilton (by David J. Hamilton) and the Law Office of Joseph D. Tuchmayer (by
18 Joseph D. Tuchmayer).

19 5. On November 6, 2013, Sanchez filed a Complaint in Superior Court for the
20 County of Los Angeles, Case No. BC526934, on behalf of himself and all others
21 similarly situated naming Grupo Deco as defendant. The case was assigned to
22 Judge Kenneth R. Freeman. Sanchez filed a First Amended Complaint on or about
23 May 28, 2015 (hereafter the "First Amended Complaint") and purported to allege
24 therein class action and Private Attorney General Act ("PAGA") claims for (1)
25 breach of contract and the implied covenant of good faith and fair dealing, (2) failure

1 to pay overtime wages, (3) failure to pay minimum wages, (4) failure to reimburse
2 necessary expenditures, (5) failure to provide meal periods, (6) failure to authorize
3 and permit rest periods, (7) failure to provide with accurate itemized wage
4 statements, (8) failure to pay wages owed upon separation from employment, (9)
5 unfair competition, and, (10) violation of Labor Code Section 2698, *et seq.*

6 6. The Parties convened a day-long mediation on March 7, 2017, with Michelle
7 Reinglass as Mediator. The Parties were unable to resolve the matter at that time but
8 with the continued involvement of the mediator were able to come to an agreement.

9 7. Grupo Deco denied and continues to deny any liability and/or wrongdoing
10 alleged in the First Amended Complaint and further asserts that, for any purpose
11 other than settlement, this action is not appropriate for class treatment.

12 8. Plaintiffs believe they have filed a meritorious action based on alleged
13 violations of California's wage and hour laws and that class certification is
14 appropriate because the requisites for class certification can be satisfied in this case.

15 9. It is the desire of the Parties to fully, finally, and forever settle, compromise,
16 and discharge all disputes and claims arising from or related to the First Amended
17 Complaint which exist between them.

18 10. It is the intention of the Parties that this Settlement Agreement shall constitute
19 a full and complete settlement and release of all disputes and claims arising from or
20 related to the First Amended Complaint which exist between them, which release
21 includes in its effect Defendants, and all present and former parent companies,
22 subsidiaries, related entities, shareholders, officers, directors, employees, agents,
23 independent contractors, partners, limited partners, general partners, spouses,
24 descendants, servants, registered representatives, attorneys, insurers, affiliates and
25 successors and assigns of Defendants.

11. Settlement Class Counsel has conducted a thorough investigation into the facts of the First Amended Complaint, including an extensive review of documents and data, including without limitation financial documents including without limitation tax returns and has diligently pursued an investigation of Settlement Class Members' claims against Grupo Deco. Based on Settlement Class Counsels' independent investigation and evaluation, Settlement Class Counsel is of the opinion that the settlement with Grupo Deco for the consideration and on the terms set forth in this Settlement Agreement is fair, reasonable and adequate, and is in the best interest of the class defined below in light of all known facts and circumstances, including the risk of significant delay, defenses asserted by Grupo Deco, the current and projected status of the economy with respect to the funeral home industry in general and pre-need funeral contracts in particular, Grupo Deco's relative size and financial position within that industry, Grupo Deco's current financial condition and numerous potential appellate issues. Grupo Deco and Defendants' counsel also agree that the settlement is fair and in the best interest of the Settlement Class.

CLASS CERTIFICATION

12. The Parties propose that the named plaintiffs, Sanchez, Ruiz and Franco represent the following class or classes *for the purposes of settlement only*:

All individuals who were employed as non-exempt employees by Defendants Grupo Deco California Corporation, Grupo Deco America Corporation, and/or Deco California Insurance Agency (hereafter "Defendants") -- including without limitation pre-need agents (hereafter "Pre-Need Agent") by Defendants to sell pre-need policies in the State of California at any time and who earned a commission from selling pre-need policies for Defendants -- from November 6, 2009 to the date of preliminary approval.

1 The Parties stipulate and agree that named plaintiffs Efrain Sanchez, Alejandro Ruiz
2 and Luis Franco are appropriate class representatives for this settlement class as they
3 are former non-exempt employees of Defendants who also sold pre-need policies
4 during the relevant time frame and their claims are typical of the Settlement Class
5 they seek to represent (hereafter "Class Representatives").

6 TERMS OF SETTLEMENT

7 13. Grupo Deco's total payment under this Settlement Agreement, including but
8 not limited to payments to the Settlement Class, payments to Settlement Class
9 Counsel for attorneys' fees and costs, costs of Settlement Administration, and
10 payments to the Class Representatives is **Eighty Thousand Dollars (\$80,000.00)**
11 (the "Settlement Fund"). Under no circumstances shall Grupo Deco be required to
12 spend more than Eighty Thousand Dollars (\$80,000.00), in total, for any reason or
13 anything under this Settlement Agreement except to pay the employer's share of
14 payroll taxes or as otherwise hereafter specified.

15 14. Settlement Class Counsel will apply to the Court for, and Grupo Deco will not
16 oppose, payment from the Settlement Fund not to exceed thirty-three and one-third
17 percent (33 1/3%) of the Settlement Fund in attorneys' fees.

18 15. Settlement Class Counsel will apply to the court for, and Grupo Deco will not
19 oppose, payment from the Settlement Fund of up to Fifteen Thousand Dollars
20 (\$15,000) in costs.

21 16. The amounts specified in Paragraphs 14 and 15 shall collectively compensate
22 Settlement Class Counsel for all fees and costs incurred to date and to be incurred in
23 the future related to this matter, including without limitation, filing fees, deposition
24 fees, mediation fees and expert fees as well as all such fees and costs incurred in
25 documenting the settlement, securing Court approval of the settlement, monitoring

1 the settlement, obtaining dismissal of the action and prosecuting or defending any
2 appeal.

3 17. Settlement Class Counsel will apply to the Court for, and Defendants will not
4 oppose incentive payments not to exceed Two Thousand Five Hundred Dollars
5 (\$2,500.00) each (which will be reported on an IRS form 1099) from the Settlement
6 Fund to Sanchez, Ruiz and Franco for their service as Class Representatives.

7 18. Settlement Class Counsel will apply to the Court for, and Defendants will not
8 oppose "Settlement Administration Costs" in an amount of up to Twelve Thousand
9 Dollars (\$12,000.00). "Settlement Administration Costs" means all costs incurred
10 by the Settlement Administrator in administration of the Settlement, including, but
11 not limited to, translation into Spanish and mailing of notice to the class, calculation
12 of Individual Settlement Payments, generation of Individual Settlement Payment
13 checks and related tax reporting forms, administration of unclaimed checks, and
14 distribution of funds (via checks or otherwise) to Class Counsel for attorneys' fees
15 and costs, to Ruiz, Sanchez, and Franco for their service as Class Representatives,
16 and to the Labor and Workforce Development Agency ("LWDA") for its share of
17 PAGA penalties, all pursuant to the terms of this Agreement.

18 19. The Parties have agreed to retain ILYM Group, Inc., as the Settlement
19 Administrator.

20 20. The Parties have also agreed to allocate One Thousand Dollars (\$1,000) as a
21 PAGA penalty payment to settle any and all claims for which penalties under the
22 Private Attorneys General Act of 2004, Labor Code section 2698, et seq. ("PAGA")
23 may be sought or are otherwise available as set forth in the operative complaint.
24 Seventy-five percent (75%) of this amount or \$750 will be paid to the LWDA and
25 twenty-five percent (25%) of this amount or \$250 will be distributed to the Class as

1 part of the Net Settlement Fund. The LWDA will be provided with a copy of this
2 settlement agreement and included on the proof of service.

3 21. The remaining amount of the Settlement Fund (after deduction of the amounts
4 set forth in paragraphs 14-20), hereafter the “Net Settlement Fund” shall be
5 distributed in “Individual Settlement Payments” according to the point system set
6 forth below in this Paragraph 21. The Net Settlement Fund shall be distributed
7 according to the following formula:

8 a. **One (1) point** for each month an individual was on the payroll of
9 Defendants at any time from November 6, 2009 to the date of entry of the
10 Preliminary Approval Order and employed as a non-exempt employee.

11 b. **Two (2) points** for each commissioned pre-need sale made by a non-
12 exempt from November 6, 2009 to the date of entry of the Preliminary
13 Approval Order. “Commissioned pre-need sales” are limited to sales in
14 which the purchaser did not revoke or otherwise cause the sale to be
15 cancelled (including without limitation by a failure to make required
16 payments) within twelve months of the date the sales contract was
17 executed by the purchaser. In the event the twelve month period has not
18 elapsed by the date of entry of the Preliminary Approval Order with respect
19 to a sales contract, that contract shall be treated as a completed sale.

20 c. The value of each point will be determined by dividing the Net Settlement
21 Fund by the total number of points derived from the sum of a. and b. above.
22 The estimated amount due to a Settlement Class Member shall be the value
23 of a single point multiplied by the total points available to that Settlement
24 Class Member.

25 d. If an individual was not on the payroll for at least fifteen (15) days during
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1 a month, that individual shall not receive a point for that month.

2 22. Each Individual Settlement Payment will represent wages, interest, penalties,
3 and expense reimbursement allocated using the following formula: 15% allocated to
4 wages; 80% to expense reimbursement; and 5% allocated to penalties and interest.
5 Individual Settlement Payments paid from the Net Settlement Amount allocated to
6 wages will be reduced by applicable payroll withholdings and deductions, and the
7 Settlement Administrator will issue a Form W-2 for the wage portion of the
8 Individual Settlement Payments. The Settlement Administrator will issue a Form
9 1099 to the extent required by law for the expense reimbursement, interest and
10 penalty portions of the Individual Settlement Payments.

11 23. This Settlement Agreement shall become effective on the "Effective Date".
12 "Effective Date" means sixty-one (61) calendar days plus two court days after the
13 entry of the Final Approval Order and Judgment. However, in the event that an
14 appeal or other effort to obtain reconsideration or review has been initiated, the
15 "Effective Date" shall instead mean two (2) court days after the date that such appeal
16 or other reconsideration or review has been finally concluded in favor of the Final
17 Approval Order and Judgment and the Final Approval Order and Judgment is no
18 longer subject to review, whether by appeal, petitions for rehearing, petitions for
19 rehearing en banc, petitions for certiorari, or otherwise. The disposition entered by
20 the Court will not adjudicate the merits of the action or the liability of the Parties
21 resulting from the allegations of the action. Its sole purpose is to adopt the terms of
22 the Settlement and to retain jurisdiction over its enforcement. To that end, pursuant
23 to Code of Civil Procedure Section 664.4, the Court shall retain continuing
24 jurisdiction over this action and over all Parties and Settlement Class Members to
25 enforce and effectuate the terms and intent of this Agreement.

24. Defendants will fund the Settlement Fund by making equal payments every 90 days, with the first payment made into the Settlement Fund within 60 days of the Effective Date. Every payment into the Settlement Fund shall be in the amount of \$5,714.29, except the last payment (1260 days after the Effective Date) which shall be in the amount of \$5,714.23. In order to reduce the costs of administration, the Settlement Fund will be distributed by mail in two installments with the first distribution made within 600 days of the Effective Date specified in Paragraph 22, above, and the second distribution will be made within twenty days after the last payment is made by Defendants into the Settlement Fund. Amounts due to Settlement Class Counsel for attorney's fees and costs, and payments to the Class Representatives shall be treated in the same fashion as distributions to the Settlement Class. The Settlement Administrator shall be paid up to \$12,000 from the initial payments made by Defendants.

25. As the Parties believe in good faith that they have identified all potential members of any class identified above, qualified claimants will include only those individuals of the Settlement Class identified and who are provided with a Notice of Pendency of Class Action and of Settlement of Class Action, Settlement Hearing and Right to Appear as set forth below.

NOTICE TO THE PLAINTIFF CLASS

26. A Class Notice of Pendency of Class Action, Proposed Settlement and Hearing Date for Court Approval ("Class Notice") substantially in the form attached as Exhibit "A" and approved by the Court shall be sent by the Settlement Administrator to each Settlement Class Member. Attached to the Class Notice will be a Request for Exclusion Form ("Opt Out" Form) substantially in the form attached as Exhibit "B" and approved by the Court which also shall be sent by the Settlement

1 Administrator to each Settlement Class Member.

2 27. Defendants' Counsel shall provide to the Settlement Administrator and to
3 Settlement Class Counsel, within two (2) calendar days following the Preliminary
4 Approval Date, an updated database of all putative Settlement Class Members,
5 including last known street address, email address and telephone number, Grupo
6 Deco's identification number and dates they were on a Grupo Deco payroll as a
7 putative Settlement Class Member. In addition, Defendants' Counsel shall provide
8 the number of pre-need sales made by each putative Class Member as defined in
9 Paragraphs 12 and 21(b), above. Except for the names of all putative Settlement
10 Class Members, all other information pertaining to putative Settlement Class
11 Members is confidential information and shall not to be disclosed to the Class
12 Representatives or anyone else who is not directly assisting Settlement Class
13 Counsel.

14 28. Within seven (7) calendar days of the entering of an order granting
15 preliminary approval of the settlement and Class Notice, the Settlement
16 Administrator shall update the addresses using the United States Postal Service's
17 NCOALink system.

18 29. Within fourteen (14) calendar days of the entering of an order granting
19 preliminary approval of the settlement, the Settlement Administrator shall mail a
20 Notice Packet by First Class United States Mail to each Settlement Class Member.
21 The Notice Packet shall consist of the Class Notice (in both English and Spanish)
22 attached hereto as Exhibit A and the Opt Out Form attached as Exhibit B.

23 30. Also within fourteen (14) calendar days of the entering of an order granting
24 preliminary approval of the settlement and Class Notice, the Notice Packet shall be
25 *emailed* to each Settlement Class Member for whom there is a known email address
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1 by the Settlement Administrator.

2 31. If any Class Notices are returned as undeliverable, the Class Administrator
3 shall within two (2) days attempt to contact such persons via telephone and email
4 and obtain a current address and to the extent a more current address is obtained,
5 mail a Notice Packet within one (1) business day of receiving the updated address.
6 If a Class Notice is returned from the initial notice mailing and the foregoing efforts
7 are not successful, the Settlement Administrator shall conduct a skip trace in an
8 attempt to locate a more current address. If the Settlement Administrator is
9 successful in locating a new address, it will re-mail the Notice to the Settlement
10 Class member. Further, any Notices returned with a forwarding address to the
11 Settlement Administrator, as non-deliverable before the deadline date, shall be sent
12 to the forwarding address affixed thereto. The same procedure will be followed with
13 regard to checks.

14 32. Settlement Class Counsel shall have the right in its discretion to take
15 appropriate steps to locate and assist Settlement Class Members to participate in the
16 Settlement.

17 33. The Settlement Administrator shall provide the Court, at least ten (10) days
18 prior to the final fairness hearing, a declaration of due diligence and a declaration of
19 mailing with regard to the mailing of the Class Notice.

20 34. Each Class Notice will set forth (i) the number of months a Settlement Class
21 Member was employed by Grupo Deco during the relevant time period set forth in
22 Paragraph 21, (ii) the total number of points assigned to the Settlement Class
23 Member by Defense Counsel and Settlement Class Counsel as calculated pursuant
24 Paragraph 20, (iii) the estimated value of each point and, (4) the estimated
25 disbursement to each Settlement Class Member. The Settlement Class Members
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1 may challenge any aspect of the settlement, including any of the data or calculations
2 as provided in the Class Notice and as defined in Paragraph 21 and in Paragraph 37.
3 The Class Notice shall include (1) the right to opt out of the Class, (2) the right to
4 objection to this settlement, and (3) the right to appear at the Final Fairness and
5 Approval Hearing, prior to final approval of this settlement.

6 **OPT OUT AND OBJECTIONS RIGHTS AND PROCEDURES**

7 35. Settlement Class Members may opt out by submitting the “Opt Out” Form
8 within the time provided. Subject to Court approval, Defense Counsel and
9 Settlement Class Counsel will resolve any challenges to any calculations of amounts
10 due under the distribution formula and the timeliness of any challenges or opt out
11 notices and make a final and binding determination without hearing or right of
12 appeal.

13 36. A Settlement Class Member may object to the terms of the settlement.
14 However, if the Court rejects such objection, the Settlement Class Member will still
15 be bound by the terms of the settlement. A Settlement Class Member may not
16 submit both an Opt Out Form and an Objection. If a Settlement Class Member
17 submits both an Objection and an Opt Out Form, the Opt Out Form will be accepted,
18 and the Objection will be rejected. If a Settlement Class Member chooses to object
19 to the settlement, that person may appear at the Final Fairness and Approval Hearing,
20 in *propria persona* or through counsel at that person’s own cost. Written objections
21 should be sent to the Settlement Administrator and should include the name, address,
22 dates of employment with Defendants, the last four digits of the person’s social
23 security number, and a detailed statement of the specific reason for each objection
24 and any legal support for each objection, as well as any supporting documents,
25 briefs, exhibits or other materials. Written objections must be signed by the
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1 individual or that person's attorney, and it must also state whether the person or
2 attorney intends to appear at the Final Fairness and Approval Hearing. Within two
3 business days of receipt, the Settlement Administrator will provide the Objection
4 and any related documents to Settlement Class Counsel who will then file the
5 Objection with the Court. Any written objection must be postmarked postmarked
6 no more than forty-five (45) after the Class Notice was mailed in order to be
7 considered by the Court.

8 37. If a Settlement Class Member believes that the calculations of the amount that
9 may be due to that person under the Settlement Agreement are incorrect that person
10 must promptly send a letter explaining the reason(s) the person believes the
11 calculation is incorrect together with any supporting documents to Defendants'
12 Counsel with a copy to Settlement Class Counsel at the addresses set forth below.
13 Defendants' Counsel and Settlement Class Counsel will review and respond to the
14 letter within five business days of receipt; however, their decision on matters is final
15 and the Settlement Class Member's only recourse if that person continues to disagree
16 will be to opt out of the class or formally object to the Settlement Agreement.

17 38. No Opt Out Form will be honored if postmarked more than forty-five (45)
18 days after the Class Notice was mailed. The Administrator shall provide a
19 certification to Class Settlement Counsel and Defendants' Counsel of the date or
20 dates on which the Notices were mailed.

21 39. All original Opt Out Forms shall be sent directly to the Administrator at the
22 address indicated on the Opt Out Form. The Administrator will certify what Opt
23 Out Forms were timely received.

24 **DISBURSEMENT OF FUNDS**

1 40. The Administrator shall be responsible for issuing the payments and preparing
2 the appropriate W-2s, 1099 forms, and any other documentation required by
3 governmental authorities with respect to the disbursements herein. Upon completion
4 of its calculation of payments, the Administrator shall provide Counsel for the
5 Parties with a report listing the amount of all payments to be made to each qualified
6 claimant taking into account any Opt Outs. A declaration of payment will be
7 provided to the Parties and may be filed with the Court.

8 41. Recipients of any disbursements herein shall have one hundred and eighty
9 (180) calendar days after mailing by the Administrator to cash their settlement
10 checks.

11 42. If any checks are returned to the Class Administrator as undeliverable, the
12 Class Administrator shall within two (2) days seek to update the address using the
13 NCOA database, and attempt to contact such persons via telephone and email and
14 obtain a more current address. To the extent a more current address is obtained, the
15 Class Administrator shall re-mail the check within one (1) business day of receiving
16 the updated address.

17 43. To the extent that an Individual Settlement Payment check is (1) undeliverable
18 after efforts by the Administrator in accordance with Paragraph 42 or (2) uncashed
19 180 days after the date listed on the check, the Individual Settlement Payment check
20 shall be sent to the California Unclaimed Property Fund for the benefit of the
21 Settlement Class Member to whom the Individual Settlement Payment check is
22 addressed.

23 **RELEASE BY THE CLASS**

24 44. Upon the final approval by the Court of this Settlement Agreement, and except
25 as to such rights or claims as may be created by this Settlement Agreement, the

1 Settlement Class and each member of the Settlement Class fully releases and
2 discharges Defendants Grupo Deco California Corporation, Grupo Deco America
3 Corporation, and Deco California Insurance Agency, and all of its and their present
4 and former parent companies, subsidiaries, related entities, partners, limited
5 partners, affiliates, successors, assigns and general partners (the “Released Parties”),
6 as well as their shareholders, officers, partners, directors, employees, agents,
7 spouses, descendants, servants, registered representatives, attorneys, insurers,
8 affiliates and successors and assigns of the foregoing from the “Released Claims”
9 which include any and all claims, debts, liabilities, demands, obligations, wages,
10 salaries, commissions, penalties, costs, expenses, reimbursement for expenses,
11 attorneys' fees, damages, actions or causes of action of whatever kind or nature that
12 were alleged or could have been alleged in the First Amended Complaint based on
13 the facts and circumstances alleged therein including without limitation any claims
14 for unpaid wages (including wages in the form of commissions), minimum wage,
15 overtime pay, expenses, penalties, liquidated damages, interest, costs or attorney’s
16 fees under Labor Code Sections 201, 202, 203, 226, 226.3, 226.7, 510, 558, 1174,
17 1194, 1198, 2698 *et seq*, 2802 and any Industrial Wage Commission Wage Order,
18 Business and Professions Code Section 17200 and/or damages relating to the
19 payment of wages under local and/or state as set forth in the operative Complaint up
20 to and including the date of entry of the Final Approval Order and Judgment.

21 **RELEASE BY THE NAMED PLAINTIFFS**

22 45. On behalf of Sanchez, Ruiz and Franco and each of them individually and as
23 Class Representatives, fully release and discharge Defendants Grupo Deco
24 California Corporation, Grupo Deco America Corporation, and Deco California
25 Insurance Agency, and all of its and their present and former parent companies,

1 subsidiaries, related entities, partners, limited partners, general partners including
2 without limitation their shareholders, officers, partners, directors, employees,
3 agents, spouses, descendants, servants, registered representatives, attorneys,
4 insurers, affiliates and successors and assigns of the foregoing from any and all
5 claims, debts, liabilities, demands, obligations, wages, salaries, commissions,
6 penalties, costs, expenses, reimbursement for expenses, attorneys' fees, damages,
7 actions or causes of action of whatever kind or nature that were alleged or could
8 have been alleged in the First Amended Complaint including without limitation any
9 claims for unpaid wages (including wages in the form of commissions), minimum
10 wage, overtime pay, expenses, penalties, liquidated damages, interest, costs or
11 attorney's fees under Labor Code Sections 98, 98.2, 201, 202, 203, 212, 225.5, 226,
12 226.3, 226.7, 510, 551, 552, 558, 1174, 1194, 1198, 2698 *et seq*, 2753, 2698, 2802
13 and any Industrial Wage Commission Wage Order, Business and Professions Code
14 Section 17200, the Fair Labor Standards Act, as amended, and/or damages relating
15 to the payment of wages under local, state and/or federal law up to and including the
16 date of entry of the Final Approval order and Judgment.

17 **DUTIES OF THE PARTIES PRIOR TO COURT APPROVAL**

18 46. The Parties shall promptly submit this Settlement Agreement to the Superior
19 Court in support of the Stipulated Motion for Preliminary Approval and
20 determination by the Court as to its fairness, adequacy, and reasonableness.
21 Defendants' counsel shall prepare the Stipulated Motion for Preliminary Approval
22 together with any Supplemental Stipulated Motion. Promptly upon execution of
23 this Settlement Agreement, the Parties shall apply to the Court for the entry of a
24 preliminary order substantially in the following form:

- 1 a) Scheduling a fairness hearing on the question of whether the proposed
2 settlement should be finally approved as fair, reasonable and adequate as to the
3 members of the class;
- 4 b) Approving as to form and content the proposed Class Notice;
- 5 c) Approving as to form and content the proposed Opt Out Form;
- 6 d) Directing the mailing of the Class Notice and Opt Out Form by first
7 class mail to the Settlement Class to the last known address by first class mail,
8 postage prepaid and to the last known email address, if any;
- 9 e) Preliminarily approving the settlement; and,
- 10 f) Preliminarily certifying the class for purposes of settlement.

11 **DUTIES OF THE PARTIES REGARDING FINAL COURT**

12 **APPROVAL**

13 47. After Notice is provided to the Settlement Class, Defendants' counsel will
14 prepare a motion for final approval and the Parties will jointly submit the motion for
15 final approval. Class Settlement Counsel will prepare and submit a motion in
16 support of its request for fees, costs, and class representative enhancements.
17 Following final approval by the Court of the settlement provided for in this
18 Settlement Agreement, Defendants' Counsel will prepare, and the Parties will jointly
19 submit a proposed final order and judgment:

- 20 a) Certifying the Settlement Class;
- 21 b) Approving the settlement, adjudging the terms thereof to be fair,
22 reasonable and adequate, and directing consummation of its terms and provisions;
- 23 c) Approving Settlement Class Counsel's application for an award of
24 attorney's fees and costs;
- 25 d) Approving the Incentive Payments to Sanchez, Ruiz and Franco;

e) Releasing the Released Claims of the Settlement Class in accordance with the Agreement and permanently barring the Settlement Class and each member of the Settlement Class from prosecuting against any of the Released Parties including without limitation Defendants Grupo Deco California Corporation, Grupo Deco America Corporation, and Deco California Insurance Agency, and all of its and their present and former parent companies, subsidiaries, related entities, partners, limited partners, affiliates, successors, assigns and general partners, as well as their shareholders, officers, partners, directors, employees, agents, spouses, descendants, servants, registered representatives, attorneys, insurers, affiliates and successors and assigns and any of the Released Claims including any and all claims, debts, liabilities, demands, obligations, wages, salaries, commissions, penalties, costs, expenses, reimbursement for expenses, attorneys' fees, damages, actions or causes of action of whatever kind or nature that were alleged or could have been alleged in the First Amended Complaint based on the facts and circumstances alleged therein including without limitation any claims for unpaid wages (including wages in the form of commissions), minimum wage, overtime pay, expenses, penalties, liquidated damages, interest, costs or attorney's fees under Labor Code Sections 201, 202, 203, 226, 226.3, 226.7, 510, 558, 1174, 1194, 1198, 2698 *et seq*, 2802 and any Industrial Wage Commission Wage Order, Business and Professions Code Section 17200 and/or damages relating to the payment of wages under local and/or state federal law as set forth in the operative Complaint up to and including the date of entry of the Final Approval Order and Judgment.

f) On behalf of Sanchez, Ruiz and Franco and each of them individually and as Class Representatives, permanently barring them from prosecuting against any of the Released Parties and fully releasing and discharging the Released Parties

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1 including without limitation Grupo Deco California Corporation, Grupo Deco
2 America Corporation, Deco California Insurance Agency, a California Corporation
3 and all of its and their present and former parent companies, subsidiaries, related
4 entities, partners, limited partners, affiliates, successors, assigns and general
5 partners, as well as their shareholders, officers, partners, directors, employees,
6 agents, spouses, descendants, servants, registered representatives, attorneys,
7 insurers, affiliates and successors and assigns, any all claims, debts, liabilities,
8 demands, obligations, guarantees, costs, expenses, attorneys' fees, damages, actions
9 or causes of action of whatever kind or nature, whether known or unknown, that
10 were alleged or could have been alleged in the First Amended Complaint including
11 without limitation any claims for unpaid wages, overtime pay, commissions, travel
12 pay, expenses, penalties, liquidated damages, interest, costs or attorney's fees under
13 Labor Code Sections 98, 98.2, 201, 202, 203, 212, 225.5, 226, 226.3, 226.7, 510,
14 551, 552, 558, 1174, 1194, 1198, 2698 *et seq.*, 2753, 2698, 2802 and any Industrial
15 Wage Commission Wage Order, Business and Professions Code Section 17200, the
16 Fair Labor Standards Act, as amended or damages relating to the payment of wages
17 under local, state and/or federal law up to and including the date of entry of the Final
18 Approval Order and Judgment.

19 **VOIDING THE SETTLEMENT AGREEMENT**

20 48. Plaintiffs and/or Grupo Deco may, but are not required to, withdraw from and
21 void this Settlement Agreement should twenty-five percent (25%) or more of the
22 Settlement Class opt out of the settlement, by providing notice to the other side
23 within seven (7) calendar days after the party receives a list of those Settlement Class
24 Members who opted out of the settlement.

25 49. The Parties agree not to encourage any class member or group of Settlement

26 18 _____

1 Class Members to opt out of the settlement.

2 **PARTIES' AUTHORITY**

3 50. The signatories represent that they are fully authorized to enter into this
4 Settlement Agreement and bind the Parties to its terms and conditions.

5 **MUTUAL FULL COOPERATION**

6 51. The Parties agree to fully cooperate with one another to accomplish the terms
7 of this Settlement Agreement, including but not limited to, execution of such
8 documents and the taking of such other action as may reasonably be necessary to
9 implement the terms of this Settlement Agreement. The Parties to this Settlement
10 Agreement shall use their best efforts, including all efforts contemplated by this
11 Settlement Agreement and any other efforts that may become necessary by order of
12 the Court, or otherwise, to effectuate this Settlement Agreement. As soon as
13 practicable after execution of this Settlement Agreement, Settlement Class Counsel
14 shall, with the assistance and cooperation of Defendants and their counsel, take all
15 necessary steps to secure the Court's final approval of this Settlement Agreement.

16 **NO ADMISSION**

17 52. This Settlement Agreement is not to be construed or deemed an admission of
18 liability, culpability, negligence, or wrongdoing on the part of Defendants or any of
19 the Released Parties. Each of the Parties has entered into this Settlement
20 Agreement with the intention to avoid further disputes and litigation with the
21 attendant inconvenience and expenses. This Settlement Agreement is a settlement
22 document and shall, pursuant to the Federal Rules of Evidence and the California
23 Evidence Code Section 1152, be inadmissible in evidence in any proceeding in order
24 to establish liability. The preceding sentence shall not apply to an action or
25 proceeding to approve or enforce this Settlement Agreement.

1 **TAXES**

2 53. Except as expressly provided herein, the recipient of any payment herein,
3 including without limitation any Settlement Class Member, Settlement Class
4 Representative or Settlement Class Counsel, shall be exclusively liable for the
5 payment of all federal and state taxes if any should be found due as the result of the
6 consideration received from this Settlement Agreement and the recipient shall make
7 payments on such taxes, if any, at the time and in the amount required of the
8 recipient. Notwithstanding the foregoing, no Class Member shall be liable for any
9 federal or state employment tax if any should be found due as a result of the
10 consideration received from this settlement if such employment tax would normally
11 be paid by an employer without deduction from an employee's gross wages,
12 including without limitation, the employer's share of FICA and Medicare taxes and
13 California SDI premiums.

14 **NOTICES**

15 54. Unless otherwise specifically provided, all notices, demands or other
16 communications in connection with this Settlement Agreement shall be in writing
17 and shall be deemed to have been given as of the third business day after mailing by
18 United States registered or certified mail, return receipt requested, addressed as
19 follows:

20 To the Defendants:

21 Joseph D. Tuchmayer
22 The Law Office of Joseph D. Tuchmayer
23 888 South Figueroa, Suite 620
24 Los Angeles, California 90017

25 To the Settlement Class:

26 James Hawkins
27 Christina Lucio
28 James Hawkins APLC
9880 Research Drive, Suite 200
Irvine, California 92618

1 (All notices to Settlement Class Members shall be by first class mail, postage
2 prepaid.)

3 **CONSTRUCTION**

4 55. The Parties agree that the terms and conditions of this Settlement Agreement
5 are the result of lengthy, intensive arms-length negotiations between the Parties with
6 the assistance of Michelle Reinglass, mediator, and that this Settlement Agreement
7 shall not be construed in favor of or against any party by reason of the extent to
8 which any party or his, her or its counsel participated in the drafting of this
9 Settlement Agreement.

10 **CAPTIONS AND INTERPRETATIONS**

11 56. Paragraph titles or captions are inserted as a matter of convenience and for
12 reference, and in no way define, limit, extend, or describe the scope of this
13 Settlement Agreement or any of its provisions. Each term of this Settlement
14 Agreement is contractual and not merely a recital.

15 **MODIFICATION**

16 57. This Settlement Agreement may not be changed, altered, or modified, except
17 in writing and signed by counsel for the Parties, and approved by the Court, except
18 that any modifications to the scope of the release by the named plaintiff must be
19 signed by the named plaintiff. This Settlement Agreement may not be discharged
20 except by performance in accordance with its terms or by a writing signed by the
21 Parties.

22 **INTEGRATION**

23 58. This Settlement Agreement contains the entire agreement between the Parties
24 relating to the settlement, and all prior or contemporaneous agreements,
25 understandings, representations, and statements, whether oral or written and whether
26 by a party or such party's legal counsel, are extinguished.

27 21 _____

1 **BINDING ON ASSIGNS**

2 59. This Settlement Agreement shall be binding upon and inure to the benefit of
3 the Parties, the Settlement Class Members and their respective heirs, trustees,
4 executors, administrators, successors and assigns.

5 **SETTLEMENT CLASS COUNSEL SIGNATORIES**

6 60. It is agreed that because the members of the Settlement Class are sufficiently
7 numerous, it is impractical to have each member of the class execute this Settlement
8 Agreement. The Class Notice attached as Exhibit "A" will advise all Settlement
9 Class Members of the binding nature of the release and such shall have the same
10 force and effect as if this Settlement Agreement were executed by each member of
11 the Settlement Class.

12 **COUNTERPARTS**

13 61. This Settlement Agreement may be executed in counterparts, and when each
14 party has signed and delivered at least one such counterpart, each counterpart shall
15 be deemed an original, and, when taken together with other signed counterparts,
16 shall constitute one Settlement Agreement, which shall be binding upon and
17 effective as to all Parties and the Settlement Class.

18 **PUBLIC COMMENT**

19 62. The Parties and their counsel agree that they will not issue any press releases
20 regarding the original complaint or the First Amended Complaint or the settlement
21 of the First Amended Complaint or in way actively publicize the original complaint
22 or the First Amended Complaint or this Settlement and will refrain from commenting
23 if any inquiries are received.

24
25 **SIGNATURES ON FOLLOWING PAGE**

26
27 22 _____

1 IN WITNESS WHEREOF, the undersigned have duly executed this Agreement as
2 of the date indicated below:

3 Dated: February 8th, 2019

4 By 

Efrain Sanchez

On behalf of himself and as a Class Representative

6 Dated: February __, 2019

7 By _____

Alejandro Ruiz

On behalf of himself and as a Class Representative

10 Dated: February __, 2019

11 By _____

Luis Franco

On behalf of himself and as a Class Representative

14 Dated: February __, 2019

Grupo Deco California Corporation

15 By _____

16 Its _____

18 Dated: February __, 2019

Grupo Deco America Corporation

20 By _____

21 Its _____

23 Dated: February __, 2019

Deco California Insurance Agency, a California Corporation

25 By _____

26 Its _____

27 _____

28 Class Action Settlement and Release Agreement

1 IN WITNESS WHEREOF, the undersigned have duly executed this Agreement as
2 of the date indicated below:

3 Dated: February ___, 2019

4 By _____
Efrain Sanchez
5 On behalf of himself and as a Class Representative

6 Dated: February 7, 2019

7 By _____
Alejandro Ruiz
8 On behalf of himself and as a Class Representative

9
10 Dated: February ___, 2019

11 By _____
Luis Franco
12 On behalf of himself and as a Class Representative

13
14 Dated: February ___, 2019

Grupo Deco California Corporation

15
16 By _____
Its _____
17 _____

18 Dated: February ___, 2019

Grupo Deco America Corporation

19
20 By _____
Its _____
21 _____

22
23 Dated: February ___, 2019

Deco California Insurance Agency, a California Corporation

By _____
Its _____

1 IN WITNESS WHEREOF, the undersigned have duly executed this Agreement as
2 of the date indicated below:

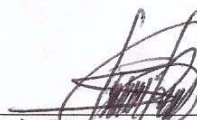
3 Dated: February __, 2019

4 By _____
5 Efrain Sanchez
6 On behalf of himself and as a Class Representative

7 Dated: February __, 2019

8 By _____
9 Alejandro Ruiz
10 On behalf of himself and as a Class Representative

11 Dated: February 7, 2019

12 By  _____
13 Luis Franco
14 On behalf of himself and as a Class Representative

15 Dated: February __, 2019

16 Grupo Deco California Corporation

17 By _____
18 Its _____
19 _____

20 Dated: February __, 2019

21 Grupo Deco America Corporation

22 By _____
23 Its _____

24 Dated: February __, 2019

25 Deco California Insurance Agency, a California
26 Corporation

27 By _____
28 Its _____

29 _____

IN WITNESS WHEREOF, the undersigned have duly executed this Agreement as of the date indicated below:

Dated: February __, 2019

By _____
Efrain Sanchez
On behalf of himself and as a Class Representative

Dated: February __, 2019

By _____
Alejandro Ruiz
On behalf of himself and as a Class Representative

Dated: February __, 2019

By _____
Luis Franco
On behalf of himself and as a Class Representative

Dated: February __, 2019

Grupo Deco California Corporation

By _____
Its _____
CFO

Dated: February __, 2019

Grupo Deco America Corporation

By _____
Its _____
CFO

Dated: February __, 2019

Deco California Insurance Agency, a California Corporation

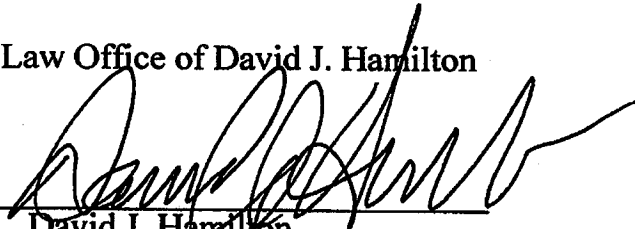
By _____
Its _____
CFO

Signatures of Legal Counsel

Dated: February 14, 2019

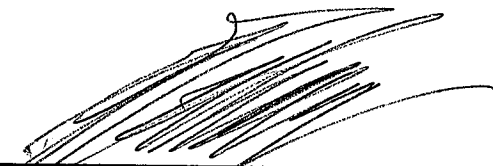
The Law Office of David J. Hamilton

By


David J. Hamilton

Dated: February 14, 2019

By


Joseph D. Tuchmayer

Attorneys for Defendants Grupo Deco California
Corporation, Grupo Deco America Corporation and
Deco California Insurance Agency

Dated: February __, 2019

James Hawkins, APLC

By


James Hawkins

Christina Lucio

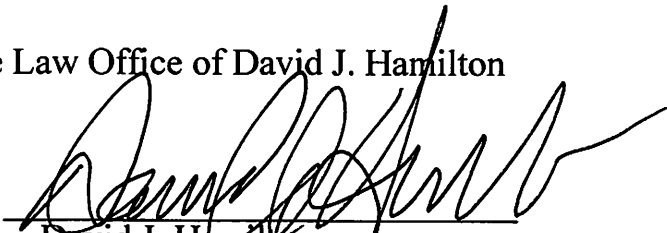
Attorneys for Plaintiffs Efrain Sanchez,
Alejandro Ruiz and Luis Franco and
Settlement Class Counsel

Signatures of Legal Counsel

Dated: February 14, 2019

The Law Office of David J. Hamilton

By


David J. Hamilton

Dated: February __, 2019

By

Joseph D. Tuchmayer

Attorneys for Defendants Grupo Deco California Corporation, Grupo Deco America Corporation and Deco California Insurance Agency

Dated: February __, 2019

James Hawkins, APLC

By

James Hawkins

Christina Lucio

Attorneys for Plaintiffs Efrain Sanchez, Alejandro Ruiz and Luis Franco and Settlement Class Counsel

Signatures of Legal Counsel

Dated: February __, 2019 The Law Office of David J. Hamilton

By _____
David J. Hamilton

Dated: February __, 2019 By _____
Joseph D. Tuchmayer
Attorneys for Defendants Grupo Deco California
Corporation, Grupo Deco America Corporation and
Deco California Insurance Agency

Dated: February 8, 2019 James Hawkins, APLC

By  _____
James Hawkins
Christina Lucio
Attorneys for Plaintiffs Efrain Sanchez,
Alejandro Ruiz and Luis Franco and
Settlement Class Counsel

24 _____