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**UNITED STATES BANKRUPTCY COURT  
EASTERN DISTRICT OF NEW YORK**

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<b>In re:</b>	:	<b>Chapter 11</b>
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<b>Décor Holdings, Inc., et al.,<sup>1</sup></b>	:	<b>Case No. 19-71020 (REG)</b>
	:	<b>Case No. 19-71022 (REG)</b>
<b>Debtors.</b>	:	<b>Case No. 19-71023 (REG)</b>
	:	<b>Case No. 19-71024 (REG)</b>
	:	<b>Case No. 19-71025 (REG)</b>
	:	
	:	<b>Joint Administration Requested</b>
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**MOTION FOR INTERIM AND FINAL ORDERS AUTHORIZING THE DEBTORS  
(I) TO PAY OR HONOR (A) PREPETITION WAGES, COMPENSATION,  
EMPLOYEE BENEFITS, AND RELATED ITEMS, AND (B) PREPETITION  
EMPLOYEE PAYROLL DEDUCTIONS AND WITHHOLDINGS; AND (II) TO  
CONTINUE THE EMPLOYEE BENEFITS IN THE ORDINARY COURSE**

Décor Holdings, Inc. ("Decor"), and its affiliated debtors and debtors-in-possession (collectively, the "Debtors"), as debtors and debtors in possession in the above-captioned chapter 11 cases (these "Chapter 11 Cases"), hereby submit this motion (the "Motion") for entry of interim and final orders (the "Interim Order" and "Final Order," respectively), in

<sup>1</sup> The Debtors in these chapter 11 cases, along with the last four digits of each Debtor's federal tax identification number, are: Décor Holdings, Inc. (4174); Décor Intermediate Holdings LLC (5414); The Robert Allen Duralee Group, Inc. (8435); The Robert Allen Duralee Group, LLC (1798); and The Robert Allen Duralee Group Furniture, LLC (2835). The corporate headquarters and the mailing address for the Debtors listed above is 49 Wireless Boulevard, Suite 150, Hauppauge, NY 11788. The Debtors also maintain a separate corporate office at 2 Hampshire Street, Suite 300, Foxboro, MA 02035.

substantially the form attached hereto, authorizing the Debtors: (I) to pay or otherwise honor (a) prepetition wages, compensation, employee benefits, and related items, and (b) prepetition payroll deductions, taxes, and withholdings; and (II) to continue their Employee Benefits (defined herein) and related programs in the ordinary course. In support of this Motion, the Debtors respectfully state as follows:

**Jurisdiction**

1. This Court has jurisdiction to consider this matter pursuant to 28 U.S.C. §§ 157 and 1334.
2. This is a core proceeding pursuant to 28 U.S.C. § 157(b).
3. Venue is proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409.
4. The statutory bases for the relief requested herein are sections 105(a) and 363(b) title 11 of the United States Code, 11 U.S.C. §§ 101 *et seq.* (the “Bankruptcy Code”) and Rules 6003 and 6004 of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”).

**Background**

5. On the date hereof (the “Petition Date”), each of the Debtors filed a voluntary petition for relief under chapter 11 of the Bankruptcy Code.
6. The Debtors continue to operate their business and manage their properties as debtors in possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code.
7. No trustee, examiner, or statutory creditors’ committee has been appointed in these chapter 11 cases.
8. The Debtors are the second largest supplier of decorative fabrics and furniture to the design industry in the United States. They design, manufacture and sell decorative fabrics, wall coverings, trimmings, upholstered furniture, drapery hardware and accessories for both

residential and commercial applications. The Debtors have three primary business lines: (a) selling decorative fabrics and furniture to interior designers; (b) providing decorative fabrics and fabricated products to hospitality customers, including hotels and resorts, and retail manufacturers who sell products to the trade and/or consumers; and (c) manufacturing custom-made furniture for both residential and commercial use.

9. The Debtors maintain showroom premises located in major metropolitan cities across the United States and Canada, and an extensive worldwide agent showroom network that collectively services more than 30 countries around the globe. The Debtors offer more than 5,000 fabrics and 1,000 wall coverings, ranging from \$20 to \$600 retail, and they have relationships with more than 100 textile mills from around the world. Every year, the Debtors' design studio creates new fabric collections consisting of as many as thirty designs per collection, with each design available in a variety of colors, and introduces extensive collections of passementerie tassels, braids, fringes, ropes and cords.

10. The Duralee Debtors<sup>2</sup> have sold their products under a variety of brands, including Duralee Fabric, Duralee Furniture, Duralee Drapery Hardware, Duralee Contract, Suburban Home, DF Monogram, Highland Court, Bailey & Griffin, Lulu DK, Clarke & Clarke and James Hare brands. The Robert Allen Group Debtor<sup>3</sup> has sold its products under the Robert Allen, Beacon Hill, Robert Allen Contract, and Robert Allen @ Home brands and is renowned for the Robert Allen Color Library, widely known as the first fine fabric collection to be designed by color. The Robert Allen Group Debtor has been one of the world's largest

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<sup>2</sup> The Duralee Debtors include, The Robert Allen Duralee Group, LLC and The Robert Allen Duralee Group Furniture, LLC (together, the "Duralee Debtors")

<sup>3</sup> The Robert Allen Group Debtor includes, The Robert Allen Duralee Group, Inc. (the "Robert Allen Group Debtor")

designers of fine fabrics for the interior design trade, and recognized for over 75 years as a brand leader in its field.

11. In March, 2017, the Duralee Debtors and certain of their non-debtor affiliates (the “Duralee Group”) and the Robert Allen Group Debtor and certain of its non-debtor affiliates (the “Robert Allen Group”, and together with the Duralee Group, the “Robert Allen Duralee Group”) entered into a merger (the “Merger”) that resulted in the combination of the Duralee business and the Robert Allen Group business. After the Merger, the Debtors implemented a number of cost-cutting measures, including significant reduction in the size of their workforce. The Debtors encountered difficulty, however, implementing additional cost-cutting measures, such as consolidating redundant leased showroom spaces and integrating a single computer system which would unify the company’s accounts payable, sales, and other essential software systems.

12. The Debtors’ inability to effectively implement necessary cost-cutting measures, coupled with the recent decline in the home furnishing market, caused the Debtors to incur substantial losses, necessitating these chapter 11 filings. Through the chapter 11 process, the Debtors intend to undertake a going concern sale to preserve and maximize the value of their business. To fund operations during these Chapter 11 Cases, the Debtors are seeking approval of a debtor in possession financing facility (the “DIP Financing”), as well as further reduce the company’s overhead costs and expenses through various forms of consolidation.

13. A detailed description of the Debtors’ business, capital structure, and the circumstances leading to the chapter 11 filings is set forth in the *Declaration of Lee Silberman in Support of Chapter 11 Petitions and First Day Motions* (the “First Day Declaration”) filed contemporaneously herewith and incorporated herein by reference.

**Prepetition Employee Obligations**

14. In the ordinary course of their businesses, the Debtors incur payroll and benefits obligations to their employees in exchange for their performance of various services. As of the Petition Date, the Debtors employ approximately 400 individuals, of which approximately 257 are paid on an hourly basis (the “Hourly Employees”),<sup>4</sup> 116 are salaried employees (the “Salaried Employees”), and 27 are paid solely on the basis of commissions earned from sales (the “Sales Representatives” and, together with the Salaried Employees and Hourly Employees, the “Employees”). The Debtors also employ approximately 85 independent contractors (the “Independent Agents”) who provide necessary services to the Debtors for limited engagements.

15. The Debtors have incurred various financial obligations with respect to the Employees and Independent Agents relating to the period prior to the Petition Date. Certain of these costs and obligations are outstanding, due and payable now, while others will become due and payable in the ordinary course of the Debtors’ businesses after the Petition Date.

16. The Debtors submit that because their business is premised upon delivering goods and providing services in a timely manner, any delay in the process of making regular payments to Employees or Independent Agents would cause the Debtors irreparable harm. The payment of these prepetition obligations is critical to Employee morale and the Debtors’ future business needs.

**Wage Obligations**

17. Prior to the Petition Date, the Debtors typically paid obligations relating to wages and salaries for their Hourly and Salaried Employees on a bi-weekly basis, and

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<sup>4</sup> The Debtors also employ one temporary employee (the “Temporary Employee”) who works for the Debtors as a financial analyst on an as-needed basis and is compensated on an hourly basis. Except where expressly described otherwise, for purposes of this Motion, the Temporary Employee will be considered an “Hourly Employee.”

commissions to Sales Representatives on a monthly basis through direct deposits or by check. Independent Agents are not compensated through the Debtors' payroll system, but instead are paid on a monthly basis through the Debtors' accounts payable and cash management systems similar to other ordinary vendors and service providers.

18. The Debtors compensate their Hourly and Salaried Employees for work they have already performed in the two weeks prior to the week in which they are paid. Thus, when Employees receive their wages, they have already accrued an additional week's worth of compensation, which is then payable in the following pay period. For example, on January 30, 2019, the Debtors funded payroll for the two-week pay period of Sunday, January 13, 2019 through Saturday, January 26, 2019. Employees received their paychecks on February 1, 2019, but did not receive compensation for wages earned on January 27 through February 1.

19. On or about February 13, 2019, the Debtors will fund the next payroll for the period of Sunday, January 27, 2019, through Saturday, February 9, 2019. Employees are scheduled to receive their paychecks on Friday, February 15, 2019. Accordingly, the Debtors' Hourly Employees will be owed approximately \$422,000, and the Salaried Employees approximately \$633,000, in connection with services rendered prior to the Petition Date.<sup>5</sup> Except as expressly disclosed herein, the Debtors are seeking to pay such prepetition amounts in the ordinary course of business upon the occurrence of the next payroll.

20. Approximately four Employees are individually owed more than the \$12,850 priority cap amount for prepetition compensation established under section 507(a) of the

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<sup>5</sup> The calculation of these compensation obligations does not attempt to incorporate amounts that may be owed to employees on account of any retention or incentive bonus program. The Debtors reserve the right to file a motion(s) seeking separate approval of a retention and/or incentive bonus program.

Bankruptcy Code (the “Priority Cap”). The four Employees are owed \$7,693.19 collectively above the Priority Cap.<sup>6</sup>

21. Ceridian HCM, Inc. (“Ceridian”) manages the Debtors’ payroll system. With the Debtors’ assistance, Ceridian calculates on a bi-weekly basis the funds needed to satisfy the Debtors’ compensation obligations to its Employees. The Debtors then deposit the necessary funds into a designated bank account which Ceridian accesses to make payments to the Debtors’ Employees.

22. The Debtors pay Ceridian an administrative fee to for its services, which varies per month based upon the size of the Debtors’ workforce (the “Administrative Fee”). Prior to the Petition Date, Ceridian’s Administrative Fee was approximately \$10,000 per month.<sup>7</sup> As of the Petition Date, the Debtors estimate that Ceridan is owed approximately \$92,686.74 in Administrative Fees that are outstanding, or accrued and unpaid.

### **Sales Representatives**

23. The Debtors employ a number of Sales Representatives who solicit the Debtors’ current customers, engage new prospective clients, and secure sales for the Debtors in various assigned geographic regions. Sales Representatives also assist the Debtors in their collection

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<sup>6</sup> The Guidelines for First Day Motions Adopted by the United States Bankruptcy Court for the Eastern District of New York (the “First Day Guidelines”) provides that the Debtors should attach to the Motion a list containing the names and job titles of all employees who the Debtors seek to compensate above the Priority Cap. *See* First Day Guidelines § 3(e)(iv). The Guidelines also recognize, however, that this list may be provided confidentially to the Court and United States Trustee where justified by the circumstances. *Id.* The Debtors submit that circumstances warrant confidential submission of their Employee list in order to protect the Debtors’ Employees from unnecessary disclosure of personal information such as job titles and monthly salaries. Public disclosure of the Debtors’ Employees’ names and job titles serves no meaningful purpose where the Debtors have disclosed the aggregate amount requested to be paid in excess of the Priority Cap, and have provided such Employees’ personal information to the Court and the United States Trustee. Accordingly, concurrently with this Motion, the Debtors shall provide the list of Employees who would receive amounts in excess of the Priority Cap to the Court and to the United States Trustee. In addition, upon request, the list will be provided to any official committee of unsecured creditors if such committee is formed.

<sup>7</sup> The Debtors estimate that the Administrative Fee owed to Ceridan will be reduced to approximately \$8,000 per month postpetition as a result of reductions in the Debtors’ workforce.

efforts from the Debtors' nonpaying customers. Sales Representatives are paid solely on the basis of commissions earned from closing sales within a Representative's assigned territory. Commission rates vary depending on the product sold and the discount such Representative gave to a customer in order to secure a sale.

24. Commissions are computed and paid on a monthly basis, but Sales Representatives are entitled to a weekly draw against commissions earned. A Sales Representative's commissions (net any draws) are typically paid within fifteen days following the end of the month in which the commissions were earned. Sales Representatives are "at-will" employees and therefore may be terminated at any time and for any reason. The Debtors owe approximately \$98,000 to the Sales Representatives which is attributable to commissions earned prior to the Petition Date.

#### **Independent Agents**

25. The Debtors employ certain Independent Agents to increase sales opportunities and to provide services for the Debtors' customers in locations where the Debtors do not host their own showrooms. Specifically, the Independent Agents host, market, and advertise the Debtors' products in independent showrooms and sell the Debtors' products to specifically assigned customers (the "Accounts"). The Independent Agents are also responsible for soliciting, qualifying, and processing any new requests received from the Debtors' Accounts. Independent Agents are paid solely on the basis of commissions earned from sales made from Accounts assigned to the Agent. Commission rates vary depending on (i) whether the Independent Agent is the primary sales person; and (ii) the level of discount given in order to close the sale. The maximum commission an Independent Agent may receive is 25% of the list price of the product sold. Since the Independent Agents are not considered Employees, they do

not receive any form of paid time off from the Debtors, nor do they participate in any Benefit Plans (described herein).

26. Commissions owed to Independent Agents are computed on a monthly basis and normally paid within fifteen days following the end of the month in which the commissions were earned. Independent Agents may be terminated at any time and for any reason upon the Debtors giving thirty days' notice to such Agent. The Debtors estimate that the Independent Agents are owed approximately \$305,618.60 for commissions earned prior to the Petition Date.

### **Garnishments and Payroll Taxes**

27. When processing payroll for the Debtors' Employees, Ceridian withholds certain amounts for various garnishments such as tax levies, child support and any other court-ordered garnishments (collectively, the "Garnishments"). For each payroll period, the Debtors withhold in the aggregate approximately \$5,400 in connection with the Garnishments.

28. The Debtors are also required by law to withhold from their Employees' wages amounts related to federal, state, and local income taxes, as well as social security and Medicare taxes (collectively, the "Withholding Taxes") and to remit the same to the appropriate taxing authorities (collectively, the "Taxing Authorities"). In addition, the Debtors are required to make matching payments from their own funds on account of social security and Medicare taxes, and to pay, based on a percentage of gross payroll (and subject to state-imposed limits), additional amounts to the Taxing Authorities for, among other things, state and federal unemployment insurance (collectively, the "Employer Payroll Taxes" and, together with the Withholding Taxes, the "Payroll Taxes"). The Debtors' accrued liability for Payroll Taxes as of the Petition Date is approximately \$337,500.

29. Ceridian calculates the funds required to satisfy the Debtors' Payroll Tax obligations and subsequently receives funds from the Debtors' designated bank accounts in order to remit such funds to the applicable Taxing Authorities. The Administrative Fee paid to Ceridian includes all services relating to processing the Debtors' Payroll Tax obligations. Ceridian also withdraws from Employees' wages any amounts owed in connection with Garnishments.

30. Collectively, when taking into account (i) amounts owed to all Employees, Independent Agents, and (ii) administrative costs and Payroll Taxes incident to the foregoing, the Debtors estimate that approximately \$1,455,000 is owed to the various parties in connection with services rendered prepetition (collectively, the "Wage Obligations").

#### **Expense Reimbursement**

31. The Debtors' Employees incur various expenses in the discharge of their ordinary duties, such as travel and meal expenses. Since these expenses are incurred as part of their official duties and in furtherance of the Debtors' businesses, the Employees are reimbursed in full after submitting the appropriate documentation to the Debtors' accounting department (the "Expense Reimbursements"). The Debtors required all Employees to submit outstanding requests for Expense Reimbursements that were incurred in 2018. As of the Petition Date, there are outstanding Expense Reimbursement requests which amount to approximately \$12,605. The Debtors request authority to pay the outstanding prepetition Expense Reimbursements, and to continue to honor Expense Reimbursement requests to the extent received postpetition and only to the extent the Debtors determine that such requests are valid.

#### **Employee Benefits**

32. The Debtors have established various benefit plans and policies for their Employees that can be divided into the following categories: (i) paid time-off plans, including

vacation days, sick days, holidays (collectively, the “PTO Plans”), and (ii) various benefit plans, including medical and prescription drug insurance plans, dental insurance, vision insurance, life insurance, disability insurance, workers’ compensation benefits, COBRA benefits, flexible spending programs, and a 401(k) plan (collectively, the “Health and Welfare Plans” and together with the PTO Plans, the “Employee Benefits”).

33. Full-time Employees who are scheduled to work thirty (30) standard hours per week or more on a regular basis are eligible for all Employee Benefits. Part-time Employees who are scheduled to work less than thirty (30) hours per week on a regular basis are eligible for 401(k), pro-rated sick time, and pro-rated vacation time accruals. Temporary Employees are eligible for 401(k) contributions and sick time accruals.

(i) **PTO Plans**

34. Under the PTO Plans, eligible Employees may receive wages for, among other things, vacations, holidays, and sick days. Unless an Employee resigns or is terminated without cause, the PTO Plans do not require an expenditure of cash other than payment of ordinary Wage Obligations.

35. Vacation Time. An eligible Employee must work for three months before he or she is entitled to use any accrued vacation time. For Salaried and Hourly Employees, vacation days are accrued on an annual basis.<sup>8</sup> Vacation time may not be cashed out if an Employee is terminated prior to completion of three months of service. Each Employee who works 20-40 hours per week accrues vacation time on a weekly basis, which accrual rates vary based upon the number of hours worked per week. The maximum number of vacation days an Employee can earn per year is as follows:

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<sup>8</sup> Sales Representatives are automatically entitled to 4 weeks’ vacation time upon employment. However, Sales Representatives may not take more than two weeks of vacation time in any ninety-day period.

<u>Years of Service</u>	<u>Maximum Annual Accrual</u>
<u>1 -4 Years</u>	<u>2 Weeks</u>
<u>5-19 Years</u>	<u>3 Weeks</u>
<u>20 + Years</u>	<u>4 Weeks</u>

Employees are eligible to carry over vacation days to the following year. However, an Employee may not accrue more than one week above their Maximum Annual Accrual amount, and vacation time will stop accruing until vacation time is taken. Vacation time is not accrued while an Employee is on a leave of absence for any reason. If an Employee is terminated without cause or voluntarily resigns, vacation time will be cashed out.

36. Sick Time. All Employees are eligible for up to seven paid sick days per year, which days accrue based upon hours worked. Unused sick time may be carried over, but may not be used for absences longer than three consecutive days without medical verification of the illness. Unused sick time may not be converted into cash or additional vacation time, and may not be paid out upon termination or resignation.

37. Holidays. Paid holidays are provided each year to all Employees who are regularly scheduled to work more than twenty-four (24) hours per week. Temporary Employees are not eligible for holiday pay. Due to the nature of the Debtors' business, certain Hourly Employees may be asked to work on a scheduled holiday, in which case the Hourly Employee will be paid double their hourly wage. The Debtors' observe eight major holidays in total over the course of a year. Non-recognized holidays must be observed using accrued vacation time.

(ii) **Health and Welfare Plans**

38. The Debtors sponsor several programs which provide health and welfare benefits to their Employees. The Health and Welfare Plans include, without limitation, (i) medical and

prescription drug plans (the “Self-Funded Plans”), (ii) dental insurance, (iii) vision insurance, (iv) life insurance, (v) long-term and short-term disability insurance; (vi) workers’ compensation benefits, (vii) COBRA benefits, (viii) flexible spending programs; and (ix) a 401(k) plan. Cigna administers the Debtors’ Self-Funded Health Plans and the majority of the Debtors’ other Health and Welfare Plans. Transamerica Premier Life Insurance Company provides the Debtors’ supplemental health insurance policy. The Travelers Companies provides the Debtors’ workers’ compensation insurance.

39. Brown & Brown Insurance (“Brown”) is the Debtors’ Health and Welfare Plan consultant and broker. Brown assists the Debtors in (i) designing the Health and Welfare Plans to meet the needs of the Debtors’ Employees, (ii) negotiating the Health and Welfare Plans with the respective providers thereof, and (iii) managing the costs associated with the Health and Welfare Plans. The Debtors’ insurance carriers compensate Brown for its services and therefore the Debtors have no outstanding payment obligations to Brown as of the Petition Date.

40. Given the sporadic and unpredictable manner in which expenses are incurred and claims are processed under the Health and Welfare Plans, it is difficult for the Debtors to determine the aggregate amount of accrued and unpaid obligations under the Health and Welfare Plans. Nevertheless, the Debtors estimate that, as of the Petition Date, outstanding accrued obligations under the Health and Welfare Plans, including administrative fees to benefit providers and monthly premiums incident to the foregoing, aggregate to approximately \$395,000.

(a) **The Self-Funded Plans**

41. The Debtors’ medical and prescription drug plans are self-funded. The Debtors’ Employees may choose from three unique medical and prescription drug plans depending upon

their personal needs. The Debtors' contribution to each Employee's medical and prescription drug plan varies (from 39% to 82%) depending upon the coverage chosen and the number of people an Employee chooses to cover on his or her plan. Employees participating in these Plans submit their claims to Cigna, who then processes the Employees' claims and pays the applicable healthcare providers for services rendered. On average, there is a 45 to 60-day period between the time an Employee receives medical care and the time Cigna processes the Employee's insurance claim.

42. The Debtors reimburse Cigna on a weekly basis for claims that Cigna has processed and paid. In order to facilitate the reimbursement process, the Debtors maintain a segregated bank account (the "Cigna Account") which holds funds in an amount necessary to cover Cigna's reimbursement costs. Cigna projects its reimbursement costs on a monthly and weekly basis, which projections are based upon historical data and the number of claims that have been submitted and processed. Cigna calculates its projected weekly reimbursement costs one week in advance. In the following week, Cigna accesses the Debtors' primary operating account and transfers the necessary funds into the Cigna Account to reimburse itself for claims that have been processed. Cigna does not provide advanced notice of the amount it will be withdrawing from the Debtors' operating account to reimburse itself for claims that have been or will be processed.

43. Cigna generally makes four weekly transfers per month from the Debtors' primary operating account to the Cigna Account in order to reimburse itself for claims that have been processed. On average, the Debtors reimburse Cigna approximately \$260,000 per month. Based upon historical practice, the Debtors estimate that Cigna will withdraw approximately \$65,000 this week for claims processed prior to the Petition Date. In total, the Debtors project

that Cigna will withdraw approximately \$260,000 from the Debtors' operating account for reimbursements owed in the month of February relating to Employees' insurance claims that have been submitted prior to the Petition Date (collectively, the "Reimbursement Claims"). Accordingly, in order to ensure that their Employees' healthcare claims are processed and paid in a timely manner, the Debtors request the authority to maintain their Self-Funded Health Plans in the ordinary course and to honor any outstanding obligations in connection with the prepetition Reimbursement Claims.

44. In addition to the Reimbursement Claims, Cigna charges a "monthly carrier rate" on a per-Employee basis for administering the Health and Welfare Plans (collectively, the "Administration Costs" and together with the Reimbursement Claims, the "Cigna Plan Obligations"). Included in the Administration Costs are premiums for dental, vision, life, and disability insurance. Also included are premiums for "stop-loss" protections for the Debtors' Self-Funded Health Plans. The stop-loss protections cap the Debtors' monthly liability for paying healthcare claims on both an individual Employee and aggregate basis. Given that the Administration Costs are incurred on a per-Employee basis, Cigna's Administration Costs vary from month to month depending upon the number of Employees enrolled in each Plan. As of the Petition Date, the Debtors estimate that Cigna is owed approximately \$129,000 in the aggregate for the Administration Costs.

45. The Debtors are responsible for paying the Cigna Plan Obligations through a combination of Employer and Employee contributions. Thus, the Debtors withhold from each participating Employee's wages his or her contribution to the Health and Welfare Plans (the "Employee Contributions"), and remit the Employee Contributions to Cigna along with the Debtors' aggregate contribution. This process requires the Debtors to hold the Employee

Contributions in trust in the Debtors' designated bank accounts until the Debtors satisfy the Cigna Plan Obligations. To the extent the Debtors are withholding any Employee Contributions in connection with the Cigna Plan Obligations, the Debtors request authority to remit such amounts to Cigna in the ordinary course.

(b) **Dental Insurance**

46. Cigna provides dental insurance coverage for the Debtors' Employees, which may be expanded to include an Employee's family. Cigna charges a per-Employee monthly premium for dental insurance. The premium amount varies by Employee depending upon the level of coverage and the number of family members covered by such Employee's plan. Premiums range from \$40.98 to \$99.18 per Employee. The Debtors contribute approximately 45 or 46 percent of the monthly cost of the dental coverage for each participating Employee. The Debtors withhold from participating Employees' wages the remaining amounts related to the dental insurance. The Debtors' contribution is included in the Administration Costs.

(c) **Vision Insurance**

47. Employees may elect to purchase vision insurance from Vision Service Plan ("VSP") at their own expense, which covers vision-related expenses such as costs of prescription lenses, contacts, and routine eye exams. The monthly cost of vision insurance ranges from \$4.09 to \$10.77 per month per Employee depending upon the number of family members covered by an Employee's plan. Similar to the dental insurance plan, the Debtors withhold amounts owed to VSP from their Employees' wages in order to pay the monthly vision insurance premiums.

(d) **Life Insurance**

48. The Debtors maintain a basic group life insurance plan (the "Life Insurance Plan") with Cigna for eligible Employees and pay the full premium cost of the plan. The

premium for the Life Insurance Plan is included in Cigna's Administration Costs. Eligible Employees may also purchase supplemental life insurance coverage and/or Accidental Death and Dismemberment insurance through Cigna at their own expense, which amounts are withheld from participating Employees' wages.

(e) **Disability Benefits**

49. The Debtors make available long-term and short-term disability insurance coverage options for their eligible Employees through Cigna (the "Disability Plans"). The Employees pay the full cost of the Disability Plans if they choose to obtain such coverage, and the Debtors withhold from such Employees' wages any amounts owed in connection with the Disability Plans.

(f) **Supplemental Health Insurance**

50. The Debtors provide supplemental health insurance coverage to certain executives (the "Supplemental Insurance Policy"). The Supplemental Insurance Policy provides healthcare coverage for the Debtors' executives that matches the level of coverage these executives enjoyed under prior insurance policies. Transamerica Premier Life Insurance Company ("Transamerica") is the Debtors' Supplemental Insurance Policy provider. The Debtors pay a premium of approximately \$5,400 per month to Transamerica for the Supplemental Insurance Policy. As of the Petition Date, the Debtors estimate that approximately \$5,400 is due and owing to Transamerica.

(g) **Workers' Compensation Insurance**

51. Certain states require the Debtors to maintain workers' compensation insurance to provide compensation for injuries arising from or related to the Employees' employment with the Debtors. To meet these requirements, the Debtors maintain a workers' compensation insurance policy that includes coverage in all states in which the Debtors are required to have

such coverage (the “Workers’ Compensation Policy”). The Travelers Companies (“Travelers”) provides the Debtors Workers’ Compensation Policy. The premium for the Workers’ Compensation Policy is approximately \$154,649 per year. The Debtors do not owe any prepetition amounts with respect to their Workers’ Compensation Policy.

(h) **COBRA**

52. The Debtors also offer COBRA benefits to their terminated Employees. Employee Benefits Corporation (“EBC”) administers the Debtors’ COBRA obligations and is paid an administrative fee for its services. COBRA participants pay all administrative fees owed to EBC and therefore the Debtors’ do not owe any amounts to EBC for administering the COBRA program. COBRA participants also pay the fees directly to EBC, and therefore the Debtors are not withholding any payments on behalf of any COBRA participants.

(i) **Flexible Spending Programs for Medical and Dependent Care**

53. Eligible Employees may participate in Cigna’s flexible spending programs (the “Flexible Spending Programs”) to pay for healthcare costs, dependent care costs, and transportation costs (collectively, the “Eligible Costs”). Funds contributed by an Employee are deducted from such Employee’s earnings and transferred into segregated flexible spending accounts. The Flexible Spending Programs allow Employees to contribute pre-tax income through payroll deductions to be used for the Eligible Costs. Cigna charges an administration fee of \$5.79 per Employee per month in connection with the Flexible Spending Programs, which is paid by the participating Employees. Cigna’s administration fee for the Flexible Spending Programs varies on a monthly basis depending upon the number of participants enrolled in the Programs. The Debtors withhold from Employees’ wages any amounts owed to Cigna in connection with the Flexible Spending Programs and remit such amounts to Cigna as part of the Administration Costs.

(j) **401(k) Plan**

54. The Debtors sponsor a 401(k) Plan and withhold certain portions of participating Employees' wages as contributions toward the Plan. The 401(k) Plan includes a Roth 401(k) feature, which allows an Employee to contribute after-tax dollars. While the Debtors have matched their Employees' 401(k) contributions in the past on a discretionary basis, the Debtors do not anticipate matching contributions during these Chapter 11 Cases.

55. Fidelity Investments Inc. ("Fidelity") administers the Debtors' 401(k) Plan. Eligible Employee contributions are withheld from Employees' wages and wired from the Debtors' bank accounts to Fidelity. Fidelity charges the Debtors' Employees directly for managing their 401(k) accounts. Therefore, as of the Petition Date the Debtors do not owe any amounts to Fidelity for services related to administration of the 401(k) Plan. However, the Debtors withhold contributions on their Employees' behalves for limited periods before such 401(k) contributions are disbursed to Fidelity. To the extent any 401(k) contributions are currently being withheld, the Debtors request the authority to disburse such funds to Fidelity.

**Relief Requested**

56. By this Motion, the Debtors request the entry of the Interim and Final Orders authorizing, but not requiring, the Debtors to pay or honor in their sole discretion, their prepetition Wage Obligations, Expense Reimbursements, Employee Benefits, and any costs incident to the foregoing, (collectively, the "Employee Obligations"). In total, the Employee Obligations amount to approximately \$1,862,605, which amount is comprised of (a) Wage Obligations in the amount of approximately \$1,455,000; (b) Expense Reimbursements in the amount of approximately \$12,605; and (c) up to 395,000 in costs associated with the Debtors' Employee Benefit Plans.

57. The Debtors further request authorization: (i) to remit to the appropriate third parties any Employee Contributions, deductions for the Flexible Spending Programs, contributions to 401(k) Plans, and deductions for supplemental insurance obligations (collectively, the “Employee Deductions”) that have been withheld prior to the Petition Date, and (ii) to maintain and continue to honor their practices, programs, and policies for their Employees as they were in effect on the Petition Date, and as such may be modified, amended, or supplemented from time to time in the ordinary course.

58. While the Debtors believe that all Employee Obligations are vital to their business, the Debtors seek interim authority only to make payments on account of those Employee Obligations that the Debtors believe are necessary to prevent immediate and irreparable harm to the Debtors’ business during the first 21 days of these Chapter 11 Cases.

59. To assist in implementing the relief requested, the Debtors further request that the Court authorize and direct the Debtors’ banks and other financial institutions to receive, honor, process and pay, at the Debtors’ request and to the extent of funds on deposit: (i) prepetition payroll checks or electronic transfers and (ii) all other checks or electronic transfers issued for payments approved by this Motion, regardless of whether such checks or electronic transfers were drawn or issued prior to the Petition Date. The Debtors also seek authorization to reissue prepetition checks or electronic transfers for payments approved by this Motion that are dishonored notwithstanding the foregoing direction.

### **Basis for Relief**

#### **A. Cause Exists to Authorize Payment to or on Behalf of the Debtors’ Employees**

60. Pursuant to section 507(a)(4)(A) of the Bankruptcy Code, claims against the Debtors for “wages, salaries, or commissions, including vacation, severance, and sick leave pay” earned within 180 days before the Petition Date are afforded priority unsecured status to

the extent of \$12,850 per individual. Similarly, section 507(a)(5) of the Bankruptcy Code provides that claims for contributions to certain employee benefit plans are also afforded priority unsecured status per employee covered by such plan, less any amount paid pursuant to section 507(a)(4) of the Bankruptcy Code.

61. The Debtors believe that a vast majority of the Employee Obligations would constitute priority claims under sections 507(a)(4) and (5) of the Bankruptcy Code because such Employee Obligations relate to services that were rendered within 180 days of the Petition Date and are within the statutory cap established by the Bankruptcy Code. As priority claims, the Employee Obligations must be paid in full before any general unsecured obligations of the Debtors may be satisfied. Accordingly, the relief requested with respect to the Employee Obligations will affect only the timing of the payment of these priority obligations, and will not prejudice the rights of general unsecured creditors or other parties in interest.

62. Satisfaction and payment of the Employee Obligations is necessary and appropriate and may be authorized under sections 105(a) and 363(b) of the Bankruptcy Code and the “necessity of payment” doctrine. This includes amounts owed to the Independent Agents and Employees in excess of the \$12,850 Priority Cap. The “necessity of payment” doctrine “recognizes the existence of the judicial power to authorize a debtor in a reorganization case to pay prepetition claims where such payment is essential to the continued operation of the debtor.” In re Ionosphere Clubs, Inc., 98 B.R. 174, 176-77 (Bankr. S.D.N.Y. 1989) (authorizing the payment of prepetition employee wages and benefits); see also Mich. Bureau of Workers’ Disability Comp. v. Chateaugay Corp. (In re Chateaugay Corp.), 80 B.R. 279, 285-86 (S.D.N.Y. 1987), appeal dismissed 838 F.2d 59 (2d Cir. 1988) (approving lower court order authorizing payment of prepetition employee benefits). This doctrine is consistent

with the paramount goal of chapter 11 of “facilitating the continued operation and rehabilitation of the debtor.” In re Ionosphere Clubs, 98 B.R. at 176.

63. Section 105(a) of the Bankruptcy Code empowers the Court to “issue any order, process, or judgment that is necessary or appropriate to carry out the provisions of this title.” 11 U.S.C. § 105(a). A bankruptcy court’s use of its equitable powers to “authorize the payment of prepetition debt when such payment is needed to facilitate the rehabilitation of the debtor is not a novel concept.” In re Ionosphere Clubs, 98 B.R. at 175. “Under Section 105, the court can permit pre-plan payment of a prepetition obligation when essential to the continued operation of the debtor.” In re NVR L.P., 147 B.R. 126, 127 (Bankr. E.D. Va. 1992) (citing Ionosphere Clubs, 98 B.R. at 177).

64. Furthermore, section 363(b)(1) of the Bankruptcy Code provides, “[t]he trustee, after notice and a hearing, may use, sell, or lease, other than in the ordinary course of business, property of the estate.” 11 U.S.C. § 363(b)(1). This section gives the court “broad flexibility in tailoring its orders to meet a wide variety of circumstances.” In re Ionosphere Clubs, Inc., 98 B.R. at 175. Before the court can apply section 363(b) in its favor, the debtor must “articulate some business justification, other than mere appeasements of major creditors.” Id. (finding that the debtor gave “sound business reasons for its decision to pay pre-petition wages,” those reasons being that it was necessary to “serve and protect its business and ultimately reorganize, retain its currently working employees and maintain positive employee morale”).

65. Ample justification exists for satisfying the prepetition Employee Obligations and all amounts owed with respect to the Independent Agents and Employees in excess of the statutory Priority Cap. Any delay or failure to pay wages, salaries, benefits, and related expenses would irreparably harm the Employees’ morale, dedication, confidence, and

cooperation, and would adversely impact the Debtors' relationship with their Employees at a time when the Employees' support is critical to the success of the Debtors' reorganization. Moreover, the Debtors' Independent Agents are critical to the Debtors' business and generate substantial sales where the Debtors would otherwise be unable to facilitate their Accounts. The Independent Agents generate essential revenues for the Debtors, and failing to pay them for commissions earned would risk losing the accompanying sales that the Independent Agents generate in the future.

66. Likewise, it is critical that the Debtors continue to provide the Employee Benefits that were in effect prior to the Petition Date. At this early stage, the Debtors simply cannot risk the substantial damage to their business that would inevitably attend any decline in their Employees' moral or reluctance to remain employed with the Debtors. This damage is almost certain to occur if the Debtors are unable to maintain their Employee Benefits, as many Employees will seek employment with other companies and potentially the Debtors' competitors.

67. Absent the relief requested herein, the Employees and Independent Agents will suffer undue hardship and, in many instances, serious financial difficulties, as the amounts in question are needed to enable certain of the Employees to meet their own personal financial obligations. Without the requested relief, the stability of the Debtors will be undermined, perhaps irreparably, by the distinct possibility that otherwise loyal Employees will seek other employment alternatives. Moreover, it would be inequitable to require the Debtors' Employees and Independent Agents to personally bear financial hardship solely for the benefit of the Debtors.

68. With respect to Payroll Taxes, the payment of such Taxes will not prejudice unsecured creditors of the Debtors' estates, as the relevant Taxing Authorities generally would hold priority claims under section 507(a)(8) of the Bankruptcy Code with respect to such obligations. Moreover, the portion of the Payroll Taxes withheld from an Employee's wages on behalf of the applicable Taxing Authority is held in trust by the Debtors. As such, these Payroll Taxes are not property of the Debtors' estates under section 541 of the Bankruptcy Code. See, e.g., Begier v. IRS, 496 U.S. 53 (1990) (withholding taxes are property held by a debtor in trust for another and, as such, are not property of the debtor's estate).

69. The Debtors also deduct certain amounts from Employees' wages in connection with the Employee Deductions. The Employee Deductions comprise property of the Debtors' Employees or third parties, and not property of the Debtors' estates. Thus, to the extent the Debtors have not forwarded any Employee Deductions to the appropriate third parties due to the commencement of these Chapter 11 Cases, the Debtors seek authority to do so in the ordinary course for the benefit of the Debtors' Employees.

70. The Debtors further believe it is necessary to continue paying all fees owed to the administrator of the Debtors' Wage Obligations and the administrators of programs related to the Employee Benefits. Without the continued services of these administrators, the Debtors would be unable to continue to honor their Wage Obligations and Employee Benefits obligations in an efficient and cost-effective manner. The inability to administer the Wage Obligations and Employee Benefits in an efficient and orderly manner will lead to the Debtors failing to satisfy their obligations to their Employees, Taxing Authorities, and other parties who must be paid promptly in order for the Debtors to continue operating their business.

71. Payment of all Employee Obligations in accordance with the Debtors' prepetition business practices is in the best interests of the Debtors' estates, their creditors, and all parties in interest, and will enable the Debtors to continue to operate their businesses in an economic and efficient manner without disruption. The Debtors' Employees are central to their operations and are vital during the Debtors' chapter 11 processes. A significant deterioration in Employee morale at this critical time undoubtedly would have a devastating impact on the Debtors, their clients and vendors, the value of the Debtors' assets and businesses, and the Debtors' ability to continue operations. In this context, the total amount requested to be paid herein is relatively modest when compared with the size of the Debtors' overall businesses and the importance of the Employees to the Debtors' Chapter 11 Cases and reorganization or sale efforts.

72. In light of the importance of the Employees to the Debtors and ongoing operations, the Debtors seek authority pursuant to sections 105(a) and 363(b) of the Bankruptcy Code to pay the Employee Obligations that are currently due and owing and to pay such Obligations as they become due and owing during the pendency of these cases. The Debtors seek further authorization to continue their practices, programs and policies with respect to their Employees, as such practices, programs, and policies were in effect as of the Petition Date. To the extent any Employee Deductions have been withheld on the Employees' behalves, the Debtors request the authority to remit such amounts to the appropriate third parties in the ordinary course of business.

**B. Waiver of the Automatic Stay as it Applies to Valid Workers' Compensation Claims**

73. Section 362(a) of the Bankruptcy Code operates as a stay against:

the commencement or continuation, including the issuance or employment of process, of a judicial, administrative, or other action or proceeding against the debtor that was or could have

been commenced before the commencement of the case under this title, or to recover a claim against the debtor that arose before the commencement of the case under this title[.]

11 U.S.C. 362(a)(1).

74. However, Section 362 also permits a party in interest to request a modification or termination of the automatic stay for “cause.” 11 U.S.C. § 362(d)(1). The Debtors believe cause exists to lift the automatic stay for any Employees who hold a valid claim for injuries arising from or related to their employment with the Debtors (the “WCP Claims”) to continue pursuing such Claims in the appropriate judicial or administrative forum. Staying any WCP Claims may have a detrimental effect on the financial well-being and morale of the Debtors’ Employees. In addition, the Debtors will incur no costs in allowing the WCP Claims to proceed. To this end, the Debtors seek to: (i) lift the automatic stay as it relates to valid WCP Claims; and (ii) waive the corresponding notice requirements under Bankruptcy Rules and Local Rules.

### **C. Payment of Checks Issued and Other Transfers Made**

75. The Debtors pay their Employee Obligations with funds drawn by checks (the “Checks”) or by means of electronic fund transfers (the “Electronic Transfers”). Before the Petition Date, certain Checks or Electronic Transfers may have been sent that did not clear as of the Petition Date.

76. To the extent any Check or Electronic Transfer has not cleared as of the Petition Date, the Debtors request the Court authorize the Debtors’ banks and financial institutions, in the Debtors’ sole discretion, to receive, process, honor, and pay the Checks or Electronic Transfers. If one of the Debtors’ Employees or another recipient of Checks or Electronic Transfers has not received payment for an amount owed with respect to Employees Wages and

Benefits, the Debtors seek authority to issue replacement Checks, re-issue Electronic Transfers, or otherwise make payments to such recipient.

77. The Debtors represent that each of the Checks and Electronic Transfers can be readily identified as relating directly to the authorized payment of Employee Obligations. Accordingly, if the relief requested is granted, Checks and Electronic Transfers other than those relating to authorized payments will not be honored inadvertently.

**Request for Immediate Extraordinary Relief and Waiver of Stay to Avoid Immediate and Irreparably Harm**

78. Bankruptcy Rule 6003 makes clear that the bankruptcy court, if “necessary to avoid immediate and irreparable harm,” may grant relief early in a bankruptcy case to “use, sell, lease, or otherwise incur an obligation regarding property of the estate, *including a motion to pay all or part of a claim that arose before the filing of the petition . . .*” Fed. R. Bankr. P. 6003 (emphasis added). Thus, Rule 6003 specifically contemplates granting relief to honor prepetition claims where necessary to preserve the estate and the debtor’s prospects for reorganization and provides guidance on whether such authority should be granted immediately or delayed.

79. As set forth herein and in the First Day Declaration, the relief requested in this Motion is necessary to avoid immediate and irreparable harm to the Debtors’ business – accordingly, immediate approval is appropriate.

**Waiver of Bankruptcy Rule 6004(a) and 6004(h)**

80. To the extent required for the immediate implementation of the relief requested herein, the Debtors seek a waiver of (i) the notice requirements under Bankruptcy Rule 6004(a), and (ii) the stay of the order authorizing the use, sale, or lease of property under Bankruptcy Rule 6004(h).

**Notice**

81. Notice of this Motion shall be provided to: (a) the Office of the United States Trustee for the Eastern District of New York; (b) the Office of the United States Attorney for the Eastern District of New York; (c) the Debtors' consolidated top thirty (30) largest unsecured creditors; (d) Counsel to Wells Fargo Bank, N.A. and PNC Bank, N.A., the Debtors' secured creditors and proposed DIP Lenders; (e) Corber Corp., the Debtors' secured creditor; (f) the Internal Revenue Service; (g) the Securities Exchange Commission; (h) the Tax Division of the United States Department of Justice; (i) the Office of the New York State Attorney General; (j) the New York State Department of Taxation and Finance; (k) any other parties required to receive service under Bankruptcy Rule 2002, Rule 2002-2 of the Local Bankruptcy Rules for the Eastern District of New York, and the Guidelines for First Day Motions adopted by the Board of Judges for the United States Bankruptcy Court for the Eastern District of New York.

82. A copy of this Motion is also available on the website maintained by the Debtors' noticing and claims agent, Omni Management Group LLC, at <https://omnimgt.com/radg>. Due to the urgency of the circumstances surrounding this Motion and the nature of the relief requested, the Debtors submit that no other or further notice of this Motion is required.

**No Prior Request**

83. No previous request for the relief sought herein has been made by the Debtors to this or any other court.

[Remainder of Page Intentionally Left Blank]

WHEREFORE, the Debtors respectfully request that the Court grant the relief requested herein and such other and further relief as is just and appropriate.

Dated: February 12, 2019  
New York, New York

Respectfully submitted,

/s/ Mark T. Power

**HAHN & HESSEN LLP**

488 Madison Avenue

New York, New York

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Jeremiah P. Ledwidge, Esq.

*Proposed Counsel to the  
Debtors and Debtors in Possession*

**Proposed Interim Order**

**UNITED STATES BANKRUPTCY COURT  
EASTERN DISTRICT OF NEW YORK**

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	:	
<b>In re:</b>	:	<b>Chapter 11</b>
	:	
<b>Décor Holdings, Inc., et al.,<sup>1</sup></b>	:	<b>Case No. 19-71020 (REG)</b>
	:	<b>Case No. 19-71022 (REG)</b>
<b>Debtors.</b>	:	<b>Case No. 19-71023 (REG)</b>
	:	<b>Case No. 19-71024 (REG)</b>
	:	<b>Case No. 19-71025 (REG)</b>
	:	
	:	<b>Joint Administration Requested</b>
-----	X	

**INTERIM ORDER AUTHORIZING THE DEBTORS  
(I) TO PAY OR HONOR (A) PREPETITION WAGES, COMPENSATION,  
EMPLOYEE BENEFITS, AND RELATED ITEMS, AND (B) PREPETITION  
EMPLOYEE PAYROLL DEDUCTIONS AND WITHHOLDINGS; AND (II) TO  
CONTINUE THE EMPLOYEE BENEFITS IN THE ORDINARY COURSE**

Upon the motion (the “Motion”)<sup>2</sup> of the above-captioned debtors and debtors in possession (collectively, the “Debtors”), for entry of an interim order (this “Interim Order”) authorizing the Debtors: (I) to pay or otherwise honor (a) prepetition wages, compensation, employee benefits, and related items, and (b) prepetition payroll taxes, deductions, and withholdings; and (II) to continue their prepetition employment practices in the ordinary course; and upon the First Day Declaration; and this Court having found that (a) it has jurisdiction to consider the Motion pursuant to 28 U.S.C. §§ 157 and 1334; (b) the Motion is a core proceeding pursuant to 28 U.S.C. § 157(b); and (c) venue of these Chapter 11 Cases and

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<sup>1</sup> The Debtors in these chapter 11 cases, along with the last four digits of each Debtor’s federal tax identification number, are: Décor Holdings, Inc. (4174); Décor Intermediate Holdings LLC (5414); The Robert Allen Duralee Group, Inc. (8435); The Robert Allen Duralee Group, LLC (1798); and The Robert Allen Duralee Group Furniture, LLC (2835). The corporate headquarters and the mailing address for the Debtors listed above is 49 Wireless Boulevard, Suite 150, Hauppauge, NY 11788. The Debtors also maintain a separate corporate office at 2 Hampshire Street, Suite 300, Foxboro, MA 02035.

<sup>2</sup> Capitalized terms used but not defined herein shall have the meaning ascribed to them in the Motion.

the Motion in this District is proper pursuant to 28 U.S.C. §§ 1408 and 1409; and this Court having further determined that the relief requested in the Motion is in the best interests of the Debtors, their estates, their creditors, and other parties in interest; and it appearing that proper and adequate notice of the Motion has been given and that no other or further notice is necessary; and this Court having reviewed the Motion and having heard statements in support of the Motion at a hearing held before this Court (the "Hearing"); and this Court having determined that the legal and factual bases set forth in the Motion, the First Day Declaration, and at the Hearing establish just cause for the relief granted herein; and any objections to the relief requested herein having been withdrawn or overruled on the merits; and after due deliberation thereon and good and sufficient cause appearing therefor, it is

**HEREBY ORDERED THAT:**

1. The Motion is granted on an interim basis until such time as the court enters a Final Order (the "Final Order").

2. The final hearing (the "Final Hearing") on this Motion shall be held on **February \_\_\_\_\_, 2019 at \_\_:\_\_ .m** (prevailing Eastern Time). Any party in interest objecting to the relief sought at the Final Hearing shall serve and file a written objection upon (a) proposed counsel to the Debtors, Hahn &Hessen LLP, 488 Madison Ave., New York, New York 10022 (Attn: Mark T. Power, Esq. and Janine M. Figueiredo, Esq., Fax: (212) 478-7400) (b) counsel for the Wells Fargo N.A. and PNC Bank, N.A., Otterbourg, P.C., 230 Park Avenue, New York, New York 10169-0075 (Attn: Daniel F. Fiorillo, Esq. and Jonathan N. Helfat, Esq., Fax: (212) 682-6104); (c) counsel to any Committee; and (d) the U.S. Trustee, Long Island Federal Plaza Courthouse, 560 Federal Plaza, Central Islip, New York 11722 (Attn: Christine H. Black); and shall be filed with the Clerk of the United States Bankruptcy Court for the Eastern

District of New York, in each case, to allow actual receipt of the foregoing no later than **5:00p.m., prevailing Eastern time, on February \_\_\_\_, 2019** (the “Objection Deadline”). In the event no responses or objections to the relief requested are received by the Objection Deadline, this Court may enter the Final Order on this Motion without the need for the Final Hearing. In the event no responses or objections to the relief requested in this Motion are received by the Objection Deadline, this Court may enter the Final Order on this Motion without the need for the Final Hearing.

3. The Debtors are authorized, but not required, on an interim basis to pay obligations and associated costs incurred prior to the Petition Date up to \$1,465,000 in connection with: (i) the Wage Obligations; and (ii) Expense Reimbursements.

4. The Debtors are authorized, but not required, to pay up to \$200,000 for amounts owed and associated costs incurred prior to the Petition Date relating to the Employee Benefits, including: (i) the Health and Welfare Plans and all associated costs incurred in connection therewith, and (ii) all obligations with respect to insurance policies and coverage related to the foregoing.

5. The Debtors are authorized to pay or otherwise honor all amounts incurred, withheld, and owed prior to the Petition Date consisting of Garnishments and Payroll Taxes, including social security taxes, Medicare taxes, and all other taxes incurred in connection with the Wage Obligations.

6. To the extent any Employee Deductions have been withheld from Employees’ wages prior to the Petition Date relating to the Employee Obligations and have not been remitted to the appropriate third parties, the Debtors are permitted to remit such Employee Deductions to the appropriate third parties in the ordinary course of business.

7. The Debtors are authorized, but not required, to continue to honor their practices, programs, and policies with respect to their Employees as such practices, programs, and policies were in effect as of the Petition Date, including, but not limited to the Employee Obligations.

8. The Debtors are granted limited relief from the automatic stay under section 362 of the Bankruptcy Code solely to permit their employees who hold valid workers' compensation claims to proceed under the Debtors' workers' compensation policies.

9. No payment to any employee may be made to the extent that it is a transfer in derogation of section 503(c) of the Bankruptcy Code. This Order does not implicitly or explicitly approve any bonus plan, incentive plan or other plan covered by section 503(c) of the Bankruptcy Code.

10. All banks and other financial institutions on which checks were drawn or electronic payment requests were made in connection with the payments approved by this Order are authorized and directed to (i) receive, process, honor, and pay all such checks and electronic payment requests when presented for payment (assuming that sufficient funds are then available in the Debtors' bank accounts to cover such payments) and (ii) rely on the Debtors' designation of any particular check or electronic payment request as approved by this Order. The Debtors are authorized to reissue checks, wire transfers, automated clearing house payments, electronic payments, or other similar methods of payment for all payments approved by this Order where such method of payment has been dishonored postpetition.

11. To the extent that there is any inconsistency between the terms of the interim or final order approving the DIP Financing, if and when entered, and this Interim Order, the terms of the interim or final order approving the DIP Financing, as applicable, shall govern.

12. Nothing in this Order nor any action taken by the Debtors in furtherance of the implementation hereof shall be deemed an approval of the assumption or rejection of any executory contract or unexpired lease pursuant to section 365 of the Bankruptcy Code.

13. Nothing in this Order shall impair the ability of the Debtors or an appropriate party in interest to contest any claim of any creditor pursuant to applicable law or otherwise dispute, contest, setoff, or recoup any claim, or assert any rights, claims or defenses related thereto.

14. If an Objection is timely filed and served so as to be received by the Objection Deadline, such objection shall be heard at the Final Hearing. This order, and all acts taken in furtherance of or reliance upon this Order, shall be effective notwithstanding the filing of an Objection.

15. The requirements set forth in Bankruptcy Rule 6003 are satisfied by the contents of the Motion or are otherwise deemed waived.

16. Notice of the Motion as provided therein shall be deemed good and sufficient notice of such motion, and the requirements of Bankruptcy Rule 6004(a) and the Local Rules are satisfied by such notice.

17. Notwithstanding any applicability of any Bankruptcy Rules, the terms and conditions of the Order shall be immediately effective and enforceable upon its entry.

18. This Court shall retain jurisdiction to hear and determine all matters arising from or related to the implementation, interpretation and/or enforcement of this Order.

**Proposed Final Order**

**UNITED STATES BANKRUPTCY COURT  
EASTERN DISTRICT OF NEW YORK**

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	:	
<b>In re:</b>	:	<b>Chapter 11</b>
	:	
<b>Décor Holdings, Inc., et al.,<sup>1</sup></b>	:	<b>Case No. 19-71020 (REG)</b>
	:	<b>Case No. 19-71022 (REG)</b>
<b>Debtors.</b>	:	<b>Case No. 19-71023 (REG)</b>
	:	<b>Case No. 19-71024 (REG)</b>
	:	<b>Case No. 19-71025 (REG)</b>
	:	
	:	<b>Joint Administration Requested</b>
-----	X	

**FINAL ORDER AUTHORIZING THE DEBTORS  
(I) TO PAY OR HONOR (A) PREPETITION WAGES, COMPENSATION,  
EMPLOYEE BENEFITS, AND RELATED ITEMS, AND (B) PREPETITION  
EMPLOYEE PAYROLL DEDUCTIONS AND WITHHOLDINGS; AND (II) TO  
CONTINUE THE EMPLOYEE BENEFITS IN THE ORDINARY COURSE**

Upon the motion (the “Motion”)<sup>2</sup> of the above-captioned debtors and debtors in possession (collectively, the “Debtors”), for entry of a final order (this “Final Order”) authorizing the Debtors: (I) to pay or otherwise honor (a) prepetition wages, compensation, employee benefits, and related items, and (b) prepetition payroll taxes, deductions, and withholdings; and (II) to continue their prepetition employment practices in the ordinary course; and upon the First Day Declaration; and this Court having found that (a) it has jurisdiction to consider the Motion pursuant to 28 U.S.C. §§ 157 and 1334; (b) the Motion is a core proceeding pursuant to 28 U.S.C. § 157(b); and (c) venue of these Chapter 11 Cases and the Motion in this District is proper pursuant to 28 U.S.C. §§ 1408 and 1409; and this Court

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<sup>1</sup> The Debtors in these chapter 11 cases, along with the last four digits of each Debtor’s federal tax identification number, are: Décor Holdings, Inc. (4174); Décor Intermediate Holdings LLC (5414); The Robert Allen Duralee Group, Inc. (8435); The Robert Allen Duralee Group, LLC (1798); and The Robert Allen Duralee Group Furniture, LLC (2835). The corporate headquarters and the mailing address for the Debtors listed above is 49 Wireless Boulevard, Suite 150, Hauppauge, NY 11788. The Debtors also maintain a separate corporate office at 2 Hampshire Street, Suite 300, Foxboro, MA 02035.

<sup>2</sup> Capitalized terms used but not defined herein shall have the meaning ascribed to them in the Motion.

having further determined that the relief requested in the Motion is in the best interests of the Debtors, their estates, their creditors, and other parties in interest; and it appearing that proper and adequate notice of the Motion has been given and that no other or further notice is necessary; and this Court having reviewed the Motion and having heard statements in support of the Motion at a hearing held before this Court (the "Hearing"); and this Court having determined that the legal and factual bases set forth in the Motion, the First Day Declaration, and at the Hearing establish just cause for the relief granted herein; and any objections to the relief requested herein having been withdrawn or overruled on the merits; and after due deliberation thereon and good and sufficient cause appearing therefor, it is

**HEREBY ORDERED THAT:**

1. The Motion is granted on a final basis as set forth in this Final Order.
2. The Debtors are authorized, but not required, to pay the prepetition: (i) Wage Obligations; and (ii) Expense Reimbursements.
3. The Debtors are authorized, but not required, to pay up to \$395,000 (inclusive of any amounts paid pursuant to the Interim Order with respect to this Motion) for amounts owed and associated costs incurred prior to the Petition Date relating to the Employee Benefits, including: (i) the Health and Welfare Plans and all costs incurred in connection therewith, and (ii) all obligations with respect to insurance policies and coverage related to the foregoing.
4. The Debtors are authorized to pay amounts incurred, withheld, and owed prior to the Petition Date consisting of Garnishments and Payroll Taxes, including social security taxes, Medicare taxes, and all other taxes incurred in connection with the Wage Obligations.
5. To the extent any Employee Deductions have been withheld from Employees' wages prior to the Petition Date relating to the Employee Obligations and have not been

remitted to the appropriate third parties, the Debtors are permitted to remit such Employee Deductions to the appropriate third parties in the ordinary course of business.

6. The Debtors are authorized, but not required, to continue to honor their practices, programs, and policies with respect to their employees as such practices, programs, and policies were in effect as of the Petition Date, including, but not limited to the Employee Obligations.

7. The Debtors are granted limited relief from the automatic stay under section 362 of the Bankruptcy Code solely to permit their employees who hold valid workers' compensation claims to proceed under the Debtors' workers' compensation policies.

8. No payment to any employee may be made to the extent that it is a transfer in derogation of section 503(c) of the Bankruptcy Code. This Order does not implicitly or explicitly approve any bonus plan, incentive plan or other plan covered by section 503(c) of the Bankruptcy Code.

9. All banks and other financial institutions on which checks were drawn or electronic payment requests were made in connection with the payments approved by this Order are authorized and directed to (i) receive, process, honor, and pay all such checks and electronic payment requests when presented for payment (assuming that sufficient funds are then available in the Debtors' bank accounts to cover such payments) and (ii) rely on the Debtors' designation of any particular check or electronic payment request as approved by this Order. The Debtors are authorized to reissue checks, wire transfers, automated clearing house payments, electronic payments, or other similar methods of payment for all payments approved by this Order where such method of payment has been dishonored postpetition.

10. To the extent that there is any inconsistency between the terms of the interim or final order approving the DIP Financing, if and when entered, and this Interim Order, the terms of the interim or final order approving the DIP Financing, as applicable, shall govern.

11. Nothing in this Final Order nor any action taken by the Debtors in furtherance of the implementation hereof shall be deemed an approval of the assumption or rejection of any executory contract or unexpired lease pursuant to section 365 of the Bankruptcy Code.

12. Nothing in this Final Order shall impair the ability of the Debtors or an appropriate party in interest to contest any claim of any creditor pursuant to applicable law or otherwise dispute, contest, setoff, or recoup any claim, or assert any rights, claims or defenses related thereto.

13. The requirements set forth in Bankruptcy Rule 6003 are satisfied by the contents of the Motion or are otherwise deemed waived.

14. Notice of the Motion as provided therein shall be deemed good and sufficient notice of such motion, and the requirements of Bankruptcy Rule 6004(a) and the Local Rules are satisfied by such notice.

15. Notwithstanding any applicability of any Bankruptcy Rules, the terms and conditions of the Order shall be immediately effective and enforceable upon its entry.

16. This Court shall retain jurisdiction to hear and determine all matters arising from or related to the implementation, interpretation and/or enforcement of this Order.