

1 Michael Freund SBN 99687  
Ryan Hoffman SBN 283297  
2 Michael Freund & Associates  
1919 Addison Street, Suite 105  
3 Berkeley, CA 94704  
Telephone: (510) 540-1992  
4 Facsimile: (510) 540-5543

5 Attorneys for Plaintiff  
ENVIRONMENTAL RESEARCH CENTER

7 Peg Carew Toledo SBN 181227  
Peg Carew Toledo, Law Corporation  
8 3001 Douglas Blvd., Suite 340  
Roseville, CA 95661-3853  
9 Telephone: (916) 462-8950  
Facsimile: (916) 791-0175

10 Attorneys for Defendant  
11 DESIGNS FOR HEALTH, INC.

12  
13 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
14 COUNTY OF ALAMEDA

15 ENVIRONMENTAL RESEARCH  
16 CENTER, a California non-profit  
corporation,

17 Plaintiff,

18 vs.

19 DESIGNS FOR HEALTH, INC. and DOES  
20 1-100,

21 Defendants.  
22

CASE NO. RG14729513

STIPULATED CONSENT JUDGMENT;  
[PROPOSED] ORDER

Health & Safety Code § 25249.5 et seq.

Action Filed: June 17, 2014  
Trial Date: None set

23  
24 **1. INTRODUCTION**

25 **1.1** On June 17, 2014, Plaintiff Environmental Research Center (“ERC”), a non-  
26 profit corporation, as a private enforcer, initiated this action by filing a Complaint for  
27 Injunctive and Declaratory Relief and Civil Penalties (the “Complaint”) pursuant to the  
28 provisions of California Health and Safety Code section 25249.5 et seq. (“Proposition 65”),

1 against Designs for Health, Inc. (“DFH”) and DOES 1-100. In this action, ERC alleges that  
2 the following products referred to hereinafter individually as “Covered Product” or collectively  
3 as “Covered Products”, manufactured, distributed or sold by DFH contain lead, a chemical  
4 listed under Proposition 65 as a carcinogen and reproductive toxin, and expose consumers at a  
5 level requiring a Proposition 65 warning: (1) “Designs for Health Inc. PaleoGreens Lemon-  
6 Lime Flavor;” (2) “Designs for Health Inc. EssentiaGreens Orange/Cranberry Flavor;”  
7 (3) “Designs for Health Inc. PaleoGreens Mint Flavor;” (4) “Designs for Health Inc. GI-  
8 Revive;” (5) “Designs for Health Inc. PurePea Natural Vanilla Flavor;” (6) “Designs for Health  
9 Inc. EssentiaMeal-DF Natural Vanilla Flavor;” (7) “Designs for Health Inc. Hepatatone Plus;”  
10 (8) “Designs for Health Inc. EndoTrim;” (9) “Designs for Health Inc. HistaEze;” (10) “Designs  
11 for Health Inc. Metal-X-Synergy;” (11) “Designs for Health Inc. GlucoSupreme Herbal;” and  
12 (12) “Designs for Health Inc. Kidney Korrekt.”

13       1.2 ERC is a California non-profit corporation dedicated to, among other causes,  
14 helping safeguard the public from health hazards by reducing the use and misuse of hazardous  
15 and toxic chemicals, facilitating a safe environment for consumers and employees, and  
16 encouraging corporate responsibility.

17       1.3 DFH is a Florida Corporation that, at all relevant times for the purpose of this  
18 Consent Judgment, employed ten or more persons and qualified as a “person in the course of  
19 business” within the meaning of Proposition 65. DFH manufactures, distributes and sells the  
20 Covered Products.

21       1.4 ERC and DFH are referred to individually as “Party” or collectively as the  
22 “Parties.”

23       1.5 The Complaint is based on allegations contained in ERC’s Notice of Violation,  
24 dated September 13, 2013, that was served on the California Attorney General, other public  
25 enforcers, and DFH (“Notice”). A true and correct copy of the Notice is attached as Exhibit A  
26 and is hereby incorporated by reference. More than 60 days have passed since the Notice was  
27 mailed and uploaded onto the Attorney General’s website, and no designated governmental  
28 entity has filed a complaint against DFH with regard to the Covered Products or the alleged

1 violations.

2           1.6     ERC's Notice and Complaint allege that use of the Covered Products exposes  
3 persons in California to lead without first providing clear and reasonable warnings in violation  
4 of California Health and Safety Code section 25249.6. DFH denies all material allegations  
5 contained in the Notice and Complaint and specifically denies that the Covered Products  
6 required a Proposition 65 warning or otherwise caused harm to any person.

7           1.7     The Parties have entered into this Consent Judgment in order to settle,  
8 compromise and resolve disputed claims and thus avoid prolonged and costly litigation.  
9 Nothing in this Consent Judgment shall constitute or be construed as an admission by any of  
10 the Parties, or by any of their respective officers, directors, shareholders, employees, agents,  
11 parent companies, subsidiaries, divisions, affiliates, franchisees, licensees, customers, suppliers,  
12 distributors, wholesalers, or retailers. Except for the representations made above, nothing in  
13 this Consent Judgment shall be construed as an admission by the Parties of any fact, issue of  
14 law, or violation of law, nor shall compliance with this Consent Judgment be construed as an  
15 admission by the Parties of any fact, issue of law, or violation of law, at any time, for any  
16 purpose.

17           1.8     Except as expressly set forth herein, nothing in this Consent Judgment shall  
18 prejudice, waive, or impair any right, remedy, argument, or defense the Parties may have in any  
19 other or future legal proceeding unrelated to these proceedings.

20           1.9     The Effective Date of this Consent Judgment is the date on which it is entered as  
21 a Judgment by this Court.

22     **2.     JURISDICTION AND VENUE**

23           For purposes of this Consent Judgment only, the Parties stipulate that this Court has  
24 subject matter jurisdiction over the allegations of violations contained in the Complaint, personal  
25 jurisdiction over DFH as to the acts alleged in the Complaint, that venue is proper in Alameda  
26 County, and that this Court has jurisdiction to enter this Consent Judgment as a full and final  
27 resolution of all claims up through and including the Effective Date which were or could have  
28 been asserted in this action based on the facts alleged in the Notice and Complaint.

1     **3. INJUNCTIVE RELIEF, REFORMULATION, TESTING AND WARNINGS**

2             **3.1**     Beginning on the Effective Date, DFH shall be permanently enjoined from  
3     "Distributing into California", or directly selling to a consumer in California, any Covered  
4     Product which exposes a person to a "Daily Lead Exposure Level" of more than 0.5  
5     micrograms per day when the maximum suggested dose is taken as directed on the Covered  
6     Product's label, unless it meets the warning requirements under Section 3.2.

7                     **3.1.1**   As used in this Consent Judgment, the term "Distributing into the State  
8     of California" shall mean to directly ship a Covered Product into California for sale in  
9     California or to sell a Covered Product to a distributor that DFH knows will sell the Covered  
10    Product in California.

11                    **3.1.2**   For purposes of this Consent Judgment only, "Daily Lead Exposure  
12    Level" means the maximum daily dose recommended on the label. Daily Lead Exposure Level  
13    shall be measured in micrograms, and shall be calculated using the following formula:  
14    micrograms of lead per gram of product, multiplied by grams of product per serving of the  
15    product (using the largest serving size appearing on the product label), multiplied by servings  
16    of the product per day (using the largest number of servings in a recommended dosage  
17    appearing on the product label), which equals micrograms of lead exposure per day.

18             **3.2     Clear and Reasonable Warnings**

19             If DFH is required to provide a warning pursuant to Section 3.1, the following warning  
20     must be utilized:

21             **WARNING:** This product contains a substance known to the State of California to  
22     cause [cancer and] birth defects or other reproductive harm.

23     DFH shall use the phrase "cancer and" in the warning only if the maximum daily dose  
24     recommended on the label contains more than 15 micrograms of lead as determined pursuant to  
25     the quality control methodology set forth in Section 3.4.

26             The warning shall be securely affixed to or printed upon the container or label of each  
27     Covered Product. In addition, for Covered Products sold over DFH's website and requiring a  
28     warning pursuant to Section 3.1, the warning shall appear in at least one of the following ways:

1 (a) on DFH's checkout page on its website identifying any Covered Product to which the warning  
2 applies when a California delivery address is indicated for any Covered Product; (b) on the same  
3 web page on which the Covered Product is displayed; (c) on the same page as the price for any  
4 Covered Product; or (d) on one or more web pages displayed to the purchaser during the checkout  
5 process when a California delivery address is indicated for any Covered Product.

6 The warning shall be at least the same size as the largest of any other health or safety  
7 warnings correspondingly appearing on website, label, or container of DFH's product packaging  
8 and the word "WARNING" shall be in all capital letters and in bold print. No other statements  
9 about Proposition 65 or lead may accompany the warning

10 DFH must display the above warnings with such conspicuousness, as compared with other  
11 words, statements, or design of the label or container, as applicable, to render the warning likely to  
12 be read and understood by an ordinary individual under customary conditions of purchase or use  
13 of the product.

### 14 **3.3 Reformulated Covered Products**

15 A Reformulated Covered Product is one for which the Daily Lead Exposure Level when  
16 the maximum suggested dose is taken as directed on the Reformulated Covered Product's label,  
17 contains no more than 0.5 micrograms of lead per day as determined by the quality control  
18 methodology described in Section 3.4.

### 19 **3.4 Testing**

20 **3.4.1** All testing pursuant to this Consent Judgment shall be performed using a  
21 laboratory method that complies with the performance and quality control factors appropriate  
22 for the method used, including limit of detection, qualification, accuracy, and precision that  
23 meets the following criteria: Inductively Coupled Plasma-Mass Spectrometry (ICP-MS)  
24 achieving a limit of quantification of less than or equal to 0.010 mg/kg or any other testing  
25 method subsequently agreed upon in writing by the Parties.

26 **3.4.2** All testing pursuant to this Consent Judgment shall be performed by an  
27 independent third-party laboratory certified by the California Environmental Laboratory  
28 Accreditation Program or an independent third-party laboratory that is registered with the

1 United States Food & Drug Administration. Nothing in this Consent Judgment shall limit  
2 DFH's ability to conduct, or require that others conduct, additional testing of the Covered  
3 Products, including the raw materials used in their manufacture.

4           **3.4.3** DFH shall arrange at least once per year, for the lead testing of five  
5 randomly selected samples of each Covered Product in the form intended for sale to the end-  
6 user to be distributed or sold to California. For purposes of determining if a warning, if any, is  
7 required pursuant to Section 3.2, the arithmetic mean of the test results of the samples tested  
8 pursuant to this Section 3.4 will be controlling.

9           **3.4.4** DFH shall continue testing so long as the Covered Products are sold in  
10 California or sold to a third party for retail sale in California. If tests conducted pursuant to this  
11 Section demonstrate that no warning is required for a Covered Product during each of five  
12 consecutive years, then the testing requirements of this Section will no longer be required as to  
13 that Covered Product. However, if after the five-year period, DFH changes ingredient suppliers  
14 for a Covered Product and/or reformulates a Covered Product, DFH shall test that Covered  
15 Product at least once after such change is made. The testing requirements discussed in Section  
16 3.4 are not applicable to any Covered Product for which DFH has provided the warning as  
17 specified in Section 3.2.

18           **3.4.5** DFH shall retain all test results and documentation for a period of five  
19 years from the date of each test.

#### 20   **4. SETTLEMENT PAYMENT**

21           **4.1** In full satisfaction of all potential civil penalties, payment in lieu of civil  
22 penalties, attorney's fees, and costs, DFH shall make a total payment of \$84,250.00 ("Total  
23 Settlement Amount") to ERC within ten (10) business days of the Effective Date. DFH shall  
24 make this payment by wire transfer to ERC's escrow account, for which ERC will give DFH  
25 the necessary account information. The Total Settlement Amount shall be apportioned as  
26 follows:

27           **4.2** \$15,100.00 shall be considered a civil penalty pursuant to California Health  
28 and Safety Code §25249.7(b)(1). ERC shall remit 75% (\$11,325.00) of the civil penalty to the

1 Office of Environmental Health Hazard Assessment (“OEHHA”) for deposit in the Safe  
2 Drinking Water and Toxic Enforcement Fund in accordance with California Health and Safety  
3 Code §25249.12(c). ERC will retain the remaining 25% (\$3,775.00) of the civil penalty.

4 **4.3** \$1,781.06 shall be distributed to Environmental Research Center as  
5 reimbursement to ERC for reasonable costs associated with the enforcement of Proposition 65  
6 and other costs incurred as a result of work in bringing this action

7 **4.4** \$33,075.00 shall be distributed to Michael Freund as reimbursement of  
8 ERC’s attorney’s fees, and \$10,075.00 shall be distributed to Ryan Hoffman as reimbursement  
9 of ERC’s attorney’s fees, while \$24,218.94 shall be distributed to ERC for its in-house legal  
10 fees.

11 **5. MODIFICATION OF CONSENT JUDGMENT**

12 **5.1** This Consent Judgment may be modified only (i) by written stipulation of  
13 the Parties and (ii) upon entry by the Court of a modified consent judgment.

14 **5.2** If DFH seeks to modify this Consent Judgment under Section 5.1, then DFH  
15 must provide written notice to ERC of its intent (“Notice of Intent”). If ERC seeks to meet and  
16 confer regarding the proposed modification in the Notice of Intent, then ERC must provide  
17 written notice to DFH within thirty days of receiving the Notice of Intent. If ERC notifies DFH  
18 in a timely manner of ERC’s intent to meet and confer, then the Parties shall meet and confer in  
19 good faith as required in this Section. The Parties shall meet in person or via telephone within  
20 thirty (30) days of ERC’s notification of its intent to meet and confer. Within thirty (30) days  
21 of such meeting, if ERC disputes the proposed modification, ERC shall provide to DFH a  
22 written basis for its position. The Parties shall continue to meet and confer for an additional  
23 thirty (30) days in an effort to resolve any remaining disputes. Should it become necessary, the  
24 Parties may agree in writing to different deadlines for the meet-and-confer period.

25 **5.3** In the event that DFH initiates or otherwise requests a modification under  
26 Section 5.1 for its primary benefit, and the meet and confer process leads to a joint motion or  
27 application of the Consent Judgment, DFH shall reimburse ERC its costs and reasonable  
28

1 attorney's fees for the time spent in the meet and confer process and filing and arguing the  
2 motion or application.

3           **5.4**           Where the meet-and-confer process does not lead to a joint motion or  
4 application in support of a modification of the Consent Judgment, then either Party may seek  
5 judicial relief on its own. In such a situation, the prevailing party may seek to recover costs and  
6 reasonable attorney's fees. As used in the preceding sentence, the term "prevailing party"  
7 means a party who is successful in obtaining relief more favorable to it than the relief that the  
8 other party was amenable to providing during the Parties' good faith attempt to resolve the  
9 dispute that is the subject of the modification.

10       **6.    RETENTION OF JURISDICTION, ENFORCEMENT OF CONSENT**  
11       **JUDGMENT**

12           **6.1**           This Court shall retain jurisdiction of this matter to enforce, modify or  
13 terminate this Consent Judgment.

14           **6.2**           If ERC alleges that any Covered Product fails to qualify as a Reformulated  
15 Covered Product (for which ERC alleges that no warning has been provided), then ERC shall  
16 inform DFH in a reasonably prompt manner of its test results, including information sufficient  
17 to permit DFH to identify the Covered Products at issue. DFH shall, within thirty (30) days  
18 following such notice, provide ERC with testing information, from an independent third-party  
19 laboratory meeting the requirements of Sections 3.4.1 and 3.4.2, demonstrating Defendant's  
20 compliance with the Consent Judgment, if warranted. The Parties shall first attempt to resolve  
21 the matter prior to ERC taking any further legal action.

22       **7.    APPLICATION OF CONSENT JUDGMENT**

23           This Consent Judgment may apply to, be binding upon, and benefit the Parties and their  
24 respective officers, directors, shareholders, employees, agents, parent companies, subsidiaries,  
25 divisions, affiliates, franchisees, licensees, customers (excluding private labelers), distributors,  
26 wholesalers, retailers, predecessors, successors, and assigns. This Consent Judgment shall have no  
27 application to Covered Products which are distributed or sold exclusively outside the State of  
28 California and which are not used by California consumers.



1     **8.     BINDING EFFECT, CLAIMS COVERED AND RELEASED**

2             **8.1**             This Consent Judgment is a full, final, and binding resolution between ERC,  
3 on behalf of itself and in the public interest, and DFH, of any alleged violation of  
4 Proposition 65 or its implementing regulations for failure to provide Proposition 65 warnings  
5 for exposure to lead from the handling, use, or consumption of the Covered Products and fully  
6 resolves all claims that have been or could have been asserted in this action up to and including  
7 the Effective Date for failure to provide Proposition 65 warnings for the Covered Products.  
8 ERC, on behalf of itself and in the public interest, hereby releases and discharges DFH and its  
9 respective officers, directors, shareholders, employees, agents, parent companies, subsidiaries,  
10 divisions, affiliates, suppliers, franchisees, licensees, customers (not including private label  
11 customers of DFH), distributors, wholesalers, retailers, and all other upstream and downstream  
12 entities in the distribution chain of any Covered Product, and the predecessors, successors and  
13 assigns of any of them (collectively, "Released Parties"), from any and all claims, actions,  
14 causes of action, suits, demands, liabilities, damages, penalties, fees, costs and expenses  
15 asserted, or that could have been asserted, as to any alleged violation of Proposition 65 arising  
16 from the failure to provide Proposition 65 warnings on the Covered Products regarding lead up  
17 to and including the Effective Date.

18             **8.2**             ERC, on behalf of itself only, hereby releases and discharges the Released  
19 Parties from all known and unknown claims, causes of action, suits, damages, penalties,  
20 liabilities, injunctive relief, declaratory relief, attorney's fees, costs, and expenses arising from  
21 or related to the claims asserted or that could have been asserted, under state or federal law,  
22 regarding the presence of lead in the Covered Products or the facts alleged in the Notice or the  
23 Complaint, including without limitation any and all claims concerning exposure to any person  
24 to lead in the Covered Products up to, and including, the Effective Date.

25             **8.3**             ERC on its own behalf only, on one hand, and DFH on its own behalf only,  
26 on the other, further waive and release any and all claims they may have against each other for  
27 all actions or statements made or undertaken in the course of seeking or opposing enforcement  
28 of Proposition 65 in connection with the Notice or Complaint up through and including the

1 Effective Date, provided, however, that nothing in Section 8 shall affect or limit any Party's  
2 right to seek to enforce the terms of this Consent Judgment. It is possible that other claims not  
3 known to the Parties arising out of the facts alleged in the Notice or the Complaint and relating  
4 to the Covered Products will develop or be discovered. ERC on behalf of itself only, and DFH  
5 on behalf of its own self acknowledges that this Consent Judgment is expressly intended to  
6 cover and include all such claims up through the Effective Date, including all rights of action  
7 therefore. ERC and DFH acknowledge that the claims released in Sections 8.1 through 8.3  
8 above may include unknown claims, and nevertheless waives California Civil Code section  
9 1542 as to any such unknown claims. California Civil Code section 1542 reads as follows:

10 A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE  
11 CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER  
12 FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF  
13 KNOWN BY HIM OR HER MUST HAVE MATERIALLY AFFECTED HIS  
14 OR HER SETTLEMENT WITH THE DEBTOR.

14 ERC on behalf of itself only, and DFH on behalf of itself acknowledge and understand the  
15 significance and consequences of this specific waiver of California Civil Code section 1542.  
16 ERC represents, warrants, and covenants that it will not pursue any statutory or common law  
17 claims that it may have with respect to the Covered Products. DFH represents that it  
18 manufactures private label products that have the identical formulation as the Covered Products  
19 ("DFH Private Label Products"). ERC represents, warrants, and covenants that it will not  
20 pursue any statutory or common law claims against DFH that it may have with respect to the  
21 DFH Private Label Products up to and including the Effective Date.

22 8.4 Compliance with the terms of this Consent Judgment shall be deemed to  
23 constitute compliance with Proposition 65 by any Released Party regarding alleged exposures  
24 to lead in the Covered Products.

25 8.5 Nothing in this Consent Judgment is intended to apply to any occupational  
26 or environmental exposures arising under Proposition 65.

## 27 9. SEVERABILITY OF UNENFORCEABLE PROVISIONS

28 In the event that any of the provisions of this Consent Judgment are held by a court to be

1 unenforceable, the validity of the remaining enforceable provisions shall not be adversely affected.

2 **10. GOVERNING LAW**

3 The terms and conditions of this Consent Judgment shall be governed by and construed in  
4 accordance with the laws of the State of California. In the event that Proposition 65 is repealed or  
5 preempted then DFH shall have no further obligations pursuant to this Consent Judgment with  
6 respect to, and to the extent that the Covered Products are so affected.

7 **11. PROVISION OF NOTICE**

8 All notices required to be given to either Party to this Consent Judgment by the other shall  
9 be in writing and sent to the following agents listed below by: (a) first-class, registered, or certified  
10 mail; (b) overnight courier; or (c) personal delivery.

11 **FOR ENVIRONMENTAL RESEARCH CENTER:**

12 Chris Heptinstall, Executive Director, Environmental Research Center  
13 3111 Camino Del Rio North, Suite 400  
14 San Diego, CA 92108  
15 Tel: (619) 500-3090  
16 Email: chris\_erc501c3@yahoo.com

17 With a copy to:

18 Michael Freund SBN 99687  
19 Ryan Hoffman SBN 283297  
20 Michael Freund & Associates  
21 1919 Addison Street, Suite 105  
22 Berkeley, CA 94704  
23 Telephone: (510) 540-1992  
24 Facsimile: (510) 540-5543

25 **FOR DESIGNS FOR HEALTH, INC.**

26 Stephen Carruthers  
27 General Counsel  
28 Designs for Health, Inc.  
980 South Street  
Suffield, CT 06078

With a copy to:

Peg Carew Toledo SBN 181227  
Peg Carew Toledo, Law Corporation  
3001 Douglas Blvd., Suite 340  
Roseville, CA 95661-3853

1  
2 **12. COURT APPROVAL**

3 12.1 Upon execution of this Consent Judgment by the Parties, ERC shall notice a  
4 Motion for Court Approval. The Parties shall use their best efforts to support entry of this  
5 Consent Judgment.

6 12.2 If the California Attorney General objects to any term in this Consent  
7 Judgment, the Parties shall use their best efforts to resolve the concern in a timely manner, and  
8 if possible prior to the hearing on the motion.

9 12.3 If this Consent Judgment is not approved by the Court, it shall be void and  
10 have no force or effect.

11 **13. EXECUTION AND COUNTERPARTS**

12 This Consent Judgment may be executed in counterparts, which taken together shall be  
13 deemed to constitute one document. A facsimile or .pdf signature shall be construed as valid as  
14 the original signature.

15 **14. DRAFTING**

16 The terms of this Consent Judgment have been reviewed by the respective counsel for each  
17 Party prior to its signing, and each Party has had an opportunity to fully discuss the terms with  
18 counsel. The Parties agree that this Consent Judgment was drafted jointly by the Parties and that  
19 in any subsequent interpretation and construction of this Consent Judgment, the terms and  
20 provisions shall not be construed against any Party.

21 **15. GOOD FAITH ATTEMPT TO RESOLVE DISPUTES**

22 If a dispute arises with respect to either Party's compliance with the terms of this Consent  
23 Judgment entered by the Court, the Parties shall meet in person or by telephone and endeavor to  
24 resolve the dispute in an amicable manner. No action or motion may be filed in the absence of  
25 such a good faith attempt to resolve the dispute beforehand. In the event an action or motion is  
26 filed, however, the prevailing party may seek to recover costs and reasonable attorney's fees. As  
27 used in the preceding sentence, the term "prevailing party" means a party who is successful in  
28 obtaining relief more favorable to it than the relief that the other party was amenable to providing

1 during the Parties' good faith attempt to resolve the dispute that is the subject of such enforcement  
2 action.

3 **16. ENTIRE AGREEMENT, AUTHORIZATION**

4 **16.1** This Consent Judgment contains the sole and entire agreement and  
5 understanding of the Parties with respect to the entire subject matter herein, and any and all  
6 prior discussions, negotiations, commitments and understandings related hereto. No  
7 representations, oral or otherwise, express or implied, other than those contained herein have  
8 been made by any Party. No other agreements, oral or otherwise, unless specifically referred to  
9 herein, shall be deemed to exist or to bind any Party.

10 **16.2** Each signatory to this Consent Judgment certifies that he or she is fully  
11 authorized by the Party he or she represents to stipulate to this Consent Judgment. Except as  
12 explicitly provided herein, each Party shall bear its own fees and costs.

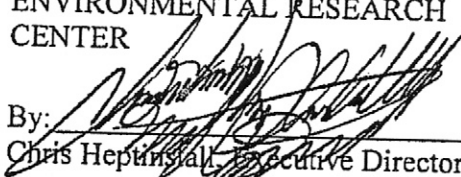
13 **17. REQUEST FOR FINDINGS, APPROVAL OF SETTLEMENT AND ENTRY OF**  
14 **CONSENT JUDGMENT**

15 This Consent Judgment has come before the Court upon the request of the Parties. The  
16 Parties request the Court to fully review this Consent Judgment and, being fully informed  
17 regarding the matters which are the subject of this action, make the findings pursuant to California  
18 Health and Safety Code section 25249.7(f)(4), approve the Settlement, and approve this Consent  
19 Judgment.

20  
21 **IT IS SO STIPULATED:**

22 Dated: 1/15/, 2016

ENVIRONMENTAL RESEARCH  
CENTER

23  
24 By:   
Chris Hepburn, Executive Director

25  
26 Dated: \_\_\_\_\_, 2016

DESIGNS FOR HEALTH, INC.

27  
28 By: \_\_\_\_\_  
Its: \_\_\_\_\_

1 during the Parties' good faith attempt to resolve the dispute that is the subject of such enforcement  
2 action.

3 **16. ENTIRE AGREEMENT, AUTHORIZATION**

4 **16.1** This Consent Judgment contains the sole and entire agreement and  
5 understanding of the Parties with respect to the entire subject matter herein, and any and all  
6 prior discussions, negotiations, commitments and understandings related hereto. No  
7 representations, oral or otherwise, express or implied, other than those contained herein have  
8 been made by any Party. No other agreements, oral or otherwise, unless specifically referred to  
9 herein, shall be deemed to exist or to bind any Party.

10 **16.2** Each signatory to this Consent Judgment certifies that he or she is fully  
11 authorized by the Party he or she represents to stipulate to this Consent Judgment. Except as  
12 explicitly provided herein, each Party shall bear its own fees and costs.

13 **17. REQUEST FOR FINDINGS, APPROVAL OF SETTLEMENT AND ENTRY OF**  
14 **CONSENT JUDGMENT**

15 This Consent Judgment has come before the Court upon the request of the Parties. The  
16 Parties request the Court to fully review this Consent Judgment and, being fully informed  
17 regarding the matters which are the subject of this action, make the findings pursuant to California  
18 Health and Safety Code section 25249.7(f)(4), approve the Settlement, and approve this Consent  
19 Judgment.

20  
21 **IT IS SO STIPULATED:**

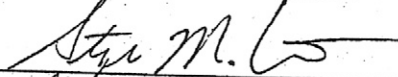
22 Dated: \_\_\_\_\_, 2016

ENVIRONMENTAL RESEARCH  
CENTER

23  
24 By: \_\_\_\_\_  
Chris Heptinstall, Executive Director

25  
26 Dated: January 18, 2016

DESIGNS FOR HEALTH, INC.

27   
28 By: Stephen M. Caruthers  
Its: General Counsel

1  
2  
3 APPROVED AS TO FORM:

4 Dated: 1/15/, 2016

MICHAEL FREUND & ASSOCIATES

5  
6 By: [Signature]  
7 Michael Freund  
8 Ryan Hoffman  
9 Attorneys for Plaintiff  
10 Environmental Research Center

11 Dated: January 18, 2016

12 PEG CAREW TOLEDO, LAW  
13 CORPORATION

14 By: [Signature]  
15 Peg Carew Toledo  
16 Attorneys for Defendant  
17 Designs for Health, Inc.

18 **ORDER AND JUDGMENT**

19 Based upon the Parties' Stipulation, and good cause appearing, this Consent Judgment is  
20 approved and Judgment is hereby entered according to its terms.

21 IT IS SO ORDERED, ADJUDGED AND DECREED.

22 Dated: 3-28-, 2016

23 [Signature]  
24 Judge of the Superior Court

25 Sandra K. Bean