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Superior Court of California
County of Los Angeles

JUL 15 2021

Sherril R. Carter, Executive Officer/Clerk of Court

By: Kristina Vargas, Deputy

1 Max W. Gavron (State Bar No. 291697)

2 **DIVERSITY LAW GROUP, P.C.**

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4 Los Angeles, CA 90071

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5 Attorneys for Plaintiff and Aggrieved Employees

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8 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

9 **FOR THE COUNTY OF LOS ANGELES**

10
11 STELLA ASONG, as an individual and on
12 behalf of all others similarly situated,

13 Plaintiffs,

14 vs.

15 ST. JOHN OF GOD RETIREMENT AND
16 CARE CENTER, a California corporation;
17 and DOES 1 through 50, inclusive,

18 Defendants.

Case No.: 20STCV26677

[Assigned for all purposes to the Honorable Daniel
J. Buckley, Dept. 1]

**FIRST AMENDED COMPLAINT FOR
DAMAGES FOR:**

**(1) VIOLATION OF LABOR CODE § 2698,
ET SEQ.**

DEMAND OVER \$25,000.00

Complaint Filed: July 10, 2020

Trial Date: None Set

21
22 Plaintiff Stella Asong ("Plaintiff"), hereby submits this First Amended Complaint against
23 Defendant St. John of God Retirement and Care Center ("Defendant"), and Does 1-50
24 (hereinafter collectively referred to as "Defendants"), on behalf of herself and aggrieved
25 employees of Defendants for penalties for failure to provide off-duty meal and rest periods, pay
26 all wages owed upon separation of employment, and provide accurate, itemized wage statements
27 under California Labor Code statutes, as follows:

28 **INTRODUCTION**

1 the State of California and County of Los Angeles as a skilled nursing facility.

2 10. Plaintiff is informed and believes and based thereon alleges that at all times herein
3 mentioned Defendant and Does 1 through 50 are and were business entities, individuals, and
4 partnerships, licensed to do business and actually doing business in the State of California.

5 11. As such, and based upon all the facts and circumstances incident to Defendants'
6 business in California, Defendants are subject to California Labor Code §§ 201-203, 226, 226.7,
7 512, and 2698 *et seq.*, and the IWC Wage Orders.

8 12. Plaintiff does not know the true names or capacities, whether individual, partner
9 or corporate, of the Defendants sued herein as Does 1 through 50, inclusive, and for that reason,
10 said Defendants are sued under such fictitious names, and Plaintiff prays for leave to amend this
11 complaint when the true names and capacities are known. Plaintiff is informed and believes and
12 based thereon alleges that each of said fictitious Defendants were responsible in some way for
13 the matters alleged herein and proximately caused Plaintiff and members of the general public
14 and class to be subject to the illegal employment practices, wrongs and injuries complained of
15 herein.

16 13. At all times herein mentioned, each of said Defendants participated in the doing
17 of the acts hereinafter alleged to have been done by the named Defendants; and furthermore, the
18 Defendants, and each of them, were the agents, servants and employees of each of the other
19 Defendants, as well as the agents of all Defendants, and at all times herein mentioned, were
20 acting within the course and scope of said agency and employment.

21 14. Plaintiff is informed and believes and based thereon alleges that at all times
22 material hereto, each of the Defendants named herein was the agent, employee, alter ego and/or
23 joint venturer of, or working in concert with each of the other co-defendants and was acting
24 within the course and scope of such agency, employment, joint venture, or concerted activity.
25 To the extent said acts, conduct, and omissions were perpetrated by certain Defendants, each of
26 the remaining Defendants confirmed and ratified said acts, conduct, and omissions of the acting
27 Defendants.

28 15. At all times herein mentioned, Defendants, and each of them, were members of,

1 and engaged in, a joint venture, partnership and common enterprise, and acting within the course
2 and scope of, and in pursuance of, said joint venture, partnership and common enterprise.

3 16. At all times herein mentioned, the acts and omissions of various Defendants, and
4 each of them, concurred and contributed to the various acts and omissions of each and all of the
5 other Defendants in proximately causing the injuries and damages as herein alleged. At all times
6 herein mentioned, Defendants, and each of them, ratified each and every act or omission
7 complained of herein. At all times herein mentioned, the Defendants, and each of them, aided
8 and abetted the acts and omissions of each and all of the other Defendants in proximately causing
9 the damages as herein alleged.

10 **FIRST CAUSE OF ACTION**

11 **VIOLATION OF LABOR CODE § 2698, *ET SEQ.***

12 **(BY PLAINTIFF, ON BEHALF OF THE STATE AND AGGRIEVED EMPLOYEES**
13 **AGAINST ALL DEFENDANTS)**

14 17. Plaintiff re-alleges and incorporates by reference the preceding paragraphs as
15 though fully set forth herein.

16 18. Plaintiff brings this cause of action as a proxy for the State of California and in
17 this capacity, seeks penalties on behalf of all Aggrieved Employees from June 30, 2019, through
18 the present, for Defendants' violations of Labor Code §§ 201-203, 226(a), 226.7, and 512,
19 arising from Defendants' failure to provide off-duty meal and rest periods, pay all wages upon
20 separation of employment, and provide proper payroll records.

21 19. On or about June 30, 2020, Plaintiff sent written notice to the California Labor &
22 Workforce Development Agency ("LWDA") of Defendant's violations of Labor Code §§ 201-
23 203, 226(a), 226.7, and 512, pursuant to Labor Code § 2698, *et seq.*, the Private Attorneys
24 General Act ("PAGA"). To date, the LWDA has not responded to Plaintiff's written notice.

25 20. As such, pursuant to Labor Code § 2699(a), Plaintiff seeks recovery of any and all
26 applicable civil penalties for Defendants' violation of Labor Code §§ 201-203, 226(a), 226.7,
27 and 512, for the time period described above, on behalf of herself and other Aggrieved
28 Employees.

1 **PRAYER FOR RELIEF**

2 WHEREFORE, Plaintiff prays for judgment as an individual and on behalf of all others
3 that this suit is brought against Defendants, jointly and severally, as follows:

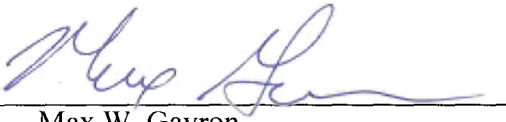
4 1. Upon the First Cause of Action, for civil penalties according to proof pursuant to
5 Labor Code § 2698, *et seq.*, and for costs and attorneys' fees;

6 2. On all causes of action, for attorneys' fees and costs as provided by California
7 Labor Code § 218.5 and Code of Civil Procedure § 1021.5; and

8 3. For such other and further relief as the Court may deem just and proper.
9

10 DATED: July 15, 2021

DIVERSITY LAW GROUP, P.C.

11
12 By: 

13 Max W. Gavron

14 Attorneys for Plaintiff and the Class
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1 **PROOF OF SERVICE**

2 **(Code of Civil Procedure Sections 1013a, 2015.5)**

3
4 STATE OF CALIFORNIA]
5 COUNTY OF LOS ANGELES]ss.
6]

7 I am employed in the County of Los Angeles, State of California. I am over the age of
8 18 and not a party to the within action; my business address is 515 S. Figueroa Street, Suite
9 1250, Los Angeles, California 90071.

10 On July 15, 2021, I served the following document(s) described as: **FIRST**
11 **AMENDED COMPLAINT FOR DAMAGES** on the interested parties in this action as
12 follows:

13 Beth A. Kahn
14 bkahn@clarkhill.com
15 Ryan C. McKim
16 rmckim@clarkhill.com
17 CLARK HILL LLP
18 1055 West Seventh Street, 24th Floor
19 Los Angeles, California 90017
20 *Attorneys for Defendant*
21 *ST. JOHN OF GOD RETIREMENT AND CARE CENTER*

22 X BY ELECTRONIC MAIL: by personally sending a true and correct copy
23 of the above-described document(s) to the party(ies) listed above or on the attached mailing list
24 from the e-mail server diversitylaw.com, to the electronic transmission address of the recipient(s)
25 indicated above or on the attached mailing list. I certify that said electronic transmission was
26 completed and that all pages were received by the party(ies) identified herein or on the attached
27 mailing list.

28 I declare under penalty of perjury under the laws of the State of California that the
above is true and correct. Executed on July 15, 2021, at Los Angeles, California.

24 
25 Erika Mejia