

1 Jody C. Moore, 192601  
2 Gregory L. Johnson, 177889  
3 Joanna A. Hutchins, 307058  
4 **JOHNSON MOORE**  
5 100 E. Thousand Oaks Boulevard, Suite 229  
6 Thousand Oaks, CA 91360  
7 Telephone: (805) 988-3661  
8 Facsimile: (805) 494-4777

9 Attorneys for Plaintiff

10 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
11 **COUNTY OF LOS ANGELES**

12 JOE ANN CLACK, by and through her  
13 Guardian ad Litem, ZOANNE CLACK,

14 Plaintiff,

15 vs.

16 SILVERADO SENIOR LIVING, INC.;  
17 SILVERADO SENIOR LIVING  
18 MANAGEMENT, INC., SUBTENANT 330  
19 NORTH HAYWORTH AVENUE, LLC;  
20 LOREN SHOOK, individually; JASON  
21 RUSSO, individually; and Does 1-25,  
22 inclusive,

23 Defendants.

CASE NO.:

**COMPLAINT FOR DAMAGES:**

1. Elder Abuse and Neglect (Welf. & Inst. Code, § 15600, *et seq.*)
2. Negligence

24 Plaintiff hereby allege as follows:

25 Plaintiff JOE ANN CLACK, by and through her Guardian ad Litem, ZOANNE CLACK  
26 hereby bring this action for damages against Defendants SILVERADO SENIOR LIVING, INC.;  
27 SILVERADO SENIOR LIVING MANAGEMENT, INC., SUBTENANT 330 NORTH  
28 HAYWORTH AVENUE, LLC; LOREN SHOOK, and JASON RUSSO, hereafter collectively  
referred to as the "SILVERADO DEFENDANTS."

**INTRODUCTION**

1. SILVERADO SENIOR LIVING - BEVERLY PLACE has had one of the worst  
outbreaks of COVID-19 in any assisted living facility in California: thirteen (13) residents and  
one (1) staff member are now **dead** from coronavirus; a total of fifty-eight (58) residents have

1 been infected, along with thirty-nine (39) staff members (97 infections in total); while other  
2 COVID-19 related deaths remain hidden from the public.<sup>1</sup> Only one assisted living facility in the  
3 state of California (out of 395 facilities) reported higher numbers. This case involves one of the  
4 residents who became infected.

5 2. JOE ANN CLACK (hereinafter, “MS. CLACK”) contracted COVID-19 while living at  
6 SILVERADO SENIOR LIVING - BEVERLY PLACE in April 2020. After suffering a lengthy  
7 battle with the virus, MS. CLACK is now COVID-free, but the long-term effects of the virus on  
8 her overall health and life expectancy are still unknown.

9 3. MS. CLACK did not get infected with the coronavirus due to some unforeseen act-of-God.  
10 Rather, she became infected because the corporate decision-makers chose to skirt safety and  
11 infection control standards. This case is about the decisions made by the corporate directors of  
12 SILVERADO SENIOR LIVING - BEVERLY PLACE that invited the coronavirus to walk  
13 through its proverbial front doors (or through the elevator from the parking garage, as the facts  
14 will show).

15 4. In this case, the corporate directors of an assisted living home for the elderly made the  
16 choice to close its doors to family and non-essential personnel, claiming it was too dangerous to  
17 allow anyone inside the building other than the residents and staff who care for them. The  
18 SILVERADO DEFENDANTS were aware that any person could inadvertently bring the  
19 coronavirus into its building and fatally infect its resident population.

- 20 • On March 10, 2020 the SILVERADO DEFENDANTS required all visitors at  
21 SILVERADO SENIOR LIVING - BEVERLY PLACE to stop at the front desk for  
22 screening.
- 23 • On March 12, 2020, the SILVERADO DEFENDANTS asked all family and visitors  
24 to withhold visits for 2 weeks.

25  
26  
27 \_\_\_\_\_  
28 <sup>1</sup> COVID-19 Positive Cases in Adult and Senior Care Facilities, COVID-19 Information and Resources,  
<<https://www.cdss.ca.gov/inforesources/cdss-programs/community-care-licensing/covid-19-information-and-resources>> [as of Dec. 9, 2020].

- 1 • On March 13, 2020, the SILVERADO DEFENDANTS explained to family members  
2 that “we are putting our residents at significant risk by exposing them to what may  
3 come through the front door.” The SILVERADO DEFENDANTS limited all visitors  
4 until April 1<sup>st</sup> and further instructed: “do not enter if you have recently traveled to an  
5 area with an outbreak of Coronavirus...”
- 6 • On March 15,2020, the SILVERADO DEFENDANTS prohibited all family and  
7 private duty sitters/resident companions from entering the building. Only  
8 SILVERADO SENIOR LIVING - BEVERLY PLACE associates and healthcare  
9 professionals were allowed in the building. The policy prohibiting outside visitors  
10 and residents was reiterated on March 16, 2020 and March 17, 2020.

11 5. At the same time, those same corporate directors made the choice to admit a (1) new  
12 resident (2) who would have to fly on a commercial airplane (3) to Los Angeles from New York,  
13 the epicenter of the virus, in the midst of the deadly coronavirus pandemic, (4) without  
14 screening, testing, or isolation. In allowing the new resident to be admitted, the corporate  
15 directors also allowed his family (who also flew from London to New York, and then New York  
16 to Los Angeles) into the building, when other families were locked out.

- 17 • On March 19, 2020, the SILVERADO DEFENDANTS chose to admit a new resident  
18 who flew on a commercial flight from Manhattan to Los Angeles and came directly to  
19 SILVERADO SENIOR LIVING - BEVERLY PLACE’s memory care unit on the  
20 third floor, without any period of isolation or quarantine. He was accompanied by a  
21 daughter, who also flew on that flight with him, and who had flown to New York  
22 from London. Once in the building, he was not quarantined and not tested for the  
23 virus.
- 24 • On March 20, 2020, he was symptomatic with cough, fever and lethargy. His  
25 symptoms were alarming enough for the facility to call 911, where he was taken to  
26 Cedars-Sinai Medical Center. The next day, he tested positive for the coronavirus.
- 27 • There were no positive cases at the facility before the admission of this man from  
28 New York, hereafter “Patient Zero.”

1           6. This decision to admit Patient Zero put at risk each of the existing residents and staff, for  
2 no other purpose than to make money. It was undertaken in knowing and conscious disregard of  
3 the risk of harm to the residents of SILVERADO SENIOR LIVING - BEVERLY PLACE and its  
4 staff.

5           7. There was no emergency that required this man to fly from New York to Los Angeles for  
6 care (other than a desire to leave the city where the virus numbers were climbing at an alarming  
7 rate). There was nothing special about the care being provided at this assisted living facility that  
8 could not have been provided elsewhere (or at home). The man's apparent need for care  
9 stemmed from "mild dementia" and he was moved into the third floor of SILVERADO SENIOR  
10 LIVING - BEVERLY PLACE, which was designated for the most independent and high-  
11 functioning residents.

12           8. Once he arrived at the facility, the man was not tested for coronavirus and he was not  
13 quarantined. By the following day, he had symptoms alarming enough for the facility to call 911,  
14 where he was taken to Cedars-Sinai Medical Center. The next day, he tested positive for the  
15 coronavirus. There were no positive cases at the facility before the admission of Patient Zero.

16           9. The 32-year-old nurse who cared for him on the night of his arrival, was infected and  
17 died. Within roughly one month of his admission, 3 residents and one staff member died of  
18 COVID-19.

19           10. The virus continued to spread, unabated, to at least 97 reported infections, and counting.  
20 While the virus was spreading, family and private caregivers remained locked out. They could  
21 not see their loved ones or advocate for care. With limited interactions over Facetime and by  
22 phone, and by families communicating with one another, they learned that Defendants  
23 intentionally concealed and made misrepresentations to residents and their families regarding  
24 their loved one's exposure to the virus, all the while failing to implement proper isolation and  
25 screening procedures to protect residents from cross-contamination. Defendants also  
26 intentionally concealed and made misrepresentations to its staff about the need for, and efficacy  
27 of, safety and infection control protocols, which in turn left the workers unprotected and lead to  
28 further spread.

1 11. The coronavirus itself poses a threat to life and safety. This case is not about that. Rather,  
2 this case is about corporate executives who were aware of the risk associated with this virus,  
3 knew what safety precautions were needed, enforced those safety precautions as to existing  
4 residents (banning visitors and private duty nurses) and then willfully chose to ignore their own  
5 policies and warnings by admitting someone who by definition should not have been allowed in  
6 the front door. He travelled here from a known hot spot without isolating. This is not a story  
7 about the unforeseeable, unpreventable tragedies of a deadly virus. Rather, this is a story about  
8 the calculated boardroom decision to admit new residents in the midst of the pandemic because it  
9 was profitable to do so, and the further decision not to protect residents and staff by  
10 implementing proper screening and isolation protocols.

11 12. It was entirely foreseeable that COVID-19 would spread like wildfire through the halls of  
12 SILVERADO SENIOR LIVING - BEVERLY PLACE, given that there were not enough staff to  
13 isolate residents who exhibited symptoms or tested positive for the virus. The staffing burden  
14 increased when the SILVERADO DEFENDANTS made the decision that private duty  
15 caregivers, hired and paid privately by family members, could no longer come in the facility and  
16 provide one-on-one care. Without the extra eyes, ears, and hands of family and private  
17 caregivers, the entire care burden shifted to the SILVERADO SENIOR LIVING - BEVERLY  
18 PLACE staff and they did not increase their staffing levels to meet the need. In fact, while the  
19 virus was still spreading through May 2020, several staff members who worked selflessly  
20 through the crisis out of a sense of devotion to the seniors they were caring for, were abruptly  
21 laid off, likely because they were vocal about the lax safety and infection control protocols.

22 13. There are many heroes among our Country's caregivers, community workers, and  
23 healthcare providers, including the compassionate staff members at SILVERADO SENIOR  
24 LIVING - BEVERLY PLACE who continued to care for their residents during a dark and scary  
25 time. This case is not about them (although their service is to be commended and their devotion  
26 likely saved lives). Rather, this case is about the greedy corporate executives who decided to  
27 expose their own residents and staff to the deadly coronavirus in order to make even more profit  
28 by admitting new residents during the pandemic, instead of focusing all their resources and

1 attention on caring for the residents they already had. They are not heroes. They have profited on  
2 the backs of the most vulnerable members of our community, senior citizens and their families,  
3 and on the backs of their overworked staff. The executives must be held accountable.

4 **PARTIES**

5 14. **Plaintiff**: JOE ANN CLACK was born on August 23, 1943. She was at all times relevant  
6 herein, an “elder” or “dependent adult” as defined by Welfare & Institutions Code section  
7 15610.23(b), and had physical limitations restricting her ability to carry out normal activities and  
8 protect her rights as discussed more fully *infra*. At all times relevant to this action herein, MS.  
9 CLACK was a resident of the State of California, County of Los Angeles.

10 15. **Guardian ad Litem**: JOE ANN CLACK brings this lawsuit by and through her daughter,  
11 ZOANNE CLACK, as her Guardian ad Litem. Hereinafter, ZOANNE CLACK will be referred  
12 to by her first name, “ZOANNE” in order to avoid confusion. An application for appointment of  
13 ZOANNE as JOE ANN CLACK’s Guardian ad Litem is filed concurrently herein.

14 16. **Defendant LICENSEES**: Defendants SILVERADO SENIOR LIVING  
15 MANAGEMENT, INC. and SUBTENANT 330 NORTH HAYWORTH AVENUE, LLC  
16 (“LICENSEES”) are the co-licensees of SILVERADO SENIOR LIVING - BEVERLY PLACE  
17 (hereinafter “FACILITY”), a Residential Care Facility for the Elderly (“RCFE”) operating at 330  
18 N. Hayworth Avenue, Los Angeles, CA 90048.

19 17. SILVERADO SENIOR LIVING - BEVERLY PLACE is part of the Silverado brand – a  
20 national chain operating facilities in seven states: California, Illinois, Texas, Utah, Virginia,  
21 Washington, Wisconsin, twenty of which locations are in California. Silverado boasts “world-  
22 class care that is recognized worldwide for an approach blending compassion and clinical  
23 excellence”<sup>2</sup> for its residents, promising to provide “appropriate levels of care, amenities and  
24 programming to maximize quality of life and provide the highest levels of dignity possible.”<sup>3</sup>

25  
26  
27 <sup>2</sup> *Silverado Communities*, Silverado, <<https://www.silverado.com/get-started/silverado-communities/>> [as  
of Jun. 26, 2020].

28 <sup>3</sup> *Are There Limits to the Care Silverado Can Provide*, Silverado, <[https://www.silverado.com/memory-  
care/are-there-limits-to-the-care-silverado-can-provide/](https://www.silverado.com/memory-care/are-there-limits-to-the-care-silverado-can-provide/)> [as of Jun. 26, 2020].

1       18. **Defendant SILVERADO SENIOR LIVING, INC.:** Upon information and belief,  
2 SILVERADO SENIOR LIVING, INC. is and was at all times relevant herein, the parent  
3 corporation of the Silverado enterprise. SILVERADO SENIOR LIVING, INC. exercises control  
4 over the management and policies of the facilities in the Silverado chain in California and other  
5 states. SILVERADO SENIOR LIVING, INC. controls the provision of administrative, legal  
6 services, and risk management services to each of its facilities, including SILVERADO SENIOR  
7 LIVING - BEVERLY PLACE.

8       19. **RCFE LICENSEE Duties:** An RCFE licensee is responsible for compliance with  
9 licensing requirements and the organization, management, operation, and control of the RCFE  
10 facility. The general duties of a licensee are set forth in Title 22 of the California Code of  
11 Regulations, section 87100 *et seq.* Certain duties are non-delegable including the responsibility  
12 for compliance with regulations and the management and control of the RCFE. Delegation of  
13 authority by a licensee shall not diminish the responsibility of the licensee. Therefore, even  
14 where a licensee delegates operational control to another person or entity, that licensee remains  
15 directly liable for management, operation, and control of the facility. (Cal. Code Regs., tit. 22, §  
16 87205.)

17       20. RCFEs are licensed and inspected by Department of Social Services (DSS) Community  
18 Care Licensing. RCFEs are non-medical facilities and are not required to have nurses, certified  
19 nursing assistants, or doctors on staff. These facilities are for people who are unable to live by  
20 themselves and who need custodial care and services, but do not need 24-hour nursing care. The  
21 types of services usually provided by RCFEs include room and board, activities, transportation,  
22 medication administration, monitoring and observation for changes in condition, and ensuring  
23 access to medical care. RCFEs must meet care, safety, and other standards mandated by the  
24 State of California in Health & Safety Code section 1569 *et seq.* and Title 22 of the California  
25 Code of Regulations, section 87100 *et seq.*

26       21. SILVERADO SENIOR LIVING MANAGEMENT, INC. and SUBTENANT 330  
27 NORTH HAYWORTH AVENUE, LLC (as the licenses) were subject to the requirements of  
28 federal and state laws and regulations that govern the operation of an RCFE in California. In

1 connection with its operation of SILVERADO SENIOR LIVING - BEVERLY PLACE,  
2 SILVERADO SENIOR LIVING MANAGEMENT, INC. and SUBTENANT 330 NORTH  
3 HAYWORTH AVENUE, LLC have a substantial and ongoing caretaking and custodial  
4 relationship involving ongoing responsibility for the basic needs of its residents, including MS.  
5 CLACK.

6 **22. Defendant LOREN SHOOK:** Defendant LOREN SHOOK is and at all relevant times  
7 was the President, Chief Executive Officer, and Chairman of the Board at SILVERADO  
8 SENIOR LIVING MANAGEMENT, INC. He is also a director and managing agent of  
9 SILVERADO SENIOR LIVING, INC.

10 **23. Defendant JASON RUSSO:** At all times relevant herein, JASON RUSSO was the  
11 Certified Administrator of SILVERADO SENIOR LIVING - BEVERLY PLACE. An  
12 administrator is the person designated by the licensee to act on behalf of the licensee in the  
13 overall management of the facility. (Cal. Code Regs., tit. 22, § 87101(a)(1).) All RCFE facilities  
14 are required to have a certified administrator. (Cal. Code Regs., tit. 22, § 87405.) That  
15 administrator shall have sufficient freedom from other responsibilities and shall be on the  
16 premises a sufficient number of hours to permit adequate attention to management and  
17 administration of the facility. The administrator must meet certain minimum qualifications  
18 including, but not limited to, knowledge of the requirements for providing care and supervision  
19 appropriate to residents and knowledge of and ability to conform to the applicable laws, rules  
20 and regulations governing RCFEs. An administrator has to complete a 40-hour training course  
21 which includes classroom instruction on the laws, regulations, policies and procedural standards  
22 impacting operations of an RCFE, and more specifically, admission, retention and assessment  
23 procedures. This includes instruction on the laws and regulations governing restricted and  
24 prohibited conditions, assessment and documentation of changes of condition, and ensuring that  
25 a facility only accepts and retains residents whose needs can be met in the facility. The  
26 administrator has the responsibility and authority to carry out facility policies consistent with the  
27 laws and regulations governing RCFEs, including admission, retention and assessment  
28 procedures. Further an administrator of an RCFE has the responsibility to administer the facility



1 in accordance with regulations and established policies and programs and to provide or ensure  
2 the provision of services to residents with appropriate regard for the resident's physical and  
3 mental well-being and needs, including those services identified in the residents' preadmission  
4 appraisal. These are well recognized administrator qualifications and responsibilities, set forth  
5 in Cal. Code Regs., tit. 22, §§ 87405 and 87406. According to SILVERADO SENIOR LIVING -  
6 BEVERLY PLACE's website, "The Administrator oversees and leads all aspects of the  
7 community's operations. From overseeing daily functions, personnel and activities to spending  
8 time each day with residents and families, Administrators are truly involved in every part of  
9 making sure their community delivers topnotch care."<sup>4</sup>

10 **24. Unity of Interest:** Defendants are alter-egos of one another and form part of a single  
11 enterprise under the Silverado brand. This enterprise is a network of licensees, shell entities and  
12 holding companies, and management entities. Defendants, and each of them, are commonly  
13 owned and controlled, sharing common officers, directors, and managing agents, including  
14 LOREN SHOOK, Matthew McQueen, and Thomas Croal. Defendants make and approve key  
15 decisions concerning SILVERADO SENIOR LIVING - BEVERLY PLACE's day-to-day  
16 operations, such as policies, staffing levels, employee training, hiring and firing, budgets and  
17 related issues, which decisions and directives, on information and belief, were made at the  
18 direction of and/or for the benefit of SILVERADO SENIOR LIVING, INC.

19 **25.** LOREN SHOOK and JASON RUSSO were actively engaged in day-to-day operations of  
20 SILVERADO SENIOR LIVING - BEVERLY PLACE. They determined staffing ratios and  
21 made hiring, firing and training decisions. They were also in charge of allocation of facility  
22 resources, and set the facility's annual budget, including the budget for personnel. They oversaw  
23 pre-admission appraisals and deciding whether someone could be admitted or retained in the  
24 facility based on licensing regulations, limitations on the types of services provided, limitations  
25 on the types of residents who can be admitted or retained, and limitations in numbers and  
26 qualifications in staff.

27 \_\_\_\_\_  
28 <sup>4</sup> *Community Team*, Silverado, <<https://www.silverado.com/memory-care/the-community-team/>> [as of Dec. 7, 2020].

1           26. Defendants, and each of them, were jointly responsible to ensure that SILVERADO  
2 SENIOR LIVING - BEVERLY PLACE is and was operated in full compliance with federal and  
3 state laws and regulations governing operation of a RCFE, and for all aspects of the organization,  
4 management, operation and control of SILVERADO SENIOR LIVING - BEVERLY PLACE.

5           27. Upon information and belief, Defendants siphon funds and assets away from their  
6 facilities, including SILVERADO SENIOR LIVING - BEVERLY PLACE, through payment of  
7 management fees and other related-party transactions. Defendants indemnify, guarantee and  
8 subsidize one another and divert money that should be going to resident care into the pockets of  
9 their owners.

10          28. Injustice will result if the Court does not disregard the fiction of the separate entities.  
11 Defendants' fractured ownership and management structure is deliberately constructed in order  
12 to shield themselves from liability and to carry out their single enterprise with financial  
13 impunity. Defendants deliberately conceal and misrepresent the identity of the responsible  
14 ownership, management, and financial interests of SILVERADO SENIOR LIVING -  
15 BEVERLY PLACE in order to hide the flow of money and try to evade responsibility for their  
16 misconduct. If Defendants are not treated as a single enterprise or alter egos of each other, a  
17 severe injustice will result.

18          29. **Advance Knowledge/Authorization/Ratification:** Because of the unity of interest and  
19 common ownership and control alleged herein, the acts of the LICENSEES were done pursuant  
20 to policies, practices, procedures, written or otherwise, established and implemented by and with  
21 the advance knowledge, acquiescence or subsequent ratification of SILVERADO SENIOR  
22 LIVING, INC., LOREN SHOOK, JASON RUSSO and/or Defendants' officers, directors and  
23 managing agents.

24          30. LOREN SHOOK personally engaged in policy-making at SILVERADO SENIOR  
25 LIVING - BEVERLY PLACE including, but not limited to, the visitation ban and the ban on  
26 outside private duty companions. On information and belief, LOREN SHOOK also personally  
27 adopted, approved and ratified the decision to admit Patient Zero with knowledge he came from  
28 an area of outbreak in New York and knowing he was not properly screened and isolated and

1 knowing his workers were not adequately protected from disease if he brought coronavirus with  
2 him across the country.

3 31. Defendants' officers, directors and managing agents, and each of their tortious acts and  
4 omissions, as alleged herein, were done in concert and with each other and pursuant to a  
5 common design and agreement to accomplish a particular result, namely maximizing profits  
6 from the operation of the FACILITY. Defendants' officers, directors and managing agents and  
7 each of them implemented a business plan to underfund, understaff, undertrain, and under-  
8 supervise the staff at the FACILITY.

9 32. Plaintiff's injuries arise out of the organization, management, operation, and control of  
10 SILVERADO SENIOR LIVING - BEVERLY PLACE by Defendants in their capacity as  
11 owner/operators/managers. Defendants, and each of them, therefore share joint responsibility for  
12 Plaintiff's injuries.

13 33. **Doce Allegations:** To the extent any entity, person or company other than the defendants  
14 named herein owned, operated, managed, supervised, controlled, maintained, or were otherwise  
15 responsible for the business activities of SILVERADO SENIOR LIVING - BEVERLY PLACE,  
16 the identity of such persons or entities are unknown to Plaintiff and Plaintiff will seek leave to  
17 amend when those identities are ascertained. Plaintiff sues those persons/entities as DOES 1  
18 through 10. Plaintiff is informed and believes, and thereon alleges, that each of the defendants  
19 designated as a DOE is responsible in some manner for the events and happenings herein  
20 referred to and thereby legally caused the injuries and damages herein alleged. Such DOES  
21 would include officers, directors, controlling shareholders, partners, parent and/or sister  
22 companies, governing board members, and persons in *de facto* control of healthcare, operators,  
23 or employees of SILVERADO SENIOR LIVING - BEVERLY PLACE.

24 34. On information and belief, DOES 11 through 20 may be staff or contracted personnel of  
25 SILVERADO SENIOR LIVING - BEVERLY PLACE, including physicians, physician's  
26 assistants, nurse practitioners, licensed nurses, aides, social workers, business office personnel,  
27 or other administrative or clinical personnel including persons directly or indirectly responsible  
28 for provision of care, persons having made representations or warranties to Plaintiff, and persons

1 acting in concert with other Defendants. The identities of such persons or entities are unknown to  
2 Plaintiff and Plaintiff will seek leave to amend when those identities are ascertained. Plaintiff is  
3 informed and believes, and thereon alleges, that each of the defendants designated as a DOE is  
4 responsible in some manner for the events and happenings herein referred to and thereby legally  
5 caused the injuries and damages herein alleged.

6 35. On information and belief, DOES 21 through 25 include persons directly or indirectly  
7 responsible for provision of care to MS. CLACK, including but not limited to physicians,  
8 medical groups, managed care organizations, acute care hospitals, home health agencies, visiting  
9 nurses, therapists, or other ancillary care providers who saw, examined, evaluated, observed or  
10 treated or failed to treat MS. CLACK and/or persons having made representations or warranties  
11 to or from the Department of Social Services, the Department of Public Health, the Long Term  
12 Care Ombudsman, Adult Protective Services, Cedars Sinai Medical Center, SILVERADO  
13 SENIOR LIVING - BEVERLY PLACE, and/or anyone purporting to act on behalf of or concert  
14 with these persons or entities. The identities of such persons or entities are unknown Plaintiff and  
15 Plaintiff will seek leave to amend when those identities are ascertained. Plaintiff is informed and  
16 believes, and thereon alleges, that each of the defendants designated as DOE is responsible in  
17 some manner for the events and happenings herein referred to and thereby legally caused the  
18 injuries and damages herein alleged.

19 **JURISDICTION AND VENUE**

20 36. This Court has jurisdiction over the cause of action asserted.

21 37. The acts alleged in this complaint occurred in the County of Los Angeles.

22 38. The Defendants and each of them have sufficient minimum contacts in California based  
23 on their residency in California or otherwise intentionally avail themselves of the California  
24 market though their provision of services in the County of Los Angeles, so as to render them  
25 essentially at home in California and making the exercise of jurisdiction by the California courts  
26 consistent with traditional notions of fair play and substantial justice.

27 39. Venue is proper in the County of Los Angeles under Code of Civil Procedure § 395(a)  
28 based on the facts, without limitation, that this Court is a court of competent jurisdiction, that the

1 defendants reside in the County of Los Angeles, and that all of the events described occurred in  
2 the County of Los Angeles.

### 3 **FACTUAL BACKGROUND**

#### 4 **A. Coronavirus Background**

5 40. On January 20, 2020, the first case of coronavirus infection in the United States appeared.  
6 On March 4, 2020, California's Governor, Gavin Newsom, declared a state of emergency in  
7 California. On the same day, the Los Angeles County Board of Supervisors and the Los Angeles  
8 County Department of Public Health similarly declared a local and public health emergency in  
9 the County of Los Angeles. On March 7, 2020, Governor Andrew Cuomo declared a State of  
10 Emergency in the state of New York.

11 41. It quickly became known that the elderly, and particularly those with underlying health  
12 problems were most vulnerable to the coronavirus. The CDC, CDPH, and CDSS all put forth  
13 requirements, and guidelines for nursing homes and assisted living providers/RCFEs to promptly  
14 take reasonable measures to protect their patients from exposure to the coronavirus. Such  
15 measures include testing of residents and employees, restricting visitors, requiring employees to  
16 use face masks, gloves, and gowns, and isolating employees and residents who are suspected or  
17 known carriers of the virus.

18 42. Media coverage of the coronavirus pandemic was everywhere, and certain parts of the  
19 country and the world were thrust to the forefront. Starting in Wuhan, China, virus coverage  
20 quickly shifted to Italy, where the entire country was placed on lockdown on March 9 due to an  
21 exploding number of cases that left Italy's hospitals in a state of wartime triage.<sup>5</sup>

22 43. The next global hotspot to emerge was New York. On March 10, New York ordered a  
23 one-mile radius containment zone in Westchester County's New Rochelle – less than 20 miles  
24 from Manhattan. On March 16, 2020, Governor Cuomo issued an executive order closing all  
25 schools statewide, limiting recreational and social gatherings to 50 people, and closing  
26 restaurants, bars, movie theaters, gyms and casinos. On March 17, 2020, Mayor Bill de Blasio

---

27  
28 <sup>5</sup> Mounk, *The Extraordinary Decisions Facing Italian Doctors*, The Atlantic (Mar. 11, 2020)  
<<https://www.theatlantic.com/ideas/archive/2020/03/who-gets-hospital-bed/607807/>> [as of Nov. 19, 2020].

1 announced that the city should prepare for a possible shelter-in-place order. By March 18, the  
2 number of cases in New York statewide had spiked to 4,152. On March 19, Mayor Bill de Blasio  
3 reported “an explosion of cases here in New York City,” adding that the city has been ramping  
4 up its testing in recent days.<sup>6</sup> On March 20, Cuomo ordered all nonessential businesses closed  
5 statewide.

6 **B. COVID-19 Precautions at SILVERADO SENIOR LIVING - BEVERLY PLACE**

7 44. Meanwhile, at SILVERADO SENIOR LIVING - BEVERLY PLACE, Defendants began  
8 making representations that they too were taking the virus seriously and implementing  
9 precautions as recommended by the CDC and CDPH. On March 14, 2020, residents at  
10 SILVERADO SENIOR LIVING - BEVERLY PLACE received a mass email from JASON  
11 RUSSO limiting visitors and requiring strict screening for family members. The message stated:

12 [T]hrough an enormous abundance of caution for our residents that our families  
13 postpone all visits for the next 2 weeks unless it is absolutely necessary. **We are**  
14 **putting our residents at significant risk by exposing them to what may come**  
15 **through the front door with a visit.** Our goal is to reduce exposure and we can  
16 only do that if we postpone the visit. I do appeal to your common sense and ask that  
17 you think first about the safety of your loved one and all the residents at Beverly  
18 Place.

19 (emphasis added)

20 45. The next day, March 15, 2020, JASON RUSSO sent out another email stating that private  
21 duty companions hired by families were henceforth restricted.

22 **C. Admission of Patient Zero**

23 46. Meanwhile, although SILVERADO SENIOR LIVING - BEVERLY PLACE closed its  
24 doors to family and friends from visiting, as of March 19, 2020, Defendants were still allowing  
25 the admission of new residents.

26 47. On March 19, 2020, Patient Zero was flown in from New York City and admitted to the  
27 independent wing of the facility. No isolation measures were implemented and Patient Zero was  
28 allowed to roam freely throughout the facility unattended.

---

<sup>6</sup> Feuer, et al., *Coronavirus: NYC has 3,615 Confirmed Cases, Including an Inmate at Rikers Island, Mayor de Blasio Says*, CNBC (Mar. 19, 2020 <<https://www.cnbc.com/2020/03/19/new-york-city-has-3615-confirmed-coronavirus-cases-including-an-inmate-at-rikers-island-mayor-de-blasio-says.html>> [as of Nov. 19, 2020].

1 48. The next day, March 20, 2020, Patient Zero was sent to the hospital due to his symptoms.  
2 The following day, he tested positive for COVID-19, unbeknownst to anyone else at the facility.

3 49. SILVERADO DEFENDANTS concealed Patient Zero's condition, and the fact that  
4 Patient Zero had exposed other residents at the facility. Meanwhile, MR. RUSSO and MR.  
5 SHOOK continued to reassure residents and their families that they were doing "everything in  
6 their power" to manage the crisis and keep residents safe. In a letter to families of SILVERADO  
7 SENIOR LIVING - BEVERLY PLACE residents dated March 21, 2020 and emailed around  
8 7:14 PM, LOREN SHOOK acknowledged: "We fully understand that in light of an  
9 asymptomatic incubation period and the presence of mild and asymptomatic disease already  
10 endemic in the larger community, COVID-19 will get into our memory care communities."  
11 When he wrote this, he already knew Patient Zero was positive, but he did not share that. He  
12 continues, "we have and will be taking significant precautions and continuing to make  
13 adjustments to do all we can to limit our resident's exposure and flatten the curve." The next  
14 morning, on March 22, 2020 at approximately 9AM, MR. SHOOK distributed an email again to  
15 the families of SILVERADO SENIOR LIVING - BEVERLY PLACE, stating, "As we  
16 anticipated with my last communication, we learned tonight that a resident who recently moved  
17 into The Loft has tested positive for Covid-19". The letter falsely claims that Patient Zero was  
18 confined to his room since he was admitted to the facility.

19 50. In the days and weeks that followed, at least 58 residents and 39 employees have since  
20 come down with the virus, at least fourteen of whom have died.<sup>7</sup>

21 **D. MS. CLACK**

22 51. MS. CLACK was admitted to SILVERADO SENIOR LIVING - BEVERLY PLACE on  
23 February 22, 2020. At all times relevant herein, she suffered from dementia.

24 52. On or about April 2, 2020, MS. CLACK started exhibiting symptoms consistent with  
25 COVID-19 – including coughing, shortness of breath, and low oxygen levels.

26  
27  
28 <sup>7</sup> COVID-19 Positive Cases in Adult and Senior Care Facilities, COVID-19 Information and Resources,  
<<https://www.cdss.ca.gov/inforesources/cdss-programs/community-care-licensing/covid-19-information-and-resources>> [as of  
Nov. 19, 2020].

1 53. By the following day, MS. CLACK's condition had declined even further. Her oxygen  
2 levels were at 80%, she was extremely weak, and her chest x-ray results showed indications of  
3 pneumonia.

4 54. MS. CLACK was taken to Cedars Sinai Medical Center, where she was administered  
5 oxygen and treated with hydroxychloroquine. However, she continued to decline over the next  
6 few days, and her condition became so dire that her doctor advised ZOANNE she was unlikely  
7 to survive. ZOANNE was granted end of life privileges to visit her mother and started making  
8 funeral arrangements.

9 55. MS. CLACK remained hospitalized at Cedars Sinai Medical Center for the next few  
10 weeks, as she battled the virus which ravaged her system. During that time, she suffered greatly.  
11 MS. CLACK had to undergo an emergency thoracentesis and chest tube placement to empty  
12 fluid from her lung, as well as a blood infusion to combat the low platelet levels that resulted  
13 from her COVID treatment.

14 56. Miraculously, MS. CLACK survived. By May 22, 2020, she had recovered sufficiently to  
15 be transferred to a rehabilitation facility. However, she continues to suffer the long-term effects  
16 of her illness to this day.

17 **FIRST CAUSE OF ACTION**

18 **(Elder Abuse and Neglect by Plaintiff JOE ANN CLACK, by and through her Guardian ad  
19 Litem, ZOANNE CLACK, as against all Defendants)**

20 57. Plaintiff hereby incorporates by reference Paragraph 1 through 56 of this Complaint as  
21 though fully set forth herein.

22 58. Elder: MS. CLACK, at all relevant times, was over the age of 65 and thus an "elder" as  
23 that term is defined in Welfare and Institutions Code § 15610.27.

24 59. **Substantial Caretaking and Custodial Relationship**: By virtue of her residence and  
25 reliance on staff for assistance with all activities of daily living, Defendants, and each of them,  
26 were in a substantial caretaking and custodial relationship with MS. CLACK while she was a  
27 resident at SILVERADO SENIOR LIVING - BEVERLY PLACE. As such, Defendants, and  
28



1 each of them, had responsibility for meeting MS. CLACK's basic needs including protection  
2 from the health and safety hazard posed by COVID-19.

3 60. **Duties:** Defendants, and each of them, owed a duty to MS. CLACK to provide care and  
4 services that met her needs and were in accordance with the laws and regulations governing  
5 RCFEs, including but not limited to:

- 6 (a) The duty to accept and retain only residents for whom they could provide adequate care  
7 (Cal. Code Regs., tit. 22, §§ 87582, 87589(a)(4));
- 8 (b) The duty to reappraise residents who have significant physical and mental changes of  
9 condition (Cal. Code Regs., tit. 22, § 87587(a));
- 10 (c) The duty to notify family and physician of significant changes in a resident's health and  
11 document those changes (Cal. Code Regs., tit. 22, §§ 87572(a)(8), 87587(b) and (c));
- 12 (d) The duty to maintain complete and current records of each resident (Cal. Code Regs., tit.  
13 22, § 87506);
- 14 (e) The duty to provide adequate staffing to meet residents' needs (Cal. Code Regs., tit. 22, §  
15 87565(a));
- 16 (f) The duty to provide adequate assistance and care to meet residents' needs as identified in  
17 the pre-admission appraisal and for other basic services including safe accommodations  
18 and regular observation of physical and mental conditions (Cal. Code Regs., tit. 22, §  
19 87578(a), 87590(d) and (f));
- 20 (g) The duty to timely transfer residents to a higher level of care when they can no longer  
21 receive adequate care at a residential care facility (Cal. Code Regs., tit. 22, §  
22 87589(a)(4));
- 23 (h) The duty to regularly observe residents for changes in physical, mental, emotional, and  
24 social functions and to provide appropriate assistance when such observation reveals  
25 unmet needs (Cal. Code Regs., tit. 22, § 87591);
- 26 (i) The duty to treat residents at all times as individuals, with dignity and respect (Cal. Code  
27 Regs., tit. 22, § 87572(a));
- 28

- 1 (j) The duty to provide and maintain safe accommodations (Cal. Code Regs., tit. 22, §§  
2 87572(b), 87577(d));
- 3 (k) The duty to arrange for appropriate medical care to meet the conditions and needs of  
4 residents, including emergency care (Cal. Code Regs., tit. 22, §§ 87575(a)(1), (a)(2), and  
5 (f)); and
- 6 (l) The duty to immediately call 911 if an injury or other circumstance has resulted in an  
7 imminent threat to a resident's health (Cal. Code Regs., tit. 22, § 87575(g)).

8 61. **Neglect:** Defendants, and each of them, committed elder neglect as defined in the Elder  
9 Abuse and Dependent Adult Civil Protection Act (Welfare and Institutions Code section  
10 15610.57) by failing to protect MS. CLACK from health and safety hazards. Defendants failed  
11 to protect MS. CLACK from health and safety hazards when they allowed admission of a new  
12 resident, who would fly here on a commercial airplane from a location known to have an  
13 outbreak of COVID-19, to enter the facility without implementing appropriate isolation,  
14 screening, or protective measures.

15 62. **Reckless conduct and conduct undertaken in conscious disregard of a high**  
16 **probability of injury:** The conduct of Defendants was reckless and undertaken in conscious  
17 disregard of the high probability of injury to MS. CLACK. The misconduct and neglect  
18 described herein was undertaken in blatant disregard of recommendations by the CDC, the  
19 CDSS, health officials and their own internal recommendations, demonstrating a callous  
20 indifference to the outcome. The breaches were undertaken in an environment (i.e. care for  
21 vulnerable disabled and elderly persons) where everyone involved in caring for these folks  
22 knows of the high risk of death this disease poses to the elderly and immunocompromised.

23 63. Defendants' willful failure to protect MS. CLACK from health and safety hazards, as  
24 described, constitutes recklessness, malice, oppression, and/or fraud within the meaning of  
25 Welfare & Institutions Code § 15657.

26 64. **Fraud in the Commission of Elder Neglect:** Defendants concealed the fact that new  
27 residents would be admitted after the facility shut down to families and visitors. Defendants also  
28 concealed Patient Zero's condition from their staff, residents, and residents' families and in

1 doing so concealed the fact that they had been exposed to the virus, all the while communicating  
2 that they were taking the virus seriously and taking precautions to protect residents from its  
3 spread. MS. CLACK and her family had no way of knowing that Patient Zero was being flown  
4 in, or of his medical history and symptoms. Rather, they relied on Defendants to keep MS.  
5 CLACK and the other residents safe. Had Defendants reported to MS. CLACK and her family  
6 members, they would have been in the position to make alternative arrangements to provide a  
7 safe and exposure-free environment for MS. CLACK.

8 **65. Corporate Directives and Understaffing:** Defendants engaged in direct neglect by  
9 making a conscious choice to admit Patient Zero, as described herein. Defendants also engaged  
10 in direct neglect by making a choice to understaff the facility, in both quantity and quality of  
11 nursing personnel. The decision to understaff was made at the management level by the  
12 SILVERADO DEFENDANTS in order to increase the profitability of the RCFE, in conscious  
13 disregard of resident care needs. Defendants, together with their directors, officers and  
14 managing agents, conceived of and implemented a plan to increase business profits at the  
15 expense of residents like MS. CLACK, and other FACILITY residents. Integral to this plan  
16 was the practice and pattern of Defendants continuing to admit new residents, but not increasing  
17 staffing levels to implement safety and infection protocols and keep existing and new residents  
18 safe from the virus. DEFENDANTS instead chose to staff the facility with an insufficient  
19 number of care personnel, many of whom were not properly trained nor given the proper  
20 protective equipment and sanitation supplies to keep themselves and the residents safe. The  
21 understaffing and lack of training and supplies was designed to reduce labor costs, equipment  
22 and supply costs, and to increase profits, and resulted in the neglect of many residents of the  
23 facilities including, MS. CLACK. This corporate policy to not maintain sufficient staffing, not  
24 provide adequate training, and not to provide equipment and supplies for infection control, as  
25 required by law, was developed and implemented with the conscious disregard for the  
26 likelihood of physical harm and injury to those who it is in the business to protect, including  
27 MS. CLACK, who did in fact suffer as a direct consequence of Defendants' proprietary  
28 interests, which it placed above that of her and other residents.



1 a duty to observe and report changes of condition to family and physicians; and a duty to ensure  
2 she does not suffer needlessly.

3 73. The SILVERADO DEFENDANTS breached their duties as described herein.

4 74. As a proximate result of the negligent conduct as alleged against SILVERADO  
5 DEFENDANTS and breaches of the duty owed to plaintiff and decedent, and breaches of the  
6 standard of care owed, MS. CLACK suffered grave personal injury and needless suffering, as  
7 described herein, as well as special damages, according to proof.

8 75. Pleading in the alternative, as a proximate result of the wrongful and neglectful conduct  
9 of the SILVERADO DEFENDANTS, including but not limited to the allegations of neglect, and  
10 acts or omissions undertaken with recklessness, malice, oppression and/or fraud, MS. CLACK  
11 suffered grave personal injury and needless suffering, as described herein, as well as special  
12 damages, according to proof.

13 **RELIEF REQUESTED**

14 On the First Cause of Action: Elder Abuse and Neglect

- 15 1. For general damages in an amount in excess of the minimum jurisdiction of this court;
- 16 2. For special damages including past hospital, medical, professional and incidental  
17 expenses, according to proof;
- 18 3. For attorney's fees and costs pursuant to Welfare & Institutions Code § 15657 and  
19 according to proof;
- 20 4. For exemplary damages pursuant to Welfare & Institutions Code § 15657 and Civil Code  
21 § 3294;
- 22 5. For treble damages pursuant to Civil Code § 3345;

23 On the Second Cause of Action: Negligence

- 24 1. For general damages in an amount in excess of the minimum jurisdiction of this court;
- 25 2. For special damages including past hospital, medical, professional and incidental  
26 expenses, according to proof;

27 ///

28 ///

1 On all counts

2 1. For costs of suit;

3 2. Whatever further relief the court may find just and proper.

4  
5 Dated: December 15, 2020

JOHNSON MOORE

6  
7 By: 

Jody C. Moore

Joanna A. Hutchins

Attorneys for Plaintiff

8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28