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10 Attorneys for Plaintiff
 TAMARAH R. SEIELSTAD

11
 12 **UNITED STATES DISTRICT COURT**
 13 **NORTHERN DISTRICT OF CALIFORNIA**

15 TAMARAH R. SEIELSTAD, individually
 and on behalf of all others similarly
 16 situated,

17 Plaintiff,

18 v.

19 AEGIS SENIOR COMMUNITIES, LLC, a
 Washington Limited Liability Company,
 20 and DWAYNE CLARK, an individual,

21 Defendant.

Case No. 09-01797 MMC

**JOINT STIPULATION AND ~~PROPOSED~~
 ORDER FOR LEAVE TO FILE A FIRST
 AMENDED COMPLAINT ; DEEMING
 MOTION TO DISMISS WITHDRAWN**
 Honorable Maxine M. Chesney

22 The parties hereby jointly stipulate as follows:

23 WHEREAS, Plaintiff Tamarah R. Seielstad (hereinafter, "Seielstad") filed a Complaint in
 24 this action on April 24, 2009;

25 WHEREAS, Plaintiff Seielstad represents that she sent a letter by certified mail to the
 26 California Labor Workforce Development Agency and Aegis Senior Communities, LLC
 27 (hereinafter, "AEGIS") care of their agent for service process, CSC Lawyers Incorporating
 28

1 Service, on April 28, 2009, notifying them of the various California Labor Code violations
2 Seielstad had asserted against AEGIS and requesting permission to pursue civil penalties against
3 AEGIS under the Labor Code Private Attorneys General Act;

4 WHEREAS, Defendant Dwayne Clark filed a Motion to Dismiss pursuant to Federal
5 Rules of Civil Procedure 12(b)(2) and (6) on June 12, 2009, currently set for hearing on August 7,
6 2009;

7 WHEREAS, Plaintiff received a letter from the California Labor Workforce Development
8 Agency on June 22, 2009, that it did not intend to investigate Plaintiffs allegations against AEGIS
9 and that Plaintiff may pursue civil penalties against AEGIS under the Labor Code Private
10 Attorneys General Act;

11 WHEREAS, Defendant AEGIS filed its Answer on June 30, 2009;

12 WHEREAS, pursuant to section 2699.3(a)(2)(C) of the California Labor Code, Plaintiff
13 may as a matter of right amend her Complaint to add a cause of action under the Labor Code
14 Private Attorneys General Act;

15 NOW, THEREFORE, it is stipulated that:

16 1. The First Amended Complaint attached hereto as Exhibit 1 shall be deemed filed
17 on the date the Court executes the attached Proposed Order.

18 2. Defendants shall file an answer or otherwise respond to the First Amended
19 Complaint within thirty (30) days of the date the Court files an Order permitting the filing of the
20 First Amended Complaint.

21 3. Defendant Clark shall file a Withdrawal of Motion requesting that Defendant
22 Clark's Motion to Dismiss pursuant to Federal Rules of Civil Procedure 12(b)(2) and (6) set for
23 August 7, 2009, be taken off calendar. Plaintiff understands and agrees that Defendant Clark will
24 refile the motion. Plaintiff also understands and agrees that Defendants Aegis and Clark may file
25 any other responsive pleadings after the First Amended Complaint is filed.

1 **IT IS SO STIPULATED.**

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3 DATED: July 29, 2009

HARRIS & RUBLE

4

/s/

Alan Harris

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Attorney For Plaintiff Tamarah Seielstad

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DATED: July 29, 2009

HANSON BRIDGETT LLP

7

/s/

8

Diane Marie O'Malley

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Attorneys for Defendants Aegis Senior
Communities, LLC and Dwayne Clark.

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IT IS SO ORDERED., and defendant Dwayne Clark's motion to dismiss is hereby deemed
11 withdrawn without prejudice.

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DATED: July 31, 2009

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Honorable Maxine M. Chesney

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United States District Judge

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