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**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA**

SHARLETTE VILLATORO, as an individual and on behalf of all others similarly situated,

Plaintiffs,

vs.

WALTERS & WOLF INTERIORS, a California corporation; WALTERS & WOLF CONSTRUCTION SPECIALTIES, INC., an Arizona corporation; WALTERS & WOLF GLASS COMPANY, a California corporation; WALTERS & WOLF PRECAST, a California corporation; and DOES 1 through 50, inclusive,

Defendants.

Case No.: 20-CV-00609-KAW

FIRST AMENDED CLASS AND REPRESENTATIVE ACTION COMPLAINT FOR DAMAGES FOR:

- (1) **VIOLATION OF CAL. LABOR CODE § 226;**
- (2) **VIOLATION OF CAL. LABOR CODE § 2698, ET SEQ.**

DEMAND OVER \$25,000.00

1 Plaintiff Sharlette Villatoro (“Plaintiff”) hereby submits this First Amended Class and
2 Representative Action Complaint (“Complaint”) against Defendants Walters & Wolf Interiors
3 (“W&WI”), Walters & Wolf Construction Specialties, Inc. (“W&WCSI”), Walters & Wolf Glass
4 Company (“W&WGC”), Walters & Wolf Precast (“W&WP”), and Does 1 through 50
5 (hereinafter collectively referred to as “Defendants”), on behalf of herself and a class of all other
6 similarly situated current and former employees of Defendants for civil and statutory penalties
7 under the California Labor Code as follows:

8 **INTRODUCTION**

9 1. This class and representative action is within the Court’s jurisdiction under
10 California Labor Code sections 226 and 2698 *et seq.*

11 2. This Complaint challenges systemic illegal employment practices resulting in
12 violations of the California Labor Code against individuals who worked for Defendants.

13 3. Plaintiff is informed and believes, and based thereon alleges, that Defendants,
14 jointly and severally, have acted intentionally and with deliberate indifference and conscious
15 disregard to the rights of all employees in Defendants’ failure to provide accurate itemized wage
16 statements Plaintiff and Class Members.

17 4. Plaintiff is informed and believes, and based thereon alleges, that Defendants
18 have engaged in, among other things a system of willful violations of the California Labor Code
19 by creating and maintaining policies, practices and customs that knowingly deny employees the
20 above stated rights and benefits.

21 **JURISDICTION AND VENUE**

22 5. This Court has jurisdiction over the violations of California Labor Code sections
23 226 and 2698 *et seq.*

24 6. Venue is proper in Alameda County because Defendants maintain their
25 headquarters in Fremont, California, and Plaintiff worked for Defendants in Fremont, California.

26 **PARTIES**

27 7. Plaintiff began working for Defendants as a Project Administrative Assistant on
28 or about October 10, 2016. Plaintiff works as a non-exempt, hourly employee, as a project

1 administrative assistant. Her wage statements identify “Walters&Wolf” and “Walters & Wolf
2 INTERIORS” as her employer. The address of her employers on her wage statement is 41450
3 Boscell Rd., Fremont, CA 94538.

4 8. Plaintiff was and is the victim of the policies, practices, and customs of
5 Defendants complained of in this action in ways that have deprived her of the rights guaranteed
6 by California Labor Code sections 226 and 2698 *et seq.*

7 9. Plaintiff is informed and believes, and based thereon alleges that Defendant
8 Walters & Wolf Interiors is a California corporation that provides interior doors, frames, and
9 hardware for client projects. Plaintiff is informed and believes, and based thereon alleges, that
10 Walters & Wolf Interiors is located in Fremont, California.

11 10. Plaintiff is informed and believes, and based thereon alleges that Defendant
12 Walters & Wolf Construction Specialties, Inc. is an Arizona corporation that provides curtain
13 wall subcontracting services. Plaintiff is informed and believes, and based thereon alleges, that
14 Walters & Wolf Construction Specialties, Inc. is located in Fremont, California.

15 11. Plaintiff is informed and believes, and based thereon alleges that Defendant
16 Walters & Wolf Glass Company is a California corporation that provides glass and glazing
17 contracting services. Plaintiff is informed and believes, and based thereon alleges, that Walters
18 & Wolf Glass Company is located in Fremont, California.

19 12. Plaintiff is informed and believes, and based thereon alleges that Defendant
20 Walters & Wolf Precast is a California corporation that provides precast concrete and glass fiber
21 reinforced concrete contracting services. Plaintiff is informed and believes, and based thereon
22 alleges, that Walters & Wolf Precast is located in Fremont, California.

23 13. Plaintiff is informed and believes, and based thereon alleges, that at all times
24 herein mentioned Defendants are and were business entities, individuals, and partnerships,
25 licensed to do business and actually doing business in the State of California. As such, and
26 based upon all the facts and circumstances incident to Defendants’ business, Defendants are
27 subject to the California Labor Code.

28 14. Plaintiff does not know the true names or capacities, whether individual, partner

1 or corporate, of the defendants sued herein as Does 1 through 50, inclusive, and for that reason,
2 said defendants are sued under such fictitious names, and Plaintiff prays for leave to amend this
3 complaint when the true names and capacities are known. Plaintiff is informed and believes and
4 based thereon alleges that each of said fictitious defendants was responsible in some way for the
5 matters alleged herein and proximately caused Plaintiff and members of the general public and
6 class to be subject to the illegal employment practices, wrongs and injuries complained of herein.

7 15. At all times herein mentioned, each of said Defendants participated in the doing
8 of the acts hereinafter alleged to have been done by the named Defendants; and furthermore, the
9 Defendants, and each of them, were the agents, servants and employees of each of the other
10 Defendants, as well as the agents of all Defendants, and at all times herein mentioned, were
11 acting within the course and scope of said agency and employment.

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

19 17. At all times herein mentioned, Defendants, and each of them, were members of,
20 and engaged in, a joint venture, partnership and common enterprise, and acting within the course
21 and scope of, and in pursuance of, said joint venture, partnership and common enterprise.

22 18. At all times herein mentioned, the acts and omissions of various Defendants, and
23 each of them, concurred and contributed to the various acts and omissions of each and all of the
24 other Defendants in proximately causing the injuries and damages as herein alleged. At all times
25 herein mentioned, Defendants, and each of them, ratified each and every act or omission
26 complained of herein. At all times herein mentioned, Defendants, and each of them, aided and
27 abetted the acts and omissions of each and all of the other Defendants in proximately causing the
28 damages as herein alleged.

1 19. Plaintiff is informed and believes and based thereon alleges that Defendants share
2 a unity of interest and/or ownership, commingle funds and/or other assets among themselves,
3 and share a common brand of Walters & Wolf. Defendants share a similar equitable ownership
4 in the four named entities, similar use of the same offices and employees, and use the name
5 “Walters & Wolf” as a mere shell or conduit for the affairs of the Defendants. Plaintiff further
6 alleges, on information and belief, that Defendants inadequately capitalize one or more of the
7 corporate entities at the expense of employees working for one of the entities, while believing
8 they work for “Walters & Wolf.” Plaintiff alleges that Defendants do not segregate corporate
9 records, and that Defendants share identical directors and officers between the all four
10 companies.

11 20. Defendants maintain a website at “waltersandwolf.com.” On Defendants’
12 website, they identify different “capabilities.” One of the “capabilities” identified includes
13 “Interiors.” However, nowhere on Defendants’ website do they identify as separate entities
14 “Walters & Wolf Interiors,” “Walters & Wolf Construction Specialties, Inc.,” “Walters & Wolf
15 Precast,” or “Walters & Wolf Glass.” This is because all four Defendants operate under the
16 same brand and corporate structure of “Walters & Wolf.”

17 21. Defendants describe the unity of interest of the defendant four entities on
18 Defendants website. Defendants’ website states:

19 Years ago, John Walters and Randy Wolf met and became fast friends while
20 working together at Hart Glass Company. In 1977 they left Hart and launched
21 Walters & Wolf Glass Company. From their first days working at the small
22 offices in Santa Clara and installing glass in “tilt-up” buildings, John and Randy
23 focused on developing close professional relationships with their customers,
24 empowering their employees, improving services through innovation, and holding
25 their company's work to towering standards.

26 With every new job came gradual growth, and in 1979 *Walters & Wolf* had the
27 honor of purchasing Hart Glass, John and Randy's former employer. This
28 acquisition brought many talented people (and friends) into *the company*,
allowing it to take on even larger jobs.

In 1981, John and Randy responded to market demands by introducing cladding
services and product lines beyond glass, clearing a path for the company that they

1 have only widened since.

2
3 Today, Walters & Wolf wraps distinctive, high-profile projects from *eight*
4 *different facilities*, covering markets across the western United States.

5 22. On information and belief, Defendants maintain a single Human Resources
6 Department that governs the employment of Plaintiff and putative class members. On
7 Defendants website, at “waltersandwolf.com/careers,” Defendants state, “Walters & Wolf is
8 always on the lookout for people with talent, tenacity, and exacting standards. If you’re
9 experienced in architectural cladding, interior door and wall systems, construction management,
10 or a related discipline, send us an email with your resumé attached. If we like what we see, we’ll
11 reach out next time we have an opening.” Below that, Defendants identify a single email address
12 where prospective employees should send their resumes:

13 “**carerrers@waltersandwolf.com.**” Defendants also identify a single Human Resources
14 department, which is located at the same principal executive location of all the defendant entities,
15 a single link to a “Walters & Wolf Job Inquiry Form,” and “Walters & Wolf Employment
16 Application,” among other things demonstrating a unity of ownership and interests:

17 **Additional Employment Information**

18 ◦ **Email:**

19 You may send a short e-mail message describing your relevant experience to
20 careers@waltersandwolf.com

21 • **General Inquiries:**

22 To further explore any of the opportunities mentioned on this page, please send resume and
23 salary history to the following address:

24 Walters & Wolf
25 Human Resources Dept.
26 41450 Boscell Road
27 Fremont, CA 94538

28 All resumes will be kept in the strictest confidence. Walters & Wolf is an equal opportunity
employer.

• **Submit Information to Walters & Wolf Human Resources Department:**

If none of these positions match what you're looking for, you can write a brief statement
about your skills and requirements and submit it to our personnel file by downloading and
completing the Walters & Wolf Job Inquiry Form and emailing it
to careers@waltersandwolf.com. The next time a position opens up, we'll look for potential
matches in this file before we begin a wider search.

[Download Walters & Wolf Job Inquiry Form](#)

[Download Walters & Wolf Employment Application](#)

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2 23. Defendants refer to “the company” and “facilities,” which demonstrates that all of
3 the Defendants operate as a unified company providing different types of services to their
4 customers. However, Defendants do not operate as independent entities. On information and
5 belief, each of the named Defendants does not maintain its own website, its own corporate files,
6 or otherwise maintain a distinct corporate presence in California, such that each defendant is the
7 alter ego of the other.

8 24. Defendants filed corporate documents with the California Secretary of State,
9 including, but not limited to, Statements of Information, and Registration documents. On these
10 corporate filings, Defendants all share the same agent for service of process: Randall Alan Wolf.
11 Defendants also all share the same “entity address” and “mailing address,” which Defendants
12 identify as 41450 Boscell Rd., Fremont, CA 94538. Defendants do no operate independently of
13 each other.

14 25. Defendants’ corporate filings also demonstrate the unity of ownership among
15 Defendants. For example, on September 1, 1997, the president and chief executive office of
16 what was then called “Lafayette Precast, Inc.” resolved to amend the articles of incorporation to
17 name the corporation, “Walters & Wolf Precast.” Randall A. Wolf was identified as the
18 President, Chief Executive Officer, and Secretary of this corporation. On October 5, 2017,
19 Walters & Wolf Precast submitted a Statement of Information to the California Secretary of State
20 wherein it identified Randall Alan Wolf as the Chief Executive Office, Jeff Bruce Belzer as the
21 Secretary, and James Gregory O’Connor as the Chief Financial Officer. The principal executive
22 office of Walters & Wolf Precast is 41450 Boscell Rd., Fremont, CA 94538—the same as the
23 other named Defendants.

24 26. On October 5, 2017, Walters & Wolf Interiors submitted a Statement of
25 Information to the California Secretary of State wherein it identified Randall Alan Wolf as the
26 Chief Executive Office, Jeff Bruce Belzer as the Secretary, and James Gregory O’Connor as the
27 Chief Financial Officer. The principal executive office of Walters & Wolf Interiors is 41450
28 Boscell Rd., Fremont, CA 94538—the same as the other named Defendants.

1 time between December 16, 2018, through the date of class certification (the “Class”), and the
2 following Sub-Class:

- 3 a. All current and former non-exempt, hourly employees of Defendants in
4 the State of California who earned wages at any time between December
5 16, 2018, through the date of class certification (the “Hourly Sub-Class”)

6 32. **Numerosity:** The members of the Class are so numerous that joinder of all
7 members would be impractical, if not impossible. The identity of the members of the Class is
8 readily ascertainable by review of Defendants’ records, including payroll records. Plaintiff is
9 informed and believes, and based thereon alleges, that Defendants failed to provide accurate
10 itemized wage statements to employees in violation of Labor Code section 226.

11 33. **Adequacy of Representation:** The named Plaintiff is fully prepared to take all
12 necessary steps to represent fairly and adequately the interests of the Class defined above.
13 Plaintiff’s attorneys are ready, willing, and able to fully and adequately represent the Class and
14 the individual Plaintiff. Plaintiff’s attorneys have prosecuted and settled wage-and-hour class
15 actions in the past and currently have a number of wage-and-hour class actions pending in
16 California state and federal courts.

17 34. Defendants uniformly administered a corporate policy, practice of failing to
18 provide accurate itemized wage statements to Plaintiff and the Class in violation of Labor Code
19 section 226.

20 35. **Common Question of Law and Fact:** There are predominant common questions
21 of law and fact and a community of interest amongst Plaintiff and the claims of the Class
22 concerning Defendants’ policy and practice of failing to provide proper wage statements to
23 Plaintiff and the Class in violation of Labor Code section 226.

24 36. **Typicality:** The claims of Plaintiff are typical of the claims of all members of the
25 Class in that Plaintiff suffered the harm alleged in this Complaint in a similar and typical manner
26 as the Class Members. As with other California employees, Plaintiff was not provided proper
27 and accurate itemized wage statements that identified all applicable rates of pay and payroll
28 period start date, in violation of Labor Code sections 226(a)(9) and 226(a)(6), respectively.

1 Instead, the wage statements provided to Plaintiff only identify the number of hours worked and
2 gross wages earned. The wage statements also only identify the “Period Ending” date, rather
3 than the complete payroll period. Therefore, Plaintiff is a member of the Class and has suffered
4 the alleged violations of California Labor Code section 226.

5 37. The California Labor Code section upon which Plaintiff bases these claims is
6 broadly remedial in nature. These laws and labor standards serve an important public interest in
7 establishing minimum working conditions and standards in California. These laws and labor
8 standards protect the average working employee from exploitation by employers who may seek
9 to take advantage of superior economic and bargaining power in setting onerous terms and
10 conditions of employment.

11 38. The nature of this action and the format of laws available to Plaintiff and
12 members of the Class identified herein make the class action format a particularly efficient and
13 appropriate procedure to redress the wrongs alleged herein. If each employee were required to
14 file an individual lawsuit, the corporate Defendants would necessarily gain an unconscionable
15 advantage since it would be able to exploit and overwhelm the limited resources of each
16 individual plaintiff with their vastly superior financial and legal resources. Requiring each Class
17 Member to pursue an individual remedy would also discourage the assertion of lawful claims by
18 employees who would be disinclined to file an action against their former and/or current
19 employer for real and justifiable fear of retaliation and permanent damage to their careers at
20 subsequent employment.

21 39. The prosecution of separate actions by the individual Class Members, even if
22 possible, would create a substantial risk of (a) inconsistent or varying adjudications with respect
23 to individual Class Members against the Defendants and which would establish potentially
24 incompatible standards of conduct for the Defendants, and/or (b) adjudications with respect to
25 individual Class Members which would, as a practical matter, be dispositive of the interest of the
26 other Class Members not parties to the adjudications or which would substantially impair or
27 impede the ability of the Class Members to protect their interests. Further, the claims of the
28 individual members of the Class are not sufficiently large to warrant vigorous individual

1 prosecution considering all of the concomitant costs and expenses.

2 40. Such a pattern, practice and uniform administration of corporate policy regarding
3 illegal payroll practices described herein is unlawful and creates an entitlement to recovery by
4 Plaintiff and the Class identified herein, in a civil action, for applicable penalties, reasonable
5 attorneys' fees, and costs of suit according to the mandate of California Labor Code section 226
6 and Code of Civil Procedure section 1021.5.

7 41. Proof of a common business practice or factual pattern, which the named Plaintiff
8 experienced and is representative of, will establish the right of each of the members of the
9 Plaintiff Class to recovery on the causes of action alleged herein.

10 **FIRST CAUSE OF ACTION**

11 **VIOLATION OF LABOR CODE § 226**

12 **(BY PLAINTIFF, THE CLASS, AND THE HOURLY SUB-CLASS AGAINST ALL**
13 **DEFENDANTS)**

14 42. Plaintiff re-alleges and incorporates by reference paragraphs 1 through 29 as
15 though fully set forth herein.

16 43. Defendants failed in their affirmative obligation to provide accurate itemized
17 wage statements. Defendants, as a matter of policy and practice, did not provide accurate
18 records in violation of Labor Code section 226(a).

19 44. Plaintiff and Class Members were paid on an hourly basis. As such, the wage
20 statements provided to them should have reflected the correct hourly rates of pay and inclusive
21 payroll period dates. The wage statements provided to Plaintiff and the Class failed to accurately
22 identify such information. More specifically, the wage statements did not identify any applicable
23 rates of pay for regular, overtime, or other hours worked. Instead, the wage statements identify
24 only number of hours worked and gross wages earned. In addition, the wage statements also
25 only identify the "Period Ending" date, rather than the complete payroll period.

26 45. Such a pattern, practice and uniform administration of corporate policy as
27 described herein is unlawful and creates an entitlement to recovery by the Plaintiff and the Class
28 identified herein in a civil action, for all penalties pursuant to Labor Code section 226, including

1 interest thereon, attorneys' fees, and costs of suit according to the mandate of California Labor
2 Code section 226.

3 **SECOND CAUSE OF ACTION**

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

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

7 46. Plaintiff re-alleges and incorporates by reference paragraphs 1 through 33 as
8 though fully set forth herein.

9 47. Plaintiff brings this cause of action as a proxy for the State of California and in
10 this capacity, seeks penalties on behalf of all Aggrieved Employees from November 18, 2018,
11 through the date of final judgment, for Defendants' policy and practice of failing to provide
12 proper wage statements in violation of Labor Code section 226(a).

13 48. On information and belief, Walters & Wolf Construction Specialties, Inc. and
14 Walters & Wolf Precast are not members of any collective bargaining agreement that addresses
15 the ability of workers to bring claims under the PAGA. To the extent any employees of
16 Defendants are covered by a collective bargaining agreement that complies with California
17 Labor Code Section 2699.6, which exempts certain employees of the construction industry from
18 bringing a claim under the PAGA, Plaintiff seeks to represent those non-union aggrieved
19 employees of Defendants.

20 49. Plaintiff also seeks to represent all aggrieved employees of Defendants, whether
21 unionized or not, who did not earn 30 percent more than the state minimum wage.

22 50. On or about November 18, 2019, Plaintiff sent written notice to the California
23 Labor & Workforce Development Agency ("LWDA") of Defendants' violations of Labor Code
24 section 226(a), pursuant to Labor Code section 2698, *et seq.*, the Private Attorney General Act
25 ("PAGA"). To date, the LWDA has not responded to Plaintiff's written notice.

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

1 //

2 **PRAYER FOR RELIEF**

3 WHEREFORE, Plaintiff prays for judgment for herself and all others on whose behalf
4 this suit is brought against Defendants, jointly and severally, as follows:

- 5 1. For an order certifying the proposed Class;
- 6 2. For an order appointing Plaintiff as the representative of the Class as described
7 herein;
- 8 3. For an order appointing Counsel for Plaintiff as Class counsel;
- 9 4. Upon the First Cause of Action, for penalties pursuant to California Labor Code
10 section 226, and for costs and attorneys' fees;
- 11 5. Upon the Second Cause of Action, for civil penalties according to proof pursuant
12 to Labor Code section 2698, *et seq.*, Labor Code § 226.3, and for costs and attorneys' fees;
- 13 6. On all causes of action for attorneys' fees and costs as provided by California
14 Labor Code sections 226 and 2699, and Code of Civil Procedure section 1021.5; and
- 15 7. For such other and further relief the Court may deem just and proper.

16
17 DATED: February 21, 2020

DIVERSITY LAW GROUP, P.C.

18 By: /s/ Larry W. Lee
19 Larry W. Lee
20 Max W. Gavron
21 Attorneys for Plaintiff and the Class
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