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Superior Court of California,
County of Monterey
On 11/8/2022 2:54 PM
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SUPERIOR COURT OF CALIFORNIA

COUNTY OF MONTEREY

NIARA SMILEY-MANGUM, an individual,
on behalf of herself, and all others similarly
situated,

Plaintiff,

vs.

AD ASTRA, LLC, a California Limited
Liability Company; Ron Mendoza; an
individual; and DOES 1 through 50, inclusive

Defendants.

CASE NO. 22CV003428

COMPLAINT FOR:

- 1) Failure to Pay Minimum Wage – Cal. Labor Code 1197;**
- 2) Failure to Pay Overtime – Cal. Labor Code 510 and 1194;**
- 3) Inaccurate Wage Statements – Cal. Labor Code 226;**
- 4) Waiting Time Penalties – Cal. Labor Code 201-203;**
- 5) Failure to Provide Rest Periods – Cal. Labor Code 226.7;**
- 6) Failure to Provide Meal Periods – Cal. Labor Code 226.7;**
- 7) Failure to Reimburse – Cal. Labor Code 2802; and**
- 8) Violations Of California Labor Code Section 2698 *Et Seq.***

DEMAND FOR A JURY TRIAL

1 Plaintiff Niara Smiley-Mangum (“Plaintiff”), in her representative capacity, and on her
2 own behalf, complains and alleges as follows:

3 **INTRODUCTION**

4 1. Plaintiff was employed by Ad Astra, LLC, a California limited liability company
5 and its owner, Ron Mendoza (“Defendants”). Plaintiff brings this action pursuant to the Private
6 Attorneys General Act of 2004 (“PAGA”), California Labor Code § 2698 *et seq.* on a
7 representative basis. All current and former non-exempt employees of Defendant are aggrieved
8 employees (“Employees”).

9 2. The California Labor Code requires employers to provide its employees, among
10 other things, itemized wage statements, minimum and overtime wages, and prompt payment of
11 wages upon termination. Defendant failed to pay Plaintiff minimum wage for all hours worked.

12 3. Defendants failed to pay overtime wages of one and one half of Plaintiff’s hourly
13 wage for all hours worked over 8 hours in a day or 40 hours in a week.

14 4. Defendants failed to provide Plaintiff with accurate wage statements indicating all
15 hours worked and the applicable hourly rate.

16 5. Defendants required Plaintiff and Employees to use their personal cell phones and
17 data plans as a requirement of their employment and failed to reimburse the Plaintiff and the
18 other aggrieved employees accordingly.

19 6. As Plaintiff is no longer employed by Defendant, Defendant has continuously
20 failed to pay Plaintiff all wages owed and due.

21 7. Plaintiff, in her representative capacity, seeks civil penalties on behalf of herself
22 and other aggrieved employees pursuant to PAGA.

23 8. Plaintiff seeks civil penalties for the above acts as well as those identified below,
24 which violate PAGA.

25 9. Plaintiff, in her representative capacity, seeks civil penalties on behalf of herself
26 and other aggrieved employees for the above acts as well as those identified below, which violate
27 PAGA.

28 ///

ALLEGATIONS

10. On August 5, 2022, Plaintiff electronically filed a complaint with the LWDA, case number LWDA-CM-899896-22, paid the statutory fee to the LWDA and sent a letter via certified mail to Defendants informing it of Plaintiff's complaints alleged herein. Plaintiff has not received notice of any attempts to cure by Defendants. Attached hereto as Exhibit "A" is a true and correct copy of the email confirmation received by Plaintiff's counsel of the online submission to the LWDA and payment of the \$75 filing fee.

11. The LWDA did not provide notice of its intention to investigate Defendants' alleged violations by October 10, 2022 – or sixty-five days after notice – and Defendants did not provide any notice of their intent to cure the alleged violations.

12. Defendants employed individuals throughout the State of California within one (1) year of the filing of the Complaint. Specifically, Defendants employed Employees at Ad Astra Bread Co, located at 877 Broadway Ave., Seaside, CA 93955. Employees' job duties included but were not limited to receiving orders, baking food, cleaning and serving food.

13. Defendant Ron Mendoza personally set the schedules for Employees and created and instituted the policies and practices that give rise to the allegations contained herein.

14. Employees worked at Defendant's business providing the typical services of a bakery. Employees' job duties included, but were not limited to, receiving orders, baking food, cleaning and serving food.

15. As explained further below, Employees were not paid all wages owed to them and were therefore not paid all wages at the time required by the Labor Code. They were also not provided with meal and rest periods and did not receive premium pay as required by the Labor Code.

16. Defendant regularly understaffed its business resulting in a constant rush to complete tasks. This resulted in Employees regularly being required to work through their rest periods even though Plaintiff and Employees are non-exempt and entitled to such breaks. Defendant failed to pay Employees a premium wage for missed rest periods.

///

1 17. Defendant regularly failed to provide Employees with meal periods prior to the
2 end of the fifth hour of work when employees worked more than five hours. Employer regularly
3 understaffed its business resulting in a constant rush to complete tasks. This resulted in
4 Employees eating at their work stations while they were working – never while they had a 30-
5 minute duty free lunch break even though Plaintiff and Employees are non-exempt and entitled
6 to such breaks. Employer failed to pay Employees a premium wage for missed meal periods.

7 18. Employees regularly worked more than 8 hours in a day, making them entitled to
8 overtime premium wages of one-and-a-half times their regular rate of pay for all hours worked in
9 excess of eight in one day. However, in violation of Labor Code Sections(s) 1197; 510 and
10 1194, Employees were not paid one-and-a-half times their regular hourly rate for time worked in
11 excess of eight hours in a day. Defendant would not pay overtime for hours worked beyond 8
12 hours in a day if the total hours worked for the week was below 40 hours. As such, Defendant
13 would regularly set Employees to work for 4 days a week to prevent Employees from working
14 more than 40 hours in a week.

15 19. Defendant failed to provide accurate itemized wage statements alongside
16 paychecks on a semi-monthly basis in accordance with labor code section 226. Labor Code
17 Section 226 states that wage statements must provide a statement of gross and net wages earned,
18 in addition to the hours worked at each rate of pay. Employees wage statements only stated
19 wages being earned at a regular rate and failed to include gross or net wages earned a one-and-
20 half times their regular hourly rate for hours worked in exceeded of eight in a day. Rest period
21 premium and meal period premiums are wages earned and Employer's wage statements did not
22 reflect these wages were earned, when they were in fact earned.

23 20. Labor Code Section 204 provides that all wages earned are due twice during each
24 calendar month. Rest period premiums and meal period premiums are wages earned. As
25 explained above, Employees regularly earned rest and meal period premiums in addition to
26 overtime premiums. Employer failed to pay overtime as well as meal and rest period premiums
27 when earned and owed twice per month.

28 ///

1 21. Labor Code Sections 201 - 202 requires an employer to pay all wages due and
2 owing within 24 hours of termination or within 72 hours when the employee terminated the
3 relationship without notice. As explained above, Defendant failed to pay all wages due and
4 owing to Employees during their employment. Neither did Defendant pay these wages owed
5 upon termination. Therefore, Defendant failed to pay all wages dues and owing upon
6 termination pursuant to labor code section 203.

7 22. Labor Code Section 2802 requires an employer to indemnify his or her employee
8 for all necessary expenditures or losses incurred by the employee in direct consequence of the
9 discharge of his or her duties.

10 **JURISDICTION AND VENUE**

11 23. This Court has jurisdiction over Plaintiff's claims for damages and for civil
12 penalties under PAGA. Venue is proper in this judicial district pursuant to California Code of
13 Civil Procedure section 395(a) as Plaintiff resides in the County of Monterey.

14 24. The amount in controversy exceeds the jurisdictional minimum of this Court.

15 **III.**

16 **PARTY ALLEGATIONS**

17 **A. Plaintiff**

18 25. At all times at issue herein, Plaintiff was a resident of Monterey County,
19 California. Plaintiff was employed by Defendants as a non-exempt employee in Monterey
20 County, California during the one-year period preceding the filing on this Complaint.

21 26. Plaintiff, like other aggrieved employees, was paid an hourly wage throughout her
22 employment with Defendant.

23 **B. Defendant Ad Astra, LLC**

24 27. Defendant Ad Astra, LLC is a limited liability company organized and formed
25 under the laws of the state of California, with its principal place of business located in the State
26 of California. The acts complained of, which are the subject of this action, occurred, in
27 substantial part, in the State of California.

28 ///

1 **C. Defendant Ron Mendoza**

2 28. Plaintiff is informed and believes, and on that basis alleges, Defendant Mendoza
3 is an officer or director of Defendant Ad Astra, LLC and was primarily responsible for creating
4 the policies and procedures at issue in this Complaint. Plaintiff is further informed and believes
5 that Defendant Mendoza is a citizen of the State of California.

6 **D. Doe Defendants**

7 29. Except as described herein, Plaintiff is ignorant of the true names of Defendants
8 sued as DOES 1 through 50, inclusive, and the nature of their wrongful conduct, and therefore
9 sues these DOE Defendants by such fictitious names. Plaintiff will seek leave of the Court to
10 amend this complaint to allege their true names and capacities when ascertained.

11 **E. Agency/Aiding And Abetting**

12 30. At all times herein mentioned, Defendants, and each of them, were agents or joint
13 venturers of each of the other Defendants, and in doing the acts alleged herein, were acting
14 within the course and scope of such agency. Each Defendant had actual and/or constructive
15 knowledge of the acts of each of the other Defendants, and ratified, approved, joined in,
16 acquiesced and/or authorized the wrongful acts of each co-Defendant, and/or retained the
17 benefits of said wrongful acts.

18 31. Defendants, and each of them, aided and abetted, encouraged and rendered
19 substantial assistance to the other Defendants in breaching their obligations to Plaintiff and
20 aggrieved Employees, as alleged herein. In taking action, as particularized herein, to aid and
21 abet and substantially assist the commissions of these wrongful acts and other wrongdoings
22 complained of, each of the Defendants acted with an awareness of his/her/its primary
23 wrongdoing and realized that his/her/its conduct would substantially assist the accomplishment
24 of the wrongful conduct, wrongful goals, and wrongdoing.

25 32. Under California Labor Code section 558.1, "Any employer or other person
26 acting on behalf of an employer, who violates, or causes to be violated, any provision regulating
27 minimum wages or hours and days of work in any order of the Industrial Welfare Commission,
28 or violates, or causes to be violated, Sections 203, 226, 226.7, 1193.6, 1194, or 2802, may be

1 held liable as the employer for such violation.” Moreover, “term ‘other person acting on behalf
2 of an employer’ is limited to a natural person who is an owner, director, officer, or managing
3 agent of the employer, and the term “managing agent” has the same meaning as in subdivision
4 (b) of Section 3294 of the Civil Code.” Defendant Mendoza is an “other person acting on behalf
5 of an employer,” as defined by the Labor Code, and is liable under Labor Code 558.1 for all
6 violations alleged herein as the employer.

7 **FIRST CAUSE OF ACTION**

8 **Failure to Pay Minimum Wage**

9 **On Behalf of Plaintiff, individually, against both named Defendants and DOES 1-50**
10 **(Violation of California Labor Code § 1197)**

11 33. Plaintiff incorporates by reference each and every paragraph of this Complaint as
12 if fully set forth herein.

13 34. As a result of Defendants’ failure to pay all wages Plaintiff was owed, Defendants
14 failed to pay Plaintiff the minimum wage fixed by the commission or by state law for all hours
15 Plaintiff worked.

16 35. Plaintiff is entitled to recover the unpaid balance of all minimum wages owed to
17 her under California Labor Code section 1194, as well as liquidated damages, attorneys’ fees,
18 costs, interest, and any other awards allowed by the Court pursuant to California Labor Code
19 1197, 1197.1, 1194, and 1194.2.

20 **SECOND CAUSE OF ACTION**

21 **Failure to Pay Overtime**

22 **On Behalf of Plaintiff, individually, against both named Defendants and DOES 1-50**
23 **(Violation of California Labor Code §§ 510 and 1194)**

24 36. Plaintiff incorporates by reference each and every paragraph of this Complaint as
25 if fully set forth herein.

26 37. Plaintiff regularly worked in excess of 8 hours in a day. Defendants failed to pay
27 overtime when Plaintiff worked over 8 hours in a day in weeks in which Plaintiff worked 40
28 hours or less.

38. Plaintiff is entitled to recover the unpaid balance of all overtime wages owed to
her under California Labor Code section 1194, as well as attorneys’ fees, costs, interest, and any

1 other awards allowed by the Court pursuant to California Labor Code 510 and 1194.

2 **THIRD CAUSE OF ACTION**

3 **Failure to Provide Accurate Wage Statements**
4 **On Behalf of Plaintiff, individually, against both named Defendants and DOES 1-50**
5 **(Violation of California Labor Code § 226)**

6 39. Plaintiff incorporates by reference each and every paragraph of this Complaint as
7 if fully set forth herein.

8 40. Labor Code § 226(a) requires employers to furnish semi-monthly, or at the time
9 of each payment of wages, each employee with a statement itemizing, *inter alia*, the gross wages
10 earned and net wages earned. Labor Code § 226(e) provides that if an employer knowingly and
11 intentionally fails to provide a statement itemizing, *inter alia*, the gross wages and net wages
12 earned, then the employee is entitled to recover the greater of all actual damages, or fifty dollars
13 (\$50) for the initial violation and one hundred dollars (\$100) for each subsequent violation up to
14 four thousand dollars (\$4,000).

15 41. Plaintiff did not receive accurate wage statements from Defendants showing all
16 wages earned.

17 42. Defendants knowingly and intentionally failed to furnish Plaintiff with accurate
18 itemized statements showing all amounts owed, as required by Labor Code § 226(a).
19 Accordingly, Defendants have failed to provide Plaintiff accurate wage statements showing all
20 her hours worked and the wages earned. As a result, Defendants are liable to Plaintiff for the
21 amounts provided by Labor Code § 226.

22 43. As a consequence of Defendants' actions, Plaintiff has been injured and is entitled
23 to all available statutory penalties, costs and reasonable attorneys' fees, including those provided
24 in California Labor Code § 226(e), as well as all other available remedies.

25 **FOURTH CAUSE OF ACTION**

26 **Waiting Time Penalties**
27 **On Behalf of Plaintiff, individually, against both named Defendants and DOES 1-50**
28 **(Labor Code §§ 201-203)**

44. Plaintiff incorporates by reference each and every paragraph of this Complaint as
if fully set forth herein.

45. Defendants have willfully failed to pay, without abatement, wages owed to Plaintiff upon the termination of Plaintiff's and Defendants' employment relationship.

46. Plaintiff's employment relationship with Defendants has terminated.

47. It has been more than 30 days since all wages due and owing to Plaintiff upon termination have been due.

48. Plaintiff is entitled to continuing wages in an amount not to exceed 30 days because of Defendants' failure to pay all wages owed.

FIFTH CAUSE OF ACTION

Failure to Provide Rest Breaks

**On Behalf of Plaintiff, individually, against both named Defendants and DOES 1-50
(California Labor Code § 226.7)**

49. Plaintiff incorporates by reference each and every paragraph of this Complaint as if fully set forth herein.

50. At all times herein mentioned, Plaintiff was a non-exempt employee subject to the “rest period” provisions of IWC Wage Order 9 and Labor Code section 226.7.

51. During her employment, Plaintiff was not adequately provided with rest breaks.

52. Wages are due to employees for “all hours worked” under applicable IWC Orders, including No. 5, and applicable laws, rules, orders, requirements, and regulations. Plaintiff requests relief pursuant to Labor Code § 226.7(b), which provides for one hour of additional pay at the employee’s regular rate of pay for each rest break not provided. Plaintiff demands all applicable wages for meal periods not adequately provided by Defendants.

SIXTH CAUSE OF ACTION

Failure to Provide Meal Periods

**On Behalf of Plaintiff, individually, against both named Defendants and DOES 1-50
(California Labor Code § 226.7)**

53. Plaintiff incorporates by reference each and every paragraph of this Complaint as if fully set forth herein.

54. At all times herein mentioned, Plaintiff was a non-exempt employee subject to the “meal period” provisions of IWC Wage Order 5 and Labor Code section 226.7.

55. During her employment, Plaintiff was not adequately provided with meal periods during work days in which he worked over 5 hours.

1 56. Wages are due to employees for “all hours worked” under applicable IWC
2 Orders, including No. 9, and applicable laws, rules, orders, requirements, and regulations.
3 Plaintiff requests relief pursuant to Labor Code § 226.7(b), which provides for one hour of
4 additional pay at the employee’s regular rate of pay for each meal period not provided. Plaintiff
5 demands all applicable wages for meal periods not adequately provided by Defendants.

6 **SEVENTH CAUSE OF ACTION**

7 **Failure to Reimburse for Business Expenses**
8 **On Behalf of Plaintiff, individually, against both named Defendants and DOES 1-50**
9 **(California Labor Code § 2802)**

10 57. Plaintiff incorporates by reference each and every paragraph of this Complaint as
11 if fully set forth herein.

12 58. At all times herein mentioned, Plaintiff was required to utilize her personal cell
13 phone for business-related purposes, including but not limited to using her data plan to keep
14 track of her hours worked by clocking in and out from an application she was required to
15 download onto her smart phone.

16 59. Plaintiff was not provided reimbursement, or even offered reimbursement, for use
17 of her personal cell phone by Defendants despite the fact that she was required to use her
18 personal cell phone for work-related purposes for the benefit of Defendants.

19 60. California Labor Code Section 2802 provides that an employer “shall indemnify
20 his or her employee for all necessary expenditures or losses incurred by the employee in direct
21 consequence of the discharge of his or her duties....”

22 61. Plaintiff requests relief pursuant to Labor Code § 2802(c), which provides for the
23 reimbursement of necessary business expenditures along with appropriate interest, costs, and
24 attorneys’ fees.

25 **EIGHTH CAUSE OF ACTION**

26 **Private Attorneys General Act (“PAGA”)**
27 **On Behalf of Plaintiff and all other aggrieved employees, against both named Defendants**
28 **and DOES 1-50**
 (Violation of California Labor Code § 2698 *et seq.*)

 62. Plaintiff is an “aggrieved employee” under PAGA, as she was employed by
Defendants during the applicable statutory period and suffered one or more of the Labor Code

1 violations set forth herein. Accordingly, she seeks to recover on behalf of himself and all other
2 current and former aggrieved employees of Defendant, the civil penalties provided by PAGA,
3 plus reasonable attorneys' fees and costs.

4 63. Plaintiff seeks to recover the PAGA civil penalties through a representative action
5 permitted by PAGA and the California Supreme Court in *Arias v. Superior Court* (2009) 46
6 Cal.4th 969. Therefore, class certification of the PAGA claims is not required.

7 64. Plaintiff seeks civil penalties pursuant to PAGA for violations of the following
8 Labor Code provisions:

9 a) § 226(a) (duty to provide accurate wage statements at time of each wage
10 payment);

11 b) § 226.7 (duty to provide meal and rest periods as mandated by the IWC,
12 obligation to pay meal- and rest-period premium pay);

13 c) § 226.8 (willful misclassification of employees as independent
14 contractors);

15 d) § 2802 (duty to provide paid sick leave to employees);

16 e) All related terms, conditions, and labor standards and conditions set forth
17 in the California Labor Code and the relevant orders of the IWC, including but not limited to
18 Wage Order 1-2001.

19 65. With respect to violations of Labor Code section 226, Labor Code 226.3 imposes
20 a civil penalty in addition to any other penalty provided by law of \$250 per aggrieved employee
21 for the first violation, and \$1,000 per aggrieved employee for each subsequent violation of Labor
22 Code section 226(a).

23 66. With respect to a pattern or practice of violations of Labor Code section 226.8,
24 Labor Code section 226.8(c) imposes a civil penalty of not less than ten thousand dollars
25 (\$10,000) and not more than twenty-five thousand dollars (\$25,000) for each violation, in
26 addition to any other penalties or fines permitted by law

27 67. Labor Code section 2699 et seq. imposes a civil penalty of \$100 per pay period,
28 per aggrieved employee for initial violations, and \$200 per pay period, per aggrieved employee

1 for subsequent violations for all Labor Code provisions for which a civil penalty is not
2 specifically provided.

3 68. To the extent applicable, Plaintiff has satisfied the requirements of Labor Code
4 section 2699.3.

5 **PRAYER FOR RELIEF**

6 WHEREFORE, Plaintiff, on behalf of himself individually and all aggrieved employees,
7 prays for the following judgment against Defendant:

8 A. That the Court find that Defendants have violated Labor Code §§ 201, 202, 203,
9 226, 510, 1194, 1197, 2802 and all applicable IWC Wage Orders;

10 B. That the Court find that Defendants have violated California Labor Code section
11 1194 and 1197 by failing to pay minimum wages to Plaintiff;

12 C. That the Court find that Defendants have California Labor Code section 510 and
13 1194 by failing to pay overtime wages to Plaintiff;

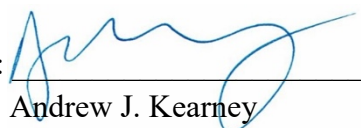
14 D. An award of civil penalties pursuant to PAGA;

15 E. An award of reasonable attorneys' fees and costs pursuant to California Labor
16 Code §§ 226, 1194, 2699(g) and/or other applicable law; and

17 F. Such other and further relief that the Court may deem just and proper.

18 Dated: November 3, 2022

KEARNEY LITTLEFIELD, LLP

19 By: 
20 _____

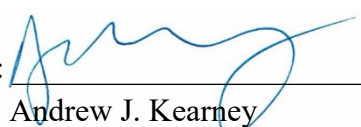
21 Andrew J. Kearney

22 **DEMAND FOR JURY TRIAL**

23 Plaintiff, on behalf of herself and all others similarly situated, hereby requests a jury trial
24 on the claims so triable.

25 Dated: November 3, 2022

KEARNEY LITTLEFIELD, LLP

26 By: 
27 _____

28 Andrew J. Kearney

Exhibit A



- [Close Window](#)
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CM-899896

Case Name	Niara Smiley-Mangum v. AD ASTRA LLC	Case Status	Waiting for Litigation
Collections Hold Stop Sign		Collections Hold	
DIR Case Name	CM-899896	Last Case Activity	
Case Number	LWDA-CM-899896-22	Date of Last Case Activity	
Employer Industry	Not Specified	Next Action	
Low Wage Occupation		Case Closed Date	
NAICS Code Title		Closure Disposition	
NAICS Code		Closure Disposition - Other Reason	
Type of Car Wash			
DIR Office			

PAGA Case Management Detail

Notice Information

Review and Investigation Information

Employer Response/Cure/Cure Dispute Information

Court/Hearing Information

Payment Information

Court Order or Judgment

Claim Amendment Information

Settlement Information

Submission Detail

AP 3642205

Type	PAGA Notice
Created Date	8/5/2022
Description	PAGA Letter Ad A tra pdf
Manual Screen Status	
Manual Screen Status	Changed By
Created By	Integration User, 8/5/2022 3:11 PM

11/4/22, 3:48 PM

Last Modified By **Integration User, 8/5/2022 3:11 PM**

Submitter Name

Reports of Labor Law Violations**RLLV-123381**Amended PAGA RLLV ☐Report of Labor Law Violation: Created By Alias **Intuser**Report of Labor Law Violation: Created Date **8/5/2022**Report of Labor Law Violation: Created By **Integration User, 8/5/2022 3:11 PM****Case Role****CR-2221164**Account Name **Ron Mendoza**Role **PAGA Employer**Case Role Status **Active**Case Role: Record Type **PAGA****CR-2177190**Account Name **AD ASTRA LLC**Role **PAGA Employer**Case Role Status **Active**Case Role: Record Type **PAGA****CR-2177191**Account Name **Andrew Kearney**Role **PAGA Notice Filer**Case Role Status **Active**Case Role: Record Type **PAGA****PAGA Payments****PP-0014936**Amount of Payment **\$75.00**Date of Payment **8/5/2022**Type of Payment **Filing Fee from PAGA Filer****Case Management History****8/5/2022 3:11 PM**User **Integration User**Action **Changed DIR Case Name to CM-899896. Created.**



KEARNEY LITTLEFIELD LLP

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3051 FOOTHILL BLVD., SUITE B
LA CRESCENTA, CA 91214
TEL: (213) 473-1900
FAX: (213) 473-1919

August 5, 2022

Via Online Submission Only

Labor & Workforce Development Agency
Attention: 2699 Claims
800 Capitol Mall, MIC-55
Sacramento, CA 95814

Labor & Workforce Development Agency
Attention: PAGA Administrator
1515 Clay Street, Ste. 801
Oakland, CA 94612

Via Certified Mail, Return Receipt Requested

AD ASTRA LLC
Attention: Ron Mendoza
872 Lomita Street
Monterey, CA 93940

Re: Notice of Labor Code Violations and Demand Pursuant to California Labor Code § 2699 et. seq.

Dear Labor & Workforce Development Agency:

My office represents Niara Smiley-Mangum, and other aggrieved employees (“Employees”), on whose behalf my client is pursuing claims for Labor Code violations against his former employer, AD ASTRA LLC, a California corporation, and its owner, Ron Mendoza (hereinafter collectively referred to as “Employer”). Under the Labor Code Private Attorney’s General Act of 2004 (“PAGA”), the purpose of this letter is to satisfy the requirements of Labor Code section 2699.3 and all other applicable notice and exhaustion requirements.

Our investigation has revealed that Employer has violated and/or is liable under numerous provisions of California law with respect to Employees. The following is the general factual background giving rise to these violations:

Employees worked at Employer's bakery for at least some time during the last year in the state of California and were classified as non-exempt. Employees' job duties included, but were not limited to, receiving orders, baking food, cleaning and serving food. Employees were deprived of the opportunity to take rest breaks and Employer failed to pay a premium in lieu thereof. Employees were regularly deprived of the opportunity to take a meal break before the end of their fifth hour of work on days they worked more than 5 hours and Employer failed to pay a premium in lieu thereof. Employer failed to pay Employees overtime owed. Employer failed to provide employees with accurate itemized wage statements on a bi-monthly basis. Employers failed to pay all wages on a bimonthly basis. Employer failed to pay all wages owed upon termination. Employer failed to reimburse Employees for all necessary business expenses.

In violation of Labor Code section 226.7, Employer failed to provide Employees with rest periods even though Employees were entitled to such. Employer regularly understaffed its business resulting in a constant rush to complete tasks. This resulted in Employees regularly being required to work through their rest periods. Employer failed to pay Employees a premium wage for missed rest periods.

In violation of Labor Code section 226.7, Employer regularly failed to provide Employees with meal periods prior to the end of the fifth hour of work when employees worked more than five hours. Employer regularly understaffed its business resulting in a constant rush to complete tasks. This resulted in Employees eating at their work stations while they were working, never while they had a 30-minute duty free lunch break. Employer failed to pay Employees a premium wage for missed meal periods.

Employees regularly worked more than 8 hours in a day, making them entitled to overtime premium wages of one-and-a-half times their regular rate of pay for all hours worked in excess of eight in one day. However, in violation of Labor Code Sections(s) 1197; 510 and 1194, Employees were never paid one-and-a-half times their regular hourly rate for time worked in excess of eight hours in a day. Employer would not pay overtime for hours worked beyond 8 hours in a day if the total hours worked for the week was below 40 hours. As such, Employer would regularly set Employees to work for 4 days a week to prevent Employees from working more than 40 hours in a week.

Employer failed to provide accurate itemized wage statements alongside paychecks on a semi-monthly basis in accordance with labor code section 226. Labor Code Section 226 states that wage statements must provide a statement of gross and net wages earned, in addition to the hours worked at each rate of pay. Employees wage statements only stated wages being earned at a regular rate and failed to include gross or net wages earned a one-and-a-half times their regular hourly rate for hours worked in exceeded of eight in a day. Rest

period premium and meal period premiums are wages earned and Employer's wage statements did not reflect these wages were earned, when they were in fact earned.

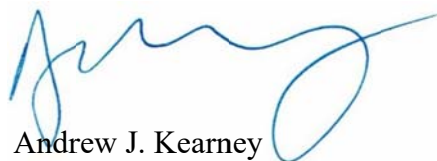
Labor Code Section 204 provides that all wages earned are due twice during each calendar month. Rest period premiums and meal period premiums are wages earned. As explained above, Employees regularly earned rest and meal period premiums in addition to overtime premiums. Employer failed to pay overtime as well as meal and rest period premiums when earned and owed twice per month.

Labor Code Sections 201 - 202 requires an employer to pay all wages due and owing within 24 hours of termination or within 72 hours when the employee terminated the relationship without notice. As explained above, Employer failed to pay all wages due and owing to Employees during their employment. Neither did Employer pay these wage owed upon termination. Therefore employer failed to pay all wages dues and owing upon termination pursuant to labor code section 203.

Labor Code section 2802 requires employers to reimburse employees for necessary and reasonable expenses incurred by the employee as a condition of their employment. Employees were required to clock in and out on a mobile phone application which required Employees to incur expenses including but not limited to paying for a cellular phone capable of carrying applications and paying for cellular data to operate the application on the cellular phone. Employer never reimbursed Employees for said expenses.

If LWDA chooses not to pursue this matter, please inform this office of your intent not to investigate. On behalf of the aggrieved Employees and those similarly situated, this office intends to vigorously prosecute the aforementioned Labor Code violations and vindicate the rights of all Employees who have been subjected to these same Labor Code violations by the Employer.

Sincerely,



Andrew J. Kearney