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**SUPERIOR COURT OF THE STATE OF CALIFORNIA  
COUNTY OF ALAMEDA**

CRISTINA AHILON MENDOZA, KELLY  
AHILON MENDOZA, DINA MENDOZA  
PABLO, EVA CRUZ AHILON, and GLADIS  
CALMO LORENZO, individuals

Plaintiffs,

vs.

PLASTIKON INDUSTRIES, INC., and DOES  
1 through 20,

Defendants.

**ELECTRONICALLY FILED**

Superior Court of California,  
County of Alameda

**06/14/2022 at 01:02:16 PM**

By: Angela Linhares,  
Deputy Clerk

Case No. 22CV012812

COMPLAINT FOR DAMAGES AND  
DEMAND FOR JURY TRIAL

1. Discrimination Based on Race and National Origin (FEHA);
2. Retaliation for Participating in a Protected Activity (FEHA);
3. Wrongful Termination in Violation of Public Policy;
4. Failure to Pay Contractual Wages (Cal. Lab. Code §§ 204, 218.5, 223, 1194);
5. Failure to Pay Minimum Wage (Cal. Lab. Code §§ 1194, 1194.2, 1197);
6. Failure to Pay Overtime (Cal. Lab. Code §§ 200, *et seq.*, 510, 1194);
7. Meal Period Violations (Cal. Lab. Code §§ 512, 226.7);
8. Rest Period Violations (Cal. Lab. Code § 226.7);
9. Wage Statement and Record Keeping Violations (Cal. Lab. Code §§ 226, 1174 *et al.*);
10. Failure to Pay All Wages Owed Upon Termination (Labor Code §§ 201, 203)
11. Violation of Unfair Competition Law (Bus. & Prof. Code §§ 17200 *et seq.*)

## **I. INTRODUCTION**

1. Plaintiffs Cristina Ahilon Mendoza, Kelly Ahilon Mendoza, Dina Mendoza Pablo, Eva Herlinda Cruz Ahilon, and Gladis Calmo Lorenzo (“Plaintiffs”) bring this Action for damages, penalties, interest, and declaratory and injunctive relief against Plastikon Industries, Inc. (“Plastikon”) and Does 1 through 20 (“Defendants”) for Discrimination Based on race and National Origin, Retaliation for Participating in a Protected Activity, Wrongful Termination in Violation of Public Policy, Failure to Pay Contractual Wages, Failure to Pay Minimum Wage, Failure to Pay Overtime, Meal Period Violations, Rest Period Violations, Wage Statement and Record Keeping Violations, Failure to Pay All Wages Owed Upon Termination, and Violation of Unfair Competition Law.

## **II. JURISDICTION AND VENUE**

2. This Court has jurisdiction over Plaintiffs’ claims pursuant to the Fair Employment and Housing Act (FEHA), California Labor Code, California Business and Professions Code, California Code of Civil Procedure, and California Business and Professions Code. Defendant Plastikon is a corporation that conducts business in California at the time that the events giving rise to this action occurred, and which committed the violations alleged herein in California.

3. Venue is proper in this District because Defendant Plastikon operates, or conducts business in Alameda County.

## **III. PARTIES**

4. Plaintiff Cristina Ahilon Mendoza is an individual residing in California. Plaintiff Cristina Ahilon Mendoza is Mam Maya (“Mam”), which is an indigenous ethnic group from Guatemala, and part of a larger racial group of Native Americans, or peoples indigenous to the American continents. Her native language is Mam Maya (“Mam”). Plaintiff Cristina Ahilon Mendoza was hired by Defendant Plastikon in or around July, 2018 to work in its production department, on an assembly line. During her employment, Plaintiff Cristina Ahilon Mendoza was subjected to harassment and negative differential treatment based on her race, including but not limited to insults and mockery of her native language, prohibition from speaking her native language, less favorable working conditions than those of her non-indigenous Latin American coworkers, and

1 selective enforcement of workplace rules and policies that disadvantaged her in comparison to her  
2 non-indigenous Latin American coworkers. After Plaintiff Cristina Ahilon Mendoza complained  
3 about harassment and discrimination, she was fired on or around December 10, 2020. Additionally,  
4 she was not provided with full and uninterrupted rest and meal breaks to which she was entitled  
5 under the law, and was not paid her full contractual, minimum, and overtime wages for all hours  
6 worked. Consequently, her wage statements do not properly reflect hours worked and wages owed,  
7 and she was not provided with all wages owed upon separation from employment. Many of these  
8 violations constitute unfair and unlawful business practices. Plaintiff Cristina Ahilon Mendoza has  
9 suffered injury in fact as a result of the practices described in this complaint.

10         5. Plaintiff Kelly Ahilon Mendoza is an individual residing in California. Plaintiff Kelly  
11 Ahilon Mendoza is Mam. Her native language is Mam. Plaintiff Kelly Ahilon Mendoza was hired  
12 by Defendant Plastikon in or around November 2019 to work in its production department, on an  
13 assembly line. During her employment, Plaintiff Kelly Ahilon Mendoza was subjected to harassment  
14 and negative differential treatment based on her race and national origin, including but not limited  
15 to insults and mockery of her native language, prohibition from speaking her native language, less  
16 favorable working conditions than those of her non-indigenous Latin American coworkers, and  
17 selective enforcement of workplace rules and policies that disadvantaged her in comparison to her  
18 non-indigenous Latin American coworkers. After Plaintiff Kelly Ahilon Mendoza complained about  
19 harassment and discrimination, she was fired on or around December 10, 2020. Additionally, she  
20 was not provided with full and uninterrupted rest and meal breaks to which she was entitled under  
21 the law, and was not paid her full contractual, minimum, and overtime wages for all hours worked.  
22 Consequently, her wage statements do not properly reflect hours worked and wages owed, and she  
23 was not provided with all wages owed upon separation from employment. Many of these violations  
24 constitute unfair and unlawful business practices. Plaintiff Kelly Ahilon Mendoza has suffered injury  
25 in fact as a result of the practices described in this complaint.

26         6. Plaintiff Dina Mendoza Pablo is an individual residing in California. Plaintiff Dina  
27 Mendoza Pablo is Mam. Her native language is Mam. Plaintiff Dina Mendoza Pablo was hired by  
28 Defendant Plastikon in or around February 2020 to work in its production department, on an

1 assembly line. During her employment, Plaintiff Dina Mendoza Pablo was subjected to harassment  
2 and negative differential treatment based on her race and national origin, including but not limited  
3 to insults and mockery of her native language, prohibition from speaking her native language, less  
4 favorable working conditions than those of her non-indigenous Latin American coworkers, and  
5 selective enforcement of workplace rules and policies that disadvantaged her in comparison to her  
6 non-indigenous Latin American coworkers. After Plaintiff Dina Mendoza Pablo contracted COVID-  
7 19, she was fired on or around July 8, 2020. Plaintiff Dina Mendoza Pablo was informed during her  
8 quarantine period that she had allegedly resigned from her employment, but Plaintiff Dina Mendoza  
9 Pablo never resigned. Her resignation was fabricated by Defendant Plastikon. Non-indigenous  
10 employees who became sick with COVID-19 were not subjected to this type of adverse employment  
11 action. Additionally, she was not provided with full and uninterrupted rest and meal breaks to which  
12 she was entitled under the law, and was not paid her full contractual, minimum, and overtime wages  
13 for all hours worked. Consequently, her wage statements do not properly reflect hours worked and  
14 wages owed, and she was not provided with all wages owed upon separation from employment.  
15 Many of these violations constitute unfair and unlawful business practices. Plaintiff Kelly Ahilon  
16 Mendoza has suffered injury in fact as a result of the practices described in this complaint.

17 7. Plaintiff Eva Cruz Ahilon is an individual residing in California. Plaintiff Eva Cruz  
18 Ahilon is Mam. Her native language is Mam. Plaintiff Dina Mendoza Pablo was hired by Defendant  
19 Plastikon in or around June 2020 to work in its production department, on an assembly line. During  
20 her employment, Plaintiff Eva Cruz Ahilon was subjected to harassment and negative differential  
21 treatment based on her race and national origin, including but not limited to insults and mockery of  
22 her native language, prohibition from speaking her native language, less favorable working  
23 conditions than those of her non-indigenous Latin American coworkers, and selective enforcement  
24 of workplace rules and policies that disadvantaged her in comparison to her non-indigenous Latin  
25 American coworkers. After Plaintiff Eva Cruz Ahilon complained about harassment and  
26 discrimination, she was fired on or around July 7, 2020. Additionally, she was not provided with full  
27 and uninterrupted rest and meal breaks to which she was entitled under the law, and was not paid her  
28 full contractual, minimum, and overtime wages for all hours worked. Consequently, her wage

1 statements do not properly reflect hours worked and wages owed, and she was not provided with all  
2 wages owed upon separation from employment. Many of these violations constitute unfair and  
3 unlawful business practices. Plaintiff Eva Cruz Ahilon has suffered injury in fact as a result of the  
4 practices described in this complaint.

5 8. Plaintiff Gladis Calmo Lorenzo is an individual residing in California. Plaintiff Gladis  
6 Calmo Lorenzo is Mam. Her native language is Mam. Plaintiff Gladis Calmo Lorenzo was hired by  
7 Defendant Plastikon in or around July, 2019 to work in its production department, on an assembly  
8 line. During her employment, Plaintiff Gladis Calmo Lorenzo was subjected to harassment and  
9 negative differential treatment based on her race and national origin, including but not limited to  
10 insults and mockery of her native language, prohibition from speaking her native language, less  
11 favorable working conditions than those of her non-indigenous Latin American coworkers, and  
12 selective enforcement of workplace rules and policies that disadvantaged her in comparison to her  
13 non-indigenous Latin American coworkers, including causing her a hand injury because of the  
14 dangerous conditions under which Plaintiff Gladis Calmo Lorenzo and other Mam employees were  
15 required to work. Plaintiff Gladis Calmo Lorenzo was constructively discharged due to a hostile  
16 work environment, with her employment ending on or around July 21, 2020. Additionally, she was  
17 not provided with full and uninterrupted rest and meal breaks to which she was entitled under the  
18 law, and was not paid her full contractual, minimum, and overtime wages for all hours worked.  
19 Consequently, her wage statements do not properly reflect hours worked and wages owed, and she  
20 was not provided with all wages owed upon separation from employment. Many of these violations  
21 constitute unfair and unlawful business practices. Gladis Calmo Lorenzo has suffered injury in fact  
22 as a result of the practices described in this complaint.

23 9. Defendant Plastikon is a California corporation with a plant located in Hayward,  
24 California that manufactures car parts. Defendant Plastikon committed or caused the violations  
25 alleged herein as a direct or joint employer of Plaintiffs.

#### 26 **IV. EXHAUSTION OF ADMINISTRATIVE REMEDIES**

27 10. On or about March 26, 2021, Plaintiff Cristina Ahilon Mendoza obtained a Right to  
28 Sue Letter against Defendant Plastikon Industries Inc. from the California Department of Fair

1 Employment and Housing attached hereto as Exhibit A.

2 11. On or about March 26, 2021, Plaintiff Kelly Ahilon Mendoza obtained a Right to Sue  
3 Letter against Defendant Plastikon Industries Inc. from the California Department of Fair  
4 Employment and Housing attached hereto as Exhibit B.

5 12. On or about March 26, 2021, Plaintiff Dina Mendoza Pablo obtained a Right to Sue  
6 Letter against Defendant Plastikon Industries Inc. from the California Department of Fair  
7 Employment and Housing attached hereto as Exhibit C.

8 13. On or about June 1, 2022, Plaintiff Eva Cruz Ahilon obtained a Right to Sue Letter  
9 against Defendant Plastikon Industries Inc. from the California Department of Fair Employment and  
10 Housing attached hereto as Exhibit D.

11 14. On or about June 1, 2022, Plaintiff Gladis Calmo Lorenzo obtained a Right to Sue  
12 Letter against Defendant Plastikon Industries Inc. from the California Department of Fair  
13 Employment and Housing attached hereto as Exhibit E.

#### 14 **V.GENERAL ALLEGATIONS**

15 15. Plaintiffs are former employees of Defendants. They are all Mam women from  
16 Guatemala who speak Mam as their native language. Plaintiffs all worked on an assembly line while  
17 employed by Defendant Plastikon, assembling car parts.

18 16. The production area of Plastikon was overseen largely by a group of non-indigenous,  
19 Spanish-speaking supervisors. These were the individuals to whom Plaintiffs and the other line  
20 workers reported. The line workers were a mixed group, consisting primarily of Latin American  
21 employees, some of whom were Mam and some of whom were not indigenous and whose primary  
22 language was Spanish. These non-indigenous Latin American supervisors verbally degraded and  
23 humiliated Plaintiffs, and other Mam employees for speaking their native language, and for having  
24 an accent or for making syntactical and/or grammatical errors when speaking Spanish.

25 17. Defendant Plastikon, through its agents and supervisors, imposed a *de facto*  
26 prohibition on speaking Mam on the employment premises. Employees caught speaking Mam  
27 among themselves were reprimanded and accused of talking about non-work related subjects or  
28 making negative statements about supervisors.

1           18. Defendant Plastikon also maintained segregated assembly lines, where Mam  
2 employees (including Plaintiffs) were disproportionately assigned to a faster and more physically  
3 demanding line than their non-indigenous coworkers. The line to which indigenous employees were  
4 usually assigned was also more dangerous than the line to which non-indigenous employees were  
5 assigned.

6           19. Scheduling requests were processed in a way that disadvantaged Mam employees and  
7 provided an unfair advantage to non-indigenous employees. Mam employees disproportionately had  
8 their requests for time off, especially on holidays, denied. Rules, including but not limited to those  
9 related to attendance, were disproportionately enforced against Plaintiffs and other Mam employees  
10 compared to their non-indigenous coworkers.

11           20. Plaintiffs Cristina Ahilon Mendoza, Kelly Ahilon Mendoza, and Eva Cruz Ahilon,  
12 complained about the harassment and discrimination that they faced on the basis of their race and  
13 national origin, including to Defendant Plastikon's Human Resources Department. On information  
14 and belief, Defendant Plastikon failed to create a record of these complaints, and failed to investigate  
15 them, instead creating various pretexts to terminate the employment of Plaintiffs Cristina Ahilon  
16 Mendoza, Kelly Ahilon Mendoza, and Eva Cruz Ahilon.

17           21. Plaintiff Dina Mendoza Pablo was terminated when she became sick from COVID-  
18 19. On information and belief, several Mam employees were terminated around the same time, as  
19 Defendant Plastikon believed that they had COVID due to the fact that many Mam employees spent  
20 a lot of time together, including giving each other rides to and from work.

21           22. During their employment by Defendant Plastikon, Plaintiffs were not permitted to  
22 take full, interrupted rest and meal breaks. They were told that they could take breaks, but would be  
23 verbally reprimanded by supervisors if they insisted on taking the full ten minutes for their rest breaks  
24 or the full thirty minutes for their meal breaks. They were frequently not relieved of their duties such  
25 as to allow them to take their breaks in a timely manner, or sometimes at all.

26           23. Because payroll and timekeeping records do not reflect unpaid time worked during  
27 scheduled meal periods, nor penalties owed for late or short rest and meal periods, any wage  
28 statements provided to Plaintiffs are inaccurate.

24. Because the wages paid to Plaintiffs upon separation from their employment did not reflect the correct total amounts owed, Defendant Plastikon failed to pay Plaintiffs all wages due upon separation from employment.

## VI. CAUSES OF ACTION

### FIRST CAUSE OF ACTION

DISCRIMINATION BASED ON RACE AND NATIONAL ORIGIN  
(CALIFORNIA GOVERNMENT CODE §§ 12900, *et seq.*)  
PLAINTIFFS AGAINST DEFENDANT PLASTIKON

25. Plaintiffs hereby incorporate by reference each and every allegation contained above in this complaint as though fully set forth herein.

26. At all times material hereto, Defendant Plastikon owed Plaintiffs a duty not to discriminate against them in the terms and conditions of their employment on the basis of their race and national origin as mandated by the Fair Employment and Housing Act (“FEHA”), Government Code Section 12940(a) and other provisions of FEHA.

27. In violation of the aforesaid duty, Defendant Plastikon treated Plaintiffs less favorably than similarly situated non-indigenous employees, subjecting them to discrimination in working conditions, benefits, and in other terms and conditions of their employment including, but not limited to: segregated work premises and segregation in assignation of tasks, uneven enforcement of workplace rules and policies to Plaintiffs' disadvantage, and exposure to unwelcome derogatory comments, insults, degrading and humiliating conduct, and wrongful termination of employment.

28. Additionally, Defendant Plastikon failed to take steps reasonably calculated to end the harassment of and discrimination against Plaintiffs as described above. Defendant Plastikon ignored Plaintiffs' complaints to Human Resources, and on information and belief failed to even document them. This conduct created an intimidating and hostile work environment in violation of Government Code § 12940(h) and other provisions of FEHA.

29. Defendant Plastikon's decision to take the adverse actions against Plaintiffs, including but not limited to those described in the previous paragraph, were wanton, willful and intentional, and were committed with malicious and reckless disregard for the rights and sensibilities



1 of Plaintiffs.

2 30. As a direct and proximate result of the aforesaid discrimination based on race and  
3 national origin, Plaintiffs have suffered harm including emotional distress, severe emotional distress,  
4 and general damages, in a sum of excess of the minimum jurisdiction of the court and according to  
5 proof.

6 31. Defendant Plastikon is liable for the alleged conduct by its agents and supervisory  
7 employees because it willfully failed to take corrective and/or preventative action upon receiving  
8 complaints regarding harassing and discriminatory conduct toward Plaintiffs.

9 32. Alternatively, Defendant Plastikon is liable for for the alleged conduct by its agents  
10 and supervisory employees because it knew or should have known of the harassment and differential  
11 treatment and failed to take immediate and appropriate corrective action. Said conduct violated  
12 Government Code § 12940(j)(1) and other provisions of FEHA.

13 33. Defendant Plastikon is also independently liable because it failed to take all  
14 reasonable steps to prevent discrimination and harassment from occurring. Such conduct violates  
15 Government Code § 12940(k) and other provisions of FEHA.

16 34. The above described acts of Defendant Plastikon, including by and through its  
17 managing agents, officers, and/or directors was intentional and malicious within the meaning of  
18 California Civil Code § 3294. Plaintiff therefore requests punitive damages, in an amount to be  
19 determined at time of trial.

20 35. Plaintiffs are entitled to recover attorneys' fees under Government Code § 12940 et  
21 seq. or any other law providing for recovery of attorneys' fees.

22 36. Plaintiffs have exhausted their administrative remedies by timely filing charges of  
23 discrimination with the Department of Fair Employment and Housing. The Department of Fair  
24 Employment and Housing issued to Plaintiffs right to sue notices permitting them to file a private  
25 lawsuit against Defendant Plastikon.

26 37. Wherefore, Plaintiffs request relief as hereinafter provided.

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38. Plaintiffs hereby incorporate by reference each and every allegation contained above in this complaint as though fully set forth herein.

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1 Employment and Housing issued to Plaintiffs right to sue notices permitting them to file a private  
2 lawsuit against Defendant Plastikon.

3 46. Wherefore, Plaintiffs request relief as hereinafter provided.

4 **THIRD CAUSE OF ACTION**

5 **WRONGFUL TERMINATION IN VIOLATION OF PUBLIC POLICY**  
6 **PLAINTIFFS AGAINST DEFENDANT PLASTIKON**

7 47. Plaintiffs incorporate all preceding paragraphs as if fully set forth herein.

8 48. Plaintiffs were discharged, or constructively discharged, from their employment  
9 because of their race and national origin, and/or for real or perceived opposition of, and/or complaints  
10 about harassment and discrimination, as well as based on a diagnosis of COVID-19 and insistence  
11 on quarantining (in Plaintiff Dina Mendoza Pablo's case) and perceived infection from COVID-19  
12 based on race and national origin (in the case of Cristina Ahilon Mendoza and Kelly Ahilon  
13 Mendoza).

14 49. Plaintiffs had a right to complain about discrimination under the FEHA. Plaintiff Dina  
15 Mendoza Pablo had a right to assert her need to quarantine upon finding out she had COVID-19.  
16 Plaintiffs Cristina Ahilon Mendoza and Kelly Ahilon Mendoza had a right to expect that they would  
17 not be assumed to be COVID-19 positive due to their race or national origin.

18 50. Defendant Plastikon terminated Plaintiffs' employment in violation of fundamental  
19 public policies tethered to statute(s) and/or constitutional provisions, including but not limited to  
20 Plaintiff's right to oppose, complain about, disclose or protest an activity that Plaintiff reasonably  
21 believed constituted a violation of law.

22 51. These fundamental public policies inure to the benefit of the public.

23 52. Defendant Plastikon's conduct in discharging Plaintiffs was wrongful and in violation  
24 of the fundamental principles of public policy of the State of California.

25 53. As a direct and foreseeable result of the conduct described above, Plaintiffs have  
26 suffered and will suffer harm for which they are entitled to general and special damages.

27 54. The above described acts of Defendant Plastikon, including by and through its  
28 managing agents, officers, and/or directors was intentional and malicious within the meaning of

1 California Civil Code § 3294. Plaintiffs therefore request punitive damages, in an amount to be  
2 determined at time of trial.

3 55. Wherefore, Plaintiffs request relief as hereinafter provided.

4 **FOURTH CAUSE OF ACTION**

5 FAILURE TO PAY CONTRACTUAL WAGES  
6 (CALIFORNIA LABOR CODE §§ 204, 218.5, 223, 1194 AND WAGE ORDERS)  
7 PLAINTIFFS AGAINST DEFENDANT PLASTIKON

8 56. Plaintiffs incorporate all preceding paragraphs as if fully set forth herein.

9 57. Labor Code section 223 requires an employer to pay an employee the wage  
10 designated by statute or contract, and California law requires payment of all wages due for "all hours  
11 worked."

12 58. Pursuant to Labor Code section 223, it is unlawful to secretly pay a lower wage while  
13 purporting to pay the wage designated by statute or by contract.

14 59. During their employment by Defendant Plastikon, Plaintiffs were entitled to wages at  
15 rates designated by contract and statute that exceed the California minimum wage.

16 60. Defendant has breached its agreement and refused to compensate Plaintiffs for all  
17 hours worked at the required wage rates, in violation of the Labor Code and Wage Orders, including  
18 section 223 of the Labor Code.

19 61. Plaintiffs bring this cause of action under Labor Code section 218.5, authorizing a  
20 private right of action for the nonpayment of wages.

21 62. Defendant Plastikon has the ability to pay wages at the required rates for all "hours  
22 worked," but has willfully refused to pay such wages with the intent to secure a discount upon their  
23 indebtedness to Plaintiffs. Defendant Plastikon has secretly paid Plaintiff a lower wage while  
24 purporting to pay the wage designated by statute, in violation of Labor Code § 223. Defendant  
25 Plastikon is therefore guilty of a misdemeanor, pursuant to Labor Code § 225, and is liable for  
26 penalties pursuant to Labor Code § 225.5.

27 63. Defendant Plastikon failed to pay Plaintiffs for all "hours worked" at the written  
28 agreed upon wage rate. For example, Defendant Plastikon maintained a policy whereby Plaintiffs

1 were often required to work off the clock during meal periods.

2 64. Plaintiffs are entitled to recover the unpaid wages, liquated damages in an amount  
3 equal to the wages unlawfully unpaid, interest thereon, reasonable attorney's fees and costs of suit  
4 pursuant to California Labor Code § 1194(a).

5 65. Wherefore, Plaintiffs request relief as hereinafter provided.

6 **FIFTH CAUSE OF ACTION**  
7 **FAILURE TO PAY MINIMUM WAGE**  
8 **(CALIFORNIA LABOR CODE §§ 204, 218.5, 223, 1194 AND WAGE ORDERS)**  
9 **PLAINTIFFS AGAINST DEFENDANT PLASTIKON**

10 66. Plaintiffs incorporate all preceding paragraphs as if fully set forth herein.

11 67. Labor Code § 1197, entitled "Pay of Less Than Minimum Wage" states:

12 The minimum wage for employees fixed by the commission is the  
13 minimum wage to be paid to employees, and the payment of a less  
14 wage than the minimum so fixed is unlawful.

15 68. The applicable minimum wages fixed by the commission for work performed in  
16 California for employers with 26 employees or more is \$11 effective January 1, 2018, \$12 effective  
17 January 1, 2019, \$13 effective January 1, 2020, and \$14.00 effective January 1, 2021.

18 69. The minimum wage provisions of the California Labor Code are enforceable by  
19 private civil action pursuant to California Labor Code § 1194(a) which states:

20 Notwithstanding any agreement to work for a lesser wage, any employee receiving  
21 less than the legal minimum wage or the legal overtime compensation applicable to  
22 the employee is entitled to recover in a civil action the unpaid balance of the full  
23 amount of this minimum wage or overtime compensation, including interest  
24 thereon, reasonable attorney's fees and costs of suit.

25 70. As described in Labor Code §§ 1185 and 1194.2, any action for wages incorporates  
26 the applicable Wage Orders of the California Industrial Welfare Commission.

27 71. Labor Code § 1194.2 also provides for the following remedies:

28 In any action under Section 1194 ... to recover wages because of  
the payment of a wage less than the minimum wages fixed by an  
order of the commission, an employee shall be entitled to recover  
liquidated damages in an amount equal to the wages unlawfully  
unpaid and interest thereon.

72. Defendant Plastikon failed to pay Plaintiffs for all "hours worked" at the minimum wage rate. For example, Defendant Plastikon maintained a pay policy whereby Plaintiffs were required or knowingly permitted to perform numerous work activities that were uncompensated. In fact, Plaintiffs were not compensated at all for their two months of work for Defendants.

73. Wherefore, Plaintiffs request relief as described below.

**SIXTH CAUSE OF ACTION**  
**FAILURE TO PAY OVERTIME PREMIUM WAGES**  
**(CALIFORNIA LABOR CODE §§ 200, et seq., 510, 1194 & Wage Order(s))**  
**PLAINTIFFS AGAINST DEFENDANT PLASTIKON**

74. Plaintiffs incorporate all preceding paragraphs as though fully set forth herein.

75. Labor Code § 510(a) establishes the eight (8) hour workday and 40-hour workweek, and provides that work in excess of eight (8) hours in one day or 40 hours in one week is to be compensated at one and one-half (1 1/2) the regular rate of pay ("overtime rate").

76. Defendant Plastikon violated California Labor Code § 510 and the applicable wage orders (or caused the violations) by subjecting employees to employer control, or knowingly suffering or permitting them to work, in excess of the statutory overtime thresholds, without paying the applicable premium rate.

77. Plaintiffs may enforce these provisions pursuant to Labor Code § 1194(a) and Business and Professions Code §§ 17200 et seq.

78. California Labor Code§ 1194(a) states:

Notwithstanding any agreement to work for a lesser wage, any employee receiving less than the legal minimum wage or the legal overtime compensation applicable to the employee is entitled to recover in a civil action the unpaid balance of the full amount of this minimum wage or overtime compensation, including interest thereon, reasonable attorney's fees and costs of suit.

79. Defendant Plastikon failed to pay for all hours worked and failed to compensate at the agreed upon and statutory rates, rendering Defendants' overtime computations unlawful.

80. Plaintiffs and, on information and belief, other current or former employees are entitled to wages at the applicable premium rate because of Defendant Plastikon's practice of not compensating them at the required premium rate, as well as for failing to compensate them for all

1 "hours worked."

2 81. Plaintiffs and, on information and belief, other current or former employees are owed  
3 wages for the violations above. Defendant Plastikon failed to pay said wages when due, as required  
4 by Labor Code § 204, and have not been paid them to date.

5 82. The violation of California's premium wage laws is substantial and occurred  
6 regularly, and Defendant Plastikon's failure to maintain accurate time records will shift the burden  
7 of proof.

8 83. Plaintiffs are entitled to payment of wages owed under California Labor Code §§ 510,  
9 1197, 1194(a) and the applicable wage orders.

10 84. Wherefore, Plaintiffs request relief as described below.

11 **SEVENTH CAUSE OF ACTION**  
12 **MEAL PERIOD VIOLATIONS**  
13 **(CALIFORNIA LABOR CODE §§ 226.7, 512)**  
**PLAINTIFFS AGAINST DEFENDANT PLASTIKON**

14 85. Plaintiffs incorporate all preceding paragraphs as though fully set forth herein.

15 86. Plaintiffs allege that Defendants failed to provide full, timely, and uninterrupted meal  
16 periods.

17 87. California Labor Code §226.7 states:

18 (a) No employer shall require any employee to work during any meal or rest period  
19 mandated by an applicable order of the Industrial Welfare Commission.

20 (b) If an employer fails to provide an employee a meal period or rest period in  
21 accordance with an applicable order of the Industrial Welfare Commission, the employer  
22 shall pay the employee one additional hour of pay at the employee's regular rate of  
compensation for each work day that the meal or rest period is not provided.

23 88. The applicable IWC Wage Orders contain similar language.

24 89. Plaintiffs worked more than five hours from the start of the shift without a duty-free  
25 meal period of no less than 30 minutes.

26 90. Defendant Plastikon had an illegal policy of denying Plaintiffs the meal periods to  
27 which they were entitled under the Labor Code. Defendant Plastikon, by and through its agents and  
28 managing or supervisory employees, verbally reprimanded Plaintiffs for attempting to take full,

1 timely, and uninterrupted meal breaks.

2 91. Meal periods were not voluntarily waived. Any express or implied waivers obtained  
3 from Plaintiffs were not willfully obtained, were not voluntarily agreed to, were a condition of  
4 employment, or were part of an unlawful contract of adhesion.

5 92. Defendant Plastikon failed to pay additional wages for meal periods that were not  
6 provided. Plaintiffs are entitled to premium meal period wages pursuant to Labor Code § 226.7.

7 93. Wherefore, Plaintiffs request relief as described below.

8 **EIGHTH CAUSE OF ACTION**  
9 **REST PERIOD VIOLATIONS**  
10 **(CALIFORNIA LABOR CODE § 226.7)**  
11 **PLAINTIFFS AGAINST DEFENDANT PLASTIKON**

12 94. Plaintiffs incorporate all preceding paragraphs as though fully set forth herein.

13 95. Plaintiffs allege that Defendant Plastikon failed to provide proper rest periods.

14 96. Defendant Plastikon failed to authorize and permit rest periods by failing to provide  
15 the requisite number of breaks per shift and/or to allow net 10 minutes of rest, in violation of the  
16 applicable Wage Orders and Labor Code § 226.7.

17 97. Defendant Plastikon had an illegal policy of denying Plaintiffs the rest periods to  
18 which they were entitled under the Labor Code. Defendant Plastikon, by and through its agents and  
19 managing or supervisory employees, verbally reprimanded Plaintiffs for attempting to take full,  
20 timely, and uninterrupted rest breaks.

21 98. Rest periods were not voluntarily waived. Any express or implied waivers obtained  
22 from Plaintiffs were not willfully obtained, were not voluntarily agreed to, were a condition of  
23 employment, or were part of an unlawful contract of adhesion.

24 99. Defendant Plastikon failed to pay additional wages for rest periods that were not  
25 provided. Plaintiffs are entitled to premium rest period wages pursuant to Labor Code § 226.7.

26 100. Wherefore, Plaintiffs request relief as described below.

27 **NINTH CAUSE OF ACTION**  
28 **WAGE STATEMENT VIOLATIONS**  
**(CALIFORNIA LABOR CODE § 226(a))**  
**PLAINTIFFS AGAINST DEFENDANT PLASTIKON**



101. Plaintiffs incorporate all preceding paragraphs as though fully set forth herein.

102. California Labor Code § 226(a) requires that employees be provided accurate itemized wage statements containing gross and net wages earned, total hours worked and applicable wage rates, among other statutory requirements.

103. Plaintiffs were not provided "accurate itemized statements" within the meaning of California Labor Code § 226, because of the violations described in this complaint. For example, the wage statements provided by Defendant Plastikon falsely understated the wages earned due to the failure to pay meal period premiums, overtime premiums, and minimum wages.

104. California Labor Code § 226(e) and (g) provide that employees may recover fifty dollars (\$50) for an initial violation and one hundred dollars (\$100) thereafter up to four thousand dollars (\$4,000), costs and reasonable attorney's fees for violating the obligation to provide a proper, itemized wage statement. Additionally, an employee may seek injunctive relief to ensure compliance with this requirement under the UCL.

105. Defendant Plastikon failed to comply with Labor Code § 226 as a result of the wage violations and timekeeping violations described above.

106. By failing to comply with Labor Code § 226, Defendants have injured PLAINTIFFS within the meaning of the statute, entitling Plaintiffs to relief. Defendants also failed to maintain records, in particular, maintain records of correct wages earned.

107. Wherefore, Plaintiffs request relief as described below.

**TENTH CAUSE OF ACTION**  
**FAILURE TO TIMELY PAY ALL WAGES DUE UPON SEPARATION FROM**  
**EMPLOYMENT**  
**(CALIFORNIA LABOR CODE §§ 201, 203)**  
**PLAINTIFFS AGAINST DEFENDANT PLASTIKON**

108. Plaintiffs incorporate all preceding paragraphs as though fully set forth herein.

109. Labor Code §§ 201 and 202 provide for immediate payment of all wages owed at termination of employment.

110. Labor Code § 203 states:

1 If an employer willfully fails to pay, without abatement or reduction, in accordance  
2 with Sections 201, 201.5, 202, and 205.5, any wages of an employee who is  
3 discharged or who quits, the wages of the employee shall continue as a penalty from  
4 the due date thereof at the same rate until paid or until an action therefor is  
5 commenced; but the wages shall not continue for more than 30 days. An employee  
6 who secretes or absents himself or herself to avoid payment to him or her, or who  
7 refuses to receive the payment when fully tendered to him or her, including any  
penalty then accrued under this section, is not entitled to any benefit under this  
section for the time during which he or she so avoids payment. Suit may be filed for  
these penalties at any time before the expiration of the statute of limitations on an  
action for the wages from which the penalties arise.

8 111. Because of the violations described above, Plaintiffs have still not been paid all wages  
9 owed. In the case of all Plaintiffs, more than 30 days have passed since employment was terminated.  
10 As a consequence of Defendant Plastikon's willful conduct in not timely paying all earned wages,  
11 Plaintiffs are entitled to 30 days' wages as a penalty under Labor Code § 203.

12 112. Wherefore, Plaintiffs request relief as described below.

13  
14 **ELEVENTH CAUSE OF ACTION**  
15 **VIOLATION OF UNFAIR COMPETITION LAW**  
**CALIFORNIA BUSINESS & PROFESSIONS CODE §§ 17200 ET SEQ.**  
**PLAINTIFF AGAINST DEFENDANTS**

16 113. Plaintiff hereby incorporates all preceding paragraphs as if fully set forth herein.

17 114. As described above, Defendant Plastikon has violated the myriad California labor  
18 laws referred to implicitly or expressly in this complaint.

19 115. Defendant Plastikon's activities also constitute unfair business practices in violation  
20 of California Business & Professions Code §§ 17200 et seq., because Defendants' practices violate  
21 the above noted laws, and/or violate an established public policy and/or the practice is immoral,  
22 unethical, oppressive, unscrupulous and substantially injurious to Plaintiffs and the public.

23 116. Plaintiffs are entitled to injunctive and other equitable relief against such unlawful  
24 practices in order to prevent future damage, for which there is no adequate remedy at law, and to  
25 avoid a multiplicity of lawsuits.

26 117. As a result of their unlawful acts, Defendant Plastikon has reaped and continue to  
27 reap unfair benefits and unlawful profits at the expense of Plaintiffs. Defendant Plastikon should be  
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1 enjoined from this activity and made to disgorge these ill-gotten gains and restore to Plaintiffs the  
2 wrongfully withheld wages pursuant to Business and Professions Code § 17203.

3 118. Plaintiffs are informed and believe, and thereon allege, that Defendant Plastikon is  
4 unjustly enriched through its unfair trade practices. Plaintiffs are informed and believe, and thereon  
5 allege, that Plaintiffs are prejudiced by Defendant Plastikon's unfair trade practices.

6 119. As a direct and proximate result of the unfair business practices of Defendant  
7 Plastikon, Plaintiffs are entitled to equitable and injunctive relief, including full restitution and/or an  
8 injunction ordering Employer Defendants to cease and desist from engaging in the practices  
9 described herein.

#### 10 **VI. PRAYER FOR RELIEF**

11 120. Wherefore, Plaintiffs pray for judgment against Defendants, and each of them, as  
12 follows:

13 121. For all remedies as provided by the above statutes and related provisions;

14 122. For compensatory and punitive damages for Defendants' violations of FEHA;

15 123. For compensatory and punitive damages for wrongful termination;

16 124. For penalties and all available relief pursuant to all predicate provisions of the Labor  
17 Code as described above;

18 125. For attorney's fees and cost of suit pursuant to the California Labor Code;

19 126. For an award of a preliminary and permanent injunction ordering Employer  
20 Defendants to cease the unlawful and unfair business practices as herein alleged;

21 127. For restitution to Plaintiffs in amounts to be proven at trial against Employer  
22 Defendants, for the violation of Business and Professions Code § 17200, et. seq.;

23 128. For an award of post-judgment interest as authorized under the law against all  
24 Defendants;

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129. For such other relief as this Court deems just and proper.

Dated: June 8, 2022.

**RATNER MOLINEAUX, LLP**

/s/ *David S. Ratner*

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David S. Ratner  
Shelley A. Molineaux  
Attorneys for Plaintiffs

**DEMAND FOR JURY TRIAL**

Plaintiffs hereby demand trial of their claims by jury to the extent authorized by law.

Respectfully submitted,

Dated: June 8, 2022.

**RATNER MOLINEAUX, LLP**

/s/ *David S. Ratner*

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David S. Ratner  
Shelley A. Molineaux  
Attorneys for Plaintiffs