

SUPERIOR COURT OF CALIFORNIA
COUNTY OF ALAMEDA, OAKLAND – ADMINISTRATION BUILDING

Bandril v. Plastikon Industries, Case No. RG19038227

Reyes v. Plastikon Industries, Case No. RG20054268

NOTICE OF CLASS ACTION AND PAGA SETTLEMENT

If you are or were employed by Plastikon Industries as a non-exempt employee at any time between October 7, 2015 and April 8, 2021, you may be eligible to receive compensation from a class action and Private Attorney General Act (“PAGA”) settlement.

- Non-exempt employees of Plastikon Industries filed a wage and hour class and PAGA action against Plastikon Industries on behalf of themselves and all other similarly situated individuals. Plastikon Industries denies all allegations.
- The parties, however, have reached a settlement that the Court has preliminarily approved on the ground that the settlement is fair, reasonable, adequate, and in the best interests of the class members.

*A court authorized this notice. This is not an advertisement.
This is not a lawsuit against you. You are not being sued.
But, your rights will be affected by this settlement.*

| YOUR LEGAL RIGHTS & OPTIONS IN THIS SETTLEMENT | |
|---|---|
| DO NOTHING AND GET AUTOMATIC PAYMENT | If you received this Notice of Class And PAGA Action Settlement, you will <u>automatically</u> receive your share of the settlement, unless you exclude yourself from the Individual Class Settlement Payment portion of the settlement. You do <u>not</u> need to submit a claim form to receive this payment. |
| EXCLUDE YOURSELF | <u>Get no payment for the Individual Class Settlement Payment portion of the release.</u> This is the only option that allows you to ever be part of any other wage and hour lawsuit against Plastikon Industries that involves the Class Claims made in this case during the time period covered by this case. But to pursue any claims you have individually, you will have to get your own attorney or represent yourself. You will still receive a payment of the Individual PAGA Payment for the PAGA portion of the settlement if the Court approves the PAGA settlement. You may not opt out of the PAGA settlement. |
| OBJECT | If you so choose, you may object to this settlement. |

PLEASE READ THIS NOTICE CAREFULLY.

Your rights will be affected by this settlement.

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1. Why did I get this notice?

PAGA Employees: You received this notice because Plastikon Industries’ business records indicate that you may have worked or continue to work for Plastikon Industries as a non-exempt employee in California between February 12, 2019 and April 8, 2021.

Class Members: You received this notice because Plastikon Industries’ business records indicate that you worked or continue to work for Plastikon Industries as a non-exempt employee in California between October 7, 2015 and April 8, 2021.

2. Why should I read this notice?

This notice is to let you know that the parties in a class and PAGA action filed against Plastikon Industries have reached a tentative settlement. Under California law, a class action settlement must be reviewed by a judge via a two-step process: preliminary approval and final approval. On September 21, 2021, Judge Brad Seligman of the Superior Court of California, County of Alameda, Oakland – Administration Building, preliminarily approved the terms of this proposed settlement and ordered this notice to be mailed to all class members. The Court will hold a Final Approval Hearing concerning the proposed settlement on January 25, 2022 at 3:00 p.m. This notice tells you about your rights to share in the settlement or to potentially exclude yourself (otherwise known as “opting out”) from the Class Claims portion of the settlement.

3. What is this case about?

Plaintiffs claim that Plastikon Industries violated California wage and hour laws and unfair competition laws and seek to represent the below class of employees.

All current and former hourly-paid or non-exempt employees (either directly or through a staffing agency or labor contractor) of Defendants within the State of California at any time during the period from four years preceding the filing of this Complaint [October 7, 2015] to [April 8, 2021].

Plaintiffs allege Class Claims that Plastikon Industries failed to pay wages, including minimum and overtime wages, failed to provide compliant meal and rest periods or pay premium wages in lieu thereof, failed to timely pay all wages due and owing to employees at the end of their employment, failing to provide accurate wage statements, and failed to reimburse necessary business expenditures.

Based on the above alleged violations, Plaintiffs also seek to recover penalties pursuant to Private Attorneys General Act (the PAGA Claim).

Plastikon Industries expressly denies all of these allegations and asserts that it has fully complied with all of its legal obligations under California law. The Court has not made any determination about the strengths and weaknesses of the claims.

4. Who are the parties in this case?

Ms. Arlene Bandril is a Plaintiff and Class Representative. Ms. Maria Reyes is a Plaintiff, Class Representative, and PAGA Representative. Plastikon Industries is the Defendant.

5. Why did Plastikon Industries join in the settlement?

Plastikon Industries has joined in the settlement only as a compromise because it wishes to finally, fully and completely resolve the dispute in the best interests of the Class. By agreeing to the terms of the settlement, Plastikon Industries does not admit any of the allegations in the case, that it has done anything wrong or that any Class Member or PAGA Employee has suffered any damage. As such, Plastikon Industries is not giving up its right to defend itself against any of the allegations involved in the lawsuit if this settlement fails for any reason.

6. How much is the settlement?

The Total Settlement Amount is \$2,250,000.00, which will cover settlement payments to all Class Members, settlement payments to all PAGA Employees, settlement administration fees, a class representative service payment to Plaintiffs Bandril and Reyes, a PAGA payment to the Labor and Workforce Development Agency, and Class Counsel's attorneys' fees and costs.

YOU DO NOT NEED TO SUBMIT A CLAIM FORM IN ORDER TO RECEIVE YOUR SHARE OF THE SETTLEMENT.

Individual PAGA Payment

Out of the Total Settlement Amount, Plastikon will pay an estimated \$200,000 as the PAGA Fund. 75% of the PAGA Fund, \$150,000, will be distributed to the State of California's Labor and Workforce Development Agency. The remaining 25% of the PAGA Fund, \$50,000 (the Net PAGA Settlement Amount), will be distributed to PAGA Employees on a *pro rata* basis based on the number of Pay Periods they worked between February 12, 2019 and April 8, 2021.

Pay Periods includes any Pay Period a PAGA Employee worked at least one day of a Pay Period and was not on vacation or on a leave of absence. PAGA Employees do not have the opportunity to exclude themselves from the Individual PAGA Payment portion of the Settlement. If the Court approves the Settlement and you fall within the definition of PAGA Employees set forth above, you will receive an Individual PAGA Payment.

Individual PAGA Payments will be treated as miscellaneous income which shall be reported on an IRS 1099 without withholdings. PAGA Employees are responsible for any taxes owing on the Individual PAGA Payment.

Individual Class Settlement Payment

Individual Class Settlement Payments will be paid from the Net Class and PAGA Settlement Amount, which is the amount remaining after deductions from the Total Settlement Amount for settlement administration fees, a class representative service payment, the PAGA Fund, and Class Counsel's attorneys' fees and costs.

Each Participating Class Member (Class Members who does not request exclusion from the settlement) will receive a *pro rata* portion of the Net Settlement Amount based upon the respective number of workweeks that he or she worked during the Class Period, October 7, 2015 to April 8, 2021, as compared to the total number of workweeks that all other Participating Class Members worked during the Class Period.

Workweeks include any weeks a Class Member worked at least one day of the week and was not on vacation or a leave of absence. Workweeks of Class Members who exclude themselves from the settlement will not be included in the total number of workweeks for purposes of calculating distribution of Individual Class Settlement Payments.

Each Individual Class Settlement Payment will be allocated as follows: 30% will be treated as unpaid wages, and 70% will be treated as interest and penalties. Plastikon Industries will pay its share of applicable employer-side payroll taxes on the wages portion of the settlement payments separately and in addition to the Total Settlement Amount. Participating Class Members are responsible for any taxes owing on the non-wage portion of their settlement payment.

IF YOU DO NOT WANT TO PARTICIPATE IN THE INDIVIDUAL CLASS SETTLEMENT PAYMENT PORTION OF THE SETTLEMENT, YOU MUST RETURN AN OPT-OUT FORM TO THE SETTLEMENT ADMINISTRATOR POSTMARKED AND/OR RECEIVED BY THE SETTLEMENT ADMINISTRATOR NO LATER THAN DECEMBER 3, 2021. AN OPT-OUT FORM IS ENCLOSED WITH THIS NOTICE.

7. How much will I receive from the settlement?

PAGA Employees

Plastikon Industries' business records indicate that you worked ___ Pay Periods during the period from February 12, 2019 through April 8, 2021 which is the relevant time period for the PAGA Claims. You will automatically be mailed a check for your pro rata share of the Net PAGA Settlement Amount. The amount you will receive is estimated to be \$_____.

Class Members

Plastikon Industries' business records indicate that you worked ___ weeks during the period from October 7, 2015 through April 8, 2021, which is the relevant time period for the Class Claims. If you do not opt-out of this Settlement, you will automatically be mailed a check for your pro rata share of the Net Class and PAGA Settlement Amount, which will be based on your total workweeks stated in this Notice. The amount you will receive is estimated to be \$_____.

Disagreement With Total Workweeks Or Pay Periods

If you disagree with your total workweeks or Pay Period as stated above, please contact the Settlement Administrator and (1), for purposes of the Class Claims portion of the settlement, provide the total number of relevant workweeks that you believe you worked as a non-exempt employee from October 7, 2015 through April 8, 2021 and/or (2), for purposes of the PAGA Claim portion of the settlement, the number of Pay Periods you worked from February 12, 2019 through April 8, 2021. You will need to submit supporting documentation of your claimed workweeks or Pay Periods by sending them to the Settlement Administrator, postmarked by no later than December 3, 2021. The Settlement Administrator will review your claim and all supporting documentation that you provide and then will notify you of the final determination via written correspondence within 14 calendar days of their receipt of your supporting documentation.

8. What are my rights in this case?

If you are a Class Member or PAGA Employee as defined above, you have the following rights and options:

Participate In The Settlement

If you wish to participate in the settlement and receive compensation, you do not need to submit a claim form. You will be mailed an Individual PAGA payment automatically. You will be mailed an Individual Class Settlement Payment automatically, unless you timely opt-out. As a Participating Class Member, you will be represented by Class Counsel, but you will not be charged for the services of Class Counsel.

Request Exclusion

If you do not wish to participate in the Class Claim portion of the settlement or receive an Individual Class Settlement Payment, you must request exclusion by sending the Settlement Administrator an Opt-Out Form post-marked no later than December 3, 2021. **If you request exclusion, you will receive no money from Class Claim portion of the settlement**, and you will be able to pursue any individual claims you may have against Plastikon Industries on your own behalf. You will, however, receive an Individual PAGA Payment and be bound by the settlement of the PAGA Claims. The settlement will also bind all Class Members who do not timely and properly request exclusion, absent good cause found by the Court.

Object To The Settlement

If you are dissatisfied with the terms of the settlement, you may object to the settlement. Written objections and supporting papers must (a) be mailed to the Settlement Administrator, postmarked by December 3, 2021, (b) clearly identify the case name and number (*Bandril v. Plastikon Industries*, Alameda County Superior Court, Case No. RG19038227), (c) contain the your full name, current home (or mailing address) the last four digits of your social security number, and a current email address in the case remote court appearances are required, (d) clearly and concisely state all grounds for the objection, including any supporting documentation, (e) indicate whether the you are represented by counsel and, if so, identify such counsel and his/her email address, (f) indicate whether the you or your counsel intend to appear at the Final Approval Hearing, and (g) be signed by you or your attorney.

Even if you do not object in the manner state above, you may also appear at the Final Approval Hearing to orally object.

Even if you object to the settlement, you will still receive your pro rata share of the Net PAGA Settlement Amount and Net Class and PAGA Settlement Amount, if the court approves the settlement.

Appear At The Final Approval Hearing

The Court will hold the Final Approval Hearing in the Administration Building, 1221 Oak Street, Oakland, California 94612, on January 25, 2022 at 3:00 p.m. in Department 23, to determine whether the settlement should be finally approved as fair, reasonable, and adequate. **It is not necessary for you to appear at this hearing to participate in the settlement.** The Court may issue a tentative ruling the day before the Final Approval Hearing. You may view the Court's tentative ruling by visiting the Court's public access system, "DomainWeb," at <https://publicrecords.alameda.courts.ca.gov/prs> and entering the case number (RG19038227), or by calling (866) 223-2244.

9. What rights will I give up if I participate in this settlement?

If the settlement is approved, each Participating Class Member and PAGA Employee releases and discharges the Released Parties, including Plastikon Industries, from certain claims and liabilities, as set forth below.

Release of PAGA Claims

PAGA Employees will fully and finally release and discharge the Released Parties from all Released PAGA Claims, which covers the time period of February 12, 2019 to April 8, 2021. Released PAGA Claims means all PAGA Claims that were actually alleged or could have been alleged based on the facts set out in the operative First Amended Complaint, filed on February 16, 2021, in this Action by the Plaintiffs on behalf of themselves, the State of California and the PAGA Employees.

PAGA Employees cannot exclude themselves from the settlement of Released PAGA Claims, will be bound by the settlement as to Released PAGA Claims, and will receive an Individual PAGA Payment even if they exclude themselves from the Class Claims portion of the settlement.

Release of Class Claims

Participating Class Members will fully and finally release and discharge the Released Parties from any and all liability for the Released Class Claims, which covers the time period from October 7, 2015 to April 8, 2021.

The Released Class Claims means all claims alleged or that could have been alleged in based on the facts pled in the operative First Amended Complaint, filed on February 16, 2021, by Plaintiffs on behalf of themselves and the Class Members. The Released Class Claims include the following: unpaid overtime wages, failure to provide compliant meal and rest periods or pay premium wages in lieu thereof, failure to timely pay all wages due and owing to employees at the end of their employment, failure to provide accurate wage statements, failure to reimburse necessary business expenditures, and unfair competition pursuant to Business & Professions Code section 17200.

Released Parties

The Released Parties means Plastikon Industries and its respective parents, subsidiaries, affiliates, shareholders, members, agents (including, without limitation, any investment bankers, accountants, insurers, reinsurers, attorneys and any past, present or future officers, directors and employees), predecessors, successors, and assigns.

10. Is there a trial date set for this class action?

Currently, there is no trial date. If the settlement is not approved by the Court, the parties may proceed to trial.

11. Who are the attorneys representing the parties?

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|---|--|
| <p>Class Counsel - Attorneys for Plaintiff/Class Representative Arlene Bandril</p> | <p>Attorneys for Defendant Plastikon Industries</p> |
|---|--|

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12. How will the attorneys, class representative and settlement administrator be paid?

Class Counsel have been working on this case well before the case was filed on October 7, 2019. They will apply for the customary fee of up to 35% of the Total Settlement Amount (i.e., \$787,500) and reimbursement of actual litigation costs incurred during the litigation which should not exceed \$40,000. Plastikon Industries will bear its own attorneys' fees and costs outside of this settlement. Class Counsel will further apply for a class representative service payment of \$10,000 to each Plaintiff to recognize Plaintiffs' services to the class action, giving a general release for all their claims (not just wage and hour claims) and for assuming the risk of paying the litigation costs incurred by Class Counsel and Plastikon Industries in the event of an unsuccessful outcome in this case at trial or on appeal. Additionally, the Court-appointed Settlement Administrator's costs (estimated to be approximately \$12,000.00 but potentially up to \$_____, depending on whether the class size increases during the settlement negotiation and approval process) associated with mailing and processing Class Members' claims will be deducted from the settlement fund.

13. What if I need additional information?

For a more detailed statement of the matters involved in the Action and the settlement, you may refer to the pleadings, the Joint Stipulation of Class Action and PAGA Settlement, and other papers filed in the Action. The operative First Amended Complaint and Joint Stipulation of Class Action and PAGA Settlement are available at: [WEBSITE MAINTAINED BY CLAIMS ADMINISTRATOR OR PLAINTIFF'S COUNSEL].

The entire pleadings and other records in this litigation may be examined online on the Alameda County Superior Court's website, known as "DomainWeb," at <https://publicrecords.alameda.courts.ca.gov/PRS>. After arriving at the website, click the "Search By Case Number" link, then enter RG19038227 as the case number and click "SEARCH." Images of every document filed in the case may be viewed through the "Register of Actions" at a minimal charge. You may also view images of every document filed in the case free of charge by using one of the computer kiosks available at each court location that has a facility for civil filings, including the Rene C. Davidson Courthouse, located at 1225 Fallon St., Oakland, CA 94612, or at the Hayward Hall of Justice, located at 24405 Amador St., Hayward, CA 94544, between 8:30 a.m. and 2:30 p.m., Monday through Friday, excluding Court Holidays.

All inquiries, opt-outs, or objections to the settlement, should be directed to:

Phoenix Settlement Administrators
P.O. Box 7208
Orange, CA 92863
Telephone: (800) 523-5773
Email: notice@phoenixclassaction.com

Refer to the [Bandril v. Plastikon Industries](#) Class Action Settlement.

**PLEASE DO NOT WRITE OR TELEPHONE THE COURT FOR INFORMATION ABOUT
THE PROPOSED SETTLEMENT OR THIS LAWSUIT**

THE COURT HAS APPROVED THIS NOTICE.