

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
COUNTY DEPARTMENT, CHANCERY DIVISION

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4251 P/D
4217

PAUL SAYAS and BENIAMIN VARO, on)
behalf of themselves and)
similarly situated individuals,) Case No. 2020 CH 00201
)
Plaintiffs,) Jury Demand
)
v.) Judge Allen P. Walker
)
BIOMETRIC IMPRESSIONS CORP.,)
)
Defendant.)

PRELIMINARY APPROVAL ORDER

This matter having come before the Court on Plaintiffs’ Motion for and Memorandum in Support of Preliminary Approval of Class Action Settlement of the above-captioned matter between Paul Sayas and Benjamin Varo (“Plaintiffs”) and Defendant Biometric Impressions Corp. (“Defendant” or “BIC”), as set forth in the Class Action Settlement Agreement (the “Settlement Agreement”) between Plaintiffs and Defendant, and the Court having duly considered the papers and arguments of counsel, the Court hereby finds and orders as follows:

1. Unless defined herein, all defined terms in this order shall have the respective meanings ascribed to the same terms in the Settlement Agreement.

Certification of the Settlement Class

2. The Court has conducted a preliminary evaluation of the settlement set forth in the Settlement Agreement. Based on this preliminary evaluation, the Court finds that the Settlement Class meets all applicable requirements of Section 2-801 of the Illinois Code of Civil Procedure for settlement purposes only, including that the Settlement Class is sufficiently numerous, that there are questions of law and fact common to members of the Settlement Class that predominate, that the proposed Class Representatives fairly and adequately protects the interests of the

Settlement Class, and that class treatment is an appropriate method for the fair and efficient adjudication of the Action.

3. Specifically, the Court preliminarily finds that the proposed Settlement Class readily satisfies the numerosity requirement as it includes over 100,000 members.

4. The Court further preliminarily finds common issues of law and fact predominate insofar as Plaintiffs' and the proposed Settlement Class's claims are based upon the same common contention and alleged conduct by Defendant. These common questions of law and fact include, but are not limited to, whether or not: 1) Defendant collected, captured or otherwise obtained Settlement Class Members' fingerprints or biometric information; 2) Defendant properly informed Settlement Class Members of its specific purposes for collecting, using, and storing their biometric identifiers or biometric information; 3) Defendant obtained a written release (as defined in 740 ILCS 14/10) to collect, use, and store Settlement Class Members' biometric identifiers or biometric information; 4) Defendant developed a written policy, made available to the public, establishing a retention schedule and guidelines for permanently destroying biometric identifiers or biometric information when the initial purpose for collecting or obtaining such identifiers or information has been satisfied or within three (3) years of Settlement Class Members' last interaction Defendant; 6) Defendant created a material risk that Settlement Class Members' biometric identifiers or biometric information may be unlawfully accessed by third parties; and 6) alleged violations of BIPA were committed negligently or recklessly. Because these questions arise out of Defendant's uniform course of conduct as to all members of the proposed Settlement Class, all will have common, class-wide answers.

5. The Court also preliminarily finds that Plaintiffs' interests are representative of and consistent with the interests of the proposed Settlement Class and that Paul Sayas and Benjamin

Varo have demonstrated that they can, have, and will continue to fairly and adequately represent the class.

6. The Court likewise preliminarily finds that Settlement Class Counsel will also fairly and adequately protect the interests of the Settlement Class Members.

7. The Court preliminarily finds that a class action is the most appropriate way to fairly and efficiently resolve the claims at issue, as it allows the Court to swiftly evaluate common issues regarding Defendant's alleged fingerprint collecting practices, generating a uniform result that will apply to all similarly situated persons.

8. Pursuant to Section 2-801 of the Illinois Code of Civil Procedure, and for settlement purposes only, the Court certifies the following Settlement Class, consisting of:

All persons who were fingerprinted by BIC: (a) between January 8, 2015, and August 14, 2023, and (b) for whom such fingerprinting services were *not* paid for by the State of Illinois pursuant to the CMS Contract.

9. The following entities and individuals are excluded from the Settlement Class: (a) Defendant's officers and directors, and their immediate family members; (b) judicial officers and their immediate family members and associated court staff assigned to this case; and (c) all those otherwise in the Settlement Class who timely and properly exclude themselves from the Settlement Class as provided in this Agreement.

Preliminary Approval of the Settlement

10. The Court further finds that: (1) there is good cause to believe that the Settlement Agreement is fair, reasonable, and adequate, (2) the Settlement Agreement has been negotiated at arm's length between experienced attorneys familiar with the legal and factual issues of this case, and (3) the Settlement warrants Notice of its material terms to the Settlement Class for their consideration and reaction. Therefore, the Court grants preliminary approval of the Settlement.

11. For settlement purposes only, the Court hereby approves the appointment of Plaintiffs Paul Sayas and Benjamin Varo as Class Representatives.

12. For settlement purposes only, the Court hereby approves the appointment of the following attorneys as Class Counsel and finds that they are competent and capable of exercising the responsibilities of Class Counsel:

Elissa Hobfoll
Bradley Levison
Herschman Levison Hobfoll PLLC
141 S. LaSalle St., Ste. 1302-G
Chicago, IL 60605
Firm ID No. 64134

Notice and Administration

13. Epiq LLC is hereby appointed as Settlement Administrator and shall be required to perform all of the duties of the Settlement Administrator as set forth in the Settlement Agreement and this order.

14. The Court approves the proposed plan for giving Notice to the Settlement Class, which includes direct Notice via U.S. Mail and email (where available), and the creation of the Settlement Website, as fully described in the Settlement Agreement. The plan for giving Notice, in form, method, and content, fully complies with the requirements of 735 ILCS 5/2-803 and due process and is due and sufficient notice to all persons in the Settlement Class.

15. The Court hereby directs the Parties and Settlement Administrator to disseminate the Notice to the Settlement Class no later than **November 24, 2023** (the “Notice Date”).

Exclusions

16. All persons who meet the definition of the Settlement Class and who wish to exclude themselves from the Settlement Class must submit their request for exclusion in writing no later than the Objection/Exclusion Deadline of **January 8, 2024**. The date of

Objection/Exclusion Deadline shall be set forth clearly in the Notice and on the Settlement Website.

17. To be valid, any request for exclusion must (1) be in writing; (2) identify the case name *Sayas v. Biometric Impressions Corp.*, No. 2020-CH-00201 (Cir. Ct. Cook Cty. Ill.); (3) state the full name and current address of the person in the Settlement Class seeking exclusion; (4) be signed by the person seeking exclusion; and (5) be postmarked or received by the Settlement Administrator on or before **January 8, 2024**. The Settlement Administrator shall create a dedicated e-mail address to receive exclusion requests electronically. Each request for exclusion must also contain a statement to the effect that “I hereby request to be excluded from the proposed Settlement Class in *Sayas v. Biometric Impressions Corp.*, No. 2020-CH-00201 (Cir. Ct. Cook Cty. Ill.).” A request for exclusion that does not include all of the foregoing information, that is sent to an address or e-mail address other than that designated in the Notice, or that is not postmarked or electronically delivered to the Settlement Administrator within the time specified, shall be invalid and the persons serving such a request shall be deemed to remain Settlement Class Members and shall be bound as Settlement Class Members by this Settlement Agreement, if finally approved. No person may request to be excluded from the Settlement Class through “mass” or “class” opt-outs.

Objections

18. Any Settlement Class Member may comment in support of, or in opposition to, the Settlement Agreement at their own expense; provided, however, that all comments and objections must be (1) filed with the Court, and (2) postmarked, e-mailed, or delivered to Class Counsel (elissa@hlhlawyers.com) and Defendant’s Counsel (cdean@mcdonaldhopkins.com) no later than the Objection/Exclusion Deadline of **January 8, 2024**.

19. Any Settlement Class Member who intends to object to the Settlement Agreement must present the objection in writing, which must be personally signed by the objector and must include: (1) the Settlement Class Member's full name and current address, (2) a statement that he or she believes himself or herself to be a member of the Settlement Class, (3) the specific grounds for the objection, (4) all documents or writings that the Settlement Class Member desires the Court to consider, (5) the name and contact information of any and all attorneys representing, advising, or in any way assisting the objector in connection with the preparation or submission of the objection or who may profit from the pursuit of the objection, and (6) a statement indicating whether the objector intends to appear at the Final Approval Hearing (either personally or through counsel, who must file an appearance or seek *pro hac vice* admission). If an objecting Class Member is represented by counsel, the objection must be through the Court's eFileIL system.

20. Any Settlement Class Member who fails to timely file a written objection with the Court and notice of his or her intent to appear at the Final Approval Hearing in accordance with the terms of this order and as detailed in the Notice, and at the same time provide copies to designated counsel for the Parties, shall not be permitted to object to the Settlement Agreement at the Final Approval Hearing, and shall be foreclosed from seeking any review of the Settlement Agreement, the Final Approval Order, or Alternative Approval Order, by appeal or other means, and shall be deemed to have waived his or her objections and be forever barred from making any such objections in the Action or any other action or proceeding.

Claims Deadline

21. All Claim Forms must be postmarked or submitted on the Settlement Website by **February 22, 2024** (the "Claims Deadline") to be considered timely.

Final Approval Hearing

22. On **March 5, 2024 at 11:00 a.m.** or at such other date and time later set by Court order, this Court will hold a Final Approval Hearing on the fairness, adequacy, and reasonableness of the Settlement Agreement, and to determine whether: (1) final approval of the Settlement Agreement should be granted and (2) Class Counsel’s application for a Fee Award, and an incentive award to the Class Representative, should be granted.

23. Class Counsel shall file papers in support of their Fee Award and the Class Representatives’ incentive award (collectively, the “Fee and Expense Application”) with the Court on or before **February 20, 2024** (i.e., at least 14 days prior to the Final Approval Hearing).

24. Plaintiff shall file his papers in support of final approval of the Settlement Agreement, and in response to any objections, with the Court on or before **February 20, 2024** (i.e., at least 14 days prior to the Final Approval Hearing).

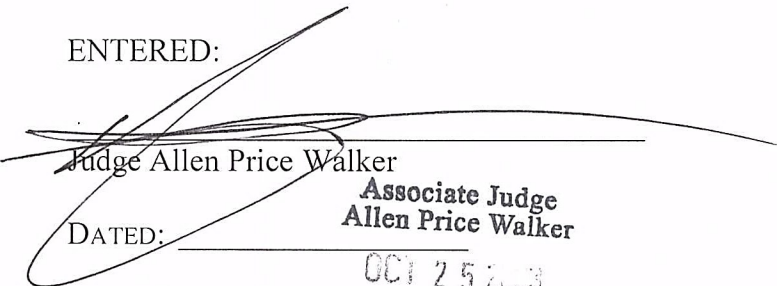
Summary of Deadlines

November 24, 2023 [30 days after the date of the Preliminary Approval Order]	Deadline for notice of the Settlement to be sent to the Settlement Class Members
January 8, 2024 [75 days after Preliminary Approval]	Deadline for Settlement Class Members to request exclusion or file objections (Opt-Out and Objection Deadline)
February 22, 2024 [120 days after the Preliminary Approval]	Deadline for Settlement Class Members to submit claims

<p>February 20, 2024</p> <p>[At least 14 days prior to the date of the Final Approval Hearing]</p>	<p>Deadline for Parties to file the following:</p> <p>(1) List of persons who made timely and proper Requests for Exclusion (under seal);</p> <p>(2) Proof of Class Notice;</p> <p>(3) Petition for attorneys' fees and costs; and</p> <p>(4) Motion and memorandum in support of final approval, including responses to any objections.</p>
<p>March 5, 2024 at 11:00 a.m.</p> <p>[At least 120 days after the date of the Preliminary Approval Order]</p>	<p>Final Approval Hearing</p>

IT IS SO ORDERED.

ENTERED:


 Judge Allen Price Walker

**Associate Judge
 Allen Price Walker**

DATED: _____

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