

Exhibit 3

Hearing Date: 3/14/2023 9:30 AM
Location: Court Room 2502
Judge: Demacopoulos, Anna Helen

12-Person Jury

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IRIS Y. MARTINEZ
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**IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
COUNTY DEPARTMENT, CHANCERY DIVISION**

ROBIN COOPER and DARNEISHA)
SMITH, individually and on behalf of)
similarly situated individuals,)
Plaintiffs,)
)
v.)
)
HID GLOBAL CORPORATION, a)
Delaware corporation,)
)
Defendant.)

No. 2022CH11116

Hon.

Jury Trial Demanded

CLASS ACTION COMPLAINT WITH JURY DEMAND

Plaintiffs, Robin Cooper and Darneisha Smith (“Plaintiffs”), individually and on behalf of other similarly situated individuals, bring this Class Action Complaint against Defendant HID Global Corporation (“HID” or “Defendant”), for its violations of the Illinois Biometric Information Privacy Act, 740 ILCS 14/1, *et seq.* (“BIPA”), and to obtain redress for persons injured by its conduct. Plaintiffs allege the following based on personal knowledge as to their own acts and experiences, and as to all other matters, upon information and belief, including an investigation conducted by their attorneys.

INTRODUCTION

1. BIPA defines a “biometric identifier” as any personal feature that is unique to an individual, including fingerprints and palm scans. 740 ILCS § 14/10.
2. “Biometric information” is any information based on a biometric identifier, regardless of how it is converted or stored. 740 ILCS § 14/10. Collectively, biometric identifiers and biometric information are known as “biometrics.”

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3. Under BIPA, biometric information is treated and regulated the same as biometric identifiers.

4. This case concerns the misuse of individuals' biometrics by Defendant HID, a leading provider of timekeeping and access control management services for businesses. HID offers biometric timekeeping solutions to its clients to perform workforce management services on their behalf, including the timekeeping biometric system utilized by Plaintiffs.

5. Defendant's technology captures the biometric identifiers of its clients' employees and transmits information and data derived from those biometric identifiers directly to Defendant's server-based time and attendance systems. This information that Defendant receives and possesses is generated and derived from the scanning of Plaintiffs' and other Class members' biometric identifiers. Thus, Defendant obtains and possesses *biometric information*.

6. BIPA provides, *inter alia*, that private entities, such as Defendant, may not collect, capture, purchase, or otherwise obtain an individual's biometric identifiers, such as fingerprint scans, or any biometric information, including any data regardless of the manner in which it is converted or stored, unless they first:

- a. inform that person in writing that biometric identifiers or biometric information will be collected or stored;
- b. inform that person in writing of the specific purpose and the length of term for which such biometric identifiers or biometric information is being collected, stored and used; and
- c. receive a written release from the person for the collection of their biometric identifiers or biometric information.

740 ILCS 14/15(b)(1)-(3).

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7. In addition, private entities are prohibited from profiting from an individual's biometric identifiers or biometric information, as well as disclosing or disseminating the same to third parties without informed consent. 740 ILCS 14/15(c)&(d).

8. Indeed, "biometrics are unlike other unique identifiers that are used to access finances or other sensitive information," 740 ILCS 14/5, and therefore require special treatment compared to other types of personal information. For example, even sensitive information like Social Security numbers, when compromised, can be changed. "Biometrics, however, are biologically unique to each individual and therefore, once compromised, such individual has no recourse, is at a heightened risk for identity theft in, and is likely to withdraw from biometric facilitated transactions." 740 ILCS 14/5.

9. Plaintiffs bring this action for statutory damages and other remedies as a result of Defendant's conduct in violating their biometric privacy rights under BIPA.

10. Compliance with BIPA is straightforward and minimally-burdensome. For example, the necessary disclosures may be accomplished through a single sheet of paper or the electronic equivalent.

11. BIPA's requirements bestow upon consumers a right to privacy in their biometrics and a right to make an informed decision when electing to provide or withhold biometrics.

12. The deprivation of the statutory rights conferred by BIPA constitutes the actual injuries the Illinois Legislature sought to prevent.

13. Notwithstanding the clear and unequivocal requirements of the law, Defendant disregards Illinois citizens' statutorily protected privacy rights and unlawfully collects, stores, disseminates and uses individuals' biometrics through its invasive timekeeping and identity verification program.

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14. On behalf of themselves and the proposed Class defined below, Plaintiffs seek an injunction requiring Defendant to comply with BIPA, as well as an award of statutory damages to the Class members, together with costs and reasonable attorneys' fees.

PARTIES

15. Defendant HID Global Corporation is a corporation organized under the laws of the state of Delaware. Defendant's principal place of business is in Austin, Texas. Defendant is a vendor of timekeeping and access control management products and services, and sells such products and services to clients located in Illinois, including in Cook County, and knowingly transacts with Illinois residents in Illinois.

16. At all relevant times, Plaintiff Cooper has been a resident and citizen of the State of Illinois and worked for one of Defendant's commercial customers in Cook County, Illinois.

17. At all relevant times, Plaintiff Smith has been a resident and citizen of the State of Illinois and worked for one of Defendant's commercial customers in Cook County, Illinois.

JURISDICTION AND VENUE

18. This Court may assert personal jurisdiction over Defendant pursuant to 735 ILCS 5/2-209 in accordance with the Illinois Constitution and the Constitution of the United States, because Defendant is knowingly and intentionally doing business within this State and because Plaintiffs' claims arise out of Defendant's unlawful in-state actions, as Defendant captured, collected, stored, and used Plaintiffs' biometric identifiers and/or biometric information in this State.

19. Venue is proper in Cook County pursuant to 735 ILCS 5/2-101, because Defendant is doing business in Cook County and thus resides there under § 2-102, and because the biometric transaction out of which this cause of action arises occurred in Cook County.

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FACTUAL ALLEGATIONS

20. Defendant HID is a leading provider of timekeeping and access control management services for businesses in Illinois.

21. As part of its business model, Defendant provides its client employers with biometric-enabled timekeeping hardware, such as fingerprint scanners, which are linked to Defendant's servers.

22. Defendant has provided biometric timekeeping technology and services to many businesses in Illinois including the restaurant chain Hooters.

23. Accordingly, when an end-user of Defendant's biometric-enabled technology interacts with the technology, for example by scanning their fingerprint and associated biometric information using one of Defendant's fingerprint scanning timeclocks, the data generated is transmitted to Defendant for storage and authentication purposes.

24. Defendant collects, stores, and otherwise uses information and data generated from the biometric timekeeping systems it provided to Hooters, as well as other clients in Illinois, in order to conduct employee management, authentication and timekeeping services for them.

25. On information and belief, Defendant also discloses and/or disseminates biometric data to third parties that host Defendant's servers for data storage and redundancy purposes.

FACTS SPECIFIC TO PLAINTIFF COOPER

26. From approximately December 2017 to November 2021, Plaintiff Robin Cooper worked at Hooters, a restaurant and bar located at 17060 Torrence Ave, Lansing, Illinois 60438.

27. Hooters uses biometric capture technology provided and serviced by Defendant HID to monitor and track its employees, including Plaintiff Cooper's, time on the job.

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28. During her employment with Defendant's client, Hooters, Plaintiff Cooper was required to scan her biometric identifiers, *i.e.* her fingerprint, into one of Defendant HID's biometric-enabled timekeeping devices each time she clocked in or clocked out of a shift at work.

29. Each time Plaintiff Cooper scanned her fingerprint into Defendant's timeclock, the timeclock collected her biometric identifiers, and converted them to an electronic format *derived from* those identifiers, *i.e.* biometric information. Defendant's timeclock then transmitted Plaintiff's biometric information to Defendant and/or Defendant's servers used to operate Defendant's employee-management services.

30. Despite capturing, collecting and storing Plaintiff Cooper's biometrics, Defendant failed to provide any written disclosures describing its purpose for using Plaintiff's biometrics, or the duration of such use, and it failed to obtain informed written consent from Plaintiff to use her biometrics, all in violation of Section 15(b) of BIPA.

31. On information and belief, Defendant then disclosed and/or disseminated Plaintiff Cooper's biometric data to third parties that host Defendant's servers for data storage purposes, but Defendant failed to obtain her consent to do so as required by 740 ILCS 14/15(d).

32. Defendant also unlawfully profited from the fingerprint biometrics it obtained from consumers, including Plaintiff Cooper and the other Class members, as Defendant is paid by its clients for access to Defendant's timekeeping biometric platform in violation of 740 ILCS 14/15(c)

33. By failing to comply with BIPA, Defendant has violated Plaintiff Cooper's substantive state rights to biometric privacy.

FACTS SPECIFIC TO PLAINTIFF SMITH

34. From approximately June 2017 to October 2022, Plaintiff Darneisha Smith worked at Hooters, a restaurant and bar located at 9159 S Cicero Ave, Oak Lawn, Illinois 60453.

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35. Hooters uses biometric capture technology provided and serviced by Defendant HID to monitor and track its employees,' including Plaintiff Smith's, time on the job.

36. During her employment with Defendant's client, Hooters, Plaintiff Smith was required to scan her biometric identifiers, *i.e.* her fingerprint, into one of Defendant HID's biometric-enabled timekeeping devices each time she clocked in or clocked out of a shift at work.

37. Each time Plaintiff Smith scanned her fingerprint into Defendant's timeclock, the timeclock collected her biometric identifiers, and converted them to an electronic format *derived from* those identifiers, *i.e.* biometric information. Defendant's timeclock then transmitted Plaintiff's biometric information to Defendant and/or Defendant's servers used to operate Defendant's employee-management services.

38. Despite collecting and storing Plaintiff Smith's biometrics, Defendant failed to provide any written disclosures describing its purpose for using Plaintiff's biometrics, or the duration of such use, and it failed to obtain informed written consent from Plaintiff to use her biometrics, all in violation of Section 15(b) of BIPA.

39. On information and belief, Defendant then disclosed and/or disseminated Plaintiff Smith's biometric data to third parties that host Defendant's servers for data storage purposes, but Defendant failed to obtain her consent to do so as required by 740 ILCS 14/15(d).

40. Defendant also unlawfully profited from the fingerprint biometrics it obtained from consumers, including Plaintiff Smith and the other Class members, as Defendant is paid by its clients for access to Defendant's timekeeping biometric platform in violation of 740 ILCS 14/15(c)

41. By failing to comply with BIPA, Defendant has violated Plaintiff Smith's substantive state rights to biometric privacy.

CLASS ALLEGATIONS

42. Plaintiffs bring this action on behalf of themselves and similarly situated individuals pursuant to 735 ILCS § 5/2-801. Plaintiffs seek to represent a Class defined as follows:

Class: All individuals whose biometric identifiers or biometric information were captured, collected, received through trade, otherwise obtained, used, transmitted, and/or disseminated by or on behalf of Defendant or its technology within the State of Illinois any time within the applicable limitations period.

43. Excluded from the Class are any members of the judiciary assigned to preside over this matter; any officer or director of Defendant; and any immediate family member of such officers or directors.

44. Upon information and belief, there are at least hundreds of members of the Class, making the members of the Class so numerous that joinder of all members is impracticable. Although the exact number of members of the Class is currently unknown to Plaintiffs, the members can be easily identified through Defendant's personnel records.

45. Plaintiffs' claims are typical of the claims of the member of the Class they seek to represent, because the factual and legal bases of Defendant's liability to Plaintiffs and the other members are the same, and because Defendant's conduct has resulted in similar injuries to Plaintiffs and to the Class. As alleged herein, Plaintiffs and the Class have all suffered damages as a result of Defendant's BIPA violations and common law transgressions.

46. There are many questions of law and fact common to the claims of Plaintiffs and the Class, and those questions predominate over any questions that may affect individual members. Common questions for the Class include, but are not limited to, the following:

- a. Whether Defendant's biometric-enabled hardware and system collect, capture, receive through trade, or otherwise obtain biometric identifiers or biometric information;

- b. Whether Defendant obtains, collects, or relies on data or information that is derived or based on biometric identifiers;
- c. Whether Defendant provided written disclosures to the Class notifying them that their biometrics were being collected, and the length of term for which Defendant would use such biometrics;
- d. Whether Defendant obtained a written release from the Class before capturing, collecting, or otherwise obtaining their biometric identifiers or biometric information;
- e. Whether Defendant disseminated or disclosed the Class members' biometrics to third parties with their consent;
- f. Whether Defendant's conduct violates BIPA;
- g. Whether Defendant's BIPA violations are willful or reckless; and
- h. Whether Plaintiffs and the Class are entitled to damages and injunctive relief.

47. Absent a class action, most members of the Class would find the cost of litigating their claims to be prohibitively expensive and would thus have no effective remedy. The class treatment of common questions of law and fact is superior to multiple individual actions or piecemeal litigation in that it conserves the resources of the courts and the litigants and promotes consistency and efficiency of adjudication.

48. Plaintiffs will fairly and adequately represent and protect the interests of the other members of the Class they seek to represent. Plaintiffs have retained counsel with substantial experience in prosecuting complex litigation and class actions. Plaintiffs and their counsel are committed to vigorously prosecuting this action on behalf of the other members of the Class and

have the financial resources to do so. Neither Plaintiffs nor their counsel have any interest adverse to those of the other members of the Class.

49. Defendant has acted and failed to act on grounds generally applicable to the Plaintiffs and the other members of the Class, requiring the Court's imposition of uniform relief to ensure compatible standards of conduct toward the members of the Class and making injunctive or corresponding declaratory relief appropriate for the Class as a whole.

COUNT I

**Violations of the Illinois Biometric Information Privacy Act, 740 ILCS 14/1, *et seq.*,
(On behalf of Plaintiffs and the Class)**

50. Plaintiffs incorporate the foregoing allegations as if fully set forth herein.

51. Defendant is a private entity under BIPA.

52. As described above, Plaintiffs and the Class members had their biometric identifiers, in the form of their fingerprints, and/or information or data derived therefrom, *i.e.* biometric information, collected, captured, received through trade or otherwise obtained by Defendant. See 740 ILCS 14/10.

53. Defendant captured, collected, stored, received through trade, used, and otherwise obtained Plaintiffs' and the Class members' biometrics through its biometric identity verification service without obtaining their informed written consent and without complying with BIPA.

54. Upon information and belief, Defendant disclosed or disseminated the biometric identifiers and/or biometric information of Plaintiffs and the Class members to at least one third party for data storage or redundancy purposes without obtaining their written consent to do so.

55. Plaintiffs and the Class members have been aggrieved by Defendant's failures to adhere to the following BIPA requirements, with each such failure constituting a separate and distinct violation of BIPA:

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- a. Defendant failed to inform Plaintiffs and the Class members in writing that their biometrics were being collected and stored, prior to such collection or storage, as required by 740 ILCS 14/15(b)(1);
- b. Defendant failed to inform Plaintiffs and the Class members in writing of the specific purpose for which their biometrics were being captured, collected, stored, and used, as required by 740 ILCS 14/15(b)(2);
- c. Defendant failed to inform Plaintiffs and the Class members in writing of the specific length of term their biometrics were being captured, collected, stored, and used, as required by 740 ILCS 14/15(b)(2);
- d. Defendant failed to obtain a written release from Plaintiffs and the Class members, as required by 740 ILCS 14/15(b)(3); and
- e. Defendant failed to obtain informed consent to disclose or disseminate the Class members' biometrics, as required by 740 ILCS 14/15(d)(1).

56. As alleged herein, Defendant also unlawfully profited from the biometrics it obtained from its clients, including Plaintiffs and the other Class members, as Defendant was paid by its clients for their use of Defendant's biometric verification platform, such that biometrics constituted a necessary element of Defendant's for-profit model. 740 ILCS 14/15(c).

57. By capturing, collecting, storing, using, and disseminating Plaintiffs' and the Class members' biometrics as described herein, Defendant denied Plaintiffs their respective rights to biometric information privacy, as set forth in BIPA.

58. BIPA provides for statutory damages of \$5,000 for each willful and/or reckless violation of BIPA and, alternatively, damages of \$1,000 for each negligent violation of BIPA.

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59. Defendant's violations of BIPA, as set forth herein, were knowing and willful, or were at least in reckless disregard of the statutory requirements, as BIPA has been in existence since 2008, and BIPA's minimally-burdensome compliance regime may be satisfied with a single sheet of paper or a single webpage screen. Alternatively, Defendant negligently failed to comply with BIPA disclosure, consent, and policy posting requirements.

60. Accordingly, with respect to Count I, Plaintiffs, on behalf of themselves and the proposed Class, pray for the relief set forth below.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs, on behalf of themselves and the proposed Class, respectfully request that this Court enter an Order:

- a. Certifying the Class as defined above, appointing Plaintiffs as class representatives and the undersigned as class counsel;
- b. Declaring that Defendant's actions, as set forth herein, violate BIPA;
- c. Awarding injunctive and equitable relief as necessary to protect the interests of Plaintiffs and the Class by requiring Defendant to comply with the BIPA requirements for the capture, collection, storage, use, and dissemination of biometric identifiers and biometric information;
- d. Awarding statutory damages of \$5,000 for each willful and/or reckless violation of the BIPA, pursuant to 740 ILCS 14/20(1);
- e. Awarding statutory damages of \$1,000 for each negligent violation of the BIPA, pursuant to 740 ILCS 14/20(3);
- f. Awarding reasonable attorneys' fees, costs, and other litigation expenses pursuant to 740 ILCS 14/20(3);

- g. Awarding pre- and post-judgment interest, as allowable by law; and
- h. Awarding such further and other relief as the Court deems just and equitable.

JURY DEMAND

Plaintiffs request trial by jury of all claims that can be so tried.

Dated: November 11, 2022

Respectfully Submitted,

ROBIN COOPER & DARNEISHA SMITH,
individually and on behalf of similarly situated
individuals

By: /s/ Andrew T. Heldut
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ClassAction.org

This complaint is part of ClassAction.org's searchable class action lawsuit database and can be found in this post: [HID Global Collected, Stored Users' Biometric Data Without Consent, Class Action Alleges](#)
