

☐ YES ☒ NO

EXHIBITS

CASE NO. 25CH08774

DATE: 8/25/25

CASE TYPE: Class Action

PAGE COUNT: 17

CASE NOTE

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

FIZA JAVID, individually and on behalf)
of all others similarly situated,)

2025CH08774

Plaintiff,)

Case No.

v.)

M.A.C. COSMETICS INC.,)

JURY TRIAL DEMANDED

Defendant.)

FILED
8/25/2025 12:39 PM
Mariyana T. Spyropoulos
CIRCUIT CLERK
COOK COUNTY, IL
2025CH08774
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CLASS ACTION COMPLAINT

Plaintiff Fiza Javid, individually and on behalf of all other persons similarly situated, brings this class action lawsuit against Defendant M.A.C. Cosmetics Inc. ("Defendant" or "MAC") for violations of the Illinois Biometric Information Privacy Act ("BIPA"), 740 ILCS 14/1 *et seq.* Plaintiff alleges the following facts based on personal knowledge, investigation by her counsel, and on information and belief where indicated.

NATURE OF THE ACTION

1. Plaintiff brings this action for damages and other legal and equitable remedies resulting from Defendant illegally capturing, collecting, obtaining, storing, and using her and other similarly-situated individuals' biometric identifiers and biometric information (collectively, "Biometrics") without first obtaining their informed written consent, in direct violation of BIPA.

2. The Illinois legislature has found that "[b]iometrics are unlike other unique identifiers" such as social security numbers, which can be changed if compromised. 740 ILCS 14/5(c). "Biometrics . . . are biologically unique to the individual; therefore, once compromised, the individual has no recourse, is at heightened risk for identity theft, and is likely to withdraw from biometric-facilitated transactions." *Id.*

3. Recognizing the need to protect citizens from these risks, Illinois enacted BIPA, which prohibits private entities like Defendant from collecting, capturing, purchasing, receiving through trade, or otherwise obtaining an individual's Biometrics unless they first: (1) inform the person in writing that biometric identifiers or information will be collected or stored; (2) inform the person in writing of the specific purpose and length of term for which the biometric identifiers or information is being collected, stored, and used; and (3) receive a written release signed by the person authorizing the collection, storage, and use of their biometric identifiers and information. *See* 740 ILCS 14/15(b).

4. In direct violation of these requirements, Defendant captured, collected, obtained, stored, and used—without first providing notice, making the required disclosures, and receiving signed written consent—the facial geometry and associated personal identifying information of thousands if not millions of unwitting Illinois residents on whom MAC used its biometric scanner, in MAC stores and via MAC's website, to virtually apply makeup to their faces.

5. To remedy the serious but often intangible harms that accompany invasions of biometric privacy rights, BIPA creates a private right of action authorizing "[a]ny person aggrieved by a violation of" BIPA to sue and recover liquidated damages of \$1,000 "for each violation" that is negligent, and \$5,000 "for each violation" that is intentional or reckless, plus reasonable attorneys' fees and costs including expert witness fees and litigation costs, as well as injunctive relief. *See* 740 ILCS 14/20(a).

6. Plaintiff brings this action to prevent Defendant from further violating the privacy rights of Illinois residents, and to recover statutory damages for Defendant's unauthorized collection, capture, storage, obtainment, and use of those individuals' Biometrics in violation of BIPA.

PARTIES

7. Plaintiff Fiza Javid is and has been at all times relevant a resident of the State of Illinois who resides in Chicago.

8. Defendant M.A.C. Cosmetics Inc. is a corporation organized under Delaware law with its headquarters and, upon information and belief, principle place of business in New York. MAC sells makeup and cosmetics products and services through its website in Illinois and at various brick-and-mortar retail locations throughout Illinois including in Chicago.

9. MAC does business in Illinois and maintains a registered agent in Illinois.

JURISDICTION AND VENUE

10. This Court has jurisdiction over Defendant pursuant to 735 ILCS 5/2-209(a)(1), 735 ILCS 5/2-209(a)(2), 735 ILCS 5/2-209(b)(4), and 735 ILCS 5/2-209(c). The alleged tortious acts and conduct that are the subject of this action occurred in Illinois, Defendant transacts business in Illinois, and Defendant deliberately targeted and continues to target business activity in Illinois and purposefully avails itself of the laws, protections, and advantages of doing business in Illinois with Illinois consumers like Plaintiff, including by maintaining stores in Illinois wherein it captured Plaintiff's Biometrics.

11. Venue is proper under 735 ILCS 5/2-101(1) and 735 ILCS 5/2-102(a) because Defendant conducts business in this county and is thus a resident of this County, and under 735 ILCS 5/2-101(2) because this is the county in which the transaction, events and omissions giving rise to the claims, or some part thereof, occurred.

FACTUAL BACKGROUND

I. Illinois's Biometric Information Privacy Act.

12. Biometrics are unlike other identifiers because they are permanent and biologically

unique to the particular individual. 740 ILCS 14/5(c).

13. For instance, every person's face has unique geometry comprised of quantitative measurements, such as the distances between key facial landmarks (*e.g.* lips, eyes, eyebrows, nose) and the ratios between those distances and landmarks. Once an image of an individual's face is scanned and its biometric measurements are captured, computers can use that data, with facial recognition technology that exists now and continues to mature, to identify that particular individual any other time that individual's face appears on the internet or in public—even if that biometric data is not accompanied by personal details like the individual's name, phone number, email address, etc.

14. Because people cannot simply change their fingerprints or facial geometry, the capture, collection, obtainment, use, storage, and handling of such biometric identifiers and biometric information derived therefrom creates a heightened risk of identity theft. *See* 740 ILCS 14/5(c). Moreover, as the Illinois legislature has found, the full ramifications of biometric technology are not fully known. *Id.* § 5(f).

15. Accordingly, in 2008, the Illinois legislature enacted BIPA due to the “very serious need [for] protections for the citizens of Illinois when it [comes to their] biometric information.” Illinois House Transcript, 2008 Reg. Sess. No. 276.

16. BIPA makes it unlawful for a company to collect, capture, purchase, receive through trade, or otherwise obtain a person's or a customer's biometric identifier or information unless the company first:

- a) informs the subject in writing that a biometric identifier or information is being collected or stored;
- b) informs the subject in writing of the specific purpose and length of term for which a biometric identifier or information is being collected, stored, and used; and

- c) receives a written release executed by the subject of the biometric identifier or information.

740 ILCS 14/15(b).

17. BIPA defines “written release” as “informed written consent.” 740 ILCS 14/10.

18. BIPA defines “biometric identifier” to mean “a retina or iris scan, fingerprint, voiceprint, or scan of hand or face geometry.” 740 ILCS 14/10.

19. BIPA defines “biometric information” to mean “any information, regardless of how it is captured, converted, stored, or shared, based on an individual’s biometric identifier used to identify an individual.” 740 ILCS 14/10.

20. As alleged below, Defendant’s ongoing practice of capturing, collecting, obtaining, storing and using individuals’ biometric identifiers (specifically, scans of their face geometry) and associated biometric information, without their prior informed written consent, violates BIPA § 15(b).

II. Plaintiff And Her Experience With Defendant’s Biometric Scanner.

21. On several occasions, including within the last five years, Plaintiff shopped at MAC’s store located in Woodfield Mall in Schaumburg Illinois.

22. While shopping at MAC’s store in Woodfield Mall, a MAC sales representative walking around the store approached Plaintiff to virtually “try on” the makeup Plaintiff was considering purchasing.

23. Plaintiff identified to the MAC sales representative the lipstick and lipliner Plaintiff was potentially interested in purchasing, at which point the sales representative scanned Plaintiff’s face to virtually apply the makeup to Plaintiff’s lips in a live video stream.

24. The MAC sales representative repeated this process for other items Plaintiff was potentially interested in purchasing.

25. The above was done wholly on devices MAC controlled and possessed.

26. Each and every time Plaintiff used MAC's in-store device to try on its products, the algorithms detected and identified her face in the videos, and captured a scan of her unique facial geometry, including the length, width, depth, and location of, as well as the distance and spacing between, various of her facial features and landmarks.

27. In addition, MAC has a similar process for its website users, like Plaintiff. MAC required Plaintiff to upload a preexisting photo of her face, turn on and use her device's camera via an interface on MAC's website to take a new photo of her face, or allow MAC's website to access her device's camera to begin a live video stream of her face to apply the products.

28. Each and every time Plaintiff virtually tried on makeup in MAC's store or on MAC's website, MAC scanned, captured, collected, and/or obtained, stored, accessed, and used her biometric identifiers and biometric information (*e.g.* scans of her face geometry, face templates).

29. Specifically, MAC's algorithms detected and identified her face in the photos and videos, and captured a scan of her unique facial geometry, including the length, width, depth, and location of, as well as the distance and spacing between, various of her facial features and landmarks.

30. MAC stored the scans of Plaintiff's face geometry extracted from the photos and videos, accessed the scans in order to detect and identify Plaintiff's key facial features and landmarks, and used that data to calculate and create a unique digital map of Plaintiff's face (*i.e.* a face template), which MAC stored.

31. MAC accessed the stored scans of Plaintiff's face geometry and/or Plaintiff's stored face templates, and used them to identify the appropriate location of Plaintiff's face to superimpose or "apply" the virtual makeup.

32. MAC's algorithms then used that data, combined with information about the virtual makeup, to superimpose or "apply" the makeup to that location on Plaintiff's face depicted in the photos and live video frames.

33. Each scan of Plaintiff's face geometry and face template is a distinct digital representation of, *inter alia*, the unique shape and geometry of her face—including the contours of, and distances between, her unique facial features and landmarks—that is highly detailed and can be used to identify Plaintiff.

34. Plaintiff has a MAC account that contains her name, date of birth, zip code, email address, date of birth, and a list of her past purchases—including those purchases she made in the MAC store when she virtually tried on makeup in MAC's store.

35. Plaintiff has a Facebook account that is searchable by her name and features at least one publicly-available photo of her face.

36. Defendant did not inform Plaintiff it would capture, collect, and/or otherwise obtain her Biometrics.

37. Defendant never provided Plaintiff with the requisite statutory disclosures nor an opportunity to prohibit or prevent the capture, collection, storage, or use of her unique biometric identifiers or biometric information.

38. Defendant did not obtain written consent from Plaintiff before capturing, collecting, and/or otherwise obtaining, storing, or using her biometric identifier or biometric information.

39. Defendant did not provide Plaintiff with, nor did she ever sign, a written release

allowing Defendant to capture, collect, otherwise obtain, store, or use her unique biometric identifiers or biometric information.

III. Defendant Captured, Collected, And Obtained Plaintiff's And The Class Members' Biometrics.

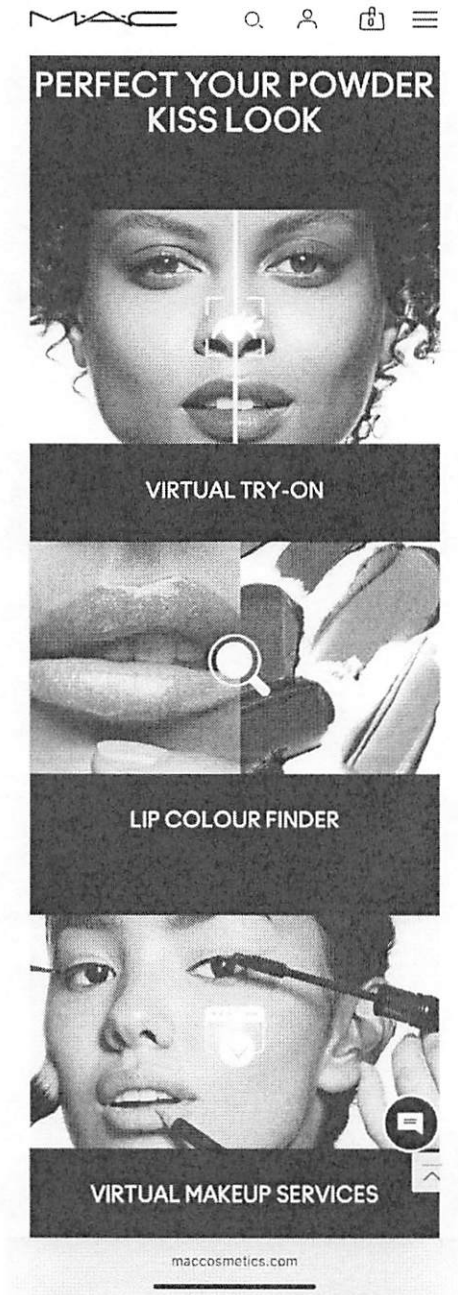
40. MAC encourages and invites people to use its programs as part of its sales and marketing efforts, in order to increase sales (*i.e.* conversion rates), purchase size, and website engagement time, reduce returns, and compete with other makeup retailers. (See Figures 1-4.)



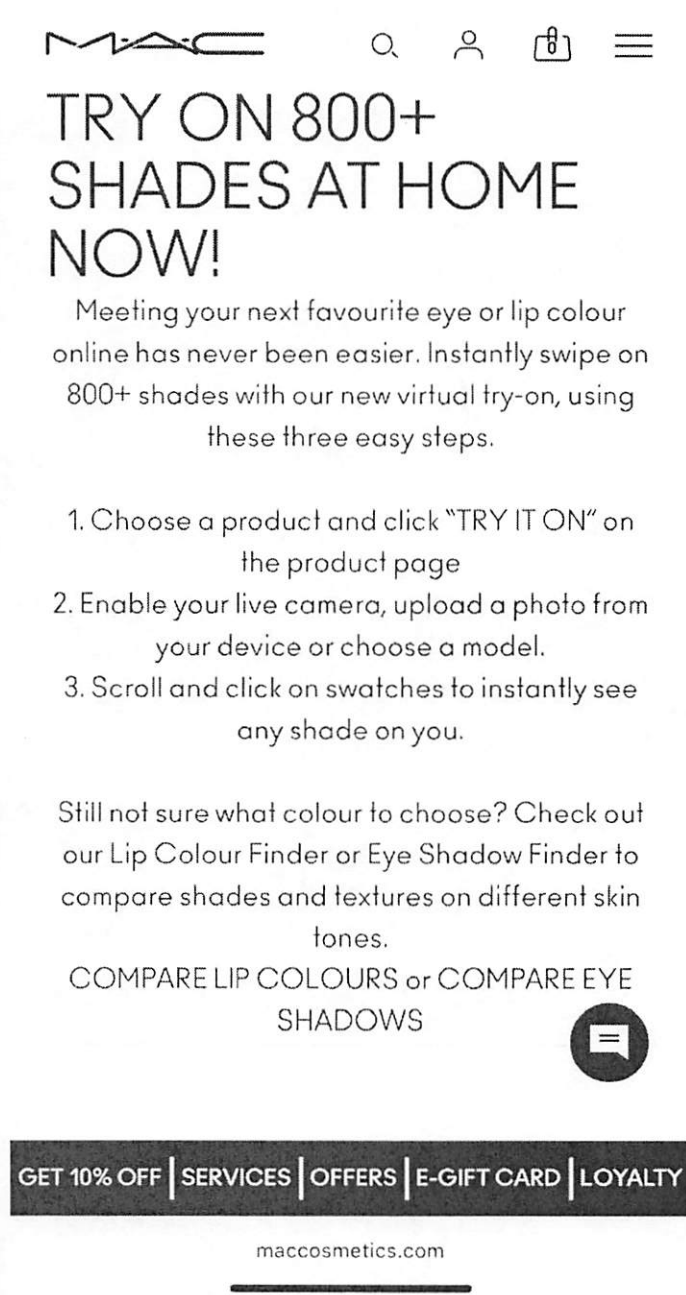
(Figure 1)



(Figure 2)



(Figure 3)



(Figure 4)

41. Each scan of face geometry and face template constitutes a "biometric identifier" as defined by BIPA. See 740 ILCS 14/10.

42. MAC stores the scan of face geometry and the face template generated from the scan of face geometry.

43. MAC through its algorithms accesses the stored scan of face geometry and/or stored face template, and uses it to identify the appropriate location of the person's face to superimpose or "apply" the virtual makeup.

44. The algorithms then use that data, combined with information about the virtual makeup, to accurately superimpose or "apply" the "makeup" to that location of the person's face depicted in the photo or live video frames, with the virtual makeup image moving and changing angles in real time to comport with the person's facial movements in the live video.

45. MAC must store each person's unique face-geometry scan and face template in order for the process of "applying" virtual makeup to the person's face to work.

IV. Defendant's Conduct Violates BIPA.

46. By capturing, collecting, obtaining, storing, and using Plaintiff's unique biometric identifiers and biometric information without her prior informed written consent, Defendant invaded Plaintiff's statutorily protected right to privacy in and control over her Biometrics.

47. Defendant's acts and omissions denied Plaintiff the opportunity to consider whether the terms of Defendant's capture, collection, obtainment, storage, and use of her biometric identifiers and biometric information were acceptable given the attendant risks, and denied her the ability to use the undisclosed information in the way BIPA envisioned, all of which harmed her concrete interests that the legislature sought to protect by enacting BIPA.

48. In violation of BIPA § 15(b)(1), Defendant did not inform Illinois consumers in writing that Defendant would be collecting from their selfies and live videos or storing their biometric identifiers and biometric information, before the consumers provided Defendant a selfie

or live video to virtually try on makeup, and Defendant captured, collected, and/or otherwise obtained from the consumers' selfies and live videos, and stored, the consumers' biometric identifiers and/or biometric information.

49. In violation of BIPA § 15(b)(2), Defendant did not inform Illinois consumers in writing of the specific purpose and length of term for which Defendant would be collecting, storing and using their biometric identifiers or information, before Defendant captured, collected, and/or otherwise obtained, and stored and used, those consumers' biometric identifiers and/or biometric information.

50. In violation of BIPA § 15(b)(3), Defendant did not receive written releases signed by Illinois consumers providing informed consent for Defendant to capture, collect, or otherwise obtain their biometric identifiers or biometric information, before Defendant captured, collected, and/or otherwise obtained their biometric identifiers and/or biometric information.

CLASS ALLEGATIONS

51. **Class Definitions:** Plaintiff brings this action on behalf of two classes of all similarly-situated individuals defined, subject to amendment, as follows:

In-Store Class

All individuals on whom MAC used its biometric scanner in any MAC store in Illinois.

Website Class

All individuals on whom MAC used its biometric scanner via any MAC website or platform while they were residing in Illinois.

52. Plaintiff represents and is a member of both classes. Excluded from the classes are Defendant and any entities in which Defendant has a controlling interest, Defendant's employees

and agents, the Judge to whom this action is assigned, and any member of the Judge's staff and immediate family.

53. Certification of Plaintiff's claims for classwide treatment is appropriate because Plaintiff can prove the elements of her claims on a classwide basis using the same evidence as would be used to prove those elements in individual actions alleging the same claims.

54. **Numerosity – 735 ILCS 5/2-801(1).** The number of persons within the classes is substantial, and is reasonably believed to include thousands of persons. It is, therefore, impractical to join each member of the classes as a named plaintiff. Further, the size and relatively modest value of the claims of the individual members of the classes renders joinder impractical. Accordingly, utilization of the class action mechanism is the most economically feasible means of determining and adjudicating the merits of this litigation. While the exact number of members is currently unknown, this information can be ascertained from Defendant's and third-parties' records. Class members can be notified about the pendency of this action through recognized, Court-approved methods of notice dissemination, such as U.S. Mail, electronic mail, internet postings, and/or published notice.

55. **Commonality and Predominance – 735 ILCS 5/2-801(2).** This action involves common questions of law and fact, which predominate over any questions affecting class members, including, without limitation:

- (a) whether Defendant captured, collected or otherwise obtained the class members' biometric identifiers or biometric information;
- (b) whether Defendant controlled the class members' biometric identifiers or biometric information;
- (c) whether Defendant informed the class members in writing that their biometric identifiers and biometric information are being collected or stored;

- (d) whether Defendant informed class members in writing of the specific purposes and length of term for which their biometric identifiers and biometric information are being collected, stored, and used;
- (e) whether Defendant received a signed written release (as defined in 740 ILCS 14/10) to capture, collect, obtain, use, and store each class member's biometric identifiers and biometric information;
- (f) whether Defendant permanently destroyed the class members' biometric identifiers and biometric information;
- (g) whether Defendant used the class members' biometric identifiers or biometric information to identify them;
- (h) whether Defendant violated BIPA; and
- (i) whether Defendant's violations of BIPA were negligent, reckless, or intentional.

56. **Adequacy of Representation – 735 ILCS 5/2-801(3).** Plaintiff has retained and is represented by qualified and competent counsel who are highly experienced in complex consumer class action litigation. Plaintiff and her counsel are committed to vigorously prosecuting this class action. Moreover, Plaintiff is able to fairly and adequately represent and protect the interests of each class. Neither Plaintiff nor her counsel have any interest adverse to, or in conflict with, the interests of the absent members of the classes. Plaintiff has raised viable statutory claims of the type reasonably expected to be raised by members of each class, and will vigorously pursue those claims.

57. **Superiority – 735 ILCS 5/2-801(4).** A class action is superior to other available methods for the fair and efficient adjudication of this controversy because individual litigation of the claims of all class members is impracticable. Even if every member of the classes could afford to pursue individual litigation, the Court system could not. It would be unduly burdensome to the courts in which individual litigation of numerous cases would proceed. Individualized litigation would also present the potential for varying, inconsistent or contradictory judgments, and would

magnify the delay and expense to all parties and to the court system resulting from multiple trials of the same factual issues. By contrast, the maintenance of this action as a class action, with respect to some or all of the issues presented herein, presents few management difficulties, conserves the resources of the parties and of the court system and protects the rights of each member of the classes. Plaintiff anticipates no difficulty in the management of this action as a class action. Class-wide relief is essential to compliance with BIPA.

COUNT I
Violation of 740 ILCS 14/15(b)
(On Behalf of Plaintiff and Both Classes)

58. Plaintiff restates and re-alleges all paragraphs of this Complaint as though fully set forth herein.

59. BIPA requires private entities such as Defendant to obtain informed written consent from individuals before acquiring their Biometrics. Specifically, BIPA makes it unlawful for any private entity to “collect, capture, purchase, receive through trade, or otherwise obtain a person’s ... biometric identifier or biometric information, unless [the entity] first: (1) informs the subject ... in writing that a biometric identifier or biometric information is being collected or stored; (2) informs the subject ... in writing of the specific purpose and length of term for which a biometric identifier or biometric information is being collected, stored, and used; and (3) receives a written release executed by the subject of the biometric identifier or biometric information” 740 ILCS 14/15(b).

60. Defendant is a corporation, limited liability company and/or other group, and therefore is as a “private entity” as defined by BIPA. *See* 740 ILCS 14/10.

61. Plaintiff and the class members are individuals whose “biometric identifiers” and “biometric information,” as defined by the BIPA—including, without limitation, scans of their

facial geometry—were captured, collected, purchased, received through trade, or otherwise obtained, stored, and used by Defendant.

62. Defendant violated BIPA by collecting, capturing, purchasing, receiving through trade, or otherwise obtaining Plaintiff's and the class members' biometric identifiers and biometric information without first making the required written disclosures to, and obtaining informed written consent and a signed written release from, each of them. *See* 740 ILCS 14/15(b).

63. In so doing, Defendant deprived Plaintiff and the classes of their statutory right to maintain the privacy of and control over their biometric identifiers and biometric information.

64. Defendant's conduct intentionally or recklessly violated BIPA with respect to Plaintiff and the class members.

65. In the alternative, Defendant's conduct negligently violated BIPA with respect to Plaintiff and the class members.

66. Accordingly, Plaintiff, on behalf of herself and both classes, seeks: (1) declaratory relief; (2) statutory damages of \$5,000 for each intentional or reckless violation of BIPA or, in the alternative, statutory damages of \$1,000 for each negligent violation, pursuant to 740 ILCS 14/20; (3) injunctive and other equitable relief as is necessary to protect the interests of Plaintiff and the classes by requiring Defendant to comply with BIPA's requirements for the capture, collection, receipt, obtainment, storage, and use of biometric identifiers and biometric information, as described herein; and (4) reasonable attorney's fees and costs and other litigation expenses pursuant to 740 ILCS 14/20.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff Fiza Javid, on behalf of herself and the proposed classes, respectfully requests that this Court enter an Order:

A. Certifying this case as a class action on behalf of the classes defined above (or on behalf of any other class the Court deems appropriate);

B. Appointing Plaintiff as representative for both classes, and her undersigned attorneys as class counsel;

C. Declaring that Defendant's acts and omissions, as set out above, violate BIPA, 740 ILCS 14/1, *et seq.*;

D. Awarding pursuant to 740 ILCS 14/20 statutory damages of \$5,000 for each and every intentional or reckless violation of BIPA, or alternatively, statutory damages of \$1,000 for each and every negligent violation if the Court finds that Defendant's violations were negligent;

E. Awarding injunctive and other equitable relief as is necessary to protect the interests of Plaintiff and the classes, including, *inter alia*, requiring Defendant to comply with BIPA's requirements for the capture, collection, obtainment, storage, and use of biometric identifiers and biometric information, and to permanently destroy Plaintiff's and the class members' biometric identifiers and biometric information;

F. Awarding Plaintiff and the class members their reasonable attorneys' fees and costs and other litigation expenses pursuant to 740 ILCS 14/20;

G. Awarding Plaintiff and the class members pre- and post-judgment interest, to the extent allowable; and

H. Awarding such other and further relief as equity and justice may require.

JURY DEMAND

Plaintiff, individually and on behalf of all others similarly situated, hereby demands a trial by jury on all issues so triable.

Dated: August 25, 2025

Respectfully submitted,

FIZA JAVID, individually and on behalf of all others
similarly situated, Plaintiff

By: /s/ Keith J. Keogh

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