

YES NO

EXHIBITS

CASE NO. 2021 CH 3109

DATE: 6/24/2021

CASE TYPE: Class Action

PAGE COUNT: 20

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,

Plaintiff,

v.

ULTA BEAUTY, INC.,

Defendant.

13816822

Case No. 2021CH03109

CLASS ACTION COMPLAINT

Plaintiff Fiza Javid (“Plaintiff”), individually and on behalf of all other persons similarly situated, by her undersigned attorneys, as and for her Class Action Complaint for violations of the Illinois Biometric Information Privacy Act (“BIPA”), 740 ILCS 14/1, *et seq.*, against Defendant Ulta Beauty, Inc. (“Ulta” or “Defendant”), alleges on personal knowledge, due investigation of her counsel, and, where indicated, on information and belief as follows:

NATURE OF THE ACTION

1. Plaintiff brings this action for damages and other legal and equitable remedies resulting from the illegal actions of Defendant in collecting, storing, and using hers and other similarly situated individuals’ biometric identifiers¹ and biometric information² (referred to collectively at times as “biometrics”) without obtaining informed written consent or providing the requisite data retention and destruction policies, in direct violation of BIPA.

¹ A “biometric identifier” is any personal feature that is unique to an individual, including fingerprints, iris scans, DNA and “face geometry”, among others.

² “Biometric information” is any information captured, converted, stored, or shared based on a person’s biometric identifier used to identify an individual.

2. The Illinois Legislature has found that “[b]iometrics are unlike other unique identifiers that are used to access finances or other sensitive information.” 740 ILCS 14/15(c). “For example, social security numbers, when compromised, can be changed. Biometrics, however, 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. In recognition of these concerns over the security of individuals’ biometrics the Illinois Legislature enacted BIPA, which provides, *inter alia*, that a private entity like Defendant may not obtain and/or possess an individual’s biometrics unless it informs that person in writing that biometric identifiers or information will be collected or stored. *See* 740 ILCS 14/15(b).

4. The BIPA further requires that entities collecting biometrics must inform those persons in writing of the specific purpose and length of term for which such biometric identifiers or biometric information are being collected, stored, and used. *See id.*

5. Moreover, entities collecting biometrics must publish publicly available written retention schedules and guidelines for permanently destroying biometrics collected. *See* 740 ILCS 14/15(a).

6. Further, the entity must store, transmit and protect an individual’s biometric identifiers and biometric information using the same standard of care in the industry and in a manner at least as protective as the means used to protect other confidential and sensitive information. *See* 740 ILCS 14/15(c).

7. Finally, the entity is expressly prohibited from selling, leasing, trading or otherwise profiting from an individual’s biometrics. *See* 740 ILCS 15/15(c).

8. In direct violation of each of the foregoing provisions of §§ 15(a) and 15(b) of BIPA, Defendant collected, stored, and used—without first providing notice, obtaining informed written consent or publishing proper data retention policies—the facial geometry and associated personally identifying information of thousands of potential customers, as they used Defendant’s Virtual Beauty programs and applications (the “Virtual Beauty Programs”).

9. Using augmented reality technology, Defendant’s Virtual Beauty Programs such as GLAMlab®, Skin Analysis, and Foundation Shade Matcher, allows consumers to virtually try-on different types of beauty products. The Virtual Beauty Programs use facial geometry or landmarks from a photo or video (the “Virtual Beauty Information”) to apply virtual make-up, hair coloring, and other products to the face in the photo or video. The Virtual Beauty Programs are available via the Ulta.com website, mobile applications, and at certain in-store locations via kiosk or tablet.

10. In order to use Defendant’s Virtual Beauty Programs features, consumers are required to turn on and use a live camera or upload a picture of themselves, at which point Defendant’s application scans the consumers face and applies virtual make-up, hair color, or other beauty product to the consumer’s face or hair.

11. Defendant does not notify consumers that it is collecting biometric data prior to the consumer turning on a live camera or uploading a picture of themselves so their face can be scanned. However, buried in its Terms and Conditions, Defendant states that facial geometry or landmarks from a photo or video “is collected and stored (if you elect to share it) collectively by Ulta Salon, Cosmetics & Fragrance, Inc. and . . . related entities and affiliates.”

12. In the ULTA.com® Privacy Policy, under a Privacy Notice for California Residents, Defendant discloses “[w]e collect [biometric information] from you or your device(s)

when you provide it to us or interact with us online.” Defendant further divulges it “disclose[s] this category of information to related or affiliated companies under our control . . .”

13. If Defendant’s database of scanned and digitized faces were to fall into the wrong hands, by data breach or otherwise, the consumers to whom these sensitive and immutable biometric identifiers belong could have their identities stolen, among other serious issues.

14. BIPA confers on Plaintiff and all other similarly situated Illinois residents a right to know of such risks, which are inherently presented by the collection and storage of biometrics, and a right to know how long such risks will persist after using Defendant’s Virtual Beauty Program.

15. Yet, Defendant never adequately informed Plaintiff or the Class of its biometrics collection practices, never obtained the requisite written consent from Plaintiff or the Class regarding its biometric practices, and never provided proper data retention or destruction policies to Plaintiff or the Class.

16. 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, storage and use of these individuals’ biometrics in violation of BIPA.

JURISDICTION AND VENUE

17. Jurisdiction and venue in this Court are proper pursuant to 735 ILCS 5/2- 209(a)(1), 5/2-209(a)(3), 5/2-209(a)(4), 5/2-209(a)(7), 5/2-209(b)(3), 5/2-209(b)(4) and 5/2-209(c) of the Illinois Code of Civil Procedure. The alleged conduct that is the subject of this action occurred within Cook County, Illinois.

18. Venue is proper in this Court pursuant to 735 ILCS 5/2-101(2) because this is the county in which the transaction, or some part thereof, occurred.

PARTIES

19. Plaintiff Fiza Javid is, and has been at all relevant times, a citizen of Illinois.

20. Defendant Ulta Beauty, Inc., is a Delaware corporation headquartered in Bolingbrook, Illinois. Defendant describes itself as the largest beauty retailer in the United States and the premier beauty destination for cosmetics, fragrance, skin care products, hair care products, and salon services.

FACTUAL BACKGROUND

I. Illinois' Biometric Information Privacy Act.

21. In 2008, Illinois 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. BIPA makes it unlawful for a company to, *inter alia*, “collect, capture, purchase, receive through trade, or otherwise obtain a person’s or a consumer’s biometric identifiers and/or biometric information, unless it 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 or the subject’s legally authorized representative.”

740 ILCS 14/15(b).

22. Section 15(a) of BIPA also provides:

A private entity in possession of biometric identifiers or biometric information must develop a written policy, made available to the public, establishing a retention

schedule and guidelines for permanently destroying biometric identifiers and biometric information when the initial purpose for collecting or obtaining such identifiers or information has been satisfied or within 3 years of the individual's last interaction with the private entity, whichever occurs first.

740 ILCS 14/15(a).

23. As alleged below, Defendant's practices of collecting, storing, and using individuals' biometric identifiers (specifically, facial geometry) and associated biometric information without informed written consent violated all three prongs of § 15(b) of BIPA. Defendant's failure to provide a publicly available written policy regarding their schedule and guidelines for the retention and permanent destruction of individuals' biometric identifiers and biometric information also violated § 15(a) of BIPA.

II. The Growth of Ulta's Digital Innovation.

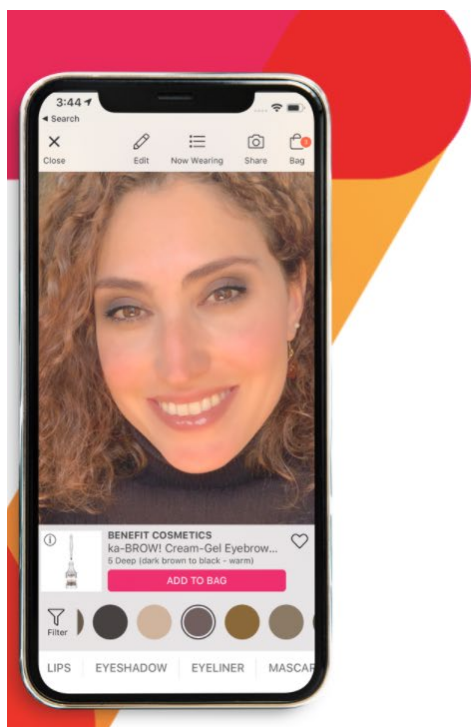
24. Ulta was founded in 1990 and, as of June 13, 2021, operates 1,295 retail stores across 50 states and the District of Columbia, in addition to distributing products through its website. Ulta offers "All Things Beauty, All in One Place," selling more than 20,000 products from approximately 500 well-established and emerging beauty brands across all categories and price points, including its own private label.

25. In 2016 Ulta launched Glam Lab, a mobile service that allowed consumers to virtually test products and shades within the company's iPhone and Android app through uploading a picture of themselves to see how the products look before being bought.

26. Ulta Beauty revealed in 2018 that it acquired GlamST, a technology startup in augmented reality. GlamST offered mobile, web and in-store virtual makeover tools that use augmented reality. Augmented reality superimposes images over real-world objects through device cameras.

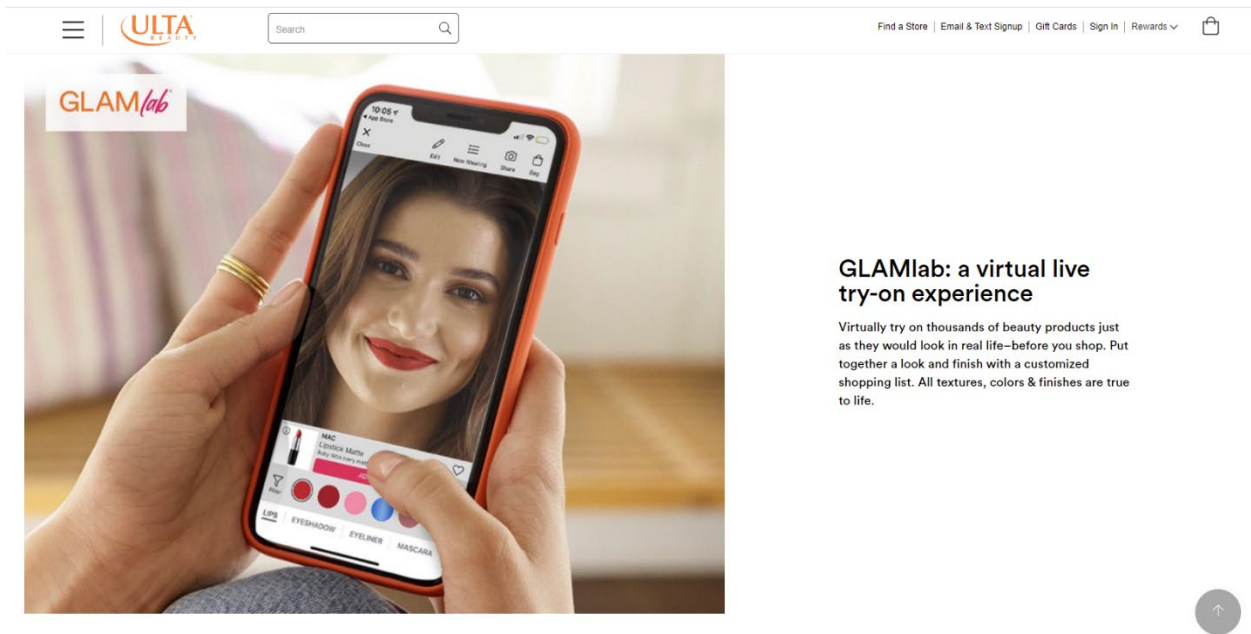
27. In recent years Ulta Beauty has begun to heavily advertise its “digital innovation.” According to it, [w]hen beauty meets technology, there are no limits to how we can delight our guests—and revolutionize the industry. Whether it’s AI-powered personalization or AR-driven virtual try-on, we’re bringing the new into the now.”

28. On its webpage, Ulta advertises at multiple points to consumers that they are able to use the Virtual Beauty Programs to try on products. These included an updated version of GlamLab, Ulta’s augmented reality-based mobile app feature that enables consumers to see how different beauty products would look on them.



Discover Beauty through Augmented Reality

Enhance exploration and discover wherever you are in a personalized, unique and realistic way. Ulta Beauty uses Machine Learning and Computer Vision technologies to create realistic experiences from Virtual Try On with true to life textures, colors & finishes to Complexion Matching detecting your skin tone and undertone to find your best match.



GLAMlab: a virtual live try-on experience

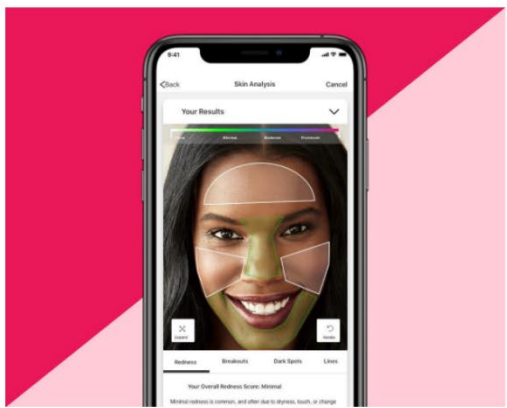
Virtually try on thousands of beauty products just as they would look in real life—before you shop. Put together a look and finish with a customized shopping list. All textures, colors & finishes are true to life.

29. In 2020, Ulta expanded GlamLab to offer virtual try-on of hair color, brows, and lashes.

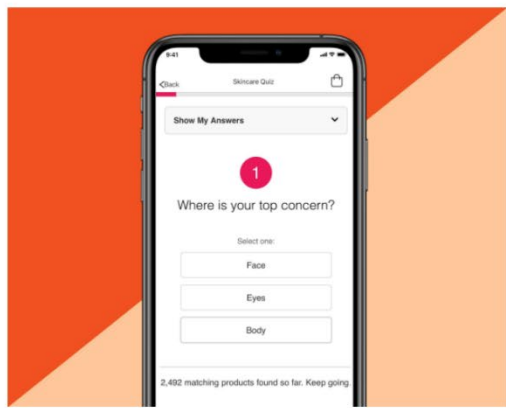
30. Ulta also introduced Skin Analysis, which uses artificial intelligence and augmented reality technology to analyze skin and offer tips and product recommendations to address skin concerns like fine lines or redness.



More to Discover

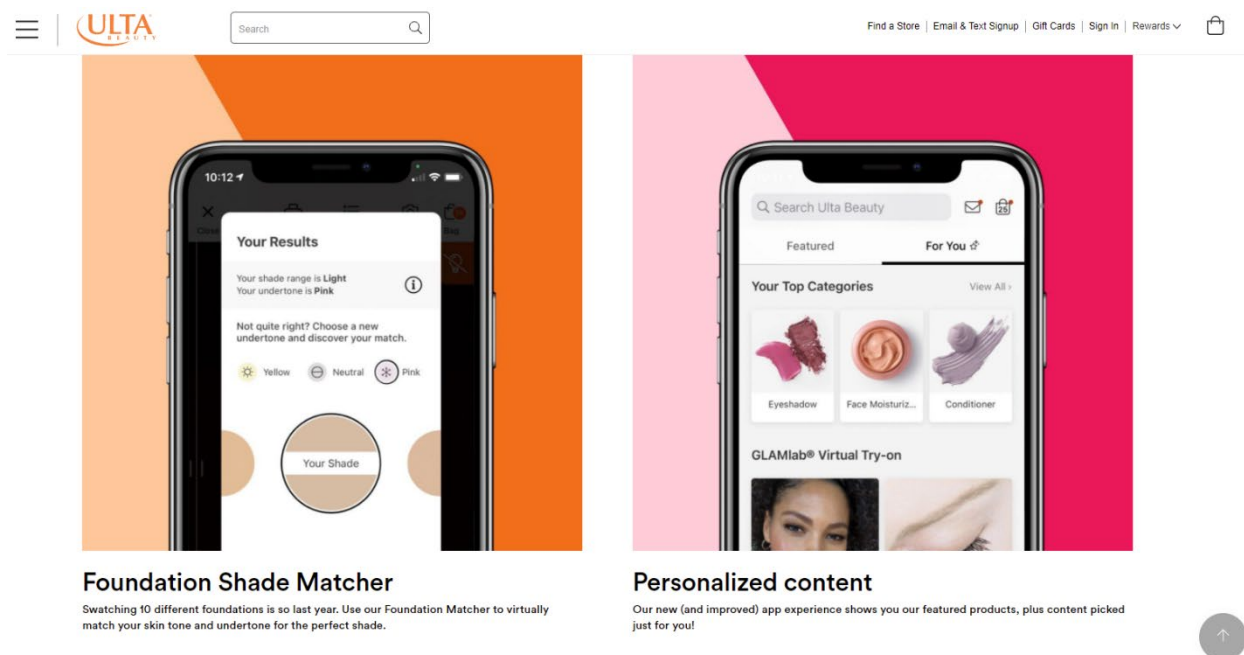


Skin Analysis
Understand your skin's unique needs with our virtual assessment (only on the app!)



Skincare Quiz
Skincare, demystified. Complete our quiz, and we'll curate the right products for you to build a (simple!) skincare routine.

31. In addition to their virtual lab, Ulta also has a Foundation Shade Matcher in which consumers can use their phone camera and the mobile app to match them in foundation shades for all foundations. This Virtual Beauty Program feature analyzes skin tones and undertones in order to provide the user with their shade for any foundation they choose.



32. Ulta encourages consumers that visit its website to download its mobile app to access its exclusive virtual “try-on” features. The Ulta app is free to download on Google Play and iOS. In the preview for its mobile app, Defendant advertises to consumers the ability to “virtually try on makeup.” It implores consumers to “[d]ownload the mobile app & discover how the possibilities are even more beautiful. Find your favorite makeup, skincare & haircare products—plus shade match and color swatch your favorite makeup and haircare in GLAMlab®, our virtual beauty try-on experience.”

33. Once the Ulta mobile app is downloaded, there are numerous options available on the home screen—such as, Makeup Try-On, False Lash Try-On, Hair Color Try-On, Benefit BrowBar—where Ulta can collect a consumer’s biometric data.

34. All Virtual Beauty Programs use facial recognition technology to assist the consumer try on beauty products virtually. For instance, the Skin Analysis feature aims to use facial technology alongside a survey to identify your primary skin issues and recommend products to buy directly through the mobile app. The consumer is first asked a series of three questions, and after that, the front-facing camera will be activated and the app will ask the consumer to find good lighting. A red oval will pop up on the screen to show the consumer where the face should be positioned. It will then turn green, take a snapshot, and immediately start loading the consumer’s results once it has seen the face at the correct distance.

35. With the facial geometry scan or uploading of pictures, Ulta has collected, captured, obtained, and stores Illinois resident Ulta users’ biometric information. Public policy in Illinois provides that given the risks of unwanted data collection, Illinois citizens need the power to make decisions about the fate of their unique biometric identifiers and information. Ulta’s actions robbed them of that power.

III. Defendant Violates Illinois’ Biometric Information Privacy Act.

36. Unbeknown to the average person, and in direct violation of § 15(b)(1) of BIPA, Defendant scanned and collected, and then stored in an electronic database, digital copies of each consumers’ facial geometry during the consumer’s use of Defendant’s Virtual Beauty Programs—all without ever informing anyone of this practice in writing.

37. In direct violation of § 15(b)(1) of BIPA, Defendant never informed or disclosed to consumers, anywhere on the Virtual Beauty Programs features’ website or mobile app page, that it collects biometric data.

38. As indicated in the screenshots above, Defendant merely states that a consumer can “use GLAMlab® to try on looks virtually.” Defendant never indicates or discloses to the consumer that it is collecting biometric data from consumers who use their Virtual Beauty Programs.

39. However, per both Defendant’s Privacy Policy and Terms and Conditions, Defendant does indeed collect biometric information from consumers.³ According to the Terms and Conditions, “[t]he Virtual Beauty Programs use facial geometry or landmarks from a photo or video [] to apply virtual make-up to the face in the photo or video.”

40. According to Defendant’s Privacy Policy, the biometric information is shared with other parties. Specifically, Defendant “disclose[s] this category of information to related or affiliated companies under our control and to other third parties . . .”

41. Instead of providing adequate notice pursuant to § 15(b)(1) of BIPA, Defendant admits it collects biometric data in its “Privacy Policy” and “Terms and Conditions” and buries these admissions in a hyperlink.

42. Only upon clicking that link, and then searching for types of information collected, would a consumer be notified that Defendant actually collects and stores biometric information of consumers who use the Virtual Beauty Programs.

43. In direct violation of § 15(b)(2) of BIPA, Defendant never informed Illinois consumers, who used Defendant’s Virtual Beauty Programs features and had their facial geometry collected, of the specific purpose and length of time for which their biometric identifiers or information would be collected, stored and used.

³ See *Ulta.com*® Privacy Policy, <https://www.ulta.com/company/privacy/> (last visited May 7, 2021) and *Terms and Conditions, Virtual Beauty Additional Terms and Conditions*, <https://www.ulta.com/company/terms-and-conditions> (last visited May 7, 2021).

44. In direct violation of § 15(b)(3) of BIPA, Defendant never obtained a written release to collect and store biometric information from any Illinois consumer that used its Virtual Beauty Program features.

45. In direct violation of § 15(a) of BIPA, Defendant did not have written, publicly available policies identifying its retention schedules or guidelines for permanently destroying any of these biometric identifiers or biometric information.

IV. Plaintiff Fiza Javid's Experience.

46. During the course of the last four years, Plaintiff used Defendant's Virtual Beauty Programs feature.

47. In order to use the augmented reality Virtual Beauty Programs application and virtually try-on different beauty products, Defendant required Plaintiff to either turn on and use a live camera or upload a picture of herself, at which point Defendant's application scanned and collected, and stored in an electronic database, digital copies of Plaintiff's facial geometry.

48. Each and every time Plaintiff utilized the Virtual Beauty Programs feature, she was required to use a live camera or upload a picture of herself, at which point the application scanned, collected and stored their facial geometry as part of the Virtual Beauty Programs feature.

49. Each time Plaintiff used the Virtual Beauty Programs feature, she either used a live camera or uploaded a picture of herself, at which point the application scanned, collected and stored their facial geometry as part of the Virtual Beauty Programs feature.

50. On each occasion, Plaintiff was granted access to Defendant's Virtual Beauty Programs feature and was able to simulate what she would look like with different hair color, browbars, false lashes, or make-up for lips, foundation, concealer, eyeshadow, eyeliner, mascara, brows, and cheeks.

51. Plaintiff never consented, agreed or gave permission—written or otherwise—to

Defendant for the collection or storage of her unique biometric identifiers or biometric information.

52. Further, Defendant never provided Plaintiff with, nor did she ever sign, a written release allowing Defendant to collect or store her unique biometric identifiers or biometric information.

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

54. By collecting Plaintiff's unique biometric identifiers or biometric information without their consent, written or otherwise, Defendant invaded Plaintiff's statutorily protected right to privacy in her biometrics.

CLASS ALLEGATIONS

55. **Class Definition:** Plaintiff brings this action pursuant to 735 ILCS 5/2-801 on behalf of a class of similarly situated individuals, defined as follows (the "Class"):

All individuals who, while residing in the State of Illinois, had their facial geometry collected, captured, received or otherwise obtained and/or stored by Defendant.

Excluded from the Class are: (i) any judge or magistrate judge presiding over this action and members of their staff, as well as members of their families; (ii) Defendant, Defendant's predecessors, parents, successors, heirs, assigns, subsidiaries, and any entity in which any Defendant has a controlling interest, as well as Defendant's current or former employees, agents, officers, and directors; (iii) persons who properly execute and file a timely request for exclusion from the class; (iv) persons whose claims in this matter have been finally adjudicated on the merits or otherwise released; (v) counsel for Defendant; and (vi) the legal representatives, successors, and assigns of any such excluded persons.

56. **Numerosity (Rule 23(a)(1)):** Pursuant to 735 ILCS 5/2-801(1), the number of persons within the Class is substantial, believed to amount to thousands of persons. It is, therefore, impractical to join each member of the Class as a named Plaintiff. Further, the size and relatively

modest value of the claims of the individual Members of the Class 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. Moreover, the Class is ascertainable and identifiable from Defendant's records.

57. **Commonality and Predominance:** Pursuant to 735 ILCS 5/2-801(2), there are well-defined common questions of fact and law that exist as to all members of the Class and that predominate over any questions affecting only individual Members of the Class. These common legal and factual questions, which do not vary from Class Member to Class Member, and which may be determined without reference to the individual circumstances of any Class Member, include, but are not limited to, the following:

- (a) whether Defendant collected or otherwise obtained Plaintiff's and the Class's biometric identifiers or biometric information;
- (b) whether Defendant properly informed Plaintiff and the Class that it collected, used, and stored their biometric identifiers or biometric information;
- (c) whether Defendant obtained a written release (as defined in 740 ILCS 14/10) to collect, use, and store Plaintiff's and the Class's biometric identifiers or biometric information;
- (d) whether Defendant developed a written policy, made available to the public, establishing a retention schedule and guidelines for permanently destroying biometric identifiers and biometric information when the initial purpose for collecting or obtaining such identifiers or information has been satisfied or within 3 years of their last interaction, whichever occurs first; and
- (e) whether Defendant's violations of BIPA were committed intentionally, recklessly, or negligently.

58. **Adequate Representation:** Pursuant to 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 such a Class. Neither Plaintiff nor her counsel have any interest adverse to, or in conflict with, the interests of the absent Members of the Class. Plaintiff has raised viable statutory claims or the type reasonably expected to be raised by Members of the Class, and will vigorously pursue those claims. If necessary, Plaintiff may seek leave of this Court to amend this Class Action Complaint to include additional Class representatives to represent the Class, additional claims as may be appropriate, or to amend the Class definition to address any steps that Defendant took.

59. **Superiority:** Pursuant to 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 Class 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 Class. Plaintiff anticipates no difficulty in the management of this action as a class action. Class-wide relief is essential to compliance with BIPA.

CAUSES OF ACTION

COUNT I – FOR DAMAGES AGAINST DEFENDANT VIOLATION OF 740 ILCS 14/15(a) – FAILURE TO INSTITUTE, MAINTAIN, AND ADHERE TO PUBLICLY AVAILABLE RETENTION SCHEDULE

60. Plaintiff incorporates the foregoing allegations as if fully set forth herein.

61. BIPA mandates that companies in possession of biometric data establish and maintain a satisfactory biometric data retention—and, importantly, deletion—policy. Specifically, those companies must: (i) make publicly available a written policy establishing a retention schedule and guidelines for permanent deletion of biometric data (at most three years after the company’s last interaction with the individual); and (ii) actually adhere to that retention schedule and actually delete the biometric information. *See* 740 ILCS 14/15(a).

62. Defendant failed to comply with these BIPA mandates.

63. Defendant is a company registered to do business in Illinois and thus qualifies as a “private entity” under BIPA. *See* 740 ILCS 14/10.

64. Plaintiff is an individual who had her “biometric identifiers” captured and/or collected by Defendant, as explained in detail above. *See* 740 ILCS 14/10.

65. Defendant failed to provide a publicly available retention schedule or guidelines for permanently destroying biometric identifiers and biometric information as specified by BIPA. *See* 740 ILCS 14/15(a).

66. Upon information and belief, Defendant lacked retention schedules and guidelines for permanently destroying Plaintiff’s and the Class’s biometric data and have not and will not destroy Plaintiff’s and the Class’s biometric data when the initial purpose for collecting or obtaining such data has been satisfied or within three years of the individual’s last interaction with the company.

67. On behalf of herself and the Class, Plaintiff seeks: (1) declaratory relief; (2) injunctive and equitable relief as is necessary to protect the interests of Plaintiff and the Class by requiring Defendant to comply with BIPA’s requirements for the collection, capture, storage, and use of biometric identifiers and biometric information as described herein; (3) statutory damages

of \$5,000 for each intentional and/or reckless violation of BIPA pursuant to 740 ILCS 14/20(2) or, in the alternative, statutory damages of \$1,000 for each negligent violation of BIPA pursuant to 740 ILCS 14/20(1); and (4) reasonable attorneys' fees and costs and other litigation expenses pursuant to 740 ILCS 14/20(3).

**COUNT II – FOR DAMAGES AGAINST DEFENDANT
VIOLATION OF 740 ILCS 14/15(d) – FAILURE TO OBTAIN INFORMED WRITTEN CONSENT AND
RELEASE BEFORE OBTAINING BIOMETRIC IDENTIFIERS OR INFORMATION**

68. Plaintiff incorporates the foregoing allegations as if fully set forth herein.

69. BIPA requires companies to obtain informed written consent from individuals before acquiring their biometric data. Specifically, BIPA makes it unlawful for any private entity to “collect, capture, purchase, receive through trade, or otherwise obtain a person’s or a customer’s biometric identifiers 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) (emphasis added).

70. Defendant failed to comply with these BIPA mandates.

71. Defendant is a company registered to do business in Illinois and thus qualifies as a “private entity” under BIPA. *See* 740 ILCS 14/10.

72. Plaintiff and the Class are individuals who have had their “biometric identifiers” collected and/or captured by Defendant, as explained in detail above. *See* 740 ILCS 14/10.

73. Plaintiff’s and the Class’s biometric identifiers were used to identify them and, therefore, constitute “biometric information” as defined by BIPA. *See* 740 ILCS 14/10.

74. Defendant systematically and automatically collected, captured, used, and stored Plaintiff's and the Class's biometric identifiers and/or biometric information without first obtaining the written release required by 740 ILCS 14/15(b)(3).

75. Defendant never informed Plaintiff, and never informed any member of the Class at least prior to June 2021, in writing that their biometric identifiers and/or biometric information were being collected, captured, stored, and/or used, nor did Defendant inform Plaintiff and the Class in writing of the specific purpose(s) and length of term for which their biometric identifiers and/or biometric information were being collected, stored, used and disseminated as required by 740 ILCS 14/15(b)(1)–(2).

76. By collecting, capturing, storing, and/or using Plaintiff's and the Class's biometric identifiers and biometric information as described herein, Defendant violated Plaintiff's and the Class's rights to privacy in their biometric identifiers and/or biometric information as set forth in BIPA. *See* 740 ILCS 14/1, *et seq.*

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

PRAYER FOR RELIEF

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

- A. Certifying this case as a class action on behalf of the Class defined above, appointing Plaintiff as representative of the Class, and appointing her counsel as Class Counsel;
- B. Declaring that Defendant's actions, as set out above, violate BIPA, 740 ILCS 14/1, *et seq.*;
- C. Awarding statutory damages of \$5,000.00 for each and every intentional and/or reckless violation of BIPA pursuant to 740 ILCS 14/20(2), or alternatively, statutory damages of \$1,000.00 for each and every violation pursuant to 740 ILCS 14/20(1) if the Court finds that Defendant's violations were negligent;
- D. Awarding injunctive and other equitable relief as is necessary to protect the interests of the Class, including, *inter alia*, an Order requiring Defendant to collect, store, and use biometric identifiers and/or biometric information in compliance with BIPA;
- E. Awarding Plaintiff and the Class their reasonable attorneys' fees and costs and other litigation expenses;
- F. Awarding Plaintiff and the Class pre- and post-judgment interest, to the extent allowable; and
- G. Awarding such other and further relief as equity and justice may require.

Dated: June 24, 2021

Respectfully submitted,

FIZA JAVID

/s/ Gary M. Klinger

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*Attorneys for Plaintiff and the Proposed
Class*

ClassAction.org

This complaint is part of ClassAction.org's searchable class action lawsuit database and can be found in this post: [Mary Kay, Ulta Virtual Product 'Try On' Tools Subject of Biometric Privacy Class Actions in Illinois](#)
