

YES NO

EXHIBITS

CASE NO. 2020CH7303

DATE: 12-16-20

CASE TYPE: CLASS ACTION

PAGE COUNT: 7

CASE NOTE

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

MARK MENDOZA, individually and on behalf of all others similarly situated,

Plaintiff,

v.

THE RITZ-CARLTON OF CHICAGO, INC
a Illinois corporation and
THE RITZ-CARLTON HOTEL COMPANY,
LLC a Delaware limited liability company.

Defendants.

Case No.

11514148

CLASS ACTION COMPLAINT

Plaintiff Mark Mendoza (“Plaintiff”), individually and on behalf of all others similarly situated, brings this Class Action Complaint and Demand for Jury trial against Defendant The Ritz-Carlton Hotel Company, LLC and Defendant The Ritz-Carlton of Chicago, Inc (collectively “Defendants”). Plaintiff alleges the following based upon personal knowledge as to Plaintiff’s own experiences, and as to all other matters upon information and belief, including investigation conducted by Plaintiff’s attorneys.

NATURE OF THE CASE

1. This class action alleges violations of the Biometric Information Privacy Act, 740 ILCS 14/1–99 (“BIPA”).
2. Since 2008, BIPA has imposed a notice-and-consent requirement on companies possessing biometric data like fingerprints, voiceprints, and faceprints.
3. Defendants collected and disclosed Plaintiff’s biometrics without proper notice and consent. Accordingly, Plaintiff seeks statutory damages as authorized by BIPA.

PARTIES

4. Plaintiff is a citizen of Illinois and a resident of Cook County.

5. Defendant The Ritz-Carlton of Chicago, Inc. is an Illinois Corporation, with its corporate headquarters located at 900 N Michigan Ave. Chicago in Cook County, Illinois.

6. Defendant The Ritz-Carlton Hotel Company, L.L.C is a Delaware limited liability company, with its principal office located at 10400 Fernwood Rd. Bethesda, Maryland.

JURISDICTION AND VENUE

7. This Court has personal jurisdiction over Defendants because Defendants are organized under the laws of this state and or registered to do business in this state and Defendants conduct substantial business in this state, and because Plaintiff's claims arise out of Defendants' conduct within this State.

8. Venue is proper in Cook County because Defendants conduct substantial business in Cook County.

FACTUAL BACKGROUND

9. Defendants own and operate a luxury hotel and residence in Chicago, Illinois .

10. Plaintiff worked for Defendants at 160 E. Pearson St. in New Chicago, Illinois.

11. Defendants required its hourly workers, including Plaintiff, to clock in and out of shifts and breaks with a fingerprint scanner.

12. The fingerprint scanner was connected to Defendants' timekeeping and payroll system (collectively, the "Biometric System").

13. In addition to collecting fingerprints, the Biometric System collected and maintained reference templates derived from workers' fingerprints.

14. The Biometric System then compared the reference templates against each subsequent fingerprint scan to identify the worker scanning in and associate the appropriate timekeeping information.

15. Defendants' payroll provider accessed the information collected through the Biometric System.

16. Defendants did not explain the Biometric System to its workers.

17. Defendants did not tell its workers how it used data collected through the Biometric System.

18. Defendants did not tell its workers how long it kept the data collected through the Biometric System.

19. Defendants' workers did not consent to Defendants' collection of their fingerprints or the identifying data derived from them.

20. Defendants' workers did not consent to Defendants' disclosure of information collected through the Biometric System.

CLASS ALLEGATIONS

21. Plaintiff brings this action on behalf of the following class of similarly situated individuals:

All individuals identified in Defendants' Biometric System within the preceding five years.

22. Excluded from the Class are any members of the judiciary assigned to preside over this matter, any officer or director of Defendants, counsel for the Parties, and any immediate family member of any of the same.

23. Upon information and belief, the Class contains scores, if not hundreds, of individuals. The Class is therefore so numerous that joinder of all members is impracticable. The precise number of Class members can be determined by reference to Defendants' records.

24. Plaintiff's claims are typical of the proposed Class's. Plaintiff's claims have the same factual and legal bases as the proposed Class members', and Defendants' conduct has resulted in identical injuries to Plaintiff and the other Class members.

25. Common questions of law and fact will predominate over any individualized inquiries. Those common questions include:

- a. Whether Defendants collected the Class's biometric identifiers or biometric information;
- b. Whether Defendants disclosed the Class's biometric identifiers or information;
- c. Whether Defendants published a written policy establishing a retention schedule and biometric-destruction guidelines;
- d. Whether Defendants obtained a written release prior to collecting the Class's biometrics;
- e. Whether Defendants informed the Class, in writing, of the purposes and duration for which their biometrics would be collected and stored;
- f. Whether Defendants obtained the Class's consent prior to disclosing their biometrics; and
- g. Whether Defendants are liable for \$5,000 or only \$1,000 per violation.

26. Absent a class action, most Class members would find their claims prohibitively expensive to bring individually, and would be left without an adequate remedy. Class treatment of the common questions is also superior because it conserves the Court's and Parties' resources and promotes efficiency and consistency of adjudication.

27. Plaintiff will adequately represent the Class. Plaintiff has retained counsel experienced in biometric class actions. Plaintiff and Plaintiff's counsel are committed to

vigorously litigating this action on the Class's behalf, and have the resources to do so. Neither Plaintiff nor Plaintiff's counsel have any interest adverse to the Class.

28. Defendants have acted on grounds generally applicable to Plaintiff and the Class, requiring the Court's imposition of uniform relief, including injunctive and declaratory relief to the Class.

COUNT I
Violation of 740 ILCS 14/15
(On behalf of Plaintiff and the Class)

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

30. Defendants are Corporations, and are therefore private entities. 740 ILCS 14/10.

31. By collecting Plaintiff's and the Class's fingerprints through the Biometric System, Defendants collected Plaintiff's and the Class's biometric identifiers. 740 ILCS 14/10.

32. By capturing and maintaining reference templates and associated timekeeping information, Defendants collected Plaintiff's and the Class's biometric information. 740 ILCS 14/10.

33. By sharing the Biometric System's data with its payroll provider, Defendants disclosed Plaintiff's and the Class's biometric identifiers and information.

34. Prior to collecting Plaintiff's and the Class's biometric identifiers and information, Defendants did not inform Plaintiff and the Class in writing that their biometrics were being collected, stored, and used. 740 ILCS 14/15(b)(1).

35. Prior to collecting Plaintiff's and the Class's biometric identifiers and information, Defendants did not inform Plaintiff and the Class of the specific purpose for which their biometrics were being collected, stored, and used. 740 ILCS 14/15(b)(2).

36. Prior to collecting Plaintiff's and the Class's biometric identifiers and information, Defendants did not inform Plaintiff and the Class of the length of time that their biometrics would be maintained. 740 ILCS 14/15(b)(2).

37. Prior to collecting Plaintiff's and the Class's biometric identifiers and information, Defendants did not obtain a written release authorizing such collection. 740 ILCS 14/15(b)(3).

38. Prior to disclosing Plaintiff's and the Class's biometric identifiers and information, Defendants did not obtain Plaintiff's and the Class's informed consent. 740 ILCS 14/15(d)(1).

39. While Defendants were in possession of Plaintiff's and the Class's biometric identifiers and information, Defendants failed to provide a publicly available retention schedule detailing the length of time it would maintain Plaintiff's and the Class's biometrics and guidelines for permanently destroying the same. 740 ILCS 14/15(a).

PRAYER FOR RELIEF

WHEREFORE, Plaintiff individually and on behalf of the proposed Class, respectfully requests that this Court enter an Order:

- a. Certifying the Class as defined above, appointing Plaintiff as class representative, and appointing Plaintiff's counsel as class counsel;
- b. Declaring that Defendants' actions as set forth herein violate BIPA;
- c. Awarding injunctive and equitable relief as necessary to protect the Class;
- d. Finding Defendants' conduct intentional or reckless and awarding \$5,000 in damages per violation, per Class member under 740 ILCS 14/20(2), or, if Defendants' conduct does not rise to that standard, \$1,000 per violation, per Class member under 740 ILCS 14/20(1);
- e. Awarding Plaintiff and the Class their reasonable attorneys' fees, costs, and other litigation expenses under 740 ILCS 14/20(3);

- f. Awarding Plaintiff and the Class pre- and post-judgment interest; and
- g. Awarding such other and further relief as the Court deems equitable and just.

JURY DEMAND

Plaintiff demands a trial by jury on all claims and issues so triable.

Dated: December 16, 2020

Respectfully submitted,

s/ Kasif Khowaja
One of Plaintiff's Attorneys

Thomas R. Kayes
LAW OFFICES OF THOMAS R. KAYES, LLC
2045 W. Grand Ave. Suite B, PMB 62448
Chicago, IL 60612
T: 708.722.2241
tom@kayes.law
Firm ID: 65004

Frank Castiglione
Kasif Khowaja
THE KHOWAJA LAW FIRM, LLC
8 S. Michigan Ave., Suite 2600
Chicago, IL 60603
T: 312.566.8070
fcastiglione@khowajalaw.com
kasif@khowajalaw.com
Firm ID: 58402

J. Dominick Larry
NICK LARRY LAW LLC
8 S. Michigan Ave., Suite 2600
Chicago, IL 60603
T: 773.694.4669
nick@nicklarry.law
Firm ID: 64846

Attorneys for Plaintiff and the Class

ClassAction.org

This complaint is part of ClassAction.org's searchable class action lawsuit database and can be found in this post: [Chicago Ritz-Carlton Hit with Class Action Over Employee Fingerprint Scanning Practices](#)
