

☐ YES ☒ NO

EXHIBITS

CASE NO. 25CH05008

DATE: 5-5-25

CASE TYPE: Class Action

PAGE COUNT: 27

CASE NOTE

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

DUANE MORTON and KORY LARSON,  
individually and on behalf of all others similarly  
situated,

Plaintiffs,

vs.

BUFFALO WILD WINGS, INC. and INSPIRE  
BRANDS, INC.,

Defendants.

Case No. 2025CH05008

**CLASS ACTION COMPLAINT**

Jury Trial Demanded

**CLASS ACTION COMPLAINT**

Plaintiffs Duane Morton and Kory Larson (“Plaintiffs”), individually and on behalf of all others similarly situated (the “Class”), by and through their attorneys, bring this class action against Defendants Buffalo Wild Wings, Inc. and Inspire Brands, Inc. (collectively “Buffalo Wild Wings” or “Defendants”) and allege as follows:

**INTRODUCTION**

1. This case concerns the misuse and unlawful solicitation and collection of individuals’ genetic information in Illinois by Buffalo Wild Wings. As a condition of employment, Buffalo Wild Wings solicits and requires employees to disclose genetic information by subjecting potential employees to questioning about family medical history in violation of Illinois’ Genetic Information Privacy Act, 410 ILCS 513/1, *et seq.* (“GIPA”).

2. Having considered the uniquely private and sensitive nature of genetic information—and the potential for harmful discrimination that such information may encourage among employers—the Illinois General Assembly enacted GIPA in 1998 in part to regulate employers’ use of such genetic information. In addition to baseline protections applying to

individuals' genetic information, GIPA specifically provides that an employer, employment agency, labor organization, or licensing agency shall not directly or indirectly do any of the following:

- (1) Solicit, request require or purchase genetic testing or genetic information of a person or family member of the person, or administer a genetic test to a person or family member of the person as a condition of employment, preemployment application, labor organization membership, or licensure;
- (2) Affect the terms, conditions, or privileges of employment, preemployment application, labor organization membership, or licensure of any person with respect to the employee or family member, or information about a request for or the receipt of genetic testing by such employee or family member of such employee;
- (3) Limit, segregate, or classify employees in any way that would deprive or tend to deprive any employee of employment opportunities or otherwise adversely affect the status of the employee as an employee because of genetic testing or genetic information with respect to the employee or a family member, or information about a request for, or the receipt of genetic testing or genetic information by such employee or family member of such employee; and
- (4) Retaliate through discharge or in any other manner against any person alleging a violation of this Act or participating in any manner in a proceeding under this Act.

410 ILCS 513/25(c).

3. GIPA defines "genetic information" as information pertaining to: (i) an individual's genetic tests; (ii) the genetic tests of family members of the individual; (iii) the manifestation of a disease or disorder in family members of such individual; or (iv) any request for, or receipt of, genetic services, or participation in clinical research which includes genetic services, by the individual or any family member of the individual.<sup>1</sup>

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<sup>1</sup> 410 ILCS 513/10, by reference to 45 C.F.R. § 160.103.

4. Genetic information, including family health history, is a private and sensitive form of personal information. The genetic information contained therein reveals a trove of intimate information about that person's health, family, and innate characteristics.

5. The availability of genetic information presents opportunities for discrimination—for example, groups with a predisposition for genetic conditions may be barred from obtaining certain jobs or life insurance. GIPA is intended to protect prospective employees from this kind of discrimination in employment.

6. In requiring prospective employees, like Plaintiffs, to disclose their family medical history, Buffalo Wild Wings has violated Plaintiffs' and Class members' statutory rights to genetic privacy.

7. In enacting GIPA, the Illinois Legislature recognized that "[d]espite existing laws, regulations, and professional standards which require or promote voluntary and confidential use of genetic testing information, many members of the public are deterred from seeking genetic testing because of fear that test results will be disclosed without consent in a manner not permitted by law or will be used in a discriminatory manner." 410 ILCS 513/5(2).

8. GIPA bestows a right to privacy in one's genetic information and a right to prevent the solicitation of, collection, or disclosure of such information. This allows individuals to enjoy the benefits of knowing their genetic information, such as taking proactive measures to prevent conditions they are predisposed to genetically, without subjecting themselves to possible discrimination in the workplace.

9. Despite GIPA's prohibition against soliciting family medical information concerning familial diseases and disorders, Buffalo Wild Wings continues to request that its employees and prospective employees provide protected family medical history in violation of

GIPA.

10. Plaintiffs bring this action for statutory damages and other remedies because of Buffalo Wild Wings' conduct in violating Plaintiffs' Illinois genetic privacy rights.

11. On Plaintiffs' behalf, and on behalf of all others similarly situated, Plaintiffs seek: (1) an injunction requiring Buffalo Wild Wings to comply with GIPA, (2) recovery of statutory damages, (3) reasonable attorneys' fees and costs, and (4) other litigation expenses.

### **JURISDICTION AND VENUE**

12. This Court may assert personal jurisdiction over Buffalo Wild Wings pursuant to 735 ILCS 5/2-209 in accordance with the Illinois Constitution and the Constitution of the United States because Buffalo Wild Wings does business within this State and because Plaintiffs' claims arise out of Buffalo Wild Wings' unlawful actions in this State, as Buffalo Wild Wings directly or indirectly solicited, requested, required, or purchased genetic information of its job applicants as a condition of applicants' employment or preemployment application in Illinois.

13. Venue is proper in Cook County because Defendants are doing business in Cook County and thus reside there under 735 ILCS § 5/2-102(a). Venue is also proper in Cook County pursuant to 735 ILCS 5/2-101, because this is the county in which the transactions and occurrences at issue, or some part thereof, occurred.

### **PARTIES**

14. **Plaintiff Duane Morton.** Duane Morton was, at all times relevant to this action, a citizen of Illinois, residing in Cook County. Mr. Morton applied to Buffalo Wild Wings at the Lansing, IL location in or around June of 2020.

15. **Plaintiff Kory Larson.** Kory Larson was, at all times relevant to this action, a citizen of Illinois, residing in Cook County. Mr. Larson applied to Buffalo Wild Wings at the

Woodridge, IL location in or around February of 2023.

16. **Defendant Buffalo Wild Wings, Inc.** Buffalo Wild Wings is a Minnesota corporation, headquartered at 3 Glenlake Parkway, Atlanta, Georgia 30328. Buffalo Wild Wings maintains and operates restaurants throughout the country, including Illinois. Buffalo Wild Wings solicits employment applications and employs individuals in Illinois. Because Buffalo Wild Wings conducts business in Illinois and enjoys the benefits and protections of Illinois law, it is subject to jurisdiction in Illinois for conduct arising out of its Illinois contacts.

17. **Defendant Inspire Brands, Inc.** Inspire Brands is a Delaware corporation, headquartered at 3 Glenlake Parkway, Atlanta, Georgia 30328. Inspire Brands maintains and operates restaurants throughout the country, including Illinois. Inspire Brands solicits employment applications and employs individuals in Illinois. Inspire Brands is the parent company of Buffalo Wild Wings, Inc. Because Inspire Brands conducts business in Illinois and enjoys the benefits and protections of Illinois law, it is subject to jurisdiction in Illinois for conduct arising out of its Illinois contacts.

## **FACTUAL ALLEGATIONS**

### **A. Background**

18. The Illinois Legislature and the CDC have recognized that the increase in accessibility of genetic information and testing has also increased the opportunity for abuse and discrimination using this data. To address concerns related to the misuse of genetic information, Illinois and other states regulate the collection, use, and disclosure of genetic information.

19. In 1998, the Illinois General Assembly enacted the Genetic Information Privacy Act, 410 ILCS 513/1 *et seq.* out of recognition that genetic information could be used for discriminatory purposes, particularly in employment contexts.

20. Accordingly, GIPA prohibits employers from directly or indirectly soliciting, requesting, requiring, or purchasing the genetic information (such as family medical history) or genetic test results of a person or family member of a person as a condition of employment, preemployment application, labor organization membership, or licensure. 410 ILCS 513/25(c)(1).

21. The Illinois Legislature amended GIPA in 2008 to increase its protections and harmonize Illinois law with the Federal Genetic Information Nondiscrimination Act of 2008. 110 P.L. 233; *see also* 42 U.S.C. § 2000ff. The 2008 GIPA amendments sought to further prohibit discriminatory practices of employers through the use of employees' genetic information, including family medical history.

22. During discussions of the 2008 GIPA amendments, the Illinois Legislature recognized the importance of safeguarding family medical history because this data reveals genetic predispositions:

I hope the [Legislature] understands the importance of [family medical history]; it's becoming more and more important. Back in '96 or '97, I had a third generation ovarian cancer survivor that came to me with this issue . . . . If a woman has . . . the gene that causes breast cancer, she can have up to an 84% probability that she will develop breast cancer sometime in her life. [I]t's important that we help people be able to know that information and know they won't be discriminated against in their employment . . . . Quite honestly, with genetic information we have today, we could identify a pool of people that . . . no one would want to employ. [GIPA] helps guarantee that we don't have that kind of discrimination occur.

Illinois House Transcript, 2008 Reg. Sess. No. 276, pp. 33–34.

23. GIPA defines an employer, in relevant part, as “every [] person employing employees within the state.”

24. Buffalo Wild Wings is an employer as defined by GIPA because Buffalo Wild Wings employs employees within Illinois.

25. Buffalo Wild Wings is a company that owns and operates restaurants. Buffalo Wild Wings employs hundreds or thousands of employees in Illinois, including in Cook County, where Plaintiffs applied to work at Buffalo Wild Wings.

26. Buffalo Wild Wings owns and operates 89 restaurants in Illinois.<sup>2</sup>

27. As part of its hiring process, Buffalo Wild Wings requires its prospective employees to submit preemployment applications with questions about family medical history, including family history of specified inheritable medical conditions. These questions constitute an unlawful request and/or solicitation of information regarding the manifestation of inheritable diseases or disorders in the immediate family members of the prospective employee.

28. Buffalo Wild Wings did not inform Plaintiffs or the Class of their right to not answer any questions regarding their genetic information.

29. Buffalo Wild Wings thus violated GIPA by directly or indirectly soliciting and obtaining Plaintiffs' and the Class's genetic information as a precondition of employment or as part of their preemployment application.

30. Buffalo Wild Wings was or should have been aware of its obligations under GIPA. Nonetheless, Buffalo Wild Wings intentionally and/or recklessly requested or solicited Plaintiffs' and the Class's genetic information in the form of their family medical histories in violation of GIPA.

31. As a result, Buffalo Wild Wings' violations were willful because it knew, or reasonably should have known, that it was failing to comply with the above-described requirements of GIPA.

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<sup>2</sup> Locations, BUFFALO WILD WINGS, <https://www.buffalowildwings.com/locations/all/> (last visited March 27, 2025).



**B. Plaintiff Duane Morton**

32. In or around June of 2020, Duane Morton applied for a job at Buffalo Wild Wings' Lansing, Illinois location.

33. As part of the application and hiring process, and as a precondition of employment, Buffalo Wind Wings required Mr. Morton to complete a job application containing questions about his family medical history, including his genetic predisposition to specified medical conditions.

34. In response, Mr. Morton disclosed his genetic information, including his family history of kidney disease and breast cancer.

35. Thus, Mr. Morton's sensitive genetic information, including the existence of his family's inheritable diseases and disorders, was directly solicited and requested by Buffalo Wild Wings as a condition of Plaintiff's pre-employment application.

36. Mr. Morton was not advised by Buffalo Wild Wings or anyone else acting on behalf of Buffalo Wild Wings, either verbally or in writing, not to disclose the solicited genetic information. Nor did Mr. Morton provide his genetic information in furtherance of a workplace wellness program.

37. By requiring Mr. Morton to answer questions about his family medical history, Buffalo Wild Wings directly or indirectly solicited, requested, purchased, and/or required Mr. Morton to disclose his genetic information in violation of GIPA.

**C. Plaintiff Kory Larson**

38. In or around February of 2023, Kory Larson applied for a job at Buffalo Wild Wings' Woodridge, Illinois location.

39. As part of the application and hiring process, and as a precondition of employment, Buffalo Wind Wings required Mr. Larson to complete a job application containing questions about

his family medical history, including his genetic predisposition to specified medical conditions.

40. In response, Mr. Larson disclosed his genetic information, including his family history of high blood pressure.

41. Thus, Mr. Larson's sensitive genetic information, including the existence of his family's inheritable diseases and disorders, was directly solicited and requested by Buffalo Wild Wings as a condition of Plaintiff's pre-employment application.

42. Mr. Larson was not advised by Buffalo Wild Wings or anyone else acting on behalf of Buffalo Wild Wings, either verbally or in writing, not to disclose the solicited genetic information. Nor did Mr. Larson provide his genetic information in furtherance of a workplace wellness program.

43. By requiring Mr. Larson to answer questions about his family medical history, Buffalo Wild Wings directly or indirectly solicited, requested, purchased, and/or required Mr. Larson to disclose his genetic information in violation of GIPA.

### **CLASS ACTION ALLEGATIONS**

44. Plaintiffs bring this action on their own behalf and on behalf of all other persons similarly situated pursuant to 735 ILCS § 5/2-801. The Class which Plaintiffs seeks to represent comprises:

All individuals who applied for employment with Buffalo Wild Wings in Illinois and from whom Buffalo Wild Wings, or an agent, vendor, and/or contractor acting on behalf of Buffalo Wild Wings or for Buffalo Wild Wings' benefit, has requested and/or obtained family medical history or other genetic information within the applicable limitations period.

Said definition may be further defined or amended by additional pleadings, evidentiary hearings, a class certification hearing, and orders of this Court.

45. Excluded from the class are members of the judiciary assigned to preside over this

matter; any officer or director of Buffalo Wild Wings; and any immediate family member of such officers or directors.

46. The proposed Class meets all requirements of 735 ILCS 5/2-801.

47. **Numerosity.** The Class is so numerous that joinder of all individual plaintiffs is impracticable. On information and belief, there are at least 100 members of the Class. The precise number of Class members and their identities are unknown to Plaintiffs at this time but may be determined through discovery. Class members may be notified of the pendency of this action by mail and/or publication through the distribution records of Defendants and third-party retailers and vendors.

48. **Commonality and Predominance.** Common questions of fact and law predominate over questions that may affect individual class members, including the following:

- a. Whether Buffalo Wild Wings' conduct is subject to GIPA;
- b. Whether Buffalo Wild Wings directly or indirectly solicited Plaintiffs' and the other Class members' genetic information as a condition of employment or through their preemployment application in violation of 410 ILCS 513/25(c)(1);
- c. Whether Buffalo Wild Wings' violations of GIPA were negligent;
- d. Whether Buffalo Wild Wings' violations of GIPA were reckless or intentional; and
- e. Whether Plaintiffs and the Class are entitled to damages and injunctive relief.

49. Plaintiffs' claims are typical of the claims of the Class and arise from the same common practice and scheme used by Buffalo Wild Wings to solicit or obtain or require the disclosure of the genetic information of members of the Class. In each instance, Buffalo Wild Wings solicited or obtained genetic information from Plaintiffs and the Class by inquiring about family medical history or other genetic data as a part of their pre-employment applications, in

violation of GIPA.

50. **Adequacy of Representation.** Plaintiffs and their counsel will fairly and adequately represent and protect the interests of the Class. Plaintiffs are adequate representatives of the Class because their interests do not conflict with the interests of the members of the Class they seek to represent, and they intend to prosecute this action vigorously. Plaintiffs have retained competent and experienced counsel in class action and other complex litigation.

51. **Superiority.** A class action is superior to other available methods for fair and efficient adjudication of this controversy. The expense and burden of individual litigation would make it impracticable or impossible for the Class to prosecute their claims individually.

52. The trial and litigation of Plaintiffs' claims are manageable. Individual litigation of the legal and factual issues raised by Buffalo Wild Wings' conduct would increase delay and expense to all parties and the court system. The class action device presents far fewer management difficulties and provides the benefits of a single, uniform adjudication, economics of scale, and comprehensive supervision by a single court.

53. Buffalo Wild Wings has acted on grounds generally applicable to the entire Class, thereby making final injunctive relief and/or corresponding declaratory relief appropriate with respect to the Class as a whole. The prosecution of separate actions by individual Class members would create the risk of inconsistent or varying adjudications that would establish incompatible standards of conduct for Buffalo Wild Wings.

54. Absent a class action, Defendants will likely retain the benefits of their wrongdoing. Because of the small size of the individual Class members' claims, few, if any, Class members could afford to seek legal redress for the wrongs complained of herein. Absent a representative action, the Class will continue to suffer losses and Buffalo Wild Wings will be allowed to continue

these violations of law.

**COUNT ONE**  
**VIOLATION OF THE ILLINOIS GENETIC INFORMATION PRIVACY ACT**  
**410 ILCS 513/1, *et seq.***  
***(On Behalf of Plaintiffs and the Class)***

55. Plaintiffs reallege and incorporate by reference all preceding allegations as though fully set forth herein.

56. Buffalo Wild Wings is a corporation that employs individuals within the state of Illinois and thus meets the definition of an “employer” under GIPA. 410 ILCS 513/10.

57. GIPA defines “genetic information” by referencing HIPAA, as specified in 45 C.F.R. § 160.103. Under this definition, “genetic information” includes the “manifestation or possible manifestation of a disease or disorder in family members of [an] individual.”

58. Under GIPA, an employer shall not directly or indirectly solicit, request, require, or purchase genetic information of a person or a family member of the person as a condition of employment or preemployment application. 410 ILCS 513/25(c)(1).

59. As a precondition of their consideration for employment with Buffalo Wild Wings, Plaintiffs and the Class were required complete preemployment applications wherein Buffalo Wild Wings, or Buffalo Wild Wings’ agent, requested Plaintiffs’ and the Class’s family medical history information, *i.e.* the manifestation of a disease or disorder in family members. By doing so, Buffalo Wild Wings directly or indirectly solicited, requested, purchased, and/or required Plaintiffs and Class members to disclose their genetic information as a condition of a pre-employment application.

60. Plaintiffs and the Class also provided personal identifying information (“PII”), including their full names, home addresses, dates of birth, Social Security numbers, and gender

identities to Buffalo Wild Wings as part of their employment applications.

61. The information Buffalo Wild Wings solicited, requested, and/or obtained from Plaintiffs and Class members is the type of information protected by GIPA. 410 ILCS 513/10.

62. Buffalo Wild Wings failed to advise Plaintiffs and Class members, either verbally or in writing, of their statutorily protected right under GIPA to refuse to provide their family medical history of genetic information.

63. Plaintiffs and Class members have been aggrieved by Buffalo Wild Wings' above violations of their statutorily protected rights to privacy in their genetic information as set forth in GIPA.

64. GIPA provides for statutory damages of \$15,000 for each reckless or intentional violation of GIPA and, alternatively, damages of \$2,500 for each negligent violation of GIPA. 410 ILCS 513/40(a)(1)–(2).

65. Buffalo Wild Wings' violations of GIPA were knowing and willful or were at least in reckless disregard of GIPA's prohibitions. Buffalo Wild Wings knew or reasonably should have known that its demands violated GIPA. Alternatively, Buffalo Wild Wings negligently failed to comply with GIPA.

66. Accordingly, Plaintiffs, individually and on behalf of the Class, pray for the relief set forth below.

### **PRAYER FOR RELIEF**

WHEREFORE, Plaintiffs, individually and on behalf of all others similarly situated, request that this Court enter an Order granting the following relief against Defendants:

- a. Entry of an order certifying the Class as defined above, appointing Plaintiffs as Class Representatives, and appointing Plaintiffs' Counsel as Class Counsel;

- b. Declaring that Defendants' actions, as set forth herein, violate GIPA;
- c. Awarding injunctive and equitable relief as necessary to protect the interests of Plaintiffs and the Class by requiring Defendants to comply with GIPA pursuant to 410 ILCS 513/40(a)(4);
- d. Awarding statutory damages of \$15,000 for each of Defendants' reckless or intentional violations of GIPA pursuant to 410 ILCS 513/40(a)(2);
- e. Awarding statutory damages of \$2,500 for each of Defendants' negligent violations of GIPA pursuant to 410 ILCS 513/40(a)(1);
- f. Awarding reasonable attorneys' fees, costs, and other litigation expenses pursuant to 410 ILCS 513/40(a)(3);
- g. Awarding pre-judgment interest to the extent permitted by law; and
- h. Such other and further relief as the Court may deem just and proper.

#### **DEMAND FOR JURY TRIAL**

Plaintiffs demand a jury trial on all triable issues.

DATED: May 5, 2025

Respectfully submitted,

/s/ Seth McCormick

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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: [Buffalo Wild Wings Illegally Requests Family Medical Histories from Illinois Job Applicants, Lawsuit Claims](#)

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