

YES / ☒ NO
EXHIBITS

CASE NO. 2020 CH 201

DATE: 1/8/20

CASE TYPE: CLASS ACTION

PAGE COUNT: 9

CASE NOTE

Return Date: No return date scheduled
Hearing Date: 5/7/2020 9:30 AM - 9:30 AM
Courtroom Number: 2402
Location: District 1 Court
Cook County, IL

12-Person Jury

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

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1/8/2020 10:44 AM
DOROTHY BROWN
CIRCUIT CLERK
COOK COUNTY, IL
2020CH00201

PAUL SAYAS, on behalf of himself and
similarly situated individuals,

Plaintiff,

v.

BIOMETRIC IMPRESSIONS CORP.,

Defendant.

Case No. 2020CH00201

Jury Demand

7988462

CLASS ACTION COMPLAINT

NOW COMES Plaintiff, PAUL SAYAS, on behalf of himself and similarly situated individuals, for his Class Action Complaint against BIOMETRIC IMPRESSIONS CORP. alleges as follows:

INTRODUCTION

1. This lawsuit arises under the Illinois Biometric Information Privacy Act, 740 ILCS 14/1, *et seq.* ("BIPA") for Defendant's practice of storing and collecting the fingerprints of Plaintiff and similarly situated individuals, without proper notification and authorization. Plaintiff seeks to certify this matter as a class action pursuant to section 2-801 of the Illinois Code of Civil Procedure, 735 ILCS 5/2-801.

PARTIES

2. Paul Sayas ("Plaintiff" or "Sayas") is and at all relevant times was an Illinois citizen and resident of Cook County.

3. Biometric Impressions Corp. ("Defendant" or "Biometric Impressions") is

and at all relevant times was an Illinois corporation with over twenty-five different office locations throughout the state of Illinois, and, therefore, is a citizen of Illinois.

JURISDICTION AND VENUE

4. This Court has jurisdiction over this matter pursuant to 735 ILCS 5/2-209(a)(1) because the violations complained of herein were committed by Defendant in Illinois, and, pursuant to 735 ILCS 5/2-209(b)(4) because Defendant conducts and transacts business from and within the state of Illinois.

5. Venue is proper in the Circuit Court of Cook County, Illinois as Sayas is domiciled in Cook County.

FACTUAL BACKGROUND

6. Biometric Impressions is and at all relevant times was a licensed fingerprint vendor and a criminal background check service provider for a wide variety of clients a number in governmental and private industries.

7. Biometric Impressions charges clients and customers a fee for its services.

8. In order to conduct the background checks, Biometric Impressions collects fingerprints from individuals through its "live scan" fingerprint technology.

9. Biometric Impressions is a fingerprint vendor registered with the Illinois Department of Financial & Professional Regulation under License 262.000039.

10. At all times relevant, the Illinois Department of Financial & Professional Regulation required that licensed fingerprint vendors "shall conduct all fingerprint services in accordance with applicable local, State and federal law regarding privacy, confidentiality and information release, including but not limited to the Illinois Biometric

Information Privacy Act.” 68 Ill. Admin. Code Section 1240.620(d).

11. Section 14/15(a) of BIPA requires that a company in possession of biometric identifiers or biometric information to develop a written policy, made available to the public, establishing a retention schedule and guidelines for permanently destroying biometric identifiers or biometric information when the initial purpose for collecting or obtaining such identifiers or information has been satisfied or within three (3) years of the person’s last interaction with the company. 740 ILCS 14/15(a).

12. Section 14/15(b) of BIPA prohibits a company from, among other things, collecting, capturing, purchasing, receiving through trade or otherwise obtaining a person’s or a customer’s biometric identifiers or biometric information, unless it first (1) informs the individual in writing that a biometric identifier or biometric information is being collected or stored; (2) informs the individual in writing of the specific purpose and length of time 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).

13. In May 2019, a prospective employer directed Sayas to go to Biometric Impressions to obtain a background check through Biometric Impressions.

14. On May 3, 2019, Sayas paid \$35.00 to Biometric Impressions for background check service required by his prospective employer.

15. On May 3, 2019, Biometric Impressions collected and stored Sayas’ s fingerprints.

16. When Biometric Impressions collected and stored Sayas’ fingerprints it did

not provide written notification to Sayas that: (a) his biometric identifiers or biometric information was being collected or stored; nor (b) the specific purpose and length of term for which his biometric identifiers or biometric information was being collected, stored and used.

17. Biometric Impressions never received a written release from Sayas for the collection and storage of his biometric identifiers or biometric information.

18. Upon information and belief, Biometric Impressions never established nor published a BIPA-mandated retention and/or destruction policy and non was made available to Sayas, similarly situated individuals, or any members of the general public.

CLASS ALLEGATIONS

19. Pursuant to section 2-801 of the Illinois Code of Civil Procedure, 735 ILCS 5/2-801, Plaintiff brings this action on his own behalf and as a representative of all other similarly situated individuals to recover statutory penalties, prejudgment interest, attorneys' fees and costs, and other damages owed.

20. As discussed *supra*, Section 14/15(a) of BIPA requires that a company in possession of biometric identifiers or biometric information to develop a written policy, made available to the public, establishing a retention schedule and guidelines for permanently destroying biometric identifiers or biometric information when the initial purpose for collecting or obtaining such identifiers or information has been satisfied or within three (3) years of the person's last interaction with the company. 740 ILCS 14/15(a).

21. As discussed *supra*, Section 14/15(b) of BIPA prohibits a company from,

among other things, collecting, capturing, purchasing, receiving through trade or otherwise obtaining a person's or a customer's biometric identifiers or biometric information, unless it first (1) informs the individual in writing that a biometric identifier or biometric information is being collected or stored; (2) informs the individual in writing of the specific purpose and length of time 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).

22. Plaintiff seeks class certification under section 2-801 of the Illinois Code of Civil Procedure, 735 ILCS 5/2-801, for the following class of similarly situated individuals under BIPA:

All individuals who had their fingerprints collected, captured, received, or otherwise obtained or disclosed by Defendant at a location within the state of Illinois during the applicable statutory period.

23. This action is properly maintained as a class under 735 ILCS 5/2-801 because:

- A. The class is so numerous that joinder of all members is impracticable;
- B. There are questions of law or fact that are common to the class;
- C. Plaintiff's claims are typical of the claims of the class; and,
- D. Plaintiff will fairly and adequately protect the interests of the class.

Numerosity

24. According to the Biometric Impressions website, it has collected "over half a million fingerprints." <https://www.biometricimpressions.com/> (December 31, 2019).

25. Therefore, upon information and belief, the total number of putative class members exceeds fifty (50) individuals.

26. The exact number of class members may easily be determined from Defendant's records

Commonality

27. There are common questions of law and fact concerning and affecting the Class in that Plaintiff and all members of the Class have been harmed by Defendant's failure to comply with BIPA. These common questions of law and fact include, but are not limited to, the following:

- A. Whether Defendant collected, captured or otherwise obtained Plaintiff's and the Class' biometric identifiers or biometric information;
- B. Whether Defendant properly informed Plaintiff and the Class of its purposes for collecting, using, storing and disseminating their biometric identifiers or biometric information;
- C. Whether Defendant obtained a written release (as defined in 740 ILCS 14/10) to collect, use, store and disseminate Plaintiff's and the Class' biometric identifiers or biometric information;
- D. Whether Defendant has disclosed or re-disclosed Plaintiff's and the Class' biometric identifiers or biometric information;
- E. Whether Defendant has sold, leased, traded or otherwise profited from Plaintiff's and the Class' biometric identifiers or biometric information;
- F. Whether Defendant developed a written policy, made available to the public, establishing a retention schedule and guidelines for permanently destroying biometric identifiers or biometric information when the initial purpose for collecting or obtaining such identifiers or information has been satisfied or within three (3) years of the person's last interaction with the company;
- G. Whether Defendant's violations of BIPA have created a material risk that

Plaintiff's and the Class' biometric identifiers or biometric information will be unlawfully accessed by third parties;

H. Whether the violations of BIPA were committed negligently; and,

I. Whether the violations of BIPA were committed intentionally or recklessly.

28. Plaintiff anticipates that Defendant will raise defenses that are common to the Class.

Adequacy

29. Plaintiff will fairly and adequately protect the interests of all members of the Class and there are no known conflicts of interest between Plaintiff and the Class. Plaintiff also retained experienced attorneys who are competent in the prosecution of complex litigation and who have extensive experience acting as class counsel.

Predominance and Superiority

30. The common questions of law and fact identified herein predominate over any individual issues.

31. A class action will allow large number of similarly situated individuals to prosecute their common claims in a single forum simultaneously, efficiently and without unnecessary duplication of effort and expense that would be incurred if each class member was required to bring an individual claim.

32. Individual joinder of the parties is impracticable. Therefore, a class action is superior to other available means for the fair and efficient adjudication of this controversy.

COUNT I - VIOLATIONS OF BIPA

33. Sayas incorporates and re-alleges Paragraphs 1 through 32 as Paragraph 33.

34. Biometric Impressions is a "private entity" under BIPA. 740 ILCS 15/10.

35. Plaintiff's and the Class' fingerprints are "biometric identifier[s]" and "biometric information" within the definition of BIPA. 740 ILCS 15/10.

36. Biometric Impressions obtained, stored and/or used Plaintiff's and the Class' biometric identifiers or biometric information in course of its business as a licensed fingerprint vendor and background check service provider.

37. Biometric Impressions violated BIPA by capturing or collecting Plaintiff's and the Class' fingerprints without first creating a written policy, made available to Plaintiff and the Class, establishing a retention schedule and destruction guidelines for its possession of biometric identifiers and biometric information.

38. Biometric Impressions violated BIPA by capturing or collecting Plaintiff's and the Class' fingerprints without first informing them in writing that Defendant was doing so.

39. Biometric Impressions violated BIPA by capturing or collecting Plaintiff's and the Class' fingerprints without first informing them in writing of the specific purpose and length of term for which their biometric data was being collected, stored and used.

40. Biometric Impressions knew or should have known of the requirements of BIPA.

41. Because it knew or should have known of the requirements of BIPA, Biometric Impressions' violations of BIPA were reckless, or, in the alternative, negligent.

JURY DEMAND

42. Plaintiff demands a jury trial.

WHEREFORE Plaintiff Paul Sayas, on behalf of himself and similarly situated individuals, respectfully requests that this Honorable the Court enter judgment in its favor and against Defendant Biometric Impressions Corp. as follows:

- A. Award Plaintiff and the Class statutory damages of \$5,000 for each willful 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);
- B. Enjoin Defendant from committing further violations of BIPA as permitted by 740 ILCS 14/20(4);
- C. Award Plaintiff and the Class all reasonable attorneys' fees and costs, including other litigation expenses, as provided by 740 ILCS 14/20(3);
- D. Award Plaintiff and the Class prejudgment interest; and,
- E. Any other relief this Court deems just and necessary.

Dated: January 8, 2020

Respectfully submitted,

By: /s/Bradley S. Levison
One of Plaintiff and Class' Attorneys

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This complaint is part of ClassAction.org's searchable class action lawsuit database and can be found in this post: [Case Claims Biometric Impressions Corp.'s Fingerprint Collection Violated Illinois Privacy Law](#)
