

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION

RONESHA SMITH, on behalf of herself	)	
and all others similarly situated,	)	
	)	
Plaintiff,	)	
	)	Case No. 2021-cv-02025
v.	)	
	)	
SIGNATURE SYSTEMS, INC.,	)	
	)	
Defendant.	)	

**NOTICE OF REMOVAL**

Defendant, Signature Systems, Inc., pursuant to 28 U.S.C. §§ 1332, 1441(b), and 1446, notifies this Court that the above-captioned cause has been removed from the Circuit Court of Cook County, Illinois, Chancery Department, to the United States District Court for the Northern District of Illinois, Eastern Division, and in support thereof, states as follows:

On March 10, 2021, Plaintiff Ronesha Smith (“Plaintiff”) filed a putative Class Action Complaint alleging that Signature Systems violated Sections 15(a) and (b) of the Illinois’ Biometric Information Privacy Act (“BIPA”), 740 ILCS 14/15 by “actively collecting, storing, and using – without notice, obtaining informed written consent or publishing data retention policies – the fingerprint and associated personally identifying information of thousands of Illinois residents employed by [its] clients.” (Compl., ¶ 4). A copy of Plaintiff’s Complaint and Summons served on Signature Systems, Inc. is attached as Exhibit A.

Signature Served was personally served on March 15, 2021. (Exhibit B., Kopil Decl., ¶ 2). Removal is timely because this notice is filed within 30 days of service of the Complaint and Summons. *See* 28 U.S.C. § 1446(b)(1).

In addition to the Summons and Complaint, the only other pleading, order, or motion served on Signature Systems is Plaintiff's Motion for Class Certification, a copy of which is attached as Exhibit C.

Pursuant to 28 U.S.C. § 1446(d), Signature Systems, Inc. will provide written notice of removal of this action to Plaintiff, and will promptly file a copy of this Notice of Removal with the Clerk of the Circuit Court of Cook County, Illinois.

Signature Systems, Inc. submits this Notice of Removal without waiving any defenses to the claims asserted by Plaintiff and without conceding either the Complaint's allegations or that Plaintiff pled claims upon which relief can be granted.

**I. REMOVAL IS PROPER UNDER DIVERSITY JURISDICTION**

This is a civil action over which this Court has original jurisdiction under 28 U.S.C. § 1332, and is one which may be removed to this Court by Defendant pursuant to the provisions of 28 U.S.C. § 1441(b), because this is an action between citizens of different states and the amount in controversy exceeds the sum of \$75,000.

**A. Plaintiff and Defendant are Citizens From Different States**

For diversity purposes, an individual is a citizen of her place of domicile. *See 24 Hour Fitness USA, Inc. v. Bally Total Fitness Holding Corp.*, 08 CV 3853, 2008 U.S. Dist. LEXIS 84374, at \* 9-11 (N.D. Ill. Oct. 21, 2008). Defendant is informed and believes that Plaintiff is a resident of Cook County, Illinois as Plaintiff alleges that during all relevant times, she has been a resident and citizen of Chicago. (Compl., ¶ 7). The place where a person lives is *prima facie* evidence of his domicile. *See Lew v. Moss*, 797 F.2d 747, 751 (9<sup>th</sup> Cir. 1986); *Anderson v. Watts*, 138 U.S. 694, 706 (1891); *Hollinger v. Home State Mut. Ins. Co.*, 654 F.3d 564, 571 (5<sup>th</sup> Cir. 2011) (per curiam); 13E Charles Alan Wright & Arthur R. Miller, Federal Practice

and Procedure § 3612 & nn. 32-33 (3d ed. 2013). As such, for diversity purposes, Plaintiff is a citizen of the State of Illinois.

A corporation is “a citizen of every [s]tate . . . by which it has been incorporated and of the [s]tate . . . where it has its principal place of business.” 28 U.S.C. § 1332(c)(1). In *Hertz v. Friend*, 130 S. Ct. 1181, 1192 (2010), the United States Supreme Court held that a corporation’s “principal place of business” for determining its citizenship for diversity purposes is its “nerve center,” *i.e.*, “where a corporation’s officers direct, control, and coordinate the corporation’s activities.” At the time that this lawsuit was filed continuing until the date that this Notice of Removal is filed, Signature Systems has been and is still incorporated in the Commonwealth of Pennsylvania and has its principal place of business in Warminster, Pennsylvania. (Compl., ¶ 8; Kopil Decl., Exhibit B, ¶ 6). Signature Systems’ directors and officers direct, coordinate, and control the corporation’s activities from its offices in Warminster, Pennsylvania. (*Id.*, at ¶¶ 6-7). None are based in Illinois. (*Id.*, at ¶ 7).

**B. The Amount in Controversy Exceeds \$75,000**

When analyzing the amount in controversy in a class action under 28 U.S.C. § 1332(a), “at least one named plaintiff must satisfy the jurisdictional amount.” *Clement v. Lau*, No. 03 C 6179, 2003 WL 22948671, at \*2 (N.D. Ill. Dec. 10, 2003). In other words, “the individual claims of class members cannot be aggregated to meet the jurisdictional amount, and instead each class member is required to have a jurisdictionally-sufficient claim.” *Id.*; *see also In re Brand Name Prescription Drugs Antitrust Litig.*, 123 F.3d 599, 607 (7<sup>th</sup> Cir. 1997).

Plaintiff alleges that Bimbo’s BIPA violations were “intentional or reckless,” thereby seeking a statutory penalty of up to \$5,000 for each “violation.” (Compl., ¶ 40, prayer for relief (C)). The amount in controversy exceeds \$75,000 because Plaintiff alleges that she used the

biometric time clock at issue in this lawsuit on a daily basis to clock in and out of work during the entire approximate three-month duration of her employment at Signature Systems, Inc.'s client. (Compl., ¶¶ 18, 20). Based on this approach,<sup>1</sup> even the most conservative estimate would have Plaintiff clocking in and out far in excess of the 16 times necessary to exceed the jurisdictional amount-in-controversy threshold (*i.e.*,  $16 \times \$5,000 = \$80,000$ ) over her three months of employment.

## **II. REMOVAL IS PROPER UNDER THE CLASS ACTION FAIRNESS ACT**

Alternatively, this Court has original jurisdiction over this matter pursuant to the Class Action Fairness Act (CAFA), 28 U.S.C. § 1332(d). CAFA amended 28 U.S.C. § 1332 to grant U.S. district courts original jurisdiction over “any civil action” in which: (a) the aggregate number of members in the proposed class is 100 or more; (b) the “matter in controversy exceeds the sum or value of \$5,000,000, exclusive of interest and costs”; and (c) “any member of a class of plaintiffs is a citizen of a State different from any defendant.” 28 U.S.C. § 1332(d)(2), (d)(5)(B).

### **A. This Matter is a Class Action Under CAFA.**

Plaintiff purports to represent a “class” of individuals pursuant to 735 ILCS 5/2-801 *et seq.* (Compl., ¶¶ 26-30.) Therefore, this action is properly considered a “class action” under CAFA. *See* 28 U.S.C. § 1332(d)(1)(B). The putative class action described in the Complaint satisfies the requirements of CAFA. While the precise number of individuals in the class cannot be determined until discovery, the aggregate putative class size according to Plaintiff’s allegations is “at least hundreds and possibly thousands of persons.” (Compl., at ¶ 27).

### **B. The Minimal Diversity Requirement is Met.**

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<sup>1</sup> Signature Systems, Inc. does not concede that this is the proper measure of damages under BIPA, merely that Plaintiff includes this allegation in the Complaint.

Minimal diversity exists under 28 U.S.C. § 1332(d)(2)(A) where Plaintiff is an Illinois citizen and Signature Systems, Inc. is a Pennsylvania corporation with its principal place of business in Pennsylvania. (Compl., ¶ 8; Kopil Decl., ¶¶ 6-7). *See e.g., Lewert v. P.F. Chang's China Bistro, Inc.*, 819 F.3d 963, 965-66 (7th Cir. 2016) (minimal diversity existed under CAFA when the class representatives were citizens of Illinois and the defendant was a Delaware corporation with its principal place of business in Arizona).

**C. The “Matter in Controversy” Aggregated Across All of the Class Members’ Claims Meets the CAFA Threshold.**

The amount in controversy under CAFA is satisfied if “the matter in controversy exceeds the sum or value of \$5,000,000, exclusive of interest and costs.” 28 U.S.C. § 1332(d)(2). For purposes of determining the amount in controversy, CAFA expressly requires that “the claims of the individual class members shall be aggregated.” 28 U.S.C. § 1332(d)(6).

Signature Systems, Inc.’s burden to demonstrate the amount in controversy is low and it need show only that there is “a reasonable probability that the stakes exceed the minimum.” *Brill v. Countrywide Home Loans, Inc.*, 427 F.3d 446, 448 (7<sup>th</sup> Cir. 2005). Indeed, “[a] good-faith estimate is acceptable if it is plausible and adequately supported by the evidence.” *Blomberg v. Serv. Corp. Int’l*, 639 F.3d 761, 763 (7<sup>th</sup> Cir. 2011) (citation omitted).

Signature Systems, Inc. denies the validity and merit of Plaintiff’s claims, the legal theories upon which they are based, that Plaintiff is entitled to any alleged claims for monetary and other relief. Solely for purposes of removal, however, and without conceding that Plaintiff or the putative class are entitled to damages, the aggregated claims of the putative class establishes, by a preponderance of evidence, that the amount in controversy exceeds the jurisdictional minimum of \$5,000,000. Plaintiff alleges “intentional or reckless” violations of BIPA, (Compl., ¶ 40), which carry statutory damages of \$5,000 “per violation.” *See* 740 ILCS 14/20. Plaintiff also alleges at

least two separate BIPA “violations,” - - Section 15(a) and Section 15(b), which occurred “each time she clocked in for work and clocked out of work.” (Compl., ¶ 20). Thus, based purely on the Complaint’s allegations (which Signature Systems, Inc. denies), if each class member is entitled to recover for only two days of work (two times clocking in and two time clocking out) <sup>2</sup>, which is four “violations,” recovery of greater than the \$5,000,000 jurisdictional threshold is not “legally impossible” (*i.e.*, 300 class members x \$5,000 statutory damages x 4 violations = \$6,000,000). *See Spivey v. Vertrue*, 528 F.3d 982, 986 (7<sup>th</sup> Cir. 2008).

### **III. ARTICLE III STANDING EXISTS IN THIS COURT**

This case can proceed before this Court under Article III of the U.S. Constitution where Plaintiff alleges that Defendant’s failure to comply with all three requirements of Section 15(b) “[b]y collecting [her] unique biometric identifiers or biometric information without her consent, written or otherwise” resulted in “Defendant invad[ing] Plaintiff’s statutorily protected right to maintain control over her biometrics.” (Compl., ¶ 24). In *Bryant v. Grp. USA, Inc.*, 958 F.3d 617, 626 (7<sup>th</sup> Cir. 2020), the Seventh Circuit held that the requirements for Article III standing are satisfied as to a Section 15(b) BIPA claim based on a plaintiff’s deprivation of the ability to provide the informed consent Section 15(b) mandates. The court reasoned, “[t]his deprivation is a concrete injury-in-fact that is particularized to [plaintiff].” *Id.*

WHEREFORE, Defendant, Signature Systems, Inc., notifies this Court that this cause has been removed from the Circuit Court of Cook County, Illinois to the United States District Court for the Northern District of Illinois, Eastern Division, pursuant to the provisions of 28 U.S.C. §§ 1441, 1446.

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<sup>2</sup> Signature Systems, Inc. includes this amount in controversy based solely on Plaintiff’s allegations and does not concede Plaintiff’s allegations are correct.

Respectfully submitted,

**Signature Systems, Inc., Defendant**

By: /s/ Lisa Handler Ackerman  
One of its attorneys

Lisa Handler Ackerman  
WILSON, ELSER, MOSKOWITZ, EDELMAN & DICKER LLP  
55 West Monroe Street, Suite 3800  
Chicago, Illinois 60603  
(312) 704-0550  
(312) 704-1522-fax  
lisa.ackerman@wilsonelser.com

CERTIFICATE OF SERVICE

The undersigned certifies that a true and correct copy of the foregoing instrument was served on the attorney of record at:

Mr. Carl V. Malmstrom Wolf, Haldenstein, Adler, Freeman & Herz, LLC 111 West Jackson Boulevard, Suite 1700 Chicago, Illinois 60604 malmstrom@whafh.com	Frank S. Hedin David W. Hall Arun G. Ravindran Hedin Hall LLP 1395 Brickell Avenue, Suite 1140 Miami, Florida 33131 fhedin@hedinhall.com dhall@hedinhall.com
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via  hand delivery,  electronic mail,  overnight-next day delivery, and/or  depositing same in the US Mail at 55 West Monroe Street, Suite 3800, Chicago, IL, with proper postage prepaid, at or before the hour of 5:00 p.m., on this 14th day of April 2021.

By: /s/Lisa Handler Ackerman



FILED  
3/12/2021 10:56 AM  
IRIS Y. MARTINEZ  
CIRCUIT CLERK  
COOK COUNTY, IL  
2021CH01145

12553219

2120 - Served	2121 - Served	2620 - Sec. of State
2220 - Not Served	2221 - Not Served	2621 - Alias Sec of State
2320 - Served By Mail	2321 - Served By Mail	
2420 - Served By Publication	2421 - Served By Publication	
Summons - Alias Summons		(12/01/20) CCG 0001 A

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS

Name all Parties

Ronesha Smith

Plaintiff(s)

v.

Signature Systems, Inc.

Case No. 2021-CH-01145

Defendant(s)

760  
790 Veterans Circle  
Warminster PA 18974

Address of Defendant(s)

Please serve as follows (check one):  Certified Mail  Sheriff Service  Alias

SUMMONS

To each Defendant:

You have been named a defendant in the complaint in this case, a copy of which is hereto attached. You are summoned and required to file your appearance, in the office of the clerk of this court, within 30 days after service of this summons, not counting the day of service. If you fail to do so, a judgment by default may be entered against you for the relief asked in the complaint.

**THERE WILL BE A FEE TO FILE YOUR APPEARANCE.**

To file your written appearance/answer **YOU DO NOT NEED TO COME TO THE COURTHOUSE.** You will need: a computer with internet access; an email address; a completed Appearance form that can be found at <http://www.illinoiscourts.gov/Forms/approved/procedures/appearance.asp>; and a credit card to pay any required fees.

Iris Y. Martinez, Clerk of the Circuit Court of Cook County, Illinois  
[cookcountyclerkofcourt.org](http://cookcountyclerkofcourt.org)

Summons - Alias Summons

(12/01/20) CCG 0001 B

E-filing is now mandatory with limited exemptions. To e-file, you must first create an account with an e-filing service provider. Visit <http://efile.illinoiscourts.gov/service-providers.htm> to learn more and to select a service provider.

If you need additional help or have trouble e-filing, visit <http://www.illinoiscourts.gov/faq/gethelp.asp> or talk with your local circuit clerk's office. If you cannot e-file, you may be able to get an exemption that allows you to file in-person or by mail. Ask your circuit clerk for more information or visit [www.illinoislegalaid.org](http://www.illinoislegalaid.org).

If you are unable to pay your court fees, you can apply for a fee waiver. For information about defending yourself in a court case (including filing an appearance or fee waiver), or to apply for free legal help, go to [www.illinoislegalaid.org](http://www.illinoislegalaid.org). You can also ask your local circuit clerk's office for a fee waiver application.

Please call or email the appropriate clerk's office location (on Page 3 of this summons) to get your court hearing date AND for information whether your hearing will be held by video conference or by telephone. The Clerk's office is open Mon - Fri, 8:30 am - 4:30 pm, except for court holidays.

**NOTE: Your appearance date is NOT a court date. It is the date that you have to file your completed appearance by. You may file your appearance form by e-filing unless you are exempted.**

A court date will be set in the future and you will be notified by email (either to the email address that you used to register for e-filing, or that you provided to the clerk's office).

**CONTACT THE CLERK'S OFFICE for information regarding COURT DATES by visiting our website: [cookcountyclerkofcourt.org](http://cookcountyclerkofcourt.org); download our mobile app from the AppStore or Google play, or contact the appropriate clerk's office location listed on Page 3.**

To the officer: (Sheriff Service)

This summons must be returned by the officer or other person to whom it was given for service, with endorsement of service and fees, if any, immediately after service. If service cannot be made, this summons shall be returned so endorsed. This summons may not be served later than thirty (30) days after its date.

• Atty. No.: 38819  
 Pro Se 99500

Name: Carl V. Malmstrom  
Atty. for (if applicable):  
Plaintiff Ronesha Smith

Address: 111 W. Jackson Blvd., Suite 1700

City: Chicago

State: IL Zip: 60604

Telephone: (312) 984-0000

Primary Email: malmstrom@whafh.com

3/12/2021 10:56 AM IRIS Y. MARTINEZ

Witness date \_\_\_\_\_



IRIS Y. MARTINEZ, Clerk of Court

Service by Certified Mail

Date of Service: \_\_\_\_\_  
(To be inserted by officer on copy left with employer or other person)

**Iris Y. Martinez, Clerk of the Circuit Court of Cook County, Illinois**  
**[cookcountyclerkofcourt.org](http://cookcountyclerkofcourt.org)**

**GET YOUR COURT DATE BY CALLING IN OR BY EMAIL**

**CALL OR SEND AN EMAIL MESSAGE** to the telephone number or court date email address below for the appropriate division, district or department to request your next court date. Email your case number, or, if you do not have your case number, email the Plaintiff or Defendant's name for civil case types, or the Defendant's name and birthdate for a criminal case.

**CHANCERY DIVISION**

**Court date EMAIL:** ChanCourtDate@cookcountycourt.com  
**Gen. Info:** (312) 603-5133

**CIVIL DIVISION**

**Court date EMAIL:** CivCourtDate@cookcountycourt.com  
**Gen. Info:** (312) 603-5116

**COUNTY DIVISION**

**Court date EMAIL:** CntyCourtDate@cookcountycourt.com  
**Gen. Info:** (312) 603-5710

**DOMESTIC RELATIONS/CHILD SUPPORT  
DIVISION**

**Court date EMAIL:** DRCourtDate@cookcountycourt.com  
OR  
ChildSupCourtDate@cookcountycourt.com  
**Gen. Info:** (312) 603-6300

**DOMESTIC VIOLENCE**

**Court date EMAIL:** DVCourtDate@cookcountycourt.com  
**Gen. Info:** (312) 325-9500

**LAW DIVISION**

**Court date EMAIL:** LawCourtDate@cookcountycourt.com  
**Gen. Info:** (312) 603-5426

**PROBATE DIVISION**

**Court date EMAIL:** ProbCourtDate@cookcountycourt.com  
**Gen. Info:** (312) 603-6441

**ALL SUBURBAN CASE TYPES**

**DISTRICT 2 - SKOKIE**

**Court date EMAIL:** D2CourtDate@cookcountycourt.com  
**Gen. Info:** (847) 470-7250

**DISTRICT 3 - ROLLING MEADOWS**

**Court date EMAIL:** D3CourtDate@cookcountycourt.com  
**Gen. Info:** (847) 818-3000

**DISTRICT 4 - MAYWOOD**

**Court date EMAIL:** D4CourtDate@cookcountycourt.com  
**Gen. Info:** (708) 865-6040

**DISTRICT 5 - BRIDGEVIEW**

**Court date EMAIL:** D5CourtDate@cookcountycourt.com  
**Gen. Info:** (708) 974-6500

**DISTRICT 6 - MARKHAM**

**Court date EMAIL:** D6CourtDate@cookcountycourt.com  
**Gen. Info:** (708) 232-4551

Return Date: No return date scheduled  
Hearing Date: 7/8/2021 9:30 AM - 9:30 AM  
Courtroom Number: 2408  
Location: District 1 Court  
Cook County, IL

FILED  
3/10/2021 3:16 PM  
IRIS Y. MARTINEZ  
CIRCUIT CLERK  
COOK COUNTY, IL  
2021CH01145

12526550

Chancery Division Civil Cover Sheet  
General Chancery Section

(12/01/20) CCGH 0623

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

Ronesha Smith

Plaintiff

2021CH01145

v.

Case No:

Signature Systems, Inc.

Defendant

CHANCERY DIVISION CIVIL COVER SHEET  
GENERAL CHANCERY SECTION

A Chancery Division Civil Cover Sheet - General Chancery Section shall be filed with the initial complaint in all actions filed in the General Chancery Section of Chancery Division. The information contained herein is for administrative purposes only. Please check the box in front of the appropriate category which best characterizes your action being filed.

Only one (1) case type may be checked with this cover sheet.

- 0005  Administrative Review
- 0001  Class Action
- 0002  Declaratory Judgment
- 0004  Injunction
- 0007  General Chancery
- 0010  Accounting
- 0011  Arbitration
- 0012  Certiorari
- 0013  Dissolution of Corporation
- 0014  Dissolution of Partnership
- 0015  Equitable Lien
- 0016  Interpleader

- 0017  Mandamus
- 0018  Ne Exeat
- 0019  Partition
- 0020  Quiet Title
- 0021  Quo Warranto
- 0022  Redemption Rights
- 0023  Reformation of a Contract
- 0024  Rescission of a Contract
- 0025  Specific Performance
- 0026  Trust Construction
- 0050  Internet Take Down Action (Compromising Images)
- Other (specify) \_\_\_\_\_

Atty No: 38819 Pro Se 99500

Atty Name: Carl V. Malmstrom

Atty for: Plaintiff

Address: 111 W. Jackson Blvd., Suite 1700

City: Chicago State: IL

Zip: 60604

Telephone: (312) 984-0000

Primary Email: malmstrom@whafh.com

Pro Se Only:  I have read and agree to the terms of the Clerk's Clerk's Office Electronic Notice Policy and choose to opt in to electronic notice from the Clerk's office for this case at this email address:

Email: \_\_\_\_\_

Iris Y. Martinez, Clerk of the Circuit Court of Cook County, Illinois  
cookcountyclerkofcourt.org

Hearing Date: 7/8/2021 9:30 AM - 9:30 AM

Courtroom Number: 2408

Location: District 1 Court

Cook County, IL

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

FILED  
3/10/2021 3:16 PM  
IRIS Y. MARTINEZ  
CIRCUIT CLERK  
COOK COUNTY, IL  
2021CH01145

RONESHA SMITH, on behalf of herself and  
all others similarly situated,

Plaintiff,

v.

SIGNATURE SYSTEMS, INC.

Defendant.

Case No. 2021CH01145

12526550

**JURY TRIAL DEMANDED**

**CLASS ACTION COMPLAINT**

Plaintiff Ronesha Smith, individually and on behalf of all others similarly situated, brings this Class Action Complaint for violations of the Illinois Biometric Information Privacy Act ("BIPA"), 740 ILCS 14/1 *et seq.*, against Signature Systems, Inc. ("Defendant"), and alleges as follows based on personal knowledge as to herself, on the investigation of her counsel and the advice and consultation of certain third-party agents as to technical matters, and demands trial by jury:

**NATURE OF 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 Plaintiff's and other similarly situated individuals' biometric identifiers<sup>1</sup> and biometric information<sup>2</sup> (referred to collectively at times as "biometrics") without obtaining the requisite prior informed written consent or providing the requisite data retention and destruction policies, in direct violation of BIPA.

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 14/5(e).

<sup>1</sup> A "biometric identifier" is a personal feature unique to an individual, such as a fingerprint, handprint, iris scan, scan of face geometry, among others.

<sup>2</sup> "Biometric information" is any information captured, converted, stored or shared based on a person's biometric identifier used to identify an individual.

“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: (1) informs that person in writing that biometric identifiers or information will be collected or stored, *see id.*; (2) informs that person in writing of the specific purpose and length of term for which such biometric identifiers or biometric information is being collected, stored and used, *see id.*; (3) receives a written release from the person for the collection of his or her biometric identifiers or information, *see id.*; and (4) publishes publicly available written retention schedules and guidelines for permanently destroying biometric identifiers and biometric information, *see* 740 ILCS 14/15(a). 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. *Id.* 14/15(e). Finally, the entity is expressly prohibited from selling, leasing, trading or otherwise profiting from the individual’s biometrics. *Id.* 15/15(c).

4. In direct violation of each of the foregoing provisions of § 15(a) and § 15(b) of BIPA, Defendant is actively collecting, storing, and using – without providing notice, obtaining informed written consent or publishing data retention policies – the fingerprint and associated personally identifying information of thousands of Illinois residents employed by Defendant’s clients. Initially collected from employees prior to or early on in their employment, employees’ fingerprint are stored by Defendant in an electronic database and used to, *inter alia*, allow Defendant’s clients’ employees to clock in and clock out of work. Specifically, to allow its client’s employees to clock in and clock out of work in Illinois and/or access point-of-sale systems, Defendant collects (via an electronic scanning device) the employee’s fingerprint and stores the

fingerprint in its fingerprint database along with credentials corresponding to that employee. Then, when an employee places his or her fingerprint on one of Defendant's scanning devices to clock in and clock out of work and/or access a point-of-sale system, he or she is only granted access if the collected fingerprint matches a fingerprint stored in Defendant's database (which was collected during enrollment).

5. If Defendant's database of digitized fingerprints were to fall into the wrong hands, by data breach or otherwise, individuals to whom these sensitive biometric identifiers belong could have their identities stolen or their financial and other highly personal information breached and used for nefarious purposes. 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 their employment with the company ends. Yet Defendant never adequately informed any of the Illinois residents whose biometrics it collected and stored of Defendant's biometrics collection practices, never obtained written consent from any of these individuals regarding its biometric practices, and never provided any data retention or destruction policies to any of these individuals.

6. Plaintiff brings this action to prevent Defendant from further violating the 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.

#### **PARTIES**

7. Plaintiff is, and has been at all relevant times, a resident and citizen of Chicago, Illinois.

8. Defendant is a corporation that maintains its headquarters in Warminster, Pennsylvania. Defendant is the owner, operator, and vendor of point-of-sale systems for commercial enterprises including restaurants, casinos, and other hospitality venues.

#### **JURISDICTION AND VENUE**

9. The Court has personal jurisdiction over Defendant because the fingerprints that give rise to this lawsuit were and still are (1) collected by Defendant at a facility in Cook County,

Illinois, (2) stored by Defendant at a facility in Cook County, Illinois, and (3) used by Defendant at facilities in Cook County, Illinois.

10. The Chancery Division is the appropriate venue for this action because it is a class action and, additionally, because it seeks declaratory and injunctive relief.

## FACTUAL BACKGROUND

### I. Illinois's Biometric Information Privacy Act

11. 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 customer's biometric identifiers 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).

12. 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).

13. As alleged below, Defendant's practices of collecting, storing and using individuals' biometric identifiers (specifically, fingerprints) and associated biometric information without informed written consent violate 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 violates § 15(a) of BIPA.

## **II. Defendant Violates Illinois's Biometric Information Privacy Act**

14. Unbeknownst to the average consumer, and in direct violation of § 15(b)(1) of BIPA, Defendant scans and collects, and then indefinitely stores in an electronic database, digital copies of its client's employees' fingerprints during the initial process of enrolling these individuals in its databases of fingerprints in Illinois, as well as whenever employees clock in and clock out of work and/or attempt to access a point-of-sale system at one of Defendant's clients' Illinois-based locations where Defendant's biometrics technology is used – all without ever informing anyone of this practice in writing.

15. In direct violation of §§ 15(b)(2) and 15(b)(3) of BIPA, Defendant never informed Illinois residents who had their fingerprints collected of the specific purpose and length of term for which their biometric identifiers or information would be collected, stored and used, nor did Defendant obtain a written release from any of these individuals.

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

## **III. Plaintiff Ronessa Smith's Experience**

17. Jimmy John's, Inc. ("Jimmy John's") is a nation-wide fast-food franchisor. Jimmy John's mandates the use of Defendant's point-of-sale system as a franchise requirement.

18. From approximately July 2019 through September 2019, Plaintiff was employed by a Jimmy John's franchised restaurant in Evergreen Park, Illinois (the "Evergreen Park Facility").

19. During the course of Plaintiff's employment at the Evergreen Park Facility, Defendant, through its point-of-sale system, scanned and collected, and stored in an electronic database, digital copies of Plaintiff's fingerprints.

20. Plaintiff used her fingerprint to clock in and clock out of work at the Evergreen Park Facility on a daily basis during her employment. Plaintiff was required to place her finger on a fingerprint scanner, which scanned, collected and stored her fingerprint each time she attempted to clock in and clock out of work at the Evergreen Park Facility. Defendant's sophisticated fingerprint matching technology then compared Plaintiff's scanned fingerprint against the fingerprints previously stored in Defendant's fingerprint database, at which point Plaintiff was able to clock in and clock out of work at Defendant's Evergreen Park Facility.

21. 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.

22. 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.

23. 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.

24. By collecting Plaintiff's unique biometric identifiers or biometric information without her consent, written or otherwise, Defendant invaded Plaintiff's statutorily protected right to maintain control over her biometrics.

25. Finally, Defendant never provided plaintiff with a retention schedule and/or guidelines for permanently destroying her biometric identifiers and biometric information.

#### CLASS ALLEGATIONS

26. **Class Definition:** Plaintiff brings this action pursuant to 735 ILCS 5/2-80] on behalf of a class of similarly situated individuals, defined as follows (the "Class"):

All individuals who had their fingerprints collected, captured, received, or otherwise obtained, and/or stored, by Defendant in Illinois.

The following are excluded from the Class: (1) any Judge presiding over this action and members of his or her family; (2) Defendant, Defendant's subsidiaries, parents, successors, predecessors, and any entity in which Defendant or its parent has a controlling interest (as well as current or former employees, officers and directors); (3) persons who properly execute and file a timely request for exclusion from the Class; (4) persons whose claims in this matter have been finally adjudicated on the merits or otherwise released; (5) Plaintiff's counsel and Defendant's counsel; and (6) the legal representatives, successors, and assigns of any such excluded persons.

27. **Numerosity:** Pursuant to 735 ILCS 5/2-801(1), the number of persons within the Class is substantial, believed to amount to at least hundreds and possibly 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.

28. **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 fingerprints;
- (b) whether Defendant collected or otherwise obtained Plaintiff's and the Class's biometric identifiers or biometric information;
- (c) whether Defendant properly informed Plaintiff and the Class that it collected, used, and stored their biometric identifiers or biometric information;

- (d) whether Defendant obtained a written release (as defined in 740 ILCS 1410) to collect, use, and store Plaintiff's and the Class's biometric identifiers or biometric information;
- (e) 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;
- (f) whether Plaintiff's and the Class's biometric information that Defendant collected was capable of identifying them; and
- (g) whether Defendant's violations of BIPA were committed intentionally, recklessly, or negligently.

29. **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 has any interest adverse to, or in conflict with, the interests of the absent members of the Class. Plaintiff has raised viable statutory claims of 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 or additional claims as may be appropriate.

30. **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 compel compliance with BIPA.

**FIRST CAUSE OF ACTION**  
**Violation of 740 ILCS 14/1, et seq.**  
**(On Behalf of Plaintiff and the Class)**

31. Plaintiff incorporates the foregoing allegations as if fully set forth herein.
32. BIPA makes it unlawful for any private entity to, among other things, “collect, capture, purchase, receive through trade, or otherwise obtain a person’s or a customer’s biometric identifiers 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 . . . .” 740 ILCS 14/15(b).
33. Defendant is a corporation and thus qualifies as a “private entity” under BIPA. *See* 740 ILCS 14/10.
34. Plaintiff and the Class members are individuals who had their fingerprints, i.e., “biometric identifiers,” collected and stored by Defendant. *See* 740 ILCS 14/10.
35. Plaintiff and the Class members are individuals who had their “biometric information” collected and stored by Defendant in the form of digitally encrypted code, derived from Plaintiff’s and the Class members’ fingerprints, that uniquely identifies the individual to whom a particular fingerprint belongs.

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

37. In fact, Defendant failed to properly inform Plaintiff or the Class in writing that their biometric identifiers and/or biometric information were being collected, stored, or otherwise obtained, nor did Defendant inform Plaintiff or the Class members in writing of the specific purpose and length of term for which their biometric identifiers and/or biometric information was being collected, stored, and used, as required by 740 ILCS 14/15(b)(1)-(2).

38. In addition, Defendant does not publicly provide a retention schedule or guidelines for permanently destroying the biometric identifiers and/or biometric information of Plaintiff or the Class members, as required by BIPA. See 740 ILCS 14/15(a). The failure by Defendant to provide Plaintiff and the Class members with a retention schedule or guidelines for permanently destroying Plaintiff's or the Class members' biometric identifiers or biometric information constitutes an independent violation of the statute.

39. Each instance in which Defendant collected, stored, used, or otherwise obtained Plaintiff's and/or the Class's biometric identifiers and biometric information as described herein constitutes a separate violation of the statute and of the right of Plaintiff and each Class member to maintain control over these biometric identifiers and biometric information, as set forth in BIPA, 740 ILCS 14/1, *et seq.*

40. On behalf of herself and the proposed Class members, Plaintiff seeks: (1) 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, including BIPA's requirements for the collection, storage, and use of biometric identifiers and biometric information as described herein, and for the provision of the requisite written disclosure to consumers; (2) statutory damages of \$1,000.00 for each and every violation pursuant to 740 ILCS 14/20(1) (or, alternatively, of \$5,000.00 for each and every violation of BIPA to the extent committed

intentionally or recklessly pursuant to 740 ILCS 14/20(2)); and (3) reasonable attorneys' fees and costs and other litigation expenses pursuant to 740 ILCS 14/20(3).

**PRAYER FOR RELIEF**

WHEREFORE, Plaintiff Ronesha Smith, on behalf of herself and the proposed Class, respectfully requests 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 \$1,000.00 for each and every violation pursuant to 740 ILCS 14/20(1) (or, alternatively, of \$5,000.00 for each and every violation of BIPA to the extent committed intentionally or recklessly pursuant to 740 ILCS 14/20(2));

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 or biometric information in compliance with BIPA;

E. Awarding Plaintiff and the Class their reasonable litigation expenses and attorneys' fees;

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.

**JURY TRIAL**

Plaintiff demands a trial by jury for all issues so triable.

Dated: March 10, 2021

Respectfully submitted,

/s/ Carl V. Malmstrom

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*\*Pro Hac Vice Application Forthcoming*

*Counsel for Plaintiff and the Putative Class*



**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION**

RONESHA SMITH, on behalf of herself and all others similarly situated,	)	
	)	
Plaintiff,	)	
	)	Case No.
v.	)	
	)	
SIGNATURE SYSTEMS, INC.,	)	
	)	
Defendant.	)	

**DECLARATION OF THOMAS E. KOPIL**


I, Thomas E. Kopil, state that I make this Declaration in support of Defendant's Notice of Removal, and I can competently testify to the following facts:

1. I am the General Counsel of Signature Systems, Inc.
2. Signature Systems, Inc. was personally served with the Summons and Complaint in the above-captioned lawsuit on March 15, 2021.
3. I am admitted to practice law in the Commonwealth of Pennsylvania, and have been a member in good standing of the Pennsylvania bar since 1981.
4. I have been General Counsel of Signature Systems, Inc. since November, 2018, and served as its outside counsel prior to that time.
5. I am intimately familiar with the corporate and legal affairs of Signature Systems, Inc.
6. Signature Systems, Inc. was incorporated in 1997 under the laws of the Commonwealth of Pennsylvania -- which is many years prior to the time this lawsuit was filed on March 10, 2021.
7. All of Signature Systems, Inc.'s directors and officers direct, coordinate, and control the corporation's activities from its office in Warminster, Pennsylvania.

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*[Signature Immediately Follows]*

FURTHER AFFIANT SAYETH NOT.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct.



\_\_\_\_\_  
Thomas E. Kopil

4/14/2021

\_\_\_\_\_  
Date Executed On

Return Date: No return date scheduled  
Hearing Date: No hearing scheduled  
Courtroom Number: No hearing scheduled  
Location: No hearing scheduled

FILED  
12/28/2020 4:11 PM  
KRIS Y. MARTINEZ  
CIRCUIT CLERK  
COOK COUNTY, IL  
2020CH07483

ATTORNEY NO. 38819

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

11638889

RONESHA SMITH, on behalf of herself and  
all others similarly situated,

Plaintiff,

v.

JIMMY JOHN'S ENTERPRISES, LLC,

Defendant.

Case No.: 2020-CH-07483  
Calendar No. 5  
Hon. Neil Cohen

**PLAINTIFF’S MOTION FOR CLASS CERTIFICATION<sup>1</sup>**

Plaintiff Ronesha Smith, individually and on behalf of all others similarly situated, by and through her undersigned attorneys, respectfully moves this Court, pursuant to 735 ILCS 5/2-801 *et seq.*, for an Order certifying this litigation as a class action on behalf of the following class (sometimes collectively referred to as the “Class”):

All individuals who had their fingerprints collected, captured, received, or otherwise obtained, and/or stored, by Defendant in Illinois.

Plaintiff hereby reserves the right to amend the definition of the Class if discovery or further investigation reveals that the Class should be expanded or otherwise modified.

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

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<sup>1</sup> Plaintiff requests that the Court delay its ruling on this motion until the parties have had an opportunity to complete the discovery process and fully brief this issue. Plaintiff is filing this motion in light of the Illinois Supreme Court’s opinion in *Ballard RN Ctr., Inc. v. Kohll’s Pharm. & Homecare, Inc.*, 2015 IL 118644 (Ill. 2015). In *Ballard RN Ctr.*, the Illinois Supreme Court found that a motion for class certification which “identified [the] defendant, the applicable date or dates, and the general outline of plaintiff’s class action allegations” was sufficient to overcome mootness efforts by Defendant to defeat the case in question. *Id.* at \*\*19.

FILED DATE: 12/28/2020 4:11 PM 2020CH07483

In support of her motion,<sup>2</sup> Plaintiff states as follows:

**1. Introduction.** This is a class action lawsuit through which Plaintiff, individually and on behalf of the Classes described herein, seeks damages from Defendant for Defendant's alleged violations of the Illinois Biometric Privacy Act, 740 ILCS 14/1, *et seq.*, in connection with its collection, storage, and usage of its employees' fingerprints.

This case satisfies all of the elements of 735 ILCS 5/2-801 *et seq.* Illinois state law requires numerosity, commonality, adequacy, and appropriateness of representation. As discussed below, each of these requirements is satisfied:

**2. Numerosity – 735 ILCS 5/2-801(1).** The numerosity requirement is satisfied where “joinder of all members is impracticable.” “Although there is no magic number of class members for numerosity purposes, case law indicates that when a class numbers at least 40, joinder will be considered impracticable.” *Hernandez v. Gatto Indus. Platers*, 2009 U.S. Dist. LEXIS 36023 at \*6 (N.D. Ill. Apr. 28, 2009).<sup>3</sup> Here, as alleged in the Complaint, the exact number of class members is known only to Defendant, but in the absence of any discovery to date, that the number is believed to be at least in the hundreds and possibly thousands. Compl. ¶¶ 26.

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<sup>2</sup> Upon presentment of this Motion for Class Certification to the Court, Plaintiff will request a briefing schedule that will include, among other things, a deadline by which to file her opening memorandum of law in support thereof after sufficient discovery has been allowed. In *Ballard RN Ctr.*, the Illinois Supreme Court stated that “when additional discovery or further development of the factual basis is necessary. . . those matters will be left to the discretion of the trial court.” *Id.* at \*\*24.

<sup>3</sup> “Section 2-801 of the Code, which is patterned after Rule 23 of the Federal Rules of Civil Procedure, sets forth the prerequisites needed to maintain a Class action. Given the relationship between these two provisions, federal decisions interpreting Rule 23 are persuasive authority with regard to questions of class certification in Illinois.” *Uesco Indus. v. Poolman of Wis., Inc.*, 2013 IL App (1st) 112566 at P45 (Ill. App. Ct. 1st Dist. 2013) (internal quotation marks and citations omitted).

3. **Commonality** – 735 ILCS 5/2-801(2). The commonality requirement is satisfied where “common questions [of law or fact] predominate over any questions affecting only individual members.” “To satisfy this predominance requirement, a plaintiff must necessarily show that successful adjudication of the class representative's individual claim will establish a right of recovery in other class members. A favorable judgment for the class should decisively resolve the whole controversy, and all that should remain is for other class members to file proof of their claim. *Mashal v. City of Chicago*, 2012 IL 112341 at P33 (Ill. 2012) (Internal quotation marks and citations omitted).

As alleged in the Complaint, the Defendant engaged in a common course of conduct that was nearly identical for every putative member of the Class, namely employees and former employees whose fingerprints were recorded by Defendants.

In this case, the common questions of law or fact include, among others:

- (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 1410) 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;
- (e) whether Defendant used Plaintiff's and the Class's biometric identifiers or biometric information to identify them; and
- (f) whether Defendant's violations of BIPA were committed intentionally, recklessly, or negligently.

Compl. ¶ 27.

Based on the nature of Defendant's conduct which Defendant uniformly applied to the Plaintiff and all members of the alleged class, commonality is easily established here. "It is proper to allow a class action where a defendant is alleged to have acted wrongfully in the same basic manner towards an entire class." *P.J.'s Concrete Pumping Serv. v. Nextel W. Corp.*, 345 Ill. App. 3d 992, 1003 (Ill. App. Ct. 2d Dist. 2004) (citation omitted).

**4. Adequacy** – 735 ILCS 5/2-801(3). The adequacy requirement is satisfied where the "representative parties will fairly and adequately protect the interest of the class."

The purpose of the adequate representation requirement is to ensure that all class members will receive proper, efficient, and appropriate protection of their interests in the presentation of the claim. The test to determine the adequacy of representation is whether the interests of those who are parties are the same as those who are not joined.

*P.J.'s Concrete Pumping Serv.* 345 Ill. App. 3d at 1004 (citations omitted).

Here, Plaintiff has no interests antagonistic to the interests of absent class members, and Plaintiff has retained counsel that is qualified, experienced, and generally able to conduct the proposed litigation. Compl. ¶ 28.

**5. Appropriateness** – 735 ILCS 5/2-801(4). The appropriateness requirement is satisfied where the "class action is an appropriate method for the fair and efficient adjudication of the controversy." Further,

In deciding whether the fourth requirement for class certification is met, a court considers whether a class action can best secure economies of time, effort, and expense or accomplish the other ends of equity and justice that class actions seek to obtain. Where the first three requirements for class certification have been satisfied, the fourth requirement may be considered fulfilled. Also, class actions are often the last barricade of consumer protection. Consumer class actions provide restitution to the injured and deterrence to the wrongdoer, thus attaining the ends of equity and justice.

*Walczak v. Onyx Acceptance Corp.*, 365 Ill. App. 3d 664, 679 (Ill. App. Ct. 2d Dist. 2006) (citations omitted)

Here, where there are at least hundreds and possibly thousands of potential consumer class members, each seeking small recoveries pursuant to claims that cannot be efficiently litigated separately, a class action is clearly the appropriate vehicle to litigate this action in order to secure economies of time, effort and expense for both the Court and the parties. Compl. ¶ 29.

**WHEREFORE**, Plaintiff respectfully requests that this Court, after allowing the parties an opportunity to complete the discovery process and fully brief the issues raised by this motion, enter an Order: (1) certifying this case as a class action pursuant to 735 ILCS 5/2-801 *et seq.*, (2) appointing Plaintiff as representative of the Class; and (3) appointing Plaintiff's attorneys as Class Counsel.

Dated: December 28, 2020

Respectfully submitted,

/s/ Carl V. Malmstrom  
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***\*Pro Hac Vice Application Forthcoming***

***Counsel for Plaintiff and the Putative Class***

# ClassAction.org

This complaint is part of ClassAction.org's searchable class action lawsuit database and can be found in this post: [Signature Systems Hit with Biometric Information Privacy Class Action in Illinois](#)

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