

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

RAPHAEL SPINARSKI, individually and on
behalf of all others similarly situated,

Plaintiff,

v.

LITTLE GOAT, LLC,

Defendant.

Case No. 2023CH01250

CLASS ACTION COMPLAINT AND DEMAND FOR JURY TRIAL

Plaintiff Raphael Spinarski, individually and on behalf of all others similarly situated, brings this Class Action Complaint and Demand for Jury Trial against Defendant Little Goat, LLC. Plaintiff alleges the following based upon personal knowledge as to Plaintiff's own experiences, and as to all other matters upon information and belief, including investigation conducted by Plaintiff's counsel.

NATURE OF THE CASE

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

PARTIES

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

5. Defendant Little Goat LLC is an Illinois limited liability company headquartered at 809 W. Randolph St., Chicago, IL 60607.

JURISDICTION AND VENUE

6. This Court has personal jurisdiction over Defendant because Defendant is organized under the laws of Illinois, is registered to do, and does, business in Illinois, and is headquartered in Illinois, and because Plaintiff's claims arise out of Defendant's conduct within Illinois.

7. Venue is proper in Cook County because Defendant conducts substantial business in Cook County and the conduct giving rise to Plaintiff's claims occurred in Cook County.

FACTUAL BACKGROUND

8. Defendant operates a restaurant known as Little Goat Diner.

9. Plaintiff worked for Defendant at Little Goat Diner.

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

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

12. In addition to capturing and collecting fingerprints, the Biometric System converted the fingerprint scans into algorithmic representations of the minutiae points of the fingerprint, known as reference templates.

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

14. Defendant did not explain the Biometric System to its workers.

15. Defendant did not tell its workers how it used data collected through the Biometric System.

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

17. Defendant's workers did not consent to Defendant's collection of their fingerprints, or the identifying data derived from them.

18. BIPA has been the law of the State of Illinois since 2008.

19. At the beginning of the class period, BIPA had been in effect for over nine years.

20. By the beginning of the class period, BIPA had also been in the news for some time: Facebook had been sued for BIPA violations almost three years earlier,¹ and the case had already resulted in headline-generating rulings;² Google and Shutterfly had likewise found themselves in the news for alleged BIPA violations;³ and the first BIPA fingerprint case had not only been filed, but it had also been settled and finally approved.⁴

¹ See Tony Briscoe, *Suit: Facebook facial recognition technology violates Illinois privacy laws*, Chicago Tribune (Apr. 1, 2015), <https://www.chicagotribune.com/news/breaking/ct-facebook-facial-recognition-lawsuit-met-story.html>.

² Russell Brandom, *Lawsuit challenging Facebook's facial recognition system moves forward*, The Verge (May 5, 2016), <https://www.theverge.com/2016/5/5/11605068/facebook-photo-tagging-lawsuit-biometric-privacy>; see also Joel Rosenblatt, *Is Facebook's Facial-Scanning Technology Invading Your Privacy Rights*, Bloomberg (Oct. 26, 2016), <https://www.bloomberg.com/news/articles/2016-10-26/is-facebook-s-facial-scanning-technology-invading-your-privacy-rights>.

³ Christopher Zara, *Google Gets Sued Over Face Recognition, Joining Facebook And Shutterfly In Battle Over Biometric Privacy In Illinois*, International Business Times (Mar. 4, 2016), <https://www.ibtimes.com/google-gets-sued-over-face-recognition-joining-facebook-shutterfly-battle-over-2330278>.

⁴ Jonathan Bilyk, *L.A. Tan settles fingerprint scan privacy class action for \$1.5M; attorneys get \$600K*, Cook County Record (Dec. 9, 2016), <https://cookcountyrecord.com/stories/511056103-l-a-tan-settles-fingerprint-scan-privacy-class>.

21. Throughout the class period, then, BIPA was well known, and its obligations clear.

CLASS ALLEGATIONS

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

All individuals identified in Defendant's Biometric System at any time on or after February 8, 2018.

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

24. Upon information and belief, the Class contains hundreds of individuals. The Class is therefore so numerous that joinder of all members is impracticable. The precise number of Class members can be determined by reference to Defendant's records.

25. Plaintiff's claims are typical of the proposed Class's. Because Plaintiff used the Biometric System in the same fashion as the Class members, Plaintiff's claims have the same factual and legal bases as the proposed Class members', and Defendant's conduct has resulted in identical injuries to Plaintiff and the other Class members.

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

- a. Whether Defendant collected the Class's biometric identifiers or biometric information;
- b. Whether Defendant published a written policy establishing a retention schedule and biometric-destruction guidelines;

[action-for-1-5m-attorneys-get-600k](#); see also Melissa Daniels, *Tanning Co. Settles For \$1.5M Under Illinois Biometric Law*, Law360 (Dec. 6, 2016), <https://www.law360.com/articles/869828/tanning-co-settles-for-1-5m-under-illinois-biometric-law>.

- c. Whether Defendant obtained a written release prior to collecting the Class's biometrics;
- d. Whether Defendant informed the Class, in writing, of the purposes and duration for which their biometrics would be collected and stored; and
- e. Whether Defendant is liable for \$5,000 or only \$1,000 per violation.

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

28. Plaintiff will adequately represent the Class. Plaintiff has retained counsel experienced in biometric class actions. Plaintiff and Plaintiff's counsel are committed to vigorously litigating this action on the Class's behalf and have the resources to do so. Neither Plaintiff nor Plaintiff's counsel have any interest adverse to the Class.

29. Defendant has acted on grounds generally applicable to Plaintiff and the Class, requiring the Court's imposition of uniform relief, including injunctive and declaratory relief to the Class.

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

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

31. Defendant is a limited liability company and is therefore a private entity. 740 ICLS 14/10.

32. By capturing and collecting Plaintiff's and the Class's fingerprints through the Biometric System, Defendant possessed Plaintiff's and the Class's biometric identifiers. 740 ILCS 14/10.

33. By converting Plaintiff's and the Class's fingerprints to reference templates and using those reference templates to identify Plaintiff and the Class members, Defendant obtained Plaintiff's and the Class's biometric information. 740 ILCS 14/10.

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

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

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

36. Defendant is a limited liability company and is therefore a private entity. 740 ICLS 14/10.

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

38. By converting Plaintiff's and the Class's fingerprints to reference templates and using those reference templates to identify Plaintiff and the Class members, Defendant captured and collected Plaintiff's and the Class's biometric information. 740 ILCS 14/10.

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

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

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

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

PRAYER FOR RELIEF

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

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

JURY DEMAND

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

Dated: February 8, 2023

RAPHAEL SPINARSKI, individually and
on behalf of all others similarly situated,

s/ J. Dominick Larry
Plaintiff's counsel

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This complaint is part of ClassAction.org's searchable class action lawsuit database and can be found in this post: ['Top Chef' Champion's Restaurant Hit with Class Action Over Alleged Biometric Privacy Violations](#)
