

**NO
EXHIBITS**

CASE NO. 2019 CH 6366

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12-Person Jury

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Cook County, IL

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COOK COUNTY, IL
2019CH06366

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

JACK YOZZE, individually and on)
behalf of similarly situated individuals,)
)
 Plaintiff,)
)
 v.)
)
 UNIVERSAL PARKS & RESORTS)
 MANAGEMENT SERVICES LLC, a)
 Delaware limited liability corporation.)
)
 Defendants.)
 _____)

No. 2019CH06366 5167484

Hon.

CLASS ACTION COMPLAINT WITH JURY DEMAND

Plaintiff Jack Yozze (“Plaintiff”), individually and on behalf of other similarly situated individuals, brings his Class Action Complaint against Defendant Universal Parks & Resorts Management Services LLC (“Defendant”) for its violations of the Illinois Biometric Information Privacy Act, 740 ILCS 14/1, *et seq.* (“BIPA”), and to obtain redress for persons injured by its conduct. Plaintiff alleges the following based on personal knowledge as to his own experiences, and as to all other matters, upon information and belief, including an investigation conducted by his attorneys.

INTRODUCTION

1. BIPA defines a “biometric identifier” as any personal feature that is unique to an individual, including handprints, fingerprints and palm scans. “Biometric information” is any information based on a biometric identifier, regardless of how it is converted or stored. 740 ILCS § 14/10. Collectively, biometric identifiers and biometric information are known as “biometrics.”

2. Defendant operates a worldwide portfolio of theme parks and resorts, including the Universal Orlando Resort (“Universal Orlando”).

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3. Using biometric-enabled devices and technology, Defendant knowingly and intentionally captures, collects, stores, and otherwise uses the biometrics of its customers seeking entry into Universal Orlando.

4. Critically, Defendant knowingly handles the biometrics of its Illinois customers without their informed written consent as required by BIPA, in order to control and track their access to Universal Orlando.

5. BIPA provides, *inter alia*, that a private entity, such as Defendant, may not obtain and/or possess an individual's biometrics unless it first:

- (1) informs the person whose biometrics are to be collected *in writing* that biometric identifiers or biometric information will be collected or stored;
- (2) informs the person whose biometrics are to be collected *in writing* of the specific purpose and the length of term for which such biometric identifiers or biometric information is being collected, stored and used;
- (3) receives a *written release* from the person whose biometrics are to be collected, allowing the capture and collection of their biometric identifiers or biometric information; and
- (4) publishes publicly available retention guidelines for permanently destroying biometric identifiers and biometric information. 740 ILCS 14/15(a).

6. Compliance with BIPA is straightforward and minimally burdensome, however, BIPA's requirements bestow a right to privacy in biometrics and a right to make an *informed* decision when electing whether to provide or withhold biometrics.

7. Defendant's biometric system works by extracting biometric information from its customers' fingerprints, or portions thereof, and subsequently storing and repeatedly using the

same for authentication and park access. Defendant also associates customers' biometrics, *i.e.* fingerprints, with other personally identifiable information, including state identification cards.

8. The Illinois Legislature has found that "biometrics are unlike other unique identifiers that are used to access finances or other sensitive information. For example, even sensitive information like Social Security numbers can be changed. Biometrics, however, are biologically unique to each individual and, once compromised, such individual has no recourse, is at a heightened risk for identity theft, and is likely to withdraw from biometric facilitated transactions." 740 ILCS 14/5. The risk is compounded when a person's biometrics are also associated with their other personally identifiable information.

9. The deprivation of the statutory rights conferred by BIPA constitutes the actual injuries the Illinois Legislature sought to prevent.

10. Plaintiff brings this action for statutory damages and other remedies as a result of Defendant's conduct in violating his biometric privacy rights.

11. On behalf of himself and the proposed Class defined below, Plaintiff seeks an injunction requiring Defendant to comply with BIPA, as well as an award of statutory damages to the Class members, together with costs and reasonable attorneys' fees.

PARTIES

12. Defendant Universal Parks & Resorts Management Services LLC is a Delaware limited liability corporation that conducts substantial business and markets its theme park and resort offerings throughout Illinois, including in Cook County.

13. At all relevant times, Plaintiff Jack Yozze has been a resident and citizen of the State of Illinois, including at the time he visited Defendant's Universal Orlando.

JURISDICTION AND VENUE

14. This Court may assert personal jurisdiction over Defendant pursuant to 735 ILCS 5/2-209 in accordance with the Illinois Constitution and the Constitution of the United States, because Defendant is knowingly capturing, collecting, storing, and using the biometric identifiers and biometric information of Illinois residents seeking access to its Universal Orlando Resort, and because Defendant specifically targets advertisements and significant marketing efforts to Illinois residents in an effort to induce them into visiting Universal Orlando where such Illinois residents are then required to provide their respective biometrics to Defendant.

15. Venue is proper in Cook County pursuant to 735 ILCS 5/2-101, because Defendant conducts substantial advertising and marketing efforts in Cook County targeted at Cook County residents.

FACTS SPECIFIC TO PLAINTIFF

16. Defendant manages and operates Universal Orlando, a world-renowned theme park and resort that relies on biometric-enabled technologies to control, monitor, and track its customers' access to Universal Orlando.

17. During the relevant time period, Plaintiff, seeking to visit and access Universal Orlando, purchased an admission ticket.

18. At the time Plaintiff purchased his ticket, Defendant failed to inform him of the nature of its biometric collecting practices or that he would be required to provide his biometrics as a condition of entry into Universal Orlando.

19. It was only when Plaintiff arrived at the Universal Orlando location and received a physical, non-refundable and non-transferrable hard copy of his admission ticket was he first informed that his entry was subject to a biometric scan. However, Plaintiff was never informed

regarding the nature of the biometric scan, including the parties with access to his biometrics or any retention or destruction policies concerning his biometrics, nor was Plaintiff advised as to alternative options for admission into Universal Orlando that did not require the provisioning of his biometrics.

20. Prior to collecting, storing, and handling Plaintiff's biometrics, Defendant required Plaintiff to display his Illinois state identification, which Defendant then associated with his biometrics. Defendant therefore knowingly handles the biometrics of Illinois residents, including Plaintiff.

21. Prior to collecting, storing, and handling Plaintiff's biometrics, Defendant did not adequately inform Plaintiff in writing of the nature of the subject biometric transactions, nor did Defendant publish any policy specifically about the collection, retention, use, deletion, or dissemination of the biometrics it collects.

22. Defendant did not seek, and Plaintiff never provided, any written consent relating to the collection, use, storage, or handling of his biometrics.

23. To this day, Plaintiff is unaware of the status of his biometrics obtained by Defendant. Defendant has not informed Plaintiff whether it still retains his biometrics, and if it does, for how long it intends to retain such information without his consent.

24. BIPA vests an individual state right to biometric privacy in Illinois residents. Defendant's deprivation of Plaintiff's biometric privacy rights constitutes the actual harm the BIPA statute was enacted to prevent.

CLASS ALLEGATIONS

25. Plaintiff brings this action on behalf of himself and similarly situated individuals pursuant to 735 ILCS § 5/2-801. Plaintiff seeks to represent a Class defined as follows:

Class: All Illinois residents whose biometrics were captured, collected, stored, used, transmitted, or disseminated by or on behalf of Defendant at any time within the applicable limitations period.

26. Excluded from the Class are any members of the judiciary assigned to preside over this matter; any officer or director of Defendant; and any immediate family member of such officers or directors.

27. Upon information and belief, there are at least thousands of members of the Class, making the members of the Class so numerous that joinder of all members is impracticable. Although the exact number of members of the Class is currently unknown to Plaintiff, the members can be easily identified through Defendant's Universal Orlando admission records.

28. Plaintiff's claims are typical of the claims of the members of the Class he seeks to represent, because the factual and legal bases of Defendant's liability to Plaintiff and the other members are the same, and because Defendant's conduct has resulted in similar injuries to Plaintiff and to the Class. As alleged herein, Plaintiff and the Class have all suffered damages as a result of Defendant's BIPA violations.

29. There are many questions of law and fact common to the claims of Plaintiff and the Class, and those questions predominate over any questions that may affect individual members. Common questions for the Class include, but are not limited to, the following:

- a. Whether Defendant's conduct is subject to BIPA;
- b. Whether Defendant made available to the public a written policy that establishes a retention schedule and guidelines for destroying biometrics;

- c. Whether Defendant obtained a written release from the Class before capturing, collecting, or otherwise obtaining their biometrics;
- d. Whether Defendant provided a written disclosure that explains the specific purposes, and the length of time, for which biometrics were being collected, stored and used before taking such biometrics;
- e. Whether Defendant's conduct violates BIPA;
- f. Whether Defendant's conduct is negligent;
- g. Whether Defendant's violations of BIPA are willful or reckless; and
- h. Whether Plaintiff and the Class are entitled to damages and injunctive relief.

30. Absent a class action, most members of the Class would find the cost of litigating their claims to be prohibitively expensive and would thus have no effective remedy. The class treatment of common questions of law and fact is superior to multiple individual actions in that it conserves the resources of the courts and the litigants and promotes consistency of adjudication.

31. Plaintiff will adequately represent and protect the interests of the members of the Class. Plaintiff has retained counsel with substantial experience in prosecuting complex litigation and class actions. Plaintiff and his counsel are committed to vigorously prosecuting this action on behalf of the other members of the Class and have the financial resources to do so. Neither Plaintiff nor his counsel has any interest adverse to those of the other members of the Class.

32. Defendant has acted and failed to act on grounds generally applicable to the Plaintiff and the other members of the Class, requiring the Court's imposition of uniform relief to ensure compatible standards of conduct toward the members of the Class and making injunctive or corresponding declaratory relief appropriate for the Class as a whole.

COUNT I

**Violation of the Illinois Biometric Information Privacy Act, 740 ILCS 14/1, *et seq.*,
(On behalf of Plaintiff and the Class)**

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

34. Defendant is a private entity as defined under BIPA.

35. BIPA requires private entities, such as Defendant, to obtain informed written consent from individuals before acquiring their biometric information. Specifically, BIPA makes it unlawful to “collect, capture, purchase, receive through trade, or otherwise obtain a person’s or customer’s biometric identifiers or biometric information unless [the entity] 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 for which a biometric identifier or biometric information is being captured, 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).

36. BIPA also requires that private entities in possession of biometric identifiers and/or biometric information establish and maintain a publicly available retention policy. Entities which possess biometric identifiers or information must (i) make publicly available a written policy establishing a retention schedule and guidelines for permanent deletion of biometric information (entities may not retain biometric information longer than three years after the last interaction with the individual); and (ii) adhere to the publicly posted retention and deletion schedule.

37. Plaintiff and the other Class members have had their “biometric identifiers,” namely their fingerprints, collected, captured, or otherwise obtained by Defendant. Plaintiff and the other Class members’ biometric identifiers were also used to identify them, and therefore constitute “biometric information” as defined by BIPA. 740 ILCS 14/10.

38. Each instance Plaintiff and the other Class members were required to scan their fingerprints, Defendant captured, collected, stored, and/or used Plaintiff's and the other Class members' biometric identifiers or biometric information without valid consent and without complying with and, thus, in violation of BIPA.

39. Defendant's practice with respect to capturing, collecting, storing, and using biometrics fails to comply with applicable BIPA requirements:

- a. Defendant failed to sufficiently inform Plaintiff and the members of the Class in writing that their biometrics were being collected and stored, prior to such collection or storage, as required by 740 ILCS 14/15(b)(1);
- b. Defendant failed to inform Plaintiff and Class in writing of the specific purpose for which their biometrics were being captured, collected, stored, and used, as required by 740 ILCS 14/15(b)(2);
- c. Defendant failed to inform Plaintiff and the Class in writing the specific length of term their biometrics were being captured, collected, stored, and used, as required by 740 ILCS 14/15(b)(2);
- d. Defendant failed to obtain a written release, as required by 740 ILCS 14/15(b)(3);
- e. Defendant failed to provide a publicly available retention schedule detailing the length of time for which the biometrics are stored and/or guidelines for permanently destroying the biometrics they store, as required by 740 ILCS 14/15(a); and
- f. Defendant failed to obtain informed consent to disclose or disseminate the Class' biometrics, as required by 740 ILCS 14/15(d)(1).

40. By obtaining and operating a facility access system which relies on biometrics in order to reduce ticket fraud and increase profitability, Defendant profited from Plaintiff's and the Class members' biometric identifiers and biometric information in violation of 740 ILCS 14/15(c). Defendant knew, or was reckless in not knowing, that the biometric systems it was using on its Illinois customers would be subject to the provisions of BIPA yet wholly failed to comply with the statute.

41. Defendant denied Plaintiff and the Class their right to statutorily-required information and violated their respective rights to biometric information privacy.

42. BIPA provides for statutory damages of \$5,000 for each willful and/or reckless violation and, alternatively, damages of \$1,000 for each negligent violation. 740 ILCS 14/20(1).

43. Defendant's violations of BIPA, as set forth herein, were knowing and willful, or were at least in reckless disregard of the statutory requirements. Alternatively, Defendant negligently failed to comply with BIPA.

44. Accordingly, with respect to Count I, Plaintiff, on behalf of himself and the proposed Class, prays for the relief set forth below.

PRAYER FOR RELIEF

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

- a. Certifying the Class as defined above, appointing Plaintiff as class representative and the undersigned 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 interests of Plaintiff and the Class by requiring Defendant to comply with the BIPA

requirements for the capture, collection, storage, use, and dissemination of biometric identifiers and biometric information of its Illinois customers;

- d. Awarding statutory damages of \$5,000 for each willful and/or reckless violation of the BIPA, pursuant to 740 ILCS 14/20(1);
- e. Awarding statutory damages of \$1,000 for each negligent violation of the BIPA, pursuant to 740 ILCS 14/20(3);
- f. Awarding reasonable attorneys' fees, costs, and other litigation expenses pursuant to 740 ILCS 14/20(3);
- g. Awarding pre- and post-judgment interest, as allowable by law; and
- h. Awarding such further and other relief as the Court deems just and equitable.

JURY DEMAND

Plaintiff requests trial by jury of all claims that can be so tried.

Dated: May 23, 2019

Respectfully Submitted,

JACK YOZZE, individually and on behalf of a class of similarly situated individuals

By: /s/ Jad Sheikali
One of Plaintiff's 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: [Universal Parks & Resorts Facing Illinois BIPA Class Action Over Alleged Use of Park-Goers Biometrics](#)
