

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

REGINA MORRIS, individually and on  
behalf of all others similarly situated,

*Plaintiffs,*

v.

NEXTEP SYSTEMS, INC.,

*Defendant.*

Case No. 1:21-cv-02404

Honorable Steven C. Seeger

**PLAINTIFF'S UNOPPOSED MOTION FOR AND MEMORANDUM IN SUPPORT OF  
PRELIMINARY APPROVAL OF CLASS ACTION SETTLEMENT**

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## I. INTRODUCTION

Plaintiff Regina Morris (“Plaintiff”) brought this case against Defendant Nextep Systems, Inc. (“Defendant” or “Nextep”) (collectively, the “Parties”) under the Biometric Information Privacy Act (“BIPA”), 740 ILCS 14/1, *et seq.* Plaintiff alleges that Nextep violated BIPA by collecting, otherwise obtaining, and storing the biometric identifiers and/or biometric information (collectively referred to herein as “biometric data”) of over a thousand Illinois Wow Bao restaurant customers through its facial recognition self-order kiosks without first providing them the requisite disclosures or obtaining informed written consent. After extensive fact discovery (including production of thousands of pages of documents and depositions) and a settlement conference conducted by the Court—the Parties have reached a class-wide settlement that, if approved, will provide outstanding monetary relief to the Settlement Class.<sup>1</sup> Nextep has agreed to pay \$616,050.00 into a non-reversionary Settlement Fund to be distributed to the Settlement Class. Each Settlement Class Member who files a valid Claim Form will be entitled to a *pro rata* share of the Settlement Fund, which, assuming a claims rate of 10 to 20%, will amount to payments of approximately \$1,147 to \$2,295 each after costs and any fees are deducted.

When compared against other privacy cases, this Settlement provides an exceptional amount of monetary relief to Class Members. Privacy cases have frequently settled for very little monetary relief, if any. *E.g., In re Google LLC Street View Elec. Commc’ns Litig.*, No. 10-md-02184-CRB, 2020 WL 1288377, at \*11–14 (N.D. Cal. Mar. 18, 2020) (approving, over objections of class members and state attorney general, a settlement providing only *cy pres* relief for violations of Electronic Communications Privacy Act); *Adkins v. Facebook, Inc.*, No. 18-cv-

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<sup>1</sup> The capitalized terms used in this motion are those used in the Class Action Settlement Agreement and Release (the “Settlement,” “Settlement Agreement,” and/or “Agreement”), attached hereto as Exhibit 1.



05982-WHA, dks. 350, 369 (N.D. Cal. May 6, 2021) (approving settlement for injunctive relief only, in class action arising out of Facebook data breach, and granting \$6.5 million in attorneys' fees and costs). Although statutory damages are available, this has happened in BIPA settlements too. *E.g.*, *Carroll v. Crème de la Crème, Inc.*, 2017-CH-01624 (Cir. Ct. Cook Cnty. June 25, 2018) (providing only credit monitoring). Furthermore, other BIPA settlements have capped monetary relief at a certain amount with the inevitable remaining settlement funds reverting to the defendant. *E.g.*, *Marshall v. Lifetime Fitness, Inc.*, 2017-CH-14262 (Cir. Ct. Cook Cnty) (\$270 per claimant with credit monitoring, reverting funds to defendant).

Given the exceptional relief proposed by the Settlement, the Court should not hesitate to find that the Settlement is well within the range of possible approval. Accordingly, Plaintiff respectfully requests that the Court grant her motion for preliminary approval in its entirety, certify the proposed Settlement Class, appoint her attorneys as Class Counsel, direct that the proposed Notice be disseminated to the Settlement Class, and set a Final Approval Hearing.

## **II. FACTUAL AND PROCEDURAL BACKGROUND**

### **A. The Illinois Biometric Information Privacy Act.**

In the early 2000s, a company called Pay By Touch began installing fingerprint-based checkout terminals at grocery stores and gas stations in major retailers throughout the State of Illinois to facilitate consumer transactions. (Class Action Complaint, ("Compl."), dkt. 1 ¶¶ 11–12.) The principle was simple: swipe your credit card and let the machine scan your finger, and the next time you buy groceries or gas, you will not need to bring your wallet—you will just need to provide your fingerprint. However, by the end of 2007, Pay By Touch had filed for bankruptcy. (*Id.* ¶ 12.) Thereafter, Solidus, Pay By Touch's parent company, began shopping its database of

Illinois consumers' fingerprints as an asset to its creditors and a public outcry erupted.<sup>2</sup> Though the bankruptcy court eventually ordered Pay By Touch to destroy its database of fingerprints (and their ties to credit card numbers), the Illinois legislature took note of the grave dangers posed by the irresponsible collection and storage of biometric data without any notice, consent, or other protections. *See* Ill. House Transcript, 2008 Reg. Sess. No. 276.

Recognizing the “very serious need [for] protections for the citizens of Illinois when it [came to their] biometric information,”—which includes retina scans, fingerprints, voiceprints, and scans of hand or face geometry—in 2008, the Illinois legislature unanimously enacted BIPA to provide individuals recourse when companies fail to appropriately treat their biometric data in accordance with the statute. (*See* Dkt. 1 ¶ 13; 740 ILCS 14/5.) Thus, BIPA makes it unlawful for any private entity to “collect, capture, purchase, receive through trade, or otherwise obtain a person’s or a customer’s biometric identifier 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). BIPA also establishes standards for how companies must handle Illinois consumers’ biometric data, requiring companies to develop and comply with a written policy establishing a retention schedule and guidelines for permanently destroying biometric data. 740

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<sup>2</sup> *See, e.g.*, Meg Marco, *Creepy Fingerprint Pay Processing Company Shuts Down*, CONSUMERIST, available at <https://goo.gl/rKJ8oP> (last accessed Nov. 1, 2021); Matt Marshall, *Pay By Touch In Trouble, Founder Filing For Bankruptcy*, VENTURE BEAT, available at <http://goo.gl/xT8HZW> (last accessed Nov. 1, 2021).

ILCS 14/15(a). Furthermore, BIPA prohibits companies from disclosing, redisclosing, or disseminating biometric data except with consent or under limited circumstances. 740 ILCS 14/15(d). To enforce the statute, BIPA provides a civil private right of action and allows for the recovery of statutory damages in the amount of \$1,000 for negligent violations—or \$5,000 for reckless or intentional violations—plus costs and reasonable attorneys’ fees. *See* 740 ILCS 14/20.

**B. Plaintiff’s Allegations and Procedural History.**

Plaintiff originally filed this case against Nextep on March 9, 2021, in the Circuit Court of Cook County, Illinois. In her Complaint, Plaintiff alleges Nextep, a private company that provides hospitality technology to companies across the country, urged its customers, including Wow Bao restaurants in Illinois, to implement its biometric tracking system (inclusive of Nextep’s software) through self-order facial recognition kiosks that use individuals’ facial geometries as a means of authentication for food and beverage purchases, ultimately promoting faster checkouts and higher sales volume. (Dkt. 1 ¶ 2.) Plaintiff further alleges she was a customer of Wow Bao in 2017 and used a Nextep facial recognition self-order kiosk that allegedly captured and stored her facial biometrics to save and recall her future orders. (*Id.* ¶¶ 38-39.) Plaintiff alleges her biometric data (*i.e.*, facial geometry) was subsequently transferred and stored to a cloud database that was hosted and administered by Nextep. (*Id.* ¶¶ 26-29, 40.) However, before obtaining and storing her biometric data, Plaintiff alleges Nextep failed to: (1) develop and adhere to a publicly available retention schedule or guidelines for permanent destruction her biometric data, as required by BIPA; (2) inform her in writing of the purpose(s) and length of time for which her biometric data was being collected, stored, and used; (3) provide Plaintiff (nor did she execute) a written release for Nextep to collect, store, or use her biometric data, as required by BIPA; or (4) ask for, nor did

she give, her consent before disclosing, redisclosing, or otherwise disseminating her biometric data to a third party, as required by BIPA. (*Id.* ¶¶ 5, 30–35, 39–43.)

Nextep subsequently removed the case to this Court and answered on May 26, 2021, asserting 23 affirmative defenses. (Dkt. 12.) Following Nextep’s answer, Plaintiff issued written discovery, including interrogatories and requests for production of documents, as well as her Rule 26(a) Initial Disclosures. Thereafter, Nextep moved for phased discovery (dkt. 29), which was fully briefed (dks. 32, 36), and Plaintiff moved for a status hearing, which Nextep responded in opposition. (Dkts. 40, 41.) Both motions were denied without prejudice. (Dkt. 44.)

On May 20, 2022, Plaintiff filed a motion to compel discovery to which Nextep responded to and was granted by the Court on August 1, 2022. (Dkts. 48, 54, 56.) On October 3, 2022, Plaintiff filed in the Circuit Court for the County of Oakland Michigan a motion to enforce a subpoena issued to Nextep as a third-party to the *Wow Bao* litigation, which matter is captioned *Regina Morris, et al. v. Wow Bao LLC, Wow Bao Franchising LLC and Lettuce Entertain You Enterprises, Inc.*, Case No. 2022-196493.

Thereafter, on October 5, 2022, the Court reviewed the Parties’ Joint Statement and Proposed Case Calendar, granted a short extension of all fact discovery, and set a fact discovery deadline of November 18, 2022. At that time, the Court also set a dispositive motion deadline, including a motion for class certification, for December 2, 2022. (Dkt. 61.)

On November 15, 2022, after exchanging their respective settlement position statements, the Parties participated in their first settlement conference with Magistrate Judge McShain. (Dkt. 63.) Despite the Parties not reaching an agreement, they agreed to continue discussing a possible resolution.

After Plaintiff sought the Court's intervention on a couple discovery disputes, on December 2, 2022, Nextep filed a Motion for Summary Judgment (dkt. 79) and Plaintiff filed a [Renewed] Motion for Class Certification. (Dkt. 84.) However, neither motion was briefed. On December 19, 2022, the Parties participated in a second settlement conference with Magistrate Judge McShain but were again unable to reach an agreement at that time but again agreed to continue discussing a possible resolution. (Dkt. 88.) Finally, after dozens of phone calls and emails, the Parties' continued efforts to resolve this matter ultimately culminated in an agreement to resolve this matter in principle on January 11, 2023, for which they now seek the Court's approval. (Dkt. 91.)

### **III. TERMS OF THE SETTLEMENT AGREEMENT**

The terms of the Settlement are set forth in the Class Action Settlement, and are briefly summarized here:

#### **A. Class Definition.**

The proposed Settlement Class includes all individuals, including Named Plaintiff, in the State of Illinois who used facial recognition at an ordering kiosk sold by Nextep at a Wow Bao store, including, but not necessarily limited to (1) 835 North Michigan Avenue, (2) 1 West Wacker Blvd, (3) 225 North Michigan Avenue, from March 9, 2016, through the date of preliminary approval. (*See* Settlement Agreement ¶ 67.) Excluded from the Settlement Class are: (1) the Court and members of their families; (2) persons who properly execute and file a timely request for exclusion from the Class; and (3) persons whose claims in this matter have been finally adjudicated on the merits or otherwise released. (*Id.*)

#### **B. Settlement Payments.**

The Settlement provides that Nextep will establish a non-reversionary Settlement Fund of \$616,050.00, from which each Settlement Class Member who submits a valid Claim Form will be

entitled to a *pro rata* portion after payment of Administrative Fees, attorneys' fees and out-of-pocket costs, and any Service Award, if approved by the Court. (*Id.* ¶¶ 62, 75-79.)

The parties reached the \$616,050.00 figure based on Nextep's good-faith representation that there are 1,369 Settlement Class Members. Based on claims rates in similar BIPA class settlements, which typically range between 10-20%,<sup>3</sup> Class Counsel estimate that each Class Member who submits a claim will receive a net payment of approximately \$1,147 to \$2,295. Any uncashed checks within 90 calendar days after the date of issuance will, subject to Court approval, be provided as *cy pres* to be selected by the Parties and approved by the Court. (*Id.* ¶¶ 79, 109.) No portion of the Settlement Fund will revert back to Nextep. To the extent that a check issued to Settlement Class Members is not cashed or negotiated within 45 days after issuance, the Settlement Administrator will confirm and/or obtain a valid mailing address and will send a reminder postcard to the affected participating Settlement Class Member. (*Id.* ¶ 109.)

### **C. Prospective Relief.**

Defendant has provided a declaration confirming the kiosks at issue were not used in Illinois after 2017. Defendant agrees to delete and cease retaining, within a reasonable time, but no later than 90 days, after the full execution and final approval of the Settlement Agreement, any customer data received from the Wow Bao kiosks, provided Plaintiff and the defendants in the *Wow Bao* matter stipulate and agree that such destruction will not constitute spoliation or otherwise violate any contractual, legal, or equitable obligation to store or maintain such data, including

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<sup>3</sup> See *In re Facebook Biometric Info. Priv. Litig.*, No. 15-cv-3747-JD, 2021 WL 757025, at \*1 (N.D. Cal. Feb. 26, 2021) (22% claims rate, class size of 6.9 million); *Sekura v. L.A. Tan Enters., Inc.*, 2015-CH-16694 (Cir. Ct. Cook Cnty. Dec. 1, 2016) (15% claims rate, class size of 37,822); *Kusinski v. ADP LLC*, 2017-CH-12364 (Cir. Ct. Cook Cnty. Feb. 10, 2021) (13% claims rate, class size of 320,000); *Thome v. NOVAtime*, No. 19-cv-6256, dkt. 90 (10% claims rate, class size of 68,213); *Preliceanu v. Jumio Corp.*, 2018-CH-15883(Cook Cnty. July 21, 2020) (5% claims rate, class size of 260,000).

because such data has been produced to Plaintiff in the *Wow Bao* litigation. Nextep's counsel will provide Plaintiff's counsel a confirmation email once done.

**D. Payment of Settlement Notice and Administrative Costs.**

Settlement notice and all Administrative Fees, including the costs of providing Notice, creating and maintaining the Settlement Website, receiving and processing Claim Forms, dispersing Settlement Payments, related tax expenses, fees of the escrow agent, and other such related expenses, will be paid from the Settlement Fund. (*See* Settlement Agreement ¶ 33.)

**E. Payment of Attorneys' Fees, Costs, and Incentive Award.**

Defendant has agreed that Class Counsel are entitled to reasonable attorneys' fees in an amount to be determined by the Court by petition. (*Id.* ¶ 99.) Class Counsel will file an unopposed Fee Petition seeking approval of the award of attorneys' fees and litigation costs relating to their representation of the Settlement Class as well as an award for Administrative Fees. (*Id.* ¶¶ 98-99.) Class Counsel's Fee Petition shall seek an award of attorneys' fees not to exceed 35% of the Settlement Fund plus reasonable out-of-pocket litigation costs. (*Id.* ¶ 99.) Defendant has also agreed to pay Plaintiff a Service Award in the amount of \$10,000 from the Settlement Fund, subject to Court approval, in recognition of her efforts as Class Representative. (*Id.*)

**F. Release of Liability.**

In exchange for the relief described above, the Settlement Class Members who do not opt out shall release, relinquish, and give up any and all actual, potential, filed, unfiled, known or unknown claims, suits, actions, controversies, demands, and/or causes of action arising under BIPA, at common law, or any other privacy-related statute, relating to the use of facial recognition at Wow Bao stores in Illinois from March 9, 2016 through the present. (*Id.* ¶ 56.) However, nothing in the release of claims will release any claims against the defendants in the case of *Morris v. Wow*

*Bao, LLC et al.*, Case No. 17-CH-12029, currently pending in the Circuit Court of Cook County, Illinois. (*Id.*) The Released Parties include Nextep Systems, Inc., Global Payments Inc., and all related entities as fully described in the Settlement Agreement. (*Id.* ¶ 57.) However, for the avoidance of doubt, Wow Bao, LLC, Wow Bao Franchising, Lettuce Entertain You Enterprises, Inc., as well as their parents, subsidiaries, divisions, assigns, predecessors, successors, holding companies, shareholders, principals, owners, members, trustees, administrators, executors, directors, officers, managers, board members, attorneys, insurers, reinsurers, underwriters, lenders and/or outside vendors, including but not limited to any entity that manufactured, sold, or otherwise provided Nextep Systems, Inc. with any Biometric System at issue in this lawsuit, or any portion thereof, whether software or hardware, are not considered released parties. (*Id.*)

**IV. THE PROPOSED SETTLEMENT CLASS SHOULD BE CERTIFIED FOR SETTLEMENT PURPOSES**

Before the Court can preliminarily approve the proposed Settlement and direct notice to the Settlement Class, it must certify the class for settlement purposes, which requires a finding that the Court “will likely be able to certify the class for purposes of judgment on the proposal.” Fed. R. Civ. P. 23(e)(1)(B)(ii); *see Amchem Prods., Inc. v. Windsor*, 521 U.S. 591, 620 (1997). District courts are given broad discretion to determine whether class certification is appropriate. *Arreola v. Godinez*, 546 F.3d 788, 794 (7th Cir. 2008).

To merit certification, the Settlement Class must first satisfy the requirements of Rule 23(a): numerosity, commonality, typicality, and adequacy of representation. Fed. R. Civ. P. 23(a); *see Amgen Inc. v. Conn. Ret. Plans and Tr. Funds*, 568 U.S. 455, 460 (2013). Additionally, because the Settlement releases claims for money damages, the Settlement Class must also satisfy the requirements of Rule 23(b)(3): that (i) common questions of law or fact predominate over individual issues and (ii) a class action is the superior device to resolve the claims. *Amchem*, 521



U.S. at 615–16. Finally, a certified class must be ascertainable; that is, “defined clearly and based on objective criteria.” *Mullins v. Direct Digital, LLC*, 795 F.3d 654, 659 (7th Cir. 2015). As explained below, the proposed Settlement Class satisfies all the Rule 23(a) and 23(b)(3) prerequisites and is ascertainable, and thus, should be certified for settlement purposes.

**A. The Numerosity Requirement is Satisfied.**

A class action may proceed when the proposed class “is so numerous as to render joinder impractical.” Fed R. Civ. P. 23(a)(1). “A plaintiff need not plead or prove the exact number of class members to establish numerosity under Rule 23(a)(1), and the court may make common sense assumptions to determine numerosity.” *Barnes v. Air Line Pilots Ass’n, Int’l*, 310 F.R.D. 551, 557 (N.D. Ill. 2015) (citing collected Seventh Circuit cases). While there is no magic number at which joinder becomes unmanageable, courts have typically found that numerosity is satisfied when the class comprises 40 or more people. *See, e.g., id.* (certifying a class of 120 members). Here, the Settlement Class includes 1,369 members, and the numerosity requirement is easily met.

**B. Common Issues of Fact and Law Predominate.**

Rule 23(a)(2) instructs that a class may be certified only if there exist “questions of law or fact common to the class.” Fed. R. Civ. P. 23(a)(2). Where, as here, the class seeks monetary relief, the common questions must “predominate over any questions affecting only individual members.” Fed. R. Civ. P. 23(b)(3). *See also Bell v. PNC Bank, Nat’l Ass’n*, 800 F.3d 360, 374 (7th Cir. 2015) (“[T]he question of commonality and predominance overlap in ways that make them difficult to analyze separately.”). Common questions are those “capable of class-wide resolution” such “that determining the truth or falsity of the common contention will resolve an issue that is central to the validity of each claim.” *Id.* (citing *Wal-Mart v. Dukes*, 564 U.S. 338, 350 (2011)). “What matters to class certification . . . [is] the capacity of a class-wide proceeding to generate common

*answers* apt to drive the resolution of the litigation.” *Wal-Mart*, 564 U.S. at 350 (internal quotations omitted). As such, “the critical point is the need for *conduct* common to members of the class.” *Suchanek v. Sturm Foods, Inc.*, 764 F.3d 750, 756 (7th Cir. 2014) (internal quotations omitted). When “the defendant’s allegedly injurious conduct differs from plaintiff to plaintiff . . . no common answers are likely to be found.” *Id.* But when “the same conduct or practice by the same defendant gives rise to the same kind of claims from all class members,” class treatment is appropriate. *Id.*

Here, common issues of law and fact certainly predominate. Plaintiff’s and the proposed Settlement Class’s claims are based upon the same common contention and course of alleged conduct by Nextep: that it allegedly violated BIPA by collecting, otherwise obtaining, storing, and disclosing the Settlement Class’s biometric data without obtaining informed written consent or establishing and abiding by a publicly-available retention policy. Further, it is alleged to have done so in the same manner for every member of the class—by collecting, otherwise obtaining, storing, and disclosing the biometric data of Illinois Wow Bao restaurant customers through its facial recognition self-order kiosks without first providing them the requisite disclosures or obtaining informed written consent. The core factual and legal issues in this lawsuit are therefore common ones.

Because answering each of these questions would resolve all Class Members’ claims in one stroke, and no individualized issues (to the extent there are any) could defeat this overwhelming commonality, predominance is satisfied. *See Muir v. Nature’s Bounty (DE), Inc.*, No. 15 C 9835, 2018 WL 3647115, at \*9 (N.D. Ill. Aug. 1, 2018) (predominance requires that “the common, aggregation-enabling, issues in the case are more prevalent or important than the non-common, aggregation defeating individual issues.”) (internal quotations omitted).

**C. The Typicality Requirement is Satisfied.**

The next prerequisite—typicality—requires that a class representative has claims that are typical of those of the putative class members. Typicality examines whether there is “enough congruence between the named representative’s claim and that of the unnamed members of the class to justify allowing the named party to litigate on behalf of the group.” *Spano v. The Boeing Co.*, 633 F.3d 574, 586 (7th Cir. 2011). Where a named plaintiff’s claim “arise[s] from the same events or course of conduct that gives rise to the putative class members’ claims,” typicality is satisfied. *Beaton v. SpeedyPC Software*, 907 F.3d 1018, 1026 (7th Cir. 2018). In other words, when the basis of the suit is the defendant’s systematic business practices toward the named plaintiff and the members of the proposed class, typicality is generally satisfied.

Here, there is nothing separating Plaintiff’s BIPA claim from that of any other member of the Settlement Class. Like the rest of the Settlement Class Members, she used facial recognition at an ordering kiosk sold by Nextep at a Wow Bao store, causing her facial-geometry data to be sent and stored to a cloud database hosted and administered by Nextep. And as with the rest of the Settlement Class Members, Nextep did not obtain a written release from Plaintiff before collecting, otherwise obtaining, and storing her facial-geometry data. In other words, Plaintiff was subject to the same conduct and practices by Nextep as everyone else, and her claims will “stand or fall on the same facts” as everyone else’s claims. *Zimack v. Centel Corp.*, 163 F.R.D. 530, 534 (N.D. Ill. Sep. 25, 1995). Typicality is therefore satisfied.

**D. The Adequacy Requirement is Satisfied.**

The final Rule 23(a) prerequisite—adequacy—requires a finding that the class representative has and will “fairly and adequately protect the interests of the class.” Fed. R. Civ. P. 23(a)(4). This requirement is twofold: “adequacy of the named plaintiff’s counsel, and the

adequacy of representation provided in protecting the different, separate, and distinct interest[s] of the class members.” *Starr v. Chi. Cut Steakhouse*, 75 F. Supp. 3d 859, 874 (N.D. Ill. 2014) (quoting *Retired Chi. Police Ass’n v. City of Chi.*, 7 F.3d 584 (7th Cir. 1993)). To assess adequacy, courts examine whether “the named plaintiff has [(1)] antagonistic or conflicting claims with other members of the class; or (2) has a sufficient interest in the outcome of the case to ensure vigorous advocacy; and (3) has counsel that is competent, qualified, experienced and able to vigorously conduct the litigation.” *Osada v. Experian Info. Sols., Inc.*, 290 F.R.D. 485, 490 (N.D. Ill. 2012) (quoting *Quiroz v. Revenue Prod. Mgmt., Inc.*, 252 F.R.D. 438, 442 (N.D. Ill. 2008)) (quotation marks omitted).

Here, both Plaintiff and proposed Class Counsel have and will continue to adequately represent the Settlement Class. Because Plaintiff suffered the same alleged injury as every other member of the Settlement Class—the collection, otherwise obtainment, storage, and disclosure of their biometric data without their informed written consent during the class period—her interest in redressing Nextep’s alleged violations of BIPA is identical to the interests of all other members of the Settlement Class. Thus, Plaintiff does not have any interests antagonistic to those of the Settlement Class. Consequently, Plaintiff’s interests are entirely representative of and consistent with the interests of the Settlement Class.

As far as Class Counsel is concerned, proposed Class Counsel Stephan Zouras, LLP, is a premier plaintiffs-side employment and class action firm whose founders and partners have been consistently recognized as Illinois “Super Lawyers.”<sup>4</sup> For over 13 years, Stephan Zouras, LLP, has

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<sup>4</sup> See <https://profiles.superlawyers.com/illinois/chicago/lawyer/james-b-zouras/3e398528-2ee7-4c6d-bf77-ef609c8ca38d.html>, <https://profiles.superlawyers.com/illinois/chicago/lawyer/ryan-f-stephan/3d2e4b09-091f-49d4-ad86-05d26528287a.html>,

litigated almost exclusively on behalf of employees in class and collective action litigation across the United States. Given their extensive history of successfully advocating for employee-rights, Stephan Zouras, LLP, was one of the first firms to realize that Illinois employers were violating BIPA and filed the first case against an employer under the statute alleging violations of BIPA through the use of biometric timeclocks. *Doporcyk v. Roundy's Supermarkets*, 2017-CH-08092 (Cir. Ct. Cook Cty. Jun. 9, 2017). Since then, the firm has secured several favorable rulings for individuals at both the appellate and trial court levels in connection with novel issues and defenses asserted under BIPA, including that BIPA claims are not subject to arbitration as “wage and hour” claims, *Liu v. Four Seasons Hotel, Ltd.*, 2019 IL App (1st) 182645; the Constitutionality of BIPA, *Bruhn v. New Albertson's*, 2018-CH-01737 (Cir. Ct. Cook Cty. Jan. 30, 2020) (J. Loftus); the inapplicability of BIPA’s “HIPAA exemption” to employees, *e.g.*, *Bruhn v. New Albertson's Inc., et al.*, No. 18-CH-01737 (Cir. Ct. Cook Cty. July 2, 2019) (J. Loftus); when BIPA claims accrue, specifically, that an aggrieved plaintiff’s claims accrue each time an entity collects or disseminates biometric identifiers and/or biometric information without securing prior informed consent and a release, *Cothron v. White Castle System, Inc.*, 477 F. Supp. 3d 723 (N.D. Ill. 2020) (J. Tharp); that claims under Sections 15(a) and (b) of BIPA are subject to a five-year statute of limitations, *Tims v. Black Horse Carriers, Inc.*, 2021 IL App (1st) 200563 (Sept. 17, 2021); a finding of personal jurisdiction over non-resident defendants that manufacture biometric devices, *Fisher v. HP Property Management, LLC, et al.*, 2021 IL App (1st) 201372; a decision from the First District Appellate Court holding that healthcare workers’ biometric data is not excluded from coverage

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<https://profiles.superlawyers.com/illinois/chicago/lawyer/andrew-ficzko/5838a1d0-62cb-4a45-b0cd-1637db0cda6a.html>.

under BIPA, *Mosby v. The Ingalls Memorial Hospital, et al.*, 2022 IL App (1st) 200822 (Feb. 25, 2022); a decision from the Illinois Supreme Court affirming in part and reversing in part the Appellate Court’s judgment, finding that “the five-year limitations period contained in section 13-205 of the Code controls claims under the Act,” *Tims v. Black Horse Carriers, Inc.*, 2023 IL 127801 at ¶ 42; and most recently, a decision from the Illinois Supreme Court holding that BIPA claims accrue not just the first time a private entity collects or disseminates biometric data without prior informed consent, but rather every time it is collected and/or disseminated. *Cothron v. White Castle System, Inc.*, 2023 IL 128004.

Stephan Zouras, LLP, has recovered over \$250 million for individuals nationwide and has successfully prosecuted hundreds of class and collective actions in state and federal courts. Stephan Zouras, LLP, has also been at the forefront of BIPA settlements and has helped resolve dozens of BIPA class action cases, recovering well into the eight figures for aggrieved Illinois workers and citizens.<sup>5</sup>

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<sup>5</sup> See *Bedford v. Lifespace Communities, Inc.*, No. 1:20-cv-04574 (N.D. Ill.) (Shah, J.); *Bradford v. Farmington Foods, Inc.*, No. 19 CH 12888 (Cir. Ct. Cook Cty.) (Mullen, J.); *Bray v. Hixson Lumber Sales of Illinois, Inc.*, No. 2019 L 9 (Cir. Ct. Montgomery Cty.) (Roberts, J.); *Bryant v. Loews Chicago Hotel, Inc., et al.*, No. 1:19-cv-03195 (N.D. Ill.) (Norgle, J.); *Bryski v. Nemera Buffalo Grove, LLC*, 2018 CH 07264 (Cir. Ct. Cook Cty.) (Gamrath, J.); *Collier, et al. v. Pete’s Fresh Market 2526 Corporation, et al.*, No. 19 CH 5125 (Cir. Ct. Cook Cty.) (Atkins, J.); *Dixon v. The Washington & Jane Smith Home, et al.*, No. 1:17-cv-08033 (N.D. Ill.) (Kennelly, J.); *Drape v. SF Express Corporation*, No. 20 L 1094 (Cir. Ct. DuPage Cty.) (Chapman, J.); *Edmond v. DPI Specialty Foods, Inc., et al.*, No. 18 CH 9573 (Cir. Ct. Cook Cty.) (Tailor, J.); *George, et al. v. Schulte Hospitality Group, Inc.*, No. 18 CH 4413 (Cir. Ct. Cook Cty.) (Reilly, J.); *Goings v. AEP NVH OPCO, LLC, et al.*, No. 17 CH 14954 (Cir. Ct. Cook Cty.) (Tailor, J.); *Heard v. THC – North Shore, Inc., et al.*, No. 17 CH 16918 (Cir. Ct. Cook Cty.) (Walker, J.); *Jackson v. A. Finkl & Sons, Co., et al.*, No. 18 CH 07424 (Cir. Ct. Cook Cty.) (Tailor, J.); *Johns v. Club Fitness of Alton, LLC, et al.*, No. 18 L 80 (Cir. Ct. Madison Cty.) (Smith, J.); *Kane v. Conservation Technology of Illinois, LLC, et al.*, No. 18 CH 12194 (Cir. Ct. Cook Cty.) (Reilly, J.); *Liu v. Four Seasons Hotels, Ltd., et al.*, No. 17 CH 14949 (Cir. Ct. Cook Cty.) (Walker, J.); *Martinez v. Concord Hospitality Enterprises Company, LLC, et al.*, No. 19 CH 6848 (Cir. Ct. Cook Cty.) (Mullen, J.); *Ramos v. B O X Acquisitions LLC*, No. 20 CH 3887 (Cir. Ct. Cook Cty.) (Walker, J.); *Ripper, et al. v. Area*

Stephan Zouras, LLP, attorneys – whose experience include testifying before legislative committees on issues relating to individual rights – uniquely understand the challenges faced here, which is a meaningful benefit in representing those whose biometrics were obtained without consent or the protections provided by BIPA. The firm’s accomplishments (both in and outside of BIPA) are further detailed in the firm’s resume, attached as Exhibit 2-A to the Declaration of Andrew C. Ficzko. Proposed Class Counsel have diligently investigated, prosecuted, and dedicated substantial resources to the claims in this action and will continue to do so throughout its pendency. (Declaration of Andrew C. Ficzko, attached hereto as Exhibit 2, at ¶ 8.)

Accordingly, because Plaintiff will fairly and adequately protect the interests of the class, and because she and the Settlement Class are amply represented by qualified counsel, the adequacy requirement is satisfied.

**E. A Class Action is a Superior Method of Resolving the Controversy.**

Rule 23(b)(3) additionally requires that “a class action [be] superior to other available methods for fairly and efficiently adjudicating the controversy.” Fed. R. Civ. P. 23(b)(3). The rule sets forth four criteria germane to this requirement. All counsel are in favor of certification for settlement purposes.

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*Disposal Service, et al.*, No. 20 CH 124 (Cir. Ct. Peoria Cty.) (Brown, J.); *Terry v. Griffith Foods Group, Inc.*, No. 19 CH 12910 (Cir. Ct. Cook Cty.) (Walker, J.); *Thomas v. KIK Custom Products, Inc.*, No. 19 CH 2471 (Cir. Ct. Cook Cty.) (Cohen, J.); *Thome v. Flexicorps, Inc.*, No. 18 CH 1751 (Cir. Ct. Cook Cty.) (Demacopoulos, J.); *Thurman v. Northshore University Healthsystem*, No. 18 CH 3544 (Cir. Ct. Cook Cty.) (Walker, J.); *Torres v. Eataly Chicago, LLC*, No. 20 CH 6417 (Cir. Ct. Cook Cty.) (Walker, J.); *Trayes v. Mid-Con Hospitality Group, LLC, et al.*, No. 19 CH 1117 (Cir. Ct. Cook Cty.) (Conlon, J.); *Trottier v. Summit Staffing, Inc.*, No. 19 CH 2731 (Cir. Ct. Cook Cty.) (Conlon, J.); *Van Jacobs v. New World Van Lines, Inc.*, No. 19 CH 2619 (Cir. Ct. Cook Cty.) (Meyerson, J.); *Watts v. Aurora Chicago Lakeshore Hospital, LLC, et al.*, No. 17 Ch 12756 (Cir. Ct. Cook Cty.) (Reilly, J.).

The first factor, individual class members' interest in individually controlling the action, Fed. R. Civ. P. 23(b)(3)(A), weighs in favor of certification. This matter was brought as a class action. While BIPA provides for statutory damages, the relatively modest recovery (\$1,000 or \$5,000, depending on whether a violation is negligent or reckless), compared to the high costs of retaining adequate counsel "is not likely to provide sufficient incentive for members of the proposed class to bring their own claims." *Jackson v. Nat'l Action Fin. Servs., Inc.*, 227 F.R.D. 284, 290 (N.D. Ill. 2005) (discussing the FDCPA's \$1,000 statutory damages provision); *see also In re Facebook Biometric Info. Privacy Litig.*, 326 F.R.D. 535, 549 (N.D. Cal. 2018) ("While not trivial, BIPA's statutory damages are not enough to incentivize individual plaintiffs given the high costs of pursuing discovery on Facebook's software and code base and Facebook's willingness to litigate the case.").

The second factor, the extent and nature of other proceedings, Fed. R. Civ. P. 23(b)(3)(B), also weighs in favor of certification. There are no other known actions that have progressed to any extent addressing the conduct alleged here. Thus, "the extent and nature of any litigation concerning the controversy already begun by or against class members' is not a factor" counseling against certification. *Bernal v. NRA Group, LLC*, 318 F.R.D. 64, 76 (N.D. Ill. 2016) (quoting Fed. R. Civ. P. 23(b)(3)(B)).

Third, it is desirable to concentrate the litigation—and to undergo the settlement approval process—in this forum, *see* Fed. R. Civ. P. 23(b)(3)(C), given that this case concerns a proposed class of plaintiffs who used a biometric facial-recognition kiosk at a Wow Bao restaurant in Illinois. *Barnes*, 310 F.R.D. at 562 (third factor met where defendant conducted business and the events giving rise to plaintiffs' claims occurred within the court's district); *Ramirez v. GLK Foods*,



*LLC*, No. 12-C-210, 2014 WL 2612065, at \*9 (E.D. Wis. June 11, 2014) (events in forum giving rise to lawsuit support concentration in the forum).

Finally, the fourth factor - “the likely difficulties in managing a class action,” Fed. R. Civ. P. 23(b)(3)(D)—also weighs in favor of certification, as no management problems ought to arise here. There is clear predominance of common issues, as explained above. *Bernal*, 318 F.R.D. at 76; 2 NEWBERG ON CLASS ACTIONS § 4:72 (5th ed. 2011) (“Courts generally hold that if the predominance requirement is met, then the manageability requirement is met, as well.”). Thus, consolidating Class Members’ claims in one proceeding will generate economies of time and expense and promote legal uniformity.

More generally, Rule 23’s superiority standard requires that the court recognize “the costs *and benefits* of the class device.” *Mullins*, 795 F.3d at 663 (emphasis in original). Here, requiring individual cases “would make no sense,” because “each class member here would entail the same discovery and require multiple courts to weigh the same factual and legal bases for recovery.” *Bernal*, 318 F.R.D. at 76. The class action device, on the other hand, allows the Court to swiftly evaluate common issues surrounding Nextep’s alleged violations of BIPA in a single proceeding, generating a uniform result that will apply to all similarly situated persons. *Suchanek*, 764 F.3d at 759 (stating that “promot[ing] uniformity of decision as to persons similarly situated” is a goal of class actions) (quoting *Amchem Prods., Inc. v. Windsor*, 521 U.S. 591, 615 (1997)). Without class-wide adjudication of these claims, 1,369 individuals would have to sue one-by-one to recover on these relatively modest individual claims. *See* 740 ILCS 14/20(1). The cost of litigating BIPA claims on an individual basis—including the cost of discovery, motion practice, biometric data experts, and trial—would be prohibitively expensive. Moreover, such individual claims would

clog the courts with an influx of separate actions, further delaying the possibility of relief. Rule 23's superiority requirement is therefore satisfied.

**F. The Class Is Ascertainable.**

Finally, the proposed Settlement Class definition meets Rule 23's implicit requirement of "ascertainability," which "requires that a class . . . be defined clearly and based on objective criteria." *Mullins*, 795 F.3d at 659. "Whether a class is ascertainable depends on 'the adequacy of the class definition itself,' not 'whether, given an adequate class definition, it would be difficult to identify particular members of the class.'" *Toney v. Quality Res., Inc.*, 323 F.R.D. 567, 581 (N.D. Ill. 2018) (citing *Mullins*, 795 F.3d at 658).

Here, the Settlement Class definition is based solely on objective criteria: whether the individual used facial recognition at an ordering kiosk sold by Nextep at a Wow Bao restaurant in Illinois during the relevant period of time. (Settlement Agreement ¶ 67.) Because the class is "defined clearly [and] membership [is] defined by objective criteria," it is ascertainable. *Mullins*, 795 F.3d at 657. For these reasons, maintenance of this action as a class action is appropriate. The Court should therefore certify the Settlement Class for settlement purposes.

**V. PLAINTIFF'S COUNSEL SHOULD BE APPOINTED AS CLASS COUNSEL**

Under Rule 23, "a court that certifies a class must appoint class counsel . . . [with the] ability to fairly and adequately represent the interests of the class." Fed. R. Civ. P. 23(g)(1)(B). In making this determination, the Court considers proposed Class Counsel's: (1) work in identifying or investigating the potential claim, (2) experience in handling class actions, other complex litigation, and the types of claims asserted in the action, (3) knowledge of the applicable law, and (4) resources that it will commit to representing the class. Fed. R. Civ. P. 23(g)(1)(A)(i)–(iv).

As discussed above,<sup>6</sup> proposed Class Counsel have extensive experience in litigating class actions in general, and BIPA class actions specifically; have thoroughly investigated the claims at issue; and have the resources necessary to conduct this litigation. (See Ficzko Decl. ¶¶ 4-6, 8, 12.) And because of their efforts here, proposed Class Counsel have secured a Settlement that provides excellent monetary relief and the prospective relief necessary to protect the privacy interests of Settlement Class Members. Thus, the Court should appoint Ryan F. Stephan, James B. Zouras, and Andrew C. Ficzko of Stephan Zouras, LLP, as Class Counsel.

## **VI. THE PROPOSED SETTLEMENT WARRANTS PRELIMINARY APPROVAL**

Rule 23(e) requires judicial approval of all proposed class action settlements. The procedure for review of a proposed class action settlement is a familiar two-step process—preliminary and final approval—which was codified under Rule 23(e) relatively recently. Fed. R. Civ. P. 23(e)(1)-(2) (eff. Dec. 1, 2018); see 4 NEWBERG ON CLASS ACTIONS § 13:1 (5th ed.). The first step—preliminary approval—is a pre-notification inquiry to determine whether the court “will likely be able to approve the proposal under Rule 23(e)(2),” finding that it is sufficiently fair, reasonable, and adequate. Fed. R. Civ. P. 23(e)(1)(B). In other words, at this stage, the Court needs to determine whether the proposed settlement is “within the range of possible approval” such that there is “reason to notify the class members of the proposed settlement and to proceed with a fairness hearing.” *Gautreaux v. Pierce*, 690 F.2d 616, 621 & n.3 (7th Cir. 1982). Once preliminary approval is granted, class members are notified of the settlement, and the court and parties proceed to the second step: the final fairness determination. *Id.* at 621.

While “[f]ederal courts naturally favor the settlement of class action litigation,” a multi-

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<sup>6</sup> Courts frequently analyze counsel’s adequacy under both 23(a)(4) and 23(g), which is why it is discussed twice here. 1 NEWBERG ON CLASS ACTIONS § 3:56 (5th ed.); *Gomez v. St. Vincent Health, Inc.*, 649 F.3d 583, 592–93 (7th Cir. 2011), *as modified* (Sept. 22, 2011) (reviewing counsel’s adequacy under Rule 23(a)(4) but mentioning the Rule 23(g) factors in its analysis).

factor test must be used to determine whether the proposed settlement is likely to be found fair, reasonable, and adequate. *In re AT & T Mobility Wireless Data Servs. Sales Litig.*, 270 F.R.D. 330, 345 (N.D. Ill. 2010) (quoting *Isby v. Bayh*, 75 F.3d 1191, 1196 (7th Cir. 1996)) (internal quotations omitted). Rule 23(e)(2) directs courts to consider whether: (1) the class representative and class counsel have adequately represented the class; (2) the settlement was negotiated at arm's-length; (3) the settlement treats class members equitably relative to each other; and (4) the relief provided for the class is adequate. Fed. R. Civ. P. 23(e)(2); *see, e.g., Snyder v. Ocwen Loan Servicing, LLC*, No. 14 c 8461, 2019 WL 2103379, at \*4 (N.D. Ill. May 14, 2019).<sup>7</sup>

The proposed settlement here will provide outstanding monetary and prospective relief to Settlement Class Members without releasing any claims they may have against Wow Bao, LLC, and its related entities. (*See* Settlement Agreement ¶ 57.) It should be approved.

**A. Plaintiff and Proposed Class Counsel Have Adequately Represented the Settlement Class.**

The first Rule 23(e)(2) factor considers whether the class representative and class counsel have adequately represented the class. Fed. R. Civ. P. 23(e)(2)(A). The focus of this analysis is “on the actual performance of counsel acting on behalf of the class” throughout the litigation and in settlement negotiations. Fed. R. Civ. P. 23(e), Advisory Committee’s Note to 2018 Amendment;

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<sup>7</sup> Notably, the factors to be considered under the amended Rule 23 “overlap with the factors previously articulated by the Seventh Circuit, which include: (1) the strength of the plaintiff’s case compared to the terms of the settlement; (2) the complexity, length, and expense of continued litigation; (3) the amount of opposition to the settlement; (4) the presence of collusion in gaining a settlement; (5) the stage of the proceedings and the amount of discovery completed.” *Hale v. State Farm Mut. Auto. Ins. Co.*, No. 12-0660-DRH, 2018 WL 6606079, at \*2 (S.D. Ill. Dec. 16, 2018) (citing *Synfuel Techs., Inc. v. DHL Express (USA), Inc.*, 463 F.3d 646, 653 (7th Cir. 2006)); *see also* Fed. R. Civ. P. 23, Advisory Committee’s Note to 2018 Amendment (“The goal of this amendment is not to displace any factor, but rather to focus the court and the lawyers on the core concerns of procedure and substance that should guide the decision whether to approve the proposal.”). For this reason, decisions prior to the amendment can still provide guidance to the Court.

*see Gumm v. Ford*, No. 5:15-cv-41-MTT, 2019 WL 479506, at \*3 (M.D. Ga. Jan. 17, 2019). In considering this factor, courts are to examine whether the plaintiff and class counsel had adequate information to negotiate a class-wide settlement, taking into account (i) the nature and amount of discovery completed, whether formally or informally, and (ii) the “actual outcomes” of other, similar cases. Fed. R. Civ. P. 23(e) Advisory Committee’s Note to 2018 Amendment. Ultimately, this factor is generally satisfied where the named plaintiff participated in the case diligently, and where class counsel fought hard on behalf of plaintiff and the class throughout the litigation. *See Snyder*, 2019 WL 2103379, at \*4.

Here, Plaintiff has been involved in nearly every aspect of this case, including by helping her attorneys investigate her BIPA claims, assisting in responding to substantial written discovery, sitting for a 7-hour deposition, conferring with counsel throughout the litigation, and reviewing and approving the Settlement Agreement before signing it. (Ficzko Decl. ¶ 13.) Without Plaintiff stepping up to represent the class and taking on these tasks, the relief secured for the Settlement Class wouldn’t have been possible. Given her efforts and aligned interest with the class, there can be no doubt that Plaintiff has only acted in the best interest of the Settlement Class and has adequately represented them.

Likewise, proposed Class Counsel’s performance in this case demonstrates that their representation has been beyond adequate, especially when considering (i) the amount and quality of discovery conducted and (ii) the benefits of the Settlement compared to similar privacy settlements, including those under BIPA. By the time the Settlement was agreed to in principle, the considerable amount of written and oral discovery completed by Plaintiff’s counsel ensured that they had adequate information to assess the strength of the case and negotiate a fair deal. *See Am. Int’l Grp., Inc. v. ACE INA Holdings, Inc.*, No. 07 C 2898, 2011 WL 3290302, at \*8 (N.D. Ill.

July 26, 2011) (the standard “is not whether it is conceivable that more discovery could possibly be conducted” but whether the court and parties have enough information “to evaluate the merits of this case”). In addition to written discovery, Plaintiff took the depositions of current and former Nextep employees, including Kevin Varga, a former employee of Nextep who worked on development of the software at issue and the interface to Wow Bao’s Micros 3700 point of sale system, as well as Brian Leary, who serves as Nextep’s current Vice President of Software Development. Each of those deponents provided crucial testimony about the marketing, functionality, or deployment of the facial-recognition kiosks at issue in this case. In short, the issues in this litigation have crystallized sufficiently for Plaintiff and her counsel to assess the strengths and weaknesses of their negotiating position and evaluate the appropriateness of any proposed resolution. *See Kaufman v. Am. Express Travel Related Servs., Co.*, No. 07-CV-1707, 2016 WL 806546, at \*10 (N.D. Ill. Mar. 2, 2016).

Second, the monetary relief achieved by Plaintiff’s counsel in the Settlement excels in comparison to other statutory privacy settlements, including many BIPA settlements. The Settlement Fund in this case totals \$616,050.00, none of which will ever go back to Nextep. (*See* Settlement Agreement ¶ 79.) Assuming a claims rate of 10-20%, the Settlement will result in a *net* payment (meaning after all fees and costs are deducted) of approximately \$1,147 to \$2,295 per claimant. This amount dwarfs the amounts recovered in many other statutory privacy class actions, particularly against a backdrop where settlements have commonly secured no relief to the class or only *cy pres* relief. *See, e.g., Lane v. Facebook, Inc.*, 696 F.3d 811, 820–22 (9th Cir. 2012) (resolving tens of millions of claims under the Electronic Communications Privacy Act [“ECPA”] for a \$9.5 million *cy pres*-only settlement—amounting to pennies per class member—where \$10,000 in statutory damages were available per claim); *In re Google Buzz Privacy Litig.*, No. C

10-00672 JW, 2011 WL 7460099, at \*3–5 (N.D. Cal. June 2, 2011) (resolving tens of millions of claims, again under the ECPA, for \$8.5 million *cy pres*-only settlement). Some BIPA settlements, too, have depressed the amount defendants have to pay with credit monitoring, caps on the amount claiming class members can recover, and reversion of unclaimed funds. *E.g.*, *Carroll*, 2017-CH-01624 (credit monitoring only); *Marshall*, 2017-CH-14262 (paying a cap of \$270 to individuals who filed claims and reverting the remainder to defendant). Even when comparing against other consumer BIPA settlements, the per-person relief provided by this Settlement is as good or better than the rest. *See Prelipceanu*, 2018-CH-15883 (\$7 million fund for approximately 260,000 class members); *Miracle-Pond v. Shutterfly*, 2019-CH-07050 (Cir. Ct. Cook Cnty. Sept. 9, 2021) (\$6.75 million fund for potentially millions<sup>8</sup> of class members); *Kusinski v. ADP, LLC.*, 2017-CH-12364 (Cir. Ct. Cook Cnty., February 10, 2021) (\$25 million fund for approximately 320,000 class members); *Rosenbach v. Six Flags Ent. Corp.*, 2016-CH-00013 (Cir. Ct. Lake Cnty. May 14, 2021) (preliminarily approving \$36 million fund for approximately 1,110,000 class members, and capping class member payments at \$200 or \$60 depending on date of finger scan). Using any metric, the relief secured by this Settlement— approximately \$1,147 to \$2,295 per claiming Class Member—is extraordinary. Furthermore, while paying Settlement Class Members hundreds of dollars for their claims against Nextep, the Settlement does *not* release any claims against Wow Bao, LLC, and its related entities, who used the facial-recognition kiosks in their restaurants. (Settlement Agreement ¶ 57.)

Finally, aside from the monetary relief, the non-monetary benefits created by the

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<sup>8</sup> The settlement papers submitted in *Shutterfly* represented that there were approximately 954,000 class members, but that number only counted Shutterfly *users* in Illinois; it did not include the vast number of *non-users* who appeared in users' photographs uploaded to Shutterfly and who were included in the settlement class definition.

Settlement also demonstrate Plaintiff's and proposed Class Counsel's outstanding representation of the class. (*See* Settlement Agreement ¶ 115.) Nextep agrees to delete and cease retaining, within a reasonable time, but no later than 90 days, after the full execution and approval of the Settlement Agreement, any customer data received from the Wow Bao kiosks, provided Plaintiff and the Wow Bao entities stipulate and agree that such destruction will not constitute spoliation or otherwise violate any contractual, legal, or equitable obligation to store or maintain such data. (*Id.*) This prospective relief aligns perfectly with both the goals of BIPA and those of this lawsuit, as it will ensure that Illinois Wow Bao customers who used the facial-recognition kiosks are protected as the legislature intended. *See Rosenbach v. Six Flags Ent. Corp.*, 129 N.E.3d 1197, 1207 (Ill. 2019) (noting that “the point of [BIPA]” is to “prevent problems before they occur and cannot be undone”).

If the Settlement is approved, the Settlement Class will reap its valuable benefits thanks to Plaintiff's and proposed Class Counsel's hard work pursuing this case and representing their interests. This factor is well satisfied.

**B. The Settlement Was Reached as a Result of Arm's-Length Negotiations Between the Parties.**

The second Rule 23(e)(2) factor looks to whether the parties negotiated the settlement at arm's-length. Fed. R. Civ. P. 23(e)(2)(B). The answer here is easy: yes. Plaintiff actively litigated this case for approximately two years, including substantial motion practice, significant written discovery, and multiple depositions. *See Wright v. Nationstar Mortg. LLC*, No. 14 C 10457, 2016 WL 4505169, at \*11 (N.D. Ill. Aug. 29, 2016) (finding no collusion or unfairness where “the parties have vigorously defended their positions throughout the litigation, participated in two prior mediations, and engaged in discovery” prior to reaching settlement). These discussions ultimately led to a settlement conference with the Honorable Magistrate Judge McShain on November 15,



2022. (Ficzko Decl. ¶ 9.) While productive, the settlement conference did not end in immediate settlement, and the Parties proceeded with litigation for another month, including Defendant filing of a motion for summary judgment and Plaintiff filing a [renewed] motion for class certification. (*Id.*) During that time the Parties still continued to discuss settlement and they agreed to participate in a second settlement conference with the Honorable Magistrate Judge McShain on December 19, 2022. (*Id.*) Although the Parties again were unable to reach an agreement at that time, they further agreed to continue discussing a possible resolution. (*Id.*) Their efforts culminated in an agreement to resolve this matter in principle on January 11, 2023. (*Id.*) The Parties then spent the next several weeks drafting and negotiating the finer deal points of the final Settlement Agreement before executing it in February 2023. (*Id.*) See *Young v. Rolling in the Dough, Inc.*, 2020 WL 969616, at \*4 (N.D. Ill. Feb. 27, 2020) (finding the settlement agreement is “clearly” the product of arm’s-length negotiations after it was agreed to after a contested motion, extensive discovery and discovery disputes, and a settlement conference).

The arm’s-length nature of these negotiations is further confirmed by the Settlement Agreement itself: it is non-reversionary, provides significant cash payments to Settlement Class Members who submit a simple Claim Form, and contains no provisions that might suggest fraud or collusion, such as “clear sailing” or “kicker” clauses regarding attorneys’ fees. See *Snyder*, 2019 WL 2103379, at \*4 (approving settlement where “there is no provision for reversion of unclaimed amounts, no clear sailing clause regarding attorneys’ fees, and none of the other types of settlement terms that sometimes suggest something other than an arm’s length negotiation”).

For these reasons, there should be no question that the Settlement Agreement was the result of good-faith, arm’s-length negotiations and is entirely free from fraud or collusion. See *Schulte v. Fifth Third Bank*, No. 09-CV-6655, 2010 WL 8816289, at \*4 n.5 (N.D. Ill. Sept. 10, 2010) (noting

that courts “presume the absence of fraud or collusion in negotiating the settlement, unless evidence to the contrary is offered”).

**C. The Settlement Treats All Settlement Class Members Equally.**

The next Rule 23(e)(2) factor considers whether the proposed settlement “treats class members equitably relative to each other.” Fed. R. Civ. P. 23(e)(2)(D). Here, given that each Class Member has nearly identical BIPA claims for monetary and injunctive relief against Nextep, the proposed Settlement treats each of them identically. In terms of monetary relief, Nextep has agreed to create a non-reversionary Settlement Fund, from which each Class Member who submits a valid Claim Form will receive a single, *pro rata* payment by check. (Settlement Agreement ¶¶ 76-77); *see Ortiz v. Fibreboard Corp.*, 527 U.S. 815, 855 (1999) (where class members are similarly situated with similar claims, equitable treatment is “assured by straightforward pro rata distribution of the limited fund”). The Settlement also provides for identical prospective relief requiring Nextep to take steps to ensure compliance with BIPA by deleting and ceasing to retain Settlement Class Members’ data received from the Wow Bao kiosks. (Settlement Agreement ¶ 115.) Further, each Class Member will release the same BIPA claims against Nextep, and all will retain their claims against Wow Bao, LLC and its related entities. (*Id.* ¶¶ 56-57.)

Likewise, the provision of a Service Award to Plaintiff for serving as Class Representative is consistent with the equitable treatment of class members. The requested \$10,000 Service Award is not only modest relative to the Settlement Fund that Plaintiff has helped secure for the Settlement Class, it also reflects the significant work she has done for the Settlement Class, which as described above, included conferring with counsel regularly, answering written discovery, sitting for a 7-hour contentious deposition, and participating in the settlement process. Moreover, an award of this size is squarely in line with other service awards given to class representatives in BIPA cases.

*See Dixon v. Washington & Jane Smith Cmty.-Beverly*, No. 17-cv-8033, dkt. 103 (N.D. Ill. May 31, 2018) (\$10,000 service award) (Kennelly, J.). Given that Plaintiff’s efforts were key to securing the outstanding relief provided by the Settlement, the modest proposed Service Award is fully consistent with equity. Because the Settlement treats each member of the Settlement Class equitably, this factor is well satisfied.

**D. The Relief Secured for the Settlement Class Is Adequate and Warrants Approval.**

The final and most substantive factor under Rule 23(e)(2) examines whether the relief provided for the class is adequate. Fed. R. Civ. P. 23(e)(2)(C). In making this determination, Rule 23 instructs courts to consider several sub-factors, including (i) the cost, risks, and delay of trial and appeal; (ii) the effectiveness of the proposed method of distributing relief to the class; (iii) the terms of any proposed award of attorneys’ fees, including timing of payment; and (iv) any agreements made in connection with the proposed settlement. *Id.* As explained below, each of these sub-factors demonstrate that the relief provided by the Settlement is excellent—well beyond adequate—and should be approved.

**1. The cost, risk, and delay of further litigation compared to the Settlement’s benefits favors final approval.**

In evaluating the adequacy of the relief provided to the class, courts should first compare the cost, risks, and delay of pursuing a litigated outcome to the settlement’s immediate benefits. Fed. R. Civ. P. 23(e)(2), Advisory Committee’s Note to 2018 amendment.

The Settlement here warrants approval because it provides immediate relief to the Settlement Class while avoiding potentially years of complex litigation and appeals and the risk that comes along with it. *See Goldsmith v. Tech. Sols. Co.*, No. 92 C 4374, 1995 WL 17009594, at \*4 (N.D. Ill. Oct. 10, 1995) (“As courts recognize, a dollar obtained in settlement today is worth more than a dollar obtained after a trial and appeals years later.”). Nextep asserted 23 affirmative

defenses. (Dkt. 12.) For example, one of Nextep's defenses in this case was its contention that even though it did not obtain the consent Plaintiff contends is required by the plain language of the statute, some other form of express and/or implied consent still precluded its liability because the Class Members voluntarily chose to use the facial recognition kiosks. Plaintiff put little stock in this argument, but it is likely that it would come down to a battle for the Court or jury to decide at a trial. The determination of complex factual and/or legal issues by the Court or jury is an inherently uncertain proposition, particularly compared with the certain relief offered by this Settlement.

Likewise, the Parties also would have been forced to litigate the issue of class certification adversarially. *See* Fed. R. Civ. P. 23(e)(2), Advisory Committee's Note to 2018 Amendment (instructing courts to consider the likelihood of certifying the class for litigation in evaluating this sub-factor); *see also Hudson v. Libre Tech., Inc.*, No. 3:18-cv-1371-GPC-KSC, 2020 WL 2467060, at \*6 (S.D. Cal. May 13, 2020) ("Proceeding in this litigation in the absence of settlement poses various risks such as failing to certify a class."). Although Plaintiff believes this case is amenable to class certification given Nextep's uniform conduct, *see In re Facebook Biometric Info. Privacy Litig.*, 326 F.R.D. at 549 (certifying Rule 23(b)(3) class of Facebook users in Illinois for whom Facebook created and stored a face template), and that she would ultimately prevail on certification issues, that process is by no means risk-free. That isn't to say that the Court can ignore questions regarding the propriety of class certification; as discussed above, it cannot. The important point is that in the context of settlement, Nextep doesn't object to certification of the class, which permits the Court to focus its class certification analysis on protecting absent class members without worrying about the effect of certification on Nextep. *See Mullins*, 795 F.3d at 669 (explaining that defendants also have due process rights that can affect certification). This

Settlement provides excellent relief to the Settlement Class Members now, avoiding years of delay to resolve these questions.

Protracted litigation would also consume significant resources, including the time and costs associated with moving forward with briefing and arguing the pending motion for summary judgment and [renewed] motion for class certification, trial, and any appeals. It is possible that “this drawn-out, complex, and costly litigation process . . . would provide Class Members with either no in-court recovery or some recovery many years from now[.]” *In re AT & T Sales Tax Litig.*, 789 F. Supp. 2d 935, 964 (N.D. Ill. 2011). Because the proposed Settlement offers immediate—and substantial—monetary relief to the Settlement Class while avoiding the need for extensive and drawn-out litigation, preliminary approval is appropriate. *See, e.g., Schulte v. Fifth Third Bank*, 805 F. Supp. 2d 560, 586 (N.D. Ill. 2011) (“Settlement allows the class to avoid the inherent risk, complexity, time, and cost associated with continued litigation.”).

**2. The method of distributing relief to the Settlement Class Members is effective and supports preliminary approval.**

The next sub-factor evaluates whether the settlement’s proposed method of distributing relief to the class is effective. Fed. R. Civ. P. 23(e)(2)(C)(ii). An effective distribution method “get[s] as much of the available damages remedy to class members as possible and in as simple and expedient a manner as possible” while also ensuring that only “legitimate claims” are paid. 4 NEWBERG ON CLASS ACTIONS § 13:53 (5th ed.). Courts have held that requiring a claimant to fill out a short and simple claim form is an appropriate way to balance these concerns, especially in settlements with non-reversionary funds. *See In re Toyota Motor Corp. Unintended Acceleration Mktg. Litig.*, 2013 WL 3224585, at \*18 (C.D. Cal. June 17, 2013) (“The requirement that class members download a claim form or request in writing a claim form, complete the form, and mail it back to the settlement administrator is not onerous.”); *Schulte*, 805 F. Supp. 2d at 591 (“[T]he

Court has reviewed the claim form and concludes that it is not unduly burdensome, long, or complex. All information called for on the form is required of the claims administrator in order for it to process claims.”); 4 NEWBERG ON CLASS ACTIONS § 13:53 (5th ed.).

The proposed Settlement here satisfies this factor by relying on well-established, effective methods for processing Class Members’ Claim Forms and distributing the proceeds of the Settlement. The Settlement Fund will be distributed to Class Members who submit a short and simple Approved Claim, by mail or online, to the Settlement Administrator—an independent third party with extensive experience handling the administration of settlement funds. (*See* Settlement Agreement Ex. A.) Each person in the Settlement Class will have the option to mail in a Claim Form or alternatively, submit their Claim Form online through the Settlement Website. (*Id.* ¶¶ 36-37, 86.) The Settlement Administrator will provide Class Members with resources (including a website, mailing address, and toll-free phone number) to contact the Settlement Administrator or Class Counsel directly, review and process the Claim Forms, and then disperse to Class Members their *pro rata* share of the Settlement Fund upon approval of the Court. (*Id.* Ex. B.) This distribution method is effective and supports approval.

**3. The terms of the requested attorneys’ fees are reasonable.**

The third and final relevant sub-factor<sup>9</sup> considers the adequacy of the relief provided to the class taking into account “the terms of any proposed award of attorney’s fees, including timing of payment.” Fed. R. Civ. P. 23(e)(2)(C)(iii). If the Settlement is preliminarily approved, proposed Class Counsel plan to petition the Court for an award of reasonable attorneys’ fees after the

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<sup>9</sup> The fourth sub-factor, which requires the parties to identify any side agreements made in connection with the settlement, Fed. R. Civ. P. 23(e)(2)(C)(iv), is not applicable here as the written Settlement Agreement provided to the Court represents the entirety of the Parties’ proposed Settlement. (Ficzko Decl. ¶ 11.) Since there are no side agreements to be identified, this sub-factor weighs in favor of preliminary approval.

Settlement Class has received notice of the Settlement. The Settlement's contemplated method of calculating attorneys' fees (i.e., the percentage-of-the-fund method), and its limit on attorneys' fees (i.e., no more than 35% of the non-reversionary Settlement Fund) is reasonable and predicated on the outstanding relief provided to the Settlement Class. (Settlement Agreement ¶ 99.) In fact, the percentage-of-the-fund method has been used to determine a reasonable fee award in every BIPA class action settlement creating a common fund to date, and a 35% award will adequately capture the hypothetical *ex ante* agreement that the Settlement Class would have entered into with proposed Class Counsel had they sought them out in the market, given the risks in the case. *See Williams v. Rohm & Haas Pension Plan*, 658 F.3d 629, 635 (7th Cir. 2011); e.g., *Lopez-McNear v. Superior Health Linens, LLC*, No.19-cv-2390, dkt. 69 (awarding 35% of fund); *Cornejo v. Amcor Rigid Plastics USA, LLC*, No. 1:18-cv-07018, dkt. 57 (N.D. Ill. Sept. 10, 2020) (awarding 35% of fund); *Sekura*, 2015-CH-16694 (awarding 40% of fund); *Zepeda v. Intercontinental Hotels Grp., Inc.*, 2018-CH-02140 (Cir. Ct. Cook Cnty.) (awarding 40% of fund); *Svagdis v. Alro Steel Corp.*, 2017-CH-12566 (Cir. Ct. Cook Cnty.) (awarding 40% of fund); *see also* 5 NEWBERG ON CLASS ACTIONS § 15:83 (5th ed.) (noting that, generally, "50% of the fund is the upper limit on a reasonable fee award from any common fund"). Accordingly, that the Settlement permits the Court to award 35% of the fund in attorneys' fees is more than appropriate. Finally, if approved, the Settlement provides that attorneys' fees will be paid within three calendar days after the Effective Date. (Settlement Agreement ¶ 112.) These terms are reasonable and should be preliminarily approved.

For these reasons, Plaintiff and proposed Class Counsel submit that the monetary and prospective relief provided by the Settlement weighs heavily in favor of a finding that it is fair,

reasonable, and adequate, and well within the range of possible approval. The Court should grant preliminary approval.

**VII. THE PROPOSED NOTICE PLAN SHOULD BE APPROVED IN FORM AND SUBSTANCE**

Rule 23 and Due Process require that for any “class proposed to be certified for purposes of settlement under Rule 23(b)(3)[,] the court must direct to class members the best notice that is practicable under the circumstances ... .” Fed. R. Civ. P. 23(c)(2)(B); *Eisen v. Carlisle & Jacquelin*, 417 U.S. 156, 173 (1974). Rule 23(e)(1) similarly provides that “[t]he court must direct notice in a reasonable manner to all class members who would be bound by a [proposed settlement, voluntary dismissal, or compromise.]” Fed. R. Civ. P. 23(e)(1). Notice may be provided to the class via “United States mail, electronic means, or other appropriate means.” Fed. R. Civ. P. 23(c)(2)(B) (eff. Dec. 1, 2018). The substance of the notice to the Settlement Class must describe in plain language the nature of the action, the definition of the class to be certified, the class claims and defenses at issue, that class members may enter an appearance through counsel if so desired, that class members may request to be excluded from the Settlement Class, and that the effect of a class judgment shall be binding on all class members. *See* Fed. R. Civ. P. 23(c)(2)(B).

Here, the Settlement contemplates a comprehensive Notice plan. First, the Parties agree to jointly request that Wow Bao allow posting at its Wow Bao restaurants. (Settlement Agreement ¶ 85.) Additionally, publication of the Notice will be by: (1) Internet Notice: the Settlement Administrator will develop, host, administer, and maintain a Settlement Website containing the Notice with a call center and phone operators. The Settlement Administrator will be identified as the primary contact for inquiries and Class Members will be directed to contact the Settlement Administrator with all communications regarding the settlement; (2) Targeted Advertising: the Settlement Administrator may place targeted advertisements on the leading business social



platforms (*e.g.*, LinkedIn), the top social media platforms (*e.g.*, Facebook), the largest digital networks (*e.g.*, Google), programmatic partners, and any other appropriate platforms reasonably targeted at members of the Settlement Class, which shall direct them to the Settlement Website; and/or (3) Print Publication: the Settlement Administrator may provide print publication notice by placing a one-time eighth of a page summary publication notice in some or all appropriate newspapers circulating in Illinois including, but not necessarily limited to: Arlington Daily Herald, Belleville News Democratic, Bloomington Pantagraph, Champaign News-Gazette, Chicago Sun Times, Chicago Tribune, Northwest Herald, Peoria Journal Star, Rockford Register Star, and/or Springfield State Journal-Register. (*Id.* ¶¶ 85(a), (b), (c).)

All of the Notice documents are written in plain, easily-understood language. The Notice will inform Settlement Class Members, prior to the Final Approval Hearing, that there is a pending Settlement, and to further inform Settlement Class Members how they may: (1) participate in the Settlement, (2) protect their rights regarding the Settlement, (3) request exclusion from the Settlement Class and the proposed Settlement, if desired, (4) object to any aspect of the proposed Settlement, if desired, and (5) participate in the Final Approval Hearing, if desired. (*See Id.* Ex. B.) The Notice shall make clear the binding effect of the Settlement on all persons who do not timely request exclusion from the Settlement Class. (*Id.*) Finally, the Settlement Administrator will create, launch, and maintain a Settlement Website, which will provide access to relevant settlement administration documents, including the Notice, relevant court filings, and the ability to submit Claim Forms online. (*Id.* ¶ 64.) The Settlement Website shall be live and active by the Notice Date. (*Id.*)

Because the proposed Notice plan effectuates Notice in the best practicable manner under the circumstances and fully apprises Settlement Class members of their rights, it comports with

both Rule 23 and Due Process. Consequently, the Court should approve the Parties' proposed Notice plan.

**VIII. CONCLUSION**

For the foregoing reasons, Plaintiff respectfully requests that the Court enter an Order (i) granting preliminary approval of the Parties' proposed Class Action Settlement Agreement and Release, (ii) certifying the proposed Settlement Class for settlement purposes, (iii) approving the form and content of the Notice to the members of the Settlement Class, (iv) appointing Plaintiff Regina Morris as Class Representative, (v) appointing Stephan Zouras, LLP, as Class Counsel, (vi) enter the proposed Preliminary Approval Order, attached hereto as Exhibit 3, (vii) scheduling a final fairness hearing in this matter, and (viii) providing such other and further relief as the Court deems reasonable and just.

Respectfully submitted,

**Regina Morris**, individually, and on behalf of all  
Others similarly situated

Dated: March 6, 2023

By: /s/ Andrew C. Ficzko  
One of Plaintiff's attorneys

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**ATTORNEYS FOR PLAINTIFF  
AND THE PUTATIVE CLASS**

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that on March 6, 2023, he electronically filed the foregoing with the Clerk of the Court for the United States District Court for the Northern District of Illinois by using the CM/ECF system, which sent notification of such filing to all CM/ECF participants.

/s/ Andrew C. Ficzko

# EXHIBIT 1

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

REGINA MORRIS, individually, and on	)	
behalf of all others similarly situated,	)	
	)	
Plaintiff,	)	
	)	Case No. 1:21-cv-02404
vs.	)	
	)	
NEXTEP SYSTEMS, INC.,	)	
	)	
Defendant.	)	

**CLASS ACTION SETTLEMENT AGREEMENT AND RELEASE**

This Class Action Settlement Agreement and Release (herein referred to as “Settlement Agreement” or “Settlement”) is made and entered into by and between REGINA MORRIS (“Plaintiff”) on behalf of herself and each member of the Settlement Class as defined below, and Defendant NEXTEP SYSTEMS, INC. (“Nextep” or “Defendant”) (together with Plaintiff, the “Parties”).

**I. RECITALS**

1. Separate from and prior to this action, on September 5, 2017, Plaintiff Regina Morris filed a class action complaint captioned *Regina Morris, et al. v. Wow Bao LLC, Wow Bao Franchising LLC and Lettuce Entertain You Enterprises, Inc.*, Case No. 2017-CH-12029, in the Circuit Court of Cook County, Illinois, County Department, Chancery Division, alleging violations of the Illinois Biometric Information Privacy Act (“BIPA”), 740 ILCS 14/1, *et seq.* (the “Wow Bao litigation”).

2. On March 9, 2021, Plaintiff Regina Morris filed a separate and distinct class action complaint captioned *Morris v. Nextep Systems, Inc.*, Case No. 2021-CH-01125, in the Circuit Court of Cook County, Illinois, County Department, Chancery Division, alleging separate and

distinct violations of the Illinois Biometric Information Privacy Act (“BIPA”), 740 ILCS 14/1, *et seq.*

3. On May 5, 2021, Nextep removed the matter (the “Action”) to federal court. (Dkt. No. 1.)

4. On May 26, 2021, Nextep filed its Answer to Complaint. (Dkt. No. 12.)

5. On July 21, 2021, the Parties filed their Joint Initial Status Report. (Dkt. No. 15.)

6. On October 29, 2021, and again on November 16, 2021, the Parties filed Joint Status Reports updating the Court on the status of their settlement discussions. (Dkt. Nos. 18, 20.)

7. On December 6, 2021, Plaintiff issued written discovery, including interrogatories and requests for production of documents, as well as her Rule 26(a) Initial Disclosures.

8. On February 3, 2022, the Parties filed a Joint Motion for Entry of Confidentiality Order (Dkt. No. 26), which was granted by the Court on February 4, 2022. (Dkt. No. 27.)

9. On February 11, 2022, Nextep filed a Motion for Phased Discovery, which was fully briefed. (Dkt. Nos. 29, 32, 36.)

10. On March 9, 2022, Plaintiff filed a Motion for Status hearing in which Nextep responded in opposition to on March 10, 2022. (Dkt. Nos. 40, 41.)

11. On March 21, 2022, the Parties filed a Joint Status Report updating the Court on the status and progress of their discovery-related discussions. (Dkt. No. 43.)

12. On March 28, 2022, the Court denied Nextep’s Motion for Phased Discovery and Plaintiff’s Motion for Status Hearing, both without prejudice. (Dkt. No. 44.)

13. On April 1, 2022, the Parties filed a Joint Status Report updating the Court on the status of their discovery discussions and the status of scheduling a settlement conference. (Dkt. No. 45.)

14. On May 20, 2022, Plaintiff filed a Motion to Compel Discovery to which Nextep responded to on June 2, 2022. (Dkt. Nos. 48, 54.)

15. On June 1, 2022, the Parties filed a Joint Status Report updating the Court on the status of their discovery discussions and the status of scheduling a settlement conference. (Dkt. No. 52.)

16. On August 1, 2022, the Court granted Plaintiff's Motion to Compel Discovery. (Dkt. No. 56.)

17. On September 14, 2022, the Parties filed a Joint Status Report updating the Court on the status of scheduling a settlement conference. (Dkt. 57.)

18. On October 3, 2022, Plaintiff filed in the Circuit Court for the County of Oakland Michigan a motion to enforce a subpoena issued to Nextep as a third-party to the *Wow Bao* litigation, which matter is captioned *Regina Morris, et al. v. Wow Bao LLC, Wow Bao Franchising LLC and Lettuce Entertain You Enterprises, Inc.*, Case No. 2022-196493 (the "Subpoena Enforcement Action").

19. Also on October 3, 2022, the Parties filed a Joint Statement and Proposed Case Calendar. (Dkt. No. 60.)

20. On October 5, 2022, the Court reviewed the Parties' Joint Statement and Proposed Case Calendar, granted a short extension of all fact discovery, and set a fact discovery deadline of November 18, 2022. The Court also set a dispositive motion deadline, including a motion for class certification, for December 2, 2022. (Dkt. No. 61.)

21. On November 15, 2022, after exchanging their respective settlement position statements, the Parties participated in a settlement conference with the Honorable Magistrate Judge McShain. (Dkt. No. 63.) Although the Parties were unable to reach an agreement at the time, the

Parties agreed to continue discussing a possible resolution.

22. On November 16, 2022, Plaintiff filed a Motion to Quash and for Entry of a Protective Order in Connection with Subpoena Served by Defendant on Plaintiff's Counsel, which Nextep responded to on November 17, 2022. (Dkt. Nos. 64, 66.) The Court denied Plaintiff's Motion on November 18, 2022 and directed Plaintiff to produce a former law clerk for deposition, which Plaintiff complied. (Dkt. No. 70.) The Court also ordered Plaintiff to show cause why she should not be required to pay the attorneys' fees and costs incurred in responding to Plaintiff's Motion, and Plaintiff filed a response to the show cause order on November 28, 2022. (Dkt. Nos. 70, 75.)

23. On November 17, 2022, Plaintiff filed another Motion to Compel Discovery, which Nextep responded to on November 21, 2022. (Dkt. Nos. 68, 73.) The Court denied Plaintiff's Motion on December 1, 2022. (Dkt. No. 78.) The Court also ordered Plaintiff to show cause why she should not be required to pay the attorneys' fees and costs incurred in responding to Plaintiff's Motion, and Plaintiff filed a response to the show cause order on December 12, 2022. (Dkt. Nos. 77, 87.)

24. On December 2, 2022, Nextep filed a Motion for Summary Judgment (Dkt No. 79) and Plaintiff filed a [Renewed] Motion for Class Certification. (Dkt. No. 84.)

25. On December 19, 2022, the Parties, along with Wow Bao, LLC, participated in a global settlement conference with the Honorable Judge McShain. (Dkt. No. 88.) Although the Parties, again, were unable to reach an agreement at the time, the Parties further agreed to continue discussing a possible resolution.

26. In an effort to reach a resolution of this matter, the Parties continued to engage in significant settlement discussions following the global settlement conference. These efforts



culminated in an agreement to resolve this matter in principle on January 11, 2023. (Dkt. No. 91.)

27. Plaintiff and Class Counsel have conducted a comprehensive examination of the facts and the law regarding this matter and have concluded that a settlement according to the terms set forth herein is fair, reasonable, and adequate, and beneficial to and in the best interests of Plaintiff and the Settlement Class, recognizing (a) the existence of complex and contested issues of law and fact; (b) the risks inherent in litigation; (c) the likelihood that future proceedings will be unduly protracted and expensive if the proceeding is not settled by voluntary agreement; (d) the magnitude of the benefits derived from the contemplated Settlement in light of both the maximum potential and likely range of recovery to be obtained through further litigation and the expense thereof, as well as the potential of no recovery whatsoever; and (e) Class Counsel's determination that the Settlement is fair, reasonable, adequate, and will substantially benefit the Settlement Class Members. For purposes of this Settlement Agreement, Class Counsel have also determined that the Settlement Agreement procedures described herein are superior to other available methods for the fair and efficient resolution of this controversy.

28. Defendant denies any liability, wrongdoing, or legal violations of any kind related to the claims and contentions asserted in this matter. By entering into this Settlement, Defendant does not admit any liability or wrongdoing, and expressly denies the same.

29. Considering the risks and uncertainties of continued litigation and all factors bearing on the merits of settlement, the Parties are satisfied that the terms and conditions of this Settlement Agreement are fair, reasonable, adequate, and in their respective best interests.

30. The Parties agree to cooperate and take all reasonable steps necessary and appropriate to obtain preliminary and final approval of the Settlement Agreement, to effectuate all aspects of the Settlement Agreement, and to dismiss the Action with prejudice upon final approval

and entry of final judgment.

31. In consideration of the covenants, agreements, and releases set forth herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, it is agreed by and among the undersigned that the matter be settled and compromised, and that the Releasors, as that term is defined herein, release the Released Parties, as that term is defined herein, of the Released Claims, as that term is defined herein, without costs as to Defendant, the Released Parties, Plaintiff, Class Counsel, or the Settlement Class, except as explicitly provided for in this Settlement Agreement, subject to the approval of the Court, on the following terms and conditions.

## **II. SETTLEMENT TERMS**

### **A. DEFINITIONS**

The following terms, as used in this Settlement Agreement, have the following meanings:

32. “Action” means the class action lawsuit pending in the United States District Court, for the Northern District of Illinois, Eastern Division, captioned *Regina Morris v. Nextep Systems, Inc.*, Case No. 1:21-cv-02404.

33. “Administrative Fees” means all fees, expenses, and costs associated with the administration of the Settlement by the Settlement Administrator, including but not limited to fees, expenses, and costs incurred in providing Notice, communicating with the Settlement Class Members, disbursing payments to participating Settlement Class Members, and tax reporting.

34. “Approved Claim” means a Claim Form submitted by a Settlement Class Member that is (a) timely and submitted in accordance with the directions on the Claim Form and the terms of this Agreement, (b) is fully completed and physically signed or electronically signed by the Settlement Class Member, and (c) satisfies the conditions of eligibility for a Settlement Payment

as set forth in this Agreement.

35. “Biometric System” means the facial recognition kiosks sold by Nextep and used at a Wow Bao restaurant in the State of Illinois from March 9, 2016, through the present which allegedly utilized a scan of Plaintiff’s and the other Settlement Class Members’ facial geometries for order recall and authentication purposes.

36. “Claim Deadline” means the date by which all Claim Forms must be postmarked or submitted on the Settlement Website to be considered timely and shall be set as a date no later than ninety (90) days following the Notice Date, subject to Court approval. The Claims Deadline shall be clearly set forth in the Preliminary Approval Order, as well as in the Notice and the Claim Form.

37. “Claim Form” means the document substantially in the form attached hereto as Exhibit A, as approved by the Court. The Claim Form, which shall be completed by Settlement Class Members who wish to file a claim for a Settlement Payment, shall be available in paper and electronic format. The Claim Form will require claiming Settlement Class Members to provide the following information: (i) full name, (ii) current U.S. mailing address, and (iii) current contact telephone number and email address. The Claim Form will not require notarization.

38. “Class,” “Settlement Class,” “Class Member,” or “Settlement Class Member” mean all individuals, including the Named Plaintiff, in the State of Illinois who used facial recognition at an ordering kiosk sold by Nextep at a Wow Bao store, including, but not necessarily limited to (1) 835 North Michigan Avenue, (2) 1 West Wacker Blvd, (3) 225 North Michigan Avenue.

39. “Class Counsel” refers to Stephan Zouras, LLP, 100 N. Riverside Plaza, Suite 2150, Chicago, IL 60606.

40. “Class Representative” means the Named Plaintiff in the Action, Regina Morris.

41. “Court” means the United States District Court, for the Northern District of Illinois, Eastern Division, and the Honorable Judge Steven C. Seeger or any judge sitting in his stead.

42. “Defendant” means Defendant Nextep Systems, Inc.

43. “Defendant’s Counsel” means Kabat Chapman & Ozmer LLP, 171 17th Street NW, Suite 1550, Atlanta, GA 30363 and Shook, Hardy & Bacon LLP, 111 South Wacker Drive, Suite 4700, Chicago, IL 60606.

44. “Effective Date” means the first business day after the date on which the Final Judgment becomes final. For purposes of this definition, the Final Judgment “becomes final” when the Final Approval Order has been entered on the docket, or if a timely objection has been submitted, on the latest of the following dates: (a) on the date that the time to appeal from the Final Approval Order has expired and no appeal has been timely filed; (b) if such an appeal has been filed, it has been finally resolved and has resulted in an affirmation of the Final Approval Order; or (c) the Court, following the resolution of the appeal, enters a further order or orders approving the Settlement on the material terms set forth herein, and either no further appeal is taken from such order(s) or any such appeal results in affirmation of such order(s). In the event that the Court does not approve the Settlement Agreement and/or does not enter a Final Judgment, or in the event that entry of the Final Judgment is reversed on appeal, then there shall be no Effective Date and this Settlement Agreement shall become null and void.

45. “Fee Award” means the amount of attorneys’ fees and reimbursement of costs and expenses awarded by the Court to Class Counsel.

46. “Fee Petition” means the motion to be filed by Class Counsel in which they seek approval of an award of attorneys’ fees, costs, and expenses. Class Counsel will seek a fee award up to 35% of the Settlement Fund plus out-of-pocket costs, which Defendant will not oppose.

47. “Final Approval Hearing” means the hearing contemplated by the Parties at which the Court will grant final approval of the Settlement and make such other final rulings as are contemplated by the Settlement Agreement.

48. “Final Approval Order” means the Court’s order granting final approval of this Settlement Agreement on the terms provided herein or as those terms may be modified by subsequent written agreement of the Parties. The Final Approval Order shall:

- a. Grant final certification of the Settlement Class;
- b. Find that the Settlement Agreement is fair, reasonable, and adequate, was entered into in good faith and without collusion, and approves and directs consummation of the Settlement Agreement;
- c. Dismiss Plaintiff’s and Class Members’ claims pending before it with prejudice and without costs, except as explicitly provided for in this Settlement Agreement;
- d. Approve the Release provided in the Settlement Agreement and order that, as of the Effective Date, the Released Claims will be released as to the Released Parties; and
- e. Enter a Final Judgment.

The Parties shall submit a proposed Final Approval Order setting forth the terms of this Settlement Agreement, by incorporation or otherwise, for execution and entry by the Court at the time of the Final Approval Hearing or at such other time as the Court deems appropriate.

49. “Final Judgment” refers to the judgment entered by the Court in conjunction with the Final Approval Order.

50. “Notice” means the notice of the proposed Settlement and Final Approval Hearing approved by the Court, which is to be disseminated to the Settlement Class substantially in the manner set forth in this Settlement Agreement, fulfilling the requirements of Due Process and Rule 23 of the Federal Rules of Civil Procedure, and is substantially in the form of Exhibit B attached

hereto.

51. “Notice Date” means the date by which the Notice is disseminated to the Settlement Class, which shall be a date no later than fourteen (14) calendar days after entry of the Preliminary Approval Order.

52. “Objection/Exclusion Deadline” means the date by which a written objection to this Settlement Agreement or a request for exclusion submitted by a member of the Settlement Class must be postmarked and/or filed with the Court, which shall be designated as a date approximately forty-five (45) calendar days after the Notice Date, or such other date as ordered by the Court. The Objection/Exclusion Deadline will be set forth in the Notice and on the Settlement Website.

53. “Parties” means Plaintiff and Defendant, collectively.

54. “Preliminary Approval Order” or “Preliminary Approval” refers to the Court’s order preliminarily approving the Settlement Agreement, certifying the Settlement Class for settlement purposes, and directing Notice of the Settlement to the Settlement Class substantially in the form of the Notice(s) and means set forth in this Agreement.

55. “Qualified Settlement Fund” or “QSF” means the interest-bearing escrow account with the Settlement Fund to be opened, administered, and controlled by the Settlement Administrator as a “Qualified Settlement Fund” under Section 468B of the IRC and Treas. Reg. § 1.468B-1, 26 C.F.R. § 1.468B-1, et seq.

56. “Released Claims” means Members of the Settlement Class who do not opt out shall release, relinquish, and give up any and all actual, potential, filed, unfiled, known or unknown claims, suits, actions, controversies, demands, and/or causes of action arising under BIPA, at common law, or any other privacy-related statute, relating to use of facial recognition at Wow Bao stores in Illinois from March 9, 2016 through the present. Nothing in the release of claims shall

operate to release any claims against the defendants in the case of *Morris v. Wow Bao, LLC et al.*, Case No. 17-CH-12029, currently pending in the Circuit Court of Cook County, Illinois.

57. “Released Parties” refers to Nextep Systems, Inc., Global Payments Inc., and all of their parents, subsidiaries, divisions, assigns, predecessors, successors, holding companies, shareholders, principals, owners, members, trustees, administrators, executors, directors, officers, managers, board members, attorneys, insurers, reinsurers, underwriters, and lenders. For the avoidance of doubt Wow Bao, LLC, Wow Bao Franchising, Lettuce Entertain You Enterprises, Inc., as well as their parents, subsidiaries, divisions, assigns, predecessors, successors, holding companies, shareholders, principals, owners, members, trustees, administrators, executors, directors, officers, managers, board members, attorneys, insurers, reinsurers, underwriters, lenders and/or outside vendors, including but not limited to any entity that manufactured, sold, or otherwise provided Nextep Systems, Inc. with any Biometric System at issue in this lawsuit, or any portion thereof, whether software or hardware, are not considered released parties.

58. “Releasor(s)” refers jointly and severally, individually and collectively, to the Named Plaintiff, the Settlement Class Members, and each of their predecessors, successors, beneficiaries, heirs, executors, conservators, administrators, and assigns of each of the foregoing, and anyone claiming by, through or on behalf of them.

59. “Relevant Period of Time” is from March 9, 2016 through the present.

60. “Service Award” means the amount to be paid to the Named Plaintiff, subject to approval of the Court, as payment for her efforts for the benefit of the Class, including assisting Class Counsel with the prosecution of the Action. Defendant will not oppose the Named Plaintiff seeking a Service Award from the Settlement Fund of \$10,000, paid out of the Settlement Fund.

61. “Settlement Administrator” means, subject to Court approval, the entity selected by

Class Counsel and mutually supervised by the Parties to administer the Settlement.

62. “Settlement Fund” means a cash settlement fund to be established by Defendant or its insurers in an amount equal to \$450.00 multiplied by 1,369 Class Members for a total of \$616,050.00. The Settlement Fund shall be used to satisfy all of the following as approved by the Court: (1) all payments to the Named Plaintiff and participating Settlement Class Members; (2) the Fee Award in connection with all of Class Counsel’s representation of Named Plaintiff and the Settlement Class Members, including all attorneys’ fees and costs that may arise in the future in connection with this Settlement Agreement, including, without limitation, seeking Court approval of the Settlement Agreement, and the notice process; (3) all Administrative Fees incurred by the Settlement Administrator; and (4) a Service Award to the Named Plaintiff.

63. “Settlement Payment” means that to participate in the settlement and make a recovery, putative Class Members are required to submit a Claim Form. Each participating Class Member will receive a *pro rata* share of the settlement, less the Fee Award, Administrative Fees, and a Service Award to the Named Plaintiff.

64. “Settlement Website” means the website to be created, launched, and maintained by the Settlement Administrator, which will provide access to relevant settlement administration documents, including the Notice, relevant court filings, and the ability to submit Claim Forms online. The Settlement Website shall be live and active by the Notice Date, and the URL of the Settlement Website shall be [www.nextepbipasettlement.com](http://www.nextepbipasettlement.com), or such other URL as the Parties may subsequently agree to.

## **B. SETTLEMENT CLASS CERTIFICATION**

65. Solely for the purposes of this Settlement Agreement, the Parties stipulate and agree that: (a) the Class shall be certified under Rule 23 of the Federal Rules of Civil Procedure in



accordance with the definition contained in Paragraph 67, below; (b) Named Plaintiff shall represent the Class for settlement purposes and shall be the Class Representative; and (c) Plaintiff's Counsel shall be appointed as Class Counsel.

66. Defendant does not consent to certification of the Class for any purpose other than to effectuate the Settlement. Defendant expressly reserves its right to oppose class certification and oppose the merits of the Action should the Settlement Agreement not become final in which case the Parties will return to the *status quo ante*.

67. Subject to Court approval, the following Settlement Class shall be certified for settlement purposes:

All individuals, including Named Plaintiff, in the State of Illinois who used facial recognition at an ordering kiosk sold by Nextep at a Wow Bao store, including, but not necessarily limited to (1) 835 North Michigan Avenue, (2) 1 West Wacker Blvd, (3) 225 North Michigan Avenue, from March 9, 2016 through the date of preliminary approval.

68. Excluded from the Settlement Class are (1) the Court and members of their families; (2) persons who properly execute and file a timely request for exclusion from the Class; and (3) persons whose claims in this matter have been finally adjudicated on the merits or otherwise released.

### **C. SETTLEMENT APPROVAL REQUIREMENTS**

69. The Settlement is conditioned upon Preliminary Approval and Final Approval of the Settlement Agreement by the Court.

70. The Settlement Agreement requires the occurrence of all of the following events: (a) execution of the Settlement Agreement by the Parties; (b) submission of the Settlement Agreement by the Parties to the Court for preliminary approval; (c) entry of the Preliminary Approval Order by the Court granting preliminary approval of the Settlement Agreement and

certification of a class action for purposes of this Settlement only; and (d) Court approval of the method of distribution and the form and content of the Settlement Notice.

71. The Settlement Agreement will become final and effective only upon the occurrence of the following events: (a) the Court enters the Final Approval Order; (b) the Effective Date occurs, and (c) any challenge to the Settlement, whether by objection or appeal, is resolved in favor of enforcement of the Settlement.

**D. MOTION FOR PRELIMINARY APPROVAL OF SETTLEMENT**

72. Within twenty-one (21) calendar days after full execution of this Settlement Agreement, Plaintiff, through Class Counsel, will file with the Court an Unopposed Motion for Preliminary Approval of Settlement (“Preliminary Approval Motion”) to be prepared by Plaintiff and agreed upon by the Parties.

73. The Preliminary Approval Motion shall submit this Settlement Agreement, together with its exhibits, to the Court and shall request that the Court enter the Preliminary Approval Order: (a) granting preliminary approval of the Settlement Agreement described herein; (b) conditionally certifying the Class for settlement purposes only; (c) approving the Notice and the proposed plan of settlement administration described herein; and (d) scheduling a tentative date for a Final Approval Hearing approximately one hundred twenty (120) days after entry of the Preliminary Approval Order.

74. Should the Court decline to enter the Preliminary Approval Order or otherwise decline to preliminarily approve any aspect of the Settlement Agreement, the Parties will attempt to renegotiate those aspects of the Settlement Agreement in good faith, with the mutual goal of attempting to reach an agreement as close to this Settlement Agreement as possible and will then submit the renegotiated settlement agreement to the Court for preliminary approval. If and only if

the Parties are unable to obtain preliminary approval of a settlement agreement after submitting at least two renegotiated settlements to the Court, the Settlement Agreement will be null and void, and the Parties will have no further obligations under it, and the Parties will revert to their prior positions in the Action as if the Settlement had not occurred.

**E. ESTABLISHMENT AND ALLOCATION OF THE SETTLEMENT FUND**

75. Defendant agrees to pay amounts to the Settlement Administrator necessary to create the Settlement Fund as follows:

- a. Within fourteen (14) calendar days of the Final Approval Hearing, conditioned upon the Court's prior entry of the Preliminary Approval Order, Defendant or its insurer(s) shall pay to the Settlement Administrator the total Settlement Fund in the amount of \$616,050.00. Provided that final approval of this Agreement is granted by the Court without material change, material amendment, or material modification, the Settlement Fund will be used to satisfy all claims for Settlement Class Members in exchange for a comprehensive release and the covenants set forth in this Agreement, including, without limitation, a full, fair, and complete release of all Released Parties from Released Claims, and dismissal of the Action with prejudice.
- b. The Settlement Fund shall be used to pay (i) participating Settlement Class Members' claims; (ii) a Service Award of up to \$10,000.00 to the Class Representative; (iii) the Fee Award; and (iv) all costs of administration of the Agreement to the Settlement Administrator, including without limitation costs in providing Notice of the Settlement to the Settlement Class, communicating with and assisting Settlement Class Members in the notice and disbursement processes, and disbursing Settlement Payments, the Fee Award, and the Service Award.
- c. The Settlement Fund represents the total extent of Defendant's monetary obligations under the Settlement Agreement. Defendant's contribution to the Settlement Fund shall be fixed under this Section and be final. Defendant shall have no obligation to make further payments into the Settlement Fund, and shall have no financial responsibility or obligation relating to the Settlement beyond the Settlement Fund.
- d. The Court may require changes to the method of allocation to Settlement Class Members without invalidating this Settlement Agreement, provided that the other material terms of the Settlement Agreement are not altered, including but not limited to the scope of the Release, the scope of the Settlement Class, and the amount of the Settlement Fund.

76. Each participating Settlement Class Member, including the Class Representative, shall be entitled to a payment of an equal *pro rata* share of the Settlement Fund after Court-approved Administrative Fees paid to the Settlement Administrator, a Fee Award to Class Counsel, and a Service Award to the Class Representative are deducted. Thus, each participating Settlement Class Member shall receive the same amount of the Settlement Fund as each other participating Settlement Class Member.

77. To participate in the Settlement and make a recovery, Settlement Class Members will be required to submit a timely Claim Form.

78. The funds provided by or on behalf of Defendant to the Settlement Administrator will be maintained by an escrow agent as a Court-approved Qualified Settlement Fund and shall be deposited in an FDIC insured interest-bearing account created and controlled by the Settlement Administrator.

79. Any amount of the Settlement Fund remaining as a result of uncashed checks shall be sent to a *cy pres* agreed upon by the Parties.

80. If the Settlement Agreement is not finally approved, the Settlement Fund shall revert to Defendant and/or its insurer(s), per its *pro rata* contributions, less any Administrative Fees paid to date. Plaintiff shall have no financial responsibility for any Administrative Fees paid out of the Settlement Fund in the event that the Settlement Agreement is not finally approved.

81. The Settlement Administrator shall be responsible for making all reporting and filings with respect to amounts payable to participating Settlement Class Members required pursuant to any federal, state, or local tax law or regulation hereunder under the EIN of the escrow account. The Settlement Administrator shall also be responsible for filing and sending Form 1099s to any applicable recipient of a payment from the Settlement Fund, to the extent required and

permitted by applicable law.

82. Plaintiff and all other participating Settlement Class Members will be solely responsible for all taxes, interest, penalties, or other amounts due with respect to any payment received pursuant to the Settlement. Defendant makes no representation to the Named Plaintiff, Settlement Class Members, or Class Counsel as to the tax liability, if any, on the Settlement payments, and they shall be fully and solely responsible for all tax liabilities with respect to the share of the Settlement Fund they receive.

**F. PLAN OF SETTLEMENT ADMINISTRATION AND NOTICE TO CLASS**

83. The Parties agree to cooperate in the settlement administration process and to make all reasonable efforts to control and minimize the costs and expenses incurred in the administration of the Settlement Agreement.

84. At no time shall any of the Parties or their counsel: (a) discourage any Settlement Class Member from participating in the Settlement; or (b) encourage any Settlement Class Member to object to the Settlement Agreement or opt out of the Settlement Agreement.

85. The Parties agree that only Nextep Systems, Inc. will be referenced as a defendant in the Notice, and the Parties agree to jointly request that Wow Bao allow posting at all Wow Bao restaurants in Illinois. In addition to posting at Wow Bao restaurants, publication of the Notice will be by:

- a. ***Internet Notice:*** The Settlement Administrator will develop, host, administer, and maintain the Settlement Website containing the Notice with a call center and live operators. The Settlement Administrator will be identified as the primary contact for inquiries and Class Members will be directed to contact the Settlement Administrator with all communications regarding the settlement;
- b. ***Targeted Advertising:*** The Settlement Administrator may place targeted advertisements on the leading business social platforms (*e.g.*, LinkedIn), the top social media platforms (*e.g.*, Facebook), the largest digital networks (*e.g.*, Google), programmatic partners, and any other appropriate platforms reasonably targeted at

members of the Settlement Class, which shall direct them to the Settlement Website; and/or

- c. ***Print Publication:*** The Settlement Administrator may provide print publication notice by placing a one-time eighth of a page summary publication notice in some or all appropriate newspapers circulating in Illinois including, but not necessarily limited to: Arlington Daily Herald, Belleville News Democratic, Bloomington Pantagraph, Champaign News-Gazette, Chicago Sun Times, Chicago Tribune, Northwest Herald, Peoria Journal Star, Rockford Register Star, and/or Springfield State Journal-Register.

86. Participating Class Members will have the option to complete and mail the Claim Form or fill out and submit a Claim Form on the Settlement Website.

87. Defendant's Counsel and Class Counsel have the right to make inquiries and receive any information from the Settlement Administrator as is necessary to the administration of the Settlement.

88. The Notice, which shall be substantially in the form of group Exhibit B attached hereto, shall be used for the purpose of informing Settlement Class Members, prior to the Final Approval Hearing, that there is a pending Settlement, and to further inform Settlement Class Members how they may: (i) participate in the Settlement; (ii) protect their rights regarding the Settlement; (iii) request exclusion from the Settlement Class and the proposed Settlement, if desired; (iv) object to any aspect of the proposed Settlement, if desired; and (v) participate in the Final Approval Hearing, if desired. The Notice shall make clear the binding effect of the Settlement on all persons who do not timely request exclusion from the Settlement Class.

89. **Exclusions.**

- a. Any person in the Settlement Class may submit a request for exclusion from the Settlement on or before the Objection/Exclusion Deadline.
- b. Settlement Class Members who want to be excluded from the Settlement will have up to and including forty-five (45) calendar days after the Notice Date to exclude themselves from the Settlement.

- c. In order to exercise the right to be excluded, a Settlement Class Member must timely send a written request for exclusion to the Settlement Administrator providing his/her name, address, and telephone number; the name and number of this case; a statement that he/she wishes to be excluded from the Settlement; and a signature. A request to be excluded that is sent to an address other than that designated in the Notice, or that is not postmarked on or before the Objection/Exclusion Deadline, shall be invalid, and the person serving such a request shall be considered a member of the Settlement Class and shall be bound by the Settlement Agreement, if approved. The Settlement Administrator shall also create a dedicated e-mail address to receive exclusion requests electronically, which must be received on or before the Objection/Exclusion Deadline to be valid.
- d. The request for exclusion must be personally signed, written or electronically, by the person requesting exclusion. So-called “mass” or “class” exclusion requests shall not be permitted.
- e. No person shall have any claim against Defendant, Defendant’s Counsel, Plaintiff, Class Counsel, or the Settlement Administrator based on any claim that a request for exclusion was not received in a timely manner.
- f. Any Settlement Class Member who elects to be excluded shall not: (i) be bound by any order or the Final Judgment; (ii) be entitled to relief under this Settlement Agreement; (iii) gain any rights by virtue of this Settlement Agreement; or (iv) be entitled to object to any aspect of this Settlement Agreement. A Settlement Class Member who requests to be excluded from the Settlement Class cannot also object to the Settlement Agreement.
- g. If the Settlement Agreement receives final Court approval, all Settlement Class Members who have not opted out by the Objection/Exclusion Deadline will be bound by the Settlement Agreement and will be deemed a Releasor as defined herein, and the relief provided by the Settlement will be their sole and exclusive remedy for the claims alleged in the Action.

90. **Objections.**

- a. Settlement Class Members may object to the Settlement by following the instructions on the Notice. To object to the Settlement or any terms of it, the person making the objection must be a member of the Settlement Class, must not have requested to be excluded from the Settlement, and must file a timely written statement of objection with the Court, and mail a copy of that objection with the requisite postmark to the Settlement Administrator, Class Counsel, and Defendant’s Counsel no later than the Objection/Exclusion Deadline. The notice of objection must state the case name and number; the basis for and an explanation of the objection; the name, address, telephone number, and email address of the Settlement Class

Member making the objection; a list of any other objections filed; a statement of whether he or she is represented by counsel and, if so, a list of all objections filed by that counsel; and a statement of whether the Settlement Class Member intends to appear at the Final Approval Hearing with or without counsel. In addition, any objection must be personally signed by the Settlement Class Member. Any objection that does not meet the requirements of this paragraph shall not be considered by the Court, unless otherwise ordered by the Court.

- b. If any objecting Settlement Class Member intends to appear at the Final Approval Hearing, either with or without counsel, he/she must state as such in the written objection, and must also identify any witnesses he/she may seek to call to testify at the Final Approval Hearing and all exhibits he/she intends to seek to introduce into evidence at the Final Approval Hearing, which must also be attached to, or included with, the written objection.
- c. Settlement Class Members who fail to file and serve timely and proper written objections shall be deemed to have waived any objections and shall be foreclosed from making any objection (whether by appeal or otherwise) to the Settlement. The Parties may file a response to any objections no later than seven (7) calendar days before the Final Approval Hearing.

91. Within three (3) business days after the Objection/Exclusion Deadline, the Settlement Administrator shall provide Class Counsel and Defendant's Counsel a written list and copies thereof reflecting all timely and valid exclusions from the Settlement.

#### **G. SETTLEMENT ADMINISTRATOR'S DUTIES**

92. The Settlement Administrator shall disseminate Notice as provided for herein. The Notice will include Class Counsel and their contact information. The Notice will identify the Settlement Administrator as the primary contact for inquiries and will direct Class Members to contact the Settlement Administrator with all communications regarding the Settlement.

93. The Settlement Administrator shall maintain reasonably detailed records of its activities under this Settlement Agreement. The Settlement Administrator shall maintain all such records as required by applicable law in accordance with its business practices and such records will be made available to Class Counsel and Defendant's Counsel upon request.



94. The Settlement Administrator shall provide bi-weekly reports to Class Counsel and Defendant's Counsel with information concerning Notice, the number of Claim Forms submitted, number of Approved Claims, number of requests for exclusion, number of checks not cashed and/or negotiated, and administration and implementation of the Settlement.

95. The Settlement Administrator shall receive requests for exclusion from persons in the Settlement Class and provide to Class Counsel and Defendant's Counsel a copy thereof within three (3) business days after the Objection/Exclusion Deadline. If the Settlement Administrator receives any requests for exclusion or other requests from Settlement Class Members after the deadline for the submission of requests for exclusion, the Settlement Administrator shall promptly provide copies thereof to Class Counsel and Defendant's Counsel.

96. The Settlement Administrator shall create, launch, and maintain the Settlement Website.

97. The Settlement Administrator shall make the payments to participating Class Members from the Settlement Fund by check and mail them to Settlement Class Members within twenty-eight (28) calendar days after the Effective Date.

#### **H. MOTION FOR FINAL APPROVAL OF SETTLEMENT AND FEE PETITION**

98. No later than seven (7) calendar days before the Final Approval Hearing, or by some other date as directed by the Court, Plaintiff will file an unopposed motion for final approval of the Settlement Agreement, and Class Counsel will file an unopposed Fee Petition seeking approval of the award of attorneys' fees and litigation costs relating to their representation of the Settlement Class in the amount agreed by the Parties as provided herein.

99. Class Counsel's Fee Petition shall seek: (a) an award of attorneys' fees not to exceed 35% of the Settlement Fund, or \$215,617.50, plus reasonable litigation costs relating to

their representation of Plaintiff and the Settlement Class Members; (b) an award for Administrative Fees in an amount to be determined; and (c) a Service Award to the Plaintiff, not to exceed \$10,000, as payment for her efforts on behalf of the Class, including assisting Class Counsel with the prosecution of the Action. Defendant will not oppose Class Counsel's application so long as it is consistent with the provisions of this Settlement Agreement. The amounts approved by the Court will be deducted from the Settlement Fund and the remaining amount shall be distributed to the participating Settlement Class in accordance with this Settlement Agreement.

100. At the Final Approval Hearing, the Parties will ask the Court to (a) grant final approval of the Settlement Agreement as fair, reasonable and adequate, and entered into in good faith and without collusion; (b) grant final certification of the Settlement Class pursuant to Rule 23 of the Federal Rules of Civil Procedure; (c) consider any properly-submitted objections; and (d) approve the amounts allocated for the Fee Award, the Administrative Fees, and the Service Award to Plaintiff. Class Counsel shall present the Court with a proposed Final Approval Order and Final Judgment to accomplish that purpose.

101. If the Court's non-approval of any material condition of this Settlement Agreement effects a fundamental change to the terms of the Settlement hereunder, the entire Settlement Agreement will be voidable and unenforceable at the election of either Party. In the event either Party elects to deem the Settlement Agreement void and unenforceable, the Parties will return to the *status quo ante*.

102. Notwithstanding any contrary provision of this Settlement Agreement, the Court's consideration of the Fee Award is to be conducted separately from the Court's consideration of the fairness, reasonableness, and adequacy of the Settlement Agreement, and so long as the award made by the Court with respect to Class Counsel's attorneys' fees, or any proceedings incident

thereto, including any appeal thereof, does not exceed 35% of the Settlement Fund plus litigation expenses, it shall not operate to terminate or cancel this Settlement Agreement or be deemed material thereto, nor shall it give rise to any right of Plaintiff or Class Counsel to elect termination of this Agreement.

#### **I. SETTLEMENT PAYMENTS**

103. Participating Settlement Class Members shall have until the Claims Deadline to submit Claim Forms. Each Settlement Class Member, including the Named Plaintiff, who submits an Approved Claim shall be entitled to a Settlement Payment. The Settlement Administrator shall send Settlement Payments via First Class U.S. Mail to the address provided on the Approved Claim Form.

104. Within fourteen (14) calendar days after the Claims Deadline, the Settlement Administrator shall complete the processing of all Claim Forms submitted by Settlement Class Members and shall determine which claims are valid and initially approved and which claims are initially rejected. The Settlement Administrator may request additional information prior to initially accepting or rejecting any Claim Form submitted. The Settlement Administrator shall employ reasonable procedures to screen Claim Forms for abuse and/or fraud.

105. Within fourteen (14) calendar days of the Claims Deadline, the Settlement Administrator will submit to Counsel for the Parties a report listing all initially approved and initially rejected claims.

106. Counsel for the Parties shall have fourteen (14) calendar days after the date they receive the report listing the initially approved and initially rejected claims to audit and challenge any initially approved or initially rejected claims. Counsel for the Parties shall meet and confer in an effort to resolve any disputes or disagreements over any initially approved or rejected claims.

The Settlement Administrator shall have the sole and final authority for determining if Settlement Class Members' Claims Forms are complete, timely, and accepted as Approved Claims.

107. The Settlement Administrator shall send each participating Settlement Class Member with an Approved Claim a Settlement Payment within twenty-eight (28) calendar days after the Effective Date. All Settlement Payments will state on the face of the check that the check will expire and become null and void unless cashed or negotiated within ninety (90) calendar days after the date of issuance.

108. The Settlement Payments will not be subject to any withholdings, and the Settlement Administrator, to the extent required and permitted by applicable law, shall issue participating Class Members an IRS Form 1099 (marked "Other Income"). Class Members acknowledge that the Settlement Administrator must report to the IRS (as well as state and local taxing authorities where applicable) the payment made to them under this Settlement Agreement and that it is each participating Class Member's individual responsibility to make tax payments on these amounts, if applicable.

109. To the extent that a check issued to Settlement Class Members is not cashed or negotiated within forty-five (45) days after the date of issuance, the Settlement Administrator will confirm and/or obtain a valid mailing address and will send a reminder postcard to the affected participating Settlement Class Member. To the extent the check remains uncashed or has not been negotiated within ninety (90) calendar days after the date of issuance, the check will be void. Uncashed checks will be distributed to a *cy pres* selected by the Parties and approved by the Court within ten (10) business days of the expiration of the 90-day period.

110. Settlement Class Members may request replacement checks within the ninety (90) calendar day period after initial issuance, but such checks will not extend the ninety (90) calendar

day check cashing period from the date checks were originally issued.

111. The Settlement Administrator shall issue the Service Award to the Named Plaintiff in the amount of \$10,000, if approved by the Court, within twenty-eight (28) calendar days after the Effective Date. The Service Award shall be paid in the form of one check made payable to Plaintiff. This payment is not subject to any withholdings, and the Settlement Administrator shall issue Plaintiff, to the extent required and permitted by applicable law, an IRS Form 1099 (marked "Other Income"). The Named Plaintiff acknowledges the Settlement Administrator must report to the IRS (as well as state and local taxing authorities where applicable) the payment made to her under this provision and that it is her individual responsibility to make tax payments on this amount, if applicable.

112. Class Counsel shall provide the Settlement Administrator with its completed W-9 before the payment of the Fee Award is due. Within three (3) calendar days after the Effective Date, the Settlement Administrator shall pay Class Counsel from the Settlement Fund the amount awarded by the Court in the Fee Award. Any payment of the Fee Award shall be paid via electronic wire transfer to an account designated by Class Counsel.

113. Any Class Member whose Settlement Payment is not cashed and/or negotiated by the end of the expiration period will be deemed to have waived irrevocably any right or claim to his or her payment from the Settlement, but the Settlement Agreement will nonetheless be binding upon the Class Member.

114. In no event shall any uncashed checks revert back to Defendant.

**J. PROSPECTIVE RELIEF**

115. Defendant has provided a declaration confirming the kiosks at issue were not used in Illinois after 2017. Defendant agrees to delete and cease retaining, within a reasonable time, but

no later than 90 days, after the full execution and approval of the settlement agreement, any customer data received from the Wow Bao kiosks, provided Plaintiff and the defendants in the *Wow Bao* matter stipulate and agree that such destruction will not constitute spoliation or otherwise violate any contractual, legal, or equitable obligation to store or maintain such data, including because such data has been produced to Plaintiff in the *Wow Bao* litigation. Nextep's counsel will provide Plaintiff's counsel a confirmation email once done.

**K. RELEASE**

116. In addition to the effect of the Final Judgment entered in accordance with this Settlement Agreement, upon the Effective Date, and for other valuable consideration as described herein, the Released Parties shall be fully, finally, and completely released, relinquished, acquitted, and forever discharged from any and all Released Claims.

**L. TERMINATION OF THE SETTLEMENT**

117. The Settlement Agreement may be terminated and cancelled, at the sole and exclusive discretion of Defendant, if more than 26 of the Settlement Class Members timely and validly exclude themselves from the Settlement. Additionally, any Party may elect to terminate and cancel this Settlement Agreement within ten (10) calendar days of any of the following events:

- a. This Settlement Agreement is changed in any material respect to which the Parties have not agreed in writing;
- b. The Court refuses to grant Preliminary Approval of this Settlement Agreement even after the renegotiation process described herein;
- c. The Court refuses to grant Final Approval of this Settlement Agreement in any material respect;
- d. The Court refuses to enter a Final Judgment in this Action in any material respect; or
- e. any other ground for termination provided for elsewhere in this Agreement.

118. In the event the Settlement Agreement is not approved or does not become final, or is terminated consistent with this Settlement Agreement, the Parties, pleadings, and proceedings will return to the *status quo ante* as if no settlement had been negotiated or entered into, and the Parties will negotiate in good faith to establish a new schedule for the Action, subject to Court approval. In the event of a termination as provided for herein, the Party electing to terminate the Settlement Agreement shall be responsible for any invoices or other fees or expenses mentioned in this Agreement that have been incurred and are due to be paid from the Settlement Fund to the Settlement Administrator.

#### **M. MISCELLANEOUS REPRESENTATIONS**

119. Regarding written discovery requests, subpoenas, and motions to compel directed to Nextep as a third party to the *Wow Bao* litigation (the “third-party discovery”), the Parties stipulate and agree:

- a. Plaintiff will not seek enforcement of the pending third-party subpoena issued to Nextep other than as expressly stated herein;
- b. Plaintiff will not re-issue, re-serve, re-file, or re-notice for hearing any of the third-party discovery previously issued, in whole or in part, unless to enforce the production of the agreed-upon Source Code;
- c. Nextep will produce for inspection only a backup copy of the source code implementing Luxand FaceSDK V6, which is the source code for the previous order recall feature at issue (the “Source Code”);
- d. The production for inspection of the Source Code will be made pursuant to the protective orders in both cases, except the Parties will agree to heightened protection of attorneys’ and expert’s eyes only;
- e. Plaintiff will be allowed to have one previously-identified expert (Bryan Plummer, a Boston University professor) and Plaintiff’s attorneys of record in the *Wow Bao* matter (the “Inspectors”) inspect the Source Code on a secure laptop provided at a location chosen by Defendant in Michigan. The inspection must be completed in no more than six (6) hours in a single day and will be scheduled on a mutually agreeable date and time;

- f. At all times, the Inspectors' inspection of the Source Code will be monitored by Nextep and its counsel;
- g. The Inspectors agree not to modify, alter, copy, or duplicate in any way the Source Code and agree they may not make any connections to or from the secure laptop provided for inspection of the Source Code. However, Nextep will provide a keyboard, mouse, and mouse pad for Plaintiff's expert to use;
- h. The Inspectors agree not to use or disclose the Source Code, in whole or in part, or any information gained from it except for purposes of the *Wow Bao* litigation;
- i. The Inspectors agree they will mark confidential, subject to the protective orders, any notes and any filings that reference the Source Code in any way and will make any such filing only under seal as permitted by the protective orders and the rules of the applicable court; and
- j. Plaintiff and her counsel and expert agree that (a) any use or disclosure of the Source Code in violation of this Settlement Agreement satisfies the elements for the filing of a temporary restraining order and permanent injunction against the violating party; and (b) the Source Code is highly confidential, such that improper use or disclosure thereof is a basis for damages in a breach of contract action.

120. The Parties agree that the Settlement Agreement provides fair, equitable, and just compensation for the Settlement Class Members related to the Released Claims.

121. The Parties (a) acknowledge that it is their intent to consummate this Settlement Agreement, and (b) agree, subject to their fiduciary and other legal obligations, to cooperate in good faith to the extent reasonably necessary to effectuate and implement all terms and conditions of this Settlement Agreement and to exercise their reasonable best efforts to accomplish the terms and conditions of this Settlement Agreement. Class Counsel and Defendant's Counsel agree to cooperate with each other in seeking Court approval of the Preliminary Approval Order, the Settlement Agreement, and the Final Approval Order, and promptly to agree upon and execute all such other documentation as may be reasonably required to obtain Final Approval of the Settlement Agreement.

122. The Parties intend this Settlement Agreement to be a final and complete resolution



of all disputes between them with respect to the Released Claims by Plaintiff and the Settlement Class and other Releasers, and each or any of them, on the one hand, against the Released Parties, on the other hand.

123. The Parties have relied upon the advice and representation of counsel, selected by them, concerning their respective legal liability for the claims hereby released. The Parties have read and understand fully this Settlement Agreement, including its exhibits, and have been fully advised as to the legal effect thereof by counsel of their own selection and intend to be legally bound by the same.

124. Paragraph titles and headings are inserted as a matter of convenience and for reference, and in no way define, limit, extend, or describe the scope of this Settlement Agreement or any of its provisions. Each term of this Settlement Agreement is contractual and not merely a recital.

125. The waiver by one Party of any breach of this Settlement Agreement by any other Party shall not be deemed as a waiver of any prior or subsequent breach of this Settlement Agreement.

126. This Settlement Agreement and its exhibits set forth the entire agreement and understanding of the Parties with respect to the matters set forth herein, and supersede all prior negotiations, agreements, arrangements, and undertakings with respect to the matters set forth herein. No representations, warranties, or inducements have been made to any Party concerning this Agreement or its exhibits other than the representations, warranties, and covenants contained and memorialized in such documents.

127. This Settlement Agreement may not be amended, modified, altered, or otherwise changed in any material manner except by a written instrument signed by or on behalf of all Parties

or their respective successors-in-interest.

128. The Parties may agree, subject to the approval of the Court where required, to reasonable extensions of time to carry out the provisions of the Settlement Agreement.

129. The Parties represent, covenant, and warrant that they have not directly or indirectly, assigned, transferred, encumbered, or purported to assign, transfer, or encumber to any person or entity any portion of any claims, causes of actions, demands, rights, and liabilities of every nature and description released under this Settlement Agreement.

130. Each Party represents that it has obtained the requisite authority to enter this Settlement Agreement in a manner that binds such Party to its terms.

131. Defendant denies all charges of wrongdoing or liability of any kind whatsoever that Plaintiff or Settlement Class Members have asserted in this Litigation.

132. The Parties specifically acknowledge, agree, and admit this Settlement Agreement and its exhibits, along with all related drafts, motions, pleadings, conversations, negotiations, correspondence, orders, or other documents, whether approved or not approved, revoked, or made ineffective for any reason, and any proceedings related to this Settlement Agreement and any discussions relating thereto shall be considered a compromise within the meaning of Federal Rule of Evidence 408, and any other equivalent or similar rule of evidence, and shall not (a) constitute, be construed, be offered, or received into evidence as an admission of any kind, including but not limited to any negligent, reckless or illegal action or omission or other wrongdoing, the appropriateness of class certification, the validity of any claim or defense, or the truth of any fact alleged or other allegation in the Action, the *Wow Bao* litigation, the Subpoena Enforcement Action, or in any other pending or subsequently filed action, or of any wrongdoing, fault, violation of law, or liability of any kind on the part of any Party, or (b) be used to establish a waiver of any

defense or right, or to establish or contest jurisdiction or venue.

133. The provisions of this Settlement Agreement, and any orders, pleadings, or other documents entered in furtherance of this Settlement Agreement, may be offered or received in evidence solely (a) to enforce the terms and provisions hereof or thereof, (b) as may be specifically authorized by a court of competent jurisdiction after an adversarial hearing upon application of a Party hereto, (c) in order to establish payment hereunder, or an affirmative defense of preclusion or bar in a subsequent case, (d) in connection with any motion to enjoin, stay, or dismiss any other action, or (e) to obtain Court approval and/or the enforcement of the Settlement Agreement.

134. This Settlement Agreement may be executed in one or more counterparts by facsimile or other electronic means, including DocuSign and/or portable document format (PDF), and exchanged by hand, messenger, or PDF as an electronic mail attachment, and any such signature exchanged shall be deemed an original signature for purposes of this Settlement Agreement. All executed counterparts and each of them shall be deemed to be one and the same instrument, provided that counsel for the Parties to this Settlement Agreement all exchange signed counterparts.

135. This Settlement Agreement shall be governed by and construed in accordance with the laws of the State of Illinois. The Court shall retain jurisdiction over the interpretation, implementation, and enforcement of this Settlement Agreement as well as any and all matters arising out of, or related to, the interpretation or implementation of this Settlement Agreement and of the settlement contemplated thereby. Any dispute or controversies arising with respect to the interpretation, enforcement, or implementation of the Settlement Agreement, if they cannot be resolved by the Parties in the first instance, shall be presented by motion to the Court. The Parties agree that the Court shall retain jurisdiction for enforcement of the Settlement Agreement.

136. This Settlement Agreement is deemed to have been prepared by Counsel for the Parties as a result of arms-length negotiations among the Parties. Whereas all Parties have contributed substantially and materially to the preparation of this Settlement Agreement and its exhibits, it shall not be construed more strictly against one Party than another.

137. Unless otherwise specifically provided, all notices, demands or other communications in connection with this Settlement Agreement shall be in writing and shall be sent by electronic mail or hand delivery, postage prepaid, as follows:

To Class Counsel:

Ryan F. Stephan  
James B. Zouras  
Andrew Ficzko  
Stephan Zouras, LLP  
100 N. Riverside Plaza, Suite 2150  
Chicago, Illinois 60606  
rstephan@stephanzouras.com  
jzouras@stephanzouras.com  
aficzko@stephanzouras.com

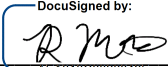
To Defendant's Counsel:

Catrina Celeste Creswell  
Kabat Chapman & Ozmer LLP  
171 17th Street NW, Suite 1550  
Atlanta, GA 30363  
ccreswell@kcozlaw.com

138. This Settlement Agreement shall be deemed executed as of the date that the last party signatory signs the Settlement Agreement.

IN WITNESS WHEREOF, the undersigned duly executed this Settlement Agreement as of the date indicated below:


**REGINA MORRIS**

By:  \_\_\_\_\_  
DocuSigned by:  
AEA318C6026849E...

REGINA MORRIS, Plaintiff

Date: 2/9/2023

**NEXTEP SYSTEMS, INC.**

By:    
 B858729A465E467...

Name: David L. Green

Title: Corporate Secretary

Date: 2/13/2023

PL

# EXHIBIT A

**CLAIM FORM**

*Morris v. Nextep Systems, Inc., 1:21-cv-02404 (N.D. Ill.)*

*Instructions. Fill out each section of this form and sign where indicated.*

**THIS CLAIM FORM MUST BE COMPLETED AND MAILED TO THE SETTLEMENT ADMINISTRATOR OR FILLED OUT AND SUBMITTED ON THE SETTLEMENT WEBSITE BY **XX**.**

<u>First Name</u>		<u>Last Name</u>	
<u>Street Address</u>			
<u>City</u>	<u>State</u>	<u>ZIP Code</u>	
<u>Email Address</u>			
<u>Contact Phone # (You may be contacted if further information is required.)</u>			

**Class Member Affirmation:** By submitting this Claim Form, I declare that I am a member of the Settlement Class, and that the following information is true and correct:

I was a Wow Bao customer who used facial recognition at a self-ordering kiosk at a Wow Bao restaurant in the State of Illinois, including, but not necessarily limited to the following locations, (1) 835 North Michigan Avenue, (2) 1 West Wacker Drive, and/or (3) 225 North Michigan Avenue, between March 9, 2016, and [**DATE OF PRELIMINARY APPROVAL**].

Signature: \_\_\_\_\_

Date: \_\_\_\_ - \_\_\_\_ - \_\_\_\_

(MM-DD-YY)

Printed Name: \_\_\_\_\_

**Settlement Administrator's Information Here**

**XX  
XX**

**[phone #]**

*For more information, visit [www.XX.com](http://www.XX.com).  
Para informacion en Espanol, visitar [www.XX.com](http://www.XX.com).*

# EXHIBIT B



**NOTICE OF PROPOSED CLASS ACTION SETTLEMENT**

*Morris v. Nextep Systems, Inc.*, Case No. 1:21-cv-02404  
(U.S. District Court for the Northern District of Illinois)

*For more information, visit [www.XX.com](http://www.XX.com).  
Para informacion en Espanol, visitar [www.XX.com](http://www.XX.com).*

**PLEASE READ THIS NOTICE CAREFULLY. YOU MAY BE ENTITLED TO A CASH PAYMENT FROM A CLASS ACTION SETTLEMENT IF YOU USED FACIAL RECOGNITION AT AN ORDERING KIOSK SOLD BY NEXTEP SYSTEMS, INC. AT A WOW BAO RESTAURANT IN THE STATE OF ILLINOIS, INCLUDING BUT NOT NECESSARILY LIMITED TO, (1) 835 NORTH MICHIGAN AVENUE, (2) 1 WEST WACKER DRIVE, AND/OR (3) 225 NORTH MICHIGAN AVENUE, BETWEEN MARCH 9, 2016, AND [DATE OF PRELIMINARY APPROVAL].**

*A federal court authorized this notice of a proposed class action settlement. This is not a solicitation from a lawyer and is not notice of a lawsuit against you.*

**WHAT IS THIS NOTICE ABOUT?**

- This notice is to inform you that a proposed settlement has been reached in a class action lawsuit between Nextep Systems, Inc. (“Nextep”) and individuals who used facial recognition at an ordering kiosk at a Wow Bao restaurant in the State of Illinois from March 9, 2016, and [DATE OF PRELIMINARY APPROVAL]. The lawsuit alleges that Nextep violated an Illinois law called the Illinois Biometric Information Privacy Act (“BIPA”) when it allegedly obtained and stored Wow Bao customers’ biometric identifiers (*i.e.*, face geometry) and/or biometric information (collectively referred to herein as “biometric data”) when Wow Bao customers used Nextep branded facial recognition self-order kiosks, allegedly without complying with the law’s requirements. The case is *Morris v. Nextep Systems, Inc.*, Case No. 1:21-cv-02404, currently pending in the United States District Court for the Northern District of Illinois, Eastern Division. The proposed Settlement is not an admission of wrongdoing by Nextep, and Nextep denies that it violated the law. The Court has not decided who is right or wrong. Rather, to avoid the time, expense, and uncertainty of litigation, the Parties have agreed to settle the lawsuit. The Settlement has been preliminarily approved by a court in Chicago, Illinois.
- You are included in the Settlement if you used facial recognition at an ordering kiosk sold by Nextep Systems, Inc. at a Wow Bao restaurant in the State of Illinois, including, but not necessarily limited to, (1) 835 North Michigan Avenue, (2) 1 West Wacker Drive, and/or (3) 225 North Michigan Avenue, between March 9, 2016, and [DATE OF PRELIMINARY APPROVAL].
- If the Court approves the Settlement, members of the Class who submit a valid Claim Form will receive an equal, or *pro rata*, share of the \$616,050.00 Settlement Fund. Each individual who submits a valid Claim Form will receive a portion of the Settlement Fund, after all notice and administration costs, the incentive award, and attorneys’ fees—if approved by the Court—have been paid. Payments are estimated to be \$450, before the payment of settlement expenses,

By Order of: Hon. Steven C. Seeger, U.S. District Court for the Northern District of Illinois, Eastern Division  
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**QUESTIONS? VISIT [www.XX.com](http://www.XX.com) OR CALL TOLL FREE XX**

attorneys’ fees, and any incentive award to the named plaintiff in the litigation, upon approval by the Court. Payments could be more or less depending on the number of valid Claim Forms submitted.

<b>YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT</b>	
<b>SUBMIT A CLAIM FORM</b>	This is the only way to receive a payment.
<b>DO NOTHING</b>	You will receive no payment under the Settlement, and you will give up your rights to sue Nextep about the issues in this case.
<b>EXCLUDE YOURSELF</b>	You will receive no payment, but you will retain any rights you currently have to sue Nextep about the issues in this case.
<b>OBJECT</b>	Write to the Court explaining why you don’t like the Settlement.
<b>ATTEND A HEARING</b>	Ask to speak to the Court about the fairness of the Settlement.

These rights and options—and the deadlines to exercise them—are explained in this notice.

The Court in charge of this case still has to decide whether to grant final approval of the Settlement. Payments will be provided only after any issues with the Settlement are resolved. Please be patient.

### **BASIC INFORMATION**

#### **WHAT IS THIS LAWSUIT ABOUT?**

This lawsuit alleges the Illinois Biometric Information Privacy Act (“BIPA”), 740 ILCS 14/1, *et seq.*, prohibits private companies from capturing, obtaining, storing, transferring, and/or using the biometric identifiers and/or biometric information of an individual for any purpose, without first providing such individual with written notice and obtaining a written release. This lawsuit alleges that Nextep violated BIPA by allegedly obtaining and storing Wow Bao customers’ biometric data when the Wow Bao customer used a Nextep branded facial recognition self-order kiosk at a Wow Bao restaurant in the State of Illinois, without first providing written notice or obtaining a written release. Nextep contests these claims and denies that it violated BIPA.

More information about the Class Action Complaint and Nextep’s position can be found in the “Court Documents” section of the settlement website.

## **WHY IS THIS A CLASS ACTION?**

A class action is a lawsuit in which an individual called a “Class Representative” brings a single lawsuit on behalf of other people who have similar claims. All of these people together are a “Class” or “Class Members.” Once a Class is certified, a class action Settlement finally approved by the Court resolves the issues for all Settlement Class Members, except for those who exclude themselves from the Settlement Class.

## **WHY IS THERE A SETTLEMENT?**

To resolve this matter without the expense, delay, and uncertainties of litigation, the Parties have reached a Settlement, which resolves all claims in the case against Nextep and its affiliated entities and individuals. The Settlement requires Nextep to pay money to the Settlement Class, as well as pay certain settlement administration expenses, attorneys’ fees and costs to Class Counsel, and an incentive award to the Class Representative, if approved by the Court. The Settlement is not an admission of wrongdoing by Nextep and does not imply that there has been, or would be, any finding that Nextep violated the law.

The Court has already preliminarily approved the Settlement. Nevertheless, because the settlement of a class action determines the rights of all members of the class, the Court overseeing this lawsuit must give final approval to the Settlement before it can be effective. The Court has preliminarily certified the Settlement Class for settlement purposes only, so that members of the Settlement Class can be provided this notice and the opportunity to exclude themselves from the Settlement Class, to voice their support or opposition to final approval of the Settlement, and to submit a Claim Form to receive the relief offered by the Settlement. If the Court does not enter a Final Approval Order approving the Settlement, or if the Settlement Agreement is terminated by the Parties, the Settlement will be void, and the lawsuit will proceed as if there had been no settlement and no certification of the Settlement Class.

## **WHO IS IN THE SETTLEMENT CLASS?**

If you used facial recognition on a Nextep branded self-ordering kiosk at a Wow Bao restaurant in the State of Illinois, including, but not necessarily limited to the following locations: (1) 835 North Michigan Avenue, (2) 1 West Wacker Drive, and/or (3) 225 North Michigan Avenue, between March 9, 2016, and [DATE OF PRELIMINARY APPROVAL], you may be a Class Member and may submit a Claim Form for a cash payment.

Excluded from the Settlement Class are: (1) the Court and members of their families; (2) persons who properly execute and submit a timely request for exclusion from the Class; and (3) individuals whose claims in this matter have been finally adjudicated on the merits or otherwise released.

## **THE SETTLEMENT BENEFITS**

### **WHAT DOES THE SETTLEMENT PROVIDE?**

**Cash Payments.** If you’re eligible, you can submit a Claim Form to receive a cash payment. The amount of such payment is estimated to be approximately \$450 but is unknown at this time and could be more or less depending on the number of valid Claim Forms submitted. This is an equal share of the \$616,050.00

By Order of: Hon. Steven C. Seeger, U.S. District Court for the Northern District of Illinois, Eastern Division  
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**QUESTIONS? VISIT [www.XX.com](http://www.XX.com) OR CALL TOLL FREE XX**

Settlement Fund, before the payment of settlement expenses, attorneys' fees, and any incentive award for the named plaintiff in the litigation, upon approval by the Court.

**Prospective Relief.** As provided for in the Settlement Agreement, Nextep has confirmed the facial recognition self-ordering kiosks at issue have not been used in Illinois since 2017, and agrees to delete and cease retaining, within a reasonable time, but no later than 90 days, after the full execution and approval of the Settlement Agreement, any Wow Bao customer data it received from the facial recognition kiosks previously used at Wow Bao restaurants in the State of Illinois.

## HOW TO GET BENEFITS

### HOW DO I GET A PAYMENT?

If you are a Settlement Class Member and you want to get settlement benefits, you must complete and submit a valid Claim Form by **XX**. The Claim Form can be filled out and submitted online. You can also download a Claim Form from the website, or you can also call **XX** to request an additional paper copy of the Claim Form. All Claim Forms must be postmarked, if mailed, or submitted on the Settlement Website by **XX** to be considered timely. We encourage you to submit a claim online. It's faster.

The Claim Form requires you to provide the following information: (i) full name, (ii) current U.S. Mail address, and (iii) current contact telephone number and email address.

### WHAT RIGHTS AM I GIVING UP IN THIS SETTLEMENT?

Unless you exclude yourself from this Settlement, you will be considered a member of the Settlement Class, which means you give up your right to file or continue a lawsuit against Nextep or certain related entities and individuals, as described in more detail in the Settlement Agreement, relating to its alleged obtainment and storage of the biometric data of Wow Bao customers who used a Nextep branded facial recognition kiosk at a Wow Bao restaurant. Giving up your legal claims is called a release. The precise terms of the release are in the Settlement Agreement, which is available on the Settlement Website. Unless you formally exclude yourself from this Settlement, you will release your claims whether or not you submit a Claim Form and receive payment. If you have any questions, you can talk for free to the Settlement Administrator identified below, or you are welcome to talk to any lawyer of your choosing at your own expense.

### WHEN WILL I BE PAID?

The remote telephonic hearing to consider the fairness of the Settlement is scheduled for **XX** using the call-in number of **XX** and access code **XX**. If the Court approves the Settlement, Settlement Class Members whose claims were approved by the Settlement Administrator will be sent a check. Please be patient. All checks will expire and become void 90 days after they are issued. Uncashed checks will be donated to a not-for-profit entity agreed to by the Parties and approved by the Court, or such other organization as the Court may order consistent with the Illinois statutory requirements for *cy pres* recipients.

## THE LAWYERS REPRESENTING YOU

### DO I HAVE A LAWYER?

Yes, the Court has appointed lawyers of Stephan Zouras LLP to represent you and other Class Members. These attorneys are called “Class Counsel.” In addition, the Court appointed Plaintiff Regina Morris to serve as the Class Representative. She is a Class Member like you.

### SHOULD I GET MY OWN LAWYER?

You don’t need to hire your own lawyer because Class Counsel is working on your behalf. You may hire your own lawyer, but if you want your own lawyer, you will have to pay that lawyer.

### HOW WILL THE LAWYERS BE PAID?

Class Counsel will ask the Court for attorneys’ fees of up to 35% of the Settlement Fund and their out-of-pocket costs and will also request an incentive award of \$10,000.00 for the Class Representative from the Settlement Fund. The Court will determine the proper amount of any attorneys’ fees and expenses to award Class Counsel and the proper amount of any award to the Class Representative. The Court may award less than the amounts requested.

## YOUR RIGHTS AND OPTIONS

### WHAT ARE MY OPTIONS?

#### (1) Accept the Settlement.

To accept the Settlement, you must submit a Claim Form by **XX**. You may obtain a copy of the Claim Form on the Settlement Website, and you may submit your Claim Form online too, or by U.S. Mail to the Settlement Administrator at **XX**. If the Settlement is approved and your Claim Form is deemed valid, a check will be mailed to you. ***Submitting a valid and timely Claim Form is the only way to receive a payment from this Settlement and is the only thing you need to do to receive a payment.***

#### (2) Exclude yourself.

You may exclude yourself from the Settlement. If you exclude yourself, you won’t get a payment, but you will not release any claims you may have against Nextep and the other Released Parties (as that term is defined in the Settlement Agreement) and are free to pursue whatever legal rights you may have by pursuing your own lawsuit against Nextep and the other Released Parties at your own risk and expense. All exclusion requests must (a) be in writing; (b) identify the case name *Morris v. Nextep Systems, Inc.*, 1:21-cv-02404 (N.D. Ill.); (c) state your full name, current address, and telephone number; (d) include a statement that you wish to be excluded from the Settlement; (e) include your signature; and (f) be postmarked or received by the Settlement Administrator on or before **XX**. Each request for exclusion must contain a statement to the effect that “I hereby request to be excluded from the proposed Settlement Class in *Morris v. Nextep Systems, Inc.*, 1:21-cv-02404 (N.D. Ill).” You must mail or e-mail your exclusion request no later than the Objection/Exclusion Deadline of **XX** to:

By Order of: Hon. Steven C. Seeger, U.S. District Court for the Northern District of Illinois, Eastern Division  
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**QUESTIONS? VISIT [www.XX.com](http://www.XX.com) OR CALL TOLL FREE XX**

Morris v. Nextep Systems, Inc.

XX  
XX  
XX  
XX.com

No person may request to be excluded from the Settlement Class through “mass” or “class” opt-outs.

**(3) Object to the Settlement.**

If you wish to object to the Settlement, you must file a statement or brief in writing with the Clerk of the Court of the United States District Court for the Northern District of Illinois, Eastern Division, Everett McKinley Dirksen United States Courthouse, 219 South Dearborn Street, Chicago, Illinois 60604. The objection must be filed with the Court no later than XX. You must also mail a copy of your objection to the attorneys for all Parties to the lawsuit, including Class Counsel (Ryan F. Stephan of Stephan Zouras, LLP, 100 N. Riverside Plaza, Suite 2150, Chicago, Illinois 60606), Defendant’s counsel (Catrina Celeste Creswell of Kabat Chapman & Ozmer LLP, 171 17th Street NW, Suite 1550, Atlanta, GA 30363), as well as the Settlement Administrator (XX) no later than XX. Any objection to the proposed Settlement must include (a) your full name, current address, telephone number, and email address, (b) the basis for and an explanation for your objection, (c) the case name and number, (d) a list of any other objections filed, (e) a statement of whether you are represented by counsel and, if so, a list of all objections filed by that counsel, (f) a statement of whether you intend to appear at the Final Approval Hearing with or without counsel, (g) the identity of any witnesses you may call to testify at the Final Approval Hearing and all exhibits you intend to seek to introduce into evidence at the Final Approval Hearing, which must also be attached to, or included with, your written objection, and (h) your signature. If you hire an attorney in connection with making an objection, that attorney must also file with the court a notice of appearance by the objection deadline of XX. If you do hire your own attorney, you will be solely responsible for payment of any fees and expenses the attorney incurs on your behalf. If you exclude yourself from the Settlement, you cannot file an objection.

Class Counsel will file with the Court and post on the Settlement Website their request for attorneys’ fees, their costs, and an incentive award to the Class Representative.

You may appear at the Final Approval Hearing, which will be held on XX via remote telephonic conference, using the call-in number of XX and access code XX, either in person or through counsel to show cause why the proposed Settlement should not be approved as fair, reasonable, and adequate. Attendance at the hearing is not necessary; however, persons wishing to be heard orally in opposition to the entry of the Final Approval Order, the request for attorneys’ fees and expenses, and/or the request for the incentive award to the Class Representative are required to indicate in their written objection their intention to appear at the hearing on their own behalf or through counsel and to identify the names of any witnesses they intend to call to testify at the Final Approval Hearing, as well as any exhibits they intend to introduce at the Final Approval Hearing.

**(4) Do Nothing.**

If you do nothing, you will receive no money from the Settlement Fund, but you will still be bound by all orders and judgments of the Court. Unless you exclude yourself from the Settlement, you will not be able

By Order of: Hon. Steven C. Seeger, U.S. District Court for the Northern District of Illinois, Eastern Division  
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**QUESTIONS? VISIT [www.XX.com](http://www.XX.com) OR CALL TOLL FREE XX**

to file or continue a lawsuit against Nextep or other Released Parties regarding any of the Released Claims. ***Submitting a valid and timely Claim Form is the only way to receive a payment from this Settlement.***

You can submit a Claim Form, or request exclusion from the Class or file an objection, on the Settlement Website, or call **XX**.

## **THE COURT'S FINAL APPROVAL HEARING**

### **WHEN AND WHERE WILL THE COURT DECIDE WHETHER TO APPROVE THE SETTLEMENT?**

The Court will hold the Final Approval Hearing at **XX** on **XX** before the Honorable Steven C. Seeger via remote telephonic conference, using call-in number of **XX** and access code **XX**. The purpose of the hearing is for the Court to determine whether the Settlement is fair, reasonable, adequate, and in the best interests of the Class, and whether it was made in good faith. **At the Final Approval Hearing, the Court will hear any objections and arguments concerning the fairness of the proposed Settlement, including those related to the amount requested by Class Counsel for attorneys' fees and expenses and the incentive award to the Class Representative.**

**Note:** The date and time of the Final Approval Hearing are subject to change by Court Order. Directions on attending the Final Approval Hearing and any changes will be posted to the Settlement Website.

### **DO I HAVE TO ATTEND THE HEARING?**

No. Class Counsel and Nextep's Counsel will answer any questions the Court may have. You are, however, welcome to attend. If you send an objection, you don't have to attend the remote telephonic conference to talk about it. As long as your written objection was filed and mailed on time and meets the other criteria described herein, and in the Settlement, the Court will consider it. You may also pay a lawyer to attend, but you don't have to.

### **MAY I SPEAK AT THE HEARING?**

Yes. If you do not exclude yourself from the Class, you may ask the Court for permission to speak at the Final Approval Hearing concerning any part of the proposed Settlement. If you filed an objection and intend to appear at the Final Approval Hearing, you must state your intention to do so in your objection.

### **WHO REPRESENTS THE CLASS?**

The Court has approved the following attorneys to represent the Settlement Class. They are called "Class Counsel." You will not be charged for these lawyers. If you want to be represented by your own lawyer instead, you may hire one at your own expense.

Ryan F. Stephan James B. Zouras Andrew C. Ficzko STEPHAN ZOURAS, LLP 100 N. Riverside Plaza, Suite 2150
---------------------------------------------------------------------------------------------------------------------

By Order of: Hon. Steven C. Seeger, U.S. District Court for the Northern District of Illinois, Eastern Division  
Page 7 of 8

**QUESTIONS? VISIT [www.XX.com](http://www.XX.com) OR CALL TOLL FREE **XX****

Chicago, Illinois 60606 Tel: 312-233-1550 rstephan@stephanzouras.com jzouras@stephanzouas.com aficzko@stephanzouras.com
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**WHERE CAN I GET ADDITIONAL INFORMATION?**

This Notice is only a summary of the proposed Settlement of this lawsuit. More details are in the Settlement Agreement which, along with other documents, can be obtained on the Settlement Website. If you have any questions, you can call the Settlement Administrator at **XX**. In addition to the documents available on the Settlement Website, all pleadings and documents filed in court may be reviewed or copied in the Office of the Clerk. Please do not call the Judge or the Clerk of the Court about this case. They will not be able to give you advice on your options.

**PLEASE Do NOT CONTACT THE COURT, THE JUDGE, OR THE DEFENDANT WITH  
QUESTIONS ABOUT THE SETTLEMENT OR CLAIMS PROCESS.**

By Order of: Hon. Steven C. Seeger, U.S. District Court for the Northern District of Illinois, Eastern Division  
Page 8 of 8

**QUESTIONS? VISIT [www.XX.com](http://www.XX.com) OR CALL TOLL FREE **XX****



## NOTICE OF PROPOSED CLASS ACTION SETTLEMENT

*Morris v. Nextep Systems, Inc.*, Case No. 1:21-cv-02404  
(U.S. District Court for the Northern District of Illinois)

**YOU MAY BE ENTITLED TO A CASH PAYMENT FROM A CLASS ACTION SETTLEMENT IF YOU USED FACIAL RECOGNITION AT AN ORDERING KIOSK SOLD BY NEXTEP SYSTEMS, INC. AT A WOW BAO RESTAURANT IN THE STATE OF ILLINOIS, INCLUDING BUT NOT NECESSARILY LIMITED TO, (1) 835 NORTH MICHIGAN AVENUE, (2) 1 WEST WACKER DRIVE, AND/OR (3) 225 NORTH MICHIGAN AVENUE, BETWEEN MARCH 9, 2016, AND [DATE OF PRELIMINARY APPROVAL].**

*A federal court authorized this notice. You are not being sued. This is not a solicitation from a lawyer.*

*For more information, visit [www.XX.com](http://www.XX.com).  
Para una notificación en Español, visitar [www.XX.com](http://www.XX.com).*

This notice is to inform you that a proposed settlement has been reached in a class action lawsuit between Nextep Systems, Inc. (“Nextep”) and individuals who used facial recognition at an ordering kiosk at a Wow Bao restaurant in the State of Illinois from March 9, 2016, and [DATE OF PRELIMINARY APPROVAL]. The lawsuit alleges that Nextep violated an Illinois law called the Illinois Biometric Information Privacy Act (“BIPA”) when it allegedly obtained and stored Wow Bao customers’ biometric identifiers (*i.e.*, face geometry) and/or biometric information (collectively referred to herein as “biometric data”) when Wow Bao customers used Nextep branded facial recognition self-order kiosks, allegedly without complying with the law’s requirements. The case is *Morris v. Nextep Systems, Inc.*, Case No. 1:21-cv-02404, currently pending in the United States District Court for the Northern District of Illinois, Eastern Division. The proposed Settlement is not an admission of wrongdoing by Nextep, and Nextep denies that it violated the law. The Court has not decided who is right or wrong. Rather, to avoid the time, expense, and uncertainty of litigation, the Parties have agreed to settle the lawsuit. The Settlement has been preliminarily approved by a court in Chicago, Illinois.

**What Does The Settlement Provide?** If you are eligible, you can submit a claim to receive a cash payment. The amount of such payment is estimated to be approximately \$450, but could be more or less depending on the number of valid claims submitted. This amount is an equal share of the \$616,050.00 Settlement Fund provided by the Settlement, before the payment of settlement expenses, attorneys’ fees, and any incentive award for the named plaintiff in the litigation, upon approval by the Court.

**How Do I Get My Payment?** Just complete and verify the Claim Form attached here or online at [www.XX.com](http://www.XX.com). You can also visit [www.XX.com](http://www.XX.com) and download a Claim Form or you can also call [XX](tel:XX) to request an additional paper copy of the Claim Form. All Claim Forms must be received by [XX](tel:XX).

**What are My Options?** You can complete and submit a Claim Form by **XX** to receive your share of the Settlement. You can do nothing, comment on or object to any of the settlement terms, or exclude yourself from the settlement. If you do nothing, you won't be able to sue Nextep or certain related companies or individuals in a future lawsuit about the claims addressed in the Settlement.

If you wish to object to the Settlement, you must file a statement or brief in writing with the Clerk of the Court of the United States District Court for the Northern District of Illinois, Eastern Division, Everett McKinley Dirksen United States Courthouse, 219 South Dearborn Street, Chicago, Illinois 60604. The objection must be filed with the Court no later than **XX**. You must also mail a copy of your objection to the attorneys for all Parties to the lawsuit, including Class Counsel (Ryan F. Stephan of STEPHAN ZOURAS, LLP, 100 N. RIVERSIDE PLAZA, SUITE 2150, CHICAGO, ILLINOIS 60606), Defendant's counsel (Catrina Celeste Creswell of Kabat Chapman & Ozmer LLP, 171 17th Street NW, Suite 1550, Atlanta, GA 30363), as well as the Settlement Administrator (**XX**) no later than **XX**. Any objection to the proposed Settlement must include (a) your full name, current address, telephone number, and email address, (b) the basis for and an explanation for your objection, (c) the case name and number, (d) a list of any other objections filed, (e) a statement of whether you are represented by counsel and, if so, a list of all objections filed by that counsel, (f) a statement of whether you intend to appear at the Final Approval Hearing with or without counsel, (g) the identity of any witnesses you may call to testify at the Final Approval Hearing and all exhibits you intend to seek to introduce into evidence at the Final Approval Hearing, which must also be attached to, or included with, your written objection, and (h) your signature. If you hire an attorney in connection with making an objection, that attorney must also file with the court a notice of appearance by the objection deadline of **XX**. If you do hire your own attorney, you will be solely responsible for payment of any fees and expenses the attorney incurs on your behalf. If you exclude yourself from the Settlement, you cannot file an objection.

If you exclude yourself, you won't get a payment but you'll keep any right you currently have to pursue whatever legal rights you may have against Nextep and the other Released Parties by pursuing your own lawsuit at your own risk and expense. All exclusion requests must (a) be in writing; (b) identify the case name *Morris v. Nextep Systems, Inc.*, 1:21-cv-02404 (N.D. Ill.); (c) state your full name, current address, and telephone number; (d) include a statement that you wish to be excluded from the Settlement; (e) include your signature; and (f) be postmarked or received by the Settlement Administrator on or before **XX**. Each request for exclusion must contain a statement to the effect that "I hereby request to be excluded from the proposed Settlement Class in *Morris v. Nextep Systems, Inc.*, 1:21-cv-02404 (N.D. Ill.)." You must mail or e-mail your exclusion request no later than the Objection/Exclusion Deadline of **XX** to:

Morris v. Nextep Systems, Inc.

c/o **XX**

**XX**

**XX**

**XX**.com

No person may request to be excluded from the Settlement Class through "mass" or "class" opt-outs.

**Do I Have a Lawyer?** Yes. The Court has appointed lawyers from the law firm Stephan Zouras, LLP as “Class Counsel.” They represent you and other Settlement Class Members. The lawyers will request to be paid a percentage from the total amount of the Settlement Fund. You can hire your own lawyer, but you’ll need to pay that lawyer’s legal fees. The Court has also chosen Regina Morris—a Class Member like you—to represent the Settlement Class.

**When Will the Court Approve the Settlement?** The Court will hold a Final Approval Hearing on **XX** before the Honorable Steven C. Seeger via remote **telephonic conference** using the the call-in number of **XX** and access code **XX**. The Court will hear objections, determine if the settlement is fair, made in good faith, and consider Class Counsel’s request for fees and expenses and an incentive award to the Class Representative.

*For more information and for a Claim Form, visit [www.XX.com](http://www.XX.com)  
or call **XX***

**You may be entitled to a cash payment from a class action settlement if you used facial recognition at a self-ordering kiosk at a Wow Bao restaurant in the State of Illinois between March 9, 2016, and [preliminary approval].**

**COURT AUTHORIZED NOTICE OF CLASS ACTION**

This notice is to inform you that a proposed settlement has been reached in a class action lawsuit between Nextep Systems, Inc. (“Nextep”) and individuals who used facial recognition at an ordering kiosk at a Wow Bao restaurant in the State of Illinois from March 9, 2016, and [DATE OF PRELIMINARY APPROVAL].

The lawsuit alleges that Nextep violated an Illinois law called the Illinois Biometric Information Privacy Act (“BIPA”) when it allegedly obtained and stored Wow Bao customers’ biometric identifiers (*i.e.*, face geometry) and/or biometric information when Wow Bao customers used Nextep branded facial recognition self-order kiosks, allegedly without complying with the law’s requirements. The case is *Morris v. Nextep Systems, Inc.*, Case No. 1:21-cv-02404, currently pending in the U.S. District Court for the Northern District of Illinois, Eastern Division. The proposed Settlement is not an admission of wrongdoing by Nextep, and Nextep denies that it violated the law.

**Am I a Part of the Settlement?** You are an eligible member of the Settlement Class if you used facial recognition on a self-ordering kiosk at a Wow Bao restaurant in the State of Illinois between March 9, 2016, and [DATE OF PRELIMINARY APPROVAL] and submit a valid and timely Claim Form. More information about this Settlement is available online in the detailed web notice at [www.\[website\].com](http://www.[website].com).

**What Does the Settlement Provide?** If you’re eligible and the Court approves the Settlement, you must submit a Claim Form to receive a cash payment. The amount of such payment is estimated to be approximately \$450 but could fluctuate, depending on the number of valid claims submitted. This amount is an equal share of a \$616,050 Settlement Fund, before the payment of settlement expenses, attorneys’ fees, and an incentive award in the litigation, subject to approval by the Court.

**How Do I Get My Payment?** Visit the Settlement Website, [www.\[website\].com](http://www.[website].com), and submit a Claim Form online. You can also call [toll-free number] to request a paper copy of the Claim Form. **All Claim Forms must be postmarked or submitted online by [Claims Deadline].**

**What Are My Options?** You can do nothing, comment on or object to any of the settlement terms, or exclude yourself from the Settlement. If you do nothing, you won’t be able to sue Nextep or certain related companies and individuals in a future lawsuit about the claims addressed in the Settlement. If you exclude yourself, you won’t get a payment, but you’ll keep any right you currently have to pursue whatever legal rights you may have at your own risk and expense. You must contact the Settlement Administrator by mail or e-mail to exclude yourself. You can also object to the Settlement if you disagree with any of its terms. All requests for exclusion and objections must be postmarked, received by, and/or filed by [Objection/Exclusion Deadline].

**Do I Have a Lawyer?** Yes. The Court has appointed lawyers from the law firm of Stephan Zouras LLP as “Class Counsel.” They represent you and other Settlement Class Members. The lawyers will request to be paid from the Settlement Fund. You can hire your own lawyer, but you’ll need to pay that lawyer’s legal fees. The Court has also chosen Regina Morris—a Class Member like you—to represent the Settlement Class.

**When Will the Court Approve the Settlement?** The Court will hold a final approval hearing on [date] at [time] before the Honorable Steven C. Seeger via telephonic conference, using the call-in number of XX and access code XX. The Court will hear any objections, determine if the Settlement is fair, and consider Class Counsel’s request for fees and expenses and an incentive award to the Class Representative.

**Where Can I Get More Information?** This notice is only a brief summary. For more information, visit:

[www.\[website\].com](http://www.[website].com)

# EXHIBIT 2

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

REGINA MORRIS, individually, and on behalf of	)	
all others similarly situated,	)	
	)	
Plaintiff,	)	
	)	Case No. 1:21-cv-02404
v.	)	
	)	
NEXTEP SYSTEMS, INC.,	)	
	)	
Defendant.	)	
	)	

**DECLARATION OF ANDREW C. FICZKO IN SUPPORT OF PLAINTIFF’S  
UNOPPOSED MOTION FOR AND MEMORANDUM IN SUPPORT OF  
PRELIMINARY APPROVAL OF CLASS ACTION SETTLEMENT**

Under penalties as provided by law pursuant to 28 U.S.C. § 1746, the undersigned certifies that the statements set forth in this instrument are true and correct, except as to matters therein stated to be on information and belief, and as to such matters the undersigned certifies as aforesaid that he verily believes the same to be true:

1. I am a member of good standing of the Illinois State Bar and a Partner of Stephan Zouras, LLP (“Plaintiff’s Counsel”). I am one of the lawyers primarily responsible for prosecuting Plaintiff’s claims on behalf of the putative Class. I was admitted to practice law in the State of Illinois in 2009.

2. I submit this declaration in support of Plaintiff’s Unopposed Motion for and Memorandum in Support of Preliminary Approval of Class Action Settlement (“Motion”). I make these statements based on personal knowledge and would so testify if called as a witness at trial.

3. I am admitted to the Trial Bar of the United States District Court for the Northern District of Illinois and have been admitted or admitted *pro hac vice* in the District of Alaska,

Southern and Northern Districts of Iowa, Southern District of Indiana, District of Massachusetts, Southern District of Ohio, Northern and Southern Districts of Texas, District of Columbia, Northern District of Georgia, Southern District of New York, Eastern and Middle Districts of Pennsylvania, Central and Northern Districts of California, Western District of Missouri, Middle and Western Districts of North Carolina, and the Western District of Washington.

4. Throughout the entirety of my professional career, my practice has been highly concentrated in representing employees in cases arising under federal and state wage and hour laws, including the Fair Labor Standards Act (“FLSA”), the Illinois Minimum Wage Law (“IMWL”), and comparable state wage and hour laws across the United States. The majority of these cases proceeded as class and/or collective actions.

5. I joined Stephan Zouras, LLP, in 2010. The accomplishments of Stephan Zouras, LLP, are set forth in the Firm Resume attached hereto. As described therein, Stephan Zouras, LLP, has extensive experience in successfully representing plaintiffs as lead counsel in hundreds of class actions nationwide. In these cases, the attorneys at Stephan Zouras, LLP, have helped establish precedent, forced major corporations to change unlawful employment practices and helped recover hundreds of millions of dollars for their clients.

6. Since early 2017, Stephan Zouras, LLP, and I have also concentrated on representing plaintiffs in cases arising under the Illinois Biometric Information Privacy Act (“BIPA”). Stephan Zouras, LLP is actively prosecuting or has settled over 150 BIPA cases since June 2017.

7. Stephan Zouras, LLP, is actively engaged, on a daily basis, with extensive court, discovery, and motion practice on their BIPA actions. The firm has secured favorable rulings for individuals at both the appellate and trial court levels in connection with novel issues and defenses

asserted under BIPA, including that BIPA claims are not subject to arbitration as “wage and hour” claims, *Liu v. Four Seasons Hotel, Ltd.*, 2019 IL App (1st) 182645; the Constitutionality of BIPA, *Bruhn v. New Albertson’s Inc.*, 2018-CH-01737 (Cir. Ct. Cook Cty. Jan. 30, 2020) (J. Loftus); the inapplicability of BIPA’s “HIPAA exemption” to employees, e.g., *Bruhn v. New Albertson’s Inc.*, 2018-CH-01737 (Cir. Ct. Cook Cty. July 2, 2019) (J. Loftus); on when BIPA claims accrue: specifically, that an aggrieved plaintiff’s claims accrue each time an entity collects or disseminates biometric identifiers and/or biometric information without securing prior informed consent and a release, *Cothron v. White Castle System, Inc.*, 2020 WL 4569694 (Aug. 7, 2020) (J. Tharp); the statute of limitations under BIPA, *Tims v. Black Horse Carriers, Inc.*, 2021 IL App (1st) 200563 (Sept. 17, 2021); a finding of personal jurisdiction over a nonresident defendant biometric device manufacturer, *Fisher v. HP Property Mgmt, LLC, et al.*, 2021 IL App (1st) 201372 (Nov. 29, 2021); a decision from the First District Appellate Court holding that healthcare workers’ biometric data is not excluded from coverage under BIPA, *Mosby v. The Ingalls Memorial Hospital, et al.*, 2022 IL App (1st) 200822 (Feb. 25, 2022); a decision from the Illinois Supreme Court affirming in part and reversing in part the Appellate Court’s judgment, finding that “the five-year limitations period contained in section 13-205 of the Code controls claims under the Act.” *Tims v. Black Horse Carriers, Inc.*, 2023 IL 127801 at ¶ 42; and most recently, a decision from the Illinois Supreme Court holding that BIPA claims accrue not just the first time a private entity collects or disseminates biometric data without prior informed consent, but rather every time it is collected and/or disseminated. *Cothron v. White Castle System Inc.*, 2023 IL 128004.

8. Throughout the pendency of this action, Class Counsel has had the financial resources necessary to prosecute this case and has stood ready and remains able and willing to advance expenses and devote significant attorney time from our roster of highly-qualified



attorneys and staff to all aspects of this case. The firm has aggressively pursued BIPA claims in this case despite many legal issues under BIPA being matters of first impression. Stephan Zouras, LLP, has and will continue to vigorously represent the proposed Settlement Class throughout the case's pendency.

9. On November 15, 2022, after exchanging their respective settlement position statements, the Parties participated in their first settlement conference with the Honorable Magistrate Judge McShain. While productive, the settlement conference did not end in immediate settlement, and the Parties proceeded with litigation for another month, including Defendant filing of a motion for summary judgment and Plaintiff filing a [renewed] motion for class certification. During that time, the Parties still continued to discuss settlement and they agreed to participate in a second settlement conference with the Honorable Magistrate Judge McShain on December 19, 2022. Although the Parties again were unable to reach an agreement at that time, they further agreed to continue discussing a possible resolution. Their efforts culminated in an agreement to resolve this matter in principle on January 11, 2023. The Parties then spent the next several weeks drafting and negotiating the finer deal points of the Settlement Agreement before executing it in February 2023.

10. The Settlement includes the Named Plaintiff and approximately 1,368 Class Members.

11. The terms of the Settlement are contained in the Settlement Agreement. There are no undisclosed side agreements between the Named Plaintiff and Defendant.

12. The Settlement of this action was the product of well-informed judgments about the adequacy of the resolution. The Settlement was also the product of arm's-length, non-collusive negotiations. Class Counsel are intimately familiar with the strengths and weaknesses of the claims

and defenses of this case, as well as the factual and legal issues, sufficient to make an informed recommendation about the value of the claims, the time, costs and expenses of protracted litigation and appeals, and the adequacy of the Settlement reached. The stage of litigation has advanced to a state that Class Counsel could fairly and fully evaluate the value of the Settlement. In my professional opinion, the Settlement is fair and reasonable in light of the risk, costs, and delay of further litigation.

13. Named Plaintiff Regina Morris has been involved in nearly every aspect of this case, including by helping Class Counsel investigate her BIPA claims, assisting in responding to substantial written discovery, sitting for a 7-hour deposition, conferring with Class Counsel throughout the litigation, and reviewing and approving the Settlement Agreement before signing it.

14. Class Counsel is unaware of any opposition to the Settlement.

15. Under penalties as provided by law pursuant to 29 U.S.C. § 1746, the undersigned certifies that the statements set forth in this instrument are true and correct.

Dated: March 6, 2023

FURTHER DECLARANT SAYETH NOT.

/s/ Andrew C. Ficzko  
Andrew C. Ficzko  
Stephan Zouras, LLP  
100 N. Riverside Plaza, Suite 2150  
Chicago, Illinois 60606  
312.233.1550  
aficzko@stephanzouras.com

# EXHIBIT A

# FIRM RESUME

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## STEPHAN ZOURAS, LLP

100 N. Riverside , Suite 2150  
Chicago, IL 60606  
312-233-1550  
[stephanzouras.com](http://stephanzouras.com)

**Fighting for the Rights  
of People.** Driven by Justice.  
Dedicated to **You.**



# STEPHANZOURAS, LLP

100 N. Riverside , Suite 2150  
Chicago, IL 60606  
312-233-1550  
[stephanzouras.com](http://stephanzouras.com)

## FIRM PROFILE

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**STEPHAN ZOURAS, LLP** is a nationwide law firm that has helped recover more than **\$500 million** for people in groundbreaking class and collective actions.



**Stephan Zouras, LLP** has “substantial class action experience [and] have secured multi-million-dollar class recoveries...”

*Bhattacharya v. Capgemini North America, Inc.*, 324 F.R.D. 353, 363 (N.D. Ill. 2018) (Kennelly, J.)



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## FIRM PROFILE

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**STEPHAN ZOURAS, LLP** is a national law firm representing plaintiffs in complex class and individual litigation matters. Our diverse team of professionals are widely recognized for their vigorous advocacy, skill, integrity and experience litigating wage and hour and other employment disputes, consumer protection, privacy, cybersecurity, mass torts and catastrophic personal injury, products liability and other complex litigation.

Federal and state courts routinely appoint our attorneys as lead counsel in high-stakes, groundbreaking, rapidly-developing areas with far-reaching impact. We try cases to verdict. We help establish favorable precedent for employees and consumers on appeal. And outside the courtroom, our attorneys testify before legislative bodies and work on legislation designed to protect worker's rights.

Our Chicago-based firm is recognized for its leadership, its zealous, thorough and efficient prosecution of class actions, and for achieving outstanding results at both the trial and appellate levels throughout the United States.

We represent hard working people from all walks of life who deserve the protections our laws provide to prevent corporate abuse, injustice and greed.



# STEPHANZOURAS, LLP

100 N. Riverside , Suite 2150  
Chicago, IL 60606  
312-233-1550  
[stephanzouras.com](http://stephanzouras.com)

## OUR STORY

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When Ryan and Jim founded **Stephan Zouras, LLP**, in 2007, they had a vision. They wanted to create a law firm that *empowers* individuals to band together to take on wealthy and powerful corporations who shirk the law and take advantage of employees and consumers.

Today, that vision is a REALITY.

## EXPERIENCE

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Not only are we passionate about what we do, we know what we are doing. Collectively, our firm has several decades of experience litigating in federal and state courts throughout the United States. We have established *groundbreaking* and precedent-setting court decisions, including securing a major decision for employees at the United States Supreme Court in 2022, and forced major corporations to change unlawful employment practices and make safer products.

## DEDICATION

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Because we love what we do, we don't cut corners. We will review your claim (at no cost), provide prompt feedback and determine next steps. If we choose to pursue your case, we will drive your case to the best desirable outcome, all while keeping you informed at every step of the way. We don't get paid unless we win. And if we can't help, we will try to find you someone who can.

## REPUTATION

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We are known throughout the legal community as among the most skilled and qualified practitioners in the field. But some of our proudest accolades come from our clients.



# STEPHANZOURAS, LLP

100 N. Riverside , Suite 2150  
Chicago, IL 60606  
312-233-1550  
[stephanzouras.com](http://stephanzouras.com)

## PRINCIPAL ATTORNEYS

### JAMES B. ZOURAS

is a founding partner of Stephan Zouras, LLP. Dedicating his entire professional career to combating corporate abuse and injustice, Jim has helped recover hundreds of millions in individual and class actions arising under the federal and state wage and hour laws, biometric privacy and other complex litigation, along with wrongful death and other catastrophic personal injury actions.

He has successfully tried over a dozen major jury trials and argued approximately 20 appeals as lead appellate counsel before federal and state appellate courts, including the Illinois Supreme Court. Jim is frequently invited as a speaker at national class action and trial seminars. In addition to his admission to numerous trial and appellate courts, Jim is a member of the bar of the Supreme Court of the United States.

Jim and his cases have been profiled by numerous media outlets including the Chicago Tribune, the Chicago Sun-Times, WVON Radio, Bloomberg BNA, Billboard Magazine, TMZ and CBS Consumer Watch.



## PROFESSIONAL & COMMUNITY ACTIVITIES

- ESTABLISHED ENDOWED SCHOLARSHIP FUND AT UNIVERSITY OF ILLINOIS AT CHICAGO; 2021
- INVITED SPEAKER AT NATIONAL EMPLOYMENT LAWYERS ASSOCIATION (IL); 2021
- INVITED SPEAKER AT ILLINOIS INSTITUTE FOR CONTINUING LEGAL EDUCATION; 2018-2022
- INVITED SPEAKER AT ILLINOIS STATE BAR ASSOCIATION; 2018-2019
- INVITED SPEAKER AT ILLINOIS TRIAL LAWYERS ASSOCIATION; 2016
- INVITED SPEAKER AT THE CHICAGO BAR ASSOCIATION; 2008 AND 2016
- INVITED SPEAKER AT THE PRACTICING LAW INSTITUTE; 2012 AND 2015
- INVITED SPEAKER AT THE BRIDGEPORT CONTINUING EDUCATION WAGE AND HOUR SEMINAR; 2012 AND 2014
- EDITOR, ILLINOIS WAGE HOUR TREATISE; 2022
- CONTRIBUTING AUTHOR, AMERICAN BAR ASSOCIATION FEDERAL LABOR STANDARDS LEGISLATION SUBCOMMITTEE, MIDWINTER REPORT; 2016
- HELLENIC BAR ASSOCIATION OF ILLINOIS; 2001-PRESENT





# STEPHANZOURAS, LLP

100 N. Riverside , Suite 2150  
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312-233-1550

[stephanzouras.com](http://stephanzouras.com)

## PRINCIPAL ATTORNEYS

- 
- ILLINOIS SUPER LAWYER; 2009-PRESENT
  - ILLINOIS TRIAL LAWYERS ASSOCIATION; 1997-PRESENT
  - ILLINOIS TRIAL LAWYERS ASSOCIATION, BOARD OF MANAGERS; 2022-2023
  - ILLINOIS STATE BAR ASSOCIATION; 1997-PRESENT
  - NATIONAL EMPLOYMENT LAWYERS ASSOCIATION; 2007-PRESENT
  - PUBLIC JUSTICE FOUNDATION; 2018-PRESENT
  - CHICAGO FOOD PANTRY VOLUNTEER
  - SHIRLEY RYAN ABILITYLAB VOLUNTEER

## EDUCATION

- 
- DEPAUL UNIVERSITY COLLEGE OF LAW, J.D. WITH HONOR, ORDER OF THE COIF, [1995]
  - UNIVERSITY OF ILLINOIS CHICAGO, POLITICAL SCIENCE, WITH DISTINCTION [1992]



# STEPHANZOURAS, LLP

100 N. Riverside , Suite 2150  
Chicago, IL 60606  
312-233-1550  
[stephanzouras.com](http://stephanzouras.com)

## PRINCIPAL ATTORNEYS



### RYAN F. STEPHAN

is a founding principal of Stephan Zouras, LLP. Throughout his career, Ryan has been a passionate advocate for worker and consumer rights, and has helped hundreds of thousands of everyday people recover damages in unpaid overtime, privacy claims, employment disputes, business litigation, products liability and personal injury cases. Ryan has successfully tried cases to verdict including obtaining a \$9,000,000 verdict on behalf of 200 employees who were misclassified and denied overtime pay.

Ryan has also served as lead or co-lead counsel on hundreds of complex class and collective action cases involving privacy issues, wage and hour matters and consumer fraud claims, amongst others, and has helped recover over \$250 Million for hundreds of thousands of people. In these cases, Ryan has helped establish precedent in both privacy and wage and hour law, forced major corporations to change unlawful employment practices and helped recover hundreds of millions of dollars for his clients.

Ryan and his cases have been profiled by numerous media outlets including Good Morning America, Fortune, ESPN, Fox News, The Guardian, The New York Times, Think Progress, USA Today and Vice Sports.

## PROFESSIONAL & COMMUNITY ACTIVITIES

- AMERICAN ASSOCIATION FOR JUSTICE; 2020-PRESENT
- AMERICAN BAR ASSOCIATION; 2007-PRESENT
- CHICAGO LIGHTS TUTOR; 2009-2010
- CHICAGO CARES TUTOR; 2008-2009
- FEED MY STARVING CHILDREN VOLUNTEER; 2014-2015
- ILLINOIS STATE BAR ASSOCIATION; 2000-PRESENT
- ILLINOIS TRIAL LAWYERS ASSOCIATION; 2021-PRESENT
- ILLINOIS TRIAL LAWYERS ASSOCIATION BOARD OF ADVOCATES; 2022-PRESENT
- PUBLIC JUSTICE FOUNDATION; 2018-PRESENT

## EDUCATION

- CHICAGO KENT COLLEGE OF LAW, J.D., [2000]
- UNIVERSITY OF ILLINOIS URBANA CHAMPAIGN, B.A., POLITICAL SCIENCE, [1996]



# STEPHANZOURAS, LLP

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PRINCIPAL  
ATTORNEYS

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Ryan and Jim are admitted to the Supreme Court of the United States, the United States Court of Appeals for the First, Third and Seventh Circuits, and the Trial Bar of the United States District Court for the Northern District of Illinois. Ryan and Jim are admitted to practice in the Northern, Central and Southern Districts of Illinois, the United States Bankruptcy Court for the Northern District of Illinois, and are generally admitted to practice in the District Court of Colorado, the Eastern District of Michigan and the Eastern District of Wisconsin.

In addition, they have been admitted pro hac vice in the United States District Courts for the District of Alaska, the District of Arizona, the District of Columbia, the Northern, Central and Southern Districts of California, the Superior Court for the State of California, the District Court of Columbia, the Northern, Middle and Southern Districts of Florida, the Northern District of Georgia, the Southern District of Indiana, the Northern and Southern Districts of Iowa, the Western District of Kentucky, the District Court of Maryland, the District Court of Massachusetts, the District Court of Minnesota, the Eastern and Western Districts of Missouri, the District Court of New Mexico, the Southern and Eastern Districts of New York, the District Court of New Jersey, the Eastern and Middle Districts of Pennsylvania, the First Judicial District of Pennsylvania, the Eastern, Middle and Western Districts of North Carolina, the Southern District of Ohio, the District Court of Oregon, the Eastern and Middle Districts of Pennsylvania, the Middle District of Tennessee, the Northern and Southern Districts of Texas, and the Western District of Washington.

In every consecutive year since 2009, Chicago Magazine's Super Lawyer Section selected both Jim and Ryan as two of the top attorneys in Illinois, a distinction given to no more than 5% of the lawyers in the state.



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## PARTNERS

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### ANDREW C. FICZKO

A tireless fighter for working people, Andy has spent his entire professional career focusing on Employment Litigation and has represented thousands of employees in class, collective and individual actions nationwide and has recovered hundreds of thousands of dollars in unpaid minimum wages, overtime compensation, and other benefits.

Andy has been recognized by Chicago Magazine's Super Lawyers section as a Rising Star and Super Lawyer for eight consecutive years, a distinction given to no more than 5% of Illinois lawyer. Andy served as the second chair in two major federal jury trials to verdict on behalf of Plaintiffs in wage and hour matters and one state jury trial to verdict on behalf of Plaintiffs in a breach of contract matter.

Andy is admitted to the United States Supreme Court, the United States District Court for the Seventh Circuit, the United States Bankruptcy Court for the Northern District of Illinois, the Trial Bar of the United States District Court for the Northern District of Illinois, and is generally admitted to the District Court of Colorado. Andy has been admitted pro hac vice to the District of Alaska, the Central and Northern Districts of California, the District of Columbia, the Northern District of Georgia, the Southern District of Indiana, the Northern and Southern Districts of Iowa, the District of Massachusetts, the Western District of Missouri, the Southern District of New York, the Middle and Western Districts of North Carolina, the Southern District of Ohio, the Eastern and Middle Districts of Pennsylvania, the Northern and Southern Districts of Texas, and the Western District of Washington.

## PROFESSIONAL & COMMUNITY ACTIVITIES

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- CHICAGO BAR ASSOCIATION; 2009-PRESENT
- ILLINOIS STATE BAR ASSOCIATION; 2009-PRESENT
- ILLINOIS TRIAL LAWYERS ASSOCIATION; 2021-PRESENT
- NORTHERN DISTRICT OF ILLINOIS TRIAL BAR ASSOCIATION; 2010-PRESENT
- CHICAGO FOOD PANTRY VOLUNTEER; 2012

## EDUCATION

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- DRAKE UNIVERSITY LAW SCHOOL, J.D., [2009]
- LAFAYETTE COLLEGE, B.S., PSYCHOLOGY, [2002]



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## PARTNERS

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### TERESA M. BECVAR

A steadfast advocate for individual rights, Teresa has helped thousands of clients hold corporations accountable in employment and consumer protection cases. Teresa has extensive experience in a wide range of employment cases, including wage and hour class and collective actions and employment discrimination.

Teresa is a 2013 graduate of Chicago-Kent College of Law, where she served as Editor of the Law Review. Since 2019, Teresa has served on the Advocacy Council Leadership Committee for Women Employed, an Illinois nonprofit that advocates for the advancement of working women through fair workplaces and education opportunities. Every year since 2016, Teresa has been recognized by Chicago Magazine's Super Lawyer section as a Rising Star, a distinction given to no more than 2.5% of Illinois lawyers.

Teresa is admitted to the Trial Bar of the United States District Court for the Northern District of Illinois, the Northern District of Illinois, the United States Court of Appeals for the Third and Seventh Circuits, and is generally admitted to the District Court of Colorado. She has been admitted pro hac vice to the District Court of Arizona, the Northern District of California, the Superior Court for the State of California, the Middle District of Florida, the District Court of New Mexico, the Eastern and Southern Districts of New York, the Western District of North Carolina, the Northern District of Ohio, the Eastern and Middle Districts of Pennsylvania, the Middle District of Tennessee, and the Western District of Washington.

## PROFESSIONAL & COMMUNITY ACTIVITIES

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- ABA/BNA AGE DISCRIMINATION IN EMPLOYMENT LAW SUPPLEMENT, CHAPTER EDITOR; 2016-PRESENT
- AMERICAN ASSOCIATION FOR JUSTICE; 2019-PRESENT
- CHICAGO BAR ASSOCIATION; 2013-PRESENT
- FEDERAL BAR ASSOCIATION; 2012-PRESENT
- ILLINOIS STATE BAR ASSOCIATION; 2013-PRESENT
- ILLINOIS TRIAL LAWYER ASSOCIATION; 2017-PRESENT
- PUBLIC JUSTICE FOUNDATION; 2021-PRESENT

## EDUCATION

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- CHICAGO-KENT COLLEGE OF LAW, J.D., CUM LAUDE, [2013]
- UNIVERSITY OF CHICAGO, B.A., CINEMA AND MEDIA STUDIES, [2002]



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## PARTNERS

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### CATHERINE T. MITCHELL

is a staunch advocate for individual rights, representing people in a wide-range of legal disputes, including unpaid wages, employee misclassification, improper wage deduction, Employee Retirement Income Security Act (ERISA) violations, antitrust, and consumer fraud. Katie is also a member of the legal team pursuing claims on behalf of employees and consumers for violations of the Illinois Biometric Privacy Act (BIPA). Her broad knowledge in such areas helps clients understand their rights and recover damages when laws are violated.

Katie is admitted to practice in Illinois, the United States District Courts for the Central, Northern and Southern Districts of Illinois, and is generally admitted to the District Court of Colorado and the Eastern District of Wisconsin. She has been admitted pro hac vice to the District of Arizona, the Northern District of California, the Southern District of Iowa, the Middle District of Florida, the District Court of Minnesota, the Fourth Judicial District for the State of Minnesota, the Eastern and Western Districts of North Carolina, the District of New Mexico, the Eastern and Southern Districts of New York, the Eastern District of Pennsylvania, and the United States Court of Appeals for the Seventh Circuit.

## PROFESSIONAL & COMMUNITY ACTIVITIES

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- CHAPTER EDITOR, BUREAU OF NATIONAL AFFAIRS AGE DISCRIMINATION IN EMPLOYMENT ACT TREATISE, 2D ED.; 2016
- CHICAGO BAR ASSOCIATION; 2013-PRESENT
- ILLINOIS STATE BAR ASSOCIATION; 2015-PRESENT
- ILLINOIS TRIAL LAWYERS ASSOCIATION; 2021-PRESENT
- SAINT MARY'S COLLEGE CHICAGO EAST ALUMNAE CLUB MEMBER; 2012-PRESENT
- VICE CHAIR, YLS MOOT COURT COMPETITION COMMITTEE; 2016-2019
- WOMEN'S BAR ASSOCIATION OF ILLINOIS; 2015-PRESENT
- YOUNG LAWYERS SOCIETY OF THE CHICAGO BAR ASSOCIATION; 2014-PRESENT

## EDUCATION

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- THE JOHN MARSHALL LAW SCHOOL, J.D., [2015]
- SAINT MARY'S COLLEGE, B.A., POLITICAL SCIENCE & PSYCHOLOGY, [2012]



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## ASSOCIATES

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### ANNA M. CERAGIOLI

started her career at Stephan Zouras in 2017 when she worked as a law clerk. Anna is a skilled and dedicated advocate for individuals and groups of people who have been injured, deprived of earned wages or otherwise mistreated by employers. She has worked tirelessly on an array of individual and class actions lawsuits involving unpaid wages, employee misclassification, tip-pool violations, retaliation, biometric privacy violations, and RICO violations. As the assisting attorney in one of the first in-person jury trials for unpaid wages following the COVID-19 pandemic, Anna obtained a verdict and corresponding six-figure damages award on behalf of one of her clients. Anna achieved the first ruling in the state of Illinois awarding treble damages over and above liquidated damages for claims brought under the Illinois Minimum Wage Law and the Fair Labor Standards Act – a landmark ruling for employee rights.

Anna has been recognized by Chicago Magazine's Super Lawyer section as a Rising Star, a distinction given to no more than 2.5% of Illinois lawyers. She was one of only twelve graduating students inducted into the Chicago-Kent Bar & Gavel Society.

Anna is admitted to the Trial Bar of the United States District Court for the Northern District of Illinois, the Central and Southern Districts of Illinois, and the United States Court of Appeals for the Seventh Circuit. She has also been admitted pro hac vice to the Northern District of California, the Eastern District of New York, the Northern District of Ohio, the Eastern District of Pennsylvania and Court of Common Pleas for the State of Ohio.

## PROFESSIONAL & COMMUNITY ACTIVITIES

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- CHICAGO BAR ASSOCIATION YLS MOOT COURT COMMITTEE; 2019-2021
- CHICAGO BAR ASSOCIATION; 2018-PRESENT
- CHICAGO-KENT BAR AND GAVEL SOCIETY; 2018 INDUCTEE
- CHICAGO-KENT MOOT COURT HONOR SOCIETY, PRESIDENT AND MEMBER; 2016-2018
- CHICAGO-KENT JUSTINIAN SOCIETY, SECRETARY; 2016-2018
- ILLINOIS TRIAL LAWYERS ASSOCIATION; 2021-PRESENT
- NATIONAL EMPLOYMENT LAWYERS ASSOCIATION; 2022
- WOMEN'S BAR ASSOCIATION OF ILLINOIS; 2018-PRESENT

## EDUCATION

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- CHICAGO-KENT COLLEGE OF LAW, J.D., [2018]
- MARQUETTE UNIVERSITY, B.A., CUM LAUDE, ENGLISH [2013]



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## ASSOCIATES

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### PAIGE L. SMITH

has worked as an Associate Attorney since 2021. Paige first joined the Stephan Zouras team as a law clerk in 2019, with a passion and dedication for vindicating Illinois citizens' rights under the Biometric Information Privacy Act (BIPA). Since joining the firm, Paige has assisted in a wide range of trailblazing individual and class actions in federal and state court, at the trial and appellate levels, involving biometric privacy violations and compliance, consumer breach of contract, improper wage deductions, unpaid wages, employee misclassification, employment discrimination, and retaliatory discharge claims.

Paige graduated cum laude from Chicago-Kent College of Law, where she was a member of the Dean's List and served as the Executive Notes & Comments Editor of the Chicago-Kent Law Review.

Paige is admitted to the Seventh Circuit Court of Appeals, and the Northern, Southern and Central Districts of Illinois. She has also been admitted pro hac vice in the Northern and Central District of California and the Eastern District of Pennsylvania.

## PROFESSIONAL & COMMUNITY ACTIVITIES

- CHICAGO BAR ASSOCIATION; 2021-PRESENT
- WOMEN'S BAR ASSOCIATION OF ILLINOIS; 2021-PRESENT
- ILLINOIS STATE BAR ASSOCIATION; 2021-PRESENT
- ILLINOIS TRIAL LAWYERS ASSOCIATION; 2021-PRESENT

## EDUCATION

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- CHICAGO-KENT COLLEGE OF LAW, J.D., CUM LAUDE [2020]
- UNIVERSITY OF WISCONSIN-MADISON, B.A. POLITICAL SCIENCE WITH HONORS IN THE LIBERAL ARTS, [2016]





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## ASSOCIATES

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### MOHAMMED RATHUR

joined the Stephan Zouras team in 2022 as an Associate Attorney, with a passion to advocate for individual rights. Prior to joining the firm, Mohammed served as a judicial law clerk to the Honorable Pamela McLean Meyerson in the Chancery Division of the Circuit Court of Cook County where he gained in-depth knowledge of the Illinois Biometric Information Privacy Act, complex class actions, insurance-coverage disputes, FOIA-actions, and employment disputes under administrative review.

He earned a Bachelor's Degree from Michigan State University and his law degree from the American University Washington College of Law. In law school, Mohammed served as a Student Attorney for the International Human Rights Law Clinic where he represented asylum seekers in federal immigration court. Additionally, Mohammed interned at the U.S. Department of Justice – Civil Rights Division and for United States District Court Judge George Caram Steeh III.

Mohammed is admitted to practice in Illinois and Washington, D.C., and the United States District Court for the Northern District of Illinois.

## PROFESSIONAL & COMMUNITY ACTIVITIES

- SOUTH ASIAN BAR ASSOCIATION; 2016-PRESENT
- ILLINOIS STATE BAR ASSOCIATION; 2020-PRESENT
- MUSLIM BAR ASSOCIATION OF CHICAGO; 2022-PRESENT

## EDUCATION

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- AMERICAN UNIVERSITY WASHINGTON COLLEGE OF LAW, J.D., [2019]
- MICHIGAN STATE UNIVERSITY, B.A., INTERNATIONAL RELATIONS [2016]



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## ASSOCIATES

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### MICHAEL CASAS

joined the Stephan Zouras team as a law clerk in 2020, with a passion and dedication for vindicating Illinois citizens' rights under the Illinois Biometric Information Privacy Act (BIPA). Since joining the Stephan Zouras legal team, Michael has assisted in trailblazing actions involving BIPA, employee misclassification, breach of contract, unpaid wages, personal injury, and employment discrimination claims.

Michael graduated cum laude from the University of Illinois – Chicago School of Law, where he was a member of the Dean's List, and a published member of the UIC Law Review. While in law school, Michael served as a Student Attorney for the Community Enterprise & Solidarity Economy Clinic where he consulted small business owners on corporate entity registration and regulatory compliance with Illinois cannabis license applications.

Michael earned his undergraduate degree from the University of Illinois – Urbana/Champaign, where he graduated with a degree in Finance.

Michael is admitted to practice in Illinois and the United States District Court for the Northern District of Illinois.

## PROFESSIONAL & COMMUNITY ACTIVITIES

- CHICAGO BAR ASSOCIATION; 2022 – PRESENT
- AUXILIARY BOARD MEMBER – ONWARD NEIGHBORHOOD HOUSE; 2020 – PRESENT

## EDUCATION

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- UNIVERSITY OF ILLINOIS - CHICAGO SCHOOL OF LAW, J.D., CUM LAUDE [2022]
- UNIVERSITY OF ILLINOIS - URBANA/CHAMPAIGN, B.S., FINANCE [2017]



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## OF COUNSEL

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### DAVID J. COHEN

is a highly skilled and successful class-action attorney who joined Stephan Zouras, LLP in 2016. Dave manages our Philadelphia office and has spent his entire career fighting to protect the rights of thousands of healthcare professionals, restaurant workers, transportation workers, IT professionals, shareholders, union members and consumers.

Before joining the private sector, Dave completed a unique clerkship with the Hon. Stephen E. Levin in the Philadelphia Court of Common Pleas, during which he helped to develop a respected and efficient system to resolve the Court's class action cases and contributed to several well-regarded works on class actions.

Dave earned a J.D. from the Temple University School of Law in 1994. While attending law school, Dave was awarded the Barristers Award for excellence in trial advocacy and worked as a teaching assistant for Hon. Legrome Davis (E.D. Pa.) as part of Temple's award-winning Integrated Trial Advocacy program.

Dave is a member of the Pennsylvania and New Jersey Bar Associations, and has been admitted to practice in many courts nationwide, including: the United States Courts of Appeals for the Third and Sixth Circuits and the District Courts of California, Florida, Illinois, Michigan, New Jersey, New York, Pennsylvania, Tennessee and the District of Columbia.

## PROFESSIONAL & COMMUNITY ACTIVITIES

---

- ILLINOIS STATE BAR ASSOCIATION; 2017-PRESENT
- UNIVERSITY OF CHICAGO ALUMNI INTERVIEWER; 1994-PRESENT
- PENNSYLVANIA BAR ASSOCIATION MEMBER; 1995-PRESENT
- PHILADELPHIA BAR ASSOCIATION MEMBER; 1995-PRESENT
- UNION LEAGUE OF PHILADELPHIA MEMBER; 2001-PRESENT
- STREET TAILS ANIMAL RESCUE FOSTER CARE SPONSOR; 2014-PRESENT
- UNIVERSITY OF CHICAGO "WISR" ALUMNI MENTORING NETWORK; 2017-PRESENT
- PHILADELPHIA BAR ASSOCIATION LEGAL-LINE VOLUNTEER; 2015-2020
- FOUNDATION FOR FIRST RESPONDERS AND FIREFIGHTERS SPONSOR; 1994-2020
- AMERICAN BAR ASSOCIATION MEMBER; 1994-2015
- HEAD HOUSE CONSERVANCY BOARD MEMBER; 2008-2015



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## OF COUNSEL

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- AIDS SERVICES IN ASIAN COMMUNITIES (ASAIC) SPONSOR; 1994-2014
- FRIENDS OF INGLIS HOUSE VOLUNTEER; 2001-2014
- OLD CITY CIVIC ASSOCIATION BOARD MEMBER, EXECUTIVE COMMITTEE MEMBER AND SECRETARY; 2002-2014
- TEMPLE UNIVERSITY BEASLEY SCHOOL OF LAW MOOT COURT HONOR SOCIETY JUDGE; 2002-2011

## EDUCATION

---

- TEMPLE UNIVERSITY SCHOOL OF LAW, J.D. [1994]
- UNIVERSITY OF CHICAGO, B.A. CUM LAUDE [1991]



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## Representative Trials, Verdicts and Judgments

<u>CASE</u>	<u>COURT</u>	<u>JUDGMENT</u>
Meadows v. NCR Corporation	Northern District of Illinois No. 16-cv-06221	5/21/2021 - Jury Verdict (Plaintiff) 7/09/2021 - Trial Court Judgment <b>\$225,000</b>
Retaliation Arbitrations	American Arbitration Association Redacted for Confidentiality	2/2019 & 9/2020 - Arbitration Judgment - <b>\$400,0000</b>
Ray v. DISH Network	American Arbitration Association No. 01-15-0003-4651	3/17/2019 – Arbitration Judgment <b>\$3.25 mil</b>
Franco v. Ideal Mortgage Bankers d/b/a Lend America	Eastern District of New York No. 07-cv-3956	12/14/2017 – Trial Court Judgment <b>\$15.2 mil</b>
Frisari v. DISH Network	American Arbitration Association No. 18-160-001431-12	8/25/2016 - Arbitration Judgment <b>\$2.5 mil</b>
Huskey v . Ethicon, Inc.	Southern District of West Virginia No. 2:12-cv-05201	9/10/2014 - Jury Verdict (Plaintiff) <b>\$3.27 mil</b>
Lee v. THR & Associates, Inc.	Central District of Illinois No. 12-cv-3078	5/22/2014 - Trial Court Judgment <b>\$12.2 mil</b>
Vilches v. The Travelers Companies, Inc.	American Arbitration Association No. 11-160-000355-11	12/12/2012 - Arbitration Judgment
Kyriakoulis v. DuPage Health Center	Northern District of Illinois No. 10-cv-7902	11/16/2012 - Jury Verdict (Plaintiff)
Smith v. Safety-Kleen Systems, Inc.	Northern District of Illinois No. 10-cv-6574	7/11/2012 - Jury Verdict (Plaintiff)



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## CASE

Wong v. Wice Logistics

Daniels v. Premium Capital Funding

## COURT

Circuit Court of Cook County, IL  
No. 08-L-13380

Eastern District of New York  
No. 08-cv-4736

## JUDGMENT

1/30/2012 - Jury Verdict (Plaintiff)

10/18/2011 - Jury Verdict (Plaintiff)  
**\$9 mil**



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## Representative Resolved Class and Collective Actions

Courts nationwide have appointed the firm as lead or co-lead counsel in numerous class and collective actions in which they have collectively secured over one hundred million dollars in verdicts and settlements including;

<u>CASE</u>	<u>COURT</u>	<u>SETTLEMENT</u>
Gniecki v. Columbia Sussex Management, LLC	Circuit Court of Cook County, IL No. 21-CH-00677	10/06/2022 - Final Approval <b>\$500,000</b>
Brown v. Weathertech	Circuit Court of Cook County, IL No. 19-CH-00503	9/26/2022 - Final Approval <b>\$1.375 mil</b>
Johnson v. Verizon Wireless	Northern District of Illinois No. 21-cv-00187	9/12/2022 - Final Approval
Bruhn v. Jewel-Osco	Circuit Court of Cook County, IL No. 18-CH-01737	9/08/2022 - Final Approval <b>\$1.575 mil</b>
Meier v. Robert Rohrman, et al.	Circuit Court of Cook County, IL No. 14-CH-11513	5/31/2022 - Final Approval <b>\$855,000</b>
Robertson v. Hostmark Hospitality Group, Inc., et al.	Circuit Court of Cook County, IL No. 18-CH-05194	4/14/2022 - Final Approval <b>\$503,000</b>
Parsons v. Personnel Staffing Group	Circuit Court of Cook County, IL No. 20-CH-473	3/22/2022 - Final Approval <b>\$4.68 mil</b>
Mosby v. The Ingalls Memorial Hospital, et al.	Circuit Court of Cook County, IL No. 18-CH-05031	3/14/2022 - Final Approval <b>\$2.42 mil</b>
Bledsoe v. LHC Group, Inc. and; George v. LHC Group, Inc.	District Court of Arizona No. cv-18-02863, and; No. cv-21-01402	2/08/2022 - Final Approval



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<u>CASE</u>	<u>COURT</u>	<u>SETTLEMENT</u>
Krzyzanowski v. Brunch Café	Northern District of Illinois No. 19-cv-07427	2/02/2022 - Final Approval
Toor v. CoreCentric Solutions, Inc.	Circuit Court of DuPage County, IL No. 2019-CH-000989	1/25/2022 - Final Approval
Peatry v. Bimbo Bakeries USA, Inc.	Northern District of Illinois No. 19-cv-02942	1/12/2022 - Final Approval
Ripper v. Area Disposal Service, Inc.	Circuit Court of Peoria County, IL No. 2020-CH-00124	11/16/2021 - Final Approval <b>\$577,000</b>
O'Sullivan v. All Star Management, Inc.	Circuit Court of Cook County, IL No. 19-CH-11575	9/02/2021 - Final Approval <b>\$5.85 mil</b>
Sanchez v. Visual Pak	Circuit Court of Cook County, IL No. 18-CH-02651	8/10/2021 - Final Approval <b>\$3.5 mil</b>
Ramos v. BOX Acquisitions, LLC	Circuit Court of Cook County, IL No. 20-CH-03887	8/05/2021 - Final Approval <b>\$1.38 mil</b>
Civcon Services, Inc. v. Accesso Services, LLC	Northern District of Illinois No. 20-cv-01821	7/08/2021 - Final Approval <b>\$500,000</b>
Van Jacobs v. New World Van Lines, Inc.	Circuit Court of Cook County, IL No. 19-CH-02619	7/07/2021 - Final Approval
Liu v. Four Seasons Hotels, Ltd.	Circuit Court of Cook County, IL No. 17-CH-14949	6/30/2021 - Final Approval <b>\$575,900</b>
Bedford v. Lifespace Communities, Inc.	Northern District of Illinois No. 20-cv-04574	5/12/2021 - Final Approval <b>\$987,850</b>





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## CASE

## COURT

## SETTLEMENT

Heard v. THC - Northshore, Inc.	Circuit Court of Cook County, IL No. 17-CH-16918	5/05/2021 - Final Approval <b>\$2.25mil</b>
Thome v. Novatime Technology, Inc.	Northern District of Illinois No. 19-cv-06256	3/08/2021 - Final Approval <b>\$14.1 mil</b>
Kusinski v. ADP, LLC	Circuit Court of Cook County, IL No. 17-CH-12364	2/10/2021 - Final Approval <b>\$25 mil</b>
Trayes v. Mid-Con Hospitality Group, LLC	Circuit Court of Cook County, IL No. 19-CH-11117	2/03/2021 - Final Approval <b>\$616,500</b>
Collier v. Pete's Fresh Market	Circuit Court of Cook County, IL No. 19-CH-05125	12/03/2020 - Final Approval <b>\$4.2 mil</b>
Bryant v. Loews Chicago Hotel, Inc.	Northern District of Illinois No. 19-cv-03195	10/30/2020 - Final Approval <b>\$1 mil</b>
Bigger v. Facebook, Inc.	Northern District of Illinois No. 17-cv-7753	10/22/2020 - Final Approval <b>\$1.6 mil</b>
Johns v. Club Fitness of Alton, LLC	Circuit Court of Madison County, IL No. 18-L-000080	10/13/2020 - Final Approval <b>\$750,000</b>
Bryski v. Nemera Buffalo Grove, LLC	Circuit Court of Cook County, IL No. 18-CH-07264	10/05/2020 - Final Approval
Thomas v. Kik Custom Products, Inc.	Circuit Court of Cook County, IL No. 19-CH-02471	9/30/2020 - Final Approval <b>\$1 mil</b>
Gauzza v. Prospect Medical Holdings, Inc.	Eastern District of Pennsylvania No. 20-cv-03599	9/15/2020 - Final Approval <b>\$1.9 mil</b>
Bradford v. Farmington Foods, Inc.	Circuit Court of Cook County, IL No. 19-CH-12888	8/17/2020 - Final Approval



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<u>CASE</u>	<u>COURT</u>	<u>SETTLEMENT</u>
Trottier v. Summit Staffing	Circuit Court of Cook County, IL No. 19-CH-02731	8/04/2020 - Final Approval <b>\$1mil</b>
Jackson v. A. Finkl & Sons, Co.	Circuit Court of Cook County, IL No. 2018-CH-07424	7/21/2020 - Final Approval
Thome v. Flexicorps. Inc.	Circuit Court of Cook County, IL No. 18-CH-01751	7/02/2020 - Final Approval <b>\$1 mil</b>
Goings v. Applied Acoustics	Circuit Court of Cook County, IL No. 17-CH-14954	6/02/2020 - Final Approval
Jones v. Santa Rosa Consulting, Inc.	Southern District of New York No. 18-cv-11005	5/26/2020 - Final Approval
Jones v. Encore Health Resources, LLC	Southern District of Texas No. 19-cv-03298	2/19/2020 - Final Approval
Potoski v. Wyoming Valley Health Care System	Middle District of Pennsylvania No. 11-cv-00582	1/14/2020 - Final Approval
Stewart v. First Transit, Inc.	Eastern District of Pennsylvania No. 18-cv-03768	12/30/2019 - Final Approval <b>\$1 mil</b>
Jordan v. Meridian Bank	Eastern District of Pennsylvania No. 17-cv-05251	12/19/2019 - Final Approval <b>\$1 mil</b>
George v. Schulte Hospitality Group, Inc.	Circuit Court of Cook County, IL No. 18-CH-04413	12/16/2019 - Final Approval <b>\$1 mil</b>
Edmond v. DPI Specialty Foods, Inc.	Circuit Court of Cook County, IL No. 18-CH-09573	11/18/2019 - Final Approval <b>\$500,000</b>
Watts v. Chicago Lakeshore Hospital	Circuit Court of Cook County, IL No. 17-CH-12756	11/13/2019 - Final Approval <b>\$858,000</b>



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## CASE

## COURT

## SETTLEMENT

Bey v. Walker HealthCare and; Pierce v. Encore Health Resources	Southern District of Texas No. 19-cv-00060 No. 18-cv-04736	9/19/2019 - Final Approval <b>\$2.4 mil</b>
Kuck v. Planet Home Lending, LLC	Eastern District of New York No. 17-cv-04769	9/13/2019 - Final Approval
Dixon v. The Washington & Jane Smith Home	Northern District of Illinois No. 17-cv-08033	8/20/2019 - Final Approval <b>\$1.35 mil</b>
Jones v. Chicago Bridge & Iron Company	Western District of North Carolina No. 17-cv-00424	8/06/2019 - Final Approval
Sharrieff v. Raymond Management Company	Circuit Court of Cook County, IL No. 18-CH-01496	8/01/2019 - Final Approval
Ostrander v. Customer Engineering Services, LLC	District Court of Colorado No. 15-cv-01476	3/25/2019 - Final Judgment
Davis v. Vanguard Home Care, LLC	Northern District of Illinois No. 16-cv-07277	3/22/19 – Final Approval
Goh v. NCR Corporation	American Arbitration Association No. 01-15-0004-0067	2/25/19 – Final Approval
Moseman v. U.S. Bank National Association	Western District of North Carolina No. 17-cv-00481	1/07/19 – Final Approval
Ivy v. Adventist Midwest Health	Northern District of Illinois No. 16-cv-7606	11/14/18 – Final Approval
Bhattacharya v. Capgemini	Northern District of Illinois No. 16-cv-07950	11/13/18 - Final Approval <b>\$990,000</b>



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<u>CASE</u>	<u>COURT</u>	<u>SETTLEMENT</u>
Carver v. Presence Health Network	Northern District of Illinois No. 15-cv-02905	7/10/18 – Final Approval <b>\$20mil</b>
Stapleton v. Advocate Health Care	Northern District of Illinois No. 14-cv-01873	6/27/18 – Final Approval
Brown v. Health Resource Solutions, Inc.	Northern District of Illinois No. 16-cv-10667	4/20/18 – Final Approval <b>\$900,000</b>
Eggleston v. USCC Services, LLC	Northern District of Illinois No. 16-cv-06775	2/16/18 – Final Approval <b>\$1.25mil</b>
Caison v. Sogeti USA, LLC	Northern District of Illinois No. 17-cv-2786	2/12/18 – Final Approval
Kaminski v. Bank of America, N.A.	Northern District of Illinois No. 16-cv-10844	2/15/18 – Final Approval <b>\$850,000</b>
Byrne v. Centegra Health System	Northern District of Illinois No. 17-cv-00018	1/29/18 – Final Approval
Donoghue v. Verizon Communications, Inc.	Eastern District of Pennsylvania No. 16-cv-4742	11/16/17 – Final Approval <b>\$800,000</b>
Tompkins v. Farmers Insurance Exchange	Eastern District of Pennsylvania No. 14-cv-3737	9/27/17 – Final Approval <b>\$775,000</b>
In re Sears Holdings Corporation Stockholder and Derivative Litigation	Court of Chancery of the State of Delaware, No. 11081-VCL	5/9/17 – Final Approval <b>\$40mil</b>
Oaks v. Sears	Northern District of Illinois No. 1:15-cv-11318	4/12/17 – Final Approval
Hauser v. Alexian Brothers Home Health	Northern District of Illinois No. 15-cv-6462	4/06/17 – Final Approval <b>\$1mil</b>



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<u>CASE</u>	<u>COURT</u>	<u>SETTLEMENT</u>
Leiner v. Johnson & Johnson	Northern District of Illinois No. 15-cv-5876	1/31/17 – Final Approval <b>\$5mil</b>
Reed v. Friendly's Ice Cream, LLC	Middle District of Pennsylvania No. 15-cv-00298	1/31/17 – Final Approval <b>\$3.5 mil</b>
McPhearson v. 33 Management	Circuit Court of Cook County, IL No. 15-CH-17302	11/3/16 – Final Approval
Cook v. Bank of America	Northern District of Illinois No. 15-cv-07718	8/2/16 – Final Approval <b>\$3.25 mil</b>
Lukas v. Advocate Health Care	Northern District of Illinois No. 14-cv-2740	6/29/16 – Final Approval <b>\$4.75mil</b>
Kurgan v. Chiro One Wellness Centers, LLC	Northern District of Illinois No. 10-cv-1899	4/27/16 – Final Approval
Heba v. Comcast	First Judicial District of Pennsylvania Court of Common Pleas, No. 12-471	4/06/16 – Final Approval
Johnson v. Casey's General Stores, Inc.	Western District of Missouri No. 15-cv-3086	3/03/16 – Final Approval <b>\$500,000</b>
Fields v. Bancsource, Inc.	Northern District of Illinois No. 14-cv-7202	2/03/16 – Final Approval
Elder v. Comcast Corporation	Northern District of Illinois No. 12-cv-1157	1/11/16 – Final Approval <b>\$700,000</b>
Posada v. Continental Home Loans, Inc.	Eastern District of New York 15-cv-4203	1/13/16 - Final Approval
Struett v. Susquehanna Bank	Eastern District of Pennsylvania No. 15-cv-176	10/27/15 – Final Approval



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<u>CASE</u>	<u>COURT</u>	<u>SETTLEMENT</u>
Faust v. Comcast Corporation	District Court of Maryland No. 10-cv-2336	10/11/15 - Final Approval
Butler v. DirectSat USA, LLC	District Court of Maryland No. 10-cv-02747	9/03/15 - Final Approval
Sosnicki v. Continental Home Loans, Inc.	Eastern District of New York No. 12-cv-1130	7/30/15 - Final Approval
Bordell v. Geisinger Medical Center	Northumberland Court of Common Pleas, No. 12-cv-1688	4/8/15 – Final Approval
Harvey v. AB Electrolux	Northern District of Iowa No. 11-cv-3036	3/23/15 – Final Approval
Price v. NCR Corporation	American Arbitration Association No. 51-610-908-12	3/18/15 – Final Approval <b>\$2.95 mil</b>
Frebes v. Mask Restaurants, LLC	Northern District of Illinois No. 13-cv-3473	1/15/15 – Final Approval
Jones v. Judge Technical Services Inc.	Eastern District of Pennsylvania No. 11-cv-6910	12/15/14 – Final Approval <b>\$1.22 mil</b>
Howard v. Securitas Security Services USA, Inc., and; Hawkins v. Securitas Security Services USA, Inc.	Northern District of Illinois No. 08-cv-2746 and; No. 09-cv-3633	5/7/14 – Final Approval
Thomas v. Matrix Corporation Services	Northern District of Illinois No. 10-cv-5093	2/12/14 – Final Approval
Sexton v. Franklin First Financial	Eastern District of New York No. 08-cv-04950	9/30/13 – Final Approval



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<u>CASE</u>	<u>COURT</u>	<u>SETTLEMENT</u>
Outlaw v. Secure Health, L.P.	Eastern District of Pennsylvania No. 11-cv-602	9/24/13 – Final Approval
Robinson v. RCN Telecom Services, Inc.	Eastern District of Pennsylvania No. 10-cv-6841	8/5/13 – Final Approval
Holland v. Securitas Security Services USA, Inc.	Superior Court of California, County of Los Angeles, No. BC 394708	7/26/13- Final Approval
Ord v. First National Bank of Pennsylvania	Western District of Pennsylvania No. 12-cv-766	6/21/13 – Final Approval <b>\$3mil</b>
Holley v. Erickson Living Management, LLC	Eastern District of Pennsylvania No. 11-cv-2444	6/13/13 – Final Approval
Hansen v. Per Mar Security Services	Southern District of Iowa No. 09-cv-459	5/15/13 - Final Approval
Pomphrett v. American Home Bank	Eastern District of Pennsylvania No. 12-cv-2511	3/14/13 – Final Approval <b>\$2.4 mil</b>
Glatts v. Crozer-Keystone Health System	Philadelphia Court of Common Pleas, No. 0904-1314	2/06/13 – Final Approval <b>\$1.2 mil</b>
Chambers v. Front Range Environmental, LLC	Northern District of Illinois No. 12-cv-891	1/23/13 - Final Approval
Searson v. Concord Mortgage Corporation	Eastern District of New York No. 07-cv-3909	11/19/12 - Final Approval
Ellenbecker v. North Star Cable Construction, Inc.	Northern District of Illinois No. 09-cv-7293	11/14/12 - Final Approval
Williams v. Securitas Security Services USA, Inc.	Eastern District of Pennsylvania No. 10-cv-7181	11/08/12 - Final Approval



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<u>CASE</u>	<u>COURT</u>	<u>SETTLEMENT</u>
Molyneux v. Securitas Security Services USA, Inc.	Southern District of Iowa No. 10-cv-588	11/05/12 - Final Approval
Kernats v. Comcast Corporation	Northern District of Illinois No. 09-cv-3368	5/28/12 - Final Approval
Petersen v. Marsh USA, Inc.	Northern District of Illinois No. 10-cv-1506	9/21/11 - Final Approval
Thompson v. World Alliance Financial Corp.	Eastern District of New York No. 08-cv-4951	8/05/11 - Final Approval
Harris v. Cheddar's Casual Cafe, Inc.	American Arbitration Association No. 51 460 00557 10	6/1/11 - Final Approval
Turner v. Mercy Health System	Philadelphia Court of Common Pleas, No. 0801-3670	4/20/11 - Final Approval <b>\$2.75 mil</b>
Cedeno v. Home Mortgage Desk, Corp.	Eastern District of New York No. 08-cv-1168	6/15/10 - Final Approval
Perkins v. Specialty Construction Brands, Inc.	Northern District of Illinois No. 09-cv-1678	11/15/09 - Final Approval
Wineland v. Casey's General Stores, Inc.	Southern District of Iowa No. 08-cv-00020	10/22/09 - Final Approval
Jones v. Casey's General Stores, Inc.	Southern District of Iowa No. 07-cv-400	10/22/09 - Final Approval
Stuart v. College Park	Circuit Court of Cook County, IL No. 05-CH-09699	12/11/07 - Final Approval
Huebner v. Graham C Stores	Circuit Court of Cook County, IL No. 06-CH-09695	11/15/07 - Final Approval





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<u>CASE</u>	<u>COURT</u>	<u>SETTLEMENT</u>
Perez v. RadioShack Corporation	Northern District of Illinois No. 02-cv-7884	9/14/07 - Final Approval <b>\$9 mil</b>
Reinsmith v. Castlepoint Mortgage	District Court of Massachusetts No. 05-cv-01168	4/3/07 - Final Approval
Kutcher v. B&A Associates	Circuit Court of Cook County, IL No. 03-CH-07610	11/20/06 - Final Approval
Ciesla v. Lucent Technologies, Inc.	Northern District of Illinois No. 05-cv-1641	7/31/06 - Final Approval
Casale v. Provident Bank	District Court of New Jersey No. 04-cv-2009	7/25/05 - Final Approval
Corbin v. Barry Realty	Circuit Court of Cook County, IL No. 02-CH-16003	3/22/05 - Final Approval



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## Biometric Information Privacy Class Action Lawsuits

Our firm is at the forefront of BIPA litigation to protect the biometric data and privacy of employees and consumers. We have brought numerous class action lawsuits against employers and other retail businesses who have collected biometric data without consent and without instituting the proper safeguards including:

### CASE

### COURT

Ala v. U.S. Acrylic, LLC	Circuit Court of Lake County, Illinois, No. 2022-CH-0000069
Alderman v. The Kroger Co.	Circuit Court of Williamson County, Illinois, No. 2021-L-21
Alquero v. Grand Victoria Riverboat Casino	Circuit Court of Cook County, Illinois, No. 2019-CH-09603
Andere v. Amita Health Adventist Medical Center Bolingbrook	Circuit Court of Will County, Illinois, No. 2021-L-000893
Anthony v. Towneplace Suites	Circuit Court of Cook County, Illinois, No. 2021-CH-05389
Arnold v. Roundy's Supermarkets, Inc.	Circuit Court of Cook County, Illinois, No. 2020-CH-05622
Arroyo v. OTO Development, LLC	Circuit Court of Cook County, Illinois, No. 2020-CH-07170
Ayala v. American Louver Company	Circuit Court of Cook County, Illinois, No. 2019-CH-04163
Blunt v. G2K Logistics, LLC	Circuit Court of Cook County, Illinois, No. 2022-CH-01637
Bowens v. SMASHotels	Circuit Court of Cook County, Illinois, No. 2022-CH-08312
Boyd v. Lazer Spot, Inc.	Northern District of Illinois, No. 2021-cv-08173
Brammer v. Ava Inc.	Circuit Court of Cook County, Illinois, No. 2019-CH-07379
Bray v. Lathem Time Co.	Northern District of Georgia, 2022-cv-01748



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## CASE

Buford v. GDI Services, Inc.  
Burt v. Anixter Inc.  
Cameron v. Polar Tech Industries, Inc.  
Campos v. City View Multicare Center, LLC  
Campos v. Midwest Time Recorder, Inc.  
Cervantes v. Grant Park Packing Co., Inc.  
Chatman v. Crate and Barrel  
Clow v. Sygma Network Inc.  
Coleman v. Greenwood Hospitality Management, LLC  
Cosenza v. DiNico's Pizza  
Cothron v. White Castle  
Crowden v. Silver Cross Hospitals & Medical Centers  
Currie v. McDonald's  
Davis v. Wirco, Inc.  
Doporcyk v. Mariano's  
Dowell v. Springfield Memorial Hospital, et al.

## COURT

Circuit Court of Cook County, Illinois, No. 2020-CH-05007  
Circuit Court of Cook County, Illinois, No. 2019-CH-04569  
Circuit Court of DeKalb County, Illinois, No. 2019-CH-000013  
Circuit Court of Cook County, Illinois, No. 2019-CH-07082  
Circuit Court of Cook County, Illinois, No. 2019-CH-07229  
Circuit Court of Cook County, Illinois, No. 2022-CH-07020  
Circuit Court of Cook County, Illinois, No. 2018-CH-09277  
Circuit Court of Vermilion County, Illinois, No. 2022-LA-000004  
Northern District of Illinois, No. 2021-cv-00806  
Circuit Court of Cook County, Illinois, No. 2020-CH-00614  
Northern District of Illinois, No. 2019-cv-00382  
Circuit Court of Will County, Illinois, No. 2022-CH-0063  
Circuit Court of Lake County, Illinois, 2020-CH-0467  
Central District of Illinois, No. 2021-cv-02279  
Circuit Court of Cook County, Illinois, No. 2017-CH-08092  
Circuit Court of Sangamon County, Illinois, No. 2022-LA-134



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## CASE

Duarte v. Vanee Foods Company  
Ebert v. Eclipse Advantage, LLC  
Ebert v. Total Staffing Solutions, Inc.  
Fields v. Abra Auto Body & Glass  
Figueroa v. Kronos, Inc.  
Figueroa v. Tony's Fresh Market  
Finley v. Clark Manor  
Fisher v. HP Property Management, LLC  
Francois v. South Shore Hospital, Corp.  
Francois v. Swipeclock, LLC  
Fuentes v. Focal Point Exports, LTD  
Fulton v. SCR Medical Transport, Inc.  
Garriott v. Food Movers Two Limited Partnership  
George v. Bricton 191 Associates, LLC  
Goings v. UGN, Inc.  
Gorgas v. Amazon.com, Inc. et al.

## COURT

Circuit Court of Cook County, Illinois, No. 2021-CH-01318  
Circuit Court of Grundy County, Illinois, No. 2020-L-53  
Circuit Court of Cook County, Illinois, No. 2021-CH-04338  
Circuit Court of Cook County, Illinois, No. 2017-CH-12271  
Northern District of Illinois, No. 2019-cv-01306  
Circuit Court of Cook County, Illinois, No. 2018-CH-15728  
Circuit Court of Cook County, Illinois, No. 2020-CH-07265  
Circuit Court of Cook County, Illinois, No. 2019-CH-14082  
Circuit Court of Cook County, Illinois, No. 2021-CH-02564  
Circuit Court of Cook County, Illinois, No. 2022-CH-01041  
Circuit Court of Cook County, Illinois, No. 2019-CH-03890  
Circuit Court of Cook County, Illinois, No. 2020-CH-00927  
Circuit Court of Cook County, Illinois, No. 2020-CH-07030  
Circuit Court of Cook County, Illinois, No. 2019-CH-04014  
Circuit Court of Cook County, Illinois, No. 2017-CH-14954  
Northern District of Illinois, No. 2022-cv-05159



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## CASE

Heard v. Becton, Dickinson & Company

Heard v. Omnicell, Inc.

Heard v. St. Bernard Hospital

Heard v. Weiss Memorial Hospital  
Foundation

Hogan v. Amazon.com, Inc.

Howe v. Speedway, LLC

Ibarra v. Prospera, LLC

Ingram v. LSL Healthcare

Johns v. Paycor, Inc.

Johnson v. Gold Standard Baking, Inc.

Johnson v. Food 4 Less

Johnson v. NCR

Johnson v. Thermoflex

Kardos v. ABT Electronics, Inc.

Keene v. Plymouth Place, Inc.

Kelley v. Chicago Behavioral Hospital

## COURT

Northern District of Illinois, No. 2019-cv-4158

Circuit Court of Cook County, Illinois, No. 2019-CH-06817

Circuit Court of Cook County, Illinois, No. 2017-CH-16828

Circuit Court of Cook County, Illinois, No. 2019-CH-06763

Northern District of Illinois, No. 2021-cv-3169

Northern District of Illinois, No. 2019-cv-01374

Northern District of Illinois, No. 2020-cv-07015

Circuit Court of Cook County, Illinois, No. 2021-CH-00220

Northern District of Illinois, No. 2020-cv-00264

Circuit Court of Cook County, Illinois, No. 2018-CH-09011

Northern District of Illinois, No. 2022-cv-02409

Circuit Court of Cook County, Illinois, No. 2022-CH-04265

Circuit Court of Cook County, Illinois, No. 2020-CH-00000479

Circuit Court of Cook County, Illinois, No. 2019-CH-01235

Circuit Court of Cook County, Illinois, No. 2019-CH-01953

Circuit Court of Cook County, Illinois, No. 2020-CH-03302



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## CASE

King v. Garfield Park Hospital, LLC  
Krause v. Caputo's New Farm Produce  
Landa v. Menasha Packaging Co., LLC  
Landa v. MJ Holding Company, LLC  
Lawrence v. McLane/Midwest, Inc.  
Lopez v. Metraflex  
Loving v. Belhaven Nursing & Rehabilitation Center, LLC  
Lyons v. Harri (US), LLC  
Marquez v. North Riverside Golf Club  
Mazya v. Northwestern Lake Forest Hospital  
McAdams v. Design Toscano, Inc.  
McGraw v. Lakeshore Beverage  
Measaw v. Heritage Operations Group, LLC  
Meegan v. NFI Industries, Inc.  
Mendenhall v. Burger King  
Michaels v. Continental Nursing and Rehabilitation Center, LLC

## COURT

Circuit Court of Cook County, Illinois, No. 2020-CH-00056  
Circuit Court of Cook County, Illinois, No. 2018-Ch-11660  
Circuit Court of Cook County, Illinois, No. 2020-CH-05251  
Circuit Court of Cook County, Illinois, No. 2020-CH-05247  
Circuit Court of Vermilion County, Illinois, No. 2021-L-000061  
Circuit Court of Cook County, Illinois, No. 2020-CH-05354  
Circuit Court of Cook County, Illinois, No. 2020-CH-04176  
Circuit Court of Cook County, Illinois, No. 2022-CH-03207  
Circuit Court of Cook County, Illinois, No. 2020-CH-05895  
Circuit Court of Cook County, Illinois, No. 2018-CH-07161  
Circuit Court of Cook County, Illinois, No. 2022-CH-05387  
Circuit Court of Cook County, Illinois, No. 2020-CH-00343  
Circuit Court of Cook County, Illinois, No. 2019-CH-08321  
Northern District of Illinois, No. 2020-cv-00465  
Circuit Court of Cook County, Illinois, No. 2019-CH-10636  
Circuit Court of Cook County, Illinois, No. 2022-CH-02591



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## CASE

Michaels v. Infinity Healthcare  
Management of Illinois, LLC

Mitchell v. Bottled Blonde Chicago, LLC

Mitchell v. Electrolux Home Products, et al.

Molina v. Mercyhealth System, Corp.

Morgan v. Ruler Foods, Inc.

Morris v. Nextep Systems, Inc.

Morris v. Wow Bao, LLC

Mosby v. The Ingalls Memorial Hospital

Nordstrom v. Dial Senior Management,  
Inc.

Nosal v. Rich Products Corporation

Peaks-Smith v. Saint Anthony Hospital

Peoples v. Wheaton Village Nursing and  
Rehabilitation Center, LLC

Pruitt v. Par-A-Dice Hotel Casino

Purnell v. Pure's Food Specialties, LLC

Quentere v. G.H. Cretors

Quentere v. Staffing Network, LLC

## COURT

Circuit Court Cook County, Illinois, No. 2021-CH-05859

Northern District of Illinois, No. 2020-cv-06460

Circuit Court of Cook County, Illinois, No. 2022-CH-08926

Circuit Court of Winnebago County, Illinois, No. 2020-L-0000286

Southern District of Illinois, No. 2020-cv-01270

Northern District of Illinois, No. 2021-cv-2404

Circuit Court of Cook County, Illinois, No. 2017-CH-12029

Circuit Court of Cook County, Illinois, No. 2018-CH-05031

Northern District of Illinois, No. 2019-cv-07183

Northern District of Illinois, No. 2020-cv-4972

Circuit Court of Cook County, Illinois, No. 2018-CH-07077

Circuit Court of DuPage County, Illinois, No. 2021-L-001234

Central District of Illinois, No. 2020-cv-01084

Circuit Court of Lake County, Illinois, No. 2021-CH-00991

Northern District of Illinois, No. 2020-cv-07306

Circuit Court of Lake County, Illinois, No. 2020-CH-00000654



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## CASE

Quentere v. Tablecraft Product Company

Ramsey Daley's Medical Transportation, Inc.

Redd v. Amazon, Inc.

Redd v. Amazon Web Services, Inc.

Robinson v. Taco Bell

Rogers v. Thorek Memorial Hospital

Sanchez v. Elite Labor Services

Sanchez v. Tide Cleaners

Seaton v. Atos Healthcare Services, LLC

Severinsen v. Menard, Inc.

Shird v. Snipes

Taitts v. Elior, Inc.

In Re: TikTok, Inc., Consumer Privacy Litigation

Taitts v. Elior, Inc.

Thome v. Axis Insurance Company

Thornton v. Generations at Peoria, LLC

Tims v. Black Horse Carriers, Inc.

## COURT

Circuit Court of Lake County, Illinois, No. 2020-CH-00000493

Circuit Court of Cook County, Illinois, No. 2018-CH-01935

Northern District of Illinois, No. 2020-cv-06485

Circuit Court of Cook County, Illinois, No. 2022-CH-08721

Circuit Court of Cook County, Illinois, No. 2022-CH-04364

Circuit Court of Cook County, Illinois, No. 2021-CH-02304

Circuit Court of Cook County, Illinois, No. 2018-CH-02651

Circuit Court of Cook County, Illinois, No. 2020-CH-02640

Circuit Court of Cook County, Illinois, No. 2021-CH-00611

Circuit Court of Peoria County, Illinois, No. 2022-CH-0000009

Circuit Court of Cook County, Illinois, No. 2022-CH-05329

Circuit Court of Cook County, Illinois, No. 2020-CH-03664

Northern District of Illinois, No. 2020-cv-04699

Circuit Court of Cook County, Illinois, No. 2020-CH-03664

Circuit Court of Cook County, Illinois, No. 2021-CH-03259

Circuit Court of Cook County, Illinois, No. 2021-CH-03481

Circuit Court of Cook County, Illinois, No. 2019-CH-03522





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## CASE

## COURT

Townsend v. The Estates of Hyde Park, LLC	Circuit Court of Cook County, Illinois, No. 2019-CH-11849
Treadwell v. Power Solutions International, Inc.	Northern District of Illinois, No. 2018-cv-08212
Trinidad v. Bridgeview Advisors, LLC	Circuit Court of Cook County, Illinois, No. 2020-CH-06600
Trio v. Turing Video, Inc.	Circuit Court of Cook County, Illinois, No. 2021-CH-03264
Trottier v. Attendance Demand, Inc.	Circuit Court of Cook County, Illinois, No. 2019-CH-13230
Valenzuela v. Reliable Staffing Services, Inc.	Circuit Court of Cook County, Illinois, No. 2020-CH-06632
Walker v. Pet Supplies Plus	Circuit Court of Cook County, Illinois, No. 2021-CH-03851
Walton v. Roosevelt University	Circuit Court of Cook County, Illinois, No. 2019-CH-04176
Webster v. South Holland Home, LLC	Circuit Court of Cook County, Illinois, No. 2019-CH-12365
Webster v. Triad Senior Living, Inc.	Circuit Court of Cook County, Illinois, No. 2019-CH-10787
Webster v. Windsor Estates Nursing & Rehab Centre, LLC	Circuit Court of Cook County, Illinois, No. 2019-CH-11441
Wheeler v. EMCO Chemical Distributors, Inc.	Circuit Court of Cook County, Illinois, No. 2021-CH-05597
Wheeler v. Ridgeview Rehab & Nursing Center, LLC	Circuit Court of Cook County, Illinois, No. 2019-CH-14577
Williams v. Wing Stop	Circuit Court of Cook County, Illinois, No. 2022-CH-00326
Wilson v. Magna Exteriors Belvidere	Circuit Court of Boone County, Illinois, No. 2020-L-0039
Young v. International Precision Components Corp.	Circuit Court of Lake County, Illinois, No. 2020-CH-00000521
Young v. Taylor Farms Illinois, Inc.	Circuit Court of Cook County, Illinois, No. 2020-CH-05284

# EXHIBIT 3

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

REGINA MORRIS, individually, and on	)	
behalf of all others similarly situated,	)	
	)	
Plaintiff,	)	
	)	Case No. 1:21-cv-02404
v.	)	
	)	Honorable Judge Steven C. Seeger
NEXTEP SYSTEMS, INC.,	)	
	)	
Defendant.	)	

**ORDER GRANTING PRELIMINARY APPROVAL OF CLASS ACTION  
SETTLEMENT AGREEMENT, CERTIFYING SETTLEMENT CLASS, APPOINTING  
CLASS REPRESENTATIVE, APPOINTING CLASS COUNSEL, AND APPROVING  
NOTICE PLAN**

This matter having come before the Court on the Plaintiff’s Unopposed Motion for and Memorandum in Support of Preliminary Approval of Class Action Settlement (the “Motion”), the Court having reviewed in detail and considered the Motion, the Class Action Settlement Agreement and Release (“Settlement Agreement”) between Regina Morris (“Plaintiff”) and Defendant Nextep Systems, Inc. (“Defendant”) (together, the “Parties”), and all other papers that have been filed with the Court related to the Settlement Agreement, including all exhibits and attachments to the Motion and the Settlement Agreement, good cause being shown, and the Court being fully advised in the premises,

**IT IS HEREBY ORDERED, DECREED, AND ADJUDGED AS FOLLOWS:**

1. Capitalized terms used in this Order that are not otherwise defined herein have the same meaning assigned to them as in the Settlement Agreement.
2. Plaintiff has moved the Court for an order preliminary approving the settlement of the Action in accordance with the Settlement Agreement, which, together with the documents

incorporated therein, sets for the terms and conditions for a proposed settlement of the Action. The Court having read and considered the Settlement Agreement, hereby preliminarily approves the Settlement Agreement in its entirety subject to the Final Approval Hearing referred to in this Order, certifies the Settlement Class defined below, appoints Class Counsel and the Class Representative, and approves the Notice plan.

**Certification of the Settlement Class**

3. For purposes of settlement only, the Court certifies the following Settlement Class as defined in the Settlement Agreement:

All individuals, including Named Plaintiff, in the State of Illinois who used facial recognition at an ordering kiosk sold by Nextep at a Wow Bao store, including, but not necessarily limited to (1) 835 North Michigan Avenue, (2) 1 West Wacker Blvd, (3) 225 North Michigan Avenue, from March 9, 2016, through [date of preliminary approval].

4. Excluded from the Settlement Class are (1) the Court and members of their families; (2) persons who properly execute and file a timely request for exclusion from the Class; and (3) persons whose claims in this matter have been finally adjudicated on the merits or otherwise released.

5. The Court finds, subject to the Final Approval Hearing referred to below, that the Settlement Agreement is fundamentally fair, adequate, and reasonable, and, for the purposes of settlement only, that the Settlement Class satisfies the requirements of Rule 23 of the Federal Rules of Civil Procedure, specifically, that: the Settlement Class is so numerous that joinder of all members is impracticable; there are questions of fact and law common to the Settlement Class; Plaintiff's claims are typical of the claims of the members of the Settlement Class; Plaintiff and Class Counsel will fairly and adequately protect the interests of the members of the Settlement Class; common questions of law and fact predominate over questions affecting individual

members; and a class action is a superior method for fairly and efficiently adjudicating the Action.

**Preliminary Approval of Settlement**

6. For settlement purposes only, Ryan F. Stephan, James B. Zouras, and Andrew C. Ficzek of Stephan Zouras, LLP, are appointed Class Counsel for the Settlement Class, and Regina Morris is named Class Representative of the Settlement Class. The Court finds that these attorneys are competent of exercising the responsibilities of Class Counsel and that Plaintiff Regina Morris will adequately protect the interests of the Settlement Class defined above.

7. The Court finds that, subject to the Final Approval Hearing, the Settlement Agreement is fair, reasonable, and adequate, is likely to be approved under Federal Rule of Civil Procedure 23(e)(2) and is in the best interests of the Settlement Class set forth above. The Court further finds that the Settlement Agreement substantially fulfills the purposes and objective of the class action and provides substantial relief to the Settlement Class without the risks, burdens, costs, or delay associated with continued litigation, trial, and/or appeal. The Court also finds that the Settlement Agreement (a) is the result of arm's-length negotiations between experienced class action attorneys; (b) is sufficient to warrant notice of the settlement and the Final Approval Hearing to be disseminated to the Settlement Class; (c) meets all applicable requirements of law, including Federal Rule Civil Procedure 23, and (d) is not a finding or admission of liability by the Defendant or any other parties.

**Notice and Administration**

8. The Court approves, as to form, content, and distribution, the Notice plan, Claim Form, and forms and methods of distribution of Notice to the Settlement Class as set forth in the Settlement Agreement and Exhibit A and (group) Exhibit B thereto, and finds that such Notice is the best notice practicable under the circumstances, and that the Notice complies fully with the

requirements of the Federal Rules of Civil Procedure. The Court also finds that the Notice constitutes valid, due and sufficient notice to all persons entitled thereto, and meets the requirements of Due Process. The Court further finds that the Notice is reasonably calculated, under all circumstances, to apprise members of the Settlement Class of the pendency of this Action, the terms of the Settlement Agreement, and the right to object to the settlement and to exclude themselves from the Settlement Class. The parties, by agreement, may revise the Notice in ways that are not material, or in ways that are appropriate to update those documents for purposes of accuracy or formatting for publication.

9. The Court approves the request for appointment of CPT Group as the Settlement Administrator under the Settlement Agreement. The Settlement Administrator is vested with authority to carry out the Notice process as set forth in the Settlement Agreement.

10. The distribution of Notice as set forth in the Settlement Agreement shall proceed. The Settlement Administrator shall also maintain the Settlement Website to provide full information about the Settlement online.

11. The Settlement Administrator is directed to disseminate Notice to the Settlement Class no later than fourteen (14) calendar days after entry of this Preliminary Approval Order.

**Exclusion**

12. Any person within the Settlement Class may request exclusion from the Settlement Class by expressly stating his/her request in a written exclusion request as described in the Notice to the Settlement Class attached to the Settlement Agreement as (group) Exhibit B and on the Settlement Website. Such exclusion requests must be received by or postmarked for return to the Settlement Administrator no later than Objection/Exclusion Deadline or forty-five (45) calendar days after Notice is disseminated.

13. In order to exercise the right to be excluded, a Settlement Class Member must timely send a written request for exclusion to the Settlement Administrator providing the Settlement Class Member's name, address and telephone number; a signature; the name and number of the case; and a statement that he or she wishes to be excluded from the Settlement Class. Any request for exclusion submitted via first class mail must be personally signed by the Class Member requesting exclusion. No person within the Settlement Class, or any person acting on behalf of, in concert with, or in participation with that person within the Settlement Class, may request exclusion from the Settlement Class of any other person within the Settlement Class. The Settlement Administrator shall also create a dedicated e-mail address to receive exclusion requests electronically, which must be received on or before the Objection/Exclusion Deadline to be valid.

14. Any person in the Settlement Class who elects to be excluded shall not: (i) be bound by any orders or the Final Approval Order; (ii) be entitled to relief under the Settlement Agreement; (iii) gain any rights by virtue of this Settlement Agreement; or (iv) be entitled to object to any aspect of the Settlement Agreement. A Settlement Class Member who requests to be excluded from the Settlement Class cannot also object to the Settlement Agreement.

### **Objections**

15. Any Settlement Class Member who has not requested exclusion from the Settlement Class and who wishes to object to any aspect of the Settlement Agreement, including the amount of the attorneys' fees, costs, and expenses that Class Counsel intends to seek and the payment of the Service Award to the Class Representative, may do so, either personally or through an attorney, by filing a written objection, together with the supporting documentation set forth below in Paragraph 16 of this Preliminary Approval Order, with the Court, and served upon Class Counsel, Defendant's Counsel, and the Settlement Administrator no later than the

Objection/Exclusion Deadline.

16. Any Settlement Class Member who has not requested exclusion and who intends to object to the Settlement must file a timely written statement of objection with the Court and mail a copy of that objection with the requisite postmark to the Settlement Administrator, Class Counsel, and Defendant's Counsel, stating all objections and the basis for any such objection(s), and must also state in writing: (a) his/her full name, address, telephone number, and email address; (b) the case name and number of this Action; (c) all grounds for the objection, with factual and legal support for the stated objection, including any supporting materials; (d) the identification of any other objections he/she has filed, or has had filed on his/her behalf, in any other class action cases; (e) a statement of whether he or she is represented by counsel and, if so, a list of all objections filed by that counsel; (f) a statement of whether the Settlement Class Member intends to appear at the Final Approval Hearing with or without counsel; and (g) the objector's signature. If represented by counsel, the objecting Settlement Class Member must also provide the name, address, and telephone number of his/her counsel. If the objecting Settlement Class Member intends to appear at the Final Approval Hearing, either with or without counsel, he/she must state as such in the written objection, and must also identify in the written objection any witnesses he/she may seek to call to testify at the Final Approval Hearing and all exhibits he/she intends to seek to introduce into evidence at the Final Approval Hearing, which must also be attached to, or included with, the written objection. Objections not filed and served in accordance with this Preliminary Approval Order shall not be received or considered by the Court. Any Settlement Class Member who fails to timely file and serve a written objection in accordance with this Preliminary Approval Order shall be deemed to have waived, and shall be forever foreclosed from raising, any objection to the Settlement, to the fairness, reasonableness, or adequacy of the Settlement, to the payment of



attorneys' fees, costs, and expenses, to the payment of the Service Award, and to the Final Approval Order and the right to appeal same.

17. No Settlement Class Member shall be entitled to be heard, and no objection shall be considered, unless the requirements set forth in this Preliminary Approval Order and in the Settlement Agreement are fully satisfied. Any Settlement Class Member who does not make his or her objection to the Settlement in the manner provided herein, or who does not also timely provide copies to the Settlement Administrator and designated counsel of record, shall be deemed to have waived any such objection by appeal, collateral attack, or otherwise, and shall be bound by the Settlement Agreement, the releases contained therein, and all aspects of the Final Approval Order.

### **Final Approval Hearing**

18. All papers in support of the final approval of the proposed Settlement, including papers Class Counsel intends to file in support of their Fee Award and the Class Representative's Service Award (collectively, the "Fee Petition"), shall be filed no later than seven (7) calendar days before the Final Approval Hearing.

19. The Final Approval Hearing shall be held before this Court on **XX**, 2023, at **XX** [approximately one hundred twenty (120) days after entry of the Preliminary Approval Order] to determine (a) whether the proposed settlement of the Action on the terms and conditions provided for in the Settlement Agreement is fair, reasonable, and adequate and should be given final approval by the Court; (b) whether a judgment and order of dismissal with prejudice should be entered; (c) whether to approve the payment of attorneys' fees and expenses to Class Counsel; and (d) whether to approve the payment of a Service Award to the Class Representative.

20. The Final Approval Hearing may be postponed, adjourned, transferred, or

continued by order of the Court without further notice to the Settlement Class. At or following the Final Approval Hearing, the Court may enter a judgment approving the Settlement Agreement and a Final Approval Order in accordance with the Settlement Agreement that adjudicates the rights of all Settlement Class Members.

21. Settlement Class Members do not need to appear at the Final Approval Hearing.

22. All proceedings in the Action as between Plaintiff and Defendant are stayed and suspended until further order of the Court except such actions as may be necessary to implement the Settlement Agreement and this Preliminary Approval Order.

**IT IS SO ORDERED.**

ENTERED: \_\_\_\_\_

\_\_\_\_\_  
Judge Steven C. Seeger  
United States District Court