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Cook County, IL

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IRIS Y. MARTINEZ
CIRCUIT CLERK
COOK COUNTY, IL
2021CH01125

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

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

12509581

Plaintiff,)

Case No.

v.)

2021CH01125

NEXTEP SYSTEMS, INC.,)

Defendant.)

CLASS ACTION COMPLAINT

Plaintiff Regina Morris (“Morris” or “Plaintiff”), individually and on behalf of all others similarly situated (the “Class”), brings this Class Action Complaint (“Complaint”) pursuant to the Illinois Code of Civil Procedure, 735 ILCS §§ 5/2-801 and 2-802, against Defendant Nextep Systems, Inc. (“Nextep” or “Defendant”), its parents and subsidiaries, to redress and curtail its unlawful collection, use, storage, disclosure, and dissemination of Plaintiff’s sensitive and proprietary biometric data. Plaintiff alleges as follows upon personal knowledge as to herself and her own acts and experiences and, as to all other matters, upon information and belief, including investigation conducted by her attorneys.

NATURE OF THE ACTION

1. Defendant Nextep is a leading provider of hospitality technology and is best known for providing thousands of businesses with self-ordering products and services.
2. In an effort to provide faster checkouts, higher sales volume and bigger check totals, Nextep encourages its customers to use a biometric tracking system through its self-order kiosks that uses individuals’ facial geometry as a means of authentication for food and beverage

FILED DATE: 3/9/2021 4:32 PM 2021CH01125

FILED DATE: 3/9/2021 4:32 PM 2021CH01125

purchases.

3. Although there may be benefits to using biometric mechanisms, there are also serious risks. Unlike other private information such as a social security number – which can be changed or replaced if stolen or compromised – scans of facial geometry are unique, permanent biometric identifiers associated with an individual. These biometrics are biologically unique to the individual; therefore, once compromised, the individual has no recourse and is at a heightened risk for identity theft. This exposes individuals to serious and irreversible privacy risks. For example, if a biometric database is hacked, breached, or otherwise exposed, individuals have no means to prevent the misappropriation and theft of their own biometric makeup.

4. Recognizing the need to protect its citizens from situations like these, Illinois enacted the Biometric Information Privacy Act (“BIPA”), 740 ILCS 14/1, *et seq.*, specifically to regulate the collection, use, safeguarding, handling, storage, retention, and destruction of biometric identifiers and information.

5. Notwithstanding the clear and unequivocal requirements of the law, Defendant disregards individuals’ statutorily protected privacy rights and unlawfully collects, stores, uses, and disseminates their biometric data in direct violation of BIPA. Specifically, Nextep has violated and continues to violate BIPA because it failed and continues to fail to:

- Properly inform Plaintiff and others similarly situated in writing that biometric identifiers and/or biometric information are being collected, obtained, or stored, as required by BIPA;
- Properly inform Plaintiff and others similarly situated in writing of the specific purpose(s) and length of time for which their biometric identifiers and/or biometric information were being collected, obtained, stored, and used, as required by BIPA;
- Develop and adhere to a publicly available retention schedule and guidelines for permanently destroying Plaintiff’s and other similarly situated users’ biometric identifiers and/or biometric information, as required by BIPA;

FILED DATE: 3/9/2021 4:32 PM 2021CH01125

- Obtain a written release from Plaintiff and others similarly situated to collect, store, use, or otherwise obtain their biometric identifiers and/or biometric information, as required by BIPA; and
 - Obtain consent from Plaintiff and others similarly situated to disclose, redisclose, or otherwise disseminate their facial geometry scans and/or other biometric identifiers or biometric information to a third party, as required by BIPA.
6. Accordingly, Plaintiff, on behalf of herself as well as the putative Class, seeks an Order: (i) declaring that Nextep’s conduct violates BIPA; (ii) requiring Nextep to cease the unlawful activities discussed herein; and (iii) awarding statutory damages to Plaintiff and the proposed Class.

PARTIES

7. Plaintiff Regina Morris is a natural person and at all relevant times was a resident of the State of Illinois.

8. Nextep Systems, Inc. is a Michigan corporation that conducts business in the State of Illinois, including Cook County.

JURISDICTION AND VENUE

9. This Court has jurisdiction over Defendant pursuant to 735 ILCS 5/2-209 because it conducts business transactions in Illinois and committed the statutory violations alleged herein in Cook County, Illinois.

10. Venue is proper in Cook County because Defendant conducts business transactions in Cook County and committed statutory violations alleged herein in Cook County.

FACTUAL BACKGROUND

I. The Biometric Information Privacy Act.

11. In the early 2000s, major national corporations started using Chicago and other locations in Illinois to test “new [consumer] applications of biometric-facilitated financial

FILED DATE: 3/9/2021 4:32 PM 2021CH01125

transactions, including finger-scan technologies at grocery stores, gas stations, and school cafeterias.” 740 ILCS 14/5(b). Given its relative infancy, an overwhelming portion of the public became weary of this then-growing, yet unregulated technology. *See* 740 ILCS 14/5.

12. In late 2007, a biometrics company called Pay by Touch—that provided major retailers throughout the state of Illinois with fingerprint scanners to facilitate consumer transactions—filed for bankruptcy. That bankruptcy was alarming to the Illinois Legislature because suddenly there was a serious risk that millions of fingerprint records—which, like other unique biometric identifiers, can be linked to people’s sensitive financial and personal data—could now be sold, distributed, or otherwise shared through the bankruptcy proceedings without adequate protections for Illinois citizens. The bankruptcy also highlighted the fact that most consumers who had used that company’s fingerprint scanners were completely unaware that the scanners were not actually transmitting fingerprint data to the retailer who deployed the scanner, but rather to the now-bankrupt company, and that their unique biometric identifiers could now be sold to unknown third parties.

13. Recognizing the “very serious need [for] protections for the citizens of Illinois when it [came to their] biometric information,” Illinois enacted BIPA in 2008. *See* Illinois House Transcript, 2008 Reg. Sess. No. 276; 740 ILCS 14/5.

14. Additionally, to ensure compliance, BIPA provides that, for each violation, the prevailing party may recover \$1,000 or actual damages, whichever is greater, for negligent violations and \$5,000, or actual damages, whichever is greater, for intentional or reckless violations. 740 ILCS § 14/20.

15. BIPA is an informed consent statute that achieves its goal by making it unlawful for a company to, among other things, collect, capture, purchase, receive through trade, or

FILED DATE: 3/9/2021 4:32 PM 2021CH01125

otherwise obtain a person's or a customer's biometric identifiers or biometric information, unless it *first*:

- (1) informs the subject in writing that a biometric identifier or biometric information is being collected or stored;
- (2) informs the subject in writing of the specific purpose and length of term for which a biometric identifier or biometric information is being collected, stored, and used; and
- (3) receives a written release executed by the subject of the biometric identifier or biometric information.

See 740 ILCS § 14/15(b).

16. Biometric identifiers include retina and iris scans, voiceprints, fingerprints, scans of hand geometry, and—most importantly here—face geometry. See 740 ILCS § 14/10. Biometric information is separately defined to include any information based on an individual's biometric identifier that is used to identify an individual. See *id*.

17. BIPA also establishes standards for how companies must handle biometric identifiers and biometric information. See, e.g., 740 ILCS § 14/15(c)–(d). For example, BIPA prohibits private entities from disclosing or redisclosing an individual's biometric identifier or biometric information without first obtaining consent for such disclosure. See 740 ILCS § 14/15(d)(1).

18. BIPA also prohibits selling, leasing, trading, or otherwise profiting from a person's biometric identifiers or biometric information, 740 ILCS § 14/15(c), and requires companies to develop and comply with a written policy—made available to the public—establishing a retention schedule and guidelines for permanently destroying biometric identifiers and biometric information when the initial purpose for collecting such identifiers or information has been satisfied, or within three years of the individual's last interaction with the company, whichever occurs first. 740 ILCS § 14/15(a).

FILED DATE: 3/9/2021 4:32 PM 2021CH01125

19. The Illinois legislature enacted BIPA due to the increasing use of biometric data in financial and security settings, the general public's hesitation to use biometric information, and—significantly—the unknown ramifications of biometric technology. Biometrics are biologically unique to the individual, and, once compromised, an individual is at a heightened risk for identity theft and left without any recourse.

20. BIPA provides individuals with a private right of action, protecting their right to privacy regarding their biometrics as well as protecting their rights to know the precise nature for which their biometrics are used and how they are being stored and ultimately destroyed. Unlike other statutes that only create a right of action if there is a qualifying data breach, BIPA strictly regulates the manner in which entities may collect, store, use, and disseminate biometrics and creates a private right of action for lack of statutory compliance.

21. Plaintiff, like the Illinois legislature, recognizes how imperative it is to keep biometric information secure. Biometric information, unlike other personal identifiers such as a social security number, cannot be changed or replaced if hacked or stolen.

II. Defendant Violates the Biometric Information Privacy Act.

22. By the time BIPA passed through the Illinois legislature in mid-2008, most companies who had experimented using biometric data stopped doing so.

23. However, Nextep failed to take note of the shift in Illinois law governing the collection and use of biometric data. As a result, Nextep continues to collect, store, use, and disseminate Illinois citizens' biometric data in violation of BIPA.

24. Specifically, when individuals use Nextep's self-order kiosks, they have the option of providing a scan of their facial geometry in order to enroll them in Nextep's database.

25. From a user's initial facial geometry scan, Nextep extracts unique features in order

FILED DATE: 3/9/2021 4:32 PM 2021CH01125

to create a template against which subsequent scans of facial geometry may be compared.

26. Users' facial geometry scans are then stored in Nextep's user biometric database, which also includes the user's credit card information, contact information, and recent purchase history, in order to facilitate and expedite future orders. See <https://www.nextepsystems.com/blog/video-the-usual-unusually-fast-with-facial-recognition-at-wow-bao>.

27. Once users are enrolled with Nextep, they may provide their facial geometry upon any subsequent visit to a restaurant that has implemented Defendant's products to quickly re-order their past favorites. Defendant's biometric tracking system identifies user identity by extracting unique features from each subsequent facial geometry scan provided and comparing the scan against template facial geometry data stored in Nextep's database(s). This process matches the input facial geometry to the enrolled facial geometry data stored by Defendant.

28. Nextep designs its software as a cloud-based system, which provides for transmission of facial geometry data collected and/or obtained to Nextep servers and other third parties who host that data.

29. Nextep accesses its servers for various purposes, including to facilitate support services for its clients.

30. However, Defendant fails to inform its biometric tracking system users that it is collecting, storing, or using their sensitive biometric data, the extent of the purposes for which it collects their sensitive biometric data, or to whom the data is disclosed.

31. Defendant similarly fails to publish a written, publicly available policy identifying its retention schedule, and guidelines for permanently destroying its biometric tracking system users' facial geometry data when the initial purpose for collecting or obtaining it is no longer

FILED DATE: 3/9/2021 4:32 PM 2021CH01125

relevant, as required by BIPA.

32. In addition, Nextep profits from the use of individuals' biometric data. For instance, Nextep markets its biometric self-order kiosks to companies in the food service industry as superior options to traditional kiosks. By marketing its kiosks in this manner, Nextep obtains a competitive advantage over other hospitality technology providers and secures profits from its use of biometric self-order kiosks, all while failing to comply with the minimum requirements for handling individuals' biometric data established by BIPA.

33. The Pay By Touch bankruptcy that catalyzed the passage of BIPA highlights why conduct such as Nextep's—where individuals are aware that they are providing biometric identifiers but are not aware of to whom or the full extent of the reasons they are doing so—is so dangerous. That bankruptcy spurred Illinois citizens and legislators into realizing a critical point: it is crucial for people to understand when providing biometric identifiers who exactly is collecting their biometric data, where it will be transmitted to, for what purposes, and for how long. Nextep disregards these obligations, and instead unlawfully collects, obtains, stores, uses, and disseminates thousands of individuals' biometric data, without ever receiving the individual's informed written consent required by BIPA.

34. Defendant lacks retention schedules and guidelines for permanently destroying Plaintiff's and the putative Class's biometric data and has not and will not destroy Plaintiff's and the putative Class's biometric data as required by BIPA.

35. Defendant fails to inform its individuals what will happen to their biometric data in the event Defendant merges with another company or ceases operations, or what will happen in the event the third parties that receive, store, and/or manage Plaintiff's and the putative Class's biometric data from Defendant cease operations.

FILED DATE: 3/9/2021 4:32 PM 2021CH01125

36. These violations have raised a material risk that Plaintiff's and other similarly situated individuals' biometric data will be unlawfully accessed by third parties.

37. By and through the actions detailed above, Defendant disregards Plaintiff's and other similarly-situated individuals' legal rights in violation of BIPA.

III. Plaintiff Regina Morris' Experience.

38. Plaintiff Morris was a customer of a Wow Bao restaurant located at 225 N. Michigan Avenue in Chicago, Illinois, where she used Defendant's biometric tracking system to place her order.

39. In an effort to streamline the ordering process and utilize the "facial recognition" self-order function, Morris provided Nextep (and Wow Bao) with a scan of her facial geometry.

40. Defendant subsequently stored Morris' facial geometry in its database.

41. Morris has never been informed of the specific limited purposes or length of time for which Defendant collected, stored, used and/or disseminated her facial geometry.

42. Plaintiff has never seen, been able to access, or been informed of any biometric data retention policy developed by Defendant, nor has she ever seen, been able to access, or been informed of whether Defendant would ever permanently delete her biometric data.

43. Morris has never been provided nor did she ever sign a written release allowing Defendant to collect, obtain, store, use, or disseminate her facial geometry.

44. Morris has continuously and repeatedly been exposed to the harms and risks created by Defendant's violations of BIPA alleged herein.

45. No amount of time or money can compensate Plaintiff if her biometric data is compromised by the lax procedures through which Nextep captured, stored, used, and disseminated her and other similarly-situated individuals' biometrics. Moreover, Plaintiff would

FILED DATE: 3/9/2021 4:32 PM 2021CH01125

not have provided her biometric data if she had known that her data would be retained for an indefinite period of time without her consent.

46. A showing of actual damages is not necessary in order to state a claim under BIPA. See *Rosenbach v. Six Flags Entm't Corp.*, 2019 IL 123186, ¶ 40 (“[A]n individual need not allege some actual injury or adverse effect, beyond violation of his or her rights under the Act, in order to qualify as an “aggrieved” person and be entitled to seek liquidated damages and injunctive relief pursuant to the Act”).

47. As Morris is not required to allege or prove actual damages in order to state a claim under BIPA, she seeks statutory damages under BIPA as compensation for the injuries caused by Nextep. *Rosenbach*, 2019 IL 123186, ¶ 40.

CLASS ALLEGATIONS

48. Pursuant to the Illinois Code of Civil Procedure, 735 ILCS 5/2-801, Plaintiff brings claims on her own behalf and as a representative of all other similarly-situated individuals pursuant to BIPA, 740 ILCS 14/1, *et seq.*, to recover statutory penalties, prejudgment interest, attorneys’ fees and costs, and other damages owed.

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

All individuals in the State of Illinois who had their biometric identifiers and/or biometric information collected, captured, received, maintained, stored, or otherwise obtained or disclosed by Nextep during the applicable statutory period.

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

- A. The class is so numerous that joinder of all members is impracticable;
- B. There are questions of law or fact that are common to the class;

- C. The claims of the Plaintiff are typical of the claims of the class; and,
- D. The Plaintiff will fairly and adequately protect the interests of the class

Numerosity

51. The total number of putative class members exceeds fifty (50) individuals. The exact number of class members can easily be determined from Nextep's records.

Commonality

52. There is a well-defined commonality of interest in the substantial questions of law and fact concerning and affecting the Class in that Plaintiff and all members of the Class have been harmed by Defendant's failure to comply with BIPA. The common questions of law and fact include, but are not limited to the following

- A. Whether Defendant collected, captured, or otherwise obtained Plaintiff's and the Class's biometric identifiers or biometric information;
- B. Whether Defendant properly informed Plaintiff and the Class of its purposes for collecting, using, and storing their biometric identifiers or biometric information;
- C. Whether Defendant obtained a written release (as defined in 740 ILCS 14/10) to collect, use, and store Plaintiff's and the Class's biometric identifiers or biometric information;
- D. Whether Defendant has sold, leased, traded, or otherwise profited from Plaintiff's and the Class's biometric identifiers or biometric information;
- E. Whether Defendant developed a written policy, made available to the public, establishing a retention schedule and guidelines for permanently destroying biometric identifiers and biometric information when the initial purpose for collecting or obtaining such identifiers or information has been satisfied or within three years of its last interaction with the individual, whichever occurs first;
- F. Whether Defendant complies with any such written policy (if one exists);
- G. Whether Defendant used Plaintiff's facial geometry to identify her;
- H. Whether Defendant's violations of BIPA have raised a material risk that

FILED DATE: 3/9/2021 4:32 PM 2021CH01125

Plaintiff's biometric data will be unlawfully accessed by third parties

- I. Whether the violations of BIPA were committed negligently; and
- J. Whether the violations of BIPA were committed recklessly or intentionally.

53. Plaintiff anticipates that Nextep will raise defenses that are common to the class.

Adequacy

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

Typicality

55. The claims asserted by Plaintiff are typical of the class members she seeks to represent. Plaintiff has the same interests and suffer from the same unlawful practices as the class members.

56. Upon information and belief, there are no other class members who have an interest individually controlling the prosecution of his or her individual claims, especially in light of the relatively small value of each claim. However, if any such class member should become known, he or she can "opt out" of this action pursuant to 735 ILCS 5/2-801.

Predominance and Superiority

57. The common questions identified above predominate over any individual issues, which will relate solely to the quantum of relief due to individual class members. A class action is superior to other available means for the fair and efficient adjudication of this controversy because individual joinder of the parties is impracticable. Class action treatment will allow a large number of similarly-situated persons to prosecute their common claims in a single forum simultaneously,

FILED DATE: 3/9/2021 4:32 PM 2021CH01125

efficiently and without the unnecessary duplication of effort and expense if these claims were brought individually. Moreover, as the damages suffered by each class member are relatively small in the sense pertinent to class action analysis, the expenses and burden of individual litigation would make it difficult for individual class members to vindicate their claims.

58. Additionally, important public interests will be served by addressing the matter as a class action. The cost to the court system and the public for the adjudication of individual litigation and claims would be substantially more than if claims are treated as a class action. Prosecution of separate actions by individual class members would create a risk of inconsistent and varying adjudications, establish incompatible standards of conduct for Defendant and/or substantially impair or impede the ability of class members to protect their interests. The issues in this action can be decided by means of common, class-wide proof. In addition, if appropriate, the Court can and is empowered to fashion methods to efficiently manage this action as a class action.

FIRST CAUSE OF ACTION

Violation of 740 ILCS § 14/15(a); Failure to Institute, Maintain and Adhere to Publicly-Available Retention Schedule

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

60. BIPA mandates that companies in possession of biometric data establish and maintain a satisfactory biometric data retention – and, importantly, deletion – policy. Specifically, those companies must: (i) make publicly available a written policy establishing a retention schedule and guidelines for permanent deletion of biometric data (at most three years after the company’s last interaction with the individual); and (ii) actually adhere to that retention schedule and actually delete the biometric information. *See* 740 ILCS § 14/15(a).

61. Nextep fails to comply with these BIPA mandates.

62. Nextep is a “private entity” under BIPA. *See* 740 ILCS 14/10.

FILED DATE: 3/9/2021 4:32 PM 2021CH01125

63. Plaintiff and the Class are individuals who had their “biometric identifiers” collected and maintained by Nextep (in the form of their facial geometry), as explained in detail in Sections II–III. *See* 740 ILCS 14/10.

64. Plaintiff’s and the Class’s biometric identifiers were used to identify them and, therefore, constitute “biometric information” as defined by BIPA. *See* 740 ILCS 14/10.

65. Nextep failed to provide a publicly available retention schedule or guidelines for permanently destroying biometric identifiers and biometric information as specified by BIPA. *See* 740 ILCS 14/15(a).

66. Nextep lacks retention schedules and guidelines for permanently destroying Plaintiff’s and the Class’s biometric data and has not and will not destroy Plaintiff’s and the Class’s biometric data when the initial purpose for collecting or obtaining such data has been satisfied or within three years of the individual’s last interaction with the company.

67. On behalf of herself and the Class, Plaintiff seeks: (1) declaratory relief; (2) injunctive and equitable relief as is necessary to protect the interests of Plaintiff and the Class by requiring Nextep to comply with BIPA’s requirements for the collection, storage, dissemination, and use of biometric identifiers and biometric information as described herein; (3) statutory damages of \$5,000 for each intentional and/or reckless violation of BIPA pursuant to 740 ILCS 14/20(2) or, in the alternative, statutory damages of \$1,000 for each negligent violation of BIPA pursuant to 740 ILCS 14/20(1); and (4) reasonable attorneys’ fees and costs and other litigation expenses pursuant to 740 ILCS 14/20(3).

SECOND CAUSE OF ACTION

Violation of 740 ILCS § 14/15(b): Failure to Obtain Informed Written Consent and Release Before Obtaining Biometric Identifiers or Information

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

FILED DATE: 3/9/2021 4:32 PM 2021CH01125

69. BIPA requires private entities to obtain informed written consent from individuals before acquiring their biometric data. Specifically, 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 identifiers or biometric information, unless [the entity] first: (1) informs the subject . . . in writing that a biometric identifier or biometric information is being collected or stored; (2) informs the subject . . . in writing of the specific purpose and length of 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) (emphasis added).

70. Nextep fails to comply with these BIPA mandates.

71. Nextep is a “private entity” under BIPA. *See* 740 ILCS 14/10.

72. Plaintiff and the Class are individuals who have had their “biometric identifiers” collected by Nextep (in the form of their facial geometry), as explained in detail in Sections II and III, *supra*. *See* 740 ILCS § 14/10.

73. Plaintiff’s the Class’s biometric identifiers were used to identify them and, therefore, constitute “biometric information” as defined by BIPA. *See* 740 ILCS § 14/10.

74. Nextep systematically and automatically collected, used, and stored Plaintiff’s and the Class’s biometric identifiers and/or biometric information without first obtaining the written release required by 740 ILCS 14/15(b)(3).

75. Nextep did not inform Plaintiff and the Class in writing that their biometric identifiers and/or biometric information were being collected, stored, and used, nor did Nextep inform Plaintiff and the Class in writing of the specific purpose(s) and length of term for which their biometric identifiers and/or biometric information were being collected, stored, and used as

FILED DATE: 3/9/2021 4:32 PM 2021CH01125

required by 740 ILCS 14/15(b)(1)-(2).

76. By collecting, storing, and using Plaintiff's and the Class's biometric identifiers and biometric information as described herein, Nextep violated Plaintiff's and the Class's rights to privacy in their biometric identifiers and/or biometric information as set forth in BIPA. *See* 740 ILCS 14/1, *et seq.*

77. On behalf of herself and the Class, Plaintiff seeks: (1) declaratory relief; (2) injunctive and equitable relief as is necessary to protect the interests of Plaintiff and the Class by requiring Nextep to comply with BIPA's requirements for the collection, storage, use and dissemination of biometric identifiers and biometric information as described herein; (3) statutory damages of \$5,000 for each intentional and/or reckless violation of BIPA pursuant to 740 ILCS 14/20(2) or, in the alternative, statutory damages of \$1,000 for each negligent violation of BIPA pursuant to 740 ILCS 14/20(1); and (4) reasonable attorneys' fees and costs and other litigation expenses pursuant to 740 ILCS 14/20(3).

THIRD CAUSE OF ACTION

Violation of 740 ILCS § 14/15(d): Disclosure of Biometric Identifiers and Information Before Obtaining Consent

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

79. BIPA prohibits private entities from disclosing an individual's biometric identifier or biometric information without first obtaining consent for that disclosure. *See* 740 ILCS 14/15(d)(1).

80. Nextep fails to comply with this BIPA mandate

81. Nextep is a "private entity" under BIPA. *See* 740 ILCS 14/10.

82. Plaintiff and the Class are individuals who have had their "biometric identifiers" collected by Nextep (in the form of their facial geometry), as explained in detail in Sections II and

FILED DATE: 3/9/2021 4:32 PM 2021CH01125

III, *supra*. See 740 ILCS 14/10.

83. Plaintiff's and the Class's biometric identifiers were used to identify them and, therefore, constitute "biometric information" as defined by BIPA. See 740 ILCS § 14/10.

84. Nextep systematically and automatically disclosed, redisclosed, or otherwise disseminated Plaintiff's and the Class's biometric identifiers and/or biometric information without first obtaining the consent required by 740 ILCS 14/15(d)(1).

85. By disclosing, redisclosing, or otherwise disseminating Plaintiff's and the Class's biometric identifiers and biometric information as described herein, Nextep violated Plaintiff's and the Class's rights to privacy in their biometric identifiers and/or biometric information as set forth in BIPA. See 740 ILCS 14/1, *et seq.*

86. On behalf of herself and the Class, Plaintiff seeks: (1) declaratory relief; (2) injunctive and equitable relief as is necessary to protect the interests of Plaintiff and the Class by requiring Nextep to comply with BIPA's requirements for the collection, storage, use and dissemination of biometric identifiers and biometric information as described herein; (3) statutory damages of \$5,000 for each intentional and/or reckless violation of BIPA pursuant to 740 ILCS § 14/20(2) or, in the alternative, statutory damages of \$1,000 for each negligent violation of BIPA pursuant to 740 ILCS § 14/20(1); and (4) reasonable attorneys' fees and costs and other litigation expenses pursuant to 740 ILCS § 14/20(3).

PRAYER FOR RELIEF

WHEREFORE, Plaintiff Regina Morris, on behalf of herself and the Class, requests that this Court enter an Order:

- A. Certifying this case as a class action on behalf of the Class defined above appointing Plaintiff Regina Morris as Class Representative, and appointing Stephan Zouras, LLP as Class Counsel;

FILED DATE: 3/9/2021 4:32 PM 2021CH01125

- B. Declaring that Nextep's actions, as set forth above, violate BIPA;
- C. Awarding statutory damages of \$5,000 for *each* intentional and/or reckless violation of BIPA pursuant to 740 ILCS 14/20(2) or, in the alternative, statutory damages of \$1,000 for *each* negligent violation of BIPA pursuant to 740 ILCS 14/20(1);
- D. Declaring that Nextep's actions, as set forth above, were intentional or reckless;
- E. Awarding injunctive and other equitable relief as is necessary to protect the interests of Plaintiff and the Class, including an Order requiring Nextep to collect, store, use, destroy and disseminate biometric identifiers and/or biometric information in compliance with BIPA;
- F. Awarding Plaintiff and the Class their reasonable attorneys' fees and costs and other litigation expenses pursuant to 740 ILCS 14/20(3);
- G. Awarding Plaintiff and the Class pre- and post-judgment interest, to the extent allowable; and,
- H. Awarding such other and further relief as equity and justice may require.

Dated: March 9, 2021

Respectfully submitted,

/s/ Andrew C. Ficzko

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ATTORNEYS FOR PLAINTIFF

CERTIFICATE OF SERVICE

I, the attorney, hereby certify that on March 9, 2021, I electronically filed the attached with the Clerk of the Court using the electronic filing system which will send such filing to all attorneys of record.

/s/ Andrew C. Ficzko

FILED DATE: 3/9/2021 4:32 PM 2021CH01125

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