

NOTICE OF PROPOSED CLASS ACTION SETTLEMENT

Davis v. Cafeteria Alternatives, Inc., No. 2020-CH-05734 (Cir. Ct. Cook Cnty., Ill.)

For more information, visit www.CafeteriaBIPASettlement.com.

Para informacion en Español, visitar www.CafeteriaBIPASettlement.com.

PLEASE READ THIS NOTICE CAREFULLY. YOU MAY BE ENTITLED TO A CASH PAYMENT FROM A CLASS ACTION SETTLEMENT IF YOU SCANNED YOUR FINGER FOR TIMEKEEPING PURPOSES WHILE WORKING FOR CAFETERIA ALTERNATIVES, INC. IN ILLINOIS ON OR AFTER SEPTEMBER 4, 2015.

This is a court-authorized notice of a proposed class action settlement.

This is not a solicitation from a lawyer and is not notice of a lawsuit against you.

WHY DID I GET THIS NOTICE?

This is a court authorized notice of a proposed settlement in a class action lawsuit, *Davis v. Cafeteria Alternatives, Inc.*, No. 2020-CH-05734, pending in the Circuit Court of Cook County, Illinois before the Honorable Judge Celia Gamrath. The Settlement would resolve a lawsuit brought on behalf of persons who allege that Cafeteria Alternatives, Inc. (“Defendant”) required its employees to provide a scan of their finger or fingerprint for timekeeping purposes without complying with the Illinois Biometric Information Privacy Act, 740 ILCS § 14/1, *et seq.* (“BIPA”). If you received notice, you have been identified as someone who may have used Defendant’s timekeeping system in Illinois on or after September 4, 2015 without first providing written consent for the collection of your biometric data. The Court has granted preliminary approval of the Settlement and has preliminarily certified the Settlement Class for purposes of settlement only. This notice explains the nature of the class action lawsuit, the terms of the Settlement, and the legal rights and obligations of the Settlement Class Members. Please read the instructions and explanations below so that you can better understand your legal rights.

WHAT IS THIS LAWSUIT ABOUT?

BIPA prohibits private entities from capturing, obtaining, storing, transferring, and/or using biometric identifiers and/or biometric information, such as fingerprints, of an individual for any purpose, including timekeeping, without first providing such individual with certain written disclosures and obtaining written consent. This lawsuit alleges that Defendant violated BIPA by allegedly collecting its workers’ biometric identifiers when they used Defendant’s timekeeping system in Illinois without first providing the required disclosures or obtaining the required consent. Defendant contests these claims and denies that it violated BIPA.

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 against Defendant and its affiliated entities. The Settlement requires Defendant to pay money to the Settlement Class, as well as pay the Settlement Administrator’s expenses, attorneys’ fees and costs to Class Counsel, and a Service Award to the Class Representative, if approved by the Court. The Settlement is not an admission of wrongdoing by Defendant and does not imply that there has been, or would be, any finding that Defendant violated the law.

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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 conditionally certified the Settlement Class for settlement purposes only, so that members of the Settlement Class can be given this notice and the opportunity to exclude themselves from the Settlement Class, and to voice their support or opposition to final approval of the Settlement. If the Court does not give Final Approval of the Settlement, or if it 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?

You are a member of the Settlement Class if you scanned your finger using Defendant's timekeeping system in Illinois, or had any of your biometric information obtained by Defendant in connection with the timekeeping system, at any time on or after September 4, 2015 without first providing written consent for the collection of your biometric data.

WHAT ARE MY OPTIONS?

(1) Accept the Settlement.

To accept the Settlement and receive payment from the Settlement Fund, *you do not have to do anything*. If the Court approves the Settlement, the Settlement Administrator will *automatically* send a check to your last known mailing address.

(2) Exclude yourself.

You may exclude yourself from the Settlement. If you do so, you will not receive any cash payment, but you will not release any claims you may have against the 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 the Released Parties at your own risk and expense. To exclude yourself from the Settlement, you must mail a signed letter to the Settlement Administrator at Cafeteria BIPA Settlement, P.O. Box 2002, Chanhassen, MN 55317-2002, postmarked by **June 2, 2023**. You may also exclude yourself online at www.CafeteriaBIPASettlement.com by **June 2, 2023**. The exclusion letter must state that you exclude yourself from this Settlement and must include the name and case number of this Litigation, as well as your full name, address, telephone number, and email address, and a statement that you wish to be excluded from the Settlement Agreement.

(3) Object to the Settlement.

If you wish to object to the Settlement, you must submit your objection in writing to the Clerk of the Court of the Circuit Court of Cook County, Illinois, 50 W. Washington Street, #802, Chicago, IL 60602. The objection must be postmarked no later than **June 2, 2023**. You must also send a copy of your objection to the attorneys for all Parties to the lawsuit, including Class Counsel (Timothy P. Kingsbury of McGuire Law, P.C., 55 West Wacker Drive, 9th Floor, Chicago, Illinois 60601), as well as Defendant's Counsel (Joseph J. Stafford of Wilson Elser Moskowitz Edelman & Dicker, 55 W. Monroe Street, Suite 3800), postmarked no later than **June 2, 2023**. Any objection to the proposed Settlement must include your (i) full name, address, telephone number, and email address; (ii) the case name and number of this Litigation; (iii) all grounds for the objection, with factual and legal support for the stated objection, including any supporting materials; (iv) the identification of any other objections you have filed, or have had filed on your behalf, in any other class action cases in the last four years; and (v) 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 **June 2, 2023**. 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.

You may appear at the Final Approval Hearing, which will be held on **June 21, 2023 at 8:45 a.m.** in Courtroom 2508 of the Circuit Court of Cook County, 50 W. Washington St., Chicago, Illinois 60602 via Zoom videoconferencing [Meeting ID: 928 4730 2982; Passcode 411367] in person or through counsel to show cause why the proposed Settlement should not be approved as fair, reasonable, and adequate. Participating in the hearing is not necessary;

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however, persons wishing to be heard orally in opposition to the Final Approval of the Settlement, the request for attorneys' fees and expenses, and/or the request for a Service 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. The hearing date and time, and whether the hearing will be conducted remotely, is subject to change by the Court, so please check the Settlement Website, www.CafeteriaBIPASettlement.com, for updates.

WHAT DOES THE SETTLEMENT PROVIDE?

Cash Payments. Defendant has agreed to create a \$146,576.00 Settlement Fund. If the Court approves the Settlement, and you do not exclude yourself from the Settlement Class, you will automatically receive an equal share of the Settlement Fund after deductions for the Settlement Administrator's expenses, attorneys' fees, costs and expenses for Class Counsel, and a Service Award for the Class Representative. The exact amount of each Class Member's payment is unknown at this time, but the per-person payment is estimated to be approximately \$400-500. The attorneys who brought this lawsuit (listed below) will ask the Court to award them attorneys' fees in an amount up to 25% of the Settlement Fund, plus their reasonable costs and expenses, for the substantial time, expense and effort spent investigating the facts, litigating the case and negotiating the Settlement. The Class Representative also will apply to the Court for a payment of up to \$2,000.00 for his time, effort, and service in this matter.

Prospective Relief. Without admitting any liability, Defendant represents that it is no longer using the allegedly "biometric" finger scan feature of the timeclock that is the subject of this case and agrees that should it reinstate the "biometric" feature in Illinois, it will implement a written notice and consent process.

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 Defendant and other Released Parties (as defined in the Settlement Agreement) relating to the use of its biometric timekeeping system. 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. If you have any questions, you can talk for free to the attorneys identified below who have been appointed by the Court to represent the Settlement Class, or you are welcome to talk to any other lawyer of your choosing at your own expense.

WHEN WILL I BE PAID?

The Parties cannot predict exactly when (or whether) the Court will give Final Approval to the Settlement, so please be patient. However, if the Court finally approves the Settlement, you will be paid as soon as possible after the court order becomes final, which should occur within approximately 60 days after the Settlement has been finally approved. If there is an appeal of the Settlement, payment may be delayed. Updated information about the case is available at www.CafeteriaBIPASettlement.com, or you can call the Settlement Administrator at 866-993-4946, or contact Class Counsel at the address provided below.

WHEN WILL THE COURT RULE ON THE SETTLEMENT?

The Court has already given preliminary approval to the Settlement. A final hearing on the Settlement, called a Final Approval Hearing, will be held to determine the fairness of the Settlement. At the Final Approval Hearing, the Court will also consider whether to make final the certification of the Class for settlement purposes, hear any proper objections and arguments to the Settlement, as well as any requests for an award of attorneys' fees, costs, and expenses and a Class Representative Service Award that may be sought by Class Counsel. The Court will hold the Final Approval Hearing on **June 21, 2023 at 8:45 a.m.** via Zoom videoconferencing [Meeting ID: 928 4730 2982; Passcode 411367]. The hearing date

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and time, including whether the hearing will take place via remote means, is subject to change by the Court, so please check the Settlement Website, www.CafeteriaBIPASettlement.com, for updates.

If the Settlement is given final approval, the Court will not make any determination as to the merits of the claims against Defendant or its defenses to those claims. Instead, the Settlement's terms will take effect and the lawsuit will be dismissed on the merits with prejudice. Both sides have agreed to the Settlement in order to achieve an early and certain resolution to the lawsuit, in a manner that provides specific and valuable benefits to the members of the Settlement Class.

If the Court does not approve the Settlement, if it approves the Settlement and the approval is reversed on appeal, or if the Settlement does not become final for some other reason, you will not be paid at this time and Class Members will receive no benefits from the Settlement Fund. Plaintiff, Defendant, and all of the Class Members will be in the same position as they were prior to the execution of the Settlement, and the Settlement will have no legal effect, no class will remain certified (conditionally or otherwise), and Plaintiff and Defendant will continue to litigate the lawsuit. There can be no assurance that if the Settlement is not approved, the Settlement Class will recover more than is provided in the Settlement, or indeed, anything at all.

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.

Evan M. Meyers
Timothy P. Kingsbury
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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 contained in the Settlement Agreement which, along with other documents, can be obtained at www.CafeteriaBIPASettlement.com. If you have any questions, you can also call the Settlement Administrator at 866-993-4946 or contact Class Counsel at the numbers or email addresses set forth above. In addition to the documents available on the case 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.