

**IN THE CIRCUIT COURT FOR THE TWELFTH JUDICIAL CIRCUIT
WILL COUNTY, ILLINOIS**

CHARLES DEVOSE, on behalf of himself)
and all other persons similarly situated,) Case No. 19L1022
known and unknown,)
) Judge
Plaintiff,)
)
v.)
)
RON’S TEMPORARY HELP SERVICES,)
INC. d/b/a RON’S STAFFING SERVICES,)
INC.)
)
Defendant.)

CLASS ACTION COMPLAINT

Charles Devose (“Plaintiff”), files this Class Action Complaint (“Complaint”) against Ron’s Temporary Help Services, Inc. d/b/a Ron’s Staffing Services, Inc. (“Defendant”) for violations of the Illinois Biometric Information Privacy Act.

SUMMARY OF CLAIMS

1. Defendant is a temporary staffing agency in Illinois.
2. Plaintiff was employed by Defendant from approximately June 2018 to November 4, 2019.
3. Defendant placed Plaintiff at a manufacturing and logistics company in Joliet, Illinois called Dynamic 3PL.
4. At Dynamic 3PL, Plaintiff worked as a manual laborer, typically loading and unloading trucks.
5. After approximately two months, Defendant required him and other employees to use a biometric time clock system to record their time worked.

**Initial case management set for
3/26/2020 at: 9:00 a.m.**

6. Defendant required Plaintiff and other employees to scan their fingerprints in Defendant's biometric time clock each time they started and finished working, including punching in and out for lunch breaks.

7. Unlike an employee identification number or employee identification card, fingerprints are *unique* and *permanent* identifiers.

8. By requiring employees to scan their fingerprints to record their time, instead of identification numbers or badges only, Defendant ensured that one employee could not clock in for another.

9. Thus, there's no question that Defendant achieved a labor management benefit from using a biometric time clock.

10. But there's equally no question that Defendant placed employees at risk by using their biometric identifiers to "punch the clock."

11. In enacting the Biometric Information Privacy Act, the Illinois legislature recognized that biologically unique identifiers, like fingerprints, can never be changed when compromised, and thus subject a victim of identity theft to heightened risk of loss.

12. As a result, Illinois restricted private entities, like Defendant, from collecting, storing, using, or transferring a person's biometric identifiers and information without adhering to strict informed-consent procedures established by the Biometric Information Privacy Act.

13. Defendant collected, stored, used, and transferred the unique biometric fingerprint identifiers, or information derived from those identifiers, of Plaintiff and others similarly situated without following the detailed requirements of the Biometric Information Privacy Act.

14. As a result, Defendant violated the Biometric Information Privacy Act and compromised the privacy and security of the biometric identifiers and information of Plaintiff and

other similarly-situated employees.

JURISDICTION AND VENUE

15. This Court has personal jurisdiction over Defendant because, during the relevant time period, Defendant did business in Illinois, was registered to do business in Illinois, and committed the statutory violations alleged in this Complaint in Illinois.

16. Will County is an appropriate venue for this litigation because Defendant is located in Will County, does business there, and the events giving rise to this lawsuit happened there.

THE PARTIES

17. Plaintiff is an individual who is a citizen of Illinois.

18. Defendant is an Illinois corporation.

19. Defendant's principal office is in Northbrook, Illinois.

REQUIREMENTS OF THE BIOMETRIC INFORMATION PRIVACY ACT

20. In enacting the Biometric Information Privacy Act, the Illinois legislature recognized that the full ramifications of biometric technology are not yet fully known and so the public will benefit from "regulations on the collection, use, safeguarding, handling, storage retention, and description of biometric identifiers and information." 740 ILCS 14/5(f)-(g).

21. The Biometric Information Privacy Act prohibits a "private entity" from capturing or collecting biometric identifiers or information from an individual unless that private entity first obtains the individual's written consent or employment-related release authorizing the private entity to capture or collect an individual's biometric identifiers and/or biometric information. 740 ILCS 14/15(b)(3).

22. Relatedly, the Biometric Information Privacy Act prohibits a private entity from capturing or collecting biometric identifiers or information from an individual unless that private

entity first informs the individual, in writing, of the following: (a) that the private entity is collecting biometric identifiers or information, (b) the purpose of such collection, and (c) the length of time the private entity will retain the biometric identifiers or information. 740 ILCS 14/15(b)(1)-(2).

23. In addition, the Biometric Information Privacy Act prohibits a private entity from possessing biometric identifiers or information unless it creates and follows a written policy, made available to the public, establishing a retention schedule and destruction guidelines for its possession of biometric identifiers and information. 740 ILCS 14/15(a).

24. Finally, the Biometric Information Privacy Act prohibits a private entity from disclosing or otherwise disseminating biometric identifiers or information without first obtaining an individual's consent for that disclosure or dissemination, unless the disclosure or dissemination was (a) in furtherance of an authorized financial transaction, (b) authorized by law, or (c) pursuant to a valid warrant or subpoena. 740 ILCS 14/15(d).

BACKGROUND FACTS

25. When Plaintiff scanned his fingerprint in Defendant's biometric time clock, Defendant captured and stored Plaintiff's fingerprint, or a representation derived from Plaintiff's fingerprint.

26. When Plaintiff scanned his fingerprint in Defendant's biometric time clock, Defendant disclosed his fingerprint – or a representation derived from his fingerprint – to Defendant's timekeeping vendor.

27. Before requiring Plaintiff to use a biometric time clock, Defendant never provided Plaintiff any written materials stating that it was collecting, retaining, or disclosing his fingerprint or a representation derived from his fingerprint.

28. Before requiring Plaintiff to use a biometric time clock, Defendant never obtained Plaintiff's written consent, or release as a condition of employment, authorizing the collection, storage, dissemination, or use of his fingerprint or a representation derived from Plaintiff's fingerprint.

29. Defendant violated Plaintiff's privacy by capturing or collecting his unique biometric identifiers and information and sharing those identifiers and information with its time-keeping vendor, without his consent.

CLASS ACTION ALLEGATIONS

30. Plaintiff seeks to represent a class of Defendant's employees who scanned their fingerprints in Defendant's biometric time clock system in Illinois between December 3, 2014 and the present ("the Class").

31. Plaintiff and the Class are similar to one another because they were all subject to the same allegedly illegal practices: scanning their fingerprints in Defendant's biometric time clock system despite Defendant failing to adhere to the requirements of the Biometric Information Privacy Act.

32. The Class includes more than 50 members.

33. As a result, the Class is so numerous that joining of all class members in one lawsuit is not practical.

34. The issues involved in this lawsuit present common questions of law and fact, including: whether Defendant required the Class to scan their fingerprints to clock in and out during shifts; whether Defendant collected the Class's "biometric identifiers" or "biometric information" under the Biometric Information Privacy Act; and whether Defendant complied with the procedures in 740 ILCS 14/15(a), (b), and (d) of the Biometric Information Privacy Act.

35. These common questions of law and fact predominate over variations that may exist between members of the Class, if any.

36. Plaintiff, the members of the Class, and Defendant have a commonality of interest in the subject matter of the lawsuit and the remedy sought.

37. If individual actions were required to be brought by each member of the Class injured or affected, the result would be a multiplicity of actions, creating a hardship to the Class, to the Court, and to Defendant.

38. Accordingly, a class action is an appropriate method for the fair and efficient adjudication of this lawsuit and distribution of the common fund to which the Class is entitled.

39. The books and records of Defendant are material to Plaintiff's case as they disclose how and when Plaintiff and the Class scanned their fingerprints in Defendant's biometric time clock system and what information Defendant provided Plaintiff and the Class about the collection, retention, use, and dissemination of their biometric identifiers and information.

40. Plaintiff and his counsel will fairly and adequately protect the interests of the Class.

41. Plaintiff retained counsel experienced in complex class action litigation.

COUNT I
Violation of the Biometric Information Privacy Act (740 ILCS 14/15(b))
(Class Action)

42. Plaintiff realleges and incorporates the previous allegations of this Complaint.

43. Defendant is a "private entity" under the Biometric Information Privacy Act. 740 ILCS 14/10.

44. Plaintiff's and the Class's fingerprints qualify as "biometric identifier[s]" as defined by the Biometric Information Privacy Act. 740 ILCS 14/10.

45. Defendant has "biometric information" from Plaintiff and the Class through its

acquisition and retention of information based on Plaintiff's and the Class's fingerprints.

46. Defendant violated the Biometric Information Privacy Act by capturing or collecting Plaintiff's and the Class's fingerprints and information based on their fingerprints without first informing them in writing that Defendant was doing so.

47. Defendant violated the Biometric Information Privacy Act by capturing or collecting Plaintiff's and the Class's fingerprints and information based on their fingerprints without first informing them in writing of the purpose of Defendant doing so and the length of time Defendant would store and use Plaintiff's and the Class's biometric identifiers and/or biometric information.

48. Defendant violated the Biometric Information Privacy Act by capturing or collecting Plaintiff's and the Class's fingerprints and information based on their fingerprints without first obtaining their written consent or other release authorizing Defendant to capture or collect Plaintiff's and the Class's biometric identifiers and/or biometric information.

49. Defendant knew or should have known of the requirements of the Biometric Information Privacy Act because the law was enacted in 2008 and numerous articles and court filings about the law's requirements were published before Defendant began using a biometric time clock in Illinois.

WHEREFORE, Plaintiff and the Class pray for a judgment against Defendant as follows:

- A. Awarding liquidated or actual monetary damages, whichever is higher, to Plaintiff and the Class for each violation of the Biometric Information Privacy Act as provided by 740 ILCS 14/20(1)-(2);
- B. Enjoining Defendant from committing further violations of the Biometric Information Privacy Act as authorized by 740 ILCS 14/20(4);
- C. Awarding Plaintiff's reasonable attorneys' fees and costs incurred in filing and prosecuting this action as provided by 740 ILCS 14/20(3); and

- D. Such other and further relief as this Court deems appropriate and just as provided by 740 ILCS 14/20(4).

COUNT II
Violation of the Biometric Information Privacy Act (740 ILCS 14/15(a))
(Class Action)

50. Plaintiff realleges and incorporates the previous allegations of this Complaint.
51. Defendant is a “private entity” under the Biometric Information Privacy Act. 740 ILCS 14/10.
52. Plaintiff’s and the Class’s fingerprints qualify as “biometric identifier[s]” as defined by the Biometric Information Privacy Act. 740 ILCS 14/10.
53. Defendant has “biometric information” from Plaintiff and the Class through its acquisition and retention of information based on Plaintiff’s and the Class’s fingerprints.
54. Defendant violated the Biometric Information Privacy Act by possessing Plaintiff’s and the Class’s fingerprints and information based on their fingerprints without creating and following a written policy, made available to the public, establishing a retention schedule and destruction guidelines for its possession of biometric information derived from Plaintiff’s and the Class’s fingerprints.
55. Defendant knew or should have known of the requirements of the Biometric Information Privacy Act because the law was enacted in 2008 and numerous articles and court filings about the law’s requirements were published before Defendant began using a biometric time clock in Illinois.
56. As a result, Defendant’s violations of the Biometric Information Privacy Act were reckless or, in the alternative, negligent.

WHEREFORE, Plaintiff and the Class pray for a judgment against Defendant as follows:

- A. Awarding liquidated or actual monetary damages, whichever is higher, to Plaintiff and the Class for each violation of the Biometric Information Privacy Act as provided by 740 ILCS 14/20(1)-(2);
- B. Enjoining Defendant from committing further violations of the Biometric Information Privacy Act as authorized by 740 ILCS 14/20(4);
- C. Awarding Plaintiff's reasonable attorneys' fees and costs incurred in filing and prosecuting this action as provided by 740 ILCS 14/20(3); and
- D. Such other and further relief as this Court deems appropriate and just as provided by 740 ILCS 14/20(4).

COUNT III

**Violation of the Biometric Information Privacy Act (740 ILCS 14/15(d))
(Class Action)**

- 57. Plaintiff realleges and incorporates the previous allegations of this Complaint.
- 58. Defendant is a "private entity" under the Biometric Information Privacy Act. 740 ILCS 14/10.
- 59. Plaintiff's and the Class's fingerprints qualify as "biometric identifier[s]" as defined by the Biometric Information Privacy Act. 740 ILCS 14/10.
- 60. Defendant has "biometric information" from Plaintiff and the Class through its acquisition and retention of information based on Plaintiff's and the Class's fingerprints.
- 61. Defendant violated the Biometric Information Privacy Act by disclosing or otherwise disseminating Plaintiff's and the Class's fingerprints and information based on their fingerprints to Defendant's time-keeping vendor without first obtaining their consent for that disclosure or dissemination.
- 62. Defendant knew or should have known of the requirements of the Biometric Information Privacy Act because the law was enacted in 2008 and numerous articles and court filings about the law's requirements were published before Defendant began using a biometric

time clock in Illinois.

63. As a result, Defendant's violations of the Biometric Information Privacy Act were reckless or, in the alternative, negligent.

WHEREFORE, Plaintiff and the Class pray for a judgment against Defendant as follows:

- A. Awarding liquidated or actual monetary damages, whichever is higher, to Plaintiff and the Class for each violation of the Biometric Information Privacy Act as provided by 740 ILCS 14/20(1)-(2);
- B. Enjoining Defendant from committing further violations of the Biometric Information Privacy Act as authorized by 740 ILCS 14/20(4);
- C. Awarding Plaintiff's reasonable attorneys' fees and costs incurred in filing and prosecuting this action as provided by 740 ILCS 14/20(3); and
- D. Such other and further relief as this Court deems appropriate and just as provided by 740 ILCS 14/20(4).

Respectfully submitted,

Dated: December 3, 2019

/s/ Douglas M. Werman
One of Plaintiff's Attorneys

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