

**IN THE CIRCUIT COURT
TWENTIETH JUDICIAL CIRCUIT
ST. CLAIR COUNTY, ILLINOIS**



SAROYA ROBERSON, individually and on)
Behalf of all others similarly situated,)
)
Plaintiff,)
) Case No. 17 -L- 733
v.)
)
SYMPHONY POST ACUTE CARE)
NETWORK; SYMPHONY SYCAMORE)
LLC; SYMPHONY HEALTHCARE LLC;)
SYMPHONY M.L. LLC; SYMPHONY)
MONARCH HOLDINGS, LLC; and DOE)
DEFENDANTS 1-100,)
)
Defendants.)

CLASS ACTION COMPLAINT

NOW COMES Plaintiff Saroya Roberson, individually, and on behalf of all others similarly situated, by and through their attorneys, JOHN J. DRISCOLL and THE DRISCOLL FIRM, P.C., and bring this class action complaint pursuant to 735 ILCS 5/2-801, *et seq.*, and allege as follows:

NATURE OF THE ACTION

1. This is a Class Action for money damages arising from Defendants' violations of the Illinois Biometric Information Privacy Act, 740 ILCS 14/1, *et. seq.*, ("BIPA") in that Defendants illegally collected, stored and used Plaintiff's and other similarly situated individuals' biometric identifiers and biometric information ("biometrics") without informed written consent, in direct violation of BIPA.

2. Our legislature has recognized that “[b]iometrics are unlike other unique identifiers that are used to access finances or other sensitive information.” 740 ILCS 14/5(c). “For example, social security numbers, when compromised, can be changed. Biometrics, however, are biologically unique to the individual; therefore, once compromised, the individual has no recourse, is at heightened risk for identity theft, and is likely to withdraw from biometric facilitated transactions.” *Id.*

3. In response to these concerns over the security of individuals’ biometrics, (740 ILCS 14/5(b)) our legislature enacted BIPA, which provides, *inter alia*, that a private entity may not obtain and/or possess an individual’s biometrics unless it: (1) informs that person in writing that biometric identifiers or information will be collected or stored, *see id.*; (2) informs that person in writing of the specific purpose and length of term for which such biometric identifiers or biometric information is being collected, stored and used, *see id.*; (3) receives a written release from the person for the collection of his or her biometric identifiers or information, *see id.*; and (4) publishes publicly available written retention schedules and guidelines for permanently destroying biometric identifiers and biometric information. 740 ILCS 14/15(a) and (b).

4. In violation of each of the foregoing provisions of §15(a) and (b) of BIPA, the Defendants are actively collecting, storing, and using – without providing notice, obtaining informed written consent or publishing data retention policies – the biometrics of hundreds or more unwitting Illinois resident citizens.

5. Plaintiff seeks class certification pursuant to 735 ILCS 5/2-801, *et seq.* Saroya Roberson individually, and on behalf of all others similarly situated (“the Class”), brings this action against the Symphony Defendants and the Doe Defendants described in further detail below (collectively, “Defendants”), for claims relating to the violation of Plaintiffs’ privacy rights and

to recover statutory damages for Defendants' unauthorized collection, storage, and use of Plaintiffs' and the Class members' respective biometric information in violation of BIPA.

PARTIES

I. PLAINTIFFS

6. Defendants collected, captured, stored and used Plaintiff's biometric information for the purpose of tracking time and attendance while she was an employee of Defendants; employee of businesses which Defendants owned, operated, managed, or controlled; or and employee of other businesses associated with Defendants.

7. Plaintiff Saroya Roberson is, and at all times relevant to this action was, a resident citizen of St. Clair County, Illinois. Roberson is a former employee at Sycamore Village in Swansea, Illinois. Roberson was required to submit her biometric information at the direction of and for use by Defendants. At no time during her employment was Roberson informed in writing that her biometric information was being collected or stored or of the specific purpose and length of term for which her biometric information was being collected, stored, and used. At no time did Roberson execute a writing releasing or permitting Defendants to utilize her biometric information. Roberson was never provided with a publicly available written policy regarding a schedule or guideline for the retention and permanent destruction of her biometric information.

II. DEFENDANTS

8. Defendants to this action undertake an integrated, interlocking web of business activities, many of which center around nursing homes. Symphony Post Acute Care Network's Chief Operating Officer Michael Munter describes the network as "an integrated post acute care and senior housing provider in the midwestern United States."

9. As further detailed herein, all defendants herein, both Named Defendants and Doe Defendants, are jointly and severally liable for all actions, wrongs, and injuries which Plaintiff claims. All Named Defendants and Doe Defendants and their integrated, interlocking business activities shall be referred to collectively herein as "Symphony" or simply "Defendants."

10. Symphony owns, operates, manages, controls, and/or conducts business at several Illinois nursing homes and/or similar facilities. This includes (but is not limited to) collecting, capturing, purchasing, receiving through trade, or otherwise obtaining biometric identifiers or biometric information at such locations. Such locations include (but are not limited to) the Illinois facilities where Named Plaintiff Saroya Roberson was employed (Sycamore Village). Many further relevant Illinois locations will undoubtedly revealed in discovery.

11. Symphony includes Defendant Symphony Sycamore LLC. Defendant Symphony Sycamore LLC is an Illinois citizen and organized under the laws of the State of Illinois. Symphony Sycamore LLC's registered agent for service of process is Illinois Service Corporation C, 801 Adlai Stevenson Drive, Springfield IL 62703.

12. Symphony also includes Defendant Symphony Healthcare LLC. Upon information and belief, the Manager of Defendant Symphony Sycamore LLC is Defendant Symphony Healthcare LLC.

13. Defendant Symphony Healthcare LLC is an Illinois citizen and organized under the laws of the State of Illinois. Symphony Healthcare LLC's registered agent for service of process is Illinois Service Corporation C, 801 Adlai Stevenson Drive, Springfield IL 62703.

14. Symphony also includes Defendant Symphony M.L. LLC. Upon information and belief, the Manager of Defendant Symphony Healthcare LLC is Defendant Symphony M.L. LLC.

15. Defendant Symphony M.L. LLC is an Illinois citizen and organized under the laws of the State of Illinois. Symphony M.L. LLC's registered agent for service of process is Illinois Service Corporation C, 801 Adlai Stevenson Drive, Springfield IL 62703.

16. Symphony also includes Defendant Symphony Monarch Holdings LLC. Upon information and belief, the Manager of Defendant Symphony M.L. LLC is Defendant Symphony Monarch Holdings LLC.

17. Defendant Symphony Monarch Holdings LLC is an Illinois citizen and organized under the laws of the State of Illinois. Symphony Monarch Holdings LLC's registered agent for service of process is Illinois Service Corporation C, 801 Adlai Stevenson Drive, Springfield IL 62703.

18. Plaintiff is unaware of the true names or capacities, whether individual, corporate, associate or otherwise, of those defendants fictitiously sued as Doe Defendants 1 through 100 inclusively and therefore Plaintiff sues them by these fictitious names. Plaintiff names only the Doe Defendants 1 through 100 that are citizens of Illinois, and specifically refrains from and does not include herein any non-Illinois citizen whether individual, corporate, associate or otherwise. Doe Defendants 1 through 100 are in some manner responsible for the conduct alleged herein. Upon discovering the true names and capacities of these fictitiously named defendants, Plaintiff will amend the Complaint to show the true names and capacities of these fictitiously named defendants.

III. DEFENDANTS' JOINT AND SEVERAL LIABILITY

19. Defendants, and each of them, exercised, and continue to exercise, control over their operations, including the facts and circumstances giving rise to this case, such that each of them, and all of them, are liable jointly and severally for the acts of each other and the acts of the

Doe Defendants, whether through operation of *respondeat superior*, the law of agency, alter ego, common law joint and several liability, joint enterprise / civil conspiracy, or other grounds.

20. Stating further, some or all of the Defendants have unity of interest and ownership such that separate personalities of the same no longer exist, and adherence to the fiction of separate corporate existence would sanction fraud or injustice.

JURISDICTION AND VENUE

21. This is a Class Action Complaint for violations of the Illinois Biometric Information Privacy Act (740 ILCS 14/1 *et seq.*) seeking statutory and actual damages.

22. This Court has subject matter and personal jurisdiction over the parties to this cause of action. All named parties are citizens of Illinois. Accordingly, there is no complete diversity of citizenship as contemplated by 28 U.S.C. §1332(a), nor is there minimal diversity as contemplated by 28 U.S.C. §1332(d). No federal question is presented by this complaint. Plaintiff brings this complaint solely under state law and not under federal law, and specifically not under the United States Constitution, nor any of its amendments, nor under 42 U.S.C. § 1981 or 1982, nor any other federal statute, law, rule, or regulation. Federal jurisdiction does not exist. Plaintiff believes and alleges that a cause of action exists under state law for the conduct complained of herein. If this Court or the Appellate Courts of Illinois were to rule that Plaintiff has no cause of action under state law for the conduct set out herein, then Plaintiff seeks no remedy. Accordingly, Plaintiff expressly waives and hereby disavows any claim for any relief whatsoever under any federal law or any federal question concerning the allegations of this complaint, whether said allegations are pled or not.

23. This Class Action is brought on behalf of only Illinois citizens within the State of Illinois who submitted their respective biometric information to the Defendants within the State of Illinois.

24. Consistent with the Due Process Clauses of the Fifth and Fourteenth Amendments, this Court has *in personam* jurisdiction over Symphony and the other Defendants because these defendants are citizens of Illinois, and are therefore present in the State of Illinois such that requiring an appearance does not offend traditional notions of fair play and substantial justice. Defendants are Illinois citizens because they have their principal place of business in Illinois, were organized under the laws of Illinois, and/or have a member that has its principal place of business in Illinois or was organized under the laws of Illinois.

25. Plaintiff Saroya Roberson had her biometric identifiers, information or data captured, collected, stored or used by the Defendants in St. Clair County, Illinois and/or was employed by Defendants in St. Clair County, Illinois. Accordingly, venue is proper under 735 ILCS 5/1-108 and 2-101 of the Illinois Code of Civil Procedure.

26. Plaintiff and each member of the Class have individually incurred actual damages in an amount less than \$75,000.00. Neither the Plaintiff nor any member of the Class seek damages exceeding \$75,000, nor do their damages individually exceed \$75,000.00, inclusive of interest and attorneys' fees and all relief of any nature sought hereunder. Plaintiff does not seek any form of "common" recovery, but rather individual recoveries not to exceed \$75,000.00, for any Class member, inclusive of interest and attorneys' fees and all relief of any nature sought hereunder.

FACTS COMMON TO ALL COUNTS

I. Illinois' Biometric Information Privacy Act

27. In 2008, our state enacted BIPA due to the “very serious need [for] protections for the citizens of Illinois when it [comes to their] biometric information.” Illinois House Transcript, 2008 Reg. Sess. No. 276. BIPA makes it unlawful for a company to, *inter alia*, “collect, capture, purchase, receive through trade, or 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 or the subject’s legally authorized representative.

740 ILCS 14/15(b).

28. Section 15 (a) of BIPA also provides:

A private entity in possession of biometric identifiers or biometric information must develop 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 3 years of the individual’s last interaction with the private entity, whichever occurs first.

740 ILCS 14/15(a).

29. As alleged herein, Symphony and the Doe Defendants’ practices of collecting, storing, and using individuals’ biometric identifiers without informed written consent violate all three prongs of § 15(b) of BIPA. The Defendants’ failure to provide a publicly available written policy regarding their schedule and guidelines for the retention and permanent destruction of individuals’ biometric information also violates §15(a) of BIPA.

II. Defendants’ Utilization of Biometric Information To Advance Their Commercial Interests

30. Symphony and the other Defendants have implemented biometric scanners in Illinois to track time and attendance of employees, and/or in furtherance of their role in operating, managing, conducting or directing the business interests, in an effort to combat time and attendance fraud and/or for other purposes of advancing Symphony's and the other Defendants' commercial interests.

31. The Named Plaintiff's biometric information was collected, captured, stored and used by Symphony and the other Defendants for the purpose of tracking time and attendance while the named plaintiffs were employees of Symphony and the other Defendants; employees of businesses operated, managed, or controlled by Symphony and the other Defendants; employees of businesses otherwise associated with Symphony and the other Defendants; and/or in other furtherance of the commercial interests of Symphony and the other Defendants.

III. Defendants' Violations of Illinois' Biometric Information Privacy Act

32. Symphony and the other Defendants utilize a finger or hand print reader/scanner for the purposes of measuring employees' time and attendance; this is a primary method to "clock-in" at one or more of the subject Illinois locations. Defendants required present and past employees that have worked at these locations to provide biometric information, specifically a scan of their finger and/or hand prints.

33. Upon investigation and belief, the Defendants are violating BIPA in collecting and storing the biometric information of persons employed at the locations that utilize biometric scanners (finger / hand print readers), as they are not first informing employees in writing that their biometric information is or will be collected and stored; they are not first informing employees in writing of the specific purpose and length of term for which their respective biometric identifiers

or biometric information will be collected, stored, and/or used; nor are they first securing written releases from each respective employee.

34. On information and belief, the Defendants' violations of BIPA are not occurring at just one location, nor are they being perpetrated in only one geography. The Defendants' violations of BIPA are occurring at multiple locations in the state of Illinois, and have been occurring since Defendants' implementation of biometric scanners/readers.

CLASS ACTION ALLEGATIONS

35. This action is brought by the named Plaintiffs on their own behalf and on behalf of a proposed Class of all other persons similarly situated, pursuant to 735 ILCS 5/2-801, defined as follows: *All Illinois citizens who had their biometric identifiers, information or data captured, collected, stored or used by the Defendants in violation of 740 ILCS 14/1, et. seq.*

36. All members of the proposed Class are citizens of Illinois. The principal injuries resulting from the alleged conduct or any related conduct of each Defendant were incurred in Illinois. On information and belief, during the three-year period preceding the filing of this action, no other class action has been filed asserting the same or similar factual allegations against any of the defendants on behalf of the same or other persons.

37. At least one defendant herein is a defendant from whom significant relief is sought by members of the plaintiff Class; whose alleged conduct forms a significant basis for the claims asserted by the proposed plaintiff Class; and is a citizen of the State of Illinois. Stating in the alternative, the primary defendants are citizens of the state of Illinois.

38. The Plaintiff is the master of her complaint and cause. Plaintiff specifically excludes from the proposed class the claims of any non-Illinois citizen; any and all claims against any non-Illinois citizens; any other claims, including claims for personal injury, wrongful death,

or other property damage sustained by the Class; and any Judge conducting any proceeding in this action and members of their immediate families.

39. The Class is so numerous that the individual joinder of all members is impracticable. While the exact number of Class members is unknown at this time, it is generally ascertainable by appropriate discovery, is in the exclusive control of the Defendants, and it is believed that the Class may include hundreds or thousands of members.

40. Common questions of law or fact arising from the defendants' conduct exist as to all members of the Class, as required by 735 ILCS 5/2-801. These common questions include, but are not limited to, the following:

- a. Whether the Defendants captured, collected, stored or used the biometric information of the Plaintiff and the Class?
- b. If the Defendants captured, collected, stored or used the biometric information of the Plaintiff and the Class, did the Defendants inform the Plaintiff and the Class in writing that a biometric identifier or biometric information was being collected or stored?
- c. If the Defendants captured, collected, stored or used the biometric information of the Plaintiff and the Class, did the Defendants inform the Plaintiff and the Class in writing of the specific purpose and length of term for which a biometric identifier or biometric information was being collected, stored, and used?
- d. If the Defendants captured, collected, stored or used the biometric information of the Plaintiff and the Class, did the Defendants receive a written release executed by the Plaintiff and the Class of the biometric identifier or biometric information or the Plaintiff's or Class' legally authorized representative?
- e. If the Defendants captured, collected, stored or used the biometric information of the Plaintiff and the Class, did the Defendants develop 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 3 years of the individual's last interaction with the private entity, whichever occurs first?

f. Whether Defendants required employees to provide biometric information?

g. Whether the Defendants captured, collected, stored or used the biometric information of customers?

41. Class action treatment provides a fair and efficient method for the adjudication of the controversy herein described, affecting a large number of persons, joinder of whom is impracticable. The Class action device provides an appropriate and effective method whereby the enforcement of the rights of Plaintiff and members of the Class can be fairly managed without unnecessary expense or duplication. The expense and burden of individual litigation of a case of this magnitude makes it impracticable for individual Class members to seek redress for the wrongs worked upon them.

42. Individual litigation of all claims which might be asserted by all Class members would produce such a multiplicity of cases that the judicial system having jurisdiction of the claims would remain congested for years. The certification of a Class would allow litigation of claims that, in view of the expenses of litigation, may be insufficient in amounts to support separate actions. Concentrating this litigation in one forum would aid judicial economy and efficiency, promote parity among the claims of individual Class members, and result in judicial consistency.

43. Plaintiff will fairly and adequately protect the interests of the Class Plaintiff represents. The interests of Plaintiff, as the Class representative, are consistent with those of the members of the Class. In addition, Plaintiff is represented by counsel experienced in complex and class action litigation.

44. The prosecution of separate actions by individual members of the Class would create a risk of:

- a. Inconsistent or varying adjudications with respect to individual members of the Class; and
- b. Adjudication with respect to individual members of the Class which would, as a practical matter, be dispositive of the interests of other members not parties to the adjudication or substantially impair or impede their ability to protect their interest.

45. Plaintiff and Class members envision no unusual difficulty in the management of this action as a Class action.

COUNT I – SYMPHONY SYCAMORE LLC.
Violation of 740 ILCS 14/1 et seq.
(On Behalf of Plaintiff and the Class)

46. Plaintiffs incorporate the foregoing allegations as if fully set forth herein.

47. Defendant Symphony Sycamore LLC is organized under the laws of Illinois and a citizen of the State of Illinois.

48. Defendant Symphony Sycamore LLC is therefore a “private entity” pursuant to BIPA.

49. Symphony, including Symphony Sycamore LLC, is a private entity that collects biometric information from many of the employees at nursing homes with which it is associated.

50. BIPA makes it unlawful for any private entity to, *inter alia*, “collect, capture, purchase, receive through trade, or 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 . . .” 740 ILCS 14/15(b) (emphasis added).

51. The Plaintiff and the class are Illinois citizens that had their “biometric information” collected and stored by Symphony, including but not limited to Defendant Symphony Sycamore LLC or its agents, through, *inter alia*, copying/recording of their respective fingerprints and possibly other individual biometric data points.

52. Symphony’s, including but not limited to Defendant Symphony Sycamore LLC’s, receipt, collection, storage, and/or trading of the Plaintiff’s and class members’ biometric data was systematic and done without first obtaining the written release required by 740 ILCS 14/15(b)(3).

53. Also, Symphony, including Symphony Sycamore LLC, failed to properly inform the Plaintiff or the class members in writing of the specific purpose and length of terms for which their biometric data was to be stored and used, as they were required to do under 740 ILCS 14/15(b)(1)-(2).

54. Similarly, Symphony, including Symphony Sycamore LLC, failed to publicly provide a retention schedule or guidelines for permanently destroying the biometric data of the Plaintiff or class members, as they were required to do pursuant to 740 ILCS 14/15(a).

55. Symphony’s, including Defendant Symphony Sycamore LLC’s, collection, storage, trading, and/or use of the Plaintiff’s and class members’ biometric identifiers, information or data as described herein, violates the rights of Plaintiff and the class member to keep private this information, as provided in BIPA.

WHEREFORE, individually, and on behalf of the proposed class members, the Plaintiff prays for: (1) certification of this case as a class action pursuant to 735 ILCS 5/2-801, *et seq.*, appointing the undersigned counsel as class counsel; (2) a declaration that Symphony’s actions, including Defendant Symphony Sycamore LLC, as pled herein, violate BIPA, 740 ILCS

14/1 *et seq.*; (3) injunctive and equitable relief as is necessary to protect the interests of the Plaintiff and the Class by requiring Symphony, including Defendant Symphony Sycamore LLC, to comply with the requirements of BIPA as to the collection, storage and use of biometric data; (4) statutory damages of \$5,000.00 for the intentional and reckless violation of BIPA pursuant to 740 ILCS 14/20(2), or alternatively, statutory damages of \$1,000.00 per violation pursuant to 740 ILCS 14/20(1) in the event the court finds that Symphony's, including Defendant Symphony Sycamore LLC's, violations of BIPA were negligent; (5) reasonable attorneys' fees and costs and other litigation expense pursuant to 740 ILCS 14/20(3); and (6) for any other relief deemed appropriate in the premises.

COUNT II – SYMPHONY HEALTHCARE LLC.
Violation of 740 ILCS 14/1 *et seq.*
(On Behalf of Plaintiff and the Class)

56. Plaintiffs incorporate the foregoing allegations as if fully set forth herein.
57. Defendant Symphony Healthcare LLC is organized under the laws of Illinois and a citizen of the State of Illinois.
58. Defendant Symphony Healthcare LLC is therefore a "private entity" pursuant to BIPA.
59. Symphony, including Symphony Healthcare LLC, is a private entity that collects biometric information from many of the employees at nursing homes with which it is associated.
60. BIPA makes it unlawful for any private entity to, *inter alia*, "collect, capture, purchase, receive through trade, or 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” 740 ILCS 14/15(b) (emphasis added).

61. The Plaintiff and the class are Illinois citizens that had their “biometric information” collected and stored by Symphony, including but not limited to Defendant Symphony Healthcare LLC or its agents, through, *inter alia*, copying/recording of their respective fingerprints and possibly other individual biometric data points.

62. Symphony’s, including but not limited to Defendant Symphony Healthcare LLC’s, receipt, collection, storage, and/or trading of the Plaintiff’s and class members’ biometric data was systematic and done without first obtaining the written release required by 740 ILCS 14/15(b)(3).

63. Also, Symphony, including Symphony Healthcare LLC, failed to properly inform the Plaintiff or the class members in writing of the specific purpose and length of terms for which their biometric data was to be stored and used, as they were required to do under 740 ILCS 14/15(b)(1)-(2).

64. Similarly, Symphony, including Symphony Healthcare LLC, failed to publicly provide a retention schedule or guidelines for permanently destroying the biometric data of the Plaintiff or class members, as they were required to do pursuant to 740 ILCS 14/15(a).

65. Symphony’s, including Defendant Symphony Healthcare LLC’s, collection, storage, trading, and/or use of the Plaintiff’s and class members’ biometric identifiers, information or data as described herein, violates the rights of Plaintiff and the class member to keep private this information, as provided in BIPA.

WHEREFORE, individually, and on behalf of the proposed class members, the Plaintiff prays for: (1) certification of this case as a class action pursuant to 735 ILCS 5/2-801, *et seq.*, appointing the undersigned counsel as class counsel; (2) a declaration that Symphony's actions, including Defendant Symphony Healthcare LLC, as pled herein, violate BIPA, 740 ILCS 14/1 *et seq.*; (3) injunctive and equitable relief as is necessary to protect the interests of the Plaintiff and the Class by requiring Symphony, including Defendant Symphony Healthcare LLC, to comply with the requirements of BIPA as to the collection, storage and use of biometric data; (4) statutory damages of \$5,000.00 for the intentional and reckless violation of BIPA pursuant to 740 ILCS 14/20(2), or alternatively, statutory damages of \$1,000.00 per violation pursuant to 740 ILCS 14/20(1) in the event the court finds that Symphony's, including Defendant Symphony Healthcare LLC's, violations of BIPA were negligent; (5) reasonable attorneys' fees and costs and other litigation expense pursuant to 740 ILCS 14/20(3); and (6) for any other relief deemed appropriate in the premises.

COUNT III – SYMPHONY M.L. LLC.
Violation of 740 ILCS 14/1 et seq.
(On Behalf of Plaintiff and the Class)

66. Plaintiffs incorporate the foregoing allegations as if fully set forth herein.

67. Defendant Symphony M.L. LLC is organized under the laws of Illinois and a citizen of the State of Illinois.

68. Defendant Symphony M.L. LLC is therefore a "private entity" pursuant to BIPA.

69. Symphony, including Symphony M.L. LLC, is a private entity that collects biometric information from many of the employees at nursing homes with which it is associated.

70. BIPA makes it unlawful for any private entity to, *inter alia*, “collect, capture, purchase, receive through trade, or 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” 740 ILCS 14/15(b) (emphasis added).

71. The Plaintiff and the class are Illinois citizens that had their “biometric information” collected and stored by Symphony, including but not limited to Defendant Symphony M.L. LLC or its agents, through, *inter alia*, copying/recording of their respective fingerprints and possibly other individual biometric data points.

72. Symphony’s, including but not limited to Defendant Symphony M.L. LLC’s, receipt, collection, storage, and/or trading of the Plaintiff’s and class members’ biometric data was systematic and done without first obtaining the written release required by 740 ILCS 14/15(b)(3).

73. Also, Symphony, including Symphony M.L. LLC, failed to properly inform the Plaintiff or the class members in writing of the specific purpose and length of terms for which their biometric data was to be stored and used, as they were required to do under 740 ILCS 14/15(b)(1)-(2).

74. Similarly, Symphony, including Symphony M.L. LLC, failed to publicly provide a retention schedule or guidelines for permanently destroying the biometric data of the Plaintiff or class members, as they were required to do pursuant to 740 ILCS 14/15(a).

75. Symphony's, including Defendant Symphony M.L. LLC's, collection, storage, trading, and/or use of the Plaintiff's and class members' biometric identifiers, information or data as described herein, violates the rights of Plaintiff and the class member to keep private this information, as provided in BIPA.

WHEREFORE, individually, and on behalf of the proposed class members, the Plaintiff prays for: (1) certification of this case as a class action pursuant to 735 ILCS 5/2-801, *et seq.*, appointing the undersigned counsel as class counsel; (2) a declaration that Symphony's actions, including Defendant Symphony M.L. LLC, as pled herein, violate BIPA, 740 ILCS 14/1 *et seq.*; (3) injunctive and equitable relief as is necessary to protect the interests of the Plaintiff and the Class by requiring Symphony, including Defendant Symphony M.L. LLC, to comply with the requirements of BIPA as to the collection, storage and use of biometric data; (4) statutory damages of \$5,000.00 for the intentional and reckless violation of BIPA pursuant to 740 ILCS 14/20(2), or alternatively, statutory damages of \$1,000.00 per violation pursuant to 740 ILCS 14/20(1) in the event the court finds that Symphony's, including Defendant Symphony M.L. LLC's, violations of BIPA were negligent; (5) reasonable attorneys' fees and costs and other litigation expense pursuant to 740 ILCS 14/20(3); and (6) for any other relief deemed appropriate in the premises.

COUNT IV – SYMPHONY MONARCH HOLDINGS LLC.

**Violation of 740 ILCS 14/1 et seq.
(On Behalf of Plaintiff and the Class)**

76. Plaintiffs incorporate the foregoing allegations as if fully set forth herein.

77. Defendant Symphony Monarch Holdings LLC is organized under the laws of Illinois and a citizen of the State of Illinois.

78. Defendant Symphony Monarch Holdings LLC is therefore a “private entity” pursuant to BIPA.

79. Symphony, including Symphony Monarch Holdings LLC, is a private entity that collects biometric information from many of the employees at nursing homes with which it is associated.

80. BIPA makes it unlawful for any private entity to, *inter alia*, “collect, capture, purchase, receive through trade, or 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” 740 ILCS 14/15(b) (emphasis added).

81. The Plaintiff and the class are Illinois citizens that had their “biometric information” collected and stored by Symphony, including but not limited to Defendant Symphony Monarch Holdings LLC or its agents, through, *inter alia*, copying/recording of their respective fingerprints and possibly other individual biometric data points.

82. Symphony’s, including but not limited to Defendant Symphony Monarch Holdings LLC’s, receipt, collection, storage, and/or trading of the Plaintiff’s and class members’ biometric data was systematic and done without first obtaining the written release required by 740 ILCS 14/15(b)(3).

83. Also, Symphony, including Symphony Monarch Holdings LLC, failed to properly inform the Plaintiff or the class members in writing of the specific purpose and length of

terms for which their biometric data was to be stored and used, as they were required to do under 740 ILCS 14/15(b)(1)-(2).

84. Similarly, Symphony, including Symphony Monarch Holdings LLC, failed to publicly provide a retention schedule or guidelines for permanently destroying the biometric data of the Plaintiff or class members, as they were required to do pursuant to 740 ILCS 14/15(a).

85. Symphony's, including Defendant Symphony Monarch Holdings LLC's, collection, storage, trading, and/or use of the Plaintiff's and class members' biometric identifiers, information or data as described herein, violates the rights of Plaintiff and the class member to keep private this information, as provided in BIPA.

WHEREFORE, individually, and on behalf of the proposed class members, the Plaintiff prays for: (1) certification of this case as a class action pursuant to 735 ILCS 5/2-801, *et seq.*, appointing the undersigned counsel as class counsel; (2) a declaration that Symphony's actions, including Defendant Symphony Monarch Holdings LLC, as pled herein, violate BIPA, 740 ILCS 14/1 *et seq.*; (3) injunctive and equitable relief as is necessary to protect the interests of the Plaintiff and the Class by requiring Symphony, including Defendant Symphony Monarch Holdings LLC, to comply with the requirements of BIPA as to the collection, storage and use of biometric data; (4) statutory damages of \$5,000.00 for the intentional and reckless violation of BIPA pursuant to 740 ILCS 14/20(2), or alternatively, statutory damages of \$1,000.00 per violation pursuant to 740 ILCS 14/20(1) in the event the court finds that Symphony's, including Defendant Symphony Monarch Holdings LLC's, violations of BIPA were negligent; (5) reasonable attorneys' fees and costs and other litigation expense pursuant to 740 ILCS 14/20(3); and (6) for any other relief deemed appropriate in the premises.

COUNT V – DOE DEFENDANTS
Violation of 740 ILCS 14/1 *et seq.*

(On Behalf of Plaintiffs and the Class)

86. Plaintiffs incorporate the foregoing allegations as if fully set forth herein.

87. Plaintiffs are unaware of the true names or capacities, whether individual, corporate, associate or otherwise, of those defendants fictitiously sued as Does 1 through 100 inclusively and therefore Plaintiffs sue them by these fictitious names. Plaintiffs name only the Doe defendants 1 through 100 who are citizens of Illinois, and specifically refrain from and do not include any non-Illinois citizen whether individual, corporate, associate or otherwise. Doe defendants 1 through 100 are in some manner responsible for the conduct alleged herein. Upon discovering the true names and capacities of these fictitiously named defendants, Plaintiffs will amend this Complaint to show the true names and capacities of these fictitiously named defendants.

88. BIPA makes it unlawful for any private entity to, *inter alia*, “collect, capture, purchase, receive through trade, or 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” 740 ILCS 14/15(b) (emphasis added).

89. The Plaintiffs and the class are Illinois citizens that had their “biometric information” collected and stored by the Doe Defendants or their agents or employers through, *inter alia*, copying/recording of their respective fingerprints and possibly other individual biometric data points.

90. The Doe Defendants' receipt, collection, storage, and/or trading of the Plaintiffs' and class members' biometric data was systematic and done without first obtaining the written release required by 740 ILCS 14/15(b)(3).

91. Also, the Doe Defendants failed to properly inform the Plaintiffs or the class members in writing of the specific purpose and length of terms for which their biometric data was to be stored and used, as they were required to do under 740 ILCS 14/15(b)(1)-(2).

92. Similarly, the Doe Defendants failed to publicly provide a retention schedule or guidelines for permanently destroying the biometric data of the Plaintiffs or class members, as they were required to do pursuant to 740 ILCS 14/15(a).

93. The Doe Defendants' collection, storage, trading, and/or use of the Plaintiffs' and class members' biometric identifiers, information or data as described herein, violates the rights of each plaintiff and class member to keep private this information, as provided in BIPA.

WHEREFORE, individually, and on behalf of the proposed class members, the Plaintiffs pray for: (1) certification of this case as a class action pursuant to 735 ILCS 5/2-801, *et seq.*, appointing the undersigned counsel as class counsel; (2) a declaration that the Doe Defendants' actions, as pled herein, violate BIPA, 740 ILCS 14/1 *et seq.*; (3) injunctive and equitable relief as is necessary to protect the interests of the Plaintiff and the Class by requiring the Doe Defendants to comply with the requirements of BIPA as to the collection, storage and use of biometric data; (4) statutory damages of \$5,000.00 for the intentional and reckless violation of BIPA pursuant to 740 ILCS 14/20(2), or alternatively, statutory damages of \$1,000.00 per violation pursuant to 740 ILCS 14/20(1) in the event the court finds that the Doe Defendants' violations of BIPA were negligent; (5) reasonable attorneys' fees and costs and other litigation

expense pursuant to 740 ILCS 14/20(3); and (6) for any other relief deemed appropriate in the premises.

Respectfully submitted,
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