

**IN THE UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF ILLINOIS**

MARENYA MONTGOMERY,	)	
individually and on behalf of all others	)	
similarly situated,	)	
	)	
Plaintiff,	)	Removed from Circuit Court of
	)	McLean County, Illinois,
v.	)	Case No. 2026LA000029
	)	
VAYAN GROUP, LLC,	)	
	)	
Defendant.	)	

DEFENDANT VAYAN GROUP, LLC'S NOTICE OF REMOVAL

PLEASE TAKE NOTICE that Defendant Vayan Group, LLC ("Vayan"), by and through its counsel, Akerman LLP, pursuant to 28 U.S.C. §§ 1332, 1441 and 1446, hereby removes the above-captioned action, *Marenya Montgomery, individually and on behalf of all others similarly situated v. Vayan Group LLC*, Case No. 2026LA000029 (the "State Court Action") which is pending in the Circuit Court of McLean County, Illinois to the United States District Court for the Central District of Illinois under the Class Action Fairness Act of 2005, 28 U.S.C. §1332(d) ("CAFA"). Vayan reserves all rights, including defenses and objections as to venue, personal jurisdiction, and service, and the filing of this notice of removal is subject to, and without waiver of, any such defenses and objections. As grounds for removal, Vayan states as follows:

I. PROCEDURAL BACKGROUND

1. On March 16, 2026, Plaintiff Marenya Montgomery ("Plaintiff") filed the State Court Action, individually and on behalf of all persons she claims to be similarly situated, in the Circuit Court of McLean County, Illinois.

2. According to allegations in the Complaint, Plaintiff and the members of the putative class she purports to represent allege Vayan collected and disseminated their biometric information and biometric identifiers in violation of Illinois' Biometric Information Privacy Act, 740 ILCS 14/1 ("BIPA"). (Compl. ¶ 1).

3. The Complaint seeks monetary damages, interest, reasonable attorney fees, and other relief. (*See* Compl. at Prayer for Relief).

4. The Summons was served on Vayan on or after March 18, 2026. In accordance with 28 U.S.C. § 1446(a), a true and correct copy of the process, pleadings, and orders (including the Summons and Complaint) served upon Vayan in the State Court Action are attached as **Exhibit A**.

5. Vayan wishes to exercise its right under the provisions of 28 U.S.C. § 1332 and 1441 to remove this action from the Circuit Court of McLean County, Illinois to this Court, based upon diversity of citizenship and CAFA jurisdiction.

6. This Notice of Removal is timely pursuant to 28 U.S.C. § 1446(b) because fewer than thirty (30) days have elapsed since any defendant first received a copy of the initial pleading, and this Notice of Removal was filed less than one year after commencement of the lawsuit.

7. Pursuant to 28 U.S.C. § 1446(d), after the filing of this Notice of Removal, Vayan will promptly give written notice of such filing to Plaintiffs, and Vayan will file a Notice of Filing of Notice of Removal with the Court Clerk of the Circuit Court of McClean County, Illinois, in a form substantially the same as that annexed hereto as **Exhibit B**.

II. LEGAL GROUNDS FOR REMOVAL – ORIGINAL JURISDICTION PURSUANT TO CAFA

8. This Court possesses original jurisdiction over this case under CAFA, 28 U.S.C. §1332(d), and this case may be removed pursuant to the provisions of 28 U.S.C. §1441(a). As set forth more fully below, this is a civil putative class action wherein: (1) the proposed class contain at least 100 members in the aggregate; (2) there is minimal diversity; (3) no defendant is a state, state official, or other government entity; (4) the total amount in controversy for all class members exceeds \$5,000,000, exclusive of interest and costs; and (5) none of the exceptions to CAFA jurisdiction applies. CAFA authorizes removal of such actions in accordance with 28 U.S.C. §1446. As discussed below, this cases meets the CAFA requirements for removal.

A. The Proposed Classes Contain At Least 100 Members in the Aggregate

9. Under CAFA, “‘class action’ means any civil action filed under rule 23 of the Federal Rules of Civil Procedure or similar State statute or rule of judicial procedure authorizing an action to be brought by 1 or more representative persons as a class action.” 28 U.S.C. § 1332(d)(1)(B). Plaintiff alleges that she brings the State Action “individually and on behalf of all others similarly situated.” *See generally* Compl. This meets CAFA’s definition of a putative class action. *See* 28 U.S.C. § 1332(d)(1)(B).

10. Plaintiff purports to bring claims on behalf of a putative class of individuals she defines as: “[a]ll persons within the applicable statute of limitations, who had their biometric information or biometric identifiers collected, captured, received, otherwise obtained, or disclosed by ATCO and/or Defendant in Illinois, without their written release.” (Compl. ¶ 45 (the “Putative Class”).

11. The statute of limitations for BIPA is five years. *See Tims v. Black Horse Carriers, Inc.*, 2023 IL 127801 (2023). This shows that the class period is five years.

12. Plaintiff alleges that the class “likely includes hundreds of individuals due to the size of ATCO and Defendant’s projects.” (Compl. ¶ 47).

13. Vayan has reviewed its records and preliminarily determined that, based on Plaintiff’s definition, the Putative Class is comprised of about 272 individuals.

14. Based on Plaintiff’s allegations in the Complaint and Vayan’s initial investigation, CAFA’s 100-person requirement is satisfied. *See Friar v. Vanguard Holding Corp.*, 78 A.D.2d 83, 96 (1980) (“the court should consider the reasonable inferences and common sense assumptions from the facts before it” in assessing class requirements).

B. Minimal Diversity Exists

15. CAFA’s diversity requirement is satisfied when at least one member of the Putative Class is a citizen of a state different from the defendant. 28 U.S.C. § 1332(d)(2)(A).

16. At the time of the commencement of this action, based on the allegations in the Complaint, Plaintiff is a citizen of Illinois. (Compl. ¶ 11).

17. Pursuant to 28 U.S.C. § 1332(d)(10), an unincorporated association, such as an LLC, “shall be deemed a citizen of the State where it has its principal place of business and the State under whose laws it is organized.”

18. Vayan is a Delaware limited liability company with a principal place of business in Michigan. (Compl. ¶ 12). Thus, Vayan is a citizen of Delaware and Michigan.

19. CAFA’s minimal diversity requirement is met here because at least one member of the Putative Class is a citizen of Illinois, a State different from Vayan.

C. No Defendant is a Governmental Entity

20. Vayan is not a state, state official, or other government entity.

21. Therefore, CAFA’s requirement for no governmental entity defendant is met.

D. The Amount in Controversy Exceeds \$5,000,000, Exclusive of Interest and Costs

22. Under CAFA, a case may be removed from state to federal court where “the matter in controversy exceeds the sum or value of \$5,000,000, exclusive of interest and costs.” 28 U.S.C. § 1332. To determine whether the \$5 million sum is exceeded, “the claims of the individual class members shall be aggregated.” 28 U.S.C. § 1332(d)(6).

23. “The amount in controversy in a case is determined by evaluating the claims described in the complaint, along with the record as a whole, at the time that the case was removed.” *Lambert v. Hughes Network Sys., LLC*, No. 10-CV-0571, 2010 WL 3034212, at *1 (N.D. Ill. Aug. 2, 2010). “When the plaintiff’s complaint does not state the amount in controversy, the defendant’s notice of removal may do so.” *Dart Cherokee Basin Operating Co., LLC v. Owens*, 574 U.S. 81, 84 (2014); § 1446(c)(2)(A). A plausible allegation that the amount in controversy exceeds the jurisdictional threshold is sufficient for removal. *Dart Cherokee Basin Operating Co.*, 574 U.S. at 89. (“as specified in § 1446(a), a defendant’s notice of removal need include only a plausible allegation that the amount in controversy exceeds the jurisdictional threshold. Evidence establishing the amount is required by § 1446(c)(2)(B) only when the plaintiff contests, or the court questions, the defendant’s allegation.”) The Court determines whether the threshold is met by determining what a factfinder might lawfully award. *Hammond v. Stamps.com, Inc.*, 844 F.3d 909, 912 (10th Cir. 2016) (“For the question at this stage in the proceedings isn’t what damages the plaintiff will *likely* prove but what a factfinder *might* conceivably lawfully award.” (emphasis in original)).

24. In *Standard Fire Ins. Co. v. Knowles*, 568 U.S. 588, 592-93, 133 S.Ct. 1345, 1348-49, 185 L. Ed. 2d 439 (2013), the United States Supreme Court held that a plaintiff lacks the authority to legally bind a class before it is certified, and thus any stipulation that damages

sought are below the jurisdictional amount under CAFA is non-binding on a district court. The court noted that for jurisdictional purposes, its inquiry was limited to examining the case “as of the time it was filed in state court” and that at that time, plaintiff “could not concede the amount in controversy for the absent class members.” *Id.* at 593, 133 S.Ct. at 1349.

25. While Vayan denies and does not concede liability on Plaintiff’s claim, and disputes that any class action could be certified, taking Plaintiff’s allegations as true solely for the purpose of removal, Plaintiff’s class claim places in controversy an amount greater than \$5,000,000, exclusive of interest and costs – despite the \$4,999,999 identified as a cap on damages in Plaintiff’s summons.

26. Plaintiff alleges that Vayan violated four separate BIPA provisions: (1) 740 ILCS 14/14(a) (failure to provide publicly-available retention schedule or guidelines for destroying biometric information); (2) 740 ILCS 14/15(b)(1) (failure to inform Plaintiff in writing that her biometric information was being collected, stored, used or disseminated); (3) 740 ILCS 14/15(b)(2) (failure to inform Plaintiff in writing of the purpose and term for which her biometric information was being collected, stored, used or disseminated; and (4) 740 ILCS 14/15(b)(3) (failure to obtain written releases to collect, use and store biometric information). (Compl., ¶¶ 58, 60-61).

27. Plaintiff seeks monetary damages, interest, reasonable attorney fees, and other relief under BIPA. (*See* Compl. at Prayer for Relief).

28. BIPA provides that a prevailing party may recover: (1) liquidated damages of “\$1,000 or actual damages, whichever is greater,” for each negligent violation; (2) liquidated damages of “\$5,000 or actual damages, whichever is greater” for each intentional or reckless violation; and (3) reasonable attorneys’ fees and costs. 740 ILCS 14/20.

29. Based on an August 2, 2024 amendment, BIPA now provides that a private entity that “collects, captures, purchases, receives through trade or otherwise obtains the same biometric identifier or biometric information for the same person using the same method of collection” in more than one instance, is liable for a single violation of § 14/15(b). 740 ILCS 14/20(b).

30. Prior to its amendment on August 2, 2024, § 14/20(b) did not exist, subjecting private entities to liability every time that biometric information was collected, stored, used or disseminated. This is commonly referred to as “per swipe” or “per scan” liability.

31. The Illinois Supreme Court has not ruled on whether the August 2, 2024 amendment applies retroactively.

32. The class period at issue in this case is March 16, 2021 through March 16, 2026, (five years prior to the filing of the Complaint). (*See* Compl.). This means that between March 16, 2021 and August 2, 2024, the BIPA amendment reclassifying violations of § 14/15(d) into a single violation was not in effect and class members during that period of time could seek damages under the “per swipe” theory.

33. As noted above, Vayan’s preliminary investigation shows that the Putative Class at issue in this case comprises about 272 individuals.

34. Should Vayan be found liable for intentionally or recklessly violating all of the four BIPA sections as alleged in the Complaint with respect to each of the approximately 272 members of the Putative Class, its liability would exceed \$5 million, even assuming the amendment applies retroactively. ($\$5,000 \times 4 \times 272 = \$5,440,000$).

35. Moreover, should class members between March 16, 2021 and August 2, 2024, a range that makes up roughly 48% of the class period, seek damages on a “per swipe” theory, the amount at issue easily exceeds \$5 million.

36. So, while Plaintiff claims she seeks only \$4,999,999 in damages, she cannot so bind, and seek to limit the potential recovery of, the other class members, especially where her own allegations demonstrate that the amount in controversy exceeds \$5 million.

D. The CAFA Exceptions Do Not Apply

37. None of CAFA’s jurisdictional exceptions apply in this case. *See* 28 U.S.C. § 1332(d)(3-4). Moreover, Plaintiff bears the burden of proving an exception applies. *Breuer v. Jim's Concrete of Brevard, Inc.*, 538 U.S. 691, 698 (2003) (“whenever the subject matter of an action qualifies it for removal, the burden is on a plaintiff to find an express exception.”).

III. CONCLUSION

This Court possesses original jurisdiction over this matter under CAFA, and the action is thus removable from the Circuit Court of McLean County, Illinois to this United States District Court pursuant to 28 U.S.C. §§ 1332(d) and 1441(a).

WHEREFORE, Vayan hereby removes the above action now pending in the Circuit Court of McLean County, Illinois to the United States District Court for the Central District of Illinois.

Dated: April 17, 2026

Respectfully submitted,

AKERMAN LLP

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CERTIFICATE OF SERVICE

The undersigned, one of the attorneys of record, states that I caused to be served a true and correct copy of Defendant Vayan Group, LLC's Notice of Removal via email and First-Class U.S. Mail, postage prepaid, on the following:

Matthew T. Peterson
Consumer Law Advocate, PLLC
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Chicago, IL 60611
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Dated: April 17, 2026

By: /s/ Catherine A. Miller
Catherine A. Miller