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DONALD R. EVERHART, JR.
CLERK OF THE CIRCUIT COURT
MCLEAN COUNTY, ILLINOIS

**CIRCUIT COURT OF MCLEAN COUNTY, ILLINOIS
LAW DIVISION**

Marenaya Montgomery, individually and on
behalf of all others similarly situated,

Plaintiff,

v.

Vayan Group, LLC,

Defendant.

Case No. 2026LA000029

FIRST CASE MANAGEMENT CONFERENCE

BEFORE JUDGE FELLHEIMER

SET ON 09/02/2026 at 9:30 AM VIA ZOOM

CLASS ACTION COMPLAINT

Plaintiff, Marenaya Montgomery ("Plaintiff"), individually and on behalf of all other similarly situated individuals, brings this Class Action Complaint against Defendant Vayan Group, LLC ("Defendant") for its violations of the Illinois Biometric Information Privacy Act, 740 ILCS 14/1, *et seq.* ("BIPA"), and to obtain redress for all persons injured by Defendant's conduct. Plaintiff alleges as follows based on personal knowledge as to her own acts and experiences, and as to all other matters, upon information and belief, including an investigation conducted by her attorneys.

Nature of the Case

1. This is a class action for damages arising from Defendant's violations of BIPA. Defendant has violated BIPA by illegally collecting and disseminating Plaintiff's biometric identifiers and biometric information ("biometrics") without informed written consent, and is understood to have done the same to countless other similarly situated individuals.

2. The Illinois 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, the legislature enacted BIPA, which provides that a private entity may not obtain or possess a person’s biometrics unless it: (1) informs that person in writing that biometrics will be collected or stored; (2) informs that person in writing of the specific purpose and length of term for which such biometrics are being collected, stored and used; (3) receives a written release from the person for the collection of his or her biometrics; and (4) publishes publicly available written retention schedules and guidelines for permanently destroying the biometrics it collects or stores. Furthermore, BIPA prohibits private entities from profiting in any way from a person’s biometrics.

4. Defendant provides quality inspection and manufacturing support services via technology and employee staffing for large manufacturers, especially automotive companies.

5. To help make employee time and attendance tracking more accurate, Defendant requires its employees to use its biometric-based time clocks, which use an employee’s biometrics, such as fingerprints, palm prints, and/or face scans, to punch in and out of work, instead of key fobs, identification numbers, or cards (the “Devices”).

6. Unlike ID badges or timecards, which can be changed or replaced if stolen or compromised, fingerprints, palm prints, and face scans are unique, permanent biometric identifiers associated with each employee. This exposes employees who are required to use Defendant’s Devices as a condition of their employment to serious and irreversible privacy risks.

7. Recognizing the need to protect its citizens from situations like these, Illinois enacted BIPA specifically to regulate companies that collect and store Illinois citizens' biometrics, such as fingerprints.

8. Notwithstanding the clear and unequivocal requirements of BIPA, Defendant disregards the statutorily protected privacy rights of Illinois citizens and unlawfully collects, stores, disseminates, and uses their biometric information and biometric identifiers in violation of BIPA.

9. Specifically, Defendant violated and continues to violate BIPA because it did not and continues not to:

(a) Properly inform Plaintiff and others similarly situated in writing of the specific purpose and length of time for which their fingerprints were being collected, stored, disseminated and used, as required by BIPA; and

(b) Receive a written release from Plaintiff and others similarly situated to collect, store, disseminate or otherwise use their fingerprints, as required by BIPA.

10. Plaintiff brings this action on behalf of herself and all others similarly situated to recover the statutory damages and attorneys' fees and costs that BIPA authorizes for violations.

Parties

11. At all relevant times, Plaintiff has been a resident and citizen of the State of Illinois.

12. Defendant Vayan Group, LLC is a Delaware limited liability company that is currently registered to do business in Illinois, and has headquarters in Michigan.

13. Defendant Vayan Group, LLC is a limited liability company and qualifies as a "private entity" under BIPA. *See* 740 ILCS 14/10.

Jurisdiction and Venue

14. This Court has personal jurisdiction over Defendant pursuant to 735 ILCS 5/2-209 because Defendant is doing business within this State, transacts business within this State, and committed tortious acts within this State.

15. Venue is proper in this County under 735 ILCS 5/2-101, because Defendant conducted business in this County and because the transactions out of which this cause of action arises occurred in this County, as Plaintiff provided her biometrics to Defendant in this County.

Factual Allegations

I. Illinois' Biometric Information Privacy Act

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

17. In late 2007, a biometrics company called Pay By Touch, which 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 are unique biometric identifiers and 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 biometric scanners were completely unaware that the scanners were not actually transmitting 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.

18. In 2008, Illinois 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. To protect this highly sensitive personal information, BIPA imposes several requirements on companies relating to biometrics.

19. BIPA is an informed consent statute, and under BIPA, before obtaining an individual’s biometric identifiers or biometric information, a private entity must comply with the statute’s notice and consent provisions. Specifically, BIPA makes it unlawful for a private entity to “collect, capture, purchase, receive through trade, or otherwise obtain a person’s or a consumer’s biometric identifiers and/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).

20. Biometric identifiers include retina and iris scans, voiceprints, scans of hand and face geometry, and, most importantly here, fingerprints. *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.*

21. BIPA also establishes standards for companies’ handling of biometric identifiers and biometric information. *See* 740 ILCS 14/15(c)–(d). For instance, BIPA 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).

22. Ultimately, BIPA is simply an informed consent statute. Its narrowly tailored provisions place no absolute bar on the collection, sending, transmitting or communicating of biometric data. For example, BIPA does not limit what kinds of biometric data may be collected, sent, transmitted, or stored. Nor does BIPA limit to whom biometric data may be sent or transmitted, or how it is to be stored. BIPA simply mandates that entities wishing to engage in that conduct must make proper disclosures and implement certain reasonable safeguards.

23. As described throughout this Complaint, Defendant violated BIPA Section 15(a) by failing to provide a publicly-available written policy regarding its schedule and guidelines for retaining and permanently destroying biometrics. Defendant also violated all three prongs of BIPA Section 15(b) by collecting biometrics without informed written consent.

II. Facts Specific to Plaintiff

24. Plaintiff began working for ATCO Industries, LLC ("ATCO") in or around August 2022 on a project in Normal, Illinois.

25. During Plaintiff's employment with ATCO, the company required Plaintiff and other employees to scan their fingerprints using a timekeeping device when they began work and when they ended work each day. Fingerprints were used to track time and attendance.

26. When Plaintiff first started working for ATCO, employees signed in by hand on a timesheet. Later, ATCO introduced the fingerprint scanner and told employees that they would lose their job if they did not use the device to clock in and out.

27. Fingerprints are classified as biometric information and/or biometric identifiers pursuant to BIPA. The conversion of fingerprints into mathematical algorithms is similarly classified as biometric information subject to BIPA.

28. Each time Plaintiff scanned her fingerprint using the ATCO device, ATCO stored Plaintiff's biometric information and/or biometric identifiers in its employee database.

29. Plaintiff was never informed by ATCO of the specific purposes or length of time for which her biometric information and/or identifiers were being collected, stored, or used.

30. Plaintiff was never informed by ATCO of any biometric data retention policy, nor whether her biometric information and/or identifiers would ever be permanently deleted.

31. Plaintiff was never provided with, nor signed, a written release permitting ATCO to collect, store, use, or disseminate her biometric information and/or identifiers.

32. Plaintiff has continuously and repeatedly been exposed to the risks and harmful conditions created by ATCO's violations of BIPA.

33. No amount of time or money can compensate Plaintiff if her biometric information and/or identifiers are compromised by the lax procedures by which ATCO captured, stored, used, and disseminated her and other similarly situated individuals' biometrics. Moreover, Plaintiff would not have provided her biometric information and/or identifiers if she had known that it would be retained for an indefinite period without written consent.

34. A showing of actual damages is not necessary to state a claim under BIPA. Nonetheless, Plaintiff has been aggrieved because she suffered an injury-in-fact based on ATCO's violations of her legal rights. ATCO intentionally interfered with Plaintiff's right to control her own sensitive biometric information and/or identifiers. Additionally, Plaintiff suffered an invasion of a legally protected interest when ATCO secured her personal and private biometric

information and/or identifiers at a time when it had no right to do so, a gross invasion of her right to privacy.

35. In or around January 2024, ATCO rebranded and began operating as Vayan Group, LLC (“Defendant” or “Vayan”). Upon information and belief, Vayan is the successor to ATCO and continues the same business operations, employees, management, services, and customer relationships previously conducted under the ATCO name.

36. Upon information and belief, Defendant is a mere continuation of ATCO and is therefore responsible for the acts and omissions of ATCO, including the collection, storage, and use of Plaintiff’s biometric identifiers and biometric information.

37. Upon information and belief, Defendant maintains possession, custody, and control over biometric identifiers and biometric information collected from Plaintiff and other employees while operating under the ATCO name.

38. Plaintiff has incurred actual and ongoing harm in the form of monetary damages for the value of the collection and retention of her biometric information, in the form of monetary damages by not obtaining additional compensation as a result of being denied access to material information about ATCO’s policies and practices, in the form of unauthorized disclosure of her confidential biometric information and identifiers to third parties, in the form of interference with her right to control her biometric data, and in the form of continuous exposure to substantial and irreversible loss of privacy.

39. As Plaintiff is not required to prove actual damages in order to state a claim under BIPA, she seeks statutory damages under BIPA as compensation for the injuries caused by Defendant, in addition to attorneys’ fees and costs.

40. Defendant was aware of BIPA’s requirements.

41. Accordingly, Defendant's conduct amounts to reckless, intentional, and knowing violations of BIPA.

42. By way of the foregoing actions, Defendant disregarded Plaintiff's and Illinois employees' legal rights in violation of BIPA

43. The "Upon information and belief, Defendant has never sought or obtained written consent from Plaintiff to collect, store, or use her biometric identifiers and information, either as part of the legacy ATCO data or as part of any current policies under the Vayan name. Defendant continues to possess, store, and control Plaintiff's biometric identifiers without her consent."

III. Class Action Allegations

44. Plaintiff brings this action on behalf of herself and all others similarly situated pursuant to 735 ILCS 5/2-801.

45. Subject to confirmation, clarification and/or modification based on discovery to be conducted in this action, the class that Plaintiff seeks to represent is defined as follows:

All 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.

(the "Class".)

46. Excluded from the Class are: (1) Defendant, any entity in which Defendant has a controlling interest, and its legal representatives, officers, directors, employees, assigns and successors; (2) the Judge to whom this case is assigned and any member of the Judge's staff or immediate family; and (3) Class counsel.

47. The precise number of Class members is unknown to Plaintiff, but likely includes hundreds of individuals due to the size of ATCO and Defendant's projects. The true number of

Class members is known by Defendant, and potential Class members may be identified and notified of the pendency of this action by first class mail, electronic mail, and/or published notice.

48. Common questions of law and fact exist as to all Class members, and will predominate over questions affecting only individual members, including but not limited to the following:

- a) whether ATCO and/or Defendant collected, captured, or otherwise obtained Plaintiff's and the Class members' biometric identifiers or information;
- b) whether ATCO and/or Defendant issued a written release (as defined in 740 ILCS 14/10) to collect, use, and store Plaintiff's and the Class members' biometric identifiers or biometric information;
- c) whether ATCO and/or Defendant complies with any BIPA written policy (if one exists);
- d) whether ATCO and/or Defendant's BIPA violations were willful or reckless; and
- e) whether Plaintiff and the Class members are entitled to damages and injunctive relief.

49. The claims asserted by Plaintiff are typical of the claims of Class members she seeks to represent. Plaintiff has the same interest and suffers from the same unlawful practices as the Class members. Upon information and belief, there are no other Class members who have an interest in individually controlling the prosecution of their individual claim, especially in light of the relatively small value of each claim and the difficulties involved in bringing individual litigation for small value claims. However, if any such Class members should become known, they can "opt out" of this action pursuant to 735 ILCS 5/2-801.

50. Plaintiff will fairly and adequately represent and protect the interests of the Class members as required by 735 ILCS 5/2-801(3). Plaintiff is an adequate representative because her interests do not conflict with the interests of the Class members. Further, Plaintiff has retained

counsel competent and experienced in class action litigation, and has been appointed class counsel in BIPA class actions, and Plaintiff intends to prosecute this action vigorously. Therefore, the interests of the Class members will be fairly and adequately protected.

51. A class action is an appropriate method for the fair and efficient adjudication of the controversy under 735 ILCS 5/2-801(4). In this regard, the Class members' interest in individually controlling the prosecution of separate actions is low given the magnitude, burden, and expense of individual prosecutions against large corporations such as Defendant. Further, neither Plaintiff nor her counsel are aware of any ongoing litigation concerning this controversy already begun by any of the Class members. It is desirable to concentrate this litigation in this forum to avoid burdening the courts with individual lawsuits. Individualized litigation presents a potential for inconsistent or contradictory results and also increases the delay and expense to all parties and the court system presented by the legal and factual issues of this case. By contrast, the class action procedure here will have no management difficulties. Defendant's records will easily identify the Class members. Defendant's conduct is common to all Class members; therefore, the same common documents and testimony will be used to prove Plaintiff's claims as well as the claims of the Class members. Finally, proceeding as a class action provides the benefits of single adjudication, economies of scale, and comprehensive supervision by a single court.

COUNT I

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

52. Plaintiff hereby incorporates paragraphs 1 through 51 above by reference as if fully set forth herein.

53. BIPA requires companies 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 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).

54. BIPA also 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 (*i.e.*, when the business relationship ends); and (ii) actually adhere to that retention schedule and actually delete the biometric information. *See* 740 ILCS 14/15(a). Unfortunately, Defendant fails to comply with these BIPA mandates, too.

55. ATCO Industries, LLC (“ATCO”), and Defendant Vayan Group, LLC (“Vayan” or “Defendant”) are each “private entities” under BIPA. *See* 740 ILCS 14/10.

56. Plaintiff and Class members had their biometric identifiers (fingerprints) and/or biometric information (conversion of fingerprints into mathematical algorithms) collected while employed by ATCO in Illinois, as described above.

57. Upon information and belief, Vayan, as the successor and continuation of ATCO, continues to collect, capture, store, transfer, and/or use biometric identifiers and/or biometric

information from employees using the same or similar Devices and systems previously operated under ATCO.

58. ATCO and/or Defendant systematically and automatically collected, used, stored, and disclosed Plaintiff's and Class members' biometric identifiers and/or biometric information without first obtaining the written release required by 740 ILCS 14/15(b)(3).

59. Upon information and belief, ATCO and/or Defendant disclosed Plaintiff's and Class members' biometric identifiers and/or biometric information to other currently unknown third parties who hosted the biometric information in data centers.

60. ATCO and/or Defendant did not inform Plaintiff and Class members in writing that their biometric identifiers and/or biometric information was being collected, stored, used, or disseminated, nor did they inform Plaintiff and Class members in writing of the specific purpose and length of term for which the biometric identifiers and/or information were collected, stored, used, or disseminated, as required by 740 ILCS 14/15(b)(1)-(2).

61. ATCO and/or Defendant did not provide a publicly available retention schedule or guidelines for permanently destroying biometric identifiers and biometric information as required by BIPA. *See* 740 ILCS 14/15(a).

62. ATCO and/or Defendant violated 740 ILCS 14/15(b)(3) by negligently, recklessly, or intentionally failing to obtain written releases from Plaintiff and Class members before collecting, using, and storing their biometric identifiers and/or biometric information.

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

64. On behalf of herself and the Class, Plaintiff seeks statutory damages of \$5,000 for each willful 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 reasonable attorneys' fees, costs, and expenses pursuant to 740 ILCS 14/20(3).

PRAYER FOR RELIEF

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

- a. Certifying this case as a class action on behalf of the Class defined above, appointing Plaintiff as representative of the Class, and appointing her counsel as Class counsel;
- b. Declaring that Defendant's actions, as set forth above, violate BIPA, 740 ILCS 14/1, *et seq.*;
- c. Awarding statutory damages of \$5,000.00 for each and every willful and/or reckless violation of BIPA pursuant to 740 ILCS 14/20(2), or alternatively, statutory damages of \$1,000.00 for each and every violation pursuant to 740 ILCS 14/20(1) if the Court finds that Defendant's violations were negligent;
- d. Awarding Plaintiff and the Class their reasonable attorneys' fees and costs and other litigation expenses;
- e. Awarding Plaintiff and the Class pre-judgment and post-judgment interest at the maximum rate allowed by law; and
- f. Any and all such other legal and equitable relief as the Court deems proper.

JURY DEMAND

Plaintiff hereby demands a trial by jury on all issues so triable.

Dated: March 14, 2026

Respectfully submitted,

/s/ Matthew T. Peterson

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