

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

REGINALD LARK, et al.,

Plaintiffs,

v.

McDONALD’S USA, LLC, et al.,

Defendants.

Case No. 17-L-559

Hon. Heinz M. Rudolf

ALLISON ARTHUR, et al.,

Plaintiffs,

v.

McDONALD’S USA, LLC, et al.,

Defendants.

Case No. 20-L-0891

Hon. Heinz M. Rudolf

**PLAINTIFFS’ UNOPPOSED MOTION FOR PRELIMINARY APPROVAL OF CLASS
ACTION SETTLEMENT AGREEMENT PURSUANT TO 735 ILCS 5/2-801 et seq.**

The Parties have reached a settlement to resolve the above-captioned Illinois class actions after hard-fought litigation commencing in 2017.¹ The two class actions for money damages involve Defendants’ alleged violations of the Illinois Biometric Information Privacy Act, 740 ILCS 14/1, et. seq., (“BIPA”). Plaintiffs allege that Defendants illegally collected, stored, and used

¹ The first matter, *Lark, et al. v. McDonalds, USA, et al.* (Case No. 17-L-559) (the “*Lark* Litigation”), was filed on September 27, 2017 in the Twentieth Judicial Circuit Court of Illinois, St. Clair County, Illinois. The second matter, *Arthur, et al. v. McDonalds, USA, et al.* (Case No. 20-L-891) (the “*Arthur* Litigation”), was filed in St. Clair County, Illinois on November 10, 2020.. Both cases—collectively referred to as “The Litigations”—have been consolidated before this Court for purposes of settlement and approval. The consolidated cases include McDonald’s USA, LLC, McDonald’s Corporation, and McDonald’s Restaurants of Illinois, Inc. as well as a combined 237 franchisee entities (“Franchisee Defendants”) who operated McDonald’s-brand restaurant locations across Illinois during the relevant time period.

Plaintiffs’ and other similarly situated individuals’ biometric identifiers and biometric information (“biometrics”) without informed written consent, in direct violation of BIPA. Defendants deny Plaintiffs’ allegations and deny that they violated BIPA.

The settlement terms are reflected in the Settlement Agreement and Release, which is approved by both current and past putative class representative plaintiffs in the *Lark* and *Arthur* matters, respectively. Collectively, these agreements will be referred to as the “Agreement,” the “Settlement,” or the “Settlement Agreement,” and are attached hereto as **Exhibit 1**.^{2,3} Although all Parties have approved the Settlement Agreement, due to the sheer number of parties involved, the process of collecting final executed versions is ongoing, but will, in any event, be completed on or before the Preliminary Approval Hearing on November 23, 2021, at which point Plaintiffs will file the fully executed Agreement for the Court’s consideration. Under the Agreement, the Defendants⁴ agree to settle the claims brought by Plaintiffs in the Litigations for a settlement value up to \$50,000,000 without an admission of fault. By any metric, this is a fair, adequate, and reasonable settlement—indeed, the total settlement amount ranks among the highest BIPA settlements ever achieved in Illinois. If approved, the Settlement Agreement will bring certainty and closure – and immediate and valuable relief – to what otherwise would be contentious and costly litigation regarding the Defendants’ allegedly unlawful collection and possession of their employees’ biometric identifiers and/or biometric information.

Both Plaintiffs and the Defendants believe in the merits of their cases and compromised to reach this result after multiple mediations and more than six months of protracted negotiations

² Capitalized terms shall have the same meaning as set forth in the Agreement, unless otherwise noted.

³ Class representative Plaintiffs and the Defendants signed separate copies of the attached, final version.

⁴ See Appendix A, which contains a complete list of all Named Defendants who are parties to the Agreement.

thereafter. Plaintiffs and Class Counsel have extensively investigated the facts and law relating to the class claims and the Defendants' defenses. While Plaintiffs and Class Counsel believe the class claims are meritorious, they also recognize the expense and effort that it would take to prosecute this case against the Defendants through trial and any subsequent appeals. Plaintiffs and Class Counsel have considered the uncertain outcome and risk involved in any litigation, especially complex actions such as this one, including the difficulties and delays inherent in the litigation process. With these factors in mind, Plaintiffs and Class Counsel are confident that the Settlement is fair, reasonable, adequate, and in the best interests of the Class. Significant risk existed as to both sides. This Settlement resolves that risk and provides immediate relief to Settlement Class Members, who will not have to deal with any uncertainty or wait through lengthy trials and appeals that might intervene or follow, all of which may take many months or years to conduct in light of COVID-19.

Critically, the Parties reached the Settlement despite a substantial risk of non-recovery in this matter. Indeed, during the Parties' multiple mediations and many months of subsequent negotiations, the Illinois Supreme Court agreed to hear *McDonald v. Symphony Bronzeville Park, LLC*, Case No. 12651—a case which will determine whether the exclusivity provisions of the Illinois Workers' Compensation Act bar claims for statutory damages under BIPA. An adverse decision in *McDonald* could deprive the Settlement Class of any recovery whatsoever. Balancing the risks against the substantial attendant benefits, the Court should grant Plaintiffs' Unopposed Motion for Preliminary Approval, find that the Settlement is fair, adequate, and reasonable, and enter an Order: (i) granting preliminary approval of the Settlement Agreement; (ii) provisionally certifying the Class for settlement purposes; (iii) appointing Class Representatives and Class Counsel; (iv) approving the form and manner of the Notice Plan, including the proposed Class

Notice attached hereto as Exhibit 2, and appointing a Settlement Administrator; (v) establishing deadlines for requests for exclusion and the filing of objections to the proposed settlement contemplated by the Settlement Agreement; and (vi) scheduling a final fairness hearing to take place on February 28, 2022, or as soon thereafter as the matter may be heard.

I. RELEVANT PROCEDURAL BACKGROUND

Lark Litigation

The litigation of *Lark, et al v. McDonald's USA, LLC, et al.*, No 17L559 has been arduous in every respect. On September 27, 2017, Plaintiffs Macy Koeneman and Krista Noell filed this putative class action lawsuit against Defendants McDonald's USA, LLC; McDonald's Corporation; and Doe Defendants 1-600. On November 2, 2017, the matter was assigned to the Honorable Judge Christopher Kolker. Defendants filed their Answer and Affirmative Defenses on December 13, 2017.

Discovery commenced on January 17, 2018 with Plaintiff's service of their First Interrogatories and Requests for Production of Documents upon both Defendants. Defendants responded in part on February 14, 2018 and indicated they would respond further upon entry of a Protective Order. Defendants' Motion for Protective Order was filed on February 23, 2018, taken under advisement at consecutive hearings, and ultimately resulted in the appointment of J. Williams (Ret.) as Special Discovery Master.

Defendants amended their discovery responses on March 2, 2018 and served their own discovery requests upon both Plaintiffs on March 5, 2018. On March 6, 2018, Plaintiffs filed a Motion to Compel Discovery Responses.

On April 2, 2018, Plaintiff Macy Koeneman filed a motion to voluntarily dismiss her claims and leave Krista Noell as the sole remaining Plaintiff on behalf of the putative class.

Plaintiffs' Motion to Compel Defendants' Discovery Responses was heard and granted on April 3, 2018, and Defendants amended their Discovery Responses again on April 27, 2018. However, discovery disputes remained. Plaintiffs filed a Supplemental Motion to Compel on June 18, 2018, and the Defendants filed their own Motion to Compel Discovery Responses on June 19, 2018. On that same day, Defendants filed a Motion to Stay this matter pending the outcome of *Rosenbach v. Six Flags Entertainment Corp, et al.*, 2017 IL App (2d) 170317.

On June 22, 2018, Defendants further amended their responses to Plaintiffs' first Discovery Requests.

On June 25, 2018, Defendants' Motion to Stay was granted. Plaintiffs filed a Motion to Reconsider that ruling on July 12, 2018, which was heard and granted, lifting the stay, on August 2, 2018. In response, on August 31, 2018, Defendants filed a Notice of Interlocutory Appeal from the Court's August 2nd order. The Supporting Record was filed in the Appellate Court on September 5, 2018. Appellants' Brief was filed on September 12, 2018, Appellees' Brief was filed on October 5, 2018, and Appellants' Reply was filed on October 12, 2018. On November 1, 2018, Plaintiff-Appellee filed a Motion to File Supplemental Authority and for Supplemental Briefing regarding a recent decision in the matter of *Sekura v. Krishna Schaumburg Tan, Inc.*, 2018 IL App (1st) 180175, which Defendants-Appellants opposed on November 6, 2018. The Court held oral argument on December 6, 2018.

On January 25, 2019, the Illinois Supreme Court issued its mandate in the *Rosenbach* matter. As a result, the Appellate Court issued an order on March 12, 2019 dismissing Defendants' appeal as moot and remanding the matter to the Circuit Court for further proceedings.

During the pendency of the Appeal, Discovery continued. Plaintiffs served a second set of Discovery Requests upon the Defendants on August 31, 2018. Defendants responded to Plaintiffs'

Second Discovery Requests on September 28, 2018. On October 8, 2018, Plaintiff filed a Motion to Compel Defendants' responses. Defendants amended their responses to Plaintiffs' second requests on October 15, 2018 and opposed the Motion to Compel on November 16, 2018. Defendants again amended their responses to Plaintiffs' First Discovery Requests on November 19, 2018. Plaintiffs' Motion to Compel was granted in part and continued on November 20, 2018. Defendants further amended their responses to Plaintiffs' First and Second Discovery Requests on February 20, 2019. In total, Defendants produced over 200,000 Bates numbered documents in response to Plaintiffs' requests.

On June 6, 2019, Plaintiff filed a Motion for Leave to Amend Pursuant to 735 ILCS 5/2-616. The Proposed First Amended Complaint named 40 Plaintiffs and 32 defendants (McDonald's Corporation, McDonald's USA, LLC, McDonald's Restaurants of Illinois, Inc. (collectively, "McDonald's"), and an additional 29 Franchisee Defendant entities). Plaintiff's Motion for Leave to Amend was heard and granted on June 17, 2019. On the same day, the Court issued its order appointing J. Williams (Ret.) as Special Discovery Master to resolve the outstanding disputes outlined in the Parties' Motions to Compel.

On August 8, 2019, Franchisee Defendant Luna, Inc. filed the first of many Motions for Substitution of Judge as a Matter of Right that have been filed in this matter. On August 14 and 16, 2019, McDonald's filed their Answers and Affirmative Defenses to Plaintiffs' First Amended Complaint.

On August 21, 2019, Plaintiffs filed a Motion for Partial Summary Judgment on the issue of whether any defendant is a State or local government agency. This motion was granted on September 5, 2019. On September 3, 2019, Plaintiffs moved for voluntary dismissal of their claims against Luna, Inc. prior to any ruling on their pending Motion for Substitution of Judge. The same

day, Franchisee Defendant McEssy Investment Company filed their own Motion for Substitution of Judge as a Matter of Right, and Plaintiffs filed a voluntary dismissal of their claims against McEssy.

On September 9, 2019, Franchisee Defendant Estel Foods, Inc. filed yet another Motion for Substitution of Judge as a Matter of Right. This motion was denied on September 18, 2019.

On September 11 and 12, 2019, fourteen Franchisee Defendants represented by the O'Hagan Meyer law firm filed Motions to Dismiss for Improper Venue, or in the Alternative, to Sever this Action. On September 16, 2019, ten Franchisee Defendants represented by the law firm Jackson Lewis filed Motions to Transfer Venue, or in the Alternative, Sever this Action. On October 2, 2019, Franchisee Defendant TDS Services, Inc. filed a Motion to Dismiss for Improper Venue, or in the Alternative, to Sever this Action, combined with a Motion to Strike Counts CCLIX, CCLX, and CCLXIII of the First Amended Complaint. Plaintiffs filed oppositions to each of these motions on October 25, 2019.

On October 10, 2019, Plaintiffs served its first set of Interrogatories and Requests for Production of Documents upon each of the twenty-seven (27) Franchisee Defendants. All 27 Franchisee Defendants served responses by December 13, 2019.

On October 22, 2019, Plaintiffs filed a Motion for Leave to Amend Pursuant to 735 ILCS 5/2-616, seeking leave to file a Second Amended Class Action Complaint naming 40 plaintiffs and 31 defendants. McDonald's USA and McDonald's Corporation, and Franchisee Defendant Estel Foods, Inc., submitted oppositions on October 28, 2019.

Plaintiffs' Motion for Leave to Amend and Defendants' various venue motions were heard on October 29, 2019. Plaintiffs' Motion was granted, and their proposed Second Amended Class Action Complaint deemed filed *instanter*. All of the Franchisee Defendants' motions were denied.

On October 29, 2019, Franchisee Defendant Casireon, LLC, newly added as a party in the Second Amended Class Action Complaint, submitted a Motion for Substitution of Judge as a Matter of Right. On November 5, 2019, Plaintiffs voluntarily dismissed their claims against Casireon, LLC. Also on November 5, 2019, Plaintiffs filed a Motion for Leave to Amend Pursuant to 735 ILCS 5/2-616, seeking leave to file a Third Amended Class Action Complaint naming 40 Plaintiffs and 31 Defendants. McDonald's and the Franchisee Defendants represented by O'Hagen Meyer filed oppositions to Plaintiffs' Motion on November 21 and 22, 2019, respectively. The Court heard and granted Plaintiffs' Motion on November 25, 2019, and the Third Amended Class Action Complaint (the current, operative complaint in this matter) was deemed filed instant. The same day, newly named defendant JCTWILL, LLC filed a Motion for Substitution of Judge as a Matter of Right.

On December 10, 2019, the Court entered two Orders – one detailing its ruling denying the various venue motions from the October 29, 2019 hearing, and a second granting Defendant JCTWILL, LLC's Motion for Substitution of Judge. This matter was reassigned to the Honorable Judge Stephen McGlynn the same day.

McDonald's filed their Answers and Affirmative Defenses to Plaintiffs' Third Amended Complaint on December 26, 2019.

On January 9, 2020, Franchisee Defendants represented by O'Hagan Meyer filed a Motion to Reconsider the Court's December 10, 2019 Order regarding its venue motions. On January 10, 2020, they filed a Motion for Leave to File Motions to Dismiss in Excess of the Court's page limit, attaching sixteen (16) Motions to Dismiss under Rule 2-619. Also on January 10th, Franchisee Defendants represented by Jackson Lewis filed a Motion to Join the Motion to Reconsider, and Franchisee Defendant TDS Services, Inc. separately filed a Motion for Leave to File its Motions

to Dismiss, Sever, and Transfer Counts 233-240 of the Third Amended Class Action Complaint in excess of the Court's page limit.

On January 13, 2020, eleven (11) Franchisee Defendants filed Motions for Leave to Exceed Page Limits, attaching Motions to Dismiss under Rule 2-619. On January 14, 2020, Franchisee Defendant Amore Enterprises, Inc. filed a Motion to Sever and Transfer certain Counts of the Third Amended Class Action Complaint. All of the motions regarding page limitations were heard and granted on January 27, 2020, and the attached Motions to Dismiss, Sever, and/or Transfer were deemed filed *instanter*. On February 21, 2020, the Franchisee Defendants' Motion to Reconsider the Court's December 10, 2019 ruling on their venue motions was denied.

Between March 16 and 19, 2020, Plaintiffs filed 26 briefs in opposition to the Franchisee Defendants' Motions to Dismiss, Sever, and/or Transfer.

At this point the COVID-19 pandemic halted regular Court operations. On April 2, 2020, the Court ordered the parties to notify the Court within 10 days if either party wanted to present oral argument on the pending motions via teleconference or wait until the Court resumed its normal operation. The parties disagreed, and certain Franchisee Defendants filed a Motion to Request Video Hearing on June 25, 2020. Plaintiffs opposed on June 29, but ultimately, on July 6, 2020, the matter was set for a Zoom hearing on July 28.

On July 14 and 15, certain Franchisee Defendants filed Reply briefs on their Motions to Dismiss, Sever, and/or Transfer, and on August 24, 2020, additional Franchisee Defendants filed Replies in support of their Motions to Dismiss.

On July 17, 2020, the Court reassigned this matter from Judge Stephen McGlynn to Judge William D. Stiehl. Plaintiffs filed a Motion for Substitution of Judge as a Matter of Right, which was granted on July 22, 2020. The matter was reassigned to the Honorable Judge Andrew Gleeson

on July 23, 2020. On August 6, 2020, Franchisee Defendant Karavites Restaurant 6298, LLC filed yet another Motion for Substitution of Judge as a Matter of Right, and on August 18, 2020 they filed a brief in support.

On August 25, 2020, Plaintiffs filed a brief in opposition to Franchisee Defendant Karavites Restaurant 6298's Motion for Substitution of Judge. Defendant Karavites Restaurant 6298 filed their Reply in support on September 8, 2020, and Plaintiffs filed a sur-reply on September 15. The Motion was taken under advisement on November 10, 2020, and the Court ordered the Parties to submit Proposed Orders by December 1.

On December 17, 2020, Plaintiffs filed a Motion for Leave to Amend to Add Subclass and Allegations for Reckless Disregard Relating to Defendants' alleged Unlawful Capture and Use of their Minor Employees' Biometric Data.

On June 7, 2021, the Court entered an Order terminating the appointment of Stephen C. Williams as Special Master. On June 14, 2021, the matter was set for status on October 25, 2021 to allow the Parties to continue settlement discussions, and status was again reset for November 8, 2021. On November 8, 2021, the Parties moved to consolidate the *Lark* and *Arthur* matters, and the Court granted the motion and consolidated the two cases.

Arthur Litigation

The litigation of *Arthur, et al v. McDonald's USA, LLC, et al.*, No. 20L0891 has been less lengthy, but is complicated in its own way. The Complaint was filed on November 10, 2020 by Plaintiffs Allison Arthur, Kyle Arthur, Ma-Kyeia Daniels, Tiffany Gomez, LaShunda Hicks, Ky'Aron Manning, Brett Prather, and David Truetner, naming as Defendants McDonald's USA, LLC, McDonald's Corporation, and over 200 additional Franchisee entities that were not named in *Lark*. The case was assigned to the Honorable Judge Heinz Rudolf and remains before him.

Service of process required the appointment of two Special Process Servers and the issuance of 218 Summonses and 73 Alias Summonses for service upon 57 registered agents spread throughout the entire State of Illinois over the course of more than two months.

Motion practice in this matter has been much more limited than in *Lark*, and the Court has repeatedly granted extensions of Defendants' response deadline to accommodate the Parties' Mediation efforts and to give the parties time to engage in settlement discussions.

Plaintiffs filed a Motion for Leave to Amend on January 28, 2021, which remains before the Court. On June 23, 2021, Defendants filed a Joint Motion to Stay Proceedings upon which the Court has declined to rule in light of the ongoing settlement talks.

On September 17, 2021, the Court appointed Judge Lloyd Cueto to assist the parties and the Court regarding issues with the settlement term sheet.

On October 11, 2021, Plaintiffs filed a Motion for Substitution of Judge as a Matter of Right, but withdrew the motion on October 12. On November 8, 2021, the cases were consolidated.

Mediation

In early 2019, the Parties first attempted to resolve the *Lark* matter through mediation before Judge Morton Denlow (Ret.). Plaintiffs submitted a Mediation Statement on February 22, 2019, and Defendants submitted theirs on March 1, 2019. Mediation took place on March 5, 2019, and was ultimately unsuccessful.

The Parties second attempt at mediation took place nearly two years later, when in 2021 the Parties retained former U.S. District Court Judge Layn Phillips (Ret.) to serve as mediator of both the *Lark* and *Arthur* Litigations. Both parties acknowledge that Judge Phillips is widely recognized as one of the most preeminent and experienced mediators in the country. The Parties submitted their mediation statements to the Honorable Judge Layn Phillips (Ret.) on January 21,

2021. Judge Phillips held full-day mediation sessions on March 11, 2021, and April 7, 2021. When those mediation sessions failed to result in an agreement, the Parties continued to engage in negotiations with the assistance of Judge Phillips for the next several months. In all, mediation and subsequent settlement negotiations totaled over nine months. On September 17, 2021, Judge Rudolf in the *Arthur* Litigation ordered to Parties to engage the Hon. Lloyd Cueto (Ret.) as an additional mediator. The Parties continued to have negotiations through both Judge Phillips and Judge Cueto for several additional weeks, and have continued settlement discussions until the present day, culminating in the instant Agreement, which (if approved) will resolve both the *Lark* and *Arthur* matters.

II. THE PROPOSED SETTLEMENT

A. The Settlement Class

The Settlement Class in this case is the defined as the following:

All individuals employed by any “McDonald’s Defendant” who logged onto, interfaced with, or used any software, systems, or devices that used the individual’s finger, hand, face, retina, or any biometric identifier of any type (“Biometric Systems”) in any McDonald’s or McDonald’s franchise restaurants in Illinois, including any employee of a McDonald’s Defendant who has a claim under the Illinois Biometric Information Privacy Act, 740 ILCS 14/1, et seq., at any time through the date of preliminary approval.

Each such individual is a “Settlement Class Member.”

B. The Settlement Fund

Defendants and their insurers will jointly commit to fund up to \$50,000,000, inclusive of attorneys’ fees and costs, to resolve both Litigations. This amount is inclusive of all payments made to Plaintiffs; class members; Plaintiffs’ attorney’s fees and costs approved by the Court; any Court-approved Service Awards to named Plaintiffs; and costs and expenses associated with settlement administration (the “Gross Settlement Amount”).

Within 30 days after the entry of the Preliminary Approval Order, the Defendants shall deposit into the Settlement Fund the first installment in the amount of Twenty-Two Million Five Hundred Thousand U.S. dollars (\$22,500,000). Any amounts in addition to \$22,500,000 shall be deposited by Defendants within 30 days after the Effective Date (as defined in the Agreement).

\$5,000,000 out of the \$50,000,000 Gross Settlement Amount consists of two reserves: Reserve A, consisting of \$2,500,000, is available only in the event that more than 60% of the Settlement Class submit valid and timely claim forms. Reserve B, consisting of an additional \$2,500,000, is available only in the event that more than 75% of the Settlement Class submit valid and timely claim forms.

Defendants will pay settlements amount into a Court-approved Qualified Settlement Fund pursuant to Section 1.468B-1 et seq. of the Treasury Regulations promulgated under Section 468B of the Internal Revenue Code of 1986, as amended, and will be maintained in an interest-bearing account.

If the Settlement Agreement does not receive final approval, the Gross Settlement Amount belongs to Defendants (or their insurers, as the case may be), less any administrative expenses paid to date. Plaintiff shall have no financial responsibility for any administrative expenses in the event that the Settlement Agreement does not receive final approval.

The Gross Settlement Amount shall be used to pay: (i) the Settlement Class Members in accordance with the terms of this Agreement; (ii) Incentive Awards to the Class Representatives; (iii) the Fee Award; and (iv) payment of Administrative Expenses to the Settlement Administrator. All of these amounts shall be payable solely out of the Gross Settlement Amount.

The Gross Settlement Amount and obligations outlined in the Settlement Agreement represent the total extent of Defendants' monetary obligations under the Settlement Agreement.

Defendants' contribution to the Gross Settlement Amount shall be fixed and be final.

C. Settlement Class Member Payments

Under the Settlement Agreement, Settlement Class Members will be eligible to receive a distribution from the Gross Settlement Amount less attorneys' fees and costs, incentive award payments and settlement administration costs and expenses through an allocation methodology and formula, set forth in the Parties' Settlement Agreement, based on the employment dates for each Settlement Class Member, set forth as follows:

Employment at McDonald's Defendants ON OR BEFORE December 31, 2018: Each Settlement Class Member employed at any McDonald's-brand restaurant in Illinois on or before December 31, 2018, who provides a valid Claim Form will receive up to \$375, in cash.

Employment at McDonald's Defendants ON OR AFTER January 1, 2019: Each Settlement Class Member whose employment at any McDonald's-brand restaurant in Illinois on or after January 1, 2019, who provides a valid Claim Form will receive up to \$190, in cash.

If a Claim Form is timely submitted by a Class Member but is deficient in one or more aspects, the Settlement Administrator shall, within 5 days of receipt of the deficient Claim Form, notify the Parties' counsel and return the form to the Class Member with a letter explaining the deficiencies and informing the Class Member that he or she shall have 14 days from the date of the deficiency notice to correct the deficiencies and resubmit the Claim Form. In consultation with the Settlement Administrator, McDonald's Defendants shall have the right to establish reasonable fraud control measures and standards to be applied, as appropriate.

Payment of Claims: Within sixty (60) days of the Effective Date, the Settlement Administrator shall send a check by First Class U.S. Mail to each Settlement Class Member that submitted an Approved Claim. These checks shall expire one-hundred and twenty days (120) after issuance.

Defendants, Defendants' Counsel, Plaintiffs, and Class Counsel will not have any liability

for lost or stolen checks, forged signatures on checks, unauthorized negotiation of checks, or failure to timely cash a check within the 120-day period.

Administrative Expenses: All Administrative Expenses shall be paid out of the Gross Settlement Amount, unless modified by agreement in writing by Class Counsel and Defendants' Counsel or by Court order.

Remaining Funds: All residual funds remaining from the Gross Settlement Amount after payments and expenses have been paid per the terms of this Agreement shall revert to the Defendants 180 days after the Effective Date (or such other date as may be set with Defendants' consent to allow sufficient time for processing of claims and payments from the Gross Settlement Amount) and may thereafter be retained by the Defendants as the Defendants' money.

Defendants' Counsel and Class Counsel will provide their best information to and cooperate with the Settlement Administrator to respond to any reasonable inquiries from the Settlement Administrator necessary to complete its responsibilities under this Agreement. Any and all information provided for the purpose of locating Settlement Class Members whose individual settlement check is returned as undeliverable provided by Defendants or their Counsel shall be held in confidence, retained in an electronically secure manner, and shall be used solely for purposes of effectuating the Settlement Agreement.

To provide timely relief to Class Members, the Parties' proposed Preliminary Approval Order provides that the Court will schedule the Final Approval Hearing on February 28, 2022, or as soon thereafter as the matter may be heard.

D. Notice and Settlement Administration

The Parties request that the Court approve their selection of Epiq to serve as the Settlement Administrator in this matter.

The Settlement Administrator will implement a robust class notice program to ensure that Settlement Class Members learn of their rights in the Settlement. The notice program will include multiple, targeted methods of notice distribution and the creation of a Settlement website.

Upon preliminary approval of the settlement, as the Court may direct, the Settlement Administrator shall disseminate Notice to the Settlement Class of the Settlement Agreement explaining the rights that will be extinguished under the Settlement Agreement and the rights and the processes by which Settlement Class Members may participate in, comment on, object to, or exclude themselves from the Settlement. Notice in the form approved by the Court shall be provided via (1) regular, first-class mail and (2) email for Settlement Class Members for whom postal and email addresses are available in McDonald's Defendants' employment records.

Settlement Class Members will be provided with postage pre-paid claims forms, which must be returned to the Settlement Administrator with a postmark no later than 50 days from mailing. Settlement Class Members will also have the option to submit a claim form on the settlement website. Among other things, Plaintiffs' proposed Notice of Class Action Settlement ("Class Notice") (*see* **Exhibit 2**) explains the following to Settlement Class Members: (1) what the Settlement is about; (2) how to receive payment, request exclusion, and submit an objection; (3) how to obtain more information about the Settlement; (4) the monetary terms of the Settlement and how individual payments will be calculated; (5) the maximum amounts to be requested for attorney fees, costs, settlement administration, and Service Awards; and (6) the Final Approval Hearing details.

Any Class Notices returned to the Settlement Administrator as non-deliverable with a forwarding address on or before the Response Deadline will be sent via regular First-Class mail to the forwarding address within 5 days of receipt of the forwarding address, and the Settlement

Administrator will state the date of such re-mailing on the Class Notice. For any Class Notice that is returned by the post office as undeliverable without a forwarding address or addressee unknown, the Settlement Administrator shall perform a skip trace that shall use such public and proprietary electronic resources as are available to the Settlement Administrator that lawfully collect address data from various sources such as utility records, property tax records, motor vehicle registration records, and credit bureaus. If the Settlement Administrator is successful in locating an alternate subsequent address or addresses, the Settlement Administrator shall perform a single re-mailing of the Class Notice to the new address(es) within 10 days of receipt of the undeliverable notice.

The Settlement Administrator will also create a Settlement website, anticipated to be www.ArthurLarkBIPASettlement.com, which will also have information on how to contact the Settlement Administrator, how to download and submit a Claim Form if needed, Notice, how to opt-out of the Settlement, the Settlement Agreement, the Preliminary Approval Order, the Motion for Attorney Fees, Costs, and Settlement Class Representatives' Service Awards (once available), the Motion for Final Approval (once available), and the Final Approval Order (once available).

E. Payment of Attorneys' Fees, Costs, and Service Awards

Class Counsel will seek reasonable attorneys' fees in an amount to be determined by the Court by petition. Proposed Class Counsel has agreed to limit its request for fees to 37% of the Gross Settlement Fund, plus reasonable costs and expenses with no consideration from Defendants and no "clear-sailing agreement," such that Defendants expressly reserve their right to object to the amount requested if they desire.

Defendants has also agreed to pay each Class Representative an incentive award in the amount of \$2,500 from the Settlement Fund, subject to Court approval, in recognition of their

efforts as Class Representatives. Plaintiff will move for these payments via a separate request after Preliminary Approval.

F. Release

In exchange for the relief described above, and as set forth in more detail in the Settlement Agreement, Settlement Class Members who do not timely exclude themselves from the Settlement, will provide Defendants, their affiliated entities and other Released Parties a full and complete release of any and all claims, rights, demands, liabilities, and/or causes of action of every nature and description, whether known or unknown, which relate in any way to information that is or could be protected under the Illinois Biometric Information Privacy Act, 740 ILCS 14/1 et seq., or any other similar state, local, or federal law, regulation, or ordinance, or common law, regarding the collection, capture, receipt, maintenance, storage, transmission, or disclosure of biometric identifiers or biometric information that Settlement Class Members claim, might claim, or could have claimed in any court or administrative proceeding.⁵ Ex. 1 ¶ 54.

III. APPLICABLE LEGAL STANDARDS

“Certification of a class action in Illinois is governed by section 2-801 of the Code.” *Lee v. Buth-Na-Bodhaige, Inc.*, 2019 IL App (5th) 180033 at ¶ 52 (Ill. App. Ct. 2019). Section 2-801 contains four prerequisites in order to maintain a class action: “(1) the class is so numerous that joinder of all members is impracticable, (2) there are questions of fact or law common to the class that predominate over any questions affecting only individual members, (3) the representative parties will fairly and adequately protect the interests of the class, and (4) the class action is an

⁵ This Release includes, without limitation, statutory, constitutional, contractual, and/or common law claims for damages, unpaid costs, penalties, liquidated damages, punitive damages, interest, attorneys’ fees, litigation costs, restitution, or equitable relief to the extent permitted by applicable law.

appropriate method for the fair and efficient adjudication of the controversy.” *Lee*, 2019 IL App (5th) 180033 at ¶¶ 52–53.

For a class action settlement agreement to be approved, “[t]he proponents of a class settlement must show that the compromise is fair, reasonable, and in the best interest of all who will be affected by it, including absent class members.” *Id.* at ¶ 54. “Class action settlements are reviewed on a case-by-case basis, with consideration of several factors, including the strength of plaintiffs’ case balanced against the money and relief offered in the settlement; the defendant’s ability to pay; the complexity, length, and expense of further litigation; the amount of opposition to the settlement; the presence of collusion in reaching the settlement; the class members’ reaction to the settlement; the opinion of competent counsel; and the stage of proceedings and amount of discovery completed. [citation omitted]. In considering these factors, the circuit court should not turn the approval hearing into a trial on the merits. [citation omitted].” *Id.* at ¶ 56.

The Manual for Complex Litigation describes a three-step process for approving a class action settlement: (1) preliminary approval of the proposed settlement; (2) dissemination of notice of the settlement to class members; and (3) a final approval hearing. *See Manual for Complex Litigation* §21.63 (4th ed. 2004). “The initial examination is a bit less strenuous than the final fairness assessment—at the early stage, the Court need only determine whether the settlement is ‘within the range of possible approval.’” *Wyms v. Staffing Sols. Se., Inc.*, 15-CV-0643-MJR-PMF, 2016 WL 6395740, at *4 (S.D. Ill. Oct. 28, 2016) (quoting *Gautreaux v. Pierce*, 690 F.2d 616, 621 n.3 (7th Cir. 1982)). “The purpose of the initial hearing is to ascertain whether there is any reason to notify the class members of the proposed settlement and proceed with a fairness hearing.” *Cook v. McCarron*, 92 C 7042, 1997 WL 47448, at *7 (N.D. Ill. Jan. 30, 1997) (citation omitted). Once

the settlement is found to be “within the range of possible approval” at the initial fairness hearing, the final approval hearing is scheduled and notice is provided to the class. *Id.*

IV. PROVISIONAL CLASS CERTIFICATION FOR THE PURPOSES OF SETTLEMENT SHOULD BE GRANTED

Deciding whether to grant class certification is soundly within the discretion of the circuit court, and “[i]n exercising its discretion, the court should err in favor of granting class certification.” *Bueker v. Madison County*, 2016 IL App (5th) 150282, ¶ 22, 61 N.E.3d 237, 248. In deciding whether to certify a class, the trial court may consider any matters of fact or law properly presented by the record, including the pleadings, depositions, affidavits, answers to interrogatories, and any evidence that may have been adduced at the hearings. *Lee*, 2019 IL App (5th) 180033 at ¶ 53. In a class action, the trial court is the guardian of the interests of the absent class members. *Id.* at ¶ 54. When faced with a settlement-only class, in order to protect the absent members of the class, the trial judge must give heightened scrutiny required to apprise itself of all facts necessary to reach an intelligent and objective opinion of the probabilities of ultimate success if the case were to proceed, and to assess the complexity, expense, and likely duration of the case if it were to proceed, not to mention consideration of the general wisdom of the proposed compromise. *Id.* at ¶¶ 56-57. In this way, “a court asked to approve the settlement should not assume the passive role that is appropriate when there is genuine adverseness between the parties.” *Id.* at ¶¶ 56 (citing *Redman v. RadioShack Corp.*, 768 F.3d 622, 629 (7th Cir. 2014)).

To qualify for certification, an action must satisfy all of the provisions of 735 ILCS 5/2-801 *et seq.*, namely that, (1) the class is so numerous that joinder of all members is impracticable; (2) there are questions of fact or law common to the class, which predominate over any questions affecting only individual members; (3) the representative parties will fairly and adequately protect the interests of the class; and (4) a class action is an appropriate method for the fair and efficient

adjudication of the controversy. 735 ILCS 5/2-801. *See also e.g. Lee*, 2019 IL App (5th) 180033 at ¶¶ 52–53; *Bueker*, 2016 IL App (5th) 150282, ¶ 23; *Clark v. TAP Pharmaceutical Products, Inc.*, 343 Ill. App. 3d 538, 545, 278 Ill. Dec. 276, 798 N.E.2d 123 (5th Dist. 2003).

A. NUMEROSITY IS SATISFIED.

Section 801(1) requires not only that the number of plaintiffs be numerous, but also that joinder of plaintiffs in one individual action be impractical. 735 ILCS 5/2-801(1). Where there are a number of potential claimants, and the individual amount claimed by each is relatively small, making redress on an individual level difficult, if not impossible, Illinois courts have been particularly receptive to proceeding on a class action basis. *Miner v. Gillette Co.*, 87 Ill.2d 7 (1981).⁶

The number of workers who may have been affected here is sufficiently numerous to make joinder of all such workers impractical. The Parties believe that the number of class members in this action, all of whom are current or former employees at of one of the McDonald’s Defendants’ hundreds of locations throughout the State of Illinois, will total more than 175,000 individuals. This is more than enough to satisfy the requirement of numerosity under section 2-801(1) consistent with binding precedent. *See Clark*, 343 Ill. App. 3d 538, 545 (“The plaintiff’s complaint alleges thousands of plaintiffs nationwide, and the defendants do not dispute that the class is so numerous that the joinder of all members would be impractical. Accordingly, the [numerosity requirement] is met.”); *Kulins v. Malco, A Microdot Co., Inc.*, 121 Ill. App. 3d 520, 530 (1st Dist. 1984) (finding that in Cook County, 47 class members was sufficient to satisfy numerosity);

⁶ The disproportionate burden on plaintiffs having to bear the cost, time, and expense of pursuing individual small, duplicative cases is not the only consideration, either. The courts themselves have a legitimate interest in avoiding needless and wasteful litigation. “Affirming the trial court’s class certification order will avoid the filing of numerous, repetitive cases placing a burden on the courts.” *Fakhoury v. Pappas*, 395 Ill. App. 3d 302, 316 (1st Dist. 2009).

Carrao v. Health Care Serv. Corp., 118 Ill. App. 3d 417, 427 (1st Dist. 1983) (finding that allegations in the complaint that “the class consists of over 1,000 members provides an ample basis for the trial court’s conclusion that joinder of all members is impracticable.”); *see also Cruz v. Unilock Chicago*, 383 Ill. App. 3d 752, 322 Ill. Dec. 831, 892 N.E.2d 78 (2d Dist. 2008) (stating that plaintiffs need not demonstrate a precise figure for the class size, rather a good faith non-speculative estimate showing that the class is sufficiently numerous to make the joinder of all the members impracticable). Therefore, this Court should find that the numerosity element is satisfied under section 801(1).

B. THERE ARE COMMON QUESTIONS OF LAW AND FACT.

Section 801(2) requires “questions of fact or law common to the class.” 735 ILCS 5/2-801(2). “The statutory requirement [for section 801(2)] is met where (1) there are questions of fact or law common to the class and (2) these common questions predominate over questions affecting only individual members of the class.” *Hall v. Sprint Spectrum, L.P.*, 376 Ill.App.3d 822, 831, 315 Ill.Dec. 446, 876 N.E.2d 1036 (2007). “In order to satisfy the second requirement of section 2–801 . . . it must be shown that successful adjudication of the purported class representatives individual claims will establish a right of recovery in other class members.” *Hall*, 376 Ill. App. 3d at 831 (internal citations omitted).

A case presents common questions when defendants have engaged in the same or similar course of conduct. *See Clark*, 343 Ill. App. 3d at 548; *Hall*, 376 Ill. App. 3d at 831. This is particularly true where – as here – the claims are based predominantly upon the application of a single statute or statutory scheme. “A common question may be shown when the claims of the individual class members are based upon the common application of a statute” *Clark*, at 548; *see also Bueker*, 2016 IL App (5th) 150282, ¶ 27 (“With regard to the commonality requirement,

a common issue may be shown where the claims of the individual class members are based upon the common application of a statute or where the proposed class members are aggrieved by the same or similar conduct or pattern of conduct.”); *Hall*, 376 Ill. App. 3d at 831 (same).

Here, this element is satisfied as the claims of individual class members are alleged to be based upon the common application of one Illinois statute, the Illinois Biometric Information Privacy Act (“BIPA), 740 ILCS 14/5 *et seq.* The Court should therefore find that the commonality element of section 801(2) is satisfied here. *See Clark*, 343 Ill. App. 3d at 548; *Bueker*, 2016 IL App (5th) 150282 at ¶ 27.

C. THE NAMED PLAINTIFFS AND THEIR COUNSEL ADEQUATELY REPRESENT THE INTERESTS OF THE PROPOSED SETTLEMENT CLASS.

Adequate representation has two components: (1) adequacy of the named Plaintiff; and (2) adequacy of the named plaintiff’s attorneys. “In considering the adequacy of representation, the test is whether the interests of those who are parties are the same as those who are not joined and whether the litigating parties fairly represent those who are not joined.” *Lee*, 2019 IL App (5th) 180033, ¶ 63 (citing *Miner*, 87 Ill. 2d at 14, 56 Ill.Dec. 886, 428 N.E.2d 478). In this consideration, a court must ensure that the “plaintiff’s claim must not be antithetical to those of other class members, and plaintiff’s interests must not appear collusive.” *Id.* “The representation by the class representative must protect the due process rights of the class members, including the right to be represented by a lawyer who is qualified, experienced, and generally able to conduct the proposed litigation.” *Id.*; *see also Retired Chicago Police Association*, 7 F.3d 584, 598 (7th Cir. 1993).

These requirements are readily established in this case. The putative Class Representatives, all employees or former employees of the Franchisee Defendants and/or McDonald’s Restaurants of Illinois, have a basic understanding of the nature of the claims against the Defendants, and are

sufficiently aware of the importance and responsibility of their individual role as Class Representatives as they maintain a genuine and substantial concern for the result of this litigation. Class Counsel is not aware of a conflict between the putative Class Representatives and the Class they seek to represent, nor is it believed that the relief sought is antagonistic to the interests of other Class members. Indeed, here the Class Representatives—all of whom are current or former employees of the Franchisee Defendants and/or McDonald’s Restaurants of Illinois—share a common, complimentary goal of vindicating their rights under BIPA.

Additionally, Plaintiffs’ counsel here is “qualified, experienced, and generally able to conduct the proposed litigation.” *Steinberg v. Chicago Med. Sch.*, 69 Ill.2d 320, 339 (1977). Class Counsel has substantial experience in prosecuting complex litigation and class actions, including BIPA class actions specifically. Plaintiffs ask the court to take judicial notice that Plaintiffs’ counsel has handled numerous other similar matters in this jurisdiction. Therefore, the Court should find that the adequacy element of section 801(3) is satisfied here. *Hall*, 376 Ill. App. 3d at 833.

D. THE CLASS ACTION PROCEDURE IS THE APPROPRIATE METHOD FOR THE FAIR AND EFFICIENT ADJUDICATION OF THE CONTROVERSY

As Illinois Supreme Court indicated in *Steinberg*, satisfaction of the first three prerequisites largely fulfills the final requirement. *Steinberg*, 69 Ill.2d at 337-38; *see also Clark*, 343 Ill. App. 3d 538, 552 (“Initially, our holding that the first three prerequisites of section 2–801 of the Code of Civil Procedure have been established makes it evident that the fourth requirement has been fulfilled.”); *Bueker*, 2016 IL App (5th) 150282, ¶ 48 (“Where the first three prerequisites for the maintenance of a class action are established, it is evident that the fourth requirement has been fulfilled as well.”). Here, the Plaintiffs and Settlement Class Members are similar; the common claims share the same factual and/or legal foundation; and the class action mechanism is a superior

method for resolving this settlement class. Class certification ensures uniformity in resolving the same and similar claims. Moreover, judicial economy would suffer if court systems throughout the country and throughout Illinois were forced to hear hundreds or thousands of separate lawsuits, each presenting common factual and legal questions as to compliance with BIPA. See *Hall*, 376 Ill. App. 3d 822 at 834 (“In this case, litigating the individual lawsuits would be a waste of judicial resources, and addressing the common issues in one class action would aid judicial administration.”); see also *Clark*, 343 Ill.App.3d at 552. The Court should therefore find that Plaintiffs’ have satisfied their burden of establishing the final “appropriateness” element under section 801(4).

Plaintiffs have established that the facts and circumstances of this case satisfy the required factors of numerosity; commonality/predominance; adequacy of representation; and appropriateness. See *supra*. The Plaintiffs respectfully request that the Court certify the settlement class proposed.

V. THE COURT SHOULD PRELIMINARILY APPROVE THE SETTLEMENT

A. THE SETTLEMENT PROVIDES A FAIR, ADEQUATE AND REASONABLE RESULT FOR CLASS MEMBERS

“Class action settlements are reviewed on a case-by-case basis, with consideration of several factors, including [1] the strength of plaintiffs’ case balanced against the money and relief offered in the settlement; [2] the defendant’s ability to pay; [3] the complexity, length, and expense of further litigation; [4] the amount of opposition to the settlement; [5] the presence of collusion in reaching the settlement; [6] the class members’ reaction to the settlement; [7] the opinion of competent counsel; and [8] the stage of proceedings and amount of discovery completed.” *Lee*,

2019 IL App (5th) 180033, ¶ 56.⁷ “In considering these factors, the circuit court should not turn the approval hearing into a trial on the merits.” *Id.* “Where the procedural factors support approval of a class settlement, there is a presumption that the settlement is fair, reasonable, and adequate.” *Lebanon Chiropractic Clinic, P.C. v. Liberty Mut. Ins. Co.*, 2016 IL App (5th) 150111-U, ¶ 42.

At the preliminary approval stage, the Court’s task is merely to “determine whether the proposed settlement is within the range of possible approval.” *Armstrong v. Bd. of Sch. Dirs. of Milwaukee*, 616 F.2d 305, 314 (7th Cir. 1980) (internal citation and quotation marks omitted) (noting that at the final fairness hearing, the court will “adduce all information necessary to enable [it] intelligently to rule on whether the proposed settlement is fair, reasonable, and adequate”), *overruled on other grounds by Felzen v. Andreas*, 134 F.3d 873 (7th Cir. 1998); *see also* Newberg § 11.25 (noting that “[i]f the preliminary evaluation of the proposed settlement does not disclose grounds to doubt its fairness . . . and appears to fall within the range of possible approval,” the court should permit notice of the settlement to be sent to class members) (citations omitted). “The purpose of the initial hearing is to ascertain whether there is any reason to notify the class members of the proposed settlement and proceed with a fairness hearing.” *Cook v. McCarron*, 92 C 7042, 1997 WL 47448, at *7 (N.D. Ill. Jan. 30, 1997) (citing *Armstrong*, 616 F.2d at 314). Once the settlement is found to be “within the range of possible approval” at the initial fairness hearing, the final approval hearing is scheduled and notice is provided to the class. *Id.*

⁷ These eight factors, commonly known as the *Korshak* factors, arise from the First District decision in *City of Chi. v. Korshak*, 206 Ill. App. 3d 968, 971–72 (1st Dist. 1990). In *Lee*, the Fifth District applied the *Korshak* factors, holding that “[w]hile we do not conclude that a determination of whether a settlement is fair and reasonable should be based on the inclusion of every factor identified by the *Korshak* court, we do agree that these factors are relevant, among other factors, when considering whether to grant final approval to a class settlement.” 2019 IL App (5th) 180033, ¶ 99.

The first *Korshak* factor—the strength of Plaintiffs’ case on the merits balanced against the relief offered in settlement—“is the most important factor in determining whether a settlement should be approved.” *Steinberg v. Sys. Software Assocs., Inc.*, 306 Ill. App. 3d 157, 170 (1st Dist. 1999); *Synfuel Techs., Inc. v. DHL Express (USA), Inc.*, 463 F.3d 646, 653 (7th Cir. 2006). Because each of these factors supports a finding that the Settlement here is “fair, reasonable, and adequate,” the Court should grant preliminary approval of the Settlement Agreement.⁸

1. The Settlement Amount is Substantial Given the Strength of Plaintiffs’ Claims and the Attendant Risks.

a. Settlement Amount is Substantial

The Settlement Amount providing for Defendants to contribute up to \$50,000,000, represents a fair, adequate, and reasonable result for Class Members. “As explained by the Supreme Court, ‘[n]aturally, the agreement reached normally embodies a compromise; in exchange for the saving of cost and elimination of risk, the parties each give up something they might have won had they proceeded with litigation.’” *Capps v. Law Offices of Peter W. Singer*, No. 15-cv-02410-BAS(NLS), 2016 U.S. Dist. LEXIS 161137 (S.D. Cal. Nov. 21, 2016) (quoting *United States v. Armour & Co.*, 402 U.S. 673, 681 (1971)).

A settlement fund of up to \$50,000,000.00 is clearly a substantial benefit to the Class and an extraordinary result in this matter. All eligible Settlement Class Members employed on or before December 18, 2018 will receive up to \$375, while those eligible Class Members employed on or after January 1, 2019, will receive up to \$190. In this way, the Settlement provides individual Class Members with real and immediate monetary recovery in this action.

⁸ Because the Notices and have not yet been sent out, the Class Members’ reactions are not yet known and, therefore, will be addressed by the Parties in the final approval papers.

By way of comparison, another recent BIPA case brought against a Wendy’s franchisee recently received final approval on April 9, 2021. In *Pelka v. Saren Restaurants Inc.*, 2019 CH 14664, Judge Sophia Hall approved a settlement amount of \$289 per person for a class of 1,644 Wendy’s employees who (as here) alleged BIPA violations. *See also Sekura v. L.A. Tan Enterprises, Inc.* No. 2015-CH-16694 (Cir. Ct. Cook Cnty. 2016) (approving BIPA class settlement of \$1.5 million where each claimant received between \$40 and \$150); *Kusinski v. ADP, LLC*, 17-CH-12364 (Cook Cnty. Feb. 10, 2021) (\$250 net recovery for each BIPA claimant); *Prelipceanu v. Jumio Corp.*, 18- CH-15883 (Cir. Ct. Cook Cty.) (\$262.58 net recovery per BIPA claimant); *Carroll v. Crème de la Crème, Inc.*, 2017-CH-01624 (Ill. Cir. Ct.) (BIPA settlement providing for no monetary relief, only credit monitoring).

Several other employer-BIPA settlements show this case falls squarely within an acceptable range:

Case	Class Size	Per Person
<i>Zhirovetskiy v. Zayo Group, LLC</i> , 17-CH09323 (Cook Cnty.)	2,475	\$450
<i>Sharrieff v. Raymond Mgmt. Co., Inc. d/b/a The Raymond Group</i> , 18-CH-01496 (Cook Cnty.)	485	\$500
<i>Roach v. Walmart Inc.</i> , 2019-CH-01107 (Cook Cnty)	21,000	\$476
<i>Marshall v. Life Time Fitness, Inc.</i> , 17-CH14262 (Cook Cnty.)	6,000	\$270 net recovery
<i>Davis v. Heartland Employment Services</i> 2019-CV-00680 (N.D. Ill)	10,836	\$500
<i>Sanchez v. Elite Labor Services d/b/a Elite Staffing, Inc. and Visual Pak Company</i> , 2018CH02651 (Cook Cnty.)	13,088	\$256 to \$510.20

<i>Sykes v. Clearstaff, Inc.</i> , 19-CH-03390 (Cook Cnty.)	8,150	\$72.56 to \$350
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b. Recovery is Significant in Light Substantial Obstacles and Risks

Plaintiffs’ Class Settlement Agreement, which provides for immediate monetary recovery of up to either \$190 or \$375 per-claimant, is even more significant considering the material risks of non-recovery, which Plaintiffs and the Class faced in this action.

At every stage of litigation, including throughout mediation, the Defendants raised a number of arguments that threatened to substantially or fully deprive the Class of relief. At class certification, the damages phase of a trial, or on appeal of the case, those risks would only multiply. Moreover, throughout the pendency of this case, there have been ongoing attempts to attack BIPA in the legislature. In light of those risks, the guaranteed monetary relief obtained for the Settlement Class is even more outstanding.

If the already-lengthy litigation had continued, it would have been complex, expensive, and protracted. Moreover, the recovery here is significant because Class Members would have received no compensation if Defendants prevailed on a number of their asserted defenses, or if the appellants prevail in any of the number of pending BIPA appeals on issues relevant to this action. The outcome of these appeals could gut or substantially limit Class Members’ ability to recover under BIPA. In particular, Defendants’ contention that Plaintiffs’ damages claims are barred by the exclusivity provisions of the Illinois Workers’ Compensation Act, is an issue which is currently on appeal before the Illinois Supreme Court in *McDonald v. Symphony Bronzeville Park, LLC*, Case No. 126511 (Ill.) (petition for leave to appeal accepted on January 26, 2021). An adverse ruling finding preemption in *McDonald* could entirely bar the class recovery achieved here. This reality weighs heavily in favor of the substantial Class settlement achieved here given the risks of

non-recovery. *See, e.g., In re Southwest Airlines Voucher Litig.*, No. 11-cv8176, 2013 WL 4510197, at *7 (N.D. Ill. Aug. 26, 2013) (noting that “legal uncertainties at the time of settlement favor approval”).

Finally, even if Plaintiff had succeeded at summary judgment and/or trial, Plaintiff recognizes that Defendant would appeal the merits of any adverse decision. And, due to the aggregate statutory damages in play, Defendants made clear that they would argue for a reduction in damages based on due process concerns. *See, e.g., Golan v. FreeEats.com, Inc.*, 930 F.3d 950 (8th Cir. 2019) (statutory award in TCPA class action of \$1.6 billion reduced to \$32 million). Ultimately, failure at any one of these points could strip Plaintiff and the class of all recovery, making further litigation a risky endeavor. Accordingly, while Plaintiff believes that the arguments above could be defeated, the fact is that the legal questions posed by BIPA cases at every stage of litigation are novel. Plaintiff has thus factored in both the risks and delays that would necessarily accompany continued litigation. This Settlement provides an excellent result now and is highly beneficial for the Class. Consequently, the first and most important *Korshak* factor weighs strongly in favor of preliminarily approving the Class Settlement Agreement.

2. The Defendants’ Ability to Pay

Defendants’ ability to pay this settlement was a factor in the negotiation. In particular, the vast majority of the Defendants in these cases, which employ well over 90 percent of the Settlement Class, are franchisees, many of which are small business that own only 1-2 restaurants. These Defendants can pay the Settlement Amount to settle the lawsuit, but it is uncertain at best whether they could have paid the full value of Plaintiffs’ claims and the claims of the Class if Plaintiffs had prevailed after the Parties litigated the cases to completion, including through likely

appeals, given BIPA's statutory penalties of up to \$5,000 per violation. 740 ILCS 14/20. This factor also weighs in favor of approving the settlement.

3. Litigation Through Trial Would be Complex, Costly, and Long.

By reaching a favorable settlement prior to class certification briefing or trial, Plaintiffs seek to avoid significant expense and delay, and instead ensure recovery for the class. “[A]n integral part of the strength of a case on the merits is a consideration of the various risks and costs that accompany continuation of the litigation.” *Donovan v. Estate of Fitzsimmons*, 778 F.2d 298, 309 (7th Cir. 1985). Although Class Counsel believes Plaintiffs’ case is strong, it is subject to considerable risks and costs if the case is not settled. Continued litigation carries with it a decrease in the time value of money, for “[t]o most people, a dollar today is worth a great deal more than a dollar ten years from now.” *Reynolds v. Beneficial Nat’l Bank*, 288 F.3d 277, 284 (7th Cir. 2002).

Plaintiffs acknowledge the risk that they would be unable to obtain a jury verdict against Defendants. Defendants also indicated to Class Counsel that, once fact and expert discovery were closed, Defendants intended to file motions for summary judgment and oppose any request for class certification on a number of grounds. Even if they prevailed, Class Members faced the risk, expense, and delay of a potentially lengthy appeal after trial, holding up any recovery for Class Members for several more years. Under these circumstances, the benefits of a guaranteed recovery today as opposed to an uncertain result in the future, are readily apparent. As one court noted, “[t]he bird in the hand is to be preferred to the flock in the bush and a poor settlement to a good litigation.” *Rubenstein v. Republic Nat’l Life Ins. Co.*, 74 F.R.D. 337, 347 (N.D. Tex. 1976). This factor therefore weighs in favor of final approval.

Accordingly, “Plaintiffs’ strong claims are balanced by the risk, expense, and complexity of their case, as well as the likely duration of further litigation.” *In re Volkswagen “Clean Diesel”*

Mktg., Sales Practices, & Prods. Liab. Litig., MDL No. 2672 CRB (JSC), 2016 U.S. Dist. LEXIS 148374, at *748 (N.D. Cal. Oct. 25, 2016). “Settlement is favored in cases [such as this one] that are complex, expensive, and lengthy to try.” *Id.* (citing *Rodriguez v. W. Publ’g Corp.*, 563 F.3d 948, 966 (9th Cir. 2009)). As such, the immediate and considerable relief provided to the Class under the Settlement Agreement weighs heavily in favor of its approval compared to the inherent risk and delay of a long and drawn out litigation, trial, and appellate process.

Continued litigation would have caused greater delay and expense with no guarantee of recovery for the Class, and thus, this factor strongly weighs in favor of approval. *See Shaun Fauley, Sabon, Inc. v. Metro. Life Ins. Co.*, 2016 IL App (2d) 150236, ¶ 19 (affirming trial court’s finding that third factor was satisfied where further litigation would have “require[d] the parties to incur additional expense, substantial time, effort, and resources”).

4. The Settlement Is the Result of Arm’s Length Bargaining, Without Any Hint of Collusion

There is plainly no collusion or fraud with respect to this proposed Settlement as it was negotiated over the course of many months by counsel experienced in BIPA litigation with the assistance of Hon. Judge Layn Phillips—who is widely recognized as one of the nation’s foremost mediators. The record clearly demonstrates the presence of arms-length negotiations between the Parties following years of adversarial litigation and extensive discovery involving hundreds of thousands of documents produced by the Defendants, culminating in a settlement achieved with the assistance of an experienced mediator. *See Coy v. CCN Managed Care, Inc.*, 2011 IL App (5th) 100068-U, ¶ 31 (affirming trial court’s finding of no collusion where the record showed “an arms-length negotiation between plaintiffs and defendants, entered into after years of litigation and discovery, resulting in a settlement with the aid of an experienced mediator”). As a distinguished commentator on class actions has noted: “There is usually an initial presumption of fairness when

a proposed class settlement, which was negotiated at arm's length by counsel for the class, is presented for court approval." Newberg §11.41 at 11-88.

In this case, as explained above, the terms of the Settlement were reached during extensive arm's-length negotiations over many months, following multiple mediations overseen by a widely-regarded mediator, and after thorough investigation, discovery, analysis, and motion practice. Therefore, this Court should find that an initial presumption of fairness exists to support preliminary approval of the Settlement.

5. The Extent of Discovery Completed, and the Stage of the Proceedings

Where, as here, extensive written discovery was taken, and the Parties have thoroughly litigated the various issues, these facts "weigh[] in favor of the proposed settlement." *Cervantez v. Celestica Corp.*, No. EDCV 07-729-VAP (OPx), 2010 U.S. Dist. LEXIS 78342, at *13 (C.D. Cal. July 6, 2010).

As the Court can see from the Procedural History set forth above, this Action has been vigorously and intensely litigated for several years. Throughout the more than four years that this Action has been pending (*i.e.*, since September 27, 2017), the Parties have engaged in intensive litigation, before not only this Court, but also the Fifth District Appellate Court of Illinois. In total, the Parties briefed numerous motions, including motions to dismiss, motions to compel, motions to sever, motions to substitute judges, and motions to transfer for venue, a related appeal, and discovery motions. Prior to entering into this Settlement, the Parties engaged in several rounds of extensive fact discovery commencing on January 17, 2018. In total, in response to Plaintiffs' discovery requests, Defendants produced over 200,000 Bates-numbered documents.

Based on this extensive discovery, Class Counsel became well informed as to the data, equipment, policies, procedures and other critical information necessary to "evaluate the merits of

the case and assess the reasonableness of the settlement.” *Korshak*, 206 Ill.App.3d at 974. Thus, the extent of discovery and stage of proceedings factor weighs strongly in favor of approving the proposed Settlement. *See Korshak*, 206 Ill.App.3d at 974; *Cervantez*, 2010 U.S. Dist. LEXIS 78342, at *13.

6. Competent Counsel for All Parties Endorse This Agreement

Courts are “entitled to rely heavily on the opinion of competent counsel.” *Gautreaux v. Pierce*, 690 F.2d 616, 634 (7th Cir. 1982) (quoting *Armstrong v. Bd. of Sch. Dirs. of Milwaukee*, 616 F.2d 305, 325 (7th Cir. 1980)). Further, as set forth above, there is no indication that the proposed Settlement Agreement is the result of collusion. *See Isby*, at 1200.

Class Counsel is competent and experienced in class actions, particularly complex class actions of this kind, and are intimately familiar with the strengths and weaknesses of the claims and defenses. Using that litigation experience and their intimate knowledge of the facts of the case and the legal issues facing the Class Members, Class Counsel is capable of making, and did make, well informed judgments about the value of the claims, the time, costs and expense of protracted litigation, discovery, and appeals, and the adequacy of the Settlement reached. This factor therefore weighs in favor of preliminary approval.

In sum, the Settlement, on its face, is imminently fair, reasonable, and adequate, and not the product of collusion. *See Isby*, 75 F.3d at 1198, 1200. In addition, “the proposed settlement is ‘within the range of possible approval’” and should be submitted to the Class Members for their consideration. *Armstrong*, 616 F.2d at 314. The Court should grant preliminary approval.

B. THE PARTIES’ PROPOSED NOTICE SATISFIES DUE PROCESS AND SECTION 2-803 OF THE ILLINOIS CODE OF CIVIL PROCEDURE

The second step of the approval process is to disseminate notice about the settlement to the class. *See Manual for Complex Litigation, supra*, at §21.63. Class members must receive notice

about the settlement that satisfies the requirements of Section 2-803 of the Illinois Code of Civil Procedure and Due Process, or notice that is “reasonably calculated, under all the circumstances, to apprise interested parties of the pendency of the action and afford them an opportunity to present their objections.” *Mullane v. Cent. Hanover Bank & Tr. Co.*, 339 U.S. 306, 314 (1950). “[T]he mechanics of the notice process are left to the discretion of the court subject only to the broad ‘reasonableness’ standards imposed by due process.” *Capps*, 2016 U.S. Dist. LEXIS 161137, at *26 (quoting *Grunin v. Int’l House of Pancakes*, 513 F.2d 114, 120 (8th Cir. 1975)).

Here, the Settlement Agreement will provide direct notice to the Settlement Class Members, which provides the best possible opportunity for Class Members to see, review and understand the Notice. The McDonald’s Defendants will provide the Settlement Administrator with the most current list of names, email addresses, and physical addresses of Class Members identified through their employment records. The Settlement Class Members identified through the McDonald’s Defendants’ employment records will be contacted directly based on this information via regular First-Class mail and by email where this information is available through employment records.

The Settlement Administrator will also establish a settlement website to which Settlement Class Members may refer for information about the Action and Settlement and submit online Claim Forms and inquiries. The Settlement Administrator shall post the Claim Form (*see* Exhibit 3) and Opt-Out Form (*see* Exhibit 4) on the website as well as other important documents and deadlines, in consultation with counsel for the Parties. Additionally, the Settlement Administrator shall disseminate the Notices and the Claim Form, shall establish a post-office box for the receipt of any Settlement-related correspondence; shall respond to inquiries or requests from Settlement

Class Members, in consultations with Class Counsel and Defendants' Counsel; and shall respond to inquiries or requests from Class Counsel, Defendants' Counsel, and the Court.

The Settlement Administrator shall be responsible for printing and mailing by regular, first-class mail the Class Notice, handling returned Notices and Claim Forms not delivered to Settlement Class Members, and may update any known Settlement Class Member address information using the National Change of Address (NCOA) system.

Further, the proposed Notices are plain and easily understood, consistent with the guidelines set forth by the Federal Judicial Center. *See* <http://www.fjc.gov/>. The Notices provide neutral, objective, and accurate information about the nature of the Actions and the Settlement. *See id.* The Notices describe the claims, the Class Members, the relief provided under the Settlement, and Class Member's rights and options, including the deadlines and means of submitting a Claim Form, objecting, and/or appearing at the Final Approval Hearing personally or through counsel. *See id.* The Parties submit that the Notices provide the best notice practicable under the circumstances and that the mode of dissemination will provide the most effective means to reach the Class Members.

Notice to the class shall also apprise class members that "the court will exclude from the class any member who requests exclusion [and] the time and manner for requesting exclusion." *See Low v. Trump University, LLC*, 246 F.Supp.3d 1295, 1307 (S.D.Cal., 2017). A notice of a class member's right to opt out of a class action settlement must be "of such nature as reasonably to convey the required information regarding the window for class members to opt out of or remain in the class." *Low v. Trump University, LLC*, 881 F.3d 1111, 1120 (9th Cir. (Cal.) 2018).

Clear instructions to Class Members regarding the procedures that must be followed to opt out of the Settlement Class will be provided to each of them, including the deadline by which Class

Members will be required to opt out. Not later than seven days before the date of the Final Approval Hearing, the Settlement Administrator will submit to Counsel for the Parties, a list of those Persons who have timely and validly excluded themselves from the Settlement. All Settlement Class Members who do not timely and validly opt out of the Settlement Class shall be bound by all terms of the Settlement.

C. ATTORNEYS' FEES

If the Court grants preliminary approval of the settlement, only thereafter will Class Counsel apply to the Court for an award of Attorneys' Fees and Expenses and for Incentive Awards for Plaintiffs in recognition of their time and service to the Settlement Class. The Illinois Biometric Information Privacy Act, 740 ILCS 14/20(3) provides, in pertinent part, that "reasonable attorneys' fees and costs, including expert witness fees and other litigation expenses" are recoverable for prevailing parties for each violation of the act. Accordingly, Class Counsel plans to file an application for reasonable attorneys' fees and expenses within the deadline set by the Preliminary Approval Order.

The Parties' Settlement Agreement provides that any award of Attorneys' Fees and Expenses shall not increase the Settlement Amount. Incentive Awards shall be paid from the Settlement Fund and are in addition to any other payment that Plaintiff Class Representatives may be entitled to under this Agreement. In addition, any award of Attorneys' Fees and Expenses and any Service Award shall be separate from the Settlement, and approval of the Settlement shall not be contingent upon an award of Attorneys' Fees and Expenses or any Incentive Award at all or in any particular amount. If the Court reduces or disapproves Class Counsel's request for an award of Attorneys' Fees and Expenses and/or Incentive Awards, that shall not be grounds to terminate the Settlement.

VI. THE PARTIES' PROPOSED SCHEDULE OF EVENTS

The last step in the settlement approval process is to hold a Final Approval Hearing at which the Court will hear argument and make a final decision about whether to approve the Settlement pursuant to 735 ILCS 5/2-801, *et seq.* See *Manual for Complex Litigation, supra*, at §21.63. Specifically, the Parties propose the following schedule:

Date	Event
11/23/2021	Preliminary Approval Hearing/Order
12/7/2021	Defendants provide Class List to Settlement Administrator
12/21/2021	Notice mailed; Settlement Website established
12/23/2021	Defendants to Make First Deposit into QSF (30 days after Preliminary Approval)
2/8/2022	Plaintiffs to provide draft final approval motion (10 days before filing)
2/9/2022	Response Deadline (50 days after notice)
2/18/2022	Motion for Final Approval + Plaintiffs' Motion for Fees/Costs
2/28/2022	Final Approval Hearing/Order
3/20/2022	Defendants to Make Any Additional Deposits into QSF (30 days after Final Approval)
4/29/2022	Payment deadline (60 days after final approval)

The Parties respectfully submit that this proposed schedule complies with 735 ILCS 5/2-801, *et seq.*, and due process, all while securing the recoveries for Class Members in a timely fashion.

VII. CONCLUSION

The Plaintiffs respectfully request that the Court: (1) grant their unopposed motion for preliminary approval consistent with the Proposed Order attached hereto; (2) provisionally certify the Class for settlement purposes; (3) appoint Class Representatives and Class Counsel as requested in this motion; (4) approve the form and manner of the Notice Plan, including the proposed Class Notice, Claim Form, and Opt-Out Form (attached hereto as Exhibits 2, 3, and 4 respectively), and appoint a Settlement Administrator; (5) establish deadlines for requests for

exclusion and the filing of objections to the proposed settlement as contemplated by the Settlement Agreement; and (6) schedule a final fairness hearing.

Respectfully submitted,

DATED: November 16, 2021

THE DRISCOLL FIRM, LLC

/s/ John J. Driscoll

JOHN J. DRISCOLL, #6276464

1311 Avenida Ponce de Leon, 6th Floor

San Juan, PR 00907

Phone: (618) 444-6049

Fax: (314) 932-3233

john@jjlegal.com

Counsel for Plaintiffs

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on November 16, 2021, the foregoing document was filed electronically with the Clerk of the Court to be served by operation of the Court's electronic filing system upon all registered parties and served via e-mail on the following persons:

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Phillip C. Graham
Sandberg Phoenix & von Gontard
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O'Hagan Meyer, LLC
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Chicago, IL 60601
jfilipovic@ohaganmeyer.com

/s/ John J. Driscoll

APPENDIX A
List of Named Defendants

111TH PALOS HILLS COMPANY
119TH STEVENS RESTAURANTS, INC.
159TH ORLAND PARK II, LLC
1876 CLARK LLC
4AM ENTERPRISES, LLC
AEJ RESTAURANT, LLC
AMAPOLAS, LTD.
AMELIACO, INC.
ARC 00119 LIMITED
ARC 10547 LIMITED
ARC 17460 LIMITED
ARC 3304 LTD.
ARC 5233 LTD.
B.K. DAVIS LLC
B.M. DAVIS LLC
B-CHU, INC.
BEAR & SON'S, INC.
BEAR ESTATES #1, LLC
BEAR-LARKIN, INC.
BEAR-MAR, INC.
BEN-STA ENTERPRISES, INC.
BOLD ENTERPRISES, INC.
BRE BASH, INC.
BRE DOTA, INC.
BRE MEN, INC.
BRE MID AMERICA, INC.
BRE PON, INC.
BRE SOGRAND, INC.
BREWASH, INC.
BURRIS ENTERPRISES, LLC AKO
BURRIS MANAGEMENT, INC.
C2 LLC
CAFÉ M, LLC
CALABAZAS, LTD.
CANADY ENTERPRISES CORP. V
CAREMEL, INC.
CARNAGIO ENTERPRISES, INC.
CICERO 26 CORPORATION
CLARK 13876, LLC

APPENDIX A
List of Named Defendants

CLARK 15803, LLC
CLARK 15807, LLC
CLARK 18914, LLC
CLJC, INC.
C-MAC, INC.
CMJ CORP.
CRESTCO, A LIMITED PARTNERSHIP
CRYSTAL-ROSE CORP.
D.A.L.L. ANOINTED, INC.
DAK4, LLC
DARKOR LLC
DARREN A. FREIHAGE LLC
DDR WITZEL LLC
DE SOL, LLC
DEKALLB EAST LLC
DEKALLB WEST LLC
DIXON C&N, INC.
DND WITZEL MANAGEMENT COMPANY, INC.
DORMAX, LLC
EJS OFALL, LLC
ELSTON ARCHES CORPORATION
EPTA, INC.
ESTEL FOODS, INC.
F & F INVESTMENTS OF ILLINOIS, INC.
FOSTER 3164 CORPORATION
FRG, LLC
GAILCO LIMITED PARTNERSHIP
GENDCO., INC.
GFUNK KEDZIE CORPORATION
GJFUNK WABASH CORPORATION
GLUSKI, INC.
GRAND 73 CORPORATION
GRANTINE, LLC
GUERO, LLC
HQ 39148, LLC
IESLEB, LLC
INFINITE BUENA VIDA, LLC
J&B ENTERPRISES OF SPRINGFIELD, INC.
J&G ON DEVON

APPENDIX A
List of Named Defendants

JACKPOT, INC.
JACKRABBIT ENTERPRISES, L.L.C.
JAMES L JAMES K, INC
JANALEX, LLC
JANARY, INC.
JANN RESTAURANT, INC.
JATAN, LLC
JCS-MAC CORP.
JCTWILL, INC.
JDD INVESTMENT CO.
JEFFERS FAMILY MANAGEMENT, INC.
JEFKOR LLC
JESHORT, INC.
JJC RESTAURANT GROUP, LLC
JJJ RESTAURANT, LLC
JKLM, INC.
JOHANNACO, INC.
JOR EL LTD.
JORGIE LTD.
JPD ENTERPRISES SULLIVAN, LLC
KARAVITES REST. 26230, INC.
KARAVITES RESTAURANT 14806, LLC
KARAVITES RESTAURANT 1968, LLC
KARAVITES RESTAURANT 31663, LLC
KARAVITES RESTAURANT 6298, LLC
KARAVITES RESTAURANT 6676, LLC
KARINCO, INC.
KARPINSKE ENTERPRISES, LLC
KAZ ENTERPRISES, INC.
KAZANOVA MANAGEMENT GALENA, INC.
KDH OPERATING COMPANY
KIPCO RESTAURANTS LLC AJB SERIES
KIPCO RESTAURANTS LLC MATTESON SERIES
KIPCO RESTAURANTS LLC WOODRIDGE SERIES
KIPCO RESTAURANTS LLC YORK ROAD SERIES
KONNZ CORPORATION
KORY MANAGEMENT, INC.
KRAUS, INC.
LACO, INC.

APPENDIX A
List of Named Defendants

LEXI MANAGEMENT, LLC
LGS LINCOLN, LLC
LINDERS LIMITED II, LLC
LINDERS LIMITED, LLC
LOCKOR, LLC
LU-JAC, INC.
LYONS 3, INC.
M&B INVESTMENTS OF IL, INC.
MAC SPEEDY, INC.
MAE BERRY, INC.
MAO ENTERPRISES, LLC
MARWAY, INC.
MARYMAC, INC.
MCCARTHY MANAGEMENT CORPORATION
MCDONALD'S CORPORATION
MCDONALD'S USA, LLC
MCDONALD'S RESTAURANTS OF ILLINOIS, INC.
MCFIELD CORPORATION
MCGRAW ENTERPRISES, INC.
MCHAM CORP.
MIA ENTERPRISES LLC
MIBRYA, LLC
MIDAN, INC.
MMJ ENTERPRISES, INC.
MYD HOLDINGS, LLC
MYD HOLDINGS, LLC-A SERIES
MYD HOLDINGS, LLC-B SERIES
MYD HOLDINGS, LLC-C SERIES
MYD HOLDINGS, LLC-D SERIES
N AND G MANAGEMENT, LLC
NA MAC, LLC
NEU-GREEN MANAGEMENT, INC.
NICKOR ENTERPRISES, INC.
NIK INC
NJK 10533 LLC
NJK 18237 LLC
NJK 4508 LLC
NJK MANAGEMENT, LLC
NNC FACCI, LLC

APPENDIX A
List of Named Defendants

NORNAT II, INC.
NORNAT III, INC.
NORNAT IV, INC.
NORNAT IX, INC.
NORNAT V, INC.
NORNAT XI, INC.
NORNAT XII, INC.
NORNAT, INC.
O'KEEFE ENTERPRISES, INC.
O'KEEFE PARTNERS II, LLC
O'KEEFE RESTAURANT SYSTEMS, INC.
OMAKIN RESTAURANTS, LLC
OREGON PLOCK, INC.
ORLAND PARK I - LAGRANGE, LLC
OURFIVE, INC.
OVIDO TOO, INC.
P.T. POULEE, LLC
PACK, INC.
PAY CO
PERU 1, LLC
PLAKOR LLC
PMA MCD, INC.
Q3, LLC
R & G MANAGEMENT, INC.
R.A. GRAY, INC.
R.K. KENZIE CORPORATION
RANDALL BEAR, INC.
RCKC CORPORATION
RJS SHILO, LLC
RMS MANAGEMENT, INC.
RODEBRAD MANAGEMENT COMPANY, INC.
RODEBRAD OF PANA, LTD.
ROSEMONT NO. 1, INC.
RYWAY, LLC
SALASOL, LLC
SCHMITT PLANO LLC
SCHMITT SOUTH EOLA LLC
SCHMITT WARRENVILLE, LLC
SCHMITT-BOULDER HILL, INC.

APPENDIX A
List of Named Defendants

SCHMITT-EOLA COMMONS, LLC
SCHMITT-FOX VALLEY COURT, LLC
SCHMITT-FOX VALLEY, INC.
SCHMITT-ORCHARD, LLC
SCHMITT-YORKVILLE, LLC
SHORT TEAM, INC
SINGLETTA CORP.
SINGLETTA II
SLEEPY BEAR, INC.
SPENCE RESTAURANTS LLC 17618 SERIES
SPENCE RESTAURANTS LLC 19338 SERIES
SPENCE RESTAURANTS LLC 19705 SERIES
SPENCE RESTAURANTS LLC 32034 SERIES
SPENCE RESTAURANTS LLC 37659 SERIES
SPENCE RESTAURANTS LLC 6561 SERIES
SRJC INC.
SUECO, LLC
SUELOCK, LLC
SUSAN 3-55 LLC
TAYLOR 2525MLK INC
TAYLOR ILLINOIS-CENTER INC
TAYLOR WABASH-ADAMS INC
TDS SERVICES, INC.
TERDYNE, INC.
THE MAPI CORPORATION
TOLLLB LLC
TOUHY 3304 CORPORATION
TRIPPCO, LLC
UNO CHIP, INC.
UVA OPERATING CO.
V. OVIEDO, INC.
VECTOR BUSINESS GROUP CORP.
VRS FAIRVIEW, LLC
WASCO MAC, LLC
WAYMAR, LLC
WAYNECO, INC.
WC MAC, LLC
WESTERN 5233 CORPORATION
WESTFIELD ENTERPRISES, INC.

APPENDIX A
List of Named Defendants

WESTKOR LLC
YOSHAMA, INC.
YUNES I, LLC
ZANDER 1, LLC
ZANE INC.
ZOE & YUMMY ENTERPRISES INC.

EXHIBIT 1

CONFIDENTIAL SETTLEMENT AGREEMENT AND RELEASE

This Settlement Agreement and Release is made and entered between Plaintiffs Reginald Lark, Haleigh Rae Besinger, Xavier Casillas, Erin Castrejon, Brandon Chaples, Creighton Colson, James Cowan, Shayne Emery, Stacie Ferguson, Andrea Franklin, Sarah Furlong, Anthony Gant, Ivan Gonzalez, Oscar Gutierrez, Alonzo Johnson, Tiffany Johnston, Alexandria Krispin, Charlene Lybarger, Gabriela Mize, Alyssa Moore, Brianna Moore, Kristen Oettle, Thomas Pearce, Thaddeus Phillips, Aaron Emanuel Rivera, Bryton Roach, Phillip Ross, Josue Salgado, Jeff Sansone, Kelsi Schwartz, Shane Snyder, Johnathin Sutton, Rhonda Tandy, Michael Warren, Aaron Weiss, Allison Arthur, Kyle Arthur, Makyeia Daniels, Tiffany Gomez, LaShunda Hicks, Ky’Aron Manning, Brett Prather, and David Truetner, individually and on behalf of Class Members as defined below, and the Defendants, as defined herein, to resolve (1) *Lark, et al. v. McDonald’s USA, LLC, et al.*, Case No. 17-L-559 (“*Lark* Litigation”) and (2) *Arthur, et al., v. McDonald’s USA, LLC, et al.*, Case No. 20-L-0891 (“*Arthur* Litigation”), which are currently pending in the Circuit Court of St. Clair County, Illinois.

I. DEFINITIONS

The following terms, as used in this Agreement, have the following meanings:

1. “**Agreement**” means this Settlement Agreement and Release.
2. “**Claim Form**” shall mean the proof of claim agreed to by the Parties and to be submitted for approval by the Court which shall be used by certain Class Members as described herein to file a claim under this Agreement.
3. “**Class Counsel**” shall mean John J. Driscoll, The Driscoll Firm, LLC, 1311 Ponce de Leon, 6th Floor, San Juan, PR 00907.
4. “**Class Members**” or the “**Settlement Class**” shall mean all individuals employed by any “McDonald’s Defendant” who logged onto, interfaced with, or used any software, systems, or devices that used the individual’s finger, hand, face, retina, or any biometric identifier of any type in any McDonald’s or McDonald’s franchise restaurants in Illinois, including any employee of a McDonald’s Defendant who has a claim under the Illinois Biometric Information Privacy Act, 740 ILCS 14/1, et seq., at any time through the date of preliminary approval of this Settlement. Defendants agree to this Settlement Class and provisional certification of this Settlement for settlement purposes only.
5. “**Class Notice**” shall mean the notice to Class Members that describes the material terms of the Agreement and the Class Members’ rights and obligations, which shall be disseminated to all Class Members following preliminary approval of the Settlement pursuant to the procedures set forth herein, and which shall, *inter alia*, provide instructions on how to submit a Claim Form, or to opt out or object to the Settlement, and the deadlines for doing so.
6. “**Class Representatives**” shall mean all the current named plaintiffs in both the *Lark* and *Arthur* Litigations, including: Reginald Lark, Haleigh Rae Besinger, Xavier Casillas, Erin Castrejon, Brandon Chaples, Creighton Colson, James Cowan, Shayne Emery, Stacie Ferguson, Andrea Franklin, Sarah Furlong, Anthony Gant, Ivan Gonzalez, Oscar Gutierrez,

Alonzo Johnson, Tiffany Johnston, Alexandria Krispin, Charlene Lybarger, Gabriela Mize, Alyssa Moore, Brianna Moore, Kristen Oettle, Thomas Pearce, Thaddeus Phillips, Aaron Emanuel Rivera, Bryton Roach, Phillip Ross, Josue Salgado, Jeff Sansone, Kelsi Schwartz, Shane Snyder, Johnathin Sutton, Rhonda Tandy, Michael Warren, Aaron Weiss, Allison Arthur, Kyle Arthur, Makyeia Daniels, Tiffany Gomez, LaShunda Hicks, Ky'Aron Manning, Brett Prather, and David Truetner.

7. “**Defendants**” shall mean all defendants named in the *Lark* and *Arthur* Litigations.

8. “**Effective Date**” shall mean the date when the Court enters an order granting final approval of the Settlement if no timely objections are filed to the Settlement, or if timely objections to the Settlement are filed but no objector successfully moves to intervene for purposes of appeal. If timely objections are filed to the Settlement and any objector or objectors successfully intervenes for the purposes of appeal, the “Effective Date” shall be the 61st day following the date on which the Court enters an order of final approval of the Settlement; except that if an appeal is filed from the Court’s overruling of objections to the Settlement and/or from the Final Approval Order (other than an appeal limited solely to a challenge to the denial or reduction in the amount of requested attorneys’ fees and expenses and/or service payments to the Class Representatives), the “Effective Date” shall be 30 days after the appeal is withdrawn or after all appellate review thereof is exhausted and an appellate decision exhausting such review and affirming the final approval decision becomes final.

9. “**Final Approval Hearing**” shall mean the hearing following Class Notice at which the Court will consider whether the terms of this Agreement are fair, adequate, and reasonable to the class as a whole, which is to take place on February 28, 2022, or as soon thereafter as the matter may be heard.

10. “**Final Approval Order**” shall mean the order granting final approval of the Settlement and entering judgment thereon and dismissing the Litigations and all Defendants with prejudice, in a form mutually agreed to by the Parties, and subject to approval by the Court.

11. “**Gross Settlement Amount**” shall mean up to \$50,000,000 to resolve the Litigations. This amount is inclusive of all payments made to Class Representatives; Class Members; Class Counsel’s attorney’s fees and costs approved by the Court; any Court-approved service awards to Class Representatives; and costs and expenses associated with settlement administration. \$5 million of the \$50,000,000 consists of two reserves. Reserve A, consisting of \$2,500,000, is available only in the event that more than 60% of the Settlement Class submit valid and timely Claim Forms. Reserve B, consisting of an additional \$2,500,000, is available only in the event that more than 75% of the Settlement Class submit valid and timely Claim Forms. The Gross Settlement Amount is the maximum amount Defendants and their insurers shall pay under this Settlement and under no circumstances shall Defendants and/or their insurers be required to make additional payments beyond this amount.

12. “**Litigations**” shall mean the cases *Lark, et al. v. McDonald’s USA, LLC, et al.*, Case No. 17-L-559 and *Arthur, et al., v. McDonald’s USA, LLC, et al.*, Case No. 20-L-0891, currently pending in the Circuit Court of St. Clair County, Illinois.

13. **“McDonald’s Defendants”** shall refer to McDonald’s Corporation, McDonald’s USA, LLC, McDonald’s Restaurants of Illinois, Inc., and any franchisees and entities or individuals operating and/or managing McDonald’s brand restaurants in Illinois at any time through the date of final approval, along with their respective affiliated persons and entities, which include, but are not limited to, estates, trusts, trustees, executors, administrators, beneficiaries, landlords, licensees, lessors, lessees, sub-lessees, tenants, franchisees, franchisors, management companies, joint venturers, partners, limited partners, employees, attorneys, agents, officers, directors, managers, members, shareholders, successors, predecessors, parents, indirect or direct subsidiaries, divisions, affiliates, and individuals.

14. **“Parties”** means the parties to the Agreement, specifically, the Class Representatives, individually and on behalf of all Class Members, and Defendants.

15. **“Preliminary Approval Order”** shall mean the order entered and filed by the Court that preliminarily approves the terms and conditions of this Agreement.

16. **“Released Parties”** shall refer, jointly and severally, and individually and collectively, to (1) McDonald’s Corporation, McDonald’s USA, LLC, McDonald’s Restaurants of Illinois, Inc., and any franchisees and entities or individuals operating and/or managing McDonald’s brand restaurants in Illinois at any time through the date of final approval, along with their respective affiliated persons and entities, which include, but are not limited to, estates, trusts, trustees, executors, administrators, beneficiaries, landlords, licensees, lessors, lessees, sub-lessees, tenants, franchisees, franchisors, management companies, joint venturers, partners, limited partners, employees, attorneys, agents, officers, directors, managers, members, shareholders, successors, predecessors, parents, indirect or direct subsidiaries, divisions, affiliates, and individuals (collectively, “McDonald’s Defendants”), as well as insurers and reinsurers of the McDonald’s Defendants, including but not limited to Certain Underwriters at Lloyd’s (subscribing to Cyber Liability Insurance Policy No. B1262FI0532716 issued to McDonald’s for the period September 30, 2016 to September 30, 2017), American Family Mutual Insurance Company, S.I. and Austin Mutual Insurance Company and their affiliates, Certain Underwriters at Lloyd’s, Syndicate 2623/623 (“Beazley”) subscribing to Master Policy No. B1230FC08829A18, B1230FC08829A19, and B1230FC08829A20, and RSUI Indemnity Company; (2) any entities or persons (former or present), including vendors, with whom McDonald’s Defendants have done business in relation to any McDonald’s location in Illinois, and their respective affiliated persons and entities, which include, but are not limited to, estates, trusts, trustees, executors, administrators, beneficiaries, landlords, licensees, lessors, lessees, sub-lessees, tenants, franchisees, franchisors, joint venturers, partners, limited partners, owners, employees, attorneys, agents, officers, directors, managers, members, shareholders, successors, predecessors, parents, indirect or direct subsidiaries, divisions, affiliates, management companies, individuals, insurers and reinsurers; and (3) any other entity or person affiliated with any of the entities or persons in this Paragraph, which Plaintiffs or any Settlement Class Member claims, might claim, or could have claimed to be liable in any court or administrative proceeding. Notwithstanding the foregoing, claims arising under the BIPA against the following entities that are brought by employees of those entities are not released herein: BMD Corporation; Carnagio Enterprises, Inc.; Nornat Management Services, Inc.; Schmitt Management Corporation; and Schmitt-Orchard LLC.

17. “**Response Deadline**” means the deadline by which Class Members must postmark to the Settlement Administrator valid requests to opt out, valid Claim Forms, or valid objections to the Settlement. The Response Deadline will be 50 days from the postmark date initial mailing of the Class Notice by the Settlement Administrator, unless the 50th day falls on a Sunday or Federal holiday, in which case the Response Deadline will be extended to the next day on which the U.S. Postal Service is open.

18. “**Settlement**” shall refer to this Agreement to settle the claims as set forth and embodied in this Agreement.

19. “**Settlement Administrator**” shall mean Epiq, the third-party agent that shall implement and administer the notice and claims process and distribution of settlement monetary proceeds.

20. “**Settlement Website**” shall mean a website established and administered by the Settlement Administrator, which shall contain information about the Settlement, including electronic copies of this Agreement, copies of the operative complaint in the *Arthur* and *Lark* Litigations, and Court orders related to the approval of the Settlement. The URL of the Settlement Website shall be www.ArthurLarkBIPASettlement.com.

II. FACTUAL BACKGROUND AND RECITALS

21. On September 27, 2017, Plaintiffs Macy Koeneman and Krista Noell¹ filed a putative class action lawsuit against McDonald’s Corporation and McDonald’s USA, LLC, and unnamed “Doe Defendants” in the Twentieth Judicial Circuit Court of St. Clair County, Illinois, alleging violations of the Illinois Biometric Information Privacy Act, 740 ILCS § 14/1, et seq. (“BIPA”) (referred to as the “*Lark* Litigation”), arising from allegations that Plaintiffs Koeneman’s and Noell’s, and other McDonald’s-brand restaurant employees’ biometric information was improperly collected, stored, used, and disseminated.

22. The parties agreed to mediate the *Lark* Litigation before the Hon. Judge Morton Denlow (retired). Following the unsuccessful mediation, Plaintiffs Noell and Koeneman amended their complaint on June 17, 2019, to add McDonald’s Restaurants of Illinois, Inc. and 26 additional McDonald’s franchisee entities as defendants and 39 additional named plaintiffs. The First Amended Complaint contained an identical eight causes of action for each of the 32 defendants: (1) failure to establish a publicly available policy (740 ILCS 14/15(a)); (2) failure to comply with established retention schedule and destruction guidelines (740 ILCS 14/15(a)); (3) failure to inform of collection and/or storage (740 ILCS 14/15(b)(1)); (4) failure to inform of specific purpose and length of term (740 ILCS 14/15(b)(2)); (5) failure to obtain written release (740 ILCS 14/15(b)(3)); (6) unauthorized disclosure, re-disclosure or dissemination (740 ILCS 14/15(d)); (7) failure to use reasonable standard of care (740 ILCS 14/15(e)(1)); and (8) failure to use same standard as other confidential and sensitive information (740 ILCS 14/15(e)(2)).

¹ On August 13, 2018, Plaintiff Koeneman voluntarily dismissed her claims when her counsel received her signed written release. On August 16, 2018, Plaintiffs filed a motion for class certification but the motion has not been set for hearing or briefed. Plaintiff Noell dismissed her own case on October 22, 2019.

23. In response, certain franchisee defendants filed motions to dismiss, transfer venue, and sever. Plaintiffs responded with motions for leave to file a Second Amended Complaint and Third Amended Complaint; the Court granted those motions over the defendants' objections. Plaintiffs filed their Second Amended Complaint on October 29, 2019 and filed their Third Amended Complaint on November 25, 2019. Both amendments removed certain named plaintiffs and defendants and added back certain other defendants. Certain franchisee defendants filed motions to dismiss, transfer venue, and sever in response to the Third Amended Complaint. Those motions remain pending, along with a motion to substitute the current Judge and plaintiffs' Motion for Leave to Amend.

24. Throughout the course of the *Lark* Litigation, six defendants exercised their statutory right to substitute the judges presiding over the matter, and plaintiffs exercised their statutory right to substitute the judge once. The *Lark* Litigation is currently pending before the Hon. Judge Andrew Gleeson.

25. To date the Parties have engaged in motion practice and extensive discovery in the *Lark* Litigation.

26. On November 10, 2020, Plaintiffs Allison Arthur, Kyle Arthur, Ma-Kyeia Daniels, Tiffany Gomez, LaShunda Hicks, Ky' Aron Manning, Brett Prather, and Davit Truetner filed a putative class action lawsuit against McDonald's Corporation, McDonald's USA, LLC and 214 McDonald's franchise entities in the Twentieth Judicial Circuit Court of St. Clair County, Illinois ("*Arthur* Litigation"). Like *Lark*, the *Arthur* Litigation alleged violations of the Illinois BIPA for improper collection, storage, use, and dissemination of biometric information. The *Arthur* Litigation is currently pending before the Hon. Heinz M. Rudolf.

27. The Parties retained former U.S. District Court Judge Layn Phillips (Ret.) to serve as mediator of both the *Lark* and *Arthur* Litigations. Judge Phillips held full-day mediation sessions on March 11, 2021, and April 7, 2021. When those mediation sessions failed to result in an agreement, the Parties continued to engage in negotiations with the assistance of Judge Phillips for the next several months. On September 17, 2021, Judge Rudolf in the *Arthur* Litigation ordered to Parties to engage the Hon. Lloyd Cueto (Ret.) as an additional mediator. The Parties continued to have negotiations through both Judge Phillips and Judge Cueto for the next several weeks.

28. As a result of these several months of negotiations, the Parties reached agreement on the terms of a settlement that will resolve both the *Lark* and *Arthur* Litigations and, as set forth herein, all claims that relate to or arise out of the allegations in the *Lark* and *Arthur* Litigations and that relate in any way to information that is or could be protected under the Illinois Biometric Information Privacy Act, 740 ILCS 14/1 et seq., or any other similar state, local, or federal law, regulation, ordinance, or common law.

29. As part of the settlement, the Parties have agreed to consolidate the *Lark* Litigation with the *Arthur* Litigation for purposes of seeking approval of the settlement with Judge Rudolf according to the terms and conditions set forth herein, in recognition that the outcome of both Litigations is uncertain and that achieving a final result through litigation would require substantial additional risk, discovery, time, and expense.

30. Defendants deny each and every allegation and all charges of wrongdoing or liability of any kind whatsoever that the Class Representatives have asserted in the Litigations. Nonetheless, Defendants desire to settle the Litigations, and thus avoid the expense, risk, exposure, inconvenience, and distraction of continued litigation of the matters being fully settled and finally put to rest in this Agreement. Neither this Agreement, nor any negotiation or act performed or document created in relation to the Agreement or negotiation or discussion thereof is, or may be deemed to be, or may be used as, an admission of, or evidence of, any wrongdoing or liability.

31. Class Representatives and Class Counsel have conducted an investigation into the facts and the law regarding the Litigations and have concluded that a settlement according to the terms set forth below is fair, reasonable, and adequate, and beneficial to and in the best interests of Class Representatives and the Class Members, recognizing: (a) the existence of complex and contested issues of law and fact; (b) the risks inherent in litigation; (c) the likelihood that future proceedings will be protracted and expensive if not settled by voluntary agreement; and (d) the magnitude of the benefits derived from the contemplated settlement in light of both the maximum potential recovery and likely range of recovery to be obtained through further litigation and the expense thereof, as well as the potential of no recovery at all.

32. Therefore, in consideration of the recitals listed above and the promises, releases, and warranties set forth herein, and with the Parties' intent to be legally bound and to acknowledge the sufficiency of the consideration and undertaking set forth herein, the Class Representatives, individually and on behalf of the Class Members, on the one hand, and the Defendants, on the other hand, agree that the Litigations shall be and are finally and fully compromised and settled as to the Released Parties, on the terms and conditions set forth herein, subject to Court approval.

III. PRELIMINARY APPROVAL

33. **Procedures.** The Parties agree to the following procedures for obtaining the *Arthur* Court's preliminary approval of the Settlement, notifying Class Members, obtaining final Court approval of the Settlement, and administering the Settlement. The Parties shall cooperate in good faith in attempting to coordinate timelines and distribution schedules for this Settlement, to minimize costs and promote the efficient administration of the Settlement.

34. **Preliminary Approval of Settlement and Request for Preliminary Approval Order.** After the Agreement is executed, Class Representatives shall file a motion requesting that the Court enter the Preliminary Approval Order, which shall include a request that the Court certify the Settlement Class for purposes of effectuating the Settlement. Defendants agree to certification of the Settlement Class for purposes of this Settlement only. The motion and supporting papers shall be consistent with the terms of this Agreement, and Class Representatives shall provide Defendants with a draft of the motion for Defendants' review and comment no fewer than 10 days prior to filing. The requested Preliminary Approval Order shall:

- a. Preliminarily approve the proposed Settlement and this Agreement;
- b. Certify the Settlement Class for purposes of this Settlement only;

- c. Stay the Litigations, such that no Party will initiate or continue any proceedings or requests for relief relating to the events underlying the Litigations;
- d. Approve the plan for providing notice to the Class Members under this Agreement, including the form of the Class Notice and the Claim Form;
- e. Approve the procedures for distribution of payments to Class Members under this Agreement;
- f. Approve the procedures for Class Members to file Claim Forms, object to the Settlement, or opt out of the Settlement, including by setting appropriate deadlines;
- g. Approve designation of Class Representatives as class representatives for the Class Members, and Class Counsel as counsel for the Class Members for purposes of this Settlement; and
- h. Schedule the Final Approval Hearing for final approval of this Settlement and entry of Final Approval Order to take place on February 28, 2022, or as soon thereafter as the matter may be heard.

IV. CLASS NOTICE, SETTLEMENT ADMINISTRATION, FINAL APPROVAL

35. **Class List.** No later than December 7, 2021, Defendants shall provide to the Settlement Administrator a list of all Class Members (the “Class List”) that the McDonald’s Defendants will have diligently and in good faith compiled based on readily available information already within the McDonald’s Defendants’ possession. The Class List will be formatted in Microsoft Office Excel, will be password protected, and will contain the name, last known mailing address and email address (if available), employment start and end dates, and social security numbers. The Settlement Administrator shall keep contact information and social security numbers of Class Members strictly confidential, except as needed to verify Class Member identity and contact information.

36. **Notice to Class Members.** Notice of the Settlement shall be provided to Class Members. The Parties believe and agree that the following procedures for such notice provide the best practicable notice to Class Members.

- a. No later than December 21, 2021, the Settlement Administrator shall mail notice to all Class Members of the Agreement, the rights that will be extinguished under the Agreement, and the rights and the processes by which Class Members may participate in, comment on, object to, or exclude themselves from the Settlement.
- b. Notice in the form approved by the Court shall be provided via regular, First-Class mail and email for Class Members for whom postal and email addresses are available in McDonald’s Defendants’ records.

c. Class Members will be provided with postage pre-paid Claim Forms, which must be returned to the Settlement Administrator with a postmark no later than the Response Deadline.

d. Any Class Notices returned to the Settlement Administrator as non-deliverable with a forwarding address on or before the Response Deadline will be sent via regular First-Class mail to the forwarding address within 5 days of receipt of the forwarding address, and the Settlement Administrator will state the date of such re-mailing on the Class Notice.

e. No later than December 21, 2021, the Settlement Administrator shall also establish the Settlement Website that describes and includes a copy of this Agreement, and other information on how to obtain a Claim Form for individuals who believe they should be included in the Settlement Class but did not receive a Class Notice.

f. For any Class Notice that is returned by the post office as undeliverable without a forwarding address or addressee unknown, the Settlement Administrator shall perform a skip trace that shall use such public and proprietary electronic resources as are available to the Settlement Administrator that lawfully collect address data from various sources such as utility records, property tax records, motor vehicle registration records, and credit bureaus. If the Settlement Administrator is successful in locating an alternate subsequent address or addresses, the Settlement Administrator shall perform a single re-mailing of the Class Notice to the new address(es) within 10 days of receipt of the undeliverable notice.

37. **Objecting to the Settlement.** Any Class Member may object to the Settlement subject to the provisions below:

a. A written statement of objection must be (a) filed with the Clerk of the Court; and (b) sent via U.S. mail, hand delivery, or overnight delivery to Class Counsel, Defendants' Counsel, and the Settlement Administrator.

b. The objection must state: (a) the Class Member's full name, address and current telephone number; (b) the case name and number of the *Arthur* Litigation; (c) a statement confirming information to verify they are a Class Member; (d) all grounds for objection, with factual and legal support for the stated objection, including any supported materials; and (e) the identification of any other objections they have filed, or had filed on their behalf, in any other class action cases in the last four years. The objection must be signed by the Class Member.

c. If represented by counsel, the objector must also provide the name and telephone number of their counsel. If the objector intends to appear at the Final Approval Hearing, either with or without counsel, they must state as such in the written objection, and must also identify any witnesses they may call to testify at the Final Approval Hearing and all exhibits they intend to introduce into evidence

at the Final Approval Hearing, which must also be attached to, or included with, the written objection.

d. Any objection to this Agreement, and any papers submitted in support of said objection, shall be considered by the Court at the Final Approval Hearing only if submitted on or before the Response Deadline. The postmark date of the mailing shall be the exclusive means for determining whether an objection is timely.

e. Any Class Member who fails to timely file and serve a written objection and notice of intent to appear at the Final Approval Hearing pursuant to this Agreement shall not be permitted to object to the approval of the Agreement at the Final Approval Hearing and shall be foreclosed from seeking any review of the Agreement or its terms by appeal or other means.

38. **Claim Form Submission.** This is a claims-made settlement. Class Members must submit a timely and valid Claim Form to the Settlement Administrator on or before the Response Deadline in order to receive payment. Class Members who do not submit a timely and valid claim form will not be eligible for payment.

a. Completed Claim Forms shall be submitted directly to the Settlement Administrator via U.S. Mail or online through the Settlement Website. These shall be the only two methods by which Claim Forms may be validly submitted.

b. The Settlement Website shall contain information on how to contact the Settlement Administrator, how to obtain a Claim Form if needed, and the process and deadline for submitting a Claim Form.

c. The Settlement Administrator will determine whether the Claim Form submitted by any Class Member is a timely, complete, and valid claim form that entitles the Class Member to receive a settlement payment (“Approved Claim”).

d. If a Claim Form is timely submitted but is deficient in one or more aspects, the Settlement Administrator shall, within 5 days of receipt of the deficient Claim Form, notify the Parties’ counsel of receipt of the deficient form and shall return the form to the Class Member with a letter explaining the deficiencies and informing the Class Member that he or she shall have 14 days from the date of the deficiency notice to correct the deficiencies and resubmit the Claim Form.

e. Absent mutual agreement of the Parties, no Claim Form shall be honored, and a Class Member will not be entitled to any monetary compensation, if postmarked or electronically submitted after the Response Deadline.

f. The claims rate of the Settlement Class will be determined as of the Response Deadline.

g. Within 7 days of the Response Deadline, the Settlement Administrator will submit to Counsel for the Parties a report listing all the Approved Claims by Class Members and any Claim Forms received but determined not to be Approved Claims.

39. **Opting Out of the Settlement.** A Class Member who wishes to opt-out must submit a Court-approved opt-out form to the Settlement Administrator on or before the Response Deadline.

a. The opt-out form must be sent to the Settlement Administrator via U.S. Mail, and post-marked prior to the Response Deadline. In light of the COVID-19 pandemic, the Settlement Administrator shall also create a dedicated e-mail address to receive opt-out forms electronically. These are the only two methods by which opt-out forms may be validly submitted.

b. The opt-out form will be made available on the Settlement Website.

c. All Class Members who do not timely and validly opt out will be bound by the Settlement, including the terms of the Release set forth in Section VI of this Agreement.

d. If a Class Member submits both an opt-out form and a Claim Form, the opt-out form shall be deemed invalid and the Class Member's Claim Form and release of claims shall be valid and controlling.

e. No person may request to be excluded from the Settlement Class through "mass" or "class" opt-outs.

f. Class Members who submit valid and timely opt-out forms shall not receive any payment pursuant to this Settlement, nor shall such Class Members be bound by the terms of this Settlement.

g. The Settlement Administrator shall provide copies of all opt-out forms to Counsel via weekly status updates.

h. Within 7 days after the Response Deadline, the Settlement Administrator shall provide Counsel a written list reflecting all Class Members that timely and validly submitted opt-out forms.

i. A list reflecting all Class Members who timely and validly opted-out of the settlement shall also be filed with the Court at the time of the motion for final approval of the settlement.

40. **Settlement Administrator Declaration.** No later than 3 days prior to the deadline for filing a motion for final settlement approval, the Settlement Administrator shall provide counsel for the Parties with a declaration setting forth: (a) its efforts to provide notice to the class and proof of mailing of the Class Notice; (b) the total number of individuals on the Class List who were sent a Class Notice; (c) the total number of those individuals whose Class

Notices were returned as undeliverable or addressee unknown; (d) the total number of those individuals whose Class Notices were subsequently sent to a corrected address; (e) the total number of Class Members who filed timely objections to the Settlement, along with the complete copies of all objections received, including the postmark dates for each objection; (f) the total number of individuals who requested a Claim Form; (g) the total number of individuals who submitted a Claim Form; (h) the total number of individuals who submitted valid Claim Forms and were determined to be Class Members; (i) the total number of individuals who submitted Claim Forms that were deficient, and how such deficiencies were resolved by the Settlement Administrator after conferring with counsel for the Parties; and (j) the total number of Class Members who filed valid opt-out forms, including complete copies of all opt-out forms and the postmark dates for each. The Settlement Administrator shall provide an updated declaration on these topics 3 days prior to the date of the Final Approval Hearing if any changes or additions have occurred, and again 3 days after the Effective Date of the Settlement or such other later date as the Court or the Parties may agree upon.

41. **Confidentiality of Class Member Information.** Class Counsel agree that Class Member contact information will be treated as confidential, and Class Counsel will not use such Class Member contact information for any purpose other than implementation of this Settlement.

42. **Final Approval Motion.** On February 18, 2022, or by some other date if so directed by the Court, the Parties will file in the *Arthur* Court a motion and supporting memorandum requesting: (a) final approval of the Agreement; (b) final appointment of the Class Representatives and Class Counsel; and (c) final certification of the Settlement Class (“Final Approval Motion”). At least 10 days prior to the filing of the Final Approval Motion, Class Representatives shall provide a draft of the Motion and supporting documents to Defendants for their review and comment. In conjunction with the Final Approval Motion, the Parties shall jointly submit to the *Arthur* Court a proposed Final Approval Order that, without limitation:

- a. Grants final approval to this Agreement and its terms as being a fair, reasonable, and adequate settlement as to the Class Members within the meaning of 735 ILCS 5/2-801 and directing its consummation according to its terms;
- b. Dismisses, with prejudice, all claims of the Class Members against Defendants in the Litigations, without costs and fees except as explicitly provided for in this Agreement; and
- c. Reserves continuing and exclusive jurisdiction by the *Arthur* Court over the Settlement and this Agreement for the purposes of administering, consummating, supervising, construing and enforcing the Settlement.

43. **Final Approval Hearing.** On February 28, 2022, or as soon thereafter as the matter may be heard, the *Arthur* Court will conduct a Final Approval Hearing to determine final approval of this Settlement and to enter the Final Approval Order. Class Counsel will also seek an order determining the amounts to be paid from the Gross Settlement Fund for attorneys’ fees and expenses and service payments and any other matters as required herein. The Parties shall not object to any final approval order that is substantially in the form submitted to the Court by the

Parties. If the Court grants final approval of the Settlement, the Settlement Administrator shall post the Final Approval Order on its website within 7 days of entry of the Final Approval Order.

V. SETTLEMENT FUND

44. **Qualified Settlement Fund.** The Settlement Administrator shall establish a “qualified settlement fund” (“Qualified Settlement Fund” or “QSF”) within the meaning of Treas. Reg. § 1.468B-1. Attorneys’ fees, service award payments, and all settlement administration costs and expenses will be paid from the QSF. Payments to Class Members will be made after payment of attorneys’ fees, service award payments, and settlement administration costs and expenses. The Settlement Administrator shall notify counsel for the Parties prior to making any payments from the QSF.

45. **Deposit of Funds into QSF.** Within 30 days after entry of the Preliminary Approval Order, Defendants will deposit \$22,500,000 into the QSF. Any amounts in addition to \$22,500,000 that are necessary to meet Defendants’ obligations under this Settlement shall be deposited within 31 days after the Effective Date. Defendants shall not be obligated to fund any amount of the Gross Settlement Amount that has not been claimed by Class Members pursuant to Part IV. In no event shall the total payments made by Defendants, including Settlement Administrator’s costs and expenses, service awards, attorneys’ fees and costs, and claimed Class Member payments, exceed the Gross Settlement Amount.

46. **Class Member Payments.** Class Members will be eligible to receive a distribution from the Gross Settlement Amount less attorneys’ fees and costs, Service Award payments and settlement administration costs and expenses (“Net Settlement Amount”) through an allocation methodology and formula based on the employment dates for each Class Member. Class Members whose employment began on or before December 31, 2018 shall be entitled to up to \$375, and Settlement Class Members whose employment began on or after January 1, 2019 shall be entitled to up to \$190 (collectively, the “Maximum Payments”), such amounts to be reduced proportionately only to the extent the amount of claims submitted exceeds the Net Settlement Amount. In no event shall the amount paid to Settlement Class Members cause the Gross Settlement Amount to exceed the amounts described in Paragraph 11. Only Class Members who submit a valid and timely Claim Form will receive an allocation. Any part of the Net Settlement Amount remaining after all amounts are paid to Settlement Class Members who submit a valid and timely Claim Forms shall be retained by the Defendants and Defendants shall have no further obligation to pay such amounts to anyone.

47. **Time for Payment.** Settlement Class Members who submit a timely and valid Claim Form will be paid from the QSF established by the Settlement Administrator within 60 days of the Effective Date or, if appeals are filed as to any award(s) of attorneys’ fees and service awards, within 60 days of the resolution of such appeals.

- a. Checks shall be mailed by first class mail to the last known address of all Class Members, as reflected in the Settlement Administrator’s records following the notice procedures of Part IV of this Agreement.

b. The checks shall expire 120 days after issuance, and each check shall plainly state on its face that the check must be cashed within 120 days.

48. **Uncashed Checks.** Settlement payments not timely cashed shall revert to the Defendants. Class Members who do not cash their settlement checks within 120 days after mailing by the Settlement Administrator shall be deemed to have waived irrevocably any right in or claim to a settlement payment, but shall be bound by the Settlement and the Release provided herein.

49. **Reversion.** All residual funds remaining in the QSF after payments and expenses are paid per the terms of the Agreement shall revert to Defendants no later than 180 days after the Effective Date (or such other date as may be set with Defendants' consent to allow sufficient time for processing of claims and payments from the QSF) and may thereafter be retained by Defendants (or their insurers) as Defendants' (or their insurers') money.

50. **Service Award.** Class Counsel may request from the *Arthur* Court service award payments of up to \$2,500 for each of the Class Representatives, leaving the amount awarded solely within the discretion of the Court. Defendants will not oppose this request. Any service awards shall be paid from the Gross Settlement Amount and shall not increase the Gross Settlement Amount. Any service award shall be separate from the settlement, and approval of the settlement shall not be contingent upon any service award at all or in any particular amount.

51. **Settlement Administration Costs.** All costs and expenses by the Settlement Administrator, other agreed-upon costs and expenses related to providing notice of the proposed settlement to Class Members, and the administration of the settlement shall be paid out of the Gross Settlement Amount. In the event the proposed settlement is not approved or otherwise does not become final for any reason, all then-incurred costs and expenses by the Settlement Administrator or other agreed upon costs and expenses relating to the settlement, shall be borne by Defendants, which shall be enforceable by Court order. Neither Class Representatives nor Defendants, nor any of their attorneys and/or any other Released Party, shall have responsibility or liability for the administration of the settlement and shall have no liability in connection with, as a result of, or arising out of such administration, which liability shall be borne solely and exclusively by the Settlement Administrator.

52. **Attorneys' Fees and Costs.** Class Counsel may apply to the Court for an award of attorneys' fees and costs ("Fee Award") at least 14 days prior to the Final Approval Hearing. Class Counsel will file with the Court a motion requesting an award of attorneys' fees, costs, and expenses not to exceed \$18,500,000, approximately 37% of the settlement value, plus reasonable costs and expenses. Defendants reserve the right to oppose Class Counsel's motion. Any award of attorneys' fees and costs granted by the Court shall be paid fully from the Gross Settlement Amount within seven 7 days of the later of entry by the Court of (1) an order awarding attorneys' fees, or (2) the Final Approval Order, subject to repayment within seven 7 days in the event that the Final Approval Order or the grant of attorneys' fees are later set aside, reversed, modified or otherwise altered by the Illinois Appellate or Supreme Court. Any award of attorneys' fees and costs shall be separate from the settlement, and approval of the settlement shall not be contingent upon any attorneys' fees or cost award at all or in any particular amount. If the Court reduces or disapproves Class Counsel's request for an award of attorneys' fees or costs, such a ruling will

not be grounds to terminate the Settlement. Other than as stated in this Agreement, the Class Representatives and the Class Members release the Released Parties, and the Released Parties shall have no responsibility for and no liability with respect to any attorneys' fees or cost award or allocation of any attorneys' fees award among Class Counsel and/or any other person who may assert a claim to attorneys' fees. Class Counsel shall provide the Settlement Administrator with its completed W-9 before the payment of the Fee Award is due. Any payment of the Fee Award shall be paid by the Settlement Administrator from the QSF via electronic wire transfer to an account designated by Class Counsel.

53. **Tax Treatment.** The Settlement Administrator shall be responsible for making all reporting and filings with respect to amounts payable under this Agreement pursuant to any federal, state, or local tax law or regulation hereunder under the EIN of the QSF account. The Settlement Administrator shall also be responsible for filing and sending Form 1099, if necessary, to recipients of money under the Agreement. Payments pursuant to this settlement will be deemed non-wage payments for which no employer side payroll taxes will be due, and no benefit shall increase or accrue as result of payments made pursuant to this settlement. Class Representatives, Class Members, and Class Counsel will be solely responsible for all taxes, interest, penalties, or other amounts due with respect to any payment received pursuant to the Agreement and shall defend, indemnify, and hold harmless Released Parties in relation to any claim relating to the same. Class Representatives, Class Members, and Class Counsel have not been given nor relied upon any tax advice from Released Parties or Defendants' Counsel.

VI. RELEASE

54. **Released Claims.** For all periods up to and including the date of the Final Approval Order, and in exchange for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, all Class Members who do not timely opt-out of the settlement, and all their respective heirs, assigns, executors, administrators, and agents, past or present, fully and without limitation release and discharge each and every Released Party from any and all claims, rights, demands, liabilities, and/or causes of action of every nature and description, whether known or unknown, which relate in any way to information that is or could be protected under the Illinois Biometric Information Privacy Act, 740 ILCS 14/1 et seq., or any other similar state, local, or federal law, regulation, or ordinance, or common law, regarding the collection, capture, receipt, maintenance, storage, transmission, or disclosure of biometric identifiers or biometric information that Class Members claim, might claim, or could have claimed in any court or administrative proceeding. The Released Claims include, without limitation, statutory, constitutional, contractual, and/or common law claims for damages, unpaid costs, penalties, liquidated damages, punitive damages, interest, attorneys' fees, litigation costs, restitution, or equitable relief to the extent permitted by applicable law.

55. **Waiver of Rights.** The Settlement is intended to extinguish all Released Claims, and, consistent with such intention, upon final approval of the Settlement, Class Members shall waive and relinquish, to the fullest extent permitted by law, the provisions, rights, and benefits of any state, federal or foreign law or principle of common law, which may have the effect of limiting the Release set forth above. This shall include a waiver of any rights pursuant to provision of any federal, state, or foreign law, or principle of common law that provides:

A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM OR HER MUST HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR.

56. **Acknowledgment of Waiver.** Plaintiffs acknowledge, and the Class Members shall be deemed by operation of the entry of the Final Approval Order to acknowledge, that the foregoing waiver was separately bargained for, is an integral element of the Settlement, and was relied upon by each and all of the Parties in entering into the Settlement.

57. **Binding Effect of Release.** Final approval of this Agreement will settle and resolve with finality on behalf of the Class Representatives and the Settlement Class, the Litigations and the Released Claims against the Released Parties in the Litigations. The Agreement and the above-described release of the Released Claims will be binding on, and have *res judicata* preclusive effect in, all pending and future lawsuits or other proceedings maintained by or on behalf of Class Representatives and all other Class Members who do not validly and timely exclude themselves from the settlement, and their respective predecessors, successors, spouses, heirs, executors, administrators, agents and assigns of each of the foregoing, as set forth in the Agreement, and the Released Parties may file the Agreement and/or the Final Approval Order in any action or proceeding that may be brought against them in order to support a defense or counterclaim based on principles of *res judicata*, collateral estoppel, release, good faith settlement, judgment bar or reduction, or any other theory of claim preclusion or issue preclusion or similar defense or counterclaim. The parties will request that this *res judicata* language be included in the Final Approval Order.

58. **Timing for Effectiveness.** This Release becomes effective on the Effective Date.

59. **General Release from Class Representatives.** Except as otherwise provided herein, in consideration for the promises set forth herein, in addition to the Released Claims, each of the Class Representatives, for themselves and their respective agents, heirs, predecessors, successors, assigns, representatives and attorneys, do hereby waive, release, acquit and forever discharge each of the Released Parties from any and all claims, demands, rights, liabilities and causes of action of every nature and description whatsoever, known or unknown, asserted or that might have been asserted, whether in tort, contract, or for violation of any state or federal statute, rule or regulation arising out of, relating to, or in connection with any act or omission by or on the part of any of the Released Parties, including but not limited to any claims arising out of or related to the Class Representatives' employment, wages, hours, or working conditions with the Defendants or the separation of their employment from Defendants, committed or omitted prior to the date of the Final Approval Order except as limited herein and by law. This additional release includes all known and unknown claims. In addition, except as to obligations created in this Agreement, Defendants agree to waive any and all claims of every nature and description, known or unknown, asserted or that might have been asserted, against each of the Class Representatives individually, committed or omitted prior to the date of the Final Approval Order.

VII. TERMINATION OF THE SETTLEMENT

60. **Opt-Out Rate.** The Agreement may be terminated and cancelled, at the sole and exclusive discretion of Defendants, if five percent (5%) or more of Class Members timely and validly exclude themselves from the Settlement Class.

61. **Failure to Obtain Final Approval.** Defendants may, but are not obligated to, terminate the settlement without further obligation if the Court does not grant final approval of or modifies the terms or conditions of the Agreement, or precludes Plaintiffs and/or Defendants from proceeding with any term or condition of the Agreement, except as otherwise stated herein.

62. **Best Efforts to Resolve / Return to Status Quo.** In the event that the Agreement is not approved by the Court, the Parties agree to use their best efforts to negotiate terms and conditions that will be approved by the Court.

63. **Failure of Settlement.** In the event the Court does not grant final approval and the Parties are unable to resolve their differences after best efforts, the Settlement will be deemed null and void, all settlement amounts shall be returned to the Defendants and their insurers, and the parties shall return to their positions prior to the execution of the Agreement. In such event the Parties agree that any order entered by the Court in furtherance of this Settlement, including an order certifying the Settlement Class, should be treated as void *ab initio*. Statements made in any settlement papers and in connection with negotiation of this Agreement shall not be deemed to prejudice in any way the positions of the Parties with respect to any litigation or judicial proceedings.

VIII. MISCELLANEOUS REPRESENTATIONS

64. **Stay of Litigation.** The Parties agree to take all steps to immediately stay the Litigations while awaiting approval of this Agreement by the Court.

65. **Confidentiality.** The Parties and counsel shall keep confidential all settlement communications, including communications regarding the negotiation and drafting of this Agreement. Except as provided herein, there shall be no comments made to the press or any third party, or any other disclosure by or through the Parties or their attorneys or agents, comprising opinions as to the Litigations. Class Representatives and Class Counsel (including co-counsel in the Litigations) shall not make any public statement, including any statement to the press, regarding the Settlement. Similarly, Defendants and Defendants' Counsel shall not make any public statement, including any statement to the press, regarding the Settlement. This paragraph shall not be construed to limit or impede the notice requirements contained herein, nor shall this paragraph be construed to prevent Class Counsel or Defendants from notifying or explaining to potential Class Members that the Litigations have settled, or limit the representations that the Parties or their Counsel may make to the Court to assist in its evaluation of the Agreement. Defendants may also provide information about the settlement to their attorneys, members, partners, insurers, brokers, agents, and other persons or entities as required by securities laws or other applicable laws or regulations.

66. **Disputes.** If the Parties disagree over the meaning of any of the terms in this Agreement or the negotiation of, compliance, or implementation of such terms, and cannot

resolve such disagreement themselves, they agree to promptly submit the issue to mediation with the mediator who facilitated this settlement, the Hon. Layn Phillips (Ret.). The Court shall have and retain jurisdiction over all matters relating to the interpretation, administration, implementation, effectuation, and enforcement of this Agreement, and shall be the ultimate arbiter of disputes that cannot be resolved through mediation.

67. **Destruction of Files.** Within 10 days of the Effective Date, the Parties respectively agree to destroy any materials produced by the opposing parties in the Litigations.

68. **Representations and Warranties.** The Class Representatives and Class Counsel represent and warrant that no claims or causes of action referred to in any of the complaints in the Litigations, or any claims Class Representatives could have asserted, have been assigned, encumbered, or in any manner transferred in whole or in part.

69. **Cooperation.** The Parties (a) acknowledge that it is their intent to consummate this Agreement, and (b) agree, subject to their fiduciary and other legal obligations, to cooperate in good faith to the extent reasonably necessary to effectuate and implement all terms and conditions of this Agreement and to exercise their reasonable best efforts to accomplish the foregoing terms and conditions of this Agreement. Class Counsel and Defendants' Counsel agree to cooperate with each other in seeking Court approval of the Agreement and terms contained herein, and to endeavor to promptly agree upon and execute all such other documentation as may be reasonably required to obtain final approval of the Agreement.

70. **Complete Resolution.** The Parties intend this Agreement to be a final and complete resolution of all disputes between them with respect to the Released Claims by the Class Representatives and the Settlement Class, and each or any of them, on the one hand, against the Released Parties, on the other hand. Accordingly, the Parties agree not to assert in any forum that the Litigations were brought by the Class Representatives or defended by Defendants, or each or any of them, in bad faith or without a reasonable basis.

71. **Arms-Length Negotiations.** This Agreement is deemed to have been prepared by counsel for all Parties as a result of arm's-length negotiations among the Parties. Because all Parties have contributed substantially and materially to the preparation of this Agreement, it shall not be construed more strictly against one Party than another. The Parties further acknowledge they have relied upon the advice and representation of counsel, selected by them, concerning their respective legal liability for the claims hereby released. The Parties have read and understand fully this Agreement, and have been fully advised as to the legal effect thereof by counsel of their own selection and intend to be legally bound by the same.

72. **Medicare Beneficiary.** Each Class Representative represents and warrants that he/she is not a Medicare beneficiary as described under Section 1862(b) of the Social Security Act and has not been treated for any physical or mental injury in relation to his/her claims being released as part of the Class settlement. As part of the claims process, each Class Member submitting a claim will represent and warrant that: (1) he/she is not a Medicare beneficiary as described under Section 1862(b) of the Social Security Act and (2) he/she has not been treated for any physical or mental injury in relation to his/her claims being released as part of the Class settlement.

73. **Binding.** Upon the Effective Date, all Class Members shall be bound by this Agreement, shall have released all Released Claims as against the Released Parties, and shall be barred and permanently enjoined from asserting, instituting, or prosecuting the Released Claims as against the Released Parties. This Agreement shall also be binding upon, and inure to the benefit of, the successors and assigns of the Parties hereto and the Released Parties as defined herein.

74. **Entire Agreement.** This Agreement sets forth the entire agreement and understanding between the Parties related to the Settlement and the matters set forth herein. All prior or contemporaneous agreements, understandings and statements, whether oral or written, and whether by a party or its counsel, including the prior Term Sheet executed by the Parties, are superseded. No oral or written representations, warranties, or inducements have been made to any party concerning this Agreement other than the representations, warranties, and covenants contained and memorialized in such documents.

75. **Superseding The Parties' Executed Settlement Term Sheet.** This Agreement accurately reflects and encompasses the terms of the Parties' Settlement Term Sheet, provides details regarding notice and administration and other settlement terms, and the Parties intend for it to supersede their Term Sheet once the Agreement has been fully executed. Until the Parties have fully executed the Agreement, the Parties intend for their executed Settlement Term Sheet to remain binding and enforceable.

76. **Fair, Adequate, and Reasonable Settlement.** The Parties agree that the Settlement is a fair and reasonable resolution of a bona fide BIPA dispute, and will so represent to the St. Clair County Court.

77. **Extensions of Time.** The Parties may agree, subject to the approval of the Court where required, to reasonable extensions of time to carry out the provisions of the Agreement.

78. **Calculation of Deadlines.** All references to numbers of "days" herein are to calendar days unless otherwise stated. If the deadline as calculated falls on a Saturday, Sunday, or Federal holiday, the deadline will be extended to the business day.

79. **Headings.** Any headings used herein are used for the purpose of convenience only and are not meant to have legal effect.

80. **Effect of Waiver.** The waiver by one Party of any breach of this Agreement by any other Party shall not be deemed as a waiver of any prior or subsequent breach of this Agreement.

81. **Amendments.** This Agreement may not be amended, modified, altered, or otherwise changed in any material manner except by a written instrument signed by or on behalf of all Parties or their respective successors-in-interest.

82. **Costs.** Except as otherwise provided herein, each Party shall bear its own costs.

83. **Compromise.** The Parties specifically acknowledge, agree and admit that this Agreement, along with all related drafts, motions, pleadings, conversations, negotiations,

correspondence, orders or other documents shall be considered a compromise within the meaning of Illinois Rules of Evidence Rule 408, and any other equivalent or similar rule of evidence, and shall not (a) constitute, be construed, be offered, or received into evidence as an admission of the validity of any claim or defense, or the truth of any fact alleged or other allegation in the Litigations or in any other pending or subsequently filed action, or of any wrongdoing, fault, violation of law, or liability of any kind on the part of any Party, or (b) be used to establish a waiver of any defense or right, or to establish or contest jurisdiction or venue.

84. **Evidence.** The Parties agree that the settlement shall have no evidentiary effect in any subsequent litigation, except to enforce the terms of the settlement, and further agree that the settlement does not constitute an admission that any group of similarly situated individuals exists to maintain a class action under 735 ILCS 5/2-801, Federal Rule of Civil Procedure 23, or any other state analogue.

85. **Execution.** This Agreement may be executed in one or more counterparts exchanged by hand, messenger, or PDF as an electronic mail attachment, and any such signature exchanged shall be deemed an original signature for purposes of this Agreement. All executed counterparts and each of them shall be deemed to be one and the same instrument, provided that counsel for the Parties to this Agreement all exchange signed counterparts.

86. **Governing Law.** This Agreement shall be governed by and construed in accordance with the laws of the state of Illinois.

87. **Notice to Counsel.** Unless otherwise stated herein, any notice to a Party required or provided for under this Agreement shall be in writing and shall be sent by electronic mail or hand delivery, postage prepaid, as follows:

If to Class Counsel:

John J. Driscoll, #6276464
THE DRISCOLL FIRM, LLC
1311 Avenida Juan Ponce de Leon
6th Floor
San Juan, PR 00907
Phone: (618) 444-6049
john@jjlegal.com

If to Defendants' Counsel:

Michael J. Gray
Efrat R. Schulman
JONES DAY
77 West Wacker
Chicago, IL 60601
mjgray@jonesday.com
eschulman@jonesday.com

Natalie J. Kussart
Phillip C. Graham
SANDBERG PHOENIX & VON
GONTARD, P.C.
600 Washington Avenue, 15th Floor
St. Louis, MO 63101
nkussart@sandbergphoenix.com
pgraham@sandbergphoenix.com

Jamie L. Filipovic

O'HAGAN MEYER, LLC
One East Wacker Drive, Suite 3400
Chicago, IL 60601
jfilipovic@ohaganmeyer.com

Sean C. Herring
Jody Mason Kahn
JACKSON LEWIS, P.C.
150 N. Michigan Avenue, Suite 2500
Chicago, IL 60601
sean.herring@jacksonlewis.com
jody.mason@jacksonlewis.com

Steve A. Miller
James M. Hux
FISHER PHILLIPS, LLP
10 S. Wacker Drive, Suite 3450
Chicago, IL 60606
smiller@fisherphillips.com
jhux@fisherphillips.com

88. For clarity, the deadlines set forth in the Settlement Agreement above are as follows:

Date	Event
11/23/2021	Preliminary Approval Hearing/Order
12/7/2021	Defendants provide Class List to Settlement Administrator
12/21/2021	Notice mailed; Settlement Website established
12/23/2021	Defendants to Make First Deposit into QSF (30 days after Preliminary Approval)
2/8/2022	Plaintiffs to provide draft final approval motion (10 days before filing)
2/9/2022	Response Deadline (50 days after notice)
2/18/2022	Motion for Final Approval + Plaintiffs' Motion for Fees/Costs
2/28/2022	Final Approval Hearing/Order
3/20/2022	Defendants to Make Any Additional Deposits into QSF (30 days after Final Approval)
4/29/2022	Payment deadline (60 days after final approval)

89. This Agreement shall be deemed executed as of the date that the last party signatory signs the Agreement.

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EXHIBIT 2

NOTICE OF PROPOSED CLASS ACTION SETTLEMENT

Lark, et al. v. McDonald's USA, LLC, et al., Case No. 17-L-559
Arthur, et al., v. McDonald's USA, LLC, et al., Case No. 20-L-0891
Circuit Court, St. Clair County, Illinois

**PLEASE READ THIS NOTICE CAREFULLY. THIS NOTICE CONTAINS
IMPORTANT INFORMATION ABOUT A PROPOSED CLASS ACTION
SETTLEMENT. YOUR RIGHTS MAY BE AFFECTED BY THIS SETTLEMENT.**

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

I. WHAT IS THIS NOTICE?

This is a court-authorized notice of a proposed settlement (the “Settlement” or “Settlement Agreement”) in the class action lawsuits, *Lark, et al. v. McDonald's USA, LLC, et al.*, Case No. 17-L-559 and *Arthur, et al., v. McDonald's USA, LLC, et al.*, Case No. 20-L-0891 (collectively, the “Litigations”), pending in the Circuit Court of St. Clair County, Illinois before the Honorable Heinz Rudolf (the “Court”). The Settlement would resolve the Litigations on behalf of persons employed at any McDonald's-brand restaurant in Illinois who logged onto, interfaced with, or used any software, systems, or devices that used the individual's finger, hand, face, retina, or any biometric identifier of any type in any McDonald's-brand restaurant in Illinois (the “Settlement Class”).

On November 23, 2021, the Court granted preliminary approval of the Settlement Agreement and directed that this Notice be distributed to members of the Settlement Class. A final settlement hearing will be held in the St. Clair County Courthouse on February 28, 2022, to determine whether the settlement should be granted final approval. This Notice explains the nature of the Litigations, the terms of the Settlement Agreement, and the legal rights and obligations of members of the Settlement Class. Please read the instructions and explanations below so that you can better understand your legal rights.

II. WHAT ARE THE LITIGATIONS ABOUT?

The Illinois Biometric Information Privacy Act (“BIPA”), 740 ILCS 14/1, *et seq.*, prohibits private companies from collecting, capturing, obtaining, storing, transferring, and/or using the biometric identifiers and/or information of another individual for any purpose without first providing such individual with certain written disclosures and obtaining written consent. The Litigations allege that McDonald's Corporation, McDonald's USA, LLC, McDonald's Restaurants of Illinois, Inc., and McDonald's franchisees that operate McDonald's-brand restaurants in Illinois (collectively, “Defendants”) violated BIPA by requiring certain current and/or former employees to submit their biometric identifiers and/or biometric information without first providing the requisite disclosures or obtaining the requisite consents. For their part, Defendants assert that they complied with BIPA at all times and deny that there is merit to the claims.

QUESTIONS? VISIT www.ArthurLarkBIPASettlement.com

III. WHY IS THIS A CLASS ACTION?

A class action is a lawsuit in which an individual called a “Class Representative” brings a single lawsuit on behalf of other people who have similar claims. All of these people together are a “Class” or “Class Members.” When a class action is settled, the settlement, which must be approved by the court, resolves the issues for all Class Members, except for those who exclude themselves from the settlement.

The Litigations covered by this Settlement were originally filed as two separate class action lawsuits, which made the same allegations, but against different groups of Defendants. The Litigations have been consolidated before Judge Rudolf for the purposes of settlement.

The Class Representatives who filed the Litigations are Reginald Lark, Haleigh Rae Besinger, Xavier Casillas, Erin Castrejon, Brandon Chaples, Creighton Colson, James Cowan, Shayne Emery, Stacie Ferguson, Andrea Franklin, Sarah Furlong, Anthony Gant, Ivan Gonzalez, Oscar Gutierrez, Alonzo Johnson, Tiffany Johnston, Alexandria Krispin, Charlene Lybarger, Gabriela Mize, Alyssa Moore, Brianna Moore, Kristen Oettle, Thomas Pearce, Thaddeus Phillips, Aaron Emanuel Rivera, Bryton Roach, Phillip Ross, Josue Salgado, Jeff Sansone, Kelsi Schwartz, Shane Snyder, Johnathin Sutton, Rhonda Tandy, Michael Warren, Aaron Weiss, Allison Arthur, Kyle Arthur, Makyeya Daniels, Tiffany Gomez, LaShunda Hicks, Ky’Aron Manning, Brett Prather, and David Truetner, all of whom either currently or formerly work(ed) at a McDonald’s-brand restaurant in Illinois (“Class Representatives” or “Plaintiffs”)

IV. WHY IS THERE A SETTLEMENT?

To resolve the Litigations without the expense, delay, and uncertainties of further litigation, the Plaintiffs and Defendants (collectively, the “Parties”) have reached a settlement, which resolves all claims by the Settlement Class related to the use of biometric identifiers and/or biometric information at McDonald’s-brand restaurants in Illinois. If approved by the Court, the Settlement Agreement requires the Defendants to create a settlement fund, which will then be used to pay valid claims by the Settlement Class, settlement administration expenses, attorneys’ fees and costs to the attorneys who filed the Litigations on behalf of the Plaintiffs (“Class Counsel”), and a service award to the Plaintiffs. The Settlement is not an admission of wrongdoing by the Defendants and does not imply that Defendants violated the law.

The Court has already preliminarily approved the Settlement Agreement. Nevertheless, because the settlement of a class action determines the rights of all members of the class, the Court overseeing the Litigations must give final approval to the Settlement Agreement before it can be effective. The Court has conditionally certified the Settlement Class for settlement purposes only, so that members of the Settlement Class can be given this notice and the opportunity to exclude themselves from the Settlement Class, and to voice their support or opposition to final approval of the Settlement Agreement. If the Court does not give final approval to the Settlement Agreement, or if it is terminated by the Parties, the Settlement Agreement will be void, and the Litigations will proceed as if there had been no settlement and no certification of the Settlement Class.

V. WHO IS IN THE SETTLEMENT CLASS?

You are a member of the Settlement Class if you worked at a McDonald's-brand restaurant in Illinois and you logged onto, interfaced with, or used any software, systems, or devices that used the individual's finger, hand, face, retina, or any biometric identifier of any type at any time through November 23, 2021. If you meet this description then you must timely submit a Claim Form to receive a check in the mail.

VI. WHAT ARE MY OPTIONS?

A. Accept the Settlement

To accept the Settlement, you must submit a Claim Form postmarked no later than February 9, 2022. You should have received a Claim Form in the mail with this Notice. If you need a copy of a Claim Form, you can obtain one at www.ArthurLarkBIPASettlement.com. The Claim Form must be submitted to the Settlement Administrator either online via the Settlement Website or via U.S. Mail at [address]. If the Settlement is approved and your claim is deemed valid, a check will be mailed to you.

Submitting a valid and timely Claim Form is the only way to receive a payment from this Settlement, and is the only thing you need to do to receive a payment.

B. Do Nothing

If you do nothing, you will receive no money from the Settlement Fund, but you will still be bound by all orders and judgments of the Court. Unless you exclude yourself from the Settlement, you will not be able to file or continue a lawsuit against the Defendants and Released Parties regarding any of the Released Claims. ***Submitting a valid and timely Claim Form is the only way to receive a payment from this Settlement.***

C. Exclude Yourself

You may exclude yourself from the Settlement. If you do so, you will not receive any cash payment, but you will not release any claims you may have against Defendants and the Released Parties (as defined in the Settlement Agreement) and are free to pursue whatever legal rights you may have by pursuing your own lawsuit against Defendants at your own risk and expense. To exclude yourself from the Settlement, you must return a signed opt-out form to the Settlement Administrator either via U.S. Mail at [address], or via email to [email address]. The opt-out form must be postmarked no later than February 9, 2022.

D. Object to the Settlement

If you wish to object to the Settlement, you must submit your objection in writing to the Clerk of the Court of the Circuit Court of St. Clair County, Illinois, #10 Public Square Belleville, IL 62220. The objection must be received by the Court no later than February 9, 2022. You must also send a copy of your objection to the attorneys for all Parties to the Litigations, identified in Sections XI and XII below, and the Settlement Administrator at [address]. The objection must be postmarked no later than February 9, 2022. Any objection must state: (a) your full name,

QUESTIONS? VISIT www.ArthurLarkBIPASettlement.com

address and current telephone number; (b) the case name and number of the Litigations; (c) a statement confirming information to verify you are a Class Member; (d) all grounds for objection, with factual and legal support for the stated objection, including any supported materials; and (e) the identification of any other objections you have filed, or had filed on your behalf, in any other class action cases in the last four years. You must sign the objection. If you hire an attorney in connection with making an objection, that attorney must also file with the Court a notice of appearance by the objection deadline of February 9, 2022. If you do hire your own attorney, you will be solely responsible for payment of any fees and expenses the attorney incurs on your behalf. If you exclude yourself from the Settlement, you cannot file an objection.

You may appear at the Final Approval Hearing, which is to be held on February 28, 2022, in Courtroom 403 of the Circuit Court of St. Clair County, Illinois, #10 Public Square, Belleville, IL 62220, in person or through counsel to show cause of why the proposed Settlement Agreement should not be approved as fair, reasonable, and adequate. Attendance at the hearing is not necessary; however, persons wishing to be heard orally in opposition to the approval of the settlement, the request for attorneys' fees and expenses, and/or the request for a service award to the Class Representatives are required to state in their written objection their intention to appear at the hearing on their own behalf or through counsel and to identify the names of any witnesses they intend to call to testify at the Final Approval Hearing, as well as any exhibits they intend to introduce at the Final Approval Hearing.

For more information on how to request exclusion from the Settlement Class or file an objection, please visit the Settlement Website, www.ArthurLarkBIPASettlement.com.

VII. WHAT DOES THE SETTLEMENT PROVIDE?

Cash Payments. The Defendants have agreed to create a settlement fund of up to \$50,000,000 for the Settlement Class. Of that \$50,000,000, \$5 million is held in two reserves that will be triggered only if certain percentages of the Settlement Class return Claims Forms. All Class Members who timely return valid Claims Forms are entitled to receive a payment from the settlement fund. Class Members who timely submit a valid Claim Form are eligible to receive a maximum of \$375 if their employment began on or before December 31, 2018, and a maximum of \$190 if their employment began on or after January 1, 2019. Dates of employment will be determined based on work records provided by Defendants and Released Parties. The actual amount received by Class Members may be less than the maximum depending on the number of Claims Forms submitted. Each class member remains personally responsible for ensuring the proper payment of all taxes due, as determined by the applicable taxing authority.

If the Settlement is approved, the Settlement Administrator will issue a check to each Class Member who submits a valid and timely Claim Form following the final approval of the Settlement. All checks issued to Class Members will expire and become void 120 days after they are issued. Additionally, the attorneys who brought the Litigations will ask the Court to award them attorneys' fees of up to 37% of the maximum possible settlement fund, plus reasonable costs, for the substantial time, expense and effort expended in investigating the facts, litigating the case, and negotiating the Settlement. The Class Representatives will also apply to the Court for a payment of up to \$2,500 for their time, effort and service in this matter.

QUESTIONS? VISIT www.ArthurLarkBIPASettlement.com

VIII. WHAT RIGHTS AM I GIVING UP IN THIS SETTLEMENT?

Unless you exclude yourself from this Settlement, you will be considered a member of the Settlement Class, which means you give up your right to file or continue a lawsuit against the Defendants and any other Released Parties (as defined in the Settlement Agreement), relating to the use of any software, systems, or devices that used your finger, hand, face, retina, or any biometric identifier of any type in any McDonald's-brand restaurant in Illinois. Giving up your legal claim is called a release. The precise terms of the release are in Section VI of the Settlement Agreement, which is available on the Settlement Website. Unless you formally exclude yourself from this Settlement, you will release your claims. This includes a waiver of any rights pursuant to provision of any federal, state, or foreign law, or principle of common law that provides:

A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM OR HER MUST HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR

The information provided in this Class Notice is only a summary. The terms of the Settlement Agreement are the binding terms of this Settlement, and all such terms, including the releases that will bind you as a Class Member if you do not opt out, are set forth fully in the Settlement Agreement that is on file with the Court and also can be found at www.ArthurLarkBIPASettlement.com. If you have any questions, you can talk for free to the Class Counsel identified below, to the Settlement Administrator at [phone number], or you are welcome to talk to any other lawyer of your choosing at your own expense.

IX. WHEN WILL I BE PAID?

The Parties cannot predict exactly when (or whether) the Court will give final approval of the Settlement Agreement, so please be patient. However, if the Court finally approves the Settlement, you will be paid as soon as possible after the court order becomes final. If there is an appeal of the Settlement, payment may be delayed. Updated information about the case is available at www.ArthurLarkBIPASettlement.com, or you can contact Class Counsel at the information provided below.

X. WHEN WILL THE COURT RULE ON THE SETTLEMENT?

The Court has already given preliminary approval to the Settlement Agreement. A final hearing on the settlement, called a Final Approval Hearing, will be held to determine the fairness of the Settlement Agreement. At the Final Approval Hearing, the Court will also consider whether to make final the certification of the class for settlement purposes, hear any objections and arguments to the Settlement Agreement, as well as any requests for an award of attorneys' fees, costs, and expenses and a Class Representative service award that may be sought by Class Counsel. The Court will hold the Final Approval Hearing on February 28, 2022 at Courtroom 403 of the Circuit Court of St. Clair County, Illinois, #10 Public Square, Belleville, IL 62220.

QUESTIONS? VISIT www.ArthurLarkBIPASettlement.com

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

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

XI. WHO REPRESENTS THE CLASS?

The Court has approved the following attorneys to represent the Settlement Class. They are called "Class Counsel." You will not be charged for these lawyers. If you want to be represented by your own lawyer instead, you may hire one at your own expense.

John J. Driscoll THE DRISCOLL FIRM, LLC documents@jjlegal.com 1311 Avenida Juan Ponce de Leon, 6th Floor San Juan, PR 00907 Phone: (618) 444-6049 Fax: (314) 932-3233

XII. WHO REPRESENTS THE DEFENDANTS?

The following attorneys represent the Defendants named in the Litigations. If you intend to object to the Settlement, you must provide notice to the following attorneys, in addition to Class Counsel and the Settlement Administrator:

Michael J. Gray Efrat R. Schulman JONES DAY 77 West Wacker Chicago, IL 60601 mjgray@jonesday.com eschulman@jonesday.com	Natalie J. Kussart Phillip C. Graham SANDBERG PHOENIX & VON GONTARD, P.C. 600 Washington Avenue, 15th Floor St. Louis, MO 63101 nkussart@sandbergphoenix.com pgraham@sandbergphoenix.com
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QUESTIONS? VISIT www.ArthurLarkBIPASettlement.com

<p>Jamie L. Filipovic O'HAGAN MEYER, LLC One East Wacker Drive, Suite 3400 Chicago, IL 60601 jfilipovic@ohaganmeyer.com</p>	<p>Sean C. Herring Jody Mason Kahn JACKSON LEWIS, P.C. 150 N. Michigan Avenue, Suite 2500 Chicago, IL 60601 sean.herring@jacksonlewis.com jody.mason@jacksonlewis.com</p>
<p>Steve A. Miller James M. Hux FISHER PHILLIPS, LLP 10 S. Wacker Drive, Suite 3450 Chicago, IL 60606 smiller@fisherphillips.com jhux@fisherphillips.com</p>	

XIII. WHERE CAN I GET ADDITIONAL INFORMATION?

This Notice is only a summary of the proposed Settlement. More details are in the Settlement Agreement which, along with other documents, can be obtained at **www.ArthurLarkBIPASettlement.com**. If you have any questions, you can also call Class Counsel at the numbers or email addresses set forth above, or the Settlement Administrator at [number]. In addition to the documents available on the case website, all pleadings and documents filed with the Court may be reviewed or copied at the Office of the Clerk.

Please do not call the Judge, the Clerk of Court, or Defendants' Counsel about this case. They will not be able to give you advice on your options.

Dated:

By Order of the Circuit Court of St. Clair County, Illinois.

EXHIBIT 3

Lark, et al., v. McDonald's USA, LLC, et al., Case No. 17-L-559 (St. Clair County)
Arthur, et al. v. McDonald's USA, LLC, et al., Case No. 20-L-0891 (St. Clair County)

CLAIM FORM

Instructions. Fill out each section of this form and sign where indicated.

THIS CLAIM FORM MUST BE COMPLETED AND POSTMARKED OR SUBMITTED ONLINE TO THE SETTLEMENT ADMINISTRATOR BY: FEBRUARY 9, 2022

<u>First Name</u>		<u>Last Name</u>	
<u>Street Address</u>			
<u>City</u>	<u>State</u>	<u>ZIP Code</u>	
<u>Email Address</u>			
<u>Contact Phone # (You may be contacted if further information is required.)</u>			

Class Member Affirmation: By submitting this Claim Form, I declare that I am a member of the Settlement Class and that the following information is true and correct:

I am an individual who logged onto, interfaced with, or used any software, system, or device that used my finger, hand, face, retina, or any other biometric identifier of any type in a McDonald's-brand restaurant in Illinois while working at the restaurant at any time up to November 23, 2021.

Signature: _____

Date: _____
(MM-DD-YY)

Printed Name: _____

Settlement Administrator Information:

For more information, visit www.ArthurLarkBIPASettlement.com.

[ADDRESS]

EXHIBIT 4

Lark, et al., v. McDonald's USA, LLC, et al., Case No. 17-L-559 (St. Clair County)
Arthur, et al. v. McDonald's USA, LLC, et al., Case No. 20-L-0891 (St. Clair County)

OPT-OUT FORM

Instructions. Fill out each section of this form and sign where indicated.

THIS OPT-OUT FORM MUST BE COMPLETED AND POSTMARKED OR EMAILED TO THE SETTLEMENT ADMINISTRATOR BY: FEBRUARY 9, 2022

<u>First Name</u>		<u>Last Name</u>	
<u>Street Address</u>			
<u>City</u>	<u>State</u>	<u>ZIP Code</u>	
<u>Email Address</u>			
<u>Contact Phone # (You may be contacted if further information is required.)</u>			

Opt-Out Affirmation: By submitting this Opt-Out Form, I confirm that I wish to exclude myself from the Settlement in the above-captioned matter. I understand that by excluding myself, I will not (i) be bound by any order or judgement; (ii) be entitled to relief under the Settlement Agreement; (iii) gain any rights by virtue of the Settlement; or (iv) be entitled to object to any aspect of the Settlement Agreement.

Signature: _____

Date: _____
(MM-DD-YY)

Printed Name: _____

Settlement Administrator Information:

For more information, visit www.ArthurLarkBIPASettlement.com.

[ADDRESS]