

NOTICE OF PROPOSED CLASS ACTION SETTLEMENT

Struck v. Woodman's Food Market, Case No. 2021-CH-00000053 (19th Cir. Ct. Lake Cnty.)

**PLEASE READ THIS NOTICE CAREFULLY AS YOUR LEGAL RIGHTS MAY BE AFFECTED.
A CLASS ACTION SETTLEMENT HAS BEEN REACHED UNDER WHICH YOU MAY
BE ENTITLED TO A PAYMENT IF YOU MAKE A TIMELY CLAIM.**

*This is a court-authorized notice of a proposed class action settlement.
This is not a solicitation from a lawyer and is **not** notice of a lawsuit against you.*

WHY DID I GET A NOTICE?

This is a court-authorized notice of a proposed settlement in a class action lawsuit, *Struck v. Woodman's Food Market*, Case No. 2021-CH-00000053, pending in the Circuit Court for the Nineteenth Judicial Circuit of Lake County, Illinois (the "Action"). The settlement would resolve the Action, which was brought on behalf of persons who allege Defendant Woodman's Food Market, Inc. (the "Defendant") required that those working at Defendant's facilities provide their biometric identifiers and/or biometric information (i.e., scan their fingerprint) for timekeeping purposes without first having a written policy and obtaining a written release. Defendant denies these allegations, denies violation of any law, and denies all liability. If you received notice, you have been identified by Defendant as someone who scanned their fingerprint for timekeeping purposes while working at Defendant's facilities. The Court has granted preliminary approval of the Settlement Agreement and has conditionally certified the Settlement Class for purposes of settlement. This notice explains the nature of the Action, the terms of the Settlement Agreement, and the legal rights and obligations of those in the Settlement Class. Please read the instructions and explanations below so you can understand your rights.

WHAT IS THIS LAWSUIT ABOUT?

The Illinois Biometric Information Privacy Act ("BIPA"), 740 ILCS 14/1, *et seq.*, prohibits private companies from capturing, obtaining, storing, transferring, and/or using the biometric identifiers and/or biometric information, defined to include fingerprints, of an individual without first providing such individual with certain written disclosures and obtaining written consent. The Action alleges the Defendant violated BIPA and was negligent by requiring certain people working at its facilities to scan their fingerprints for timekeeping purposes without first obtaining written consent and without first having a written policy. Defendant denies the claims made in the Action and denies that it violated the law or did anything wrong. No trial has been held on the merits of any allegations against Defendant or as to Defendant's defenses.

WHAT DOES THE SETTLEMENT PROVIDE?

Cash Payments. Defendant has agreed to make settlement payments capped at the maximum of \$3,058,400. All Settlement Class Members who submit a Claim Form are eligible to receive a payment of \$800. If Class Member payments, attorneys' fees and costs, Class Representative service awards and settlement administration costs exceed the \$3,058,400 cap, Class Member payments will be reduced pro rata. If the settlement is approved, each Settlement Class Member who submits a timely and valid Claim Form will receive a check.

The Settlement Administrator will issue a check to each Class Member who submits a valid Claim Form at a time following the final approval of the settlement. All checks issued to Settlement Class Members will expire and become void ninety (90) days after they are issued. Additionally, the attorneys who brought the Action (listed below) may ask the Court to award them attorneys' fees and costs of up to thirty-three percent (33%) of the value of the Settlement Cap, for the time, expense, and effort expended in investigating the facts, litigating the case, and negotiating the settlement. The Class Representatives also will apply to the Court for a payment of up to \$5,000 each for their time, effort, and service in this matter.

WHY IS THERE A SETTLEMENT?

The Court did not decide in favor of the Plaintiffs or the Defendant. Instead, to resolve this matter without the expense, delay, and uncertainties of litigation, the Parties have reached a settlement which resolves all claims against the Defendant without any admission of fault or liability. The Settlement Agreement requires the Defendant to pay money to the Settlement Class Members, as well as pay settlement administration expenses, attorneys' fees and costs to Class Counsel, and a service award to the Class Representatives, if approved by the Court. The settlement is not an admission of wrongdoing by Defendant and does not imply that there has been, or would be, any finding that Defendant violated the law. Defendant states that it agreed to this settlement to avoid the distraction and expense of continued litigation.

WHO IS IN THE SETTLEMENT CLASS?

You are in the Settlement Class if, between March 10, 2015 and March 26, 2021, the Defendant collected your biometric information or biometric identifiers for timekeeping purposes.

The Settlement Class is specifically defined as:

All current and former employees of Defendant who used a finger scanner time clock at a facility owned or operated by Defendant in the State of Illinois between March 10, 2015 and March 26, 2021, without first being provided BIPA disclosures and executing written consent.

Excluded from the Settlement Class are: (a) persons who executed a settlement agreement and release with Defendant releasing and/or waiving their BIPA claims; (b) any Judge presiding over this action and members of their families; (c) Defendant, Defendant's subsidiaries, parent companies, successors, predecessors, and any entity in which Defendant or its parents have a controlling interest; (d) persons who properly execute and file a timely request for exclusion from the Settlement Class; and (e) the legal representatives, successors, heirs or assignees of any such excluded persons.

WHAT ARE MY OPTIONS?

You have four options.

(1) Submit a Claim Form.

If you are a member of the Settlement Class and submit a valid Claim Form by **May 11, 2021**, then you will receive a share of the Settlement Fund.

(2) 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 the Defendant or the Released Parties (as that term is defined in the Settlement Agreement) and are free to pursue whatever legal rights you may have, including pursuing your own lawsuit against the Defendant at your own risk and expense. To exclude yourself from the settlement, you must mail a signed letter to the Settlement Administrator at *Struck v. Woodman's Food Market* Settlement Administrator, P.O. Box 43208, Providence, RI 02940-3208 postmarked by **May 11, 2021**. The exclusion letter must state that you exclude yourself from this settlement and must include the name and case number of this litigation, as well as your full name, address, telephone number, signature, and a statement to the effect that "I/We hereby request to be excluded from the proposed Settlement Class in *Struck v. Woodman's Food Market*, Case No. 2020-CH-00000053."

(3) Object to the Settlement.

If you wish to object to the settlement, you must file your objection with Clerk of the Circuit Court of Lake County, 18 N. County St., Waukegan, IL 60085. The objection must be received by the Court no later than **May 11, 2021**. You must also send a copy of your objection to the attorneys for all Parties to

the Action, including Class Counsel (Gary M. Klinger, Mason, Lietz & Klinger LLP, 227 W. Monroe St., Ste. 2100, Chicago, IL 60606), as well as the attorneys representing the Defendant (Michael D. Hayes, Husch Blackwell LLP, 120 South Riverside Plaza, Ste. 2200, Chicago, IL 60606), postmarked no later than **May 11, 2021**. Any objection to the proposed settlement must include: (a) your full name and current address; (b) a statement that you believe you are a member of the Settlement Class; (c) the specific grounds for the objection; (d) all documents or writings that you desire the Court to consider; (e) the name and contact information of any and all attorneys representing, advising, or in any way assisting you in connection with the preparation or submission of the objection or who may profit from the pursuit of the objection; and (f) a statement indicating whether you intend to appear at the Final Approval Hearing (either personally or through counsel, who must file an appearance or seek *pro hac vice* admission). 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 **June 25, 2021 at 9:15 a.m.**, in Courtroom C301 of the Lake County Courthouse, 18 N. County St., Waukegan, IL 60085, 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 an service award to the Class Representative are required to indicate in their written objection their intention to appear at the hearing on their own behalf or through counsel, to identify the names of any witnesses they intend to call to testify at the Final Approval Hearing and a summary of their proposed testimony, and to provide a detailed description of any and all evidence they may offer at the Final Approval Hearing, including photocopies of any and all exhibits they may introduce at the Final Approval Hearing.

(4) Do Nothing.

If you do nothing, you will be a part of this class settlement. You will not receive a monetary benefit, but you will be giving up your rights as set forth in this notice.

WHAT RIGHTS AM I GIVING UP IN THIS SETTLEMENT?

Unless you exclude yourself, you will be considered a Settlement Class Member, which means you give up your right to file or continue a lawsuit against the Defendant or Released Parties (as broadly defined in the Settlement Agreement), and relating to the alleged collection of biometric information and/or biometric identifiers at Woodman's Food Market, Inc., between March 10, 2015 and March 26, 2021. Giving up your legal claims is called a release. The precise terms of the release are in the Settlement Agreement, a copy of which you may request from Class Counsel, the attorneys identified below who have been appointed by the Court to represent the Settlement Class. Unless you formally exclude yourself from this settlement, you will release your claims.

WHEN WILL I BE PAID?

The Court will hold a hearing on June 25, 2021 to decide whether to give final approval to the settlement. The Parties cannot predict exactly when (or whether) the Court will give final approval to the Settlement Agreement, so please be patient. However, if the Court finally approves the settlement, checks will go out about a month after the Court's final approval order becomes final. If there is an appeal of the Court's order, payment will be delayed.

WHEN WILL THE COURT RULE ON THE SETTLEMENT?

The Court has already preliminarily approved the Settlement Agreement. A final hearing on the settlement, called a Final Approval Hearing, will be held on **June 25, 2021 at 9:15 a.m.** in Courtroom C301 of the Lake

County Courthouse, 18 N. County St., Waukegan, IL 60085. At this hearing, the Court will consider whether the settlement is fair, reasonable, and adequate. If there are objections, the Court will consider them. The Court will listen to people who have asked to speak at the hearing and complied with the objection provisions of this notice. The Court may also decide how much to pay Settlement Class Counsel and the Representative Plaintiffs. After the hearing, the Court will decide whether to approve the settlement. We do not know how long these decisions will take.

If the Settlement Agreement is given final approval, the Settlement Agreement's terms will take effect and the Action 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 Action, in a manner that provides specific and valuable benefits to the Settlement Class Members.

If the Court does not approve the Settlement Agreement, or 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 and Class Members will receive no benefits from the Settlement Agreement. Plaintiffs, Defendant, and all of the 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 Defendant will continue to litigate the Action. 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.

WHO REPRESENTS THE CLASS (INCLUDING ME)?

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 because they are being paid out of the Settlement Fund. If you want to be represented by your own lawyer instead, you may hire one at your own expense.

Gary M. Klinger
Mason, Lietz & Klinger LLP
227 W. Monroe Street, Suite 2100
Chicago, IL 60606

WHERE CAN I GET ADDITIONAL INFORMATION?

This notice is only a summary of the proposed settlement of the Action. More details are available in the Settlement Agreement which, along with other documents, can be obtained from the Settlement Administrator at 888-758-6649. All pleadings and documents filed in court may be reviewed or copied in the Office of the Clerk. Please do not call the Judge or the Clerk of the Court about this case. They will not be able to give you advice on your options. You may also contact Class Counsel with any questions you have.