

NOTICE OF PROPOSED CLASS ACTION SETTLEMENT

McGowan, et al. v. Veriff, Inc.,
No. 2021L001202 (Cir. Ct. DuPage County, Illinois)

*For more information, visit BIPAVeriffSettlement.com.
Para una notificación en Español, visite BIPAVeriffSettlement.com.*

PLEASE READ THIS NOTICE CAREFULLY. YOU MAY BE ENTITLED TO A CASH PAYMENT FROM A CLASS ACTION SETTLEMENT IF YOU ARE AN INDIVIDUAL WHOSE BIOMETRICS WERE COLLECTED, CAPTURED, PURCHASED, RECEIVED THROUGH TRADE, POSSESSED, RETAINED, OR OTHERWISE OBTAINED WHILE IN ILLINOIS BY VERIFF OR ITS TECHNOLOGY FOR THE PURPOSES OF IDENTITY VERIFICATION BETWEEN NOVEMBER 12, 2016 AND DECEMBER 5, 2022, AND WHOSE IDENTITY WAS VERIFIED.

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 THIS NOTICE?

This is a court-authorized notice of a proposed settlement in a class action lawsuit, *McGowan, et al. v. Veriff, Inc.*, No. 2021L001202, pending in the Circuit Court of DuPage County, Illinois, before the Hon. Neal Cerne. The Settlement would resolve a lawsuit brought on behalf of persons who allege that Veriff, Inc. collected individuals' Biometrics in Illinois through its identity-verification technology without first providing the individuals with legally-required written disclosures and obtaining written consent. The proposed Settlement is not an admission of wrongdoing by Veriff, Inc., and it denies that it violated the law. If you received notice of this Settlement, you have been identified as someone who, at some time between November 12, 2016 and December 5, 2022, had Biometrics collected, captured, purchased, received through trade, possessed, retained, or otherwise obtained while in Illinois by Veriff or its technology for the purposes of identity verification, and whose identity was verified. The Court has granted Preliminary Approval of the Settlement and has conditionally certified the Settlement Class for purposes of settlement only. This notice explains the nature of the class action lawsuit, the terms of the Settlement, and the legal rights and obligations of the Settlement Class Members. Please read the instructions and explanations below so that you can better understand your legal 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, transmitting, and/or using the biometric identifiers and/or information, such as scans of face geometry, of another individual for any purpose without first providing them with certain written disclosures and obtaining written consent. This lawsuit alleges that Defendant violated BIPA by collecting or capturing the scans of face geometry of individuals through identity verification technology in Illinois without first providing the requisite disclosures or obtaining the consent required by BIPA. Defendant contests these claims, denies that it collected or possessed facial Biometrics or any other information subject to BIPA, and denies that it violated BIPA.

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." Once a class is certified, a class action settlement finally approved by the court resolves the issues for all settlement class members, except for those who exclude themselves from the settlement class.

WHY IS THERE A SETTLEMENT?

To resolve this matter without the expense, delay, and uncertainties of litigation, the Parties have reached a Settlement, which resolves all claims against Defendant and its affiliated entities. The Settlement requires Defendant to pay money to the Settlement Class, as well as pay settlement administration expenses, attorneys' fees and costs to Class Counsel, and Incentive Awards to each of 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.

The Court has already preliminarily approved the Settlement. Nevertheless, because the settlement of a class action determines the rights of all members of the class, the Court overseeing this lawsuit must give final approval to the Settlement 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, to voice their support or opposition to final approval of the Settlement, and to

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submit a Claim Form to receive the relief offered by the Settlement. If the Court does not give final approval to the Settlement, or if it is terminated by the Parties, the Settlement will be void and the lawsuit will proceed as if there had been no settlement and no certification of the Settlement Class.

WHO IS IN THE SETTLEMENT CLASS?

You are a member of the Settlement Class if you are an individual whose Biometrics were collected, captured, purchased, received through trade, possessed, retained, or otherwise obtained while in Illinois by Veriff or its technology for the purposes of identity verification between November 12, 2016, and December 5, 2022, and whose identity was verified. If you are a member of the Settlement Class, you may visit the Settlement Website, BIPAVeriffSettlement.com, to submit a claim for cash benefits.

WHAT DOES THE SETTLEMENT PROVIDE?

Cash Payments. Defendant has agreed to create a \$4,000,000 Settlement Fund for the Class Members. All Settlement Class Members are entitled to submit a Claim Form to receive a payment out of the Settlement Fund. If the Settlement is approved, each Settlement Class Member who submits a timely Claim Form that is deemed valid will be entitled to an equal payment paid out of the Settlement Fund after payment is made for Administrative Expenses, attorneys' fees and expenses, and Class Representatives' incentive awards. The amount of each valid claimant's payment is estimated to be \$300–600, but the exact amount is unknown at this time and depends on several factors, including how many valid claims are submitted. The Settlement Administrator will issue a check or electronic payment to each Class Member who submits a valid Claim Form following the final approval of the Settlement. All checks issued to Settlement Class Members will expire and become void 100 days after they are issued. Additionally, the attorneys who brought this lawsuit (listed below) will ask the Court to award them attorneys' fees of up to 38% of the Settlement Fund plus reasonable costs for the substantial time, expense, and effort spent 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. Class Counsel will file with the Court their request for attorneys' fees and costs and incentive awards on **March 10, 2023**, and will post their request on the Settlement Website.

Prospective Relief. Pursuant to this Settlement, and without admitting any liability, Veriff represents that it has taken steps to comply with BIPA and will continue to take steps to remain compliant with BIPA. Those steps include (a) taking steps to obtain consent to biometric collection and use from Illinois individuals whose identities Defendant verifies, and (b) developing a publicly available policy establishing a retention schedule and a procedure for permanently destroying biometrics of individuals in Illinois in accordance with BIPA.

WHAT ARE MY OPTIONS?

(1) Accept the Settlement.

To accept the Settlement, you must submit a Claim Form by **April 21, 2023**. You may obtain a Claim Form at BIPAVeriffSettlement.com, and you may submit your Claim Form online at the same website. You may also submit a Claim Form to the Settlement Administrator by email at claims@BIPAVeriffSettlement.com or by U.S. Mail at P.O. Box 5206, Portland, OR 97208-5206.

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.***

(2) Exclude Yourself.

You may exclude yourself from the Settlement on an individual basis. If you do so, you will not receive any cash payment, but you will not release any claims you may have against Defendant and the Released Parties (as that term is defined in the Settlement Agreement) and are free to pursue whatever legal rights you may have your own risk and expense. To exclude yourself from the Settlement, you must mail a signed letter to the Settlement Administrator at P.O. Box 5206, Portland, OR 97208-5206, postmarked by **March 31, 2023**. You may also exclude yourself online at BIPAVeriffSettlement.com. If you choose to exclude yourself by mail, 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, a statement that you wish to be excluded, and your signature. So-called "mass" or "class" exclusion requests are not permitted.

(3) 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 DuPage County, Illinois, 505 County Farm Road, P.O. Box 707, Wheaton, IL 60187. The objection must be received by the Court no later than **March 31, 2023**. You must also send a copy of your objection to the

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attorneys for all Parties to the lawsuit, including Class Counsel (Evan M. Meyers and Timothy P. Kingsbury of McGuire Law, P.C., 55 West Wacker Drive, 9th Floor, Chicago, IL 60601), as well as the attorney representing the Defendant (Debra R. Bernard of Perkins Coie LLP, 110 North Wacker Drive, Suite 3400, Chicago, IL 60606), postmarked no later than **March 31, 2023**. Any objection to the proposed Settlement must include (i) the objector's full name, address, email address, and current telephone number; (ii) the case name and number of the Litigation; (iii) all grounds for the objection, with factual and legal support for the stated objection, including any supporting materials; (iv) the identification of any other objections the objector has filed, or have had filed on their behalf, in any other class action cases in the last four years; and (v) the objector's signature. 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 **March 31, 2023**. 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 will be held on **May 4, 2023, at 9:00 a.m.**, in person or through counsel to show cause why the proposed Settlement 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 Final Approval of the Settlement, the request for attorneys' fees and expenses, and/or the request for an Incentive Award to each Class Representative are required to indicate 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.

(4) 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 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. To submit a Claim Form, or for more information on how to request exclusion from the Class or file an objection, please visit the Settlement Website, BIPAVeriffSettlement.com or call 1-800-380-7654.

WHAT RIGHTS AM I GIVING UP TO REMAIN 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 Defendant and the other Released Parties (as defined in the Settlement Agreement) relating to their alleged collection of Biometrics or other breach of BIPA from November 12, 2016, to December 5, 2022. Giving up your legal claims is called a release. The precise terms of the release are in the Settlement Agreement, which is available on the Settlement Website. Unless you formally exclude yourself from this Settlement, you will release your claims whether or not you submit a Claim Form and receive payment. You will not be able to sue, continue to sue, or be part of any other lawsuit against Veriff and the Released Parties that asserts any Released Claims. If you have any questions, you can talk for free to the attorneys identified below who have been appointed by the Court to represent the Settlement Class or you are welcome to talk to any other lawyer of your choosing at your own expense.

WHEN WILL I BE PAID?

The Parties cannot predict exactly when (or whether) the Court will give final approval to the Settlement, 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, which should occur within approximately 60 days after the Settlement has been finally approved. If there is an appeal of the Settlement, payment may be delayed. Updated information about the case is available at BIPAVeriffSettlement.com, or you can call the Settlement Administrator at 1-800-380-7654 or contact Class Counsel at the information provided below.

WHEN WILL THE COURT RULE ON THE SETTLEMENT?

The Court has already given Preliminary Approval to the Settlement. A final hearing on the Settlement, called a Final Approval Hearing, will be held to determine the fairness of the Settlement. At the Final Approval Hearing, the Court will also consider whether to make final the certification of the Class for settlement purposes, hear any proper objections and arguments to the Settlement, as well as any requests for an award of attorneys' fees, costs, and expenses and Class Representatives' Incentive Awards that may be sought by Class Counsel. The Court will hold the Final Approval Hearing on **May 4, 2023, at 9:00 a.m.** in Courtroom 2016 of the Circuit Court of DuPage County, Illinois, 505 County Farm Road, Wheaton, IL 60187. The hearing is subject to being changed by the Court, including taking place remotely via videoconference, so please visit BIPAVeriffSettlement.com for updates.

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

If the Court does not approve the Settlement, if it approves the Settlement and the approval is reversed on appeal, or if the Settlement 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. Plaintiffs, Defendant, and all of the Class Members will be in the same position as they were prior to the execution of the Settlement, and the Settlement will have no legal effect, no class will remain certified (conditionally or otherwise), and Plaintiffs and Defendant will continue to litigate the lawsuit. There can be no assurance that, if the Settlement is not approved, the Settlement Class will recover more than is provided in the Settlement or, indeed, anything at all.

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.

Evan M. Meyers
Timothy P. Kingsbury
Andrew T. Heldut
Colin P. Buscarini
McGuire Law, P.C.
55 W. Wacker Drive, 9th
Floor
Chicago, IL 60601
emeyers@mcgpc.com
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cbuscarini@mcgpc.com
Tel: 1-312-893-7002

WHERE CAN I GET ADDITIONAL INFORMATION?

This Notice is only a summary of the proposed Settlement of this lawsuit. More details are in the Settlement Agreement which, along with other documents, can be obtained at BIPAVeriffSettlement.com. If you have any questions, you can also call the Settlement Administrator at 1-800-380-7654 or contact Class Counsel at the number or email addresses set forth above. In addition to the documents available on the Settlement Website, 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.

CONCERNING EUROPEAN UNION'S GENERAL DATA PROTECTION REGULATION, HOW IS MY PERSONAL DATA HANDLED?

As per the European Union's General Data Protection Regulation (GDPR), Veriff OÜ as a Released Party is the controller for data processing activities related to the Settlement. The personal data processed for the Settlement includes your name, date of birth, mailing address (if available), and images of identification document(s) submitted as part of the identity verification process. The legal basis for data processing is legitimate interest in facilitating the Settlement by performing the Settlement Agreement as per the Court's order and applicable law, which includes: determining that you are a Class Member, disclosing necessary data to Veriff Inc. and the Settlement Administrator, the Settlement Administrator taking reasonable steps to confirm your contact information, and performing activities necessary to facilitate the Settlement. For the Settlement facilitation, your personal data has been disclosed to Veriff Inc. (Defendant) and the Settlement Administrator, Epiq eDiscovery Solutions, Inc. through their HA Secure File Transfer System. These disclosures are safeguarded technically with agreed security measures and contractually with data processing agreements and standard contractual clauses issued by the European Commission (accessible upon request). Your personal data will be deleted after all Settlement distributions have been made, unless expressly required otherwise under applicable laws or for the protection of Veriff's rights. Regarding the personal data processing, you have the right to request access to and rectification or erasure of your personal data from Veriff OÜ. You can also restrict or object to your data processing or portability. You also have the right to lodge a complaint with a supervisory authority and contact Veriff's data protection officer at settlement@veriff.com.

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