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**IN THE  
CIRCUIT COURT OF COOK COUNTY, ILLINOIS  
COUNTY DEPARTMENT, CHANCERY DIVISION**

FELIPE ORTEGA, individually and on behalf of  
others similarly situated,

Plaintiff,

v.

NNR GLOBAL LOGISTICS USA, INC.

Defendant.

Case No. 2021CH06337

**CLASS ACTION COMPLAINT**

Plaintiff, Felipe Ortega, brings this class action complaint against Defendant, NNR Global Logistics USA, Inc., for its violation of the Illinois Biometric Privacy Act, and alleges:

**NATURE OF THE ACTION**

1. Recognizing the need to protect citizens from the risk of identity theft, Illinois enacted the Biometric Information Privacy Act, 740 ILCS 14/1, *et seq.* (“BIPA”), to regulate companies that collect and store biometric data, such as hand geometry and information derived therefrom.
2. Yet, when hired to work at NNR Global Logistics USA, Inc. (“NNR”), workers had to scan their hand into one of its biometric time clocks. Thenceforth, the workers pressed their hand onto the time clock to “punch” in and out of work each day, so NNR could record their biometric information to track the workers’ arrival and departure times.
3. This use of biometric time clocks in the workplace entails serious risks. Unlike key fobs or identification cards—which can be changed or replaced if stolen or compromised—a

person's hand geometry is a permanent, unique biometric identifier associated with the person. This exposes the person to serious and irreversible privacy risks. For example, if a device or database containing one's hand geometry information is hacked, breached, or otherwise exposed, the person has no means by which to prevent identity theft and unauthorized tracking.

4. Despite BIPA's protections, NNR disregarded its workers' privacy rights, unlawfully collected, stored, and/or used their biometric information in violation of the BIPA. Specifically, NNR violated the BIPA by failing to:

- Inform its workers in writing that it was storing their hand information;
- Inform its workers in writing of the specific purposes and length of time for which it was collecting, storing, and using their hand information;
- Provide a publicly available retention schedule and guidelines for permanently destroying its workers' hand information; or
- Obtain written releases from its workers allowing it to collect, capture, or otherwise obtain their hand information.

### **JURISDICTION AND VENUE**

5. This Court has jurisdiction over NNR pursuant to 735 ILCS 5/2-209(a) because NNR transacts business and committed tortious acts in Illinois.

6. Venue is proper because NNR employs Illinois staff at 1701 Nicholas Blvd., Elk Grove Village, IL 60007, in Cook County, and the actions alleged herein occurred in whole or in part at that location.

### **PARTIES**

7. Plaintiff Felipe Ortega is a natural person and resident of Cook County, Illinois.

8. Defendant NNR is a global logistics company that operates a freight-forwarding facility in Elk Grove Village, Illinois, where Ortega worked.

## FACTUAL BACKGROUND

### I. The Biometric Information Privacy Act.

9. In the 2000's, major national corporations started using locations in Illinois to test new applications of biometric-facilitated transactions. *See* 740 ILCS 14/5(b).

10. Biometrics are unlike other identifiers. For example, when an identification card or number is compromised, it can be changed. Biometrics, however, are biologically unique to the individual. Thus, once compromised, the individual has no recourse, and is at heightened risk for identity theft. *See* 740 ILCS 14/5(c).

11. In late 2007, a biometrics company called Pay by Touch—which provided major retailers throughout the State of Illinois with fingerprint scanners to facilitate consumer transactions—filed for bankruptcy. That bankruptcy was alarming to the Illinois legislature because suddenly there was a serious risk that citizens' fingerprint records—which, like other unique biometric identifiers, can be linked to people's sensitive financial and personal data—could now be sold, distributed, or otherwise shared through the bankruptcy proceedings without adequate protections. The bankruptcy also highlighted that many persons who used that company's biometric scanners were unaware that the scanners were transmitting their data to the now-bankrupt company, and that their biometric identifiers could then be sold to unknown third parties.

12. Recognizing the “very serious need [for] protections for the citizens of Illinois when it [came to their] biometric information,” Illinois enacted the BIPA in 2008. *See* Illinois House Transcript, 2008 Reg. Sess. No. 276, p.249 (May 30, 2008); and *see* 740 ILCS 14/5(g).

13. The BIPA makes it unlawful for a company to collect, capture, purchase, receive through trade, or otherwise obtain a person's or a customer's biometric identifier or biometric information, unless it *first*:

(1) informs the person in writing that a biometric identifier or biometric information is being collected or stored;

(2) informs the person in writing of the specific purpose and length of term for which a biometric identifier or biometric information is being collected, stored, and used; and

(3) receives a written release executed by the person whose biometric identifier or biometric information is being collected, stored, or used.

740 ILCS 14/15(b).

14. These restrictions were specifically meant to apply to Illinois workers. The BIPA defines a “written release” specifically “in the context of employment [as] a release executed by an employee as a condition of employment.” 740 ILCS 14/10.

15. The BIPA also requires companies to develop and comply with a written policy—made available to the public—establishing a retention schedule and guidelines for permanently destroying biometric identifiers and biometric information when the initial purpose for collecting such identifiers or information has been satisfied, or within three years of the individual’s last interaction with the company, whichever occurs first. 740 ILCS 14/15(a).

16. The BIPA also prohibits a private entity in possession of a biometric identifier or information from selling, leasing, trading, or otherwise profiting from that information, and it generally prohibits disclosing or disseminating a person’s biometric identifier or information without the person’s consent. 740 ILCS 14/15(c) and (d).

17. By the time Illinois enacted the BIPA in 2008, many companies that had experimented with using biometric data as an authentication method stopped. That is because Pay By Touch’s bankruptcy, described above, was widely publicized and brought attention to the public’s discomfort with the use of their biometric data. Despite the recognized dangers of using biometric data, a number of companies still use biometric scanners to identify their workers.

18. NNR is one such company. Since at least January 2018, when NNR's Elk Grove Village workers began and ended their workdays, they were required to press their hand onto NNR's hand-scanner time clock to identify themselves and register their arrival or departure, for payroll purposes. Upon pressing their hand onto the time clock, the system captured their hand information and compared it to the hand information NNR kept on file for them.

19. Despite using this technology, and despite the fact BIPA has been the law for more than a decade, NNR did not (a) inform its workers in writing that it would capture or store their hand information; (b) inform its workers in writing of the specific purposes and length of time for which it would capture, store, and use their hand information; or (c) obtain a written release from each worker authorizing NNR to capture or store their hand information, thus violating BIPA.

20. Also, NNR did not give its workers a written, publicly-available policy identifying its retention schedule, or guidelines for permanently destroying their hand information when the initial purpose for capturing that information was no longer relevant, as required by the BIPA. Thus, when a worker stopped working for NNR, the worker was not told when their biometric information will be removed from NNR's database—if ever—in further violation of BIPA.

## **II. Plaintiff's Factual Allegations**

21. After being placed by a staffing agency, Plaintiff worked for NNR at its Elk Grove Village location for about eight months.

22. While working for NNR, Plaintiff was required to scan his hand into NNR's hand-scanner time clock, which captured a three-dimensional image of his hand.

23. In order to be able to scan his hand into NNR's hand-scanner time clock, an NNR manager set up the clock to recognize Plaintiff's information. The manager logged into the clock,

typed in Plaintiff's name and a PIN for him, then had Plaintiff place his hand on the clock multiple times to scan it.

24. NNR stored or caused Plaintiff's and other workers' hand information to be stored electronically in a computer system.

25. Each time Plaintiff and other NNR workers began and ended their workdays, they were required to press their hand into NNR's hand-scanner time clock to track their arrival or departure, which then captured their hand information and compared it to the hand information on file to identify them.

26. Plaintiff was not informed in writing of the purposes or length of time for which his hand information was captured, stored, or used.

27. Plaintiff was not informed of any biometric data retention policy at NNR, nor was he informed of whether NNR will ever permanently delete his hand information.

28. Plaintiff was not given and did not sign a written release allowing NNR to capture or store his hand information.

29. As a result of NNR's actions, Plaintiff is concerned about what happened to the hand information NNR collected for him, whether NNR deleted his information, and whether (and with whom) NNR may have shared his information.

### **CLASS ALLEGATIONS**

30. Plaintiff brings his action on behalf of himself and the following class of similarly-situated individuals:

All persons: (1) who worked at NNR Global Logistics USA, Inc. (or any predecessor entity) in Illinois; and (2) whose hand information was collected, captured, or received on or by one or more hand-scan time clocks at an NNR facility in Illinois from five years before the date of Plaintiff's original complaint to the date the class is certified. The following people are excluded from the Class: (1) any judge

presiding over the action and their families and staff; (2) NNR's owners, officers and directors; and (3) Plaintiff's and NNR's counsel and their staffs.

Plaintiff reserves the right to amend this definition following discovery about the class.

31. The class is so numerous that joinder is impracticable. Since at least January 2018, NNR's policy was to have workers use its hand-scanner to "clock in" and "clock out," and thus it collected, captured, received, or otherwise obtained biometric identifiers or biometric information from each such worker. NNR employed at least fifty-to-sixty persons at a time in the Elk Grove Village facility alone, and new workers were regularly hired for at least that location because worker turnover was frequent. Accordingly, on information and belief, the class contains at least one hundred persons.

32. There are questions of law or fact common to the Class that predominate over any questions that may affect individual members. The common questions include, but are not necessarily limited to:

- a) whether NNR collected, captured, or otherwise obtained the Class's biometric identifiers or information;
- b) whether NNR informed Class members in writing of the specific purposes for collecting, using, and storing their biometric identifiers or information, and the length of time it would store or use them;
- c) whether NNR obtained a written release (as defined in 740 ILCS 14/10) to collect, use, and store the Class's biometric identifiers or information;
- d) whether NNR disclosed or re-disclosed the Class members' biometric identifiers or information to any third party;
- e) whether NNR sold, leased, traded, or otherwise profited from the Class's biometric identifiers or information;
- f) whether NNR developed a written policy, made available to the public, establishing a retention schedule and guidelines for permanently destroying biometric identifiers and information;

- g) whether NNR complies with any such written policy;
- h) whether NNR violated the BIPA; and
- i) whether NNR's BIPA violations were negligent, reckless, or intentional.

33. Plaintiff will fairly and adequately represent and protect the interests of the Class, and has retained counsel competent and experienced in complex and class action litigation. Plaintiff has no interests antagonistic to those of the Class.

34. A class action is appropriate to resolve the claims at issue because: (i) the prosecution of separate actions by the members of the Class would wastefully burden the judicial system with the need to resolve the common factual and legal questions this case presents over and over; (ii) requiring members of the Class to prosecute their own individual lawsuits would work an injustice, as it would prevent Class members who are unaware they have a claim, or lack the time, ability, or wherewithal to bring their own lawsuit and find a lawyer willing to take their case, from obtaining relief; (iii) requiring individual Class member lawsuits would create a risk of adjudications with respect to individual members of the Class that would, as a practical matter, be dispositive of the interests of the other members not parties to the adjudications, or substantially impair or impede their ability to protect their interests, or create conflicting and incompatible standards of conduct; and (iv) proceeding on a class basis will not create any significant difficulty in the management of this litigation, as the class members' claims can be proven from NNR's business records, and class members will be easily identified from NNR's business records.

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

35. Plaintiff incorporates the above allegations as if fully set forth herein.

36. The BIPA requires companies to obtain informed written consent from workers before acquiring their biometric data. Specifically, the BIPA makes it unlawful for any private entity to “collect, capture, purchase, receive through trade, or otherwise obtain a person’s .... biometric identifier or biometric information, unless [the entity] first: (1) informs the subject .... in writing that a biometric identifier or biometric information is being collected or stored; (2) informs the subject .... in writing of the specific purpose and length of term for which a biometric identifier or biometric information is being collected, stored, and used; and (3) receives a written release executed by the subject of the biometric identifier or biometric information....” 740 ILCS 14/15(b) (emphasis added).

37. The BIPA also mandates that companies in possession of a biometric identifiers or information establish and maintain a satisfactory biometric data retention and—importantly—deletion policy. Specifically, such companies must: (i) make publicly available a written policy establishing a retention schedule and guidelines for permanently destroying biometric identifiers and information when the initial purpose for collecting or obtaining that data has been satisfied (*e.g.*, when the employment relationship ends); and (ii) actually adhere to that schedule. *See* 740 ILCS 14/15(a).

38. Plaintiff’s and Class members’ hand data are “biometric identifiers,” as defined by the BIPA. *See* 740 ILCS 14/10.

39. NNR captured Plaintiff’s and the Class members’ hand data or information based on their hand data to identify them, and thus that information is “biometric information” under the BIPA. *See* 740 ILCS 14/10.

40. NNR is a corporation, and thus a “private entity” subject to BIPA. *See* 740 ILCS 14/10.

41. Nevertheless, NNR negligently, recklessly, or intentionally violated Plaintiff's and the Class members' BIPA rights.

42. NNR's violation of Plaintiff's and the Class members' rights under the BIPA render it liable to Plaintiff and the Class members for \$1,000 or \$5,000 in liquidated damages per violation, plus equitable relief, attorneys' fees, and costs. 740 ILCS 14/20.

### **PRAYER FOR RELIEF**

WHEREFORE, Plaintiff Felipe Ortega, on behalf of himself and the Class, respectfully requests that the Court enter an Order:

A. Certifying this case as a class action on behalf of the Class defined above (or on behalf of such other class the Court deems appropriate), appointing Plaintiff as representative of the Class, and appointing his attorneys as class counsel;

B. Awarding liquidated damages of \$1,000 for each negligent violation, and \$5,000 for each intentional or reckless violation, of the BIPA that NNR committed;

C. Awarding injunctive and other equitable relief as is necessary to protect the interests of Plaintiff and the Class, including an order requiring NNR to destroy their biometric identifiers and information after termination of their relationship;

D. Awarding Plaintiff and the Class their reasonable attorneys' fees and costs; and

E. Awarding such other and further relief as equity and justice may require.

Dated: December 21, 2021

Respectfully submitted,

s/Michael S. Hilicki

Keith J. Keogh  
Michael S. Hilicki  
KEOGH LAW, LTD.  
Firm No. 39042  
55 W. Monroe  
Ste. 3390  
Chicago, IL 60603

312.726.1092 (ph)  
312.726.1093 (fax)  
keith@keoghlaw.com  
mhilicki@keoghlaw.com

**Illinois Supreme Court Rule 222 Declaration**

I, Michael S. Hilicki, an attorney, hereby declare under penalty of perjury that the total of money damages sought in this action exceeds \$50,000.

s/Michael S. Hilicki  
Michael S. Hilicki  
One of Plaintiff's Attorneys

**Chancery Division Civil Cover Sheet  
General Chancery Section**

(12/01/20) CCCH 0623

**IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS  
COUNTY DEPARTMENT, CHANCERY DIVISION**

FELIPE ORTEGA,

Plaintiff

v.

NNR GLOBAL LOGISTICS USA, INC.

Defendant

Case No: \_\_\_\_\_

**CHANCERY DIVISION CIVIL COVER SHEET  
GENERAL CHANCERY SECTION**

A Chancery Division Civil Cover Sheet - General Chancery Section shall be filed with the initial complaint in all actions filed in the General Chancery Section of Chancery Division. The information contained herein is for administrative purposes only. Please check the box in front of the appropriate category which best characterizes your action being filed.

**Only one (1) case type may be checked with this cover sheet.**

0005 ☐ Administrative Review  
0001 ☒ Class Action  
0002 ☐ Declaratory Judgment  
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0007 ☐ General Chancery  
0010 ☐ Accounting  
0011 ☐ Arbitration  
0012 ☐ Certiorari  
0013 ☐ Dissolution of Corporation  
0014 ☐ Dissolution of Partnership  
0015 ☐ Equitable Lien  
0016 ☐ Interpleader

0017 ☐ Mandamus  
0018 ☐ Ne Exeat  
0019 ☐ Partition  
0020 ☐ Quiet Title  
0021 ☐ Quo Warranto  
0022 ☐ Redemption Rights  
0023 ☐ Reformation of a Contract  
0024 ☐ Rescission of a Contract  
0025 ☐ Specific Performance  
0026 ☐ Trust Construction  
0050 ☐ Internet Take Down Action (Compromising Images)  
☐ Other (specify) \_\_\_\_\_

☒ Atty. No.: 39042 ☐ Pro Se 99500

Atty Name: Michael S. Hilicki

Atty. for: Plaintiff Felipe Ortega

Address: 55 W. Monroe St, Suite 3390

City: Chicago State: IL

Zip: 60603

Telephone: 312-726-1092

Primary Email: MHilicki@Keoghlaw.com

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