

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

KAYLA QUARLES, individually and on)
behalf of all others similarly situated,)

Plaintiffs,)

v.)

PRET A MANGER (USA) LIMITED,)

Defendant.)

Case No. 20-cv-7179

Hon. Manish S. Shah
Presiding Judge

**PLAINTIFF'S MOTION FOR AND MEMORANDUM
IN SUPPORT OF ATTORNEYS' FEES, COSTS, AND SERVICE AWARD**

TABLE OF CONTENTS

I. INTRODUCTION..... - 1 -

II. RELEVANT BACKGROUND..... - 2 -

 A. Procedural History. - 2 -

 B. Class Counsel negotiated an extremely favorable Settlement..... - 3 -

III. ARGUMENT - 5 -

 A. The Court should award attorney fees based on a percentage of the
 common fund. - 5 -

 B. Class Counsel’s request is within the market rate. - 8 -

 1. Analysis of the relevant market for legal services support the fee request. - 9 -

 2. The risk of non-payment also supports the requested fee award..... - 10 -

 3. The benefits conferred on the Settlement Class also supports the requested
 fee award. - 11 -

 C. Class Counsel’s litigation expenses should be approved..... - 13 -

 D. The Requested Service Award for Ms. Quarles should be approved. - 13 -

IV. CONCLUSION - 15 -

TABLE OF AUTHORITIES

Cases

Benzion v. Vivint, Inc.,
No. 12-61826 (S.D. Fla.)15

Birchmeier v. Caribbean Cruise Line, Inc.,
896 F.3d 792 (7th Cir. 2018)1

Boeing Co. v. Van Gemert,
444 U.S. 472 (1980).....5

Bryant v. Loews Chicago Hotel, Inc.,
No. 1:19-cv-03195 (N.D. Ill. Oct. 30, 2020)7

Cook v. Niedert,
142 F.3d 1004 (7th Cir. 1998)13

Diaz v. Greencore USA – CPG Partners, LLC,
2017-CH-13198 (Cir. Ct. Cook Cty.).....12

Dixon v. Smith Senior Living,
No. 1:17-cv- 08033 (N.D. Ill. Aug. 20, 2019).....7, 14

Florin v. Nationsbank of Ga., N.A.,
34 F.3d 560 (7th Cir. 1994)7

Gaskill v. Gordon,
942 F. Supp. 382 (N.D. Ill. 1996)6, 7, 9

Hageman v. AT & T Mobility LLC,
No. CV 13-50-BLG-RWA, 2015 WL 9855925 (D. Mont. Feb. 11, 2015).....15

Heekin v. Anthem, Inc.,
No. 05-01908, 2012 WL 5878032 (S.D. Ind. Nov. 20, 2012).....15

Ikuseghan v. Multicare Health Sys.,
No. C14-5539 BHS, 2016 WL 4363198 (W.D. Wash. Aug. 16, 2016).....14

In re Amino Acid Lysine Antitrust Litig.,
No. 95 Civ.7679, 1996 WL 197671 (N.D. Ill. Apr. 22, 1996).....6

In re AT&T Mobility Wireless Data Servs. Sales Tax Litig.,
792 F. Supp. 2d 1028 (N.D. Ill. 2011)7, 11

In re Capital One Tel. Consumer Prot. Act Litig.,
80 F. Supp. 3d 781 (N.D. Ill. 2015)5

In re Cendant Corp. PRIDES Litig.,
243 F.3d 722 (3d Cir. 2001).6

In re FedEx Ground Package System, Inc. Employment Practices Litig.,
251 F. Supp. 3d 1225 (N.D. Ind. 2017).....5

In re Synthoid Mktg. Litig.,
325 F.3d 974 (7th Cir. 2003)5, 6

In re Synthroid Mktg. Litig.,
264 F.3d 712 (7th Cir. 2001)8

In re Union Carbide Corp. Consumer Prods. Bus. Sec. Litig.,
724 F. Supp. 160 (S.D.N.Y. 1989).....7

Johnson v. Rest Haven Illiana Christian Convalescent Home, Inc.,
No. 2019-CH-01813 (Cir. Ct. Cook Cty.).....12

Jones v. CBC Rest. Corp.,
1:19-cv-06736 (N.D. Ill.) 12, 14

Kirchoff v. Flynn,
786 F.2d 320 (7th Cir. 1986)9

Kolinek v. Walgreen Co.,
311 F.R.D. 483 (N.D. Ill. 2015).....6

Landsman & Funk, P.C. v. Skinder-Strauss Assocs.,
No. 08CV3610 CLW, 2015 WL 2383358 (D.N.J. May 18, 2015).....14

Lees v. Anthem Ins. Companies Inc.,
No. 4:13CV1411 SNLJ, 2015 WL 3645208 (E.D. Mo. June 10, 2015).....14

Marshall v. Life Time Fitness, Inc.,
17-CH-14262 (Cir. Ct. Cook Cty.) 12, 14

Matter of Cont’l Ill. Sec. Litig.,
962 F.2d 566 (7th Cir. 1992)7

McDaniel v. Qwest Communs. Corp.,
Civil Action No. 05 C 1008, 2011 U.S. Dist. LEXIS 154591 (N.D. Ill. Aug. 29, 2011)6, 9

McGee v. LSC Communications,
 No. 2017-CH-12818 (Cir. Ct. Cook Cty.).....9

Pearson v. NBTY, Inc.,
 772 F.3d 778 (7th Cir. 2014)8

Prelipceanu v. Jumio Corp.,
 18-CH-15883 (Cir. Ct. Cook Cnty.) 12, 14

Primax Recoveries, Inc. v. Sevilla,
 324 F.3d 544 (7th Cir. 2003)5

Redman v. RadioShack Corp.,
 768 F.3d 622 (7th Cir. 2014)6, 8

Retsky Family Ltd. P’ship v. Price Waterhouse, LLP,
 Case No. 97-7694, 2001 WL 1568856 (N.D. Ill. Dec. 10, 2001).....9

Sekura v. L.A. Tan Enters., Inc.,
 No. 2015-CH-16694 (Cir. Ct. Cook Cty.).....9

Silverman v. Motorola Solutions, Inc.,
 739 F.3d 956 (7th Cir. 2013)8, 11

Sutton v. Bernard,
 504 F.3d 688 (7th Cir. 2007)5, 10

Svagdis v. Alro Steel Corp.,
 No. 2017-CH-12566 (Cir. Ct. Cook Cty.)9

Taubenfeld v. Aon Corp.,
 415 F.3d 597 (7th Cir. 2005)8, 10

Wal-Mart Stores, Inc. v. Visa U.S.A., Inc.,
 396 F.3d 96 (2d Cir. 2005)6

Zepeda v. Intercontinental Hotels Grp., Inc.,
 No. 2018-CH-02140 (Cir. Ct. Cook Cty.).....9, 12

Statutes

735 ILCS 5/13.....2

740 ILCS 14/1, *et seq.*..... 1, 4, 12

MEMORANDUM OF POINTS AND AUTHORITIES

I. INTRODUCTION

On January 18, 2022, this Court preliminarily approved a proposed class action settlement between Plaintiff Kayla Quarles (“Plaintiff” or “Quarles”) and Defendant Pret a Manger (USA) Limited (“Pret” or “Defendant”). This Settlement creates a \$677,450.00, non-reversionary common fund (“Settlement Fund”) to compensate 797 former employees for Pret’s alleged violations of the Illinois Biometric Information Privacy Act (“BIPA”), 740 ILCS 14/1, *et seq.* If finally approved, all Settlement Class Members who do not timely exclude themselves from the Settlement (“Settlement Class Participants”) will automatically receive an equal, *pro rata* distribution of the Settlement Fund, without the need to file a claim or any other paperwork. After deductions for Notice and Administration Expenses, approved costs, attorneys’ fees, and any Service Award, each Settlement Class Participant is estimated to receive a check for \$518.

As compensation for the substantial benefit conferred upon the Settlement Class, Class Counsel respectfully move the Court for an award of attorneys’ fees of \$240,282.00 which represents 36% of the settlement fund net administration costs¹ of \$10,000, plus \$9,173.00 for counsel’s out-of-pocket costs.² *See Birchmeier v. Caribbean Cruise Line, Inc.*, 896 F.3d 792, 796-97 (7th Cir. 2018) (affirming attorney fees in TCPA class action of 36% of the first \$10 million, 30% of the next \$10 million, and 24% of the next \$34 million.)

This request should be approved because (1) it represents the market rate for this type of settlement and (2) represents a reasonable and appropriate amount in light of the substantial risks

¹ \$677,450.00 fund minus \$10,000 administration costs equals \$667,450, of which 36% equates to \$240,282.00.

² These expenses do not include any internal costs such as copying, legal research or telephone costs. *See* Declaration of Keith J. Keogh (“Keogh Decl.”), ¶ 19, attached hereto as Exhibit A.

presented in prosecuting this action, as well as the quality and extent of work conducted Class Counsel performed. Class Counsel also respectfully move the Court for a service award of \$5,000 to Plaintiff Quarles for her work on behalf of the Settlement Class. Such an award is routine and proper.

II. RELEVANT BACKGROUND

A. Procedural History.

On November 4, 2020, Plaintiff filed this class action in the Circuit Court of Cook County, asserting claims for violation of Sections 15(a)-(b) of BIPA stemming from the biometric timekeeping system used at Pret's Illinois locations. In particular, the Complaint alleges Pret captured, stored, and used its employees' biometric data without first: (1) complying with Section 15(b)'s informed consent regime; and (2) implementing and adhering to the biometric retention and destruction policies mandated by Section 15(a).

On December 4, 2020, Pret removed this case to federal court. *See* ECF No. 1. On January 11, 2020, Pret moved the Court to stay this matter pending the Illinois Appellate Court's decision in *Tims v. Black Horse Carriers, Inc.*, which the Court subsequently denied. *See* ECF Nos. 9-10.

On January 6, 2021, Pret filed a motion to dismiss under Rule 12(b)(6), contending that Plaintiff's claims were subject to—and thus barred by—the one-year statute of limitations set forth in 735 ILCS 5/13-201. *See, generally*, ECF No. 13. On January 26, 2021, Plaintiff filed her Response in Opposition to the Motion to Dismiss. *See* ECF No. 14.

Pret subsequently retained new counsel, and shortly thereafter filed a renewed motion to stay, as well as a motion for leave to file an Amended Motion to Dismiss (“Amended Motion”). *See* ECF Nos. 15-22. On February 3, 2021, the Court granted Pret's motion for leave to file the Amended Motion, denied the pending motion to dismiss as moot, and entered and continued Pret's

renewed Motion to Stay. ECF No. 21.

On February 3, 2021, Pret filed its Amended Motion, which asserted myriad substantive grounds for dismissal. *See, generally*, ECF No. 22. After receiving full briefing on the issues, the Court denied the Amended Motion on April 26, 2021, and directed Pret to respond to the Complaint. *See* ECF No. 27. On May 25, 2021, Pret filed its Answer and Affirmative Defenses to Plaintiff's Complaint. Shortly thereafter, the Parties commenced written discovery in the form of interrogatories and document requests.

The Parties subsequently agreed to mediate this dispute on August 23, 2021 before the Honorable Morton Denlow (ret.) of Judicial Arbitration and Mediation Services, Inc. ("JAMS"). Over the weeks leading up to the mediation, the Parties submitted detailed briefs setting forth their respective views on the strengths of their cases.³ With the assistance of Judge Denlow—and eight hours of arm's-length negotiations—the Parties reached an agreement-in-principle on the material terms of a class-wide settlement. Following the mediation, the Parties continued extensive negotiations over several months on their remaining points of dispute, which resulted in the Agreement for which the Parties now seek final approval. *See* Ex. A (Keogh Decl.), ¶ 5.

B. Class Counsel negotiated an extremely favorable Settlement.

The Settlement here is structured to provide meaningful cash relief to the largest possible pool of recipients. As noted above, Pret agreed to create a \$677,450.00 common fund for a Settlement Class of 797 persons defined as:

All individuals employed by Defendant Pret a Manger (USA) Limited and any other related entities in the State of Illinois who logged onto, interfaced with, or used any software, systems, or devices that used the individual's finger, hand, or any biometric identifier of any type ("Biometric Systems") in Illinois, including any employee of the above entities who has a claim under the Illinois Biometric

³ *See* Ex. A (Keogh Decl.), ¶ 4.

Information Privacy Act, 740 ILCS 14/1, *et seq.*, from November 4, 2015 through the date of preliminary approval.

See Settlement Agreement, §§ II.29; V.1 a copy of which is attached hereto as Exhibit B.

The Settlement calls for a straight distribution where each every class member who does not exclude themselves will automatically receive their *pro rata* portion of the Settlement Fund without the need to submit a claim form or any other paperwork. *See id.* at §§ II.5, X.2. The Settlement is also completely non-reversionary—all undistributed amounts remaining in the Settlement Fund after the initial round of payments is disbursed will, to the extent administratively feasible, be redistributed to the Settlement Class Participants through a second distribution (“Second Distribution”). *Id.* at §§ X.2-3.⁴

Thus, each of the 797 Settlement Class Members stand to receive \$518 after deductions for Notice and Administration costs, approved attorneys’ fees, litigation expenses, and a court-approved Service Award. This is an outstanding result, given that BIPA provides \$1,000 in statutory damages for each negligent violation. *See* 740 ILCS 14/20(1).

As such, Plaintiff respectfully requests that the Court approve attorneys’ fees of \$240,282.00 which represents 36% of the net Settlement Fund,⁵ plus \$9,177.00 in litigation expenses, and a \$5,000 Service Award for Plaintiff Quarles. As explained below, the requested fee award is in line with the market rate for similar attorney services in this jurisdiction, and fairly reflects the result achieved. Along that line, the requested Service Award is comparable to others awarded in similar cases.

⁴ If a Second Distribution is not feasible, the remaining funds will be distributed to a court approved *cy pres* recipient. Ex. B (Settlement Agreement). at § X.3.

⁵ Once again, net Settlement Fund is \$667,450 after the \$10,000 notice and administration costs are deducted.

III. ARGUMENT

A. The Court should award attorney fees based on a percentage of the common fund.

The Seventh Circuit has followed the Supreme Court in recognizing when counsel's efforts result in the creation of a common fund that benefits plaintiffs and unnamed class members, counsel have a right to be compensated from that fund for their successful efforts in creating it. *See Boeing Co. v. Van Gemert*, 444 U.S. 472, 478 (1980) ("lawyer who recovers a common fund ... is entitled to a reasonable attorneys' fee from the fund as a whole"); *Sutton v. Bernard*, 504 F.3d 688, 691 (7th Cir. 2007) ("the attorneys for the class petition the court for compensation from the settlement or common fund created for the class's benefit"); *Primax Recoveries, Inc. v. Sevilla*, 324 F.3d 544, 548 (7th Cir. 2003)(creation of a common fund "entitles [counsel] to a share of that benefit as a fee").

The Court should use the percentage of the fund approach to determine a reasonable fee award in this case. The Seventh Circuit "favors the percentage-of-the-fund fee in common fund cases because it provides the best hope of estimating what a willing seller and a willing buyer seeking the largest recovery in the shortest time would have agreed to ex ante." *In re FedEx Ground Package System, Inc. Employment Practices Litig.*, 251 F. Supp. 3d 1225, 1236 (N.D. Ind. 2017) (citing *In re Synthoid Mktg. Litig.*, 325 F.3d 974, 979-80 ("*Synthoid II*") (7th Cir. 2003)); *see also In re Capital One Tel. Consumer Prot. Act Litig.* ("*In re Capital One*"), 80 F. Supp. 3d 781, 795 (N.D. Ill. 2015) (percentage of the fund method is "more likely to yield an accurate approximation of the market rate" and that, "had an arm's length negotiation been feasible, the

court believes that the class would have negotiated a fee arrangement based on a percentage of the recovery, consistent with the normal practice in consumer class actions”).⁶

One of the primary advantages the percentage of the fund approach has over the lodestar approach—and a substantial reason why percentage of the fund more accurately represents the “market rate”—is that “the lodestar method [would] require plaintiffs to monitor counsel and ensure that counsel are working efficiently on an hourly basis, something a class of nine million lightly-injured plaintiffs likely would not be interested in doing.” *Kolinek v. Walgreen Co.*, 311 F.R.D. 483, 501 (N.D. Ill. 2015) (Kennelly, J.). The percentage of the fund approach, by contrast, promotes early resolution and eliminates the incentive for plaintiffs’ attorneys to inflate their billable hours by engaging in wasteful litigation. *See Synthroid II*, 325 F.3d at 979-80. By limiting attorneys’ fees to a percentage of the common fund, “courts can expect attorneys to make cost-efficient decisions about whether certain expenses are worth the win.” *Gaskill v. Gordon*, 942 F. Supp. 382, 386 (N.D. Ill. 1996), *aff’d*, 160 F.3d 361 (7th Cir. 1998); *see also In re Amino Acid Lysine Antitrust Litig.*, No. 95 Civ.7679, 1996 WL 197671, at *2 (N.D. Ill. Apr. 22, 1996) (explaining “growing recognition that in a common fund situation . . . a fee based on a percentage of recovery . . . tends to strike the best balance in favor of the clients’ interests while at the same time preserving the lawyers’ self- interest”).

⁶ In fact, the Seventh Circuit has cast doubt on the continued relevance of the lodestar method. *See Redman v. RadioShack Corp.*, 768 F.3d 622, 633 (7th Cir. 2014) (rejecting justification for attorneys’ fees based on “amount of time that class counsel reported putting in on the case,” and stating “the reasonableness of a fee cannot be assessed in isolation from what it buys”). The trend in other circuits is to use the percentage of the fund method, as well. *See Wal-Mart Stores, Inc. v. Visa U.S.A., Inc.*, 396 F.3d 96, 121 (2d Cir. 2005); *In re Cendant Corp. PRIDES Litig.*, 243 F.3d 722, 732 (3d Cir. 2001); *see also McDaniel v. Qwest Communs. Corp.*, Civil Action No. 05 C 1008, 2011 U.S. Dist. LEXIS 154591, at *11 (N.D. Ill. Aug. 29, 2011) (“Many courts have found the percentage-of-recovery method provides a good emulation of the real-world market value of attorneys’ services provided on a contingent basis.”) (Pallmeyer, J.).

Along that line, the percentage of the fund approach preserves judicial resources by sparing the Court the cumbersome task of reviewing complicated and lengthy billing records. *Florin v. Nationsbank of Ga., N.A.*, 34 F.3d 560, 566 (7th Cir. 1994). (noting “advantages” of percentage of the fund method’s “relative simplicity of administration”). As one seminal case put the point:

The percentage method is bereft of largely judgmental and time-wasting computations of lodestars and multipliers. These latter computations, no matter how conscientious, often seem to take on the character of so much Mumbo Jumbo. They do not guarantee a more fair result or a more expeditious disposition of litigation.

In re Union Carbide Corp. Consumer Prods. Bus. Sec. Litig., 724 F. Supp. 160, 170 (S.D.N.Y. 1989); *see also Matter of Cont'l Ill. Sec. Litig.*, 962 F.2d 566, 573 (7th Cir. 1992) (noting it is easier to establish market based contingency fee percentages than to “hassle over every item or category of hours and expense and what multiple to fix and so forth”); *Gaskill*, 942 F. Supp. at 386 (percentage of fund method “provides a more effective way of determining whether the hours expended were reasonable.”).

For this reason, courts in this district routinely apply the percentage of the common fund method and have noted the advantages of this approach. *See, e.g., In re AT&T Mobility Wireless Data Servs. Sales Tax Litig.*, 792 F. Supp. 2d 1028, 1040 (N.D. Ill. 2011) (using percentage method because it did “not need to resort to a lodestar calculation, which would be costly to conduct, to reinforce the same conclusion”); *Gaskill*, 942 F. Supp. at 386 (describing advantages of percentage method, including judicial efficiency and an “efficient check on the attorney’s judgment” in economic decision-making); *see also Bryant v. Loews Chicago Hotel, Inc.*, No. 1:19-cv-03195, ECF No. 77 (N.D. Ill. Oct. 30, 2020); *Dixon v. Smith Senior Living*, No. 1:17-cv-08033, ECF No. 103 (N.D. Ill. Aug. 20, 2019).

B. Class Counsel’s request is within the market rate.

In applying the percentage of the common fund approach, the Court must decide what percentage of the common fund is appropriately awarded as attorney’s fees.

This requires a threshold determination as to the net common fund, as there is a “presumption” that fees in any given settlement should not “exceed a third or at most a *half* of the total amount of money going to class members and their counsel.” *Pearson v. NBTY, Inc.*, 772 F.3d 778, 782 (7th Cir. 2014) (emphasis added). To that end, the Seventh Circuit directs district courts to analyze “(1) the fee to (2) the fee plus what the class members receive[.]” *Id.* at 781 (quoting *Redman*, 768 F.3d at 630). The fee request falls squarely within this presumption, as Class Counsel seeks \$240,282.00 in fees, which amounts to 36% of the net Settlement Fund (\$240,282.00 fee / \$667,450 [fee + amount to class]).

Next, the Court must determine whether a 36% fee award is reasonable in light of the prevailing market rate. *See, e.g., Silverman v. Motorola Solutions, Inc.*, 739 F.3d 956, 957 (7th Cir. 2013) (holding that “attorneys’ fees in class actions should approximate the market rate that prevails between willing buyers and willing sellers of legal services.”). To that end, a district court should “do [its] best to recreate the market by considering factors such as actual fee contracts that were privately negotiated for similar litigation, information from other cases, and data from class-counsel auctions.” *Taubenfeld v. Aon Corp.*, 415 F.3d 597, 599 (7th Cir. 2005). Other factors are relevant, as well, including the risk counsel undertook in accepting the case and the quality of their performance. *In re Synthroid Mktg. Litig.*, 264 F.3d 712, 721 (“*Synthroid I*”) (7th Cir. 2001). As explained below, each of these factors supports the requested fee.

1. Analysis of the relevant market for legal services support the fee request.

As noted above, the percentage of the fund method is intended to mirror the private marketplace for negotiated contingent fee arrangements. *Kirchoff v. Flynn*, 786 F.2d 320, 324 (7th Cir. 1986). “When the ‘prevailing’ method of compensating lawyers for ‘similar services’ is the contingent fee, then the contingent fee is the ‘market rate.’” *Id.* (emphasis in original).

Here, Class Counsel seeks a fee award of 36% of the net Settlement Fund. This percentage is consistent with standard contingency fee awards in this Circuit, which range from 33% to 40% of the amount recovered. *See, e.g., Gaskill*, 160 F.3d at 362–63 (noting that typical contingency fees are between 33% and 40% and affirming award of 38%); *Kirchoff*, 786 F.2d at 323 (observing that “40% is the customary fee in tort litigation” and noting, with approval, contract providing for one-third contingent fee if litigation settled prior to trial); *Retsky Family Ltd. P’ship v. Price Waterhouse, LLP*, Case No. 97-7694, 2001 WL 1568856, at *4 (N.D. Ill. Dec. 10, 2001) (customary contingent fee ranges “between 33 1/3% and 40%” of amount recovered); *McDaniel*, 2011 U.S. Dist. LEXIS 154591, at *11-12 (“[T]he real world market range for contingent fee cases is 33% to 40%.”).

More specifically, the 36% sought here is less than the percentage of the gross (rather than net) settlement fund commonly awarded by Illinois courts in similar BIPA cases. *See, e.g., Sekura v. L.A. Tan Enters., Inc.*, No. 2015-CH-16694 (in BIPA case, awarding 40% of total fund); *Zepeda v. Intercontinental Hotels Grp., Inc.*, No. 2018-CH-02140 (Cir. Ct. Cook Cty. Dec. 5, 2018) (same); *Svagdis v. Alro Steel Corp.*, No. 2017-CH-12566, No. 2017-CH-12566 (Cir. Ct. Cook Cty. Jan. 14, 2019) (same); *Zhirovetskiy v. Zayo Group, LLC*, No. 2017-CH-09323 (Cir. Ct. Cook Cty. April 8, 2019) (same); *McGee v. LSC Communications*, No. 2017-CH-12818 (Cir. Ct. Cook Cty. Aug. 7, 2019) (same).

Accordingly, the prevailing market rate for contingency fee cases generally, and for BIPA class actions in particular, both confirm the reasonableness of the requested fee award.

2. The risk of non-payment also supports the requested fee award.

The reasonableness of the requested fee award is further bolstered by the significant risk of non-payment Class Counsel faced at the outset of this litigation. *See Taubenfeld*, 415 F.3d at 600 (approving district court’s reliance on this factor in evaluating attorneys’ fees); *Synthroid I*, 264 F.3d at 718 (court should “estimate the terms of the contract that private plaintiffs would have negotiated with their lawyers ... at the outset of the case (that is, when the risk of loss still existed”).

By taking this case on a contingency fee basis, Class Counsel assumed the risk they would receive no payment for their services. *See Sutton*, 504 F.3d at 693-94 (“We recognize that there is generally some degree of risk that attorneys will receive no fee (or at least not the fee that reflects their efforts) when representing a class because their fee is linked to the success of the suit.”). As discussed in Plaintiff’s motion for preliminary approval, Pret raised several legal and factual defenses that, if successful, would have precluded any recovery in this case. Specifically, Pret intended to evade liability by demonstrating: (1) the timekeeping system at issue doesn’t capture the type of “biometric identifiers” or “biometric information” covered by BIPA (an issue that would require costly expert and third-party discovery); (2) Pret’s good-faith interpretation of BIPA precludes any finding of negligence or recklessness, which are prerequisites for recovering statutory damages; (3) the doctrines of waiver, estoppel, ratification, acquiescence, and assumption of the risk barred any right of recovery; and (4) any award of statutory damages would violate Pret’s right to due process under the Illinois and United States Constitution. *See* ECF No. 44 at 16-18; *see also* Ex. A (Keogh Decl.), ¶¶ 10-12, 14.

While Class Counsel remain confident Plaintiff would have prevailed, success—especially at the outset of the case—was by no means assured. To the contrary, the risk of loss was particularly acute given the dearth of legal authority on Pret’s affirmative defenses. *See Silverman*, 739 F.3d at 958 (“Contingent fees compensate lawyers for the risk of nonpayment. The greater the risk of walking away empty-handed, the higher the award must be to attract competent and energetic counsel.”). Apart from jeopardizing any recovery for the class, litigating those issues would have required Class Counsel to expend significantly more time, money, and resources—including potentially substantial expert fees—for which they would receive no compensation upon losing at summary judgment, class certification, or trial. *See* Ex. A (Keogh Decl.), ¶¶ 11-17; *In re AT&T Mobility Wireless Data Servs. Sales Tax Litig.*, 792 F. Supp. 2d 1028, 1035-35 (N.D. Ill. 2011) (finding significant risk of nonpayment where, among other reasons, counsel would have to overcome case dispositive defenses and certify a class). As such, the considerable risk⁷ Class Counsel faced in prosecuting this action on a contingency fee basis illustrates the reasonableness of the requested fee award.

3. The benefits conferred on the Settlement Class also supports the requested fee award.

The quality of Class Counsel’s performance, as demonstrated by the Settlement itself, further supports the requested fee award. As noted above, each Settlement Class Participant will receive \$518 after Court-approved reductions for attorneys’ fees and expenses, a Service Award

⁷ Another risk is Pret could have filed bankruptcy as it closed all of its Illinois locations after this case was filed, which further supports the risk when Plaintiff maintained the litigation after the stores closed.

for Plaintiff, and Administration Expenses. These payments will arrive via check, without the need to submit a claim form (or take any other steps, for that matter).

This is an outstanding result when viewed against the potential \$1,000 recovery⁸ Plaintiff could have obtained had she proven a negligent violation of BIPA at summary judgment or trial *after* prevailing at class certification, *see* 740 ILCS 14/20(1), which would have entailed years of additional litigation. What's more, the gross recovery of \$849.43/net recovery of \$518 afforded by the Settlement compares favorably to other BIPA settlements that have received final approval. *See, e.g., Jones v. CBC Rest. Corp.*, 1:19-cv-06736, ECF No. 53 (N.D. Ill. Oct. 22, 2020) (gross recovery of \$800 per class member); *Preliceanu v. Jumio Corp.*, 18-CH-15883 (Cir. Ct. Cook Cnty. July 21, 2020) (net recovery of \$262.28 per claimant);⁹ *Zhirovetskiy v. Zayo Group, LLC*, 17-CH-09323 (Cir. Ct. Cook Cty. Apr. 8, 2019) (gross recovery of \$450 per class member); *Johnson v. Rest Haven Illiana Christian Convalescent Home, Inc.*, No. 2019-CH-01813 (Cir. Ct. Cook Cty. Oct. 18, 2019) (gross recovery of \$894.98 per class member); *Diaz v. Greencore USA – CPG Partners, LLC*, 2017-CH-13198 (Cir. Ct. Cook Cnty. Aug. 30, 2019) (gross recovery of \$696.27 per class member); *Marshall v. Life Time Fitness, Inc.*, 17-CH-14262 (Cir. Ct. Cook Cnty. July 30, 2019) (net recovery of \$270 per claimant, plus dark web monitoring valued at \$130).

Moreover, the Settlement was achieved after Class Counsel spent more than a year litigating this case, which entailed: (1) conducting significant pre- and post-suit research into the rapidly evolving case law on BIPA; (2) briefing two contested motions to dismiss; (3) analyzing

⁸ It's still an open issue whether individuals are entitled to \$1,000 every time BIPA protected information is taken, or if they are entitled to \$1,000 total.

⁹ This settlement was structured as a claims-made framework. While the Parties' briefs did not disclose the number of participants or net recovery per claimant, the settlement website states that claimants would receive up to \$262.28 per person. *See* <https://topclassactions.com/lawsuit-settlements/closed-settlements/illinois-jumio-biometric-class-action-settlement/?nowprocket=1> (last visited January 24, 2022).

the strength and weaknesses of Plaintiff's claims and Pret's affirmative defenses; (4) taking discovery on, among other issues, the makeup of the proposed class, the data captured by Pret's timekeeping system, the manner in which Pret handled and stored the data collected by its timekeeping system, and Pret's policies and practices regarding the collection, use, and storage of biometric data; (5) preparing an extensive mediations statement setting forth Plaintiff's legal and factual theories; and (6) participating in an eight-hour mediation before Judge Denlow. *See Ex. A* (Keogh Decl.), ¶ 5. These efforts, combined with the outstanding results Class Counsel achieved, further supports the requested fee award.

For all these reasons, the requested fee award is reasonable and should be granted.

C. Class Counsel's litigation expenses should be approved.

The Settlement provides that Class Counsel may apply to the Court for payment of litigation expenses. To that end, Class Counsel seeks reimbursement for \$9,177.00 of actual costs incurred in prosecuting this action, which only include the filing fee, the service of process fee, and mediation fees. *See Ex. A* (Keogh Decl.), ¶ 20. Because these charges were necessary in order to litigate and settle the case, Class Counsel's request for reimbursement of those expenses from the gross Settlement Fund is appropriate and should be approved.

D. The Requested Service Award for Ms. Quarles should be approved.

Class Counsel also respectfully request the Court grant a service award of \$5,000 to Plaintiff Kayla Quarles for her efforts on behalf of the class. Service awards compensating named plaintiffs for work done on behalf of the class are routinely awarded. Such awards encourage individual plaintiffs to undertake the responsibility of representative lawsuits. *See Cook v. Niedert*, 142 F.3d 1004, 1016 (7th Cir. 1998) (recognizing that "because a named plaintiff is an essential ingredient of any class action, an incentive award is appropriate if it is necessary to induce an

individual to participate in the suit”); *Synthroid I*, 264 F.3d at 722 (“Incentive awards are justified when necessary to induce individuals to become named representatives.”).

Plaintiff’s role in this litigation was crucial. Plaintiff sacrificed her time to prosecute this case on behalf of the 797 individuals who used Pret’s timekeeping system. *See* Ex. A (Keogh Decl.), ¶ 22. Plaintiff assisted with Class Counsel’s pre-suit investigation into the case, analyzed and verified the facts set forth in the Complaint prior to filing, stayed abreast of the proceedings through litigation and settlement, and reviewed and approved the Settlement. *Id.*

Moreover, the \$5,000 Service Award sought here is comparable to or less than others approved by Illinois state and federal courts in similar BIPA disputes, as well those approved by federal courts throughout the country in analogous class actions. *See, e.g., Dixon*, No. 1:17-cv-08033, ECF No. 103 (approving \$10,000 service award in BIPA settlement); *Prelipceanu*, 18-CH-15883 (same); *Jones*, 1:19-cv-06736, ECF No. 53 (approving \$7,500 service award in BIPA settlement); *Marshall*, 17-CH-14262 (approving \$5,000 service award in BIPA class action); *Allen v. JPMorgan Chase Bank, NA*, No. 13-8285, ECF No. 93 (N.D. Ill. Oct. 21, 2015) (approving \$25,000 service award in TCPA class settlement); *Desai v. ADT Security Servs., Inc.*, No. 11-1925, ECF No. 243 ¶ 20 (N.D. Ill. Feb. 27, 2013) (awarding \$30,000 service awards in TCPA class settlement); *Landsman & Funk, P.C. v. Skinder-Strauss Assocs.*, No. 08CV3610 CLW, 2015 WL 2383358, at *9 (D.N.J. May 18, 2015), *aff’d*, 639 F. App’x 880 (3d Cir. 2016) (awarding \$10,000 to class representative in junk fax case); *Lees v. Anthem Ins. Companies Inc.*, No. 4:13CV1411 SNLJ, 2015 WL 3645208, at *4 (E.D. Mo. June 10, 2015) (awarding \$10,000 to class representative in case involving nonconsensual calls to cell phones); *Ikuseghan v. Multicare Health Sys.*, No. C14-5539 BHS, 2016 WL 4363198, at *3 (W.D. Wash. Aug. 16, 2016) (finding an service award of \$15,000 to be reasonable); *Hageman v. AT & T Mobility LLC*, No. CV 13-50-

BLG-RWA, 2015 WL 9855925, at *4 (D. Mont. Feb. 11, 2015) (approving \$20,000 service award in TCPA class settlement); *Cook*, 142 F.3d at 1016 (affirming \$25,000 service award to plaintiff); *Heekin v. Anthem, Inc.*, No. 05-01908, 2012 WL 5878032, *1 (S.D. Ind. Nov. 20, 2012) (approving \$25,000 service award to lead class plaintiff over objection); *Will v. Gen. Dynamics Corp.*, No. 06-698, 2010 WL 4818174, *4 (S.D. Ill. Nov. 22, 2010) (awarding \$25,000 each to three named plaintiffs); *Benzion v. Vivint, Inc.*, No. 12-61826, DE 201 (S.D. Fla. Feb. 23, 2015) (awarding \$20,000 service award in TCPA class settlement). The requested service award of \$5,000 for Plaintiff is reasonable and should be approved.

IV. CONCLUSION

WHEREFORE, Plaintiff respectfully request the Court grant this motion and award Class Counsel \$240,282.00 in attorneys' fees, which represents 36% of the net Settlement Fund, plus \$9,177.00 of counsel's out-of-pocket costs. Class Counsel further requests that the Court approve a service award to Plaintiff Quarles in the amount of \$5,000.

Dated: January 27, 2022

Respectfully submitted,

**KAYLA QUARLES, individually and on behalf of
all others similarly situated,**

By: /s/ Gregg M. Barbakoff
Keith J. Keogh
Gregg M. Barbakoff
KEOGH LAW, LTD.
55 W. Monroe St., Suite 3390
Chicago, Illinois 60603
Tel.: (312) 726-1092
Fax: (312) 726-1093
keith@keoghlaw.com
gbarbakoff@keoghlaw.com

Attorney for Plaintiff and the Settlement Class

CERTIFICATE OF SERVICE

I hereby certify that, on January 27, 2022, I caused a copy of the foregoing document, including all attached exhibits, to be served upon all counsel of record via electronic filing using the CM/ECF system.

/s/ Gregg M. Barbakoff

EXHIBIT A

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

KAYLA QUARLES, individually and on)	
behalf of all others similarly situated,)	
)	Case No. 20-cv-7179
Plaintiffs,)	
v.)	Hon. Manish S. Shah
)	Presiding Judge
PRET A MANGER (USA) LIMITED,)	
)	
Defendant.)	

DECLARATION OF KEITH J. KEOGH

Keith J. Keogh declares under penalty of perjury, that the following statements are true:

1. I am a member in good standing of the Illinois State Bar, and the founder and managing partner of Keogh Law, Ltd. (“Class Counsel”). I am one of the lawyers primarily responsible for prosecuting Plaintiff Kayla Quarles’s (“Plaintiff”) claims under the Illinois Biometric Information Privacy Act (“BIPA”), 740 ILCS 14/1, *et seq.* on behalf of the proposed Settlement Class.

2. I submit this declaration in support of Plaintiff’s Motion for and Memorandum in Support of Attorneys’ Fees, Costs, and Service Award. I am over the age of eighteen and am fully competent to make this declaration. This declaration is based upon my personal knowledge and if called upon to testify to the matters stated herein, I could and would do so competently.

3. As shown below, my firm has regularly engaged in major complex litigation and consumer class actions involving statutory privacy claims. My firm has the resources necessary to conduct litigation of this nature, and has experience prosecuting class actions of similar size, scope, and complexity to the instant case. Additionally, I have often served as class counsel in similar actions.

4. Class Counsel spent more than a year litigating this case, which involved conducting significant pre- and post-suit research into the rapidly evolving case law on BIPA, briefing two contested motions to dismiss, and conducting discovery on issues including, but not limited to, the makeup of the proposed class, the data captured by Pret's timekeeping system, the manner in which Pret handled and stored the data collected by its timekeeping system, and Pret's policies and procedures regarding the collection, use, and storage of biometric data. In addition, Class Counsel prepared a detailed mediation brief setting forth Plaintiff's legal and factual theories before participating in an eight-hour mediation session before the Honorable Judge Morton Denlow (Ret.). Had the case not settled, the parties would have proceeded with oral discovery, class certification briefing, dispositive motion practice, trial, and presumably appeals.

5. During the mediation, the parties discussed their relative views of the law and the facts, as well as the potential relief for the proposed Settlement Class. After reaching an agreement in principle on the material terms, the parties spent the next five months negotiating their remaining points of dispute, which ultimately culminated in the Settlement Agreement.

6. Pursuant to the Settlement Agreement, Pret will pay Six Hundred Seventy-Seven Thousand, Four Hundred Fifty Dollars (\$677,450.00) into a non-reversionary Settlement Fund. The Settlement Fund will be divided *pro rata* among all Settlement Class Members who decline to opt out, after payment of the costs of notice and administration and the court-approved attorneys' fee, litigation expenses, and class representative incentive award. None of the Settlement Fund will revert back to Pret.

7. The Settlement Class consists of no more than 797 individuals. Hence, after accounting for the deductions discussed above, each Settlement Class Member will receive a net recovery of at least \$518.

8. The Settlement reached in this case was the product of well-informed judgments about the adequacy of the relief provided to the proposed Settlement Class. Class Counsel are intimately familiar with the relative strengths and weaknesses of the claims and defenses in this case, as well as the corresponding legal and factual issues. This knowledge, which was obtained through the discovery exchanged by the parties, as well as Class Counsel's extensive experience, legal research and pre-suit investigation, was sufficient to make an informed recommendation about the value of the claims at issue, the costs, risks, and delays of protracted litigation, discovery, and appeals, and the adequacy of the class relief secured through the Settlement.

9. At all times, the settlement negotiations were highly-adversarial and non-collusive, as evidenced by the eight-hour mediation session before Judge Denlow and the months of continued negotiations of the terms of the Settlement Agreement. The parties have not entered into any side-deals or separate agreements in connection with the Settlement Agreement.

10. While I am confident in the strength of the claims alleged in this case and that Plaintiff would ultimately prevail at trial, Pret denied all of Plaintiff's material allegations and raised numerous legal and factual issues that, if successful, could preclude any recovery for the Settlement Class.

11. Pret's primary defense is that it faces no liability under BIPA because the information captured by its timekeeping system does not fall within the statutory definition of "biometric identifiers" or "biometric information," but instead falls within a third category outside of BIPA's purview. *See* ECF No. 31 at 22. Defeating this highly-technical defense would entail costly expert and third-party discovery, while the lack of any guiding precedent offers no guarantee of success at summary judgment or trial.

12. Further, Pret intended to evade liability by proving, among other issues, that: (1) Pret's reliance on a good-faith interpretation of BIPA precludes a finding of negligence or

recklessness; (2) Plaintiff and the Settlement Class's claims are barred on the doctrines of waiver, estoppel, ratification, or acquiescence; and (3) Plaintiff and the Settlement Class assumed the risk of any injuries resulting from Pret's alleged statutory violations. *See* ECF No. 31 at 20-22. A victory on these defenses could doom the case in its entirety or, at the very least, greatly reduce the size of the proposed class and preclude any recovery for scores of class members who stand to benefit from the Settlement.

13. And, before resolving Pret's substantive defenses, Plaintiff would first need to prevail at class certification, which would entail extensive motion practice on several hotly contested issues with no guarantee of success. *See* Fed. R. Civ. P. 23(e)(2), Advisory Committee's Note to 2018 Amendment (directing courts to consider the likelihood of certification when evaluating this sub-factor). Though Plaintiff maintains this case is an ideal candidate for certification, her success is certainly not guaranteed.

14. Finally, even if Plaintiff prevailed at class certification and obtained a complete victory on the merits, Pret intended to seek reduction of damages based on the argument an award of \$1,000 or \$5,000 per violation would violate its right to due process under the Illinois and United States Constitution. *See* ECF No. 31 at 24.

15. Given the risks and delays posed by further litigation, as well as my considerable experience doing Plaintiff's consumer protection work, I believe the settlement is more than fair, adequate, and reasonable, and in the best interest of the Settlement Class. Instead of facing the uncertainty of a potential award in their favor years from now, the Settlement allows Plaintiff and Settlement Class Members to receive immediate and certain relief.

16. Given the strength of this Settlement, I do not expect significant opposition to the Settlement by any Settlement Class Members.

17. My firm represented Plaintiff and the Settlement Class on a contingency-fee basis. In taking on this case, my firm risked extensive expert costs, a potentially expensive trial and appeal, and lost opportunity costs due to the time needed to brief dispositive motions.

18. I am familiar with the practices of class action attorneys in the Northern District of Illinois, who regularly contact to receive one-third to forty percent of any potential class settlement as compensation for shouldering the risk of funding a potential-multi-year litigation without any guarantee of recovery.

19. The expenses incurred in this case are reflected in Keogh Law, Ltd.'s books and records. These books and records are prepared from check records, credit card statements, receipts, and other source materials and represent an accurate record of the expenses incurred. They do not include overhead costs such as legal research or internal copies. The expenses incurred were reasonable and necessary to prosecute the case, and not part of Keogh Law, Ltd.'s overhead.

20. Below is a detailed report of itemized expenses showing the \$9,177 incurred to date in out-of-pocket expenses in prosecuting this case.

Date	Description	Amount	
11/4/2020	Cook County Filing Fee	\$337.00	
11/6/2020	Service of Process	\$65.00	
6/21/2021	Mediation Judge Denlow	\$8,500	
6/31/2021	JAMS admin fee	\$275.00	
		\$9,177.00	Total Expenses

21. It is my professional opinion that the expenses set forth above were reasonable and necessary in the successful prosecution of this action.

22. Plaintiff Kayla Quarles played a crucial role in prosecuting this case and securing the proposed Settlement on behalf of the proposed Settlement Class. Specifically, Plaintiff sacrificed her time to prosecute this case on behalf of 797 similarly-situated individuals. Her efforts entailed assisting with Class Counsel's pre-suit investigation into the case, analyzing and verifying the facts set forth in the Compliant prior to filing, staying abreast of the proceedings through litigation and settlement, and reviewing and approving the Settlement Agreement.

Class Counsel's Experience

23. Keogh Law, Ltd. consists of five attorneys and focuses on class actions. I am a shareholder of the firm and member of the bars of the United States Court of Appeals for the First, Second, Third, Seventh, Ninth and Eleventh Circuits, Eastern District of Wisconsin, Northern District of Illinois, Central District of Illinois, Southern District of Indiana, District of Colorado, Middle District of Florida, Southern District of Florida, the Illinois State Bar, and the Florida State Bar, as well as several bar associations and the National Association of Consumer Advocates.

24. In 2015, the National Association of Consumer Advocates honored me as the Consumer Attorney of the Year for my work in courts and with the FCC insuring the safeguards of the TCPA were maintained.

25. My firm was class counsel in the four of the largest class action settlements involving an anti-identity theft law that aims to protect the privacy of personal information, called the Fair and Accurate Credit Transactions Act. *Flaum v Doctors Associates*, 16-CV-61198-CMA (S.D. Fla.) (\$30.9 million dollars); *Legg v. Laboratory Corporation of America Holdings*, No. 14-cv-61543-RLR (S.D. Fla., filed July 6, 2014) (\$11 million dollars); *Legg v. Spirit Airlines, Inc.*,

No. 14-cv-61978-JIC (S.D. Fla., filed Aug. 29, 2014) (\$7.5 million dollars); and *Muransky v. Godiva Chocolatier, Inc.*, 15-cv-60716-WPD (S.D. Fla., filed Apr. 6, 2015) (\$6.3 million dollars) (on appeal).

26. I was also class counsel in some of the largest Telephone Consumer Protection Act (“TCPA”) settlements in the country. See *Hageman v. AT&T Mobility LLC, et al.*, Case 1:13-cv-00050-DLC-RWA (D. MT.) (Co-Lead) (Final Approval Granted February 11, 2015 providing for a \$45 million settlement for a class of 16,000 persons) and *Capital One Telephone Consumer Protection Act Litigation, et al.*, 12-cv-10064 (N.D. Ill. Judge Holderman) (Liaison Counsel and additional Class Counsel)(Final Approval Granted February 12, 2015 for a \$75 million settlement).

27. I was also lead or class counsel in the following class settlements: See *Leung v XPO Logistics, Inc.*, 15 CV 03877, (N.D. Ill. 2018) (TCPA); *Martinez v Medcredit*, 4:16CV01138 ERW (E.D. Mo. 2018) (TCPA); *Martin v. Wells Fargo Bank, N.A.*, 16-cv-09483 (N.D. Ill. 2018) (FCRA); *Town & Country Jewelers, LLC v. Meadowbrook Insurance Group, Inc., et al.*, 15-CV-02419-PGS-LHG (D. NJ. 2018) (TCPA); *Legg v AEO*, 14-cv-02440-VEC (TCPA) (on appeal after final approval from professional objector); *Markos v Wells Fargo*, 15-cv-01156-LMM (N.D. Ga. (TCPA); *Ossola v Amex* 1:13-cv-04836 (N.D. Ill. 2016) (TCPA); *Luster v. Wells Fargo*, 15-1058-TWT (N.D. Ga.) (TCPA); *Prather v Wells Fargo*, 15-CV-04231-SCJ (ND. Ga) (TCPA); *Joseph et al. v. TrueBlue, Inc. et al.*, Case No. 3:14-cv-05963 (D. Wa.) (TCPA case, \$5 million for 1,948 class members); *Tripp v. Berman & Rabin, P.A.*, 310 F.R.D. 499 (D. Kan. 2015); *Willett, et al. v. Redflex Traffic Systems, Inc., et al.*, Case No. 13-cv-01241-JCH-RHS; *In re Convergent Outsourcing, Inc. Telephone Consumer Protection Act Litigation*, Master Docket No. 3:13-cv-1866-AWT (D. Conn) (Interim Co-Lead); *De Los Santos v Millword Brown, Inc.*, 9:13-cv-80670-DPG (S.D. Fl) (TCPA); *Allen v. JPMorgan Chase Bank, N.A.* 13-cv-08285 (N.D. Ill. Judge Pallmeyer) (TCPA); *Cooper v NelNet*, 6:14-cv-314-Orl-37DAB (M.D. Fl.) (TCPA); *Thomas v*

Bacgroundchecks.com, 3:13-CV-029-REP (E.D. Va.) (additional class counsel); *Carrero v. LVNV Funding, LLC*, 11-CV-62439-KMW (S.D. Fl. 2016) (Unlicensed debt collector under Fl. law); *Lopera v RMS*, 12-c-9649 (N.D. Ill. Judge Wood), *Kubacki v Peapod*, 13-cv-729 (N.D. Ill. Judge Mason); *Wojcik v. Buffalo Bills, Inc.*, 8:12 CV 2414-SDM-TBM (M.D. Fla.) (TCPA); *Curnal v LVNV Funding, LLC.*, 10 CV 1667 (Wyandotte County, KS 2014) (Unlicensed debt collector under KS law); *Cummings v Sallie Mae*, 12 C-9984 (N.D. Ill. Judge Gottschall) (TCPA) (co-lead); *Brian J. Wanca, J.D., P.C. v. L.A. Fitness International, LLC*, Case No. 11-CV-4131 (Lake County, Il. Judge Berrones) (TCPA); *Osada v. Experian Info. Solutions, Inc.*, 2012 U.S. Dist. LEXIS 42330 (N.D. Ill. Mar. 28, 2012) (FCRA class); *Saf-T-Gard International, Inc. v. Vanguard Energy Services, L.L.C., et al*, 12-cv-3671 (N.D. Ill. 2013 Judge Gottschall) (TCPA); *Saf-T-Gard v. TSI*, 10-c-7671, (N.D. Ill. Judge Rowland) (TCPA); *Cain v Consumer Portfolio Services, Inc.* 10-cv-02697 (N.D. Ill. Judge Keys) (TCPA); *Iverson v Rick Levin & Associates*, 08 CH 42955 Circuit Court Cook County (Judge Cohen) (TCPA); *Saf-T-Gard v Seiko*, 09 C 776 (N.D. Ill. Judge Bucklo) (TCPA); *Jones v. Furniture Bargains, LLC*, 09 C 1070 (N.D. Ill) (FLSA collective action); *Saf-T-Gard v. Metrolift*, 07 CH 1266 Circuit Court Cook County (Judge Rochford) (Co-Lead) (TCPA); *Bilek v Countrywide*, 08 C 498 (N.D. Ill. Judge Gottschall); *Pacer v Rochenback*, 07 C 5173 (N.D. Ill. Judge Cole); *Overlord Enterprises v. Wheaton Winfield Dental Associates*, 04 CH 01613, Circuit Court Cook County (Judge McGann) (TCPA); *Whiting v. SunGard*, 03 CH 21135, Circuit Court Cook County (Judge McGann) (TCPA); *Whiting v. GoIndustry*, 03 CH 21136, Circuit Court Cook County (Judge McGann) (TCPA).

28. I was the attorney primarily responsible for the following class settlements: *Wollert v. Client Services*, 2000 U.S. Dist. LEXIS 6485 (N.D. Ill. 2000); *Rentas v. Vacation Break USA*, 98 CH 2782, Circuit Court of Cook County (Judge Billik); *McDonald v. Washington Mutual Bank*, supra; *Wright v. Bank One Credit Corp.*, 99 C 7124 (N.D. Ill. Judge Guzman); *Arriaga v.*

Columbia Mortgage, 01 C 2509 (N.D. Ill. Judge Lindberg); *Frazier v. Provident Mortgage*, 00 C 5464 (N.D. Ill. Judge Coar); *Largosa v. Universal Lenders*, 99 C 5049 (N.D. Ill. Judge Leinenweber); *Arriaga v. GNMortgage*, (N.D. Ill. Judge Holderman); *Williams v. Mercantile Mortgage*, 00 C 6441 (N.D. Ill. Judge Pallmeyer); *Reid v. First American Title*, 00 C 4000 (N.D. Ill. Magistrate Judge Ashman); *Fabricant v. Old Kent*, 99 C 6846 (N.D. Ill. Magistrate Judge Bobrick); *Mendelovits v. Sears*, 99 C 4730 (N.D. Ill. Magistrate Judge Brown); *Leon v. Washington Mutual*, 01 C 1645 (N.D. Ill. Judge Alesia).

29. The individual class members' recovery in some of these settlements was substantial. For example, in one of the cases against a major bank the class members' recovery was 100% of their actual damages resulting in a payout of \$1,000 to \$9,000 per class member. In another case against a major lender regarding mortgage servicing responses, each class member who submitted a claim form received \$1,431. *McDonald v. Washington Mutual Bank*.

30. In addition, to the above settlements, I was appointed class counsel in *Keim v. ADF MidAtlantic, LLC*, 2018 U.S. Dist. LEXIS 204548 (S.D. Fla., Dec. 3, 2018) (TCPA); *Braver v. Northstar Alarm Services, LLC*, No. 5:17-cv-00383-F (W.D. Ok 2018) (TCPA); *In Re Convergent Outsourcing, Inc. Telephone Consumer Protection Act Litigation*, Master Docket No. 3:13-cv-1866-AWT (D. Conn) (Interim Co-Lead); *Stahl v. RMK Mgmt. Corp.*, 2015-CH-13459 (Cir. Ct. Cook Cty.) (landlord/tenant under Chicago RLTO); *Galvan v. NCO Fin. Sys.*, 2012 U.S. Dist. LEXIS 128592 (N.D. Ill. 2012); *Osada v. Experian Info. Solutions, Inc.*, 2012 U.S. Dist. LEXIS 42330 (N.D. Ill. Mar. 28, 2012) (FCRA class); *Pesce v First Credit Services*, 11-cv-01379 (N.D. Ill. December 19 2011) (TCPA Class); *Smith v Greytstone Alliance*, 09 CV 5585 (N.D. Ill. 2010); *Cicilline v. Jewel Food Stores, Inc.*, 542 F.Supp.2d 831 (N.D. Ill. 2008) (Co-Lead Counsel for FACTA class); *Harris v. Best Buy Co.*, 07 C 2559, 2008 U.S. Dist. LEXIS 22166 (N.D. Ill. March 20, 2008) (FACTA class); *Matthews v. United Retail, Inc.*, 248 F.R.D. 210 (N.D. Ill. 2008)

(FACTA class); *Redmon v. Uncle Julio's, Inc.*, 249 F.R.D. 290 (N.D. Ill. 2008) (FACTA class); *Harris v. Circuit City Stores, Inc.*, 2008 U.S. Dist. LEXIS 12596, 2008 WL 400862 (N.D. Ill. 2008) (FACTA class); *Pacer v Rockenbach Chevrolet Sales, Inc.*, 07 C 5173 (N.D. Ill. 2008) (FACTA class).

31. Some reported cases of mine involving consumer protection include: *Cranor v. 5 Star Nutrition, LLC*, 998 F.3d 686 (5th Cir. 2021); *Breda v. Cellco P'ship*, 934 F.3d 1 (1st Cir. 2019); *Evans v. Portfolio Recovery Assocs.*, 889 F.3d 337 (7th Cir. 2018); *Susinno v. Work Out World Inc.*, 862 F.3d 346, 351 (3rd Cir. 2017) (finding a “nuisance and invasion of privacy resulting from a single prerecorded telephone call”); *Franklin v. Parking Revenue Recovery Servs.*, 832 F.3d 741 (7th Cir. 2016); *Galvan v. NCO Portfolio Mgmt. Inc.*, 794 F.3d 716, 721 (7th Cir. 2015); *Leeb v. Nationwide Credit Corp.*, 806 F.3d 895 (7th Cir. 2015); *Smith v Greystone*, 772 F.3d 448 (7th Cir. 2014); *Clark v Absolute Collection Agency*, 741 F.3d 487 (4th Cir. 2014); *Lox v. CDA, Ltd.*, 689 F.3d 818 (7th Cir. 2012); *Townsel v. DISH Network L.L.C.*, 668 F.3d 967 (7th Cir. Ill. 2012); *Catalan v. GMAC Mortgage Corp.*, No. 09-2182 (7th Cir. 2011); *Gburek v Litton Loan*, 614 F.3d 380 (7th Cir. 2010); *Sawyer v. Ensurance Insurance Services consolidated with Killingsworth v. HSBC Bank Nev., NA.*, 507 F.3d 614, 617 (7th Cir. 2007); *Echevarria et al. v. Chicago Title and Trust Co.*, 256 F.3d 623 (7th Cir. 2001); *Demitro v. GMAC*, 388 Ill. App. 3d 15, 16 (1st Dist. 2009); *Hill v. St. Paul Bank*, 329 Ill. App. 3d 7051, 1768 N.E.2d 322 (1st Dist. 2002); *In re Mercedes-Benz Tele Aid Contract Litig.*, 2009 U.S. Dist. LEXIS 35595 (D.N.J. 2009); *Catalan v. RBC Mortg. Co.*, 2009 U.S. Dist. LEXIS 26963 (N.D. Ill. 2009); *Elkins v. Equifax, Inc.*, 2009 U.S. Dist. LEXIS 18522 (N.D. Ill. 2009); *Harris v. DirecTV Group, Inc.*, 2008 U.S. Dist. LEXIS 8240 (N.D. Ill. 2008); *In re TJX Cos., Inc., Fair & Accurate Credit Transactions Act (FACTA) Litig.*, 2008 U.S. Dist. LEXIS 38258 (D. Kan. 2008); *Martin v. Wal-Mart Stores, Inc.*, 2007 U.S. Dist. LEXIS 89715 (N.D. Ill. 2007); *Elkins v. Ocwen Fed. Sav. Bank Experian Info.*

Solutions, Inc., 2007 U.S. Dist. LEXIS 84556 (N.D. Ill. 2007); *Harris v. Wal-Mart Stores, Inc.*, 2007 U.S. Dist. LEXIS 76012 (N.D. Ill. 2007); *Stegvilas v. Evergreen Motors, Inc.*, 2007 U.S. Dist. LEXIS 35303 (N.D. Ill. 2007); *Cook v. River Oaks Hyundai, Inc.*, 2006 U.S. Dist. LEXIS 21646 (N. D. Ill. 2006); *Gonzalez v. W. Suburban Imps., Inc.*, 411 F. Supp. 2d 970 (N.D. Ill. 2006); *Eromon v. GrandAuto Sales, Inc.*, 333 F. Supp. 2d 702 (N.D. Ill. 2004); *Williams v. Precision Recovery, Inc.*, 2004 U.S. Dist. LEXIS 6190 (N.D. Ill. 2004); *Doe v. Templeton*, 2003 U.S. Dist. LEXIS 24471 (N.D. Ill. 2003); *Ayala v. Sonnenschein Fin. Servs.*, 2003 U.S. Dist. LEXIS 20148 (N.D. Ill. 2003); *Gallegos v. Rizza Chevrolet, Inc.*, 2003 U.S. Dist. LEXIS 18060 (N.D. Ill. 2003); *Szwebel v. Pap's Auto Sales, Inc.*, 2003 U.S. Dist. LEXIS 13044 (N.D. Ill. 2003); *Johnstone v. Bank of America*, 173 F. Supp.2d 809 (N.D. Ill. 2001); *Leon v. Washington Mutual Bank*, 164 F. Supp.2d 1034 (N.D. Ill. 2001); *Ploog v. HomeSide Lending*, 2001 WL 987889 (N.D. Ill. 2001); *Christakos v. Intercounty Title*, 196 F.R.D. 496 (N.D. Ill. 2000); *Batten v. Bank One*, 2000 WL 1364408 (N.D. Ill. 2000); *McDonald v. Washington Mutual Bank*, 2000 WL 875416 (N.D. Ill. 2000); and *Williamson v. Advanta Mtge Corp.*, 1999 U.S. Dist. LEXIS 16374 (N.D. Ill. 1999). The *Christakos* case significantly broadened title and mortgage companies' liability under Real Estate Settlement Procedures Act ("RESPA") and *McDonald* is the first reported decision to certify a class regarding mortgage servicing issues under the Cranston-Gonzales Amendment of RESPA.

32. I have argued before the First, Fifth, Seventh, Eleventh Circuits, the First District of Illinois and the MultiLitigation Panel in various cases including *Townsel v. DISH Network L.L.C.*, 668 F.3d 967 (7th Cir. 2012); *Catalan v GMACM* (7th Cir. 2010); *Gburek v. Litton Loan Servicing* (7th Cir. 2009); *Sawyer v Esurance* (7th Cir. 2007), *Echevarria, et al. v. Chicago Title and Trust Co.* (7th Cir. 2001); *Morris v Bob Watson*, (1st. Dist. 2009); *Iverson v. Gold Coast Motors Inc.*, (1st. Dist. 2009); *Demitro v. GMAC* (1st Dist. 2008), *Hill v. St. Paul Bank* (1st Dist. 2002), and *In Re: Sears, Roebuck & Company Debt Redemption Agreements Litigation* (MDL

Docket No. 1389). *Echevarria* was part of a group of several cases that resulted in a nine million dollar settlement with Chicago Title.

33. My published works include co-authoring and co-editing the 1997 supplement to *Lane's Goldstein Trial Practice Guide* and *Lane's Medical Litigation Guide*.

34. I have lectured extensively on consumer litigation, including extensively on class actions and the TCPA. For example, I:

- a. Presented at the National Consumer Law Center 2018 annual conference on the TCPA.
- b. Presented at the 2018 Fair Debt Collection Training Conference for two sessions on the TCPA.
- c. Presented at the National Consumer Law Center 2017 annual conference on the TCPA.
- d. Presented at the National Consumer Law Center 2016 annual conference on the TCPA.
- e. Presented at the 2016 Fair Debt Collection Training Conference for a session on TCPA Developments.
- f. Presented for the National Association of Consumer Advocates November 2015 webinar titled Developments and Anticipated Impact of Recent FCC TCPA Rules.
- g. Presented at the National Consumer Law Center 2015 annual conference in San Antonio, Tx. on the TCPA.
- h. Presented at the 2015 Fair Debt Collection Training Conference for three sessions on the TCPA.
- i. Presented at the National Consumer Law Center 2014 annual conference in Tampa Fl. for two sessions on the TCPA.
- j. Panelist for the December 2013 Strafford CLE Webinar titled TCPA Class Actions: Pursuing or Defending Claims Over Phone, Text and Fax Solicitations.
- k. Panelist for the December 2014 Chicago Bar Association Class Action Seminar titled

“Class Action Settlements in the Seventh Circuit: Navigating Turbulent Waters.”

- l. Presented at the 2014 Fair Debt Collection Training Conference for three sessions on the TCPA.
- m. Panelist for the December 2013 Strafford CLE Webinar titled Class Actions for Telephone and Fax Solicitation and Advertising Post-Mims. Leveraging TCPI lectured at the 2014 Fair Debt Collection Training Conference for three sessions on the TCPA.
- n. Panelist for the December 2013 Strafford CLE Webinar titled Class Actions for Telephone and Fax Solicitation and Advertising Post-Mims. Leveraging TCPA Developments in Federal Jurisdiction, Class Suitability, and New Technology.
- o. Presented for the National Association of Consumer Advocates November 2013 webinar titled Current Telephone Consumer Protection Act Issues Regarding Cell Phones.
- p. Presenter for the November 2013 Chicago Bar Association Class Action Committee presentation titled Future of TCPA Class Actions.
- q. Speaker at the Social Security Administration’s Chicago office in August 2013 on a presentation on identity theft, which included consumers’ rights under the Fair Credit Reporting Act.
- r. Panelist for the May 14, 2013 Chicago Bar Association Class Action Seminar titled “The Shifting Landscape of Class Litigation” as well as for the March 20, 2013 Strafford CLE webinar titled “Class Actions for Telephone and Fax Solicitation and Advertising Post-Mims. Leveraging TCPA Developments in Federal Jurisdiction, Class Suitability, and New Technology.”
- s. Lectured at the June 6, 2013 Consumer Law Committee of the Chicago Bar Association on the topic “Employment Background Reports under the Fair Credit Reporting Act: Improper consent forms to failure to provide background report prior to adverse action.”

- t. Lectured at the 2013 Fair Debt Collection Training Conference for three sessions on the TCPA.
- u. Presented at the 2012 National Consumer Law Center annual conference for a session on the TCPA.
- v. Presented at the 2012 Fair Debt Collection Training Conference for a session on the TCPA.
- w. Panelist for Solutions for Employee Classification & Wage/Hour Issues at the 2011 Annual Employment Law Conference hosted by Law Bulletin Seminars.
- x. Lectured at the 2011 National Consumer Law Center conference for a session titled Telephone Consumer Protection Act: Claims, Scope, Remedies as well as lectured at the same 2011 National Consumer Law Center conference for a double session titled ABC's of Class Actions.
- y. Taught *Defenses to Foreclosures* for Lorman Education Services, which was approved for CLE credit, in 2008 and 2010.
- z. Guest lecturer on privacy issues at University of Illinois at Urbana-Champaign School of Law. In March 2010.
- aa. Guest speaker for the Legal Services Office of The Graduate School and Kellogg MBA Program at Northwestern University for its seminar titled: "Financial Survival Guide: Legal Strategies for Graduate Students During A Period of Economic Uncertainty."

35. I was selected as an Illinois Super Lawyer in 2018-2014 and an Illinois Super Lawyer Rising Star each year from 2008 through 2013 and my cases have been featured in local newspapers such as the Chicago Tribune, Chicago Sun-Times, The Naperville Sun, Daily Herald and RedEye.

36. Timothy J. Sostrin is a partner in the firm joining in 2011. He is a member in good standing of the Illinois bar, the U.S. District Court District of Colorado, U.S. District Court

Northern District of Illinois, U.S. District Court Northern and Southern Districts of Indiana, U.S. District Court Eastern and Western Districts of Michigan, U.S. District Court Eastern District of Missouri, U.S. District Court Southern District of Texas and U.S. District Court Eastern and Western Districts of Wisconsin.

37. Timothy J. Sostrin has zealously represented consumers in Illinois and in federal litigation nationwide against creditors, debt collectors, retailers, and other businesses engaging in unlawful practices. Tim has extensive experience with consumer claims brought under the Fair Debt Collection Practices Act, The Telephone Consumer Protection Act, the Fair Credit Reporting Act, the Electronic Fund Transfer Act, and Illinois law. Some of Tim's representative cases include: *Susinno v. Work Out World Inc.*, 862 F.3d 346, 351 (3rd Cir. 2017) (argued); *Leeb v. Nationwide Credit Co.*, 806 F.3d 895 (7th Cir. 2015) (argued); *Osada v. Experian Info. Solutions, Inc.*, 2012 U.S. Dist. LEXIS 42330 (N.D. Ill. Mar. 28, 2012) (granting class certification); *Galvan v. NCO Financial Systems, Inc.*, 2012 U.S. Dist. LEXIS 128592 (N.D. Ill. 2012)(granting class certification); *Saf-T-Gard International, Inc. v. Vanguard Energy Services, LLC*, (2012 U.S. Dist. LEXIS 174222 (N.D. Ill. December 6, 2012) (granting class certification); *Jelinek v. The Kroger Co.*, 2013 U.S. Dist. LEXIS 53389 (N.D. Ill. 2013) (denying defendant's motion to dismiss); *Hanson v. Experian Information Solutions, Inc.*, 2012 U.S. Dist. LEXIS 11450 (N.D. Ill. January 27, 2012) (denying defendant's motion for summary judgment); *Warnick v. DISH Network, LLC*, 2013 U.S. Dist. LEXIS 38549 (D. Colo. 2013) (denying defendant's motion to dismiss); *Torres v. Nat'l Enter. Sys.*, 2013 U.S. Dist. LEXIS 31238 (N.D. Ill. 2013) (denying defendant's motion to dismiss); *Griffith v. Consumer Portfolio Serv.*, 838 F. Supp. 2d 723 (N.D. Ill. 2011)(denying defendant's motion for summary judgment); *Frydman et al v. Portfolio Recovery Associate*, 2011 U.S. Dist. LEXIS 69502 (N.D. Ill 2011) (denying defendant's motion to dismiss); *Rosen Family Chiropractic S.C. v. Chi-Town Pizza*, 2013 U.S. Dist. LEXIS 6385 (N.D. Ill. 2013) (denying

defendant's motion to dismiss); *Sengenberger v. Credit Control Services, Inc.*, 2010 U.S. Dist. LEXIS 43874 (N.D. Ill. May 5, 2010) (granting summary judgment on TCPA claim).

38. Tim is a member of the National Association of Consumer Advocates and ISBA. He received his Juris Doctorate, *cum laude*, from Tulane University Law School in 2006.

39. In 2014, Michael Hilicki joined the firm. He has spent nearly all of his more-than 20-year legal career helping individuals subjected to unfair and deceptive business practices, and violations of their state and federal rights. He is experienced in a variety of areas including, but not limited to, the Fair Debt Collection Practices Act, Truth-in-Lending Act, Fair Credit Reporting Act, Real Estate Settlement Procedures Act, Illinois Consumer Fraud & Deceptive Business Practices Act, Telephone Consumer Protection Act, Fair Labor Standards Act, the Illinois Security Deposit Interest Act, Illinois Security Deposit Return Act, Chicago Residential Landlord Tenant Ordinance (RLTO), and the Illinois Wage & Hour Law. He is experienced in all aspects of litigation, including arbitrations, trials, and appeals. He was selected as an Illinois Super Lawyer for 2021 and 2022.

40. Examples of the numerous certified class actions in which Michael has represented consumers or workers include: *Guarisma v. Alpargas USA, Inc. d/b/a Havaianas*, 2020 CH 7426 (Cir. Ct. Cook Cty.); *Goel v. Stonebridge of Arlington Heights, et al.*, 2018 CH 11015 (Cir. Ct. Cook Cty.); *Muransky v. Godiva Chocolatier, Inc.*, No. 15-cv-60716-WPD (S.D. Fla.); *Guarisma v. Microsoft Corp.*, No. 15-cv-24326-CMA (S.D. Fla.); *Stahl v. RMK Mgmt. Corp.*, 2015 CH 13459 (Cir. Ct. Cook Cty.); *Altman v. White House Black Market, Inc.*, 15-cv-2451-SCJ (N.D. Ga.); *Legg v. Spirit Airlines, Inc.*, No. 14-cv-61978-CIV-JIC (S.D. Fla.); *Legg v. Laboratory Corporation of America, Holdings, Inc.*, No. 14-cv-61543-RLR (S.D. Fla.); *Joseph v. TrueBlue, Inc.*, 14-cv-5963-BHS (W.D. Wash.); *In Re Convergent Outsourcing, Inc. Telephone Consumer Protection Act Litigation*, Master Docket No. 3:13-cv-1866-AWT (D. Conn); *Tripp v. Berman &*

Rabin, P.A., 310 F.R.D. 499 (D. Kan. 2015); *Lanteri v. Credit Protection Ass'n, L.P.*, 2018 U.S. Dist. LEXIS 166345 (S.D. Ind. Sept. 26, 2018); *Eibert v. Jaburg & Wilk, P.C.*, 13-cv-301 (D. Minn.); *Kraskey v. Shapiro & Zielke, LLP*, 11-cv-3307 (D. Minn.); *Short v. Anastasi & Associates, P.A.*, 11-cv-1612 SRN/JSM (D. Minn.); *Kimball v. Frederick J. Hanna & Associates, P.C.*, 10-cv-130 MJD/JJG (D. Minn.); *Murphy v. Capital One Bank*, 08 C 801 (N.D. Ill.); *Nettles v. Allstate Ins. Co.*, 02 CH 14426 (Cir. Ct. Cook Cty.); *Sanders v. OSI Educ. Servs., Inc.*, 01 C 2081 (N.D. Ill.); *Kort v. Diversified Collection Servs., Inc.*, 01 C 0689 (N.D. Ill.); *Hamid v. Blatt Hasenmiller, et al.*, 00 C 4511 (N.D. Ill.); *Durkin v. Equifax Check Servs., Inc.*, 00 C 4832 (N.D. Ill.); *Torres v. Diversified Collection Services, et al.*, 99-cv-00535 (RL-APR) (N.D. Ind.); *Morris v. Trauner Cohen & Thomas*, 98 C 3428 (N.D. Ill.); *Mitchell v. Schumann*, 97 C 240 (N.D. Ill.); *Pandolfi, et al. v. Viking Office Prods., Inc.*, 97 CH 8875 (Cir. Ct. Cook Cty.); *Trull v. Microsoft Corp.*, 97 CH 3140 (Cir. Ct. Cook Cty.); *Deatherage v. Steven T. Rosso, P.A.*, 97 C 0024 (N.D. Ill.); *Young v. Meyer & Njus, P.A.*, 96 C 4809 (N.D. Ill.); *Newman v. Boehm, Pearlstein & Bright, Ltd.*, 96 C 3233 (N.D. Ill.); *Holman v. Red River Collections, Inc.*, 96 C 2302 (N.D. Ill.); *Farrell v. Frederick J. Hanna*, 96 C 2268 (N.D. Ill.); *Blum v. Fisher and Fisher*, 96 C 2194 (N.D. Ill.); *Riter v. Moss & Bloomberg, Ltd.*, 96 C 2001 (N.D. Ill.); *Clayton v. Cr Sciences Inc.*, 96 C 1401 (N.D. Ill.); *Thomas v. MAC/TCS Inc., Ltd.*, 96 C 1519 (N.D. Ill.); *Young v. Bowman, et al.*, 96 C 1767 (N.D. Ill.); *Depcik v. Mid-Continent Agencies, Inc.*, 96 C 8627 (N.D. Ill.); and *Dumetz v. Alkade, Inc.*, 96 C 4002 (N.D. Ill.).

41. Michael also has successfully argued a number of appeals, including *Muransky v. Godiva Chocolatier, Inc.*, 922 F.3d 1175 (11th Cir. 2019) (*vacated for rehearing en banc*); *Evans v. Portfolio Recovery Assocs., LLC*, 889 F.3d 337 (7th Cir. 2018); *Franklin v. Parking Rev. Recovery Servs.*, 832 F.3d 741 (7th Cir. 2016); *Smith v. Greystone Alliance, LLC*, 772 F.3d 448

(7th Cir. 2014); *Shula v. Lawent*, 359 F.3d 489 (7th Cir. 2004); and *Weizeorick v. ABN AMRO Mortg. Group, Inc.*, 337 F.3d 827 (7th Cir. 2003).

42. Michael has lectured on consumer law issues at Upper Iowa University, the Chicago Bar Association, and the National Consumer Law Center. He is a member of the Trial Bar of the United States District Court for the Northern District of Illinois, and he has represented consumers in state and federal courts around the country on a *pro hac vice* basis.

43. Michael's published work includes "*AND THE SURVEY SAYS...*" *When Is Evidence of Actual Consumer Confusion Required to Win a Case Under Section 1692g of the Fair Debt Collection Practices Act in the Seventh Circuit?*, 13 Loy. Consumer L. Rev. 224 (2001).

44. In March 2018, Theodore H. Kuyper joined the firm. Ted is currently a member in good standing of the Illinois State Bar, the United States District Court for the Northern District of Illinois, and the Seventh Circuit Court of Appeals, and has been admitted to practice *pro hac vice* in several additional United States District Courts.

45. Ted has diverse experience prosecuting and defending class action and other large-scale litigation in trial and appellate courts under a variety of substantive laws, including without limitation the Telephone Consumer Protection Act, the Racketeer Influenced & Corrupt Organizations Act (RICO), the Fair Credit Reporting Act, the Illinois Consumer Fraud & Deceptive Business Practices Act, and the Real Estate Settlement Procedures Act, as well as Illinois and other state statutory and common law.

46. Since joining the firm, Ted has represented consumers as counsel of record or otherwise in the following putative class actions: *Cranor v. Skyline Metrics, LLC*, No. 4:18-cv-00621-DGK (W.D. Mo.); *Cranor v. The Zack Group, Inc.*, No. 4:18-cv-00628-FJG (W.D. Mo.); *Cranor v. Classified Advertising Ventures, LLC, et al.*, No. 4:18-cv-00651-HFS (W.D. Mo.); *Morgan v. Orlando Health, Inc., et al.*, No. 6:17-cv-01972-CEM-GJK (M.D. Fla.); *Morgan v.*

Adventist Health System/Sunbelt, Inc., No. 6:18-cv-01342-PGB-DCI (M.D. Fla.); *Burke v. Credit One Bank, N.A., et al.*, No. 8:18-cv-00728-EAK-TGW (M.D. Fla.); *Motiwala v. Mark D. Guidubaldi & Associates, LLC*, No. 1:17-cv-02445 (N.D. Ill.); *Buja v. Novation Capital, LLC*, No. 9:15-cv-81002-KAM (S.D. Fla.); and *Detter v. Keybank, N.A.*, No. 1616-CV10036 (Circuit Ct. of Jackson County, Missouri).

47. Immediately prior to joining Keogh Law, Ted worked at a boutique Chicago law firm where he represented clients in a range of complex commercial and other litigation, including contract, tort, professional liability, premises and products liability, bad faith and class action. Previously, he was an associate at a nationally-renowned class action law firm, where he focused on complex commercial, consumer, class action and other large-scale, high-stakes litigation.

48. Ted earned his Juris Doctorate from Washington University School of Law in St. Louis in 2007. During law school, he worked as a Summer Extern for Magistrate Judge Morton Denlow (Ret.) of the United States District Court for the Northern District of Illinois, served as primary editor and executive board member of the Global Studies Law Review, and authored a student note that was published in 2007. Ted also earned a number of scholarships and other academic accolades, including the Honors Scholar Award (top 10% for academic year) and repeated appearances on the Dean's List.

49. Gregg Barbakoff joined the firm in October 2019. Gregg is a civil litigator who focuses his practice on consumer law, with extensive experience litigating individual and class claims arising under the Telephone Consumer Protection Act, Fair Debt Collection Practices Act, Truth-in-Lending Act, Fair Credit Reporting Act, Real Estate Settlement Procedures Act, Illinois Consumer Fraud and Deceptive Practices Act, Magnuson-Moss Warranty Act, and various consumer protection statutes.

50. Gregg graduated magna cum laude from the Chicago-Kent College of Law, where

he was elected to the Order of the Coif. While in law school, Gregg received the Class of 1976 Honors Scholarship, competed as a senior member of the Chicago-Kent Moot Court Team, and served as an editor for The Seventh Circuit Review, in which he was also published. Gregg earned his undergraduate degree from the University of Colorado at Boulder.

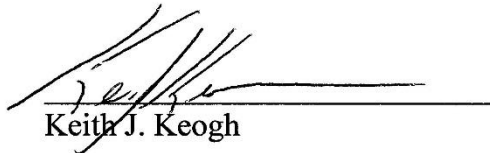
51. Gregg was selected as an Illinois Super Lawyer in 2022 and an Illinois Super Lawyer Rising Star from 2015 through 2021. In addition, Gregg was named an Associate Fellow by the Litigation Counsel of America. He is licensed to practice in the State of Illinois, the United States District Court for the Northern District of Illinois, and the United States Court of Appeals for the Seventh Circuit.

52. Prior to joining Keogh Law, Gregg worked at a mid-size litigation firm that specialized in consumer litigation, and leading plaintiff's firm that focused on commercial disputes and consumer class actions.

53. The following are representative class actions in which Gregg has served as counsel of record or otherwise: *Roberts v. TIAA, FSB* (Case No. 2019 CH 04089, Cook County, Ill.); *Corrigan v. Seterus* (Case No. 17-cv-02348); *Gentleman v. Mass. Higher Ed. Corp., et al* (Case No. 16-cv-3096, N.D. Ill.); *Cibula v. Seterus* (Case No. 2015CA010910, Palm Beach County, Fla.); *Ciolini v. Seterus* (Case No. 15-cv-09427, N.D. Ill.); *Mednick v. Precor Inc.* (Case No. 14-cv-03624, N.D. Ill.); *Illinois Nut & Candy Home of Fantasia Confections, LLC v. Grubhub, Inc., et al.* (Case No. 14-cv-00949, N.D. Ill.); *Dr. William P. Gress et al. v. Premier Healthcare Exchange West, Inc.* (Case No. 14-cv-501, N.D. Ill.); *Stephan Zouras LLP v. American Registry LLC* (Case No. 14-cv-943, N.D. Ill.); *Mullins v. Direct Digital* (Case No. 13-cv-01829, N.D. Ill.); *In Re Prescription Pads TCPA Litigation* (Case No. 13-cv-06897, N.D. Ill.); *Townsend v. Sterling* (Case No. 13-cv-3903, N.D. Ill.); *Windows Plus, Incorporated v. Door Control Services, Inc.* (Case No. 13-cv-07072, N.D. Ill.); *In re Energizer Sunscreen Litigation* (Case No. 13-cv-00131, N.D.

Ill.); *Padilla v. DISH Network LLC* (Case No. 12-cv-07350, N.D. Ill.); *Lloyd v. Employment Crossing* (Case No. BC491068 (Los Angeles County, Cal.); *In re Southwest Airlines Voucher Litigation* (Case No. 11-cv-8176, N.D. Ill.).

Executed at Chicago, Illinois, on January 27, 2022.



Keith J. Keogh

EXHIBIT B

SETTLEMENT AGREEMENT AND RELEASE

I. PREAMBLE

1. This Settlement Agreement is made and entered into as of the dates of Execution set forth below, by and among (1) Plaintiff Kayla Quarles, individually and on behalf of the Settlement Class, (2) Settlement Class Members, (3) Pret a Manger (USA) Limited (“Pret”).

II. DEFINITIONS

1. “**Action**” means the pending action styled *Kayla Quarles, individually and on behalf of all others similarly situated v. Pret a Manger (USA) Limited* in the United States District Court for the Northern District of Illinois, Case No. 2020-cv-07179.

2. “**Agreement**” means this Settlement Agreement and Release.

3. “**Attorneys’ Fees and Litigation Expenses**” means the attorneys’ fees and litigation expenses to be requested by Class Counsel subject to Court approval in accordance with this Agreement to be paid out of the “Settlement Funds.”

4. “**CAFA Notice**” refers to the notice requirements imposed by 28 U.S.C. § 1715(b).

5. “**Claimant**” means any Settlement Class Member who does not timely opt out of the Settlement.

6. “**Claims Administrator**” means American Legal Claim Services, LLC., subject to approval by the Court. The Claims Administrator shall be responsible for providing the class Notice as well as the services related to administration of the Settlement that are addressed and defined herein.

7. “**Class Counsel**” means Keith J. Keogh and Gregg M. Barbakoff of Keogh Law, Ltd.

8. “**Class List**” means the list of approximately 797 Settlement Class Members, which Defendant shall produce to Claims Administrator within seven (7) days of the entry of the Preliminary Approval Order, along with the Settlement Class Members’ full names, last known U.S. mailing address, and social security number in order to provide 1099s to the class members.

9. “**Class Period**” means the period from November 4, 2015 through the date of preliminary approval.

10. “**Court**” means the United States District Court for the Northern District of Illinois.

11. “**Defendant**” means Pret a Manger (USA) Limited.

12. “**Execution**” means the signing of this Agreement by all signatories hereto.

13. “**Final Approval Hearing**” means the hearing during which the Court considers the Parties’ request to enter the Final Approval Order granting final approval of the Settlement and to determine the amount of Attorneys’ Fees and Litigation Expenses awarded to Class Counsel and the amount of any Settlement Class Representative Incentive Payment.

14. “**Final Approval Order**” means the final judgment and order of dismissal approving the Settlement and dismissing the Action with prejudice, which the parties agree to propose in the form attached hereto as Exhibit 2. “Final Approval” occurs on the date that the Court enters the Final Approval Order.
15. “**Notice**” means the notices of proposed class action settlement that the Parties will ask the Court to approve in connection with the motion for Preliminary Approval of the Settlement, substantially in the form attached hereto as Exhibit 3.
16. “**Notice and Administration Costs**” means any and all costs associated with Claims administration and administering the Settlement by the Claims Administrator, including, but not limited to, mailing costs, printing costs, taxes and tax-related expenses incurred by or in connection with handling the Settlement Funds, all costs of providing notice to the Settlement Class, costs for creating the Notice, Website Notice, and any different or additional notice that might be ordered by the Court and any other costs associated with administering the Settlement. Class Counsel estimates that no more than \$10,000 should be necessary for the Notice and Administration Costs. Any additional costs, if any, will not be paid by Pret.
17. “**Notice Deadline**” means the date the Court sets for Notice to be provided to the Settlement Class in accordance with the Agreement. The Parties agree to propose that the Notice Deadline will be 14 days following the entry of the Preliminary Approval Order, unless extended by the Court.
18. “**Opt-Out Request**” means a request by a Settlement Class Member to exclude himself or herself from the Settlement Class using the procedures set forth in this Agreement.
19. “**Opt-Out/Objection Period**” means the period that begins the day after the earliest date on which the Notice is first sent, and ends 60 days after mailing of the Notices to putative class members, or such other date as the Court determines. The deadline for the Opt-Out Period and Objection Period will be specified in the Notice.
20. “**Parties**” means Kayla Quarles and Pret a Manger (USA) Limited.
21. “**Plaintiff**” means Kayla Quarles.
22. “**Preliminary Approval Order**” means the order certifying the Settlement Class and preliminarily approving the Settlement, which the parties agreed to propose in the form attached as Exhibit 4. “Preliminary Approval” occurs on the date the Court enters the Preliminary Approval Order.
23. “**Release**” means the release contained in this Agreement.
24. “**Released Claims**” means all claims to be released as set forth in the Release.
25. “**Released Parties**” means and refers to Pret A Manger (USA) Limited and 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, 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, insurers, re-insurers and individuals; vendors and any other entity or person affiliated with any of the entities or persons in this Paragraph, which Plaintiff or any Settlement Class Member claims, might claim, or could have claimed to be liable in any court or administrative proceeding.

26. **“Releasing Settlement Class Members”** means Plaintiff and all Settlement Class Members, other than those who submit timely and proper Out-Out Requests, and each of their respective executors, representatives, heirs, spouse, partners, predecessors, assigns, beneficiaries, successors, bankruptcy trustees, agents, attorneys, and all those who claim through them or on their behalf.

27. **“Settlement”** means the compromise and settlement of the Action as contemplated by this Agreement.

28. **“Settlement Award”** means a cash payment that may be available to eligible Settlement Class Members who do not timely opt-out of the Settlement.

29. **“Settlement Class”** means the individuals defined and identified as follows:

All individuals employed by Defendant Pret a Manger (USA) Limited and any other related entities in the State of Illinois who logged onto, interfaced with, or used any software, systems, or devices that used the individual’s finger, hand, or any biometric identifier of any type (“Biometric Systems”) in Illinois, including any employee of the above entities who has a claim under the Illinois Biometric Information Privacy Act, 740 ILCS 14/1, et seq., during the statutory period of November 4, 2015 through the date of preliminary approval.

The following are excluded from the Settlement Class: (1) the district and magistrate judges presiding over this case; (2) the judges of the Seventh Circuit; (3) the immediate families of the preceding person(s); (4) any Released Party; and (5) any Settlement Class Member who timely opts out of this Action.

30. **“Settlement Class Members”** means the Settlement Class Representative and all members of the Settlement Class, which is estimated to be 797 persons.

31. **“Settlement Class Representative”** means Kayla Quarles, who is the Plaintiff in the Action, and who is also the person who Class Counsel shall request to be appointed by the Court as Class Representative for purposes of the Settlement Class. Plaintiff is also a member of the Settlement Class.

32. **“Settlement Class Representative Incentive Payment”** means the additional amount Plaintiff may request she be paid as Class Representative under this Agreement.

33. **“Settlement Effective Date”** means the business day after the last of the following occurrences:

A. Expiration of the date to appeal entry of the Final Approval Order with no appeal or other judicial review having been taken or sought; or

B. If an appeal or other judicial review has been taken or sought on this Action, the latest of: (i) the date the Final Approval Order is finally affirmed by an appellate court with no possibility of subsequent appeal or other judicial review; or (ii) the date the appeal(s) or other judicial review therefrom are finally dismissed with no possibility of subsequent appeal or other judicial review; or (iii) if remanded to the District Court or to a lower appellate court following an appeal or other review, the date the Final Approval Order is entered by the District Court after remand and the time to appeal or seek other judicial review of the entry of that Final Approval Order has expired with no further appeal or other judicial review having been taken or sought. If further appeal is sought after a remand, the time periods in this Sub-Section shall apply.

34. “**Settlement Costs**” means all costs incurred by Plaintiff, Class Counsel, and the Claims Administrator in connection with the Action, including and limited to: (i) the Attorneys’ Fees and Litigation Expenses approved by the Court; (ii) any Settlement Class Representative Incentive Payment approved by the Court; (iii) Notice and Administration Costs; and (iv) the fees, expenses, and all other costs of the Claims Administrator.

35. “**Settlement Funds**” means the \$677,450.00 to be provided by Defendant pursuant to this Agreement, for purposes of paying the Settlement Awards and Settlement Costs, as the foregoing are defined herein; provided, however, if Pret’s records that seven hundred ninety-seven (797) employees in Illinois utilized the Biometric Systems at issue during the statutory period through the date of preliminary approval is in error, and the number of additional employees exceeds 2% or more of the 797 employees reflected in Pret’s records, or 16 or more additional employees, then the amount of the Settlement Funds shall increase by One Thousand Dollars (\$1,000) for each additional employee.

36. “**Settlement Website**” means the website created and managed by the Claims Administrator which will provide Settlement Class Members with access to the Notice, the online Claim Form, and other information regarding the Settlement. The parties agree that the following URL will be used: www.PAMIllinoisSettlement.com.

37. “**Website Notice**” means the long form notice provided pursuant to this Agreement, substantially in the form attached hereto as Exhibit 5. The Website Notice will be posted on the “Settlement Website.”

Capitalized terms used in this Agreement but not defined above shall have the meaning ascribed to them in this Agreement, including the attached exhibits.

III. RECITALS

1. Plaintiff filed the Action on behalf of herself and on behalf of the putative class alleging that Defendant violated the Illinois Biometric Information Privacy Act, 740 ILCS 14/1 et seq.

2. On December 14, 2020, the district court denied Defendant’s motion to stay this case pursuant to various pending appeals.

3. On April 26, 2021, the district court entered a memorandum opinion and order denying Defendant’s motion to dismiss.

4. After the exchange of discovery, the Parties participated in private mediation with the Honorable Morton Denlow of JAMS on August 23, 2021. After a full day mediation the Parties were able to reach a settlement in principle.

5. Plaintiff and Class Counsel believe this Action is meritorious. Class Counsel thoroughly investigated the case and diligently pursued Plaintiff's and the Settlement Class Members' claims against Defendant, including, but not limited to: (i) conducting written discovery; (ii) briefing the motion to stay; (iii) obtaining and analyzing relevant documents and class data; (iv) researching the applicable law and the potential defenses; and (v) briefing the motion to dismiss. Based on their full, independent investigation and evaluation, Class Counsel are of the opinion that the Settlement is fair, reasonable, adequate, and in the best interest of the Settlement Class Members in light of all known facts and circumstances, including the risk of significant delay, the defenses raised by Defendant, class certification risk, summary judgment risk, the risk associated with potential changes in the applicable law, trial risk and appellate risk.

6. Defendant denies any liability or wrongdoing of any kind associated with the claims alleged, and asserts their actions comply with all applicable provisions of federal and state law, that in any event they are not liable for any of the claims asserted. Defendant also continues to assert the Action fails to meet the prerequisites necessary for class action treatment under applicable law but, despite this belief, they will not oppose certification of the Settlement Class contemplated by this Agreement solely for purposes of effectuating this Settlement. Other than for purposes of this Settlement, Defendant do not waive their objections to certification of the Settlement Class.

7. The parties contemplate that entry of the Final Approval Order shall dismiss with prejudice Plaintiff's and the Settlement Class Members claims against Defendant and the Released Parties, with the exception of claims of Settlement Class Members who properly exclude themselves from the Settlement, if any, in accordance with the Opt-Out Process described in Section IX of this Agreement. Defendant shall retain any existing defenses to such excluded claims. The Parties agree to cooperate in good faith and take all steps reasonable and appropriate to obtain preliminary and final approval of this Settlement, and to effectuate its terms.

8. Each of these Recitals is incorporated into this Agreement as if fully set forth herein.

IV. CERTIFICATION OF THE SETTLEMENT CLASS

1. The Settlement contemplates Plaintiff will move for an order granting certification of the Settlement Class. The Parties agree certification of the Settlement Class is conditional and for settlement purposes only. This Settlement further contemplates, and all counsel, Parties and Released Parties agree that none of the Released Parties are admitting that class certification is appropriate, or that any violation of any state, federal or local statute or common law occurred, or that any damages were suffered by Plaintiff or any putative class member. The Released Parties retain their rights to object to certification of this Action, or any other class action, should the Settlement ultimately not receive final approval.

2. If the Court does not grant final approval of the Settlement, or if final approval is granted but ultimately reversed on appeal, or if the Settlement Effective Date does not occur, the certification of the Settlement Class for settlement purposes shall be deemed null and void, and

each Party, and Released Party, shall retain all of their respective rights as they existed prior to Execution of this Agreement, and neither this Settlement Agreement, nor any of its accompanying exhibits or any orders entered by the Court in connection with this Settlement Agreement, may be admissible or used for any purpose in this Action, or any other action against any of the Released Parties. Certification of the Settlement Class for settlement purposes is in no way an admission by the Released Parties that class certification is proper.

V. SETTLEMENT CLASS

1. All individuals employed by Defendant Pret a Manger (USA) Limited and any other related entities in the State of Illinois who logged onto, interfaced with, or used any software, systems, or devices that used the individual's finger, hand, or any biometric identifier of any type ("Biometric Systems") in Illinois, including any employee of the above entities who has a claim under the Illinois Biometric Information Privacy Act, 740 ILCS 14/1, et seq., during the statutory period of November 4, 2015 through the date of preliminary approval.

The following are excluded from the Settlement Class: (1) the district and magistrate judges presiding over this case; (2) the judges of the Seventh Circuit; (3) the immediate families of the preceding person(s); (4) any Released Party; and (5) any Settlement Class Member who timely opts out of this Action.

TERMS OF SETTLEMENT

1. **Settlement Funds.** Subject to the other terms and conditions of this Agreement, and subject to Court approval, within fourteen (14) days of the entry of a Final Approval Order and receipt of Claims Administrator instructions and a Form W-9 for the Claims Administrator, Defendant agrees to pay the balance of the Settlement Funds of SIX HUNDRED SEVENTY SEVEN THOUSAND FOUR HUNDRED AND FIFTY DOLLARS (\$677,450.00) to settle the Action with the Plaintiff Kayla Quarles and the other Settlement Class Members pursuant to this Agreement. These Settlement Funds will be used to pay the Settlement Awards and Settlement Costs, as described in this Agreement. Settlement Class Members will be eligible for a cash payment (the Settlement Award), the amount of which depends upon the total amount of the Settlement Costs. The \$10,000 paid after Preliminary Approval for Notice and Administration Costs will be credited against the Settlement Funds such that the Settlement Funds represent the total extent of Defendants' and the Released Parties' monetary obligations under the Settlement. In no event will Defendant's and the other Released Parties' payment obligations exceed the \$677,450.00 payment comprising the Settlement Funds. The Settlement Funds will be used to satisfy all claims of Plaintiff and the Settlement Class Members in exchange for the comprehensive release and the covenants set forth in this Agreement, including, without limitation, a full, fair, and complete release of all Released Parties from Released Claims, and dismissal of the Action with prejudice.

2. **Notice and Administration Costs.** Notice and Administration Costs shall be paid from the Settlement Funds, and from no other source. The Parties shall be jointly responsible for supervising the Claims Administrator.

3. **Attorneys' Fees and Litigation Expenses.** Attorneys' Fees and Litigation Expenses approved by the Court shall be paid from the Settlement Funds, and from no other source. Class Counsel shall apply to the Court for an award of reasonable Attorneys' Fees and Litigation Expenses. The Claims Administrator shall pay to Class Counsel the amount of the Attorneys' Fees and Litigation Expenses awarded by the Court, as directed by Class Counsel. In the event the Court does not approve the award of Attorneys' Fees and Litigation Expenses requested by Class Counsel, or the Court awards Attorneys' Fees and Litigation Expenses in an amount less than that requested by Class Counsel, such decision shall not affect the validity and enforceability of the Settlement. Plaintiff and Class Counsel retain their right to appeal any decision by the Court regarding the award of Attorneys' Fees and Litigation Expenses.

4. **Settlement Class Representative Incentive Payment.** Any Settlement Class Representative Incentive Payment shall be paid from the Settlement Funds, and from no other source. Plaintiff may apply to the Court for a Settlement Class Representative Incentive Payment for the Settlement Class Representative (in addition to any *pro rata* distribution she may receive under this Agreement). The Claims Administrator shall pay Plaintiff, c/o Class Counsel, the amount of incentive payment awarded by the Court. The denial by the Court of any such application shall not affect the validity and enforceability of the Settlement. Plaintiff retains his right to appeal any decision by the Court regarding the application.

5. **Settlement Award to Settlement Class Members.** The Claims Administrator will manage the notice process in cooperation with Class Counsel and Defendant, and in accordance with this Agreement. All Settlement Class Members who do not opt-out shall be paid by check a *pro rata* share of the Settlement Funds after Settlement Costs are deducted.

VI. NOTICE TO THE CLASS

1. Within seven (7) days of the Court's entry of the Preliminary Approval Order, Defendant shall produce the Class List to Claims Administrator.

2. The Claims Administrator shall implement the notice program, as set forth in this Section and directed by the Court. The Claims Administrator shall, by the Notice Deadline, provide:

A. **Notice.** The Class Administrator shall provide direct notice via U.S. First Class Mail to each Settlement Class Member. Notice shall be by way of a postcard and shall contain a claim ID and shall direct recipients to the Settlement Website. Prior to mailing the Notice, the Claims Administrator shall search for updated addresses via the USPS national change of address database. The Claims Administrator shall re-mail once any Notice returned as undeliverable and for which an alternative address can be located, and undertake reasonable means to locate alternative addresses for returned notices.

B. **Website Notice.** The Claims Administrator will establish and maintain a Settlement Website dedicated to the Settlement, on which will be posted the Website Notice, a copy of this Agreement, the Preliminary Approval Motion and Order, the operative Complaint, and the Motion for an award of Attorneys' Fees and Expenses. This document shall be available on the Settlement Website promptly following entry of the Preliminary Approval Order and remain until after the stale date of the Settlement Awards. The Settlement

Website shall allow Settlement Class Members to update their contact information. The Claims Administrator shall secure the URL www.PAMillinoisSettlement.com for the Settlement Website, or, if unavailable, shall secure another URL mutually agreed upon by the Parties or determined by the Court.

VII. CAFA NOTICE

1. Pursuant to 28 U.S.C. §1715(b), Defendant shall provide CAFA Notice to the appropriate governmental authorities no later than the end of the ten (10) day period provided by CAFA. Unless otherwise ordered, this Settlement shall be deemed "filed" pursuant to 28 U.S.C. §1715(b) upon entry of the Preliminary Approval Order.

VIII. OPT-OUT PROCESS

1. A Settlement Class Member who wishes to exclude himself or herself from this Settlement, and from the Release pursuant to this Settlement, shall submit a written Opt-Out Request to the Claims Administrator at the address designated in the Notice no later than the Opt-Out/Objection deadline. Opt-Out Requests must: (i) be timely submitted by the Opt-Out/Objection deadline; (ii) be signed by the person in the Settlement Class who is requesting to be excluded from the Settlement Class; (iii) include the name and address of the person in the Settlement Class requesting exclusion; and (iv) include a statement or words to the effect of the following: "I request to be excluded from the settlement in the Quarles v Pret A Manger action, and understand that by doing so I will not be entitled to receive any of the benefits from the settlement." No person in the Settlement Class, or any person acting on behalf of or in concert or participation with that person in the Settlement Class, may exclude any other person in the Settlement Class from the Settlement Class.

2. The Claims Administrator shall maintain a list of persons who have submitted Opt-Out Requests and shall provide such list to the Parties upon written request.

IX. OBJECTION PROCESS

1. A Settlement Class Member who wishes to object to any matter concerning the Settlement must notify the Court and the parties' counsel of his or her objection, in writing, on or before the Opt-Out/Objection deadline, or other deadline set by the Court.

2. To state a valid objection to the Settlement, an objecting Settlement Class Member must personally sign the objection and provide the following information with it: (i) full name, current address, and current telephone number; (ii) documentation sufficient to establish membership in the Settlement Class; (iii) a statement of reasons for the objection, including the factual and legal grounds for the objector's position; and (iv) copies of any other documents the objecting Settlement Class Member wishes to submit in support of his/her/its position.

3. Subject to approval of the Court, an objecting Settlement Class Member may, but does not need to, appear in person or by counsel at the Final Approval Hearing. To do so, the objecting Settlement Class Member must file with the Court, and serve on all counsel designated in the Notice, a notice of intention to appear by the Opt-Out/Objection deadline, or other deadline set by the Court. The notice of intention to appear must include copies of any papers, exhibits, or other

evidence that the objecting Settlement Class Member (or his/her/its counsel) will present to the Court in connection with the Final Approval Hearing. Unless otherwise ordered by the Court, any Settlement Class Member who does not timely provide a notice of intention to appear in conformance with the requirements set out in the Notice and Website Notice, and who has not timely filed an objection in accordance with the requirements set out in the Notice and Website Notice, will be deemed to have waived any objection to the Settlement and can be barred from presenting any views at the Final Approval Hearing.

X. DISTRIBUTION PROCESS

1. The timing of Defendant's payment of the Settlement Funds is:

A. Within 14 days after the Court enters the Preliminary Approval Order, Defendant shall transfer \$10,000 for the Notice and Administration Costs to the Claims Administrator, which amount will be created against the Settlement Fund. In the event that the Settlement Effective Date does not occur, any amounts actually used by the Claims Administrator for notice and administration shall not be refundable to Defendant. If, however, Defendant has paid monies for Notice and Administration Costs which have not been used by the Claims Administrator, those amounts not used by the Claims Administrator shall be refunded to Defendant.

B. Within 14 days after the Settlement Effective Date, Defendant shall pay the remainder of the Settlement Funds to the Claims Administrator. Class Counsel shall instruct the Claims Administrator as to whom the Attorneys' Fees and Litigation Expenses and any Settlement Class Representative Incentive Payment should be distributed. Defendant shall not, under any circumstances or for any reason, be obligated to pay any amounts in addition to the Settlement Funds in connection with the Settlement.

2. **Settlement Award Payments.** Settlement Awards shall be paid by check. Within thirty (30) days after the Settlement Effective Date, the Claims Administrator shall send the Settlement Award along with an applicable 1099 to each eligible Settlement Class Member. The Claims Administrator shall undertake reasonable means to locate current addresses for all returned checks. Checks will be valid for ninety (90) days from the date on the check. The amounts of any checks that remain uncashed more than ninety (90) days after the date on the check will be included as part of a Subsequent Distribution (as defined below).

3. **Subsequent Distribution.** If, after the expiration date of the checks distributed pursuant to Section XI.2 above, there remains money in the Settlement Fund sufficient to pay at least \$5.00 to each Settlement Class Member who cashed their initial Settlement Award check, that remaining money will be distributed on a *pro rata* basis to those Settlement Class Members who cashed their initial Settlement Award checks (the "Subsequent Distribution"). The Subsequent Distribution shall be made within ninety (90) days after the expiration date of the checks distributed pursuant to Section XI.2 above, and shall be paid in the same manner as the original Settlement Award. Checks issued pursuant to the Subsequent Distribution will be valid for sixty (60) days from the date on the check. If there is not enough money to pay at least \$5.00 to each Settlement Class Member who cashed their initial Settlement Award check, or if any checks from the subsequent

distribution remain uncashed after the stale date, those funds shall be distributed to the following cy pres: the Electronic Privacy Information Center, subject to court approval.

XI. RELEASE

1. Subject to the Court's final approval of the Settlement, and for good and valuable consideration set forth herein, the receipt and sufficiency of which is hereby acknowledged, all Settlement Class Members who do not timely opt-out of the Settlement Agreement, 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 use, collection, capture, receipt, maintenance, storage, transmission, or disclosure of biometric identifiers that Settlement Class Members claim, might claim, or could have claimed in any court or administrative proceeding. 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 and interest, restitution, or equitable relief to the extent permitted by applicable law for all periods up to and including the date of Final Approval (the "Released Claims").

Also subject to the Court's final approval of the Settlement, and for good and valuable consideration set forth herein, the receipt and sufficiency of which is hereby acknowledged, Plaintiff Kayla Quarles releases and discharges each and every Released Party from the Released Claims described above as well as from any and all claims, rights, demands, liabilities, and/or causes of action of every nature and description, whether known or unknown, including but not limited to Title VII of the Civil Rights Act of 1964, as amended; Sections 1981 through 1988 of Title 42 of the United States Code, as amended; The Genetic Information Nondiscrimination Act of 2008 (GINA); The Employee Retirement Income Security Act of 1974 ("ERISA") (except for any vested benefits under any tax qualified benefit plan); The Civil Rights Act of 1991; The Immigration Reform and Control Act; The Americans with Disabilities Act of 1990 and amendments thereto; The Family and Medical Leave Act; The Equal Pay Act; The Fair Labor Standards Act, Illinois Minimum Wage Law, Illinois Wage Payment and Collection Act, and all state or local wage laws or any allegation for costs, fees, interest, or other expenses including attorneys' fees incurred in any matter; or any and all claims for bonuses, commissions or any claims for incentive compensation of any type, whether under common law or policy or contract, and any other federal, state or local human rights, civil rights, wage-hour, pension or labor laws, rules and/or regulations, public policy, any and all claims that were asserted or that could have been asserted in the Action, any claim for breach of contract or tort laws, or any claim arising under statute or under common law, such as claims for malicious prosecution, misrepresentation, defamation, false imprisonment, libel, slander, invasion of privacy, negligence, claims based on theories of strict liability or *respondeat superior*, infliction of emotional distress, or otherwise, or any other action or grievance against the Released Parties based upon any conduct occurring up to and including the date of the Court's Final Approval Order. Plaintiff Quarles irrevocably waives any right to monetary recovery from the Released Parties, whether sought directly by her or in the event any administrative agency or other public authority, individual, or group of individuals should pursue any claim on their behalf.

Notwithstanding any other provision of this Settlement Agreement, this release does not (i) waive or release any claim for breach or enforcement of this Settlement Agreement; (ii) waive or release any right or claim that may not be waived or released by applicable law; or (iii) prevent Plaintiff Quarles from pursuing any administrative claim for unemployment compensation or workers' compensation benefits. Nothing in this Settlement Agreement precludes Plaintiff Quarles from (i) reporting to, responding to an inquiry from, filing a charge or complaint with, communicating with or providing information to, contacting, or cooperating with an investigation conducted by, the Equal Employment Opportunity Commission, the Department of Labor, the National Labor Relations Board, the Occupational Safety and Health Administration, the Securities and Exchange Commission, or any other federal, state, or local governmental agency, commission, or regulatory body, but Plaintiff Quarles hereby waives any right to monetary compensation from the Released Parties for such actions of filings; (ii) providing information about this Settlement Agreement to her spouse, attorney, accountant, tax advisor (if any) and applicable state and federal taxing authorities; (iii) making disclosures or giving truthful testimony as required by law or valid legal process (such as by a subpoena or administrative order); or (iv) engaging in any concerted or other legally-protected activities.

2. Releasing Settlement Class Members understand and agree that the release of the Released Claims is a full and final release. Releasing Settlement Class Members acknowledge the facts could be different than they now know or suspect to be the case, but they are nonetheless releasing all Released Claims.

3. Subject to the Court's final approval of the Settlement, and for good and valuable consideration set forth herein, the receipt and sufficiency of which is hereby acknowledged, as discussed above, Plaintiff releases and discharges 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 arising for all periods through the date of the Court's Final Approval Order.

4. The Parties acknowledge that this Settlement, including the releases provided in this Section, reflects a compromise of disputed claims.

5. The Final Approval Order shall dismiss the Action with prejudice and shall incorporate the terms of this release.

6. Final Approval of this Settlement Agreement will settle and resolve with finality on behalf of the Plaintiffs and the other Settlement Class Members, the Action and the Released Claims against the Released Parties by the Plaintiff and the other Settlement Class Members in the Action. As of the Settlement Effective Date, the Settlement 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 Plaintiffs and all other Settlement Class Members who did not validly and timely exclude themselves from the Settlement, and their respective predecessors, successors, affiliates, spouses, heirs, executors, administrators, agents and assigns of each of the foregoing, as set forth in the Settlement Agreement, and the Released Parties may file the Settlement Agreement and/or 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.

XII. DUTIES OF THE PARTIES WITH RESPECT TO OBTAINING PRELIMINARY APPROVAL

1. Class Counsel shall apply to the Court for the entry of an order requesting the following relief:
 - A. Preliminarily approving the Settlement;
 - B. Conditionally certifying the Settlement Class for settlement purposes in accordance with applicable legal standards and this Agreement;
 - C. Approving the form and content the proposed Notice, and plan for its distribution;
 - D. Scheduling a fairness hearing on the question of whether the proposed Settlement should be finally approved as fair, reasonable, and adequate;
 - E. Formally appointing Class Counsel as class counsel;
 - F. Approving Plaintiff as Settlement Class Representative;
 - G. Approving the Claims Administrator; and
 - I. Setting the Notice Deadline, Objection Deadline, and Opt Out Period.

XIII. DUTIES OF PARTIES FOLLOWING PRELIMINARY COURT APPROVAL

1. Following Preliminary Approval of the Settlement, and no later than the filing of the motion for final approval, Class Counsel will submit a proposed Final Approval Order in substantially the form attached hereto as Exhibit 2, except as otherwise required by the Court.

XIV. MUTUAL FULL COOPERATION

1. The Parties agree to cooperate fully with each other to accomplish the terms of this Settlement, including but not limited to execution of all necessary documents, and to take such other action as may be needed to implement the terms of this Settlement. The Parties shall use their best efforts, including all efforts contemplated by this Settlement and any other efforts that may become necessary by order of the Court or otherwise, to effectuate the terms of this Settlement. As soon as practicable after Execution of this Settlement, Class Counsel shall, with the reasonable assistance and cooperation of Defendant and its counsel, take all reasonable and necessary steps to secure the Court's Final Approval Order.

XV. CONDITIONS FOR TERMINATING THE AGREEMENT

1. In the event that this Settlement is not approved, or if for any reason the Settlement Effective Date does not occur, the Settlement Agreement shall be deemed null, void, and unenforceable and shall not be used nor shall it be admissible in any subsequent proceedings either

in this Court or in any other judicial, arbitral, administrative, investigative, or other court, tribunal, forum, or other proceeding, and the Parties shall return to their respective positions prior to the Court's consideration of this Settlement. However, the parties may agree to seek approval of an amended version of the Settlement.

2. In the event that the Court does not approve the Attorneys' Fees and Litigation Expenses in the amount requested by Class Counsel, or in the event that the Attorneys' Fees and Litigation Expenses requested by Class Counsel is reduced, that finding shall not be a basis for rendering the entire Settlement Agreement null, void, or unenforceable. Class Counsel retains their right to appeal any decision by the Court regarding the Attorneys' Fees and Litigation Expenses.

3. In the event that more than 5% of the persons in the Settlement Class validly and timely submit Opt-Out Requests, Defendant, in their sole and absolute discretion, may terminate this Agreement.

XVI. SIGNATORIES' AUTHORITY

1. The respective signatories to this Agreement each represent that they are fully authorized to enter into this Settlement on behalf of the respective Parties for submission to the Court for preliminary and final approval.

XVII. NO PRIOR ASSIGNMENTS

1. The Parties represent, covenant, and warrant that they have not directly or indirectly, assigned, transferred, encumbered, or purported to assign, transfer, or encumber to any person or entity any portion of any liability, claim, demand, action, cause of action, or right released and discharged in this Settlement.

XVIII. NOTICES

1. Unless otherwise specifically provided herein, all notices, demands, or other communications given hereunder shall be in writing and shall be deemed to have been duly given: (i) on the date given, if given by hand delivery; (ii) within one (1) business day, if sent by overnight delivery services such as Federal Express or similar courier; (iii) on the third business day after mailing by United States registered or certified mail, return receipt requested, or (iv) on the day received for delivery by e-mail. All notices given under this Agreement shall be addressed as follows:

A. To the Class:

Keith J. Keogh
Greg M. Barbakoff
Keogh Law, LTD.
55 W. Monroe St., Ste. 3390
Chicago, IL 60603
keith@keoghlaw.com
gbarbakoff@keoghlaw.com

B. To Defendant


Jaime L. Filipovic
Matthew E. Szwajkowski
O'HAGAN MEYER LLC
One East Wacker Dr., Suite 3400
jfilipovic@ohaganmeyer.com
mszwajkowski@ohaganmeyer.com

XIX. MISCELLANEOUS PROVISIONS

1. **Construction.** The Parties agree that the terms and conditions of this Settlement are the result of lengthy, intensive arms-length negotiations between the Parties and that this agreement shall not be construed in favor of or against any party by reason of the extent to which any party or his or its counsel participated in the drafting it.
2. **Captions and Interpretations.** Paragraph titles or captions contained in this Agreement are a matter of convenience and for reference, and in no way define, limit, extend, or describe the scope of this Settlement or any provision of this Agreement. Each term of this Agreement is contractual and not merely a recital.
3. **Modification.** This Agreement may not be changed, altered, or modified, except in a writing signed by the Parties. Any such modification is subject to Court approval.
4. **Integration Clause.** This Agreement, the exhibits hereto, and any other documents delivered pursuant hereto contain the entire agreement between the Parties relating to the resolution of the Action, and all prior or contemporaneous agreements, understandings, representations, and statements, whether oral or written and whether by a Party or such Party's legal counsel, are merged in this Agreement. No rights under this Settlement may be waived except in writing and signed by the Party against whom such waiver is to be enforced.
5. **Binding on Assigns.** This Settlement shall be binding upon, and inure to the benefit of, the Parties and their respective heirs, trustees, executors, administrators, successors, and assigns.
6. **Counterparts.** This Agreement may be executed by facsimile signature and in any number of counterparts, and when each party has signed and delivered at least one such counterpart, each counterpart shall be deemed an original, and, when taken together with other signed counterparts, shall constitute one and the same Agreement, which shall be binding upon and effective as to all Parties.
7. **Disagreements.** The Parties agree the Court shall resolve any disagreements over the meaning or implementation of this Agreement or the Settlement.
8. **Applicable Law.** This Agreement shall be governed by Illinois law without regard to its choice of law or conflicts of law principles or provisions.

REMAINDER OF THIS PAGE LEFT INTENTIONALLY BLANK


ACCEPTED AND AGREED:



Kayla Quarles (Jan 11, 2022 14:13 CST)
Kayla Quarles

Jan 11, 2022
Date

APPROVED AS TO FORM:



Counsel for Plaintiff and the Class
Keith J. Keogh
KEOGH LAW, LTD.

Jan 12, 2022
Date

ACCEPTED AND AGREED:

Pret a Manger (USA) Limited
By: Andrea Wareham
Title: Chief People Officer

Date

APPROVED AS TO FORM:

Counsel for Defendant
Jaime L. Filipovic
O'HAGAN MEYER LLC

Date

Signature: *Jamie Filipovic*
Jamie Filipovic (Jan 27, 2022 15:56 CST)

Email: jfilipovic@ohaganmeyer.com

ACCEPTED AND AGREED:

Pret a Manger (USA) Limited
By: Andrea Wareham
Title: Chief People Officer

Date

APPROVED AS TO FORM:

Counsel for Defendant
Jaime L. Filipovic
O'HAGAN MEYER LLC

Date

Signature: Andrea Wareham
Andrea Wareham (Jan 12, 2022 15:48 GMT)

Email: andrea.wareham@pret.com

EXHIBIT 2

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

KAYLA QUARLES, individually and on)	
behalf of all others similarly situated,)	
)	Case No. 20-cv-7179
Plaintiffs,)	
v.)	Hon. Manish S. Shah
)	Presiding Judge
PRET A MANGER (USA) LIMITED,)	
)	
Defendant.)	

**[PROPOSED] ORDER GRANTING
FINAL APPROVAL OF CLASS ACTION SETTLEMENT**

The Court having held a final approval hearing on _____, 2022, notice of the hearing and the Settlement having been duly given in accordance with this Court’s order (1) preliminarily approving Settlement, (2) certifying the Settlement Class, (3) approving notice plan and (4) setting the final approval hearing, and having considered all matters submitted at the final approval hearing and otherwise, and finding no just reason for delay in entry of this final order

It is hereby ORDERED, ADJUDGED AND DECREED as follows:

1. The Settlement Agreement dated _____, 202_, including its Exhibits (the “Agreement”), and the definition of words and terms contained therein, are incorporated by reference and are used hereafter. The terms and definitions of this Court’s Preliminary Approval Order (ECF No.____) are also incorporated by reference into this Final Approval Order.

2. This Court has subject matter jurisdiction pursuant to the Class Action Fairness Act, 28 U.S.C. § 1332(d)(2), and personal jurisdiction over Defendant Pret a Manger (USA) Limited (“Pret”) and the Settlement Class Members, certified in the Court’s preliminary approval order, who did not timely request exclusion.

3. The Court hereby finds that the Agreement is the product of arm's length settlement negotiations between Plaintiff and Pret, supervised by a well-qualified JAMS mediator, the Honorable Morton Denlow.

4. The Court hereby finds Notice of the Settlement was disseminated to persons in the Settlement Class in accordance with the Court's preliminary approval order, was the best notice practicable under the circumstances, and that the Notice satisfied Federal Rule 23 and due process.

5. [There were no objections to the Agreement] [*or*] [For the reasons stated on the record, as well as the reasons set forth in Plaintiff's and Pret's submissions, the Court overrules all objections to the Agreement.]

6. The Court hereby finally approves the Agreement, finding it fair, reasonable and adequate as to all members of the Settlement Class in accordance with Federal Rule 23.

7. The Court hereby finally certifies the Settlement Class for settlement purposes. The Court finds for settlement purposes that the Settlement Class satisfies all the requirements of Federal Rule 23.

8. The Court hereby approves the plan of distribution for the Settlement Fund as set forth in the Agreement. The Claims Administrator is hereby ordered to comply with the terms of the Agreement with respect to satisfaction of claims, and any remaining funds.

9. As of the Effective Date, the Plaintiff and every Settlement Class Member hereby releases all Released Parties from the Released Claims, as stated in the Agreement.

10. This Final Approval Order will settle and resolve with finality on behalf of the Plaintiffs and the Settlement Class, the Action and the Released Claims against the Released Parties by the Plaintiff and the other Settlement Class Members in the Action. As of the Effective Date, 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 Plaintiffs and all other Settlement Class Members who do not validly and timely exclude themselves from the Settlement, and their respective predecessors, successors, affiliates, 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.

11. Class Counsel has moved, pursuant to FED. R. CIV. P. 23(h) and 52(a), for an award of attorneys' fees and reimbursement of expenses. Pursuant to Federal Rules 23(h)(3) and 52(a) this Court makes the following findings of fact and conclusions of law:

(a) The Settlement confers substantial benefits on the members of the Settlement Class;

(b) The value conferred on the Settlement Class is immediate and readily quantifiable, in that members of the Settlement Class will receive cash payments that represent a significant portion of the damages available to them were they to prevail in an individual action under the Biometric Information Privacy Act, 740 ILCS 14/1, *et seq.* ("BIPA");

(c) Class Counsel vigorously and effectively pursued the Settlement Class Members' claims before this Court in this complex case;

(d) The Settlement was obtained as a direct result of Class Counsel's advocacy;

(e) The Settlement was reached following extensive negotiations between Class Counsel and Counsel for Pret, supervised by a well-qualified JAMS mediator, and was negotiated in good-faith and without collusion;

(f) Members of the Settlement Class were advised in the Notice approved by the Court that Class Counsel intended to apply for an award of attorneys' fees equal to a third of the Settlement Funds in the amount of \$ _____, plus expenses, to be paid from the Settlement Funds;

(g) A copy of Plaintiff's motion for an award of attorneys' fees and expenses and any incentive award was made available for inspection in the Court's file and on the settlement website during the period class members had to submit any objections;

(h) _____ member(s) of the Settlement Class submitted written objection(s) to the award of attorneys' fees and expenses; and

(i) Counsel who recover a common fund for the benefit for persons other than themselves for their client are entitled to a reasonable attorneys' fee from the fund as a whole. *See, e.g., Boeing Co. v. Van Gemert*, 444 U.S. 472, 478 (1980); *Sutton v. Bernard*, 504 F.3d 688, 691 (7th Cir. 2007) ("the attorneys for the class petition the court for compensation from the settlement or common fund created for the class's benefit"); and accordingly, Class Counsel are hereby awarded \$ _____ for attorney fees and \$ _____ for reimbursed expenses from the balance of the Settlement Fund, which the Court finds to be fair and reasonable, and which amount shall be paid to Class Counsel from the Settlement Fund in accordance with the terms of the Agreement.

12. The Class Representative, Kayla Quarles, is hereby compensated in the amount of \$ _____ for her efforts in this case. *See, e.g., See Cook v. Niedert*, 142 F.3d 1004, 1016 (7th Cir. 1998) (recognizing that “because a named plaintiff is an essential ingredient of any class action, an incentive award is appropriate if it is necessary to induce an individual to participate in the suit”); *In re Synthroid Mkt. Litig. (“Synthroid P”)*, 264 F.3d 722, (7th Cir. 2001) (“Incentive awards are justified when necessary to induce individuals to become named representatives.”); *see also Leung v. XPO Logistics, Inc.*, 326 F.R.D. 185, 205 (N.D. Ill. 2018) (awarding \$10,000 incentive award to named plaintiff); *Briggs v. PNC Financial Services Group*, No. 1:15-cv-10447, 2016 U.S. Dist. LEXIS 165560, at *5 (N.D. Ill. Nov. 29, 2016) (\$12,500 incentive award for each named plaintiff); *Castillo v. Noodles & Co.*, No. 16-cv-03036, 2016 U.S. Dist. LEXIS 178977, at *8 (N.D. Ill. Dec. 23, 2016) (authorizing \$10,000 incentive award for each named plaintiff).

13. This Court hereby dismisses this case with prejudice, except the Court retains jurisdiction to supervise the administration of the Settlement, enforce the Agreement, and resolve any disputes relating to the same.

**IT IS SO ORDERED,
ADJUDGED AND DECREED.**

Dated: _____

Honorable Manish S. Shah

EXHIBIT 3

NOTICE OF CLASS ACTION LAWSUIT AND PROPOSED SETTLEMENT
THE COURT AUTHORIZED THIS NOTICE. THIS IS NOT A SOLICITATION FROM A LAWYER.

Quarles v. Pret a Manger (USA) Limited
USDC, Northern District of Illinois, Eastern Division Case No. 2020-cv-07179.

YOU MAY BE ENTITLED TO RECEIVE MONETARY COMPENSATION.

What is this?	This is notice of a Proposed Settlement in a class action lawsuit.
What is this lawsuit about?	The Settlement would resolve a lawsuit brought on behalf of a putative class of individuals, alleging Pret a Manger (USA) Limited (“Pret”) violated the Illinois Biometric Information Privacy Act (“BIPA”), 740 ILCS 14/1, <i>et seq.</i> , by failing to: (1) obtain its employees’ informed written consent before collecting, capturing, or otherwise obtaining their biometric data in connection with Pret’s timekeeping system; and (2) implement and adhere to a written policy for permanently destroying Pret’s employees’ biometric data. Pret denies these allegations and any wrongdoing. The Court has not ruled on the merits of Plaintiff’s claims or Pret’s defenses.
Why am I getting this notice?	You were identified as someone who may have had their biometric data collected, captured, or otherwise obtained by Pret.
What does the Settlement provide?	Pret agreed to pay up to \$677,450.00 in Settlement Funds, which will pay for the cost of notice and administration of the settlement, Settlement Class members’ claims, attorneys’ fees and expenses incurred by counsel for Plaintiff and the Settlement Class (“Class

	Counsel”), and any service award for Plaintiff Kayla Quarles permitted by law. Class Counsel estimates that Settlement Class members will receive a cash award of between \$ _____ to \$ _____. Plaintiff will petition for a service award not to exceed \$ _____ for Plaintiff Quarles’s work in representing the Class and Class Counsel’s fees up to one third of the settlement fund, not to exceed \$ _____, plus reasonable expenses.
How can I receive a payment from the Settlement?	There is nothing you need to do to obtain a payment from the Settlement. Your portion of the settlement funds will be sent to your last known address, along with a 1099 form.
Do I have to be included in the Settlement?	If you do not want monetary compensation from this Settlement and you want to keep the right to sue, or continue to sue Pret on your own, then you must exclude yourself from the Settlement by sending a letter to the address below requesting exclusion to the Settlement Administrator by _____, 2022. The letter must contain the specific information set forth on the Settlement Website “Opt-Out Process.”
If I don’t like something about the Settlement, how do I tell the Court?	If you do not exclude yourself from the Settlement, you can object to any part of the Settlement. You must file your written objection with the Court by _____, 2022, and mail a copy to both Class Counsel and defense counsel. Your written objection must contain the specific information set forth on the Settlement Website.

What if I do nothing?	If you do nothing, your settlement payment will be issued to your last known address. You will be bound by the Settlement, and you will release Pret from liability.
How do I get more information about the Settlement?	This notice contains limited information about the Settlement. For more information, to view additional Settlement documents, and to review information regarding your opt-out and objection rights and the final approval hearing, visit www.PAMIllinoisSettlement.com .

Pret a Manger (USA) Limited BIPA SETTLEMENT
[INSERT CLAIMS ADMIN]
[INSERT CLAIMS ADMIN ADDRESS]

[CLAIM ID IN DIGITS]
[CLAIM ID IN 2D BARCODE]
Postal Service: Please Do Not Mark or Cover Barcode

[FIRST1] [LAST1]
[BUSINESSNAME]
[ADDR1] [ADDR2]
[CITY] [ST] [ZIP]

EXHIBIT 4

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

KAYLA QUARLES, individually and on behalf of all others similarly situated,)	
)	
Plaintiffs,)	Case No. 20-cv-7179
v.)	
)	Hon. Manish S. Shah
)	Presiding Judge
PRET A MANGER (USA) LIMITED,)	
)	
Defendant.)	

[PROPOSED] ORDER CERTIFYING SETTLEMENT CLASS, PRELIMINARILY APPROVING CLASS ACTION SETTLEMENT, AND APPROVING NOTICE PLAN

This matter came before the Court on Plaintiff’s Motion for Preliminary Approval of the proposed class action settlement (the “Settlement”). This case was brought by plaintiff Kayla Quarles (“Quarles” or “Plaintiff”), individually and on behalf of all others similarly situated, against defendant Defendant Pret a Manger (USA) Limited (“Pret”). Based on this Court’s review of the Settlement Agreement (“Agreement”), Plaintiff’s Motion for Preliminary Approval of Settlement, and the arguments of counsel, THE COURT HEREBY FINDS AND ORDERS AS FOLLOWS:

1. Settlement Terms. Unless otherwise defined herein, all terms in this Order shall have the meanings ascribed to them in the Agreement.
2. Jurisdiction. The Court has subject matter jurisdiction over this case pursuant to the Class Action Fairness Act, 28 U.S.C. § 1332(d)(2).
3. Preliminary Approval of Proposed Agreement. The Court has conducted a preliminary evaluation of the Settlement as set forth in the Agreement. Based on this preliminary evaluation, the Court finds that: (a) the Agreement is fair, reasonable and adequate, and within the range of possible approval; (b) the Agreement has been negotiated in good faith at arm’s

length between experienced attorneys familiar with the legal and factual issues of this case, and supervised by a well-qualified JAMS mediator, the Honorable Morton Denlow; and (c) the proposed forms and method of distributing notice of the Settlement to the Settlement Class are appropriate and warranted. Therefore, the Court grants preliminary approval of the Settlement.

4. Class Certification for Settlement Purposes Only. The Court, pursuant to Rule 23 of the Federal Rules of Civil Procedure, and for purposes of this Settlement only, certifies the following Settlement Class:

All individuals employed by Defendant Pret a Manger (USA) Limited and any other related entities in the State of Illinois who logged onto, interfaced with, or used any software, systems, or devices that used the individual's finger, hand, or any biometric identifier of any type ("Biometric Systems") in Illinois, including any employee of the above entities who has a claim under the Illinois Biometric Information Privacy Act, 740 ILCS 14/1, et seq., from November 4, 2015 through the date of this Order.

The following are excluded from the Settlement Class: (1) the district and magistrate judges presiding over this case; (2) the judges of the Seventh Circuit; (3) the immediate families of the preceding person(s); (4) any Released Party; and (5) any Settlement Class Member who timely opts out of this Action.

5. In connection with granting class certification, the Court makes the following preliminary findings:

(a) The Settlement Class includes 797 members, and thus the class is so numerous joinder of all members is impracticable;

(b) There appear to be questions of law or fact common to the Settlement Class for purposes of determining whether the Settlement should be approved, including, but not limited to, Pret captured, collected, and/or obtained the Settlement Class Members' biometric information *via* Pret's timekeeping system, and these questions appear to predominate over any alleged individual questions;

(c) Plaintiff's claims appear to be typical of the claims of the Settlement Class because she alleges Pret collected, captured, and/or obtained her biometric information without first obtaining informed written consent, and failed to implement and adhere to a publicly-available policy governing the retention and destruction of biometric data;

(d) Plaintiff and her counsel are adequate to represent the class. Plaintiff appears to have the same interests as the Settlement Class, she does not have any apparent conflict of interest with the Settlement Class, and her attorneys have extensive experience litigating class action cases, including class actions under BIPA;

(e) Certification of the Settlement Class is the superior method for fairly and efficiently resolving the claims of the Settlement Class.

6. Class Representative. The Court appoints Kayla Quarles as representative of the Settlement Class pursuant to Rule 23 of the Federal Rules of Civil Procedure.

7. Class Counsel. The Court appoints Keith J. Keogh and Gregg M. Barbakoff as Class Counsel pursuant to Rule 23 of the Federal Rules of Civil Procedure.

8. Settlement Claims Administrator. American Legal Claim Services, LLC. is hereby appointed as the Claims Administrator. The Claims Administrator shall be responsible for providing notice of the Settlement ("Notice") to the Settlement Class as provided in the Agreement and this Order, as well as services related to administration of the Settlement.

9. Class Notice. The Class Administrator shall provide Notice via First Class Mail in accordance with the Agreement.

10. Opt-Outs and Objections. Persons in the Settlement Class who wish to object to the Settlement or request exclusion from the Settlement Class, must do so in accordance with the Notice. A class member who opts out may not also submit an objection, unless the class

member confirms their intent to withdraw their opt-out in writing by no later than the opt-out deadline.

11. Claims Administrator to Maintain Records. The Claims Administrator shall maintain copies of all objections, and opt-outs received. The Claims Administrator shall provide copies of all objections and opt-outs to the parties.

12. Objections to the Settlement. Any Settlement Class Member who wishes to be heard orally at the Final Approval Hearing, or who wishes for any objection to be considered, must file a written notice of objection in accordance with the Notice, Agreement, and this Order. To be considered, the objection: (A) must be personally signed by the objecting class member, (B) it must include (i) the class member's full name, current address, and current telephone number; (ii) documentation sufficient to establish membership in the Settlement Class; (iii) a statement of reasons for the objection, including the factual and legal grounds for the objector's position; and (iv) copies of any other documents the objecting Settlement Class Member wishes to submit in support of his/her/its position, and (C) it must be filed with the Court and sent to Plaintiff's and Defendant's counsel as stated in the Notice, by no later than the Opt-Out and Objection deadline stated below. Objections that are untimely or do not include the required information above shall be deemed waived.

13. Appearing at Final Approval Hearing. An objecting Settlement Class Member does not need to appear in at the Final Approval Hearing, but may do so by filing a notice of intention to appear in accordance with the Notice, Agreement, and this Order no later than the Opt-Out and Objection deadline below.

14. Reasonable Procedures to Effectuate the Settlement. Unless otherwise ordered by the Court, the parties are authorized to use all reasonable procedures in connection with

approval and administration of the Settlement that are not materially inconsistent with this Order or the Agreement, including making minor changes to the form or content of the Notice or exhibits to the Agreement they agree are reasonable and necessary.

15. Final Approval Hearing. At the date and time provided below, or at such other date and time later the Court sets, this Court will hold a Final Approval Hearing on the fairness, adequacy and reasonableness of the Agreement and to determine whether (a) final approval of the Settlement embodied by the Agreement should be granted, and (b) Class Counsel's application for an award of attorneys' fees and expenses, and any service award to Plaintiff, should be granted, and in what amounts. The hearing shall be held in Room 1919, 19th Floor, United States Courthouse, 219 South Dearborn Street, Chicago, Illinois 60604, or such other location as the Court may order. The Court may also order the hearing to take place remotely via Zoom or such other remote communication system as the Court may direct.

16. For the purposes of giving the notice required by 28 U.S.C. §1715(b) ("CAFA"), the Settlement is deemed filed as of the date of this order.

17. Plaintiff shall file her motion in support of Class Counsel's application for attorneys' fees and expenses, and any service award, no later than the Notice Deadline below.

18. Plaintiff shall file her: (a) motion in support of final approval of the Settlement; (b) response to any objections to the Settlement, no later than the date stated for the same in the Schedule of Events below.

19. Final Approval of this Settlement Agreement will settle and resolve with finality on behalf of the Plaintiff and the other Settlement Class Members, the Action and the Released Claims against the Released Parties by the Plaintiff and the other Settlement Class Members in the Action. As of the Settlement Effective Date, the Settlement 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 Plaintiffs and all other Settlement Class Members who did not validly and timely exclude themselves from the Settlement, and their respective predecessors, successors, affiliates, spouses, heirs, executors, administrators, agents and assigns of each of the foregoing, as set forth in the Settlement Agreement, and the Released Parties may file the Settlement Agreement and/or 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.

20. Schedule of Events. Based on the foregoing, the Court hereby orders the resolution of this matter shall proceed on the following schedule:

_____, 2022 [14 days after the date of this Order]	Deadline for the Claims Administrator to send notice to the Settlement Class in accordance with the Agreement and this Order (Notice Deadline)
_____, 2022 [Same as Notice Deadline]	Deadline for Plaintiff to file his Motion for Attorneys' Fees and Expenses, and any Incentive Award
_____, 2022 [60 days after Notice Deadline]	Deadline for any member of the Settlement Class to request exclusion from the Settlement or object to the Settlement in accordance with the Notice and this Order (Opt-Out and Objection Deadline)
_____, 2022 [21 days after the Opt-Out, Objection, and Claim Deadline]	Deadline for Plaintiff to file: (1) Motion and memorandum in support of final approval, including proof of class notice; and (2) Response to any objections.
_____, 2022 at _____.m.	Final Approval Hearing

[Court's Convenience]	
-----------------------	--

IT IS SO ORDERED.

Dated: _____

Hon. Manish S. Shah
United States District Judge

EXHIBIT 5

Quarles v. Pret a Manger (USA) Limited
USDC, Northern District of Illinois, Eastern Division
Case No. 2020-cv-07179.

If you were employed by Defendant Pret a Manger (USA) Limited (“Pret”) at any of its Illinois locations after November 4, 2015 and were required by Pret to scan your finger for timekeeping purposes, you may be entitled to benefits under a class action lawsuit.

A federal court authorized this Notice. This is not a solicitation from a lawyer.

- **A proposed settlement will provide \$677,450.00 (the “Settlement Funds”) to fully settle and release claims of the following individuals:**

All individuals employed by Defendant Pret a Manger (USA) Limited and any other related entities in the State of Illinois who logged onto, interfaced with, or used any software, systems, or devices that used the individual’s finger, hand, or any biometric identifier of any type (“Biometric Systems”) in Illinois, including any employee of the above entities who has a claim under the Illinois Biometric Information Privacy Act, 740 ILCS 14/1, et seq., from November 4, 2015 through the date of preliminary approval.

The following are excluded from the Settlement Class: (1) the district and magistrate judges presiding over this case; (2) the judges of the Seventh Circuit; (3) the immediate families of the preceding person(s); (4) any Released Party; and (5) any Settlement Class Member who timely opts out of this Action.

- **Pret denies Plaintiff’s allegations and deny any wrongdoing whatsoever. The Court has not ruled on the merits of Plaintiff’s claims or Pret’s defenses. By entering into the settlement, Pret has not conceded the truth or validity of any of the claims against it.**
- **The Settlement Funds shall be used to pay amounts related to the settlement, including awards to Settlement Class (“Initial Settlement Award Checks”), attorneys’ fees and costs to attorneys representing Plaintiff and the Settlement Class (“Class Counsel”), any service award for Plaintiff and the costs of notice and administration of the settlement. Class Counsel estimates that Settlement Class members will receive between \$___ and \$___ (“Initial Settlement Award Checks”). Any monies remaining in the Settlement Fund after the Initial Settlement Award Checks are distributed and the expiration date has passed will be distributed on a *pro rata* basis to those Settlement Class Members who cashed their Initial Settlement Award Checks (the “Subsequent Distribution”), so long as the amount to be distributed is at least \$5.00 per class member. The Subsequent Distribution, if any, shall be made within ninety (90) days after the expiration date of the Initial Settlement Award Checks. If there is not enough money to pay at least \$5.00 to each Settlement Class Member who cashed their initial Settlement Award check or accepted their initial Settlement Award deposit, or if any checks or deposits from the subsequent distribution remain uncashed after the stale date, those funds shall be distributed to the following cy pres: the Electronic Privacy Information Center, subject to court approval.**
- **Your rights and options, and the deadlines to exercise them, are explained in this Notice. Your legal rights are affected whether you act or do not act. Read this Notice carefully.**

YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT:	
EXCLUDE YOURSELF OR “OPT-OUT” OF THE SETTLEMENT	If you ask to be excluded, you will not receive a payment. This is the only option that allows you to pursue your own claims against Pret or other released parties related to a released claim. The deadline for excluding yourself is _____, 2022.
OBJECT TO THE SETTLEMENT	If you wish to object to the settlement, you must write to the Court about why you believe the settlement is unfair in any respect. The deadline for objecting is _____, 2022.
DO NOTHING	If you do nothing, you will still receive a payment from settlement and give up your rights to sue Pret or any other released parties related to a released claim.
GO TO THE FINAL APPROVAL HEARING	You may attend the Final Approval Hearing. At the Final Approval Hearing you may ask to speak in Court about the fairness of the settlement. To speak at the Final Approval Hearing, you must file a document which includes your name, address, telephone number and your signature with the Court, which must also state your intention to appear at the Final Approval Hearing. This must be filed no later than _____, 2022.

- These rights and options—and the deadlines to exercise them—are explained in this Notice.
- The Court in charge of this case still has to decide whether to approve the settlement. Payments (*i.e.*, Settlement Award Checks) will be disbursed if the Court approves the settlement and after any appeals are resolved. Please be patient.

BASIC INFORMATION

1. What is the purpose of this Notice?

The purpose of this Notice is to inform you that a proposed Settlement has been reached in the putative class action lawsuit entitled *Quarles v. Pret a Manger (USA) Limited* filed in the USDC, Northern District of Illinois, Eastern Division, Case No. 2020-cv-07179. Because your rights will be affected by this Settlement, it is extremely important that you read this Notice carefully. This Notice summarizes the settlement and your rights under it.

2. What does it mean if I received a postcard about this settlement?

If you received a postcard describing this settlement, it is because Pret's records indicate that you may be a member of the Settlement Class. The members of the Settlement Class include:

All individuals employed by Defendant Pret a Manger (USA) Limited and any other related entities in the State of Illinois who logged onto, interfaced with, or used any software, systems, or devices that used the individual's finger, hand, or any biometric identifier of any type ("Biometric Systems") in Illinois, including any employee of the above entities who has a claim under the Illinois Biometric Information Privacy Act, 740 ILCS 14/1, *et seq.*, from November 4, 2015 through the date of preliminary approval.

Excluded from the Settlement Class are: (1) the district and magistrate judges presiding over this case; (2) the judges of the Seventh Circuit; (3) the immediate families of the preceding person(s); (4) any Released Party; and (5) any Settlement Class Member who timely opts out of this Action.

3. What is this class action lawsuit about?

In a class action, one or more people called Class Representatives (here, Plaintiff Kayla Quarles) sue on behalf of people who allegedly have similar claims. This group is called a class and the persons included are called class members. One court resolves the issues for all of the class members, except for those who exclude themselves from the class.

Here, Plaintiff claims Pret violated the Illinois Biometric Information Privacy Act ("BIPA"), 740 ILCS 14/1, *et seq.*, by failing to: (1) obtain its employees' informed written consent before collecting, capturing, or otherwise obtaining their biometric data in connection with Pret's timekeeping system; and (2) implement and adhere to a written policy for permanently destroying Pret's employees' biometric data. Pret denies these allegations and any wrongdoing. The Court has conditionally certified a class action for settlement purposes only. The Honorable Manish S. Shaw is presiding over this action.

4. Why is there a settlement?

The Court did not decide in favor of Plaintiff or Pret. Instead, the parties agreed to this settlement. This way, the parties avoid the risk and cost of a trial, and the Settlement Class members will receive compensation. Plaintiff and Class Counsel think the settlement is best for all persons in the Settlement Class.

WHO IS IN THE SETTLEMENT CLASS?

5. How do I know if I am a part of the settlement class?

The Court has certified a class action for settlement purposes only. The Settlement Class is defined as:

All individuals employed by Defendant Pret a Manger (USA) Limited and any other related entities in the State of Illinois who logged onto, interfaced with, or used any software, systems, or devices that used the individual's finger, hand, or any biometric identifier of any type ("Biometric Systems") in Illinois, including any employee of the above entities who has a claim under the Illinois Biometric Information Privacy Act, 740 ILCS 14/1, *et seq.*, from November 4, 2015 through the date of preliminary approval.

A "Settlement Class Member" is any person in the Settlement Class who is not validly excluded from the Settlement Class. If you are still not sure whether you are included, you can visit other sections of the Settlement Website, www.PAMillinoisSettlement.com, you may write to the claims administrator at Pret a Manger (USA) Limited BIPA Settlement, c/o _____.

THE LAWYERS REPRESENTING YOU

6. Do I have lawyers in this case?

The Court has appointed the law firms of Keogh Law, Ltd., as Class Counsel to represent you and the other persons in the Settlement Class. You will not be personally charged by these lawyers.

7. How will Class Counsel be paid?

Class Counsel will ask the Court to approve payment of up to one third of the Settlement Fund, or \$_____ for attorneys' fees, plus reasonable expenses. Class Counsel also will ask the Court to approve payment of \$_____ to Plaintiff for her services as Class Representative if permitted by law. The Court may award less than these amounts.

THE SETTLEMENT BENEFITS – WHAT YOU GET

8. What does the settlement provide?

Settlement Fund. Pret will pay \$677,450.00 into a fund (the "Settlement Funds"), which will cover: (1) cash payments to Settlement Class Members; (2) an award of attorneys' fees and expenses to Class Counsel in an amount equal to one third of the settlement fund, plus expenses, as approved by the Court; (3) service award to the Plaintiff, Kayla Quarles, in an amount not to exceed \$_____, if permitted by law and approved by the Court; and (4) the costs of notice and administration of the Settlement.

Cash Payments. All Settlement Class Members will receive a cash payment, so long as their last known address can be determined. Any money remaining in the Settlement Fund after paying all valid and timely claims to Settlement Class Members (“Claimants”), attorneys’ fees and costs to Class Counsel, any service award to Plaintiff, and the costs of notice and administration of the settlement will be distributed on a *pro rata* basis to those Settlement Class Members who cashed their Initial Settlement Award Check, so long as the amount to be distributed per Claimant is at least \$5.00. Any subsequent distribution will be made within ninety (90) days after the expiration date of the Initial Settlement Award Check has passed.

9. How much will my payment be?

Class Counsel estimates your share of the Settlement Fund will be within the range of \$_____ to \$_____. **This is an estimate only. The final cash payment amount will depend on the costs of notice and administration, as well as the reasonable costs, attorney’s fees, and incentive award approved by the Court.**

10. What am I giving up to stay in the Settlement Class?

Unless you exclude yourself from the settlement, you will be part of the Settlement Class and will be bound by the release of claims in the settlement. This means that if the settlement is approved, you cannot rely on any Released Claim to sue, or continue to sue, Pret or other Released Parties, on your own or as part of any other lawsuit, as explained in the Settlement Agreement. It also means that all of the Court’s orders will apply to you and legally bind you. Unless you exclude yourself from the Settlement, you will agree to release Pret and all other Released Parties, as defined in the Settlement Agreement, from any and all claims that arise from your use of any software, systems, or devices that scan your finger, hand, or any biometric identifier of any type .

In summary, the Release includes all claims of any kind, whether known or unknown, that were asserted in the Action, or that could have been asserted in the Action based on the facts alleged in Plaintiff’s Class Action Complaint, including, but not limited to, claims arising under BIPA or any other similar state, local, or federal law, regulation, or ordinance, or common law, regarding the use, collection, capture, receipt, maintenance, storage, transmission, or disclosure of biometric identifiers and/or biometric information.

If you have any questions about the Release or what it means, you can speak to Class Counsel, listed under Question 6, for free; or, at your own expense, you may talk to your own lawyer. The Release does not apply to persons in the Settlement Class who timely exclude themselves.

HOW TO OBTAIN A PAYMENT

11. How can I get a payment?

There is nothing you need to do to obtain a payment from the Settlement. Your portion of the settlement funds will be sent to your last known address, along with a 1099 form.

WHEN WILL I RECEIVE MY SETTLEMENT PAYMENT?

12. When would I receive a settlement payment?

The Court will hold a hearing on _____, 2022 to decide whether to approve the Settlement. If the Court approves the Settlement, after that, there may be appeals. It is always uncertain whether these appeals can be resolved, and resolving them can take time, perhaps more than a year. Everyone who declines to exclude themselves will be informed of the progress of the settlement through information posted on the Settlement Website at www.PAMIllinoisSettlement.com. Please be patient.

EXCLUDING YOURSELF FROM THE SETTLEMENT

13. How do I get out of the settlement?

If you want to keep the right to sue, or continue to sue Pret or a Released Party, as defined in the Settlement Agreement, then you must take steps to get out of the Settlement Class. This is called excluding yourself from, or opting-out of, the Settlement Class.

A Settlement Class Member who wishes to exclude himself or herself from this Settlement, and from the Release pursuant to this Settlement, shall submit a written Opt-Out Request to the Claims Administrator at the address designated in the Notice no later than the Claim Filing/Objection Deadline. Opt-Out Requests must: (i) be timely submitted by the Claim Filing/Objection Deadline; (ii) be signed by the person in the Settlement Class who is requesting to be excluded from the Settlement Class; (iii) include the name and address of the person in the Settlement Class requesting exclusion; and (iv) include a statement or words to the effect of the following: "I request to be excluded from the Pret BIPA Settlement, and understand that by doing so I will not be entitled to receive any of the benefits from the settlement." No person in the Settlement Class, or any person acting on behalf of or in concert or participation with that person in the Settlement Class, may exclude any other person in the Settlement Class from the Settlement Class.

To be valid, you must mail your exclusion request postmarked no later than _____, 2022 to the claims administrator at Pret BIPA Settlement, c/o _____.

14. If I do not exclude myself, can I sue Pret for the same thing later?

No. If you do not exclude yourself, you give up any right to sue (or continue to sue) Pret or any Released Parties for the claims that this settlement resolves.

15. If I exclude myself, can I get a benefit from this settlement?

No. If you exclude yourself, you will not receive a settlement payment and you cannot object to the settlement.

OBJECTING TO THE SETTLEMENT

16. How do I tell the Court that I do not think the settlement is fair?

If you are in the Settlement Class, you can object to the settlement or any part of the settlement that you think the Court should reject, and the Court will consider your views. If you do not provide a written objection in the manner described below, you shall be deemed to have waived any objection and shall forever be foreclosed from making any objection to the fairness, reasonableness, or adequacy of the settlement, or the award of any attorneys' fees and expenses, and/or any proposed service award.

To object, you must make your objection in writing, stating that you object to the Settlement. To be considered by the Court, the written objection must personally sign the objection and provide the following information with it: (i) full name, current address, and current telephone number; (ii) documentation sufficient to establish membership in the Settlement Class; (iii) a statement of reasons for the objection, including the factual and legal grounds for the objector's position; and (iv) copies of any other documents the objecting Settlement Class Member wishes to submit in support of his/her/its position.

To be considered, you must file your objections with the Court and mail your objections to the addresses below no later than _____, 2022.

For Plaintiff:

Keith J. Keogh
Gregg M. Barbakoff
KEOGH LAW, LTD.
55 Monroe St., 3390
Chicago, IL 60603

For Defendants:

Jaime Filipovic
Matthew E. Szwajkowski
O'HAGAN MEYER
One East Wacker Dr., Suite 3400
Chicago, Illinois 60601

17. What is the difference between objecting and excluding yourself?

Objecting is telling the Court that you do not like something about the settlement. You can object only if you stay in the Settlement Class. Excluding yourself means that you do not want to be part of the Settlement Class. If you exclude yourself, you have no basis to object because the case no longer affects you.

IF YOU DO NOTHING

18. What happens if I do nothing at all?

If you do nothing, you will still receive a payment from settlement and give up your rights to sue Pret or any other released parties related to a released claim. For information relating to what rights you are giving up, see Question 9.

THE FINAL APPROVAL HEARING

19. When and where will the Court decide whether to approve the settlement?

The Court will hold a Final Approval Hearing at ____:00 a.m. on _____, 2022 in Room 1919, 19th Floor, at United States Courthouse, 291 South Dearborn Street, Chicago, IL 60604. At this hearing, the Court will consider whether the settlement is fair, reasonable and adequate. If there are valid objections that comply with the requirements in Question 16 above, the Court also will consider them and will listen to people who have asked to speak at the hearing. The Court may also decide how much to pay to Class Counsel and Plaintiff.

The Final Approval Hearing may be moved to a different date or time without additional notice, so it is a good idea to check the Settlement Website for updates.

20. Do I have to come to the hearing?

No. Class Counsel will appear on behalf of the Settlement Class. But, you are welcome to come, or have your own lawyer appear, at your own expense.

21. May I speak at the hearing?

You may ask the Court for permission to speak at the Final Approval Hearing, but only in connection with an objection that you have timely submitted to the Court according to the procedure set forth in Question 15 above. To speak at the Final Approval Hearing, you must also file a document with the Court stating your intention to appear. For this document to be considered, it must include your name, address, telephone number and your signature. The document must be filed with the Court no later than _____, 2022. You cannot speak at the hearing if you exclude yourself from the settlement.

GETTING MORE INFORMATION

22. How do I get more information?

This notice is only a summary of the proposed settlement. You can get a copy of the settlement agreement by visiting the Settlement Website, www.PAMIllinoisSettlement.com, or you can write to the address below. You can also call Class Counsel with any questions at 866.726.1092.

DO NOT CALL OR WRITE TO THE COURT, THE CLERK OF THE COURT, PRET, OR PRET'S COUNSEL ABOUT THE SETTLEMENT.