

NOTICE OF PROPOSED CLASS ACTION SETTLEMENT

Torres v. Phoenix Converting, Inc, 2021-CH-00083, (Cook County Cir. Ct)
Cook County, Illinois

If you used a face scanning timeclock at a Phoenix Converting, Inc. facility in Illinois between May 31, 2018 and March 3, 2022, before you signed a biometric consent form, you may be entitled to a payment from a class action settlement.

A court authorized this notice. You are not being sued. This is not a solicitation from a lawyer.

- A settlement has been reached in a class action lawsuit between Phoenix Converting, Inc. (“Defendant” or “Phoenix”) and some of its current and former Illinois employees. The lawsuit claims that Phoenix violated an Illinois law called the Biometric Information Privacy Act (“BIPA”) by collecting scans of their employees’ faces using a facial recognition timeclock and not complying with the law’s requirements.
- Phoenix denies any wrongdoing and maintains that it has not violated any laws. The settlement does not establish who is right. Rather, Phoenix chose to settle the lawsuit and avoid the time and expense of continued litigation.
- The lawsuit is called *Torres v. Phoenix Converting, Inc.*, No. 2021-CH-00083, and is before Judge Clare J. Quish in the Circuit Court of Cook County in Chicago, Illinois.
- If you’re eligible, and the Court approves the Settlement, a check will automatically be mailed to you for an amount between \$500-\$600. You will not have to send in a claim form. Phoenix Converting no longer uses the face-scanning timeclock at issue and has agreed to destroy the device.

Do Nothing	You will receive a payment under the Settlement if you are eligible and give up the right to sue Phoenix Converting about the issues in this case.
Exclude Yourself	You will receive NO payment, but you will retain any rights you currently have to sue Phoenix Converting about the issues in this case.
Object	Write to the Court explaining why you don’t like the Settlement or any part of it.

These rights and options – **and the deadlines to exercise them** – are explained in this notice.

The Court still has to decide whether to approve the Settlement and checks will only be issued after the Court approves the Settlement. Please be patient.

BASIC INFORMATION

1. What is this Notice and why should I read it?

A Court authorized this notice to let you know about a Proposed Class Action Settlement with the Defendant, Phoenix Converting, Inc. You have legal rights and options that you may act on before the Court chooses to approve, deny, or alter the Proposed Class Settlement. You may be eligible to receive a cash payment as part of the Settlement. This Notice explains the lawsuit, the Settlement, your legal rights, and how to exercise them.

2. What is a class action lawsuit?

A class action is a lawsuit in which one or more plaintiffs sue on behalf of a group of people who have similar claims. This group is called a “Class” and consists of “Class Members.” In a class action, the court resolves the issues for all class members, except those who choose to exclude themselves from the class. After the Parties reached an agreement to settle this case, the Court granted preliminary approval of the Settlement and decided the case should be treated as a class action for settlement purposes.

In this case, Esmeralda Torres and Aldo Torres (the “Plaintiffs” and “Class Representatives”) sued Phoenix Converting on behalf of themselves and all other people with similar claims.

THE CLAIMS IN THE LAWSUIT AND THE SETTLEMENT

3. What is this lawsuit about?

The lawsuit alleges that Phoenix violated an Illinois law called the Biometric Information Privacy Act (“BIPA”) by using a face scanning time clock in Illinois without complying with the law’s requirements, including by failing to get employees’ written consent to the collection of their biometric data prior to the employee’s use of the timeclock, and failing to provide a publicly-available retention policy.

Phoenix denies the Plaintiffs’ claims and denies that it violated any laws. No court has decided who is right. The parties are instead entering into the Settlement to avoid time-consuming and expensive litigation with uncertain results for all Parties. The Settlement is not an admission of wrongdoing by Phoenix. More information about the complaint in the lawsuit and the Phoenix’s position can be found in the “Court Documents” section of the settlement website at www.phxbipasettlement.com

4. Why is there a settlement?

The Court has not decided who is right and who is wrong or whether Plaintiffs or Phoenix should win this case. Instead, both sides agreed to the Settlement. That way, they can avoid the uncertainty, expense, and time of ongoing litigation, and Class Members will get compensation now rather than years from now—if ever. Plaintiffs and their attorneys (“Class Counsel”) believe that the Settlement is in the best interests of the Settlement Class.

WHO IS INCLUDED IN THE SETTLEMENT?

5. Who is in the Settlement Class?

The Court decided that the Settlement should include all individuals who used a face scanning time clock at any of Phoenix Converting, Inc.'s facilities in Illinois between May 31, 2018 and March 3, 2022 **prior to signing any consent form regarding biometric information**. Excluded from the Settlement Class are:

- i. Any Judge presiding over the action and any Court personnel and their families;
- ii. Any person who properly executes and files a timely request for exclusion from the class, and,
- iii. The legal representatives, successors or assigns of any such excluded persons.

6. How do I know if I am a Class Member?

The Settlement Class includes all individuals who worked for Phoenix Converting, Inc. in Illinois from May 31, 2018 through March 3, 2022 who used a face scanning timeclock before signing any consent form regarding biometric information.

THE SETTLEMENT BENEFITS

7. What can I get out of the Settlement?

Cash Payments to Class Members: If you're a member of the Settlement Class, and the Court approves the Settlement, a check will automatically be mailed to you. You do not have to send in a claim form. The exact amount of the check will vary depending on the final cost of the Settlement approved by the Court which will include legal fees and incentive payments to the Class Representatives. You will receive between \$500 - \$600.

Agreement on Future Conduct: Phoenix no longer uses the face scanning timeclock and has agreed to destroy any biometric data collected and stored on the device.

HOW TO GET BENEFITS

8. How do I get a payment?

If you are a Class Member and you do not Exclude yourself, the Settlement Administrator will send a check to your last known address if the Court approves the Settlement.

9. When will I get my check?

The Court still has to consider the fairness of the Settlement and decide whether to approve the Settlement or not. The Final Approval Hearing is set for June 10, 2022 at 11:00AM. If the Court approves the Settlement, eligible Class Members will automatically be sent a check. Please be patient. All checks will expire and become void 90 days after they are issued. Uncashed checks will be donated, pending Court approval, to Chicago Legal Aid, a non-profit organization.

THE LAWYERS REPRESENTING YOU

10. Do I have lawyers in the case?

Yes, the Court has appointed lawyers Michael Drew of Neighborhood Legal, LLC, and Celetha Chatman and Michael Wood of Community Lawyers, LLC, as the attorneys to represent the Class Members. These attorneys are called “Class Counsel.” The Court also appointed Esmeralda Torres and Aldo Torres to serve as Class Representatives. They are class members as well. Class Counsel can be reached by calling 1-312-967-7220 or by sending an email to mwd@neighborhood-legal.com

11. Should I get my own lawyer?

You don’t need to hire your own lawyer because Class Counsel is working on behalf of the entire class. You may hire your own lawyer, but you will have to pay their costs and expenses yourself.

12. How will the Class Counsel be paid?

Class Counsel will ask the Court for attorneys’ fees and expenses of up to \$35,000. They will also ask the Court for an “incentive award” of \$7,500 for each of the two Class Representatives to account for their time and effort in bringing the lawsuit in the first place and seeing it through to resolution. The Court may award less than the requested amounts and any reduction in amounts will go into the Settlement Fund to be distributed to the Class Members.

YOUR RIGHTS AND OPTIONS

13. What happens if I do nothing at all?

If you do nothing and are a member of the Settlement Class, and if the Court approves the Settlement, you will automatically receive a check and you will also be bound by all orders and judgments of the Court. Unless you exclude yourself, you won’t be able to start a lawsuit or be part of any other lawsuit against Phoenix Converting, Inc. for claims or issues related to their use of biometric technology like the face scanning time clock at issue here.

14. What happens if I Exclude myself?

If you exclude yourself from the Settlement, you will receive no payment under the Settlement and will not be a Settlement Class Member. You will keep your right to start your own lawsuit against Phoenix Converting, Inc. for the same claims made in this lawsuit. You will not be legally bound by the Court’s judgments related to the Settlement Class and the Phoenix in this class action.

15. How do I Exclude myself from the Settlement?

If you wish to exclude yourself, you must write to the Settlement Administrator at the following address:

Torres v Phoenix Converting, Inc
c/o Settlement Administrator
PO Box 23678
Jacksonville, FL 32241

and include the following information:

- i. Your name, address, and telephone number;
- ii. the name and case number of this case: *Torres v. Phoenix Converting, Inc*, 2021-CH-00083, (Cook County Cir. Ct),
- iii. a statement that you wish to be excluded from the Settlement Class; and
- iv. your personal signature.

Your request must be postmarked on or before: May 16, 2022.

16. If I don't Exclude myself, can I sue Phoenix Converting, Inc. for the same thing later?

No. Unless you exclude yourself, you give up any right to sue Phoenix for the claims being resolved by this Settlement.

17. If I Exclude myself, can I get anything from the Settlement?

No. If you exclude yourself, you will not receive a payment.

18. How do I Object to the Settlement?

If you do not exclude yourself from the Settlement Class, you can Object to the Settlement if you don't like any part of it. You can give reasons why you think the Court should deny approval by filing an objection.

To object, you must file a letter or brief with the Court stating that you object to the Settlement in *Torres v. Phoenix Converting, Inc*, 2021-CH-00083, (Cook County Cir. Ct) no later than: May 16, 2022.

You must e-file or file your Objection to the Circuit Court of Cook County at the following address:

Clerk of the Circuit Court of Cook County – Chancery Division
Richard J. Daley Center, 8th Floor,
50 W. Washington Street
Chicago, IL 60602

Instructions and links for e-filing are available at:

<https://www.cookcountyclerkofcourt.org/>

You must also send copies of your objection and any documents or exhibits attached to Class Counsel and Phoenix’s Counsel, and the Settlement Administrator via mail, overnight delivery, or hand-delivery, at the following addresses **postmarked no later than May 16, 2022.**

Class Counsel	Phoenix’s Counsel
Michael Drew Neighborhood Legal, LLC 20 N. Clark Street #3300 Chicago, IL 60602 mwd@neighborhood-legal.com	Kristen Rodriguez Dentons US LLP 233 S. Wacker Drive #5900 Chicago, IL 60606 kristen.rodriguez@dentons.com
Settlement Administrator	
Torres v Phoenix Converting, Inc c/o Settlement Administrator PO Box 23678 Jacksonville, FL 32241	

The Objection must be in writing, must be signed, and must include the following information:

- i. Your full name, address, email address, and current telephone number;
- ii. the case name and case number of the Litigation (*Torres v. Phoenix Converting, Inc*, 2021-CH-00083 (Cook County Cir. Ct));
- iii. all grounds for the objection, with factual and legal support for the stated objection, including any supporting materials;
- iv. the identification of any other objections you have filed, or has had filed on your behalf, in any other class action cases in the last four years; and
- v. your personal signature.

If you are represented by an attorney, you must also include:

- vi. The name, address, and telephone number of your attorney.

If you intend to appear at the Final Approval Hearing (either in person or via zoom), with or without an attorney, you must also:

- vii. State that you intend to appear at the Final Approval Hearing,
- viii. Identify any witnesses that you may call to testify at the Final Approval Hearing, and,
- ix. Identify any and all exhibits you intend to introduce as evidence at the Final Approval Hearing, which you must also attach to or include with the written objection.

Class Counsel will file with the Court and post on the settlement website its request for attorneys’ fees and incentive awards by **April 25, 2022.**

19. What is the difference between Excluding myself and Objecting?

Objecting simply means telling the Court that you don't like something about the Settlement. You may Object only if you stay in the Settlement Class as a Class Member and do not exclude yourself. Excluding yourself from the Settlement Class is telling the Court that you don't want to be a Settlement Class Member. You CANNOT do both – by excluding yourself, you have no basis to object because the case no longer affects you or your legal rights.

THE COURT'S FINAL APPROVAL HEARING

20. When and where will the Court decide whether to approve the Settlement?

The Court will hold the Final Approval Hearing at June 10, 2022 at 11:00AM before Judge Clare J. Quish in Room 2301 of the Daley Center, 50 W. Washington Street, Chicago, IL 60602. The Final Approval Hearing may also take place remotely via zoom (Zoom Meeting ID: 953 7174 9534 Zoom Password: 253498).

The date, time and whether the Hearing will be remote or in-person are subject to change by Court Order. Any changes will be posted to the settlement website.

The purpose of the Final Approval Hearing is for the Court to determine whether the Settlement is fair, reasonable, and adequate, and in the best interests of the Settlement Class. At the hearing, the Court will hear any objections and arguments concerning the fairness of the proposed Settlement, including those related to the amount requested by Class Counsel for attorney's fees, costs, and the incentive awards to the Class Representatives.

21. Do I have to come to the hearing?

No. Class Counsel will answer any questions the Court may have. You are, however, welcome to come at your own expense. If you send an objection, you don't have to come to Court to talk about it. As long as your written objection was filed or mailed on time and meets the other criteria described in the Settlement, the Court will consider it. You may attend the hearing and speak about your objection, but you must file an objection and state your intention to appear at the hearing in the objection, as described above in paragraph 18. You may also pay a lawyer to attend, but you don't have to.

If you exclude yourself from the Settlement or you don't properly object to the Settlement, you cannot speak at the hearing.

22. Where do I get more information?

This Notice summarizes the proposed Settlement. For the precise terms and conditions, please see the Settlement Agreement available on this Settlement Website.

You may also contact Class Counsel at 1-312-967-7220

You can also visit:

Office of the Clerk of the Circuit Court of Cook County
Chancery Division 8th Floor
Richard J. Daley Center
50 W. Washington Street
Chicago, IL 60602

PLEASE DO NOT CONTACT THE COURT, THE JUDGE, PHOENIX CONVERTING OR PHOENIX CONVERTING'S LAWYERS WITH QUESTIONS ABOUT THE SETTLEMENT OR DISTRIBUTION OF THE CHECKS.