

# NOTICE OF PROPOSED CLASS ACTION SETTLEMENT

*Nieto v. Shoreline Marine Company*  
Case No. 21 CH 5747  
Circuit Court of Cook County, Illinois

## 1. A Brief Summary Of This Lawsuit And The Settlement

YOU HAVE RECEIVED THIS NOTICE BECAUSE YOU MAY BE ENTITLED TO RECEIVE A PAYMENT OF AT LEAST \$546.00 IN APPROXIMATELY 3 MONTHS IF YOU WORKED FOR DEFENDANT AND IF YOU USED AN ELECTRONIC HANDPUNCH TIMEKEEPING DEVICE IN CONNECTION WITH CLOCKING IN AND OUT OF WORK. YOU MUST COMPLETE, SIGN AND SUBMIT THE CLAIM FORM ATTACHED TO THIS NOTICE BY JUNE 17, 2023 TO BE ENTITLED TO THAT PAYMENT. CONTINUE READING THIS NOTICE TO LEARN MORE DETAILS ABOUT THE SETTLEMENT OF THIS LAWSUIT AND HOW THE SETTLEMENT MAY IMPACT YOU.

THE SETTLEMENT AGREEMENT PROVIDES THAT IF YOU DO FILE A CLAIM YOU MUST CASH YOUR SETTLEMENT CHECK WITHIN 120 DAYS OF THE DATE ON THE CHECK OTHERWISE THE CHECK BECOMES NULL AND VOID AND YOU WILL NOT BE ENTITLED TO ANY MONEY. THERE ARE NO EXCEPTIONS TO THE 120 DAY DEADLINE.

## 2. What Is This Lawsuit About?

A court in Chicago preliminarily approved a class action settlement in the lawsuit *Nieto v. Shoreline Marine Company*, Case No. 21 CH 5747 (Circuit Court of Cook County, IL) (the “Lawsuit”). The Court has approved this Notice to inform you of your rights in the settlement. As described in more detail below, you may:

- (i) Request a settlement payment and give up certain legal claims you have;
- (ii) Exclude yourself from the settlement and not receive a settlement payment and not give up any legal claims;
- (iii) Object to the settlement; or
- (iv) Do nothing, not receive a settlement payment, and give up certain legal claims you have.

Before any money is paid, the Court will decide whether to grant final approval of the settlement.

This Lawsuit is about whether Defendant Shoreline Marine Company (“Defendant”) violated the Illinois Biometric Information Privacy Act, 740 ILCS 14/1 *et seq.* (“BIPA”). Subject to certain statutory exclusions, BIPA prohibits private companies from capturing, purchasing, receiving through trade, obtaining, disclosing, redisclosing, or disseminating, storing, transferring, and/or using an individual’s biometric identifiers and/or biometric information, unless they first provide an individual with certain written disclosures and obtain written consent and make publicly available a written policy regarding their retention and destruction of such identifiers and information.

The Lawsuit alleges that Defendant violated BIPA related to the Plaintiff’s and Class Members’ use of a hand-scanning timekeeping device while they worked for Defendant during any time from November 12, 2016 through April 19, 2023. Specifically, the Lawsuit alleges that Defendant did not obtain the required written consent and did not make publicly available or comply with the required written policy, and that the Defendant received or disclosed information governed by BIPA.

Defendant denies the allegations in the Lawsuit and denies any violation of the law. Specifically, Defendant denies that the hand-scanning system(s) used by the Plaintiff and Class Members collected any biometric identifiers and/or biometric information, and deny that they failed to comply with the requirements set forth in the BIPA statute.

Both sides agreed to the settlement to resolve the Lawsuit to avoid further disputes and the inconvenience and expense attendant to litigation. The Court did not decide whether the Plaintiff is correct that Defendant violated the law or whether Defendant is correct that it did not.

You can learn more about the Lawsuit by contacting the settlement administrator, Analytics Consulting LLC at 888-989-3560, or Settlement Class Counsel, via James X. Bormes of Law Office of James X. Bormes, P.C., at 312-201-0575.

### 3. Who Is Included in the Settlement?

The settlement includes all individuals, excluding any persons who were subject to or governed by the Jones Act and excluding any persons who signed releases pursuant to Shoreline Sightseeing's Biometric Privacy Policy before using the electronic hand punch timekeeping device, whose biometrics were captured, collected, obtained, stored or used by Defendant within the state of Illinois at any time during the period of November 12, 2016 through the date of preliminary approval of the Settlement ("Settlement Class" or "Class Members").

### 4. What Does the Settlement Provide?

The class action settlement provides for a total payment of \$229,400.00 that Defendant has agreed to pay to settle the claims of the Class Members. Subject to Court approval, the Gross Fund shall be reduced by the following: (1) the Settlement Administrator's costs of up to \$8,800.00; (2) an Incentive Award in the maximum amount of \$4,000.00 for the named Plaintiff and in the maximum amount of \$3,500.00 for Class Member James Suzka; and (3) and Class Counsel's attorneys' fees not to exceed \$76,466.00 (or 1/3 of the settlement fund), and litigation costs not to exceed \$1,000.00. The Court has not made a determination as to the amounts it will approve for Incentive Awards or for Class Counsel's attorneys' fees. Following these reductions, the remaining amount shall constitute the Net Fund which shall be distributed equally to Class Members who timely return valid claim forms ("Claimants").

The amount of money each Claimant will receive will depend on the number of valid claim forms received and on the total amount deducted from the Gross Fund to cover administration costs, incentive awards, and attorneys' fees and costs. The entire amount of the net settlement fund will be distributed *pro rata* to Class Members who submit valid claim forms. Currently, it is estimated that each Class Member will receive a settlement payment in the minimum amount of \$546.00. If less than 100% of the Class Members submit valid and timely claim forms, the amount of the settlement payment will increase. The actual amount will not be determined until all claims are submitted and the Court grants final approval of the settlement. However, all Claimants will receive an equal amount under the settlement.

Unless you exclude yourself from the settlement as explained below, you will be deemed to have forever discharged and released, on behalf of yourself and each of your heirs, representatives, successors, assigns, agents and attorneys, the Released Parties from any and all claims arising out of, related to, or connected with the alleged capture, collection, storage, possession, transmission, conversion, and/or other use of biometric identifiers and/or biometric information in connection with the timekeeping system used by Defendant's employees, including but not limited to claims brought under 740 ILCS § 14/10 *et seq.* ("BIPA"), and as alleged in the Action. Notwithstanding the foregoing and notwithstanding any terms or provisions to the contrary in this Agreement, the Class Members do not release or waive any claims that may not be released or waived unless otherwise allowed by applicable state and/or federal law.

### 5. What Are Your Options?

- (i) **Request a settlement payment.** *If you want to receive a settlement payment, you must complete and submit online, or postmark and mail for return, a claim form by June 17, 2023.* You may return your claim form in the accompanying pre-paid envelope, or via the website address below. If you are a Class Member and you timely return a completed and valid claim form, and if the Court grants final approval of the settlement, you will be mailed a check at the address on your claim form. If required by law, you may also be sent a 1099 tax reporting form.
- (ii) **Exclude yourself from the settlement and receive no money.** *If you do not want to be legally bound by the settlement, you must exclude yourself from the settlement by June 17, 2023.* If you do this, you will NOT get a settlement payment. To do so, you must mail your written request for exclusion to the Settlement Administrator (contact information or below). Your written request for exclusion must be signed personally by you; include your full name, current address, and current telephone number; include the case name and number, and include a clear statement that you wish to be excluded from the Settlement Class.
- (iii) **Object to the Settlement.** *You may object to the settlement by June 17, 2023.* If you want to object to the settlement, you must mail such objection to the Claims Administrator by **June 17, 2023**. The objection must be signed personally by you; include (i) your full name, current address, and current telephone number; (ii) include a statement of the specific grounds for the objection; (iii) state whether you intend to appear at the Final Approval Hearing; (iv) disclose the identity of all counsel who represent you and/or will appear at the Final Approval Hearing;

(v) identify any witnesses you may call to testify at the Final Approval Hearing; and (vi) enclose copies of any documents that you wish to submit in support of your position. If you exclude yourself from the settlement, you cannot file an objection. If your objection is overruled, then you will be bound by the settlement and will not be able to exclude yourself from the settlement.

(iv) **Do Nothing.** You may choose to do nothing. If you do nothing, you will receive no money from the settlement, but you will still be bound by all orders and judgments of the Court. You will not be able to file or continue a lawsuit against the Defendant Released Parties regarding any legal claims arising out of allegations in the Class Action Complaint.

## **6. How do I update my Contact Information?**

You must notify the Claims Administrator of any changes in your mailing address so that your settlement payment, should you request one, will be sent to the correct address. To update your address, contact the Claims Administrator at the address or phone number listed in paragraph 8 below.

## **7. Who Are the Attorneys Representing the Class and How Will They Be Paid?**

The Court has appointed Class Counsel, identified below, to represent Class Members in this settlement. Class Counsel will request \$76,466.00 (or 1/3 of the gross settlement fund) as attorney fees, plus reimbursement of their costs in an amount not to exceed \$1,000.00. You will not have to pay Class Counsel from your settlement payment or otherwise. You also have the right to hire your own attorney at your own expense.

### **Class Counsel**

James X. Bormes

Catherine P. Sons

### **Law Office of James X. Bormes, P.C.**

8 S. Michigan Ave., Suite 2600

Chicago, IL 60603

(312) 201-0575

[jxbormes@bormeslaw.com](mailto:jxbormes@bormeslaw.com)

[cpsons@bormeslaw.com](mailto:cpsons@bormeslaw.com)

## **8. When is the Final Approval Hearing?**

The Court will hold a hearing in this case on July 13, 2023 at 9:30 a.m. CDT, to consider, among other things, (1) the Claims Administrator's costs of up to \$8,800.00; (2) an Incentive Award of \$4,000.00 for the named Plaintiff and \$3,500.00 for Class Member Suzka; and (3) and Class Counsel's costs (not to exceed \$1,000.00) and attorneys' fees (not to exceed \$76,466.00). You may appear at the hearing, but you are not required to do so.

The hearing may be attended via Zoom, Meeting ID: 928 4730 2982; Password: 411367.

If you have any questions or want more information, contact the Claims Administrator via the methods below, or Class Counsel via the methods above.

### **Settlement Administrator**

Shoreline BIPA Case

P.O. Box 2006

Chanhassen, MN 55317-2006

Toll-free: 888-989-3560

Email: [info@ShorelineBIPAcase.com](mailto:info@ShorelineBIPAcase.com)

[www.ShorelineBIPAcase.com](http://www.ShorelineBIPAcase.com)

**PLEASE DO NOT CONTACT THE COURT WITH QUESTIONS ABOUT THIS SETTLEMENT**