

# NOTICE OF CLASS ACTION SETTLEMENT

*Davis v. Heartland Employment Services, LLC*, Case No. 1:19-cv-00680 (N.D. Ill.)

## 1. Introduction

A federal court in Chicago preliminarily approved a class action settlement in the lawsuit *Davis v. Heartland Employment Services, LLC*, 1:19-cv-00680 (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:

- (1) request a settlement payment and give up certain legal claims you have;
- (2) exclude yourself from the settlement, not receive a settlement payment and not give up any legal claims;
- (3) object to the settlement; or
- (4) 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.

## 2. What is This Lawsuit About?

This Lawsuit is about whether Heartland Employment Services, LLC (“Heartland”) violated the Illinois Biometric Information Privacy Act (“BIPA”). BIPA prohibits private companies from capturing, obtaining, storing, transferring, and/or using an individual’s biometric identifiers and/or biometric information, including a fingerprint or identifying information based on a fingerprint, without first providing an individual with certain written disclosures and obtaining written consent. The Lawsuit alleges that Heartland violated BIPA by collecting fingerprint data from its employees in Illinois through its biometric timekeeping system without first providing written notice or obtaining written consent. The Lawsuit also alleges that Heartland did not timely destroy fingerprint data for employees after they stopped working for Heartland. Finally, the Lawsuit alleges that Heartland disclosed fingerprint data to its timekeeping vendor without consent.

Heartland denies the allegations in the Lawsuit and denies any violation of the law. Heartland maintains, among other things, that: the collected data does not fall within BIPA; there never was any data breach; and there never was any risk of a data breach.

Both sides agreed to the settlement to resolve the Lawsuit. The Court did not decide whether Heartland violated the law.

You can learn more about the Lawsuit by contacting the settlement administrator, Analytics Consulting LLC, at **1-866-584-2404**, or Settlement Class Counsel, Werman Salas P.C., at (312) 419-1008, or The Fish Law Firm, P.C. at (630) 355-7590. You may also review the Settlement Agreement and related case documents at the settlement website: [www.HeartlandFingerScanSettlement.com](http://www.HeartlandFingerScanSettlement.com).

## 3. Who Is Included in the Settlement?

The settlement includes all current and former Heartland employees in Illinois, including those who worked at HCR ManorCare, Arden Courts, and Heartland Healthcare locations, who used a fingertip scanner to clock in and out between December 18, 2013 and April 23, 2019, excluding those persons subject to individual arbitration agreements who did not opt-out of those arbitration agreements (“Settlement Class” or “Settlement Class Members”).

There are an estimated 10,836 Settlement Class Members.

## 4. What does the Settlement Provide?

The class action settlement provides for a total payment of \$5,418,000.00 that Heartland has agreed to pay to settle the claims of Settlement Class Members. Subject to Court approval, the gross settlement fund shall be reduced by the following: (1) an award of up to one third of the total settlement for Settlement Class Counsel’s attorney fees

(estimated to be \$1,806,000) and litigation costs (not to exceed \$55,000); (2) Service Awards of \$10,000 each to the three Settlement Class Representatives; and (3) the Settlement Administrator's costs of up to \$75,000. Following these reductions, the remaining amount shall be the net settlement fund which shall be distributed equally to Settlement Class Members who timely return valid claim forms ("Settlement Class Participants").

The amount of money each Settlement Class Participant will receive will depend on the number of Settlement Class Members who timely return valid claim forms. For example, if 50% of the estimated 10,836 Settlement Class Members submit valid timely claim forms, the Parties estimate you will receive a payment in the approximate amount of **\$640**.

Unless you exclude yourself from the settlement as explained below, you will give up all claims reasonably arising out of allegations in the Second Amended Class Action Complaint in this lawsuit, including allegations that Heartland improperly collected, stored, disclosed, or used Illinois employees' biometric identifiers and information obtained from its time clocks, including but not limited to claims arising under the Biometric Information Privacy Act, and all other federal, state, and local law, including the common law, as well as related claims for liquidated damages, penalties, attorneys' fees and costs, expenses, and interest. The full release of claims is set forth in the Settlement Agreement.

## 5. What Are Your Options?

- (1) **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 October 4, 2021.* You may return your claim form in the accompanying pre-paid envelope. Or you may also complete and submit a claim form online through the settlement website: [www.HeartlandFingerScanSettlement.com](http://www.HeartlandFingerScanSettlement.com). If you are a Settlement Class Member and you timely return a completed and valid claim form, and if the Court grants final approval of the settlement, you will receive a check or an electronic payment, depending on which method of payment you select on the claim form. If required by law, you may also be sent a 1099 tax reporting form.
- (2) **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 **October 4, 2021**. If you do this, you will NOT get a settlement payment. To do so, you must mail or email your written request for exclusion to the Settlement Administrator (contact information below). Your written request for exclusion must include your full name, address, telephone number, the last four digits of your Social Security Number, a statement that you wish to be excluded from the settlement, and it must be signed by you. If you exclude yourself, you will not receive money from this settlement, but you will keep your legal rights regarding any claims that you may have against Heartland and the other Released Parties.
- (3) **Object to the Settlement.** You may object to the settlement by **October 4, 2021**. If you want to object to the settlement, you must mail or email a written objection to the Settlement Administrator (contact information below), which includes your full name, address, telephone number, the last four digits of your Social Security Number, the grounds for the objection, and copies of any other documents that you wish to submit in support your objection. Any objection must also be personally signed by you. If you exclude yourself from the settlement, you cannot file an objection.
- (4) **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 Released Parties regarding any legal claims arising out of allegations in the Second Amended Class Action Complaint.

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

You must notify the Settlement Administrator of any changes in your mailing address so that your settlement award, should you request one, will be sent to the correct address. To update your address, contact the Settlement Administrator, listed below.

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

The Court has appointed Settlement Class Counsel, identified below, to represent Settlement Class Members in this settlement. Settlement Class Counsel will request one-third of the total settlement amount as attorney fees plus reimbursement of their costs. You may review Settlement Class Counsel's request for attorney fees and costs at the settlement website, [www.HeartlandFingerScanSettlement.com](http://www.HeartlandFingerScanSettlement.com), after **September 4, 2021**. You will not have to pay Settlement Class Counsel from your settlement award or otherwise. You also have the right to hire your own attorney at your own expense.

<p>Douglas M. Werman Zachary C. Flowerree Werman Salas P.C. 77 West Washington Street, Suite 1402 Chicago, IL 60602 (312) 419-1008 HeartlandSettlement@flsalaw.com</p>	<p>David Fish Mara Baltabols The Fish Law Firm, P.C. 200 East Fifth Ave., Suite 123 Naperville, IL 60563 (630) 355-7590 admin@fishlawfirm.com</p>
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## 8. When is the Final Approval Hearing?

The Court will hold a hearing in this case on **October 25, 2021 at 10:00 a.m. as a telephonic hearing, call in number (888) 808-6929 access code 5348076**, to consider, among other things, (1) whether to finally approve the settlement; (2) a request by the lawyers representing all class members for an award of no more than one-third of the settlement as attorney fees (estimated to be \$1,806,000.00) plus litigation costs (not to exceed \$55,000); and (3) a request for Service Awards of \$10,000.00 each for Settlement Class Representatives Lamont Davis, Nakea Blount, and Shamikkah Slaughter; and (4) a request for up to \$75,000.00 to the Settlement Administrator. You may appear at the hearing, but you are not required to do so.

Seven days before the final approval hearing, the Settlement Administrator will post on the Settlement website whether the final approval hearing will be held by telephone or in person (and will provide phone number or courtroom information).

If you have any questions or for more information, contact the Settlement Administrator or Settlement Class Counsel at:

<p><b><u>Settlement Administrator</u></b> Davis v. Heartland Employment Services c/o Analytics Consulting LLC P.O. Box 2006 Chanhassen, MN 55317-2006 Toll-free: (866) 584-2404 Email: <a href="mailto:info@HeartlandFingerScanSettlement.com">info@HeartlandFingerScanSettlement.com</a></p>	<p><b><u>Settlement Class Counsel</u></b> Douglas M. Werman Zachary C. Flowerree Werman Salas P.C. 77 West Washington Street, Ste. 1402 Chicago, IL 60602 (312) 419-1008 HeartlandSettlement@flsalaw.com  David Fish Mara Baltabols The Fish Law Firm, P.C. 200 East Fifth Ave., Suite 123 Naperville, IL 60563 (630) 355-7590 admin@fishlawfirm.com</p>
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**PLEASE DO NOT CONTACT THE COURT OR HEARTLAND ABOUT THIS SETTLEMENT.**