

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

EIMEAR KENNY, on behalf of herself)	
and all other persons similarly situated,)	
known and unknown,)	
)	
Plaintiff,)	Case No. 2020-CH-07073
)	
v.)	Honorable Judge Alison C. Conlon
)	
LOCKE TRANSPORTATION, INC.)	
)	
Defendant.)	

CLASS ACTION SETTLEMENT AGREEMENT

This Class Action Settlement Agreement (“Settlement” or “Settlement Agreement”) is made by Plaintiff Eimear Kenny (“Plaintiff” or “Settlement Class Representatives”), individually and on behalf of the Settlement Class Members she seeks to represent (“Settlement Class” or “Settlement Class Members,” as defined below), and Locke Transportation, Inc. (“Defendant”) (Plaintiffs and Defendants are collectively referred to as the “Parties”), in the above-captioned action (“Action”).

I. LAWSUIT ALLEGATIONS AND PROCEDURAL HISTORY

On December 4, 2020, Plaintiff filed suit against Defendant alleging violation of the Illinois Biometric Information Privacy Act, 740 ILCS 14/1, *et seq.* (“BIPA”) through use of its biometric timeclock. The alleged BIPA violations include failure to provide requisite written notice required by BIPA in violation of 740 ILCS 14/10(b), failure to create and follow a written policy made publicly available that established a written retention schedule and destruction guidelines for possession of the Settlement Class Members’ biometric identifiers, and failure to obtain Settlement Class Members’ written consent before disclosing or disseminating their biometric identifiers to Defendant’s timekeeping vendor. On March 3, 2021, Defendant filed its Answer. The parties were first in front of Judge Alison C. Conlon on April 5, 2021, at which point the case was continued until June 21, 2021 for status on the subpoena Defendant issued to its timekeeping vendor and

settlement negotiations. Another continuance was obtained on June 21, 2021 to allow the parties to continue negotiating towards a settlement.

II. DEFENDANT DENIES LIABILITY

Defendant denies liability for the claims asserted in this Action. Neither the Settlement documents nor any other item pertaining to the Settlement contemplated herein shall be offered in any other case or proceeding for any purpose, including as evidence of any admission by Defendant of any liability with respect to any claim for damages or other relief, or of any admission by Plaintiff that they would not have prevailed on liability on any of their claims. Any stipulation or admission by Defendant or Plaintiff contained in any document pertaining to the Settlement is made for settlement purposes only. In the event this Settlement is not finally approved, nothing contained herein shall be construed as a waiver by Defendant of its contention that class certification is not appropriate or is contrary to law in this Action or any other case or proceeding, or by Plaintiff of her contention that class certification is appropriate in this case or any other case or proceeding.

III. CERTIFICATION OF THE SETTLEMENT CLASS

Settlement Class Counsel shall request that the Court enter a certification order and certify for settlement purposes only the following settlement class, defined as: all of Defendant's workers who used Defendant's finger scan timekeeping system in Illinois during the Class Period. The "Class Period" is October 2018 – December 9, 2020. Defendant estimates there are 241 Settlement Class Members. ("the Settlement Class" or "Settlement Class Members").

IV. SETTLEMENT TERMS

1. Final Approval; Waiver of Appeal; Settlement Date

The term "Final Approval" means the date on which the Court enters an order granting final approval of the Settlement. Plaintiff, individually, and Defendant waive their right to appeal entry of Final Approval, except that the Garfinkel Group, LLC ("Settlement Class Counsel") retains the right

to appeal the award of attorney fees and costs if the Court awards less than requested in accordance with this Settlement Agreement.

If the Court grants Settlement Class Counsel's requested fees and costs and there are no objections from any Settlement Class Members, the "Effective Date" is the date of Final Approval. If any Settlement Class Member objects to the Settlement or if the Court awards less than Class Counsel's requested fees and costs, the "Effective Date" means the first date on which the Final Approval Order is no longer appealable, or if an appeal is filed, the date on which such appeal is resolved in favor of Settlement approval and no further action is required by the Court.

2. Gross Fund; Net Fund; and Allocation to Settlement Class Participants

The term "Gross Fund" means the \$151,000 that Defendant will pay to settle the claims of Settlement Class Members in the Action. The Gross Fund is the maximum amount that Defendant shall be obligated to pay under this Settlement, unless the number of the Settlement Class Members increases over the current estimate of 151, in which case the Gross Fund shall be increased on a pro rata basis (i.e., \$1,000 per person added over the current estimate of \$151,000). The Gross Fund shall be decreased on a pro rata basis for each Settlement Class Member that timely and validly requests to be excluded from the Settlement Class (i.e., \$1,000 less for each Settlement Class Member that timely and validly requests to be excluded from the settlement). Other than any reductions in the Gross Fund based on timely and valid requests for exclusion, none of the Gross Fund shall revert back to Defendant.

The term "Net Fund" is the Gross Fund minus the following deductions, which are subject to Court approval: Settlement Class Counsel's attorney fees and costs; the Settlement Administrator's costs; and the Settlement Class Representative's Service Award.

The Net Fund shall be distributed pro rata to Settlement Class Members who do not timely and validly exclude themselves ("Settlement Class Participants"). Class Members are not required to

submit a claim form to receive payment. Because of this method of allocation to Settlement Class Participants, there will be no unclaimed funds in the Settlement. However, in the event that less than thirty percent (30%) of the Settlement Class Members become Settlement Class Participants, the Settlement Class Participants shall receive the pro-rata portion of the Net Fund they would have been entitled to had all 151 Settlement Class Members become Settlement Class Participants, plus an additional \$150.00 per Settlement Class Participant. The remaining uncashed and unallocated portion of the Net Fund shall then still revert back to Defendant subject to the terms of this Settlement Agreement.

3. Release of Claims

a. Definitions

The term “Released Parties” means Defendant, Locke Transportation, Inc.

b. Release for Settlement Class Members

Subject to final approval by the Court of the Settlement, Settlement Class Members who do not timely and validly exclude themselves from the Settlement will release the Released Parties from any and all liability.

4. Settlement Administration

The Parties have selected JND Legal Administration (“Settlement Administrator”) to issue notice and administer this Settlement. The Settlement Administrator’s costs, capped at \$25,000, shall be paid from the Gross Fund. The Parties agree to cooperate in the Settlement administration process and to make all reasonable efforts to control and minimize the costs and expenses incurred in the administration of the Settlement.

5. Timeline of Settlement Events

The Parties contemplate the following timeline for settlement events:

- a. Within twenty-one (21) days after the Court grants preliminary approval of the Settlement, Defendant will provide the Settlement Administrator and Settlement Class Counsel with a “Class List” in Microsoft Excel spreadsheet format that shall contain Settlement Class Members’ contact information, including names, addresses, dates of employment, social security numbers, cell phone numbers (if available), and personal email addresses (if available). Defendant will provide a declaration from Defendant’s employee or agent who compiled the class list. The Parties will discuss representations that need to be in the declaration.
- b. Within twenty-eight (28) days after the Court grants preliminary approval of the Settlement, or within twenty-eight (28) days after Defendant receives the information from the Settlement Administrator needed to transfer such funds to the Qualified Settlement Fund, whichever is later, Defendant shall fund the \$71,000 available for notice and settlement administration to the Qualified Settlement Fund established by the Settlement Administrator.
- c. Before the deadline to distribute class notice, the Settlement Administrator shall establish a Settlement website where Settlement Class Members can access settlement documents, read answers to frequently asked questions, and see settlement deadlines. The website address will be www.LockeBIPASettlement.com, or another website address agreed to by the Parties. The Settlement website shall include a brief description of the claims asserted in the Action, the Notice of Class Action Settlement (“Notice”), the Settlement Agreement, the Preliminary Approval Order, the Motion for Attorney Fees, Costs, and Settlement Class Representative’s Service Award (once available), the Motion for Final Approval (once available), and the Final Approval Order (once available). The Settlement website shall identify the contact information

for Settlement Class Counsel and describe how Settlement Class Members may obtain more information about the Settlement and will include information on how to object to or request exclusion from the Settlement.

- d. The Settlement Administrator will mail a Notice to everyone on the Class List in accordance with Section IV.10(b)(1) of this Settlement Agreement within fourteen (14) days after receiving the Class List. The same day, the Settlement Administrator shall send the notice communication described in Section IV.10.(b)(3)-(4) to Settlement Class Members by email (assuming that form of contact information exists for Settlement Class Members).
- e. Settlement Class Counsel shall file a motion for attorney fees, litigation costs, settlement administration costs, and the Settlement Class Representative's Service Award within thirty (30) days from the date of the mailing of the notice to Settlement Class Members. Settlement Class Counsel shall provide this motion to the Settlement Administrator to be posted on the Settlement website so that Settlement Class Members may obtain a copy during the objection/exclusion period as described in the Notice.
- f. All requests for exclusion from the Settlement must be postmarked or returned to the Settlement Administrator within sixty (60) days from the date of the initial distribution of the Notice to Settlement Class Members.
- g. All objections to the Settlement must be postmarked or returned to the Settlement Administrator within sixty (60) days from the date of the initial distribution of the notice to Settlement Class Members. Within three days of receiving an objection, the Settlement Administrator shall provide the objection, and any supporting materials, to counsel for the Parties. Within one business day of receiving an objection from the

Settlement Administrator, Settlement Class Counsel shall file the objection with the Court.

- h. Settlement Class Counsel will file a motion for final approval of this Settlement within seven (7) days before the Final Approval Hearing or such other date as set by the Court.
- i. No later than thirty (30) days after the Effective Date, Defendant will transfer the remainder of the Gross Fund, less the amount already transferred for Settlement Administration (pursuant to Section IV.4 above), to the Qualified Settlement Fund account established by the Settlement Administrator.
- j. Within twenty-eight (28) days of the Effective Date, the Settlement Administrator will mail or deliver the following payments: (1) Settlement award payments to Settlement Class Participants; (2) the Settlement Class Representative's Service Award; and (3) Settlement Class Counsel's award of attorney fees and litigation costs (by wire transfer).
- k. The deadline for Settlement Class Participants to cash checks will be one hundred and fifty (150) days from the date the checks are issued by the Settlement Administrator.
- l. Within twenty-one (21) days after the deadline for Settlement Class Participants to cash checks, the Settlement Administrator shall distribute funds from uncashed checks in accordance with Section IV.9 of this Agreement and the Court's order(s).

6. Tax Treatment of Settlement Awards

For income tax purposes, the Parties agree that, if required by law, Settlement Class Participant settlement awards shall be allocated as non-wage income and shall not be subject to required withholdings and deductions. The Settlement Class Representative's Service Award shall be allocated as non-wage income and shall not be subject to required withholdings and deductions and shall be

reported as non-wage income as required by law. If required by IRS regulations, the Settlement Administrator shall issue to each Settlement Class Participant an IRS Form 1099. Other than the reporting requirements herein, Settlement Class Participants shall be solely responsible for the reporting and payment of their share of any federal, state and/or local income or other taxes on payments received pursuant to this Settlement Agreement.

7. Settlement Class Counsel's Attorney Fees and Costs

a. Settlement Class Counsel may request that the Court award them up to one-third of the Gross Fund as attorney fees plus their litigation expenses.

b. The award of attorney fees and litigation expenses approved by the Court shall be paid to Settlement Class Counsel from the Gross Fund.

c. In the event that the Court does not approve the award of attorney fees and litigation expenses requested by Settlement Class Counsel, or the Court awards attorney fees and litigation expenses in an amount less than that requested by Settlement Class Counsel, such decision shall not affect the validity and enforceability of the Settlement and shall not be a basis for rendering the entire Settlement null, void, or unenforceable.

d. Settlement Class Counsel may appeal the award of attorney fees and litigation expenses should the sum awarded by the Court fall below the amount requested by Settlement Class Counsel, provided that the request Settlement Class Counsel makes is consistent with the Settlement Agreement. If Settlement Class Counsel elects not to appeal or if the appeals court affirms the decision, only the reduced amounts will be deemed to be Settlement Class Counsel's attorney fees and litigation expenses for purposes of this Settlement Agreement. Any amounts for Settlement Class Counsel's attorney fees and litigation expenses not awarded shall be added to the Net Fund available for distribution to Settlement Class Participants as settlement awards.

e. The payment of the award of attorney fees and litigation expenses to Settlement Class Counsel shall constitute full satisfaction of the obligation to pay any amounts to any person, attorney or law firm for attorney fees or litigation expenses in the Action incurred by any attorney on behalf of the Settlement Class Representatives and the Settlement Class Members, and shall relieve Defendant, the Released Parties, the Settlement Administrator, and Defendant's Counsel of any other claims or liability to any other attorney or law firm for any attorney fees, expenses and/or costs to which any of them may claim to be entitled on behalf of the Settlement Class Representative and the Settlement Class Members. In exchange for such payment, Settlement Class Counsel will release and forever discharge any attorneys' lien on the Gross Fund.

8. Service Award

Settlement Class Counsel will apply for a "Service Award" of up to \$5,000 for the Settlement Class Representative, to be paid for her time and effort spent conferring with Settlement Class Counsel, pursuing the Action in her own name, answering written discovery, and recovering compensation on behalf of all Settlement Class Members. Defendant agrees not to oppose such application, so long as it is consistent with the provisions of this Settlement Agreement. Subject to Court approval, the Service Award shall be paid from the Gross Fund, in addition to the Settlement Class Representative's settlement award. Any amount of the Service Award not awarded shall be added to the Net Fund available for distribution to Settlement Class Participants.

9. Uncashed Checks

Any checks that remain uncashed after one hundred and eighty (180) days from the date they are issued by the Settlement Administrator shall be deemed void. The Parties agree that the Settlement Administrator will distribute funds from these uncashed checks back to Defendant.

10. Approval of Settlement; Notice; Settlement Implementation

As part of this Settlement, the Parties agree to the following procedures for obtaining

preliminary Court approval of the Settlement, notifying Settlement Class Members, obtaining final Court approval of the Settlement, and processing the settlement awards:

a. Preliminary Approval Hearing. The Settlement Class Representatives shall file a motion for preliminary approval of the Settlement as soon as is reasonably possible. With the motion for preliminary approval, the Settlement Class Representatives will submit this Agreement and accompanying attachment(s).

b. Notice to Settlement Class Members. Notice of the Settlement shall be provided to Settlement Class Members, and Settlement Class Members shall submit any objections to the Settlement, and/or requests for exclusion from the Class, using the following procedures:

(1) Mailed Notice to Settlement Class Members. On the timetable specified in Section IV.5 of this Settlement Agreement, the Settlement Administrator shall send a copy of the Notice of Class Action Settlement, attached hereto as Attachment A, to Settlement Class Members via First Class regular U.S. mail. The Notice will be mailed using the most current mailing address information for Settlement Class Members, which the Settlement Administrator shall obtain by running each Settlement Class Member's name and address through the National Change of Address (NCOA) database or comparable databases. The front of the envelopes containing the Notice will be marked with words identifying the contents as important documents authorized by the Court and time sensitive. For Settlement Class Members whose notices are returned as undeliverable without a forwarding address, the Settlement Administrator shall promptly run a search in Experian or similar database search to locate an updated address and shall promptly mail the Notice to the updated address. If after this second mailing, the Notice is again returned as undelivered, the notice mailing process shall end for that Settlement Class Member (except as provided in Section 10.b.(2), below)

(2) Updated Contact Information

Settlement Class Members should contact the Settlement Administrator to update their mailing addresses. Settlement Class Counsel will forward any updated contact information they receive from Settlement Class Members to the Settlement Administrator. The Settlement Administrator will reissue the Notice to any Settlement Class Members who provide updated contact information prior to the “Exclusion Deadline Date,” as defined in Section IV.11.

(3) Email Notice

On the timetable specified in Section IV.5 of this Settlement Agreement, and for Settlement Class Members for whom the Settlement Administrator is provided or obtains an email address, the Settlement Administrator shall email notice as described in this Section. The subject of this email shall state: “Legal Notice: Defendant Finger Scan Lawsuit Settlement.” The body of the email shall state as follows:

Locke Transportation, Inc. (“Defendant”) settled a class action lawsuit that claims it violated Illinois law by collecting fingerprint scan data from Illinois employees through a biometric timekeeping system without written notice and consent. The Settlement includes _____. To learn about the settlement and your rights in it, please review the Notice of Class Action Settlement available at the settlement website: www.LockeBIPASettlement.com.¹ As further explained in the Notice of Class Action Settlement, if you do not exclude yourself from the settlement and the Court grants final approval, a settlement check will be mailed to you at the same address where you received the mailed Notice. If you did not receive the Notice in the mail you will need to update your address. To update your address, please call or email the Settlement Administrator at [insert name, phone number, and email address].”

¹ Or another website address agreed to by the Parties.

11. Procedure for Objecting, or Requesting Exclusion from Class Action Settlement

a. Procedure for Objecting. The Notice shall provide that Settlement Class Members who wish to submit written objections to the Settlement must mail or email them to the Settlement Administrator on or before 60 days from Notice distribution. To state a valid objection to the Settlement, an objecting Settlement Class Member must sign the objection and provide: (i) full name, current address, current telephone number, and the last four digits of his or her Social Security Number; (ii) a statement of the position or objection the objector wishes to assert, including the grounds for the position and objection; and (iii) copies of any other documents that the objector wishes to submit in support of his/her/its position. No later than three (3) days after receiving an objection, the Settlement Administrator shall furnish Settlement Class Counsel and Defendant's Counsel a copy of the objection. No later than one business day after receiving an objection from the Settlement Administrator, Settlement Class Counsel shall file the objection with the Court. Subject to approval of the Court, any objecting Settlement Class Member may appear in person or by counsel at the final approval hearing held by the Court to show cause why the proposed Settlement should not be approved as fair, reasonable, and adequate, or to object to any petitions for attorney fees, reimbursement of reasonable litigation costs and expenses, and service awards.

b. Procedure for Requesting Exclusion. The Notice shall provide that Settlement Class Members who wish to exclude themselves from the Class must submit a written statement requesting exclusion from the Class by mail or email to the Settlement Administrator on or before the 60 days from Notice distribution ("Exclusion Deadline Date"). Such written request for exclusion must contain the Class Member's full name, address, telephone number, and the last four digits of his/her/its social security number, a statement that the Settlement Class Member wishes to be excluded from the Settlement and must be signed by the Settlement Class Member. The date of the postmark on the return mailing envelope or the timestamp on the electronic submission shall be the

exclusive means used to determine whether a request for exclusion has been timely submitted. Any Settlement Class Member who excludes himself/herself/itself from the Settlement will not be entitled to any recovery under the Settlement and will not be bound by the Settlement. No later than three (3) days after receiving a request for exclusion the Settlement Administrator shall furnish to Settlement Class Counsel and Defendant's Counsel a copy of that request for exclusion. Settlement Class Counsel shall file the requests for exclusion with the motion for final approval of the Settlement.

If twenty percent (20%) or more of the Settlement Class Members submit valid requests for exclusion from the Settlement, Defendant may elect to withdraw from and not be bound by the terms of this Agreement.

12. Qualified Settlement Fund

As required under this Agreement, Defendant shall transfer the required portions of the Gross Fund to a Qualified Settlement Fund ("QSF"), to be held as a separate trust as described in Treasury Regulation §1.468B-1, 26 C.F.R. §1.468B-1. Settlement Class Counsel and Defendant jointly shall take such steps as shall be necessary to qualify the QSF under §468B of the Internal Revenue Code, 26 U.S.C. §468B, and the regulations promulgated pursuant thereto, with Settlement Class Counsel taking the lead in identifying any necessary steps. Defendant shall be considered the "transferor" within the meaning of Treasury Regulation §1.468B-1(d)(1). The Settlement Administrator shall be the "administrator" within the meaning of Treasury Regulation §1.468B-2(k)(3). The Parties shall cooperate in securing an order of the Court to establish the QSF in accordance with the terms hereof in conjunction with its preliminary approval of the Settlement and Notice as described in the Agreement. The Court shall retain jurisdiction over the administration of the QSF. Defendant shall supply to the Settlement Administrator and to the Internal Revenue Service the statement described in Treasury Regulation §1.468B-3(e)(2) no later than February 15th of the year following each calendar year in which Defendant makes a transfer to the QSF. It is

intended that the transfers to the QSF will satisfy the “all events test” and the “economic performance” requirement of §461(h)(1) of the Internal Revenue Code, and Treasury Regulation §1.461-1(a)(2). Accordingly, Defendant shall not include the income of the QSF in its income. Rather, the QSF shall be taxed on its modified gross income, excluding the sums transferred to it, and shall make payment of resulting taxes from its own funds. In computing the QSF’s modified gross income, deductions shall be allowed for its administrative costs and other deductible expenses incurred in connection with the operation of the QSF, including, without limitation, state and local taxes and legal, accounting, and other fees relating to the operation of the QSF.

Upon establishment of the QSF, the Settlement Administrator shall apply for an employer identification number for the QSF utilizing Internal Revenue Service Form SS-4 and in accordance with Treasury Regulation §1.468B-2(k)(4).

If requested by either Defendant or the Settlement Administrator, the Settlement Administrator and Defendant shall fully cooperate in filing a relation-back election under Treasury Regulation §1.468B-1(j)(2) to treat the QSF as coming into existence as a settlement fund as of the earliest possible date.

Following its deposits as described in this Agreement, Defendant shall have no responsibility, financial obligation, or liability whatsoever with respect to the notifications to the Settlement Class required hereunder, the processing of exclusion requests, payments to Settlement Class Counsel, investment of QSF funds, payment of federal, state, and local income, employment, unemployment, excise, and other taxes imposed on the QSF or its disbursements, or payment of the administrative, legal, accounting, or other costs occasioned by the use or administration of the QSF, since it is agreed that such deposits shall fully discharge Defendant’s obligations to Settlement Class Participants and Settlement Class Counsel and for expenses of administration in respect to the disposition of the Settlement funds hereunder. Rather, the Settlement Administrator shall have sole

authority and responsibility for the administration of such funds and income thereon, disbursement to Settlement Class Participants and Settlement Class Counsel, and payment of taxes and administrative costs in accordance with the provisions hereof, subject only to the rights of Defendant or Settlement Class Counsel to seek redress for any breach of the terms hereof.

The Settlement Administrator shall cause to be filed, on behalf of the QSF, all required federal, state, and local tax returns, information returns and tax withholdings statements in accordance with the provisions of Treasury Regulation §1.468B-2(k)(1) and Treasury Regulation §1.468B-2(l)(2)(ii). The Settlement Administrator may, at the expense of the QSF, retain legal counsel and an independent, certified public accountant to consult with and advise the Settlement Administrator with respect to the preparation and filing of such materials and the federal, state and local tax compliance of the QSF.

Based on the Settlement Administrator's recommendation and approval by the Parties, the QSF may be invested in United States Treasury bills, money market funds primarily invested in the same, or certificates of deposit (CDs), provided that such portions of the QSF as may reasonably be required to pay current QSF administrative expenses, taxes or disbursements to Settlement Class Participants or Settlement Class Counsel may be deposited in bank accounts which are federally insured to the greatest extent practicable. All federal, state, and local taxes imposed with respect to income earned by, or property of, the QSF, shall be paid from the QSF.

The Settlement Administrator may amend, either in whole or in part, any administrative provision of this Section or the trust instrument through which the QSF is established to maintain the qualification of the QSF pursuant to the above-described authorities provided that the rights and liabilities of the Parties hereto and the Settlement Class are not altered thereby in any material respect.

13. No Solicitation of Settlement Objections or Exclusions

The Parties agree to use their best efforts to carry out the terms of this Settlement. At no time shall either Party or their counsel seek to solicit or otherwise encourage Settlement Class Members to submit written objections to the Settlement or requests for exclusion from the Class, or appeal from the Court's Final Judgment.

14. Final Settlement Approval Hearing

In its preliminary approval order or a related order, the Court shall schedule a final approval hearing to determine whether to grant final approval of the Settlement Agreement along with the amount payable for (i) an award to Settlement Class Counsel for attorney fees and litigation expenses; (ii) the Settlement Administrator's expenses; and (iii) the Settlement Class Representative's Service Award. Plaintiff shall present a Final Approval order to the Court for its approval. The Final Approval order Plaintiff presents to the Court shall provide that the matter will be dismissed with prejudice within seven (7) days after Plaintiff files a declaration with the Court from the Settlement Administrator confirming that Defendant has fully funded the Gross Fund.

15. Defendant's Representations Regarding Biometric Systems

Without admitting any liability or that it was required by law to do so, Defendant acknowledges that it has implemented procedures to comply with BIPA.

16. Venue of Approval

The Parties will seek approval of this Settlement in the Circuit Court of Cook County, Chancery Division.

17. Defendant's Legal Fees

All of Defendant's own legal fees, costs, and expenses incurred in this Action shall be borne by Defendant.

18. Certification of Distribution of Settlement Checks

The Settlement Administrator shall provide Settlement Class Counsel with an accounting of the proceeds disbursed, upon request by Settlement Class Counsel. Should Settlement Class Counsel request such an accounting, Settlement Class Counsel will provide a copy of the accounting to Defendant's Counsel.

19. Attachment(s) and Headings

The terms of this Settlement Agreement include the terms set forth in the attached Attachment(s), which are incorporated by this reference as though fully set forth herein. Any Attachment(s) to this Settlement Agreement are an integral part of the Settlement. The descriptive headings of any paragraphs or sections of this Agreement are inserted for convenience of reference only and do not constitute a part of this Settlement Agreement.

20. Amendment or Modification

This Settlement Agreement may be amended or modified only by a written instrument signed by counsel for all Parties or their successors in interest. Notwithstanding the foregoing, the Parties agree that any dates contained in this Settlement Agreement may be modified by agreement of the Parties without Court approval if the Parties agree and cause exists for such modification. However, the Parties cannot modify deadlines set by the Court without Court approval.

21. Entire Agreement

Upon execution, this Settlement Agreement and any Attachment(s) constitute the entire agreement among these Parties, and no oral or written representations, warranties or inducements have been made to any Party concerning this Settlement Agreement or its Attachment(s) other than the representations, warranties and covenants contained and memorialized in such documents.

22. Good Faith Negotiation if the Court Does Not Grant Approval

If the Court does not grant preliminary or final approval of the Settlement, the Parties will work together in good faith to address the concerns raised in denying preliminary or final approval.

23. Authorization to Enter into Settlement Agreement

Counsel for all Parties warrant and represent they are expressly authorized by the Parties whom they represent to negotiate this Settlement Agreement and to take all appropriate action required or permitted to be taken by such Parties pursuant to this Settlement Agreement to effectuate its terms, and to execute any other documents required to effectuate the terms of this Settlement Agreement. The Parties and their counsel will cooperate with each other and use their best efforts to affect the implementation of the Settlement.

24. Binding on Successors and Assigns

This Settlement Agreement shall be binding upon, and inure to the benefit of, the successors or assigns of the Parties hereto, as previously defined.

25. Illinois Law Governs; Change in Law Will Not Invalidate Settlement

All terms of this Settlement Agreement and the Attachment(s) hereto shall be governed by and interpreted according to the laws of the State of Illinois. An intervening change in law or court decision shall not invalidate this Settlement Agreement.

26. Counterparts

This Settlement Agreement may be executed in one or more counterparts. All executed counterparts and each of them shall be deemed to be one and the same instrument. Electronic signatures compliant with the ESIGN Act and signatures transmitted by fax or .pdf shall have the same effect as an original ink signature.

27. This Settlement is Fair, Adequate and Reasonable

The Parties warrant and represent they have conducted a thorough investigation of the facts and allegations in the Action. The Parties further represent and warrant that they believe this Settlement Agreement represents a fair, adequate and reasonable Settlement of this action and that they have arrived at this Settlement Agreement through extensive arms-length negotiations, taking into account all relevant factors, present and potential.

28. Jurisdiction of the Court

The Court shall retain jurisdiction with respect to the interpretation, implementation and enforcement of the terms of this Settlement Agreement and all orders and judgments entered in connection therewith, and the Parties and their counsel hereto submit to the jurisdiction of the Court for purposes of interpreting, implementing and enforcing the Settlement embodied in this Settlement Agreement and all orders and judgments entered in connection therewith.

29. Cooperation and Drafting

Each of the Parties has cooperated in the drafting and preparation of this Settlement Agreement. Hence, in any construction made to this Settlement Agreement, the same shall not be construed against any of the Parties.

30. Invalidity of Any Provision

Before declaring any provision of this Settlement Agreement invalid, the Court shall first attempt to construe the provisions valid to the fullest extent possible consistent with applicable precedents so as to define all provisions of this Settlement Agreement valid and enforceable.

31. Circular 230 Disclaimer

Each Party to this Settlement Agreement acknowledges and agrees that (1) no provision of this Settlement Agreement, and no written communication or disclosure between or among the Parties or their attorneys and other advisers regarding this Settlement Agreement, is or was intended

to be, nor shall any such communication or disclosure constitute or be construed or be relied upon as, tax advice within the meaning of United States Treasury Department Circular 230 (31 CFR Part 10, as amended); (2) each Party (A) has relied exclusively upon his/her/their own, independent legal and tax advisers for advice (including tax advice) in connection with this Settlement Agreement, (B) has not entered into this Settlement Agreement based upon the recommendation of any Party or any attorney or advisor to any other Party, and (C) is not entitled to rely upon any communication or disclosure by any attorney or adviser to any other Party to avoid any tax penalty that may be imposed on that Party; and (3) no attorney or adviser to any other Party has imposed any limitation that protects the confidentiality of any such attorney's or adviser's tax strategies (regardless of whether such limitation is legally binding) upon disclosure by the acknowledging party of the tax treatment or tax structure of any transaction, including any transaction contemplated by this Settlement Agreement.

DATED: _____ Plaintiffs

By Their Legal Counsel (The Garfinkel Group, LLC)

DATED: _____ Defendant Locke Transportation, Inc.

By: _____

Its: _____

Attachment A

NOTICE OF CLASS ACTION SETTLEMENT

Eimear Kenny, on behalf of herself and all others similarly situated, v. Locke Transportation, Inc.,

1. Introduction

A court in the Circuit Court of Cook County, Illinois preliminarily approved a class action settlement in the lawsuit *Eimear Kenny, on behalf of herself and all others similarly situated, v. Locke Transportation, Inc.*, 2020-CH-07073 (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) follow the instructions on this notice form and submit a completed claim form online or by mail to receive 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; or
- (3) object to the settlement.

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

2. What Is this Lawsuit About?

The Lawsuit alleges that Locke Transportation, Inc. (“Defendant”) violated the Illinois Biometric Information Privacy Act (“BIPA”) 740 ILCS 14/1 *et seq.* 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 Defendant 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 Defendant did not timely destroy fingerprint data for employees after they stopped working for Defendant. Finally, the Lawsuit alleges that Defendant disclosed fingerprint data to its timekeeping vendor without consent.

Defendant denies the allegations in the Lawsuit and denies any liability stemming therefrom.

Both sides agreed to resolve the Lawsuit through a settlement. The Court did not make any determinations as to whether Defendant violated the law related to the Lawsuit’s allegations or otherwise.

You can learn more about the Lawsuit by contacting the settlement administrator, [TBD], at 1-xxx-xxx-xxxx, or Settlement Class Counsel, the Garfinkel Group, LLC at 3121-736-7991. You may also review the Settlement Agreement and related case documents at the settlement website: www.LockeBIPASettlement.com.”

3. Who Is Included in the Settlement?

The settlement includes all of Defendant’s workers who used Defendant’s finger scan timekeeping system in Illinois during the Class Period (“Settlement Class” or “Settlement Class Members”).

There are an estimated 151 Settlement Class Members.

4. What does the Settlement Provide?

The class action settlement provides for a total payment of \$151,000 that Defendant 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 \$50,000 and litigation costs (not to exceed \$1,000); (2) Service Award of \$5,000 to the Settlement Class Representative; and (3) the Settlement Administrator's costs of up to \$25,000. Following these reductions, the remaining amount shall be the net settlement fund which shall be distributed equally to Settlement Class Members. The Parties estimate you will receive a payment in the approximate amount of approximately \$500.

Unless you exclude yourself from the settlement as explained below, you will give up any and all Biometric Information Privacy Act claims against Defendant, its employees, and their related entities, including all other related federal, state, and local law claims, including under 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, which you can review on the at the settlement website.

5. What Are Your Options?

(1) **Receive a settlement payment.** If you want to receive a settlement payment, you need to follow the instructions on this notice form and submit a completed claim form online or by mail to receive a settlement payment. If you follow the instructions on this notice form and return a completed claim form by U.S. Mail or online, and the court grants final approval of the settlement, you will be mailed your settlement payment and be bound by the Settlement Agreement, including the release of claims. If required by law, you may also be sent a 1099 tax reporting form. If you do nothing, you will not receive a payment.

(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 **Insert date 60 days from Notice distribution**. If you do this, you will NOT receive 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 Defendant and the other Released Parties.

(3) **Object to the Settlement.** You may object to the settlement by **Insert date 60 days from Notice distribution**. 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.

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 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 up to one-third of the total settlement amount as attorney fees plus reimbursement of their costs. On or after [insert date 30 days from Notice mailing], you may review Settlement Class Counsel’s request for attorney fees and costs at the settlement website, www.LockeBIPASettlement.com. 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.

The Garfinkel Group, LLC
 Max P. Barack
 max@garfinkelgroup.com
 Haskell Garfinkel
 haskell@garfinkelgroup.com
 6252 N. Lincoln Avenue
 Suite 200
 Chicago, Illinois 60659
 Telephone: (312) 736-7991

8. When is the Final Approval Hearing?

The Court will hold a hearing in this case on **Insert date and time from preliminary approval order**, to consider, among other things, (1) whether to finally approve the settlement; (2) a request by the lawyers representing Settlement Class Members for an award of up to one-third of the settlement as attorney fees plus litigation costs; and (3) a request for Service Award of \$5,000 for the Settlement Class Representative Eimear Kenny; and (4) a request for up to \$25,000 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><u>Settlement Administrator</u> JND Legal Administration Address Line 1 Address Line 2 Telephone Number Email address</p>	<p><u>Settlement Class Counsel</u> The Garfinkel Group, LLC Max P. Barack max@garfinkelgroup.com Haskell Garfinkel haskell@garfinkelgroup.com 6252 N. Lincoln Avenue Suite 200 Chicago, Illinois 60659 Telephone: (312) 736-7991</p>
--	---

--	--

PLEASE DO NOT CONTACT THE COURT OR DEFENDANT ABOUT THIS SETTLEMENT.