

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

SHANNON CARPENTER, *individually and  
on behalf of all similarly situated individuals,*

Plaintiff,

v.

MCDONALD'S CORPORATION,

Defendant.

Case No.

**NOTICE OF REMOVAL**

Pursuant to 28 U.S.C. §§ 1332, 1441, 1446, and 1453, Defendant McDonald's Corporation ("McDonald's"), by and through counsel, hereby removes the matter captioned *Shannon Carpenter v. McDonald's Corporation*, Case No. 2021CH02014, filed in the Circuit Court of Cook County, Illinois on April 26, 2021 (hereinafter referred to as "the State Court Action") to the United States District Court for the Northern District of Illinois. The grounds for removal are set forth below.

**COMPLIANCE WITH STATUTORY REQUIREMENTS**

1. On or about April 26, 2021, Plaintiff Shannon Carpenter filed his Class Action Complaint ("the Complaint") alleging violations of Illinois' Biometric Information Privacy Act ("BIPA"), 740 ILCS 14/1, *et seq.*, in the First Municipal District of the Circuit Court of Cook County, Illinois. Plaintiff brought one count against McDonald's for alleged violations of BIPA sections 15(a), (b), (c), and (d). *See* Ex. A. The count was asserted on behalf of Plaintiff and putative class members.

2. On April 28, 2021, McDonald's was served with the Summons and Complaint filed in the State Court Action. McDonald's removal of this action is timely because McDonald's is

removing this matter within 30 days of service of the Summons and Complaint. *See* 28 U.S.C. § 1446(b).

3. In accordance with 28 U.S.C. § 1446(a), a true and correct copy of the Summons and Complaint served on McDonald's on April 28, 2021 is attached hereto as Exhibit A. *See* Ex. A. On May 3, 2021, McDonald's was served with Plaintiff's Motion for Class Certification or, Alternatively, for a Deferred Class Certification Ruling Pending Discovery, along with notice of the same. A copy of Plaintiff's Motion is attached hereto as Exhibit B. McDonald's has not been served with, nor has it served, any other process, pleadings, or orders in the State Court Action.

4. This Notice of Removal is properly filed in this district and division because the First Municipal District of the Circuit Court of Cook County, Illinois is located within the Eastern Division of the Northern District of Illinois. *See* 28 U.S.C. §§ 1441(a), 1446(a).

5. In accordance with 28 U.S.C. § 1446(d), McDonald's will promptly provide written notice of removal of the State Court Action to Plaintiff, and will promptly file a copy of this Notice of Removal with the Clerk of Court for the Circuit Court of Cook County, Illinois.

**JURISDICTION PURSUANT TO 28 U.S.C. § 1332(d)**  
**(CLASS ACTION FAIRNESS ACT)**

6. This Court has original jurisdiction over this action pursuant to the Class Action Fairness Act ("CAFA"), 28 U.S.C. § 1332(d). CAFA vests districts courts with original jurisdiction over putative class actions in which there is minimal diversity between the parties, and the amount in controversy, aggregated across putative class members' claims, exceeds \$5,000,000. *See* 28 U.S.C. § 1332(d)(2), (6); *see also id.* § 1441(a) (providing for removal of civil actions for which district courts have original jurisdiction). Under CAFA, minimal diversity is satisfied where "any member of a class of plaintiffs is a citizen of a State different from any defendant." *Id.* §

1332(d)(2)(A). CAFA also requires that the action involve 100 or more putative class members. *Id.* § 1332(d)(5)(B).

7. Plaintiff brings his claims “on behalf of himself and a class of similarly situated individuals pursuant to 735 ILCS § 5/2-801.” Ex. A, ¶ 30; *see also* 735 ILCS 5/2-801 (setting forth prerequisites for maintenance of a class action under Illinois law). Accordingly, this action constitutes a “class action,” as defined by CAFA. *See* 28 U.S.C. § 1332(d)(1)(B). Plaintiff alleges “[t]here are thousands of members of the Class,” Ex. A, ¶ 32, meeting the requirement that the action involve 100 or more putative class members, *id.* § 1332(d)(5)(B).

8. In the Complaint, Plaintiff alleges that he has been, “[a]t all relevant times . . . a resident and citizen of Illinois.” Ex. A, ¶ 12.

9. Plaintiff’s proposed class includes “[a]ll individuals whose voiceprint biometric identifiers or biometric information were collected, captured, stored, transmitted, disseminated, or otherwise used by or on behalf of Defendant within the state of Illinois any time within the applicable limitations period and for whom Defendant did not have any written record of consent to do so.” Ex. A, ¶ 30.

10. For diversity purposes, an individual’s citizenship depends on their domicile—“the state in which a person intends to live over the long run.” *See Heinen v. Northrop Grumman Corp.*, 671 F.3d 669, 670 (7th Cir. 2012). Factors that inform domicile may include, but are not limited to, the location of an individual’s real property and current residence; the state in which the individual is registered to vote; the state that issued the individual a driver’s license; and the state in which the individual’s motor vehicle is registered. *See, e.g., id.* (inferring domicile in Massachusetts where an individual owned a family home in Massachusetts, was registered to vote in Massachusetts, and had a Massachusetts driver’s license). On information and belief, several

individuals who interacted with a voice assistant in McDonald’s drive-thrus in Illinois are citizens of states other than Illinois and Delaware. As just three examples, on information and belief, at least three individuals are citizens of Michigan or Iowa. *See* Declaration of Alexandra Hosbach, ¶¶ 6–8 (attached hereto as Exhibit C). Individual A self-identified an Iowa zip code, and public records reflect that she resides in Iowa, owns real property in Iowa, and has multiple motor vehicles registered in Iowa. *See id.* ¶ 6. Individual B self-identified an Iowa zip code, and public records reflect that she resides in Iowa, owns real property in Iowa, has a motor vehicle registered in Iowa, and is employed in Iowa. *See id.* ¶ 7. Individual C self-identified a Michigan zip code, and public records reflect that she resides in Michigan, is registered to vote in Michigan, and has a motor vehicle registered in Michigan. *See id.* ¶ 8.

11. Plaintiff alleges that McDonald’s Corporation is “organized under the laws of Delaware” and has “its principal place of business in . . . Illinois.” A corporation is deemed a citizen of “every State and foreign state by which it has been incorporated and of the State or foreign state where it has its principal place of business.” 28 U.S.C. § 1332(c)(1). Thus, McDonald’s Corporation is a citizen of both Delaware and Illinois.

12. Because members of Plaintiff’s proposed class are citizens of Iowa and Michigan, and McDonald’s is a citizen of Illinois and Delaware, CAFA’s minimal-diversity requirement is satisfied. *See id.* § 1332(d)(2)(A) (recognizing minimal diversity where “any member of a class of plaintiffs is a citizen of a State different from any defendant”).

13. For the amount in controversy, “[a] removing party . . . only must establish the amount in controversy by a good faith estimate that is ‘plausible and adequately supported by the evidence.’” *Roppo v. Travelers Com. Ins. Co.*, 869 F.3d 568, 579 (7th Cir. 2017) (“The party

seeking removal does not need to establish what damages the plaintiff will recover, but only how much is *in controversy* between the parties.”).

14. In his prayer for relief, Plaintiff does not allege a total dollar amount in damages. However, Plaintiff brings his claims under BIPA, which provides for \$5,000 “for each violation” committed “intentionally or recklessly,” or \$1,000 “for each violation” committed “negligently.” 740 ILCS 14/20(1)–(2). While McDonald’s denies liability for any such alleged violations, or the appropriateness of any such damages, Plaintiff’s prayer for relief seeks “statutory damages of \$5,000 for each willful and/or reckless violation of BIPA” and “\$1,000.00 for each negligent violation.” *See* Ex. A.

15. Plaintiff’s estimate that the proposed class consists of “thousands of members” renders the purported damages well in excess of the \$5,000,000 threshold, even before potential attorneys’ fees. *See, e.g., Webb v. Fin. Indus. Regul. Auth., Inc.*, 889 F.3d 853, 857 (7th Cir. 2018) (“Legal fees may count toward the amount in controversy if the plaintiff has a right to them ‘based on contract, statute, or other legal authority.’”); *see also* 740 ILCS 14/20(3) (providing for recovery of “reasonable attorneys’ fees” by a prevailing party). Specifically, 1,000 putative class members with allegations of \$5,000 per violation puts \$5,000,000 in controversy, before attorneys’ fees. McDonald’s denies liability for Plaintiff’s claims and any purported damages, but McDonald’s recognizes that the Complaint’s allegations provide the requisite amount in controversy for removal under CAFA.

16. Removal of this action is thus proper, as this Court has original jurisdiction over Plaintiff’s claims under CAFA.

**NO WAIVER OF RIGHTS**

17. With this removal, McDonald's does not waive any claims or defenses. McDonald's also does not concede, in any way, that the allegations in the Complaint are accurate, that McDonald's committed any of the violations of law alleged in the Complaint, that Plaintiff has asserted any claims upon which relief can be granted, that certification of the proposed class is appropriate, or that recovery of any of the amounts sought is authorized or appropriate.

Dated: May 28, 2021

Respectfully submitted,

s/ Katherine S. Bailey

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Michael J. Gray  
mjgray@jonesday.com  
Efrat R. Schulman  
eschulman@jonesday.com  
Jennifer Plagman  
jplagman@jonesday.com  
Katherine S. Bailey  
kbailey@jonesday.com  
JONES DAY  
77 West Wacker  
Suite 3500  
Chicago, IL 60601.1692  
Telephone: +1.312.782.3939  
Facsimile: +1.312.782.8585

*Attorneys for McDonald's Corporation*

**CERTIFICATE OF SERVICE**

I hereby certify that, on May 28, 2021, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system and served the foregoing on counsel of record.

s/ Katherine S. Bailey

Katherine S. Bailey

# **EXHIBIT A**



Return Date No return date scheduled  
Hearing Date 8/25/2021 10 00 AM - 10 00 AM  
Courtroom Number  
Location

FILED  
4/27/2021 12 37 PM  
IRIS Y. MARTINEZ  
CIRCUIT CLERK  
COOK COUNTY, IL  
2021CH02014

13106195

2120 - Served  
2220 - Not Served  
2320 - Served By Mail  
2420 - Served By Publication  
Summons - Alias Summons

2121 - Served  
2221 - Not Served  
2321 - Served By Mail  
2421 - Served By Publication

(08/01/18) CCG 0001 A

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS

SHANNON CARPENTER

(Name all parties)

v.

Case No. 2021-CH-02014

MCDONALD'S CORPORATION

c/o Prentice Hall Corporation  
801 Adlai Stevenson Drive  
Springfield, IL 62703

☒ SUMMONS ☐ ALIAS SUMMONS

To each Defendant:

YOU ARE SUMMONED and required to file an answer to the complaint in this case, a copy of which is hereto attached, or otherwise file your appearance and pay the required fee **within thirty (30) days after service of this Summons**, not counting the day of service. To file your answer or appearance you need access to the internet. Please visit [www.cookcountyclerkofcourt.org](http://www.cookcountyclerkofcourt.org) to initiate this process. Kiosks with internet access are available at all Clerk's Office locations. Please refer to the last page of this document for location information.

**If you fail to do so, a judgment by default may be entered against you for the relief requested in the complaint.**

To the Officer:

This Summons must be returned by the officer or other person to whom it was given for service, with endorsement of service and fees, if any, immediately after service. If service cannot be made, this Summons shall be returned so endorsed. This Summons may not be served later than thirty (30) days after its date.

Dorothy Brown, Clerk of the Circuit Court of Cook County, Illinois  
[cookcountyclerkofcourt.org](http://cookcountyclerkofcourt.org)

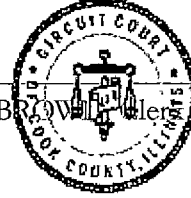
**Summons - Alias Summons**

(08/01/18) CCG 0001 B

E-filing is now mandatory for documents in civil cases with limited exemptions. To e-file, you must first create an account with an e-filing service provider. Visit <http://efile.illinoiscourts.gov/service-providers.htm> to learn more and to select a service provider. If you need additional help or have trouble e-filing, visit <http://www.illinoiscourts.gov/FAQ/gethelp.asp>, or talk with your local circuit clerk's office.

Atty. No.: 56618  
Atty Name: McGuire Law, P.C.  
Atty. for: Plaintiff  
Address: 55 W. Wacker Dr., 9th Fl.  
City. Chicago  
State: IL Zip: 60601  
Telephone: (312) 893-7002  
Primary Email: eturn@mcgpc.com

Witness: 4/27/2021 12 37 PM IRIS Y MARTINEZ



DOROTHY BROWN, Clerk of Court

Date of Service: \_\_\_\_\_  
(To be inserted by officer on copy left with  
Defendant or other person):

**Dorothy Brown, Clerk of the Circuit Court of Cook County, Illinois**  
**[cookcountyclerkofcourt.org](http://cookcountyclerkofcourt.org)**

# **CLERK OF THE CIRCUIT COURT OF COOK COUNTY OFFICE LOCATIONS**

- ☐ Richard J Daley Center  
50 W Washington  
Chicago, IL 60602
  - ☐ District 2 - Skokie  
5600 Old Orchard Rd  
Skokie, IL 60077
  - ☐ District 3 - Rolling Meadows  
2121 Euclid  
Rolling Meadows, IL 60008
  - ☐ District 4 - Maywood  
1500 Maybrook Ave  
Maywood, IL 60153
  - ☐ District 5 - Bridgeview  
10220 S 76th Ave  
Bridgeview, IL 60455
  - ☐ District 6 - Markham  
16501 S Kedzie Pkwy  
Markham, IL 60428
  - ☐ Domestic Violence Court  
555 W Harrison  
Chicago, IL 60607
  - ☐ Juvenile Center Building  
2245 W Ogden Ave, Rm 13  
Chicago, IL 60602
  - ☐ Criminal Court Building  
2650 S California Ave, Rm 526  
Chicago, IL 60608
  - ☐ Domestic Relations Division  
Richard J Daley Center  
50 W Washington, Rm 802  
Chicago, IL 60602  
Hours: 8:30 am - 4:30 pm
  - ☐ Civil Appeals  
Richard J Daley Center  
50 W Washington, Rm 801  
Chicago, IL 60602  
Hours: 8:30 am - 4:30 pm
  - ☐ Criminal Department  
Richard J Daley Center  
50 W Washington, Rm 1006  
Chicago, IL 60602  
Hours: 8:30 am - 4:30 pm
  - ☐ County Division  
Richard J Daley Center  
50 W Washington, Rm 1202  
Chicago, IL 60602  
Hours: 8:30 am - 4:30 pm
  - ☐ Probate Division  
Richard J Daley Center  
50 W Washington, Rm 1202  
Chicago, IL 60602  
Hours: 8:30 am - 4:30 pm
  - ☐ Law Division  
Richard J Daley Center  
50 W Washington, Rm 801  
Chicago, IL 60602  
Hours: 8:30 am - 4:30 pm
  - ☐ Traffic Division  
Richard J Daley Center  
50 W Washington, Lower Level  
Chicago, IL 60602  
Hours: 8:30 am - 4:30 pm
- Daley Center Divisions/Departments**
- ☐ Civil Division  
Richard J Daley Center  
50 W Washington, Rm 601  
Chicago, IL 60602  
Hours: 8:30 am - 4:30 pm
  - ☒ Chancery Division  
Richard J Daley Center  
50 W Washington, Rm 802  
Chicago, IL 60602  
Hours: 8:30 am - 4:30 pm

**Dorothy Brown, Clerk of the Circuit Court of Cook County, Illinois**

**[cookcountyclerkofcourt.org](http://cookcountyclerkofcourt.org)**

**12-Person Jury**

Return Date No return date scheduled  
Hearing Date 8/25/2021 9.30 AM - 9.30 AM  
Courtroom Number 2301  
Location District 1 Court  
Cook County, IL

FILED  
4/26/2021 9:54 PM  
IRIS Y. MARTINEZ  
CIRCUIT CLERK  
COOK COUNTY, IL  
2021CH02014

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

SHANNON CARPENTER, individually )  
and on behalf of similarly situated )  
individuals, )

*Plaintiff,* )

v. )

MCDONALD'S CORPORATION, a )  
Delaware corporation, )

*Defendant.* )

No. 2021CH02014

Hon.

**Jury Trial Demanded**

13096943

**CLASS ACTION COMPLAINT**

Plaintiff Shannon Carpenter ("Plaintiff"), individually and on behalf of other similarly situated individuals, brings this Class Action Complaint against Defendant McDonald's Corporation ("Defendant" or "McDonald's") for its violations of the Illinois Biometric Information Privacy Act, 740 ILCS 14/1, *et seq.* ("BIPA"), and to obtain redress for all persons injured by Defendant's conduct. Plaintiff alleges as follows based on personal knowledge as to his own acts and experiences, and as to all other matters, upon information and belief, including an investigation conducted by his attorneys.

**INTRODUCTION**

**A. BIPA.**

1. Biometrics refer to unique personally identifying features such as a person's voiceprint, fingerprint, facial geometry, iris, among others.
2. The Illinois Legislature enacted BIPA because it found that "biometrics are unlike other unique identifiers that are used to access finances or other sensitive information. For

example, even sensitive information like Social Security numbers can be changed. Biometrics, however, are biologically unique to each individual and, once compromised, such individual has no recourse, is at a heightened risk for identity theft, and is likely to withdraw from biometric facilitated transactions.” 740 ILCS 14/5.

3. BIPA defines a “biometric identifier” as any personal feature that is unique to an individual, including voiceprints, fingerprints, facial scans, handprints, and palm scans. “Biometric information” is any information based on a biometric identifier, regardless of how it is converted or stored. 740 ILCS § 14/10. Collectively, biometric identifiers and biometric information are known as “biometrics.”

4. To protect individuals’ biometrics, BIPA provides, *inter alia*, that private entities, such as Defendant, may not obtain and/or possess an individual’s biometrics unless they first: (1) inform the person whose biometrics are collected in writing that biometric identifiers or biometric information will be collected or stored; (2) inform them, in writing, of the specific purpose and the length of time for which such biometrics are being collected, stored and used; (3) receive a written release allowing them to capture and collect the biometrics; and (4) publish a publicly available retention policy for permanently destroying biometrics when their use has been satisfied or within 3 years of the individual’s last interaction with the private entity, whichever occurs first 740 ILCS 14/15(a).

5. BIPA’s Compliance requirements are straightforward and easily satisfied, often requiring little more than acquiring a written record of consent to a company’s BIPA practices

**B. Defendant's Biometric Collection Practices.**

6. In an effort to reduce costs and staff, beginning sometime in 2020 McDonald's implemented an artificial intelligence ("AI") voice assistant in the drive through of various McDonald's restaurants across the nation, including in Illinois.

7. McDonald's AI voice assistant uses voice recognition technology to allow customers to place orders without any actual human interaction.

8. Critically, McDonald's AI voice assistant's voice recognition technology collects customers' voiceprint biometrics in order to be able to correctly interpret customer orders and to identify repeat customers to provide a tailored experience.

9. However, McDonald's has failed to comply with BIPA's regulations and does not notify its customers that when they interact with McDonald's AI voice assistant their voiceprint biometric information is used and collected, nor does McDonald's obtain their consent to do so.

10. Plaintiff seeks on behalf of himself and the proposed Class defined below, an injunction requiring McDonald's compliance with BIPA, as well as an award of statutory damages to the Class, together with costs and reasonable attorneys' fees.

**PARTIES**

11. Defendant McDonald's Corporation is a corporation organized under the laws of Delaware with its principal place of business in Oak Brook, Illinois that conducts substantial business throughout Illinois, including in Cook County, and is registered with and authorized by the Illinois Secretary of State to transact business in Cook County, Illinois.

12. At all relevant times, Plaintiff Shannon Carpenter has been a resident and a citizen of the state of Illinois.

### **JURISDICTION AND VENUE**

13. This Court may assert personal jurisdiction over Defendant pursuant to 735 ILCS 5/2-209 in accordance with the Illinois Constitution and the Constitution of the United States, because Defendant's headquarters are located in the state of Illinois and because Plaintiff's claims arise out of Defendant's unlawful in-state actions, as Defendant captured, collected, stored, used and profited from Plaintiff's biometrics in this State.

14. Venue is proper in Cook County pursuant to 735 ILCS 5/2-101, because Defendant conducts business in Cook County and thus resides there under § 2-102.

### **FACTUAL BACKGROUND**

15. McDonald's is one of the largest fast-food companies in the world that operates thousands of locations around the world through its franchisees.

16. To streamline restaurant operations and reduce the staff necessary to run their drive throughs, in 2019 McDonald's purchased the technology company "Apprente" to implement an AI Voice assistant at its restaurants

17. Apprente was a company that specialized in creating AI voice assistants that utilized machine learning and intelligent AI to interpret and understand individuals' voice interactions.

18. Unlike common "speech-to-text" systems that simply transcribe voice interactions into a useable transcript that is then interpreted, Apprente's technology uses "speech-to-meaning" technology that analyzes speech signals in real-time to obtain a "result."<sup>1</sup>

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<sup>1</sup> [www.infosecurity-magazine.com/news/mcdonalds-to-use-ai-voice/#.~:text=McDonald%27s%20has%20entered%20into%20an,to%20have%20definitely%20paid%20off](https://www.infosecurity-magazine.com/news/mcdonalds-to-use-ai-voice/#.~:text=McDonald%27s%20has%20entered%20into%20an,to%20have%20definitely%20paid%20off) (last accessed 4/23/2021).

20. Furthermore, McDonald's AI voice assistant goes beyond real-time voiceprint analysis and recognition and also incorporates "machine-learning routines" that utilize voiceprint recognition in combination with license plate scanning technology to identify unique customers regardless of which location they visit and present them certain menu items based on their past visits.<sup>3</sup>

22. Nor does McDonald's have a publicly available data retention policy that discloses what McDonald's does with the voiceprint biometric data it obtains or how long it is stored for.

23. Like thousands of other Illinois residents, Plaintiff Shannon Carpenter had his voiceprint biometrics collected when he visited a McDonald's located in Lombard, Illinois in early 2020 and interacted with Defendant's AI voice assistant.

<sup>3</sup> [www.iottechrends.com/macdonad-ai-menu](http://www.iottechrends.com/macdonad-ai-menu) (last accessed 4/23/2021)



24. Specifically, when Plaintiff pulled up to Defendant's drive through he was greeted by the intelligent AI voice assistant which asked for his order.

25. Plaintiff interacted with Defendant's AI voice assistant and provided his order, which was then confirmed by the voice assistant.

26. Defendant's AI voice assistant extracted Plaintiff's voiceprint biometrics in order to understand and process his order, and to provide verbal confirmation at the end of the exchange.

27. Plaintiff, like the thousands of Illinois residents who interacted with McDonald's AI voice assistant never provided written consent permitting Defendant to capture, store, or disseminate his voiceprint biometrics.

28. Nor has Defendant made a policy regarding its retention or deletion of the voiceprint biometric data that it obtains publicly available for Plaintiff and the other Class members to review.

29. Plaintiff, like the other Class members, to this day does not know the whereabouts of his voiceprint biometrics which Defendant obtained.

### **CLASS ALLEGATIONS**

30. Plaintiff brings this action on behalf of himself and a class of similarly situated individuals pursuant to 735 ILCS § 5/2-801. Plaintiff seeks to represent a Class defined as follows:

**Class:** All individuals whose voiceprint biometric identifiers or biometric information were collected, captured, stored, transmitted, disseminated, or otherwise used by or on behalf of Defendant within the state of Illinois any time within the applicable limitations period and for whom Defendant did not have any written record of consent to do so.

31. Excluded from the Class are any members of the judiciary assigned to preside over this matter; any officer or director of Defendant; and any immediate family of such officer or director.

32. There are thousands of members of the Class, making the members of the Class so numerous that joinder of all members is impracticable. Although the exact number of members of the Class is currently unknown to Plaintiff, the members can be easily identified through Defendant's records.

33. Plaintiff's claims are typical of the claims of the Class he seeks to represent, because the basis of Defendant's liability to Plaintiff and the Class is substantially the same, and because Defendant's conduct has resulted in similar injuries to Plaintiff and to the Class.

34. There are many questions of law and fact common to the claims of Plaintiff and the Class and those questions predominate over any questions that may affect individual members of the Class. Common questions for the Class include, but are not limited to, the following.

a. Whether Defendant collected, captured, or otherwise obtained voiceprint biometrics from individuals who verbally interacted with McDonald's drive through AI voice assistant within Illinois,

b. Whether Defendant disseminated the voiceprint biometrics it obtained;

c. Whether Defendant profited from its collection and possession of said voiceprint biometrics;

d. Whether Defendant obtained a written release from the Class members before capturing, collecting, or otherwise obtaining their voiceprint biometrics;

e. Whether Defendant's conduct violates BIPA;

f. Whether Defendant's BIPA violations are willful or reckless; and

g. Whether Plaintiff and the Class are entitled to damages and injunctive relief.

35. Absent a class action, most members of the Class would find the cost of litigating their claims to be prohibitively expensive and would thus have no effective remedy. The class

treatment of common questions of law and fact is superior to multiple individual actions or piecemeal litigation in that it conserves the resources of the courts and the litigants and promotes consistency and efficiency of adjudication.

36. Plaintiff will fairly and adequately represent and protect the interests of the other members of the Class he seeks to represent. Plaintiff has retained counsel with substantial experience in prosecuting complex litigation and class actions. Plaintiff and his counsel are committed to vigorously prosecuting this action on behalf of the other members of the Class and have the financial resources to do so. Neither Plaintiff nor his counsel has any interest adverse to those of the other members of the Class.

37. Defendant has acted and failed to act on grounds generally applicable to the Plaintiff and the other members of the Class and requiring the Court's imposition of uniform relief to ensure compatible standards of conduct toward the members of the Class and making injunctive or corresponding declaratory relief appropriate for the Class as a whole.

### **COUNT I**

#### **Violations of the Illinois Biometric Information Privacy Act, 740 ILCS 14/1, *et seq.* (On behalf of Plaintiff and the Class)**

38. Plaintiff incorporates the foregoing allegations as if fully set forth herein.

39. Defendant McDonald's is a private entity under BIPA.

40. BIPA requires that private entities, such as Defendant, obtain informed written consent from individuals before acquiring their biometrics. Specifically, BIPA makes it unlawful to "collect, capture, purchase, receive through trade, or otherwise obtain a person's or customer's biometric identifiers or biometric information unless [the entity] first: (1) informs the subject . . . in writing that a biometric identifier or biometric information is being collected or stored; (2) informs the subject . . . in writing of the specific purpose and length of for which a biometric

identifier or biometric information is being captured, collected, stored, and used; and (3) receives a written release executed by the subject of the biometric identifier or biometric information . . . .” 740 ILCS 14/15(b).

41. BIPA also requires that a private entity in possession of biometric identifiers and/or biometric information establish and maintain a publicly available retention policy. An entity which possesses biometric identifiers or information must: (i) make publicly available a written policy establishing a retention schedule and guidelines for permanent deletion of biometric information (entities may not retain biometric information longer than three years after the last interaction with the individual); and (ii) adhere to the publicly posted retention and deletion schedule.

42. Plaintiff and the other Class members have had their “biometric identifiers,” namely their voiceprints, collected, captured, or otherwise obtained by Defendant when they interacted with the intelligent AI voice assistant at McDonald’s drive through locations in Illinois. 740 ILCS 14/10.

43. Each instance when Plaintiff and the other Class members interacted with McDonald’s AI voice assistant at one of its drive throughs Defendant captured, collected, stored, and/or used Plaintiff’s and the other Class members’ voiceprint biometrics without valid consent and without complying with and, thus, in violation of BIPA.

44. Defendant’s practices with respect to capturing, collecting, storing, and using its customers’ voiceprint biometrics fail to comply with applicable BIPA requirements:

- a. Defendant failed to inform Plaintiff and the other members of the Class in writing that their voiceprint biometrics were being collected and stored, prior to such collection or storage, as required by 740 ILCS 14/15(b)(1);

- b. Defendant failed to inform Plaintiff and the other Class members in writing of the specific purpose for which their voiceprint biometrics were being captured, collected, stored, and used, as required by 740 ILCS 14/15(b)(2);
- c. Defendant failed to inform Plaintiff and the other Class members in writing the specific length of term their voiceprint biometrics were being captured, collected, stored, and used, as required by 740 ILCS 14/15(b)(2);
- d. Defendant failed to obtain a written release, as required by 740 ILCS 14/15(b)(3);
- e. Defendant failed to provide a publicly available retention schedule detailing the length of time for which the biometrics are stored and/or guidelines for permanently destroying the biometrics they store, as required by 740 ILCS 14/15(a); and,
- f. Defendant failed to obtain informed consent to disclose or disseminate the Class members' voiceprint biometrics for purposes of data retention and storage of the same, as required by 740 ILCS 14/15(d)(1).

45. By using its voiceprint biometric-based AI voice assistant to collect food orders at its Illinois restaurant locations, Defendant profited from Plaintiff's and the other Class members' voiceprint biometric identifiers in violation of 740 ILCS 14/15(c).

46. Defendant knew, or was reckless in not knowing, that the voiceprint biometric technology that it utilized and which thousands of individuals within Illinois interacted with would be subject to the provisions of BIPA yet failed to comply with the statute.

47 By capturing, collecting, storing, using, and disseminating Plaintiff's and the other Class members' voiceprint biometrics as described herein, Defendant denied Plaintiff and the other Class members their rights to statutorily required information and violated their respective rights to biometric information privacy, as set forth in BIPA.

48 BIPA provides for statutory damages of \$5,000 for each willful and/or reckless violation of BIPA and, alternatively, damages of \$1,000 for each negligent violation of BIPA. 740 ILCS 14/20(1)–(2).

49. Defendant’s violations of BIPA, a statute that has been in effect in all relevant times, were knowing and willful, or were at least in reckless disregard of the statutory requirements. Alternatively, Defendant negligently failed to comply with BIPA.

50. Accordingly, with respect to Count I, Plaintiff, individually and on behalf of the proposed Class, prays for the relief set forth below.

#### **PRAYER FOR RELIEF**

WHEREFORE, Plaintiff, on behalf of himself and the proposed Class, respectfully requests that this Court enter an Order:

- a. Certifying the Class as defined above, appointing Plaintiff as class representative and the undersigned as class counsel;
- b. Declaring that Defendant’s actions, as set forth herein, violate BIPA;
- c. Awarding injunctive and equitable relief as necessary to protect the interests of Plaintiff and the Class by requiring Defendant to comply with BIPA;
- d. Awarding statutory damages of \$5,000 for each willful and/or reckless violation of the BIPA, pursuant to 740 ILCS 14/20(2);
- e. Awarding statutory damages of \$1,000 for each negligent violation of BIPA, pursuant to 740 ILCS 14/20(1),
- f. Awarding reasonable attorneys’ fees, costs, and other litigation expenses, pursuant to 740 ILCS 14/20(3);
- g. Awarding pre- and post-judgment interest, as allowable by law; and

h. Awarding such further and other relief as the Court deems just and equitable.

**JURY DEMAND**

Plaintiff requests trial by jury of all claims that can be so tried.

Dated: April 26, 2021

Respectfully Submitted,

SHANNON CARPENTER, individually and on  
behalf of a class of similarly situated individuals

By: /s/ Eugene Y. Turin  
*One of Plaintiff's Attorneys*

Eugene Y. Turin  
Timothy P. Kingsbury  
Colin P. Buscarini  
Andrew T. Heldut  
MCGUIRE LAW, P.C. (Firm ID: 56618)  
55 W. Wacker Drive, 9th Fl.  
Chicago, IL 60601  
Tel: (312) 893-7002  
eturin@mcgpc.com  
tkingsbury@mcgpc.com  
cbuscarini@mcgpc.com  
aheldut@mcgpc.com

*Attorneys for Plaintiff and the Putative Class*

# **EXHIBIT B**



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

13106195

SHANNON CARPENTER, individually	)	
and on behalf of similarly situated	)	
individuals,	)	
	)	No. 2021-CH-02014
Plaintiff,	)	
	)	
v.	)	Hon. Sophia H. Hall
	)	
MCDONALD’S CORPORATION, a	)	Cal. 14
Delaware corporation,	)	
	)	
Defendant.	)	
	)	
	)	

NOTICE OF MOTION

To:

MCDONALD’S CORPORATION  
c/o Prentice Hall Corporation  
801 Adlai Stevenson Drive  
Springfield, IL 62703

On August 25, 2021 at 9:30 a.m. or as soon thereafter as counsel may be heard, I shall appear before the Honorable Sophia H. Hall or any Judge sitting in that Judge’s stead, in courtroom 2301, located at the Richard J. Daley Center, 50 W. Washington St., Chicago, Illinois 60602, and present *Plaintiff’s Motion for Class Certification or, Alternatively, for a Deferred Class Certification Ruling Pending Discovery.*

Name:	McGuire Law, P.C.	Attorney for:	Plaintiff
Address:	55 W. Wacker Dr., 9th Fl.	City:	Chicago, IL 60601
Telephone:	(312) 893-7002	Firm ID.:	56618

**CERTIFICATE OF SERVICE**

The undersigned, an attorney, hereby certifies that on April 27, 2021, a copy of Plaintiff's Motion for Class Certification or, Alternatively, for a Deferred Class Certification Ruling Pending Discovery was sent to Defendant's Registered Agent by way of first class mail by depositing the same in a United States Mailbox.

/s/ Eugene Y. Turin  
Eugene Y. Turin, Esq.

Return Date: No return date scheduled  
 Hearing Date: 8/25/2021 10:00 AM - 10:00 AM  
 Courtroom Number:  
 Location:

FILED  
 4/27/2021 12:37 PM  
 IRIS Y. MARTINEZ  
 CIRCUIT CLERK  
 COOK COUNTY, IL  
 2021CH02014

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

SHANNON CARPENTER, individually	)	
and on behalf of similarly situated	)	
individuals,	)	
	)	No. 2021-CH-02014
<i>Plaintiff,</i>	)	
	)	
v.	)	Hon. Sophia H. Hall
	)	
MCDONALD’S CORPORATION, a	)	Cal. 14
Delaware corporation,	)	
	)	
<i>Defendant.</i>	)	
	)	
	)	

13106195

**PLAINTIFF’S MOTION FOR CLASS CERTIFICATION OR, ALTERNATIVELY,  
 FOR A DEFERRED CLASS CERTIFICATION RULING PENDING DISCOVERY**

Plaintiff Shannon Carpenter, by and through his undersigned counsel, pursuant to 735 ILCS 5/2-801, moves for entry of an order certifying the Class proposed below, appointing Plaintiff as Class Representative, and appointing Plaintiff’s attorneys as Class Counsel. Alternatively, Plaintiff requests, to the extent the Court determines further evidence is necessary to prove any element of 735 ILCS 5/2-801, that the Court defer consideration of this Motion pending a reasonable period to complete discovery. *See, e.g., Ballard RN Center, Inc. v. Kohll’s Pharmacy & Homecare, Inc.*, 2015 IL 118644, at ¶¶ 42–43 (citing *Damasco v. Clearwire Corp.*, 662 F.3d 891, 896–97 (7th Cir. 2011)). In support of his Motion, Plaintiff submits the following Memorandum of Law.

Dated: April 27, 2021

Respectfully Submitted,

SHANNON CARPENTER, individually and on  
 behalf of a Class of similarly situated individuals

By: /s/ Eugene Y. Turin  
*One of Plaintiff’s Attorneys*

Eugene Y. Turin  
Timothy P. Kingsbury  
Colin P. Buscarini  
Andrew T. Heldut  
MCGUIRE LAW, P.C.  
55 W. Wacker Drive, 9th Fl.  
Chicago, IL 60601  
Tel: (312) 893-7002  
eturin@mcgpc.com  
tkingsbury@mcgpc.com  
cbuscarini@mcgpc.com  
aheldut@mcgpc.com

*Attorneys for Plaintiff and the Putative Class*

**MEMORANDUM OF LAW IN SUPPORT OF PLAINTIFF'S  
MOTION FOR CLASS CERTIFICATION OR, ALTERNATIEY, FOR  
A DEFERRED CLASS CERTIFICATION RULING PENDING DISCOVERY**

This Court should certify a class of Illinois residents whose biometrics were obtained by McDonald's Corporation ("Defendant") in violation of the Illinois Biometric Information Privacy Act, 740 ILCS 14/1, *et seq.* ("BIPA"). Defendant is one of the largest fast-food companies in the world that operates thousands of locations around the world through its franchisees. In an effort to streamline restaurant operations and reduce the number of staff necessary to run its drive throughs, Defendant has implemented an Artificial Intelligence ("AI") voice assistant to interact with customers and fulfill their orders. However, Defendant's AI voice assistant operates by capturing customers' voiceprint biometrics in order to understand its customers' voice requests and to identify them. In doing so, Defendant has violated BIPA because it failed to obtain proper consent prior to collecting and disseminating Plaintiff's and the other class members' voiceprint biometrics who interacted with its AI voice assistant at its Illinois locations. After Plaintiff learned of Defendant's wrongful conduct, he brought suit on behalf of a class of similarly situated individuals to put a stop to Defendant's collection of Illinois residents' voiceprint biometrics in violation of BIPA, and to obtain redress for all persons injured by its conduct.

**I. INTRODUCTION: BIPA**

The Illinois Biometric Information Protection Act is designed to protect individuals' biometrics. "Biometrics" refers to a "biology-based set[s] of measurements." *Rivera v. Google Inc.*, 238 F. Supp. 3d 1088, 1094 (N.D. Ill. 2017). Specifically, "biometrics" are "a set of measurements of a specified physical component (eye, finger, voice, hand, face)." *Id.* at 1296. Under BIPA, biometric identifiers include handprints, fingerprints and voiceprints; while

biometric information can be defined as any information based on a biometric identifier, regardless of how it is converted or stored. (Complaint, “Compl.,” ¶ 3.)

In recognition of the importance of the security of individuals’ biometrics, the Illinois Legislature enacted BIPA, which provides, *inter alia*, that private entities, such as Defendant, may not obtain and/or possess an individual’s biometrics unless they: (1) inform that person in writing that biometric identifiers or information will be captured, collected, stored, or used; (2) inform that person in writing of the specific purpose and the length of term for which such biometric identifiers or biometric information is being captured, collected, stored, and used; (3) receive a written release from the person for the collection of his or her biometric identifiers and/or information; and (4) publish publicly and make available a written retention schedule and guidelines for permanently destroying biometric identifiers and biometric information. 740 ILCS 14/15; Compl., ¶ 4. In addition, BIPA also prohibits private companies from selling, leasing, trading, or otherwise profiting from a person’s or a customer’s biometric identifier or biometric information. 740 ILCS 14/15(c). And lastly BIPA prohibits the “disclos[ure], redisclos[ure], or other[] disseminat[ion]” of biometrics without consent, unless the “disclosure or redisclosure completes a financial transaction” that is requested or authorized by the individual, is required by law, or is required in order to comply with a valid warrant or subpoena. 740 ILCS 14/15(d).

## **II. FACTUAL BACKGROUND**

### **A. The Underlying Misconduct.**

Defendant operates one of the largest chains of fast-food restaurants in the world, with locations throughout the United States, and Illinois. (Compl., ¶ 15.) To streamline its restaurant operations and reduce the amount of staff necessary to run the drive throughs, Defendant implemented an AI voice assistant. (*Id.* at ¶¶ 16–18.) Defendant’s AI voice assistant allows

customers to place orders and interact with it by extracting their voiceprint biometrics. (Compl. at ¶¶ 22, 26.) Like thousands of other Illinois residents, Plaintiff had his voiceprint biometrics collected by Defendant when he visited one of its restaurant locations in Illinois in early 2020 and interacted with Defendant's AI voice assistant at the drive through. (*Id.* at ¶ 23.) In the process of placing his order through Defendant's AI voice assistant Plaintiff's voiceprint biometrics were obtained and utilized by Defendant to understand and process his order and provide verbal confirmation of the order at the end of the exchange. (*Id.* at ¶ 26.) However, as with thousands of other Illinois residents who interacted with Defendant's customer service phone line, Plaintiff did not provide written consent to have his voiceprint biometrics collected. (*Id.* at ¶ 27.)

#### **B. The Proposed Class**

Plaintiff brings this action on behalf of himself and similarly situated individuals pursuant to 735 ILCS § 5/2-801. Plaintiff seeks to represent a Class defined as follows:

**Class:** All individuals whose voiceprint biometric identifiers or biometric information were collected, captured, stored, transmitted, disseminated, or otherwise used by or on behalf of CVS Pharmacy, Inc. within the state of Illinois any time within the applicable limitations period and for whom Defendant did not have any written record of consent to do so.

(Compl., ¶ 33.) As explained below, the proposed Class satisfies each of the four requirements for certification under Section 2-801 of the Illinois Code of Civil Procedure—numerosity, commonality, adequacy of representation, and fair and efficient adjudication. A class action is not just appropriate here, it is also the only way that the members of the putative Class can obtain appropriate redress for Defendant's unlawful conduct.

### **III. ARGUMENT**

#### **A. Standards for Class Certification**

To obtain class certification, it is not necessary for a plaintiff to establish that he will prevail on the merits of the action. *Eisen v. Carlisle & Jacquelin*, 417 U.S. 156, 178 (1974) (“[T]he

question is not whether the plaintiff or plaintiffs have stated a cause of action or will prevail on the merits, but rather whether the requirements of Rule 23 are met.” (internal quotation marks and citation omitted)). As such, in determining whether to certify a proposed class, the Court should accept the allegations of the complaint as true. *Ramirez v. Midway Moving & Storage, Inc.*, 378 Ill. App. 3d 51, 53 (1st Dist. 2007).

To proceed with a class action, the movant must satisfy the “prerequisites for the maintenance of a class action” set forth in Section 2-801 of the Illinois Code of Civil Procedure, which provides:

An action may be maintained as a class action in any court of this State and a party may sue or be sued as a representative party of the class only if the court finds:

- (1) The class is so numerous that joinder of all members is impracticable.
- (2) There are questions of fact or law common to the class, which common questions predominate over any questions affecting only individual members.
- (3) The representative parties will fairly and adequately protect the interest of the class.
- (4) The class action is an appropriate method for the fair and efficient adjudication of the controversy.

735 ILCS 5/2-801. As demonstrated below, each prerequisite is established for the Class, and the Court should therefore certify the proposed Class.

Section 2-801 is modeled after Rule 23 of the Federal Rules of Civil Procedure and “federal decisions interpreting Rule 23 are persuasive authority with regard to questions of class certification in Illinois.” *Avery v. State Farm Mut. Auto. Ins. Co.*, 216 Ill. 2d 100, 125 (Ill. 2005). Circuit courts have broad discretion in determining whether a proposed class meets the requirement for class certification and ought to err in favor of maintaining class certification. *Ramirez*, 378 Ill. App. 3d at 53. While a court may rule on class certification without requiring further discovery, *see* Manual for Complex Litigation (Fourth) § 21.14, at 255 (2004), courts have



found that discovery is helpful prior to addressing a motion for class certification. *See, e.g., Ballard RN Center, Inc. v. Kohll's Pharmacy & Homecare, Inc.*, 2015 IL 118644, at ¶ 42 (“If the parties have yet to fully develop the facts needed for certification, then they can also ask the district court to delay its ruling to provide time for additional discovery or investigation.”) (quoting *Damasco v. Clearwire Corp.*, 662 F.3d 891, 896 (7th Cir. 2011)).

All the prerequisites for class certification are satisfied here, even though Plaintiff has not yet had an opportunity to engage in and complete discovery. However, in the interests of establishing a more fully developed record before ruling on class certification issues, the Court should defer ruling on this Motion pending the completion of discovery and submission of supplemental briefing.

#### **B. The Numerosity Requirement is Satisfied**

The first step in certifying a class is a showing that “the class is so numerous that joinder of all members is impracticable.” 735 ILCS 5/2-801(1). This requirement is met when “join[ing] such a large number of plaintiffs in a single suit would render the suit unmanageable and, in contrast, multiple separate claims would be an imposition on the litigants and the courts.” *Gordon v. Boden*, 224 Ill. App. 3d 195, 200 (1st Dist. 1991) (citing *Steinberg v. Chicago Med. Sch.*, 69 Ill.2d 320, 337 (Ill. 1977)). To satisfy this requirement a plaintiff need not demonstrate the exact number of class members but, must offer a good faith estimate as to the size of the class. *Smith v. Nike Retail Servs., Inc.*, 234 F.R.D. 648, 659 (N.D. Ill. 2006).

Plaintiff alleges that there are thousands of members of the Class. (Compl., ¶ 32.) Because definitive evidence of numerosity can only come from the records of Defendant and its agents, it is proper to rely upon the allegations of the Complaint in certifying the Class. *See* 2 A. Conte & H. Newberg, *Newberg on Class Actions* § 7.20, at 66 (stating that where numerosity information

is in the sole possession of the party opposing the class, courts generally rely on the complaint as prima facie evidence or defer ruling).

Additionally, the members of the putative Class can be easily and objectively determined from Defendant's records as Defendant will have a history of orders placed by individuals through its AI voice assistant. Furthermore, it would be completely impracticable to join the claims of the members of the Class, because they are disbursed throughout Illinois, and because absent a class action, few members could afford to bring an individual lawsuit over the amounts at issue in this case, because each individual member's claim is relatively small. *See Gordon*, 224 Ill. App. 3d at 200. Accordingly, the first prerequisite for class certification is met.

### **C. Common Questions of Law and Fact Predominate**

The second requirement of Section 2-801(2) is met where there are "questions of fact or law common to the class" and those questions "predominate over any questions affecting only individual members." 735 ILCS 5/2-801(2). Such common questions of law or fact exist when the members of the proposed class have been aggrieved by the same or similar misconduct. *See Miner v. Gillette Co.*, 87 Ill.2d 7, 19 (Ill. 1981); *Steinberg*, 69 Ill.2d at 342. These common questions must also predominate over any issues affecting individual class members. *See O-Kay Shoes, Inc. v. Rosewell*, 129 Ill. App. 3d 405, 408 (1st Dist. 1984). These common questions include: whether Defendant collects, captures, or otherwise obtains voiceprint biometrics from Illinois residents who interact with its AI voice assistant; whether Defendant disseminated voiceprint biometrics of Illinois residents; whether Defendant obtained a written release from the Class members before capturing, collecting, or otherwise obtaining their voiceprint biometrics; whether Defendant's conduct violates BIPA; whether Defendant's BIPA violations are willful or reckless; and whether Plaintiff and the Class are entitled to damages and injunctive relief. (Compl., ¶ 34.)

As alleged, and as will be shown through obtainable evidence, during the relevant time period Defendant engaged in a common course of conduct by collecting, capturing, storing, disseminating Class members' voiceprint biometrics without obtaining the proper consent required by BIPA. Given that BIPA requires a record of consent to engage in such conduct, whether Defendant had valid consent is also a common issue subject to common resolution. Any potential individualized issues remaining after common issues are decided would be *de minimis*. Accordingly, common issues of fact and law predominate over any individual issues, and Plaintiff has satisfied this hurdle to certification.

#### **D. Adequate Representation**

The third prong of Section 2-801 requires that "[t]he representative parties will fairly and adequately protect the interest of the class." 735 ILCS 5/2-801(3). The class representative's interests must be generally aligned with those of the class members, and class counsel must be "qualified, experienced and generally able to conduct the proposed litigation." *See Miner*, 87 Ill.2d at 14; *see also Eshaghi v. Hanley Dawson Cadillac Co., Inc.*, 214 Ill. App. 3d 995, 1000 (1st Dist. 1991). The purpose of this adequacy of representation requirement is "to insure that all Class members will receive proper, efficient, and appropriate protection of their interests in the presentation of the claim." *Purcell & Wardrobe Chtd. v. Hertz Corp.*, 175 Ill. App. 3d 1069, 1078 (1st Dist. 1988).

In this case, Plaintiff has the exact same interest as the members of the proposed Class. Plaintiff has alleged that, like the other members of the Class, his voiceprint biometrics were obtained by Defendant when he interacted with its AI voice assistant without his consent. (Compl., ¶¶ 27–32.) Plaintiff's pursuit of this matter against Defendant demonstrates that he will be a zealous advocate for the Class. Further, proposed class counsel has regularly engaged in major

complex and class action litigation in state and federal courts and have been appointed as class counsel in several complex consumer class actions. Accordingly, the proposed class representative and proposed class counsel will adequately protect the interests of the members of the Class, thus satisfying Section 2-801(3).

#### **E. Fair and Efficient Adjudication of the Controversy**

The final requirement for class certification under 5/2-801 is met where “the class action is an appropriate method for the fair and efficient adjudication of the controversy.” 735 ILCS 5/2-801(4). “In applying this prerequisite, a court considers whether a class action: (1) can best secure the economies of time, effort and expense, and promote uniformity; or (2) accomplish the other ends of equity and justice that class actions seek to obtain.” *Gordon*, 224 Ill. App. 3d at 203. In practice, a “holding that the first three prerequisites of section 2-801 are established makes it evident that the fourth requirement is fulfilled.” *Gordon*, 224 Ill. App. 3d at 204; *Purcell & Wardrobe Chtd.*, 175 Ill. App. 3d at 1079 (“The predominance of common issues [may] make a class action . . . a fair and efficient method to resolve the dispute.”). Because numerosity, commonality and predominance, and adequacy of representation have been satisfied in the instant case, it is “evident” that the appropriateness requirement is met as well.

Other considerations further support certification in this case. A “controlling factor in many cases is that the class action is the only practical means for class members to receive redress.” *Gordon*, 586 N.E.2d at 467; *Eshaghi*, 574 N.E.2d at 766 (“In a large and impersonal society, class actions are often the last barricade of...protection.”). A class action is superior to multiple individual actions “where the costs of litigation are high, the likely recovery is limited” and individuals are unlikely to prosecute individual claims absent the cost-sharing efficiencies of a class action. *Maxwell*, 2004 WL 719278, at \*6. This is especially true in cases involving data

privacy violations and data breaches, which can involve significant injury to the those effected, but result in many small, individual claims. Here, absent a class action, most members of the Class would find the cost of litigating their statutorily-limited claims to be prohibitive, and multiple individual actions would be judicially inefficient.

Certification of the proposed Class is necessary to ensure that Defendant's conduct becomes compliant with BIPA, to ensure that the Class members' privacy rights in their biometrics are sufficiently protected, and to compensate those individuals who have had their statutorily-protected privacy rights violated. Were this case not to proceed on a class-wide basis, it is unlikely that any significant number of Class members would be able to obtain redress, or that Defendant would willingly implement the procedures necessary to comply with the statute. Thus, proceeding as a class action here is an appropriate method to fairly and efficiently adjudicate the controversy.

#### IV. CONCLUSION

For the foregoing reasons, the requirements of 735 ILCS 5/2-801 are satisfied. Plaintiff respectfully requests that the Court enter an Order certifying the proposed Class, appointing Plaintiff as Class Representative, appointing McGuire Law, P.C. as Class Counsel, and awarding such additional relief as the Court deems reasonable. Alternatively, the Court should defer ruling on this Motion pending the completion of appropriate discovery and supplemental briefing.

Dated: April 27, 2021

Respectfully Submitted,

SHANNON CARPENTER, individually and on  
behalf of a class of similarly situated individuals

By: /s/ Eugene Y. Turin

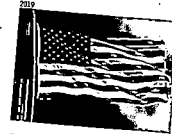
*One of Plaintiff's Attorneys*

Eugene Y. Turin  
Timothy P. Kingsbury  
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Colin P. Buscarini  
MCGUIRE LAW, P.C. (Firm ID: 56618)  
55 W. Wacker Drive, 9th Fl.  
Chicago, IL 60601  
Tel: (312) 893-7002  
eturin@mcgpc.com  
tkingsbury@mcgpc.com  
dgerbie@mcgpc.com  
cbuscarini@mcgpc.com

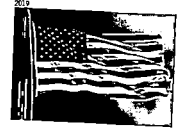
*Attorneys for Plaintiff and the Putative Class*

MCGUIRE LAW P.C.

55 W. WACKER DRIVE 9TH FLOOR  
CHICAGO, IL 60601



FOREVER / USA



FOREVER / USA

McDonald's Corporation  
c/o Prentice Hall Corporation  
801 Adlai Stevenson Drive  
Springfield, IL 62703

# **EXHIBIT C**



**DECLARATION OF ALEXANDRA HOSBACH**

I, Alexandra Hosbach, hereby declare as follows:

1. I am a Senior Data Solutions Architect in the IT Global Digital Data and CRM group for McDonald's Corporation. I have held this position since April, 2017.
2. I submit this Declaration based upon my personal knowledge and corporate records that McDonald's Corporation maintains in the regular course of business.
3. Through the McDonald's App, customers can place mobile orders at participating restaurant locations. Customers who use the McDonald's App may self-identify their zip code for use with mobile orders.
4. A customer who places a mobile order through the McDonald's App may pick up their order through the participating location's drive-thru. Customers use the drive-thru speaker to verbally check in, and provide the confirmation code from their order.
5. Data in McDonald's systems confirm that Individual A, Individual B, and Individual C used the McDonald's App to place an order at a McDonald's-owned restaurant in Illinois that utilizes a voice assistant in the drive-thru, and that these individuals used the drive-thru to pick up their order. Each of these individuals self-identified a non-Illinois zip code in the McDonald's App. (Customers are identified as Individuals A – C to protect their privacy.)
6. While data from the McDonald's App does not include an address or similar information, public records linked to Individual A's name and the Iowa zip code she provided in the App show Individual A has lived in the same house in Iowa for over 17 years, and owns her house. These public records also show she lives there with a man who shares her same last name. These records further show Individual A owns additional property in Iowa, has multiple motor

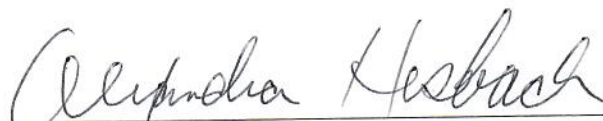
vehicles registered in Iowa, and renewed registration on two of those vehicles as recently as April 2021.

7. Public records linked to Individual B's name and the Iowa zip code she provided show Individual B has lived in the same house in Iowa for 14 years, owns her house, and lives there with a man who shares her same last name. The public records also show Individual B owns additional property in Iowa, has a motor vehicle registered in Iowa, and renewed the vehicle's registration as recently as April 2021. The public records further show Individual B serves on her condominium owners' association board, and works for a non-profit in Iowa.

8. Public records linked to Individual C's name and the Michigan zip code she provided show Individual C has lived in Michigan for 30 years, and is registered to vote in Michigan. The public records further show Individual C has a motor vehicle registered in Michigan, and renewed that registration as recently as January 2021.

I declare under penalty of perjury, pursuant to 28 U.S.C. § 1746, that the foregoing is true and correct.

Executed on May 28, 2021

  
Alexandra Hosbach  
McDonald's Corporation