

NOTICE OF PROPOSED CLASS ACTION SETTLEMENT

Carbajal v. Fuchs Lubricants Co.
Case No. 22 CH 12344
Circuit Court of Cook County, Illinois

1. A Brief Summary Of This Lawsuit And The Settlement

YOU HAVE RECEIVED THIS NOTICE BECAUSE YOU MAY BE ENTITLED TO RECEIVE A PAYMENT OF APPROXIMATELY \$1,212.22, ALTHOUGH IT MAY BE MORE, IN APPROXIMATELY 6 MONTHS IF YOU WORKED FOR FUCHS LUBRICANTS CO. AND IF YOU USED A HAND OR FINGERPRINT SCAN TIMEKEEPING DEVICE IN CONNECTION WITH CLOCKING IN AND OUT OF WORK FROM DECEMBER 22, 2017 THROUGH APRIL 25, 2024. YOU MUST COMPLETE, SIGN AND SUBMIT THE CLAIM FORM ATTACHED TO THIS NOTICE BY **JULY 15, 2024** TO BE ENTITLED TO A SETTLEMENT PAYMENT. CONTINUE READING THIS NOTICE TO LEARN MORE DETAILS ABOUT THE SETTLEMENT OF THIS LAWSUIT AND HOW THE SETTLEMENT MAY IMPACT YOU.

2. What Is This Lawsuit About?

A court in Chicago, Illinois preliminarily approved a class action settlement in the lawsuit *Carbajal v. Fuchs Lubricants Co.*, Case No. 22 CH 12344 (Circuit Court of Cook County, Illinois) (the “Lawsuit”). The Court has approved this Notice to inform you of your rights in the settlement. As described in more detail below, you may:

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

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

This Lawsuit is about whether Defendant Fuchs Lubricants Co. (“Defendant”) violated the Illinois Biometric Information Privacy Act, 740 ILCS 14/1 *et seq.* (“BIPA”).

The Lawsuit alleges that Defendant violated BIPA related to the Plaintiff’s and other persons’ (the “Class Members”) use of a hand or finger-scanning timekeeping device while they worked for Defendant at any time from December 22, 2017 through April 25, 2024. Specifically, the Lawsuit alleges that Defendant did not obtain the required written consent and did not make publicly available or comply with the BIPA’s written policy requirements, and that Defendant received or disclosed information governed by BIPA.

Defendant denies all of the allegations in the Lawsuit and denies any violation of the law, including but not limited to BIPA. Specifically, Defendant denies that the hand or finger-scanning system(s) used by the Plaintiff and Class Members collected any biometric identifiers and/or biometric information, and denies that it failed to comply with the requirements set forth in the BIPA statute.

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

You can learn more about the Lawsuit by contacting the claims administrator, Fuchs Lubricants BIPA Case, PO Box 2006, Chanhassen MN 55317-2006, at 844-681-2436, or FuchsLubricantsBIPACase@noticeadministrator.com or Settlement Class Counsel, James X. Bormes of Law Office of James X. Bormes, P.C., at 312-201-0575 or jxbormes@bormeslaw.com.

3. Who Is Included in the Settlement?

The settlement includes all individuals whose biometrics were captured, collected, stored, used or disseminated by or on behalf of Defendant within the state of Illinois at any time during the period of December 22, 2017 through April 25, 2024 without providing a prior written consent (“Settlement Class” or “Class Members”).

4. What Does the Settlement Provide?

The class action settlement provides for a total payment of \$226,800.00 that Defendant has agreed to pay to settle the claims of the Class Members. Subject to Court approval, the Gross Fund shall be reduced by the following: (1) the Claims Administrator's costs of up to \$11,000.00; (2) an Incentive Award of \$4,500.00 for the named Plaintiff; and (3) and Class Counsel's attorneys' fees not to exceed \$79,380.00 (or 35% of the settlement fund), and litigation costs not to exceed \$1,000.00. Following these reductions, the remaining amount shall constitute the Net Fund which shall be distributed equally to Class Members who timely return valid claim forms ("Claimants").

The amount of money each Claimant will receive will depend on the number of valid claim forms received and on the total amount deducted from the Gross Fund to cover administration costs, an incentive award, and attorneys' fees and costs. The entire amount of the net settlement fund will be distributed *pro rata* to Class Members who submit valid claim forms. Currently, it is estimated that each Class Member will receive a settlement payment of approximately \$1,212.22. If less than 100% of the Class Members submit valid and timely claim forms, the amount of the settlement payment may increase. The actual amount will not be determined until all claims are submitted and the Court grants final approval of the settlement. However, all Claimants will receive an equal amount under the settlement.

Unless you exclude yourself from the settlement as explained below, you will be deemed to have forever discharged and released, on behalf of yourself and each of your heirs, representatives, successors, assigns, agents and attorneys, the Released Parties from any and all claims alleged in the Action arising out of, related to, or connected with the alleged capture, collection, storage, possession, transmission, conversion, and/or other use of biometric identifiers and/or biometric information in connection with the biometric timekeeping system used by Defendant's employees, including but not limited to claims brought under 740 ILCS § 14/10 *et seq.* ("BIPA"), that accrued on any date through April 25, 2024. Notwithstanding the foregoing and notwithstanding any terms or provisions to the contrary in this Agreement, you do not release or waive any claims that may not be released or waived unless otherwise allowed by applicable state and/or federal law.

5. What Are Your Options?

- i. **Request a settlement payment.** *If you want to receive a settlement payment, you must complete and submit online, or postmark and mail, a claim form by July 15, 2024.* You may return your claim form in the accompanying pre-paid envelope, or electronically via the website address below. If you are a Class Member and you timely return a completed and valid claim form, and if the Court grants final approval of the settlement, you will be mailed a check at the address on your claim form. If required by law, you may also be sent a 1099 tax reporting form.
- ii. **Exclude yourself from the settlement and receive no money.** *If you do not want to be legally bound by the settlement, you must exclude yourself from the settlement by July 15, 2024.* If you do this, you will NOT receive a settlement payment. To do so, you must mail your written request for exclusion to the Claims Administrator (contact information in paragraph 8 below). Your written request for exclusion must be signed personally by you; include your full name, current address, and current telephone number; include the case name and number, and include a clear statement that you wish to be excluded from the Settlement Class.
- iii. **Object to the Settlement.** *You may object to the settlement by July 15, 2024.* If you want to object to the settlement, you must mail such objection to the Claims Administrator by **July 15, 2024**. The objection must: (i) be signed personally by you; (ii) include your full name, current address, and current telephone number; (iii) include a statement of the specific grounds for the objection; (iv) state whether you intend to appear at the Final Approval Hearing and disclose the identity of all counsel who represent you and/or will appear at the Final Approval Hearing; and (v) enclose copies of any documents that you wish to submit in support of your position. If you exclude yourself from the settlement, you cannot file an objection. If your objection is overruled, then you will be bound by the settlement and will not be able to exclude yourself from the settlement.
- iv. **Do Nothing.** *You may choose to do nothing. IF YOU DO NOTHING, YOU WILL RECEIVE NO MONEY.* You will receive no money from the settlement, but you will still be bound by all orders and judgments of the Court, including the release of claims. You will not be able to file or continue a lawsuit against the Defendant or Released Parties regarding any legal claims arising out of allegations in the Class Action Complaint.

6. How do I update my Contact Information?

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

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

The Court has appointed Class Counsel, identified below, to represent Class Members in this settlement. Class Counsel will request \$79,380.00 (or 35% of the gross settlement fund) as attorney fees, plus reimbursement of their costs in an amount not to exceed \$1,000.00. You will not have to pay Class Counsel from your settlement payment or otherwise. You also have the right to hire your own attorney at your own expense.

Class Counsel

James X. Bormes
Catherine P. Sons
Law Office of James X. Bormes, P.C.
8 South Michigan Avenue
Suite 2600
Chicago, IL 60603
312-201-0575
jxbormes@bormeslaw.com
cpsons@bormeslaw.com

8. When is the Final Approval Hearing?

The Court will hold a hearing in this case on August 6, 2024 to consider, among other things, (1) the Claims Administrator's costs of up to \$11,000.00; (2) an Incentive Award of \$4,500.00 for the named Plaintiff; and (3) and Class Counsel's costs (not to exceed \$1,000.00) and attorneys' fees (not to exceed \$79,380.00). You may appear at the hearing, but you are not required to do so.

The hearing may be attended via Zoom, Meeting ID: 940 2402 4757; Password: 739301.

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

Fuchs Lubricants BIPA Case

PO Box 2006
Chanhassen MN 55317-2006
Phone: 844-681-2436
FuchsLubricantsBIPACase@noticeadministrator.com
www.FuchsLubricantsBIPACase.com

PLEASE DO NOT CONTACT THE COURT WITH QUESTIONS ABOUT THIS SETTLEMENT