

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

JOHN KRAWIEC, individually and on behalf
of all others similarly situated,

Plaintiff,

v.

GOLD EAGLE CO.,

Defendant.

Case No. 2022CH07333

Calendar 8

Hon. Michael T. Mullen

Courtroom 2510

DECLARATION OF J. DOMINICK LARRY
IN SUPPORT OF MOTION FOR ATTORNEYS’ FEES AND INCENTIVE AWARD

Pursuant to 735 ILCS 5/1-109, I, J. Dominick Larry, hereby declare and state as follows:

1. I am an attorney admitted to practice in the State of Illinois. I am the owner and sole attorney at Nick Larry Law LLC, which has been retained to represent Plaintiff and the Class in this matter.

2. I make this Declaration in support of Plaintiff’s Motion for Attorneys’ Fees and Incentive Award. I am over 18 and am fully competent to make this declaration. This declaration is based upon my personal knowledge, except where expressly noted otherwise.

Background and Experience

3. I have spent nearly my entire career practicing consumer class actions, focusing particularly on privacy, security, and technology claims. In June 2020, I formed Nick Larry Law LLC to continue pursuing those types of cases.

4. I began my career at Edelson McGuire, LLC (now Edelson PC) in 2011 as a summer associate. I continued working at Edelson through my third year at Northwestern University School of Law, and then from graduation in 2012 until early 2017, when I left the firm.

5. During my time at Edelson, I was responsible for litigating dozens of consumer class actions, including several high-profile cases of first impression.

6. Most relevant here, I was part of the team responsible the first consumer class action asserting BIPA violations, *Licata v. Facebook*, Case No. 2015-CH-05427 (Cook Co. Apr. 1, 2015), later removed, transferred and coordinated with other proceedings under the caption *In re Facebook Biometric Information Privacy Litig.*, No. 15-cv-3747 (N.D. Cal.). From filing until I left the firm nearly two years later, I was the senior associate on the case, and was responsible for all aspects of case management, including assisting with case development, and briefing many issues that helped shape BIPA litigation in recent years.

7. I was also part of the team that obtained the first class-wide BIPA settlement, in *Sekura v. L.A. Tan Enterps.*, No. 2015-CH-16694 (Cir. Ct. Cook Co.), and was responsible for briefing and arguing novel BIPA issues in several cases then pending.

8. I was also part of the team at Edelson that secured a \$14 million settlement in *Dunstan v. comScore*, No. 11-cv-5807 (N.D. Ill.), a case asserting that the defendant violated the Electronic Communications Privacy Act, Stored Communications Act, Computer Fraud and Abuse Act, Illinois Consumer Fraud and Deceptive Practices Act, and was unjustly enriched, by installing sophisticated analytics spyware on the computers of millions of consumers nationwide.

When Judge Holderman certified the proposed class, it was believed to be the largest privacy class certified to date.

9. Along with other lawyers, I was appointed lead class counsel on *In re LinkedIn User Privacy Litig.*, No. 12-cv-3088 (N.D. Cal.), a consolidated class action arising out of LinkedIn's well-publicized 2012 data breach. I was responsible for the amended pleadings, hiring and overseeing plaintiffs' data-security and behavioral-economics testifying expert, and briefing and arguing the motion to dismiss. Those efforts resulted in the Court endorsing a novel, consumer-fraud based theory of liability for failure to employ industry-standard security measures. *See In re LinkedIn*, 2014 WL 1323713 (N.D. Cal. Mar. 28, 2014). After the parties negotiated a class settlement, I was responsible for briefing and arguing preliminary approval, final approval, and the petition for attorneys' fees, costs, and incentive award.

10. Additionally, I was responsible for developing the first cases under Michigan's Preservation of Personal Privacy Act. From outlining the theory of liability to screening clients and preparing complaints, through to handling motion to dismiss briefing and discovery, I was directly involved in advancing this new area of law. As a result of the favorable case-law created, *see Halaburda v. Bauer Pub. Co., LP*, No. 12-cv-12831, 2013 WL 4012827 (E.D. Mich. Aug. 5, 2013) (a case in which, along with my co-counsel, I was appointed class counsel), millions of Michiganders have recovered well over \$100 million from various publishers.

11. In addition to novel data-privacy cases under those statutes and others, I was regularly responsible for litigating TCPA class actions against financial institutions, consumer-fraud claims against technology companies, and more.

12. After leaving Edelson, I worked at two more firms before opening my own firm in June 2020. During those intervening years, I performed plaintiff's litigation on behalf of corporate clients, was plaintiff's counsel on consumer class actions, and represented thousands of consumers in individual arbitrations.

13. Since launching my own firm, I have acted as lead counsel in dozens of class and individual actions in state and federal courts across the country, and have been appointed settlement class counsel in several class actions, including BIPA class actions. *See Hosch v. Drybar Holdings LLC*, No. 2021-CH-01976 (Cir. Ct. Cook Cnty., Ill.) (Meyerson, J.); *Rivera v. Am. Freedom Ins. Co.*, No. 2020-CH-06596 (Cir. Ct. Cook Cnty., Ill.) (Wilson, J.); *Bertasiute v. The Hari Group, Inc. et al.*, No. 2020-CH-07055 (Cir. Ct. Cook Cnty., Ill.) (Meyerson, J.); *Morrissey v. Tula Life Inc.*, No. 2021-L-000646 (18th Judicial Cir., DuPage Cnty., Ill.); *Watson v. E.T. Browne Dug Co., Inc.*, No. 2022-LA-000151 (18th Judicial Cir., DuPage Cnty., Ill.); and *Tapia-Rendon v. Employer Solutions Staffing Group II, LLC*, No. 21-cv-3400 (N.D. Ill.).

14. I am also currently part of the team of lawyers representing the State of Texas in its litigation against Meta Platforms under Texas's statute regulating the capture and use of biometric identifiers.

The Settlement with Defendant

15. Throughout this litigation, I have been confident in Plaintiff's likelihood of success on the merits. That said, this case was filed during the pendency of potentially dispositive BIPA cases in the Illinois appellate courts: *Tims v. Black Horse Carriers, Inc.*, 2023 IL 127801, which addressed the statutes of limitations applicable to claims under BIPA's various subsections;

Marion v. Ring Container Techs., LLC, No. 3-20-0184 (Ill. App. 3d Dist.), also a limitations case; and *Cothron v. White Castle Sys.*, 2023 IL 128004, which addressed claim accrual under BIPA.

16. In addition to the standard risks of litigation, a defense-friendly ruling in any of the pending appeals could have substantially curtailed any Class-wide recovery. Ultimately, while the Supreme Court established a five-year limitations period with its *Tims* opinion, the *Cothron* opinion held that statutory damages under BIPA are discretionary in amount, up to the statutory maximum, rather than providing a fixed amount.

17. Recognizing the degree and magnitude of uncertainty facing each side, the Parties saw an opportunity for settlement. The Parties began discussing the possibility of settlement shortly after Defendant appeared. Those declarations did not result in resolution, and the Parties decided to defer further settlement discussions until briefing on Defendant's motion to dismiss was complete.

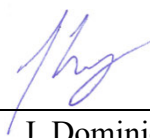
18. The Parties resumed their negotiations after Defendant filed its reply, and negotiations intensified in advance of the hearing on Defendant's motion to dismiss, originally scheduled on July 11, 2023. The Parties made substantial progress on their negotiations, and the Court reset the hearing on the motion to dismiss to July 31, 2023, with a status hearing on July 27, 2023. The parties reached an agreement in principle on July 26, 2023. In the course of the settlement negotiations, Gold Eagle provided a copy of its biometric-consent form, which it started requiring employees to sign on November 1, 2021

19. Mr. Krawiec assisted counsel with the investigation of this action, reviewed and approved of the drafting of the complaint, and maintained regular contact with counsel regarding the status of the litigation and settlement. He also approved all settlement positions.

20. Based on that experience and my review of the facts of this case and participation in settlement negotiations, I believe the settlement to offer excellent relief for the class.

I declare under penalty of perjury under the laws of the State of Illinois that the foregoing is true and correct.

Executed on November 13, 2023, in Chicago, Illinois.



J. Dominick Larry

CERTIFICATE OF SERVICE

I, the undersigned attorney, hereby certify that on November 13, 2023, I e-filed the foregoing through an approved e-filing vendor, with courtesy copies sent by email to the following counsel for Defendant:

Hillard M. Sterling
ROETZEL & ANDRESS, LPA
70 N. Madison St., Suite 3000
Chicago, IL 60602
hsterling@ralaw.com

Dated: November 13, 2023

s/ J. Dominick Larry
One of Plaintiff's Attorneys