

## **NOTICE OF PROPOSED CLASS ACTION SETTLEMENT**

*Marcia Smith v. The Top Die Casting Co.*, case number 2019-L-248  
(Winnebago County, Illinois)

**PLEASE READ THIS NOTICE CAREFULLY AS YOUR LEGAL RIGHTS MAY BE AFFECTED.  
A CLASS ACTION SETTLEMENT HAS BEEN REACHED UNDER WHICH YOU  
MAY BE ENTITLED TO A PAYMENT.**

*This is a court-authorized notice of a proposed class action settlement.  
This is not a solicitation from a lawyer and is **not** notice of a lawsuit against you.*

### **WHY DID I GET THIS NOTICE?**

This is a court-authorized notice of a proposed settlement in a class action lawsuit entitled *Marcia Smith v. The Top Die Casting Co.*, case number 2019-L-248, pending in Winnebago County, Illinois (the “Action”). The Settlement will resolve the lawsuit which alleges Defendant The Top Die Casting Co. (“Defendant”) required employees to provide their biometric identifiers and/or biometric information through their use of a timeclock without first obtaining a written release from them. Defendant denies these allegations, denies violations of any law, and denies all liability. If you received this Notice, you have been identified by Defendant as someone who may have enrolled in and/or used a timeclock in the manner alleged in the Action while working for Defendant. The Court has granted preliminary approval of the Settlement Agreement and has conditionally certified the Settlement Class for purposes of settlement. This Notice explains the nature of the lawsuit, the terms of the Settlement Agreement, and the legal rights and obligations of the Settlement Class Members. Please read the instructions and explanations below so you can understand your rights.

### **WHAT IS THIS LAWSUIT ABOUT?**

The Illinois Biometric Information Privacy Act (“BIPA”), 740 ILCS 14/1, *et seq.*, prohibits private companies from capturing, obtaining, storing, transferring, and/or using the biometric identifiers and/or biometric information, defined to include fingerprints, scans of hand or face geometry, without first providing such individual with certain written disclosures and obtaining a written release. This lawsuit alleges the Defendant violated BIPA. Defendant denies these allegations, denies violations of any law, and denies all liability.

### **WHAT DOES THE SETTLEMENT PROVIDE?**

Cash Payments. Defendant has agreed to create a Settlement Fund of \$1,022,085.00 for the Settlement Class Members. All Settlement Class Members are entitled to claim a payment out of the Settlement Fund if the Settlement is approved by the Court. Class members who Defendant directly employed (i.e., direct employees) do not need to submit a claim form to receive a monetary payment from the Settlement Fund. Class members who were employed through staffing agency (i.e., temporary employees) must submit a valid claim form in order to receive a monetary payment from the Settlement Fund.

All checks issued to Settlement Class Members will expire and become void ninety (90) days after they are issued. Additionally, the attorneys who brought this lawsuit (listed below) will ask the Court to award them attorneys' fees of 35% of the Settlement Fund and costs for the time, expense, and effort expended in investigating the facts, litigating the case, and negotiating the Settlement. The Class Representative also will apply to the Court for a payment of up to \$10,000.00 for her time, effort, and service in this matter.

### **WHY IS THERE A SETTLEMENT?**

To resolve this matter without the expense, delay, and uncertainties of litigation, the Parties have reached a settlement which resolves all claims against Defendant relating to the allegations in the Action. The Settlement Agreement requires Defendant to pay money to the Settlement Class, as well as pay settlement administration expenses, attorneys' fees and costs to Class Counsel, and an incentive award to the Class Representative. The Settlement is not an admission of wrongdoing by Defendant and does not imply that there has been, or would be, any finding that Defendant violated the law. Defendant agreed to the Settlement to avoid the distraction and expense of continued litigation.

### **WHO IS IN THE SETTLEMENT CLASS?**

All persons who worked at a Top Die facility in the state of Illinois on or after July 17, 2014 whose biometric identifiers or information (for example, fingerprints, finger scans, or hand scans) were allegedly collected, captured, or otherwise obtained by Top Die and whose name appears on the class list. There are approximately 1,017 people who fall within the class definition.

### **WHAT ARE MY OPTIONS?**

(1) Exclude yourself.

If you do not want the money from the Settlement, you may exclude yourself. If you do so, you will not receive any cash payment, but you will not release any claims you may have against Defendant and the Released Parties (as that term is defined in the Settlement Agreement) and are free to pursue whatever legal rights you may have, including pursuing your own lawsuit against Defendant at your own risk and expense. To exclude yourself from the settlement, you must mail a signed letter to the Settlement Administrator at Smith v. The Top Die Casting Co., c/o Analytics Consulting LLC, P.O. Box 2002, Chanhassen, MN 55317-2002, postmarked no later than **December 5, 2023**. The exclusion letter must state that you exclude yourself from this Settlement and must include the name and case number of the Action, as well as your full name, address, telephone number, and signature, and a statement that you wish to be excluded.

(2) Object to the Settlement.

If you wish to object to the Settlement, you must submit your objection in writing to the Clerk of the Circuit Court of Winnebago County, Illinois. The objection must be received by the Court no later than **December 5, 2023**. You must also send a copy of your objection to the attorneys for all Parties to the lawsuit, including Class Counsel (Fish Potter Bolaños, PC, 111 E. Wacker Drive, Suite 2300, Chicago, IL 60601), as well as the attorneys representing Defendant (John P. Ryan and Joseph D. Kern of Hinshaw & Culbertson, LLP, 151 N. Franklin Street, Suite 2500, Chicago, IL 60606), postmarked no later than **December 5, 2023**. Any objection to the proposed settlement must include your (a) full name and current address, (b) a statement that you believe yourself to be a member of the Settlement Class, (c) the specific grounds for the objection, (d) all documents or writings that you desire the Court to consider, (e) the name and contact information of any and all attorneys representing you in connection with the objection, (f) a statement indicating whether you intend to appear at the Final Approval Hearing; and (g) your signature. If you hire an attorney in connection with making an objection, that attorney must also file with the Court a notice of appearance by the objection deadline of **December 5, 2023**. If you do hire your own attorney, you will be solely responsible for payment of any fees and expenses the attorney incurs on your behalf. If you exclude yourself from the Settlement, you cannot file an objection.

You may appear at the Final Approval Hearing, which is to be on **February 14, 2024**, in person or through counsel to show cause of why the proposed Agreement should not be approved as fair, reasonable, and adequate. Attendance at the hearing is not necessary; however, persons wishing to be heard orally in opposition to the approval of the Settlement, the request for attorneys' fees and expenses, and/or the request for the award to the

Class Representative are required to indicate in their written objection their intention to appear at the hearing on their own behalf or through counsel and to identify the names of any witnesses they intend to call to testify at the Final Approval Hearing, as well as any exhibits they intend to introduce at the Final Approval Hearing.

(3) Do Nothing.

If Defendant directly employed you (i.e. you were not employed through a staffing agency) and want to participate in the settlement and receive a settlement payment, do nothing. A check will be mailed to you if the court grants final approval of the Settlement. If you do nothing, you will stay in the Settlement Class, be bound by any judgment entered by the court, and will release your claims against Defendant relating to your biometrics, biometric identifiers, or biometric information.

If you were employed through staffing agency (i.e., Defendant did not directly employ you) and do nothing, you will not receive a settlement payment but will stay in the Settlement Class, be bound by any judgment entered by the court, and will release your claims against Defendant relating to your biometrics, biometric identifiers, or biometric information.

(4) Submit a Claim Form.

If Defendant directly employed you (i.e. you were not employed through a staffing agency), you do not need to submit a claim form to receive a settlement payment. A check will be mailed to you if the Court grants final approval of the Settlement.

If you were employed through a staffing agency (i.e., Defendant did not directly employ you) and want to participate in the settlement and receive a settlement payment, you must submit a valid claim form which is attached, by **January 6, 2024**. A check will then be mailed to you if the Court grants final approval of the Settlement.

#### **WHAT RIGHTS AM I GIVING UP IN THIS SETTLEMENT?**

Unless you exclude yourself, you will be considered a member of the Settlement Class, which means you give up your right to file or continue a lawsuit against Defendant and Released Parties (as defined in the Settlement Agreement) regarding the Released Claims (as defined in the Settlement Agreement). Giving up your legal claims is called a release. The precise terms of the release are in the Settlement Agreement, a copy of which you may request from the Settlement Administrator at the number set forth at the bottom of this notice. All pleadings and documents filed in court may be reviewed or copied in the office of the Clerk of the Court of Winnebago County, Illinois. Unless you formally exclude yourself from this settlement, you will release your claims.

#### **WHEN WILL I BE PAID?**

The Parties cannot predict exactly when (or whether) the Court will give final approval to the Settlement Agreement, so please be patient. However, if the Court finally approves the Settlement, checks will go out thirty-five (35) days after the Court's final approval order becomes final and non-appealable. If there is an appeal of the court's order, payment will be delayed.

#### **WHEN WILL THE COURT RULE ON THE SETTLEMENT?**

The Court has already given preliminary approval to the Settlement. A final hearing on the Settlement, called a Final Approval Hearing, will be held on **February 14, 2024 at 11:00 am.**, in Courtroom 426 of the Winnebago County Courthouse, 400 West State Street, Rockford, Illinois or via Zoom videoconference: Meeting ID #848 2994 9543.

If the Settlement is given final approval, the Settlement Agreement's terms will take effect and the Litigation will be dismissed on the merits with prejudice. Both sides have agreed to the Settlement in order to achieve an early and certain resolution to the lawsuit, in a manner that provides specific and valuable benefits to the members of the Settlement Class.

If the Court does not approve the Settlement, or if it approves the Settlement and the approval is reversed on appeal, or if the Settlement does not become final for some other reason, you will not be paid and Class Members will receive no benefits from the Settlement. Plaintiff, Defendant, and all of the Class Members will be in the same position as they were prior to the execution of the Settlement Agreement, and the Settlement Agreement will have no legal effect, no

class will remain certified (conditionally or otherwise), and Plaintiff and Defendant will continue to litigate the Action. If the Settlement is not approved, there can be no assurance that the Settlement Class will recover more than is provided in the Settlement, or indeed, anything at all.

**WHO REPRESENTS THE CLASS?**

The Court has approved Fish Potter Bolaños, P.C. to represent the Settlement Class. They are called “Class Counsel.” You will not be charged for these lawyers because they are being paid out of the Settlement Fund. If you want to be represented by your own lawyer instead, you may hire one at your own expense.

**WHERE CAN I GET ADDITIONAL INFORMATION?**

This Notice is only a summary of the proposed settlement of this lawsuit. More details are in the Settlement Agreement which, along with other documents, can be obtained from the Settlement Administrator at the number set forth at the bottom of this notice and also on the following web site: [www.TTDCCbipasettlement.com](http://www.TTDCCbipasettlement.com). All pleadings and documents filed in court may be reviewed or copied in the office of the Clerk of the Court of Winnebago County, Illinois. Please do not call the Judge or the Clerk of the Court about this case. They will not be able to give you advice on your options.

Smith v. The Top Die Casting Co.  
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P.O. Box 2002  
Chanhasen, MN 55317-2002  
Phone: (844) 643-9456  
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