

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

*Bertasiute v. Orland Park Deli, Inc. d/b/a McAlister's of Orland Park, Case No. 2020-CH-07055*

**IF YOU USED A FINGERPRINT SCANNER TIMECLOCK AT  
THE MCALISTER'S DELI IN ORLAND PARK, ILLINOIS BETWEEN  
DECEMBER 3, 2015 AND JUNE 27, 2022, YOU MAY BE ENTITLED TO  
A CASH PAYMENT FROM A CLASS-ACTION SETTLEMENT.**

*This is an official court notice. You are not being sued. This is not an ad for a lawyer.*

- A settlement has been reached in a class action between Orland Park Deli, Inc. d/b/a McAlister's of Orland Park ("Defendant" or "Orland") and some of its current and former employees in Illinois. The lawsuit claims that Orland violated an Illinois law called the Biometric Information Privacy Act ("BIPA") by collecting employees' fingerprints on timeclocks in Illinois without obtaining their informed, written consent. Orland denies any wrongdoing and says that it has not violated any laws. The Settlement does not establish who is right or wrong, but rather is a compromise to end the lawsuit and avoid the uncertainties and expenses that come with continuing in court.
- You are included in the Settlement if you are a current or former employee of Orland that used Orland's fingerprint scanner in Illinois between December 3, 2015 and June 27, 2022. Some exceptions to participating apply. For example, persons who entered into separate settlement agreements with Orland are not included. All exceptions are detailed below.
- If you're eligible and the Court approves the Settlement, you will automatically receive a payment of approximately \$300. All litigation costs, settlement expenses, and legal fees will be separately paid from the settlement fund.
- Please read this notice carefully. Your legal rights are affected whether or not you act.

<b>YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT</b>	
<b>DO NOTHING</b>	You will receive a payment under the Settlement and give up your rights to sue Orland about the issues in this case.
<b>EXCLUDE YOURSELF</b>	You will receive no payment, but you will retain any rights you currently have to sue Orland about the issues in this case.
<b>OBJECT</b>	If you do not exclude yourself, you can write to the Court explaining why you don't like the Settlement. You will remain in the Class, receive a payment under the Settlement, and give up your rights to sue Orland about the issues in this case.
<b>ATTEND A HEARING</b>	Ask to speak in Court about the fairness of the Settlement.

**QUESTIONS? VISIT [www.OrlandParkBIPASettlement.com](http://www.OrlandParkBIPASettlement.com) OR CALL TOLL FREE 1-833-748-4835.**

By order of: Hon. Pamela McLean Meyerson, Circuit Court of Cook County, Illinois

## BASIC INFORMATION

### 1. What is this notice and why should I read it?

A Court authorized this notice to let you know about a proposed Settlement with Orland. You have legal rights and options that you may act on before the Court decides whether to approve the proposed Settlement. You may be eligible to receive a cash payment as part of the Settlement. This notice explains the lawsuit, the Settlement, and your legal rights.

Judge Pamela McLean Meyerson of the Circuit Court of Cook County, Chancery Division, is overseeing this class action. The case is called *Bertasiute v. Orland Park Deli, Inc. d/b/a McAlister's of Orland Park*, Case No. 2020-CH-07055. The person who filed this lawsuit, Eslanda Bertasiute, is the Plaintiff. The company she sued, Orland Park Deli, Inc., is the Defendant.

### 2. What is a class action?

A class action is a lawsuit in which one or more plaintiffs—in this case, Tyra Hosch—sue on behalf of a group of people who have similar claims. Together, this group is called a “Class” and consists of “Class Members.” In a class action, the court resolves the issues for all class members, except those who exclude themselves from the class. After the Parties reached an agreement to settle this case, the Court granted preliminary approval of the Settlement and recognized it as a case that should be treated as a class action for settlement purposes.

## THE CLAIMS IN THE LAWSUIT AND THE SETTLEMENT

### 3. What is this lawsuit about?

This lawsuit alleges that Orland violated BIPA by using fingerprint scanning timeclocks in Illinois without complying with the law’s requirements. That law says companies can’t collect, store, or give out “biometric data,” which includes things like face, hand, or fingerprint scans, without first giving notice, getting consent, and posting a policy about what they will do with the data.

Orland denies Plaintiff’s claims of wrongdoing and contends that it violated no laws. No court has decided who is right. The parties are instead entering into the Settlement to avoid the time and expense of continuing to fight in court. The Settlement is not an admission of wrongdoing by Orland. More information about the complaint in the lawsuit and Orland’s position can be found in the “Court Documents” section of the settlement website at [www.OrlandParkBIPASettlement.com](http://www.OrlandParkBIPASettlement.com).

## WHO’S INCLUDED IN THE SETTLEMENT

### 4. Who is included in the Settlement Class?

The Court decided that this Settlement includes all current and former employees of Orland that used Orland’s fingerprint-scanner timeclock in Illinois between December 3, 2015 and June 27, 2022. There are 165 people in the Settlement Class.

### 5. Who is not included in the Settlement Class?

Some current and former employees of Orland are excluded from the Settlement Class. The Settlement Agreement has a list of the categories of people who are excluded. This list includes employees that have already released their claim in a separate agreement with Orland. Other persons are excluded because they worked for the judges or lawyers involved.

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## 6. How do I know if I am in the Settlement Class?

If you are a current or former employee of Orland that used Orland's fingerprint scanner timeclock in Illinois between December 3, 2015 and June 27, 2022, and are not subject to any of the exclusions above, then you are a member of the Settlement Class and are entitled to a cash payment.

## THE SETTLEMENT BENEFITS

### 7. What does the Settlement provide?

If the Court approves the Settlement, Orland has agreed to pay \$90,000 to create a "Settlement Fund." Class counsel will apply to the Court for compensation of up to one-third of the total Settlement Fund in legal fees and expenses. This amount and the costs of administering the Settlement, as well as an incentive award of up to \$2,500 to the named Plaintiff, will be deducted from the Settlement Fund before it is equally distributed to class members, which, if granted, Class Counsel expect will result in settlement payments to class members of approximately \$300 each.

If any settlement checks are uncashed before they expire, the leftover funds will either be donated to charity or redistributed to class members, depending on how much money is left. If the leftover amount is enough to provide checks of \$5 or more to those class members who received direct deposit or cashed their checks, the leftover funds will be distributed equally to those class members who cashed their checks. If the amount left over is too small for \$5 checks, or if there are funds left over even after the second round of checks, any remaining amounts will be donated to Legal Aid Chicago.

## HOW TO GET BENEFITS

### 8. How do I get a payment?

If you work for Orland receive your wages by direct deposit as of the effective date of the settlement, you don't need to do anything. You will automatically receive your settlement funds by direct deposit. If you receive your wages by check, or if you're a former employee of Orland, a settlement check will automatically be mailed to you at your last known address. You can request to update your address on the "Contact" page of the settlement website, located [here](#).

### 9. When will I get my payment?

The hearing to consider the fairness of the Settlement is scheduled for October 20, 2022 at 2:00 p.m. CT. If the Court approves the Settlement, payments to eligible Class Members will be sent within 60 days. Please be patient. All checks will expire and become void 90 days after they are issued.

## THE LAWYERS REPRESENTING YOU

### 10. Do I have a lawyer in the case?

Yes. The Court has appointed lawyers J. Dominick Larry of Nick Larry Law LLC and Thomas R. Kayes of The Civil Rights Group, LLC as the attorneys to represent you and other Class Members. These attorneys are called "Class Counsel." In addition, the Court appointed Plaintiff Eslanda Bertasiute to serve as the Class Representative. She is a Class Member like you. The Settlement Administrator can be reached by calling 1-833-748-4835.

### 11. Should I get my own lawyer?

You don't need to hire your own lawyer because Class Counsel is working on your behalf. You may hire your own lawyer, but if you want your own lawyer, you will have to pay that lawyer.

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## 12. How will the lawyers be paid?

Class Counsel will ask for attorneys' fees and expenses of up to one-third of the \$90,000 Settlement Fund, and will also request an incentive award of \$2,500 for the Class Representative. The Court will determine the proper amount of attorneys' fees and expenses to award Class Counsel and the proper amount of any incentive award to the Class Representative. The Court may award less than the amounts requested.

## YOUR RIGHTS AND OPTIONS

## 13. What happens if I do nothing at all?

If you do nothing, you will be a Settlement Class Member, and if the Court approves the Settlement, you will automatically receive a payment and you will also be bound by all orders and judgments of the Court. Unless you exclude yourself, you won't be able to start a lawsuit or be part of any other lawsuit against Orland or any related entity for the claims or legal issues being resolved by this Settlement.

## 14. What happens if I ask to be excluded?

If you exclude yourself from the Settlement, you will receive no payment under the Settlement, and you will no longer be a Settlement Class Member. You will keep your right to start your own lawsuit against Orland for the same legal claims at issue in this lawsuit. You will not be legally bound by the Court's judgments related to the Settlement Class and the Defendant in this class action.

## 15. How do I ask to be excluded?

You can mail a letter stating that you want to be excluded from the Settlement. Your letter must: (1) be in writing, (2) identify the case name, "*Bertasiute v. Orland Park Deli, Inc. d/b/a McAlister's of Orland Park*, Case No. 2020-CH-07055," (3) state your full name and current address, (4) be physically signed by you or your representative, and (5) be postmarked for delivery by mail to the Settlement Administrator on or before September 27, 2022. Your request to be excluded must also include a statement to the effect that: "I hereby request to be excluded from the proposed Settlement Class in *Bertasiute v. Orland Park Deli, Inc. d/b/a McAlister's of Orland Park*, Case No. 2020-CH-07055." You must mail your exclusion request no later than September 27, 2022 to:

Bertasiute v. Orland Park Deli, Inc. Settlement Administrator  
P.O. Box 2002  
Chanhassen, MN 55317-2002

You can't exclude yourself over the phone.

## 16. If I don't exclude myself, can I sue Orland for the same thing later?

No. Unless you exclude yourself, you give up any right to sue Orland and any other released party for the claims being resolved by this Settlement.

## 17. If I exclude myself, can I get anything from this Settlement?

No. If you exclude yourself, you will not receive a payment.

## 18. How do I object to the Settlement?

If you do not exclude yourself from the Settlement Class, you can object to the Settlement if you don't like any part of it. You can give reasons why you think the Court should deny approval before filing an objection. To object, you must file a letter or brief with the Court stating that you object to the Settlement in *Bertasiute v. Orland Park Deli*,

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*Inc. d/b/a McAlister's of Orland Park*, Case No. 2020-CH-07055, no later than September 27, 2022. Your objection must be e-filed or delivered to the Court at the following address:

Clerk of the Court of the Circuit Court of Cook County, Illinois  
Richard J. Daley Center  
50 W. Washington St., Room 802  
Chicago, Illinois 60602

The Objection must be in writing, must be signed, and must include the following information: (1) your full name and current address, (2) a statement that you believe yourself to be a member of the Settlement Class, (3) the specific grounds for your objection, (4) all documents or writings that you desire the Court to consider, (5) the name and contact information of any and all attorneys representing, advising, or in any way assisting you in connection with the preparation or submission of your objection or who may profit from the pursuit of your objection, and (6) a statement indicating whether you (or your counsel) intend to appear at the Final Approval Hearing. If you are represented by a lawyer, he or she must file an appearance or seek pro hac vice admission to practice before the Court, and electronically file the objection.

In addition to filing your objection with the Court, you must send via mail, email, or delivery service, by no later than September 27, 2022, copies of your objection and any supporting documents to both Class Counsel and Orland's lawyers at the addresses listed below:

<b>Class Counsel</b>	<b>Orland's Counsel</b>
J. Dominick Larry NICK LARRY LAW LLC 1720 W. Division St. Chicago, IL 60622 nick@nicklarry.law	Rosa M. Tumialán TRESSLER LLP 233 South Wacker Drive, 61st Floor Chicago, Illinois 60606 rtumialan@tresslerllp.com

Class Counsel will file with the Court and post on the settlement website its request for attorneys' fees and incentive award no later than September 13, 2022.

## **19. What's the difference between objecting and excluding myself from the Settlement?**

Objecting simply means telling the Court that you don't like something about the Settlement. You can object only if you stay in the Settlement Class as a Class Member. Excluding yourself from the Settlement Class is telling the Court that you don't want to be a Settlement Class Member. If you exclude yourself, you have no basis to object because the case no longer affects you.

## **THE COURT'S FINAL APPROVAL HEARING**

## **20. When and where will the Court decide whether to approve the Settlement?**

The Court will hold the Final Approval Hearing at 2:00 p.m. CT on October 20, 2022 before the Honorable Pamela McLean Meyerson. The hearing will take place by Zoom (meeting ID: 928 9663 2736; password: 813107. If you are unable to sign on to Zoom with a computer or cell phone, you may dial in to the hearing by calling 312-626-6799 and, when prompted, enter the Zoom meeting ID (928 9663 2736), and follow the prompts as appropriate. **Do not come to the Courthouse for the final approval hearing.**

The purpose of the hearing is for the Court to determine whether the Settlement is fair, reasonable, adequate, and in the best interests of the Class. At the hearing, the Court will hear any objections and arguments concerning the fairness of the proposed Settlement, including those related to the amount requested by Class Counsel for attorneys' fees and expenses and the incentive award to the Class Representative.

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**Note:** The date, time, and location of the Final Approval Hearing are subject to change by Court order. Any changes will be posted at the settlement website, [www.OrlandParkBIPASettlement.com](http://www.OrlandParkBIPASettlement.com).

### **21. Do I have to come to the hearing?**

No. Class Counsel will answer any questions the Court may have. You are welcome to come to the hearing at your own expense. If you send an objection, you don't have to come to Court to talk about it. As long as your written objection was filed or mailed on time and meets the other criteria described in the Settlement, the Court will consider it. You may also pay a lawyer to attend, but you don't have to.

### **22. May I speak at the hearing?**

Yes. If you do not exclude yourself from the Settlement Class, you may ask the Court for permission to speak at the hearing concerning any part of the proposed Settlement. If you filed an objection, (*see* Question 18 above), and intend to appear at the hearing, you must state your intention to do so in your objection.

## **GETTING MORE INFORMATION**

### **23. How do I get more information?**

This notice summarizes the proposed Settlement. More details, including the Settlement Agreement and other documents, are available at [www.OrlandParkBIPASettlement.com](http://www.OrlandParkBIPASettlement.com). In addition to the documents available on the settlement website, all pleadings or documents filed in court may be reviewed or copied in the Office of the Clerk, Cook County Circuit Court, Chancery Division, 50 W. Washington St., Richard J. Daley Center, Chicago, Illinois 60602. You can also contact the Settlement Administrator at 1-833-748-4835 with any questions.

**PLEASE DO NOT CONTACT THE COURT, THE JUDGE, THE DEFENDANT, OR THE DEFENDANT'S LAWYERS WITH QUESTIONS ABOUT THE SETTLEMENT OR DISTRIBUTION OF PAYMENTS.**

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