

NOTICE OF PROPOSED CLASS ACTION SETTLEMENT

Mendenhall v. TOMS King (Illinois), LLC, and TOMS King, LLC
Case No. 2019 CH 10636
Circuit Court of Cook County, Illinois

IF YOU SCANNED YOUR FINGER ON A BIOMETRIC POINT-OF-SALE SYSTEM AT A BURGER KING LOCATION OWNED BY TOMS KING IN ILLINOIS BETWEEN SEPTEMBER 13, 2014 AND JANUARY 2, 2023, YOU MAY BE ENTITLED TO A PAYMENT FROM A CLASS ACTION SETTLEMENT.

This is a court-authorized notice. You are not being sued. This is not an ad for a lawyer.
Para una notificación en Espanol, visitar www.cptgroupcaseinfo.com/tomskingbipasettlement.

- A proposed Settlement has been reached in a class action lawsuit between TOMS King (Illinois), LLC and TOMS King, LLC (collectively, “TOMS King” or “Defendants”) and all individuals who scanned their fingers using a biometric point-of-sale (“POS”) system at a Burger King location owned by TOMS King in Illinois between September 13, 2014 and January 2, 2023. The lawsuit claims that TOMS King collected, stored, and disclosed biometric data from individuals through its biometric POS system. The lawsuit claims these activities required compliance with an Illinois law called the Illinois Biometric Information Privacy Act, and that TOMS King did not comply. TOMS King denies these allegations. The Court has not decided who is right or wrong. The Settlement has been preliminarily approved by a state court in Chicago.
- You are included in the Settlement if you scanned your finger using a biometric POS system at a Burger King location owned by TOMS King in Illinois between September 13, 2014 and January 2, 2023. If you received a notice of the Settlement in the mail, records indicate that you are included in the Settlement.
- If the Court approves the Settlement, Class Members will receive an equal share of a \$1,475,000.00 settlement fund that TOMS King has agreed to create, after all notice and administration costs, a service award, and attorneys’ fees have been paid. Individual payments to Class Members are estimated to be approximately \$180.00.

Please read this notice carefully. Your legal rights are affected whether you act or don’t act.

YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT	
DO NOTHING	You will receive a payment under the Settlement and give up your rights to sue TOMS King or certain related companies and individuals about the issues in this case.
EXCLUDE YOURSELF	You will receive no payment, but you will retain any rights you currently have to sue TOMS King about the issues in this case.
OBJECT	Write to the Court explaining why you don’t like the Settlement.
ATTEND A HEARING	Ask to speak in Court about the fairness of the Settlement.

These rights and options—**and the deadlines to exercise them**—are explained in this notice.

The Court in charge of this case still has to decide whether to approve the Settlement. Payments will be provided only after any issues with the Settlement are resolved. Please be patient.

BASIC INFORMATION

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

The Court authorized this notice to let you know about a proposed Settlement with TOMS King. You have legal rights and options that you may act on before the Court decides whether to give final approval to 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.

The Honorable Alison C. Conlon of the Circuit Court of Cook County, Illinois is overseeing this class action. The case is called *Mendenhall v. TOMS King (Illinois), LLC, and TOMS King, LLC*, Case No. 2019 CH 10636. The person who filed the lawsuit, Faith Mendenhall, is the Plaintiff. The companies she sued, TOMS King (Illinois), LLC, and TOMS King, LLC, are the Defendants.

2. What is a class action lawsuit?

A class action is a lawsuit in which individuals called “Class Representatives” bring a single lawsuit on behalf of other people who they assert have similar legal claims. All of these people together are potential members of the “Class.” When a Class is certified for settlement and the Settlement is finally approved by the Court, the Settlement resolves the issues for all Settlement Class Members, except for those who exclude themselves from the Settlement Class.

THE CLAIMS IN THE LAWSUIT AND THE SETTLEMENT

3. What is this lawsuit about?

The Illinois Biometric Information Privacy Act (“BIPA”), 740 ILCS 14/1, *et seq.*, regulates the collection, storage, and/or use of a person’s biometric data in Illinois, including requiring consent to the collection of biometric data. Biometric data includes fingerprints. This lawsuit alleges that TOMS King collected, stored, and disclosed biometric data without proper authorization from individuals who scanned their fingers using a biometric POS system at Burger King locations owned by TOMS King in Illinois. TOMS King denies these allegations and denies that it violated BIPA.

More information about Plaintiff’s complaint in the lawsuit and the Defendants’ defenses can be found in the “Court Documents” section of the Settlement Website at www.cptgroupcaseinfo.com/tomskingbipasettlement.

4. Who is included in the Settlement Class?

You are a member of the Settlement Class if you scanned your finger using a biometric POS system at a Burger King location owned by TOMS King in Illinois between September 13, 2014 and January 2, 2023. If you received a notice of the Settlement in the mail, records indicate that you are a Class Member and are included in the Settlement. You may email the Settlement Administrator at tomskingbipasettlement@cptgroup.com to ask whether you are a member of the Settlement Class.

THE SETTLEMENT BENEFITS

5. What does the Settlement provide?

Cash Payments. If you’re eligible, you will receive a cash payment. The amount of such payment is estimated to be \$180.00. This is a *pro rata*, or equal, share of a \$1,475,000.00 fund that TOMS King has agreed to create, after the payment of settlement expenses, attorneys’ fees, and any service award for the Class Representative in the litigation approved by the Court.

HOW TO GET SETTLEMENT BENEFITS

6. How do I get a payment?

If you are a Settlement Class Member and you want to get a payment, you do not need to do anything. You will receive a check via First Class U.S. Mail following final approval of the Settlement.

7. When will I get my payment?

The hearing date to consider the fairness of the Settlement is scheduled for January 30, 2025. If the Court approves the Settlement, Class Members will be issued a check within 21 days after the Settlement has been finally approved by the Court and/or after any appeals process is complete. Please be patient. Uncashed checks and electronic payments that are unable to be completed will expire and become void 120 days after they are issued and will be donated to the Illinois Equal Justice Foundation, or such other not-for-profit organization(s) as the Court may order, as *cy pres* recipient.

THE LAWYERS REPRESENTING YOU

8. Do I have a lawyer in the case?

Yes, the Court has appointed Ryan F. Stephan and Teresa M. Becvar of Stephan Zouras, LLP as the attorneys to represent the Settlement Class. These attorneys are called “Class Counsel.” In addition, the Court appointed Plaintiff Faith Mendenhall to serve as the Class Representative. She is a Settlement Class Member like you. Class Counsel can be reached by calling (312) 233-1550.

9. 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 do so, you will have to pay that lawyer.

10. How will the lawyers be paid?

Class Counsel will ask the Court for attorneys’ fees of up to 37% of the Settlement Fund and expenses and will also request an incentive award of \$7,500.00 for the Class Representative from the Settlement Fund. The Court will determine the proper amount of any attorneys’ fees and expenses to award Class Counsel and the proper amount of any award to the Class Representative. The Court may award less than the amounts requested.

YOUR RIGHTS AND OPTIONS

11. What happens if I do nothing at all?

If you do nothing, you will receive a cash payment from the Settlement Fund, and you will be bound by all orders and judgments of the Court. Unless you exclude yourself from the Settlement, you will not be able to file or continue a lawsuit against TOMS King or other Released Parties (defined in the Settlement Agreement) regarding any of the Released Claims.

12. What happens if I ask to be excluded?

You may exclude yourself from the Settlement. If you do so, you will not receive any cash payment, but you will not release any claims you may have against the TOMS King and the Released Parties and are free to pursue whatever legal rights you may have by pursuing your own individual lawsuit against TOMS King and the Released Parties at your own risk and expense.

13. How do I ask to be excluded?

You can mail or email a letter stating that you want to be excluded from the Settlement. Your letter must: (a) be in writing; (b) state your full name and current address; (c) contain a statement to the effect that “I hereby request to be excluded from the proposed Settlement Class in *Mendenhall v. TOMS King (Illinois), LLC, and TOMS King, LLC*, Case No. 2019 CH 10636 (Cir. Ct. Cook Cty.)”; (d) be personally signed by you; and (e) be postmarked or received by the Settlement Administrator on or before January 3, 2025. You must mail or email your exclusion request no later than January 3, 2025 to:

Mendenhall v. TOMS King Settlement Administrator
c/o CPT Group, Inc.
50 Corporate Park
Irvine, CA 92606
Email: tomskingbipasettlement@cptgroup.com

You can't exclude yourself over the phone. No person may request to be excluded from the Settlement Class through "mass" or "class" opt-outs.

14. If I don't exclude myself, can I sue TOMS King for the same thing later?

No. Unless you exclude yourself, you give up any right to sue TOMS King and any other Released Party for the claims being resolved by this Settlement.

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

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

16. 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 by filing an objection. To object, you must file a letter or brief with the Court stating that you object to the Settlement in *Mendenhall v. TOMS King (Illinois), LLC, and TOMS King, LLC*, Case No. 2019 CH 10636 (Cir. Ct. Cook Cty.), no later than January 3, 2025. Your objection must be e-filed or delivered to the Court at the following address:

Clerk of the Circuit Court of Cook County, Illinois
Daley Center
50 W. Washington Street, Suite 1001
Chicago, Illinois 60602

The objection must be in writing, must be personally signed, and must include the following information: (a) your full name and current address, (b) a statement that you believe you are a member of the Settlement Class, (c) whether the objection applies only to you, to a specific subset of the Settlement Class, or to the entire Settlement Class, (d) the specific grounds for your objection, (e) all documents or writings that you wish the Court to consider, (f) the name and contact information of any attorneys representing, advising, or in any way assisting you in connection with the preparation or submission of the objection or who may profit from the pursuit of the objection, and (g) a statement indicating whether you intend to appear at the Final Approval Hearing. If you hire an attorney in connection with making an objection, that attorney must file an appearance with the Court or seek *pro hac vice* admission to practice before the Court, and electronically file the objection by the objection deadline of January 3, 2025. 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.

In addition to filing your objection with the Court, you must send via mail, email, hand, or overnight delivery service, by no later than January 3, 2025, copies of your objection and any supporting documents to both Class Counsel and TOMS King's lawyers at the addresses listed below:

Class Counsel	TOMS King's Counsel
Ryan F. Stephan lawyers@stephanzouras.com STEPHAN ZOURAS, LLC 222 West Adams Street, Suite 2020 Chicago, Illinois 60606 Phone: (312) 233-1550	James J. Sipchen jsipchen@pretzel-stouffer.com PRETZEL & STOUFFER, CHARTERED 200 South Wacker Drive, Suite 2600 Chicago, Illinois 60606

17. 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

18. When and where will the Court decide whether to approve the Settlement?

The Court will hold the Final Approval Hearing at 10:00 a.m. on January 30, 2025 before the Honorable Alison C. Conlon in Room 2408 at the Daley Center, 50 W. Washington Street, Chicago, Illinois 60602 and via Zoom (Meeting ID: 974 5431 3798 Password: 501494). 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 Settlement 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 service award to the Class Representative.**

Note: The date and time of the Final Approval Hearing are subject to change by Court Order. Any changes will be posted at the Settlement Website, www.cptgroupcaseinfo.com/tomskingbipasettlement.

19. Do I have to come to the hearing?

No. Class Counsel will answer any questions the Court may have. You are welcome to come 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.

20. 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 16 above) and intend to appear at the hearing, you must state your intention to do so in your objection.

GETTING MORE INFORMATION

21. Where do I get more information?

This notice summarizes the proposed Settlement. More details, including the Settlement Agreement and other documents are available at www.cptgroupcaseinfo.com/tomskingbipasettlement or at the Clerk of the Circuit Court of Cook County, Illinois, Room 2502 at the Daley Center, 50 W. Washington Street, Suite 1001, Chicago, Illinois 60602, between 8:30 a.m. and 4:30 p.m., Monday through Friday, excluding Court holidays. You can also contact the Settlement Administrator at tomskingbipasettlement@cptgroup.com or Class Counsel at the number provided above with any questions.

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