

NOTICE OF PROPOSED CLASS ACTION SETTLEMENT

Zhirovetskiy et al v. Zayo Group, LLC, Case No. 17-CH-09323 (Cir. Ct. Cook Cnty.)

For more information, visit www.ZayoBIPASettlement.com.

Para una notificación en Español, visitar www.ZayoBIPASettlement.com.

PLEASE READ THIS NOTICE CAREFULLY. YOU MAY BE ENTITLED TO A CASH PAYMENT FROM A CLASS ACTION SETTLEMENT IF YOU WERE REQUIRED TO PROVIDE A SCAN OF YOUR HAND, PALM OR FINGER FOR SECURITY PURPOSES TO ZAYO GROUP, LLC AT ANY TIME BETWEEN JULY 6, 2012 AND DECEMBER 27, 2017.

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, *Zhirovetskiy et al v. Zayo Group, LLC*, Case No. 17-CH-09323, pending in the Circuit Court of Cook County, Illinois before the Honorable Peter Flynn. The Settlement would resolve a lawsuit brought on behalf of persons who allege that Zayo Group, LLC (“Zayo” or “Defendant”) required individuals visiting its colocations and other facilities within the state of Illinois to provide a scan of their hand, palm or finger for security purposes, without first providing them with legally-required written disclosures and obtaining written consent. If you received this notice, you have been identified as someone who may have been required to submit a scan of your hand, palm or finger to Zayo at one of its colocations or other facilities within the state of Illinois for security purposes between July 6, 2012, and December 27, 2017. The Court has granted preliminary approval of the Settlement and has conditionally certified the Settlement Class for purposes of settlement only. This notice explains the nature of the class action lawsuit, the terms of the Settlement, and the legal rights and obligations of the Settlement Class Members. Please read the instructions and explanations below so that you can better understand your legal 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 information, such as handprints or fingerprints, of another individual for any purpose, including security, without first providing such individual with certain written disclosures and obtaining written consent. This lawsuit alleges that Defendant violated the BIPA by requiring individuals visiting its colocations and other facilities within the state of Illinois to provide a scan of their hand, palm or finger for security purposes, between July 6, 2012, and December 27, 2017, without first providing the requisite disclosures or obtaining the requisite consent. Defendant contests these claims and denies that it violated the BIPA.

WHY IS THIS A CLASS ACTION?

A class action is a lawsuit in which an individual called a “Class Representative” brings a single lawsuit on behalf of other people who have similar claims. All of these people together are a “Class” or “Class Members.” Once a Class is certified, a class action Settlement finally approved by the Court resolves the issues for all Settlement Class Members, except for those who exclude themselves from the Settlement Class.

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 and its affiliated entities. The Settlement requires Defendant to pay money to the Settlement Class, as well as pay Settlement Administrative Expenses, attorneys’ fees and costs to Class Counsel, and an Incentive Award to the Class Representative, if approved by the Court. 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.

The Court has already preliminarily approved the Settlement. Nevertheless, because the settlement of a class action determines the rights of all members of the class, the Court overseeing this lawsuit must give final approval to the Settlement before it can be effective. The Court has conditionally certified the Settlement Class for settlement purposes only, so that members of the Settlement Class can be given this notice and the opportunity to exclude themselves from the Settlement Class, to voice their support or opposition to final approval of the Settlement, and to submit a Claim Form to receive the relief offered by the Settlement. If the Court does not give Final Approval of the Settlement, or if it

is terminated by the Parties, the Settlement will be void, and the lawsuit will proceed as if there had been no settlement and no certification of the Settlement Class.

WHO IS IN THE SETTLEMENT CLASS?

You are a member of the Settlement Class if, at any time between July 6, 2012 and December 27, 2017, you were required to provide a scan of your hand, palm or finger for security purposes at one or more of Defendant's colocations or other facilities located within the state of Illinois. If you provided a scan of your hand, palm or finger for such security purposes at any time during this time period, then you may visit the Settlement website, www.ZayoBIPASettlement.com, to submit a claim for cash benefits.

WHAT ARE MY OPTIONS?

(1) Accept the Settlement.

To accept the Settlement, you must submit a Claim Form by **April 8, 2019**. You may obtain a Claim Form at www.ZayoBIPASettlement.com, and you may submit your Claim Form online at the same website, or by email to the Settlement Administrator at Info@ZayoBIPASettlement.com, or by U.S. Mail to the Settlement Administrator at:

Zayo BIPA Settlement Administrator
P.O. Box 404041
Louisville, KY 40233-4041

If the Settlement is approved and your claim is deemed valid, a check will be mailed to you. ***Submitting a valid and timely Claim Form is the only way to receive a payment from this Settlement, and is the only thing you need to do to receive a payment.***

(2) Exclude yourself.

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 Defendant and the Releasees (as that term is defined in the Settlement Agreement) and are free to pursue whatever legal rights you may have by pursuing your own lawsuit against the Releasees at your own risk and expense. To exclude yourself from the Settlement, you must mail a signed letter to the Settlement Administrator at:

Zayo BIPA Settlement Administrator
P.O. Box 404041
Louisville, KY 40233-4041

postmarked by **March 8, 2019**. You may also exclude yourself online at www.ZayoBIPASettlement.com by **March 8, 2019**. The exclusion letter must state that you exclude yourself from this Settlement and must include the name and case number of this Litigation, as well as your full name, address, telephone number, and a statement that you wish to be excluded from the Settlement Agreement.

(3) Object to the Settlement.

If you wish to object to the Settlement, you must submit your objection in writing to the Clerk of the Court of the Circuit Court of Cook County, Illinois, Richard J. Daley Center, 50 West Washington Street, Courtroom 2408, Chicago, Illinois 60602. The objection must be received by the Court no later than **March 8, 2019**. You must also send a copy of your objection to the attorneys for all Parties to the lawsuit, including Class Counsel (Myles McGuire, Evan M. Meyers, David L. Gerbie, and Jad Sheikali, MCGUIRE LAW, P.C., 55 West Wacker Drive, 9th Floor, Chicago, Illinois 60601), as well as the attorneys representing the Defendant (Joseph A. Strubbe, Frederic T. Knape, and Zachary J. Watters, VEDDER PRICE, P.C., 222 North LaSalle Street, Chicago, IL 60601), postmarked no later than **March 8, 2019**. Any objection to the proposed Settlement must include (i) your full name, address, and telephone number; (ii) the case name and number of this Litigation; (iii) the name or location of the Zayo Group, Inc. colocation(s) or other facility(ies) you used; (iv) all grounds for the objection, with factual and legal support for the stated objection, including any supporting materials; (v) the identification of any other objections you have filed, or have had filed on your behalf, in any other class action cases in the last four years; and (vi) 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 **March 8, 2019**. 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 cannot both object to and exclude yourself from the Settlement Agreement. Any Settlement Class Member who attempts to both object to and exclude themselves from the Settlement will be deemed to have excluded themselves and will forfeit the right to object to the Settlement Agreement or any of its terms. If you return both a Claim Form and a written request for exclusion, the request for exclusion shall be deemed void and of no force and effect, and the Claim Form shall be processed under the terms of the Settlement.

You may appear at the Final Approval Hearing, which will be held on **April 8, 2019 at 2:00 p.m.**, in Courtroom 2408 of the Circuit Court of Cook County, Richard J. Daley Center, 50 West Washington Street, Chicago, Illinois 60602, in person or through counsel to show cause why the proposed Settlement 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 Final Approval of the Settlement, the request for attorneys' fees and expenses, and/or the request for an Incentive 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.

(4) Do Nothing.

If you do nothing, you will receive no money from the Settlement Fund, but you will still 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 the Defendant or other Releasees regarding any of the Released Claims. *Submitting a valid and timely Claim Form is the only way to receive a payment from this Settlement.*

To submit a Claim Form, or for information on how to request exclusion from the class or file an objection, please visit the Settlement website, www.ZayoBIPASettlement.com, or call 1-866-458-2106.

WHAT DOES THE SETTLEMENT PROVIDE?

Cash Payments. Defendant has agreed to create a Settlement Fund for the Class Members. All Settlement Class Members are entitled to submit a Claim Form in order to receive a payment out of the Settlement Fund. If the Settlement is approved, each Settlement Class Member who submits a timely Claim Form that is deemed valid will be entitled to an equal payment of up to \$400.00 paid out of the Settlement Fund. The exact amount of each Class Member's payment is unknown at this time; it may be as much as \$400.00, but it may be less depending on unknown factors to be determined, including the total number of valid Claim Forms submitted. The Settlement Administrator will issue a check to each Class Member who submits a valid Claim Form following the Final Approval of the Settlement. All checks issued to Settlement Class Members will expire and become void 120 days after they are issued. Additionally, the attorneys who brought this lawsuit (listed below) will ask the Court to award them attorneys' fees of up to 40 percent of the Settlement Fund, plus reasonable costs, for the substantial time, expense and effort spent 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 his time, effort, and service in this matter. Defendant has also agreed to alter its biometric security system practices, as explained in the Settlement Agreement, available at the website listed below.

WHAT RIGHTS AM I GIVING UP IN THIS SETTLEMENT?

Unless you exclude yourself from this Settlement, 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 its related entities, agents, and vendors (as defined in the Settlement Agreement), relating to the use of the Biometric Security System at Defendant's colocations and other facilities located within the state of Illinois between July 6, 2012 and December 27, 2017. Giving up your legal claims is called a release. The precise terms of the release are in the Settlement Agreement, which is available on the Settlement website. Unless you formally exclude yourself from this Settlement, you will release your claims whether or not you submit a Claim Form and receive payment. If you have any questions, you can talk for free to the attorneys identified below who have been appointed by the Court to represent the Settlement Class, or you are welcome to talk to any other lawyer of your choosing at your own expense.

WHEN WILL I BE PAID?

The Parties cannot predict exactly when (or whether) the Court will give Final Approval of the Settlement, so please be patient. However, if the Court finally approves the Settlement, you will be paid as soon as possible after the court order becomes final, which should occur within approximately 60 days after the Settlement has been finally approved. If there is an appeal of the Settlement, payment may be delayed. Updated information about the case is available at www.ZayoBIPASettlement.com, or you can call the Settlement Administrator at 1-866-458-2106, or contact Class Counsel at the information provided below.

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 to determine the fairness of the Settlement. At the Final Approval Hearing, the Court will also consider whether to make final the certification of the Class for settlement purposes, hear any proper objections and arguments to the Settlement, as well as any requests for an award of attorneys' fees, costs, and expenses, and a Class Representative Incentive Award that may be sought by Class Counsel. The Court will hold the Final Approval Hearing on **April 8, 2019 at 2:00 p.m.** in Courtroom 2408 of the Richard J. Daley Center, 50 West Washington Street, Chicago, Illinois 60602.

If the Settlement is given final approval, the Court will not make any determination as to the merits of the claims against Defendant or its defenses to those claims. Instead, the Settlement's terms will take effect and the lawsuit 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, 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 at this time and Class Members will receive no benefits from the Settlement Fund. Plaintiff, Defendant, and all of the Class Members will be in the same position as they were prior to the execution of the Settlement, and the Settlement will have no legal effect, no class will remain certified (conditionally or otherwise), and the Plaintiff and Defendant will continue to litigate the lawsuit. There can be no assurance that if the Settlement is not approved, 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 the following attorneys to represent the Settlement Class. They are called "Class Counsel." You will not be charged for these lawyers. If you want to be represented by your own lawyer instead, you may hire one at your own expense.

Myles McGuire
Evan M. Meyers
David L. Gerbie
Jad Sheikali
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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 at www.ZayoBIPASettlement.com. If you have any questions, you can also call the Settlement Administrator at 1-866-458-2106 or Class Counsel at the number or email addresses set forth above. In addition to the documents available on the case website, all pleadings and documents filed in Court may be reviewed or copied in the Office of the Clerk. 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.