

**IN THE CIRCUIT COURT OF THE EIGHTEENTH JUDICIAL CIRCUIT
DUPAGE COUNTY, ILLINOIS**

BRIANNA BOONE, ASHLEY MCCLINTON,)
and K.F.C., a minor by and through her)
guardian, ERIN RENTFRO, on behalf of)
themselves and all others similarly situated,)

Plaintiffs,)

v.)

SNAP INC.,)

Defendant.)
_____)

Candice Adams
e-filed in the 18th Judicial Circuit Court
DuPage County
ENVELOPE: 18964930
2022LA000708
FILEDATE: 8/4/2022 9:49 PM
Date Submitted: 8/4/2022 9:49 PM
Date Accepted: 8/5/2022 8:51 AM
SW

Case No. 2022LA000708

CLASS ACTION COMPLAINT

Plaintiffs, Brianna Boone, Ashley McClinton, and K.F.C., a minor, by and through her guardian, Erin Rentfro, (collectively, “Plaintiffs”), on behalf of themselves and all others similarly situated, bring this action against Snap Inc. (“Defendant” or “Snap”) and allege the following, upon personal knowledge as to their own acts, and upon information and belief derived from, among other things, investigation of counsel, as to all other matters:

I. INTRODUCTION

1. Plaintiffs bring this action against Snap under the Illinois Biometric Information Privacy Act, 740 ILCS 14/1, *et seq.* (“BIPA”), pursuant to which they seek statutory damages recoverable under BIPA. BIPA prohibits private entities from collecting, capturing, purchasing, receiving through trade, or otherwise obtaining a person’s biometric information unless it: (1) informs that person in writing that identifiers and information will be collected and/or stored, (2) informs the person in writing of the specific purpose and length for which the identifiers or information is being collected, stored, or used, (3) receives a written release from the person for the collection of that data, and (4) publishes publicly available written retention schedules and guidelines for permanently destroying said data. *See* 740 ILCS 14/15(a) and (b). This action alleges that Snap violated 740 ILCS 14/15(a) and (b).

2. Developed, owned, operated, and exclusively controlled by Defendant, Snap, Snapchat (“Snapchat”) “is a camera application (“app”) that was created to help people communicate through short videos and images called ‘Snaps.’”¹ What started as a humble company called “Future Freshman LLC” in 2010 has grown into a social media giant in the decade since. According to Snap’s investor information, the application has, on average, 332 million active users using the Lens feature over 6 billion times per day.² Snap boasts that “[o]ver 75% of the 13-34 year olds in over 20 countries use Snapchat.”³

3. One reason why Snapchat is so popular is because Snap represents that “Snaps” only exist for a finite period – usually just a few seconds, so that the user can send silly “Snaps” which purportedly self-delete.

4. For any posted content not set as “Public Content,” Snap’s Terms of Service state that users give “Snap Inc. and our affiliates a worldwide, royalty-free, sublicensable, and transferrable license to host, store, cache, use, display, reproduce, modify, adapt, edit, publish, analyze, transmit, and distribute that content.”

5. What Snap fails to disclose is that through its Snapchat app it collects Plaintiffs and other similarly situated Illinois users’ “biometric identifiers” (“biometrics”) without their informed, written consent. Snap’s collection of these biometrics without the consent, or appropriate notice to users, is in violation of BIPA. For example, one of Snapchat’s most popular features, “Lenses,” which allows users to add special effects to their Snapchat photos, works by scanning the geometry of a person’s face in Snaps, which is a violation of BIPA.

6. Plaintiffs bring this action on behalf of themselves and all other similarly situated Illinois residents for willful violations of the BIPA statute, which provides for statutory damages in the amount of \$1,000 per negligent violation and \$5,000 per reckless violation.

¹ S.E.C. Form 10-Q, Snap, Inc. (for the quarterly period ended April 22, 2022), at 11.

² *Investor Relations*, “Overview”, SNAP INC., <https://investor.snap.com/overview/default.aspx> (last visited July 14, 2022).

³ *Id.*

II. PARTIES

7. Plaintiff Brianna Boone is a resident and citizen of Westmont, DuPage County, Illinois. Since 2019, Plaintiff Boone has routinely used Snapchat in Illinois, has used numerous Lenses in her Snaps in Illinois, and has sent from Illinois Snaps with Lens effects to other Snapchat users. The relevant scans of Plaintiff Boone's face in her Snaps occurred in Illinois, and the violations of BIPA alleged herein occurred primarily and substantially within Illinois. Plaintiff Boone was unaware of and did not agree to the collection or storage of her biometric identifiers.

8. Plaintiff Ashley McClinton is a resident and citizen of Belleville, St. Clair County, Illinois. In 2013, Plaintiff McClinton downloaded the Snapchat app in Illinois, routinely used Snapchat in Illinois, has used numerous Lenses in her Snaps in Illinois, and has sent from Illinois Snaps with Lens effects to other Snapchat users. The relevant scans of Plaintiff McClinton's face in her Snaps occurred in Illinois, and the violations of BIPA alleged herein occurred primarily and substantially within Illinois. Plaintiff McClinton was unaware of and did not agree to the collection or storage of her biometric identifiers.

9. Plaintiff K.F.C., by and through her guardian, Erin Rentfro (mother), is a minor child and a resident and citizen of Marion, Williamson County, Illinois. Plaintiff K.F.C. is a 14-year-old former Snapchat user. Plaintiff K.F.C. downloaded the Snapchat app in Illinois, routinely used Snapchat in Illinois, has used numerous Lenses in her Snaps in Illinois, and has sent from Illinois Snaps with Lens effects to other Snapchat users. The relevant scans of Plaintiff K.F.C.'s face in her Snaps occurred in Illinois, and the violations of BIPA alleged herein occurred primarily and substantially within Illinois. Plaintiff K.F.C. was unaware of and did not agree to the collection or storage of her biometric identifiers.

10. Defendant Snap, Inc. is a Delaware corporation with its principal place of business located at 2772 Donald Douglas Loop North, Santa Monica, California 90405. Snap, Inc. is a publicly-traded company, and is listed on the New York Stock Exchange under the trading symbol "SNAP."

III. JURISDICTION

11. This is a Class Action Complaint for violations of the Illinois Biometric Information Privacy Act (740 ILCS 14/1, *et seq.*) seeking statutory and actual damages.

12. This Court has subject matter and personal jurisdiction over the parties to this cause of action. Plaintiff Boone is a citizen of Illinois, and resides in DuPage County, Illinois.

13. This Class Action is brought on behalf of only Illinois citizens within the State of Illinois who had their respective biometric information collected by Defendant within the State of Illinois.

14. Consistent with the Due Process Clauses of the Fifth and Fourteenth Amendments, this Court has *in personam* jurisdiction over the Defendant because it conducts commerce in the State of Illinois, and is therefore present in the State of Illinois such that requiring an appearance does not offend traditional notions of fair play and substantial justice.

15. Plaintiff Boone had her biometric identifiers captured, collected, stored, or used by Defendant in DuPage County, Illinois. Accordingly, venue is proper under 735 ILCS 5/1-108 and 2-101 of the Illinois Code of Civil Procedure.

IV. SUBSTANTIVE ALLEGATIONS

A. The Illinois Biometric Information Privacy Act.

16. BIPA was passed in 2008 in order to address the “very serious need [for] protections for the citizens of Illinois when it [comes to their] biometric information.” Illinois House Transcript, 2008 Reg. Session No. 276. Specifically, the legislature’s findings were as follows:

- (a) The use of biometrics is growing in the business and security screening sectors and appears to promise streamlined financial transactions and security screenings.

...

(f) The full ramifications of biometric technology are not fully known.

(g) The public welfare, security, and safety will be served by regulating the collection, use, safeguarding, handling, storage, retention, and destruction of biometric identifiers and information.

17. BIPA defines a biometric identifier as follows:

“Biometric identifier” means a retina or iris scan, fingerprint, voiceprint, **or scan of hand or face geometry**.

...

“Biometric information” means any information, regardless of how it is captured, converted, stored, or shared, based on an individual's biometric identifier used to identify an individual.

740 ILCS 14/5 (*emphasis added*).

18. The statute also governs the retention, collection, disclosure, and destruction of retained biometric identifiers or biometric information, and prohibits a private company from profiting from biometric identifiers:

(a) A private entity in possession of biometric identifiers or biometric information must develop a written policy, made available to the public, establishing a retention schedule and guidelines for permanently destroying biometric identifiers and biometric information when the initial purpose for collecting or obtaining such identifiers or information has been satisfied or within 3 years of the individual's last interaction with the private entity, whichever occurs first.

...

(b) No private entity may collect, capture, purchase, receive through trade, or otherwise obtain a person's or a customer's biometric identifier or biometric information, unless it first:

(1) informs the subject or the subject's legally authorized representative authorized representative in writing that a biometric identifier or biometric information is being collected or stored;

- (2) informs the subject or the subject's legally authorized representative in writing of the specific purpose and length of term for which a biometric identifier or biometric information is being collected, stored, and used; and
- (3) receives a written release executed by the subject of the biometric identifier or biometric information or the subject's legally authorized representative.

740CS 14/5(a)-(b).

B. Snapchat Is a Social Media Application Used to Send Photos and Videos to Other Snapchat Users.

19. Snapchat “is a camera application that was created to help people communicate through short videos and images called ‘Snaps.’”⁴ According to Snap’s investor information, the application has, on average, 332 million active users exchanging over 6 billion Lens uses per day.⁵ Snap boasts that “[o]ver 75% of the 13-34 year olds in over 20 countries.”⁶

20. Within the application, Lenses and Filters are two very popular features that allow users to change their appearances, including to their faces, in Snaps. Lenses allow users to add special effects to their Snaps, including editing their appearances, as well as their voices. Filters work by acting as a design overlay over Snaps – similar to adding a preexisting frame or overlay to Snaps.

21. Snapchat users can use many default Lenses and Filters that are provided within the Snapchat application. They can also create their own custom Lenses and Filters using Snap’s Lens Studio, which is a program offered by Snap for free download. Each time a Lens or Filter is

⁴ S.E.C. Form 10-Q, Snap, Inc. (for the quarterly period ended April 22, 2022), at 10.

⁵ Investor Relations, *Overview*, SNAP INC., <https://investor.snap.com/overview/default.aspx> (last visited July 14, 2022).

⁶ *Id.*

used, Snap scans the image of the user's face to create a detailed map of the user's facial features, and their connection to one another.

C. Snap's Violations of BIPA.

1. Plaintiff Boone's Use of Snapchat.

22. Since 2019, Plaintiff Boone has lived in the State of Illinois and used Snapchat in Illinois. In addition to sending Snaps to other users, Plaintiff used in Illinois various aspects of the application that change the appearance of her face in Snaps, including numerous Lenses, that were sent from Illinois to other Snapchat users. Some of the Lenses that Plaintiff Boone used were "Butterfly Mood," "Subtle Beauty," "Sequins Mask," "Flowers Freckles," "Big Mouth," "Lovely Neon Devil," "I'm Feeling Cute," "Beauty Face" and "Festive Dog." Each of these Snapchat Lenses and Filters altered the image of her face. For example, the "Big Mouth" filter altered her face so that her mouth appeared to be disproportionately larger than her other facial features, while the "Flowers Freckles" filter altered her facial features so that she appeared to have freckles in the shape of flowers on her face.

2. Plaintiff McClinton's Use of Snapchat.

23. Plaintiff McClinton lives, and at all relevant times has lived, in the State of Illinois and used Snapchat in Illinois. In addition to sending Snaps to other users, Plaintiff McClinton used in Illinois various aspects of the application that change the appearance of her face in Snaps, including numerous Lenses, that were sent from Illinois to other Snapchat users. Some of the Lenses and Filters that Plaintiff McClinton has used are "Butterfly," "Old," "Time Machine," "Baby Face," "Red Lips," and "Mustache." Each of these Snapchat Lenses and Filters altered the image of Plaintiff McClinton's face. For example, the "Red Lips" filter altered her face so that her mouth appeared to have red lipstick applied to the contours and shape of her mouth, while the

“Baby Face,” “Old” and “Time Machine” filters altered her facial features so that she appeared to be younger and older, respectively.

3. Plaintiff K.F.C.’s Use of Snapchat.

24. Plaintiff K.F.C. is a 14-year-old child who lives, and at all relevant times has lived, in the State of Illinois and used Snapchat in Illinois. In addition to sending Snaps to other users, Plaintiff used in Illinois various aspects of the application that change the appearance of her face in Snaps, including numerous Lenses, that were sent from Illinois to other Snapchat users. One of the Lenses that Plaintiff K.F.C. used was “Devil’s Heart” – a Snapchat Lens that alters the image of a person’s face so that she appears to have freckles on the nose and cheeks, as well as devil’s horns on the forehead above the eyes.

4. Snapchat Collects, Captures or Otherwise Obtains Faceprint/Facial Biometric Identifiers.

25. Snap does not make the disclosures required by BIPA in connection with its collection of biometrics and does not obtain informed consent of users in violation of BIPA.

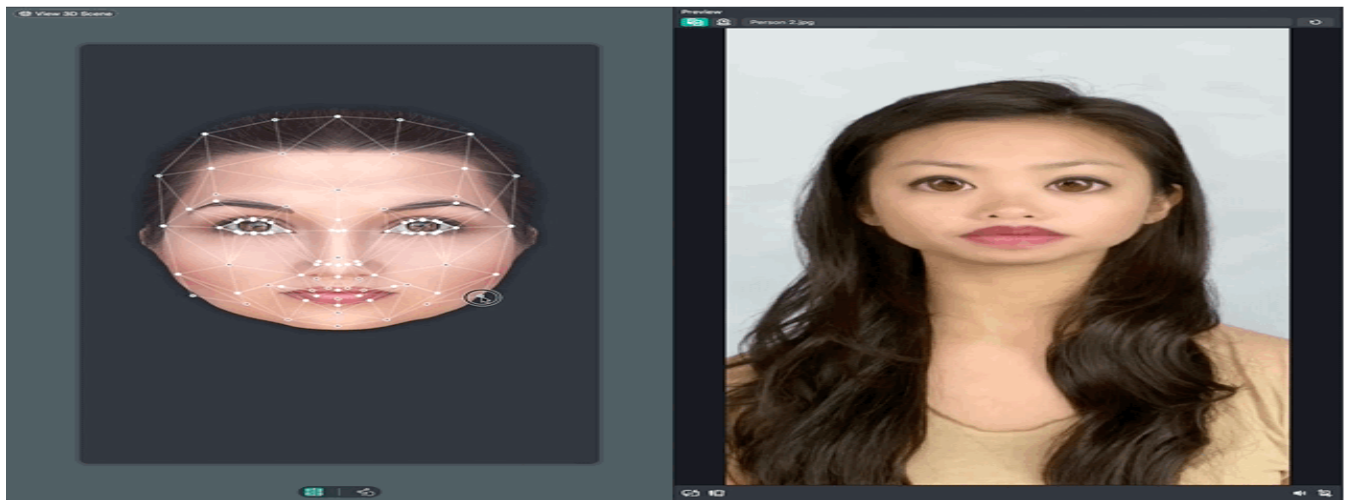
26. Snapchat’s Lens Studio is a free software program owned by Snap that allows users to create their own unique effects beyond those already available to all users within the Snapchat application. Snap describes the Lens Studio as follows: “The World Is Your Canvas. . . . With a huge set of built-in features, including advanced tracking technology, the possibilities are endless.”⁷

27. Within the Lens Studio webpage, Defendant explains how Lenses are created, and how they work. This explanation evidences that Lenses utilize biometric identifiers, specifically, a “scan of . . . face geometry,” as defined by BIPA. 740 I.L.C. 14/10. For example, under the “Learn” heading in the Lens Studio, Snap discusses various types of effects that distort and change

⁷ Lens Studio, SNAP INC., <https://lensstudio.snapchat.com/> (last visited July 14, 2022).

a person's face – effects which would not exist but for a facial mapping or scanning of a person's face in a Snap by Snapchat. As Lens Studio states with respect to one of the Lenses that is supposed to stretch a person's face: "The Face Stretch Effect distorts the shape of the face by manipulating **points mapped to the face.**"⁸ (*emphasis added*).

28. The Face Stretch Effect and the mapping of the various points on a person's face



can be seen in this image:

29. Lenses allow users to apply many effects to their own faces, from cartoonish effects like bug-eyes, face stretching and other distortions, to subtle make-up effects, such as smoothing facial texture, altering eye color, whitening teeth, and softening the skin.⁹

30. According to Snap, the "Face Landmarks" tool in the Lens Studio captures 93 points on each user's face and allows for manipulation of the distance between two points on the

⁸ Lens Studio, Learn, Templates, *Distort*, SNAP INC., <https://lensstudio.snapchat.com/templates/face/distort/> (last visited July 14, 2022).

⁹ Lens Studio, Learn, Templates, *Face Retouch*, <https://lensstudio.snapchat.com/guides/face/face-effects/face-retouch/> (last visited July 14, 2022).

map of the face. Snap touts that “Face Landmarks are great if you want to track specific parts of the face since you have 93 points to attach to,” stating as follows in relevant part:

Face Landmarks are 93 points that are tracked with the user's face. Like Object tracking, the position of the points are in screen space. Face Landmarks are great if you want to track specific parts of the face since you have 93 points to attach to. You can also make fun interaction by getting distance between two of the landmarks and make interaction based on the distance.

Id.

31. Facial mapping, which measures, compares, and tracks the “landmarks” of a person’s face, and the distance between the landmarks, as demonstrated in Snapchat’s own explanations of its Lens technology, are evidently biological-based measurements from a “scan of . . . face geometry.” 740 ILCS 14/10.

32. Additionally, Snapchat’s Filters tool also scans facial geometry in violation of BIPA. Filters are similar to Lenses, however Filters are “frames and artwork” that can be applied to Snaps, whereas Lenses are “augmented reality experiences friends can play with.”¹⁰

33. According to an article written by James Le, the editor of Cracking the Data Science Interview, titled “Snapchat’s Filters: How computer vision recognizes your face,” the application of extracting facial landmarks is applied to Filters as well. Specifically, he states that, “[f]or each detected face . . . the local region coordinates for each member or facial feature of that face. This includes the eyes, bone, lips, nose, mouth . . . coordinates usually in the form of points”¹¹ (emphasis omitted).

34. An example of a popular Snapchat Filter is one called “Old.” The “Old” Filter, which was named one of the best Snapchat Filters of 2020, considerably ages a person’s

¹⁰ Filters & Lenses, *Create Your Own, Snap Inc.*, <https://www.snapchat.com/create> (last visited July 14, 2022).

¹¹ James, Le, “*Snapchat’s Filters: How computer vision recognizes your face: The science behind personalized facial recognition*,” MEDIUM (Jan. 28, 2018), <https://medium.com/cracking-the-data-science-interview/snapchats-filters-how-computer-vision-recognizes-your-face-9907d6904b91>.

appearance in Snaps. It edits faces detected in the Snap by making the person's skin appear older, as well as turning hair grey.¹² An example of this Filter can be seen below:

Old by Snapchat



35. Snap does not disclose that its Lenses and Filters collect, capture, or otherwise obtain biometric identifiers, and do not give to users, or receive from users, the informed written consent required by the statute prior to obtaining users' biometric identifiers. Nor does Snap disclose how the biometric identifiers are used, if they are shared with or sold to third parties, and if there is a purpose for the collection of these identifiers and information, in violation of BIPA.

36. Indeed, Snap tells users that Lenses are not facial recognition, which gives users false comfort about a subject it knows users are concerned about, namely the use of biometrics in consumer technology. Snap states the following on a section of its website it calls "Privacy by Product:"

Lenses

Ever wonder how Lenses swap your face with a friend's or give you puppy dog ears? Some of the magic behind Lenses is due to "object recognition." Object recognition is an algorithm designed to help a computer generally understand what objects are in an image. In this case, it lets us know that a nose is a nose

¹² Henry T. Casey, *19 best Snapchat filters in 2020*, TOM'S GUIDE (July 27, 2020), <https://www.tomsguide.com/round-up/best-snapchat-filters>.

or an eye is an eye. But, object recognition isn't the same as facial recognition. While Lenses can tell what is or isn't a face, they don't recognize specific faces!¹³

37. Significantly, BIPA does not contain the phrases “facial recognition” or “object recognition.” BIPA governs, relevant to this case, biometric identifiers, which means “a scan of hand or face geometry.” 740 I.L.C. 14/10. As a result, Snap’s statement in its Privacy Policy that its Lenses do not use facial recognition is not relevant to whether it collects biometric identifiers or information.

38. Use of Snapchat, which is the app owned, operated, and wholly controlled by Snap, is governed by its Terms of Service.¹⁴ These Terms evidence that the content on Snapchat, which includes Snaps that have been altered with Lenses and Filters, is usable, storable, and modifiable *by Snap*:

For all content you submit to the Services other than Public Content, you grant Snap Inc. and our affiliates a worldwide, royalty-free, sublicensable, and transferable license to host, store, use, display, reproduce, modify, adapt, edit, publish, and distribute that content. This license is for the limited purpose of operating, developing, providing, promoting, and improving the Services and researching and developing new ones.

Because Public Content is inherently public and chronicles matters of public interest, the license you grant us for this content is broader. For Public Content, you grant Snap Inc., our affiliates, and our business partners all of the same rights you grant for non-Public Content in the previous paragraph, as well as a perpetual license to create derivative works from, promote, exhibit, broadcast, syndicate, publicly perform, and publicly display Public Content in any form and in any and all media or distribution methods (now known or later developed). To the extent it’s necessary, when you appear in, create, upload, post, or send Public Content, you also grant Snap Inc., our affiliates, and our business partners the unrestricted, worldwide, perpetual right and license to use your name, likeness, and voice, including in connection with commercial or sponsored content.

¹³ Privacy by Product, *Snaps & Chats*, SNAP INC., <https://www.snap.com/en-US/privacy/privacy-by-product> (last visited July 14, 2022).

¹⁴ As stated in the “Parties” section, Plaintiff K.F.C. is a minor who has not entered into the contract and has disaffirmed it.

V. CLASS ALLEGATIONS

39. This action is brought by the named Plaintiffs on behalf of themselves and a proposed Class of all other persons similarly situated, pursuant to 735 ILCS 5/2-801, *et seq.*, defined as follows:

All Illinois residents who used Lenses or Filters offered by Snap between November 17, 2015 and the present (the “Class”).

40. All Members of the proposed Class are residents of Illinois. The principal injuries resulting from the alleged conduct or any related conduct of Defendant were incurred in Illinois. On information and belief, no other class action is pending asserting the same or similar factual allegations against Defendant on behalf of the same or other persons.

41. Plaintiffs are the masters of their complaint and cause. Plaintiffs specifically exclude from the proposed Class the claims of any non-Illinois residents; any and all claims against any non-Illinois residents; any other claims, including claims for personal injury, wrongful death, or other property damage sustained by the Class; and any Judge conducting any proceeding in this action and members of their immediate families.

42. The Class is so numerous that the individual joinder of all Members is impracticable. Upon information and belief, there are approximately 3,800,000 Class Members.

43. Common questions of law or fact arising from Defendant’s conduct exist as to all Class Members, as required by 735 ILCS 5/2-801. These common questions include, but are not limited to, the following:

- a. Whether Defendant captured, collected, or stored the biometric identifiers of Plaintiffs and Class Members.

- b. If Defendant captured, collected, or stored the biometric identifiers of Plaintiffs and Class Members, did Defendant inform them in writing that biometric identifiers were being collected or stored?
- c. If Defendant captured, collected, or stored the biometric identifiers of Plaintiffs and Class Members, did Defendant inform them in writing of the specific purpose and length of term for which biometric identifiers were being collected or captured?
- d. If Defendant captured, collected, or stored the biometric identifiers of Plaintiffs and Class Members, did Defendant receive a written release executed by Plaintiffs and Class Members or their legally authorized representatives?
- e. If Defendant captured, collected, or stored the biometric identifiers of Plaintiffs and Class Members, did Defendant develop a written policy, made available to the public, establishing a retention schedule and guidelines for permanently destroying biometric identifiers when the initial purpose for collecting or obtaining such identifiers has been satisfied, or within 3 years of the individual's last interaction with the private entity, whichever occurs first?

44. Class action treatment provides a fair and efficient method for the adjudication of the controversy herein described, affecting a large number of persons, joinder of whom is impracticable. The class action device provides an appropriate and effective method whereby the enforcement of the rights of Plaintiffs and Class Members can be fairly managed without unnecessary expense or duplication. The expense and burden of individual litigation of a case of this magnitude makes it impracticable for individual Class Members to seek redress for the alleged wrongs worked upon them.

45. Individual litigation of all claims which might be asserted by all Class Members would produce such a multiplicity of cases that the judicial system having jurisdiction of the claims would remain congested for years. The certification of the proposed Class would allow litigation of claims that, in view of the expenses of litigation, may be insufficient in amounts to support separate actions. Concentrating this litigation in one forum would aid judicial economy and

efficiency, promote parity among the claims of individual Class Members, and result in judicial consistency.

46. Plaintiffs will fairly and adequately protect the interests of the Class that Plaintiffs seek to represent. The interests of Plaintiffs, as the Class Representatives, are consistent with those of the Class Members. In addition, Plaintiffs are represented by counsel experienced in complex and class action litigation.

47. The prosecution of separate actions by individual Class Members would create a risk of:

- a. Inconsistent or varying adjudications with respect to individual Class Members; and
- b. Adjudication with respect to individual Class Members which would, as a practical matter, be dispositive of the interests of other Members not parties to the adjudication or substantially impair or impede their ability to protect their interests.

48. Plaintiffs and Class Members envision no unusual difficulty in the management of this action as a class action.

VI. CAUSES OF ACTION

COUNT I

Violation of the Illinois Biometric Information Privacy Act, 740 ILCS 14/15(a) On Behalf of Plaintiffs and the Class

49. Plaintiffs incorporate by reference all of the foregoing allegations as if fully set forth herein.

50. BIPA requires that “[a] private entity in possession of biometric identifiers or biometric information must develop a written policy, made available to the public, establishing a retention schedule and guidelines for permanently destroying biometric identifiers and biometric information when the initial purpose for collecting or obtaining such identifiers or information has

been satisfied or within 3 years of the individual's last interaction with the private entity, whichever occurs first." 740 ILCS 14/15(a).

51. Snap is a private entity under BIPA.

52. Plaintiffs and putative Class Members are members of the public and users of Defendant's Snapchat application.

53. When users use Lenses or Filters on the Snapchat app, the app takes a scan of the user's facial geometry from the digital image and videos created when users create Snaps.

54. Snap did not provide to Plaintiffs and putative Class Members a publicly available retention schedule or guidelines for permanently destroying users' biometric identifiers when the initial purpose for collecting such identifiers was satisfied or within 3 years of Plaintiffs and Class Members' last interactions with Snapchat, as required by BIPA. Thus, Snap violated Section 15(a) of BIPA. Snap's violations actually harmed or posed a material risk of harm to the privacy interests that BIPA seeks to protect.

55. Snap's violations of BIPA were intentional and/or reckless, or, alternatively, negligent.

COUNT II

Violation of the Illinois Biometric Information Privacy Act, 740 ILCS 14/15(b) On Behalf of Plaintiffs and the Class

56. Plaintiffs incorporate by reference all of the foregoing allegations as if fully set forth herein.

57. BIPA makes it illegal for a private entity to "collect, capture, purchase, receive through trade, or otherwise obtain a person's or a customer's biometric identifiers and biometric information unless it first: (1) informs the subject . . . in writing that biometric identifiers and biometric information is being collected or stored; (2) informs the subject . . . in writing of the

specific purpose and length of term for which a biometric identifier or biometric information is being collected, stored and used; and (3) receives a written release executed by the subject of the biometric identifier or biometric information . . .” *See* 740 ILCS 14/10.

58. Snap is a private entity under BIPA.

59. Plaintiffs and putative Class Members are individuals who had their biometric identifiers and/or biometric information, in the form of a scan of their face geometry, collected, captured, purchased, received through trade or otherwise obtained by Snap in the course of the services it offers, as alleged herein. Such Class Members include, at the least, those who have used Snapchat’s Lenses and Filters features.

60. Snap systematically and automatically collects, captures, purchases, receives through trade, or otherwise obtains Plaintiffs and putative Class Members’ biometric identifiers without first obtaining the necessary written release, as required by 740 ILCS 14/15(b)(3).

61. Snap failed to inform Plaintiffs and putative Class Members in writing that their biometric identifiers would be – and have been – collected, captured, purchased, received through trade, or otherwise obtained through the use of the Snapchat application, as required by 740 ILCS 14/15(b)(1)-(2).

62. Snap also failed to inform Plaintiffs and putative Class Members in writing of the specific purpose and the amount of time for which their biometric identifiers would be – and have been – collected, captured, purchased, received through trade, or otherwise obtained, as required by 740 ILCS 14/15(b)(1)-(2).

63. Snap did not receive a written release from Plaintiffs and putative Class Members allowing Snap to collect, capture, purchase, receive through trade or otherwise obtain biometric identifiers from Plaintiffs and Class Members, as required by 740 ILCS 14/15(b)(3).

64. By collecting, capturing, purchasing, receiving through trade or otherwise obtaining without informed consent Plaintiffs and putative Class Members' biometric identifiers as described, Snap violated – and continues to violate – the rights of Plaintiffs and putative Class Members to keep private these biometric identifiers, as required by BIPA. Snap's violations actually harmed or posed a material risk of harm to the privacy interests that BIPA seeks to protect.

65. Snap's violations of BIPA were intentional and/or reckless, or, alternatively, negligent.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs, on behalf of themselves and all others similarly situated, respectfully request that this Court enter an Order:

- A. Certifying this case as a class action;
- B. Appointing Plaintiffs as Class Representatives, and Plaintiffs' counsel as Class Counsel;
- C. Declaring that Snapchat's actions, as stated herein, violate the rights of Plaintiffs and putative Class Members under BIPA;
- D. Awarding statutory damages of \$5,000 per each intentional and reckless violation of BIPA pursuant to the statute, or, alternatively, statutory damages of \$1,000 per each negligent violation of BIPA pursuant to the statute;
- E. Awarding injunctive and equitable relief as necessary to protect the rights of Plaintiffs and putative Class Members under BIPA;
- F. Awarding Plaintiffs and the putative Class their reasonable litigation expenses and attorneys' fees;
- G. Awarding Plaintiffs and the putative Class pre- and post- judgement interest to the extent allowable; and,
- H. Awarding such other and further relief as this Court deems just and proper.

DATED: August 4, 2022

Respectfully submitted,

**MILBERG COLEMAN BRYSON
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