

NOTICE OF CLASS ACTION SETTLEMENT

Burlinski, et al. v. Top Golf USA Inc., et al., Case No. 1:19-cv-06700 (N.D. Ill.)

1. Introduction

A federal court in Chicago preliminarily approved a class action settlement in the lawsuit *Burlinski, et al. v. Top Golf USA Inc., et al.*, Case No. 1:19-cv-06700 (the “Lawsuit”).

The Court has approved this Notice to inform you of your rights in the settlement. As described in more detail below, you may:

- (1) do nothing, receive a settlement payment and give up certain legal claims you have;
- (2) exclude yourself from the settlement, not receive a settlement payment and not give up any legal claims; or
- (3) object to the settlement.

Before any money is paid, the Court will decide whether to grant final approval of the settlement.

2. What Is this Lawsuit About?

This Lawsuit is about whether Top Golf USA Inc., Topgolf USA Salt Creek, LLC, and Topgolf USA Naperville, LLC (collectively “Topgolf”) violated the Illinois Biometric Information Privacy Act (“BIPA”). BIPA prohibits private companies from capturing, obtaining, storing, transferring, and/or using an individual’s biometric identifiers and/or biometric information, including a fingerprint or identifying information based on a fingerprint, without first providing an individual with certain written disclosures and obtaining written consent. The Lawsuit alleges that Topgolf violated BIPA by collecting fingerprint data from its employees in Illinois through its biometric timekeeping system without first providing written notice or obtaining written consent. The Lawsuit also alleges that Topgolf did not timely destroy fingerprint data for employees after they stopped working for Topgolf. Finally, the Lawsuit alleges that Topgolf disclosed fingerprint data to its timekeeping vendor without consent.

Topgolf denies the allegations in the Lawsuit, denies that it did anything wrong, and denies that class certification is warranted or appropriate. Topgolf has asserted at all relevant times that its actions complied with BIPA and any other applicable law. The Court did not resolve any claims or defenses, and both sides have agreed to settle the dispute solely to avoid the cost and uncertainty of continued litigation.

You can learn more about the Lawsuit by contacting the settlement administrator, Analytics Consulting LLC, at (855) 684-1982, or Settlement Class Counsel, Werman Salas P.C., at (312) 419-1008, or The Fish Law Firm, P.C. at (630) 355-7590. You may also review the Settlement Agreement and related case documents at the settlement website: www.TGfingerscansettlement.com.

3. Who Is Included in the Settlement?

The settlement includes all Illinois employees who used a biometric fingerprint or finger scanner at Topgolf venues in Illinois between March 4, 2014 and June 22, 2021, without first signing a biometric consent form, and do not timely exclude themselves from the settlement. (“Settlement Class” or “Settlement Class Members”).

4. What does the Settlement Provide?

The class action settlement provides for a total payment of \$2,633,400 that Topgolf has agreed to pay to settle the claims of Settlement Class Members. Subject to Court approval, the gross settlement fund shall be reduced by the following: (1) an award of up to one third of the total settlement for Settlement Class Counsel's attorney fees (estimated to be \$877,799.00) and litigation costs (not to exceed \$37,500); (2) Service Awards of \$7,500 each to the Settlement Class Representatives; and (3) the Settlement Administrator's costs of up to \$30,000. Following these reductions, the remaining amount shall be the net settlement fund which shall be distributed equally to Settlement Class Members. The Parties estimate you will receive a payment in the approximate amount of approximately **\$630**.

Unless you exclude yourself from the settlement as explained below, you will give up any and all Biometric Information Privacy Act claims against Topgolf, their employees, and their related entities, including all other related federal, state, and local law claims, including under the common law, as well as related claims for liquidated damages, penalties, attorneys' fees and costs, expenses, and interest. The full release of claims is set forth in the Settlement Agreement, which you can review at the settlement website.

5. What Are Your Options?

- (1) **Receive a settlement payment.** If you want to receive a settlement payment, you do not need to do anything. If you do nothing and the court grants final approval of the settlement, you will be mailed your settlement payment and be bound by the Settlement Agreement, including the release of claims. If required by law, you may also be sent a 1099 tax reporting form.
- (2) **Exclude yourself from the settlement and receive no money.** If you do not want to be legally bound by the settlement, you must exclude yourself from the settlement by **October 2, 2021**. If you do this, you will NOT get a settlement payment. To do so, you must mail or email your written request for exclusion to the Settlement Administrator (contact information below). Your written request for exclusion must include your full name, address, telephone number, the last four digits of your Social Security Number, a statement that you wish to be excluded from the settlement, and it must be signed by you. If you exclude yourself, you will not receive money from this settlement, but you will keep your legal rights regarding any claims that you may have against Topgolf and the other Released Parties.
- (3) **Object to the Settlement.** You may object to the settlement by **October 2, 2021**. If you want to object to the settlement, you must mail or email a written objection to the Settlement Administrator (contact information below), which includes your full name, address, telephone number, the last four digits of your Social Security Number, the grounds for the objection, a statement whether the objection applies to just yourself or others, and copies of any other documents that you wish to submit in support your objection. Any objection must also be personally signed by you. If you exclude yourself from the settlement, you cannot file an objection.

6. How do I update my Contact Information?

You must notify the Settlement Administrator of any changes in your mailing address so that your settlement award will be sent to the correct address. To update your address, contact the Settlement Administrator, listed below.

7. Who Are the Attorneys Representing the Class and How Will They Be Paid?

The Court has appointed Settlement Class Counsel, identified below, to represent Settlement Class Members in this settlement. Settlement Class Counsel will request up to one-third of the total settlement amount as attorney fees plus reimbursement of their costs. On or after September 2, 2021, you may review Settlement Class Counsel's request for attorney fees and costs at the settlement website, www.TGfingerscansettlement.com. You will not have to pay Settlement Class Counsel from your settlement award or otherwise. You also have the right to hire your own attorney at your own expense.

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8. When is the Final Approval Hearing?

The Court will hold a hearing in this case on **October 13, 2021 at 10:00 a.m. at (877) 336-1931 access code 1736479**, to consider, among other things, (1) whether to finally approve the settlement; (2) a request by the lawyers representing Settlement Class Members for an award of up to one-third of the settlement as attorney fees plus litigation costs; and (3) a request for Service Awards of \$7,500 each for Settlement Class Representatives Thomas Burlinski and Matthew Miller; and (4) a request for up to \$30,000 to the Settlement Administrator. You may appear at the hearing, but you are not required to do so.

Seven days before the final approval hearing, the Settlement Administrator will post on the Settlement website whether the final approval hearing will be held by telephone or in person (and will provide phone number or courtroom information).

If you have any questions or for more information, contact the Settlement Administrator or Settlement Class Counsel at:

Settlement Administrator
Topgolf Finger Scan Settlement
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PLEASE DO NOT CONTACT THE COURT OR TOPGOLF ABOUT THIS SETTLEMENT.