

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

ANDRE BROWN, individually and on behalf  
of all others similarly situated,

*Plaintiff,*

v.

MORAN FOODS, LLC, a Missouri limited  
liability company d/b/a SAVE-A-LOT,

*Defendant.*

Case No.: 2019-CH-02576

Hon. Caroline Kate Moreland

**STIPULATION OF CLASS ACTION SETTLEMENT**

This Stipulation of Class Action Settlement is entered into by and among Plaintiff Andre Brown (“Brown” or “Plaintiff”), for himself individually and on behalf of the Settlement Class, and Defendant Moran Foods, LLC, d/b/a SAVE-A-LOT, Ltd. (“Moran Foods” or “Defendant”) (Plaintiff and Defendant are referred to individually as a “Party” and collectively referred to as the “Parties”). This Settlement Agreement is intended by the Parties to fully, finally, and forever resolve, discharge, and settle the Released Claims upon and subject to the terms and conditions hereof, and is subject to the approval of the Court.

**RECITALS**

A. On February 27, 2019, Brown filed the above-captioned putative class action against Moran Foods alleging claims for damages and an injunction under the Illinois Biometric Information Privacy Act, 740 ILCS 14/1 et seq. (“BIPA”). The claims related to the alleged unauthorized collection, storage, use, and dissemination of Plaintiff’s allegedly BIPA-covered biometric data through the use of fingertip scanning devices used by Moran Foods for timekeeping purposes.

B. On May 22, 2019 Defendant filed a motion to dismiss and compel arbitration.

C. After full briefing, the Court denied Defendant's motion to compel arbitration on November 12, 2019 and ordered Defendant to answer or otherwise respond to Plaintiff's complaint by December 10, 2019.

D. Defendant filed a motion to dismiss Plaintiff's complaint on that date. Plaintiff responded on January 16, 2020, and Defendant replied on February 3, 2020. The matter was continued several times in light of the COVID-19 pandemic.

E. Meanwhile, the Parties began to engage in settlement discussions, and exchanged informal information regarding the size and circumstances of the Class, as well as Defendant's arbitration agreements and consent program. The Parties engaged in several rounds of negotiation between April 2020 and early August. Finally, the Parties reached agreement on the principal terms of the settlement on August 13, 2020.

F. Plaintiff and Class Counsel conducted a comprehensive examination of the law and facts relating to the allegations in the complaint and Defendant's potential defenses. Plaintiff believes that the claims asserted in the Action have merit, that he would have ultimately succeeded in obtaining adversarial certification of the proposed Settlement Class, and that he would have prevailed on the merits at summary judgment or at trial. But Plaintiff and Class Counsel recognize that Defendant has raised factual and legal defenses in the Action that presented a risk that Plaintiff may not prevail and/or that a Class might not be certified for trial. Class Counsel have also taken into account the uncertain outcome and risks of any litigation, especially in complex actions, as well as difficulty and delay inherent in such litigation. Plaintiff and Class Counsel believe that this Agreement presents an exceptional result for the Settlement Class, and one that will be provided to the Settlement Class without delay. Therefore, Plaintiff

believes that it is desirable that the Released Claims be fully and finally compromised, settled, and resolved with prejudice, and barred pursuant to the terms and conditions set forth in the Settlement Agreement.

G. Defendant denies the material allegations in the complaint, as well as all allegations of wrongdoing and liability, including that it is subject to or violated BIPA, but Defendant has similarly concluded that this Settlement Agreement is desirable to avoid the time, risk, and expense of defending protracted litigation, and to avoid the risk posed by the Settlement Class’s claims for damages under BIPA. Defendant thus desires to resolve finally and completely the pending and potential claims of Plaintiff and the Settlement Class.

NOW, THEREFORE, IT IS HEREBY STIPULATED AND AGREED by and among Plaintiff, the Settlement Class, and Defendant that, subject to the Court after a hearing as provided for in this Settlement, and in consideration of the benefits flowing to the Parties from the Settlement set forth herein, the Released Claims shall be fully and finally compromised, settled, and released, and the Action shall be dismissed with prejudice, upon and subject to the terms and conditions set forth in this Settlement Agreement.

**AGREEMENT**

**1. DEFINITIONS**

As used herein, in addition to any definitions set forth elsewhere in this Settlement Agreement, the following terms shall have the meanings set forth below:

1.1 “**Action**” means the case captioned *Brown v. Moran Foods LLC*, 2019 CH 02576 (Cir. Ct. Cook Cty.).

1.2 “**Agreement**” or “**Settlement Agreement**” or “**Settlement**” means this Stipulation of Class Action Settlement and Exhibits referenced herein.

1.3 “**Class Counsel**” means attorneys Jay Edelson and J. Eli Wade-Scott of Edelson PC and David Fish of the Fish Law Firm PC.

1.4 “**Class Representative**” means the named Plaintiff in the Action, Andre Brown.

1.5 “**Court**” means the Circuit Court of Cook County, Illinois, the Honorable Caroline Kate Moreland presiding, or any judge who shall succeed her as the Judge assigned to the Action.

1.6 “**Defendant**” or “**Moran Foods**” means Moran Foods LLC d/b/a SAVE-A-LOT, Ltd. a Missouri limited liability company.

1.7 “**Defendant’s Counsel**” means attorneys Joel Griswold, Bonnie Keane DelGobbo, and Maria A. Boelen of Baker & Hostetler LLP.

1.8 “**Effective Date**” means one business day following the later of: (i) the date upon which the time expires for filing or noticing any appeal of the Final Judgment; (ii) if there is an appeal or appeals, other than an appeal or appeals solely with respect to the Fee Award, the date of completion, in a manner that finally affirms and leaves in place the Final Judgment without any material modification, of all proceedings arising out of the appeal(s) (including, but not limited to, the expiration of all deadlines for motions for reconsideration or petitions for review and/or certiorari, all proceedings ordered on remand, and all proceedings arising out of any subsequent appeal(s) following decisions on remand); or (iii) the date of final dismissal of any appeal or the final dismissal of any proceeding on certiorari with respect to the Final Judgment.

1.9 “**Escrow Account**” means the separate, interest-bearing escrow account to be established by the Settlement Administrator under terms acceptable to Class Counsel and Defendant at a depository institution insured by the Federal Deposit Insurance Corporation. The money in the Escrow Account shall be invested in the following types of accounts and/or

instruments and no other: (a) demand deposit accounts and/or (b) time deposit accounts and certificates of deposit, in either case with maturities of forty-five (45) days or less. Any interest earned on the Escrow Account shall inure to the benefit of the Settlement Class as part of the Settlement Payment, if practicable. The Settlement Administrator shall be responsible for all tax filings with respect to the Escrow Account.

1.10 “**Fee Award**” means the amount of attorneys’ fees and reimbursement of costs to Class Counsel by the Court to be paid out of the Settlement Fund.

1.11 “**Final Approval Hearing**” means the hearing before the Court where Plaintiff will request that the Final Judgment be entered by the Court finally approving the Settlement as fair, reasonable and adequate, and approving the Fee Award and the incentive award to the Class Representative.

1.12 “**Final Judgment**” means the final judgment to be entered by the Court approving the settlement of the Action in accordance with this Settlement Agreement after the Final Approval Hearing.

1.13 “**Notice**” means the notice of this proposed Settlement and Final Approval Hearing, which is to be disseminated to the Settlement Class substantially in the manner set forth in this Settlement Agreement, fulfills the requirements of Due Process and 735 ILCS 5/2-801 *et seq.*, and is substantially in the form of Exhibits A, B and C attached hereto.

1.14 “**Notice Date**” means the date by which the Notice is disseminated to the Settlement Class, which shall be a date no later than twenty-eight (28) days after entry of Preliminary Approval.

1.15 “**Objection/Exclusion Deadline**” means the date by which a written objection to the Settlement Agreement or a request for exclusion submitted by a person within the Settlement

Class must be filed with the Court and/or postmarked, which shall be designated as a date forty-two (42) days after the Notice Date, as approved by the Court. The Objection/Exclusion Deadline will be set forth in the Notice and on the Settlement Website.

1.16 “**Plaintiff**” means Andre Brown.

1.17 “**Preliminary Approval**” means the Court’s Order preliminarily approving the Agreement, certifying the Settlement Class for settlement purposes, and approving the form and manner of the Notice.

1.18 “**Released Claims**” means any claims, known or unknown (including “Unknown Claims” as defined below), which relate in any way to information that is or could be protected under the Illinois Biometric Information Privacy Act, 740 ILCS 14/1 *et seq.*, or any other similar state, local, or federal law, regulation, or ordinance, or common law, that was collected, captured, received, obtained, maintained, stored, transmitted, or disclosed by or in relation to Defendant’s locations in Illinois.

1.19 “**Released Parties**” means Moran Foods LLC, and its successors, predecessors, parents, indirect or direct subsidiaries, divisions, affiliated persons and entities, which include, but are not limited to, estates, trusts, trustees, executors, administrators, beneficiaries, landlords, licensees, lessors, lessees, sub-lessees, tenants, franchisees, franchisors, joint venturers, partners, limited partners, employees, attorneys, agents, officers, directors, managers, members, shareholders, individuals, insurers and reinsurers, and any entities or persons (former or present) with whom Defendant has done business in relation to Defendant’s locations in Illinois, including but not limited to Kronos, and their respective affiliated persons and entities, which include, but are not limited to, estates, trusts, trustees, executors, administrators, beneficiaries, landlords, licensees, lessors, lessees, sub-lessees, tenants, franchisees, franchisors, joint

venturers, partners, limited partners, employees, attorneys, agents, officers, directors, managers, members, shareholders, successors, predecessors, parents, indirect or direct subsidiaries, divisions, affiliates, individuals, insurers and reinsurers.

1.20 “**Releasing Parties**” means Plaintiff and each Settlement Class Member.

1.21 “**Settlement Administration Expenses**” means the expenses incurred by the Settlement Administrator in or relating to administering the Settlement, providing Notice, mailing checks for Settlement Payments, and other such related expenses, with all such expenses to be paid from the Settlement Fund.

1.22 “**Settlement Administrator**” means Heffler Claims Group, subject to approval of the Court, which will provide the Notice, Settlement Website, sending of Settlement Payments to Settlement Class Members, tax reporting, and performing such other settlement administration matters set forth herein or contemplated by the Settlement.

1.23 “**Settlement Class**” means all individuals who used a finger scanner for timekeeping purposes at Defendant’s locations in the state of Illinois between February 27, 2014 and the date of preliminary approval. Defendant has represented that there are 693 Settlement Class members. Excluded from the Settlement Class are (1) any Judge or Magistrate presiding over this action and members of their families, (2) the defendant, defendant’s subsidiaries, parent companies, successors, predecessors, and any entity in which the defendant or its parents have a controlling interest, (3) persons who signed an arbitration agreement with Defendant in November 2015 or later, (4) persons who properly execute and file a timely request for exclusion from the class, and (5) the legal representatives, successors or assigns of any such excluded persons.

1.24 “**Settlement Class Member**” or “**Class Member**” means a person who falls within the definition of the Settlement Class and who does not submit a valid request for exclusion from the Settlement Class.

1.25 “**Settlement Fund**” means the amount paid by Defendant into the Escrow Account. Within fourteen (14) days of the entry of Preliminary Approval and receipt of Settlement Administrator instructions, Defendant, its insurer(s), or any other party on behalf of Defendant, shall pay into the Escrow Account the amount of One Thousand One Hundred Dollars (\$1,100.00) per person in the Settlement Class. Defendant has represented that there are 693 estimated persons in the Settlement Class, and the Settlement Fund is therefore presently calculated at \$762,300.00. The Settlement Fund shall satisfy all monetary obligations of Defendant (or any other Released Party) under this Settlement Agreement, including all attorneys’ fees, litigation costs, settlement administration expenses, payments to the Settlement Class, the incentive award, and any other payments or other monetary obligations contemplated by this Agreement or the Settlement. Pursuant to Section 7.2, Defendant shall provide certain reasonable confirmatory discovery to establish the size of the Settlement Class and the Class List as set forth herein. In no event shall any amount paid by Defendant into the Escrow Account revert to Defendant.

1.26 “**Settlement Payment**” means a *pro rata* portion of the Settlement Fund less any Fee Award, incentive award to the Class Representative, and Settlement Administration Expenses.

1.27 “**Settlement Website**” means the website to be created, launched, and maintained by the Settlement Administrator, which will provide access to relevant settlement administration documents, including the Notice and other related material.

1.28 “**Unknown Claims**” means claims that could have been raised in the Action and that Plaintiff, any other members of the Settlement Class or any Releasing Party, do not know or suspect to exist, which, if known by him, her or it, might affect his, her or its agreement to release the Released Parties or the Released Claims or might affect his, her or its decision to agree, to object or not to object to the Settlement. Upon the Effective Date, and by operation of the Final Judgment, Plaintiff, other Settlement Class Members, and the Releasing Parties shall be deemed to have, and shall have, expressly waived and relinquished, to the fullest extent permitted by law, the provisions, rights and benefits of Section 1542 of the California Civil Code, which provides as follows:

A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM OR HER MUST HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR.

Upon the Effective Date, and by operation of the Final Judgment, each of the Releasing Parties shall be deemed to have, and shall have, waived any and all provisions, rights and benefits conferred by any law of any state, the District of Columbia or territory of the United States, by federal law, or principle of common law, or the law of any jurisdiction outside of the United States, which is similar, comparable or equivalent to Section 1542 of the California Civil Code. Plaintiff, other Settlement Class Members, and the Releasing Parties acknowledge that they may discover facts in addition to or different from those that they now know or believe to be true with respect to the subject matter of the Release, but that it is their intention to finally and forever settle and release the Released Claims, notwithstanding any Unknown Claims they may have, as that term is defined in this Section.

## 2. SETTLEMENT RELIEF

### 2.1 Settlement Payments to Settlement Class Members.

a. The Settlement Administrator shall send each Settlement Class Member a Settlement Payment by check within twenty-eight (28) days of the Effective Date via First Class U.S. Mail to their last known mailing address, as updated through the National Change of Address database if necessary by the Settlement Administrator.

b. All Settlement Payments will state on the face of the check that the check will expire and become null and void unless cashed within ninety (90) days after the date of issuance.

c. To the extent that a check issued to a Settlement Class Member is not cashed within ninety (90) days after the date of issuance, the check will be void, and such funds shall be distributed to the Illinois Bar Foundation, the Cook County Bar Association, and/or Chicago Legal Aid pursuant to 735 ILCS 5/2-807(b), subject to approval of the Court.

d. In no event shall any amount paid by Defendant into the Escrow Account revert to Defendant.

2.2 **Prospective Relief.** Defendant represents that it no longer uses finger scan technology at any of its locations in Illinois. Should Defendant resume using such technology, Defendant shall take all steps necessary to comply with the Illinois Biometric Information Privacy Act by

a. disclosing to Illinois employees who use finger scanners that biometric data is being collected or stored;

b. obtaining written releases from such employees; and

c. establishing a publicly-available 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.

Compliance with BIPA, as currently in force or as amended, shall satisfy the foregoing provision. Defendant further agrees to destroy all finger scan data from former employees.

### **3. RELEASE**

3.1 **The Release.** Upon the Effective Date, and in consideration of the settlement relief and other consideration described herein, the Releasing Parties, and each of them, shall be deemed to have released, and by operation of the Final Judgment shall have, fully, finally, and forever released, acquitted, relinquished and completely discharged the Released Parties from any and all Released Claims. Upon the Effective Date, and by operation of the Final Judgment, all Releasing Parties hereby fully, finally, and forever waive, discharge, surrender, forego, give up, and abandon any and all Released Claims against the Released Parties, and shall be forever barred and enjoined from prosecuting any action against the Released Parties asserting any Released Claims.

### **4. NOTICE TO THE CLASS**

4.1 The Notice shall include:

a. *Class List.* Defendant shall provide the Settlement Administrator a list of all names and last known e-mail addresses, in its possession, and U.S. mail addresses of all persons in the Settlement Class (the "Class List") as soon as practicable, but by no later than twenty-one days after the execution of this Agreement. The Class List will be

subdivided based on whether the Class Member is a current employee or former employee. The Settlement Administrator shall keep the Class List and all personal information obtained therefrom, including the identity and mailing addresses of all persons strictly confidential. The Class List may not be used by the Settlement Administrator for any purpose other than advising persons in the Settlement Class of their rights under the Settlement, mailing Settlement Payments, and otherwise effectuating the terms of the Settlement Agreement or the duties arising thereunder, including the provision of Notice of the Settlement.

b. *Update Addresses.* Prior to mailing Notice, the Settlement Administrator will update the addresses of former employees on the Class List using the National Change of Address database and other available resources deemed suitable by the Settlement Administrator. The Settlement Administrator shall take all reasonable steps to obtain the correct address of any Class Members for whom Notice is returned by the U.S. Postal Service as undeliverable and shall attempt re-mailings as described below.

c. *Direct Notice.* No later than the Notice Date, the Settlement Administrator shall send Notice via e-mail substantially in the form attached as Exhibit A to all persons in the Settlement Class for whom an e-mail address is available in the Class List. If no e-mail address is available for a person in the Class List, or in the event transmission of an e-mail Notice results in a “bounce-back,” the Settlement Administrator shall, no later than thirty (30) days after the entry of Preliminary Approval, send a Notice via First Class U.S. Mail substantially in the form of Exhibit B to each such Settlement Class Member’s physical address.

d. *Internet Notice.* Within fourteen (14) days after the entry of Preliminary Approval, the Settlement Administrator will develop, host, administer and maintain the Settlement Website, containing the notice substantially in the form of Exhibit C attached hereto.

4.2 The Notice shall advise the Settlement Class of their rights under the Settlement, including the right to be excluded from or object to the Settlement Agreement or its terms. The Notice shall specify that any objection to this Settlement Agreement, and any papers submitted in support of said objection, shall be received by the Court at the Final Approval Hearing, only if, on or before the Objection/Exclusion Deadline approved by the Court and specified in the Notice, the person making an objection shall file notice of his or her intention to do so and at the same time (a) file copies of such papers he or she proposes to submit at the Final Approval Hearing with the Clerk of the Court, (b) file copies of such papers through the Court's eFileIL system, and (c) send copies of such papers via e-mail, U.S. mail, hand, or overnight delivery service to Class Counsel and Defendant's Counsel.

4.3 **Right to Object or Comment.** Any person in the Settlement Class who intends to object to this Settlement Agreement must present the objection in writing, which must be personally signed by the objector and must include: (a) the Settlement Class Member's full name and current address, (b) a statement that he or she believes himself or herself to be a member of the Settlement Class, (c) the specific grounds for the objection, (d) all documents or writings that the Settlement Class Member desires the Court to consider, (e) the name and contact information of any and all attorneys representing, advising, or in any way assisting the objector in connection with the preparation or submission of the objection or who may profit from the pursuit of the objection; and (f) a statement indicating whether the objector intends to appear at the Final

Approval Hearing (either personally or through counsel, who must file an appearance or seek *pro hac vice* admission). All written objections must be filed with the Court and postmarked, e-mailed or delivered to Class Counsel and Defendant's Counsel no later than the Objection/Exclusion Deadline. Any person in the Settlement Class who fails to timely file a written objection with the Court and notice of his or her intent to appear at the Final Approval Hearing in accordance with the terms of this Section and as detailed in the Notice, and at the same time provide copies to designated counsel for the Parties, shall not be permitted to object to this Settlement Agreement at the Final Approval Hearing, and shall be foreclosed from seeking any review of this Settlement Agreement or Final Judgment by appeal or other means and shall be deemed to have waived his or her objections and be forever barred from making any such objections in the Action or any other action or proceeding.

**4.4 Right to Request Exclusion.** Any person in the Settlement Class may submit a request for exclusion from the Settlement on or before the Objection/Exclusion Deadline. To be valid, any request for exclusion must (a) be in writing; (b) identify the case name *Brown v. Moran Foods LLC*, 2019 CH 02576 (Cir. Ct. Cook Cty.), (c) state the full name and current address of the person in the Settlement Class seeking exclusion; (d) be physically signed by the person(s) seeking exclusion; and (e) be postmarked or received by the Settlement Administrator on or before the Objection/Exclusion Deadline. Each request for exclusion must also contain a statement to the effect that "I hereby request to be excluded from the proposed Settlement Class in *Brown v. Moran Foods LLC*, 2019 CH 02576 (Cir. Ct. Cook Cty.)." A request for exclusion that does not include all of the foregoing information, that is sent to an address other than that designated in the Notice, or that is not postmarked or delivered to the Settlement Administrator within the time specified, shall be invalid and the persons serving such a request shall be deemed

to remain Settlement Class Members and shall be bound as Settlement Class Members by this Settlement Agreement, if approved. Any person who elects to request exclusion from the Settlement Class shall not (a) be bound by any orders or Final Judgment entered in the Action, (b) receive a Settlement Payment under this Settlement Agreement, (c) gain any rights by virtue of this Settlement Agreement, or (d) be entitled to object to any aspect of this Settlement Agreement or Final Judgment. No person may request to be excluded from the Settlement Class through “mass” or “class” opt-outs.

## **5. SETTLEMENT ADMINISTRATION**

### **5.1 Settlement Administrator’s Duties.**

a. *Dissemination of Notices.* The Settlement Administrator shall disseminate Notice as provided in Section 4 of this Settlement Agreement.

b. *Undeliverable Notice.* If any Notice is returned as undeliverable, the Settlement Administrator shall forward it to any forwarding addresses provided by the U.S. Postal Service. If no such forwarding address is provided, the Settlement Administrator shall perform skip traces to attempt to obtain the most recent addresses for such Settlement Class Members. For any Notice sent to Settlement Class Members that are returned undeliverable, Settlement Class Members will have the longer of the remaining duration for the Objection/Exclusion Deadline or fourteen (14) days from the date of any re-mailing to object to or opt out of the Settlement as otherwise provided herein.

c. *Maintenance of Records.* The Settlement Administrator shall maintain reasonably detailed records of its activities under this Settlement Agreement. The Settlement Administrator shall maintain all such records as required by applicable law in

accordance with its business practices and such records will be made available to Class Counsel and Defendant's Counsel upon request. The Settlement Administrator shall also provide reports and other information to the Court as the Court may require. Upon request, the Settlement Administrator shall provide Class Counsel and Defendant's Counsel with information concerning Notice, requests for exclusion, administration and implementation of the Settlement.

d. *Receipt of Requests for Exclusion.* The Settlement Administrator shall receive requests for exclusion from persons in the Settlement Class and provide to Class Counsel and Defendant's Counsel a copy thereof within five (5) days of the Objection/Exclusion Deadline. If the Settlement Administrator receives any requests for exclusion or other requests from Settlement Class Members after the deadline for the submission of requests for exclusion, the Settlement Administrator shall promptly provide copies thereof to Class Counsel and Defendant's Counsel.

e. *Creation of Settlement Website.* The Settlement Administrator shall create the Settlement Website. The Settlement Website shall include a toll-free telephone number and mailing address through which persons in the Settlement Class may contact the Settlement Administrator or Class Counsel directly.

f. *Timing of Settlement Payments.* The Settlement Administrator shall make the Settlement Payments contemplated in Section 2 of this Settlement Agreement by check and mail them to Settlement Class Members within twenty-eight (28) days after the Effective Date.

g. *Tax reporting.* The Settlement Administrator shall be responsible for all tax filings related to the Escrow Account, including requesting Form W-9s from Settlement

Class Members, performing back-up withholding as necessary, and making any required “information returns” as that term is used in 26 U.S.C. § 1 *et seq.*

## 6. PRELIMINARY APPROVAL AND FINAL APPROVAL

6.1 **Preliminary Approval.** Promptly after execution of this Settlement Agreement, Class Counsel shall submit this Settlement Agreement to the Court and shall move the Court to enter an order granting Preliminary Approval, which shall include, among other provisions, a request that the Court:

- a. Appoint Plaintiff as Class Representative of the Settlement Class;
- b. Appoint Class Counsel to represent the Settlement Class;
- c. Certify the Settlement Class under 735 ILCS 5/2-801 *et seq.* for settlement purposes only;
- d. Preliminarily approve this Settlement Agreement for purposes of disseminating Notice to the Settlement Class;
- e. Approve the form and contents of the Notice and the method of its dissemination to members of the Settlement Class; and
- f. Schedule a Final Approval Hearing to review comments and/or objections regarding this Settlement Agreement, to consider its fairness, reasonableness and adequacy, to consider the application for a Fee Award and incentive awards to the Class Representative, and to consider whether the Court shall issue a Final Judgment approving this Settlement Agreement, to consider Class Counsel’s application for the Fee Award and the incentive award to the Class Representative, and dismissing the Action with prejudice.

6.2 **Final Approval.** After Notice to the Settlement Class is given, Class Counsel shall move the Court for entry of a Final Judgment, which shall include, among other provisions, a request that the Court:

a. find that it has personal jurisdiction over all Settlement Class Members and subject matter jurisdiction to approve this Settlement Agreement, including all attached Exhibits;

b. approve the Settlement as fair, reasonable and adequate as to, and in the best interests of, the Settlement Class Members; direct the Parties and their counsel to implement and consummate the Settlement according to its terms and conditions; and declare the Settlement to have released all pending and future lawsuits or other proceedings maintained by or on behalf of Plaintiff and all other Settlement Class Members and Releasing Parties as provided herein;

c. find that the Notice implemented pursuant to the Settlement Agreement (1) constitutes the best practicable notice under the circumstances, (2) constitutes notice that is reasonably calculated, under the circumstances, to apprise the Settlement Class of the pendency of the Action and their rights to object to or exclude themselves from this Settlement Agreement and to appear at the Final Approval Hearing, (3) is reasonable and constitutes due, adequate and sufficient notice to all persons entitled to receive notice, and (4) fulfills the requirements of Due Process and 735 ILCS 5/2-801 *et seq.*;

d. find that the Class Representative and Class Counsel adequately represented the Settlement Class for purposes of entering into and implementing the Settlement Agreement;

e. dismiss the Action on the merits and with prejudice, without fees or costs to any Party except as provided in this Settlement Agreement;

f. incorporate the Release set forth above, make the Release effective as of the Effective Date, and forever discharge the Released Parties as set forth herein;

g. permanently bar and enjoin all Settlement Class Members who have not been properly excluded from the Settlement Class from filing, commencing, prosecuting, intervening in, or participating (as class members or otherwise) in any lawsuit or other action in any jurisdiction based on the Released Claims;

h. authorize the Parties, without further approval from the Court, to agree to and adopt such amendments, modifications and expansions of the Settlement and its implementing documents (including all Exhibits to this Settlement Agreement) that (i) shall be consistent in all material respects with the Final Judgment, and (ii) do not limit the rights of Settlement Class Members; and

i. without affecting the finality of the Final Judgment for purposes of appeal, retain jurisdiction as to all matters relating to administration, consummation, enforcement and interpretation of the Settlement Agreement and the Final Judgment, and for any other necessary purpose; and

j. incorporate any other provisions, consistent with the material terms of this Settlement Agreement, as the Court deems necessary and just.

**6.3 Cooperation.** The Parties shall, in good faith, cooperate, assist and undertake all reasonable actions and steps in order to accomplish these required events on the schedule set by the Court, subject to the terms of this Settlement Agreement.

## **7. TERMINATION OF THE SETTLEMENT AGREEMENT**

7.1 Subject to Section 9 below, the Class Representative, on behalf of the Settlement Class, or Defendant, shall have the right to terminate this Agreement by providing written notice of the election to do so to all other Parties within ten (10) days of any of the following events: (i) the Court's refusal to grant Preliminary Approval of this Agreement in any material respect; (ii) the Court's refusal to grant Final Approval of this Agreement in any material respect; (iii) the Court's refusal to enter the Final Judgment in this Action in any material respect; (iv) the date upon which the Final Judgment is modified or reversed in any material respect by the appellate court or the Supreme Court; (v) the date upon which an Alternative Judgment, as defined in Paragraph 9.1 of this Agreement, is modified or reversed in any material respect by the appellate court or the Supreme Court; or (vi) if more than 12.5 percent (12.5%) of the class members request exclusion.

7.2 **Confirmatory Discovery.** Defendant has represented that there are approximately 693 persons in the Settlement Class. Defendant shall provide appropriate confirmatory discovery to determine the number of Settlement Class members and the method by which the November 16, 2015 arbitration program was implemented within fourteen (14) days of the execution of this Agreement, consisting of a declaration from a person with direct knowledge of the foregoing.

## **8. INCENTIVE AWARD AND CLASS COUNSEL'S ATTORNEYS' FEES AND REIMBURSEMENT OF EXPENSES FROM THE SETTLEMENT FUND**

8.1 Defendant agrees that Class Counsel is entitled to reasonable attorneys' fees and unreimbursed expenses incurred in the Action as the Fee Award. The amount of the Fee Award shall be determined by the Court based on petition from Class Counsel. Class Counsel has agreed, with no consideration from Defendant, to limit their request for attorneys' fees and

unreimbursed costs to thirty-five percent (35%) of the Settlement Fund. Defendant may challenge the amount requested. Payment of the Fee Award shall be made from the Settlement Fund and should the Court award less than the amount sought by Class Counsel, the difference in the amount sought and the amount ultimately awarded pursuant to this Section shall remain in the Settlement Fund and be distributed to Settlement Class Members as Settlement Payments.

8.2 The Fee Award shall be payable within five (5) business days after the Effective Date. Payment of the Fee Award shall be made via wire transfer to an account designated by Class Counsel after providing necessary information for electronic transfer.

8.3 Defendant agrees that the Class Representative shall be paid an incentive award in the amount of Five Thousand Dollars (\$5,000.00) from the Settlement Fund, in addition to any Settlement Payment pursuant to this Settlement Agreement and in recognition of his efforts on behalf of the Settlement Class, subject to Court approval, within five (5) business days after the Effective Date. Should the Court award less than this amount, the difference in the amount sought and the amount ultimately awarded pursuant to this Section shall remain in the Settlement Fund and be distributed to Settlement Class Members as Settlement Payments. Any award shall be paid from the Escrow Account (in the form of a check to the Class Representative that is sent care of Class Counsel), within five (5) business days after the Effective Date.

**9. CONDITIONS OF SETTLEMENT, EFFECT OF DISAPPROVAL, CANCELLATION OR TERMINATION.**

9.1 The Effective Date shall not occur unless and until each and every one of the following events occurs, and shall be the date upon which the last (in time) of the following events occurs subject to the provisions in Section 1.8:

- a. This Agreement has been signed by the Parties, Class Counsel and Defendant's Counsel;

b. The Court has entered an order granting Preliminary Approval of the Agreement;

c. The Court has entered an order finally approving the Agreement, following Notice to the Settlement Class and a Final Approval Hearing, and has entered the Final Judgment, or a judgment substantially consistent with this Settlement Agreement that has become final and unappealable; and

d. In the event that the Court enters an order and final judgment in a form other than that provided above (“Alternative Judgment”) to which the Parties have consented, that Alternative Judgment has become final and unappealable.

9.2 If some or all of the conditions specified in Section 9.1 are not met, or in the event that this Agreement is not approved by the Court, or the settlement set forth in this Agreement is terminated or fails to become effective in accordance with its terms, then this Agreement shall be canceled and terminated subject to Section 9.3, unless Class Counsel and Defendant’s Counsel mutually agree in writing to proceed with this Settlement Agreement. If any Party is in material breach of the terms hereof, any other Party, provided that it is in substantial compliance with the terms of this Agreement, may terminate this Settlement Agreement on notice to all other Parties. Notwithstanding anything herein, the Parties agree that the Court’s decision as to the amount of the Fee Award to Class Counsel set forth above or the incentive award to the Class Representative, regardless of the amounts awarded, shall not prevent the Settlement Agreement from becoming effective, nor shall it be grounds for termination of the Agreement.

9.3 If this Settlement Agreement is terminated or fails to become effective for the reasons set forth above, the Parties shall be restored to their respective positions in the Action as

of the date of the signing of this Agreement. In such event, any Final Judgment or other order entered by the Court in accordance with the terms of this Agreement, including, but no limited to, class certification, shall be treated as vacated, *nunc pro tunc*, and the Parties shall be returned to the *status quo ante* with respect to the Action as if this Settlement Agreement had never been entered into.

## **10. MISCELLANEOUS PROVISIONS.**

10.1 Class Counsel, Plaintiff and each other Settlement Class Member will be solely responsible for all taxes, interest, penalties, or other amounts due with respect to any payment received pursuant to the Settlement.

10.2 The Parties: (a) acknowledge that it is their intent to consummate this Agreement; and (b) agree, subject to their fiduciary and other legal obligations, to cooperate to the extent reasonably necessary to effectuate and implement the terms and conditions of this Agreement and to exercise their reasonable best efforts to accomplish the foregoing terms and conditions of this Settlement Agreement. Class Counsel and Defendant's Counsel agree to cooperate with one another in seeking entry of an order granting Preliminary Approval and the Final Judgment, and promptly to agree upon and execute all such other documentation as may be reasonably required to obtain final approval of the Settlement Agreement.

10.3 Each signatory to this Agreement represents and warrants (a) that he, she, or it has all requisite power and authority to execute, deliver and perform this Settlement Agreement and to consummate the transactions contemplated herein, (b) that the execution, delivery and performance of this Settlement Agreement and the consummation by it of the actions contemplated herein have been duly authorized by all necessary corporate action on the part of

each signatory, and (c) that this Settlement Agreement has been duly and validly executed and delivered by each signatory and constitutes its legal, valid and binding obligation.

10.4 The Parties intend this Settlement Agreement to be a final and complete resolution of all disputes between them with respect to the Released Claims by Plaintiff and the other Settlement Class Members, and each or any of them, on the one hand, against the Released Parties, and each or any of the Released Parties, on the other hand. Accordingly, the Parties agree not to assert in any forum that the Action was brought by Plaintiff or defended by Defendant, or each or any of them, in bad faith or without a reasonable basis.

10.5 The Parties have relied upon the advice and representation of counsel, selected by them, concerning the claims hereby released. The Parties have read and understand fully this Settlement Agreement and have been fully advised as to the legal effect hereof by counsel of their own selection and intend to be legally bound by the same.

10.6 Each of the Parties has entered into this Agreement with the intention to avoid further disputes and litigation with the attendant risks, inconveniences, expenses and contingencies. There has been no determination by the Court as to the merits of the claims or defenses asserted by the Plaintiff or Defendant or with respect to class certification, other than for settlement purposes only. Accordingly, whether the Effective Date occurs or this Settlement is terminated, neither this Settlement Agreement nor the Settlement contained herein, nor any court order, communication, act performed or document executed pursuant to or in furtherance of this Settlement Agreement or the Settlement:

- a. is, may be deemed, or shall be used, offered or received against the Released Parties, or each or any of them as an admission, concession or evidence of, the validity of any Released Claims, the appropriateness of class certification, the truth of

any fact alleged by Plaintiff, the deficiency of any defense that has been or could have been asserted in the Action, the violation of any law or statute, the reasonableness of the Settlement Fund, Settlement Payment or the Fee Award, or of any alleged wrongdoing, liability, negligence, or fault of the Released Parties, or any of them;

b. is, may be deemed, or shall be used, offered or received against Defendant as, an admission, concession or evidence of any fault, misrepresentation or omission with respect to any statement or written document approved or made by the Released Parties, or any of them;

c. is, may be deemed, or shall be used, offered or received against Plaintiff or the Settlement Class, or each or any of them as an admission, concession or evidence of, the infirmity or strength of any claims asserted in the Action, the truth or falsity of any fact alleged by Defendant, or the availability or lack of availability of meritorious defenses to the claims raised in the Action;

d. is, may be deemed, or shall be used, offered or received against the Released Parties, or each or any of them as an admission or concession with respect to any liability, negligence, fault or wrongdoing as against any Released Parties, in any civil, criminal or administrative proceeding in any court, administrative agency or other tribunal. However, the Settlement, this Settlement Agreement, and any acts performed and/or documents executed in furtherance of or pursuant to this Settlement Agreement and/or Settlement may be used in any proceedings as may be necessary to effectuate the provisions of this Settlement Agreement. Moreover, if this Settlement Agreement is approved by the Court, any of the Released Parties may file this Settlement Agreement

and/or the Final Judgment in any action that may be brought against such parties in order to support a defense or counterclaim;

e. is, may be deemed, or shall be construed against Plaintiff and the Settlement Class, or each or any of them, or against the Released Parties, or each or any of them, as an admission or concession that the consideration to be given hereunder represents an amount equal to, less than or greater than that amount that could have or would have been recovered after trial; and

f. is, may be deemed, or shall be construed as or received in evidence as an admission or concession against Plaintiff and the Settlement Class, or each and any of them, or against the Released Parties, or each or any of them, that any of Plaintiff's claims are with or without merit or that damages recoverable in the Action would have exceeded or would have been less than any particular amount.

10.7 The headings used herein are used for the purpose of convenience only and are not meant to have legal effect.

10.8 The waiver by one Party of any breach of this Settlement Agreement by any other Party shall not be deemed as a waiver of any other prior or subsequent breaches of this Settlement Agreement.

10.9 All of the Exhibits to this Settlement Agreement are material and integral parts hereof and are fully incorporated herein by reference.

10.10 This Settlement Agreement and its Exhibits set forth the entire agreement and understanding of the Parties with respect to the matters set forth herein, and supersede all prior negotiations, agreements, arrangements and undertakings with respect to the matters set forth herein. No representations, warranties or inducements have been made to any Party concerning

this Settlement Agreement or its Exhibits other than the representations, warranties and covenants contained and memorialized in such documents. This Settlement Agreement may be amended or modified only by a written instrument signed by or on behalf of all Parties or their respective successors-in-interest.

10.11 Except as otherwise provided herein, each Party shall bear its own attorneys' fees and costs incurred in any way related to the Action.

10.12 Plaintiff represents and warrants that he has not assigned any claim or right or interest relating to any of the Released Claims against the Released Parties to any other person or party and that he is fully entitled to release the same.

10.13 This Settlement Agreement may be executed in one or more counterparts. All executed counterparts and each of them shall be deemed to be one and the same instrument. Signature by digital, facsimile, or in PDF format will constitute sufficient execution of this Settlement Agreement. A complete set of original executed counterparts shall be filed with the Court if the Court so requests.

10.14 If any deadlines related to the Settlement cannot be met, Class Counsel and Defendant's Counsel shall meet and confer to reach agreement on any necessary revisions of the deadlines and timetables set forth in this Agreement and notice an appropriate motion for modification with the Court. In the event that the Parties fail to reach such agreement, either Party may apply to the Court via a noticed motion for modification of the dates and deadlines in this Agreement.

10.15 The Court shall retain jurisdiction with respect to implementation and enforcement of the terms of this Settlement Agreement, and all Parties hereto submit to the jurisdiction of the Court for purposes of implementing and enforcing the settlement embodied in

this Settlement Agreement. The Parties agree that specific performance shall be an acceptable remedy for any material breach of this agreement.

10.16 This Settlement Agreement shall be governed by and construed in accordance with the laws of the State of Illinois without reference to the conflicts of laws provisions thereof.

10.17 This Settlement Agreement is deemed to have been prepared by counsel for all Parties, as a result of arm's-length negotiations among the Parties. Whereas all Parties have contributed substantially and materially to the preparation of this Settlement Agreement, it shall not be construed more strictly against one Party than another.

10.18 Where this Settlement Agreement requires notice to the Parties, such notice shall be sent to the undersigned counsel: J. Eli Wade-Scott, [ewadescott@edelson.com](mailto:ewadescott@edelson.com), EDELSON PC, 350 North LaSalle Street, 14th Floor, Chicago, Illinois 60654; Joel Griswold, [jcgriswold@bakerlaw.com](mailto:jcgriswold@bakerlaw.com), BAKER & HOSTETLER LLP, 1 North Upper Wacker Drive, Suite 4500, Chicago, Illinois 60606.

[SIGNATURES APPEAR ON FOLLOWING PAGE]

**ANDRE BROWN**

Dated: 11/24/2020

By (signature): *Andre Brown*

Name (printed): Andre Brown

**EDELSON PC**

Dated: 11/24/2020

By (signature): *J. Eli Wade-Scott*

Name (printed): J. Eli Wade-Scott

Its (title): Associate

**MORAN FOODS, LLC d/b/a SAVE-A-LOT**

Dated: \_\_\_\_\_

By (signature): \_\_\_\_\_

Name (printed): \_\_\_\_\_

Its (title): \_\_\_\_\_

**BAKER HOSTETLER LLP**

Dated: \_\_\_\_\_

By (signature): \_\_\_\_\_

Name (printed): \_\_\_\_\_

Its (title): \_\_\_\_\_

# EXHIBIT A

From: tobetermined@domain.com  
To: JohnDoeClassMember@domain.com  
Re: Legal Notice of Proposed Class Action Settlement

**NOTICE OF PROPOSED CLASS ACTION SETTLEMENT**  
*Brown v. Moran Foods LLC*, 2019 CH 02576 (Cook Cty., Ill.)  
(Circuit Court of Cook County, Illinois)

*A court authorized this notice. You are not being sued. This is not a solicitation from a lawyer.*

A settlement has been reached in a class action lawsuit between Moran Foods LLC d/b/a Save A Lot, Ltd. (“Defendant”) and some of its current and former Illinois employees. The lawsuit claims that Defendant violated an Illinois law called the Biometric Information Privacy Act (“BIPA”) by collecting employees’ fingerprints on time clocks in Illinois without complying with the law’s requirements. Defendant denies any wrongdoing and maintains that it has not violated any laws. The settlement does not establish who is correct, but rather is a compromise to end the lawsuit and avoid the uncertainties and expenses associated with ongoing litigation. The lawsuit is called *Brown v. Moran Foods LLC*, Case No. 2019 CH 02576 (Cook Cty., Ill.), and is in the Circuit Court of Cook County, Illinois.

*For complete information, visit [www.tobetermined.com](http://www.tobetermined.com) or call [\[toll-free number\]](tel:1-800-000-0000).*

**In order to avoid backup tax withholding of your payment under this Settlement, you must complete a W9 form, available for download [here](#), and return it to the following address by **[Final Approval Date]: [ADDRESS]**. You may also fill out a W9 on the settlement website at [www.tobetermined.com](http://www.tobetermined.com).**

- **How do I know if I am a Class Member?** The Settlement Class includes all individuals who used a finger scanner for timekeeping purposes at Defendant’s locations in the state of Illinois between February 27, 2014 and **[DATE OF PRELIMINARY APPROVAL]**, with some exceptions. Our records indicate that you may be a Settlement Class member.

- **What can I get out of the settlement?** If you’re eligible and the Court approves the settlement, a check will automatically be mailed to you for approximately \$625.00, which accounts for payment of the costs—if approved by the Court—of administrative expenses and legal fees. The settlement also requires Defendant to comply with BIPA in the future.

- **What are my options?** You can do nothing, comment on, or object to any of the settlement terms, or exclude yourself from the settlement. If you do nothing, you will receive a payment, and you won’t be able to sue Defendant in a future lawsuit about the claims addressed in the settlement. If you exclude yourself, you won’t get a payment but you’ll keep your right to sue Defendant on the issues the settlement concerns. You must contact the settlement administrator by mail to exclude yourself. You can also object to the settlement if you disagree with any of its terms. ***All Requests for Exclusion and Objections must be received by [\[objection/exclusion deadline\]](#).***

- **Do I have a lawyer?** Yes. The Court has appointed lawyers from the law firm Edelson PC and the Fish Law Firm as “Class Counsel.” They represent you and other Settlement Class Members. The lawyers will request to be paid from the total amount that Defendant agreed to pay to the class members. You can hire your own lawyer, but you’ll need to pay that lawyer’s legal fees if you do. The Court has also chosen Andre Brown—a class member like you—to represent the Settlement Class.

- **When will the Court approve the settlement?** The Court will hold a final approval hearing on **[date]** at **[time]** before the Honorable Caroline Kate Moreland in Room 2302 at the Richard J. Daley Center, Chicago, Illinois 60602.

***Visit [www.tobetermined.com](http://www.tobetermined.com) for complete information.***

The Court will hear objections, determine if the settlement is fair, and consider Class Counsel's request for fees and expenses of up to 35% of the Settlement Fund and an incentive award of \$5,000, which will be posted on the settlement website.

**Visit [www./tobedetermined/](http://www./tobedetermined/>.com).com for complete information.**

# EXHIBIT B

## NOTICE OF PROPOSED CLASS ACTION SETTLEMENT

*Brown v. Moran Foods LLC*, 2019 CH 02576 (Cook Cty., Ill.)

(Circuit Court of Cook County, Illinois)

*A court authorized this notice. You are not being sued. This is not a solicitation from a lawyer.*

A settlement has been reached in a class action lawsuit between Moran Foods LLC d/b/a Save A Lot, Ltd. (“Defendant”) and some of its current and former Illinois employees. The lawsuit claims that Defendant violated an Illinois law called the Biometric Information Privacy Act (“BIPA”) by collecting employees’ fingerprints on time clocks in Illinois without complying with the law’s requirements. Defendant denies any wrongdoing and maintains that it has not violated any laws. The settlement does not establish who is correct, but rather is a compromise to end the lawsuit and avoid the uncertainties and expenses associated with ongoing litigation. The lawsuit is called *Brown v. Moran Foods LLC*, Case No. 2019 CH 02576 (Cook Cty., Ill.), and is in the Circuit Court of Cook County, Illinois.

For complete information, visit [www.\[tobedetermined\].com](http://www.[tobedetermined].com) or call [toll-free number].

**In order to avoid backup tax withholding of your payment under this Settlement, you must complete the enclosed W9 form and return it to the following address by [Final Approval Date]: [ADDRESS]. You may also fill out a W9 on the settlement website at [www.\[tobedetermined\].com](http://www.[tobedetermined].com).**

- **How do I know if I am a Class Member?** The Settlement Class includes all individuals who used a finger scanner for timekeeping purposes at Defendant’s locations in the state of Illinois between February 27, 2014 and [DATE OF PRELIMINARY APPROVAL], with some exceptions. Our records indicate that you may be a Settlement Class member.

- **What can I get out of the settlement?** If you’re eligible and the Court approves the settlement, a check will automatically be mailed to you for approximately \$625.00, which accounts for payment of the costs—if approved by the Court—of administrative expenses and legal fees. The settlement also requires Defendant to comply with BIPA in the future.

- **What are my options?** You can do nothing, comment on, or object to any of the settlement terms, or exclude yourself from the settlement. If you do nothing, you will receive a payment, and you won’t be able to sue Defendant in a future lawsuit about the claims addressed in the settlement. If you exclude yourself, you won’t get a payment but you’ll keep your right to sue Defendant on the issues the settlement concerns. You must contact the settlement administrator by mail to exclude yourself. You can also object to the settlement if you disagree with any of its terms. *All Requests for Exclusion and Objections must be received by [objection/exclusion deadline].*

- **Do I have a lawyer?** Yes. The Court has appointed lawyers from the law firm Edelson PC and the Fish Law Firm as “Class Counsel.” They represent you and other Settlement Class Members. The lawyers will request to be paid from the total amount that Defendant agreed to pay to the class members. You can hire your own lawyer, but you’ll need to pay that lawyer’s legal fees if you do. The Court has also chosen Andre Brown—a class member like you—to represent the Settlement Class.

- **When will the Court approve the settlement?** The Court will hold a final approval hearing on [date] at [time] before the Honorable Caroline Kate Moreland in Room 2302 at the Richard J. Daley Center, Chicago, Illinois 60602. The Court will hear objections, determine if the settlement is fair, and consider Class Counsel’s request for fees and expenses of up to 35% of the Settlement Fund and an incentive award of \$5,000, which will be posted on the settlement website.

Visit [www.\[tobedetermined\].com](http://www.[tobedetermined].com) for complete information.

# EXHIBIT C

## NOTICE OF PROPOSED CLASS ACTION SETTLEMENT

*Brown v. Moran Foods LLC, 2019 CH 02576 (Cook Cty., Ill.)*

(Circuit Court of Cook County, Illinois)

If you used a finger scanning timekeeping system at a Moran Foods LLC d/b/a Save A Lot, Ltd. facility in the State of Illinois between February 27, 2014 and [DATE OF PRELIMINARY APPROVAL], you may be entitled to a payment from a class action settlement.

*An Illinois State Court authorized this Notice. You are not being sued.*

*This is not a solicitation from a lawyer.*

- A Settlement has been reached in a class action lawsuit between Moran Foods LLC d/b/a Save A Lot, Ltd. (“Defendant”) and some of its current and former Illinois employees. The suit alleges that Defendant violated an Illinois law called the Biometric Information Privacy Act (“BIPA”) by collecting employees’ fingerprints on time clocks in Illinois without obtaining their informed written consent. Defendant denies any wrongdoing and maintains that it has not violated any laws. The settlement does not establish who is correct, but rather is a compromise to end the lawsuit and avoid the uncertainties and expenses associated with ongoing litigation.
- You are included in the Settlement if you used a finger scanner for timekeeping purposes at Defendant’s locations in the state of Illinois between February 27, 2014 and [DATE OF PRELIMINARY APPROVAL], with the exceptions detailed below.
- If you’re eligible and the Court approves the Settlement, a check will automatically be mailed to you for approximately \$625.00, which accounts for payment of the costs—if approved by the Court—of administrative expenses and legal fees. Save A Lot has also agreed to comply with BIPA in the future.

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 Defendant about the issues in this case.
EXCLUDE YOURSELF	You will receive no payment, but you will retain any rights you currently have to sue Defendant 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.

QUESTIONS? VISIT WWW.[TOBEDETERMINED].COM

## 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 the Defendant. 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 Caroline Kate Moreland of the Circuit Court of Cook County, Illinois is overseeing this class action. The case is called *Brown v. Moran Foods LLC*, Case No. 2019 CH 02576 (Cook Cty., Ill.). The person who filed the lawsuit, Andre Brown, is the Plaintiff. The company he sued, Moran Foods LLC is the Defendant.

### 2. What is a class action lawsuit?

A class action is a lawsuit in which one or more plaintiffs—in this case, Andre Brown—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 Defendant violated an Illinois law called the Biometric Information Privacy Act (“BIPA”) by using finger scanning time clocks in Illinois without complying with the law’s requirements, including by getting employees’ written consent to the collection of their biometric data and providing a publicly-available retention policy.

Defendant 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 time-consuming and expensive litigation. The Settlement is not an admission of wrongdoing by Defendant. More information about the complaint in the lawsuit and the Defendant’s position can be found in the “Court Documents” section of the settlement website at [www.\[tobedetermined\].com](http://www.[tobedetermined].com).

### 4. Why is there a settlement?

The Court has not decided whether Plaintiff or Defendant should win this case. Instead, both sides agreed to the Settlement. That way, they can avoid the uncertainty and expense of ongoing litigation, and Class Members will get compensation now rather than years from now—if ever. Plaintiff and his attorneys (“Class Counsel”) believe that the Settlement is in the best interests of the Settlement Class.

## WHO’S INCLUDED IN THE SETTLEMENT?

### 5. Who is in the Settlement Class?

The Court decided that this Settlement includes all individuals who used a finger scanner for

timekeeping purposes at Defendant's locations in the state of Illinois between February 27, 2014 and [DATE OF PRELIMINARY APPROVAL]. Excluded from the Settlement Class are (1) any Judge or Magistrate presiding over this action and members of their families, (2) the defendant, defendant's subsidiaries, parent companies, successors, predecessors, and any entity in which the defendant or its parents have a controlling interest, (3) persons who signed an arbitration agreement with Defendant in November 2015 or later, (4) persons who properly execute and file a timely request for exclusion from the class, and (5) the legal representatives, successors or assigns of any such excluded persons.

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

If you used a finger scanner for timekeeping purposes at Defendant's locations in the state of Illinois between February 27, 2014 and [DATE OF PRELIMINARY APPROVAL], and are not subject to any of the exclusions above, you are a member of the Settlement Class and may be entitled to a cash payment.

### THE SETTLEMENT BENEFITS

#### 7. What does the Settlement provide?

**Cash Payments to Class Members:** If the Court approves the Settlement, Defendant has agreed to pay a gross amount of \$1,100.00 per class member. Class counsel will apply to the Court for compensation of administrative expenses and up to 35% of the total payments to class members (the "Settlement Fund") in legal fees. This amount and the costs of administering the Settlement, as well as an incentive award 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 payments to class members of approximately \$625.00 each.

**Agreement on Future Conduct:** As part of the Settlement, Defendant has represented that it is no longer using finger scanning timeclocks. If it resumes doing so, Defendant has agreed that it will not collect biometric data from Illinois employees without written consent, that it will post a publicly available retention policy, and that it will destroy all fingerprint data collected from former employees, to the extent that any is in its possession.

### HOW TO GET BENEFITS

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

If you are a Class Member, the Settlement Administrator will send a check to your last known address.

**In order to avoid backup tax withholding of your payment under this Settlement, you must complete the W-9 that came with the notice you received in the mail and return it to the following address by [Final Approval Date]: [ADDRESS]. You may also fill out a W-9 on the settlement website at www.[tobedetermined].com. You will still receive a payment if you do not fill out the W-9, but taxes will be withheld from your check.**

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

The hearing to consider the fairness of the Settlement is scheduled for [Final Approval Hearing Date]. If the Court approves the Settlement, eligible Class Members will automatically be sent a check. Please be patient. All checks will expire and become void 90 days after they are issued. Uncashed checks

will be donated to the Illinois Bar Foundation, the Cook County Bar Association, and/or Chicago Legal Aid, pending Court approval.

## THE LAWYERS REPRESENTING YOU

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

Yes, the Court has appointed lawyers Jay Edelson and J. Eli Wade-Scott of Edelson PC and David Fish of the Fish Law Firm as the attorneys to represent you and other Class Members. These attorneys are called “Class Counsel.” In addition, the Court appointed Plaintiff Andre Brown to serve as the Class Representative. He is a Class Member like you. Class Counsel can be reached by calling 1-866-354-3015.

### 10. 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.

### 11. How will the lawyers be paid?

Class Counsel will ask the Court for attorneys’ fees and expenses of up to 35% of the Settlement Fund, and will also request an incentive award of \$5,000.00 for the Class Representative. 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

### 12. 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 Defendant or any other related entity for the claims or legal issues being resolved by this Settlement.

### 13. 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 Defendant for the same legal claims made 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.

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

You can mail or e-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, “*Brown v. Moran Foods LLC*, Case No. 2019 CH 02576 (Cook Cty., Ill.),” (3) state your full name and current address; (4) be signed by you, and (5) be postmarked or received by the Settlement Administrator on or before [Objection/Exclusion Deadline].

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 *Brown v. Moran Foods LLC*, Case No. 2019 CH 02576 (Cook Cty., Ill.)” You must mail or e-mail your exclusion request no later than [Objection / Exclusion deadline] to:

*Brown v. Moran Foods* Settlement Administrator  
P.O. Box 0000  
City, ST 00000-0000

or

[E-mail address]

You can’t exclude yourself over the phone.

**15. If I don’t exclude myself, can I sue Save A Lot for the same thing later?**

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

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

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

**17. 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 *Brown v. Moran Foods LLC*, Case No. 2019 CH 02576 (Cook Cty., Ill.), no later than [Objection / Exclusion Deadline]. Your objection must be e-filed or sent to the Circuit Court of Cook County at the following address:

Clerk of the Circuit Court of Cook County - Chancery Division  
*Richard J. Daley Center, 8th Floor*  
50 West Washington Street  
Chicago, Illinois 60604

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, e-mail, hand, or overnight delivery service, by no later than the [Objection/Exclusion Deadline], copies of your objection and any supporting documents to both Class Counsel and Defendant’s lawyers at the addresses listed below:

Class Counsel	Defense Counsel
J. Eli Wade-Scott EDELSON PC 350 North LaSalle Street, 14th Floor Chicago, IL 60654 ewadescott@edelson.com	Joel Griswold BAKER HOSTETLER LLP 1 North Upper Wacker Drive, Suite 4500 Chicago, Illinois 60606 jgriswold@bakerlaw.com

Class Counsel will file with the Court and post on the settlement website its request for attorneys’ fees and incentive award on [date 2 weeks before Objection / Exclusion deadline].

**18. 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**

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

The Court will hold the Final Approval Hearing at [time] on [date] before the Honorable Caroline Kate Moreland in Room 2302 at the Richard J. Daley Center, 50 West Washington Street, Chicago, Illinois 60602. 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 incentive award to the Class Representative.

**Note:** The date and time of the fairness hearing are subject to change by Court Order. Any changes will be posted at the settlement website, www.[tobedetermined].com.

**20. Do I have to come to the hearing?**

No. Class Counsel will answer any questions the Court may have. You are, however, 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.

**21. 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 17 above) and intend to appear at the hearing, you must state your intention to do so in your objection.

## GETTING MORE INFORMATION

### 22. Where do I get more information?

This notice summarizes the proposed Settlement. For the precise terms and conditions of the Settlement, please see the Settlement Agreement available at [www.tobedetermined.com](http://www.tobedetermined.com), contact Class Counsel at 1-866-354-3015, or visit the office of the Clerk of the Circuit Court of Cook County – Chancery Division, Richard J. Daley Center, 50 West Washington Street, Chicago, Illinois 60603, between 8:30 a.m. and 4:30 p.m., Monday through Friday, excluding Court holidays and any closures as a result of the COVID-19 pandemic.

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