

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

JOEY MUNIZ, individually and on behalf of all
others similarly situated,

Plaintiff,

v.

WORKWELL TECHNOLOGIES, INC., a
California corporation,

Defendant.

Case No.: 2019 CH 04061

Hon. David B. Atkins

STIPULATION OF CLASS ACTION SETTLEMENT

This Stipulation of Class Action Settlement is entered into by and among Plaintiff Joey Muniz (“Muniz” or “Plaintiff”), for himself individually and on behalf of the Workwell and Employer Classes, Defendant Workwell Technologies, Inc. (“Workwell” or “Defendant”), a California corporation (previously misidentified as a Delaware corporation) and the Participating Employers.¹ This Settlement Agreement is intended by the Plaintiff, Defendant, and the Participating Employers (collectively, 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 March 28, 2019, Plaintiff Muniz filed a putative class action complaint against Defendant Workwell Technologies, Inc. in this Court, alleging a claim for damages and an

¹ Unless otherwise specified, capitalized terms shall have the definitions ascribed to them in Section I, *infra*.

injunction under the Illinois Biometric Information Privacy Act, 740 ILCS 14/1 *et seq.* (“BIPA”), related to the alleged unauthorized collection, storage, and dissemination of his fingerprint data.

B. On July 12, 2019, Defendant filed its Answer to the Complaint and asserted several affirmative defenses.

C. Plaintiff and Defendant began discussing the potential for a classwide settlement. As these discussions progressed, they began exchanging information on the underlying facts of the case, the size of the putative class, and the employers that used Workwell’s timeclocks. After considerable arms-length negotiations, Plaintiff and Defendant were able to reach agreement on the principal terms of a classwide settlement to: (i) resolve the claims pending in the underlying lawsuit, and (ii) allow Participating Employers to join the Settlement and secure releases from Employer Class Members in exchange for providing additional relief. Following this initial agreement, both Plaintiff and Defendant engaged in comprehensive confirmatory discovery, including taking Plaintiff’s deposition and producing key information critical to identifying class members.

D. 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 each claim asserted in the Action has merit, that he would have ultimately succeeded in obtaining adversarial certification of the proposed Workwell and Employer Classes, 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. Plaintiff further recognized that Workwell is a small business and does not have substantial resources. Class Counsel have also taken into account the uncertain outcome and risks of any

litigation, especially in complex actions, as well as the difficulty and delay inherent in such litigation. This Agreement presents an exceptional result for the Workwell and Employer Classes, and one that will be provided 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 this Settlement Agreement.

E. Defendant and the Participating Employers deny all allegations of wrongdoing and liability and deny all material allegations in the Complaint, but have similarly concluded that this Settlement Agreement is desirable to avoid the time, risk, and expense of defending protracted litigation, and to avoid the substantial risk posed by the Class's claims for liquidated damages. Defendant and the Participating Employers thus desire to resolve finally and completely the pending and potential claims of Plaintiff and the Workwell and Employer Classes.

NOW, THEREFORE, IT IS HEREBY STIPULATED AND AGREED by and among Plaintiff, the Workwell and Employer Classes, and Defendant that, subject to the approval of 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 *Joey Muniz v. Workwell Technologies, Inc.*, Case No. 2019-CH-04061 (Cir. Ct. Cook Cty.).

1.2 “**Agreement**” or “**Settlement Agreement**” means this Stipulation of Class Action Settlement.

1.3 “**Approved Claim**” means a Claim Form submitted by a Workwell Class Member that is (a) timely and submitted in accordance with the directions on the Claim Form and the terms of this Agreement, (b) is fully completed and physically signed or electronically signed by the Workwell Class Member, and (c) satisfies the conditions of eligibility for a Workwell Payment as set forth in this Agreement. All Employer Class Members (who are members of both the Employer and Workwell Classes) will not be required to submit an Approved Claim or Claim Form to receive both an Employer Payment and a Workwell Payment.

1.4 “**Claim Form**” means the document substantially in the form attached hereto as Exhibit A, as approved by the Court. The Claim Form, which shall be completed by Workwell Class Members who wish to file a claim for a Workwell Payment, shall be available in paper and electronic format. The Claim Form will require a claiming Workwell Class Member to provide the following information: (i) full name, (ii) current U.S. Mail address, (iii) current contact telephone number and email address, and (iv) a statement that he or she used a Workwell finger or facial scanner for timekeeping purposes in the State of Illinois between March 28, 2014 and April 8, 2019. The Claim Form will not require notarization, but will require attestation that the information supplied is true and correct.

1.5 “**Claims Deadline**” means the date by which all Claim Forms must be postmarked or submitted on the Settlement Website to be considered timely and shall be set as a date no later than sixty-three (63) days following the Notice Date, subject to Court approval. The

Claims Deadline shall be clearly set forth in the order preliminarily approving the Settlement, as well as in the Notice and the Claim Form.

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

1.7 “**Class Representative**” means the named Plaintiff in the Action, Joey Muniz.

1.8 “**Court**” means the Circuit Court of Cook County, Illinois, the Honorable David B. Atkins presiding, or any judge who shall succeed him as the Judge assigned to the Action.

1.9 “**Defendant**” or “**Workwell**” means Defendant Workwell Technologies, Inc., a California corporation.

1.10 “**Defendant’s Counsel**” or “**Workwell’s Counsel**” means attorney Daniel T. Graham and Timothy R. Herman of Clark Hill PLC.

1.11 “**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.

1.12 “**Employer Class**” shall mean the following:

Employer Class: All individuals in the State of Illinois who used a Workwell-uAttend and/or Citadel brand finger or facial scanner for timekeeping purposes while working for a Participating Employer between March 28, 2014 and April 8, 2019.

Excluded from the Employer Class are (a) any Judge presiding over this action and members of their families; (b) Participating Employers, their subsidiaries, parent companies, successors, predecessors, and any entity in which the Participating Employers or their parents have a controlling interest; (c) persons who properly execute and file a timely request for exclusion from the Employer Class; (d) persons whose claims in this matter have been finally adjudicated on the merits or otherwise released; and (e) counsel for all Parties and members of their families.

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

1.15 “**Employer Fund**” means the amount paid by the Participating Employers into an Escrow Account. Each Participating Employer shall, within twenty-one (21) days after Supplemental Approval, pay into an Escrow Account the amount of One Thousand Dollars (\$1,000.00) per Employer Class Member that worked for that Participating Employer. By way of example, if ABC Corp. is a Participating Employer joining in this Settlement, and it had twenty (20) employees that used a Workwell finger scanner during the relevant time period, then ABC Corp. would pay Twenty Thousand Dollars (\$20,000.00) into the Employer Fund. From the Employer Fund, the Settlement Administrator shall pay all Settlement Administration Expenses associated with the Employer Fund, *pro rata* payments to Employer Class Members that worked for Participating Employers, and any Fee Award to Class Counsel attributable from this fund. The Employer Fund represents the total extent of each Participating Employer’s monetary obligations under this Agreement. Only those Employer Class Members of Participating Employers will be able to Participate in the Employer Fund.

1.16 “**Employer Payment**” means a *pro rata* portion of the Employer Fund, less any

Fee Award and Settlement Administration Expenses associated with that Employer Fund.

1.17 “**Escrow Account**” means the separate, interest-bearing escrow accounts to be established by the Settlement Administrator for each of the Workwell Fund and Employer Fund under terms acceptable to Class Counsel and Workwell at a depository institution insured by the Federal Deposit Insurance Corporation. The money in each 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 both Escrow Accounts shall inure to the benefit of the Workwell and Employer Classes as part of the Settlement Payment, if practicable. The Settlement Administrator shall cooperate with Workwell and the Participating Employers to submit all information required tax filings with respect to the Escrow Accounts.

1.18 “**Fee Award**” means the amount of attorneys’ fees and reimbursement of costs to Class Counsel awarded by the Court to be paid proportionally out of the each of the Workwell Fund and the Employer Fund.

1.19 “**Final Approval Hearing**” means the hearing before the Court where the Parties 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.

1.20 “**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.

1.21 “**Notice**” means the notice of this proposed Settlement and Final Approval Hearing, which is to be disseminated to the Workwell and Employer Classes substantially in the

manner set forth in this Settlement Agreement, fulfills the requirements of Due Process and 735 ILCS 5/2-801, and is substantially in the form of Exhibits B, C, D, E, and F attached hereto.

1.22 “**Notice Date**” means the date upon which the Notice is first disseminated to the Workwell and Employer Classes, which shall be a date no later than twenty-eight (28) days after Supplemental Approval.

1.23 “**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 Workwell and/or Employer Classes 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.

1.24 “**Participating Employer**” means any person, business, or entity listed on Exhibit G,² each of which has submitted a valid Participating Employer Agreement and agreed to be bound by the terms of this Settlement, including the obligation to provide monetary and implement prospective relief.

1.25 “**Participating Employer Agreement**” means a copy of the document substantially in the form of Exhibit H attached hereto. By executing the Participating Employer Agreement, employers of Employer Class Members will become parties to this Agreement, and agree to undertake the obligations as Participating Employers to contribute to the Employer Fund and institute prospective relief, set out herein, in exchange for a release of the Released Employer Claims from the Releasing Employer Class Members.

1.26 “**Plaintiff**” means the named Plaintiff in this Action, Joey Muniz.

1.27 “**Preliminary Approval**” means the Court’s order preliminarily approving the

² Exhibit G will be finalized ninety-one (91) days after Preliminary Approval and submitted to the Court.

Agreement and certifying the Workwell Class for settlement purposes, and approving the form and manner of the Notice.

1.28 **“Released Claims”** means any and all actual, potential, filed, unfiled, known or unknown, fixed or contingent, claimed or unclaimed, suspected or unsuspected, claims, demands, liabilities, rights, causes of action, contracts or agreements, extra-contractual claims, damages, punitive, exemplary or multiplied damages, expenses, costs, attorneys’ fees and/or obligations (including “Unknown Claims” as defined below), whether in law or in equity, accrued or unaccrued, direct, individual or representative, of every nature and description whatsoever, whether based on the Illinois Biometric Information Privacy Act or other federal, state, local, statutory or common law or any other law, including the law of any jurisdiction outside the United States, arising out of or relating to the facts, transactions, events, matters, occurrences, acts, disclosures, statements, representations, omissions or failures to act regarding the alleged collection, storage, and dissemination of biometric data including all claims that were brought or could have been brought in the Action relating to such collection, storage, and dissemination of biometric and/or fingerprint or facial data.

1.29 **“Released Participating Employer Parties”** means the Participating Employers, and their present or former heirs, executors, estates, administrators, predecessors, successors, assigns, parents, subsidiaries, holding companies, investors, sister and affiliated companies, divisions, associates, affiliated and related entities, employers, employees, agents, representatives, consultants, independent contractors, directors, managing directors, officers, partners, principals, members, attorneys, vendors, accountants, fiduciaries, financial and other advisors, investment bankers, insurers, reinsurers, employee benefit plans, underwriters, shareholders, lenders, auditors, investment advisors, and any and all present and former

companies, firms, trusts, corporations, officers, directors, other individuals or entities in which any Participating Employer has a controlling interest or are affiliated with any of them, or any other representatives of any of these persons and entities, as well as all persons acting by, through, under, or in concert with any of these persons or entities. For the avoidance of doubt, any employer of an Employer Class Member that is not a Participating Employer listed on Exhibit G will not be considered a Released Participating Employer Party, and will be excluded from any Release in this Settlement.

1.30 **“Released Workwell Parties”** means Workwell Technologies, Inc. and its present or former heirs, executors, estates, administrators, predecessors, successors, assigns, parents, subsidiaries, holding companies, investors, sister and affiliated companies, divisions, associates, affiliated and related entities, employers, employees, agents, representatives, consultants, independent contractors, directors, managing directors, officers, partners, principals, members, attorneys, vendors, accountants, fiduciaries, financial and other advisors, investment bankers, insurers, reinsurers, employee benefit plans, underwriters, shareholders, lenders, auditors, investment advisors, and any and all present and former companies, firms, trusts, corporations, officers, directors, other individuals or entities in which Workwell has a controlling interest or are affiliated with any of them, or any other representatives of any of these persons and entities, as well as all persons acting by, through, under, or in concert with any of these persons or entities.

1.31 **“Releasing Employer Class Members”** means Plaintiff and Employer Class Members and their respective present or past heirs, executors, estates, administrators, assigns, agents, consultants, independent contractors, insurers, attorneys, accountants, financial and other advisors, investment bankers, underwriters, lenders, and any other representatives of any of these

persons and entities.

1.32 “**Releasing Workwell Class Members**” means Plaintiff and Workwell Class Members and their respective present or past heirs, executors, estates, administrators, assigns, agents, consultants, independent contractors, insurers, attorneys, accountants, financial and other advisors, investment bankers, underwriters, lenders, and any other representatives of any of these persons and entities.

1.33 “**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 proportionally from the Workwell Fund and Employer Fund.

1.34 “**Settlement Administrator**” means Heffler Claims Group, subject to approval of the Court, which will provide the Notice, Settlement Website, and sending of Settlement Payments to Workwell and Employer Class Members.

1.35 “**Settlement Payment**” means, collectively, the Employer Payment and/or Workwell Payment.

1.36 “**Settlement Website**” means the website to be created, launched, and maintained by the Settlement Administrator, which provides access to relevant case documents including the Notice, Claim Form, and other relevant documents.

1.37 “**Steering Committee**” shall consist of all attorneys who have (a) done work for the benefit of the Employer Class or the Workwell Class, in this case or another case, and (b) who are willing to perform further work to effectuate this Agreement.

1.38 “**Supplemental Approval**” means the Court’s certifying the Employer Class for settlement purposes.

1.39 “**Unknown Claims**” means claims that could have been raised in the Action and that Plaintiff, or the Releasing Workwell and Employer Class Members, 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 Workwell or Participating Employer 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, Plaintiff, the Releasing Workwell and Employer Class Members shall be deemed to have, and shall have, expressly waived and relinquished, to the fullest extent permitted by law, including but not limited to such laws and 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, each of the Releasing Workwell and Employer Class Members 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, the Workwell and Employer Classes, and the Releasing Workwell and Employer Class Members 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.

1.40 “**Workwell Class**” shall mean the following:

Workwell Class: All individuals who used a Workwell-uAttend and/or Citadel brand finger or facial scanner for employment timekeeping purposes in the State of Illinois between March 28, 2014 and April 8, 2019.

Excluded from the Workwell Class are (a) any Judge presiding over this action and members of their families; (b) Defendant, its subsidiaries, parent companies, successors, predecessors, and any entity in which Defendant or its parents have a controlling interest; (c) persons who properly execute and file a timely request for exclusion from the Workwell Class; (d) persons whose claims in this matter have been finally adjudicated on the merits or otherwise released; and (e) counsel for all Parties and members of their families.

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

1.42 “**Workwell Fund**” means the amount paid by Workwell into the Escrow Account. Defendant shall pay into the Escrow Account the amount of Nine Hundred Thousand Dollars (\$900,000.00) within thirty-five (35) days after the full execution of this Agreement. From the Workwell Fund, the Settlement Administrator shall pay all Settlement Administration Expenses associated with the Workwell Fund, all Approved Claims made by Workwell Class Members, any incentive awards to the Class Representatives, and any Fee Award to Class Counsel. The Workwell Fund represents the total extent of Workwell’s monetary obligations under this Agreement.

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

2. SETTLEMENT RELIEF

2.1 **Settlement Payments to Workwell and Employer Class Members.**

a. Workwell Class Members who are not also Employer Class Members shall have until the Claims Deadline to submit Claim Forms. Each Workwell Class Member who submits an Approved Claim shall be entitled to a Workwell Payment. The Settlement Administrator shall send such Workwell Payments via First Class U.S. Mail to the address provided on the Approved Claim or, for Employer Class Members who did not submit a separate Claim Form, to the last-known mailing address as updated through the NCOA database if necessary by the Settlement Administrator.

b. The Settlement Administrator shall also send each Employer Class Member an Employer Payment by check. The Employer Payment shall not require any claims form or claims process on the part of Employer Class Members. Payments to the Employer Class Members shall be mailed via First Class U.S. Mail to their last known mailing address, as updated through the NCOA database if necessary by the Settlement Administrator. For Employer Class Members, the payment under this Section 2.1(b) shall be added to the amount in Section 2.1(a) and a single check.

c. The Settlement Administrator shall mail all Settlement Payments within twenty-eight (28) days of the Effective Date. 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.

d. To the extent that a check issued to a Workwell or Employer 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 equally to the Cook County Bar Association and earmarked for its pro bono programs and Cabrini Green Legal Aid, or such other organization as the Court may order consistent with 735 ILCS 5/2-807(b).

e. In no event shall any amount paid by Defendant or any Participating Employer into the Escrow Accounts revert to Defendant or the Participating Employers.

2.2 **Prospective Relief.** Workwell and each Participating Employer agree that, on or before the Effective Date, they shall implement the following policies and procedures, which shall remain in effect for a period of three (3) years after the Effective Date, for its Illinois employees or independent contractors:

a. Workwell represents that it established a policy and made that policy public on April 9, 2019, as amended, which is attached hereto as Exhibit I and identifies how Workwell maintains any biometric information collected through its timeclocks sold in Illinois, along with its retention and destruction policies, while it further requires each Participating Employer to establish a written policy, made available to the public, creating a retention schedule and guidelines for permanently destroying “biometric identifiers” and “biometric information,” as those terms are defined by BIPA, when the initial purpose for collecting or obtaining such identifiers or information has been satisfied or within three (3) years of the individual’s last interaction with Workwell Technologies, Inc. or each Participating Employer, whichever occurs first;

b. Workwell and each Participating Employer shall destroy all “biometric identifiers” and “biometric information” of former employees and former independent contractors within their possession, except where as otherwise provided by law;

c. Workwell shall contractually require its customers who utilize its finger or facial scanners located in Illinois to inform in writing all persons whose “biometric identifiers” or “biometric information” the customers’ collect (i) that a “biometric identifier” or “biometric information” is being collected or stored; and (ii) of the specific

purpose and length of term for which the “biometric identifier” or “biometric information” is being collected, stored, or used. Each Participating Employer shall inform in writing all persons whose “biometric identifiers” or “biometric information” they collect (i) that a “biometric identifier” or “biometric information” is being collected or stored; and (ii) of the specific purpose and length of term for which the “biometric identifier” or “biometric information” is being collected, stored, or used; and

d. Workwell shall contractually require its customers who utilize its scanning devices in Illinois to obtain a written release, from all persons whose “biometric identifiers” or “biometric information” it collects, captures, purchases, receives through trade, or otherwise obtains, to collect those persons’ “biometric identifiers” or “biometric information.” Participating Employer shall obtain a written release, from all persons whose “biometric identifiers” or “biometric information” it collects, captures, purchases, receives through trade, or otherwise obtains, to collect those persons’ “biometric identifiers” or “biometric information.”

e. Nothing in this section shall require Workwell to terminate its contracts with its customer or bring suit against its customers for any threatened or alleged breach of Workwell’s contracts with such customers.

3. PARTICIPATING EMPLOYER PERIOD

3.1 **Opportunity to Join.** Within fourteen (14) days after Preliminary Approval of this Agreement, Class Counsel shall send a letter via, courier, hand delivery, or First Class U.S. Mail to each business or individual that Defendant’s records indicate (i) employed any Workwell Class Member, and (ii) used a Workwell finger or facial scanner for timekeeping purposes in the State of Illinois between March 28, 2014 and the date of the Settlement’s execution by Class

Counsel and Defendant. This letter will explain how the employer can participate in the Settlement by becoming a Participating Employer, its obligations under the Settlement, and how it can obtain its own release of the Released Claims, and the deadline to determine whether it will participate. A copy of the Settlement Agreement and Preliminary Approval Order will be included, along with a Participating Employer Agreement for the employer to execute and return. Class Counsel shall provide copies of all letters sent to Workwell's customers which may be potential Participating Employers to Workwell's Counsel.

3.2 Ongoing Negotiations. This Settlement Agreement is not intended to interfere with any ongoing negotiations between a separate putative class alleging claims arising under BIPA and an employer defendant that would otherwise be released by this Agreement. To that end, if there have been any negotiations concerning a classwide settlement between a putative class representative and a potential Participating Employer, that employer is not eligible to join pursuant to Section 3.1. Notwithstanding the foregoing, if the named plaintiff in such a case has demanded less than the amount the Participating Employer would be required to contribute to the Employer Fund in order to become a Participating Employer, the employer may join. To the extent that there is ambiguity about whether the employer may be entitled to participate under this Section, the presumption shall be that the employer may not join.

3.3 Deadline to Join. Any employer that wishes to join the Settlement as a Participating Employer, undertaking the obligations and receiving the benefits set out herein, shall return an executed Participating Employer Agreement to Class Counsel, postmarked or delivered no later seventy-seven (77) days after Preliminary Approval of this Agreement. Any employer of a Workwell Class Member who does not return an executed Participating Employer Agreement by this date will not receive a release of any Released Claims and the Workwell and

Employer Class Members retain any and all claims or causes of action against those respective employers.

3.4 Incorporation into the Settlement. Upon receipt of executed Participating Employer Agreements, Class Counsel will review to ensure that each is fully completed, and will attempt to contact any employer that has returned a deficient form so that it may be corrected. No later than ninety-one (91) days after Preliminary Approval, Class Counsel shall finalize the list of Participating Employers, which will be attached as Exhibit G, and inform each Participating Employer of their inclusion in the Settlement. Class Counsel will then promptly move for Supplemental Approval.

4. RELEASE

4.1 Workwell Release. Upon the Effective Date, and in consideration of the Settlement relief described herein, the Releasing Workwell Class Members, and each of them, shall be deemed to have released, and by operation of the Final Judgment shall have, fully, finally, and forever, released, relinquished and discharged all Released Claims against each and every one of the Released Workwell Parties.

4.2 Participating Employer Release. Upon the Effective Date, and in consideration of the Settlement relief described herein, the Releasing Employer Class Members, and each of them, shall be deemed to have released, and by operation of the Final Judgment shall have, fully, finally, and forever, released, relinquished and discharged all Released Claims against each and every one of the Released Participating Employer Parties.

5. NOTICE TO THE CLASS

5.1 Class List. Workwell has provided to Class Counsel a list of all currently maintained names, employer names, e-mail addresses, and last known U.S. mail addresses of all

persons in the Workwell Class (the “Class List”), as available. The Settlement Administrator shall keep the Class List and all personal information obtained therefrom, including the identity, mailing, and e-mail addresses of all persons strictly confidential. The Class List may not be used by the Settlement Administrator for any purpose other than advising specific individual Workwell or Employer Class Members of their rights, 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. To the extent that the Class List does not contain contact information for Workwell Class Members, but instead only the names and places of employment, Class Counsel shall make a reasonable effort to obtain contact information for those Workwell Class Members, which may include the use of subpoenas. Any Workwell Class Member contact information Class Counsel obtains shall be appended to the Class List for the purpose of disseminating Notice and effectuating the Settlement.

5.2 The Notice shall include:

a. *Direct Notice.* No later than the Notice Date, the Settlement Administrator shall send Notice via email substantially in the form attached as Exhibit B to all Employer Class Members, and Exhibit C to all Workwell Class Members, for whom an email address is available on the Class List. If no email address is available for a person in the Workwell or Employer Class, or in the event that the transmission of any email notice results in a “bounce-back,” the Settlement Administrator shall, no later than fourteen (14) days after the Notice Date, send a postcard notice via First Class U.S. Mail substantially in the form attached as Exhibit D to Employer Class Members, and Exhibit E to all other Workwell Class Members, for whom a physical address exists in the Class List.

b. *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 F attached hereto.

5.3 The Notice shall advise the Workwell and Employer Classes 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 mail, hand, or overnight delivery service to Class Counsel and Defendant's Counsel.

5.4 **Right to Intervene and Object or Comment.** Any member of the Workwell or Employer Class who intends to intervene and object to this Settlement Agreement must present the objection in writing, which must be personally signed by the objector and must include: (a) the Workwell or Employer 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 Workwell or Employer Class, (c) the specific grounds for the objection, (d) all documents or writings that the Workwell or Employer 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 Workwell or Employer Class Member 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 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.

5.5 Right to Request Exclusion. Any Person in the Workwell or Employer 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 *Joey Muniz v. Workwell Technologies, Inc.*, Case No. 2019-CH-04061 (Cir. Ct. Cook Cty.); (c) identify the Class—either the Workwell Class, Employer Class, or both—from which the Person is seeking exclusion; (d) state the full name and current address of the Person in the Workwell or Employer Class seeking exclusion; (e) be physically signed by the Person(s) seeking exclusion; and (f) 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 [Workwell and/or Employer] Class in *Joey Muniz v. Workwell Technologies, Inc.*, Case No. 2019-CH-04061 (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 Workwell and/or Employer Class Members and shall be bound as Workwell and/or Employer Class Members by this Settlement Agreement, if approved. Any Person who elects to request exclusion from the Workwell and/or Employer 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. No Person may request to be excluded from the Workwell or Employer Class through “mass” or “class” opt-outs.

6. SETTLEMENT ADMINISTRATOR’S DUTIES

6.1 **Dissemination of Notices.** The Settlement Administrator shall disseminate the Workwell and Employer Class Notice as provided in Section 5 of this Settlement Agreement.

6.2 **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, administration and implementation of the Settlement.

6.3 **Claims Administration.** The Settlement Administrator shall be obliged to

employ reasonable procedures to screen claims for abuse or fraud and deny Claim Forms where there is evidence of abuse or fraud. The Settlement Administrator shall determine whether a Claim Form submitted by a Workwell Class Member is an Approved Claim by determining if the individual is on the Class List and shall reject Claim Forms that fail to (a) comply with the instructions on the Claim Form or the terms of this Agreement, or (b) provide full and complete information as requested on the Claim Form. In the event an individual submits a timely Claim Form by the Claims Deadline where the individual appears on the Class List but the Claim Form is not otherwise complete, then the Settlement Administrator shall give such Person one (1) reasonable opportunity to provide any requested missing information, which information must be received by the Settlement Administrator no later than thirty (30) calendar days after the Claims Deadline. In the event the Settlement Administrator receives such information more than thirty (30) days after the Claims Deadline, then any such claim shall be denied. The Settlement Administrator may contact any Person who has submitted a Claim Form to obtain additional information necessary to verify the Claim Form.

6.4 Receipt of Requests for Exclusion. The Settlement Administrator shall receive requests for exclusion from Persons in the Workwell or Employer Classes 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 Workwell or Employer 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.

6.5 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 Workwell and Employer Class Members may contact Class Counsel directly.

7. PRELIMINARY APPROVAL AND FINAL APPROVAL

7.1 Preliminary Approval. Within fourteen (14) days 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 Workwell Class;
- b. Appoint Class Counsel to represent the Workwell Class;
- c. Certify the Workwell Class under 735 ILCS 5/2-801 *et seq.* for settlement purposes only;
- d. Approve the form and contents of the Notice and the method of its dissemination to members of the Workwell and Employer Classes; and

7.2 Supplemental Approval. Class Counsel shall promptly finalize the list of Participating Employers pursuant to Section 3, submit the list to the Court, and move the Court for an order:

- a. Appointing Plaintiff as Class Representative of the Employer Class;
- b. Appointing Class Counsel to represent the Employer Class; and
- c. Certifying the Employer Class under 735 ILCS 5/2-801 *et seq.* for settlement purposes only;
- d. 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.

7.3 **Final Approval.** After Notice to the Workwell and Employer Classes 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 Workwell and Employer 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 Workwell and Employer 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 be binding on, and have *res judicata* and preclusive effect in, all pending and future lawsuits or other proceedings maintained by or on behalf of Plaintiff and all other Workwell and Employer Class Members and Releasing Workwell and Employer Class Members;

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 Workwell and Employer Classes 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;

d. find that the Class Representative and Class Counsel adequately represented the Workwell and Employer Classes 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 Workwell and Released Participating Employer Parties as set forth herein;

g. permanently bar and enjoin all Workwell Class Members who have not been properly excluded from the Workwell 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. permanently bar and enjoin all Employer Class Members who have not been properly excluded from the Employer 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;

i. 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 Workwell and Employer Class Members;

j. 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

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

7.4 **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.

8. TERMINATION OF THE SETTLEMENT AGREEMENT

8.1 **Termination.** Subject to Section 10 below, the Class Representative, on behalf of the Workwell and Employer Classes, or Defendant shall have the right to terminate this Agreement by providing written notice of the election to do so to all other Parties hereto 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 Supplemental Approval of this Agreement in any material respect; (iii) the Court's refusal to grant Final Approval of this Agreement in any material respect; (iv) the Court's refusal to enter the Final Judgment in this Action in any material respect; (v) the date upon which the Final Judgment is modified or reversed in any material respect by the appellate court or the Supreme Court; or (vi) the date upon which an Alternative Judgment, as defined in Section 10.1 of this Agreement, is modified or reversed in any material respect by the appellate court or the Supreme Court. A Participating Employer may withdraw their participation in this Agreement by providing written notice of the election to do so to Class Counsel and Workwell's counsel within ten (10) days of

the same events, at which time they are no longer a Participating Employer for purposes of this Agreement.

9. INCENTIVE AWARD AND CLASS COUNSEL'S ATTORNEYS' FEES AND REIMBURSEMENT OF EXPENSES

9.1 Defendant agrees to pay Class Counsel 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%) from each of the Workwell and Employer Funds. Defendant or any Participating Employer may challenge the amount requested. Payment of the Fee Award shall be made to Class Counsel from the Workwell and Employer Funds; 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 respective Funds to be distributed to Workwell and Employer Class Members in accordance with this Agreement. Steering Committee members, if any, shall be entitled to reasonable fees out of the Fee Award. Neither Workwell nor the Participating Employers are responsible for and have no involvement in Class Counsel's allocation of the Fee Award amongst the Steering Committee or counsel.

9.2 The Fee Award shall be payable within five (5) business days after entry of the Court's Final Judgment, if there are no objections to the Settlement Agreement, and if there have been such objections, 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.

9.3 Defendant agrees that the Class Representative, in recognition of his efforts on behalf of the Workwell and Employer Classes, and subject to Court approval, shall be paid an

incentive award in the amount of Five Thousand Dollars (\$5,000.00) from the Workwell Fund. This shall be paid in addition to any Settlement Payment pursuant to this Settlement Agreement. 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 Workwell Fund and be distributed to Workwell Class. Any award shall be paid from the Workwell Fund (in the form of a check to the Class Representative that is sent care of Class Counsel), within five (5) business days after entry of the Court's Final Judgment if there have been no objections to the Settlement Agreement and, if there have been such objections, within five (5) business days after the Effective Date.

10. CONDITIONS OF SETTLEMENT, EFFECT OF DISAPPROVAL, CANCELLATION OR TERMINATION.

10.1 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:

- a. This Agreement has been signed by the Parties, Class Counsel, Defendant's Counsel, and the Participating Employers;
- b. The Court has entered an order granting Preliminary Approval and Supplemental Approval of the Agreement;
- c. The Court has entered an order finally approving the Agreement, following Notice to the Workwell and Employer Classes and a Final Approval Hearing, and has entered the Final Judgment, or a judgment substantially consistent with this Settlement Agreement; 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.

10.2 If some or all of the conditions specified in Section 10.1 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 10.3, unless Class Counsel, Defendant’s Counsel and the Participating Employers mutually agree in writing to proceed with this Settlement Agreement. If the Class Representative or Defendant is in material breach of the terms hereof, either the Class Representative or Defendant, provided that they are in substantial compliance with the terms of this Agreement, may terminate this Settlement Agreement on written notice to all other Parties. In the event of a material breach by the Class Representative or Defendant, a Participating Employer, provided that they are in substantial compliance with the terms of this Agreement, may withdraw their status as a Participating Employer upon written notice to all other parties. If a Participating Employer is in material breach of the terms hereof, the Class Representative or Defendant, provided that they are in substantial compliance with the terms of this Agreement, may terminate that Participating Employer’s status as a Participating Employer. Notwithstanding anything herein, the Parties agree that the Court’s decision as to the amount of the Fee Award to Class Counsel or Steering Committee members 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 or terminating a Participating Employer’s status as a Participating Employer.

10.3 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 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 shall be treated as vacated, *nunc pro tunc*, and the Parties shall be returned to the *status quo ante* as if this Settlement Agreement had never been entered into.

11. MISCELLANEOUS PROVISIONS.

11.1 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 all 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 Supplemental Approval of this Agreement 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.

11.2 Each signatory to this Agreement and any Participating Employer 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 any Participating Employer 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 and any Participating Employer

Agreement has been duly and validly executed and delivered by each signatory and constitutes its legal, valid and binding obligation.

11.3 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 Workwell and Employer Classes, and each or any of them, on the one hand, against the Released Workwell and Participating Employer Parties, and each or any of the Released Workwell and Participating Employer 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.

11.4 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.

11.5 Whether the Effective Date occurs or this Settlement is terminated, neither this Settlement Agreement nor the settlement contained herein, nor any 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 Workwell and Participating Employer Parties, or each or any of them as an admission, concession or evidence of, the validity of any Released Claims, 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 amount or the Fee Award, or of any alleged wrongdoing, liability, negligence, or fault of the Released Workwell and Participating Employer Parties, or any of them;

b. is, may be deemed, or shall be used, offered or received against Defendant or any Participating Employer 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 Workwell and Participating Employer Parties, or any of them;

c. is, may be deemed, or shall be used, offered or received against Plaintiff or the Workwell or Employer Classes, 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 Workwell and Participating Employer 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 Workwell and Participating Employer 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 party or any of the Released Workwell and Participating Employer Parties may file this Settlement Agreement and/or the Final Judgment in any action that may be brought against such party or Parties in order to support a defense or counterclaim based on principles of *res judicata*, collateral estoppel, release, good faith

settlement, judgment bar or reduction, or any other theory of claim preclusion or issue preclusion, or similar defense or counterclaim;

e. is, may be deemed, or shall be construed against Plaintiff and the Workwell and Employer Classes, or each or any of them, or against the Released Workwell and Participating Employer 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 Workwell and Employer Classes, or each and any of them, or against the Released Workwell and Participating Employer 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.

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

11.7 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.

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

11.9 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.

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

11.11 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 Workwell and Participating Employer Parties to any other Person or party and that she is fully entitled to release the same.

11.12 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.

11.13 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.

11.14 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.

11.15 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.

11.16 Where this Settlement Agreement requires notice to the Parties, such notice shall be sent to the undersigned counsel: J. Eli Wade-Scott, EDELSON PC, 350 North LaSalle Street, 14th Floor, Chicago, Illinois 60654; Daniel T. Graham, Clark Hill, PLC, 130 E. Randolph Street, Suite 3900, Chicago, Illinois 60601.

[SIGNATURES APPEAR ON FOLLOWING PAGE]

Dated: 12/09/2019

JOEY MUNIZ

By (signature): *Joey Muniz*

Name (printed): Joey Muniz

Dated: 12/13/2019

EDELSON PC
By (signature): *[Signature]*

Name (printed): Edelson PC

Its (title): Associate

WORKWELL TECHNOLOGIES, INC.

Dated: _____

By (signature): _____

Name (printed): _____

Its (title): _____

CLARK HILL, PLC

Dated: _____

By (signature): _____

Name (printed): _____

Its (title): _____

Exhibit A

EXHIBIT A

Muniz v. Workwell Techs., Inc., 2019-CH-04061 (Cir. Ct. Cook Cty.)

CLAIM FORM

Instructions. Fill out each section of this form and sign where indicated.

<u>First Name</u>		<u>Last Name</u>	
<u>Street Address</u>			
<u>City</u>	<u>State</u>	<u>ZIP Code</u>	
<u>Email Address</u>			
<u>Contact Phone # (You may be contacted if further information is required.)</u>			

Class Member Affirmation: By submitting this Claim Form, I declare that I am a member of the Workwell Class and that the following information is correct:

I used a Workwell-uAttend and/or Citadel brand finger or facial scanner for employment timekeeping purposes in the State of Illinois between March 28, 2014 and April 8, 2019.

Signature: _____

Date: ____ - ____ - ____
(MM-DD-YY)

Printed Name: _____

Exhibit B

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

NOTICE OF PROPOSED CLASS ACTION SETTLEMENT

Muniz v. Workwell Techs., Inc., Case No. 2019 CH 04061
(Circuit Court of Cook County, Illinois)

An Illinois State Court authorized this notice. You are not being sued. This is not a solicitation from a lawyer.

This notice is to inform you that a settlement has been reached in a class action lawsuit between Workwell Technologies, Inc. (“Workwell”), certain employers including [PARTICIPATING EMPLOYER], and individuals that used Workwell finger or facial scanners for employee timekeeping purposes. The lawsuit claims they violated an Illinois law called the Biometric Information Privacy Act (“BIPA”) by collecting employees’ fingerprints or facial scans on time clocks in Illinois without complying with several of the law’s requirements. 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 *Muniz v. Workwell Techs.*, Case No. 2019 CH 04061, and is in the Circuit Court of Cook County, Illinois.

For complete information, visit www.tobedetermined.com or call [toll-free number].

- **Am I a Class Member?** Our records indicate that you are a member of both the Workwell Class and the Employer Class. The Workwell Class includes all individuals who used a Workwell-uAttend and/or Citadel brand finger or facial scanner for employment timekeeping purposes in the State of Illinois between March 28, 2014, and April 8, 2019. The Employer Class includes all of those individuals whose current or former employers are a Participating Employer in the Settlement.
- **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 \$650, which is a combined payment for being a member of both classes and accounts for payment of costs, administrative expenses, and legal fees. The settlement also requires Workwell and [PARTICIPATING EMPLOYER] to comply with the BIPA in the future.
- **How Do I Get My Payment?** A payment will automatically be mailed to you at your last known address.
- **What are My Options?** You can do nothing, comment on or object to any of the settlement terms, or exclude yourself from one or both classes. If you do nothing, you’ll get a payment and you won’t be able to sue Workwell, [PARTICIPATING EMPLOYER], and certain related companies 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 Workwell and/or [PARTICIPATING EMPLOYER] 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 the participating employers and Workwell will pay to the class members. You can hire your own lawyer, but you’ll need to pay that lawyer’s legal fees. The Court has also chosen Joey Muniz—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 David B. Atkins in Room 2102 at the Richard J. Daley Center, 50 West Washington Street, 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 funds and an incentive award of \$5,000, available on the settlement website.

Visit www.tobedetermined.com for complete information.

Exhibit C

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

NOTICE OF PROPOSED CLASS ACTION SETTLEMENT

Muniz v. Workwell Techs., Inc., Case No. 2019 CH 04061
(Circuit Court of Cook County, Illinois)

An Illinois State Court authorized this notice. You are not being sued. This is not a solicitation from a lawyer.

This notice is to inform you that a settlement has been reached in a class action lawsuit between Workwell Technologies, Inc. (“Workwell”), certain employers, and individuals that used Workwell finger or facial scanners for employee timekeeping purposes. The lawsuit alleges that Workwell and the employers violated an Illinois law called the Biometric Information Privacy Act (“BIPA”) by collecting employees’ fingerprints or facial scans on time clocks in Illinois without complying with several of the law’s requirements. Workwell 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 *Muniz v. Workwell Techs., Inc.*, Case No. 2019 CH 04061, and is in the Circuit Court of Cook County, Illinois.

For complete information, visit www.tobedetermined.com or call [toll-free number].

- **How do I know if I am a Class Member?** Our records indicate that you are a member of the Workwell Class, which includes all individuals who used a Workwell-uAttend and/or Citadel brand finger or facial scanner for employment timekeeping purposes in the State of Illinois between March 28, 2014 and April 8, 2019. Some employers have also agreed to settle claims against them and are members of an Employer Class, but our records indicate that your current or former employer has not joined. A list of participating employers is available at www.tobedetermined.com.
- **What Can I Get Out of the Settlement?** If you’re eligible and the Court approves the settlement, you can file a claim to receive a cash payment of approximately \$50. This is an equal share of a \$900,000 fund that Workwell has agreed to create, after the payment of settlement expenses and attorneys’ fees. The settlement also requires Workwell to comply with the BIPA in the future.
- **How Do I Get My Payment?** Just complete and verify the short and simple [Claim Form](#). You can also call [toll-free number] to request a paper copy of the Claim Form. **All Claim Forms must be received by [28 days after the Final Approval Hearing].**
- **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 won’t be able to sue Workwell and certain related companies 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 Workwell 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 Workwell will pay to the Class Members. You can hire your own lawyer, but you’ll need to pay that lawyer’s legal fees. The Court has also chosen Joey Muniz—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 David B. Atkins in Room 2102 at the Richard J. Daley Center, 50 West Washington Street, Chicago, Illinois 60602. The Court will hear objections, determine if the settlement is fair, and consider Class Counsel’s

Visit www.tobedetermined.com for complete information.

request for fees and expenses of up to 35% of the settlement fund and an incentive award of \$5,000, available on the settlement website.

Exhibit D

LEGAL NOTICE

If you used a Workwell-uAttend and/or Citadel brand finger or facial scanner for employment timekeeping purposes in the State of Illinois while working for [PARTICIPATING EMPLOYER] between March 28, 2014 and April 8, 2019, 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.

For complete information, visit www.[tobedetermined].com.

Workwell Timeclock Settlement [admin address]

First-Class Mail US Postage Paid Permit #

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Postal Service: Please do not mark barcode.

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A settlement has been reached in a class action lawsuit between Workwell Technologies, Inc. ("Workwell"), certain employers including [PARTICIPATING EMPLOYER], and individuals that used Workwell finger or facial scanners for employee timekeeping purposes. The lawsuit claims they violated an Illinois law called the Biometric Information Privacy Act ("BIPA") by collecting employees' fingerprints or facial scans on time clocks in Illinois without complying with several of the law's requirements. 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 Muniz v. Workwell Techs., Case No. 2019 CH 04061, and is in the Circuit Court of Cook County, Illinois.

Am I a Class Member? Our records indicate that you are a member of both the Workwell Class and the Employer Class. The Workwell Class includes all individuals who used a Workwell-uAttend and/or Citadel brand finger or facial scanner for employment timekeeping purposes in the State of Illinois between March 28, 2014, and April 8, 2019. The Employer Class includes all of those individuals whose current or former employers are a Participating Employer in the Settlement.

What Can I Get? If you're eligible and the Court approves the settlement, a check will automatically be mailed to you for approximately \$650, which is a combined payment for being a member of both classes and accounts for payment of costs, administrative expenses, and legal fees. The settlement also requires Workwell and [PARTICIPATING EMPLOYER] to comply with the BIPA in the future.

How Do I Get My Payment? A payment will automatically be mailed to you at your last known address.

What are My Options? You can do nothing, comment on or object to any of the settlement terms, or exclude yourself from one or both classes. If you do nothing, you'll get a payment and you won't be able to sue Workwell, [PARTICIPATING EMPLOYER], and certain related companies 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 Workwell and/or [PARTICIPATING EMPLOYER] 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 the participating employers and Workwell will pay to the class members. You can hire your own lawyer, but you'll need to pay that lawyer's legal fees. The Court has also chosen Joey Muniz—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 David B. Atkins in Room 2102 at the Richard J. Daley Center, 50 West Washington Street, 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 funds and an incentive award of \$5,000, available on the settlement website.

Visit www.[tobedetermined].com for complete information.

Exhibit E

LEGAL NOTICE

If you used a Workwell-uAttend and/or Citadel brand finger or facial scanner for employment timekeeping purposes in the State of Illinois between March 28, 2014 and April 8, 2019, 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.

For complete information, visit [www.\[tobedetermined\].com](http://www.[tobedetermined].com).

Workwell Timeclock
Settlement
[admin address]

First-Class
Mail
US Postage
Paid
Permit # __

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Postal Service: Please do not mark barcode.

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A settlement has been reached in a class action lawsuit between Workwell Technologies, Inc. (“Workwell”), certain employers, and individuals that used Workwell finger or facial scanners for employee timekeeping purposes. The lawsuit alleges that Workwell and the employers violated an Illinois law called the Biometric Information Privacy Act (“BIPA”) by collecting employees’ fingerprints or facial scans on time clocks in Illinois without complying with several of the law’s requirements. Workwell 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 *Muniz v. Workwell Techs., Inc.*, Case No. 2019 CH 04061, and is in the Circuit Court of Cook County, Illinois.

How do I know if I am a Class Member? Our records indicate that you are a member of the Workwell Class, which includes all individuals who used a Workwell-uAttend and/or Citadel brand finger or facial scanner for employment timekeeping purposes in the State of Illinois between March 28, 2014 and April 8, 2019. Some employers have also agreed to settle claims against them and are members of an Employer Class, but our records indicate that your current or former employer has not joined. A list of participating employers is available at [www.\[tobedetermined\].com](http://www.[tobedetermined].com).

What Can I Get Out of the Settlement? If you’re eligible and the Court approves the settlement, you can file a claim to receive a cash payment of approximately \$50. This is an equal share of a \$900,000 fund that Workwell has agreed to create, after the payment of settlement expenses and attorneys’ fees. The settlement also requires Workwell to comply with the BIPA in the future.

How Do I Get My Payment? Just complete and verify the short and simple Claim Form available at [www.\[tobedetermined\].com](http://www.[tobedetermined].com). You can also call [toll-free number] to request a paper copy of the Claim Form. **All Claim Forms must be received by [28 days after the Final Approval Hearing].**

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 won’t be able to sue Workwell and certain related companies 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 Workwell 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 Workwell will pay to the Class Members. You can hire your own lawyer, but you’ll need to pay that lawyer’s legal fees. The Court has also chosen Joey Muniz—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 David B. Atkins in Room 2102 at the Richard J. Daley Center, 50 West Washington Street, 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, available on the settlement website.

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

Exhibit F

NOTICE OF PROPOSED CLASS ACTION SETTLEMENT

Muniz v. Workwell Techs., Inc., Case No. 2019 CH 04061

(Circuit Court of Cook County, Illinois)

If you used a Workwell-uAttend and/or Citadel finger or facial scanner for employment timekeeping purposes in the State of Illinois between March 28, 2014 and April 8, 2019, 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 about individuals that used Workwell brand, known as uAttend and/or Citadel, finger or facial scanners for employee timekeeping purposes. The lawsuit alleges that Workwell and the employers that used their scanners violated an Illinois law called the Biometric Information Privacy Act (“BIPA”) by collecting employees’ fingerprints or facial scans on time clocks in Illinois without complying with the law’s requirements. Workwell and certain employers covered in this Settlement (the “Participating Employers”) deny any wrongdoing and maintain that they have not violated any laws. You can find out if your employer is part of the settlement below. 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.
- If the Court approves the Settlement, there are two groups or “classes” of individuals that are included in the settlement. **First**, you are included in the settlement if you used a Workwell finger or facial scanner for employment timekeeping purposes in the State of Illinois between March 28, 2014 and April 8, 2019 (the “Workwell Class”). **Second**, you are included in the settlement if your current or former employer where you used the finger or facial scanner during that time joins the Settlement (the “Employer Class”).
- If the Court approves the Settlement, members of the Workwell Class who submit valid claims will be receive an equal, or *pro rata*, share of a \$900,000 settlement fund that Workwell has agreed to establish. Each individual who submits a valid claim will receive a portion of this fund, after all notice and administration costs, the incentive award, and attorneys’ fees—if approved by the Court—have been paid. Payments are estimated to exceed \$50. Workwell has also agreed to comply with BIPA in the future.
- Furthermore, if the Court approves the Settlement, members of the Employer Class whose current or former employer is a Participating Employer will have a check automatically mailed to them for approximately \$650. This includes the \$50 payment for being a member of the Workwell Class as well as administration costs, the incentive award, and attorneys’ fees. All participating employers have also agreed to comply with the BIPA in the future.

* * *

YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT	
SUBMIT A CLAIM FORM	<p>Workwell Class: If your employer is not part of the settlement, this is the only way to receive a payment.</p> <p>Employer Class: If your employer is a Participating Employer, there is no need to submit a claim form. You will receive payments for both the Employer Class and Workwell Class.</p>
DO NOTHING	<p>Workwell Class: You will receive no payment under the Settlement and give up your rights to sue Workwell about the issues in this case.</p> <p>Employer Class: You will receive a payment under the Settlement and give up your rights to sue Workwell and the Participating Employer about the issues in this case.</p>
EXCLUDE YOURSELF	You will receive no payment, but you will retain any rights you currently have to sue Workwell and/or the Participating Employer about the issues in this case.
OBJECT	Write to the Court explaining why you don't like the Settlement.
ATTEND A HEARING	Ask to speak in Court about the fairness of the Settlement.

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

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

BASIC INFORMATION

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

A Court authorized this notice to let you know about a proposed Settlement with Workwell and the Participating Employers. 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 David B. Atkins of the Circuit Court of Cook County, Illinois, is overseeing this class action. The case is called *Muniz v. Workwell Techs., Inc.*, Case No. 2019 CH 04061. The person who filed the lawsuit, Joey Muniz, is the Plaintiff. The company he sued, Workwell Technologies, Inc., is the Defendant. Employers that used Workwell-uAttend and/or Citadel brand finger and facial scanners

for employment timekeeping purposes also allegedly violated BIPA if they did not comply with the law’s requirements.

2. What is a class action lawsuit?

A class action is a lawsuit in which one or more plaintiffs—in this case, Joey Muniz—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 Workwell and several Illinois employers violated an Illinois law called the Biometric Information Privacy Act (“BIPA”). The case claims that by using Workwell-uAttend and/or Citadel brand finger and facial-scanning time clocks in Illinois without complying with several of the law’s requirements, including getting employees’ written consent to the collection and providing a publicly-available retention policy, Workwell and the employers broke the law.

Workwell and each Participating Employer deny Plaintiff’s claims of wrongdoing and contend that they 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 Workwell or any Participating Employer. 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 who should win this case. Instead, the parties have 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 Class Members.

WHO’S INCLUDED IN THE SETTLEMENT?

5. Who is in the Settlement Class?

The Court decided that this Settlement includes two classes.

First, the “Workwell Class” includes all individuals that used a Workwell-uAttend and/or Citadel brand finger or facial scanner for employment timekeeping purposes in the State of Illinois between March 28, 2014 and April 8, 2019 (the “Workwell Class”).

Second, the “Employer Class” includes all individuals that used a Workwell-uAttend and/or Citadel brand finger or facial scanner for employment timekeeping purposes while working for a Participating Employer in the State of Illinois between March 28, 2014 and April 8, 2019. A list of

Participating Employers is available on the settlement website [www.\[tobedetermined\].com](http://www.[tobedetermined].com).

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

If you used a Workwell-uAttend and/or Citadel brand finger or facial scanner for employment timekeeping purposes in the State of Illinois between March 28, 2014 and April 8, 2019, you are a member of the Workwell Class and may be entitled to a cash payment.

If you used a Workwell-uAttend and/or Citadel brand finger or facial scanner for employment timekeeping purposes while working for a Participating Employer in the State of Illinois between March 28, 2014 and April 8, 2019 you are a member of the Employer Class and may be entitled to an additional cash payment. You can check the list of Participating Employers available on the settlement website to see if your current or former employer is part of the settlement.

THE SETTLEMENT BENEFITS

7. What does the Settlement provide?

Cash Payments to Class Members:

If the Court approves the Settlement, members of the Workwell Class whose employers are not participating and who submit valid claims will be receive an equal, or *pro rata*, share of a \$900,000 settlement fund that Workwell has agreed to establish (the “Workwell Fund”). Each individual who submits a valid claim will receive a portion of the Workwell Fund after all notice and administration costs, the incentive award, and attorneys’ fees—if approved by the Court—have been paid. Payments are estimated to exceed \$50.

Also, each Participating Employer has agreed to pay a gross amount of \$1,000.00 for each Employer Class member. This amount and the costs of administering the Settlement will be deducted from the Settlement Fund before it is automatically, equally distributed to Employer Class members. No claims process is required for the Employer Fund. If granted, Class Counsel expect that the Employer Fund will result in payments to Employer Class members of approximately \$650 each (this includes the payment for also being a member of the Workwell Class).

Agreement on Future Conduct: As part of the Settlement, Workwell and the Participating Employers have agreed that they will comply with BIPA by requiring that its Illinois customers obtain written releases from the customers’ Illinois employees who use finger or facial-scanning time clocks, making BIPA-required disclosures, destroying biometric data that they no longer need, and establishing a retention policy.

HOW TO GET BENEFITS

8. How do I get a payment?

If you are a Workwell Class member **only** and you want to get settlement benefits, you must complete and submit a valid Claim Form by [\[claims deadline\]](#). An online claim form is available on this website and can be filled out and submitted online. You can also get a paper claim form by calling [\[toll-free number\]](#). We encourage you to submit a claim online. It’s faster, and it’s free.

The Claim Form requires you to provide the following information: (1) your full name, current address, telephone number, and email address, and (2) a confirmation that you used a Workwell finger or facial scanner for employment timekeeping purposes between March 28, 2014 and April 8, 2019.

If you are an Employer Class Member, the Settlement Administrator will send a check to your last known address. You do not need to submit a claim form to receive a check from **either** the Employer Fund or the Workwell Fund. If you are an Employer Class Member, you will automatically be considered to have submitted a claim for the Workwell Fund.

9. 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, Workwell Class members whose claims were approved by the Settlement Administrator will be sent a check, and Employer Class members will be automatically be sent a check (without completing a claim form). Please be patient. All checks will expire and become void 90 days after they are issued. Uncashed checks will be donated to the Cook County Bar Association and Cabrini Green Legal Aid, pending Court approval, or such other organization as the Court may order consistent with the Illinois statutory requirements for *cy pres* recipients.

THE LAWYERS REPRESENTING YOU

10. Do I have a lawyer in the case?

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

11. 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.

12. How will the lawyers be paid?

Class Counsel will ask the Court for attorneys’ fees and expenses of up to 35% of the Workwell Fund and the Employer Fund, and will also request an incentive award of \$5,000.00 for the Class Representative from the Workwell Fund. The Court will determine the proper amount of any attorneys’ fees and expenses to award Class Counsel and the proper amount of any award to the Class Representative. The Court may award less than the amounts requested.

YOUR RIGHTS AND OPTIONS

13. What happens if I do nothing at all?

If you are only a member of the Workwell Class and do nothing, you will receive no payment under the Settlement, you will be in the Workwell Class, and if the Court approves the Settlement, 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 Workwell or any of the other Released Workwell Parties for the claims or legal issues being resolved by this Settlement.

If you are a member of the Employer Class and do nothing, you will be in both the Workwell and Employer Class, 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 the Released Workwell Parties or the Released Participating Employer Parties for the claims or legal issues being resolved by this Settlement.

14. What happens if I ask to be excluded?

You can request to be excluded from the Workwell Class, the Employer Class, or both. If you exclude yourself, you will receive no payment for that class under the Settlement and you will no longer be a member of the Class you requested to be excluded from. You will keep your right to start your own lawsuit against Workwell and/or the Participating Employers for the same legal claims made in this lawsuit. You will not be legally bound by the Court's judgments related to the Class, Workwell and/or the Participating Employer in this class action.

15. How do I ask to be excluded?

To be valid, any request for exclusion must (a) be in writing; (b) identify the case name *Joey Muniz v. Workwell Technologies, Inc.*, Case No. 2019-CH-04061 (Cir. Ct. Cook Cty.); (c) identify the Class—either the Workwell Class, Employer Class, or both—from which the Person is seeking exclusion; (d) state the full name and current address of the Person in the Workwell or Employer Class seeking exclusion; (e) be physically signed by the Person(s) seeking exclusion; and (f) 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 [Workwell and/or Employer] Class in *Joey Muniz v. Workwell Technologies, Inc.*, Case No. 2019-CH-04061 (Cir. Ct. Cook Cty.).” You must mail your exclusion request no later than [Objection / Exclusion deadline] to:

Muniz v. Workwell Settlement Administrator
P.O. Box 0000
City, ST 00000-0000

You can't exclude yourself on the phone or by email.

16. If I don't exclude myself, can I sue the Defendant for the same thing later?

No. If you are a member of the Workwell Class, you give up any right to sue Workwell and any Released Workwell Parties for the claims being resolved by this Settlement unless you exclude yourself. If you are a member of the Employer Class, you give up any right to sue the Participating Employer, any Released Participating Employer Parties, and any Released Workwell Parties for the claims being resolved by this Settlement unless you exclude yourself.

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

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

18. How do I object to the Settlement?

If you do not exclude yourself from the 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 *Joey Muniz v. Workwell Technologies, Inc.*, Case No. 2019-CH-04061, no later than [Objection / Exclusion Deadline]. Your objection must be filed with 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 60602

The objection must be in writing, must be personally 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 Workwell or Employer 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.

In addition to filing your objection with the Court, you must send via 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 the 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	Daniel T. Graham CLARK HILL PLC 130 E. Randolph St., Suite 3900 Chicago, Illinois 60601

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].

19. 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 Workwell or Employer Classes. Excluding yourself from the Workwell or Employer Classes is telling the Court that you don't want to be part of that Class. If you exclude yourself, you have no basis to object because the case no longer affects you.

THE COURT'S FINAL APPROVAL HEARING

20. 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 David B. Atkins in Room 2102 of 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 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](http://www.[tobedetermined].com).

21. 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.

22. May I speak at the hearing?

Yes. If you do not exclude yourself from the 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

23. 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, 8th Floor, 50 West Washington Street, Chicago, Illinois 60602, between 8:30 a.m. and 4:30 p.m., Monday through Friday, excluding Court holidays.

PLEASE DO NOT CONTACT THE COURT, THE JUDGE, THE DEFENDANT, OR YOUR EMPLOYER WITH QUESTIONS ABOUT THE SETTLEMENT OR CLAIMS PROCESS.

Exhibit H

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

JOEY MUNIZ, individually and on behalf of all
others similarly situated,

Plaintiff,

v.

WORKWELL TECHNOLOGIES, INC., a
California Corporation,

Defendant.

Case No.: 2019 CH 04061

Hon. David B. Atkins

PARTICIPATING EMPLOYER AGREEMENT

This Participating Employer Agreement is entered into by the below-signed entity (the “Participating Employer”) with the intent and purpose of agreeing to become a Participating Employer for purposes of the Settlement preliminarily approved in the above-captioned case, and receiving all the benefits and meeting all the obligations attendant to Participating Employers in the Settlement Agreement. All capitalized terms shall have the meaning set forth in the Settlement Agreement.

1. The Participating Employer employed individuals in Illinois who used a Workwell-uAttend and/or Citadel brand finger or facial scanner for timekeeping purposes between March 28, 2014 and April 8, 2019 (the “Employer Class” members).

2. The Participating Employer represents that it employed _____ such individuals during that time period.

3. The Participating Employer agrees to all of the Participating Employer’s obligations set forth in the Settlement Agreement, including the obligation to provide monetary

and implement prospective relief. The Participating Employer will contribute \$1,000 per Employer Class member it employed: a total of _____ to the Employer Fund.

4. The Participating Employer shall provide the Settlement Administrator with a list of all names, e-mail addresses, and last known U.S. mail addresses of all persons that it employed who are in the Employer Class within fourteen (14) days of executing this Participating Employer Agreement.

5. The Participating Employer shall receive all of the benefits to Participating Employers of the Settlement Agreement, including the Participating Employer Release.

6. Check the box next to one of the following representations concerning ongoing negotiations:

The Participating Employer represents that there have been no negotiations concerning a classwide settlement of claims between any person and the Participating Employer that would settle claims released by the Settlement Agreement.

The Participating Employer represents that it has engaged in negotiations with another person concerning a classwide settlement of claims between any person and the Participating Employer that would settle claims released by the Settlement Agreement, but that person has demanded less than the amount the Participating Employer will pay into the Employer Fund set forth in Paragraph 2.

7. The Participating Employer has read this Participating Employer Agreement and the Settlement Agreement, fully understands both documents, and has been fully advised as to the legal effect thereof by counsel of their own selection, or has had adequate opportunity to do so, and intends to be legally bound by the same.

8. Each signatory to this Participating Employer Agreement represents and warrants (a) that he, she, or it has all requisite power and authority to execute, deliver and perform the Settlement Agreement and to consummate the transactions contemplated herein, (b) that the execution, delivery and performance of the Settlement Agreement and this Participating Employer 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 the Settlement Agreement and this Participating Employer Agreement has been duly and validly executed and delivered by each signatory and constitutes its legal, valid and binding obligation.

Participating Employer Name: _____ Date: _____

Signatory name (printed): _____ Title: _____

Signature: _____

Exhibit I



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WORKWELL TECHNOLOGIES

uATTEND BIOMETRIC DATA

RETENTION POLICY

Updated 5/23/2019

A. Definitions

"Workwell Technologies" refers to "Workwell Technologies, Inc."

"uAttend" refers to the uAttend Time & Attendance System and associated software as a service platform provided by Workwell Technologies as well as any other related media form, media channel, mobile website or mobile application.

"You" or "Your" refer to any individual or entity ordering or using uAttend.

"Your Data" refers to any data or images that you input, scan or import into uAttend or is derived from uAttend, including, but not limited to, information regarding employees, time cards, hours worked, users, departments, or other data.

As used in this policy, biometric data includes "biometric identifiers" and "biometric information" as defined in the Illinois Biometric Information Privacy Act, 740 ILCS §

14/1, et seq. or such other statutes or regulations that apply in your state. "Biometric identifier" means a retina or iris scan, fingerprint, voiceprint, or scan of hand or face geometry. Biometric identifiers do not include writing samples, written signatures, photographs, human biological samples used for valid scientific testing or screening, demographic data, tattoo descriptions, or physical descriptions such as height, weight, hair color, or eye color. Biometric identifiers do not include information captured from a patient in a health care setting or information collected, used, or stored for health care treatment, payment, or operations under the federal Health Insurance Portability and Accountability Act of 1996.

"Biometric information" refers to any information, regardless of how it is captured, converted, stored, or shared, based on an individual's biometric identifier used to identify an individual. Biometric information does not include information derived from items or procedures excluded under the definition of biometric identifiers.

"Biometric data" refers to personal information stored by Workwell Technologies and/or its vendor(s) about an individual's physical characteristics that can be used to identify that person. Biometric data can include fingerprints, voiceprints, a retina scan, scans of hand or face geometry, or other data.

B. Biometric Data Disclosure and Authorization

To the extent that you, your vendors, and/or the licensor of your time and attendance software collect, capture, or otherwise obtain biometric data relating to an employee, you must first:

- a. Inform your employee in writing that you, your vendors, and/or the licensor of your time and attendance software are collecting, capturing, or otherwise obtaining the employee's biometric data, and that you are providing such biometric data to your vendors and the licensor of your time and attendance software;
- b. Inform the employee in writing of the specific purpose and length of time for which the employee's biometric data is being collected, stored, and used; and
- c. Receive a written release signed by the employee (or his or her legally authorized representative) authorizing you, your vendors, and/or the licensor of your time and attendance software to collect, store, and use the employee's

biometric data for the specific purposes disclosed by you, and for you to provide such biometric data to its vendors and the licensor of your time and attendance software.

You, your vendors, and/or the licensor of your time and attendance software will not sell, lease, trade, or otherwise profit from employees' biometric data; provided, however, that your vendors and the licensor of your time and attendance software may be paid for products or services used by you that utilize such biometric data.

Disclosure

You will not disclose or disseminate any biometric data to anyone other than your vendors and the licensor of your time and attendance software providing products and services using biometric data without/unless:

- a. First obtaining written employee consent to such disclosure or dissemination;
- b. The disclosed data completes a financial transaction requested or authorized by the employee;
- c. Disclosure is required by state or federal law or municipal ordinance; or
- d. Disclosure is required pursuant to a valid warrant or subpoena issued by a court of competent jurisdiction.

C. Retention Schedule

Workwell will permanently destroy an employee's biometric data from Workwell's systems, or the systems of Workwell vendor(s) within one (1) year, when, the first of the following occurs:

- The initial purpose for collecting or obtaining such biometric data has been satisfied, such as the termination of the employee's employment with the Company, or the employee moves to a role within the Company for which the biometric data is not used; or
- You request to discontinue your uAttend services.

You may delete biometric data IDs and templates for employees upon your discretion directly through the cloud portal and on devices.

Workwell will permanently destroy all your other data from Workwell's systems, or the systems of Workwell vendor(s), within one (1) year of your request to discontinue your uAttend services.

D. Data Storage

Workwell shall use a reasonable standard of care to store, transmit and protect from disclosure any paper or electronic biometric data collected. Such storage, transmission, and protection from disclosure shall be performed in a manner that is the same as or more protective than the manner in which Workwell stores, transmit and protect from disclosure other confidential and sensitive information, including personal information that can be used to uniquely identify an individual or an individual's account or property, such as genetic markers, genetic testing information, account numbers, PINs, driver's license numbers and social security numbers.

GENERAL INQUIRIES

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WORKWELL TECHNOLOGIES

Citadel BIOMETRIC DATA RETENTION POLICY

Updated 5/23/2019

A. Definitions

"Workwell Technologies" refers to "Workwell Technologies, Inc."

"Citadel" refers to the Citadel Time & Attendance System and associated software as a service platform provided by Workwell Technologies as well as any other related media form, media channel, mobile website or mobile application.

"You" or "Your" refer to any individual or entity ordering or using Citadel.

"Your Data" refers to any data or images that you input, scan or import into Citadel or is derived from Citadel, including, but not limited to, information regarding employees, time cards, hours worked, users, departments, or other data.

As used in this policy, biometric data includes "biometric identifiers" and "biometric information" as defined in the Illinois Biometric Information Privacy Act, 740 ILCS § 14/1, et seq. or such other statutes or regulations that apply in your state. "Biometric identifier" means a retina or iris scan, fingerprint, voiceprint, or scan of hand or face geometry. Biometric identifiers do not include writing samples, written signatures, photographs, human biological samples used for valid scientific testing or screening, demographic data, tattoo descriptions, or physical descriptions such as height, weight, hair color, or eye color. Biometric identifiers do not include information captured from a patient in a health care setting or information collected, used, or stored for health care treatment, payment, or operations under the federal Health Insurance Portability and Accountability Act of 1996.

"Biometric information" refers to any information, regardless of how it is captured, converted, stored, or shared, based on an individual's biometric identifier used to identify an individual. Biometric information does not include information derived from items or procedures excluded under the definition of biometric identifiers.

"Biometric data" refers to personal information stored by Workwell Technologies and/or its vendor(s) about an individual's physical characteristics that can be used to identify that person. Biometric data can include fingerprints, voiceprints, a retina scan, scans of hand or face geometry, or other data.

B. Biometric Data Disclosure and Authorization

To the extent that you, your vendors, and/or the licensor of your time and attendance software collect, capture, or otherwise obtain biometric data relating to an employee, you must first:

- a. Inform your employee in writing that you, your vendors, and/or the licensor of your time and attendance software are collecting, capturing, or otherwise obtaining the employee's biometric data, and that you are providing such biometric data to your vendors and the licensor of your time and attendance software;
- b. Inform the employee in writing of the specific purpose and length of time for which the employee's biometric data is being collected, stored, and used; and
- c. Receive a written release signed by the employee (or his or her legally authorized representative) authorizing you, your vendors, and/or the licensor of your time and attendance software to collect, store, and use the employee's biometric data for the specific purposes disclosed by you, and for you to provide such biometric data to its vendors and the licensor of your time and attendance software.

You, your vendors, and/or the licensor of your time and attendance software will not sell, lease, trade, or otherwise profit from employees' biometric data; provided, however, that your vendors and the licensor of your time and attendance software may be paid for products or services used by you that utilize such biometric data.

Disclosure

You will not disclose or disseminate any biometric data to anyone other than your vendors and the licensor of your time and attendance software providing products and services using biometric data without/unless:

- a. First obtaining written employee consent to such disclosure or dissemination;
- b. The disclosed data completes a financial transaction requested or authorized by the employee;
- c. Disclosure is required by state or federal law or municipal ordinance; or
- d. Disclosure is required pursuant to a valid warrant or subpoena issued by a court of competent jurisdiction.

C. Retention Schedule

Workwell will permanently destroy an employee's biometric data from Workwell's systems, or the systems of Workwell vendor(s) within one (1) year, when, the first of the following occurs:

- The initial purpose for collecting or obtaining such biometric data has been satisfied, such as the termination of the employee's employment with the Company, or the employee moves to a role within the Company for which the biometric data is not used; or
- You request to discontinue your Citadel services.

You may delete biometric data IDs and templates for employees upon your discretion directly through the cloud portal and on devices.

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Workwell shall use a reasonable standard of care to store, transmit and protect from disclosure any paper or electronic biometric data collected. Such storage, transmission, and protection from disclosure shall be performed in a manner that is the same as or more protective than the manner in which Workwell stores, transmit and protect from disclosure other confidential and sensitive information, including personal information that can be used to uniquely identify an individual or an individual's account or property, such as genetic markers, genetic testing information, account numbers, PINs, driver's license numbers and social security numbers.

Get In Touch



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(760) 701-5268 for support



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