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Biometric Law Limitation Period Clarified by Illinois Court, Bloomberg Law, featuring Jean Liu

Biometric Law Limitation Period Clarified by Illinois Court

The Illinois Appellate Court clarified the statute of limitations under the state's Biometric Information Privacy Act, writing that a five-year window applies to some claims while a one-year period applies to others. The five-year statute of limitations applies to BIPA claims that allege collection of biometrics without written notice, failure to take care in storing or transmitting the data, and failure to develop a publicly available retention and destruction schedule, according to…

"While the five-year limitations period is a win for plaintiffs looking to bring claims in BIPA lawsuits against employers, the one-year limitations period can be used to defendants' advantage, said Jean Liu, an attorney at Kaufman Dolowich Voluck LLP in Chicago. Businesses, for example, may be able to "trim" claims that are time-barred by the one-year period even if they face other claims that fall under the five-year statute of limitations, Liu said. That ability to shed certain allegations can help companies reduce potential liability and risk, she said. The case is a reminder to businesses to obtain express written consent and ensure their timekeeping systems are in compliance with BIPA, Liu added. "The opinion gives clarity on the statute of limitations, which is a good thing," she said. "But the BIPA litigation landscape is changing rapidly, and it's being shaped by further appeals that are still pending."

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