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Illinois Supreme Court Issues Employer-Friendly BIPA Decision, Paul Daugherity 5/1/2023

Summary of recent Illinois Supreme Court BIPA decision - ***Walton v. Roosevelt University***, 2023 WL 2603868 (Ill. 2023).

The Illinois Supreme Court has rendered a positive decision for employers, although limited in scope.

The Illinois Supreme Court recently reviewed the following limited certified question: Does Section 301 of the Labor Management Relations Act (29 U.S.C. §185) pre-empt Biometric Privacy Information Act ("BIPA") claims brought by bargaining unit employees covered by a Collective Bargaining Agreement ("CBA")? The Court ultimately held that it does.

In March 2019, William Walton, a member of SEIU Local 1, a collective bargaining unit, filed a class-action complaint against his former employer, Roosevelt University. The complaint alleged Roosevelt University's collection, use, storage, and disclosure of Walton's and similarly situated employees' biometric data violated BIPA. Roosevelt filed a motion to dismiss alleging Walton's Privacy Act claims were pre-empted by the Labor Management Relations Act. The trial court denied the motion to dismiss, but certified the question for review, allowing it to make its way to the Illinois Supreme Court.

The Illinois Supreme Court agreed with the recent Seventh Circuit decision in Fernandez v. Kerry, Inc. 14 F.4th 644 (7th Cir. 2021). In Fernandez, the Seventh Circuit determined that when an employer invokes a broad management-rights clause from a CBA in response to a BIPA claim, the claim is pre-empted because it is up to the dispute resolution process set forth in the CBA to determine "whether the employer properly obtained the union's consent." Id. at 646. The Fernandez decision follows an earlier Seventh Circuit case, Miller v. Southwest Airlines Co., in which the Court held BIPA was pre-empted by the Railway Labor Act. 926 F.3d 898 (7th Cir. 2019).

The Illinois Supreme Court found that when an employer invokes a broad management-rights clause from a CBA in response to a BIPA claim brought by bargaining unit employees, "there is an arguable claim" for pre-emption. The Court stated resolution of BIPA claims depends on the interpretation of the CBA in place between bargaining unit employees and their employer. The Walton decision effectively ends the practice of plaintiffs attempting to circumvent the federal precedent by bringing BIPA claims in Illinois state court. Instead, a union employee's BIPA claim must be resolved according to the process described in the CBA. While this is a positive outcome for employers, it is limited in its scope, since it only applies to employee-employer relationships subject to a CBA.

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