

Facebook users in Illinois may be entitled to payment if their face appeared in a picture on Facebook after June 7, 2011

Don't worry, you are not being sued. This is an official court notice, not an ad for a lawyer.

Facebook, Inc. has settled a class action that claimed Facebook collected and stored the biometric data of Facebook users in Illinois without the proper notice and consent in violation of Illinois law as part of its "Tag Suggestions" feature and other features involving facial recognition technology.

You are included in the Settlement if you are or were a Facebook user located in Illinois and Facebook created and stored a face template for you after June 7, 2011.

Included users can fill out a short Claim Form and receive approximately \$200 to \$400 per person from a \$650 million Settlement Fund. This fund will also be used to pay the costs of notifying people about the Settlement, the lawyers' fees, awards to the users who helped bring the lawsuit, and certain taxes.

The Settlement also requires Facebook to turn "off" its Facial Recognition setting and delete face templates for most users unless they turn it back "on."

If you are included, your legal rights are affected whether you act or do not act. Read this Notice carefully.

The Court in charge of this case hasn't decided if the Settlement is fair yet. Payments will be made only if the Court decides the Settlement is fair and approves the Settlement.

Your Legal Rights and Options in this Lawsuit

1. Fill Out a Claim Form.

The only way to get a payment. You must submit a valid Claim Form either online or by mail postmarked by November 23, 2020.

2. Object.

Write to the Court about why you do not like something about the Settlement by November 23, 2020.

3. Ask to be excluded from the Class.

If you don't want to be a part of the Settlement, you must send a written request to be excluded. You won't get any money or other benefits, but you will keep any rights to sue Facebook yourself for the same legal issues in this lawsuit.

4. Go to a hearing on January 7, 2021.

You can ask to speak to the Court about your opinion of the Settlement, including the amount of lawyers' fees. Written requests to speak must be received by the Court by November 23, 2020.

5. Do nothing.

You won't get any money and you will lose any rights to sue Facebook yourself for the same legal issues in this lawsuit.

Basic Information

6. Why should I read this Notice?

This Notice explains the lawsuit, the Settlement, your rights, what payments are available, and how to get them.

The Hon. James Donato of the United States District Court for the Northern District of California is in charge of this class action. The lawsuit is known as *In re Facebook Biometric Information Privacy Litigation*, Case No. 3:15-CV-03747-JD.

7. What is this lawsuit about?

Facebook users in Illinois sued Facebook claiming that its "Tag Suggestions" feature and other features involving facial recognition technology violated the Illinois Biometric Information Privacy Act ("BIPA"). That law says companies can't collect, store, or give out "biometric data," which includes things like face or fingerprint scans, without first giving notice and getting consent. This case alleges that Facebook used facial recognition technology to create face templates—unique templates that can be used to identify users in photos, that these templates are covered by BIPA, and that Facebook did this without the proper notice and consent. Facebook denies all allegations of wrongdoing and liability.

8. What is a class action and who is involved?

In a class action lawsuit, one or more people called "Class Representatives" sue on behalf of other people who have similar claims. These people together are a "Class" or "Class Members." One court resolves the issues in the case for everyone in the Class—except for those people who choose to exclude themselves from the Class. In this case, the Court appointed Nimesh Patel, Adam Pezen, and Carlo Licata as the Class Representatives. These individuals are each from Illinois and claim that they had face templates created and stored by Facebook.

9. Why is there a Settlement?

Facebook and the Class Representatives spent more than five years in Court fighting this case. Shortly before trial, both sides agreed to a settlement. The Settlement gives Class Members guaranteed payments now whereas in a trial, Class Members might get nothing or might get payments only years from now. Because there is a settlement, the Court has not decided who should win the case.

Who Is Included in the Settlement

To see if you can get a payment, you first need to determine whether you are included in this lawsuit.

10. Am I Included as part of the Class?

The Court decided that all people who fit this definition are included in the Class: "Facebook users located in Illinois for whom Facebook created and stored a face template after June 7, 2011."

To receive money under the Settlement, you must have lived in the State of Illinois for a period of at least 183 days (6 months) after June 7, 2011. Time spent traveling or taking a vacation outside Illinois can be included in this time period and does not make you ineligible.

Facebook's records were used to identify certain Class Members who should have received Notice through email or on Facebook. If you didn't get a Notice and think you're included, you might be part of the Class if you are a current or former Facebook user in Illinois who uploaded a photograph of yourself or were "tagged" in a photograph on Facebook after June 7, 2011. Not everybody in Illinois who uses Facebook is included. If photographs of you that were uploaded to Facebook (by yourself or others) after June 7, 2011 did not result in the creation of a face template while you lived in Illinois, you are not part of the Class. For more information, please visit www.facebookbipaaction.com.

11. Are there exceptions to being included?

Some users are excluded because they work for Facebook or are related to the judges or lawyers in the case. The Settlement Agreement has a list of the categories of people who are excluded. Of course, users who request to be excluded (this process is explained below) aren't included either.

12. I'm still unsure if I am included.

If you are still not sure whether you are included, you can get free help at www.facebookbipaaction.com, by calling the Settlement Administrator at 1-844-799-2417 or by calling the lawyers appointed to represent Class Members in this case, Edelson PC ("Edelson") of Chicago, Illinois 1-866-354-3015, Robbins Geller Rudman & Dowd LLP ("Robbins Geller") of San Francisco, California 1-800-449-4900, and Labaton Sucharow LLP ("Labaton Sucharow") of New York, New York 1-888-219-6877. Please do not contact the Court or Facebook.

The Settlement Benefits

13. What does the Settlement provide?

Facebook will pay \$650 million to settle this case. That money will go into a "Settlement Fund" to pay for everything related to the Settlement. Most of the money will go to Class Members who submit valid Claim Forms (more about that in the question below). The rest will be used to pay the costs of notifying people about the Settlement, the lawyers' fees, awards to the Class Representatives who helped bring the lawsuit, and certain taxes.

Facebook will also turn "off" its Face Recognition feature for most Class Members. If those Class Members don't turn Face Recognition back on, Facebook will delete all existing face templates for those users.

Some Class Members who already turned Face Recognition back "on" for themselves, including Class Members who recently signed up for Facebook, won't have their Face Recognition setting turned off.

Finally, Facebook will delete any face templates of any Class Members who have had no activity on Facebook for a period of three years.

14. How much will my payment be?

Payments will likely be approximately \$200 to \$400 per person. We can't give you an exact number right now because the payment amounts depend on how many Class Members file valid claims and the amount of fees, costs, expenses, and awards deducted from the Settlement Fund. The Settlement Website will periodically be updated to provide the estimated payment amount based on the number of participating Class Members.

15. How can I get a payment?

To get a payment you have to complete and submit a valid Claim Form **no later than November 23, 2020**. Please file your claim electronically on **www.facebookbipaaction.com**. Not only is submitting online easier and more secure, but it is completely free and takes only minutes. You can get payment by a check or electronically through Zelle, PayPal, and direct deposit.

If you want to get a paper copy of the Claim Form, you can go to **www.facebookbipaaction.com** or call toll-free, 1-844-799-2417.

16. When will I get my payment?

We can't give you a date yet. Payments will be made about two months after the Court approves the Settlement. The Court will consider final approval of the Settlement on January 7, 2021. Even if the Court approves the Settlement, there may be appeals. It is always uncertain whether and when appeals can be resolved, and resolving them can take more than a year.

All checks will expire and become void 90 days after they are issued. If there is any money left because of uncashed checks or returned electronic payments, you may get a second payment if you filed a valid claim. If there is money left after the second payments, that money may be donated to the American Civil Liberties Union of Illinois to be used for their efforts protecting biometric privacy rights.

The Settlement Website will be updated to inform Class Members of the progress of the Settlement. Please be patient.

What happens if you remain in the Settlement

17. What am I giving up if I stay in the Class?

Unless you exclude yourself, you are staying in the Class. That means that if the Court approves the Settlement, you are giving up the right to file your own lawsuit against, or seek further money from, Facebook for any of the issues or claims in the case—whether or not you are currently aware of those claims.

The specific scope of the claims you are releasing is in paragraph 1.25 of the Settlement Agreement, which is available through the “Court Documents” link on the Settlement Website. If you have any questions, you can talk to the lawyers listed in Question 19 for free, or you can, of course, talk to your own lawyer if you have questions about what the release means.

18. What happens if I do nothing at all?

If you are a Class Member and do nothing (meaning you don't submit a Claim Form and don't exclude yourself), you will not get anything from this Settlement and you will release your claims as explained above.

The Lawyers Representing you

19. Do I have a lawyer in this case?

The Court has appointed the law firms of Edelson 1-866-354-3015, Robbins Geller 1-800-449-4900, and Labaton Sucharow 1-888-219-6877 to represent you and all Class Members. These firms are called “Class Counsel.” The law firms are experienced in handling similar class action cases. More information about Edelson, Robbins Geller, and Labaton Sucharow, their practices, and their lawyers' experience is available at www.edelson.com, www.rgrdlaw.com, and www.labaton.com.

They believe, after fighting with Facebook in Court for several years, that the Settlement Agreement is fair, reasonable, and in the best interests of the Class. You will not be separately charged for these lawyers. If you want to be represented by your own lawyer in this case, you may hire one at your expense.

20. How will the lawyers be paid?

The Court will determine how much Class Counsel will be paid for attorneys' fees, costs, and expenses in this case. The amounts will be paid from the \$650 million Settlement Fund. Class Counsel will apply for an attorneys' fees award of no more than twenty percent of the original \$550 million settlement fund, plus costs and expenses. Labaton Sucharow will use money from its share of what is awarded to pay the Offices of Norman Rifkind.

Class Counsel will also ask the Court to approve awards of up to \$7,500 each to compensate the Class Representatives for their services on behalf of the Class.

Class Counsel's application for an award of attorneys' fees, costs, and expenses and the Class Representative awards will be made available on the "Court Documents" page at www.facebookbipaaction.com on October 15, 2020.

Excluding Yourself from the Class

21. How do I get out of the Settlement?

To exclude yourself from the Class, and no longer be part of the Settlement, you must mail, email, or deliver a letter stating that you want to be excluded from the Class in *In re Facebook Biometric Information Privacy Litigation*, Case No. 3:15-cv-03747-JD. Your request for exclusion must include your name, address, email address, and your signature. If your email address is different than the email address associated with your Facebook account, please also include an email address associated with your account or a mobile phone number associated with your account. You must mail or email your exclusion request **no later than November 23, 2020**, to:

In re Facebook Biometric Information Privacy Litigation Settlement Administrator
P.O. Box 43401
Providence, RI 02940-3401
admin@facebookbipaaction.com

22. If I do not exclude myself, can I sue Facebook for the same thing later?

No. Unless you exclude yourself, you give up any right to sue Facebook for the claims being resolved by this Settlement. If you have a pending case against Facebook, please speak with your attorney immediately.

23. If I exclude myself, can I still get anything from the Settlement?

No. If you exclude yourself, you should not submit a Claim Form to ask for a payment because you will no longer be eligible for any.

Objecting to or Commenting on the Settlement

24. How do I object or comment on the Settlement or the request for attorneys' fees, costs, expenses, and incentive awards?

You can comment on, or object to, the Settlement, Class Counsel's request for attorneys' fees, costs and expenses, and/or the request for awards for the Class Representatives.

You can ask the Court to deny approval of the Settlement. You cannot ask the Court to order a different settlement; the Court can only approve or reject the Settlement. If the Court denies approval, no payments will be made now, and the litigation will continue. If that is what you want to happen, you must object.

Any objection to the proposed Settlement must be in writing. If you file a written objection before the deadline, you may, but don't have to, appear at the Final Approval Hearing. If you want to appear, you can do so yourself or through your own attorney. If you appear through your own attorney, you are responsible for hiring and paying that attorney.

All written objections must contain the following:

- The name and case number of this lawsuit (*In re Facebook Biometric Information Privacy Litigation*, Master File No. 3:15-CV-03747-JD);
- Your full name, mailing address, email address, and telephone number;
- If you use a different email address or telephone number for your Facebook account please also provide that information;
- An explanation of why you believe you are a Class Member;
- A statement that identifies whether you are objecting only on your own behalf, on behalf of a subsection of the Class, or on behalf of the Class as a whole;
- All reasons for your objection or comment, including all citations to legal authority and evidence supporting the objection;
- Whether you intend to personally appear and/or testify at the Final Approval Hearing (either personally or through counsel), and what witnesses you will ask to speak;
- The name and contact information of any and all attorneys representing, advising, and/or assisting you, including any counsel who may be entitled to compensation for any reason related to your objection or comment, who must make an appearance with the Court in accordance with the Local Rules; and
- Your handwritten or electronically imaged signature. An attorney's signature, or typed signature, is not sufficient.

To be considered by the Court, your comment or objection must be received by the Court either by mailing it to the Class Action Clerk, United States District Court for the Northern District of California, Phillip Burton Federal Building & U.S. Courthouse, 450 Golden Gate Avenue, San Francisco, CA 94102, or by filing it in person at any location of the United States District Court for the Northern District of California. To be considered, your comment or objection must be filed or postmarked **on or before November 23, 2020**.

25. What is the difference between objecting and excluding myself from the Class?

Objecting means that you disagree with some aspect of the Settlement and think the Court should not approve the Settlement. An objection, or a comment, allows your views to be heard in court. You can object only if you stay in the Class.

Excluding yourself from the Class means that you are no longer a Class Member and do not want the Settlement to apply to you. If you exclude yourself, you lose any right to receive any payments or benefits from the Settlement or to object to the Settlement because the case no longer affects you.

The Court's Final Approval Hearing

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

The Court is scheduled to hold the Final Approval Hearing on January 7, 2021 at 10:00 a.m. in Courtroom 11 of the United States Courthouse, 450 Golden Gate Ave., 19th Floor, San Francisco, CA. The hearing may be rescheduled to a different date or time or location without another Notice to Class Members. Especially given the national health emergency, the date, time and location of the hearing may be subject to change, as will the manner in which Class Members might appear at the hearing. Please review the Settlement Website for any updated information regarding the Final Approval Hearing.

At the Final Approval Hearing, the Court will consider whether the Settlement is fair, reasonable and adequate. If there are objections, the Court will consider them. The Court may listen to people who appear at the hearing and who have provided notice of their intent to appear at the hearing. The Court may also consider Class Counsel's application for attorneys' fees, costs and expenses and for awards to Class Representatives.

27. Do I have to come to the Final Approval Hearing?

No. Class Counsel will answer any questions the Court may have. You may attend at your own expense if you wish. If you submit a written objection or comment, you do not have to come to the Court to talk about it. As long as you submit your written objection or comment on time, and follow the requirements above, the Court will consider it. You may also pay your own attorney to attend, but it is not required.

28. May I speak at the Final Approval Hearing?

Yes. You may ask the Court for permission to speak at the Final Approval Hearing. At the hearing, the Court may hear any objections and arguments concerning the fairness of the Settlement and/or Class Counsel's request for attorneys' fees, costs, expenses, and incentive awards.

To do so, you must include in your objection or comment a statement saying that it is your "Notice of Intent to Appear in *In re Facebook Biometric Information Privacy Litigation*, Case No. 3:15-cv-03747-JD". It must include your name, address, email, telephone number and signature as well as the name and address of your lawyer, if one is appearing for you. Your submission and notice of intent to appear must be filed with the Court and be received no later than November 23, 2020.

You cannot speak at the hearing if you exclude yourself from the Class.

Getting More Information

29. How do I get more information?

This Notice summarizes the proposed Settlement. More details are in the Stipulation of Class Action Settlement, in the Court's orders, and other relevant documents, which are available online at www.facebookbipaclassaction.com.

You can also get information about this case by accessing the Court docket, for a fee, through the Court's Public Access to Court Electronic Records (PACER) system at www.cand.uscourts.gov, or by visiting the office of the Clerk of the Court for the United States District Court for the Northern District of California, San Francisco Courthouse, between 9:00 a.m. and 4:00 p.m., Monday through Friday, excluding Court holidays.

You may also contact the Settlement Administrator at 1-844-799-2417 or write to *In re Facebook Biometric Information Privacy Litigation* Settlement Administrator, P.O. Box 43401, Providence, RI 02940-3401, or call Class Counsel Edelson (1-866-354-3015), Robbins Geller (1-800-449-4900), and Labaton Sucharow (1-888-219-6877).

**PLEASE DO NOT TELEPHONE THE COURT OR THE COURT CLERK'S OFFICE
TO INQUIRE ABOUT THIS SETTLEMENT OR THE CLAIM PROCESS.**

All questions regarding the Settlement or claims process should be directed to the Settlement Administrator or to Class Counsel.

By order of the United States District Court for the Northern District of California