



## Alerts

### Illinois Supreme Court Affirms That Federal Labor Law Preempts Plaintiff's BIPA Claim

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*Insights for Employers*

We share news of a significant defense victory before the Illinois Supreme Court in a claim involving the Illinois Biometric Information Privacy Act (BIPA). In a case argued by Hinshaw partner John Ryan, the Supreme Court handed down the first employer-friendly decision in any BIPA case it has considered. The issue before the Court was whether "Section 301 of the Labor Management Relations Act (29 U.S.C. §185) preempt Privacy Act claims (740 ILCS 14/1) asserted by bargaining unit employees covered by a collective bargaining agreement?"

In plain English, the Court had to determine whether federal labor law governs the resolution of a BIPA claim, and would a BIPA plaintiff, either individually or as a class representative, have to litigate that claim through the grievance and arbitrations mechanisms of a collective bargaining agreement (CBA). The Court answered the certified question in the affirmative. The Court held that "[g]iven the language in the CBA and the LMRA, it is both logical and reasonable to conclude any dispute must be resolved according to federal law and the agreement between the parties."

Plaintiff was a member of a collective bargaining unit. Pursuant to the CBA, the Plaintiff's union was the sole and exclusive bargaining agent for the bargaining unit. Instead of grieving the matter with his union pursuant to the terms of the CBA, the Plaintiff filed a class action lawsuit in Cook County alleging that the Defendant violated BIPA because it required Plaintiff and those in the putative class to use a hand scan timeclock.

Defendant is represented by Mr. Ryan, and at oral argument, he endured a barrage of questions relating to the scope of the CBA and the specific facts of the case. Mr. Ryan responded by re-focusing the argument back to LMRA preemption principles and the decisions of the Seventh Circuit on similar cases involving BIPA in unionized environments. The Illinois Supreme Court ultimately concluded that "because we do not believe the federal decisions were wrongly decided, and here the CBA contained a broad management rights clause, we find Walton's Privacy Act claims are preempted by the LMRA."

The win provides a measure of relief for BIPA defendants in circumstances where the named plaintiff or members of the putative class are subject to a collective bargaining unit.

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#### Service Areas

Biometric Information Privacy Act

Labor & Employment