

**CIRCUIT COURT OF COOK COUNTY, ILLINOIS**

*Rottner v. Palm Beach Tan, Inc.*, Case No. 2015-CH-16695

**IF YOU USED A FINGER SCANNER AT A PALM BEACH TAN TANNING SALON IN ILLINOIS BETWEEN NOVEMBER 13, 2010 AND MARCH 24, 2016, YOU CAN CLAIM A PAYMENT FROM A CLASS ACTION SETTLEMENT.**

*This is an official court notice. You are not being sued. This is not an ad for a lawyer.*

- A Settlement has been reached in a class action lawsuit between Palm Beach Tan, Inc. and PBT Acquisition I, LLC (“Defendants” or “Palm Beach Tan”) and certain individuals who visited a Palm Beach Tan salon in the state of Illinois. The lawsuit claims that Palm Beach Tan violated an Illinois law called the Illinois Biometric Information Privacy Act (“BIPA”) by collecting individuals’ fingerprint data through its fingerprint-scanning identification system at its tanning salons throughout Illinois without complying with the law’s requirements. Palm Beach Tan denies it did anything wrong. The Court has not decided who is right or wrong. The Settlement has been preliminarily approved by a court in Cook County, Illinois.
- You are included in the Settlement if you scanned your finger(s) for tanning purposes at a Palm Beach Tan facility in the state of Illinois between November 13, 2010 and March 24, 2016. If you received a notice of the Settlement in the mail or by e-mail, our records indicate that you may be a class member and you can submit a claim form online or by mail to receive a cash payment.
- If the Court approves the Settlement, members of the Class who submit valid claims will receive four payments of an equal, or *pro rata*, share of a \$10,300,000 settlement fund that Palm Beach Tan has agreed to establish, after all notice and administration costs, incentive award, and attorneys’ fees have been paid. Individual payments to class members who submit a valid Claim Form are estimated to be \$700 to \$1,400, depending on the number of valid claims submitted. In order to allow Defendants to pay all the money, estimated payments of \$175 to \$350 will be made **once a year for four years**.
- Please read this notice carefully. Your legal rights are affected whether you act, or don’t act.

<b>YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT</b>	
<b>SUBMIT A CLAIMFORM</b>	This is the only way to receive a payment. You must submit a claim form either online or by mail before May 30, 2022.
<b>DO NOTHING</b>	You will receive no payment under the Settlement and give up your rights to sue Defendants about the issues in this case.
<b>EXCLUDE YOURSELF</b>	You will receive no payment, but you will retain any rights you currently have to sue Defendants about the issues in this case.
<b>OBJECT</b>	Write to the Court explaining why you don't like the Settlement.
<b>ATTEND A HEARING</b>	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 the Court approves the Settlement and 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 the Defendants. 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 Celia G. Gamrath of the Circuit Court of Cook County, Illinois is overseeing this class action. The case is called *Rottner v. Palm Beach Tan, Inc.*, Case No. 2015-CH-16695. The person who filed the lawsuit, Jennifer Rottner, is the Plaintiff. The companies she sued, Palm Beach Tan, Inc. and PBT Acquisition I, LLC are the Defendants. Palm Beach Tan operates a chain of tanning salons located throughout the United States, including in Illinois.

#### **2. What is a class action lawsuit?**

A class action is a lawsuit in which an individual called a “Class Representative” brings a single lawsuit on behalf of other people who have similar legal claims. All of these people together are a “Class” or “Class Members.” Once a Class is certified, a class action Settlement finally approved by the Court resolves the issues for all Settlement Class Members, except for those who exclude themselves from the Settlement Class.

## THE CLAIMS IN THE LAWSUIT AND THE SETTLEMENT

### 3. What is this lawsuit about?

The Illinois Biometric Information Privacy Act (“BIPA”), 740 ILCS 14/1, *et seq.*, prohibits the collection, storage, and/or use of a person’s biometric data for any purpose, without first providing notice and getting consent in writing. Biometrics are things like your fingerprint, faceprint, or a scan of your eye’s iris. This lawsuit alleges that Defendants violated BIPA by using finger-scanning devices at Palm Beach Tan salons in Illinois to identify individuals without complying with the law’s requirements. Defendants deny these allegations and deny that they violated BIPA. No Court has decided who is right.

More information about the complaint in the lawsuit and the Defendants’ position can be found in the “Court Documents” section of the settlement website at [www.PBTSettlement.com](http://www.PBTSettlement.com).

### 4. Who is included in the Settlement Class?

The Court has decided that this Settlement includes all individuals who scanned their finger(s) for tanning purposes at a Palm Beach Tan facility located in the state of Illinois between November 13, 2010 and March 24, 2016. If you received a notice of the Settlement via email or in the mail, our records indicate that you may be a Class Member included in the Settlement. You may call or email the Settlement Administrator at 833-620-3612 or [info@PBTSettlement.com](mailto:info@PBTSettlement.com) to ask whether you are a member of the Settlement Class.

## THE SETTLEMENT BENEFITS

### 5. What does the Settlement provide?

**Cash Payments.** If you’re eligible, you can file a claim to receive cash payments. The amount of each payment is estimated to be around \$700 to \$1,400, depending on the number of valid claims submitted. This is an equal share of a \$10,300,000 fund that Palm Beach Tan has agreed to create, after the payment of settlement expenses, attorneys’ fees, and any incentive award for the Class Representative in the litigation approved by the Court. In order to allow Palm Beach Tan to pay all the money, the Settlement Fund will be paid in four installments over four years. Settlement Class members who submit a valid claim during the claims period will get their payment in four estimated equal installments of \$175 to \$350 per year by the Settlement Administrator.

**Prospective Relief.** Palm Beach Tan stopped using finger-scanning devices in March of 2016, but further agrees under the Settlement that, if it uses biometric technology in the future, it will comply with BIPA going forward by obtaining written releases from all Illinois customers who use biometric devices, making BIPA-required disclosures, destroying biometric data in compliance with the statute, and establishing a publicly-available retention policy.

## HOW TO GET SETTLEMENT BENEFITS

### 6. How do I get a payment?

If you are a Settlement Class member and you want to get a payment, you must complete and submit a valid Claim Form by May 30, 2022. If you received an email notice, it contained a link to the online Claim Form, which is also available on this website and can be filled out and submitted online. A paper Claim Form with pre-paid postage was attached to the postcard notice you may have received in the mail. The claim form lets you select to receive your payment via Zelle, Paypal, Venmo, or check.

### 7. When will I get my payments?

The hearing to consider the fairness of the Settlement is scheduled for June 21, 2022 at 8:45 a.m. (CT). If the Court approves the Settlement and there are no appeals, Class Members whose claims were approved by the Settlement Administrator will be sent their first of four payments within 60 days in the method they selected. The remaining three payments will be made by the same method at around the same time for the following three years. Please be patient. Uncashed checks and electronic payments that are unable to be completed for the first three payments will expire and become void 90 days after they are issued and will be returned to the fund and distributed to class members in later payments. Any final uncashed checks or undeliverable electronic payments will be donated to the Illinois Bar Foundation or such other not-for-profit organization(s) as the Court may order.

## THE LAWYERS REPRESENTING YOU

### 8. Do I have a lawyer in the case?

Yes, the Court has appointed lawyers Jay Edelson, J. Eli Wade-Scott, and Theo J. Benjamin of Edelson PC as the attorneys to represent you and other Class Members. These attorneys are called "Class Counsel." In addition, the Court appointed Plaintiff Jennifer Rottner to serve as the Class Representative. She is a Class Member like you. Class Counsel can be reached by calling 1-866-354-3015.

### 9. 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 do so, you will have to pay that lawyer.

### 10. How will the lawyers be paid?

Class Counsel will ask the Court for attorneys' fees and expenses of up to 35% of the Settlement Fund, and will also request an incentive award of \$5,000 for the Class Representative from the Settlement 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. The lawyers will receive any award of attorneys' fees in four installments over a period of four years like the class members.

## YOUR RIGHTS AND OPTIONS

### **11. What happens if I do nothing at all?**

If you do nothing, you will receive no money from the Settlement Fund, but you will still be bound by all orders and judgments of the Court. Unless you exclude yourself from the Settlement, you will not be able to file or continue a lawsuit against Defendants or other Released Parties regarding any of the Released Claims. **Submitting a valid and timely Claim Form is the only way to receive a payment from this Settlement.**

To submit a Claim Form, or for information on how to request exclusion from the class or file an objection, please visit the settlement website, [www.PBTSettlement.com](http://www.PBTSettlement.com), or call (833) 620-3612.

### **12. What happens if I ask to be excluded?**

You may exclude yourself from the Settlement. If you do so, you will not receive any cash payment, but you will not release any claims you may have against Palm Beach Tan and the Released Parties (as that term is defined in the Settlement Agreement) and are free to pursue whatever legal rights you may have by pursuing your own lawsuit against Palm Beach Tan and the Released Parties at your own risk and expense.

### **13. How do I ask to be excluded?**

You can mail or email a letter stating that you want to be excluded from the Settlement. Your letter must: (a) be in writing; (b) identify the case name, *Rottner v. Palm Beach Tan, Inc.*, 2015-CH-16695 (Cir. Ct. Cook Cty. Ill.); (c) state the full name and current address of the person in the Settlement Class seeking (d) be signed by the person(s) seeking exclusion; and (e) be postmarked or received by the Settlement Administrator on or before May 30, 2022. Each request for exclusion must also contain a statement to the effect that “I hereby request to be excluded from the proposed Settlement Class in *Rottner v. Palm Beach Tan, Inc.*, 2015-CH-16695 (Cir. Ct. Cook Cty. Ill.).” You must mail or e-mail your exclusion request no later than May 30, 2022 to:

Rottner v. Palm Beach Tan  
c/o Kroll Settlement Administration  
P.O. Box 5324  
New York, NY 10150-5324

-or-

[info@PBTSettlement.com](mailto:info@PBTSettlement.com)

You can't exclude yourself over the phone. No person may request to be excluded from the Settlement Class through “mass” or “class” opt-outs.

### **14. If I don't exclude myself, can I sue Palm Beach Tan for the same thing later?**

No. Unless you exclude yourself, you give up any right to sue Palm Beach Tan and any other Released Party for the claims being resolved by this Settlement.

### **15. If I exclude myself, can I get anything from this Settlement?**

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

## **16. How do I object to the Settlement?**

If you do not exclude yourself from the Settlement 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 *Rottner v. Palm Beach Tan, Inc.*, 2015-CH-16695 (Cir. Ct. Cook Cty. Ill.), no later than May 30, 2022. Your objection must be e-filed or delivered to the Court 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 signed, and must include the following information: (a) your full name and current address, (b) a statement that you believe you are a member of the Settlement Class, (c) whether the objection applies only to you, to a specific subset of the Settlement Class, or to the entire Settlement Class, (d) the specific grounds for your objection, (e) all documents or writings that you wish the Court to consider, (f) the name and contact information of any attorneys representing, advising, or in any way assisting you in connection with the preparation or submission of the objection or who may profit from the pursuit of the objection, and (g) a statement indicating whether you intend to appear at the Final Approval Hearing. If you hire an attorney in connection with making an objection, that attorney must file an appearance with the Court or seek *pro hac vice* admission to practice before the Court, and electronically file the objection by the objection deadline of May 30, 2022. If you do hire your own attorney, you will be solely responsible for payment of any fees and expenses the attorney incurs on your behalf. If you exclude yourself from the Settlement, you cannot file an objection.

In addition to filing your objection with the Court, you must send via mail, email, or delivery service, by no later than May 30, 2022, copies of your objection and any supporting documents to both Class Counsel and the Defendants' lawyers at the addresses listed below:

Class Counsel	Defense Counsel
<p>Theo J. Benjamin  tbenjamin@edelson.com  EDELSON PC  350 North LaSalle Street, 14th  Floor  Chicago, Illinois 60654</p>	<p>Michael P. Lynn  mlynn@lynllp.com  Jared Eisenberg  jeisenberg@lynllp.com  LYNN PINKER HURST &amp;  SCHWEGMANN, LLP  2100 Ross Avenue, Suite 2700  Dallas Texas 75201</p> <p>Joseph Cancila, Jr.  jcancila@rshc-law.com  Nick Kahlon  nkahlon@rshc-law.com  RILEY SAFER HOLMES &amp;  CANCILA LLP  70 West Madison Street, Suite  2900, Chicago, Illinois 60602</p>

Class Counsel will file with the Court and post on the settlement website its request for attorneys' fees and incentive awards on May 13, 2022.

**17. 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 Settlement Class as a Class Member. Excluding yourself from the Settlement Class is telling the Court that you don't want to be a Settlement Class Member. If you exclude yourself, you have no basis to object because the case no longer affects you.

**THE COURT'S FINAL APPROVAL HEARING**

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

The Court will hold the Final Approval Hearing at 8:45 a.m. (CT) on June 21, 2022 before the Honorable Celia G. Gamrath in Room 2508 at the Richard J. Daley Center, 50 West Washington Street, Chicago, Illinois 60602, or via remote means as instructed by the Court. 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 Final Approval Hearing are subject to change by Court Order. Any changes will be posted at the settlement website, [www.PBTSettlement.com](http://www.PBTSettlement.com).

**19. Do I have to come to the hearing?**

No. Class Counsel will answer any questions the Court may have. You are 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.

**20. May I speak at the hearing?**

Yes. If you do not exclude yourself from the Settlement 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 16 above) and intend to appear at the hearing, you must state your intention to do so in your objection.

**GETTING MORE INFORMATION**

**21. Where do I get more information?**

This notice summarizes the proposed Settlement. More details, including the Settlement Agreement and other documents are available at [www.PBTSettlement.com](http://www.PBTSettlement.com) or at the Clerk's Office in the Clerk's Office in the Richard J. Daley Center, 50 West Washington Street, Chicago, Illinois 60602, between 8:30 a.m. and 4:30 p.m., Monday through Friday, excluding Court holidays and any closures as a result of the COVID-19 pandemic. You can also contact Class Counsel at 1-866-354-3015 with any questions.

**PLEASE DO NOT CONTACT THE COURT, THE JUDGE, THE DEFENDANTS OR THE DEFENDANTS' LAWYERS WITH QUESTIONS ABOUT THE SETTLEMENT OR DISTRIBUTION OF SETTLEMENT PAYMENTS.**