

**CIRCUIT COURT OF DUPAGE COUNTY, ILLINOIS**

*Veiga, et al. v. Respondus, Inc.*, Case No. 2023LA000430

**IF YOU TOOK AN EXAM USING RESPONDUS MONITOR WHILE PHYSICALLY PRESENT IN ILLINOIS BETWEEN NOVEMBER 11, 2015 AND JUNE 2, 2023, YOU MAY BE ELIGIBLE TO 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 Respondus, Inc. (“Defendant” or “Respondus”) and certain individuals who took an exam using Respondus Monitor in the state of Illinois. The lawsuit claims that Respondus violated an Illinois law called the Illinois Biometric Information Privacy Act (“BIPA”) by collecting biometric identifiers and/or biometric information (collectively, “biometric data”) through the use of Defendant’s Respondus Monitor application without complying with BIPA’s requirements. Respondus denies it did anything wrong, or that it ever collected or possessed any biometric data that could be subject to BIPA. The Court has not decided who is right or wrong. The Settlement has been preliminarily approved by a court in DuPage County, Illinois.
- You are included in the Settlement if you took an exam using Respondus Monitor while you were physically present in the state of Illinois at any time between November 11, 2015 and June 2, 2023 (the “Class Period”). Excluded from the Settlement Class are: (i) persons who used Respondus Monitor while attending Illinois public universities or colleges; (ii) Defendant; (iii) any person who was an officer or director of Respondus during the Class Period; (iv) any firm or entity in which any Defendant has or had a controlling interest; (v) parents, affiliates, or subsidiaries of Respondus; (vi) the legal representatives, agents, heirs, beneficiaries, successors-in-interest, or assigns of any excluded person or entity, in their respective capacity as such; (vii) the Court and staff (and the immediate family of) to whom this case is assigned; and (viii) any persons or entities who or which exclude themselves by individually submitting a timely and valid request for exclusion according to the opt-out requirements in the class notice and that is accepted by the Court.
- If the Court approves the Settlement, members of the Class who submit Approved Claims will receive one payment of an equal, or *pro rata*, share of a \$6,250,000 Settlement Fund that Respondus has agreed to establish, after all Settlement Administration Expenses, Service Awards, and Fee Award have been paid. Individual payments to Class Members who submit a valid Claim Form are estimated to be \$50.00, depending on the number of Approved Claims submitted.
- 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 CLAIM FORM</b>	This is the only way to receive a payment. You must submit a claim form either online or by mail before <b>August 30, 2023</b> .
<b>DO NOTHING</b>	You will receive no payment under the Settlement and give up your rights to sue Defendant about the issues in this case.
<b>EXCLUDE YOURSELF</b>	If you exclude yourself from the settlement, you will receive no payment, but you will keep the right to participate in another lawsuit against Defendant about the claims at issue in this case. You must send a written request to be excluded by <b>July 31, 2023</b> .
<b>OBJECT</b>	You may file a written objection no later than <b>July 31, 2023</b> , to tell the Court why you believe the proposed Settlement is unfair, unreasonable, or inadequate and may appear and object at the Final Approval Hearing if you provide notice of your intent to do so in your written objection.
<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 Defendant. 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 Timothy J. McJoynt of the Circuit Court of DuPage County, Illinois is overseeing this class action. The case is called *Veiga, et al. v. Respondus, Inc.*, Case No. 2023LA000430. The persons who filed the lawsuit, Lucius Veiga, Alex Parker Zimmerman, Courtnie Patterson, Trevonte Johnson, Cody Powell, Daniel Fee, and Brittany Harvey are the Plaintiffs. The company they sued, Respondus, Inc., is the Defendant. Respondus provides online-testing technology to educational institutions.

### 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 Defendant violated BIPA through the use of Defendant’s Respondus Monitor application in Illinois to identify individuals without complying with the law’s requirements. Defendant denies these allegations and denies that it violated BIPA, including that it ever collected or possessed any biometric data that could be subject to BIPA. No Court has decided who is right.

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

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

The Court has decided that this Settlement includes all persons who took an exam using Respondus Monitor while physically present in the state of Illinois at any time between November 11, 2015 and June 2, 2023. Excluded from the Settlement Class are: (i) persons who used Respondus Monitor while attending Illinois public universities or colleges; (ii) Defendant; (iii) any person who was an officer or director of Respondus during the Class Period; (iv) any firm or entity in which any Defendant has or had a controlling interest; (v) parents, affiliates, or subsidiaries of Respondus; (vi) the legal representatives, agents, heirs, beneficiaries, successors-in-interest, or assigns of any excluded person or entity, in their respective capacity as such; (vii) the Court and staff (and the immediate family of) to whom this case is assigned; and (viii) any persons or entities who or which exclude themselves by individually submitting a timely and valid request for exclusion according to the opt-out requirements in the Class Notice and that is accepted by the Court. You may call the Settlement Administrator at 833-747-6499 to ask whether you are a member of the Settlement Class.

## THE SETTLEMENT BENEFITS

### 5. What does the Settlement provide?

**Cash Payment.** If you're eligible, you can file a claim to receive a cash payment. The amount of each payment is estimated to be around \$50.00, depending on the number of Approved Claims submitted. This is an equal share of a \$6,250,000 fund that Respondus has agreed to create, after the payment of Settlement Administration Expenses, Fee Award, and any Service Awards for the Class Representatives in the litigation approved by the Court. Settlement Class Members who submit an Approved Claim during the claims period will get their payment in one estimated installment of \$50.00 by the Settlement Administrator.

**Prospective Relief.** Without admitting any liability, Respondus represents that, during the pendency of the Litigation, it has taken additional steps to clarify its compliance with BIPA, including revising its Privacy Policy and Student Terms of Use, and verifying that any arguable biometric information always has been, and continues to be, stored only in transient memory and not saved to a permanent storage device or associated with an individual's identity. Respondus will continue to comply with BIPA going forward.

## 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 **August 30, 2023**. Claim Forms can be submitted online at [www.BIPA-examsettlement.com](http://www.BIPA-examsettlement.com), or you can download a Claim Form and mail it to:

Veiga, et al. v. Respondus, Inc.  
c/o Kroll Settlement Administration  
P.O. Box 5324  
New York, NY 10150-5324

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

The hearing to consider the fairness of the Settlement is scheduled for **August 31, 2023 at 9:00 a.m. (Central Time)**. 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 payment within 60 days after the Effective Date in the method they selected. Please be patient. Uncashed checks and electronic payments that are unable to be completed will expire and become void 120 days after they are issued and will be returned to the fund and a *cy pres* recipient approved by the Court.

## THE LAWYERS REPRESENTING YOU

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

Yes, the Court has appointed lawyers Gary M. Klinger and Jonathan B. Cohen of law firm Milberg Coleman Bryson Phillips Grossman PLLC, as the attorneys to represent you and other Class Members. These attorneys are called "Class Counsel." In addition, the Court appointed Plaintiffs Lucius Veiga, Alex Parker Zimmerman, Courtnie Patterson, Trevonte Johnson, Cody Powell, Daniel Fee, and Brittany Harvey to serve as the Class Representatives. They are Class Members like you. Class Counsel can be reached by calling 1-866-252-0878.

### **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 a Fee Award of up to \$2,500,000 of the Settlement Fund, and will also request a Service Award of not more than \$2,000 for each of the Class Representatives from the Settlement Fund. The Court will determine the proper amount of any Fee Award to award Class Counsel and the proper amount of any award to the Class Representatives. The Court may award less than the amounts requested.

## **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 Defendant 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.BIPA-examsettlement.com](http://www.BIPA-examsettlement.com), or call 1-833-747-6499.

### **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 Respondus 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 Respondus and the Released Parties at your own risk and expense.

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

You can mail a letter stating that you want to be excluded from the Settlement. Your letter must: (a) be in writing; (b) identify the case name, *Veiga, et al. v. Respondus, Inc.*, 2023LA000430 (Cir. Ct. DuPage Cty. Ill.); (c) state the full name, email address and current address of the person in the Settlement Class seeking exclusion; (d) attest that between November 11, 2015 and June 2, 2023 you were physically in the state of Illinois while using Respondus Monitor; (e) state the university, college or institution that administered the assessment that used the Respondus Monitor system; (f) be signed by the person(s) seeking exclusion; and (g) be postmarked or received by the Settlement Administrator on or before **July 31, 2023**. 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 *Veiga, et al. v. Respondus, Inc.*, 2023LA000430 (Cir. Ct. DuPage Cty. Ill.)." You must mail your exclusion request no later than **July 31, 2023** to:

Veiga, et al. v. Respondus, Inc.  
c/o Kroll Settlement Administration  
P.O. Box 5324  
New York, NY 10150-5324

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 Respondus, Inc. for the same thing later?**

No. Unless you exclude yourself, you give up any right to sue Respondus and any other Released Parties 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 *Veiga, et al. v. Respondus, Inc.*, 2023LA000430 (Cir. Ct. DuPage Cty. Ill.), no later than **July 31, 2023**. Your objection must be e-filed or filed with the Clerk of the Court at the following address:

Clerk of the Circuit Court of DuPage County  
*DuPage County Courthouse and Administration Building*  
505 N. County Farm Road  
Wheaton, Illinois 60187

The objection must be in writing, must be signed, and must include the following information: (a) your full name, current address, email address, and current telephone number; (b) the case name and number of the lawsuit; (c) a statement that you used Respondus Monitor while physically present in Illinois and attending an educational institution other than a public Illinois Institution, the name of the college or university in which you were enrolled, and that you believe you are a member of the Settlement Class; (d) whether the objection applies only to you, to a specific subset of the Settlement Class, or to the entire Settlement Class; (e) the specific grounds for your objection with factual and legal support for the stated objection, including any supporting materials; (f) all documents or writings that you wish the Court to consider; (g) the identification of any other objections you have filed, or have had filed on your behalf, in any other class action cases in the last four years; (h) 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; (i) the objector's signature; and (j) a statement indicating whether you intend to appear at the Final Approval Hearing. If you intend to appear at the Final Approval Hearing, you must also identify any witnesses you may call to testify and all exhibits you intend to introduce into evidence at the Final Approval Hearing, which must also be attached to, or included with, your written objection. 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 **July 31, 2023**. 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 **July 31, 2023**, copies of your objection and any supporting documents to both Class Counsel and the Defendant's lawyer at the addresses listed below:

Class Counsel	Defense Counsel
Gary M. Klinger Milberg Coleman Bryson Phillips Grossman PLLC 221 W. Monroe St., Suite 2100 Chicago, IL 60606 gklinger@milberg.com	Matthew C. Wolfe William F. Northrip Tara D. Kennedy Shook, Hardy & Bacon LLP 111 S. Wacker Drive, Suite 4700 Chicago, IL 60606 mwolfe@shb.com wnorthrip@shb.com tkennedy@shb.com

A copy of the objection must also be mailed to the Settlement Administrator no later than **July 31, 2023** to:

Veiga, et al. v. Respondus, Inc.  
 c/o/ Kroll Settlement Administration  
 P.O. Box 5324  
 New York, NY 10150-5324

Class Counsel will file with the Court and post on the Settlement website its request for Fee Award and Service Awards on July 18, 2023.

**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 **9:00 a.m (Central Time) on August 31, 2023** before the Honorable Timothy J. McJoynt in Room 2008 at the DuPage County Courthouse and Administration Building, 505 N. County Farm Road, Wheaton, Illinois 60187, 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 Fee Award and the Service Awards to the Class Representatives.**

**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.BIPA-examsettlement.com](http://www.BIPA-examsettlement.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 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 do so.

**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.BIPA-examsettlement.com** or in the Clerk's Office in the DuPage County Courthouse and Administration Building, 505 N. County Farm Road, Wheaton, Illinois 60187, between 8:00 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 the Settlement Administrator at:

Veiga, et al. v. Respondus, Inc.  
c/o Kroll Settlement Administration  
P.O. Box 5324  
New York, NY 10150-5324  
1-833-747-6499

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