

## Joe Gagliardo Analyzes Recent Illinois BIPA Cases in *Chicago Daily Law Bulletin*

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Laner Muchin's **Joe Gagliardo** explored emerging developments concerning the Illinois Biometric Information Privacy Act (BIPA) in two recent articles published in the *Chicago Daily Law Bulletin*.

In ***Watson et. al v. Legacy Healthcare Financial Services***, the 1<sup>st</sup> District Appellate Court reviewed when a claim accrues under BIPA in response to a trial court dismissal finding that the plaintiff's claim accrued with an initial biometric scan in 2012. The plaintiff's suit, filed in 2019, exceeded the statute of limitations and was therefore time-barred.

Upon review, the appellate court found that the plain language of the Act, its legislative history and the definitions of its key terms compelled a rejection of the defendant's argument that the accrual date occurred with the first capture of the defendant's biometric information. The court went on to state that the statute establishes that it applies to each and every capture of the plaintiff's fingerprint or hand scan.

In ***Mosby v. Ingalls Memorial Hospital***, separate class actions were brought by two plaintiffs alleging their employers required them to scan their fingerprints in violation of BIPA. The case addressed the certified question of whether biometric information collected from health care employees and used for health care and patient treatment purposes falls within the exclusions of the Act.

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### Practice Areas

Public Sector

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In rejecting the defendants' argument, the 1<sup>st</sup> District Appellate Court asserted that the plain language in BIPA did not exclude health care employee biometric information from its protections, answering the certified question in the negative.

Joe represents private and public employers in a broad range of employment and labor matters. His experience includes litigating complex individual and class action claims in the state and federal courts and before administrative agencies, labor boards and arbitrators. Joe also serves as an arbitrator in employment and commercial disputes.

### **Firm Profile**

Laner Muchin Ltd. concentrates in the representation of employers in labor relations, employment litigation, employee benefits and business immigration matters. The firm provides legal services to clients from coast to coast.