

## **NOTICE OF PROPOSED CLASS ACTION SETTLEMENT**

*Morris v. Nextep Systems, Inc.*, Case No. 1:21-cv-02404  
(U.S. District Court for the Northern District of Illinois)

*For more information, visit [www.NextepBIPASettlement.com](http://www.NextepBIPASettlement.com).  
Para informacion en Espanol, visitar [www.NextepBIPASettlement.com](http://www.NextepBIPASettlement.com).*

**PLEASE READ THIS NOTICE CAREFULLY. YOU MAY BE ENTITLED TO A CASH PAYMENT FROM A CLASS ACTION SETTLEMENT IF YOU USED FACIAL RECOGNITION AT AN ORDERING KIOSK SOLD BY NEXTEP SYSTEMS, INC. AT A WOW BAO RESTAURANT IN THE STATE OF ILLINOIS, INCLUDING BUT NOT NECESSARILY LIMITED TO, (1) 835 NORTH MICHIGAN AVENUE, (2) 1 WEST WACKER DRIVE, AND/OR (3) 225 NORTH MICHIGAN AVENUE, BETWEEN MARCH 9, 2016, AND SEPTEMBER 15, 2023.**

*A federal court authorized this notice of a proposed class action settlement. This is **not** a solicitation from a lawyer and is **not** notice of a lawsuit against you.*

### **WHAT IS THIS NOTICE ABOUT?**

- This notice is to inform you that a proposed settlement has been reached in a class action lawsuit between Nextep Systems, Inc. (“Nextep”) and individuals who used facial recognition at an ordering kiosk at a Wow Bao restaurant in the State of Illinois from March 9, 2016, and September 15, 2023. The lawsuit alleges that Nextep violated an Illinois law called the Illinois Biometric Information Privacy Act (“BIPA”) when it allegedly obtained and stored Wow Bao customers’ biometric identifiers (*i.e.*, face geometry) and/or biometric information (collectively referred to herein as “biometric data”) when Wow Bao customers used Nextep branded facial recognition self-order kiosks, allegedly without complying with the law’s requirements. The case is *Morris v. Nextep Systems, Inc.*, Case No. 1:21-cv-02404, currently pending in the United States District Court for the Northern District of Illinois, Eastern Division. The proposed Settlement is not an admission of wrongdoing by Nextep, and Nextep denies that it violated the law. The Court has not decided who is right or wrong. Rather, to avoid the time, expense, and uncertainty of litigation, the Parties have agreed to settle the lawsuit. The Settlement has been preliminarily approved by a court in Chicago, Illinois.
- You are included in the Settlement if you used facial recognition at an ordering kiosk sold by Nextep Systems, Inc. at a Wow Bao restaurant in the State of Illinois, including, but not necessarily limited to, (1) 835 North Michigan Avenue, (2) 1 West Wacker Drive, and/or (3) 225 North Michigan Avenue, between March 9, 2016, and September 15, 2023.
- If the Court approves the Settlement, members of the Class who submit a valid Claim Form will receive an equal, or *pro rata*, share of the \$616,050.00 Settlement Fund. Each individual who submits a valid Claim Form will receive a portion of the Settlement Fund, after all notice and administration costs, the incentive award, and attorneys’ fees— if approved by the Court—have been paid. Payments are estimated to be \$450, before the payment of settlement expenses, attorneys’ fees, and any incentive award to the named plaintiff in the litigation, upon approval by the Court. Payments could be more or less depending on the number of valid Claim Forms submitted.

By Order of: Hon. Steven C. Seeger, U.S. District Court for the Northern District of Illinois, Eastern Division  
Page 1 of 7

***QUESTIONS? VISIT [WWW.NEXTEPBIPASETTLEMENT.COM](http://WWW.NEXTEPBIPASETTLEMENT.COM) OR CALL TOLL FREE 1-888-342-1320***

<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.
<b>DO NOTHING</b>	You will receive no payment under the Settlement, and you will give up your rights to sue Nextep 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 Nextep 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 to the 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 grant final approval of the Settlement. Payments will be provided only after any issues with the Settlement are resolved. Please be patient.

## **BASIC INFORMATION**

### **WHAT IS THIS LAWSUIT ABOUT?**

This lawsuit alleges the Illinois Biometric Information Privacy Act (“BIPA”), 740 ILCS 14/1, *et seq.*, prohibits private companies from capturing, obtaining, storing, transferring, and/or using the biometric identifiers and/or biometric information of an individual for any purpose, without first providing such individual with written notice and obtaining a written release. This lawsuit alleges that Nextep violated BIPA by allegedly obtaining and storing Wow Bao customers’ biometric data when the Wow Bao customer used a Nextep branded facial recognition self-order kiosk at a Wow Bao restaurant in the State of Illinois, without first providing written notice or obtaining a written release. Nextep contests these claims and denies that it violated BIPA.

More information about the Class Action Complaint and Nextep’s position can be found in the “Court Documents” section of the settlement website.

### **WHY IS THIS A CLASS ACTION?**

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 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.

## **WHY IS THERE A SETTLEMENT?**

To resolve this matter without the expense, delay, and uncertainties of litigation, the Parties have reached a Settlement, which resolves all claims in the case against Nextep and its affiliated entities and individuals. The Settlement requires Nextep to pay money to the Settlement Class, as well as pay certain settlement administration expenses, attorneys' fees and costs to Class Counsel, and an incentive award to the Class Representative, if approved by the Court. The Settlement is not an admission of wrongdoing by Nextep and does not imply that there has been, or would be, any finding that Nextep violated the law.

The Court has already preliminarily approved the Settlement. Nevertheless, because the settlement of a class action determines the rights of all members of the class, the Court overseeing this lawsuit must give final approval to the Settlement before it can be effective. The Court has preliminarily certified the Settlement Class for settlement purposes only, so that members of the Settlement Class can be provided this notice and the opportunity to exclude themselves from the Settlement Class, to voice their support or opposition to final approval of the Settlement, and to submit a Claim Form to receive the relief offered by the Settlement. If the Court does not enter a Final Approval Order approving the Settlement, or if the Settlement Agreement is terminated by the Parties, the Settlement will be void, and the lawsuit will proceed as if there had been no settlement and no certification of the Settlement Class.

## **WHO IS IN THE SETTLEMENT CLASS?**

If you used facial recognition on a Nextep branded self-ordering kiosk at a Wow Bao restaurant in the State of Illinois, including, but not necessarily limited to the following locations: (1) 835 North Michigan Avenue, (2) 1 West Wacker Drive, and/or (3) 225 North Michigan Avenue, between March 9, 2016, and September 15, 2023, you may be a Class Member and may submit a Claim Form for a cash payment.

Excluded from the Settlement Class are: (1) the Court and members of their families; (2) persons who properly execute and submit a timely request for exclusion from the Class; and (3) individuals whose claims in this matter have been finally adjudicated on the merits or otherwise released.

## **THE SETTLEMENT BENEFITS**

### **WHAT DOES THE SETTLEMENT PROVIDE?**

**Cash Payments.** If you're eligible, you can submit a Claim Form to receive a cash payment. The amount of such payment is estimated to be approximately \$450 but is unknown at this time and could be more or less depending on the number of valid Claim Forms submitted. This is an equal share of the \$616,050.00 Settlement Fund, before the payment of settlement expenses, attorneys' fees, and any incentive award for the named plaintiff in the litigation, upon approval by the Court.

**Prospective Relief.** As provided for in the Settlement Agreement, Nextep has confirmed the facial recognition self-ordering kiosks at issue have not been used in Illinois since 2017, and agrees to delete and cease retaining, within a reasonable time, but no later than 90 days, after the full execution and approval of the Settlement Agreement, any Wow Bao customer data it received from the facial recognition kiosks previously used at Wow Bao restaurants in the State of Illinois.

## **HOW TO GET BENEFITS**

### **HOW DO I GET A PAYMENT?**

If you are a Settlement Class Member and you want to get settlement benefits, you must complete and submit a valid Claim Form by January 13, 2024. The Claim Form can be filled out and submitted online. You can also download a Claim Form from the website, or you can also call 1-888-342-1320 to request an additional paper copy of the Claim Form. All Claim

By Order of: Hon. Steven C. Seeger, U.S. District Court for the Northern District of Illinois, Eastern Division

Page 3 of 7

***QUESTIONS? VISIT [WWW.NEXTEPBIPASETTLEMENT.COM](http://WWW.NEXTEPBIPASETTLEMENT.COM) OR CALL TOLL FREE 1-888-342-1320***

Forms must be postmarked, if mailed, or submitted on the Settlement Website by January 13, 2024 to be considered timely. We encourage you to submit a claim online. It's faster.

The Claim Form requires you to provide the following information: (i) full name, (ii) current U.S. Mail address, and (iii) current contact telephone number and email address.

### **WHAT RIGHTS AM I GIVING UP IN THIS SETTLEMENT?**

Unless you exclude yourself from this Settlement, you will be considered a member of the Settlement Class, which means you give up your right to file or continue a lawsuit against Nextep or certain related entities and individuals, as described in more detail in the Settlement Agreement, relating to its alleged obtainment and storage of the biometric data of Wow Bao customers who used a Nextep branded facial recognition kiosk at a Wow Bao restaurant. Giving up your legal claims is called a release. The precise terms of the release are in the Settlement Agreement, which is available on the Settlement Website. Unless you formally exclude yourself from this Settlement, you will release your claims whether or not you submit a Claim Form and receive payment. If you have any questions, you can talk for free to the Settlement Administrator identified below, or you are welcome to talk to any lawyer of your choosing at your own expense.

### **WHEN WILL I BE PAID?**

The remote telephonic hearing to consider the fairness of the Settlement is scheduled for **February 6, 2024** using the call-in number of **1-888-684-8852** and access code **9369830**. If the Court approves the Settlement, Settlement Class Members whose claims were approved by the Settlement Administrator will be sent a check. Please be patient. All checks will expire and become void 90 days after they are issued. Uncashed checks will be donated to a not-for-profit entity agreed to by the Parties and approved by the Court, or such other organization as the Court may order consistent with the Illinois statutory requirements for *cy pres* recipients.

## **THE LAWYERS REPRESENTING YOU**

### **DO I HAVE A LAWYER?**

Yes, the Court has appointed lawyers of Stephan Zouras LLP to represent you and other Class Members. These attorneys are called "Class Counsel." In addition, the Court appointed Plaintiff Regina Morris to serve as the Class Representative. She is a Class Member like you.

### **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 want your own lawyer, you will have to pay that lawyer.

### **HOW WILL THE LAWYERS BE PAID?**

Class Counsel will ask the Court for attorneys' fees of up to 35% of the Settlement Fund and their out-of-pocket costs and will also request an incentive award of \$10,000.00 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.

By Order of: Hon. Steven C. Seeger, U.S. District Court for the Northern District of Illinois, Eastern Division

Page 4 of 7

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## YOUR RIGHTS AND OPTIONS

### WHAT ARE MY OPTIONS?

#### (1) Accept the Settlement.

To accept the Settlement, you must submit a Claim Form by January 13, 2024. You may obtain a copy of the Claim Form on the Settlement Website, and you may submit your Claim Form online too, or by U.S. Mail to the Settlement Administrator at *Morris v. Nextep Systems, Inc.*, 50 Corporate Park, Irvine, CA 92606. If the Settlement is approved and your Claim Form is deemed valid, a check will be mailed to you. ***Submitting a valid and timely Claim Form is the only way to receive a payment from this Settlement and is the only thing you need to do to receive a payment.***

#### (2) Exclude yourself.

You may exclude yourself from the Settlement. If you exclude yourself, you won't get a payment, but you will not release any claims you may have against Nextep and the other 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 Nextep and the other Released Parties at your own risk and expense. All exclusion requests must (a) be in writing; (b) identify the case name *Morris v. Nextep Systems, Inc.*, 1:21-cv-02404 (N.D. Ill.); (c) state your full name, current address, and telephone number; (d) include a statement that you wish to be excluded from the Settlement; (e) include your signature; and (f) be postmarked or received by the Settlement Administrator on or before November 29, 2023. Each request for exclusion must contain a statement to the effect that "I hereby request to be excluded from the proposed Settlement Class in *Morris v. Nextep Systems, Inc.*, 1:21-cv-02404 (N.D. Ill.)." You must mail or e-mail your exclusion request no later than the Objection/Exclusion Deadline of November 29, 2023 to:

*Morris v. Nextep Systems, Inc.*  
c/o CPT Group Inc.  
50 Corporate Park  
Irvine, CA 92606  
[www.NextepBIPASettlement.com](http://www.NextepBIPASettlement.com)

No person may request to be excluded from the Settlement Class through "mass" or "class" opt-outs.

#### (3) Object to the Settlement.

If you wish to object to the Settlement, you must file a statement or brief in writing with the Clerk of the Court of the United States District Court for the Northern District of Illinois, Eastern Division, Everett McKinley Dirksen United States Courthouse, 219 South Dearborn Street, Chicago, Illinois 60604. The objection must be filed with the Court no later than November 29, 2023. You must also mail a copy of your objection to the attorneys for all Parties to the lawsuit, including Class Counsel (Ryan F. Stephan of Stephan Zouras, LLP, 222 W. Adams Street, Suite 2020, Chicago, Illinois 60606), Defendant's counsel (Catrina Celeste Creswell of Kabat Chapman & Ozmer LLP, 171 17th Street NW, Suite 1550, Atlanta, GA 30363), as well as the Settlement Administrator (CPT Group, Inc., 50 Corporate Park, Irvine, CA 92606) no later than November 29, 2023. Any objection to the proposed Settlement must include (a) your full name, current address, telephone number, and email address, (b) the basis for and an explanation for your objection, (c) the case name and number, (d) a list of any other objections filed, (e) a statement of whether you are represented by counsel and, if so, a list of all objections filed by that counsel, (f) a statement of whether you intend to appear at the Final Approval Hearing with or without counsel, (g) the identity of any witnesses you may call to testify at the Final Approval Hearing and all exhibits you intend to seek to introduce into evidence at the Final Approval Hearing, which must also be attached to, or included with, your written objection, and (h) your signature. If you hire an attorney in connection with making an objection, that attorney must also file with the court a notice of appearance by the objection deadline of November 29, 2023. If you do hire your own attorney,

By Order of: Hon. Steven C. Seeger, U.S. District Court for the Northern District of Illinois, Eastern Division

Page 5 of 7

***QUESTIONS? VISIT [WWW.NEXTEPBIPASETTLEMENT.COM](http://WWW.NEXTEPBIPASETTLEMENT.COM) OR CALL TOLL FREE 1-888-342-1320***

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.

Class Counsel will file with the Court and post on the Settlement Website their request for attorneys' fees, their costs, and an incentive award to the Class Representative.

You may appear at the Final Approval Hearing, which will be held on **February 6, 2024** via remote telephonic conference, using the call-in number of **1-888-684-8852** and access code **9369830**, either in person or through counsel to show cause why the proposed Settlement should not be approved as fair, reasonable, and adequate. Attendance at the hearing is not necessary; however, persons wishing to be heard orally in opposition to the entry of the Final Approval Order, the request for attorneys' fees and expenses, and/or the request for the incentive award to the Class Representative are required to indicate in their written objection their intention to appear at the hearing on their own behalf or through counsel and to identify the names of any witnesses they intend to call to testify at the Final Approval Hearing, as well as any exhibits they intend to introduce at the Final Approval Hearing.

#### **(4) Do Nothing.**

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 Nextep 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.***

You can submit a Claim Form, or request exclusion from the Class or file an objection, on the Settlement Website, or call 1-888-342-1320.

## **THE COURT'S FINAL APPROVAL HEARING**

### **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. on February 6, 2024** before the Honorable Steven C. Seeger via remote telephonic conference, using call-in number of **1-888-684-8852** and access code **9369830**. 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, and whether it was made in good faith. **At the Final Approval 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. Directions on attending the Final Approval Hearing and any changes will be posted to the Settlement Website.

### **DO I HAVE TO ATTEND THE HEARING?**

No. Class Counsel and Nextep's Counsel will answer any questions the Court may have. You are, however, welcome to attend. If you send an objection, you don't have to attend the remote telephonic conference to talk about it. As long as your written objection was filed and mailed on time and meets the other criteria described herein, and in the Settlement, the Court will consider it. You may also pay a lawyer to attend, but you don't have to.

By Order of: Hon. Steven C. Seeger, U.S. District Court for the Northern District of Illinois, Eastern Division

Page 6 of 7

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## **MAY I SPEAK AT THE HEARING?**

Yes. If you do not exclude yourself from the Class, you may ask the Court for permission to speak at the Final Approval Hearing concerning any part of the proposed Settlement. If you filed an objection and intend to appear at the Final Approval Hearing, you must state your intention to do so in your objection.

## **WHO REPRESENTS THE CLASS?**

The Court has approved the following attorneys to represent the Settlement Class. They are called “Class Counsel.” You will not be charged for these lawyers. If you want to be represented by your own lawyer instead, you may hire one at your own expense.

<p>Ryan F. Stephan James B. Zouras Andrew C. Ficzko STEPHAN ZOURAS, LLP 222 W. Adams Street, Suite 2020 Chicago, Illinois 60606 Tel: 312-233-1550 rstephan@stephanzouras.com jzouras@stephanzouas.com aficzko@stephanzouras.com</p>
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## **WHERE CAN I GET ADDITIONAL INFORMATION?**

This Notice is only a summary of the proposed Settlement of this lawsuit. More details are in the Settlement Agreement which, along with other documents, can be obtained on the Settlement Website. If you have any questions, you can call the Settlement Administrator at **1-888-342-1320**. In addition to the documents available on the Settlement Website, all pleadings and documents filed in court may be reviewed or copied in the Office of the Clerk. Please do not call the Judge or the Clerk of the Court about this case. They will not be able to give you advice on your options.

**PLEASE DO NOT CONTACT THE COURT, THE JUDGE, OR THE DEFENDANT WITH QUESTIONS ABOUT THE SETTLEMENT OR CLAIMS PROCESS.**