

Big Questions for BIPA Case Law in 2021

FEBRUARY 17, 2021

This first Cybersecurity Law Report article in a two-part series on biometric privacy looks at the latest litigation twists in BIPA class actions.

Over 750 class actions alleging violations of Illinois's Biometric Information Privacy Act (BIPA) have poured into federal and state courts. The docket continues to grow – plaintiffs filed another 55 BIPA lawsuits in January 2021, according to Ankura Consulting Group.

Now, two years after the Illinois Supreme Court's Rosenbach decision eased the way for plaintiffs by permitting BIPA claims to proceed without requiring plaintiffs to allege damage to them, several recent rulings are giving litigants direction on key BIPA legal questions, with more clarification ahead. In 2021, appellate courts will hear arguments on BIPA's statute of limitations, what counts as a BIPA violation for damages and its preemption by labor laws, said Winston & Strawn Partner Sean Wieber.

These upcoming case law developments could breathe fresh life into many aging lawsuits and prompt settlements, Wieber noted. "A sizable number of cases that either have been stayed, or are just meandering through the process, will have more guideposts in 2021 or early 2022 to lead to a potential resolution," he said.

Read Sean's insights on recent rulings on key BIPA issues, the newer generation of cases, settlement dynamics, and rulings to watch in this Cybersecurity Law Report article.

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Author

Sean G. Wieber

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