

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

*Pruitt, et al. v. Par-A-Dice Hotel Casino, et al.*, Case No. 2020-L-000003  
In the Circuit Court for the Tenth Judicial Circuit, Tazewell County, Illinois

*For more information, visit [www.ParADiceBIPASettlement.com](http://www.ParADiceBIPASettlement.com).*

**PLEASE READ THIS NOTICE CAREFULLY. YOU MAY BE ENTITLED TO A CASH PAYMENT FROM A CLASS ACTION SETTLEMENT IF YOU PASSED THROUGH AND YOUR FACE WAS VISIBLE TO CERTAIN SECURITY CAMERAS AT PAR-A-DICE HOTEL CASINO'S SPORTSBOOK IN EAST PEORIA, ILLINOIS BETWEEN SEPTEMBER 2020 AND JUNE 2021.**

*A 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.*

### **WHY DID I GET THIS NOTICE?**

- A Settlement has been reached in a class action lawsuit between Par-A-Dice Hotel Casino ("PAD") and Boyd Gaming Corporation ("Boyd") (together "Defendants") and certain individuals who passed through and whose faces were visible to security cameras at PAD's Sportsbook. The lawsuit alleges that Defendants violated an Illinois law called the Illinois Biometric Information Privacy Act ("BIPA) when they allegedly collected individuals' biometric data through certain surveillance cameras, without complying with BIPA's requirements. The proposed Settlement is not an admission of wrongdoing by Defendants, and Defendants deny that they have collected any biometric data from any guests. 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 the court.
- You are included in the Settlement if you passed through and your face was visible to certain security cameras at PAD's Sportsbook in East Peoria, Illinois at any time between September 2020 through June 2021.
- If the Court approves the Settlement, members of the Class who submit valid claims will be receive an equal, or *pro rata*, share of a \$825,000 settlement fund that Defendants agreed to establish. Each individual who submits a valid claim will receive a portion of this fund, after all notice and administration costs, the service awards, and attorneys' fees and costs—if approved by the Court—have been paid. Payments will be determined based on the number of valid claim forms submitted.

<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 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 finally approve 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?**

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 information of another individual for any purpose, without first providing such individual with written notice and obtaining a written release. This lawsuit alleges that Defendants violated BIPA by allegedly collecting individuals’ biometric data (*i.e.*, facial geometry scans) through use of certain surveillance cameras enabled with facial recognition technology located in PAD’s Sportsbook in East Peoria, Illinois, without first providing written notice or obtaining a written release. Defendants contest these claims and deny that any surveillance cameras installed at PAD were enabled with facial recognition technology or that biometric data has been collected from any guest.

### **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 Defendants. The Settlement requires Defendants to pay money to the Settlement Class, as well as pay settlement administration expenses, attorneys’ fees and costs to Class Counsel, and service awards to the Class Representatives, if approved by the Court. The Settlement is

not an admission of wrongdoing by Defendants and does not imply that there has been, or would be, any finding that Defendants 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 given 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?**

You are a member of the Settlement Class if you passed through and your face was visible to certain security cameras at PAD's Sportsbook in East Peoria, Illinois at any time between September 2020 and June 2021. If so, you may be a class member and may submit a Claim Form for a cash payment.

Excluded from the Settlement Class are: (1) any Judge, Magistrate, or mediator presiding over this action and members of their families, (2) Defendants, Defendants' subsidiaries, parent companies, successors, predecessors, and any entity in which Defendants or Defendants' parents have a controlling interest, (3) class counsel, and (4) the legal representatives, successors or assigns of any such excluded persons.

## **THE SETTLEMENT BENEFITS**

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

**Cash Payments.** If you're eligible, you can file a claim to receive a cash payment. The amount of such payment will depend on the number of valid Claim Forms submitted. This is an equal share of a \$825,000 fund that Defendants agreed to create, after the payment of settlement expenses, attorneys' fees and costs, and any service awards for the named plaintiffs subject to Court approval.

## **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 **February 6, 2023**. An online Claim Form is available on the website and can be filled out and submitted online. We encourage you to submit a claim online. It's faster, and it's free.

The Claim Form requires you to provide the following information: (i) full name, (ii) current U.S. Mail address, (iii) current contact telephone number and email address, and (iv) a sworn statement under penalty of perjury that you passed through and/or visited PAD's Sportsbook in East Peoria, Illinois in person between September 2020 and June 2021 and your face was visible to security cameras there.

## **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 Defendants relating to their alleged collection and possession of the biometric data of individuals who visited PAD's Sportsbook in East Peoria, Illinois between September 2020 and June 2021. 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 attorneys identified below who have been appointed by the Court to represent the Settlement Class, or you are welcome to talk to any other lawyer of your choosing at your own expense.

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

The hearing to consider the fairness of the Settlement is scheduled for **February 8, 2023 at 9:00am**. 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 120 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.

## **THE LAWYERS REPRESENTING YOU**

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

Yes, the Court has appointed lawyers Ryan F. Stephan and Catherine T. Mitchell of Stephan Zouras LLP, and Steven Smith of Steven Smith Law Group to represent you and other Class Members. These attorneys are called "Class Counsel." In addition, the Court appointed Plaintiffs Audrey and Anthony Scott Pruitt to serve as the Class Representatives. They are Class Members like you. Class Counsel can be reached by phone or email using the contact information set forth below.

### **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 at your own expense.

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

Class Counsel will ask the Court for attorneys' fees of up to 35% of the Settlement Fund and costs not to exceed \$15,000, and will also request service awards of \$7,500.00 for each 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 Representatives. The Court may award less than the amounts requested.

## **YOUR RIGHTS AND OPTIONS**

### **WHAT ARE MY OPTIONS?**

#### **(1) Accept the Settlement.**

To accept the Settlement, you must submit a Claim Form by **February 6, 2023** by U.S. Mail to the Settlement Administrator at Pruitt v. PAD Settlement Administrator, c/o JND Legal Administration, PO Box 91344, Seattle, WA 98111. You may also obtain a copy of the Claim Form at [www.ParADiceBIPASettlement.com](http://www.ParADiceBIPASettlement.com) and you may submit your Claim Form online at the same website. If the Settlement is approved and your claim

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 do so, you will not receive any cash payment, but you will not release any claims you may have against 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 the Released Parties at your own risk and expense. All exclusion requests must (a) be in writing; (b) identify the case name *Pruitt et al. v. Par-A-Dice Hotel Casino et al.*, Case No. 2020-L-000003; (c) state the full name and current address of the person in the Settlement Class seeking exclusion; (d) be signed by the person(s) seeking exclusion; and (e) be postmarked or received by the Settlement Administrator on or before the Objection/Exclusion Deadline. 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 *Pruitt et al. v. Par-A-Dice Hotel Casino et al.*, Case No. 2020-L-000003.” You must mail or e-mail your exclusion request no later than **December 27, 2022** to:

Pruitt v. PAD Settlement Administrator  
c/o JND Legal Administration  
PO Box 91344  
Seattle, WA 98111

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 letter or brief in writing with the Circuit Court for the Tenth Judicial Circuit, Tazewell County, Illinois, Courtroom 101, 342 Court Street, Peoria, Illinois 61554. The objection must be received by the Court no later than **December 27, 2022**. You must also send a copy of your objection by email to the attorneys for all Parties to the lawsuit, including Class Counsel (Ryan F. Stephan of STEPHAN ZOURAS, LLP, [rstephan@stephanzouras.com](mailto:rstephan@stephanzouras.com)), as well as Defendants’ Counsel (Matthew D. Provance of MAYER BROWN LLP, [mprovance@mayerbrown.com](mailto:mprovance@mayerbrown.com)) no later than **December 27, 2022**. Any objection to the proposed Settlement must include (a) your full name and current address, (b) a statement why you believe you are a member of the Settlement Class, (c) the specific grounds for your objection, (d) all documents or writings that you wish the Court to consider, (e) the name and contact information of any attorneys representing, advising, or in any way assisting you with the preparation or submission of the objection; and (f) 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 also file with the court a notice of appearance by the objection deadline of **December 27, 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.

**(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 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.ParADiceBIPASettlement.com](http://www.ParADiceBIPASettlement.com), or contact Class Counsel.

## **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 **9:00am** on **February 8, 2023** before the Honorable Judge Paul E. Bauer either via Zoom or in person in Courtroom 101 of the Circuit Court for the Tenth Judicial Circuit, Tazewell County, Illinois, 342 Court Street, Peoria, Illinois 61554. 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 hearing, the Court will hear any objections and arguments concerning the fairness of the proposed Settlement.**

**Note:** The date and time of the fairness hearing are subject to change by Court Order, and the hearing may be conducted remotely. Any changes will be posted at the settlement website, [www.ParADiceBIPASettlement.com](http://www.ParADiceBIPASettlement.com).

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

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

### **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 hearing concerning any part of the proposed Settlement. If you filed an objection and intend to appear at the 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.

Ryan F. Stephan Catherine T. Mitchell STEPHAN ZOURAS, LLP 100 N. Riverside Plaza, Suite 2150 Chicago, Illinois 60606 Tel: 312-233-1550 <a href="mailto:rstephan@stephanzouras.com">rstephan@stephanzouras.com</a> <a href="mailto:cmitchell@stephanzouras.com">cmitchell@stephanzouras.com</a>
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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 at [www.ParADiceBIPASettlement.com](http://www.ParADiceBIPASettlement.com). If you have any questions, you can also contact Class Counsel at the number or email addresses set forth above. In addition to the documents available on the case 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.

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

Questions? Visit: [www.ParADiceBIPASettlement.com](http://www.ParADiceBIPASettlement.com)