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Illinois Appellate Court Holds Data Retention Policies Required When Collecting Biometric Data

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On November 30, 2022, the Second District Appellate Court of Illinois reversed and remanded a grant of summary judgement in favor of defendant, J&M Plating, Inc., for alleged violation of the Illinois Biometric Information Privacy Act ("BIPA"). In *Mora v. J&M Plating, Inc.*, the plaintiff claimed that J&M Plating had violated BIPA by collecting workers' fingerprints without a proper data retention and destruction policy for biometric information.

The court reversed the grant of summary judgment finding that the lower court misinterpreted the relevant sections of BIPA. The court reasoned that the legislative intent behind Section 15(a) of BIPA supports companies implementing written data retention and destruction policies before collecting or processing biometric data. The court reinforced its holding by reasoning that, under Section 15(b), companies are required to obtain individual's informed consent before collecting biometric information. Finally, the court disagreed with the lower court's assertion that the plaintiff suffered no harm, and therefore had no case, by relying on precedent to reason that actual harm is not required under BIPA.

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