

Sean Wieber Discusses Growth of Privacy Class Actions Involving Biometrics and Genetics with *Law.com*

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Winston & Strawn Global Privacy & Data Security Practice Co-Chair Sean Wieber was quoted in a *Law.com* article discussing the growth of privacy class action lawsuits against employers involving biometrics and genetics. In recent years, privacy disputes have emerged under Illinois' Biometric Information Privacy Act (BIPA) as employees challenged how employers stored data, such as fingerprints used to clock in and out of work. Favorable rulings for plaintiffs in these cases exposed corporations to a potential risk for high costs for each violation, but legislative changes put a limit on the payout potential. Now, lawsuits are emerging under the Illinois Genetic Information Privacy Act (GIPA), which has statutory damages three times higher than BIPA, against employers who allegedly required employees or job seekers to provide "genetic information," or family medical background, as a condition of employment.

"The statute has uncapped statutory damages," Sean said about GIPA. "It has a profile that is attractive to the plaintiffs. On the defense side, it has a profile of being potentially material to companies—small, medium, and large."

In 2023, approximately 50 GIPA cases challenged employers, and filings continued into 2024. Since the beginning of 2025, more than 25 lawsuits have been filed against corporations. "Until someone disincentivizes the plaintiffs not to bring the cases and there's no real opportunity for making money from it, the ambiguity and angst surrounding the statute is going to encourage more filings," he added.

The state law is rife with references to federal health care law and complex terms like "genetic monitoring." It could be anyone's game until the courts sort through the technical details, Sean explained. "It could end up being that we'll get some cases that will go to summary judgment that will explain more down the line as to what is or is not occurring," he said.

While GIPA cases multiply, BIPA and other related biometric matters are not going anywhere. Sean noted that there is potential for the statute to be used in cases involving advanced or emerging technology.

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