

October 13, 2023

October 2023 RSHC Client Update on GIPA

Nick Kahlon and Blake Kolesa

In April 2023, we published an [article](#) in the ISBA Bench & Bar Section Council's newsletter alerting companies to the dangers of class action litigation under the Illinois Genetic Information Privacy Act, 410 ILCS 513/1 et seq. (GIPA). GIPA's private right of action has remained largely dormant for 25 years until last year's decision in *Bridges v. Blackstone Group, Inc.*, No. 21-cv-1091, 2022 WL 2643968 (S.D. Ill. July 8, 2022). There the court held that just as with BIPA, an individual "need not allege some actual injury or adverse effect, beyond violation of his or her rights" to qualify as an "aggrieved person" under GIPA and seek statutory damages (\$2,500 for each negligent violation and \$15,000 for intentional or reckless violations), in addition to injunctive relief and attorneys' fees. 2022 WL 2643968, at *3.

Since our article, dozens of GIPA class actions have been filed in the Circuit Court of Cook County, with 25 class actions filed in the last two months alone. Each lawsuit alleges that an employer's request for "family medical histories" violates GIPA. The reasoning is as follows: (i) GIPA prohibits employers from requesting "genetic information" as a condition of employment, 410 ILCS 512/25; (ii) "genetic information" is defined to have "the meaning ascribed to it under HIPAA, as specified in 45 CFR 160.103," 410 ILCS 512/10; and (iii) 45 CFR 160.103 defines "genetic information" to include information concerning "the manifestation of a disease or disorder in family members."

The GIPA suits target a wide range of industries, including manufacturers, healthcare providers, consumer goods companies, and even the Chicago Transit Authority. Given this wave of class action litigation, we encourage companies to monitor these developments closely and to assess their own potential GIPA exposure.

For more information, **please contact:**



Nick Kahlon
1.312.471.8755
nkahlon@rshc-law.com
Chicago



Blake Kolesa
1.312.471.8732
bkolesa@rshc-law.com
Chicago

Nick Kahlon is a partner at Riley Safer Holmes & Cancila LLP focusing his practice on complex commercial litigation and intellectual property disputes. Blake Kolesa is an associate supporting the firm's commercial litigation, product liability, and white-collar practices.