

Firm ID No. 41344

**IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
COUNTY DEPARTMENT, CHANCERY DIVISION**

KRISTEN NEDIALKOVA, individually
and on behalf of all others similarly situated,

Plaintiff,

v.

TOTAL AIRPORT SERVICES, LLC,

Defendant.

Case No. 2019-CH-02300

Honorable Anna M. Loftus

**DEFENDANT TOTAL AIRPORT SERVICES, LLC'S FIRST AMENDED
AFFIRMATIVE DEFENSES TO PLAINTIFF'S CLASS ACTION COMPLAINT**

Defendant Total Airport Services, LLC ("TAS" or "Defendant") asserts its First Amended Affirmative Defenses as follows:

FACTS COMMON TO ALL AFFIRMATIVE DEFENSES

1. During all times relevant to Plaintiff's Complaint, Defendant was a government contractor for the Chicago Department of Aviation at Chicago O'Hare International Airport. *See* Permit of Handling Operator, attached as **Exhibit 1**.

2. Pursuant to the permit and approval of Defendant as a government contractor, effective June 1, 2011 and during all relevant times (including during Plaintiff's employment), Defendant provided services at Chicago O'Hare International Airport.

3. During all times relevant to Plaintiff's Complaint, Defendant provided services to the Chicago Department of Aviation at Chicago O'Hare International Airport.

4. Plaintiff was employed by Defendant from approximately May 2015 through her voluntary resignation on June 19, 2017, at Chicago O'Hare International Airport.

5. On May 15, 2015, Plaintiff acknowledged that she received a copy of Defendant's Notice of Privacy Practices and a copy of Defendant's Human Resources policy and procedure manual.

6. On May 20, 2015, Plaintiff acknowledged that she received a copy of Defendant's Employee Handbook.

7. Plaintiff was aware that Defendant was a government contractor for the City of Chicago at O'Hare International Airport for the entirety of her employment.

AMENDED AFFIRMATIVE DEFENSES

FIRST AFFIRMATIVE DEFENSE

8. Defendant incorporates Paragraphs 1-7 as through fully set forth herein.

9. Section 25(e) of BIPA states "[n]othing in this Act shall be construed to apply to a contractor, subcontractor, or agent of a State agency or local unit of government when working for that State agency or local unit of government." 740 ILCS 14/25(e).

10. During all times relevant to Plaintiff's Complaint, Defendant was a government contractor for the City of Chicago to perform services at Chicago O'Hare International Airport.

WHEREFORE, Plaintiff's claims are barred, in whole or in part, by Section 25 (e) of BIPA, which exempts government contractors from application of the Act during their provisions of services to a state agency.

RESERVATION

Defendant reserves the right to plead additional Affirmative Defenses as they become known or available during the pendency of this litigation.

WHEREFORE, Plaintiff's claims are barred, in whole or in part, by the above affirmative defenses. Defendant respectfully requests that the Court dismiss the Complaint, enter judgment in favor of Defendant and against Plaintiff, and grant any other just relief in favor of Defendant.

DATED: January 28, 2025

Respectfully submitted,

TOTAL AIRPORT SERVICES, LLC

By: /s Danielle M. Kays

Danielle M. Kays
FISHER PHILLIPS LLP
10 S. Wacker Drive
Suite 3450
Chicago, IL 60606
(312) 346-8061
dkays@fisherphillips.com
Firm No. 41344

FILED DATE: 1/28/2025 12:46 PM 2019CH02300

CERTIFICATE OF SERVICE

The undersigned has caused a true and correct copy of the foregoing **DEFENDANT TOTAL AIRPORT SERVICES, LLC'S FIRST AMENDED AFFIRMATIVE DEFENSES TO PLAINTIFF'S CLASS ACTION COMPLAINT** to be served on this 28th day of January 2025 by email on the following counsel:

Alejandro Caffarelli
acaffarelli@caffarelli.com
Alexis D. Martin
amartin@caffarelli.com
CAFFARELLI & ASSOCIATES LTD.
224 S. Michigan Avenue, Ste. 300
Chicago, IL 60604

/s/ Danielle M. Kays _____