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Attorneys for Plaintiffs and the Class

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF ORANGE

BRAYDEN HUMPHERYS, and JEREMY
HATCHER, each individually, on behalf of all
similarly situated former and current
employees, and LOGAN SHANE
CRABTREE, on behalf of the similarly
situated aggrieved employees,

Plaintiff,

v.

VIVINT, INC., a Delaware corporation;
VIVINT SMART HOME, INC., a Delaware
corporation; SMART HOME PROS, INC., a
Delaware corporation; ARM SECURITY,
INC., a corporation state unknown; and DOES
1 through 50, inclusive,

Defendants.

CASE NO. 30-2020-01141910-CU-OE-CXC

**DECLARATION OF LEAD PLAINTIFF
BRAYDEN HUMPHERYS IN SUPPORT
OF MOTION FOR FINAL APPROVAL
OF CLASS ACTION AND
REPRESENTATIVE ACTION
SETTLEMENT**

[Includes Support for Application for
Enhancement Awards].

Date: December 8, 2023

Time: 1:30 p.m.

Dept: CX103

Judge: Hon. Lon Hurwitz

I, BRAYDEN HUMPHERYS, declare:

1. I am a competent adult, over the age of eighteen (18) and am one of the named Plaintiffs in the above-entitled action. The foregoing is based upon my personal knowledge, and if called as a witness, I could and would competently testify thereto.

2. This Declaration is submitted in support of Plaintiffs' Motion for Final Approval of the Class Action and Representative Action Settlement ("**Final Approval**").¹

3. In connection with Final Approval, I seek, and believe I have earned (as discussed below) an Enhancement Award of **\$10,000**.

MY EXPERIENCE WITH VIVINT IS TYPICAL OF THE CLASS

4. I worked for Smart Home Pros, Inc. and Vivint, Inc. (collectively "**Vivint**") between approximately between May, 2016 to March, 2018 as a Summer Sales Representative or "Direct Seller." My job duties required me to sell residential alarm systems on a door-to-door basis.

5. During my employment, I was classified as a "direct seller" and paid as an independent contractor and did not receive minimum wage for training time or mandatory meetings, and incurred unreimbursed expenses for car, cell phone, iPad and data plans. Additionally, I believe I was owed \$10,000 in unpaid commission at termination of employment.

6. At termination of employment, I was aware that I had signed an agreement with Vivint not to solicit former co-workers and faced risk of \$25,000 in liquidated damages for doing so. As such, I refrained from recruiting my former co-workers even though I had a financial incentive to do so.

7. Additionally, I was aware that Vivint was taking legal action against former co-workers for repayment of wage advances claimed to have been unearned. At termination, my supervisor told me that I signed a confidentiality agreement and would be sued if I told people about my experiences with Vivint.

I CONTRIBUTED EXTENSIVE TIME AND EFFORT

IN SUCCESSFUL PROSECUTION OF THE CLASS ACTION LAWSUIT

8. I have been actively involved in the prosecution of the case since January 2021. During my 34 months involvement in this case, I estimate that I spent approximately 135 hours,

¹ Terms not defined in this Declaration have the same terms as defined in the accompanying Motion for Final Approval or the Amended and Restated Joint Stipulation of Class Action Settlement (the "**Settlement Agreement**" or the "**Settlement**").

1 or averaged 4 hours per month, assisting in the prosecution and obtaining this excellent class
2 settlement, justifying an enhancement award of **\$10,000**.

3 9. In or about January 2021, I contacted Attorney Jason Baker regarding possible
4 wage and hour violations that occurred while I was employed by Vivint. Mr. Baker investigated
5 my claims and informed me of other violations that were unknown to me. I estimate that I spent
6 at least 5-7 hours discussing my experience with Mr. Baker and locating and reviewing
7 documents.

8 10. In or around May 2021, Mr. Baker informed me that Plaintiff Shane Crabtree was
9 potentially unable to continue prosecuting this case because of an arbitration agreement and that
10 without my assistance, the class action could fail, meaning Vivint's conduct would largely go
11 unpunished. Mr. Baker informed me that I was in a unique position to assist because I had
12 extensive experience with Vivint, verifiable damages and unlike Mr. Crabtree, did not sign an
13 arbitration agreement.

14 11. I had remote meetings with Mr. Baker and spent at least 3-5 hours learning the
15 duties I would have as a class representative as well as questioning Keegan & Baker, LLP about
16 the process and strategy moving forward in this case. Because I did not want to see the class
17 action case abandoned, I agreed to serve as a lead plaintiff to continue prosecuting the lawsuit.

18 12. During my involvement, I searched, located and provided numerous documents to
19 my attorneys regarding my employment. I also assisted my attorneys in revising the Amended
20 Complaint. I estimate my time spent in these tasks was approximately 3-5 hours.

21 13. I was frequently called by my attorneys to discuss various aspects of the case
22 during the litigation. Through multiple telephone calls and Zoom meetings, I helped my attorneys
23 fully understand the physical and electronic documents in this case, including the meaning of
24 abbreviated terms, acronyms, symbols, and other information unique to the corporate culture at
25 Vivint. I also assisted my attorneys in identifying witnesses whose names appeared on different
26 e-mails and other documents that Class Members or Vivint provided. In addition, I would often
27 contact my attorneys to see how things were progressing and what the next steps were so that I
28 could meet my obligations as a class representative. My attorneys had some experience in the

1 solar industry, but I spent many hours teaching my attorneys about Vivint's specific compensation
2 plan, anatomy of their solar sale processes, and general practices and procedures for door-to-door
3 sales.

4 14. Overall, I estimate that I spent more than 35 hours speaking with my attorneys
5 concerning Vivint systems, documents, policies, practices, and procedures, particularly related to
6 the manner in which Vivint provided compensation to its employees.

7 15. I also undertook significant efforts to mobilize class members and connected Mr.
8 Baker with other former and current employees over the course of the litigation to conduct
9 interviews, review pay stubs, provide wage authorizations, employment agreements and
10 commission schedules to determine if this happened to others. I made dozens of phone calls, text
11 messages, emails, and had meetings to identify and organize as many class members as I was
12 able. I am informed and believe my efforts resulted in my attorneys having contact with
13 approximately 149 class members who provided assistance in the prosecution of this action. I
14 estimate that I spent approximately 40 hours recruiting and mobilizing class members for
15 assistance.

16 16. From and after the filing this action, I monitored and assisted with the litigation
17 and discovery, and actively assisted in three mediations and the resulting settlement negotiations,
18 including, advising Mr. Baker on an appropriate allocation of settlement proceeds. I estimate that
19 I spent approximately 20 hours in these tasks.

20 17. I also kept myself familiar with the lawsuit by reviewing all of the legal pleadings
21 and discovery when filed and exchanged and encouraged class members to participate in the
22 Settlement during the administration process. I estimate that I spent approximately 10 hours
23 reviewing the pleadings and these related tasks.

24 18. Once a potential settlement was reached, my attorneys explained it all to me, and
25 I felt very proud of the difference my effort made for my former colleagues.

26 19. I have served to represent the Class Members because of the importance of the
27 case and so that other Class Members can benefit from the enforcement of the law and the savings
28

1 of time, money and effort that should result from the settlement. I have participated, and will
2 continue to participate, in this lawsuit up to and through the time of Judgment.

3 **I PURSUED THE LITIGATION DESPITE GREAT PERSONAL**
4 **RISK AND DETRIMENT NOT ENDURED BY OTHER CLASS MEMBERS**

5 20. I am informed and believe that in class action losses, the class representative may
6 be deemed the losing party and thus potentially liable for the prevailing party's costs. (*Earley v.*
7 *Superior Court* (2000) 79 Cal.App.4th 1420, 1433-1434; *Whiteway v. Fedex Kinkos Office and*
8 *Print Services, Inc.*, (N.D. Cal. December 17, 2007) 2007 WL 4531783).

9 21. While I was potentially personally liable for all of the costs if this lawsuit was
10 unsuccessful, I certainly did not reap all of the benefits from its success. By bringing this action,
11 I assumed the risks of a cost judgment and potentially attorneys' fee award for an unsuccessful
12 result. Against a company the size of Vivint and with a demonstrated history of suing former
13 employees, that risk was substantial.

14 22. I also endured great reputational risk in bringing an action against my former
15 employer – an industry leader. Many Vivint managers move onto other companies, where my
16 name could live on in infamy. Additionally, because the lawsuit is publicly available and was
17 communicated throughout the door-to-door industry, I am likely to lose employment
18 opportunities in the future because employers might find me “litigious” and screen me out during
19 the hiring process without giving me an opportunity to explain. My efforts in directly contacting
20 so many former and current Class Members exposed me to significant risk, and on more than one
21 occasion, Class Members voiced concern about the negative impacts my participation in this
22 litigation would have on my reputation in the industry.

23 23. Vivint's litigious reputation remained in the back of my mind as I participated in
24 this litigation.

25 24. Finally, Vivint insisted that I provide a broad general release of claims with a
26 California Civil Code 1542 waiver that was not required of other Class Members.

25. Accordingly, a **\$10,000** Enhancement Award is fair and necessary to ensure that I receive just compensation for the great personal detriment and risk that I endured, but not shared by the Class Members.

THE REQUESTED SERVICE AWARD IS MODEST

COMPARED TO THE CLASS RECOVERY

26. I was proud to learn that the Settlement resulted in a settlement providing significant relief for the benefit of over 5,000 Class Members, including changes to Vivint's employment policies and elimination of the post-termination non-solicitation restrictions. Many of these workers were unfamiliar with the legal process and therefore, would likely have had no redress, if not for my efforts.

27. Here, I am requesting **\$10,000** or a mere .15% of the Gross Settlement Fund and .12% of the total settlement value of \$8,427,148.09 (including the advances retained), which is a modest request compared to the overall recovery.

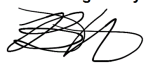
28. Notably, the requested Enhancement Award was provided to Class Members and there was no objection from the Class.

29. I am in no way related to anyone or associated with anyone who works for the law firm of KEEGAN & BAKER, LLP, ERIC D. NORVELL, ATTORNEY, P.A. or the proposed Settlement Administrator, CPT Group, Inc. I have not entered into any undisclosed agreements, nor have I received any undisclosed compensation in this case. The only compensation I expect to receive is whatever amount the Court awards as an Enhancement Award as well as my share of the Net Settlement Amount.

30. As such, an Enhancement Award of **\$10,000** is reasonable and appropriate for serving the Class.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed this 7.00 day of November, 2023, at Tooele, Utah

_____, Utah, signed via DocuSign.

DocuSigned by:

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BRAYDEN HUMPHERYS, Declarant