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11 Attorneys for Plaintiff BRAYDEN HUMPHERYS, JEREMY HATCHER individually, on behalf
12 of the Class and LOGAN SHANE CRABTREE, on behalf of all similarly situated aggrieved
13 employees

14 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

15 **COUNTY OF ORANGE**

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

19 Plaintiffs,

20 v.

21 VIVINT, INC., a Delaware corporation;
22 VIVINT SMART HOME, INC., a Delaware
corporation; SMART HOME PROS, INC., a
23 Delaware corporation; ARM SECURITY,
INC., a corporation state unknown; and DOES
24 1 through 50, inclusive,

25 Defendants.
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27
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CASE NO. 30-2020-01141910-CU-OE-CXC

CLASS ACTION

**DECLARATION OF CLASS COUNSEL
ERIC D. NORVELL, ESQ. IN SUPPORT
OF MOTION FOR FINAL APPROVAL
OF CLASS ACTION AND
REPRESENTATIVE ACTION
SETTLEMENT**

Date: December 8, 2023

Time: 1:30 p.m.

Dept: CX103

Judge: Hon. Lon Hurwitz

1 I, ERIC D. NORVELL, ESQ., declare:

2 1. I am the sole shareholder in the law firm of Eric D. Norvell, Attorney, P.A., acting
3 as co-counsel of record for the Class Plaintiffs BRAYDEN HUMPHERYS and JEREMY
4 HATCHER and PAGA Plaintiff LOGAN SHANE CRABTREE (the “Plaintiffs”). I am also
5 proposed Class Counsel for the putative Class. As such, I am fully familiar with the facts,
6 pleadings, and history of this matter. The following facts are within my own personal knowledge,
7 and if called as a witness, I would testify competently and consistently to the matters stated
8 herein.

9 2. This declaration is submitted in support of Plaintiffs’ Unopposed Motion for Final
10 Approval of Class Action Settlement and Application for Attorneys’ Fees, Costs and
11 Enhancement Awards (“**Final Approval**”). Terms not defined in this Declaration have the same
12 terms as defined in the accompanying Motion for Final Approval of the Joint Stipulation of Class
13 Action Settlement (the “**Settlement Agreement**” or the “**Settlement**”) along with all exhibits
14 thereto.

15 3. So as not to create an unnecessarily burdensome record, I incorporate by reference
16 the statements by attorney JASON E. BAKER in his Declaration in Support of Plaintiffs’ Motion
17 for Final Approval of Class Action and Representative Action Settlement (the “Baker Dec.”),
18 filed concurrently herewith, without limitation statements, assertions, facts, and information set
19 forth in the Baker Dec. as ¶¶3-79.

20 **A. CLASS COUNSEL IS DULY QUALIFIED AND ENDORSES THE SETTLEMENT**

21 4. I have been personally involved in the prosecution of this case since January 2020,
22 when I was contacted by Plaintiff Crabtree regarding potential violations by Vivint that
23 ultimately became the grounds and substance for this action, as reflected by my contemporaneous
24 billing and expense records submitted with the Notice of Lodgment (“NOL”) as Exhibits J and K,
25 filed concurrently with Plaintiff’s Unopposed Motion for Final Approval.

26 5. Based on my participation in this action from the outset, and independent
27 investigation and evaluation, settlement with Defendants for the consideration and on the terms in
28 the Settlement Agreement is fair, reasonable, and adequate and is in the best interest of the Class,

1 given all known facts and circumstances, including the risks of loss on the merits, certification,
2 inability to aggregate damages classwide, significant delay, expense, complexity, defenses
3 asserted by Defendants, and potential appellate issues. (See also Baker Dec. ¶¶57-58.)

4 6. As set forth in Baker Dec. ¶¶8-78, the Settlement provides substantial benefit to
5 the Class Members, especially in light of the challenges and risks associated with the litigation
6 for both Plaintiffs and Defendants. The considerations detailed in those paragraphs weighed in
7 favor of settlement.

8 7. In connection with this case, I have served as co-counsel and have worked on this
9 case for approximately forty-seven months (47) months as of the date of the Final Approval
10 hearing. I fully endorse the Settlement and based on my education, training, and experience, I
11 consider the Settlement to be a beneficial and necessary outcome for the Class.

12 8. I was admitted to the New Mexico State Bar in 2007 and the California Bar in
13 2016. I have remained continuously licensed and in good standing in both jurisdictions since my
14 respective admission to each.

15 9. My trial and litigation experience are extensive. From the outset of my career, I
16 have focused on various areas of civil litigation practice. I have tried seven cases to verdict, and I
17 have served as lead counsel and co-counsel in hundreds of disputes in California and New
18 Mexico. As a matter of course, I have drafted pleadings, argued motions, taken and defended
19 depositions, conducted discovery, examined witnesses at trial, represented parties in mediations
20 and arbitrations, and otherwise led cases through the entire litigation lifecycle, from the initial
21 investigation and intake of clients through post-judgment practice.

22 10. I have significant experience representing clients in employment and labor matters
23 and business disputes. I have represented clients in federal and state wage and hour cases;
24 wrongful discharge, retaliation, and discrimination cases; claims involving violations of Title VII
25 of the Civil Rights Act of 1964, the Americans with Disabilities Act, and the Rehabilitation Act
26 of 1973; shareholder derivative claims; California Division of Labor Standards Enforcement
27 appeals; and proceedings before the U.S. Department of Labor.

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1 11. I have also argued appeals of employment cases before the New Mexico Court of
2 Appeals and the United States Tenth Circuit Court of Appeals.

3 12. I received my Bachelor of Arts in English from Rice University in 1994, with
4 substantial mathematics, science, and economics credits complementing the core disciplines of
5 that degree. That course work included advanced mathematics and data analytics classes
6 (including real analysis, complex analysis, statistics and probability, abstract algebra, and
7 computer science).

8 13. I obtained my Juris Doctor, *cum laude*, from University of New Mexico School of
9 Law in 2007.

10 14. From 1995 through 2004, I worked as a communications, information technology
11 (“IT”), and management consultant for several large international corporations in Houston, Texas
12 in the industries of energy, investment banking, and IT, among others. My work required
13 assimilation and analysis of complex and voluminous data and information, implementation of
14 process-driven methodologies, and development of applications, business models, and supporting
15 systems for clients. The skills developed and implemented during that period prior to practicing
16 law have been implemented in this case, with substantial numbers of class members and data
17 related to the same. For example, in conducting the analysis of damage models from multiple
18 disclosures of class data, my work resulted in determination of potential litigation exposure for
19 Defendants, recovery to class members in relation to the settlement, and possible settlement
20 scenarios during litigation. Additional analysis of later-disclosed class information has resulted
21 in modeling of prospective distributions to class members based upon the payment calculation
22 model set out in Section 3.06(g) of the Settlement Agreement.

23 15. From 2007 to 2013, I was an associate attorney in New Mexico with
24 Rammelkamp, Muehlenweg, & Cordova, P.A. (“RMC”), an Albuquerque-based law firm
25 specializing business, employment, and real estate litigation and transactions. Upon commencing
26 employment with RMC, I immediately began a practice concentrated primarily on business,
27 construction, employment, and real estate litigation, serving as both plaintiff and defense counsel
28 for individuals and companies. My practice at RMC included trials, mediations, and arbitrations.

16. In 2013, I began working as an associate for Remo E. Gay & Associates, P.C. (“REG”), an Albuquerque-based litigation law firm. I acted as first-chair litigation counsel for employment, construction, and business litigation cases and as co-counsel in medical malpractice defense cases otherwise litigated by REG.

17. In 2014, I founded the Law Offices of Eric D. Norvell, P.A., which later that year became Norvell Werenko, P.A. (“NW”). NW was an Albuquerque-based business and employment law firm, and I assumed first chair on all litigation cases, which included primarily business, employment discrimination, wage and hour, and construction litigation.

18. In February 2016, NW became my current firm, Eric D. Norvell, Attorney, P.A. (“EDN”), continuing a focus on civil litigation with concentrations on employment, wage and hour, personal injury, and business cases, as well as developing a practice in class action litigation for personal injury and employment claims.

19. From January 2019 through July 2020 (and further with respect to post-judgment matters), I acted as co-counsel with the law firm of Keegan & Baker LLP in prosecution and resolution of class action claims in the case of *Joshua Gonzales et al. v. Vivint Solar Developer, LLC*, Case No. 37-2018-00008020-CU-OE-CTL, California Superior Court, County of San Diego, in which an approximately \$10,000,000 wage and hour class action settlement was reached on behalf of class of California door-to-door solar sales representatives.

20. I do not have a pre-existing business, personal, social, familial, or financial relationship with any of the named Plaintiffs or Cooperating Class Members.

B. THE NUMBER OF HOURS REPORTED IS REASONABLE

21. The total amount of time expended by my firm in the nearly 47-month duration of this case is 822.50 hours and a lodestar of \$507,050. True and correct copies of the contemporaneous time records are attached to the NOL as Exhibit J.

22. The time expended by my firm is summarized below and detailed in Exhibit J:

Eric D. Norvell, Attorney, P.A.					
<i>Attorney</i>	<i>Title</i>	<i>Bar Number</i>	<i>Rate</i>	<i>Total Hours</i>	<i>Lodestar</i>
Eric D. Norvell	Shareholder	309688 (CA) 24767 (NM)	\$575 - \$650	822.50	\$507,050

23. Prevailing counsel are entitled to be compensated “for all time reasonably expended in pursuit of the ultimate result achieved in the same manner that an attorney traditionally is compensated by a fee-paying client for all time reasonably expended on a matter.” (*Hensley v. Eckerhart* (1983) 461 U.S. 424, 431 (internal quotations and citations omitted); *Serrano v. Unruh* (1982) 32 Cal.3d 621, 633 (parties may recover for all hours reasonably spent); *Meister v. Regents of Univ. of Cal.* (1998) 67 Cal.App.4th 437, 447-48.).

24. Beyond my firm’s current lodestar, I will spend time assisting in overseeing the completion of administration of this Settlement, including communicating with numerous Class Members and the LWDA, resolving claims disputes, preparing pleadings for and attending the later hearings, monitoring the distribution of proceeds, following up on missed or errant payments, etc., for which I will not receive additional payment. I anticipate spending another 75-100 hours in performing these tasks given the size of the class, though such time is difficult to predict.

25. The hours my firm spent litigating this matter are not only reasonable but were entirely necessary for the successful prosecution of this case, for the purposes of due diligence and effective negotiation at mediation, and for achieving the recovery obtained on behalf of the Class.

26. A significant amount of time was expended mobilizing Class Members, obtaining declarations, analyzing tremendous amounts of data related to the more than 5,500 class members, and drafting, reviewing, and revising filings necessary for the Court. Moreover, since beginning work on this case in January 2020, I have collaborated with co-counsel regarding virtually all aspects of the case, with legal and practical decisions made in concert to effectuate the substantially beneficial outcome now before the court.

C. THE REQUESTED HOURLY RATES ARE REASONABLE

27. Class Counsel are entitled to be compensated at hourly rates that reflect the reasonable market value of their legal services, based on their experience and expertise. (*See Serrano IV*, 32 Cal.3d at 640-43 n.31; *San Bernardino Valley Audubon Soc’y v. County of San Bernardino* (1984) 155 Cal.App.3d 738, 755.) “The reasonable hourly rate is that prevailing in

1 the community for similar work.” (*PLCM Group, Inc. v. Drexler* (2000) 22 Cal.4th 1084, 1095.)
2 Courts have explained that payment at the full market rate is essential to entice well-qualified
3 counsel to undertake difficult cases that they might otherwise be unwilling to take. (*See San*
4 *Bernardino Valley Audubon Soc’y*, 155 Cal.App.3d at 755.)

5 28. As set forth above, my professional background and experience supports the
6 hourly rate above. I was approved in California Superior Court at \$575 in 2020 (*Gonzales v.*
7 *Vivint Solar Developer, LLC*, Case No. 30-2018-00008020-CU-OE-CTL (Hon. Katherine
8 Bacal)). As stated in the Baker Dec. ¶111, this Court has approved similar hourly rates for
9 attorneys with similar or lesser experience than my own. In *Walter v. Farfetch.com* (2020-
10 01139875), this Court on October 20, 2023 approved \$675 for Attorneys Robert Spencer (18
11 years) and Adrian Barnes (16 years), and on August 16, 2023, in *Alvarado v. Citadel Servicing*
12 (2019-01057617), this Court approved \$650 for attorneys Edwin Aiwarzian (19 years), Arby
13 Aiwarzian (13 years), and Joanna Ghosh (13 years), \$750 - \$800 for Attorney Heather Davis (18
14 years), and \$625 - \$725 for Amir Nayebdadash (19 years).

15 29. Attorney Baker also references the *Laffey Matrix* as a potential basis for attorneys’
16 fees. (Baker Dec. ¶112, citing *Syers Properties III, Inc., v. Rankin* (2014) 226 Cal.App.4th 691).
17 According to the current *Laffey Matrix*, an unadjusted hourly rate for an attorney like myself with
18 16 years of experience (between 11 and 19 years on the *Laffey Matrix*) is \$878. My proposed rate
19 in this action is well below the rate approved by the *Laffey Matrix*.

20 **D. FURTHER JUSTIFICATION FOR CLASS COUNSEL’S FEE REQUEST**

21 30. As stated in the Baker Dec., ¶123, practice in employment class litigation requires
22 knowledge and skill of the constantly evolving substantive law and the procedural requirements
23 of class action litigation. The issues in this case required more than just a general appreciation of
24 employment laws and regulations and class action procedure as the laws at the heart of this
25 dispute are in conflict, and there remains conflicting case law. Further, this case involved matters
26 that required significant expenditure of my time such as extensive and detailed review of legal
27 authority relating to the substantive law of the causes of action at issue; developing and executing
28 litigation as well as mediation and settlement strategies for multiple mediations; drafting of

1 pleadings; extensive motion practice and appearances in Court; continued communication among
2 the Class and PAGA Plaintiffs, Class Members, Co-Counsel, and Defendants; and detailed and
3 extensive analysis of data and information exchanged between the parties to assure that the
4 Settlement's terms are based upon objective evidence thoroughly considered in the risks,
5 expenses, and benefits of continuing to litigate the case.

6 31. The requested attorneys' fees are reasonable and appropriate for the work done
7 and the benefit achieved for the Settlement Class. My contributions to this litigation were
8 instrumental in bringing this case to a resolution. Even after the Preliminary Approval of the
9 Settlement, I continued working throughout the administration period and intend to do so up
10 through and after Final Approval. After Preliminary Approval, I undertook additional extensive
11 review and analysis of evidence and data; had numerous conferences and communications with
12 Class Members to encourage participation in the Settlement Class; reviewed and responded to
13 Class Member phone calls, emails, and submissions inquiring about the Settlement, its terms, and
14 its effect; communicated with the Settlement Administrator to regarding Opt-Outs, points
15 disputes, and the sole objection; ensured the implementation of proper electronic payment
16 systems; and maintained regular communication with co-counsel and Defendants' counsel to
17 ensure timely and efficient administration of legal tasks and issues that arose during the period.

18 **E. COSTS ARE REASONABLE AND SHOULD BE APPROVED**

19 32. My firm also incurred certain costs associated with this litigation, as set out in the
20 Baker Dec., ¶126. The actual costs my firm incurred in prosecuting this litigation were \$1,659.
21 My contemporaneous expense records, attached to the NOL as Exhibit K, include a summary of
22 my firm's cost bill. These expenses are all of a type normally charged to a fee-paying client in the
23 private legal marketplace. My expenses pertaining to this case are reflected in the books and
24 records of my firm which are an accurate record of the expenses incurred.

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1 I declare under penalty of perjury under the laws of the State of California that the
2 foregoing is true and correct.

3 **RESPECTFULLY SUBMITTED,**

4 **ERIC D. NORVELL, ATTORNEY, P.A.**

5 Dated: November 16, 2023

By: s/ Eric D. Norvell
Eric D. Norvell, Esq.
Attorney for Plaintiffs BRAYDEN
HUMPHERYS, JEREMY HATCHER and
LOGAN SHANE CRABTREE