

1 Jason E. Baker, Esq. (SBN: 197666)

jbaker@keeganbaker.com

2 John J. Weber, Esq. (SBN: 313824)

jweber@keeganbaker.com

3 **KEEGAN & BAKER, LLP**

5820 Oberlin Drive, Suite 205

4 San Diego, CA 92121

Telephone: (858) 558-9402/7

5 Facsimile: (858) 558-9401

6 Eric D. Norvell, Esq. (SBN: 309688)

enorvell@norvellfirm.com

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

445 Marine View Avenue, Suite 300

8 Del Mar, CA 92014

Telephone: (760) 452-0808

9 Facsimile: (760) 454-3802

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

12 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

13 **COUNTY OF ORANGE**

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

18 Plaintiffs,

19 v.

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

24 Defendants.

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

CLASS ACTION

**DECLARATION OF ATTORNEY JOHN
J. WEBER 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

25 I, JOHN J. WEBER, declare:

26 1. I am an attorney at the law firm of Keegan & Baker, LLP counsel of record for the
27 Class Plaintiffs BRAYDEN HUMPHERYS and JEREMY HATCHER and PAGA Plaintiff
28 LOGAN SHANE CRABTREE (the “**Plaintiffs**”) and proposed Class Counsel for the proposed

1 Class. As such, I am fully familiar with the facts, pleadings, and history of this matter. The
2 following facts are within my own personal knowledge, and if called as a witness, I would testify
3 competently and consistently to the matters stated herein.

4 2. This Declaration is submitted in support of Plaintiffs' Motion for Final Approval
5 of the Class Action and Representative Action Settlement ("**Final Approval**") for the Settlement
6 that was preliminarily approved by this Court on July 27, 2023 [ROA 282 and 356].

7 3. So as not to create an unnecessarily voluminous record asserting redundant
8 statements, I incorporate and affirm the facts asserted by Attorney Jason E. Baker in his
9 Declaration in Support of Motion for Final Approval (the "**Baker Declaration.**").

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

11 4. I have been personally involved in the prosecution of this case since March, 2020,
12 as reflected by my contemporaneous billing and expense records submitted with the Notice of
13 Lodgment ("**NOL**") as *Exhibit F*, filed concurrently with Plaintiffs' Motion for Final Approval.

14 5. Based on the incorporated and affirmed facts from the Baker Declaration and my
15 own independent investigation and evaluation, the settlement with Defendants VIVINT, INC.,
16 VIVINT SMART HOME, INC., SMART HOME PROS, INC., and ARM SECURITY, INC.,
17 (collectively "**Defendants**") for the consideration and on the terms in the Settlement Agreement
18 is fair, reasonable, adequate, and in the best interest of the Class given all known facts and
19 circumstances, including the risk of significant delay, defenses asserted by Defendants, and
20 numerous potential appellate issues.

21 6. In connection with this case, I have served as class counsel and have worked on
22 this case for nearly 46 months. I fully endorse the Settlement and based on my education, training,
23 and experience and consider the Settlement to be a great outcome for the Class.

24 7. I have been a licensed California Attorney continually in good standing since
25 December, 2016. I received my Bachelor of Arts degree in Political Science from the University
26 of California at Berkeley in 2013, and my Juris Doctor degree from University of San Diego
27 School of Law in 2016.

28 8. From 2017 to 2019, I was an attorney at Bernstein, Litowitz, Berger, &

1 Grossmann, LLP, a leading securities fraud class action firm representing institutional investors
2 nationwide. I worked on various securities fraud cases including *In re RH, Inc., Securities*
3 *Litigation*; *In re Quality Systems, Inc. Securities Litigation*; and *In re Cobalt International*
4 *Energy, Inc. Securities Litigation*, which collectively resulted in over \$450,000,000 in class
5 settlements.

6 9. From 2019 to present, I have worked as an associate attorney at Keegan & Baker,
7 LLP and have focused my practice in various disciplines but specializing in labor and
8 employment law, both on behalf of individual and class plaintiffs and defendants in every stage
9 of litigation. In connection with these actions, I have served as lead trial counsel, co-counsel,
10 argued motions, taken and defended depositions, conducted discovery, drafted pleadings, drafted
11 class notices, examined witnesses, and have tried three cases to verdict. I have significant
12 experience representing clients in employment and labor matters, including but not limited to,
13 litigating federal and state wage and hour claims, wrongful discharge and discrimination claims,
14 and advising employees and employers in proceedings before the Department of Labor Standards
15 Enforcement and the Department of Labor.

16 10. As class counsel I have achieved aggregate recoveries of over \$14,500,000 on
17 behalf of multiple classes of California employees and PAGA aggrieved employees.

18 11. In addition to the significant recoveries I have facilitated as class counsel, I have
19 also successfully represented individual plaintiffs both in state court and in private arbitrations,
20 recovering more than \$2,000,000 for my clients.

21 12. I do not have any pre-existing business, personal, social, familial, or financial
22 relationship with any of the parties or the Settlement Administrator.

23 **B. THE NUMBER OF HOURS REPORTED AND RATES ARE REASONABLE**

24 13. The total amount of time I personally expended in reaching this Settlement is
25 499.50 hours, inclusive of estimated time to get through Final Accounting.

26 14. These hours were spent on every aspect of the litigation that led to settlement,
27 including motion work; innumerable phone calls and interviews with Class Members; detailed
28 wage audits of many dozens of the approximately 149 Class Members our firm mobilized,

1 extensive legal research into the constantly evolving substantive law and procedural requirements
2 related to the causes of action at issue; developing and executing litigation strategies; developing
3 and executing mediation and settlement strategies; extensive detailed analysis tens of thousands
4 of pages of documents; and drafting pleadings. Indeed, there are more than 380 docket entries on
5 the Register of Actions in this case.

6 15. In calculating my lodestar, an hourly rate of \$450-\$525 was used. As set forth
7 above, my professional background and experience supports this hourly rate for class action work.
8 Indeed, I was approved at \$450 in 2022 (*Jeffery v. Infinity Energy, Inc.*, Case No. JCCP 5139,
9 San Diego Superior Court – Judge Keri Katz); and \$450 in 2023 (*Green v. LGCY Power, LLC.*,
10 Case No. 37-2019-00026629-CU-OE-CTL, San Diego Superior Court – Judge Ronald Frazier).
11 I used these same rates approved by other California courts in calculating my lodestar hereunder.

12 16. This rate is within the range of rates I charge depending on the complexity of
13 matters and thus, necessarily reflect the current market value of our legal services in San Diego.
14 This rate is within the comparable rates of similarly qualified lawyers handling civil matters in
15 San Diego Superior Court. I have reviewed my firm’s lodestar in this matter and believe the
16 charges are reasonable and were reasonably necessary to the conduct of the case. These rates are
17 in line with the prevailing rates of attorneys in the local legal community for similar work and, if
18 this were a commercial matter, these are the charges that would be made and presented to the
19 client.

20 I declare under penalty of perjury, under the laws of the State of California, that the
21 foregoing is true and correct.

22
23 **RESPECTFULLY SUBMITTED,**
24 **KEEGAN & BAKER, LLP**

25 Dated: November 15, 2023

26 By: /s/ John J. Weber
27 John J. Weber, Esq.
28 Attorneys for Plaintiffs