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## 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

### CLASS ACTION

### DECLARATION OF COOPERATING CLASS MEMBER TRISTAN YODER 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

I, TRISTAN YODER, declare:

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

1 I have personal knowledge of the facts stated herein except as to those matters stated upon  
2 information or belief, and, as to those matters, I believe them to be true.

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

5 3. In connection with Final Approval, I seek and believe I have earned, as discussed  
6 below, an Enhancement Award of **\$10,000** for the contributions I made to assist the Class in  
7 securing the Settlement.<sup>1</sup>

8 **MY CONTRIBUTIONS TO THIS CASE**  
9 **HAVE BEEN SIGNIFICANT AND ESSENTIAL TO REACHING SETTLEMENT**  
10 **DESPITE SIGNIFICANT SACRIFICE AND RISK**

11 4. I seek this for the contributions that I made to the Class, which included  
12 commitment of time and sacrifice of my individual recovery in favor of Class recovery.

13 5. However, my participation was initiated with some reluctance, mainly arising  
14 from the risk to my reputation, employability, and financial security as being associated with and  
15 participating in this Class Action, because it represented taking a stand against Vivint,<sup>2</sup> a giant  
16 corporation, and my former employer, that I understood to litigate against its employees.

17 **By Participating in This Legal Challenge Against Vivint, I Risked my Reputation,**  
18 **Employability, and Financial Security**

19 6. My concerns regarding harm to my reputation, employability, and financial  
20 security came from specific occurrences within Vivint during and after I left the company.

21 7. I worked as a Sales Representative for Vivint beginning on June 8, 2017, and my

22 <sup>1</sup> Courts may award an enhancement award to class members, other than named plaintiffs, if the  
23 recipients show they contributed to the prosecution of the litigation or experienced some type of  
24 potential retaliation, which were not shared by the class as a whole. (*Trujillo v. City of*  
25 *Ontario* No. EDCV 04-1015-VAP (C.D.Cal. Aug. 24, 2009), at \*13.) Similarly, in *Boyd v. Bank*  
26 *of America Corp.*, No. 8:13-cv-00561-DOC (C.D.Cal. Jan. 19, 2016), the Hon. David Carter  
approved service awards of \$25,000 for each of the four representative plaintiffs for their time  
and effort in the litigation and their broader releases, and \$2,000 for each of the class member  
deponents for their time and effort in providing deposition testimony supporting class claims.  
(*Id.*, at \* 3.)

27 <sup>2</sup> "Vivint" means collectively Defendants VIVINT, INC., a Delaware corporation; VIVINT  
28 SMART HOME, INC., a Delaware corporation; SMART HOME PROS, INC., a Delaware  
corporation; and ARM SECURITY, INC., a corporation.

1 employment terminated on November 16, 2018. Just like the other Class Members, I sold  
2 residential alarm, home automation, and at times solar systems on a door-to-door basis throughout  
3 Southern California.

4 8. During my time as a Vivint employee, when an employee left Vivint, the  
5 implied—and often express—understanding was to not ever speak with that person again. The  
6 culture was that either you were with Vivint or you were against it, and managers reaffirmed that  
7 mindset through intimidation. Vivint aggressively battled former employees who stood up to it,  
8 and managers within the company would often tell stories of former employees who were  
9 threatened with litigation for even continuing to talk to their ex-colleagues at Vivint.

10 9. When I was fired from Vivint, my manager at the time had lunch with me and said  
11 sternly about my exit from the company, “Don’t talk to any other reps and we won’t have a  
12 problem.” I understood this to mean that if I remained in contact with my Vivint colleagues, even  
13 on a social level, I would subject to legal action and reputational harm, even without a basis. His  
14 statement also implied that Vivint (the “we”) did not intend to pay commissions owed to me, and  
15 if I challenged them, then I would “have a problem.”

16 10. That conversation stuck with me. When I reached out to Vivint managers, I was  
17 ignored completely. I was no longer with them, so I was against them. However, I knew that if I  
18 stood up to Vivint, that I would “have a problem.”

19 11. I could not entertain an individual suit, as I knew that Vivint had pursued fellow  
20 former employees for violation of the unlawful non-solicitation provision in the company  
21 employment agreements and sought to claw back wage advances. The foreseeably extreme costs  
22 to me personally, both in terms of finances and opportunities, dissuaded me from pursuing what  
23 I was entitled to.

24 12. However, when then-Class Plaintiff Logan Shane Crabtree (“Crabtree”), whom I  
25 had worked with, notified me of this Class Action around June 2020, I agreed, hoping that  
26 working collectively would help to afford me some relief. Mr. Crabtree told me what the Class  
27 Action was all about, the types of claims that were made, and how I could help. I expressed  
28 interest in participating, as I was clearly an employee who was wronged by the very types of

1 actions in the lawsuit, and although I still had concerns given Vivint's aggressiveness and  
2 reputation to pursue former employees with legal means, I connected with Class Counsel and  
3 discussed my employment with Vivint.

4 13. I also spoke with about 30 or more former Vivint employees about participating  
5 as Class Members. Many echoed some of the concerns that I had in participating. A few were  
6 worried about suddenly having a "bad" reputation as being litigious, while others were concerned  
7 about not being able to work with Vivint again because Vivint held such a dominance in the  
8 industry, even though they, like me, were subject to wrongful employment practices.

9 14. I fear that my very public participation will hinder my future prospects because of  
10 Vivint's reach and influence on other companies. I am aware that within the industry, my name  
11 can still be viewed in a negative light by potential employers, associates, and colleagues. My  
12 participation in what I saw as a just pursuit has been tempered by the likely effects on my  
13 livelihood and chosen vocation.

14 **I Sacrificed My Individual Claims to Help Achieve This Class-Wide Settlement**

15 15. In September 2021, Class Counsel notified me that then-Class Plaintiff Crabtree's  
16 class claims had been compelled to arbitration and the Class Action was at risk of dismissal. In  
17 turn, my claims (and other class members' claims) were subject to arbitration. However, my  
18 employment agreement required that I mediate prior to any arbitration, which I chose to do.

19 16. In support of my claims in mediation, I submitted documents to Vivint, detailed at  
20 length regarding the specifics of the individual claims that I sought to have resolved (especially  
21 my forfeited commissions), and assisted in the preparation of a damage analysis and model for  
22 inclusion in my mediation brief provided to the mediator. During the mediation, I was actively  
23 available to respond with substantive information that would progress the resolution of the case.

24 17. Ultimately, it became clear that the mediation of individual claims was futile  
25 because there would likely be numerous individual claimants, and Vivint appeared unwilling to  
26 negotiate individual settlements while the Class Action and PAGA action were still pending.  
27 Vivint preferred a global settlement of all claims.

28 18. Although my individual claims were potentially much greater than the amount that

1 I likely stood to receive in this Class Action, I was willing to surrender my individual claims in  
2 order to facilitate the settlement of all claims for the entire class. Setting aside my claims also  
3 removed my exposure to cross-claims from Vivint, and further, I would not have to prove up my  
4 individual claims and retain my own counsel.

5 19. The amount of my individual claims that I set aside exceeded the \$10,000  
6 enhancement award that I seek here. However, the interests of the Class Members remain a  
7 primary focus. I continue to put those collective interests before my own to benefit the Class  
8 Members who were subject to the same violations and injustices.

9 **I Committed a Significant Amount of Time to This Litigation as a Contributing Class Member**  
10 **to Get this Case to Settlement**

11 20. In total, I estimate that I have spent 60-70 hours collectively engaged in  
12 discussions with counsel, review of documents, communicating with colleagues about the case,  
13 preparing for and participating in mediation, and generally responding to inquiries and providing  
14 insight into Vivint.

15 21. Among the many tasks performed, I educated Class Counsel about my experiences  
16 with Vivint, which seem to have been common among many of us, including not receiving  
17 minimum wage for training time and mandatory meetings; not being reimbursed for incurred  
18 expenses for car, cell phone, iPad, and cellular data plans; and having wages unlawfully deducted.  
19 As mentioned above, I was also left with unpaid commission at termination of employment that  
20 Vivint forcibly withheld, deemed forfeited, and reallocated within the company.

21 22. I provided a wage authorization to submit to Vivint so that Class Counsel and I  
22 could obtain my employment records. I also spent significant time providing provided an array  
23 of my own personal documents to Class Counsel, which included records retained to demonstrate  
24 my work history, commission payments, and compensation plans.

25 **THIS SETTLEMENT COULD NOT HAVE BEEN ACHIEVED**

26 **WITHOUT MY COOPERATION AND EFFORTS**

27 23. I am proud to have been an integral part of achieving the Settlement for more than  
28 5,500 of my fellow former and current employees, and I believe that this case would not have

1 been resolved without my participation, including in the mediation that demonstrated serial  
2 arbitrations of class members were not only possible but plausible.

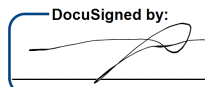
3 24. I reiterate here that, despite what I view as a great collective victory in achieving  
4 settlement, I personally endured great reputational risk in participating so openly against my  
5 former employer, a giant in the industry. My efforts in directly contacting so many former and  
6 current employees exposed me to significant risk, and on more than one occasion, employees  
7 voiced concern about the negative impacts my participation in this litigation would have on my  
8 reputation in the industry. I have been and continue to be concerned about losing potential  
9 employment opportunities in the future because employers might find me “litigious” and screen  
10 me out during the hiring process without giving me an opportunity to explain. As stated above, I  
11 also feared that Vivint would seek retribution against me and attempt to file a frivolous but costly  
12 suit against me based on the invalid non-solicitation agreement.

13 25. Therefore, I feel as though I have earned, as discussed above, the \$10,000  
14 Enhancement Award requested.

15 26. Notably, this request for \$10,000 was presented to the Class and no one objected.

16 27. I am in no way related to anyone or associated with anyone who works for the law  
17 firm of KEEGAN & BAKER, LLP or for ERIC D. NORVELL, ATTORNEY, P.A. I have not  
18 entered into any undisclosed agreements, nor have I received any undisclosed compensation in  
19 this case. The only compensation I expect to receive is whatever amount the Court awards as an  
20 enhancement payment as well as my share of the Net Settlement Amount as a Class Member.

21 I declare under penalty of perjury under the laws of the State of California that the  
22 foregoing is true and correct. Executed this 12 day of November 2023, at  
23 Hemet \_\_\_\_\_, California.

24 DocuSigned by:  
25   
26 CB789E531E3B402...

Tristan Yoder, Declarant