

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

jbaker@keeganbaker.com

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

jweber@keeganbaker.com

KEEGAN & BAKER, LLP

5820 Oberlin Drive, Suite 205

San Diego, CA 92121

Telephone: (858) 558-9402/7

Facsimile: (858) 558-9401

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

enorvell@norvellfirm.com

ERIC D. NORVELL, ATTORNEY, P.A.

445 Marine View Avenue, Suite 300

Del Mar, CA 92014

Telephone: (760) 452-0808

Facsimile: (760) 454-3802

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
JEREMY HATCHER 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, JEREMY HATCHER, 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 as a Summer Sales Rep and Summer Sales Manager for Defendants VIVINT, INC., a Delaware corporation; VIVINT SMART HOME, INC., a Delaware corporation; SMART HOME PROS, INC., a Delaware corporation; and ARM SECURITY, INC., a corporation (collectively referred to as the "**VIVINT**") between approximately March, 2014 to March 2019. My job duties required me to sell residential alarm systems on a door-to-door basis and manage other employees.

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 \$15,000 - \$20,000 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 (including those I had supervised) for repayment of wage advances claimed to have been unearned.

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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**").

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

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

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

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

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

13. Because I was a Vivint manager, I had unique insight into Vivint's operational practices. I was frequently called by my attorneys to discuss various aspects of the case during the litigation. Through multiple telephone calls and Zoom meetings, I helped my attorneys fully understand the physical and electronic documents in this case, including the meaning of

1 abbreviated terms, acronyms, symbols, and other information unique to the corporate culture at
2 Vivint. I also assisted my attorneys in identifying witnesses whose names appeared on different
3 e-mails and other documents that Class Members or Vivint provided. In addition, I would often
4 contact my attorneys to see how things were progressing and what the next steps were so that I
5 could meet my obligations as a class representative.

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

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

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

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

26 18. Once a potential settlement was reached, my attorneys explained it all to me, and
27 I felt very proud of the difference my effort made for my former colleagues – many of whom I
28 was responsible for supervising at Vivint and felt a sense of responsibility to help them.

1 19. I have served to represent the Class Members because of the importance of the
2 case and so that other Class Members can benefit from the enforcement of the law and the savings
3 of time, money and effort that should result from the settlement. I have participated, and will
4 continue to participate, in this lawsuit up to and through the time of Judgment.

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

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

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

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

25 23. Vivint's reputation for employee litigation remained in the back of my mind as I
26 continued through this litigation.

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

