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

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 KIEFFER TAYLOR 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, KIEFFER TAYLOR, 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 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.¹

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

11 4. I began participating in this Class Action in the middle of its pendency, in August
12 of 2021. Since that time, however, I have committed significant time, energy, and resources to
13 move this case toward the Settlement before the Court today. I did this in spite of reputational
14 and employment risk in the industry and among colleagues as well as the financial risk that
15 follows with my cooperation and participation in this case. I also waived my own substantial
16 individual claims for the benefit of achieving this Class-wide Settlement.

17 **My Reputation in this Industry—and Therefore My Employability and Financial Security—**
18 **were Put Immediately and Tangibly at Risk from Participating in This Class Action**

19 5. I worked as a Sales Representative for Vivint² from about February 27, 2017 to
20 August 3, 2021. I sold residential alarm, home automation, and at times solar systems on a door-
21 to-door basis throughout Southern California.

22 ¹ 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 ² "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 6. In the business of direct sales (“door-to-door”), a Sales Representative’s reputation
2 is everything. It opens doors and it closes doors, which is all that direct sellers really have. In my
3 time working for Vivint, I have seen the company use this reputational threat against my
4 coworkers in real time. For that reason, engaging actively in a dispute with Vivint, which is an
5 industry leader in an industry that continues to grow nationwide, represents a real risk to my
6 reputation and hence my employability and financial stability.

7 7. When I left and joined the Class Action, Vivint representatives immediately began
8 to spread false rumors that I stole from the company, was not a good employee, and was a felon
9 that would go to jail. I found this out from another member of the Class who had heard such
10 statements being spread by Vivint representatives and wanted to let me know. These rumors were
11 and are, of course, false.

12 8. Thereafter, as I continued to try to work and build my position in the industry, on
13 a regular basis potential partners and vendors repeated to me the false rumors they had heard.
14 There was no dancing around it either: several times I was told to my face the rumors that had
15 been placed in circulation by Vivint. I lost several business opportunities because of the rumors,
16 and the discomfort and anxiety of having to defend myself in the face of a major public company’s
17 campaign against me was very serious.

18 9. I do not believe that it is mere coincidence that these rumors coincided with my
19 participation in the Class Action. I believe and am informed that Vivint had threatened to sue on
20 its unlawful non-solicitation provision in Sales Representatives’ employment agreements.

21 10. In fact, a few months after I began participating as a Class Member—and had even
22 mediated certain of my own individual claims (see ¶¶ 12-15, below)—Vivint nonetheless called
23 me from its offices in Utah to threaten litigation based on the unlawful non-solicitation provision.
24 Incredibly, this demand was made during the pendency of the Class Action, which involved in
25 part to Vivint’s non-solicitation provisions and their enforcement against California employees.

26 11. Ultimately, after being confronted, Vivint withdrew its threat. However, to be on
27 the receiving end of such a tactic, especially in the middle of the Class Action in which Vivint
28 knew I was a Class Member, was disconcerting, alarming, and upsetting.

1 **I Sacrificed My Individual Claims for the Benefit of the Class**

2 12. I had the opportunity to resolve my individual claims in this action, but I chose not
3 to in order to benefit the Class.

4 13. Very soon after I began participating in the Class Action, Class Counsel informed
5 me that then-Class Plaintiff Crabtree's class claims had been compelled to arbitration and the
6 Class Action was at risk of dismissal. In turn, my claims (and other class members' claims) were
7 subject to arbitration. However, my employment agreement required that I mediate prior to any
8 arbitration, which I chose to do.

9 14. I immediately began seeking documents, emails, and computer files that I could
10 provide in support of my claims in mediation. I submitted those records to Vivint, detailed at
11 length regarding the specifics of the individual claims that I sought to have resolved (especially
12 my forfeited commissions), and assisted in the preparation of a damage analysis and model for
13 use at mediation. Because so many of my supporting records were with Vivint, and I no longer
14 had access to my Vivint accounts, I had to retrace my steps with colleagues, seeking
15 communications and documents. Then, during the mediation, I was actively available to respond
16 with substantive information that would progress the resolution of the case.

17 15. Ultimately, the mediation of individual claims was futile because there would
18 likely be numerous individual claimants, and Vivint appeared unwilling to negotiate individual
19 settlements while the Class Action and PAGA action were still pending. Vivint preferred a global
20 settlement of all claims.

21 16. My individual claims were greater than both the amount that I likely stood to
22 receive in this Class Action and the amount of the Enhancement Award that I seek here. However,
23 I set aside my individual claims to facilitate a global settlement for the benefit of the entire Class,
24 while also not exposing me to cross-claims from Vivint for unpaid wage advances and potential
25 violations of the contractual non-solicitation agreement. Additionally, by setting aside my claims,
26 I would not have to prove up my individual claims and retain my own counsel.

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28 \\\

1 **In Spite of the Vivint's Tactics, I Continued to Contribute Time, Energy, and Effort to This**
2 **Class Action**

3 17. In August 2021, almost immediately after I left employment with Vivint, I
4 provided a Labor Code wage authorization to Class Counsel to obtain my personnel file and wage
5 records from Vivint. Upon receipt of my employment documents, I discussed with Class Counsel
6 at length my employment experience, the contents of the production from the Labor Code wage
7 authorization, and other matters relevant to employment as a Sales Representative with Vivint. I
8 detailed Vivint's employment practices, including violations of the Labor Code such as failures
9 to reimburse expenses, to compensate for training time, to provide my final paycheck timely, and
10 to pay for accumulated PTO.

11 18. Additionally, having acted quickly to participate in the Class Action, I very
12 quickly contacted many former and current employees of Vivint to notify them of the ongoing
13 litigation and to facilitate participation in the class. I contacted about 15 colleagues right away,
14 encouraging them to participate, by phone, text, and email. I contacted and was contacted by
15 many more, perhaps at least 10 more, during the ensuing weeks after having signed on. I believe
16 and am informed that many of these employees participated and have in turn referred others to
17 the Class.

18 19. I feel as though I was well-suited to assist in this Class Action as a cooperating
19 Class Member. My individual claims are typical of all other Sales Representatives. Like them, I
20 was required to sign "Sales Representative Employment Agreements," which contained the
21 unlawful non-solicitation provision mentioned previously. Like them, I was classified as an
22 independent contractor and "direct seller." As a result, like them, I did not receive minimum wage
23 for training time and mandatory meetings and incurred expenses for car, cell phone, iPad, and
24 cellular data plans that were not reimbursed. Also, I was owed unpaid commission at termination
25 of employment, and certain of my wages were unlawfully deducted at various times throughout
26 my employment with Vivint.

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28 \\\

THIS SETTLEMENT COULD NOT HAVE BEEN ACHIEVED
WITHOUT MY COOPERATION AND EFFORTS

20. My cooperation and efforts, detailed in the paragraphs above, justify a cooperating class member Enhancement Award of **\$10,000**.

21. During the pendency of this case, I estimate that I spent roughly 80-90 hours assisting in the prosecution and obtaining this Settlement.

22. The Settlement will provide significant relief for the Class Members and PAGA-aggrieved employees. I feel as though my efforts assisted substantially in building the Class and providing substantial evidence and information to persuade Vivint to reach a global settlement.

23. The fact that I was able to immediately immerse myself in the case, and to participate in a crucial mediation, further indicate the strength of my request.

24. Furthermore, I did this despite being subject to false industry rumors and a threat of litigation from Vivint while I was actively participating in the case. I feel as though Vivint sought to retaliate against me actively while I was in a lawsuit alleging employment violations.

25. Finally, my willingness to sacrifice my own individual claims, valued greater than the amount I seek today, in order to benefit the class also weighs in favor of a **\$10,000** Enhancement Award.

26. I am in no way related to anyone or associated with anyone who works for the law firm of KEEGAN & BAKER, LLP or for ERIC D. NORVELL, ATTORNEY, P.A. 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 payment as well as my share of the Net Settlement Amount as a Class Member.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed this 13 day of November 2023, at Fresno _____, California.

DocuSigned by:

KIEFFER TAYLOR

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KIEFFER TAYLOR, Declarant