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16 *Attorneys for Plaintiff and the Proposed*
17 *Class*

18 **UNITED STATES DISTRICT COURT**

19 **CENTRAL DISTRICT OF CALIFORNIA, SOUTHERN DIVISION**

20 SEAN HARTRANFT, on behalf of
21 himself and all others similarly
22 situated,

23 Plaintiff,

24 v.

25 TVI, Inc. d/b/a SAVERS, INC.,
26 APOGEE RETAIL, LLC,

27 Defendants.

Case No. 8:15-cv-01081-CJC-DFM

CLASS ACTION

**DECLARATION OF SEAN
HARTRANFT IN SUPPORT OF
PLAINTIFF’S UNOPPOSED MOTION
FOR PRELIMINARY APPROVAL
AND IN SUPPORT OF MOTION FOR
ATTORNEYS’ FEES AND REQUEST
FOR INCENTIVE AWARD**

Hon. Cormac J. Carney
Hearing Date: April 22, 2019
Time: 1:30 p.m.
Courtroom: 7C

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I, Sean Hartranft, declare:

1. I am an adult over 18-years old. I am the named plaintiff and proposed class representative in *Hartranft v. TVI, Inc., et al.*, pending before this Court. All the facts set forth in this declaration are known to me personally, and if called to testify about these facts, I would do so in a competent and truthful manner. I make this declaration in support of Plaintiff’s Unopposed Motion for Preliminary Approval and in Support of Motion for Attorneys’ Fees and Request for Incentive Award.
2. On or about June 10, 2015, I received a call on my cellphone with a phone number ending in 2564 from Apogee Retail, LLC, which was calling on behalf of its parent company TVI, Inc. d/b/a Savers, Inc. (collectively “Defendants”). Defendants represented they were calling on behalf of the Epilepsy Foundation of America and asked for donations to that organization. Prior to that call, I never had any contact with the Epilepsy Foundation of America or Defendants, never gave them my cellphone number, nor gave them prior express consent to call my cellphone. I called the number that appeared on my cellphone and was informed Defendants apparently purchased my number from a third-party vendor.
3. On the same day I received the phone call, I called and spoke to Jerusalem F. Beligan from Bisnar|Chase LLP to discuss the legality of the phone call. After speaking with Mr. Beligan, I spoke to and was interviewed by Michael Sousa and Douglas Campion.
4. After being informed of the law and my options, I agreed to be a named plaintiff and putative class representative for a nationwide class of “persons ... who received a non-emergency telephone call from [Defendants] to a cellular telephone through the use of an automatic telephone dialing system or an artificial or prerecorded voice within four years to the filing of th[e]

1 Complaint.” (Dkt. 1 ¶ 23.) It seemed like the right thing to do to deter
2 Defendants from cold-calling people on their personal cellphones, who did
3 not give Defendants permission to call them. I believe my claim is the same
4 as and typical of the claims of all other members in the settlement class
5 because we all have been called on our cellphones without consent. I do not
6 have any conflicts with any other settlement class members as we are all
7 seeking and will be entitled to obtain the same relief.

8 5. In the initial phase of the case, I had several discussions with counsel about
9 the facts of my case to allow them to research the entities involved, to search
10 court documents across the country to determine if other cases had been filed
11 against Defendants, and to prepare the pleadings. They also were attempting
12 to determine if I had given consent through some manner that I did not recall,
13 such as an inadvertent signature on a generic charity fund-raising document,
14 or a verbal consent in a prior call that I did not immediately recall. After
15 they prepared the original complaint, I carefully reviewed it to ensure the
16 factual portions were accurate before it was filed. I did the same for the
17 subsequent first amended complaint before it was filed. (*See* Dkt. 61.)

18 6. I was informed and understood that as a named plaintiff and a class
19 representative much assistance may be required of me. I was told I would be
20 required to participate in discovery, including preserving and producing
21 documents I had in my possession, providing all the information I had about
22 the call at issue, and to disclose my relationship with Defendants and the
23 Epilepsy Foundation of America, if any, and perhaps I would be deposed by
24 Defendants. I understood that if deposed, I would have to prepare with my
25 counsel for my deposition, which would include reviewing my records, any
26 discovery provided by the other side, and learning how a deposition worked,
27 including how to conduct myself during such deposition. I was willing to
28 and did work hard to keep the case moving forward. I tried to always be

1 available to answer questions my attorneys had, and throughout the nearly
2 four years this litigation has been pending, they had many questions. I was
3 informed and understood there were many risks involved in becoming a
4 named plaintiff, including losing time away from my wife and family, my job
5 and even worse, perhaps owing costs to Defendants if we lost. Even with
6 this knowledge, I still volunteered to serve as a named plaintiff and
7 representative for the class, because I felt it was important to hold
8 Defendants accountable for their alleged violation of the law.

9 7. In addition, Defendants offered me money in a Rule 68 Offer to dismiss the
10 class action which, if I had taken the money, would have precluded hundreds
11 of thousands of putative class members from receiving any relief stemming
12 from Defendants' alleged violation of the law. I turned down Defendants for
13 the benefit of the settlement class.

14 8. Defendants responded to many interrogatories and documents requests
15 served by my counsel. Upon receipt of their responses, I reviewed them and
16 discussed them with my counsel. After my discussions with counsel, I
17 understand a decision was made to pursue further responses from Defendants
18 as it was determined the responses provided were not sufficient. I understand
19 that a motion to compel further responses was prepared, but not filed due to
20 the commencement of settlement negotiations. I also listened to a tape
21 recording of the conversation made by Defendants of the call at issue and
22 was asked to provide my opinion about the accuracy of that call. While I was
23 not deposed, I responded to written questions and document requests
24 propounded by Defendants. I had to take time out of my day to speak to my
25 attorneys and provide information responsive to the written questions, and to
26 review them before signing the verification. I also spent a significant amount
27 of time searching for, locating, reviewing and providing documents
28 responsive to the requests. We had numerous discussions about my

1 responses and why the information sought was important to the litigation. I
2 worked with my attorneys to ensure the answers were accurate and,
3 throughout the process, we made numerous changes before finalizing the
4 responses to the written questions and document requests.

5 9. Throughout the case I made myself available to talk when my attorneys
6 requested, and I responded to them as quickly as possible, giving them as
7 much information as I could remember. Indeed, while I was not personally
8 present at the mediation taking place in San Francisco in July 2017, I
9 discussed the settlement strategies with counsel in advance and was asked to
10 and make myself available via phone just in case my attorneys needed to
11 immediately discuss any issues that might arise during the mediation. I was
12 informed by telephone after the mediation concluded of the status of the
13 mediation and details thereof, and that settlement offers were exchanged
14 during the mediation, but no resolution was reached. I understood that the
15 primary reason no settlement was reached was that Defendants did not have
16 the financial ability to commit the funds sought for a common-fund
17 settlement. I also understood the mediator was going to continue to work
18 with the parties by telephone, and in person as necessary, to attempt to
19 structure a settlement.

20 10. I learned that despite the lack of funds necessary to fund a common-fund
21 settlement, the mediator was able to guide the parties to a settlement structure
22 adopted in the settlement presented here. As a result, I understood it took
23 years for the attorneys to negotiate the detailed material terms of that
24 settlement to present to the court for approval. Because the terms involved
25 both certificates that could be used for goods at Defendants' stores, or
26 redeemed for cash, I understand the details about those terms were difficult
27 and many. I was kept informed throughout this process and understand a
28 settlement was ultimately reached.

1 11. I reviewed and discussed the final settlement agreement with my attorneys. I
2 carefully went through the settlement agreement making certain I generally
3 understood the terms before signing it. My attorneys discussed the details
4 with me so that I had a better understanding of what the terms meant for me
5 and other putative class members. While I do not understand all the legal
6 terminology, I believe the relief offered to the class is fair, reasonable and
7 adequate when measured against the risks of continued litigation, and I
8 support this settlement and ask this Court to approve it. This is especially
9 true because of the uncertain financial condition of Defendants and the
10 possibility of Defendants filing for bankruptcy if we in fact proceeded to trial
11 and won a substantial judgment, or any judgment worth pursuing. And
12 considering this case has been going on for nearly four years, there is no
13 telling how many more years it will continue if a settlement is not reached
14 now.

15 12. If I did not accept the risks of being a named plaintiff and a proposed class
16 representative, individuals who were allegedly called by Defendants without
17 their consent may not have known about the alleged unlawful conduct or
18 received any relief. Despite having family responsibilities with a wife and
19 child, I was committed to spending whatever time was necessary to find and
20 produce documents, to discuss strategy and status of the litigation, to give
21 responses to written questions and document requests, and to review and sign
22 the settlement agreement, in order that hundreds of thousands of potential
23 victims can now receive benefits from the settlement. I am pleased with this
24 result which benefits everyone in the settlement class who was allegedly
25 called by Defendants without their permission.

26 13. I believe the request for a modest \$5,000 service award is reasonable and fair
27 based on: (1) being the person to originally bring this case to the attention of
28 attorneys to prevent the wrongdoing from continuing; (2) the amount of time

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I spent to originate the case and to remain continuously involved in this litigation; (3) searching for and producing documents related to the litigation; (4) assisting with the ongoing litigation; (5) facing the prospect of a deposition; (6) making myself available by telephone in the event my attorneys needed questions answered during the mediation; (7) risking the payment of costs and a potential judgment entered against me in the event this case had not been won; (8) being involved with the settlement negotiations, reviewing and signing the settlement agreement; (9) turning down a Rule 68 Offer; and (10) staying in touch with my attorneys for over three and one-half years to keep apprised of the status of the case.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed on March 7, 2019 at Tustin, California.

/s/ Sean Hartranft 
Sean Hartranft