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Counsel for Plaintiff and Settlement Class

UNITED STATES DISTRICT COURT

CENTRAL DISTRICT OF CALIFORNIA

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

Plaintiff,

v.

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

Defendants.

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

CLASS ACTION

**DECLARATION OF MICHAEL P.
SOUSA IN SUPPORT OF
PLAINTIFF'S MOTION FOR FINAL
APPROVAL OF CLASS ACTION
SETTLEMENT AND
CERTIFICATION OF THE
SETTLEMENT CLASS**

Judge: Hon. Cormac J. Carney
Hearing Date: October 21, 2019
Time: 1:30 p.m.
Courtroom: 7C

1 I, Michael P. Sousa, declare:

2 1. I am an attorney representing Plaintiff Sean Hartranft and am Class
3 Counsel (along with the Law Offices of Douglas J. Campion, APC and Bisnar |
4 Chase) for the Settlement Class members (collectively, “Plaintiffs” or the
5 “Settlement Class”). I am submitting this declaration in support of Plaintiffs’
6 Motion for Final Approval of the Class Action Settlement and Certification of the
7 Settlement Class.

8 2. I am an attorney licensed to practice law in California and all federal
9 courts in this state. If called as a witness, I could and would competently testify to
10 the matters herein from personal knowledge.

11 3. I previously submitted a declaration in support of Plaintiff’s motion for
12 Preliminary Approval, as well as a declaration in support of Class Counsel’s motion
13 for attorney fees, costs, and incentive payments. Those declarations set forth my
14 experience as an attorney and in class action litigation specifically. I have over ten
15 years of experience litigating class action cases (including employment, consumer,
16 and TCPA class actions).

17 4. Based on my experience with class action cases, I consider this
18 settlement to be fair, reasonable, and adequate. It satisfies all criteria for final
19 approval under Ninth Circuit law. Given that there was a very real risk that
20 Defendant would become insolvent, this settlement provided an opportunity to
21 thousands of consumers to obtain legal relief for Defendant’s unlawful calls.

22 5. The Claims Administrator has complied with the notice requirements,
23 including direct mail to class members, publication of notice in a major national
24 newspaper, establishing a website, and providing a toll-free number (see Declaration
25 of Ani S. Sarich on Behalf of Claims Administrator with Respect to Motion for Final
26 Approval). The mailed notice achieved a 99% success rate, which is an excellent
27 result.

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1 6. A total of 48,061 claims were submitted. (Sarich Dec., ¶ 23). 36,534
2 claims did not have a CPT Identification Number as listed on each postcard notice,
3 and of these 31,658 were deemed invalid. We suspect that the publication of the
4 settlement's existence on various class action websites contributed to the high
5 number of invalid claims.

6 7. There were only 34 opt outs and there were no objections to the
7 settlement. This is highly unusual given the large size of the class (747,635), and
8 evidences that the class members as a whole approved of the settlement.

9 8. A total of 11,438 valid claims were submitted, or a 1.53% claims rate.
10 While that rate is slightly lower than in a typical TCPA class action, we believe that
11 we provided more than sufficient notice to class members.

12 9. Since the filing of our fee motion in June 2019, I have incurred an
13 additional 22.6 hours through the date of this declaration. At my requested rate of
14 \$500.00 per hour, I have incurred additional fees to date of \$11,300.00, not
15 including the preparation time for the motion for Final Approval and the motion for
16 Attorney Fees or traveling and appearing at said motions.

17 I declare under penalty of perjury that the foregoing is true and correct.
18 Executed on October 7, 2019, pursuant to the laws of the United States at San Diego,
19 California.

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21 /s/ Michael P. Sousa
22 Michael P. Sousa
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