

1 Brian D. Chase (SBN 164109)
bchase@bisnarchase.com
2 Jerusalem F. Beligan (SBN 211258)
jbeligan@bisnarchase.com
3 **BISNARCHASE LLP**
1301 Dove Street, Suite 120
4 Newport Beach, California 92660
Telephone: (949) 752-2999
5 Facsimile: (949) 752-2777

6 *Counsel for Plaintiff and Settlement Class*

7
8 **UNITED STATES DISTRICT COURT**
9 **CENTRAL DISTRICT OF CALIFORNIA**

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

13 Plaintiff,

14 v.

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

17 Defendants.

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

CLASS ACTION

**DECLARATION OF BRIAN D. CHASE
IN SUPORT 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, Brian D. Chase, declare:

2 1. I am one of the attorneys for the Plaintiff Sean Hartranft, and for the
3 Settlement Class members herein, together “Plaintiffs” or the “Settlement Class”.
4 My firm was one of the law firms appointed as Class Counsel in this action. I
5 submit this declaration in support of Plaintiffs’ Motion for Final Approval of the
6 Class Action Settlement and Certification of the Settlement Class. I am licensed to
7 practice law in California and this Court as well as all federal courts in this state. If
8 called as a witness, I would competently testify to the matters herein from personal
9 knowledge.

10 2. As set forth in my declarations in support of Preliminary Approval and
11 in support of Class Counsel’s motion for attorneys’ fees, costs and incentive
12 payment, my firm is experienced in litigating class actions, and in litigating
13 Telephone Consumer Protections Act (“TCPA”) cases in particular.

14 3. Based on the work done in this case, the facts and law involved, and
15 the difficult financial circumstances Defendants were in when this case was filed and
16 settled, it is my opinion that the settlement obtained is fair, reasonable and adequate.
17 I believe it satisfies all criteria for final approval under Ninth Circuit law.
18 Considering all the circumstances and the potential legal hurdles facing both sides,
19 the settlement is a very good settlement providing each Settlement Class member a
20 guaranteed fixed amount they will receive, regardless of the number of claims that
21 might have been filed. This is true despite there being no “cap” on the amount
22 Defendants might have been required to pay had there been an extraordinarily high
23 claims rate.

24 4. As set forth in the Declaration of Ani S. Sarich On Behalf of Claims
25 Administrator with Respect to Motion for Final Approval (“Sarich Decl.”), the
26 Claims Administrator has fully complied with the Notice requirements, including
27 direct mail and publication notice. That equaled more than a 99% rate of success in
28 the direct mailing of notice. The publication notice was intended to advise any

1 Settlement Class members of the settlement, had they not received the direct mail
2 notice.

3 5. There were 48,061 claims submitted in total. *Id.*, ¶ 23. Apparently
4 because the publication notice was reprinted and disseminated on the internet, the
5 Claims Administrator received 36,534 claims that did not have a CPT Identification
6 Number as listed on each postcard notice, of which 31,658 were deemed invalid, i.e.,
7 that contained a phone number that was not on the list of called cellphone numbers.
8 However, of those non- CPT ID number claims, 4,876 of those were deemed valid.
9 *Id.*, ¶ 29.

10 6. There were only 34 opt outs and there were no objections to the
11 settlement. Objectors were instructed to file their objections with the Court and serve
12 counsel for both sides, but none were filed or received. As set forth in the Sarich
13 Decl., there were 6,562 valid claims submitted with CPT ID Numbers, resulting in a
14 total of 11,438 valid claims submitted. That translates to a 1.53% claims rate. That
15 rate is lower than the typical consumer case claims rate of 3% - 5%, as stated in
16 *Forcellati v. Hyland's, Inc.*, No. 12-1983, 2014 WL 1410264, *6 (C.D. Cal. Apr. 9,
17 2014)). However, that low claims rate is not a result of a lack of notice or other
18 factors under the Parties' control. Based upon my experience, I have learned claims
19 rates vary depending on the case.

20 7. If all the claimants with approved claims choose to redeem their
21 Certificates for the \$75.00 in goods from Defendants' stores, the total value of the
22 Settlement will be \$857,850.00. That amount would of course be reduced if some
23 persons choose the \$25.00 Cash Award instead, but regardless, the settlement is fair
24 and reasonable.

25 8. In my declaration in support of our attorneys' fees motion filed on June
26 17, 2019, pursuant to fn. 2, I hereby advise the Court that since my declaration was
27 filed, I have incurred an additional 32 hours through October 4, 2019. Thus, I have
28 incurred additional fees to date of \$27,200, not including the preparation time for or

1 appearing at the hearing for Final Approval and the Attorneys' Fees motion.

2 I declare under penalty of perjury that the foregoing is true and correct.

3 Executed on October 7, 2019, pursuant to the laws of the United States at Newport
4 Beach, California.

5
6 /s/ Brian D. Chase

Brian D. Chase