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7 Attorneys for Plaintiff JASON A. RODRIGUEZ  
8 on behalf of the general public as private attorney general

9  
10 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
11 FOR THE COUNTY OF KERN  
12

13 JASON A. RODRIGUEZ, individually and on  
behalf of all others similarly situated,

14 Plaintiffs,

15 v.

16 FAMILY DOLLAR, INC., a North Carolina  
17 Corporation and DOES 1-50, inclusive,

18 Defendant.  
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Case No.: BCV-23-100786

**DECLARATION OF MARCUS J.  
BRADLEY IN SUPPORT OF MOTION  
TO APPROVE PAGA SETTLEMENT**

JUDGE: Hon. Thomas S. Clark

July 10, 2024

Time 10:00 a.m.

Dept.:17



8. In addition, Plaintiffs are seeking reimbursement for actual, out-of-pocket costs and litigation expenses up to \$35,000. Of the total costs, my firm's current total costs are \$9,305.28.

## EXPERIENCE OF COUNSEL

9. I have been counsel for Plaintiff Rios and the aggrieved employees throughout this case. I am a partner at Bradley/Grombacher, LLP, which has extensive experience litigating wage and hour class and representative actions as well as complex consumer class actions. Details on the work, experience and accomplishments of the firm can be found at [www.bradleygrombacher.com](http://www.bradleygrombacher.com).

10. I personally have represented plaintiffs in consumer and employment class actions since I began practicing law in 1994. In 2000, I joined Mazursky, Schwartz & Angelo as an associate and became a partner in January 2005 at which time the firm was renamed Schwartz, Daniels & Bradley. I remained as a partner at Schwartz, Daniels & Bradley handling primarily wage and hour class actions until the dissolution of the firm effective December 31, 2008. In January 2009, I moved my existing practice transferring a number of wage and hour cases and became a partner with the law firm of Marlin & Saltzman, a long-established firm with whom I had been co-counsel on dozens of wage and hour class actions during my tenure at Schwartz, Daniels & Bradley. On September 1, 2016, I formed Bradley/Grombacher LLP along with a former associate at Marlin & Saltzman, Kiley Grombacher.

11. I have been responsible for all facets of class action employment and other complex litigation, from pre-filing investigation through trial and appeal. Since approximately May 2000, I have spent most of my time representing workers in wage and hour matters. I, along with my current and former partners, have litigated these issues in class actions to favorable settlements that have recouped over \$800,000,000.00 in unpaid wages, including the following more notable cases:

a. *Gutierrez v. State Farm Mutual*, Los Angeles Superior Court (BC236552). Class action mis-classification case seeking overtime compensation for approximately 2,600 insurance claims adjusters employed by State Farm. The class was certified and summary adjudication was granted as to liability in favor of the class. The case settled for \$135 million just prior to trial, with final approval granted with no objections filed.

- 1           b.     *Bednar v. Allstate Insurance Company*, Los Angeles Superior Court (BC240813).  
2           Class action mis-classification case seeking overtime compensation for  
3           approximately 1,200 insurance claims adjusters employed by Allstate. The class was  
4           certified and summary adjudication was granted as to liability in favor of the class.  
5           The case settled for \$120 million just prior to trial, with final approval granted with  
6           no objections filed.
- 7           c.     *Roberts v. Coast National Insurance*, Orange County Superior Court (01CC08478).  
8           Class action mis-classification case seeking overtime compensation for insurance  
9           claims adjusters employed by Coast National Insurance. Certification granted, and  
10          then the matter was tried before a binding arbitrator. The case settled during the  
11          arbitration for an excess of \$18 million.
- 12          d.     *CNA Class Action Litigation*, Los Angeles Superior Court (JCCP 4230). Class  
13          action mis-classification case seeking overtime compensation for insurance claims  
14          adjusters employed by Defendant. Case settled for \$33 million, with final approval  
15          granted with no objections filed.
- 16          e.     *Dotson v. Royal Sun Alliance*, Orange County Superior Court (02CC01787). Class  
17          action mis-classification case seeking overtime compensation for insurance claims  
18          adjusters employed by Royal Sun Alliance. Case settled for \$12.3 million, with final  
19          approval granted with no objections filed.
- 20          f.     *Parris v. Lowe's Home Improvement*, Los Angeles County Superior Court  
21          (BC260702). Class action seeking payment of "off-the-clock" hours worked by all  
22          hourly employees of Lowe's Home Improvement stores in the State of California.  
23          The class was certified by the Court of Appeal and remanded to the trial court for  
24          further proceedings. Shortly thereafter, a \$29.5 million settlement was reached and  
25          approved without objection.
- 26          g.     *Pardo v. Toyota Motor Sales, et al.* Los Angeles County Superior Court (BC372781).  
27          Class action mis-classification of workers with claims for overtime and missed meal  
28          and rest breaks. The case settled for \$7.75 million and was approved with no

1 objections.

- 2 h. *Smith/Ballard v. Wal-Mart Stores, Inc.* United States District Court for the Northern  
3 District of California (Case No. 4:06-cv-05411-SBA). Wage and hour class action  
4 seeking unpaid vacation and personal time, unpaid wages, and related penalties on  
5 behalf of over 245,000 employees. The action was certified and settled for \$86  
6 million while Defendants' appeal of the certification was pending in the Ninth  
7 Circuit Court of Appeals.
- 8 i. *Hoyng v. AON*, Los Angeles County Superior Court (BC377184). Wage and hour  
9 class action seeking overtime and related compensation for mis-classification on  
10 behalf of Relationship and Account Specialists. The case settled for \$10.5 million  
11 which was approved with no objections filed.
- 12 j. *In RE Bank of America Wage and Hour Employment Practices Litigation*, MDL  
13 2138, United States District Court for the District of Kansas. California state and  
14 FLSA wage and hour litigation for various violations including unpaid overtime and  
15 "off-the-clock" work. Settled for \$73 million.
- 16 k. *Lemus v. H & R Block Litigation*, United States District Court for the Northern  
17 District of California (Case No. 3:09-cv-03179-SI). Class certified, and settlement  
18 reached prior to trial. Total settlement of \$35 million.
- 19 l. *Harris v. Vector Marketing Corporation*, United States District Court for the  
20 Northern District of California (Case No. 3:08-cv-05198-EMC). Class action case  
21 on behalf of approximately 70,000 employees misclassified as "trainees."
- 22 m. *Bickley v. Schneider National Trucking*, United States District Court for the  
23 Northern District of California (Case No. 4:08-cv-05806-JSW). Wage and hour  
24 class action on behalf of approximately 6,000 truck drivers. Settled for \$29.5million.
- 25 n. *Roberts v. TJX*, United States District Court for the Northern District of California  
26 (Case No. 13-CV-04731-MEJ). Wage and hour violations on behalf of  
27 approximately 82,000 employees. Settled for \$8.5 million.
- 28 o. *Opyrchal v. New York Life Insurance*, United States District Court for the Central

District of California (Case No. 2:07-cv-00518-VBF). Class action for the failure to pay commissions pursuant to a compensation plan. Settled for \$10 million.

p. *Neuvenheim v. Gamestop Corp.*, United States District Court for the Central District of California (Case No. 2:09-cv-06799-ODW). Class action on behalf of nonexempt employees for wage and hour violations.

q. *Hightower v. JP Morgan Chase*, United States District Court for the Central District of California (Case No. 2:11-cv-01802-PSG). Class action on behalf of nonexempt employees for wage and hour violations. Settled for \$12 million.

12. On many of the above cases, I was either lead or co-lead counsel including cases in multi-district litigation or coordinated proceedings where I worked collaboratively and cooperatively with co-counsel to bring about an efficient and beneficial resolution for all class members as the above results demonstrate.

13. I have argued cases in trial courts as well as before courts of appeal. My writings on legal topics pertaining to litigating wage and hour class and representative actions have appeared in professional publications and I have been called upon to speak at conferences and seminars for professional organizations, including a recent presentation titled "Planning for and Executing Trial in Class and Collective Wage & Hour Cases."

14. I have also been honored as a Super Lawyer in the area of class actions by Los Angeles Magazine for multiple years including 2024. I am also a member of a number of professional organizations, including the Consumer Attorneys of Los Angeles, the Consumer Attorneys of California, the California Employment Lawyers Association, and the American Association for Justice. My 2023 billing rate is \$975 an hour.

15. My Partner, Ms. Grombacher, specializes her practice in complex litigation including consumer and employment class actions. She has litigated hundreds of employment and consumer class actions throughout her career which began at Arias, Ozzello & Gignac where she gained extensive experience litigating consumer cases.

16. Thereafter, Ms. Grombacher joined Marlin & Saltzman in 2010 where she focused her practice almost exclusively on wage and hour, collective and representative actions including

1 the reported case, *Faulkinbury v. Boyd & Associates*, which clarified the holding in seminal case,  
2 *Brinker Restaurant Corp. v. Superior Court*, to establish that legality of certain company policies  
3 could be determined on a class-wide basis even if the application of the policies varies by individual.

4 17. Ms. Grombacher has been selected by Super Lawyers Magazine as a “Rising Star”  
5 in the field of complex litigation since 2015 and as a Super Lawyer since 2017. She has published  
6 articles on the field of class action litigation including “A Class-Action Primer” which appeared in  
7 *The Advocate*, which is the Journal of Consumer Attorneys of Southern California.

8 18. Ms. Grombacher has also lectured on various topics involving complex case  
9 management and recently spoke at the Beverly Hills Bar Association’s Class Action and Complex  
10 Case Management Conference. She is also a member of a number of professional organizations,  
11 including the Consumer Attorneys of Los Angeles and the American Association for Justice.

12 19. Lirit King is a sixteenth-year senior associate at Bradley Grombacher who has  
13 worked extensively on this case. Ms. King earned her J.D. from Southwestern University. Ms. King  
14 focuses her practice on wage and hour matters and is a seasoned litigator prosecuting class action  
15 and representative lawsuits. Before joining Bradley Grombacher, Ms. King worked at a national  
16 law firm as a staff attorney. Ms. King has also worked at plaintiff employment law firms  
17 specializing in discrimination, wage and hour, and ERISA violations, acting as associate counsel  
18 and as a second chair trial attorney in numerous successful lawsuits.

19 **COUNSEL’S BILLING RATES ARE BASED ON THE PREVAILING MARKET**  
20 **RATES AND HAVE BEEN REPEATEDLY APPROVED BY THE COURTS**

21 20. This portion of my declaration documents the reasonableness of the billing rates  
22 charged by my firm in this case.

23 21. Our lodestar for this case is based on our law firm’s billing rates for the first half of  
24 2024. We set the billing rates of our attorneys and paralegals/law clerks through a process of  
25 continual monitoring of prevailing market rates charged by both defense and plaintiffs’ law firms,  
26 for individuals with similar levels of skill and experience who are doing comparable work as our  
27 attorneys and staff. We gather this information from surveys, the review of other fee applications,  
28 and conversations with attorneys in the relevant billing market. We set the billing rates for our firm

to be consistent with the prevailing market rates in the private sector for attorneys and staff of comparable skill, qualifications, and experience.

22. Federal and state courts in California have consistently approved the rates charged by Bradley Grombacher LLP. See e.g, *Casas v. Morrell's Electro Plating Inc.*, (Los Angeles County Super. Ct. January 3, 2023) Case No. 20STCV32116 (approving 2022 rates); *Garcia v. XPO Logistics Freight, Inc.*, (San Bernardino County Super. Ct. April 19, 2021) Case No.: CIVDS2015538 (approving 2021 rates); *Aguilar v. ISS Facility Services, Inc.*, (Los Angeles County Super Ct. June 23, 2020) Case No.: 20STCV24047 (approving 2020 rates); *Smith v. Hoag Memorial Hospital* (Orange County Super. Ct. Mar. 6, 2020) Case No. 30-2017-00952013 (approving 2019 rates); *Haro v. Laboratory Corp. of America*, (C.D. Cal. Nov. 18, 2020) Case No. 2:18-cv-09091-AB-RAO (approving 2019 rates). Over the years, there are many other decisions approving our attorneys' billing rates using either a lodestar-multiplier approach and/or a percentage of the recovery approach with a lodestar-multiplier cross-check.

#### **BILLING PRACTICES AND LODESTAR**

23. We utilize billing software that records time in tenth-of-an-hour increments and train the lawyers and staff at Bradley Grombacher LLP do so as contemporaneously as possible with the expenditure of the time.

24. The following chart provides a summary of the billing rates and hours worked by the attorneys at our firm through July 8, 2024:

| <b>Name and Title of Professional</b> | <b>Bar Admission Date</b> | <b>Hours</b> | <b>Rate (2024)</b> | <b>Lodestar</b> |
|---------------------------------------|---------------------------|--------------|--------------------|-----------------|
| <b><i>Partners</i></b>                |                           |              |                    |                 |
| Marcus Bradley                        | 1994                      | 75           | \$975              | \$73,125.00     |
| Kiley Grombacher                      | 2006                      | 1.2          | \$850              | \$1,020.00      |
| <b><i>Associates</i></b>              |                           |              |                    |                 |
| Lirit King                            | 2007                      | 28.7         | \$775              | \$22,242.50     |

| Name and Title of Professional                         | Bar Admission Date | Hours         | Rate (2024) | Lodestar           |
|--------------------------------------------------------|--------------------|---------------|-------------|--------------------|
| <b>TOTAL HOURS AND LODESTAR FOR BRADLEY GROMBACHER</b> |                    | <b>104.90</b> |             | <b>\$96,387.50</b> |

The figures stated above were prepared and maintained by my firm in the ordinary course of business and reflect the hours of work performed in this matter.

### CONTINGENT RISK

25. Bradley Grombacher LLP takes its cases on a contingent fee basis. We rely on awards for attorneys' fees and costs to continue our work for the enforcement of labor standards. Indeed, we did not charge the Plaintiff or aggrieved employees any fees or costs to litigate and bring this case to a successful conclusion. In addition, as referenced above, our offices have to date incurred \$9,305.28 in out-of-pocket costs and litigation expenses, which we have not yet recouped. During the course of this litigation, we also had to forego requests by other prospective clients to bring other cases with merit to ensure that we could continue to adequately and successfully represent the Plaintiff and the Class in this matter.

26. Like some other important and complex employment class actions, this case carried a risk of no recovery at all for either the class or the attorneys representing them. When we do succeed in vindicating statutory and employment rights on behalf of a class of employees, such as in this case, our firm depends upon the recovery of our full lodestar plus an appropriate multiplier. Otherwise, we could not continue to represent employees who are denied wages, but whose cases may be time-consuming and difficult to prove.

27. As discussed in Plaintiffs' Motion for PAGA Approval, the road to success in this case was far from certain. While we remained confident in, and committed to, the merits of the case throughout the litigation and settlement process, we also were realistic regarding the risks at each stage going forward. First, the parties would have engaged in a lengthy and complex motion practice. This would have included the risks of having class certification denied in whole or in part.

28. Assuming success on arbitration, there would be further motion practice, including motions for summary judgment. In addition, assuming Plaintiffs prevailed on liability as to one or more of their claims, the measure of penalties still would have been hotly contested and presented further risk.

29. Furthermore, one or more appeals would be likely given the nature of this case's quantity of disputed issues. Assuming we prevailed on class certification and liability, Defendants might appeal any number of determinations regarding status, liability, evidentiary rulings, and damages, causing potentially years of further delay.

30. Our risks in this case were further compounded by the vigorous and skillful manner in which defense counsel represented their client. Defendants and their counsel also negotiated hard throughout the lengthy mediation process. All this contributed to our risk of recovering nothing or close to nothing for our commitment and investment into the case. Given these uncertainties, we undertook significant risk to finally resolve the case for the value ultimately secured.

31. In sum, the result after trial and appeals was highly uncertain, except for the fact that it would potentially mean years of delay. In the face of this uncertainty, we remained committed to the cause and ultimately secured a strong class action settlement for the class.

## FEE SPLITTING AGREEMENT

32. Three firms will be receiving fees pursuant this settlement—James Hawkins, APLC, Bradley/Grombacher LLP and the Majarian Law Group. The fees shall be split as follows: 50% to James Hawkins 50% to Bradley/Grombacher LLP and to the Majarian Law Group, P.C. (Of this 50%, BG will receive 60% and Majarian Law Group 40%).

33. Pursuant to California Rules of Professional Conduct, rule 1.5.1, the client was aware of this in advance and gave written consent.

34. Plaintiff, Rios executed a retainer agreement in this action with Bradley/Grombacher LLP and the Majarian Law Group. Subsequently, Plaintiff Rios and Rodriguez entered into a Joint Prosecution agreement which clearly and plainly explains the division of fees between the law firms which represent Plaintiffs. The agreement further provides that, although the fee is shared between firms, the amount of attorneys' fees negotiated between

1 Plaintiffs and their counsel does not increase. Both Plaintiffs executed the Joint Prosecution  
2 Agreement.

### 3 COSTS

4 35. Plaintiff Rios has incurred costs of suit of approximately \$9,305.28 as of July 8,  
5 2024. **Exhibit 1** is a ledger identifying each individual charge incurred by our firm in this action.  
6 The date corresponding to each individual charge may reflect the date the charge was entered into  
7 our accounting system, rather than the date when the charge occurred.

8 36. The expenses incurred by our firm consist of: (1) filing fees, court fees, and service  
9 of process; (2) mediation fees; and (3) expert costs. We do not bill for mail, copies and postage.

10 37. The charges correspond to the actual costs incurred in this case, rather than a pro-  
11 rata or other share of our firm's generalized costs.

12 38. These expenses were necessary to the prosecution and successful resolution of the  
13 case.

### 14 PROPOSED SERVICE AWARD

15 39. Plaintiff Joseph Rios devoted his time and provided an invaluable service to the  
16 prosecution of this case. He worked with us regularly, providing important information, documents,  
17 and insight regarding Defendants' policies and practices. He was also actively involved in  
18 discussions regarding the resolution of this matter and approved the settlement terms on behalf of  
19 himself and the aggrieved employees.

20 40. Mr. Rios is committed to be a named representative, even though he faced the risk  
21 that bringing his case could potentially hurt his future employment possibilities and that Defendants  
22 may seek to recover their costs against him if this case was unsuccessful.

23 41. Mr. Rios has submitted a declaration attesting to his service in support of Plaintiffs'  
24 Motion for PAGA Approval. He has also submitted a declaration in support of preliminary  
25 approval.

26 42. In light of Mr. Rios' specific efforts and the favorable impact on the litigation that  
27 resulted from those efforts, we are proposing a \$7,500 service award for him. We believe that the  
28 service award to Mr. Rios fairly reflects the time, risks, and contributions he made to achieve this

1 settlement on behalf of the aggrieved employees.

2 43. I, nor my firm am aware of any other employment class action or representative  
3 lawsuits against Defendant currently pending in this Court or in any other in the State of California.

4 **EXHIBITS**

5 44. Attached as **Exhibit 1** to this Declaration is a true and correct copy of a cost bill for  
6 the various costs that our firm has incurred in this case, which we ran on July 8, 2024, based on our  
7 firm's accounting records.

8 I declare under penalty of perjury under the laws of the State of California that the foregoing  
9 is true and correct and based on my personal knowledge.

10 Executed on July 30, 2024, in Westlake Village, California.

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13 \_\_\_\_\_  
14 Marcus J. Bradley