

# Missouri Lawyers WEEKLY

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## Dollar store managers settle overtime lawsuit

*Plaintiffs claimed they were managers in name only*



John F. Edgar

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Store managers who claimed they were managers in name only and should have been paid overtime settled a four-year-old class-action lawsuit against Family Dollar Stores of Missouri.

Twila Walters and Cheri Holt, who worked at Kansas City-area Family Dollar stores, were the named plaintiffs in the lawsuit filed in Jackson County Circuit Court. They claimed that managers routinely worked overtime and lacked the authority to qualify as managers exempt from overtime.

Family Dollar Store attorneys said in an answer to the lawsuit that managers' primary duty was to manage stores and that they had management-level authority.

Jackson County Circuit Judge Jack Grate gave final approval in January to the settlement, which calls for a maximum payment of \$2.5 million. Eligible for pro-rated shares of the settlement

are Missouri Family Dollar store managers who worked in those positions at any time between Jan. 26, 2005, and Nov. 7, 2013, the day the settlement received preliminary approval. Nearly 200 class members had filed valid claim forms by the date of the final approval.

The amounts class members get were to be determined by dividing the number of weeks they worked more than 40 hours by the total number of those workweeks worked by the entire class, according to a joint motion for preliminary approval filed Nov. 7.

An attorneys' fee award of no more than a third of the settlement amount also was to be paid from the settlement.

The lawsuit initially filed in January 2010 claimed that store managers spent "the vast majority of their time" on manual labor such as stocking shelves, running cash registers, unload-

ing trucks and performing janitorial duties. The lawsuit also said they didn't have the authority to hire and fire employees without first clearing the decisions with district managers and could not select vendors.

To the extent the managers did work that wouldn't be exempt from overtime requirements, they did it "concurrently" with management duties, according to the February 2011 answer to the lawsuit.

Their management duties included interviewing, selecting and training employees; setting and adjusting employees' pay rates and disciplining employees; deciding on merchandise to be sold and controlling the store budget, the answer said.

Plaintiffs' attorney John F. Edgar referred a reporter to public court documents. Defense attorney Robert Hoffman referred a reporter to Reginald Johnson, an in-house attorney

at Family Dollar. Johnson also referred a reporter to the court documents.

Grate denied Family Dollar's motion for summary judgment in April 2011 and the next month approved class certification. The chain filed petitions to appeal the certification in the Missouri Court of Appeals Western District and the Missouri Supreme Court, but the courts denied the petitions. The settlement was reached after daylong mediation sessions with mediator Mark Rudy on Feb. 21 and July 15 last year, according to the motion for preliminary approval.

Charlotte, N.C.-based Family Dollar Stores Inc. reported \$10.4 billion in net sales in fiscal 2013. After net sales fell by 6 percent in the second quarter of 2014 compared with the same period last year, the company announced it was closing 370 of its more than 8,100 stores. **MO**

### \$2.5 Million Settlement

#### UNPAID OVERTIME CLASS ACTION

■ **Venue:** Jackson County Circuit Court at Independence

■ **Case number/date:** 1016-CV11842/Jan. 24, 2014

■ **Judge:** Jack Grate

■ **Plaintiffs' expert:** Kurt Krueger, Prairie Village, Kan. (economics)

■ **Special damages:** \$833,333 attorneys' fees; \$50,000 costs

■ **Caption:** Twila Walters and Cheri Holt v. Family Dollar Stores of Missouri Inc.

■ **Plaintiffs' attorneys:** John F. Edgar, Edgar Law Firm, Kansas City; Amy Maloney, Holman Schiavone, Kansas City

■ **Defendant's attorneys:** Robert Hoffman, Craig O'Dear and Karen Cain, Bryan Cave, Kansas City; Joel Cohn and Elizabeth Cyr, Akin Gump Strauss Hauer & Feld, Washington, D.C.