



Prepared Testimony and Statement for the Record of
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Hearing on
“Examining the Small Business Labor Market”
Before the
House Small Business Committee
Subcommittee on Economic Growth, Tax and Capital Access

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Good morning Chairman Brat, Ranking Member Evans, and Members of the Subcommittee. My name is Carlos Castro, and I am the owner of Todos Supermarkets, located in Woodbridge, Virginia. I have been asked to testify today National Grocers Association (NGA) on behalf of the independent supermarket community. The National Grocers Association is the national trade association representing the retailers and wholesalers that comprise the independent sector of the supermarket industry, including single full-service supermarkets such as Todos, and multi-state regional chains.

Todos Supermarkets was created in 1990 and aims to fulfill the needs of an increasingly diverse customer base. To help better serve our customers, we have reshaped our offerings beyond groceries and offer money transfer, notary, and tax preparation services.

As the saying goes “good help is hard to find,” but at Todos, we have placed an added emphasis on youth hiring practices that allow us to train workers and create an inclusive culture that allows us to retain our employees for the long-run. Our numerous new offerings have also allowed us to attract a diverse array of talent and keep our employees on their toes as our business continues to expand and change. To help with difficult hiring and training challenges, NGA plays a key role in the supermarket sector by providing resources, educational training programs, and sharing industry best practices with its members that we need to hire, train and retain a highly qualified workforce.

But costly regulations often take up too much of our time and resources, and pose as a serious barrier to hiring new talent. According to NGA survey data, the average grocer can expect to spend between 40 and 50 thousand dollars a year on regulatory compliance per store, per year. In an industry with a 1-2 percent profit margin, that is a significant amount of resources to be taken away from store improvements, additional staff, or expanded offerings. Forty to fifty thousand dollars may not sound significant in Washington, but for an independent grocer, that can be enough to put a struggling grocer out of business, or prevent a competitive grocer from hiring new workers or renovating existing operations in order to keep pace with the competition.

The current regulatory environment has stifled innovation and small business growth by forcing us to focus resources on complying with the tidal wave of regulations, instead of our day-to-day operations. For the independent supermarket sector, it is often hard to keep up with the sheer volume of regulations that have been recently finalized, let alone worry about the number of potentially harmful regulations going through the rulemaking process. Regulatory agencies should focus on evaluating the rules that are currently on the books and ensure that they are necessary and effective, instead of churning out new regulations whose costs outweigh the potential benefits. NGA supports the recent Executive Order requiring agencies to cut two existing regulations for every new regulation they implement. We believe this directive will require regulators to do their due diligence and determine what rules are truly in the public interest, and which ones have either outlived their usefulness or have become a drag on economic growth.

Obamacare mandates on small business serve as a perfect example of a regulations with good intentions that have created an additional burden for our business. Todos Supermarkets was committed to offering health care to employees before the health care law was implemented. We were not only proud that we could cover our employees with affordable healthcare, but it was a hiring incentive that improved both recruitment and efforts to retain hardworking employees. Now that businesses of our size must offer

health care under the Affordable Care Act, we can no longer use our previous health care program to differentiate our company from the competition, and our expenses have gone through the roof.

The revised joint employer standard from the National Labor Relations Board is another well-intentioned regulation that misses the mark. Holding businesses accountable for potential labor infractions committed by businesses with which they contract is taking enforcement too far and creates a dangerous precedent and standard that is impossible for businesses to maintain. It is challenging enough for businesses to comply with the mountain of regulations that face us, but penalizing businesses for the infractions of their potential contractors creates a precarious environment and disincentivizes businesses from contracting with outside operations.

Until the federal district court in Texas overturned the Department of Labor's overtime rule, the rule presented a serious challenge to our business. The potential doubling of the salary threshold, and further automatic updates to the exemption threshold would have created an untenable situation for small supermarkets. At Todos, we believe in a philosophy of creating opportunities for our workers and fostering an environment that encourages our team members to remain with the company for years. However, we believe that the rule would have created a disincentive to working efficiently and effectively. It had the potential to have a substantial negative effect on morale as some workers would need to be reclassified as hourly employees, after having worked for years to earn a salaried status and getting to enjoy the additional flexibility this designation brings. We are thankful that the rule has been overturned, and will likely be reevaluated to take into account regional differences in average salary before being rewritten.

Todos was also pleased to see that the Office of Management and Budget (OMB) decided not to move forward with a regulation put forth by the Equal Employment Opportunity Commission (EEOC) regarding pay data. The regulation would have required that employers provide pay data for employees based on gender, race, ethnicity, etc., with the aim of discouraging pay discrimination. While Todos is firmly committed to paying our workers a living wage and in accordance with all federal pay regulations, the EEOC regulation would have captured data without context and could have made it appear as though an employer was participating in discriminatory pay practices despite variances in candidate experience, education level, or other candidate considerations.

Congress and the regulatory agencies have taken steps recently to lighten the burden on small businesses like mine. The recent court order to prevent the implementation of the overtime rule, and the decision by OMB to not implement the EEO-1 pay reporting regulation have been a step in the right direction. While there is not one single regulation dragging the heaviest on small business, the sheer volume of regulations that require our compliance is what holds us back. These burdens both increase the barrier to entry for entrepreneurs aspiring to enter the market and prevents existing businesses from expanding or improving their current operations. We must change the overall regulatory attitude to one of reevaluation instead of continued expansion.

Additionally, if Congress hopes to improve the current environment for small business, it should continue working towards tax reform. Congress took an important step in 2015, making a number of tax provisions permanent, such as Section 179, which provides small businesses with the flexibility they need to make large purchases and expense the cost of those purchases in the first year. However, Congress kicked the can down the road for many other tax provisions that are important to independent supermarkets.

Unfortunately, Congress has a tendency to pass retroactive fixes to the tax code, which hinders our ability to invest in our future with any degree of certainty.

As Congress turns its attention to tax reform this fall, we ask that Congress listen to the voice of small business. It is important to remember the fact that every period of sustained economic growth in our nation's history can be attributed to the success of small businesses. With this in mind, I believe repeal of the estate tax is critically important. As my business grows and I approach the current threshold, I worry that I am going to have to pay the tax. The planning issues that surround this punitive tax draws resources away from hiring employees and investing in our business.

Congress must also ensure parity between pass-through entities, like Todos, and business that file as C-corps. In order to guarantee robust competition between businesses of all sizes, Congress should tax family-owned businesses fairly and equally, regardless of how we decide to file our taxes. Many NGA members also rely on key tax provisions such as the Last In, First Out (LIFO) accounting method and deductibility of interest expenses.

Finally, with a workforce and a customer base that is heavily comprised of a Latino population, I feel compelled to address President Trump's decision to end the Deferred Action for Childhood Arrivals (DACA) program. Immigrants that come here as children as part of families seeking a better life should not be punished for the decisions of their parents. Some members of our team utilize the DACA program, and they are some of our hardest workers. While I understand there are good arguments on both sides as to whether DACA passes constitutional muster, it is clear now that the fate of 800,000 young Latinos is now in the hands of the legislature. I urge Congress to act swiftly in finding a solution to this issue, and to consider the potential harm that could come from a failure to act -- not only to our businesses, but to communities and families as well.

All supermarkets face a challenging landscape. The current market is saturated with competitors that already challenge each other to gain a foothold and turn a profit. Now, with goliaths such as Amazon, Target, and Walmart in the market, that challenge has become even more significant for smaller operators. However, history has shown that independent supermarkets are both resilient and flexible in keeping up with competition. I am confident in the ability of our company and other independent grocers to adapt and innovate in response to changing consumer demands and a fiercely competitive marketplace.

On behalf of Todos, the National Grocers Association, and the independent supermarket industry, I would like to reinforce our commitment to hiring, training, and retaining the best talent possible. We aim to provide our communities with service and products that are of the highest quality, and we know that this can only be achieved by hiring good people, and treating them like family.

At Todos, we often say "if you have a good attitude and work hard, there is no limit to how high you can rise." With business, it should be the same. I would ask our elected representatives to continue look for opportunities to unshackle businesses from their heavy regulatory burden, and let businesses like mine see how high we can go.

Thank you.

Carlos Castro

Founder, Todos Supermarkets