

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): Joshua Park (SBN 299572) LOYR, APC 1055 West 7th Street, Suite 2290 Los Angeles, CA 90017 TELEPHONE NO.: (213) 318-5323 FAX NO. (Optional): E-MAIL ADDRESS (Optional): ATTORNEY FOR (Name): Plaintiff Felipe Osorio	FOR COURT USE ONLY 					
SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES STREET ADDRESS: 312 N. Spring Street MAILING ADDRESS: 312 N. Spring Street CITY AND ZIP CODE: Los Angeles, 90012 BRANCH NAME: Spring Street Courthouse						
PLAINTIFF/PETITIONER: FELIPE OSORIO DEFENDANT/RESPONDENT: US FOODS, INC.						
<table border="0"> <tr> <td colspan="2" style="text-align: center;"> NOTICE OF ENTRY OF JUDGMENT OR ORDER </td> <td rowspan="2" style="vertical-align: top;"> CASE NUMBER: 20STCV46858 </td> </tr> <tr> <td style="vertical-align: top;"> (Check one): ☒ UNLIMITED CASE (Amount demanded exceeded \$25,000) </td> <td style="vertical-align: top;"> ☐ LIMITED CASE (Amount demanded was \$25,000 or less) </td> </tr> </table>		NOTICE OF ENTRY OF JUDGMENT OR ORDER		CASE NUMBER: 20STCV46858	(Check one): ☒ UNLIMITED CASE (Amount demanded exceeded \$25,000)	☐ LIMITED CASE (Amount demanded was \$25,000 or less)
NOTICE OF ENTRY OF JUDGMENT OR ORDER		CASE NUMBER: 20STCV46858				
(Check one): ☒ UNLIMITED CASE (Amount demanded exceeded \$25,000)	☐ LIMITED CASE (Amount demanded was \$25,000 or less)					

TO ALL PARTIES :

1. A judgment, decree, or order was entered in this action on (date): May 3, 2023
2. A copy of the judgment, decree, or order is attached to this notice.

Date: May 3, 2023Joshua Park(TYPE OR PRINT NAME OF ☒ ATTORNEY ☐ PARTY WITHOUT ATTORNEY)


(SIGNATURE)

FILED

Superior Court of California
County of Los Angeles

05/03/2023

David W. Slayton, Executive Officer / Clerk of Court

By: R. Arraiga Deputy

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES

FELIPE OSORIO, individually and) Case No.: 20STCV46858
on behalf of all individuals)
similarly situated,)
)
Plaintiff,)
) JUDGMENT
vs.)
)
US FOODS, INC. dba U.S.)
FOODSERVICE, INC., a Delaware)
corporation; and DOES 1-25,)
inclusive,)
)
Defendants.)
)
)
_____)

The Court finds as follows:

A. The Court granted preliminary approval of the Third Amended Settlement Agreement ("Settlement Agreement") and certified a provisional settlement class on October 26, 2022.

1 B. The Court granted final approval of the Settlement
2 Agreement on May 3, 2023, certified the settlement class with no
3 opt-outs, and found that the Settlement Agreement was fair,
4 adequate and reasonable.

5 C. The Court defined the following:

6 "Class" or "Class Members" or "Aggrieved Employees" means
7 (Settlement Agreement, ¶¶1.4, 1.5):

8 o All current and former California non-exempt,
9 non-driver employees based out of the Corona facility
10 who completed at least one wellness check in
11 California at any time between April 15, 2020 through
12 July 12, 2020 (¶¶1.4.a, 1.5.a);

13 o All current and former California non-exempt,
14 driver employees based out of the Corona facility who
15 completed at least one wellness check in California at
16 any time between April 15, 2020 through June 28, 2021
17 (¶¶1.4.b, 1.5.b);

18 o All current and former California non-exempt,
19 non-driver employees based out of the Fontana facility
20 who completed at least one wellness check in
21 California at any time between April 15, 2020 through
22 June 28, 2021 (¶¶1.4.c, 1.5.c);

23 o All current and former California non-exempt,
24 non-driver employees based out of La Mirada who
25

1 completed at least one wellness check in California at
2 any time between April 21, 2020 and January 29, 2021
3 (§§1.4.d, 1.5.d);

4 o All current and former California non-exempt,
5 non-driver employees based out of Livermore who
6 completed at least one wellness check in California at
7 any time between April 15, 2020 and June 25, 2020
8 (§§1.4.e, 1.5.e);

9 o All current and former California non-exempt,
10 non-driver employees based out of Hawthorne who
11 completed at least one wellness check in California at
12 any time between April 15, 2020 and June 25, 2020
13 (§§1.4.f, 1.5.f);

14 o All current and former California non-exempt,
15 non-driver employees based out of Tracy who completed
16 at least one wellness check in California at any time
17 between April 15, 2020 and June 26, 2020 (§§1.4.g,
18 1.5.g); and
19

20 o All current and former California non-exempt,
21 non-driver employees based out of Vista who completed
22 at least one wellness check in California at any time
23 between April 15, 2020 and June 27, 2020. (§§1.4.h,
24 1.5.h).
25

1 The Class definition does not involve subclasses but merely
2 covers the respective time periods during which Defendant's
3 California locations conducted COVID-19 related temperature
4 checks, which are the subject of the Parties' dispute.

5 Because the PAGA claim seeks penalties for the same
6 underlying alleged Labor Code violations in the class action
7 claims, and because of the limited time periods at issue in this
8 Action, the Class Members and Aggrieved Employees include the
9 same population of current and former employees.

10 IT IS ORDERED, ADJUDGED AND DECREED:
11

12 1. Plaintiff Felipe Osorio, individually and on behalf of
13 all individuals similarly situated, shall take from Defendant US
14 Foods, Inc. dba U.S. Foodservice, Inc., a Delaware corporation,
15 as set forth in the Parties' Settlement Agreement and the
16 Court's Approval Order entered May 3, 2023.

17 2. Defendant must pay Plaintiffs the Gross Settlement
18 Amount (GSA) of \$1,900,000. The Net Settlement Amount is the
19 GSA minus the following:

20 a. \$633,333.33 (1/3) for attorneys' fees to Class
21 Counsel, LYOR, APC;

22 b. \$17,722.65 in attorney costs to Class Counsel;

23 c. \$10,750 for claims administration costs to
24 Simpluris, Inc.;

1 d. \$5,000 to the class representative, Felipe
2 Osorio, for an enhancement award;

3 e. \$75,000 (75% of \$100,000 PAGA penalty) payable to
4 the LWDA.

5 The employer's share of payroll taxes will be paid
6 separately by Defendant in addition to the GSA.

7 3. Scope of the release: All Settlement Class Members
8 will be bound by all terms of the Joint Stipulation (including
9 the Class Released Claims) and the Court's Preliminary Approval
10 and Final Approval orders and final Judgment, unless the Class
11 Member submits a timely and valid Opt Out. However, any Class
12 Member who submits an Opt Out will still remain bound by the
13 PAGA portion of the Settlement Agreement, including the PAGA
14 Released Claims, to the extent the Class Member also is an
15 Aggrieved Employee. When the Final Approval Order and judgment
16 become final, Aggrieved Employees will be deemed to have
17 released the PAGA Released Claims. (§1.51.8)

18 Upon Defendant fully funding of the settlement, Plaintiff
19 and each of the Settlement Class Members shall be deemed to
20 have, and by operation of the Judgment shall have, fully,
21 finally, and forever released, relinquished, and discharged the
22 Released Parties of all Class Released Claims during the Class
23 Period. As to any Settlement Class Member who cashes the check
24 representing their Individual Class Settlement Payment, the
25

1 signing and negotiation of that check shall serve as the
2 Settlement Class Member's consent to join the action for
3 purposes of releasing claims arising under the FLSA that are
4 related to the claims stated in the Action, implicitly or
5 explicitly. (§1.57.1)

6 "Class Released Claims" shall mean all claims, demands,
7 rights, liabilities, penalties, fees, and causes of action that
8 were or could have been asserted by reason of or in connection
9 with any matter or fact set forth or referred to in the
10 complaint (whether in tort, contract, statute or otherwise)
11 during the time periods listed in Section 1.4, including but not
12 limited to any claims based on the following allegations under
13 any theory: failure to pay minimum, regular, or hourly wages,
14 and/or alleged off-the-clock work; failure to pay overtime wages
15 or accurate separation; failure to provide accurate and/or
16 complete wage statements; failure to maintain records; or
17 violation of Cal. Bus. & Prof. Code section 17200 et seq. by
18 engaging in the foregoing conduct. The Released Claims include
19 any alleged violation of Labor Code sections 200, 201-204, 210,
20 218.5, 226, 500, 510, 558, 1174, 1182.2, 1182.12, 1194, 1194.2,
21 1197, or 1198. The Final Judgment shall cover and bar each and
22 every Settlement Class Member from asserting any of the Released
23 Claims in the future against Defendant and its past or present
24 officers, directors, shareholder, employees, agents, principals,
25

1 heirs, representatives, accountants, auditors, attorneys,
2 consultants, insurers, and their respective successors and
3 predecessors in interest, assigns, subsidiaries, affiliates, and
4 parents (the "Released Parties"). The Class Released Claims also
5 include any claims that were or could have been asserted in the
6 Action for unpaid wages, civil or statutory penalties, interest,
7 attorneys' fees, costs, injunctive relief, restitution, and
8 equitable relief under California or federal statute, ordinance,
9 regulation, common law, or other source of law, including but
10 not limited to the California Labor Code, California Business
11 and Professions Code, and California Civil Code, California
12 Industrial Welfare Commission Wage Orders, and the Fair Labor
13 Standards Act ("FLSA"), 29 U.S.C. §§ 216 et seq. All Class
14 Members shall be bound by this release unless they formally
15 request exclusion from this Settlement by submitting a valid and
16 timely Request for Exclusion or comparable documentation.
17 However, Class Members that do not negotiate their Individual
18 Settlement Payment checks do not release any claims under the
19 federal Fair Labor Standards Act ("FLSA"), 29 U.S.C. §§ 216 et
20 seq. Class Released Claims" shall not include claims alleged in
21 LASC Case Number 21STCV32573, entitled IVAN MAGANA et al v. US
22 FOODS, INC., et al., for alleged meal period violations under
23 Labor Code sections 226.7, 512, or 558; violations of the Cal.
24 Bus. & Prof. Code section 17200 et seq. predicated on meal
25

1 period violations under Labor Code sections 226.7, 512, or 558;
2 nor PAGA penalties for alleged meal period violations under
3 Labor Code sections 226.7, 512, or 558. (§1.33)

4 All Aggrieved Employees and the State of California,
5 whether electing to Opt Out from the Settlement or not, will be
6 deemed to have fully released and discharged the Released
7 Parties of the PAGA Released Claims when the Final Approval
8 Order and judgment become final. Plaintiff shall serve a notice
9 of settlement on the California Labor and Workforce Development
10 Agency at the same time Plaintiff files the motion for
11 preliminary approval (Cal. Labor Code § 2699(1)(2)). Plaintiff
12 shall serve any Judgment within 10 days after entry of same on
13 the California Labor and Workforce Development Agency (Cal.
14 Labor Code § 2699(1)(3)). (§1.57.2)

16 "PAGA Released Claims" means all claims, demands, rights,
17 liabilities, penalties, fees, and causes of action under PAGA
18 during the PAGA Period, including under Labor Code sections 558
19 and/or 2698 et seq., predicated on any Labor Code violations
20 alleged in the operative Complaint (which include Labor Code
21 sections 200, 201-204, 210, 218.5, 226, 500, 510, 558, 1174,
22 1182.2, 1182.12, 1194, 1194.2, 1197, and 1198) or that could
23 have been alleged in the operative Complaint based on the facts,
24 policies, practices, occurrences, or acts alleged in the
25 operative Complaint, or that are based on any alleged failure to

1 pay minimum, regular, or hourly wages, and/or alleged off-the-
2 clock work; failure to pay overtime wages or accurate overtime
3 wages; failure to pay timely wages during employment; failure to
4 provide accurate and/or complete wage statements; failure to
5 maintain records. PAGA Released Claims shall not include PAGA
6 claims predicated on meal period violations under Labor Code
7 sections 226.7, 512, or 558. alleged in LASC Case Number
8 21STCV32573, entitled IVAN MAGANA et al v. US FOODS, INC., et
9 al. (§1.36)

10
11 "Released Parties" means Defendant and its past or present
12 officers, directors, shareholder, employees, agents, principals,
13 heirs, representatives, accountants, auditors, attorneys,
14 consultants, insurers, and their respective successors and
15 predecessors in interest, assigns, subsidiaries, affiliates, and
16 parents. (§1.42)

17 The cashing, deposit, or negotiation of this settlement
18 check shall be deemed to be your consent in writing to become a
19 party to this action for the purposes of effectuating the
20 settlement and release of claims arising under the Fair Labor
21 Standards Act ("FLSA") as described in the Settlement Agreement
22 in Felipe Osorio v. US FOODS, INC. which will do business in
23 California as U.S. FOODSERVICE, INC., et al, Los Angeles County
24 Superior Court, Case No. 20STCV46858. (§1.56.1)
25

1 Named Plaintiff, Felipe Osorio, provides a general release
2 and 1542 waiver. (§1.57.3)

3 4. All uncashed settlement checks, plus interest, must be
4 delivered to the California State Controller's Unclaimed
5 Property Division in the name of the Class Member/Aggrieved
6 Employee who did not cash his or her check.

7 5. Pursuant to California Rules of Court, Rule 3.769(h),
8 the Court retains jurisdiction over the parties with respect to
9 enforcement of this Judgment under California Code of Civil
10 Procedure Section 664.6.

11 CLERK TO GIVE NOTICE.

12 DATED: May 3, 2023



Yvette M. Palazuelos

YVETTE M. PALAZUELOS
JUDGE OF THE SUPERIOR COURT
Yvette M. Palazuelos / Judge

PLAINTIFF/PETITIONER: FELIPE OSORIO
 DEFENDANT/RESPONDENT: US FOODS, INC.

CASE NUMBER:
 20STCV46858

**PROOF OF SERVICE BY FIRST-CLASS MAIL
 NOTICE OF ENTRY OF JUDGMENT OR ORDER**

(NOTE: You cannot serve the Notice of Entry of Judgment or Order if you are a party in the action. The person who served the notice must complete this proof of service.)

1. I am at least 18 years old and **not a party to this action**. I am a resident of or employed in the county where the mailing took place, and my residence or business address is (*specify*):

2. I served a copy of the *Notice of Entry of Judgment or Order* by enclosing it in a sealed envelope with postage fully prepaid and (*check one*):

- a. ☐ deposited the sealed envelope with the United States Postal Service.
 b. ☐ placed the sealed envelope for collection and processing for mailing, following this business's usual practices, with which I am readily familiar. On the same day correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service.

3. The *Notice of Entry of Judgment or Order* was mailed:

- a. on (*date*):
 b. from (*city and state*):

4. The envelope was addressed and mailed as follows:

a. Name of person served:

Street address:

City:

State and zip code:

c. Name of person served:

Street address:

City:

State and zip code:

b. Name of person served:

Street address:

City:

State and zip code:

d. Name of person served:

Street address:

City:

State and zip code:

☐ Names and addresses of additional persons served are attached. (*You may use form POS-030(P).*)

5. Number of pages attached _____.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date: _____

 (TYPE OR PRINT NAME OF DECLARANT)

_____
 (SIGNATURE OF DECLARANT)

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

PROOF OF SERVICE

I am employed in the aforesaid county, State of California. I am over the age of 18 years and not a party to the within action. My business address is **1055 West 7th Street, Suite 2290, Los Angeles, CA 90017.**

On May 3, 2023, I served the following document(s) described as **NOTICE OF ENTRY OF JUDGMENT OR ORDER (CIV-130)** on the interested parties in this action, addressed as follows:

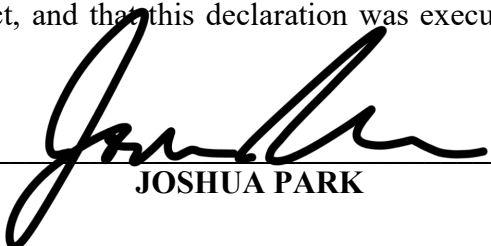
Joseph C. Liburt jliburt@orrick.com Katie E. Briscoe kbriscoe@orrick.com Luba Lerner llerner@orrick.com Annie H. Chen annie.chen@orrick.com	<i>Attorneys for Defendant</i>
ORRICK, HERRINGTON, & SUTCLIFFE LLP 1000 Marsh Road Menlo Park, CA 94025	

(X) **(BY ELECTRONIC SERVICE)** My electronic service address is joshua.park@loywr.com. Pursuant to California Code of Civil Procedure section 1010.6 and California Rules of Court, rule 2.251, I served the foregoing document on the interested party at the electronic service addresses (e-mail addresses) listed above.

STATE OF CALIFORNIA
LABOR AND WORKFORCE DEVELOPMENT AGENCY (LWDA)

(X) **(BY ELECTRONIC SERVICE)** I served the foregoing document to the LWDA by uploading the foregoing documents on the LWDA Website (<https://www.dir.ca.gov/Private-Attorneys-General-Act/Private-Attorneys-General-Act.html>)

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, and that this declaration was executed on May 3, 2023, in Los Angeles, California.



JOSHUA PARK