

CONFIDENTIAL SETTLEMENT AGREEMENT AND GENERAL RELEASE OF CLAIMS

This Confidential Settlement Agreement & General Release of Claims (the "Agreement") is entered into between Ivan Magana ("Plaintiff"), on the one hand, and US Foods, Inc. and its subsidiaries, affiliates, divisions, successors, and employees (collectively "US Foods"), on the other hand.

RECITALS

- A. On June 23, 2021, Plaintiff sent a letter to the Labor Workforce Development Agency ("LWDA") indicating his intention to seek penalties under the Private Attorney General Act ("PAGA") against US Foods for alleged Labor Code violations. On August 27, 2021, Plaintiff sent a supplemental letter to the LWDA.
- B. On September 2, 2021, Plaintiff filed a proposed class action Complaint against US Foods, Inc., titled *Magana v. US FOODS, INC. WHICH WILL DO BUSINESS IN CALIFORNIA AS U.S. FOODSERVICE INC.*, Case No. 21STCV32573 in Los Angeles County Superior Court (the "Action"). In it, he alleged claims for failure to provide meal periods and a derivative violation of Business & Professions Code section 17200.
- C. On November 15, 2021, Plaintiff filed a First Amended Complaint adding a representative claim under PAGA for alleged failure to provide meal periods.
- D. In order to avoid the expenses, burden and delay of litigation, it is the intention of both the Plaintiff and US Foods (collectively referred to as the "Parties") to settle fully and finally all claims Plaintiff might have against US Foods, up to and including the date of execution hereof, including but not limited to those claims arising out of or relating to Plaintiff's employment with US Foods.

NOW, THEREFORE, in consideration of the terms, conditions, promises and covenants contained herein, it is agreed as follows:

AGREEMENT

1. Settlement Payment and Dismissal.

1.1 In consideration of the promises set forth in this Agreement, including but not limited to Plaintiff filing a dismissal of the Action in its

entirety, US Foods will pay to Plaintiff the gross sum of ten thousand dollars and zero cents (\$10,000.00) (the "Settlement Payment") as follows:

- a. One check shall be made payable to Plaintiff in the amount of \$2,000.99 less all applicable federal, state and local withholdings and deductions, pursuant to a Form W-2. This payment is made to settle claims associated with alleged wage loss.
- b. One check shall be made payable to Plaintiff in the amount of \$2,000.00 pursuant to a Form 1099. This payment is made to settle claims for damages, penalties, interest, and physical and emotional distress.
- c. One check shall be made payable to Plaintiff's counsel, LOYR, APC, in the amount of \$5,999.01 pursuant to a Form 1099. This payment is made to settle claims for attorneys' fees and costs.

US Foods will report all amounts paid to Plaintiff and Plaintiff's counsel to the appropriate taxing authorities as required by law.

1.2 The Settlement Payment will be paid within fifteen (15) business days of the date on which all of the following are complete: (a) Plaintiff has delivered to US Foods' counsel a signed copy of this Agreement; (b) Plaintiff has filed a Request for Dismissal of the Action pursuant to Paragraph 1.3; (c) the Court grants Plaintiff's Request for Dismissal of the Action; (d) Plaintiff has provided to US Foods' counsel a completed Form W-9; (e) Plaintiff's counsel has provided to US Foods' counsel a completed Form W-9; and (f) Plaintiff sends a letter to the LWDA withdrawing his prior two letters.

1.3 Within three (3) business days of Plaintiff executing this Agreement, Plaintiff shall file a Request for Dismissal of the Action in its entirety with the Court. The Request for Dismissal will seek dismissal of the Action with prejudice as to Plaintiff's individual claims and dismissal without prejudice as to the Class and PAGA claims.

1.4 Plaintiff acknowledges and agrees that aside from the Settlement Payment, Plaintiff is not entitled to receive any further monetary payments from US Foods and the Released Parties (as defined below). Plaintiff acknowledges and agrees that he has previously received all earnings that US Foods concedes it owes to him, and that the monies payable to Plaintiff under the terms of this Agreement are not for earnings or wages US Foods concedes it owes to him. Plaintiff acknowledges that any claim against US Foods for alleged failure to provide meal breaks, PAGA penalties for alleged failure to provide meal breaks, and alleged violation of Business & Professions Code section 17200 has been resolved.

1.5 Plaintiff acknowledges that Plaintiff has had the opportunity to receive, and to the extent desired, has received independent professional

advice from Plaintiff's own tax advisor with respect to the tax consequences of entering into this Agreement. Plaintiff acknowledges and agrees that US Foods has made no representations regarding the tax consequences of any amounts paid pursuant to this Agreement. Plaintiff agrees that Plaintiff will be solely and ultimately responsible for paying any federal, state or other taxes that Plaintiff may owe as a result of payments made pursuant to this Agreement. In addition, Plaintiff agrees to hold US Foods harmless from any claims, demands, taxes, deficiencies, fines, penalties, levies, assessments, executions, judgments, interest, costs, or any recoveries by any governmental agency against US Foods for any amounts claimed due on account of this Agreement as a result of improper allocations or failure of Plaintiff or Plaintiff's counsel to report and/or pay taxes as legally required. For the avoidance of doubt, this paragraph shall not apply to require Plaintiff to assume any obligation for or hold harmless US Foods for any employer-side taxes to be paid by US Foods on the any portion of the Payment however characterized.

2. No Admission of Liability.

This Agreement does not constitute an admission by US Foods of any liability or wrongful conduct whatsoever. US Foods, for itself and all Released Parties, expressly denies any and all such liability or wrongful conduct. The Parties agree that neither this Agreement nor any payment made by US Foods to Plaintiff shall be deemed or construed for any purposes as evidence or an admission of liability or wrongful conduct of any kind.

3. Waiver & Release of Claims.

3.1 In consideration for receiving the Settlement Payment described above, and as a condition of US Foods' willingness to enter into this Agreement, Plaintiff, for and on behalf of himself and his agents, heirs, executors, administrators and assigns (collectively referenced hereafter as "Releasing Parties") hereby unconditionally waives, releases and forever discharges US Foods, Inc. and its respective heirs, joint ventures, subsidiaries, affiliates, divisions, current or former stockholders, agents, servants, employees, owners, partners, officers, directors, successors, assigns, representatives, insurers and attorneys, past, present and future, and each of them (collectively referenced hereafter as "Released Parties"), from any and all claims, actions, causes of action, rights, suits, debts, contracts, obligations, agreements, proceedings, damages, charges and demands of whatever kind or nature in law or in equity, under any theory, whether common law, constitutional, statutory or other, of any jurisdiction, foreign or domestic, whether known or unknown, anticipated or unanticipated, which the Releasing Parties have or claim to have, or may claim to have in the future, against the Released Parties for anything occurring prior to the date of the execution of this Agreement.

3.2 This release as set forth in this Section 3 includes, without limitation: all claims arising out of or relating to Plaintiff's employment with US Foods; all claims related to US Foods' alleged failure to provide meal periods, US Foods' alleged failure to pay meal period premiums, US Foods' alleged violation of Business & Professions Code section 17200, PAGA penalties, all claims related to any wages or penalties owed by US Foods or the Released Parties to Plaintiff; all claims for breach of contract (express and implied) and breach of the implied covenant of good faith and fair dealing (express and implied); all tort claims including, but not limited to, defamation, intentional or negligent infliction of emotional distress, negligent or intentional misrepresentation, negligent or intentional interference with contract or prospective economic advantage, negligence, personal injury, assault, battery, invasion of privacy, false imprisonment, conversion and fraud; all claims related to inspection of personnel files or payroll records; and all claims pursuant to any federal, state or local law, including, but not limited to, any claim for discrimination, harassment or retaliation based on race, national origin, age, sex, sexual orientation, marital status, pregnancy, religion, mental or physical disability or medical condition; and any and all claims for attorneys' fees and costs. Plaintiff also expressly understands and acknowledges that Plaintiff (along with the other Releasing Parties) hereby releases any and all rights and claims that can be legally released and arising under any statute, law or constitution, including, but without limitation to, any rights or claims under the California Labor Code, the California Fair Employment and Housing Act; the Family and Medical Leave Act; Title VII of the Civil Rights Act; the Equal Pay Act; the Rehabilitation Act of 1973; the Employee Retirement Income Security Act; the Fair Labor Standards Act; the Americans with Disabilities Act; the Occupational Safety and Health Act; and the Workers' Adjustment and Retraining Notification Act. Plaintiff represents that Plaintiff knows of no claim that Plaintiff has that has not been released by this paragraph.

3.3 Notwithstanding any other provision of this Agreement, this general release does not release any claims that cannot lawfully be released by private agreement. Nothing in this Agreement is intended to constitute an unlawful release or waiver of Plaintiff's rights under any laws and/or to prevent, impede or interfere with Plaintiff's ability and/or right to participate cooperate and communicate with, an investigation or proceeding conducted by the U.S. Equal Employment Opportunity Commission, the California Department of Fair Employment and Housing, the Securities and Exchange Commission, or other federal or state regulatory or law enforcement agency. However, the Settlement Payment set forth in this Agreement shall be the sole and exclusive monetary relief provided to Plaintiff by US Foods for the claims that are released herein. Nothing in this Agreement precludes Plaintiff from receiving monetary benefits in connection with an investigation or proceeding initiated by any governmental agency. Nothing in this Agreement waives Plaintiff's right to testify or prohibits Plaintiff from testifying in an administrative, legislative or judicial proceeding concerning alleged criminal

conduct or alleged sexual harassment when Plaintiff has been required or requested to attend the proceeding pursuant to a court order, subpoena or written request from an administrative agency or the legislature.

3.4 Plaintiff, on behalf of himself and the other Releasing Parties, intends and agrees that the waiver and release provided for in this Agreement shall be effective as a full and final accord and satisfaction and release of any and all claims of every nature and kind whatsoever, whether known or unknown, suspected or unsuspected, and that all rights under section 1542 of the Civil Code of the State of California (or any similar and applicable state statute) are expressly waived. Section 1542 provides as follows:

“A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS THAT THE CREDITOR OR RELEASING PARTY DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE AND THAT, IF KNOWN BY HIM OR HER, WOULD HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT TO THE DEBTOR OR RELEASING PARTY.”

Thus, Plaintiff expressly acknowledges that this release includes, without limitation, any claims and causes of action which Plaintiff does not know of or suspect in Plaintiff's favor at the time of execution of this Agreement, and that this Agreement contemplates full and final extinguishment of all such claims and causes of action, except for claims expressly excluded from this release.

3.5 Plaintiff covenants not to sue the Released Parties for any of the claims released above, agrees not to participate in any class, collective, representative, or group action that may include any of the claims released above, and will affirmatively opt out of any such class, collective, representative or group action. Further, Plaintiff agrees not to participate in, seek to recover in, or assist in any litigation or investigation by other persons or entities against the Released Parties, except as required by law. Except as described above, Plaintiff further agrees not to counsel or assist any attorneys or their clients in the presentation or prosecution of any disputes, grievances, claims, charges or complaints initiated by any individual third party against US Foods and the Released Parties and/or any officer, director, employee, agent, representative, shareholder or attorney of US Foods or the Released Parties, unless under a subpoena or other court order to do so.

3.6 Aside from the letters to the LWDA described in the above Recitals, Plaintiff acknowledges and certifies that, aside from the Action, Plaintiff has no pending charges or claims on file with any federal, state or local agency or administrative office, and that Plaintiff has no present intention of filing a workers' compensation claim, a California Labor Code Section 132a claim, or any other claim against US Foods or the Released Parties.

3.7 The Parties hereby agree that this Agreement may be pleaded as a full and complete defense to, and may be used as the basis for an injunction against, any charge, action, suit or other proceeding which may be instituted, prosecuted or attempted in breach of this Agreement. If any person or entity released by this Agreement is forced to defend against any such charge, action, suit or other proceeding, that party shall be entitled to receive its attorneys' fees and other costs and expenses associated with such action.

4. Confidentiality.

4.1 Plaintiff agrees to maintain in strict confidence the terms, conditions, amount, and fact of this Agreement, and any and all actions taken in accordance with this Agreement, except as expressly set forth in this Agreement. Plaintiff may make such a disclosure if expressly ordered to do so by a court of law or as necessary to obtain dismissal of the PAGA representative action. Neither Plaintiff nor anyone acting at Plaintiff's direction or on Plaintiff's behalf shall voluntarily disclose the terms, conditions, amount, fact of or contents of this Agreement, to any other persons, entities or organizations (with the sole exception that Plaintiff may make such disclosures to Plaintiff's attorney, spouse or registered domestic partner, and/or financial advisers, or as otherwise required by law), but Plaintiff agrees that he shall not disclose the terms of this Agreement directly to any current US Foods employee in any manner, whether in writing or orally, directly or indirectly, or by or through an agent, representative, attorney or any other such person. Plaintiff further agrees to take appropriate steps to ensure that confidentiality is maintained by his attorney, spouse or registered domestic partner, and/or financial advisers to extent authorized disclosures are made to these individuals. Any breach by these individuals to whom an authorized disclosure is made shall be deemed a material breach of this Agreement by Plaintiff. If asked about this matter, Plaintiff may state only that "it is over", and, if pressed, "I really do not want to talk about it."

4.2 Plaintiff agrees that this promise of confidentiality is a material term of this Agreement, and that US Foods would not have entered into this Agreement without such a promise by Plaintiff, and that US Foods would be irreparably harmed if the confidentiality provision contained in this paragraph were violated by Plaintiff. Thus, any action to enforce this provision may be brought by US Foods, including on an *ex parte* or otherwise expedited basis, and US Foods may seek any and all available remedies, including injunctive relief and consequential damages.

4.3 In the event that any third party seeks to compel disclosure of this Agreement by service of a subpoena or otherwise, Plaintiff agrees to promptly notify US Foods and otherwise to take such reasonable steps to enforce Paragraph 4.1 of this Agreement.

4.4 Plaintiff agrees not to encourage or support by any means, directly or indirectly, any effort by any third party to challenge the provisions set forth in Paragraph 4.1 of this Agreement. Plaintiff further represents and warrants that neither Plaintiff nor Plaintiff's agents shall seek to abrogate, nullify or otherwise challenge in any respect the provisions set forth in Paragraph 4.1 of this Agreement under the statutes, rules, case law or public policy of any jurisdiction.

5. Non-Disparagement.

5.1 Plaintiff agrees not to make any statements or take any action, directly or indirectly, that disparages the business interests, reputation, or goodwill of US Foods or its officers, directors, employees, products, services or business practices. Any violation of the terms of this Paragraph 5.1 will be considered a material breach of the terms of this Agreement. For purposes of this paragraph, "disparage" shall mean any negative, untruthful statement, whether written or oral.

5.2 Plaintiff agrees that this promise of non-disparagement is a material term of this Agreement, and that US Foods would not have entered into this Agreement without such a promise by Plaintiff, and that US Foods would be harmed if the non-disparagement provision contained in this paragraph were violated by Plaintiff. Thus, any action to enforce this provision may be brought by US Food, including on an ex parte or otherwise expedited basis, and US Foods may seek any and all available remedies, including injunctive relief and consequential damages.

5.3 Plaintiff shall refer any third parties requesting information about his employment at US Foods to The Work Number, at www.theworknumber.com or 800-367-5690 (US Foods Employer Code: 11428), who will provide your name and dates of employment. You will not direct any prospective employers to contact any employee or manager of US Foods, and US Foods is not responsible for statements made by its personnel if prospective employers contact anyone at US Foods individually instead of as expressly directed in this paragraph.

6. Attorneys' Fees and Costs.

Apart from the Settlement Payment set forth above, Plaintiff, on the one hand, and US Foods, on the other, each agree to bear their own costs and attorneys' fees and waive any statute, rule of court, provision or legal proposition that might otherwise be relied upon to obtain costs, fees or expenses in connection with Plaintiff's allegations and causes of action released herein. Each party agrees that he or it is not a prevailing party within the meaning of the California Labor Code, or any other statute applicable to Plaintiff's legal claims. However, if any action or motion is needed to enforce this Agreement or arises under this Agreement, the prevailing party in such proceeding or motion shall be

entitled to his or its attorney fees and costs reasonably incurred. Plaintiff acknowledges that, apart from the Settlement Payment set forth above, Plaintiff has no claim for or legal right to attorneys' fees or costs.

7. Entire Agreement and Severability.

7.1 This Agreement sets forth the entire agreement between the Parties pertaining to its subject matter, and fully supersedes any and all prior agreements or understandings between the Parties. However, notwithstanding the foregoing, the Parties acknowledge and agree that this Agreement does not affect any preexisting agreement between Plaintiff and US Foods relating to confidential information or trade secrets, which by its terms, extends beyond the separation of Plaintiff's employment with US Foods. This Agreement shall not be modified except by written instrument signed by all the Parties hereto.

7.2 The Parties acknowledge and agree that no representation or promise not expressly contained in this Agreement has been made by either Party to this Agreement or by any of the Parties' respective agents, employees, representatives or attorneys. Both Parties acknowledge that they are not entering into this Agreement on the basis of any such representations or statements, express or implied, and that they have been represented throughout all the negotiations leading up to this Agreement by counsel of their choice.

7.3 The Parties represent and agree that: (a) the Parties and their respective legal counsel have reviewed and negotiated the terms and provisions of this Agreement; (b) each of the Parties has had an opportunity to review the contents of this Agreement with independent legal, financial and tax advisors to the extent each of them desire; (c) each of the Parties has thoroughly discussed all aspects of this Agreement to the extent each of them desire; (d) the Parties and their respective counsel have had the opportunity to ask any questions or make whatever investigation or inquiry they deem necessary or advisable in connection with this Agreement; (e) the Parties have each carefully read and fully understand all of the provisions of this Agreement; (f) each Party is entering voluntarily into this Agreement without any reservation whatsoever; and (g) the terms and provisions of this Agreement shall be construed fairly and not in favor of or against any Party, regardless of which Party was generally or primarily responsible for the preparation of this Agreement.

7.4 If any provision of this Agreement is held to be invalid or inapplicable, the invalidity shall not affect other provisions of the Agreement. The Parties expressly intend and agree that the provisions of this Agreement are severable. However, if the releases set forth in Section 3 of this Agreement are held by a court of competent jurisdiction to be unenforceable as a result of a claim, demand or cause of action Plaintiff has brought, US

Foods, at its option, will be entitled to recover payments sent to Plaintiff pursuant to Paragraph 1 of this Agreement, and any such legal action by US Foods shall not be considered retaliatory.

8. Miscellaneous.

8.1 Plaintiff expressly represents and warrants that he has returned to US Foods or has destroyed all documents that Plaintiff or Plaintiff's counsel have in their possession that in any way relate to Plaintiff's employment with US Foods (with the exception of documents which came from Plaintiff's personnel file, or those which define or relate to Plaintiff's compensation or benefits), or will do so within 10 days of receiving the Settlement Payment. US Foods will inform Plaintiff of any items that they believe are still in his possession at the time of execution of this Agreement.

8.2 In executing this Agreement, the Parties agree, understand and intend that this Agreement shall be binding upon Plaintiff and Plaintiff's heirs, representatives, executors, administrators, successors and assigns, and shall inure to the benefit of each and all of the Released Parties, and to their heirs, representatives, executors, administrators, successors and assigns.

8.3 This Agreement shall in all respects be interpreted, enforced, governed and construed by and under the laws of the State of California, except where the application of federal law applies.

8.4 This Agreement may be executed in counterparts, and has the same force and effect as if all signatures were obtained in one document. Execution of a facsimile or email copy shall have the same force and effect as execution of an original, and a facsimile or email signature shall be deemed an original and valid signature.

8.5 The headings of the paragraphs of this Agreement are inserted for convenience only and shall not be deemed to constitute part of this Agreement or to affect the construction thereof.

8.6 Plaintiff acknowledges that he has read this entire Agreement, that his counsel has explained the terms and conditions of this entire Agreement to him, and that he understands the Agreement and each of the provisions of the Agreement. Plaintiff acknowledges that his consent to the terms of this Agreement is knowing and voluntary.

8.7 This Agreement will be effective, enforceable, and binding upon the date it is signed by both Parties (the "Effective Date"). This Agreement may be executed in any number of copies by the Parties on separate counterparts, each of which shall be deemed to be an original and all of which together shall be deemed to be one and the same instrument. A signed facsimile/electronically transmitted version of this Agreement by either party shall have the same force and effect as a signed original of this Agreement.

The Parties agree that electronic signatures through DocuSign and AdobeSign shall be deemed to be as valid and enforceable as original ink signatures to expedite the execution of this Agreement, pursuant to California Civil Code section 1633.7.

8.8 This Agreement is admissible and subject to disclosure for the purpose of enforcing this Agreement and the provisions of the confidentiality agreement signed by the Parties relative to the negotiation of this Agreement are waived with respect to this Agreement.

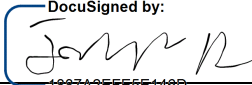
8.9 Any dispute over the terms of or obligations under this Agreement or otherwise relating to this Agreement shall be resolved by final and binding arbitration before JAMS. The arbitrator shall be obligated to follow substantive California law. Employee and Company shall each have the right to submit to the arbitrator and have the arbitrator rule on a motion for summary judgment or partial summary judgment of some or all claims, applying reasonable procedures in the arbitrator's discretion as to timing, required papers, etc. Employee and Company agree to waive any and all rights to a jury trial or a bench trial in connection with the resolution of any dispute under this Agreement. The prevailing party shall be entitled to reasonable attorneys' fees and/or costs incurred to enforce this Agreement.

I HAVE CAREFULLY READ ALL OF THE PROVISIONS OF THIS CONFIDENTIAL SETTLEMENT AGREEMENT AND GENERAL RELEASE OF CLAIMS AND UNDERSTAND THAT IT RELATES TO MY LEGAL RIGHTS. I HAVE BEEN GIVEN AN ADEQUATE OPPORTUNITY TO CONSULT WITH AN ATTORNEY AND TO REVIEW THE AGREEMENT. I HEREBY AGREE TO THE TERMS SET FORTH ABOVE. FURTHER, IN SIGNING THIS AGREEMENT, I ACKNOWLEDGE THAT I HAVE NOT RELIED UPON ANY REPRESENTATION, PROMISE OR STATEMENT, WRITTEN OR ORAL, NOT SET FORTH IN THIS DOCUMENT.

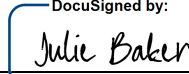
PLAINTIFF

US FOODS, INC.

DATE: March 18, 2022

DocuSigned by:

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 Ivan Magana

DATE: March 22, 2022

DocuSigned by:

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 Julie M. Baker
 Assistant General Counsel