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8 NATALIE BARBA

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SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF LOS ANGELES, CENTRAL DISTRICT
SPRING STREET COURTHOUSE

MIRIAM AVELAR ARVIZU, individually
and on behalf of others similarly situated,

Plaintiff,

vs.

AMMADIS, INC., a California corporation
dba Gaucho Grill; ADRIAN E. AMOSA, an
individual; LUCIANA MIORIN AMOSA, an
individual; CINGULAR GROCERS, a
California corporation; CINGULAR HR, a
California corporation; and DOES 1 through
50, inclusive,

Defendants.

CLASS ACTION

Case No.: BC698605

Hon. Daniel J. Buckley

Dept. 1

~~[AMENDED PROPOSED]~~ **JUDGMENT
PURSUANT TO CLASS ACTION
SETTLEMENT**

Hearing Date: December 28, 2021

Hearing Time: 10:00 a.m.

FILED
Superior Court of California
County of Los Angeles

12/28/2021

Sherri R. Carter, Executive Officer / Clerk of Court

By: I. Arellanes Deputy

1 WHEREAS, on July 21, 2021, upon this Court’s review of the Class Action Settlement
2 Agreement and Release of Claims (a copy of which is attached hereto as **Exhibit 1** and
3 incorporated herein by this reference; “Settlement” or “Agreement”) entered into between
4 Plaintiff Natalie Barba (“Plaintiff”) on the one hand, and Defendants Ammadis, Inc., Adrian E.
5 Amosa, Luciana Miorin Amosa, Cingular Grocers, and Cingular HR (collectively, “Defendants”)
6 on the other hand, this Court granted preliminary approval of the class action settlement;

7 WHEREAS, on December 28, 2021, this Court granted the Motion for Final Approval of
8 the Agreement, finding the settlement to be fair, reasonable, and adequate with respect to the
9 Settlement Class, about which Class Members were provided notice and the opportunity to
10 attend the hearing;

11 **IT IS HEREBY ORDERED, ADJUDGED AND DECREED** that:

12 1. All defined terms contained herein shall have the same meanings as set forth in
13 the Agreement.

14 2. The Notice of Proposed Class Action Settlement (“Class Notice”) was sent to
15 each Class Member by U.S. Mail. The Class Notice informed Class Members of the terms of the
16 Settlement, the process available to obtain monetary relief, the right to opt out and pursue their
17 own remedies, the opportunity to file written objections and the right to appear in person or by
18 counsel at the fairness hearing and be heard regarding the approval of the Settlement. Adequate
19 periods of time were provided by each of these procedures.

20 3. Only one Class Member objected, and no one opted-out. The objector did not
21 provide a reason why the Settlement was unfair, unreasonable, or inadequate to the Class, and so
22 the objection was overruled.

23 4. The Court finds and determines that these procedures afforded adequate
24 protections to Class Members and provide the basis for the Court to make an informed decision
25 regarding approval of the Settlement based on the Class Members’ responses thereto. The Court
26 finds and determines that the Class Notice provided in this case was the best notice practicable,
27 which satisfied the requirements of California *Civil Code* section 1781(e), California Rules of
28 Court, Rule 3.769, and due process;

1 5. The Agreement is fair, adequate, and reasonable, in the best interests of the Class
2 as a whole, and represents an excellent outcome in light of the risks and costs of further litigation
3 and defenses raised. The Agreement is the product of arms-length, serious, informed, non-
4 collusive, and non-overreaching negotiations.

5 6. Pursuant to California law, the Court hereby grants final approval to the
6 Agreement, which is expressly incorporated by reference into this Judgment and which shall
7 have the full force and effect of a Judgment of the Court, and hereby directs that the Agreement
8 be consummated in accordance with its terms and conditions, including the following:

- 9 a. Pursuant to the terms of the Settlement, the Effective Date of this Judgment
10 is the date this judgment is signed and entered.
- 11 b. Defendants are ordered to deposit into the Qualified Settlement Fund the
12 Gross Settlement Amount (“GSA”) of \$720,000, plus the Employer-side
13 Taxes, consistent with the deadlines set forth in the Agreement.
- 14 c. Phoenix Settlement Administrators is ordered to post on its website the notice
15 of the final judgment for 120 days following the Effective Date of this
16 Judgment.
- 17 d. The Court orders and determines that \$12,000 be paid to Phoenix Settlement
18 Administrators from the GSA for all of its agreed work done and to be done
19 until the completion of this matter and is appropriate.
- 20 e. Natalie Barba is hereby approved as Class Representatives and is hereby
21 approved to receive a Service Payment in the sum of \$5,000, with no
22 deductions.
- 23 f. Attorneys’ fees in the amount of \$252,000 to Law Offices of Eric A.
24 Boyajian, APC (“Class Counsel”) is approved for all the work done and to be
25 done until the completion of this matter, and Administrator is ordered to pay
26 said amount from the GSA to Class Counsel consistent with the deadlines set
27 forth in the Agreement.
- 28 g. Attorneys’ costs in the amount of \$18,637.77 to Class Counsel is approved for

1 all the work done and to be done until the completion of this matter, and
2 Administrator is ordered to pay said amount to Class Counsel consistent with
3 the deadlines set forth in the Agreement.

4 h. Administrator is ordered to distribute the Net Settlement Amount (“NSA”) of
5 about \$432,362.23 to the Participating Class Members consistent with the
6 deadlines set forth in the Agreement.

7 i. If, after 180 days from the date of Administrator’s mailing of the settlement
8 payments to the Participating Class, there remains uncashed checks,
9 Administrator is ordered to void all such uncashed checks. Administrator is
10 ordered to then immediately pay any monies remaining in the distribution
11 account to the Controller of the State of California, which shall be held
12 pursuant to the Unclaimed Property Law, California *Civil Code* § 1500 *et seq.*,
13 for the benefit of those Participating Class Members who did not cash their
14 checks until such time that they claim their property.

15 7. The Court retains jurisdiction of all matters relating to the interpretation,
16 administration, implementation and effectuation of this Order and the Settlement.

17 8. Upon satisfaction of all payment and obligations under the Settlement and under
18 this Order, all Participating Class Members are barred from prosecuting against the Released
19 Parties (as defined in the Settlement) any released claims (as defined in the Settlement).

20 9. A status conference is set for _____, at
21 _____ [am / pm] regarding whether payments ordered hereunder were made.

22 **IT IS SO ORDERED.**

23 JUDGE OF THE SUPERIOR COURT

24
25 DATED: 12/28/2021



26 *Daniel J. Buckley*

Hon. Daniel J. Buckley,
Daniel J. Buckley / Judge

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EXHIBIT 1

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11 Attorneys for Defendants AMMADIS, INC.,
ADRIAN E. AMOSA, LUCIANA MIORIN
12 AMOSA, CINGULAR GROCERS, AND
CINGULAR HR
13

14 SUPERIOR COURT OF THE STATE OF CALIFORNIA
15 COUNTY OF LOS ANGELES, CENTRAL DISTRICT
16 SPRING STREET COURTHOUSE

17 MIRIAM AVELAR ARVIZU, individually and on
18 behalf of others similarly situated,

19 Plaintiff,

20 vs.

21 AMMADIS, INC., a California corporation dba
Gaucho Grill; ADRIAN E. AMOSA, an individual;
22 LUCIANA MIORIN AMOSA, an individual;
CINGULAR GROCERS, a California corporation;
23 CINGULAR HR, a California corporation; and
DOES 1 through 50, inclusive,

24 Defendants.
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CLASS ACTION

Case No.: BC698605
Hon. Daniel J. Buckley
Dept. 1

**CLASS ACTION SETTLEMENT
AGREEMENT AND RELEASE OF CLAIMS**

1 This Class Action Settlement Agreement and Release of Claims (“**Settlement Agreement**,”
2 “**Settlement**” or “**Agreement**”), is entered into between Plaintiff Natalie Barba (“**Barba**” or “**Plaintiff**”
3 or “**Class Representative**”) as an individual, and on behalf of others similarly situated, on the one hand,
4 and Defendants Ammadis, Inc., Adrian E. Amosa, Luciana Miorin Amosa, Cingular Grocers, and
5 Cingular HR (collectively, “**Defendants**”), on the other hand (Plaintiff and Defendants are collectively,
6 the “**Parties**”).

7 **I. RECITALS.**

8 1. On March 20, 2018, a former class representative, Miriam Avelar Arvizu (“Arvizu”) filed
9 the putative class action complaint in the Los Angeles County Superior Court styled *Arvizu, et al. v.*
10 *Ammadis, Inc., et al.* (case no. BC698605) (“**Action**”). On August 23, 2018, Arvizu filed the First
11 Amended Complaint. On September 17, 2019, Arvizu filed the Second Amended Complaint. On
12 January 25, 2021 the Parties filed a stipulation agreeing to allow for a third amendment to the complaint
13 in order to add Barba as a named plaintiff. On February 4, 2021 the Court granted the stipulation
14 allowing leave to file a third amended complaint. The Third Amended Complaint (“TAC”) was filed on
15 February 11, 2021, and added Barba as a class representative. The TAC is the operative complaint and
16 alleges the following wage and hour claims: (1) unpaid minimum wages, (2) unpaid overtime, (3) rest
17 period violations, (4) meal period violations, (5) waiting time penalties, (6) paystub violations, and (7)
18 unfair business practices. On June 28, 2021, following an *Ex Parte* Application, the Court dismissed
19 Arvizu as a class representative; all claims asserted by Arvizu in the TAC were dismissed without
20 prejudice.

21 2. On December 4, 2020, the Parties participated in a mediation with experienced wage and
22 hour class action mediator, Eve Wagner. In advance of the mediation, a *Belair-West* Notice was
23 disseminated, pursuant to which Defendants provided Plaintiff with putative class contact information.
24 Plaintiff had the opportunity to obtain declarations from putative class members and engage in
25 additional diligence in advance of mediation. Defendants also provided Plaintiff with requested informal
26 discovery. After a full day of mediation with Ms. Wagner, the parties continued to engage in weeks of
27 additional negotiations with Ms. Wagner. The Parties reached an agreement, which agreement was
28 memorialized in an executed Memorandum of Understanding.

1 3. By entering into this Settlement, Defendants admit no liability or wrongdoing, and
2 explicitly deny any liability or wrongdoing of any kind arising from the claims alleged in the Action.
3 This Settlement shall not constitute an admission by Defendants as to any interpretation of applicable
4 law or as to the merits, validity, or accuracy of any of the claims made against them in the Action, or
5 that the claims alleged are suitable for class treatment. If a settlement does not become final or is not
6 approved, Defendants have the right to contest any issues relating to class certification and liability.
7 Defendants continue to contend that they are not liable for any of the claims set forth by Plaintiff in this
8 Action; they have agreed, nonetheless, to settle in the manner and upon the terms set forth in this
9 Settlement to put to rest the claims in this Action. Defendants have claimed and continue to claim that
10 the Released Claims have no merit and do not give rise to liability. This Settlement is a compromise of
11 disputed claims. Nothing contained in this Settlement, no documents referred to herein, and no actions
12 taken to carry out this Settlement, may be construed or used as an admission by or against Defendants as
13 to the merits or lack thereof of the claims asserted in the Action. Defendants contend that they have
14 complied with all applicable laws. This Settlement is entered into solely for the purpose of
15 compromising highly disputed claims.

16 4. The Parties agree that certification for purposes of the Settlement is in no way an
17 admission that class certification is proper. If for any reason this Settlement does not become final, the
18 certification will have no force or effect and will immediately be revoked. Defendants stipulate to class
19 certification for purposes of this settlement only and a settlement class has been established for purposes
20 of administration and resolution of this matter only. It is not, and it should not be construed as, any
21 admission of fact or law in this matter or any other matter that class certification is appropriate. If the
22 Court does not grant both preliminary and final approval of this Settlement, then the Settlement shall be
23 deemed null and void and will be of no force or effect whatsoever, and the Parties revert to their
24 previous positions including that no class has been certified in this action and Defendants are not
25 stipulating to class certification. Specifically, for purposes of this Settlement only, the Parties agree that:

- a. There are approximately 543 Class Members and 24,000 workweeks through March
20, 2020, which is so numerous as to make it impractical to join all Settlement Class
Members;

- b. The Settlement Class is ascertainable from Defendants' records;
- c. Common questions of law and fact exist;
- d. The claims of the Class Representatives are typical of the claims of the Class Members and the Class Representatives are adequate representatives of the Class and should be appointed as such;
- e. Plaintiff and the Law Offices of Eric A. Boyajian, APC are adequate to represent the Settlement Class and should be appointed as Class Representative and Class Counsel, respectively;
- f. The prosecution of separate actions by individual members of the Settlement Class would create the risk of inconsistent or varying adjudications, which could establish incompatible standards of conduct;
- g. Questions of law and fact common to the members of the Class predominate over questions affecting individual members of the Class and a class action is superior to other available means for the fair and efficient adjudication of the controversy.

II. DEFINITIONS.

5. "Order of Preliminary Approval" or "Preliminary Approval Order" refers to the order of the Court granting preliminary approval of this Settlement.

6. "Order of Final Approval" refers to the order of the Court granting final approval of this Settlement and entering a judgment approving this Settlement on substantially the same terms provided herein or as may be modified by subsequent agreement of the Parties.

7. The period of liability ("**Class Period**") is as follows:

- a. For the Brentwood and Long Beach Gaucho Grill locations, from four years prior to the filing of the initial complaint (March 20, 2014), through March 20, 2020.
- b. For the Downey and West Covina Gaucho Grill locations, as well as Agaves and Alegria, from four years prior to the filing of the second amended complaint (September 17, 2015) through March 20, 2020.

8. "Class," "Class Members," "Settlement Class" or "Settlement Class Members" refers to all current and former hourly paid employees of Defendants, however titled, who worked at the

1 following locations:

- 2 a. the Gaucho Grill location in Brentwood during the respective Class Period.
- 3 b. the Gaucho Grill location in Long Beach during the respective Class Period.
- 4 c. the Gaucho Grill location in West Covina during the respective Class Period.
- 5 d. the Gaucho Grill location in Downey during the respective Class Period.
- 6 e. Alegria, located in Long Beach during the respective Class Period.
- 7 f. Agaves, located in Long Beach, during the respective Class Period.
- 8 g. But excluding:

- 9 i. Santos Juarez, who filed his claims in a separate lawsuit in Los Angeles
- 10 County Superior Court, styled *Juarez v. Ammadis, LLC, et al.*, case no.
- 11 BC717315.
- 12 ii. Jesus Gutierrez and Koji Sakugawa, who have filed a federal class action
- 13 lawsuit in the Central District of California, case no. 2:20-CV-08370.

14 9. “Participating Class Members” refers to all Class Members who do not opt-out of the
15 Settlement.

16 10. “Class Counsel” refers to Eric A. Boyajian from the Law Offices of Eric A. Boyajian,
17 APC.

18 11. “Class List” refers to the list of Class Members information to be provided to the
19 Administrator by Defendants.

20 12. “Class Notice” refers to the Notice of Proposed Class Action Settlement, attached hereto
21 as **Exhibit A**.

22 13. “Defense Counsel” refers to McDermott Will & Emery LLP, including Elvira R. Kras.

23 14. “Administrator” or “Settlement Administrator” refers to Phoenix Settlement
24 Administrators, the third-party administrator whom the Parties have selected to administer the
25 Settlement in accordance with the terms set forth herein, subject to the approval of the Court.

26 15. “Gross Settlement Amount” or “GSA” refers to the maximum amount which Defendants
27 are obliged to pay under this Agreement, which equals \$720,000. The GSA does not include Employer-
28 side Taxes, which Defendants must also pay in addition to the GSA.

1 16. “Employer-side Taxes” shall mean and refer to Defendants’ share of federal, state and/or
2 local payroll taxes that are owed on the portion of any Participating Class Member’s Settlement Share
3 that is deemed to constitute wages.

4 17. “Employee-side Taxes and Withholdings” shall mean the employee’s share of any and all
5 applicable federal, state or local income and payroll taxes including, but not limited to those collected
6 under authority of the Federal Insurance Contributions Act (“FICA”), FUTA and/or SUTA on the
7 portion of any Participating Class Member’s Settlement Share that is deemed to constitute wages. The
8 Employee-side Taxes and Withholdings will be withheld from and paid out of the Net Settlement
9 Amount.

10 18. “Final Approval Hearing” means the hearing set by the Court for the purpose of issuing
11 the Order of Final Approval and determining, *inter alia*, (1) the fairness, adequacy, and reasonableness
12 of the Settlement, (2) the Service Payment to Plaintiff, and (3) the fees and costs of Class Counsel.

13 19. “Effective Date” shall mean as follows: If no Class Member or any person claiming to
14 have standing submits an objection or otherwise purports to object to the Settlement Agreement, then the
15 Effective Date is the date of the Court’s entry of an Order of Final Approval. If any Class Member or
16 any person claiming to have standing submits an objection or otherwise purports to object to the
17 Settlement Agreement, then the Effective Date is the date of the first to occur of the following: (1) 15
18 days after the date for seeking appellate review of the Court’s Order of Final Approval has passed
19 without a timely appeal or request for review having been made (i.e., 45 days after entry of the trial
20 court’s Order of Final Approval); or (2) if an appeal, review, or writ is sought from the Order of Final
21 Approval, then the next day after the Order of Final Approval is affirmed or the appeal, review or writ is
22 dismissed or denied, and the Order of Final Approval is no longer subject to further judicial review.

23 20. “Net Settlement Amount” or “NSA” refers to the Gross Settlement Amount, less the
24 Court-approved (a) fees and costs of the Administrator, (b) Service Payment of Plaintiff, and (c) fees
25 and costs of Class Counsel.

26 21. “Response Deadline” means forty-five (45) days after the Administrator mails the Class
27 Notice to Class Members. As discussed in paragraph 41, there is an extension available to the Response
28 Deadline in the event of a re-mailed Class Notice.

1 22. "Settlement Share" refers to the payment that a Participating Class Member is entitled to
2 receive pursuant to the Settlement.

3 23. "Qualified Settlement Fund" or "QSF" means an account that will qualify and be
4 characterized as a Qualified Settlement Fund under the provisions of the U.S. Treasury Regulations
5 1.468B-1 and 1.468B-5, to be set up as provided below, and into which the Gross Settlement Amount is
6 to be deposited as agreed herein, to be administered in a manner consistent with applicable law and the
7 terms of this Settlement.

8 24. "Released Parties" refers to Ammadis, Inc., Adrian E. Amosa, Luciana Miorin Amosa,
9 Cingular Grocers, and Cingular HR, and all of their subsidiaries, affiliates, shareholders, members,
10 parents, principals, heirs, representatives, agents (including, without limitation, any accountants,
11 auditors, consultants, insurers, reinsurers, attorneys and any past or present officers, directors, and
12 employees), predecessors, successors, and assigns.

13 **III. APPLICATION FOR APPROVAL OF THE SETTLEMENT, CLASS CERTIFICATION,**
14 **DISSEMINATION OF NOTICE, AND SETTING OF FINAL APPROVAL HEARING.**

15 25. Promptly upon the full execution of this Agreement, Plaintiff shall apply to the Court for
16 approval of the Settlement, including an Order of Preliminary Approval that, amongst other things, (a)
17 preliminarily approves the Settlement under the legal standards relating to the approval of class action
18 settlements; (b) preliminarily certifies the Class for settlement purposes only; (c) approves the Class
19 Notice and authorizes dissemination of the same; (d) preliminarily approves Plaintiff as Class
20 Representative; (e) preliminarily approves the Law Offices of Eric A. Boyajian as Class Counsel; (f)
21 preliminarily approves Phoenix to serve as Administrator; and (g) sets a Final Approval Hearing and
22 briefing schedule. Should this Settlement not become effective for any reason, the fact that the Parties
23 stipulated to certification of a Settlement Class shall have no bearing on and shall not be admissible on
24 the question of whether a class action should be certified in a non-settlement context.

25 **IV. CONSIDERATION FOR THE SETTLEMENT.**

26 26. Gross Settlement Amount.

27 The Parties agree to settle this Action for the Gross Settlement Amount of \$720,000. The
28 Settlement is an all-in non-reversionary settlement and there shall be no reversion to Defendants. The

1 Gross Settlement Amount and other actions and forbearances taken by Defendants are paid in full and
2 final settlement of (a) the Released Claims, (b) the fees and costs of the Administrator, (c) the Service
3 Payment of Plaintiff, and (d) the fees and costs of Class Counsel.

4 27. Timing of the Funding of the Gross Settlement Amount.

5 Defendants shall deposit the Gross Settlement Amount into the QSF no later than by or on
6 September 1, 2022 (within 18 months from the date the Parties executed the original Settlement
7 Agreement) or within 7 days after the date of the Court's entry of an Order of Final Approval,
8 whichever is later.

9 28. Allocation of the Gross Settlement Amount.

10 Subject to Court approval, the Gross Settlement Amount shall be allocated as follows:

- 11 (i) Up to \$12,000 for the fees and costs of the Administrator;
- 12 (ii) Up to \$5,000 Service Payment to Barba;
- 13 (iii) Up to \$25,000 to Class Counsel for costs; and
- 14 (iv) Up to \$252,000 payment to Class Counsel for attorneys' fees.

15 The remainder constitutes the Net Settlement Amount of \$426,000.

16 29. Reasonable Fees and Costs of the Settlement Administrator.

17 All of the Administrator's fees and costs, which are not to exceed \$12,000 unless otherwise
18 approved by the Court, will be paid out of the Gross Settlement Amount from the QSF.

19 30. Service Payment to Plaintiff.

20 Subject to Court approval, Plaintiff will apply for a Service Payment not to exceed \$5,000 in
21 consideration for her efforts on behalf of the Class. Any Service Payment approved by the Court will be
22 paid out of the Gross Settlement Amount and shall be in addition to Plaintiff's Settlement Share under
23 the terms of the Settlement. In addition to the claims released under the Settlement, and as set forth in
24 greater detail below, Plaintiff will also provide a general release which includes a California *Civil Code*
25 section 1542 waiver. The Administrator will issue an IRS Form 1099 for any Service Payment
26 approved by the Court. For purposes of this Settlement only, Defendants do not oppose these proposed
27 Service Payment.

28 31. Reasonable Attorneys' Fees and Costs to Class Counsel.

1 Subject to Court approval, Class Counsel will apply to the Court for an award of attorneys' fees
2 and costs incurred in connection with the prosecution of this matter. Class Counsel will apply to the
3 Court for an award of attorneys' fees in an amount up to \$252,000 or thirty-five percent (35%) of the
4 Gross Settlement Amount, and declared costs of up to \$25,000. For purposes of this Settlement only,
5 Defendants do not oppose Class Counsel's request. The fees and costs awarded to Class Counsel by the
6 Court shall be paid out of the Gross Settlement Amount from the QSF. The Settlement Administrator
7 shall issue an IRS Form 1099 to Class Counsel in connection with this payment.

8 32. Approval of Service Payment to Plaintiff and Attorneys' Fees and Costs to Class Counsel.

9 Class Counsel will file a motion for attorneys' fees, costs, and Service Payment with the Court.
10 In the event that a lesser sum is awarded for Class Counsel's attorneys' fees and costs, or for the Service
11 Payment to Plaintiff, the approval by the Court of any such lesser sum(s) shall not be grounds for
12 Plaintiff and/or Class Counsel to terminate the Settlement, but such an order shall be appealable by
13 them. In the event that such an appeal is filed, final funding and administration of the portion of the
14 attorneys' fees and/or costs award and/or service payment(s) in dispute will be segregated and stayed
15 pending the exhaustion of appellate review. If, after the exhaustion of any such appellate review,
16 additional amounts are distributable to the Participating Class Members, the cost of administration of the
17 payments to them will be paid out of such additional amounts and not by Defendants. Any amount not
18 awarded in attorneys' fees, costs and Service Payment shall be added to the Net Settlement Amount and
19 distributed to the Participating Class Members in accordance with the terms of the Settlement.

20 33. Tax Treatment of Settlement Shares.

21 For the purpose of taxes and required withholdings, the Parties agree that the various Net
22 Settlement Amounts allocated to each Participating Class Member shall be treated as follows:

- 23 • 20% of each Participating Class Member's Settlement Share is in settlement of wage
24 claims, and so is subject to wage withholdings and shall be reported on an IRS Form
25 W-2.
- 26 • 80% of each Participating Class Member's Settlement Share is in settlement of claims
27 for interest and penalties and shall be reported on an IRS Form 1099.
- 28 • The Class Representative's Service Payment shall issue on a 1099 basis.

1 Prior to the distribution of Settlement Shares, the Administrator shall calculate the total
2 taxes and withholdings required as a result of the wage portion of the Settlement Share and such
3 actual amount will be deducted therefrom.

4 The Parties agree that Participating Class Members who receive Settlement Shares under
5 this Settlement shall be solely responsible for any and all individual tax obligations on the non-
6 wage portion of their Settlement Share.

7 The Parties make no representations as to the tax treatment or legal effect of the payments
8 specified herein, and Class Members are not relying on any statement or representation by the
9 Parties, Class Counsel, or Defense Counsel in this regard.

10 Participating Class Members understand and agree that they shall be responsible for the
11 payment of all taxes and penalties assessed on the payments to Class Members as specified herein,
12 and shall hold the Parties, Class Counsel, and Defense Counsel free and harmless from and against
13 any claims resulting from treatment of such payments as non-taxable, including the treatment of
14 such payments as not subject to withholding or deduction for payroll and employment taxes.

15 Class Counsel understands and agrees that they shall be responsible for the payment of all
16 taxes and penalties assessed on the payments to Class Counsel herein, and shall hold the Parties
17 and Defense Counsel free and harmless from and against any claims resulting from treatment of
18 such payments as nontaxable, including the treatment of such payments as not subject to
19 withholding or deduction for payroll and employment taxes.

20 The Parties acknowledge and agree that (1) no provision of this Agreement, and no written
21 communication or disclosure between or among the Parties, Class Counsel or Defense Counsel and
22 other advisers, is or was intended to be, nor shall any such communication or disclosure constitute
23 or be construed or be relied upon as, tax advice within the meaning of United States Treasury
24 Department Circular 230 (31 CFR Part 10, as amended); (2) the acknowledging party (a) has relied
25 exclusively upon his, her, or its own, independent legal and tax counsel for advice (including tax
26 advice) in connection with this Agreement, (b) has not entered into this Agreement based upon the
27 recommendation of any other party or any attorney or advisor to any other party, and (c) is not
28 entitled to rely upon any communication or disclosure by any attorney or advisor to any other party

1 to avoid any tax penalty that may be imposed on the acknowledging party.

2 34. No Effect on Employee Benefit Plans.

3 Neither this Settlement nor any amounts paid hereunder will modify any previously credited
4 hours, days, or weeks of service under any employee benefit plan, policy or bonus program sponsored
5 by Defendants.

6 35. Undistributed Funds.

7 In the event that any checks mailed to Participating Class Members remain uncashed after the
8 expiration of 180 days, or an envelope mailed to a Participating Class Member is returned and no
9 forwarding address can be located for the Participating Class Member after reasonable efforts have
10 been made (including but not limited to skip tracing), then any such checks shall become null and
11 void, and such monies shall be distributed to the Controller of the State of California, to be held
12 pursuant to the Unclaimed Property Law, California *Civil Code* section 1500, *et seq.*, in the name of
13 the respective Participating Class Member. The Parties agree that this disposition results in no
14 “unpaid residue or unclaimed or abandoned class member funds” as discussed in California *Code of*
15 *Civil Procedure* section 384, subd.(b).

16 **V. ADMINISTRATION OF THE SETTLEMENT.**

17 36. Duties of the Administrator.

18 The Administrator shall perform the duties required by this Settlement by, among other things,
19 and without limitation, (i) receiving and updating through normal and customary procedures the list of
20 Class Members to be produced by Defendants, so that it is updated prior to the mailing of the Class
21 Notice; (ii) populating, printing and mailing the Court-approved Class Notice (along with self-addressed
22 return envelope); (iii) updating its website in the manner described below; (iv) performing necessary
23 additional skip traces on any notices and/or checks returned as undeliverable; (v) calculating the
24 Settlement Shares of the Participating Class Members; (vi) resolving disputes during the administration
25 process in the manner described below; (vii) reporting to Class Counsel and Defense Counsel regarding
26 administration of the Settlement; (viii) establishing the QSF in the manner described below; (ix)
27 preparing and mailing settlement checks to the Participating Class Members; (x) preparing and mailing
28 the Court-approved payments to itself, the Class Representative, and Class Counsel; (xi) preparing all

1 appropriate tax forms required in connection with the payments called for by this Settlement and
2 remitting those forms and all required payments to the appropriate governmental agencies; (xii)
3 preparing a final report summarizing the administration of the Settlement; and (xiii) generally
4 performing all normal and customary duties associated with the administration of such settlements.

5 Within 7 calendar days of the Response Deadline, the Administrator shall provide the report to
6 Class Counsel and Defense Counsel regarding the administration of the Class Notice, including number
7 of opt-out, objections, etc. (“**Class Notice Report**”).

8 37. Dispute Resolution.

9 The Administrator shall have the initial responsibility for resolving any disputes that arise during
10 the administration of the Settlement including, without limitation, disputes regarding whether a Class
11 Member is entitled to a Settlement Share and, if so, the amount thereof. In resolving such disputes,
12 Defendants’ employment records shall be presumed accurate and correct, and shall be final and binding
13 unless the information submitted by the individual (e.g., time records, wage statements, employment
14 records, etc.) proves otherwise. In the event that the Administrator cannot resolve a dispute based upon
15 a review of Defendants’ records, the Administrator will schedule a call with Class Counsel and Defense
16 Counsel to discuss and resolve the dispute. After such call, the Administrator will resolve the dispute
17 and such resolution will be final and binding on the Class Member.

18 38. Establishing the Qualified Settlement Fund.

19 The Administrator shall be responsible for establishing a QSF upon the Court’s approval to do
20 so, which approval the Parties will jointly seek. The QSF will be taxed as a separate entity for purposes
21 of all federal, state, and local taxes. Any interest accrued shall inure to the benefit of the Class. The
22 Gross Settlement Amount shall be deposited into the QSF. Defendants may, at their discretion, deposit
23 the Gross Settlement Amount at an earlier date.

24 39. Timing of Disbursement.

25 After both the Court’s entry of an Order of Final Approval and within 7 calendar days of
26 Defendants’ deposit of the GSA into the QSF, the Administrator shall mail the following: Settlement
27 Shares to the Participating Class Members, issue payment to itself, and the Service Payment to Plaintiff.
28 The following day, the Administrator shall mail Class Counsel’s payments of attorneys’ fees and costs

1 to Class Counsel. In no event shall there be any distribution from the GSA until and unless the Court
2 has entered an Order of Final Approval and all conditions precedent in this Agreement have been fully
3 satisfied.

4 **VI. CLASS LIST, NOTICE TO CLASS MEMBERS, PARTICIPATION IN THE**
5 **SETTLEMENT, AND SETTLEMENT SHARES.**

6 40. Provision of the Class List.

7 Within 7 calendar days of the Court's entry of the Order of Preliminary Approval, Defendants
8 shall provide the Administrator with the Class List containing, where available, the following for each
9 Class Member: (i) name, (ii) last known address, (iii) social security number, and (iv) number of work
10 weeks. In the absence of the last known address and/or social security number, Defendants will provide
11 whatever potentially identifying information is available for each Class Member.

12 41. Notice to Class Members.

13 The Class Notice shall be *in English and Spanish*. It shall include the allocations of the Gross
14 Settlement Amount as discussed herein. The Class Notice shall be individualized for each Class
15 Member and contain each person's number of workweeks worked and estimated Settlement Share. The
16 Class Notice shall be substantially similar to the form attached hereto as **Exhibit A**.

17 Promptly upon receipt of the Class List, the Administrator shall access the National Change of
18 Address Database ("NCOA") and update the addresses provided by Defendants. Within 7 days after
19 receipt of the Class List, the Administrator shall mail the Class Notice to each Class Member via first-
20 class mail, except that the notices relating to Plaintiff shall be emailed to Class Counsel.

21 For each notice returned as undeliverable before the Response Deadline, the Administrator shall
22 promptly attempt to determine a correct address using its best efforts, including skip tracing, and shall
23 resend the notice to any new address determined thereby. All such re-mailing shall occur within (7)
24 days of the Administrator's receipt of the returned notice and no later than the Response Deadline. In
25 the case of such re-mailing, the Response Deadline shall be the later of (i) the original Response
26 Deadline, or (ii) fourteen (14) calendar days from the date of re-mailing.

27 42. Participation in the Settlement.

28 Class Members are not required to file claims in order to be eligible to participate in this

1 Settlement and receive their Settlement Share. Every Class Member who does not opt out will be a
2 Participating Class Member and receive a share of the Net Settlement Amount.

3 If more than 10 percent of the Class Members opt out of the Settlement, Defendants have the
4 right (but not the obligation) to void the Settlement. If Defendants exercise this right then they shall
5 solely be responsible for administrative costs. Defendants must exercise this right, if at all, within 7
6 calendar days after receipt of the Class Notice Report from the Administrator.

7 43. Allocation of the Net Settlement Amount and Calculation of Settlement Shares.

8 The amount of each Participating Class Member's Settlement Share of the Net Settlement
9 Amount shall be determined by the Administrator. The Administrator shall determine the total number
10 of workweeks worked by each Participating Class Member during the Class Period. The total number of
11 workweeks for each Participating Class Member will then be divided by the total number of workweeks
12 that all Participating Class Members worked during the Class Period, resulting in a payment ratio for
13 each Participating Class Member.

14 For the portion of the Class Period between January 1, 2017 to March 20, 2020, Defendants will
15 provide the following information to the Administrator so that the Administrator can calculate the
16 number of workweeks:

- 17 • For Participating Class Members that worked from January 1, 2017 to March
18 20, 2020, Defendants will provide the total number of paychecks each
19 Participating Class Member received for that period of time.
- 20 • Defendants will provide the name of the restaurant at which the Participating
21 Class Member worked.
- 22 • Where a Participating Class Member worked at more than one restaurant from
23 January 1, 2017 to March 20, 2020, Defendants will provide the total number
24 of paychecks per restaurant where the Participating Class Member worked.
- 25 • Paychecks were issued every two weeks, so each paycheck will represent two
26 weeks worked. Thus, for the period of time between January 1, 2017 to March
27 20, 2020, the total number of paychecks for each Participating Class Member
28 will be multiplied by two in order to determine the total number of workweeks

1 per Participating Class Member.

2 For the portion of the Class Period preceding January 1, 2017, Defendants' records are
3 incomplete, requiring a calculation of workweeks based in part on estimates, as follows:

- 4 • For a Participating Class Member that worked from January 1, 2017 to
5 December 31, 2017, his or her average number of workweeks worked per
6 month per restaurant will be used to determine his or her total number of
7 workweeks pre-2017. His or her pre-2017 and post-2017 workweeks will be
8 added to determine his or her total number of workweeks. Defendants will
9 provide the Administrator with the average number of workweeks the
10 Participating Class Member worked per month per restaurant between January
11 1, 2017 to December 31, 2017. That average number of workweeks per month
12 will be multiplied by the number of months in the Class Period pre-2017, per
13 restaurant at which the individual worked in 2017, based on the below:
 - 14 ○ For Gaucho Grill Brentwood, there were 33 months during the Class
15 Period up to December 31, 2016.
 - 16 ○ For Gaucho Grill Long Beach, there were 33 months during the Class
17 Period up to December 31, 2016.
 - 18 ○ For Gaucho Grill Downey, there were 5 months during the Class
19 Period up to December 31, 2016.
 - 20 ○ For Agaves, there were 15 months during the Class Period up to
21 December 31, 2016.
 - 22 ○ For Alegrias, there were 15 months during the Class Period up to
23 December 31, 2016.
 - 24 ○ Gaucho Grill West Covina was not open during the Class Period prior
25 to January 1, 2017.
- 26 • For a Participating Class Member whose records indicate that he or she only
27 worked pre-2017, the average number of workweeks worked per month per
28 restaurant for all Participating Class Members will be used to determine the

1 individual's pre-2017 workweeks. Defendants will provide the Administrator
2 with the average number of workweeks the Participating Class Members
3 worked per month per restaurant between January 1, 2017 to December 31,
4 2017. That average number of workweeks per month will be multiplied by the
5 number of months in the Class Period pre-2017, per restaurant, that the records
6 indicate an individual worked pre-2017, based on the below:

- 7 ○ For Gaucho Grill Brentwood, there were 33 months during the Class
8 Period up to December 31, 2016.
- 9 ○ For Gaucho Grill Long Beach, there were 33 months during the Class
10 Period up to December 31, 2016.
- 11 ○ For Gaucho Grill Downey, there were 5 months during the Class
12 Period up to December 31, 2016.
- 13 ○ For Agaves, there were 15 months during the Class Period up to
14 December 31, 2016.
- 15 ○ For Alegrias, there were 15 months during the Class Period up to
16 December 31, 2016.
- 17 ○ Gaucho Grill West Covina, was not open during the Class period prior
18 to January 1, 2017.

19 44. Procedures for Challenges.

20 A Class Member may, before the Response Deadline, dispute the amount of his or her Settlement
21 Share, and the data used to calculate it, by timely sending a written notice to the Administrator
22 informing the Administrator of the nature of the dispute and providing any records or documentation
23 supporting his or her position. In response to such a challenge, Defendants will first verify the accuracy
24 of the information contained in their records. Next, Class Counsel and Defense Counsel will make a
25 good faith effort to resolve the dispute informally. If Class Counsel and Defense Counsel are unable to
26 agree, the dispute shall be resolved by the Administrator after examination of the records provided by
27 the Class Member and Defendants. The Administrator's determination will be final and binding.

28 Furthermore, in resolving such a dispute, for the portion of the Class Period preceding January 1,

1 2017, the Participating Class Member’s assertion of his/her correct number of weeks worked will be
2 deemed correct if he/she can provide paystubs or time records to corroborate the assertion.

3 If, before the Response Deadline, an individual not previously identified in the Class List asserts
4 his or her membership in the Class and seeks recovery under the Settlement, the Administrator shall
5 provide Class Counsel and Defense Counsel with the evidence submitted by the individual. To be
6 eligible for recovery under this Settlement, individuals must provide sufficient proof to the
7 Administrator supporting their request for inclusion, including specific evidence establishing that they
8 qualify as a Class Member as defined herein. If Class Counsel and Defense Counsel agree an individual
9 is not a Class Member, the Administrator will inform the individual that his or her request for inclusion
10 has been rejected. If Class Counsel and Defense Counsel are unable to agree, the dispute shall be
11 resolved by the Administrator after examination of the records provided by the Class Member and
12 Defendants. The Administrator’s determination will be final and binding.

13 **VII. EXCLUSIONS, OBJECTIONS AND BINDING EFFECT OF SETTLEMENT.**

14 45. Right of Class Members to Opt Out of Settlement.

15 The Class Notice will advise the Class Members of their right to exclude themselves or opt out
16 of the Settlement. To be effective, requests for exclusion must (a) be submitted in writing to the
17 Administrator, postmarked before the Response Deadline; (b) contain the individual’s full name, current
18 home (or mailing) address, and the last four digits of his or her social security number; (c) identify the
19 case name; and (d) include written affirmation of his or her desire to opt out of the Settlement,
20 containing the following or substantially similar language:

21 “I elect to opt-out of the *Arvizu, et al. v. Ammadis, Inc., et al.* class action settlement.
22 I understand that by doing so, I will not be able to participate in the settlement and
23 will not receive a share of the settlement.”

24 The Administrator shall email copies of any opt-outs received to all counsel within 48 hours of
25 its receipt of same. The Class Notice shall include the specific address to which requests for exclusion
26 must be mailed as well as a summary of the foregoing. Any Member who timely requests exclusion
27 from this Settlement shall not have any rights under the Settlement, shall not be entitled to receive a
28 Settlement Share, shall not be bound by the Settlement or the Order of Final Approval, and shall not

1 have the right to file an objection to the Settlement.

2 46. Right of Class Members to Object to Settlement.

3 The Class Notice will advise each Class Member of his or her right to object to the Settlement.

4 To be effective, written objections must (a) be mailed to the Administrator, postmarked before the
5 Response Deadline (i.e., no later than forty-five (45) calendar days from the date of mailing of the Class
6 Notice); (b) clearly identify the case name and number; (c) contain the objector's full name, current
7 home (or mailing) address, and the last four digits of his or her social security number; (d) clearly and
8 concisely state all grounds for the objection; (e) indicate whether the objector is represented by counsel
9 and, if so, identify such counsel; (f) be signed by the objector or his or her counsel; and (g) provide true
10 and correct copies of any exhibit(s) the objector and/or his or her counsel intends to offer at the Final
11 Approval Hearing. Any Participating Class Member who fails to make a written objection may still
12 appear at the Final Approval Hearing to make a verbal objection.

13 Any Participating Class Member who fails to make an objection at the Final Approval Hearing
14 shall be deemed to have waived his or her right to object to the Settlement. Any Participating Class
15 Member whose objection is overruled will be deemed to be subject to the terms of this Settlement and
16 the Court's Order of Final Approval.

17 The Class Notice shall include the specific address to which objections must be mailed as well as
18 a summary of the foregoing.

19 47. Binding Effect on Participating Class Members.

20 All Participating Class Members will be bound by the terms and conditions of this Settlement,
21 the Court's Order of Final Approval, and the releases set forth herein.

22 **VIII. RELEASES**

23 48. Released Claims.

24 Upon full payment by Defendants of the GSA (plus Employer-Side taxes) into the QSF, and in
25 exchange for the consideration provided herein, the Participating Class Members shall forever and
26 completely release and discharge Defendants and the Released Parties from the following claims:

27 Participating Class Members shall release the Released Parties from any and all
28 claims, debts, liabilities, demands, obligations, penalties, guarantees, costs, expenses,

1 attorney's fees, damages, actions or causes of action of whatever kind or nature,
2 whether known or unknown, contingent or accrued, that were alleged or that
3 reasonably could have been alleged based on the facts alleged in the operative
4 complaint, on behalf of the Class and that arose during the Class Period, including,
5 but not limited to claims for (1) unpaid minimum wages, (2) unpaid overtime, (3) rest
6 period violations, (4) meal period violations, (5) waiting time penalties, (6) paystub
7 violations, and (7) unfair business practices, and any other claims arising during the
8 Class Period, whether known or unknown, that were or could have been alleged based
9 on the specific factual allegations in the Action.

10 49. Release by Plaintiff.

11 Upon full payment by Defendants of the GSA (plus Employer-Side taxes) into the QSF, and in
12 consideration for the receipt of the Service Payment, Plaintiff on behalf of herself and her spouses, heirs,
13 successors and assigns expressly additionally release any and all claims, charges, complaints, liabilities,
14 obligations, promises, agreements, controversies, damages, actions, causes of action, suits, rights,
15 demands, costs, losses, debts, penalties and expenses of any nature whatsoever, relating to her
16 employment with Defendants, or the termination/separation of her employment, including but not
17 limited to claims for infliction of emotional distress; defamation; wrongful discharge; retaliation;
18 violation of any federal, state, or other governmental statute, regulation, or ordinance, including, without
19 limitation violation of Title VII of the Civil Rights Act of 1964, the Americans with Disabilities Act, the
20 Family and Medical Leave Act, the California Fair Employment and Housing Act, the California Family
21 Rights Act, the California Labor Code or any Industrial Welfare Commission Wage Order, and the
22 Employee Retirement Income Security Act. In addition, Plaintiff expressly waives and relinquishes all
23 rights and benefits afforded by Section 1542 of the Civil Code of the State of California and does so
24 understanding and acknowledging the significance of the waiver of Section 1542. Section 1542 of the
25 Civil Code of the State of California states:

26 **A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS THAT THE**
27 **CREDITOR OR RELEASING PARTY DOES NOT KNOW OR SUSPECT TO**
28 **EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE**

1 **RELEASE AND THAT, IF KNOWN BY HIM OR HER, WOULD HAVE**
2 **MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE**
3 **DEBTOR OR RELEASED PARTY.**

4 **IX. FINAL SETTLEMENT APPROVAL.**

5 50. A Final Approval Hearing shall be held for the purpose of considering, *inter alia*, (a) the
6 fairness, adequacy, and reasonableness of the Settlement; (b) the Service Payment to Plaintiff; (c) the
7 fees and costs of Class Counsel, and (d) the propriety of any timely objections, as well as Class Counsel
8 and Defense Counsel’s response thereto. The date of the Final Approval Hearing shall be set by the
9 Court and notice of such shall be provided to Class Members in the Class Notice. Although the Court
10 may continue the Final Approval Hearing without further notice to the Settlement Class Members, the
11 Administrator’s website will be updated to provide this information.

12 Upon final approval of the Settlement, Plaintiff will respectfully request the Court enter an Order
13 of Final Approval:

- 14 (i) Approving the Settlement, adjudging the terms thereof to be fair, reasonable, and
- 15 adequate, and directing consummation of its terms and provisions;
- 16 (ii) Approving payment to the Administrator;
- 17 (iii) Approving the Service Payment to Plaintiff;
- 18 (iv) Approving Class Counsel’s application for fees and costs;
- 19 (v) Entering judgment in this Action and implementing the Releases consistent with the
- 20 terms of this Settlement; and
- 21 (vi) Retaining jurisdiction to the extent necessary over the subject matter of the Action and
- 22 over the Parties and Settlement Class Members to enforce the terms of the Settlement.

23 The Final Approval Order and Judgment shall contain findings and rulings to the effect that
24 Participating Class Members who cash their settlement checks provided to them under this Settlement
25 thereby indicate their desire to opt-in to a class settlement of FLSA claims. Accordingly, the cashing of
26 a settlement check shall constitute binding and irrefutable evidence that the Participating Class Member
27 in question desired and intended to, and did, opt in to an FLSA settlement and released all claims under
28 the Fair Labor Standards Act of 1938, as amended. To that end, the back of each Participating Class

1 Members' settlement check shall contain the following limited endorsement:

2 "By endorsing this check, I am agreeing to be bound by the Settlement Agreement, and
3 the release of claims set forth therein, in the Class Action case entitled *Arvizu, et al. v.*
4 *Ammadis, Inc., et al.* (case no. BC698605).

5 Signature _____ Dated: _____”

6 The Judgment will be published on the Administrator's website for one hundred twenty (120)
7 days following the Effective Date.

8 **X. TERMINATION OF THE SETTLEMENT.**

9 51. Grounds for Termination of the Settlement.

10 Either Party may terminate this Settlement if the Court declines to enter the Order of Preliminary
11 Approval in substantially the form agreed and submitted by the Parties (incidental or minor changes
12 ordered by the Court are not grounds for termination), or the Settlement as agreed does not become final
13 for any reason. The terminating party must give written notice to the other party no later than 10 days
14 after the Court acts. If the Settlement is terminated, Defendants shall have no obligation to make any
15 payments under the Settlement. The party who terminates the Settlement shall be fully responsible for
16 payment to the Administrator for its costs incurred.

17 52. Effect of Termination.

18 If the Settlement is terminated in accordance with the terms set forth herein (a) the Settlement
19 shall have no force or effect, and no party shall be bound by any of its terms, except as otherwise
20 provided herein; (b) the Order of Preliminary Approval shall be vacated; (c) the Settlement and all
21 negotiations, statements, and proceedings related thereto shall be without prejudice to the rights of any
22 of the Parties, all of whom shall be restored to their respective positions in the Action prior to the
23 settlement; and (d) neither this Settlement Agreement, nor the filings in connection with the approval
24 thereof being sought, shall be admissible or offered into evidence in the Action or in any other action for
25 any reason whatsoever.

26 **XI. MISCELLANEOUS TERMS.**

27 53. Mutual Cooperation.

28 The Parties agree to fully cooperate with each other to accomplish the terms of this Settlement

1 Agreement, including but not limited to, executing and amending such documents and taking such other
2 actions as may reasonably be necessary to implement the terms of this Settlement Agreement. The
3 Parties shall use their best efforts, including all efforts contemplated by this Settlement Agreement and
4 any other efforts that may become necessary by order of the Court, or otherwise, to effectuate this
5 Settlement Agreement and the terms set forth herein. None of the Parties nor their respective counsel,
6 employees, or agents, shall solicit or encourage any Class Members to exclude themselves from the
7 Settlement or object to the Settlement.

8 54. Interim Stay of Proceedings.

9 Pending the completion of the approval process, the Parties agree to a stay of all proceedings in
10 the Action except those necessary to implement the Settlement itself.

11 55. Notices.

12 Any notices, requests, demands, or other communications required or necessitated by this
13 Settlement Agreement shall be in writing and, except as provided elsewhere in this Settlement
14 Agreement, shall be delivered as follows:

15 (i) If to Plaintiff or Class Counsel, then to:

16 Eric A. Boyajian, Esq. (eric@loeab.com)
17 Law Offices of Eric A. Boyajian, APC
18 450 N. Brand Blvd., Suite 600
19 Glendale, CA 91203

20 (ii) If to Defendants or Defense Counsel, then to:

21 Elvira R. Kras (ekras@mwe.com)
22 McDERMOTT WILL & EMERY LLP
23 2049 Century Park East, Suite 3200
24 Los Angeles, CA 90067

25 56. Retention of Jurisdiction by the Court.

26 Following approval of the Settlement and the Court's entry of the Order of Final Approval, the
27 Court shall retain jurisdiction for the purpose of addressing any issues which may arise with respect to
28 the administration of the Settlement or the enforcement of the Settlement's terms pursuant to California

1 *Code of Civil Procedure* section 664.6.

2 57. Entire Agreement.

3 This Settlement Agreement and the attached exhibits set forth the entire agreement of the Parties
4 and supersede any and all prior agreements and all negotiations leading up to the execution of the
5 Settlement Agreement, whether oral or written, regarding the terms contained herein.

6 58. Modification or Amendment.

7 This Settlement may not be modified, amended, or altered except in a writing signed by the
8 Parties or their authorized legal representatives, or as ordered by the Court.

9 59. Choice of Law.

10 This Settlement shall be governed by and construed, enforced and administered in accordance
11 with the laws of the State of California.

12 60. Construction.

13 This Agreement is entered into freely and voluntarily without duress or undue pressure or
14 influence of any kind or nature whatsoever and neither party has relied on any promises, representations
15 or warranties regarding the subject matter hereof other than as set forth in this Agreement. Each party
16 has been represented by counsel in the settlement negotiations leading up to, and in connection with the
17 preparation and execution of, this Settlement Agreement. The Parties acknowledge and agree that all
18 Parties had an equal hand in drafting this Agreement so that it shall not be deemed to have been
19 prepared or drafted by one party or another. All Parties waive the provisions of California *Civil Code*
20 section 1654 (and any other equivalent state, federal, or local provision), which provides, in part, that
21 “the language of a contract should be interpreted most strongly against the Party who caused the
22 uncertainty to exist.”

23 61. Execution in Counterparts.

24 This Agreement may be executed in counterparts, each of which shall be deemed an original, and
25 all of which together shall constitute one and the same instrument. Electronic signatures (including
26 DocuSign, AdobeSign, and the like) shall have the same force and effect as wet signatures. Any
27 signature to this Agreement transmitted by email, PDF, or facsimile and any copies of any signatures are
28 valid and binding.

1 Class Counsel may add / dismiss / substitute named plaintiffs to facilitate the Settlement and
2 Court Approval. In so doing, Class Counsel shall seek a Service Payment in the amount of \$3,000 for
3 such a newly added named plaintiff, subject to Court approval, which Defendants shall not oppose, and
4 which shall be paid out of the Gross Settlement Amount from the QSF.

5 62. Authority.

6 The individuals signing this Agreement represent and warrant that they are authorized to execute
7 this Agreement and to take all appropriate action required and permitted to be taken by this Agreement,
8 except such action that is the prerogative of the Court.

9 63. Attorneys' Fees, Costs and Expenses.

10 Except as otherwise specifically provided for herein, each party shall bear his/her/its own
11 attorneys' fees, costs and expenses, taxable or otherwise, incurred by them in or arising out of this
12 action, and shall not seek reimbursement thereof from any other party to this Agreement, except that
13 Class Counsel shall be entitled to recover reasonable attorneys' fees and costs relating to the
14 enforcement of the Judgment only in the event that such enforcement action is necessary.

15
16 **PLAINTIFF**

17 DATE: 7/21/2021

DocuSigned by:

31EAA821E26B4CB...
Natalie Barba

19
20 **DEFENDANT AMMADIS, INC.**

21 DATE: _____

22 Print Name:

23 Title:

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25 **DEFENDANT ADRIAN AMOSA**

26
27 DATE: _____

28 Adrian Amosa

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DEFENDANT LUCIANA MIORIN AMOSA

DATE: _____
Luciana Miorin Amosa

DEFENDANT CINGULAR GROCERS

DATE: _____

Print Name:

Title:

DEFENDANT CINGULAR HR

DATE: _____

Print Name:

Title:

APPROVED AS TO FORM AND CONTENT ONLY:

LAW OFFICES OF ERIC A. BOYAJIAN, APC

DATE: 7-21-2021



Eric A. Boyajian
Attorneys for Plaintiff

McDERMOTT WILL & EMERY LLP

DATE: _____

Elvira R. Kras
Attorneys for Defendants

1 Class Counsel may add / dismiss / substitute named plaintiffs to facilitate the Settlement and
2 Court Approval. In so doing, Class Counsel shall seek a Service Payment in the amount of \$3,000 for
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4 which shall be paid out of the Gross Settlement Amount from the QSF.

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11 attorneys' fees, costs and expenses, taxable or otherwise, incurred by them in or arising out of this
12 action, and shall not seek reimbursement thereof from any other party to this Agreement, except that
13 Class Counsel shall be entitled to recover reasonable attorneys' fees and costs relating to the
14 enforcement of the Judgment only in the event that such enforcement action is necessary.

15 **PLAINTIFF**

16
17 DATE: _____

18 _____
Natalie Barba

19 **DEFENDANT AMMADIS, INC.**

20
21 DATE: July 21, 2021

22 _____
Print Name: BRAD STOS

23 Title: CEO

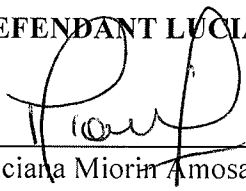
24 **DEFENDANT ADRIAN AMOSA**

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27 DATE: July 21, 2021

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Adrian Amosa

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DEFENDANT LUCIANA MIORIN AMOSA



DATE: July 21, 2021

Luciana Miorin Amosa

DEFENDANT CINGULAR GROCERS

DATE: _____

Print Name:

Title:

DEFENDANT CINGULAR HR

DATE: _____

Print Name:

Title:

APPROVED AS TO FORM AND CONTENT ONLY:

LAW OFFICES OF ERIC A. BOYAJIAN, APC

DATE: _____

Eric A. Boyajian
Attorneys for Plaintiff

McDERMOTT WILL & EMERY LLP

DATE: _____

Elvira R. Kras
Attorneys for Defendants

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DEFENDANT LUCIANA MIORIN AMOSA

DATE: _____
Luciana Miorin Amosa

DEFENDANT CINGULAR GROCERS

DATE: 7/21/2021 _____
Yvette Alvarez

Print Name: Yvette Alvarez

Title: Manager

DEFENDANT CINGULAR HR

DATE: 7.21.2021 _____
Dulce Tafoya

Print Name: Dulce Tafoya

Title: President

APPROVED AS TO FORM AND CONTENT ONLY:

LAW OFFICES OF ERIC A. BOYAJIAN, APC

DATE: _____
Eric A. Boyajian
Attorneys for Plaintiff

McDERMOTT WILL & EMERY LLP

DATE: July 21, 2021 _____
Elvira R. Kras
Elvira R. Kras
Attorneys for Defendants

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EXHIBIT A

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF LOS ANGELES

MIRIAM AVELAR ARVIZU, individually and on behalf of others similarly situated,

Plaintiff,

vs.

AMMADIS, INC., a California corporation dba Gaucho Grill; ADRIAN E. AMOSA, an individual; LUCIANA MIORIN AMOSA, an individual; CINGULAR GROCERS, a California corporation; CINGULAR HR, a California corporation; and DOES 1 through 50, inclusive,

Defendants.

Case No.: BC698605

NOTICE OF PENDENCY OF CLASS ACTION, PRELIMINARY APPROVAL OF SETTLEMENT AND HEARING FOR FINAL APPROVAL

IMPORTANT: THIS LEGAL NOTICE AFFECTS YOUR RIGHTS. PLEASE READ IT CAREFULLY. YOU ARE NOT BEING SUED.

TO: All current and former hourly paid employees of Defendants (*defined below*), however titled, who worked at the following locations: (a) the Gaucho Grill location in Brentwood during the respective Class Period (*defined below*); (b) the Gaucho Grill location in Long Beach during the respective Class Period (*defined below*); (c) the Gaucho Grill location in West Covina during the respective Class Period (*defined below*); (d) the Gaucho Grill location in Downey during the respective Class Period (*defined below*); (e) Alegria, located in Long Beach during the respective Class Period (*defined below*); and/or (f) Agaves, located in Long Beach, during the respective Class Period (*defined below*).

RE: Notice of settlement of a class action lawsuit for alleged wage and hour violations and announcement of a court hearing that you may choose to attend. You are entitled to a payment under the terms of a class action settlement.

YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT

DO NOTHING	If you do nothing, you will receive a payment in exchange for a release of claims. Your estimated payment is \$«_». See the explanation below. After final approval of the settlement by the Court, the payment will be mailed to you at the same address as this notice. If your address has changed, please notify the Settlement Administrator as explained below.
DISPUTE THE AMOUNT OF YOUR PAYMENT	You may dispute the amount of your estimated payment by sending a written notice to the Settlement Administrator, as explained below.
ASK TO BE EXCLUDED	If you ask to be excluded from the settlement, you will not be part of this lawsuit in any way. You will get no benefits from it,

YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT

	including payment. You will keep your right to sue separately for the claims being released by this lawsuit.
MAIL A WRITTEN OBJECTION TO THE SETTLEMENT	You may make a written objection to the settlement. To do so, you will need to mail your written objection to the Settlement Administrator. If the Court overrules your objection, you still will be part of the Settlement.
ATTEND THE FINAL APPROVAL HEARING	You may appear at the Final Approval Hearing and ask to be heard by the Court regarding your written objection. You may also make a verbal objection at the Final Approval Hearing even if you failed to submit a written objection. If the Court overrules your objection, you still will be part of the Settlement.

Your options are explained in this notice. To dispute the amount of your payment, ask to be excluded, or to make a written objection, you must act before [45 days from mailing of notice].

NEITHER PLAINTIFFS NOR DEFENDANTS WILL RETALIATE AGAINST YOU REGARDING THIS SETTLEMENT WHETHER YOU DO NOTHING, DISPUTE THE AMOUNT OF YOUR PAYMENT, ASK TO BE EXCLUDED, OR FILE AN OBJECTION

BASIC INFORMATION

Why Is It Important To Read This Notice?

You received this Class Notice because records identify you as a Class Member (*defined below*). As described below, the Court preliminarily approved the proposed class action settlement (“**Settlement**”, “**Agreement**” or “**Settlement Agreement**”) of the lawsuit known as *Arvizu, et al. v. Ammadis, Inc., et al.* (case no. BC698605) (the “**Action**”) on [insert date of preliminary approval]. You should read this notice carefully.

What Is This Class Action About?

On March 20, 2018, Plaintiff Miriam Avelar Arvizu (“**Arvizu**”) filed the Action in the Los Angeles County Superior Court against Defendants Ammadis, Inc., Adrian E. Amosa, Luciana Miorin Amosa, Cingular Grocers, and Cingular HR (collectively, “**Defendants**”). On August 23, 2018, Arvizu filed a first amended complaint. On September 17, 2019, Arvizu filed the second amended complaint. On January 25, 2021 the Defendants and Arvizu filed a stipulation agreeing to the filing of a third amended complaint, which would add Natalie Barba as (“**Barba**” or “**Plaintiff**” or “**Class Representative**”) a named plaintiff. On February 4, 2021 the Court granted the stipulation allowing leave to file a third amended complaint. The Third Amended Complaint (“**TAC**”) was filed on February 11, 2021, and added Barba as a class representative. The TAC is the operative complaint and alleges the following wage and hour claims: (1) unpaid minimum wages, (2) unpaid overtime, (3) rest period violations, (4) meal period violations, (5) waiting time penalties, (6) paystub violations, and (7) unfair business practices. On June 28, 2021, following an *Ex Parte* Application, the Court dismissed Arvizu as a class representative; all claims asserted by Arvizu in the TAC were dismissed without prejudice.

Plaintiff is represented by LAW OFFICES OF ERIC A. BOYAJIAN, APC. As set forth below, LAW OFFICES OF ERIC A. BOYAJIAN, APC has been appointed by the Court to act as attorneys for the Class (referred to as “Class Counsel”).

Defendants deny the entirety of the allegations and deny that any employees are entitled to any compensation of any kind and further deny any liability or wrongdoing of any kind associated with the alleged claims, and contend that, for any purpose other than Settlement, this Action is not appropriate for class action treatment. Moreover, Defendants contend that they have complied with all applicable laws.

The Court has made no determination about the strengths and weaknesses of the claims or contentions of either Plaintiffs or Defendants. There has been no finding of any wrongdoing by Defendants.

THE TERMS OF THE SETTLEMENT

How Was A Settlement Reached?

Plaintiffs and Defendants agreed to a settlement which is memorialized in the Settlement Agreement. The Los Angeles County Superior Court, by and through the Honorable Daniel J. Buckley, approved the settlement on a preliminary basis on [insert date of preliminary approval].

Class Counsel is:

Eric A. Boyajian
LAW OFFICES OF ERIC A. BOYAJIAN, APC
450 N. Brand Blvd., Suite 600
Glendale, CA 91203
Tel: 818-839-5969

Attorneys for Defendants are:

Elvira R. Kras
McDERMOTT WILL & EMERY LLP
2049 Century Park East, Suite 3200
Los Angeles, CA 90067-3218
Telephone: +1 310 277 4110
ekras@mwe.com

The Settlement Administrator is:

[Phoenix Administrator Contact Info]

The Class

The period of liability (“Class Period”) is as follows:

For the Brentwood and Long Beach Gaucho Grill locations, from four years prior to the filing of the initial complaint (March 20, 2014), through March 20, 2020.

For the Downey and West Covina Gaucho Grill locations, as well as Agaves and Alegria, from four years prior to the filing of the second amended complaint (September 17, 2015) through March 20, 2020.

“Class,” “Class Members,” “Settlement Class” or “Settlement Class Members” refers to all current and former hourly paid employees of Defendants, however titled, who worked at the following locations: (a) the Gaucho Grill location in Brentwood during the respective Class Period; (b) the Gaucho Grill location in Long Beach during the respective Class Period; (c) the Gaucho Grill location in West Covina during the respective Class Period; (d) the Gaucho Grill location in Downey during the respective Class Period; (e) Alegria, located in Long Beach during the respective Class Period; and/or (f) Agaves, located in Long Beach, during the respective Class Period.

What Is The Total Settlement Amount?

The proposed Settlement provides for a gross payment of \$720,000 to fully and finally resolve all claims in the Action on behalf of the Class (referred to as the “Gross Settlement Amount” or “GSA”). The Gross Settlement Amount will be distributed as follows: (i) up to \$12,000 for the fees and costs of the Administrator; (ii) up to \$5,000 Service Payment to Barba (iii) up to \$25,000 to Class Counsel for actually incurred litigation expenses; and (iv) up to \$252,000 payment to Class Counsel for attorneys’ fees.

The remaining portion of the Gross Settlement Amount is estimated to be \$426,000 (the “Net Settlement Amount” or “NSA”).

The exact amounts to be paid will be determined by the Court at a Final Approval Hearing, but will not exceed the amounts set forth above.

How Much Money Will I Get?

The Participating Class Members will receive a proportional share of the Net Settlement Amount based upon the following calculations:

- The Administrator shall determine the total number of workweeks worked by Participating Class Members during the Class Period. For purposes of this calculation, workweeks will be calculated based on the number of weeks in which a Class Member worked at least one day during the Class Period.
- The total number of workweeks each Participating Class Member was employed during the Class Period will then be divided by the total number of workweeks that all Participating Class Members were employed during the Class Period, resulting in a payment ratio for each Participating Class Member.

Defendants’ records indicate that you worked approximately **INSERT** workweeks during the Class Period. It is estimated that your payment will be \$ **_____**. 20% of this amount shall be treated as wages subject to wage withholdings and shall be reported on an IRS Form W-2. 80% of this amount shall be treated as interest and penalties and shall be reported on an IRS Form 1099.

It will not be possible to know the exact amount of your payment until the Response Deadline has passed and the Settlement Administrator knows the number of Participating Class Members.

All Participating Class Members will be issued appropriate tax forms for these amounts. Participating Class Members are responsible for any taxes owing on their settlement payment.

Undistributed Funds

In the event that any checks mailed to Participating Class Members remain uncashed after the expiration of 180 days, or an envelope mailed to a Participating Class Member is returned and no forwarding address can be located for the Participating Class Member after reasonable efforts have been made (including but not limited to skip tracing), then any such checks shall become null and void, and such monies shall be distributed to the Controller of the State of California, to be held pursuant to the Unclaimed Property Law, California *Civil Code* section 1500, *et seq.*, in the name of the respective Participating Class Member.

WHAT ARE MY OPTIONS

1. Do Nothing

You do not have to do anything to participate in this settlement and receive money. If you do nothing, you will be deemed part of the Action, and you will be releasing all claims you may have related to the allegations in the Action.

2. Dispute the Amount of Your Payment

If you wish to dispute the amount of your payment or the data used to calculate it, you may send a written request to the Settlement Administrator informing the Settlement Administrator of the nature of your dispute and providing any records or documentation supporting your position. Your written notice must be postmarked no later than [45 days after mailing of the Class Notice].

3. Ask To Be Excluded From The Settlement

If you do not wish to participate in the settlement, you may exclude yourself or “opt out.” If you opt out, you will receive no money from the Settlement, and you will not be bound by its terms. To opt out, you must submit a written letter called a “Request for Exclusion” to the Settlement Administrator containing: (1) your full name, address, and the last four digits of your social security number; (2) your signature; and (3) in substance, the following statement:

“I elect to opt-out of the *Arvizu, et al. v. Ammadis, Inc., et al.* class action settlement. I understand that by doing so, I will not be able to participate in the settlement and will not receive a share of the settlement.”

The Request for Exclusion must be postmarked no later than [45 days after mailing of the Class Notice]. Requests for Exclusion that do not include all required information, or that are not submitted on a timely basis, will be deemed null, void and ineffective, and those Class Members will remain bound by the Settlement and the Release of Claims described below.

4. If You Do Not Request To Be Excluded, You May Also File An Objection

If you are a Participating Class Member and believe that the Settlement should not be finally approved by the Court for any reason, you may object to the Settlement. To object to the Settlement, you must maintain your status as a Participating Class Member (i.e., you must not opt-out).

Written objections must state the full name, current home (or mailing) address, telephone number, last four digits of the social security number, the case name and number (*Arvizu, et al. v. Ammadis, Inc., et al.* (case no. BC698605), the specific reasons for the objection, indicate whether you are represented by counsel and, if so, identify your counsel, and must be mailed to the Settlement Administrator at the address noted above, postmarked no later than [45 days after mailing the Class Notice]. In addition, written objections must be signed by the Participating Class Member or that Participating Class Member's counsel and the Participating Class Member must provide true and correct copies of any exhibit(s) the Participating Class Member and/or the Participating Class Member's counsel intends to offer at the Final Approval Hearing. The Settlement Administrator will provide your written objection to Class Counsel and Defense Counsel who will submit it to the Los Angeles Superior Court for consideration in conjunction with the Final Approval Hearing. Any Participating Class Member who fails to make a written objection may still appear at the Final Approval Hearing to make a verbal objection.

Any Participating Class Member who fails to make a written objection or fails to make an objection at the Final Approval Hearing shall be deemed to have waived his or her right to object to the Settlement. Any Participating Class Member whose objection is overruled will be deemed to be subject to the terms of the Settlement and the Court's Order of Final Approval.

RELEASE OF CLAIMS BY CLASS MEMBERS

RELEASE OF CLASS ACTION CLAIMS

Upon full payment by Defendants of the GSA (plus Employer-Side taxes) into the Qualified Settlement Fund, and in exchange for the consideration provided herein, the Participating Class Members shall forever and completely release and discharge Defendants and the Released Parties from the following claims:

Participating Class Members shall release the Released Parties from any and all claims, debts, liabilities, demands, obligations, penalties, guarantees, costs, expenses, attorney's fees, damages, actions or causes of action of whatever kind or nature, whether known or unknown, contingent or accrued, that were alleged or that reasonably could have been alleged based on the facts alleged in the Third Amended Complaint, on behalf of the Class and that arose during the Class Period, including, but not limited to claims for (1) unpaid minimum wages, (2) unpaid overtime, (3) rest period violations, (4) meal period violations, (5) waiting time penalties, (6) paystub violations, and (7) unfair business practices, and any other claims arising during the Class Period, whether known or unknown, that were or could have been alleged based on the specific factual allegations in the Third Amended Complaint.

RELEASE OF FLSA CLAIMS

Notwithstanding any other provision of this Notice or the Settlement, the released claims shall not include claims under the federal Fair Labor Standards Act ("FLSA") arising from the employment of a Class Member with Defendants unless the Participating Class Member has affirmatively opted in to this case by cashing his/her settlement check provided to him/her under this Settlement. Thus, each Participating Class Members' settlement check shall contain the following limited endorsement:

"By endorsing this check, I am agreeing to be bound by the Settlement Agreement, and the release of claims set forth therein, in the Class Action case entitled *Arvizu, et al. v. Ammadis, Inc., et al.* (case no. BC698605).

Signature _____ Dated: _____"

Participating Class Members shall be bound by this release unless they formally opt-out of the settlement, except as to FLSA claims as stated above.

THE COURT'S FINAL APPROVAL HEARING

The Final Approval Hearing is scheduled for _____, 20____ at _____ a.m./p.m., in Department 1, in the Superior Court of the State of California, in and for the County of Los Angeles, Spring Street Courthouse, located at 312 North Spring Street, Los Angeles, CA 90012. The Hearing may be continued without further notice. You are not required to attend the Final Approval Hearing, although any Participating Class Member is welcome to attend the hearing.

GETTING MORE INFORMATION

All inquiries regarding this Notice should be directed to the Settlement Administrator at toll free 1-_____. You may also inspect the Court files at the Office of the Clerk for the Superior Court of the State of California, in and for the County of Los Angeles, located at 312 North Spring Street, Los Angeles, CA 90012, during regular business hours of each court day, or online through the Court's Public Access System.

COVID-19 RELATED RESTRICTIONS

Effective June 28, 2021, the Los Angeles Superior Court has eliminated social distancing requirements in public spaces. However, all persons entering any courthouse - regardless of vaccination status - shall wear a face mask over both the nose and mouth while in public areas of the courthouse, including courtrooms. Children under the age of two (2) are exempt from the order. For more details, you can find the Court's General Order at the following website:
<http://www.lacourt.org/newsmedia/notices/newsrelease>.

PLEASE DO NOT CONTACT THE COURT WITH INQUIRIES.