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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ALASKA

UNITED STATES OF AMERICA,

Plaintiff,

vs.

CLARIBEL TAN and DANIEL TAN,

Defendants.

No. 3:24-cr-00072-SLG

UNITED STATES' SECOND SUPPLEMENTAL RESTITUTION BRIEF

COMES NOW, the United States, to submit this second supplemental brief in support of a restitution order against the defendants.

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1. The Court should order the defendants to pay restitution to C.J.H., an additional patient victim seeking restitution for out-of-pocket expenses for injections of Subject Medications.

While the restitution hearing on June 8 was underway, the government received an additional restitution claim from a 19th patient victim, C.J.H. [Supplemental Boyer Decl. ¶ 2, filed herewith; Dkt. 170, Ex. 2] C.J.H. submitted records showing the following payments made by C.J.H. to the defendants: 12/8/10: \$122; 1/11/11: \$76; 2/11/11: \$304; 3/21/11: \$76; 4/4/11: \$76; 5/4/11: \$76, for a total of \$730. [*Id.*]

The claims data show the Tans submitted 1 claim for administering an injection of Subject Medications to C.J.H. on February 10, 2011. The records show that C.J.H. was responsible for paying \$101.90 in co-insurance for that visit. [*Id.*]

The defendants do not appear to dispute that they should pay restitution to patients for their out-of-pocket medical costs for injections of Subject Medications. The Court should therefore order the defendants to pay C.J.H. restitution in the amount of \$101.90 for 1 visit for an injection of a Subject Medication.

19	C.J.H.	\$730	Out-of-pocket medical costs for visits with Claribel Tan	\$101.90 (out-of-pocket expenses for 1 appointment for an injection of Subject Medications)
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2. The Court should order the defendants to pay additional restitution to H.S. for H.S.'s out-of-pocket costs for injections of Subject Medications.

Previously, the government did not recommend that the Court order the defendant to pay restitution to H.S. for out-of-pocket costs for the injections of Subject Medications because the claims data did not detail any patient responsibility for the 26 injections of

Subject Medications that Claribel Tan administered to H.S. [Dkt. 155-1 ¶ 24]

Since the hearing, H.S. provided a record showing one payment by H.S. to the Tans in the amount of \$100 on June 20, 2019. [Dkt. 170, Ex. 3 at 6] The data show a claim by the defendants for administering a Subject Medication to H.S. on that date. H.S. stated in an email that the payment was “the only payment I could access. I can only access as far back as July 2019 so I don't have proof of any other payments. I was set up for a monthly auto-pay of \$100/month from the beginning of my visits with Claribel Tan.” [Supplemental Boyer Decl. ¶ 4]

Based on the evidence provided by H.S. that H.S. paid the defendants \$100 per visit, the Court should also award H.S. an additional \$2,600 (26 visits x \$100) for H.S. estimated out-of-pocket costs for visits for the injections of Subject Medications.

18a	H.S.	\$14,400	Estimated lost income for monthly appointments over 10 years	\$3,120 (estimated lost income for attending appointments for 26 injections of Subject Medications)
18b	H.S.	\$24,000	Costs related to unnecessary medical visits, prescriptions, and follow-up care tied to false diagnosis, including expense incurred after leaving Claribel Tan's care	
18c	H.S.	\$4,000	Future medical expenses	
18d	H.S.	\$2,400	Travel costs to appointments over 10 years	\$520 (estimated travel expenses for attending appointments for 26 injections of Subject Medications)
18e	H.S.			\$2,600 (out-of-pocket expenses for 26 injections of Subject Medications)

3. The Court should order the defendants to pay D.W.'s out-of-pocket costs and travel costs for 56 visits for injections of Subject Medications.

Since the restitution hearing, D.W. submitted a restitution claim for reimbursement of D.W.'s travel expenses. [Dkt. 170, Ex. 1] The government's review of the claims data previously showed that the defendants submitted claims for administering injections of Subject Medications to D.W. during 55 visits. [Dkt. 155-1 ¶ 8] D.W. submitted an additional record from D.W.'s insurer, which the government did not have, appearing to show an additional visit on December 17, 2010, for an injection of a Subject Medication with a patient responsibility of \$48.00. [Supplemental Boyer Decl. ¶ 3] Thus, the government now has records that the defendants submitted claims for administering injections of Subject Medications to D.W. during 56 visits.

D.W. also submitted that D.W. paid the defendants a total of \$1,683.45 for office visits that in some cases appear to correlate with the visits showing patient responsibility for D.W. in the claims data and in some cases they do not correlate. [Supplemental Boyer Decl. ¶ 3] D.W. that their records of payments are incomplete. [Dkt. 170, Ex. 1] Therefore, the government continues to recommend that the Court order restitution of D.W.'s out-of-pocket medical expenses using the figures for D.W.'s patient responsibility shown in the claims data.

D.W. also seeks restitution for D.W.'s travel costs in the amount of \$2,087.01 for 108 visits. [Dkt. 170, Ex. 1 at 4, 7 (seeking costs for 108 visits)] D.W. estimates their travel costs using the IRS's mileage rates for medical travel and seeks \$.21/mile. [*Id.* at 1] Because the government only has records showing the defendants submitted claims for

administering injections of Subject Medications to D.W. during 56 visits, the government recommends that the court award D.W. restitution for travel costs in the amount of \$1,082.15 (56/108 x \$2,087.01).

2a	D.W.	\$697,945	Lost wages due to victim's disability allegedly caused by Claribel Tan	
2b	D.W.	\$18,681	Lost wages of victim's spouse in caring for patient victim	
2c	D.W.	\$105,125.12	Medical/counseling expenses	\$10,037.36 (out-of-pocket expenses for 56 injections of Subject Medications from 2009-2022)¹
2d	D.W.	\$14,400	Billing for audit of tax returns, medical records and lost wages related to participation in the investigation or prosecution of the offense	
2e	D.W.	\$2,087.01	Estimated travel costs for appointments with Claribel Tan	\$1,082.15 (estimated travel costs for attending 56 injections of Subject Medications)

4. The Court should not apply the fraud ratios to reduce any patient victims' costs for appointments for injections of Subject Medications.

As explained at the restitution hearing, the government requested that the Court order the defendants to pay restitution to patient victims for the full amount of their estimated out-of-pocket costs for appointments for injections of Subject Medications, while the defendants argued the Court should reduce the restitution owed to patient victims

¹ The previous amount (\$9,089.36) is revised to include the \$48.00 in patient responsibility shown in the record D.W. submitted showing an additional injection of a Subject Medication. [Supplemental Boyer Decl. ¶ 3]

by the fraud ratios. *See* Dkt. 163 at 20 (defendants arguing that the “Fraud Ratios be applied to each patient’s co-pay and co-insurance figures”). The parties used the fraud ratios to estimate the losses by health care benefit programs for the defendants’ fraudulent claims for the reimbursement of Subject Medications. In applying the fraud ratios, the government assumed that the defendants appropriately submitted claims for the relatively few Subject Medications that they purchased.

While it may have been appropriate to give the defendants the benefit of that doubt when considering claims on a macro scale with respect to the health care benefit programs, applying the fraud ratios to reduce restitution claims by patient victims is not appropriate for several reasons.

First, the defendants admitted that, among other things, Claribel Tan routinely underdosed patients and injected them with expired medications. [Dkt. 75 at 14] Thus, the defendants admit that they routinely did *not* appropriately administer Subject Medications to patients, in contradiction to the favorable assumption granted them by use of the fraud ratio. For the only office visits for which definitive evidence exists, the evidence shows that the defendants did not administer the Subject Medications to patients as they claimed. [Dkt. 111 at 10-11 (reciting evidence from recorded examinations showing that Claribel Tan underdosed and lied about the medications she administered to B.L. and L.E. during 8 total visits)]

Second, the defendants concealed their scheme by creating false medical records and by Claribel Tan hiding syringes during visits. [*Id.*] Thus, the ability of the patients and the government to refute the defendants’ contention that they appropriately administered

and billed for some Subject Medications for some patients is seriously compromised. Under the circumstances, the Court should, in the interest of justice, shift the burden of proof on this issue and require the defendants to prove that they appropriately administered and billed for any of the Subject Medications administered to the 19 patients requesting restitution. *See* 18 U.S.C.A. § 3664(e) (“The burden of demonstrating such other matters as the court deems appropriate shall be upon the party designated by the court as justice requires.”); *see also United States v. Bryant*, 655 F.3d 232, 254 (3d Cir. 2011) (“the defendant should know the value of any legitimate services he has already provided to the victim, and so the burden should fall on him to argue for a reduction in his restitution order”) (cleaned up); *United States v. Loe*, 248 F.3d 449, 470 (5th Cir. 2001) (affirming a district court’s rejection of a restitution credit on the basis of the defendant’s inability “to provide reliable evidence supporting its claims” that not all of its insurance claims were fraudulent).

For all of these reasons, the Court should not apply the fraud ratio to reduce any patient victims’ costs for injections of Subject Medications.

5. The Court should order the defendants to pay patient victims restitution for their reasonable estimated travel expenses to attend unnecessary appointments for the injection of Subject Medications.

Another area of disagreement between the parties is how to calculate the travel expenses claimed by patients for attending visits for the injections of Subject Medications. The government continues to recommend that the Court award victims restitution for their actual losses as the statute requires. *See* 18 U.S.C.A. § 3664(f)(1)(A) (“In each order of restitution, the court shall order restitution to each victim in the full amount of each victim’s

U.S. v. Tan et al.

3:24-cr-00072-SLG

Page 7 of 10

Case 3:24-cr-00072-SLG-KFR

Document 171

Filed 06/17/26

Page 7 of 10

losses as determined by the court”); *United States v. Gagarin*, 950 F.3d 596, 607 (9th Cir. 2020) (“amount of restitution is limited to the victim's ‘actual losses’ that are a direct and proximate result of the defendant's offense”).

If the Court believes that the victims’ estimates of their actual costs are not sufficiently reliable, the Court should, at a minimum, award travel costs according to the approach used by the defendants using the IRS mileage rates. *Cf. Delano v. McDonough*, 38 Vet. App. 25, 29 (2024) (in the context of a request for an award under the Equal Access to Justice Act, noting the difference between “actual expenses, such as for gasoline [and] the Internal Revenue Service (IRS) standard mileage rate”), *aff’d in part, appeal dismissed in part sub nom. Delano v. Collins*, 2025 WL 2407866 (Fed. Cir. Aug. 20, 2025).

The Court should reject the defendants’ argument that the victims are not entitled to travel costs because they have not shown a bodily injury. [Dkt. 163 at 6] The case on which the defendants rely, *United States v. Hicks*, 997 F.2d 594 (9th Cir. 1993), reversed an award of restitution for counseling expenses because the government had not shown a bodily injury, noting that 18 U.S.C. § 3663(b)(2)(A) “specifically authorizes the inclusion of the cost of counseling *only* where the victim has suffered a *physical* injury in addition to the emotional injury giving rise to the need for counseling.” *Hicks*, 997 F.2d at 600. But in *Hicks*, the court noted that the government failed to point to an alternate statutory source for the authority to award restitution under these circumstances.” *Id.* at 601. Here, by contrast, the government has shown that the defendants required patients to attend unnecessary injection appointments which was essential to defendants’ scheme. The Court should award patients restitution for the value of the property the patients lost by attending

U.S. v. Tan et al.

3:24-cr-00072-SLG

Page 8 of 10

Case 3:24-cr-00072-SLG-KFR Document 171 Filed 06/17/26 Page 8 of 10

those appointments. 18 U.S.C. § 3663(b)(1)(1)(B).

Conclusion

For all of these reasons, the Court should order the defendants to pay restitution as follows:²

<u>Victim</u>	<u>Amount</u>
D.A.	\$14,240
D.W.	\$11,119.51
T.E.	\$1,302.90
L.E.	\$7,489.93
S.V.	\$16,393.06
B.L.	\$3,981.05
L.C.	\$7,166.41
A.R.	\$40,000
A.J.	\$2,152.33
L.S.	\$1,521
C.H.	\$4,300
L.M.	\$1,474.58
H.S.	\$6,240
C.J.H.	\$101.90

² Figures in bold show changes from the government's recommendations in Dkt. 155 based on additional evidence.

Health care benefit programs listed at Dkt. 111, Ex. 2	\$12,521,751.43
IRS	\$4,249,509
<u>Total</u>	<u>\$16,888,743.10</u>

RESPECTFULLY SUBMITTED June 17, 2026 at Anchorage, Alaska.

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s/ Seth M. Beausang
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United States of America

CERTIFICATE OF SERVICE

I hereby certify that on June 17, 2026 a true and correct copy of the foregoing was served electronically on all counsel of record.

s/ Seth M. Beausang