

DOUGLAS HAN (SBN 232858)
SHUNT TATAVOS-GHARAJEH (SBN 272164)
WILLIAM WILKINSON (SBN 346777)
HAIG HOGDANIAN (SBN 334699)
JUSTICE LAW CORPORATION
751 N. Fair Oaks Avenue, Suite 101
Pasadena, California 91103
Telephone: (818) 230-7502
Facsimile: (818) 230-7259

Attorneys for Plaintiffs

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF ORANGE**

THUY-TRUC TRAN, individually, and on
behalf of aggrieved employees pursuant to the
Private Attorneys General Act ("PAGA");

Plaintiff,

v.

BYRAM HEALTHCARE CENTERS, INC., a
New Jersey corporation; and DOES 1 through
100, inclusive;

Defendants.

Case No.: 30-2023-01309069-CU-OE-CXC

Assigned for All Purposes to:
Honorable Melissa McCormick
Department CX-104

CLASS ACTION

**PLAINTIFFS' SUPPLEMENTAL BRIEF
IN SUPPORT OF PRELIMINARY
APPROVAL OF CLASS ACTION
SETTLEMENT**

[Reservation ID: 74214969]

[Supplemental Declaration of Proposed
Class Counsel (Douglas Han); and Amended
[Proposed] Order filed concurrently
herewith]

Hearing Date: September 12, 2024
Hearing Time: 2:00 p.m.
Hearing Place: Department CX-104

Complaint Filed: February 21, 2023
FAC Filed: January 12, 2024
Trial Date: None Set

Plaintiffs Thuy-Truc Tran and Emily Lauber (“Plaintiffs”) provide this supplemental submission in response to the Court’s tentative ruling on the Motion for Preliminary Approval of Class Action Settlement originally scheduled for hearing on May 16, 2024. On May 15, 2024, prior to the scheduled preliminary approval hearing, the Court issued a tentative ruling ordering Plaintiffs and Defendant Byram Healthcare Centers, Inc. (“Defendant”) to make changes to the settlement documents that were submitted alongside the Motion for Preliminary Approval of Class Action Settlement.

The chart below lists each of the Court’s issues from the tentative ruling and the revisions/submissions made to address each issue.

Ruling	Revisions/Submissions
(1) In addition to the average payment to class members (Han Decl. (ROA 66) ¶ 30), the parties should provide when available (see Han Decl. (ROA 66) ¶ 30 n.5) the estimated high and low payments to class members, the estimated high, low, and average PAGA payments, and each plaintiff’s anticipated total amount (including any individual claims and excluding any enhancement payment).	(Supplemental Declaration of Douglas Han in Support of Plaintiffs’ Motion for Preliminary Approval of Class Action Settlement (“Supp. Han Decl.”), ¶ 4.)

(2) The class members’ release is overbroad. Settlement Agreement ¶¶ JJ; KK. The release must be fairly tailored to the claims that were or reasonably could have been asserted in the lawsuit based on the facts alleged in the operative complaint.	The Settlement Agreement has been amended accordingly. (Supp Han Decl., <i>supra</i>, at ¶ 5; Exhibit 2, <i>supra</i>, at ¶ 1.) The Class Notice has been modified accordingly. (Supp Han Decl., <i>supra</i>, at ¶ 6; Exhibit 3, <i>supra</i>, at § 9(A).)
(3) The aggrieved employees’ release is overbroad. Settlement Agreement ¶ EE. Releases for aggrieved employees other than plaintiffs should not release more than the civil penalties available under PAGA based on the facts alleged in the operative complaint and the notice letter(s) to the LWDA. In addition, the aggrieved employees’ release purports to release claims on behalf of the LWDA “and any other representative, proxy, or agent thereof.” The parties should provide legal authority for that provision or remove it.	The Settlement Agreement has been amended accordingly. (Supp Han Decl., <i>supra</i>, at ¶¶ 7, 9; Exhibit 2, <i>supra</i>, at ¶¶ 2, 3.) The Class Notice has been modified accordingly. (Supp Han Decl., <i>supra</i>, at ¶ 8; Exhibit 3, <i>supra</i>, at § 9(B).)

(4) The settlement agreement states that in addition to plaintiffs’ Individual Settlement Shares, and subject to the court’s approval, each plaintiff will receive \$10,000 as an enhancement payment “in exchange for a release of the Released Claims, a General Release, and for their time, effort, and risks they undertook in bringing and prosecuting this matter.” Settlement Agreement ¶ III.H.7.a.; *see also id.* ¶ III.M. The settlement agreement provides that plaintiffs’ enhancement awards will be paid from the Gross Settlement Amount. *Id.* ¶ III.H.3. An enhancement award is not intended to serve as consideration for the release of additional claims, but rather to compensate class representatives for work done on behalf of the class, to make up for financial or reputational risk undertaken in bringing the action, and, in some circumstances, to recognize their willingness to act as a private attorney general. The court is unlikely to approve a settlement that provides enhancement awards in exchange for releases.

In addition, and more generally, while the court will determine the appropriate amount of

The Settlement Agreement has been amended accordingly.

(Supp Han Decl., *supra*, at ¶ 10; Exhibit 2, *supra*, at ¶¶ 4, 5.)

The Class Notice has been modified accordingly.

(Supp Han Decl., *supra*, at ¶ 11; Exhibit 3, *supra*, at § 10.)

(Supp Han Decl., *supra*, at ¶ 12.)

any enhancement award to plaintiffs at final approval, counsel must explain why an enhancement award is reasonable, why the generous amounts proposed here are reasonable, and what the named plaintiffs did beyond the expected service of a named plaintiff. In addition, each named plaintiff shall state in a declaration filed with the court what the named plaintiff specifically did as services to the class and participation in the litigation, including the approximate amount of time spent on the case.

(5) Paragraph III.J.4. of the settlement agreement should state that all exclusion requests shall be submitted to the court.

The Settlement Agreement has been amended accordingly.

(Supp Han Decl., *supra*, at ¶ 13; Exhibit 2, *supra*, at ¶ 6.)

The Class Notice has been modified accordingly.

(Supp Han Decl., *supra*, at ¶ 14; Exhibit 3, *supra*, at § 7.)

(6) Class members should not be required to “provide a concise, factual written statement of the Class Member’s reasons for objecting,” or to state whether the class member is

The Settlement Agreement has been amended accordingly.

(Supp Han Decl., *supra*, at ¶ 15; Exhibit 2,

1 2 3 4 5 6 7	represented by an attorney and the contact information for the attorney, or whether the class member intends to appear at the final approval hearing. Settlement Agreement ¶ III.J.3.a.	<i>supra</i> , at ¶ 7.) The Class Notice has been modified accordingly. (Supp Han Decl., <i>supra</i> , at ¶ 16; Exhibit 3, <i>supra</i> , at § 8.)
8 9 10 11 12 13 14 15 16 17 18	(7) The settlement administrator's estimated not to exceed costs are \$9,995 (Mullins Decl. (ROA 71) ¶ 10), not \$12,000.	The Settlement Agreement has been amended accordingly. (Supp Han Decl., <i>supra</i> , at ¶ 17; Exhibit 2, <i>supra</i> , at ¶¶ 8, 9.) The Class Notice has been modified accordingly. (Supp Han Decl., <i>supra</i> , at ¶ 18; Exhibit 3, <i>supra</i> , at § 10.)
19 20 21	(8) The settlement administrator should conduct a skip trace for returned checks, as well as returned notices.	(Supp Han Decl., <i>supra</i> , at ¶ 19; Exhibit 4, <i>supra</i> , at §§ III(H)(7)(e), III(H)(7)(g), III(I), III(J)(2)(c).)
22 23	(9) The notice should be revised consistent with the above.	The Class Notice has been revised to be consistent with the above.
24 25 26	(10) The title of the notice should also refer to the PAGA action.	The Class Notice has been modified accordingly.

		(Supp Han Decl., <i>supra</i> , at ¶ 20; Exhibit 3, <i>supra</i> , at p. 1.)
		The Settlement Agreement has been amended accordingly.
		(Supp Han Decl., <i>supra</i> , at ¶ 21; Exhibit 2, <i>supra</i> , at ¶ 10.)
(11) The notice should provide additional information explaining what PAGA is.		The Class Notice has been modified accordingly.
		(Supp Han Decl., <i>supra</i> , at ¶ 22; Exhibit 3, <i>supra</i> , at § 11.)
(12) The court prefers that the notice be accompanied by a separate objection form.		(Supp Han Decl., <i>supra</i> , at ¶ 3(d); Exhibit 5.)
(13) The first sentence on page 4 should be revised to state: “The Court has preliminarily approved the appointment of Justice Law Corporation to represent you and all Class Members simultaneously with respect to the Settlement.”		The Class Notice has been modified accordingly.
		(Supp Han Decl., <i>supra</i> , at ¶ 23; Exhibit 3, <i>supra</i> , at § 5.)
(14) The notice should advise the PAGA class members that they will be bound by the PAGA Claims Release even if they do not cash their PAGA payment checks.		The Class Notice has been modified accordingly.
		(Supp Han Decl., <i>supra</i> , at ¶ 24; Exhibit 3, <i>supra</i> , at § 11.)

1 2 3 4 5	(15) In sections 10(D) and 11, the phrase “the Court will resolve” should be revised to state “the Court may review.”	The Class Notice has been modified accordingly. (Supp Han Decl., <i>supra</i> , at ¶ 25; Exhibit 3, <i>supra</i> , at §§ 10(D), 11.)
6 7 8 9 10	(16) The first and last sentences of the second paragraph of section 8 should be removed.	The Class Notice has been modified accordingly. (Supp Han Decl., <i>supra</i> , at ¶ 26; Exhibit 3, <i>supra</i> , at § 8.)
11 12 13 14 15 16 17 18	(17) The settlement administrator’s invoice includes a charge for a Spanish-language translation. Mullins Decl. (ROA 71) Ex. C. Do the notice and related documents need to be translated into any languages other than Spanish? In addition, copies of the certified translation(s) should be filed with the court and attached to the proposed order as exhibits.	(Supp Han Decl., <i>supra</i> , at ¶ 27.)
19 20 21 22 23 24 25 26 27	(18) The notice should state that the settlement administrator will post all key documents on its website, including the operative complaint, the PAGA notice letter(s) to the LWDA, the settlement agreement and any amendments, the class notice and any included forms, the orders granting preliminary and final approval, and the judgment. The judgment should be posted for	The Class Notice has been modified accordingly. (Supp Han Decl., <i>supra</i> , at ¶ 28; Exhibit 3, <i>supra</i> , at § 13.)

1	at least 180 days.	
2	(19) The proposed order should be revised	The Proposed Order has been amended to be consistent with the above-mentioned changes and to adhere to the requirements set forth in the tentative ruling. (Supp Han Decl., <i>supra</i> , at ¶ 29.)
3	consistent with the above.	
4		
5	(20) The title, footer, and document text	
6	(throughout) should also refer to the PAGA	
7	settlement.	
8		
9	(21) The proposed order should include the	
10	settlement amount, the not-to-exceed amounts	
11	to be distributed for attorneys' fees, litigation	
12	costs, enhancement awards and settlement	
13	administration costs, and the PAGA civil	
14	penalties.	
15		
16	(22) The second sentence of paragraph 1	
17	should be removed.	
18		
19	(23) The first sentence of paragraph 2 should	
20	be revised to state: "The court preliminarily	
21	finds that the settlement is fair, adequate and	
22	reasonable, and in the best interests of the	
23	class members." The second, third, and fourth	
24	sentences of paragraph 2 should be removed.	
25		
26	(24) In paragraph 5, "The court preliminarily	
27	finds that" should be added to the beginning	

of the first sentence.

(25) In paragraphs 6, 7 and 12 of the proposed order, the word “preliminarily” should be added before “appointed.”

(26) In paragraph 8, the words “constitutionally sound and” should be removed. The second sentence of paragraph 8 should be removed.

(27) Paragraph 11 should be removed.

(28) The procedures for exclusions, objections and disputes by class members as set forth in the settlement agreement should be stated in the proposed order.

(29) Rather than attempting to restate the releases in their entirety in paragraphs 18 and 19, the parties may prefer to refer to the releases by their defined terms in the settlement agreement.

(30) Paragraphs 20 and 22 should be removed.

(31) Copies of the settlement agreement and

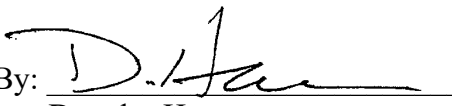
any amendment thereto and the class notice and its accompanying forms should be attached as an exhibit. Certified copies of the translated class notice and forms in Spanish should also be attached to the proposed order as exhibits. The last sentence in paragraph 1 of the proposed order should be revised accordingly.

(32) The proposed order should state that the court retains jurisdiction to enforce the settlement (see Settlement Agreement ¶ O.18.) and include a reference to Civil Procedure Code section 664.6.

(33) The parties should propose a date for the final approval hearing. The court holds final approval hearings on Thursdays at 2:00 p.m. The motion for final approval should be filed and served at least 16 court days before the final approval hearing.

Dated: June 21, 2024

JUSTICE LAW CORPORATION

By: 
Douglas Han
Attorneys for Plaintiffs

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

PROOF OF SERVICE
1013A(3) CCP

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

I am employed in the County of Los Angeles, State of California. I am over the age of 18 and not a party to the within action. My business address is 751 N. Fair Oaks Avenue, Suite 101, Pasadena, California 91103 and my electronic service address is dmather@justicelawcorp.com.

On June 21, 2024, I served the foregoing document described as

**PLAINTIFFS' SUPPLEMENTAL BRIEF IN SUPPORT OF PRELIMINARY
APPROVAL OF CLASS ACTION SETTLEMENT**

for the following case: **Tran v. Byram Healthcare Centers, Inc.**
LWDA/Court Case No.: **LWDA Case No.: LWDA-CM- 924625-22**
Court Case No.: 30-2023-01309069-CU-OE-CXC
Orange County Superior Court

on interested parties in this action by electronically submitting as follows:

State of California
Labor & Workforce Development Agency
800 Capitol Mall, MIC-55
Sacramento, California 95814

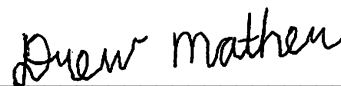
[X] BY ELECTRONIC SUBMISSION

Pursuant to California Senate Bill No. 836, I caused the documents described above to be electronically submitted by and through the procedure stated on the website of the State of California Labor and Workforce Development Agency.

[X] STATE

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

Executed on June 21, 2024, at Pasadena, California.



Drew Mather