

Filed for Consideration: June 23, 2025  
*Without Oral Argument*

IN THE SUPERIOR COURT FOR THE STATE OF WASHINGTON  
IN AND FOR THE COUNTY OF KING

JANE DOE and JOHN DOE, on behalf of  
themselves and all others similarly situated,

Plaintiffs,

v.

VIRGINIA MASON MEDICAL CENTER, and  
VIRGINIA MASON HEALTH SYSTEM,

Defendants.

NO. 19-2-26674-1 SEA

**JOINT MOTION REGARDING:  
(1) PROPOSED AUDIT OF PATIENT  
PORTAL CLAIMS  
(2) PROPOSED SCHEDULE FOR  
SUPPLEMENTAL BRIEFING RE: FINAL  
APPROVAL; AND  
(3) FINAL APPROVAL HEARING DATE**

**I. INTRODUCTION AND RELIEF REQUESTED**

The parties submit this joint motion seeking (1) Court approval of the audit process Virginia Mason<sup>1</sup> has elected to conduct pursuant to Section 2.2(i) of the Settlement Agreement; (2) Court approval of a schedule for Plaintiff to file supplemental briefing regarding the Motion for Final Approval of Class Settlement and the Motion for Attorney’s Fees, Costs and Service Award; and (3) a new Final Approval Hearing date.

<sup>1</sup> “Virginia Mason” refers to Defendants Virginia Mason Medical Center and Virginia Mason Health System.

1 **II. STATEMENT OF FACTS**

2 During the May 23, 2025 Final Approval Hearing, the Court declined to approve the  
3 settlement, providing the parties with an opportunity to present supplemental materials in  
4 support of the settlement. Terrell Decl. ¶ 2.

5 Separately and consistent with Section 2.2(i) of the Settlement Agreement, Virginia  
6 Mason has elected to contest certain Patient Portal claims after identifying 17,936 claims for  
7 Patient Portal benefits from claimants for whom Virginia Mason’s records reflect no portal  
8 account existed during the class period. See Virginia Mason’s previously filed Supplemental  
9 Submission of Plaintiff’s Motion for Final Approval (“Supplemental Submission”), Dkt. 382, Ex. B  
10 (Ex. 1).<sup>2</sup>

11 Accordingly, the parties are filing this joint motion to obtain Court approval for:

- 12 1. The proposed audit process for notifying certain Patient Portal claimants, for  
13 whom no record of a portal account existed during the class period, of (a) their ineligibility to  
14 receive benefits and (b) instructions to dispute the ineligibility determination and an  
15 opportunity to submit additional information to prove their portal use during the class period.
- 16 2. Following completion of the audit process, a schedule for further briefing on final  
17 approval and Plaintiff’s motion for attorneys’ fees, costs, and service award; and
- 18 3. A date for a further Final Approval Hearing.

19 **III. STATEMENT OF ISSUES**

20 Whether the Court should (1) approve the process for Virginia Mason’s audit of Patient  
21 Portal claims as previously set forth in Virginia Mason’s Supplemental Submission; (2) following  
22 completion of the audit process, set a schedule for further briefing on the Motion for Final  
23 Approval of Class Settlement and the Motion for Attorney’s Fees, Costs and Service Award; and  
24 (3) schedule a Final Approval Hearing.

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<sup>2</sup> This settlement has a relatively high claims rate, approximately 8.20%.

1 **IV. EVIDENCE RELIED UPON**

2 The parties rely upon the declarations of Beth E. Terrell and Virginia Mason’s prior  
3 Supplemental Submission, comprised of the Declarations of Virginia Mason personnel Kristine  
4 Skelton and Katherine Brown, and the associated data and methodologies attached thereto  
5 (see Exs. A-C to Virginia Mason’s Supplemental Submission).

6 **V. ARGUMENT**

7 **A. Introduction**

8 During the May 23, 2025 Final Approval Hearing, the Court deferred ruling on the  
9 Motion for Final Approval but invited further submission on Plaintiff’s request for attorneys’  
10 fees, seeking information from both parties that may bear on the reasonableness of the fees  
11 requested. Terrell Decl. ¶ 2. Following the hearing, the Parties conferred on the best procedure  
12 for submission of additional briefing on the issues identified by the Court. *Id.* ¶ 3. The Parties  
13 jointly propose that the most efficient procedure is to finalize the audit process pursuant to  
14 Section 2.2(i) so that the aggregate amount of all claims as well as the value of each individual  
15 claim under the Settlement Agreement is known, as that information is relevant to the Court’s  
16 consideration of final approval of the settlement and Class Counsel’s request for attorneys’ fees  
17 and costs.

18 **B. Virginia Mason’s proposed audit of Patient Portal Subclass claims**

19 Under Section 2.2(i) of the Settlement Agreement, Virginia Mason “is entitled to contest  
20 any Patient Portal Subclass claims if its records do not reflect” that the claimant was a portal  
21 user during the class period. The Settlement Agreement also provides Patient Portal claimants  
22 whose eligibility has been contested “an opportunity to cure by providing additional  
23 information to the Settlement Administrator.” Terrell Decl. Ex. 1 (Settlement Agreement)  
24 § 2.2(i). The Settlement Administrator makes a “final, binding determination” of eligibility based  
25 on the information submitted. *Id.*

1 Accordingly, on May 22, 2025, Virginia Mason submitted its Supplemental Submission,  
2 providing information about its election to contest certain claims for portal benefits pursuant to  
3 Section 2.2(i) of the Settlement Agreement. As reflected in the Supplemental Submission:

- 4 1. Virginia Mason identified 17,936 claims for portal benefits from claimants for  
5 which Virginia Mason's records reflect no portal account existed during the class  
6 period.
- 7 2. The methodologies used in making that determination are described in the  
8 declarations of Kathleen Brown and Kristine Skelton, attached as Exhibits A and B  
9 to the Supplemental Submission (as well as associated data, attached as Exhibits  
10 1-2 to the Skelton Declaration).
- 11 3. Virginia Mason's underlying data supporting the contested portal claims has  
12 been submitted to the Settlement Administrator, pursuant to paragraph 2.2(i) of  
13 the Settlement Agreement.
- 14 4. The proposed deficiency letter to these claimants is attached to the  
15 Supplemental Submission as Exhibit C, inviting any claimant who disputes the  
16 ineligibility determination to submit additional information.
- 17 5. No claimant will be deprived of settlement benefits completely as a result of the  
18 deficiency process. If the claimant is deemed ineligible for portal benefits, the  
19 claim will simply be reduced to \$45, representing a valid claim for benefits  
20 associated with the use of the public website (to the extent the portal claimant  
21 also claimed medical related use of the public website during the class period).<sup>3</sup>

18 The outcome of the audit and cure process will determine the full amount claimed and  
19 approved for each of the Settlement Classes. As the Court will recall, the Settlement Agreement  
20 requires Virginia Mason to pay \$3,500,000 to establish a non-reversionary Settlement Fund to  
21 pay Settlement Class Members' claims. If claims exceed that amount, Virginia Mason will pay an  
22 additional amount of up to \$3,250,000. Settlement Class Members were able to file claims  
23 attesting that they logged into the patient portal during the class period, that they accessed the  
24 Virginia Mason website during the class period, or both. Valid Patient Portal claims would  
25 receive \$90 payments, Public Website User claims would receive \$45, and Patient Portal users

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27 <sup>3</sup> Under the Settlement, valid Patient Portal claims receive \$90 payments, Public Website User  
claims receive \$45, and Patient Portal users who also used the public website receive \$135.

1 who also used the public website would receive \$135. If valid claims exceed \$6,750,000, all  
2 claims will be reduced *pro rata* while preserving the 2:1 ratio of Patient Portal payments to  
3 Public Website User payments. Terrell Decl. Ex. 1 (Settlement Agreement) §§ 2.1, 2.2(a) - (f).

4 Because of the high claims rate from portal user claimants (approximately 17.6% of the  
5 approximate total number of the eligible number of portal accounts), *absent the completion of*  
6 *the proposed audit process*, under section 2.2(f) of the Settlement Agreement the payments to  
7 Settlement Class Members would be reduced *pro rata* from \$90 to \$75.14 for Patient Portal  
8 Subclass Claims, from \$45 to \$37.57 for Public Website User Subclass Claims, and from \$135 to  
9 \$112.71 for Combined Portal and Website Claims. But with the completion of the audit,  
10 Settlement Class Members *with valid claims* are projected to receive the full amounts stated  
11 under the Settlement Agreement (\$45, \$90, and \$135, as applicable).

12 This chart summarizes the number of valid claims of each type and the settlement  
13 payment amounts calculated by the settlement administrator pre-audit:

14 <b>Claim Type</b>	<b>Number of Valid</b>	<b>Payment Amount</b>	<b>Total (pre-audit)</b>
	<b>Claims</b>	<b>(pre-audit)</b>	
15 Patient Portal Subclass	6,599	\$75.14	\$ 495,848.86
16 Claims			
17 Public Website User Subclass	2,671	\$37.57	\$ 100,349.47
18 Claims			
19 Combined Portal + Website	54,596	\$112.71	\$ 6,153,515.16
20 Claims			
<b>Totals</b>	<b>63,866</b>		<b>\$ 6,749,713.49</b>

21 The Settlement Administrator has provided the following summary of the potential  
22 impact of the audit on the claims if none of the Patient Portal claims that Virginia Mason is  
23 contesting are cured and the Settlement Administrator deems them ineligible to receive Portal  
24 Payments (i.e., none of the claimants are able to show they were portal users during the class  
25 period):  
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Claim Type	Number of Valid Claims (post-audit projection)	Payment Amount (post-audit projection)	Total (post-audit projection)
Patient Portal Subclass Claims	4,630	\$ 90.00	\$ 416,700.00
Public Website User Subclass Claims	20,541	\$ 45.00	\$ 924,345.00
Combined Portal + Website Claims	38,695	\$ 135.00	\$ 5,223,825.00
<b>Totals</b>	<b>63,866</b>		<b>\$ 6,564,870.00</b>

Thus, the outcome of the audit could change not only the individual payment amounts for each type of claim, but also the total amount of Settlement Funds that Virginia Mason must ultimately pay.

The Settlement Agreement is silent with respect to the details of the audit process, including the mechanics of providing notice to the Patient Portal claimants whose claims Virginia Mason intends to contest and the process for those claimants to provide information to the Settlement Administrator to show their use of the portal during the class period.

Accordingly, the parties seek Court approval of the following proposed audit process, which was detailed in Virginia Mason’s Supplemental Submission, but is expanded further below:

Claim Determination Notice. The Settlement Administrator will send a Claim Determination Notice via email (and mail if the email is undeliverable) to the 17,936 Patient Portal claimants for whom Virginia Mason’s records reflect no portal account existed during the class period. The proposed Notice is attached as Exhibit C to Virginia Mason’s Supplemental Submission. Dkt. 382, Ex. C.

Cure period. Claimants will have 45 days from the date the Settlement Administrator sends the Claim Determination Notice to submit information to the Settlement Administrator supporting their status as a patient portal user during the class period. As described in the proposed Claim Determination Notice, “Additional information may include, but is not limited to (1) all variations of your first, middle, and last name from 2014 to present that may have

1 been provided to Virginia Mason; (2) any email address that may have been used in connection  
2 with the patient portal or your patient care at Virginia Mason; or (3) your Medical Record  
3 Number (MRN) for Virginia Mason, which can be found on visit history or similar documents  
4 available on your portal account that reflect a unique 'ID.'" Claimants will be able to submit this  
5 information securely through the Settlement Website, by email, and by mail, and will be  
6 informed that they may redact any health-related information from their submission.

7 Reminder Notices. The Settlement Administrator will send at least two email reminder  
8 notices to these claimants during the 45-day cure period. Claimants with questions can call the  
9 Settlement Administrator toll-free and can speak to a live operator if they choose. The  
10 Settlement website will be updated with the details of the audit process.

11 Final determination. Consistent with Section 2.2(i) of the Settlement Agreement, the  
12 Settlement Administrator will make a final, binding determination on the validity of the  
13 contested claims after the 45-day cure period has elapsed and will then calculate the  
14 settlement payment amounts for each claim type, reducing the payment amounts *pro rata* if  
15 the claims total more than \$6.75 million.

16 **C. Proposed schedule for audit process, further briefing and Final Approval Hearing**

17 Since Virginia Mason has elected to exercise its audit rights and the results of that audit  
18 will determine the total amounts paid to Settlement Class Members, Plaintiff proposes filing a  
19 supplemental brief in support of final approval of the class settlement and request for  
20 attorneys' fees, costs and service award after the audit process is complete.

21 Plaintiff proposes the following schedule:

Event	Date
Settlement Administrator sends Claim Determination Notice to claimants whose Patient Portal Claims Virginia Mason is challenging	June 30, 2025
Deadline for claimants to submit information showing patient portal account during class period	August 15, 2025

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Event	Date
Plaintiff files supplemental brief in support of Motion for Final Approval of Class Settlement and Motion for Attorneys' Fees, Costs, and Service Award	September 5, 2025
Final Approval Hearing	At the Court's convenience but no earlier than Sept. 12.

**VI. CONCLUSION**

The parties respectfully request the Court enter an Order approving the audit process and Claim Determination Notice, setting a schedule for further briefing, and setting the Final Approval Hearing.

RESPECTFULLY SUBMITTED AND DATED this 18th day of June, 2025.

*I certify that this memorandum contains 1,976 words, in compliance with the Local Civil Rules.*

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**DECLARATION OF SERVICE**

I, Beth E. Terrell, hereby certify that on June 18, 2025, I caused true and correct copies of the foregoing to be served via the means indicated below:

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

DATED this 18th day of June, 2025.

By: /s/ Beth E. Terrell, WSBA #26759  
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