

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

**REVISED [PROPOSED] ORDER GRANTING  
FINAL APPROVAL OF CLASS SETTLEMENT**

The Court has considered Plaintiff's Motion for Final Approval of Settlement; Motion for Award of Attorneys' Fees, Litigation Costs, and Service Award; the record in this matter; the single objection received from a Settlement Class Member; the Settlement Administrator's declarations regarding compliance with the Notice Program and claim process; and the arguments presented by counsel at the Final Approval Hearings on May 23, 2025 and November 26, 2025.

Therefore, being fully advised, the Court FINDS and ORDERS as follows:

1. Unless defined herein, all capitalized terms in this Final Approval Order shall have the same meanings as set forth in the Settlement Agreement (Doc. 364 Ex. 1).

**ORIGINAL**

1           2.     The Court has jurisdiction over the subject matter of the litigation and over the  
2 settling parties, including the Settlement Class Members.

3           3.     On December 27, 2024, the Court preliminarily approved the settlement (Doc.  
4 365).

5           4.     Notice. The Settlement Administrator, Eisner Advisory Group, LLC (EAG),  
6 disseminated Email and Postcard Notices to the Settlement Class on January 27, 2025. A total of  
7 95.5% of the patients on the notice list that Virginia Mason provided to EAG received direct  
8 notice by email, postcard, or both. Doc. 377. The Notice Program, as implemented by EAG in  
9 compliance with the Court's Order Granting Plaintiffs' Unopposed Motion for Preliminary  
10 Approval of Class Action Settlement (Doc. 365 ¶¶ 6-8), fully and accurately informed all  
11 Settlement Class Members entitled to notice of the settlement and the material terms of the  
12 settlement; provided individual notice to all members of the Settlement Class who could be  
13 identified through reasonable effort; provided an opportunity for Settlement Class Members to  
14 object to or exclude themselves from the settlement; constituted the best notice practicable  
15 under the circumstances; constituted valid, due, and sufficient notice; complied fully with Civil  
16 Rule 23(c)(2); and satisfied the requirements of due process under Washington law, the United  
17 States Constitution, and any other applicable laws.

18           5.     Claims. Following notice, a process for claimants to cure deficient notices, and  
19 Virginia Mason's audit of the patient portal claims as approved by the Court (Doc. 395), the  
20 Settlement Administrator approved a total of 63,914 claims, including 4,806 Patient Portal User  
21 Claims; 18,975 Public Website Claims; and 40,133 combined Website and Portal Claims. These  
22 claims are APPROVED.

23           6.     Exclusions. Settlement Class Members had an opportunity to exclude themselves  
24 from the Settlement. Thirty-eight Settlement Class Members timely requested exclusion from  
25 the Settlement. The Court APPROVES those exclusion requests. Three exclusion requests were  
26 untimely. The Court ~~APPROVES~~ [APPROVES]/[REJECTS] the untimely exclusion requests. The individuals  
27 listed on Exhibit A and B to the Declaration of Beth E. Terrell in Support of Motion for Final

1 Approval of Settlement (Dkt. 376) are excluded from the Settlement Class and are not bound by  
2 the release in the Settlement Agreement.

3 7. Approval of the settlement. Approval of the settlement, as set forth in the  
4 Settlement Agreement, is fair, reasonable, adequate, and in the best interests of the Settlement  
5 Class, in all respects.

6 8. The settlement is the result of arm's-length negotiations conducted in good faith  
7 by attorneys who are familiar with the legal and factual issues of the litigation and with  
8 substantial experience litigating consumer class actions and similar privacy class actions. The  
9 parties were assisted in their negotiations by a neutral and experienced third-party mediator.

10 9. Plaintiff John Doe and Class Counsel have adequately represented the  
11 Settlement Class Members.

12 10. The Settlement is an excellent result for Settlement Class Members. Defendants  
13 agreed to pay \$3,500,000 to establish a non-reversionary Settlement Fund to pay Settlement  
14 Class Members' claims, with an additional amount of up to \$3,250,000 if claims exceeded that  
15 amount. A total of 63,914 Settlement Class Members submitted valid claims, which equals 8.8%  
16 of the Virginia Mason patients who received notice of the settlement. This claims rate is  
17 commendable for a consumer class action. *See Summers v. Sea Mar Cmty. Health Centers*, 29  
18 Wn. App. 2d 476, 486, 496 (2024), *rev. denied*, 549 P.3d 112 (Wash. 2024) (affirming approval  
19 of settlement with 0.5% claims rate and citing cases recognizing that "response rates in class  
20 actions generally range from 1 to 12 percent, with a median response rate of 5 to 8 percent"  
21 and "consumer claim filing rates rarely exceed seven percent, even with the most extensive  
22 notice campaigns" (citations omitted)).

23 11. Settlement Class Members who submitted valid claims will receive the full  
24 amount of Virginia Mason's agreed payments: \$90 for Patient Portal Claims, \$45 for Public  
25 Website Claims, and \$135 for combined Portal and Website Claims. In total, Virginia Mason will  
26 pay \$6,704,370 to Settlement Class Members who submitted valid claim forms.

*temporary*

1 12. The settlement also provides ~~meaningful~~ equitable relief that will benefit all  
2 Settlement Class Members and future patients. Virginia Mason agrees to maintain a Web  
3 Governance Committee to monitor its use of analytics and advertising technologies on its  
4 website and patient portal. For two years, Virginia Mason will not use Meta Pixel, Google  
5 Analytics, Google Ads, Google DoubleClick, The TradeDesk, or Twitter/X Pixel source code on its  
6 websites unless the Web Governance Committee determines it complies with applicable laws  
7 and Virginia Mason discloses that the tool, identified by name, is being used on the website.  
8 Plaintiff's damages expert Gary Olsen estimates the total value of the browsing history and  
9 patient information Virginia Mason agrees to refrain from transmitting to third parties is  
10 between \$10,224,417 and \$11,173,444 based on the average number of unique patient portal  
11 logins per month. *The Court disagrees with Mr. Olson's valuation.*

*For reason  
previously  
explained.*

12 13. Objection is overruled. Only one Settlement Class Member objected to the  
13 settlement, saying she experienced identity theft and the settlement payments are too small  
14 considering the stress she has suffered from the identity theft (Doc 376 Ex. C). This is not a  
15 typical data breach case and this settlement does not involve the type of wrongdoing that this  
16 objector appears to have experienced. The Court therefore overrules the sole objection to the  
17 settlement.

18 14. The consideration provided by the settlement constitutes fair value given in  
19 exchange for the release of the Settlement Class Members' Released Claims against the  
20 Released Persons. The Court finds that the consideration provided to the Settlement Class  
21 Members is reasonable, considering the facts and circumstances of the claims and defenses  
22 asserted in the action, and the potential risks and likelihood of success of continued litigation.

23 15. Attorneys' fees. The Court has considered Plaintiff's motion for attorneys' fees,  
24 litigation costs, and service award, and all supporting materials, as well as counsel's argument  
25 at the May 23, 2025, and November 26, 2025, hearings. Docs. 367-371, 406-412, 420-422. On  
26 January 28, 2026, the Court entered Findings of Fact and Conclusions of Law Re: Attorney's Fees  
27 and Litigation Cost, finding 6,740 hours of attorney and paralegal time to be reasonable, setting

1 blended rates for the attorneys and paralegals who worked on the case, requesting that Class  
2 Counsel file an updated lodestar amount using these rates, and inviting Class Counsel to file a  
3 brief explaining why they believe a multiplier on the resulting lodestar is appropriate. Doc. 419.  
4 Class Counsel filed their updated lodestar amount of \$4,632,317.50 based on the Court's  
5 blended rates and 6,740 hours of work, Doc. 420, and filed a brief requesting a multiplier of  
6 1.08 on this lodestar amount, Doc. 421-422. *The Court finds this amount is*

~~7 16. The Court approves a fee of \$ \_\_\_\_\_, which represents a multiplier  
8 of \_\_\_\_\_ on Class Counsel's lodestar. The multiplier compensates Class Counsel for the  
9 contingent nature of their fee and associated risk of no recovery, and their high-quality work on  
10 this case. *Bowers v. Transamerica Title Ins.*, 100 Wn.2d 581, 601 (1983). *reasonable and Class Counsel has failed to establish a multiplier is appropriate under the facts and circumstances here. Multipliers are the exception, not the rule.*~~

11 17. Litigation Costs. The Court finds that Class Counsel's request for \$378,601 in  
12 litigation costs is adequately supported and reasonable. Doc. 419 ¶ 20.

13 18. Service Award. The Court finds that a \$10,000 service award appropriately  
14 recognizes Plaintiff's contribution and approves the award. Doc. 419 ¶ 20.

15 IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED THAT:

16 19. The settlement is finally approved as fair, reasonable, adequate, just, and in  
17 compliance with all applicable requirements of the applicable laws, and in the best interest of  
18 the Settlement Class. The Settlement Agreement, which shall be deemed incorporated herein,  
19 and all terms of the settlement are finally approved and shall be performed in accordance with  
20 the terms and provisions thereof, except as amended by any subsequent order issued by the  
21 Court.

22 20. Defendants shall pay \$6,704,370 into the Settlement Fund to pay approved  
23 claims and implement the equitable relief required by the Settlement Agreement.

24 21. Defendants shall pay the attorneys' fees, litigation costs, and service award no  
25 later than 30 days after the Effective Date of the settlement, as provided in the Settlement  
26 Agreement.

27 22. The Court reserves exclusive and continuing jurisdiction over the litigation and

1 the parties for the purposes of, among other things, (i) supervising the implementation,  
2 enforcement, construction, and interpretation of the Settlement Agreement, the Final Approval  
3 Order, and the Final Judgment; and (ii) supervising the administration and distribution of the  
4 relief to the Settlement Class and resolving any disputes that may arise with regard to the  
5 foregoing.

6 23. Plaintiff, Settlement Class Members, and their successors and assigns have  
7 released claims against the Released Persons as set forth in the Release in the Settlement  
8 Agreement. The Released Claims are compromised, settled, released, discharged, and  
9 dismissed with prejudice by virtue of these proceedings and this Final Approval Order.

10 24. The Final Judgment and Settlement Agreement do not constitute an admission  
11 of liability by any party, or evidence of any liability or wrongdoing by any party.

12 25. Subject to the reservation of jurisdiction above, the Court hereby DISMISSES the  
13 litigation WITH PREJUDICE, with the parties to bear their own costs and attorneys' fees, except  
14 as expressly provided for in the Settlement and this Order.

15 Finding that there is no just reason for delay, the Court orders that this Final Approval  
16 Order shall constitute a final judgment pursuant to CR 58 that is binding on the settling parties  
17 and the Settlement Class Members who have not been excluded.

18 IT IS SO ORDERED.

19 DATED this 7<sup>th</sup> day of April, 2020, 2025.

20  
21   
THE HONORABLE MICHAEL K. RYAN

22 Presented by:

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