

THE HONORABLE MICHAEL K. RYAN
Department 37
Hearing Date: May 23, 2025
Hearing Time: 11:00 a.m.
With 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

**DECLARATION OF BETH E. TERRELL IN
SUPPORT OF PLAINTIFF'S MOTION FOR
ATTORNEYS' FEES, LITIGATION COSTS,
AND SERVICE AWARD**

I, Beth E. Terrell, declare as follows:

1. I am a member of the law firm of Terrell Marshall Law Group PLLC and co-counsel of record for Plaintiff in this matter. I am admitted to practice before this Court and am a member in good standing of the bars of the states of Washington and California. I respectfully submit this declaration in support of Plaintiff's Motion for Attorneys' Fees, Litigation Costs, and Service Award. Except as otherwise noted, I have personal knowledge of the facts set forth in this declaration and could testify competently to them if called upon to do so.

Terrell Marshall's Work on this Case

2. Terrell Marshall was involved in every aspect of this case, in addition to serving as local counsel with responsibility for filings, communicating with the Court, and remaining responsible for the overall litigation.

1 3. Terrell Marshall attorneys and staff worked closely with Jay Barnes and the other
2 legal team members on case strategy and management. Among other things, Terrell Marshall
3 brought its experience with class actions, privacy cases, Washington law, and local practice,
4 including trials in King County and other Washington courts, to the team.

5 4. Terrell Marshall attorneys participated in investigating the facts and developing
6 the legal claims, as well as drafting the initial and amended complaints. The initial investigation
7 spanned several months due to the technological issues involved, the expert analysis required,
8 and the need to creatively apply existing Washington law to new technology.

9 5. Terrell Marshall played a key role in discovery, including overall strategy and
10 implementation of that strategy. We assisted with drafting discovery requests to Virginia
11 Mason and subpoenas to third parties, conferring with Virginia Mason’s counsel and counsel for
12 third parties, reviewing documents, and preparing for and taking depositions. Terrell Marshall
13 also worked with the plaintiffs on responding to discovery, locating and producing documents,
14 and preparing for their depositions.

15 6. Terrell Marshall attorneys took the lead on or significantly contributed to every
16 brief filed in this case. We assisted with the response to Virginia Mason’s first motion to dismiss
17 and drafted the response to Virginia Mason’s second motion to dismiss. We worked closely
18 with SHC on the motion for class certification, and drafted the multiple appellate briefs that
19 followed the Court’s certification order. We worked on the notice briefing and with the notice
20 administrator to devise an appropriate class notice plan. We drafted the motion for emergency
21 relief necessitated by Virginia Mason’s posting of a website notice that was not approved by
22 the Court. We drafted the response to Virginia Mason’s motion to continue the trial and to
23 require Plaintiffs to file a trial plan. We took the lead on briefing the motion for partial
24 summary judgment and the response to Virginia Mason’s motion for summary judgment, and
25 drafted the response to Virginia Mason’s motion to decertify the Class. We drafted the motion
26 for preliminary approval and this motion, and will draft the motion for final approval of the
27 settlement.

1 7. I attended all of the hearings in this case and argued the motion for discretionary
2 review before the Washington Supreme Court Commissioner and the notice plan issues. Ryan
3 Tack-Hooper argued Virginia Mason’s second motion to dismiss.

4 8. The parties mediated on February 20, 2024, with Judge Laura Inveen. Terrell
5 Marshall prepared the mediation letter. Although we did not resolve the case at the mediation,
6 we continued negotiations with Judge Inveen’s assistance. I took the lead on those negotiations
7 for Class Counsel. After the parties reached a settlement, we worked with defense counsel to
8 draft the settlement agreement and class notices.

9 9. We were preparing for trial when we negotiated the settlement. The Court’s
10 orders on summary judgment and VM’s motion for decertification had narrowed the issues,
11 and we worked with the other team members on trial strategy, drawing on our experience with
12 trials in King County courts. We implemented systems and procedures we have recently used
13 for trial in this case, prepared pretrial documents, assisted with compiling and organizing
14 evidence, and identifying and interviewing potential trial witnesses. We took the lead on
15 following up with Virginia Mason on outstanding discovery issues. We drafted a trial plan that
16 we were preparing to file with the Court when the parties reached agreement on the
17 settlement.

18 10. Terrell Marshall took the lead on implementation of the settlement, including
19 working with the Settlement Administrator and defense counsel on the notice and claims
20 process and responding to class member inquiries about the case and settlement. If the Court
21 grants final approval of the settlement, we will continue this work until the settlement has been
22 fully implemented, including reporting to the Court.

23 **Class Members’ Positive Response to the Settlement**

24 11. The Settlement Administrator reports that as of February 25, Class members
25 have submitted 43,307 claim forms, representing \$5,485,770 in payments. More than 4,380
26 Class members have contacted the Settlement Administrator, and at least 30 Class members
27 have contacted Class Counsel. No Class member has objected to date. Class Counsel will

1 provide the Court with complete information after the April 28 deadline to submit claims,
2 object and opt out.

3 **Terrell Marshall's Experience**

4 12. Terrell Marshall is a law firm in Seattle, Washington, that focuses on complex
5 civil and commercial litigation with an emphasis on consumer protection, product defect, civil
6 rights, and wage and hour cases. Terrell Marshall has been appointed lead or co-lead counsel
7 representing multi-state and nationwide classes in state and federal court in Washington and
8 throughout the United States. Since its founding in 2008, the attorneys at Terrell Marshall have
9 represented scores of classes, tried class actions in state and federal court, and obtained
10 hundreds of millions of dollars in monetary relief for workers, consumers, and other individuals.

11 13. I am a founding member of Terrell Marshall. With almost thirty years of
12 experience, I concentrate my practice in complex litigation, including the prosecution of multi-
13 plaintiff, collective, mass and class litigation and arbitration on behalf of consumers and
14 workers. I have served as co-lead counsel on multi-state and nationwide class actions, resulting
15 in hundreds of millions of dollars in settlements for consumers and workers. I also represent
16 individual employees with discrimination, sexual harassment, trade secret and restrictive
17 covenant claims.

18 14. I received a B.A., magna cum laude, from Gonzaga University in 1990. In 1995, I
19 received my J.D. from the University of California, Davis School of Law, Order of the Coif. Prior
20 to forming Terrell Marshall in May 2008, I was a member of Tousley Brain Stephens PLLC. I am a
21 frequent speaker at legal conferences on a wide variety of topics including consumer class
22 actions, employment litigation, and electronic discovery, and I have been awarded an "AV"
23 rating in Martindale Hubble by my peers. I have tried and won cases in state and federal courts
24 and argued before the Washington State Court of Appeals and the Washington State Supreme
25 Court as well as several federal circuit level courts. Recently, I was co-lead counsel with my
26 partner Toby Marshall in an employment case brought by five current and former University of
27

1 Washington police officers that resulted in a nearly \$16.7 million jury verdict in December 2023.
2 Three months later, Judge Wyman Yip entered a total judgment of over \$25,664,159.

3 15. I am actively involved in the legal community and have historically served on,
4 and chaired, a number of non-profit boards. Most recently, I served as the President of the
5 Public Justice Foundation Board of Directors from July 2019 to July 2020, and I Chair both the
6 Northwest Consumer Law Center and the Washington Employment Lawyers Association. I am
7 also Co-Chair of PLI's Consumer Financial Services Institute and am a fellow of the American
8 College of Consumer Financial Services Lawyers. In 2023, I was awarded the National Consumer
9 Law Center's Vern Countryman Award, recognizing special contributions to consumer law. I
10 have also been repeatedly named to the Top 100 Washington Super Lawyers list and the Top 50
11 Women Super Lawyers list.

12 **A. Qualification of other Terrell Marshall attorneys and senior paralegals**

13 16. **Amanda Steiner** became a member of Terrell Marshall in 2015. She practices
14 complex litigation, including the prosecution of consumer, defective product, wage and hour,
15 and civil rights class actions. Ms. Steiner received her J.D. from the UC Berkeley School of Law in
16 1997. Admitted in Washington, California, New York, and Hawaii, she has authored briefs that
17 have resulted in numerous favorable decisions for plaintiffs in high-profile and complex
18 securities, antitrust, consumer and civil rights class action in federal and state courts
19 throughout the United States. Ms. Steiner was selected for inclusion in the annual Northern
20 California "Super Lawyers" list and was named to the Top 50 Women Lawyers of Northern
21 California. She is a Fellow of the American Bar Foundation.

22 17. **Ryan Tack-Hooper** has been a member of Terrell Marshall since 2020. He
23 concentrates on class actions to protect employees, consumers, and people whose civil rights
24 have been violated. He has led successful privacy, employment, and consumer protection
25 litigation across the country in state and federal courts. In 2009, Mr. Tack-Hooper received a
26 J.D., cum laude, from New York University School of Law. Before joining Terrell Marshall, Mr.
27 Tack-Hooper was the Legal Director of the American Civil Liberties Union of Delaware, where he

1 practiced civil rights law. He has also served as an adjunct professor of law at the University of
2 Pennsylvania Law School, where he taught legal writing. He was a law clerk to the Honorable
3 Jerome B. Simandle, Chief Judge of the United States District Court for the District of New
4 Jersey.

5 18. **Ben Drachler** is a senior associate who joined Terrell Marshall in 2017. Mr.
6 Drachler concentrates his practice on complex civil litigation, including the prosecution of
7 consumer, defective product, and wage and hour class actions. Mr. Drachler also litigates
8 complex disputes involving vulnerable adults and trusts and estates. Mr. Drachler received his
9 J.D. from Seattle University, graduating magna cum laude in 2015. Before joining Terrell
10 Marshall, Mr. Drachler served as law clerk to the Honorable Robert H. Whaley in the United
11 States District Court for the Eastern District of Washington, and to the Honorable Thomas S.
12 Zilly in the Western District of Washington.

13 19. **Eden Nordby** joined Terrell Marshall as an associate in 2021. Ms. Nordby
14 concentrates her practice on complex civil litigation, including consumer protection, and wage
15 and hour class actions. Ms. Nordby also litigates commercial disputes and matters involving
16 trusts and estates. Ms. Nordby received her J.D. from the University of Washington in 2021.
17 During law school Ms. Nordby served as Executive Managing Editor of the Washington Journal
18 of Environmental Law and Policy. She received the WSBA Labor & Employment Section 2019
19 Summer Grant for her public service work and commitment to labor and employment issues.
20 Ms. Nordby is trained as a mediator and successfully mediated a number of individual civil
21 matters through the UW School of Law Mediation Clinic. Before joining the firm as an attorney,
22 Ms. Nordby was a senior paralegal at Terrell Marshall from the time the firm opened in 2008
23 until starting law school in 2018.

24 20. **Jennifer Boschen** is a senior paralegal at Terrell Marshall with more than 24
25 years of experience in the legal field.

26 21. **Jodi Nuss** is a senior paralegal at Terrell Marshall with more than 13 years of
27 experience in the legal field.

1 22. **Heather Brown** is a paralegal at Terrell Marshall with more than 20 years of
2 experience in the legal field.

3 **B. Other cases litigated by Terrell Marshall**

4 23. Examples of privacy and consumer class actions that Terrell Marshall is litigating
5 or has litigated to successful completion include:

- 6 a. *In re Meta Pixel Healthcare Litig.*—Filed in 2022 on behalf of a
7 nationwide class of Facebook users whose confidential health
8 information Meta collected via its data collection tools,
9 including the Meta Pixel and SDK. Plaintiffs defeated two
10 motions to dismiss their claims, and the action is currently
11 pending in the Northern District of California.
- 12 b. *Tokarski v. Med-Data*—Filed in 2021 on behalf of a nationwide
13 class of consumers whose personal and medical information
14 was compromised as a result of a breach of defendant’s
15 electronic information systems. The Southern District of Texas
16 granted final approval of the \$7 million settlement on
17 September 11, 2024.
- 18 c. *Brauer v. ExamOne World Wide Inc.*—Filed in 2022 on behalf of
19 consumers who were denied life insurance because of errors in
20 ExamOne’s consumer reports. The Central District of California
21 recently certified the class.
- 22 d. *Williams v. PillPack LLC*—Filed in 2019 on behalf of consumers
23 who received calls selling pharmacy services on their cell
24 phones and residential telephones without their prior express
25 consent. The Western District of Washington preliminarily
26 approved the \$6.5 million proposed settlement on September
27 17, 2024.
- e. *Blankenship v. HAPO Community Credit Union*—Filed in 2019 on
 behalf of account holders HAPO charged excessive overdraft
 fees. The Benton County Superior Court granted final approval
 of the \$4.5 million settlement on February 3, 2023.
- f. *Marical v. BECU*—Filed in 2019 on behalf of account holders
 charged excessive overdraft fees. The King County Superior
 Court granted final approval of the \$6 million settlement on
 September 27, 2021.
- g. *Carrillo v. Wells Fargo Bank, N.A.*—Filed in 2018 on behalf of
 borrowers who allege Wells Fargo charged them interest rates
 on residential loans that were higher than the rates disclosed in

1 the bank's buydown agreements and closing disclosures. The
2 Eastern District of New York granted final approval of the
\$6,945,095 settlement on August 19, 2021.

- 3 h. *Jammeh et al. v. HNN Associates LLC*—Filed in 2019 on behalf of
4 low-income tenants who alleged a large landlord improperly
5 retained their security deposits and a debt collector collected
6 impermissible interest on their accounts. The Western District
7 of Washington certified a litigation class and denied defense
8 motions for summary judgment. The court granted final
9 approval of a \$1.6 million settlement on June 9, 2021. The
10 settlement also required the debt collector to correct credit
11 reporting, enter partial satisfactions of judgment, and cease
12 collecting interest on class member accounts.
- 13 i. *Abante Rooter & Plumbing, Inc., et al. v. Alarm.com Inc., et al.*—
14 Filed in 2015 on behalf of consumers who received solicitation
15 calls on their cellular and residential telephones without their
16 prior express consent. The Northern District of California
17 granted final approval of the \$28 million settlement on August
18 15, 2019.
- 19 j. *Snyder v. Ocwen Loan Servicing, LLC*—Filed in 2014 on behalf of
20 consumers who received automated collection calls on their
21 cellular telephones without their prior express consent. The
22 Northern District of Illinois granted final approval of the \$21.5
23 million settlement on May 14, 2019.
- 24 k. *Jordan v. Nationstar Mortgage, LLC*—Filed in 2012 on behalf of
25 Washington homeowners who were improperly locked out of
26 their homes by their mortgage lender. The Eastern District of
27 Washington granted final approval of a \$17 million settlement
on May 2, 2019.
- l. *In re Monitronics International, Inc. Telephone Consumer
Protection Act Litigation*—Filed in 2011 on behalf consumers
who received automated, prerecorded solicitation calls on their
residential and telephones without their prior express consent.
Terrell Marshall served as co-lead counsel in the multidistrict
litigation. The Northern District of West Virginia granted final
approval of the \$28 million settlement on June 12, 2018.

24. Additional information about class actions litigated by Terrell Marshall is
available on our website, www.terrellmarshall.com.

1 **Terrell Marshall’s Attorneys’ Fees and Costs**

2 25. Since the beginning of this case, Terrell Marshall has worked with no guarantee
3 of being compensated for its time and efforts. Payment of Terrell Marshall’s fees and incurred
4 litigation costs has always been contingent on successfully obtaining relief for the Plaintiff and
5 class members. As a result, there was a substantial risk of non-payment, particularly in light of
6 the challenges inherent in this type of case. The firm’s work on this case has necessarily been to
7 the exclusion of work on other matters that likely would have generated fees. Terrell Marshall
8 has also been denied use of the fees it earned over the course of this case.

9 **A. Terrell Marshall’s lodestar**

10 26. I reviewed the firm’s contemporaneous billing records and reduced and
11 eliminated time where appropriate. We eliminated time that was administrative in nature, or
12 that appeared to be redundant or inefficient. We also removed time billed by attorneys and
13 staff members who devoted fewer than ten hours to the case. Terrell Marshall handled much of
14 the administrative work in this case, including service and filing, calendaring, coordinating
15 schedules, and administrative work related to trial preparation, and we removed a significant
16 amount of time spent on those tasks. In total, we removed 550 hours and over \$240,000 in
17 lodestar from Terrell Marshall’s time. The remaining time was reasonably necessary to litigate
18 this case and secure a settlement on behalf of Plaintiff and the Class.

19 27. The work performed by senior paralegals Jennifer Boschen, Jodi Nuss, and
20 Heather Brown was work that I or an attorney would have had to perform absent their
21 assistance. Their work required an understanding of the case and was important to developing
22 the facts and claims at issue in the case. These paralegals are qualified to perform substantive
23 legal work based on their training and past experience working for attorneys.

24 28. The following table identifies the attorneys and staff members from Terrell
25 Marshall who worked on this case and for whom the recovery of fees is sought. For each of the
26 timekeepers below I have stated the current hourly rate, the number of hours worked through
27 January 31, 2025, and the total amount of fees. These time summaries are taken from

1 contemporaneous, daily time reports prepared and maintained by Terrell Marshall in the
 2 regular course of business.

NAME AND POSITION	DESCRIPTION OF WORK PERFORMED	RATE	HOURS BILLED	TOTAL
ATTORNEYS				
6 Beth Terrell Founding Member 7 J.D. from Univ. of California, Davis 8 School of Law, 1995 9	Managed case with overall responsibility for all work and case strategy, appeared at all hearings, worked with co-counsel to prepare for depositions, attended depositions, participated in mediation and settlement negotiations, supervised trial preparation.	\$1,150	194.2	\$223,330.00
11 Amanda Steiner Member 12 J.D. from UC Berkeley School of 13 Law, 1997 14 15 16 17 18 19	Assisted with case management and strategy, participated in investigation, drafting initial complaint, and discovery, drafted motion for class certification and related appellate briefs, worked on class notice and related briefing, summary judgment briefing and mediation statement, worked on trial preparation and settlement strategy, drafted motion for preliminary approval of settlement.	\$950	912.3	\$866,685.00
20 Ryan Tack-Hooper Member 21 J.D. from New York Univ. School of Law, 22 2009 23 24	Worked on response to and argued motion to dismiss, worked on summary judgment briefing, took expert deposition and drafted motion to exclude, worked on trial preparation, including discovery, compiling evidence, and trial plan.	\$750	348.2	\$261,150.00
25 Ben Drachler Associate 26 J.D. from Seattle Univ. School of Law, 27 2015	Participated in discovery to Virginia Mason and third parties, responses to Virginia Mason's discovery requests, and preparing for depositions,	\$650	1014.8	\$659,620.00

DECLARATION OF BETH E. TERRELL IN SUPPORT OF
 PLAINTIFF'S MOTION FOR ATTORNEYS' FEES, LITIGATION
 COSTS, AND SERVICE AWARD - 10
 CASE 19-2-26674-1 SEA

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 Seattle, Washington 98103-8869
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 www.terrellmarshall.com

1	NAME AND POSITION	DESCRIPTION OF WORK PERFORMED	RATE	HOURS BILLED	TOTAL
2		reviewed and analyzed productions, worked on summary judgment briefing and trial preparation.			
3					
4					
5	Eden Nordby Associate	Assisted with trial preparation, including witness interviews, research and briefing, assisted with settlement documentation and implementation, responded to class member inquiries.	\$625	109.0	\$68,125.00
6	J.D. from Univ. of Washington School of Law, 2021				
7					
8					
9	PARALEGALS				
10	Jennifer Boschen Senior Paralegal 23 years legal experience	Worked on trial preparation, including identifying and organizing evidence, and drafting exhibit and witness lists, responded to class member inquiries.	\$330	34.5	\$11,385.00
11					
12					
13	Jodi Nuss Senior Paralegal 10 years legal experience	Worked on document productions and filings.	\$330	17.7	\$5,841.00
14					
15					
16	Heather Brown Senior Paralegal 21 years legal experience	Worked on document productions, filings, and trial preparation.	\$330	113.6	\$37,488.00
17					
18					
19	TOTAL			2744.3	\$2,133,624.00

20 29. Terrell Marshall will incur additional fees in relation to the approval and
21 settlement administration process, including for time spent briefing the final approval motion,
22 responding to class member inquiries and any objections, attending the final approval hearing,
23 and supervising the claims process and distribution of the Settlement Fund.

24 30. Terrell Marshall sets rates for attorneys and staff members based on a variety of
25 factors, including among others: the experience, skill and sophistication required for the types
26 of legal services typically performed; the rates customarily charged in the markets where legal
27 services are typically performed; and the experience, reputation and ability of the attorneys

1 and staff members. Washington state and federal courts have approved fee requests based on
2 Terrell Marshall's standard rates at the time of the application in many cases over the years.

3 **B. Terrell Marshall's Litigation Costs**

4 31. Terrell Marshall has incurred out-of-pocket litigation expenses totaling
5 \$249,456.94, primarily to cover expenses related to notice to class members, court reporters
6 and transcripts, electronic research, filing fees, and administrative costs such as mailing and
7 process server expenses. We also hired Gordon Tilden Thomas Cordell to analyze insurance
8 coverage issues in this case. The following chart summarizes Terrell Marshall's litigation costs:

9

10 Category of Expense	Total
11 Class certification notice	\$215,591.54
12 Courier and Process Server Charges	\$3,102.61
13 Court Reporter Fees	\$7,711.35
14 Electronic Research	\$1,167.37
15 FedEx and Mail	\$69.74
16 Filing Fees	\$2,969.83
17 Insurance Counsel	\$8,222.50
18 Transcripts	\$10,602.00
19 Witness Fee	\$20.00
20	
21 TOTAL	\$249,456.94

22 **Service Award**

23 32. We are requesting a service award of \$10,000 for Plaintiff John Doe, who agreed
24 to step forward and represent the class in this case involving privacy issues. He assisted Class
25 Counsel with developing the facts related to his claims, sharing his personal health information,
26 and the claims of other class members, responded to discovery, and was deposed. I believe a
27 \$10,000 service award for his efforts is reasonable and appropriate.

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

EXECUTED at Seattle, Washington and DATED this 26th day of February, 2025.

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

DECLARATION OF SERVICE

I, Beth E. Terrell, hereby certify that on February 26, 2025, I caused true and correct copies of the foregoing to be served via the means indicated below:

Paul G. Karlsgodt, WSBA #40311
Email: pkarlsgodt@bakerlaw.com
BAKER & HOSTETLER LLP
1801 California Street, Suite 4400
Denver, Colorado 80202
Telephone: (303) 861-0600
Facsimile: (303) 861-7805

- U.S. Mail, postage prepaid
- Hand Delivered via Messenger Service
- Overnight Courier
- Facsimile
- Electronic Mail
- Via King County Electronic Filing Notification System

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- U.S. Mail, postage prepaid
- Hand Delivered via Messenger Service
- Overnight Courier
- Facsimile
- Electronic Mail
- Via King County Electronic Filing Notification System

Attorneys for Defendants

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 26th day of February, 2025.

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