

Honorable Gregory P. Canova

ORIGINAL

**FILED**

KING COUNTY WASHINGTON

SEP 06 2005

SUPERIOR COURT CLERK

BY DAWN TUBBS

DEPUTY

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

LORI MILL and DELOIS GIBSON,  
individually and on behalf of all others  
similarly situated,

Plaintiffs,

v.

VIRGINIA MASON MEDICAL CENTER, a  
Washington nonprofit corporation,

Defendant.

CLASS ACTION

Case No. 05-2-02198-5SEA

~~PROPOSED~~ ORDER GRANTING  
PLAINTIFFS' MOTION FOR  
CLASS CERTIFICATION

This matter came on for hearing on Plaintiffs' Motion for Class Certification. Having considered plaintiffs' motion and the supporting pleadings and declarations, the pleadings and declarations of defendant Virginia Mason Medical Center ("Virginia Mason") in opposition thereto, as well as the arguments of counsel, the Court HEREBY FINDS:

1. Plaintiffs have satisfied the CR 23(a) elements of numerosity, commonality, typicality, and adequacy of representation, as follows:

(A) Because the size of the class is in the thousands, joinder is impracticable, and Virginia Mason has not shown otherwise. Thus, the numerosity requirement of CR 23(a)(1) is met.

(B) Under CR 23(a)(2), there must be common issues of law and fact. Here there are common questions as to whether Virginia Mason has engaged in a common course of conduct by charging all members of the Class an undisclosed extra facility fee that it did not

1 charge for the same procedures at its satellite clinics. Thus there is a “common course of  
2 conduct” at issue in this case and the commonality requirement is met.

3 (C) The typicality requirement requires that the claims and defenses of  
4 plaintiffs be typical of the claims and defenses of the Class. Because the claims of plaintiffs and  
5 the Class all arise from Virginia Mason’s alleged practice of charging more for procedures at its  
6 downtown outpatient clinic than it charges for the same procedures at its satellite clinics, and  
7 from its failure to disclose that practice to plaintiffs and the Class, plaintiffs’ claims are typical of  
8 the claims of the Class members, and the typicality requirement is met under CR 23(a)(3).

9 (D) There was no showing of any adversity of interest between plaintiffs and  
10 unnamed Class members. The Court also finds that Class counsel are experienced and qualified  
11 to conduct this action on behalf of plaintiffs and the Class. Thus, the adequacy of representation  
12 requirement of CR 23(a)(4) is met.

13 2. Plaintiffs have also met the requirements of CR 23(b)(3). Class certification is  
14 proper under CR 23(b)(3) when “questions of law or fact common to the members of the class  
15 predominate over any questions affecting only individual members and . . . a class action is  
16 superior to other available methods” of resolving the dispute. Both of these requirements are  
17 met.

18 (A) The overriding questions in this case are whether Virginia Mason has  
19 unfairly or deceptively charged its patients more at its downtown clinic than it charges for the  
20 same procedures at its satellite clinics, and whether Virginia Mason has unfairly or deceptively  
21 failed to disclose that price disparity to its patients. Based on these overriding questions there is  
22 a common nucleus of operative facts uniting the claims of plaintiffs and the Class. Thus,  
23 questions of law or fact common to the members of the class predominate over any questions  
24 affecting only individual members, and CR 23(b)(3)’s predominance requirement is met.

25 (B) The Court also finds that a class action is superior to other available  
26 methods for the fair and efficient adjudication of this controversy, and that a class action is  
27 manageable. A class action is manageable due to the predominance of the common issues

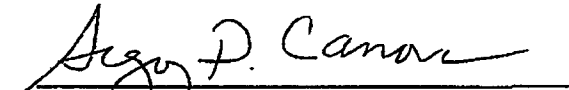
1 identified above, namely (1) whether Virginia Mason has unfairly or deceptively charged its  
2 patients more at its downtown outpatient clinic than it charges for the same procedures at its  
3 satellite clinics, and (2) whether Virginia Mason has unfairly or deceptively failed to disclose  
4 that disparity in charges to its patients. Thus, a class action is a superior and manageable method  
5 of resolving this case as required under CR 23(b)(3).

6 Because the Court finds that all of the requirements for class certification under CR 23(a)  
7 and 23(b)(3) are met, IT IS HEREBY ORDERED that Plaintiffs' Motion for Class Certification  
8 is GRANTED in its entirety.

9 IT IS FURTHER ORDERED that the certified Class be defined as follows: All persons  
10 who received medical procedures, treatment or care at the Virginia Mason outpatient clinic in  
11 downtown Seattle who were charged more than they would have been charged for the same  
12 procedures, treatment or care at another Virginia Mason outpatient clinic and who were obligated  
13 to pay all or any portion of that excess cost.

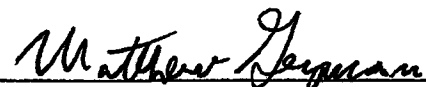
14 IT IS FURTHER ORDERED that John W. Phillips and Matthew Geyman of Phillips  
15 Law Group, PLLC, shall be designated as counsel for plaintiffs and the Class.

16 Dated  
17 9/6/05

18   
Gregory P. Canova  
Superior Court Judge

19 Presented by:

20 PHILLIPS LAW GROUP, PLLC

21  
22 By:   
23 John W. Phillips, WSBA #12185  
Matthew Geyman, WSBA #17544

24 Attorneys for Plaintiffs and the Class  
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