

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA

JENNIFER FORD, ERIC BEARD, )  
and BRIAN OTTERS, individually )  
and on behalf of all others similarly )  
situated, )

Plaintiffs, )

v. )

1:23-CV-756

VETERANS GUARDIAN VA )  
CLAIM CONSULTING, LLC, )

Defendant. )

**ORDER**

In filing exhibits to their class certification motion, the plaintiffs filed two exhibits containing significant amounts of irrelevant material. The filing of these exhibits has made a motion to seal unnecessarily complicated. With these filings, the plaintiffs did not follow the Local Rules or an applicable court order. The defendant also violated those rules, because it apparently did not give any real thought to the need to narrow its requested redactions when the parties conferred about the motion to seal, waiting instead until after the motion was filed to undertake that work. To avoid further wasting court resources and to make the docket less confusing to the Court, the parties, and the public, the parties must work together to file substitute exhibits that conform to both the Local Rules and the court order filed July 1, 2024. *See* Doc. 29.

On May 16, 2025, the plaintiffs filed a motion to certify class, Doc. 70, and supported the motion with a brief and exhibits. Docs. 73, 73-1 through 73-11. The

plaintiffs also filed a motion to seal some of the supporting exhibits and the parts of their brief referencing those exhibits, Doc. 72, which they later amended. Doc. 74. Among other things, the plaintiffs sought to seal the entirety of the following:

- a spreadsheet including personal information about Guardian’s clients, such as their names, initial VA disability rating, updated VA disability rating, total increase amount, total amount paid, and total balance due, when only the amounts were potentially relevant to class certification. Docs. 73-1 (publicly available placeholder), 75-1 (sealed copy).<sup>1</sup>
- a 400-page deposition transcript with lots of confidential information unrelated to the motion for class certification. Docs. 73-2 (publicly available placeholder), 75-2 (sealed copy).

These documents will be discussed in turn.

### **I. The Spreadsheet Exhibit**

The Local Rules provide that “[s]ealed documents should not be filed unless necessary for determination of the matter before the Court.” LR 5.4(a)(3). The same Local Rule specifically provides that “[i]f only non-confidential portions of a document are necessary, only those portions should be filed, immaterial portions should be

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<sup>1</sup> The plaintiffs mistakenly filed a portion of Doc. 71 publicly that they should have filed under temporary seal. Upon mutual agreement and request of the parties, the Court later sealed Doc. 71 and its exhibits. The proper public versions are Docs. 73 and 73-1 through 73-11, and the sealed unredacted versions are Docs. 75 and 75-1 through 75-11. Document 71 and its exhibits will be disregarded.

redacted, and no motion to seal should be filed.” *Id.* The parties were aware of these general provisions, as reflected in their LR 5.5 report. Doc. 33 at p. 2 ¶ 4(a).

Despite this, the plaintiffs filed a spreadsheet full of identifiable personal private information of putative class members irrelevant to the pending motion and that necessitated a motion to seal. There were a number of different ways to submit the needed evidence about dollar amounts without filing a spreadsheet full of other irrelevant personal private information. For example, they could have redacted the individual names from the public copy of the spreadsheet; those names are not necessary for determination of the matter, and absent the names, it is likely that no motion to seal the spreadsheet would have been necessary. Several other possibilities occur to the Court.

Because the plaintiffs did not follow the rules or the Court’s order, the Court will require the plaintiffs to fix the problem they have created. The Court will strike the unredacted version of the spreadsheet under temporary seal, Doc. 75-1, and require the plaintiffs to present a substitute exhibit for the public at Doc. 73-1<sup>2</sup> that redacts the full names of the putative class members and any other irrelevant information but that includes the dollar amounts and any other relevant details cited in the briefs. If the plaintiffs and defendants agree on another method to provide only the relevant information, such as stipulation, they may proceed in that manner instead. This will moot

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<sup>2</sup> The spreadsheet was too large to file on the docket. The plaintiffs submitted it to the Court on a sealed, password-protected USB drive. In replacing Doc. 73-1, the plaintiffs should submit a new USB drive with a suitable public version of the spreadsheet, as detailed above, and no password, along with a different paper document so reflecting which can go on the public electronic docket.

the aspects of the motion to seal related to this spreadsheet. *See* Doc. 74. The plaintiffs should consult with the defendant in advance of the submission of the substitute exhibit to the court operations manager to ensure its submission will not inadvertently give rise to any dispute about this spreadsheet requiring court resolution.

## **II. The Taylor Deposition Exhibit**

As the Local Rules make clear, parties should file only “pertinent documents,” *see* LR 7.3(e), and “[b]ulky or voluminous materials should not be submitted for filing with a pleading or paper . . . unless such materials are essential.” LR 7.1(c); *see also, e.g.*, LR 7.3(d) (authorizing the filing of “parts of depositions” in connection with motions). In an order entered early in this case, the Court instructed the parties that an entire deposition transcript should only be filed in narrow circumstances: if the transcript “contains fewer than 30 pages” and if its filing “does not necessitate a motion to seal.” Doc. 29 at 2.

Here, the plaintiffs filed a deposition transcript over 400 pages long, full of information both (1) irrelevant to the motion for class certification and (2) necessitating, or perhaps complicating, a motion to seal. The plaintiffs should have only filed the relevant portions of the deposition and surrounding testimony needed for context. *Id.* at 1–2; LR 7.1(c). They have not explained why they filed the entire lengthy deposition when much of it is irrelevant.

As best the Court can tell, the plaintiffs filed the deposition under temporary seal because the defendant had designated the deposition as containing confidential information during discovery and because the defendant “continue[d] to maintain its confidentiality designations” when asked by the plaintiffs. Doc. 74 at 2–3. But

designation as confidential pursuant to a protective order is not enough to justify a claim of confidentiality. In their Rule 5.5 Report, the parties agreed to use the default procedures of LR 5.4(C) and agreed that when the party filing a motion to seal does not claim confidentiality “the filing party must meet and confer with the party claiming confidentiality . . . to discuss narrowing the claim of confidentiality.” Doc. 33 at p. 2 ¶ 4(b); Text Order 8/23/2024 (adopting Doc. 33). When the plaintiffs contacted the defendant about the sealed motion before the motion was filed, the defendant should have provided its narrowed redactions on the motion to seal in accordance with the Rule 5.5 Report and Local Rule 5.4(a)(4). Doc. 33 at p. 2 ¶ 4(b); LR 5.4(a)(4). Instead, the defendant did this work later, substantially narrowing its requested redactions in response to the motion. Doc. 74 at 3; Doc. 86-1.

Because the plaintiffs did not follow the rules or the Court’s order and the defendant did not take its obligation to revisit discovery confidentiality designations seriously before the motion to seal was filed, the Court will require the parties to work together to file substitute exhibits at Docs. 73-2 (publicly available version) and 75-2 (temporarily sealed version). Before filing, the parties must confer about (1) the relevant portions of the exhibit and (2) the parts within those relevant portions that the defendant contends should be sealed. The parties should only file portions of the deposition referenced in the class certification briefing, with appropriate surrounding context. This will moot some aspects of the motion to seal related to this document. *See* Doc. 74. Concomitantly with filing the substitute exhibits, the defendant – who is the party seeking sealing – must file any necessary motion to seal the substitute exhibit, and also

addressing the other class certification exhibits it seeks to seal that are not mentioned in this order. The parties have created this problem, and they must work with the court operations manager to solve it.

### **III. Caution About Motions to Seal**

Motions to seal consume huge amounts of court resources. A district court “must determine the source of the public right of access with respect to each document,” “weigh the appropriate competing interests,” “consider less drastic alternatives to sealing, and if it decides to seal it must state the reasons (and specific supporting findings) for its decision and the reasons for rejecting alternatives to sealing.” *Va. Dep’t of State Police v. Wash. Post*, 386 F.3d 567, 756 (4th Cir. 2004) (cleaned up). These tasks take time. When a party wastes the Court’s time by filing irrelevant and non-pertinent material that necessitates – or complicates – a motion to seal and an order dealing with the same, they are subject to sanctions. *See, e.g.*, LR 5.4(a)(4). When parties do not take their duty to file appropriately narrow motions to seal, they waste the Court’s time, delay consideration of the underlying motions on the merits, and risk total denial of the motion. The Court has no duty to narrow a party’s overbroad confidentiality designations.

The parties are reminded that “[t]he Court may impose sanctions, including attorney’s fees, for filing unsupported or overly broad motions to seal,” *id.*, and that “[b]ulky or voluminous materials should not be submitted for filing with a pleading or paper . . . unless such materials are essential. The Court may order any pleading or paper stricken if filed in violation of this rule.” LR 7.1(c). “Striking” means the pleading or paper will not be considered in connection with the underlying motion, and the Court has

no obligation to give counsel a second chance to do it right. Sanctions can also be imposed for violating a court order, *see, e.g., State Farm Fire and Cas. Co. v. U.S ex rel. Rigsby*, 580 U.S. 26, 37 (2016), such as the Court's order filed July 1, 2024. Doc. 29.

Here, the parties have wasted the court's time, cluttered the docket with unnecessary materials, and did not take the requirements of the Local Rules seriously. Should either party or any counsel of record feel the need to file a motion to seal in the future in this or any other case, they would be well-advised to be more attentive.

The parties have 15 days to provide the court operations manager with appropriate versions of the substitute exhibits and the defendant has 15 days to file any necessary amended motion to seal. The parties must read the applicable local rules and the Standing Order in the case, Doc. 29, and are warned against wasting court resources further on inappropriate filings.


Suggestions for improvements to the Local Rules governing motions to seal are welcome. They should be directed to the Clerk of Court for consideration by the Civil Rules Committee. The Court would greatly appreciate a less cumbersome system for dealing with motions to seal, if one can be developed.

It is **ORDERED** that:

1. The parties have 15 days to submit revised versions of Docs. 73-1, 73-2, 75-1 and, if needed, Doc. 75-2 to the court operations manager in the Clerk's Office for substitution on the docket and to file any necessary amended motion to seal. A revised 5.4 checklist **SHALL** also be submitted.

2. Upon filing of an amended motion to seal, the pending motion at Doc. 74 shall be terminated as moot.

This the 16th day of January, 2026.



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UNITED STATES DISTRICT JUDGE