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 CONSLUTING, LLC,	)	
Defendant.	)	

ORDER

In this consumer protection case, the Court granted the plaintiffs' motion for class certification as to their claims that the defendant, Veterans Guardian VA Claim Consulting, LLC, charges illegal fees for assisting veterans with applications for disability compensation. The parties have filed a joint submission on class notice and notice procedures identifying areas of agreement and disagreement.

In their proposed notice, the plaintiffs recommend advising class members of the approximate total amount that Guardian collected in fees from class members during the class period. *See generally* Doc. 134. Because Guardian claims the amount is confidential business information and consistent with the practice set forth in the Local Rules, the plaintiffs filed their proposed notice subject to a motion to temporarily seal the amount. Doc. 135 (motion); Doc. 134-2 (public version redacting only the amount); Doc. 136-1 (sealed unredacted version). The plaintiffs do not claim confidentiality and oppose

sealing. Doc. 135 at 3. Guardian has filed a brief in support of the motion to seal. Doc. 138.

I. Notice

Before sealing judicial records, the district court must give the public notice and a reasonable opportunity to challenge the request to seal. *Va. Dep't of State Police v. Wash. Post*, 386 F.3d 567, 576 (4th Cir. 2004); *Co. Doe v. Pub. Citizen*, 749 F.3d 246, 272 (4th Cir. 2014). The motion to seal has been on the docket for several weeks. *See* Doc. 135 (filed January 15, 2026). Public notice is satisfied when a court dockets the request to seal "reasonably in advance of deciding the issue." *Stone v. Univ. of Md. Med. Sys. Corp.*, 855 F.2d 178, 181 (4th Cir. 1988) (cleaned up); *see also Mears v. Atl. Se. Airlines, Inc.*, No. 12-CV-613, 2014 WL 5018907, at *2 (E.D.N.C. Oct. 7, 2014) ("The filing of a litigant's motion to seal . . . is sufficient to provide public notice and opportunity to challenge the request to seal." (citing *In re Knight Publ'g Co.*, 743 F.2d 231, 235 (4th Cir. 1984)).

II. Judicial Records

The public has a right of access to judicial records. *Nixon v. Warner Commc'ns, Inc.*, 435 U.S. 589, 597 (1978) ("The courts of this country recognize a general right to inspect and copy judicial records and documents." (cleaned up)). Documents filed with the court are judicial records to which a public right of access attaches "if they play a role in the adjudicative process or adjudicate substantive rights, such as when they were filed with the objective of obtaining judicial action or relief." *United States ex rel. Oberg v. Nelnet, Inc.*, 105 F.4th 161, 171 (4th Cir. 2024) (cleaned up). The material here—an

amount in a proposed form notice—was filed with the objective of obtaining judicial action and is a judicial record to which the public has a right of access.

III. Right of Access

The public's right of access derives from the First Amendment and the common law. *Id.* at 170–71; *Wash. Post*, 386 F.3d at 575. When a party asks to seal judicial records, courts "must determine the source of the right of access with respect to each document," and then "weigh the competing interests at stake." *Wash. Post*, 386 F.3d at 576 (cleaned up).

The common law presumes a right of access to all judicial records and documents, but this presumption can be rebutted if "countervailing interests heavily outweigh the public interests in access." *Oberg*, 105 F.4th at 171 (quoting *Rushford v. New Yorker Mag., Inc.*, 846 F.2d 249, 253 (4th Cir. 1988)); *Syngenta Crop Prot., LLC v. Willowood, LLC*, No. 15-CV-274, 2017 WL 6001818, at *3 (M.D.N.C. Dec. 4, 2017). The burden of establishing such a countervailing interest is on the party seeking to keep the material secret. *Rushford*, 846 F.2d at 253.

In evaluating whether a party has met its burden to overcome the public's right of access, courts should consider "the interests advanced by the parties in light of the public interest and the duty of the courts." *Nixon*, 435 U.S. at 602. In conducting this balancing test, courts consider whether a litigant seeking sealing has shown that "countervailing interests heavily outweigh the public interests in access," *Oberg*, 105 F.4th at 171, along with such things as (1) whether public disclosure would allow a third party to "unfairly gain[] a business advantage;" (2) "whether release would enhance the public's

understanding of an important historical event;" and (3) "whether the public has already had access to the information contained in the records." *Id.* (quoting *In re Knight Publ'g Co.*, 743 F.2d at 235).

To determine whether a motion to seal should be granted despite the First Amendment right of access, courts evaluate: (1) whether sealing the information serves a compelling interest, (2) whether in the absence of sealing, there is a substantial probability that the compelling interest will be harmed, and (3) whether there are no alternatives would adequately protect the compelling interest. *See United States v. Doe*, 962 F.3d 139, 146 (4th Cir. 2020). The compelling interest must be "narrowly tailored," and the moving party must present "specific reasons that justify restricting access to the information; conclusory assertions are not sufficient." *See Syngenta Crop Prot.*, 2017 WL 6001818, at *3 (cleaned up); *see also Pub. Citizen*, 749 F.3d at 270; *Wash. Post*, 386 F.3d at 575 (holding moving party must "present specific reasons in support of its position").

The Court need not decide today whether the amount in the proposed class notice exhibit at issue is covered by the common law right of access or the stricter First Amendment standard. The amount in the exhibit should be unsealed even applying the less stringent common law standard.

IV. Discussion

Pursuant to Local Rule 5.4 and a court order establishing how motions to seal are handled in this case, the plaintiffs filed the notice exhibit with the redaction as initially claimed by Guardian during discovery. *See* Doc. 135 (motion); Doc. 134-2 (public

version redacting only the amount); Doc. 136-1 (sealed unredacted version). It then became Guardian's duty to support the motion to seal with evidence and a brief. *See* LR 5.4(c)(4)(b). Guardian has filed a brief, Doc. 138, and refers to evidence in the record to support its motion. Doc. 138 at 2; Doc. 85.

Guardian asserts that the revenue amount in the proposed notice should remain sealed and unavailable to the public because the amount comes from its confidential business records and would harm its competitive standing. Doc. 138 at 1, 6. Guardian also contends that the amount need not be included in the class notice. Doc. 138 at 6–7.

Guardian has shown that its specific revenue from assisting disabled veterans is kept confidential, as it keeps those numbers private. Doc. 85 at ¶ 11. But that revenue is merely the sum of the fees collected from individual veterans, and those veterans, class members here, know what they paid. There is no evidence that Guardian's customers are sworn to secrecy about Guardian's fees.

Indeed, the named plaintiffs have disclosed the fees they paid, so that is already publicly known. Doc. 52 at ¶¶ 84, 103, 135, 159. It is undisputed and publicly known that Guardian operates for profit, Doc. 52 at ¶ 24; Doc. 53 at ¶ 24, that it had over 56,000 clients during the class period, Doc. 75-1; Doc. 94 at 11 n.2, and that it charges fees of five times the client's disability increase amount. *See e.g.,* Doc. 73-4 at 7–8. Anyone interested can already come up with a pretty good estimate of Guardian's revenue, so there is little to protect here.

Guardian has not shown how disclosure of the total revenue amount for the class period would harm its competitive standing. Vague assertions of competitive,

commercial, and reputational harms, Doc. 141 at 10, citing Doc. 85 at ¶ 12, are insufficient. *See Pub. Citizen*, 749 F.3d at 269–70 (collecting cases). [1]

The plaintiffs base their claims on the contention that Guardian provides unlawful assistance and collects illegal fees, well in excess of those allowed by law. Doc. 52 at ¶¶ 208–09, 282–83, 303. Throughout the case, both parties have made extensive arguments about the legality of Guardian's fees. *See e.g.* Doc. 75 at 14–17; Doc. 104 at 23–26. The amount Guardian collected from the class members during the class period is relevant to public understanding of the case.

The amount will likely assist class members in evaluating whether to take advantage of the class action or whether to opt out because it provides insight to the seriousness of the claims and the amounts at issue. It might also be valuable for veterans considering whether to use Guardian's services to have an idea of how much money Guardian makes compared to fees charged by accredited competitors. Based on preliminary review, it is likely the amount will be important in resolving pending summary judgment motions.

Guardian has not shown that "countervailing interests heavily outweigh the public interests in access" to its revenue from the allegedly illegal fees collected or charged during the class period. *Oberg*, 105 F.4th at 171. The motion to seal will be denied.

[1] Guardian's witness makes reference to the use competitors could make of the revenue figures. Doc. 85 at ¶ 15. But the record is silent as to whether there are other unaccredited companies or individuals who offer the same kinds of services Guardian offers or as to exactly how any such competitors could use this information to harm Guardian's business interests.

It is **ORDERED** that the plaintiff's motion to seal, Doc. 135, is **DENIED** and the Clerk **SHALL UNSEAL** Doc. 136-1.

This the 6th day of February, 2026.

UNITED STATES DISTRICT JUDGE