

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 this consumer protection case, the Court granted the plaintiffs' motion for class certification as to their claims that defendant Guardian VA Claim Consulting, LLC charges illegal fees for assisting veterans with applications for disability compensation. Under Rule 702 and *Daubert*, Guardian moves to exclude the opinions and testimony of Kathryn Kaduck, Doc. 97, and Timothy Wipperman. Doc. 116. The motions are fully briefed, but they are premature and will be denied without prejudice.

Cross-motions for summary judgment and motions to seal remain pending, but the testimony of these two witnesses is not necessary to resolve any of these motions. Nor was the testimony of either necessary to resolve the class certification motion.

The summary judgment briefing does not mention Ms. Kaduck and only cites to Mr. Wipperman once for an undisputed proposition supported by other citations. Doc. 110 at 9. Mr. Wipperman's testimony was not relevant at all to class certification. *See*

Docs. 111-1, 116 (both filed with summary judgment briefing). And while Ms. Kaduck's report was filed in connection with the plaintiffs' motion for class certification, she was identified as a rebuttal witness; her report was barely mentioned in the briefing; and the Court was not required to make any decision about the validity of her methodology. *See* Doc. 131 at 18 ("Whether the plaintiffs' method of calculating damages is appropriate is another common question.").

At this point, it is premature to resolve the *Daubert* motions. It makes much more sense to evaluate these arguments after the summary judgment motions are resolved, if that is still necessary, and once it is known whether the plaintiffs will call these witnesses to testify at trial. Accordingly, the Court will deny the pending motions to exclude without prejudice to renewal before trial, on a schedule to be determined later.

It is **ORDERED** that:

1. The defendant's motion to exclude opinions and testimony of Kathryn Kaduck, Doc. 97, is **DENIED** without prejudice.
2. The defendant's motion to exclude opinions and testimony of Timothy Wipperman, Doc. 116, is **DENIED** without prejudice.

This the 6th day of February, 2026.


UNITED STATES DISTRICT JUDGE