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File Number:

May 1, 2026

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**VIA ELECTRONIC DELIVERY AND COURT FILING**

The Honorable Katharine H. Parker  
Daniel Patrick Moynihan United States Courthouse  
500 Pearl Street, Room 750  
New York, New York 10007

**Re: United States of America v. Anthem, Inc., 1:20-cv-02593-ALC-KHP**

Dear Judge Parker:

We represent Defendant Anthem, Inc. (“Anthem”). Anthem and non-party Cotiviti, Inc., formerly known as Verscend (“Verscend”), write pursuant to the Court’s Orders provisionally sealing confidential material filed in conjunction with the parties’ position statements (Dkts. 453, 462). Anthem and Verscend respectfully request that the Court enter an order maintaining the seal on the confidential information cited in these submissions. Specifically, Anthem and Verscend request the Court maintain the seal on the confidential deposition testimony of Deborah Bradley quoted or paraphrased in the parties’ submissions.<sup>1</sup> Plaintiff does not oppose this request.

As the Court has laid out in its Opinion and Order (Dkt. 199), when considering whether to seal a judicial document from the public record, the Court must balance the presumption of public access with “higher values” justifying sealing. *Id.* at 2. “The strongest presumption attaches where the documents determine litigants’ substantive rights, and the presumption is weaker where the documents play only a negligible role in the performance of Article III duties.” *Id.* (citations omitted). “Thus, a strong presumption attaches to materials filed in connection with dispositive motions, such as a motion to dismiss or a summary judgment motion.” *Id.* (citations omitted). “The weight accorded to the presumptive right to public access is lower if the document is submitted in connection with a discovery dispute or other non-dispositive motion.” *Id.* (citations omitted). Once the Court has determined the weight of the presumption of public access, it assesses whether sealing is necessary to preserve “higher values” and that the factors counseling against public access outweigh the presumption of public access. *Id.* Such higher values include protection of confidential non-party information, which, as courts have held, “weighs heavily” in

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<sup>1</sup> Specifically, Anthem and Verscend request in this submission that the Court maintain the seal on the redacted portions of Anthem’s Position Statement (Dkt. 453) (“Anthem Position Statement”) citing to Ms. Bradley’s deposition testimony; all redacted portions of Plaintiff’s Position Statement (Dkt. 462) (“Plaintiff Position Statement”); and the redactions to Paragraphs 6, 7, 8, and the entirety of Exhibit 1 to the Declaration of Michael P. Matthews in Support of Anthem’s Position Statement (Dkt. 454) (“Matthews Privilege Declaration”).



balance against the public's presumptive right of access. *United States v. Amodeo*, 71 F.3d 1044, 1050 (2d Cir. 1995). "Such interests . . . are a venerable common law exception to the presumption of access," *id.* at 1051, and a "persuasive reason[] that the document should remain non-public," *Alexander Interactive, Inc. v. Adorama, Inc.*, 2014 WL 4346174, at \*2 (S.D.N.Y. Sept. 2, 2014) (citations omitted). Protecting sensitive business information is another higher value justifying sealing. *See Louis Vuitton Malletier S.A. v. Sunny Merch. Corp.*, 97 F. Supp. 3d 485, 511 (S.D.N.Y. 2015); *Standard Inv. Chartered, Inc. v. Fin. Indus. Regul. Auth., Ind.*, 347 F. App'x 615, 617 (2d Cir. 2009).

The portions of Ms. Bradley's deposition testimony cited by the parties constitute confidential material under the Court's standard, and Anthem and Verscend therefore request that testimony remain sealed.<sup>2</sup> First, the public has minimal interest in these disclosures. Ms. Bradley's testimony was not cited in the context of a merits determination but rather was cited in the context of the parties' dispute over purported coaching of Ms. Bradley by Anthem's attorneys. *Compare* Anthem Position Statement at 2 *with* Plaintiff Position Statement at 2. The substance of the testimony itself was not relevant to resolving the dispute, and the public's interest in that testimony is therefore at its lowest ebb. *See Adorama, Inc.*, 2014 WL 4346174, at \*2 ("[T]he weight of the presumption is not particularly great. The documents are not to be submitted in connection with a dispositive motion, but merely a motion to compel further discovery from a party.").

And while not of great interest to the public, that testimony is nevertheless composed of the confidential information of a non-party to this dispute. It includes information concerning Verscend's operations (*see* Plaintiff Position Statement at 2; Matthews Privilege Declaration ¶¶ 7-8), regulatory interpretation provided to Anthem by Verscend (*see* Anthem Position Statement at 2, Matthews Privilege Declaration ¶ 7), and the scope of Verscend's client base (Matthews

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<sup>2</sup> Pursuant to the Court's Order permitting briefing on this topic (Dkt. 448), Anthem and Verscend also submitted material *in camera* and redacted from public filing. This redacted privileged material includes any material redacted that does not quote or paraphrase Ms. Bradley's testimony; conversely, the parties do not assert privilege over any of Ms. Bradley's testimony, and redact it from public filing only due to Verscend's assertion of confidentiality over the material pursuant to the operative Protective Order in this case. Based on the Court's Order allowing *in camera* submissions (Dkt. 448) and subsequent Order upholding the applicable privileges (Dkt. 486), Anthem and Verscend understand that their *in camera* submissions will remain redacted and are not subject to the Court's temporary sealing orders concerning only confidential non-privileged information (Dkts. 460, 465). Anthem and Verscend therefore do not address those redactions here. Maintaining such redactions over privileged material is consistent with regular court treatment of such material. *See U.S. v. Gangi*, 1998 WL 226196, at \*3 (S.D.N.Y.) ("Unlike documents that are likely to be introduced at trial or are filed in connection with dispositive motions, attorney work product ordinarily is not made part of the public record, or introduced at trial, or relied upon by courts in deciding substantive issues during the course of litigation. Hence, there is no common law tradition favoring access to these sorts of documents."); *Diversified Grp., Inc. v. Daugerdas*, 217 F.R.D. 152, 160 (S.D.N.Y. 2003) ("It is undeniable that the public has a significant interest in preserving the confidentiality of attorney-client communications. Indeed, this is precisely the kind of countervailing concern that is capable of overriding the general preference for public access to judicial records.").



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Privilege Declaration ¶ 6). That information is nonpublic commercial information relating to Verscend’s business practices that has not previously been disclosed. *See* Declaration of Michael P. Matthews in Support of Sealing Motion (“Matthews Sealing Decl.”) ¶ 5. Protecting that non-party information “weighs heavily” in favor of sealing, particularly here where the public interest in it is minimal. *See Amodeo*, 71 F.3d at 1050. Verscend should not be forced to publicly disclose the particulars of confidential business operations simply because Plaintiff challenged the validity of Anthem’s and Verscend’s common interest. Given this, the balance under the Court’s standard weighs in favor of sealing, and Anthem and Verscend respectfully request that the Court maintain the seal on this confidential testimony.



Dated: May 1, 2026

Respectfully submitted,

By: /s/ James A. Bowman

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**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

UNITED STATES OF AMERICA,

Plaintiff,

v.

ANTHEM, INC.,

Defendant.

Case No. 1:20-cv-02593-ALC-KHP

**DECLARATION OF MICHAEL  
P. MATTHEWS IN SUPPORT  
OF DEFENDANT ANTHEM,  
INC.'S LETTER MOTION TO  
SEAL CONFIDENTIAL  
INFORMATION**

I, Michael P. Matthews, declare and state as follows:

1. I am a partner at Foley & Lardner LLP (“Foley”), counsel for Cotiviti, Inc., formerly known as Verscend Technologies, Inc. (“Verscend”), and counsel for Deborah Bradley, former Vice President of Coding Services at Verscend, at her deposition.

2. I am licensed to practice law in the State of Florida. I submit this declaration in support of Anthem’s Letter Motion to Seal Confidential Information. I have personal knowledge of the facts set forth herein and, if called to testify, could and would do so competently.

3. As I detailed in my previous Declaration in Support of Anthem’s Position Statement in Opposition to Plaintiff’s Demand for Further Testimony from Deborah Bradley (Dkt. 454), Ms. Bradley testified at her deposition on various topics relating to Verscend’s business operations, including the number of Verscend’s clients, the substance of her understanding of applicable CMS regulations she provided to Anthem while employed at Verscend, and the nature of services Verscend provided to Anthem. *See id.* ¶¶ 6-8. As further described in the Government’s Position Statement, Ms. Bradley also testified about specific

functions of Verscend processes operative at her time at the company. *See* Plaintiff Position Statement (Dkt. 462) at 2.

4. These topics, including the discussions Ms. Bradley had with Verscend's clients regarding MA regulations, the scope of Verscend's business, and the specific functioning of its operations, disclose nonpublic, competitively sensitive information concerning Verscend's business practices.

5. Verscend has never previously made this information public, and would not do so in the normal course of business. Were such material to be unsealed, it would result in the public disclosure of Verscend's confidential business practices, including data regarding its number of clients, the specifics of back-end processes, and employees' interpretations of applicable CMS guidelines, all of which could potentially harm Verscend's operations by allowing such information to be accessed by its business competitors.

I declare under penalty of perjury that the foregoing is true and correct.

EXECUTED on May 1, 2026 in Tampa, Florida

By:   
Michael P. Matthews