

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF VIRGINIA  
ALEXANDRIA DIVISION**

RAI STRATEGIC HOLDINGS, INC. and  
R.J. REYNOLDS VAPOR COMPANY,

Plaintiffs and Counterclaim Defendants,

v.

ALTRIA CLIENT SERVICES LLC; PHILIP  
MORRIS USA INC.; and PHILIP MORRIS  
PRODUCTS S.A.,

Defendants and Counterclaim Plaintiffs.

Case No. 1:20-cv-00393-LO-TCB

**REDACTED**

**REPLY IN SUPPORT OF REYNOLDS'S MOTIONS *IN LIMINE* NOS. 1-3 TO  
EXCLUDE REFERENCES TO VUSE PRODUCTS AS ALLEGEDLY BEING ILLEGAL  
OR UNLAWFUL, REFERENCES TO YOUTH VAPING OR ALLEGED TARGETING  
OF VUSE PRODUCTS TO YOUTHS, AND REFERENCES TO THE ALLEGED  
HARMS OF VAPING**

## TABLE OF CONTENTS

	<b>Page</b>
I. PM/Altria Fails to Show that VUSE’s Regulatory Status is Relevant and Not Unfairly Prejudicial to Reynolds. ....	1
II. PM/Altria Fails to Show That Evidence Regarding Alleged Targeting of Vuse to Youths or Youth Use of E-cigarettes is Relevant and Not Unfairly Prejudicial to Reynolds. ....	5
III. PM/Altria Fails to Demonstrate That the Alleged Harms of Vaping Are Relevant and Not Unfairly Prejudicial to Reynolds.....	8

## TABLE OF AUTHORITIES

	Page
<b>CASES</b>	
<i>Alvarez v. Lynch</i> , 828 F.3d 288 (4th Cir. 2016) .....	4
<i>Am. Home Assurance Co. v. Merck &amp; Co.</i> , 462 F. Supp. 2d 435 (S.D.N.Y. 2006).....	7
<i>Bilenky v. Ryobi Ltd.</i> , No. 2:13CV345, 2014 WL 12591940 (E.D. Va. Oct. 22, 2014) .....	8
<i>Rex Real Est. I, L.P. v. Rex Real Est. Exch., Inc.</i> , No. A-19-CV-696-RP, 2020 WL 710198 (W.D. Tex. Feb. 12, 2020) .....	4
<i>United States v. DesAnge</i> s, 921 F. Supp. 349 (W.D. Va. 1996) .....	5
<i>United States v. Williams</i> , 445 F.3d 724 (4th Cir. 2006) .....	7
<i>Wilson v. Detweiler</i> , No. SAG-20-0869, 2020 WL 4053827 (D. Md. July 20, 2020).....	4
<b>OTHER AUTHORITIES</b>	
CDC, <i>Outbreak of Lung Injury Associated with the Use of E-Cigarette, or Vaping, Products</i> (Aug. 3, 2021), <a href="https://tinyurl.com/3zyx44r6">https://tinyurl.com/3zyx44r6</a> .....	8
Eunice Park-Lee et al., <i>Notes from the Field: E-Cigarette Use Among Middle and High School Students — National Youth Tobacco Survey, United States, 2021</i> , MMWR 70(39), 1387-89 (Oct. 1, 2021), <a href="https://tinyurl.com/yrzenz3f">https://tinyurl.com/yrzenz3f</a> .....	7
FDA, <i>Enforcement Priorities for Electronic Nicotine Delivery Systems (ENDS) and Other Deemed Products on the Market Without Premarket Authorization Revised</i> (Apr. 2020), <a href="https://tinyurl.com/8j58axb7">https://tinyurl.com/8j58axb7</a> .....	3
FDA, <i>FDA Permits Marketing of E-Cigarette Products, Marking First Authorization of Its Kind by the Agency</i> (Oct. 12, 2021), <a href="https://tinyurl.com/3m8t7b78">https://tinyurl.com/3m8t7b78</a> .....	4

**TABLE OF AUTHORITIES**  
**(continued)**

	<b>Page</b>
FDA, <i>Youth E-cigarette Use Remains Serious Public Health Concern Amid COVID-19 Pandemic</i> (Sept. 30, 2021), <a href="https://tinyurl.com/yme96rus">https://tinyurl.com/yme96rus</a> .....	6
Jennifer Maloney, <i>Puff Bar Has Overtaken Juul as the Favorite E-Cigarette for Teens</i> , Wall Street Journal (Sept. 30, 2021), <a href="https://tinyurl.com/45e6vbwx">https://tinyurl.com/45e6vbwx</a> .....	7
Mitch Zeller, <i>Perspective: FDA’s Progress on Tobacco Product Application Review and Related Enforcement</i> , FDA (Sept. 9, 2021), <a href="https://tinyurl.com/4xhb5bjt">https://tinyurl.com/4xhb5bjt</a> .....	3
Sheila Kaplan, <i>Juul to Pay \$40 Million to Settle N.C. Vaping Case</i> , New York Times (June 28, 2021), <a href="https://tinyurl.com/2mjv56w2">https://tinyurl.com/2mjv56w2</a> .....	7

In its opposition to Reynolds's Motions *In Limine* ("MIL") Nos. 1-3, PM/Altria provides a blueprint for the type of irrelevant and unfairly prejudicial arguments it plans to make at trial to paint Reynolds in a negative light and distract the jury from the issues it must decide in this case. The opposition shows that PM/Altria intends to malign Reynolds's VUSE products as "illegal," raise the inflammatory issue of youth vaping—wrongly suggesting that VUSE is targeted to youth—and interject the issue of the alleged harms of vaping to excite and distract the jury. Despite PM/Altria's strained attempts to show that these issues are probative of damages, the truth is that they are entirely irrelevant to the issues in this case, and allowing them in would only serve to unfairly prejudice Reynolds in the eyes of the jury and encourage it to decide the case on issues unrelated to the merits. The Court should grant Reynolds's MILs 1-3 and bar PM/Altria from introducing arguments, evidence, or testimony related to these issues at trial.

**I. PM/ALTRIA FAILS TO SHOW THAT VUSE'S REGULATORY STATUS IS RELEVANT AND NOT UNFAIRLY PREJUDICIAL TO REYNOLDS.**

PM/Altria's opposition shows that it plans to introduce irrelevant and unfairly prejudicial testimony regarding VUSE's regulatory status. The Court should bar such evidence.

*First*, Reynolds's regulatory status, including any reference to VUSE products as illegal, is not probative of damages or the royalty rate. PM/Altria's argument on this point is based on Paul Meyer's report, which simply regurgitates the opinions of Stacy Ehrlich's report in which Ehrlich speculates—without any support—

See Amended & Supplemental Opening Expert Report of Paul K. Meyer (4/26/2021) ("Meyer Rpt."), attached as Exhibit 1, ¶ 514; Amended & Supplemented Opening Expert Report of Stacy Ehrlich (4/26/2021) ("Ehrlich Rpt."), attached as Exhibit 2, ¶ 95. As a general matter, this argument is belied by the fact that PM/Altria's IQOS product was granted FDA authorization without practicing any of the patents involved in

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