

**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

**ORAL ARGUMENT REQUESTED**



**REPLY IN SUPPORT OF PLAINTIFF PMI/ALTRIA'S MOTION TO  
SHOW CAUSE WHY SANCTIONS SHOULD NOT BE IMPOSED**

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## I. INTRODUCTION

RJR admits that a damages issue central to this case is whether PMI/Altria’s expert, Paul Meyer, properly relied on third-party Fontem’s [REDACTED]. RJR admits that whether that [REDACTED] supports Mr. Meyer’s reliance on the [REDACTED] in the Fontem-Nu Mark Agreement is also central in this case. Yet RJR fails to offer any justification for the affirmative misrepresentations that it made to Judge O’Grady when seeking to exclude Mr. Meyer’s reliance on that [REDACTED]. RJR’s silence effectively concedes its litigation misconduct.

After successfully blocking discovery on this issue by (mis)representing that the subject evidence was “not relevant” (Dkt. 555 at 1), RJR moved to exclude Mr. Meyer’s opinions as “fictional,” telling Judge O’Grady “there is *no evidence* that any party ever [REDACTED].”<sup>1</sup> Dkt. 892 at 18. RJR represented to Judge O’Grady that, while “Mr. Meyer speculates that [REDACTED] his opinions are allegedly “contradicted by the *limited evidence available*” because it is unknown “[REDACTED].” Dkt. 1090 at 4, 8. RJR doubled down on this argument at the hearing, unequivocally representing to Judge O’Grady that: “[REDACTED]” Dkt. 1163-1 at 43:8-14. Those statements were false.

Documents produced by third-party Fontem in another litigation between Altria and RJR—obtained by Altria in this case on the evening before the hearing on the *Daubert* motions (and during the week after the hearing)—prove, beyond any doubt, that RJR *knew* there was evidence showing [REDACTED]

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<sup>1</sup> All emphasis added, and internal citations and quotation marks omitted, unless otherwise noted. Cites to “Mtn.” and “Opp.” are to Dkts. 1163 and 1167, respectively.

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