

**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



**PMI/ALTRIA'S OBJECTIONS TO MAGISTRATE JUDGE BUCHANAN'S ORDER ON
PMI/ALTRIA'S MOTION TO SHOW CAUSE**

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I. INTRODUCTION

RJR sought to exclude the opinions of PMI/Altria's expert, Paul Meyer, based upon material misrepresentations about the supposed lack of evidence underlying his opinions on the [REDACTED] in the prior Fontem licenses. Specifically, RJR argued that his opinions were supported by "no evidence," pure "fiction," and that [REDACTED] [REDACTED]"¹ Dkt. 1163-1 (3/18/22 Hr'g Tr.) at 43:8.

Documents subsequently produced by Fontem reveal that RJR and Fontem contemplated a [REDACTED] during negotiations, and that [REDACTED] [REDACTED] confirming that Mr. Meyer properly used that [REDACTED]. Dkt. 1174-1 § 5.1. And they show [REDACTED], all the while asserting in discovery and representing to the Court that it lacked knowledge of that [REDACTED]. Worse, RJR affirmatively challenged and sought to exclude PMI/Altria's damages theories *on a basis refuted by the very information it concealed and misrepresented*.

Judge Buchanan erred by not ordering RJR to show cause why it failed to produce any documents or an educated 30(b)(6) witness on the negotiations, and repeatedly misrepresented the supposed lack of evidence. Judge Buchanan's order was based on two underlying findings that are clearly erroneous and contrary to law. FED. R. CIV. P. 72(a). They should be set aside.

First, Judge Buchanan erred by finding that the negotiations from the settlement *on which RJR's damages expert relies* are irrelevant. [REDACTED] [REDACTED] (Dkt. 1174-1 § 5.1), (ii) show that [REDACTED], and (iii) provide additional support for his reliance on [REDACTED]

¹ All emphasis added, and internal citations and quotation marks omitted, unless otherwise noted.

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