

**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

**REYNOLDS'S OPPOSITION TO PM/ALTRIA'S OBJECTIONS TO MAGISTRATE
JUDGE BUCHANAN'S ORDER DENYING MOTION TO
SHOW CAUSE WHY SANCTIONS SHOULD NOT BE IMPOSED**

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I. INTRODUCTION

Just weeks before trial, PM/Altria is again rehashing year-old discovery rulings—and leveling unfounded accusations of dishonesty against Reynolds’s counsel—to try and backfill support for its damages expert—first under the guise of a motion for an order to show cause why an evidentiary sanction should not be imposed, and now as an objection to Magistrate Judge Buchanan’s order denying that motion. As appropriately recognized by Judge Buchanan, PM/Altria’s motion is baseless because Reynolds did not violate any discovery obligation or misrepresent facts to the Court. PM/Altria’s objections should be overruled.

1. Reynolds did not violate any discovery obligation. PM/Altria does not claim that Reynolds violated a Court order, but that it violated its Federal Rule of Civil Procedure 26 obligation to produce litigation settlement negotiations between Fontem and Reynolds. However, Reynolds objected to the production of those documents, and Judge Buchanan ruled over a year ago that those negotiations were not appropriate for discovery. Judge Buchanan explained, “it’s not appropriate to get into negotiations or the considerations that they made internally as to this” because “the document”—*i.e.*, the final Fontem-RJRV license agreement—“speaks for itself.” Dkt. 586, 7. Judge Buchanan reaffirmed that decision at the hearing preceding the instant order, stating “I already ruled, and I still see no reason why my thought process was incorrect.” Dkt. 1189, 4. Judge Buchanan explained that “What the final agreement is is what is relevant, what is operative, and I think you’re just going down a rabbit hole when you start chasing what is in draft agreements.” *Id.* at 13. Indeed, PM/Altria itself took the *same position* and objected to production of its ██████████ negotiation documents. Dkt. 1167, 5 n.3; *see also* Dkt. 1167-1, 6-7. What is worse, the very documents that PM/Altria alleges that Reynolds “concealed” are documents that *Altria* has had for almost a year—Fontem produced the documents *to Altria* in June 2021 in response to Altria’s subpoena in the co-pending action in the Middle District of North Carolina.

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