

**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

**REPLY IN SUPPORT OF 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's opposition "triples down" on its misrepresentations to this Court, repeating some, ignoring most, and dissembling as to those it selectively (self-servingly) addresses. And, it once again attempts to distract the Court from the misrepresentations made at the *Daubert* stage, the truth of which refute the very foundation of RJR's attacks on Mr. Meyer's damages analyses. RJR (once again) mischaracterizes PMI/Altria's motion as "rehash[ing] year-old discovery rulings" and "[f]undamentally ... premised on the contention that [RJR] violated its discovery obligations." Opp. at 1, 10. That is wrong. PMI/Altria's motion is about the serial misrepresentations that RJR made at the *Daubert* stage about factual issues it knew were central to PMI/Altria's damages claim.

That RJR (wrongly) persuaded Judge Buchanan over a year ago that information regarding the Fontem negotiations need not be produced did not give RJR a license to advance knowingly false assertions—belied by the very information it withheld from discovery—in its expert's report and *Daubert* motion. And the narrow relief sought is more than justified by RJR's withholding of the very facts and information it concealed in discovery and misrepresented at the *Daubert* stage.

The withheld documents show that [REDACTED]

[REDACTED] Those facts squarely refute RJR's attack on Mr. Meyer's damages analysis. RJR's opposition *never* reconciles this admission from RJR's counsel with RJR's representations to the Court. RJR cannot. It undisputedly had these documents well before the start of this case and knew about them when misrepresenting the facts—while baselessly alleging a lack of evidence underlying Mr. Meyer's opinions—at the *Daubert* stage (and in its own damages expert's report).

RJR provides no basis for upholding Judge Buchanan's order denying PMI/Altria's motion to show cause. The sole basis on which that order rests—that the [REDACTED] are irrelevant to interpreting the final agreement—is clearly erroneous and contrary to law at least

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