



EXHIBIT E

Case Clip(s) Detailed Report
Wednesday, June 08, 2022, 7:48:58 PM

PMI v. RJR EDVa Trial

 Gilley, Nicholas (Vol. 01) - 12/03/2020

1 CLIP (RUNNING 00:14:42.481)

 Gilley,N_120320_ALL_TRIMMED



NG-ALL3-FINAL 78 SEGMENTS (RUNNING 00:14:42.481)

1. PAGE 9:14 TO 9:15 (RUNNING 00:00:02.310)

14 Would you go ahead and please state your
15 full name and address for the record?

2. PAGE 9:16 TO 9:17 (RUNNING 00:00:02.865)

16 A Sure.
17 My name is Nicholas Ray Gilley. My address

3. PAGE 9:20 TO 9:23 (RUNNING 00:00:12.225)

20 Q Who is your current employer?
21 A R.J. Reynolds Tobacco Company.
22 Q And what's your current job at RJRTC?
23 A Vice president of marketing performance.

4. PAGE 9:24 TO 10:03 (RUNNING 00:00:09.559)

24 Q And do you understand you're being deposed
25 here today both in your personal capacity and as a
00010:01 corporate witness on behalf of the plaintiffs in
02 this case?
03 A I do.

5. PAGE 22:17 TO 22:23 (RUNNING 00:00:22.482)

17 Q What are your responsibilities in your role
18 as vice president of marketing performance?
19 A Along with my team, we track, measure, and
20 analyze brand performance for R.J. Reynolds and
21 Reynolds American, Inc., in terms of their business
22 objectives, goals, strategies, as well as consumer
23 trends within the market.

6. PAGE 23:03 TO 23:06 (RUNNING 00:00:08.020)

03 Q Okay. And in your role, in your current
04 role, do you support the Vuse brand among other
05 products?
06 A My team does, yes.

7. PAGE 23:09 TO 23:11 (RUNNING 00:00:07.659)

09 Do you personally have any responsibilities
10 related to the Vuse brand of e-vapor products?
11 A Yes.

8. PAGE 72:04 TO 72:06 (RUNNING 00:00:06.581)

04 Q Now, the consumables for each Vuse product
05 are intended only for use with the power unit for
06 the specific Vuse product, right?

9. PAGE 72:09 TO 72:09 (RUNNING 00:00:01.142)

09 THE WITNESS: Correct.

10. PAGE 72:22 TO 72:24 (RUNNING 00:00:08.632)

22 Q The consumables for each Vuse product can
23 only be used with the power unit for the -- their

Case Clip(s) Detailed Report
Wednesday, June 08, 2022, 7:48:58 PM

PMI v. RJR EDVa Trial

24 corresponding Vuse product, right?

11. PAGE 73:01 TO 73:01 (RUNNING 00:00:01.305)

00073:01 THE WITNESS: To my understanding, correct.

12. PAGE 73:03 TO 73:04 (RUNNING 00:00:05.436)

03 Q So, for example, the Alto pods can only be
04 used with the Alto power unit, right?

13. PAGE 73:06 TO 73:07 (RUNNING 00:00:01.389)

06 THE WITNESS: That's my understanding,
07 correct.

14. PAGE 73:15 TO 73:17 (RUNNING 00:00:05.964)

15 Q And without the cartridges, the power units
16 in the Vuse products won't function for their
17 intended purpose, correct?

15. PAGE 73:19 TO 73:19 (RUNNING 00:00:00.936)

19 THE WITNESS: I believe that's correct.

16. PAGE 73:21 TO 73:23 (RUNNING 00:00:05.478)

21 Q You need both the cartridge and the power
22 unit for each Vuse product to have a commercially
23 viable product, correct?

17. PAGE 73:25 TO 74:02 (RUNNING 00:00:07.986)

25 THE WITNESS: You need both the power unit
00074:01 and the cartridge for a consumer to be able to use
02 the liquid and consume the product, correct.

18. PAGE 75:16 TO 75:18 (RUNNING 00:00:08.018)

16 Q I asked in terms of sales and market share,
17 do you consider the Vuse products to be successful
18 from that perspective?

19. PAGE 75:20 TO 75:21 (RUNNING 00:00:02.987)

20 THE WITNESS: Yes, I believe we have a
21 successful product portfolio.

20. PAGE 107:17 TO 107:23 (RUNNING 00:00:27.739)

17 Q Why were there -- starting with the power
18 unit, why were there negative sales of the Vuse Alto
19 power unit kit from Q1 to Q3 2020?

20 A There -- it's driven by consumer
21 discounting to try to entice consumers to purchase
22 the Alto kit so that you can make money through
23 selling the consumables over time.

21. PAGE 107:24 TO 108:02 (RUNNING 00:00:10.160)

24 Q And you're referring to the -- the
25 discounting of the Alto power unit kit down to
00108:01 \$0.99?

02 A That is one promotion, yes.

22. PAGE 108:16 TO 108:22 (RUNNING 00:00:25.640)

16 Q So for the power unit kits only, RJRV, in
17 2020, has actually lost money on those sales in
18 order to drive the sales of the consumables that are
19 used with the power units; is that right?

20 A Yes, we've invested in the power unit

Case Clip(s) Detailed Report
Wednesday, June 08, 2022, 7:48:58 PM

PMI v. RJR EDVa Trial

21 devices in order to try and hopefully make a return
22 on the consumables.

23. PAGE 116:02 TO 116:05 (RUNNING 00:00:11.340)

02 Q When -- when RJRV made the decision to drop
03 the price of the Vuse Alto power units to \$0.99, did
04 it expect to have negative net sales on the sales of
05 those power units?

24. PAGE 116:08 TO 116:10 (RUNNING 00:00:05.672)

08 THE WITNESS: Yes, we knew that the impact
09 of the discount would result, most likely, in a
10 negative net sales number.

25. PAGE 116:15 TO 116:20 (RUNNING 00:00:20.830)

15 Q Now, Reynolds American and Philip Morris
16 have traditionally been direct competitors in the
17 U.S. market for combustible cigarettes, correct?
18 A R.J. Reynolds Tobacco Company and
19 Philip Morris USA are direct competitors in the U.S.
20 cigarette combustible market.

26. PAGE 121:15 TO 121:18 (RUNNING 00:00:15.605)

15 Q So it's fair to say that RJRV and NuMark
16 were direct competitors up -- from 2013 until NuMark
17 exited the e-vapor market, correct?
18 A That's fair to say, correct.

27. PAGE 121:19 TO 121:23 (RUNNING 00:00:15.901)

19 Q And the Vuse product line specifically
20 directly competed with NuMark's MarkTen vaping
21 product in the United States while the MarkTen was
22 on the market, correct?
23 A That is correct.

28. PAGE 128:23 TO 129:01 (RUNNING 00:00:10.634)

23 RJRV believes that the Vuse products are
24 directly competitive with IQOS in the United States,
25 correct?
00129:01 A That is correct.

29. PAGE 129:19 TO 129:24 (RUNNING 00:00:19.708)

19 Q And which heat-not-burn products are
20 currently offered for sale in the United States by
21 RJRTC?
22 A R.J. Reynolds Tobacco Company currently has
23 an Eclipse-branded heat-not-burn product available
24 for sale in the United States.

30. PAGE 131:14 TO 131:18 (RUNNING 00:00:12.835)

14 A The RJR -- I'm sorry, the R.J. Reynolds
15 Tobacco Company Eclipse product is a heat-not-burn
16 product which is similar in nature to the IQOS
17 product in the United States, and so it would be a
18 competitive product.

31. PAGE 131:19 TO 131:21 (RUNNING 00:00:07.773)

19 Q RJRTC's heat-not-burn Eclipse product
20 competes directly with IQOS in the United States,
21 right?

Case Clip(s) Detailed Report
Wednesday, June 08, 2022, 7:48:58 PM

PMI v. RJR EDVa Trial

32. PAGE 131:23 TO 131:24 (RUNNING 00:00:01.664)

23 THE WITNESS: Correct, it would be a
24 competitive product.

33. PAGE 156:07 TO 156:11 (RUNNING 00:00:20.885)

07 Now, I think, as you mentioned, Exhibit 18
08 is an internal RAI Innovations presentation titled
09 "Alternate Nicotine Platforms Strategic
10 Implications" dated January 2017, right?
11 A Yes, that is the title.

34. PAGE 156:22 TO 156:24 (RUNNING 00:00:10.559)

22 Q And as part of the presentation here,
23 Reynolds was analyzing PMI and doing a deep dive on
24 iQOS, correct?

35. PAGE 157:02 TO 157:03 (RUNNING 00:00:04.301)

02 THE WITNESS: There is an agenda topic
03 title "PMI/iQOS Deep Dive."

36. PAGE 157:05 TO 157:08 (RUNNING 00:00:09.557)

05 Q And in the third bullet, another aspect of
06 this presentation was analyzing the strategic
07 implications of HNB, which is heat-not-burn,
08 correct?

37. PAGE 157:11 TO 157:12 (RUNNING 00:00:04.666)

11 THE WITNESS: There is an agenda line item
12 titled "HNB Strategic Implications."

38. PAGE 160:13 TO 160:15 (RUNNING 00:00:06.849)

13 Q All right. Mr. Gilley, what do you
14 understand "leaking" to mean as used on this slide
15 of Exhibit 18?

39. PAGE 160:18 TO 160:20 (RUNNING 00:00:07.887)

18 THE WITNESS: Based on this document, I
19 would -- I would understand "leaking" to mean
20 e-liquid leaking from the cartridge.

40. PAGE 161:05 TO 161:07 (RUNNING 00:00:09.541)

05 Q I mean leaking of e-liquid from the
06 cartridge is something that is perceived negatively
07 by consumers, correct?

41. PAGE 161:09 TO 161:10 (RUNNING 00:00:04.189)

09 THE WITNESS: Yes, consumers -- consumers
10 would prefer the cartridges not leak.

42. PAGE 163:14 TO 163:22 (RUNNING 00:00:31.445)

14 Q And so the slide indicates that RJRT had
15 de-prioritized heat-not-burn between 2005 and 2016,
16 right?
17 A The title says "RJRT De-prioritization of
18 HNB."
19 Q I understand that's what the title says,
20 sir. I'm asking the slide indicates that RJRT had
21 de-prioritized heat-not-burn between 2005 and 2016,
22 correct?

Explore Litigation Insights

Docket Alarm provides insights to develop a more informed litigation strategy and the peace of mind of knowing you're on top of things.

Real-Time Litigation Alerts



Keep your litigation team up-to-date with **real-time alerts** and advanced team management tools built for the enterprise, all while greatly reducing PACER spend.

Our comprehensive service means we can handle Federal, State, and Administrative courts across the country.

Advanced Docket Research



With over 230 million records, Docket Alarm's cloud-native docket research platform finds what other services can't. Coverage includes Federal, State, plus PTAB, TTAB, ITC and NLRB decisions, all in one place.

Identify arguments that have been successful in the past with full text, pinpoint searching. Link to case law cited within any court document via Fastcase.

Analytics At Your Fingertips



Learn what happened the last time a particular judge, opposing counsel or company faced cases similar to yours.

Advanced out-of-the-box PTAB and TTAB analytics are always at your fingertips.

API

Docket Alarm offers a powerful API (application programming interface) to developers that want to integrate case filings into their apps.

LAW FIRMS

Build custom dashboards for your attorneys and clients with live data direct from the court.

Automate many repetitive legal tasks like conflict checks, document management, and marketing.

FINANCIAL INSTITUTIONS

Litigation and bankruptcy checks for companies and debtors.

E-DISCOVERY AND LEGAL VENDORS

Sync your system to PACER to automate legal marketing.