

**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.

Civil Action No. 1:20-cv-393

**MEMORANDUM IN SUPPORT OF DEFENDANTS' MOTION TO REDACT  
PORTIONS OF THE NOVEMBER 18, 2020 HEARING TRANSCRIPT**

Defendants and Counterclaim Plaintiffs Altria Client Services LLC, Philip Morris USA Inc. and Philip Morris Products S.A. (“Defendants”) submit this memorandum in support of their motion to designate as “Confidential” pursuant to the Stipulated Protective Order (Dkt. No. 103) and to redact certain portions of the transcript of the hearing on November 18, 2020.

The transcript of the November hearing were made available to the parties on January 13, 2021 (Dkt. 443). Certain portions of the transcripts reflect Defendants’ and Plaintiffs’ confidential business information under the protective order.

Accordingly, Defendants respectfully request that this Court enter an order directing that lines 11:4, 11:6-8 of the November 18, 2020 transcript be redacted and not made available to the public.

## **I. ARGUMENT**

Defendants respectfully request that the Court grant their motion based on the grounds set forth as follows.

Although there is a general presumption that the public has the right to access documents in the files of the courts, this presumption may be overcome “if the public’s right of access is outweighed by competing interests.” *Ashcraft v. Conoco, Inc.*, 218 F.3d 288, 302 (4th Cir. 2000) (citation omitted); *Stone v. Univ. of Md. Med. Sys. Corp.*, 855 F.2d 178, 181 (4th Cir. 1988).

Defendants seek to redact from the public record only information that the parties must keep confidential by the stipulated protective order. The following transcript portions contain or discuss the parties’ confidential business information: lines 11:4, 11:6-8. This selective and narrow protection of confidential material constitutes “the least drastic method of shielding the information at issue.” *Adams v. Object Innovation, Inc.*, No. 11-cv-272, 2011 WL 7042224, at \*4 (E.D. Va. Dec. 5, 2011), *report and recommendation adopted*, 2012 WL 135428 (E.D. Va. Jan.

17, 2012). The public has no legitimate interest in information confidential to Defendants and Plaintiffs. *See Adams*, 2011 WL 7042224, at \*4 (“[T]here is no legitimate public interest in disclosing the proprietary and confidential information of [the defendant] . . . and disclosure to the public could result in significant damage to the company.”). The information that Defendants seek to redact includes confidential, proprietary, and competitively sensitive business information of Defendants and Plaintiffs, each of which could face harm if such information were to be released publicly.

Moreover, Defendants’ request is quite limited. As an initial matter, the stipulated protective order requires that this information remain confidential. Defendants seek only to redact certain confidential portions of the transcript from the November 18, 2020 hearing. Redacting this information is therefore proper because the public’s interest in access is outweighed by a party’s interest in “preserving confidentiality” of limited amounts of confidential information “normally unavailable to the public.” *Flexible Benefits Counsel v. Feltman*, No. 08-cv-371, 2008 WL 4924711, at \*1 (E.D. Va. Nov. 13, 2008).

## II. CONCLUSION

For the foregoing reasons, Defendants respectfully request that the Court grant this Motion and enter the attached proposed order.

Dated: February 12, 2021

Respectfully submitted,

By: /s/ Maximilian A. Grant

Maximilian A. Grant (VSB No. 91792)

max.grant@lw.com

Matthew J. Moore

matthew.moore@law.com

LATHAM & WATKINS LLP

555 Eleventh Street, N.W., Suite 1000

Washington, DC 20004

Tel: (202) 637-2200; Fax: (202) 637-2201

Clement J. Naples

clement.naples@lw.com

LATHAM & WATKINS LLP

885 Third Avenue

New York, NY 10022-4834

Tel: (212) 906-1200; Fax: (212) 751-4864

Gregory K. Sobolski

greg.sobolski@lw.com

LATHAM & WATKINS LLP

505 Montgomery Street, Suite 2000

San Francisco, CA 94111

Tel: (415) 391-0600; Fax: (415) 395-8095

Brenda L. Danek

brenda.danek@lw.com

LATHAM & WATKINS LLP

330 North Wabash Avenue, Suite 2800

Chicago, IL 60611

Tel: (312) 876-7700; Fax: (312) 993-9767

*Counsel for Defendants-Counterclaim Plaintiffs  
Philip Morris Products S.A., Altria Client Services  
LLC, and Philip Morris USA, Inc.*

**CERTIFICATE OF SERVICE**

I hereby certify that on this 12th day of February, 2021, a true and correct copy of the foregoing was served using the Court's CM/ECF system, with electronic notification of such filing to all counsel of record.

*/s/ Maximilian A. Grant*

\_\_\_\_\_  
Maximilian A. Grant (VSB No. 91792)

max.grant@lw.com

LATHAM & WATKINS LLP

555 Eleventh Street, N.W., Ste. 1000

Washington, DC 20004

Tel: (202) 637-2200; Fax: (202) 637-2201