

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
ALEXANDRIA DIVISION

RAI STRATEGIC HOLDINGS, INC. and
R.J. REYNOLDS VAPOR COMPANY,

Plaintiffs-Counterclaim
Defendants,

v.

ALTRIA CLIENT SERVICES LLC; PHILIP
MORRIS USA INC.; and PHILIP MORRIS
PRODUCTS S.A.

Defendants-Counterclaim
Plaintiffs.

Case No. 1:20-cv-00393-LO-TCB

**[PROPOSED] ORDER GRANTING COUNTERCLAIM PLAINTIFFS' UNOPPOSED
MOTION FOR APPOINTMENT OF COMMISSIONERS, AND DIRECTION OF
SUBMISSION OF HAGUE CONVENTION APPLICATION FOR AUTHORIZATION
OF THE DULY APPOINTED COMMISSIONERS TO TAKE EVIDENCE PURSUANT
TO ARTICLE 17 OF THE HAGUE CONVENTION OF 18 MARCH 1970 ON THE
TAKING OF EVIDENCE ABROAD IN CIVIL OR COMMERCIAL MATTERS**

On March 5, 2021, Counterclaim Plaintiffs Altria Client Services LLC, Philip Morris USA, Inc. and Philip Morris Products S.A. (collectively, "Counterclaim Plaintiffs") filed an unopposed motion seeking entry of an order appointing certain attorneys as commissioners to take the voluntary testimony by oral examination under oath via videoconference in Switzerland of certain of Counterclaim Plaintiffs' witnesses. The motion was filed unopposed.

Counterclaim Plaintiffs seek authorization from a competent Swiss authority to conduct voluntary testimony by oral examination under oath via videoconference of witnesses, whom have been identified by the parties as witnesses for upcoming depositions in this case. Counterclaim Plaintiffs represent that the Swiss Penal Code provides that attorneys attempting to take a

deposition or carry out other activities on behalf of a foreign state in Switzerland outside of authorized methods are subject to arrest on criminal charges. Mem. at 2-3. (citing Article 271 of the Swiss Penal Code). Thus, Counterclaim Plaintiffs represent that they must comply with the Hague Convention in seeking testimony in this case in order to comply with Swiss law. *See id.* at 2-3.

The Court finds that the evidence Counterclaim Plaintiffs seek is reasonably necessary to fully develop the record in this case. Accordingly, upon consideration of Counterclaim Plaintiffs' Unopposed Motion for Appointment of Commissioners, and Direction of Submission of Hague Convention Application for Authorization of the Duly Appointed Commissioners to Take Evidence Pursuant to Article 17 of the Hague Convention of 18 March 1970 on the Taking of Evidence Abroad in Civil or Commercial Matters, for good cause shown, it is hereby

ORDERED that the Motion shall be, and hereby is, **GRANTED**.

The following listed counsel for Counterclaim Plaintiffs and Counterclaim Defendants are duly appointed as commissioners under Article 17 of the Hague Convention of 18 March 1970 on the Taking of Evidence Abroad in Civil or Commercial Matters:

Counsel at Latham & Watkins LLP for Counterclaim Plaintiffs (located at 555 11th Street NW, Suite 1000, Washington, DC 20004; 330 N Wabash Avenue, Suite 2800, Chicago, IL 60611; 505 Montgomery Street, Suite 2000, San Francisco, CA 94111; 355 South Grand Avenue, Suite 100 Los Angeles, CA 90071; 140 Scott Drive Menlo Park, CA 94025): Maximilian Grant, Bert Reiser, Matthew Moore, Jamie Underwood, Brenda Danek, Gregory Sobolski, Lawrence Gotts, Clement Naples, Brett Sandford, Thomas Yeh, and Surendra Ravula.

Counsel at Bär & Karrer AG for Counterclaim Plaintiffs (located at Brandschenkestrasse 90, 8027 Zurich, Switzerland): Matthew Reiter and Martina Athanas.

Counsel at Jones Day for Counterclaim Defendants (located at 1420 Peachtree Street, N.E., Suite 800, Atlanta, GA 30309; 77 West Wacker, Suite 3500, Chicago, IL 60601; 901 Lakeside Avenue, Cleveland, OH, 44114; 4655 Executive Drive, Suite 1500, San Diego, CA 92121; 555 California Street, 26th Floor, San Francisco,

CA 94104; 90 South 7th Street, Suite 4950, Minneapolis, MN 55402; 51 Louisiana Avenue, N.W., Washington, DC, 20001; 250 Vesey Street, New York, NY 10281; 555 South Flower Street, 50th Floor, Los Angeles, CA 90071; 150 West Jefferson, Suite 2100, Detroit, MI, 48226; 2727 North Harwood Street, Suite 500, Dallas, TX, 75201); Stephanie Parker, William Devitt, David Maiorana, Emily Baker, Frank Bayuk, Robert Breetz, Douglas Clark, Michael Lavine, Sanjiv Laud, Christopher Liu, Kenneth Luchesi, John Marlott, Kevin McCarthy, John Michalik, Amelia Murray, Michael Quinlan, Nicole Smith, Alexis Smith, Michelle Smit, Emily Tait, Thomas Vitt, Jennifer Weizenecker, and Jeffrey White.

IT IS SO ORDERED this _____ day of _____, 2021.

United States Magistrate Judge