

# EXHIBIT 3

**From:** Max.Grant@lw.com  
**Sent:** Wednesday, February 17, 2021 6:03 PM  
**To:** Devitt, William E.; RJREDVA; cmolster@molsterlaw.com; Maiorana, David M.  
**Cc:** Jennifer.Koh@lw.com; Lawrence.Gotts@lw.com; Matthew.Moore@lw.com; Amy.Thomas@lw.com; Clement.Naples@lw.com  
**Subject:** RE: RAI Strategic Holdings, Inc. v. Altria Client Services LLC - Case No. 1:20-cv-00393-LO-TCB (E.D. Va.)

**\*\* External mail \*\***

Bill – I understand your proposal but appreciate the clarification nonetheless. The problem with your proposal is that, assuming it were possible to take just 2 business days to read and absorb the expert reports, that would only leave 1 week/5 days to complete all the expert depositions on five different patents, which is insufficient and which will prejudice our clients. More realistically - assuming it takes a week to read/absorb the expert reports and prepare a deposition outline – that leaves just **2 days** for the parties to conduct ALL the expert depositions. That is unworkable. It also effectively forecloses any follow up on existing fact discovery after reports, and unduly compresses the time for dispositive motions.

Separately, it is inconsistent with the Court's schedule and inconsistent with the explicit directions Judge Buchanan directed to Reynolds in open court:

I expect counsel for the plaintiffs to be ready to file that within the same time period, once the stay is lifted. So, if it's due in ten days, I expect, once the stay is lifted, you'll file it in ten days. Okay?

I'm sympathetic to the problem of expert schedules, but once we filed our motion to lift the stay you should have engaged with your experts just in case our motion turned out to be well founded, as we did with the Court's express directions of December 4 in mind. This schedule was not unforeseeable, it was the opposite.

If you want to push the expert report dates to February 24 and March 24, we will not oppose a motion by Plaintiffs to do that. Any more delay than that will unduly prejudice our clients.

I'm open chat at 8pm tonight, and at 830am or 11am tomorrow. Send me the number where I can reach you and your preferred time.

Thanks.

Max

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**From:** Devitt, William E. <wdevitt@jonesday.com>  
**Sent:** Wednesday, February 17, 2021 5:41 PM  
**To:** Grant, Max (NY-DC) <Max.Grant@lw.com>; RJREDVA <RJREDVA@jonesday.com>; cmolster@molsterlaw.com; Maiorana, David M. <dmaiorana@JonesDay.com>  
**Cc:** Koh, Jennifer (SD) <Jennifer.Koh@lw.com>; Gotts, Larry (DC) <Lawrence.Gotts@lw.com>; Moore, Matthew (DC) <Matthew.Moore@lw.com>; Thomas, Amy (DC) <Amy.Thomas@lw.com>; Naples, Clement (NY) <Clement.Naples@lw.com>  
**Subject:** RE: RAI Strategic Holdings, Inc. v. Altria Client Services LLC - Case No. 1:20-cv-00393-LO-TCB (E.D. Va.)

Max:

To be clear, we are only proposing to move the date for exchange of expert reports 10 days in order to accommodate our experts' schedules. These dates would not affect any other dates in the schedule you proposed.

We are prepared to move forward with litigation as the Court ordered, but we also wanted to avoid unnecessary Motion practice with the Court on the schedule if possible.

If Altria and PM do not agree to our proposed dates, let me know if you are available for a meet and confer tonight or early tomorrow, so that we can file our motion before the end of the day tomorrow.

Regards.

Bill

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**From:** [Max.Grant@lw.com](mailto:Max.Grant@lw.com) <[Max.Grant@lw.com](mailto:Max.Grant@lw.com)>

**Sent:** Wednesday, February 17, 2021 4:16 PM

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**\*\* External mail \*\***

Bill – your proposed change to the Court's existing schedule is not acceptable. That does not provide anything close to enough time to complete the rest of what needs to be done by the Court's April 16 deadline for the final pretrial conference. Everyone has had plenty of notice. I've been on trial with your partners and you and the JonesDay EDVA team has not (it also has functionally no overlap with the JonesDay ITC team). We're ready and we assume you are too.

Sincerely,  
Max

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**From:** Devitt, William E. <[wdevitt@jonesday.com](mailto:wdevitt@jonesday.com)>

**Sent:** Wednesday, February 17, 2021 5:06 PM

**To:** Grant, Max (NY-DC) <[Max.Grant@lw.com](mailto:Max.Grant@lw.com)>; RJREDVA <[RJREDVA@jonesday.com](mailto:RJREDVA@jonesday.com)>; [cmolster@molsterlaw.com](mailto:cmolster@molsterlaw.com); Maiorana, David M. <[dmaiorana@JonesDay.com](mailto:dmaiorana@JonesDay.com)>

**Cc:** Koh, Jennifer (SD) <[Jennifer.Koh@lw.com](mailto:Jennifer.Koh@lw.com)>; Gotts, Larry (DC) <[Lawrence.Gotts@lw.com](mailto:Lawrence.Gotts@lw.com)>; Moore, Matthew (DC) <[Matthew.Moore@lw.com](mailto:Matthew.Moore@lw.com)>; Thomas, Amy (DC) <[Amy.Thomas@lw.com](mailto:Amy.Thomas@lw.com)>; Naples, Clement (NY) <[Clement.Naples@lw.com](mailto:Clement.Naples@lw.com)>

**Subject:** RE: RAI Strategic Holdings, Inc. v. Altria Client Services LLC - Case No. 1:20-cv-00393-LO-TCB (E.D. Va.)

Max:

Thanks for your response. We appreciate what the Court stated at the December 4 hearing. But you will recall that the Court also stated that it expected the parties to work out a timeline that makes sense in view of all the

Accordingly, we propose exchanging Opening Expert Reports on March 3, and Responsive Expert Reports on March 31. Let us know if that is acceptable. If Altria and PM are unwilling to agree, Reynolds intends to file a Motion with the Court.

Regards.

Bill

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**From:** [Max.Grant@lw.com](mailto:Max.Grant@lw.com) <[Max.Grant@lw.com](mailto:Max.Grant@lw.com)>

**Sent:** Wednesday, February 17, 2021 3:03 PM

**To:** Devitt, William E. <[wdevitt@jonesday.com](mailto:wdevitt@jonesday.com)>; RJREDVA <[RJREDVA@jonesday.com](mailto:RJREDVA@jonesday.com)>; [cmolster@molsterlaw.com](mailto:cmolster@molsterlaw.com); Maiorana, David M. <[dmaiorana@JonesDay.com](mailto:dmaiorana@JonesDay.com)>

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**\*\* External mail \*\***

Thanks Bill. Our view is the Court made itself very clear and said where we'd be picking up precisely where we left off. The Court said that expressly and it has been known by the parties and their counsel for the last 10 weeks. We're not inclined to pushing the dates at all. In our view, the parties are subject to an existing court order that requires service of reports on Monday.

If Reynolds intends to seek relief, it needs to do so in an expedited manner.

Sincerely,  
Max

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**From:** Devitt, William E. <[wdevitt@jonesday.com](mailto:wdevitt@jonesday.com)>

**Sent:** Wednesday, February 17, 2021 3:55 PM

**To:** Grant, Max (NY-DC) <[Max.Grant@lw.com](mailto:Max.Grant@lw.com)>; RJREDVA <[RJREDVA@jonesday.com](mailto:RJREDVA@jonesday.com)>; [cmolster@molsterlaw.com](mailto:cmolster@molsterlaw.com); Maiorana, David M. <[dmaiorana@JonesDay.com](mailto:dmaiorana@JonesDay.com)>

**Cc:** Koh, Jennifer (SD) <[Jennifer.Koh@lw.com](mailto:Jennifer.Koh@lw.com)>; Gotts, Larry (DC) <[Lawrence.Gotts@lw.com](mailto:Lawrence.Gotts@lw.com)>; Moore, Matthew (DC) <[Matthew.Moore@lw.com](mailto:Matthew.Moore@lw.com)>; Thomas, Amy (DC) <[Amy.Thomas@lw.com](mailto:Amy.Thomas@lw.com)>

**Subject:** RE: RAI Strategic Holdings, Inc. v. Altria Client Services LLC - Case No. 1:20-cv-00393-LO-TCB (E.D. Va.)

Max:

Thanks for the proposed schedule. Our initial thought is that some of dates look a little tight. Please let us know if Altria/Philip Morris is amenable to pushing the dates out a little bit, at a minimum the Opening and Responsive Expert Reports in order to give the experts a little more time to re-engage. Several of our experts/university professors have been very busy with the new semester and the accompanying COVID issues on campus.

Please advise.

Regards.

Bill

William E. Devitt  
Partner

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**From:** [Max.Grant@lw.com](mailto:Max.Grant@lw.com) <[Max.Grant@lw.com](mailto:Max.Grant@lw.com)>

**Sent:** Wednesday, February 17, 2021 11:48 AM

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**Cc:** [Jennifer.Koh@lw.com](mailto:Jennifer.Koh@lw.com); [Lawrence.Gotts@lw.com](mailto:Lawrence.Gotts@lw.com); [Matthew.Moore@lw.com](mailto:Matthew.Moore@lw.com); [Amy.Thomas@lw.com](mailto:Amy.Thomas@lw.com)

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**\*\* External mail \*\***

Counsel – Consistent with the Court’s order of yesterday granting our motion to lift the stay, and the December 4, 2020 hearing (Tr. at 11-12), please confirm RJR will serve its burden of proof expert reports no later than 5:00 p.m., February 22, 2021. To the extent you dispute that they are due at that time, please provide your position by the close of business today so we can jointly approach the Court to confirm that due date and the following schedule.

If we do not hear from you today we will understand you are confirming our understanding of the below schedule and will serve your expert reports by 5:00 p.m. on Monday.

Opening Expert Reports	Monday, Feb. 22
Responsive Expert Reports	Monday, March 22
Close of Discovery	Monday, April 12
Last Day to File Dispositive Motions	Friday, April 16
Oppositions to Dispositive Motions	Friday, April 30
Parties file pre-trial disclosures Exhibit List, Witness List, Written Stipulation of Uncontested Facts	Friday, April 16
Final Pretrial Conference	Friday, April 16
File Objections to Trial Exhibits	Monday, April 26

I also presume since we are now the putative plaintiff that you agree the trial presentation will proceed in that manner with us as the plaintiff and Reynolds as the defendant. If not, we need to confer on that as well, though there is less urgency on that.

Thank you.

**Maximilian A. Grant**

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