

**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.; PHILIP MORRIS
PRODUCTS S.A.

Defendants-Counterclaim
Plaintiffs.

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

COUNTERCLAIM PLAINTIFFS PHILIP MORRIS PRODUCTS S.A., ALTRIA CLIENT SERVICES LLC, AND PHILIP MORRIS USA INC.’S RULE 26(A)(3) DISCLOSURES

Pursuant to Rules 26(a)(3) and 32(a)(3) of the Federal Rules of Civil Procedure and Local Civil Rule 30(f), Counterclaim Plaintiffs Philip Morris Products S.A., Altria Client Services LLC, and Philip Morris USA Inc. (collectively, “Counterclaim Plaintiffs”) provide the following pretrial disclosures and deposition designations, attached hereto as Exhibits A-C as follows:

Exhibit A: Counterclaim Plaintiffs’ Trial Witness List

Exhibit B: Counterclaim Plaintiffs’ Deposition Designations; and

Exhibit C: Counterclaim Plaintiffs’ Trial Exhibit List.

Counterclaim Plaintiffs reserve the right to amend, modify, or supplement these pretrial disclosures with witnesses, deposition testimony, or documents that are relevant to any issue later disclosed by the parties or any third party, including at trial, or based upon subsequent events,

including, without limitation, the Court's rulings on the parties' pending and contemplated motions, or as otherwise appropriate.

Counterclaim Plaintiffs' deposition designations and listing of trial exhibits are designed to comply with the Court's Orders, Federal and Local Rules, and in accordance with the parties' agreements and to preserve Counterclaim Plaintiffs' rights, based on the present status of the case. Counterclaim Plaintiffs' proposed designations and trial exhibits do not waive their rights to object to certain categories of evidence as being irrelevant or otherwise inadmissible. The parties will exchange objections and present to the Court disputes regarding the issues and evidence to be presented to the jury and the relevancy and admissibility of certain testimony and exhibits. Until the Court addresses and rules on such disputes, Counterclaim Plaintiffs reserve the right to make final decisions regarding what witnesses to call and what exhibits to proffer.

A. Witnesses

Counterclaim Plaintiffs reserve the right to supplement or amend the list in light of any Court order related to motions *in limine* or the scope of the trial or in light of any information submitted by Counterclaim Defendants RAI Strategic Holdings, Inc. and R.J. Reynolds Vapor Company as part of its pretrial filings or otherwise. Counterclaim Plaintiffs further reserve the right to present testimony by any witness identified by Counterclaim Defendants not excluded pursuant to Counterclaim Plaintiffs' objections, and to offer additional testimony by deposition or trial transcript. Counterclaim Plaintiffs reserve the right to present testimony from rebuttal witnesses and to call additional witnesses for purposes of impeachment.

B. Deposition Designations

Counterclaim Plaintiffs reserve the right to introduce all, any, or none of the designated testimony with any associated and/or referenced exhibits.

C. Exhibits

The listing of a trial exhibit on Counterclaim Plaintiffs' proposed trial exhibit list does not represent or otherwise require that Counterclaim Plaintiffs introduce that exhibit and does not waive Counterclaim Plaintiffs' right to object to the use or admission of that exhibits by Counterclaim Defendants.

The descriptions of the exhibits are provided herein for the convenience of the parties only, and are not intended to be an admission as to the scope or substance of the content herein. Any dates provided with respect to an exhibit are strictly for convenience of the parties and do not constitute an admission that the document contained in said exhibit was published, generated, or otherwise made available on that date.

Counterclaim Plaintiffs reserve the right to use, and incorporate herein, (i) any additional exhibits, if necessary, in rebuttal to exhibits or testimony offered by Counterclaim Defendants or for cross examination or impeachment purposes; (ii) any exhibit designated by Counterclaim Defendants (including on its May 21, 2021 Exhibit List or any supplements or amendments thereto); (iii) any document that becomes available on or after May 21, 2021; (iv) a substantially similar version of any exhibit set forth below from a different source or party's files; and (v) any enlargement, electronic version, or original of any exhibit for purposes of use at trial. Counterclaim Plaintiffs reserve the right to remove exhibits from the list based on outcomes of any motions *in limine*. Finally, Counterclaim Plaintiffs reserve the right to use demonstrative exhibits at the trial.

Counterclaim Plaintiffs reserve the right to supplement, amend, or correct this proposed exhibit list, including by providing better copies of exhibits, should such be required or advisable.

Dated: May 21, 2021

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on this 21st day of May, 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 _____

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