

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Alexandria Division**

RAI STRATEGIC HOLDINGS, INC., <i>et al.</i>)	
)	
Plaintiffs,)	
)	
v.)	Civil Action No. 1:20-cv-393 (LO/TCB)
)	
ALTRIA CLIENT SERVICES LLC, <i>et al.</i>)	
)	
Defendants.)	
)	

ORDER

This matter comes before the Court on Defendants Altria Client Services, LLC, Philip Morris USA Inc., and Philip Morris Products S.A.’s (“Defendants”) Motion Seal (Dkt. 764) and supporting memorandum (Dkt. 767). Defendants seek leave to file under seal Exhibits 2 and 3 to their Opposition to RJR’s Motion to Dismiss Inequitable Conduct Counterclaim and Affirmative Defenses and Memorandum in Support of their Cross-Motion for Attorneys’ Fees and Costs. (Dkt. 766.) Plaintiffs RAI Strategic Holdings, Inc. and R.J. Reynolds Vapor Company (“Plaintiffs”) filed a reply in support of Defendants’ motion (Dkt. 778) pursuant to Local Civil Rule 5(C). *See* L. Civ. R. 5(C).

District courts have authority to seal court documents “if the public’s right of access is outweighed by competing interests.” *Ashcraft v. Conoco, Inc.*, 218 F.3d 288, 302 (4th Cir. 2000). Procedurally, a district court may seal court filings if it (1) “provide[s] public notice of the request to seal and allow[s] interested parties a reasonable opportunity to object, (2) consider[s] less drastic alternatives to sealing the documents, and (3) provide[s] specific reasons and factual

findings supporting its decision to seal the documents and for rejecting the alternatives.” *Id.*

Upon consideration of the parties’ filings, the Court makes the following findings.

First, Defendants have provided public notice of their request to seal and interested parties have been given a reasonable opportunity to object. Defendants filed their motion and public notice on June 30, 2021. (*See* Dkts. 764, 765.) Because over seven days have elapsed since Defendants filed the motion and no interested party has objected, the Court may treat this motion as uncontested under Local Civil Rule 5(C). *See* L. Civ. R. 5(C). Accordingly, Defendants have satisfied this requirement under *Ashcraft* and the Local Civil Rules.

Second, this Court has considered less drastic alternatives. The exhibits consist of Plaintiffs’ interrogatory responses, and redaction would not suffice to shield the confidential information at issue. *See Adams v. Object Innovation, Inc.*, No. 3:11cv272-REP-DWD, 2011 WL 7042224, at *4 (E.D. Va. Dec. 5, 2011) “[The] proposal to redact only the proprietary and confidential information, rather than seal the entirety of [the document], constitutes the least drastic method of shielding the information at issue.”), *report and recommendation adopted*, 2012 WL 135428 (E.D. Va. Jan. 17, 2012).

Finally, the Court finds reason to seal the exhibits. Interrogatory responses are typically not filed on the public docket, and the confidential information within the responses is protected by the parties’ stipulated protective order. These documents contain Plaintiffs’ confidential, proprietary, and commercially sensitive business, financial, and design information. Release of this information could cause competitive harm to the parties in this action and to third parties.

Accordingly, it is hereby

ORDERED that Defendants’ motion (Dkt. 764) is **GRANTED**. Docket number 766 shall remain permanently under seal.

ENTERED this 8th day of July, 2021.



/s/

THERESA CARROLL BUCHANAN
UNITED STATES MAGISTRATE JUDGE

Alexandria, Virginia