

# **EXHIBIT 11**

## **(PUBLIC)**

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**From:** Smith, Nicole M.  
**Sent:** Wednesday, March 31, 2021 6:01 PM  
**To:** Thomas.Yeh@lw.com; RJREDVA  
**Cc:** pmiedva.lwteam@lw.com  
**Subject:** RE: RJR v. ACS, PMI - Dr. Suhling Rebuttal Report

Hi Thomas,

Noon PT tomorrow works.

-Nicole

Nicole Smith (bio)  
**JONES DAY**  
Office 213-243-2235  
Cell 310-497-5046

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**From:** Thomas.Yeh@lw.com <[Thomas.Yeh@lw.com](mailto:Thomas.Yeh@lw.com)>  
**Date:** Wednesday, Mar 31, 2021, 2:11 PM  
**To:** Smith, Nicole M. <[nmsmith@jonesday.com](mailto:nmsmith@jonesday.com)>, RJREDVA <[RJREDVA@jonesday.com](mailto:RJREDVA@jonesday.com)>  
**Cc:** pmiedva.lwteam@lw.com <[pmiedva.lwteam@lw.com](mailto:pmiedva.lwteam@lw.com)>  
**Subject:** RE: RJR v. ACS, PMI - Dr. Suhling Rebuttal Report

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

Nicole – thanks for the prompt reply. We’re considering your response below, but we disagree that the engineers merely “authenticated” the video. To the contrary, they purported to provide substantive details about the testing performed. E.g., Suhling Rbt. Rpt. ¶ 87. Your email also does not address Exhibit B attached to Dr. Suhling’s report. Are you available at noon PT tomorrow for the meet and confer? We can discuss the issues regarding Mr. Rinker as well. Thanks.

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**From:** Smith, Nicole M. <[nmsmith@jonesday.com](mailto:nmsmith@jonesday.com)>  
**Sent:** Wednesday, March 31, 2021 1:59 PM  
**To:** Yeh, Thomas (LA) <[Thomas.Yeh@lw.com](mailto:Thomas.Yeh@lw.com)>; RJREDVA <[RJREDVA@jonesday.com](mailto:RJREDVA@jonesday.com)>  
**Cc:** #C-M PMIEDVA - LW TEAM <[pmiedva.lwteam@lw.com](mailto:pmiedva.lwteam@lw.com)>  
**Subject:** RE: RJR v. ACS, PMI - Dr. Suhling Rebuttal Report

Thomas:

We do not understand the basis for your email. The video on which Dr. Suhling relies, RJREDVA\_00165006, is and has been publicly available at numerous links on the Internet. See, e.g., <https://youtu.be/i9o6NTQm7co>, <https://www.vapingpost.com/2020/05/28/the-feelm-ceramic-coil-atomization-technology/>, <https://vaping360.com/vape-news/90461/feelm-press-release-the-hidden-secrets-of-ceramic-atomization-technology/>, <https://www.planetofthevapes.co.uk/news/interviews/2020-05-28-feelm-ceramic-technology.html>. We did not obtain the video from Smoore. We produced and assigned it a Bates number for ease of reference. Through Smoore’s counsel, Dr. Suhling spoke to Smoore to authenticate the video. We trust this resolves your concerns.

With regard to Mr. Rinker, we are entitled to his deposition whether Defendants call him at trial or not. Please confirm that you will work with us to schedule his deposition before trial, regardless of whether Defendants put him on their may or will call list. We understand that [REDACTED] is still an issue right now, and accordingly are sensitive to those issues and willing to be as accommodating as we can in scheduling his deposition prior to trial. Please confirm that Defendants will make a good faith effort to arrange for his deposition well in advance of trial, or we will seek the assistance of the Court.

Regards,

Nicole

Nicole Smith (bio)

Partner

[JONES DAY® - One Firm Worldwide<sup>SM</sup>](#)

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**From:** [Thomas.Yeh@lw.com](mailto:Thomas.Yeh@lw.com) <[Thomas.Yeh@lw.com](mailto:Thomas.Yeh@lw.com)>

**Sent:** Monday, March 29, 2021 9:58 PM

**To:** RJREDVA <[RJREDVA@jonesday.com](mailto:RJREDVA@jonesday.com)>

**Cc:** [pmiedva.lwteam@lw.com](mailto:pmiedva.lwteam@lw.com)

**Subject:** RJR v. ACS, PMI - Dr. Suhling Rebuttal Report

\*\* External mail \*\*

Counsel,

Dr. Suhling's report appears to rely on a number of Smoore documents produced on March 24, 2021 (including, but not limited to RJREDVA\_001650063 and Exhibit B to Dr. Suhling's report). Dr. Suhling also purports to rely on conversations he had with Smoore engineers, which is equally curious and troubling given Reynolds' prior positions regarding the purported lack of control over Smoore and refusal to produce requested Smoore documents. In any event, this belatedly disclosed Smoore technical information is in violation of the Court's October 30, 2020 Order. *See* Dkt. No. 263. We trust that you will promptly withdraw the paragraphs in Dr. Suhling's report relying on these documents. If you disagree, please let us know when you are available to meet and confer on this issue tomorrow.

Thanks,

Thomas

**Thomas W. Yeh**

**LATHAM & WATKINS LLP**

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