

TAB 2

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
v.)	Civil Action No. 99-CV-2496 (GK)
)	
PHILIP MORRIS USA INC. (f/k/a)	Next Court Appearance:
PHILIP MORRIS INCORPORATED), et)	Trial (ongoing)
al.,)	
)	
Defendants.)	

**DEFENDANTS' OBJECTIONS TO PLAINTIFF'S
TRIAL EXHIBITS IDENTIFIED ON JANUARY 31, 2005
RELATED TO GRAHAM READ**

U.S. EXHIBIT NO.	EVIDENTIARY OBJECTIONS
20,182	FRE 403 (Waste of Time, Needless Presentation of Cumulative Evidence: previously submitted through Merryman on 11.08.04. Since this exhibit is not discussed in the designated testimony of Mr. Read there is no need to submit this exhibit again and, therefore, it should be excluded under FRE 403.) FRE 901 (multiple documents in one exhibit)
20,243	FRE 802 FRE 805
20,250	FRE 901 (illegible)
20,263	FRE 403 (cumulative -- previously submitted through Merryman on 11.08.04)
20,269	FRE 602 (foundation -- author and date of document unknown) FRE 802/805 (document quotes from article)
20,275	FRE 901 (incomplete document; complete copy provided to plaintiff)
20,477	FRE 403 (Waste of Time, Needless Presentation of Cumulative Evidence: previously submitted through Reynolds on 12.06.04 as US Ex. 31,044. Since this exhibit is not discussed in the designated testimony of Mr. Read there is no need to submit this exhibit again and, therefore, it should be excluded under FRE 403.)

U.S. EXHIBIT NO.	EVIDENTIARY OBJECTIONS
20,594	FRE 403 (Waste of Time, Needless Presentation of Cumulative Evidence: previously submitted through Proctor on 11.19.04. Since this exhibit is not discussed in the designated testimony of Mr. Read there is no need to submit this exhibit again and, therefore, it should be excluded under FRE 403.)
20,846	FRE 403 (Waste of Time, Needless Presentation of Cumulative Evidence: previously submitted through Reynolds on 12.06.04. Since this exhibit is not discussed in the designated testimony of Mr. Read there is no need to submit this exhibit again and, therefore, it should be excluded under FRE 403.)
20,872	FRE 403 (Waste of Time, Needless Presentation of Cumulative Evidence: previously submitted through Sandefur on 12.13.04. Since this exhibit is not discussed in the designated testimony of Mr. Read there is no need to submit this exhibit again and, therefore, it should be excluded under FRE 403.)
20,930	FRE 401, 402, 403 (document deals exclusively with BATCo's involvement in markets other than the U.S. (most notably Africa) as evidenced by the title of this document: "Developing Country Issues Qs and As". This document, therefore, has no connection to the RICO claims in this action.)
21,645	FRE 403 (Waste of Time, Needless Presentation of Cumulative Evidence: previously submitted through Reynolds on 12.06.04. Since this exhibit is not discussed in the designated testimony of Mr. Read there is no need to submit this exhibit again and, therefore, it should be excluded under FRE 403.)
21,681	FRE 403 (Waste of Time, Needless Presentation of Cumulative Evidence: previously submitted through Biglan on 1.03.05. Since this exhibit is not discussed in the designated testimony of Mr. Read there is no need to submit this exhibit again and, therefore, it should be excluded under FRE 403.)
21,787	FRE 403 (Waste of Time, Needless Presentation of Cumulative Evidence: previously submitted through Reif on 10.25.04. Since this exhibit is not discussed in the designated testimony of Mr. Read there is no need to submit this exhibit again and, therefore, it should be excluded under FRE 403.)
21,788	FRE 403 (Waste of Time, Needless Presentation of Cumulative Evidence: previously submitted through Reif on 10.25.04. Since this exhibit is not discussed in the designated testimony of Mr. Read there is no need to submit this exhibit again and, therefore, it should be excluded under FRE 403.)
21,973	FRE 403 (Waste of Time, Needless Presentation of Cumulative Evidence: previously submitted through Jones on 1.17.05. Since this exhibit is not discussed in the designated testimony of Mr. Read there is no need to submit this exhibit again and, therefore, it should be excluded under FRE 403.)
22,079	FRE 802 (respondents' answers to survey are hearsay)
22,081	FRE 401, 402, 403 (Document deals exclusively with marketing in the Japanese cigarette market, and is thus without any nexus to the US or the allegations in this case) FRE 802 (respondents' answers to survey are hearsay)
22,082	FRE 802 (respondents' answers to survey are hearsay)
22,083	FRE 802 (respondents' answers to survey are hearsay)
22,763	FRE 403 (Waste of Time, Needless Presentation of Cumulative Evidence: previously submitted through Gesell on 11.29.04 and Reynolds on 12.06.04. Since this exhibit is not discussed in the designated testimony of Mr. Read there is no need to submit this exhibit again and, therefore, it should be excluded under FRE 403.)

U.S. EXHIBIT NO.	EVIDENTIARY OBJECTIONS
28,153	FRE 403 (Waste of Time, Needless Presentation of Cumulative Evidence: previously admitted pursuant to Order # 874 as US Ex. 54,212. Since this exhibit is not discussed in the designated testimony of Mr. Read there is no need to submit this exhibit again and, therefore, it should be excluded under FRE 403.)
29,354	FRE 401, 402, 403 (This 1992 draft document relates solely to the European cigarette market, and thus, has no nexus to the US market, as evidenced by its title: "E.C. Cigarette Warning Label 'Smoking Causes Addiction.'")
31,044	FRE 403 (Waste of Time, Needless Presentation of Cumulative Evidence: previously submitted through Reynolds on 12.06.04. Since this exhibit is not discussed in the designated testimony of Mr. Read there is no need to submit this exhibit again and, therefore, it should be excluded under FRE 403.)
31,725	<p>Order 471B (Document is neither cited in Mr. Read's testimony nor plaintiff's findings of fact, and is therefore presumptively inadmissible.)</p> <p>FRE 802 (Contrary to plaintiff's claims, this document can not be deemed a party admission under FRE 801(d)(2) because it was not authored by a party to the present action.)</p> <p>FRE 401, 402 (Document merely contains attorney's summary of certain US lawsuits and EPA risk assessment, and is therefore irrelevant to any of plaintiff's allegations in this case. Plaintiff has further failed to show how this out of court communication -- from Shook Hardy & Bacon to BATCo -- reveals any "coordination" between BATCo and any other defendant regarding ETS in the present action. Moreover, Mr. Read's testimony has no relevance to plaintiff's ETS claims in this case.)</p>
34,187	FRE 901 (multiple documents labeled as one exhibit)
34,585	FRE 403 (Waste of Time, Needless Presentation of Cumulative Evidence: previously submitted through Reynolds on 12.06.04. Since this exhibit is not discussed in the designated testimony of Mr. Read there is no need to submit this exhibit again and, therefore, it should be excluded under FRE 403.)
34,812	FRE 401, 402 (Statements made by non-party Souza Cruz are irrelevant to plaintiff's allegations in this case)
34,858	FRE 901 (incomplete document; provided plaintiff with complete copy)
36,327	Order 471B (Presumptively inadmissible. Although cited in plaintiff's findings of fact, it is incorrectly cited as being an R.J. Reynolds document. Since this exhibit is not discussed in the designated testimony of Mr. Read it should be excluded.)
47,539	FRE 901 (incomplete document; provided plaintiff with complete copy)
47,593	Order 471B (Document is neither cited in plaintiff's findings of fact nor the designated testimony of Mr. Read, and is therefore, presumptively inadmissible)
50,315	FRE 403 (Waste of Time, Needless Presentation of Cumulative Evidence: previously admitted pursuant to Order #874.)
53,986	FRE 901 (illegible)
53,993	FRE 901 (incomplete document)
54,049	FRE 403 (Waste of Time, Needless Presentation of Cumulative Evidence: previously admitted pursuant to Order # 839)

U.S. EXHIBIT NO.	EVIDENTIARY OBJECTIONS
54,180	FRE 403 (Waste of Time, Needless Presentation of Cumulative Evidence: previously submitted through Christopher Proctor on 11.19.04)
76,170	FRE 403 (Waste of Time, Needless Presentation of Cumulative Evidence: previously submitted through Henningfield on 11.15.04 (as US Ex. 34,799) and Ivey on 11.08.04 (as US Ex. 34,799). Since this exhibit is not discussed in the designated testimony of Mr. Read there is no need to submit this exhibit again and, therefore, it should be excluded under FRE 403.)
76,173	FRE 403 (Waste of Time, Needless Presentation of Cumulative Evidence: previously submitted through Henningfield on 11.15.04 (as US Ex. 20,268). Since this exhibit is not discussed in the designated testimony of Mr. Read there is no need to submit this exhibit again and, therefore, it should be excluded under FRE 403.)
76,174	FRE 403 (Waste of Time, Needless Presentation of Cumulative Evidence: previously submitted through Merryman on 11.08.04. Since this exhibit is not discussed in the designated testimony of Mr. Read there is no need to submit this exhibit again and, therefore, it should be excluded under FRE 403.)
76,192	FRE 403 (Waste of Time, Needless Presentation of Cumulative Evidence: previously submitted through Reynolds on 12.06.04. Since this exhibit is not discussed in the designated testimony of Mr. Read there is no need to submit this exhibit again and, therefore, it should be excluded under FRE 403.)
85,341	<p>Order 471B (Presumptively inadmissible. Although cited in plaintiff's findings of fact, it is incorrectly cited as being an R.J. Reynolds document. Since this exhibit is not discussed in the designated testimony of Mr. Read it should be excluded.)</p> <p>FRE 602 (No foundation laid that this draft document was ever used publicly)</p> <p>FRE 401, 402, 403 (Statements regarding tobacco ingredients permitted for use in the European Union, regulation of tobacco ingredients by EU member countries, and disclosure of tobacco ingredients to the European community pursuant to foreign law are irrelevant to plaintiff's claims in this action.)</p> <p>FRE 403 (Waste of Time, Needless Presentation of Cumulative Evidence: previously submitted through Burger on 1.03.05. Since this exhibit is not discussed in the designated testimony of Mr. Read there is no need to submit this exhibit again and, therefore, it should be excluded under FRE 403.)</p>
85,342	FRE 802 Hearsay; FRE 401, 402, 403 (Irrelevant -- non party document; neither BAT Industries plc. nor British American Tobacco plc are defendants in this case)
85,343	<p>FRE 802 Hearsay; FRE 401, 402, 403 (Irrelevant -- non party document; neither BAT Industries plc. nor British American Tobacco plc are defendants in this case)</p> <p>FRE 403 (Waste of Time, Needless Presentation of Cumulative Evidence: previously submitted through Brookes on 11.29.04. Since this exhibit is not discussed in the designated testimony of Mr. Read there is no need to submit this exhibit again and, therefore, it should be excluded under FRE 403.)</p>

U.S. EXHIBIT NO.	EVIDENTIARY OBJECTIONS
85,344	FRE 602 (Because no foundation has been laid that this internal BAT document was ever used publicly, it is irrelevant to plaintiff's claims in this case.)
85,488	FRE 403 (Waste of Time, Needless Presentation of Cumulative Evidence: previously submitted through Sprinkle on 1.03.05. Since this exhibit is not discussed in the designated testimony of Mr. Read there is no need to submit this exhibit again and, therefore, it should be excluded under FRE 403.)
86,883	FRE 802, 805; FRE 401, 402, 403 (Article from periodical "The Guardian" and statements contained therein are hearsay, <u>see</u> <u>ACLU v. City of Las Vegas</u> , 13 F. Supp.2d 1064, 1070 (D. Nev. 1998) (newspaper article containing defendant's statements excluded on grounds of unreliability and hearsay); statement contained in article is attributed to non-party BAT Industries.)
86,884	FRE 802, 805; FRE 401, 402, 403 (Article from periodical "The Guardian" and statements contained therein are hearsay, <u>see</u> <u>ACLU v. City of Las Vegas</u> , 13 F. Supp.2d 1064, 1070 (D. Nev. 1998) (newspaper article containing defendant's statements excluded on grounds of unreliability and hearsay); statement contained in article (which is cited in plaintiff's findings of fact) is attributed to non-party BAT Industries.)
87,120	FRE 901 (incomplete document; complete copy provided to plaintiff) FRE 403 (Waste of Time, Needless Presentation of Cumulative Evidence -- document is included in US Ex. 85,450, submitted with Graham Read on 1.31.05)
88,548	FRE 403 (Waste of Time, Needless Presentation of Cumulative Evidence: This exhibit was previously submitted with Dunn on 12.13.04. Since this document is not discussed in the designated testimony of Mr. Read there is no need to submit this exhibit again and, therefore, it should be excluded under FRE 403.)
88,765	FRE 901 (incomplete document; complete copy provided to plaintiff)