

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA**

ANDREA ROSSI, et al)
)
 Plaintiffs,)
)
 v.) **Civil Case Number: 1:16-CV-21199-CMA**
)
 THOMAS DARDEN, et al)
)
 Defendants.)
)
 _____)
 /

JOINT SCHEDULING REPORT

Pursuant to Federal Rules of Civil Procedure 16 and 26(f), S.D. Fla. Local Rule 16.1 and this Court's April 18, 2016 Order Requiring Scheduling Report and Certificates of Interested Parties, the undersigned parties hereby respectfully submit this Joint Scheduling Report:

Scheduling and Discovery Meeting:

Pursuant to Local Rule 16.1(b)(1), and by agreement of the parties, the following parties appeared at a scheduling and discovery conference on June 15, 2016:

- John W. Annesser, Esq., counsel for Plaintiffs Andrea Rossi and Leonardo Corporation.
- Christopher R.J. Pace, Esq. and Christopher M. Lomax, Esq., counsel for Defendants Industrial Heat, LLC.; IPH International, B.V.; Cherokee Investment Partners, LLC.; Thomas Darden and John T. Vaughn.

Case Management Track:

Pursuant to S.D. Fla. Local Rule 16.1(a), the parties request that the Court assign this matter to the Complex case management track. The parties believe that the Complex Track is appropriate for this case due to (a) the number of potential witnesses, (b) the complexity and novelty of some factual issues in dispute, which will require expert scientific and engineering

testimony, (c) the likelihood of taking depositions in foreign jurisdictions; and (d) the likelihood that the trial in this cause will last ten (10) days.

1. Likelihood of Settlement

Although the parties are open to discussing settlement, at this stage of the proceedings, settlement appears unlikely.

2. Likelihood of Appearance of Additional Parties

It is possible that additional parties may be added to this case if Defendants file counterclaims and/or third party claims.

3. Proposed Time Limits

The parties believe that this case should be assigned to the Complex case management track. Accordingly, the parties submit the proposed time limits reflected in the attached Addendum A.

4. Proposals for the Formulation and Simplification of Issues:

The parties agreed that they will work together in good faith to simplify the issues for trial, including reaching stipulations as to undisputed facts and the authenticity of documents and, if appropriate, filing dispositive motions to narrow the issues. To the extent they can agree on such, the parties will enter stipulations as to the authenticity of documents at least forty-five (45) days before the close of fact discovery. The parties contemplate submitting to the Court a proposed protective order providing for the confidentiality of certain documents and information exchanged in discovery, and further contemplate negotiating an electronic discovery protocol to govern the exchange of electronic discovery.

5. The Necessity or Desirability of Amendments to the Pleadings

At this point, the parties do not anticipate amending the pleadings. Should the Court dismiss any count(s) of Plaintiffs' Complaint for any reason, Plaintiffs may seek leave to amend the dismissed count(s). As of the time of this report, Defendants have yet to file an answer to Plaintiffs' Complaint, and may elect to file counterclaims and/or third party claims if required to answer the Complaint.

6. Possibility of Obtaining Admissions of Fact and of Documents

The parties have agreed to work together in good faith to reach stipulations regarding undisputed facts and the authenticity of documents.

7. Avoidance of Unnecessary Proof and Cumulative Evidence

At this juncture, the parties do not have any specific suggestions to the Court for the avoidance of unnecessary proof and cumulative evidence, but will endeavor to streamline the litigation and bring any specific suggestions to the Court's attention as they arise.

8. Suggestions on the Advisability of Referring Case to Magistrate or Master

The parties have stipulated to having discovery matters referred to a U.S. Magistrate Judge as set forth in the parties' Election to Jurisdiction by a United States Magistrate Judge for Final Disposition of Motions, attached hereto. The parties have not consented to any other matters before a U.S. Magistrate Judge at this time.

9. Preliminary Estimate of the Time Required for Trial

The parties anticipate trial to last ten (10) days.

10. Requested Dates for Conferences Before Trial, Final Pretrial and Trial

The parties have agreed to the dates and deadlines set forth in Addendum A attached hereto. The parties agree to work together in good faith to schedule any events or deadlines not set forth in Addendum A.

ADDITIONAL INFORMATION WHICH MAY BE USEFUL TO THE COURT

11. Jury Trial:

A jury trial was demanded in the Complaint.

12. Need for Variance from Discovery Limitations:

The parties have agreed that it may be necessary to exceed the number of depositions permitted by Fed. R. Civ. P. 30(a)(2)(A) and agree that each party may take up to thirteen (13) depositions of fact witnesses without leave of the Court. The parties have agreed that depositions of witnesses who require an interpreter may exceed the 7-hour limitation of Fed. R. Civ. P. 30(d)(1) by 5 hours (*i.e.*, a 12-hour deposition limitation).

Respectfully submitted,

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 29th day of June, 2016, a true and correct copy of the foregoing was electronically filed with the Clerk of Court using the CM/ECF system. I further certify that the foregoing document was served via transmission of Notice of Electronic Filing generated by CM/ECF to all counsel of record.

/s/ Christopher Lomax
Christopher Lomax, Esq.

ADDENDUM "A"
PRETRIAL DEADLINES & TRIAL DATE

DATE: (Days before trial)	Pretrial Deadline:
The earlier of (a) 14 days after the date the Court denies a motion to dismiss as to at least one claim or (b) August 15, 2016 (399)	Start of fact discovery period. Parties to provide initial disclosures pursuant to Rule 26(a)(1)(A).
September 12, 2016 (371)	Deadline for joinder of additional parties, motion to amend complaint by Plaintiffs, and motion to amend counterclaims by Defendants, if counterclaims are pending.
December 30, 2016 (262)	Parties shall select a mediator, schedule a time, date and place for mediation, and shall file a proposed order scheduling mediation.
February 17, 2017 (213)	Fact discovery must be completed.
March 3, 2017 (199)	Parties shall exchange expert witness summaries and reports as required by Local Rule 16.1(K).
March 17, 2017 (185)	Mediation must be completed.
April 28, 2017 (143)	Parties shall exchange rebuttal expert witness summaries and reports as required by Local Rule 16.1(K).
May 31, 2017 (110)	Expert discovery must be completed.
June 19, 2017 (91)	All summary judgment and <i>Daubert</i> motions must be filed.
July 31, 2017 (49)	All pretrial motions (including motions in <i>limine</i>), other than summary judgment and <i>Daubert</i> motions, must be filed. Joint Pretrial Stipulations must be filed.
August 7, 2017 (42)	Deposition designations must be served.
August 14, 2017 (35)	Deposition cross-designations must be served.
August 21, 2017 (28)	Rule of completeness designations must be served.
September 5, 2017 (13)	Proposed jury instructions and/or proposed findings of fact and conclusions of law must be filed.
September 18, 2017	Beginning of Trial Period.