

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

---

ANDREA ROSSI and LEONARDO  
CORPORATION,

Plaintiffs,

v.

THOMAS DARDEN; JOHN T. VAUGHN,  
INDUSTRIAL HEAT, LLC; IPH  
INTERNATIONAL B.V.; and  
CHEROKEE INVESTMENT PARTNERS,  
LLC,

Defendants.

CASE NO. 1:16-cv-21199-CMA

---

INDUSTRIAL HEAT, LLC and IPH  
INTERNATIONAL B.V.,

Counter-Plaintiffs,

v.

ANDREA ROSSI and LEONARDO  
CORPORATION,

Counter-Defendants,

and

J.M. PRODUCTS, INC.; HENRY  
JOHNSON; FABIO PENON; UNITED  
STATES QUANTUM LEAP, LLC;  
FULVIO FABIANI; and JAMES A. BASS,

Third-Party Defendants.

---

**UNOPPOSED NOTICE OF  
WITHDRAWAL OF MOTION**

**DEFENDANTS' UNOPPOSED NOTICE OF WITHDRAWAL OF MOTION FOR  
JUDGMENT ON THE PLEADINGS AS TO COUNT I OF THE COMPLAINT**

Pursuant to Federal Rule of Civil Procedure 12, Industrial Heat, LLC (“Industrial Heat”) and IPH International, B.V. (“IPH”) hereby give notice of withdrawal without prejudice of their Motion for Judgment on the Pleadings as to Count I of the Complaint of Andrea Rossi and Leonardo Corporation (collectively, “Plaintiffs”) [D.E. 43].

On September 2, 2016, Industrial Heat and IPH filed their Motion for Judgment on the Pleadings as to Count I of the Complaint (“Motion for Judgment on the Pleadings”). [D.E. 43]. Plaintiffs responded on September 9, 2016. [D.E. 44]. On September 15, 2016, Industrial Heat, IPH and their co-defendants filed a motion for leave (“Motion for Leave”) to file a Second Amended Answer, Additional Defenses, Counterclaims, and Third-Party Claims (“2d Amended AACT”). [D.E. 45] The Court granted the Motion for Leave today, and defendants will file the 2d Amended AACT promptly. [D.E. 47]. As a result, the Motion for Judgment on the Pleadings no longer is addressing the operative pleadings. Accordingly, Industrial Heat and IPH withdraw their Motion for Judgment on the Pleadings, reserving their right to file a new motion for judgment on the pleadings once all of the pleadings have been closed (at least as among Industrial Heat, IPH, and Plaintiffs).

Counsel for Industrial Heat and IPH advised counsel for Plaintiffs that they would be withdrawing the Motion for Judgment on the Pleadings in light of moving for leave to file the 2d Amended AACT, and counsel for Plaintiffs stated that he does not oppose the withdrawal.

Dated: September 16, 2016

Respectfully submitted,

*/s/ Christopher R. J. Pace*

---

Christopher R.J. Pace  
cpace@jonesday.com  
Florida Bar No. 721166  
Christopher M. Lomax  
clomax@jonesday.com  
Florida Bar No. 56220  
Christina T. Mastrucci  
Florida Bar No. 113013  
JONES DAY  
600 Brickell Avenue, Suite 3300  
Miami, Florida 33131  
Tel: 305-714-9700  
Fax: 305-714-9799

*Attorneys for Defendants*

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on September 16, 2016, I electronically filed the foregoing with the Clerk of the Court by using the CM/ECF system which will send a notice of electronic filing to all counsel of record for the parties.

*/s/ Christopher R. J. Pace*

\_\_\_\_\_  
Christopher R.J. Pace