

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

**CASE NO. 16-21199-CIV-ALTONAGA/O'Sullivan**

**ANDREA ROSSI, et al.,**

Plaintiffs,

v.

**THOMAS DARDEN, et al.,**

Defendants.

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**ORDER**

**THIS CAUSE** came before the Court at an October 14, 2016 hearing [ECF No. 66] on Plaintiffs, Andrea Rossi and Leonardo Corporation's Motion to Strike . . . ("Motion") [ECF No. 54], filed September 23, 2016. The Motion seeks to strike certain sections of Defendants, Thomas Darden; John T. Vaughn; Industrial Heat, LLC; IPH International, B.V.; and Cherokee Investment Partners, LLC's (collectively, "Defendants[']") Second Amended Answer . . . ("Answer") [ECF No. 50]. The hearing also addressed the status of service on Third-Party Defendant, Fabio Penon. For the reasons stated in open court, it is hereby


**ORDERED AND ADJUDGED** that

1. The Motion [ECF No. 54] is **GRANTED in part** and **DENIED in part** as follows:
  - a. Affirmative Defenses 1, 4, 6, and 9 as well as Paragraphs 126–33 of Count II of the Counterclaims and Third-Party Claims in Defendants' Answer remain intact.
  - b. Affirmative Defenses 2 and 10 are **STRICKEN**.
  - c. Affirmative Defense 3 is **STRICKEN in part**. The phrase "and other applicable equitable doctrines" is stricken.

CASE NO. 16-21199-CIV-ALTONAGA/O'Sullivan

- d. Affirmative Defense 7 is **STRICKEN in part**. Defendants shall clarify Affirmative Defense 7 to specify the corporate entity alleged responsible for particular acts of fraudulent misrepresentation.
2. Defendants shall have seven (7) days from the Court's order on Plaintiffs' Motion to Dismiss . . . ("Motion to Dismiss") [ECF No. 41] to amend their Answer in accordance with this Order.
3. Defendants shall show proof of service on Third-Party Defendant, Fabio Penon by **November 14, 2016**, failing which he will be dismissed without prejudice.

**DONE AND ORDERED** in Miami, Florida this 14th day of October, 2016.

  
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**CECILIA M. ALTONAGA**  
**UNITED STATES DISTRICT JUDGE**

cc: counsel of record