

# Exhibit 9

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UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA

CASE NO. 1:16-cv-21199-CMA/O'SULLIVAN

ANDREA ROSSI, ET AL.,

Plaintiffs,

vs.

THOMAS DARDEN, ET AL.,

Defendants.

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Casa de Campo  
Resort & Villas  
La Romana, D.R.  
Wednesday, February 22, 2017  
9:06 a.m. - 7:42 p.m.

VIDEOTAPED DEPOSITION OF FABIO PENON

Taken on behalf of the Plaintiffs before  
Diana Santos, Shorthand Reporter and Notary Public  
in and for the State of Florida at Large, pursuant  
to Notice of Taking Deposition filed in the above  
cause.

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1 consistency of the data.  
 2 Q Would that machine or that device record  
 3 any changes made to the data?  
 4 A Yes.  
 5 MR. PACE: Objection to the question, but  
 6 go ahead.  
 7 THE WITNESS: Definitely, yes.  
 8 BY MR. ANNESSER:  
 9 Q Looking at the fifth column, tank water  
 10 T-max. How was that measured?  
 11 A With the temperature sensor.  
 12 Q Where?  
 13 THE INTERPRETER: Where?  
 14 BY MR. ANNESSER:  
 15 Q Where was the sensor located?  
 16 A Indicated in the diagram, if I remember  
 17 well, in the reference to --  
 18 Q Are you referencing Exhibit 9?  
 19 A Yes, Exhibit 9. No, it is not.  
 20 MR. PACE: You are covering up the mic.  
 21 BY MR. ANNESSER:  
 22 Q Let me ask you, sir, not to waste time on  
 23 that.  
 24 How was that data recorded?  
 25 A With the same principle, the analogical

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1 signal reached to a certain -- that realized the  
 2 conversion, digital analogical to reverse to  
 3 download to my computer.  
 4 Q Did you have a computer at the Doral  
 5 facility?  
 6 A It was that one which had to be -- to  
 7 gather all data.  
 8 Q Was that data transmitted to you in Italy?  
 9 A These are the data that I said them to  
 10 transfer regularly to Italy.  
 11 Q Did anyone have access to your computer at  
 12 the Doral facility? Let me finish. Was it password  
 13 protected?  
 14 MR. PACE: Objection to the question.  
 15 MR. ANNESSER: Let me restate.  
 16 BY MR. ANNESSER:  
 17 Q Your computer at the Doral facility, was  
 18 it password protected?  
 19 A Yes, it was protected if I don't -- if I  
 20 remember well by a password technology.  
 21 Q Did anyone at the Doral facility have  
 22 access that they can alter the data recorded in that  
 23 computer?  
 24 MR. PACE: Objection to the question.  
 25 Objection to the question.

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1 THE WITNESS: Not that I can imagine.  
 2 BY MR. ANNESSER:  
 3 Q How often would you monitor the tank water  
 4 temperature from Italy? How often would you  
 5 monitor...?  
 6 A Each two months they were transmitted to  
 7 me and every two months, approximately, I was  
 8 checking this data.  
 9 Q How were they transmitted to you?  
 10 A E-mail.  
 11 Q Who would send it to you via e-mail?  
 12 A Fabiani.  
 13 Q Did he also receive the temperature data  
 14 to his computer?  
 15 A Can you repeat it?  
 16 Q Did Mr. Fabiani also receive the  
 17 temperature data to his computer?  
 18 A No. I think Fabiani had his own system of  
 19 recovering this data.  
 20 Q Okay. Okay. Column six, "effective  
 21 flowed water". How was that measured?  
 22 A Through the measure of the water power.  
 23 Q Was that the flowmeter?  
 24 A The flow meter, yes.  
 25 Q How did you retrieve the data from the

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1 flowmeter?  
 2 A Datas were read every night by Dr. Rossi  
 3 and Rossi had to report them in the -- in the log --  
 4 in the logbook and every night it was transmitted in  
 5 this data.  
 6 Q Did you have any way to verify the data  
 7 that Dr. Rossi was providing you?  
 8 A The correctness of the data?  
 9 Q Yes.  
 10 A When I visited to the Doral plant one of  
 11 the controls that I wanted to make is the  
 12 reconciliation between the data transmitted by Rossi  
 13 and the data relieved in the -- in the meter.  
 14 Q So you would reconcile the data provided  
 15 by Dr. Rossi with the change from your last visit,  
 16 the change in water flow?  
 17 A With the relevant data in the opportunity  
 18 of my business.  
 19 Q Sir, some people have said that it is  
 20 impossible to have the same amount of water flow  
 21 every -- multiple days in a row. I'm sorry. Can  
 22 you explain why -- why the measurements are all to  
 23 the -- to the thousandth, I believe they are  
 24 thousand kilogram per day?  
 25 A Can you repeat?

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1 Q If you go for me two paragraphs down do  
 2 you see the one starting with "following my  
 3 request"? Do you see that paragraph?  
 4 A Uh-huh.  
 5 Q Am I understanding this correctly, that  
 6 you had discussed with Dr. Rossi and Dr. Rossi had  
 7 agreed to include a condensed steam collector at the  
 8 bottom of the -- at the bottom of the steam pipe?  
 9 MR. ANNESSER: Object to the form.  
 10 THE WITNESS: Okay.  
 11 BY MR. PACE:  
 12 Q Do you recall having that conversation  
 13 with Dr. Rossi?  
 14 A In this very moment I don't remember, but  
 15 I think having written that...  
 16 Q You would not have written that in the  
 17 e-mail, if the conversation didn't occur; is that  
 18 correct?  
 19 THE INTERPRETER: Correct. Exactly what  
 20 he was saying.  
 21 MR. ANNESSER: Object to the form.  
 22 BY MR. PACE:  
 23 Q If we could just ask him the question.  
 24 A He must apply. He has to apply.  
 25 Q I understand. I am just -- if you wrote

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1 in the e-mail that you had made a request to  
 2 Dr. Rossi and Dr. Rossi had agreed with your request  
 3 to apply a condensed steam collector, you believe  
 4 your e-mail is accurate?  
 5 A I did the request and Rossi accepted to  
 6 apply.  
 7 Q The next paragraph says "during the visit  
 8 I will check the amount of the water present". Is  
 9 that a reference to the condensed steam collector?  
 10 A Can you quote again which sentence?  
 11 Q Yes. Dr. Penon, the very next paragraph  
 12 says "During my visit I will check the amount of the  
 13 water present." Do you see that paragraph? That's  
 14 a reference to checking the amount of water in the  
 15 condensed steam collector; correct?  
 16 A The demand is if I verify the  
 17 installation, right, the question is?  
 18 Q No. My question is because it has visits  
 19 as plural, I'm understanding this to say that -- are  
 20 you saying that during your visits -- your later  
 21 visits to the Doral warehouse you would check the  
 22 amount of water in the condensed steam collector?  
 23 MR. ANNESSER: Object to the form.  
 24 THE WITNESS: Yes. During my visits,  
 25 during my visits I intended to verify the

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1 steam -- the water present, if any.  
 2 MR. PACE: Understood.  
 3 BY MR. PACE:  
 4 Q If I can, we only have a couple of more  
 5 minutes in this tape, but let me see if I can ask  
 6 this: If you can turn to the prior page, page 27.  
 7 Right above your typed name do you see --  
 8 A On the top of the page?  
 9 Q No, it is more towards the bottom. Do you  
 10 see a paragraph that starts with "If we move away  
 11 from the exit point"?  
 12 THE INTERPRETER: Yes.  
 13 BY MR. PACE:  
 14 Q "If we move away from the exit point it is  
 15 possible the formation of small amounts of water  
 16 which will be collected in the collector." Am I  
 17 understanding correctly, that's the same condensed  
 18 steam collector that you -- that we were just  
 19 talking about on the prior page?  
 20 MR. ANNESSER: Object to the form.  
 21 THE WITNESS: Yes.  
 22 BY MR. PACE:  
 23 Q Are you aware of whether there was any  
 24 steam collect -- any such condensed steam collector  
 25 actually installed at the plant in Doral?

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1 A Another collector?  
 2 Q Any collector? Was there a steam -- was  
 3 there a condensed steam collector on the exit pipe  
 4 from the E-Cat heading over to the customer side?  
 5 A In this moment I don't remember.  
 6 Q All right.  
 7 MR. PACE: Let's take a break, because  
 8 he's got to change the tape and I think you  
 9 have to hop to a phone call because it is  
 10 exactly 6:00 o'clock.  
 11 MR. LUKACS: It is 5:00 o'clock in Miami  
 12 right now.  
 13 MR. PACE: Oh, 6 o'clock. I'm sorry. I'm  
 14 sorry.  
 15 THE VIDEOGRAPHER: Going off the record.  
 16 The same is 6 o'clock p.m.  
 17 (Thereupon, a recess was taken from 6:00  
 18 p.m. - 6:05 p.m., after which the following  
 19 proceedings were had:)  
 20 THE VIDEOGRAPHER: All right. We are now  
 21 back on the record. The time is 6:05. Media  
 22 number six.  
 23 BY MR. PACE:  
 24 Q Dr. Penon, if I can keep you on the same  
 25 page that we were looking at for number -- we were

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1 looking at page 27 of what I have marked as Exhibit  
 2 25. At the top of that page you see an e-mail from  
 3 Tom Darden. The very top, it starts with "Let's  
 4 make sure". Do you see "Let's make sure that there  
 5 is more than one way to measure the temperature in  
 6 that pipe." I want to use it really to transition  
 7 to page 26, because we have a response from  
 8 Dr. Rossi to the issue. If you look at his e-mail  
 9 there at the bottom. Do you see the paragraph that  
 10 starts with the -- several lines down. "The  
 11 temperature in the steam pipe, as you correctly  
 12 remember, is taken in two positions by means of two  
 13 thermocouples that have been brought in position  
 14 today by Engineer Penon." He also says, "Also the  
 15 temperature of the water in the tank inside the  
 16 container to feed the pumps is measured by two  
 17 thermocouples brought and installed under the  
 18 direction of Engineer Penon. And then he says, and  
 19 the pressure of the steam is measured with two  
 20 instruments brought by Engineer Penon."  
 21 Is -- did you bring two measuring devices,  
 22 whether for temperature or for pressure, and then  
 23 you used one and you had Fabio -- you allowed Rossi  
 24 or Fabiani to use the other?  
 25 MR. ANNESSER: Object to the form.

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1 THE WITNESS: I brought two technical  
 2 probes. Yes, I brought two probes, technical  
 3 probes. One of those was going directly on the  
 4 document which was transforming from analogical  
 5 to digital and then it was stuck in his  
 6 computer.  
 7 The other one was to verify when I was  
 8 visiting the plant the consistency collected to  
 9 verify the thermometer connected with the  
 10 second -- with the second.  
 11 THE INTERPRETER: I got lost.  
 12 THE WITNESS: The second probe was  
 13 connected to the thermometer to verify the --  
 14 the relationship -- the correspondence of the  
 15 data from the relevance of the thermometer and  
 16 how much it was revealed by the first probe.  
 17 MR. PACE: Okay.  
 18 BY MR. PACE:  
 19 Q Is the same applied for the pressure  
 20 probes?  
 21 MR. ANNESSER: Object to the form.  
 22 THE WITNESS: Can you repeat?  
 23 MR. PACE: Yes.  
 24 BY MR. PACE:  
 25 Q Was there also the steam pressure measured

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1 by two different instruments?  
 2 A The steam pressure was measured by -- by  
 3 the probe, and as far as I can remember from the  
 4 manometer which had a symbol reading -- manual  
 5 reading.  
 6 Q The manometer was read manually every day?  
 7 THE INTERPRETER: Yes.  
 8 THE WITNESS: He was checking the  
 9 manometer during my visits to verify the  
 10 consistency of the probe with the pressure.  
 11 MR. ANNESSER: Object to the form. Move  
 12 to strike.  
 13 BY MR. PACE:  
 14 Q Were there two -- did you bring --  
 15 according to this e-mail it says, "Also the pressure  
 16 of the steam is measured with two instruments  
 17 brought by Engineer Penon." Is that accurate?  
 18 A I don't remember at this very time.  
 19 Q Okay. If you can go down for me a few  
 20 lines, there is -- let me just read it and then we  
 21 can talk about it.  
 22 "All those instruments for the measurement  
 23 of temperature of the steam, of the pressure of the  
 24 steam, and of temperature of the water in the water  
 25 tank inside the container are connected with the

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1 computer of property of Engineer Penon." Do you see  
 2 where I'm reading in the document?  
 3 A Yes. Yes, I see it.  
 4 Q Sir, it follows that -- it says shortly  
 5 after "Obviously, Penon will consider for his  
 6 calculations only the data registered by the  
 7 computer."  
 8 MR. ANNESSER: Objection.  
 9 MR. PACE: -- "And we can compare the data  
 10 that he will find with the data that we will  
 11 find."  
 12 MR. ANNESSER: Object to the form.  
 13 BY MR. PACE:  
 14 Q Do you see that?  
 15 A I do not understand it. Can you repeat  
 16 it?  
 17 MR. PACE: Yes.  
 18 BY MR. PACE:  
 19 Q Do you see the sentence in the e-mail that  
 20 starts with, "Obviously Penon will consider for his  
 21 calculations only the data registered by his  
 22 computer, but we can compare the data." You can  
 23 compare the data.  
 24 Is that -- did that occur during the  
 25 course of the test that you compared the data that

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1 you were -- that you were storing in your computer  
 2 with the data that was being collected by Rossi and  
 3 Fabiani?  
 4 MR. ANNESSER: Object to the form.  
 5 THE WITNESS: It happened in some visits  
 6 that we compared the data -- the data recovered  
 7 on the spot, at the very same time, with the  
 8 ones of Fabiani.  
 9 BY MR. PACE:  
 10 Q And did you ever find any inconsistencies?  
 11 A I was not really interested very frankly  
 12 in the data of Fabiani, because with the system of  
 13 comparison between different -- I was in a condition  
 14 of feeling sure about my collection of data.  
 15 Q And that collection of data, you said  
 16 that -- they sent it to you every couple of weeks?  
 17 MR. ANNESSER: Object to the form.  
 18 THE WITNESS: No. If you refer to the  
 19 data gathered in my computer at Doral I was  
 20 real -- I was requesting them to transfer the  
 21 data every two months.  
 22 BY MR. PACE:  
 23 Q And how were they doing that?  
 24 A They sent me the file with the entire data  
 25 of the period -- of the period in which I was

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1 interested.  
 2 Q And who is the "they"?  
 3 THE INTERPRETER: Sorry.  
 4 BY MR. PACE:  
 5 Q Who would send you this data?  
 6 A Fabiani.  
 7 Q So Fulvio Fabiani would send you the data  
 8 from your computer every couple of months?  
 9 MR. ANNESSER: Object to the form.  
 10 THE WITNESS: According to my request.  
 11 BY MR. PACE:  
 12 Q Okay. So you made the request -- let me  
 13 rephrase it then.  
 14 Roughly every couple of months you made  
 15 the request for Fabiani to send you your data and  
 16 when you made such a request he would send it to  
 17 you?  
 18 MR. ANNESSER: Object to the form.  
 19 THE WITNESS: Correct. He was sending the  
 20 data in the computer.  
 21 BY MR. PACE:  
 22 Q So he had the ability to access your  
 23 computer to make at least a copy of the data to send  
 24 you?  
 25 MR. ANNESSER: Object to the form.

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1 THE WITNESS: He could access, but for  
 2 some limited tasks.  
 3 BY MR. PACE:  
 4 Q And does that -- does that -- where is  
 5 that computer today?  
 6 A I think it is in the container at the  
 7 Doral.  
 8 Q So you -- you did not take that with you  
 9 when you returned to Italy in February of 2016?  
 10 A No, because I had already all the data.  
 11 Q When you -- when you took any of the data  
 12 from the computer that you had at Doral, would you  
 13 erase it from the computer?  
 14 THE INTERPRETER: Excuse me?  
 15 BY MR. PACE:  
 16 Q After you had reviewed the data that was  
 17 on the computer in Doral, would it get erased?  
 18 Would it get erased?  
 19 MR. ANNESSER: Object to the form.  
 20 THE WITNESS: I don't remember honestly.  
 21 I took them for sure, but I don't know if I  
 22 deleted it.  
 23 BY MR. PACE:  
 24 Q So it may be on the computer that's in  
 25 Doral. You don't know?

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1 A It could be in the computer.  
 2 Q Have you maintained a copy of this, this  
 3 data?  
 4 A My personal data -- my personal data on my  
 5 computer. No additional -- no other copies exist.  
 6 Q But just so I understand. These data --  
 7 these devices for collecting information are  
 8 collecting temperature and pressure readings on a  
 9 very regular basis, very consistent basis; correct?  
 10 MR. ANNESSER: Object to the form.  
 11 THE WITNESS: Correct, yes.  
 12 BY MR. PACE:  
 13 Q And you testified that your report largely  
 14 uses average numbers for a day usually rounded up or  
 15 down?  
 16 MR. ANNESSER: Object to the form.  
 17 THE WITNESS: Can you repeat again?  
 18 MR. PACE: Sure.  
 19 BY MR. PACE:  
 20 Q You were looking with Mr. Annesser at some  
 21 of your reports and the annexes to the reports, and  
 22 you were talking about how those numbers -- you  
 23 don't report several hundred numbers for a given  
 24 day. You report one number for a day.  
 25 A The reports were related to 24 hours



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1 BY MR. PACE:  
 2 Q I believe you said that daily Dr. Rossi  
 3 sent you a measurement?  
 4 MR. ANNESSER: Object to the form.  
 5 THE WITNESS: Yes.  
 6 BY MR. PACE:  
 7 Q How did he send that to you?  
 8 A Compiling the log of the implant and there  
 9 was sending the log updated.  
 10 Q But was it a daily e-mail you would get  
 11 from Dr. Rossi?  
 12 A Correct. Daily.  
 13 Q Okay. So you have over 350 -- at some  
 14 point you have almost -- let me start over again.  
 15 Were there roughly 350 or 360 of these  
 16 e-mails?  
 17 A Approximately, yes.  
 18 Q Okay. And these e-mails, when it has the  
 19 flow meter data, it is the exact reading, he is  
 20 supposed to provide you the exact reading, not a  
 21 rounded off reading?  
 22 A Yes.  
 23 Q And then the other data that was being  
 24 sent to you when you would request from Fabio --  
 25 from Fulvio Fabiani, that would also be sent to you

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1 by e-mail?  
 2 MR. ANNESSER: Object to the form.  
 3 THE WITNESS: Correct.  
 4 BY MR. PACE:  
 5 Q Now, I understand these -- I understand  
 6 this temperature data would record temperature every  
 7 few seconds.  
 8 MR. ANNESSER: Object to the form.  
 9 BY MR. PACE:  
 10 Q Is that correct?  
 11 A There the frequency -- I don't remember  
 12 exactly, after the certain number of seconds there  
 13 was a new -- a new.  
 14 Q Measurement?  
 15 THE INTERPRETER: Output, measurement.  
 16 BY MR. PACE:  
 17 Q And these are the large files that would  
 18 be sent by Fulvio Fabiani to you?  
 19 MR. ANNESSER: Object to the form.  
 20 MR. LUKACS: Okay. Let me just stay on  
 21 the record for a moment. We started at  
 22 9:00 o'clock this morning Dominican Republic  
 23 time. It is now 6:58 here in the Dominican  
 24 Republic. I have a 6:00 o'clock call Eastern  
 25 Standard Time that I am going to make right

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1 now. We are off the record.  
 2 THE VIDEOGRAPHER: Off the record. The  
 3 time is 6:58.  
 4 (Thereupon, a recess was taken from 6:58  
 5 p.m. - 7:14 p.m., after which the following  
 6 proceedings were had.)  
 7 THE VIDEOGRAPHER: We are now back on the  
 8 record. The time is 7:14.  
 9 BY MR. PACE:  
 10 Q Dr. Penon, I have been advised that I have  
 11 got 15 more minutes to ask you questions so I'm  
 12 going to try to -- to move a little quickly now, if  
 13 I can.  
 14 Can you look at Exhibit 18 for me?  
 15 A Page number?  
 16 Q Exhibit 18, the first two pages. Do you  
 17 have 18 with you?  
 18 THE INTERPRETER: Is it the big one?  
 19 BY MR. PACE:  
 20 Q Did you find it? If you could turn to the  
 21 second page of that exhibit. This is the picture  
 22 of -- it says in reactors -- you see how it refers  
 23 to electrical measures and reactors BF1, BF2 and  
 24 BF3; correct? BF1 -- do you know what BF is short  
 25 for or stands for?

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1 A The grouping of -- the E-Cat unit. The  
 2 unit BF1 unit BF2 unit.  
 3 Q So this is what they call the Big Frankie  
 4 units?  
 5 A I did not go deeply into the matter.  
 6 Q Is it true that there is also a BF4?  
 7 A No, I don't know.  
 8 Q So --  
 9 A I do not know.  
 10 Q So at the plant you do not recall there  
 11 being four units of this type, only three?  
 12 MR. ANNESSER: Object to the form.  
 13 THE WITNESS: These were -- we perform it  
 14 on these three units because they were working.  
 15 I ignore how many other units were not working.  
 16 It was not of my interest, so I didn't need it.  
 17 BY MR. PACE:  
 18 Q So when you went there on this date  
 19 October 13th, if you look at the actual signature it  
 20 has October 13 at the very top if you look date  
 21 October 13th, 2016. Let me just be quick if I can.  
 22 There were three of these collections of  
 23 E-Cats working?  
 24 MR. ANNESSER: Object to the form.  
 25 THE WITNESS: We verified the function of

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1 MR. LUKACS: 9:00 o'clock this morning and  
 2 it is now 20 minutes until 8:00.  
 3 MR. PACE: And it is now 20 minutes until  
 4 8:00 a.m.  
 5 MR. LUKACS: 8:00 p.m.  
 6 MR. PACE: And at this point -- 8:00 p.m  
 7 you are calling it into the deposition.  
 8 MR. LUKACS: Most respectfully, I might  
 9 add.  
 10 THE VIDEOGRAPHER: All right. Going off  
 11 the video record. The time is 7:42 p.m. in the  
 12 Dominican Republic.  
 13 MR. LUKACS: Reporter, thank you so much.  
 14 No waive. We'll have an opportunity to read.  
 15 (Thereupon, the taking of the deposition  
 16 was concluded at 7:42 p.m.)  
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1 ERRATA SHEET  
 2 RE: ANDREA ROSSI, ET AL. VS. THOMAS DARDEN, ET AL.  
 DEPO OF: FABIO PENON  
 3 TAKEN: February 22, 2017  
 JOB# 2547735  
 4 DO NOT WRITE ON TRANSCRIPT, ENTER ANY CHANGES HERE  
 5 Page #| Line #| Change | Reason  
 6 \_\_\_\_\_  
 7 \_\_\_\_\_  
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 20 \_\_\_\_\_  
 21 State of Florida)  
 County of )  
 22  
 Under penalties of perjury, I declare that I have  
 23 read by deposition transcript, and it is true and  
 correct subject to any changes in form or  
 24 substance entered here.  
 \_\_\_\_\_  
 25 Date FABIO PENON

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1 RE: ANDREA ROSSI, ET AL. VS. THOMAS DARDEN, ET AL.  
 DEPO OF: FABIO PENON  
 2 TAKEN: February 22, 2017  
 3  
 4 EXCEPT FOR ANY CORRECTIONS  
 MADE ON THE ERRATA SHEET BY  
 5 ME, I CERTIFY THIS IS A TRUE  
 AND ACCURATE TRANSCRIPT.  
 6 FURTHER DEPONENT SAYETH NOT.  
 7  
 8 \_\_\_\_\_  
 FABIO PENON  
 9  
 STATE OF FLORIDA )  
 ) SS:  
 COUNTY OF MIAMI-DADE)  
 10  
 11 Sworn and subscribed to before me this  
 12 \_\_\_\_\_ day of \_\_\_\_\_, 2017.  
 13 PERSONALLY KNOWN \_\_\_\_\_ OR I.D. \_\_\_\_\_  
 14  
 15 \_\_\_\_\_  
 Notary Public in and for  
 the State of Florida at  
 Large.  
 16  
 My commission expires:  
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1 CERTIFICATE OF OATH OF INTERPRETER  
 2  
 3 STATE OF FLORIDA )  
 ) SS:  
 4 COUNTY OF MIAMI-DADE)  
 5  
 6 I, DIANA SANTOS, Notary Public in and for  
 7 the State of Florida at Large, certify that the  
 8 Interpreter, UGO V. CHIARATO personally appeared  
 9 before me on February 22, 2017 and was duly sworn by  
 10 me.  
 11 WITNESS my hand and official seal this  
 12 22nd day of February, 2017.  
 13  
 14  
 15   
 16 \_\_\_\_\_  
 DIANA SANTOS  
 Notary Public, State of Florida  
 at Large  
 17  
 18 Notary #FF030013  
 19 My commission expires: 7/7/17  
 20  
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 24  
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1 CERTIFICATE OF OATH OF WITNESS  
 2  
 3 STATE OF FLORIDA )  
 ) SS:  
 4 COUNTY OF MIAMI-DADE)  
 5  
 6 I, DIANA SANTOS, Notary Public in and for  
 7 the State of Florida at Large, certify that the  
 8 witness, FABIO PENON, personally appeared before me  
 9 on February 22, 2017 and was duly sworn by me.  
 10 WITNESS my hand and official seal this  
 11 22nd day of February, 2017.  
 12  
 13  
 14   
 15 \_\_\_\_\_  
 DIANA SANTOS  
 Notary Public, State of Florida  
 at Large  
 Notary #FF030013  
 My commission expires: 7/7/17  
 19  
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1 VERITEXT FLORIDA CO.  
 ONE BISCAYNE TOWER  
 2 2 S. Biscayne Tower, Suite 2250  
 Miami, Florida 33131  
 (305) 371-1884  
 3  
 4 March \_\_\_\_\_, 2017  
 5 FABIO PENON  
 c/o JOHN CHARLES LUKACS, ESQUIRE  
 6 HINSHAW & CULBERTSON LLP  
 2525 Ponce de Leon Boulevard  
 7 Coral Gables, Florida 33134  
 Telephone: (305)358-7747  
 8 E-mail:jlukacs@hinshawlaw.com  
 9 RE: ANDREA ROSSI, ET AL. VS. THOMAS DARDEN, ET AL.  
 DEPO OF: FABIO PENON  
 10 TAKEN : February 22, 2017  
 READ & SIGN BY: April \_\_\_\_\_, 2017  
 11  
 12 Dear FABIO PENON:  
 13 This letter is to advise you that the transcript  
 of the deposition listed above is completed and  
 is awaiting reading and signing.  
 14  
 15 Please arrange to stop by our office in Suite 1020,  
 19 West Flagler Street, Miami, Florida to read and  
 sign the transcript. Our office hours are from  
 16 8:00 a.m. to 4:00 p.m. Monday through Friday.  
 Depending on the length of the transcript, you  
 17 should allow yourself sufficient time.  
 18 If the reading and signing has not been completed  
 prior to the referenced date, we shall conclude  
 19 that you have waived the reading and signing of the  
 deposition transcript.  
 20  
 21 Your prompt attention to this matter is appreciated.  
 22  
 23 Sincerely,  
 24 DIANA SANTOS  
 cc: JOHN W. ANNESSER, ESQUIRE  
 CHRISTOPHER R.J. PACE, ESQUIRE  
 25

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1 REPORTER'S DEPOSITION CERTIFICATE  
 2  
 3 I, DIANA SANTOS, certify that I was  
 4 authorized to and did stenographically report the  
 5 deposition of FABIO PENON, the witness herein on  
 6 February 22, 2017; that a review of the transcript  
 7 was requested; that the foregoing pages numbered  
 8 from 1 to 206 inclusive is a true and complete  
 9 record of my stenographic notes of the deposition by  
 10 said witness; and that this computer-assisted  
 11 transcript was prepared under my supervision.  
 12 I further certify that I am not a  
 13 relative, employee, attorney or counsel of any of  
 14 the parties, nor am I a relative or employee of any  
 15 of the parties' attorney or counsel connected with  
 16 the action.  
 17 DATED this 22nd day of February, 2017.  
 18  
 19  
 20  
 21   
 22 \_\_\_\_\_  
 DIANA SANTOS  
 23  
 24  
 25

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1 VERITEXT FLORIDA CO.  
 ONE BISCAYNE TOWER  
 2 2 S. Biscayne Boulevard, Suite 2250  
 Miami, Florida 33131  
 (305) 371-1884  
 3  
 4 March \_\_\_\_\_, 2017  
 5  
 6 JOHN W. ANNESSER, ESQUIRE  
 PERLMAN, BAJANDAS, YEVOLI & ALBRIGHT, P.L.  
 7 283 Catalonia Avenue  
 Suite 200  
 8 Coral Gables, Florida 33134  
 Telephone: (305)377-0086  
 9 E-mail: jannesser@pbylaw.com  
 10 RE: ANDREA ROSSI, ET AL. VS. THOMAS DARDEN, ET AL.  
 DEPO OF: FABIO PENON  
 11 TAKEN : February 22, 2017  
 READ & SIGN BY: April \_\_\_\_\_, 2017  
 12  
 13 Dear JOHN W. ANNESSER, ESQUIRE:  
 14 The original transcript of the deposition listed  
 above was previously provided to your office. The  
 15 witness did not waive reading and signing and was  
 duly notified to come in and read the transcript.  
 16  
 17 Attached to this letter you will find a copy  
 of the corrections made by the witness.  
 PLEASE ATTACH THEM TO YOUR COPY OF THE  
 18 DEPOSITION SO IT WILL BE COMPLETE.  
 19 The witness made no corrections to transcript.  
 20 As of the above date, the witness has not come  
 in to read and sign the transcript which has  
 21 been noted on the original transcript.  
 22 Sincerely,  
 23  
 24 DIANA SANTOS  
 cc: JOHN CHARLES LUKACS, ESQUIRE  
 CHRISTOPHER R.J. PACE, ESQUIRE  
 25

VERITEXT LEGAL SOLUTIONS  
COMPANY CERTIFICATE AND DISCLOSURE STATEMENT

Veritext Legal Solutions represents that the foregoing transcript is a true, correct and complete transcript of the colloquies, questions and answers as submitted by the court reporter. Veritext Legal Solutions further represents that the attached exhibits, if any, are true, correct and complete documents as submitted by the court reporter and/or attorneys in relation to this deposition and that the documents were processed in accordance with our litigation support and production standards.

Veritext Legal Solutions is committed to maintaining the confidentiality of client and witness information, in accordance with the regulations promulgated under the Health Insurance Portability and Accountability Act (HIPAA), as amended with respect to protected health information and the Gramm-Leach-Bliley Act, as amended, with respect to Personally Identifiable Information (PII). Physical transcripts and exhibits are managed under strict facility and personnel access controls. Electronic files of documents are stored in encrypted form and are transmitted in an encrypted fashion to authenticated parties who are permitted to access the material. Our data is hosted in a Tier 4 SSAE 16 certified facility.

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