

# Composite Exhibit 61

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UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA  
CASE NO. 1:16-cv-21199-CMA/O'Sullivan

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. )

C O N F I D E N T I A L

Video Deposition of BARRY WEST  
(Taken by the Plaintiffs)  
Raleigh, North Carolina  
Friday, December 2, 2016

Reported by: Marisa Munoz-Vourakis -  
RMR, CRR and Notary Public

<p style="text-align: right;">Page 2</p> <p>1 APPEARANCE OF COUNSEL:                  2 For the Plaintiffs:                  3 BRIAN W. CHAIKEN, ESQ.                  4 JOHN W. ANNESSER, ESQ.                  5 Perlman, Bajandas, Yevoli &amp; Albright, P.L.                  6 283 Catalonia Avenue, Suite 200                  7 Coral Gables, FL 33134                  8 305-377-0086                  9 bchaiken@pbyalaw.com                  10 jannesser@pbyalaw.com                  11                  12 For the Defendants:                  13 CHRISTOPHER LOMAX, ESQ.                  14 Jones Day                  15 Brickell World Plaza                  16 600 Brickell Avenue, Suite 3300                  17 Miami, FL 33131                  18 305-714-9700                  19 crjpace@jonesday.com                  20 clomax@jonesday.com                  21                  22                  23                  24                  25</p>	<p style="text-align: right;">Page 4</p> <p>1                  2 Video Deposition of BARRY WEST, taken by the                  3 Plaintiffs, at Regus Business Center, 9121 Anson Way,                  4 Suite 200, Raleigh, North Carolina, on the 2nd day of                  5 December, 2016 at 9:01 a m., before Marisa Munoz-Vourakis,                  6 Registered Merit Reporter, Certified Realtime Reporter and                  7 Notary Public.                  8                  9                  10                  11                  12                  13                  14                  15                  16                  17                  18                  19                  20                  21                  22                  23                  24                  25</p>
<p style="text-align: right;">Page 3</p> <p>1 APPEARANCES (Continued)                  2 For the Deponent:                  3 JEREMY M. FALCONE, ESQ.                  4 Ellis &amp; Winters LLP                  5 4131 Parklake Avenue, Suite 400                  6 Raleigh, NC 27612                  7 919-865-7000                  8 jeremy.falcone@elliswinters.com                  9 Also Present: THOMAS DARDEN                  10 For the Third-Party Defendants JM Products, Inc., Henry                  Johnson, Esq. and James Bass:                  11 FERNANDO S. ARAN, ESQ. (By Telephone)                  12 Aran, Correa &amp; Guarch, P.A.                  13 255 University Drive                  14 Coral Gables, FL 33134-6732                  15 305-665-3400                  16 faran@acg-law.com                  17                  For the Third-Party Defendants Fulvio Fabiani and United                  18 States Quantum Leap, LLC:                  19 RUDOLFO NUNEZ, ESQ.(By Telephone)                  20 Rudolfo Nunez, P.A                  21 255 University Drive                  22 Coral Gables, FL 33134-6732                  23 305-665-3400                  24 rnunez@acg-law.com                  25 Also Present - DONALD GRAVES, Videographer</p>	<p style="text-align: right;">Page 5</p> <p style="text-align: center;">I N D E X</p> <p>2 Examination of: Page                  3 BARRY WEST                  4 EXAMINATION BY MR. CHAIKEN . . . . . 7                  5 EXAMINATION BY MR. ARAN . . . . . 174                  6 EXAMINATION BY MR. NUNEZ . . . . . 182                  7 FURTHER EXAMINATION BY MR. CHAIKEN . . . 227                  8 PLAINTIFF EXHIBITS                  9 EXHIBIT NUMBER DESCRIPTION PAGE                  10 Exhibit 1 Notice of Deposition 9                  11 Exhibit 2 Twelve pages of documents 10                  12 Exhibit 3 Bates stamped IH0006742 119                  13 Exhibit 4 Bates number IH00006741 151                  14 Exhibit 5 Bates number IH00006740 152                  15 Exhibit 6 Bates number IH00006670 154                  16                  17                  18                  19                  20                  21                  22                  23                  24                  25</p>

<p style="text-align: right;">Page 78</p> <p>1 back, and then we did a basic floor layout of how the 2 plant should sit and the way things should be 3 orientated so that everything fit and worked properly 4 based on T. Barker's -- the way we'd lay things out, me 5 and him working together, and, of course, none of that 6 happened like that.</p> <p>7 Q. Okay. We'll get to that in a second.</p> <p>8 So when was the first trip you made to 9 Florida for the purposes of seeing the plant?</p> <p>10 A. Oh, God, I'm trying to think here. I'm 11 going to guess late November, early December. It was a 12 couple, three weeks. I can't remember exactly. It may 13 have been a month before we actually shipped the unit 14 down there. I mean, they decided for me to fly down 15 there, take a look at this place and see what we're up 16 against, because we knew we got to have water, we knew 17 we got to have power this, that and the other.</p> <p>18 Q. Do you recall visiting the plant, actually 19 the plant facility in Doral, Florida in November 2014?</p> <p>20 A. Yeah, like I said, about a month before we 21 shipped.</p> <p>22 Q. Okay. Do you know how long before, and I'm 23 talking like months or weeks in November 2014, did 24 Rossi go down to prepare the plant?</p> <p>25 A. Andrea was down there a lot. I mean, he</p>	<p style="text-align: right;">Page 80</p> <p>1 having having(sic) there. The air kind of really 2 didn't happen. We didn't need it. We had air there 3 that we used from the other side sometimes, but, no, 4 mostly just the water supply, which turned out not to 5 exist as well. We ended up bringing a hose from the 6 bathroom up there for what water needs, but then they 7 wanted to use distilled water. Andrea said water from 8 the tap was unacceptable. So he actually bought water 9 from a company down there that we had to shuck all 10 these darn five gallon jugs of water and fill the 11 vessel up which provided water for the unit.</p> <p>12 Q. So, but getting back to the design of the 13 layout of the facility, that's something that you and 14 T. Barker worked on, is that correct?</p> <p>15 A. Right. Right.</p> <p>16 Q. When in time did you work on that?</p> <p>17 A. Oh, prior to it leaving, when we were near 18 completion. I'd say this would have happened 19 November-ish.</p> <p>20 Q. 2014?</p> <p>21 A. Yeah.</p> <p>22 Q. Was it your understanding at that time that 23 the facility in Doral, Florida was already operating or 24 had operations in it, or did you understand that it 25 have being developed or built out for purposes of this</p>
<p style="text-align: right;">Page 79</p> <p>1 was home every weekend, most of the time. He'd come up 2 a lot of times in the week, Wednesday or Thursdays a 3 lot of times. Sometimes on a Monday, but he would 4 never stay but a couple of days. He just was 5 monitoring progress on the rebuild.</p> <p>6 Q. Do you recall ever traveling to Miami in 7 about April of 2014 to see the facility?</p> <p>8 A. No. No.</p> <p>9 Q. No. Yesterday, we had the deposition of 10 Mr. T. Barker Dameron, and one of the exhibits was 11 Exhibit number 14. I'm going to show you the exhibit 12 right now.</p> <p>13 Oh, strike that. I'm not going to show you 14 that document. I have a date wrong, I apologize.</p> <p>15 So you said just earlier that T. Barker and 16 yourself had worked on a design of the facility in 17 Florida, is that correct?</p> <p>18 A. A layout plan, a basic layout, how the two 19 different, because you got to understand that all the 20 units were in one large container, the 40-foot 21 container. And all the power and control that operated 22 these things was in a separate container. And how that 23 needed to be for things to work out electrically as 24 well as the plumbing and the air there was, you know, 25 plumbing and air that we would -- were planning on</p>	<p style="text-align: right;">Page 81</p> <p>1 test?</p> <p>2 A. I understood that the customer up front 3 needed -- was going to utilize the steam source and 4 give us our water back. I mean, this was just, you 5 know, whatever this customer was, whatever he done, you 6 know, I don't -- I don't really know. I heard a couple 7 of different stories, but I don't really know, because 8 I wasn't allowed up there. I didn't get to see 9 anything on the other side of the wall. In fact, the 10 work I had to do on the roof of the Conex they didn't 11 even like that, because I could see over there, so.</p> <p>12 Q. What stories did you hear?</p> <p>13 A. First, I heard they were curing some kind 14 of a circuit board for an aircraft, it was a military 15 type contract, and then I heard they are treating some 16 kind of metal.</p> <p>17 Q. Let me stop you there.</p> <p>18 Who did you hear the military comments 19 from?</p> <p>20 A. From Fulvio.</p> <p>21 Q. And what was the second thing you heard?</p> <p>22 A. Then the second thing I heard they were 23 heating some kind of metal and the story kind of 24 changed though.</p> <p>25 Q. Who did you hear that from?</p>

<p style="text-align: right;">Page 82</p> <p>1 A. Fulvio again and Reynoldo.                  2 Q. Who's Reynoldo?                  3 A. Reynoldo is the worker there.                  4 Q. Who did he work for?                  5 A. He worked for Mr. Jim Bass.                  6 Q. Did you ever meet Jim Bass?                  7 A. Yeah, couple, three times.                  8 Q. Who is Jim Bass?                  9 A. He was the guy that took care of everything                  10 across the wall.                  11 Q. Who worked for JM Products?                  12 A. Yeah. Well, he is JM Products. He was JM                  13 Products.                  14 Q. Do you know what JM Products is or was?                  15 A. No, I really don't know. That was a                  16 secret. It was all, I was told, top secret military                  17 something going on over there.                  18 Q. Did you ever have a discussion with anyone                  19 from Industrial Heat where they told you there were                  20 subject matters or topics that you were not to discuss                  21 with Dr. Rossi?                  22 A. No. Andrea was -- Andrea was driving the                  23 ship, man. He was at the helm of this thing.                  24 Q. Were you aware that T. Barker Dameron was                  25 told that there were subject matters or things that he</p>	<p style="text-align: right;">Page 84</p> <p>1 Q. Right. But did you understand that he had                  2 a specific role with respect to what was going on in                  3 North Carolina?                  4 A. Yeah, he was Andrea's right hand.                  5 Q. Okay. Did you understand that Fulvio                  6 Fabiani and Dr. Rossi had a relationship prior to doing                  7 the work for Industrial Heat?                  8 A. Oh, yeah, I met a lot of the family members                  9 and I understood that.                  10 Q. Did the people at Industrial Heat                  11 understand that Fulvio Fabiani had a relationship with                  12 Dr. Rossi prior to the work performed at Industrial                  13 Heat?                  14 A. Yeah, they knew.                  15 Q. Did they have a concern about that?                  16 A. No. Fulvio was Andrea's electrician, man.                  17 You know, I mean, that had been going on for some time.                  18 Q. Did they ever express to you that they were                  19 concerned about this prior relationship?                  20 A. No.                  21 Q. Now, when you're talking the design layout                  22 for the Florida plant that you and T. Barker worked on                  23 in November, approximately, November 2014, when did you                  24 first communicate or did you communicate that layout                  25 design to Dr. Rossi?</p>
<p style="text-align: right;">Page 83</p> <p>1 was not to talk to Dr. Rossi about?                  2 A. No, sir.                  3 Q. Never had that conversation with T. Barker?                  4 A. No, sir.                  5 Q. Now, you talked a little bit about Fulvio                  6 Fabiani. What was Fulvio Fabiani's role with respect                  7 to the Doral, Florida facility?                  8 A. He was electrical design and maintenance                  9 kind of supervisor. That's who I worked with, worked                  10 for him actually, him and Andrea, you know. I mean,                  11 but once again -- and Fulvio was assisting in a lot of                  12 tests. Him and Andrea would come up with pretty much                  13 the plan.                  14 Q. Now, you first met Fulvio Fabiani while you                  15 were working in North Carolina, is that right?                  16 A. Right. Right.                  17 Q. And he was working in the North Carolina                  18 facility as well, Fabiani?                  19 A. Oh, yeah.                  20 Q. And what was his role in North Carolina?                  21 A. Once again, this all started with my                  22 meeting with Fulvio and making modifications to this                  23 one panel. And this was, like I said, a week's worth                  24 of work, and the thing went on for, you know, over                  25 three years.</p>	<p style="text-align: right;">Page 85</p> <p>1 A. Yes.                  2 Q. When did you do that?                  3 A. When it arrived.                  4 Q. When it arrived in Doral?                  5 A. In Doral. We had talked about it earlier                  6 though. I had mentioned it on the phone with Andrea                  7 when I was coming in. Andrea, actually, he met me at                  8 the airport one time and picked me up. I think it was                  9 Andrea that came and got me the very first day. The                  10 first time I flew up there, Andrea came and got me.                  11 Maybe Fulvio took me back, but for the first -- my                  12 initial look and get measurements, see how this stuff                  13 is going to layout.                  14 Q. So was this in December of 2014 you're                  15 talking about?                  16 A. No, I'm thinking this was in November. I'd                  17 have to go back and try to pull -- find the plane                  18 ticket. I don't know, man. I forget. They got all                  19 that information there.                  20 Q. So the first trip to the plant in November                  21 of 2014, you brought along your design layout plan and                  22 the design layout plan that you and T. Barker put                  23 together?                  24 A. No, no, couldn't have, because my purpose                  25 for going down there was to measure the place so we</p>

<p style="text-align: right;">Page 86</p> <p>1 could determine how things -- how the different 2 components needed to sit in place. 3 Q. So then when you -- when the E-CAT was 4 shipped and you arrived after the E-CAT was shipped, 5 was that when you provided your layout plan to 6 Dr. Rossi? 7 A. Yeah, but Andrea and T. Barker had 8 coordinated. I mean they knew, and I remember one time 9 Andrea got a little disappointed when he came down 10 there, because things didn't get done exactly like he 11 thought they should have been done, but. 12 Q. How do you know that Dr. Rossi received 13 your layout or plan? 14 A. I don't know, you know. I'm pretty sure 15 that T. Barker, I mean, I'm assuming here, but I know 16 the man did. I mean, they coordinated regularly. 17 Q. Do you think it was communicated via email? 18 A. Probably so. 19 Q. Do you have any reason to believe it was 20 communicated via hand delivery? 21 A. I don't know. I wouldn't think that. This 22 was something, you know, they could have communicated 23 over the phone for all I know. I mean, they talked 24 regularly. Sometimes Andrea would call and, you know, 25 ask for me when I was working on this or that, how long</p>	<p style="text-align: right;">Page 88</p> <p>1 up the Doral facility for IH? 2 A. Right. 3 Q. And you had helped prepare the design 4 layout, correct? 5 A. True. It was mostly T. Barker. He knew 6 how things had to be. I just went there and gathered 7 footages and measurements, and then we determined where 8 exactly in there things need to be placed. Of course, 9 all that was in vain. 10 Q. Okay. Now, you say it was in vain. Why 11 was it in vain? 12 A. Because when I got there and had my little 13 layout there and showing basically where the condensate 14 return take, which was going to sit over on one side 15 had to be, Andrea informed me that he was the director 16 on this site, and we're not using that frigging tank, 17 and then we revived it. He said it was like Lazareth, 18 we're going to revive this. We're all going to use 19 this tank, but it's going to be over here now. 20 Q. Okay. So other than the condensate reserve 21 tank -- 22 A. Yeah, well, everything that came back as 23 condensate needed a vessel to flow into, and that was 24 done away with altogether. Everything came back into a 25 smaller tank that was inside the unit, and the larger</p>
<p style="text-align: right;">Page 87</p> <p>1 do I think. I mean, he'd do that just to, you know, 2 checks and balances between me and T. Barker, because 3 we were both doing different stages, different parts of 4 the thing. 5 Q. Now, who ultimately was responsible or were 6 tasked with the job of setting up the Doral facility on 7 the IH side of the wall? 8 A. That would be me. 9 Q. Okay. 10 A. Me and, of course, Andrea, and I had a 11 couple of guys helping me as well. 12 Q. Couple of guys? 13 A. That was Jose and Marco. They agreed to 14 come down for a couple months to help me get the things 15 up and running, you know, because we couldn't finish 16 all the work. We were missing components. 17 There was some older some components, some 18 parts that were short, and we couldn't complete the 19 electrical to be in an operational mode until these 20 components came in, and we all agreed that this would 21 have to take place in Florida. 22 Q. Was Jose and Marco, were they Industrial 23 Heat employees or -- 24 A. No, they were independent, just like me. 25 Q. Okay. So you were responsible for setting</p>	<p style="text-align: right;">Page 89</p> <p>1 tank, which originally was going to be condensate 2 return tank, and then we were going to pump the water 3 back into the units. That ended up being -- we built a 4 big stand a little taller than this table, really heavy 5 duty stand out of wood to support that large tank full 6 of water, which this thing held, I forget how many 7 gallons, 55-gallon drums, it probably held 6, 800 8 gallons or more, maybe a thousand gallons of water, 9 which is substantially heavy. But it had to be up so 10 gravity could allow it to flow into the system. 11 So Dave Perry come down one time to check 12 us out and then help with the design or that stand, if 13 you will, and then we just attached a rubber hose into 14 the water fill inside and allowed gravity to feed it. 15 This was based on Andrea. 16 Q. Other than that condensate reserve tank, 17 what other things did Andrea demand be changed from 18 your design layout? 19 A. There was -- man, there was so many. The 20 size of the pipe that brought the condensate back, that 21 ended up -- we ended up moving that frigging hole, and 22 that thing ended up leaking, and he hired another 23 company, God, I can't remember the name of them guys. 24 I want to say the one guy was John that come over, but 25 he hired another company to come in and do a lot of the</p>

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<p style="text-align: right;">Page 90</p> <p>1 plumbing, and they made several modifications.  2 Q. Okay. I understand that -- well, did you  3 document these modifications?  4 A. No.  5 Q. Why not?  6 A. It ain't electrical.  7 Q. Did anyone from IH document these  8 modifications?  9 A. No.  10 Q. Why not?  11 A. They were Andrea's.  12 Q. Okay.  13 A. I mean, these are just basic gravity. I  14 mean, water has got to go down. It's got to flow  15 downhill. The way the thing initially was setup and  16 laid out, when the one tank wasn't utilized on the  17 floor over there, you won't use that at all, and then  18 he routed the condensate line directly straight in a  19 the smaller tank inside. Well, that caused some flow  20 issues and some problems, and Andrea made those  21 engineering changes, and we just supported him and made  22 it, you know, and made it work, got to where we made it  23 work.  24 Q. But did you express disagreements with  25 those changes?</p>	<p style="text-align: right;">Page 92</p> <p>1 Q. Okay. But I'm trying to identify  2 specifically what the issues were.  3 So you mentioned two. You said you think  4 there were many. I'd like you to identify as many as  5 you can.  6 A. Some of the piping in there we had to make  7 changes to that, because the big Frankies as well as  8 the E-CATs were all grounded electrically through the  9 piping, and that presented major issues when we tried  10 to start up, because of the faults of the individual  11 heating elements. Many of them were shorted at some  12 level to ground, and then when they got a good  13 electrical ground, it caused them to burn up.  14 So they had to make plumbing modifications  15 to even allow it to operate, because it was not  16 electrically sound.  17 Q. Were those modifications made?  18 A. Yes, had to make those changes. They  19 wouldn't operate electrically without those changes. I  20 mean the ground system, the ground, you know, the low  21 potential path to earth, to ground was causing major  22 issues.  23 Q. Okay. Anything else that you recall  24 different from your design layout?  25 A. No, most of the rest was pretty</p>
<p style="text-align: right;">Page 91</p> <p>1 A. No, I didn't care. They paid me. I do  2 what I'm told.  3 Q. Okay. Do you know if anyone from  4 Industrial Heat said hey, we don't think these changes  5 are good or hopeful?  6 A. T. Barker pitched a bitch a little bit,  7 because he doesn't follow his plan at all. Well, he  8 followed it, but not exactly, but, you know, it didn't  9 matter. Once again, once it got to Florida, this is  10 Andrea's thing and --  11 Q. Okay. So we have the condensate reserve  12 tank, we have the size of the pipe to bring the  13 condensate back, was there anything else that you  14 remember specifically, and I'm trying to get a list of  15 things but --  16 A. As far as issues and problems, the hoses  17 kept coming off.  18 Q. Let's distinguish, I'm not asking you about  19 issues and problems right now. Right now I'm asking  20 about modifications to the design layout plan that you  21 and T. Barker put together.  22 A. That's pretty much the physical locations  23 of everything. I mean, once again, our plan wasn't  24 used at all, really. When it got down there, Andrea  25 took over.</p>	<p style="text-align: right;">Page 93</p> <p>1 straightforward.  2 Q. Okay. Approximately when did you get the  3 equipment in Doral up and running for the first time?  4 A. End of February, somewhere around the end  5 of February, 27th, 26th, somewhere around in there.  6 Q. Was there some agreement amongst the  7 parties -- when I say the parties, I mean T. Barker,  8 Dr. Rossi, J.T. Vaughn, that the tests, the 350-day  9 test had begun?  10 A. Yes, I guess there was, but I don't know,  11 they didn't tell me.  12 Q. They didn't tell you, hey --  13 A. No, I knew when the plant got on line as  14 far as actual numbers that corresponded between Andrea  15 and, you know, IH. I didn't, you know.  16 Q. You mentioned earlier in our discussion  17 someone named Fabio Penon. Do you know who he is?  18 A. Oh, yeah.  19 Q. Who was he?  20 A. He's the guy that brought the kiss of a  21 lady to me. The smile. He remembers the kiss of a  22 woman, the kiss of the lady.  23 A really cool Italian cookie. I don't know  24 guys. I never -- first time I met Penon he brought the  25 whole box of these really cool cookies, and we sat down</p>

24 (Pages 90 - 93)

<p style="text-align: right;">Page 98</p> <p>1 many times. In the end that one test you see there is 2 only three units. There's actually a fourth one, but 3 it had such catastrophic failures electrically that we 4 took it off line. It ran at first, but didn't make it. 5 We never changed anything inside those. We didn't 6 rebuild those at all. 7 Q. After you had gotten the facility up and 8 running in February 2015, you said your role turned 9 into one of maintenance? 10 A. Pretty much. 11 Q. So can you maybe describe for me what your 12 day-to-day, day-to-day role was after February 2015? 13 A. Be on site, maintain a close proximity. 14 Andrea didn't want me to be more than a couple of hours 15 away from the plant, even on the weekends. Of course, 16 I was there my normal four or five days, and every 17 week, and if something breaks, fix it. 18 We had several little projects. We set up 19 a controller. We shipped down an extra controller, and 20 Andrea did some auxiliary testing between the main unit 21 and the control house, if you will, the electrical 22 control room. We set up a table and a controller 23 there, and he actually tested some Quar-CATs and some 24 other little smaller units. 25 Q. Did you play a role in any of those tests?</p>	<p style="text-align: right;">Page 100</p> <p>1 other side back to us. I didn't install it. I 2 didn't -- I want to say we did get up there on the 3 steam line and put in some thermocouples and a pressure 4 transmitter and do a little work with one of Fabio's 5 cards, which was kind of like the little brains of each 6 unit. 7 Q. Did you see any rust when you were doing 8 any of that work? 9 A. Yeah, you know, the big Frankies, the site 10 glass on the back the unit. 11 Q. I'm talking the condensate pipe. 12 A. I didn't have anything to do with that. 13 Somebody else installed that, I, you know. 14 Q. During this time, what was T. Barker 15 Dameron's role at the Doral facility? Zero? 16 A. Absolutely zero. 17 Q. He had no role whatsoever? 18 A. None. Glad the thing got down here. 19 Q. Was there anyone from Industrial Heat that 20 wasn't an outside consultant or third party that was 21 monitoring the test in Doral, Florida? 22 A. Not that I'm aware of. I guess I was 23 their, kind of their eyes and ears down there, and we 24 had investors come by all the time, I can't even count 25 the number, probably a dozen or more times. J.T.,</p>
<p style="text-align: right;">Page 99</p> <p>1 A. Oh, yeah, well, I hooked them up. I wired 2 the thing up for him, and then he did all the 3 measurements and so on and so forth. 4 Q. I take you back to something you said just 5 a little bit earlier. So you were talking about the 6 pipes that were rusted, and you said they were part of 7 the big Frankies? 8 A. Well, it really wasn't so much the pipes, 9 it's the actual vessel itself. The piping that went in 10 and out, all that was new. I mean, Newcomb installed 11 all that new. 12 Q. Do you think that the fact that there was 13 some rust on those machines had any impact on the test 14 results? 15 A. I'm sure it should be considered. 16 Q. Why? 17 A. It's a foreign substance. 18 Q. What about the condensate pipe itself? Did 19 that have any rust in it? 20 A. I don't know. We didn't run that. 21 Q. You didn't check it? 22 A. We didn't run it. We didn't install it. 23 Q. You didn't install it? 24 A. You know, I just -- I mean, it was an 25 insulated pipe at an angle, you know, coming from the</p>	<p style="text-align: right;">Page 101</p> <p>1 Mr. Tom or others would come and bring, you know, 2 people that were investors of the project, you know, to 3 me, just to see us. 4 Q. Were you giving reports to anyone in 5 Industrial Heat regarding what you were seeing at the 6 plant in Doral? 7 A. Yeah, weekly, pretty much every week, 8 sometimes, yeah, I might go a month or more and not 9 talk to J.T. I mean, I just did my thing down there. 10 Q. Were your reports oral or in writing? 11 A. Most of them just on the phone. 12 Q. Okay. And give me an example of what that 13 oral report would be like? 14 A. Plant is running good. Got a little 15 hiccups here and there. Most of them plumbing, fix 16 some leaks, but for the most part the plant ran, you 17 know, pretty well, once we got the bugs worked out of 18 it. And, you know, Andrea and Fulvio would come up 19 with a plan to change this or that. Let's try this 20 over here, you know. 21 One of the biggest issues was trying to 22 capture all the water, you know, not having any leaks, 23 which was, you know, a big concern. 24 Q. Do you know the methodology being used to 25 measure the results of the plant?</p>

<p style="text-align: right;">Page 106</p> <p>1 the times when I came home, maybe in September or so                  2 Q. September 2015?                  3 A. Yeah, I came home for my birthday, I think,                  4 and opening day of dove season, and I think that's when                  5 I met T. Barker and Joe in Swansboro, I think, because                  6 I was down that way hunting and fishing there at the                  7 beach at my mom's place in Topsail, and I think T.                  8 Barker had a place at Morehead, and so did Joe. So we                  9 kind of met in the middle at Swansboro in some little                  10 diner thing there on the waterfront and had a sandwich                  11 and talked. That's the first time I met Joe.                  12 Q. So September 2015 --                  13 A. I think it was September. I mean, I'm not                  14 positive. Somewhere along in there though. I know I                  15 was in Florida.                  16 Q. Was it your understanding that Joe Murray                  17 is an engineer?                  18 A. Yeah. Yeah.                  19 Q. Okay. Was it your understanding that Joe                  20 Murray was going to be representing IH as part of the                  21 monitoring of the facility in Doral, Florida?                  22 A. He was asking questions about it, yes. I                  23 understand that Joe was going to try to come down there                  24 and actually do some testings with Andrea, and then                  25 Andrea said he wouldn't be allowed in there.</p>	<p style="text-align: right;">Page 108</p> <p>1 A. Nobody was allowed in there other than                  2 myself and Fulvio, without him knowing about it or                  3 being there.                  4 Q. Was there a specific employee from                  5 Industrial Heat that said I'd like to come in the                  6 plant, and Dr. Rossi said I'm not letting you in?                  7 A. I don't, don't know. I don't remember                  8 anybody -- he, you know, other than Joe.                  9 Q. Did Dr. Rossi ever tell Thomas Darden, you                  10 can't come do the plant?                  11 A. Probably not. If Tom scheduled a meeting                  12 to come down there and bring investors and do, then                  13 yeah, Andrea would try to accommodate as best he could.                  14 Q. Did Dr. Rossi ever tell J.T. Vaughn hey,                  15 can't come?                  16 A. I don't think so. Not that I'm aware of.                  17 Q. Did Dr. Rossi ever tell T. Barker Dameron                  18 hey, you cannot come --                  19 A. They didn't like each other. That wouldn't                  20 happen, no way.                  21 Q. You don't think Dr. Rossi didn't like,                  22 Dr. Rossi did not like T. Barker Dameron?                  23 A. I think they had -- they banged heads and                  24 locked horns a few times, you know.                  25 Q. Do you think that T. Barker Dameron and</p>
<p style="text-align: right;">Page 107</p> <p>1 Q. Do you know when Joe -- when Andrea Rossi                  2 was first notified that Joe Murray was working for                  3 Industrial Heat?                  4 A. Oh, I don't know.                  5 Q. Do you know how he was first notified?                  6 A. No.                  7 Q. Do you know when Joe Murray first made a                  8 visit to the Doral facility?                  9 A. It seems like he did go down there one                  10 time. I don't think I was there. It seems like I                  11 heard some conversation about this -- I wasn't there,                  12 and I don't think he was allowed in. They wouldn't let                  13 him in or something, I don't know.                  14 Q. Do you know why he wasn't allowed in?                  15 A. No.                  16 Q. Did you have a discussion with Dr. Rossi                  17 and say hey, why didn't you let Joe in the plant?                  18 A. It seemed like me and Andrea did talk about                  19 that one time, and Andrea said he wouldn't be allowed                  20 to come in there doing the testing or checking.                  21 Q. Did he explain why?                  22 A. No, not -- he didn't have to.                  23 Q. Were there any other Industrial Heat                  24 employees that Dr. Rossi would not allow into the                  25 plant?</p>	<p style="text-align: right;">Page 109</p> <p>1 Dr. Rossi had a cordial relationship or an unfriendly                  2 one?                  3 A. I think T. Barker done exactly what he was                  4 told to do, and that was do his best to support Andrea.                  5 Q. That doesn't answer my question.                  6 A. And it became difficult, so their                  7 relationship suffered because of that.                  8 Q. Okay. Do you specifically know of an                  9 instance in which Dr. Rossi said or denied T. Barker                  10 Dameron access to the Doral facility?                  11 A. It wouldn't surprise me. I understand what                  12 you're saying. I don't know. I don't know. I don't                  13 know. Probably, like I said, it wouldn't surprise me.                  14 I can't answer that, because I'm not -- you know, I                  15 wasn't privy to emails and whatever correspondence they                  16 had.                  17 Q. I'm not asking what you don't know. I'm                  18 asking are you aware of a specific instance in which T.                  19 Barker Dameron said I would like to visit the Doral                  20 facility, and Dr. Rossi said you are not allowed in?                  21 A. It seems like I did hear this. It seems                  22 like T. Barker told me that he wanted to come down                  23 there one time.                  24 Q. When was this?                  25 A. I don't know. Toward -- probably after the</p>

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1 thing was up and running, I guess.  
 2 Q. Are you speculating?  
 3 A. Yeah, I don't know. I don't know when. I  
 4 don't know when. I don't remember when. I do recall,  
 5 yeah, I do recall the conversation I had with T. Barker  
 6 that Andrea didn't want him there, but.  
 7 Q. Was that a conversation you had over the  
 8 phone?  
 9 A. Yeah, probably over the phone.  
 10 Q. But you don't remember when?  
 11 A. No, I don't remember exactly when.  
 12 Q. Did you ever talk to --  
 13 A. Probably in the beginning. It was possible  
 14 in the beginning, because T. Barker did want to come  
 15 down and see how the thing was setup, how it's going.  
 16 It seems like he did come once. He did come once. It  
 17 seems like T. Barker was there. He actually came a  
 18 time or two, or at least once, you know, he did come,  
 19 but it was way towards -- it was way after things had  
 20 been ruined man, you know, I mean. I was sent down  
 21 there with specific instructions trying to set this  
 22 thing up, and when I got down there, all that went out  
 23 the door. Andrea, you know, is the director on this  
 24 site.  
 25 Q. Did you ever have a conversation with

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1 Dr. Rossi where he told you T. Barker Dameron is not  
 2 allowed in the plant?  
 3 A. Possibly, yes, I guess. I don't know. I  
 4 don't know. Possibly. I can't answer. I can't  
 5 remember all the different conversations we had.  
 6 Q. Did you ever ask Dr. Rossi hey, is T.  
 7 Barker Dameron allowed in the plant?  
 8 A. Yeah, possibly. I probably did.  
 9 Q. Okay. And what did he say?  
 10 A. I don't remember. I don't know.  
 11 Q. Okay. Was anyone else present when you  
 12 asked him that question?  
 13 A. Fulvio was probably sitting there.  
 14 Q. Do you know approximately when you had that  
 15 conversation?  
 16 A. Oh, God, no. No way. I don't remember  
 17 that.  
 18 Q. You talked a little bit about Industrial  
 19 Heat bringing investors to the Doral facility.  
 20 Approximately how many times did that happen?  
 21 A. Oh, God, eight to twelve maybe. I think at  
 22 least seven or eight times, different folks came to  
 23 view.  
 24 Q. Did Dr. Rossi ever say no investors are  
 25 allowed in the plant?

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1 A. No, not that I'm aware of. As long as they  
 2 coordinated with Andrea and let him know, he made  
 3 arrangements for people to come see.  
 4 Q. Did you have an understanding why investors  
 5 were coming to this facility?  
 6 A. Yeah.  
 7 Q. Why?  
 8 A. They wanted to see what their money was  
 9 doing.  
 10 Q. Okay. Do you know if the people who  
 11 visited the plant were investors or potential  
 12 investors?  
 13 A. Probably a mix, probably a good happy mix  
 14 of the both. I mean, Mr. Tom is a good salesman.  
 15 Q. Did you ever have any conversations with  
 16 investors who were brought into the Doral facility?  
 17 A. Yeah.  
 18 Q. And what were those conversations?  
 19 A. It's running, you know, basically most --  
 20 Andrea did most of the -- did most of the greeting and  
 21 most of the -- he would always give an informative and  
 22 then maintain -- people had to maintain a certain  
 23 distance, because you couldn't touch this stuff, it was  
 24 energized, it was shocking, man. You had to be careful  
 25 in the plant. You had to know, you know. So I would

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1 set up chains and different barricades where people  
 2 could come and look, but not be allowed access in there  
 3 so they could touch anything and nobody could get hurt.  
 4 Q. I don't want to know right now what  
 5 Dr. Rossi told them. I want to know what you told  
 6 them.  
 7 A. I just fix it, man. I work on it. I help  
 8 the design and the build of it. I didn't do a whole  
 9 lot of talking with these folks.  
 10 Q. You told me you did, and that's why I want  
 11 to know what the substance of those conversations are?  
 12 MR. FALCONE: Objection.  
 13 A. No, I didn't do a lot of talking. These  
 14 folks, most of my conversation with them I had with  
 15 them were about fishing or something.  
 16 Q. Did you ever tell anybody, the investors or  
 17 potential investors, that the plant was showing results  
 18 of producing excess energy?  
 19 A. Yeah, based on what Andrea and Fulvio were  
 20 telling me, yeah, we were doing good, you know. But  
 21 once again they are the ones that -- you know, I don't  
 22 make those calculations. I just base on what they're  
 23 telling me.  
 24 Q. When those investors came in, were they all  
 25 accompanied by Thomas Darden or J.T. Vaughn?

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1 A. Oh, yeah.  
 2 Q. And did you participate in the unpacking of  
 3 the materials on the Doral side?  
 4 A. Absolutely.  
 5 Q. Were there any pieces of equipment that  
 6 were packed in North Carolina that were not utilized  
 7 once you got to Doral?  
 8 A. Yes.  
 9 Q. Which pieces were those?  
 10 A. Originally the condensate return tank and  
 11 then we modified that and made it in a supply vessel of  
 12 water for the unit.  
 13 Q. Was there anything else?  
 14 A. Yes, T. Barker had engineered the steam  
 15 lines and the system components and shipped all those  
 16 with the unit to be installed, but Andrea said no. He  
 17 said no.  
 18 Q. So what happened to those steam lines,  
 19 system components?  
 20 A. The last time I seen them they were under  
 21 the unit. They were 5, 600 bucks a piece, man, never  
 22 even used them.  
 23 Q. Okay. Was there anything else?  
 24 A. There was several miscellaneous things,  
 25 wow, all the electrical stuff that I thought I might

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1 need we shipped, some miscellaneous pieces of pipe, the  
 2 water lines. Most of this stuff we made an attempt to  
 3 prefab and setup and marked, match and marked all these  
 4 different piping components, and almost none of that  
 5 got used once it got down there. The basic plan and  
 6 design, particularly return, condensate return and the  
 7 steam piping supply over to -- over the wall to the JM  
 8 Products' side, that stuff was all, you know, it was  
 9 changed. They had already stubbed a couple of pipes,  
 10 and we had to modify those through. And some of this  
 11 work went on on the weekends when I wasn't there.  
 12 Andrea hired for guys to come in on the weekends and do  
 13 a lot of this plumbing stuff, which when we had issues  
 14 with leakage and stuff, that's how I met these guys,  
 15 that we were going to go do this blue herring fishing  
 16 trip. I was going to go with one of these guys, and it  
 17 never transpired because Andrea had problems, and he  
 18 called the man ten times, and he showed up about two  
 19 weeks later wanting his check, wanting his check for  
 20 the work he had done. And Andrea told him I'm not  
 21 giving you no damn check.  
 22 Q. All right. Let me stop you there. I will  
 23 keep you on track with the question I had asked.  
 24 So the question I had asked was, was there  
 25 any equipment that was shipping from North Carolina to

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1 Doral that wasn't utilized? And you had mentioned now  
 2 three things; the condensate, return tank, steam line,  
 3 system components and some miscellaneous electrical and  
 4 miscellaneous pipes?  
 5 A. Yeah, all those pipes were part of the  
 6 original design to pipe in the condensate tank, which  
 7 was going to sit on the ground.  
 8 Q. And what happened to those pipes?  
 9 A. They all left up under there. We used a  
 10 bunch of them fixing and repairing and carrying on. I  
 11 mean, we used what pieces we could to make changes as  
 12 issues arose.  
 13 Q. Was there any other equipment that was  
 14 shipped that was not used?  
 15 A. I'm trying to think. All the chairs, desks  
 16 all that stuff went in. Fulvio's furniture, all that  
 17 went to his apartment. We had a bunch of furniture  
 18 from his apartment up in Raleigh, you know, that we  
 19 shipped down there in the Conex because it was a free  
 20 ride, so, of course, that wasn't used.  
 21 There was some Quar-CATs, a few other units  
 22 that I had built that was shipped for Andrea. That was  
 23 part of another deal.  
 24 I'm trying to think of other things that we  
 25 didn't use there. No, that's pretty much it. Most of

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1 it was plumbing stuff and tanks associated.  
 2 Q. I'm going to go back to something we talked  
 3 about earlier as well, which was the condensate pipe  
 4 that went to the JMP side as well as the return that  
 5 came back.  
 6 A. Well, it was two pipes, the steam.  
 7 Q. Right, there's two pipes?  
 8 A. Right.  
 9 Q. One coming -- one going, one coming, right?  
 10 A. One delivering and one returning, yes, sir.  
 11 Q. We talked a little bit about rust in the  
 12 pipes. I think your testimony, correct me if I'm  
 13 wrong, was that you didn't notice any rust on those  
 14 pipes? That wasn't something that you inspected, is  
 15 that true?  
 16 A. No, sir, that's right, that's true.  
 17 Q. Did anyone ever tell that you they saw rust  
 18 on either of those pipes?  
 19 A. My experience with separating some of the  
 20 pipes and moving the one pipe down, I mean, they had  
 21 rust and stuff in them. You can see it, but it was  
 22 obvious in the sight glasses on the big Frankies,  
 23 because in the very beginning, they stayed rusty. We  
 24 actually had to remove those and clean them and stuff,  
 25 because it got so bad, you couldn't see the water

<p style="text-align: right;">Page 142</p> <p>1 level, where the water level was actually in the unit                  2 in the reactor.                  3 Q. Let me stop right there. We're only                  4 focusing on the condensate pipes now, the going and                  5 coming, those two pipes, not the ones that are in the                  6 big Frankies. Do you recognize there's a difference?                  7 A. I recognize the difference, but you got to                  8 realize that the source of what was in those two pipes                  9 originated from in the big Frankies' units.                  10 Q. You think some of the rust from the big                  11 Frankies could have gone through into --                  12 A. Oh, absolutely, yeah, you know it did.                  13 Q. Did you see it happen or --                  14 A. Well, the leaks shown, showed that the                  15 stuff was -- now, once again, I don't know where it                  16 went to on the other side. You know, if you make the                  17 assumption that the water that was over there was                  18 clean, whatever that equipment was, it could have been,                  19 you know, part of the culprit as well. So I don't                  20 know.                  21 Q. Do you recall seeing rust on the return                  22 pipe?                  23 A. Yes, that's the condensate return.                  24 Q. Right. When did you see that?                  25 A. We moved it. We had level issues in that</p>	<p style="text-align: right;">Page 144</p> <p>1 Q. Did you ever tell Fulvio?                  2 A. Yeah.                  3 Q. And what was his response?                  4 A. It's coming from the big Frankies. It's                  5 coming from inside the units. It was an issue we had                  6 to deal with. They had a trap. They had a trap set                  7 there, but I don't know that they ever serviced it or                  8 worked on it. And once again, I don't know what the                  9 plumbing team did, you know, I mean, I wasn't, you                  10 know, responsible.                  11 Q. Where was that trap that you're talking                  12 about?                  13 A. I want to say it was right there before                  14 where the line dumped in, or maybe they uninstalled it.                  15 Maybe they removed that. I know there was a trap sent.                  16 It seemed like T. Barker sent a trap down there. Maybe                  17 it never got installed or the plumbing guys removed it.                  18 It seemed like maybe it was there, and then when Andrea                  19 had the plumbing team made the changes and stuff that                  20 got removed or something, you know, but, you know, the                  21 rust was prevalent inside those units, and that's where                  22 most of it -- because all that piping was new. I mean,                  23 that piping that they installed was new piping.                  24 Q. The condensate piping?                  25 A. And the steam lines, you know, at no</p>
<p style="text-align: right;">Page 143</p> <p>1 one condensate tank that were used. That level                  2 needed -- we had to make adjustments to that, because                  3 they would get too full, and the pumps that removed                  4 that material and sent them up to the units when Andrea                  5 finally got his system dialed in there on what rates to                  6 pump the material at to keep things balanced, and we                  7 lost a lot too, you know, so we had this big tank up                  8 there with a valve in there or a little foot pedal and                  9 a float that would try to maintain that level.                  10 Sometimes when you turn things up really high and                  11 things really got to cooking hot, we would have issues.                  12 We would have problems.                  13 Q. Let's keep focusing on the rust in the                  14 pipes.                  15 So you said you saw the rust in the pipe                  16 when you disassembled the return condensation pipes,                  17 right?                  18 A. Right, to move it, yeah.                  19 Q. Did you ever tell Dr. Rossi hey --                  20 MR. FALCONE: Let him finish his                  21 question before you answer.                  22 MR. CHAIKEN: Thank you.                  23 Q. Did you ever tell Dr. Rossi hey, we have an                  24 issue. There's rust in this pipe?                  25 A. No.</p>	<p style="text-align: right;">Page 145</p> <p>1 pressure. That stuff was new, new materials.                  2 Q. Did you ever have a conversation with T.                  3 Barker Dameron about the rust in the pipes?                  4 A. Oh, yeah.                  5 Q. And what was his comment on that?                  6 A. Well, it's just Andrea is going to handle                  7 it. Andrea is going to make these choices.                  8 Q. Do you know if T. Barker ever raised that                  9 issue with Dr. Rossi?                  10 A. No, I don't know. I'm sure maybe he might                  11 have, but, you know, once again, once the unit got down                  12 to Florida, Andrea, Andrea had hold of the wheel, and                  13 he was steering the thing where he thought it needed to                  14 go.                  15 Q. You weren't part of any conversation or                  16 email chain in which that issue was raised, were you?                  17 A. I don't think so, but I don't, you know.                  18 Q. Were you ever at the Doral facility when                  19 Dr. Rossi wasn't present?                  20 A. Yeah.                  21 Q. About how much time do you think you were                  22 there?                  23 A. Oh, God --                  24 Q. When he wasn't there?                  25 A. Typically Andrea was there in the mornings</p>

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1 on.  
 2 Q. Did you take any other measurements that  
 3 were used by Mr. Penon in his reports?  
 4 A. I don't know, possibly.  
 5 Q. If you did, would you have copies of them?  
 6 A. No, I wouldn't have copies of them.  
 7 Q. Who would have copies of them?  
 8 A. I guess they would be gathering that  
 9 information.  
 10 Q. When you say they, who do you mean?  
 11 A. Maybe Andrea and Fulvio. I mean, that's  
 12 who we worked with in the office, you know.  
 13 Q. Show you what's been marked as Exhibit  
 14 number 6.  
 15 (The document referred to was marked  
 16 Plaintiff's Exhibit Number 6 for  
 17 identification.)  
 18 Q. I'm going to ask you to review that. When  
 19 you're done, let me know.  
 20 (Pause.)  
 21 MR. CHAIKEN: For the record, Exhibit  
 22 number 6 is document Bates stamped on the  
 23 first page IH00006670, and it is entitled  
 24 E-CAT MW1 Energy Plant Miami Energy Multiple  
 25 Evaluation Final Report.

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1 A. Interesting. I've never seen this before.  
 2 Q. This is the first time you've seen this  
 3 document?  
 4 A. First time I've seen it.  
 5 Q. No one from Industrial Heat ever asked you  
 6 to review it?  
 7 A. No, sir.  
 8 Q. Okay. Take a look and review it. It may  
 9 take you a few minutes, because it's a five-page  
 10 document.  
 11 (Pause.)  
 12 A. I don't know about the numbers, but, I  
 13 mean, this all looks -- I see down here that it  
 14 mentions that the fourth visit by me, that must have  
 15 been the last time that I saw Penon. But every time he  
 16 came, I assisted him, and I do remember missing one  
 17 time. He came one time while I was home for my  
 18 birthday or something in September, something, but they  
 19 told me he had been there. But every time he was there  
 20 I assisted.  
 21 Q. Okay. My first question about this  
 22 document is, is there anything in this document that  
 23 you believe to be untruthful or inaccurate?  
 24 A. I'm trying to think of where the flow  
 25 meter -- no, it appears to be -- once again, I don't

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1 know about the numbers, but, I mean, this appears to be  
 2 accurate, as to what he, you know, what it's saying  
 3 here, the way the plant was setup and all. It was from  
 4 the grid, I guess you would call it, the grid, the  
 5 plant on that building. We never consumed a whole lot  
 6 of energy. It rarely got over a hundred amps even.  
 7 And it was about 150, 180 amp capability there that we  
 8 supplied to the plant. Fortunately we never tripped  
 9 anything at that end.  
 10 Q. So there's nothing in this document that  
 11 you take issue with?  
 12 MR. FALCONE: Objection.  
 13 A. Once again, I don't know about the numbers,  
 14 but as far as I can see here, everything is, you know,  
 15 I mean, every time that Penon came, I assisted him,  
 16 whatever they asked me to do, so.  
 17 Q. I'm going to ask you a few -- I'm going to  
 18 read to you some statements. I am going to ask if you  
 19 think they're true or not.  
 20 A. Okay.  
 21 Q. Do you understand that Mr. Fabiani had a  
 22 cop called USQL, that was his business entity?  
 23 A. Quantum Leap, yeah, yeah, Fulvio's little  
 24 pinball company.  
 25 Q. So is this true or false: Fabiani, USQL

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1 and Penon played critical roles in the scheme to hide  
 2 the fact that the plant does not perform up to the  
 3 standards set forth in the license agreement, the plant  
 4 being the Doral facility.  
 5 MR. FALCONE: Objection.  
 6 A. Okay.  
 7 Q. Do you believe that to be a true statement,  
 8 that there was a scheme to hide the fact that the plant  
 9 did not perform up to standards?  
 10 A. You know, my role in this was not to  
 11 judge --  
 12 Q. I'm not asking you to judge. I'm asking  
 13 you whether you believed it?  
 14 A. I'm kind of split both ways. I like to  
 15 believe that this was an honest, you know, venture. I  
 16 mean, I know these folks, certainly believed that they  
 17 were, you know, and it appears not to have been an  
 18 honest, you know, now that I look back at the way  
 19 things were and all the work, it appears more and more  
 20 that it was a dishonest, a dishonest venture.  
 21 Q. Did you participate in any dishonesty?  
 22 A. No, not knowingly.  
 23 Q. What information that you know today leads  
 24 you to conclude that this was not an honest venture?  
 25 A. The deception and the fact that so many

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1 things were hidden from me, deliberately and  
 2 intentionally, particularly on JM's side.  
 3 My simple question and response to T.  
 4 Barker one day on the phone, send me a picture of that  
 5 thing and what it's doing, what the plant is doing  
 6 right now and the reaction I got from Fulvio.  
 7 Q. Are you done with your answer?  
 8 A. Yeah.  
 9 Q. What things exactly, or what things you  
 10 believe were hidden from you?  
 11 A. Things that really didn't matter to me,  
 12 like the numbers. I really didn't -- I wasn't  
 13 concerned with those.  
 14 Q. Okay. What else was hidden from you  
 15 besides the numbers?  
 16 A. I don't know. I don't know what else, you  
 17 know.  
 18 Q. I thought you said earlier that your job  
 19 wasn't to review the numbers?  
 20 A. That's right, it wasn't.  
 21 Q. Okay. So were the numbers hidden from you,  
 22 or were they just not provided?  
 23 A. I didn't look for them, and I seen them a  
 24 lot. I saw Fulvio over there crunching numbers on his  
 25 computer. I saw a lot of these readings. You know, I

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1 helped take some of these numbers and write them down,  
 2 you know, but what they did with them, I don't -- I  
 3 don't know.  
 4 Q. Well, you said that the basis for your  
 5 opinion that there was some dishonesty here is that  
 6 things were hidden from you. I'm trying to find out  
 7 what those things were?  
 8 A. Well, just what happened on the other side  
 9 of the wall, for example.  
 10 Q. Okay. So you asked what was going on on  
 11 the other side of the wall, and you weren't given a  
 12 response?  
 13 A. Well, yeah, but it was vague, and it  
 14 changed, that wasn't, you know.  
 15 Q. Do you know if there was an agreement  
 16 between Leonardo and Industrial Heat that what happened  
 17 on the other side of the wall was to stay separate and  
 18 apart from what Industrial Heat was doing?  
 19 A. Probably, yeah, it seemed like I remember  
 20 that.  
 21 Q. Okay. So what was then deceptive or  
 22 dishonest about keeping that side of the plant  
 23 separate, and your knowledge of what's going on in that  
 24 part of the plant being --  
 25 A. The days and days and no sound over there,

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1 not a single person, not a -- nothing.  
 2 Q. And what did you conclude from that?  
 3 A. There's nothing over there.  
 4 Q. Okay.  
 5 A. Certainly nobody working.  
 6 Q. Do you think that impacted the test  
 7 results?  
 8 A. I don't know. I don't know what was over  
 9 there.  
 10 Q. Okay. Was there anything else that was  
 11 withheld from you or hidden from you that you think  
 12 should have been made known to you?  
 13 A. Not that I'm aware of. I mean, this  
 14 document right here I've never seen this before. This  
 15 that was generated after I left. You know, once again,  
 16 it looks pretty accurate, based on what I'm seeing on  
 17 there .  
 18 Q. Okay. Well, you just gave me a response  
 19 that you think there was some dishonesty and some  
 20 scheme, in your opinion, to fabricate test results, is  
 21 that accurate?  
 22 A. No, I don't know about fabricating,  
 23 whatever, you know, I mean, there's just some doubts.  
 24 I have doubts.  
 25 Q. Do you have any evidence that supports your

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1 doubts?  
 2 A. No, not really.  
 3 Q. Did anybody tell you that they felt that  
 4 there was evidence that supports your doubts with  
 5 respect to the workings at the plant at Doral?  
 6 A. The testing procedures, you know, alone  
 7 indicate that there's evidence there. I mean, the way  
 8 they were getting this information, so, you know, I  
 9 don't know. I'm not an engineer. I don't know the  
 10 best way to obtain temperatures and, you know, steam  
 11 flow rates and the measurements and the calculations,  
 12 so I can't --  
 13 Q. Do you know if the parties, the parties  
 14 being Leonardo and Industrial, agreed upon the  
 15 protocols for taking those measurements?  
 16 A. Their agreement was not disclosed to me. I  
 17 don't know what agreements they had.  
 18 Q. If they had an agreement for test protocol,  
 19 and it was followed, do you think that would be  
 20 evidence of dishonesty?  
 21 A. Depending on how it was -- you know, if it  
 22 wasn't followed correctly, I would think, you know.  
 23 Q. Did anyone tell you the test protocol was  
 24 not followed correctly in this case?  
 25 A. No, not that I remember. But, yeah, I

<p style="text-align: right;">Page 174</p> <p>1 A. No, I don't -- I don't know if it's false 2 or not. 3 Q. If he represented to investors of 4 Industrial Heat that he was able to replicate E-CAT 5 technology, would that be contradicting what he's told 6 you? 7 A. Based on what I've heard, it's not working. 8 It doesn't work. So is that contradicting? Yeah, I 9 guess so. 10 MR. CHAIKEN: Your counsel has filed 11 some objections to producing some documents 12 that I have requested, and subject to that 13 being resolved, I'll conclude my questions 14 for the time being. 15 Gentlemen in Miami, the witness is 16 yours. 17 MR. NUNEZ: Fernando, want to go 18 first? 19 EXAMINATION BY COUNSEL FOR THIRD-PARTY 20 DEFENDANTS 21 BY MR. ARAN: 22 Q. Mr. West, my name is Fernando Aran. I'm an 23 attorney in Miami, and I represent Jim Bass. I also 24 represent Henry Johnson and JM. How are you this 25 afternoon?</p>	<p style="text-align: right;">Page 176</p> <p>1 difficult to have done it there, there where we built 2 the plant at. We had power problems there. We didn't 3 have -- 4 Q. Let me ask you this, to the best of your 5 knowledge, in order to test the plant and to test 6 whether it had a COP of any amount, was the plant 7 required to be tied into an operating factory or an 8 operating business? 9 A. I was told there was a customer down there 10 that needed a steam, and that we were going to supply 11 it for him. 12 Q. Let me try to state it -- I understand 13 that. But in order to conduct a test as to whether the 14 E-CAT in question had a COP of any level, was it 15 necessary for it to be hooked up into or provide power 16 to an ongoing business? 17 A. The way the plant was designed, yes, there 18 needed to be a load. There needed to be some 19 consumption, some source for this -- somewhere for this 20 steam to go and then be returned. 21 Q. And how would you measure that? In other 22 words, when you were conducting your tests in Miami, 23 were you at any time metering or measuring anything on 24 the side of the JM plant? 25 A. No, sir.</p>
<p style="text-align: right;">Page 175</p> <p>1 A. Pretty good, and yourself? 2 Q. Not bad for a short overweight fellow. 3 A. I understand. 4 Q. Sir, let me start with a question 5 concerning the E-CATs that were ultimately sent to 6 Miami for testing. Was it contemplated at first that 7 these tests would be done in North Carolina? 8 A. I'm not sure. I'm not positive. I think 9 there was some talk of originally doing it there, and 10 based on our conversation earlier, it ended up moving 11 to Miami, because I guess the biggest reason was 12 probably because that's where Andrea lived. He wanted 13 to do the testing down there, so. 14 Q. Okay. Do you know whether -- I'm sorry, go 15 ahead. 16 A. I mean, I hear a conversation earlier about 17 some laws or something in North Carolina that may or 18 may not have prevented a test from happening here in 19 Carolina anyway. I know Andrea lived in Miami, and 20 that's where he wanted to do the test at. 21 Q. And if the tests were going to be conducted 22 in North Carolina, where -- in what facility would that 23 have been done? 24 A. I don't have a clue. I don't know where 25 they would have done that. It would have been</p>	<p style="text-align: right;">Page 177</p> <p>1 Q. And isn't it true that you were able to 2 determine whether steam was being produced by measuring 3 temperature or anything else on the E-CAT side of the 4 plant? 5 A. Yes, sir. 6 Q. And the same would be true for the return; 7 the measuring devices were on the E-CAT side of the 8 plant? 9 A. Yes, sir. 10 Q. So, in essence, the entire time that the 11 people were there, yourself included, for almost a year 12 there was really no measurements that needed to be 13 taken on the other side of the plant, correct? 14 A. Yes, sir. I don't know whether or not it 15 needed -- 16 Q. And all of the -- all of the validation and 17 all the measurements that were being inputted and that 18 resulted in various reports, were all conducted on the 19 E-CAT side of the plant, correct? 20 A. As far as I'm aware of, yes, sir. 21 Q. Now, let me ask you this, you indicated 22 that you had -- I don't know remember if it was seen, 23 met or spoken to Mr. Bass two or three times? 24 A. Yeah, over the entire course of the year. 25 Q. Okay. And what were the circumstances</p>

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1 under which you had the opportunity to, and please tell  
 2 me whether it was speak or see? What do you recall  
 3 were your communications with Mr. Bass?  
 4 A. When I first got down to Florida, I'm  
 5 pretty sure it was on the day of the arrival of the  
 6 plant, of the two plants, the control room and the  
 7 E-CAT plant, I was introduced to Mr. Jim Bass. He was  
 8 at the back door, and I met him, shook his hand, and  
 9 then I went many months and didn't see Mr. Bass. One  
 10 day he -- or weeks there, I forget how long, but he  
 11 came back down to talk to Fulvio one day, and I saw him  
 12 again and spoke. And then a couple other times when we  
 13 were going to lunch, he would need a conversation with  
 14 Fulvio or Andrea and usually it's Fulvio, and we would  
 15 stop in his office up front, and I saw him up front in  
 16 his office. But once again, that's all -- you can't  
 17 see anything behind three offices as to the work area  
 18 back there. I mean, I was never exposed to the actual  
 19 working area back there for JM products.  
 20 Q. In the times that you saw and spoke to  
 21 Mr. Bass, did he make any representations to you about  
 22 anything in particular?  
 23 A. No, sir. No, sir.  
 24 Q. He never told you what they were or were  
 25 not manufacturing at the JM site, correct?

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1 A. He never disclosed any information to me  
 2 about what they done there.  
 3 Q. And he never provided to you any  
 4 information of any kind or nature whatsoever, did he?  
 5 A. No, sir.  
 6 Q. And did you need to know anything from  
 7 Mr. Bass in order to do the work that you were doing?  
 8 A. No, sir.  
 9 Q. And Mr. Bass never made any representations  
 10 to you of anything or nature, correct?  
 11 A. No, sir.  
 12 Q. So then when you were read the statement  
 13 before that Mr. Bass was part of a scheme to defraud,  
 14 you really don't have any information of any facts that  
 15 Mr. Bass had conducted a fraud, do you?  
 16 A. No, sir.  
 17 Q. So if we took his name out of that  
 18 statement that you were asked to say true or false to,  
 19 would it be appropriate?  
 20 A. Yes, sir.  
 21 Q. And let me ask you this, did you ever meet  
 22 Mr. Henry Johnson?  
 23 A. I don't know him. I don't remember meeting  
 24 him.  
 25 Q. Now, you indicated when you were advised --

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1 you indicated when asked if you thought there was  
 2 anything going on that was underhanded, that you  
 3 thought that that was happening on the other side of  
 4 the wall was part of it, correct?  
 5 A. Yes, sir.  
 6 Q. Now, why would what was going on on the  
 7 other side of the wall have any bearing on what you  
 8 were doing, if none of your measurements or any of the  
 9 information gathering that you were doing had anything  
 10 to do with the other side of the wall?  
 11 A. The reaction from Andrea when I had the  
 12 ability to see on the other side of the wall, i.e.,  
 13 being on top of the unit. I mean, when I was up on top  
 14 of the unit doing the work, we actually stored stuff up  
 15 there at first and then we removed them. But when  
 16 you're up on top of the unit, the wall is only eight  
 17 foot, seven, eight foot tall, and the ceilings in the  
 18 place were 30 feet, probably. The unit was up a couple  
 19 of feet, and it's eight feet tall. So when you're on  
 20 top, you can come through look over there and see  
 21 what's on the other side. That generated -- he didn't  
 22 want anybody up there on top of the building, not only  
 23 myself, Jose or Marco either.  
 24 Q. What did it matter to you what was on the  
 25 other side if all of the measurements you needed to

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1 take and all of the work that was being done occurred  
 2 on the E-CAT side of the plant?  
 3 A. It doesn't matter to me.  
 4 Q. So then how can whatever was going on the  
 5 other side of the plant have been fraudulent, from your  
 6 perspective?  
 7 A. I don't know that it was fraudulent. I  
 8 just know that when the ability -- when I had the  
 9 ability to look over there, that got a reaction.  
 10 Q. And what if the technology or the processes  
 11 that were going on on the other side of the plant were  
 12 the type that you want to keep secret and confidential  
 13 for competitive reasons? Would that make it  
 14 fraudulent?  
 15 A. No, sir.  
 16 Q. And wouldn't I be correct in stating that  
 17 perhaps the reason why Mr. Rossi, when some investors  
 18 came, wanted certain things to be perhaps not easily  
 19 seen, was to protect the technology?  
 20 A. That may very well be true.  
 21 Q. That's as likely as your conclusion that it  
 22 may have been something not on the up and up, correct?  
 23 A. Repeat your question. I didn't understand  
 24 what you just said.  
 25 Q. In other words, that would be a reason for

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1 You arrived in the Doral facility pretty  
 2 much at the same time that the plant did, right?  
 3 A. Yes, sir.  
 4 Q. Remind me again that was the --  
 5 A. That was my purpose for being down there,  
 6 was to get that plant setup and operational.  
 7 Q. Perfect. So did Mr. Fabiani come down with  
 8 you also to set it up and get it operational?  
 9 A. No, sir, he came earlier. Fulvio actually  
 10 had an apartment there that he had rented over there  
 11 somewhere near Andrea, from what I was told, over at  
 12 Miami Beach, out on the beach or near the beach, and I  
 13 was out there when Fulvio first rented the place,  
 14 helped him deliver some furniture and several things  
 15 out there and get set up and, of course, I stayed in a  
 16 motel over there not far from the plant, probably just  
 17 a few -- eight or ten blocks away.  
 18 Q. All right. So when you came down to set it  
 19 up, when was it, is that December or January 2014?  
 20 A. That was December 8, 9, somewhere right  
 21 along in there. We went home after the initial setup  
 22 and took a couple, three weeks off there for Christmas  
 23 and New Year's, and then I forget the exact date we got  
 24 back up around the first of January, but not New  
 25 Year's, maybe the fourth or fifth or something, myself

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1 and Jose and Marco, the two guys that were helping me  
 2 and had helped me with the project during the  
 3 construction aspect of it back in Raleigh, they stayed  
 4 with me all the way until we got up and running, which  
 5 was somewhere around the end of February.  
 6 Q. Okay. Was Mr. Fabiani, was he helping you  
 7 all in that setup between January and February when it  
 8 got --  
 9 A. Some, but mostly Fulvio was doing his part  
 10 with the computer, getting all the software and  
 11 programming ready and setup while we were making all  
 12 the wiring and, of course, the plant left and went down  
 13 there unfinished.  
 14 A key component, which was Fulvio's cards  
 15 that were the actual little mini brains for each unit,  
 16 they had not arrived. We didn't get those until we got  
 17 down to Florida, and that was critical component wiring  
 18 wise for the operation of the plant.  
 19 So all that work transpired after the plant  
 20 was moved down there. We got main power and  
 21 everything, which was the first hurdle, got all that  
 22 stuff turned on, so we had lights, air conditioning and  
 23 could light up the -- light up the place for the rest  
 24 of the work that happened, which was installing all the  
 25 control cards in each one of the junction boxes

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1 associated with each unit, each heater, each E-CAT, if  
 2 you will, and or big Frankie.  
 3 Q. And my understanding, you left around  
 4 October before the one year operation was complete, is  
 5 that correct?  
 6 A. I left in April. I left, again, I think at  
 7 the end of September, and I might have come home one  
 8 time for a few weeks in the middle there. Then I left  
 9 again for the road, which is right there in Halloween,  
 10 first of November, took about a month. And then I left  
 11 and got me another month right there at Christmas and  
 12 New Year's. And then I went back about the 10th of  
 13 January after deer season and stayed two weeks, two  
 14 final weeks, the last two weeks of the month of January  
 15 this year. And then I left there, I want to say the  
 16 27th, 28th of January, I forget that Friday, I forget  
 17 exactly, I have to look at the calendar, but I came  
 18 home, and that concluded my tour of duty in Miami.  
 19 Q. All right. Now, in all that time that you  
 20 spent there, and you have the same -- pretty much the  
 21 same hours as Mr. Fabiani, could you recall any acts or  
 22 anything that he did that would have made you believe  
 23 that he was somehow deceitful or dishonest with  
 24 Industrial Heat?  
 25 A. No, sir, I don't recall any.

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1 Q. Did anyone from Industrial Heat call you  
 2 into their offices and sit you down and get you to give  
 3 them a run down of things that Fabiani did that were  
 4 improper or anything like that?  
 5 A. No, sir. No, sir.  
 6 Q. Did Industrial Heat contact you at any time  
 7 prior to this, I don't want to say this deposition,  
 8 before this lawsuit, back and forth between the  
 9 parties, did Industrial Heat ever bring you in to  
 10 discuss your understanding of the facts?  
 11 A. No, sir. No, sir. I didn't even know very  
 12 many of the details about the contract until -- until  
 13 all this began. I mean, I was not, you know, a  
 14 party --I had no contract of any kind with Industrial  
 15 Heat. I mean, I was just, you know, I was just an  
 16 electrician guy they kind of found along the road and  
 17 ended up going in there to work for about a week on a  
 18 panel and stayed about three years, man.  
 19 Q. That's a good story. I like --  
 20 A. It's the truth.  
 21 Q. I will have to meet up with you in North  
 22 Carolina one of these days.  
 23 So now, and I understand, Mr. West, you're  
 24 not a party to this case, you know, you didn't draft  
 25 anything, and you're not accusing anybody of anything,

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1 at least not to my knowledge, you can let me know if  
 2 I'm wrong, but, you know, Industrial Heat, one of the  
 3 big arguments, you know, is manipulating data,  
 4 manipulating results, big fraud, big scheme, right? So  
 5 I just want to make a hundred percent sure that before  
 6 they made these allegations in this lawsuit, that they  
 7 either did or did not sit down with you, the person who  
 8 was down there in Doral the whole time that that one  
 9 year project was going on, did they ever sit down with  
 10 you and get your story of what happened in Doral?  
 11 MR. FALCONE: Objection.  
 12 A. You know, they asked, they asked questions.  
 13 I reported, and I felt like it was my job to kind of  
 14 keep T. Barker and J.T. somewhat abreast of what was  
 15 going on down there. And they were aware when Penon  
 16 and some of the investors would come, either being led  
 17 by Mr. Tom or maybe J.T. or some of Andrea's friends,  
 18 would come by to take a look at the plant and see  
 19 things, I mean, I kind of, you know, it was -- they  
 20 were paying me, so it was my duty, it was my job to  
 21 kind of keep up with what was going on down there.  
 22 Now, we might not talk every week. I mean,  
 23 sometimes we might go several weeks and not hearing  
 24 anything from any of them and them not hearing from me.  
 25 But they paid me every week, and I went down there and

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1 done my job.  
 2 Q. No, listen, I appreciate that. I'm not  
 3 trying to say anything to that effect.  
 4 My point is, you know, they've got this  
 5 complaint, and they're suing my client, Fulvio Fabiani.  
 6 So I understand that you had conversations with them  
 7 while you were working at Doral, and when they were  
 8 coming to visit, and you guys would have conversations.  
 9 But my question is more direct. It is after the  
 10 project finished, I think you said you left sometime at  
 11 the end of January, right, and then this litigation  
 12 starts let's say between June of this year, right, June  
 13 of '16 through, you know, I think you told me, I think  
 14 you said you talked to Mr. Vaughn a couple of weeks  
 15 ago. Did they ever sit down with you and say we're  
 16 suing these folks, and we want to know what you know?  
 17 MR. FALCONE: Objection.  
 18 BY MR. NUNEZ:  
 19 Q. Has that ever happened?  
 20 A. Not exactly like that, but, yeah, somewhat,  
 21 I mean, J.T. asked questions. I don't have a whole lot  
 22 of correspondence with T. Barker anymore, but some. I  
 23 call him and speak with him occasionally. And, yeah,  
 24 there were concerns. They told me that this was  
 25 coming. I mean, I knew that, you know, that they were

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1 after the money, and they thought it was, you know,  
 2 wrongfully taken from them, and that I was going to be  
 3 asked to tell my side of the story or my interaction  
 4 with the project. So, yeah, I was aware.  
 5 Q. And did they ever sit you down to tell your  
 6 side of the story?  
 7 A. No, not really per se, other than casual  
 8 conversation on the phone here and there about what's  
 9 coming. This has been the actual, the first real  
 10 account.  
 11 Now, bear in mind that I met their  
 12 attorneys sometime in the past here, I forget when I  
 13 met Mr. Lomax and that team, and then I met Andrea's  
 14 attorney one time for about 30 minutes down at the  
 15 plant before I left. And basically I told him the same  
 16 thing that, you know, that I've said in this  
 17 deposition, and in fact, most of our conversation  
 18 turned to Key West and fishing, man. You know, we had  
 19 a better conversation talking about fishing and Key  
 20 West really than did the plant, so.  
 21 MR. CHAIKEN: Rudolfo, this is Brian  
 22 talking, sorry to interrupt. The  
 23 videographer just instructed me there's  
 24 about five minutes left on this tape, maybe  
 25 less than that at this point.

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1 MR. NUNEZ: You want to stop now and  
 2 change the tape?  
 3 THE VIDEOGRAPHER: Please. We're off  
 4 the record at 2:52.  
 5 (Recess.)  
 6 THE VIDEOGRAPHER: Video number four,  
 7 we're on the record at 2:58.  
 8 BY MR. NUNEZ:  
 9 Q. All right, thank you.  
 10 Mr. West, you know the dangerous thing of  
 11 taking a break is that I know there's a question I  
 12 forgot to ask you.  
 13 I think you testified that you knew that  
 14 Mr. Fabiani and Mr. Rossi or Dr. Rossi had a prior  
 15 relationship, is that correct?  
 16 A. Oh, yes.  
 17 Q. And how did you find that out?  
 18 A. I met Andrea's wife, Maddalena. I've met  
 19 his mother-in-law. I've met members of Andrea's family  
 20 and Fulvio's talked with me many times about the  
 21 relationship he had growing up with Maddalena, because  
 22 they've known each other a lot longer than Andrea and  
 23 Maddalena maybe have known each other. But I know  
 24 Fulvio and Maddalena had a long relationship since  
 25 Fulvio was very little, you know, he has known

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1 Maddalena, so, and now Andrea and her are married. I  
 2 mean, I seen them. They come to the plant pretty  
 3 regularly. I got to see them and, so yeah, so I knew.  
 4 Q. Is this something you found out when you  
 5 were working in Doral, or did you know this up at  
 6 Triangle Drive?  
 7 A. No, I knew this at Triangle Drive.  
 8 Maddalena made several visits up there. We all got  
 9 introduced and met Andrea's wife.  
 10 Q. Do you know whether Mr. Vaughn or  
 11 Mr. Darden also knew of this prior relationship between  
 12 Dr. Rossi and Mr. Fabiani?  
 13 A. I'm sure they did, yeah. I'm sure they  
 14 did.  
 15 Q. Did they ever make any comments to you  
 16 about that?  
 17 A. No, sir.  
 18 Q. Or have any discussions with regard to that  
 19 prior relationship?  
 20 A. No, sir.  
 21 Q. Now, I think you had -- I don't know if  
 22 this is just my notes or something I put down or  
 23 something you said, but I have here that you were the  
 24 eyes and ears for Industrial Heat down here in Doral,  
 25 Florida, is that correct?

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1 A. Yes, sir.  
 2 Q. How often would you report to Industrial  
 3 Heat of what was going on?  
 4 A. Sometimes weekly and sometimes monthly. I  
 5 mean, there were a lot of times that there wasn't a  
 6 whole lot going on, other than general maintenance  
 7 while the plant was running. So they wouldn't contact  
 8 me and other than my, you know, my time that I sent in  
 9 every week, I wouldn't, you know, I wouldn't hear back  
 10 from them, so.  
 11 Q. And who would be -- who was your primary  
 12 contact person?  
 13 A. J.T. or T. Barker.  
 14 Q. Would you like, let's say on your time  
 15 sheets, would you send it to both of them? Would you  
 16 sen it to one of them?  
 17 A. Just generally the payroll girl, I want to  
 18 say her name was Tricia and J.T. I'd always copy J.T.  
 19 Q. And how about if you were going to -- you  
 20 know, aside from payroll issues or your time sheets,  
 21 how about if you were just communicating with regard to  
 22 the operations of the plant, how and who would you  
 23 communicate with?  
 24 A. Typically J.T. or T. Barker, both. A lot  
 25 of times I would send a text or something to both of

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1 them, letting them know or they would text me about,  
 2 particularly J.T. about investors or people coming by  
 3 to see the plant. Usually Andrea a lot of times would  
 4 let me know as well, just to keep me informed of what  
 5 was going on. And if we had any issues at the plant,  
 6 any major problems or this, that and the other, I'd  
 7 call him and let him know. But once again, after the  
 8 first few months when we got it up and going and got  
 9 most of the bugs worked out, the thing ran amazingly  
 10 well; plumbing issues, leaks. Plumbing issues were  
 11 more of a problem than anything else.  
 12 Q. And you said it was hot, right? I think  
 13 you like reiterated that a couple of times?  
 14 A. Damn hot.  
 15 Q. A lot of heat. And did it get hotter when  
 16 they made you close the doors?  
 17 A. Yeah, well, that wasn't really towards the  
 18 end there. Of course, I like the doors open all year  
 19 round down there. Everybody else is wearing coats and  
 20 freezing. I wore shorts all year round down there. It  
 21 felt good to me. I didn't mind 60-degree weather,  
 22 that's fine.  
 23 Q. Especially when you are working in that hot  
 24 warehouse, right?  
 25 A. Yes, sir.

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1 Q. Do you recall ever sending an email or a  
 2 text to J.T. or T. Barker expressing concerns that you  
 3 had with Fulvio Fabiani's work?  
 4 A. No, I don't know. Maybe. Maybe I did.  
 5 It's possible.  
 6 Q. Well, I mean, we're kind of here. This is  
 7 the time to know or not know --  
 8 MR. FALCONE: Objection.  
 9 A. I'm not sure.  
 10 Q. You're not sure. But right now, as you sit  
 11 here today, you can't remember a single time you wrote  
 12 something to T. Barker or J.T. Vaughn, and that's T.  
 13 Barker Dameron with any concerns about Mr. Fabiani's  
 14 work?  
 15 A. No, sir, I don't, I don't recall that, but  
 16 I may have mentioned something Fulvio was working on or  
 17 doing that I may have disapproved of or didn't know  
 18 about. But no, I don't -- it's possible, I don't know.  
 19 Q. Now, you mentioned it's possible you might  
 20 have been working, did you say doohickey?  
 21 A. No, sir.  
 22 Q. What did you say, that he might have been  
 23 working on something?  
 24 A. Something Fulvio may have been working on  
 25 that I didn't approve of or something, but, yeah, I

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<p style="text-align: right;">Page 222</p> <p>1 needed to get -- he needed to get this information to 2 him. 3 Q. Do you know whether he was preparing, and 4 this is part of your answer, I'm sorry if I'm treading 5 over the stuff you just answered. I want to be clear. 6 Was he sending monthly reports to somebody at 7 Industrial Heat? 8 A. My understanding is that's what he was 9 supposed to supply, I think weekly at one time. I 10 heard weekly, but then I heard monthly, but I'm not 11 sure whether he did it or not. I have no way of 12 verifying that. 13 Q. Fair enough. Give me one second. I'm just 14 looking through my notes. I'm almost done here, I 15 promise. 16 (Pause.) 17 Q. I know a couple of times you threw out or 18 you mentioned, and I'm listening through the speaker 19 phone, so I might have heard it wrong, something about 20 a Cadillac incident? 21 A. Yes, sir. 22 Q. And that had something to do with 23 Mr. Fabiani? 24 A. Yeah, Fulvio was going to alter one of 25 the -- one of the E-CAT cards to just give me a close</p>	<p style="text-align: right;">Page 224</p> <p>1 he had some concerns. 2 A lot of times I'd go out and check things 3 or put my meter across certain things and see what they 4 were doing, and, you know, sometimes I would even get 5 out there and listen, just listen to things and hear 6 what they're doing. So, but, yeah. 7 Q. Okay. And I don't want to put words in 8 your mouth, but it sounds to me when you're saying 9 Fulvio had some concerns that he wouldn't always agree 10 with Dr. Rossi, he would sometimes disagree with 11 Dr. Rossi? 12 A. Yep. I think -- I think Penon had some 13 disagreements with Andrea too. Every once in a while 14 we had a disagreement, but for the most part, we tried 15 to be civil. 16 Q. Now, again, towards the end of that direct 17 examination, you talked about, you know, I guess at the 18 beginning, you believed these folks were honest, but 19 then you went on and you said, but it appears not, and 20 that it was a dishonest venture, right? And you gave a 21 couple of examples. One of the things was what was 22 happening on the other side, right, on the JM side? 23 One of the things, I don't know if I heard you 24 correctly, you said you saw Fulvio crunching numbers on 25 his computer. What do you mean -- is that what you</p>
<p style="text-align: right;">Page 223</p> <p>1 contact that he can control and put a timer on it, and 2 we were going to get a couple of lights. Andrea wanted 3 to just get a couple of lights and put them in there 4 and make them blink or something, to give that portion 5 of the plant a little visual effect. 6 Q. Okay. And why do you call that an 7 incident? I mean, what was that? I don't get it. Is 8 that a problem? 9 A. No, no, it's kind of like a Christmas tree 10 with lights on it. 11 Q. Okay. One of the things that you testified 12 earlier, one of the comments, I believe, that you made 13 was that Fulvio sometimes had concerns with the 14 information, I guess, the data that was coming from the 15 plant, is that correct? 16 A. Yeah, we had some issues with some of the 17 components early on, and some of the dirt in the plant, 18 but, you know, that stuff cleared up given enough time. 19 I mean, it ended up running pretty clean there towards 20 the end. But, yeah, he had some concerns with some of 21 the measurements and stuff that was going on, and he 22 advised Andrea as he needed to. 23 Q. I'm sorry, I missed that last part of the 24 answer. 25 A. He would advise Andrea, if he, you know, if</p>	<p style="text-align: right;">Page 225</p> <p>1 said, and if it was what you said, what did you mean by 2 it? 3 MR. FALCONE: Objection. 4 A. You know, the numbers Fulvio was crunching, 5 that he was working on over there may not have had 6 anything to do with the plant at all. You know, I'm 7 not, I'm not, you know, I don't know that that was 8 exactly what he was doing. 9 Q. Okay. So just to make clear, that earlier 10 testimony of yours, it's not to suggest that whatever 11 he was doing that day on the computer was somehow 12 dishonest, correct? 13 A. No, sir, no, sir. I have no way of knowing 14 that. 15 Q. So then on this whole, you know, and now 16 you feel it's a dishonest venture, and, you know, so 17 what -- I mean, whatever he was or wasn't doing on the 18 computer, you don't know what it was. You don't know 19 that that had anything to do with the allegations being 20 brought by Industrial Heat. You testified about the 21 stuff going on on the other side at JM. I'll leave 22 that alone. My client didn't really have much to do 23 with that. Well, you know, what else has happened 24 since you left this project, stopped working with these 25 folks that now you have some, you know, suspicion that</p>

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1 there was a dishonest venture?  
 2 MR. FALCONE: Objection.  
 3 A. It seems to me that there's some --  
 4 something shady going on here, okay. I mean, I was  
 5 asked to do and help, and much of the information, the  
 6 important stuff, if you will, you know, I wasn't  
 7 allowed, I didn't have any knowledge about that. I  
 8 wasn't allowed. I never knew or even seen the fuel  
 9 itself but like once, maybe. And, you know, I was  
 10 denied. They kept me out of, you know, most of the  
 11 secrets of this project. And I got no way of knowing,  
 12 you know, what really, what really has happened here.  
 13 So, I mean, my job basically was to go down  
 14 there and keep the thing running, and I did that, to  
 15 the best, to the best of my ability, so.  
 16 Q. So really aside from your concerns of what  
 17 was going on on the other side of the wall at the JM  
 18 side, and this general feeling that something is fishy,  
 19 you don't really have any facts to testify in this  
 20 proceeding to prove that there was some type of scheme  
 21 involving Mr. Fabiani?  
 22 A. No, sir. No, sir, I don't know. I  
 23 can't -- I can't imagine, you know, Andrea and Fulvio  
 24 not knowing what's going on. I mean, I would think if  
 25 something was going on, they were both -- they would

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1 have both been a part of it  
 2 Q Well, I mean, that's the whole question is  
 3 the if, if something is going on And so, again, just  
 4 to clarify my question, is that while you were working  
 5 with, you know, Mr Fabiani for almost I think you said  
 6 it was almost three years, you can't testify to one  
 7 thing that you think you saw him do that was dishonest  
 8 or inappropriate or deceitful to Industrial Heat, is  
 9 that correct?  
 10 MR FALCONE: Objection  
 11 A That I'm aware of, you know, once again  
 12 Q That's what I'm just looking at, what you  
 13 know, what you know  
 14 A I don't know anything I don't know if the  
 15 information that Fulvio passed to him was accurate or  
 16 not  
 17 MR NUNEZ: Thank you very much,  
 18 Mr West I will stop there No more  
 19 questions  
 20 MR CHAIKEN: You gentlemen have any  
 21 questions?  
 22 MR FALCONE: No questions  
 23 FURTHER EXAMINATION BY COUNSEL FOR PLAINTIFFS  
 24 BY MR CHAIKEN:  
 25 Q This is Brian Chaiken, I have a few

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1 follow-up questions based on some of the questions you  
 2 received from counsel.  
 3 Mr. West, you testified that you had  
 4 conversations previously with counsel for Industrial  
 5 Heat, is that correct?  
 6 A. That I had conversations previously?  
 7 Q. Yes, previously.  
 8 A. For counsel. I knew that this was coming,  
 9 yeah. I mean, they made me aware that this was going  
 10 to happen.  
 11 Q. And when did you have those conversations?  
 12 A. Oh, I don't have the first clue.  
 13 Q. Do you know what you talked about?  
 14 A. Yeah, this was going to happen. There  
 15 would be a deposition, that I'd be notified sometime in  
 16 the future, is what they told me.  
 17 Q. Was that over the phone or in person?  
 18 A. Yeah, over the phone.  
 19 Q. That was the sum and substance of the  
 20 conversation?  
 21 A. Pretty much, and then they let me know  
 22 dates.  
 23 Q. Who did you talk to?  
 24 A. J.T., and then when I found it was actually  
 25 going to happen, I actually called T. Barker myself and

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1 asked him what's this about, what's going to happen  
 2 here, what are they going to do, and he didn't really  
 3 know either. He said they were just going to have some  
 4 questions and --  
 5 Q. Did you ever have a conversation with  
 6 Mr. Pace or Mr. Lomax about this case?  
 7 A. They interviewed me. We had a topic  
 8 sometime back when I first met them. I mean, they just  
 9 asked me some questions about what I had done down in  
 10 Florida, you know, basically the same things that you  
 11 asked when you came out to the plant that day.  
 12 Q. When did that conversation take place?  
 13 A. Oh, I don't know. I don't know. They  
 14 could tell you. I don't remember.  
 15 Q. Was it before --  
 16 A. I think it was after I came back.  
 17 Q. After you came back from Doral?  
 18 A. No, we met -- did we meet in Florida? I  
 19 don't remember. I forget the first time I met them. I  
 20 remember I was out there. I know I saw them at  
 21 Industrial Heat's new office one time, I went over  
 22 there after I came back, and we had a meeting. I can't  
 23 remember if we met out in Florida or not. I remember  
 24 you coming to the plant that one day, that one morning  
 25 about ten o'clock.

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<p style="text-align: right;">Page 234</p> <p>1 ERRATA PAGE  2 MMV  3  4 CASE NAME: Rossi vs. Darden  5  6 WITNESS NAME: BARRY WEST  7 DATE: December 2, 2016  8  9 PAGE LINE READS SHOULD READ REASON FOR CHANGE  10 _____  11 _____  12 _____  13 _____  14 _____  15 _____  16 _____  17 _____  18 _____  19 _____  20 _____  21 _____  22 _____  23 _____  24 _____  25 _____</p>	
<p style="text-align: right;">Page 235</p> <p>1 CERTIFICATE  2 I, Marisa Munoz-Vourakis, RMR, CRR and Notary Public,  3 the officer before whom the foregoing proceeding was  4 conducted, do hereby certify that the witness(es) whose  5 testimony appears in the foregoing proceeding were duly  6 sworn by me; that the testimony of said witness(es) were  7 taken by me to the best of my ability and thereafter  8 transcribed under my supervision; and that the foregoing  9 pages, inclusive, constitute a true and accurate  10 transcription of the testimony of the witness(es).  11 I do further certify that I am neither counsel for,  12 related to, nor employed by any of the parties to this  13 action in which this proceeding was conducted, and  14 further, that I am not a relative or employee of any  15 attorney or counsel employed by the parties thereof, nor  16 financially or otherwise interested in the outcome of the  17 action.  18 IN WITNESS WHEREOF, I have hereunto subscribed my name  19 this of , 2016.  20 MARISA MUNOZ-VOURAKIS  21 Notary #20032900127  22  23  24  25</p>	

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