

1 UNITED STATES DISTRICT COURT
2 SOUTHERN DISTRICT OF FLORIDA
3 MIAMI DIVISION
4 CASE NO. 16-cv-21199-CMA

4 ANDREA ROSSI, et al., Miami, Florida
5 Plaintiffs, July 5, 2017
6 vs. 9:19 a.m. to 10:02 a.m.
7 THOMAS DARDEN, et al., Courtroom 12-2
8 Defendants. (Pages 1 to 10)

9
10 JURY TRIAL - DAY 2
11 BEFORE THE HONORABLE CECILIA M. ALTONAGA,
12 UNITED STATES DISTRICT JUDGE

13 APPEARANCES:

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I N D E X

WITNESSES

WITNESSES FOR THE PLAINTIFFS: PAGE
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WITNESSES FOR THE DEFENDANTS: Page
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<u>EXHIBITS IN EVIDENCE</u>	<u>PRE</u>	<u>MARKED</u>	<u>ADMITTED</u>
Plaintiffs' Exhibit No.	--	--	--
Defendants' Exhibit No.	--	--	--

MISCELLANEOUS

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1 (The following proceedings were held at 9:19 a.m.)

2 COURT SECURITY OFFICER: All rise.

3 THE COURT: They haven't arrived yet? I did say 9:30.

4 COURT SECURITY OFFICER: They're here.

5 THE COURT: They are here. Oh good.

6 (Pause in proceedings.)

7 THE COURT: All of the jurors are here.

8 MR. LUKACS: Your Honor, might I ask the Court's
9 indulgence for just a couple of minutes so that I might have a
10 conversation with Mr. Bell and Mr. Pace?

11 THE COURT: Very few minutes.

12 MR. LUKACS: Really fast.

13 THE COURT: All right.

14 (Pause in proceedings.)

15 THE COURT: Can you bring them in, please?

16 COURT SECURITY OFFICER: Yes, Judge.

17 THE COURT: Bring in the attorneys, if you would.

18 COURT SECURITY OFFICER: Please rise for the jury.

19 (The jury entered the courtroom at 9:27 a.m.)

20 MR. LUKACS: Your Honor, thank you for your indulgence.

21 Mr. Pace and Mr. Bell and I have been --

22 THE COURT: I'm sorry, the jury's coming in.

23 Everyone, please be seated.

24 Good morning, ladies and gentlemen, and welcome back.

25 THE JURY: Good morning.

1 THE COURT: Ladies and gentlemen, if you wish, you may
2 take notes to help you remember what the witnesses testify to.
3 If you do take notes, please do not share them with anyone
4 until you go to the jury room to decide the case. Do not let
5 note-taking distract you from carefully listening to and
6 observing the witnesses. When you leave the courtroom, you
7 should leave your notes hidden from view in the jury room.
8 Whether or not you take notes, you should rely on your own
9 memory of the testimony. Your notes are there only to help
10 your memory. They are not entitled to greater weight than your
11 memory or impression about the testimony.

12 Plaintiffs' first witness.

13 MR. LUKACS: Your Honor, may we have a sidebar,
14 please?

15 MR. PACE: Just brief.

16 (Sidebar outside the presence of the jury:)

17 MR. LUKACS: Your Honor, I believe we have this case
18 settled, the terms of which have already been discussed by and
19 between Counsel. There is a couple of questions just in terms
20 of refining a couple of the terms, but 15 minutes -- I hate to
21 do this. I didn't realize you were calling the jury in.

22 MR. PACE: It literally came up just this morning. We
23 were in disagreement yesterday. We spoke to our clients in the
24 morning. They have --

25 MR. LUKACS: We have a resolution to this jury not

1 having to sit here for the remaining four weeks.

2 THE COURT: I will send them back to the jury room.

3 MR. LUKACS: We apologize, Your Honor.

4 MR. PACE: Thank you.

5 (Sidebar outside the presence of the jury:)

6 THE COURT: Ladies and gentlemen, my apologies. We
7 need to take about a 15-20 minute recess and then bring you
8 back to address some issues.

9 Please be patient. Don't discuss the case. And we
10 will bring you right back.

11 COURT SECURITY OFFICER: All rise.

12 (The jury exited the courtroom at 9:30 a.m.)

13 (A recess was taken from 9:30 a.m. to 9:55 a.m.)

14 MR. LUKACS: Sir, would you mind excusing yourself?

15 GALLERY SPECTATOR: Yes.

16 MR. LUKACS: I was just asking him to leave for a
17 moment.

18 MR. PACE: We are missing one Counsel, that's why I
19 just spoke to JM Products. We've resolved the matter. I just
20 want to make sure everyone's here for the record.

21 (Pause in proceedings.)

22 MR. LUKACS: Your Honor --

23 THE COURT: Microphone. Thank you.

24 MR. LUKACS: Your Honor, on behalf of the Plaintiffs,
25 I am pleased to announce that the parties have resolved this

1 matter, the terms of which have been agreed to, will be
2 memorialized in writing. The most significant term, of course,
3 would immediately affect these proceedings in that the parties
4 have agreed as part of the settlement to jointly dismiss this
5 case, and I mean all claims with prejudice. This includes
6 claims against the Third-Party Defendants as well, with each
7 party to bear its own fees and costs. We expect to have the
8 final written document drafted within the next 24 to 48 hours.

9 Thank you.

10 THE COURT: All right. Did you want the Court to
11 retain jurisdiction to enforce it? Because if that's the case,
12 it needs to be filed publicly.

13 MR. PACE: Yes -- no, no, Your Honor, we are not going
14 to ask the Court to retain jurisdiction.

15 THE COURT: All right.

16 MR. LUKACS: Thank you.

17 THE COURT: So let me bring this jury in and --

18 MR. LUKACS: We can discharge them.

19 THE COURT: -- advise them. Thank you.

20 MR. LUKACS: Thank you.

21 MR. PACE: And thank them.

22 (The jury entered the courtroom at 9:58 a.m.)

23 THE COURT: Everyone, please be seated.

24 Ladies and gentlemen, the delays this morning were
25 somewhat unusual. I don't like to keep my jurors waiting, but

1 sometimes there is a greater benefit to be gained. And the
2 reason for asking you to wait is that the parties were
3 attempting one last time to resolve the case by settlement, and
4 they did, in fact, achieve it. They have announced that they
5 have resolved the case in its entirety.

6 So your work is done. My work in this case is done.
7 It's amazing the power that a jury has on litigants in finally
8 coming to reach a favorable resolution, and that occurred here.
9 So I thank you. Thank you for being here on time. I thank you
10 for your patience with us.

11 I have already asked my courtroom deputy to obtain
12 forms from our jury pool section that show that you were here
13 last week and today, as well. If any of you would like to wait
14 for that, she should be getting that shortly for you.

15 And enjoy the rest of your summer. Thank you, again.

16 MR. PACE: Your Honor, could we just offer on behalf
17 of the parties?

18 Your Honor is perfectly correct. Without you, this
19 couldn't have been done. We really do appreciate insert. We
20 hope everybody understands how much we appreciate their
21 service. It really is all of you that enabled us to resolve
22 this matter. So thank you.

23 THE COURT: It was either the puzzled look on your
24 faces last week or the glares that you gave, but in any event,
25 that magical combination had its desired effect.

1 THE JURY: Thank you.

2 THE COURT: Thank you.

3 JUROR KOLIWALA: Thank you all for resolving it within
4 yourselves because I think it couldn't have been done without a
5 lot of patience and understanding from all of you.

6 MR. LUKACS: Great. Well, thank you very much for
7 your time and your sacrifice. And I am just saddened that we
8 are not going to be able to spend the remainder of July with
9 you through the 26th.

10 JUROR MUMFORD: I am going on vacation. You want to
11 come?

12 MR. PACE: We'll all meet up in the Caribbean
13 somewhere. Thank you, everyone.

14 MR. LUKACS: Thank you all.

15 THE COURT: Thank you.

16 (The jury exited the courtroom at 10:02 a.m.)

17 MR. PACE: And, Your Honor, the parties, as well,
18 thank and appreciate the Court for all the time and the
19 incredible patience you imparted Counsel.

20 THE COURT: I really do think despite the starts and
21 stops last week that this was a case that was better resolved
22 the way you have done it than asking these fine people to sort
23 through these very complicated issues.

24 MR. PACE: We agree. And we appreciate it, and we do
25 thank the Court.

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THE COURT: All right. Thank you.

ALL PARTIES: Thank you, Your Honor.

THE COURT: We ruined your 4th of July weekend, but we saved your summer.

(The proceedings adjourned at 10:02 a.m.)

C E R T I F I C A T E

I hereby certify that the foregoing is an accurate transcription of the proceedings in the above-entitled matter.

07/06/17
DATE



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