

# **EXHIBIT 4**

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UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA  
MIAMI DIVISION  
CASE NO. 1:16-cv-21199-CMA  
ANDREA ROSSI, et al.,  
Plaintiffs,  
v.  
THOMAS DARDEN, et al.,  
Defendants.  
- - - - -x  
INDUSTRIAL HEAT, LLC, et al.,  
Counter-Plaintiffs,  
v.  
ANDREA ROSSI, et al.,  
Counter-Defendants.  
and  
J.M. PRODUCTS, et al.,  
Third-Party Defendants.  
- - - - -x

600 Brickell Avenue, Suite 3300  
Miami, Florida  
Friday, February 10, 2017  
10:11 a.m. - 7:25 p.m.

HIGHLY CONFIDENTIAL TRANSCRIPT  
ATTORNEYS' EYES ONLY  
VIDEO DEPOSITION OF ANDREA ROSSI

Taken before Janet Baldauf, Registered  
Professional Reporter and Notary Public in and for  
the State of Florida at Large, pursuant to Notice of  
Taking Deposition filed in the above cause.

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Page 234	Page 236
<p>1 that?</p> <p>2 MR. PACE: Yes. I'm trying to understand.</p> <p>3 THE WITNESS: You know, these picture are,</p> <p>4 first of all --</p> <p>5 MR. ANNESSER: Just answer his question if</p> <p>6 you understand it. I'm going to object to the</p> <p>7 form because I'm not sure I understand the</p> <p>8 question.</p> <p>9 THE WITNESS: The place where the steam</p> <p>10 became water is not -- is not illustrated by these</p> <p>11 photographs, Attorney.</p> <p>12 BY MR. PACE:</p> <p>13 Q. But it did occur somewhere within the</p> <p>14 container?</p> <p>15 MR. LEON DE LA BARRA: Object to form.</p> <p>16 THE WITNESS: Can you repeat the question.</p> <p>17 BY MR. PACE:</p> <p>18 Q. But the conversion of steam to water</p> <p>19 occurred in the container?</p> <p>20 MR. ANNESSER: Object to form.</p> <p>21 MR. LEON DE LA BARRA: Object to the form.</p> <p>22 THE WITNESS: No.</p> <p>23 BY MR. PACE:</p> <p>24 Q. Where did it occur, outside the container</p> <p>25 then?</p>	<p>1 their names?</p> <p>2 A. No, I don't remember. We are talking of two</p> <p>3 years ago, and they were just guys. In that area, if</p> <p>4 you go there, they have the truck. It's people that</p> <p>5 has a truck that is a small workshop. They have</p> <p>6 everything there. You call them, and they are able to</p> <p>7 do anything. They are able to do whatever you need.</p> <p>8 Q. Who removed it?</p> <p>9 A. Sorry.</p> <p>10 Q. Who removed this heat exchanger that you</p> <p>11 built?</p> <p>12 A. It has been built by pipes --</p> <p>13 Q. No. I'm sorry. My question was who removed</p> <p>14 it?</p> <p>15 MR. LEON DE LA BARRA: Object to form.</p> <p>16 THE WITNESS: I removed it with the help of</p> <p>17 contractors.</p> <p>18 BY MR. PACE:</p> <p>19 Q. Because it doesn't exist any longer at the</p> <p>20 Doral plant?</p> <p>21 A. No because I have used the pieces of it to</p> <p>22 do other things because now it was completely useless.</p> <p>23 Q. Well, it didn't exist at the Doral location</p> <p>24 in February of 2016, did it?</p> <p>25 MR. ANNESSER: Object to the form.</p>
Page 235	Page 237
<p>1 A. Yes.</p> <p>2 Q. Where outside the container?</p> <p>3 A. In a proper heat exchanger that was placed</p> <p>4 not inside the container.</p> <p>5 Q. Where was the heat exchanger?</p> <p>6 A. The heat exchanger was in a proper room that</p> <p>7 is not indicated in this photographs. The steam</p> <p>8 through a pipe is gone in a heat exchanger that is not</p> <p>9 here.</p> <p>10 Q. This heat exchanger, who installed that?</p> <p>11 A. I did.</p> <p>12 Q. Who helped you install it?</p> <p>13 A. Contractors.</p> <p>14 Q. Which contractors?</p> <p>15 A. Well, I use very much flying contractors</p> <p>16 that in that industrial park everyday come to know if</p> <p>17 you need something. I use it to many of them. The</p> <p>18 heat exchanger that I have put down has been made by me</p> <p>19 with their help.</p> <p>20 Q. Okay.</p> <p>21 A. So -- in -- sorry.</p> <p>22 Q. I'm sorry. I interrupted you that time.</p> <p>23 Please finish your answer.</p> <p>24 A. I had finished.</p> <p>25 Q. Do you know their names? Do you know any of</p>	<p>1 THE WITNESS: Can you -- I did not</p> <p>2 understand the question.</p> <p>3 BY MR. PACE:</p> <p>4 Q. Sure. You remember seeing me at the Doral</p> <p>5 warehouse in December 16 of 2016?</p> <p>6 A. I remember.</p> <p>7 Q. The heat exchanger you are talking about now</p> <p>8 had been removed by then, correct?</p> <p>9 MR. ANNESSER: Object to form.</p> <p>10 MR. LEON DE LA BARRA: Join.</p> <p>11 THE WITNESS: I don't understand the</p> <p>12 English. This heat exchanger has been removed</p> <p>13 after the end of the test.</p> <p>14 BY MR. PACE:</p> <p>15 Q. Okay. So it was sometime after</p> <p>16 February 2016?</p> <p>17 A. If this was the question, this is the</p> <p>18 answer. Sorry.</p> <p>19 Q. I'm still a little lost and then we'll take</p> <p>20 a quick break here because we have to move on to some</p> <p>21 other subjects before we end, but you said in Exhibit</p> <p>22 17 --</p> <p>23 A. Yes.</p> <p>24 Q. -- what comes into there, that top pipe,</p> <p>25 what we labeled as pipe number one is steam, correct?</p>

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Page 278	Page 280
<p>1 Q. Could anyone else -- but if any                  2 instrumentation was changed, it would have been changed                  3 by Fabio Penon?                  4 MR. ANNESSER: Object to form.                  5 MR. LEON DE LA BARRA: Join.                  6 THE WITNESS: Yes, of course. This is my --                  7 absolutely. Nobody could touch his                  8 instrumentation.                  9 BY MR. PACE:                  10 Q. Just so I'm clear, that applies to the                  11 sensors?                  12 MR. ANNESSER: Object to form.                  13 BY MR. PACE:                  14 Q. That would apply to the flow meters; is that                  15 correct?                  16 MR. ANNESSER: Object to form.                  17 THE WITNESS: Again, I was not involved in                  18 measurements, so I am not able to answer this                  19 question. Honestly, I did not even know exactly                  20 which were his instrumentation respect the                  21 instrumentation that Fabiani had put on behalf of                  22 Industrial Heat, for example. I was absolutely                  23 out of that issue.                  24 BY MR. PACE:                  25 Q. So there was data that was being collected</p>	<p>1 coefficient of performance, sure.                  2 Q. So there was a -- are you aware that there                  3 were daily calculations of the coefficient of                  4 performance associated with the 1 MW plant?                  5 MR. ANNESSER: Object to form.                  6 MR. LEON DE LA BARRA: Join.                  7 THE WITNESS: I did not -- I am not aware --                  8 what does mean was I aware? Aware respect what?                  9 BY MR. PACE:                  10 Q. Let me try this again. You read Fabio                  11 Penon's report?                  12 A. Of course.                  13 Q. You saw the column that had COP?                  14 A. Of course.                  15 Q. It was a different entry for each day?                  16 A. Yes.                  17 Q. That would be a daily calculation, correct?                  18 MR. ANNESSER: Object to form.                  19 THE WITNESS: Yes.                  20 BY MR. PACE:                  21 Q. So let's try from there.                  22 A. Okay.                  23 Q. So was there a way to effect or alter the                  24 COP of the 1 MW plant on a daily basis?                  25 MR. ANNESSER: Object to form.</p>
Page 279	Page 281
<p>1 by Fabiani, and you don't know whether it was different                  2 or the same as the data collected by Penon?                  3 A. I am sorry. Can you repeat the question. I                  4 lost it.                  5 Q. You just testified that there was data being                  6 collected by Fabiani.                  7 A. Uh-huh.                  8 Q. But you don't know whether that was the same                  9 or different from the data being collected by Penon?                  10 MR. ANNESSER: Object to form.                  11 THE WITNESS: I don't know at all. I don't                  12 know the data of each of them. I know the data of                  13 Penon of course because I read the data of Penon                  14 in the reports, but I do not know -- I did not                  15 know the data in the making.                  16 BY MR. PACE:                  17 Q. How would you alter -- was there a way with                  18 the 1 MW plant to change its COP on a given day?                  19 MR. ANNESSER: Object to form.                  20 THE WITNESS: Sorry. I need that you repeat                  21 the question because I did not understand it.                  22 BY MR. PACE:                  23 Q. The phrase COP -- are you familiar with the                  24 phrase coefficient of performance?                  25 A. Yes, of course. Yes, I am familiar with the</p>	<p>1 MR. LEON DE LA BARRA: Object to form.                  2 THE WITNESS: This was impossible.                  3 BY MR. PACE:                  4 Q. That's all I'm asking. I'm literally trying                  5 to understand. Would you be able to -- I can turn a                  6 dial, I can change the water flow --                  7 A. No.                  8 Q. -- I can do something that increases or                  9 decreases the COP on a given day?                  10 MR. ANNESSER: Object to form.                  11 THE WITNESS: Not -- no. It is nonsense.                  12 BY MR. PACE:                  13 Q. Okay. I'm not disagreeing with you. I'm                  14 just trying to understand, if you look at the -- and                  15 you've looked at the Fabio Penon report?                  16 A. Yes.                  17 Q. And you know that the COP is not the same                  18 every day?                  19 A. No, no. It changes.                  20 Q. It changes.                  21 A. It changes, but this is -- now I have                  22 understood what you are asking. Now I have understood                  23 your question.                  24 Q. It changes, but it doesn't change --                  25 A. On demand. It does not change on demand.</p>

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Page 294

1 CERTIFICATE OF OATH OF WITNESS  
 2  
 3 STATE OF FLORIDA  
 SS:  
 4 COUNTY OF MIAMI-DADE  
 5  
 6  
 7 I, JANET BALDAUF, Registered Professional  
 8 Reporter, Florida Professional Reporter and Notary  
 9 Public in and for the State of Florida at Large,  
 10 certify that the witness, ANDREA ROSSI, personally  
 11 appeared before me on 2-23-17 and was duly sworn by  
 12 me.  
 13 WITNESS my hand and official seal this  
 14 23rd day of February 2017.  
 15  
 16  
  
 17  
 18 JANET BALDAUF, RPR, FPR  
 Notary Public  
 State of Florida at Large  
 19  
 20 Notary # FF208072  
 21 My Commission Expires: 3-31-2019  
 22  
 23  
 24  
 25

Page 296

1 VERITEXT LEGAL SOLUTIONS  
 One Biscayne Tower, Suite 2250  
 2 Two South Biscayne Boulevard  
 Miami, Florida 33131  
 3 (305) 376-8800  
 4  
 \_\_\_\_\_, 2017  
 5  
 6 ANDREA ROSSI  
 c/o JOHN W. ANNESSER, ESQUIRE  
 Perlman Bajandas Yevoli & Albright, P.L.  
 7 283 Catalonia Avenue, Suite 200  
 Coral Gables, Florida 33134  
 8  
 9 RE : ROSSI v DARDEN  
 10 DEPO OF: ANDREA ROSSI  
 TAKEN : 2-23-17  
 11 READ & SIGN BY: Days  
 Attn: ANDREA ROSSI:  
 12  
 13 This letter is to advise you that the transcript  
 of the deposition listed above is completed and  
 is available for reading and signing.  
 14  
 15 PLEASE CALL THE ABOVE NUMBER TO MAKE AN APPOINTMENT to  
 come to the Veritext office closest to you to read and  
 sign the transcript. Our office hours are from 8:30  
 16 a.m. to 4:30 p.m., Monday through Friday.  
 17 IN THE EVENT OTHER ARRANGEMENTS ARE MADE, please send  
 us a list of any and all corrections, signed and  
 18 notarized, noting page and line numbers and the reason  
 for such changes, so we can furnish all counsel with a  
 19 copy of same. If the reading and signing has not been  
 completed prior to the referenced date, we shall  
 20 conclude that you have waived the reading and signing  
 of the deposition  
 21 transcript. Your prompt attention to this matter is  
 appreciated.  
 22  
 23 Sincerely,  
 24 JANET BALDAUF, RPR, FPR  
 25 cc: Counsel of Record

Page 295

1 REPORTER'S DEPOSITION CERTIFICATE  
 2  
 3 I, JANET BALDAUF, Registered Professional  
 4 Reporter and Florida Professional Reporter, certify  
 5 that I was authorized to and did stenographically  
 6 report the deposition of ANDREA ROSSI, the witness  
 7 herein on 2-23-17; that a review of the transcript  
 8 was requested; that the foregoing pages numbered  
 9 from 1 to 296 inclusive is a true and complete  
 10 record of my stenographic notes of the deposition by  
 11 said witness; and that this computer-assisted  
 12 transcript was prepared under my supervision.  
 13 I further certify that I am not a  
 14 relative, employee, attorney or counsel of any of  
 15 the parties, nor am I a relative or employee of any  
 16 of the parties' attorney or counsel connected with  
 17 the action.  
 18 DATED this 23rd day of February 2017.  
 19  
 20  
 21  
  
 22  
 23 JANET BALDAUF  
 Florida Professional Reporter  
 Registered Professional Reporter  
 24  
 25

Page 297

1 VERITEXT LEGAL SOLUTIONS  
 One Biscayne Tower, Suite 2250  
 2 Two South Biscayne Boulevard  
 Miami, Florida 33131  
 3 (305) 376-8800  
 4  
 \_\_\_\_\_, 2017  
 5  
 6 CHRISTOPHER R.J. PACE, ESQUIRE  
 Jones Day  
 7 600 Brickell Avenue, Suite 3300  
 Miami, Florida 33131  
 8  
 9 RE : ROSSI v DARDEN  
 DEPO OF: ANDREA ROSSI  
 10 TAKEN : 2-23-17  
 READ & SIGN BY: 30 Days  
 11  
 12 Dear Counsel:  
 13 The original transcript of the deposition listed  
 above is enclosed for your file. The witness  
 14 did not waive reading and signing and has been  
 sent a letter notifying them to come in and read  
 15 and sign their deposition transcript.  
 16 The witness will be provided a copy of their  
 deposition transcript for reading in our office  
 17 should they come in to review the transcript, and  
 we will forward to you any corrections made by  
 18 the witness at that time, along with an original  
 signature page which should be attached to the  
 19 original transcript which is in your possession.  
 20  
 21 Sincerely,  
 22  
 23 JANET BALDAUF, RPR, FPR  
 24  
 25

VERITEXT LEGAL SOLUTIONS  
COMPANY CERTIFICATE AND DISCLOSURE STATEMENT

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

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