

EXHIBIT 5

CONFIDENTIAL TRANSCRIPT

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

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
Wednesday, March 1, 2017
10:14 a.m.- 5:46 p.m.

CONFIDENTIAL TRANSCRIPT
PORTIONS OF TRANSCRIPT HIGHLY CONFIDENTIAL
ATTORNEYS' EYES ONLY

VIDEO DEPOSITION OF J.M. PRODUCTS, INC.
THROUGH ANDREA ROSSI

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

CONFIDENTIAL TRANSCRIPT

<p style="text-align: right;">Page 94</p> <p>1 Q. Okay. So that also -- just like the 2 pipes -- the piping that we saw in Exhibit 4, that 3 heat exchanger also, that was removed sometime 4 between the middle of February 2016 and the beginning 5 of April 2016? 6 A. It is correct. 7 Q. All right. And that also, according to 8 your testimony, involved a large amount of piping. 9 A. Yes. 10 Q. Where has all that piping gone? We will 11 talk about the other aspects of it later but I'm just 12 trying to understand, is that piping -- let me just 13 ask the question. 14 Where did all that piping go? 15 A. In another plant not connected with the 16 activity of the one megawatt plant, like the other 17 one I told before. 18 Q. So there is another plant, there is 19 another location? It's at a different location? 20 A. It's another plant. No, it is in the 21 same location, but it's -- it's another thing. 22 Q. So let's see if we can get this -- we're 23 going to talk about this in a lot more detail in the 24 afternoon after lunch but I am just trying to 25 understand.</p>	<p style="text-align: right;">Page 96</p> <p>1 A. You know, in chemistry and in physics 2 everything that is not solid is a fluid. 3 Q. Is a fluid. I just wanted the record to 4 be clear that I am not -- when I refer to fluid, I am 5 not trying to get into a debate -- 6 A. Sure. 7 Q. -- over whether we're talking about 8 something is in liquid form or gas form, it's a fluid 9 in any event. 10 (The document referred to was thereupon 11 marked Deposition Exhibit 6 for Identification, a 12 copy of which is attached hereto.) 13 BY MR. PACE: 14 Q. I'm going to hand you Deposition Exhibit 15 6. 16 A. Thank you. 17 Q. You're welcome. This is a -- this is the 18 meeting from the first board of directors and 19 shareholders for J.M. Products or, I'm sorry, for 20 J.M. Chemical Products, correct? 21 A. I never saw this, so. I think this is 22 the first time I see this document. 23 Q. Okay. If you look at the date on it -- 24 well, let me ask. So in preparing for your 25 deposition testimony today this is not a document you</p>
<p style="text-align: right;">Page 95</p> <p>1 The piping for the heat exchanger that 2 you testified about, it is now -- it's still at the 3 Doral warehouse? 4 A. Yes. 5 Q. All right. But it's being used in some 6 new type of device? 7 A. Yes. 8 Q. And in connection with this device, is it 9 being used -- does it have fluids flowing through it? 10 A. Yes. 11 Q. And just to be clear for our purposes, we 12 have discussed this in other depositions, I know, but 13 I like each deposition to be clear. 14 Both a liquid and a gas is a fluid, 15 correct? 16 A. Correct. 17 Q. So if we talk about -- when we talk 18 about -- if we were talking about water, if you 19 described it as a heated fluid, that could be not 20 just hot water, that could be steam, correct? 21 A. Correct. 22 Q. Okay. So I am not -- when I say that a 23 fluid is flowing through these pipes I am not asking 24 you whether it's steam or hot water or what it is, 25 it's some kind of fluid?</p>	<p style="text-align: right;">Page 97</p> <p>1 reviewed? 2 A. No, this is not a document I reviewed. 3 Q. Okay. Assuming this is an authentic 4 document, it was produced by J.M. Products, date -- 5 you see on the last page there is a date that is June 6 27, 2014, so that's right around the time that J.M. 7 Products was formed, correct? 8 A. Okay. Yes, if it is so. Again, I am 9 seeing, attorney, this document for the first time in 10 my life. 11 Q. I understand. I am asking you about the 12 date. I'm saying -- 13 A. I am reading dated June 27, 2014, yes. 14 Q. Right. And is that -- do you recall -- 15 A. Sorry. 16 Q. I'm sorry. 17 A. Sorry. 18 Q. Do you recall that's around the time that 19 J.M. Products was -- J.M. Chemical Products was 20 created as a company? 21 A. Makes sense. 22 Q. Okay. But you don't actually recall -- I 23 am not trying to put words in your mouth. You don't 24 actually recall -- 25 A. No.</p>

CONFIDENTIAL TRANSCRIPT

Page 254

1 CERTIFICATE OF OATH
 2
 3 STATE OF FLORIDA:
 4 SS:
 5 COUNTY OF DADE:
 6
 7
 8 I, the undersigned authority, certify that
 9 ANDREA ROSSI personally appeared before me and was
 10 duly sworn.
 11 WITNESS my hand and official seal this 13th
 12 day of March 2017.
 13
 14
 15 *Edmed Varkonyi*
 16 _____
 17 Notary Public, State of Florida at
 18 Large; my commission expires
 19 February 26, 2019. Bonded through
 20 Troy Fain Insurance, Inc.
 21
 22
 23
 24
 25

Page 256

1 March 13, 2017
 2
 3
 4
 5 FERNANDO ARAN, ESQ.,
 Aran Correa & Guarch, P.A.
 255 University Drive
 6 Coral Gables, Florida 33134
 7 RE: Rossi v. Darden
 8 Dear Mr. Aran,
 9 With reference to the deposition of Andrea Rossi
 taken on March 1, 2017 in connection with the
 10 above-captioned case, please be advised that the
 transcript of the deposition has been completed
 11 and is awaiting signature.
 12 Please arrange to have the deponent stop by our
 office at Two South Biscayne Boulevard, Suite
 13 2250, Miami, Florida, for the purpose of reading
 and signing the transcript.
 14
 15 If this is not taken care of, however, within the
 next 30 days, we shall conclude that the reading
 and signing of the deposition has been waived and
 16 shall then process the original of the transcript
 for filing with the Clerk of the Court by counsel
 17 without further notice.
 18 Sincerely,
 19
 20 Edward Varkonyi,
 Registered Merit Reporter
 21
 22
 23
 24
 25

Page 255

1 CERTIFICATE OF REGISTERED PROFESSIONAL REPORTER
 2
 3 I, EDWARD VARKONYI, and Registered
 Professional Reporter and a Notary Public for the
 4 State of Florida at Large, do hereby certify that I
 reported the deposition of ANDREA ROSSI; that the
 5 foregoing pages, numbered from 1 to 253, inclusive,
 constitute a true and correct transcription of my
 6 shorthand report of the deposition by said witness on
 this date.
 7 I further certify that I am not an
 attorney or counsel of any of the parties, nor a
 8 relative or employee of any attorney or counsel
 connected with the action, nor financially interested
 9 in the action.
 10 WITNESS my hand and official seal in the
 City of Miami, County of Dade, State of Florida, this
 11 13th day of March 2017.
 12
 13
 14
 15 *Edmed Varkonyi*
 16 _____
 17 Notary Public, State of Florida at
 18 Large; my commission expires
 19 February 26, 2019. Bonded through
 20 Troy Fain Insurance, Inc.
 21
 22
 23
 24
 25

Page 257

1 ERRATA SHEET
 2 RE : Rossi v. Darden
 DEPO OF: Andrea Rossi
 3 TAKEN : 3/1/17
 ASSG# : 2553727
 4 DO NOT WRITE ON TRANSCRIPT, ENTER ANY CHANGES HERE
 5 Page # Line # Change Reason
 6 _____
 7 _____
 8 _____
 9 _____
 10 _____
 11 _____
 12 _____
 13 _____
 14 _____
 15 _____
 16 _____
 17 _____
 18 _____
 19 _____
 20 _____
 21 State of Florida)
 County of)
 22
 23 Under penalties of perjury, I declare that I have
 read my deposition transcript, and it is true and
 correct subject to any changes in form or substance
 24 entered here.

 25 Date Signature

VERITEXT LEGAL SOLUTIONS
COMPANY CERTIFICATE AND DISCLOSURE STATEMENT

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

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

Veritext Legal Solutions complies with all federal and State regulations with respect to the provision of court reporting services, and maintains its neutrality and independence regardless of relationship or the financial outcome of any litigation. Veritext requires adherence to the foregoing professional and ethical standards from all of its subcontractors in their independent contractor agreements.

Inquiries about Veritext Legal Solutions' confidentiality and security policies and practices should be directed to Veritext's Client Services Associates indicated on the cover of this document or at www.veritext.com.