

IN THE UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA

MIAMI DIVISION

CASE NO.: 16-cv-21199-CMA

ANDREA ROSSI, et al., )  
 )  
Plaintiffs, )  
v. )  
 )  
THOMAS DARDEN, et al., )  
 )  
Defendants. )

March 23, 2017

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DISCOVERY HEARING PROCEEDINGS

BEFORE THE HONORABLE JOHN J. O'SULLIVAN  
UNITED STATES MAGISTRATE JUDGE

APPEARANCES:

On behalf of the Plaintiffs:

PERLMAN BAJANDAS YEVOLI & ALBRIGHT, PL  
283 Catalonia Ave.  
2nd Floor,  
Coral Gables, FL 33134  
BY: JONATHAN ANNESSER, ESQ.  
BY: ROBERT BERNSTEIN, ESQ.

1 that.

2 MR. PACE: And I mean, Your Honor, there is 22  
3 different topics of inquiry.

4 THE COURT: There is a lot to do when you have a  
5 30(b)6. You are supposed to come to me ahead of time and  
6 you're supposed to say we want to protect the order, Judge.

7 We do not want him to be able to ask the same  
8 questions of Industrial Heat as he is asking of IPH, as he is  
9 asking of Cherokee, or we want to present one witness who is  
10 going to represent all three of them.

11 And you know, develop some scheme where the guy could  
12 then testify and say, yeah, okay, I'm done on IH. Now what  
13 other questions do you want to ask me about?

14 IPH I'll answer those and whatever questions you want  
15 to ask me on Cherokee and I will answer those, but nobody came  
16 ahead of time and said, hey, I want a protective order and I do  
17 not want them to answer this.

18 Just because you file an objection to a 30(b)6, that  
19 does not do anything. You have to answer the questions and be  
20 prepared.

21 MR. PACE: I understand, Your Honor.

22 I don't know if it is because for a protective order,  
23 I think it has to be to prevent -- I'm not so sure that it is  
24 to -- I'm not sure that there is a right answer.

25 I mean, we tried to resolve it by the mechanism that

1 make some kind of showing to me that it is timely and that  
2 there is some substance to it.

3 MR. PACE: I understand.

4 THE COURT: And that I might want briefing on it.

5 MR. PACE: I understand Your Honor's instruction.

6 THE COURT: Okay. Good.

7 Anything else?

8 MR. PACE: No, Your Honor.

9 THE COURT: All right. Good.

10 COURTROOM DEPUTY: I think there should be more than  
11 one or. That's all I'm saying.

12 THE COURT: Yes, why don't you guys do the order.  
13 Well, the Defendant would do it on everything except for the  
14 issue on the 30(b)6.

15 Well, I will tell you what. We will do the order on  
16 your 30(b)6. It is pretty clear that you get to re-depose them  
17 on those issues for which he either did not know the answer, or  
18 he referred to Mr. Vaughn as having the response, Mr. Vaughn or  
19 some other person.

20 MR. ANNESSER: Your Honor, just to make sure so we go  
21 into it fully clarified. It's those issues and followups. We  
22 don't have to ask the same questions and limited by that. We  
23 can follow up on --

24 THE COURT: Right. What would normally be followed  
25 up. And the other one, you are going to do need to do the

1 order on the rest of the stuff on your side of it.

2 MR. PACE: We will, Your Honor.

3 THE COURT: How much time do you want?

4 MR. PACE: Well --

5 THE COURT: I'm in no rush. The order is in effect  
6 right now. So you guys know what my ruling is.

7 MR. PACE: Could we have until the end of next week,  
8 Friday of next week?

9 THE COURT: Yes.

10 MR. PACE: Thank you, Your Honor.

11 THE COURT: I also want to set a time for when you are  
12 going to give them the written deposition questions and when  
13 they are going to provide you with the records and when you are  
14 going to do the two 30(b)6.

15 I think on the other one on JMP, did I order that by  
16 next Friday?

17 THE COURTROOM DEPUTY: Yes.

18 THE COURT: But we need to know when you are going to  
19 re-depose his two clients. I mean, Cherokee and IPH, when are  
20 you going to do that?

21 MR. ANNESSER: Your Honor, I think, let's see.

22 The original depositions were done down here in Miami  
23 and presumptively we will do the same again. It's whenever  
24 they can get them down here.

25 THE COURT: How much time do you want?