

EXHIBIT 9

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

ANDREA ROSSI and LEONARDO)
CORPORATION,)
)
Plaintiffs,)

VS.)

No. 1:16-cv-2119-CMA)

THOMAS DARDEN; JOHN T. VAUGHN;)
INDUSTRIAL HEAT, LLC; IPH)
INTERNATIONAL B.V.; and)
CHEROKEE INVESTMENT PARTNERS,)
LLC,)

Defendants.)

INDUSTRIAL HEAT, LLC and IPH)
INTERNATIONAL B.V.,)

Counter-Plaintiffs,)

vs.)

ANDREA ROSSI and LEONARDO)
CORPORATION,)

Counter-Defendants,)

and)

J.M. PRODUCTS, INC.; HENRY)
JOHNSON; FABIO PENON; UNITED)
STATES QUANTUM LEAP, LLC;)
FULVIO FABIANI; and JAMES)
BASS,)

Third-Party Defendants.)

HIGHLY CONFIDENTIAL

Videotaped Deposition of JOSEPH ALAN MURRAY
(Taken by Plaintiff)
Raleigh, North Carolina
Friday, February 17, 2017

Reported in Stenotype by
Lauren M. McIntee, RPR
Transcript produced by computer-aided transcription

1 you see that drop. That makes sense. And then sometime
2 in October they brought all of the units back online and
3 the power goes up.

4 So all of the trends seem to be consistent
5 except for this period of time when, in about from
6 middle of November to the beginning of December where
7 you have a power level absorbed into the building lower
8 than the measured. So that would give -- to me, there
9 are three potential explanations. Number one, Florida
10 Power and Light could be wrong. Number two, the
11 measurements made by Fabiani and Penon could be wrong.
12 And number four or -- I'm sorry, number three, the data
13 could have been manipulated. On either part, on either
14 party.

15 Q. Do you have any evidence that the data has
16 been manipulated --

17 A. No, I don't.

18 Q. -- by either one?

19 A. Not by Florida Power and Light or by Fabiani
20 or Penon.

21 Q. Okay. So you have no evidence of
22 manipulation. So what are you opining to specifically
23 here?

24 A. Specifically, in this period it was, it was
25 determined by Mr. Penon that the measurements, the

1 absorption of power was accurate and reflected what was
2 happening in the reactors. But if, in fact, Florida
3 Power and Light indicates that their data is valid in
4 the data provided under subpoena, then it would be
5 impossible for them to absorb more power than Florida
6 Power and Light provided.

7 Q. Now, you keep saying data provided under
8 subpoena, as if that makes it more accurate. It's the
9 measuring equipment that makes it more accurate or not,
10 correct?

11 A. Sure.

12 Q. Not whether it was voluntarily provided or
13 under subpoena?

14 A. Uh-huh.

15 Q. Correct?

16 A. Yeah. My view is that if, if a, if a person
17 is providing data under subpoena, they're going to
18 probably provide the best possible data they have. We
19 also know that Florida Power and Light has hourly
20 measurements for this facility, and we have not received
21 that data.

22 Q. Okay. But you don't know whether it was
23 measured correctly or not at that point in time. All
24 you can tell based on this is that there is a
25 difference?

02/17/2017 Joseph Alan Murray

Page 260

1 But this is a problem, and these areas down here are a
2 problem. What they're indicating is that nothing else
3 in the building is absorbing power, only the reactor,
4 and that's simply not realistic.

5 Q. And as you said, there's one of three
6 options. Either FP&L is wrong, Penon and Fabiani are
7 wrong, or there's manipulation on the data?

8 A. On, on the part of some party, yes.

9 Q. Okay. So basically one or the other is
10 incorrect, and then the third option is that it was
11 intentionally incorrect?

12 A. Right, by somebody.

13 Q. By somebody?

14 A. That's right.

15 Q. Okay. But you don't know which one is which?

16 A. No.

17 Q. Okay. So your opinion is simply that this is
18 an area of concern where it drops below and the other
19 areas where it drops below slightly are --

20 A. In the context of this one plot, yes.

21 Q. Okay. Now, the measurements taken by FP&L
22 were taken at what time?

23 A. Midnight.

24 Q. Midnight. The measurements taken by Engineer
25 Penon were what time?

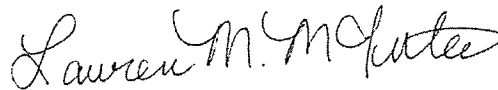
1 STATE OF NORTH CAROLINA
2 COUNTY OF WAKE:

3 REPORTER'S CERTIFICATE

4 I, LAUREN McINTEE, RPR, a Notary Public in
5 and for the State of North Carolina, do hereby certify
6 that there came before me on Friday, the 17th day of
7 February, 2017, the person hereinbefore named, who was
8 by me duly sworn to testify to the truth and nothing but
9 the truth of his knowledge concerning the matters in
10 controversy in this cause; that the witness was
11 thereupon examined under oath, the examination reduced
12 to typewriting under my direction, and the deposition is
13 a true record of the testimony given by the witness.

14 I further certify that I am neither attorney
15 or counsel for, nor related to or employed by, any
16 attorney or counsel employed by the parties hereto or
17 financially interested in the action.

18 IN WITNESS WHEREOF, I have hereto set my
19 hand, this the 20th day of February, 2017.

20
21 

22 _____
23 LAUREN McINTEE, RPR, Notary Public
24 Notary Number: 201616600044
25