

# **EXHIBIT 1**

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

ANDREA ROSSI and  
LEONARDO CORPORATION,

Plaintiffs,

v.

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

Defendants.

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

Counter-Plaintiffs,

v.

ANDREA ROSSI and LEONARDO CORPORATION,  
Counter-Defendants,

and

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

Third-Party Defendants.  
\_\_\_\_\_

600 Brickell Avenue  
Miami, Florida  
February 28, 2017  
Tuesday, 7:45 A.M.

<p>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</p>	<p>Page 2</p> <p><b>VIDEO DEPOSITION</b></p> <p><b>OF</b></p> <p><b>FULVIO FABIANI</b></p> <p><b>Taken on Behalf of the Defendants Pursuant to Notice of Taking Deposition</b></p>	<p>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</p>	<p style="text-align: center;">INDEX</p> <p>2 FULVIO FABIANI</p> <p>3 Examination by Mr. Pace ..... 8</p> <p style="text-align: center;">EXHIBITS</p> <p>8 Deposition Exhibit 1 ..... 54 5-20-13 email</p> <p>9 Deposition Exhibit 2 ..... 96 2-27-15 email</p> <p>10 Deposition Exhibit 3 ..... 100 13-page document</p> <p>12 Deposition Exhibit 4 ..... 125 3-6-15 email</p> <p>13 Deposition Exhibit 5 ..... 126 4-13-15 email</p> <p>15 Deposition Exhibit 6 ..... 128 5-13-15 email</p> <p>16 Deposition Exhibit 7 ..... 134 1-14-13 email</p> <p>18 Deposition Exhibit 8 ..... 135 6-19-15 email</p> <p>19 Deposition Exhibit 9 ..... 140 7-7-15 email</p> <p>21 Deposition Exhibit 10 ..... 141 2-23-16 email</p> <p>22 Deposition Exhibit 11 ..... 142 5-15-16 email</p>	<p>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</p>	<p style="text-align: center;">Page 3</p> <p style="text-align: center;">APPEARANCES</p> <p>3 On behalf of the Plaintiffs:</p> <p>4 PERLMAN, BAJANDAS, YEVOLI &amp; ALBRIGHT, P.L. 283 Catalonia Avenue, Suite 200 Coral Gables, FL 33134 BY: BRIAN CHAIKEN, ESQ. bchaiken@pbylaw.com</p> <p>7 On behalf of the Defendants/Counter-Plaintiffs:</p> <p>8 JONES DAY 600 Brickell Avenue Brickell World Plaza Suite 3300 Miami, FL 33131 BY: CHRISTOPHER R.J. PACE, ESQ. and ERIKA HANDELSON, ESQ. cpace@jonesday.com ehandelson@jonesday.com</p> <p>13 On behalf of JM Products, Henry Johnson and James Bass:</p> <p>15 ARAN, CORREA &amp; GUARCH, P.A. 255 University Drive Coral Gables, FL 33134-6732 BY: FRANCISCO LEON DE LA BARRA, ESQ. fleon@acg-law.com</p> <p>18 On behalf of United States Quantum Leap and Fulvio Fabiani:</p> <p>19 RODOLFO NUNEZ, P.A. 255 University Drive Coral Gables, Florida 33134 21 BY: RODOLFO NUNEZ, ESQ. rnunez@acg-law.com</p> <p>22 Also Present: Norma Merlano, Interpreter Todd Cohen, Videographer</p>	<p>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</p>	<p style="text-align: center;">Page 5</p> <p><b>THE VIDEOGRAPHER:</b> We are now on the video record. My name is Todd Cohen, representing Veritext. The date today is February 28th, 2017, and the time on the video record is 7:45 a.m.</p> <p>This deposition is being held at Jones Day, located at 600 Brickell Avenue in Miami, Florida. The caption of the case is Andrea Rossi and Leonardo Corporation, et cetera, et al., versus Thomas Darden, John T. Vaughn, Industrial Heat, LLC, et cetera, et al.</p> <p>The case is being held in the United States District Court, Southern District of Florida, Miami Division. The case number is 1:16-cv-21199-CMA. The name of our witness this morning is Fulvio Fabiani.</p> <p>At this time may I please have counsel in the room announce their appearances for our court reporter. Then Kelli Ann Willis, the court reporter with Veritext, will then swear the witness and we can begin.</p> <p>MR. PACE: Can I ask one quick question? Is what you just said being recorded?</p> <p>THE VIDEOGRAPHER: Only by Kelli.</p> <p>MR. PACE: This is Chris Pace and Erika</p>
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1 mean Rudy Nunez?  
 2 A. Yes.  
 3 Q. Dr. Penon testified the other day that you  
 4 sent to him a series of emails. Did you send email  
 5 communications to Dr. Penon?  
 6 A. During the development of my work for  
 7 Industrial Heat.  
 8 Q. Did these emails include attachments of  
 9 data?  
 10 THE INTERPRETER: One moment. The  
 11 interpreter's microphone fell off. We are  
 12 good.  
 13 THE VIDEOGRAPHER: Thank you.  
 14 THE INTERPRETER: I'm sorry. What kind of  
 15 data?  
 16 BY MR. PACE:  
 17 Q. Data. Attachments of data.  
 18 A. Yes.  
 19 Q. This included data that you took off of a  
 20 computer owned by Dr. Penon?  
 21 MR. NUNEZ: Object to form.  
 22 MR. LEON DE LA BARRA: Object to form.  
 23 THE WITNESS: The answer is no.  
 24 BY MR. PACE:  
 25 Q. Did Dr. Penon have a computer at the Doral

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1 location?  
 2 A. Where precisely?  
 3 Q. At the warehouse in Doral.  
 4 A. Yes, in the studio where the plant was.  
 5 Q. Did you -- is this -- did you have access  
 6 to that computer?  
 7 A. What do you mean by access?  
 8 Q. Were you able to access the data or  
 9 information on that computer?  
 10 A. No.  
 11 Q. What was the data that you sent -- you  
 12 would send by email to Dr. Penon?  
 13 A. I did not understand the question.  
 14 THE INTERPRETER: Maybe the interpreter  
 15 did not translate it correctly.  
 16 MR. PACE: No problem.  
 17 BY MR. PACE:  
 18 Q. What data would you send to Dr. Penon by  
 19 email?  
 20 A. My summary of the --  
 21 DR. ROSSI: Operation.  
 22 THE WITNESS: -- operation of the --  
 23 DR. ROSSI: Plant.  
 24 THE WITNESS: -- the plant. Okay.  
 25

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1 MR. PACE: Let's do that again.  
 2 THE INTERPRETER: I've got it now.  
 3 BY MR. PACE:  
 4 Q. Mr. Fabiani, let me ask my question again  
 5 to allow for translation again.  
 6 What data would you send to Dr. Penon by  
 7 email?  
 8 A. A summary of the operation of the plant.  
 9 Q. How often would you send those emails to  
 10 Dr. Penon?  
 11 A. Usually every two months. Every two  
 12 months.  
 13 Q. Have you saved those emails?  
 14 A. No, absolutely not.  
 15 Q. When did you delete those emails?  
 16 A. The day after the contract expired.  
 17 Q. And you did not -- before deleting those  
 18 emails, you did not send copies of those emails  
 19 either to Industrial Heat or to your counsel?  
 20 MR. NUNEZ: Object to form.  
 21 THE WITNESS: Before the expiration of the  
 22 contract --  
 23 THE INTERPRETER: (In Italian.)  
 24 THE WITNESS: Before -- had been sent  
 25 to --

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1 THE INTERPRETER: (In Italian.)  
 2 MR. PACE: He's translating for the  
 3 translator. Mr. Fabiani, I know you understand  
 4 English, but you have to let her translate.  
 5 THE INTERPRETER: It is reference to --  
 6 no, no.  
 7 MR. PACE: Let's do this again. Let me  
 8 ask my question again, and he can answer.  
 9 THE INTERPRETER: (In Italian.)  
 10 THE WITNESS: (In Italian.)  
 11 It is not correct, the translation.  
 12 MR. PACE: That's why I'm asking. I  
 13 realize you understand English, Mr. Fabiani.  
 14 THE WITNESS: Thank you, thank you.  
 15 BY MR. PACE:  
 16 Q. Prior to deleting your emails with  
 17 Dr. Penon, did you send those emails either to your  
 18 counsel or to -- or to Industrial Heat?  
 19 A. Before the expiration of the contract --  
 20 THE INTERPRETER: (In Italian.) I'm  
 21 sorry.  
 22 DR. ROSSI: I can help.  
 23 MR. PACE: Let's take a break.  
 24 THE VIDEOGRAPHER: Stand by to go off the  
 25 record. Going off at 9:49.

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1 MR. PACE: Data.  
 2 THE WITNESS: Document.  
 3 After my contract was completed, I  
 4 proceeded -- I proceeded --  
 5 THE INTERPRETER: (In Italian.)  
 6 THE WITNESS: -- to the cancelation of all  
 7 of that, everything that did not have to do  
 8 with the renewing of the contract.  
 9 BY MR. PACE:  
 10 Q. As to data that you sent to Dr. Penon, you  
 11 sent Dr. Penon temperature data?  
 12 A. Yes.  
 13 Q. You sent Dr. Penon electrical data?  
 14 A. Yes.  
 15 Q. Did you send Dr. Penon pressure data?  
 16 A. Yes.  
 17 Q. From where did you obtain the temperature  
 18 data?  
 19 THE INTERPRETER: Temperature?  
 20 DR. ROSSI: Correct.  
 21 THE WITNESS: From my -- from my data,  
 22 from my part of the plan.  
 23 DR. ROSSI: Control system.  
 24 THE WITNESS: The control system.  
 25

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1 BY MR. PACE:  
 2 Q. From where did you obtain the electrical  
 3 data?  
 4 A. From the PC 800 --  
 5 DR. ROSSI: PCE.  
 6 THE INTERPRETER: PCE-830.  
 7 MR. PACE: Dash 30.  
 8 BY MR. PACE:  
 9 Q. And that is the electrical data that you  
 10 sent to Dr. Penon?  
 11 A. Yes.  
 12 Q. And then you sent -- from where did you  
 13 obtain the pressure data that you sent to Dr. Penon?  
 14 A. From one of my pressure --  
 15 DR. ROSSI: A probe, pressure probe in my  
 16 control system.  
 17 THE WITNESS: My pressure.  
 18 THE INTERPRETER: Pressure probe within my  
 19 control system.  
 20 BY MR. PACE:  
 21 Q. Did you send water level information to  
 22 Dr. Penon?  
 23 THE INTERPRETER: Water level data?  
 24 MR. PACE: Yes.  
 25 THE WITNESS: No.

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1 BY MR. PACE:  
 2 Q. And your testimony is that the same data  
 3 you sent to Dr. Penon, you also turned over to an  
 4 engineer for Industrial Heat at the offices of Jones  
 5 Day?  
 6 A. Yes. Yes.  
 7 Q. Your testimony is you turned this data  
 8 over in a flash drive?  
 9 A. Yes.  
 10 Q. Let's talk a little bit about the time you  
 11 were in the offices of Jones Day. You met with J.T.  
 12 Vaughn and an engineer from Industrial Heat,  
 13 correct?  
 14 A. Also with the presence of the attorney.  
 15 Q. And the attorney who was present was  
 16 myself?  
 17 A. Yes.  
 18 DR. ROSSI: (In Italian.)  
 19 THE INTERPRETER: (In Italian.)  
 20 THE WITNESS: I do remember that, yes, I  
 21 do.  
 22 BY MR. PACE:  
 23 Q. Mr. Fabiani, even though --  
 24 A. I was at the Jones Day office two times.  
 25 Jones Day.

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1 Q. Mr. Fabiani, for purposes of the  
 2 deposition, if you can wait for the Italian  
 3 translation before responding. Otherwise, we are  
 4 talking over each other.  
 5 A. Sorry. I apologize.  
 6 Q. During this meeting at Jones Day, you  
 7 spoke about -- about your interactions with James  
 8 Bass?  
 9 THE INTERPRETER: Interactions.  
 10 MR. PACE: That is a bad word. Let me  
 11 start over.  
 12 BY MR. PACE:  
 13 Q. At this meeting you spoke about your --  
 14 your --  
 15 MR. PACE: Let me start this over.  
 16 THE INTERPRETER: The interpreter would  
 17 like to know, "you" singular or "you" plural?  
 18 You or he spoke or they all spoke?  
 19 MR. PACE: Give me a second.  
 20 BY MR. PACE:  
 21 Q. At this meeting, you discussed your work  
 22 at the Doral location, correct?  
 23 A. Which one of the two visits?  
 24 Q. The first.  
 25 A. Yes.

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1 Unit Number 2. The time is 12:54 p.m.  
 2 BY MR. PACE:  
 3 Q. Mr. Fabiani, you understand that you are  
 4 still under oath?  
 5 A. Yes.  
 6 Q. You testified earlier today that there was  
 7 a contract between US Quantum Leap and Industrial  
 8 Heat, correct?  
 9 A. Yes.  
 10 Q. That agreement was entered in the summer  
 11 or fall of 2013?  
 12 A. More or less the fall of 2013, if I  
 13 recall.  
 14 Q. When did that agreement end?  
 15 A. It was a renewal --  
 16 THE INTERPRETER: (In Italian.)  
 17 THE WITNESS: I would have to look back at  
 18 the documents, but it was either March or  
 19 April, 2016.  
 20 BY MR. PACE:  
 21 Q. During the time of this agreement,  
 22 Industrial Heat was paying US Quantum Leap for the  
 23 work you were doing?  
 24 A. Yes. Yes.  
 25 Q. And were you also paid an amount for an

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1 apartment rental?  
 2 A. Yes. It was included in the contract.  
 3 Q. And that was -- that was also money that  
 4 was paid by Industrial Heat?  
 5 A. This what?  
 6 Q. I'm sorry. The amount that was being paid  
 7 for your apartment rental?  
 8 A. Yes.  
 9 Q. We spoke -- we were discussing earlier  
 10 today the 1-MW plant, correct?  
 11 A. Yes.  
 12 Q. What do you understand the 1-MW plant to  
 13 be?  
 14 A. I'm not understanding the question.  
 15 Q. What is the 1-MW plant?  
 16 A. It is a container. It contains more  
 17 groups of reactors.  
 18 Q. How many groups of reactors?  
 19 A. Six. Six small ones and -- six done with  
 20 the small reactors and four done with the large  
 21 reactors.  
 22 Q. Were the four groups of large reactors  
 23 sometimes called Big Frankies?  
 24 A. Yes.  
 25 Q. Was there any name for the six group of

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1 the small reactors?  
 2 A. No. They were numbered alphabetically.  
 3 Q. Do you recall that the 1-MW plant was sent  
 4 to Doral warehouse in late 2014?  
 5 A. I was present when it was unloaded, but I  
 6 don't remember the exact date.  
 7 Q. Do you remember that the 1-MW plant was  
 8 operated -- was run at the Doral warehouse in 2015  
 9 and early 2016?  
 10 A. Did you say at the end of 2016?  
 11 Q. No. Let me ask my question again.  
 12 THE INTERPRETER: Maybe it was a mistake  
 13 of the interpreter.  
 14 THE WITNESS: No, no. I did hear 2016.  
 15 BY MR. PACE:  
 16 Q. Do you recall that the plant was operated  
 17 at the Doral warehouse -- was operated at the Doral  
 18 warehouse in 2015 and early 2016?  
 19 A. Yes.  
 20 Q. In connection with running the 1-MW plant  
 21 at the Doral warehouse, there were measurements  
 22 being taken in connection with running the plant,  
 23 correct?  
 24 A. The question is very confusing. Can you  
 25 reformulate it a little bit?

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1 Q. I can.  
 2 A. Thank you.  
 3 Q. When the 1-MW plant was being operated in  
 4 Doral, were there measurements being taken of the  
 5 inputs into and the outputs from the plant?  
 6 A. They were taken in more ways.  
 7 Q. I wanted to ask you about those  
 8 measurements and how they were made.  
 9 A. Okay. I understood the question.  
 10 I need to give a long answer because it is  
 11 three different -- it is three systems.  
 12 Q. Uh-huh.  
 13 A. Okay. The first part was the system that  
 14 would give data to me to be able to see and regulate  
 15 the functioning during the date -- throughout the  
 16 day.  
 17 The second system was the -- was the  
 18 system that would memorize the data that the  
 19 engineer -- the third system would be Engineer Penon  
 20 would come to verify his data and his certified  
 21 instrument -- instruments. Instruments.  
 22 Okay. Perfect. There were occasions in  
 23 which during the visits of Industrial Heat, from  
 24 J.T. -- J.T. -- J.T. --  
 25 Q. J.T. Vaughn?

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1 A. -- J.T. Vaughn and Tom Darden, photographs  
 2 of the apparatus and the data. And Barry West,  
 3 during the development of the test, of the tests,  
 4 took pictures of the electrical meter. Meter. And  
 5 the hydraulic meter.  
 6 Q. The data collected from the first system,  
 7 how was that stored?  
 8 THE INTERPRETER: I'm trying to think of  
 9 the word "stored."  
 10 MR. PACE: Let me ask a different  
 11 question.  
 12 BY MR. PACE:  
 13 Q. There were measuring devices that were  
 14 used for collecting the data for Engineer Penon,  
 15 correct?  
 16 A. Of course.  
 17 Q. And those measurement devices measured --  
 18 actually let me start again. Let me start again.  
 19 What measurement devices were used in  
 20 Doral to collect data for Engineer Penon?  
 21 A. Okay. Engineer Penon had two systems at  
 22 his disposal. The first system was an electronic  
 23 system that would permit the registering or  
 24 registration of data that was necessary to  
 25 understand if the system would function in a

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1 continuous cycle.  
 2 The second -- the second set of  
 3 instruments were certified instruments sent from  
 4 Penon -- sent by Penon and installed in the plant  
 5 once -- okay, to be able to do a measuring, a  
 6 certified measurement.  
 7 Q. The data collected in the electronic  
 8 system for Engineer Penon, where was that data held  
 9 or stored?  
 10 A. Okay. The data for the certified  
 11 instrument was inside the certified instrument.  
 12 Okay. The data, because there are two instruments,  
 13 the first one was the certified instruments. The  
 14 second was the registered data from the electronic  
 15 control system inside of Penon's computer.  
 16 Q. Then there was also a system that  
 17 collected data that you would use to operate the  
 18 plant?  
 19 A. Yes.  
 20 Q. What data did you collect for purposes of  
 21 operating the plant?  
 22 A. Electrical, incoming temperature -- input  
 23 temperature, output temperature, pressure.  
 24 Q. Anything else?  
 25 A. No.

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1 Q. Where is -- was that data that you just  
 2 described, was that stored in the computer  
 3 somewhere?  
 4 A. It was stored in my server. From this  
 5 data, I extracted the file that was delivered in the  
 6 attorney's office during my second meeting.  
 7 Attorney Pace, the attorney next to the interpreter.  
 8 Q. You testified earlier today that you sent  
 9 data to Engineer Penon. Was that -- was that data  
 10 from your system?  
 11 A. Yes. Yes. I could not get into  
 12 Mr. Penon's --  
 13 MR. PACE: Computer.  
 14 THE INTERPRETER: I could not hear the  
 15 word. Into the system?  
 16 THE WITNESS: I could not enter into  
 17 Mr. Penon's system.  
 18 BY MR. PACE:  
 19 Q. And so the system for the electronic  
 20 control, the measurement system of Engineer Penon  
 21 for the electronic controls, that data was stored in  
 22 a computer of Dr. Penon's?  
 23 A. Yes.  
 24 Q. And no one other than Dr. Penon accessed  
 25 that computer?

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1 A. Yes. We were only to see if it functioned  
 2 or did not.  
 3 Q. Who is "we"?  
 4 A. All of those that would enter the command.  
 5 Q. Container?  
 6 A. Container. Okay. It is a small container  
 7 where the office is inside.  
 8 Q. How is the data kept for the certified  
 9 instruments?  
 10 A. I could only speak for one of the  
 11 certified instruments.  
 12 Q. Which one is that?  
 13 A. PCE-130. Oh, 830.  
 14 Q. Where was the data for the PC-830 stored?  
 15 A. Inside of the PCE-830.  
 16 Q. Who installed the measurement equipment  
 17 for the system that you operated?  
 18 A. Which instruments? There are so many.  
 19 Q. Let's go through each of them.  
 20 The instrument for measuring the  
 21 electrical power.  
 22 THE INTERPRETER: Measuring?  
 23 MR. PACE: Electrical power.  
 24 THE WITNESS: For the PCE-830, yes, it was  
 25 installed, Barry West, under my direct



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1 supervision.  
 2 BY MR. PACE:  
 3 Q. I think we may have gotten our questions  
 4 crossed there a little bit.  
 5 I'm asking about the measurement equipment  
 6 that you used, not that Dr. -- not that Engineer  
 7 Penon used, for measuring electrical usage.  
 8 A. For the amount of the measured  
 9 electricity -- power, one instrument alone was used.  
 10 I only had access only to the data, read data.  
 11 Q. On the screen?  
 12 A. On the screen, while Penon had the  
 13 possibility of unload the data and verify it.  
 14 Q. So both you and Dr. Penon -- I'm sorry.  
 15 Let me start this over again.  
 16 Both you and Engineer Penon were using the  
 17 same device for measuring the electrical usage?  
 18 A. In two different ways, yes.  
 19 Q. Would you, for the way that you received  
 20 the data, did you have to do that manually, write it  
 21 down?  
 22 A. Yes.  
 23 Q. For the input temperature data that you  
 24 used for operating the system at the Doral  
 25 warehouse, what device did you use to measure that?

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1 A. Okay. Thermal waves. Thermal waves.  
 2 Thermal probes.  
 3 THE INTERPRETER: Sorry. Probes.  
 4 THE WITNESS: They were identical to the  
 5 ones that were used by Engineer Penon.  
 6 BY MR. PACE:  
 7 Q. Mr. Fabiani, you understand that the term  
 8 thermal -- the English term "thermal couple"?  
 9 A. Thermal couple.  
 10 Q. For these purposes, why don't we both use  
 11 the term "thermal couple"?  
 12 A. Thermal couple, yes.  
 13 Q. So the -- you were measuring the input  
 14 temperature using the same type of thermal couple as  
 15 Engineer Penon?  
 16 A. Yes, the same type.  
 17 Q. But it was -- but it was a different  
 18 thermal couple?  
 19 A. Yes. Yes. Positioned at 10 centimeters  
 20 of distance, perhaps even 16. I don't remember  
 21 exactly.  
 22 Q. Who installed both of those thermal  
 23 couples?  
 24 MR. NUNEZ: Objection to form.  
 25 THE WITNESS: The hydraulic worker

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1 directed by Rossi, by Dr. Rossi, and I did the  
 2 connection to the reading system.  
 3 BY MR. PACE:  
 4 Q. You did the connection between the thermal  
 5 couple and the control panel?  
 6 A. It is not exactly like that.  
 7 THE INTERPRETER: I need to have that  
 8 repeated.  
 9 THE WITNESS: Okay. The thermal couple  
 10 was connected with a conversion.  
 11 MR. PACE: Converter.  
 12 THE WITNESS: A conversion board, board.  
 13 It is like an electronic board. And it would  
 14 transmit the data to the computer that he was  
 15 assigned.  
 16 To be able to distinguish the two plants,  
 17 a board, a board was created for Penon's  
 18 thermal couple. And another separate board was  
 19 installed for my thermal couple, to not risk --  
 20 THE INTERPRETER: I'm not understanding  
 21 the word.  
 22 THE WITNESS: To tie.  
 23 MR. PACE: Ask him if he can explain it  
 24 again.  
 25 THE WITNESS: To have the data pass

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1 through the same lines.  
 2 DR. ROSSI: No, no.  
 3 THE WITNESS: To avoid the data to go  
 4 through the same lines.  
 5 THE INTERPRETER: I didn't hear "to  
 6 avoid."  
 7 BY MR. PACE:  
 8 Q. Let me ask, for the output -- for the  
 9 measurements of the output temperature, thermal  
 10 couples were also used?  
 11 A. Yes.  
 12 Q. How many thermal couples?  
 13 A. From my plant, one thermal couple for each  
 14 reactor. And one output thermal couple for the  
 15 superior level of the tubal -- pipe.  
 16 THE INTERPRETER: That's what I thought,  
 17 pipe.  
 18 THE WITNESS: And one output thermal  
 19 couple for an inferior pipe level.  
 20 BY MR. PACE:  
 21 Q. And then how many thermal couples were  
 22 used for Engineer Penon?  
 23 A. Two thermal couples for the output of the  
 24 whole plant. And two thermal couples for the input  
 25 of the plant.



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1 Q. And what equipment was used to measure the  
 2 pressure for the outflow from the plant?  
 3 MR. PACE: The outflow of the plant.  
 4 MR. NUNEZ: Not output.  
 5 MR. PACE: The output of the plant.  
 6 THE WITNESS: I do understand outflow. It  
 7 is one of the engineering terms. For the  
 8 pressure, we had two instruments. The first  
 9 one was an instrument manometer. The second  
 10 one --  
 11 THE INTERPRETER: A wire? Cable?  
 12 THE WITNESS: Wave.  
 13 MR. PACE: Let him explain it again.  
 14 THE WITNESS: A pressure probe, a pressure  
 15 probe for Engineer Penon and a pressure probe  
 16 for my system of --  
 17 BY MR. PACE:  
 18 Q. Control?  
 19 A. For my system of data, memorizing data,  
 20 memorizing. Data memorizing. Perfect.  
 21 Q. And who installed the pressure-measuring  
 22 devices?  
 23 A. The installation was done from the  
 24 hydraulic -- from the hydraulic worker of Dr. Rossi,  
 25 in front of my verification, and at the arrival of

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1 Engineer Penon, Engineer Penon verified the  
 2 installation of all of the probes.  
 3 Q. Do you know the name of the hydraulic  
 4 worker?  
 5 A. Rossi used more contracts -- no.  
 6 THE INTERPRETER: The interpreter is not  
 7 understanding what that word means.  
 8 THE WITNESS: We had several hydraulic  
 9 workers that worked in the plant. I don't  
 10 recall the names.  
 11 BY MR. PACE:  
 12 Q. Were any of the -- were any of these --  
 13 did any of these measuring devices have to be  
 14 replaced in 2015 or early 2016?  
 15 THE INTERPRETER: The hydraulic?  
 16 MR. PACE: Let me start the question over.  
 17 BY MR. PACE:  
 18 Q. Did any of these measuring devices have to  
 19 be replaced in 2015?  
 20 THE INTERPRETER: (In Italian.)  
 21 THE WITNESS: (In Italian.)  
 22 THE INTERPRETER: Two thousand?  
 23 MR. PACE: '15.  
 24 THE WITNESS: During the work of the  
 25 plant, we had -- we had hydraulic losses, and

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1 it was necessary to disconnect and connect  
 2 again, at the necessary time, some of the  
 3 probes. This would happen normally during the  
 4 maintenance of the plant, with the presence and  
 5 the collaboration of Barry West.  
 6 BY MR. PACE:  
 7 Q. And this would include the probes of  
 8 Engineer Penon?  
 9 A. No. Only my probes. Engineer Penon's  
 10 probes were always attached. In case of loss,  
 11 silicone was placed to avoid the loss. But thermal  
 12 silicone.  
 13 MR. PACE: I'm going to mark as -- I think  
 14 we are only on Exhibit 2. I'm marking as  
 15 Exhibit 2 a February 27th, 2015 email.  
 16 (The referred-to document was marked by  
 17 the court reporter for Identification as  
 18 Deposition Exhibit 2.)  
 19 BY MR. PACE:  
 20 Q. Mr. Fabiani, was there -- early in 2015  
 21 was there a problem with the temperature probes?  
 22 A. February 27th?  
 23 Q. February 27, 2015.  
 24 A. Could you go down a little bit? Yes, I  
 25 recall this incident very well.

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1 Q. These probes were burning out because they  
 2 were grounded probes?  
 3 A. Yes. Yes, I understand the question.  
 4 These probes that burnt were not connected to the  
 5 area of the small reactors, where an error in  
 6 insulation -- where an error in installation  
 7 occurred.  
 8 These were probes that were not -- that  
 9 were not involved in the -- in the memorization of  
 10 the data, because it was chosen to exclude that part  
 11 of the plant because it was done wrongfully. And it  
 12 doesn't have anything to do with --  
 13 THE INTERPRETER: No. I'm not  
 14 understanding.  
 15 THE WITNESS: Oh, okay. It does form part  
 16 of the -- the utilized probes that were used  
 17 for the test for one year. For one year.  
 18 BY MR. PACE:  
 19 Q. These probes were connected to the smaller  
 20 reactors?  
 21 A. Yes.  
 22 Q. And during 2015, how often were the  
 23 smaller reactors operating?  
 24 A. In 2015, okay. It was -- there was a --  
 25 a -- it was -- we tried -- yes, we tried -- we tried

<p style="text-align: right;">Page 98</p> <p>1 to turn on the small reactors, but we found  2 installation defects that did not allow to be able  3 to work with the small reactors.  4 Q. Was that insulation problem more than just  5 the problem with the temperature probes?  6 A. Okay. That insulation problem derived  7 from an error, an erred system of electrical  8 cabling. This led to -- led to having current,  9 current, like electricity, on the metallic mats.  10 For this reason is why they burnt out.  11 Q. And those small reactors burnt out in  12 early 2015?  13 A. They were not turned on in 2015. They  14 were turned on only for testing.  15 Q. So the -- any output from the 1-MW plant  16 was from the four big Frankie units?  17 A. Ninety-nine percent, yes.  18 Q. What is the 1 percent wrong?  19 A. Thank you. Is okay. The 1 percent is if  20 the -- 1 percent -- oh, from the startup, the  21 1 percent of the system, to then be able to turn off  22 all of the small reactors for a problem of short  23 circuit to the -- the -- the -- during the -- during  24 the turning on -- oh, during the functioning.  25 THE INTERPRETER: I'm sorry. The words</p>	<p style="text-align: right;">Page 100</p> <p>1 Number 2. Going off the record at 1:55 p.m.  2 (Thereupon, a recess was taken, after  3 which the following proceedings were held):  4 THE VIDEOGRAPHER: We are now back on the  5 video record. This is the beginning of Media  6 Unit 3. The time on the record is 2:24 p.m.  7 BY MR. PACE:  8 Q. Mr. Fabiani, before we broke you made a  9 reference to a document that reflects when different  10 parts of the E-CAT -- the 1-MW plant was working or  11 was stopped.  12 I want to show you what I have marked here  13 as Exhibit 3.  14 (The referred-to document was marked by  15 the court reporter for Identification as  16 Deposition Exhibit 3.)  17 BY MR. PACE:  18 Q. Just looking at this first page of the  19 exhibit, is this the -- and I will represent to you  20 that this was produced by your lawyer in discovery.  21 Does this -- is this the document you discussed?  22 A. This part seems like it, yes.  23 MR. NUNEZ: Let me just -- I'm sorry. Not  24 so much -- Fulvio, one second.  25 Mr. Pace, just because you said this was</p>
<p style="text-align: right;">Page 99</p> <p>1 were choppy.  2 BY MR. PACE:  3 Q. The small reactors were operating for a  4 very short time when the plant was first turned on?  5 A. Yes. Yes. In the documents that were  6 delivered in the Excel file, there are the comments  7 for each day. And it is written when we had to turn  8 off the small reactors, the small reactors.  9 MR. PACE: Why don't we take a short break  10 and we will get that spreadsheet out, too.  11 MR. NUNEZ: Chris, before we -- before we  12 go off the record, I don't know if it needs to  13 be on the video record, I told you we were here  14 for the seven hours. It is not seven hours of  15 questioning. I mean, you could speak with me  16 if you need a little bit longer. We're at 2:00  17 now.  18 MR. PACE: Our position is under the rules  19 we are entitled to seven hours of questioning.  20 If you guys want to turn off the Skype and stop  21 the deposition, you can do so at your own risk.  22 That's up to you.  23 How much time are we at?  24 THE VIDEOGRAPHER: I can tell you when we  25 go off. Stand by to go off Media Unit</p>	<p style="text-align: right;">Page 101</p> <p>1 produced by us, is there a reason it doesn't  2 have the Bates stamps on it?  3 MS. HANDELSON: We didn't get Bates stamps  4 on any of our production.  5 MR. PACE: This was 13 and 14. I don't  6 think it had the Bates stamps on it.  7 MR. NUNEZ: All right. Go on. I'm going  8 to look. I'm pretty sure it did.  9 MR. PACE: I want to say it is 13 or 14.  10 It is one or both.  11 MR. NUNEZ: I think this one was 14.  12 THE INTERPRETER: I'm sorry. The  13 interpreter left her glasses right there.  14 Sorry, Counsel. Sorry about that.  15 BY MR. PACE:  16 Q. If we go to the -- if we go to the second  17 page.  18 MR. NUNEZ: Just for the record, just  19 because you had made that reference, because  20 mine do have Bates stamp, it looks like a  21 different copy.  22 MR. PACE: Did you look at 13? I think  23 you produced the same thing. Production 13 and  24 14.  25 MR. NUNEZ: Right, because 13 -- just bear</p>

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1 AFFIDAVIT  
 2 STATE OF FLORIDA )  
 3 COUNTY OF )  
 4  
 I, \_\_\_\_\_, being first  
 5 duly sworn, do hereby acknowledge that I did  
 6 read a true and certified copy of my deposition  
 7 which was taken in the case of ROSSI V. DARDEN,  
 taken on the 28th day of February, 2017, and  
 8 the corrections I desire to make are as  
 9 indicated on the attached Errata Sheet.  
 10  
 11 CERTIFICATE  
 12 STATE OF FLORIDA )  
 13 COUNTY OF )  
 14  
 Before me personally appeared  
 15 \_\_\_\_\_  
 to me well known / known to me to be the  
 16 person described in and who executed the  
 foregoing instrument and acknowledged to and  
 17 before me that he executed the said instrument  
 in the capacity and for the purpose therein  
 18 expressed.  
 19 Witness my hand and official seal, this  
 20 \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.  
 21  
 22 \_\_\_\_\_  
 (Notary Public)  
 23  
 24 MY Commission Expires: \_\_\_\_\_  
 25

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1 CERTIFICATE OF OATH  
 2 STATE OF FLORIDA )  
 3 COUNTY OF MIAMI-DADE )  
 4  
 I, the undersigned authority, certify  
 5 that FULVIO FABIANI personally appeared before me  
 and was duly sworn.  
 6 WITNESS my hand and official seal this  
 13th day of February, 2016.  
 7  
 8  
 9   
 KELLI ANN WILLIS, RPR, CRR  
 10 Notary Public, State of Florida  
 My Commission No. FF911443  
 11 Expires: 2/16/20  
 \*\*\*\*\*  
 12 CERTIFICATE  
 13 STATE OF FLORIDA )  
 14 COUNTY OF MIAMI-DADE )  
 15 I, KELLI ANN WILLIS, Registered  
 Professional Reporter and Certified Realtime  
 16 Reporter do hereby certify that I was  
 authorized to and did stenographically report  
 17 the foregoing deposition of \_\_\_\_\_ 2017; That a review  
 of the transcript was requested; and that the  
 18 transcript is a true record of my stenographic  
 notes.  
 19 I FURTHER CERTIFY that I am not a  
 relative, employee, attorney, or counsel of any  
 20 of the parties, nor am I a relative or employee  
 of any of the parties' attorney or counsel  
 21 connected with the action, nor am I financially  
 interested in the action.  
 22 Dated this 13th day of February, 2016.  
 23  
 24  
 25   
 KELLI ANN WILLIS, RPR, CRR

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1 ERRATA SHEET  
 2 PAGE LINE REMARKS  
 3 \_\_\_\_\_  
 4 \_\_\_\_\_  
 5 \_\_\_\_\_  
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 20 \_\_\_\_\_  
 21 \_\_\_\_\_  
 22 \_\_\_\_\_  
 Signature of Witness  
 \_\_\_\_\_  
 (Notary Public)  
 24 Dated this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.  
 25 MY Commission Expires: \_\_\_\_\_

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1 \_\_\_\_\_, 2017  
 2 Fulvio Fabiani  
 3 c/o Rodolfo Nunez, Esq.  
 4 255 Alahambra Circle  
 Coral Gables, Florida 33134  
 5  
 RE: Rossi v. Darden  
 6 DEPO OF: Fulvio Fabiani  
 TAKEN: 2-28-17  
 7 NUMBER OF PAGES: 150  
 8 AVAILABLE FOR READING UNTIL: 30 days  
 9 Dear Sir:  
 10 This letter is to advise you that the transcript of  
 your deposition is available for reading and  
 11 signing.  
 12 PLEASE CALL 305 376-8800 TO MAKE AN APPOINTMENT to  
 come to the Veritext office to read and sign the  
 13 transcript. Our office hours are 9:00 a.m. to 5:00  
 p.m., Monday through Friday.  
 14  
 In the event other arrangements are made, please  
 15 send us a notarized list of any and all corrections  
 and/or changes, noting page and line numbers, and  
 16 the reason for such changes, so that we can furnish  
 respective counsel with a copy.  
 17  
 If the reading and signing has not been completed  
 18 prior to the above-referenced date, we shall  
 conclude that you have waived the reading and  
 19 signing of the deposition transcript.  
 20 Your prompt attention to this matter is appreciated.  
 21 Sincerely,  
 22  
 23 Kelli Ann Willis, RPR, CRR  
 cc: All counsel of record  
 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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