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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
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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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<p style="text-align: right;">Page 2</p> <p>1 APPEARANCES</p> <p>2 JOHN W. ANNESSER, ESQ. Perlman Bajandas Yevoli & Albright, P.L. 3 283 Catalonia Avenue, Suite 200 Coral Gables, Florida 33134 4 on behalf of the Plaintiff.</p> <p>5 CHRISTOPHER R.J. PACE, ESQ., Jones Day 6 600 Brickell Avenue, Suite 3300 Miami, Florida 33131 7 on behalf of the Defendant.</p> <p>8 FRANCISCO J. LEON DE LA BARRA, ESQ., RUDY NUNEZ, ESQ. 9 Aran Correa & Guarch, P.A. 255 University Drive 10 Coral Gables, Florida 33134 on behalf of Defendant United States</p> <p>11 Quantum Leap and Fabiani 12 13</p> <p>14 ALSO PRESENT: Joseph Murray Michael Massa, Videographer 15 16 17 18 19 20 21 22 23 24 25</p>	<p style="text-align: right;">Page 4</p> <p>1 DEFENDANT'S EXHIBITS - continued</p> <p>2 NUMBER DESCRIPTION PAGE</p> <p>3 Exhibit 8 First Amendment to License136 4 Agreement</p> <p>5 Exhibit 9 Assignment and Assumption of155 Lease Agreement</p> <p>6 Exhibit 10 Certificate161</p> <p>7 Exhibit 11 Second Amendment to License168 8 Agreement</p> <p>9 Exhibit 12 Photographs172</p> <p>10 Exhibit 13 6-10-14 E-mail183</p> <p>11 Exhibit 14 E-mail Chain198</p> <p>12 Exhibit 15 Photograph216</p> <p>13 Exhibit 16 Photograph216</p> <p>14 Exhibit 17 Photograph217</p> <p>15 Exhibit 18 Photograph240</p> <p>16 Exhibit 19 Spreadsheet259</p> <p>17 Exhibit 20 Excerpt of Blog Posting264</p> <p>18 Exhibit 21 Correspondence270</p> <p>19 Exhibit 22 Photograph286</p> <p>20 Exhibit 23 Photograph287</p> <p>21 Exhibit 24 Photograph289</p> <p>22 Exhibit 25 Photograph289</p> <p>23 Exhibit 26 Photograph289</p> <p>24 25</p>
<p style="text-align: right;">Page 3</p> <p>1 INDEX</p> <p>2 WITNESS PAGE</p> <p>3 ANDREA ROSSI</p> <p>4 Direct Examination by MR. PACE7</p> <p>5 Witness Signature Page292</p> <p>6 Errata Sheet293</p> <p>7 Certificate of Oath of Witness294</p> <p>8 Reporter's Deposition Certificate295</p> <p>9 Letter to Witness Re: Reading296</p> <p>10 Letter to Counsel Re: Original Transcript297</p> <p>11 12</p> <p style="text-align: center;">DEFENDANT'S EXHIBITS</p> <p>13</p> <p>14 NUMBER DESCRIPTION PAGE</p> <p>15 Exhibit 1 7-29-12 E-mail81</p> <p>16 Exhibit 2 License Agreement81</p> <p>17 Exhibit 3 E-mail Chain91</p> <p>18 Exhibit 4 10-6-12 E-mail106</p> <p>19 Exhibit 5 E-mail Chain108</p> <p>20 Exhibit 6 E-mail Chain117</p> <p>21 Exhibit 7 License Agreement135</p> <p>22 23 24 25</p>	<p style="text-align: right;">Page 5</p> <p>1 THE VIDEOGRAPHER: We are now on the record.</p> <p>2 Please note that the microphones are sensitive and</p> <p>3 may pick up whispering and private conversations.</p> <p>4 Please turn off all cell phones or place them away</p> <p>5 from the microphones as they can interfere with</p> <p>6 the deposition audio. Recording will continue</p> <p>7 until all parties agree to go off the record.</p> <p>8 My name is Michael Massa representing</p> <p>9 Veritext. The date today is February 10th,</p> <p>10 2017. The time is approximately 10:11 a.m.</p> <p>11 This deposition is being held at Jones Day, 600</p> <p>12 Brickell Avenue, 33rd Floor, Miami, Florida and</p> <p>13 is being taken by counsel for the defense.</p> <p>14 The caption of this case is Rossi versus</p> <p>15 Darden. This case is being held in the US</p> <p>16 District Court, Southern Division of Florida.</p> <p>17 The case number is 1:16-CV-21199-CMA. The name</p> <p>18 of the witness is Andrea Rossi.</p> <p>19 At this time the attorneys present in the</p> <p>20 room and everyone attending remotely will</p> <p>21 identify themselves and the parties they</p> <p>22 represent after which our court reporter, Janet</p> <p>23 Baldauf representing Veritext, will swear in</p> <p>24 the witness and we can proceed.</p> <p>25 MR. PACE: Good morning. This is Chris Pace</p>

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1 Is there some event you can use to
 2 identify the time period? In other words, I got an
 3 accountant in the United States after X occurred,
 4 and we can use X as a baseline.
 5 MR. ANNESSER: Object to form.
 6 THE WITNESS: No.
 7 BY MR. PACE:
 8 Q. Okay. Sometimes that works for people.
 9 They think oh, the year after I got married is when I
 10 hired this person and they used that to figure it out.
 11 A. No, no. The event has been that I had
 12 received a bill that was too high from the former
 13 accountant and I asked her to find one that cost a
 14 little bit less because -- that's it.
 15 Q. Leonardo Corporation of Florida, do you own
 16 Leonardo Corporation of Florida?
 17 MR. ANNESSER: Object to the form.
 18 THE WITNESS: Yes. No. Sorry. Excuse me.
 19 Can you repeat the question. I was --
 20 BY MR. PACE:
 21 Q. No. I can repeat the question. Do you own
 22 Leonardo Corporation of Florida?
 23 A. No.
 24 Q. Who does?
 25 A. Sorry. I thought that you were talking

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1 still of the old Leonardo. Now the citation has
 2 changed.
 3 Q. You believe you own Leonardo Corporation of
 4 New Hampshire?
 5 A. Yes, exactly.
 6 Q. Okay. But Leonardo Corporation of Florida
 7 you do not own?
 8 A. No.
 9 Q. Who owns Leonardo Corporation of Florida?
 10 A. A trust.
 11 Q. What trust?
 12 A. Florida Energy Trust.
 13 Q. I'm sorry.
 14 A. Florida Energy Trust.
 15 Q. Florida Energy Trust. And who is the
 16 trustee of Florida Energy Trust?
 17 A. Attorney Henry Johnson.
 18 Q. And who is the beneficiary of Florida Energy
 19 Trust?
 20 A. In this moment I am not able to answer. I
 21 don't remember exactly because I don't follow all the
 22 -- again, I don't follow the papers of the company. In
 23 this moment I am not able to answer. I should have to
 24 check with attorney.
 25 Q. So Henry Johnson would know?

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1 A. Yes.
 2 Q. Who was the original beneficiary of the
 3 trust?
 4 A. Same answer.
 5 Q. Oh, you have no idea who --
 6 A. No, I don't. No, I don't.
 7 Q. Let me take a step back here. So it's your
 8 understanding that Leonardo Corporation of New
 9 Hampshire was merged into Leonardo Corporation of
 10 Florida, correct?
 11 A. If I am not wrong, yes, but, again, I did
 12 not operate in this kind of things. All these kinds of
 13 things has been made by my accountant and my attorney,
 14 so I did not follow all this stuff. They just told me
 15 it is -- just I am not the guy that goes through these
 16 kind of papers.
 17 Q. Understood. So when you are talking about
 18 the advice you've gotten from accountants, you are
 19 talking about when it comes to the Leonardo
 20 corporations, you are talking about either James Travis
 21 or Diane Annesser, correct?
 22 A. Correct.
 23 Q. And when you are talking about the advice
 24 you've gotten from lawyers as to these companies, you
 25 are talking about either John Annesser or Henry

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1 Johnson?
 2 MR. ANNESSER: Object to form.
 3 THE WITNESS: I think this is privileged
 4 between a client and attorney.
 5 BY MR. PACE:
 6 Q. I'm not asking the substance. I'm just
 7 trying to identify the parties here. So without
 8 telling me the substance of your conversation with your
 9 lawyers I'm just asking --
 10 A. My attorney -- my lawyers are Henry Johnson
 11 and John Annesser.
 12 Q. And let me go through -- what I'm asking you
 13 for now then --
 14 A. And also Brian Chaiken.
 15 Q. Has he provided -- let me step back. John
 16 Annesser filed a document, a public document. He knows
 17 it. There's no surprise relating to the merger of
 18 Leonardo Florida and Leonardo New Hampshire. I'm not
 19 asking you for anything beyond -- he was representing
 20 you in that context as opposed to Henry Johnson. Maybe
 21 I can cut to the chase and make it easier.
 22 A. You know, if you ask me --
 23 Q. But I don't want to know a private
 24 conversation between you and John Annesser. Just I
 25 want to make sure before that comes out.

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1 that Leonardo Corporation of Florida was owned by the
2 Florida Energy Trust?

3 A. Yes.

4 Q. All right. You do not know -- you do not
5 know who the beneficiary of that trust is?

6 MR. ANNESSER: Object to the form.

7 THE WITNESS: You mean the trust that owns
8 Leonardo Corporation. Honestly, I am not sure
9 because I am sure of nothing that is related to
10 papers, but I think that the beneficiary of
11 Florida Energy Trust is me. But I am not sure
12 because I thought again about that -- I think it's
13 me, but if from the papers it will emerge that it
14 is not me, I will tell you all right, I was wrong.

15 BY MR. PACE:

16 Q. Okay. Just to make sure I understand your
17 testimony correctly, you're not aware of any other
18 beneficiary that -- you don't recall any other
19 beneficiary of the Florida Energy Trust other than
20 yourself?

21 MR. ANNESSER: Object to the form.

22 THE WITNESS: I repeat, I think that the
23 only beneficiary was me, but, again, I could be
24 wrong.

25 BY MR. PACE:

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1 editing, but Industrial Heat made its editing, and
2 at the end we agreed upon the text. But they --
3 you know -- sorry.

4 BY MR. PACE:

5 Q. This amendment was also signed by AmpEnergo
6 -- I'm sorry. By AmpEnergo if you look on page three.

7 A. Yes, Karl Norwood.

8 Q. Was anyone from AmpEnergo involved in
9 negotiating the Exhibit A to the best of your
10 recollection?

11 A. No.

12 Q. But they were required to sign because they
13 were a party to the license agreement?

14 A. You know, AmpEnergo was not my business
15 honestly. I don't know why they signed it. They were
16 transparent to me.

17 Q. They were transparent to you?

18 A. Transparent to me. Transparent means they
19 counted nothing to me.

20 Q. Oh, I understand. In connection with the
21 what was ultimately going to be the validation, the
22 validation testing, do you recall meeting with the
23 health office or health official for the providence of
24 Ferrara?

25 A. Yes.

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<p style="text-align: right;">Page 146</p> <p>1 Q. When did that occur?</p> <p>2 A. Exactly the day, I don't remember, but a few</p> <p>3 days before the validation test because I had a problem</p> <p>4 because we were -- we had to make a test with a plant</p> <p>5 that was a one megawatt plant. This one megawatt plant</p> <p>6 had one big problem in that installation because not</p> <p>7 having something that could use the heat, we applied a</p> <p>8 big naval radiator, a big naval radiator that made a --</p> <p>9 not a big noise, but a noise that during the night</p> <p>10 could have been a problem.</p> <p>11 I had experienced this in the matter. I</p> <p>12 had troubles for other things. Unfortunately, just</p> <p>13 in front of, as Tom Darden has seen when he came</p> <p>14 there, the factory was adjacent to a road, and just</p> <p>15 across the road, so 4 or 5 meters from the plant</p> <p>16 from the radiator there was a house. So the</p> <p>17 radiator shoot the noise directly in the windows of</p> <p>18 that house, and so I had experience of troubles that</p> <p>19 had came to me from just the household that called</p> <p>20 the police because our work could disturb, et</p> <p>21 cetera, et cetera.</p> <p>22 Q. Noise issues, right? Really loud noise --</p> <p>23 A. Yes.</p> <p>24 Q. -- two in the morning, I'm trying to go to</p> <p>25 sleep --</p>	<p style="text-align: right;">Page 148</p> <p>1 Environmental Protection. This is what it is. And</p> <p>2 it is the perfect equivalent of your health care</p> <p>3 department of Florida.</p> <p>4 Q. So you -- did you based on your experience</p> <p>5 in Milan, you contacted this office in Ferrara?</p> <p>6 A. Yes.</p> <p>7 Q. And you told them we are going to be doing</p> <p>8 this experiment, it's going to run through the night,</p> <p>9 and it's going to be loud, and they told you what in</p> <p>10 response?</p> <p>11 A. Yes. You have been correct so far. And</p> <p>12 they told me in Italy we do not have authorizations for</p> <p>13 experiments. There is not something that is called an</p> <p>14 authorization for 36 hours. You are either authorized</p> <p>15 or you are not. Now, we understand your problem. You</p> <p>16 have to make a test that for a customer -- because I</p> <p>17 explained that it's a test for a customer that had</p> <p>18 bought the plant and just wanted to see if it work for</p> <p>19 one day before picking it up and bringing it to the</p> <p>20 United States.</p> <p>21 They say we understand you, but the cases</p> <p>22 are two. Either we make a procedure to authorize</p> <p>23 you and it will take in Italy to get an</p> <p>24 authorization for that can take between six months</p> <p>25 if you are very lucky and two years if you are</p>
<p style="text-align: right;">Page 147</p> <p>1 A. Yes, sir.</p> <p>2 Q. -- and I hear loud noise.</p> <p>3 A. Problem is the night, not the day.</p> <p>4 Q. Right.</p> <p>5 A. We had to make a test of 36 hours of</p> <p>6 something, something, so there was the night and there</p> <p>7 was no way that we could skip the night. So at that</p> <p>8 point to avoid problems because the problem is that if</p> <p>9 somebody calls, you must be lawful. At that point he</p> <p>10 calls, but you work because if you are lawful they</p> <p>11 cannot stop you.</p> <p>12 Q. Right.</p> <p>13 A. And so I had gone to what you in America you</p> <p>14 call the health care office. In Italy it's call ARPA,</p> <p>15 Agenzia Regionale de Protezione Dell'Ambiente. ARPA, A</p> <p>16 as in Adam, R as in Robert, P as in Peter, A as in</p> <p>17 Adam, ARPA. And it's an acronym that stands for</p> <p>18 Agenzia, Agency, P is for protezione, protection -- no.</p> <p>19 Agenzia Regionale. A is agency. R is Regionale.</p> <p>20 A region in Italy is what here is a</p> <p>21 county maybe. A big county is a region. Italy is</p> <p>22 made by 20 regions. So agency of the region is the</p> <p>23 R. P is protection, per la protezione. Ambiente,</p> <p>24 the A is for Ambiente which in Italian means</p> <p>25 environment. So Agency for the Regional</p>	<p style="text-align: right;">Page 149</p> <p>1 normal. If you are unlucky, even more. Bureaucracy</p> <p>2 in Italy is tremendous.</p> <p>3 And so they said it is unthinkable that</p> <p>4 we can authorize you and take the reliability. The</p> <p>5 law does not foresee this. But if you find some</p> <p>6 kind of an agreement with your outdoor -- with your</p> <p>7 neighbor, we don't come. Because if they call us,</p> <p>8 we must exit. If they don't call us, we don't come</p> <p>9 because we know what you are doing, all right, we</p> <p>10 don't come. But if they call us or call the police</p> <p>11 and the police calls us, we must exit and we must</p> <p>12 stop you.</p> <p>13 Q. It's like you see in Miami Beach with noise</p> <p>14 issues, right? If your neighbors are okay that you are</p> <p>15 going to have a little bit of a loud event, you're</p> <p>16 fine. But if your neighbors are going to call the</p> <p>17 local police or somebody, that's when they are going to</p> <p>18 have to come out?</p> <p>19 A. And this was exactly the situation. So I</p> <p>20 have gone to my neighbors and say please, I have to</p> <p>21 make this and this and this and said they all right.</p> <p>22 You don't make too much noise, and we can accept it</p> <p>23 because we want to sleep. So I -- so I sent an e-mail</p> <p>24 to Tom Darden and explained to him the situation. And</p> <p>25 he said all right, it's not a big issue because I am</p>

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1 not buying this because this makes one megawatt. I am
 2 buying this because this has a COP minimum six. For me
 3 what counts is not the rating. For me what rating is
 4 the number of the power, how much power, is not the
 5 rating. What counts for me is that it gives a COP-6.
 6 So I accept because I had proposed to him
 7 instead of using all the power of the plant that
 8 would have been too noisy during the night -- during
 9 the day is not a problem, but during the night is a
 10 problem, we can use -- I don't remember how much I
 11 say, one third of the power or one fourth. I don't
 12 remember how much. And he answered all right, for
 13 me okay.
 14 Q. And at the time, just so I understand, the
 15 one megawatt plant that you had designed at the time
 16 would have had 64 E-Cat units in it?
 17 A. No. It was much more complicated. It had
 18 one hundred and -- sorry.
 19 MR. ANNESSER: Hold on. I was -- sorry --
 20 contemplating your question. Go ahead.
 21 THE WITNESS: It was 105 and I'll explain
 22 you why, but you are half right because --
 23 BY MR. PACE:
 24 Q. That's the way I go through life.
 25 A. -- the plant was divided into two parts, one

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1 above the roof and one inside the container. Inside
 2 the container we had 54 or 56 E-Cats. I don't remember
 3 exactly the number now. All the other, the other 50,
 4 55 were in the four big Frankies, so-called big
 5 Frankies in the roof. So the total, the total was 56
 6 plus four, but each of those four contain 16 elements.
 7 On this my memory works well, as you can see.
 8 Q. So just going back to -- and the way the
 9 testing works is -- Exhibit A is talking about 30 -- at
 10 least in groups, 30 E-Cat reactors, so that's about a
 11 third, a third or a fourth?
 12 A. Yeah. We -- you know what we did, I told
 13 him, I told Darden, we can work with one group on the
 14 roof, so you can see how work the ones of the roof.
 15 And I don't know how many down to stay in a 250,
 16 300 kilos. I don't remember exactly how much. At that
 17 rate the noise was zero.
 18 Q. Oh, okay.
 19 A. This is the issue. The noise was completely
 20 contained inside the factory, and the part out of the
 21 radiator because the radiator would expel the hot air,
 22 was just blow that did not -- we were around 70, 75
 23 decibels. I bought a decibel meter. We were 70, 75.
 24 That is acceptable if you keep the window closed.
 25 Fortunately we were in April, and April in Ferrara is

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1 not too warm, so you can sleep with the windows closed
 2 and so it worked.
 3 Q. How many neighbors did you have to go to?
 4 A. Can you kindly repeat?
 5 Q. How many neighbors did you have to go to to
 6 make sure they weren't going to complain?
 7 A. You know, the worst one was the one that was
 8 in front of us just 10 meters from us. Then we had
 9 another house a little bit displaced. I remember two
 10 or three houses, and in each house there was three,
 11 four families because we do not have these kind of
 12 constructions in the area of Ferrara. We have small
 13 houses.
 14 Q. Would you call them -- this may not be a
 15 phrase you are familiar with, but you do some real
 16 estate investing. Would you call them multi-family
 17 houses?
 18 A. Yes.
 19 Q. Did you have to pay the neighbors anything?
 20 I mean, did you have to pay them or did you just have
 21 to say we'll keep it down to a certain level?
 22 A. No.
 23 MR. ANNESSER: Object to the form.
 24 THE WITNESS: I did not follow that way. I
 25 don't like that kind of way.

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1 BY MR. PACE:
 2 Q. So the deal with the neighbor was --
 3 A. No. It was just -- the deal was you let us
 4 sleep, we don't break you. That's it.
 5 Q. So it was we keep the noise down, you won't
 6 call the police?
 7 A. Exactly, exactly. And if you are disturbed,
 8 just call me, not the police.
 9 Q. Right. If you are disturbed come on over
 10 and bang on the door?
 11 A. No. Call me. I gave them my cell phone
 12 because I have stayed over 36 hours long of the test.
 13 I have been at the plant. So I told them any time,
 14 don't worry what is the time, you call me and tell me
 15 something is wrong. They did not call me. It work
 16 completely well.
 17 Q. Okay.
 18 A. We did not have troubles.
 19 Q. This radiator that was set up at the plant
 20 in Ferrara, who designed that?
 21 A. I bought it from a scrap -- I bought it from
 22 -- there are -- Ferrara is close to the sea and
 23 disconnected from the sea by a canal, by a waterway,
 24 and so there are many, we say (speaking in Italian).
 25 We say boat builders. Something like that. And so

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1 THE WITNESS: Seven.

2 BY MR. PACE:

3 Q. No. That's the problem.

4 A. Nine, nine.

5 Q. Yes. You are getting it?

6 A. Got it. It's not seven. It's nine.

7 Q. At the time of entering the first amendment
8 you also learned that Industrial Heat was assigning the
9 license agreement to IPH International BV, correct?

10 A. Yes, it was correct.

11 Q. Do you -- do you recall having any
12 discussions with Tom Darden or whoever else was in
13 Italy at the time about the assignment or was it simply
14 presented to you and signed by you?

15 A. I am very sorry for this.

16 Q. No.

17 A. I remember that I discussed with Tom Darden.
18 Tom Darden was present there. This has been signed in
19 the meeting room of the factory of Ferrara just the day
20 before the -- the day before the validation test, the
21 day before the beginning of the validation test. And I
22 ask him, I say what the heck is this IDH because I
23 don't know. And he reassured me -- I trusted him
24 absolutely, and he assured me this is all Cherokee, the
25 mother of this all is the Cherokee Fund and now IH,

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1 IPH, whatever, do not worry because this is all under
2 Cherokee Funds, and so I signed it.

3 Q. Just so I'm clear, this was a personal
4 conversation you had with Tom Darden -- I'm sorry. Let
5 me rephrase that.

6 This was a live face-to-face meeting you
7 had with Tom Darden?

8 A. Yes. In the meeting room when we made all
9 the signatures, et cetera, with all the people around,
10 I signed because he has put a bunch of papers to sign
11 on the table, and I said, yes, I signed, but what is
12 this IPH, BV (speaking in Italian) in Netherlands, what
13 is that? And he said do not worry, that is Cherokee
14 Fund. I said all right. I trust you. All right.

15 Q. And so this -- this is a conversation --
16 this occurs. Also present are two or three people from
17 AEG?

18 A. Yes, yes.

19 MR. ANNESSER: Object -- object to form.

20 Dr. Rossi, you need to allow me to object.

21 THE WITNESS: Oh, sorry, sorry, sorry.

22 MR. ANNESSER: Object to form. Thank you.

23 THE WITNESS: I am sorry.

24 BY MR. PACE:

25 Q. Also present when --

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1 Rossi. We are going off the record at 4:09 p m.
 2 (Thereupon, a recess was taken in the proceedings
 3 from 4:09 p m. to 4:20 p m.)
 4 THE VIDEOGRAPHER: We are back on the
 5 record. Here begins videotape number six in the
 6 deposition of Mr. Andrea Rossi. The time is 4:20.
 7 BY MR. PACE:
 8 Q. Dr. Rossi, you realize you are still under
 9 oath?
 10 A. Sure.
 11 Q. Short questions, just answer yes or no and
 12 give your lawyer a chance to object.
 13 A. Thank you.
 14 Q. During our break did you speak with your
 15 counsel?
 16 A. Yes.
 17 Q. During our break when you spoke with your
 18 counsel, did you discuss the subject of your testimony
 19 thus far today at all?
 20 A. Yes.
 21 Q. Slow down here.
 22 MR. ANNESSER: You can answer yes or no to
 23 that one.
 24 BY MR. PACE:
 25 Q. That's fine. What did you discuss?

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1 A. Privilege --
 2 MR. ANNESSER: Objection. He knows the
 3 story.
 4 MR. PACE: I'm pointing at him. Let me do
 5 it again.
 6 BY MR. PACE:
 7 Q. What did you discuss?
 8 MR. ANNESSER: Object to the form. Covered
 9 by attorney-client privilege. I'm instructing the
 10 witness not to answer.
 11 BY MR. PACE:
 12 Q. You are going to follow that instruction,
 13 will you not, Dr. Rossi?
 14 A. I will.
 15 MR. ANNESSER: He's learned our game
 16 already.
 17 MR. PACE: It's rare that I have to object
 18 to a witness answering one of my questions.
 19 BY MR. PACE:
 20 Q. I want to go back to the Second Amendment to
 21 the License Agreement. Did you negotiate this second
 22 amendment?
 23 A. Yes.
 24 Q. With whom?
 25 A. Tom Darden.

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1 Q. Was -- other than lawyers, we'll talk about
 2 that in a second, but other than lawyers, was anyone
 3 else involved in negotiating the Second Amendment to
 4 the License Agreement?
 5 A. Not that I can recall.
 6 Q. What lawyers were involved in preparing or
 7 negotiating the Second Amendment to License Agreement?
 8 A. I did not have lawyers.
 9 Q. Do you recall whether Industrial Heat used
 10 lawyers?
 11 A. Industrial Heat I do not recall specifically
 12 on this.
 13 MR. PACE: In the second amendment there's a
 14 reference to -- it's called the six-cylinder unit.
 15 I want to show you what I'm going to mark here as
 16 Exhibit 12, a series of pictures.
 17 (Thereupon, Photographs were marked for
 18 identification as Defendant's Exhibit 12.)
 19 THE WITNESS: Okay.
 20 BY MR. PACE:
 21 Q. Dr. Rossi, these are pictures of the --
 22 A. Six cylinder.
 23 Q. Different pictures of the six-cylinder unit,
 24 correct? I'm sorry, Dr. Rossi. We have to have a
 25 verbal response for the court reporter. These are

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1 pictures of the six-cylinder unit, correct?
 2 MR. ANNESSER: Object to the form.
 3 THE WITNESS: Yes.
 4 BY MR. PACE:
 5 Q. This is the same six-cylinder unit that's
 6 being referenced here in the second amendment to
 7 license agreement?
 8 A. Yes.
 9 Q. This is a system you originally designed in
 10 Italy, correct?
 11 A. Correct.
 12 Q. Look -- and I'm not sure if you know the
 13 answer to this or not, but looking at this unit itself,
 14 is this at least in part the unit that you designed?
 15 A. Can you repeat the question?
 16 Q. Yes, that was poorly done.
 17 A. Yes.
 18 Q. The unit you built in Italy, the
 19 six-cylinder unit, that was sent to Raleigh, North
 20 Carolina, correct?
 21 A. Yes, that is correct.
 22 Q. Additional work was done on that
 23 six-cylinder unit in Raleigh, North Carolina?
 24 MR. LEON DE LA BARRA: Object to form.
 25 THE WITNESS: In this photo -- from what I

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1 see in these photos, no.
 2 BY MR. PACE:
 3 Q. Okay.
 4 A. This comes as it was in Italy.
 5 Q. Now, the six-cylinder unit, that didn't --
 6 that wasn't used for heating water. It was used for
 7 heating oil, correct?
 8 A. Correct.
 9 Q. What kind of oil?
 10 A. It is called (speaking in Italian). I don't
 11 know the pronunciation. Diathermic oil. It's correct
 12 diathermic oil, Engineer? The pronunciation.
 13 Q. Yes, let's call it diathermic oil.
 14 A. Okay. I just did not know the
 15 pronunciation. It was a matter of sound.
 16 MR. ANNESSER: Just for the record, this is
 17 all confidential. I believe the entire testimony
 18 is going to be confidential, but this particular
 19 portion may get into highly confidential, but
 20 we'll get there.
 21 BY MR. PACE:
 22 Q. This six-cylinder unit, at least to the best
 23 of your knowledge, has never left North Carolina after
 24 it was shipped there from Italy?
 25 A. As far as I know, yes.

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1 Q. Now, the idea with the six-cylinder unit
 2 heating oil as opposed to water -- why was the
 3 six-cylinder unit designed for oil?
 4 A. Because it was -- it was an experiment. It
 5 was an experiment, you know, because diathermic oil
 6 allows to go to higher temperatures without changing
 7 phase, so it is possible to make things that with water
 8 you cannot do because water changes phase. Diathermic
 9 oil changes phase, but at much higher temperatures.
 10 Q. And just so we are clear on the record for
 11 this, which is when you are talking about changing
 12 phase, you are talking about, for example, water
 13 turning into steam at around --
 14 A. Yes, sir, the physical phases are solid,
 15 liquid, gases.
 16 Q. And so --
 17 A. And so the same thing, like, for example,
 18 water, can be in solid phase when it is ice, liquid
 19 phase when it is -- when we drink it, and gaseous phase
 20 when it is steam.
 21 Q. And the oil that was used in the
 22 six-cylinder unit would not turn into a steam or vapor
 23 until a much higher temperature than for water?
 24 A. Yes, correct.
 25 MR. ANNESSER: Object to form.

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1 Dr. Rossi, please allow him to finish and
 2 allow me to make any objection I have before
 3 answering.
 4 BY MR. PACE:
 5 Q. Do you want me to do that again?
 6 A. Yes. I do not remember now the temperature
 7 at which diathermic oil boils, but it is much higher
 8 than water. It is surely above 200 celsius degrees.
 9 Q. And this six-cylinder unit that was set up,
 10 there was also a -- how was the temperature of the oil
 11 measured?
 12 MR. ANNESSER: Object to form.
 13 BY MR. PACE:
 14 Q. If you recall.
 15 MR. ANNESSER: Object to form. And to the
 16 extent that we are going to discuss how this
 17 machine operated or was measured, I want to
 18 declare it to be highly confidential, attorneys'
 19 eyes only which means --
 20 MR. PACE: No. He knows it.
 21 MR. ANNESSER: He knows what?
 22 MR. PACE: Wait. Are you aware of
 23 whether --
 24 MR. ANNESSER: No, no, hold --
 25 MR. PACE: No, no. You are right. You may

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1 be right. You may be right. Let me stop. I
 2 shouldn't have said that. Go ahead. Finish. I
 3 apologize.
 4 MR. ANNESSER: I don't know what he knows or
 5 doesn't know, and he's not a party to this
 6 lawsuit.
 7 MR. PACE: No, no, no. That's -- how the
 8 temperature was measured you think is --
 9 MR. ANNESSER: How this operated, how it was
 10 measured, any of the intellectual property and/or
 11 trade secrets, how it was unmeasured or otherwise,
 12 I will declare it as highly confidential,
 13 attorneys' eyes only. Certainly it would be
 14 useful to competitors to know how we are operating
 15 systems. That's the designation I'm making, so...
 16 MR. PACE: Right, right. Let's put it this
 17 way. I'm not going to fight over so we can keep
 18 moving. Can I ask you to step out and I'll have
 19 you back in a second.
 20 (Joseph Murray left the room.)
 21 BY MR. PACE:
 22 Q. Turning back to the six-cylinder unit, how
 23 is the temperature measured in the six-cylinder unit?
 24 A. In Italy -- because in North Carolina, as
 25 long as I have been in North Carolina, it has never

1 Q. So now, there's a single cap that Dr. Rossi
2 has circled which is actually for inputting the oil as
3 opposed to measuring the temperature. So let's -- I
4 don't want to have you actively drawing on exhibits. I
5 just wanted to make sure the record was clear on that
6 one.

7 I need to go back just for a second to
8 this Exhibit 11. It is signed by you under Rossi,
9 but it is not signed by you under Leonardo
10 Corporation. I'm sorry. I'm asking you to go back
11 to Exhibit 11. It's the Second Amendment to License
12 Agreement.

13 A. Second amendment.

14 Q. There you go. So let me ask you turn to the
15 last page.

16 A. Okay. The last page, okay. I see it, yes.

17 Q. A few questions. One is it's signed by you
18 under Rossi, but it's not signed by you under Leonardo
19 Corporation. Do you recall why or not?

20 A. Probably there is no reason. Probably
21 because, you know, Leonardo Corporation is written
22 upon, and I have the signature under I suppose that it
23 was good for both.

24 Q. But you signed the first amendment twice,
25 both for Leonardo and as -- and personally, and you

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1 comes a little bit later where you say you never signed
 2 this and therefore it was canceled?
 3 MR. ANNESSER: Object to form.
 4 BY MR. PACE:
 5 Q. But I'm asking you actually kind of
 6 preceding that -- I don't know if I've seen an e-mail
 7 preceding that, so did you talk to him on the phone
 8 about the second amendment, Craig Cassarino?
 9 A. No. I just exchanged one e-mail or two. I
 10 don't remember. I asked why you don't sign.
 11 MR. PACE: Okay. I should have waved Joe
 12 back in. I wasn't thinking about it.
 13 (Joseph Murray returned to the room.)
 14 BY MR. PACE:
 15 Q. I take it from your testimony earlier, you
 16 don't recall whether you and Tom Darden were present
 17 together when this was signed or whether you signed it
 18 separately from whenever Tom Darden signed it?
 19 A. I don't recall.
 20 Q. Do you recall talking to anybody at
 21 Industrial Heat about the fact that AEG would not sign
 22 the agreement, the second amendment?
 23 A. Yes, I talked with Tom Darden about that. I
 24 told him I do not understand because -- I just -- and I
 25 told him I do not understand why they do not sign.

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1 Q. Do you recall proposing in June or July -- I
 2 guess it's June. Do you recall proposing in June of
 3 2014 --
 4 A. '14.
 5 Q. Yes -- I'm sorry. Let me start this over.
 6 Do you recall in approximately August of 2013, the 1 MW
 7 plant arrived in Raleigh, North Carolina?
 8 A. Yes, I recall.
 9 Q. In June 2014, do you recall proposing
 10 that -- to have the plant moved to Florida to provide
 11 services to a customer?
 12 A. Yes, I recall.
 13 MR. PACE: So I'm going to mark this as
 14 Exhibit 13.
 15 (Thereupon, 6-10-14 E-mail was marked for
 16 identification as Defendant's Exhibit 13.)
 17 THE WITNESS: Okay.
 18 BY MR. PACE:
 19 Q. So you proposed -- you're claiming -- you
 20 are saying here that you are confirming what you had
 21 already said, so I take it this is not the first time
 22 that you communicated a message to Tom Darden or JT
 23 Vaughn about a customer; is that correct?
 24 A. Can you repeat the question.
 25 Q. Sure. This e-mail is talking about that

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1 you've identified a customer --
 2 A. Yes.
 3 Q. -- who wants to put the 1 MW plant in his
 4 factory in Miami, correct?
 5 A. Correct.
 6 Q. All right. This e-mail says I confirm all
 7 -- I already said, meaning you had already provided
 8 this information to Tom Darden or JT Vaughn, correct?
 9 A. Correct.
 10 Q. Is this customer JM Products?
 11 A. Yes.
 12 Q. Do you know whether JM Products existed at
 13 that time?
 14 A. I don't recall. I don't recall. Maybe yes,
 15 maybe not. I do not recall.
 16 Q. Had you instructed anyone to form JM
 17 Products by that time?
 18 A. I do not recall by the time and because for
 19 sure at that time I already had talked with the people
 20 that before or later set up the JM company.
 21 Q. And who were those people?
 22 A. The person I had started to get this idea
 23 was an Italian person connected with strong companies
 24 whose name is Francesco Di Giovanni.
 25 Q. Let me go back. You said Francesco Di

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1 Giovanni?
 2 A. Yes, sir.
 3 Q. How do you know Francesco Di Giovanni?
 4 A. I knew him six years because he had followed
 5 my vicissitudes for the Petroldragon issues, et cetera,
 6 et cetera. And he always has followed my work and
 7 always has say that he wanted to make something with
 8 me. And when he heard about this LENR stuff, he
 9 contacted me and told me that he was very interested to
 10 make investments in Italy and in Europe for this
 11 technology. So I had those problems. If you allow me,
 12 I owe you an umbrella explanation to give logic to this
 13 fact.
 14 Q. Why don't we kind of walk through the e-mail
 15 a little bit, and then we can talk about it more
 16 broadly.
 17 A. All right.
 18 Q. There are a couple of e-mails I want to talk
 19 about, and I don't want to lose my train of thought.
 20 A. Okay.
 21 Q. Because I wanted to ask you, it says produce
 22 catalyzers that he sells.
 23 A. Yes.
 24 Q. Now at this point in time in June 10 of
 25 2014, first of all, what kind of catalyzers are you

1 referring to?

2 A. I was referring to platinum sponges. And
3 because I had an idea. In fact, here is a key phrase
4 that I am sure you have got that is I will direct the
5 operation. So I had in my mind a perfect utilization
6 of heat possibly with high profit, and I proposed to
7 Mr. Di Giovanni to make a thing that would have taken
8 two targets for him; one, to test a new technology that
9 I had in mind, nothing to do with LENR. How to use
10 heat to make things, to make certain types of
11 catalysts. But at the same time to have a
12 one-year-long proof of concept of the capacity of our
13 megawatt plant. That would have been useful for him to
14 test our technology to make important investments in
15 Italy for this technology.

16 Q. So your idea was that the steam from the
17 1 MW plant was going to be run through or run over the
18 platinum sponge?

19 A. Run through a plant to treat the platinum
20 sponges to operate their catalytic capacity, catalytic
21 efficiency.

22 Q. Do you know at what temperature platinum
23 sponge is such that effect any change, any change in
24 platinum sponge?

25 A. This is not just matter of temperature.

17
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1 tutorial. I know some of this already.
 2 A. Yes, but if you want me to explain.
 3 Q. Stop, stop, stop, stop.
 4 A. Sorry. You are right.
 5 Q. Here because you are kind of eating up time.
 6 We may have time for this later, don't get me wrong,
 7 but you are clearly kind of off track for what we are
 8 talking about. Let me ask you -- maybe I can get it
 9 quickly.
 10 At the time -- we'll ask it more broadly,
 11 but at the time of the June 10, 2014 e-mail, I
 12 understand the idea that you had, but there was not
 13 actually a customer who was producing catalyzers at
 14 the time, correct?
 15 MR. LEON DE LA BARRA: Object to form.
 16 THE WITNESS: There was -- I don't
 17 understand the question.
 18 BY MR. PACE:
 19 Q. Sure.
 20 A. Many persons were producing catalyzers.
 21 Q. I'm sorry. You said that you had -- you
 22 said we have a customer, we meaning Leonardo.
 23 A. No.
 24 Q. We meaning who? Who is the we?
 25 A. No. We was -- we was rhetoric for Cherokee

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1 and me.
 2 Q. Okay.
 3 A. We all --
 4 Q. Okay. You all --
 5 A. -- had the potential. Yes, you know --
 6 Q. Stop. Dr. Rossi, please. You just answered
 7 the question. You answered it and then you were going
 8 to --
 9 MR. ANNESSER: Mr. Pace, he's allowed to
 10 answer it any way he wants to.
 11 MR. PACE: No, he's not.
 12 MR. ANNESSER: Yes, he is.
 13 MR. PACE: He's not allowed to kind of waste
 14 time in a deposition.
 15 MR. ANNESSER: He's not wasting time. You
 16 asked a question. He is allowed to answer.
 17 BY MR. PACE:
 18 Q. We have -- we have a customer, that's what
 19 the e-mail says, capital C, correct? And who pays a
 20 thousand dollars a day to rent the 1 MW plant, put it
 21 in his factory in Miami, produce catalyzers that he
 22 sells. At the time that you are writing this e-mail,
 23 there was no customer that you had for Leonardo and
 24 Industrial Heat or Cherokee that was producing
 25 catalyzers to sell, correct?

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1 A. No.
 2 Q. Okay.
 3 A. Because this is a rhetoric. Probably the
 4 literal translation from my Italian to my English has
 5 changed in the sense that you are saying the meaning.
 6 But what you are saying is not what I meant. Here, it
 7 is rhetoric. In Italian a phrase composed like that
 8 means we could have, you know what I mean. At that
 9 time we did not have a customer. At that time we did
 10 not have a customer that was paying one thousand
 11 dollars per day, obviously, obviously. It was
 12 rhetoric. I wanted to say I have found a possible -- a
 13 potential customer that could pay one thousand dollars
 14 per day.
 15 Obviously I am not going to say -- sorry
 16 -- to Industrial Heat we have a customer that pays
 17 one thousand dollars per day if it does not exist
 18 anybody that is paying one thousand dollars per day.
 19 It is obviously. So it is obvious that I was not
 20 representing this as something that already had
 21 happened. I was representing the frame off the --
 22 off the -- the frame off the possible solution that
 23 I could -- that I could have found for a dramatic
 24 situation that has been born from your client which
 25 is this.

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1 He has not -- he has never been able to
 2 get an authorization to put in operation the one
 3 megawatt plant. This is why we have made the second
 4 amendment because first we needed to delay the term
 5 to make the test because I had been impossibilitated
 6 (sic) to make the test for the very simple reason
 7 that they never have been able to give me a place
 8 where to put my plant at work and a place where my
 9 plant could produce its heat with the necessary
 10 authorization.
 11 They told me for one year -- Attorney,
 12 they told me for one year that they were in contact
 13 with the health care office of North Carolina to get
 14 those authorizations. Eventually we discovered that
 15 this was a lie because the health care office of
 16 North Carolina did never knew about any Industrial
 17 Heat and never had been informed that there was a
 18 plant to be put in operation. We have discovered it
 19 when the health care office went to Industrial Heat
 20 in Cherokee on Hargett Street because of some
 21 anonymous say that they were using radioactive
 22 something. And when they arrive there, they did not
 23 even know that existed a factory. And when JT
 24 Vaughn receive it there, JT Vaughn say to them no,
 25 the technology of Rossi is a bogus.

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1 MR. ANNESSER: Doctor --

2 MR. PACE: No. Let him rant.

3 MR. ANNESSER: Okay. You want to let him
4 go? I was going to --

5 MR. PACE: Stop now.

6 THE WITNESS: Sorry. So I have --

7 MR. PACE: Dr. Rossi, okay. Wait. Enough
8 of the kind of side story.

9 MR. ANNESSER: Well, you said let him go,
10 and then you said enough.

11 MR. PACE: I know, I know, but then he
12 paused, and he was about to start on something
13 else kind of goofy.

14 BY MR. PACE:

15 Q. Let's go with who told you that they could
16 not get clearance from the health department?

17 A. Darden. Always. Hundreds of times.

18 Q. Hundreds of times Tom Darden told you that
19 Industrial Heat was having problems getting clearance
20 from the health department to operate the plant in
21 North Carolina?

22 A. You say clearance. I suppose it's the right
23 -- I say authorization of permission.

24 Q. Let's use your phrase.

25 A. Okay.

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1 Q. So Tom Darden told you hundreds of times
2 that they were not able to get the authorization or
3 permission from the health department to operate the 1
4 MW plant in North Carolina?

5 MR. ANNESSER: Object to form.

6 MR. LEON DE LA BARRA: Join.

7 THE WITNESS: Yes.

8 BY MR. PACE:

9 Q. Did anyone else tell you that?

10 A. JT Vaughn.

11 Q. JT Vaughn. Did JT Vaughn tell you that
12 hundreds of times?

13 MR. ANNESSER: Object to form.

14 MR. LEON DE LA BARRA: Object to form.

15 BY MR. PACE:

16 Q. What you recall?

17 A. You know, let me say many times.

18 Q. Okay. So JT Vaughn told you many times that
19 they were unable to get the authorization or
20 permissions to operate the 1 MW plant in North
21 Carolina?

22 A. Correct.

23 Q. And that permission had to come from the
24 health department?

25 A. Yes, because it has to -- yes.

1 Q. And so you -- and you discovered that was
2 inaccurate when the health department showed up at the
3 -- I shouldn't say plant. When somebody from the
4 health department showed up at the Industrial Heat
5 location in North Carolina and you met them?

6 A. No. I did not -- you are very correct with
7 the exception of the last three words. I was not there
8 because I was in Florida.

9 Q. Okay.

10 A. It was December 2014.

11 Q. Okay.

12 A. In December 2014 some imbecile has written a
13 letter to the North Carolina health care office saying
14 that you must go to Industrial Heat because they are
15 using radioactive stuff, blah, blah, blah, you must
16 close them, you must, et cetera et cetera.

17 Then North Carolina health care office
18 after this letter was absolutely forced to go to
19 Industrial Heat. They -- because the guy say the
20 Cherokee, Cherokee Industrial Heat. So they got the
21 address. They did not even know about Industrial
22 Heat, and they have gone to the office of Cherokee
23 on Hargett Street to say we have been informed here
24 that you are making something radioactive, blah,
25 blah, blah with Andrea Rossi with okay of Andrea

1 Rossi.

2 This is a storyteller that is -- tells
3 story thing that tells us that -- that Darden lied
4 to me because it is impossible that if since one
5 year he was trying to have permission from the
6 health care, they came to him not even knowing that
7 there was a factory on Triangle Drive, and they have
8 gone to the office of Cherokee where there was no
9 plant, and they asked to them what the heck are you
10 doing.

11 Q. And you said this was December of 2014?

12 A. Yes. It is December 2014, December,
13 November, something like that.

14 MR. ANNESSER: Let him ask his question,
15 please.

16 BY MR. PACE:

17 Q. So that's at least not information you had
18 in June of 2014?

19 A. Can you repeat.

20 Q. This is just time, so this is kind of basic.

21 A. No, no. This --

22 MR. ANNESSER: Dr. Rossi, you need to let
23 him ask his question.

24 THE WITNESS: You are right. I am sorry. I
25 am sorry. I am deeply sorry for this.

17
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1 BY MR. PACE:
 2 Q. Stop. We'll take a break in just a few
 3 minutes so that you can rest.
 4 A. No, no, no.
 5 Q. It's long. The day is long. I understand.
 6 Don't get me wrong. I understand. But I'm going to
 7 ask fairly short simple questions, if you can provide
 8 me answers.
 9 If, as Mr. Annesser said, if there's a
 10 time when you feel like I need to say something
 11 more, you are allowed to say something more, but if
 12 the answer is simple, let's try to keep the answer
 13 simple. It will move us along here.
 14 You talked about the Department of Health
 15 going to the Cherokee offices in December of 2014,
 16 correct?
 17 A. Correct.
 18 Q. You have a very clear memory of when that
 19 occurred, yes?
 20 A. I think so, yes.
 21 Q. That certainly occurred after this e-mail
 22 you are looking at that's in June 2014?
 23 A. Sure. Of course.
 24 (Thereupon, E-mail Chain was marked for
 25 identification as Defendant's Exhibit 14.)

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1 MR. PACE: Let me show you what was marked
 2 as Exhibit 14. Did I give it to you guys? I'm
 3 sorry. I keep forgetting he's out there.
 4 (Joseph Murray returned to the room.)
 5 THE WITNESS: Very good. The first one and
 6 which -- and the second one. Okay, Attorney.
 7 Yes.
 8 BY MR. PACE:
 9 Q. So by the time of this series of e-mails --
 10 A. Yes.
 11 Q. -- you are not talking abstractly about --
 12 you are saying a customer actually exists, correct?
 13 A. Yes, it is correct. A potential customer.
 14 Q. What?
 15 A. A customer only becomes a customer after an
 16 agreement. A potential customer.
 17 Q. A potential. But there's an actual company
 18 in existence that would be this customer?
 19 THE WITNESS: I don't remember if --
 20 MR. ANNESSER: Object to form.
 21 THE WITNESS: I do not remember if -- maybe
 22 yes, maybe not. I simply -- I do not remember,
 23 Attorney, the date in which JM has been
 24 incorporated. But the problem is not if JM had
 25 been already formally incorporated or not because

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1 I had found a customer in anyway. Whatever the
 2 name, I had found the customer because, you know,
 3 I was desperate to put the plant in operation.
 4 So I told to Di Giovanni, what I say to do
 5 before. I will not lose your time. And he
 6 says all right, I appreciate it. So I told him
 7 all right, are you ready to pay \$1,000 per day
 8 to Industrial Heat or Cherokee or whatever, pay
 9 -- just to pay the energy? I cover you through
 10 all the rest because I will buy the catalyts
 11 that you -- that you will produce, and at that
 12 point you risk only to pay \$1,000 per day. If
 13 my plant does not work, you pay nothing because
 14 you don't pay \$1,000 just for gracious
 15 concession. You pay \$1,000 if we produce one
 16 megawatt per hour.
 17 BY MR. PACE:
 18 Q. And this is with Di Giovanni?
 19 A. Yes, sir. So at this point --
 20 MR. ANNESSER: Dr. Rossi, allow him to ask
 21 his question, please.
 22 THE WITNESS: Yes. Sure, sure.
 23 BY MR. PACE:
 24 Q. Let's listen to the question. Answer the
 25 question. Did any of these communications with

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1 Di Giovanni occur by e-mail, yes or no?
 2 A. No, did not occur by e-mail.
 3 Q. Did these conversations with Di Giovanni
 4 occur in person?
 5 A. Yes.
 6 Q. Did any of these conversations with
 7 Di Giovanni occur by telephone?
 8 A. Yes.
 9 Q. Did you, either as Andrea Rossi or as
 10 Leonardo Corporation or on behalf of any other company,
 11 ever buy any products from JM Products?
 12 A. Can you repeat the question? Sorry. Can
 13 you repeat the question?
 14 Q. Did either you, Leonardo Corporation or any
 15 other company you control ever buy any products from JM
 16 Products?
 17 A. Yes.
 18 Q. What?
 19 A. Catalyts.
 20 Q. What catalyts?
 21 A. We bought from them -- actually, what we
 22 bought from them have been the second generation of
 23 catalyts that we made after the agreement with Johnson
 24 Matthey for the platinum sponge expired. It aborted
 25 because we did not find an agreement.

17
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1 And what we bought have been some -- have
 2 been a mixture of a powder that was a mixture of
 3 graphene and industrial diamonds that we made with
 4 that. If we enter in this -- okay. Up to now, it
 5 is not confidential. If we enter in a discussion
 6 like the one that we made before, it becomes again
 7 confidential.
 8 Q. So tell me -- you are saying you had an
 9 agreement with Johnson Matthey?
 10 A. No. I was trying to have an agreement with
 11 Johnson Matthey.
 12 Q. Who were you speaking with at Johnson
 13 Matthey?
 14 A. Top level guys.
 15 Q. Who?
 16 A. Now I don't remember the name, but I have no
 17 difficulties to find the names in my papers. Maybe you
 18 have papers because I have produced it.
 19 Q. I don't think that's been produced, but
 20 we'll talk to your lawyers afterwards, but who --
 21 A. I am pretty sure it has been produced.
 22 Q. In the agreement with or the possible
 23 agreement that you were talking about with Johnson
 24 Matthey --
 25 A. Yes.

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1 Q. -- was to do what?
 2 A. To buy from them platinum sponges so that we
 3 could make our work that I explained to you before.
 4 Q. But was it to sell back that platinum sponge
 5 to Johnson Matthey?
 6 A. No. I asked them -- they were -- in the
 7 many discussions that I had with them, they say that
 8 they were also open to buy from us our product once
 9 they -- once they had seen it. They were interested to
 10 that, yes, they said so. They say that they were open
 11 to that.
 12 Q. And these communications you were having,
 13 and listen to my questions, just answer the question.
 14 A. Sure.
 15 Q. The communication you are having, some of
 16 these are communications by e-mail, correct?
 17 A. I don't remember if I exchanged an e-mails,
 18 but I think some e-mail is run, but we mostly made
 19 phone conferences with London, between me and them.
 20 Q. And you don't -- sitting here today, you
 21 don't remember the names of any of those individuals?
 22 A. You know, no, but I have no difficulties to
 23 produce those names. But, Attorney, I am pretty sure
 24 that in the discovery that I transmitted to you --
 25 Q. Dr. Rossi --

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1 MR. ANNESSER: Dr. Rossi --
 2 THE WITNESS: Sorry.
 3 BY MR. PACE:
 4 Q. Let's try. Let's just try here. I mean, I
 5 know you want to kind of go in whatever direction you
 6 want to go, but listen to me. I'm asking you simple
 7 questions. There will be opportunities for you to
 8 explain more.
 9 A. Okay.
 10 Q. But we are getting late in the day. It will
 11 speed things up here a little bit here.
 12 A. I can say that I have spoken --
 13 Q. Dr. Rossi, there's no question pending.
 14 Don't even say anything.
 15 A. I was referring to the question before.
 16 MR. ANNESSER: Dr. Rossi --
 17 MR. PACE: Stop, stop, please.
 18 THE WITNESS: Okay.
 19 MR. PACE: Let's just do question and answer
 20 just for a little bit. In fact, let's take a
 21 break for a second. It's been long.
 22 THE VIDEOGRAPHER: We have ten minutes left
 23 on this tape.
 24 MR. PACE: That's a good idea too.
 25 THE VIDEOGRAPHER: Stand by. We will go off

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1 the record. Here marks the end of videotape
 2 number six in the deposition of Mr. Andrea Rossi.
 3 We are going off the record at 5:11.
 4 (Thereupon, a recess was taken in the proceedings
 5 from 5:11 p.m. to 5:22 p.m.)
 6 THE VIDEOGRAPHER: And we are back on the
 7 record. Here begins videotape number seven in the
 8 deposition of Mr. Andrea Rossi. The time is
 9 5:22).
 10 BY MR. PACE:
 11 Q. Dr. Rossi, do you recognize you are still
 12 under oath?
 13 A. Sure.
 14 Q. Again, my short questions, answer the short
 15 questions, and then we'll move on which is during your
 16 break you had a chance to speak with your attorney?
 17 A. Yes, I did.
 18 Q. One of the subjects of speaking with your
 19 attorney was your testimony today?
 20 A. Yes.
 21 MR. ANNESSER: Object to form.
 22 BY MR. PACE:
 23 Q. What did you discuss with your attorney?
 24 MR. ANNESSER: Object to form.
 25 Attorney-client privilege. I instruct the witness

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1 Q. -- your testimony of that is that was steam
 2 coming through?
 3 A. Yes, sir.
 4 Q. And then the steam would carry through these
 5 insulated pipes?
 6 MR. ANNESSER: Object to form.
 7 BY MR. PACE:
 8 Q. The four top insulated pipes in either the
 9 form of steam or water?
 10 A. I do not understand the question.
 11 MR. LEON DE LA BARRA: Object to form.
 12 BY MR. PACE:
 13 Q. Sure. Looking at Exhibit 17.
 14 A. 17, okay.
 15 Q. Your testimony is that at the very top, we
 16 see a pipe at the very top of Exhibit 17.
 17 A. You know, let us number -- to allow me to
 18 understand, you are talking about the first pipes from
 19 the top, one, two, three, four, correct?
 20 Q. Correct. So let's do that. So the very top
 21 pipe we'll say number one. Steam comes into pipe
 22 number one?
 23 A. Yes.
 24 Q. Correct? Are the reactors placed in pipe
 25 number one?

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1 A. Yes.
 2 Q. The steam -- and this is -- all this piping
 3 is insulated?
 4 A. Yes.
 5 Q. Did I understand correctly from -- I think
 6 Jim Bass' testimony that there are also heat strips on
 7 these pipes?
 8 MR. ANNESSER: Object to form.
 9 MR. LEON DE LA BARRA: Join.
 10 THE WITNESS: I did not understand your
 11 question. I'm sorry.
 12 BY MR. PACE:
 13 Q. Were there heat strips on any these pipes?
 14 A. Strips? What do you mean strips?
 15 Q. Heat strips through which you could send a
 16 little current of heat up, potentially heat the outside
 17 of the pipe?
 18 A. No, no, no. Not strips.
 19 Q. Coils?
 20 A. I think I have understood. I'm not sure,
 21 but I think I have understood what you are referring
 22 to. I try to help you, so you tell me if I have
 23 understood.
 24 Q. Okay.
 25 A. When you say strip, you mean that heating

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1 cable. Okay. It is called a heating cable.
 2 Q. Heating cable?
 3 A. Now I can understand.
 4 Q. So there's this heating cable in here
 5 underneath this insulation?
 6 A. This is -- yes, between the insulation and
 7 the pipe.
 8 Q. Understood.
 9 A. Do you want to know what it is for?
 10 MR. ANNESSER: Just wait for the question
 11 please.
 12 BY MR. PACE:
 13 Q. Do I want to know what it's called or what
 14 it's for?
 15 A. Sorry.
 16 Q. Did you just say do I want to know what it's
 17 called or what it's for?
 18 A. No. What it is for.
 19 Q. I do in a second, but I just want to before
 20 I get to that, the steam that comes into this pipe
 21 number one, it becomes water before it goes out on
 22 Exhibit 16 back on over to Leonardo side, correct?
 23 MR. ANNESSER: Object to form.
 24 MR. LEON DE LA BARRA: Join.
 25 THE WITNESS: You have skipped many

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1 passages.
 2 BY MR. PACE:
 3 Q. I understand that. I'm jumping from one to
 4 the other so I understand that it's --
 5 A. What I can tell you is that what you have
 6 inside the insulated pipes is steam.
 7 Q. Uh-huh.
 8 A. What you have inside the other insulating
 9 pipes that return to the plant, that is water.
 10 Q. Right. That's what we just said.
 11 A. Okay.
 12 Q. Now, I'm just trying to -- you might tell me
 13 it's not in either of these pictures, but where in
 14 these pictures does the steam convert to water?
 15 A. It's not here.
 16 Q. It's not in these pictures?
 17 A. No.
 18 Q. There's -- am I missing something in the
 19 pictures?
 20 A. No, you are not missing anything of the
 21 pictures, but these pictures do not explain where the
 22 steam becomes water.
 23 Q. Why is that?
 24 A. Because --
 25 MR. ANNESSER: Why do the pictures not show

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1 that?

2 MR. PACE: Yes. I'm trying to understand.

3 THE WITNESS: You know, these picture are,

4 first of all --

5 MR. ANNESSER: Just answer his question if

6 you understand it. I'm going to object to the

7 form because I'm not sure I understand the

8 question.

9 THE WITNESS: The place where the steam

10 became water is not -- is not illustrated by these

11 photographs, Attorney.

12 BY MR. PACE:

13 Q. But it did occur somewhere within the

14 container?

15 MR. LEON DE LA BARRA: Object to form.

16 THE WITNESS: Can you repeat the question.

17 BY MR. PACE:

18 Q. But the conversion of steam to water

19 occurred in the container?

20 MR. ANNESSER: Object to form.

21 MR. LEON DE LA BARRA: Object to the form.

22 THE WITNESS: No.

23 BY MR. PACE:

24 Q. Where did it occur, outside the container

25 then?

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1 A. Yes.

2 Q. Where outside the container?

3 A. In a proper heat exchanger that was placed

4 not inside the container.

5 Q. Where was the heat exchanger?

6 A. The heat exchanger was in a proper room that

7 is not indicated in this photographs. The steam

8 through a pipe is gone in a heat exchanger that is not

9 here.

10 Q. This heat exchanger, who installed that?

11 A. I did.

12 Q. Who helped you install it?

13 A. Contractors.

14 Q. Which contractors?

15 A. Well, I use very much flying contractors

16 that in that industrial park everyday come to know if

17 you need something. I use it to many of them. The

18 heat exchanger that I have put down has been made by me

19 with their help.

20 Q. Okay.

21 A. So -- in -- sorry.

22 Q. I'm sorry. I interrupted you that time.

23 Please finish your answer.

24 A. I had finished.

25 Q. Do you know their names? Do you know any of

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1 their names?

2 A. No, I don't remember. We are talking of two

3 years ago, and they were just guys. In that area, if

4 you go there, they have the truck. It's people that

5 has a truck that is a small workshop. They have

6 everything there. You call them, and they are able to

7 do anything. They are able to do whatever you need.

8 Q. Who removed it?

9 A. Sorry.

10 Q. Who removed this heat exchanger that you

11 built?

12 A. It has been built by pipes --

13 Q. No. I'm sorry. My question was who removed

14 it?

15 MR. LEON DE LA BARRA: Object to form.

16 THE WITNESS: I removed it with the help of

17 contractors.

18 BY MR. PACE:

19 Q. Because it doesn't exist any longer at the

20 Doral plant?

21 A. No because I have used the pieces of it to

22 do other things because now it was completely useless.

23 Q. Well, it didn't exist at the Doral location

24 in February of 2016, did it?

25 MR. ANNESSER: Object to the form.

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1 THE WITNESS: Can you -- I did not

2 understand the question.

3 BY MR. PACE:

4 Q. Sure. You remember seeing me at the Doral

5 warehouse in December 16 of 2016?

6 A. I remember.

7 Q. The heat exchanger you are talking about now

8 had been removed by then, correct?

9 MR. ANNESSER: Object to form.

10 MR. LEON DE LA BARRA: Join.

11 THE WITNESS: I don't understand the

12 English. This heat exchanger has been removed

13 after the end of the test.

14 BY MR. PACE:

15 Q. Okay. So it was sometime after

16 February 2016?

17 A. If this was the question, this is the

18 answer. Sorry.

19 Q. I'm still a little lost and then we'll take

20 a quick break here because we have to move on to some

21 other subjects before we end, but you said in Exhibit

22 17 --

23 A. Yes.

24 Q. -- what comes into there, that top pipe,

25 what we labeled as pipe number one is steam, correct?

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1 A. I am very sorry. I did not understand the
 2 question.
 3 Q. Sure. Let's go through this again. In
 4 Exhibit 17 --
 5 A. Yes.
 6 Q. -- the top pipe in that picture.
 7 A. The top pipe, number one, yes.
 8 Q. What you call number one.
 9 A. Yes.
 10 Q. You said what came in there was steam?
 11 A. Came in where was steam? Was full of steam.
 12 Q. What came in this pipe was steam?
 13 A. Yes, yes. It was full of steam.
 14 Q. So somewhere the steam had to exit -- your
 15 testimony now is that somewhere the steam had to exit
 16 this container and go to -- and the heat at least from
 17 the steam had to exit the container and be dissipated
 18 or sent out of the warehouse; is that correct?
 19 A. No.
 20 Q. Okay. How would the steam be eliminated
 21 from --
 22 A. With a heat exchanger.
 23 Q. Let me. If steam came into the container --
 24 A. The steam enters in the container, goes in
 25 these four pipes. In this phase we were using only

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1 four pipes. In some other phases we use also the other
 2 pipes. In this moment we were at the end of the job.
 3 We were -- we had in operation only the four pipes. So
 4 the steam -- then the steam exited from the container
 5 inside a pipe, inside a system of pipe, and run through
 6 the place where the heat exchanger was. The heat
 7 exchanger exchanged heat between air and steam and cool
 8 and the steam.
 9 Q. Is it the other side -- then if I'm looking
 10 at Exhibit 17, is where the heat -- is where the steam
 11 is exiting this container somewhere on the other side
 12 of those pipes?
 13 A. You -- you -- you can see because this
 14 photography does not take the area where there was the
 15 bypass.
 16 Q. There was a bypass?
 17 A. Yes, sir.
 18 Q. Where would that --
 19 A. Between the number 17 and the number 16, you
 20 have a hole. So the number 16 is not a continuation of
 21 the 17 because if I look at the 17 and I look at the
 22 16, I have -- first I have to put the 17, and then I
 23 have to put the 16 because, as you can see, the 17 has
 24 the left side that is the end -- the left end of the
 25 container -- looking at the container from the point of

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1 observation of this photography while the photograph in
 2 number 16 shows us the right end of the container.
 3 Q. Uh-huh.
 4 A. But attention, between the 17 and the 16,
 5 there is a piece of plant that has not been
 6 photographed, you understand.
 7 Q. I understand.
 8 A. In that area there was the bypass.
 9 Q. Okay. And I think we actually -- that's not
 10 for this picture -- I've got pictures down the road,
 11 but I just want to ask this before we take a break.
 12 A. No. The number 18, you have to put the
 13 number 18 to follow the logic at the left --
 14 MR. ANNESSER: Dr. Rossi, there is no
 15 question.
 16 THE WITNESS: You are right and I am stupid.
 17 I am very, very stupid. I continue to make the
 18 same mistake, and I don't know why.
 19 MR. PACE: Dr. Rossi, I'm just going to stop
 20 you so that we can get to this and take a quick
 21 break. Let me just do this. Exhibit 18.
 22 (Thereupon, Photograph was marked for
 23 identification as Defendant's Exhibit 18.)
 24 THE WITNESS: Okay.
 25 BY MR. PACE:

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1 Q. When we look at Exhibit 17, we can see in
 2 the far left side tubing.
 3 A. Exactly. There --
 4 Q. Exhibit 18 -- let me do this.
 5 A. Sorry.
 6 Q. Exhibit 18 is, in fact, the tubing that we
 7 see on the far left in Exhibit 17?
 8 A. You are correct.
 9 Q. So that was the point you were just making.
 10 A. Yes.
 11 Q. This tubing is for inserting water, correct?
 12 A. No.
 13 Q. Okay. So what is it for inserting?
 14 A. Nothing.
 15 Q. Nothing. So these tubes -- who put these
 16 tubes in?
 17 A. When you say tubes, you mean these hoses?
 18 Q. Yes, sir.
 19 A. Because if you say tube, I think to the
 20 steam.
 21 Q. Correct. I'm sorry. Let me use the phrase
 22 you are using. Hoses.
 23 A. The hoses are emergency hoses connected with
 24 the hydraulic, the hydraulic center of the factory in
 25 case of overheating. We never use them in all the year

1 A. Yes.

2 Q. Changes were made to the container or to the
3 plumbing or piping system within that container after
4 it got to Florida, correct?

5 MR. ANNESSER: Object to form.

6 MR. LEON DE LA BARRA: Object to form.

7 THE WITNESS: We had -- first of all, when
8 it arrived in Doral, it was not complete because
9 the people of Industrial Heat had to finish the
10 work in Doral. We did not make changes. We just
11 completed the construction of it --

12 BY MR. PACE:

13 Q. So there was never kind of like a drip leg
14 steam trap on the piping that went from Leonardo to JM
15 Products?

16 MR. ANNESSER: Object to form.

17 MR. LEON DE LA BARRA: Join.

18 THE WITNESS: No. But you have the
19 photographs. We have the photographs. Sorry,
20 sorry, sorry.

21 BY MR. PACE:

22 Q. Were there any steam traps inside the
23 container?

24 A. I don't know what you mean steam traps. I
25 don't even know steam traps, what are.

1 Q. Do you know or not know -- do you know what
2 a steam trap is?

3 A. Yes, I know what a steam trap is, but there
4 are many kind. We have put a steam trap, but we did
5 not make any change to that.

6 Q. So the -- do you recall when the container
7 was in Raleigh, North Carolina or Cary, North Carolina,
8 right before it was sent down to Florida, so this is
9 late 2014, there was a system placed in that. A system
10 was designed for that to carry the -- to take water
11 through -- let the E-Cats heat it up and carry it as
12 steam, correct?

13 MR. ANNESSER: Object to form.

14 MR. LEON DE LA BARRA: Join.

15 THE WITNESS: I'm sorry. But I have not
16 understood exactly what you have said.

17 BY MR. PACE:

18 Q. When that -- work was being done in North
19 Carolina on this container that housed the E-Cats?

20 A. Yes.

21 Q. In order to work on the plumbing or piping
22 system that would take -- that would bring water in to
23 the E-Cat reactors --

24 A. Yes.

25 Q. -- allow it to be heated up and carried out

1 as steam, correct?

2 A. Correct. Yes, it is correct.

3 Q. Was any change made to that design after the
4 container arrived in Florida? Was there anything you
5 had to change or fix?

6 MR. ANNESSER: Object to form.

7 THE WITNESS: Some particular maybe. I
8 don't remember exactly, but I don't remember, but
9 nothing substantial.

10 BY MR. PACE:

11 Q. So you don't remember making any changes to
12 the --

13 A. Not substantial.

14 Q. Plumbing or piping system.

15 A. There were many, many -- there were some
16 many, many, you know, small things to fix, but I don't
17 remember anything substantial.

18 Q. Okay. And when you say small things to fix,
19 do you mean that there were -- for example, from the
20 shipping -- from the shipping a wire would get
21 disconnected --

22 A. For example.

23 Q. -- or something would get cracked. Okay.
24 For this test in Florida measuring equipment had to be
25 installed, correct?

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1 A. Yes, sir.
 2 Q. -- you would look at the numbers on -- for
 3 what? You would look at the number for the flow meter?
 4 A. Yes.
 5 Q. And you would write that down?
 6 A. Yes.
 7 Q. And you maintain that record?
 8 A. Yes.
 9 Q. And then you don't really look at a thermal
 10 couple, right? Would you look at the computer? How do
 11 you know what's on the thermal couple?
 12 A. Because there was a manual instrument to
 13 read the thermal -- to read the thermal couple.
 14 Q. Okay.
 15 A. And so I just looked at it and wrote down
 16 the number.
 17 Q. And so that's a hand-held device, right?
 18 A. Yes, sir.
 19 Q. And you would write down that number and you
 20 kept that log?
 21 A. Yes.
 22 Q. And then there's a -- there's a pressure
 23 meter. Is it called --
 24 A. Yes, the manometer.
 25 Q. How many of those existed?

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1 A. Two.
 2 Q. Two. And did you ever take readings from
 3 the pressure meters?
 4 A. Yes, now and again also there. But I did
 5 not write down because it was pretty much constant.
 6 The pressure did not change basically, so I did not
 7 take record. I don't remember if I put also the --
 8 also the pressure or not, but you will see. If you
 9 show me my blog I can tell you. I don't remember.
 10 Q. So there's a book that has this that would
 11 have -- let me see if I can. Thank you, sir. I'm
 12 going to mark this as Exhibit 19.
 13 (Thereupon, Spreadsheet was marked for
 14 identification as Defendant's Exhibit 19.)
 15 THE WITNESS: Thank you.
 16 BY MR. PACE:
 17 Q. This is a document that you produced in
 18 discovery or that your lawyers produced in discovery.
 19 Is this --
 20 MR. ANNESSER: Are you sure we produced
 21 this?
 22 MR. PACE: You did.
 23 MR. ANNESSER: I don't see a Bates number on
 24 it. That's why I asked.
 25 MR. PACE: You produced this and made a

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1 file. You didn't put a number on it. In fact, I
 2 think Chris is going to have to contact you guys
 3 or we'll talk about it afterwards because I think
 4 part of it is corrupted. But we'll talk to
 5 Dr. Rossi and find out if that's right or not
 6 because it might not be. That's what we are about
 7 to find out.
 8 THE WITNESS: I don't -- which is your
 9 question?
 10 BY MR. PACE:
 11 Q. Do you recognize this spreadsheet?
 12 A. I am very sorry. No, I don't.
 13 Q. Okay.
 14 A. I don't. It is not mine.
 15 Q. Do you know whether Fulvio Fabiani tracked
 16 when the -- when different parts of the plant were
 17 working or not working or had to be shut down for short
 18 periods?
 19 A. I don't know exactly what Fulvio Fabiani was
 20 making because he worked for Industrial Heat, by the
 21 way. And he also had the task from Industrial Heat to
 22 help me if I had the troubles with electric stuff, but
 23 I know nothing about this work of his.
 24 Q. Let me make sure I'm clear. What we are
 25 looking at here on Exhibit 19 is a spreadsheet that

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1 contains certain data information. This is not your
 2 log of the information you collected?
 3 A. It's nothing to do with it, no.
 4 MR. ANNESSER: Object to the form.
 5 BY MR. PACE:
 6 Q. And you don't know about -- there's also
 7 comments here about when different units in the plant
 8 were started or stopped?
 9 A. I don't remember. I don't remember this
 10 events because, you know, we had a lot of event there.
 11 I don't remember.
 12 Q. Okay. Let me ask you, did you maintain any
 13 log or record of when units, when E-Cat units at the
 14 plant were operating or not operating?
 15 A. I did, yes.
 16 Q. You did?
 17 A. Yes.
 18 Q. How was that maintained?
 19 A. Manually by me. I did it manually. When
 20 such events -- this is the log I was talking before to
 21 you.
 22 Q. I'm sorry. You just said exhibit -- were
 23 you talking about this -- it's a handwritten log?
 24 A. Yes.
 25 Q. Okay. And in that handwritten log, if there

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1 two interpretations. I can mean when I write
 2 this phrase that I am working with three
 3 reactors out of four because I have one in
 4 maintenance. So means that I have three
 5 quarters of the plant that are working in this
 6 moment. Or this can -- could mean I am
 7 producing three quarters of the energy that I
 8 could produce which is a completely different
 9 thing, but still it can be described in this
 10 superficially blogistic (sic) phrase.
 11 So what I am saying is not that when you
 12 write in a blog you stay stupidities or
 13 falsities, I am just saying that when you say
 14 things in a blog, you say things superficially,
 15 not rigorously to have a well precise meaning.
 16 BY MR. PACE:
 17 Q. What did you mean when you wrote this in
 18 your blog, Dr. Rossi?
 19 A. I don't remember.
 20 Q. Did you mean --
 21 A. I don't remember because I don't remember
 22 the context.
 23 Q. Okay. Let's see if --
 24 A. May be that I wanted --
 25 (Thereupon, Correspondence was marked for

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1 identification as Defendant's Exhibit 21.)
 2 MR. PACE: Dr. Rossi, I'm going to hand you
 3 what's marked as Exhibit 21. I just want to see
 4 at what point maybe we'll see if we get something
 5 concrete here.
 6 MR. ANNESSER: Object to form. Move to
 7 strike.
 8 BY MR. PACE:
 9 Q. Let's look at Exhibit 21.
 10 A. Sorry. 21. Okay.
 11 Q. Yes, sir. So for Exhibit 21, these are
 12 letters from JM Products to Industrial Heat, correct?
 13 A. Correct.
 14 Q. The information in here about the power --
 15 the energy that was received by JM Products, that was
 16 provided by you for these letters, correct?
 17 A. It is correct.
 18 Q. In fact, you wrote most of these letters, if
 19 not all of these letters?
 20 MR. LEON DE LA BARRA: Object to form.
 21 MR. ANNESSER: Object to form.
 22 BY MR. PACE:
 23 Q. If not all of these letters?
 24 MR. LEON DE LA BARRA: Object to form.
 25 THE WITNESS: I wrote the draft and

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1 transmitted them to Attorney Johnson to send them
 2 to Industrial Heat.
 3 BY MR. PACE:
 4 Q. So these reflect different measurements.
 5 Let's look at the first one, July 1st, 2015.
 6 A. Okay.
 7 Q. It says that on 26 days the agreed daily
 8 amount was delivered. That would be one megawatt -- is
 9 that -- I always get that phrase wrong. One megawatt
 10 per hour or hour per hour? How do I say that phrase
 11 correctly?
 12 A. Yes, the correct -- one megawatt hour per
 13 hour is energy.
 14 Q. Okay.
 15 A. Go to school. One megawatt hour per hour is
 16 energy. One megawatt is power is a rating. Engineer,
 17 go to school.
 18 MR. ANNESSER: Dr. Rossi --
 19 THE WITNESS: He's correcting me on things,
 20 on basics.
 21 MR. ANNESSER: Dr. Rossi, listen to his,
 22 please. We've all had a long day.
 23 BY MR. PACE:
 24 Q. So when you are providing this information,
 25 and you are providing the information --

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1 A. During the month of June in our Doral
 2 factory, we received from your plant the amount of
 3 energy of one megawatt hour per hour for a total of 624
 4 megawatt hours for 26 days while for four days we
 5 receive 750 kilowatt hour per hour for a total --
 6 Q. Of 72 megawatt hours. That's accurate
 7 information you are telling me?
 8 A. Kilowatt hour, kilowatt hour. Please
 9 forward your invoice for the agreed daily amount of
 10 1,000 per day, blah, blah, blah. Yes.
 11 Q. This is not like a blog posting, correct?
 12 This is supposed to be accurate information?
 13 A. Yeah.
 14 Q. And this was accurate information?
 15 A. I suppose so, yes. Unless I did not make
 16 mistakes.
 17 Q. But this is information you provided?
 18 A. Yes, it is.
 19 Q. So, for example, we know from the
 20 information you provided that in June of 2015, there
 21 were 26 days when the 1 MW plant was producing at a
 22 rate of one megawatt hour per hour and four days when
 23 it was producing at appears to be --
 24 A. Excuse me. Where are you reading now? What
 25 are you reading now?

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1 Q. The letter you just read.
 2 A. The July 1, 2015.
 3 Q. Yes. Doesn't it say -- don't I read this
 4 correctly that for 26 days it was producing one
 5 megawatt hour per hour?
 6 A. Yes, for 26 -- yes.
 7 Q. Okay.
 8 A. During the month of June.
 9 Q. And then for four days it was producing 750
 10 kilowatt hours per hour, correct?
 11 A. Yes.
 12 Q. And your testimony is all this information
 13 is accurate unless you made errors?
 14 MR. ANNESSER: Object to form.
 15 MR. LEON DE LA BARRA: Join.
 16 THE WITNESS: It is save mistakes that I
 17 could have made.
 18 BY MR. PACE:
 19 Q. Understood. But to the extent you didn't
 20 make a mistake, then this is accurate. We could rely
 21 upon this to understand how much energy was being
 22 produced by the 1 MW plant during the month of June?
 23 A. I did not understand the English of this
 24 phrase. I am sorry. Please speak slower if you can
 25 because --

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1 Q. To the extent you did not make a mistake in
 2 your calculations --
 3 A. To the extent I did not make a mistake,
 4 correct, yes.
 5 Q. -- then we can rely on these letters to know
 6 how much energy was being produced by the 1 MW plant,
 7 for example, in the month of June 2015, for example,
 8 this page, correct?
 9 MR. LEON DE LA BARRA: Object to form.
 10 THE WITNESS: What do you mean June of 2015?
 11 BY MR. PACE:
 12 Q. Do you see the beginning of that sentence,
 13 the first sentence of that paragraph? During the month
 14 of June.
 15 A. In our factory, yes, but I don't see
 16 anywhere June 15.
 17 Q. That's my fault, I apologize. June 2015 I
 18 believe is what I said.
 19 A. Where is it?
 20 Q. Do you know what year this was done,
 21 Dr. Rossi?
 22 A. Sorry.
 23 Q. Do you know what year that was done,
 24 Dr. Rossi? The reference to June is June in the year
 25 of our Lord 2015.

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1 A. Ah, June '15, yes. June 2015, yes. Because
 2 if you say June 15, I look for the day.
 3 Q. I was saying -- I was saying June 2015 but
 4 it's late.
 5 A. I'm sorry. I did not get the English.
 6 Q. Let's -- I understand. Let me just do this.
 7 So assuming you did not make errors in your
 8 calculations for these letters -- we can rely on these
 9 letters as reflecting the amount of power that was
 10 produced by your 1 MW plant during the month reflected
 11 in these letters? For example -- yes or no?
 12 A. Yes. So far I did not mistake, yes.
 13 Q. So, for example, this first page or the
 14 second page of Exhibit 21, the one -- this letter of
 15 July 1st, 2015?
 16 A. July 1st, 2015 is the one that we are
 17 reading now, yes.
 18 Q. Okay. So using that letter we can
 19 determine -- unless you made a calculation mistake, we
 20 can determine the amount of power that was produced by
 21 the 1 MW plant in June of 2015?
 22 MR. LEON DE LA BARRA: Object to form.
 23 THE WITNESS: Yes.
 24 BY MR. PACE:
 25 Q. How was this -- what did you use to make

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1 these calculations?
 2 A. Notes that I take in papers.
 3 Q. Is it the log -- is it the same thing as the
 4 handwritten log?
 5 A. Yes, yes.
 6 Q. You have a look of uncertainty there which
 7 is why I'm trying to figure out. Is it possible you
 8 may have had a separate set of handwritten notes?
 9 MR. ANNESSER: Object to form.
 10 THE WITNESS: Yes. You know, I also use the
 11 pieces of paper that momentarily use it and then
 12 put in the trash basket. I also had notes but
 13 this should be reflected also by the log, yes.
 14 BY MR. PACE:
 15 Q. Was there any of the measuring equipment for
 16 -- that Fabio -- I think you testified that Fabio Penon
 17 installed the measuring equipment for the 1 MW plant in
 18 Florida, correct?
 19 A. It is correct.
 20 Q. Did any of that equipment have to be
 21 replaced during the testing period?
 22 A. Let me think. Not that I recall, but this
 23 means nothing because I was not involved in the
 24 measurements, so I don't recall to have seen engineer
 25 Penon change instrumentation but --

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<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>
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<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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1 steam from the --
 2 A. Which one, Counselor?
 3 Q. Actually, all three show the same pipe,
 4 correct?
 5 A. No because --
 6 Q. They are different angles?
 7 A. -- here is also another one.
 8 Q. Let me do it -- I appreciate that. In fact,
 9 same thing on number 25 if you look at the bottom. In
 10 24, 25 and 26 --
 11 A. 24, 25, and 26 they have the common
 12 denominator that is the steam pipe.
 13 Q. And that's the silver encased piping?
 14 A. It is correct.
 15 Q. And that was designed to carry the steam
 16 from the plant over to the JM Products container?
 17 A. Yes.
 18 THE VIDEOGRAPHER: We are at 7 minutes, sir.
 19 BY MR. PACE:
 20 Q. And this pipe has been -- I'm sorry?
 21 A. It's okay.
 22 Q. This piping has now been taken down at the
 23 Doral warehouse, correct?
 24 A. Yes.
 25 Q. Who took it down?

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1 A. I did.
 2 Q. When?
 3 A. After the test, after the sealing of the
 4 test.
 5 Q. Do you know -- was it immediately after, if
 6 you know?
 7 A. I don't remember, but I --
 8 Q. Who assisted?
 9 A. Sorry.
 10 Q. Did anyone assist you in taking down the
 11 piping?
 12 A. Can you repeat the question.
 13 Q. Yes. It's kind of the last question. Did
 14 anyone assist you in taking down the piping?
 15 A. Yes.
 16 Q. Who?
 17 A. Contractors.
 18 Q. Do you know their names?
 19 A. No.
 20 MR. PACE: I think I've run out of time.
 21 THE VIDEOGRAPHER: Here marks the end of
 22 videotape number eight and the deposition. We are
 23 going off the record at 7:25 p.m.
 24 (Thereupon, the taking of the deposition was
 25 concluded at 7:25 p.m. Signature and
 formalities were not waived.)

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1 RE : ROSSI v DARDEN
 DEPO OF: ANDREA ROSSI
 2 TAKEN : 2-23-17
 3
 4 EXCEPT FOR ANY CORRECTIONS
 MADE ON THE ERRATA SHEET BY
 5 ME, I CERTIFY THIS IS A TRUE
 AND ACCURATE TRANSCRIPT.
 6 FURTHER DEPONENT SAYETH NOT.
 7

 8 ANDREA ROSSI
 9
 10 STATE OF FLORIDA)
) SS:
 11 COUNTY OF)
 12
 13 Sworn and subscribed to before me this
 14 _____ day of _____ 2017.
 15 PERSONALLY KNOWN _____ OR I.D. _____
 16
 17
 18 Notary Public in and for
 the State of Florida at Large.
 19
 20
 21 My commission expires:
 22
 23
 24
 25


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1 ERRATA SHEET
 2 RE : ROSSI v DARDEN
 DEPO OF: ANDREA ROSSI
 3 TAKEN : 2-23-17
 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
 Under penalties of perjury, I declare that I have
 23 read by deposition transcript, and it is true and
 correct subject to any changes in form or
 24 substance entered here.


 25 Date ANDREA ROSSI

17
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1 CERTIFICATE OF OATH OF WITNESS
2
3 STATE OF FLORIDA
4 SS:
5 COUNTY OF MIAMI-DADE
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
19 Notary Public
20 State of Florida at Large
21 Notary # FF208072
22 My Commission Expires: 3-31-2019
23
24
25

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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 JANET BALDAUF
23 Florida Professional Reporter
24 Registered Professional Reporter
25

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

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

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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