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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
MIAMI DIVISION
CASE NO. 1:16-cv-21199-CMA
ANDREA ROSSI and
LEONARDO CORPORATION,

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

Defendants.

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

Counter-Plaintiffs,
v.
ANDREA ROSSI and LEONARDO CORPORATION,
Counter-Defendants,
and

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

Third-Party Defendants.

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

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1
2 VIDEO
3 DEPOSITION
4
5 OF
6
7 FULVIO FABIANI
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9 Taken on Behalf of the Defendants
10 Pursuant to Notice of Taking Deposition
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1 APPEARANCES
2
3 On behalf of the Plaintiffs:
4 PERLMAN, BAJANDAS, YEVOLI & ALBRIGHT, P.L.
5 283 Catalonia Avenue, Suite 200
6 Coral Gables, FL 33134
7 BY: BRIAN CHAIKEN, ESQ.
8 bchaiken@pbylaw.com
9 On behalf of the Defendants/Counter-Plaintiffs:
10 JONES DAY
11 600 Brickell Avenue
12 Brickell World Plaza
13 Suite 3300
14 Miami, FL 33131
15 BY: CHRISTOPHER R.J. PACE, ESQ. and
16 ERIKA HANDELSON, ESQ.
17 cpace@jonesday.com
18 ehandelson@jonesday.com
19
20 On behalf of JM Products, Henry Johnson
21 and James Bass:
22 ARAN, CORREA & GUARCH, P.A.
23 255 University Drive
24 Coral Gables, FL 33134-6732
25 BY: FRANCISCO LEON DE LA BARRA, ESQ.
26 fleon@acg-law.com
27 On behalf of United States Quantum Leap and Fulvio
28 Fabiani:
29
30 RODOLFO NUNEZ, P.A.
31 255 University Drive
32 Coral Gables, Florida 33134
33 BY: RODOLFO NUNEZ, ESQ.
34 rnunez@acg-law.com
35
36 Also Present: Norma Merlano, Interpreter
37 Todd Cohen, Videographer
38
39

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1 THE VIDEOGRAPHER: We are now on the video
 2 record. My name is Todd Cohen, representing
 3 Veritext. The date today is February 28th,
 4 2017, and the time on the video record is
 5 7:45 a.m.
 6 This deposition is being held at Jones
 7 Day, located at 600 Brickell Avenue in Miami,
 8 Florida. The caption of the case is Andrea
 9 Rossi and Leonardo Corporation, et cetera,
 10 et al., versus Thomas Darden, John T. Vaughn,
 11 Industrial Heat, LLC, et cetera, et al.
 12 The case is being held in the United
 13 States District Court, Southern District of
 14 Florida, Miami Division. The case number is
 15 1:16-cv-21199-CMA. The name of our witness
 16 this morning is Fulvio Fabiani.
 17 At this time may I please have counsel in
 18 the room announce their appearances for our
 19 court reporter. Then Kelli Ann Willis, the
 20 court reporter with Veritext, will then swear
 21 the witness and we can begin.
 22 MR. PACE: Can I ask one quick question?
 23 Is what you just said being recorded?
 24 THE VIDEOGRAPHER: Only by Kelli.
 25 MR. PACE: This is Chris Pace and Erika

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1 Handelson of Jones Day on behalf of the
 2 Defendants.
 3 Before everybody else introduces
 4 themselves, just to make clear for the record,
 5 the video is only capturing the responses by
 6 the witness. The court reporter is catching
 7 the questions and objections of the counsel, as
 8 well as the statements of the witness, and if
 9 everyone can just be particularly careful and
 10 conscious of when they are making objections
 11 that they recognize that the court reporter has
 12 to hear them and we don't have amplified sound
 13 in this room.
 14 MR. NUNEZ: Rudy Nunez on behalf of
 15 Mr. Fabiani and United States Quantum Leap,
 16 LLC.
 17 MR. CHAIKEN: Good morning. Brian Chaiken
 18 on behalf of Plaintiffs.
 19 MR. LEON DE LA BARRA: Good morning.
 20 Francisco Leon de la Barra on behalf of
 21 third-party defendants, JM Products, Inc.;
 22 Henry Johnson and James A. Bass.
 23 (Thereupon, Norma Merlano was duly sworn
 24 to act as interpreter.)
 25 Thereupon:

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1 FULVIO FABIANI
 2 a witness named in the notice heretofore filed,
 3 being of lawful age and having been first duly
 4 sworn, testified on his oath as follows:
 5 EXAMINATION
 6 BY MR. PACE:
 7 Q. Let me start, before I even begin the
 8 deposition, two points. It is also for everyone in
 9 the room.
 10 To assist in the translation, I'm going to
 11 try to keep my questions short, or at least -- or at
 12 least pause between my questions to allow for
 13 translation.
 14 Mr. Fabiani, I would request that you also
 15 occasionally pause in your responses.
 16 A. Very well.
 17 Q. There are likely to be some technical
 18 terms used today. To the extent that there is not
 19 an obvious Italian translation, the translator may
 20 use the English word. And if you don't understand
 21 the technical term in English, please let the
 22 interpreter know.
 23 A. Very well.
 24 Q. Mr. Fabiani, can you state your full name
 25 for the record?

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1 A. Fulvio Fabiani.
 2 Q. Mr. Fabiani, what is your current address?
 3 A. 36 Parka Mova in Russia.
 4 Q. Mr. Fabiani, please spell out your
 5 address.
 6 A. P-A-R-K-A.
 7 DR. ROSSI: Mova, M-O-V-A.
 8 THE INTERPRETER: That's what I was
 9 thinking. M-O-V-A. P-A-R-K-A, M-O-V-A,
 10 Slovenia.
 11 MR. PACE: The next time I say spell it, I
 12 mean use letters.
 13 BY MR. PACE:
 14 Q. Mr. Fabiani, have you been deposed before?
 15 A. In what country, sir?
 16 Q. In any country.
 17 A. Yes.
 18 Q. When?
 19 A. From '98 to 2002.
 20 Q. In what cases?
 21 A. When I served as a technician in court in
 22 Rome.
 23 Q. What was your job?
 24 A. Adviser to the --
 25 DR. ROSSI: To the judge.

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1 THE WITNESS: To the judge.
 2 MR. PACE: Wait, wait, wait. Let's be
 3 clear. Stop.
 4 We need to get this on the record, and you
 5 can translate for this witness. I understand
 6 that you cannot -- you cannot ask -- you cannot
 7 ask translations from Dr. Rossi. Dr. Rossi
 8 cannot provide you translations. There should
 9 be no communications between --
 10 DR. ROSSI: Sorry.
 11 MR. PACE: That's fine. That's fine. To
 12 be clear -- no, no, I understand. You're just
 13 trying to help. Let's make sure we're clear
 14 about that going forward. At a break, if
 15 there's some phrase that you're not sure of the
 16 interpretation, we can --
 17 THE INTERPRETER: We will put it on the
 18 record.
 19 MR. PACE: Yes. That's all I'm asking.
 20 Otherwise, it's going to become very confusing.
 21 MR. NUNEZ: If I can add something. There
 22 may be a time where Dr. Rossi, who is fluent in
 23 Italian, notices or has a dispute with the
 24 translation offered by the translator. So we
 25 do want to get on the record in case there is

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1 some confusion as to the translation of a
 2 particular word.
 3 THE INTERPRETER: If the interpreter is
 4 not sure, but what he says, like an adviser,
 5 and the interpreter needs it, maybe like an
 6 expert witness. I'm not sure of the technical
 7 for the Judge.
 8 MR. PACE: I think as long as it's a
 9 literal translation, I can ask clarifying
 10 questions.
 11 So let's go back to presenting the
 12 questions to the witness.
 13 BY MR. PACE:
 14 Q. What work were you performing for the
 15 Italian court system?
 16 A. Technical adviser.
 17 Q. Technical adviser as to what?
 18 A. In the electronic and computer plant.
 19 DR. ROSSI: Information.
 20 THE INTERPRETER: Information.
 21 BY MR. PACE:
 22 Q. In that job, did you testify under oath?
 23 A. Yes.
 24 Q. Have you testified under oath on any other
 25 occasions?

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1 A. Only in my work.
 2 Q. Do you mean only when you served as a
 3 technical adviser to the court?
 4 A. Yes.
 5 Q. Do you understand that you are under oath
 6 today as if you were testifying in court?
 7 A. Yes.
 8 Q. Any reason you cannot provide accurate
 9 testimony today?
 10 A. No. No.
 11 Q. If I ask an unclear question today, will
 12 you please ask me to clarify the question?
 13 A. Yes.
 14 Q. If you do not understand one of my
 15 questions, will you please let me know that you
 16 don't understand the question?
 17 A. Yes.
 18 Q. In response to my questions, I need verbal
 19 responses, so nodding your head is not sufficient.
 20 Do you understand?
 21 A. Yes.
 22 Q. Mr. Fabiani, when did you leave the United
 23 States?
 24 A. I do not remember exactly.
 25 Q. What is your best recollection of when you

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1 left the United States of America?
 2 A. As far as I could recall, it was around
 3 July of 2016.
 4 Q. Do you presently have any intention of
 5 coming back to the United States?
 6 A. It does not depend on me. It depends on
 7 my work.
 8 Q. Mr. Fabiani, do you presently have any
 9 intention to come back to the United States?
 10 A. In the short-term right now, no.
 11 Q. Mr. Fabiani, you own a company called
 12 United States Quantum Leap?
 13 A. Yes.
 14 Q. The registered address for that company is
 15 1331 Lincoln Road, correct?
 16 A. Not completely and not currently.
 17 Q. What is the current address for US Quantum
 18 Leap?
 19 A. It is through the office of my accountant.
 20 Q. The business address of US Quantum Leap is
 21 your accountant's address?
 22 A. Yes.
 23 Q. And that accountant is Diane Anniser?
 24 A. Yes.
 25 Q. And your statement is that US Quantum Leap

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PARTY:
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1 provides some kind of business or services at the
2 office of Diane Anniser?
3 MR. NUNEZ: Object to form.
4 THE INTERPRETER: Could you repeat the
5 question? I want to make sure that I translate
6 clearly.
7 BY MR. PACE:
8 Q. Does US Quantum Leap perform any services
9 at the office of Diane Anniser?
10 A. No.
11 Q. Mr. Fabiani, you have not changed the
12 address of US Quantum Leap with the Florida
13 Secretary of State?
14 A. That is not my job.
15 Q. Who else works for US Quantum Leap?
16 A. Excuse me. Where?
17 Q. I will ask my question again.
18 Who else works for US Quantum Leap?
19 A. In the United States?
20 Q. Anywhere.
21 A. My attorney, my accountant, the engineers
22 that work for me throughout the world.
23 Q. Who is the president of US Quantum Leap?
24 A. I am.
25 Q. Who is the owner of US Quantum Leap?

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1 A. I am.
2 Q. So isn't it your responsibility to
3 accurately report the location of US Quantum Leap?
4 A. It is my responsibility, but it is not my
5 job. My chore.
6 Q. Mr. Fabiani, you own several other
7 corporations in the state of Florida, correct?
8 A. Currently, no.
9 Q. Do you own a company called Deaf's
10 Solution?
11 A. Currently, no.
12 Q. When did you sell that company?
13 A. Last year.
14 Q. When last year?
15 A. I don't remember.
16 Q. In what time of year?
17 A. I don't remember. I don't remember --
18 well, I think, if I recall correctly, it was around
19 the end of the year.
20 Q. To whom did you sell the company?
21 A. I'm sorry, but these are not matters
22 that -- these are private things. They are not
23 relevant to this case.
24 Q. Let me ask my question again.
25 To whom did you sell the company?

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1 A. To an Italian. Private, in Italy.
2 Q. Was that Marco Deargia?
3 A. Marco Deargia is the second partner.
4 Q. So to whom --
5 A. The president of the company.
6 Q. What is the name of the individual to whom
7 you sold Deaf's Solution?
8 A. I don't remember.
9 Q. You just remember he or she was a resident
10 of Italy, correct?
11 MR. NUNEZ: Object to form.
12 THE WITNESS: Yes.
13 BY MR. PACE:
14 Q. You know that you sold it at the end of
15 2016, correct?
16 A. I think I'm remembering that that is
17 correct.
18 Q. To whom did you sell your interest in
19 Deaf's Solution?
20 MR. NUNEZ: Object to form.
21 MR. LEON DE LA BARRA: Same objection.
22 THE WITNESS: To a second partner who was
23 introduced to me by Marco Deargia.
24 BY MR. PACE:
25 Q. Who is that second partner?

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1 A. I don't remember.
2 Q. Did you ever know the name of this second
3 partner?
4 A. No. I only met him that day when I did
5 the sale agreement.
6 Q. So you sold Deaf's Solution to an
7 individual who you did not know?
8 A. I met the person the day in which I sold
9 my percentage or my interest.
10 Q. Did you meet this person in Italy?
11 A. Yes.
12 Q. For how much did you sell your interest in
13 Deaf's Solution?
14 MR. NUNEZ: Object to form.
15 THE WITNESS: Around 500 euros.
16 BY MR. PACE:
17 Q. Why did you sell your interest in Deaf's
18 Solution?
19 A. I was not interested any longer in the
20 objective of the company.
21 Q. You have taken no action to remove
22 yourself as an officer of the company?
23 A. I was -- I was not the president. I was
24 not an officer of the company.
25 Q. You were a manager of the company,

Page 17

1 correct?
2 A. No.
3 Q. Are you aware that you were listed as a
4 manager of the company with the Florida Secretary of
5 State?
6 A. I don't remember. I would have to verify
7 through the documents.
8 Q. You also own a company called Miami
9 Cooling?
10 A. Yes.
11 Q. Where is Miami Cooling based?
12 A. It doesn't exist any longer. It has been
13 closed.
14 Q. When did you close Miami Cooling?
15 A. I did not close it. The president did.
16 Q. Who was the president of Miami Cooling?
17 A. Nicola Sinisi.
18 Q. Nicola Sinisi lives in Italy, correct?
19 A. I don't know. I imagine so. I suppose he
20 does.
21 Q. You entered a business with Mr. Sinisi
22 without knowing where he lives?
23 A. I know where he lives, but I don't know
24 where his actual legal residence is.
25 Q. So Mr. Sinisi lives in Italy, correct?

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1 A. Yes, that is correct, he lives in Italy.
2 Yes.
3 Q. And the business of Miami Cooling was
4 going to be performed in the United States, correct?
5 A. The objective was to do business in Miami.
6 Q. And objective could not be achieved once
7 you decided to leave for Russia?
8 MR. NUNEZ: Object to form.
9 THE WITNESS: I did not understand the
10 question.
11 BY MR. PACE:
12 Q. You cannot operate a business after you
13 decided to leave -- you could not operate a business
14 in the United States after you decided to leave the
15 United States and move to Russia?
16 MR. NUNEZ: Object to form.
17 THE WITNESS: I repeat, I was not -- I was
18 not the director of the company. It was -- it
19 was done to observe the American market for the
20 American -- for the air conditioning system.
21 Could you allow me one second? I need to
22 go to the bathroom.
23 THE INTERPRETER: The gentleman needs to
24 go to the bathroom.
25 MR. PACE: Sure, we'll take a break.

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1 THE WITNESS: Sorry, but I take pills for
2 blood pressure.
3 THE VIDEOGRAPHER: Stand by. Going off
4 the video record at 8:20 a.m.
5 (Thereupon, a recess was taken, after
6 which the following proceedings were held:)
7 THE VIDEOGRAPHER: We are now back on the
8 video record. The time on the video is
9 8:26 a.m.
10 BY MR. PACE:
11 Q. Mr. Fabiani, if Miami Cooling was going to
12 do any business in the United States -- if Miami
13 Cooling was going to do any business in the United
14 States, would it be done by you? By you?
15 A. No. Miami Cooling never functioned. It
16 never opened. Okay. It was closed, but it didn't
17 have objective -- a market, a market here. No
18 market, objective.
19 Q. The only manager or owner of Miami Cooling
20 in the United States was you?
21 MR. NUNEZ: Object to form.
22 THE WITNESS: Owner, yes, but manager, no.
23 BY MR. PACE:
24 Q. You are also the owner of a company called
25 Trading Tech?

Page 20

1 A. Yes.
2 Q. That is also a company that is based at
3 1331 Lincoln Road?
4 MR. NUNEZ: Object to form.
5 THE WITNESS: It is not registered any
6 longer, but -- because it's also in the process
7 of closing. Okay. It was -- the accountant
8 has been ordered to close the company. It is
9 in the process of closing.
10 BY MR. PACE:
11 Q. Who directed the accountant to close the
12 company?
13 A. It was a mutual agreement of the partners.
14 Q. And the partners are you and Francisco
15 Rimaldi?
16 A. No. Only us two. Not also, but only us
17 two.
18 Q. And when Trading Tech was operating, it
19 was operating out of the address at 1331 Lincoln
20 Road?
21 MR. NUNEZ: Object to form.
22 THE WITNESS: It never operated as a
23 business. It was founded, but never operated
24 as a business.
25

Page 21

1 BY MR. PACE:
2 Q. Why did you create Trading Tech, Miami
3 Cooling and Deaf's Solution all in March of 2016?
4 MR. NUNEZ: Object to form.
5 THE WITNESS: Coincidence.
6 BY MR. PACE:
7 Q. I'm sorry, Mr. Fabiani, was your response
8 "coincidence"?
9 A. Yes, it was a coincidence, because there
10 were three companies with three different functions
11 and different partners that had nothing in common,
12 only me as the person that prepared the projects, as
13 the adviser of the project.
14 Q. And you were -- you were advising all of
15 these projects in March of 2016?
16 A. Probably almost for sure. There were
17 different initiations for each project, but it just
18 happened to be a coincidence that these people
19 arrived all at the same period of time.
20 Q. But if all of these companies were formed
21 in March of 2016, you were working with or for these
22 companies in March of 2016?
23 A. Sir, I usually work for more than one
24 project at a time, not just one.
25 Q. Again, my question is: In March of 2016,

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1 you were working with Miami Cooling, Trading Tech,
2 and Deaf's Solution?
3 MR. NUNEZ: Object to form.
4 THE WITNESS: Sir, to be a partner in a
5 company does not mean working with a company.
6 BY MR. PACE:
7 Q. Right. So you were, in March of 2016, you
8 were a partner in Trading Tech, Miami Cooling and
9 Deaf's Solution?
10 A. Yes. Partner, yes.
11 Q. And the business plan for each of those
12 companies was to have some type of business in the
13 United States?
14 MR. NUNEZ: Object to form.
15 THE WITNESS: That is not -- that is not
16 my job, to decide what the company does.
17 BY MR. PACE:
18 Q. I'm sorry. As the owner of the company,
19 it is not your job to decide what the company does?
20 MR. NUNEZ: Object to form.
21 THE WITNESS: As far as I know, no, I am
22 the technical adviser.
23 BY MR. PACE:
24 Q. Were you a technical adviser for companies
25 that were going to operate a business in the United

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1 States?
2 THE INTERPRETER: I'm sorry.
3 MR. PACE: Yes.
4 MR. NUNEZ: Object to form.
5 THE INTERPRETER: (In Italian.)
6 The interpreter is -- (In Italian.)
7 MR. ROSSI: In Italian.
8 THE WITNESS: The companies did not do any
9 work. They did not function or work.
10 THE INTERPRETER: (In Italian.)
11 BY MR. PACE:
12 Q. After you became a partner in these three
13 companies in March of 2016, you left the United
14 States in July of 2016?
15 A. Yes, because my sister passed away in
16 Italy.
17 Q. Your sister passing away in Italy led you
18 to leave the United States and move to Russia?
19 MR. NUNEZ: Object to form.
20 THE INTERPRETER: Hello?
21 THE WITNESS: Sorry, now I could hear you.
22 Can you please repeat the question? I had lost
23 you.
24 BY MR. PACE:
25 Q. Your sister passing away in Italy -- let

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1 me do this: Did you testify earlier that you moved
2 to Russia in July of 2016?
3 MR. NUNEZ: Object to form.
4 THE WITNESS: No, sir.
5 BY MR. PACE:
6 Q. When did you move to Russia?
7 A. I left Italy in July of 2016.
8 Q. Left Italy. Left Italy for where?
9 A. I left the United States to go to Italy
10 for my sister's funeral.
11 Q. When did you move to Russia?
12 A. I normally travel -- I usually travel
13 throughout Europe to Russia. This is normal in my
14 work.
15 Q. When did you move to Russia?
16 A. I live now in Russia and I --
17 THE INTERPRETER: (In Italian.) Could you
18 please repeat the last part for the
19 interpreter?
20 THE WITNESS: The last time that I
21 traveled, that I came to Russia, was two months
22 ago.
23 BY MR. PACE:
24 Q. But you now live in Russia?
25 A. At this moment, yes, but I don't just work

Page 25

1 in Russia, I work throughout Europe.
 2 Q. Where did you live two months ago?
 3 A. Slovenia.
 4 Q. How long did you live in Slovenia?
 5 A. Sir, I don't have exact dates. I travel
 6 throughout Europe: Spain, Italy, Germany, England,
 7 and all of the -- okay, the Soviet Russian states,
 8 Ukraine, and all of the different states in Russia.
 9 Q. Let me ask, when did you last live outside
 10 either Russia or one of the former Soviet states?
 11 A. This current? You mean this time? Which
 12 time now? When you say --
 13 Q. You currently live in Russia, correct?
 14 A. This current one is the last one. The
 15 current.
 16 MR. NUNEZ: I think there's an issue with
 17 the translation.
 18 MR. PACE: Everybody stop.
 19 THE INTERPRETER: You need to clarify.
 20 MR. PACE: Everyone stop. Let's go off
 21 the record.
 22 THE VIDEOGRAPHER: Stand by to go off the
 23 video record. Going off at 8:45 a.m.
 24
 25

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1 (Thereupon, a recess was taken, after
 2 which the following proceedings were held:)
 3 THE VIDEOGRAPHER: We are back on the
 4 video record. The time is 9:08 a.m.
 5 BY MR. PACE:
 6 Q. Mr. Fabiani, in light of the fact that we
 7 are using a translator today, I would ask you to
 8 pause in the middle of any long response. That way,
 9 the translator has a chance to translate what you
 10 say.
 11 DR. ROSSI: I think he's not hearing us.
 12 THE INTERPRETER: Something is wrong. Is
 13 it okay if I repeat it?
 14 MR. PACE: Wait.
 15 THE INTERPRETER: He heard me.
 16 THE WITNESS: I did answer. Certainly, I
 17 will try, for sure.
 18 BY MR. PACE:
 19 Q. We just had a technical pause there.
 20 Mr. Fabiani, let me approach our last subject
 21 differently.
 22 When -- you left the United States in July
 23 of -- in approximately July of 2016, correct?
 24 A. Yes.
 25 Q. Where did you reside -- next reside?

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1 A. Italy.
 2 Q. For how long?
 3 A. I currently am a resident in Italy. In
 4 other words, my legal domicile is Italy. My legal
 5 residence is in Italy.
 6 Q. But you are now living in Russia?
 7 A. I live in Russia for work purposes.
 8 Q. Where did you live before you lived in
 9 Russia?
 10 A. Italy. Slovenia. I did not have any
 11 other residence before Russia. Italy. And
 12 Slovenia. And Slovenia.
 13 Q. And what is the work that you are
 14 presently doing in Russia?
 15 A. Electronic informatic computer science.
 16 THE INTERPRETER: Computer science. I
 17 knew it was a word.
 18 BY MR. PACE:
 19 Q. For whom are you doing this computer
 20 science work?
 21 A. For several companies.
 22 Q. Which companies?
 23 A. For certain Russian and Slovenian
 24 companies.
 25 Q. Which Russian and Slovenian companies?

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1 A. I'm sorry, but it is covered by the NDA.
 2 Q. NDA, non-disclosure agreement.
 3 You have a non-disclosure agreement with
 4 each of these Russian and Slovenian companies?
 5 A. I do have an NDA for each one of my
 6 contracts.
 7 Q. Do you have an NDA with Leonardo
 8 Corporation?
 9 A. Yes.
 10 Q. Do you still have a copy of that NDA?
 11 A. Not at this moment.
 12 Q. When did you throw it away?
 13 A. I did not say that I threw it away.
 14 Q. You said you don't have it at this moment.
 15 Where is it?
 16 A. I don't have it at this moment. I think
 17 it is together along with my documentation in Italy.
 18 Q. So you have documentation in Italy; is
 19 that correct?
 20 A. I have documentation for each contract
 21 that I agree to -- that I have and I make.
 22 THE INTERPRETER: It was a continuation to
 23 the answer.
 24 THE WITNESS: Could you please repeat what
 25 you translated, because I did not understand

THIRD PARTY: R

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1 because you stopped.
2 THE INTERPRETER: This is him talking to
3 the interpreter.
4 The interpreter did not get a chance to
5 translate his second portion.
6 BY MR. PACE:
7 Q. Okay. I will break the question down.
8 You have documents in -- you have
9 documents stored somewhere in Italy?
10 A. I have documents in the United States. I
11 have documents in Italy. I have documents in
12 Slovenia. And I have documents with me here in
13 Russia.
14 Q. And you believe you have a copy of the NDA
15 with Leonardo Corporation along with your documents
16 in Italy?
17 A. I think I have them either in Italy --
18 THE INTERPRETER: Could you please repeat
19 your answer for the interpreter?
20 THE WITNESS: I do not take to the
21 territory documents that is not of interest in
22 that territory.
23 BY MR. PACE:
24 Q. Do you believe that you have a copy of
25 your NDA with Leonardo Corporation in either Italy

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1 or the United States?
2 A. I think so.
3 Q. You collected documents for your counsel
4 in this case, correct?
5 MR. NUNEZ: I'm going to object to form.
6 THE WITNESS: Could you please explain a
7 little bit better what documents you are
8 talking about?
9 BY MR. PACE:
10 Q. Did you receive discovery requests from
11 this litigation?
12 MR. NUNEZ: Object to form.
13 MR. LEON DE LA BARRA: Object to form.
14 THE WITNESS: Please forgive me, but it is
15 not -- I'm not comprehending the question. I'm
16 not.
17 MR. PACE: I will do it again.
18 BY MR. PACE:
19 Q. You were asked to collect certain
20 documents for this case.
21 A. Yes.
22 Q. And those were documents that you were
23 going to provide to the other parties in the case?
24 A. I do not know who they were provided to.
25 Q. You were asked to collect, for example,

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1 your emails with Andrea Rossi?
2 THE INTERPRETER: Could you please repeat
3 your answer?
4 THE WITNESS: The documentation that
5 was -- the complete documentation that is in
6 my -- that I have in my --
7 DR. ROSSI: Possess.
8 MR. NUNEZ: Possession.
9 THE INTERPRETER: I'm sorry, I will get
10 the word.
11 THE WITNESS: -- possession has been sent
12 to my attorney.
13 BY MR. PACE:
14 Q. Did you search --
15 A. I would like to finish.
16 Whatever I have not sent is not in my
17 possession any longer.
18 Q. Did you search the documents that you have
19 in the United States?
20 A. No, in the US, no.
21 THE INTERPRETER: It was cut. The answer
22 was cut. There was a technical difficulty.
23 Could you please repeat the answer?
24 THE WITNESS: I'm also having --
25 THE INTERPRETER: He's also having that

Page 32

1 problem, kind of chopped up. He's getting
2 delayed. Our voices is getting like in pieces
3 and delayed. Maybe if you try to fix the
4 connection for a minute.
5 MR. PACE: Move that closer to you.
6 THE WITNESS: It is a connection problem.
7 In this moment, it is near to yellow.
8 MR. PACE: Let's ask my question again.
9 BY MR. PACE:
10 Q. He may have answered this, but did you
11 search your documents in the United States?
12 A. Physically, no.
13 Q. Did you search the documents you have in
14 Italy?
15 A. Physically, no.
16 Q. But you believe you have a physical copy
17 of an NDA with Leonardo Corporation either in the
18 United States or Italy?
19 A. Perhaps. I think so. Perhaps. I don't
20 have a certainty of it.
21 Q. You were asked to collect your email
22 communications with various individuals, correct?
23 A. Yes. Yes.
24 Q. You provided very few emails with, for
25 example, Dr. Rossi?

R

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1 A. I provided everything that was in my
 2 possession after the closing of the contract with
 3 Industrial Heat.
 4 Q. Did you search for your email
 5 communications with James Bass?
 6 A. Yes, I searched for them.
 7 Q. And did you search through your email
 8 communications with Andrea Rossi?
 9 A. Yes, I searched for them.
 10 Q. If Andrea Rossi and James Bass produced
 11 far more email communications with you, then is that
 12 because you have deleted some of your email
 13 communications with, for example, Dr. Rossi and
 14 James Bass?
 15 A. In the contract, it was foreseen that I
 16 was to delete everything that was in my power, in my
 17 possession, once the term of the contract would end.
 18 I was to delete. I only saved the necessary
 19 documents. Once I obtained the final payment and
 20 renewal of the contract, as it was promised by
 21 Industrial Heat.
 22 THE INTERPRETER: There was a discrepancy
 23 in the translation. Would you like me to ask
 24 the question again and try to get an answer?
 25 May the interpreter ask him to divide the

Page 34

1 answer.
 2 MR. PACE: Let me do this. Let me say it.
 3 BY MR. PACE:
 4 Q. Mr. Fabiani, we need you to provide -- to
 5 break your responses into shorter sentences.
 6 A. Okay. It is only one block, because it is
 7 divided by significance.
 8 THE INTERPRETER: (In Italian.)
 9 THE WITNESS: Once it is divided, it loses
 10 its meaning.
 11 BY MR. PACE:
 12 Q. You are claiming that you deleted emails
 13 because you were required to by your contract with
 14 Industrial Heat?
 15 A. My contract with Industrial Heat would
 16 foresee -- okay. It was foreseen that I had to give
 17 my -- all of the documentation that was done by me.
 18 THE INTERPRETER: No. The interpreter is
 19 not understanding. (In Italian.)
 20 THE WITNESS: I have to finish my answer.
 21 And this --
 22 THE INTERPRETER: The interpreter is not
 23 understanding. (In Italian.)
 24 DR. ROSSI: Delivery.
 25 THE INTERPRETER: The delivery.

L, R

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1 THE WITNESS: The delivery was effected to
 2 the attorney that is present. It was all --
 3 afterwards, it was all deleted afterwards to
 4 respect the agreement of the contract.
 5 BY MR. PACE:
 6 Q. That is literally what he's saying.
 7 Mr. Fabiani, I want to understand here,
 8 there are emails that you have deleted that relate
 9 to either the E-CAT or to Leonardo Corporation or to
 10 Industrial Heat, correct?
 11 A. They were deleted, as it was required by
 12 the contract.
 13 Q. And when did you delete those emails?
 14 A. The day after the contract expired.
 15 Q. And pursuant to that contract, did you
 16 provide copies of that information to Industrial
 17 Heat?
 18 THE INTERPRETER: Copies of the contract?
 19 Sorry.
 20 MR. PACE: Let me say it again.
 21 THE INTERPRETER: (In Italian.)
 22 BY MR. PACE:
 23 Q. Let me just -- no, no.
 24 Before deleting those emails, did you
 25 provide copies of them to Industrial Heat?

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1 A. A copy of what?
 2 Q. The emails you just testified that you had
 3 deleted after the expiration of the contract.
 4 A. It was not -- in the contract, it did not
 5 ask for any emails to be sent. No, it did not ask
 6 for any copies of the emails. Just of the data,
 7 information, copies of the data.
 8 Q. Let me ask my question to you again.
 9 You testified that you have deleted some
 10 of these email communications with -- the email
 11 communications that involve the E-CAT -- that
 12 involve the E-CAT or Leonardo Corporation or
 13 Industrial Heat?
 14 A. Yes.
 15 Q. And you have deleted those -- wait -- and
 16 you have deleted those within the past year?
 17 MR. NUNEZ: Object to form.
 18 THE WITNESS: The day after the end of the
 19 contract.
 20 BY MR. PACE:
 21 Q. You deleted those emails within the past
 22 year?
 23 MR. NUNEZ: Object to form.
 24 THE WITNESS: When you say this last year,
 25 what year are you talking about?

R

AA, R, L

R

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1 BY MR. PACE: [REDACTED]

2 Q. You deleted those emails within the last

3 12 months? [REDACTED]

4 MR. NUNEZ: Object to form.

5 THE WITNESS: I would like to know which

6 year you're talking about. [REDACTED]

7 BY MR. PACE: [REDACTED]

8 Q. The past 12 months, Mr. Fabiani.

9 A. We are in February, so -- yes, I think

10 that that is within the 12 months. I think so.

11 Q. Prior to deleting those emails, did you

12 send copies of them to anyone? [REDACTED]

13 A. I do not remember if I distributed copies

14 during work. [REDACTED]

15 Q. The question was probably not well done.

16 When you decided to delete some email --

17 when you decided to delete the emails that we have

18 been talking about, at or shortly before that time

19 did you forward those emails to anyone else?

20 A. That I recall, no. Before, it was normal.

21 During the period of time that the work was

22 developing, that was normal. [REDACTED]

23 After the contract expired, whatever was

24 left was sent to my attorney. [REDACTED]

25 Q. And when you say your attorney, do you

Page 38

1 mean Rudy Nunez?

2 A. Yes. [REDACTED]

3 Q. Dr. Penon testified the other day that you

4 sent to him a series of emails. Did you send email

5 communications to Dr. Penon? [REDACTED]

6 A. During the development of my work for

7 Industrial Heat. [REDACTED]

8 Q. Did these emails include attachments of

9 data? [REDACTED]

10 THE INTERPRETER: One moment. The

11 interpreter's microphone fell off. We are

12 good.

13 THE VIDEOGRAPHER: Thank you.

14 THE INTERPRETER: I'm sorry. What kind of

15 data?

16 BY MR. PACE: [REDACTED]

17 Q. Data. Attachments of data. [REDACTED]

18 A. Yes. [REDACTED]

19 Q. This included data that you took off of a

20 computer owned by Dr. Penon? [REDACTED]

21 MR. NUNEZ: Object to form.

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

23 THE WITNESS: The answer is no. [REDACTED]

24 BY MR. PACE: [REDACTED]

25 Q. Did Dr. Penon have a computer at the Doral

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1 location? [REDACTED]

2 A. Where precisely? [REDACTED]

3 Q. At the warehouse in Doral. [REDACTED]

4 A. Yes, in the studio where the plant was.

5 Q. Did you -- is this -- did you have access

6 to that computer? [REDACTED]

7 A. What do you mean by access? [REDACTED]

8 Q. Were you able to access the data or

9 information on that computer? [REDACTED]

10 A. No. [REDACTED]

11 Q. What was the data that you sent -- you

12 would send by email to Dr. Penon?

13 A. I did not understand the question.

14 THE INTERPRETER: Maybe the interpreter

15 did not translate it correctly.

16 MR. PACE: No problem.

17 BY MR. PACE: [REDACTED]

18 Q. What data would you send to Dr. Penon by

19 email? [REDACTED]

20 A. My summary of the -- [REDACTED]

21 DR. ROSSI: Operation. [REDACTED]

22 THE WITNESS: -- operation of the -- [REDACTED]

23 DR. ROSSI: Plant. [REDACTED]

24 THE WITNESS: -- the plant. Okay. [REDACTED]

25

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1 MR. PACE: Let's do that again.

2 THE INTERPRETER: I've got it now.

3 BY MR. PACE: [REDACTED]

4 Q. Mr. Fabiani, let me ask my question again

5 to allow for translation again. [REDACTED]

6 What data would you send to Dr. Penon by

7 email? [REDACTED]

8 A. A summary of the operation of the plant.

9 Q. How often would you send those emails to

10 Dr. Penon? [REDACTED]

11 A. Usually every two months. Every two

12 months. [REDACTED]

13 Q. Have you saved those emails? [REDACTED]

14 A. No, absolutely not. [REDACTED]

15 Q. When did you delete those emails? [REDACTED]

16 A. The day after the contract expired. [REDACTED]

17 Q. And you did not -- before deleting those

18 emails, you did not send copies of those emails

19 either to Industrial Heat or to your counsel?

20 MR. NUNEZ: Object to form.

21 THE WITNESS: Before the expiration of the

22 contract -- [REDACTED]

23 THE INTERPRETER: (In Italian.) [REDACTED]

24 THE WITNESS: Before -- had been sent

25 to -- [REDACTED]

R, AA

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

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1 (Thereupon, a recess was taken, after
 2 which the following proceedings were held:)
 3 MR. PACE: Back on the record.
 4 THE VIDEOGRAPHER: We are now back on the
 5 video record. The time back on is 9:55 a.m.
 6 BY MR. PACE:
 7 Q. Mr. Fabiani, before you deleted the emails
 8 you sent to Dr. Penon, did you send those specific
 9 emails to anyone else?
 10 A. I have to give a response a bit long, so I
 11 have to divide it in several parts.
 12 MR. NUNEZ: Well, let him answer.
 13 BY MR. PACE:
 14 Q. Can you answer yes or no first?
 15 A. Well, the answer of a yes or a no depends
 16 on the time frame, the period of time.
 17 Q. All right. Then let me -- I will narrow
 18 it to make it easier.
 19 A. Correct.
 20 Q. Did you forward the emails that you sent
 21 to Dr. Penon immediately before deleting them?
 22 THE INTERPRETER: Can you repeat the
 23 question again because I'm hearing that that is
 24 not correct.
 25 THE WITNESS: (In English.) Sorry. I

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1 don't understand the question. It is not
 2 complete.
 3 BY MR. PACE:
 4 Q. Did you forward -- forwarding an email,
 5 does that translate for something in Italian or are
 6 you having a problem with that? Let me use a
 7 different word.
 8 THE INTERPRETER: It is to send.
 9 DR. ROSSI: To forward in Italian -- (in
 10 Italian.)
 11 THE INTERPRETER: Okay.
 12 BY MR. PACE:
 13 Q. Did you forward the emails you sent to
 14 Dr. Penon to anyone else?
 15 A. I did not forward the emails to anyone. I
 16 sent the email to several --
 17 DR. ROSSI: I delivered.
 18 THE INTERPRETER: I delivered the emails.
 19 DR. ROSSI: The emails, the data.
 20 MR. PACE: The data. The data.
 21 THE INTERPRETER: I delivered the emails
 22 to -- (in Italian.)
 23 MR. NUNEZ: He gave the emails to various
 24 people. Not the emails, the data.
 25 MR. PACE: If everybody can stop. What is

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1 the Italian word you're using for email?
 2 THE INTERPRETER: Email.
 3 MR. PACE: If he does not use the word
 4 email --
 5 THE INTERPRETER: He's using email in
 6 English. Email.
 7 MR. PACE: What I think he was responding
 8 in Italian is "the summary or the records." He
 9 did not use the word "email." So your
 10 translation should not use the word "email."
 11 Let me try this again, to make sure I've got
 12 it.
 13 BY MR. PACE:
 14 Q. Mr. Fabiani, you are testifying that you
 15 did not forward the Dr. Penon emails to anyone, but
 16 you sent the same data you provided Dr. Penon to
 17 others?
 18 A. Okay. I did not understand it. It is
 19 quite complex because -- because the email of
 20 Dr. Penon --
 21 DR. ROSSI: The email sent to Dr. Penon.
 22 THE INTERPRETER: The email sent to
 23 Dr. Penon was not forwarded to anyone.
 24 MR. PACE: Understood.
 25 THE WITNESS: But the data that was

IC

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1 contained in that email --
 2 DR. ROSSI: Has been delivered.
 3 THE INTERPRETER: Has been delivered to
 4 Dr. Rossi. (In Italian.)
 5 THE WITNESS: Have been hand-delivered to
 6 Dr. Rossi.
 7 THE INTERPRETER: (In Italian.)
 8 The interpreter is not understanding the
 9 names. It is chopped up.
 10 Could you please repeat the names?
 11 THE WITNESS: J.T. Bolgan. Tom something.
 12 BY MR. PACE:
 13 Q. Darden?
 14 A. Darden, during the time that they visited
 15 the plant.
 16 The day before the contract expired, I
 17 went to -- I went to the officer or the firm of
 18 Jones Day, and I hand-delivered to the engineer of
 19 Industrial Heat.
 20 DR. ROSSI: A flash drive.
 21 MR. NUNEZ: A flash drive.
 22 THE WITNESS: A flash drive that contained
 23 the same.
 24 DR. ROSSI: Reports.
 25 THE INTERPRETER: Reports.

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

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

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

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

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1 Q. And if I refer to the Doral warehouse, do
2 you understand that is the warehouse where you were
3 working with Dr. Rossi?
4 A. Yes. I only know that one, the Doral.
5 Q. During this meeting, you explained that
6 you had only met with James Bass a few times?
7 A. Yes.
8 Q. At this meeting, you explained that the
9 only times you spoke with James Bass were to
10 discuss -- were to discuss the power needs of JM
11 Products?
12 THE INTERPRETER: Power needs?
13 BY MR. PACE:
14 Q. To discuss the amount of power or energy
15 that was needed by JM Products.
16 MR. NUNEZ: Object to form.
17 THE WITNESS: For everything that had to
18 do with the E-CAT, we would only talk about the
19 necessary power at the JM company.
20 DR. ROSSI: Company.
21 BY MR. PACE:
22 Q. And you explained at this meeting that
23 Dr. Rossi also did not meet often with JM Products?
24 MR. NUNEZ: Object to form.
25 MR. LEON DE LA BARRA: Object to form.

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1 THE WITNESS: It is not comprehensible,
2 the question. I can't understand it.
3 BY MR. PACE:
4 Q. I'm going to go back through this again.
5 We are talking about your first meeting
6 with J.T. Vaughn and the engineer from Industrial
7 Heat at the offices of Jones Day, okay?
8 A. Yes.
9 Q. At that meeting, you explained that you
10 spoke with James Bass only a few times, correct?
11 A. A few times, normally in one year, one or
12 two times a month. In the last period of time, it
13 could have even been three times a month.
14 Q. Mr. Fabiani, I'm asking you what you said
15 at this meeting at Jones Day. You said that you
16 rarely spoke with James Bass, correct?
17 MR. NUNEZ: Object to form.
18 MR. LEON DE LA BARRA: Object to form.
19 THE WITNESS: Yes. Five minutes a week is
20 rarely.
21 BY MR. PACE:
22 Q. You stated at this meeting that you would
23 only speak to James Bass about the energy needs of
24 JM Products?
25 MR. NUNEZ: Object to form.

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1 MR. LEON DE LA BARRA: Join.
2 THE WITNESS: For everything that had to
3 do with the CAT --
4 MR. NUNEZ: E-CAT.
5 THE WITNESS: -- E-CAT, I would talk only
6 about the production of energy.
7 BY MR. PACE:
8 Q. I don't understand your limitation.
9 What else -- I'm going to have to come
10 back to this. He's obviously talking past. Let me
11 just come up with a -- I'll come back to that in a
12 second.
13 At this meeting with Industrial Heat at
14 the offices of Jones Day, you also said that
15 Dr. Rossi rarely met with anyone from JM Products,
16 correct?
17 THE INTERPRETER: Met?
18 MR. PACE: Rarely met with anyone from JM
19 Products, correct?
20 MR. LEON DE LA BARRA: Object to form.
21 MR. NUNEZ: Same objection.
22 THE WITNESS: As far as I recall, I did
23 not say that.
24 BY MR. PACE:
25 Q. And you said that Dr. Rossi limited the

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1 interactions between --
2 THE INTERPRETER: Interactions?
3 BY MR. PACE:
4 Q. Limited the dealings between --
5 THE INTERPRETER: Hold on. I'm just
6 reading. The dealings between Leonardo
7 Corporation and JM Products.
8 I'm sorry. I need the whole question.
9 BY MR. PACE:
10 Q. You also said that Dr. Rossi insisted on
11 limiting the dealings between --
12 DR. ROSSI: I'm sorry.
13 THE INTERPRETER: Dealings.
14 MR. PACE: Let me use a different word.
15 Let me try this over again and use a different
16 word.
17 BY MR. PACE:
18 Q. At this meeting, you also said that
19 Dr. Rossi wanted to limit the involvement between
20 Leonardo Corporation -- that is not translating
21 either.
22 MR. PACE: All right. We need to take a
23 break.
24 DR. ROSSI: If you want, I can help.
25 MR. PACE: You may need to take a break,

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1 too.
2 THE VIDEOGRAPHER: Stand by to go off the
3 video. Going off at 10:21 a.m.
4 (Thereupon, a recess was taken, after
5 which the following proceedings were held:)
6 THE VIDEOGRAPHER: We are now back on the
7 video record. The time is 10:40 a.m.
8 BY MR. PACE:
9 Q. Mr. Fabiani, I wanted to show you an
10 exhibit. I'm going to mark it as Exhibit 1.
11 (The referred-to document was marked by
12 the court reporter for Identification as
13 Deposition Exhibit 1.)
14 BY MR. PACE:
15 Q. We are going to use the computer to go
16 through the pages for you. Can you see the
17 document?
18 A. Yes.
19 MR. PACE: Do you want to go to page 2?
20 And scroll down that. Slowly.
21 Let's go to page 3 and then I will ask a
22 question. If you can go back up to page 1 now.
23 BY MR. PACE:
24 Q. Mr. Fabiani, do you recognize this as an
25 email that you sent to J.T. Vaughn -- I'm sorry, let

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1 me say it again. I apologize.
2 Do you recognize this email that you sent
3 to J.T. Vaughn?
4 A. It could be.
5 Q. And do you recognize the CV attached to
6 the email?
7 A. It could be my curriculum, but I don't
8 remember.
9 DR. ROSSI: CV.
10 THE WITNESS: Because it is from 2013.
11 BY MR. PACE:
12 Q. Do you recognize this CV as a document you
13 prepared?
14 A. I don't remember the curriculum from 2013.
15 It could be mine.
16 Q. Do you have any reason -- do you have any
17 reason to have sent a CV to J.T. Vaughn that was not
18 yours?
19 A. Me? No.
20 Q. So is your only uncertainty about this
21 document, about the CV attached here as Exhibit 1 --
22 THE INTERPRETER: I'm sorry.
23 BY MR. PACE:
24 Q. Is your only uncertainty as to the CV
25 shown here the date of when it was prepared?

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1 Let me try this again. Let me try it
2 again.
3 Do you recognize the CV that you are being
4 shown as part of Exhibit 1?
5 A. I couldn't say because I have not read it
6 all.
7 MR. PACE: Do you want to scroll through
8 it? Good.
9 THE WITNESS: Too fast. Please. Too much
10 fast.
11 THE INTERPRETER: He said too much fast,
12 please.
13 THE WITNESS: Okay. Stop.
14 BY MR. PACE:
15 Q. Mr. Fabiani, will you let us know when you
16 want us to go to the next page?
17 A. Absolutely, yes.
18 DR. ROSSI: He says he's reading.
19 THE INTERPRETER: Right now, he said.
20 DR. ROSSI: Yes, before he said.
21 MR. PACE: Before he said, okay.
22 Do you want to scroll down to the next
23 page, please?
24 THE WITNESS: I no say jump the page.
25 DR. ROSSI: My mistake. I am the culprit.

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1 MR. PACE: Mr. Fabiani, Dr. Rossi thought
2 you said move to the next page.
3 DR. ROSSI: I'm very sorry.
4 MR. PACE: It's fine. You were trying.
5 THE WITNESS: Okay. Next page. You can.
6 Stop.
7 I see that my image is covering. Okay.
8 Never mind. Thanks.
9 There is something that just doesn't --
10 could you please go lower, please? Go down?
11 Stop.
12 You can still go down some more.
13 MR. PACE: Just go down to the bottom of
14 this page and stop there. It's okay like that
15 for now. That's fine.
16 THE WITNESS: Could you still go down some
17 more?
18 MR. PACE: Actually, stop there.
19 BY MR. PACE:
20 Q. Mr. Fabiani, as to at least these first
21 two pages, do you recognize those as being at least
22 the first two pages of your CV?
23 A. Yes. They are some of the activities that
24 I have performed in my -- that are in my
25 curriculum -- in my risumi.

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1 Q. Uh-huh. And are these first two pages
2 that you have reviewed here accurate?
3 A. They are correct, but not precise, because
4 this is a summary.
5 Q. Okay. In terms of -- well, let me narrow
6 it down.
7 Let me ask you if we can go up to the page
8 that starts with the experience or where the
9 experience begins. I think it is the -- right
10 there.
11 MR. PACE: Can you scroll down just a
12 little bit? That's perfect.
13 BY MR. PACE:
14 Q. I want to ask about your description for
15 Leonardo Corporation. And, remember, this was a
16 document that was prepared back in 2013, at the time
17 you had been working for Leonardo Corporation for
18 about a year?
19 A. I started when -- okay. I started working
20 from June 2012 to the first months of 2014. I don't
21 remember if it was in the beginning of the summer.
22 DR. ROSSI: Correct.
23 THE WITNESS: Please forgive me, I don't
24 remember perfectly.
25 THE INTERPRETER: (In Italian.)

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1 THE WITNESS: There are some errors,
2 though, in this risumi. It seems something
3 that was taken from the Internet, because I do
4 not send a risumi with grammar errors.
5 BY MR. PACE:
6 Q. In 2012 or 2013, were you the technical
7 director at Leonardo Corporation?
8 A. Yes, the engineer. Rossi asked me to be
9 the technical consultant.
10 Q. In 2012 and in 2013, were you the head of
11 research and development for Leonardo Corporation?
12 THE INTERPRETER: Were you the head of --
13 I'm sorry.
14 BY MR. PACE:
15 Q. Were you the head of research and
16 development at Leonardo Corporation?
17 THE INTERPRETER: Research and -- I'm
18 sorry.
19 MR. PACE: Development.
20 THE WITNESS: That is correct, research
21 and development.
22 THE INTERPRETER: Please repeat again for
23 the interpreter.
24 THE WITNESS: I will make it short. I
25 will make it short.

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1 I was the head of the research and
2 development of the electrical part and the
3 electronic part.
4 BY MR. PACE:
5 Q. Electronics.
6 For how long did you work for Leonardo
7 Corporation?
8 A. From mid-2012 to mid-2013, not
9 exclusively.
10 MR. PACE: Can you scroll up?
11 BY MR. PACE:
12 Q. Is this education section of your CV
13 accurate?
14 DR. ROSSI: More or less.
15 THE WITNESS: More or less, yes.
16 BY MR. PACE:
17 Q. Can you tell me the less part? Where is
18 it not accurate?
19 A. It is not complete, not accurate, but not
20 complete. All of the part that talks about the
21 military.
22 DR. ROSSI: Specialization.
23 THE WITNESS: Specialization.
24 BY MR. PACE:
25 Q. It is accurate or not accurate?

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1 A. It is only short. It is -- it is not
2 possible to add the explanation.
3 Q. During the time that you were working for
4 Leonardo Corporation, were you involved in a test or
5 experiment done in Ferrara, Italy?
6 A. There was -- there was more than one
7 experiment performed in Ferrara. If you tell me
8 which one you're talking about.
9 Q. Were you involved in a test or experiment
10 that was done in April or May of 2013?
11 A. When you refer to things that are long
12 time away, it is a little bit -- it is easier if you
13 tell me --
14 THE INTERPRETER: (In Italian.)
15 THE WITNESS: You think that I was present
16 with.
17 BY MR. PACE:
18 Q. Are you familiar with a test or experiment
19 that was referred to as a -- I'm sorry. Let me
20 start over again.
21 Have you ever seen the license agreement
22 between Leonardo Corporation and Industrial Heat,
23 among others?
24 THE INTERPRETER: License.
25 MR. PACE: License agreement.

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1 THE WITNESS: No, no. From Leonardo
2 Corporation to Industrial Heat, no.
3 BY MR. PACE:
4 Q. I assume, also, that you have never seen
5 the first amendment to the licensing -- the license
6 agreement between Leonardo Corporation and
7 Industrial Heat?
8 DR. ROSSI: (In Italian.)
9 THE WITNESS: No.
10 BY MR. PACE:
11 Q. Are you familiar --
12 A. Could you please turn on the lights
13 because I only see darkness.
14 MS. HANDELSON: He should see our screen.
15 THE INTERPRETER: The documents.
16 MR. PACE: Are you not seeing the
17 document?
18 THE WITNESS: Yes, but right now we are
19 not talking about the document.
20 MR. PACE: He wants to go back to the
21 screen. The darkness is actually because of
22 the light here. But we will deal with that.
23 THE WITNESS: Okay. Okay. That is fine.
24 Thank you. It was dark at first. Now I can
25 see.

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1 BY MR. PACE:
2 Q. Are you familiar with a test that was done
3 in 2013 that was referred to as a validation test?
4 A. I did so many tests. If you would tell me
5 with whom you think I was present with or with whom
6 I did it, then I could tell you yes or no.
7 Q. J.T. Vaughn would also have been present?
8 A. Oh, yes, I do remember this with J.T.
9 Vaughn.
10 Q. Was that a test done in Ferrara, Italy?
11 A. Yes.
12 Q. What was your -- well, what do you recall
13 that test being?
14 A. I don't understand the question. In what
15 sense?
16 Q. What was the test or experiment that was
17 done in Ferrara, Italy, when you were present along
18 with J.T. Vaughn?
19 DR. ROSSI: It was about the startup of
20 the groups --
21 THE WITNESS: It was about the startup of
22 the groups of reactors.
23 BY MR. PACE:
24 Q. What was your role in connection with that
25 test or experiment?

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1 DR. ROSSI: Verify.
2 THE INTERPRETER: Nutrition system --
3 MR. PACE: Mutual.
4 DR. ROSSI: No, the control system.
5 THE WITNESS: The control system. Because
6 I had --
7 DR. ROSSI: Supplied.
8 THE WITNESS: -- supplied to Rossi and
9 EFA.
10 DR. ROSSI: EFA, E-F-A.
11 BY MR. PACE:
12 Q. Your role in connection with this test was
13 to operate the control system?
14 DR. ROSSI: Control.
15 THE WITNESS: The control of --
16 THE INTERPRETER: What was the word?
17 MR. PACE: Electrical.
18 DR. ROSSI: Control of the supply of
19 electricity.
20 THE WITNESS: Power supply.
21 DR. ROSSI: Power supply.
22 THE WITNESS: This is vocabulary that I
23 know very well in English because we use it in
24 Italy.
25

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1 BY MR. PACE:
2 Q. During this testing in Ferrara, Italy, did
3 you have any discussions with J.T. Vaughn?
4 A. I don't remember. I think so.
5 Q. Do you remember the substance of those
6 conversations?
7 A. Probably about the description of the
8 power supply plant.
9 Q. Power supply.
10 How did you learn -- when did you learn
11 about this test that was going to be conducted in
12 Ferrara, Italy, if you recall?
13 A. I received -- I don't remember the date.
14 I received a telephone call.
15 Q. From whom?
16 A. From the EFA administrator.
17 Q. Who was the EFA administrator?
18 A. When I was present, Dr. Vascoch (ph).
19 Female. I'm finishing.
20 And she told me that it was necessary to
21 create the plant that I had projected, the power
22 supply plant.
23 Q. I think I'm asking maybe a slightly
24 different question.
25 Just as to the test that was conducted,

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1 the test or experiment that was conducted in
2 Ferrara, Italy, when you were there with J.T.
3 Vaughn, when did you find out that you needed to be
4 in Italy for that test or experiment?
5 A. I don't remember the date.
6 Q. All right. Do you remember whether it was
7 far in advance or shortly in advance?
8 A. If I would say anything, perhaps I would
9 be mistaken. I really don't remember. I remember
10 that we had 15 days for the research of the group.
11 Q. I think he's talking about the reactors.
12 A. For the power supply group.
13 Q. You had 15 days to do what?
14 A. No. Okay. There were 15 days that were
15 used to do the research for the power supply group.
16 Q. Did anyone describe to you the test or
17 experiment that was being conducted in Ferrara,
18 Italy?
19 A. From Dr. Rossi, I had a basic explanation.
20 Q. What do you recall about the explanation
21 that he provided you?
22 A. He asked me to perform a --
23 DR. ROSSI: To make a.
24 THE INTERPRETER: -- to make --
25 DR. ROSSI: Proportional control.

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1 MR. NUNEZ: Proportionate control.
2 DR. ROSSI: Proportional control.
3 MR. NUNEZ: Proportional control.
4 THE WITNESS: -- proportional control of
5 the power supply.
6 BY MR. PACE:
7 Q. Dr. Rossi asked you to make a proportional
8 control of the power supply?
9 DR. ROSSI: (In Italian.)
10 THE WITNESS: Yes.
11 BY MR. PACE:
12 Q. And what is a proportional control of the
13 power supply?
14 A. It is a system that allows to endure --
15 I'm sorry.
16 DR. ROSSI: To make the dosage.
17 THE INTERPRETER: To make the dosage.
18 THE WITNESS: Okay. To make the dosage,
19 which allows --
20 DR. ROSSI: The power that is.
21 THE INTERPRETER: The power that is.
22 DR. ROSSI: Supplied.
23 MR. PACE: Can we take a break? We have
24 to change the tape.
25 THE VIDEOGRAPHER: Stand by to go off.

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1 THE WITNESS: Okay. I have to have
2 dinner. When do you foresee that you are going
3 to take your lunch break?
4 THE VIDEOGRAPHER: Stand by to go off
5 Media Unit 1. Going off at 11:15 a.m.
6 (Thereupon, a recess was taken, after
7 which the following proceedings were held:)
8 THE VIDEOGRAPHER: We are now back on the
9 video record. This is the start of Video Media
10 Unit 2. The time on the record is 11:22 a.m.
11 BY MR. PACE:
12 Q. Mr. Fabiani, when we went off the record a
13 couple of minutes ago we were talking about a
14 testing done in Ferrara, Italy, and I believe you
15 were describing that you provided the controls for
16 the power supply for that test?
17 A. Yes.
18 Q. That test --
19 A. I provided the project, along with the
20 laborers.
21 DR. ROSSI: The workers.
22 THE WITNESS: The workers, workers.
23 DR. ROSSI: It was installed.
24 THE WITNESS: It was installed by the
25 workers.

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1 BY MR. PACE:
2 Q. And who were those workers?
3 A. Workers from EFA.
4 Q. And this power supply was for -- for E-CAT
5 units?
6 A. The E-CAT system is divided in groups.
7 Each group has a different --
8 DR. ROSSI: Supply.
9 THE WITNESS: -- supply. And for each
10 group -- and for each group, they could provide
11 the --
12 DR. ROSSI: A different supply of power.
13 THE WITNESS: -- a different power supply.
14 Power supply.
15 BY MR. PACE:
16 Q. Just limiting you to the test that was
17 done in Ferrara, Italy, where J.T. Vaughn was
18 present, how many groups of E-CAT units were tested,
19 if you recall?
20 A. The system was composed of six inferior
21 groups and four superior groups. They were tested,
22 four inferior groups were tested, and I don't
23 remember if two or three superior ones.
24 Q. Who told you which groups to test?
25 MR. NUNEZ: Object to form.

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1 THE INTERPRETER: You said the groups.
2 MR. NUNEZ: And object to form.
3 MR. PACE: Yes.
4 THE WITNESS: Dr. Rossi would ask me which
5 groups.
6 BY MR. PACE:
7 Q. Do you know why some groups were selected
8 as opposed to others?
9 A. No. That was -- that was a discussion
10 between Dr. Rossi and Tom Darden.
11 Q. Tom Darden.
12 THE INTERPRETER: Sorry.
13 MR. PACE: His pronunciation of it is a
14 little unique.
15 BY MR. PACE:
16 Q. Did you participate in the discussion
17 between Andrea Rossi and Tom Darden?
18 A. No. I only discussed the technical data
19 with the Industrial Heat engineer named T. Barker.
20 Q. T. Barker.
21 Just so the record is clear, did you
22 participate in the conversation between Andrea Rossi
23 and Tom Darden, yes or no?
24 A. There were two types of conversations.
25 The first one was the choosing of the groups, in

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1 which I did not participate.
2 The second was the verification of the
3 power data --
4 DR. ROSSI: Power data.
5 THE WITNESS: -- in which Tom Darden and
6 Dr. Rossi would come to verify to me the power.
7 DR. ROSSI: The power supply.
8 THE WITNESS: Supply.
9 BY MR. PACE:
10 Q. This was -- you are talking about --
11 A. They would not ask me. They would come to
12 me for me to explain to them the instrument.
13 DR. ROSSI: Instrumentation.
14 THE INTERPRETER: The what?
15 DR. ROSSI: Instrumentation.
16 THE WITNESS: Instrumentation.
17 BY MR. PACE:
18 Q. Did this occur -- did the discussions that
19 you had with Tom Darden and Andrea Rossi together
20 occur after the test or experiment was run?
21 A. No.
22 Q. You may have described this already: What
23 discussion did you have during this testing with
24 J.T. Vaughn?
25 A. J.T. Vaughn is not a technician. He

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1 wanted to have me try to explain to him how the
2 supply system was created.
3 Q. Did you have any other discussions with
4 J.T. Vaughn during the testing?
5 A. Yes.
6 Q. About what?
7 A. Food.
8 THE INTERPRETER: It is dish.
9 BY MR. PACE:
10 Q. Anything else?
11 A. About life in Italy and if I was
12 interested in going to the United States to work
13 with him.
14 Q. Prior to the test beginning, did you have
15 any discussions with Tom Darden?
16 A. I don't remember. I think that he asked
17 for some kind of a technical document.
18 Q. Prior to the test starting in Ferrara,
19 Italy, did you have any discussions with J.T.
20 Vaughn?
21 A. I don't remember, but I don't think so.
22 Q. Prior to the test starting, did you
23 have -- did you have any discussions with T. Barker?
24 A. I don't recall having seen him before the
25 test.

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1 Q. After the test in Ferrara, Italy, did
 2 there come a time when you moved to North Carolina?
 3 A. When?
 4 Q. The first question is: Did you at some
 5 point live in North Carolina?
 6 A. Yes. When it was written in the contract.
 7 THE INTERPRETER: Oh, when the contract
 8 was signed.
 9 BY MR. PACE:
 10 Q. So your recollection is that you moved to
 11 North Carolina around the same time that USQL signed
 12 its first agreement with Industrial Heat?
 13 A. Yes, more or less during the same period
 14 of time.
 15 (A discussion was held off the record,
 16 after which the following proceedings were
 17 held:)
 18 BY MR. PACE:
 19 Q. For how long were you living in North
 20 Carolina?
 21 A. Until the transfer to the plant in Miami.
 22 Q. And by the plant, are you referring to the
 23 E-CAT plant?
 24 A. Yes. The name of the plant was --
 25 DR. ROSSI: Megawatt.

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1 MR. PACE: One mega plant, 1-MW plant.
 2 BY MR. PACE:
 3 Q. Mr. Fabiani, you worked in North Carolina
 4 until the E-CAT plant was sent from North Carolina
 5 to Florida?
 6 A. Not exactly.
 7 Q. What is more exact?
 8 A. That I worked not only for the plant, but
 9 also in other experiments that were asked of me from
 10 Rossi and Darden, to satisfy the curiosity of the
 11 clients that wanted to see the --
 12 DR. ROSSI: Reactor working. The reactor
 13 working.
 14 THE WITNESS: -- the reactor working,
 15 functioning.
 16 BY MR. PACE:
 17 Q. Let me ask my question again there. I'm
 18 asking about time periods, not the substance of the
 19 work that you did.
 20 Is it your testimony that you moved to
 21 North Carolina around the time that US Quantum Leap
 22 first entered into an agreement with Industrial
 23 Heat, correct?
 24 A. More or less during the same time frame.
 25 Q. And then you left North Carolina around

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1 the same time that the E-CAT plant was shipped from
 2 North Carolina to Florida?
 3 THE INTERPRETER: During the same period
 4 of time?
 5 MR. PACE: That the E-CAT plant was sent
 6 from North Carolina to Florida.
 7 THE WITNESS: More or less during the same
 8 period of time.
 9 BY MR. PACE:
 10 Q. Okay. During that time in North Carolina,
 11 one of the things you worked on was making changes
 12 to the 1-MW plant?
 13 A. No. The majority of my time was spent in
 14 refining the technology to build reactors.
 15 Q. Were you working on the -- let me stop.
 16 When you say "reactors," do you mean E-CAT
 17 units?
 18 A. There are several types of E-CAT units.
 19 Q. Are all the types of -- well, when you
 20 refer to a reactor, what are you referring to?
 21 A. The reactors could be the E-CAT standard.
 22 The E-CAT at high temperature.
 23 THE INTERPRETER: (In Italian.)
 24 THE WITNESS: Okay. And the E-CAT at a
 25 high power.

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1 I was in charge of, according to what
 2 Rossi -- according to what Rossi asked of me,
 3 and together with the engineer, T. Barker, in
 4 the refining of the technology for the E-CAT --
 5 the temperature E-CAT and high-powered E-CAT.
 6 BY MR. PACE:
 7 Q. Well, let me go back to my question,
 8 though. I'm just asking you a question about
 9 terminology.
 10 When you refer to a reactor, is that an
 11 E-CAT unit?
 12 A. Yes.
 13 Q. Would you prefer that I refer to them as
 14 E-CAT units or as reactors?
 15 A. Okay. The reactor --
 16 THE INTERPRETER: (In Italian.)
 17 THE WITNESS: Distinguish high power and
 18 high temperature. Okay. The E-CAT, the base
 19 is called model.
 20 DR. ROSSI: Module.
 21 THE INTERPRETER: Module. M-O-D-I-A --
 22 DR. ROSSI: M-O-D-U-L-E.
 23 THE INTERPRETER: Oh, module. I'm sorry.
 24 MR. PACE: I want to try to close up the
 25 loop here.

IC

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1 BY MR. PACE:
 2 Q. Mr. Fabiani, what -- can you just describe
 3 for me the work that you did while you were living
 4 in North Carolina?
 5 A. Yes. We projected new types of reactors.
 6 We performed the prototypes with the collaboration
 7 of Industrial Heat, with the cooperation of
 8 Industrial Heat.
 9 DR. ROSSI: With the collaborators.
 10 THE WITNESS: Advisers. Workers,
 11 advisers.
 12 BY MR. PACE:
 13 Q. I'm sorry. You worked on new types of
 14 reactors when you were in North Carolina?
 15 A. On the evolution of reactors by Rossi.
 16 Q. These reactors were -- some of these
 17 reactors were housed in a container, correct?
 18 A. The majority of the reactors were in a
 19 cylinder form, the majority of them.
 20 Q. You're familiar with something that was
 21 described as a 1-MW plant?
 22 A. Yes.
 23 MR. PACE: And for this purpose, I don't
 24 think you should translate 1-MW. I think you
 25 should literally say 1-MW. That's what

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1 everybody referred to it as.
 2 THE INTERPRETER: In English. Don't say
 3 it in Italian.
 4 MR. PACE: Yes.
 5 BY MR. PACE:
 6 Q. That plant was designed to have cooler
 7 fluid coming into it and warmer fluid coming out of
 8 it?
 9 MR. PACE: Wait, wait. I have to stop
 10 you. Fluid is not liquid. Fluid. Fluid is
 11 either a liquid or a gas, and for this purpose,
 12 unfortunately, it actually makes a difference.
 13 Is there a word "fluid" in Italian?
 14 DR. ROSSI: (In Italian.)
 15 MR. PACE: Sorry. There is a debate over
 16 sometimes whether we are dealing with water or
 17 steam. Let's just use the word "fluid." Let
 18 me start my question over.
 19 THE INTERPRETER: (In Italian.)
 20 BY MR. PACE:
 21 Q. The 1-MW plant was designed to heat water,
 22 correct?
 23 A. Yes, this is the base.
 24 Q. Did you do any work on that 1-MW plant
 25 other than the power system for plant?

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1 THE INTERPRETER: Apart from the?
 2 MR. PACE: The power supply of the plant.
 3 THE INTERPRETER: (In Italian.)
 4 DR. ROSSI: I have been exploited.
 5 THE WITNESS: I have been exploited by
 6 Rossi for a small --
 7 DR. ROSSI: Maintenance.
 8 THE WITNESS: -- maintenance --
 9 DR. ROSSI: Work.
 10 THE WITNESS: -- work from the -- whether
 11 from the hydraulic part and the electrical
 12 part.
 13 BY MR. PACE:
 14 Q. But, Mr. Fabiani, we are about to take --
 15 first of all, we are about to take a break here in
 16 just a couple of minutes.
 17 A. Yes, because I need to eat.
 18 Q. Until we take our break, I'm just going to
 19 be asking you about your time in North Carolina.
 20 A. I am here for you.
 21 Q. So do you understand that limitation?
 22 A. Yes, just my time in North Carolina.
 23 Q. So just in that time period, what work did
 24 you do on the 1-MW plant?
 25 A. My job as a project --

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1 MR. PACE: Manager.
 2 THE INTERPRETER: Project manager? (In
 3 Italian.)
 4 THE WITNESS: I discussed and coordinated
 5 the -- of installation --
 6 THE INTERPRETER: That part I got.
 7 DR. ROSSI: The power supply system.
 8 THE WITNESS: -- of the power supply
 9 system.
 10 DR. ROSSI: And control systems.
 11 THE WITNESS: -- and control.
 12 DR. ROSSI: Systems.
 13 MR. PACE: Folks, we need to stop this.
 14 We can't have this. This is not the way this
 15 can work. Dr. Rossi, you understand? I know,
 16 I understand, but it causes a problem for the
 17 record. Right now we've got you on the record,
 18 Dr. Rossi, testifying or providing information.
 19 So just please talk to your lawyer. Please
 20 talk to your lawyer. I don't want this to
 21 become any more difficult than it is. Stop.
 22 You, as well.
 23 Let's go ahead and take your break and you
 24 can go to dinner right now, Mr. Fabiani.
 25 THE WITNESS: Can I not finish my answer.

1 MR. PACE: Yes, you may. I apologize.
 2 THE WITNESS: It served to transform from
 3 the European electrical power to the American
 4 power. So it was necessary to re-project all
 5 of the power systems, power supply. Thank you.
 6 MR. PACE: Let's go off the record.
 7 THE VIDEOGRAPHER: Going off Media Unit
 8 Number 2. Going off the record at 11:56.
 9 Stand by to go off at 11:56 a.m. We are off.
 10 MR. NUNEZ: Before we go off the record,
 11 just so we talked about this a little,
 12 Mr. Fabiani believes he's got to go till 12:00
 13 his time.
 14 MR. PACE: That can be his belief, and we
 15 decide in court.
 16 MR. NUNEZ: Okay.
 17 MR. PACE: You know that's not the
 18 right -- I don't think that Judge O'Sullivan
 19 thought that it was 12:00 Russian time. If
 20 that's the position you want to take, we will
 21 deal with it in court.
 22 MR. NUNEZ: We will deal with that.
 23 You can put this on pause.
 24 THE INTERPRETER: He can leave.
 25 THE VIDEOGRAPHER: We are still on Media

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

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

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

Agreement between USQL and IH in summer or fall 2013; ended in either March or April 2016.

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

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

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

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

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

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

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

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

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

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

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

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

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

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1 to turn on the small reactors, but we found
 2 installation defects that did not allow to be able
 3 to work with the small reactors.
 4 Q. Was that insulation problem more than just
 5 the problem with the temperature probes?
 6 A. Okay. That insulation problem derived
 7 from an error, an erred system of electrical
 8 cabling. This led to -- led to having current,
 9 current, like electricity, on the metallic mats.
 10 For this reason is why they burnt out.
 11 Q. And those small reactors burnt out in
 12 early 2015?
 13 A. They were not turned on in 2015. They
 14 were turned on only for testing.
 15 Q. So the -- any output from the 1-MW plant
 16 was from the four big Frankie units?
 17 A. Ninety-nine percent, yes.
 18 Q. What is the 1 percent wrong?
 19 A. Thank you. Is okay. The 1 percent is if
 20 the -- 1 percent -- oh, from the startup, the
 21 1 percent of the system, to then be able to turn off
 22 all of the small reactors for a problem of short
 23 circuit to the -- the -- the -- during the -- during
 24 the turning on -- oh, during the functioning.
 25 THE INTERPRETER: I'm sorry. The words

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1 were choppy.
 2 BY MR. PACE:
 3 Q. The small reactors were operating for a
 4 very short time when the plant was first turned on?
 5 A. Yes. Yes. In the documents that were
 6 delivered in the Excel file, there are the comments
 7 for each day. And it is written when we had to turn
 8 off the small reactors, the small reactors.
 9 MR. PACE: Why don't we take a short break
 10 and we will get that spreadsheet out, too.
 11 MR. NUNEZ: Chris, before we -- before we
 12 go off the record, I don't know if it needs to
 13 be on the video record, I told you we were here
 14 for the seven hours. It is not seven hours of
 15 questioning. I mean, you could speak with me
 16 if you need a little bit longer. We're at 2:00
 17 now.
 18 MR. PACE: Our position is under the rules
 19 we are entitled to seven hours of questioning.
 20 If you guys want to turn off the Skype and stop
 21 the deposition, you can do so at your own risk.
 22 That's up to you.
 23 How much time are we at?
 24 THE VIDEOGRAPHER: I can tell you when we
 25 go off. Stand by to go off Media Unit

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1 Number 2. Going off the record at 1:55 p.m.
 2 (Thereupon, a recess was taken, after
 3 which the following proceedings were held:)
 4 THE VIDEOGRAPHER: We are now back on the
 5 video record. This is the beginning of Media
 6 Unit 3. The time on the record is 2:24 p.m.
 7 BY MR. PACE:
 8 Q. Mr. Fabiani, before we broke you made a
 9 reference to a document that reflects when different
 10 parts of the E-CAT -- the 1-MW plant was working or
 11 was stopped.
 12 I want to show you what I have marked here
 13 as Exhibit 3.
 14 (The referred-to document was marked by
 15 the court reporter for Identification as
 16 Deposition Exhibit 3.)
 17 BY MR. PACE:
 18 Q. Just looking at this first page of the
 19 exhibit, is this the -- and I will represent to you
 20 that this was produced by your lawyer in discovery.
 21 Does this -- is this the document you discussed?
 22 A. This part seems like it, yes.
 23 MR. NUNEZ: Let me just -- I'm sorry. Not
 24 so much -- Fulvio, one second.
 25 Mr. Pace, just because you said this was

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1 produced by us, is there a reason it doesn't
 2 have the Bates stamps on it?
 3 MS. HANDELSON: We didn't get Bates stamps
 4 on any of our production.
 5 MR. PACE: This was 13 and 14. I don't
 6 think it had the Bates stamps on it.
 7 MR. NUNEZ: All right. Go on. I'm going
 8 to look. I'm pretty sure it did.
 9 MR. PACE: I want to say it is 13 or 14.
 10 It is one or both.
 11 MR. NUNEZ: I think this one was 14.
 12 THE INTERPRETER: I'm sorry. The
 13 interpreter left her glasses right there.
 14 Sorry, Counsel. Sorry about that.
 15 BY MR. PACE:
 16 Q. If we go to the -- if we go to the second
 17 page.
 18 MR. NUNEZ: Just for the record, just
 19 because you had made that reference, because
 20 mine do have Bates stamp, it looks like a
 21 different copy.
 22 MR. PACE: Did you look at 13? I think
 23 you produced the same thing. Production 13 and
 24 14.
 25 MR. NUNEZ: Right, because 13 -- just bear

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1 with me. So 13, 13 is the big document, which
 2 is, I believe, this same information, just not
 3 in the Excel spreadsheet. Unless it has
 4 something else.
 5 THE INTERPRETER: (In Italian.)
 6 THE WITNESS: Could you please say what
 7 the translation is?
 8 MR. NUNEZ: Everything we produced is
 9 Bates stamped. You can look at my same
 10 document.
 11 MR. PACE: Fair enough.
 12 MR. NUNEZ: It looks like my same number
 13 14.
 14 MR. PACE: I might have gotten this from
 15 another collection.
 16 BY MR. PACE:
 17 Q. Let me go forward with my questioning. If
 18 I can ask you to turn to the second page of the
 19 document, under March 3 of 2015, does that entry
 20 reflect that there was a power supply failure for 30
 21 minutes?
 22 THE INTERPRETER: I have to think of a way
 23 to say this.
 24 MR. PACE: (In Italian.)
 25 THE INTERPRETER: That would be nice, if I

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1 can see it.
 2 THE WITNESS: Would you please repeat the
 3 question from the beginning?
 4 BY MR. PACE:
 5 Q. What is the event that is reflected for
 6 March 3rd of 2015?
 7 A. Could you make the lettering bigger?
 8 Because I cannot see it well.
 9 MS. HANDELSON: Bigger?
 10 THE WITNESS: A little bit more. Just a
 11 little bit more. Okay, perfect. No. Other
 12 side.
 13 MR. PACE: If you can go further.
 14 THE WITNESS: Okay. So what is the
 15 question?
 16 BY MR. PACE:
 17 Q. What is the event that occurred on March
 18 3rd?
 19 A. Okay. There was a failure of the power
 20 for 30 minutes. The plant was stopped for 30
 21 minutes. The lack of power, I don't know, because
 22 probably it happened in the middle of the night.
 23 From the -- from the time 2230 on the 3rd of March
 24 until 1030 of the 4th of March. So there was a lack
 25 of power, and the system was stopped for around 30

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1 minutes.
 2 Q. What does it mean for the system to be
 3 stopped?
 4 A. That for 30 minutes there was no power
 5 going in.
 6 Q. Was there any water going into the system?
 7 A. You shouldn't be asking me. I was not
 8 present there in the middle of the night, nor am I
 9 in charge of what has to do with the water.
 10 Q. How do you know that the failure was only
 11 for 30 minutes?
 12 THE INTERPRETER: Could you repeat for the
 13 interpreter? Your voice is going away.
 14 THE WITNESS: Okay. In the recording of
 15 the data, I found a void of 30 minutes.
 16 BY MR. PACE:
 17 Q. That 30-minute void in the data, did that
 18 apply to all of the -- all of the devices that were
 19 being measured?
 20 A. No, it doesn't work that way.
 21 Q. How does it work?
 22 A. The system could continue working, but I
 23 could not have a data for 30 minutes or the data
 24 could be corrupted, corrupted and then reconstructed
 25 by the system. It is not -- it is not -- it is

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1 impossible to know that beforehand if you are not
2 present there in the event.
3 Q. I'm still a little bit confused here.
4 What data was not collected during this
5 30-minute window?
6 A. Okay. My acquiring system, my system
7 would create a transformation from the base data to
8 the work data of the Excel. Elaboratable.
9 THE INTERPRETER: I'm not sure.
10 THE WITNESS: Workable, workable data from
11 Excel. Therefore, I did not find the data on
12 Excel, and I concluded that there was a lack of
13 power for 30 minutes.
14 BY MR. PACE:
15 Q. Was that the entire plant or power just
16 for a particular reactor?
17 A. No. This memorizing of the data is for
18 the complete plant.
19 Q. And that would -- that would cover the
20 data you had for not just electrical usage, but also
21 temperature and pressure data?
22 THE INTERPRETER: I really can't
23 understand the question. Can you repeat it?
24 MR. PACE: I can.
25

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1 BY MR. PACE:
2 Q. Was this power outage a network power
3 outage?
4 THE INTERPRETER: What was it?
5 MR. PACE: A network power outage.
6 THE WITNESS: I don't know. I was not
7 present.
8 BY MR. PACE:
9 Q. Did your -- did your system capture any
10 data for that 30-minute period?
11 A. I don't know because this data was
12 transformed data.
13 Q. Let's go forward to April 7th. We are
14 going to move forward to April 7th.
15 What event occurred on April 7th?
16 A. From what is written, lack of electrical
17 power.
18 Q. For three hours?
19 A. I think so.
20 Q. Do you remember this event?
21 A. I'm not able to remember everything. If
22 this is written.
23 Q. I'm sorry. I don't think you completed
24 your thought. If this is written?
25 A. If this is written, this is what happened.

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1 That is how we understand it. But I do not
2 remember.
3 Q. Do you remember any time when the 1-MW
4 plant was shut down completely for any reason?
5 A. I remember several episodes, but I don't
6 remember when or how many.
7 Q. For this power failure on April 7th, did
8 it only affect your control system and measuring
9 equipment?
10 A. I cannot know that because I did not have
11 the control of the nautus (ph) system.
12 Q. Let's go back to March 9th.
13 March 9th references it stopped for four
14 hours, correct?
15 A. I don't remember. But, yes, it is written
16 here that one module was stopped for four hours,
17 from 10:30 in the morning to 2230. Probably a
18 maintenance.
19 Q. Is there a reference there that it was
20 stopped because of leaks?
21 A. It could be a hydraulic loss or an
22 electrical loss, but it is not written. It is not
23 written, and I don't remember.
24 Q. Okay. There is a -- can you tell from
25 what you wrote here the module that was stopped was

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1 called Big Frankie No. 4?
2 A. It is probable. I'm not sure. But it is
3 probable.
4 Usually I write it better, but here the
5 notes were quite fast.
6 Q. If we turn to March 17th, that identifies
7 the module being stopped for two hours, correct?
8 A. Yes.
9 Q. That would be one of the Big Frankie units
10 was stopped for a two-hour time period?
11 A. Yes, correct, that's what it means.
12 Q. What would happen when one of the Big
13 Frankie groups of reactors was stopped?
14 A. Normally, the other three would be on,
15 would remain on, remain turned on. One module --
16 okay. One module stops to avoid that during the
17 maintenance there would be the possibility of
18 getting electricity, power.
19 Q. So when a Big Frankie is turned off, the
20 flow of electricity is turned off into that Big
21 Frankie?
22 A. When a module is off, the electricity is
23 suspended in that module.
24 Q. Is the water flowing into that module also
25 suspended?

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1 A. That is not correct, because if the loss
2 was hydraulic, the flow would be necessary. The
3 flow, if it were electrical.
4 THE INTERPRETER: I'm not sure about the
5 words, I'm sorry.
6 MR. PACE: I think we are having a breakup
7 here. Ask him if he can repeat that answer one
8 more time.
9 THE WITNESS: When a module is stopped, if
10 the loss is hydraulic, it is necessary to empty
11 the modules.
12 DR. ROSSI: I cannot.
13 THE INTERPRETER: I'm not sure about the
14 word.
15 DR. ROSSI: I cannot.
16 BY MR. PACE:
17 Q. If the problem is hydraulic with the
18 reactor or module, you have to stop the water
19 flowing into that reactor?
20 A. That was not my job, to stop the water
21 that would -- I would only stop the electrical part.
22 Q. When you stopped the electrical from
23 flowing into one module, did you increase the
24 electrical power flowing into the other module?
25 THE INTERPRETER: What flowing?

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1 MR. PACE: The electrical energy flowing.
2 THE WITNESS: That was a decision of
3 Rossi, not mine.
4 BY MR. PACE:
5 Q. But would Dr. Rossi be able to change the
6 amount of the electricity flowing into the other
7 modules or --
8 THE INTERPRETER: Energy?
9 MR. PACE: Electricity.
10 BY MR. PACE:
11 Q. -- or would he have to ask you to do that?
12 A. It was my job, and I would do it. In the
13 case of a night emergency, if Rossi would have a
14 problem, he would call me.
15 Q. How would you make that judgment -- how
16 would you adjust the electrical power that was
17 flowing into the modules that were still operating?
18 A. Okay. The power supply system was
19 composed of --
20 THE INTERPRETER: The interpreter is not
21 sure how to translate that.
22 MR. PACE: Do you need to take a break?
23 THE WITNESS: I'm going to say it a
24 little --
25 THE INTERPRETER: I'm not --

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1 MR. PACE: Can we take a short break off
2 the record?
3 THE VIDEOGRAPHER: Going off Media Unit 3.
4 Going off the record at 2:54 p.m.
5 (Thereupon, a recess was taken, after
6 which the following proceedings were held:)
7 THE VIDEOGRAPHER: We are now back on
8 Media Unit Number 3. The time back on the
9 record is 2:58 p.m.
10 BY MR. PACE:
11 Q. Mr. Fabiani, can you explain to me,
12 though, slowly, how you would adjust the power to
13 the Big Frankies that were still working when one
14 Big Frankie was turned off?
15 A. The system had two overlapping control
16 systems. One contained in the control -- control
17 panel.
18 Q. Panel. Sorry.
19 A. It would either turn on, complete turn on
20 or turn off a Big Frankie. Only one.
21 The second system would allow the
22 regulation from zero to 100 percent power for each
23 Big Frankie.
24 Do you need any other explanation?
25 Q. How much would you turn up the power for

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1 the other Big Frankies when one Big Frankie was
2 turned off?
3 MR. NUNEZ: Object to form.
4 MR. LEON DE LA BARRA: Object to form.
5 THE WITNESS: It was not my choice. That
6 was something that Mr. Rossi would decide.
7 BY MR. PACE:
8 Q. Would it be the same every time one of the
9 Big Frankies was turned off?
10 MR. NUNEZ: Object to form.
11 THE WITNESS: I don't remember, but I
12 don't think so.
13 BY MR. PACE:
14 Q. Can you go to May 15th?
15 Mr. Fabiani, what event occurred on May
16 15th, as reflected in your notes?
17 A. From what is written, from what is
18 written, a stop on the No. 1 module for hydraulic
19 maintenance.
20 Q. Is the No. 1 module also Big Frankie
21 No. 1?
22 A. Yes. In this case, yes, it is evident.
23 Q. And what does it mean to do hydraulic
24 maintenance on a Big Frankie unit?
25 A. A hydraulic loss has been eliminated.

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1 Q. How is that -- well, who would do that --
2 who would eliminate that hydraulic loss?
3 A. Normally, it would be the hydraulic --
4 hydraulic workers that are Lambert.
5 Q. Lambert.
6 A. Lambert.
7 Q. And who is Lambert?
8 A. Plumbers.
9 Q. Plumbers?
10 THE INTERPRETER: Hydraulic workers means
11 plumbers. The interpreter got it now.
12 THE WITNESS: Or Barry West.
13 BY MR. PACE:
14 Q. What plumbers -- what plumbers worked at
15 the Doral warehouse?
16 A. Rossi had several plumbers. They would be
17 called when there was a need to intervene. I don't
18 know.
19 Q. Do you know any of their names or their
20 company names?
21 A. I remember somebody named Mike. But
22 90 percent -- but 90 percent of the interventions
23 were done by Barry West, and me as a help.
24 Q. When a module was stopped for hydraulic
25 maintenance, would the water flow into the module

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1 also be stopped?
2 A. That is not true. It depends on the type
3 of intervention. That was not my job.
4 Q. But you said you assisted Barry West on
5 occasion in working on some of the modules?
6 THE INTERPRETER: I'm sorry, what is --
7 MR. PACE: West.
8 THE WITNESS: It was Rossi's choice, not
9 mine.
10 BY MR. PACE:
11 Q. I might be asking my question poorly.
12 Was there ever a time when you worked on
13 the plumbing for the 1-MW plant when the water into
14 the plant or any part of it was turned off?
15 THE INTERPRETER: No, the question isn't
16 clear.
17 BY MR. PACE:
18 Q. The times that you assisted Barry West
19 with plumbing issues for one of the Big Frankies,
20 would the water be flowing through the Big Frankie?
21 A. In some cases, yes; in some cases, no.
22 Q. Can you tell me why in some cases it would
23 be flowing and not in others?
24 A. No, absolutely not. I really don't
25 remember, so...

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1 MR. PACE: Can we scroll down to -- let's
2 scroll down to May 29th of 2015.
3 BY MR. PACE:
4 Q. What happened on May 29th of 2015,
5 according to your notes?
6 A. I don't remember. But I will read. I'm
7 reading.
8 Q. Can you see that, as well, down there?
9 A. Yes. Okay. So module Big Frankie 3
10 stopped for substitution -- di gomma (phonetic)
11 means a piece of rubber. It is a tube, like a
12 rubber piece or pipe, a rubber pipe. Like this.
13 Around 10 centimeters.
14 Q. Who would replace -- why would such a pipe
15 have to be replaced, if you know?
16 A. It is written there, programmed
17 maintenance. Probably because -- probably because
18 the rubber tube or pipe, it had a more brief
19 duration.
20 Q. Who would replace the rubber pipe?
21 A. Rossi's plumber, Barry West. If I were
22 present, I would help.
23 Q. How long did such maintenance usually
24 take?
25 A. It does not have a set amount of time.

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1 Q. During the time that maintenance was being
2 performed on one of the Big Frankies, would the
3 electricity being fed into the Big Frankie stop?
4 A. Always.
5 Q. But the water going into that Big Frankie
6 might or might not be stopped, correct?
7 A. Exactly.
8 Q. And the electricity flowing into the other
9 Big Frankies might -- might be increased?
10 A. It depended on Rossi's choice.
11 Q. And that is -- let me rephrase my
12 question.
13 The electrical power going into the other
14 Big Frankies might or might not be increased,
15 depending on what Dr. Rossi wanted to do?
16 A. It could have been increased, but it was
17 Rossi's choice.
18 Q. What does it -- what happens when you
19 reboot a Big Frankie? I'm sorry. Let me stop
20 before you do that.
21 How do you reboot a Big Frankie?
22 MR. PACE: I think this is the word for
23 reboot: R-I-A-V-V-I-O.
24 I'm sorry, can you scroll down to June 1st
25 for me? If you look on the screen on June 1st,

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1 you see R-I-A-V-V-I-O. I think that's Italian
 2 for reboot.
 3 BY MR. PACE:
 4 Q. How do you reboot a Big Frankie?
 5 A. To avoid the overheating, the heating, the
 6 overheating for the electrical heaters, it was
 7 necessary to do --
 8 Q. I think he's saying a ramp-up.
 9 A. -- a ramp-up of output power -- input
 10 power. And Rossi would decide the times and the
 11 modalities.
 12 Q. So whenever you wanted to reboot a Big
 13 Frankie, how -- roughly how long would it take?
 14 Approximately how long would it take?
 15 THE INTERPRETER: I'm not sure. The
 16 interpreter is --
 17 THE WITNESS: It depends.
 18 MR. PACE: No, I'm going to go on to
 19 the --
 20 BY MR. PACE:
 21 Q. Can you explain that to me differently?
 22 A. Okay. I will explain the concept to you.
 23 The times of overheating were necessary --
 24 okay. It was necessary so it would not overheat,
 25 and the time would be decided by Rossi, according to

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1 his needs.
 2 Q. I understand that, but I'm asking, is
 3 there an average amount of time it would take to
 4 reboot a Big Frankie?
 5 A. It depends on many factors. It does not
 6 depend on -- it depends if it was already hot -- it
 7 depends on many factors. It could be an hour, it
 8 could be five hours. It is not possible to give an
 9 exact. Or eight hours. It depends on the condition
 10 of the reactor.
 11 Q. What occurred on June 8th, according to
 12 your spreadsheet?
 13 A. I'm sorry. I can't see the picture. It
 14 is the answer that I did not hear. It was short.
 15 It arrived brief, briefly.
 16 Q. What happened on June 8th with the 1-MW,
 17 according to your chart?
 18 A. I don't remember. I will read. I don't
 19 remember the -- I don't recall the episode, but I'm
 20 reading that at 10:30, there was an electrical stop
 21 during the hydraulic maintenance, with a reboot
 22 around 12:00.
 23 Q. Is this limited to one Big Frankie or is
 24 this the entire plant?
 25 A. I don't remember. I don't remember this.

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1 Q. If you move down to June 11th, that does
 2 say there was a complete -- or, yeah, a complete
 3 reboot of the system, correct?
 4 A. Yes.
 5 Q. What is involved in a system reboot?
 6 A. The calibration of the electrical power
 7 function of the --
 8 THE INTERPRETER: I don't know that the
 9 interpreter is going to last much longer. I'm
 10 sorry. A little burnt. I need a break.
 11 MR. PACE: Can we get this answer out and
 12 then we can take a break? Let's see if we can
 13 focus in on this answer.
 14 THE WITNESS: The electrical recalibration
 15 is done for the thermal power.
 16 MR. PACE: Let's go ahead and take a
 17 break.
 18 MR. NUNEZ: Do a short break. We are at
 19 1:00 in the morning. It is 1:00 a.m.
 20 THE INTERPRETER: I understand.
 21 MR. NUNEZ: I understand. She's tired.
 22 THE VIDEOGRAPHER: Going off the record at
 23 3:26 p.m.
 24 (Thereupon, a recess was taken, after
 25 which the following proceedings were held:)

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1 THE VIDEOGRAPHER: We are now back on the
 2 video record. It is still Media Unit 3. The
 3 time is 3:40 p.m.
 4 BY MR. PACE:
 5 Q. Mr. Fabiani, how would all of the --
 6 sorry -- how is a system reboot done?
 7 A. A verification of the temperature is done,
 8 but it is not -- that is not my job. Rossi would
 9 decide what was the percentage of the output.
 10 Q. But when there was a system reboot, would
 11 the entire plant be shut off for any period?
 12 A. No. When we are talking about the reboot
 13 of the system, we are only talking about the reboot
 14 of the control system. In this document, there are
 15 only my notes, not everybody's notes.
 16 Q. Understood.
 17 Can we go all the way down to August 11th?
 18 For the entry you have on this document
 19 for August 11th, does this indicate that Big Frankie
 20 1, 2 and 3 were operating at 40 percent?
 21 A. August 11th?
 22 Q. Yes.
 23 A. Not of the Big Frankie. A 40 percent of
 24 the control system -- power supply.
 25 Q. So the Big Frankie 1, 2 and 3 were

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1 receiving 40 percent of the power?
 2 A. Of the maximum available power, yes.
 3 Q. And on August 11th, Big Frankie 4 was
 4 receiving 30 percent of the maximum available power?
 5 THE INTERPRETER: I'm sorry, received?
 6 MR. PACE: Thirty percent.
 7 THE WITNESS: Yes.
 8 BY MR. PACE:
 9 Q. If you go up to August 8th, Big Frankie 4
 10 was stopped on that day?
 11 A. I am reading. Excuse me. Yes. Big
 12 Frankie 4 was stopped.
 13 Q. Was it stopped because of a wiring
 14 problem?
 15 THE INTERPRETER: Wiring. Wiring.
 16 THE WITNESS: A cabling problem, yes, a
 17 wiring problem. That's what is written there.
 18 BY MR. PACE
 19 Q. Do you recall what the cabling problem
 20 was?
 21 A. No, I don't remember.
 22 Q. Can you go all the way down to December
 23 2nd? We are almost done with this document. You
 24 will be the most relieved. Down to December 2nd.
 25 MS. HANDELSON: Yes.

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1 (A discussion was held off the record,
 2 after which the following proceedings were
 3 held:)
 4 BY MR. PACE:
 5 Q. On December 2nd, your spreadsheet shows
 6 that there was a decrease in power at the request of
 7 the client; is that correct?
 8 A. As far as I remember, I don't remember.
 9 But it is written there, so I think so.
 10 Q. Who is the client?
 11 A. The client is JM, and this was ordered by
 12 Rossi.
 13 Q. So the -- so the client never asked you to
 14 decrease the power by --
 15 A. When the client would ask me, I would
 16 refer to Rossi, and Rossi would decide.
 17 Q. And my question is: How did you learn
 18 that the client made a request to reduce the power?
 19 A. Through Rossi. Through Rossi. Jim Bass.
 20 With Jim Bass. In this specific case, I don't
 21 remember. I think Rossi. I think Rossi.
 22 THE INTERPRETER: The interpreter did not
 23 hear a big piece of the first sentence.
 24 THE WITNESS: I can repeat.
 25 Since I can read that it is written here

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1 that it was a decrease 700 kilowatts, this is
 2 surely an order through Rossi, on his behalf.
 3 BY MR. PACE:
 4 Q. The last one on this document --
 5 MR. PACE: Can you go to December 21st?
 6 BY MR. PACE:
 7 Q. Your notes for December 24th -- I'm sorry,
 8 for December 21st referred to a verification or
 9 inspection of hydraulics and electrical; is that
 10 correct?
 11 A. Let me read what is written.
 12 Q. Do your notes reflect that that took 12
 13 hours?
 14 A. Yes. Yes. This process lasted 12 hours.
 15 Q. Who would have been involved in that
 16 process?
 17 A. I don't remember. Probably Rossi's
 18 plumber or Barry. I don't remember. The electrical
 19 part is written.
 20 THE INTERPRETER: I think the interpreter
 21 missed some words. The sounds are not coming
 22 in. I think there are some words missing.
 23 THE WITNESS: For the electrical part, I
 24 was present.
 25 THE INTERPRETER: That was the word that

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1 did not come out. Thank you.
 2 BY MR. PACE:
 3 Q. Are you familiar with a company called
 4 J.M. Products?
 5 A. Yes. Do you hear me? Yes. Sorry. The
 6 communication arrived late. Yes.
 7 Q. What is the business of J.M. Products?
 8 MR. LEON DE LA BARRA: Object to form.
 9 THE WITNESS: I have no idea. I have no
 10 idea.
 11 BY MR. PACE:
 12 Q. Do you know what J.M. Products did with
 13 any power provided to it by Leonardo Corporation?
 14 MR. LEON DE LA BARRA: Object to form.
 15 MR. CHAIKEN: Object to form.
 16 THE WITNESS: I don't know. I don't know.
 17 BY MR. PACE:
 18 Q. Who is Jim Bass?
 19 A. The engineer for J.M.
 20 Q. You worked with Jim Bass on a project,
 21 correct?
 22 A. No. Worked, no.
 23 Q. You did not work with Jim Bass on a
 24 project involving a control -- a control board?
 25 A. We discussed and we listened to

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1 suggestions, but I did not work.

2 MR. PACE: Can you give him the March 6,

3 2016 email?

4 THE INTERPRETER: The interpreter would

5 like to point out it is coming in very sloppy

6 and slow.

7 MR. PACE: I'm going to mark Exhibit 4.

8 (The referred-to document was marked by

9 the court reporter for Identification as

10 Deposition Exhibit 4.)

11 BY MR. PACE:

12 Q. This is a email communication you had with

13 Jim Bass, correct?

14 A. Yes.

15 Q. This is about your control board project?

16 A. No. This is the project for my pinball

17 board.

18 Q. Pinball. Mr. Fabiani, we are having you

19 break up a little bit. Usually you are in full

20 screen. It is a little easier.

21 You were saying that document was about a

22 pinball project?

23 A. That is something that I sent free, for

24 free, because Jim Bass had asked me for a scheme

25 board.

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1 Q. Schematic?

2 A. Scheme board.

3 Q. Schematic.

4 A. Robotics, and that schematic that was --

5 the same schematic that I designed for the pinball

6 was -- it could be used also for the robotics.

7 Q. I'm going to show you what has been marked

8 as Exhibit 5.

9 (The referred-to document was marked by

10 the court reporter for Identification as

11 Deposition Exhibit 5.)

12 BY MR. PACE:

13 Q. Can you take a moment to look at

14 Exhibit 5?

15 A. Can you go down?

16 (A discussion was held off the record,

17 after which the following proceedings were

18 held:)

19 THE WITNESS: Yes, I want to see on top.

20 Go back. Other side.

21 Okay. The question?

22 BY MR. PACE:

23 Q. Does this also involve a pinball system?

24 A. Yes. The Banana Pie and the Beagle Bone

25 are two schematics that are used, and they are two

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1 boards that are used in my pinball board. And Jim

2 Bass -- and Jim Bass wants suggestions as to which

3 one is the better one.

4 Q. Was Jim Bass designing a pinball control

5 system?

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

7 THE WITNESS: That I know of, no. A

8 design system for the rebooting.

9 DR. ROSSI: No.

10 THE INTERPRETER: (In Italian.)

11 THE WITNESS: Oh, for the robotics. For

12 the robotics.

13 BY MR. PACE:

14 Q. And for whom was this robotics system?

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

16 THE INTERPRETER: The interpreter is not

17 getting a complete --

18 THE WITNESS: Can you hear me? Can you

19 hear me?

20 THE INTERPRETER: He's really breaking up

21 really badly. Now that I have the sugar in me.

22 THE WITNESS: Now I could hear well.

23 THE INTERPRETER: But the interpreter

24 could not get a whole sentence. We will try

25 again.

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1 BY MR. PACE:

2 Q. Let me try.

3 Why was Jim Bass working on a robotics

4 system?

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

6 THE WITNESS: You would have to ask Jim

7 Bass.

8 BY MR. PACE:

9 Q. Did he ever tell you?

10 A. No. I don't know. I don't remember. But

11 I don't think so.

12 Q. I'm going to show you what has been marked

13 as Exhibit 6.

14 (The referred-to document was marked by

15 the court reporter for Identification as

16 Deposition Exhibit 6.)

17 THE INTERPRETER: I'm sorry, what date?

18 MR. PACE: That was for her.

19 BY MR. PACE:

20 Q. Now, Mr. Fabiani, this top email is you

21 instructing Jim Bass that he cannot buy something

22 unless you accept it first, correct?

23 A. Yes.

24 Q. Doesn't this involve the control board

25 project?

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1 A. No.

2 Q. What does this involve?

3 A. This continues being Jim Bass' project.

4 Q. Why does Jim Bass need your approval

5 before buying something for his project?

6 A. Very simple. Jim Bass will not --

7 THE INTERPRETER: The interpreter did not

8 hear well. I'm asking him to repeat the

9 answer.

10 THE WITNESS: Jim Bass would tell me to

11 tell Rossi that I would suggest this board,

12 this board.

13 BY MR. PACE:

14 Q. Was Jim Bass working -- was the project

15 on -- let me start over again.

16 Was the project on which Jim Bass was

17 working, was that a project for Dr. Rossi?

18 MR. NUNEZ: Object to form.

19 MR. LEON DE LA BARRA: Join.

20 THE WITNESS: As far as I know, as far as

21 I know, I think so. But I do not have the

22 certainty.

23 BY MR. PACE:

24 Q. Mr. Fabiani, when you met with Jim Bass,

25 where would you meet him?

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1 And I would enter into the office area, where

2 Jim Bass would see me.

3 BY MR. PACE:

4 Q. Who else had an office in that office

5 area?

6 A. I didn't go into the other rooms. There

7 were other rooms, and then there was a meeting room.

8 So I don't know.

9 Q. Did Dr. Rossi have an office over there?

10 A. I know that Dr. Rossi worked for J.M.

11 Q. Do you know who owned J.M.?

12 A. No. My -- never got information.

13 Q. Mr. Fabiani, who else did you work on

14 pinball projects in 2015?

15 MR. CHAIKEN: Object to form.

16 THE WITNESS: Sorry. Can you repeat?

17 MR. PACE: I will do it.

18 THE WITNESS: Can you repeat? Could you

19 repeat the question? Thank you.

20 BY MR. PACE:

21 Q. Mr. Fabiani, with whom else did you work

22 on pinball projects in 2015?

23 MR. CHAIKEN: Object to form.

24 MR. LEON DE LA BARRA: Join.

25 THE WITNESS: Do you want the number or

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

2 DR. ROSSI: No.

3 MR. CHAIKEN: Object to form.

4 THE WITNESS: In the offices of J.M.

5 THE INTERPRETER: J.M. Thank you.

6 BY MR. PACE:

7 Q. Mr. Fabiani, when you refer to J.M., you

8 are referring to J.M. Products?

9 A. I don't know. I don't know.

10 THE INTERPRETER: It is very bad.

11 THE WITNESS: I do not know if they are

12 the same company.

13 BY MR. PACE:

14 Q. Where were the offices of J.M.?

15 A. For me to go to the J.M. office, I would

16 do an eternal --

17 Q. External. He would walk around the

18 building.

19 A. Okay. Now I see you well.

20 THE INTERPRETER: Could you repeat,

21 please?

22 THE WITNESS: I will repeat.

23 Okay. The J.M. at Doral, I would go

24 out -- yes, I hear you, could you hear me? I

25 would go outside and go around the building.

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1 the names?

2 BY MR. PACE:

3 Q. The names.

4 A. Okay. John Popadiuk. Popadiuk.

5 Q. Can you spell that?

6 A. Yes, madam.

7 THE INTERPRETER: (In Italian.)

8 THE WITNESS: He is known worldwide as a

9 person that does pinball projects.

10 THE INTERPRETER: The second name, please,

11 for the interpreter.

12 THE WITNESS: Roberto Cozzo. Rossi.

13 THE INTERPRETER: (In Italian.)

14 THE WITNESS: Guiseppa Levi.

15 There is another three programmers, but I

16 don't remember their last names. The

17 designer's name was -- is Piero Ruggeri. Piero

18 Ruggeri.

19 These are the names that I remember.

20 BY MR. PACE:

21 Q. Did US Quantum Leap make any payments to

22 Giuseppe Levy?

23 A. Yes.

24 Q. How much has US Quantum Leap paid Giuseppe

25 Levy?

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1 A. At this moment, I don't remember.
2 Q. Let me ask one last question.
3 The Giuseppe Levi you're referring to is a
4 professor at the University of Bologna?
5 A. Yes.
6 Q. He was involved in --
7 A. He is a big pinball fan, fanatic.
8 Q. And Professor Levi was also involved in
9 doing some testing on the E-CAT, correct?
10 A. Yes, when we met. That is when we met.
11 THE INTERPRETER: It is a very bad
12 connection.
13 MR. PACE: Let's go ahead and take a
14 break.
15 THE VIDEOGRAPHER: Stand by to go off
16 Media Unit 3. The time is 4:25.
17 (Thereupon, a recess was taken, after
18 which the following proceedings were held:)
19 THE VIDEOGRAPHER: We are now back on the
20 video record. This is the beginning of Media
21 Unit 4. The time back on the record is
22 4:46 p.m.
23 MR. PACE: Am I on 7? Rudy, can you tell
24 me?
25 MR. NUNEZ: Yes.

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1 MR. PACE: Put the Italian version up.
2 (The referred-to document was marked by
3 the court reporter for Identification as
4 Deposition Exhibit 7.)
5 MR. PACE: There is one, two, three. I'm
6 going to give you one for you to look at.
7 BY MR. PACE:
8 Q. Mr. Fabiani, I don't want to ask you a lot
9 of details about this document. I just want to make
10 sure that I'm clear that the Giuseppe Levi that is
11 referenced in this email, that is the Professor Levi
12 from Bologna University?
13 A. Yes, it is Giuseppe Levi.
14 Q. And is this a -- the email address that
15 you are communicating with him -- let me start that
16 over.
17 This is an email communication that you
18 are having from him from his -- let's start over
19 again.
20 This is being sent from his personal
21 email, not his email at the University of Bologna,
22 correct?
23 MR. NUNEZ: Object to form.
24 THE WITNESS: I have no idea. I do not
25 know all the email addresses.

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1 BY MR. PACE:
2 Q. Is this the email address that you usually
3 use to communicate with Professor Levi?
4 A. By memory, I don't remember.
5 MR. PACE: Can you scroll down to the
6 bottom of this page? Just where his email
7 starts. That's good enough there.
8 BY MR. PACE:
9 Q. Mr. Fabiani, at the bottom of this page
10 there is also an email address for you. Do you see
11 that? Do you see that?
12 A. Yes. I read my name, yes.
13 Q. Is that an email address that you still
14 use?
15 A. No, absolutely not.
16 Q. When did you stop using that email
17 address?
18 A. A few years ago.
19 MR. PACE: June 19, 2005. 2015. Sorry.
20 THE INTERPRETER: '15.
21 MR. PACE: I'm sorry about that.
22 (The referred-to document was marked by
23 the court reporter for Identification as
24 Deposition Exhibit 8.)
25

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1 BY MR. PACE:
2 Q. This is an email that you sent to
3 Dr. Rossi, correct? Correct?
4 A. Yes, I think so. I believe so. Think,
5 believe.
6 MR. PACE: Can you do me a favor? Can you
7 go to the second picture?
8 BY MR. PACE:
9 Q. Mr. Fabiani, can you tell me what we are
10 looking at in this image?
11 A. Two containers.
12 Q. Is this the E-CAT plant?
13 A. I think so.
14 Q. Do you know, these are -- these are
15 attached to an email that was dated June 19, June 19
16 of 2015. Do you recall if these are pictures that
17 you took around that time period?
18 A. I don't remember.
19 Q. On the left side of this picture, we can
20 see a gray wall, correct?
21 A. Yes.
22 Q. What is on the other side of that gray
23 wall?
24 A. I have no idea.
25 Q. Have you ever been on the other side of

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1 that gray wall?
2 A. No.
3 Q. Just above the gray wall we can see the
4 outline of a black box or the top of a black box or
5 a black container.
6 Do you see that?
7 A. I see black.
8 Q. Do you know what is in that -- have you
9 ever been inside of that black box?
10 A. No, never been inside.
11 Q. Next to the black box do you see a silver
12 pipe? It is actually a pipe wrapped in insulation.
13 THE INTERPRETER: I'm sorry.
14 MR. PACE: A gray pipe.
15 THE INTERPRETER: Your last question was,
16 do you see it?
17 THE WITNESS: Yes.
18 THE INTERPRETER: The answer is yes.
19 BY MR. PACE:
20 Q. Was that the insulated pipe that was to
21 carry the heated fluid from the 1-MW plant over to
22 the J.M. side of the warehouse?
23 A. Yes, I think that is it.
24 Q. Do you recall when that pipe was put into
25 play -- when that pipe was installed?

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1 A. I do not remember the date.
2 Q. When was the pipe -- when was that
3 insulated pipe removed from its -- removed from the
4 location that it is in this picture?
5 A. I don't know.
6 Q. When was the last time you were in the
7 Doral warehouse?
8 A. The last time, one or two days after the
9 plant was closed, yes, to take my material that had
10 been thrown outside.
11 Q. What was that material?
12 A. My computer, my acquisition system, my
13 electronic laboratory.
14 MR. PACE: Equipment, laboratory.
15 BY MR. PACE:
16 Q. When you -- do you recall whether that
17 insulated pipe was still at the Doral warehouse on
18 the last day you were there?
19 A. No. I did not go around looking around
20 the plant. It was all closed.
21 Q. Let's go to -- is this the third picture?
22 The third picture that was attached to the email, is
23 this a picture of the four Big Frankie units?
24 A. It is not complete, but you can see four
25 Big Frankies.

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1 Q. And the Big Frankie units are stacked on
2 top of each other in this picture?
3 A. Yes, they are stacked. But they are
4 distanced from each other.
5 MR. PACE: Can you go to the last picture?
6 BY MR. PACE:
7 Q. The last attached picture from this email,
8 can you tell me what we are looking at here?
9 A. I think it could be the -- a small module.
10 Q. A small module meaning a small E-CAT?
11 A. Yes. Yes, I am talking about the small
12 E-CAT.
13 Q. Mr. Fabiani, were you ever involved in
14 fueling any of the E-CAT units? Fueling.
15 MR. PACE: Is that a bad word? Let me
16 make a different question.
17 BY MR. PACE:
18 Q. Mr. Fabiani, were you ever involved in
19 putting fuel into an E-CAT unit?
20 MR. PACE: You can use the word "catalyst"
21 in Italian or "fuel" in Italian, but not
22 gasoline. I'll try a different one.
23 BY MR. PACE:
24 Q. Mr. Fabiani, were you ever involved in
25 putting any mixtures into the E-CAT units?

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1 A. I understand.
2 No, never involved.
3 Excuse me. It is 3:00 in the morning. I
4 begin being very tired.
5 MR. NUNEZ: Chris, how much longer do you
6 think you have?
7 MR. PACE: I want to show him a couple of
8 documents.
9 THE INTERPRETER: (In Italian.)
10 THE WITNESS: Thank you, thank you. I'm
11 not very lucid at 3:00 a.m.
12 MR. PACE: This is 9?
13 (The referred-to document was marked by
14 the court reporter for Identification as
15 Deposition Exhibit 9.)
16 BY MR. PACE:
17 Q. Mr. Fabiani, what you are looking at on
18 your screen now, this is an email that you wrote to
19 J.T. Vaughn; is that correct?
20 A. Probably.
21 Q. You do not recognize the email otherwise?
22 A. Probably, yes, yes.
23 MR. PACE: Can you go down to the bottom
24 of the first page of the agreement. I want to
25 see if he recognizes his initials and his

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1 signature.
2 BY MR. PACE:
3 Q. Mr. Fabiani, can you see either initials
4 or signatures in the bottom right-hand corner?
5 A. Yes.
6 Q. Are those your initials or signature?
7 A. Yes, it seems like mine.
8 MR. PACE: Then why don't we go all the
9 way to just the first signature.
10 BY MR. PACE:
11 Q. Mr. Fabiani, does this appear to be your
12 signature on this document, what we see there above
13 the name Fulvio Fabiani?
14 A. Yes. It seems like mine, yes.
15 MR. PACE: Literally, one last document.
16 February 23, 2016. This is Exhibit 10.
17 (The referred-to document was marked by
18 the court reporter for Identification as
19 Deposition Exhibit 10.)
20 MR. PACE: Did I give you February 23rd?
21 MS. HANDELSON: I have it up.
22 BY MR. PACE:
23 Q. Mr. Fabiani, do you recognize this email?
24 A. Yes. It is properly mine, yes.
25 Q. In this email, you are telling J.T. Vaughn

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1 about certain information that you are going to
2 provide him; is that correct?
3 A. I read that we are trying to clarify the
4 interest in continuing to work together.
5 Q. You say in this email that you are going
6 to send Mr. Vaughn an Excel file with electrical and
7 thermal data, correct?
8 A. It is the file that I hand-delivered to
9 the engineer of Industrial Heat, in Attorney Pace's
10 office.
11 Q. And then you say that you were going to
12 work on an official report; is that correct?
13 A. It was not -- the official report was not
14 prepared because I was not paid.
15 Q. So your position is you never prepared
16 your official report, correct?
17 MR. CHAIKEN: Object to form.
18 THE WITNESS: Never done. There was no
19 final payment. Nothing.
20 MR. PACE: May 15th.
21 (The referred-to document was marked by
22 the court reporter for Identification as
23 Deposition Exhibit 11.)
24 BY MR. PACE:
25 Q. Mr. Fabiani, I have marked for you here

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1 Exhibit 11.
2 Isn't it, in fact, the case that
3 Industrial Heat offered to make the final payment to
4 Quantum Leap if you would send the raw data and your
5 final report?
6 A. The question?
7 Q. Isn't that correct?
8 A. This was -- this was a proposal done by
9 Murray, which I did not know. It was done after the
10 closing of the contract.
11 THE INTERPRETER: No.
12 BY MR. PACE:
13 Q. Can you repeat your answer?
14 A. This is a document done by a person that I
15 did not know, as far as being introduced to me.
16 THE INTERPRETER: Going a little fast for
17 me, sorry.
18 THE WITNESS: It was not contemplated in
19 my contract, to refer to this person as a
20 person that could ask me for data and
21 documents.
22 BY MR. PACE:
23 Q. Mr. Fabiani, to whom did you hand over the
24 flash drive that you testified to earlier today?
25 A. I took it to the office of the attorney.

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1 Q. And gave it to whom?
2 A. And I proposed it to J.T. Vaughn, who told
3 me to hand-deliver it in the hands of that person.
4 Q. Who was that person?
5 A. Mr. Murray.
6 Q. The person on this email?
7 A. It could be that one.
8 Q. Mr. Fabiani, you communicated with J.T.
9 Vaughn and Mr. Murray in English, correct?
10 A. Yes, thanks to the translator.
11 Q. You would communicate with Barry West in
12 English?
13 A. Yes, thanks to the translator.
14 Q. You would communicate with Jim Bass in
15 English, correct?
16 A. Yes, thanks to the translator.
17 Q. You would communicate with Henry Johnson
18 in English, correct?
19 MR. NUNEZ: Object to form.
20 DR. ROSSI: Object to form.
21 MR. NUNEZ: Object to form.
22 MR. PACE: I heard Dr. Rossi actually
23 insert an object to form.
24 MR. NUNEZ: He can't do that.
25 THE WITNESS: Could you please repeat the

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1 question?
 2 MR. PACE: Yes.
 3 BY MR. PACE:
 4 Q. You communicated with Henry Johnson in
 5 English, correct?
 6 MR. NUNEZ: Object to form.
 7 THE WITNESS: I have no idea who Henry
 8 Johnson is.
 9 I'm here.
 10 MR. PACE: No further questions.
 11 MR. NUNEZ: Thank you, Mr. Fabiani.
 12 You've been great. Thank you for these extra
 13 three hours and more.
 14 THE WITNESS: Thank you to the translator
 15 that put up with me.
 16 THE INTERPRETER: You put up with me.
 17 THE WITNESS: And thank you to Attorney
 18 Pace.
 19 MR. PACE: Goodnight.
 20 THE VIDEOGRAPHER: 5:21 p.m. Going off
 21 the video record.
 22 (Thereupon, the taking of the deposition
 23 was concluded at 5:21 p.m.)
 24
 25

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1 AFFIDAVIT
 2 STATE OF FLORIDA)
 3 COUNTY OF)
 4
 5
 6 I, _____, being first
 7 duly sworn, do hereby acknowledge that I did
 8 read a true and certified copy of my deposition
 9 which was taken in the case of ROSSI V. DARDEN,
 10 taken on the 28th day of February, 2017, and
 11 the corrections I desire to make are as
 12 indicated on the attached Errata Sheet.
 13
 14 CERTIFICATE
 15
 16 STATE OF FLORIDA)
 17 COUNTY OF)
 18
 19
 20 Before me personally appeared
 21 _____
 22 to me well known / known to me to be the
 23 person described in and who executed the
 24 foregoing instrument and acknowledged to and
 25 before me that he executed the said instrument
 26 in the capacity and for the purpose therein
 27 expressed.
 28
 29 Witness my hand and official seal, this
 30 _____ day of _____, _____.
 31
 32
 33 _____
 34 (Notary Public)
 35
 36 MY Commission Expires:
 37

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1 ERRATA SHEET
 2 PAGE LINE REMARKS
 3 _____
 4 _____
 5 _____
 6 _____
 7 _____
 8 _____
 9 _____
 10 _____
 11 _____
 12 _____
 13 _____
 14 _____
 15 _____
 16 _____
 17 _____
 18 _____
 19 _____
 20 _____
 21 _____
 22 Signature of Witness
 23 _____
 24 (Notary Public)
 25 Dated this _____ day of _____, _____.
 26 MY Commission Expires: _____

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1 CERTIFICATE OF OATH
 2 STATE OF FLORIDA)
 3 COUNTY OF MIAMI-DADE)
 4
 5
 6 I, the undersigned authority, certify
 7 that FULVIO FABIANI personally appeared before me
 8 and was duly sworn.
 9 WITNESS my hand and official seal this
 10 13th day of February, 2016.
 11
 12 <%Signature%>
 13 KELLI ANN WILLIS, RPR, CRR
 14 Notary Public, State of Florida
 15 My Commission No. FF911443
 16 Expires: 2/16/20
 17 ++++++
 18 CERTIFICATE
 19 STATE OF FLORIDA)
 20 COUNTY OF MIAMI-DADE)
 21 I, KELLI ANN WILLIS, Registered
 22 Professional Reporter and Certified Realtime
 23 Reporter do hereby certify that I was
 24 authorized to and did stenographically report
 25 the foregoing deposition of 2017; That a review
 26 of the transcript was requested; and that the
 27 transcript is a true record of my stenographic
 28 notes.
 29 I FURTHER CERTIFY that I am not a
 30 relative, employee, attorney, or counsel of any
 31 of the parties, nor am I a relative or employee
 32 of any of the parties' attorney or counsel
 33 connected with the action, nor am I financially
 34 interested in the action.
 35 Dated this 13th day of February, 2016.
 36
 37
 38 <%Signature%>
 39 KELLI ANN WILLIS, RPR, CRR

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1
2 March, 14 2017
3 Fulvio Fabiani
4 c/o Rodolfo Nunez, Esq.
5 255 Alahambra Circle
6 Coral Gables, Florida 33134
7
8 RE: Rossi v. Darden
9 DEPO OF: Fulvio Fabiani
10 TAKEN: 2-28-17
11 NUMBER OF PAGES: 150
12 AVAILABLE FOR READING UNTIL: 30 days
13 Dear Sir:
14 This letter is to advise you that the transcript of
15 your deposition is available for reading and
16 signing.
17 PLEASE CALL 305 376-8800 TO MAKE AN APPOINTMENT to
18 come to the Veritext office to read and sign the
19 transcript. Our office hours are 9:00 a.m. to 5:00
20 p.m., Monday through Friday.
21
22 In the event other arrangements are made, please
23 send us a notarized list of any and all corrections
24 and/or changes, noting page and line numbers, and
25 the reason for such changes, so that we can furnish
26 respective counsel with a copy.
27
28 If the reading and signing has not been completed
29 prior to the above-referenced date, we shall
30 conclude that you have waived the reading and
31 signing of the deposition transcript.
32 Your prompt attention to this matter is appreciated.
33 Sincerely,
34
35 Kelli Ann Willis, RPR, CRR
36 cc: All counsel of record
37
38

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1
2 March, 14 2017
3
4 Christopher Pace, Esq.
5 Jones Day
6 600 Brickell Avenue
7 Suite3300
8 Miami, Florida 33131
9 RE: Rossi v. Darden
10 DEPO OF: Fulvio Fabiani
11 TAKEN: February 28, 2016
12 NUMBER OF PAGES: 150
13 AVAILABLE FOR READING UNTIL: 30 days
14 Dear Counsel:
15 The original transcript of the deposition listed
16 above is enclosed for your file. The witness did
17 not waive reading and signing and has been sent a
18 letter notifying them to come in to read and sign
19 their deposition transcript.
20 The witness will be provided a copy of their
21 deposition for reading in our office should they
22 come in to review the transcript, and we will
23 forward to you any corrections made by the witness
24 at that time, along with an original signature page
25 to be attached to the original transcript.
26
27 Sincerely,
28
29 Kelli Ann Willis, RPR, CRR
30
31
32
33
34