

CONFIDENTIAL TRANSCRIPT

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

ANDREA ROSSI, et al.,

Plaintiffs,

v.

THOMAS DARDEN, et al.,

Defendants.

- - - - -x  
INDUSTRIAL HEAT, LLC, et al.,

Counter-Plaintiffs,

v.

ANDREA ROSSI, et al.,

Counter-Defendants.

and

J.M. PRODUCTS, et al.,

Third-Party Defendants.

- - - - -x  
600 Brickell Avenue, Suite 3300  
Miami, Florida  
Thursday, December 15, 2016  
10:43 a.m.- 4:46 p.m.

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PORTIONS OF TRANSCRIPT HIGHLY CONFIDENTIAL  
ATTORNEYS' EYES ONLY  
VIDEO DEPOSITION OF JAMES STOKES  
Taken before Edward Varkonyi, Registered  
Merit Reporter and Notary Public for the State of  
Florida at Large, pursuant to Notice of Taking  
Deposition filed in the above cause.

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<p style="text-align: right;">Page 2</p> <p>1 APPEARANCES</p> <p>2</p> <p>3 JOHN W ANNESSER, ESQ , Perlman Bajandas Yevoli &amp; Albright, P L 283 Catalonia Avenue, Suite 200 4 Coral Gables, Florida 33134 on behalf of the Plaintiff</p> <p>5</p> <p>6 CHRISTOPHER R J PACE, ESQ , ERIKA S HANDELSON, ESQ , 7 Jones Day 600 Brickell Avenue, Suite 3300 8 Miami, Florida 33131 on behalf of the Defendant</p> <p>9</p> <p>10 RODOLFO NUNEZ, ESQ , Rodolfo Nunez, P A 11 255 University Drive Coral Gables, Florida 33134 12 on behalf of Defendants J M Products, Johnson and Bass</p> <p>13</p> <p>14 FRANCISCO J LEON DE LA BARRA, ESQ , Aran Correa &amp; Guarch, P A 15 255 University Drive Coral Gables, Florida 33134 16 on behalf of Defendant United States Quantum Leap and Fabiani</p> <p>17</p> <p>18 TRACIE DICKERSON, ESQ Department of Health 19 8323 NW 12th Street, Suite 214 Miami, Florida 33126 20 on behalf of the Witness</p> <p>21</p> <p>22 ALSO PRESENT: Todd Cohen, Videographer</p> <p>23</p> <p>24</p> <p>25</p>	<p style="text-align: right;">Page 4</p> <p>1 EXHIBITS CONTINUED</p> <p>2 Exhibit 15 Color Photos 79</p> <p>3 Exhibit 16 Color Photo 84</p> <p>4 Exhibit 17 Color Photo 84</p> <p>5 Exhibit 18 Color Photo 85</p> <p>6 Exhibit 19 Color Photo 87</p> <p>7 Exhibit 20 Color Photo 98</p> <p>8 Exhibit 21 Color Photo 110</p> <p>9 Exhibit 22 DH000001 to 116 121</p> <p>10 Exhibit 23 Color Photo 207</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>
<p style="text-align: right;">Page 3</p> <p>1 INDEX</p> <p>2 Witness Direct Cross Red. Rec.</p> <p>3 JAMES STOKES</p> <p>4 By Mr. Pace 6 199</p> <p>5 By Mr. Annesser 115 207</p> <p>6 By Mr. Nunez 184</p> <p>7 By Mr. Leon de la Barra 193</p> <p>8</p> <p>9</p> <p>10 EXHIBITS</p> <p>11 Plaintiff's For Ident.</p> <p>12 Exhibit 1 Color Photo 21</p> <p>13 Exhibit 2 e-mail, Passetti to Cooksey, 2/21/12 21</p> <p>14 Exhibit 3 e-mail, Becker to Williamson, 10/20/15 26</p> <p>15 Exhibit 4 Color Photo 31</p> <p>16 Exhibit 5 BRC Incident Report FL16-028 49</p> <p>17 Exhibit 6 e-mail, Becker to Stokes, 2/12/16 51</p> <p>18 Exhibit 7 e-mail, Stokes to Anderson, 2/10/16 57</p> <p>19 Exhibit 8 e-mail, Becker to Stokes, 2/10/16 63</p> <p>20 Exhibit 9 Color Photograph 68</p> <p>21 Exhibit 10 Color Photograph 71</p> <p>22 Exhibit 11 Color Photo 74</p> <p>23 Exhibit 12 Color Photo 75</p> <p>24 Exhibit 13 Color Photo 79</p> <p>25 Exhibit 14 Color Photos 79</p>	<p style="text-align: right;">Page 5</p> <p>1 Thereupon--</p> <p>2 THE VIDEOGRAPHER: We are now on the</p> <p>3 video record. This is the beginning of media</p> <p>4 unit number one.</p> <p>5 My name is Todd Cohen representing</p> <p>6 Veritext. The date today is December 15, 2016</p> <p>7 and the time on our video record is 10:43 a m.</p> <p>8 This deposition is being held at the law</p> <p>9 offices of Jones Day located at 600 Brickell</p> <p>10 Avenue, in Miami, Florida. The caption of the</p> <p>11 case is Andrea Rossi and Leonardo Corporation</p> <p>12 versus Thomas Darden, John T. Vaughn, Industrial</p> <p>13 Heat, LLC, et al.</p> <p>14 The name of our witness this morning is</p> <p>15 Mr. James Stokes. At this time may I please</p> <p>16 have all parties in the room announce their</p> <p>17 appearances for the video record, after which</p> <p>18 Eddie Varkonyi, our court reporter with</p> <p>19 Veritext, will swear in Mr. Stokes and we can</p> <p>20 begin.</p> <p>21 MR. PACE: Good morning, Chris Pace and</p> <p>22 Erika Handelson for Jones Day -- of Jones Day</p> <p>23 for the defendants.</p> <p>24 MR. DICKERSON: Tracie Dickerson with</p> <p>25 Florida Department of Health.</p>

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1 A. What Mr. Fabiani said is this area here  
 2 belongs to somebody else and that's all I remember  
 3 him saying.  
 4 Q. Did he use a reference to a company  
 5 called J.M. Products?  
 6 A. He did not say who, that I can recall,  
 7 but he did tell me this area belongs to somebody  
 8 else.  
 9 Q. And then just so we're clear, if we look  
 10 at Exhibit 10, again it just helps us with this  
 11 record, the way we have to do this.  
 12 A. Correct.  
 13 Q. When you say this area here, you mean the  
 14 area on the other side of the white door that is  
 15 shown in Exhibit 10?  
 16 A. Correct.  
 17 Q. And nevertheless he took you back behind  
 18 in that area, correct?  
 19 A. Correct.  
 20 MR. NUNEZ: Object to form.  
 21 BY MR. PACE:  
 22 Q. He either -- he had access whether the  
 23 door was unlocked or he had a key to the door, he had  
 24 the ability to get into the other side, correct?  
 25 MR. ANNESSER: Object to form.

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1 MR. NUNEZ: Object to form.  
 2 MR. LEON DE LA BARRA: Object to form.  
 3 THE WITNESS: He escorted us in there.  
 4 BY MR. PACE:  
 5 Q. In this Exhibit 10, you can see to the  
 6 back there, there looks like a black kind of  
 7 container. Is that the container you were referring  
 8 to?  
 9 A. That's the insulation on the container.  
 10 Q. The insulation on container --  
 11 A. Correct.  
 12 Q. -- that you then went into?  
 13 A. Correct.  
 14 Q. Once you were on the other side of the  
 15 door did Mr. Fabiani explain to you what was going on  
 16 on the other side of the door?  
 17 A. I did not ask and I don't recall him  
 18 saying anything.  
 19 Q. Do you recognize any of the equipment  
 20 that is shown in Exhibits 16 to 17 -- 16 to 18?  
 21 A. In my general knowledge of piping  
 22 systems, yes, I recognize the piping systems but  
 23 that's all I can really state.  
 24 Q. Do you -- let me break it down here by  
 25 individuals.

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1 But the broad question is did anyone --  
 2 we'll talk about who that was in a second. Did  
 3 anyone explain to you the functioning of this -- of  
 4 the equipment shown in Exhibits 16 to 18?  
 5 A. Nobody explained and I did not ask.  
 6 Q. Okay. On the other side of the white  
 7 door where this container was located, did you see  
 8 any other equipment?  
 9 A. Not that I recall, no.  
 10 Q. Did you see any manufacturing equipment?  
 11 MR. ANNESSER: Object to form.  
 12 THE WITNESS: No.  
 13 BY MR. PACE:  
 14 Q. Did you see any chemical products?  
 15 A. No.  
 16 Q. Did you see any signs of a manufacturing  
 17 process being conducted on that side, on the other  
 18 side of the wall -- on the other side of the white  
 19 door?  
 20 MR. ANNESSER: Object to form.  
 21 THE WITNESS: No.  
 22 BY MR. PACE:  
 23 Q. I assume you have been in a number of  
 24 manufacturing facilities in the course of your  
 25 career?

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1 A. Numerous.  
 2 MR. ANNESSER: Object to form.  
 3 MR. LEON DE LA BARRA: Join.  
 4 BY MR. PACE:  
 5 Q. If I understand correctly, after you go  
 6 through this white door, if you kept going straight  
 7 you eventually obviously would get to the other side  
 8 of the warehouse, correct?  
 9 A. Correct.  
 10 Q. And were there offices on the very other  
 11 side of the warehouse or did you ever go into those?  
 12 A. Exhibit 10, you see the white door in the  
 13 back?  
 14 Q. Correct, the bathroom door in the back?  
 15 A. That was the only door that then went  
 16 through to the offices on the other side.  
 17 Q. Okay.  
 18 A. On the other side of that door was a  
 19 bathroom, a reception area, something that you could  
 20 use as a conference room and then an office.  
 21 Q. Okay. So let me just ask you, the space  
 22 between -- what we're seeing here is this gray wall  
 23 in Exhibit 10 with the white door and where the  
 24 conference room and office were located, in the space  
 25 in between there, that's where this container covered

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<p style="text-align: right;">Page 94</p> <p>1 in insulation existed, correct?</p> <p>2 A. Correct.</p> <p>3 Q. Was there -- what else was in that space,</p> <p>4 that area between the conference room offices and the</p> <p>5 white door?</p> <p>6 A. Nothing memorable.</p> <p>7 Q. Okay. Did you have any contact with any</p> <p>8 of the pipes in the container?</p> <p>9 A. No.</p> <p>10 Q. How close were you to the pipes in the</p> <p>11 container?</p> <p>12 A. Within a foot.</p> <p>13 Q. Have you ever been next to pipes that are</p> <p>14 carrying steam?</p> <p>15 A. Yes.</p> <p>16 Q. Would that be in the navy?</p> <p>17 A. 600 pound steam and 1200 pound steam.</p> <p>18 Q. Are you familiar with the type of</p> <p>19 insulation that is on -- I'm sorry, let me re-ask</p> <p>20 that question.</p> <p>21 Exhibit 17 I'm noticing not all the pipes</p> <p>22 have insulation, correct, only the top pipes?</p> <p>23 A. Yes.</p> <p>24 Q. Did you -- how hot was it in this</p> <p>25 container?</p>	<p style="text-align: right;">Page 96</p> <p>1 so, you know, I understand the objection.</p> <p>2 A. This goes back to my comment earlier</p> <p>3 about when you turn off something it can still be hot</p> <p>4 though the stove is turned off.</p> <p>5 There was still steam in these pipes.</p> <p>6 They were still warm but I cannot say that the device</p> <p>7 was producing steam or that it was just residual</p> <p>8 steam that was still in the pipes.</p> <p>9 Q. Understood. You're now kind of getting</p> <p>10 to the question I was trying to understand. Okay.</p> <p>11 And if I understand correctly, you did</p> <p>12 not ask for an explanation of what was going on in</p> <p>13 those pipes from anyone?</p> <p>14 MR. ANNESSER: Object to the form.</p> <p>15 THE WITNESS: No, I did not because there</p> <p>16 was no ionizing radiation present. Had there</p> <p>17 been, there would have been pictures, notes,</p> <p>18 questions. Because there is no ionizing</p> <p>19 radiation I didn't care if it was purple.</p> <p>20 BY MR. PACE:</p> <p>21 Q. So that I can understand correctly, if</p> <p>22 you look at -- if you do me a favor and look at, I'm</p> <p>23 juggling it here, Exhibit 14 and Exhibit 16.</p> <p>24 It's a little bit of a match -- it's kind</p> <p>25 of a match game now.</p>
<p style="text-align: right;">Page 95</p> <p>1 A. It was warm. That was it.</p> <p>2 Q. Did --</p> <p>3 A. To answer your question about the</p> <p>4 uncovered pipes, they weren't connected to anything.</p> <p>5 Q. Only the pipes with the --</p> <p>6 A. Only the pipes with the insulation --</p> <p>7 Q. I understand.</p> <p>8 A. -- were connected to the device in the</p> <p>9 other container. These pipes right here were</p> <p>10 connected to nothing.</p> <p>11 Q. Okay.</p> <p>12 A. The uninsulated pipes were connected to</p> <p>13 nothing.</p> <p>14 Q. Okay. So the -- and on a comparative</p> <p>15 basis then being next to those -- being within a foot</p> <p>16 from those pipes, were they radiating any noticeable</p> <p>17 degree of heat?</p> <p>18 A. Yes.</p> <p>19 Q. How much?</p> <p>20 MR. ANNESSER: Object to form.</p> <p>21 MR. LEON DE LA BARRA: Object to form.</p> <p>22 MR. ANNESSER: Calls for speculation.</p> <p>23 THE WITNESS: Correct.</p> <p>24 BY MR. PACE:</p> <p>25 Q. How much? I'm asking you to speculate,</p>	<p style="text-align: right;">Page 97</p> <p>1 A. Here is 14 and?</p> <p>2 Q. 16, please. Perfect. From being at the</p> <p>3 location and seeing how it was set up, could you</p> <p>4 visualize that what appears there in Exhibit 14 in</p> <p>5 fact is the piping that we see on Exhibit 16 coming</p> <p>6 into this second container behind the white door?</p> <p>7 A. Yes.</p> <p>8 Q. Okay. In Exhibit 16, do you know, just</p> <p>9 from your kind of experience in the work that you do,</p> <p>10 do you know what is in that -- what that box is with</p> <p>11 the red --</p> <p>12 MR. ANNESSER: Objection to form.</p> <p>13 BY MR. PACE:</p> <p>14 Q. -- with kind of the red cap on it?</p> <p>15 A. No.</p> <p>16 Q. Okay. You went through the offices. Did</p> <p>17 you say also you actually went through the office and</p> <p>18 the container -- I'm sorry, office and the conference</p> <p>19 room that existed at the warehouse?</p> <p>20 A. Every square foot.</p> <p>21 Q. I think the answer to this is also going</p> <p>22 to be no, but I'm going to show you -- what the heck</p> <p>23 am I on now? 20.</p> <p>24 (The document referred to was thereupon</p> <p>25 marked Plaintiff's Exhibit 20 for Identification, a</p>

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1 I said my job is to make sure there that  
 2 there is no sources of ionizing radiation that pose a  
 3 public health risk and after that my job is done.  
 4 Q. In the first line of your report, which  
 5 has been marked as Exhibit 5, it states: "I met with  
 6 Detectives Ray Montano and Jesus Armanate and  
 7 explained the strategy for our entry into the  
 8 facility."  
 9 A. Correct.  
 10 Q. So that's what you just described to me?  
 11 A. Basically, yes.  
 12 Q. Do you know if at any time they  
 13 identified themselves to the security guard as  
 14 detectives or investigators? This is --  
 15 A. Again, I have to speak truthfully and  
 16 factually. They were speaking to Fulvio and the  
 17 security guard while I was on the phone with  
 18 Dr. Rossi. So the problem I have is I don't know if  
 19 they did or didn't.  
 20 Q. Okay. And that's a perfectly acceptable  
 21 answer.  
 22 Do you know whether Mr. Montano or  
 23 Mr. Armanate ever spoke to Dr. Rossi on the phone to  
 24 inform them that they were there and who they were?  
 25 A. If they did I'm unaware of it so the

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1 answer is I'm not aware of any attempt of them to  
 2 contact him.  
 3 Q. Now, when you started walking around with  
 4 the -- again, for a short term, Geiger counter --  
 5 A. Correct.  
 6 Q. -- to do your inspection --  
 7 A. Uh-huh.  
 8 Q. -- did they follow you?  
 9 A. Most of the time, yes, but I wasn't -- I  
 10 wasn't verifying that they were right behind me all  
 11 the time, but sometimes I would turn around and go  
 12 the other way and I would see them there, but I don't  
 13 think they were really just tagging along with me the  
 14 entire time.  
 15 Q. Do you know what they were doing  
 16 either -- well, at any point in which they were  
 17 within your eyesight? Were they just looking  
 18 around? Were they making notes, taking photographs?  
 19 A. They did not take photographs. In fact,  
 20 they were supposed to sign not to take photographs.  
 21 They were not taking photographs.  
 22 If they were taking notes, it was not  
 23 apparent to me because I was busy doing the surveys.  
 24 I mean they may have written something down behind my  
 25 back. I did not see them write down any notes until

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1 they started interviewing Dr. Rossi.  
 2 But when I was doing my tour I did not  
 3 see them write anything down. And it was very clear  
 4 that they didn't really know what they were looking  
 5 at, so to speak.  
 6 Q. Now, once you reviewed everything, and  
 7 I'm going refer to it as on the side of the wall with  
 8 the red containers --  
 9 A. Sure.  
 10 Q. -- did you go down the hallway that runs  
 11 parallel to that gray section of the building as  
 12 depicted in Exhibit 10?  
 13 A. Uh-huh.  
 14 Q. Prior to or after entering the -- that  
 15 gray, or through the white door into the gray area?  
 16 A. That I'm uncertain. I know that earlier  
 17 I said I surveyed the offices last, but now that I'm  
 18 thinking about it, I am not certain I did them last.  
 19 Q. Now, Mr. Pace had asked you about  
 20 manufacturing equipment.  
 21 A. Sure.  
 22 Q. And you said you didn't see any there; is  
 23 that correct?  
 24 A. I did not notice, therefore I say I did  
 25 not see any manufacturing equipment there.

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1 Q. What do you consider manufacturing  
 2 equipment?  
 3 A. Lathes, milling machines, rolling  
 4 presses, sheet metal benders, pipe benders. I didn't  
 5 notice anything that was on the level of  
 6 manufacturing.  
 7 Now, there may have been small tools over  
 8 there for doing stuff, you know, just like I've got  
 9 tools for around the house. There might have been  
 10 small tools around. There might have been a work  
 11 bench, but when you talk about manufacturing you're  
 12 talking about machines as big as this table that  
 13 would stick out like a sore thumb.  
 14 Q. Well, depends on what you're  
 15 manufacturing, correct?  
 16 A. That's true. But like I said, I saw  
 17 nothing related to manufacturing there. But, like I  
 18 said, you can manufacture on a little work bench if  
 19 you're manufacturing a small device, you're right.  
 20 I did not see anything that indicated to  
 21 me that manufacturing was ongoing.  
 22 Q. Have you ever been in facilities that  
 23 manufacture metal catalysts?  
 24 A. No.  
 25 Q. Or any type of metal powders or anything



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<p style="text-align: right;">Page 166</p> <p>1 to that extent?</p> <p>2 A. No. Metal centering, things like that,</p> <p>3 no.</p> <p>4 Q. So you wouldn't know what that looks</p> <p>5 like?</p> <p>6 A. That is correct.</p> <p>7 Q. Now, when you approached the white door</p> <p>8 as depicted in Exhibit 10, you said you didn't recall</p> <p>9 how Mr. Fabiani had obtained access?</p> <p>10 A. That is correct.</p> <p>11 Q. Do you know if he knocked on the door to</p> <p>12 be allowed in?</p> <p>13 A. No, I do not know. I do not recall.</p> <p>14 Q. Could that have been what happened?</p> <p>15 MR. PACE: Objection to form.</p> <p>16 BY MR. ANNESSER:</p> <p>17 Q. Do you know that to be the case or do you</p> <p>18 know that not to be the case or you just don't know?</p> <p>19 A. I do not know.</p> <p>20 MR. PACE: Objection to form.</p> <p>21 THE WITNESS: I do not know. Sorry.</p> <p>22 BY MR. ANNESSER:</p> <p>23 Q. Is it possible that the gentleman that</p> <p>24 you had described that was inside could have let you</p> <p>25 in?</p>	<p style="text-align: right;">Page 168</p> <p>1 enter through that door?</p> <p>2 A. That is not a question I asked because I</p> <p>3 assumed he had the authority or he would not have let</p> <p>4 me in.</p> <p>5 Q. But he told you that it was somebody</p> <p>6 else's area?</p> <p>7 A. That's true.</p> <p>8 Q. So you knew that it wasn't an area that</p> <p>9 he had access to?</p> <p>10 MR. PACE: Objection.</p> <p>11 MR. ANNESSER: I'm sorry, strike that. I</p> <p>12 misspoke.</p> <p>13 BY MR. ANNESSER:</p> <p>14 Q. You knew that that was an area that was</p> <p>15 other than the area in which he was working and had</p> <p>16 control over?</p> <p>17 MR. PACE: Objection to form.</p> <p>18 THE WITNESS: I do not know what his</p> <p>19 authorized work area was. I just know that he</p> <p>20 said that somebody else owned -- and he pointed</p> <p>21 to this area, somebody else owns that.</p> <p>22 That did not tell me he did not have</p> <p>23 access to it. I assumed because he gave us</p> <p>24 access to it that he was authorized to give us</p> <p>25 access to it. Or whether he asked somebody</p>
<p style="text-align: right;">Page 167</p> <p>1 MR. PACE: Objection to form, speculation</p> <p>2 again.</p> <p>3 THE WITNESS: I don't know.</p> <p>4 BY MR. ANNESSER:</p> <p>5 Q. So as you approach the door you testified</p> <p>6 that Mr. Fabiani told you that that's someone else's</p> <p>7 area?</p> <p>8 A. That is correct.</p> <p>9 Q. Did you seek to obtain permission from</p> <p>10 whoever else that would be?</p> <p>11 A. No, to be honest.</p> <p>12 Q. Did Dr. Rossi tell you you could go in</p> <p>13 that area?</p> <p>14 A. I do not recall.</p> <p>15 Q. You said the gentleman inside of that</p> <p>16 white door did not speak very good English?</p> <p>17 A. He did not speak to me, but -- I would</p> <p>18 like to say specifically something, but I can't.</p> <p>19 In other words, I don't know why I knew</p> <p>20 he didn't speak English well. I don't recall.</p> <p>21 Q. But it was your understanding that he</p> <p>22 didn't speak English well?</p> <p>23 A. That is correct.</p> <p>24 Q. Do you know or did you know at the time</p> <p>25 whether Mr. Fabiani had the authority to allow you to</p>	<p style="text-align: right;">Page 169</p> <p>1 permission, that I am unaware of, to get access</p> <p>2 to it, I do not know.</p> <p>3 BY MR. ANNESSER:</p> <p>4 Q. Now, stepping back for a moment back to</p> <p>5 you had mentioned, again, seeing steam coming out of</p> <p>6 one of the pipes --</p> <p>7 A. Uh-huh.</p> <p>8 Q. -- near the red shipping containers.</p> <p>9 A. Correct.</p> <p>10 Q. You had used the word pressurized steam.</p> <p>11 A. Uh-huh.</p> <p>12 Q. What makes you state that? What do you</p> <p>13 mean by pressurized steam?</p> <p>14 A. Well, pressurized steam is going to give</p> <p>15 you a little bit of a hissing sound and it's going to</p> <p>16 get louder and louder and higher and higher in</p> <p>17 pressure and that was not high pressure steam but it</p> <p>18 was a steam leak.</p> <p>19 Q. So it wasn't high pressure steam, it</p> <p>20 wasn't --</p> <p>21 A. It wasn't something that would turn over</p> <p>22 a steam turbine, no.</p> <p>23 Q. Okay. Now, you had testified that you</p> <p>24 couldn't tell whether the E-Cat -- are you okay with</p> <p>25 me calling that red shipping container the E-Cat?</p>

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<p style="text-align: right;">Page 190</p> <p>1 warehouse you inspected first?</p> <p>2 A. Correct.</p> <p>3 Q. Whether you inspected the offices and</p> <p>4 conference room area or the gray wall area?</p> <p>5 A. Correct.</p> <p>6 Q. Okay. With regard to the offices, and I</p> <p>7 just want to be clear, I think your testimony was,</p> <p>8 and correct me if I am wrong, that Mr. Fabiani did</p> <p>9 not accompany you into that office area?</p> <p>10 A. That is correct.</p> <p>11 Q. Do you recall who opened that door, that</p> <p>12 door into the office area?</p> <p>13 A. No, I don't.</p> <p>14 Q. Do you recall if it was locked?</p> <p>15 A. I honestly don't recall.</p> <p>16 Q. Do you recall -- you mentioned there was</p> <p>17 another gentleman behind the gray walled area.</p> <p>18 A. Right.</p> <p>19 Q. Do you recall if that gentleman let you</p> <p>20 into the office and conference room area?</p> <p>21 A. I absolutely know he did not.</p> <p>22 Q. And why do you say it like that?</p> <p>23 A. Because I would have remembered the</p> <p>24 interaction with somebody that I didn't know. I did</p> <p>25 not see him until I entered the gray area.</p>	<p style="text-align: right;">Page 192</p> <p>1 A. Yeah. What you do when you're doing an</p> <p>2 investigation type thing like that, you apply some</p> <p>3 judgement along with your surveying.</p> <p>4 In other words, it's not like just</p> <p>5 walking through and waving a wand. You know that if</p> <p>6 you see a box sitting there, you should walk up and</p> <p>7 take a reading on that box to see if there might be</p> <p>8 something radioactive inside it. But if you just see</p> <p>9 an open space in a room there is no reason to run</p> <p>10 around in circles taking readings because there is</p> <p>11 nothing there to emit radiation to then measure.</p> <p>12 So in other words, you apply a logic of</p> <p>13 okay, here is a device, here is a container, here is</p> <p>14 a pipe and then I'm going to survey it to see if it</p> <p>15 has radioactive material in it and/or releasing</p> <p>16 measurable levels of radiation. So it's basically</p> <p>17 applied judgement in your surveys.</p> <p>18 Q. How long would you say that you spent in</p> <p>19 the office/conference room area?</p> <p>20 A. No more than ten minutes.</p> <p>21 Q. And what about what I will refer to as</p> <p>22 the gray room area, how much time did you spend in</p> <p>23 there?</p> <p>24 A. Not including the time that it took him</p> <p>25 to remove the insulation because I don't remember how</p>
<p style="text-align: right;">Page 191</p> <p>1 Again, I don't remember if that was</p> <p>2 before the offices or after the offices but that</p> <p>3 would have stuck in my mind as a fact because he was</p> <p>4 somebody I didn't even know the name of, so his</p> <p>5 letting me in there would have caught my attention.</p> <p>6 Q. And when you went into the</p> <p>7 office/conference room area, Mr. Fabiani did not go</p> <p>8 with you?</p> <p>9 A. No, not to my knowledge. He may have</p> <p>10 entered, but he did not go with me. I went on my own</p> <p>11 back in that area but I mean he may have been in</p> <p>12 there, but he wasn't with me.</p> <p>13 Q. He didn't accompany you through there?</p> <p>14 A. Right. No, he did not accompany me</p> <p>15 through there.</p> <p>16 Q. Was there anybody else in there?</p> <p>17 A. No. In fact, it looked unoccupied, like</p> <p>18 it wasn't being used at all. The office back there</p> <p>19 had some office stuff in it but that whole area</p> <p>20 looked like it just simply wasn't even being used.</p> <p>21 There was nothing to indicate that it was</p> <p>22 actually in use. It was just there.</p> <p>23 Q. And describe to me your inspection. Are</p> <p>24 you just walking around with your, for lack of a</p> <p>25 better term, your Geiger counter?</p>	<p style="text-align: right;">Page 193</p> <p>1 long that was, I would probably say no more than 15</p> <p>2 minutes doing the survey.</p> <p>3 Q. And when you talk about the person who</p> <p>4 removed the insulation, that was not Mr. Fabiani,</p> <p>5 that was the other gentleman?</p> <p>6 A. Yeah, it was the other gentleman.</p> <p>7 MR. NUNEZ: I'm almost done. Just give</p> <p>8 me a minute to look through my notes real quick,</p> <p>9 Mr. Stokes. That's all I have.</p> <p>10 THE WITNESS: Very well.</p> <p>11 MR. NUNEZ: Thank you.</p> <p>12 THE WITNESS: You're welcome.</p> <p>13 CROSS EXAMINATION</p> <p>14 BY MR. LEON DE LA BARRA:</p> <p>15 Q. Good afternoon. My name is Francisco</p> <p>16 Leon de la Barra. I'm not sure if you caught it.</p> <p>17 I'm here on behalf of my clients J.M. Products, Henry</p> <p>18 Johnson and James Bass.</p> <p>19 So just to kind of -- I'll be brief --</p> <p>20 come full circle, procedurally before you conduct a</p> <p>21 survey or an inspection investigation, you say that</p> <p>22 you receive authorization to enter a premises or to</p> <p>23 conduct that survey?</p> <p>24 A. Yes.</p> <p>25 Q. All right. You also stated earlier in</p>

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<p style="text-align: right;">Page 198</p> <p>1 the name James Bass?</p> <p>2 A. No.</p> <p>3 Q. No. During your survey did any person</p> <p>4 represent themselves to be a representative of or</p> <p>5 officer of J.M. Products?</p> <p>6 A. No.</p> <p>7 Q. Okay. Is it fair to say that no one from</p> <p>8 J.M. Products then gave you permission to enter into</p> <p>9 that area?</p> <p>10 MR. PACE: Objection to form.</p> <p>11 THE WITNESS: That would be me assuming</p> <p>12 that Mr. Fabiani wasn't also employed by J.M.</p> <p>13 Products.</p> <p>14 BY MR. LEON DE LA BARRA:</p> <p>15 Q. Fair enough. I guess last question was</p> <p>16 did you have a warrant to enter any part of the</p> <p>17 premises?</p> <p>18 A. The Bureau of Radiation Control does not</p> <p>19 get warrants. We do not have warrant authority. We</p> <p>20 would have to get somebody from the Office of General</p> <p>21 Counsel to have a warrant issued for us to serve a</p> <p>22 warrant to do something.</p> <p>23 We do everything through the State's</p> <p>24 Attorney General if we need legal means for</p> <p>25 compelling somebody to do something. We do not have</p>	<p style="text-align: right;">Page 200</p> <p>1 MR. ANNESSER: Object to form.</p> <p>2 BY MR. PACE:</p> <p>3 Q. -- on the other side of the white door?</p> <p>4 MR. LEON DE LA BARRA: Join.</p> <p>5 THE WITNESS: No, I did not.</p> <p>6 BY MR. PACE:</p> <p>7 Q. Are you aware of -- are you aware of what</p> <p>8 one megawatt of power is?</p> <p>9 MR. ANNESSER: Object to form, beyond the</p> <p>10 scope.</p> <p>11 THE WITNESS: Yes.</p> <p>12 BY MR. PACE:</p> <p>13 Q. Okay. How much is one megawatt of</p> <p>14 power? Can you give me some relative basis? I'm</p> <p>15 getting to the point of was there a manufacturing</p> <p>16 process on the other side of the white door, the</p> <p>17 other side of the rabbit hole, that used -- could</p> <p>18 have used up to one megawatt of power on a daily</p> <p>19 basis?</p> <p>20 MR. LEON DE LA BARRA: Objection to form.</p> <p>21 MR. ANNESSER: Objection to form.</p> <p>22 BY MR. PACE:</p> <p>23 Q. Fire away.</p> <p>24 A. For your conceptual concepts --</p> <p>25 conceptual concepts. I'm getting redundant.</p>
<p style="text-align: right;">Page 199</p> <p>1 that authority.</p> <p>2 MR. LEON DE LA BARRA: Got it. That's</p> <p>3 all I have. Thank you.</p> <p>4 THE WITNESS: You're welcome.</p> <p>5 REDIRECT EXAMINATION</p> <p>6 BY MR. PACE:</p> <p>7 Q. Let me follow-up on just the questions</p> <p>8 that have been asked by other counsel. It will</p> <p>9 probably take me like five minutes here.</p> <p>10 There was a comment or question about</p> <p>11 removing the insulation from the container that was</p> <p>12 done by the other gentleman, not Mr. Fabiani.</p> <p>13 A. Correct.</p> <p>14 Q. Was it your impression as a result that</p> <p>15 the container was not -- the inside of the container</p> <p>16 was not easily accessible?</p> <p>17 A. Absolutely.</p> <p>18 Q. So there were questions asked about a</p> <p>19 manufacturing process and whether there is a</p> <p>20 manufacturing process that appears to involve</p> <p>21 metals.</p> <p>22 Let me ask you, did you see any equipment</p> <p>23 other than small tools that were on the other side of</p> <p>24 the white door, the other side of the rabbit hole, so</p> <p>25 to speak --</p>	<p style="text-align: right;">Page 201</p> <p>1 Q. You're almost done. Come on.</p> <p>2 A. One megawatt is one million watts. That</p> <p>3 is the equivalent of 10,000 100 watt light bulbs.</p> <p>4 Try to visualize 10,000 100 watt light bulbs and know</p> <p>5 there was nothing on the other side of that gray wall</p> <p>6 that would have consumed that much energy.</p> <p>7 Q. How about half of that much energy?</p> <p>8 MR. ANNESSER: Objection to form.</p> <p>9 MR. NUNEZ: Object to the form.</p> <p>10 THE WITNESS: Not at the time I was</p> <p>11 there.</p> <p>12 BY MR. PACE:</p> <p>13 Q. How about a quarter of that much energy?</p> <p>14 A. Not at the time I was there.</p> <p>15 Q. How about a tenth of that much energy?</p> <p>16 MR. ANNESSER: Objection to form.</p> <p>17 THE WITNESS: Possibly.</p> <p>18 BY MR. PACE:</p> <p>19 Q. I knew I was going to find some randomly</p> <p>20 low number. You mentioned that a lawyer contacted</p> <p>21 you --</p> <p>22 A. Correct.</p> <p>23 Q. -- gave you a name and number and then</p> <p>24 later that Ms. Becker said that that lawyer had never</p> <p>25 reached out for records.</p>



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1 A. That is correct. At that time it did not  
 2 even appear to be operating but yeah, I don't know  
 3 what it was capable of when it was running. I don't  
 4 know if it was running. I don't know if it hadn't  
 5 been just shut off two hours before. I don't know  
 6 what its condition was at the time.  
 7 Q. Is it fair to state that you have no  
 8 ability to know whether it was running or not while  
 9 you were there?  
 10 MR. PACE: Objection to form.  
 11 THE WITNESS: That is correct.  
 12 BY MR. ANNESSER:  
 13 Q. You also have no ability to know how much  
 14 or the temperature of the steam being produced by the  
 15 plant?  
 16 A. That is correct.  
 17 MR. PACE: Objection to form, but I'm too  
 18 late. Go ahead.  
 19 BY MR. ANNESSER:  
 20 Q. You have no way of knowing sitting here  
 21 today whether one megawatt worth of heat was being  
 22 transferred there or not?  
 23 A. Not definitively, no.  
 24 MR. ANNESSER: That's all the questions.  
 25 I have.

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1 MR. PACE: You are done for the day. We  
 2 really do appreciate you taking the time, both  
 3 of you.  
 4 THE WITNESS: No problem.  
 5 THE VIDEOGRAPHER: Standby to go off  
 6 media unit number four. This concludes our  
 7 deposition. The time off the record is 4:42  
 8 p.m.  
 9 (Thereupon the taking of the deposition  
 10 was concluded.)  
 11  
 12 Deponent  
 13  
 14  
 15 Sworn to and subscribed before me this  
 16  
 17 day of 2016.  
 18  
 19  
 20  
 21  
 22  
 23  
 24  
 25

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1 CERTIFICATE OF OATH  
 2  
 3 STATE OF FLORIDA:  
 4 SS:  
 5 COUNTY OF DADE:  
 6  
 7  
 8 I, the undersigned authority, certify that  
 9 JAMES STOKES personally appeared before me and was  
 10 duly sworn.  
 11 WITNESS my hand and official seal this 27th  
 12 day of December 2016.  
 13  
 14  
 15   
 16  
 17 Notary Public, State of Florida at  
 18 Large; my commission expires  
 19 February 26, 2019. Bonded through  
 20 Troy Fain Insurance, Inc.  
 21  
 22  
 23  
 24  
 25

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1 CERTIFICATE OF REGISTERED PROFESSIONAL REPORTER  
 2  
 3 I, EDWARD VARKONYI, and Registered  
 4 Professional Reporter and a Notary Public for the  
 5 State of Florida at Large, do hereby certify that I  
 6 reported the deposition of JAMES STOKES; that the  
 7 foregoing pages, numbered from 1 to 211, inclusive,  
 8 constitute a true and correct transcription of my  
 9 shorthand report of the deposition by said witness on  
 10 this date.  
 11 I further certify that I am not an  
 12 attorney or counsel of any of the parties, nor a  
 13 relative or employee of any attorney or counsel  
 14 connected with the action, nor financially interested  
 15 in the action.  
 16 WITNESS my hand and official seal in the  
 17 City of Miami, County of Dade, State of Florida, this  
 18 27th day of December 2016.  
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 17 Notary Public, State of Florida at  
 18 Large; my commission expires  
 19 February 26, 2019. Bonded through  
 20 Troy Fain Insurance, Inc.  
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