

# **EXHIBIT 4**

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA  
MIAMI DIVISION**

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.

CASE NO. 1:16-cv-21199-CMA

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

Counter-Plaintiffs,

v.

ANDREA ROSSI and LEONARDO  
CORPORATION,

Counter-Defendants,

and

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

Third-Party Defendants.

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**UNSWORN DECLARATON OF GIUSEPPE LEVI**

**BEFORE ME**, the undersigned authority, personally appeared Giuseppe Levi, being first  
duly sworn on oath, deposes and states:

1. I, Giuseppe Levi ("Affiant"), am over the age of majority, and am personally familiar and have personal knowledge of the facts contained herein.

2. I am an Assistant Professor in the Department of Physics and Astronomy at the University of Bologna in Italy. I have worked in the Physics field for more than twenty-five (25) years, and have worked for the European Organization for Nuclear Research ("CERN"), as well as the Deutsches Elektronen-Synchrotron ("DESY") in Germany. A copy of my curriculum vitae is appended hereto as Exhibit A.

3. I am a co-author of a report entitled, "Observation of Abundant Heat Production From a Reactor Device and of Isotopic Changes in the Fuel" published on October 6, 2014 (the "Lugano Report"). The Lugano Report presents the results from an extended study of Dr. Andrea Rossi's E-Cat device. I personally participated in the study of the performance of the Hot E-Cat device.

4. On four (4) occasions, certain individuals from Israel have contacted me directly or indirectly to speak to me about the Lugano Report. It is my conclusion that their intention was to offer me money if I would agree to recant my support therefor.

5. First, in May 2016, my Rabbi in Bologna, Italy, Elie David Borenstein, informed me that two Israeli men had contacted him using telephone number 972-50-531-0205 and insisted on speaking with me. One of the men on the telephone call was Mordechai Tzivin. When Rabbi Borenstein asked why the men wished to speak with me, they told Rabbi Borenstein that I "would know why." I found this very unusual since as an employee of the University of Bologna, a public institution, my contact information and email address are publicly available. A photograph showing the dates and times of the calls is appended hereto as Exhibit B.

6. Approximately one month later, Mr. Tzivin and an Israeli man named Uzi Sha came to my synagogue in Bologna to meet with Rabbi Borenstein and me. During this meeting, Messrs. Tzivin and Sha told me that they were connected to large Jewish investors in Russia and Eastern Europe who were planning to research new energy sources for Israel, and that “big earnings” could be made. They then asked whether I am connected to Dr. Rossi, whether I trust him, and whether I trust the results outlined in the Lugano Report. I responded that I am not formally connected to Dr. Rossi, that I do trust him, and that I stand behind the results as outlined in the Lugano Report. I came away from this meeting suspicious about their motivations for this meeting and the information and questions that the men posed to me. Photos of this meeting are appended hereto as Exhibit C.

7. On July 27, 2016, I met with Mr. Sha in Rome to have a follow-up discussion about our last meeting. Mr. Sha requested that I keep this meeting secret, but did not ask me to sign any nondisclosure agreement. During the course of this meeting, Mr. Sha told me that he wanted to make business together and that “big earnings” were possible. He then asked me a series of formal questions about the Lugano Report. All of the critiques and questions that Mr. Sha raised had been previously raised in blog posts that aim to discredit Dr. Rossi and the Lugano Report; none of Mr. Sha’s questions had any scientific basis or varied from the unscientific attacks made in the blog posts. Mr. Sha mentioned the “big earnings” that were possible several times during the course of our discussion, and each time he did so he followed-up with a critique of the Lugano Report. After our meeting, Mr. Sha sent me a text message thanking me for my time and expressing his hope that we could “work together.” I understood Mr. Sha to be offering to pay me money to withdraw my support of the Lugano Report. A few weeks later, on August 16,

2016, Mr. Sha sent me a follow-up text message in which he told me that I appeared too tied to Dr. Rossi and to defending the Lugano Report, and as a result he was looking for someone more independent to work with.

8. However, on November 7, 2016, Mr. Sha asked me to meet him in Rome at the Fiumicino Airport Hilton Hotel. During this conversation, he told me that his customers and investors did not want to work with Dr. Rossi anymore and asked me to write a complete report on how to measure the energy output of a "Lugano-type" reactor (a replica of an E-Cat). Mr. Sha promised to pay me money for cooperating with him, but would not disclose who his customers or investors were. He wanted me to write the report urgently, within two weeks, and said that the report would be the first step to my making "the big money." Mr. Sha also asked me numerous questions about my professional relationship with Dr. Rossi, and whether Dr. Rossi had promised to pay me any money or give me a position on his staff. Mr. Sha took hand-written notes during our meeting, and I suspected that he was digitally recording our conversation. It is my personal belief that Mr. Sha was offering to pay me in order to recant my support for the results contained in the Lugano Report.

9. I refused to write any report for Mr. Sha. As a preliminary matter, I fully support the results contained in the Lugano Report. In addition, I suspected that Industrial Heat had sent Mr. Sha to pay me to recant my support for the Lugano Report results; Mr. Sha mentioned in our meeting that his customers and investors did not want to work with Rossi anymore, and I knew that Rossi had been working with Industrial Heat.

10. Fearing eventual revenge from Industrial Heat, I chose not to tell Mr. Sha my suspicions and instead told him that I could not work with him due to personal reasons.

11. As a result of this telephone conversation, and the previous conversations that I had with Messrs. Shaw and Tzivin, I feel harassed, threatened, and coerced into doing something that I do not wish to do.

**I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.**

**EXECUTED ON:** March 3, 2017

By:   
**Dr. Giuseppe Levi**

# **EXHIBIT A**





## Giuseppe Levi

Assistant professor

Department of Physics and Astronomy

Academic discipline: FIS/04 Nuclear and Subnuclear Physics

### Curriculum vitae

1990: Graduates with full marks (110/110) at the University of Perugia. Dissertation title: Muon spectrometer project and development of a new detector for the study of fundamental interactions up to the TeV scale.

1991: Awarded one of 25 "National Institute for Nuclear Physics" (INFN) scholarships for recent graduates; second highest score on a national basis.

Contributes for about six months to the "Borexino" project for the development of a solar neutrino detector at the Gran Sasso National Laboratories.

1992-95: Ph.D. student at the University of Bologna. Visiting Student at the Hamburg DESY Laboratories in view of his dissertation; contributes to the ZEUS experiment.

1995: Awarded Ph.D. Dissertation title: "Installing the 'Wall' detector and identification of forward J/psi's at ZEUS".

1996: Affiliated to the Bologna chapter of the INFN where he joins the AMS experiment group for an orbital space spectrometer, working both in R & D and as a systems analyst. Teaches lab classes (Laboratorio 2) to 4th-year students and is part of the examination board.

1997-98: Awarded 2-year post-doctoral fellowship by the U. of Bologna.

1999: As of Oct. 1st, 1999, Assistant Prof. in Nuclear and Subnuclear Physics (tenure track position awarded by public contest) at the U. of Bologna.

2000-06 Assistant Prof. ( Ricercatore ) at the U. of Bologna; takes part in the AMS2 experiment, and teaches classes as part of the "Experimentation in Physics 1" and "Laboratory 4" courses.

2001: Holds exercise classes in "Physics II" at the Cesena campus, Degree Course in Information Sciences.

2002-07: permanent tenure as Assistant Professor conferred.

Courses & classes taught:

- Full course: Complex Systems Physics (Cesena Campus course in Information Science) for Academic Years 2002-2003 to 2004-2005.

- Lab course (Esercitazioni di Laboratorio III), Degree Course in Physics (Bologna Campus).

- Classes in Nuclear and Sub-Nuclear Physics, Advanced School for Health Physics, 1st year.

Co-referee to various dissertations, and referee for one dissertation in the Degree Course in Information Sciences.

2007 to present: Continues his research within the AMS while also pursuing other lines of fundamental and applied research in Physics.

In charge of the AMS02 Montecarlo production for Bologna.

In charge of the DASIPM Bologna group for the development of silicon photo-multipliers (position held up to 2009 under the DASIPM2 program).

In 2010 he initiates his collaboration with Prof. Casali's group, porting the tomographic reconstruction algorithm to



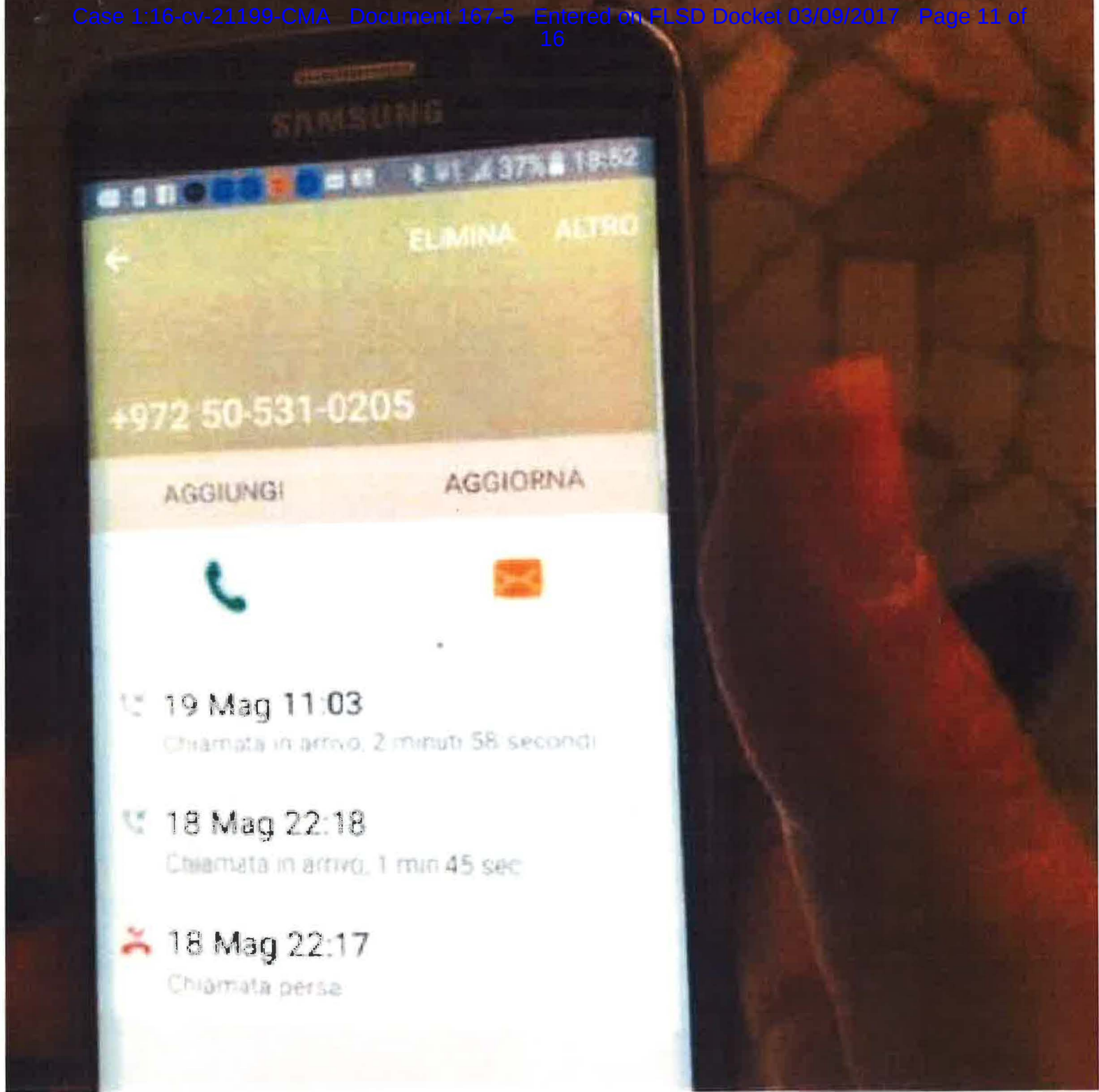
parallel processing on a Microsoft HPC cluster. The case was selected by Microsoft and published on the MS site. Results were published.

Using a cluster installed by himself in Bologna, he works at a genetic classification project with Prof. Daniel Remondini.

In the course of Academic Years 2010-11 and 2011-12 he has been teaching Parallel Programming and Distributed Systems for the Degree Course In Information Sciences and Technology in Cesena.

In 2011 he has also been working in the field of Low Energy Nuclear Reactions.

# **EXHIBIT B**



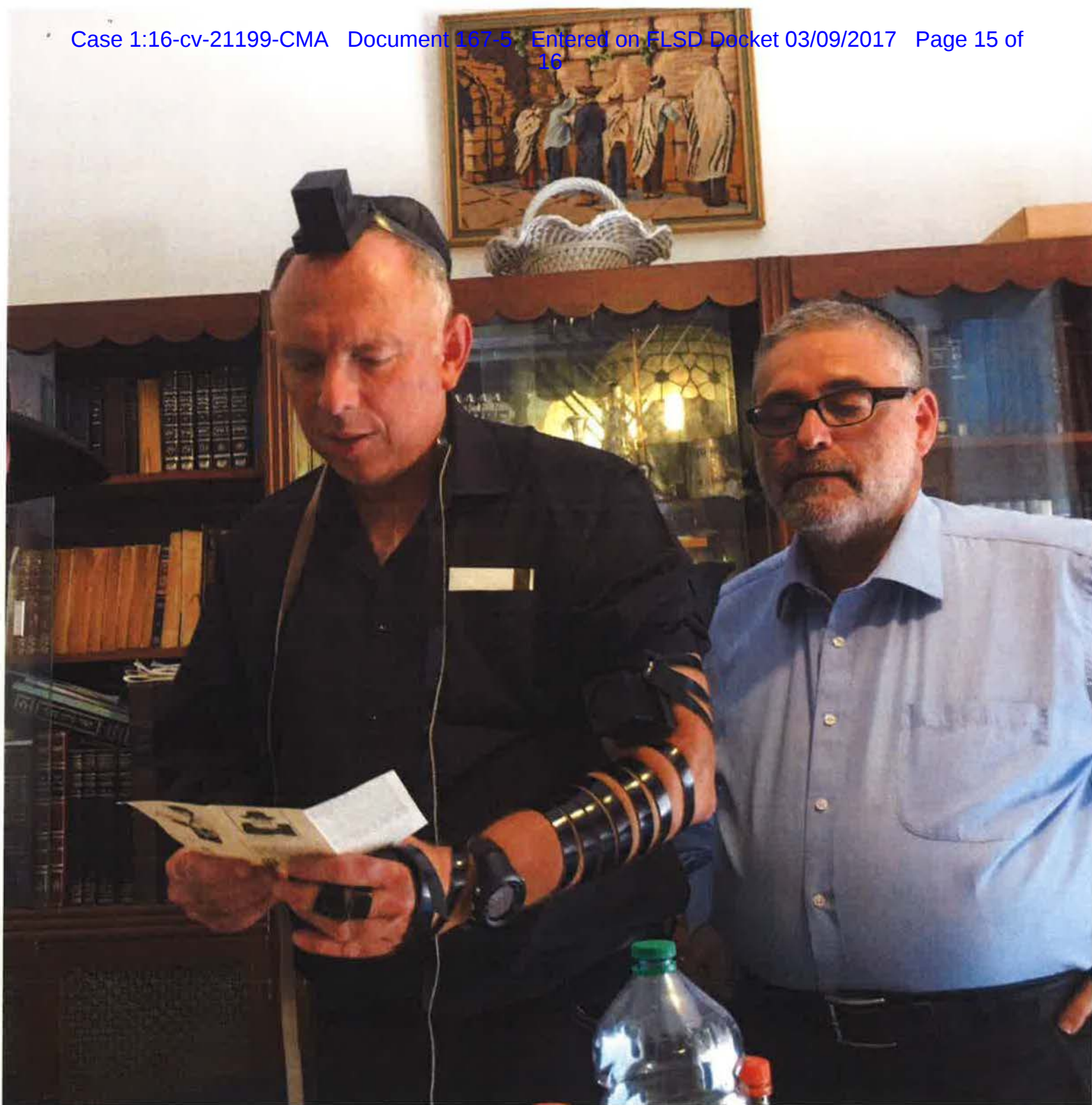
# **EXHIBIT C**













# **EXHIBIT 5**

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**From:** Tom Darden <tdarden@cherokeefund.com>  
**Sent:** Tuesday, February 23, 2016 12:32 AM  
**To:** Zalli Jaffe; uzisha@wall.co.il  
**Subject:** numbers and emails

Zalli and Uzi:

I am sending this from my other email. Here is some added information. I will respond also on other email system. Thanks.

Fulvio Fabiani: 39 34 624 40000  
+1 919 812 7863  
[fulvio.fabiani.mail.com](mailto:fulvio.fabiani.mail.com)  
[ffab2012@gmail.com](mailto:ffab2012@gmail.com)

Andrea Rossi  
39 05 327 96177  
+1 786 600 1123  
+1 786 453 2914  
+1 305 504 4067  
+30 33 982 04927

[eon333@libero.it](mailto:eon333@libero.it)  
[info@leonardocorp.com](mailto:info@leonardocorp.com)  
[ar.123@gmail.com](mailto:ar.123@gmail.com)

Fabio Penon  
[fabiopenson@iol.it](mailto:fabiopenson@iol.it)

Colette K. Sauer  
Legal Assistant to Henry W. Johnson  
Law Office Henry W. Johnson  
7900 Glades Road, Suite 530  
Boca Raton, FL 33434  
(Phone) [561-672-7264](tel:561-672-7264)

(Fax) 561-235-5416

www.hwjlaw.net

cksauer@hwjlaw.net

hjohnson@hwjlaw.net

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Thomas F Darden

Cherokee

www.cherokeefund.com

919 743 2506 w

919 522 4095 c

# **EXHIBIT 6**



**Robert A. Bernstein**


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**From:** John W. Annesser  
**Sent:** Friday, February 17, 2017 8:07 AM  
**To:** Robert A. Bernstein  
**Subject:** Fwd: strange email

Sent from my iPhone

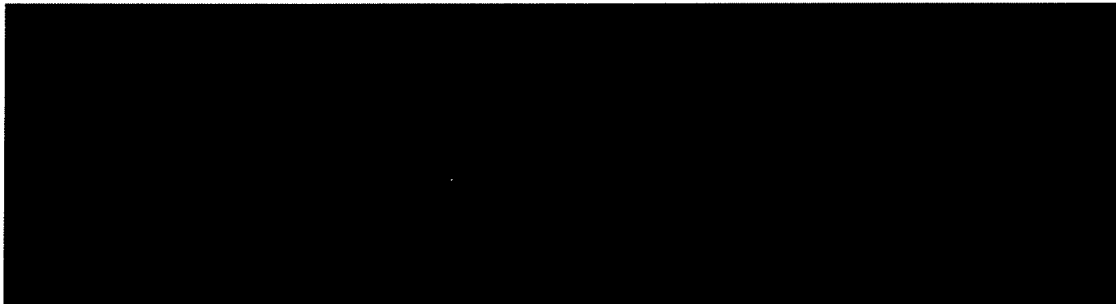
Begin forwarded message:

**From:** "Brian W. Chaiken" <[bchaiken@pbyalaw.com](mailto:bchaiken@pbyalaw.com)>  
**Date:** February 17, 2017 at 7:19:55 AM EST  
**To:** Andrea Rossi <[ar.123@mail.com](mailto:ar.123@mail.com)>  
**Cc:** "John W. Annesser" <[jannesser@pbyalaw.com](mailto:jannesser@pbyalaw.com)>  
**Subject:** Re: strange email



Sent from my iPhone, so please excuse typos and brevity.

On Feb 17, 2017, at 6:31 AM, Andrea Rossi <[ar.123@mail.com](mailto:ar.123@mail.com)> wrote:



**Sent:** Friday, February 17, 2017 at 2:12 AM  
**From:** "Giuseppe Levi" <[giuseppe.levi@gmail.com](mailto:giuseppe.levi@gmail.com)>  
**To:** "Andrea Rossi" <[ar.123@mail.com](mailto:ar.123@mail.com)>  
**Cc:** "[bo.hoistad@gmail.com](mailto:bo.hoistad@gmail.com)" <[bo.hoistad@gmail.com](mailto:bo.hoistad@gmail.com)>, "Evelyn Foschi" <[evefoschi@gmail.com](mailto:evefoschi@gmail.com)>, "Roland Pettersson" <[roland.pettersson@telia.com](mailto:roland.pettersson@telia.com)>  
**Subject:** Fwd: strange email

Dear Andrea,

Bo and me have already had a nice phone call regarding this disgusting email from mr. Weaver.

There will be NO answer.

On our opinion mr. Weaver just want to pull us in the IH-Leonardo Battle. All statements in his letter appear to our scientific team to be false and constructed just to diffuse FUD.

We are disgusted by this behaviour, and we wanted to inform you that our confidence in the results of the Lugano test remain intact.

Dr. Giuseppe Levi

----- Forwarded message -----

From: **Bo Höistad** <[bo.hoistad@physics.uu.se](mailto:bo.hoistad@physics.uu.se)>  
Date: Thu, Feb 16, 2017 at 2:11 PM  
Subject: strange email  
To: "[giuseppe.levi@gmail.com](mailto:giuseppe.levi@gmail.com)" <[giuseppe.levi@gmail.com](mailto:giuseppe.levi@gmail.com)>

Salve

I got this email yesterday for unknown reasons from the guy Weaver, who contacted me some time ago and offered me a copy of the Lugano reactor to test in Uppsala. I declined the offer referring to the ongoing litigation Rossi/IH.

Do you know what the guy is talking about? I guess he is involved in IH somehow.

Kindest

Bo

---

**From:** dewey.weaver [[dewey.weaver@deeprv.com](mailto:dewey.weaver@deeprv.com)]  
**Sent:** Wednesday, February 15, 2017 9:16 PM  
**To:** Bo Höistad  
**Cc:** [roland.pettersson@telia.com](mailto:roland.pettersson@telia.com)  
**Subject:** RE: Address for Base Lugano Reactor

Bo - I hope this email finds you well. Mats gave an interview yesterday and stated that he had recently been in contact with the Uppsala team, sharing that your Ni-H focused replication efforts were ongoing. Mats also stated that the Uppsala team had no plans to revisit the Lugano report or discuss the increasingly controversial results from that test.

We are in process of learning previously unknown facts about Andrea Rossi, his E-Cat research and test methodologies as part of the ongoing litigation effort. We have learned that the material test of Lugano reactor, with an XRD system at the University of Bologna, was conducted on the reactor plug, not a piece from the main reactor body. As you may know, the plug results came back 99% pure alumina and did not match the reactor body which was made from Durapot 810. Per Cotronics, the maker of the Durapot line, 810 is between 75% to 85% alumina cement (batch dependent). We have also learned that the reactor was painted with an off-

white high temp paint and that information is not accurately reflected in the Lugano report as well.

During our phone conversation last summer, you stated that Levi was forceful in controlling the specific Optris IR camera emissivity / transmissivity settings and that the Uppsala contingent left that decision up to him. More information will be coming out about this in the coming months and I wanted to give you and your team a heads-up regarding any possible impact this may have on the University and / or the involved scientist.

Best regards,  
Dewey  
01-919-812-3441

--  
Dr. Giuseppe Levi  
Physics Dpt and INFN  
viale Berti Pichat 6/2  
40127 BOLOGNA  
Mobile: +39 393 0086704

# **EXHIBIT 7**

HIGHLY CONFIDENTIAL PORTIONS- ATTORNEYS' EYES ONLY

Page 1

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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  
283 Catalonia Avenue, Suite 200  
Coral Gables, Florida  
Tuesday, February 21, 2017  
9:06 a.m.- 4:05 p.m.  
  
CONFIDENTIAL TRANSCRIPT  
PORTIONS OF TRANSCRIPT HIGHLY CONFIDENTIAL  
ATTORNEYS' EYES ONLY  
  
VIDEO DEPOSITION OF JOHN DEWEY WEAVER, III  
  
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.

HIGHLY CONFIDENTIAL PORTIONS- ATTORNEYS' EYES ONLY

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1 IH-74035 and it's two e-mails on the page. The first  
2 one is from you to Bo Hoistad. The second one is  
3 from Bo Hoistad to you.

4 A. Uh-huh.

5 Q. Do you recall, is this the e-mail you  
6 were just referring to?

7 A. It's one of them, I believe. I didn't  
8 recall the date, obviously.

9 Q. And what was your intent in writing this  
10 first e-mail to Bo Hoistad?

11 A. So I wanted to learn more about how they  
12 reached their conclusions in the Lugano report.

13 Q. And were you tasked with this job by  
14 Industrial Heat?

15 A. We decided that -- yes, that I should  
16 reach out and to try to get -- engage in some  
17 discussion with Hoistad.

18 Q. And was it your intent to try to get him  
19 to recant his support for the Lugano report?

20 A. No, we wanted to know more about how they  
21 reached their conclusions.

22 Q. Did you want him to review what his  
23 findings were at that time?

24 A. I did.

25 Q. And to what end?



HIGHLY CONFIDENTIAL PORTIONS- ATTORNEYS' EYES ONLY

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1 mean between the time of Exhibit 55, which was in  
2 June, and February 2017.

3 A. I don't remember. I thought I was  
4 recalling I sent this earlier but it was in February,  
5 not January.

6 So Mats had given an interview to David  
7 Neubauer and mentioned the ongoing replication work  
8 of the Uppsala people and I thought it would be a  
9 good opportunity to reach out to him to see where  
10 they were.

11 Q. So you write in your e-mail, second  
12 paragraph: "We are in process of learning previously  
13 unknown facts about Andrea Rossi, his E-Cat research  
14 and test methodologies as part of the ongoing  
15 litigation effort. We have learned that the material  
16 test of Lugano reactor with an XRD system at The  
17 university of Bologna was conducted on the reactor  
18 plug, not a piece from the main reactor body." How  
19 did you learn that?

20 A. It's in the report, the Lugano report.

21 Q. So that wasn't a previously unknown fact,  
22 that was a known fact, right?

23 A. Sitting right out there in the open  
24 apparently but that was pointed out to me by Alan  
25 Smith of LENR Forum, one of the moderators.

HIGHLY CONFIDENTIAL PORTIONS- ATTORNEYS' EYES ONLY

Page 249

1 Q. Then you wrote: "As you may know, the  
2 plug results came back 99 percent pure alumina and  
3 did not match the reactor body, which was made from  
4 Durapot 810."

5 How did you learn that?

6 A. Because I have the can that it was made  
7 from and I talked to the person that made them.

8 Q. And who is that?

9 A. T. Barker Dameron.

10 Q. So T. Barker Dameron made the reactor  
11 body?

12 A. Yes. And we have -- we still have some  
13 of this Durapot 810.

14 Q. Did you ever provide a sample of that to  
15 the Lugano professors?

16 A. Did not.

17 Q. Is there a reason?

18 A. I offered to send over the remaining  
19 reactor, as you noticed earlier, and they were not  
20 interested in that.

21 Q. And he writes, top of the next page: "We  
22 have also learned that the reactor was painted with  
23 an off-white high temp paint and that information is  
24 not accurately reflected in the Lugano report as  
25 well."

HIGHLY CONFIDENTIAL PORTIONS- ATTORNEYS' EYES ONLY

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1                   Is that something -- the off-white high  
2     temp paint, was that something you learned after the  
3     fact?

4                   A.     I learned that from J.T., who got that  
5     information from Fulvio Fabiani during the test,  
6     along with the paint make -- brand, make and model  
7     number.

8                   Q.     So wasn't that all known at the time of  
9     the test?

10                  A.     It was known, but didn't register.

11                  Q.     And what is the significance of that?

12                  A.     Because the emissivity settings reflected  
13     99 percent pure alumina, not alumina cement that was  
14     75 to 80 percent alumina that, per Cotronics and  
15     their support group or a painted surface, an  
16     off-white painted surface.

17                         It's substantially different  
18     characteristics, versus what is claimed is a 99  
19     percent pure alumina setting that was plugged into  
20     the Optris camera readings.

21                  Q.     Now, when you make these statements, are  
22     these statements that were told to you or are these  
23     statements that you know because you actually saw the  
24     reactors and held them in your hands and did tests  
25     yourself?

