

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

**CASE NO. 1:16-CV-21199-CMA/O'Sullivan**

ANDREA ROSSI and LEONARDO  
CORPORATION,

Plaintiffs,

v.

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

Defendants.

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

Counter-Plaintiffs,

v.

ANDREA ROSSI and LEONARDO  
CORPORATION,

Counter-Defendants,

And

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

Third-Party Defendants.

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**THIRD-PARTY DEFENDANTS' UNNORPOSED MOTION FOR EXTENSION  
OF TIME TO FILE RESPONSE IN OPPOSITION TO THIRD-PARTY PLAINTIFFS'  
MOTION IN LIMINE**

Third-Party Defendants, United States Quantum Leap, LLC and Fulvio Fabiani, by and  
through their undersigned counsel, and pursuant to Rule 6(b), Fed.R.Civ.P., and Local Rule 7.1,

hereby move for an additional three days to file a response to the Defendants' Consolidated Motion in Limine and as grounds therefore, state:

1. This cause is set for trial during the Court's two-week trial calendar beginning on June 26, 2017.

2. On April 18, 2017 the Defendants filed their Combined Motion in Limine. [ECF No. 264]. An opposing memorandum of law is due to be filed today, May 2, 2017. The Court has scheduled this motion to be heard on May 23, 2017. [ECF No. 268].

3. The majority of the arguments set forth in the Motion in Limine are directed to the Plaintiff and other Third-Party Defendants. However, the Motion in Limine does seek relief against Fabiani and USQL and both seek to present a memorandum in opposition.

4. On the date the Motion in Limine was served, undersigned was away on a family spring vacation and did not have accessibility to email and became aware of the motion on the return to the office April 24, 2017. Since that time, undersigned has had insufficient time to perform the required legal research into the complex issues concerning spoliation of evidence and to otherwise complete the opposing memorandum. Furthermore, other deadlines in this action required the attention of undersigned as well as all other unrelated matters requiring undersigned's attention upon returning to the office.

5. Third-Party Defendants seek an additional three (3) days to properly research the issues involved and to prepare an opposing memorandum. Such extension would result in the filing of such opposing memorandum on May 5, 2017. The extension would not prejudice the Defendants because allowing the seven (7) day reply time allowed to the Defendants they would have sufficient time to file a reply (May 12<sup>th</sup>) before the Motion is heard by the Court on May 23<sup>rd</sup>.

6. Rule 6(b) of the Federal Rules of Civil Procedure allows this Court for good cause shown to extend a time period if such request is received before the original time period expires. Allowing a short extension of time to compensate for time lost at the office due to a family vacation justifies good cause for the requested relief.

7. Counsel for Third-Party Defendants has conferred with Defendants' counsel who has advised that they have no objection to the relief requested in the instant Motion on the condition that the Defendants will be afforded the seven (7) days to serve a reply memorandum.

8. Neither the Court nor the parties to this action will not be prejudiced in any way by the granting of the foregoing requested enlargement of time.

WHEREFORE, for the foregoing reasons, Third-Party Defendants, United States Quantum Leap, LLC and Fulvio Fabiani, respectfully request that this Court enter an order granting an enlargement of three (3) days, up through and including May 5, 2017 to file and serve their opposing memorandum to the Defendants Combined Motion in Limine.

**CERTIFICATE OF COMPLIANCE WITH LOCAL RULE 7.1**

I HEREBY CERTIFY that in conformance with Local Rule 7.1 I have conferred with counsel for Defendants/Counter-Plaintiffs/Third-Party Plaintiffs and they did not object to the relief sought in this Motion.

/s/ Rodolfo Nunez  
Rodolfo Nuñez, Esq.  
Fla. Bar No.: 16950

Respectfully submitted this 2<sup>nd</sup> day of May, 2017.

**RODOLFO NUÑEZ, P.A.**  
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/s/ Rodolfo Nunez  
Rodolfo Nuñez, Esq.  
Fla. Bar No.: 16950

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on May 2, 2017, I electronically filed the foregoing with the Clerk of the Court using CM/ECF. Copies of the foregoing document will be served on all counsel of record via transmission of Notice of Electronic Filing generated by CM/ECF.

/s/ Rodolfo Nunez  
Rodolfo Nuñez, Esq.  
Fla. Bar No.: 16950