

FILED

United States Court of Appeals
Tenth Circuit

UNITED STATES COURT OF APPEALS

FOR THE TENTH CIRCUIT

December 11, 2018

Elisabeth A. Shumaker
Clerk of Court

UNITED STATES OF AMERICA,

Plaintiff - Appellee.

v.

Nos. 18-4119 & 18-4150

RAPOWER-3, LLC; INTERNATIONAL
AUTOMATED SYSTEMS; LTB1; R.
GREGORY SHEPARD; NELDON P.
JOHNSON,

Defendants - Appellants.

ORDER

Before **MATHESON** and **BACHARACH**, Circuit Judges.

This matter is before the court on the Defendants-Appellants' Motion to Expedite Proceeding (the "Motion"). The appellants filed the Motion in Case No. 18-4119 seeking to maintain a separate briefing and submission schedule for, and to expedite appellate proceedings in, that particular appeal. The appellee filed a response opposing the Motion and suggesting that the two related appeals – Case Nos. 18-4119 and 18-4150 – be consolidated for procedural purposes.

Upon careful consideration, we have determined that the Motion should be denied. Given the procedural posture of the two appeals at this time, efficiencies for the court and the parties alike will be enhanced by consolidating these appeals for all procedural

purposes, including briefing, submission and (if applicable) oral argument. The parties should include both case numbers on all documents submitted to the court unless good cause exists for filing a document in only one of the two appeals.

The briefing schedule in Case No. 18-4119 is vacated. The parties shall follow a new combined briefing schedule. The appellants shall file their combined opening brief and appendix within 40 days of the date of this order. Once a compliant brief and appendix have been filed and served, the briefing schedule will follow Federal Rule of Appellate Procedure 31 and Tenth Circuit Rule 31.

The appellants are reminded that they maintain control over their portion of the briefing schedule. They need not wait for 40 days to pass to file their brief and appendix. Rather, the brief and appendix may be filed at any time before the deadline set in this order.

If oral argument is requested, the court can set these appeals on the first available argument calendar once briefing is complete.

Entered for the Court
ELISABETH A. SHUMAKER, Clerk



by: Lara Smith
Counsel to the Clerk