

No. 19-4089

UNITED STATES COURT OF APPEALS  
FOR THE TENTH CIRCUIT

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**UNITED STATES OF AMERICA,**

*Plaintiff-Appellee*

v.

**RAPOWER-3, LLC, ET AL**

*Defendants-Appellants*

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On Appeal from the United States District Court for the District of Utah  
No. 2:15-cv-00828-DN  
The Honorable David Nuffer

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**APPELLANTS' MOTION FOR AN EXTENSION OF TIME TO FILE  
APPELLANTS' OPENING BRIEF**

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Appellants Black Night Enterprises, Inc., N.P. Johnson Family L.P., Solco I, LLC, Solstice Enterprises, Inc., Starlight Holdings, Inc., and XSun Energy, LLC (collectively "Appellants") request a 14-day extension – from August 26, 2019 to **Monday, September 9, 2019** – as the time for filing and serving appellants' opening brief and appendix. In support of this motion, undersigned counsel state as follows:

1. Appellants' opening brief is currently due on August 26, 2019.
2. Appellee, United States, has been contacted through its counsel, and has advised it does not oppose the 14-day extension requested herein.

3. Counsel for the Receiver has also been contracted via email and stated he does not oppose the motion for extension of time.

4. This is Appellants' first request for any extensions in this appeal.

5. Joshua D. Egan, is an attorney with significant drafting responsibility for the opening brief.

6. Mr. Egan has a seven-month old daughter with down syndrome who has been hospitalized following two corrective open-heart surgeries throughout the month of August. Initially, only one corrective surgery was anticipated with a recovery of 4 to 9 days. However, she has been readmitted twice to the hospital and has spent 19 out of the last 23 days in intensive care.

7. As of the time of filing this request for an extension, Mr. Egan's daughter is still admitted at Primary Children's Hospital. She was discharged yesterday at 5 pm and readmitted to the emergency room by 9 pm for heart failure.

8. Given Mr. Egan's unanticipated unavailability for significant periods of the month of August, Appellants are in need of an extension, given the significance of Mr. Egan's contribution. Other members of the law firm have tried to take over the drafting of Mr. Egan's portions, but given the recent re-admission of his daughter to the ER, those efforts have been hampered.

9. Without his contribution, Appellants' attorneys will be unable to complete the opening brief by August 26, 2019.

Respectfully submitted this 23<sup>rd</sup> day of August, 2019.

NELSON SNUFFER DAHLE & POULSEN

/s/ Steven R. Paul,  
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*Attorneys for Appellants/Defendants*

#### **CERTIFICATE OF SERVICE**

I, Steven R. Paul., hereby certify that on the 23<sup>rd</sup> day of August, 2019, I filed the foregoing with the Court using its authorized electronic case filing portal and I also served a copy of the foregoing to the following counsel of record via separate email:

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